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

In the Matter of the Accusation Against:

MAXRUN CORP,
dba AAMCO TRANSMISSIONS
JEONG HOON KIM
aka MICHAEL KIM, PRES./SECTY/TREAS.
3580 Sonoma Boulevard
Vallejo, CA 94590

Automotive Repair Dealer Registration
No. ARD 255511

MAXRUN CORP,
dba AAMCO TRANSMISSIONS
JEONG HOON KIM,
aka MICHAEL KIM, PRES.SECTY/TREAS.
157 Tully Road
San Jose, CA 95111

Automotive Repair Dealer Registration
No. ARD 258207

and

MAXRUN CORP,
dba AAMCO TRANSMISSION
JEONG HOON KIM,
aka MICHAEL KIM, PRES./TREAS.
JING JG LEE, SECRETARY
75 S. Capital Avenue
San Jose, CA 95127

Automotive Repair Dealer Registration
No. ARD 248462

Respondents.

Case No. 77/11-50

OAH No. 2012050601

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 12/19/12.

DATED: OCT 31 2012

DOREATHEA JOHNSON
Deputy Director, Legal Affairs
Department of Consumer Affairs

KAMALA D. HARRIS
Attorney General of California
FRANK H. PACOE
Supervising Deputy Attorney General
JONATHAN D. COOPER
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455 Golden Gate Avenue, Suite 11000
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Attorneys for Complainant

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

In the Matter of the Accusation Against: **MAXRUN CORP,** **dba AAMCO TRANSMISSIONS** **JEONG HOON KIM,** **aka MICHAEL KIM, PRES./SECTY/TREAS.** **3580 Sonoma Boulevard** **Vallejo, CA 94590** **Automotive Repair Dealer Reg. No. ARD 255511,** **MAXRUN CORP,** **dba AAMCO TRANSMISSIONS** **JEONG HOON KIM,** **aka MICHAEL KIM, PRES./SECTY/TREAS.** **157 Tully Road** **San Jose, CA 95111** **Automotive Repair Dealer Reg. No. ARD 258207,** **and** **MAXRUN CORP,** **dba AAMCO TRANSMISSION** **JEONG HOON KIM,** **aka MICHAEL KIM, PRES./TREAS.** **JING JG LEE, SECRETARY** **75 S. Capital Avenue** **San Jose, CA 95127** **Automotive Repair Dealer Reg. No. ARD 248462** Respondents.	Case No. 77/11-50 OAH No. 2012050601 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

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

PARTIES

1. John Wallauch (Complainant) is the Chief of the Bureau of Automotive Repair. He brought this action solely in his official capacity and is represented in this matter by Kamala D. Harris, Attorney General of the State of California, by Jonathan D. Cooper, Deputy Attorney General.

2. Respondent Maxrun Corp., dba AAMCO Transmission (Respondent), Jeong Hoon Kim, aka Michael Kim, President, Secretary, Treasurer, is represented in this proceeding by attorney Jeffrey S. Kravitz, Esq., whose address is: 6747 Fair Oaks Boulevard, Carmichael, CA, 95608-3811.

3. On or about July 14, 2008, the Director of Consumer Affairs ("Director") issued Automotive Repair Dealer Registration Number ARD 255511 to Maxrun Corp. ("Respondent"), doing business as Aamco Transmissions, with Jeong Hoon Kim, also known as Michael Kim ("Kim"), as president, secretary, and treasurer. Respondent's automotive repair dealer registration was in full force and effect at all times relevant to the charges brought herein and will expire on July 31, 2013, unless renewed.

4. On or about May 26, 2009, the Director issued Automotive Repair Dealer Registration Number ARD 258207 to Respondent, doing business as Aamco Transmissions, with Kim as president, secretary, and treasurer. Respondent's automotive repair dealer registration expired on April 30, 2010.

5. In or about 2006, the Director issued Automotive Repair Dealer Registration Number ARD 248462 to Respondent, doing business as Aamco Transmission, with Kim as president and treasurer and Jing JG Lee as Secretary. Respondent's automotive repair dealer registration will expire on December 31, 2012, unless renewed.

JURISDICTION

6. Accusation No. 77/11-50 was filed before the Director of Consumer Affairs (Director), for the Bureau of Automotive Repair (Bureau), and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on March 2, 2012. Respondent timely filed its Notice of Defense contesting the

Accusation.

7. A copy of Accusation No. 77/11-50 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

8. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 77/11-50. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

9. Respondent is fully aware of its legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at its own expense; the right to confront and cross-examine the witnesses against them; the right to present evidence and to testify on its own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

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

CULPABILITY

11. Respondent admits the truth of each and every charge and allegation in Accusation No. 77/11-50.

12. Respondent agrees that its Automotive Repair Dealer Registrations are subject to discipline and agrees to be bound by the Director's probationary terms as set forth in the Disciplinary Order below.

CONTINGENCY

13. This stipulation shall be subject to approval by the Director of Consumer Affairs or his designee. Respondent understands and agrees that counsel for Complainant and the staff of the Bureau of Automotive Repair may communicate directly with the Director and staff of the Department of Consumer Affairs regarding this stipulation and settlement, without notice to or

participation by Respondent or its counsel. By signing the stipulation, Respondent understands and agrees that they may not withdraw its agreement or seek to rescind the stipulation prior to the time the Director considers and acts upon it. If the Director fails to adopt this stipulation as the Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Director shall not be disqualified from further action by having considered this matter.

14. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

15. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

16. In consideration of the foregoing admissions and stipulations, the parties agree that the Director may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Automotive Repair Dealer Registration No. **ARD 258207**, issued to Maxrun Corp., dba AAMCO Transmissions, Jeong Hoon Kim, aka Michael Kim, President, Secretary, Treasurer, is revoked.

IT IS HEREBY ORDERED that Automotive Repair Dealer Registration No. **ARD 255511**, issued to Maxrun Corp., dba AAMCO Transmissions, Jeong Hoon Kim, aka Michael Kim, President, Secretary, Treasurer, and Automotive Repair Dealer Registration No. **ARD 248462**, issued to Maxrun Corp., dba AAMCO Transmissions, Jeong Hoon Kim, aka Michael Kim, President, Treasurer, Jing JG Lee, Secretary, are revoked. However, the revocation is stayed and Respondent is placed on probation for five (5) years on the following terms and conditions.

