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**BEFORE THE
DEPARTMENT OF CONSUMER AFFAIRS
FOR THE BUREAU OF ELECTRONIC AND APPLIANCE REPAIR, HOME
FURNISHINGS AND THERMAL INSULATION
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. IC 2016-754

**PROTECH SERVICE REFRIGERATION
AND APPLIANCE REPAIR; MARKUS
HINZ, PRINCIPAL**

DEFAULT DECISION AND ORDER

875 Forbes Avenue
Yuba City, CA 95991

[Gov. Code, §11520]

**Appliance Service Dealer Registration No.
A-46961**

Respondent.

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FINDINGS OF FACT

1. On or about July 25, 2017, Complainant Dale Chasse, in his official capacity as the Acting Bureau Chief of the Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation, Department of Consumer Affairs ("Bureau"), filed Accusation No. IC 2016-754 against Protech Service Refrigeration and Appliance Repair; Hinz, Markus (Respondent) before the Director of Consumer Affairs. (Accusation attached as Exhibit A.)

2. On or about February 25, 2015, the Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation (Bureau) issued Appliance Service Dealer Registration Number A-46961 to Respondent. The Appliance Service Dealer Registration Number A-46961 expired on February 28, 2017, and has not been renewed.

3. On or about August 1, 2017, Respondent was served by Certified and First Class Mail copies of the Accusation No. IC 2016-754, Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code

1 section 136, is required to be reported and maintained with the Bureau. Respondent's address of
2 record was and is:

3 875 Forbes Avenue
4 Yuba City, CA 95991.

5 4. Service of the Accusation was effective as a matter of law under the provisions of
6 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
7 124.

8 5. On or about August 28, 2017, the aforementioned documents (which were sent via
9 Certified Mail and First Class Mail) were returned by the U.S. Postal Service marked "Return to
10 Sender. Refused. Unable to Forward."

11 6. Government Code section 11506(c) states, in pertinent part:

12 (c) The respondent shall be entitled to a hearing on the merits if the respondent
13 files a notice of defense . . . and the notice shall be deemed a specific denial of all
14 parts of the accusation . . . not expressly admitted. Failure to file a notice of defense
15 . . . shall constitute a waiver of respondent's right to a hearing, but the agency in its
16 discretion may nevertheless grant a hearing.

17 7. The Bureau takes official notice of its records and the fact that Respondent failed to
18 file a Notice of Defense within 15 days after service upon them of the Accusation, and therefore
19 waived their right to a hearing on the merits of Accusation No. IC 2016-754.

20 8. California Government Code section 11520(a) states, in pertinent part:

21 (a) If the respondent either fails to file a notice of defense . . . or to appear at
22 the hearing, the agency may take action based upon the respondent's express
23 admissions or upon other evidence and affidavits may be used as evidence without
24 any notice to respondent

25 9. Pursuant to its authority under Government Code section 11520, the Director finds
26 Respondent is in default. The Director will take action without further hearing and, based on the
27 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
28 taking official notice of all the investigatory reports, exhibits and statements contained therein on
file at the Director's offices regarding the allegations contained in Accusation No. IC 2016-754,
finds that the charges and allegations in Accusation No. IC 2016-754, are separately and
severally, found to be true and correct by clear and convincing evidence.

1 10. The Director finds that the actual costs for Investigation and Enforcement are
2 \$2,790.00 as of November 20, 2017.

3 DETERMINATION OF ISSUES

4 1. Based on the foregoing findings of fact, Respondent Protech Service Refrigeration
5 and Appliance Repair; Hinz, Markus has subjected its Major Appliance Repair No. 46961 to
6 discipline.

7 2. The agency has jurisdiction to adjudicate this case by default.

8 3. The Director of Consumer Affairs is authorized to revoke Respondent's Major
9 Appliance Repair based upon the following violations alleged in the Accusation which are
10 supported by the evidence contained in the Default Decision Evidence Packet in this case.:

11 a. Criminal Convictions, Code sections 9841(a)(7), 9841(b), 480(a)(1), and 490.

12 i. On or about August 7, 1995, in the case of *People v. Markus Robert Hinz*,
13 Superior Court of California, County of Sutter, Case No. CRF-95-00754,
14 Respondent was convicted on his plea of guilty to violating Penal Code
15 section 459, burglary in the first degree, a felony.

16 ii. On or about September 13, 2006, in the case of *People v. Markus Robert*
17 *Hinz*, Superior Court of California, County of San Joaquin, Respondent
18 was convicted of violating Vehicle Code 14601, driving while privilege
19 suspended.

20 iii. On or about October 16, 2008, in the case of *People v. Markus Robert*
21 *Hinz*, Superior Court of California, County of Sutter,
22 Case No. CRTR-08-3459, Respondent was convicted on his plea of
23 no contest to violating Vehicle Code section 23152(b), driving with blood
24 alcohol level in excess of .08, with an enhancement under Vehicle Code
25 section 23578 for a blood alcohol level of .15 or more, a misdemeanor,
26 and to violating Vehicle Code 14601.1(a), driving while privilege
27 suspended, a misdemeanor.

