

BEFORE THE DIRECTOR
DEPARTMENT OF CONSUMER AFFAIRS
BUREAU OF AUTOMOTIVE REPAIR
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

FOREIGN AUTO CARE
ANATOLIY BUTKEVICH, Owner
6315 Watt Avenue, #121, #122, #123
North Highlands, CA 95660

Mailing Address:
6315 Watt Avenue, #123
North Highlands, CA 95660

Automotive Repair Dealer Registration
No. ARD 225813

Case No. 77/10-40

Respondent.

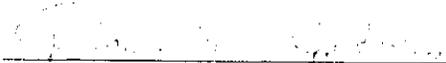
DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby accepted and adopted as the Decision of the Director of the Department of Consumer Affairs in the above-entitled matter.

The suspension of Automotive Repair Dealer Registration No. ARD 225813 shall commence on the effective date of this Decision.

This Decision shall become effective December 21, 2011.

DATED: November 18, 2011



DOREATHEA JOHNSON
Deputy Director, Legal Affairs
Department of Consumer Affairs

1 KAMALA D. HARRIS
Attorney General of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 KAREN R. DENVIR
Deputy Attorney General
4 State Bar No. 197268
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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:
13 **FOREIGN AUTO CARE**
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6315 Watt Avenue, #121, #122, #123
14 North Highlands, CA 95660
Mailing Address:
15 6315 Watt Avenue, #123
North Highlands, CA 95660
16 Automotive Repair Dealer Reg. No. ARD
225813
17
18 Respondent.

Case No. 77/10-40
**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
20 entitled proceedings that the following matters are true:

21 **PARTIES**

22 1. Sherry Mehl (Complainant) is the Chief of the Bureau of Automotive Repair. She
23 brought this action solely in her official capacity and is represented in this matter by Kamala D.
24 Harris, Attorney General of the State of California, by Karen R. Denvir, Deputy Attorney
25 General.

26 2. Respondent Foreign Auto Care; Anatoliy Butkevich (Respondent) is represented in
27 this proceeding by attorney James C. Hazen, whose address is: James C. Hazen, Gray & Prouty
28 180 Promenade Circle, Sacramento, CA 95834

1 CULPABILITY

2 8. Respondent admits the truth of each and every charge and allegation in Accusation
3 No. 77/10-40.

4 9. Respondent agrees that his Automotive Repair Dealer Registration is subject to
5 discipline and he agrees to be bound by the Director's probationary terms as set forth in the
6 Disciplinary Order below.

7 CONTINGENCY

8 10. This stipulation shall be subject to approval by the Director of Consumer Affairs or
9 his designee. Respondent understands and agrees that counsel for Complainant and the staff of
10 the Bureau of Automotive Repair may communicate directly with the Director and staff of the
11 Department of Consumer Affairs regarding this stipulation and settlement, without notice to or
12 participation by Respondent or his counsel. By signing the stipulation, Respondent understands
13 and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the
14 time the Director considers and acts upon it. If the Director fails to adopt this stipulation as the
15 Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or
16 effect, except for this paragraph, it shall be inadmissible in any legal action between the parties,
17 and the Director shall not be disqualified from further action by having considered this matter.

18 11. The parties understand and agree that facsimile copies of this Stipulated Settlement
19 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and
20 effect as the originals.

21 12. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
22 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
23 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
24 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
25 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
26 writing executed by an authorized representative of each of the parties.

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1 until the final decision on the accusation, and the period of probation shall be extended until such
2 decision.

3 8. **Violation of Probation.** Should the Director of Consumer Affairs determine that
4 Respondent has failed to comply with the terms and conditions of probation, the Department may,
5 after giving notice and opportunity to be heard, revoke the registration.

6 9. **False and Misleading Advertising.** If the accusation involves false and misleading
7 advertising, during the period of probation, Respondent shall submit any proposed advertising
8 copy, whether revised or new, to the Bureau at least thirty (30) days prior to its use.

