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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. 77/15-49

12 **TIM'S AUTO BODY**
13 **RICHARD T. MARTINEZ, OWNER**
14 **4200 24th Street**
Sacramento, CA 95822

A C C U S A T I O N

15 **Automotive Repair Dealer Reg. No. ARD 227961**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

- 20 1. Patrick Dorais ("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 July 1, 2003, the Director of Consumer Affairs ("Director") issued
23 Automotive Repair Dealer Registration Number ARD 227961 ("registration") to Richard T.
24 Martinez ("Respondent"), owner of Tim's Auto Body. On April 1, 2008, the registration was
25 revoked, however, the revocation was stayed and Respondent was placed on probation for five (5)
26 years on terms and conditions, as set forth in paragraph 19 below. Respondent's registration was
27 also suspended for three (3) consecutive days effective April 1, 2008. Respondent's registration
28 expired on May 31, 2014.

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 (4) Any other conduct that constitutes fraud.

18

19 (7) Any willful departure from or disregard of accepted trade standards
20 for good and workmanlike repair in any material respect, which is prejudicial to
21 another without consent of the owner or his or her duly authorized representative . . .

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

27 7. Code section 22, subdivision (a), states:

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

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1 aftermarket parts had been installed on the vehicle rather than original equipment manufacturer
2 (“OEM”) parts as called for on the insurance estimate.

3 15. On or about February 6, 2014, F. G. filed a complaint with the Bureau.

4 16. On or about February 14, 2014, and February 27, 2014, the Bureau inspected the
5 vehicle using as a reference State Farm’s supplemental estimate, Supplement 2 (P F), dated
6 January 17, 2014, in the amount of \$5,674.48. The Bureau found that Respondent’s facility failed
7 to repair the vehicle as estimated and that the repairs had not been performed to accepted trade
8 standards. The total valued of the repairs Respondent failed to perform as estimated is
9 approximately \$3,048.31.

10 **FIRST CAUSE FOR DISCIPLINE**

11 **(Fraud)**

12 17. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
13 subdivision (a)(4), in that Respondent committed acts constituting fraud, as follows:

14 a. Respondent obtained payment from State Farm for replacing the front bumper on
15 F. G. and S. B.’s 1999 Chevrolet Tahoe with a new OEM part. In fact, the front bumper was
16 replaced with an aftermarket part.

17 b. Respondent obtained payment from State Farm for replacing the front bumper face
18 bar on F. G. and S. B.’s 1999 Chevrolet Tahoe with a new OEM part. In fact, the front bumper
19 face bar was replaced with an aftermarket part.

20 c. Respondent obtained payment from State Farm for replacing the front bumper impact
21 strip on F. G. and S. B.’s 1999 Chevrolet Tahoe with a new OEM part. In fact, the front bumper
22 impact strip was replaced with an aftermarket part.

23 d. Respondent obtained payment from State Farm for replacing the front bumper license
24 plate bracket on F. G. and S. B.’s 1999 Chevrolet Tahoe with a new OEM part. In fact, the front
25 bumper license plate bracket was replaced with an aftermarket part.

26 e. Respondent obtained payment from State Farm for replacing the right front bumper
27 bracket on F. G. and S. B.’s 1999 Chevrolet Tahoe with a new OEM part. In fact, the right front
28 bumper bracket was replaced with an aftermarket part.

1 f. Respondent obtained payment from State Farm for replacing the left front bumper
2 bracket on F. G. and S. B.'s 1999 Chevrolet Tahoe with a new OEM part. In fact, the left front
3 bumper bracket was replaced with an aftermarket part.

4 g. Respondent obtained payment from State Farm for replacing the right front bumper
5 brace on F. G. and S. B.'s 1999 Chevrolet Tahoe with a new OEM part. In fact, the right front
6 bumper brace was replaced with an aftermarket part.

7 h. Respondent obtained payment from State Farm for replacing the left front bumper
8 brace on F. G. and S. B.'s 1999 Chevrolet Tahoe with a new OEM part. In fact, the left front
9 bumper brace was replaced with an aftermarket part.

10 i. Respondent obtained payment from State Farm for replacing the front bumper air
11 deflector on F. G. and S. B.'s 1999 Chevrolet Tahoe with a new OEM part. In fact, the front
12 bumper air deflector was replaced with an aftermarket part.

13 j. Respondent obtained payment from State Farm for replacing the grille on F. G. and
14 S. B.'s 1999 Chevrolet Tahoe with a new OEM part. In fact, the grille was replaced with an
15 aftermarket part and aftermarket Billet inserts.

16 k. Respondent obtained payment from State Farm for replacing the grille filler panel on
17 F. G. and S. B.'s 1999 Chevrolet Tahoe with a new OEM part. In fact, the grille filler panel was
18 replaced with an aftermarket part.

19 l. Respondent obtained payment from State Farm for refinishing the new OEM grille
20 filler panel on F. G. and S. B.'s 1999 Chevrolet Tahoe. In fact, a new OEM grille filler panel was
21 not installed on the vehicle, as set forth in subparagraph (k) above.

22 m. Respondent obtained payment from State Farm for replacing the left park/ signal
23 lamp on F. G. and S. B.'s 1999 Chevrolet Tahoe with a new OEM part. In fact, the left park/
24 signal lamp was replaced with an aftermarket part.

25 n. Respondent obtained payment from State Farm for replacing the right hood hinge
26 spring on F. G. and S. B.'s 1999 Chevrolet Tahoe. In fact, that part was not replaced on the
27 vehicle.

