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

11 In the Matter of the Accusation Against:  
12 **BROOKS PERFORMANCE,**  
13 **dba BROOKS PERFORMANCE AND MACHINE**  
14 **CINDY BROOKS, PRES./TREAS.**  
15 **MITCHELL BROOKS, V.P./SECTY**  
**3180 S. Parkway Drive**  
**Fresno, CA 93725**  
16 **Automotive Repair Dealer Reg. No. ARD 267691**  
17 Respondent.

Case No. 177/15-12

**A C C U S A T I O N**

18  
19 Complainant alleges:

20 **PARTIES**

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

23 2. On or about January 11, 2012, the Director of Consumer Affairs ("Director") issued  
24 Automotive Repair Dealer Registration Number ARD 267691 to Brooks Performance  
25 ("Respondent"), doing business as Fresno Performance/Acc Engine, with Cindy Brooks as  
26 president and treasurer and Mitchell Brooks as vice president and secretary. On or about  
27 February 18, 2013, Respondent's business name was changed to Brooks Performance and

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1 Machine. Respondent's automotive repair dealer registration expired on January 31, 2014, and  
2 has not been renewed.

3 **JURISDICTION**

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

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

10 **STATUTORY AND REGULATORY PROVISIONS**

11 5. Code section 9884.7 states, in pertinent part:

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

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

21 . . . .

22 (4) Any other conduct that constitutes fraud.

23 . . . .

24 (6) Failure in any material respect to comply with the provisions of this  
25 chapter or regulations adopted pursuant to it . . .

26 6. Code section 9884.7, subdivision (c), states, in pertinent part, that the Director may  
27 suspend, revoke, or place on probation the registration for all places of business operated in this  
28 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.

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1 7. Code section 9884.9, subdivision (a), states, in pertinent part:

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

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

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

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

16 10. California Code of Regulations, title 16, section ("Regulation") 3356 states, in  
17 pertinent part:

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

20 (1) The invoice shall show the automotive repair dealer's registration  
21 number and the corresponding business name and address as shown in the Bureau's  
22 records . . .

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

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

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

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

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

2 11. Regulation 3373 states:

3 No automotive repair dealer or individual in charge shall, in filling out an  
4 estimate, invoice, or work order, or record required to be maintained by section  
5 3340.15(f) of this chapter, withhold therefrom or insert therein any statement or  
6 information which will cause any such document to be false or misleading, or where  
7 the tendency or effect thereby would be to mislead or deceive customers, prospective  
8 customers, or the public.

9 **COST RECOVERY**

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

14 **CONSUMER COMPLAINT (K. S.): 1971 DODGE DUSTER**

15 13. On or about March 12, 2012, K. S., who was in the United States Navy, took the  
16 engine from his 1971 Dodge Duster to Respondent's facility to have it rebuilt. In and between  
17 April and June 2012, K. S. paid the facility a total of \$2,710.40.

18 14. In or about September 2012, K. S. went on deployment. When K. S. returned, he  
19 contacted the facility to check on the status of the repairs. The facility would not return K. S.'s  
20 call(s). Later, K. S. went to the facility and found that it was closed.

21 15. On or about June 25, 2013, K. S. filed a complaint with the Bureau.

22 16. On or about July 2, 2013, K. S. spoke with Mitchell Brooks and was informed that his  
23 engine had been taken to Allegiance Auto Machine ("Allegiance") in Fresno. K. S. went to  
24 Allegiance to pick up the engine. The engine had been disassembled, but it did not appear that  
25 any work had been performed. K. S. returned to Respondent's facility and was given all of the  
26 other engine parts except the flywheel.

27 17. On or about July 3, 2013, a Bureau representative met with K. S. and inspected the  
28 engine. There was no indication that any repairs had been performed on the unit.

18. On or about July 9, 2013, the representative went to the facility and met with Cindy  
and Mitchell Brooks. Mitchell Brooks ("M. Brooks") claimed that they did not start the work

1 until K. S. returned from deployment because they did not want the engine to sit and rust at the  
2 facility. M. Brooks also claimed that the repairs had been under-quoted by a former employee,  
3 that the work would now cost more than \$2,710.40, and that the Brooks did not have the money  
4 to start the engine rebuild.

