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

In the Matter of the Accusation Against:

Case No. 77/13-54

**SELEM INVESTMENT CAPITAL LLC
dba MEINEKE CAR CARE CENTER
RAUL JAVIER SELEM CACHE, Member
1355 Santa Rosa Ave.
Santa Rosa, CA 95404
and
5729 La Seyne Place
San Jose, CA 95138

Automotive Repair Dealer Registration No.
ARD 256696**

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

Respondent.

FINDINGS OF FACT

1. On or about April 8, 2013, Complainant John Wallauch, in his official capacity as the Chief of the Bureau of Automotive Repair, Department of Consumer Affairs, filed Accusation No. 77/13-54 against Selem Investment Capital LLC. doing business as Meineke Car Care

1 Center, Raul Javier Selem Cache, Member (Respondent) before the Director of Consumer
2 Affairs. (Accusation attached as Exhibit A.)

3 2. On or about November 17, 2008, the Bureau of Automotive Repair (Bureau) issued
4 Automotive Repair Dealer Registration No. ARD 256696 to Respondent. The Automotive
5 Repair Dealer Registration was in full force and effect at all times relevant to the charges brought
6 in Accusation No. 77/13-54 and expired on October 31, 2012. This lapse in licensure, however,
7 pursuant to Business and Professions Code section 118(b), does not deprive the Department of its
8 authority to institute or continue this disciplinary proceeding.

9 3. On or about June 4, 2013, Respondent was served by Certified and First Class Mail
10 copies of the Accusation No. 77/13-54, Statement to Respondent, Notice of Defense, Request for
11 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at
12 each of Respondent's addresses of record which, pursuant to Business and Professions Code
13 section 136, are required to be reported and maintained with the Bureau. Respondent's addresses
14 of record were and are:

15 1355 Santa Rosa Ave.
16 Santa Rosa, CA 95404.

17 5729 La Seyne Place
18 San Jose, CA 95138

19 4. Service of the Accusation was effective as a matter of law under the provisions of
20 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
21 124.

22 5. On or about June 17, 2013, the aforementioned documents were returned by the U.S.
23 Postal Service marked "Unable to Forward." The proof of service and copies of the return
24 envelopes are attached as Exhibit B.

25 6. Government Code section 11506 states, in pertinent part:

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

- 1 c. Respondent's registration is subject to discipline under Code section 9884.7(a)(3), in
2 that on or about April 20, 2011, Respondent failed to provide an operator with a copy of
3 the estimate as soon as the operator signed it.
- 4 d. Respondent's registration is subject to discipline under Code section 9884.7(a)(1), in
5 that on or about August 9, 2011, Respondent made statements which it knew or which
6 by exercise of reasonable care should have known were untrue or misleading.
- 7 e. Respondent's registration is subject to discipline under Code section 9884.7(a)(4), in
8 that on or about August 9, 2011, Respondent committed acts which constitute fraud by
9 receiving payment for repairs that had not been performed, or were not necessary.
- 10 f. Respondent's registration is subject to discipline under Code section 9884.7(a)(2), in
11 that on or about August 9, 2011, Respondent caused or allowed an operator to sign an
12 Estimate that did not state the vehicle's odometer reading.
- 13 g. Respondent's registration is subject to discipline under Code section 9884.7(a)(6), in
14 that on or about August 9, 2011, Respondent failed to materially comply Code section
15 9884.9.
- 16 h. Respondent's registration is subject to discipline under Code section 9884.7(a)(6), in
17 that on or about August 10, 2011, Respondent failed to comply with the California Code
18 of Regulations, title 16, section 3356(a)(2)(A).
- 19 i. Respondent's registration is subject to discipline under Code section 9884.7(a)(1), in
20 that on or about November 9, 2011, Respondent made statements which it knew or
21 which by exercise of reasonable care should have known were untrue or misleading.
- 22 j. Respondent's registration is subject to discipline under Code section 9884.7(a)(4), in
23 that on or about November 9, 2011, Respondent committed acts which constitute fraud
24 by receiving payment from the operator for repairs that had not been performed.
- 25 k. Respondent's registration is subject to discipline under Code section 9884.7(a)(6), in
26 that on or about November 9, 2011, Respondent failed to materially comply with Code
27 section 9884.9.

