

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

In the Matter of the First Amended Petition to
Revoke Probation Against:

**BILLS FAST LUBE & SMOG;
FRANCISCO LULE, MELVIN NELSON**
305 High Street
Delano, CA 93215
Automotive Repair Dealer Registration
No. ARD 248438
Smog Check Station License No.
RC 248438

Case No. 79/15-94

OAH No. 2015040759

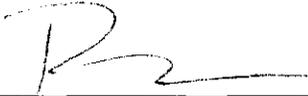
Respondents.

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby accepted and adopted as the Decision of the Director of the Department of Consumer Affairs in the above-entitled matter.

This Decision shall become effective February 4, 2016.

DATED: January 14, 2016



TAMARA COLSON
Assistant General Counsel
Department of Consumer Affairs

1 KAMALA D. HARRIS
Attorney General of California
2 THOMAS L. RINALDI
Supervising Deputy Attorney General
3 M. TRAVIS PEERY
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Attorneys for Complainant
7

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

11 In the Matter of the First Amended Petition to
12 Revoke Probation Against:

Case No. 79/15-94

13 **BILLS FAST LUBE & SMOG;**
14 **FRANCISCO LULE, MELVIN NELSON**
15 **305 High Street**
16 **Delano, CA 93215**
17 **Automotive Repair Dealer Registration No.**
18 **ARD 248438**
19 **Smog check Station License No. RC 248438**

OAH No. 2015040759

20 **STIPULATED SETTLEMENT AND**
21 **DISCIPLINARY ORDER**

22 Respondents.

23 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
24 entitled proceedings that the following matters are true:

25 PARTIES

26 1. Patrick Dorais ("Complainant") is the Chief of the Bureau of Automotive Repair. He
27 brought this action solely in his official capacity and is represented in this matter by Kamala D.
28 Harris, Attorney General of the State of California, by M. Travis Peery, Deputy Attorney General.

2. Respondent Bills Fast Lube & Smog; Francisco Lule and Melvin Nelson, owners, is
represented in this proceeding by attorney Michael B. Levin, whose address is:

3727 Camino del Rio South, Ste. 200
San Diego, CA 92108

1 adverse decision; and all other rights accorded by the California Administrative Procedure Act
2 and other applicable laws.

3 9. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
4 every right set forth above.

5 CULPABILITY

6 10. Respondent admits the truth of each and every charge and allegation in First
7 Amended Petition to Revoke Probation No. 79/15-94.

8 11. Respondent agrees that its Automotive Repair Dealer Registration and Smog Check
9 Station License are subject to discipline and agrees to be bound by the Director's probationary
10 terms as set forth in the Disciplinary Order below.

11 RESERVATION

12 12. The admissions made by Respondent herein are only for the purposes of this
13 proceeding, or any other proceedings in which the Director of Consumer Affairs, Bureau of
14 Automotive Repair, or other professional licensing agency is involved, and shall not be
15 admissible in any other criminal or civil proceeding.

16 CONTINGENCY

17 13. This stipulation shall be subject to approval by the Director of Consumer Affairs or
18 the Director's designee. Respondent understands and agrees that counsel for Complainant and the
19 staff of the Bureau of Automotive Repair may communicate directly with the Director and staff of
20 the Department of Consumer Affairs regarding this stipulation and settlement, without notice to
21 or participation by Respondent or his counsel. By signing the stipulation, Respondent
22 understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation
23 prior to the time the Director considers and acts upon it. If the Director fails to adopt this
24 stipulation as the Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of
25 no force or effect, except for this paragraph, it shall be inadmissible in any legal action between
26 the parties, and the Director shall not be disqualified from further action by having considered
27 this matter.

