



Enforcement Order: 2020M-006
Delivery Tracking #: 551355001

December 1, 2020

Manuel Meza
Mattress Shop
1025 N Blackstone Avenue
Fresno, CA 93701

RE: STIPULATED, DECISION, AND ORDER

Dear Mr. Ortega,

The California Department of Resources Recycling and Recovery (the Department) has received the Stipulation, Decision, and Order (Order) which you have signed and returned. As presented in the Order, you have provided the 2019 Renovator Annual Report and the reduced penalty payment of \$750.00. This will constitute resolution of this matter.

In the future, should you have any questions or concerns about the Mattress Stewardship program and requirements, please call our EPR Compliance Unit at (916) 341-6192.

If you have questions concerning this Stipulation, Decision, and Order, please contact Kirby Garrett, supervisor of the Extended Producer Reasonability Unit, by email at: Kirby.Garrett@calrecycle.ca.gov.

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

(Exhibit 1A)

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

YOU MUST SIGN AND RETURN EXHIBIT 1A IF YOU ACCEPT THIS STIPULATION

Complainant, the California Department of Resources Recycling and Recovery (Department) 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:

DEPARTMENT ENFORCEMENT ORDER NUMBER: 2020M-0006

RESPONDENTS: Manuel Meza
Mattress Shop
1025 N Blackstone Ave
Fresno, CA 93701

PUBLIC RESOURCES CODE (PRC) SECTION VIOLATED 42991(a)

DESCRIPTION OF VIOLATIONS (Summary):

From July 2, 2020 to August 5, 2020, Mattress Shop (the Business) was in violation of the Used Mattress Recovery and Recycling Act (PRC 42985-42994) (Mattress Law), specifically: PRC 42991(a) requires mattress renovators to provide an Annual Report to the Department, by May 1, every year. Due to COVID-19, the Department notified the Business that the 2019 Annual Report due date was extended to July 1, 2020.

The Annual Report shall include the following:

- (1) Quantitative information on the number of mattresses received and recycled or renovated in the state during the preceding calendar year.
- (2) Other information deemed necessary by the department that is reasonably related to compliance with this chapter and that can be reasonably compiled.

The Department may impose an administrative civil penalty on any mattress renovator 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, the Department may impose an administrative civil penalty of not more than five thousand dollars (\$5,000) per day. (PRC 42993.1(a).)

DATE(S) OF VIOLATION: July 2, 2020 to August 5, 2020

STIPULATION DUE DATE: 30 days from the date this Order is issued

TOTAL MONETARY PENALTY: \$750

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 1C attached, have occurred and request that the California Department of Resources Recycling and Recovery (Department) resolve this matter by imposition of the monetary penalty specified above. I acknowledge receipt of the *Statement of Respondent's Rights* (Exhibit 1B) and voluntarily waive any and all procedural rights to contest this matter in an Administrative Hearing. I have submitted my penalty payment to the California Department of Resources Recycling and Recovery in the amount of the penalty described in Exhibit 1C. I understand that if there are not sufficient funds in my bank account when the penalty payment is processed, the Department 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 understand 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 written amendment, executed by each of the parties hereto.

This Stipulation and Exhibits 1B and 1C, constitute 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 and all together shall form one agreement. In addition, for purposes of this Stipulation, facsimile signatures will be treated as originals.

The undersigned are authorized representative(s), acting on behalf of the Business. The effective date of this Stipulation, Decision, and Order, is the date the Department Director signs it.

Signature: MANUEL M. MEZA Printed Name: MANUEL M MEZA
Title: Owner Dated: 11/24/2020

Signature: _____ Printed Name: _____
Title: _____ Dated: _____

Name and Address of Business Entity:

MANUEL MEZA

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 Deputy Director, WPCMD, of the California Department of Resources Recycling and Recovery.

IT IS SO ORDERED:

Dated: 12/1/2020



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

(Exhibit 1B)

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

The complainant, the California Department of Resources Recycling and Recovery, and Respondents, identified by name in Exhibit 1A, 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 not 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 in Exhibits 1A and 1C.

