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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. *77/17-6678*

13 **FH & SONS AUTO BODY & PAINT**  
**OLIVIA GALVAN, OWNER**  
14 835 W. 14th Street  
Merced, CA 95340

**A C C U S A T I O N**

15 **Automotive Repair Dealer Registration**  
16 **No. ARD 265158**

17 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 May 19, 2011, the Bureau issued Automotive Repair Dealer Registration  
23 Number ARD 265158 to Olivia Galvan ("Respondent"), as owner of FH & Sons Auto Body &  
24 Paint. The Automotive Repair Dealer Registration was in full force and effect at all time relevant  
25 to the charges brought herein and will expire on May 31, 2018, unless renewed.

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1 JURISDICTION

2 3. This Accusation is brought before the Director of the Department of Consumer  
3 Affairs (Director) for the Bureau, under the authority of the following laws. All section  
4 references are to the Business and Professions Code ("Code") unless otherwise indicated.

5 4. Code section 9884.7 states:

6 (a) The director, where the automotive repair dealer cannot show there was a bona  
7 fide error, may deny, suspend, revoke, or place on probation the registration of an  
8 automotive repair dealer for any of the following acts or omissions related to the conduct  
9 of the business of the automotive repair dealer, which are done by the automotive repair  
10 dealer or any automotive technician, employee, partner, officer, or member of the  
11 automotive repair dealer.

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

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

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

26 6. Code section 118(b), states:

27 The suspension, expiration, or forfeiture by operation of law of a license issued  
28 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.

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

3 **STATUTORY AND REGULATORY PROVISIONS**

4 8. Code section 9884.7 states, in pertinent part:

5 (a) The director, where the automotive repair dealer cannot show there was a  
6 bona fide error, may deny, suspend, revoke, or place on probation the registration of  
7 an automotive repair dealer for any of the following acts or omissions related to the  
8 conduct of the business of the automotive repair dealer, which are done by the  
9 automotive repair dealer or any automotive technician, employee, partner, officer, or  
10 member of the automotive repair dealer.

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

15 (4) Any other conduct that constitutes fraud.

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

18 9. Code section 9884.9, states, in pertinent part:

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

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

4 (signature or initials)

5 **COST RECOVERY**

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

12 **BUREAU VEHICLE INSPECTION**

13 11. On or about April 17, 2017, Bureau representative "D.B." requested from Respondent  
14 records pertaining to 20 insurance claims for automotive repairs for review by the Bureau by  
15 April 18, 2017. That same day, "F.H.", Respondent's manager, signed an acknowledgement that  
16 the requested records had been provided. A review of the records revealed that information was  
17 missing, and on or about April 25, 2017, D.B. returned to Respondent's facility and requested  
18 complete records. F.H. signed an acknowledgement that the records provided were complete and  
19 that the repairs were performed as described in the records provided.

20 12. Four vehicles for which records were received were subsequently inspected by a  
21 Bureau representative. It was found that Respondent failed to repair the vehicles in accord with  
22 insurance estimates authorizing work for which Respondent had been paid, as set forth below.

23 **2012 DODGE CHARGER**

24 13. On or about June 24, 2016, "A.S." took his 2012 Dodge Charger ("Dodge"), which  
25 was damaged in a collision, to Respondent's facility for repairs. Respondent did not provide A.S.  
26 with a written estimate.

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1 14. On or about June 28, 2016, Allstate Northbrook Indemnity Company (“Allstate”)  
2 issued an estimate on Workfile ID No. 6e1ffb45, Claim No. 000418716718D01 (the “Estimate”)  
3 in the amount of \$4,586.09, with a \$500 deductible payable by A.S. On or about June 29, 2016,  
4 Respondent received total payment of \$4,086.09 from Allstate for collision repairs on the Dodge.

5 15. On or about April 25, 2017, “J.G.”, a Bureau representative, inspected the Dodge and  
6 found that Respondent failed to repair the vehicle according to the Estimate.

7 **FIRST CAUSE FOR DISCIPLINE**

8 (Untrue or Misleading Statements)

9 16. Respondent is subject to discipline under Code section 9884.7(a)(1), in that in or  
10 around June 2016, Respondent made or authorized statements which she knew or which by  
11 exercise of reasonable care should have known to be untrue or misleading by falsely representing  
12 to Allstate and A.S. that A.S.’s Dodge had been repaired pursuant to Allstate’s Estimate. In fact,  
13 Respondent failed to perform services and/or repairs specified therein, as follows:

14 a. The front bumper absorber was not replaced. A left front bumper absorber was not  
15 installed.

