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: GABE ZAMBRANA, AKA GABRIEL MICAH ZAMBRANA, AKA GABRIEL ZAMBRANA Electronic Service Dealer Registration Applicant Respondent.	Case No. AN 2013-142 OAH No. 201400610

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Director of Consumer Affairs as the Decision and Order in the above entitled matter.

This Decision shall become effective on JUN 2 2 2015.

IT IS SO ORDERED MAY 2 1 2015.

Doreathea Johnson
DOREATHEA JOHNSON
Deputy Director, Legal Affairs
Department of Consumer Affairs

KAMALA D. HARRIS
Attorney General of California
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ORIGINAL

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: **GABE ZAMBRANA,** **AKA GABRIEL MICAH ZAMBRANA,** **AKA GABRIEL ZAMBRANA** **Electronic Service Dealer Registration Applicant** Respondent.	Case No. AN 2013-142 OAH No. 2014100610 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-entitled proceedings that the following matters are true:

PARTIES

1. Justin Paddock ("Complainant") is the Bureau Chief of the Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation, ("Bureau"), Department of Consumer Affairs. He brought this action solely in his official capacity and is represented in this matter by Kamala D. Harris, Attorney General of the State of California, by Leslie A. Burgermyer, Deputy Attorney General.

2. Respondent Gabe Zambrana, also known as Gabriel Micah Zambrana and Gabriel Zambrana, ("Respondent") is representing himself in this proceeding and has chosen not to exercise his right to be represented by counsel.

3. On or about January 28, 2013, Respondent filed an application dated January 12, 2013, with the Director of the Department of Consumer Affairs to obtain an Electronic Service Dealer Registration.

JURISDICTION

4. Statement of Issues No. AN 2013-142 was filed before the Director of the Department of Consumer Affairs ("Director") for the Bureau and is currently pending against Respondent. The Statement of Issues and all other statutorily required documents were properly served on Respondent on September 11, 2014.

5. A copy of Statement of Issues No. AN 2013-142 is attached hereto, marked Exhibit A, and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, and understands the charges and allegations in Statement of Issues No. AN 2013-142. Respondent has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Statement of Issues; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

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CULPABILITY

9. Respondent admits the truth of each and every charge and allegation in Statement of Issues No. AN 2013-142.

10. Respondent agrees that his Electronic Service Dealer Registration is subject to denial and he agrees to be bound by the Director's probationary terms as set forth in the Disciplinary Order below.

CONTINGENCY

11. This stipulation shall be subject to approval by the Director of the Department of Consumer Affairs or the Director's designee. Respondent understands and agrees that counsel for Complainant and the staff of the Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation may communicate directly with the Director and staff of the Department of Consumer Affairs regarding this stipulation and settlement, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Director considers and acts upon it. If the Director fails to adopt this stipulation as the Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Director shall not be disqualified from further action by having considered this matter.

12. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

14. In consideration of the foregoing admissions and stipulations, the parties agree that the Director may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that the application of Respondent Gabe Zambrana, also known as Gabriel Micah Zambrana and Gabriel Zambrana, ("Respondent") for licensure for Electronic Service Dealer Registration is hereby granted. Upon successful completion of the licensure examination and all other licensing requirements, a registration shall be issued to Respondent. Said registration shall immediately be revoked, the order of revocation stayed, ad Respondent placed on probation for a period of three (3) years on the following conditions: will be issued and immediately revoked.

1. **Obey All Laws.** During the period of probation, Respondent shall comply with all statutes, regulations and rules governing electronic and appliance repair.

2. **Comply with Probation Program.** Respondent shall fully comply with the probation established by the Bureau and shall cooperate with the representatives of the Bureau.

3. **Submit Quarterly Reports.** Respondent shall submit quarterly reports, under penalty of perjury. The reports shall certify and document compliance with all the conditions of probation.

4. **Maintain Valid Registration.** Respondent shall, at all times while on probation, maintain an active current registration with the Bureau, including any period during which suspension or probation is tolled.

Should Respondent's registration, by operation of law or otherwise, expire, upon renewal or reinstatement Respondent's registration shall be subject to any and all terms of this probation not previously satisfied.

5. **Personal Appearance at Bureau Office.** Respondent shall report, by personal appearance of Respondent or Respondent's authorized representative, to the office of the Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation ("Bureau") or the Director of the Department of Consumer Affairs ("Director") or designee, on a schedule set by

the Bureau, but no more frequently than each quarter, on the methods used and success achieved in maintaining compliance with the terms and conditions of probation.

6. **Cooperation with Bureau Inspections.** Respondent shall provide Bureau representatives unrestricted access to inspect all business locations, including business records required to be maintained in accordance with Section 9847 and 9847.5 of the Business and Professions Code.

7. **Violation of Probation.** If the Respondent violates the conditions of his probation, the Bureau, after giving the Respondent notice and an opportunity to be heard, may set aside the stay order and impose the stayed discipline (revocation) of the Respondent's registration.

