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

12 In the Matter of the Accusation Against:
13 **E & J AUTO BODY**
14 **JUAN MANUEL JARAS**
15 **201 San Juan Road**
16 **Watsonville, CA 95076**
17 **Automotive Repair Dealer Registration No.**
18 **ARD 197673**
19 Respondent.

Case No. 77/13-69

ACCUSATION

20 Complainant alleges:

PARTIES

- 21 1. John Wallauch ("Complainant") brings this Accusation solely in his official capacity
22 as the Chief of the Bureau of Automotive Repair ("Bureau"), Department of Consumer Affairs.
23 2. On or about December 31, 1997, the Bureau issued Automotive Repair Dealer
24 Registration Number ARD 197673 ("registration") to Juan Manuel Jaras, doing business as E & J
25 Auto Body ("Respondent"). The registration expired on December 31, 2010, and has not been
26 renewed.

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JURISDICTION

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

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

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

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STATUTORY PROVISIONS

6. Code section 9884.6 states, in pertinent part:

(a) It is unlawful for any person to be an automotive repair dealer unless that person has registered in accordance with this chapter and unless that registration is currently valid.

7. 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 refuse to validate, or may invalidate temporarily or permanently, 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.

(1) Making or authorizing in any manner or by any means whatever any statement written or oral 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.

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

(3) Failing or refusing to give to a customer a copy of any document requiring his or

1 her signature, as soon as the customer signs the document.

2 (4) Any other conduct which constitutes fraud.

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

5 (b) Except as provided for in subdivision (c), if an automotive repair dealer operates
6 more than one place of business in this state, the director pursuant to subdivision (a) shall only
7 invalidate temporarily or permanently the registration of the specific place of business which has
8 violated any of the provisions of this chapter. This violation, or action by the director, shall not
9 affect in any manner the right of the automotive repair dealer to operate his or her other places of
10 business.

11 (c) Notwithstanding subdivision (b), the director may invalidate temporarily or
12 permanently, the registration for all places of business operated in this state by an automotive
13 repair dealer upon a finding that the automotive repair dealer has, or is, engaged in a course of
14 repeated and willful violations of this chapter, or regulations adopted pursuant to it.

15 8. Code section 9884.8 states, in pertinent part:

16 All work done by an automotive repair dealer, including all warranty work, shall be
17 recorded on an invoice and shall describe all service work done and parts supplied . . . One copy
18 of the invoice shall be given to the customer and one copy shall be retained by the automotive
19 repair dealer.

20 9. Code section 9884.9 states, in pertinent part:

21 (a) The automotive repair dealer shall give to the customer a written estimated price
22 for labor and parts necessary for a specific job. No work shall be done and no charges shall accrue
23 before authorization to proceed is obtained from the customer. No charge shall be made for work
24 done or parts supplied in excess of the estimated price without the oral or written consent of the
25 customer that shall be obtained at some time after it is determined that the estimated price is
26 insufficient and before the work not estimated is done or the parts not estimated are supplied.
27 Written consent or authorization for an increase in the original estimated price may be provided
28 by electronic mail or facsimile transmission from the customer. The bureau may specify in

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

7 (1) Make a notation on the invoice of the same facts set forth in the notation on the
8 work order.

9 (2) Upon completion of the repairs, obtain the customer's signature or initials to an
10 acknowledgment of notice and consent, if there is an oral consent of the customer to additional
11 repairs, in the following language:

12 "I acknowledge notice and oral approval of an increase in the original estimated price.

13 _____
14 (signature or initials)"

15 (c) In addition to subdivisions (a) and (b), an automotive repair dealer, when doing
16 auto body or collision repairs, shall provide an itemized written estimate for all parts and labor to
17 the customer. The estimate shall describe labor and parts separately and shall identify each part,
18 indicating whether the replacement part is new, used, rebuilt, or reconditioned. Each crash part
19 shall be identified on the written estimate and the written estimate shall indicate whether the crash
20 part is an original equipment manufacturer crash part or a nonoriginal equipment manufacturer
21 aftermarket crash part.

22 COST RECOVERY

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

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UNDERCOVER OPERATION No. 1 – 2001 Chevrolet

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2 11. On October 19, 2011, an undercover operator with the Bureau (hereinafter
3 “operator”) drove a Bureau-documented 2001 Chevrolet to Respondent’s facility for collision
4 repairs. The vehicle had paint scratches on the left side of the body. The operator met with
5 Respondent Juan Jaras, and requested an estimate to have the scratches on the Chevrolet
6 repainted. The operator told the Respondent that the scratches were the result of vandalism and
7 asked if he would paint the entire vehicle so the color would match properly. The Respondent
8 inspected the paint damage closely and pointed out pre-existing paint chips, scratches, and cracks
9 in the paint. The Respondent agreed to paint the entire vehicle at an estimated cost of \$4,500.00
10 and the operator would only pay the \$250.00 insurance deductible. The Respondent stated that he
11 would remove and reinstall all of the exterior moldings during the repainting of the entire vehicle.
12 The operator agreed to the repairs and signed a blank work order. The operator again confirmed
13 with the Respondent that he agreed to paint the entire vehicle and bill the insurance company. The
14 Respondent said yes, and assured the operator that he would word it so the pre-existing paint
15 chips, scratches, and additional paint damage were part of the paint vandalism, that if the
16 insurance adjuster were to ask why the entire vehicle was painted, to say that the operator had
17 paid the Respondent extra money for a complete paint job.

