BEFORE THE DIRECTOR
DEPARTMENT OF CONSUMER AFFAIRS
BUREAU OF AUTOMOTIVE REPAIR
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **JAMES PAULK DBA JAMES PAULK AUTO BODY & PAINT** 3000 N. Westlane Stockton, CA 95204 Automotive Repair Dealer Registration No. ARD 121114 Respondent.	Case No. 77/11-62 OAH No. 2012101165

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby accepted and adopted as the Decision of the Director of the Department of Consumer Affairs in the above-entitled matter. The following typographical errors are noted:

1. Page 2, line 4: The expiration date of Automotive Repair Dealer Registration No. ARD 121114 should be changed from "November 30, 2013" to November 30, 2014."

This Decision shall become effective March 7, 2014.

DATED: FEB 14 2014

DONALD CHANG
Assistant Chief Counsel
Department of Consumer Affairs

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KENT D. HARRIS
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BEFORE THE
DEPARTMENT OF CONSUMER AFFAIRS
FOR THE BUREAU OF AUTOMOTIVE REPAIR
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **JAMES PAULK DBA JAMES PAULK AUTO BODY & PAINT** **3000 N. Westlane** **Stockton, CA 95204** **Automotive Repair Dealer Registration No. ARD 121114** Respondent.	Case No. 77/11-62 OAH No. 2012101165 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-entitled proceedings that the following matters are true:

PARTIES

1. John Wallauch (Complainant) is the Chief of the Bureau of Automotive Repair. He brought this action solely in his official capacity and is represented in this matter by Kamala D. Harris, Attorney General of the State of California, by Sterling A. Smith, Deputy Attorney General.

2. Respondent James Paulk dba James Paulk Auto Body & Paint (Respondent) is represented in this proceeding by attorney Gregory P. Goehring, whose address is: 321 West Lodi Avenue, Lodi, California 95240

3. In 1985, the Bureau of Automotive Repair issued Automotive Repair Dealer Registration No. ARD 121114 to James Paulk dba James Paulk Auto Body & Paint (Respondent). The Automotive Repair Dealer Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 77/11-62 and will expire on November 30, 2013, unless renewed.

JURISDICTION

4. Accusation No. 77/11-62 was filed before the Director of Consumer Affairs (Director), for the Bureau of Automotive Repair (Bureau), and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on June 20, 2012. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 77/11-62 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 77/11-62. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

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CULPABILITY

8. Respondent understands and agrees that the charges and allegations in Accusation No. 77/11-62, if proven at a hearing, constitute cause for imposing discipline upon his Automotive Repair Dealer Registration.

9. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation, and that Respondent hereby gives up his right to contest those charges.

10. Respondent agrees that his Automotive Repair Dealer Registration is subject to discipline and he agrees to be bound by the Director's probationary terms as set forth in the Disciplinary Order below.

11. This stipulation shall be subject to approval by the Director of Consumer Affairs or the Director's designee. Respondent understands and agrees that counsel for Complainant and the staff of the Bureau of Automotive Repair may communicate directly with the Director and staff of the Department of Consumer Affairs regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Director considers and acts upon it. If the Director fails to adopt this stipulation as the Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Director shall not be disqualified from further action by having considered this matter.

12. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions,

negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

14. In consideration of the foregoing admissions and stipulations, the parties agree that the Director may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Automotive Repair Dealer Registration No. ARD 121114 issued to Respondent James Paulk dba James Paulk Auto Body & Paint (Respondent) is revoked. However, the revocation is stayed and Respondent is placed on probation for ~~five (5)~~ three (3) years on the following terms and conditions.

1. **Actual Suspension.** Automotive Repair Dealer Registration No. ARD 121114 issued to Respondent James George Paulk is suspended for fifteen (15) consecutive days to begin on the effective date of the decision.

2. **Obey All Laws.** Comply with all statutes, regulations and rules governing automotive inspections, estimates and repairs.

~~3. **Post Sign.** Post a prominent sign, provided by the Bureau, indicating the beginning and ending dates of the suspension and indicating the reason for the suspension. The sign shall be conspicuously displayed in a location open to and frequented by customers and shall remain posted during the entire period of actual suspension.~~

4. **Reporting.** Respondent or Respondent's authorized representative must report in person or in writing as prescribed by the Bureau of Automotive Repair, on a schedule set by the Bureau, but no more frequently than each quarter, on the methods used and success achieved in maintaining compliance with the terms and conditions of probation.

