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8 **BEFORE THE**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
9 **FOR THE BUREAU OF AUTOMOTIVE REPAIR**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 77/15-7

12 **MANNYS AUTO GENERAL REPAIR;**  
13 **MANUEL V. SORIA, OWNER**  
14 **15323 S. Atlantic Ave**  
**Compton, CA 90221**

**A C C U S A T I O N**

15 **Automotive Repair Dealer Registration No.**  
**ARD 235838**

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about September 30, 2004, the Bureau of Automotive Repair ("Bureau") issued  
23 Automotive Repair Dealer Registration Number ARD 235838 to Mannys Auto General Repair;  
24 Manuel V. Soria, owner ("Respondent"). The Automotive Repair Dealer Registration was in full  
25 force and effect at all times relevant to the charges brought herein and will expire on September  
26 30, 2014, unless renewed.

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1 **JURISDICTION**

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

5 4. Code section 9884.7 provides, in part, that the Director may revoke an automotive  
6 repair dealer registration.

7 5. Code section 9884.13 provides, in pertinent part, that the expiration of a valid  
8 registration shall not deprive the director or chief of jurisdiction to proceed with a disciplinary  
9 proceeding against an automotive repair dealer or to render a decision invalidating a registration  
10 temporarily or permanently.

11 6. Code section 22, subdivision (a) states:

12 "(a) 'Board' as used in any provisions of this Code, refers to the board in  
13 which the administration of the provision is vested, and unless otherwise expressly  
14 provided, shall include 'bureau,' 'commission,' 'committee,' 'department,' 'division,'  
15 'examining committee,' 'program,' and 'agency.'

16 7. Code section 477 states:

"As used in this division:

17 "(a) 'Board' includes 'bureau,' 'commission,' 'committee,' 'department,'  
18 'division,' 'examining committee,' 'program,' and 'agency.'

19 "(b) 'License' includes certificate, registration or other means to engage in  
20 a business or profession regulated by this code."

21 **STATUTES AND REGULATIONS**

22 8. Code section 9884.7, subdivision (a) states, in pertinent part:

23 "(a) The director, where the automotive repair dealer cannot show there  
24 was a bona fide error, may deny, suspend, revoke, or place on probation the  
25 registration of an automotive repair dealer for any of the following acts or omissions  
26 related to the conduct of the business of the automotive repair dealer, which are done  
27 by the automotive repair dealer or any automotive technician, employee, partner,  
28 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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"(3) Failing or refusing to give to a customer a copy of any document  
requiring his or her signature, as soon as the customer signs the document.

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"(4) Any other conduct that constitutes fraud.

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

"(7) Any willful departure from or disregard of accepted trade standards 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."

9. Code section 9884.7, subdivision (c) states in pertinent part:

"[T]he director may suspend, revoke, or place on probation 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."

10. Code section 9884.8 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."

11. Code section 9884.9, subdivision (a) states:

"(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. No charge shall be made for work done or parts supplied in excess of the estimated price without the oral or written consent of the customer that shall be obtained at some time after it is determined that the estimated price is insufficient and before the work not estimated is done or the parts not estimated are supplied. Written consent or authorization for an increase in the original estimated price may be provided by electronic mail or facsimile transmission from the customer. The bureau may specify in regulation the procedures to be followed by an automotive repair dealer if an authorization or consent for an increase in the original estimated price is provided by electronic mail or facsimile transmission. If that consent is oral, the dealer shall make a notation on the work order of the date, time, name of person authorizing the additional repairs and telephone number called, if any, together with a specification of the additional parts and labor and the total additional cost, and shall do either of the following:

1                   "(1) Make a notation on the invoice of the same facts set forth in the  
notation on the work order .                   "(2) Upon completion of the repairs, obtain the  
2                   customer's signature or initials to an acknowledgment of notice and consent, if there is  
an oral consent of the customer to additional repairs, in the following language:  
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4                   "I acknowledge notice and oral approval of an increase in the original  
estimated price.  
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6                   \_\_\_\_\_  
(signature or initials)"

7                   "Nothing in this section shall be construed as requiring an automotive  
repair dealer to give a written estimated price if the dealer does not agree to perform  
8                   the requested repair.