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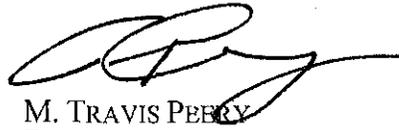
ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Director of Consumer Affairs

Dated: 9-29-15

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
THOMAS L. RINALDI
Supervising Deputy Attorney General



M. TRAVIS PEERY
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

First Amended Petition to Revoke Probation No. 79/15-94

1 KAMALA D. HARRIS
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8 **BEFORE THE**
DEPARTMENT OF CONSUMER AFFAIRS
9 **FOR THE BUREAU OF AUTOMOTIVE REPAIR**
STATE OF CALIFORNIA

10
11 In the Matter of the First Amended Petition to
Revoke Probation Against,

Case No. 79/15-94

12 **BILL'S FAST LUBE & SMOG**
13 **FRANCISCO LULE, PARTNER**
14 **MELVIN NELSON, PARTNER**
305 High Street
15 Delano, CA 93215
Automotive Repair Dealer Registration No.
ARD 248438
16 Smog Check Station License No. RC 248438

FIRST AMENDED PETITION TO
REVOKE PROBATION

17 Respondent.

18
19 Complainant alleges:

20 PARTIES

21 1. Patrick Dorais (Complainant) brings this First Amended Petition to Revoke Probation
22 solely in his official capacity as the Chief of the Bureau of Automotive Repair, Department of
23 Consumer Affairs.

24 2. On or about January 4, 2007, the Bureau of Automotive Repair issued Automotive
25 Repair Dealer Registration Number ARD 248438 to Respondent Bill's Fast Lube & Smog
26 (Respondent) with Francisco Lule and Melvin Nelson as Partners. The Automotive Repair
27 Dealer Registration was in effect at all times relevant to the charges brought herein and will
28 expire on December 31, 2015, unless renewed.

1 tax, if any, applicable to each. If any used, rebuilt, or reconditioned parts are supplied, the invoice
2 shall clearly state that fact. If a part of a component system is composed of new and used, rebuilt
3 or reconditioned parts, that invoice shall clearly state that fact. The invoice shall include a
4 statement indicating whether any crash parts are original equipment manufacturer crash parts or
5 nonoriginal equipment manufacturer aftermarket crash parts. One copy of the invoice shall be
6 given to the customer and one copy shall be retained by the automotive repair dealer.”

7 7. Code section 9884.9 states, in pertinent part:

8 “(a) The automotive repair dealer shall give to the customer a written estimated price for
9 labor and parts necessary for a specific job. No work shall be done and no charges shall accrue
10 before authorization to proceed is obtained from the customer. No charge shall be made for work
11 done or parts supplied in excess of the estimated price without the oral or written consent of the
12 customer that shall be obtained at some time after it is determined that the estimated price is
13 insufficient and before the work not estimated is done or the parts not estimated are supplied.
14 Written consent or authorization for an increase in the original estimated price may be provided
15 by electronic mail or facsimile transmission from the customer. The bureau may specify in
16 regulation the procedures to be followed by an automotive repair dealer if an authorization or
17 consent for an increase in the original estimated price is provided by electronic mail or facsimile
18 transmission. If that consent is oral, the dealer shall make a notation on the work order of the date,
19 time, name of person authorizing the additional repairs, and telephone number called, if any,
20 together with a specification of the additional parts and labor and the total additional cost, and
21 shall do either of the following:

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

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

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

28 “(signature or initials)”.

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

3 8. Health and Safety Code section 44012 provides, in pertinent part, that tests at smog
4 check stations shall be performed in accordance with procedures prescribed by the department.

5 **REGULATORY PROVISIONS**

6 9. California Code of Regulations, title 16 (CCR), section 3353 states, in pertinent part:
7 "No work for compensation shall be commenced and no charges shall accrue without
8 specific authorization from the customer in accordance with the following requirements:

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

11 "...

12 "(c) Additional Authorization. Except as provided in subsection (f), the dealer shall obtain
13 the customer's authorization before any additional work not estimated is done or parts not
14 estimated are supplied. This authorization shall be in written, oral, or electronic form, and shall
15 describe the additional repairs, parts, labor and the total additional cost."