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iv. On or about February 8, 2010, in the case of *People v. Markus Robert Hinz*, Superior Court of California, County of Sutter, Case No. CRM-10-0300, Respondent was convicted on his plea of guilty of violating Health and Safety Code section 11377(a), per Penal Code section 17(b)(4), possession of methamphetamine, a misdemeanor.

v. On or about August 11, 2011, in the case of *People v. Markus Robert Hinz*, Superior Court of California, County of Sutter, Case No. CRTR-11-0885, Respondent was convicted on his plea of guilty of violating Vehicle Code 14601.1(a), driving while privilege suspended, with two priors, a misdemeanor.

b. False Statement, Code sections 9841(a)(1), 9841(b), and 480(d).
i. Respondent's application was received by the Bureau on February 24, 2015, and Respondent certified to the truthfulness of his statements under penalty of perjury. In response to the question on the application regarding whether he had ever been convicted of a felony or misdemeanor, Respondent checked the box for "No" and did not disclose the convictions set out in paragraph 3a and its subparts, above.

c. Failure to Comply with Citation, Code section 9841(a)(8).
i. Respondent was issued citation no. IC 2016-754 by the Bureau on November 7, 2016. The citation alleged violations of sections 2722(a), 2723, 2725(d), 2725(f), and 2725(m) of title 16 of the California Code of Regulations, all related to requirements for invoices. The total fine for the violations was \$250. Respondent did not timely appeal the citation and did not pay the fine.

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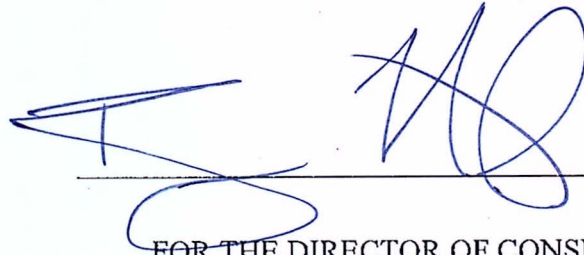
ORDER

IT IS SO ORDERED that Appliance Service Dealer Registration Number A-46961, heretofore issued to Respondent Protech Service Refrigeration and Appliance Repair; Hinz, Markus, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on January 29, 2018.

It is so ORDERED.



FOR THE DIRECTOR OF CONSUMER
AFFAIRS
BUREAU OF ELECTRONIC AND APPLIANCE
REPAIR, HOME FURNISHINGS AND THERMAL
INSULATION

12888662.DOCX
DOJ Matter ID:SA2017106684

Attachments:
Exhibit A: Accusation

Exhibit A

Accusation

(PROTECH SERVICE REFRIGERATION AND APPLIANCE REPAIR; HINZ, MARKUS)

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Attorneys for Complainant

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9 **BEFORE THE**
DEPARTMENT OF CONSUMER AFFAIRS
10 **FOR THE BUREAU OF ELECTRONIC AND APPLIANCE REPAIR, HOME**
FURNISHINGS AND THERMAL INSULATION
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. IC 2016-754

13 **PROTECH SERVICE REFRIGERATION**
14 **AND APPLIANCE REPAIR; MARKUS**
15 **HINZ, PRINCIPAL**

A C C U S A T I O N

16 875 Forbes Avenue
Yuba City, CA 95991

17 **Appliance Service Dealer Registration No.**
18 **A-46961**

19 Respondent.

20 Complainant alleges:

21 **PARTIES**

22 1. Dale Chasse (Complainant) brings this Accusation solely in his official capacity as
23 the Acting Bureau Chief of the Bureau of Electronic and Appliance Repair, Home Furnishings
24 and Thermal Insulation (Bureau), Department of Consumer Affairs.

25 2. On or about February 25, 2015, the Bureau issued Appliance Service Dealer
26 Registration Number A-46961 to Protech Service Refrigeration and Appliance Repair; Markus
27 Hinz, Principal (Respondent). The Appliance Service Dealer Registration expired on February
28 28, 2017, and has not been renewed.

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JURISDICTION

3. This Accusation is brought before the Director of the Department of Consumer Affairs (Director) for the Bureau, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 118(b) of the Code states, in pertinent part, that the expiration of a license shall not deprive the Bureau of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

STATUTORY PROVISIONS

5. Section 9841 of the Code states, in pertinent part:

(a) The director may refuse to validate, or may invalidate temporarily or permanently the registration of a service dealer for any of the following acts or omissions done by himself or herself or any employee, partner, officer, or member of the service dealer and related to the conduct of his or her business:

(1) Making or authorizing any statement or advertisement which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading.

...

(7) Conviction of a crime which has a substantial relationship to the qualifications, functions and duties of a registrant under this chapter, in which event the record of the conviction shall be conclusive evidence thereof.

(8) A violation of any order of the bureau made pursuant to this chapter.

(b) The director may also refuse to validate, or may invalidate temporarily or permanently, the registration of a service dealer if the applicant or registrant, as the case may be, has committed acts or crimes constituting grounds for denial of licensure under Section 480.

