

TO BE ELIGIBLE FOR A REDUCED PENALTY AS SET FORTH BELOW, YOU MUST (1) CORRECT ALL ONGOING VIOLATIONS OF THE MATTRESS STEWARDSHIP LAW, INCLUDING BY SATISFYING ALL COMPLIANCE REQUIREMENTS COMMUNICATED TO YOU IN THE COVER LETTER TO THIS DOCUMENT; (2) SIGN THE SETTLEMENT AGREEMENT AND STIPULATED ADMINISTRATIVE DECISION FOR PENALTIES (BELOW) AND RETURN IT TO THE DEPARTMENT BY THE DUE DATE STATED BELOW, AND (3) REMIT PAYMENT OF THE REDUCED PENALTY SET FORTH BELOW (OR, IF APPLICABLE, REMIT FIRST INSTALLMENT UNDER AN AGREED-UPON PAYMENT PLAN).

DEPARTMENT INSPECTION NUMBER: M24-053003

RESPONDENTS: Sean McDaniel, Owner
DFW Furniture Warehouse
1680 Willow Pass Road, Suite A
Concord, California 94520

PUBLIC RESOURCES CODE (PRC) SECTIONS VIOLATED: 42989.1(a) and 42992

VIOLATION PERIOD: Between June 13, 2024, and the date of this Agreement and Decision

DUE DATE FOR ACCEPTING SETTLEMENT OFFER: November 7, 2024

TOTAL REDUCED MONETARY PENALTY: \$1,848

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

I. SETTLEMENT AGREEMENT

A. Respondent's Statement

Each of the undersigned representatives of the business entity identified above (the Business) makes the following statement on their own behalf and on behalf of the Business, with the intent to be legally bound by the admissions, waivers, representations, and acknowledgments herein:

I am an authorized representative of the Business. I acknowledge and understand the following:

1. The California Department of Resources Recycling and Recovery (Department or CalRecycle) alleges that the Business committed the above-referenced violations of the Used Mattress Recovery and Recycling Act (Public Resources Code sections 42985 through 42994) (the Mattress Stewardship Law), and I wish to resolve these allegations through a settlement agreement.

2. The Mattress Stewardship Law authorizes the Department to impose certain monetary penalties for violations of the Mattress Stewardship Law. I further understand that I have the right to an administrative hearing through which I may contest the Department's imposition of such penalties against the Business.

3. Rather than contest the Department's allegations, I have chosen to waive my right to an administrative hearing and stipulate to certain factual findings and the imposition of a reduced monetary penalty against the Business.

4. I hereby consent to the Department issuing the Stipulated Administrative Decision set forth in Section II as an administrative decision (the Decision) adopting the Stipulated Factual Findings set forth in subsection B, below, and the Stipulated Conclusions of Law and Imposition of Penalties set forth in subsection C (collectively, the Stipulations). If the Department issues the Decision, I will have waived my right to a hearing, and the Decision will be a valid, legally issued administrative decision and award of penalties against the Business. The Decision will also constitute proof of the facts and violations of the Mattress Stewardship Law as recited in the Stipulations.

5. Effective upon issuance of the Decision by the Department's director (or the director's delegate), the Business:

- a) admits that the Business committed and was responsible for the violations of the Mattress Stewardship Law as described in the Stipulations;
- b) accepts liability for the civil penalty as set forth in the Stipulations; 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 I fail to pay the reduced penalty set forth above and described in the Stipulated Conclusions of Law and Imposition of Penalties (subsection C),** the Department may seek to impose against the Business the full penalties authorized under the Mattress Stewardship Law. I understand that the Mattress Stewardship Law authorizes the Department to impose an administrative civil penalty of up to 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.

7. I understand that the Decision is not final and binding until it is approved and adopted by the Department, and that the Department may refuse to do so for any reason. I understand, for example, that the Department will refuse to approve and adopt the Decision, unless the Business demonstrates that it is no longer in violation of the Mattress Stewardship Law, including by performing all acts and satisfying all requirements communicated to the Business prior to my making of this statement. In the event the Department refuses to adopt

the Decision, such that a full evidentiary hearing before the Department'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 the Settlement Agreement.

