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8 **BEFORE THE**
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **FOR THE BUREAU OF AUTOMOTIVE REPAIR**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 77/13-19

13 **Z BEST AUTO BODY & PAINT**
14 **IDA ZION, OWNER**
14222 Oxnard Street
Van Nuys, CA 91401

ACCUSATION

15 **Automotive Repair Dealer Reg. No. ARD 133909**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

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

22 2. In or about 1987, the Director of Consumer Affairs ("Director") issued Automotive
23 Repair Dealer Registration Number ARD 133909 to Ida Zion ("Respondent"), owner of Z Best
24 Auto Body & Paint. Respondent's automotive repair dealer registration was in full force and
25 effect at all times relevant to the charges brought herein and will expire on July 31, 2013, unless
26 renewed.

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1 **JURISDICTION**

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

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

8 **STATUTORY AND REGULATORY PROVISIONS**

9 5. Code section 9884.7 states, in pertinent part:

10 (a) The director, where the automotive repair dealer cannot show there
11 was a bona fide error, may deny, suspend, revoke, or place on probation the
12 registration of an automotive repair dealer for any of the following acts or omissions
13 related to the conduct of the business of the automotive repair dealer, which are done
14 by the automotive repair dealer or any automotive technician, employee, partner,
15 officer, or member of the automotive repair dealer.

16 (1) Making or authorizing in any manner or by any means whatever any
17 statement written or oral which is untrue or misleading, and which is known, or which
18 by the exercise of reasonable care should be known, to be untrue or misleading.

19 (2) Causing or allowing a customer to sign any work order which does
20 not state the repairs requested by the customer or the automobile's odometer reading
21 at the time of repair.

22

23 (4) Any other conduct that constitutes fraud.

24

25 (6) Failure in any material respect to comply with the provisions of this
26 chapter or regulations adopted pursuant to it . . .

27 6. Code section 9884.7, subdivision (c), states, in pertinent part, that the Director may
28 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.

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1 7. Code section 9884.8 states, in pertinent part, that “[a]ll work done by an automotive
2 repair dealer, including all warranty work, shall be recorded on an invoice and shall describe all
3 service work done and parts supplied . . .”

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

5 The automotive repair dealer shall give to the customer a written
6 estimated price for labor and parts necessary for a specific job. No work shall be
7 done and no charges shall accrue before authorization to proceed is obtained from the
8 customer. No charge shall be made for work done or parts supplied in excess of the
9 estimated price without the oral or written consent of the customer that shall be
10 obtained at some time after it is determined that the estimated price is insufficient and
11 before the work not estimated is done or the parts not estimated are supplied. Written
12 consent or authorization for an increase in the original estimated price may be
13 provided by electronic mail or facsimile transmission from the customer. The bureau
14 may specify in regulation the procedures to be followed by an automotive repair
15 dealer when an authorization or consent for an increase in the original estimated price
16 is provided by electronic mail or facsimile transmission. If that consent is oral, the
17 dealer shall make a notation on the work order of the date, time, name of person
18 authorizing the additional repairs and telephone number called, if any, together with a
19 specification of the additional parts and labor and the total additional cost . . .

20 9. Code section 490, subdivision (a), states:

21 In addition to any other action that a board is permitted to take against a
22 licensee, a board may suspend or revoke a license on the ground that the licensee has
23 been convicted of a crime, if the crime is substantially related to the qualifications,
24 functions, or duties of the business or profession for which the license was issued.

25 10. Code section 22, subdivision (a), states:

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

1 11. Code section 477, subdivision (b), states, in pertinent part, that a “license” includes
2 “registration” and “certificate.”

3 12. California Code of Regulations, title 16, section (“Regulation”) 3353, subdivision (e),
4 states:

5 Revising an Itemized Work Order. If the customer has authorized repairs
6 according to a work order on which parts and labor are itemized, the dealer shall not
7 change the method of repair or parts supplied without the written, oral, or electronic
8 authorization of the customer. The authorization shall be obtained from the customer
9 as provided in subsection (c) and Section 9884.9 of the Business and Professions
10 Code.

1 **COST RECOVERY**

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

6 **FIRST CAUSE FOR DISCIPLINE**

7 **(Criminal Conviction)**

8 14. Respondent is subject to disciplinary action pursuant to Code section 490, subdivision
9 (a), in that on or about September 11, 2012, in Los Angeles Superior Court, Case No. BA398478,
10 Respondent pled guilty to violating Penal Code section 550, subdivision (b)(1) (false or
11 fraudulent claims or statements), a felony, a crime substantially related to the qualifications,
12 duties and functions of an automotive repair dealer. The circumstances of the crime are set forth
13 in paragraphs 15 through 38 below.