16 10. CCR section 3356 states, in pertinent part:

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

19 "...

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

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

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

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

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

1 “(E) The applicable sales tax, if any.”

2 11. CCR section 3366 states, in pertinent part:

3 “(a) Except as provided in subsection (b) of this section, any automotive repair dealer that
4 advertises or performs, directly or through a sublet contractor, automotive air conditioning work
5 and uses the words service, inspection, diagnosis, top off, performance check or any expression or
6 term of like meaning in any form of advertising or on a written estimate or invoice shall include
7 and perform all of the following procedures as part of that air conditioning work:

8 “(1) Exposed hoses, tubing and connections are examined for damage or leaks;

9 “(2) The compressor and clutch, when accessible, are examined for damage, missing bolts,
10 missing hardware, broken housing and leaks;

11 “(3) The compressor is rotated to determine if it is seized or locked up;

12 “(4) Service ports are examined for missing caps, damaged threads and conformance with
13 labeling;

14 “(5) The condenser coil is examined for damage, restrictions or leaks;

15 “(6) The expansion device, if accessible, is examined for physical damage or leaks;

16 “(7) The accumulator receiver dryer and in-line filter have been checked for damage,
17 missing or loose hardware or leaks;

18 “(8) The drive belt system has been checked for damaged or missing pulleys or tensioners
19 and for proper belt routing, tension, alignment, excessive wear or cracking;

20 “(9) The fan clutch has been examined for leakage, bearing wear and proper operation;

21 “(10) The cooling fan has been checked for bent or missing blades;

22 “(11) Accessible electrical connections have been examined for loose, burnt, broken or
23 corroded parts;

24 “(12) The refrigerant in use has been identified and checked for contamination;

25 “(13) The system has been checked for leakage at a minimum of 50-PSI system pressure;

26 “(14) The compressor clutch, blower motor and air control doors have been checked for
27 proper operation;

28 ///

1 “(15) High and low side system operating pressures, as applicable, have been measured and
2 recorded on the final invoice; and,

3 “(16) The center air distribution outlet temperature has been measured and recorded on the
4 final invoice.

5 “(b) Whenever the automotive air conditioning work being advertised or performed does
6 not involve opening the refrigerant portion of the air conditioning system, refrigerant evacuation,
7 or full or partial refrigerant recharge, the procedures specified in subsection (a) need be
8 performed only to the extent required by accepted trade standards.”

9 12. CCR section 3340.35, subdivision (c), states that a licensed smog check station “shall
10 issue a certificate of compliance or noncompliance to the owner or operator of any vehicle that
11 has been inspected in accordance with the procedures specified in section 3340.42 of this article
12 and has all the required emission control equipment and devices installed and functioning
13 correctly.”

14 13. CCR section 3340.45, states:

15 “(a) All Smog Check inspections shall be performed in accordance with requirements and
16 procedures prescribed in the following:

17 “(1) Smog Check Inspection Procedures Manual, dated August 2009, which is hereby
18 incorporated by reference. This manual shall be in effect until subparagraph (2) is implemented.

19 “(2) Smog Check Manual, dated 2013, which is hereby incorporated by reference. This
20 manual shall become effective on or after January 1, 2013.

21 **FIRST CAUSE TO REVOKE PROBATION**

22 **(Failure to Obey All Laws)**

23 14. At all times after the effective date of Respondent’s probation, Condition 1 stated:

24 “1. **Obey All Laws.** Comply with all statutes, regulations and rules governing
25 automotive inspections, estimates and repairs.”

26 15. Respondent's probation is subject to revocation because it failed to comply with
27 Probation Condition 1, referenced above. The facts and circumstances regarding these violations
28 are as follows:

1 Probation Conference #2 on August 9, 2012

2 16. During a probation conference with Melvin Nelson on August 9, 2012, Bureau
3 Representatives James Smith and Albert Copeland performed an invoice review which revealed
4 the following violations:

5 a. **Code section 9884.9(a) and CCR section 3353(c):** Respondent failed to properly
6 document additional authorization when estimates were exceeded in that repair order numbers
7 169654 and 169136 do not include required information for additional authorization, and repair
8 order number 169136 does not document the authorization for installation of a new drain plug.

