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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:

Case No. 77/11-02

DEFAULT DECISION AND ORDER

**VISALIA MOTORSPORTS INC. DBA
THE ROAD HOUSE; WAYNE
HAMPTON AKA WAYNE HOUSE JR.,
PRESIDENT
P.O. Box 2751
Visalia, CA 93279
Automotive Repair Dealer Registration No.
ARD 257083**

[Gov. Code, §11520]

Respondent.

FINDINGS OF FACT

1. On or about July 21, 2011, Complainant Sherry Mehl, in her official capacity as the former Chief of the Bureau of Automotive Repair, Department of Consumer Affairs, filed Accusation No. 77/11-02 against Visalia Motorsports Inc. DBA The Road House; Wayne Hampton aka Wayne House Jr., President (Respondent) before the Director of Consumer Affairs. (Accusation attached as Exhibit A.)

2. On or about January 7, 2009, the Bureau of Automotive Repair (Bureau) issued Automotive Repair Dealer Registration No. ARD 257083 to Respondent. The Automotive Repair Dealer Registration expired on December 31, 2010, and has not been renewed.

3. On or about August 4, 2011, Respondent was served by Certified and First Class Mail copies of the Accusation No. 77/11-02, Statement to Respondent, Notice of Defense, Request for

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

4 P.O. Box 2751, Visalia, CA 93279.

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. Said accusation and other documents were not returned as undeliverable by the U.S.
9 Postal service.

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's attorney timely contacted attorney for complainant and indicated his
17 client wanted to surrender his license. Following efforts to conclude such a settlement,
18 Respondent's attorney filed a "Notice of Withdrawal" of all defenses by respondent (See
19 attachment B). Said withdrawal of defenses is the functional equivalent of failure file a Notice of
20 Defense within 15 days after service upon them of the Accusation, and therefore waives
21 Respondents' right to a hearing on the merits of Accusation No. 77/11-02.

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

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

27 9. Pursuant to its authority under Government Code section 11520, the Director after
28 having reviewed the proof of service dated August 4, 2011, signed by Nancy Christenson, and the
Notice of Withdrawal dated January 24, 2012, finds Respondent is in default. The Director will
take action without further hearing and, based on Accusation, No. 77/11-02, proof of service and

1 on the Affidavit of Bureau Representative Gilbert T. Sanchez, finds that the allegations in
2 Accusation are true.

3 DETERMINATION OF ISSUES

4 1. Based on the foregoing findings of fact, Respondent Visalia Motorsports Inc. DBA
5 The Road House; Wayne Hampton aka Wayne House Jr., President has subjected its Automotive
6 Repair Dealer Registration No. ARD 257083 to discipline.

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

8 3. The Director of Consumer Affairs is authorized to revoke Respondent's Automotive
9 Repair Dealer Registration based upon the following violations alleged in the Accusation which
10 are supported by the evidence contained in the affidavit of Bureau Representative Gilbert T.
11 Sanchez in this case.:

12 a. Respondent is subject to disciplinary action pursuant to Code section 490, subdivision
13 (a), in that on or about May 13, 1999, in the criminal proceeding titled *People v. Wayne Hampton*
14 *House* (Super. Ct. Tulare County, 1999, Case No. CR-0044599-A), Respondent pled nolo
15 contendere to violating Penal Code section 211 (second degree robbery, a felony), a crime
16 substantially related to the qualifications, duties, and functions of an automotive repair dealer.

17 b. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
18 subdivision (a)(1), in that Respondent made or authorized a statement which it knew or in the
19 exercise of reasonable care should have known to be untrue or misleading, as follows:
20 Respondent's president, Wayne House, Jr. ("House"), certified that he had never been convicted
21 of any offenses in this state or elsewhere. In fact, House had been convicted of robbery on June
22 23, 1999, in Tulare County Superior Court, Case No. CR-0044599-A.

23 c. Respondent is subject to disciplinary action pursuant to Code section 498 in that
24 Respondent's president, House, secured or obtained Automotive Repair Dealer Registration
25 Number ARD 257083 by fraud, deceit, or knowing misrepresentation of a material fact.

26 d. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
27 subdivision (a)(4), in that Respondent committed acts constituting fraud regarding parts and work
28 to be done and payments made to him for said parts and work on a 1969 Chevrolet Camaro from

1 consumer Gladys Moore in that he obtained payment from Moore for numerous parts and items
2 of repair and refurbishment, when, in fact, said parts were not installed or provided and repairs
3 and refurbishments had not been performed on the vehicle.