1. **Actual Suspension.** Automotive Repair Dealer Registration No. **ARD 255511**, issued to Maxrun Corp., dba AAMCO Transmissions, Jeong Hoon Kim, aka Michael Kim, President, Secretary, Treasurer, and Automotive Repair Dealer Registration No. **ARD 248462**, issued to Maxrun Corp., dba AAMCO Transmissions, Jeong Hoon Kim, aka Michael Kim, President, Treasurer, Jing JG Lee, Secretary, are suspended for fifteen consecutive days. Said suspension shall commence on the effective date of this Decision and Order.

2. **Obey All Laws.** Comply with all statutes, regulations and rules governing automotive inspections, estimates and repairs.

3. **Post Sign.** Post a prominent sign at each establishment, 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.

4. **Reporting.** 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.

5. **Report Financial Interest.** Within 30 days of the effective date of this action, report any financial interest which any partners, officers, or owners of the Respondent facilities may have in any other business required to be registered pursuant to Section 9884.6 of the Business and Professions Code.

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

7. **Jurisdiction.** If an accusation and/or petition to revoke probation 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/or petition to revoke probation, and the period of probation shall be extended until such decision.

8. **Violation of Probation.** 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, revoke Respondent's Registrations.

9. **Cost Recovery.** Respondent shall pay the Bureau $30,665.80 for the investigation and enforcement of this case. Payment to the Bureau of the full amount of said cost recovery shall be received no later than 12 months before probation terminates. Respondent shall make forty-eight equal monthly payments starting one month from the issue date of the Decision and Order. Failure to complete payment of cost recovery within this time frame shall constitute a violation of probation which may subject Respondent's Registrations to outright revocation; however, the Director or the Director's Bureau of Automotive Repair designee may elect to continue probation until such time as reimbursement of the entire cost recovery amount has been made to the Bureau.

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ACCEPTANCE

I am authorized to enter into this stipulation on behalf of Maxrun Corp., dba AAMCO Transmissions, ARD numbers 255511, 258207 and 248462. I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Jeffrey S. Kravitz, Esq. I understand the stipulation and the effect it will have on these Automotive Repair Dealer Registrations. On behalf of the corporation and on my own behalf, I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Director of Consumer Affairs.

DATED: _____ _____

JEONG HOON KIM A.K.A. MICHAEL KIM
Respondent

I have read and fully discussed with Respondent Jeong Hoon Kim a.k.a. Michael Kim the terms and conditions and other matters contained in the above Stipulated Settlement and

Disciplinary Order. I approve its form and content.

DATED: _____ _____

Jeffrey S. Kravitz, Esq.
Attorney for Respondent

ENDORSEMENT

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

Dated:

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
FRANK H. PACOE
Supervising Deputy Attorney General

JONATHAN D. COOPER
Deputy Attorney General
Attorneys for Complainant

Respondent has failed to comply with the terms and conditions of probation, the Department may, after giving notice and opportunity to be heard, revoke Respondent's Registrations.

9. **Cost Recovery.** Respondent shall pay the Bureau $30,665.80 for the investigation and enforcement of this case. Payment to the Bureau of the full amount of said cost recovery shall be received no later than 12 months before probation terminates. Respondent shall make forty-eight equal monthly payments starting one month from the issue date of the Decision and Order. Failure to complete payment of cost recovery within this time frame shall constitute a violation of probation which may subject Respondent's Registrations to outright revocation; however, the Director or the Director's Bureau of Automotive Repair designee may elect to continue probation until such time as reimbursement of the entire cost recovery amount has been made to the Bureau.

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ACCEPTANCE

I am authorized to enter into this stipulation on behalf of Maxrun Corp., dba AAMCO Transmissions, ARD numbers 255511, 258207 and 248462. I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Jeffrey S. Kravitz, Esq. I understand the stipulation and the effect it will have on these Automotive Repair Dealer Registrations. On behalf of the corporation and on my own behalf, I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Director of Consumer Affairs.

DATED: 10/2/12

JEONG HOON KIM A.K.A. MICHAEL KIM
Respondent

I have read and fully discussed with Respondent Jeong Hoon Kim a.k.a. Michael Kim the terms and conditions and other matters contained in the above Stipulated Settlement and

Disciplinary Order. I approve its form and content.

DATED: 10-2-12

Jeffrey S. Kravitz, Esq.
Attorney for Respondent

ENDORSEMENT

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

Dated: 10/4/12

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
FRANK H. PACOE
Supervising Deputy Attorney General

JONATHAN D. COOPER
Deputy Attorney General
Attorneys for Complainant

Exhibit A

Accusation No. 77/11-50

KAMALA D. HARRIS
Attorney General of California
FRANK H. PACOE
Supervising Deputy Attorney General
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Attorneys for Complainant

BEFORE THE
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FOR THE BUREAU OF AUTOMOTIVE REPAIR
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In the Matter of the Accusation Against: **MAXRUN CORP,** **dba AAMCO TRANSMISSIONS** **JEONG HOON KIM,** **aka MICHAEL KIM, PRES./SECTY/TREAS.** **3580 Sonoma Boulevard** **Vallejo, CA 94590** **Automotive Repair Dealer Reg. No. ARD 255511,** **MAXRUN CORP,** **dba AAMCO TRANSMISSIONS** **JEONG HOON KIM,** **aka MICHAEL KIM, PRES./SECTY/TREAS.** **157 Tully Road** **San Jose, CA 95111** **Automotive Repair Dealer Reg. No. ARD 258207,** **and** **MAXRUN CORP,** **dba AAMCO TRANSMISSION** **JEONG HOON KIM,** **aka MICHAEL KIM, PRES./TREAS.** **JING JG LEE, SECRETARY** **75 S. Capital Avenue** **San Jose, CA 95127** **Automotive Repair Dealer Reg. No. ARD 248462** Respondents.	Case No. 77/11-50 **ACCUSATION**

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Complainant alleges:

PARTIES/LICENSE INFORMATION

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

2. On or about July 14, 2008, the Director of Consumer Affairs ("Director") issued Automotive Repair Dealer Registration Number ARD 255511 to Maxrun Corp ("Respondent"), doing business as Aamco Transmissions ("Vallejo facility"), with Jeong Hoon Kim, also known as Michael Kim ("Kim"), as president, secretary, and treasurer. Respondent's automotive repair dealer registration was in full force and effect at all times relevant to the charges brought herein and will expire on July 31, 2012, unless renewed.

