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

10 In the Matter of the Accusation Against:

11 **OLIBERTO NAVARRO,**  
**DBA BETOS TRANSMISSION**  
12 19098 Valley Boulevard  
13 Bloomington, CA 92316

14 Automotive Repair Dealer Registration No.  
ARD 243784

15 Respondent.

Case No. 77/13-68

OAH No.

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

16  
17 Complainant alleges:

18 **PARTIES/LICENSE INFORMATION**

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

21 2. On or about May 5, 2006, the Director of Consumer Affairs ("Director") issued  
22 Automotive Repair Dealer Registration Number ARD 243784 ("ARD Registration") to Oliberto  
23 Navarro ("Respondent"), doing business as Betos Transmission. The ARD Registration, which  
24 was in full force and effect at all times relevant to the charges brought herein, expired on  
25 February 28, 2013, was not renewed, and is now delinquent.

26 **JURISDICTION**

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

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

## STATUTORY PROVISIONS

5. Bus. & Prof. Code section 9884.7 states, in pertinent part:

(a) The director, where the automotive repair dealer cannot show there was a bona fide error, may deny, suspend, revoke or place on probation 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.

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

6. Bus. & Prof. Code section 9884.8 states, in pertinent part:

All work done by an automotive repair dealer, including all warranty work, shall be recorded on an invoice and shall describe all service work done and parts supplied. .... One copy of the invoice shall be given to the customer and one copy shall be retained by the automotive repair dealer.

7. Bus. & Prof. Code section 9884.9, subdivision (a) states, in pertinent part:

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 when an authorization or consent for an increase in



1 the original estimated price is provided by electronic mail or facsimile transmission. If that  
2 consent is oral, the dealer shall make a notation on the work order of the date, time, name of  
3 person authorizing the additional repairs and telephone number called, if any, together with a  
4 specification of the additional parts and labor and the total additional cost . . .

5 8. Bus. & Prof. Code section 22 states:

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

10 9. Bus. & Prof. Code section 477, subdivision (b), states, in pertinent part, that a  
11 "license" includes "registration" and "certificate."

### 12 REGULATORY PROVISIONS

13 10. California Code of Regulations section 3353 states in pertinent part:

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

16 (a) Estimate for Parts and Labor. Every dealer shall give to each customer a written  
17 estimated price for parts and labor for a specific job.

18 11. California Code of Regulations section 3356 states in pertinent part:

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

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

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

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

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

26 12.. California Code of Regulations section 3361.1(c) states in pertinent part:

27 Any automotive repair dealer that advertises or performs, directly or through a sublet  
28 contractor, automatic transmission work and uses the words "exchanged", "rebuilt",  
"remanufactured", "reconditioned", or "overhauled", or any expression of like meaning, to  
describe an automatic transmission in any form of advertising or on a written estimate or invoice

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1 shall only do so when all of the following work has been done since the transmission was last  
2 used:

3 13. All internal and external parts, including case and housing, have been thoroughly  
4 cleaned and inspected.

5 14. The valve body has been disassembled and thoroughly cleaned and inspected unless  
6 otherwise specified by the manufacturer.

7 15. All bands have been replaced with new or relined bands.

8 16. All the following parts have been replaced with new parts:

- 9 A. Lined friction plates  
10 B. Internal and external seals including seals that are bonded to metal  
11 parts.  
12 C. All sealing rings  
13 D. Gaskets  
14 E. Organic media disposable filters (if the transmission is so equipped)

15 17. All impaired, defective, or substantially worn parts not mentioned above have been  
16 restored to a sound condition or replaced with new, rebuilt, or unimpaired parts. All measuring  
17 and adjusting of such parts has been performed as necessary.

18 18. The transmission's electronic components, if so equipped, have been inspected and  
19 found to be functioning properly or have been replaced with new, rebuilt, or unimpaired  
20 components that function properly.

21 19. The torque converter has been inspected and serviced in accordance with subsection  
22 (d) of this regulation.

23 20. California Code of Regulations section 3371 states in pertinent part:

24 No dealer shall publish, utter, or make or cause to be published, uttered, or made any false  
25 or misleading statement or advertisement which is known to be false and misleading, or by which  
exercise of reasonable care should be known to be false and misleading.

26 21. California Code of Regulations section 3373 states in pertinent part:

27 No automotive repair dealer or individual in charge shall, in filling out an estimate, invoice,  
28 or work order, or record required to be maintained by 3340.15(f) of this chapter, withhold  
therefrom or insert therein any statement or information which will cause any such document to



1 be false or misleading, or where the tendency or effect thereby would be to mislead or deceive  
2 customers, prospective customers, or the public.

3 22. California Code of Regulations section 3376 states in pertinent part:

4 All guarantees shall be in writing and a legible copy thereof shall be delivered to the  
5 customer with the invoice itemizing the parts, components and labor represented to be covered by  
6 such guarantee.

#### 7 **COST RECOVERY**

8 23. Bus & Prof Code section 125.3 provides, in pertinent part:

9 That a Board may request the administrative law judge to direct a licentiate found to have  
10 committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable  
11 costs of the investigation and enforcement of the case.

