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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. 77/11-52

13 **MANGO INVESTMENTS, INC.,**
14 **dba AAMCO TRANSMISSIONS**
15 **NATHAN CHRISTENSON, PRES./SECTY/TREAS.**
22351 Mission Blvd.
Hayward, CA 94541
Automotive Repair Dealer Reg. No. ARD 234758

A C C U S A T I O N

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. John Wallauch ("Complainant") brings this Accusation solely in his official capacity
21 as the Chief of the Bureau of Automotive Repair ("Bureau"), Department of Consumer Affairs.

22 2. In or about 2004, the Director of Consumer Affairs ("Director") issued Automotive
23 Repair Dealer Registration Number ARD 234758 to Mango Investments, Inc. ("Respondent"),
24 doing business as AAMCO Transmissions, with Nathan Christenson as president, secretary, and
25 treasurer. Respondent's automotive repair dealer registration was in full force and effect at all
26 times relevant to the charges brought herein and will expire on July 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 states, 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 **(Statutory Provisions)**

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

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

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

20

21 (3) Failing or refusing to give to a customer a copy of any document
22 requiring his or her signature, as soon as the customer signs the document.

23 (4) Any other conduct that constitutes fraud.

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

27 (7) Any willful departure from or disregard of accepted trade standards
28 for good and workmanlike repair in any material respect, which is prejudicial to
another without consent of the owner or his or her duly authorized representative . . .

6. Code section 9884.7, subdivision (c), states, in pertinent part, that the director may
suspend, revoke, or place on probation the registration for all places of business operated in this

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1 state by an automotive repair dealer upon a finding that the automotive repair dealer has, or is,
2 engaged in a course of repeated and willful violations of the laws and regulations pertaining to an
3 automotive repair dealer.

4 7. Code section 9884.9, subdivision (a), states, in pertinent part:

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

8 8. Code section 22, subdivision (a), states:

9 "Board" as used in any provision of this Code, refers to the board in
10 which the administration of the provision is vested, and unless otherwise expressly
11 provided, shall include "bureau," "commission," "committee," "department,"
12 "division," "examining committee," "program," and "agency."

12 9. Code section 477, subdivision (b), states, in pertinent part, that a "license" includes
13 "registration" and "certificate."

14 **(Regulatory Provisions)**

15 10. California Code of Regulations, title 16, section ("Regulation") 3356 states, in
16 pertinent part:

17 (a) All invoices for service and repair work performed, and parts
18 supplied, as provided for in Section 9884.8 of the Business and Professions Code,
19 shall comply with the following:

20

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

23

24 (B) Each part supplied, in such a manner that the customer can
25 understand what was purchased, and the price for each described part . . .

26 11. Regulation 3361.1 states, in pertinent part:

27 The following minimum requirements specifying accepted trade
28 standards for good and workmanlike rebuilding of automatic transmissions are
intended to define terms that have caused confusion to the public and unfair
competition within the automotive repair industry. The term "automatic transmission"
shall also apply to the automatic transmission portion of transaxles for the purposes of
this regulation, unless both the automatic transmission portion and the differential
portion of the transaxle share a common oil supply, in which case the term "automatic

1 transmission” shall apply to both portions of the transaxle. These minimum
2 requirements shall not be used to promote the sale of “rebuilt” automatic
3 transmissions when a less extensive and/or less costly repair is desired by the
4 customer . . . All automotive repair dealers engaged in the repair, sale, or installation
5 of automatic transmissions in vehicles covered under the Act shall be subject to the
6 following minimum requirements:

7 (a) Before an automatic transmission is removed from a motor vehicle for
8 purposes of repair or rebuilding, it shall be inspected. Such inspection shall determine
9 whether or not the replacement or adjustment of any external part or parts will correct
10 the specific malfunction of the automatic transmission. In the case of an electronically
11 controlled automatic transmission, this inspection shall include a diagnostic check,
12 including the retrieval of any diagnostic trouble codes, of the electronic control
13 module that controls the operation of the transmission. If minor service and/or
14 replacement or adjustment of any external part or parts and/or of companion units can
15 reasonably be expected to correct the specific malfunction of the automatic
16 transmission, then prior to removal of the automatic transmission from the vehicle,
17 the customer shall be informed of that fact as required by Section 3353 of these
18 regulations. Before removing an automatic transmission from a motor vehicle, the
19 dealer shall also comply with the provisions of section 3353(d), and disclose any
20 applicable guarantee or warranty as provided in sections 3375, 3376 and 3377 of
21 these regulations. If a diagnostic check of an electronic control module cannot be
22 completed due to the condition of the transmission, the customer shall be informed of
23 that fact and a notation shall be made on the estimate, in accordance with Section
24 3353 of these regulations . . .

