

(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: 2021M-003

RESPONDENTS: Jesse Bilyeu, Owner
North Bay Discount Furniture
5800 Redwood Dr. Unit B
Rohnert Park, CA 94928

PUBLIC RESOURCES CODE (PRC) SECTIONS VIOLATED: 42993.3(a)(2), 42987(b)(1), 42989.1(a), 42989.1(b)

DESCRIPTION OF VIOLATIONS (Summary):

Between October 29, 2020 and August 11, 2021, North Bay Discount Furniture (the Business) was in violation of the Used Mattress Recovery and Recycling Act (PRC sections 42985 through 42994) (Mattress Stewardship Law), specifically:

The Business was in violation of the following requirements of the Mattress Stewardship Law (MSL) but has demonstrated compliance as enforcement actions progressed.

- PRC section 42993.3(a)(2) requires mattress retailers to provide the Department, upon request, with relevant records necessary to determine compliance with the MSL;
- PRC section 42987(b)(1) requires mattress retailers to register with a Mattress Recycling Organization (MRO);
- PRC section 42989.1(a) requires mattress retailers to add the mattress recycling charge to the purchase price of mattresses and to display the mattress recycling charge clearly on the invoice, receipt or functionally equivalent billing document provided by the mattress retailer to the consumer as a separate line item;
- PRC section 42989.1(b) requires mattress retailers to remit the collected charges to a mattress recycling organization (MRO).

The Department may impose an administrative civil penalty on any mattress retailer that is in violation of the MSL. 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 section 42993.1(a)). This settlement offer does not include any outstanding fees, penalties or past due remittance that may be due to an MRO.

TOTAL REDUCED MONETARY PENALTY: \$3,000 **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 1A) 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: _____ **Printed Name:** _____
Title: _____ **Dated:** _____

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

Name and Address of Business Entity:

Any DBAs: _____

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: _____

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 is 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: 2021M-003

RESPONDENTS: Jesse Bilyeu, Owner
North Bay Discount Furniture
5800 Redwood Dr. Unit #B
Rohnert Park, CA 94928

PUBLIC RESOURCES CODE (PRC) SECTIONS VIOLATED: 42993.3(a)(2), 42987(b)(1), 42989.1(a), and 42989.1(b)

The Used Mattress Recovery and Recycling Act (PRC sections 42985 through 42994) (Mattress Stewardship 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 (Department) 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 October 29, 2020, contact by the Department with the Business commenced when the Business at 5800 Redwood Dr. Unit B, Rohnert Park, CA 94928 was visited by Jonathan Schmidt (Inspector Schmidt) for a Mattress Stewardship Law inspection. Inspector Schmidt verified that the Business offers mattresses for sale.

During the inspection, Inspector Schmidt interacted with Jesse Bilyeu, who identified himself as the owner of the Business. The inspector requested the following records to evaluate compliance with the Mattress Stewardship Law:

1. Documentation of an approved registration with a Mattress Recycling Organization,
2. Copies of recent invoices or equivalent billing documents showing sales of mattresses and/or foundations in California,
3. Documentation of a recent recycle charge (fee) remittance to a Mattress Recycling Organization,
4. A complete list of manufacturers that supply mattresses to the Business,
5. Documentation or a statement from the Business explaining how the Business is compliant with the Retailer Used Mattress Take-back requirement, and
6. Documentation or a statement from the Business indicating that the Department's website is monitored by the Business to verify that only compliant products are offered for sale.

During the inspection, Jesse Bilyeu stated that: the Business was not registered with the Mattress Recycling Council, the Business did not offer no charge used mattress take-back, and that the Business was not familiar with the Department's website and did not monitor it.

During the inspection, Jesse Bilyeu provided Inspector Schmidt copies of customer receipts showing mattress sales, however, the recycle charge was not clearly visible.

On November 10, 2020, the Business was issued a Notice of Noncompliance with the State of California's Used Mattress Recovery and Recycling Act and Required Corrective Actions (First Notice of Violation) and Inspection Report M20-102903A. These items were sent by way of General Logistics Systems (GLS), addressed to Jesse Bilyeu at the Business address. GLS records indicate this was delivered on November 12, 2020 and signed for by "J.Jessi".

The *First Notice of Violation* and corresponding inspection detailed the current violations, required corrective actions and identified the following records to be provided to the Department by December 11, 2020:

1. Documentation of an approved registration with a Mattress Recycling Organization,
2. Copies of receipts or equivalent billing documents showing sales of mattresses and/or foundations in California,
3. Documentation of a recent recycle charge (fee) remittance to a Mattress Recycling Organization, and
4. Documentation or a statement from the Business explaining how the Business is compliant with the Retailer Used Mattress Take-back requirement.

On December 16, 2020, Jesse Bilyeu provided images of a Used Mattress Take-Back Questionnaire by email, however, these images were not clear. Later that day, Inspector Schmidt emailed Jesse Bilyeu requesting additional information on the images provided and reminded Mr. Bilyeu that the other records have not yet been provided. No response to this email was received until January 21, 2021.

