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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. 77/14-41

**RICHARD I. CHAVEZ
RICHARD'S COLLISION CENTER
6682 E. Montecito
Fresno, CA 93727
Automotive Repair Dealer Registration No.
ARD264484**

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

Respondent.

FINDINGS OF FACT

1. On or about February 20, 2014, Complainant Patrick Dorais, in his official capacity as the Chief of the Bureau of Automotive Repair, Department of Consumer Affairs, filed Accusation No. 77/14-41 against Richard I. Chavez, Richard's Collision Center (Respondent) before the Director of Consumer Affairs. (Accusation attached as Exhibit A.)

2. On or about March 30, 2011, the Bureau of Automotive Repair (Bureau) issued Automotive Repair Dealer Registration No. ARD264484 to Respondent. The Automotive Repair Dealer Registration was in full force and effect at all times relevant to the charges brought in

1 Accusation No. 77/14-41 (Accusation) and expired on March 31, 2014, and has not been
2 renewed. This lapse in licensure, however, pursuant to Business and Professions Code section
3 118(b), does not deprive the Bureau of its authority to institute or continue this disciplinary
4 proceeding.

5 3. On or about February 28, 2014, Respondent was served by Certified and First Class
6 Mail copies of the Accusation, Statement to Respondent, Notice of Defense, Request for
7 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at
8 Respondent's address of record which, pursuant to Business and Professions Code section 136, is
9 required to be reported and maintained with the Bureau. Respondent's address of record was and
10 is: 6682 E. Montecito, Fresno, CA 93727.

11 4. Service of the Accusation was effective as a matter of law under the provisions of
12 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
13 124.

14 5. On or about April 3, 2014, the aforementioned documents were returned by the U.S.
15 Postal Service marked "Unclaimed."

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

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

22 7. Respondent failed to file a Notice of Defense within 15 days after service upon him
23 of the Accusation, and therefore waived his right to a hearing on the merits of the Accusation.

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

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

9. Pursuant to its authority under Government Code section 11520, the Director after
having reviewed the proof of service dated February 28, 2014, signed by Tracy Cortez, and return
envelope finds Respondent is in default. The Director will take action without further hearing

1 and, based on the Accusation, proof of service and on the Affidavit of Bureau Representative
2 Jesus Gonzalez, finds that the allegations in Accusation are true.

3 DETERMINATION OF ISSUES

4 1. Based on the foregoing findings of fact, Respondent has subjected his Automotive
5 Repair Dealer Registration No. ARD264484 to discipline.

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

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

11 a. Respondent violated Business and Professions Code (Code) section 9884.7,
12 subdivision (a)(1), in that in or around August 2012, Respondent made statements which he knew
13 or which by exercise of reasonable care should have known to be untrue or misleading;

14 b. Respondent violated Code section 9884.7, subdivision (a)(4), in that Respondent
15 committed acts constituting fraud by charging and receiving payment for repairs that were not
16 performed or for parts that were not supplied;

17 c. Respondent violated Code section 9884.7, subdivision (a)(2), in that Respondent
18 caused or allowed a customer to sign a work order that did not state the automobile's odometer
19 reading at the time of repair;

20 d. Respondent violated Code section 9884.7, subdivision (a)(6), in that the Respondent
21 failed to comply with the provisions of Code section 9884.9, subdivision (a), by failing to provide
22 the consumer with a written estimate for parts and labor for a specific job;

23 e. Respondent violated Code section 9884.7, subdivision (a)(6), in that the Respondent
24 failed to comply with the provisions of Code section 9884.8 by failing to provide the consumer
25 with an invoice for collision repairs;

26 f. Respondent violated Code section 9884.7, subdivision (a)(5), in that the Respondent
27 committed gross negligence when he knowingly installed used or salvaged parts when the
28

1 consumer specified original equipment manufacturer parts, and/or left the component of the
2 vehicle in a non-functional state; and,

3 g. Respondent violated Code section 9884.7, subdivision (a)(6), in that the Respondent
4 failed to comply with the provisions of Code section 9884.11 in that the Respondent failed to
5 maintain all records pertaining to repairs performed on a vehicle, or failed to make those records
6 available for inspection by the Bureau

7 ORDER

8 IT IS SO ORDERED that Automotive Repair Dealer Registration No. ARD264484,
9 heretofore issued to Respondent is revoked.

