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10 **BEFORE THE**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **FOR THE BUREAU OF HOUSEHOLD GOODS AND SERVICES**
13 **STATE OF CALIFORNIA**

14 In the Matter of the Accusation Against:

Case No. IS 2022-460

15 **LAI TRAN, DBA VALLEY FURNITURE**
16 **1721 E. Hammer Lane**
Stockton, CA 95210

ACCUSATION

17 **Furniture and Bedding Retailer License No.**
18 **M-159976**
19 **Service Contractor Seller Registration No. S**
20 **15537**

Respondent.

21
22 **PARTIES**

23 1. Justin Paddock (Complainant) brings this Accusation solely in his official capacity as
24 the Bureau Chief of the Bureau of Household Goods and Services (Bureau), Department of
25 Consumer Affairs (Department).

26 2. On or about December 30, 2010, the Bureau issued Service Contractor Seller
27 Registration No. S-15537 to Lai Tran, dba Valley Furniture (Respondent). On December 31,
28

1 2013, Respondent’s Service Contract Seller Registration expired, and the Bureau cancelled the
2 license on March 24, 2014.

3 3. On or about March 4, 2011, the Bureau issued Furniture and Bedding Retailer
4 License No. M-159976 to Respondent. Respondent’s license was expired from April 1, 2013, to
5 January 24, 2014; from April 1, 2015, to July 27, 2015; from April 1, 2017, to June 11, 2018;
6 among other times. Currently, Respondent’s Furniture and Bedding Retailer License is
7 delinquent, and expired on March 31, 2021.

8 **JURISDICTION**

9 4. Complainant brings this Accusation before the Director of the Department (Director)
10 for the Bureau, under the authority of the following laws. All section references are to the
11 Business and Professions Code unless otherwise indicated.

12 5. Section 118, subdivision (b), provides that the suspension, expiration, surrender, or
13 cancellation of a license shall not deprive the Bureau of jurisdiction to proceed with a disciplinary
14 action during the period within which the license may be renewed, restored, reissued or
15 reinstated.

16 ***Jurisdiction Over Service Contract Seller License.***

17 6. Section 9810 states:

18 (a)(1) There is in the Department of Consumer Affairs a Bureau of
19 Household Goods and Services, under the supervision and control of the director.
20 The director shall administer and enforce the provisions of this chapter [the
21 Electronic and Appliance Repair Dealer Registration Law (Bus. & Prof. Code §
22 9800 *et seq.*) (hereinafter “EARD Law”)] and Chapter 3 (commencing with
23 Section 19000) and Chapter 3.1 (commencing with Section 19225) of Division 8.

24 ...

25 (d) Whenever the laws of this state refer to the Bureau of Electronic Repair
26 Dealer Registration or the Bureau of Electronic and Appliance Repair, the
27 reference shall be construed to be to the Bureau of Household Goods and
28 Services.

7. Section 9810.1 provides that protection of the public shall be the highest priority of
the Bureau in exercising its licensing, regulatory, and disciplinary functions under the EARD
Law.

1 8. Section 9813 provides the Bureau may investigate and prosecute actions concerning
2 violations of any law or rule or order of the Department as provided in Government Code section
3 11180, among other things.

4 9. Section 9814.5 provides the Director may establish and enforce reasonable
5 regulations for the conduct of service contractors, and for the general enforcement of the various
6 provisions of the EARD Law.

7 10. Section 9848 provides that all proceedings to suspend, revoke, or place on probation a
8 registration shall be conducted in accordance with the Administrative Procedure Act (Gov. Code
9 § 11500, *et seq.*).

10 11. Section 9849, subdivision (a), provides that the expiration of a valid registration shall
11 not deprive the Director of jurisdiction to proceed with any investigation or hearing on a cease
12 and desist order against a service contractor, or to render a decision to suspend, revoke, or place
13 the service dealer's registration on probation.

14 ***Jurisdiction Over Furniture and Bedding Retailer License.***

15 12. Section 19004.1 provides that protection of the public shall be the highest priority of
16 the Bureau in exercising its licensing, regulatory, and disciplinary functions under the Home
17 Furnishings and Thermal Insulation Act (Bus. & Prof. Code § 19000 *et seq.*) (hereinafter "HFTI
18 Act").

