

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 G. MICHAEL GERMAN
Deputy Attorney General
4 State Bar No. 103312
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2617
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

BAR Case No. 77/15-13

13 **TINT STYLES & PRO AUTO GLASS,**
14 **KEVIN R. LINEHAN, Owner**
29770 Bradley Road, Ste. E
15 Sun City, CA 92586

A C C U S A T I O N

16 **Automotive Repair Dealer Registration**
17 **No. ARD 241131**

Respondent.

18 Complainant alleges:

19 **PARTIES**

20 1. Complainant Patrick Dorais brings this Accusation solely in his official capacity as
21 the Chief of the Bureau of Automotive Repair (Bureau), Department of Consumer Affairs.

22 2. On September 9, 2005, the Bureau issued Automotive Repair Dealer Registration
23 Number ARD 241131 (registration) to Tint Styles & Pro Auto Glass, owned by Kevin R. Linehan
24 (Respondent). The registration will expire on August 31, 2014, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Director of Consumer Affairs (Director) for the
27 Bureau, under the authority of the following laws. All section references are to the Business and
28 Professions Code unless otherwise indicated.

1 obtained at some time after it is determined that the estimated price is insufficient and
2 before the work not estimated is done or the parts not estimated are supplied. Written
3 consent or authorization for an increase in the original estimated price may be
4 provided by electronic mail or facsimile transmission from the customer. The bureau
5 may specify in regulation the procedures to be followed by an automotive repair
6 dealer when an authorization or consent for an increase in the original estimated price
7 is provided by electronic mail or facsimile transmission. If that consent is oral, the
8 dealer shall make a notation on the work order of the date, time, name of person
9 authorizing the additional repairs and telephone number called, if any, together with a
10 specification of the additional parts and labor and the total additional cost . . .

6 REGULATORY PROVISIONS

7 10. California Code of Regulations, title 16 (Regulations), section 3353, states in
8 pertinent part:

9

10 (a) Estimate for Parts and Labor. Every dealer shall give to each
11 customer a written estimated price for parts and labor for a specific job.

12 (b) Estimate for Auto Body or Collision Repairs. Every dealer, when
13 doing auto body or collision repairs, shall give to each customer a written estimated
14 price for parts and labor for a specific job. Parts and labor shall be described
15 separately and each part shall be identified, indicating whether the replacement part is
16 new, used, rebuilt, or reconditioned. The estimate shall also describe replacement
17 crash parts as original equipment manufacturer (OEM) crash parts or non-OEM
18 aftermarket crash parts.

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17 11. Regulations section 3371 states, in pertinent part:

18 No dealer shall publish, utter, or make or cause to be published, uttered,
19 or made any false or misleading statement or advertisement which is known to be
20 false or misleading, or which by the exercise of reasonable care should be known to
21 be false or misleading . . .

21 COST RECOVERY

22 12. Section 125.3 provides, in pertinent part, that the Board may request the
23 administrative law judge to direct a licentiate found to have committed a violation or violations of
24 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
25 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
26 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
27 included in a stipulated settlement.

CONSUMER COMPLAINT – M.H. – 2011 KIA FORTE

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2 13. On November 30, 2011, a 2011 Kia Forte owned by M.H. was damaged in an
3 accident. On December 1, 2011, M.H. reported the accident to her insurer, Wawanesa Insurance
4 Co. (Wawanesa), which advised her that it would only pay for towing within 15 miles. M.H.
5 sought auto body repair shops within that limit and found Respondent's business, Tint Styles &
6 Pro Auto Glass (Tint Styles). M.H. telephoned Tint Styles, whose receptionist, Stephanie, stated
7 that she could arrange for the vehicle to be towed to Tint Styles, which M.H. authorized and
8 provided Tint Styles with the location of her vehicle. Stephanie telephoned M.H. to confirm that
9 the vehicle had arrived at their facility, and faxed M.H. an estimate and an authorization form,
10 which M.H. signed and faxed back to Tint Styles on December 5, 2011. Stephanie informed
11 M.H. that a Wawanesa representative would inspect the vehicle and review the estimate at Tint
12 Styles, that she would order the necessary parts, and that repairs should be completed in
13 approximately one week. Wawanesa assigned the matter claim no. 884819, and prepared an
14 estimate dated December 5, 2011, with a net total amount of \$8,746.14 to repair the vehicle, after
15 applying M.H.'s \$500 deductible.

