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

11
12 In the Matter of the Accusation/Petition to
Revoke Probation Against:

Case No. 77/10-41

13 **PETRO GROUP, INC., DBA**
14 **PETRO AUTO CARE**
8740 Jamacha Road, Suite B
15 Spring Valley, CA 91977
16 **JORGE A. PETRO, PRESIDENT**
Automotive Repair Dealer Registration No.
ARD236228

**ACCUSATION AND PETITION TO
REVOKE PROBATION**

17 Respondent.
18

19 Complainant alleges:

20 **PARTIES**

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

24 **Automotive Repair Dealer Registration**

25 2. On a date uncertain in 2004, the Bureau issued Automotive Repair Dealer
26 Registration Number ARD236228 ("registration") to Petro Group, Inc., doing business as Petro
27 Auto Care ("Respondent"). The registration was in full force and effect at all times relevant to
28 the charges brought herein and will expire on October 31, 2011, unless renewed.

1 **PRIOR DISCIPLINARY ACTION**

2 3. Pursuant to the Decision in Accusation No. 77/08-13, attached hereto as Exhibit "A"
3 and incorporated herein by reference, effective October 18, 2010, the Director of Consumer
4 Affairs ("Director") permanently invalidated Respondent's Automotive Repair Dealer
5 Registration No. ARD 236228; however, the invalidation was stayed, and Respondent was placed
6 on probation for three (3) years with terms, including Term 1a, which states:

7 Term 1 -During the period of probation, respondent shall:

8 a. Comply with all statutes, regulations, and rules governing automotive
9 inspections, estimates, and repairs.

10 Further, pursuant to the Decision, Respondent's registration was suspended for 10 days.

11 **STATUTORY PROVISIONS**

12 4. Section 9884.7 of the Business and Professions Code ("Code") states, in pertinent
13 part:

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

18 (1) Making or authorizing in any manner or by any means whatever any
19 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.

20 (4) Any other conduct which constitutes fraud.

21 (b) Except as provided for in subdivision (c), if an automotive repair
22 dealer operates more than one place of business in this state, the director pursuant to
23 subdivision (a) shall only refuse to validate, or shall only invalidate temporarily or
24 permanently the registration of the specific place of business which has violated any
of the provisions of this chapter. This violation, or action by the director, shall not
affect in any manner the right of the automotive repair dealer to operate his or her
other places of business.

25 (c) Notwithstanding subdivision (b), the director may refuse to validate,
26 or may invalidate temporarily or permanently, the registration for all places of
27 business operated in this state by an automotive repair dealer upon a finding that the
28 automotive repair dealer has, or is, engaged in a course of repeated and willful
violations of this chapter, or regulations adopted pursuant to it.

1 5. Code section 9884.6 states:

2 (a) It is unlawful for any person to be an automotive repair dealer unless
3 that person has registered in accordance with this chapter [the Automotive Repair
Act] and unless that registration is currently valid.

4 (b) A person who, for compensation, adjusts, installs, or tests retrofit
5 systems for purposes of Chapter 6 (commencing with Section 44200) of Part 5 of
6 Division 26 of the Health and Safety Code is an automotive repair dealer for purposes
of this chapter.

7 6. Code section 9884.8 states:

8 All work done by an automotive repair dealer, including all warranty
9 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
10 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.
11 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
12 reconditioned parts, that invoice shall clearly state that fact. The invoice shall include
a statement indicating whether any crash parts are original equipment manufacturer
13 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
14 automotive repair dealer.

15 7. Code section 9884.9, subdivision (a), states:

16 (a) The automotive repair dealer shall give to the customer a written
17 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
18 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
19 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
20 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
21 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
22 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
23 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
24 do either of the following:

25 (1) Make a notation on the invoice of the same facts set forth in the
notation on the work order.

26 (2) Upon completion of the repairs, obtain the customer's signature or
27 initials to an acknowledgment of notice and consent, if there is an oral consent of the
customer to additional repairs, in the following language:

1 "I acknowledge notice and oral approval of an increase in the original
2 estimated price.

3 _____
(signature or initials)"

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

8 9. Code section 477 provides, in pertinent part, that "Board" includes "bureau,"
9 "commission," "committee," "department," "division," "examining committee," "program," and
10 "agency." "License" includes certificate, registration or other means to engage in a business or
11 profession regulated by the Code.

12 COST RECOVERY

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

17 **BACKGROUND**

18 11. Pursuant to the Decision in Accusation No. 77/08-13, referenced in paragraph 3,
19 above, Respondent's Automotive Repair Dealer Registration Number ARD 236228 was
20 suspended for 10 days, effective October 18, 2010. During the period of suspension, Respondent
21 was informed that no diagnosis or repair work could be performed that required a valid
22 automotive repair dealer registration, with the exception of work such as oil changes.

23 **ACCUSATION**

24 **UNDERCOVER OPERATION - OCTOBER 19, 2010 & OCTOBER 21, 2010**

25 12. On or about October 19, 2010, a Bureau undercover operator ("operator") drove a
26 Bureau-documented 2000 Volkswagen Jetta to Respondent's facility. The only repairs necessary
27 were replacement of the front brake pads, an axle boot, and a purge valve. The operator spoke to
28 Adrianna and told her he wanted his vehicle checked out because there were two dash lights

1 illuminated and the vehicle was shaking. Adrianna informed the operator that Respondent could
2 do the work. The operator provided Respondent with the vehicle's keys. Shortly thereafter,
3 Adrianna informed the operator that the vehicle was shaking because the #2 and #4 cylinders
4 were bad. Adrianna recommended replacing four spark plugs, a sensor, and a gasket. She told
5 the operator that the cost of repairs would be \$486. The operator told Adrianna that he did not
6 have that much money with him. Adrianna recommended replacing the spark plugs for \$129.96.
7 She told the operator he could return the vehicle the following day for the sensor repair. The
8 operator authorized replacement of the spark plugs. Adrianna gave the operator two copies of
9 Estimate No. 088463, which the operator signed. After the repairs were completed, Adrianna
10 gave the operator two copies of Invoice No. 26335. The operator signed both copies and paid
11 Respondent \$129.96 for the repairs and was provided with one copy of Invoice No. 26335.

