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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: **A & A AUTO BODY** **IGNACIO ANDRADE, OWNER** 419 Mercey Springs Road Los Banos, CA 93635 **Automotive Repair Dealer No. ARD 248570** Respondent and **A & A ALL PRO AUTO REPAIR;** **IGNACIO ANDRADE, OWNER** 439 Mercey Springs Road Los Banos, CA 93635 **Automotive Repair Dealer Registration No. ARD 227686** **Smog Check Station License No. RC 227686** **Lamp Station License, Class A, No. LS 227686** **Brake Station License, Class C, No. BS 227686** **Affiliate.**	Case No. 77/17-15844 **A C C U S A T I O N**

Patrick Dorais (Complainant) alleges:

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PARTIES

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

A & A Auto Body, ARD No. 248570

2. In or around 2006, the Bureau issued Automotive Repair Dealer Number ARD 248570 to Ignacio Andrade, as owner of A & A Auto Body (Respondent A & A Auto Body). The Automotive Repair Dealer Registration was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2019, unless renewed.

A & A All Pro Auto Repair, ARD No. 227686

3. In or around 2003, the Bureau issued Automotive Repair Dealer Registration Number ARD 227686 to Ignacio Andrade, as owner of A & A All Pro Auto Repair (A & A All Pro). The Automotive Repair Dealer Registration was in full force and effect at all times relevant to the charges brought herein and will expire on May 31, 2019, unless renewed.

4. On or about October 4, 2007, the Bureau issued Smog Check Station License Number RC 227686 to A & A All Pro. The Smog Check Station License was in full force and effect at all times relevant to the charges brought herein and will expire on May 31, 2019, unless renewed.

5. On or about September 7, 2010, the Bureau issued Lamp Station License Number LS 227686, Class A, to A & A All Pro. The Lamp Station License was in full force and effect at all times relevant to the charges brought herein and will expire on May 31, 2019, unless renewed.

6. On or about September 7, 2010, the Bureau issued Brake Station License Number BS 227686, Class C, to A & A All Pro. The Brake Station License was in full force and effect at all times relevant to the charges brought herein and will expire on May 31, 2019, unless renewed.

JURISDICTION

7. This Accusation is brought before the Bureau under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

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8. Code section 118(b), states:

> The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.

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

10. Health and Safety Code section 44002 provides, in pertinent part, that the Director has all the powers and authority granted under the Automotive Repair Act for enforcing the Motor Vehicle Inspection Program.

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

12. Code section 9884.7 states:

> (a) The director, where the automotive repair dealer cannot show there was a bona fide error, may deny, suspend, revoke, or place on probation the registration of an automotive repair dealer for any of the following acts or omissions related to the conduct of the business of the automotive repair dealer, which are done by the automotive repair dealer or any automotive technician, employee, partner, officer, or member of the automotive repair dealer.
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> (b) Except as provided for in subdivision (c), if an automotive repair dealer operates more than one place of business in this state, the director pursuant to subdivision (a) shall 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.
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> (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.

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

14. Code section 9889.1 provides, in pertinent part, that any license issued pursuant to Article 5 and 6 [the Automotive Repair Act] may be suspended or revoked by the director.

STATUTORY AND REGULATORY PROVISIONS

15. Code section 9884.7 states, in pertinent part:

> (a) The director, where the automotive repair dealer cannot show there was a bona fide error, may deny, suspend, revoke, or place on probation the registration of an automotive repair dealer for any of the following acts or omissions related to the conduct of the business of the automotive repair dealer, which are done by the automotive repair dealer or any automotive technician, employee, partner, officer, or member of the automotive repair dealer.
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> (1) Making or authorizing in any manner or by any means whatever any statement written or oral which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading.
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> (4) Any other conduct that constitutes fraud.
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> (6) Failure in any material respect to comply with the provisions of this chapter or regulations adopted pursuant to it.

16. Code section 9884.8 states:

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

17. California Code of Regulations, title 16 ("CCR"), section 3356, states, in pertinent part:

(a) All invoices for service and repair work performed, and parts supplied, as provided for in Section 9884.8 of the Business and Professions Code, shall comply with this section.

(b) The invoice shall show the automotive repair dealer's registration number and the corresponding business name and address as shown in the Bureau's records.

18. CCR section 3366 states, in pertinent part:

(a) Except as provided in subsection (b) of this section, any automotive repair dealer that advertises or performs, directly or through a sublet contractor, automotive air conditioning work and uses the words service, inspection, diagnosis, top off, performance check or any expression or term of like meaning in any form of advertising or on a written estimate or invoice shall include and perform all of the following procedures as part of that air conditioning work:

(15) High and low side system operating pressures, as applicable, have been measured and recorded on the final invoice; and,

(16) The center air distribution outlet temperature has been measured and recorded on the final invoice.