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

16 This Decision shall become effective on October 21, 2014.

17 It is so ORDERED September 29, 2014

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20 DOREATHEA JOHNSON
21 Deputy Director, Legal Affairs
22 Department of Consumer Affairs

23 90400291.DOC
24 DOJ Matter ID:SA2013112349

25 Attachment:
26 Exhibit A: Accusation

Exhibit A

Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 KENT D. HARRIS
Supervising Deputy Attorney General
3 GEOFFREY S. ALLEN
Deputy Attorney General
4 State Bar No. 193338
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-5341
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. 77/14-41

13 **RICHARD'S COLLISION CENTER**
14 **RICHARD I. CHAVEZ, OWNER**
4934 E. Lansing Ave., #101
Fresno, California 93727

A C C U S A T I O N

15 Mailing Address
6682 E. Montecito
Fresno, California 93727

16 **Automotive Repair Dealer Registration**
17 **No. ARD 264484**

18 Respondent.

19
20 Patrick Dorais ("Complainant") alleges:

21 **PARTIES**

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

24 2. On or about March 30, 2011, the Bureau issued Automotive Repair Dealer
25 Registration Number ARD 264484 to Richard I. Chavez ("Respondent"), owner of Richard's
26 Collision Center. The Automotive Repair Dealer Registration was in full force and effect at all
27 times relevant to the charges brought herein and will expire on March 31, 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 PROVISIONS

9 5. Code section 9884.7 states:

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 (2) Causing or allowing a customer to sign any work order that does not state the
20 repairs requested by the customer or the automobile's odometer reading at the time of
21 repair.

22 (4) Any other conduct that constitutes fraud.

23 (5) Conduct constituting gross negligence.

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

26 (b) Except as provided for in subdivision (c), if an automotive repair dealer operates
27 more than one place of business in this state, the director pursuant to subdivision (a) shall
28 only suspend, revoke, or place on probation the registration of the specific place of
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 he could repair the vehicle according to the Estimate. Respondent prepared a work order without
2 the odometer reading on it and had the operator sign it.

3 12. On or about August 31, 2012, the operator endorsed a check from AAA Northern
4 California, Nevada & Utah Insurance Exchange in the amount of \$2,991.11, gave it to
5 Respondent, and retrieved the vehicle from Respondent's facility. The operator paid Respondent
6 \$500.00 cash for the insurance deductible.

7 13. A Bureau representative inspected the 2003 Honda on or about October 11, 2012,
8 which revealed that Respondent failed to repair the vehicle according to the Estimate.

9 **FIRST CAUSE FOR DISCIPLINE**

10 (Untrue or Misleading Statements)

11 14. Respondent is subject to discipline under Code section 9884.7, subdivision (a)(1), in
12 that in or around August 2012, Respondent made statements which he knew or which by exercise
13 of reasonable care should have known to be untrue or misleading by falsely representing to a
14 Bureau representative and the AAA Northern California, Nevada & Utah Insurance Exchange
15 that the Bureau's 2003 Honda had been repaired pursuant to AAA Northern California, Nevada &
16 Utah Insurance Exchange Estimate ID [REDACTED] In fact, Respondent failed to remove and
17 install the left rear door side molding, the left rear door interior trim panel, and the left rear door
18 outer handle.

19 **SECOND CAUSE FOR DISCIPLINE**

20 (Fraud)

21 15. Respondent is subject to discipline under Code section 9884.7, subdivision (a)(4), in
22 that Respondent committed acts constituting fraud by charging and receiving payment for repairs
23 that were not performed or for parts that were not supplied, as more particularly set forth above in
24 paragraph 14, above.

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- 1 a. The following parts were not replaced:
- 2 i. The emissions label.
- 3 ii. The front license plate bracket.
- 4 iii. The left bezel (without fog lamps).
- 5 iv. The energy absorber.
- 6 v. The front impact bar.
- 7 vi. The grille assembly
- 8 vii. The grille emblem.
- 9 viii. The grille upper cover clips.
- 10 ix. The right headlamp.
- 11 b. The front grille was replaced with an aftermarket part, not an original equipment
- 12 factory part as specified.
- 13 c. The hood insulator was missing.