9 10. **Restrictions.** During the period of probation, Respondent shall not perform any form
10 of smog inspection, or emission system diagnosis or repair, until Respondent has purchased,
11 installed, and maintained the diagnostic and repair equipment prescribed by BAR necessary to
12 properly perform such work, and BAR has been given 10 days notice of the availability of the
13 equipment for inspection by a BAR representative.

14 11. **Cost Recovery.** Payment to the Bureau of the full amount of cost recovery of
15 \$10,935.75 shall be paid in twenty four (24) monthly installments and is due in full, twelve (12)
16 months before probation terminates. Failure to complete payment of cost recovery within this
17 time frame shall constitute a violation of probation which may subject Respondent's registration
18 to outright revocation; however, the Director or the Director's Bureau of Automotive Repair
19 designee may elect to continue probation until such time as reimbursement of the entire cost
20 recovery amount has been made to the Bureau.

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, James C. Hazen. I understand the stipulation and the effect it will have on my Automotive Repair Dealer Registration. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Director of Consumer Affairs.

DATED: 10-25-11 FOREIGN AUTO CARE; ANATOLIY BUTKEVICH
FOREIGN AUTO CARE; ANATOLIY BUTKEVICH
Respondent

I have read and fully discussed with Respondent Foreign Auto Care; Anatoliy Butkevich the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 10-25-11 James C. Hazen
James C. Hazen
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Director of Consumer Affairs.

Dated: Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
ARTHUR D. TAGGART
Supervising Deputy Attorney General

KAREN R. DENVIR
Deputy Attorney General
Attorneys for Complainant

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, James C. Hazen. I understand the stipulation and the effect it will have on my Automotive Repair Dealer Registration. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Director of Consumer Affairs.

DATED: 10-25-11 FOREIGN AUTO CARE ANATOLIY BUTKEVICH
FOREIGN AUTO CARE; ANATOLIY BUTKEVICH
Respondent

I have read and fully discussed with Respondent Foreign Auto Care; Anatoliy Butkevich the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 10-25-11 James C. Hazen
James C. Hazen
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Director of Consumer Affairs.

Dated: 10-26-11 Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
ARTHUR D. TAGGART
Supervising Deputy Attorney General
Karen Denvir
KAREN R. DENVIR
Deputy Attorney General
Attorneys for Complainant

Exhibit A

Accusation No. 77/10-40

1 KAMALA D. HARRIS
Attorney General of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
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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. 77110-40

13 **FOREIGN AUTO CARE**
14 **ANATOLIY BUTKEVICH, OWNER**
6315 Watt Avenue, #121, #122, #123
North Highlands, CA 95660
15 Mailing Address:
6315 Watt Avenue, #123
North Highlands, CA 95660
16 Automotive Repair Dealer Reg. No. ARD 225813

ACCUSATION

17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

21 1. Sherry Mehl ("Complainant") brings this Accusation solely in her official capacity as
22 the Chief of the Bureau of Automotive Repair ("Bureau"), Department of Consumer Affairs.

23 2. On or about March 6, 2003, the Director of Consumer Affairs ("Director") issued
24 Automotive Repair Dealer Registration Number ARD 225813 to Anatoliy Butkevich
25 ("Respondent"), owner of Foreign Auto Care. Respondent's automotive repair dealer registration
26 was in full force and effect at all times relevant to the charges brought herein and will expire on
27 January 31, 2012, unless renewed.

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1 **JURISDICTION**

2 3. Business and Professions Code ("Code") section 9884.7 provides that the Director
3 may revoke an automotive repair dealer registration.

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

8 **STATUTORY AND REGULATORY PROVISIONS**

9 5. Code section 9884.7 states, in pertinent part:

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

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

19

20 (4) Any other conduct that constitutes fraud.