5 19. On or about July 10, 2013, the representative returned to the facility and obtained  
6 copies of K. S.'s service file, including Service Order #181 dated March 13, 2012. The service  
7 order showed that K. S. had authorized the facility to tear down (disassemble) and inspect the  
8 engine for \$100. The representative recommended that the facility issue K. S. a refund of his  
9 \$2,610.40. M. Brooks again claimed that they did not have the money, and refused to issue K. S.  
10 a refund.

11 **FIRST CAUSE FOR DISCIPLINE**

12 **(Fraud)**

13 20. Respondent is subject to disciplinary action pursuant to Code section 9884.7,  
14 subdivision (a)(4), in that Respondent committed acts constituting fraud, as follows: After  
15 obtaining \$2,710.40 from K. S. for the rebuilding of the engine on his 1971 Dodge Duster,  
16 Respondent, through its automotive technicians, employees, or officers, including Mitchell and  
17 Cindy Brooks, failed to perform any of the work, with the exception of the teardown and  
18 inspection, failed to refund any portion of the \$2,710.40 to K. S., and misappropriated or diverted  
19 K. S.'s money.

20 **SECOND CAUSE FOR DISCIPLINE**

21 **(Failure to Comply with the Code)**

22 21. Respondent is subject to disciplinary action pursuant to Code section 9884.7,  
23 subdivision (a)(6), in that Respondent failed to comply with section 9884.9, subdivision (a), of  
24 that Code in a material respect, as follows: Respondent failed to document on Service Order  
25 #181 K. S.'s authorization for the \$2,610.40 in additional repairs, i.e., the rebuilding of the  
26 engine.

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CONSUMER COMPLAINT (N. B.): 1992 FORD MUSTANG

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2           22.     In or about February 2011, N. B. took his 1992 Ford Mustang to Fresno  
3 Performance/Ace Engine and Machine (“Fresno Performance”) to have a General Motors LS1  
4 engine installed in the vehicle. The engine was to be machined to a size of 383 cubic inches with  
5 a manual transmission, turbo charger, and intercooler installed.

6           23.     While the vehicle was under repair at Fresno Performance, the owner sold the  
7 business to Cindy and Mitchell Brooks. The Brooks agreed to continue the work and to have it  
8 completed by August 6, 2012. N. B. made several payments to the Brooks and authorized them  
9 to sell the original seats on the vehicle for a credit of \$100. The Brooks did not finish the work  
10 by August 6, 2012 as promised. N. B. was informed that the engine installation had not been  
11 completed, the vehicle could not be driven, and the facility was closing.

12           24.     On or about June 26, 2013, N. B. filed a complaint with the Bureau.

13           25.     On or about July 1, 2013, Bureau Representative R. G. inspected the vehicle and  
14 determined that Respondent Brooks Performance had built and installed a roll cage, and had  
15 installed the engine, transmission, front engine/cross member adapter for set up or mock up, the  
16 sub frame connectors and five lug wheel conversion. The engine compartment wiring harness  
17 and interior had also been removed.

18           26.     On or about July 9, 2013, R. G. and Bureau Representative W. T. met with the  
19 Brooks at the Bureau’s Fresno Field Office. The Brooks provided the representatives with copies  
20 of their repair records on the vehicle, including Service Order #251 dated May 21, 2012 and  
21 Invoice #590 dated February 14, 2013. The Brooks confirmed that the repairs had been started by  
22 the previous owner and that Brooks Performance had agreed to take over the work. The Brooks  
23 claimed that they were unable to continue working on the vehicle. R. G. asked the Brooks when  
24 they would be returning the vehicle and parts to N. B. and refunding his money. The Brooks  
25 claimed that they did not have N. B.’s money and were closing the facility. Later, the Brooks  
26 admitted that they placed all of their customers’ money into a common fund, and took money  
27 paid by one customer and used or applied it toward the repair of a different customer’s vehicle.  
28 The Brooks also used their customers’ money to pay for the facility’s general operations. The

1 representatives reviewed the repair records and found that N. B. had paid Brooks Performance  
2 approximately \$14,500. R. G. inspected the vehicle using Invoice #590 for comparison and  
3 found that Brooks Performance failed to perform approximately \$12,938.95 in repairs on the  
4 vehicle.