16 b. The A/C condenser assembly was not replaced.

17 c. An evacuate and recharge service for the A/C was not performed.

18 d. A refrigerant recovery service for the A/C was not performed.

19 e. An aluminum hood was not installed.

20 f. The paint operations necessary to finish the hood were not performed.

21 g. The right and left outer rails were not repaired or painted.

22 h. The left outer rail was missing two mounting bolts intended to secure the front  
23 bumper reinforcement.

24 i. The air cleaner assembly was not replaced.

25 **SECOND CAUSE FOR DISCIPLINE**

26 (Fraud)

27 17. Respondent is subject to discipline under Code section 9884.7(a)(4), in that as regards  
28 A.S.’s Dodge, Respondent committed acts constituting fraud in or around June 2016 by charging

1 and receiving payment in the amount of \$2,234.44 for work that was not performed or for parts  
2 that were not supplied, as more particularly set forth above in paragraph 16, above.

3 **THIRD CAUSE FOR DISCIPLINE**

4 (Failure to Comply with the Automotive Repair Act)

5 18. Respondent's registration is subject to discipline under Code section 9884.7(a)(6), in  
6 that as regards A.S.'s Dodge, she failed to materially comply with the Automotive Repair Act.  
7 Specifically, Respondent failed to provide a specific written estimate for collision repairs in  
8 violation of Code section 9884.9(a).

9 **2005 LEXUS**

10 19. On or about December 12, 2015, "F.G." took his 2005 Lexus IS 300 ("Lexus"),  
11 which was damaged in a collision, to Respondent's facility for repairs.

12 20. On or about February 13, 2016, Kirk's Appraisal Service issued an estimate for  
13 California State Automobile Association ("CSAA"), Estimate ID and Claim No. 1001-23-9942-1  
14 (the "Estimate"), for repairs to the Lexus in the amount of \$3,501.81, with a \$500 deductible  
15 payable by F.G. On or about February 17, 2016, CSAA issued a check to Respondent in the  
16 amount of \$3,001.81 for collision repairs on F.G.'s Lexus.

17 21. On or about April 25, 2017, "R.K.", a Bureau representative, inspected the Lexus and  
18 found that Respondent failed to repair the vehicle according to the Estimate.

19 **FOURTH CAUSE FOR DISCIPLINE**

20 (Untrue or Misleading Statements)

21 22. Respondent is subject to discipline under Code section 9884.7(a)(1), in that in or  
22 around February 2016, Respondent made or authorized statements which she knew or which by  
23 exercise of reasonable care should have known to be untrue or misleading by falsely representing  
24 to CSAA and F.G. that F.G.'s Lexus had been repaired pursuant to CSAA Estimate ID 1001-23-  
25 9942.1. In fact, Respondent failed to perform services and/or repairs specified therein, as  
26 follows:

27 a. The front bumper license plate bracket was not replaced.

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1 **SEVENTH CAUSE FOR DISCIPLINE**

2 (Untrue or Misleading Statements)

3 28. Respondent is subject to discipline under Code section 9884.7(a)(1), in that in or  
4 around February 2016, Respondent made or authorized statements which she knew or which by  
5 exercise of reasonable care should have known to be untrue or misleading by falsely representing  
6 to Anchor and E.C. that E.C.'s Toyota had been repaired pursuant to CSAA Estimate 16251012-

7 II. In fact, Respondent failed to perform services and/or repairs specified therein, as follows:

- 8 a. The grille assembly was not replaced.  
9 b. The hood was not refinished as described.  
10 c. The cooling radiator support was not replaced.  
11 d. The radiator support was not refinished as described.  
12 e. The right fender adhesive nameplate was not replaced.  
13 f. The right fender apron assembly was not repaired as described.  
14 g. The right fender apron was not refinished as described.  
15 h. The right front door adhesive nameplate was not removed prior to refinishing and was  
16 not replaced.  
17 i. The right rear outer door handle was not removed prior to refinishing.

