

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

In the Matter of the Accusation Against:

Case No. 77/16-06

**MAGIC AUTO BODY & CAR RENTAL,
INC DBA MAGIC AUTO BODY;
YURIK VARDANYAN, President /
Secretary / Treasurer
18225 Parthenia St #12
Northridge, CA 91325**

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

**Automotive Repair Dealer Registration No.
ARD 272657**

Respondent.

FINDINGS OF FACT

1. On or about August 13, 2015, Complainant Patrick Dorais, in his official capacity as the Chief of the Bureau of Automotive Repair, Department of Consumer Affairs, filed Accusation No. 77/16-06 against Magic Auto Body & Car Rental, Inc dba Magic Auto Body with Yurik Vardanyan as the President, Secretary and Treasurer ("Respondent") before the Director of Consumer Affairs. (Accusation attached as Exhibit A.)

2. On or about April 23, 2013, the Bureau of Automotive Repair ("Bureau") issued Automotive Repair Dealer Registration No. ARD 272657 to Respondent. The Automotive Repair Dealer Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 77/16-06 and will expire on April 30, 2016, unless renewed.

1 3. On or about August 18, 2015, Respondent was served by Certified and First Class
2 Mail copies of the Accusation No. 77/16-06, Statement to Respondent, Notice of Defense,
3 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,
4 and 11507.7) at Respondent's address of record which, pursuant to Business and Professions
5 Code section 136, is required to be reported and maintained with the Bureau. Respondent's
6 address of record was and is:

7 18225 Parthenia St #12
8 Northridge, CA 91325.

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

12 5. On or about August 24, 2015, the aforementioned documents served by First Class
13 Mail were returned by the U.S. Postal Service marked "Attempted, Not Known." The address on
14 the documents was the same as the address on file with the Bureau.

15 6. On or about August 25, 2015, the aforementioned documents served by Certified
16 Mail were returned by the U.S. Postal Service marked "Attempted, Not Known." The address on
17 the documents was the same as the address on file with the Bureau. Respondent failed to
18 maintain an updated address with the Bureau and the Bureau has made attempts to serve the
19 Respondent at the address on file. Respondent has not made itself available for service and
20 therefore, has not availed itself of its right to file a notice of defense and appear at hearing.

21 7. On or about September 8, 2015, a certified mailing receipt signed by "Peter S." was
22 returned to our office, indicating that at least one copy of the Accusation had been received at
23 18225 Parthenia Street #12, Northridge, CA 91325. The address on the documents was the same
24 as the address on file with the Bureau for Respondent. Nonetheless, Respondent failed to file a
25 Notice of Defense.

26 8. Government Code section 11506 states, in pertinent part:

27 (c) The respondent shall be entitled to a hearing on the merits if the respondent
28 files a notice of defense, and the notice shall be deemed a specific denial of all parts
of the accusation not expressly admitted. Failure to file a notice of defense shall

1 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
2 may nevertheless grant a hearing.

3 9. Respondent failed to file a Notice of Defense within 15 days after service upon it of
4 the Accusation, and therefore waived its right to a hearing on the merits of Accusation No. 77/16-
5 06.

6 10. California Government Code section 11520 states, in pertinent part:

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

11 11. Pursuant to its authority under Government Code section 11520, the Director after
12 having reviewed the proof of service dated August 18, 2015, signed by L.M. Robinson, as well as
13 the return envelopes and a certified mailing receipt, finds Respondent is in default. The Director
14 will take action without further hearing and, based on Accusation, No. 77/16-06, the proof of
15 service, the service documents, and on the Affidavit of Bureau Representative Oscar E.
16 Hernandez, finds that the allegations in Accusation are true.

17 DETERMINATION OF ISSUES

18 1. Based on the foregoing findings of fact, Respondent Magic Auto Body & Car Rental
19 Inc dba Magic Auto Body, Yurik Vardanyan has subjected its Automotive Repair Dealer
20 Registration No. ARD 272657 to discipline.

