CASE PROCESSING OVERVIEW

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ENFORCEMENT OPERATIONS BRANCH
BAR ADVISORY GROUP MEETING
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BAR CASE PROCESSING DAYS

• DCA Consumer Protection Enforcement Initiative (CPEI)
  • Goal to impose discipline = 540 days from initiation of investigation

• https://www.dca.ca.gov/publications/annual_reports.shtml

• DCA Annual Reports
  o FY 2017/18 Report, pp. 34 to 38
    ➢ 808 days to impose discipline from initiation of investigation to decision effective date
    ➢ 648 from closure of investigation to decision effective date
  o FY 2016/17 Report, pp. 32 to 36
    ➢ 719 days to impose discipline from initiation of investigation to decision effective date
    ➢ 607 from closure of investigation to decision effective date
INITIATION OF INVESTIGATION

- Field Office determines violations of the Automotive Repair Act have occurred. Information can come from:
  - Complaint trends revealing a pattern of violations
  - Auto Body Inspection Program
  - Anonymous tips
  - Smog Check inspection data
  - Other sources
INVESTIGATION PROCEDURES

• In consultation with the Field Office supervisor, the investigating Program Representative will gather evidence about violations. Techniques such as the following may be employed:
  • Undercover vehicle operations
  • Video surveillance
  • Advertising review
  • Review of ARD documents
REPORT WRITING

• Once sufficient evidence is obtained, a report is written detailing the investigation and the exhibits.

• Report reviewed by Field Office supervisor for:
  • Grammar and spelling
  • Formatting
  • Factual information
  • Evidence supporting the allegations
  • Accuracy of the exhibits
HEADQUARTERS REVIEW

• Once approved at the Field Office, the report is forwarded to the Enforcement Operations Branch (EOB) for quality assurance check and approval. EOB reviews the following:
  • Grammar and spelling
  • Formatting
  • Factual information
  • Evidence supporting the allegations
  • Accuracy of the exhibits
SUBMITTAL TO ATTORNEY GENERAL

• Once the report is final, it is submitted to the AG Licensing Section where the following will occur:
  • Case assignment to a Deputy Attorney General (DAG)
  • DAG review for sufficient evidence to sustain an accusation
  • Prepare accusation for BAR review
    • EOB Case Analysts compare the accusation to the investigative report for accuracy
    • Case Analyst works with the DAG to make any necessary edits
ACCUSATION FILING

• Once the final draft of the accusation is completed, it is presented to the Chief of the Bureau for final approval and signature.
  • Accusation is ‘filed’ when the Chief signs it
  • Signed accusation is returned to the DAG who executes service of the accusation upon Respondent
  • When served, the accusation is accompanied by several, legally required documents
  • One of these documents is a blank Notice of Defense
ADDRESSING THE ACCUSATION

• Respondent’s options once served with an accusation:
  • File Notice of Defense (NOD) within 15 days and request a hearing before an Administrative Law Judge (ALJ)
  • File NOD within 15 days and request settlement of the matter
  • Elect not to file NOD

• If NOD is not received timely, the Director will issue a Default Decision against Respondent
HEARING PROCESS

• If a hearing is requested, the following will occur:
  • DAG works with Respondent to set a mutually agreeable hearing date
  • Both parties present evidence to the ALJ
  • At the close of the hearing, the matter will be formally submitted to the ALJ to prepare a Proposed Decision
PROPOSED DECISION

• ALJ has 30 days to submit a Proposed Decision to the Bureau. The Bureau then follows these steps:
  • Proposed Decision and Accusation are forwarded to Department of Consumer Affairs’ Legal Affairs Division (DCA Legal) for review on behalf of the Director
  • Director will generally take one of the following actions on the Proposed Decision
    • Adopt the Proposed Decision (as written) as the Director’s Decision
    • Reject the Proposed Decision and determine the matter based upon the record
    • Reject and remand the matter to the ALJ to take additional evidence
ENFORCEMENT OF ORDER

• The final Director’s Decision will be sent back to BAR for service and enforcement:
  • BAR will serve the decision on all parties and their counsel
  • Decision takes effect on date stated in Director’s Decision (usually 30 days after the date of service)
  • BAR will enforce the decision as detailed in the Order, which may include Probation, Suspension or Revocation
• Probation may include:
  • Cost recovery
  • Training
  • Suspension
  • Revocation
QUESTIONS AND COMMENTS

Submit questions and/or comments to:

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