21

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

24 6. Code section 9884.7, subdivision (c), states, in pertinent part, that the Director may
25 suspend, revoke, or place on probation the registration for all places of business operated in this
26 state by an automotive repair dealer upon a finding that the automotive repair dealer has, or is,
27 engaged in a course of repeated and willful violations of the laws and regulations pertaining to an
28 automotive repair dealer.

7. Code section 9884.8 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 . . . One copy of the invoice shall be given to the customer and one
copy shall be retained by the automotive repair dealer.

1 8. Code section 9884.9, subdivision (a), states, in pertinent part:

2 The automotive repair dealer shall give to the customer a written
3 estimated price for labor and parts necessary for a specific job. No work shall be
4 done and no charges shall accrue before authorization to proceed is obtained from the
5 customer. No charge shall be made for work done or parts supplied in excess of the
6 estimated price without the oral or written consent of the customer that shall be
7 obtained at some time after it is determined that the estimated price is insufficient and
8 before the work not estimated is done or the parts not estimated are supplied. Written
9 consent or authorization for an increase in the original estimated price may be
10 provided by electronic mail or facsimile transmission from the customer. The bureau
11 may specify in regulation the procedures to be followed by an automotive repair
12 dealer when an authorization or consent for an increase in the original estimated price
13 is provided by electronic mail or facsimile transmission. If that consent is oral, the
14 dealer shall make a notation on the work order of the date, time, name of person
15 authorizing the additional repairs and telephone number called, if any, together with a
16 specification of the additional parts and labor and the total additional cost . . .

17 9. Code section 9884.11 states that “[c]ach automotive repair dealer shall maintain any
18 records that are required by regulations adopted to carry out this chapter [the Automotive Repair
19 Act]. Those records shall be open for reasonable inspection by the chief or other law
20 enforcement officials. All of those records shall be maintained for at least three years.”

21 10. Code section 22, subdivision (a), states:

22 “Board” as used in any provision of this Code, refers to the board in
23 which the administration of the provision is vested, and unless otherwise expressly
24 provided, shall include “bureau,” “commission,” “committee,” “department,”
25 “division,” “examining committee,” “program,” and “agency.”

26 11. Code section 477, subdivision (b), states, in pertinent part, that a “license” includes
27 “registration” and “certificate.”

28 12. California Code of Regulations, title 16, section (“Regulation”) 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:

....

(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.

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1 (B) Each part supplied, in such a manner that the customer can
2 understand what was purchased, and the price for each described part. The description
3 of each part shall state whether the part was new, used, reconditioned, rebuilt, or an
4 OEM crash part, or a non-OEM aftermarket crash part . . .

5 13. Regulation 3358 states, in pertinent part:

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

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

10 14. Regulation 3373 states:

11 No automotive repair dealer or individual in charge shall, in filling out an
12 estimate, invoice, or work order, or record required to be maintained by section
13 3340.15(f) of this chapter, withhold therefrom or insert therein any statement or
14 information which will cause any such document to be false or misleading, or where
15 the tendency or effect thereby would be to mislead or deceive customers, prospective
16 customers, or the public.

17 COST RECOVERY

18 15. Code section 125.3 provides, in pertinent part, that a Board may request the
19 administrative law judge to direct a licentiate found to have committed a violation or violations of
20 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
21 enforcement of the case.

22 CONSUMER COMPLAINT (SMITH): 2000 TOYOTA 4RUNNER

23 16. On or about April 4, 2008, Sheila Smith ("Smith") was driving her 2000 Toyota
24 4Runner on the freeway when the engine quit. Smith had the vehicle towed to Respondent's
25 facility and authorized Respondent to diagnose the vehicle. Later, Respondent told Smith that the
26 engine needed to be replaced and that he could obtain a used engine with a one year warranty for
27 \$1,850.

28 17. On or about October 5, 2008, Smith went to the facility and paid Respondent \$1,850.
Respondent stated that the repairs would be completed in a couple of weeks. Smith asked
Respondent how much more she owed him for the repairs and he stated \$800 (\$2,650 total).

