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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. 77/14-38

13 **KEW CORPORATION, INC.**
14 **dba DODGE CHRYSLER JEEP OF**
15 **VACAVILLE**
16 **CLARENCE WILLIAMS, JR.,**
17 **PRESIDENT**
18 **681 Orange Drive**
19 **Vacaville, CA 95687**

A C C U S A T I O N

20 **Automotive Repair Dealer Registration No.**
21 **ARD 216027**

22 **Smog Check Station License No. RC 216027**

23 Respondent.

24 Complainant alleges:

25 **PARTIES**

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

28 2. In or around 2001, the Bureau issued Automotive Repair Dealer Registration Number
ARD 216027 to Kew Corporation, Inc., dba Dodge Chrysler Jeep of Vacaville, Clarence
Williams, Jr., President (Respondent). The Automotive Repair Dealer Registration was in full

1 force and effect at all times relevant to the charges brought herein and will expire on April 30,
2 2014, unless renewed.

3 3. On or about April 11, 2008, the Bureau issued Smog Check Station License Number
4 RC 216027 to Respondent. The Smog Check Station License was in full force and effect at all
5 times relevant to the charges brought herein and will expire on April 30, 2014, unless renewed.

6 JURISDICTION

7 4. This Accusation is brought before the Director of Consumer Affairs (Director) for the
8 Bureau of Automotive Repair under the authority of the following laws. All section references
9 are to the Business and Professions Code (Code) unless otherwise indicated.

10 5. Section 9884.13 of the Code provides, in pertinent part, that the expiration of a valid
11 registration shall not deprive the Director of jurisdiction to proceed with a disciplinary proceeding
12 against an automotive repair dealer or to render a decision temporarily or permanently
13 invalidating (suspending or revoking) a registration.

14 6. Section 118 of the Code states:

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

23 STATUTORY PROVISIONS

24 7. Section 9884.7 of the Code states, in pertinent part:

25 (a) The director, where the automotive repair dealer cannot show there was a bona
26 fide error, may refuse to validate, or may invalidate temporarily or permanently, the
27 registration of an automotive repair dealer for any of the following acts or
28 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.

(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 which constitutes fraud.

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

...

(c) Notwithstanding subdivision (b), the director may refuse to validate, or 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.

....

8. Section 9884.8 of the Code states, in pertinent part: "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. . . ."

REGULATORY PROVISIONS

9. California Code of Regulations, title 16, section 3371 states, in pertinent part: "No dealer shall publish, utter, or make or cause to be published, uttered, or made any false or misleading statement or advertisement which is known to be false or misleading, or which by the exercise of reasonable care should be known to be false or misleading. . . ."

10. 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(f) 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.

11. California Code of Regulations, title 16, 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 the following:

1 ...

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

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

5 ...

6 COSTS

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

13 UNDERCOVER OPERATION #1 – September 18, 2012

14 13. On or about September 18, 2012, Bureau employees performed an undercover
15 operation at the subject facility using a 2002 Dodge. Prior to initiating the undercover operation,
16 Bureau personnel had inspected and documented the Dodge. The only repairs needed for the
17 vehicle to be safely driven were replacement of the front brake pads and replacement of the
18 engine oil and filter.

19 14. On or about September 18, 2012, a Bureau undercover operator drove the Dodge to
20 the subject facility and spoke with an employee by the name of Frank Mendoza (Mendoza). The
21 operator requested an oil change and asked Mendoza to check the brakes and determine why the
22 vehicle seemed to ride strange. Mendoza told the operator that he would call her after he had
23 performed an inspection of the vehicle. Later in the day on September 18, 2012, Mendoza called
24 the operator and told her the following: the Dodge's front brakes needed to be replaced; the
25 vehicle's front sway bar bushings and link bearings were worn out and needed to be replaced; and
26 the cost of the repairs would be around \$1,080. The operator authorized the repairs.