12 13. On or about October 21, 2010, the operator returned to Respondent's facility to have
13 the dash lights fixed. The operator asked what the cost would be and Adrianna gave him an
14 estimate of \$350 to \$375 for the sensor replacement, including labor. She also told the operator
15 that the sensor replacement would fix the dash lights. The operator was not provided with a
16 written estimate. The operator authorized the repairs and left the facility. Later that morning, the
17 operator received a telephone call from Adrianna, who told him that the repairs had been
18 completed. A short time later, the operator returned to Respondent's facility to retrieve the
19 vehicle. The operator signed two copies of Estimate No. 090010, two copies of Repair Order No.
20 026041, and two copies of Invoice No. 26041. All six of the documents signed by the operator
21 set forth a business name, address, and registration number that did not belong to Respondent.
22 The operator paid Adrianna \$329.25 for the repair and received a copy of Estimate No. 090010,
23 Repair Order no. 026041, and Invoice No. 26041. Adrianna then informed the operator that they
24 were able to clear all of the codes except P1426; however, the dash lights were still on. Adrianna
25 told the operator to drive the vehicle until October 28, 2010, and if the dash lights were still on,
26 they would replace the evap solenoid at no charge. The operator asked Adrianna to write the
27 information about the dash lights and evap solenoid on the invoice, which she did. Adrianna then
28 told the operator that he would have to pay \$20 for the solenoid but that the labor would be free.

1 THIRD CAUSE FOR DISCIPLINE

2 (Failure to Comply with Code)

3 17. Respondent has subjected its registration to discipline pursuant to Code section
4 9884.7, subdivision (a)(6), in that on or about October 19 & 21, 2010, Respondent failed to
5 comply with sections of that Code, as follows:

6 a. **Section 9884.6:** Respondent was not compliance with Code section 9884.6, in that
7 Respondent was operating its automotive repair business when its registration was suspended.

8 b. **Section 9884.8:** Regarding Estimate No. 090010, Repair Order No. 026041, and
9 Invoice No. 26041, Respondent failed to set forth its correct business name, address, and
10 automotive repair dealer registration number on those documents.

11 c. **Section 9884.9, subdivision (a):** Respondent failed to provide the operator with an
12 estimated price for parts and labor for a specific job regarding the repairs performed on October
13 21, 2010.

14 PETITION TO REVOKE PROBATION

15 18. The allegations of paragraphs 1 through 17 of the accusation above are incorporated
16 herein by reference as though fully set forth and are realleged.

17 19. Grounds exist to revoke the probation and reimpose the order of revocation of
18 Respondent's Automotive Repair Dealer Registration No. ARD 236228, in that Respondent failed
19 to comply with all statutes, regulations, and rules governing estimates and inspections as required
20 by Term 1a of the terms of the probation under Decision in Accusation No. 77/08-13, as set forth
21 in paragraphs 11 through 17 of the accusation above.

22 OTHER MATTERS

23 20. Under Code section 9884.7, subdivision (c), the director may invalidate temporarily
24 or permanently, the registrations for all places of business operated in this state by Petro Group,
25 Inc., doing business as Petro Auto Care, upon a finding that it has, or is, engaged in a course of
26 repeated and willful violations of the laws and regulations pertaining to an automotive repair
27 dealer.

PRAYER

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

1. Vacating the stay and reimposing the order of invalidation of Automotive Repair Dealer Registration No. ARD 236228, issued to Petro Group, Inc., doing business as Petro Auto Care;

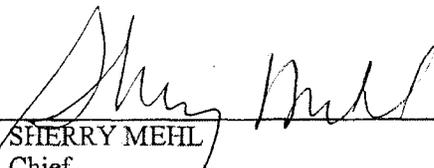
2. Revoking, suspending, or placing on probation Automotive Repair Dealer Registration Number ARD 236228, issued to Petro Group, Inc., doing business as Petro Auto Care;

3. Revoking, suspending, or placing on probation any other automotive repair dealer registration issued in the name Petro Group, Inc., doing business as Petro Auto Care;

4. Ordering Petro Group Inc., 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; and,

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

DATED: 3/21/11


SHERRY MEHL
Chief
Bureau of Automotive Repair
Department of Consumer Affairs
State of California
Complainant

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

In the Matter of Accusation Against:

PETRO GROUP, INC., DBA,
PETRO AUTO CARE
8740 Jamacha Road, Suite B
Spring Valley, CA 91977
JORGE ALBERTO PETRO, PRESIDENT

Automotive Repair Dealer Registration
No. AK 236228,

Respondent.

Case No. 77/08-13

OAH No. 2010020991

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by
the Director of Consumer Affairs as his Decision in the above-entitled matter.

This Decision shall become effective October 18, 2010.

IT IS SO ORDERED.

Date: September 7, 2010



DOREATHEA JOHNSON
Deputy Director, Legal Affairs
Department of Consumer Affairs

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

In the Matter of Accusation Against:

PETRO GROUP, INC., DBA,
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8740 Jamacha Road, Suite B
Spring Valley, CA 91977
JORGE ALBERTO PETRO, PRESIDENT

Automotive Repair Dealer Registration
No. AK 236228,

Respondent.

Case No. 77/08-13

OAH No. 2010020991

PROPOSED DECISION

On July 21, 2010, in San Diego, California, Alan S. Meth, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter.

Carl W. Sonne, Deputy Attorney General, represented the complainant.

Adriana Petro, Secretary, represented respondent Petro Group Inc. and Jorge Alberto Petro, President.

The matter was submitted on July 21, 2010.

FACTUAL FINDINGS

1. On September 9, 2008, Sherry Mehl, Chief, Bureau of Automotive Repair, Department of Consumer Affairs, State of California (Bureau), filed Accusation No. 77/08-13 in her official capacity. Respondent filed a timely Notice of Defense.

2. Respondent Jorge Alberto Petro, President of Petro Group Inc., dba Petro Auto Care, 8740 Jamacha Road, Suite B, Spring Valley, CA 91977 is registered as an Automotive

Repair Dealer under the Automotive Repair Act of 1971. The Bureau issued registration number AK 236228 to respondent in 2004. The license will expire on October 31, 2010, unless renewed. Respondent's previous business name was Precision Muffler & Brake; it was changed on March 17, 2007.

Undercover Operation—November 6, 2006

3. On November 6, 2006, a Bureau representative using the alias Baltozar Sarmiento drove a Bureau documented 2001 Chevrolet Monte Carlo to respondent's facility, then operating under the name of Precision Muffler & Brake. David Winkowski, a Program Representative with the Bureau, provided the Monte Carlo to the representative along with coupons from the PennySaver advertising brake pads or shoes from \$49.95 and a lube, oil and filter with free brake inspection for \$22.95. The odometer reading when the representative received the vehicle was 89,301, and he drove it one mile to respondent's facility.