4 e. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
5 subdivision (a)(6), in that Respondent failed to comply with provisions of that Code in the
6 following material respects: 1) Section 9884.9, subdivision (a): Respondent failed to obtain
7 Moore's authorization for the restoration of the 1969 Chevrolet Camaro, 2) Section 9884.9,
8 subdivision (c): Respondent provided Moore with an itemized written estimate for the restoration
9 of the 1969 Chevrolet Camaro, but failed to describe the labor and parts separately, and failed to
10 indicate whether the replacement parts were new, used, rebuilt, or reconditioned.

11 f. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
12 subdivision (a)(4), in that Respondent committed acts constituting fraud regarding parts and work
13 to be done and payments made to him for said parts and work on a 1957 Chevrolet pickup owned
14 by Matt Hammond, in that he obtained payment from Hammond for numerous parts and items of
15 repair and refurbishment, when, in fact, said parts were not installed or provided and repairs and
16 refurbishments had not been performed on the vehicle.

17 g. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
18 subdivision (a)(6), in that Respondent failed to comply with section 9884.9, subdivision (c), of
19 that Code in a material respect, as follows: Respondent provided Hammond with an itemized
20 written estimate for the restoration and rebuilding of his 1957 Chevrolet pickup, but failed to
21 describe the labor and parts separately, and failed to indicate whether the replacement parts were
22 new, used, rebuilt, or reconditioned.

23 h. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
24 subdivision (a)(4), in that Respondent committed acts constituting fraud regarding parts and work
25 to be done and payments made to him for said parts and work on a 1954 Chevrolet Corvette
26 owned by Eugene Leal, in that he obtained payment from Leal for numerous parts and items of
27 repair and refurbishment, when, in fact, said parts were not installed or provided and repairs and
28 refurbishments had not been performed on the vehicle.

1 i. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
2 subdivision (a)(6), in that Respondent failed to comply with provisions of that Code in the
3 following material respects: 1) Section 9884.9, subdivision (a): Respondent failed to obtain
4 Leal's authorization for the restoration and repair of his 1954 Chevrolet Corvette; 2) Section
5 9884.9, subdivision (c): Respondent provided Leal with an itemized written estimate for the
6 restoration and repair of his 1954 Chevrolet Corvette, but failed to describe the labor and parts
7 separately, and failed to indicate whether the replacement parts were new, used, rebuilt, or
8 reconditioned.

9 ORDER

10 IT IS SO ORDERED that Automotive Repair Dealer Registration No. ARD 257083,
11 heretofore issued to Respondent Visalia Motorsports Inc. DBA The Road House; Wayne
12 Hampton aka Wayne House Jr., President, is revoked.

13 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
14 written motion requesting that the Decision be vacated and stating the grounds relied on within
15 seven (7) days after service of the Decision on Respondent. The motion should be sent to the
16 Bureau of Automotive Repair, ATTN: Tim Corcoran, 10235 Systems Parkway, Sacramento, CA
17 95827. The agency in its discretion may vacate the Decision and grant a hearing on a showing of
18 good cause, as defined in the statute.

19 This Decision shall become effective on June 7, 2012.

20 It is so ORDERED May 14, 2012

21
22 
23 DOREATHEA JOHNSON
24 Deputy Director, Legal Affairs
25 Department of Consumer Affairs

26 default decision_LIC.rtf
27 DOJ Matter ID:SA2011100965

28 Attachment:
Exhibit A: Accusation
Exhibit B: Notice of Withdrawal

EXHIBIT A
Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 JANICE K. LACHMAN
Supervising Deputy Attorney General
3 KENT D. HARRIS
Deputy Attorney General
4 State Bar No. 144804
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-7859
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 77/11-02

12 **VISALIA MOTORSPORTS, INC. dba THE ROAD HOUSE**
13 **WAYNE HAMPTON HOUSE,**
14 **aka WAYNE HOUSE, JR., PRESIDENT**
LYDIA REBECCA HOUSE, SECRETARY
15 **808 E. Acequia**
Visalia, CA 93292
16 **Mailing Address:**
P.O. Box 2751
Visalia, CA 93279
17 **Automotive Repair Dealer Registration No. ARD 257083**

ACCUSATION

18 Respondent.

19
20 Complainant alleges:

21 **PARTIES**

22 1. Sherry Mehl ("Complainant") brings this Accusation solely in her official capacity as
23 the Chief of the Bureau of Automotive Repair ("Bureau"), Department of Consumer Affairs.