19 13. Section 19030 states, "Any reference in California law to the Bureau of Home
20 Furnishings or to the Bureau of Home Furnishings and Thermal Insulation shall be deemed to
21 refer to the Bureau of Household Goods and Services."

22 14. Section 19034 states, "With the approval of the director, the chief may adopt rules
23 and regulations necessary for the administration of this chapter and declaring the policy of the
24 bureau, and shall determine when any article, not otherwise clearly defined, is "upholstered
25 furniture" or "bedding" or "insulation" under the provisions of this chapter."

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1 15. Section 19210 provides that the Director may discipline a license, including
2 revocation, for a violation of any of the provisions of the HFTI Act, or the rules and regulations
3 of the Bureau.

4 **STATUTORY PROVISIONS**

5 ***Service Contract Seller License Disciplinary Provisions.***

6 16. Section 9850 states, "Any person who fails to comply with the provisions of this
7 chapter or of the regulations made pursuant to [the EARD Law] is guilty of a misdemeanor and
8 punishable by a fine not exceeding [] \$1,000 or by imprisonment not exceeding six months, or by
9 both such fine and imprisonment."

10 17. Section 9855 defines the following terms¹ for purposes of the EARD Law as follows:

11 (a) "Service contract" means a contract in writing to perform, over a fixed
12 period of time or for a specified duration, services relating to the maintenance,
13 replacement, or repair of consumer goods and may include provisions for
14 incidental payment of indemnity under limited circumstances, including, but not
15 limited to, power surges, food spoilage, or accidental damage from handling.
16 "Service contract" shall not include a contract in writing to maintain structural
17 wiring associated with the delivery of cable, telephone, or other broadband
18 communications services. "Service contract" shall not include a contract in which
19 a consumer agrees to pay a provider of vision care services for a discount on
20 optical products or contact lenses for a specified duration.

21 ...

22 (c)(1) "Service contract seller" or "seller" means a person who sells or
23 offers to sell a service contract to a service contract holder, including a person
24 who is the obligor under a service contract sold by the seller, manufacturer, or
25 repairer of the product covered by the service contract.

26 (2) "Service contract seller" or "seller" also means a third party,
27 including an obligor, who is not the seller, manufacturer, or repairer of the
28 product. However, a third party shall not be an obligor on a service contract
unless the obligor obtains a service contract reimbursement insurance policy
for all service contracts under which the third party is obligated under the
terms of a service contract.

...

(d) "Service contract holder" means a person who purchases or receives a
service contract from a service contract seller.

¹ A service contract seller is distinct from a service dealer. Section 9801, subdivision (f), defines service dealers, who typically repair, service, or install specific consumer goods. This case does not involve a service dealer.

1 (e) "Service contractor" means a service contract administrator or a service
2 contract seller.

3 18. Section 9855.1, subdivision (a), states "It shall be unlawful for any person to act as a
4 service contractor in this state unless that person first registers with the bureau in accordance with
5 the provisions of this chapter and maintains a valid registration."

6 19. Section 9855.7 states as follows:

7 The director may deny, or may suspend, revoke, or place on probation the
8 registration of a service contractor for any act, omission, or crime that is
9 committed by the service contractor or any employee, partner, officer, or agent of
the service contractor for any of the following reasons:

10 (a) Any conduct that constitutes fraud or dishonest dealing.

11 ***Furniture and Bedding Retailer License Disciplinary Provisions.***

12 20. Section 19049, provides it shall be unlawful for any person to engage in a business
13 regulated by the HFTI Act unless at the time of doing so s/he holds a valid, unexpired license to
14 engage in that business, in compliance with the HFTI Act.

15 21. Section 19051, states "Every upholstered-furniture retailer, . . . , shall hold a retail
16 furniture dealer's license."

17 22. Section 19055, states, "Every bedding retailer, . . . , shall hold a retail bedding
18 dealer's license. . . ."

19 **REGULATORY PROVISIONS**

20 ***Regulatory Provisions Enacted for the Conduct of Service Contractors.***

21 23. California Code of Regulations title 16, section 2771 states:

22 . . .

