

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JUSTIN R. SURBER
Deputy Attorney General
4 State Bar No. 226937
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 355-5437
6 Facsimile: (415) 703-5480
Attorneys for Complainant

7
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.

13 **FEDERAL AUTO BODY INC.**
1410 Concord Ave., Suite B
13 Concord, CA 94520
14 **MARK KAMRANFAR-**
PRESIDENT/SECRETARY/TREASURER
15 **Automotive Repair Dealer Registration No.**
ARD 248712

ACCUSATION 77/16-33

16 Respondent.

17
18
19 Complainant alleges:

20 **PARTIES**

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

23 2. On or about January 2, 2007, the Bureau of Automotive Repair (BAR) issued
24 Automotive Repair Dealer Registration Number ARD 248712 to Federal Auto Body Inc.
25 (Respondent). The Automotive Repair Dealer Registration expired on December 31, 2013 and
26 was not renewed until April 15, 2014. The Automotive Repair Dealer Registration was
27 delinquent between January 1, 2014 and April 15, 2014. The Automotive Repair Dealer
28

1 Registration expired on December 31, 2014, and has not been renewed. The Automotive Repair
2 Dealer Registration was cancelled on August 21, 2015.

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, under the authority of the following laws.
6 All section references are to the Business and Professions Code unless otherwise indicated.

7 4. Section 9884.6 of the Code states:

8 "(a) It is unlawful for any person to be an automotive repair dealer unless that person has
9 registered in accordance with this chapter [the Automotive Repair Act] and unless that
10 registration is currently valid.

11 "(b) A person who, for compensation, adjusts, installs, or tests retrofit systems for purposes
12 of Chapter 6 (commencing with Section 44200) of Part 5 of Division 26 of the Health and Safety
13 Code is an automotive repair dealer for purposes of this chapter."

14 5. Section 9884.7 of the Code states:

15 "(a) The director, where the automotive repair dealer cannot show there was a bona fide
16 error, may deny, suspend, revoke, or place on probation the registration of an automotive repair
17 dealer for any of the following acts or omissions related to the conduct of the business of the
18 automotive repair dealer, which are done by the automotive repair dealer or any automotive
19 technician, employee, partner, officer, or member of the automotive repair dealer.

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

23 ...

24 (4) Any other conduct which constitutes fraud.

25 ...

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

28

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

4 ...

5 "(c) Notwithstanding subdivision (b), the director may suspend, revoke, or place on
6 probation the registration for all places of business operated in this state by an automotive repair
7 dealer upon a finding that the automotive repair dealer has, or is, engaged in a course of repeated
8 and willful violations of this chapter, or regulations adopted pursuant to it."

9 6. Section 9884.8 of the Code states:

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

20 7. Section 9884.11 of the Code states that "[e]ach automotive repair dealer shall
21 maintain any records that are required by regulations adopted to carry out this chapter [the
22 Automotive Repair Act]. Those records shall be open for reasonable inspection by the chief or
23 other law enforcement officials. All of those records shall be maintained for at least three years."

24 8. Section 9884.13 of the Code provides, in pertinent part, that the expiration of a valid
25 registration shall not deprive the director or chief of jurisdiction to proceed with a disciplinary
26 proceeding against an automotive repair dealer or to render a decision invalidating a registration
27 temporarily or permanently.

28 9. California Code of Regulations, title 16, section 3356, states:

1 c.) Respondent violated California Code of Regulations, title 16, section 3373, by filling
2 out an estimate, invoice, or work order, with statements or information which caused the
3 document to be false or misleading. The invoices and/or estimates involving the 2006 BMW M5
4 indicated certain work had or would be performed when in fact that work had not or would not be
5 performed.

6 d.) Respondent violated section 9884.6 of the code because Respondent acted as an
7 Automotive Repair Dealer after its license had expired. Respondent performed automotive repair
8 on the 2006 BMW M5 after its license expired.

9 **2010 BMW 535i**

10 32. On or about July 8, 2014, Jorge Hernandez's 2010 BMW 535i was taken to
11 Respondent's shop for automotive repair.

12 33. Respondent submitted an auto body repair estimate for the BMW to GEICO insurance
13 with the total cost of the repairs being shown as \$14,389.58. GEICO provided Respondent with
14 two payment checks totaling \$13,389.58 (\$14,389.58 less the a \$1,000.00 deductible). The
15 checks were made payable to both Respondent and Jorge Hernandez.

16 34. Respondent's President forged Jorge Hernandez's signature on the checks and cashed
17 the checks.

18 35. Respondent failed to complete the repairs on Jorge Hernandez's BMW despite having
19 received full payment for those repairs. The only work Respondent performed on Jorge
20 Hernandez's BMW was some minor disassembly. Respondent received \$12,920.83 for repairs
21 that were not performed.

22 36. On or about October 28, 2014, Jorge Hernandez filed a complaint with the BAR about
23 Respondent's work on his 2010 BMW 535i.

24 37. On or about November 13, 2014, a BAR representative contacted Respondent and
25 first asked Respondent to provide copies of all repair documents and receipts concerning Jorge
26 Hernandez's 2010 BMW 535i.

27 38. Respondent promised to complete the repairs on Jorge Hernandez's BMW by
28 November 21, 2014. The repairs were not completed by that date.

1 making false or misleading statements. The circumstances are described in paragraph 32-40,
2 above.

3 c.) Respondent violated California Code of Regulations, title 16, section 3373, by filling
4 out an estimate, invoice, or work order, with statements or information which caused the
5 document to be false or misleading. The estimate involving the Jorge Hernandez's 2010 BMW
6 535i indicated certain work would be performed when in fact that work would not be performed.
7 The estimate also indicate that it was signed by Jorge Hernandez when in fact it was not.