9 b. **Code section 9884.9(a) and CCR section 3353(a):** Respondent failed to provide
10 customers with a written estimate for parts and labor for specific jobs in that repair order numbers
11 169161, 169164, 169134, 169136, and 169138 fail to describe parts and labor in a manner in
12 which a customer can understand what service work was performed and which parts were
13 supplied.

14 c. **Code section 9884.8 and CCR section 3356(a):** Respondent failed to describe parts
15 and labor in repair order numbers 169161, 169164, 169134, 169136, and 169138, in a manner in
16 which a customer could understand what service work was performed and which parts were
17 supplied.

18 Probation Conference #3 on April 25, 2013

19 17. During a probation conference with Francisco Lule on April 25, 2013, Bureau
20 Representatives James Smith and Albert Copeland performed an invoice review which revealed
21 the following violations:

22 a. **Code section 9884.9(a) and CCR section 3353(c):** Respondent failed to properly
23 document additional authorization when estimates were exceeded in that repair order numbers
24 176089, 176214, 176514, and 175976 do not include required information for additional
25 authorization.

26 b. **Code section 9884.9(a) and CCR section 3353(a):** Respondent failed to provide
27 customers with a written estimate for parts and labor for specific jobs in that repair order numbers
28

1 176207, 176784, 176785, 176766, and 176802 fail to list an estimate amount or specifics for the
2 labor performed.

3 e. **Code section 9884.8 and CCR section 3356(a):** Respondent failed to describe parts
4 and labor in repair order numbers 176214, 176215, 176777, 176771, and 176817, in a manner in
5 which a customer could understand what service work was performed and which parts were
6 supplied.

7 d. **Code section 9884.8:** Respondent failed to list proper subtotals in repair order
8 number 17261.

9 e. **Code section 9884.8 and CCR section 3366(a)(15):** Respondent failed to record
10 final high and low pressure readings on final invoice numbers 176784, 176785, and 176802.

11 f. **Code section 9884.8 and CCR section 3366(a)(16):** Respondent failed to record the
12 center vent outlet temperature on final invoice numbers 176784, 176785, and 176802.

13 g. **Code section 9884.7(a)(1):** Respondent made untrue and misleading statements in
14 that invoice numbers 176568 and 176704 list the smog certificate in the labor totals.

15 Probation Conference #4 on January 8, 2014

16 18. During a probation conference with Melvin Nelson on January 8, 2014, Bureau
17 Representatives James Smith and Albert Copeland performed an invoice review which revealed
18 the following violations:

19 a. **Code section 9884.9(a) and CCR section 3353(c):** Respondent failed to properly
20 document additional authorization when estimates were exceeded in that repair order numbers
21 184074, 183681, 183710, 183333, 183240, 183022, 183237, and 183231 do not include required
22 information for additional authorization.

23 b. **Code section 9884.9(a) and CCR section 3353(a):** Respondent failed to provide
24 customers with a written estimate for parts and labor for specific jobs in that repair order numbers
25 183237, 183335, 183716, 183231, 183679, 183262, 183253, and 184037 fail to list an estimate
26 amount or specifics for the labor performed.

27 c. **Code section 9884.8 and CCR section 3356(a):** Respondent failed to describe parts
28 and labor in repair order numbers 183335, 183241, 183250, 183254, 183342, 183344, 184037,

1 183260, and 183739, in a manner in which a customer could understand what service work was
2 performed and which parts were supplied. Specifically, repair order numbers 183335, 183241,
3 183250, 183254, 183342, and 183344 failed to list the price for the oil change labor.

