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

11 In the Matter of the Accusation Against:

Case No. *77/13-72*

12 **JR S AUTOMOTIVE & TIRE SERVICE**  
13 **JUAN M. RODRIGUEZ, PARTNER**  
**ESTHER H. RODRIGUEZ, PARTNER**  
14 32606 Road 124  
Visalia, CA 93291

**ACCUSATION**

15 Automotive Repair Dealer Reg. No. ARD 181220

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. On or about November 17, 1994, the Director of Consumer Affairs ("Director")  
23 issued Automotive Repair Dealer Registration Number ARD 181220 ("registration") to JR S  
24 Automotive & Tire Service ("Respondent"), with Juan M. Rodriguez and Esther H. Rodriguez as  
25 partners. Respondent's registration expired on November 30, 2010, but was renewed on July 19,  
26 2011. Respondent's registration expired on November 30, 2011, and has not been 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 . . . .

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

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

24 7. Code section 9884.6, subdivision (a), states that it is unlawful for any person to be an  
25 automotive repair dealer unless that person has registered in accordance with this chapter [the  
26 Automotive Repair Act] and unless that registration is currently valid.

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

28 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

1 consent or authorization for an increase in the original estimated price may be  
2 provided by electronic mail or facsimile transmission from the customer. The bureau  
3 may specify in regulation the procedures to be followed by an automotive repair  
4 dealer when an authorization or consent for an increase in the original estimated price  
5 is provided by electronic mail or facsimile transmission. If that consent is oral, the  
6 dealer shall make a notation on the work order of the date, time, name of person  
7 authorizing the additional repairs and telephone number called, if any, together with a  
8 specification of the additional parts and labor and the total additional cost . . .

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

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

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

16 11. California Code of Regulations, title 16, section 3371.1 states, in pertinent part:

17 A person shall be deemed to be an automotive repair dealer as defined by  
18 subdivision (a) of section 9880.1 of the Business and Professions Code when such  
19 person:

20 (a) Solicits or advertises the repair of motor vehicles by telephone  
21 directory, newspaper, periodical, airwave transmission, printed handbill, printed  
22 business card, printed poster, or painted or electric sign, and repairs motor vehicles,  
23 or

24 (b) maintains an establishment for the repair of motor vehicles where  
25 within or outside the establishment is a sign, poster, or other representation which  
26 might reasonably lead a member of the public to believe that such establishment  
27 performs the repair of motor vehicles, or

28 (c) holds a retail sellers permit when such permit has been acquired for  
the purpose of, or has been used for, obtaining parts for the repair of motor vehicles,  
or

(d) holds himself or herself out to the public as an automotive repair  
dealer and receives a motor vehicle from the public and transmits or renders control  
of the motor vehicle to another for repair.

A person will be deemed to be holding himself or herself out to the public  
as an automotive repair dealer within the meaning of subdivision (d) above when  
such person solicits such business in a manner which might reasonably lead the  
public to believe that such person is an automotive repair dealer, or when the person  
receiving the service is billed on such person's own invoice.

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1 **COST RECOVERY**

2 12. 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 **CONSUMER COMPLAINT (HUANG): 1995 BUICK LESABRE**

7 13. On or about December 28, 2010, Min Huang ("Huang") took her 1995 Buick LeSabre  
8 to Respondent's facility to have the cruise control and horn diagnosed and an engine mount  
9 replaced.

10 14. On or about December 31, 2010, Huang returned to the facility and discovered that  
11 the vehicle was not on the premises. The employees at the facility were unable to tell Huang  
12 where the vehicle was located. That same day, Huang filed a complaint with the Bureau,  
13 requesting their assistance in recovering the vehicle.

14 15. On or about January 19, 2011, a representative of the Bureau went to the facility and  
15 met with Respondent's manager, Jose Miramontes ("Miramontes"). Miramontes called Juan  
16 Rodriguez ("Rodriguez") and had him speak with the representative. Rodriguez told the  
17 representative that Huang brought the vehicle to the facility because the "check engine" light was  
18 illuminated and that he had not provided her with a written estimate. Rodriguez also stated that  
19 he had taken the vehicle to another repair facility to have the on-board computer scan-checked  
20 since his computer scanner was not working.

21 16. On or about January 31, 2011, Huang informed the representative that the vehicle was  
22 released to her at no charge.

23 **FIRST CAUSE FOR DISCIPLINE**

24 **(Failure to Comply with the Code)**

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

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1 a. **Section 9884.6, subdivision (a)**: On and between December 28, 2010, and January  
2 2011, Respondent acted in the capacity of an automotive repair dealer while its registration was  
3 expired and invalid.

