

**DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY**

1001 I STREET, SACRAMENTO, CALIFORNIA 95814 • WWW.CALRECYCLE.CA.GOV • (916) 322-4027
P.O. BOX 4025, SACRAMENTO, CALIFORNIA 95812

FedEx Delivery: 774779469225
Enforcement Order: 2019M-0004

March 29, 2019

Mr. Manuel Meza
The Mattress Shop
1025 N. Blackstone Ave.
Fresno, CA 93701

RE: STIPULATION, DECISION, AND ORDER

Dear Mr. Meza

The California Department of Resources Recycling and Recovery (CalRecycle) has received the Stipulation, Decision, and Order (#2019M-0004), which you have signed and returned. A copy of your Payment Agreement (plan) is attached and payments will be handled through CalRecycle's Accounting Office, per the plan. Timely receipt of all penalty payments and adherence to all other terms set forth in the Stipulation, Decision and Order will constitute full resolution of this matter.

In the future, should you have any questions or concerns about the Carpet, Mattress, or Paint Stewardship programs and requirements, please call our Extended Producer Responsibility Compliance Unit at (916) 341-6192 so that we can assist you and minimize the potential for future enforcement action.

If you have any other questions concerning this Stipulation, Decision, and Order, please call Kirby Garrett, Supervisor of the Extended Producer Reasonability Compliance Unit, at: (916) 341-6880.

Sincerely,

A handwritten signature in blue ink, appearing to read "Mark de Bie".

Mark de Bie, Deputy Director
Waste Permitting, Compliance and Mitigation Division
California Department of Resources Recycling and Recovery



**CALIFORNIA DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY
USED MATTRESS RECOVERY AND RECYCLING ACT VIOLATIONS
STIPULATION, DECISION, AND ORDER**

(YOU MUST SIGN THE OTHER SIDE OF THIS PAGE (OR YOU WILL LOSE THIS STIPULATION))

Complainant, the California Department of Resources Recycling and Recovery (CalRecycle) and Respondent hereby agree that the stipulation will be a final resolution of the violations alleged below. The parties stipulate to the following facts and violations of law:

CALRECYCLE ENFORCEMENT ORDER NUMBER: 2019M-0004

RESPONDENT: The Mattress Shop
1015 N. Blackstone Ave.
Fresno, CA 93701

PUBLIC RESOURCES CODE (PRC) SECTION VIOLATED: §42989.1(a)

DESCRIPTION OF VIOLATIONS:

Between October 24, 2018 and February 28, 2019 (127 days), the respondent was in violation of the Used Mattress Recovery and Recycling Law (PRC §42989) (Mattress Law) violations:

- PRC §42989.1(a) requires mattress retailers to add the mattress recycling charge to the purchase price of mattresses and remit the charge collected to the mattress recycling organization (MRO).

CalRecycle may impose an administrative civil penalty on any mattress retailer that is in violation of the Mattress Law. The amount of the administrative civil penalty shall not exceed five hundred dollars (\$500) per day, but, if the violation is intentional, knowing, or reckless, CalRecycle may impose an administrative civil penalty of not more than five thousand dollars (\$5000) per day. (PRC §42993.1(a).)

DATE(S) OF VIOLATION: October 24, 2018 – February 28, 2019

STIPULATION DUE DATE: 30 DAYS FROM THE DATE OF RECEIPT

TOTAL MONETARY PENALTY: \$6,350.00 **NUMBER OF COUNTS:** 1

STATEMENT BY RESPONDENT(S):

I acknowledge that the violation(s) of the Public Resources Code and/or Title 14, California Code of Regulations (CCR) described above and on Exhibit 1 attached, have occurred and request that the California Department of Resources Recycling and Recovery resolve this matter by imposition of the monetary penalty specified above. I acknowledge receipt of the *Statement of Respondent's Rights* at the bottom of this form and voluntarily waive any and all procedural rights to contest this matter in an Administrative Hearing. I have enclosed a check or money order made payable to the California Department of Resources Recycling and Recovery in the amount of the penalty described above. I understand that if there are not sufficient funds in my bank account when the check is deposited, CalRecycle has the discretion to determine that this agreement is null and void, and can prosecute this allegation as if no agreement has been executed.

