

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 MARETTA WARD
Deputy Attorney General
4 State Bar No. 176470
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-1384
6 Facsimile: (415) 703-5480
Attorneys for Complainant

7
8 **BEFORE THE**
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **FOR THE BUREAU OF ELECTRONIC AND APPLIANCE REPAIR, HOME**
11 **FURNISHING AND THERMAL INSULATION**
12 **STATE OF CALIFORNIA**

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

15 **Ray Shaffer**

16 **dba J & R Computers**

17 Respondent.

18 Case No. AN 2011-683

19 **STATEMENT OF ISSUES**

20 Complainant alleges:

21 **PARTIES**

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

25 2. On or about June 13, 2011, the Bureau of Electronic and Appliance Repair, Home
26 Furnishings and Thermal Insulation received an application for Electronic Service Dealer from
27 Ray Shaffer (Respondent). On or about June 8, 2011, Ray Shaffer certified under penalty of
28 perjury to the truthfulness of all statements, answers, and representations in the application. The
Bureau denied the application on December 21, 2011.

//

JURISDICTION

1
2 3. This Statement of Issues is brought before the Director of Consumer Affairs
3 (Director) for the Bureau of Electronic and Appliance Repair, Home Furnishing and Thermal
4 Insulation, under the authority of the following laws. All section references are to the Business
5 and Professions Code unless otherwise indicated.

6 4. Section 22 of the Code states:

7 "(a) >Board= as used in any provisions of this Code, refers to the board in which the
8 administration of the provision is vested, and unless otherwise expressly provided, shall include
9 'bureau,' 'commission,' 'committee,' 'department,' 'division,' 'examining committee,' 'program,' and
10 'agency.'

11 "(b) Whenever the regulatory program of a board that is subject to review by the Joint
12 Committee on Boards, Commissions, and Consumer Protection, as provided for in Division 1.2
13 (commencing with Section 473), is taken over by the department, that program shall be
14 designated as a 'bureau.'"

15 5. Section 150 of the Code states: "The department is under the control of a civil
16 executive officer who is known as the Director of Consumer Affairs."

17 6. Section 475 of the Code states:

18 "(a) Notwithstanding any other provisions of this code, the provisions of this division shall
19 govern the denial of licenses on the grounds of:

20
21 "(2) Conviction of a crime."

22 7. Section 477 of the Code states:

23 As used in this division:

24 "(a) 'Board' includes 'bureau,' 'commission,' 'committee,' 'department,' 'division,'
25 'examining committee,' 'program,' and 'agency.'

26 "(b) 'License' includes certificate, registration or other means to engage in a
27 business or profession regulated by this code."
28

1 8. Section 480 of the Business and Professions Code provides, in pertinent part, that a
2 board may deny a license if the applicant has been convicted of a crime substantially related to
3 the qualifications, functions or duties of the business or profession for which application is made,
4 has committed any act involving dishonesty, fraud or deceit, has committed any act which if done
5 by a licensee would be grounds for suspension or revocation of a license, or has knowingly made
6 a false statement of fact required to be revealed in the application.

7 9. Section 493 of the Code states:

8 "Notwithstanding any other provision of law, in a proceeding conducted by a board within
9 the department pursuant to law to deny an application for a license or to suspend or revoke a
10 license or otherwise take disciplinary action against a person who holds a license, upon the
11 ground that the applicant or the licensee has been convicted of a crime substantially related to the
12 qualifications, functions, and duties of the licensee in question, the record of conviction of the
13 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,
14 and the board may inquire into the circumstances surrounding the commission of the crime in
15 order to fix the degree of discipline or to determine if the conviction is substantially related to the
16 qualifications, functions, and duties of the licensee in question.

17 "As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and
18 'registration.'"

19 10. Section 9831 of the Code states, in pertinent part, that the Director shall refuse to
20 validate the registration of an electronic appliance repair dealer if the applicant has committed
21 acts or crimes constituting grounds for denial of licensure under section 480 of that code.

22 11. Section 9841(a) of the Code states, in pertinent part, that the Director may refuse to
23 validate, or may invalidate temporarily or permanently, the registration of a service dealer if he,
24 or any employee, partner, officer, or member of the service dealer, has violated provisions of the
25 Electronic and Appliance Repair Act.

26 12. Section 9841 of the Code states:

27 "(a) The director may refuse to validate, or may invalidate temporarily or permanently the
28 registration of a service dealer for any of the following acts or omissions done by himself or

1 herself or any employee, partner, officer, or member of the service dealer and related to the
2 conduct of his or her business:

3
4 "(7) Conviction of a crime which has a substantial relationship to the qualifications,
5 functions and duties of a registrant under this chapter, in which event the record of the conviction
6 shall be conclusive evidence thereof.

7 "(b) The director may also refuse to validate, or may invalidate temporarily or permanently,
8 the registration of a service dealer if the applicant or registrant, as the case may be, has committed
9 acts or crimes constituting grounds for denial of licensure under Section 480."

10 13. Section 9840 of the Code states it shall be unlawful to act as a service dealer without
11 first having registered in accordance with the provisions of this chapter and unless such
12 registration is currently valid.

13
14 **FIRST CAUSE FOR DENIAL OF APPLICATION**

15 (CRIMINAL CONVICTION)

16 14. Respondent's application is subject to denial under section 480 and 9841 (a)(7) in that
17 on or about April 8, 1998, in a criminal proceeding entitled Sexual Assault in Santa Cruz, Case
18 Number 58-08020, Respondent was convicted by plea of guilty in Penal Code Section 288 (a)
19 (Lewd act with a child) a felony. The circumstances are as follows:

20 a. On or about January 1, 1992 through May 1, 1994 Respondent engaged in
21 multiple and continuous lewd acts with a child under age 14.

22 b. Respondent was sentenced as follows: Six-year term of probation; fine of
23 \$200; restitution fee of \$1,200; educational/vocational technical training, attend Pacific
24 Treatment Associates; required registration under Penal Code Section 290; prohibition against
25 possession and use of drug paraphernalia; HIV Testing.

26 / /

27 / /

28 / /

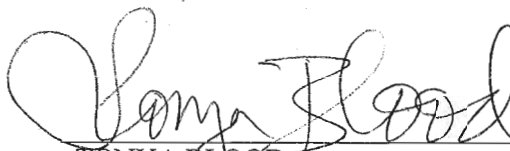
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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 Ray Shaffer for Electronic Service Dealer;
2. Taking such other and further action as deemed necessary and proper.

DATED: APR 08 2013



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

SF2012401547
statement of issues.rtf