5 **THIRD CAUSE FOR DISCIPLINE**

6 **(Untrue or Misleading Statements)**

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

10 a. Respondent represented on the invoice that a custom wiring harness was supplied or  
11 installed on N. B.'s 1992 Ford Mustang. In fact, that part was not supplied or installed on the  
12 vehicle.

13 b. Respondent represented on the invoice that hoses, oil, water, and miscellaneous parts  
14 (required for the engine operation) were supplied or installed on N. B.'s 1992 Ford Mustang. In  
15 fact, none of those parts were supplied or installed on the vehicle.

16 c. Respondent represented on the invoice that a "Be Cool" radiator was supplied or  
17 installed on N. B.'s 1992 Ford Mustang. In fact, that part was not supplied or installed on the  
18 vehicle.

19 d. Respondent represented on the invoice that a used electric fan was supplied or  
20 installed on N. B.'s 1992 Ford Mustang. In fact, that part was not supplied or installed on the  
21 vehicle.

22 e. Respondent represented on the invoice that a flex-a-lite fan switch was supplied or  
23 installed on N. B.'s 1992 Ford Mustang. In fact, that part was not supplied or installed on the  
24 vehicle.

25 f. Respondent represented on the invoice that GM performance sensors were supplied  
26 or installed on N. B.'s 1992 Ford Mustang. In fact, those parts were not supplied or installed on  
27 the vehicle.

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1 g. Respondent represented on the invoice that a Bosch fuel injector was supplied or  
2 installed on N. B.'s 1992 Ford Mustang. In fact, that part was not supplied or installed on the  
3 vehicle.

4 h. Respondent represented on the invoice that a small block Chevy power steering  
5 pulley was supplied or installed on N. B.'s 1992 Ford Mustang. In fact, that part was not supplied  
6 or installed on the vehicle.

7 i. Respondent represented on the invoice that a GM performance starter was supplied or  
8 installed on N. B.'s 1992 Ford Mustang. In fact, that part was not supplied or installed on the  
9 vehicle.

10 j. Respondent represented on the invoice that used coil packs were supplied or installed  
11 on N. B.'s 1992 Ford Mustang. In fact, those parts were not supplied or installed on the vehicle.

12 k. Respondent represented on the invoice that a thermostat was supplied or installed on  
13 N. B.'s 1992 Ford Mustang. In fact, that part was not supplied or installed on the vehicle.

14 l. Respondent represented on the invoice that a custom made throttle cable was supplied  
15 or installed on N. B.'s 1992 Ford Mustang. In fact, that part was not supplied or installed on the  
16 vehicle.

17 m. Respondent represented on the invoice that a battery relocation kit was supplied or  
18 installed on N. B.'s 1992 Ford Mustang. In fact, a battery relocation kit was not supplied or  
19 installed on the vehicle.

20 n. Respondent represented on the invoice that a custom made fuel system was supplied  
21 or installed on N. B.'s 1992 Ford Mustang. In fact, a custom made fuel system was not supplied  
22 or installed on the vehicle.

23 o. Respondent represented on the invoice that a custom built exhaust system was  
24 supplied or installed on N. B.'s 1992 Ford Mustang. In fact, a custom built exhaust system was  
25 not supplied or installed on the vehicle.

26 p. Respondent represented on the invoice that a custom built intake system was supplied  
27 or installed on N. B.'s 1992 Ford Mustang. In fact, a custom built intake system was not supplied  
28 or installed on the vehicle.



1 q. Respondent represented on the invoice that a Turbonetics Turbo kit for an LS1 Fox  
2 Conversion; i.e., turbo charger, was supplied or installed on N. B.'s 1992 Ford Mustang. In fact,  
3 a turbo charger was not been supplied or installed on the vehicle.

