

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) 324-7879  
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:  
13 **RALPH T. HASKELL, INC., DBA**  
14 **GOLD RIVER AUTO REPAIR**  
11199 Coloma Road  
15 Rancho Cordova, CA 95662  
16 **RALPH T. HASKELL, PRES**  
Automotive Repair Dealer Registration  
No. ARD 208561  
Smog Check Station License No. RC 208561  
17 Respondent.

Case No. 77110-44

**ACCUSATION**

18  
19 Complainant alleges:

20 **PARTIES**

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

23 **Automotive Repair Dealer Registration**

24 2. On a date uncertain in 1999, the Bureau issued Automotive Repair Dealer  
25 Registration Number ARD 208561 ("registration") to Ralph T. Haskell, Inc. ("Respondent"),  
26 doing business as Gold River Auto Repair with Ralph T. Haskell as President. The registration  
27 was in full force and effect at all times relevant to the charges brought herein and will expire on  
28 December 31, 2011, unless renewed.

1 Smog Check Station License

2 3. On a date uncertain in 2000, the Bureau issued Smog Check Station License Number  
3 RC 208561 ("station license") to Respondent. The station license was in full force and effect at  
4 all times relevant to the charges brought herein and will expire on December 31, 2011, unless  
5 renewed.

6 STATUTORY PROVISIONS

7 4. Section 9884.7 of the Business and Professions Code ("Code") states, in pertinent  
8 part:

9 (a) The director, where the automotive repair dealer cannot show there  
10 was a bona fide error, may refuse to validate, or may invalidate temporarily or  
11 permanently, the registration of an automotive repair dealer for any of the following  
12 acts or omissions related to the conduct of the business of the automotive repair  
13 dealer, which are done by the automotive repair dealer or any automotive technician,  
14 employee, partner, officer, or member of the automotive repair dealer.

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

18 (4) Any other conduct which constitutes fraud.

19 (5) Conduct constituting gross negligence.

20 (6) Failure in any material respect to comply with the provisions of this  
21 chapter [the Automotive Repair Act (Bus. & Prof. Code, 9880, et seq.)] or  
22 regulations adopted pursuant to it.

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

26 (b) Except as provided for in subdivision (c), if an automotive repair  
27 dealer operates more than one place of business in this state, the director pursuant to  
28 subdivision (a) shall only invalidate temporarily or permanently 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 invalidate temporarily or permanently, 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 5. Code section 9884.8 states:

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

14 6. Code section 9884.9, subdivision (a), states:

15 (a) The automotive repair dealer shall give to the customer a written  
16 estimated price for labor and parts necessary for a specific job. No work shall be done  
17 and no charges shall accrue before authorization to proceed is obtained from the  
18 customer. No charge shall be made for work done or parts supplied in excess of the  
19 estimated price without the oral or written consent of the customer that shall be  
20 obtained at some time after it is determined that the estimated price is insufficient and  
21 before the work not estimated is done or the parts not estimated are supplied. Written  
22 consent or authorization for an increase in the original estimated price may be  
23 provided by electronic mail or facsimile transmission from the customer. The bureau  
24 may specify in regulation the procedures to be followed by an automotive repair  
25 dealer if an authorization or consent for an increase in the original estimated price is  
26 provided by electronic mail or facsimile transmission. If that consent is oral, the  
27 dealer shall make a notation on the work order of the date, time, name of person  
28 authorizing the additional repairs and telephone number called, if any, together with a  
specification of the additional parts and labor and the total additional cost, and shall  
do either of the following:

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

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

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

\_\_\_\_\_  
(signature or initials)"

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

(b) The automotive repair dealer shall include with the written estimated  
price a statement of any automotive repair service that if required to be done, will be

1 done by someone other than the dealer or his or her employees. No service shall be  
2 done by other than the dealer or his or her employees without the consent of the  
3 customer, unless the customer cannot reasonably be notified. The dealer shall be  
responsible, in any case, for any service in the same manner as if the dealer or his or  
her employees had done the service.

