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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. 77/09-15

13 **MASTER GLASS TECHNICIANS, INC., dba**
14 **MASTER GLASS TECHNICIANS, INC.**
15 **1180 143rd Avenue**
16 **San Leandro, CA 94578**
17 **FRANK M. MONTANO, PRESIDENT**

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

18 **Automotive Repair Dealer Registration**
19 **No. ARD 204133**

20 Respondent.

21 FINDINGS OF FACT

22 1. On or about December 10, 2009, Complainant Sherry Mehl, in her official capacity as
23 the Chief of the Bureau of Automotive Repair, Department of Consumer Affairs, filed Accusation
24 No. 77/09-15 against Master Glass Technicians, Inc., dba Master Glass Technicians, Inc., with
25 Frank M. Montano as President (Respondent), before the Director of Consumer Affairs.

26 2. On or about March 30, 1999, the Bureau of Automotive Repair (Bureau) issued
27 Automotive Repair Dealer Registration No. ARD 204133 to Respondent. The Automotive
28 Repair Dealer Registration was in full force and effect at all times relevant to the charges brought
herein and will expire on March 31, 2009, unless renewed.

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1 3. On or about January 29, 2010, Pattie Manning, an employee of the Department of
2 Justice, served by Certified and First Class Mail a copy of the Accusation No. 77/09-15,
3 Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code
4 sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Bureau, which
5 was and is:

6 1180 143rd Avenue
7 San Leandro, CA 94578.

8 A copy of the Accusation is attached as Exhibit A, and is incorporated herein by reference.

9 4. Service of the Accusation was effective as a matter of law under the provisions of
10 Business & Professions Code section 124.

11 5. On or about February 5, 2010, the aforementioned documents were returned by the
12 U.S. Postal Service marked "Refused."

13 6. Government Code section 11506 states, in pertinent part:

14 (c) The respondent shall be entitled to a hearing on the merits if the respondent
15 files a notice of defense, and the notice shall be deemed a specific denial of all parts
16 of the accusation not expressly admitted. Failure to file a notice of defense shall
17 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
18 may nevertheless grant a hearing.

19 7. Respondent failed to file a Notice of Defense within 15 days after service upon
20 them of the Accusation, and therefore waived their right to a hearing on the merits of Accusation
21 No. 77/09-15.

22 8. California Government Code section 11520 states, in pertinent part:

23 (a) If the respondent either fails to file a notice of defense or to appear at the
24 hearing, the agency may take action based upon the respondent's express admissions
25 or upon other evidence and affidavits may be used as evidence without any notice to
26 respondent.

27 9. Pursuant to its authority under Government Code section 11520, the Director finds
28 Respondent is in default. The Director will take action without further hearing and, based on the
evidence on file herein, finds that the allegations in Accusation No. 77/09-15 are true.

 10. The total cost for investigation and enforcement in connection with the Accusation
are \$8,883.67 as of March 10, 2010.

DETERMINATION OF ISSUES

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2 1. Based on the foregoing findings of fact, Respondent Master Glass Technicians, Inc.,
3 dba Master Glass Technicians, Inc., with Frank M. Montano as President, has subjected its
4 Automotive Repair Dealer Registration No. ARD 204133 to discipline.

5 2. A copy of the Accusation is attached.

6 3. The agency has jurisdiction to adjudicate this case by default.

7 4. The Director of Consumer Affairs is authorized to revoke Respondent's Automotive
8 Repair Dealer Registration based upon the following violations alleged in the Accusation:

9 a. Business and Professions Code (Code) section 9884.7, subdivision (a)(2)

10 **(Failure to Record Vehicle's Current Odometer Reading on the Work Order)**

11 b. Code section 9884.7, subdivision (a)(7) **(Willful Departure or Disregard for**

12 **Trade Standards)**

13 c. Code section 9884.7, subdivision (a)(6) **(Failure to Comply with Code Sections**
14 **9884.8, 9884.9, subdivision (c), and 9884.11); and**

15 d. Code section 9884.7, subdivision (a)(6) **(Failure to Comply with California**
16 **Code of Regulations, title 16, section 3356, subdivision (a)(1)).**

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Exhibit A
Accusation No. 77/09-15

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14 **MASTER GLASS TECHNICIANS, INC.,**
15 **1180 143rd Avenue**
16 **San Leandro, CA 94578**
17 **FRANK M MONTANO, PRESIDENT**
18 **Automotive Repair Dealer License**
19 **No. ARD 204133**

ACCUSATION

Respondent.