18. On or about March 9, 2009, Smith went to the facility to check on the vehicle.
Respondent recommended that the seals, timing belt, water pump, thermostat, and hoses be
replaced on the used engine. Smith declined the repairs.

1 19. On or about March 19, 2009, Smith went to the facility to pick up the vehicle.
2 Respondent told Smith that the final bill totaled \$3,165. Smith asked Respondent why the repairs
3 cost more than he originally quoted. Respondent told Smith that the person who sold him the
4 used engine would not honor the warranty unless the additional parts Smith previously declined
5 were replaced. Smith paid Respondent \$700 in cash and made arrangements to pay the \$615
6 balance later. Respondent gave Smith Invoice No. 8604, but did not provide her with the written
7 warranty. Later, as Smith was driving the vehicle, she noticed that it would run hot when she
8 turned on the air conditioning system and that her GPS navigation system was missing.

9 20. On or about April 14, 2009, Smith filed a complaint with the Bureau, seeking proof
10 that Respondent had, in fact, installed a used engine in the vehicle.

11 21. On or about June 16, 2009, a representative of the Bureau obtained Smith's consent to
12 have the vehicle inspected at Roseville Toyota.

13 22. On or about July 15, 2009, the representative went to Roseville Toyota and inspected
14 and photographed the engine number that was stamped on the engine block of the vehicle
15 (Roseville Toyota had removed various parts enabling the representative to access the engine).

16 23. On or about July 20, 2009, the representative went to Respondent's facility and
17 requested the repair records on the vehicle. Respondent provided the representative with a few of
18 his records, including a parts invoice for a used engine. Respondent told the representative that
19 they found during their diagnosis of the vehicle that the engine had no compression and
20 recommended replacing it with a used engine, that they had, in fact, replaced the engine, and that
21 they still had possession of Smith's old engine.

22 24. On or about July 23, 2009, the representative returned to the facility and obtained
23 additional records on the vehicle, including Worldpac invoice number 76842 dated February 6,
24 2009, and Worldpac invoice number 842752 dated January 23, 2009. The representative
25 photographed the engine that Respondent claimed had been removed from the vehicle
26 (hereinafter "junk engine").

27 25. On or about July 29, 2009, the representative went to Roseville Toyota and obtained
28 Toyota data records pertaining to the vehicle and the junk engine. The representative verified

1 through the records that the engine number on the engine block in Smith's vehicle (which the
2 representative had photographed on July 15, 2009), matched the number of the engine that had
3 originally been installed by Toyota, confirming that Respondent had not replaced the engine on
4 the vehicle as invoiced.

5 26. On or about August 18, 2009, the representative received information indicating that
6 the junk engine had been supplied by A4dable Auto Care.

7 27. On or about September 14, 2009, the representative met with the manager of A4dable
8 Auto Care. The manager told the representative that in May 2009, Respondent came to his
9 facility in need of an engine from a Toyota 4Runner. The manager told Respondent that he had
10 just given one to a scrap metal recycler.

11 28. Between September 21, 2009, and September 23, 2009, the representative had an
12 employee at Worldpac examine parts invoice numbers 76842 and 842752. The employee told the
13 representative that the invoice numbers were not complete, and provided the representative with a
14 copy of Worldpac's purchase history for Respondent's facility from January 10, 2009, to February
15 9, 2009. There was no record of either invoice in the purchase history. Later, the manager
16 provided the representative with two invoices dated July 21, 2009, which had been issued by
17 Worldpac to Respondent, one numbered 76842752 and the other numbered 76842753. The parts
18 listed on these invoices were the same parts listed on invoice numbers 76842 and 842752. The
19 manager told the representative that the parts Respondent had purchased on July 21, 2009, had
20 been returned for credit on July 22, 2009.