4 b. **Section 9884.9, subdivision (a)**: Respondent's partner, Juan Rodriguez, failed to  
5 provide Huang with a written estimate for the diagnosis or repair of her 1995 Buick LeSabre.

6 **CONSUMER COMPLAINT (LOPEZ): 1993 CHEVROLET PICKUP**

7 18. On or about December 20, 2010, Frank Lopez ("Lopez") took his 1993 Chevrolet  
8 pickup to Respondent's facility for diagnosis due to a problem with the starter; the engine was  
9 also running rough. Lopez authorized the facility to repair the vehicle and paid them \$850.  
10 Lopez was not given a written estimate. The facility replaced the starter, then informed Lopez  
11 that the engine had two dead cylinders. Later, the cylinder heads were removed and sent to a  
12 machine shop. Respondent's facility told Lopez that the work would be completed in 2 weeks.

13 19. On or about April 12, 2011, Lopez filed a complaint with the Bureau, indicating  
14 that the repairs still had not been completed.

15 20. On or about April 28, 2011, a representative of the Bureau went to the facility and  
16 discussed the complaint with Rodriguez. The representative informed Rodriguez that the  
17 facility's registration was delinquent and that he was prohibited from performing automotive  
18 repairs for compensation until the required fees were paid and the registration was valid.  
19 Rodriguez agreed to pay the registration fees and complete the repairs to the vehicle.

20 **SECOND CAUSE FOR DISCIPLINE**

21 **(Failure to Comply with Code)**

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

25 a. **Section 9884.6, subdivision (a)**: On and between December 20, 2010, and April  
26 2011, Respondent acted in the capacity of an automotive repair dealer while its registration was  
27 expired and invalid.

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1           b.       **Section 9884.9, subdivision (a)**: Respondent's partner, Juan Rodriguez, failed to  
2 provide Lopez with a written estimate for the repair of her 1993 Chevrolet pickup.

3                               **CONSUMER COMPLAINT (SANCHEZ): 1995 HONDA ACCORD**

4           22.       On or about October 3, 2011, Maria Sanchez ("Sanchez") took her 1995 Honda  
5 Accord to Respondent's facility for diagnosis of a transmission/clutch problem. Rodriguez told  
6 Sanchez that he could perform the diagnosis, but did not provide her with a written estimate.  
7 Sanchez left the vehicle at the facility.

8           23.       On or about October 10, 2011, Sanchez returned to the facility. Rodriguez told  
9 Sanchez that the vehicle needed a clutch and a front axle shaft assembly, and gave her a verbal  
10 estimate of \$470.00 for the repairs, including the installation of 2 used front tires. Sanchez paid  
11 Rodriguez \$470.00 in advance for the repairs. Rodriguez did not provide Sanchez with a receipt  
12 or a written estimate.

13           24.       On and between October 18 and October 22, 2011, Sanchez made various calls to  
14 the facility, but no one answered the phone. Later, Sanchez went to the facility and found that the  
15 business was closed.

16           25.       On or about October 24, 2011, Sanchez returned to the facility and met with  
17 officer(s) of the Tulare County Sheriff's Department, who assisted her in having the vehicle  
18 towed to another repair facility. Sanchez found that Respondent's facility had placed the  
19 transmission, old clutch parts, and the front axle shaft in the trunk of the vehicle.

20           26.       On or about November 24, 2011, Sanchez filed a complaint with the Bureau.

21                               **THIRD CAUSE FOR DISCIPLINE**

22                                       **(Failure to Comply with Code)**

23           27.       Respondent is subject to disciplinary action pursuant to Code section 9884.7,  
24 subdivision (a)(6), in that Respondent failed to comply with section 9884.9, subdivision (a), of  
25 that Code in the following material respects: Respondent's partner, Juan Rodriguez, failed to  
26 provide Sanchez with written estimates for the diagnosis of the transmission/clutch problem and  
27 the replacement of the clutch, front axle shaft assembly, and two front tires on her 1995 Honda  
28 Accord.



1 engaged in a course of repeated and willful violations of the laws and regulations pertaining to an  
2 automotive repair dealer.

3 **PRAYER**

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

- 6 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD  
7 181220, issued to JR S Automotive & Tire Service;
- 8 2. Revoking or suspending any other automotive repair dealer registration issued to JR S  
9 Automotive & Tire Service;
- 10 3. Ordering JR S Automotive & Tire Service to pay the Director of Consumer Affairs  
11 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
12 Professions Code section 125.3;
- 13 4. Taking such other and further action as deemed necessary and proper.

14  
15 DATED: June 5-2013

  
16 JOHN WALLAUCH  
17 Chief  
18 Bureau of Automotive Repair  
19 Department of Consumer Affairs  
20 State of California  
21 *Complainant*

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