14 **UNDERCOVER OPERATION #1: 2004 SATURN VUE**

15 15. On February 9, 2011, an undercover operator with the Bureau ("operator") took the
16 Bureau's 2004 Saturn Vue to Respondent's facility. The left rear body of the Bureau-documented
17 vehicle had been damaged. The operator showed Respondent the vehicle and told him that she
18 was insured by Mercury Insurance. Respondent indicated to the operator that he would save her
19 \$500 on the repairs. The operator signed and received a copy of a "Preliminary Estimate" in the
20 amount of \$3,021.77. The estimate indicated that the rear bumper cover on the vehicle would be
21 replaced with an original equipment manufacturer ("OEM") part. Respondent told the operator to
22 contact Mercury Insurance and inform them of the location of the vehicle. The operator left the
23 facility.

24 16. On February 11, 2011, an adjuster with Mercury Insurance went to the facility to
25 inspect the vehicle and noticed that it had already been disassembled. The adjuster had
26 Respondent partially reassemble the vehicle. The adjuster then measured and photographed the
27 vehicle and had Respondent remove certain components so that she could photograph the
28 underlying damage. The adjuster began preparing an itemized estimate, but could not complete it

1 due to an issue with her computer. The adjuster told Respondent that she would return to the
2 facility on February 15, 2011.

3 17. On February 15, 2011, the adjuster went to the facility and prepared a written
4 estimate in the gross amount of \$4,104.14 ("insurance estimate"). The insurance estimate called
5 for the payment of a \$1,000 insurance deductible. Respondent agreed to repair the vehicle
6 pursuant to the insurance estimate.

7 18. On or about February 16, 2011, Mercury Insurance issued the facility a check for
8 \$3,104.14.

9 19. On March 1, 2011, the operator called the facility to check on the status of the
10 vehicle. Respondent told the operator that it was not ready yet, but assured her that the repairs
11 were being performed as estimated by Mercury Insurance. Respondent also informed the
12 operator that she would only have to pay a \$400 insurance deductible. Later, the operator went to
13 the facility to retrieve the vehicle, paid \$400 in cash for the deductible, and left the facility. At
14 approximately 1400 hours, the operator called the facility and told Respondent that she had not
15 been given an invoice. The operator asked Respondent if the repairs were completed as requested
16 by Mercury Insurance. Respondent stated, "Yes".

17 20. On March 9, 2011, Respondent faxed the operator a copy of the insurance estimate
18 and page 3 of the Preliminary Estimate. The operator called the facility and asked Respondent if
19 the documents he had sent her by fax represented the final invoice. Respondent stated, "Yes".

20 21. On March 9, 2011, the Bureau inspected the vehicle using the insurance estimate for
21 comparison and found that Respondent had failed to perform approximately \$866.67 in repairs as
22 estimated, as set forth below.

23 **SECOND CAUSE FOR DISCIPLINE**

24 **(Untrue or Misleading Statements)**

25 22. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
26 subdivision (a)(1), in that Respondent made or authorized a statement which he knew or in the
27 exercise of reasonable care should have known to be untrue or misleading, as follows:

28 Respondent represented to the operator that the Bureau's 2004 Saturn Vue was repaired pursuant

1 to the insurance estimate when, in fact, the vehicle was not repaired as estimated, as set forth in
2 paragraph 24 below.

3 **THIRD CAUSE FOR DISCIPLINE**

4 **(Failure to Record Odometer Reading)**

5 23. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
6 subdivision (a)(2), in that Respondent caused or allowed the operator to sign the Preliminary
7 Estimate which did not state the odometer reading of the Bureau's 2004 Saturn Vue.

8 **FOURTH CAUSE FOR DISCIPLINE**

9 **(Fraud)**

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

12 a. Respondent obtained payment from Mercury Insurance for refinishing the left quarter
13 inner panel on the Bureau's 2004 Saturn Vue. In fact, that part was not refinished on the vehicle.

14 b. Respondent obtained payment from Mercury Insurance for removing and reinstalling
15 the left rear (door) outer belt molding (also called the belt weather strip) on the Bureau's 2004
16 Saturn Vue. In fact, that part was not removed and reinstalled on the vehicle.

17 c. Respondent obtained payment from Mercury Insurance for removing and reinstalling
18 the left rear door handle on the Bureau's 2004 Saturn Vue. In fact, that part was not removed and
19 reinstalled on the vehicle.