5. **Report Financial Interest.** Within 30 days of the effective date of this action, report any financial interest which any partners, officers, or owners of the Respondent facility may have in any other business required to be registered pursuant to Section 9884.6 of the Business and Professions Code.

6. **Random Inspections.** Provide Bureau representatives unrestricted access to inspect all vehicles (including parts) undergoing repairs, up to and including the point of completion.

7. **Jurisdiction.** If an accusation is filed against Respondent during the term of probation, the Director of Consumer Affairs shall have continuing jurisdiction over this matter until the final decision on the accusation, and the period of probation shall be extended until such decision.

8. **Violation of Probation.** Should the Director of Consumer Affairs determine that Respondent has failed to comply with the terms and conditions of probation, the Department may, after giving notice and opportunity to be heard, may permanently invalidate, temporarily invalidate, suspend or revoke Respondent's Automobile Repair Dealer Registration.

Cost Recovery. Payment to the Bureau in full of costs of investigation and prosecution of ~~$21,048.78~~ #23,699.39 to be paid in forty-eight (48) equal installments, with the final installment to be paid not later than twelve (12) months before probation terminates. Failure to complete payment of cost recovery within this time frame shall constitute a violation of probation which may subject Respondent's license/registration to outright revocation; however, the Director or the Director's Bureau of Automotive Repair designee may elect to continue probation until such time as reimbursement of the entire cost recovery amount has been made to the Bureau.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Gregory P. Goehring. I understand the stipulation and the effect it will have on my Automotive Repair Dealer Registration. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Director of Consumer Affairs.

DATED: 1-28-14

JAMES PAULK DBA JAMES PAULK AUTO BODY & PAINT
Respondent

I have read and fully discussed with Respondent James Paulk dba James Paulk Auto Body & Paint the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 1/24/14

Gregory P. Goehring
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Director of Consumer Affairs.

Dated: 1/28/2014

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
KENT D. HARRIS
Supervising Deputy Attorney General

STERLING A. SMITH
Deputy Attorney General
Attorneys for Complainant

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Stipulation.rtf

EXHIBIT A

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Attorneys for Complainant

BEFORE THE
DEPARTMENT OF CONSUMER AFFAIRS
FOR THE BUREAU OF AUTOMOTIVE REPAIR
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **JAMES PAULK AUTO BODY & PAINT** **JAMES GEORGE PAULK, OWNER** **3000 N. Westlane** **Stockton, CA 95204** **Automotive Repair Dealer Reg. No. ARD 121114** Respondent.	Case No. 77/11-62 **ACCUSATION**

Complainant alleges:

PARTIES

1. John Wallauch ("Complainant") brings this Accusation solely in his official capacity as the Chief of the Bureau of Automotive Repair ("Bureau"), Department of Consumer Affairs.

2. In or about 1985, the Director of Consumer Affairs ("Director") issued Automotive Repair Dealer Registration Number ARD 121114 to James George Paulk ("Respondent"), owner of James Paulk Auto Body & Paint. Respondent's automotive repair dealer registration was in full force and effect at all times relevant to the charges brought herein and will expire on November 30, 2012, unless renewed.

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JURISDICTION

3. Business and Professions Code ("Code") section 9884.7 provides that the Director may revoke an automotive repair dealer registration.

4. Code section 9884.13 provides, in pertinent part, that the expiration of a valid registration shall not deprive the Director of jurisdiction to proceed with a disciplinary proceeding against an automotive repair dealer or to render a decision temporarily or permanently invalidating (suspending or revoking) a registration.

STATUTORY AND REGULATORY PROVISIONS

5. Code section 9884.7 states, in pertinent part:

> (a) The director, where the automotive repair dealer cannot show there was a bona fide error, may deny, suspend, revoke, or place on probation the registration of an automotive repair dealer for any of the following acts or omissions related to the conduct of the business of the automotive repair dealer, which are done by the automotive repair dealer or any automotive technician, employee, partner, officer, or member of the automotive repair dealer.
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> . . . .
>
> (4) Any other conduct that constitutes fraud.
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> . . . .
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> (6) Failure in any material respect to comply with the provisions of this chapter or regulations adopted pursuant to it.
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> (7) Any willful departure from or disregard of accepted trade standards for good and workmanlike repair in any material respect, which is prejudicial to another without consent of the owner or his or her duly authorized representative . . .

