

BEFORE THE DIRECTOR
DEPARTMENT OF CONSUMER AFFAIRS
BUREAU OF AUTOMOTIVE REPAIR
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

**MB BODYSHOP OF SAN FRANCISCO
DBA AUTO WEST COLLISION REPAIRS**
1729 Junction Avenue
San Jose, CA 95112
SYED ALI, PRESIDENT

Automotive Repair Dealer Registration
No. ARD 246931

Case No. 77/11-22

OAH No. 2012010133

**MB BODYSHOP OF SAN FRANCISCO, INC.
dba FREMONT COLLISION CARE CENTER
SYED ALI, PRESIDENT**

4878 Davenport Place
Fremont, CA 94538

Automotive Repair Dealer Reg.
No. ARD 239316

Case No. 77/10-48

OAH No. 2012010134

In the Matter of the Accusation Against:

**MB BODYSHOP OF SAN FRANCISCO
dba SUNNYVALE COLLISION CARE CENTERS**
904 E. Arques Ave.
Sunnyvale, CA 94085
SYED ALI, PRESIDENT

Automotive Repair Dealer Registration
No. ARD 239317

Case No. 77/11-12

OAH No. 2012010127

Respondents.

DECISION

The attached Stipulated Revocation of Licenses and Order is hereby accepted and adopted as the Decision of the Director of the Department of Consumer Affairs in the above-entitled matter.

This Decision shall become effective _____

9/28/12

DATED: September 6, 2012



DOREATHEA JOHNSON
Deputy Director, Legal Affairs
Department of Consumer Affairs

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JUSTIN R. SURBER
Deputy Attorney General
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Attorneys for Complainant

7
8 **BEFORE THE**
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **FOR THE BUREAU OF AUTOMOTIVE REPAIR**
11 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:
11 **MB BODYSHOP OF SAN FRANCISCO**
12 **DBA AUTO WEST COLLISION REPAIRS**
13 **1729 Junction Avenue**
14 **San Jose, CA 95112**
15 **SYED ALI, PRESIDENT**
Automotive Repair Dealer Registration No.
ARD 246931

Case No, 77/11-22
OAH No. 2012010133

16 **MB BODYSHOP OF SAN FRANCISCO,**
17 **INC.,**
18 **dba FREMONT COLLISION CARE**
19 **CENTER**
20 **SYED ALI, PRESIDENT**
4878 Davenport Place
Fremont, CA 94538
Automotive Repair Dealer Reg. No. ARD
239316

Case No, 77/10-48
OAH No. 2012010134

21 In the Matter of the Accusation Against:
22 **MB BODYSHOP OF SAN FRANCISCO**
23 **dba SUNNYVALE COLLISION CARE**
24 **CENTERS**
25 **904 E. Arques Ave.**
Sunnyvale, CA 94085
26 **SYED ALI, PRESIDENT**
Automotive Repair Dealer Registration No.
ARD 239317
27 Respondents

Case No, 77/11-12
OAH No. 2012010127
STIPULATED REVOCATION OF
LICENSES AND ORDER

1 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this
2 proceeding that the following matters are true:

3 PARTIES

4 1. John Wallauch (Complainant) is the Chief of the Bureau of Automotive Repair. He
5 brought this action solely in his official capacity and is represented in this matter by Kamala D.
6 Harris, Attorney General of the State of California, by Justin R. Surber, Deputy Attorney General.

7 2. MB Bodyshop of San Francisco Inc. (Respondent) is represented in this proceeding
8 by attorney William Ferreira, whose address is:

9 William Ferreira
10 Automotive Defense Specialists
11 582 Market St Ste 1608
12 San Francisco, CA 94104

13 3. In 2006, the Bureau issued Automotive Repair Dealer Registration Number ARD
14 246931 ("registration") to MB Bodyshop of San Francisco, doing business as Auto West
15 Collision Repairs ("Respondent") with Syed Ali as President. In or about 2005, the Director of
16 Consumer Affairs ("Director") issued Automotive Repair Dealer Registration Number ARD
17 239316 to MB Bodyshop of San Francisco, Inc. ("Respondent"), doing business as Fremont
18 Collision Care Center, with Syed Ali as president. In 2005, the Bureau issued Automotive Repair
19 Dealer Registration Number ARD 239317 ("registration") to MB Bodyshop of San Francisco,
20 doing business as Sunnyvale Collision Care Centers ("Respondent") with Syed Ali as
21 President. The Automotive Repair Dealer Registrations were in full force and effect at all times
22 relevant to the charges brought in Accusation No. 77/11-22, Accusation No. 77/10-48, and
23 Accusation No. 77/11-12.

24 JURISDICTION

25 4. Accusation No. 77/10-48 was filed before the Director of Consumer Affairs
26 (Director), for the Bureau of Automotive Repair (Bureau), and is currently pending against
27 Respondent (MB Bodyshop of San Francisco, Inc., dba Fremont Collision Care). The Accusation
28 and all other statutorily required documents were properly served on Respondent on May 5, 2011.

1 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
2 negotiations, and commitments (written or oral). This Stipulated Revocation of License and
3 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
4 writing executed by an authorized representative of each of the parties.

5 17. In consideration of the foregoing admissions and stipulations, the parties agree that
6 the Director may, without further notice or formal proceeding, issue and enter the following
7 Order:

8 **ORDER**

9 IT IS HEREBY ORDERED that Automotive Repair Dealer Registration No. ARD 246931,
10 issued to Respondent MB Bodyshop of San Francisco Inc., dba Auto West Collision Repairs,
11 Syed Ali, President, is Revoked.

12 IT IS HEREBY ORDERED that Automotive Repair Dealer Registration No. ARD 239316,
13 issued to Respondent MB Bodyshop of San Francisco Inc., dba Fremont Collision Care Center,
14 Syed Ali, President, is Revoked.

15 IT IS HEREBY ORDERED that Automotive Repair Dealer Registration No. ARD 239317,
16 issued to Respondent MB Bodyshop of San Francisco Inc., dba Sunnyvale Collision Care
17 Centers, Syed Ali, President, is Revoked.

18 1. The revocation of Respondent's Automotive Repair Dealer Registrations shall
19 constitute the imposition of discipline against Respondent. This stipulation constitutes a record of
20 the discipline and shall become a part of Respondent's license history with the Bureau of
21 Automotive Repair.

22 2. Respondent shall lose all rights and privileges as an Automotive Repair dealer in
23 California as of the effective date of the Director's Decision and Order.

24 3. Respondent shall cause to be delivered to the Bureau its pocket license and, if one
25 was issued, its wall certificate on or before the effective date of the Decision and Order.

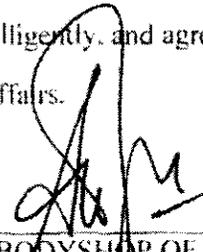
26 4. If they ever apply for licensure or petitions for reinstatement in the State of
27 California, the Bureau shall treat it as a new application for licensure. Respondent must comply
28 with all the laws, regulations and procedures for licensure in effect at the time the application or

1 petition is filed, and all of the charges and allegations contained in Accusation No. 77/11-22,
2 Accusation No. 77/10-48, and Accusation No.77/11-12 shall be deemed to be true, correct, and
3 admitted by Respondent when the Director determines whether to grant or deny the application or
4 petition.

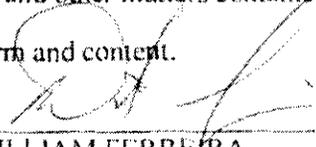
5 5. Respondent shall pay the agency its costs of investigation and enforcement in the
6 amount of \$28,781.08 prior to issuance of a new or reinstated license.

7 ACCEPTANCE

8 I have carefully read the above Stipulated Revocation of License and Order and have fully
9 discussed it with my attorney, William Ferreira. I understand the stipulation and the effect it will
10 have on my Automotive Repair Dealer Registrations. I enter into this Stipulated Revocation of
11 License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the
12 Decision and Order of the Director of Consumer Affairs.

13
14 DATED: July 23, 2012 
15 MB BODYSHOP OF SAN FRANCISCO INC.
16 SYED ALI, PRESIDENT
17 Respondent

18 I have read and fully discussed with Respondent MB BODYSHOP OF SAN FRANCISCO
19 INC., Syed Ali, President the terms and conditions and other matters contained in this Stipulated
20 Revocation of License and Order. I approve its form and content.

21 DATED: 7/23/12 
22 WILLIAM FERREIRA
23 Attorney for Respondent

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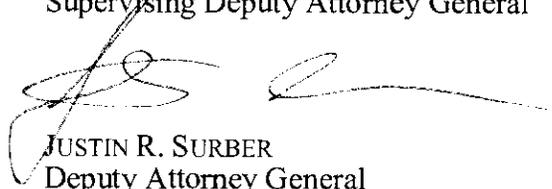
ENDORSEMENT

The foregoing Stipulated Revocation of License and Order is hereby respectfully submitted for consideration by the Director of Consumer Affairs.

Dated: 7/24/12

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
FRANK H. PACOE
Supervising Deputy Attorney General



JUSTIN R. SURBER
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 77/10-48

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
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Attorneys for Complainant
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8 **BEFORE THE**
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **FOR THE BUREAU OF AUTOMOTIVE REPAIR**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:
12 **MB BODYSHOP OF SAN FRANCISCO, INC.,**
13 **dba FREMONT COLLISION CARE CENTER**
14 **SYED ALI, PRESIDENT**
15 **4878 Davenport Place**
Fremont, CA. 94538
Automotive Repair Dealer Reg. No. ARD 239316
16 Respondent.

Case No. 77110-48

ACCUSATION

17
18 Complainant alleges:

19 **PARTIES**

- 20 1. Sherry Mehl ("Complainant") brings this Accusation solely in her official capacity as
21 the Chief of the Bureau of Automotive Repair ("Bureau"), Department of Consumer Affairs.
22 2. In or about 2005, the Director of Consumer Affairs ("Director") issued Automotive
23 Repair Dealer Registration Number ARD 239316 to MB Bodyshop of San Francisco, Inc.
24 ("Respondent"), doing business as Fremont Collision Care Center, with Syed Ali as president.
25 Respondent's automotive repair dealer registration was in full force and effect at all times relevant
26 to the charges brought herein and will expire on April 30, 2012, unless renewed.