9                   12. California Code of Regulations, title 16, section 3353, states, in pertinent part:

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

12                   "(a) Estimate for Parts and Labor. Every dealer shall give to each  
customer a written estimated price for labor and parts for a specific job."  
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14                   13. California Code of Regulations, title 16, section 3356, states, in pertinent part:

15                   "(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,  
16                   shall comply with the following:

17                   "(1) The invoice shall show the automotive repair dealer's registration  
number and the corresponding business name and address as shown in the Bureau's  
18                   records. If the automotive repair dealer's telephone number is shown, it shall comply  
with the requirements of subsection (b) of Section 3371 of this chapter.  
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20                   "(2) The invoice shall separately list, describe and identify all of the  
following:

21                   "(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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23                   "(B) Each part supplied, in such a manner that the customer can  
understand what was purchased, and the price for each described part. The  
description of each part shall state whether the part was new, used, reconditioned,  
24                   rebuilt, or an OEM crash part, or a non-OEM aftermarket crash part.

25                   "(C) The subtotal price for all service and repair work performed.

26                   "(D) The subtotal price for all parts supplied, not including sales tax.

27                   "(E) The applicable sales tax, if any."  
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1 14. California Code of Regulations, title 16, section 3361.1, states, in pertinent part:

2 "The following minimum requirements specifying accepted trade  
3 standards for good and workmanlike rebuilding of automatic transmissions are  
4 intended to define terms that have caused confusion to the public and unfair  
5 competition within the automotive repair industry. The term 'automatic transmission'  
6 shall also apply to the automatic transmission portion of transaxles for the purposes of  
7 this regulations, unless both the automatic transmission portion and the differential  
8 portion of the transaxle share a common oil supply, in which case the term 'automatic  
9 transmission' shall apply to both portions of the transaxle. These minimum  
10 requirements shall not be used to promote the sale of rebuilt automatic transmissions  
11 when a less extensive and/or less costly repair is desired by the customer. Any  
12 automotive repair dealer who represents to customers that the following sections  
13 require the rebuilding of automatic transmissions is subject to the sanctions prescribed  
14 by the Automotive Repair Act. All automotive repair dealers engaged in the repair,  
15 sale, and installation of automatic transmissions in vehicles covered under the Act  
16 shall be subject to the following minimum requirements:

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

...

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

27 "(1) All internal and external parts, including case and housing, have  
28 been thoroughly cleaned and inspected.

"(2) The valve body has been disassembled and thoroughly cleaned and  
inspected unless otherwise specified by the manufacturer.

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

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1 **COST RECOVERY**

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

8 **UNDERCOVER OPERATION #1: 2000 MAZDA**

9 18. At approximately 10:45 a.m. on March 7, 2013, an undercover operator for the  
10 Bureau (operator) took a Bureau's 2000 Mazda to Respondent's facility. There was a defective  
11 shift solenoid in the automatic transmission, which can be replaced by removing the transmission  
12 oil pan. The operator told Respondent that the car was hesitating during the changing of gears  
13 and the "check engine" light was on. The operator was asked to fill out and sign a blank work  
14 order, which she did, and to call the facility in a couple of hours to allow the vehicle to be tested.  
15 The operator left the vehicle at Respondent's facility without receiving a copy of the signed  
16 document.

17 19. At approximately 1:00 p.m., the operator called Respondent's facility and he told her  
18 that the transmission was broken internally with many broken and burned parts and needed to be  
19 rebuilt. He quoted her a price of \$1,200 and asked for a \$500-\$700 deposit to start the work.  
20 Approximately 30 minutes later, the operator gave Respondent authorization to proceed with the  
21 repairs.

22 20. On March 8, 2013, the operator dropped off a \$700 cash deposit at Respondent's  
23 facility and was given a receipt on a written phone message pad saying "rebuilt [sic] transmission."