25

26 (c) Any automotive repair dealer that advertises or performs, directly or
27 through a sublet contractor, automatic transmission work and uses the words
28 “exchanged,” “rebuilt,” “remanufactured,” “reconditioned,” or “overhauled,” or any
expression of like meaning, to describe an automatic transmission in any form of
advertising or on a written estimate or invoice shall only do so when all of the
following work has been done since the transmission was last used:

. . . .

(3) All bands have been replaced with new or relined bands.

(4) All the following parts have been replaced with new parts:

(A) Lined friction plates

(B) Internal and external seals including seals that are bonded to metal
parts.

(C) All sealing rings

(D) Gaskets . . .

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1 12. Regulation 3373 states:

2 No automotive repair dealer or individual in charge shall, in filling out an
3 estimate, invoice, or work order, or record required to be maintained by section
4 3340.15(f) of this chapter, withhold therefrom or insert therein any statement or
5 information which will cause any such document to be false or misleading, or where
6 the tendency or effect thereby would be to mislead or deceive customers, prospective
7 customers, or the public.

8 **COST RECOVERY**

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

13 **UNDERCOVER OPERATION #1: 1997 TOYOTA CAMRY**

14 14. On May 23, 2011, an undercover operator of the Bureau ("operator") took the
15 Bureau's 1997 Toyota Camry to Respondent's facility. The No. 2 shift solenoid on the Bureau-
16 documented vehicle was defective. The operator met with Respondent's manager, Josh Phillips
17 ("Phillips"), and told him that a light on the dashboard had come on while she was driving and
18 that the vehicle lost power when going over an incline. Phillips stated that he would put the
19 vehicle up on "the machine" and that it would tell him what was wrong with the vehicle. The
20 operator told Phillips that her son had seen an AAMCO television advertisement offering free
21 diagnostic service. Phillips told the operator that the diagnostic service would be free if she had
22 the vehicle repaired at AAMCO. Phillips had the operator sign a work order, but did not provide
23 her with a copy or a written estimate for the diagnostic service. The operator left the facility.

24 15. On May 25, 2011, the operator received a call from Respondent's employee, "Lori".
25 Lori told the operator that the vehicle's transmission fluid was burnt, that the vehicle had internal
26 shifting problems, and that there was a problem with the engine coolant. Lori stated that it would
27 cost \$995 to remove the transmission from the vehicle and disassemble it for inspection. The
28 operator told Lori that she would call her back after she discussed the work with her son.

16. On May 26, 2011, the operator called the facility and spoke with Phillips. Phillips
told the operator that he needed to remove the transmission and disassemble it on the bench so he

1 could see what parts were needed to repair the transmission. Phillips stated that the inspection
2 would cost \$995 and that he would apply the \$995 toward the repairs if they were done at
3 AAMCO. Phillips also told the operator that the radiator had a problem and that he would
4 attempt to repair it by "flushing it out". Phillips offered the operator a 10% senior discount on the
5 repairs. The operator authorized Phillips to remove and inspect the transmission.

6 17. On May 31, 2011, Phillips called the operator and told her that the vehicle needed a
7 torque converter, all new bushings, a front pump body, and a master solenoid kit, and that the
8 transmission repairs would now cost \$3,258.55. The operator told Phillips that she would discuss
9 the transmission work with her son and call him back.

10 18. On June 1, 2011, the operator called the facility and authorized the additional work on
11 the vehicle.

12 19. On June 3, 2011, the operator returned to the facility to retrieve the vehicle, paid
13 Phillips \$3,258 for the repairs, and received a copy of Invoice No. 135821. The invoice stated
14 that a computer scan of the vehicle revealed a code (diagnostic trouble code or fault code) relating
15 to the B shift solenoid (No. 2 shift solenoid).

16 20. On and between June 9, 2011, and June 27, 2011, the Bureau inspected the vehicle
17 using the invoice for comparison. The Bureau found that Respondent's facility had replaced the
18 defective No. 2 shift solenoid, but had performed unnecessary repairs on the vehicle and had not
19 "reconditioned" the transmission as invoiced.

20 **FIRST CAUSE FOR DISCIPLINE**

21 **(Untrue or Misleading Statements)**

22 21. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
23 subdivision (a)(1), in that Respondent made or authorized statements which it knew or in the
24 exercise of reasonable care should have known to be untrue or misleading, as follows:

25 a. Respondent's employee, Phillips, represented to the operator that the Bureau's 1997
26 Toyota Camry needed a torque converter, all new bushings, a front pump body, and a master
27 solenoid kit. In fact, the only repair needed on the vehicle was the replacement of the defective
28 No. 2 shift solenoid, which is readily accessible once the transmission pan has been removed.

