

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

In the Matter of the Accusation Against:

ADVANCED TRANSMISSION & TOWING, INC.
dba ADVANCED TRANSMISSIONS
FIDEL VAZQUEZ, President
9565 Folsom Blvd., Unit A
Sacramento, CA 95827

Automotive Repair Dealer Registration
No. ARD 258789

Respondent.

Case No. 77/11-26

OAH No. 2011120881

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 10/18/12.

DATED: October 2, 2012



DOREATHEA JOHNSON
Deputy Director, Legal Affairs
Department of Consumer Affairs

1 KAMALA D. HARRIS
Attorney General of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 PATRICK M. KENADY
Deputy Attorney General
4 State Bar No. 050882
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7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

13 **ADVANCED TRANSMISSION & TOWING, INC.**
14 **dba ADVANCED TRANSMISSIONS**
15 **FIDEL VAZQUEZ, President**
9565 Folsom Blvd., Unit A
Sacramento, California 95827
16 **Automotive Repair Dealer Registration**
17 **No. ARD 258789**

18 Respondent.

Case No. 77/11-26

OAH No. 2011120881

STIPULATED SETTLEMENT
AND DISCIPLINARY ORDER

19
20 IT HIS HEREBY STIPULATED AND AGREED by and between the parties to the above-
21 entitled proceedings that the following matters are true.

22 PARTIES

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

27 ///

28 ///

1 effect, except for this paragraph, it shall be inadmissible in any legal action between the parties,
2 and the Director shall not be disqualified from further action by having considered this matter.

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

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

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

15 **DISCIPLINARY ORDER**

16 IT IS HEREBY ORDERED that Automotive Repair Dealer Registration No. ARD 258789
17 issued to Respondent Advanced Transmission & Towing, Inc., dba Advanced Transmissions;
18 Fidel Vazquez (Respondent) is revoked.

19 IT IS FURTHER ORDERED that Respondent shall pay the sum of \$19,781.23 for the cost
20 of investigation and enforcement at the time Respondent makes application for a new license or
21 registration from the Bureau. An application for reinstatement shall be considered an application
22 for a new registration and/or license. Respondent must meet all the current requirements for a
23 new license and or registration.

24 **ACCEPTANCE**

25 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
26 discussed it with my attorney, Douglas Randall Ensminger. I understand the stipulation and the
27 effect it will have on my Automotive Repair Dealer Registration. I enter into this Stipulated
28

1 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be
2 bound by the Decision and Order of the Director of Consumer Affairs.

3
4 DATED:

July 19, 2012

ADVANCED TRANSMISSION & TOWING, INC.,
DBA ADVANCED TRANSMISSIONS; FIDEL
VAZQUEZ, Respondent

7 I have read and fully discussed with Respondent Advanced Transmission & Towing, Inc.,
8 dba Advanced Transmissions; Fidel Vazquez the terms and conditions and other matters
9 contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and
10 content.

11
12 DATED:

7/19/12

Douglas Randall Ensminger
Attorney for Respondent

15 ENDORSEMENT

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

18 Dated:

July 20, 2012

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
ARTHUR D. TAGGART
Supervising Deputy Attorney General

PATRICK M. KENADY
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 77/11-26

1 KAMALA D. HARRIS
Attorney General of California
2 ARTHUR D. TAGGART
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3 PATRICK M. KENADY
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10 **FOR THE BUREAU OF AUTOMOTIVE REPAIR**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 77/11-26

13 **ADVANCED TRANSMISSION & TOWING, INC.**
14 **dba ADVANCED TRANSMISSIONS**
FIDEL VAZQUEZ, President
15 9565 Folsom Blvd., Unit A
Sacramento, California 95827

A C C U S A T I O N

16 **Automotive Repair Dealer Registration No. ARD**
17 **258789**

18 Respondent.

19
20 Sherry Mehl ("Complainant") alleges:

21 **PARTIES**

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

24 2. On or about July 15, 2009, the Bureau issued Automotive Repair Dealer Registration
25 Number ARD 258789 to Advanced Transmission & Towing, Inc., doing business as Advanced
26 Transmissions ("Respondent") with Fidel Vazquez as the President. The registration was in full
27 force and effect at all times relevant to the charges brought herein. The registration expired on
28 June 30, 2011, and has not been renewed.

