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

10  
11 In the Matter of the Accusation Against:

Case No. 77/14-19

12 **ARTHURS AUTO BODY AND PAINT**  
**ARTHUR RODRIGUEZ, OWNER**  
13 5480 West Mission #103  
Fresno, California 93722-5073

**A C C U S A T I O N**

14 Automotive Repair Dealer Registration  
15 No. ARD 160950

16 Respondent.

17  
18 Patrick Dorais ("Complainant") alleges:

19 **PARTIES**

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

22 2. On or about June 6, 1991, the Director of Consumer Affairs ("Director") issued  
23 Automotive Repair Dealer Registration Number ARD 160950 to Arthur Rodriguez  
24 ("Respondent"), owner of Arthurs Auto Body and Paint. The Automotive Repair Dealer  
25 Registration was in full force and effect at all times relevant to the charges brought herein. The  
26 Registration expired on June 30, 2013 and has not been renewed.

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1 open for reasonable inspection by the chief or other law enforcement officials. All of those  
2 records shall be maintained for at least three years.”

3 7. Code section 477 provides, in pertinent part, that “Board” includes “bureau,”  
4 “commission,” “committee,” “department,” “division,” “examining committee,” “program,” and  
5 “agency.” “License” includes certificate, registration or other means to engage in a business or  
6 profession regulated by the Code.

7 8. Title 16, California Code of Regulations section 3352, subdivision (c), defines  
8 “Invoice” as “a document given to the customer that meets the invoice requirements of Business  
9 and Professions Code Section 9884.8 and California Code of Regulations Section 3356.”

10 9. Title 16, California Code of Regulations section 3358 states:

11 Each automotive repair dealer shall maintain legible copies of the following records  
12 for not less than three years:

13 (a) All invoices relating to automotive repair including invoices received from other  
14 sources for parts and/or labor.

15 (b) All written estimates pertaining to work performed.

16 (c) All work orders and/or contracts for repairs, parts and labor. All such records  
17 shall be open for reasonable inspection and/or reproduction by the bureau or other law  
18 enforcement officials during normal business hours.

#### 19 COST RECOVERY

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

#### 24 VEHICLE INSPECTION - OWNER D.D.

25 11. On or about January 14, 2011, “D.D.’s” 2006 Ford Mustang was damaged in a  
26 collision. D.D. had the vehicle transported to Respondent’s facility for repairs. On or about  
27 January 19, 2011, an insurance adjuster from Farmer’s Insurance Group inspected the damaged  
28 vehicle and prepared an itemized estimate totaling \$3,802.58 (“insurance estimate”). On or about  
January 19, 2011, Farmers issued a check in the amount of \$3,052.58 payable to “S.D.” and  
Respondent for repairs to D.D.’s 2006 Ford Mustang. S.D. endorsed the check to Respondent.

1 12. D.D. subsequently paid the amount of his insurance deductible so that Respondent  
2 was paid in full for the repairs described in the insurance estimate. D.D. was then permitted to  
3 take possession of the Mustang.

4 13. The Mustang was inspected by Farmers on or about November 14, 2011, and by the  
5 Bureau on or about May 24, 2012. Both inspections revealed that Respondent failed to repair  
6 D.D.'s 2006 Ford Mustang in accord with the insurance estimate.

7 14. On or about July 12, 2012, the Bureau asked Respondent to provide the Bureau with  
8 all repair records (invoices, estimates and parts receipts) for the period September 2010 to July  
9 2011. Respondent provided D.D.'s 2006 Ford Mustang insurance estimate. Respondent told a  
10 Bureau Representative that he repaired the vehicle according to the insurance estimate and that  
11 the insurance estimate was his invoice.

12 **FIRST CAUSE FOR DISCIPLINE**

13 **(Untrue or Misleading Statements)**

14 15. Respondent is subject to discipline under Code section 9884.7(a)(1), in that  
15 Respondent made statements which he knew or which by exercise of reasonable care should have  
16 known to be untrue or misleading by falsely representing to D.D. and a Bureau representative that  
17 D.D.'s 2006 Ford Mustang had been repaired pursuant to the insurance estimate dated January 19,  
18 2011. The true facts are Respondent failed to perform services and/or repairs as follows:

- 19 a. The windshield Reservoir Assembly was not replaced.  
20 b. The right side Stripe Tape was not replaced.  
21 c. The left side Stripe Tape was not replaced.  
22 d. The old Stripe Tape was not removed.  
23 e. The front impact bar was not replaced and painted.