On December 22, 2020, the Business was issued a Violation of the State of California's Used Mattress Recovery and Recycling Act and Penalty for Repeat Noncompliance (Second Notice of Violation) and Inspection Report M21-102903B. These items were sent by way of GLS, addressed to Jesse Bilyeu at the Business address. GLS records indicate this was delivered on January 6, 2021 and signed for by "J.Bolyeau".

The *Second Notice of Violation* and corresponding inspection detailed the current violations, required corrective actions and identified the following records to be provided to the Department by January 22, 2021:

1. Documentation of an approved registration with a Mattress Recycling Organization,
2. Copies of receipts or equivalent billing documents showing sales of mattresses and/or foundations in California,
3. Documentation of a recent recycle charge (fee) remittance to a Mattress Recycling Organization, and
4. Documentation or a statement from the Business explaining how the Business is compliant with the Retailer Used Mattress Take-back requirement.

On January 21, 2021, the Business provided a completed Used Mattress Take-Back Questionnaire by email that indicated compliance with this requirement.

The February 2021, registration lists provided to the Department by the Mattress Recycling Council (MRC) confirmed that the Business registered as a mattress retailer (Participant Number 02865) and was approved on February 2, 2021 with a start date of October 1, 2020.

On February 10, 2021, the MRC reported to the Department that the Business had not yet reported or remitted recycle charges and that the Business had until the end of February 2021 to fulfill these obligations.

On February 12, 2021, Inspector Schmidt called the Business and spoke with Jesse Bilyeu. Jesse Bilyeu stated that he had received the Department's notices and would provide customer sales receipts by February 16, 2021 and proof of recycle charge remittance by the end of February 2021.

On February 17, 2021, the Business provided two customer sales receipts by email. One receipt provided did not show all the information from the "Total" section and did not display the date of sale. The second receipt displayed an incorrect recycle charge amount of \$12.00. Inspector Schmidt notified the Business by email and phone that the records provided did not demonstrate compliance with the MSL.

On February 19, 2021, the Business provided an additional mattress sales receipt that was compliant.

On February 24, 2021, the Business provided a second mattress sales receipt displaying the correct recycle charge amount.

On April 15, 2021, the Department issued the Business a Violation of the Mattress Stewardship Law and Penalty (Notice of Continued Violation) and Inspection Report #: M20-102903C. These items were sent by way of GLS, addressed to Jesse Bilyeu at the Business address. GLS records indicate this was delivered on April 16, 2021 and signed for by "J.Jessy".

The Notice of Continued Violation and corresponding Inspection Report detailed the following violations and the need to correct them immediately:

1. PRC section 42993.3(a)(2): The Business has not provided records requested by the Department,
2. PRC section 42989.1(b): The Business did not provide records to the Department that show proof of reporting and recycle fee remittance to a Mattress Recycling Organization.

On July 16, 2021, MRC reported to the Department that the Business has not made any attempts to bring their account current. They have not submitted any reports or remittances.

On August 11, 2021, the Business reported past due sales and paid past due remittance and fees to the MRC.

The table below lists the violations and associated penalties being assessed to the Business. The penalty amounts listed are for the days the Business failed to demonstrate compliance within the compliance demand period of the First and Second Notices of Violation.

Summary of Settlement Offer for Violations and Penalties

<u>PRC Section Violation</u>	Penalty Calculation Start Date	Penalty Calculation End Date	Total Days in Violation	Range of Penalties Allowed by Law (PRC section 42993.1(a))		Reduced Penalties Under Settlement Offer	
				Range of Daily Penalty	Range of Total Penalty	Daily Penalty	Total Penalty
<u>42989.1(b)</u> Failure to remit collected recycle charges to a mattress recycling organization	First NOV November 10, 2020	First NOV December 11, 2020	30	Up to \$5,000	Up to \$150,000	\$50	\$1,500
<u>42989.1(b)</u> Failure to remit collected recycle charges to a mattress recycling organization	Second NOV December 22, 2020	Second NOV January 22, 2021	30	Up to \$5,000	Up to \$150,000	\$50	\$1,500
				Total Allowable Penalty:	Up to \$300,000	Grand Total Reduced Penalty:	\$3,000

TOTAL MONETARY PENALTY: \$3,000

NUMBER OF COUNTS: 1

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 1A) 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: Jesse Bilyeu Printed Name: Jesse Bilyeu
Title: Owner Dated: 9-13-21

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

Name and Address of Business Entity:

North Bay Discount Furniture 5800 Redwood Dr Suite B
Ronnet Park CA 94928

Any DBAs: _____



Enforcement Order #: 2021M-003

September 17, 2021

Jesse Bilyeu, Owner
North Bay Discount Furniture
5800 Redwood Dr. Unit B
Rohnert Park, CA 94928

RE: STIPULATION, DECISION, AND ORDER

Dear Mr. Bilyeu,

The California Department of Resources Recycling and Recovery (the Department) has received the Stipulation, Decision, and Order, which you have signed and returned.

Your first penalty payment of \$375 has been received. Adherence to all other terms set forth in the Stipulation, Decision and Order will constitute full resolution of this matter.

If you have questions concerning the Mattress Stewardship program or this Stipulation, Decision, and Order, please contact the Extended Producer Responsibility Compliance Unit, by email at: mattressenforcement@calrecycle.ca.gov.

Sincerely,

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