21 29. On or about October 6, 2009, the representative spoke with the scrap metal recycler.
22 The scrap metal recycler stated that in May 2009, he had received a junk V6 engine out of a
23 Toyota 4Runner from A4dable Auto Care and he had sold it to Respondent for \$20 along with a
24 couple of cylinder heads.

25 30. On or about November 3, 2009, the representative met with Respondent. Respondent
26 admitted that the engine had not been replaced in the vehicle and that his facility had repaired it
27 instead by replacing the cylinder heads.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Untrue or Misleading Statements)**

3 31. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
4 subdivision (a)(1), in that Respondent made or authorized statements which he knew or in the
5 exercise of reasonable care should have known to be untrue or misleading, as follows:

6 a. Respondent represented on Invoice No. 8604 that a used engine assembly had been
7 installed in Smith's 2000 Toyota 4Runner. In fact, the existing engine had not been replaced in
8 the vehicle.

9 b. Respondent represented on Invoice No. 8604 that Smith had authorized additional
10 repairs on the vehicle, including the installation of the timing belt, water pump, and seals. In fact,
11 Smith had declined the additional repairs.

12 c. Respondent knowingly prepared or made false parts invoices; i.e., Worldpac Invoice
13 Numbers 76842 and 842752 and submitted them to the Bureau with the intent to mislead the
14 Bureau into believing that the parts listed on the invoices (water pump, seals, timing belt, and
15 thermostat) had been purchased for Smith's 2000 Toyota 4Runner. In fact, Worldpac's records
16 indicated that the above parts were purchased by Respondent on July 21, 2009, and were returned
17 for credit on July 22, 2009.

18 **SECOND CAUSE FOR DISCIPLINE**

19 **(Fraud)**

20 32. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
21 subdivision (a)(4), in that Respondent committed acts that constitute fraud, as follows:

22 a. Respondent charged and obtained payment from Smith for installing a used engine
23 assembly in her 2000 Toyota 4Runner. In fact, the existing engine had not been replaced in the
24 vehicle.

25 b. Respondent obtained a junk engine from a scrap metal recycler and produced it for
26 inspection by the Bureau, claiming that it was the old engine from Smith's 2000 Toyota 4Runner.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Violations of the Code)**

3 33. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
4 subdivision (a)(6), in that Respondent failed to comply with section 9884.9, subdivision (a), of
5 that Code, as follows:

6 a. Respondent failed to obtain Smith's authorization for the additional repairs on her
7 2000 Toyota 4Runner, including the replacement of the cylinder heads, cam seals, crank seals, a
8 timing belt, a water pump, and a thermostat.

9 b. Respondent exceeded the original estimate price of \$2,650 for the repair of Smith's
10 2000 Toyota 4Runner without Smith's consent.

11 **FOURTH CAUSE FOR DISCIPLINE**

12 **(Violations of Regulations)**

13 34. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
14 subdivision (a)(6), in that Respondent failed to comply with Regulation 3356, subdivisions
15 (a)(2)(A) and (B), as follows: Respondent failed to list, describe, and identify on Invoice No.
16 8604 all repair work performed and parts supplied on Smith's 2000 Toyota 4Runner, as follows:
17 Respondent failed to record the replacement of the cylinder heads or the results of the diagnostic
18 work or basis for replacing the cylinder heads on the vehicle.

19 **CONSUMER COMPLAINT (WALLER): 2006 TOYOTA COROLLA**

20 35. On or about September 18, 2009, Irina Waller ("Waller") took her 2006 Toyota
21 Corolla to Econo Lube N Tune ("Econo Lube") because the transmission was not shifting
22 properly and the check engine light was on. During their diagnosis of the vehicle, Econo Lube
23 found a diagnostic trouble code ("code") relating to the pressure control ("P/C") solenoid. Econo
24 Lube cleared the code, which shut off the check engine light.