3. On or about May 26, 2009, the Director issued Automotive Repair Dealer Registration Number ARD 258207 to Respondent, doing business as Aamco Transmissions, with Kim as president, secretary, and treasurer. Respondent's automotive repair dealer registration expired on April 30, 2010.

4. In or about 2006, the Director issued Automotive Repair Dealer Registration Number ARD 248462 to Respondent, doing business as Aamco Transmission, with Kim as president and treasurer and Jing JG Lee as Secretary. Respondent's automotive repair dealer registration will expire on December 31, 2012, unless renewed.

JURISDICTION

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

6. 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.

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STATUTORY AND REGULATORY PROVISIONS

(Statutory Provisions)

7. 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.
>
> (2) Causing or allowing a customer to sign any work order which does not state the repairs requested by the customer or the automobile's odometer reading at the time of repair.
>
> (3) Failing or refusing to give to a customer a copy of any document requiring his or her signature, as soon as the customer signs the document
>
> (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 . . .

8. Code section 9884.7, subdivision (c), states, in pertinent part, that the director may suspend, revoke or place on probation the registration for all places of business operated in this state by an automotive repair dealer upon a finding that the automotive repair dealer has, or is, engaged in a course of repeated and willful violations of the laws and regulations pertaining to an automotive repair dealer.

9. 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 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 . . .

10. Code section 22, subdivision (a), states:

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

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

(Regulatory Provisions)

12. California Code of Regulations, title 16, section ("Regulation") 3353, subdivision (d), states, in pertinent part:

Estimated Price to Tear Down, Inspect, Report and Reassemble. For purposes of this article, to tear down" shall mean to disassemble, and teardown" shall mean the act of disassembly. If it is necessary to tear down a vehicle component in order to prepare a written estimated price for required repair, the dealer shall first give the customer a written estimated price for the teardown. This price shall include the cost of reassembly of the component. The estimated price shall also include the cost of parts and necessary labor to replace items such as gaskets, seals and O rings that are normally destroyed by teardown of the component. If the act of teardown might prevent the restoration of the component to its former condition, the dealer shall write that information on the work order containing the teardown estimate before the work order is signed by the customer.

The repair dealer shall notify the customer orally and conspicuously in writing on the teardown estimate the maximum time it will take the repair dealer to reassemble the vehicle or the vehicle component in the event the customer elects not to proceed with the repair or maintenance of the vehicle and shall reassemble the vehicle within that time period if the customer elects not to proceed with the repair or ~~maintenance. The maximum time shall be counted from the date of authorization of~~ teardown.

After the teardown has been performed, the dealer shall prepare a written estimated price for labor and parts necessary for the required repair. All parts required for such repair shall be listed on the estimate. The dealer shall then obtain the customer's authorization for either repair or reassembly before any further work is done . . .

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13. Regulation 3356 states, in pertinent part:

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

. . . .

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

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

(B) Each part supplied, in such a manner that the customer can understand what was purchased, and the price for each described part . . .

14. Regulation 3361.1 states, in pertinent part:

The following minimum requirements specifying accepted trade standards for good and workmanlike rebuilding of automatic transmissions are intended to define terms that have caused confusion to the public and unfair competition within the automotive repair industry. The term "automatic transmission" shall also apply to the automatic transmission portion of transaxles for the purposes of this regulation, unless both the automatic transmission portion and the differential portion of the transaxle share a common oil supply, in which case the term "automatic transmission" shall apply to both portions of the transaxle. These minimum requirements shall not be used to promote the sale of "rebuilt" automatic transmissions when a less extensive and/or less costly repair is desired by the customer . . . All automotive repair dealers engaged in the repair, sale, or installation of automatic transmissions in vehicles covered under the Act shall be subject to the following minimum requirements:

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

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15. Regulation 3373 states:

> No automotive repair dealer or individual in charge shall, in filling out an estimate, invoice, or work order, or record required to be maintained by section 3340.15(f) of this chapter, withhold therefrom or insert therein any statement or information which will cause any such document to be false or misleading, or where the tendency or effect thereby would be to mislead or deceive customers, prospective customers, or the public.

16. Regulation 3375 states, in pertinent part, that for the purposes of this Act (the Automotive Repair Act) and of these regulations the term "guarantee" and "warranty" have like meanings.

17. Regulation 3376 states, in pertinent part:

> All guarantees shall be in writing and a legible copy thereof shall be delivered to the customer with the invoice itemizing the parts, components, and labor represented to be covered by such guarantee. A guarantee shall be deemed false and misleading unless it conspicuously and clearly discloses in writing the following:
>
> (a) The nature and extent of the guarantee including a description of all parts, characteristics or properties covered by or excluded from the guarantee, the duration of the guarantee and what must be done by a claimant before the guarantor will fulfill his obligation (such as returning the product and paying service or labor charges).
>
> (b) The manner in which the guarantor will perform. The guarantor shall state all conditions and limitations and exactly what the guarantor will do under the guarantee, such as repair, replacement or refund. If the guarantor or recipient of the guarantee has an option as to what may satisfy the guarantee, this must be clearly stated . . .

COST RECOVERY

18. Code section 125.3 provides, in pertinent part, that a Board may request the administrative law judge to direct a licentiate found to have 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.