24 **SECOND CAUSE FOR DISCIPLINE**

25 **(Fraud)**

26 16. Respondent is subject to discipline under Code section 9884.7(a)(4), in that on or  
27 about January 19, 2011, Respondent committed acts constituting fraud by charging and receiving  
28 payment for repairs that were not performed and for parts that were not supplied, as described in

1 paragraph 15., incorporated herein.

2 **THIRD CAUSE FOR DISCIPLINE**

3 **(Failure to Comply with the Automotive Repair Act)**

4 17. Respondent is subject to discipline under Code section 9884.7(a)(6), because  
5 Respondent violated Code section 9884.8 by failing to provide D.D. with a final invoice and  
6 Code section 9884.11 failing to maintain records as required by Title 16, California Code of  
7 Regulations section 3358.

8 **VEHICLE INSPECTION- OWNERS K.R & B.R. NO. 1**

9 18. On or about December 5, 2010, "K.R.'s and B.R.'s" 2001 Toyota Tacoma was  
10 damaged in the first of two collisions. Following the December collision, the Tacoma was  
11 transported to Respondent's facility for repairs. On or about December 10, 2010, an insurance  
12 adjuster from Farmer's Insurance Group inspected the damaged vehicle and prepared an itemized  
13 estimate totaling \$1,516.42 ("insurance estimate"). On or about December 10, 2010, Farmers  
14 issued a check in the amount of \$1,016.42 payable to K.R. and Respondent for repairs to K.R.'s  
15 Tacoma. K.R. endorsed the check to Respondent.

16 19. B.R., K.R.'s spouse and an owner of the Tacoma, paid Respondent \$500.00  
17 representing the deductible on their insurance policy so that Respondent was paid in full for the  
18 repairs described in the insurance estimate. B.R. was then permitted to take possession of the  
19 Tacoma.

20 20. The Tacoma was inspected on or about November 14, 2011, by Farmers, and on or  
21 about June 20, 2012, by the Bureau. Both inspections revealed that Respondent failed to repair  
22 K.R.'s 2001 Toyota Tacoma in accord with the insurance estimate.

23 21. On or about July 12, 2012, the Bureau requested Respondent to provide the Bureau  
24 with his repair records (invoices, estimates and parts receipts) for the period September 2010 to  
25 July 2011. Respondent provided the insurance estimate only for K.R.'s December 5, 2010,  
26 collision and repairs. Respondent told a Bureau Representative that he repaired the vehicle  
27 according to the insurance estimate and that the insurance estimate was his invoice.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Untrue or Misleading Statements)**

3 22. Respondent is subject to discipline under Code section 9884.7(a)(1), in that  
4 Respondent made statements which he knew or which by exercise of reasonable care should have  
5 known to be untrue or misleading by falsely representing to K.R., B.R. and a Bureau  
6 representative that the Tacoma had been repaired in accord with the insurance estimate dated  
7 December 10, 2010. The true facts are Respondent failed to replace the left pickup box outer  
8 panel and the pick up box assembly was not removed and installed.

9 **FIFTH CAUSE FOR DISCIPLINE**

10 **(Fraud)**

11 23. Respondent is subject to discipline under Code section 9884.7, in that on or about  
12 December 10, 2010, Respondent committed acts constituting fraud by charging and receiving  
13 payment for repairs that were not performed and for parts that were not supplied, as described in  
14 paragraph 22, incorporated herein.

15 **SIXTH CAUSE FOR DISCIPLINE**

16 **(Failure to Comply with the Automotive Repair Act)**

17 24. Respondent is subject to discipline under Code section 9884.7(a)(6), because  
18 Respondent violated Code sections 9884.8 by failing to provide K.R. and B.R. with a final  
19 invoice and Code section 9884.11 by failing to maintain records as required by Title 16,  
20 California Code of Regulations section 3358.