18 **EIGHTH CAUSE FOR DISCIPLINE**

19 (Fraud)

20 29. Respondent is subject to discipline under Code section 9884.7(a)(4), in that as regards  
21 E.C.'s Toyota, Respondent committed acts constituting fraud in or around January 2016 and/or  
22 February 2016 by charging and receiving payment in the amount of \$1,678.13 for work that was  
23 not performed or for parts that were not supplied, as more particularly set forth above in  
24 paragraph 28, above.

25 **NINTH CAUSE FOR DISCIPLINE**

26 (Failure to Comply with the Automotive Repair Act)

27 30. Respondent's registration is subject to discipline under Code section 9884.7(a)(6), in  
28 that as regards E.C.'s Toyota, she failed to materially comply with the Automotive Repair Act.



1 Specifically, Respondent failed to provide a specific written estimate for collision repairs in  
2 violation of Code section 9884.9(a).

3 **2013 HONDA**

4 31. On or about August 2, 2016, "A.E." took her 2013 Honda Accord ("Honda"), which  
5 was damaged in a collision, to Respondent's facility for repairs.

6 32. On or about August 11, 2016, AFA Appraisal Services issued an estimate for  
7 Nation's Insurance Company, ("Nations"), Estimate ID and Claim No. MSI-0011301-1 (the  
8 "Estimate"), for repairs to the Honda in the amount of \$7,059.84, with a \$500.00 deductible  
9 payable by A.E. In or around August 22, 2016, Nations issued a check to Respondent in the  
10 amount of \$6,559.84, for collision repairs on A.E.'s Honda.

11 33. On or about April 26, 2017, "D.B.", a Bureau representative, inspected the Honda and  
12 found that Respondent failed to repair the vehicle according to the Estimate.

13 **TENTH CAUSE FOR DISCIPLINE**

14 (Untrue or Misleading Statements)

15 34. Respondent is subject to discipline under Code section 9884.7(a)(1), in that in or  
16 around August 2016, Respondent made or authorized statements which she knew or which by  
17 exercise of reasonable care should have known to be untrue or misleading by falsely representing  
18 to Nations and A.E. that A.E.'s Honda had been repaired pursuant to Nations' Estimate MSI-  
19 0011301-1. In fact, Respondent failed to perform services and/or repairs specified therein, as  
20 follows:

- 21 a. The left quarter outer panel was not replaced.
- 22 b. The outside and edge of the left quarter panel and the pillar were not refinished as  
23 described.
- 24 c. The left quarter reinforcement to roof hood was not replaced.
- 25 d. The rear body panel was not replaced or refinished as described.

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1 **ELEVENTH CAUSE FOR DISCIPLINE**

2 (Fraud)

3 35. Respondent is subject to discipline under Code section 9884.7(a)(4), in that as regards  
4 A.E.'s Honda, Respondent committed acts constituting fraud in or around August 2016 by  
5 charging and receiving payment in the amount of \$4,366.60 for work that was not performed or  
6 for parts that were not supplied, as more particularly set forth above in paragraph 34, above.

7 **TWELFTH CAUSE FOR DISCIPLINE**

8 (Failure to Comply with the Automotive Repair Act)

9 36. Respondent's registration is subject to discipline under Code section 9884.7(a)(6), in  
10 that as regards A.E.'s Honda, she failed to materially comply with the Automotive Repair Act.  
11 Specifically, Respondent failed to provide a specific written estimate for collision repairs in  
12 violation of Code section 9884.9(a).

13 **OTHER MATTERS**

14 37. Pursuant to Code section 9884.7(c), the Director may suspend, revoke, or place on  
15 probation the registration for all places of business operated in this state by Respondent Olivia  
16 Galvan, owner of FH & Sons Auto Body & Paint, upon a finding that Respondent has, or is,  
17 engaged in a course of repeated and willful violations of the laws and regulations pertaining to an  
18 automotive repair dealer.

19 **PRAYER**


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

- 22 1. Revoking or suspending Automotive Repair Dealer Registration Number  
23 ARD 265158, issued to Olivia Galvan, as owner of FH & Sons Auto Body & Paint;
- 24 2. Revoking or suspending any other automotive repair dealer registration issued to  
25 Olivia Galvan;
- 26 3. Ordering Olivia Galvan to pay the Bureau of Automotive Repair the reasonable costs  
27 of the investigation and enforcement of this case, pursuant to Business and Professions Code  
28 section 125.3; and,

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

DATED: May 22, 2018

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

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