

1 KAMALA D. HARRIS
Attorney General of California
2 JOSHUA A. ROOM
Supervising Deputy Attorney General
3 NICHOLAS TSUKAMAKI
Deputy Attorney General
4 State Bar No. 253959
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-1188
6 Facsimile: (415) 703-5480
E-mail: Nicholas.Tsukamaki@doj.ca.gov
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:

Case No.

77/16-52

13 **YOUNG'S DISCOUNT MUFFLER &**
14 **BRAKE, INC. dba DISCOUNT MUFFLER**
15 **& BRAKE**
16 **NORMAN H. YOUNG, PRESIDENT**
17 **369 11th Street**
18 **San Francisco, CA 94103-4313**

A C C U S A T I O N

19 **Automotive Repair Dealer Registration No.**
20 **ARD 171965**

Respondent.

21 Complainant alleges:

PARTIES

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

24 2. In or around 1993, the Bureau of Automotive Repair issued Automotive Repair
25 Dealer Registration Number ARD 171965 to Young's Discount Muffler & Brake, Inc. dba
26 Discount Muffler & Brake, Norman H. Young, President (Respondent). The Automotive Repair
27 Dealer Registration was in full force and effect at all times relevant to the charges brought herein
28 and will expire on April 30, 2016, unless renewed.

1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8

2
3
4
5

6
7
8
9

0

- 1
- 2
- 3
- 4
- 5
- 6
- 7

8

9

0
1
2
3
4

5
6
7

8

“(4) Any other conduct which constitutes fraud.

• • •

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

7. Section 9884.8 of the Code 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.”

8. Section 9884.9 of the Code provides, in relevant part:

“(a) The automotive repair dealer shall give to the customer a written estimated price for labor and parts necessary for a specific job. No work shall be done and no charges shall accrue before authorization to proceed is obtained from the customer. . . .”

9. Section 9884.11 of the Code states: "Each automotive repair dealer shall maintain any records that are required by regulations adopted to carry out this chapter. Those records shall be open for reasonable inspection by the chief or other law enforcement officials. All of those records shall be maintained for at least three years."

REGULATORY PROVISIONS

10. California Code of Regulations, title 16, section 3353 provides, in relevant part:

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

///

“(a) Estimate for Parts and Labor. Every dealer shall give to each customer a written estimated price for parts and labor for a specific job.

• • • ”

11. California Code of Regulations, title 16, section 3356 provides, in relevant 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 the following:

...

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

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

”

• • •

12. California Code of Regulations, title 16, section 3358 provides, in relevant part:

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

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

• • • ”

13. California Code of Regulations, title 16, section 3373 states:

“No automotive repair dealer or individual in charge shall, in filling out an estimate, invoice, or work order, or record required to be maintained by section 3340.15(e) of this chapter, withhold therefrom or insert therein any statement or information which will cause any such document to be false or misleading, or where the tendency or effect thereby would be to mislead or deceive customers, prospective customers, or the public.”

COSTS

14. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee 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 licensee to comply subjecting the license to not being

1 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
2 included in a stipulated settlement.

3 **FACTUAL BACKGROUND**

4 **2002 Honda**

5 15. In or around May 2014, Respondent charged a customer \$250 to replace the catalytic
6 converter on the customer's 2002 Honda. The new catalytic converter that Respondent installed
7 was not the correct one for the Honda or any Honda vehicle. Also, the new catalytic converter
8 that Respondent installed was not certified by the California Air Resource Board (CARB) and
9 should not have been sold or installed on any vehicle. Respondent's invoice for this repair did not
10 record a part number for the catalytic converter.

11 **2003 Toyota**

12 16. On or about March 17, 2014, Respondent replaced a catalytic converter on a 2003
13 Toyota. The owner of the Toyota then took the vehicle to another facility for a smog check
14 inspection, which the vehicle failed because one of the catalytic converters had been tampered
15 with. On or about May 29, 2015, Respondent's employee replaced one of the Toyota's catalytic
16 converters but declined to provide the owner with an invoice for the work. The owner then had
17 another smog check inspection performed on the Toyota. The Toyota failed that inspection
18 because the vehicle still had one non-compliant catalytic converter. On or about June 2, 2015, the
19 owner of the Toyota took her vehicle back to Respondent in order to have the non-compliant
20 catalytic converter replaced. Respondent replaced that catalytic converter but did not provide the
21 owner with an invoice for the work. The owner of the Toyota paid Respondent for the
22 replacement of the catalytic converters.