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- 1 l. Respondent's registration is subject to discipline under Code section 9884.7(a)(6), in
- 2 that on or about November 9, 2011, Respondent failed to comply with the following
- 3 sections of the California Code of Regulations, title 16, section 3356(a)(2)(A).
- 4 m. Respondent's registration is subject to discipline under Code section 9884.7(a)(1), in
- 5 that on or about February 7, 2012, Respondent made statements which it knew or which
- 6 by exercise of reasonable care should have known were untrue or misleading.
- 7 n. Respondent's registration is subject to discipline under Code section 9884.7(a)(4), in
- 8 that on or about February 10, 2012, Respondent committed acts which constitute fraud
- 9 by receiving payment from the operator for repairs that were not necessary.
- 10 o. Respondent's registration is subject to discipline under Code section 9884.7(a)(6), in
- 11 that on or about February 7, 2012, regarding the 1996 Chevrolet Corsica, Respondent
- 12 failed to materially comply with Code section 9884.9.
- 13 p. Respondent's registration is subject to discipline under Code section 9884.7(a)(3), in
- 14 that on or about February 7, 2012, Respondent failed to provide an operator with a copy
- 15 of an estimate as soon as the operator signed it.

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ORDER

IT IS SO ORDERED that Automotive Repair Dealer Registration No. ARD 256696, heretofore issued to Respondent Selem Investment Capital LLC. dba Meineke Car Care Center, Raul Javier Selem Cache, Member, is revoked.

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

This Decision shall become effective on SFP 05 2013.

It is so ORDERED August 2, 2013



DONALD CHANG
Assistant Chief Counsel
Department of Consumer Affairs

default decision_LIC.rtf
DOJ Matter ID: SF2012204558

Attachments:
Exhibit A: Accusation
Exhibit B: Proof of Service, copies of return envelopes

Exhibit A

Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
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455 Golden Gate Avenue, Suite 11000
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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 Accusation Against:
12 **SELEM INVESTMENT CAPITAL LLC**
13 **dba MEINEKE CAR CARE CENTER**
14 **RAUL JAVIER SELEM CACHE, Member**
15 **1355 Santa Rosa Ave.**
16 **Santa Rosa, CA 95404**
17 **and**
18 **5729 La Seyne Place**
19 **San Jose, CA 95138**
20 **Automotive Repair Dealer Registration No.**
21 **ARD 256696**
22 Respondent.

Case No. **77/13-54**

ACCUSATION

20 John Wallauch ("Complainant") alleges:

21 **PARTIES**

- 22
- 23 1. Complainant brings this Accusation solely in his official capacity as the Chief of the
24 Bureau of Automotive Repair ("Bureau"), Department of Consumer Affairs.
 - 25 2. On or about November 17, 2008, the Bureau issued Automotive Repair Dealer
26 Registration Number ARD 256696 to Selem Investment Capital LLC, doing business as Meineke
27 Car Care Center ("Respondent"), with Raul Javier Selem Cache as a Member. The registration
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1 was in full force and effect at all times relevant to the charges brought herein. The registration
2 expired on October 31, 2012, and has not been renewed.

3 **STATUTORY PROVISIONS**

4 3. Business and Professions Code ("Code") section 9884.7 states, in pertinent part:

5 (a) The director, where the automotive repair dealer cannot show there was a
6 bona fide error, may deny, suspend, revoke, or place on probation, the registration of
7 an automotive repair dealer for any of the following acts or omissions related to the
8 conduct of the business of the automotive repair dealer, which are done by the
9 automotive repair dealer or any automotive technician, employee, partner, officer, or
10 member of the automotive repair dealer.

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

14 (2) Causing or allowing a customer to sign any work order which does not
15 state the repairs requested by the customer or the automobile's odometer reading at
16 the time of repair.

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

19 (4) Any other conduct which constitutes fraud.

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

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

(c) Notwithstanding subdivision (b), 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 this chapter, or regulations
adopted pursuant to it.

4. Code section 9884.8 states:

All work done by an automotive repair dealer, including all warranty work,
shall be recorded on an invoice and shall describe all service work done and parts
supplied. Service work and parts shall be listed separately on the invoice, which shall
also state separately the subtotal prices for service work and for parts, not including
sales tax, and shall state separately the sales tax, if any, applicable to each. If any
used, rebuilt, or reconditioned parts are supplied, the invoice shall clearly state that
fact. If a part of a component system is composed of new and used, rebuilt or

1 reconditioned parts, that invoice shall clearly state that fact. The invoice shall include
2 a statement indicating whether any crash parts are original equipment manufacturer
3 crash parts or nonoriginal equipment manufacturer aftermarket crash parts. One copy
4 of the invoice shall be given to the customer and one copy shall be retained by the
5 automotive repair dealer.