4 **FOURTH CAUSE FOR DISCIPLINE**

5 **(Fraud)**

6 28. Respondent is subject to disciplinary action pursuant to Code section 9884.7,  
7 subdivision (a)(4), in that Respondent committed acts constituting fraud, as follows:

8 a. Respondent obtained payment from N. B. for supplying or installing a custom wiring  
9 harness on N. B.'s 1992 Ford Mustang. In fact, that part was not supplied or installed on the  
10 vehicle.

11 b. Respondent obtained payment from N. B. for supplying or installing hoses, oil, water,  
12 and miscellaneous parts (required for the engine operation) on N. B.'s 1992 Ford Mustang. In  
13 fact, none of those parts were supplied or installed on the vehicle.

14 c. Respondent obtained payment from N. B. for supplying or installing a "Be Cool"  
15 radiator on N. B.'s 1992 Ford Mustang. In fact, that part was not supplied or installed on the  
16 vehicle.

17 d. Respondent obtained payment from N. B. for supplying or installing a used electric  
18 fan on N. B.'s 1992 Ford Mustang. In fact, that part was not supplied or installed on the vehicle.

19 e. Respondent obtained payment from N. B. for supplying or installing a flex-a-lite fan  
20 switch on N. B.'s 1992 Ford Mustang. In fact, that part was not supplied or installed on the  
21 vehicle.

22 f. Respondent obtained payment from N. B. for supplying or installing GM  
23 performance sensors on N. B.'s 1992 Ford Mustang. In fact, those parts were not supplied or  
24 installed on the vehicle.

25 g. Respondent obtained payment from N. B. for supplying or installing a Bosch fuel  
26 injector on N. B.'s 1992 Ford Mustang. In fact, that part was not supplied or installed on the  
27 vehicle.

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1           h.     Respondent obtained payment from N. B. for supplying or installing a small block  
2 Chevy power steering pulley on N. B.'s 1992 Ford Mustang. In fact, that part was not supplied or  
3 installed on the vehicle.

4           i.     Respondent obtained payment from N. B. for supplying or installing a GM  
5 performance starter on N. B.'s 1992 Ford Mustang. In fact, that part was not supplied or installed  
6 on the vehicle.

7           j.     Respondent obtained payment from N. B. for supplying or installing used coil packs  
8 on N. B.'s 1992 Ford Mustang. In fact, those parts were not supplied or installed on the vehicle.

9           k.     Respondent obtained payment from N. B. for supplying or installing a thermostat on  
10 N. B.'s 1992 Ford Mustang. In fact, that part was not supplied or installed on the vehicle.

11          l.     Respondent obtained payment from N. B. for supplying or installing a custom made  
12 throttle cable on N. B.'s 1992 Ford Mustang. In fact, that part was not supplied or installed on the  
13 vehicle.

14          m.     Respondent obtained payment from N. B. for supplying or installing a battery  
15 relocation kit on N. B.'s 1992 Ford Mustang. In fact, a battery relocation kit was not supplied or  
16 installed on the vehicle.

17          n.     Respondent obtained payment from N. B. for supplying or installing a custom made  
18 fuel system on N. B.'s 1992 Ford Mustang. In fact, a custom made fuel system was not supplied  
19 or installed on the vehicle.

20          o.     Respondent obtained payment from N. B. for supplying or installing a custom built  
21 exhaust system on N. B.'s 1992 Ford Mustang. In fact, a custom built exhaust system was not  
22 supplied or installed on the vehicle.

23          p.     Respondent obtained payment from N. B. for supplying or installing a custom built  
24 intake system on N. B.'s 1992 Ford Mustang. In fact, a custom built intake system was not  
25 supplied or installed on the vehicle.

26          q.     Respondent obtained payment from N. B. for supplying or installing a Turbonetics  
27 Turbo kit for an LS1 Fox Conversion; i.e., turbo charger, on N. B.'s 1992 Ford Mustang. In fact,  
28 a turbo charger was not been supplied or installed on the vehicle.

1 FIFTH CAUSE FOR DISCIPLINE

2 (Failure to Comply with the Code)

3 29. Respondent is subject to disciplinary action pursuant to Code section 9884.7,  
4 subdivision (a)(6), in that Respondent failed to comply with section 9884.9, subdivision (a), of  
5 that Code in a material respect, as follows: Respondent failed to specify on Service Order #251  
6 the parts and/or labor that were included in the repairs described as "general service . . . install  
7 LS1 with customers new cross member" and "general service: custom wire harness".