4 d. **Code section 9884.7(a)(1):** Respondent made untrue and misleading statements in
5 that invoice number 183710 lists gas cap in the "Gas Oil and Grease" box instead of the "Total
6 Parts" box.

7 e. **Code section 9884.7(a)(2):** Respondent failed to record the odometer reading on a
8 signed document in that invoice number 183257 does not list the vehicle's odometer readings.

9 Undercover Operation on April 9, 2014

10 19. On April 9, 2014, the Bureau conducted an undercover operation in which it sent a
11 2003 Dodge to Respondent with a Fuel Evaporation System leak and an Illuminated Malfunction
12 Indicator Lamp and requested repair. Respondent diagnosed and repaired the vehicle correctly
13 and performed a smog check inspection but the documents provided by Respondent contained the
14 following estimate and invoice violations:

15 a. **Code section 9884.7(a)(2):** Respondent failed to record the odometer reading on a
16 signed document in that estimate number 186632 does not list the vehicle's odometer reading.

17 b. **Code section 9884.9(a) and CCR section 3353(a):** Respondent failed to provide a
18 customer with a written estimate for parts and labor for a specific job in that estimate number
19 186632 fails to list a specific job and does not list the diagnosis or the smog inspection
20 performed.

21 Probation Conference #5 on June 4, 2014

22 20. During a probation conference with Francisco Lule on June 4, 2014, Bureau
23 Representatives James Smith and Albert Copeland performed an invoice review which revealed
24 the following violations:

25 a. **Code section 9884.9(a) and CCR section 3353(a):** Respondent failed to provide
26 customers with a written estimate for parts and labor for specific jobs in that repair order numbers
27 187882 and 187726 fail to describe the service work to be performed.

1 b. **Code section 9884.9(a) and CCR section 3353(c):** Respondent failed to properly
2 document additional authorization when estimates were exceeded in that repair order numbers
3 187812 and 187869 do not include all required information for additional authorization.

4 c. **Code section 9884.8 and CCR section 3356(a):** Respondent failed to describe all
5 service work and parts in such a manner that the customer can understand what was purchased in
6 that repair order number 187446 lists in the labor column that 1.5 lbs. of Freon was installed
7 when the parts description lists 1 lb. of Freon was sold.

8 d. **Code section 9884.7(a)(1):** Respondent made untrue and misleading statements in
9 that invoice number 187621 has an estimate for a smog inspection and the smog check price was
10 later eliminated even though the smog check was performed. Respondent also made untrue and
11 misleading statements in that repair order number 187446 lists in the labor column that 1.5 lbs. of
12 Freon was installed when the parts description lists 1 lb. of Freon was sold.

13 e. **Code section 9884.7(a)(2):** Respondent failed to record the odometer reading on a
14 signed document in that invoice numbers 187665 and 187556 do not list the vehicles' odometer
15 readings.

16 f. **Code section 9884.8 and CCR section 3366:** Respondent failed to follow Air
17 Conditioning trade standards in that invoice number 187446 fails to list the air conditioning
18 service work performed.

19 Probation Conference #6 on December 16, 2014

20 21. During a probation conference with Melvin Nelson on December 16, 2014, Bureau
21 Representatives James Smith and Albert Copeland performed an invoice review which revealed
22 the following violations:

23 a. **Code section 9884.7(a)(2):** Respondent failed to record the odometer reading on a
24 signed document in that invoice numbers 190720, 190736, 190760, 190880, and 191311 do not
25 list the vehicles' odometer readings.

26 b. **Code section 9884.9(a) and CCR section 3353:** Respondent performed work and
27 charged customers without first obtaining authorization to proceed from the customer in that
28

1 repair invoice numbers 190809, 191185, 191000, 191074, 191206, and 191207 do not have
2 customer authorization in the form of a signature.