20 Complainant alleges:

21 **PARTIES**

22 1. Sherry Mehl ("Complainant") brings this Accusation solely in her official capacity as
23 the Chief of the Bureau of Automotive Repair ("Bureau"), Department of Consumer Affairs.

24 **Automotive Repair Dealer Registration**

25 2. On or about March 30, 1999, the Bureau issued Automotive Repair Dealer License
26 Number ARD 204133 ("registration") to Master Glass Technicians, Inc., doing business as
27 Master Glass Technicians, Inc., ("Respondent") with Frank M. Montano as President. The
28 registration was in full force and effect at all times relevant to the charges brought herein and
expired on March 31, 2009.

1 crash parts or nonoriginal equipment manufacturer aftermarket crash parts. One copy
2 of the invoice shall be given to the customer and one copy shall be retained by the
3 automotive repair dealer.

4 6. Code section 9884.9, subdivision (a) states:

5 (a) 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 done
7 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 if an authorization or consent for an increase in the original estimated price is
16 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, and shall
20 do either of the following:

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

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

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

28 _____
(signature or initials)"

Nothing in this section shall be construed as requiring an automotive
repair dealer to give a written estimated price if the dealer does not agree to perform
the requested repair.

7. Code section 9884.11 states:

Each automotive repair dealer shall maintain any records that are required
by regulations adopted to carry out this chapter. Those records shall be open for
reasonable inspection by the chief or other law enforcement officials. All of those
records shall be maintained for at least three years.

8. Code section 477 provides, in pertinent part, that "Board" includes "bureau,"
"commission," "committee," "department," "division," "examining committee," "program," and

1 "agency." "License" includes certificate, registration or other means to engage in a business or
2 profession regulated by the Code.

3 REGULATORY PROVISION

4 9. California Code of Regulations, title 16, section 3356, subdivision (a)(1) states:

5 (a). All invoices for service and repair work performed, and parts
6 supplied, as provided for in Section 9884.8 of the Business and Professions Code,
shall comply with the following:

7 (1) The invoice shall show the automotive repair dealer's registration
8 number and the corresponding business name and address as shown in the Bureau's
9 records. If the automotive repair dealer's telephone number is shown, it shall comply
with the requirements of subsection (b) of Section 3371 of this chapter.

10 COST RECOVERY

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

15 CONSUMER COMPLAINT

16 11. On or about August 16, 2008, Clifford Warren ("consumer") contracted with
17 Respondent to replace the windshield on the consumer's 1994 GMC C1500 truck. After the
18 windshield was replaced, the consumer noticed that four of the screws were missing from the
19 windshield cowl. The consumer telephoned Respondent to complain and was told by Respondent
20 that the screws were not needed. Respondent also told the consumer that if it rattled, the screws
21 would be replaced. After driving the vehicle, the consumer telephoned Respondent again and
22 Respondent went out to replace the screws. While Respondent was replacing the screws, the
23 consumer noticed that the windshield seal at the right lower corner near the passenger door was
24 out of place. The seal was obstructing the pathway of the door, causing the seal to get caught in
25 the door upon closing of the door. Respondent caulked and taped the seal and instructed the
26 consumer to wait 24 hours before removing the tape. After 24 hours, the seal was still lifting up.
27 The consumer contacted Respondent and Respondent suggested waiting a few more days to let
28 the warm weather soften the caulking. Respondent also told the consumer to push the seal down

1 every time he closed the door. The consumer informed Respondent that this solution was not
2 acceptable. Respondent told the consumer to contact his insurance company if he was not
3 satisfied with the results.

