

UNDER THE SETTLEMENT AGREEMENT AND STIPULATED DECISION SET FORTH BELOW, YOUR ELIGIBILITY FOR REDUCED PENALTIES IS CONDITIONED ON YOUR COMPLIANCE WITH ITS TERMS, INCLUDING PAYMENT OF THE REDUCED PENALTY AMOUNT AND REMITTANCE OF THE RECYCLING CHARGES SET FORTH IN SECTION D.

DEPARTMENT ENFORCEMENT NUMBER: N/A

PENALIZED PARTY: C. K. & Lila Hansen, Inc. (d/b/a Hansen's Furniture)
6109 N. Winton Way,
Winton, CA 95388

PUBLIC RESOURCES CODE (PRC) SECTION VIOLATED: 42989.1

VIOLATION PERIOD: December 1, 2021, through December 31, 2022

REDUCED PENALTY AMOUNT: \$5,000

**SETTLEMENT AGREEMENT AND
STIPULATION FOR ADMINISTRATIVE DECISION FOR PENALTIES**

This Settlement Agreement and Stipulation for Administrative Decision for Penalties (Agreement) is entered into by California Department of Resources Recycling and Recovery (CalRecycle) and C. K. & Lila Hansen, Inc. d/b/a Hansen's Furniture (Business), for the purpose of resolving a dispute through mutual stipulation to an administrative decision regarding the appropriate penalties for the Business's violations of the Used Mattress Recovery and Recycling Act (Public Resources Code sections 42985 through 42994) (the Act). This agreement shall be effective as of the date CalRecycle adopts such a decision according to the terms set forth herein (Effective Date).

A. BUSINESS'S AGREEMENT TO PENALTIES AND WAIVER OF RIGHTS

The undersigned individual represents and warrants that they are an authorized representative of the Business and executes this Agreement in such capacity. Accordingly, the Business acknowledges, understands, and agrees to the following:

1. Pursuant to the Act, the Business is required to collect from consumers a charge added to the price of mattresses and foundations it sells (Recycling Charge) and remit such charges to the Mattress Recycling Council California, LLC (MRC).
2. The Act authorizes CalRecycle to impose monetary penalties for violations of the Act. Pursuant to that authority, CalRecycle alleges that the Business violated the Act (specifically, Public Resources Code section 42989.1) by failing to remit to MRC the Recycling Charges it collected from consumers between December 1, 2021, and December 31, 2022 (Violation Period), and that a penalty of \$22,500 is appropriate for such violations.
3. The Business has the right to an administrative hearing through which it may contest CalRecycle's allegations and the appropriateness of penalties. The Business wishes to avoid the cost, risk, and overall burden of such a hearing by agreeing to the terms set forth herein, including stipulation to an administrative decision incorporating certain factual and legal findings and imposing a monetary penalty of \$5,000 (Reduced Penalty).

4. The Business hereby waives its right to a hearing and consents to CalRecycle issuing a decision substantially in the form set forth in Appendix A as an administrative decision adopting the terms of this Agreement (Stipulated Decision). Once CalRecycle issues the Stipulated Decision, it will be a valid, legally issued administrative decision imposing penalties against the Business. The Stipulated Decision will also constitute proof of the facts and violations described in this Agreement.

5. As of the Effective Date, the Business:

- a) admits that the facts stated in Section B are true and accurate;
- b) agrees that it committed the violations set forth in Section C; and
- c) waives any and all procedural rights under California Government Code sections 11400 *et. seq.* and 11500 *et. seq.*, including, but not limited to:
 - i. the issuance and receipt of a written accusation describing the legal violations and formally requesting imposition of administrative penalties;
 - ii. the right to discovery;
 - iii. the right to an administrative hearing before an impartial hearing officer;
 - iv. the right to subpoena witnesses and evidence; and
 - v. the right to confront and cross-examine witnesses.

6. If the Business fails to comply with its obligation to remit Recycling Charges as set forth in Section D, the Business shall be subject to a penalty of \$22,500 less the Reduced Penalty for its violations of the Act during the Violation Period. By executing this Agreement, the Business waives its right to challenge such penalties or otherwise challenge the Stipulated Decision.

7. The Business understands that the Stipulated Decision is not final and binding until it is approved and adopted by CalRecycle and that CalRecycle may refuse to do so for any reason. The Business acknowledges, for example, that CalRecycle may refuse to adopt the Stipulated Decision if it determines that the Business has continued to commit violations of the Act. In the event CalRecycle refuses to adopt the Stipulated Decision, such that a full evidentiary hearing before CalRecycle's director (or the director's delegate) or an Administrative Law Judge becomes necessary, the director shall not be disqualified because of prior consideration of this Agreement.

8. The Business understands that it has the right to consult with counsel and acknowledges that it has had the opportunity to do so prior to executing this Agreement.

9. Neither CalRecycle nor the Business has made any representations or promises of any kind, other than those contained herein, upon which the other party relies in accepting this Agreement.

10. This Agreement and the Stipulated Decision constitute the entire understanding between the Business and CalRecycle concerning the subject matter of this Agreement. There are no restrictions, promises, conditions, warranties, or representations relating to the factual findings, conclusions of law, and imposition of penalties other than those stated herein.

11. The Business understands that neither this Agreement nor the Stipulated Decision shall preclude CalRecycle from using any enforcement mechanism, whether administrative, civil, or criminal, against the Business with respect to violations of the Act by the Business other than those set forth herein or otherwise relating to the Violation Period.