If during the period of probation, an accusation or petition to revoke probation has been filed against Respondent's registration or the Attorney General's Office has been requested to prepare an accusation or petition to revoke probation against the Respondent's registration, the probationary period shall automatically be extended and shall not expire until the accusation or petition has been acted upon by the Bureau. Upon successful completion of probation, the Respondent's registration will be fully restored.

ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Electronic Service Dealer Registration. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Director of Consumer Affairs.

DATED: 4-27-15

GABE ZAMBRANA, AKA GABRIEL MICAH ZAMBRANA, AKA GABRIEL ZAMBRANA
Respondent

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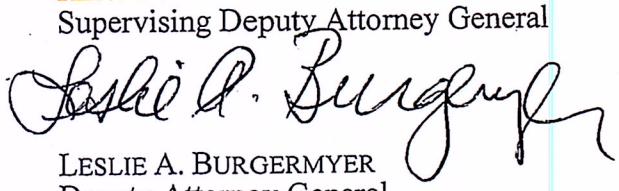
ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Director of the Department of Consumer Affairs.

Dated: 4-27-2015

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
KENT D. HARRIS
Supervising Deputy Attorney General



LESLIE A. BURGERMYER
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Statement of Issues No. AN 2013-142

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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: **GABE ZAMBRANA** **aka GABRIEL MICAH ZAMBRANA** **aka GABRIEL ZAMBRANA** **Electronic Service Dealer Registration Applicant** Respondent.	Case No. AN 2013-142 **STATEMENT OF ISSUES**

Complainant alleges:

PARTIES

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

2. On or about January 28, 2013, the Bureau received an application for an Electronic Service Dealer Registration from Gabe Zambrana, also known as Gabriel Micah Zambrana and Gabriel Zambrana, ("Respondent"). On or about January 12, 2013, Respondent certified under penalty of perjury to the truthfulness of all statements, answers, and representations in the application. The Bureau denied the application on February 7, 2014.

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JURISDICTION

3. This Statement of Issues is brought before the Director of the Department of Consumer Affairs ("Director") for the Bureau under the authority of the following laws. All section references are to the Business and Professions Code ("Code") unless otherwise indicated.

4. Section 9841 of the Code 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:
>
> . . .
>
> (3) Any other conduct that constitutes fraud or dishonest dealing.
>
> . . .
>
> (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.

5. Section 480 of the Code 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.
>
> (2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another.
>
> (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.
>
> (b) Notwithstanding any other provision of this code, no person shall be denied a license solely on the basis that he or she has been convicted of a felony if he or she has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code or that he or she has been convicted of a misdemeanor if he or she has met all applicable requirements of the

criteria of rehabilitation developed by the board to evaluate the rehabilitation of a person when considering the denial of a license under subdivision (a) of Section 482.

FIRST CAUSE FOR DENIAL OF APPLICATION

(Conviction of Crime)

6. Respondent's application is denied under Code sections 9841, subdivisions (a)(7) and (b), and 480, subdivision (a)(1), in that on or about November 6, 2007, in the case titled *People v. Gabriel Micah Zambrana,* Fresno County Superior Court Case No. F07907424, Respondent was convicted on his plea of guilty to two counts of violating Penal Code sections 459 and 460, subdivision (b), [unlawful entry of a locked motor vehicle, the property of another, with the intent to commit larceny or any felony], both felonies. Said crimes are substantially related to the licensed profession. The underlying circumstances are as follows:

a. On or about September 20, 2007, in Fresno County, California, Respondent unlawfully entered the locked motor vehicles of owners K.J.A. and W.E.B, with the intent to commit larceny or any felony.

SECOND CAUSE FOR DISCIPLINE

(Committed Acts of Dishonesty, Fraud or Deceit – Intention of Substantially Benefiting Himself)

7. Respondent's application is denied under Code sections 9841, subdivision (b), and 480, subdivision (a)(2), in that on or about September 20, 2007, in Fresno County, California, Respondent committed acts involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another, as set forth in paragraph 6, subparagraph "a," above, incorporated herein by reference.

THIRD CAUSE FOR DISCIPLINE

(Committed Acts if Done by Licensee – Grounds for Discipline)

8. Respondent's application is denied under Code sections 9841, subdivision (a)(3), and 480, subdivisions (a)(3)(A) and (B), in that on or about September 20, 2007, in Fresno County, California, Respondent committed acts constituting fraud or dishonest dealing, which acts, if done by a licentiate would be grounds from suspension or revocation of a license, as set forth in paragraph 6, subparagraph "a,", above, incorporated herein by reference. Said acts are

substantially related to the qualifications, functions, or duties of the business or profession for which application is made.

PRAYER

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

1. Denying the application of Gabe Zambrana, also known as Gabriel Micah Zambrana and Gabriel Zambrana, for a Electronic Service Dealer Registration;

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

DATED: SEP 03 2014

SONJA MEROLD
Acting 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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