1 (a)(2)(B), in a material respect, as follows: Respondent stated on the invoice that a new "Transtar
2 assembly kit" was installed in the Bureau's 1997 Toyota Camry, but failed to list, describe, or
3 identify the parts that were included in the kit.

4 **UNDERCOVER OPERATION #2: 1997 CHEVROLET PICKUP**

5 27. On September 14, 2011, an undercover operator of the Bureau ("operator") took the
6 Bureau's 1997 Chevrolet pickup to Respondent's facility. The 2-3 shift solenoid on the Bureau-
7 documented vehicle was defective. The operator met with Respondent's manager, Sean Brown
8 ("Brown"), and told him that the vehicle was driving "sluggish" and that a light (malfunction
9 indicator light) was illuminated on the dashboard. Brown asked the operator if he could keep the
10 vehicle overnight. The operator agreed to leave the vehicle at the facility for diagnosis and signed
11 and received a copy of a "Customer Reception" form.

12 28. On September 15, 2011, the operator called the facility and spoke with Brown.
13 Brown told the operator that they performed a transmission inspection and that the vehicle was
14 stuck in 3rd gear and had no operational 2nd gear, "it was gone". Brown stated that they removed
15 the transmission pan and that there was "a lot of metal", which indicated that the vehicle had a
16 "complete transmission failure". Brown told the operator that the transmission had to be rebuilt,
17 that the rebuild would cost \$1,933, and that there would be an additional charge if the facility
18 found some bad components, such as hard parts and/or electronics. The operator authorized the
19 repairs.

20 29. On September 19, 2011, Brown called the operator and told him that the mechanics
21 found that a couple of hard parts and all of the electronics needed to be replaced. Brown stated
22 that it would cost a total of \$2,376 plus tax to rebuild the transmission and replace the hard parts
23 and electronics. The operator authorized the additional repairs on the vehicle.

24 30. On September 21, 2011, Brown called the operator and informed him that the total
25 charges for the repairs would be \$2,475.04, including tax.

26 31. On September 23, 2011, the operator returned to the facility to retrieve the vehicle,
27 paid Brown \$2,475 for the repairs, and received a copy of a final invoice.

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1 the Bureau's 1997 Chevrolet pickup, as set forth in paragraph 33 above, in order to induce the
2 operator to authorize unnecessary repairs on the vehicle, then sold the operator unnecessary
3 repairs, including the removal and reconditioning of the transmission and the replacement of the
4 torque converter, the low and reverse roller clutch and forward sprag assembly, the 1-2 shift
5 solenoid, the pressure control solenoid, the 3-2 shift solenoid, the pressure switch assembly, the
6 servo piston housing, the 2nd apply piston, and the forward accumulator piston.

7 **NINTH CAUSE FOR DISCIPLINE**

8 **(Departure from Trade Standards)**

9 35. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
10 subdivision (a)(7), in that Respondent willfully departed from or disregarded accepted trade
11 standards for good and workmanlike repair without the consent of the owner or the owner's duly
12 authorized representative in a material respect, as follows: Respondent failed to diagnose the
13 cause of the malfunction indicator light and the fault code relating to the 2-3 shift solenoid, that
14 was stored in the electronic control module on the Bureau's 1997 Chevrolet pickup, prior to
15 removing the transmission from the vehicle.

16 **TENTH CAUSE FOR DISCIPLINE**

17 **(Violations of Regulations)**

18 36. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
19 subdivision (a)(6), in that Respondent failed to comply with Regulation 3356, subdivision
20 (a)(2)(B), in a material respect, as follows: Respondent stated on the invoice that a new "Transtar
21 assembly kit" was installed in the Bureau's 1997 Chevrolet pickup, but failed to list, describe, or
22 identify the parts that were included in the kit.

23 **OTHER MATTERS**

24 37. Pursuant to Code section 9884.7, subdivision (c), the Director may suspend, revoke,
25 or place on probation the registration for all places of business operated in this state by
26 Respondent Mango Investments, Inc., doing business as Aamco Transmissions, upon a finding
27 that Respondent has, or is, engaged in a course of repeated and willful violations of the laws and
28 regulations pertaining to an automotive repair dealer.

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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 234758, issued to Mango Investments, Inc., doing business as Aamco Transmissions;
2. Revoking or suspending any other automotive repair dealer registration issued in the name of Mango Investments, Inc.;
3. Ordering Mango Investments, Inc., doing business as Aamco Transmissions, 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;
4. Taking such other and further action as deemed necessary and proper.

DATED: 3-6-12

John Wallauch by *Doug Balatt*
JOHN WALLAUCH
Chief
Bureau of Automotive Repair
Department of Consumer Affairs
State of California
Complainant
DOUG BALATT
Asst. Chief