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

8 8. Code section 477 provides, in pertinent part, that "Board" includes "bureau,"  
9 "commission," "committee," "department," "division," "examining committee," "program," and  
10 "agency." "License" includes certificate, registration or other means to engage in a business or  
11 profession regulated by the Code.

12 9. Section 44002 of the Health and Safety Code provides, in pertinent part, that the  
13 Director has all the powers and authority granted under the Automotive Repair Act for enforcing  
14 the Motor Vehicle Inspection Program.

15 10. Section 44072.2 of the Health and Safety Code states, in pertinent part:

16 The director may suspend, revoke, or take other disciplinary action  
17 against a license as provided in this article if the licensee, or any partner, officer, or  
director thereof, does any of the following:

18 (d) Commits any act involving dishonesty, fraud, or deceit whereby  
19 another is injured.

20 11. Section 44072.6 of the Health and Safety Code provides, in pertinent part, that the  
21 expiration or suspension of a license by operation of law, or by order or decision of the Director  
22 of Consumer Affairs, or a court of law, or the voluntary surrender of the license shall not deprive  
23 the Director of jurisdiction to proceed with disciplinary action.

24 12. Section 44072.8 of the Health and Safety Code states:

25 When a license has been revoked or suspended following a hearing under  
26 this article, any additional license issued under this chapter in the name of the  
licensee may be likewise revoked or suspended by the director.

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1 COST RECOVERY

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

6 **CONSUMER COMPLAINT NO. 1, (McKinley)**

7 14. On or about April 16, 2008, the Bureau received a consumer complaint from David  
8 W. McKinley regarding repairs performed on his 1990 Mercury Grand Marquis. During the  
9 course of the investigation of the consumer's complaint, the Bureau confirmed estimate and  
10 invoice violations.

11 FIRST CAUSE FOR DISCIPLINE

12 **(Failure to Comply with Code)**

13 15. Respondent has subjected its registration to discipline pursuant to Code section  
14 9884.7, subdivision (a)(6), in that between on or about December 21, 2005, and December 20,  
15 2007, Respondent failed to comply with the following sections of that Code:

16 a. **Section 9884.8:** Regarding the invoices dated December 21, 2005; January 1, 2006;  
17 and, December 20, 2007, Respondent failed to set forth the parts installed and repairs performed  
18 to the consumer's vehicle on those invoices.

19 b. **Section 9884.9, subdivision (a):** Respondent failed to provide the consumer with a  
20 written estimated price for parts and labor for a specific job when the consumer returned for  
21 additional repairs.

22 c. **Section 9884.9, subdivision (b):** Respondent failed to document on the estimate that  
23 the transmission would be sublet for repairs.

24 **CONSUMER COMPLAINT NO. 2, (Rooney)**

25 16. On October 24, 2007, Monna Rooney ("consumer") was involved in a collision in her  
26 2005 Kia Amanti. Subsequently, she took her vehicle to Respondent's facility for repairs.  
27 Travelers Insurance paid Respondent for the collision repairs. On or about December 18, 2007,  
28 the consumer retrieved her vehicle from Respondent. The consumer began having problems with

1 the vehicle and the vehicle was making noise. She returned the vehicle to Respondent for further  
2 repairs on or about February 13, 2008, and again on April 23, 2008.

3 17. On or about June 21, 2008, the consumer took her vehicle to Brake Masters because it  
4 was still making noise. Brake Masters informed her that not only did she need to replace the  
5 brakes but that the "rr and ll ball joints" needed to be replaced. After contacting the insurance  
6 company, the consumer was advised by them to take the vehicle back to Respondent for repairs,  
7 which she did. However, after retrieving the vehicle from Respondent, it continued to make  
8 noise.

9 18. On or about February 14, 2009, the consumer took her vehicle to Pep Boys and was  
10 told by that facility that she needed the brakes replaced. The consumer paid to have the brakes  
11 replaced.

12 19. On or about March 24, 2009, while completing a U-turn, the car froze, as though the  
13 power steering had failed. A nearby Pep Boys referred the consumer to Florin Road Kia, who  
14 informed her that the previous repairs performed by Respondent were faulty.