6. Code section 9884.7, subdivision (c), states, in pertinent part, that the Director may suspend, revoke, or place on probation the registration for all places of business operated in this state by an automotive repair dealer upon a finding that the automotive repair dealer has, or is, engaged in a course of repeated and willful violations of the laws and regulations pertaining to an automotive repair dealer.

7. Code section 9884.9, subdivision (a), states, in pertinent part:

> The automotive repair dealer shall give to the customer a written estimated price for labor and parts necessary for a specific job. No work shall be done and no charges shall accrue before authorization to proceed is obtained from the customer. No charge shall be made for work done or parts supplied in excess of the estimated price without the oral or written consent of the customer that shall be

obtained at some time after it is determined that the estimated price is insufficient and before the work not estimated is done or the parts not estimated are supplied. Written consent or authorization for an increase in the original estimated price may be provided by electronic mail or facsimile transmission from the customer. The bureau may specify in regulation the procedures to be followed by an automotive repair dealer when an authorization or consent for an increase in the original estimated price is provided by electronic mail or facsimile transmission. If that consent is oral, the dealer shall make a notation on the work order of the date, time, name of person authorizing the additional repairs and telephone number called, if any, together with a specification of the additional parts and labor and the total additional cost . . .

8. Code section 22, subdivision (a), states:

"Board" as used in any provision of this Code, refers to the board in which the administration of the provision is vested, and unless otherwise expressly provided, shall include "bureau," "commission," "committee," "department," "division," "examining committee," "program," and "agency."

9. Code section 477, subdivision (b), states, in pertinent part, that a "license" includes "registration" and "certificate."

10. California Code of Regulations, title 16, section ("Regulation") 3303 states, in pertinent part:

(j) "Authorization" means consent. Authorization shall consist of the customer's signature on the work order, taken before repair work begins. Authorization shall be valid without the customer's signature only when oral or electronic authorization is documented in accordance with applicable sections of these regulations.

. . . .

(m) "Section" or "Sectioning" means the replacement of less than a whole part or component by splicing the part or component at non-factory seams" . . .

11. Regulation 3365 states:

The accepted trade standards for good and workmanlike auto body and frame repairs shall include, but not be limited to, the following:

(a) Repair procedures including but not limited to the sectioning of component parts, shall be performed in accordance with OEM service specifications or nationally distributed and periodically updated service specifications that are generally accepted by the autobody repair industry.

(b) All corrosion protection shall be applied in accordance with manufacturers' specifications or nationally distributed and periodically updated service specifications that are generally accepted by the autobody repair industry.

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COST RECOVERY

12. Code section 125.3 provides, in pertinent part, that a Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

CONSUMER COMPLAINT (GARCIA): 1999 PONTIAC GRANT AM GT

13. On or about October 15, 2010, Jennifer Garcia's ("Garcia") 1999 Pontiac Grand AM GT was damaged in a collision. Garcia took the vehicle to Respondent's facility for repair and made a claim for the collision damage with State Farm Insurance Company ("State Farm").

14. On or about November 10, 2010, a State Farm adjuster inspected the vehicle and prepared an itemized estimate totaling $1,771.12 ("insurance estimate"). That same day, State Farm issued a check for $1,771.12 made payable to Garcia. Garcia subsequently endorsed the check over to Respondent's facility.

15. On or about December 16, 2010, Garcia filed a complaint with the Bureau, alleging that the facility failed to properly repair the vehicle. Garcia also stated that the facility never had her sign "any paperwork" for the collision repairs.

16. On February 23, 2011, the Bureau inspected the vehicle using the insurance estimate for comparison, and found that the facility failed to repair the vehicle as estimated and had not performed the repairs to accepted trade standards. The total estimated value of the repairs the facility failed to perform on the vehicle is approximately $1,366.81. Later that same day, representatives of the Bureau met with Respondent at the facility. Respondent told the representatives that the facility had changed the method of repair on the vehicle and gave the representatives a copy of the insurance estimate. A note had been written on the estimate, indicating that the facility had repaired the rear bumper instead of replacing it with a quality recycled part (as called for on the insurance estimate), and that the facility would be issuing State Farm a refund of $100.85. There was no indication on the document or the note that the change in the method of repair had been authorized by Garcia.