Upon arriving at respondent's facility, the representative walked into the office and met Adriana Petro, the Secretary of respondent and Mr. Petro's wife. He showed her the coupon for the lube, oil and filter, with free brake inspection and requested that respondent perform that service. Adriana gave him a blank work order and at her request, the representative wrote his name, address, and telephone number on it. He gave the work order back to her and gave her the key to the vehicle. She filled in some information on the work order and had the representative sign it. She did not give him a copy of it. He gave her a copy of the PennySaver ad, and left the facility on foot at 9:45 a.m.

At 11:15 a.m., the representative called respondent and spoke to Adriana. She said the Monte Carlo needed front brakes because there was only five percent left. She said the rotors "needed to be resurfaced." She said the total cost would be \$242.17. The representative told her he had the \$49.95 brake coupon. She said the coupon was for non semi-metallic brake pads and the Monte Carlo had semi-metallic brake pads, but she would use the coupon to apply the discount. She said the amount was \$195.40 and she had discounted the price by \$35.00 because of the coupon. The representative asked her what was wrong with the brakes. Adriana said they needed to be resurfaced because of the wear they had on the brakes and "would cause vibrations," and explained that meant putting them on a machine. She said the total with tax was \$205.17. The representative authorized the repairs.

The representative returned to respondent's facility about two hours later and met with Adriana. She gave him two copies of the invoice which he signed and returned to her. She said the cost was \$205.17. He gave her in cash. She wrote a warranty on the invoice and explained that the warranty was for one year. She gave him the invoice and the keys to the Monte Carlo. The invoice did not document all parts as new, used, rebuilt, or reconditioned. The odometer reading was 89,304 when he drove away and returned the vehicle to Mr. Winkowski.

4. Steven M. Gauronski is a Program Representative with the Bureau and works in its Rialto Documentation Lab. He has worked as an auto mechanic for 30 years and worked for the Bureau for 14 years. He holds various licenses and certifications in the field.

Between October 17 and 31, 2006, Mr. Gauronski worked on the Bureau's 2001 Chevrolet Monte Carlo used later in the undercover operation on November 6, 2006. He inspected the vehicle and determined all systems were in good serviceable condition and took photographs. He installed two new front brake rotors and blended them to match the appearance of the surrounding areas. He inspected the vehicle's existing front disc brake pads and then evenly machined the pads near to the minimum lining thickness specifications. He observed no visible damage, defects or cracks in the brake pads.

On October 24 and 25, 2006, Mr. Gauronski road tested the vehicle over a course of 44 miles. The ending odometer reading was 89,301. He performed the road test to burnish the new front braking surfaces and to observe the performance of the brake system. He observed no pulsation, vibration, pull, or other anomalies in the brake performance during the road tests. He then added engine oil. Next, Mr. Gauronski measured the front brake rotors for thickness, lateral run out, that is, to see if they wobbled instead of spinning true, and thickness variation. He observed the front brake rotors to be in good condition with no visible damage or defects and all rotor measurements were within manufacturer's specifications.

On November 6, 2006, with a vehicle odometer reading of 89,301, Mr. Gauronski transferred custody of the Monte Carlo to Mr. Winkowski in Spring Valley. Later in the day, Mr. Winkowski returned the vehicle to Mr. Gauronski. It had been driven four miles. The next day, Mr. Gauronski, after he received respondent's invoice for the repairs performed on the vehicle, road tested the vehicle and found no abnormalities. He inspected the vehicle and observed new front disc pads and the front brake rotors had been resurfaced. He determined that the right front rotor was machined slightly beyond the minimum thickness after refinish specifications.¹

In Mr. Gauronski's opinion, the front disc brake pads needed to be replaced and were properly replaced. He did not believe the disc brake rotors needed to be resurfaced because they were in good condition just before the undercover operation, and were free of damage or defects. He reviewed General Motors' factory service manual and found there were specific conditions for resurfacing or replacing brake rotors on the 2001 Monte Carlo, such as excessive corrosion, rust or pitting, cracks, heat spots, scoring, or lateral runout, and none of those conditions existed in this car. He also did not believe the rotors needed resurfacing to avoid vibrations.

¹ At the hearing, Mr. Gauronski testified that since he last inspected the rotors, the manufacturer's specifications relating to machining rotors had been relaxed, and under the new specifications, the rotors would not be beyond allowable specifications.

Undercover Operation—January 29, 2007

5. On January 29, 2007, a Bureau representative using the alias Judy Kercher drove a Bureau documented 1996 Chevrolet Camaro to respondent's facility, then operating under the name of Precision Muffler & Brake. Mr. Winkowski provided the Camaro to the representative along with coupons from the PennySaver advertising brake pads or shoes from \$45 and free inspection with repairs. The odometer reading when the representative received the vehicle was 65,624.

The representative called Precision Muffler & Brake and spoke to Adriana. The representative said she was looking at the ad for the free brake inspection and asked for the cost for brakes on the Chevrolet. Adriana asked for information about the car, and based on that information, said the brakes would cost \$89.00, which included parts and labor and a one-year warranty. The representative asked about the \$45 ad. Adriana said that was for organic brake pads but the brakes on the Chevrolet were semi-metallic, but added that with the ad, the cost would be \$79.00. The representative said she would bring in the car. She also said that the brakes did not make any noises.

Upon arriving at respondent's facility, the representative walked into the office and met Adriana. She showed her the ad and requested the free brake inspection. Adriana asked the representative if she had called and she said she had. Adriana gave her a blank work order and at her request, the representative wrote her name, address, and telephone number on it. She gave the work order back to Adriana who had the representative sign it. She did not give the representative a copy of it. Adriana said they would inspect the brakes and call her with a report. The representative gave Adriana a copy of the PennySaver ad and the car keys, and walked away from the facility.

About a half hour later, Adriana called and told the representative that the Camaro needed front brakes. She said a "tick tick noise" was caused by the front brake indicators and the front rotors needed to be resurfaced because they had "black spots." Adriana said they used a lathe that mounts onto the vehicle to resurface the rotors, and she recommended cleaning and adjusting the rear brakes. She said the total for parts and labor, which included replacing the front brake pads, machining the front rotors, and cleaning and adjusting the rear brakes, was \$222.15. The representative authorized the repairs.

