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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:

Case No. **77/14-33**

13 **A-1 AUTO PAINT & BODY REPAIR**
14 **CALVIN COX, OWNER**
15 1350 East Sierra Avenue
Tulare, California 93274

ACCUSATION

16 **Automotive Repair Dealer Registration No.**
17 **ARD 263293**

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 September 15, 2010, the Director of Consumer Affairs ("Director")
23 issued Automotive Repair Dealer Registration Number ARD 263293 to Calvin Cox
24 ("Respondent"), owner of A-1 Auto Paint & Body Repair. The Automotive Repair Dealer
25 Registration expires on September 30, 2014, unless renewed.

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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 states that the expiration of a valid registration shall not deprive
5 the director or chief of jurisdiction to proceed with any investigation or disciplinary proceeding
6 against an automotive repair dealer or to render a decision invalidating a registration temporarily
7 or permanently.

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 was a bona
11 fide error, may deny, suspend, revoke, or place on probation the registration of an
12 automotive repair dealer for any of the following acts or omissions related to the conduct
13 of the business of the automotive repair dealer, which are done by the automotive repair
14 dealer or any automotive technician, employee, partner, officer, or member of the
15 automotive repair dealer.

16 (1) Making or authorizing in any manner or by any means whatever any statement
17 written or oral which is untrue or misleading, and which is known, or which by the exercise
18 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 chapter or
23 regulations adopted pursuant to it.

24 ...

25 (b) Except as provided for in subdivision (c), if an automotive repair dealer operates
26 more than one place of business in this state, the director pursuant to subdivision (a) shall
27 only suspend, revoke, or place on probation the registration of the specific place of
28 business which has violated any of the provisions of this chapter. This violation, or action
by the director, shall not affect in any manner the right of the automotive repair dealer to
operate his or her other places of business.

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

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Untrue or Misleading Statements)**

3 11. Respondent is subject to discipline under Code section 9884.7, subdivision (a)(1), in
4 that between on or about November 13 and 20, 2012, Respondent made statements which he
5 knew or which by exercise of reasonable care should have known to be untrue or misleading by
6 falsely representing to a Bureau representative and 21st Century Insurance Company that the
7 Bureau's 1992 Toyota had been repaired pursuant to 21st Century Insurance Company Insurance
8 Estimate, [REDACTED], dated October 30, 2012. In fact, Respondent failed to perform services
9 and/or repairs specified therein, as follows:

10 a. The left front fender was replaced with an aftermarket part, not an original equipment
11 factory part as specified.

12 b. The front bumper was not replaced.

13 c. The left front door was refinished below the side molding and the door components
14 were not removed.

15 **SECOND CAUSE FOR DISCIPLINE**

16 **(Fraud)**

17 12. Respondent is subject to discipline under Code section 9884.7, subdivision (a)(4), in
18 that between on or about November 13 and 20, 2012, Respondent committed acts constituting
19 fraud by charging and receiving payment for repairs that were not performed or for parts that
20 were not supplied, as more particularly set forth above in paragraph 11, above.

21 **THIRD CAUSE FOR DISCIPLINE**

22 **(Failure to Comply With Regulations)**

23 13. Respondent is subject to discipline under Code section 9884.7, subdivision (a)(6), in
24 that between on or about November 13 and 20, 2012, as regards the Bureau's 1992 Toyota,
25 Respondent failed to comply with provisions of California Code of Regulations, title 16, section
26 3365, by departing from accepted trade standards for good and workmanlike auto body and frame
27 repairs, as follows:

28 a. Respondent failed to properly attach the hood bumper.

- b. Respondent failed to properly install the left front fender.
- c. The mud flap was not re-installed properly.
- d. The front bumper was not installed properly.
- e. The front bumper cover was not installed properly.
- f. The inner fender liner had been damaged and was missing a fastener

UNDERCOVER OPERATION #2

14. On or about February 20, 2013, a Bureau undercover operator using an alias (the “operator”) took a Bureau-documented 2008 Toyota to Respondent’s facility, and gave Respondent 21st Century Insurance Company itemized estimate, [REDACTED], dated February 8, 2013, totaling \$2,411.43 (“insurance estimate”) for repairs to the vehicle. Respondent informed the operator that he could repair the vehicle according to the insurance estimate. On or about February 20, 2013, Farmers’ Insurance Company issued a check in the amount of \$1,911.43, payable to Respondent for repairs to the 2008 Toyota. The operator paid Respondent the \$500.00 deductible and retrieved the vehicle on or about February 26, 2013.

15. The Bureau inspected the 2008 Toyota on or about March 6, 2013, which revealed that Respondent failed to repair the vehicle in accord with the insurance estimate.

FOURTH CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

16. Respondent is subject to discipline under Code section 9884.7, subdivision (a)(1), in that between February 20 and 26, 2013, Respondent made statements which he knew or which by exercise of reasonable care should have known to be untrue or misleading by falsely representing to a Bureau representative and 21st Century Insurance Company that the Bureau’s 2008 Toyota had been repaired pursuant to the 21st Century Insurance Company itemized estimate, ID [REDACTED]. In fact, Respondent failed to perform services and/or repairs specified therein, as follows:

a. The following parts were replaced with an aftermarket part when an original equipment factory part was specified:

- i. The front bumper cover.

1 repaired.

2 b. The apron panel and extension had broken and missing paint.

3 **OTHER MATTERS**

4 19. 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 Calvin Cox, owner of A-1 Auto Paint & Body Repair, 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:

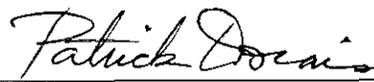
12 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
13 263293, issued to Calvin Cox, owner of A-1 Auto Paint & Body Repair;

14 2. Revoking or suspending any other automotive repair dealer registration issued to
15 Calvin Cox;

16 3. Ordering Calvin Cox to pay the Director of Consumer Affairs the reasonable costs of
17 the investigation and enforcement of this case, pursuant to Business and Professions Code section
18 125.3; and,

19 4. Taking such other and further action as deemed necessary and proper.

20
21 DATED: December 17, 2013


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

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