25 36. On or about October 10, 2009, Waller took the vehicle to Fulton Auto Repair &
26 Transmission ("Fulton") because the check engine light had come back on and the transmission
27 still was not shifting properly. Fulton found the same code in the vehicle's computer (engine

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1 control module or ECM), checked the solenoid, and recommended replacing the ECM, which
2 Waller declined.

3 37. On or about October 21, 2009, Waller called Foreign Auto Care and spoke with
4 Respondent. Waller explained the problems with the vehicle and the findings of the other repair
5 shops. Respondent told Waller that he could fix the vehicle.

6 38. On or about October 22, 2009, Waller took the vehicle to Respondent's facility and
7 asked Respondent if he was going to verify the code. Respondent indicated that he could not
8 verify the code because his diagnostic tester was not working and that he would replace the P/C
9 solenoid since the code had identified the solenoid as the source of the problem on the vehicle.
10 Waller paid Respondent \$375, but did not receive a written estimate.

11 39. On or about October 24, 2009, Waller went to the facility to pick up the vehicle, but
12 found that the problems had not been fixed. Respondent told Waller that the ECM needed
13 replacement and that he would order the ECM and complete the repairs when the part arrived.
14 Respondent did not provide Waller with an invoice. Later, Waller made various calls to
15 Respondent to check on the status of the repairs, but Respondent would hang up or would not
16 answer Waller's calls.

17 40. On or about November 30, 2009, Waller took the vehicle to Maita Toyota of
18 Sacramento ("Maita") for a diagnosis. Maita determined that the ECM was in need of
19 replacement and repaired the vehicle at no charge since it was still covered under the
20 manufacturer's warranty.

21 41. On or about December 2, 2009, Waller delivered a letter to Respondent's facility,
22 requesting a refund of her \$375. Respondent refused to refund Waller any of her money.

23 42. On or about April 22, 2010, Waller filed a complaint with the Bureau.

24 43. On or about May 17, 2010, a representative of the Bureau went to the facility and
25 requested the repair records on the vehicle, including all parts invoices. Respondent told the
26 representative that he had replaced the P/C solenoid on the vehicle.

27 44. On or about May 27, 2010, Respondent provided the Bureau with Invoice No. 4582
28 from Foreign Auto Care. The invoice indicated that a transmission pan gasket had been replaced

1 on the vehicle in addition to the P/C solenoid. Respondent also provided a handwritten purchase
2 receipt from Hi-Tech Transmission dated October 22, 2009, for a solenoid kit with a parts number
3 of 67420CK.

4 45. On or about June 10, 2010, the representative met with the owner of Hi Tech
5 Transmission & Repair ("Hi Tech"), who recalled selling a solenoid kit to Respondent. The
6 representative requested a copy of the parts invoice relating to Hi Tech's original purchase of the
7 solenoid.

8 46. On or about June 15, 2010, Hi Tech's owner sent the representative an invoice from
9 Transtar Industries, Inc. ("Transtar") relating to the sale of a solenoid kit with a parts number of
10 67420CK.

11 47. On or about June 16, 2010, the representative went to Maita and obtained information
12 pertaining to the transmission on the vehicle, including a technical service bulletin which outlined
13 the procedures for repairing erratic shifting problems on the transmission, resulting in the
14 illumination of the check engine light. The recommended repair for the shifting problem was the
15 replacement of the ECM. Later, the representative met with the Sacramento division manager of
16 Transtar and had him examine the parts invoice that was provided by the owner of Hi Tech. The
17 division manager stated that the kit referenced on the parts invoice was for a *shift solenoid*, not a
18 P/C solenoid, and showed the representative a shift solenoid kit with a part number of 67420CK.
19 The representative found that the shift solenoid kit was not applicable to the transmission on
20 Waller's vehicle.