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1 o. Respondent obtained payment from State Farm for replacing the left hood hinge
2 spring on F. G. and S. B.'s 1999 Chevrolet Tahoe. In fact, that part was not replaced on the
3 vehicle.

4 p. Respondent obtained payment from State Farm for replacing the hood latch on F. G.
5 and S. B.'s 1999 Chevrolet Tahoe. In fact, that part was not replaced on the vehicle.

6 q. Respondent obtained payment from State Farm for replacing the hood latch bracket
7 on F. G. and S. B.'s 1999 Chevrolet Tahoe. In fact, that part was not replaced on the vehicle.

8 r. Respondent obtained payment from State Farm for replacing the grille vertical
9 support on F. G. and S. B.'s 1999 Chevrolet Tahoe. In fact, that part was not replaced on the
10 vehicle.

11 s. Respondent obtained payment from State Farm for replacing the hood catch on F. G.
12 and S. B.'s 1999 Chevrolet Tahoe. In fact, that part was not replaced on the vehicle.

13 t. Respondent obtained payment from State Farm for replacing the transmission oil
14 cooler on F. G. and S. B.'s 1999 Chevrolet Tahoe with a new OEM part. In fact, the transmission
15 oil cooler was replaced with a used part.

16 u. Respondent obtained payment from State Farm for replacing the upper transmission
17 oil cooler bracket on F. G. and S. B.'s 1999 Chevrolet Tahoe. In fact, that part was not replaced
18 on the vehicle.

19 v. Respondent obtained payment from State Farm for replacing the air conditioning
20 condenser on F. G. and S. B.'s 1999 Chevrolet Tahoe with a new OEM part. In fact, the air
21 conditioning condenser was replaced with an aftermarket part.

22 w. Respondent obtained payment from State Farm for replacing the left fender panel on
23 F. G. and S. B.'s 1999 Chevrolet Tahoe with a used part. In fact, the left fender panel was
24 replaced with an aftermarket part.

25 x. Respondent obtained payment from State Farm for refinishing the outside of the used
26 left fender panel installed on F. G. and S. B.'s 1999 Chevrolet Tahoe. In fact, a used left fender
27 panel was not installed on the vehicle, as set forth in subparagraph (w) above.

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1 y. Respondent obtained payment from State Farm for refinishing the edge of the used
2 left fender panel installed on F. G. and S. B.'s 1999 Chevrolet Tahoe. In fact, a used left fender
3 panel was not installed on the vehicle, as set forth in subparagraph (x) above.

4 z. Respondent obtained payment from State Farm for replacing the left fender
5 wheelhouse panel on F. G. and S. B.'s 1999 Chevrolet Tahoe. In fact, that part was not replaced
6 on the vehicle.

7 **SECOND CAUSE FOR DISCIPLINE**

8 **(Departure from Trade Standards)**

9 18. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
10 subdivision (a)(7), in that Respondent willfully departed from or disregarded accepted trade
11 standards for good and workmanlike repair without the consent of the owner or the owner's duly
12 authorized representative, in a material respect, as follows:

13 a. Respondent failed to completely repair and pull the left and right front frame rails on
14 F. G. and S. B.'s 1999 Chevrolet Tahoe, leaving the parts damaged and the front sheet
15 metal/frame in a sway condition (moved sideways or misaligned). As a result, the fenders, hood,
16 and front bumper were out of position on the vehicle, leaving wide gaps between the hood and
17 fender panels and between the fender panels and doors. Further, bare steel was exposed at the left
18 frame rail near the suspension, allowing the left front tire to rub or hit the frame while making
19 turns.

20 b. Respondent failed to install several bolts or fasteners on the vehicle, including the
21 bolts at the left fender, and/or left them loose.

22 **MATTERS IN AGGRAVATION/PRIOR DISCIPLINE**

23 19. To determine the degree of discipline to be assessed against Respondent, if any,
24 Complainant alleges as follows: On February 21, 2008, pursuant to the Stipulated Settlement and
25 Disciplinary Order adopted as the Decision of the Director in the disciplinary proceeding entitled
26 "In the Matter of the Accusation Against: Richard Thomas Martinez dba Tim's Auto Body", Case
27 No. 77/06-75, the Director revoked Respondent's registration effective April 1, 2008. The
28 revocation was stayed and Respondent was placed on probation for five (5) years on terms and

1 conditions, including that Respondent pay \$2,871.54 in restitution to GMAC for vehicle repairs
2 that had been invoiced and paid, but had not been performed by Respondent. Respondent's
3 registration was also suspended for three (3) consecutive days effective April 1, 2008.

4 **OTHER MATTERS**

5 20. Pursuant to Code section 9884.7, subdivision (c), the Director may suspend, revoke,
6 or place on probation the registration for all places of business operated in this state by
7 Respondent Richard T. Martinez, owner of Tim's Auto Body, upon a finding that Respondent has,
8 or is, engaged in a course of repeated and willful violations of the laws and regulations pertaining
9 to an automotive repair dealer.

10 **PRAYER**

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

- 13 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
14 227961, issued to Richard T. Martinez, owner of Tim's Auto Body;
- 15 2. Revoking or suspending any other automotive repair dealer registration issued to
16 Richard T. Martinez;
- 17 3. Ordering Richard T. Martinez, owner of Tim's Auto Body, to pay the Director of
18 Consumer Affairs the reasonable costs of the investigation and enforcement of this case, pursuant
19 to Business and Professions Code section 125.3;
- 20 4. Taking such other and further action as deemed necessary and proper.

21
22 DATED: April 21, 2015


23 PATRICK DORAIS
24 Chief
25 Bureau of Automotive Repair
26 Department of Consumer Affairs
27 State of California
28 *Complainant*

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