18 12. On or about October 24, 2011, the Respondent submitted a copy of E & J Auto Body
19 estimate ID: [REDACTED], dated October 24, 2011, with a gross total of \$2,939.09, and photographs of the
20 2001 Chevrolet Camaro to AAA Northern California, Nevada & Utah Insurance Exchange
21 (hereinafter “AAA”) as the method of repair for the Bureau's 2001 Chevrolet Camaro. The
22 photographs show damage/scratches to the right side of the 2001 Chevrolet Camaro that was not
23 present at the time the Respondent received the vehicle for repairs.

24 13. On or about October 25, 2011, AAA issued a check for the repairs in the amount of
25 \$2,456.16 made payable to E & J Auto Body and operator.

26 14. On December 16, 2011, the operator returned to the Respondent’s facility to pick up the
27 Bureau's 2001 Chevrolet. The operator paid the Respondent the \$250.00 insurance deductible in
28 cash. The Respondent gave the operator a white and a yellow E & J Auto Body Repair Orders

1 dated 10/19/2011 with a total amount of \$2,939.09 and a copy of E & J Auto Body estimate ID:

2 [REDACTED] dated 12/15/2011, with a gross total of \$2,939.09.

3 **FIRST CAUSE FOR DISCIPLINE**

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

5 15. Respondent has subjected its registration to discipline under Code section 9884.7,
6 subdivision (a)(6), in that Respondent failed to comply with provisions of the Code, in the
7 Following material respects:

- 8
- 9 a. Respondent failed to provide the operator with a written estimated price for parts and
10 labor for a specific job regarding the repairs he performed on the operator's vehicle, in
11 violation of Code section 9884.9.
- 12 b. Respondent failed to provide the Bureau's operator with an itemized estimate for auto
13 body repairs for all parts and labor that indicated whether parts would be new, used,
14 reconditioned, rebuilt, or OEM crash parts, or non-OEM aftermarket crash parts prior
15 to performing the auto body repairs, in violation of Code section 9884.9,
16 subdivision (c).
- 17 c. Respondent failed to provide the operator with a final invoice describing all service
18 work performed and parts supplied regarding the collision repairs performed, in
19 violation of Code section 9884.8.

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1 Respondent with a copy of the Estimate of Record from Coast National Insurance Company,
2 dated 2/28/2012, Claim # [REDACTED] with the total repair cost of \$4,862.11.

3 19. On or about February 29, 2012, Coast National Insurance Company issued a check
4 for the repairs in the amount of \$4,362.11 made payable to E & J Auto Body and the operator.

5 20. On May 22, 2012, the operator returned to the Respondent's facility to pick up the
6 Bureau's 2002 Toyota. The operator paid the Respondent the \$500.00 insurance deductible in
7 cash. The Respondent provided the operator with an Estimate of Record from Coast National
8 Insurance Company dated 2/28/2012, Claim # [REDACTED] with the Total Cost of Repairs of
9 \$4,862.11.

10 21. On June 7, 2012, the Bureau re-inspected the 2002 Toyota using the Estimate of
11 Record from Coast National Insurance Company, Claim # [REDACTED] for comparison. The
12 Bureau's inspection revealed that Respondent accepted payment for the following repairs that
13 were not performed:

- 14 a. Replace RT name plate
- 15 b. Replace LT nameplate
- 16 c. Remove/Install RT quarter panel glass
- 17 d. Remove/Install LT quarter panel glass
- 18 e. Urethane Kit for LT quarter panel glass
- 19 f. Urethane Kit for RT quarter panel glass
- 20 g. Urethane kit for RT fixed glass
- 21 h. Urethane kit for LT fixed glass
- 22 i. Remove/Install Antenna mast
- 23 j. Remove/Install Antenna assy bezel
- 24 k. O/H front bumper
- 25 l. Remove/Install valance panel
- 26 m. Remove/Install face bar
- 27 n. Remove/Install RT flare
- 28 o. Remove/Install LT flare

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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, suspending or placing on probation Automotive Repair Dealer Registration Number ARD 197673, issued to Juan Manuel Jaras, doing business as E & J Auto Body.

2. Revoking, suspending or placing on probation any other automotive repair dealer registration issued in the name Juan Manuel Jaras.

3. Ordering Juan Manuel Jaras, doing business as E & J Auto Body, to pay the Bureau of Automotive Repair the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

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

DATED: 5/24/13

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

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