8. I understand that I have the right to consult with counsel, and have had the opportunity to do so, prior to making this statement and agreeing to the Decision.

9. Neither the Department nor any other party has made any representations or promises of any kind, other than those contained in this statement and the Decision, to induce the Business to accept the Settlement Agreement.

10. This statement and the Decision constitute the entire understanding between the Business and the Department concerning the Department's allegations against the Business. There are no other restrictions, promises, warranties, or representations relating to the resolution of the allegations other than those set forth in the Decision.

11. I understand that neither this statement nor the Decision shall preclude the Department from using any enforcement mechanism, whether administrative, civil, or criminal, against Respondent with respect to future violations of the Mattress Stewardship Law by Respondent

12. **To accept the Decision, I must submit this signed agreement along with a check or money order in the amount of the agreed-upon monetary penalty set forth above and in the Decision, unless the Department agrees in writing to an installment plan, in which case I must submit payments as required under that agreement. If I fail to make installment payments as agreed upon, the Department may seek to impose against the Business the full penalties authorized under the Mattress Stewardship Law, as described in Paragraph 6.**

13. In the event that the Department does not adopt the Decision, it will reimburse me for any payment I make toward the reduced penalty amount.

14. I acknowledge and understand that the Decision will have no effect on any outstanding obligations, such as outstanding fees, penalties, past due remittances, or any other legal duty, that the Business may owe to the Mattress Recycling Council California, LLC (MRC), which is the only mattress recycling organization under the Mattress Stewardship Law.

15. I acknowledge and understand that this statement and the Decision are not confidential and are subject to the California Public Records Act, California Government Code section 7924.900 *et seq.*

B. STIPULATED FACTUAL FINDINGS

16. On May 30, 2024, Department Inspectors Nimra Mazher and Karina Chu visited DFW Furniture Warehouse (the Business) at 1680 Willow Pass Rd, Suite A, in Concord, CA 94520. During the inspection, the Inspectors identified multiple violations of the Mattress Stewardship Law and communicated the violations to the employee that consented to the inspection. The violations observed included but were not limited to: not registered with an approved Mattress Recycling Organization, not adding the recycling charge to mattress sales as a separate line item, not remitting recycling charges to the approved Mattress Recycling Organization, and not offering no-charge, used mattress take-back.

17. On June 13, 2024, the Department issued a *First Notice of Violation* to the Business location at 1680 Willow Pass Rd, Suite A, in Concord, CA 94520 that requested records and corrective action. Delivery tracking indicates this was delivered on June 14, 2024.

18. On July 23, 2024, after receiving no response by the July 13, 2024 deadline of the *First Notice of Violation*, the Department issued a *Second Notice of Violation* to the Business location at 1680 Willow Pass Rd, Suite A, in Concord, CA 94520 that requested records and corrective action. Delivery tracking indicates this was delivered on July 24, 2024.

19. On September 3, 2024, after not receiving the requested records by the August 24, 2024 deadline of the *Second Notice of Violation*, the Department issued a *Notice of Continued Violation* to the Business location at 1680 Willow Pass Rd, Suite A, in Concord, CA 94520 that requested records and corrective action. Delivery tracking indicates this was delivered on September 4, 2024.

20. On September 23, 2024, the Business provided to the Department proof of registration and remittance with the Mattress Recycling Council (MRC). Other records provided on this date indicated non-compliance with the requirements to visibly display the mattress recycling charge and to offer no-charge, used mattress take-back.

21. Since the inspection on May 30, 2024, the Business has not corrected all violations of the Mattress Stewardship Law that were communicated during the inspection and through the Department's *First Notice of Violation*, *Second Notice of Violation*, and *Notice of Continued Violation*.

22. The Department's investigation establishes that the allegations contained in the notices sent to the Business by the Department concerning the violations of the Mattress Stewardship Law by the Business are true and accurate.