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28 ///

1 engaged in a course of repeated and willful violations of the laws and regulations pertaining to an
2 automotive repair dealer.

3 7. Code section 9884.8 states, in pertinent part:

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

8 8. Code section 9884.9 states, in pertinent part:

9 (a) The automotive repair dealer shall give to the customer a written
10 estimated price for labor and parts necessary for a specific job. No work shall be
11 done and no charges shall accrue before authorization to proceed is obtained from the
12 customer. No charge shall be made for work done or parts supplied in excess of the
13 estimated price without the oral or written consent of the customer that shall be
14 obtained at some time after it is determined that the estimated price is insufficient and
15 before the work not estimated is done or the parts not estimated are supplied. Written
16 consent or authorization for an increase in the original estimated price may be
17 provided by electronic mail or facsimile transmission from the customer. The bureau
18 may specify in regulation the procedures to be followed by an automotive repair
19 dealer when an authorization or consent for an increase in the original estimated price
20 is provided by electronic mail or facsimile transmission. If that consent is oral, the
21 dealer shall make a notation on the work order of the date, time, name of person
22 authorizing the additional repairs and telephone number called, if any, together with a
23 specification of the additional parts and labor and the total additional cost . . .

24

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

9. Code section 22, subdivision (a), states:

“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.”

10. Code section 477, subdivision (b), states, in pertinent part, that a “license” includes
“registration” and “certificate.”

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1 11. California Code of Regulations, title 16, section ("Regulation") 3365 states:

2 The accepted trade standards for good and workmanlike auto body and
3 frame repairs shall include, but not be limited to, the following:

4 (a) Repair procedures including but not limited to the sectioning of
5 component parts, shall be performed in accordance with OEM service specifications
6 or nationally distributed and periodically updated service specifications that are
7 generally accepted by the autobody repair industry.

8 (b) All corrosion protection shall be applied in accordance with
9 manufacturers' specifications or nationally distributed and periodically updated
10 service specifications that are generally accepted by the autobody repair industry.

11 12. Regulation 3373 states:

12 No automotive repair dealer or individual in charge shall, in filling out an
13 estimate, invoice, or work order, or record required to be maintained by section
14 3340.15(f) of this chapter, withhold therefrom or insert therein any statement or
15 information which will cause any such document to be false or misleading, or where
16 the tendency or effect thereby would be to mislead or deceive customers, prospective
17 customers, or the public.

18 COST RECOVERY

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

23 VEHICLE INSPECTION #1: 2005 TOYOTA MATRIX

24 14. On or about April 11, 2008, Gina Montel's ("Montel") 2005 Toyota Matrix was
25 damaged in a collision. On or about April 12, 2008, Montel took the vehicle to Respondent's
26 facility to obtain a repair estimate and was given an itemized estimate totaling \$3,058.50. On or
27 about April 16, 2008, Montel returned the vehicle to the facility and signed a work order,
28 authorizing them to repair the vehicle at the estimate price of \$3,058.50.

15 15. On or about April 25, 2008, GEICO Insurance ("GEICO") paid the facility \$5,276.87
16 for the collision repairs.

17 16. On or about April 30, 2008, Montel went to the facility to pick up the vehicle and was
18 given a copy of an invoice dated April 29, 2008, totaling \$5,776.87.

19 17. On or about April 21, 2009, the vehicle was damaged in another collision.

1 18. On or about May 5, 2009, Montel took the vehicle to ACC Auto Collision Center
2 ("ACC"), a GEICO Direct network facility. Robert Romero ("Romero"), a collision damage
3 appraiser for GEICO, inspected the vehicle and prepared an estimate for the repair of the right
4 rear door and quarter panel area. The rear bumper assembly had been removed to facilitate
5 Romero's inspection of the underlying structure. Romero found that certain modifications had
6 been made on the vehicle in an attempt to move the rear bumper assembly into alignment without
7 making the necessary repairs to the underlying structure. ACC repaired the vehicle pursuant to
8 Romero's estimate; however, Montel was not satisfied with the fit of the rear bumper assembly
9 and liftgate. ACC informed Montel that the fit could not be corrected until the above
10 modifications or defects had been repaired.

11 19. On or about July 15, 2009, Montel contacted the Bureau and requested an inspection
12 of the vehicle pursuant to the Bureau's collision repair inspection program.

13 20. On or about August 4, 2009, a representative of the Bureau inspected the vehicle and
14 observed various problems with the bumper fit which he attributed to possible underlying
15 damage. Montel agreed to return the vehicle to ACC.

16 21. On or about August 18, 2009, the representative went to ACC and inspected the
17 vehicle along with Romero and another GEICO employee. The rear bumper had been removed to
18 facilitate the inspection. The representative found that the left bumper support was damaged, that
19 the left rear body was deformed, and that several of the rear bumper mount holes had been
20 enlarged or modified in an attempt to move the rear bumper assembly into alignment. Romero
21 gave the representative copies of various documents, including a written estimate dated April 18,
22 2008, that had been issued by Respondent's facility.

23 22. On or about September 15, 2009, the representative met with Montel at ACC. The
24 vehicle was set up and anchored to a frame bench. The representative inspected the vehicle using
25 Respondent's invoice dated April 29, 2008, for comparison and found that Respondent had not
26 repaired the vehicle as invoiced, had not repaired the vehicle to accepted trade standards, and had
27 charged GEICO for repairs that were not necessary. The total estimated value of the repairs
28 Respondent failed to perform on the vehicle or that were unnecessary is approximately \$1,551.15.

1 FIRST CAUSE FOR DISCIPLINE

2 (Untrue or Misleading Statements)

3 23. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
4 subdivision (a)(1), in that Respondent made or authorized statements which it knew or in the
5 exercise of reasonable care should have known to be untrue or misleading, as follows:

6 a. Respondent represented on the invoice that the pinch weld areas of Montel's 2005
7 Toyota Matrix were repaired and refinished. In fact, those repairs were not performed on the
8 vehicle as invoiced.

9 b. Respondent represented on the invoice that the left quarter panel and rear body panel
10 on Montel's 2005 Toyota Matrix were repaired. In fact, those parts were not repaired on the
11 vehicle as invoiced.

12 c. Respondent represented on the invoice that the left side bumper support on Montel's
13 2005 Toyota Matrix had been replaced, but concealed the fact that the new part had been
14 destroyed during installation, as set forth in paragraph 25 below.

15 d. Respondent represented on the invoice that Montel's 2005 Toyota Matrix had been
16 anchored and set up on a frame rack and that the damaged sheet metal panels were pulled or
17 straightened. In fact, those repairs were not performed on the vehicle as invoiced.

18 e. Respondent represented on the invoice that the corrosion protection¹ on Montel's
19 2005 Toyota Matrix had been replaced. In fact, the corrosion protection had not been replaced or
20 restored at the inner surfaces of the rear body panels.

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27 ¹ Regulation 3303, subdivision (n), defines "corrosion protection" as a coating applied to
28 the vehicle to create a corrosion resistant barrier that protects the structure or component from the
elements to which it is exposed.

1 SECOND CAUSE FOR DISCIPLINE

2 (Fraud)

3 24. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
4 subdivision (a)(4), in that Respondent committed acts that constitute fraud, as follows:

5 a. Respondent obtained payment from GEICO for repairing and refinishing the pinch
6 weld areas of Montel's 2005 Toyota Matrix. In fact, those repairs were not performed on the
7 vehicle as invoiced.

8 b. Respondent obtained payment from GEICO for repairing the left quarter panel and
9 rear body panel on Montel's 2005 Toyota Matrix. In fact, those parts were not repaired on the
10 vehicle as invoiced.

11 c. Respondent obtained payment from GEICO for replacing the left side bumper support
12 on Montel's 2005 Toyota Matrix. In fact, the new part had been destroyed during installation, as
13 set forth in paragraph 25 below, and was not replaced with another new bumper support.

14 d. Respondent obtained payment from GEICO for anchoring and setting up Montel's
15 2005 Toyota Matrix on a frame rack and pulling or straightening the damaged sheet metal panels.
16 In fact, those repairs were not performed on the vehicle as invoiced.

17 e. Respondent obtained payment from GEICO for replacing the corrosion protection on
18 Montel's 2005 Toyota Matrix. In fact, the corrosion protection had not been replaced or restored
19 at the inner surfaces of the rear body panels.

20 f. Respondent obtained payment from GEICO for disconnecting and reconnecting the
21 computer and disconnecting and disabling the airbags during the repair work on Montel's 2005
22 Toyota Matrix. In fact, those repairs were not necessary on the vehicle² and had not been
23 authorized by Montel.

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25 _____
26 ² The disconnection and reconnection of the vehicle's on-board computer and the
27 disconnection and disabling of the airbags would be necessary to protect these electronic and
28 safety systems from current surges during welding repairs. There were no repairs requiring
welding specified on Respondent's estimates or invoice, and there was no evidence that any
welding was performed on the vehicle.

1 THIRD CAUSE FOR DISCIPLINE

2 (Departure from Trade Standards)

3 25. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
4 subdivision (a)(7), in that Respondent willfully departed from or disregarded accepted trade
5 standards for good and workmanlike repair without the consent of the owner or the owner's duly
6 authorized representative in the following material respects:

7 a. Respondent failed to repair the left quarter and rear panels on Montel's 2005 Toyota
8 Matrix in that the panels were deformed and had visible kinks, areas of corrosion, and separations
9 in the panels.

10 b. Respondent attached the left side bumper support with sheet metal screws, and
11 modified or enlarged several of the rear bumper mount holes in order to bring the rear bumper
12 assembly into alignment, effectively destroying the left bumper support.