6 5. Code section 9884.9 states:

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

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

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

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

(signature or initials)"

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

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

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1 **REGULATORY PROVISIONS**

2 7. California Code of Regulations, title 16, section 3356(a)(2)(A), states:

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

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

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

8 **COST RECOVERY**

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

13 **UNDERCOVER OPERATION No. 1 - 1997 TOYOTA CAMRY**

14 9. On or about April 20, 2011, a Bureau undercover operator drove a Bureau
15 documented 1997 Toyota Camry to Respondent's facility for an inspection. No repairs to the
16 vehicle were needed. The operator arrived at Respondent's facility and was greeted by a male
17 employee. The operator told the employee that he would like the vehicle inspected because he
18 was taking it on a road trip. The employee told the operator that there was no charge for the
19 inspection. The employee completed the estimate and had the operator sign it, but he was not
20 provided a copy. Later that day, the operator received a message from an employee named Lance
21 ("Lance"), who recommended that the fuel filter be replaced, a fuel injection service be
22 performed, and new wiper blades be installed. The operator called Respondent's facility and
23 spoke to Lance, who stated that those services were recommended due to the mileage on the
24 vehicle and would cost \$267.48. The operator declined the repairs. The operator returned to
25 Respondent's facility to retrieve the vehicle but was not provided any documentation. On that
26 same day, the operator called Lance again and asked him why the services were recommended.
27 Lance stated that by replacing the fuel filter and having a fuel injection service performed, it
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1 would improve the vehicle's fuel economy, smooth out the idle, increase the responsiveness of the
2 vehicle, and clean out the throttle body and the area near and around the idle control motor.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Untrue or Misleading Statements)**

5 10. Respondent's registration is subject to discipline under Code section 9884.7(a)(1),
6 in that on or about April 20, 2011, regarding the 1997 Toyota Camry, Respondent made
7 statements which it knew or which by exercise of reasonable care should have known were untrue
8 or misleading, in that Respondent falsely represented to the operator that the vehicle needed a
9 new fuel filter, a fuel injection service, and new wiper blades when, in fact, those repairs were not
10 necessary.

11 **SECOND CAUSE FOR DISCIPLINE**

12 **(Failure to Comply with Provisions of the Automotive Repair Act)**

13 11. Respondent's registration is subject to discipline under Code section 9884.7(a)(6),
14 in that on or about April 20, 2011, regarding the 1997 Toyota Camry, Respondent failed to
15 materially comply with the following provisions of that Code:

16 a. **Section 9884.8:** Respondent failed to provide the operator with an invoice.

17 b. **Section 9884.9:** Respondent failed to provide the operator with a written estimate
18 for parts and labor for a specific job.

19 **THIRD CAUSE FOR DISCIPLINE**

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

21 12. Respondent's registration is subject to discipline under Code section 9884.7(a)(3),
22 in that on or about April 20, 2011, regarding the 1997 Toyota Camry, Respondent failed to
23 provide the operator with a copy of the estimate as soon as the operator signed it.

24 **UNDERCOVER OPERATION No. 2 - 1990 CHEVROLET CORSICA**

25 13. On or about August 9, 2011, a Bureau undercover operator drove a Bureau
26 documented 1990 Chevrolet Corsica to Respondent's facility regarding the vehicle's rough idle.

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1 The only repair necessary was the replacement of the Exhaust Gas Recirculation (EGR) valve¹.
2 The operator arrived at Respondent's facility and was greeted by Lance. The operator told Lance
3 that she wanted the vehicle inspected because it was running rough and shaking. Lance told the
4 operator that he was waiving the diagnostic fee. Lance completed some paperwork and had the
5 operator sign it. The operator signed the paperwork but was not provided a copy. In addition, the
6 operator noticed that there was not an estimated price for the repairs on the paperwork. Later that
7 day, the operator called Respondent's facility and spoke with Lance. Lance told the operator that
8 the vehicle needed a complete tune up, including replacing the spark plugs, spark plug wires, fuel
9 filter, and a fuel injection service. The total cost of the repairs would be \$433. Lance also told
10 the operator that the vehicle needed the cooling system overhauled and would cost \$717. The
11 operator authorized the tune up repairs but declined the cooling system overhaul.

12 14. On or about August 10, 2011, the operator returned to Respondent's facility to
13 retrieve the vehicle. The operator spoke with Lance, who told her that the tune up parts were old
14 and worn, and that the entire fuel injection system was dirty. The operator paid Respondent
15 \$434.64, signed the paperwork, and received a copy of Invoice No. [REDACTED] and Estimate No.