16 14. On or about December 9, 2011, M.H. telephoned Tint Styles and spoke with a man
17 who identified himself as the owner, Kevin. Kevin informed M.H. that the repairs would be
18 completed the following Monday. On or about December 12, 2011, M.H. took her son to Tint
19 Styles to retrieve the vehicle, but Kevin informed her that the repairs were not completed and that
20 the vehicle would be ready in approximately three hours. M.H. paid her deductible of \$500.00 by
21 check and left her son at Tint Styles to wait for the repairs to be completed. When he released the
22 vehicle to M.H.'s son, Kevin informed him that the repairs were not totally complete and he
23 would have to return the vehicle to Tint Styles to install a clip. After receiving the vehicle,
24 M.H.'s son telephoned and informed her that the electronic dash display was inoperative. M.H.
25 telephoned Tint Styles and spoke with Stephanie, who asked M.H. bring the vehicle back for the
26 corrective repairs. On or about December 16, 2011, M.H. and her son took the vehicle to Tint
27 Styles to have the clip installed and the dash display diagnosed and repaired. After inspecting the
28 vehicle, Tint Styles reported that the display was unplugged. Tint Styles installed the clip and

1 plugged in the display. When the repairs were completed, M.H.'s son received the vehicle.
2 vehicle. M.H. did not receive any paperwork documenting the repair, nor did she or her son sign
3 anything at that time.

4 15. A few days later, M.H. found that the corner of the hood on the passenger side of the
5 vehicle was sticking up above the fender and was not even with the other side. M.H. telephoned
6 Tint Styles and spoke with Stephanie, who asked her to bring the vehicle back for corrective
7 repairs. On or about December 20, 2011, M.H. took the vehicle to Tint Styles, which performed
8 the corrective repairs free of charge. M.H. did not receive any paperwork documenting the repair,
9 nor did she sign anything at that time.

10 16. On or about December 24, 2011, M.H.'s son telephoned and informed her that the
11 vehicle overheated and he contacted AAA, who sent roadside assistance. After inspecting the
12 vehicle, AAA found that the radiator was empty and refilled it, and the vehicle no longer
13 overheated. M.H. telephoned Tint Styles and spoke with Kevin, who told M.H. that he personally
14 filled the radiator and asked M.H. to bring the vehicle back to Tint Styles for an inspection. M.H.
15 contacted Wawanesa and the representative informed M.H. that Wawanesa might not be able to
16 assist her because she chose Tint Styles.

17 17. M.H. subsequently took her vehicle to Palmdale Kia (Palmdale) for an oil change.
18 After inspecting the vehicle, Palmdale reported that its paint didn't match and its fender had not
19 been replaced. M.H. telephoned Wawanesa and Kevin at Tint Styles, advised them of Palmdale's
20 findings, and scheduled an inspection of the vehicle with Kevin and a Wawanesa representative at
21 Tint Styles. On January 3, 2012, M.H. met with Kevin and the Wawanesa representative at Tint
22 Styles to re-inspect the vehicle. After re-inspecting the vehicle, Kevin acknowledged that the
23 vehicle needed corrective repairs and stated that Tint Styles would perform the repairs free of
24 charge. When M.H. pointed out that the air conditioning (AC) did not work, Kevin stated that
25 Tint Styles didn't perform any AC repairs. The Wawanesa representative informed Kevin that the
26 estimate called for the replacement of the AC condenser and recharging the system, and
27 suggested that M.H. take the vehicle to another body shop for a second opinion. Later that day,
28 M.H. took the vehicle to Temecula Auto Body (Temecula) for an inspection, and met with its

1 manager and Wawanesa's representative. After inspecting the vehicle, Temecula reported that
2 the left front fender had not been replaced and the frame was not aligned properly. M.H. then
3 filed a complaint with the Bureau.

4 18. On March 26, 2012, the Bureau's inspector photographed and inspected M.H.'s
5 vehicle using Wawanesa's estimate for claim #884819 supplied by M.H. as a guide,¹ and
6 determined the following:

7 a. Line # 37 of the estimate lists an operation to remove and replace the left fender
8 panel. Using a paint thickness gauge, the Bureau's inspector found the thickness to be 28.4 mils,
9 and determined that filler was used to repair the fender and the panel was not replaced, as
10 evidenced by the presence of filler and the original VIN identification sticker on the panel, which
11 would not be consistent with a part that was recently replaced with a new Original Equipment
12 Manufacturer (OEM) part.