The representative returned to respondent's facility about two and a half hours later and met with Adriana. Adriana gave the representative two copies of the invoice which she signed and returned. Adriana explained the warranty. The representative paid Adriana \$222.00 in cash. She gave the representative the invoice and the keys to the Camaro. The invoice did not document all parts as new, used, rebuilt, or reconditioned. The odometer reading was 65,627 when she drove away and returned the vehicle to Mr. Winkowski.

6. Darrell Blasjo is a Program Representative with the Bureau and works in its Rialto Documentation Lab. He has worked as an auto mechanic for many years, worked for the Bureau for 20 years, and worked in the documentation lab for the last five years. He holds various licenses and certifications in the field.

On December 5, 2006, Mr. Blasjo began documenting the condition of the brake system of the Bureau's 1996 Chevrolet Camaro later used in the undercover operation on January 29, 2007. He had previously inspected the brake system and determined it was in good condition. He again inspected the front and rear brakes, and found no anomalies. He then removed the front brake pads and machined the wearable pad lining down until their thickness was visibly low. He next installed new rotors, measured them, and checked them for runout. He found the runout was .001 in., less than the .005 in. provided in the specifications. He determined that rotor surfaces were not scored and did not need resurfacing. He then blended the appearance of the brake system to match the overall appearance of the vehicle and underbody.

On December 14, 2007, Mr. Blasjo performed a test drive of the vehicle and determined the brake system performed properly, with no pulsation, fade, or pulling to one side. He burnished the pads into the rotors so that the two surfaces worked together. He estimated this occurred within 10 to 20 stops. The odometer reading after the test drive was 65,623. He then inspected the front brakes for anomalies and found none.

On January 29, 2007, the Camaro was transported to Spring Valley and transferred to Mr. Winkowski's custody. The odometer reading was 65,624. Mr. Blasjo received it back later in the day after it had been driven four miles.

On January 30, 2007, after he received a copy of respondent's invoice for the repairs performed on the Camaro, Mr. Blasjo began to re-inspect the vehicle. He determined that the introduced malfunction was low front brake pads which were properly replaced. He determined that the front brake rotors that he had installed had been resurfaced. In his opinion, the rotors did not need to be resurfaced. He determined that the rear brakes had been adjusted but not cleaned, in that the black dust on the brake drums, brake shoes, and hardware had the same appearance as before. He also found the rear brakes, which did not need adjustment, had been improperly adjusted to zero clearance, so the shoes were in constant contact with the brake drums and were causing constant drag which prevented the drums from being removed easily. Mr. Blasjo had set the rear brakes to have .050 in. clearance before the undercover operation, which met General Motors' specifications, but they did not meet them when he re-inspected the Camaro.

Undercover Operation—May 30, 2007

7. On May 30, 2007, a Bureau representative using the alias Connie Baker drove a Bureau documented 1995 Mazda 626 to respondent's facility, then operating under the name of Precision Muffler & Brake. Mr. Winkowski provided the Mazda to the

representative along with coupons from the PennySaver advertising brake pads or shoes from \$45 and free inspection with repairs. The odometer reading when the representative received the vehicle was 80,405.

The representative called Precision Muffler & Brake and spoke to Adriana. The representative said she was looking at the ad for the free brake inspection and asked for the cost for brakes on the Mazda. Adriana said the brakes on the Mazda were semi-metallic, and would be \$18.00 more. Adriana told her to bring in the coupon because the regular price for the brake job was \$95.00. The representative said she would bring in the car.

Upon arriving at respondent's facility, the representative walked into the office and met Adriana. She showed her the ad and told Adriana that she had called earlier. Adriana prepared a work order and asked the representative to write her name, address, and telephone number on it, and sign it. The representative did so and gave the work order back to Adriana along with a copy of the ad. Adriana did not give the representative a copy of the work order. The representative left the facility on foot.

About a two hours later, the representative called respondent's facility and spoke to Adriana, who said the Mazda needed front brakes. Adriana said the front rotors needed to be resurfaced and the rear brakes needed cleaning and adjusting. Adriana said the total for parts and labor, which included replacing the front brake pads, machining the front rotors, and cleaning and adjusting the rear brakes, was \$182.00. The representative authorized the repairs.

The representative returned to respondent's facility about three hours later and met with Adriana. She gave the representative two copies of the invoice which she signed and returned. The representative paid Adriana \$182.60 in cash. Adriana gave the representative the invoice and the keys to the Mazda. The invoice did not document all parts as new, used, rebuilt, or reconditioned. The odometer reading was 80,410 when she drove away and returned the vehicle to Mr. Winkowski.

8. Paul Hsu is a Program Representative with the Bureau and works in its Rialto Documentation Lab. He has worked as an auto mechanic for many years, worked for the Bureau for 14 years, and worked in the documentation lab for the last three years. He holds various licenses and certifications in the field.

On April 12, 2007, Mr. Hsu began documenting the condition of the brake system of the Bureau's 1995 Mazda 626 later used in the undercover operation on May 30, 2007. He inspected the front and rear brakes and found they were in good condition. He measured the front disc rotors and found them in specification. He did not believe they needed machining and they were not scored or heat stained. They showed signs of recent machining. He found the runout was within specifications. Mr. Hsu then machined the four front disc pads to a point where the wear indicators would contact the brake rotors and make noise. An acceptable repair was to replace the front disc pads. He then performed a road test and after

four miles, the brakes became fully normal in operation, without pull, chatter, grab, pulsation, or fade. He did hear squeaking noises emanating from the front brakes, and expected them because the wear indicators were contacting the rotor surfaces. He inspected the brakes again and found no problems within the braking system and no overheated or damaged parts. He blended the appearance of the brake system to match the condition of the adjacent areas. He road-tested the vehicle again, driving four miles, and found the braking system remained normal. The odometer reading was 80,405.

On May 30 2007, the Mazda was transported to Spring Valley and transferred to Mr. Winkowski's custody. Mr. Blasjo received it back later in the day after it had been driven six miles.

On June 12, 2007, after he received a copy of respondent's invoice for the repairs performed on the Mazda, Mr. Hsu reinspected the vehicle. He drove it and found the brakes performed normally and he did not hear the wear indicator noise. He determined that the front brake pads were replacement parts that looked new and the front disc rotors had been machined, then lightly sanded. He measured the rotors and determined that about 0.10 in. had been machined from each rotor and the rotor runout within specifications. He examined the rear brakes and concluded they had not been cleaned because they did not appear any cleaner than when he had blended the appearance of the brakes initially. He also found no evidence that the rear brakes had been adjusted.