CONSUMER COMPLAINT (FOUX): 2002 TOYOTA CAMRY SE

19. On or about March 13, 2010, Heather Foux ("Foux") took her 2002 Toyota Camry SE to Pep Boys Manny Moe & Jack Store No. 815 ("Pep Boys") because it was making a humming noise when the brakes were applied. Pep Boys inspected the brakes and told Foux that the brake rotors had "heat spots", but the brake lining was "good". On or about March 19, 2010, Foux took

the vehicle to Firestone Complete Auto Care ("Firestone") for a second opinion. Firestone performed a diagnosis of the vehicle and informed Foux that the humming noise was coming from the transmission. Firestone recommended that Foux take the vehicle to a transmission shop for further diagnosis.

20. On or about March 20, 2010, Foux took the vehicle to Respondent's Vallejo facility and informed manager, Chris Rannals ("Rannals"), of Pep Boys' and Firestones' findings. Rannals told Foux that they would perform a full inspection and diagnosis of the vehicle. Later, Foux was informed that the manual transmission needed to be rebuilt and the clutch replaced. Foux authorized the repairs. About one week later, Foux returned to the facility to pick up the vehicle and was given Invoice No. 105624 for $2,445.56. Foux noticed that the noise was still present and now, the first gear was "popping in and out of place". Foux took the vehicle back to the facility for warranty repairs. Later, the facility informed Foux that they repaired a "clamp" that had "popped off", replaced the front brake pads, and machined the brake rotors free of charge. Foux was given a copy of Invoice No. 105690. Foux continued having problems with the gear shifter and returned the vehicle again. Rannals told Foux that the operation of the gear shifter was caused by an "over torque" and was normal. Later, Foux took the vehicle to a local Toyota dealership for diagnosis. Foux was informed that there was an internal problem in the transmission (excessive end play of the fifth gear). Foux took the vehicle back to Respondent's facility. The facility removed the transmission and installed a shim onto the fifth gear.

FIRST CAUSE FOR DISCIPLINE

(Violations of the Code)

21. Respondent is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with section 9884.9, subdivision (a), of that Code in the following material respects:

a. Respondent documented on Invoice No. 105624 that on March 24, 2010, Foux had authorized $2,309.89 in additional repairs on her 2002 Toyota Camry SE, but failed to specify the repairs; i.e., the rebuilding of the manual transmission and replacement of the clutch. Further,

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Respondent stated that the repairs were authorized by phone, but failed to list the telephone number called.

b. Respondent documented on Invoice No. 105690 that on April 1, 2010, Foux had authorized additional repairs on the vehicle, but failed to specify the repairs. Further, Respondent indicated that the repairs were authorized by phone, but failed to list the telephone number called.

SECOND CAUSE FOR DISCIPLINE

(Violations of Regulations)

22. Respondent is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with Regulation 3356, subdivision (a)(2)(A), in a material respect, as follows: Respondent failed to list, describe or identify on Invoice No. 105690 the "full" inspection and diagnostic work that were allegedly performed on Foux's 2002 Toyota Camry SE, the results of the inspection and diagnosis, or any justification for rebuilding the manual transmission on the vehicle.

CONSUMER COMPLAINT (SPENCER): 2006 NISSAN ALTIMA

23. On or about June 30, 2010, Andre Spencer ("Spencer") had his 2006 Nissan Altima towed to Respondent's Vallejo facility for diagnosis because the transmission was "binding" and "slipping" out of gear. After the diagnosis was performed, the facility informed Spencer that there was an internal problem in the transmission and recommended an "internal diagnosis" at a cost of $680. Spencer authorized the work. Later, the facility recommended that the transmission be rebuilt and obtained Spencer's authorization for the repair. Spencer was charged a total of $2,780.80 for the transmission rebuild and received a copy of Invoice No. 106059. While Spencer was driving the vehicle home, the transmission began to bind and slip out of gear and the "check engine" light and Supplemental Restraint System warning lamp both began flashing. Spencer reported the problems to Rannals, and the vehicle was towed back to the facility for diagnosis. Later, the facility told Spencer that the vehicle had an electrical problem, but they were having difficulty pinpointing the problem. The facility sublet the vehicle to Vallejo Nissan for diagnosis and repair. Later, Rannals informed Spencer that Vallejo Nissan had "reprogrammed" the computer (electronic control module or "ECM"), which resolved the

electrical problem. Spencer retrieved the vehicle from Respondent's facility, but the transmission immediately began binding and slipping, and the power windows, sunroof, and keyless entry remote control were inoperative.

24. On or about July 9, 2010, Spencer filed a complaint with the Bureau.

25. On July 15, 2010, a representative of the Bureau made a field visit to Vallejo Nissan and spoke with Assistant Service Manager, Steve Cuenca ("Cuenca"), about their diagnosis of the vehicle. Cuenca told the representative that their diagnosis revealed a problem with the Controller Area Network System ("CAN"; the CAN system allows the vehicle's various computers to communicate with each other). Cuenca's technician found that two electrical connectors had been crossed, which skewed the data communication line. Cuenca indicated that it was possible the connectors were switched when the transmission was removed and reinstalled for rebuilding. Cuenca's technician plugged the connectors into their proper locations and retested the system to verify that their repairs resolved the problem with the vehicle.

26. That same day, the representative went to Respondent's facility and obtained copies of their repair records on the vehicle, including Invoice No. 106111. The representative met with Rannals and asked him about his technician's diagnosis of the vehicle. Rannals told the representative that the vehicle would not move when it arrived at their facility, but he could not state what their diagnosis revealed about the transmission. The representative asked Rannals about the repairs performed by Vallejo Nissan. Rannals stated that he sublet the vehicle to Vallejo Nissan for repair because Respondent's facility was not equipped to diagnose the electrical problem. Rannals also stated that Vallejo Nissan reprogrammed the vehicle's computer.

THIRD CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

27. Respondent is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized statements which it knew or in the exercise of reasonable care should have known to be untrue or misleading, as follows:

a. Respondent's manager, Rannals, represented to Spencer and the Bureau representative that Vallejo Nissan resolved the electrical problem on Spencer's 2006 Nissan Altima by

reprogramming the vehicle's computer. In fact, Vallejo Nissan's technician found during his diagnosis of the vehicle that two electrical connectors in the CAN system had been crossed, possibly during Respondent's removal and reinstallation of the transmission for rebuilding, and repaired the problem by plugging the electrical connectors into their proper locations.

b. Respondent falsely represented on Invoice No. 106111 that the computer on Spencer's 2006 Nissan Altima had been reprogrammed. In fact, that repair had not been performed on the vehicle, as set forth in subparagraph (a) above.