RESPONDENT has freely and voluntarily entered into this Stipulation, Decision, and Order (hereinafter "Stipulation"), and understands that it has the opportunity to consult with counsel prior to entering into this Stipulation. It is expressly understood and agreed that no representations or promises of any kind, other than as contained herein, have been made by any party to induce any other party to enter into this Stipulation, and that said Stipulation may not be altered, amended, modified, or otherwise changed except by a writing executed by each of the parties hereto.

This Stipulation constitutes the entire understanding of the parties concerning the settlement of this proceeding. There are no restrictions, promises, warranties, covenants, undertakings, or representations other than those expressly set forth herein or contained in separate written documents delivered or to be delivered pursuant hereto, and each party expressly acknowledges that it has not relied upon any restrictions, promises, warranties, covenants, undertakings, or representations other than those expressly contained herein.

If necessary, this Stipulation may be executed in counterparts, each of which shall be an original, and all together shall form one agreement. In addition, for purposes of this Stipulation, facsimile signatures will be treated as originals until the applicable page(s) bearing non-facsimile signatures have been received by the parties.

The effective date of this Stipulation, Decision, and Order, is the date that the Department Director signs it.

Dated: 3/7/19 Signature: MANUEL M MEZA

Printed Name: MANUEL MEZA

Job Title: OWNER

Name and Address of Business Entity: MANUEL MEZA MATTRESS SHOP 1025 N. BLACKSTONE FRESNO CA 93701

Any DBAs: MATTRESS SHOP

For California Department of Resources Recycling and Recovery Use Only

STATEMENT BY DIRECTOR:

The foregoing stipulation has been adopted by the California Department of Resources Recycling and Recovery as its final decision and order and is effective upon execution below by the Director of the California Department of Resources Recycling and Recovery.

IT IS SO ORDERED:

Dated: 3/29/19

Mark de Bie
Mark de Bie, Deputy Director
Waste Permitting, Compliance and Mitigation Division
California Department of Resources Recycling and Recovery

**CALIFORNIA DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY
STATEMENT OF RESPONDENT'S RIGHTS**

The complainant, the California Department of Resources Recycling and Recovery, and Respondent(s), both identified by name on this document, hereby agree to this Stipulation, Decision and Order.

The parties agree to enter into this Stipulation to resolve all factual and legal issues raised in the matter and to reach a final disposition without the necessity of holding an administrative hearing to determine the liability of each respondent named herein. However, this Stipulation, Decision, and Order can be used to prove these violations at a future hearing involving future violations.

Each Respondent understands and hereby knowingly and voluntarily waives any and all procedural rights under California Government Code sections 11400 et. seq. and 11500 et. seq., including but limited to the issuance and receipt of an accusation, and the right to appear personally and be represented by counsel at his or her own expense in any administrative hearing held in this matter, to confront and cross-examine all witnesses testifying at the hearing, to subpoena witnesses to testify at the hearing, and to have the Department's Director, a delegate of the Department's Director, or an Administrative Law Judge present at the hearing to act as an impartial hearing officer.

It is further stipulated and agreed that each Respondent has violated the Public Resources Code and/or Title 14, California Code of Regulations as described herein.

Each Respondent agrees to the issuance of the Decision and Order and imposition by the Department of an administrative penalty in the amount specified above, and a check or money order in said amount, payable to the California Department of Resources Recycling and Recovery is submitted herewith to be held by the California Department of Resources Recycling and Recovery until the Department issues its Decision and Order.

The parties agree that in the event the Department refuses to accept this Stipulation, it shall become null and void, and within fifteen (15) business days after the Stipulation is rejected, payments tendered shall be reimbursed to each respondent. Each Respondent further stipulates and agrees that in the event the Department rejects the Stipulation and a full evidentiary hearing before the Department's Director or delegate or an Administrative Law Judge becomes necessary, the Director shall not be disqualified because of prior consideration of this Stipulation.