23 (e) When an order of abatement is not contested or if the order is appealed
24 and the person cited does not prevail, *failure to abate the violation charged within*
25 *the time allowed shall constitute a violation and failure to comply with the order*
26 *of abatement.* The time allowed for the abatement of a violation shall begin when
the order of abatement is final and has been served. *Such failure may result in*
disciplinary action being taken by the bureau or other appropriate judicial or
regulatory relief being taken against the person cited. (Italics added.)

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1 ***Regulatory Provisions Adopted for the Administration of the HFTI Act.***²

2 24. California Code of Regulations title 4, section 1381 states:

3 In assessing an administrative fine and issuing an order of abatement, the
4 chief shall give due consideration to the following factors:

5 (a) The nature and severity of the violation.

6 (b) The good or bad faith of the cited person.

7 (c) The history of previous violations.

8 (d) Evidence that the violation was willful.

9 (e) The extent to which the cited person or entity has cooperated with the
10 bureau

11 (f) The extent in which the cited person has mitigated or attempted to
12 mitigate any loss caused by the violation.

13 (g) The extent of the consumer injury which is a direct and proximate result
14 of the violation.

15 (h) Such other matters as justice may require.

16 25. California Code of Regulations title 4, section 1383.4, subdivision (c), states:

17 When an order of abatement is not contested or if the order is appealed and
18 the person or entity cited does not prevail, *failure to abate the violation charged*
19 *within the time specified in the citation shall constitute a violation and failure to*
20 *comply with the order of abatement. Failure to timely comply with an order of*
21 *abatement may result in disciplinary action* being taken by the bureau or other
22 appropriate judicial relief being taken against the person cited. (Italics added.)

23 **COST RECOVERY**

24 26. Section 125.3 provides that the Bureau may request the administrative law judge to
25 direct a licensee found to have committed a violation or violations of the licensing act to pay a
26 sum not to exceed the reasonable costs of the investigation and enforcement of the case, with
27 failure of the licensee to comply subjecting the license to not being renewed or reinstated. If a

28 ² The regulations adopted for the administration of the HFTI Act are found in title 4
(Business Regulations) rather than title 16 (Professional and Vocational Regulations) of the
California Code of Regulations. (Cal. Code Regs. tit. 4, § 1101 *et seq.*)

1 case settles, recovery of investigation and enforcement costs may be included in a stipulated
2 settlement.

3 **FACTUAL ALLEGATIONS**

4 27. Respondent operates a business located at 1721 E. Hammer Lane, in Stockton, under
5 the fictitious business name Valley Furniture, and acts as an upholstered furniture and bedding
6 retailer, and as a service contract seller. Respondent has a history of unlicensed conduct after
7 Respondent's license expired and became delinquent. The Bureau cited Respondent six times for
8 unlicensed conduct and other violations of the EARD Law and HFTI Act. Respondent failed to
9 contest the citations, fully pay fines, or obey orders of abatement commanding Respondent to
10 cease unlicensed conduct.

11 28. On December 18, 2013, the Bureau issued Respondent Citation No. I5-2013-234
12 against the Furniture and Bedding Retailer license for violation of Business and Professions Code
13 section 19049 for unlicensed conduct, fined Respondent \$500.00, and issued an order of
14 abatement to immediately cease and desist from any unlicensed activity. The Bureau observed
15 Respondent operating as a furniture retailer without a valid license.

16 29. On July 1, 2015, the Bureau issued Respondent Citation No. I5 2015-284 against the
17 Furniture and Bedding Retailer license for violation of Business and Professions Code section
18 19049 for unlicensed conduct, and issued an order of abatement to immediately cease and desist
19 from any unlicensed activity. The Bureau observed Respondent's business was open and
20 engaged in unlicensed activity.

21 30. On August 9, 2017, the Bureau issued Respondent Citation No. I5 2017-247 against
22 the Furniture and Bedding Retailer license for violation of Business and Professions Code section
23 19049 for unlicensed conduct, fined Respondent \$500.00, and issued an order of abatement to
24 immediately cease and desist from any unlicensed activity. The Bureau observed Respondent
25 continued to sell furniture and bedding to the public.