13 b. Lines# 55, 56, & 57 of the estimate lists an operation to have the left front, right
14 front, and right rear wheels remanufactured and the tires re-mounted and balanced. The Bureau's
15 inspector determined that the wheels were not remanufactured, as evidenced by the scratches,
16 damage, and undisturbed wheel weights, which would not be consistent with a wheel that was
17 removed, remanufactured, remounted, and balanced.

18 c. Line # 58 of the estimate lists an operation to remove and replace the left lower
19 front suspension control arm assembly. The Bureau's inspector determined that the control arm
20 was not replaced, as evidenced by the undisturbed fasteners and appearance of the part which was
21 the same as the surrounding suspension components and would not be consistent with a part that
22 was recently replaced with a new OEM part.

23 d. Lines # 66, 67, & 68 lists an operation to repair and refinish the left cowl dash
24 hinge pillar. The Bureau inspector determined that the repair and refinish were not performed, as
25 evidenced by the dull appearance, dirt and dust residue, which would not be consistent with a
26 recently repaired and refinished part.

27 ¹Though its line item numbers were missing, this copy of the estimate proved identical to
28 Wawanesa's estimate of record, which did contain line item numbers.

1 e. Line # 72 of the estimate lists an operation to remove and install the left front
2 rear view mirror. The Bureau's inspector determined that the mirror was not removed as
3 evidenced by the paint bridging and masking marks which would not be consistent with a part
4 that was removed prior to painting

5 f. Line # 82 of the estimate lists an operation to remove and install the left rear
6 quarter glass. The Bureau's inspector determined the quarter glass was not removed as evidenced
7 by the paint bridging and masking marks, which would not be consistent with a part that was
8 removed prior to painting.

9 19. On July 23, 2012, the Bureau's inspector went to Tint Styles, met with V.W., its
10 receptionist, and asked to speak with the owner, Respondent Linehan, which he did by telephone
11 from Tint Styles's office. The Bureau's inspector informed both V.W. and Respondent of
12 M.H.'s complaint and allegation and requested the transaction documents pertaining to the
13 vehicle's repairs. On August 1, 2012, the Bureau inspector met with Respondent and received the
14 transaction documents. When the Bureau's representative informed Respondent of M.H.'s
15 allegation that the AC was inoperative and the left front fender had not been replaced,
16 Respondent stated that the fender had been replaced, and provided the Bureau's inspector with
17 parts purchase receipt no. 63196 from Perris Valley Auto Center (PV) as proof thereof. However,
18 when the Bureau's inspector subsequently met with PV's Kia parts manager on September 14,
19 2012, the manager told the Bureau's inspector that all the parts listed on invoice no. 63196 had
20 been returned by Respondent for credit, and provided the Bureau's inspector with a copy of the
21 credit invoice CM63196 for the returned parts.

22 20. In September 2012, the Bureau requested, received, and reviewed Wawanesa's file for
23 claim no. 884819, which contained the estimates of record, photographs of the damages to M.H.'s
24 vehicle, copies of cancelled checks payable to Tint Styles, and Wawanesa's report of post-repair
25 inspection finding that the vehicle had not been repaired per the estimate, and internal notes and
26 correspondence letters. The Bureau's inspector found that the total amount of theft committed by
27 Respondent was \$1,316.84, but that the cost to return M.H.'s vehicle to its pre-loss condition may
28 exceed this amount. At an office conference held at the Bureau's Riverside office on March 21,

1 2013, Respondent agreed to refund \$1,316.48 to M.H., however M.H. was not refunded any
2 money by Respondent.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Untrue Or Misleading Statements)**

5 21. Respondent's registration is subject to discipline under section 9884.7(a)(1), in that
6 Respondent made statements which he knew or which by exercise of reasonable care should have
7 known to be untrue or misleading by falsely representing to M.H., Wawanesa, and the Bureau
8 that M.H.'s 2011 Kia had been repaired according to Wawanesa's December 5, 2011 estimate
9 when, in fact, it was not, and that M.H. would refund \$1,316.48 for repairs not made, but, in fact,
10 did not, as detailed in paragraphs 18 through 20, above.

11 **SECOND CAUSE FOR DISCIPLINE**

12 **(Fraud)**

13 22. Respondent has subjected his registration to disciplinary action pursuant to section
14 9884.7, subdivision(a)(4), in that Respondent committed acts constituting fraud, by charging for
15 and receiving payment for repairs that were not performed, as detailed in paragraphs 18 through
16 20, above.