In Mr. Hsu's opinion, the front brake rotors did not need to be machined because he had measured them only a few miles earlier and they were within specifications. It was also his opinion that the rear brakes were not cleaned or adjusted.

9. After he completed his investigation, Mr. Winkowski concluded that respondents made false and misleading statements to three customers to induce them to agree to have unnecessary work performed on the vehicles they brought to respondent's facility. In his view, the customers did not receive the advertised price, they were baited with one price and charged another, and respondents did not intend to perform the service at the advertised price. In his opinion, the ads for services were too low and they were too good to be true.

Respondent's Evidence

10. Thomas Teevin testified as an expert for respondent. He has been a master certified technician since 1978, possessed a smog check license since 1983, and is a teacher at San Diego City College. He has worked in the parts supply business for Napa and One Stop and is familiar with brakes and brake parts. He has a degree from Western Wisconsin University and has been in business a long time.

Mr. Teevin did not inspect the brakes on any of the vehicles used by the Bureau during its three undercover operations against respondent. He testified, however, that the process used by the three program representatives in milling the existing brake pads to the

point that they had to be replaced contaminated them. He pointed to a coolant used to suppress dust that became imbedded in the pad that in turn damaged the rotors when the brakes were applied. He also criticized the Bureau mechanics for using an acid solution to make the newly-installed rotors look old because the solution would change the rotors' finish, and he has found that if the solution is not removed, the brakes might not work at all. He felt the rotors had been contaminated and that required they be resurfaced.

In Mr. Teevin's view, the better practice is to turn rotors when new brake pads are installed to eliminate squeal and other noises, and to avoid having customers return. He testified he always turned rotors when new pads were installed. He has known respondent for ten years.

Mr. Teevin testified the current litigation was "absolute lunacy." He believed this undercover operation would generate revenue for the state. He disagreed with General Motors which required turning rotors only in certain situations, and testified that only GM, and no other manufacturer, required this. He believed it was an accepted industry standard for a shop to turn rotors whenever it installed new pads, and one reason was to avoid complaints. He testified a shop should tell the customer that turning the rotors was the best job.

11. Corey Gonzales is an auto mechanic with extensive training and certifications. He worked for GM for three years and presently works for respondent. He described how he performed resurfacing of rotors based on his training from GM. He testified he was not trained at GM to perform "pad slaps," that is, simply installing new pads without turning the rotors. Instead, he was trained to always turn the rotors and this was for safety reasons. However, he estimated that while working for respondent, he has not always turned the rotors when replacing brake pads.

12. Adriana Petro testified the amount of the Bureau's costs far exceeds her ability to pay. She testified respondent's facility is located in a lower income area and has been in business since 1986. She estimated the shop made about \$25,000-35,000 a month gross and she and her husband earned about \$5,000.00 a month from the business. She noted business has declined in the last few years because of the economic situation many of her lower income customers are in.

Ms. Petro testified that she has not received any complaints for faulty brake work or complaints about their advertising.

13. Respondent Jorge Petro testified his operation was a small one, family owned, and he tries to do the right thing. He did not believe he did anything wrong.

Evaluation

14. Respondent's defense is based upon Mr. Teevin's testimony that the Bureau mechanics contaminated the brake pads when they machined them to a point where they had to be replaced, and the pads then contaminated the rotors so that they necessarily had to be machined. His testimony is rejected. He was not an unbiased witness. He has a great deal of animosity towards the Bureau, calling this proceeding "absolute lunacy" and designed to generate revenue. He manifested a very negative attitude while testifying. He provided nothing to support his testimony except his belief that because he had been in the auto repair business for 45 years he knew what he was talking about. There was nothing to support such confidence. Furthermore, his claims that the rotors could be damaged requiring resurfacing after having been driven just a handful of miles simply makes no sense.

In contrast, the testimony of each of the Bureau mechanics was supported by extensive documentation, including photographs and manuals. Each testified that he used proper procedures which did not contaminate the brake pads, and the testimony of each witness made sense. Each corroborated the other. Their opinions were far more persuasive than those of Mr. Teevin.

15. The issue presented in this proceeding was one of appropriate disclosure to customers who sought services for brakes on their vehicles. Respondent offered a brake service at a very low price, but the evidence established that it was respondent's policy to persuade its customers to authorize more extensive and more expensive repairs than were necessary. All three customers were told that for one reason or another, or for no reason at all, the front brake rotors had to be resurfaced when in fact they did not. Respondent could have told the customers that resurfacing the rotors in every case was a good idea, but respondent did not do that, and instead, misrepresented the condition of the rotors so that the customers would agree to the additional work. The only work required was replacement of the front brake pads, which cost far less than the work actually performed.

Costs

16. The Bureau incurred costs of investigation totaling \$31,971.97. In addition, the Bureau incurred attorney's fees for the services of Office of the Attorney General in the amount of \$18,260.50. The total costs for the investigation and enforcement of this matter is \$50,232.47.

LEGAL CONCLUSIONS

1. Business and Professions Code section 9884.7 provides in part:

(a) *The director, where the automotive repair dealer cannot show there was a bona fide error . . . may invalidate temporarily or permanently, the registration of an*

automotive repair dealer for any of the following acts or 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.

...

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

(4) Any other conduct that constitutes fraud.

...

(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.

2. Business and Professions Code section 9884.8 provides:

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.

3. Business and Professions Code section 9884.9 provides in part:

(a) The automotive repair dealer shall give to the customer a written estimated price for labor and parts necessary for a specific job.