6. Section 480 of the Code states, in pertinent part:

(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent

1 order under the provisions of Section 1203.4, 1203.4a, or 1203.41 of the Penal Code.

2 ...
3 (3) (A) Done any act that if done by a licentiate of the business or profession in question,
4 would be grounds for suspension or revocation of license.

5 (B) The board may deny a license pursuant to this subdivision only if the crime or act is
6 substantially related to the qualifications, functions, or duties of the business or profession for
7 which application is made.

8 (d) A board may deny a license regulated by this code on the ground that the applicant
9 knowingly made a false statement of fact that is required to be revealed in the application for the
10 license.

11 7. Section 490 of the Business and Professions Code states, in pertinent part, that the
12 Director may suspend or revoke a license when it finds that the licensee has been convicted of a
13 crime.

14 COST RECOVERY

15 8. Section 125.3, subdivision (a), states, in pertinent part:

16 Except as otherwise provided by law, in any order issued in resolution of a disciplinary
17 proceeding before any board within the department ... the board may request the administrative
18 law judge to direct a licentiate found to have committed a violation or violations of the licensing
19 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the
20 case.

21 FIRST CAUSE FOR DISCIPLINE

22 (Criminal Convictions)

23 9. Respondent is subject to disciplinary action under Code sections 9841(a)(7), 9841(b),
24 480(a)(1), and 490 in that Respondent was convicted of crimes substantially related to the
25 qualifications, functions, or duties of an appliance service dealer. The circumstances are as
26 follows:

27 a. On or about August 7, 1995, in the case of *People v. Markus Robert Hinz*, Superior
28 Court of California, County of Sutter; Case No. CRF-95-00754, Respondent was convicted on his
29 plea of guilty to violating Penal Code section 459, burglary in the first degree, a felony.

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1 b. On or about September 13, 2006, in the case of *People v. Markus Robert Hinz*,
2 Superior Court of California, County of San Joaquin, Respondent was convicted of violating
3 Vehicle Code 14601, driving while privilege suspended.

4 c. On or about October 16, 2008, in the case of *People v. Markus Robert Hinz*, Superior
5 Court of California, County of Sutter, Case No. CRTR-08-3459, Respondent was convicted on
6 his plea of no contest to violating Vehicle Code section 23152(b), driving with blood alcohol
7 level in excess of .08; with an enhancement under Vehicle Code section 23578 for a blood
8 alcohol level of .15 or more, a misdemeanor, and to violating Vehicle Code 14601.1(a), driving
9 while privilege suspended, a misdemeanor.

10 d. On or about February 8, 2010, in the case of *People v. Markus Robert Hinz*, Superior
11 Court of California, County of Sutter, Case No. CRM-10-0300, Respondent was convicted on his
12 plea of guilty of violating Health and Safety Code section 11377(a), per Penal Code section
13 17(b)(4), possession of methamphetamine, a misdemeanor.

14 e. On or about August 11, 2011, in the case of *People v. Markus Robert Hinz*, Superior
15 Court of California, County of Sutter, Case No. CRTR-11-0885, Respondent was convicted on
16 his plea of guilty of violating Vehicle Code 14601.1(a), driving while privilege suspended, with
17 two priors, a misdemeanor.

18 **SECOND CAUSE FOR DISCIPLINE**

19 (False Statement)

20 10. Respondent is subject to disciplinary action under Code sections 9841(a)(1), 9841(b),
21 and 480(d) in that Respondent made false statements on his application for registration. The
22 circumstances are as follows:

23 11. Respondent's application was received by the Bureau on February 24, 2015, and
24 Respondent certified to the truthfulness of his statements under penalty of perjury. In response to
25 the question on the application regarding whether he had ever been convicted of a felony or
26 misdemeanor, Respondent checked the box for "No" and did not disclose the convictions set out
27 in paragraph 9 and its subparts, above.

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THIRD CAUSE FOR DISCIPLINE

(Failure to Comply with Citation)


12. Respondent is subject to disciplinary action under Code section 9841(a)(8) in that Respondent failed to comply with an order of the Bureau. The circumstances are that Respondent was issued citation no. IC 2016-754 by the Bureau on November 7, 2016. The citation alleged violations of sections 2722(a), 2723; 2725(d), 2725(f), and 2725(m) of title 16 of the California Code of Regulations, all related to requirements for invoices. The total fine for the violations was \$250. Respondent did not timely appeal the citation and did not pay the fine.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Director of Consumer Affairs issue a decision:

1. Revoking or suspending Appliance Service Dealer Registration Number A-46961, issued to Protech Service Refrigeration and Appliance Repair; Markus Hinz, Principal;
2. Ordering Markus Hinz to pay the Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,
3. Taking such other and further action as deemed necessary and proper.

DATED: JUL 25 2017


DALE CHASSE
Acting Bureau Chief
Bureau of Electronic and Appliance Repair, Home
Furnishings and Thermal Insulation
Department of Consumer Affairs
State of California
Complainant

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