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1 15. On or about September 20, 2012, the operator returned to the subject facility to pick
2 up the Dodge. Mendoza informed the operator that the vehicle's front brake pads had been
3 replaced, the rotors had been machined, and the vehicle's sway bar bushings were completely
4 crushed flat and the link bearings were shot. The operator paid \$1,084.41 for the repairs and
5 received a copy of invoice [REDACTED]

6 16. Invoice [REDACTED] states: "installed 10121 oil flush." The Dodge's owner's manual,
7 however, does not recommend that oil flush cleaner and conditioner be added to the engine oil.
8 The invoice also states: "Recommend 30,000 mile interval premium service due to time and
9 mileage" Based on the vehicle's owner's manual, this recommendation was not required for
10 the Dodge. Upon re-inspection of the Dodge, a Bureau representative determined that the
11 vehicle's front brake rotors had been replaced. The vehicle's front brake rotors, however, were in
12 good, serviceable condition and were not in need of replacement. The Bureau representative
13 further determined that the vehicle's front sway bar bushings and end links had been replaced as
14 invoiced. The vehicle's front suspension stabilizer bar end links and mounting bushings,
15 however, were in good, serviceable condition and were not in need of replacement.

16 17. Bureau personnel determined that Respondent's facility charged the operator \$922.33
17 in unnecessary parts and labor. The costs paid for these unnecessary parts and labor are shown in
18 Table #1 below.

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1 **TABLE #1**

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Description	Parts Cost	Service/installation labor cost
Front brake rotors (2)	\$71.98	\$195.00
Oil flush	\$25.99	
Front sway bar bushings and links	\$163.98	\$420.00
Tax	\$45.38	
Total Parts	\$307.33	
Total Labor	\$615.00	
Total Fraud	\$922.33	

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12 **FIRST CAUSE FOR DISCIPLINE**

13 **(Untrue and/or Misleading Statements)**

14 18. Respondent's registration is subject to discipline under section 9884.7, subdivisions
15 (a)(1) and/or (a)(6) of the Code and California Code of Regulations, title 16, sections 3371 and
16 3373, in that Respondent made or authorized statements that he knew or in the exercise of
17 reasonable care should have known to be untrue and/or misleading, as follows:

18 a. Respondent's employee told the Bureau's operator that the Dodge needed certain
19 parts that were not in need of replacement.

20 b. Respondent's employee listed on the invoice for the repairs to the Dodge certain parts
21 and repairs that were unnecessary.

22 **SECOND CAUSE FOR DISCIPLINE**

23 **(Fraud)**

24 19. Respondent is subject to disciplinary action under section 9884.7, subdivisions (a)(4)
25 and/or (a)(6) of the Code in that Respondent committed acts constituting fraud by accepting
26 payment for the installation of oil flush and the replacement of the Dodge's front brake rotors and

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1 front sway bar bushings and end links, even though those parts were not in need of installation or
2 replacement.

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4 **UNDERCOVER OPERATION #2 – April 8, 2013**

5 20. On or about April 8, 2013, Bureau employees performed an undercover operation at
6 the subject facility using a 2002 Dodge. Prior to initiating the undercover operation, Bureau
7 personnel had inspected and documented the Dodge. The only repairs needed for the vehicle to
8 be safely driven were an engine oil and filter change, the replacement of the front brake pads, the
9 replacement of the vehicle's throttle position sensor (TPS), and the tightening of the vehicle's
10 driver's side front stabilizer bar link.

11 21. On or about April 8, 2013, a Bureau undercover operator drove the Dodge to the
12 subject facility and spoke with an employee by the name of Jennifer Lintag (Lintag). The
13 operator requested an oil change and also requested that the facility check the brakes, check why
14 the vehicle seemed to ride different, and determine why the check engine light was on. Lintag
15 informed the operator that she would call the operator after the facility had performed an
16 inspection of the vehicle. On or about April 9, 2013, the operator spoke with Lintag who told the
17 operator that the vehicle's front brake pads needed to be replaced and the brake rotors turned, a
18 bolt in the front sway bar needed to be tightened, the TPS needed to be replaced, the throttle body
19 was dirty and needed cleaning, and the brake light switch was stuck in the "on" position and
20 needed to be replaced. Lintag further informed the operator that the cost of the repairs would be
21 around \$1,055. The operator authorized the repairs.

22 22. On or about April 11, 2013, the operator returned to the subject facility to pick up the
23 Dodge. The operator paid \$1,052.64 for the repairs and received a copy of invoice [REDACTED].