COST RECOVERY

19. Code section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case, with failure of the licentiate to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

BUREAU VEHICLE INSPECTION

20. On or about September 8, 2017, Bureau representative "J.G." requested from "E.N.", Respondent A & A Auto Body's employee, records pertaining to the last 20 insurance claims/files at or in excess of $3,000 for repairs performed by Respondent A & A Auto Body. The files were to be produced by September 14, 2017. On or about September 15, 2017, records for 22 vehicles were provided and E.N. signed an acknowledgement that the records were a complete and accurate representation of vehicle repairs performed by Respondent A & A Auto Body. A review of the records revealed that Respondent A & A Auto Body's repair invoices had the address and

automotive repair dealer registration number for A & A All Pro. E.N. was instructed to use the name and address in accord with Respondent A & A Auto Body's automotive dealer registration and to cease using invoices or repair orders with information for A & A All Pro. It was also noted that the files provided by Respondent A & A Auto Body did not contain invoices for all parts listed on its repair estimates.

21. Two vehicles for which records were received were subsequently inspected by a Bureau representative. It was found that Respondent A & A Auto Body failed to repair the vehicles in accord with insurance estimates authorizing work for which Respondent A & A Auto Body was paid, as set forth below.

2016 JEEP

22. On or about June 27, 2017, "J.H." (Customer 1) took his 2016 Jeep Patriot (Jeep), which was damaged in a collision, to Respondent A & A Auto Body's facility for repairs.

23. On or about July 28, 2017, Esurance issued an estimate on Workfile ID No. 43884423, for Claim No. ESU-0247760-01 (the "Estimate") in the amount of $5,472.72, for repairs to the Jeep. In or around July 2017, Respondent A & A Auto Body received payment of $2,428.86 from Esurance for collision repairs on the Jeep. In or around July 2017, Respondent A & A Auto Body issued to Customer 1 an invoice from A & A All Pro Auto Repair (the "Invoice") for $5,108.86 for repairs to the Jeep pursuant to the Estimate. Respondent A & A Auto Body recorded on the Invoice receipt of $2,000.00 cash from Customer 1 and that Respondent A & A Auto Body had received $2,428.86 from Esurance.

24. In or around November and December 2017, J.G inspected the Jeep and found that Respondent A & A Auto Body failed to repair the vehicle according to the Estimate.

FIRST CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

25. Respondent A & A Auto Body is subject to discipline under Code section 9884.7(a)(1), in that in or around July 2017, Respondent A & A Auto Body made or authorized statements which he knew or which by exercise of reasonable care he should have known to be untrue or misleading by falsely representing to Esurance and Customer 1 that Customer 1's Jeep

had been repaired pursuant to Esurance's Estimate. In fact, Respondent A & A Auto Body failed to perform services and/or repairs specified therein, as follows:

a. The left side rail extension was not replaced.

b. The A/C option for replacement of the left side rail extension was not performed.

c. The left apron assembly was not replaced.

SECOND CAUSE FOR DISCIPLINE

(Fraud)

26. Respondent A & A Auto Body is subject to discipline under Code section 9884.7(a)(4), in that as regards Customer 1's Jeep, Respondent A & A Auto Body committed acts constituting fraud in or around July 2017 by charging and receiving payment for work that was not performed or for parts that were not supplied, as more particularly set forth in paragraphs 22-24, above.

THIRD CAUSE FOR DISCIPLINE

(Failure to Comply with Regulations Adopted Pursuant to the Automotive Repair Act)

27. Respondent A & A Auto Body's Registration is subject to discipline pursuant to Code section 9884.7(a)(6), in that as regards Customer 1's Jeep, Respondent A & A Auto Body failed to materially comply with Regulation 3356(a) and (b). Specifically, Respondent A & A Auto Body failed to show on the Invoice Respondent A & A Auto Body's automotive repair dealer registration number and the corresponding business name and address as shown in the Bureau's records.

2007 CHEVROLET TAHOE

28. In or around February 2018, "M.R." took a 2007 Chevrolet Tahoe that had been damaged in a collision (the "Chevy"), which belonged to "S.A." and M.R. (collectively, Customer 2), to Respondent A & A Auto Body's facility for repairs.