14 **FIFTH CAUSE FOR DISCIPLINE**

15 (Fraud)

16 22. Respondent is subject to discipline under Code section 9884.7, subdivision (a)(4), in

17 that Respondent committed acts constituting fraud by charging and receiving payment for repairs

18 that were not performed or for parts that were not supplied, as more particularly set forth above in

19 paragraph 21, above.

20 **SIXTH CAUSE FOR DISCIPLINE**

21 (Failure to Comply With Code)

22 23. Respondent is subject to discipline under Code section 9884.7, subdivision (a)(6), in

23 that, regarding the 2009 Nissan Versa, Respondent failed to comply with the provisions of Code

24 Section 9884.9, subdivision (a), by failing to provide the consumer with a written estimate for

25 parts and labor for a specific job.

26 **CONSUMER COMPLAINT #2 – 2006 NISSAN FRONTIER**

27 24. On or about May 21, 2012, "K.L." and her sister, "D.C." took K.L.'s 2006 Nissan

28 Frontier to Respondent's facility for collision repairs. Respondent told them the insurance

1 adjuster would come to his facility to write an estimate for the vehicle repairs.

2 25. On or about May 29, 2012, K.L. cashed a \$4,006.37 check issued by State Farm
3 Insurance Company and gave the cash to Respondent to repair the vehicle. Respondent did not
4 give K.L. or D.C. a written estimate for the repairs or have either K.L. or D.C. sign a work order.

5 26. On or about June 21, 2012, Respondent delivered the 2006 Nissan Frontier to D.C.,
6 but he did not give her an invoice. D.C. paid Respondent \$500.00 toward the \$1,000.00
7 insurance deductible. D.C. found that the air bag warning light was on and that Respondent's
8 repairs were generally unsatisfactory. Several times between on or about June 21, 2012, and
9 August 23, 2012, D.C. returned the vehicle to Respondent's facility for corrective repairs, but
10 Respondent never completed them. On or about September 17, 2012, D.C. filed a complaint
11 against Respondent with the Bureau.

12 27. In or around October 2012, a Bureau representative inspected the 2006 Nissan
13 Frontier and determined that Respondent's repairs were not performed in accord with the State
14 Farm Insurance Company estimate ID 55-07N6-43401 (the "Estimate") for that vehicle. The
15 Bureau representative also found that, contrary to the Estimate specifying original equipment
16 manufacturer air bag components, Respondent installed air bag components that were used or
17 salvaged and the air bag was not functional.

18 28. On or about October 16, 2012, Respondent informed Bureau representatives that he
19 repaired the 2006 Nissan Frontier according to the Estimate.

20 **SEVENTH CAUSE FOR DISCIPLINE**

21 (Untrue or Misleading Statements)

22 29. Respondent is subject to discipline under Code section 9884.7, subdivision (a)(1), in
23 that between in or around May 2012 and October 2012, Respondent made or authorized
24 statements which he knew or in the exercise of reasonable care should have known to be untrue or
25 misleading by falsely representing to K.L. and/or D.C., a Bureau representative, and State Farm
26 Insurance Company that K.L.'s 2006 Nissan Frontier had been repaired pursuant to State Farm
27 Insurance Company Insurance estimate ID 55-07N6-43401. In fact, Respondent failed to perform
28 services and/or repairs specified therein, as follows:

- 1 a. The following parts were not replaced:
- 2 i. The left front bumper bracket.
- 3 ii. The front upper bumper retainer.
- 4 iii. The left and right fender liners.
- 5 iv. The driver front air bag module.
- 6 v. The front air bag impact sensor.
- 7 vi. The inner air bag sensor bracket.
- 8 vii. The left fender bracket.
- 9 viii. The air bag diagnosis unit.
- 10 ix. The front bumper license plate bracket and DMV license plate.
- 11 x. The grille.
- 12 xi. The right and left front combination lamp assemblies.
- 13 b. The headlamps were not checked and/or adjusted.
- 14 c. The front bumper cover was not replaced or refinished.
- 15 d. The hood underside was not properly refinished.
- 16 e. The corrosion protection was not restored.
- 17 f. The center console had not been removed and reinstalled.

18 **EIGHTH CAUSE FOR DISCIPLINE**

19 (Fraud)

20 30. Respondent is subject to discipline under Code section 9884.7, subdivision (a)(4), in
21 that Respondent committed acts constituting fraud by charging and receiving payment for repairs
22 that were not performed or for parts that were not supplied, as more particularly set forth above in
23 paragraph 29, above.