The Department therefore finds the following:

- a) The Business has not provided corrective action requested by the Department between June 13, 2024, and the date of this Agreement and Decision.
- b) The Business has not been correctly adding the recycling charge to mattress sales in accordance with the Mattress Stewardship Law.

- c) The Business is not offering no-charge, used mattress take-back, to their customers that have a newly purchased mattress delivered.

C. STIPULATED CONCLUSIONS OF LAW AND IMPOSITION OF PENALTIES

23. Pursuant to the stipulation by the Business and the Department, the Department finds that the Business violated the following provisions of the Mattress Stewardship Law during the periods indicated, and that the penalties indicated below are appropriate remedies for those violations, such that, upon payment of the penalties stated, Respondent's legal duties pursuant to the Mattress Stewardship Law shall be deemed discharged with respect to the violations.

Violation	Cure Periods	Penalty Calculation Start Dates	Penalty Calculation End Dates	Total Days in Violation	Daily Reduced Penalty	Total Reduced Penalty
Failure to visibly display mattress recycling charge as a separate line item in violation of PRC section 42989.1(a)	1 st NOV 2 nd NOV NoCV	06/13/2024 07/23/2024 09/03/2024	07/13/2024 08/24/2024 09/18/2024	72	\$12	\$924
Failure to offer used mattress take-back in violation of PRC section 42992(a)	1 st NOV 2 nd NOV NoCV	06/13/2024 07/23/2024 09/03/2024	07/13/2024 08/24/2024 09/18/2024	72	\$12	\$924

Total Reduced Penalty: \$1,848

24. In the event that the Business fails to pay any portion of the above-stated penalties prior to issuance of this decision, immediately upon issuance of this decision, or pursuant to a separate agreement between the Business and the Department for payment in periodic installments, nothing in this Stipulated Administrative Decision and Penalty shall be construed to prevent the Department from pursuing any remedy, including imposition of the full administrative civil penalties pursuant to Public Resources Code section 42993.1(a), authorized by the Mattress Stewardship Law or any other law.

II. STIPULATED ADMINISTRATIVE DECISION FOR PENALTIES

Department adopts the foregoing Stipulated Facts, Stipulated Conclusions of Law, and Stipulated Penalties as a decision of the Department, effective upon execution by the Director of CalRecycle or a CalRecycle officer authorized to act on the Director's behalf. The Department files this decision pursuant to its authority to impose administrative civil penalties on retailers who violate the 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.)

THE UNDERSIGNED KNOWINGLY AND VOLUNTARILY ENTER INTO THE ABOVE SETTLEMENT AGREEMENT AND STIPULATE TO THE ABOVE ADMINISTRATIVE DECISION AND PENALTY

DFW Furniture Warehouse

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

For California Department of Resources Recycling and Recovery Use Only

STATEMENT BY DIRECTOR:

The foregoing Stipulated Administrative Decision and Penalty 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.

IT IS SO ORDERED:

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

Accessibility Modified Document



Enforcement Order #: M24-053003

November 4, 2024

Sean McDaniel, Owner
DFW Furniture Warehouse
1680 Willow Pass Road, Suite A
Concord, California 94520

RE: Acknowledgement of Settlement Agreement and Decision

1680 Willow Pass Road, Suite A, Concord, California 94520

Dear Sean McDaniel,

The California Department of Resources Recycling and Recovery (the Department) has received the Settlement Agreement and Stipulated Administrative Decision of Penalties (*Settlement Agreement*), which you have signed and returned.

Your penalty payment of \$1,848 and records requested by the Department have been received. Adherence to all other terms set forth in the *Settlement Agreement* will constitute full resolution of this matter.

If you have questions concerning the Mattress Stewardship program or the *Settlement Agreement*, please contact the Extended Producer Responsibility Compliance Unit, by email at: mattressevenforcement@calrecycle.ca.gov.

Sincerely,

Digitally signed by Mark de Bie on November 4, 2024

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

Accessibility Modified Document