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17. On March 8, 2011, the Bureau received copies of State Farm's records on the vehicle. There was no indication in the records that the facility had notified State Farm of the changes in the method of repair.

18. On March 23, 2011, the Bureau contacted State Farm and was informed that the insurance company had not received a refund from the facility on Garcia's claim.

FIRST CAUSE FOR DISCIPLINE

(Fraud)

19. Respondent is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(4), in that Respondent committed acts constituting fraud, as follows:

a. Respondent obtained payment from State Farm for repairing (pulling) the frame/rear unibody structure on Garcia's 1999 Pontiac Grand AM GT. In fact, the rear unibody structure had not been pulled on the vehicle, as set forth in paragraph 20 below.

b. Respondent obtained payment from State Farm for removing and reinstalling the right rocker panel molding on Garcia's 1999 Pontiac Grand AM GT. In fact, that part had not been removed and reinstalled on the vehicle.

c. Respondent obtained payment from State Farm for removing and reinstalling the left rocker panel molding on Garcia's 1999 Pontiac Grand AM GT. In fact, that part had not been removed and reinstalled on the vehicle.

d. Respondent obtained payment from State Farm for repairing the rear body panel on Garcia's 1999 Pontiac Grand AM GT. In fact, that part had not been repaired on the vehicle.

e. Respondent obtained payment from State Farm for refinishing the rear body panel on Garcia's 1999 Pontiac Grand AM GT, including a full clear coat. In fact, that part had not been refinished on the vehicle and the clear coat had not been applied.

f. Respondent obtained payment from State Farm for repairing the right rear side rail (frame rail) on Garcia's 1999 Pontiac Grand AM GT. In fact, that part had not been repaired on the vehicle.

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g. Respondent obtained payment from State Farm for replacing the right outer rear body sidemember reinforcement on Garcia's 1999 Pontiac Grand AM GT. In fact, that part had not been replaced on the vehicle.

h. Respondent obtained payment from State Farm for replacing the rear bumper assembly on Garcia's 1999 Pontiac Grand AM GT with a "quality recycled" (used) part. In fact, the rear bumper assembly had not been replaced on the vehicle in that the rear bumper cover had been repaired, the rear bumper reinforcement had been replaced with an aftermarket part and not a used part, and the existing, damaged rear bumper absorber had been reinstalled on the vehicle. Further, the rear bumper cover had been glued at the side mounting areas, which were coming apart, causing the bumper cover to become detached from the body on the left side of the vehicle. In addition, various clips and fasteners were missing on the rear bumper cover.

i. Respondent obtained payment from State Farm for replacing the rear bumper molding on Garcia's 1999 Pontiac Grand AM GT. In fact, that part had not been replaced on the vehicle.

SECOND CAUSE FOR DISCIPLINE

(Departure from Trade Standards)

20. Respondent is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(7), in that Respondent willfully departed from or disregarded accepted trade standards for good and workmanlike repair without the consent of the owner or the owner's duly authorized representative in a material respect, as follows: Respondent failed to pull the rear unibody structure/structural components on Garcia's 1999 Pontiac Grand AM GT to "stress relieve"[1] the metal (structural steel) and left the floor pan, rear body panel, and right rear sidemember (frame rail) buckled or damaged.

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[1] Stress relieving is a collision industry practice of taking tension off of a part.

THIRD CAUSE FOR DISCIPLINE

(Violations of the Code)

21. Respondent is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with section 9884.9, subdivision (a), of that Code in the following material respects:

a. Respondent failed to obtain Garcia's authorization for the collision repairs on her 1999 Pontiac Grand AM GT.

b. Respondent failed to provide Garcia with a written estimate for the collision repairs on her 1999 Pontiac Grand AM GT.

VEHICLE INSPECTION: 2005 NISSAN ALTIMA

22. On or about November 15, 2010, Margaret Cazares' ("Cazares") 2005 Nissan Altima was damaged in a collision. Cazares had the vehicle taken to Respondent's facility for repair and made a claim for the collision damage with California State Automobile Association ("CSAA").