8 **2012 CHEVROLET MALIBU**

9 44. On or about February 25, 2015, a 2012 Chevrolet Malibu leased by the United States
10 General Services Administration to the Internal Revenue Service was involved in an accident.
11 The vehicle was taken to Respondent's shop on or about February 27, 2015, for repairs.

12 45. After multiple missed deadlines to complete the repairs a complaint against
13 Respondent was filed with the BAR on or about May 14, 2015. Respondent was paid in full for
14 the repairs on the 2012 Chevrolet Malibu in or about April 2015.

15 46. On or about May 18, 2015. A BAR representative contacted Respondent about the
16 complaint. Respondent explained that some parts needed to be reordered because the previously
17 ordered parts did not fit and needed to be replaced. The BAR representative asked for receipts for
18 all of the parts. Respondent failed to provide receipts for the parts that were originally ordered
19 but needed to be replaced.

20 47. On or about May 19, 2015, Respondent "completed" the repairs on 2012 Chevy
21 Malibu and returned the vehicle to the government.

22 48. On or about May 19, 2015, a BAR Representative inspected the vehicle and
23 discovered the vehicle was not repaired per the invoice. Respondent was paid \$1,761.75 for parts
24 that were not replaced and repairs that were not performed. Respondent failed to perform the
25 following repairs and replace the following parts despite being paid for those parts and repairs:

- 26 a.) Repair luggage lid panel- Labor cost \$145.00
- 27 b.) Refinish luggage lid- Labor cost \$166.75
- 28 c.) Sublet muffler repair- Labor cost \$100.00

- 1 d.) Repair rear body floor pan- Labor cost \$145.00
- 2 e.) Refinish rear floor pan- Labor cost \$108.75
- 3 f.) Remove/replace R rear body side rail- Part cost \$95.00; Labor cost \$290.00
- 4 g.) Remove/replace L rear body side rail- Part Cost \$95.00; Labor cost \$290.00
- 5 h.) Frame pull left and right rear rails- Labor cost \$253.75
- 6 i.) Refinish rear impact bar- Labor cost \$72.50

7 **TENTH CAUSE FOR DISCIPLINE**

8 (False or Misleading Statements)

9 49. Respondent is subject to disciplinary action under section 9884.7, subsection (a)(1),
10 in that Respondent made statements that were false or misleading and that Respondent knew or
11 should have known that statements were false or misleading. The circumstances described in
12 paragraphs 44-48, above.

13 **ELEVENTH CAUSE FOR DISCIPLINE**

14 (Fraud)

15 50. Respondent is subject to disciplinary action under section 9884.7, subsection (a)(4),
16 in that Respondent committed fraud. The circumstances are further described in paragraphs 44-
17 48, above.

18 **TWELFTH CAUSE FOR DISCIPLINE**

19 (Failure to Comply With Automotive Repair Act and Regulations)

20 51. Respondent is subject to disciplinary action under section 9884.7, subsection (a)(6) in
21 that Respondent failed in a material respect to comply with the provisions of the Automotive
22 Repair Act or the Regulations adopted pursuant to it with regard to its work involving the 2012
23 Chevrolet Malibu. The circumstances are as follows:

24 a.) Respondent violated California Code of Regulations, title 16, section 3356. The
25 estimate/invoice for repairs on the 2012 Chevrolet Malibu did not include Respondent's
26 automotive repair dealer's registration number.

27 b.) Respondent violated California Code of Regulations, title 16, section 3371, by
28 making false or misleading statements. The circumstances are described in paragraph 44-48,

1 above.

2 c.) Respondent violated California Code of Regulations, title 16, section 3373, by filling
3 out an estimate, invoice, or work order, with statements or information which caused the
4 document to be false or misleading. The estimate/invoice involving the 2012 Chevrolet Malibu
5 indicated certain work would be performed when in fact that work would not be performed.

6 d.) Respondent violated California Code of Regulations, title 16, section 3356.1 because
7 the estimate/invoice failed to show an EPA number despite having charges for hazardous waste
8 disposal.

9 e.) Respondent violated California Code of Regulations, title 16, section 3358 by failing
10 to provide receipts for parts to the BAR representative as described in paragraph 46, above.

11 d.) Respondent violated section 9884.6 of the code because Respondent acted as an
12 Automotive Repair Dealer after its license had expired. Respondent performed automotive repair
13 on the 2012 Chevrolet Malibu after its license expired.

14 **THIRTEENTH CAUSE FOR DISCIPLINE**

15 (Willful Violation of Trade Standards)

16 52. Respondent is subject to disciplinary action under section 9884.7, subsection (a)(7),
17 and 9884.7, subsection (a)(6), in conjunction with California Code of Regulations, title 16,
18 section 3365 in that Respondent made a willful departure from or disregarded accepted trade
19 standards for good and workmanlike repair in any material respect. Respondent failed to apply
20 anti-corrosion protection to repaired areas of the 2012 Chevrolet Malibu. This was prejudicial to
21 another and was without consent of the owner or his or her duly authorized representative.

22 **OTHER MATTERS**

23 53. 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, upon a finding that Respondent has, or is, engaged in a course of repeated and willful
26 violations of the laws and regulations pertaining to an automotive repair 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 248712, issued to Federal Auto Body Inc.
2. Revoking or suspending any other automotive repair dealer registration issued in the name of Federal Auto Body Inc.;
3. Ordering Federal Auto Body Inc. 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;
4. Taking such other and further action as deemed necessary and proper.

DATED: 1/29/16

Patrick Dorais by Doug Balatti
 PATRICK DORAIS
 Chief
 Bureau of Automotive Repair
 Department of Consumer Affairs
 State of California
 Complainant
 DUG BALATTI
 Assist. Chief

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