15 20. On or about April 10, 2009, the consumer filed a complaint with the Bureau regarding  
16 the repairs performed by Respondent.

17 21. On or about April 28, 2009, the Bureau began its inspection of the consumer's vehicle  
18 at Florin Road Kia. The inspection revealed the following:

19 a. Respondent failed to repair the damage to the radiator support lower tie bar as  
20 invoiced.

21 b. Respondent failed to replace the air bag sensor as invoiced.

22 c. Respondent failed to replace the left front wheel as invoiced.

23 **SECOND CAUSE FOR DISCIPLINE**

24 **(Untrue or Misleading Statements)**

25 22. Respondent has subjected its registration to discipline pursuant to Code section  
26 9884.7, subdivision (a)(1), in that between October 24, 2007, and April 23, 2008, Respondent  
27 made statements which it knew or which by exercise of reasonable care it should have known  
28 were untrue or misleading by representing to the consumer and Travelers Insurance that it had

1 performed the repairs and/or services more particularly set forth in paragraph 21, subparagraphs a  
2 through c. above.

3 **THIRD CAUSE FOR DISCIPLINE**

4 **(Fraud)**

5 23. Respondent has subjected its registration to discipline pursuant to Code section  
6 9884.7, subdivision (a)(4), in that between October 24, 2007, and April 23, 2008, Respondent  
7 committed acts constituting fraud by failing to perform repairs/services more particularly set forth  
8 in paragraph 21, subparagraphs a through c, above.

9 **FOURTH CAUSE FOR DISCIPLINE**

10 **(Gross Negligence)**

11 24. Respondent has subjected its registration to discipline pursuant to Code section  
12 9884.7, subdivision (a)(5) in that Respondent committed acts constituting gross negligence, as  
13 follows:

14 a. Respondent installed the sub frame without addressing major frame damage to the  
15 front of the vehicle.

16 b. Respondent failed to replace the air bag sensor.

17 **CONSUMER COMPLAINT NO. 3, (Gerbe)**

18 25. On or about May 18, 2009, the Bureau received a consumer complaint from Anni  
19 Gerbe ("consumer") regarding repairs performed on her 1998 Cadillac Catera. During the course  
20 of the investigation of the consumer's complaint, the Bureau confirmed estimate and invoice  
21 violations.

22 **FIFTH CAUSE FOR DISCIPLINE**

23 **(Failure to Comply with Code)**

24 26. Respondent has subjected its registration to discipline pursuant to Code section  
25 9884.7, subdivision (a)(6), in that between on or about April 29 and 30, 2009, Respondent failed  
26 to comply with the following sections of that Code:

27 a. **Section 9884.8:** Regarding Repair Order No. 0009103, Respondent failed to describe  
28 all service work performed and describe parts as new, used, rebuilt, or reconditioned.



1 it knew or which, by exercise of reasonable care it should have known were untrue or misleading  
2 by representing on Repair Order No. 0003486 that it had replaced the right side axle when, in  
3 fact, that part had not been replaced as invoiced.

4 **SEVENTH CAUSE FOR DISCIPLINE**

5 **(Fraud)**

6 33. Respondent has subjected its registration to discipline pursuant to Code section  
7 9884.7, subdivision (a)(4), in that on or about July 29, 2008, Respondent committed acts  
8 constituting fraud by accepting payment for replacement of the right side axle when, in fact, that  
9 part had not been replaced as invoiced.

10 **EIGHTH CAUSE FOR DISCIPLINE**

11 **(Failure to Comply with Code)**

12 34. Respondent has subjected its registration to discipline pursuant to Code section  
13 9884.7, subdivision (a)(6), in that on or about July 29, 2008, Respondent failed to comply with  
14 the following sections of that Code:

15 a. **Section 9884.8:** Regarding Repair Order No. 0003486, Respondent failed to describe  
16 all service work performed and describe parts as new, used, rebuilt, or reconditioned.