24 **NINTH CAUSE FOR DISCIPLINE**

25 (Failure to Comply With Code)

26 31. Respondent is subject to discipline under Code section 9884.7, subdivision (a)(6), in
27 that regarding the 2009 Nissan Frontier, Respondent failed to comply with provisions of that
28 Code as follows:

1 a. **Section 9884.8:** Respondent failed to provide the consumer with an invoice for
2 collision repairs.

3 b. **Section 9884.9, subdivision (a):** Respondent failed to provide the consumer with a
4 written estimate for parts and labor for a specific job.

5 **TENTH CAUSE FOR DISCIPLINE**

6 (Gross Negligence)

7 32. Respondent is subject to discipline under Code section 9884.7, subdivision (a)(5), in
8 that regarding the 2009 Nissan Frontier, Respondent committed gross negligence when he
9 knowingly installed used or salvaged air bag components when State Farm Insurance Company
10 Insurance estimate ID 55-07N6-43401 specified original equipment manufacturer parts, and/or
11 left the air bag in a non-functional state.

12 **CONSUMER COMPLAINT #3 – 2004 RANGE ROVER**

13 33. In or around September 2012, M.C.'s 2004 Range Rover was damaged in two
14 separate incidents. Kern County Appraisal Service prepared estimate ID Nos. 121008 and 121001
15 (the "Estimates") for Anchor General Insurance Company to repair the vehicle.

16 34. On or about October 19, 2012, M.C.'s 2004 Range Rover was brought to
17 Respondent's facility for repairs and "L.D." (M.C.'s husband) verbally approved Respondent's
18 repairs to the vehicle. Respondent did not provide L.D. with an estimate or a work order.

19 35. Respondent negotiated two checks issued by Anchor General Insurance Company for
20 repairs to the vehicle totaling \$4,206.34, jointly payable to Respondent and M.C., yet neither
21 M.C. nor L.D. signed either check.

22 36. Over the next several weeks, L.D. contacted Respondent regarding progress on
23 repairs to the 2004 Range Rover. Respondent provided a multitude of excuses for its unfinished
24 state. On or about December 6, 2012, Respondent agreed to install a Range Rover decal and the
25 left and right drip rails, and to reimburse M.C. and/or L.D. \$660 for tail lamps that he had not
26 replaced. He did not honor the agreement and L.D. retrieved the unfinished vehicle.

27 37. On or about December 20, 2012, M.C. filed a complaint against Respondent with the
28 Bureau.

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9. The right and left front rear view mirrors.
10. The right and left front outer belt moldings.
11. The right and left front lower door molding.
12. The right and left front door trim panels.
13. The right and left front outer door handles.
14. The right and left window frame rear door moldings.
15. The right and left rear door garnishes.
16. The right and left rear belt moldings.
17. The right and left rear lower door moldings.
18. The right and left rear door trim panels.
19. The right and left rear outer door handles.
20. The right and left quarter glass moldings.
21. The right and left rocker moldings.
22. The right and left quarter glass stationaries.
23. The liftgate glass.
24. The lower rear gate molding.
25. The right and left back-up lamps.
26. The license lamp.
27. The stop lamp.

ii. The following parts were not replaced:

1. The hood decals.
2. The right and left fender rivets.
3. The right quarter fuel door.
4. The rear gate adhesive nameplate and emblem.
5. The right and left rear combination lamp assemblies.
6. The rear bumper cover.
7. The rear add with parking sensor.

iii. The rear bumper cover was not refinished.

1 PRAYER

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

4 1. Revoking or suspending Automotive Repair Dealer Registration Number
5 ARD 264484, issued to Richard I. Chavez, owner of Richard's Collision Center

6 2. Revoking or suspending any other automotive repair dealer registration issued to
7 Richard I. Chavez;

8 3. Ordering Richard I. Chavez to pay the Director of Consumer Affairs the reasonable
9 costs of the investigation and enforcement of this case, pursuant to Business and Professions
10 Code section 125.3; and,

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

12 DATED: February 20, 2014 

13 PATRICK DORAIS
14 Bureau Chief
15 Bureau of Automotive Repair - CPO
16 Department of Consumer Affairs
17 State of California
18 *Complainant*

17 SA2013112349
18 11208033.doc