20 d. Respondent obtained payment from Mercury Insurance for replacing the lift gate
21 "AWD" nameplate on the Bureau's 2004 Saturn Vue. In fact, that part was not replaced on the
22 vehicle.

23 e. Respondent obtained payment from Mercury Insurance for replacing the lift gate
24 "V6" nameplate on the Bureau's 2004 Saturn Vue. In fact, that part was not replaced on the
25 vehicle.

26 f. Respondent obtained payment from Mercury Insurance for replacing the lift gate
27 "VUE" nameplate on the Bureau's 2004 Saturn Vue. In fact, that part was not replaced on the
28 vehicle.

1 g. Respondent obtained payment from Mercury Insurance for refinishing the left outer
2 rear body panel on the Bureau's 2004 Saturn Vue. In fact, that part was not refinished on the
3 vehicle.

4 h. Respondent obtained payment from Mercury Insurance for replacing the rear body
5 shelf panel extension (also called the rear body sill panel) on the Bureau's 2004 Saturn Vue. In
6 fact, that part was not replaced on the vehicle.

7 i. Respondent obtained payment from Mercury Insurance for replacing the left rear
8 combination lamp (also called the tail lamp) on the Bureau's 2004 Saturn Vue. In fact, that part
9 was not replaced on the vehicle.

10 j. Respondent obtained payment from Mercury Insurance for replacing the rear bumper
11 cover on the Bureau's 2004 Saturn Vue with a new OEM part. In fact, the rear bumper cover was
12 replaced with an after-market part.

13 **FIFTH CAUSE FOR DISCIPLINE**

14 **(Violations of Regulations)**

15 25. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
16 subdivision (a)(6), in that Respondent failed to comply with Regulation 3353, subdivision (e), in a
17 material respect, as follows: Respondent changed the method of repair or parts supplied on the
18 Bureau's 2004 Saturn Vue without the operator's authorization by installing an after-market rear
19 bumper cover on the vehicle rather than a new OEM part as called for on the Preliminary
20 Estimate.

21 **UNDERCOVER OPERATION #2: 2002 HONDA ACCORD EX**

22 26. On May 17, 2011, an undercover operator with the Bureau ("operator") took the
23 Bureau's 2002 Honda Accord EX to Respondent's facility. The right front body of the Bureau-
24 documented vehicle had been damaged. Respondent inspected the vehicle, then walked with the
25 operator into the office. Respondent asked the operator for the vehicle registration. The operator
26 told Respondent that she could not locate it, but offered him a Mercury Insurance identification
27 card. The operator informed Respondent that she had been driving the Honda Accord when the
28 vehicle in front of her stopped abruptly, causing the Honda Accord to collide with the rear of the

1 other vehicle. The operator told Respondent that the other driver had left the scene of the
2 accident, and she was concerned Mercury Insurance would cancel her insurance as this was her
3 "second accident this year". Respondent had the operator step outside the office with him.
4 Respondent then told the operator that there was a surveillance camera in the office and he did not
5 want the information he was about to share with her recorded on video. Respondent told the
6 operator that she should drive the vehicle to North Hollywood Park ("NHP"), wait about 20
7 minutes, then call Mercury Insurance and report that the front area of the vehicle had been
8 damaged while the vehicle was parked at NHP.

9 27. At approximately 1045 hours that same day, the operator left the facility and met with
10 a Bureau representative. The operator waited with the representative for about twenty minutes,
11 then returned to the facility at approximately 1110 hours. The operator told Respondent that she
12 had called Mercury Insurance and reported that her vehicle had been damaged while it was
13 parked at NHP. Respondent inspected the vehicle and prepared a "Preliminary Estimate" in the
14 amount of \$2,872.51. The operator signed and received a copy of the estimate, then left the
15 facility.

16 28. On May 19, 2011, K. H., a material damage appraiser with Mercury Insurance, went
17 to the facility to inspect the vehicle and observed moderate damage to the right front bumper,
18 fender, and headlamp assembly. K. H. photographed and took measurements of the vehicle, then
19 prepared an itemized estimate in the gross amount of \$2,389.72. K. H. provided the facility with
20 a copy of the estimate.

21 29. On or about May 22, 2011, E. F., a material damage appraiser with Mercury
22 Insurance, received an assignment to re-inspect the vehicle.

23 30. On May 23, 2011, E. F. went to the facility and met with Respondent. Respondent
24 provided E. F. with a request for supplemental repairs on the vehicle, which E. F. declined. E. F.
25 inspected the vehicle and observed damage to the right front apron panel, radiator support, and
26 reinforcement bar. The damage to the right front apron and radiator support was not consistent
27 with the moderate damage to the other parts of the vehicle. Further, the right front apron panel
28 was not damaged or in need of repair at the time the vehicle was taken to the facility. E. F.