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

22 3. The Director of Consumer Affairs is authorized to revoke Respondent's Automotive
23 Repair Dealer Registration based upon the following violations alleged in the Accusation which
24 are supported by the evidence contained in the affidavit of Bureau Representative Oscar E.
25 Hernandez in this case:

26 a. Respondent is subject to disciplinary action under section 9884.7, subdivision (a)(4),
27 in that Respondent committed acts constituting fraud, with a total amount not performed as
28 estimated and paid of \$1,243.45, as follows: Respondent obtained payment from Allstate
Insurance to replace a passenger side headlamp assembly with a recycled part, but then replaced it
with a new aftermarket part; Respondent obtained payment to replace a right upper radiator

1 support with an Original Equipment Manufacturer part and add a clear coat of paint, but then did
2 not replace or paint the part; Respondent obtained payment to replace an Air Conditioning
3 Condenser with a new aftermarket part, but did not replace the part; Respondent obtained
4 payment to replace a passenger side fender with a recycled part, but instead replaced it with a new
5 aftermarket part; and, Respondent obtained payment to replace a tire with a Michelin Defender
6 GRNX tire, but instead replaced it with a Scorpion brand tire. The conduct is described with
7 greater specificity in Accusation No. 77/16-06, which is hereby incorporated by reference as
8 though set forth fully.

9 b. Respondent is subject to disciplinary action under section 9884.7, subdivision (a)(1),
10 and section 9884.7, subdivision (a)(6), in conjunction with California Code of Regulations, title
11 16, section 3371, in that Respondent made or authorized statements which he knew or in the
12 exercise of reasonable care should have known to be untrue or misleading, by stating that he
13 repaired a vehicle pursuant to an insurance estimate with no deviations, when in fact Respondent
14 deviated and those deviations resulted in \$1,243.45 of uncompleted repairs. The conduct is
15 described with greater specificity in Accusation No. 77/16-06, which is hereby incorporated by
16 reference as though set forth fully.

17 c. Respondent is subject to disciplinary action under section 9884.9, subdivision (c), and
18 section 9884.7, subdivision (a)(6), in conjunction with California Code of Regulations, title 16,
19 section 3353, subdivision (b), in that Respondent failed to provide a consumer with an itemized
20 estimate for an auto body repair that included prices for all parts and labor. The conduct is
21 described with greater specificity in Accusation No. 77/16-06, which is hereby incorporated by
22 reference as though set forth fully.

23 d. Respondent is subject to disciplinary action under section 9884.8 and section 9884.7,
24 subdivision (a)(6), in conjunction with California Code of Regulations, title 16, section 3356 in
25 that Respondent failed to generate any documentation or itemized invoice describing all service
26 work performed and recording each part installed. The conduct is described with greater
27 specificity in Accusation No. 77/16-06, which is hereby incorporated by reference as though set
28 forth fully.

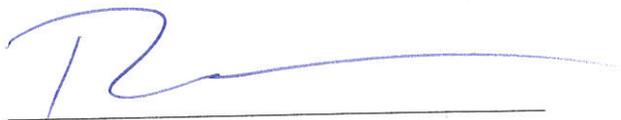
ORDER

1
2 IT IS SO ORDERED that Automotive Repair Dealer Registration No. ARD 272657,
3 heretofore issued to Magic Auto Body & Car Rental, Inc dba Magic Auto Body with Yurik
4 Vardanyan as the President, Secretary and Treasurer, is revoked.

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

11 This Decision shall become effective on April 27, 2016

12 It is so ORDERED March 31, 2016

13
14 

15 TAMARA COLSON
16 Assistant General Counsel
17 Division of Legal Affairs
18 Department of Consumer Affairs

18 51937755.DOC
19 DOJ Matter ID:LA2015501008

19 Attachment:
20 Exhibit A: Accusation

Exhibit A

Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 ZACHARY T. FANSELOW
Deputy Attorney General
4 State Bar No. 274129
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2562
6 Facsimile: (213) 897-2804
Attorneys for Complainant
7

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

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

In the Matter of the Accusation Against:
**MAGIC AUTO BODY & CAR RENTAL,
INC DBA MAGIC AUTO BODY;
YURIK VARDANYAN, President /
Secretary / Treasurer
18225 Parthenia St #12
Northridge, CA 91325**
**Automotive Repair Dealer Registration No.
ARD 272657**

Respondent.

