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

11  
12 In the Matter of the Accusation Against:  
13 **T & T AUTO REPAIR INC., d.ba. T&T**  
**AUTO REPAIR**  
14 **330 Webster Street**  
**Oakland, CA 94607**  
15  
16 **Thanh V. Dang, President**  
**Lisa Truong, Vice President, Secretary, and**  
**Treasurer**  
17  
18 **Automotive Repair Dealer Registration No.**  
**ARD 241310**  
19  
20 Respondent.

Case No. **77/16-63**

**ACCUSATION**

21 Complainant alleges:

22 **PARTIES**

- 23 1. Patrick Dorais ("Complainant") brings this Accusation solely in his official capacity  
24 as the Chief of the Bureau of Automotive Repair, Department of Consumer Affairs.
- 25 2. On or about October 18, 2005, the Bureau of Automotive Repair issued Automotive  
26 Repair Dealer Registration Number ARD 241310 to T & T Auto Repair Inc., doing business as  
27 T&T Auto Repair; Thanh V. Dang, President; Lisa Truong, Vice President, Secretary, and  
28 Treasurer ("Respondent"). The Automotive Repair Dealer Registration was in full force and

1 effect at all times relevant to the charges brought in this Accusation and will expire on August 31,  
2 2016, unless renewed.

### 3 JURISDICTION

4 3. This Accusation is brought before the Director of the Department of Consumer  
5 Affairs ("Director") for the Bureau of Automotive Repair ("Bureau"), under the authority of the  
6 following laws. All section references are to the Business and Professions Code unless otherwise  
7 indicated.

8 4. Section 118 of states, in part:

9 ...

10 "(b) The suspension, expiration, or forfeiture by operation of law of a license issued by a  
11 board in the department, or its suspension, forfeiture, or cancellation by order of the board or by  
12 order of a court of law, or its surrender without the written consent of the board, shall not, during  
13 any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its  
14 authority to institute or continue a disciplinary proceeding against the licensee upon any ground  
15 provided by law or to enter an order suspending or revoking the license or otherwise taking  
16 disciplinary action against the licensee on any such ground.

17 "(c) As used in this section, 'board' includes an individual who is authorized by any  
18 provision of this code to issue, suspend, or revoke a license, and 'license' includes 'certificate,'  
19 'registration,' and 'permit.'"

20 5. Section 9880.3 states:

21 "Protection of the public shall be the highest priority for the Bureau of Automotive Repair  
22 in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the  
23 public is inconsistent with other interests sought to be promoted, the protection of the public shall  
24 be paramount."

### 25 RELEVANT STATUTES AND REGULATIONS

26 6. Section 9884.7 states, in part:

27 "(a) The director, where the automotive repair dealer cannot show there was a bona fide  
28 error, may deny, suspend, revoke, or place on probation the registration of an automotive repair

1 dealer for any of the following acts or omissions related to the conduct of the business of the  
2 automotive repair dealer, which are done by the automotive repair dealer or any automotive  
3 technician, employee, partner, officer, or member of the automotive repair dealer.

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

7 “(2) Causing or allowing a customer to sign any work order that does not state the repairs  
8 requested by the customer or the automobile's odometer reading at the time of repair.

9 ...

10 “(4) Any other conduct that constitutes fraud.

11 ...

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

14 ...”

15 7. Section 9884.8 states:

16 “All work done by an automotive repair dealer, including all warranty work, shall be  
17 recorded on an invoice and shall describe all service work done and parts supplied. Service work  
18 and parts shall be listed separately on the invoice, which shall also state separately the subtotal  
19 prices for service work and for parts, not including sales tax, and shall state separately the sales  
20 tax, if any, applicable to each. If any used, rebuilt, or reconditioned parts are supplied, the invoice  
21 shall clearly state that fact. If a part of a component system is composed of new and used, rebuilt  
22 or reconditioned parts, that invoice shall clearly state that fact. The invoice shall include a  
23 statement indicating whether any crash parts are original equipment manufacturer crash parts or  
24 nonoriginal equipment manufacturer aftermarket crash parts. One copy of the invoice shall be  
25 given to the customer and one copy shall be retained by the automotive repair dealer.”