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 6. 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
24 notation on the work order.

25 (2) Upon completion of the repairs, obtain the customer's signature or
26 initials 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.

7. Code section 9884.11 states:

Each automotive repair dealer shall maintain any records that are required
by regulations adopted to carry out this chapter [the Automotive Repair Act]. Those
records shall be open for reasonable inspection by the chief or other law enforcement
officials. All of those records shall be maintained for at least three years.

8. 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

1 against an automotive repair dealer or to render a decision invalidating a registration temporarily
2 or permanently.

3 9. Code section 498 states:

4 "A board may revoke, suspend, or otherwise restrict a license on the ground that the
5 licensee secured the license by fraud, deceit, or knowing misrepresentation of a material fact or
6 by knowingly omitting to state a material fact."

7 **REGULATORY PROVISIONS**

8 10. California Code of Regulations, title 16, section 3361.1(a) states, in pertinent part:

9 The following minimum requirements specifying accepted trade
10 standards for good and workmanlike rebuilding of automatic transmissions are
11 intended to define terms that have caused confusion to the public and unfair
12 competition within the automotive repair industry. The term "automatic transmission"
13 shall also apply to the automatic transmission portion of transaxles for the purposes of
14 this regulation, unless both the automatic transmission portion and the differential
15 portion of the transaxle share a common oil supply, in which case the term "automatic
16 transmission" shall apply to both portions of the transaxle. These minimum
17 requirements shall not be used to promote the sale of "rebuilt" automatic
18 transmissions when a less extensive and/or less costly repair is desired by the
19 customer. Any automotive repair dealer who represents to customers that the
20 following sections require the rebuilding of automatic transmissions is subject to the
21 sanctions prescribed by the Automotive Repair Act. All automotive repair dealers
22 engaged in the repair, sale, or installation of automatic transmissions in vehicles
23 covered under the Act shall be subject to the following minimum requirements:

24 (a) Before an automatic transmission is removed from a motor vehicle for
25 purposes of repair or rebuilding, it shall be inspected. Such inspection shall determine
26 whether or not the replacement or adjustment of any external part or parts will correct
27 the specific malfunction of the automatic transmission. In the case of an electronically
28 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.

29 ///

1 **COST RECOVERY**

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

6 **BACKGROUND INFORMATION**

7 12. On or about July 13, 2009, a Bureau representative, while conducting an
8 investigation, discovered that Respondent was performing repairs without a valid license. On that
9 same date, a Bureau representative drove to Respondent's facility and spoke with Arcadio Perez,
10 also known as Antonio Perez and Alex Perez ("Perez"). Perez told the Bureau representative that
11 he purchased Advanced Transmissions & Towing Inc. on June 24, 2009, and has been operating
12 the business and performing repairs since that date without a license.¹

13 **CONSUMER COMPLAINT NO. 1-1997 CHRYSLER TOWN & COUNTRY VAN**

14 13. On or about July 29, 2009, the Bureau received a consumer complaint from J.
15 Moberly ("consumer") regarding repairs to her 1997 Chrysler Town & Country van performed at
16 Respondent's facility on or about July 2, 2009. The consumer had her vehicle towed to
17 Respondent's facility because the transmission was slipping. Perez told the consumer that the
18 transmission needed to be overhauled at an estimated cost of \$1,200. The consumer authorized
19 the repairs.

20 14. On or about July 3, 2009, the consumer returned to Respondent's facility to
21 retrieve the vehicle. The repair price had increased to \$1,501.57 due to installation of an
22 additional part. The consumer paid Respondent for the repairs and left. After approximately 600
23 miles, the engine expired due to a catastrophic failure.

24 ///

25 _____
26 ¹ Perez previously held Automotive Repair Dealer Registration Number AE 227747,
27 which was revoked pursuant to Default Decision and Order in Accusation Number 77/06-23,
28 effective December 28, 2006. The revocation was based on the following: 1) Untrue or
misleading statements (Code section 9884.7(a)(1)); 2) Fraud (Code section 9884.7(a)(4)); and 3)
Failure to provide information as requested (Code section 9884.7(a)(6)/9884.11).

1 representative inspected the vehicle and found that the engine block was broken and the
2 alignment dowel was missing, which caused the transmission pump to fail. The Bureau
3 representative also concluded that Respondent failed to diagnose a defective transmission control
4 module.