24 21. On March 20, 2013, the operator returned to Respondent's facility. The operator  
25 received an invoice for a total of \$1,201.50. On the "parts" side of the invoice, it indicated that  
26 Respondent had rebuilt the transmission for \$700, rebuilt the torque convertor for \$100, and  
27 supplied 10 quarts of transmission fluid for \$50. The invoice stated "customer request." The  
28 invoice did not separately identify each part supplied and the price for each part. Under the

1 "labor" side of the invoice, Respondent charged \$275.00 labor to "change" the transmission, the  
2 torque convertor, and oil. The operator paid the balance of \$501.50 and left.

3 22. On and between April 5, 2013 and April 16, 2013, the Bureau inspected the vehicle  
4 and found the following issues: (1) there was a considerable amount of transaxle fluid leaking  
5 from the driver's side axle seal; (2) there was a loose bolt that secures the transaxle to the engine;  
6 (3) a nut was missing that secures the torque converter to the engine's flywheel; and (4) certain  
7 internal torque converter and transaxle parts that should have been changed had the torque  
8 converter and transaxle actually been fixed, but were not, including: fourteen drive plates, valve  
9 body gaskets, dip stick seal, three end case O-ring seals, oil pump main seal, 2-4 brake bands, and  
10 both axle seals.

11 **FIRST CAUSE FOR DISCIPLINE**

12 **(Untrue or Misleading Statements)**

13 23. Respondent is subject to disciplinary action under Code section 9884.7, subdivision  
14 (a)(1), in that Respondent made statements which he knew to be false or in the exercise of  
15 reasonable care should have known to be untrue or misleading. The circumstances, which include  
16 by reference Paragraphs 18-22, are as follows:

17 (a) The invoice for the work indicates on the one hand that Respondent charged the  
18 operator for parts to "rebuild" a transmission and torque converter, while on the other hand it  
19 indicates that Respondent charged the operator for labor to "change" the transmission and the  
20 torque convertor. The invoice is not clear as to whether the transmission was exchanged or  
21 rebuilt.

22 (b) The invoice for the work states "customer request" to give the impression that  
23 the operator requested the repairs when in fact the operator requested assistance with a gear  
24 shifting problem and a "check engine" light.

25 (c) Respondent represented to the operator that the transmission of the Bureau's  
26 2000 Mazda was broken internally with many broken and burned parts. In fact, the only defect in  
27 the transmission was the defective shift solenoid.

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1 (d) Respondent represented on the invoice that a rebuilt transmission and a rebuilt  
2 torque converter were installed on the Bureau's 2000 Mazda. In fact, neither a rebuilt  
3 transmission nor a rebuilt torque converter were installed.

4 **SECOND CAUSE FOR DISCIPLINE**

5 **(Fraud)**

6 24. Respondent is subject to disciplinary action under Code section 9884.7, subdivision  
7 (a)(4), in that Respondent committed acts that constitute fraud. The circumstances, which include  
8 by reference Paragraphs 18-22, are as follows:

9 (a) On or about March 8, 2013 and March 20, 2013, Respondent obtained a total of  
10 \$1,201.50 from the operator for installing a rebuilt transmission and a rebuilt torque converter on  
11 the Bureau's 2000 Mazda when those repairs were never performed.

12 **THIRD CAUSE FOR DISCIPLINE**

13 **(Departure from Trade Standards)**

14 25. Respondent is subject to disciplinary action under Code section 9884.7, subdivision  
15 (a)(7), in conjunction with California Code of Regulations, title 16, section 3361.1, in that  
16 Respondent willfully departed from or disregarded accepted trade standards for good and  
17 workmanlike repair without the consent of the owner or the owner's duly authorized  
18 representative. The circumstances, which include by reference Paragraphs 18-22, are as follows:

19 (a) Respondent failed to conduct an external inspection and diagnostic check of the  
20 Bureau's 2000 Mazda, including the retrieval of any diagnostic trouble codes, prior to removing  
21 the transmission for the purpose of rebuilding. Had an inspection been performed, it would have  
22 indicated that there was a defective shift solenoid, which did not require the removal of the  
23 transmission.

24 (b) Respondent failed to rebuild the automatic transmission in the Bureau's 2000  
25 Mazda to meet the minimum requirements of California Code of Regulations, title 16, section  
26 3361.1, subdivision (c).