26 8. Section 9884.9, subdivision (a) states:

27 “(a) The automotive repair dealer shall give to the customer a written estimated price for  
28 labor and parts necessary for a specific job. No work shall be done and no charges shall accrue

1 before authorization to proceed is obtained from the customer. No charge shall be made for work  
2 done or parts supplied in excess of the estimated price without the oral or written consent of the  
3 customer that shall be obtained at some time after it is determined that the estimated price is  
4 insufficient and before the work not estimated is done or the parts not estimated are supplied.

5 Written consent or authorization for an increase in the original estimated price may be provided  
6 by electronic mail or facsimile transmission from the customer. The bureau may specify in  
7 regulation the procedures to be followed by an automotive repair dealer if an authorization or  
8 consent for an increase in the original estimated price is provided by electronic mail or facsimile  
9 transmission. If that consent is oral, the dealer shall make a notation on the work order of the  
10 date, time, name of person authorizing the additional repairs, and telephone number called, if any,  
11 together with a specification of the additional parts and labor and the total additional cost, and  
12 shall do either of the following:

13 “(1) Make a notation on the invoice of the same facts set forth in the notation on the work  
14 order.

15 “(2) Upon completion of the repairs, obtain the customer's signature or initials to an  
16 acknowledgment of notice and consent, if there is an oral consent of the customer to additional  
17 repairs, in the following language:

18 “I acknowledge notice and oral approval of an increase in the original estimated price.

19 “(signature or initials)’

20 “Nothing in this section shall be construed as requiring an automotive repair dealer to give  
21 a written estimated price if the dealer does not agree to perform the requested repair.”

22 9. California Code of Regulations, title 16, section 3353, subdivision (c) states:

23 “(c) Additional Authorization. Except as provided in subsection (f), the dealer shall obtain  
24 the customer's authorization before any additional work not estimated is done or parts not  
25 estimated are supplied. This authorization shall be in written, oral, or electronic form, and shall  
26 describe the additional repairs, parts, labor and the total additional cost.

27 “(1) If the authorization from the customer for additional repairs, parts, or labor in excess of  
28 the written estimated price is obtained orally, the dealer shall also make a notation on the work

1 order and on the invoice of the date, time, name of the person authorizing the additional repairs,  
2 and the telephone number called, if any, together with the specification of the additional repairs,  
3 parts, labor and the total additional cost.

4 “(2) If the authorization from the customer for additional repairs, parts, or labor in excess of  
5 the written estimated price is obtained by facsimile transmission (fax), the dealer shall also attach  
6 to the work order and the invoice, a faxed document that is signed and dated by the customer and  
7 shows the date and time of transmission and describes the additional repairs, parts, labor and the  
8 total additional cost.

9 “(3) If the authorization from the customer for additional repairs, parts, or labor in excess of  
10 the written estimated price is obtained by electronic mail (e-mail), the dealer shall print and attach  
11 to the work order and invoice, the e-mail authorization which shows the date and time of  
12 transmission and describes the additional repairs, parts, labor and the total additional cost.

13 “(4) The additional repairs, parts, labor, total additional cost, and a statement that the  
14 additional repairs were authorized either orally, or by fax, or by e-mail shall be recorded on the  
15 final invoice pursuant to Section 9884.9 of the Business and Professions Code. All documentation  
16 must be retained pursuant to Section 9884.11 of the Business and Professions Code.”

17 10. California Code of Regulations, title 16, section 3356, subdivision (a) states:

18 “(a) All invoices for service and repair work performed, and parts supplied, as provided for  
19 in Section 9884.8 of the Business and Professions Code, shall comply with the following:

20 “(1) The invoice shall show the automotive repair dealer's registration number and the  
21 corresponding business name and address as shown in the Bureau's records. If the automotive  
22 repair dealer's telephone number is shown, it shall comply with the requirements of subsection (b)  
23 of Section 3371 of this chapter.

24 “(2) The invoice shall separately list, describe and identify all of the following:

25 “(A) All service and repair work performed, including all diagnostic and warranty work,  
26 and the price for each described service and repair.

27 “(B) Each part supplied, in such a manner that the customer can understand what was  
28 purchased, and the price for each described part. The description of each part shall state whether

1 the part was new, used, reconditioned, rebuilt, or an OEM crash part, or a non-OEM aftermarket  
2 crash part.