17 **THIRD CAUSE FOR DISCIPLINE**

18 **(Code Violations)**

19 23. Respondent has subjected his registration to discipline under section 9884.7,
20 subdivision (a)(6), in that Respondent failed to comply with provisions of the Code, in the
21 following material respects:

22 a. Respondent failed to provide M.H. with a written estimate for parts and labor
23 for a specific job regarding the repairs he performed on M.H.'s vehicle, in violation of section
24 9884.9, subdivision (a), as detailed in paragraphs 14 and 15, above.

25 b. Respondent failed to provide M.H. with an itemized estimate for auto body
26 repairs for all parts and labor that indicate whether parts would be new, used, reconditioned,
27 rebuilt, or OEM crash parts, or non-OEM aftermarket crash parts prior to performing the auto
28

1 body repairs, in violation of section 9884.9, subdivision (c), as detailed in paragraphs 14 through
2 20, above.

3 c. Respondent failed to provide M.H. with a final invoice describing all service
4 work performed and parts supplied regarding the collision repairs performed, in violation of
5 section 9884.8, as detailed in paragraphs 14 and 15, above.

6 **FOURTH CAUSE FOR DISCIPLINE**

7 **(Regulation Violations)**

8 24. Respondent has subjected his registration to discipline under section 9884.7,
9 subdivision (a)(6), in that Respondent materially failed to comply with the following provisions
10 of the Regulations :

11 a. Regulation 3353, subdivisions (a) and (b): Respondent failed to provide M.H.
12 with a written estimate for parts and labor for a specific job regarding the repairs he performed on
13 M.H.'s vehicle, as detailed in paragraphs 14 and 15, above.

14 b. Regulation 3371: Respondent made false or misleading statements by falsely
15 representing to a Bureau representative that M.H.'s 2011 Kia had been repaired according to
16 Wawanesa's December 5, 2011 estimate, when, in fact, it had not been, as detailed in paragraphs
17 18 through 20, above.

18 **JULY 10, 2013 UNDERCOVER OPERATION – 2008 TOYOTA**

19 25. On July 10, 2013, a Bureau undercover operator drove a Bureau-documented 2008
20 Toyota, having damage to its right front area, to Respondent's facility for collision repairs. The
21 operator informed Respondent's employee, who identified himself as Jose, that he needed an
22 estimate, and showed Jose the damage to the Toyota. Jose inspected the Toyota, but did not
23 discuss a price for the repairs. The operator told Jose that he had already contacted Mercury
24 Insurance (Mercury) and provided him with the claim number, [REDACTED] and the
25 insurance information card and policy. Jose asked if the operator was leaving the vehicle at Tint
26 Styles for repairs, and the operator responded yes and provided Jose with a fictitious name,
27 address, and the phone number for a Bureau-issued cell phone. Jose wrote the contact
28

1 information down on a notepad, and asked the operator to sign a document authorizing the
2 repairs, but still did not discuss a price. Jose did not provide the operator with a copy of the
3 signed document or any paperwork at that time, and the operator left the repair facility.

4 26. On July 17, 2013, the operator received a telephone call from a man who identified
5 himself as Tint Styles owner, Respondent Linehan. Linehan informed the operator that the
6 repairs were completed and that the operator owed the deductible of \$500.00. That same day, the
7 operator went to Tint Styles, met with Linehan, paid him the \$500.00 deductible, and received the
8 Toyota. The operator also received a hand written receipt on a Tint Styles coupon, a written
9 warranty and a copy of Tint Styles' July 17, 2013 preliminary estimate no. [REDACTED]

10 27. On July 24, 2013, a Bureau inspector began inspecting the Toyota and comparing its
11 condition with the repairs specified on Tint Styles' estimate and found the following
12 discrepancies:

13 a. Line #2 of the estimate lists an operation to replace the front bumper with a
14 quality recycled part (QRP), but the bumper was replaced with an aftermarket (AM) part as
15 shown by information embossed inside the bumper cover.

16 b. Line #7 of the estimate lists an operation to replace the right front combination
17 lamp with a QRP part. The part was replaced with a new AM part as shown by aftermarket
18 information printed on the part.

19 c. Line #11 of the estimate lists an operation to replace the right fender with a
20 QRP part, but the part was replaced with a new AM part as shown by the manufacturer's label
21 inside the fender.

22 d. Line #26 of the estimate lists an operation to remove and install the left front
23 door mirror, but this was not a necessary operation as no repairs were needed or done to the left
24 side.