FOURTH CAUSE FOR DISCIPLINE

(Departure from Trade Standards)

28. Respondent is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(7), in that Respondent willfully departed from or disregarded accepted trade standards for good and workmanlike repair without the consent of the owner or the owner's duly authorized representative, in the following material respects: Respondent failed to perform a proper or comprehensive inspection of the transmission on Spencer's 2006 Nissan Altima before removing it from the vehicle for rebuilding. Further, Respondent failed to state on Invoice No. 106059 whether any diagnostic trouble codes were retrieved from the vehicle's ECM or list, identify or describe the diagnostic work that was allegedly performed on the vehicle, the results of the diagnosis, or any justification for rebuilding the transmission.

FIFTH CAUSE FOR DISCIPLINE

(Violations of the Code)

29. Respondent is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with section 9884.9, subdivision (a), of that Code in the following material respects:

a. Respondent failed to provide Spencer with a written estimate for parts and labor necessary for a specific job at the time Spencer's 2006 Nissan Altima was towed back to Respondent's facility for warranty repairs.

b. Respondent failed to obtain or document on Invoice No. 106111 Spencer's authorization for the sublet repairs on his 2006 Nissan Altima.

CONSUMER COMPLAINT (DISMUKE): 2000 DODGE RAM 1500 PICKUP

30. On or about March 27, 2009, Robert Paul Dismuke ("Dismuke") took his 2000 Dodge Ram 1500 pickup to Respondent's Vallejo facility for diagnosis of a transmission problem (Dismuke reported that the transmission was "slipping and winding out with no power to move"). The facility performed the diagnosis and recommended rebuilding the transmission. Dismuke authorized the repairs and was charged a total of $2,941.79. Approximately two days later, the transmission started "slipping" again. About 10 days later, Dismuke returned the vehicle to the facility for another diagnosis. One of the facility's mechanics told Dismuke that the transmission needed time to "work itself out" and advised Dismuke to drive the vehicle slowly for several hundred miles. Dismuke returned the vehicle to the facility on at least three other occasions because the transmission continued "slipping". The facility performed various repairs on the vehicle, which did not resolve the problem. The facility's owner suggested that Dismuke take the vehicle to another repair shop for diagnosis. On or about May 20, 2010, Dismuke took the vehicle to a local automotive repair dealer, who recommended replacing the governor pressure sensor. Dismuke had Respondent's facility replace the sensor, but the transmission continued slipping. On or about July 15, 2010, Dismuke filed a complaint with the Bureau.

31. On August 11, 2010, a representative of the Bureau obtained copies of Respondent's repair records on the vehicle, including Invoice Nos. 104322, 105488, 105663, and 105886 dated March 27, 2009, February 15, 2010, March 31, 2010, and May 27, 2010, respectively, and work orders/estimates dated March 27, 2009, February 15, 2010, March 31, 2010, and May 27, 2010, which were signed by Dismuke.

SIXTH CAUSE FOR DISCIPLINE

(Failure to Record Repairs Requested by Customer)

32. Respondent is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(2), in that Respondent caused or allowed Dismuke to sign the above work orders/estimates which did not state the repairs requested by Dismuke; i.e., the diagnosis of the transmission problem on his 2000 Dodge Ram 1500 pickup.

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SEVENTH CAUSE FOR DISCIPLINE

(Violations of Regulations)

33. Respondent is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with Regulation 3356 in the following material respects:

a. **Subdivision (a)(2)(A):**

1. Respondent documented on Invoice No. 104322 that the transmission on Dismuke's 2000 Dodge Ram 1500 pickup was slipping after third gear and that "a computer scan" revealed a diagnostic trouble code ("code") relating to a speed sensor. Respondent failed to provide an explanation or diagnosis of the code, and failed to list, describe or identify the specific malfunction of the transmission or any justification for rebuilding the transmission.

2. Respondent failed to state on Invoice No. 105488 the repair work that was performed on Dismuke's 2000 Dodge Ram 1500 pickup relating to the governor transducer listed on the invoice. Further, Respondent failed to list, describe, or identify the diagnostic work that was performed on the vehicle.

3. Respondent failed to list, describe or identify on Invoice No. 105663 the diagnostic work that was performed on Dismuke's 2000 Dodge Ram 1500 pickup.

4. Respondent documented on Invoice No. 105886 that a valve body programming kit was installed on Dismuke's 2000 Dodge Ram 1500 pickup, but failed to list, describe or identify the diagnostic work that was performed on the vehicle.

b. **Subdivision (a)(2)(B):** Respondent failed to list on Invoice No. 105886 the valve body repair kit that was supplied on Dismuke's 2000 Dodge Ram 1500 pickup.

CONSUMER COMPLAINT (ROSAS): 2001 VOLKSWAGEN PASSAT

34. On or about April 12, 2010, Ray Rosas ("Rosas") took his 2001 Volkswagen Passat to Respondent's Vallejo facility and requested a diagnosis of the transmission (Rosas reported that the "service engine soon" lamp was illuminated and the transmission was in "limp" or safe mode). The facility performed the diagnosis and recommended replacing the #4 transmission pressure control solenoid. Rosas authorized the repair at a cost of $808.97. The repair did not resolve the

problem on the vehicle. Respondent's technician diagnosed the problem further, and found that the transmission control module ("TCM") was "wet" and that the moisture had compromised the TCM's internal circuitry. The technician gave Rosas a verbal estimate of $1,800 to replace the TCM. Rosas declined the repair, paid the facility $808.97, and received a copy of Invoice No. 105688. Later, Rosas purchased a used TCM for $140 and installed it on the vehicle himself.

EIGHTH CAUSE FOR DISCIPLINE

(Violations of the Code)

35. Respondent is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with section 9884.9, subdivision (a), of that Code in a material respect, as follows: Respondent documented on Invoice No. 105688 that on April 12, 2010, Rosas had authorized $765 in additional repairs on his 2001 Volkswagen Passat, but failed to specify the nature of the repairs; i.e., the replacement of the #4 transmission pressure control solenoid. Further, Respondent stated that the repairs were authorized by phone, but failed to list the telephone number called.