23 17. The two catalytic converters that Respondent replaced on the Toyota had CARB
24 numbers and part numbers that were not correct for the Toyota. Respondent had modified the
25 catalytic converters by welding on heat shields that displayed CARB numbers and part numbers
26 that were correct for the Toyota.

27 18. On or about June 17, 2015, Respondent's President, Norman H. Young (Young) met
28 with Bureau representatives to discuss the catalytic converters that Respondent installed on the

1 Toyota. Young told the Bureau representatives that he sometimes welds on heat shields having
2 the correct CARB number and part number to a catalytic converter that does not actually have
3 those numbers. Young also stated that he was aware that installing a heat shield on a catalytic
4 converter with different numbers than are on the catalytic converter itself is illegal. The Bureau
5 representatives requested invoices and parts receipts from Young, but Young failed to provide
6 them.

7 **FIRST CAUSE FOR DISCIPLINE**

8 **(Untrue or Misleading Statements)**

9 19. Respondent's registration is subject to disciplinary action under section 9884.7,
10 subdivision (a)(1) of the Code and California Code of Regulations, title 16, section 3373, in that
11 Respondent made or authorized statements which it knew or in the exercise of reasonable care
12 should have known to be untrue or misleading as follows:

- 13 a. Respondent charged two customers for non-compliant catalytic converters.
14 b. Respondent modified non-compliant catalytic converters by welding on heat shields
15 that displayed the correct CARB numbers and part numbers for the vehicle.

16 **SECOND CAUSE FOR DISCIPLINE**

17 **(Fraud)**

18 20. Respondent's registration is subject to disciplinary action under section 9884.7,
19 subdivision (a)(4) of the Code in that Respondent committed acts constituting fraud by accepting
20 payment for installing non-compliant catalytic converters on two vehicles.

21 **THIRD CAUSE FOR DISCIPLINE**

22 **(Failure to Provide Customer with Invoice)**

23 21. Respondent's registration is subject to disciplinary action under sections 9884.7,
24 subdivision (a)(6) and 9884.8 of the Code, and California Code of Regulations, title 16, section
25 3356, subdivision (a)(2)(A), in that (1) Respondent's invoice for the work done on the 2002
26 Honda does not contain a part number for the catalytic converter; and (2) Respondent failed to
27 provide the owner of the Toyota with invoices for the replacement of the catalytic converters on
28 the vehicle.

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

FOURTH CAUSE FOR DISCIPLINE

(Failure to Provide Customer with Estimate)

22. Respondent's registration is subject to disciplinary action under sections 9884.7, subdivision (a)(6) and 9884.9 of the Code, and California Code of Regulations, title 16, section 3353, subdivision (a), in that Respondent failed to provide the owner of the Toyota with a written estimated price for labor and parts for the replacement of the vehicle's catalytic converters.

FIFTH CAUSE FOR DISCIPLINE

(Failure to Maintain Records)

23. Respondent's registration is subject to disciplinary action under sections 9884.7, subdivision (a)(6) and 9884.11 of the Code, and California Code of Regulations, title 16, section 3358, subdivision (a), in that Respondent failed to maintain records, including invoices and parts receipts, required by Bureau regulations.

OTHER MATTERS

24. Under section 9884.7, subdivision (c) of the Code, the Director may suspend, revoke, or place on probation the registrations for all places of business operated in this state by Respondent upon a finding that it 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 171965 issued to Young's Discount Muffler & Brake, Inc. dba Discount Muffler & Brake, Norman H. Young, President (Respondent);
2. Revoking, suspending, or placing on probation any other automotive repair dealer registration issued to Respondent;
3. Ordering Respondent 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;

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

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

DATED: 4-1-16

Patrick Dorais by Doug Balatti
PATRICK DORAIS
Chief
Bureau of Automotive Repair
Department of Consumer Affairs
State of California
Complainant

SF2015403343
41490535.doc