3 c. **Code section 9884.9(a) and CCR section 3353(a):** Respondent failed to provide
4 customers with a written estimate for parts and labor for specific jobs in that:

5 i. Repair invoice numbers 190637, 190648, 190651, 190662, 190709, 191134,
6 191213, 191214, 191303, and 191311 fail to describe the service work to be performed.

7 ii. Repair invoice numbers 190714, 191127, and 191322 fail to describe the service
8 work to be performed. These repair invoices bear the term "Tune-up", which is not enough of a
9 description to understand what service work was to be performed.

10 iii. Repair invoice number 191117 fails to list a logical starting point. The invoice
11 lists "N/C" in the "original estimate" box but fails to list a service to be performed at no charge.

12 iv. Repair invoice number 191245 does not list a price for the Smog Check along
13 with the original estimate for the Brake Check. The original estimate amount should have read
14 \$130.00.

15 v. Repair invoice number 191215 fails to list a description of the labor to be
16 performed at no charge. The repair order only lists the customers concern.

17 vi. Repair invoice number 191210 fails to list a specific price in the "original
18 estimate" box.

19 vii. Repair invoice number 191208 lists the original estimate amount of \$343.34,
20 which is the same amount as the final total, when the labor descriptions indicate a diagnosis was
21 needed. This indicates there was no original estimate.

22 d. **Code section 9884.9(a) and CCR section 3353(c):** Respondent failed to:

23 i. Properly document additional authorization when estimates were exceeded in that
24 repair order numbers 190639, 190665, 190720, 190736, 190746, 190752, 190757, 190760,
25 190771, 190791, 190809, 190830, 190855, 191044, 191057, 191073, 191085, 191087, 191089,
26 191096, 191117, 191127, 191134, 191135, 191177, 191178, 191207, 191208, 191210, 191213,
27 191214, 191215, 191221, 191245, 191303, 191304, 191311, 191316 and 191222 do not include
28 all required information for additional authorization.

1 ii. List the revision notes on work order / estimate numbers 47, 72, 76, 82, 85, 92,
2 104, 112, 134, 135, 138, 145, 155, 162, and 173.

3 iii. Prepare an authorized designee form in that repair invoice number 190399 fails to
4 list a designee when the document shows the authorization to exceed the original estimate was
5 obtained from someone other than the customer.

6 e. **Code section 9884.8 and CCR section 3356(a):** Respondent failed to describe all
7 service work and parts in such a manner that the customer can understand what was purchased in
8 that:

9 i. Repair invoice number 190709 lists in the labor column that 1.54 lbs. of Freon and
10 2 oz. of PAG oil was installed when the parts column does not list Freon or oil as being sold.

11 ii. Repair invoice number 190791 lists \$207.95 in the parts column with no
12 description of a part or quantity. There is also no description of labor for installing any parts.

13 iii. Repair invoice number 190830 fails to list any parts when the labor column lists a
14 speed sensor as having been installed.

15 iv. Repair invoice number 191177 lists "install missing bolt", which is not enough of
16 a description to understand what repair was performed.

17 v. Repair invoice number 191316 fails to list in the parts column the Freon and the
18 PAG oil which the invoice indicates were installed.

19 vi. Repair invoice number 191304 fails to list a price for the installation of brake
20 pads.

21 vii. Repair invoice number 191303 fails to list the service work performed for the
22 "Check Engine Light" diagnosis.

23 viii. Repair invoice number 191222 fails to list the parts descriptions.

24 ix. Repair invoice number 191210 fails to list the labor for the installation of brakes
25 and fails to list a specific price.

26 f. **Code section 9884.8 and CCR section 3366:** Respondent failed to follow Air
27 Conditioning trade standards in that invoice numbers 190709, 190757, 190855, and 191316 fail to
28 list the air conditioning service work performed.

1 g. **Code section 9884.8 and CCR section 3366(a)(15):** Invoice numbers 190709,
2 190757, 190855, and 191316 fail to list the air conditioning high and low pressure readings.