NINTH CAUSE FOR DISCIPLINE

(Violations of Regulations)

36. Respondent is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with Regulation 3356 in the following material respects:

a. **Subdivision (a)(2)(A)**: Respondent documented on Invoice No. 105688 that "a computer scan" was performed on Rosas' 2001 Volkswagen Passat, revealing a code relating to the #4 pressure control solenoid, but failed to provide an explanation or diagnosis of the code or a description of the specific malfunction on the vehicle. Further, Respondent stated that an "internal service" was performed on the vehicle, but failed to list, describe, or identify what was included in the internal service.

b. **Subdivision (a)(2)(B)**: Respondent failed to list, identify, or describe on Invoice No. 105688 all parts supplied on Rosas' 2001 Volkswagen Passat, specifically, the #4 pressure control solenoid.

UNDERCOVER OPERATION #1: 1996 TOYOTA CAMRY

37. On November 2, 2010, an undercover operator of the Bureau ("operator") took the Bureau's 1996 Toyota Camry to Respondent's Vallejo facility. The No. 2 shift solenoid (also known as the B shift solenoid) on the Bureau-documented vehicle was defective. The operator met with an unidentified male and informed him that the "check engine" light was illuminated and the transmission was not shifting properly. The operator requested a diagnosis of the vehicle. The unidentified male had the operator sign an estimate, but did not provide her with a copy. The operator left the facility.

38. At approximately 1107 hours that same day, the operator called the facility and spoke with Respondent's employee, "Chris". Chris told the operator that they had performed the diagnosis and found that the transmission was "missing second gear". Chris stated that the transmission fluid was clean, but there was "a lot of metal in the pan". Chris told the operator that the transmission needed to be removed and disassembled for inspection and that the cost would be $80, which would be applied towards any repairs. The operator authorized the work.

39. At approximately 1630 hours, Chris called the operator and told her that they had removed and disassembled the transmission and had found debris in the pan. Chris also stated that they would need to replace the A and B solenoids (No. 1 and 2 shift solenoids) and clean the transmission, and that the total repair costs on the vehicle would be $656.20. The operator authorized the additional work.

40. On November 4, 2010, the operator returned to the facility to retrieve the vehicle and met with Chris. The operator asked Chris to explain the transmission repairs that were performed on the vehicle. Chris told the operator that they removed and disassembled the transmission, cleaned the debris from the pan, and replaced the A and B solenoids. The operator paid Chris $656.20 and received a copy of Invoice No. 106568. The invoice stated that the repairs were covered by a 90 day warranty.

41. On November 9, 2010, the Bureau inspected the vehicle and found that the facility performed unnecessary repairs. The total estimated value of the unnecessary repairs that were performed on the vehicle is $479.65.

TENTH CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

42. Respondent is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized statements which it knew or in the exercise of reasonable care should have known to be untrue or misleading, as follows:

a. Respondent's employee, Chris, represented to the operator that there was "a lot of metal" in the transmission pan on the Bureau's 1996 Toyota Camry and that the transmission needed to be removed and disassembled for inspection. In fact, the only repair needed on the vehicle was the replacement of the defective No. 2 shift solenoid, which is readily accessible once the transmission pan has been removed. Further, there were no abnormalities present in the transmission pan at the time the vehicle was taken to Respondent's facility.

b. Respondent's employee, Chris, represented to the operator that the A solenoid (No. 1 shift solenoid) on the Bureau's 1996 Toyota Camry was in need of replacement. In fact, the No. 1 shift solenoid was not in need of replacement at the time the vehicle was taken to Respondent's facility.

c. Respondent represented on the invoice that the transmission repairs were covered by a 90 day warranty, but failed to disclose the full nature and extent of the warranty, a description of all parts, characteristics, or properties covered by or excluded from the warranty, the manner in which Respondent would perform under the warranty, and/or all conditions and limitations on the warranty, as required by Regulation 3376.

ELEVENTH CAUSE FOR DISCIPLINE

(Failure to Provide Customer with Copy of Signed Document)

43. Respondent is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(3), in that Respondent's employee failed to provide the operator with a copy of the written estimate, as set forth in paragraph 37 above.

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TWELFTH CAUSE FOR DISCIPLINE

(Fraud)

44. Respondent is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(4), in that Respondent committed acts constituting fraud, as follows: Respondent's employee, Chris, made false or misleading statements to the operator regarding the condition of the Bureau's 1996 Toyota Camry, as set forth in subparagraphs 42 (a) and (b) above, in order to induce the operator to purchase unnecessary transmission repairs on the vehicle, then sold the operator unnecessary repairs, including the removal and disassembly of the transmission and the replacement of the No. 1 shift solenoid.

THIRTEENTH CAUSE FOR DISCIPLINE

(Departure from Trade Standards)

45. Respondent is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(7), in that Respondent willfully departed from or disregarded accepted trade standards for good and workmanlike repair without the consent of the owner or the owner's duly authorized representative, in a material respect, as follows: Respondent failed to provide the operator with a written estimate for the teardown, inspection, and reassembly of the transmission before removing the component from the Bureau's 1996 Toyota Camry, in violation of Regulation 3353, subdivision (d).

FOURTEENTH CAUSE FOR DISCIPLINE

(Violations of the Code)

46. Respondent is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with section 9884.9, subdivision (a), of that Code in a material respect, as follows: Respondent's employee failed to provide the operator with a written estimate for the diagnosis of the Bureau's 1996 Toyota Camry.

FIFTEENTH CAUSE FOR DISCIPLINE

(Violations of Regulations)

47. Respondent is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with Regulation 3356, subdivision

(a)(2)(A) in a material respect, as follows: Respondent failed to list, describe, or identify on the invoice the diagnostic work that was performed on the Bureau's 1996 Toyota Camry and/or the results of the diagnosis.