21 **VEHICLE INSPECTION – OWNERS K.R AND B.R. TACOMA NO. 2**

22 25. On or about July 8, 2010, "K.R.'s and B.R.s" 2001 Toyota Tacoma was damaged in  
23 the second collision. B.R. had the vehicle transported to Respondent's facility for repairs. On or  
24 about September 8, 2010, an insurance adjuster from Farmer's Insurance Group inspected the  
25 Tacoma and prepared an itemized estimate totaling \$3,339.62 ("insurance estimate"). On or about  
26 September 8, 2010, Farmers issued a check in the amount of \$2,731.19 payable to B.R. and  
27 Respondent for repairs to B.R.'s 2001 Toyota Tacoma. B.R. endorsed the check to Respondent.  
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1 **EIGHTH CAUSE FOR DISCIPLINE**

2 **(Fraud)**

3 30. Respondent is subject to discipline under Code section 9884.7(a)(4), in that on or  
4 about September 8, 2010, Respondent committed acts constituting fraud by charging and  
5 receiving payment for repairs that were not performed and parts that were not supplied, as  
6 described in paragraph 29 incorporated herein.

7 **NINTH CAUSE FOR DISCIPLINE**

8 **(Failure to Comply with the Automotive Repair Act)**

9 31. Respondent is subject to discipline under Code section 9884.7(a)(6), in that  
10 Respondent failed to comply with the provisions of Code section 9884.11 by failing to maintain  
11 records of B.R.'s Tacoma as required by Title 16, California Code of Regulations section 3358.

12 **VEHICLE INSPECTION – OWNER G.M.**

13 32. On or about May 25, 2011, "G.M.'s" 2007 Toyota Sienna was damaged in a collision.  
14 G.M. had the vehicle transported to Respondent's facility for repairs. On or about May 27, 2011,  
15 an insurance adjuster from Farmers Insurance Group inspected G.M.'s damaged vehicle and  
16 prepared an itemized estimate totaling \$4,226.04 ("insurance estimate"). On or about May 27,  
17 2011, Farmers issued a check in the amount of \$3,726.04 payable to G.M. and Respondent for the  
18 repairs to G.M.'s 2007 Toyota Sienna. G.M. endorsed the check to Respondent.

19 33. G.M. paid Respondent \$500.00 representing G.M.'s insurance deductible so that  
20 Respondent was paid in full for the amount of repairs described in the insurance estimate. G.M.  
21 was then permitted to take possession of the Sienna.

22 34. The Sienna was inspected on or about January 18, 2012, by Farmers, and on or about  
23 June 20, 2012, by the Bureau. Both inspections revealed that Respondent failed to repair G.M.'s  
24 2007 Toyota Sienna in accord with the insurance estimate.

25 35. On or about July 12, 2012, the Bureau asked Respondent to provide the Bureau with  
26 his repair records (invoices, estimates and parts receipts) for the period September 2010 to July  
27 2011. Respondent produced the insurance estimate for G.M.'s vehicle. Respondent told a Bureau  
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1 Representative that he repaired the vehicle according to the insurance estimate and that the  
2 insurance estimate was his invoice.

3 **TENTH CAUSE FOR DISCIPLINE**

4 **(Untrue or Misleading Statements)**

5 36. Respondent is subject to discipline under Code section 9884.7(a)(1), in that  
6 Respondent made statements which he knew or which by exercise of reasonable care should have  
7 known to be untrue or misleading by falsely representing to G.M. and a Bureau representative  
8 that G.M.'s 2007 Toyota Sienna had been repaired in accord with the insurance estimate dated  
9 May 27, 2011. The true facts are Respondent failed to perform services and/or repairs specified  
10 in the insurance estimate, as follows:

- 11 a. The left side loading door outer panel was not replaced.  
12 b. The left side panel was not replaced.  
13 c. The left side panel protector was not replaced.

14 **ELEVENTH CAUSE FOR DISCIPLINE**

15 **(Fraud)**

16 37. Respondent is subject to discipline under Code section 9884.7(a)(4), in that on or  
17 about May 27, 2011, Respondent committed acts constituting fraud by charging and receiving  
18 payment for repairs that were not performed or for parts that were not supplied, as described in  
19 paragraph 36 incorporated herein.

20 **TWELFTH CAUSE FOR DISCIPLINE**

21 **(Failure to Comply with the Automotive Repair Act)**

22 38. Respondent is subject to discipline under Code section 9884.7(a)(6), in that  
23 Respondent failed to comply with provisions of the Code by violating Code section 9884.8 by  
24 failing to provide G.M. with a final invoice and Code section 9884.11 by failing to maintain  
25 records as required by Title 16, California Code of Regulations section 3358.

