

1 KAMALA D. HARRIS
Attorney General of California
2 KENT D. HARRIS
Supervising Deputy Attorney General
3 PHILLIP L. ARTHUR
Deputy Attorney General
4 State Bar No. 238339
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 322-0032
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

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:
13 **ACE BODY SHOP & TOWING, INC.**
14 **dba ACE BODY SHOP & TOWING**
15 **PEDRO ALCALA, PR.**
16 **MONICA ALCALA, SEC./TR.**
17 **JASON JANOWIAK, VP**
18 **333 Lincoln Blvd.**
19 **Lincoln, CA 95648**
20 **Automotive Repair Dealer Registration No.**
229996
Respondents.

Case No. 77/15-36

A C C U S A T I O N

21 Patrick Dorais (“Complainant”) alleges:

22 **PARTIES**

- 23 1. Complainant brings this Accusation solely in his official capacity as the Chief of the
24 Bureau of Automotive Repair (“Bureau”), Department of Consumer Affairs.
25 2. On or about August 5, 2004, the Bureau issued Automotive Repair Dealer
26 Registration Number 229996 (“registration”) to Ace Body Shop & Towing, Inc., doing business
27 as Ace Body Shop & Towing (“Respondent”) with Pedro Alcala as the President, Monica Alcala
28

1 as the Secretary/Treasurer, and Jason Janowiak as the Vice President. The registration was in full
2 force and effect at all times relevant to the charges brought herein and will expire on
3 October 31, 2015, unless renewed.

4 **STATUTORY PROVISIONS**

5 3. Section 9884.7 of the Business and Professions Code ("Code") states, in pertinent
6 part:

7 (a) The director, where the automotive repair dealer cannot show there
8 was a bona fide error, may deny, suspend, revoke, or place on probation the
9 registration of an automotive repair dealer for any of the following acts or omissions
10 related to the conduct of the business of the automotive repair dealer, which are done
11 by the automotive repair dealer or any automotive technician, employee, partner,
12 officer, or member of the automotive repair dealer.

13 (1) Making or authorizing in any manner or by any means whatever any
14 statement written or oral which is untrue or misleading, and which is known, or which
15 by the exercise of reasonable care should be known, to be untrue or misleading.

16 ...

17 (4) Any other conduct which constitutes fraud.

18 ...

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

21 ...

22 (b) Except as provided for in subdivision (c), if an automotive repair
23 dealer operates more than one place of business in this state, the director pursuant to
24 subdivision (a) shall only suspend, revoke, or place on probation the registration of
25 the specific place of business which has violated any of the provisions of this chapter.
26 This violation, or action by the director, shall not affect in any manner the right of the
27 automotive repair dealer to operate his or her other places of business.

28 (c) Notwithstanding subdivision (b), the director may suspend, revoke, or
place on probation the registration for all places of business operated in this state by
an automotive repair dealer upon a finding that the automotive repair dealer has, or is,
engaged in a course of repeated and willful violations of this chapter, or regulations
adopted pursuant to it.

///

///

///

///

1 **COST RECOVERY**

2 4. 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 – 2010 FORD FUSION**

7 5. On or about September 4, 2013, the Bureau received a consumer complaint from
8 Nick Lopez (“Lopez”) regarding repairs to his 2010 Ford Fusion performed by Respondent’s
9 facility on or about November 25, 2012, following a collision. On or about November 28, 2012,
10 the consumer’s insurance company, United Financial Casualty Company (“Progressive”),
11 inspected the vehicle and prepared Estimate ID No. 12-3954339-01 in the amount of \$4,297.28
12 (less a \$500 deductible).

13 6. On or about December 7, 2012, Respondent received and cashed a check from
14 Progressive in the amount of \$4,297.28 for the repairs to Lopez’s vehicle.

15 7. On or about October 15 and November 4, 2013, a Bureau representative inspected
16 the consumer’s vehicle using Progressive's Estimate ID No. 12-3954339-01, as a reference. The
17 inspection revealed that Respondent failed to do the following:

- 18 a. Replace the front bumper energy absorber, as invoiced.
19 b. Replace the front driver’s side wheel with a new OEM wheel, as invoiced.
20 c. Replace the steering gear assembly with a new OEM part, as invoiced.

21 **FIRST CAUSE FOR DISCIPLINE**

22 **(Untrue or Misleading Statements)**

23 8. Respondent’s registration is subject to discipline under Code section 9884.7(a)(1),
24 in that on or between November 28 through December 7, 2012, Respondent made statements
25 which it knew, or which by exercise of reasonable care it should have known, to be untrue or
26 misleading when it falsely represented to Progressive and Lopez that the vehicle had been
27 repaired pursuant to Progressive’s estimate number 12-3954339-01, when in fact, it was not, as
28 more particularly set forth above in paragraph 7, and its subparts.

1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Fraud)**

3 9. Respondent's registration is subject to discipline under Code section 9884.7(a)(4),
4 in that in or about December 7, 2012, Respondent committed fraud when it accepted payment
5 from Progressive to perform repairs or services pursuant to estimate number 12-3954339-01,
6 when in fact, those repairs and/or services had not been performed, as more particularly set forth
7 above in paragraph 7, and its subparts.

8 **VEHICLE INSPECTION – 2011 CHEVROLET HHR LT**

9 10. On or about October 11, 2013, Lawrence Lal ("Lal") had his 2011 Chevrolet HHR
10 LT repaired at Respondent's facility. Respondent prepared an estimate in the amount of
11 \$1,737.53, dated October 15, 2013. Respondent submitted the estimate to the consumer's
12 insurance company, California State Automobile Association ("CSAA"). CSAA paid
13 Respondent \$1,737.35 for the repairs.