Case No. *44/16-06*

A C C U S A T I O N

Complainant alleges:

PARTIES

1. Patrick Dorais ("Complainant") brings this Accusation solely in his official capacity as the Chief of the Bureau of Automotive Repair, Department of Consumer Affairs.
2. On or about April 23, 2013, the Bureau of Automotive Repair issued Automotive Repair Dealer Registration Number ARD 272657 to Magic Auto Body & Car Rental, Inc dba Magic Auto Body with Yurik Vardanyan as the President, Secretary and Treasurer ("Respondent"). The Automotive Repair Dealer Registration was in full force and effect at all times relevant to the charges brought herein and will expire on April 30, 2016, unless renewed.

///

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 7. Section 9884.8 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 8. Section 9884.9 states, in pertinent part:

21 "(a) The automotive repair dealer shall give to the customer a written estimated price for
22 labor and parts necessary for a specific job. No work shall be done and no charges shall accrue
23 before authorization to proceed is obtained from the customer. No charge shall be made for work
24 done or parts supplied in excess of the estimated price without the oral or written consent of the
25 customer that shall be obtained at some time after it is determined that the estimated price is
26 insufficient and before the work not estimated is done or the parts not estimated are supplied.
27 Written consent or authorization for an increase in the original estimated price may be provided by
28 electronic mail or facsimile transmission from the customer. The bureau may specify in regulation

1 the procedures to be followed by an automotive repair dealer if an authorization or consent for an
2 increase in the original estimated price is provided by electronic mail or facsimile transmission. If
3 that consent is oral, the dealer shall make a notation on the work order of the date, time, name of
4 person authorizing the additional repairs and telephone number called, if any, together with a
5 specification of the additional parts and labor and the total additional cost, and shall do either of
6 the following:

7 "(1) Make a notation on the invoice of the same facts set forth in the notation on the work
8 order.

9 "(2) Upon completion of the repairs, obtain the customer's signature or initials to an
10 acknowledgment of notice and consent, if there is an oral consent of the customer to additional
11 repairs, in the following language:

12 "I acknowledge notice and oral approval of an increase in the original estimated price.

13 _____
14 (signature or initials)"

15 "Nothing in this section shall be construed as requiring an automotive repair dealer to give a
16 written estimated price if the dealer does not agree to perform the requested repair.

17

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

25 **REGULATORY PROVISIONS**

26 9. California Code of Regulations, title 16, section 3353, states, in pertinent part:

27 "No work for compensation shall be commenced and no charges shall accrue without
28 specific authorization from the customer in accordance with the following requirements:

1

2 "(b) Estimate for Auto Body or Collision Repairs. Every dealer, when doing auto body or
3 collision repairs, shall give to each customer a written estimated price for parts and labor for a
4 specific job. Parts and labor shall be described separately and each part shall be identified,
5 indicating whether the replacement part is new, used, rebuilt or reconditioned. The estimate shall
6 also describe replacement crash parts as original equipment manufacturer (OEM) crash parts or
7 non-OEM aftermarket crash parts.

8

9 "(e) Revising an Itemized Work Order. If the customer has authorized repairs according to
10 a work order on which parts and labor are itemized, the dealer shall not change the method of
11 repair or parts supplied without the written, oral, electronic authorization of the customer. The
12 authorization shall be obtained from the customer as provided in subsection (c) and Section 9884.9
13 of the Business and Professions Code."

14 10. California Code of Regulations, title 16, section 3356, states:

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

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

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

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

24 (B) Each part supplied, in such a manner that the customer can understand what was
25 purchased, and the price for each described part. The description of each part shall state whether
26 the part was new, used, reconditioned, rebuilt, or an OEM crash part, or a non-OEM aftermarket
27 crash part.

28 (C) The subtotal price for all service and repair work performed.

1 (D) The subtotal price for all parts supplied, not including sales tax.

2 (E) The applicable sales tax, if any.

3 "(b) If a customer is to be charged for a part, that part shall be specifically listed as an item
4 in the invoice, as provided in subparagraph (B) of paragraph (2) of subsection (a) above. If that-
5 item is not listed in the invoice, it shall not be regarded as a part, and a separate charge may not be
6 made for it.

7 "(c) Separate billing in an invoice for items generically noted as shop supplies, miscellaneous
8 parts, or the like, is prohibited.

9 "(d) The automotive repair dealer shall give the customer a legible copy of the invoice and
10 shall retain a legible copy as part of the automotive repair dealer's records pursuant to Section
11 9884.11 of the Business and Professions Code and Section 3358 of this article."

