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

In the Matter of the Accusation Against:

**BETOS TRANSMISSION;
OLIBERTO NAVARRO**
19098 Valley Blvd
Bloomington, CA 92316

**Automotive Repair Dealer Registration No.
ARD 243784**

Respondent.

Case No. 77/13-68

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about May 24, 2013, Complainant John Wallauch, in his former official capacity as then Chief of the Bureau of Automotive Repair, Department of Consumer Affairs, filed Accusation No. 77/13-68 against Betos Transmission; Oliberto Navarro (Respondent) before the Director of Consumer Affairs. (Accusation attached as Exhibit A.)

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1 2. On or about May 5, 2006, the Bureau of Automotive Repair (Bureau) issued
2 Automotive Repair Dealer Registration No. ARD 243784 to Respondent. The Automotive
3 Repair Dealer Registration, which was in full force at all times relevant to the charges brought in
4 Accusation No. 77/13-68, expired on February 28, 2013, was not renewed, and is now delinquent.

5 3. On or about May 30, 2013, Respondent was served by Certified and First Class Mail
6 copies of the Accusation No. 77/13-68 (Accusation), Statement to Respondent, Notice of
7 Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5,
8 11507.6, and 11507.7) at Respondent's address of record which, pursuant to Business and
9 Professions Code section 136, is required to be reported and maintained with the Bureau.
10 Respondent's address of record was and is: 19098 Valley Blvd., Bloomington, CA 92316.

11 4. Service of the Accusation was effective as a matter of law under the provisions of
12 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
13 124.

14 5. Government Code section 11506 states, in pertinent part:

15 (c) The respondent shall be entitled to a hearing on the merits if the respondent
16 files a notice of defense, and the notice shall be deemed a specific denial of all parts
17 of the accusation not expressly admitted. Failure to file a notice of defense shall
18 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
19 may nevertheless grant a hearing.

20 6. Respondent failed to file a Notice of Defense within 15 days after service upon him
21 of the Accusation, and therefore waived his right to a hearing on the merits of the Accusation.

22 7. California Government Code section 11520 states, in pertinent part:

23 (a) If the respondent either fails to file a notice of defense or to appear at the
24 hearing, the agency may take action based upon the respondent's express admissions
25 or upon other evidence and affidavits may be used as evidence without any notice to
26 respondent.

27 8. Pursuant to its authority under Government Code section 11520, the Director after
28 having reviewed the proof of service dated May 30, 2013, signed by Thurman Peden, (and the
USPS Track & Confirm information obtained from the U.S. Postal Service's official website)
finds Respondent is in default. The Director will take action without further hearing and, based

1 on Accusation No. 77/13-68, the proof of service and on the Affidavit of Bureau Representative
2 Brian Pravica, finds that the allegations in the Accusation are true.

3 DETERMINATION OF ISSUES

4 1. Based on the foregoing findings of fact, Respondent Betos Transmission; Oliberto
5 Navarro has subjected his Automotive Repair Dealer Registration No. ARD 243784 to discipline.

6 2. The agency has jurisdiction to adjudicate this case by default.

7 3. The Director of Consumer Affairs is authorized to revoke Respondent's Automotive
8 Repair Dealer Registration based upon the following violations alleged in the Accusation which
9 are supported by the evidence contained in the affidavit of Bureau Representative Brian Pravica
10 in this case: Untrue or Misleading Statements [pursuant to section 9884.7(a)(1)]; Fraud [pursuant
11 to section 9884.7(a)(4)]; Failure to Comply with Regulations [pursuant to California Code of
12 Regulations, title 16, sections 3353, 3373 and 3376].

13 ORDER

14 IT IS SO ORDERED that Automotive Repair Dealer Registration No. ARD 243784,
15 heretofore issued to Respondent Betos Transmission; Oliberto Navarro, is permanently
16 invalidated.

17 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
18 written motion requesting that the Decision be vacated and stating the grounds relied on within
19 seven (7) days after service of the Decision on Respondent. The motion should be sent to the
20 Bureau of Automotive Repair, ATTN: William D. Thomas, 10949 North Mather Blvd., Rancho
21 Cordova, CA 95670. The agency in its discretion may vacate the Decision and grant a hearing on
22 a showing of good cause, as defined in the statute.

23 This Decision shall become effective on July 18, 2014.

24 It is so ORDERED June 27, 2014

25 
26 _____
27 DONALD CHANG
28 Assistant Chief Counsel
Department of Consumer Affairs

Attachment: Exhibit A (Accusation)

Exhibit A

Accusation

1. KAMALA D. HARRIS
Attorney General of California
2. GREGORY J. SALUTE
Supervising Deputy Attorney General
3. KEVIN J. RIGLEY
Deputy Attorney General
4. State Bar No. 131800
300 So. Spring Street, Suite 1702
5. Los Angeles, CA 90013
Telephone: (213) 620-2558
6. Facsimile: (213) 897-2804
Attorneys for Complainant

7
8 **BEFORE THE**
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **FOR THE BUREAU OF AUTOMOTIVE REPAIR**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 **OLIBERTO NAVARRO,**
14 **DBA BETOS TRANSMISSION**
15 19098 Valley Boulevard
16 Bloomington, CA 92316

17 Automotive Repair Dealer Registration No.
18 ARD 243784

19 Respondent.

Case No. 77/13-68

OAH No.

ACCUSATION

20 Complainant alleges:

21 **PARTIES/LICENSE INFORMATION**

- 22 1. John Wallauch ("Complainant") brings this Accusation solely in his official capacity
23 as the Chief of the Bureau of Automotive Repair ("Bureau"), Department of Consumer Affairs.
24 2. On or about May 5, 2006, the Director of Consumer Affairs ("Director") issued
25 Automotive Repair Dealer Registration Number ARD 243784 ("ARD Registration") to Oliberto
26 Navarro ("Respondent"), doing business as Betos Transmission. The ARD Registration, which
27 was in full force and effect at all times relevant to the charges brought herein, expired on
28 February 28, 2013, was not renewed, and is now delinquent.

JURISDICTION

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

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
customers, prospective customers, or the public.

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

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

5 **COST RECOVERY**

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

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

9
10 **UNDERCOVER VEHICLE OPERATION JANUARY 11, 2012**

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

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

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;

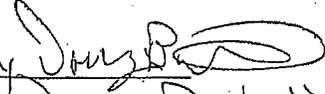
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3. Ordering Oliberto Navarro, to pay the Bureau of Automotive Repair the reasonable cost of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED: 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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