12. To accept this Agreement and stipulate to the Stipulated Decision, the Business must sign this Agreement and submit it to CalRecycle along with a check or money order in the amount of the

Reduced Penalty. Upon request, other methods (e.g., via credit card) may be available, subject to CalRecycle's sole discretion. Regardless of the method of payment, CalRecycle will not adopt the Stipulated Decision until it receives payment. In the event that the Business submits payment but CalRecycle does not adopt the Stipulated Decision, CalRecycle will reimburse the Business for such payment. 13. The Business acknowledges and understands that the Stipulated Decision will have no effect on any outstanding legal obligations independent of this Agreement that it may owe directly to MRC.

14. The Business acknowledges and understands that this Agreement and the Stipulated Decision are not confidential and are subject to the California Public Records Act (Government Code section 6250 *et seq.*).

B. STIPULATED FACTUAL FINDINGS

The parties hereby stipulate to CalRecycle's adoption of the following factual findings:

1. On February 8, 2022, CalRecycle inspector Rob Hammerstad visited the Business's retail location in Modesto, CA, to conduct an inspection. At the conclusion of the inspection, after reviewing documentation available at the store, the inspector notified the Business that it was required to submit proof to CalRecycle that it was not violating certain provisions of the Act, including the requirement to remit to MRC Recycling Charges pursuant to PRC section 42989.1.
2. After not receiving the requested documentation from the Business, CalRecycle issued a *First Notice of Violation*, which was delivered to the Business on February 25, 2022.
3. After receiving no response from the Business to the *First Notice of Violation*, CalRecycle issued a *Second Notice of Violation*, which was delivered to the Business on April 4, 2022.
4. On May 3, 2022, CalRecycle inspector Jonathan Schmidt visited the Business's retail location in Winton, CA, to conduct an inspection. During the visit, a representative of the Business admitted that the Business had not remitted to MRC the Recycling Charges that it had been collecting.
5. CalRecycle issued a *Notice of Continued Violation*, which was delivered on May 23, 2022. The notice reiterated that the Business remained in violation of the Act and was required to correct its noncompliance and provide proof of such correction.
6. The Business did not respond to the *Second Notice of Violation* or the *Notice of Continued Violation*, nor did it otherwise provide any documentation that it had ceased violating the Act.
7. Despite being registered with MRC and collecting Recycling Charges from consumers, the Business has not remitted Recycling Charges to MRC for any monthly sales period since at least as early as December 2021.

C. STIPULATED CONCLUSIONS OF LAW AND IMPOSITION OF PENALTIES

The parties hereby stipulate to CalRecycle's adoption of the following conclusions of law and imposition of penalties:

1. The Business continuously violated PRC section 42989.1 by not remitting Recycling Charges that it collected during the Violation Period.
2. Penalties of up to \$22,500 are appropriate for the Business's continuous violation of PRC section 42989.1.

3. Conditioned on CalRecycle’s adoption of this Agreement (by issuing the Stipulated Decision) and the Business’ satisfaction of its obligations under Section D, the Business’s payment of the Reduced Penalty shall discharge its legal duties pursuant to the Act with respect to all violations committed during the Violation Period or otherwise relating to sales made during the Violation Period

4. In the event that the Business violates its obligations under this Agreement, CalRecycle may impose penalties of up to \$22,500 less the Reduced Penalty Amount, and the Business, having waived its rights under California Government Code sections 11400 *et seq.* and 11500 *et seq.*, shall not be entitled to an administrative hearing or otherwise to challenge imposition of such penalties.

D. OBLIGATION TO REMIT RECYCLING CHARGES CORRESPONDING TO SALES DURING THE PENALTY PERIOD

Within sixty (60) calendar days of the Effective Date, the Business shall remit to MRC \$3,171, which the Parties agree constitute all Recycling Charges collected by the Business during the Violation Period.

THE UNDERSIGNED KNOWINGLY AND VOLUNTARILY ENTER INTO THE ABOVE SETTLEMENT AGREEMENT AND STIPULATE TO AN ADMINISTRATIVE DECISION SUBSTANTIALLY IN THE FORM ATTACHED AS APPENDIX A.

C.K. & Lila Hansen, Inc.

California Department of Resources
Recycling and Recovery

Signature

Signature

Name: Leslie Silva

Name: Mark de Bie

Title: Controller

Title: Deputy Director

Dated: 5/2/2023

Dated: May 3, 2023

APPENDIX A

STIPULATED ADMINISTRATIVE DECISION FOR PENALTIES

CalRecycle adopts the terms of the attached Settlement Agreement and Stipulation for Administrative Decision, including the stipulated factual findings, stipulated conclusions of law, and imposition of penalties set forth therein, as a decision of CalRecycle, effective upon execution by CalRecycle's director or officer authorized to act on the director's behalf. CalRecycle files this decision pursuant to its authority to impose administrative civil penalties on retailers who violate the Used Mattress Recovery and Recycling Act (Pub. Resources Code sections 42985 *et seq.*) and its authority to issue a decision by settlement pursuant to Government Code section 11415.60. (Pub. Resources Code sections 42993.1 and 42993.2; *see also* Title 14 of the California Code of Regulations ("14 CCR") sections 18970 and 18971.)

STATEMENT BY DIRECTOR:

The foregoing Stipulated Administrative Decision for Penalties 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 department's director or officer authorized to act on the director's behalf.

IT IS SO ORDERED:

Dated: May 3, 2023

Mark de Bie, Deputy Director
California Department of Resources Recycling and Recovery