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

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

Respondent.

Case No. 77/15-9

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about August 14, 2014, Complainant Patrick Dorais, in his official capacity as the Chief of the Bureau of Automotive Repair, Department of Consumer Affairs, filed Accusation No. 77/15-9 against Lander Auto Body; Miguel Angel Gonzalez, Owner (Respondent) before the Director of Consumer Affairs. (Accusation attached as Exhibit A.)

2. On or about March 13, 2007, the Bureau of Automotive Repair (Bureau) issued Automotive Repair Dealer No. ARD 247701 to Respondent. The Automotive Repair Dealer expired on October 31, 2013, and has not been renewed.

3. On or about August 26, 2014, Respondent was served by Certified and First Class Mail copies of the Accusation No. 77/15-9, Statement to Respondent, Notice of Defense, Request

1 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and
2 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code
3 section 136, is required to be reported and maintained with the Bureau. Respondent's address of
4 record was and is: 510 Lander Avenue, Turlock, California 95380.

5 4. Service of the Accusation was effective as a matter of law under the provisions of
6 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
7 124.

8 5. On or about August 29, 2014, the signed certified mail receipt was received from
9 Respondent.

10 6. Government Code section 11506 states, in pertinent part:

11 (c) The respondent shall be entitled to a hearing on the merits if the respondent
12 files a notice of defense, and the notice shall be deemed a specific denial of all parts
13 of the accusation not expressly admitted. Failure to file a notice of defense shall
14 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
15 may nevertheless grant a hearing.

16 7. Respondent failed to file a Notice of Defense within 15 days after service upon him
17 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
18 77/15-9.

19 8. California Government Code section 11520 states, in pertinent part:

20 (a) If the respondent either fails to file a notice of defense or to appear at the
21 hearing, the agency may take action based upon the respondent's express admissions
22 or upon other evidence and affidavits may be used as evidence without any notice to
23 respondent.

24 9. Pursuant to its authority under Government Code section 11520, the Director after
25 having reviewed the proof of service dated August 26, 2014, signed by Tracy Cortez, and the
26 signed certified mail receipt finds Respondent is in default. The Director will take action without
27 further hearing and, based on Accusation, No. 77/15-9, proof of service and on the Affidavit of
28 Bureau Representative James Enos, finds that the allegations in Accusation are true.

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1 DETERMINATION OF ISSUES

2 1. Based on the foregoing findings of fact, Respondent Lander Auto Body; Miguel
3 Angel Gonzalez, Owner has subjected his Automotive Repair Dealer No. ARD 247701 to
4 discipline.

5 2. The agency has jurisdiction to adjudicate this case by default.

6 3. The Director of Consumer Affairs is authorized to revoke Respondent's Automotive
7 Repair Dealer based upon the following violations alleged in the Accusation which are supported
8 by the evidence contained in the affidavit of Bureau Representative James Enos in this case:

9 a. Business and Professions Code section 9884.7(a)(2) – failure to record odometer
10 reading at time of repair;

11 b. Business and Professions Code section 9884.7(a)(6) – failure to comply with the
12 Automotive Repair Act;

13 c. Business and Professions Code section 9884.7(a)(6) – failure to comply with the
14 regulations adopted pursuant to the Automotive Repair Act.

15 ORDER

16 IT IS SO ORDERED that Automotive Repair Dealer No. ARD 247701, heretofore issued
17 to Respondent Lander Auto Body; Miguel Angel Gonzalez, Owner, is revoked.

18 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
19 written motion requesting that the Decision be vacated and stating the grounds relied on within
20 seven (7) days after service of the Decision on Respondent. The motion should be sent to the
21 Bureau of Automotive Repair, ATTN: William D. Thomas, 10949 North Mather Blvd., Rancho
22 Cordova, CA 95670. The agency in its discretion may vacate the Decision and grant a hearing on
23 a showing of good cause, as defined in the statute.

24 This Decision shall become effective on November 4, 2015.

25 It is so ORDERED October 11, 2015

26
27 
28 TAMARA COLSON
Assistant General Counsel
Department of Consumer Affairs

Exhibit A: Accusation

Exhibit A

Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 JANICE K. LACHMAN
Supervising Deputy Attorney General
3 KAREN R. DENVER
Deputy Attorney General
4 State Bar No. 197268
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5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-5333
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No.

77/15-9

13 **LANDER AUTO BODY**
14 **MIGUEL ANGEL GONZALEZ, OWNER**
510 Lander Avenue
Turlock, California 95380

ACCUSATION

15 **Automotive Repair Dealer Registration**
16 **No. ARD 247701**

17 Respondent.

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.

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aftermarket crash parts. 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 provides, 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. . . .

(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. . . .

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

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

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

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

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

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

COST RECOVERY

11. Code section 125.3 provides, in pertinent part, that a Board may request the 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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