24 2. On or about January 7, 2009, the Director of Consumer Affairs ("Director") issued
25 Automotive Repair Dealer Registration Number ARD 257083 to Visalia Motorsports, Inc.
26 ("Respondent"), doing business as The Road House, with Wayne Hampton House, also known as
27 Wayne House, Jr. ("Wayne House, Jr."), as president and Lydia Rebecca House as secretary.
28 Respondent's automotive repair dealer registration expired on December 31, 2010.

1 JURISDICTION

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

4 4. Code section 9884.13 provides, in pertinent part, that the expiration of a valid
5 registration shall not deprive the Director of jurisdiction to proceed with a disciplinary proceeding
6 against an automotive repair dealer or to render a decision temporarily or permanently
7 invalidating (suspending or revoking) a registration.

8 STATUTORY AND REGULATORY PROVISIONS

9 5. Code section 9884.7 states, in pertinent part:

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

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

19

20 (4) Any other conduct that constitutes fraud.

21

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

24 6. Code section 9884.7, subdivision (c), states, in pertinent part, that the Director may
25 suspend, revoke, or place on probation the registration for all places of business operated in this
26 state by an automotive repair dealer upon a finding that the automotive repair dealer has, or is,
27 engaged in a course of repeated and willful violations of the laws and regulations pertaining to an
28 automotive repair dealer.

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1 7. Code section 9884.9 states, in pertinent part:

2 (a) The automotive repair dealer shall give to the customer a written
3 estimated price for labor and parts necessary for a specific job. No work shall be done
4 and no charges shall accrue before authorization to proceed is obtained from the
5 customer. No charge shall be made for work done or parts supplied in excess of the
6 estimated price without the oral or written consent of the customer that shall be
7 obtained at some time after it is determined that the estimated price is insufficient and
8 before the work not estimated is done or the parts not estimated are supplied. Written
9 consent or authorization for an increase in the original estimated price may be
10 provided by electronic mail or facsimile transmission from the customer. The bureau
11 may specify in regulation the procedures to be followed by an automotive repair
12 dealer when an authorization or consent for an increase in the original estimated price
13 is provided by electronic mail or facsimile transmission. If that consent is oral, the
14 dealer shall make a notation on the work order of the date, time, name of person
15 authorizing the additional repairs and telephone number called, if any, together with a
16 specification of the additional parts and labor and the total additional cost . . .

17

18 (c) In addition to subdivisions (a) and (b), an automotive repair dealer,
19 when doing auto body or collision repairs, shall provide an itemized written estimate
20 for all parts and labor to the customer. The estimate shall describe labor and parts
21 separately and shall identify each part, indicating whether the replacement part is
22 new, used, rebuilt, or reconditioned. Each crash part shall be identified on the written
23 estimate and the written estimate shall indicate whether the crash part is an original
24 equipment manufacturer crash part or a nonoriginal equipment manufacturer
25 aftermarket crash part.

26 8. Code section 490, subdivision (a), states:

27 In addition to any other action that a board is permitted to take against a
28 licensee, a board may suspend or revoke a license on the ground that the licensee has
been convicted of a crime, if the crime is substantially related to the qualifications,
functions, or duties of the business or profession for which the license was issued.

9. Code section 498 states that “[a] board may revoke, suspend, or otherwise restrict a
license on the ground that the licensee secured the license by fraud, deceit, or knowing
misrepresentation of a material fact or by knowingly omitting to state a material fact.”

10. Code section 22, subdivision (a), states:

“Board” as used in any provision of this Code, refers to the board in
which the administration of the provision is vested, and unless otherwise expressly
provided, shall include “bureau,” “commission,” “committee,” “department,”
“division,” “examining committee,” “program,” and “agency.”

11. Code section 477, subdivision (b), states, in pertinent part, that a “license” includes
“registration” and “certificate.”

1 12. California Code of Regulations, title 16, section 3303, subdivision (j), states:

2 "Authorization" means consent. Authorization shall consist of the
3 customer's signature on the work order, taken before repair work begins.
4 Authorization shall be valid without the customer's signature only when oral or
5 electronic authorization is documented in accordance with applicable sections of
6 these regulations.

