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8 **BEFORE THE**
9 **BUREAU OF ELECTRONIC AND APPLIANCE REPAIR,**
10 **HOME FURNISHINGS AND THERMAL INSULATION**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

12 In the Matter of the Statement of Issues
13 Against:

Case No. AN 2012-306

14 **ROBERT SERVANTES, AKA**
15 **ROBERT CERVANTES, AKA**
16 **ROBERTO CERVANTES, AKA**
17 **ROBERTO SERVANTES**

STATEMENT OF ISSUES

16 Applicant/Respondent.

17 Tonya Blood ("Complainant") alleges:

18 **PARTIES**

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

22 2. On or about April 5, 2012, the Bureau received an application for an Appliance
23 Service Dealer Registration from Robert Servantes, also known as Robert Cervantes, Roberto
24 Cervantes, and Roberto Servantes ("Respondent"). On or about March 14, 2012, Robert
25 Servantes certified under penalty of perjury to the truthfulness of all statements, answers, and
26 representations in the application. The Bureau denied the application on October 2, 2012.

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1 STATUTORY AND REGULATORY PROVISIONS

2 3. Business and Professions Code ("Code") section 9831 states, in pertinent part, that
3 the Director shall refuse to validate the registration of an electronic appliance repair dealer if the
4 applicant has committed acts or crimes constituting grounds for denial of licensure under section
5 480 of that code.

6 4. Code Section 9841 states, in pertinent part:

7 (a) The director may refuse to validate, or may invalidate temporarily or
8 permanently the registration of a service dealer for any of the following acts or
9 omissions done by himself or herself or any employee, partner, officer, or member of
10 the service dealer and related to the conduct of his or her business:

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

14 5. Code section 480, states, in pertinent part:

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

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

24 6. Code section 22 states:

25 Board," as used in any provision of this code, refers to the board in which the
26 administration of the provision is vested, and unless otherwise expressly provided,
27 shall include "bureau," "commission," "committee," "department," "division,"
28 "examining committee," "program," and "agency."

7. Code section 477, subdivision (b), states, "'License' include; certificate, registration
or other means to engage in a business or profession regulated by this code."

8. California Code of Regulations, title 16, 2767 states, 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

1 functions authorized by his registration in a manner consistent with the public health,
2 safety, or welfare.

3 **FIRST CAUSE FOR DENIAL OF APPLICATION**

4 (Criminal Convictions)

5 9. Respondent's application is subject to denial pursuant to Code section 9841,
6 subdivision (a)(7) and Code section 480 (a)(1), in that Respondent committed crimes that are
7 substantially related to the qualifications, functions or duties of an appliance service dealer, as
8 follows:

9 a. On or about April 13, 2009, in the case entitled *People v. Robert Servantes* (Fresno
10 County Superior Court (2009), Case No. F09901645), the court convicted Respondent on his plea
11 of no contest of violating Penal Code section 12021, subdivision (a)(1) (felon in possession of a
12 firearm), a felony. The circumstances of the crime are that on or about March 17, 2009, peace
13 officers from the Fresno Police Department went to Respondent's dwelling in response to a report
14 of domestic violence. The officers observed that there were multiple holes in the bedroom door,
15 and Respondent told them that he had damaged it during an altercation with his domestic partner.
16 The officers photographed scratches on Respondent's partner and then searched Respondent's
17 truck. Inside the truck the officers found marijuana, including marijuana inside a plastic cup,
18 where Respondent told them it would be, as well as a .22 caliber rifle without a stock under some
19 power tools. Respondent told them he intended to fix the rifle. Respondent was a convicted felon,
20 as set forth in subparagraph b, below.

21 b. On or about July 23, 1999, in the case entitled *People v. Robert Servantes* (Fresno
22 County Superior Court (1999), Case No. F99903127-9), the court convicted Respondent on his
23 plea of no contest of violating Health and Safety Code section 11377(a) (unlawful possession of a
24 controlled substance), a felony. Respondent was permitted to participate in the deferred entry of
25 judgment program under Penal Code sections 1000 *et seq.* On or about May 1, 2003, Respondent
26 was terminated from the program due to multiple positive test results for illicit drugs, and on June
27 7, 2003, was sentenced on his previously deferred no contest plea to felony violation of Health
28 and Safety Code section 11377(a). The circumstances of the crime are on or about March 6, 1999,
peace officers from the Fresno Police Department responded to a report that two individuals were

1 removing the tires from a parked vehicle. The officers found that the vehicle had been stolen.
2 When questioned, Respondent admitted that he and another individual removed the tires, but
3 stated that they had been returned to the vehicle. The peace officers entered Respondent's
4 dwelling and found a car jack, a tire iron, a plastic bag containing a white rocky substance, and a
5 plate with fifteen portions of a white rocky substance near a small scale on the kitchen table.
6 Respondent was searched and two bundles of the white rocky substance were found in his pocket.
7 Respondent was subsequently charged and convicted for possession of amphetamine.

8 **SECOND CAUSE FOR DENIAL OF APPLICATION**

9 **(Committed Acts Which If Done By a Licentiate)**

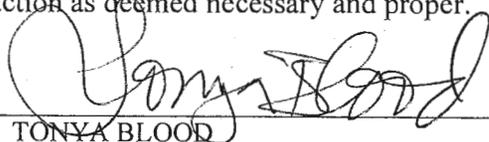
10 10. Respondent's application is subject to denial under Code section 480,
11 subdivision (a)(3)(A), in that he committed acts, which if done by a licentiate of the profession
12 would constitute grounds for discipline under the Code as set forth in paragraph 9, above.

13 **PRAYER**

14 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,
15 and that following the hearing, the Director of Consumer Affairs issue a decision:

- 16 1. Denying the application of Robert Servantes, also known as Robert Cervantes,
17 Roberto Cervantes, and Roberto Servantes, for an Appliance Service Dealer Registration; and,
18 2. Taking such other and further action as deemed necessary and proper.

19 DATED: APR 11 2013



20 TONYA BLOOD
21 Chief
22 BUREAU OF ELECTRONIC AND APPLIANCE
23 REPAIR, HOME FURNISHINGS AND THERMAL
24 INSULATION
25 Department of Consumer Affairs
26 State of California
27 Complainant

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