#### 12 **UNDERCOVER VEHICLE OPERATION JANUARY 11, 2012**

13 24. On or about January 11, 2012, while under the direction and supervision of Bureau  
14 representatives, a Bureau undercover operator took one of the Bureau's undercover vehicles into  
15 Betos Transmission. The transmission in the undercover vehicle had been documented by the  
16 Bureau with a modified 4th gear clutch shaft that caused the transmission to be unable to shift  
17 into 4th gear. The undercover operator explained to Respondent that the undercover vehicle's  
18 transmission needed to be checked because it would not shift into 4th gear. After the undercover  
19 vehicle was road tested by one of Respondent's employees, Respondent told the undercover  
20 operator that the transmission needed to be "dropped" out of the vehicle and that it would cost  
21 \$600.00. Respondent did not disclose to the operator what actual repairs would be performed on  
22 the transmission. The operator received a receipt for the initial payment of \$160.00, but neither  
23 signed nor received a written estimate for the repairs.

24 25. On or about January 13, 2012, the Bureau's undercover operator picked up the  
25 undercover vehicle at Betos Transmission. At such time, Respondent told the undercover operator  
26 that the transmission had been rebuilt with new parts and that such would be covered by a six (6)  
27 month/6000 mile warranty. The undercover operator paid Betos Transmission the balance of  
28 \$440.00, then signed and received a copy of an unnumbered invoice dated January 12, 2012. The  
undercover operator also asked for and received the old part that Respondent said he had  
replaced.

26. On or about January 18, 2012 a Bureau representative reinspected the Bureau's undercover vehicle. He found that the reverse clutches, forward clutches, band, filter, 3rd bearing and gasket set referenced on the final invoice Respondent provided to the undercover operator had in fact not been replaced. The only part found to have been replaced was the 4th gear clutch shaft, a part which was not even documented on the final invoice.

**FIRST CAUSE FOR DISCIPLINE**

**(Untrue or Misleading Statements)**

27. Respondent's ARD Registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(1), in that on or about January 13, 2012, Respondent made or authorized statements which he knew, or in the exercise of reasonable care should have known to be untrue or misleading, as follows: Respondent represented that the transmission on the Bureau's undercover vehicle had been rebuilt with new parts, when in fact, only the 4th gear clutch shaft had been replaced in the undercover vehicle.

## SECOND CAUSE FOR DISCIPLINE

**(Fraud)**

28. Respondent's ARD Registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(4), in that on or about January 13, 2012, Respondent received payment of \$600.00 for rebuilding the transmission on the Bureau's undercover vehicle, when in fact, the transmission had not been rebuilt, but instead had been repaired by replacing the 4th gear clutch shaft.

### THIRD CAUSE FOR DISCIPLINE

**(Failure to Comply with Code)**

29. Respondent Navarro has subjected his ARD Registration to discipline pursuant to Business and Professions Code section 9884.7, subdivision (a)(6), in that on or about January 11, 2012, Respondent failed to comply with the following sections of that code:

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1 a) Section 9884.8: Respondent failed to provide the Bureau undercover operator  
2 with an invoice that described all service work done and parts supplied, and failed to state  
3 separately a subtotal price for service work and parts.

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

#### 6 **FOURTH CAUSE FOR DISCIPLINE**

##### 7 **(Failure to Comply with Regulations)**

8 30. Respondent has subjected his ARD Registration to discipline pursuant to California  
9 Code of Regulations section 3353, in that on or about January 11, 2012 Respondent did not  
10 receive specific authorization from the customer (undercover operator) by failing to provide a  
11 written estimated price for parts and labor for a specific job.

12 31. Respondent has subjected his ARD Registration to discipline pursuant to California  
13 Code of Regulations section 3373, in that on or about January 13, 2012 the Respondent gave the  
14 Bureau's undercover operator a final invoice that was false and misleading in that it represents  
15 that the reverse clutches, forward clutches, band, filter, 3rd bearing and gasket set had been  
16 replaced on the undercover vehicle when in fact, these parts had not been replaced. Furthermore,  
17 the final invoice does not even reflect that the 4th gear clutch shaft had been replaced.

18 32. Respondent has subjected his ARD Registration to discipline pursuant to California  
19 Code of Regulations section 3376, in that on or about January 13, 2012, Respondent failed to  
20 provide the customer with a written copy of the guarantee for the parts, components and labor  
21 itemized on the invoice.

#### 22 **PRAYER**

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

25 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD  
26 243784, issued to Oliberto Navarro, doing business as Betos Transmission;

27 2. Revoking or suspending any other Automotive Repair Dealer Registration issued to  
28 Oliberto Navarro;

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1           3.     Ordering Oliberto Navarro, to pay the Bureau of Automotive Repair the reasonable  
2 cost of the investigation and enforcement of this case, pursuant to Business and Professions Code  
3 section 125.3;

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

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6     DATED: 5/24/13

John Wallauch by   
JOHN WALLAUCH  
Chief  
Bureau of Automotive Repair  
Department of Consumer Affairs  
State of California  
Doug BALATTI

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