3 h. **Code section 9884.8 and CCR section 3366(a)(16):** Invoice numbers 190709,
4 190757, 190855, and 191316 fail to list the air conditioning center vent temperature readings.

5 i. **Code section 9884.8 and CCR section 3356(a)(2)(C):** Respondent failed to list the
6 subtotal price for all service work performed in that invoice numbers 190709 and 191210 fail to
7 list the subtotal for labor.

8 j. **Code section 9884.8 and CCR section 3356(a)(2)(D):** Respondent failed to list the
9 subtotal price for all parts supplied in that invoice number 191316 fails to list a parts subtotal
10 despite showing that Freon and PAG oil was installed.

11 Vehicle Information Database Review

12 22. On March 9, 2015, the Bureau implemented a statewide regulatory change requiring
13 the use of the On Board Diagnostic Inspection System (OIS) instead of the Emission Inspection
14 System (EIS) for testing of 2000 model year and newer gas powered vehicles 14,000 Gross
15 Vehicle Weight Rating and under. The Industry was advised numerous times about the
16 implementation of the new testing requirements. The Vehicle Information Database revealed that
17 on October 13, 2014, Respondent registered an OIS and purchased certificates for their OIS.

18 23. On or about July 2, 2015, Bureau Representative James Smith conducted a review of
19 the VID which revealed that Respondent issued Certificate of Compliance YR354066C to a 2001
20 Nissan Frontier 2WD, CA License Plate # 6N30313, on May 8, 2015, and Certificate of
21 Compliance YR609689C to a 2003 Ford F150 Super Cab Short, CA License Plate # 7C30677,
22 using a BAR97 Emission Inspection System (EIS) when an OIS test was required. This
23 constitutes the following violations by Respondent:

24 a. **Health and Safety Code section 44012:** Respondent failed to ensure that emission
25 control tests were performed in accordance with procedures prescribed by the department.

26 b. **CCR section 3340.35(c):** Respondent issued Certificates of Compliance to vehicles
27 that were not inspected in accordance with CCR section 3340.42.

28 ///

1 c. **CCR section 3340.45:** Respondent failed to perform all Smog Check inspections in
2 accordance with requirements and procedures prescribed in the Smog Check Inspection
3 Procedures Manual and 2013 Smog Check Manual which are hereby incorporated by reference.
4 The 2013 Smog Check Manual indicates, under the section titled "Test Requirements," which
5 types of vehicles must be tested with the OIS.

6 **SECOND CAUSE TO REVOKE PROBATION**

7 **(Violation of Probation)**

8 24. At all times after the effective date of Respondent's probation, Condition 6 stated:

9 "6. **Violation of Probation.** Should the Director of Consumer Affairs determine that
10 Respondent has failed to comply with the terms and conditions of probation, the Department may,
11 after giving notice and opportunity to be heard temporarily or permanently invalidate its ARD
12 registration and suspend or revoke the Smog Check Station license."

13 25. Respondent's probation is subject to revocation because he failed to comply with
14 Probation Condition 6, referenced above. Complainant hereby incorporates paragraphs 16
15 through 23 above, inclusive, as though set forth fully.

16 **PRAYER**

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

19 1. Revoking the probation that was granted by the Bureau of Automotive Repair in Case
20 No. 79/11-48 and imposing the disciplinary order that was stayed thereby revoking Automotive
21 Repair Dealer Registration No. ARD 248438 issued to Bill's Fast Lube & Smog with Francisco
22 Lule and Melvin Nelson as Partners;

23 2. Revoking the probation that was granted by the Bureau of Automotive Repair in Case
24 No. 79/11-48 and imposing the disciplinary order that was stayed thereby revoking Smog Check
25 Station License No. RC 248438, issued to Bill's Fast Lube & Smog with Francisco Lule and
26 Melvin Nelson as Partners; and

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

DATED: August 28, 2015.



PATRICK DORAIS
Chief
Bureau of Automotive Repair
Department of Consumer Affairs
State of California
Complainant

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