13 FOURTH CAUSE FOR DISCIPLINE

14 (Violations of the Code)

15 26. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
16 subdivision (a)(6), in that Respondent failed to comply with provisions of that Code in the
17 following material respects:

18 a. Section 9884.9, subdivision (a): Respondent failed to obtain or document on the
19 invoice Montel's authorization for the supplemental repairs on her 2005 Toyota Matrix.

20 b. Section 9884.9, subdivision (c): Respondent failed to indicate on the written
21 estimates dated April 12, 2008, and April 18, 2008, whether the replacement parts on Montel's
22 2005 Toyota Matrix were new, used, rebuilt, or reconditioned, or whether the crash parts were
23 original equipment manufacturer ("OEM") crash parts or non OEM aftermarket crash parts.

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1 VEHICLE INSPECTION #2: 2005 DODGE NEON S R T

2 27. On or about March 11, 2009, Scott McCaslin's ("McCaslin") 2005 Dodge Neon S R T
3 was damaged in a collision. McCaslin had the vehicle towed to Respondent's facility at the
4 recommendation of Autowest Chrysler ("Autowest"). Later, Respondent's facility called
5 McCaslin and obtained his authorization to repair the vehicle. In or about April 2009, McCaslin
6 received a copy of Respondent's initial invoice dated March 31, 2009.

7 28. On or about April 20, 2009, McCaslin went to the facility to pick up the vehicle, paid
8 a \$500 insurance deductible, and received a copy of a final invoice. McCaslin immediately
9 noticed that the left front wheel assembly stuck out farther from the fender than the right front
10 wheel assembly. When McCaslin began driving the vehicle, he noticed that it would not steer
11 normally. McCaslin returned the vehicle to the facility and reported the problems with the
12 steering and left front wheel assembly. After inspecting the vehicle, the facility told McCaslin
13 that they measured the frame and it was straight and that the problems must be related to the
14 suspension repairs that were performed by Autowest. McCaslin was not provided with an
15 estimate or invoice for the warranty repairs or services. Later, McCaslin had Autowest look at
16 the vehicle. Autowest told McCaslin that the alignment was correct, but that the frame must not
17 be straight. McCaslin took the vehicle back to Respondent's facility and Autowest several times,
18 but the steering problems were never adequately resolved. McCaslin never received any
19 estimates or invoices from Respondent's facility during his return visits.

20 29. In and between March and May 2009, Mercury Insurance ("Mercury") paid
21 Respondent a total of \$13,698.90 for the collision repairs.

22 30. On or about February 19, 2010, a representative of the Bureau ("representative"),
23 accompanied by Mercury supervisor Dorla Platt ("Platt"), inspected the vehicle using as a
24 reference a supplemental estimate dated April 24, 2009, that had been prepared by Mercury
25 ("estimate of record"). It appeared that Respondent's facility had not repaired the vehicle as
26 estimated. The representative obtained McCaslin's authorization to have the vehicle taken to a
27 local repair facility where it could be set up on a frame rack and inspected further.

28 ///

1 VEHICLE INSPECTION #3: 2007 TOYOTA CAMRY

2 38. On or about September 3, 2009, Marcelo Remiendo's ("Remiendo") 2007 Toyota
3 Camry was damaged in a collision. Remiendo took the vehicle to Respondent's facility and
4 signed an authorization form for the repair of the vehicle. Remiendo was not given a copy of the
5 authorization form or an itemized written estimate for the collision repairs.

6 39. On or about September 9, 2009, Allstate Insurance ("Allstate") paid Respondent's
7 facility \$3,012.63 for the collision repairs.

8 40. On or about September 15, 2009, Remiendo went to the facility to pick up the vehicle
9 and was given a copy of a final invoice in the net amount of \$3,012.63.

10 41. On or about March 11, 2010, a representative of the Bureau, along with Allstate
11 representative Bobby Moore ("Moore"), inspected the vehicle using as a reference Allstate's
12 estimate dated September 9, 2009. The representative and Moore found that corrosion protection
13 had not been applied to the welds on the rear body panel.

14 42. On or about March 17, 2010, the representative met with Remiendo at Auto Body of
15 Fremont. Remiendo authorized an inspection of the vehicle. The vehicle was raised on a lift and
16 the rear trunk trim panel was removed to allow access to the rear body panel. The representative
17 found that Respondent's facility had failed to properly repair the vehicle.

18 TENTH CAUSE FOR DISCIPLINE

19 (Untrue or Misleading Statements)

20 43. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
21 subdivision (a)(1), in that Respondent made or authorized statements which it knew or in the
22 exercise of reasonable care should have known to be untrue or misleading, as follows:

23 a. Respondent represented on the invoice that the corrosion protection on Remiendo's
24 2007 Toyota Camry was restored. In fact, the corrosion protection had not been restored on the
25 vehicle, as set forth in subparagraph 46 (a) below.⁴

26 _____
27 ⁴ The cost of that repair was estimated to be approximately \$14.80.
28

1 **FOURTEENTH CAUSE FOR DISCIPLINE**

2 **(Violations of the Code)**

3 47. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
4 subdivision (a)(6), in that Respondent failed to comply with section 9884.9, subdivision (c), of
5 that Code in a material respect, as follows: Respondent failed to provide Remiendo with an
6 itemized written estimate for the collision repairs on his 2007 Toyota Camry.

7 **VEHICLE INSPECTION #4: 2009 NISSAN MURANO**

8 48. On or about March 11, 2010, a representative of the Bureau, along with Allstate
9 representative Moore, inspected a 2009 Nissan Murano that had been repaired by Respondent's
10 facility. The representative and Moore used as a reference Allstate's estimate of record,
11 supplement 2, dated October 2, 2009. The representative found that the right rear door edge
12 protector/tape had not been installed. The cost of that repair was estimated to be approximately
13 \$14.02.

14 **FIFTEENTH CAUSE FOR DISCIPLINE**

15 **(Fraud)**

16 49. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
17 subdivision (a)(4), in that Respondent committed an act that constitutes fraud, as follows:
18 Respondent obtained payment from Allstate for installing an edge protector on the right rear door
19 of the 2009 Nissan Murano. In fact, that part had not been installed on the vehicle.

20 **VEHICLE INSPECTION #5: 2006 HONDA ACCORD**

21 50. On or about March 4, 2010, Shashikanth Kallu's ("Kallu") 2006 Honda Accord was
22 damaged in a collision. On or about March 5, 2010, Kallu took the vehicle to Respondent's
23 facility and signed a work order authorizing them to repair the vehicle. Kallu was given a written
24 estimate. On or about March 8, 2010, an adjuster with Farmers/Mid-Century Insurance Company
25 ("Mid-Century") went to the facility and prepared an initial estimate for the collision repairs. On
26 or about March 10, 2010, the adjuster returned to the facility and prepared a supplemental
27 estimate. On or about March 12, 2010, the facility delivered the vehicle to Kallu's residence.
28 Kallu was given copies of two invoices issued by Respondent's facility, including an invoice

1 dated March 9, 2010. In or about March 2010, Mid-Century paid the facility a total of \$5,586.25
2 for the collision repairs.

3 51. On or about May 4, 2010, a representative of the Bureau inspected the vehicle using
4 as a reference Mid-Century's Supplement of Record 1, dated March 10, 2010, in the net amount
5 of \$5,586.25 ("supplemental estimate"). The representative observed rusted welds on the rear
6 body panel and obtained Kallu's permission to have the vehicle inspected at Auto Body of
7 Fremont. Later, the representative and Kallu met at Auto Body of Fremont and the vehicle was
8 raised on a lift. The representative inspected the vehicle using the supplemental estimate for
9 comparison, and found that the vehicle had not been repaired as estimated and had not been
10 repaired to accepted trade standards. The total estimated value of the repairs Respondent failed to
11 perform on the vehicle is approximately \$1,165.98.

12 **SIXTEENTH CAUSE FOR DISCIPLINE**

13 **(Untrue or Misleading Statements)**

14 52. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
15 subdivision (a)(1), in that Respondent made or authorized statements which it knew or in the
16 exercise of reasonable care should have known to be untrue or misleading, as follows:

17 a. Respondent represented on the invoice that the rear floor pan on Kallu's 2006 Honda
18 Accord had been repaired. In fact, that part had not been repaired on the vehicle.

19 b. Respondent represented on the invoice that the rear frame (rear body and floor) had
20 been repaired or pulled on Kallu's 2006 Honda Accord. In fact, the rear frame, including the rear
21 floor and rails, had not been repaired on the vehicle.

22 c. Respondent represented on the invoice that the right rear frame rail on Kallu's 2006
23 Honda Accord had been repaired. In fact, that part had not been repaired on the vehicle.

24 d. Respondent represented on the invoice that the left rear frame rail on Kallu's 2006
25 Honda Accord had been repaired. In fact, that part had not been repaired on the vehicle.

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SEVENTEENTH CAUSE FOR DISCIPLINE

(Fraud)

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

a. Respondent obtained payment from Mid-Century for repairing and refinishing the rear floor pan on Kallu's 2006 Honda Accord. In fact, that part was not repaired or refinished on the vehicle.

b. Respondent obtained payment from Mid-Century for adding or applying clear coat at the rear floor pan of Kallu's 2006 Honda Accord. In fact, that labor operation or repair was not performed on the vehicle.

c. Respondent obtained payment from Mid-Century for repairing the right rear frame rail on Kallu's 2006 Honda Accord. In fact, that part had not been repaired on the vehicle.

d. Respondent obtained payment from Mid-Century for repairing the left rear frame rail on Kallu's 2006 Honda Accord. In fact, that part had not been repaired on the vehicle.

e. Respondent obtained payment from Mid-Century for restoring the corrosion protection on Kallu's 2006 Honda Accord. In fact, the corrosion protection had not been restored on the vehicle, as set forth in subparagraph 54 (a) below.

f. Respondent obtained payment from Mid-Century for setting up on a frame rack and measuring Kallu's 2006 Honda Accord, and for pulling or straightening the floor. In fact, none of those labor operations or repairs were performed on the vehicle.