23. On or about December 3, 2010, a CSAA adjuster inspected the vehicle and prepared an itemized estimate, "Supplement 1 (F F)", totaling $6,942.10 ("insurance estimate").

24. On or about December 4, 2010, CSAA issued a check for $6,942.10 made payable to Cazares and Respondent's facility.

25. On or about January 7, 2011, Anthony Corroo ("Corroo") of CSAA's Special Investigation Unit filed an Electronic Suspected Fraudulent Claim (eFD-1) with the California Department of Insurance and sent a copy of the claim to the Bureau. Corroo stated that CSAA had paid Respondent's facility $6,942.10 to repair the vehicle according to the insurance estimate, that the estimate had called for the replacement of the right quarter panel with a new OEM (original equipment manufacturer) part, and that upon "routine re-inspection", CSAA had determined that the quarter panel was repaired rather than replaced. When Respondent was informed of the inconsistency in the repair, he told CSAA that the facility had spliced the panel with a used panel rather than replacing the entire panel with a new OEM part. Respondent promised to reimburse CSAA for the cost difference in the repair procedures, but never sent a check to CSAA.

26. On August 24, 2011, the Bureau inspected the vehicle using the insurance estimate for comparison (Corroo was present during the inspection), and found that the facility failed to repair the vehicle as estimated and had not performed the repairs to accepted trade standards. The total estimated value of the repairs the facility failed to perform on the vehicle is approximately $2,042.96.

27. On or about August 29, 2011, and September 1, 2011, Respondent faxed the Bureau copies of the facility's repair records on the vehicle, including a form titled "Related Prior Damage" and a parts receipt from Bonanza All Foreign Dismantling. The parts receipt showed that Respondent's facility had ordered a used quarter panel for a 2005 "Altima" on December 3, 2010.

FOURTH CAUSE FOR DISCIPLINE

(Fraud)

28. Respondent is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(4), in that Respondent committed acts constituting fraud, as follows:

a. Respondent obtained payment from CSAA for replacing the right quarter panel on Cazares' 2005 Nissan Altima with a new OEM part. In fact, the right quarter panel had not been replaced on the vehicle, but was repaired instead. The facility had straightened or repaired a large area of the existing quarter panel and had sectioned in a used part at the right lower area of the panel beneath the rear bumper cover.

b. Respondent obtained payment from CSAA for removing and reinstalling the rear window on Cazares' 2005 Nissan Altima. In fact, that part had not been removed and reinstalled on the vehicle.

c. Respondent obtained payment from CSAA for repairing the rear body panel on Cazares' 2005 Nissan Altima. In fact, that part had not been repaired on the vehicle.

d. Respondent obtained payment from CSAA for refinishing the rear body panel on Cazares' 2005 Nissan Altima. In fact, that part had not been refinished on the vehicle.

e. Respondent obtained payment from CSAA for replacing the rear bumper impact absorber on Cazares' 2005 Nissan Altima. In fact, that part had not been replaced on the vehicle.

FIFTH CAUSE FOR DISCIPLINE

(Departure from Trade Standards)

29. Respondent is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(7), in that Respondent willfully departed from or disregarded accepted trade standards for good and workmanlike repair without the consent of the owner or the owner's duly authorized representative in a material respect, as follows: Respondent failed to follow Nissan's specifications for replacing the right quarter panel on Cazares' 2005 Nissan Altima in that Respondent spliced or sectioned the right quarter panel horizontally at the lower area of the panel between the rear body panel and wheelhouse.

SIXTH CAUSE FOR DISCIPLINE

(Violations of the Code)

30. Respondent is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with section 9884.9, subdivision (a), of that Code in the following material respects:

a. Respondent failed to properly document on the "Related Prior Damage" form Cazares' authorization for the collision repairs on her 2005 Nissan Altima, as follows: Respondent stated on the form that on December 1, 2010, Cazares had "okayed" the "work" on the vehicle, but failed to specify the repairs or the nature of the work.

b. Respondent failed to obtain Cazares' authorization for the change in the method of repair on her 2005 Nissan Altima; i.e., the repair and sectioning of the right quarter panel on the vehicle.