21 48. On or about June 22, 2010, the representative obtained Waller's consent to have the
22 vehicle inspected at Maita. Later, the representative went to Maita and observed the shop
23 foreman remove the transaxle pan from the vehicle and inspect the shift and P/C solenoids. The
24 shop foreman found that all of the shift and P/C solenoids in the vehicle were OEM (original
25 equipment manufacturer) parts.

26 49. On or about July 13, 2010, the representative returned to Maita and obtained the sales
27 history for the P/C solenoid from July 2009 to October 2009. The information showed that
28 Respondent's facility had not purchased a P/C solenoid during the above time period.

1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(Untrue or Misleading Statements)**

3 50. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
4 subdivision (a)(1), in that Respondent made or authorized statements which he knew or in the
5 exercise of reasonable care should have known to be untrue or misleading, as follows:

6 a. Respondent represented on Invoice No. 4582 that the P/C solenoid on Waller's 2006
7 Toyota Corolla had been replaced when, in fact, that part had not been replaced on the vehicle.

8 b. Respondent knowingly prepared or made a false document; i.e., the handwritten
9 purchase receipt from Hi-Tech Transmission dated October 22, 2009, and submitted it to the
10 Bureau with the intent to mislead the Bureau into believing that a P/C solenoid had been
11 purchased for Waller's 2006 Toyota Corolla. In fact, the part number listed on the purchase
12 receipt was for a shift solenoid, not a P/C solenoid. Further, the shift solenoid kit referenced on
13 the purchase receipt was not applicable to the transmission on Waller's vehicle.

14 **SIXTH CAUSE FOR DISCIPLINE**

15 **(Fraud)**

16 51. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
17 subdivision (a)(4), in that Respondent committed an act that constitutes fraud, as follows:
18 Respondent charged and obtained payment from Waller for replacing the P/C solenoid on her
19 2006 Toyota Corolla when, in fact, that part had not been replaced on the vehicle.

20 **SEVENTH CAUSE FOR DISCIPLINE**

21 **(Violations of the Code)**

22 52. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
23 subdivision (a)(6), in that Respondent failed to comply with provisions of that Code, as follows:

24 a. **Section 9884.8:** Respondent failed to provide Waller with a copy of Invoice No.
25 4582.

26 b. **Section 9884.9, subdivision (a):** Respondent failed to provide Waller with a written
27 estimate for the repairs on her 2006 Toyota Corolla.

28 ///

1 c. Section 9884.11: Respondent failed to maintain a copy of the parts invoice or receipt
2 for the transmission pan gasket referenced on Invoice No. 4582, or failed to make that document
3 available for inspection by the Bureau.

4 **OTHER MATTERS**

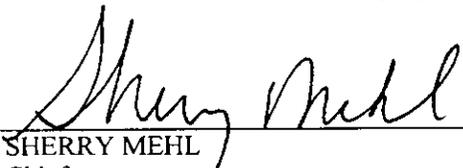
5 53. Pursuant to Code section 9884.7, subdivision (c), the Director may suspend, revoke,
6 or place on probation the registration for all places of business operated in this state by
7 Respondent Anatoliy Butkevich, owner of Foreign Auto Care, upon a finding that Respondent
8 has, or is, engaged in a course of repeated and willful violations of the laws and regulations
9 pertaining to an automotive repair dealer.

10 **PRAYER**

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

- 13 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
14 225813, issued to Anatoliy Butkevich, owner of Foreign Auto Care;
- 15 2. Revoking or suspending any other automotive repair dealer registration issued to
16 Anatoliy Butkevich;
- 17 3. Ordering Anatoliy Butkevich, owner of Foreign Auto Care, to pay the Director of
18 Consumer Affairs the reasonable costs of the investigation and enforcement of this case, pursuant
19 to Business and Professions Code section 125.3;
- 20 4. Taking such other and further action as deemed necessary and proper.

21
22 DATED: 3/1/11


23 SHERRY MEHL
24 Chief
25 Bureau of Automotive Repair
26 Department of Consumer Affairs
27 State of California
28 Complainant

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