EIGHTEENTH CAUSE FOR DISCIPLINE

(Departure from Trade Standards)

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

a. Respondent failed to apply corrosion protection on the welds at the bottom of the rear panel of Kallu's 2006 Honda Accord, in violation of Regulation 3365, subdivision (b).

1 the trunk). That same day, Auto Body of Fremont gave Kovi an estimate totaling \$1,490.98 for
2 the corrective repairs, including the replacement of the rear body panel and the trim panel. Later,
3 Kovi took the vehicle to Respondent's facility for the corrective repairs.

4 59. On or about June 11, 2010, Mid-Century paid Respondent \$1,350.34 for the
5 corrective repairs.

6 60. On or about July 22, 2010, the representative received a copy of Respondent's invoice
7 dated June 15, 2010.

8 61. On or about August 4, 2010, the representative inspected the vehicle using the invoice
9 dated June 15, 2010, and a Mid-Century estimate dated July 2, 2010, for comparison. The
10 representative found that the trunk lid still fit poorly despite the corrective repairs, and that the
11 lock striker pedestal and striker were bent and had been struck until they were displaced enough
12 to permit a flush fit of the trunk lid. The representative also found that sealer had been applied
13 over the exposed rear rail and rear panel welds underneath the trunk, although that repair had not
14 been recorded on the invoice of June 15, 2010.

15 **NINETEENTH CAUSE FOR DISCIPLINE**

16 **(Untrue or Misleading Statements)**

17 62. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
18 subdivision (a)(1), in that Respondent made or authorized statements which it knew or in the
19 exercise of reasonable care should have known to be untrue or misleading, as follows:

20 a. Respondent represented on the invoice dated November 24, 2009, that the right frame
21 rail on Kovi's 2002 Toyota Camry was blended or refinished. In fact, that part was not blended or
22 refinished on the vehicle as invoiced.

23 b. Respondent represented on the invoice dated November 24, 2009, that the wiring
24 harness on Kovi's 2002 Toyota Camry was pulled back during the finishing operation inside the
25 trunk. In fact, that labor operation or repair was not performed on the vehicle as invoiced.

26 c. Respondent represented on the invoice dated November 24, 2009, that the left frame
27 rail on Kovi's 2002 Toyota Camry was blended or refinished. In fact, that part was not blended or
28 refinished on the vehicle as invoiced.

1 d. Respondent represented on the invoice dated November 24, 2009, that damage from
2 the unibody clamps at the rear body and floor on Kovi's 2002 Toyota Camry had been repaired
3 and refinished. In fact, those labor operations or repairs were not performed on the vehicle as
4 invoiced.

5 e. Respondent represented on the invoice dated November 24, 2009, that the corrosion
6 protection at the rear body and floor on Kovi's 2002 Toyota Camry had been restored. In fact,
7 corrosion protection had not been applied on the welds at the rear body panel of the vehicle.

8 f. Respondent represented on the invoice dated November 24, 2009, that Kovi's 2002
9 Toyota Camry had been set up and measured on a frame rack. In fact, those labor operations or
10 repairs were not performed on the vehicle as invoiced.

11 **TWENTIETH CAUSE FOR DISCIPLINE**

12 **(Fraud)**

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

15 a. Respondent obtained payment from Mid-Century for blending or refinishing the right
16 frame rail on Kovi's 2002 Toyota Camry. In fact, that part was not blended or refinished on the
17 vehicle as invoiced.

18 b. Respondent obtained payment from Mid-Century for removing and installing or
19 setting back the wiring harness during the finishing operation inside the trunk of Kovi's 2002
20 Toyota Camry. In fact, that labor operation or repair was not performed on the vehicle as
21 invoiced.

22 c. Respondent obtained payment from Mid-Century for blending or refinishing the left
23 frame rail on Kovi's 2002 Toyota Camry. In fact, that part was not blended or refinished on the
24 vehicle as invoiced.

25 d. Respondent obtained payment from Mid-Century for repairing and refinishing the
26 pinch welds on Kovi's 2002 Toyota Camry. In fact, those labor operations or repairs were not
27 performed on the vehicle as invoiced.

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1 e. Respondent obtained payment from Mid-Century for restoring the corrosion
2 protection on Kovi's 2002 Toyota Camry. In fact, corrosion protection had not been applied on
3 the welds at the rear body panel of the vehicle.

4 f. Respondent obtained payment from Mid-Century for setting up and measuring Kovi's
5 2002 Toyota Camry on a frame rack. In fact, those labor operations or repairs were not
6 performed on the vehicle as invoiced.

7 g. Respondent obtained payment from Mid-Century for pulling or repairing the rear
8 body of Kovi's 2002 Toyota Camry. In fact, that labor operation or repair was not performed on
9 the vehicle.

10 **TWENTY-FIRST CAUSE FOR DISCIPLINE**

11 **(Departure from Trade Standards)**

12 64. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
13 subdivision (a)(7), in that Respondent willfully departed from or disregarded accepted trade
14 standards for good and workmanlike repair without the consent of the owner or the owner's duly
15 authorized representative in the following material respects:

16 a. Respondent failed to apply corrosion protection on the welds at the rear body panel of
17 Kovi's 2002 Toyota Camry, in violation of Regulation 3365, subdivision (b).

18 b. Respondent failed to install the new rear body panel in the proper position before
19 welding it in place on the vehicle, causing the trunk lid and the rear panel trim to fit poorly.

20 c. Respondent drilled and otherwise damaged the rear rail ends.

21 d. Respondent forced the new rear panel trim into position against the rear body panel,
22 warping or damaging the panel trim beyond repair.

23 e. Respondent failed to install the center bumper reinforcement bar in the vehicle.

24 f. Respondent bent or damaged the lock striker pedestal and striker during the corrective
25 repairs on the vehicle.

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1 **TWENTY-SECOND CAUSE FOR DISCIPLINE**

2 **(Violations of the Code)**

3 65. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
4 subdivision (a)(6), in that Respondent failed to comply with section 9884.8 of that Code in a
5 material respect, as follows: Respondent failed to record on the invoice dated June 15, 2010, the
6 application of sealer over the exposed rear rail and rear panel welds underneath the trunk of
7 Kovi's 2002 Toyota Camry.

8 **VEHICLE INSPECTION #7: 2007 MERCEDES GL450**

9 66. On or about March 2, 2010, the right rear door of Ruth McGautha's ("McGautha")
10 2007 Mercedes GL450 was damaged in a collision. A few weeks later, McGautha reported the
11 incident to her insurer, CSAA. On or about March 29, 2010, McGautha took the vehicle to
12 Respondent's facility for repair. McGautha signed a tear down authorization and a "Standard
13 Authorization". The standard authorization listed an "original estimate" price of \$2,500;
14 however, McGautha was not given an itemized written estimate and had not authorized any
15 specific repairs on the vehicle. Later, the facility called McGautha for authorization for repairs,
16 but did not give her an estimate price or a detailed description of the proposed work.

17 67. McGautha received calls from the facility and CSAA about installing a used right rear
18 door on the vehicle instead of a new door. CSAA informed McGautha that they found a good
19 used door for the vehicle. McGautha told Respondent's manager, Armin Ghorbani ("Ghorbani"),
20 that a used door was acceptable as long it was in good condition. Later, Ghorbani informed
21 McGautha that the used door they had obtained from the supplier was damaged and that a new
22 door was required. McGautha never authorized a new door for the vehicle and was never told
23 that she would have to pay the cost difference between the new door and the used door.

24 68. On or about April 7, 2010, McGautha returned to the facility to pick up the vehicle
25 and was informed that there was an additional charge of \$612.64 for the installation of a new
26 right rear door. McGautha refused to pay the charge, so the facility would not release the vehicle.
27 McGautha spoke with CSAA and the facility various times in an attempt to resolve the problem.
28 The facility informed McGautha that they would start charging her storage fees for the vehicle.

1 69. On or about April 8, 2010, CSAA paid the facility \$6,704.12 for the collision repairs.

2 70. On or about April 12, 2010, McGautha went to the facility, paid them a total of
3 \$842.64, \$250 for the insurance deductible and \$592.64 representing the cost difference between
4 the used door and the new door, and received an invoice dated April 7, 2010, totaling \$7,546.77.
5 That same day, McGautha filed a complaint with the Bureau.

6 71. On or about April 28, 2010, a representative of the Bureau met with Tony Corroo
7 ("Corroo"), special investigator for CSAA, and McGautha. Corroo and the representative
8 inspected the vehicle using as a reference a CSAA estimate dated April 7, 2010, in the gross
9 amount of \$6,954.12 ("insurance estimate") that had been prepared by Latika Maharaj
10 ("Maharaj"). The insurance estimate indicated that an LKQ quality recycled (used) right rear
11 door shell was to be installed on the vehicle. The representative determined that the repairs were
12 performed as estimated with the exception of the replacement of the door shell, which was in
13 dispute, and possibly also the replacement of the right front door seal.

14 72. On or about April 29, 2010, the representative spoke with an account representative at
15 LKQ, the proposed supplier for the used door shell. The account representative stated, among
16 other things, that a used door had been delivered to Respondent's facility on April 8, 2010;
17 however, the facility returned the door to LKQ on April 12, 2010. The account representative
18 indicated that the used door had only two minor defects and was repairable.

19 73. On or about May 24, 2010, the representative contacted Maharaj. Maharaj stated that
20 she had inspected the used door supplied by LKQ and that it displayed some minor defects that
21 were easily repairable. Maharaj also stated that Respondent's facility had rejected the used door
22 without even seeing it and had installed a new door on the vehicle without CSAA's or McGautha's
23 authorization.