5 **COST RECOVERY**

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

10 **FIRST CAUSE FOR DISCIPLINE**

11 **(Criminal Conviction)**

12 14. Respondent is subject to disciplinary action pursuant to Code section 490, subdivision
13 (a), in that on or about May 13, 1999, in the criminal proceeding titled *People v. Wayne Hampton*
14 *House* (Super. Ct. Tulare County, 1999, Case No. CR-0044599-A), Respondent pled nolo
15 contendere to violating Penal Code section 211 (second degree robbery, a felony), a crime
16 substantially related to the qualifications, duties, and functions of an automotive repair dealer.

17 **SECOND CAUSE FOR DISCIPLINE**

18 **(Untrue or Misleading Statements)**

19 15. In or about December 2008, the Bureau received an application for an automotive
20 repair dealer registration from Wayne House, Jr. and Linda Rebecca House, president and
21 secretary, respectively, for Respondent, doing business as The Road House. On or about
22 December 12, 2008, the Houses certified under penalty of perjury that all statements made in the
23 application were true and correct.

24 16. Item 8 (a) on the application states:

25 Has any person in Number 7 been convicted of any offense in this state or
26 elsewhere? If YES, you must provide a DETAILED statement, including the crime
27 for which there was a conviction, the approximate date, location, and sentence served,
28 if any.

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1 17. On or about January 7, 2009, Automotive Repair Dealer Registration Number ARD
2 257083 was issued to Respondent as set forth in paragraph 2 above.

3 18. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
4 subdivision (a)(1), in that Respondent made or authorized a statement which it knew or in the
5 exercise of reasonable care should have known to be untrue or misleading, as follows:
6 Respondent's president, Wayne House, Jr. ("House"), certified that he had never been convicted
7 of any offenses in this state or elsewhere. In fact, House had been convicted of robbery on June
8 23, 1999, in Tulare County Superior Court, Case No. CR-0044599-A, as set forth in paragraph 14
9 above.

10 **THIRD CAUSE FOR DISCIPLINE**

11 **(Securing a License through Fraud, Deceit, or Knowing Misrepresentation)**

12 19. Complainant incorporates by reference as though fully set forth herein the allegations
13 contained in paragraphs 14 through 17 above.

14 20. Respondent is subject to disciplinary action pursuant to Code section 498 in that
15 Respondent's president, House, secured or obtained Automotive Repair Dealer Registration
16 Number ARD 257083 by fraud, deceit, or knowing misrepresentation of a material fact, as set
17 forth in paragraph 18 above.

18 **CONSUMER COMPLAINT (MOORE): 1969 CHEVROLET CAMARO**

19 21. On or about March 23, 2010, House picked up a 1969 Chevrolet Camaro from
20 consumer Gladys Moore's ("Moore") shop because Moore wanted the vehicle restored. House
21 gave Moore a written estimate totaling \$13,613.69 and told her that the restoration work would be
22 completed in about 3 months. Moore gave House a \$9,000 deposit as well as a Jeep at an agreed
23 value of \$4,500 as an additional down payment. House did not have Moore sign the estimate or a
24 repair order authorizing the work.

25 22. On or about May 13, 2010, Moore went to Respondent's facility to select the wheels
26 and tires for the vehicle, and gave House a cashier's check for \$2,500. House told Moore that the
27 vehicle was in the paint booth and that the restoration work would be finished on July 3, 2010.

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1 The work was not completed on July 3, 2010, as promised. House made various other promises
2 to Moore regarding the completion date for the work.

3 23. On or about September 27, 2010, Moore filed a complaint with the Bureau.

4 24. On October 5, 2010, the Visalia Police Department served a search warrant at the
5 facility after receiving complaints from numerous consumers, alleging that they had been
6 defrauded by the facility (the facility had received money for restoring the consumers' vehicles,
7 but had not completed the work). Approximately 50 unfinished vehicles, allegedly being restored
8 or repaired by the facility, were found at two locations (808 E. Acequia and 940 E. Main Street in
9 Visalia). That same day, the 1969 Chevrolet Camaro was released to Moore.

10 25. On October 5, 2010, the Bureau inspected the vehicle using Respondent's estimate for
11 comparison, and found that Respondent had not performed a number of repairs on the vehicle, as
12 set forth below.

13 **FOURTH CAUSE FOR DISCIPLINE**

14 **(Fraud)**

15 26. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
16 subdivision (a)(4), in that Respondent committed acts constituting fraud, as follows:

17 a. Respondent obtained payment from Moore for coating the interior floor of the 1969
18 Chevrolet Camaro when, in fact, that repair had not been performed on the vehicle.