3 “(C) The subtotal price for all service and repair work performed.

4 “(D) The subtotal price for all parts supplied, not including sales tax.

5 “(E) The applicable sales tax, if any.”

6 11. California Code of Regulations, title 16, section 3358 states:

7 “Each automotive repair dealer shall maintain legible copies of the following records for  
8 not less than three years:

9 “(a) All invoices relating to automotive repair including invoices received from other  
10 sources for parts and/or labor.

11 “(b) All written estimates pertaining to work performed.

12 “(c) All work orders and/or contracts for repairs, parts and labor. All such records shall be  
13 open for reasonable inspection and/or reproduction by the bureau or other law enforcement  
14 officials during normal business hours.”

15 12. California Code of Regulations, title 16, section 3371 states:

16 “No dealer shall publish, utter, or make or cause to be published, uttered, or made any false  
17 or misleading statement or advertisement which is known to be false or misleading, or which by  
18 the exercise of reasonable care should be known to be false or misleading. Advertisements and  
19 advertising signs shall clearly show the following:

20 “(a) Firm Name and Address. The dealer's firm name and address as they appear on the  
21 State registration certificate as an automotive repair dealer; and

22 “(b) Telephone Number. If a telephone number appears in an advertisement or on an  
23 advertising sign, this number shall be the same number as that listed for the dealer's firm name  
24 and address in the telephone directory, or in the telephone company records if such number is  
25 assigned to the dealer subsequent to the publication of such telephone directory.”

26 13. California Code of Regulations, title 16, section 3373 states:

27 “No automotive repair dealer or individual in charge shall, in filling out an estimate,  
28 invoice, or work order, or record required to be maintained by section 3340.15(e) of this chapter,

1 withhold therefrom or insert therein any statement or information which will cause any such  
2 document to be false or misleading, or where the tendency or effect thereby would be to mislead  
3 or deceive customers, prospective customers, or the public.”

4 FACTUAL BACKGROUND

5 14. In May and June 2015, a vehicle owner contracted with Respondent to replace a  
6 vehicle’s motor, including its air pump, and install a new catalyst, respectively. Respondent  
7 represented to the vehicle owner that it would perform this work and, later, that it did perform this  
8 work in the form of oral statements by Respondent’s President Thanh V. Dang as well as written  
9 estimates, invoices, and repair orders. However, these representations were untrue, false, and  
10 misleading, and Respondent, including Mr. Dang, was aware that these statements were untrue,  
11 false, and misleading. In fact, a Bureau investigation, including an inspection of the vehicle,  
12 found that Respondent had not replaced the vehicle’s engine and air pump or installed a new  
13 catalyst.

14 15. During the Bureau’s investigation, in furtherance of Respondent’s deceptive  
15 practices, Mr. Dang made further untrue, false, and misleading statements to the Bureau’s  
16 investigator, including that the vehicle had been towed to Respondent’s repair facility without an  
17 engine in the vehicle; that Respondent had installed a used engine into the vehicle; and that  
18 Respondent had disassembled the upper portion of the vehicle’s engine, removed and repaired the  
19 vehicle’s cylinder head and gasket, and installed a used catalyst in the vehicle. The Bureau’s  
20 inspection of the vehicle showed that Respondent did not perform any of this work on the vehicle.

21 16. During the Bureau’s investigation, the Bureau’s investigator also found that:

22 a. Respondent did not obtain additional authorization from the vehicle owner for  
23 installation of a new catalyst.

24 b. Respondent caused or allowed the vehicle owner to sign a work order that did  
25 not state the vehicle’s odometer reading at the time of repair.

26 c. Respondent failed to describe on its invoices all the work it performed and parts  
27 it supplied, including all warranty work and the price for each described service and repair.

28

1 d. Respondent failed to maintain copies of all work orders, invoices, and parts  
2 receipts for the repair.

3 FIRST CAUSE FOR DISCIPLINE  
4 (False and Misleading Statements)

(Bus. & Prof. Code § 9884.7, subd. (a)(1) and Cal. Code of Regs., title 16, § 3371)

5 17. Respondent has subjected its Automotive Repair Dealer Registration to disciplinary  
6 action for making statements, written or oral, which were untrue or misleading, and which were  
7 known, or which by the exercise of reasonable care should have been known, to be untrue or  
8 misleading. (Bus. & Prof. Code § 9884.7, subd. (a)(1) and Cal. Code of Regs., title 16, § 3371).  
9 The circumstances are set forth in paragraphs 14 and 15, above.