**CALIFORNIA DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY
USED MATTRESS RECOVERY AND RECYCLING ACT VIOLATIONS
STIPULATION, DECISION, AND ORDER
EXHIBIT 1**

CALRECYCLE ENFORCEMENT ORDER NUMBER: 2019M-0004

RESPONDENT: The Mattress Shop
1025 N. Blackstone Ave.
Fresno, CA 93701

PUBLIC RESOURCES CODE (PRC) SECTION VIOLATED: §42989.1(a)

DESCRIPTION OF VIOLATIONS:

The Used Mattress Recovery and Recycling Law (PRC §§ 42985-42994) (Mattress Law) requires mattress retailers to register with a mattress recycling organization, collect the mattress recycling charge, visibly display the charge on billing documents, remit the charge to a mattress recycling organization, offer consumers free pick up of used mattresses at the time they deliver a new mattress, monitor the Department of Resources Recycling and Recovery's (CalRecycle) website to make sure they are selling mattresses of compliant manufacturers and renovators, and not sell mattresses in California while in violation of any of these mattress retailer requirements.

Compliance Background

On March 14, 2018, CalRecycle inspectors visited the Business location and provided to the Respondent, a *Notice of Required Actions*, in order for the Business to become compliant with the Mattress Law. (**Attachment A**)

On April 23, 2018, as the Business failed to respond to the *Notice of Required Actions*, the Department issued a First Notice of Violation: *Notice of Retailer Noncompliance with the Mattress Stewardship Law and Required Actions*. (**Attachment B**)

On June 15, 2018, as the Business failed to respond to the First Notice, the Department issued a Second Notice of Violation: *Violation of the California Mattress Stewardship Law and Penalty for Repeat Noncompliance*. (**Attachment C**)

The business provided some records on January 17, 2019 but remains in violation of PRC 42989.1(a): *Failure to remit recycle charges to a mattress recycling organization*.

The table below lists the outstanding violations and penalties being assessed to the Business. The penalty amounts listed are for the days the Business was in violation from the last compliance inspection, October 24, 2018, through the date of the Opportunity to Resolve Violations Through Settlement.

Streamline and Standard Penalty Calculation

PRC Section	Violation	Violation Start Date	Violation or Penalty Calculation End Date	Total Days in Violation	SPP Daily Penalty	SPP Penalty Assessed
42989.1(a)	Failure to collect the mattress recycling charge and remit it to a mattress recycling organization	10/24/2018	2/28/2019	127	\$50	\$6,350
					Total SPP Penalty:	\$6,350

TOTAL MONETARY PENALTY: \$6,350.00 NUMBER OF COUNTS: 1

Attachments enclosed.

Payment Agreement for Penalties Assessed per Enforcement Order # 2019M-0004

Manual Maza, Owner
The Mattress Shop
1025 N. Blackstone Ave.
Fresno, CA 93701

PAYMENT AGREEMENT

The balance of my account as of April 4, 2019 is \$6,350.

I agree to pay the Department of Resources Recycling and Recovery (CalRecycle) an initial payment of \$450, due April 4, 2019. This will be followed by minimum payments of \$100 due the 1st of each month thereafter until the full debt of \$6,350 is paid in full. If I make minimum payments, it will take 60 months to complete the payment plan.

If payments are not received by CalRecycle within 10 days of the agreed payment date, I understand I will be in violation of this agreement and the Enforcement Order/Decision and the entire remaining balance of \$6,350 will become immediately due. CalRecycle will initiate collection actions in accordance with section 8776.6 of the State Administrative Manual. If payments are not received, collection action may include: Offset procedures facilitated by the Franchise Tax Board, small claims court judgment, or debt collection facilitated by the State Attorney General's Office.

Manual Meza
Signature

3-21-19
Date

Manual Meza
Name (print)

519.6143
Phone Number

Mailing Address: _____