VEHICLE INSPECTION: 2007 HONDA ODYSSEY EX

31. On or about April 16, 2010, Charlotte Flanary's ("Flanary") 2007 Honda Odyssey EX was damaged in a front-end collision. Flanary had the vehicle taken to Respondent's facility for repair and made a claim for the collision damage with CSAA.

32. On or about May 18, 2010, a CSAA adjuster inspected the vehicle and prepared an itemized estimate, "Supplement 1 (F F)", in the gross amount of $12,462.38 ("insurance estimate").

33. In and between April and May 2010, CSAA issued checks totaling $11,962.38 made payable to Flanary and/or Respondent's facility.

34. On July 18, 2011, the Bureau received a call from Corroo regarding the vehicle. Corroo stated that the vehicle was at Bruce's Body Shop ("Bruce's") located in Stockton and had been taken there for collision repairs (the vehicle had been involved in a second front end collision). Corroo told the Bureau that there were discrepancies regarding the prior repairs performed by Respondent's facility. That same day, a representative of the Bureau contacted Flanary. Flanary stated that Bruce's had discovered prior damage to the vehicle that had not been repaired by Respondent. Later, the representative went to Bruce's and inspected the vehicle using the insurance estimate for comparison. The representative found that Respondent's facility had failed to replace the sub-frame on the vehicle and perform other repairs as estimated, and that the facility had not performed the repairs to accepted trade standards. The total estimated value of the repairs the facility failed to perform on the vehicle is approximately $2,078.46.

35. On July 19, 2011, the representative and another employee of the Bureau went to Respondent's facility to discuss the findings from the inspection. Respondent provided the representatives with an envelope containing a check for $1,146.07 made payable to CSAA. Respondent claimed that he had intended to refund CSAA for the sub-frame, that his manager had caused the issues in his facility and had been fired, and that he (Respondent) had kept the check because his manager had failed to "follow up" on the matter. Respondent admitted that he was ultimately responsible for the actions of the business and that the "situation" constituted fraud.

SEVENTH CAUSE FOR DISCIPLINE

(Fraud)

36. Respondent is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(4), in that Respondent committed acts constituting fraud, as follows:

a. Respondent obtained payment from CSAA for refinishing the front bumper impact bar (front bumper reinforcement) on Flanary's 2007 Honda Odyssey EX. In fact, that part had not been refinished on the vehicle.

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b. Respondent obtained payment from CSAA for replacing the right inner front sidemember/frame rail on Flanary's 2007 Honda Odyssey EX. In fact, that part had not been replaced on the vehicle.

c. Respondent obtained payment from CSAA for replacing the sub-frame on Flanary's 2007 Honda Odyssey EX. In fact, that part had not been replaced on the vehicle.

EIGHTH CAUSE FOR DISCIPLINE

(Departure from Trade Standards)

37. Respondent is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(7), in that Respondent willfully departed from or disregarded accepted trade standards for good and workmanlike repair without the consent of the owner or the owner's duly authorized representative in a material respect, as follows: Respondent failed to apply corrosion protection to the welds on the radiator support and frame rail end of Flanary's 2007 Honda Odyssey EX, in violation of Regulation 3365, subdivision (b), resulting in the development of rust at those locations of the vehicle.

OTHER MATTERS

38. Pursuant to Code section 9884.7, subdivision (c), the Director may suspend, revoke, or place on probation the registration for all places of business operated in this state by Respondent James George Paulk, owner of James Paulk Auto Body & Paint, upon a finding that said Respondent has, or is, engaged in a course of repeated and willful violations of the laws and regulations pertaining to an automotive repair dealer.

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 Automotive Repair Dealer Registration Number ARD 121114, issued to James George Paulk, owner of James Paulk Auto Body & Paint;

2. Revoking or suspending any other automotive repair dealer registration issued to James George Paulk;

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3. Ordering James George Paulk, owner of James Paulk Auto Body & Paint, to pay the Director of Consumer Affairs the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

4. Taking such other and further action as deemed necessary and proper..

DATED: June 18, 2012

JOHN WALLAUCH
Chief
Bureau of Automotive Repair
Department of Consumer Affairs
State of California
Complainant

SA2012104869