24 74. On or about June 9, 2010, the representative obtained copies of the facility's repair
25 records on the vehicle, including the facility's copy of the standard authorization signed by
26 McGautha. A handwritten notation had been made on the authorization form indicating that on
27 March 29, 2010, McGautha had authorized a "revised estimate" price of \$7,546.77 for the repairs
28 on the vehicle.

1 **TWENTY-SIXTH CAUSE FOR DISCIPLINE**

2 (Violations of the Code)

3 79. 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 in the
5 following material respects:

6 a. **Section 9884.9, subdivision (a)**: Respondent installed a new right rear door on
7 McGautha's 2007 Mercedes GL450 without her authorization, then refused to release the vehicle
8 to her until she paid for the repair. Further, Respondent failed to obtain McGautha's authorization
9 for the specific repairs on the vehicle.

10 b. **Section 9448.9, subdivision (c)**: Respondent failed to provide McGautha with an
11 itemized written estimate for the collision repairs on her 2007 Mercedes GL450.

12 **VEHICLE INSPECTION #8: 2006 TOYOTA SIENNA**

13 80. On or about November 25, 2009, Atul Kumar's ("Kumar") 2006 Toyota Sienna was
14 damaged in a collision. On or about December 3, 2009, Kumar had the vehicle towed to
15 Respondent's facility for repair. Later, the facility faxed Kumar a tear down authorization and a
16 "standard authorization", neither of which contained an itemized written estimate for the collision
17 repairs. On or about December 3, 2009, Kumar signed both forms and faxed them back to the
18 facility. Within a few days, the facility called Kumar and informed him that there was an initial
19 estimate for the vehicle and that they were waiting for approval from Farmers (Farmers/Mid-
20 Century Insurance) before commencing the repairs. When Kumar retrieved the vehicle from the
21 facility, he was given a copy of a Farmers estimate dated December 21, 2009, totaling
22 \$12,558.76. Kumar was not provided with a final invoice.

23 81. In or about December 2009, Farmers paid Respondent a total of \$12,558.76 for the
24 collision repairs.

25 82. On or about June 11, 2010, a representative of the Bureau inspected the vehicle using
26 as a reference Farmers' Supplement of Record 3, dated December 21, 2009, totaling \$12,558.76
27 ("insurance estimate"). The representative observed that the vehicle did not appear to be repaired

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1 as estimated and obtained Kumar's permission to have it inspected further at Auto Body of
2 Fremont.

3 83. On or about June 18, 2010, the representative met with Kumar at Auto Body of
4 Fremont, and the vehicle was raised on a lift. The representative inspected the vehicle using the
5 insurance estimate for comparison and found, among other things, that the new "A" pillar panel
6 had not been properly sectioned.

7 84. On or about August 11, 2010, Kumar authorized Auto Body of Fremont to replace the
8 outer "A" pillar panel on the vehicle. The representative and Phil Cerney of Farmers observed
9 the vehicle as it was disassembled. The representative determined that Respondent's facility
10 failed to repair the vehicle as specified on the insurance estimate, and had not performed the
11 repairs to accepted trade standards. The total estimated value of the repairs Respondent failed to
12 properly perform on the vehicle, or failed to perform as estimated, is approximately \$3,315.94.

13 **TWENTY-SEVENTH CAUSE FOR DISCIPLINE**

14 **(Fraud)**

15 85. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
16 subdivision (a)(4), in that Respondent committed acts that constitute fraud, as follows:

17 a. Respondent obtained payment from Farmers for setting up and measuring Kumar's
18 2006 Toyota Sienna on a frame rack and repairing or realigning the structural components. In
19 fact, none of those labor operations or repairs were performed on the vehicle.

20 b. Respondent obtained payment from Farmers for blending or refinishing the right roof
21 rail on Kumar's 2006 Toyota Sienna. In fact, that part was not blended or refinished on the
22 vehicle.

23 c. Respondent obtained payment from Farmers for installing the right protector on
24 Kumar's 2006 Toyota Sienna. In fact, that part was not installed on the vehicle.

25 d. Respondent obtained payment from Farmers for restoring the corrosion protection on
26 Kumar's 2006 Toyota Sienna. In fact, the corrosion protection had not been restored on the
27 vehicle.

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1 e. Respondent obtained payment from Farmers for repairing and refinishing the pinch
2 welds on Kumar's 2006 Toyota Sienna. In fact, those labor operations or repairs were not
3 performed on the vehicle.

4 f. Respondent obtained payment from Farmers for removing and reinstalling the
5 windshield on Kumar's 2006 Toyota Sienna. In fact, that part was not removed and reinstalled on
6 the vehicle.

7 g. Respondent obtained payment from Farmers for supplying a urethane kit in
8 connection with the removal and reinstallation of the windshield on Kumar's 2006 Toyota
9 Sienna. In fact, a urethane kit was not supplied or necessary in that the windshield had not been
10 removed or reinstalled on the vehicle.

11 h. Respondent obtained payment from Farmers for supplying urethane kits in connection
12 with the replacement of the right windows on Kumar's 2006 Toyota Sienna. In fact, the urethane
13 kits were not necessary for the vehicle.

14 i. Respondent obtained payment from Farmers for removing and reinstalling the
15 instrument panel on Kumar's 2006 Toyota Sienna. In fact, the instrument panel was not removed
16 and reinstalled on the vehicle.

17 **TWENTY-EIGHTH CAUSE FOR DISCIPLINE**

18 **(Failure to Record Repairs Requested by the Customer)**

19 86. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
20 subdivision (a)(2), in that Respondent caused or allowed Kumar to sign the standard authorization
21 and tear down authorization which did not state the repairs requested by Kumar, the repair of the
22 collision damage on his 2006 Toyota Sienna.

23 **TWENTY-NINTH CAUSE FOR DISCIPLINE**

24 **(Departure from Trade Standards)**

25 87. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
26 subdivision (a)(7), in that Respondent willfully departed from or disregarded accepted trade

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1 standards for good and workmanlike repair without the consent of the owner or the owner's duly
2 authorized representative in the following material respects:

3 a. Respondent failed to apply corrosion protection on the welds at the lower inside of
4 the "A" pillar, on the outside of the "A" pillar where the lower sectioning cut had been made, and
5 on the underside of the rocker panel on Kumar's 2006 Toyota Sienna, in violation of Regulation
6 3365, subdivision (b).

7 b. Respondent failed to repair or section⁵ the "A" pillar on Kumar's 2006 Toyota Sienna
8 per manufacturer's specifications in that Respondent made the upper cut, or sectioning cut, on the
9 "A" pillar at or near the lower hinge rather than at the location in the windshield aperture that was
10 specified by the manufacturer.

11 c. Further, Respondent pounded or beat on the lower hinge reinforcement while moving
12 the "A" pillar into its correct position on the vehicle, damaging the lower hinge reinforcement.

13 THIRTIETH CAUSE FOR DISCIPLINE

14 (Violations of the Code)

15 88. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
16 subdivision (a)(6), in that Respondent failed to comply with provisions of that Code in the
17 following material respects:

18 a. Section 9884.8: Respondent failed to provide Kumar with an invoice listing all
19 service and repair work performed and parts supplied on his 2006 Toyota Sienna.

20 b. Section 9448.9, subdivision (c): Respondent failed to provide Kumar with an
21 itemized written estimate for the collision repairs on his 2006 Toyota Sienna

22 OTHER MATTERS

23 89. Pursuant to Code section 9884.7, subdivision (c), the Director may suspend, revoke,
24 or place on probation the registration for all places of business operated in this state by
25 Respondent MB Bodyshop of San Francisco, Inc., doing business as Fremont Collision Care
26

27 ⁵ Regulation 3303 (m) defines "section" or "sectioning" as the replacement of less than a
28 whole part or component by splicing the part or component at non-factory seams.

1 Center, upon a finding that Respondent has, or is, engaged in a course of repeated and willful
2 violations of the laws and regulations pertaining to an automotive repair dealer.

3 PRAYER

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

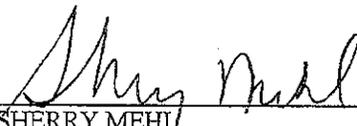
6 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
7 239316, issued to MB Bodyshop of San Francisco, Inc., doing business as Fremont Collision
8 Care Center;

9 2. Revoking or suspending any other automotive repair dealer registration issued to
10 MB Bodyshop of San Francisco, Inc.;

11 3. Ordering MB Bodyshop of San Francisco, Inc., doing business as Fremont Collision
12 Care Center, to pay the Director of Consumer Affairs the reasonable costs of the investigation and
13 enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

15
16 DATED: 4/25/11


17 SHERRY MEHL
18 Chief
19 Bureau of Automotive Repair
20 Department of Consumer Affairs
21 State of California
22 Complainant
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28 SF2011200509

Exhibit B

Accusation No. 77/11-12

1 KAMALA D. HARRIS
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2 FRANK H. PACOE
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Attorneys for Complainant

7
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. 77/11-12

12 **MB BODYSHOP OF SAN FRANCISCO**
13 **dba SUNNYVALE COLLISION CARE CENTERS**
14 **904 E. Arques Ave.**
15 **Sunnyvale, CA 94085**
16 **SYED ALL, PRESIDENT**
17 **Automotive Repair Dealer Registration No.**
18 **ARD 239317**

ACCUSATION

Respondent.

18 Complainant alleges:

19 **PARTIES**

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

22 **Automotive Repair Dealer Registration**

23 2. On a date uncertain in 2005, the Bureau issued Automotive Repair Dealer
24 Registration Number ARD 239317 ("registration") to MB Bodyshop of San Francisco, doing
25 business as Sunnyvale Collision Care Centers ("Respondent") with Syed Ali as President. The
26 registration was in full force and effect at all times relevant to the charges brought herein and will
27 expire on April 30, 2012, unless renewed.
28

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

21 (4) Any other conduct that constitutes fraud.

22 (5) Conduct constituting gross negligence.

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

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

28 6. Code section 9884.7, subdivision (c), states, in pertinent part, that 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 the laws and regulations pertaining to an
automotive repair dealer.