19 b. Respondent obtained payment from Moore for replacing the interior of the 1969
20 Chevrolet Camaro, including the carpet, headliner, interior door handles, dash, trim panels, trunk
21 panels, and two tone seats. In fact, none of those parts had been replaced on the vehicle.

22 c. Respondent obtained payment from Moore for installing the transmission in the 1969
23 Chevrolet Camaro when, in fact, that part had not been installed in the vehicle.

24 d. Respondent obtained payment from Moore for replacing the bushings and ball joints
25 in the 1969 Chevrolet Camaro when, in fact, those parts had not been replaced on the vehicle.

26 e. Respondent obtained payment from Moore for installing a vintage air conditioning
27 system in the 1969 Chevrolet Camaro when, in fact, that part had not been installed on the
28 vehicle.

1 f. Respondent obtained payment from Moore for installing a stereo in the 1969
2 Chevrolet Camaro when, in fact, that part had not been installed on the vehicle.

3 g. Respondent obtained payment from Moore for installing hoses and belts in the 1969
4 Chevrolet Camaro when, in fact, those parts had not been installed on the vehicle.

5 h. Respondent obtained payment from Moore for installing a tachometer in the 1969
6 Chevrolet Camaro when, in fact, that part had not been installed on the vehicle.

7 i. Respondent obtained payment from Moore for repairing and cleaning the wiring in
8 the 1969 Chevrolet Camaro when, in fact, those repairs had not been performed on the vehicle.

9 j. Respondent obtained payment from Moore for installing a four gauge center cluster in
10 the 1969 Chevrolet Camaro when, in fact, that part had not been installed on the vehicle.

11 k. Respondent obtained payment from Moore for polishing the chrome and stainless on
12 the 1969 Chevrolet Camaro when, in fact, that labor operation had not been performed on the
13 vehicle.

14 l. Respondent obtained payment from Moore for installing rocker trim on the 1969
15 Chevrolet Camaro when, in fact, rocker trim had not been installed on the vehicle.

16 m. Respondent obtained payment from Moore for installing weather strips and felts on
17 the 1969 Chevrolet Camaro when, in fact, those parts had not been installed on the vehicle.

18 n. Respondent obtained payment from Moore for installing a lighting kit in the 1969
19 Chevrolet Camaro when, in fact, a lighting kit had not been installed in the vehicle.

20 o. Respondent obtained payment from Moore for installing a cowl hood on the 1969
21 Chevrolet Camaro when, in fact, that part had not been installed on the vehicle.

22 **FIFTH CAUSE FOR DISCIPLINE**

23 **(Violations of the Code)**

24 27. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
25 subdivision (a)(6), in that Respondent failed to comply with provisions of that Code in the
26 following material respects:

27 a. **Section 9884.9, subdivision (a)**: Respondent failed to obtain Moore's authorization
28 for the restoration of the 1969 Chevrolet Camaro.

1 b. Section 9884.9, subdivision (c): Respondent provided Moore with an itemized
2 written estimate for the restoration of the 1969 Chevrolet Camaro, but failed to describe the labor
3 and parts separately, and failed to indicate whether the replacement parts were new, used, rebuilt,
4 or reconditioned.

5 CONSUMER COMPLAINT (HAMMOND): 1957 CHEVROLET PICKUP

6 28. On or about June 1, 2010, Matt Hammond ("Hammond") took his 1957 Chevrolet
7 pickup to Respondent's facility to have it completely restored and rebuilt. House looked at the
8 vehicle and told Hammond that he would fax him a quote for the work. Later, Hammond
9 received a written estimate totaling \$34,942.19 from House. Hammond called House and
10 authorized the restoration work. House told Hammond that he needed \$21,000 so that he could
11 obtain the new parts that were necessary for the rebuild.

12 29. On June 2, 2010, Hammond met with House and gave him a check for \$21,000.
13 Later that evening, Hammond delivered the vehicle to the facility. About two weeks later, House
14 called Hammond and told him that he needed the new engine and transmission that Hammond
15 had agreed to supply for the rebuild. The following day, Hammond delivered the components to
16 the facility and asked House if he could see the vehicle. House told Hammond that the vehicle
17 was in the paint booth and that Hammond should return in a couple of days. A few weeks later,
18 Hammond went to the facility and looked at the vehicle. Hammond found that only a minimal
19 amount of body work had been performed. When Hammond asked House about the status of the
20 work, House stated that they were having a new paint booth installed at the Main Street building.