UNDERCOVER OPERATION #2:

1999 CHEVROLET SILVERADO 1500 PICKUP TRUCK

48. On February 23, 2011, an undercover operator of the Bureau ("operator") took the Bureau's 1999 Chevrolet Silverado 1500 pickup truck to Respondent's Vallejo facility. An open circuit had been created in the power supply to the transmission solenoids at the internal transmission wiring harness connector on the Bureau-documented vehicle. The operator met with Respondent's employee, Chris, and told him that the vehicle's transmission was not shifting and the "check engine" light was illuminated on the dashboard. The operator asked Chris how much it would cost to diagnose the vehicle. Chris told the operator that there was no charge for the diagnosis. Chris had the operator sign a written estimate, but did not provide him with a copy. The operator left the facility.

49. At approximately 1157 hours that same day, the operator called the facility and spoke with Chris. Chris told the operator that they checked the vehicle and that there might be an electrical problem because "when they cleared the codes, the codes came right back". Chris told the operator that it would cost $120 to "trace a short in the wiring" and that the $120 would be credited towards the cost of the repairs. The operator authorized the work. At approximately 1526 hours, the operator called Chris regarding the status of the vehicle. Chris told the operator that they were "pretty sure" the problem was with a switch and that the part was ordered from a local Chevrolet dealership.

50. On February 24, 2011, Chris called the operator and told him that they had installed the switch, but the vehicle was "still doing the same thing". Chris stated that they would continue their testing and call the operator the following day.

51. On February 25, 2011, the operator called the facility and spoke with Chris. Chris told the operator that there was a "loose wire in the transmission case" and that the total cost of the repairs would be $651.81.

52. On February 28, 2011, the operator returned to the facility to retrieve the vehicle, paid Chris $651.81, and received a copy of an invoice. The invoice stated that the repairs were covered by a 90 day warranty. The operator left the facility. At approximately 1028 hours that same day, the operator called the facility and spoke with Chris. The operator informed Chris that the new switch was not listed on the invoice, and asked Chris what repairs were performed on the vehicle. Chris told the operator that they installed a new ignition switch, but removed it because it did not fix the problem on the vehicle. Chris stated that they reinstalled the old switch and replaced the transmission wiring harness.

53. On March 1, 2011, the Bureau inspected the vehicle using the invoice for comparison and found that Respondent's facility performed unnecessary repairs and charged the operator twice for the replacement of the TCC (torque converter clutch) solenoid.[1] The estimated value of the unnecessary repairs and the extra charge for the TCC solenoid total $236.18.

SIXTEENTH CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

54. Respondent is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized statements which it knew or in the exercise of reasonable care should have known to be untrue or misleading, as follows:

a. Respondent's employee, Chris, represented to the operator that the only repairs performed on the Bureau's 1999 Chevrolet Silverado 1500 pickup truck were the installation and subsequent removal of an ignition switch and the replacement of the transmission wiring harness. In fact, the facility also replaced the 1-2 and 2-3 shift solenoids on the vehicle. Further, the 1-2 and 2-3 shift solenoids were new, were within manufacturer's specifications, and were not in need of replacement.

b. Respondent represented on the invoice that the transmission repairs were covered by a 90 day warranty, but failed to disclose the full nature and extent of the warranty, a description

[1] The operator was charged $175.04 for a new transmission wiring harness. The TCC solenoid is a component of the transmission wiring harness assembly; however, Respondent's facility included a separate charge of $44.26 for a "new TCC solenoid".

of all parts, characteristics, or properties covered by or excluded from the warranty, the manner in which Respondent would perform under the warranty, and/or all conditions and limitations on the warranty, as required by Regulation 3376.

SEVENTEENTH CAUSE FOR DISCIPLINE

(Failure to Provide Customer with Copy of Signed Document)

55. Respondent is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(3), in that Respondent's employee, Chris, failed to provide the operator with a copy of the written estimate, as set forth in paragraph 48 above.

EIGHTEENTH CAUSE FOR DISCIPLINE

(Fraud)

56. Respondent is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(4), in that Respondent committed an act constituting fraud, as follows: Respondent charged the operator twice for the replacement of the TCC solenoid on the Bureau's 1999 Chevrolet Silverado 1500 pickup truck, as set forth in paragraph 53 above.

NINETEENTH CAUSE FOR DISCIPLINE

(Violations of the Code)

57. Respondent is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with section 9884.9, subdivision (a), of that Code in the following material respects:

a. Respondent's employee, Chris, failed to provide the operator with a written estimate for the diagnosis of the Bureau's 1999 Chevrolet Silverado 1500 pickup truck.

b. Respondent replaced the 1-2 and 2-3 shift solenoids on the vehicle without the operator's knowledge or authorization.

c. Respondent documented on the invoice that on February 25, 2011, the operator had authorized $624.62 in additional repairs on the vehicle by phone, but failed to specify the repairs. Further, Respondent failed to list the telephone number called.

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TWENTIETH CAUSE FOR DISCIPLINE

(Violations of Regulations)

58. Respondent is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with Regulation 3356, subdivision (a)(2)(A) in a material respect, as follows: Respondent failed to list, describe, or identify on the invoice the diagnostic work that was performed on the Bureau's 1999 Chevrolet Silverado 1500 pickup truck or the results of the diagnosis.

UNDERCOVER OPERATION #3: 2001 CHEVROLET MONTE CARLO

59. On July 18, 2011, an undercover operator of the Bureau ("operator") took the Bureau's 2001 Chevrolet Monte Carlo to Respondent's Vallejo facility. An open circuit had been created in the power supply to the transmission solenoids at the internal transmission wiring harness on the Bureau-documented vehicle. The operator met with Respondent's employee, Chris, and told him that the vehicle was sluggish when starting from stops and the "check engine" light was illuminated. The operator asked Chris how much it would cost to diagnose the problem with the vehicle. Chris told the operator that the diagnosis would be free of charge. Chris had the operator sign a written estimate, but did not give him a copy. Chris gave the operator his business card, identifying him as Chris Rannals, and told the operator that he could call him later with the results of the diagnosis. The operator left the facility.