5 **SECOND CAUSE FOR DISCIPLINE**

6 **(Departure from Trade Standards)**

7 19. Respondent's registration is subject to discipline under Code section 9884.7(a)(7),
8 in that Respondent willfully departed from or disregarded accepted trade standards for good and
9 workmanlike repair without the consent of the owner or the owner's duly authorized
10 representative in a material respect, as follows:

- 11 a. Respondent failed to conduct a proper external inspection of the transmission
12 pursuant to California Code of Regulations, title 16, section 3361.1(a).
- 13 b. Respondent failed to install the alignment dowel.
- 14 c. Respondent failed to diagnose a defective transmission control module.

15 **THIRD CAUSE FOR DISCIPLINE**

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

17 20. Respondent's registration is subject to discipline under Code section 9884.7(a)(6),
18 in that in or about July 2009, regarding the 1997 Dodge Caravan, Respondent failed to materially
19 comply with the following provisions of that Code:

- 20 a. **Section 9884.8:** Respondent failed to identify the parts on Invoice No. 348 as
21 new, used, reconditioned, or rebuilt.
- 22 b. **Section 9884.9(a):**
- 23 i. Respondent failed to provide the consumer with a written estimated price
24 for parts and labor for a specific job.
- 25 ii. Respondent failed to record the consumer's additional authorization for
26 repairs on Invoice No. 348.

27 ///

28 ///

1 October 6, 2009, or to return the vehicle to her and refund her down payment of \$2,500. On or
2 about October 10, 2009, Respondent towed the consumer's vehicle back to her home with the
3 transmission out of the vehicle and parts missing. Respondent reimbursed the consumer \$1,250.

4 23. On or about October 26, 2009, a Bureau investigator inspected the consumer's
5 vehicle and found that the transmission was not in the vehicle and the vehicle was missing the
6 transfer case, drive lines, all the internal parts, and the necessary bolts and brackets.

7 **FIFTH CAUSE FOR DISCIPLINE**

8 **(Unlicensed Activity)**

9 24. Respondent's registration is subject to discipline under Code section 9884.7(a)(6),
10 in that in or about June 2009, Respondent failed to comply with Code section 9884.6, by
11 performing repairs on the consumer's vehicle without a valid registration.

12 **CONSUMER COMPLAINT NO. 5 – 1992 GMC C3500 PICKUP TRUCK**

13 25. On or about November 10, 2009, the Bureau received a consumer complaint from
14 C. Pugh ("consumer") regarding repairs to his 1992 GMC C3500 pickup truck performed at
15 Respondent's facility. On or about August 3, 2009, the consumer took his vehicle to Respondent's
16 facility to have the transmission overhauled. Perez sold the consumer an upgraded transmission
17 (2000 model year 4x4 4L80E) for \$3,250. The consumer authorized the repairs and Respondent
18 completed the repairs. The consumer returned to Respondent's facility to retrieve his vehicle and
19 was not provided with an invoice.

20 26. Between August 2009 and September 21, 2009, the vehicle's overdrive failed five
21 times and had to be returned to Respondent's facility for repairs. The consumer did not receive
22 any invoices for any of the repairs performed, and only received two estimates. On or about
23 September 21, 2009, when the consumer picked up his vehicle from Respondent's facility, he
24 noticed that a different transmission (1996 model year) had been installed in his vehicle without
25 his knowledge or authorization. On or about November 16, 2009, a Bureau representative
26 inspected the consumer's vehicle and found that the transmission did not appear to be a 2000
27 model, the rear output shaft was leaking, and a bolt that holds the rear yolk to the output shaft was
28 loose. The Bureau representative advised the consumer not to drive the vehicle because it could

1 be dangerous due to the loose bolt. On November 17, 2009, a Bureau representative reinspected
2 the consumer's vehicle and found that the threads on the bolt and output shaft were damaged. On
3 December 2, 2009, the consumer contacted the Bureau representative and stated that his vehicle
4 would not shift out of first gear. On December 7, 2009, the Bureau representative contacted
5 Perez. Perez stated that he had removed the 2000 model year 4L80E transmission because he
6 could not get it to work properly, and installed a 1996 model year 4L80E transmission. In or
7 about December 2009, the consumer returned the vehicle to Respondent's facility because the
8 transmission failed. In or about January 2010, when the consumer retrieved his vehicle, he was
9 not provided with an invoice for the repairs.