17 b. **Section 9884.9, subdivision (a):** Regarding Repair Order No. 0003486, Respondent  
18 failed to document the additional repairs to be performed and the total additional cost.

19 **NINTH CAUSE FOR DISCIPLINE**

20 **(Failure to Comply with Regulations)**

21 35. Respondent has subjected its registration to discipline pursuant to Code section  
22 9884.7, subdivision (a)(6), in that on or about July 29, 2008, Respondent failed to comply with  
23 the following sections of California Code of Regulations, title 16:

24 a. **Section 3376, subdivision (a):** Regarding Repair Order No. 0003486, Respondent  
25 failed to describe the nature and extent of the guarantee.

26 b. **Section 3376, subdivision (b):** Regarding Repair Order No. 0003486, Respondent  
27 failed to describe the manner in which the guarantor will perform.

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1 a. That it had replaced the air filter when, in fact, that part had not been replaced as  
2 invoiced.

3 b. That cooling system and transmission flushes are manufacturer recommended when,  
4 in fact, that is contrary to the manufacturer's recommendations.

5 **ELEVENTH CAUSE FOR DISCIPLINE**

6 **(Failure to Comply with Code)**

7 40. Respondent has subjected its registration to discipline pursuant to Code section  
8 9884.7, subdivision (a)(6), in that on or about October 23, 2009, Respondent failed to comply  
9 with the following sections of that Code:

10 a. **Section 9884.8:** Regarding Repair Order No. 0012806, Respondent failed to describe  
11 all service work performed and describe parts as new, used, rebuilt, or reconditioned.

12 b. **Section 9884.9, subdivision (a):** Respondent failed to provide the operator with a  
13 written estimated price for parts and labor for a specific job.

14 **TWELFTH CAUSE FOR DISCIPLINE**

15 **(Failure to Comply with Regulations)**

16 41. Respondent has subjected its registration to discipline pursuant to Code section  
17 9884.7, subdivision (a)(6), in that on or about October 23, 2009, Respondent failed to comply  
18 with the following sections of California Code of Regulations, title 16:

19 a. **Section 3376, subdivision (a):** Regarding Repair Order No. 0012806, Respondent  
20 failed to describe the nature and extent of the guarantee.

21 b. **Section 3376, subdivision (b):** Regarding Repair Order No. 0012806, Respondent  
22 failed to describe the manner in which the guarantor will perform.

23 **UNDERCOVER VEHICLE NO. 2 – MAY 11, 2010**

24 42. On or about May 11, 2010, a Bureau undercover operator ("operator") drove a  
25 Bureau-documented 2000 Honda Odyssey to Respondent's facility for a timing belt and water  
26 pump replacement, an oil change, and a coolant flush. The operator was provided with a written  
27 estimate of \$496.73 for the repairs and services. Later that morning, Respondent's facility  
28 telephoned the operator and recommended that she replace the timing belt kit, water pump, cam

1 seals, and the thermostat. The operator was informed that the timing belt tensioner and pulleys  
2 were included in the kit. The operator authorized the additional repairs.

3 43. On or about May 12, 2010, the operator returned to Respondent's facility to retrieve  
4 the vehicle. The operator paid Respondent \$1,075.87, and received Repair Order No. 0016453.

5 44. On or about May 18, 2010, the Bureau began its reinspection of the vehicle, using  
6 Repair Order No. 0016453 as a reference. The inspection revealed that the repairs and services  
7 had been performed as invoiced; however, the Bureau confirmed invoice violations.

8 **THIRTEENTH CAUSE FOR DISCIPLINE**

9 **(Untrue or Misleading Statements)**

10 45. Respondent has subjected its registration to discipline pursuant to Code section  
11 9884.7, subdivision (a)(1), in that on or about May 11, 2010, Respondent made statements which  
12 it knew or which by exercise of reasonable care it should have known were untrue or misleading  
13 by representing the following on Repair Order No. 0016453:

14 a. That the timing belt kit included the timing belt tensioner when, in fact, that statement  
15 is untrue.