4. Cause to invalidate respondent's registration pursuant to Business and Professions Code section 9884.7, subdivision (a)(1), false or misleading statements, was established in that respondent made statements which it knew, or should have known, to be untrue or misleading, as follows:

a. Falsely represented to the representative operating the 2001 Chevrolet Monte Carlo that his vehicle's front brake rotors needed to be resurfaced when, in fact, the front brake rotors were in good serviceable condition and did not need to be resurfaced, as established in Factual Findings 3, 4, 9, 14, and 15.

b. Falsely represented to the representative operating the 1996 Chevrolet Camaro that her vehicle's front brake rotors needed to be resurfaced when, in fact, the front brake rotors were in good serviceable condition and did not need to be resurfaced, as established in Factual Findings 5, 6, 9, 14, and 15.

c. Falsely represented to the representative operating the 1996 Chevrolet Camaro that her vehicle's rear brakes needed to be cleaned and adjusted when, in fact, the rear brakes were in good serviceable condition and did not need to be cleaned and adjusted, as established in Factual Findings 5, 6, 9, 14, and 15.

d. Falsely represented to the representative operating the 1995 Mazda 626 that her vehicle's front brake rotors needed to be resurfaced when, in fact, the front brake rotors were in good serviceable condition and did not need to be resurfaced, as established in Factual Findings 7, 8, 9, 14, and 15.

e. Falsely represented to the representative operating the 1995 Mazda 626 that her vehicle's rear brakes needed to be cleaned and adjusted when, in fact, the rear brakes were in good serviceable condition and did not need to be cleaned and adjusted, as established in Factual Findings 7, 8, 9, 14, and 15.

5. Cause to invalidate respondent's registration pursuant to Business and Professions Code section 9884.7, subdivision (a)(3), was established by reason of Findings 3, 5, and 7 in that in connection with each undercover operation, respondent failed to provide the representative with a copy of the work order as soon as the representative signed the document.

6. Cause to invalidate respondent's registration pursuant to Business and Professions Code section 9884.7, subdivision (a)(4), fraud, was established by:

a. Findings 3 through 9, 14, and 15 in that in connection with each undercover operation, respondent accepted payment from the representatives to resurface the front brake rotors when, in fact, those parts were in good serviceable condition and not in need of resurfacing.

b. Findings 5, 6, 9, 14, and 15 in that in connection with the undercover operations relating to the 1996 Chevrolet Camaro, respondent accepted payment from the representative to clean and adjust the rear brakes when, in fact, the rear brakes were in good serviceable condition and did not need to be cleaned and adjusted.

c. Findings 7, 8, 9, 14, and 15 in that in connection with the undercover operations relating to the 1995 Mazda 626, respondent accepted payment from the representative to clean and adjust the rear brakes when, in fact, respondent failed to clean and adjust the rear brakes as invoiced.

7. Cause to invalidate respondent's registration pursuant to Business and Professions Code section 9884.7, subdivision (a)(6), failing to comply with sections 9884.8 and 9884.9, subdivision (a), was established by Findings 3, 5, and 7 in that in connection with each of the undercover operations, respondent failed to document all parts as new, used, rebuilt, or reconditioned on its invoice and failed to provide the representatives with an estimated price for a specific job.

8. Cause to invalidate respondent's registration pursuant to Business and Professions Code section 9884.7, subdivision (a)(17), departure from trade standard, was not established by reason of Finding 3 and footnote 1. While respondent may have resurfaced the right front brake rotor on the 2001 Chevrolet Monte Carlo beyond the specifications then existing, the specifications have since changed and under current specifications, respondent's work would not violated trade standards. There is no reason to find a violation of trade standards and impose discipline for the commission of an act that is no longer improper.

9. The Bureau enacted disciplinary guidelines, which are found at Title 16, California Code of Regulations, section 3395.4. The guidelines provide a range of sanctions for various violations. The Bureau requests that an administrative law judge take into account factors in aggravation and mitigation when considering a final penalty. The only factor in aggravation is the pattern of misconduct. Three instances of misconduct arising from undercover operations occurred within a seven-month period more than three years ago. There have been no prior disciplinary actions, citations, office conferences, probation, and so forth relating to respondent's operation of his shop.

In mitigation, the amounts involved in each case are small and the investigation was prompted not by consumer complaints against respondent but because its ads were deemed too good to be true. Mrs. Petro testified in a sincere and honest way that her entire goal is to provide a good service to her customers, and she did not want them to be dissatisfied with the work done. She and her husband believe that a proper brake job includes resurfacing the

rotor when new brake pads are installed. Since the investigation, respondent has changed its advertising.

After weighing the factors of aggravation and mitigation, and considering all the evidence, it is appropriate to conclude that revocation of respondent's license is not necessary to adequately protect the public.

The two primary statutory violations were Business and Professions Code section 9884.7, subdivision (a)(1), false or misleading statements, and subdivision (a)(4), fraud. For violations involving false and misleading statements, the Bureau's recommended minimum penalty is a 90-day suspension, with 80 days stayed, and a two-year period of probation. For violations involving fraud, the recommended minimum penalty is revocation stayed, 30-day suspension, and a five-year period of probation. Penalties for violations involving documentation are less.

Mr. Winkowski who conducted the undercover investigation for the Bureau viewed this case as one involving false and misleading statements made to three customers to have unnecessary work performed. He also considered respondent's advertising as a form of bait and switch. He never testified that he viewed the case as one involving fraud. (Factual Finding 9.) At the hearing, the Bureau presented the case as one involving failure to disclose information and misrepresentation. Again, the Bureau did not view the case as one involving fraud.

Based on the foregoing, it is appropriate to view this case as primarily involving a violation of section 9884.7, subdivision (a)(1), false or misleading statement, but the fraudulent aspects of respondent's conduct cannot be ignored. For this reason, a penalty greater than the recommended penalty for a violation of 9884.7, subdivision (a)(1) is appropriate, but it should be less than the penalty recommended for a violation of 9884.7, subdivision (a)(4). Accordingly, based upon all the evidence and the violations established, and taking into account the Bureau's disciplinary guidelines, it is determined that a penalty of revocation, stayed, with a period of probation of three years, and a ten-day period of suspension, most appropriately protects the public.

10. Cause exists pursuant to Business and Professions Code section 125.3 to order respondents to pay the Bureau's costs of investigation and prosecution in this matter in the amount of \$50,232.47 by reason of Factual Finding 15.

In *Zuckerman v. State Board of Chiropractic Examiners* (2002) 29 Cal.4th 32, 45, the Supreme Court rejected a constitutional challenge to a cost regulation similar to Business and Professions Code section 125.3. In so doing, however, the Court directed the administrative law judge and the agency to evaluate several factors to ensure the cost provision did not deter individuals from exercising their right to a hearing: An agency must not assess the full costs where it would unfairly penalize the respondent who has committed some misconduct but who has used the hearing process to obtain the dismissal of some charges or a reduction in

the severity of the penalty; the agency must consider a respondent's subjective good faith belief in the merits of his or her position and whether the respondent has raised a colorable challenge; the agency must consider a respondent's ability to pay; and the agency may not assess disproportionately large investigation and prosecution costs when it has conducted a disproportionately large investigation to prove that a respondent engaged in relatively innocuous misconduct.