10 SIXTH CAUSE FOR DISCIPLINE

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

12 27. Respondent's registration is subject to discipline under Code section 9884.7(a)(6),
13 in that regarding the 1992 GMC C3500 pickup truck, Respondent failed to materially comply
14 with the following provisions of that Code:

15 a. **Section 9884.8:** Respondent failed to provide the consumer with an invoice for
16 repairs performed on six occasions.

17 b. **Section 9884.9(a):**

18 i. Respondent failed to provide the consumer with a written estimated price
19 for parts and labor for a specific job on six occasions.

20 ii. Respondent failed to obtain the consumer's authorization to change the
21 method of repairs, in that Respondent removed the 2000 model year 4L80E transmission and
22 installed a 1996 model year 4L80E transmission.

23 CONSUMER COMPLAINT NO. 6 – 2006 DODGE 3500 PICKUP

24 28. On or about November 19, 2009, the Bureau received a consumer complaint from
25 M. Gergiannakis ("consumer") regarding repairs to his 2006 Dodge 3500 pickup performed at
26 Respondent's facility on or about September 17, 2009. The consumer took his vehicle to
27 Respondent's facility because the transmission was slipping. The consumer spoke with Perez,
28

1 who told him that the transmission needed to be rebuilt and would cost \$2,503.94. The consumer
2 authorized the repairs, but did not sign any documents or receive an estimate.

3 29. In or about September 2009, the consumer returned to Respondent's facility to
4 retrieve the vehicle. The consumer paid \$2,503.94. Three days later, the transmission started to
5 slip, would not shift gears, and did not have any engine braking. The consumer took the vehicle
6 back to Respondent's facility for warranty repairs. A few days later, the consumer returned to
7 Respondent's facility to retrieve the vehicle. The consumer was not provided with an invoice.
8 Days later, the transmission problems reoccurred. The consumer took the vehicle back to
9 Respondent's facility. The consumer did not sign any documents and was not provided with an
10 estimate. The consumer returned to Respondent's facility to retrieve the vehicle. The consumer
11 was not provided with an invoice.

12 30. On or about November 2, 2009, the transmission started to shift erratically, had no
13 engine braking, and would not reach freeway speeds. The consumer contacted the Respondent's
14 facility and spoke with Perez, who told him to take his vehicle to a dealer for a diagnosis of the
15 transmission. On that same day, the consumer took his vehicle to Elk Grove Dodge to have the
16 transmission diagnosed. Bryan Harris ("Harris"), an automotive technician at Elk Grove Dodge,
17 who performed the diagnosis on the consumer's vehicle's transmission, found that Respondent
18 failed to properly rebuild the transmission, in that it used the wrong parts. Harris stated that the
19 transmission needed to be rebuilt again in order to correct the damage. Elk Grove Dodge told the
20 consumer that the repairs would cost \$2,520.37. The consumer authorized the repairs.

21 31. On or about January 26, 2010, a Bureau representative inspected the parts that had
22 been removed from the consumer's vehicle by Harris and found that they were the wrong parts.

23 **SEVENTH CAUSE FOR DISCIPLINE**

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

25 32. Respondent's registration is subject to discipline under Code section 9884.7(a)(6),
26 in that on or about September 17, 2009, regarding the 2006 Dodge 3500 pickup truck,
27 Respondent failed to materially comply with the following provisions of that Code:

28 ///

1 a. **Section 9884.8:**

2 i. Respondent failed to provide the consumer with an invoice on two
3 occasions.

4 ii. Respondent failed to list the parts as new, used, reconditioned, or rebuilt on
5 Invoice No. 398.

6 b. **Section 9884.9(a):** Respondent failed to provide the consumer with a written
7 estimated price for parts and labor for a specific job on multiple occasions.

8 **EIGHTH CAUSE FOR DISCIPLINE**

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

10 33. Respondent's registration is subject to discipline under Code section 9884.7(a)(6),
11 in that it failed to comply with Code section 9884.11, when on or about January 13, 2010,
12 Respondent was unable to produce a copy of any work orders, estimates or invoices regarding
13 repairs to the consumer's vehicle when requested by a Bureau representative.