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7. Code section 9884.9 states, in pertinent part:

(a) The automotive repair dealer shall give to the customer a written estimated price for labor and parts necessary for a specific job. No work shall be done and no charges shall accrue before authorization to proceed is obtained from the customer. No charge shall be made for work done or parts supplied in excess of the estimated price without the oral or written consent of the customer that shall be obtained at some time after it is determined that the estimated price is insufficient and before the work not estimated is done or the parts not estimated are supplied. Written consent or authorization for an increase in the original estimated price may be provided by electronic mail or facsimile transmission from the customer. The bureau may specify in regulation the procedures to be followed by an automotive repair dealer when an authorization or consent for an increase in the original estimated price is provided by electronic mail or facsimile transmission. If that consent is oral, the dealer shall make a notation on the work order of the date, time, name of person authorizing the additional repairs and telephone number called, if any, together with a specification of the additional parts and labor and the total additional cost . . .

....

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

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

"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."

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

10. California Code of Regulations, title 16, section ("Regulation") 3365 states:

The accepted trade standards for good and workmanlike auto body and frame repairs shall include, but not be limited to, the following:

(a) Repair procedures including but not limited to the sectioning of component parts, shall be performed in accordance with OEM service specifications or nationally distributed and periodically updated service specifications that are generally accepted by the autobody repair industry.

(b) All corrosion protection shall be applied in accordance with manufacturers' specifications or nationally distributed and periodically updated service specifications that are generally accepted by the autobody repair industry.

1 11. Regulation section 3366, states, in pertinent part:

2 a. Except as provided in subsection (b) of this section, any automotive
3 repair dealer that advertises or performs, directly or through a sublet contractor,
4 automotive air conditioning work and uses the words service, inspection, diagnosis,
5 top off, performance check or any expression or term of like meaning in any form of
6 advertising or on a written estimate or invoice shall include and perform all of the
7 following procedures as a part of that air conditioning work:

8 (13) The system has been checked for leakage at a minimum of 50 PSI
9 system pressure;

10 (14) The compressor clutch, blower motor and air control doors have
11 been checked for proper operation;

12 (15) High and low side system operating pressures, as applicable, have
13 been measured and recorded on the final invoice; and,

14 (16) The center air distribution outlet temperature has been measured and
15 recorded on the final invoice.

16 COST RECOVERY

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

21 VEHICLE INSPECTION #1: 2002 ACURA TLS

22 13. On or about November 2, 2009, Wanda Romero's ("Romero") 2002 Acura TLS was
23 damaged in a collision. Romero took the vehicle to Respondent's facility to obtain a repair
24 estimate. Romero signed a repair order and was given a copy of the document. On or about
25 November 4, 2009, Allstate Insurance prepared an estimate of repair in the amount of \$3,570.07.
26 Romero was contacted by Respondent and was told that the repairs were \$3,500; however, she
27 was not asked for authorization to perform the repairs. After approximately one week, Romero
28 was contacted by Respondent and told that the repairs were complete. Romero returned to
Respondent's facility to retrieve her vehicle and paid Respondent her \$500 deductible and
received Invoice No. RO 009185. Romero noticed that the right side of the vehicle did not have
the pinstripe. She returned the vehicle to Respondent, who applied the pinstripe. Allstate

1 Insurance paid Respondent \$3,220.70, which included \$150.63 for a supplemental estimate for
2 the pinstripe.

3 14. In or about April 2010, Romero was contacted by Allstate Insurance, who requested
4 her permission to do an audit of the collision repairs. On or about April 19, 2010, an Allstate
5 Representative and the Bureau inspected Romero's vehicle. A few days later the Bureau
6 contacted Romero and asked her to take the vehicle to another shop for further inspection. On or
7 about May 4, 2010, Romero met the Allstate Representative and the Bureau at Golden West
8 Collision Center. The inspection was performed using the Allstate estimate. The inspection
9 revealed the following repairs and operations, totaling \$894.60, were deviated from the estimate
10 specifications:

11 a. Respondent failed to repair the rear body panel. The inner panel displayed tool
12 marks, unrepaired defects, and broken caulking.

13 b. Respondent failed to refinish the rear body panel. There was no refinish applied to
14 the inner panel. Tool marks, welding burns and wire, and corrosion were visible.

15 c. Respondent failed to tone paint. This operation specified the tint process for refinish
16 on the inner rear body panel. The inner surface of the panel was not refinished.

17 d. Respondent failed to repair and refinish the clamp marks. These operations addressed
18 operations to the pinch welds to correct the damage resulting from anchoring the Acura to a frame
19 bench; however there was no evidence of clamp damage, or that the vehicle had ever been
20 anchored to the frame bench.

21 e. Respondent failed to set up and measure the vehicle's structure.

22 f. Respondent failed to perform the unibody realignment. This operation addresses
23 procedures to move the deformed metal structure to its pre-loss condition. However, there was no
24 evidence on the chassis of anchoring the Acura to the frame bench, which would be required to
25 perform this operation.

26 g. Respondent failed to restore corrosion protection. Weld burns, tool marks, and
27 corrosion were visible on the inner surface of the rear body panel and where the replacement
28 upper rear body panel was welded to the rear body panel.

1 **SEVENTH CAUSE FOR DISCIPLINE**

2 **(Violations of the Code)**

3 23. 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 in the
5 following material respects:

6 a. **Section 9884.9, subdivision (a):**

7 i. Respondent failed to document on the estimate Taylor's authorization to
8 perform the repairs to his vehicle prior to commencement of repair.

9 ii. Respondent failed to document Taylor's consent to exceed the original
10 estimate.

11 **VEHICLE INSPECTION #3: 2009 ACURA MDX**

12 24. On or about December 4, 2009, Kyung-ho Roh's ("Roh") 2009 Acura MDX was
13 damaged in a collision and was subsequently taken to Respondent's facility for repairs. Roh did
14 not sign nor was he provided an estimate; however, when Roh requested a copy of the estimate,
15 Respondent emailed a copy of the document to him. California State Automobile Association
16 ("CSAA") prepared an estimate of repair, dated January 7, 2010, in the amount of \$7,069.58.
17 CSAA also prepared a supplemental in the amount of \$1,516.87. After the repairs were
18 completed, Roh returned to Respondent's facility to retrieve the vehicle. Roh was provided with
19 an invoice. Following the repairs, Roh had two issues with the vehicle. The first was that the air
20 conditioning did not work. The second occurred when Roh's wife was driving the vehicle on a
21 busy street. The vehicle experienced a complete loss of electrical power, causing the vehicle to
22 stall. Roh took the vehicle to Sunnyvale Acura. That facility discovered that there was no
23 pressure in the air conditioning system, so they recharged the system with Freon and the system
24 operated properly after that. Sunnyvale Acura also diagnosed the stalling problem to be caused
25 by an open connection caused by a loose ground cable. That problem was also corrected.

26 25. On or about September 8, 2010, the Bureau contacted Roh and requested his
27 permission to inspect and photograph the vehicle. On or about September 15, 2010, Roh took the
28 vehicle to Golden West Collision Center for a further inspection by the Bureau. That inspection

1 revealed that Respondent failed to set up and measure the vehicle's structure. Respondent also
2 failed to perform a unibody pull, as invoiced. There is no evidence that the vehicle had been
3 anchored to a frame bench. CSAA was charged \$185 for those repairs.

4 **EIGHTH CAUSE FOR DISCIPLINE**

5 **(Untrue or Misleading Statements)**

6 26. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
7 subdivision (a)(1), in that Respondent made or authorized statements which it knew or in the
8 exercise of reasonable care should have known to be untrue or misleading, by representing to
9 CSAA and Roh that the vehicle had been repaired pursuant to the CSAA estimate when, in fact,
10 Respondent had not set up and measured the vehicle's structure nor had it performed a unibody
11 pull, as invoiced.

12 **NINTH CAUSE FOR DISCIPLINE**

13 **(Fraud)**

14 27. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
15 subdivision (a)(4), in that Respondent committed acts that constitute fraud, by accepting payment
16 from CSAA to set up and measure the vehicle structure and perform a unibody pull when, in fact,
17 those repairs had not been performed.

18 **TENTH CAUSE FOR DISCIPLINE**

19 **(Gross Negligence)**

20 28. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
21 subdivision (a)(5), in that Respondent committed acts constituting gross negligence by failing to
22 secure and attach the battery ground cable to the Roh vehicle.

23 **ELEVENTH CAUSE FOR DISCIPLINE**

24 **(Departure from Trade Standards)**

25 29. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
26 subdivision (a)(7), in that Respondent willfully departed from or disregarded accepted trade
27 standards for good and workmanlike repair without the consent of the owner or the owner's duly
28 authorized representative in the following material respects:

- 1 a. Respondent failed to secure and attach the battery ground cable to the Roh vehicle.
- 2 b. Respondent failed to comply with minimum specified air conditioning repair
- 3 procedures in violation of California Code of Regulations, title 16, section 3366, subdivision
- 4 (a)(13-16). Respondent failed to ensure that the air conditioning system was fully charged with
- 5 Freon before releasing the vehicle to Roh.

6 **TWELFTH CAUSE FOR DISCIPLINE**

7 **(Violations of the Code)**

8 30. Respondent is subject to disciplinary action pursuant to Code section 9884.7,

9 subdivision (a)(6), in that Respondent failed to comply with provisions of that Code in the

10 following material respects:

11 a. **Section 9884.9, subdivision (a)**: Respondent failed to document on the estimate

12 Roh's authorization to perform the repairs to his vehicle prior to commencement of repair.

13 b. **Section 9884.11**: Respondent failed to produce records requested by the Bureau

14 regarding the repairs to Roh's vehicle.