16 b. That Repair Order No. 0016453 failed to disclose the terms and conditions of the  
17 warranty.

18 **FOURTEENTH CAUSE FOR DISCIPLINE**

19 **(Failure to Comply with Code)**

20 46. Respondent has subjected its registration to discipline pursuant to Code section  
21 9884.7, subdivision (a)(6), in that on or about May 11, 2010, Respondent failed to comply with  
22 section 9884.8 of that code by failing to describe all service work performed and describe parts as  
23 new, used, rebuilt, or reconditioned.

24 **FIFTEENTH CAUSE FOR DISCIPLINE**

25 **(Failure to Comply with Regulations)**

26 47. Respondent has subjected its registration to discipline pursuant to Code section  
27 9884.7, subdivision (a)(6), in that on or about May 11, 2010, Respondent failed to comply with  
28 the following sections of California Code of Regulations, title 16:

1 a. **Section 3376, subdivision (a):** Regarding Repair Order No. 0016453, Respondent  
2 failed to describe the nature and extent of the guarantee.

3 b. **Section 3376, subdivision (b):** Regarding Repair Order No. 0016453, Respondent  
4 failed to describe the manner in which the guarantor will perform.

5 **SIXTEENTH CAUSE FOR DISCIPLINE**

6 **(Acts Involving Dishonesty, Fraud, or Deceit)**

7 48. Respondent has subjected its station license to discipline pursuant to Health and  
8 Safety Code section 44072.2, subdivision (d), in that on or about May 11, 2010, it committed acts  
9 involving dishonesty, fraud or deceit whereby another was injured, as more particularly set forth  
10 in paragraphs 22, 23, 32, 33, 39, and 45, above.

11 **OTHER MATTERS**

12 49. Under Code section 9884.7, subdivision (c), the director may invalidate temporarily  
13 or permanently or refuse to validate, the registrations for all places of business operated in this  
14 state by Ralph T. Haskell, Inc., doing business as Gold River Auto Repair, upon a finding that it  
15 has, or is, engaged in a course of repeated and willful violations of the laws and regulations  
16 pertaining to an automotive repair dealer.

17 50. Under Health and Safety Code section 44072.8, if Smog Check Station License  
18 Number RC 208561, issued to Ralph T. Haskell, Inc., doing business as Gold River Auto Repair,  
19 is revoked or suspended, any additional license issued under this chapter in the name of said  
20 licensee may be likewise revoked or suspended by the director.

21 **PRAYER**

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

24 1. Revoking, suspending, or placing on probation Automotive Repair Dealer  
25 Registration Number ARD 208561, issued to Ralph T. Haskell, Inc., doing business as Gold  
26 River Auto Repair;

27 2. Revoking, suspending, or placing on probation any other automotive repair dealer  
28 registration issued to Ralph T. Haskell, Inc., doing business as Gold River Auto Repair;

1           3.    Revoking or suspending Smog Check Station License Number RC 208561, issued to  
2 Ralph T. Haskell, Inc., doing business as Gold River Auto Repair;

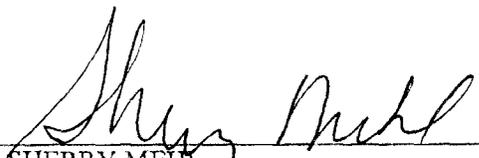
3           4.    Revoking or suspending any additional license issued under Chapter 5 of the Health  
4 & Safety Code in the name of Ralph T. Haskell, Inc., doing business as Gold River Auto Repair;

5           5.    Ordering Ralph T. Haskell, Inc., doing business as Gold River Auto Repair to pay the  
6 Bureau of Automotive Repair the reasonable costs of the investigation and enforcement of this  
7 case, pursuant to Business and Professions Code section 125.3; and,

8           6.    Taking such other and further action as deemed necessary and proper.

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DATED: 3/22/11

  
SHERRY MEHL  
Chief  
Bureau of Automotive Repair  
Department of Consumer Affairs  
State of California  
*Complainant*

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