29. On or about March 13, 2018, the California State Automobile Association (CSAA) caused Estimate No. 984484 to be issued for Claim No. 1002-54-9163.1 (the "Estimate") in the amount of $7,312.27 for repairs to the Chevy. On or about March 14, 2018, CSAA issued a check in the amount of $7,312.27 payable to "A and A Auto Body and S.A." for collision repairs

to the Chevy. In or around March 2018, Respondent A & A Auto Body recorded on an invoice (the "Invoice") receipt of CSAA's check for $7,312.27 for repairs to the Chevy. Respondent A & A Auto Body did not itemize parts and labor on the Invoice.

30. In or around August 2018 and September 2018, J.G. inspected the Chevy and found that Respondent A & A Auto Body failed to repair the vehicle according to the Estimate.

FOURTH CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

31. Respondent A & A Auto Body is subject to discipline under Code section 9884.7(a)(1), in that in or around March 2018, Respondent A & A Auto Body made or authorized statements which he knew or which by exercise of reasonable care he should have known to be untrue or misleading by falsely representing to CSAA and Customer 2 that Customer 2's Chevy had been repaired pursuant to CSAA's Estimate. In fact, Respondent A & A Auto Body failed to perform services and/or repairs specified therein, as follows:

a. The hood latch was not replaced.

b. The cooling upper tie bar was not replaced.

c. The center cooling support was not replaced.

d. The right cooling radiator baffle was not replaced.

e. The left cooling radiator baffle was not replaced.

f. The left front door adhesive nameplate was not replaced.

g. The left front door adhesive emblem was not replaced.

FIFTH CAUSE FOR DISCIPLINE

(Fraud)

32. Respondent A & A Auto Body is subject to discipline under Code section 9884.7(a)(4), in that as regards Customer 2's Chevy, Respondent A & A Auto Body committed acts constituting fraud in or around March 2018, by charging and receiving payment for work that was not performed or for parts that were not supplied, as more particularly set forth in paragraphs 28-30, above.

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SIXTH CAUSE FOR DISCIPLINE

(Failure to Comply with the Automotive Repair Act)

33. Respondent A & A Auto Body's registration is subject to discipline pursuant to Code section 9884.7(a)(6), in that Respondent A & A Auto Body failed to itemize parts and labor on the Invoice issued to Customer 2 for work performed on the Chevy in March 2018, as required pursuant to Code section 9884.8.

SEVENTH CAUSE FOR DISCIPLINE

(Failure to Comply with Regulations Adopted Pursuant to the Automotive Repair Act)

34. Respondent A & A Auto Body's Registration is subject to discipline pursuant to Code section 9884.7(a)(6), in that in or around March 2018, as regards Customer 2's Chevy, Respondent A & A Auto Body failed to materially comply with regulations, as follows:

a. Respondent A & A Auto Body failed to show on the Invoice issued to Customer 2, the automotive repair dealer registration number and the corresponding business name and address as shown in the Bureau's records for work performed by Respondent A & A Auto Body, in violation of CCR 3356(a) and (b).

b. Respondent failed to record on his Invoice the high and low side system operating pressures, in violation of CCR section 3366(a)(15).

c. Respondent failed to record on his Invoice the center air distribution outlet temperature, in violation of CCR section 3366(a)(16).

MATTERS IN AGGRAVATION

35. To determine the degree of discipline, if any, to be imposed, Complainant alleges that on or about September 15, 2017, in the course of a field inspection, a Bureau representative informed Respondent A & A Auto Body's manager, E.N., that Respondent A & A Auto Body could not use invoices that had the name, address, and automotive repair dealer registration number for Respondent A & A Auto Body's affiliated business, A & A All Pro Auto Repair, Automotive Dealer Registration Number ARD 227686.

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OTHER MATTERS

36. Pursuant to Code section 9884.7(c), the Director may suspend, revoke, or place on probation the registration for all places of business operated in this state by Respondent Ignacio Andrade, doing business as A & A Auto Body, issued to Andrade Ignacio, upon a finding that Respondent has, or is, engaged in a course of repeated and willful violations of the laws and regulations pertaining to an automotive repair dealer.

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 248570, issued to Ignacio Andrade, doing business as A & A Auto Body;

2. Revoking or suspending Smog Check Station License Number RC 227686, issued to Ignacio Andrade, owner of A & A All Pro Auto Repair;

3. Revoking or suspending Lamp Station License Number LS 227686, issued to Ignacio Andrade;

4. Revoking or suspending Brake Station License Number BS 227686, issued to Ignacio Andrade;

5. Revoking or suspending any other automotive repair dealer registration or license issued to Ignacio Andrade;

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6. Ordering Ignacio Andrade to pay the Bureau of Automotive Repair the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

7. Taking such other and further action as deemed necessary and proper.

DATED: April 2, 2019

PATRICK DORAIS
Chief
Bureau of Automotive Repair
Department of Consumer Affairs
State of California
Complainant

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