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Violations of the Code)**

3 26. Respondent is subject to disciplinary action under Code section 9884.7, subdivision  
4 (a)(6) in that Respondent failed to comply with the Automotive Repair Act and/or the regulations  
5 adopted pursuant to it. The circumstances, which include by reference Paragraphs 18-22, are as  
6 follows:

7 (a) **Code section 9884.9, subdivision (a) and California Code of Regulations,**  
8 **title 16, section 3353, subdivision(a):** Respondent failed to provide the operator of the Bureau's  
9 2000 Mazda with a written estimate for parts and labor for a specific job. Instead, the operator  
10 was asked to sign a blank work order.

11 (b) **Code section 9884.7, subdivision (a)(3):** Respondent failed to provide the  
12 operator of the Bureau's 2000 Mazda with a copy of the signed estimate as soon as it was signed.

13 (c) **Code section 9884.8 and California Code of Regulations, title 16, section**  
14 **3556, subdivision (a)(2)(A):** Respondent failed to state separately on the invoice the subtotal  
15 prices for the service work and parts and failed to identify with specificity all the service and  
16 repair work performed and the price for each service and repair on the Bureau's 2000 Mazda.

17 **UNDERCOVER OPERATION #2: 1999 TOYOTA**

18 27. At approximately 10:45 a.m. on August 6, 2013, an undercover operator for the  
19 Bureau (operator) took a Bureau's 1999 Toyota to Respondent's facility. There was an electrical  
20 opening in the No. 2 solenoid in the automatic transmission. The operator told Respondent's  
21 employee "Hector" that the car was having problems shifting and the "check engine" light was on.  
22 Hector asked the operator to fill out and sign a blank work order, which she did, and told her it  
23 would take a couple of hours to test the vehicle. The operator left the vehicle at Respondent's  
24 facility without receiving a copy of the signed document.

25 28. Later in the day on August 6, 2013, the operator called Respondent's facility and  
26 spoke with Respondent. He said that the transmission was burned and he recommended complete  
27 reconstruction. He also said that he could make the torque converter high performance. He  
28 quoted a price of \$1,300.00. The operator subsequently gave Respondent authorization to start

1 the repairs and Respondent asked for a \$500-\$600 deposit to start the work.

2 29. On August 7, 2013, the operator brought \$600 in cash for the deposit and was given  
3 a receipt on a telephone message pad.

4 30. On August 12, 2013, the operator returned to Respondent's facility. The operator  
5 received an invoice for a total of \$1,301.40. On the "parts" side of the invoice, it indicated that  
6 Respondent had rebuilt the transmission for \$800, rebuilt the torque convertor for \$100, and  
7 supplied 10 quarts of transmission oil for \$60. The invoice stated "customer request." The  
8 invoice did not separately identify each part supplied and the price for each part. Under the  
9 "labor" side of the invoice, Respondent charged \$255.00 labor to "change" the transmission, the  
10 torque convertor, and oil. The operator paid the balance of \$701.40 and left.

11 31. On and between August 16, 2013 and September 25, 2013, the Bureau inspected the  
12 vehicle and found that the torque convertor and the transaxle had not been exchanged or rebuilt.  
13 Additionally, internal parts such as seals, lined friction plates, sealing rings, and gaskets were not  
14 replaced with new parts as would be expected before a transmission can be represented as rebuilt.

15 **FIFTH CAUSE FOR DISCIPLINE**

16 **(Untrue or Misleading Statements)**

17 32. Respondent is subject to disciplinary action under Code section 9884.7, subdivision  
18 (a)(1), in that Respondent made statements which he knew to be false or in the exercise of  
19 reasonable care should have known to be untrue or misleading. The circumstances, which include  
20 by reference Paragraphs 27-31, are as follows:

21 (a) The invoice for the work indicates on the one hand that Respondent charged the  
22 operator for parts to "rebuild" the transmission and torque converter, while on the other hand it  
23 indicates that Respondent charged the operator for labor to "change" the transmission and the  
24 torque convertor. The invoice is not clear as to whether the transmission was exchanged or  
25 rebuilt.