Respondent operates a small shop and demonstrated it did not have the financial resources to pay investigation costs in excess of \$50,000. After giving due consideration to respondents' ability to pay and the severity of the violations in relation to the extent of the investigation, it is reasonable to reduce the costs to \$7,500.00.

ORDER

Automotive Repair Dealer Registration No. AK 236228 issued to respondent Jorge Alberto Petro, President of Petro Group Inc., dba Petro Auto Care, is permanently invalidated. However, the invalidation is stayed and respondent is placed on probation for three (3) years on the following terms and conditions:

1. During the period of probation, respondent shall:
 - a. Comply with all statutes, regulations and rules governing automotive inspections, estimates and repairs.
 - b. Post a prominent sign, provided by the Bureau, indicating the beginning and ending dates of the suspension and indicating the reason for the suspension. The sign shall be conspicuously displayed in a location open to and frequented by customers and shall remain posted during the entire period of actual suspension.
 - c. Respondent or respondent's authorized representative must report in person or in writing as prescribed by the Bureau of Automotive Repair, on a schedule set by the Bureau, but no more frequently than each quarter, on the methods used and success achieved in maintaining compliance with the terms and conditions of probation.
 - d. Within 30 days of the effective date of this action, report any financial interest which any partners, officers, or owners of the respondent facility may have in any other business required to be registered pursuant to section 9884.6 of the Business and Professions Code.

e. Provide Bureau representatives unrestricted access to inspect all vehicles (including parts) undergoing repairs, up to and including the point of completion.

f. If an accusation is filed against respondent during the term of probation, the Director of Consumer Affairs shall have continuing jurisdiction over this matter until the final decision on the accusation, and the period of probation shall be extended until such decision.

g. Should the Director of Consumer Affairs determine that respondent has failed to comply with the terms and conditions of probation, the Department may, after giving notice and opportunity to be heard permanently invalidate the registrations.

h. If the accusation involves false and misleading advertising, during the period of probation, respondent shall submit any proposed advertising copy, whether revised or new, to the Bureau at least thirty (30) days prior to its use.

2. Respondent's registration is suspended for ten (10) days from the effective date of this decision.

3. Respondent shall reimburse the Bureau for its costs of investigation in the amount of \$7,500.00.

DATED: 8/16/2010


ALAN S. METH
Administrative Law Judge
Office of Administrative Hearings

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9

10 **BEFORE THE**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **FOR THE BUREAU OF AUTOMOTIVE REPAIR**
STATE OF CALIFORNIA

13 In the Matter of the Accusation Against:

Case No. 77108-13

14 **PETRO GROUP, INC., DBA**
PETRO AUTO CARE
15 8740 Jamacha Road, Suite B
Spring Valley, California 91977
16 **JORGE ALBERTO PETRO, PRESIDENT**

A C C U S A T I O N

17 Automotive Repair Dealer Registration
No. AK 236228

18 Respondent.
19

20 Sherry Mehl ("Complainant") alleges:

21 **PARTIES**

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

24 **Automotive Repair Dealer Registration**

25 2. On or about October 29, 2004, the Bureau issued Automotive Repair
26 Dealer Registration Number AK 236228 ("registration") to Petro Group, Inc.. ("Respondent"),
27 doing business as Precision Muffler & Brake. The registration was delinquent from

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1 October 31, 2005, to November 3, 2005, and October 31, 2006, to November 7, 2006. On or
2 about March 28, 2008, the business name changed to "Petro Auto Care". The registration will
3 expire on October 31, 2008, unless renewed.

4 STATUTORY PROVISIONS

5 3. Section 9884.7 of the Business and Professions Code ("Code") states, in
6 pertinent part:

7 (a) The director, where the automotive repair dealer cannot show there was
8 a bona fide error, may refuse to validate, or may invalidate temporarily or
9 permanently, the registration of an automotive repair dealer for any of the
10 following acts or omissions related to the conduct of the business of the
11 automotive repair dealer, which are done by the automotive repair dealer or any
12 automotive technician, employee, partner, officer, or member of the automotive
13 repair dealer.

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

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

20 (4) Any other conduct which constitutes fraud.

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

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

27 (b) Except as provided for in subdivision (c), if an automotive repair
28 dealer operates more than one place of business in this state, the director pursuant
to subdivision (a) shall only refuse to validate, or shall only invalidate temporarily
or permanently the registration of the specific place of business which has
violated any of the provisions of this chapter. This violation, or action by the
director, shall not affect in any manner the right of the automotive repair dealer to
operate his or her other places of business.

(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.

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4. 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.

5. Code section 9884.9 states, in pertinent part:

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

"I acknowledge notice and oral approval of an increase in the original estimated price.

(signature or initials)"

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 the requested repair.

6. Code section 9884.13 provides, in pertinent part, that the expiration of a valid registration shall not deprive the director or chief of jurisdiction to proceed with a

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1 \$195.40. The operator asked Adriana what was wrong with the brake rotors. Adriana told the
2 operator that the brake rotors needed to be resurfaced "because of the wear they had", and that
3 the brakes "would cause vibrations".

4 11. Later that afternoon, the operator returned to Respondent's facility to pick
5 up the vehicle. The operator signed an invoice, paid Adriana \$205.17, and received a copy of
6 Invoice Number 002080.

7 12. On or about November 7, 2006, the Bureau road tested and reinspected the
8 vehicle using Invoice Number 002080. The inspection revealed that front pads had been
9 replaced and the rotors had been resurfaced; however, the front brake rotors had been in good
10 serviceable condition and did not need to be resurfaced. Additionally, the right front brake rotor
11 had been machined out of specification.

12 **FIRST CAUSE FOR DISCIPLINE**

13 **(Misleading Statements)**

14 13. Respondent has subjected its registration to discipline under Code section
15 9884.7, subdivision (a)(1), in that on or about November 6, 2006, it made statements which it
16 knew or which by exercise of reasonable care it should have known to be untrue or misleading by
17 falsely representing to the operator that the front brake rotors needed to be resurfaced when, in
18 fact, the front brake rotors were in good serviceable condition and did not need to be resurfaced.