16 [REDACTED]

17 15. On or about August 11, 2011, the vehicle was reinspected by a Bureau
18 representative and was found to still have the rough idle condition.

19 **FOURTH CAUSE FOR DISCIPLINE**

20 **(Untrue or Misleading Statements)**

21 16. Respondent's registration is subject to discipline under Code section 9884.7(a)(1),
22 in that on or about August 9, 2011, regarding the 1990 Chevrolet Corsica, Respondent made
23 statements which it knew or which by exercise of reasonable care should have known were untrue
24 or misleading, in that Respondent falsely represented to the operator that the vehicle's fuel filter,
25 spark plugs, spark plug wires, and a fuel injection service were needed when, in fact, those
26 repairs were not necessary.

27 ¹ The vehicle's spark plugs, spark plug wires, and fuel filter were new and had less than 15
28 miles of service on them when the vehicle was presented to the Respondent.

1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(Fraudulent Acts)**

3 17. Respondent's registration is subject to discipline under Code section 9884.7(a)(4),
4 in that on or about August 9, 2011, regarding the 1990 Chevrolet Corsica, Respondent committed
5 acts which constitute fraud by receiving payment from the operator for repairs that had not been
6 performed, or were not necessary, in that Respondent unnecessarily sold the operator a fuel filter,
7 spark plugs, spark plugs wires, and a fuel injection service.

8 **SIXTH CAUSE FOR DISCIPLINE**

9 **(Failure to Comply with Provisions of the Automotive Repair Act)**

10 18. Respondent's registration is subject to discipline under Code section 9884.7(a)(2),
11 in that on or about August 9, 2011, regarding the 1990 Chevrolet Corsica, Respondent caused or
12 allowed the operator to sign Estimate No. [REDACTED] which did not state the vehicle's odometer
13 reading.

14 **SEVENTH CAUSE FOR DISCIPLINE**

15 **(Failure to Comply with Provisions of the Automotive Repair Act)**

16 19. Respondent's registration is subject to discipline under Code section 9884.7(a)(6),
17 in that on or about August 9, 2011, regarding the 1990 Chevrolet Corsica, Respondent failed to
18 materially comply with the following provisions of that Code:

19 a. **Section 9884.9:**

20 i. Respondent failed to provide the operator with a written estimate for parts
21 and labor for a specific job.

22 ii. Respondent failed to properly record additional authorization before
23 performing repairs that would exceed the original estimate.

24 **EIGHTH CAUSE FOR DISCIPLINE**

25 **(Failure to Comply with Regulations Pursuant to the Automotive Repair Act)**

26 20. Respondent's registration is subject to discipline under Code section 9884.7(a)(6),
27 in that on or about August 10, 2011, regarding the 1990 Chevrolet Corsica, Respondent failed to

1 comply with the California Code of Regulations, title 16, section 3356(a)(2)(A), by failing to
2 describe all diagnostic work performed on Invoice No. [REDACTED]

3 **UNDERCOVER OPERATION No. 3 - 1994 TOYOTA CAMRY**

4 21. On or about November 9, 2011, a Bureau undercover operator drove a Bureau
5 documented 1994 Toyota Camry to Respondent's facility for an inspection. The only repair
6 necessary was the replacement of the number four fuel injector and front disc brake pads.² The
7 operator arrived at Respondent's facility and was greeted by a male employee. The operator told
8 the employee that the vehicle was running rough, the check engine light was on, and the brake
9 light was on. The male employee told the operator that the cost of the inspection would be
10 \$47.50. The male employee completed some paperwork, and the operator signed it. The operator
11 was not provided a copy of the paperwork.

12 22. On or about November 10, 2011, the operator called Respondent's facility and
13 spoke with Lance, who told him that the vehicle needed a complete tune up, including new spark
14 plugs, spark plug wires, fuel filter, a fuel injection service, and front brakes. Lance stated that the
15 cost of the repairs would be \$865 but it could be more because he had to recheck the cylinder
16 misfire after the tune up was performed. The operator authorized the repairs.