25 e. Line #28 of the estimate lists an operation to replace the right front door
26 adhesive molding (also called body side molding), but this part was not replaced, as shown by the
27 tamper indicator the inspector had placed on the vehicle prior to its arrival at Tint Styles
28 remaining intact.

1 f. Line #35 of the estimate lists an operation to remove and install the right rear
2 door outside handle, but the part was not removed, as shown by the inspector's undisturbed
3 tamper indicator.

4 g. Line #36 of the estimate lists an operation to re-tape the right rear door
5 molding. The operation was not done, as evidenced by the molding's remaining attached with
6 original factory supplied adhesive.

7 28. On September 12, 2013, the Bureau's inspector went to Tint Styles, met with
8 Linehan, informed him of a complaint regarding the Toyota, and requested the transaction
9 documents pertaining to this complaint, which the inspector received from Linehan on September
10 16, 2013. Review of those documents revealed that the estimate given the inspector that day was
11 different from the one Tint Styles had given to the operator on July 17, 2013. Linehan admitted
12 that he had given the operator the wrong estimate of record, but insisted that the vehicle was
13 repaired in accordance with Mercury's estimate of record that he gave to the inspector on
14 September 16, 2013. When the inspector informed Linehan of the allegation that the molding
15 was not replaced, Linehan stated that Mercury did not pay to replace the molding and the estimate
16 called for the molding to be re-used.

17 29. In September 2013, the Bureau received a copy of Mercury's file for claim no.
18 # [REDACTED] which included its August 2, 2013 supplemental estimate of record,
19 payment drafts, and pre-repair photographs. The estimate identified the Toyota by description,
20 license number, and VIN. Three parts originally listed on Tint Styles' estimate to be replaced
21 with used parts (front bumper cover, right front combination lamp, and right fender) were
22 changed to AM parts on Mercury's estimate. Additionally, the line item numbers of operations
23 that the Bureau's inspector had previously identified as not being completed had been changed as
24 follows:

25 a. Line #28 of Tint Styles' estimate was line item 26 on Mercury's estimate of
26 record relating to right front door adhesive molding.

27 b. Line #35 of Tint Styles' estimate was line item 30 on Mercury estimate of
28 record relating to right rear outer door handle.

1 c. Line #36 of Tint Styles' estimate was line item 31 on Mercury's estimate of
2 record relating to clean and retape right rear door adhesive molding. Even though the line items
3 were numbered differently, the Bureau's inspector determined that none of these operations were
4 performed. Based on the post-repair inspections of the Toyota, the Bureau's inspector found that
5 the total amount of theft committed by Respondent was \$162.21, but that the cost to return the
6 Toyota to its pre-loss condition may exceed this amount.

7 **FIFTH CAUSE FOR DISCIPLINE**

8 **(Untrue Or Misleading Statements)**

9 30. Respondent's registration is subject to discipline under section 9884.7(a)(1), in that
10 Respondent made statements which he knew or which by exercise of reasonable care should have
11 known to be untrue or misleading by falsely representing to Mercury and the Bureau that the
12 2008 Toyota had been repaired according to Mercury's supplemental estimate dated August 2,
13 2013, when, in fact, it was not, as detailed in paragraphs 27 through 29, above.

14 **SIXTH CAUSE FOR DISCIPLINE**

15 **(Fraud)**

16 31. Respondent has subjected his registration to disciplinary action pursuant to section
17 9884.7, subdivision(a)(4), in that Respondent committed acts constituting fraud, by charging for
18 and receiving payment for repairs to the 2008 Toyota that were not performed, as detailed in
19 paragraphs 27 through 29, above.

20 **SEVENTH CAUSE FOR DISCIPLINE**

21 **(Code Violations)**

22 32. Respondent has subjected his registration to discipline under section 9884.7,
23 subdivision (a)(6), in that Respondent failed to comply with provisions of the Code, in the
24 following material respects:

25 a. Respondent failed to provide the Bureau's operator with a written estimate for
26 parts and labor for a specific job regarding the repairs he performed on the 2008 Toyota, in
27 violation of section 9884.9, subdivision (a), as detailed in paragraph 25, above.

1 2. Ordering Kevin R. Linehan to pay the Bureau of Automotive Repair the reasonable
2 costs of the investigation and enforcement of this case, pursuant to Business and Professions
3 Code section 125.3; and

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

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6 DATED: August 26, 2014



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

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