4 12. On or about August 22, 2008, the consumer filed a complaint with the Bureau. On or
5 about August 29, 2008, the Bureau went to the consumer's home and inspected and photographed
6 the consumer's vehicle's windshield. The inspection revealed that the windshield seal was
7 deformed as a result of getting caught in the passenger door.

8 13. On or about September 3, 2008, the Bureau telephoned Respondent to discuss the
9 consumer's complaint. The Bureau informed Respondent that the windshield seal needed to be
10 replaced. Respondent refused, stating that the problem with the windshield seal was due to body
11 damage to the vehicle caused by a prior accident. The Bureau requested copies of the estimate,
12 invoice, and parts receipts regarding the repair to the consumer's vehicle. Respondent refused to
13 provide the Bureau with copies of the requested documents at that time.

14 14. On or about September 11, 2008, the Bureau returned to the consumer's home and
15 reinspected and took more photographs of the vehicle. That inspection revealed no evidence of
16 previous body damage.

17 **FIRST CAUSE FOR DISCIPLINE**

18 **(Failure to Record Vehicle's Current Odometer Reading on the Work Order)**

19 15. Respondent's registration is subject to discipline pursuant to Code section 9884.7,
20 subdivision (a)(2), in that on or about August 16, 2008, Respondent allowed the consumer to sign
21 Customer Claim Check No. 982532 that did not contain the vehicle's current odometer reading.

22 **SECOND CAUSE FOR DISCIPLINE**

23 **(Willful Departure or Disregard for Trade Standards)**

24 16. Respondent's registration is subject to discipline pursuant to Code section 9884.7,
25 subdivision (a)(7), in that on or about August 16, 2008, Respondent willfully departed from or
26 disregarded accepted trade standards regarding the windshield replacement on the consumer's
27 vehicle in the following material respects:

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1 a. Respondent installed the windshield with an excessive gap at the top of the
2 windshield due to its positioning, resulting in a deformed windshield seal. This condition caused
3 problems when the passenger door was opened and closed.

4 **THIRD CAUSE FOR DISCIPLINE**

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

6 17. Respondent's registration is subject to discipline pursuant to Code section 9884.7,
7 subdivision (a)(6), in that on or about August 16, 2008, Respondent failed to comply with the
8 following Code sections:

9 a. **Section 9884.8:** Regarding Claim Check No. 982532, Respondent failed to set forth
10 whether the parts were new, reconditioned, rebuilt, or aftermarket.

11 b. **Section 9884.9, subdivision (c):** Respondent failed to provide the consumer with a
12 written estimated price for parts and labor for a specific job.

13 c. **Section 9884.11:** Respondent failed to provide the parts receipts regarding the
14 windshield replacement on the consumer's vehicle.

15 **FOURTH CAUSE FOR DISCIPLINE**

16 **(Failure to Comply with Regulations)**

17 18. Respondent's registration is subject to discipline pursuant to Code section 9884.7,
18 subdivision (a)(6), in that on or about August 16, 2008, Respondent failed to comply with
19 California Code of Regulations, title 16, section 3356, subdivision (a)(1) by failing to set forth its
20 automotive repair dealer registration number and corresponding business name and address on
21 Claim Check No. 982532.

22 **PRAYER**

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

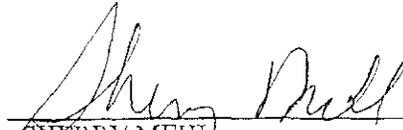
25 1. Temporarily or permanently invalidating Automotive Repair Dealer Registration
26 Number ARD 204133, issued to Master Glass Technicians, Inc.,

27 2. Temporarily or permanently invalidating any other automotive repair dealer
28 registration issued in the name of Master Glass Technicians, Inc.:

1 3. Ordering Master Glass Technicians, Inc., to pay the Bureau of Automotive Repair the
2 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
3 Professions Code section 125.3; and,

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

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6
7 DATED: 12/10/09



SHERRY MEHL

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

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