19 **SECOND CAUSE FOR DISCIPLINE**

20 **(Failure to Provide a Copy of a Signed Document)**

21 14. Respondent has subjected its registration to discipline under Code section
22 9884.7, subdivision (a)(3), in that on or about November 6, 2006, Respondent failed to provide
23 the operator with a copy of the work order as soon as the operator signed the document.

24 **THIRD CAUSE FOR DISCIPLINE**

25 **(Fraud)**

26 15. Respondent has subjected its registration to discipline under Code section
27 9884.7, subdivision (a)(4), in that on or about November 6, 2006, it committed fraud when it

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1 accepted payment from the operator to resurface the front brake rotors when, in fact, those parts
2 were in good serviceable condition and not in need of resurfacing.

3 **FOURTH CAUSE FOR DISCIPLINE**

4 **(Failure to Comply with Code)**

5 16. Respondent has subjected its registration to discipline under Code section
6 9884.7, subdivision (a)(6), in that on or about November 6, 2006, it failed to comply with the
7 following Code sections:

8 a. **Section 9884.8:** Regarding Invoice No. 002080, Respondent failed to
9 document all parts as new, used, rebuilt or reconditioned.

10 b. **Section 9884.9, subdivision (a):** Respondent failed to provide the
11 operator with a written estimated price for parts and labor for a specific job.

12 **FIFTH CAUSE FOR DISCIPLINE**

13 **(Departure From Trade Standards)**

14 17. Respondent has subjected its registration to discipline under Code section
15 9884.7, subdivision (a)(7), in that on or about November 6, 2006, Respondent willfully departed
16 from or disregarded accepted trade standards for good and workmanlike repair by resurfacing the
17 right front brake rotor out of specification.

18 **UNDERCOVER OPERATION NO. 2 - 1996 CHEVROLET CAMARO**

19 18. On or about January 29, 2007, a Bureau undercover operator using the
20 alias Judy Kercher ("operator") telephoned Respondent's facility and spoke with Adriana. The
21 operator told Adriana she had coupons from a PennySaver advertisement for brake pads or shoes
22 and a labor special. Adriana told the operator the cost of front brakes would be \$89 and rear
23 brakes were also \$89. Adriana told the operator that the advertised brake special of \$45 was for
24 organic brake pads and that the operator's vehicle had semi-metallic pads. Adriana went on to
25 say that the operator could get the front brakes done for \$79 and the rear brakes for \$79. The
26 operator drove a Bureau documented 1996 Chevrolet Camaro, California License Plate No.
27 4EIL479, to Respondent's facility and requested the advertised brake special, which included
28 a free brake inspection. The only repair necessary was to replace the front brake pads. The

1 operator spoke with Adriana and provided her with the advertisement for the brake special.
2 The operator filled out and signed a work order; however, the operator was not provided with a
3 copy of the document.

4 19. Later the same day, the operator spoke with Adriana, who told the operator
5 that the vehicle needed new front brakes. Further, Adriana told the operator that the front brake
6 rotors needed to be resurfaced because they had "black spots". Adriana also told the operator
7 that the rear brakes should be cleaned and adjusted because the "rear brakes were not touching".
8 Adriana quoted the operator \$222.15 for all the repairs. The operator authorized the repairs.

9 20. That same afternoon, the operator returned to Respondent's facility to pick
10 up the vehicle. The operator paid Adriana \$222.15 for the repairs and signed and received a
11 copy of Invoice No. 002258.

12 21. On January 30, 2007, the Bureau began its reinspection of the vehicle
13 using Invoice No. 002258. The inspection revealed the following:

- 14 a. Respondent resurfaced the front brake rotors; however, the front brake
15 rotors were in good serviceable condition and did not need to be resurfaced.
16 b. Respondent failed to clean the rear brakes as invoiced.
17 c. Respondent adjusted the rear brakes; however, that service was not
18 necessary.

19 **SIXTH CAUSE FOR DISCIPLINE**

20 **(Misleading Statements)**

21 22. Respondent has subjected its registration to discipline under Code section
22 9884.7, subdivision (a)(1), in that on or about January 29, 2007, it made statements which it
23 knew or which by exercise of reasonable care it should have known to be untrue or misleading,
24 as follows:

- 25 a. Respondent represented to the operator that the front brake rotors needed
26 to be resurfaced when, in fact, the front brake rotors were in good serviceable condition and did
27 not need to be resurfaced.

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1 TENTH CAUSE FOR DISCIPLINE

2 (Misleading Statements)

3 30. Respondent has subjected its registration to discipline under Code section
4 9884.7, subdivision (a)(1), in that on or about May 30, 2007, it made statements which it knew or
5 which by exercise of reasonable care it should have known to be untrue or misleading, as
6 follows:

7 a. Respondent represented to the operator that the front brake rotors needed
8 to be resurfaced when, in fact, the front brake rotors were in good serviceable condition and did
9 not need to be resurfaced.

10 b. Respondent represented to the operator that the rear brakes needed to be
11 cleaned and adjusted when, in fact, this service was not necessary.

12 ELEVENTH CAUSE FOR DISCIPLINE

13 (Failure to Provide a Copy of a Signed Document)

14 31. Respondent has subjected its registration to discipline under Code section
15 9884.7, subdivision (a)(3), in that on or about May 30, 2007, Respondent failed to provide the
16 operator with a copy of the work order as soon as the operator signed the document.

17 TWELFTH CAUSE FOR DISCIPLINE

18 (Fraud)

19 32. Respondent has subjected its registration to discipline under Code section
20 9884.7, subdivision (a)(4), in that on or about May 30, 2007, it committed fraud when it accepted
21 payment from the operator for the following services that were not necessary or were not
22 performed:

23 a. Respondent resurfaced the front brake rotors when, in fact, those parts
24 were in good serviceable condition and did not need to be resurfaced.

25 b. Respondent failed to clean and adjust the rear brakes as invoiced.

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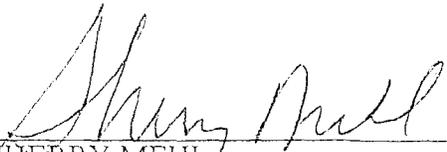
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3. Ordering Petro Group, Inc., to pay the Bureau of Automotive Repair the reasonable costs of the investigation and enforcement of this case, pursuant to Code section 125.3; and,

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

DATED: 9/9/08



SHERRY MEHL
Chief
Bureau of Automotive Repair
Department of Consumer Affairs
State of California
Complainant