15 **VEHICLE INSPECTION #4: 2010 HONDA CIVIC**

16 31. On or about May 15, 2010, Srivats Jayram's ("Jayram") 2010 Honda Civic was

17 damaged in a collision and was subsequently taken to Respondent's facility for repairs. Once

18 there, Jayram signed some paperwork and received copies of the documents, along with an

19 estimate of repair prepared by Respondent in the amount of \$5,551.62, which included a \$500

20 deductible. Jayram had no further contact with Respondent until Respondent telephoned him to

21 tell him the vehicle was ready. Jayram returned to Respondent's facility, paid his \$500 deductible

22 and received Invoice No. RO 009915. CSAA paid Respondent \$5,051.62 for the collision

23 repairs.

24 32. On or about September 8, 2010, a CSAA representative and the Bureau went to

25 Jayram's residence to inspect the vehicle. Following that inspection, Jayram was asked by the

26 Bureau to take the vehicle to Golden West Collision Center for a more in depth inspection. That

27 inspection revealed that Respondent failed to perform repairs on the Jayram vehicle totaling

28 \$368.73, as follows:

1 a. Respondent failed to setup and anchor the Civic to a standard frame bench, pull to
2 realign the structure, repair and refinish the resulting clamp damage. There is no evidence of
3 clamp damage to or refinishing of the pinch welds. To the contrary, the original undercoat and
4 finish, except on the right rear rocker and pinch weld, were in place and intact.

5 b. Respondent failed to restore corrosion protection. The right rear inner pinch weld
6 displayed a significant, untreated burn where the quarter panel section was welded.

7 **THIRTEENTH CAUSE FOR DISCIPLINE**

8 **(Untrue or Misleading Statements)**

9 33. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
10 subdivision (a)(1), in that Respondent made or authorized statements which it knew or in the
11 exercise of reasonable care should have known to be untrue or misleading, by representing to
12 CSAA and Jayram on Invoice No. RO 009915 that the vehicle had been repaired, including the
13 items set forth in paragraph 32, subparagraphs a and b, above, when, in fact, those repairs had not
14 been performed as invoiced.

15 **FOURTEENTH CAUSE FOR DISCIPLINE**

16 **(Fraud)**

17 34. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
18 subdivision (a)(4), in that Respondent committed acts that constitute fraud, by accepting payment
19 from CSAA and Jayram for the repairs set forth in paragraph 32, subparagraphs a and b, above,
20 when, in fact, those repairs had not been performed.

21 **FIFTEENTH CAUSE FOR DISCIPLINE**

22 **(Departure from Trade Standards)**

23 35. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
24 subdivision (a)(7), in that Respondent willfully departed from or disregarded accepted trade
25 standards for good and workmanlike repair without the consent of the owner or the owner's duly
26 authorized representative by failing to restore corrosion protection in violation of California Code
27 of Regulations, title 16, section 3365, subdivision (b).

28

1 **SIXTEENTH CAUSE FOR DISCIPLINE**

2 **(Violations of the Code)**

3 36. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
4 subdivision (a)(6), in that Respondent failed to comply with section 9884.9, subdivision (a) by
5 failing to document on the estimate Jayram's authorization to perform the repairs to his vehicle
6 prior to commencement of the repairs.

7 **VEHICLE INSPECTION #5: 2004 NISSAN 350Z**

8 37. On or about May 18, 2010, Gagendee Sandhu's ("Sandhu") 2004 Nissan 350Z was
9 damaged in a collision and on June 7, 2010, was taken to Respondent's facility for repairs. Once
10 there, Sandhu signed some paperwork; however he did not receive copies of the documents nor
11 did he receive an estimate of repair. Mercury Insurance prepared an estimates totaling \$3,526.
12 Sandhu returned to Respondent's facility to retrieve his vehicle and received Invoice No. RO
13 009974. Mercury Insurance paid Respondent \$3,526 for the collision repairs.

14 38. On or about September 16, 2010, the Bureau inspected Sandhu's vehicle. Following
15 that inspection, Sandhu was asked by the Bureau to take the vehicle to Anchor Auto Body for a
16 more in depth inspection. That inspection revealed that Respondent failed to perform repairs on
17 the Sandhu vehicle totaling \$306.93, as follows:

- 18 a. Respondent failed to repair and refinish clamp marks still visible on the pinch welds.
19 b. Respondent failed to refinish the rear body panel. Weld burns and corrosion were
20 visible on the rear body panel inner surface near the right combination lamp socket. Exposed
21 metal was visible.
22 c. Respondent failed to restore corrosion protection.

23 **SEVENTEENTH CAUSE FOR DISCIPLINE**

24 **(Untrue or Misleading Statements)**

25 39. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
26 subdivision (a)(1), in that Respondent made or authorized statements which it knew or in the
27 exercise of reasonable care should have known to be untrue or misleading, by representing to
28 Mercury Insurance and Sandhu on Invoice No. RO 009974 that the vehicle had been repaired,

1 including the items set forth in paragraph 38, subparagraphs a through c, above, when, in fact,
2 those repairs had not been performed as invoiced.

3 **EIGHTEENTH CAUSE FOR DISCIPLINE**

4 **(Failure to Provide a Copy of a Signed Document)**

5 40. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
6 subdivision (a)(3), in that Respondent failed to provide Sandhu with a work order as soon as
7 Sandhu signed the document.

8 **NINETEENTH CAUSE FOR DISCIPLINE**

9 **(Fraud)**

10 41. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
11 subdivision (a)(4), in that Respondent committed acts that constitute fraud, by accepting payment
12 from Mercury Insurance and Sandhu for the repairs set forth in paragraph 38, subparagraphs a
13 through c, above, when, in fact, those repairs had not been performed.

14 **TWENTIETH CAUSE FOR DISCIPLINE**

15 **(Departure from Trade Standards)**

16 42. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
17 subdivision (a)(7), in that Respondent willfully departed from or disregarded accepted trade
18 standards for good and workmanlike repair without the consent of the owner or the owner's duly
19 authorized representative by failing to restore corrosion protection in violation of California Code
20 of Regulations, title 16, section 3365, subdivision (b).

21 **TWENTY-FIRST CAUSE FOR DISCIPLINE**

22 **(Violations of the Code)**

23 43. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
24 subdivision (a)(6), in that Respondent failed to comply with section 9884.9, subdivision (a) by
25 failing to document on the estimate Sandhu's authorization to perform the repairs to his vehicle
26 prior to commencement of the repairs.

27 ///

28 ///

Exhibit C

Accusation No. 77/11-22

1 KAMALA D. HARRIS
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2 FRANK H. PACOE
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Attorneys for Complainant

7
8 **BEFORE THE**
DEPARTMENT OF CONSUMER AFFAIRS
9 **FOR THE BUREAU OF AUTOMOTIVE REPAIR**
STATE OF CALIFORNIA

10
11 In the Matter of the Accusation Against:

Case No. 77/11-22

12 **MB BODYSHOP OF SAN FRANCISCO**
DBA AUTO WEST COLLISION REPAIRS
13 **1729 Junction Avenue**
San Jose, CA 95112
14 **SYED ALI, PRESIDENT**
Automotive Repair Dealer Registration No.
15 **ARD 246931**

ACCUSATION

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

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

22 **Automotive Repair Dealer Registration**

23 2. On a date uncertain in 2006, the Bureau issued Automotive Repair Dealer
24 Registration Number ARD 246931 ("registration") to MB Bodyshop of San Francisco, doing
25 business as Auto West Collision Repairs ("Respondent") with Syed Ali as President. The
26 registration was in full force and effect at all times relevant to the charges brought herein and will
27 expire on August 31, 2012, unless renewed.

28 ///

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 (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 (4) Any other conduct that constitutes fraud.

20 (5) Conduct constituting gross negligence.

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

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

26 6. Code section 9884.7, subdivision (c), states, in pertinent part, that the Director may
27 suspend, revoke, or place on probation the registration for all places of business operated in this
28 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 the laws and regulations pertaining to an
automotive repair dealer.

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7. Code section 9884.8 states, in pertinent part:

All 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 . . . One copy of the invoice shall be given to the customer and one copy shall be retained by the automotive repair dealer.

8. Code section 9884.9 states, in pertinent part:

(a) The automotive repair dealer shall give to the customer a written estimated price for labor and parts necessary for a specific job. No work shall be done and no charges shall accrue before authorization to proceed is obtained from the customer. No charge shall be made for work done or parts supplied in excess of the estimated price without the oral or written consent of the customer that shall be obtained at some time after it is determined that the estimated price is insufficient and before the work not estimated is done or the parts not estimated are supplied. Written consent or authorization for an increase in the original estimated price may be provided by electronic mail or facsimile transmission from the customer. The bureau may specify in regulation the procedures to be followed by an automotive repair dealer when an authorization or consent for an increase in the original estimated price is provided by electronic mail or facsimile transmission. If that consent is oral, the dealer shall make a notation on the work order of the date, time, name of person authorizing the additional repairs and telephone number called, if any, together with a specification of the additional parts and labor and the total additional cost . . .

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

(d) A customer may designate another person to authorize work or parts supplied in excess of the estimated price, if the designation is made in writing at the time that the initial authorization to proceed is signed by the customer. . . .

9. Code section 22, subdivision (a), states:

“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.”

10. Code section 477, subdivision (b), states, in pertinent part, that a “license” includes “registration” and “certificate.”

///
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1 11. California Code of Regulations, title 16, section ("Regulation") 3365 states:

2 The accepted trade standards for good and workmanlike auto body and
3 frame repairs shall include, but not be limited to, the following:

4 (a) Repair procedures including but not limited to the sectioning of
5 component parts, shall be performed in accordance with OEM service specifications
6 or nationally distributed and periodically updated service specifications that are
7 generally accepted by the autobody repair industry.

8 (b) All corrosion protection shall be applied in accordance with
9 manufacturers' specifications or nationally distributed and periodically updated
10 service specifications that are generally accepted by the autobody repair industry.

11 12. Regulation 3373 states:

12 No automotive repair dealer or individual in charge shall, in filling out an
13 estimate, invoice, or work order, or record required to be maintained by section
14 3340.15(f) of this chapter, withhold therefrom or insert therein any statement or
15 information which will cause any such document to be false or misleading, or where
16 the tendency or effect thereby would be to mislead or deceive customers, prospective
17 customers, or the public.