10 SECOND CAUSE FOR DISCIPLINE  
11 (Fraud)

(Bus. & Prof. Code § 9884.7, subd. (a)(4))

12 18. Respondent has subjected its Automotive Repair Dealer Registration to disciplinary  
13 action for conduct that constitutes fraud. (Bus. & Prof. Code § 9884.7, subd. (a)(4)). The  
14 circumstances are set forth in paragraphs 14 and 15, above.

15 THIRD CAUSE FOR DISCIPLINE  
16 (False or Misleading Estimate, Invoice, or Work Order)  
17 (Cal. Code of Regs., title 16, § 3373)

18 19. Respondent has subjected its Automotive Repair Dealer Registration to disciplinary  
19 action for including in an estimate, invoice, or work order statements which caused those  
20 documents to be false or misleading. (Cal. Code of Regs., title 16, § 3373). The circumstances  
21 are set forth in paragraphs 14 and 15, above.

22 FOURTH CAUSE FOR DISCIPLINE  
23 (Failure to Properly Record Authorization)

(Bus. & Prof. Code § 9884.9, subd. (a) and Cal. Code of Regs., title 16, § 3353, subd. (c))

24 20. Respondent has subjected its Automotive Repair Dealer Registration to disciplinary  
25 action for failing to obtain authorization from the vehicle owner for replacement of the vehicle's  
26 catalyst. (Bus. & Prof. Code § 9884.9, subd. (a) and Cal. Code of Regs., title 16, § 3353, subd.  
27 (c)). The circumstances are set forth in paragraphs 14 and 16, subparagraph (a), above.

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FIFTH CAUSE FOR DISCIPLINE  
(Failure to Include Odometer Reading in Work Order)  
(Bus. & Prof. Code § 9884.7, subd. (a)(2))

21. Respondent has subjected its Automotive Repair Dealer Registration to disciplinary action for causing or allowing a customer to sign a work order that did not state the vehicle's odometer reading at the time of repair. (Bus. & Prof. Code § 9884.7, subd. (a)(2)). The circumstances are set forth in paragraphs 14 and 16, subparagraph (b), above.

SIXTH CAUSE FOR DISCIPLINE  
(Failure to Describe All Work in Invoice)  
(Bus. & Prof. Code § 9884.8 and Cal. Code of Regs., title 16, § 3356, subd. (a))

22. Respondent has subjected its Automotive Repair Dealer Registration to disciplinary action for failing to record all work performed in Respondent's invoices. (Bus. & Prof. Code § 9884.8 and Cal. Code of Regs., title 16, § 3356, subd. (a)). The circumstances are set forth in paragraphs 14 and 16, subparagraph (c), above.

SEVENTH CAUSE FOR DISCIPLINE  
(Failure to Maintain Records)  
(Cal. Code of Regs., title 16, § 3358)

23. Respondent has subjected its Automotive Repair Dealer Registration to disciplinary action for failing to maintain, for three years, records of all work orders, invoices, and parts receipts. (Cal. Code of Regs., title 16, § 3358). The circumstances are set forth in paragraphs 14 and 16, subparagraph (d), above.

EIGHTH CAUSE FOR DISCIPLINE  
(Failure to Comply with Automotive Repair Act and Regulations)  
(Bus. & Prof. Code § 9884.7, subd. (a)(6))

24. Respondent has subjected its Automotive Repair Dealer Registration to disciplinary action for failing in a material respect to comply with the Automotive Repair Act and regulations adopted pursuant to the Automotive Repair Act. (Bus. & Prof. Code § 9884.7, subd. (a)(6)). The circumstances are set forth in paragraphs 14 through 23, above.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this Accusation, and that following the hearing, the Director of Consumer Affairs issue a decision:

1. Revoking or suspending Automotive Repair Dealer Registration Number ARD 241310, issued to Respondent
2. Ordering Respondent 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
3. Taking such other and further action as deemed necessary and proper.

DATED: June 6, 2016



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

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