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**BEFORE THE
DEPARTMENT OF CONSUMER AFFAIRS
FOR THE BUREAU OF ELECTRONIC AND APPLIANCE REPAIR, HOME FURNISHINGS AND THERMAL INSULATION
STATE OF CALIFORNIA**

In the Matter of the Statement of Issues Against: **MICHAEL QUINTANA a.k.a., MICHAEL FLORENTINO QUINTANA d.b.a., QUALITY APPLIANCE & A.C. REPAIR** Respondent.	Case No. AN 2011-692 **STATEMENT OF ISSUES**

Complainant alleges:

PARTIES

1. Tonya Blood (Complainant) brings this Statement of Issues solely in her official capacity as the Bureau Chief of the Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation, Department of Consumer Affairs.

2. On or about July 15, 2011, the Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation (Bureau) received an application for registration as an Appliance Service Dealer from Michael Quintana, also known as Michael Florentino Quintana, doing business as Quality Appliance & A.C. Repair (Respondent). On or about June 14, 2011, Michael Quintana certified under penalty of perjury to the truthfulness of all statements, answers, and representations in the application. The Bureau denied the application on March 12, 2012.

JURISDICTION

3. This Statement of Issues is brought before the Bureau under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

4. Section 480 states, in pertinent part:

"(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

. . . .

(3) (A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

(B) The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions, or duties of the business or profession for which application is made."

5. Section 490 states, in pertinent part:

"(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under

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subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued.

(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code."

6. Section 9841 states, in pertinent part:

"(a) The director may deny, suspend, revoke, or place on probation the registration of a service dealer for any of the following acts or omissions done by himself or herself or any employee, partner, officer, or member of the service dealer and related to the conduct of his or her business:

. . .

(7) Conviction of a crime that has a substantial relationship to the qualifications, functions and duties of a registrant under this chapter, in which event the record of the conviction shall be conclusive evidence thereof.

. . .

(b) The director may also deny, or may suspend, revoke, or place on probation, the registration of a service dealer if the applicant or registrant, as the case may be, has committed acts or crimes constituting grounds for denial of licensure under Section 480."

7. Section 9853 states, in pertinent part:

"A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions, and duties of a service dealer or service contractor is deemed to be a conviction within the meaning of this article. The director may suspend, revoke, or place on probation a registration, or may deny registration, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a

subsequent order under Section 1203.4 of the Penal Code, allowing that person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment."

REGULATORY PROVISIONS

8. California Code of Regulations, title 16, section 2767 provides, in pertinent part: "For the purposes of denial, suspension, or revocation of the registration of a repair service dealer pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a service dealer if to a substantial degree it evidences present or potential unfitness of a service dealer to perform the functions authorized by his registration in a manner consistent with the public health, safety, or welfare."

FIRST CAUSE FOR DENIAL OF APPLICATION

(Convictions of Crimes)

9. Respondent's application is subject to denial under sections 9841, subdivision (a)(7) and 480, subdivision (a)(1), in that Respondent was convicted of crimes, as follows:

a. On or about September 21, 2010, after pleading nolo contendere, Respondent was convicted of one misdemeanor count of violating Vehicle Code section 14601.1, subdivision (a) [driving while driving privileges are suspended or revoked] in the criminal proceeding entitled *The People of the State of California v. Michael Florentino Quintana* (Super. Ct. Los Angeles County, 2010, No. 9AV10506). The Court sentenced Respondent to serve 10 days in Los Angeles County Jail and placed him on 36 months probation, with terms and conditions. The circumstances surrounding the conviction are that on or about November 12, 2009, Respondent drove a vehicle while his driving privilege was suspended or revoked.

b. On or about November 19, 2008, after pleading nolo contendere, Respondent was convicted of one misdemeanor count of violating Vehicle Code section 14601.1, subdivision (a) [driving while driving privileges are suspended or revoked] in the criminal proceeding entitled *The People of the State of California v. Michael Florentino Quintana* (Super. Ct. Los Angeles County, 2008, No. 8NW04365). The Court sentenced Respondent to serve 5 days in Los

Angeles County Jail and placed him on 36 months probation, with terms and conditions. The circumstances surrounding the conviction are that on or about September 18, 2008, Respondent drove a vehicle while his driving privilege was suspended or revoked.

c. On or about December 29, 2005, after pleading nolo contendere, Respondent was convicted of one misdemeanor count of violating Vehicle Code section 14601.5, subdivision (a) [driving while driving privileges are suspended or revoked with knowledge] in the criminal proceeding entitled *The People of the State of California v. Michael Florentino Quintana* (Super. Ct. Los Angeles County, 2005, No. 5AT06390). The Court placed Respondent on 36 months probation, with terms and conditions. The circumstances surrounding the conviction are that on or about August 4, 2005, Respondent drove a vehicle while knowing his driving privileges were suspended or revoked.

d. On or about August 3, 2005, after pleading nolo contendere, Respondent was convicted of one misdemeanor count of violating Vehicle Code section 23152, subdivision (b) [driving while having 0.08% or more, by weight, of alcohol in his blood] in the criminal in the criminal proceeding entitled *The People of the State of California v. Michael Florentino Quintana* (Super. Ct. Los Angeles County, 2005, No. 5AT04945). The Court sentenced Respondent to serve 3 days in Los Angeles County Jail and placed him on 3 years probation, with terms and conditions. The circumstances surrounding the conviction are that on or about June 22, 2005, Respondent drove a vehicle while having a blood-alcohol content level of approximately 0.09%.

SECOND CAUSE FOR DENIAL OF APPLICATION

(Acts Warranting Denial of Licensure)

10. Respondent's application is subject to denial under sections 9841, subdivision (b) and 480, subdivisions (a)(3)(A) and (a)(3)(B), in that Respondent committed acts which if done by a licentiate of the business and profession in question, would be grounds for suspension or revocation of his license. Respondent was convicted of crimes substantially related to the qualifications, functions, or duties of a licensed service dealer which to a substantial degree evidences his present or potential unfitness to perform the functions authorized by his license in a manner consistent with the public health, safety, or welfare, in violation of sections 9841,

subdivision (a)(7) and 490, in conjunction with California Code of Regulations, title 16, section 2767. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraph 9, as though set forth fully.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Bureau issue a decision:

1. Denying the application of Respondent for registration as an Appliance Service Dealer; and

2. Taking such other and further action as deemed necessary and proper.

DATED: 08/29/2012

TONYA BLOOD
Bureau Chief
Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation
Department of Consumer Affairs
State of California
Complainant

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