26 **VEHICLE INSPECTION – OWNER R.S.**

27 39. On or about November 22, 2010, R.S.'s 2004 Toyota RAV4 was damaged in a  
28 collision. The vehicle was towed to Respondent's facility for repairs. On or about November 27,

1 2010, an insurance adjuster from Farmers Insurance Group inspected the damaged RAV4 and  
2 prepared an itemized estimate totaling \$5,873.26 ("insurance estimate"). On or about November  
3 27, 2010, Farmers issued a check in the amount of \$5,373.26 payable to R.S. and Respondent for  
4 repairs to R.S.'s 2004 Toyota RAV4. R.S. endorsed the check to Respondent.

5 40. R.S. paid Respondent \$500.00 representing the insurance deductible so that  
6 Respondent was paid in full for the repairs described in the insurance estimate. R.S. was then  
7 permitted to take possession of the RAV4.

8 41. R.S.'s RAV4 was inspected on or about November 14, 2011, by Farmers, and on or  
9 about June 20, 2012, by the Bureau. Both inspections revealed that Respondent failed to repair  
10 R.S.'s 2004 Toyota RAV4 in accord with the insurance estimate.

11 42. On or about July 12, 2012, the Bureau asked Respondent to provide the Bureau with  
12 his repair records (invoices, estimates and parts receipts) for the period September 2010 to July  
13 2011. Respondent provided the insurance estimate for R.S.'s vehicle. Respondent told a Bureau  
14 Representative that he repaired the vehicle according to the insurance estimate and that the  
15 insurance estimate was his invoice.

16 **THIRTEENTH CAUSE FOR DISCIPLINE**

17 **(Untrue or Misleading Statements)**

18 43. Respondent is subject to discipline under Code section 9884.7(a)(1), in that  
19 Respondent made statements which he knew or which by exercise of reasonable care should have  
20 known to be untrue or misleading by falsely representing to R.S. and a Bureau representative that  
21 R.S.'s 2004 Toyota RAV4 had been repaired in accord with the insurance estimate dated  
22 November 27, 2010. Respondent failed to perform services and/or repairs in the insurance  
23 estimate because the right hinge pillar was not replaced and the right center pillar and rocker were  
24 not replaced.

25 **FOURTEENTH CAUSE FOR DISCIPLINE**

26 **(Fraud)**

27 44. Respondent is subject to discipline under Code section 9884.7(a)(4), in that on or  
28 about November 27, 2010, Respondent committed acts constituting fraud by charging and

1 receiving payment for repairs that were not performed or for parts that were not supplied as  
2 described in paragraph 43 incorporated herein.

3 **FIFTEENTH CAUSE FOR DISCIPLINE**

4 **(Failure to Comply with the Automotive Repair Act)**

5 45. Respondent is subject to discipline under Code section 9884.7(a)(6), in that  
6 Respondent failed to comply with provisions of Code section 9884.8 by failing to provide R.S.  
7 with a final invoice and Code section 9884.11 by failing to maintain records as required by Title  
8 16, California Code of Regulations section 3358.

9 **OTHER MATTERS**

10 46. Pursuant to Code section 9884.7(c), the Director may suspend, revoke, or place on  
11 probation the registration for all places of business operated in this state by Respondent Arthur  
12 Rodriguez, owner of Arthurs Auto Body and Paint, upon a finding that Respondent has, or is,  
13 engaged in a course of repeated and willful violations of the laws and regulations pertaining to an  
14 automotive repair dealer.

15 **PRAYER**

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

- 18 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD  
19 160950, issued to Arthur Rodriguez, owner of Arthurs Auto Body and Paint;
- 20 2. Revoking or suspending any other automotive repair dealer registration issued to  
21 Arthur Rodriguez;
- 22 3. Ordering Arthur Rodriguez to pay the Director of Consumer Affairs the reasonable  
23 costs of the investigation and enforcement of this case, pursuant to Business and Professions  
24 Code section 125.3; and,

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

DATED: 10/10/13

PAT DORAIS by Doug Balatti  
Patrick Dorais  
Acting Chief  
Bureau of Automotive Repair (CPO)  
Department of Consumer Affairs  
State of California  
*Complainant*

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