24 23. A Bureau employee later determined that Respondent's facility replaced the Dodge's
25 brake light switch as invoiced. This part, however, was documented to be in good and
26 serviceable condition and was not in need of replacement or repair. The Bureau employee further
27 determined that the facility tightened the vehicle's driver's side front stabilizer bar link. Invoice
28 [REDACTED] however, does not indicate that this part was tightened. Invoice [REDACTED] states the

1 following: "Performed oil and filter change with oil flush adding cleaner and conditioner." The
2 Dodge's manufacturer, however, does not recommend the addition of any additive to the
3 vehicle's engine oil. Finally, Respondent's facility charged for and added fuel system cleaner to
4 the vehicle even though it was not necessary.

5 24. Bureau personnel determined that Respondent's facility charged the operator \$184.97
6 in unnecessary parts and labor. The costs paid for these unnecessary parts and labor are shown in
7 Table #2 below.

8 **TABLE #2**

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Description	Parts Cost	Service/installation labor cost
Brake switch	\$28.63	\$70.00
Oil flush	\$25.99	
Cleaner: fuel system	\$51.35	
Tax	\$9.00	
Total Parts	\$114.97	
Total Labor	\$70	
Total Fraud	\$184.97	

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18 **THIRD CAUSE FOR DISCIPLINE**

19 **(Untrue and/or Misleading Statements)**

20 25. Respondent's registration is subject to discipline under section 9884.7, subdivisions
21 (a)(1) and/or (a)(6) of the Code and California Code of Regulations, title 16, sections 3371 and
22 3373, in that Respondent made or authorized statements which he knew or in the exercise of
23 reasonable care should have known to be untrue and/or misleading, as follows:

24 a. Respondent's employee told the Bureau's operator that the Dodge needed certain
25 parts and repairs that were unnecessary.

26 b. Respondent's employee listed on the invoice for the repairs to the Dodge certain parts
27 and repairs that were unnecessary.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Fraud)**

3 26. Respondent is subject to disciplinary action under section 9884.7, subdivisions (a)(4)
4 and/or (a)(6) of the Code in that Respondent committed acts constituting fraud by accepting
5 payment for the replacement of the Dodge's brake light switch, the addition of an additive to the
6 vehicle's engine oil, and the addition of fuel system cleaner to the vehicle, even though those
7 parts/repairs were not needed.

8 **FIFTH CAUSE FOR DISCIPLINE**

9 **(Failure to Record Work on Invoice)**

10 27. Respondent is subject to disciplinary action under section 9884.8 of the Code and
11 California Code of Regulations, title 16, section 3356, subdivision (a)(2)(A) in that Respondent
12 tightened the Dodge's driver's side front stabilizer bar link but did not record this repair on the
13 invoice.

14 **OTHER MATTERS**

15 28. Pursuant to section 9884.7, subdivision (c) of the Code, the Director may suspend,
16 revoke, or place on probation the registrations for all places of business operated in this state by
17 Kew Corporation, Inc., dba Dodge Chrysler Jeep of Vacaville, Clarence Williams, Jr., President,
18 upon a finding that it has, or is, engaged in a course of repeated and willful violations of the laws
19 and regulations pertaining to an automotive repair dealer.

20 **PRAYER**

21
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 or suspending Automotive Repair Dealer Registration Number ARD
25 216027 issued to Kew Corporation, Inc., dba Dodge Chrysler Jeep of Vacaville, Clarence
26 Williams, Jr., President;

27 2. Revoking or suspending Smog Check Station License Number RC 216027 issued to
28 Kew Corporation, Inc., dba Dodge Chrysler Jeep of Vacaville, Clarence Williams, Jr., President;

1 3. Revoking, suspending, or placing on probation any other automotive repair dealer
2 registration issued to Kew Corporation, Inc., dba Dodge Chrysler Jeep of Vacaville, Clarence
3 Williams, Jr., President;

4 4. Ordering Kew Corporation, Inc., dba Dodge Chrysler Jeep of Vacaville, Clarence
5 Williams, Jr., President, to pay the Bureau of Automotive Repair the reasonable costs of the
6 investigation and enforcement of this case pursuant to Business and Professions Code section
7 125.3; and

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

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10 DATED: January 28, 2014 *Patrick Dorais*

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

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