21 30. In or about August 2010, Hammond called House to set up a time to look at paint
22 samples for the vehicle and to check on the status of the work. House told Hammond that the
23 progress on the vehicle had slowed because he recently had a heart attack and that the paint
24 sample would be ready by the end of the week. The paint sample was not ready as promised. A
25 few weeks later, Hammond met with House at the facility and looked at the paint sample.
26 Hammond did not like the paint color, so House told him that he would have another paint sample
27 ready that Thursday or Friday. Later, Hammond contacted House and indicated that he was not
28 happy with the lack of progress on the vehicle. House assured Hammond that he had nothing to

1 worry about. Hammond told House that he wanted to see the vehicle and all of the new parts that
2 were allegedly purchased for the rebuild. House told Hammond to return the following Tuesday.

3 31. On October 5, 2010, Hammond retrieved the vehicle, engine, and transmission from
4 the facility.

5 32. On or about October 6, 2010, Hammond filed a complaint with the Bureau.

6 33. On October 7, 2010, the Bureau inspected the vehicle and found that the only work
7 performed was the application of a coat of primer on the cab and the removal and shaving of the
8 door handles and gas filler neck.

9 **SIXTH CAUSE FOR DISCIPLINE**

10 **(Fraud)**

11 34. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
12 subdivision (a)(4), in that Respondent committed acts constituting fraud, as follows: After
13 obtaining \$21,000 from Hammond for the restoration and rebuilding of his 1957 Chevrolet
14 pickup, Respondent's president, House, fraudulently appropriated the money entrusted to him and
15 failed to perform any work on the vehicle, with the exception of the work listed in paragraph 33
16 above, failed to purchase or obtain any new parts for the vehicle, and/or failed to return any
17 portion of the \$21,000 to Hammond.

18 **SEVENTH CAUSE FOR DISCIPLINE**

19 **(Violations of the Code)**

20 35. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
21 subdivision (a)(6), in that Respondent failed to comply with section 9884.9, subdivision (c), of
22 that Code in a material respect, as follows: Respondent provided Hammond with an itemized
23 written estimate for the restoration and rebuilding of his 1957 Chevrolet pickup, but failed to
24 describe the labor and parts separately, and failed to indicate whether the replacement parts were
25 new, used, rebuilt, or reconditioned.

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1 **EIGHTH CAUSE FOR DISCIPLINE**

2 **(Fraud)**

3 45. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
4 subdivision (a)(4), in that Respondent committed acts constituting fraud, as follows: After
5 obtaining \$18,500 from Leal for the restoration and repair of his 1954 Chevrolet Corvette,
6 Respondent's president, House, fraudulently appropriated the money entrusted to him, failed to
7 complete the work, including the replacement of the damaged fender, and/or failed to return any
8 portion of the \$18,500 to Leal.

9 **NINTH CAUSE FOR DISCIPLINE**

10 **(Violations of the Code)**

11 46. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
12 subdivision (a)(6), in that Respondent failed to comply with provisions of that Code in the
13 following material respects:

14 a. **Section 9884.9, subdivision (a):** Respondent failed to obtain Leal's authorization for
15 the restoration and repair of his 1954 Chevrolet Corvette.

16 b. **Section 9884.9, subdivision (c):** Respondent provided Leal with an itemized written
17 estimate for the restoration and repair of his 1954 Chevrolet Corvette, but failed to describe the
18 labor and parts separately, and failed to indicate whether the replacement parts were new, used,
19 rebuilt, or reconditioned.

20 **OTHER MATTERS**

21 47. Pursuant to Code section 9884.7, subdivision (c), the Director may suspend, revoke,
22 or place on probation the registration for all places of business operated in this state by
23 Respondent Visalia Motorsports, Inc., doing business as The Road House, upon a finding that
24 Respondent has, or is, engaged in a course of repeated and willful violations of the laws and
25 regulations pertaining to an automotive repair dealer.

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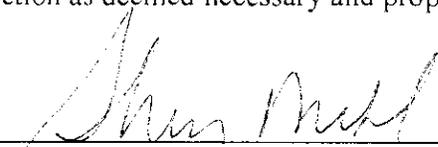
PRAYER

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 257083, issued to Visalia Motorsports, Inc., doing business as The Road House;
2. Revoking or suspending any other automotive repair dealer registration issued to Visalia Motorsports, Inc;
3. Ordering Visalia Motorsports, Inc., doing business as The Road House, to pay the Director of Consumer Affairs 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: _____

7/21/11


SHERRY MEHL
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SA2011100965