17 23. On or about November 15, 2011, the operator called Respondent's facility and
18 spoke with Lance, who told him that cylinder number four was defective and he would only
19 charge the operator \$213 for the part, no charge for the labor, making the total cost of the repairs
20 \$1,069. The operator authorized the repairs. Later that day, the operator returned to
21 Respondent's facility to retrieve the vehicle. The operator paid \$1,085.54 and received Invoice
22 No. [REDACTED]

23 24. On or about December 13, 2011, a Bureau representative reinspected the vehicle,
24 using Invoice No. [REDACTED] as a reference, and found the front brake rotors had been unnecessarily
25 machined, the replacement of the spark plugs and fuel filter were not necessary, the fuel injection
26 service was not necessary, and the spark plugs that were installed were not platinum as invoiced.

27 ² The vehicle's spark plugs, spark plug wires, and fuel filter were new and had
28 approximately 48 miles of service on them when presented to the Respondent.

1 **NINTH CAUSE FOR DISCIPLINE**

2 **(Untrue or Misleading Statements)**

3 25. Respondent's registration is subject to discipline under Code section 9884.7(a)(1),
4 in that on or about November 9, 2011, regarding the 1994 Toyota Camry, Respondent made
5 statements which it knew or which by exercise of reasonable care should have known were untrue
6 or misleading, in the following respects:

7 a. Respondent falsely represented to the operator that the vehicle's fuel filter and
8 spark plugs needed to be replaced when, in fact, those repairs were not necessary.

9 b. Respondent falsely represented to the operator that the vehicle needed a fuel
10 injection service when, in fact, it did not.

11 c. Respondent falsely represented to the operator that the spark plugs installed were
12 the platinum type as invoiced when, in fact, they were not.

13 **TENTH CAUSE FOR DISCIPLINE**

14 **(Fraudulent Acts)**

15 26. Respondent's registration is subject to discipline under Code section 9884.7(a)(4),
16 in that on or about November 9, 2011, regarding the 1994 Toyota Camry, Respondent committed
17 acts which constitute fraud by receiving payment from the operator for repairs that had not been
18 performed, or were not necessary as follows:

19 a. Respondent unnecessarily sold the operator spark plugs, a fuel filter, and a fuel
20 injection service when, in fact, the only repairs necessary were the replacement of the number
21 four fuel injector and front disc brake pads.

22 b. Respondent failed to install platinum spark plugs as invoiced.

23 c. Respondent charged the operator to resurface the front brake rotors when, in fact,
24 that repair was not necessary.

25 **ELEVENTH CAUSE FOR DISCIPLINE**

26 **(Failure to Comply with Provisions of the Automotive Repair Act)**

27 27. Respondent's registration is subject to discipline under Code section 9884.7(a)(6),
28 in that on or about November 9, 2011, regarding the 1994 Toyota Camry, Respondent failed to

1 materially comply with Code section 9884.9, in that Respondent failed to provide the operator
2 with a written estimate for parts and labor for a specific job.

3 **TWELFTH CAUSE FOR DISCIPLINE**

4 **(Failure to Comply with Regulations Pursuant to the Automotive Repair Act)**

5 28. Respondent's registration is subject to discipline under Code section 9884.7(a)(6),
6 in that on or about November 9, 2011, regarding the 1994 Toyota Camry, Respondent failed to
7 comply with the following sections of the California Code of Regulations, title 16, section
8 3356(a)(2)(A), in that Respondent failed to describe all diagnostic work performed on Invoice
9 No. [REDACTED]

10 **UNDERCOVER OPERATION No. 4 - 1996 CHEVROLET CORSICA**

11 29. On or about February 7, 2012, a Bureau undercover operator drove a Bureau
12 documented 1996 Chevrolet Corsica to Respondent's facility for an inspection. The only repair
13 necessary was the replacement of the upper intake manifold plenum gasket. The operator arrived
14 at Respondent's facility and was greeted by a male employee named Brandon. The operator told
15 Brandon that the vehicle was running rough, the check engine light was on, and the vehicle was
16 stalling out. The operator provided Brandon a phone number and assumed name. Brandon
17 generated some paperwork and had the operator sign it. The operator noticed there was not an
18 amount listed on the paperwork. The operator was not provided a copy of the paperwork. Later
19 that day, the operator received a telephone call from Brandon, who gave the telephone to Lance.
20 Lance told the operator that the vehicle had a vacuum leak and the vehicle needed both intake
21 gaskets replaced (upper and lower), that it was a big job requiring removal of the valve covers
22 and adjustment of the valves, and would cost \$997. The operator authorized the repairs.