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1 (b) The invoice for the work states "customer request" to give the impression that  
2 the operator requested the repairs when in fact the operator requested assistance with a gear  
3 shifting problem and a "check engine" light.

4 (c) Respondent represented to the operator that the transmission of the Bureau's  
5 1999 Toyota was burnt and he recommended complete reconstruction. In fact, the only defect  
6 was the No. 2 solenoid.

7 (d) Respondent represented on the invoice that a rebuilt transmission and a rebuilt  
8 torque converter were installed on the Bureau's 1999 Toyota. In fact, neither a rebuilt  
9 transmission nor a rebuilt torque converter were installed.

10 **SIXTH CAUSE FOR DISCIPLINE**

11 **(Fraud)**

12 33. Respondent is subject to disciplinary action under Code section 9884.7, subdivision  
13 (a)(4), in that Respondent committed acts that constitute fraud. The circumstances, which include  
14 by reference Paragraphs 27-31, are as follows:

15 (a) On or about August 7, 2013 and August 12, 2013, Respondent obtained a total  
16 of \$1,301.40 from the operator for installing a rebuilt transmission and a rebuilt torque converter  
17 on the Bureau's 1999 Toyota when those repairs were never performed.

18 **SEVENTH CAUSE FOR DISCIPLINE**

19 **(Departure from Trade Standards)**

20 34. Respondent is subject to disciplinary action under Code section 9884.7, subdivision  
21 (a)(7), in conjunction with California Code of Regulations, title 16, section 3361.1, in that  
22 Respondent willfully departed from or disregarded accepted trade standards for good and  
23 workmanlike repair without the consent of the owner or the owner's duly authorized  
24 representative. The circumstances, which include by reference Paragraphs 27-31, are as follows:

25 (a) Respondent failed to conduct an external inspection and diagnostic check of the  
26 Bureau's 1999 Toyota, including the retrieval of any diagnostic trouble codes, prior to removing  
27 the transmission for the purpose of rebuilding. Had an inspection been performed, it would have  
28 indicated that there was a defective No. 2 solenoid, which did not require the removal of the

1 transmission.

2 (b) Respondent failed to rebuild the automatic transmission in the Bureau's 1999  
3 Toyota to meet the minimum requirements of California Code of Regulations, title 16, section  
4 3361.1, subdivision (c).

5 **EIGHTH CAUSE FOR DISCIPLINE**

6 **(Violations of the Code)**

7 35. Respondent is subject to disciplinary action under Code section 9884.7, subdivision  
8 (a)(6) in that Respondent failed to comply with the Automotive Repair Act and/or the regulations  
9 adopted pursuant to it. The circumstances, which include by reference Paragraphs 27-31, are as  
10 follows:

11 (a) **Code section 9884.9, subdivision (a) and California Code of Regulations,**  
12 **title 16, section 3353, subdivision(a):** Respondent failed to provide the operator of the Bureau's  
13 1999 Toyota with a written estimate for parts and labor for a specific job. Instead, the operator  
14 was asked to sign a blank work order.

15 (b) **Code section 9884.7, subdivision (a)(3):** Respondent failed to provide the  
16 operator of the Bureau's 1999 Toyota with a copy of the signed estimate as soon as it was signed.

17 (c) **Code section 9884.8 and California Code of Regulations, title 16, section**  
18 **3556, subdivision (a)(2)(A):** Respondent failed to state separately on the invoice the subtotal  
19 prices for the service work and parts and failed to identify with specificity the all service and  
20 repair work performed and the price for each service and repair on the Bureau's 1999 Toyota.

21 **OTHER MATTERS**

22 36. Pursuant to Code section 9884.7, subdivision (c), the Director may suspend, revoke,  
23 or place on probation the registration for all places of business operated in this state by  
24 Respondent Manuel V. Soria, owner of Mannys Auto General Repair, upon a finding that  
25 Respondent has, or is, engaged in a course of repeated and willful violations of the laws and  
26 regulations pertaining to an automotive repair dealer.

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