8 SIXTH CAUSE FOR DISCIPLINE

9 (Failure to Comply with Regulations)

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

13 a. Subdivision (a)(1): Respondent failed to show its automotive repair dealer  
14 registration number on the invoice or its correct business name (the business name was listed as  
15 Brooks Performance rather than Brooks Performance, doing business as Fresno Performance/Acc  
16 Engine).

17 b. Subdivision (a)(2)(A): Respondent failed to list, describe or identify on the invoice  
18 all service and repair work performed on N. B.'s 1992 Ford Mustang.

19 c. Subdivision (a)(2)(B): Respondent failed to state on the invoice whether the parts  
20 installed or supplied on N. B.'s 1992 Ford Mustang were new, used, reconditioned, or rebuilt.

21 d. Subdivisions (a)(2)(C) and (D): Respondent failed to show on the invoice the  
22 subtotal prices for all service and repair work performed and all parts supplied on N. B.'s 1992  
23 Ford Mustang.

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1                                    **CONSUMER COMPLAINT (C. C.): 1979 CHEVROLET CAMARO**

2            31. Complainant incorporates by reference as though fully set forth herein the allegations  
3 contained in paragraph 26 above.

4            32. In or about September 2013, C. C. filed a complaint with the Bureau, stating that he  
5 paid Respondent's facility \$10,000 to have the engine and transmission converted or rebuilt on  
6 his 1979 Chevrolet Camaro and that the facility failed to perform any of the work with the  
7 exception of "one dyno run". C. C. also stated that he picked up the vehicle when the facility  
8 went out of business and that they had failed to refund him any of his money. C. C. provided the  
9 Bureau with documentation showing that he paid the facility a total of \$9,500 between October  
10 2012 and March 2013.

11           33. On or about October 2, 2013, Bureau Representative R. G. met with the Brooks. M.  
12 Brooks stated that the engine on C. C.'s 1979 Chevrolet Camaro was to be rebuilt and installed in  
13 another vehicle (a 2001 Chevrolet Camaro). M. Brooks claimed that C. C. signed over his 1999  
14 Chevrolet Camaro to the Brooks in exchange for credit, and that the credit was to be applied  
15 towards other repairs. M. Brooks stated that C. C. later brought them the 2001 Chevrolet  
16 Camaro. M. Brooks admitted that they failed to perform all of the work on the vehicles and owed  
17 C. C. a refund.

18           34. On or about October 7, 2013, M. Brooks provided the Bureau with copies of their  
19 repair records on the vehicle, including Invoice #714 dated May 6, 2013, pertaining to repairs  
20 performed on the 1979 Chevrolet Camaro. The documents showed that C. C. was issued a credit  
21 of \$500 for the 1979 Chevrolet Camaro, that a total of \$3,196.47 in repairs had been performed  
22 on behalf of C. C., and that C. C. had a credit of \$4,635.29 remaining on his account.

23                                    **SEVENTH CAUSE FOR DISCIPLINE**

24                                    **(Fraud)**

25           35. Respondent is subject to disciplinary action pursuant to Code section 9884.7,  
26 subdivision (a)(4), in that Respondent committed acts constituting fraud, as follows: After  
27 obtaining \$9,500 from C. C. for the repair of his vehicles and issuing him a credit of \$500,

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1 Respondent, through its automotive technicians, employees, or officers, including Mitchell and  
2 Cindy Brooks, failed to complete the work, failed to refund any portion of the \$4,635.29 to  
3 C. C.'s account, and misappropriated or diverted C. C.'s money.

4 **EIGHTH CAUSE FOR DISCIPLINE**

5 **(Failure to Comply with Regulations)**

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

9 a. **Subdivision (a)(1)**: Respondent failed to show its automotive repair dealer  
10 registration number on the invoice or its correct business name (the business name was listed as  
11 Brooks Performance rather than Brooks Performance, doing business as Brooks Performance and  
12 Machine).