60. At approximately 1200 hours that same day, the operator called the facility and spoke with Chris. Chris told the operator that the transmission fluid looked clean, but had a burnt odor. Chris asked the operator if he would authorize an additional hour of diagnostic work on the vehicle. Chris explained that there were three transmission trouble codes stored in the vehicle's computer and that they needed to check the fuses to see if it was an electrical or mechanical problem. Chris told the operator that he would credit the cost of the diagnosis towards the teardown of the transmission. The operator authorized the work.

61. At approximately 1500 hours, the operator called the facility and spoke with Chris. Chris told the operator that the electrical system tested well, but they would need to remove and

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"open the transmission" to test the shift solenoids. Chris requested the operator's authorization to perform a teardown of the transmission for $680. The operator authorized the work.

62. On July 19, 2011, at approximately 1407 hours, Chris called the operator and left him a voice mail message, stating that the wiring harness inside the transmission had a broken metal prong, which prevented it from locking in place. At approximately 1413 hours, the operator called Chris and asked him if the harness could be repaired. Chris told the operator that the harness was broken and would need to be replaced along with the valve body gaskets and transmission fluid. Chris stated that the total repair costs on the vehicle would be $990.65.

63. On July 22, 2011, the operator returned to the facility to retrieve the vehicle, paid Chris $990.65, and received a copy of an invoice. The invoice stated that the repairs were covered by a 90 day warranty. The operator asked Chris what repairs were performed on the vehicle. Chris told the operator that they replaced the transmission wiring harness and gaskets.

64. On September 6, 2011, the Bureau inspected the vehicle and found that Respondent's facility had replaced the wiring harness assembly as invoiced, but had also replaced the transmission case and several transmission hard parts, none of which were in need of replacement. The total estimated value of the unnecessary repairs that were performed on the vehicle is $863.

TWENTY-FIRST CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

65. Respondent is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized statements which it knew or in the exercise of reasonable care should have known to be untrue or misleading, as follows:

a. Respondent's employee, Chris, falsely represented to the operator that the transmission fluid on the Bureau's 2001 Chevrolet Monte Carlo had a burnt odor.

b. Respondent's employee, Chris, represented to the operator that the only repairs performed on the Bureau's 2001 Chevrolet Monte Carlo were the replacement of the transmission wiring harness and gaskets. In fact, the facility also replaced the valve body gaskets, channel plate gasket, transmission case, transmission fluid temperature sensor, drive sprocket support,

differential/final driver carrier assembly, differential pinion and side gears, final drive sun gear, final drive internal gear, output shaft, 2-1 manual band servo assembly, 1-2, 2-3 accumulator assembly, forward band servo assembly, and reverse band servo assembly on the vehicle. Further, all of the above parts were new or in good condition, were within manufacturer's specifications, and were not in need of replacement.

c. Respondent falsely represented on the invoice that the transmission fluid on the Bureau's 2001 Chevrolet Monte Carlo had a burnt odor.

d. Respondent represented on the invoice that the transmission repairs were covered by a 90 day warranty, but failed to disclose the full nature and extent of the warranty, a description of all parts, characteristics, or properties covered by or excluded from the warranty, the manner in which Respondent would perform under the warranty, and/or all conditions and limitations on the warranty, as required by Regulation 3376.

TWENTY-SECOND CAUSE FOR DISCIPLINE

(Failure to Provide Customer with Copy of Signed Document)

66. Respondent is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(3), in that Respondent's employee, Chris, failed to provide the operator with a copy of the written estimate, as set forth in paragraph 59 above.

TWENTY-THIRD CAUSE FOR DISCIPLINE

(Departure from Trade Standards)

67. Respondent is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(7), in that Respondent willfully departed from or disregarded accepted trade standards for good and workmanlike repair without the consent of the owner or the owner's duly authorized representative, in a material respect, as follows: Respondent failed to provide the operator with a written estimate for the teardown of the transmission before removing the component from the Bureau's 2001 Chevrolet Monte Carlo, in violation of Regulation 3353, subdivision (d).

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TWENTY-FOURTH CAUSE FOR DISCIPLINE

(Violations of the Code)

68. Respondent is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with section 9884.9, subdivision (a), of that Code in the following material respects:

a. Respondent's employee, Chris, failed to provide the operator with a written estimate for the diagnosis of the Bureau's 2001 Chevrolet Monte Carlo.

b. Respondent replaced the transmission case and transmission hard parts, identified in subparagraph 65 (b) above, without the operator's knowledge or authorization.

TWENTY-FIFTH CAUSE FOR DISCIPLINE

(Violations of Regulations)

69. Respondent is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with Regulation 3356 in the following material respects:

a. **Subdivision (a)(2)(A):** Respondent failed to list, describe, or identify on the invoice the diagnostic work that was performed on the Bureau's 2001 Chevrolet Monte Carlo, or the results of the diagnosis.

b. **Subdivisions (a)(2)(A) and (B):** Respondent failed to list, describe, or identify on the invoice the repairs performed and parts supplied on the Bureau's 2001 Chevrolet Monte Carlo, identified in subparagraph 65 (b) above.

OTHER MATTERS

70. Pursuant to Code section 9884.7, subdivision (c), the Director may suspend, revoke, or place on probation the registration for all places of business operated in this state by Respondent Maxrun Corp, including, but not limited to, Automotive Repair Dealer Registration Numbers ARD 258207 and ARD 248462, upon a finding that Respondent has, or is, engaged in a course of repeated and willful violations of the laws and regulations pertaining to an automotive repair dealer.

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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. Revoking or suspending Automotive Repair Dealer Registration Number ARD 255511, issued to Maxrun Corp, doing business as Aamco Transmissions;

2. Revoking or suspending any other automotive repair dealer registration issued in the name of Maxrun Corp, including, but not limited to, Automotive Repair Dealer Registration Numbers ARD 258207 and ARD 248462;

3. Ordering Maxrun Corp, dba Aamco Transmissions, 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;

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

DATED: 2/22/12

John Wallauch by Doug Balatti, Assist. Chief

JOHN WALLAUCH
Chief
Bureau of Automotive Repair
Department of Consumer Affairs
State of California
Complainant

SF2012401057