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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. *77/14-48*

13 **AUTO PERFECT BODY SHOP**  
14 **LY THAY NHIAYI, PARTNER**  
15 **LY PAO NHIAYI, PARTNER**  
16 **6020 Freeport Blvd.**  
17 **Sacramento, CA 95822**

**A C C U S A T I O N**

**Automotive Repair Dealer Reg. No. ARD 235286**

Respondent.

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 September 1, 2004, the Director of Consumer Affairs ("Director") issued  
23 Automotive Repair Dealer Registration Number ARD 235286 ("registration") to Auto Perfect  
24 Body Shop ("Respondent"), with Ly Thay Nhiayi and Ly Pao Nhiayi as partners. Respondent's  
25 registration expired on August 31, 2012, but was renewed on November 29, 2012. Respondent's  
26 registration will expire on August 31, 2014, unless 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 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 (1) Making or authorizing in any manner or by any means whatever any  
17 statement written or oral which is untrue or misleading, and which is known, or which  
18 by the exercise of reasonable care should be known, to be untrue or misleading.

19 . . . .

20 (3) Failing or refusing to give to a customer a copy of any document  
21 requiring his or her signature, as soon as the customer signs the document.

22 (4) Any other conduct that constitutes fraud.

23 . . . .

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

26 6. Code section 9884.6, subdivision (a), states that it is unlawful for any person to be an  
27 automotive repair dealer unless that person has registered in accordance with this chapter and  
28 unless that registration is currently valid.

7. Code section 9884.8 states, in pertinent part, that "[a]ll work done by an automotive  
repair dealer, including all warranty work, shall be recorded on an invoice and shall describe all  
service work done and parts supplied . . . "

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1 8. Code section 22, subdivision (a), states:

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

5 9. Code section 477, subdivision (b), states, in pertinent part, that a "license" includes  
6 "registration" and "certificate."

7 **COST RECOVERY**

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

12 **CONSUMER COMPLAINT (LEE): 2012 HONDA PILOT**

13 11. On or about September 11, 2012, Jack Lee's ("Lee") 2012 Honda Pilot sustained  
14 body damage to the left rear door and fender area in a collision. Lee made a claim for the damage  
15 with Wawanesa Insurance ("Wawanesa").

16 12. On or about September 17, 2012, Outside Claim Support, Inc. ("OCS") inspected the  
17 vehicle on behalf of Wawanesa.

18 13. On or about September 21, 2012, Lee received a copy of an estimate from OCS,  
19 which called for, among other things, the replacement of the left rear quarter panel and wheel.

20 14. On or about September 27, 2012, Lee took the vehicle to Auto Perfect Body Shop and  
21 met with a male individual, who identified himself as "Ly", the owner. Lee told Ly that he  
22 wanted the vehicle repaired per the OCS estimate and handed him a copy. Ly stated that he  
23 would begin the repairs immediately.

24 15. On or about September 28, 2012, Wawanesa issued a check for \$5,742.99 made  
25 payable to Lee and Auto Perfect Body Shop.

26 16. On or about October 2, 2012, an OCS representative called Lee and told him that  
27 Auto Perfect Body Shop had submitted a supplemental repair request for the vehicle and that  
28 Wawanesa had agreed to pay the supplement amount of \$197.43.

1           17. On or about October 3, 2012, Lee stopped by the facility and inspected the repairs.  
2 Lee found that the door had been replaced, but the quarter panel appeared to have been repaired  
3 rather than replaced. Further, there appeared to be a large amount of body filler in the area of  
4 impact. Ly told Lee that he was not replacing the quarter panel on the vehicle, but was repairing  
5 the part instead as it was a “less intrusive” method of repair. Lee reminded Ly that he wanted the  
6 vehicle repaired per the insurance estimate.

7           18. On or about October 8, 2012, Lee went to the facility to pick up the vehicle. Ly had  
8 Lee sign a supplemental repair estimate, but did not provide him with a copy or a final invoice.

9           19. On or about October 9, 2012, Lee filed a complaint with the Bureau, alleging that  
10 Auto Perfect Body Shop committed insurance fraud by failing to repair the vehicle as estimated.

11           20. On or about October 10, 2012, Wawanesa issued a check for \$197.43 made payable  
12 to Auto Perfect Body Shop, for total payments on the repairs of \$5,940.42.

13           21. On or about January 3, 2013, the Bureau inspected the vehicle using, for comparison,  
14 an estimate dated September 21, 2012, in the gross amount of \$6,242.99, that had been prepared  
15 by OCS. The Bureau found that the left quarter panel had not been replaced per the estimate.

16           22. On or about January 4, 2013, a representative of the Bureau went to the facility and  
17 met with Ly Pao Nhiayi (“Pao”), Ly Thay Nhiayi (“Thay”) and Thay’s daughter, Bao Nhiayi  
18 (“Bao”). Bao stated that the vehicle was repaired per the insurance estimate and that the repairs  
19 had been performed by Pao. Bao provided the representative with the parts purchase receipts for  
20 the vehicle, including parts receipts for a left quarter panel and wheel from Elk Grove Honda.  
21 Later, the representative went to Elk Grove Honda and obtained documentation from the parts  
22 manager showing that Auto Perfect Body Shop had returned the left quarter panel and wheel to  
23 Elk Grove Honda for credit. The representative went back to Auto Perfect Body Shop and met  
24 with Thay, Pao and Bao. Pao admitted that he had not replaced the above parts on the vehicle,  
25 but claimed that it was because he had waived Lee’s \$500 insurance deductible. Later, Pao  
26 claimed that he and Lee had agreed that the facility would pay for his rental vehicle rather than  
27 replace the quarter panel and wheel.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 (Violations of the Code)

3 27. Respondent is subject to disciplinary action pursuant to Code section 9884.7,  
4 subdivision (a)(6), in that Respondent failed to comply with provisions of that Code, as follows:

5 a. **9884.6, subdivision (a)**: On and between September 27, 2012 and October 8, 2012,  
6 Respondent performed automotive repairs on Lee's 2012 Honda Pilot when its automotive repair  
7 dealer registration was expired or invalid.

8 b. **9884.8**: Respondent's automotive technicians, partners, employees and/or members  
9 failed to provide Lee with an invoice for the collision repairs on his 2012 Honda Pilot.

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 235286, issued to Auto Perfect Body Shop;

15 2. Ordering Auto Perfect Body Shop to pay the Director of Consumer Affairs the  
16 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
17 Professions Code section 125.3;

18 3. Taking such other and further action as deemed necessary and proper.

19  
20 DATED: March 5, 2014

  
21 PATRICK DORAIS  
22 Chief  
23 Bureau of Automotive Repair  
24 Department of Consumer Affairs  
25 State of California  
26 Complainant

27 SA2013113972