13 b. **Subdivision (a)(2)(A)**: Respondent failed to list, describe or identify on the invoice  
14 all service and repair work performed on the 1979 Chevrolet Camaro (Respondent listed the parts  
15 supplied on the vehicle, but not the related repairs).

16 c. **Subdivision (a)(2)(B)**: Respondent failed to state on the invoice whether the parts  
17 supplied on the 1979 Chevrolet Camaro were new, used, reconditioned, or rebuilt.

18 d. **Subdivisions (a)(2)(C) and (D)**: Respondent failed to show on the invoice the  
19 subtotal prices for all service and repair work performed and all parts supplied on the 1979  
20 Chevrolet Camaro.

21 **CONSUMER COMPLAINT (K. C.): 1997 PONTIAC TRANS AM**

22 37. Complainant incorporates by reference as though fully set forth herein the allegations  
23 contained in paragraph 26 above.

24 38. On or about May 26, 2012, K. C., Jr., a United States Marine, took his 1997 Pontiac  
25 Trans Am to Respondent's facility to have the existing engine replaced with a custom built  
26 performance engine. K. C., Jr. was subsequently deployed.

27 39. In or about October 2013, K. C., Sr. filed a complaint with the Bureau, stating, in  
28 substance, as follows: K. C., Sr. and his son were co-owners of the vehicle. M. Brooks told

1 K. C., Sr. and his son that it would cost over \$18,000 to perform the above work, and requested  
2 half of the money up front. K. C., Sr. and his son approved the estimate price and paid M. Brooks  
3 a total of \$10,000 in May 2012. In or about July 2013, K. C., Sr. went to the facility to make  
4 another payment. K. C., Sr. found the door locked and saw a note on the door, indicating that the  
5 facility's customers needed to retrieve their vehicles from the shop on July 11, 2013. Later,  
6 K. C., Sr. met with M. Brooks and asked him where the new engine and parts were for the  
7 vehicle. M. Brooks said, "I owe you and your son about \$15,000", or words to that effect. K. C.,  
8 Sr. had the vehicle towed from the facility. The original engine was returned to K. C., Sr.;  
9 however, the oil pan, a valve cover, and one of the head bolts had been removed.

10 40. On or about November 6, 2013, Bureau Representative R. G. inspected the vehicle  
11 and found that the engine and all accessory drives had been removed in addition to the  
12 transmission and cooling system. K. C., Sr. provided R. G. with copies of various documents he  
13 had received from the facility, including Estimate #286 dated May 26, 2012, Invoice #636 dated  
14 March 12, 2013, and a handwritten note dated July 18, 2013, signed by Cindy Brooks. The  
15 documents showed that between May 2012 and June 2013, K. C., Sr. and/or his son paid the  
16 facility a total of \$14,185.

17 41. On or about November 14, 2013, R. G. met with the Brooks and informed them that  
18 he had inspected the vehicle, and found that the engine, transmission, and all under hood  
19 components had been removed, but no other work had been performed. M. Brooks claimed that  
20 they had ordered most of the parts, including the cylinder heads, crankshaft, rods, and pistons, but  
21 diverted the parts to other vehicles since K. C., Jr. was on deployment. R. G. showed the Brooks  
22 the note identified in paragraph 40 above. The note indicated that the Brooks had deducted  
23 \$1,000 from K. C., Sr. and his son's account for the removal of the old engine, leaving a net  
24 credit of \$13,185. The Brooks agreed they owed K. C., Sr. and his son \$13,185. R. G. told the  
25 Brooks that based upon his inspection of the vehicle, he had determined that none of the repairs  
26 listed on the invoice had been performed and/or completed. The Brooks refused to refund K. C.,  
27 Sr. and his son any money.