18 COST RECOVERY

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

23 VEHICLE INSPECTION #1: 2008 HONDA CIVIC

24 14. On or about April 28, 2010, the Bureau met with Jennifer Francis ("consumer") and
25 inspected her vehicle following collision repairs to the vehicle performed by Respondent. The
26 Bureau used State Farm Insurance Estimate of Record No. 05-B294-71301, version 4, dated April
27 7, 2010, as a reference. The consumer also provided the Bureau with a copy of a signed repair
28 order dated March 15, 2010, prepared by Respondent. The Bureau observed rust where the
replacement radiator support was welded to the right lower frame rail. The Bureau also
discovered that fasteners were missing from the cowl top panel.

15. Based on those observations and the field conditions, which prevented the Bureau
from photographing the visible rust, the vehicle was taken to KS California Auto Body for further

1 inspection. At that time, the consumer provided the Bureau with a copy of the final
2 Invoice/Original Repair Order No. 034712.

3 16. On or about May 5, 2010, the Bureau, along with representatives from State Farm
4 Insurance, conducted an additional inspection of the vehicle. That inspection revealed that the
5 following repairs, totaling \$521.87 in labor and materials, had not been performed or deviated
6 from the State Farm estimate specifications:

- 7 a. **Line 67.** Repair R front body sidemember;
- 8 b. **Line 68.** Refinish R front body sidemember;
- 9 c. **Line 69.** Repair L front body sidemember;
- 10 d. **Line 106.** Blend R rocker panel;
- 11 e. **Line 107.** Pinch welds;
- 12 f. **Line 108.** Blend L rocker panel;
- 13 g. **Line 109.** Pinch welds;
- 14 h. **Line 110.** R door opening frame;
- 15 i. **Line 111.** Repair pinch welds;
- 16 j. **Line 112.** L door opening frame;
- 17 k. **Line 113.** Repair pinch welds; and
- 18 l. **Line 131.** Restore corrosion protection.

19 17. Following the vehicle inspection, the Bureau informed the consumer of the defects
20 that needed to be corrected immediately. The consumer informed the Bureau that she would take
21 the vehicle back to Respondent's facility since the repair work was under warranty and on or
22 about May 14, 2010, the consumer returned her vehicle to Respondent's facility.

23 18. On or about May 25, 2010, the consumer filed a consumer complaint with the
24 Bureau.

25 19. On or about June 2, 2010, the Bureau contacted the consumer to discuss her
26 complaint. She informed the Bureau that she still did not have her vehicle back from Respondent.
27 The consumer told the Bureau that Respondent kept telling the consumer that they could see
28 nothing wrong with the vehicle and that he wanted the Bureau to show him what was wrong with

1 the vehicle; however, the Bureau had already explained to Respondent in detail what corrective
2 repairs needed to be performed.

3 20. On or about June 16, 2010, after the corrective repairs were performed, the consumer
4 took her vehicle to the Bureau field office for another inspection. The consumer could not
5 provide the Bureau with an invoice for the corrective repairs because Respondent had not
6 provided her with one. That inspection revealed that a corroded weld on the radiator support area
7 in the exact location as noted on the initial inspection still existed. Also, the two fasteners that
8 were discovered missing in an earlier inspection were still missing from the cowl top panel. The
9 consumer provided the Bureau with the radiator support that Respondent had removed from her
10 vehicle. The part was in several pieces. The welds had been severed and cut away from her
11 vehicle with a pneumatic chisel, rather than by removing the welds prior to separating the panels.
12 The Bureau observed one of the welds in place had metal inert gas wire electrode embedded in it.

13 21. On or about July 7 & 8, 2010, the Bureau inspected and photographed the consumer's
14 vehicle at KS California Auto Body. That inspection revealed the following:

15 a. The radiator support had been improperly welded into position on the frame rails with
16 beads not with plug welds.

17 b. Large beads of sealer were in place on some of the components. On the lower rails, it
18 was applied in amounts intended to conceal the prohibited weld beads.

19 c. Both lower rails were still damaged.

20 d. The improper welding and air chisel damaged the rails so extensively due to the
21 excessive heat and tearing of the metal that it compromised the vehicle's structural integrity. The
22 torn metal had been filled with weld material and, inside the rails, had been resurfaced with a die
23 grinder, causing more damage.

24 e. Improperly treated and burned metal was visible.

25 f. A left fender mount hole was enlarged to facilitate alignment, due to the underlying
26 structural distortion caused by the unrepaired damage.

27 g. The front bumper absorber was broken.

28 h. The engine support cradle, or subframe, was dented.

- i. The cooling fan switch was left unplugged.
- j. The pinch welds had been covered with undercoating.

FIRST CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

22. Respondent is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized statements which it knew or in the exercise of reasonable care should have known to be untrue or misleading when it provided the consumer with Original Repair Order No. 034712, which listed repair operations that had not been performed as follows:

- a. **Line 86**, Refin R Apron/Sidemember Complete;
- b. **Line 87**, Refin L. Apron/Sidemember Complete;
- c. **Line 89**, Repr R. Front Body Sidemember Assembly; and
- d. **Line 90**, Repr L. Front Body Sidemember Assembly.

SECOND CAUSE FOR DISCIPLINE

(Fraud)

23. Respondent is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(4), in that Respondent committed acts that constitute fraud, by accepting payment from State Farm Insurance for repairs and operations that had not been performed or deviated from the estimate specifications, as more particularly set forth in paragraph 16, subparagraphs a through l, above.

THIRD CAUSE FOR DISCIPLINE

(Gross Negligence)

24. Respondent is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(5), in that Respondent committed acts constituting gross negligence by releasing the vehicle to the consumer when the vehicle's structure was compromised, as more particularly set forth in paragraph 21, subparagraphs c and d, above, thereby greatly enhancing the likelihood of its failure if another collision were to occur.

1 following collision damage repairs performed by Respondent. The Bureau further requested the
2 consumer to authorize her vehicle to be partially disassembled at a nearby facility; however, due
3 to her schedule, she was unable to make the vehicle available until June 2011.

4 28. On or about June 28, 2011, the vehicle was taken to Golden West Auto Body in
5 Sunnyvale where she authorized the inspection. The vehicle was partially disassembled and
6 elevated on a lift for access. Using the estimate of record, the Bureau confirmed the following
7 repairs, totaling \$475.70 in labor, had not been performed:

8 a. **Line 65, Pan, Floor Repair, Left Rear Rail.** Respondent failed to repair the left
9 rear rail and floor. The left rear rail was visibly damaged. A visual indicator of the unrepaired
10 structural damage was the difference in the gaps between the rear doors and quarter panels.

11 b. **Line 82, Corrosion Protection.** Respondent failed to restore corrosion protection as
12 evidenced by burned and untreated metal in several locations.

13 c. **Line 83, Setup and Measure.** There were no signs of clamp damage, or repair and
14 refinishing of clamp damage on the pinch welds, which were uniform in appearance their entire
15 lengths. There was no evidence that the vehicle had been anchored to a frame bench.

16 d. **Line 85, Align Sheetmetal, Lt RR Frame/body/floor/pulls 1/4:** Respondent failed
17 to pull the damaged metal panels in the rear of the vehicle toward their proper position. The left
18 rear rail was buckled, the quarter panel to the rear door gap was significantly smaller on the left
19 side, and there was no evidence the vehicle had been anchored to a frame bench.

20 **SIXTH CAUSE FOR DISCIPLINE**

21 **(Untrue or Misleading Statements)**

22 29. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
23 subdivision (a)(1), in that Respondent made or authorized statements which it knew or in the
24 exercise of reasonable care should have known to be untrue or misleading. Regarding Original
25 Repair Order No. 033896, Respondent listed repairs that had not been performed, as set forth in
26 paragraph 28, subparagraph a and c, above, and failed to list repairs that had been performed or
27 should have been performed, as set forth in paragraph 28, subparagraphs b, and d, above.

28

1 SEVENTH CAUSE FOR DISCIPLINE

2 (Fraud)

3 30. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
4 subdivision (a)(4), in that Respondent committed acts that constitute fraud, by accepting payment
5 from Allstate Insurance for repairs and operations that had not been performed, as more
6 particularly set forth in paragraph 28, subparagraphs a through d, above.

7 EIGHTH CAUSE FOR DISCIPLINE

8 (Departure from Trade Standards)

9 31. 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 the following material respects:

- 13 a. Respondent failed to restore the corrosion protection.
14 b. Respondent failed to repair the left rear frame rail.

15 NINTH CAUSE FOR DISCIPLINE

16 (Violations of the Code)

17 32. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
18 subdivision (a)(6), in that Respondent failed to comply with provisions of that Code in the
19 following material respects:

- 20 b. Section 9884.9, subdivision (a): Regarding Original Repair Order No. 033896,
21 Respondent failed to document the consumer's authorization for repairs exceeding the initial
22 estimated amount.

23 OTHER MATTERS

24 33. Under Code section 9884.7, subdivision (c), the director may invalidate temporarily
25 or permanently or refuse to validate, the registrations for all places of business operated in this
26 state by MB Bodyshop of San Francisco, upon a finding that it has, or is, engaged in a course of
27 repeated and willful violations of the laws and regulations pertaining to an automotive repair
28 dealer.

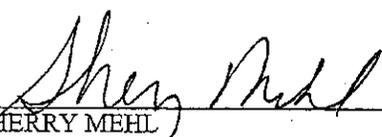
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PRAYER

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 or suspending Automotive Repair Dealer Registration Number ARD 246931, issued to MB Bodyshop of San Francisco doing business as Auto West Collision Repairs;
2. Revoking, suspending, or placing on probation any other automotive repair dealer registration issued to MB Bodyshop of San Francisco;
3. Ordering MB Bodyshop of San Francisco 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: 10/16/11



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

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