14 11. On or about December 5, 2013, a Bureau representative inspected Lal's vehicle
15 using Respondent's estimate dated October 15, 2013, as a reference. The inspection revealed that
16 Respondent failed to replace the vehicle's windshield with a new OEM factory windshield.

17 **THIRD CAUSE FOR DISCIPLINE**

18 **(Untrue or Misleading Statements)**

19 12. Respondent's registration is subject to discipline under Code section 9884.7(a)(1), in
20 that on or about October 16, 2013, Respondent made statements which it knew, or which by
21 exercise of reasonable care should have been known, to be untrue or misleading when it falsely
22 represented to CSAA and Lal that the vehicle had been repaired pursuant to Respondent's
23 estimate dated October 15, 2013, when in fact, it was not, as more particularly set forth above in
24 paragraph 11.

25 ///

26 ///

27 ///

28 ///

1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Fraud)**

3 13. Respondent's registration is subject to discipline under Code section 9884.7(a)(4), in
4 that on or about October 16, 2013, Respondent committed fraud when it accepted payment from
5 CSAA to perform repairs or services pursuant to Respondent's estimate dated October 15, 2013,
6 when in fact, those repairs and/or services had not been performed as stated, as more particularly
7 set forth above in paragraph 11.

8 **VEHICLE INSPECTION – 2006 MAZDA 6**

9 14. On or about July 11, 2013, Kristopher Williams ("Williams") had his 2006
10 Mazda 6 repaired at Respondent's facility following a collision. The consumer's insurance
11 company, Mercury Insurance ("Mercury"), prepared estimate number 130015003208-2100102,
12 dated June 18, 2013, in the amount of \$3,054.48. On or about July 12, 2013, Mercury paid
13 Respondent \$2,554.40 (less a \$500 deductible) for the repairs.

14 15. On or about December 13, 2013, a Bureau representative inspected Williams's
15 vehicle using Mercury's estimate number 130015003208-2100102, dated June 18, 2013, and
16 Respondent's invoice number 007124, dated July 11, 2013, as a reference. The inspection
17 revealed the following:

- 18 a. Respondent failed to overhaul the front bumper assembly, as invoiced.
- 19 b. Respondent failed to replace the front bumper cover, as invoiced. The front
20 bumper cover had been repaired.
- 21 c. Respondent failed to replace the right front bumper grille, as invoiced.
- 22 d. Respondent failed to replace the center bumper grille with a new-OEM part, as
23 invoiced.
- 24 e. Respondent failed to replace the front bumper impact absorber with a new-OEM
25 part, as invoiced.
- 26 f. Respondent failed to replace the front bumper reinforcement bar with a new-OEM
27 part, as invoiced.
- 28 g. Respondent failed to blend the hood paint, as invoiced.

1 h. Respondent failed to remove and install the left and right hood washer nozzles, as
2 invoiced.

3 i. Respondent failed to repair the right front fender, as invoiced.

4 j. Respondent failed to refinish (paint) the right fender, including the clear coat, as
5 invoiced.

6 k. Respondent failed to remove and install the right fender mudguard, as invoiced.

7 l. Respondent failed to remove and install the right fender liner and right rocker
8 molding to refinish the right fender, as invoiced.

9 **FIFTH CAUSE FOR DISCIPLINE**

10 **(Untrue or Misleading Statements)**

11 16. Respondent's registration is subject to discipline under Code section 9884.7(a)(1), in
12 that on or about July 11, 2013, Respondent made statements which it knew, or which by exercise
13 of reasonable care should have been known, to be untrue or misleading when it falsely
14 represented to Mercury and Williams that the vehicle had been repaired pursuant to Mercury's
15 estimate number 130015003208-2100102, dated June 18, 2013, and Respondent's invoice
16 number 007124, dated July 11, 2013, when in fact, it was not, as more particularly set forth above
17 in paragraph 15, and its subparts.

18 **SIXTH CAUSE FOR DISCIPLINE**

19 **(Fraud)**

20 17. Respondent's registration is subject to discipline under Code section 9884.7(a)(4), in
21 that in or about July 11, 2013, Respondent committed fraud when it accepted payment from
22 Mercury to perform repairs or services pursuant to Mercury's estimate number 130015003208-
23 2100102, dated June 18, 2013, and Respondent's invoice number 007124, dated July 11, 2013,
24 when in fact, those repairs and/or services had not been performed as stated, as more particularly
25 set forth above in paragraph 15, and its subparts.

26 ///

27 ///

28 ///

1 **OTHER MATTERS**

2 18. Under Code section 9884.7(c), the director may suspend or revoke the registrations
3 for all places of business operated in this state by Ace Body Shop & Towing, Inc., doing business
4 as Ace Body Shop & Towing, upon a finding that it has, or is, engaged in a course of repeated
5 and willful violations of the laws and regulations pertaining to an automotive repair dealer.

6 **PRAYER**

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

- 9 1. Revoking, suspending, or placing on probation Automotive Repair Dealer
10 Registration Number ARD 229996, issued to Ace Body Shop & Towing, Inc., doing business as
11 Ace Body Shop & Towing;
- 12 2. Revoking, suspending, or placing on probation any other automotive repair dealer
13 registration issued to Ace Body Shop & Towing, Inc., doing business as Ace Body Shop &
14 Towing;
- 15 3. Ordering Ace Body Shop & Towing, Inc., doing business as Ace Body Shop &
16 Towing to pay the Director of Consumer Affairs the reasonable costs of the investigation and
17 enforcement of this case, pursuant to Code section 125.3; and,
- 18 4. Taking such other and further action as deemed necessary and proper.

19 DATED: February 6, 2015



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

20 SA2014115160
21 11419512.doc
22
23
24
25
26
27
28