12 11. California Code of Regulations, title 16, section 3358, states:

13 "Each automotive repair dealer shall maintain legible copies of the following records for not
14 less than three years:

15 "(a) All invoices relating to automotive repair including invoices received from other
16 sources for parts and/or labor.

17 "(b) All written estimates pertaining to work performed.

18 "(c) All work orders and/or contracts for repairs, parts and labor. All such records shall be
19 open for reasonable inspection and/or reproduction by the bureau or other law enforcement
20 officials during normal business hours."

21 12. California Code of Regulations, title 16, section 3371, states, in pertinent part:

22 "No dealer shall publish, utter, or make or cause to be published, uttered, or made any false
23 or misleading statement or advertisement which is known to be false or misleading, or which by
24 the exercise of reasonable care should be known to be false or misleading. Advertisements and
25 advertising signs shall clearly show the following:

26 "(a) Firm Name and Address. The dealer's firm name and address as they appear on the State
27 registration certificate as an automotive repair dealer; and

28

1 d. Respondent obtained payment from Allstate Insurance to replace the passenger side
2 fender on Elkinawy's 2008 Toyota Sienna with a recycled part. In fact, that part had been
3 replaced with a new aftermarket part.

4 e. Respondent obtained payment from Allstate Insurance to replace the passenger side
5 tire on Elkinawy's 2008 Toyota Sienna with a Michelin Defender GRNX tire. In fact, that part
6 had been replaced with a Scorpion brand tire.

7 **SECOND CAUSE FOR DISCIPLINE**

8 **(Untrue or Misleading Statements)**

9 24. Respondent is subject to disciplinary action under section 9884.7, subdivision (a)(1),
10 and section 9884.7, subdivision (a)(6), in conjunction with California Code of Regulations, title 16,
11 section 3371, in that Respondent made or authorized statements which he knew or in the exercise
12 of reasonable care should have known to be untrue or misleading, as follows: Respondent stated to
13 Elkinawy and Bureau representatives that Elkinawy's vehicle had been repaired pursuant to
14 Allstate's Insurance Estimate with no deviations. In fact, Respondent deviated from the Insurance
15 Estimate and those deviations resulted in \$1,243.45 of uncompleted repairs that Respondent
16 received payment for.

17 **THIRD CAUSE FOR DISCIPLINE**

18 **(Failure to Provide Itemized Estimate for Parts and Labor)**

19 25. Respondent is subject to disciplinary action under section 9884.9, subdivision (c), and
20 section 9884.7, subdivision (a)(6), in conjunction with California Code of Regulations, title 16,
21 section 3353, subdivision (b), in that Respondent failed to provide Elkinawy with an itemized
22 estimate for an auto body repair that included prices for all parts and labor.

23 **FOURTH CAUSE FOR DISCIPLINE**

24 **(Failure to Provide Itemized Invoice of Work Performed)**

25 26. Respondent is subject to disciplinary action under section 9884.8 and section 9884.7,
26 subdivision (a)(6), in conjunction with California Code of Regulations, title 16, section 3356 in
27 that Respondent failed to generate any documentation or itemized invoice describing all service
28 work performed and recording each part installed.

1 OTHER MATTERS

2 27. Pursuant to Business and Professions Code section 9884.7, subdivision (c), the
3 Director may suspend, revoke or place on probation the registration for all places of business
4 operated in this state by Yurik Vardanyan, the President, Secretary and Treasurer of Respondent
5 Magic Auto Body, upon a finding that Respondent Magic Auto Body has, or is, engaged in a
6 course of repeated and willful violations of the laws and regulations pertaining to an automotive
7 repair dealer.

8 PRAYER

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

- 11 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
12 272657, issued to Magic Auto Body & Car Rental Inc, dba Magic Auto Body with Yurik
13 Vardanyan as the President, Secretary and Treasurer;
- 14 2. Revoking or suspending any other automotive repair dealer registration issued to
15 Yurik Vardanyan;
- 16 3. Ordering Yurik Vardanyan to pay the Bureau of Automotive Repair the reasonable
17 costs of the investigation and enforcement of this case, pursuant to Business and Professions Code
18 section 125.3; and,
- 19 4. Taking such other and further action as deemed necessary and proper.
- 20
21
22

23 DATED: August 13, 2015


24 PATRICK DORAIS
25 Chief
26 Bureau of Automotive Repair
27 Department of Consumer Affairs
28 State of California
Complainant

LA2015501008
51835292.doc