Each Respondent agrees to the issuance of the Decision and Order and imposition by the Department of an administrative penalty in the amount specified in Exhibit 1A, and full payment of said penalty amount is submitted by the Respondent 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.

(Exhibit 1C)

DETAILS OF RESPONDENT'S NONCOMPLIANCE WITH THE USED MATTRESS
RECOVERY AND RECYCLING ACT

DEPARTMENT ENFORCEMENT ORDER NUMBER: 2020M-0006

RESPONDENTS: Manuel Meza
Mattress Shop
1025 N Blackstone Ave
Fresno, CA 93701

PUBLIC RESOURCES CODE (PRC) SECTION VIOLATED: 42991(a)

The Used Mattress Recovery and Recycling Act (PRC 42985-42994) (Mattress Law) requires mattress renovators to register with a mattress recycling organization and submit an Annual Report to the Department of Resources Recycling and Recovery's (Department) by the due date, to include:

- (1) Quantitative information on the number of mattresses received and recycled or renovated in the state during the preceding calendar year.
- (2) Other information deemed necessary by the department that is reasonably related to compliance with this chapter and that can be reasonably compiled.

COMPLIANCE BACKGROUND:

On April 10, 2019, the Business successfully provided the 2018 calendar year Annual Report to the Department.

On July 1, 2020, the Business' 2019 Annual Report was due. Between February 1, 2020 and June 30, 2020, the Department sent 12 emails to Alfredo Lopez at sealservices@comcast.net, providing information on annual reporting and the annual reporting due date. Due to COVID-19, the Department notified the Business that the 2019 Annual Report due date was extended to July 1, 2020

On July 2, 2020, the Department issued a *Failure to Submit the Used Mattress Recovery & Recycling Program 2019 Annual Report **Past Due and Required Actions** (First Notice of Violation)* to the business addressed to Alfredo Lopez. This *First Notice of Violation* was delivered via GLS and signed for by 'M.Mesa' on July 6, 2020.

On July 16, 2020, the Department issued a *Failure to Submit the Used Mattress Recovery & Recycling Program 2019 Annual Report – **Past Due and Required Actions** (Second Notice of Violation)* to the business addressed to Manual Meza. This *Second Notice of Violation* was delivered via GLS and signed for by 'M.Meza' on July 20, 2020.

On July 31, 2020, Inspector Garrett called Manual Meza at (559) 519-6143. Inspector Garrett told him that the Business was past due in providing the 2019 calendar year Annual Report. Mr. Meza stated that he prefers to speak in Spanish, however, he continued the call in

English and indicated he understood the Inspector. Mr. Meza stated that he has been trying to contact his bookkeeper, Alfredo Lopez, to assist in the reporting process and stated that he has an appointment with Mr. Lopez on August 3, 2020. Mr. Meza stated that he needed assistance and would report on August 3, 2020. Mr. Meza also stated that he does not have access to email and that email communications should continue to be sent to Alfredo Lopez (Seal Services).

On August 5, 2020, Inspector Garrett sent an email to Alfredo Lopez at sealservices@comcast.net, reminding him that the Mattress Shop is overdue in providing their 2019 Annual Report to the Department. The email contained a template to report the 2019 calendar year Annual Report data for the Business.

On August 6, 2020, Alfredo Lopez (sealservices@comcast.net) emailed Inspector Garrett the 2019 Annual Report data for the Mattress Shop.

The table below lists the violation and penalties being assessed to the Business. The reduced penalty amounts listed include the day after the due date of the Annual Report (from and including July 2, 2020) and continues up to the last day of July (to and including July 31, 2020).

Summary of Settlement Offer for Violations and Penalties

PRC Section	Violation	Violation or Penalty Calculation Start Date	Violation or Penalty Calculation End Date	Total Days in Violation	Reduced Daily Penalty	Total Reduced Penalty Assessed
42991(a)	Submission of the required Annual Report to the Department after the due date.	July 2, 2020	July 31, 2020	30	\$25	\$750
					Total Reduced Penalty:	\$750

TOTAL MONETARY PENALTY: \$750

NUMBER OF COUNTS: 1

Attachments enclosed