14 **CONSUMER COMPLAINT NO. 7 – 2002 ACURA TL**

15 34. On or about February 10, 2010, the Bureau received a consumer complaint from
16 N. Acosta regarding repairs to his wife's, B. McConnell's ("consumer"), 2002 Acura TL
17 performed at Respondent's facility. In approximately 2009, the consumer had her vehicle towed
18 to Respondent's facility for a diagnosis of the transmission. Respondent removed and tore down
19 the transmission. After about a month, Perez told the consumer that the transmission needed to
20 be rebuilt and that it would cost \$1,200. The consumer told Perez that the price was too high and
21 she wanted the vehicle towed back to her home. Perez towed the vehicle back to her home, but
22 failed to return the transmission. The consumer asked Perez where the transmission was and he
23 stated that he forgot it at the shop. The consumer tried for months to get the transmission back
24 from Respondent without success.

25 35. On or about November 15, 2009, Perez contacted the consumer and offered to
26 repair the transmission at a reduced cost. The consumer accepted Perez's offer and the vehicle
27 was towed back to Respondent's facility for repair.

28 ///

1 statements which he knew or which by exercise of reasonable care should have known were
2 untrue or misleading, in that Respondent documented on Estimate No. 395 dated
3 August 11, 2010, at 11:43 a.m. that the consumer authorized the repair of the fuel pump for \$180
4 when, in fact, it did not.

5 **THIRTEENTH CAUSE FOR DISCIPLINE**

6 **(Departure from Trade Standards)**

7 60. Respondent's registration is subject to discipline under Code section 9884.7(a)(7),
8 in that on or about August 9, 2010, regarding the 1979 Dodge Swinger, Respondent willfully
9 departed from or disregarded accepted trade standards for good and workmanlike repair without
10 the consent of the owner or the owner's duly authorized representative in a material respect, as
11 follows:

- 12 a. Respondent failed to install the drive line correctly resulting in it falling out on the
13 freeway.
- 14 b. Respondent taped the wire for the coach's water pump in the wiring harness and
15 failed to connect it.
- 16 c. Respondent failed to protect the wires from dirt and moisture.
- 17 d. Respondent failed to properly install the vacuum line on the carburetor.

18 **FOURTEENTH CAUSE FOR DISCIPLINE**

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

20 61. Respondent's registration is subject to discipline under Code section 9884.7(a)(6),
21 in that on or about August 9, 2010, regarding the 1979 Dodge Swinger, Respondent failed to
22 materially comply with the following provisions of that Code:

- 23 a. **Section 9884.8:**
- 24 i. Respondent failed to separately list the labor for the transmission repair,
25 fuel pump replacement, and carburetor overhaul.
- 26 ii. Respondent failed to provide an invoice for the carburetor replacement, the
27 drive line removal and installation, the pinion yoke removal and installation, the replacement of
28 the exhaust donut, and the repair to the wiring harness.

1 b. **Section 9884.9(a):**

2 i. Respondent failed to transfer the additional authorization or have the
3 acknowledgment signed on Invoice No. 395.

4 ii. Respondent failed to provide a written estimate for the carburetor
5 replacement, the drive line removal and installation, the pinion yoke removal and installation, the
6 replacement of the exhaust donut, and the repair to the wiring harness.

7 **UNDERCOVER OPERATION NO. 1 - 1997 CHEVROLET PICKUP TRUCK**

8 62. On or about June 16, 2010, a Bureau undercover operator ("operator") drove a
9 Bureau documented 1997 Chevrolet pickup truck to Respondent's facility. The only repair
10 necessary was replacement of a defective 2-3 shift solenoid. The operator was greeted by Perez.
11 The operator told Perez that he needed the vehicle's transmission diagnosed. The operator signed
12 an estimate for a no charge diagnostic check. A technician stated that it had a solenoid problem.
13 Perez stated that to remove the transmission pan it would cost \$55. Perez stated that if the
14 transmission solenoid is clogged, the transmission would need to be overhauled. Later that day,
15 Perez contacted the operator and stated that the transmission needed to be overhauled and would
16 cost \$1,260. The operator authorized the repairs.

17 63. On or about June 17, 2010, Perez contacted the operator and stated that the vehicle
18 was ready to be picked up. The operator returned to Respondent's facility to retrieve the vehicle
19 and paid \$1,330 for the repairs.