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1 **NINTH CAUSE FOR DISCIPLINE**

2 **(Untrue or Misleading Statements)**

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

6 Respondent represented on Invoice #636 that certain parts were supplied or installed on K. C.,  
7 Sr.'s and K. C., Jr.'s 1997 Pontiac Trans Am, including, but not limited to, CNC heads, cylinder  
8 head studs, push rods, a Texas Speed Rumbler Bullet True Dual, a connecting rod, Texas Speed  
9 Long Tube LSI headers, a front crank seal, a South Bend clutch, Manley Performance non-twist  
10 forgings, a water pump gasket, a rear main seal housing, a rear main seal, an oil pan gasket, 4  
11 custom camshafts, an axle assembly, a cylinder head gasket, a cable driven throttle body, an  
12 exhaust manifold gasket, an oil pump, an intake manifold, and/or a valley cover gasket. In fact,  
13 none of those parts were supplied or installed on the vehicle.

14 **TENTH CAUSE FOR DISCIPLINE**

15 **(Fraud)**

16 43. Respondent is subject to disciplinary action pursuant to Code section 9884.7,  
17 subdivision (a)(4), in that Respondent committed acts constituting fraud, as follows:

18 a. After obtaining \$14,185 from K. C., Sr. and/or K. C., Jr. for the installation of a  
19 custom built performance engine in their 1997 Pontiac Trans Am, Respondent, through its  
20 automotive technicians, employees, or officers, including Mitchell and Cindy Brooks, failed to  
21 complete the work, failed to refund K. C., Sr. and/or K. C., Jr. any portion of the \$13,185  
22 remaining on their account, and misappropriated or diverted K. C., Sr.'s and/or K. C., Jr.'s  
23 money.

24 b. Respondent's officers, Mitchell and Cindy Brooks, diverted parts that they had  
25 purchased for K. C., Sr.'s and K. C., Jr.'s 1997 Pontiac Trans Am to other consumers' vehicles,  
26 as set forth in paragraph 41 above.

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1 **ELEVENTH CAUSE FOR DISCIPLINE**

2 **(Failure to Comply with the Code)**

3 44. Respondent is subject to disciplinary action pursuant to Code section 9884.7,  
4 subdivision (a)(6), in that Respondent failed to comply with section 9884.9, subdivision (a), of  
5 that Code in a material respect, as follows: Respondent failed to specify on Estimate #286 the  
6 parts and/or labor that were included in the repairs described as “machine: machine pkg”,  
7 “machine: engine balancing”, “machine: engine assembly”, and “4 custom camshaft intake design  
8 #3729 exhaust design #3732”.

9 **TWELFTH CAUSE FOR DISCIPLINE**

10 **(Failure to Comply with Regulations)**

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

14 a. **Subdivision (a)(1)**: Respondent failed to show its automotive repair dealer  
15 registration number on the invoice or its correct business name (the business name was listed as  
16 Brooks Performance rather than Brooks Performance, doing business as Brooks Performance and  
17 Machine).

18 b. **Subdivision (a)(2)(A)**: Respondent failed to list, describe or identify on the invoice  
19 all service and repair work performed on the 1997 Pontiac Trans Am.

20 c. **Subdivision (a)(2)(B)**: Respondent failed to state on the invoice whether the parts  
21 supplied on the 1997 Pontiac Trans Am were new, used, reconditioned, or rebuilt.

22 d. **Subdivisions (a)(2)(C) and (D)**: Respondent failed to show on the invoice the  
23 subtotal prices for all service and repair work performed and all parts supplied on the 1997  
24 Pontiac Trans Am.

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1 OTHER MATTERS

2 46. Pursuant to Code section 9884.7, subdivision (c), the Director may suspend, revoke,  
3 or place on probation the registration for all places of business operated in this state by  
4 Respondent Brooks Performance, doing business as Brooks Performance and Machine, upon a  
5 finding that Respondent has, or is, engaged in a course of repeated and willful violations of the  
6 laws and regulations pertaining to an automotive repair dealer.

7 PRAYER

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

- 10 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
- 11 267691, issued to Brooks Performance, doing business as Brooks Performance and Machine;
- 12 2. Ordering Brooks Performance, doing business as Brooks Performance and Machine,
- 13 to pay the Director of Consumer Affairs the reasonable costs of the investigation and enforcement
- 14 of this case, pursuant to Business and Professions Code section 125.3;
- 15 3. Taking such other and further action as deemed necessary and proper.

16 DATED: *August 26, 2014*

*Patrick Dorais*

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

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