1 prepared a supplemental estimate in the net amount of \$2,715.59, which called for, among other
2 things, the repair and refinishing of the right front apron panel, a frame rack set up, and a unibody
3 frame pull.

4 31. On May 31, 2011, the operator called the facility to check on the status of the vehicle.
5 Respondent told the operator that the vehicle was ready. The operator asked Respondent how
6 much she owed him for the insurance deductible. Respondent stated, "You will owe nothing like
7 we talked about".

8 32. On June 1, 2011, the operator went to the facility to retrieve the vehicle. Respondent
9 had the operator sign the supplemental estimate and endorse a check for \$2,715.59 which
10 Mercury Insurance had issued to the operator and the facility. Respondent gave the operator
11 copies of the documents, but did not provide her with a final invoice. The operator asked
12 Respondent if he used new OEM Honda parts in repairing the vehicle. Respondent told the
13 operator that he "did what the insurance company authorized".

14 33. On June 8, 2011, the Bureau inspected the vehicle using the supplemental estimate
15 for comparison. The Bureau found that Respondent failed to repair the vehicle as specified on the
16 supplemental estimate and performed unnecessary repairs, as set forth below. The total estimated
17 value of the repairs that were not performed or needed on the vehicle is approximately \$1,074.06.

18 **SIXTH CAUSE FOR DISCIPLINE**

19 **(Untrue or Misleading Statements)**

20 34. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
21 subdivision (a)(1), in that Respondent made or authorized a statement which he knew or in the
22 exercise of reasonable care should have known to be untrue or misleading, as follows:
23 Respondent represented to the operator that the Bureau's 2002 Honda Accord EX was repaired as
24 authorized by Mercury Insurance when, in fact, the vehicle was not repaired as specified on the
25 supplemental estimate, as set forth in paragraph 36 below.

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1 g. Respondent obtained payment from Mercury Insurance for repairing and refinishing
2 the right front body apron panel on the Bureau's 2002 Honda Accord EX. In fact, the right front
3 apron panel was not damaged or in need of repair at the time the vehicle was taken to
4 Respondent's facility (the damage occurred while the vehicle was in Respondent's custody or
5 control).

6 h. Respondent obtained payment from Mercury Insurance for a frame rack set up
7 operation on the Bureau's 2002 Honda Accord EX. In fact, the vehicle had not been set up on a
8 frame rack.

9 i. Respondent obtained payment from Mercury Insurance for pulling the unibody frame
10 on the Bureau's 2002 Honda Accord EX. In fact, the unibody was not damaged or in need of a
11 frame pull at the time the vehicle was taken to Respondent's facility.

12 **NINTH CAUSE FOR DISCIPLINE**

13 **(Violations of the Code)**

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

17 a. **Section 9884.8**: Respondent failed to provide the operator with an invoice for the
18 repair of the Bureau's 2002 Honda Accord EX.

19 b. **Section 9884.9, subdivision (a)**: Respondent failed to obtain the operator's
20 authorization for the additional repairs on the vehicle, including, but not limited to, the repair and
21 refinishing of the right front body apron panel on the Bureau's 2002 Honda Accord EX, the frame
22 rack set up operation, or the pulling of the unibody frame.

23 **TENTH CAUSE FOR DISCIPLINE**

24 **(Violations of Regulations)**

25 38. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
26 subdivision (a)(6), in that Respondent failed to comply with Regulation 3353, subdivision (e), in a
27 material respect, as follows: Respondent changed the method of repair or parts supplied on the
28 Bureau's 2002 Honda Accord EX without the operator's authorization by repairing and

1 refinishing the front bumper cover on the vehicle rather than replace the existing front bumper
2 cover as called for on the Preliminary Estimate.

3 **OTHER MATTERS**

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

9 **PRAYER**

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

- 12 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
13 133909, issued to Ida Zion, owner of Z Best Auto Body & Paint;
- 14 2. Revoking or suspending any other automotive repair dealer registration issued to Ida
15 Zion;
- 16 3. Ordering Ida Zion, owner of Z Best Auto Body & Paint to pay the Director of
17 Consumer Affairs the reasonable costs of the investigation and enforcement of this case, pursuant
18 to Business and Professions Code section 125.3;
- 19 4. Taking such other and further action as deemed necessary and proper.

20
21 DATED: 10/24/12

John Wallauch by Doug Balata
JOHN WALLAUCH
Chief
Bureau of Automotive Repair
Department of Consumer Affairs
State of California
Complainant

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