20 64. On or about June 21, 2010, a Bureau representative re-inspected the vehicle using
21 Invoice No. 294 as a reference. The inspection revealed that Respondent did not rebuild the
22 transmission as invoiced, but installed an exchange transmission. Respondent unnecessarily
23 exchanged the transmission and replaced the torque converter. Respondent failed to replace the
24 transmission case extension mental clad seal.

25 **FIFTEENTH CAUSE FOR DISCIPLINE**

26 **(Untrue or Misleading Statements)**

27 65. Respondent's registration is subject to discipline under Code section 9884.7(a)(1), in
28 that on or about June 16, 2010, regarding the 1997 Chevrolet pickup truck, Respondent made the

1 following statements which it knew or which by exercise of reasonable care should have been
2 known to be untrue or misleading:

3 a. Respondent falsely represented to the operator that the transmission needed to be
4 overhauled when, in fact, the only repair necessary was replacement of a defective 2-3 shift
5 solenoid.

6 b. Respondent falsely represented to the operator on Invoice No. 294 that the
7 transmission was overhauled when, in fact, it was exchanged.

8 **SIXTEENTH CAUSE FOR DISCIPLINE**

9 **(Fraudulent Acts)**

10 66. Respondent's registration is subject to discipline under Code section 9884.7(a)(4), in
11 that on or about June 16, 2010, regarding the 1997 Chevrolet pickup truck, Respondent
12 committed acts which constitute fraud by receiving payment from the operator for a transmission
13 overhaul that was not needed, nor had that repair been performed. Instead, the transmission was
14 exchanged.

15 **SEVENTEENTH CAUSE FOR DISCIPLINE**

16 **(Departure from Accepted Trade Standards)**

17 67. Respondent's registration is subject to discipline under Code section 9884.7(a)(7), in
18 that on or about June 16, 2010, regarding the 1997 Chevrolet pickup truck, Respondent willfully
19 departed from or disregarded accepted trade standards for good and workmanlike repair without
20 the consent of the owner or the owner's duly authorized representative, in that Respondent failed
21 to replace the transmission case extension metal clad seal.

22 **APPLICATION INFORMATION**

23 **EIGHTEENTH CAUSE FOR DISCIPLINE**

24 **(Fraud, Deceit, or Knowing Misrepresentation of a Material Fact)**

25 68. Respondent's registration is subject to discipline under Code section 498, in that it
26 secured its license by fraud, deceit, or knowing misrepresentation of a material fact or by
27 knowingly omitting to state a material fact, by representing to the Bureau on its Application for
28 Automotive Repair Dealer Registration dated June 17, 2009, that Fidel Vazquez was the only

1 Officer on the license when, in fact, the Statement of Information filed with the Secretary of State
2 reflects that Arcadio Perez (a revoked licensee) was the Chief Executive Officer and Nicole Perez
3 (Arcadio Perez's wife) was the Secretary of Advanced Transmissions and Towing, Inc.

4 **OTHER MATTERS**

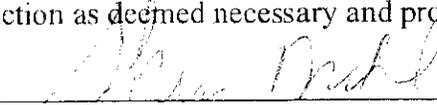
5 69. Pursuant to Code section 9884.7(c), the director may suspend, revoke, or place on
6 probation the registrations for all places of business operated in this state by Advanced
7 Transmission & Towing, Inc., doing business as Advanced Transmissions, upon a finding that it
8 has, or is, engaged in a course of repeated and willful violation of the laws and regulations
9 pertaining to an automotive repair dealer.

10 **PRAYER**

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

- 13 1. Revoking or suspending Automotive Repair Dealer Registration No. ARD
14 258789, issued to Advanced Transmission & Towing, Inc., doing business as Advanced
15 Transmissions;
- 16 2. Revoking or suspending any other automotive repair dealer registration issued to
17 Advanced Transmission & Towing, Inc., doing business as Advanced Transmissions;
- 18 3. Ordering Advanced Transmission & Towing, Inc., doing business as Advanced
19 Transmissions to pay the Bureau of Automotive Repair the reasonable costs of the investigation
20 and enforcement of this case, pursuant to Code section 125.3; and,
- 21 4. Taking such other and further action as deemed necessary and proper.

22 DATED: 11/9/11


23 SHERRY MEHL,
24 Chief
25 Bureau of Automotive Repair
26 Department of Consumer Affairs
27 State of California
28 *Complainant*

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