23 30. On or about February 10, 2012, the operator returned to Respondent's facility to
24 retrieve the vehicle. The operator paid \$1,039.29, signed Invoice No. [REDACTED] and received a
25 copy. As the operator was leaving the facility, the check engine light came on. The operator
26 returned to the facility and spoke with Lance. Lance told the operator the check engine light
27 came on because the vehicle's Exhaust Gas Recirculation (EGR) valve was defective. Lance
28 stated that after replacing the intake gaskets, the check engine light had come on so they checked

1 the code and found a code for the EGR valve. Lance stated that they removed the EGR valve,
2 cleaned the valve, cleared the code, and the code had not returned. Lance stated the check engine
3 light came back on because the EGR valve needed to be replaced to correct the check engine light
4 problem and would cost \$200.

5 31. On or about March 1, 2012, a Bureau representative reinspected the vehicle, using
6 Invoice No. [REDACTED] as a reference, and found the lower intake manifold gaskets were
7 unnecessarily replaced, the valves on the vehicle were not adjustable, and the check engine light
8 was on due to a disconnected connector for the purge solenoid for the fuel evaporative system,
9 not a defective EGR valve.

10 **THIRTEENTH CAUSE FOR DISCIPLINE**

11 **(Untrue or Misleading Statements)**

12 32. Respondent's registration is subject to discipline under Code section 9884.7(a)(1),
13 in that on or about February 7, 2012, regarding the 1996 Chevrolet Corsica, Respondent made
14 statements which it knew or which by exercise of reasonable care should have known were untrue
15 or misleading, in the following respects:

16 a. Respondent falsely represented to the operator that the vehicle's lower intake
17 manifold gaskets needed to be replaced when, in fact, that repair was not necessary.

18 b. Respondent falsely represented to the operator that the vehicle's valves needed to
19 be adjusted when, in fact, the valves were not adjustable.

20 c. Respondent falsely represented to the operator that the EGR valve was defective
21 when, in fact, it was not.

22 d. Respondent falsely represented to the operator that the EGR valve had been
23 cleaned when, in fact, it had not.

24 **FOURTEENTH CAUSE FOR DISCIPLINE**

25 **(Fraudulent Acts)**

26 33. Respondent's registration is subject to discipline under Code section 9884.7(a)(4),
27 in that on or about February 10, 2012, regarding the 1996 Chevrolet Corsica, Respondent
28 committed acts which constitute fraud by receiving payment from the operator for repairs that

1 were not necessary, in that Respondent unnecessarily replaced the lower intake manifold gaskets
2 when, in fact, the only repair necessary was the replacement of the upper intake manifold gaskets.

3 **FIFTEENTH CAUSE FOR DISCIPLINE**

4 **(Failure to Comply with Provisions of the Automotive Repair Act)**

5 34. Respondent's registration is subject to discipline under Code section 9884.7(a)(6),
6 in that on or about February 7, 2012, regarding the 1996 Chevrolet Corsica, Respondent failed to
7 materially comply with the following provisions of that Code:

8 a. **Section 9884.9:**

9 i. Respondent failed to provide the operator with a written estimate for parts
10 and labor for a specific job.

11 ii. Respondent failed to properly record additional authorization before
12 performing repairs that would exceed the original estimate.

13 **SIXTEENTH CAUSE FOR DISCIPLINE**

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

15 35. Respondent's registration is subject to discipline under Code section 9884.7(a)(3),
16 in that on or about February 7, 2012, regarding the 1996 Chevrolet Corsica, Respondent failed to
17 provide the operator with a copy of the estimate as soon as the operator signed it.

18 **OTHER MATTERS**

19 36. Pursuant to Code section 9884.7(c), the director may suspend, revoke, or place on
20 probation the registrations for all places of business operated in this state by Selem Investment
21 Capital LLC, doing business as Meineke Car Care Center, upon a finding that it has, or is,
22 engaged in a course of repeated and willful violation of the laws and regulations pertaining to an
23 automotive repair dealer.

24 **PRAYER**

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

27 1. Revoking or suspending Automotive Repair Dealer Registration No. ARD
28 256696, issued to Selem Investment Capital LLC, doing business as Meineke Car Care Center;

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2. Revoking or suspending any other automotive repair dealer registration issued to Selem Investment Capital LLC, doing business as Meineke Car Care Center;

3. Ordering Selem Investment Capital LLC, doing business as Meineke Car Care Center, to pay the Bureau of Automotive Repair the reasonable costs of the investigation and enforcement of this case, pursuant to Code section 125.3; and,

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

DATED: April 8, 2013 John Wallauch by Doug Balatti
JOHN WALLAUCH
Chief
Bureau of Automotive Repair
Department of Consumer Affairs
State of California
Complainant

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