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1 31. On June 23, 2018, Respondent sold a sectional and recliners, as well as a service
2 contract to a consumer (PK) for \$1,600.00,³ after the Bureau cancelled her Service Contract
3 Seller's registration.

4 32. On April 8, 2022, the Bureau issued Respondent Citation No. HM 2022-85 against
5 the Furniture and Bedding Retailer license for violation of Business and Professions Code
6 sections 19049 (unlicensed conduct); 19051 (failure to hold a retail furniture dealer's license),
7 and 19055 (failure to hold a retail bedding dealer's license). The Bureau fined Respondent
8 \$500.00, and issued an order of abatement to immediately cease and desist from any unlicensed
9 activity. The Bureau observed Respondent selling retail furniture and bedding without a valid
10 license.

11 33. Also on April 8, 2022, the Bureau issued Respondent Citation No. IC 2022-61 against
12 the Service Contract Seller registration for violation of Business and Professions Code section
13 9840 (acting as a service dealer without a valid registration),⁴ fined Respondent \$250, and issued
14 an order of abatement to immediately cease and desist from any unlicensed activity. The Board
15 observed Respondent engaging in the unlicensed sale of service contracts. Respondent offered
16 Guardian Protection Products, Inc. service plans, offering to provide service protection plans to
17 protect newly purchased furniture.

18 34. On May 18, 2022, the Bureau issued Respondent Citation No. IS 2022-117 against
19 the Furniture and Bedding Retailer license for violation of Business and Professions Code
20 sections 19049 (unlicensed conduct); 19051 (failure to hold a retail furniture dealer's license),
21 and 19055 (failure to hold a retail bedding dealer's license). The Bureau fined Respondent
22 \$1,000.00, and issued an order of abatement to immediately cease and desist from any unlicensed
23 activity. The Board observed respondent willfully operating as a retail furniture dealer and
24 bedding dealer without a license.

25 ³ Respondent's invoice does not distinguish between the price for the service contract or
26 the furniture sold to PK.

27 ⁴ Section 9855.1, subdivision (a), provides that it is unlawful for any person to act as a
28 service contractor unless that person is first registered with the Bureau in accordance with the
EARD Law and maintains a valid registration. Nonetheless, the conduct observed by the Bureau
violated Section 9855.1, subdivision (a).

1 **SIXTH CAUSE FOR DISCIPLINE**

2 **(Violation of Regulations)**

3 **(Against Respondent’s Furniture and Bedding Retailer Licenses)**

4 46. Complainant incorporates paragraphs 27-35 by reference as if set forth in full herein.

5 47. Respondent’s license is subject to discipline under Section 19210 because it violated
6 California Code of Regulations, title 4, section 1383.4, subdivision (c), when Respondent failed
7 to comply with the orders of abatement in the following Citations:

- 8 a. Citation Nos. I5-2013-234;
- 9 b. Citation No. I5 2015-284;
- 10 c. Citation No. I5 2017-247;
- 11 d. Citation No. HM 2022-85; and
- 12 e. Citation No. IS 2022-117.

13 **DISCIPLINE CONSIDERATIONS**

14 48. To determine the degree of discipline, if any, to be imposed on Respondent,
15 Complainant alleges that Respondent has willfully failed to comply with prior orders of
16 abatement to cease unlicensed activity as reflected in Citation Nos. I5 2013-234, I5 2015-284, I5
17 2017-247, HM 2022-85, I5 2022-117, and IC 2022-61. The citations are now final.

18 **PRAYER**

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

- 22 1. Revoking or suspending Furniture and Bedding Retailer License Number M-159976,
23 issued to Lai Tran, dba Valley Furniture;
- 24 2. Revoking or suspending Service Contractor Seller Registration Number S 15537,
25 issued to Lai Tran, dba Valley Furniture;
- 26 3. Ordering Lai Tran to cease any and all unlicensed conduct requiring a Furniture and
27 Bedding Retail license, and a Service Contract Seller registration;

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4. Ordering Lai Tran to pay the Bureau of Household Goods and Services the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

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

DATED: June 5, 2023

Justin Paddock

JUSTIN PADDOCK
Bureau Chief
Bureau of Household Goods and Services
Department of Consumer Affairs
State of California
Complainant

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