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

12 In the Matter of the Accusation Against:
13 **LANDER AUTO BODY**
14 **MIGUEL ANGEL GONZALEZ, OWNER**
510 Lander Avenue
Turlock, California 95380
15 **Automotive Repair Dealer Registration**
16 **No. ARD 247701**
17 Respondent.

Case No. 77/15-9

A C C U S A T I O N

18 Patrick Dorais ("Complainant") alleges:

19 **PARTIES**

- 20 1. Complainant brings this Accusation solely in his official capacity as the Chief of the
21 Bureau of Automotive Repair ("Bureau"), Department of Consumer Affairs.
22 2. On or about March 13, 2007, the Bureau issued Automotive Repair Dealer
23 Registration Number ARD 247701 to Miguel Angel Gonzalez ("Respondent"), owner of Lander
24 Auto Body. The automotive repair dealer registration expired on October 31, 2013, and has not
25 been renewed.

26 **JURISDICTION**

- 27 3. Business and Professions Code ("Code") section 9884.7 provides that the Director
28 may revoke an automotive repair dealer registration.

1 aftermarket crash parts. One copy of the invoice shall be given to the customer and one
2 copy shall be retained by the automotive repair dealer.

3 8. Code section 9884.9 provides, in pertinent part:

4 (a) The automotive repair dealer shall give to the customer a written estimated price
5 for labor and parts necessary for a specific job. No work shall be done and no charges shall
6 accrue before authorization to proceed is obtained from the customer. . . .

7 (c) In addition to subdivisions (a) and (b), an automotive repair dealer, when doing
8 auto body or collision repairs, shall provide an itemized written estimate for all parts and
9 labor to the customer. . . .

10 9. Code section 477 provides, in pertinent part, that "Board" includes "bureau,"
11 "commission," "committee," "department," "division," "examining committee," "program," and
12 "agency." "License" includes certificate, registration or other means to engage in a business or
13 profession regulated by the Code.

14 10. California Code of Regulations, title 16 ("Regulations"), section 3356, states, in
15 pertinent part:

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

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

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

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

26 **COST RECOVERY**

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

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1 **UNDERCOVER OPERATION**

2 12. On or about March 4, 2014, a Bureau undercover operator using an alias (the
3 “operator”) took a Bureau-documented 2007 Ford to Respondent’s facility to repair a minor dent
4 in the left front fender. Respondent quoted \$300 for the repair. Respondent requested, and the
5 operator paid, a \$100 deposit. Respondent wrote on a post-it note imprinted with “LKQ Auto
6 Parts of Northern California”, “Paid deposit 100.00 for [vehicle] 07’ paint fender/repair”, the
7 date, and his phone number. Respondent signed the post-it note (the “Estimate”) and gave it to the
8 operator.

9 13. On or about March 7, 2014, the operator retrieved the vehicle from Respondent. The
10 operator paid the \$200 balance remaining and Respondent issued an unnumbered invoice (the
11 “Invoice”), which did not include the vehicle’s odometer reading or an automotive repair dealer
12 registration number, did not separately list the price for each labor operation, and did not include
13 the applicable sales tax.

14 **FIRST CAUSE FOR DISCIPLINE**

15 (Failure to Record Odometer Reading)

16 14. Respondent’s registration is subject to discipline pursuant to Code
17 section 9884.7(a)(2), in that, as regards the Bureau’s 2007 Ford, Respondent caused or allowed
18 the Bureau operator to sign a work order that did not state the automobile's odometer reading at
19 the time of repair.

20 **SECOND CAUSE FOR DISCIPLINE**

21 (Failure to Comply with the Automotive Repair Act)

22 15. Respondent’s registration is subject to discipline pursuant to Code
23 section 9884.7(a)(6), in that regarding the Bureau’s 2007 Ford, Respondent failed to materially
24 comply with the following provisions of that Code, as follows:

25 a. **Code section 9884.6(a)**: Respondent acted in the capacity of an automotive repair
26 dealer when his registration was invalid.

27 b. **Code section 9884.9(a)**: Respondent failed to provide the operator with a written
28 estimate that included the cost of parts and labor.

1 c. **Code section 9884.8**: Respondent failed to separately set forth the applicable sales
2 tax on the Invoice.

3 **THIRD CAUSE FOR DISCIPLINE**

4 (Failure to Comply with Regulations)

5 16. Respondent's registration is subject to discipline pursuant to Code
6 section 9884.7(a)(6), in that regarding the Bureau's 2007 Ford, Respondent failed to materially
7 comply with Regulations, as follows:

8 a. **Regulation 3356(a)(1)**: Respondent failed to set forth his automotive repair dealer
9 registration number on the Invoice.

10 b. **Regulation 3356(a)(6)**: Respondent failed to set forth his automotive repair dealer
11 registration number on the Estimate.

12 c. **Regulation 3356(a)(2)(A)**: Respondent failed to separately state the price for each
13 described repair on the Invoice.

14 **MATTERS IN AGGRAVATION**

15 17. To determine the degree of discipline, if any, to be imposed on Respondent,
16 Complainant alleges as follows:

17 a. On or about February 23, 2012, the Bureau issued Citation No. C2012-1005 against
18 Respondent for violation of Code section 9884.6(a) (operating as an automotive repair dealer
19 without a valid registration). Respondent was notified on four prior occasions that he had not
20 complied with registration renewal requirements and issued an Order of Abatement. Respondent
21 subsequently complied.

22 b. On or about July 27, 2012, the Bureau issued Citation No. C2013-0106 against
23 Respondent for violation of Code section 9884.6(a) (operating as an automotive repair dealer
24 without a valid registration). The Bureau assessed civil penalties totaling \$1,500 against
25 Respondent for the violation and issued an Order of Abatement. Respondent subsequently
26 complied.

27 c. On or about June 10, 2013, the Bureau issued Citation No. C2013-0699 against
28 Respondent for violation of Code section 9884.6(a) (operating as an automotive repair dealer

1 without a valid registration). The Bureau assessed civil penalties totaling \$250 against
2 Respondent for the violation. Respondent subsequently complied.

3 **OTHER MATTERS**

4 18. Pursuant to Code section 9884.7, subdivision (c), the Director may suspend, revoke,
5 or place on probation the registration for all places of business operated in this state by
6 Respondent Miguel Angel Gonzalez, owner of Lander Auto Body, upon a finding that
7 Respondent has, or is, engaged in a course of repeated and willful violations of the laws and
8 regulations pertaining to an automotive repair dealer.

9 **PRAYER**

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

- 12 1. Revoking or suspending Automotive Repair Dealer Registration Number
13 ARD 247701, issued to Miguel Angel Gonzalez, owner of Lander Auto Body;
- 14 2. Revoking or suspending any other automotive repair dealer registration issued to
15 Miguel Angel Gonzalez;
- 16 3. Ordering Miguel Angel Gonzalez to pay the Director of Consumer Affairs the
17 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
18 Professions Code section 125.3; and,
- 19 4. Taking such other and further action as deemed necessary and proper.

20
21 DATED: August 14, 2014

Patrick Dorais

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

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