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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:

Case No. 77/06-70

13 **W. B. TRANSMISSIONS, INC.,**
dba TOP QUALITY TRANSMISSIONS
14 **WALEED ASAD BILLEH, President**
23930 Sunnymead Blvd., #A
15 Moreno Valley, CA 92553

A C C U S A T I O N

16 Automotive Repair Dealer Reg. No. AB 220240
Smog Check Station License No. RB 220240

17 Respondent.
18

19 Complainant alleges:

20 **PARTIES**

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

24 **Automotive Repair Dealer Reg. No. AB 220240**

25 2. On or about March 8, 2002, the Director of Consumer Affairs ("Director")
26 issued Automotive Repair Dealer Registration Number AB 220240 to W. B. Transmissions, Inc.
27 ("Respondent"), doing business as Top Quality Transmissions, with Waleed Asad Billeh as
28 president. Respondent's automotive repair dealer registration expired on February 28, 2006.

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

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

5 (4) Any other conduct which constitutes fraud.
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7 (6) Failure in any material respect to comply with the provisions of this
chapter or regulations adopted pursuant to it.

8 (7) Any willful departure from or disregard of accepted trade standards for
9 good and workmanlike repair in any material respect, which is prejudicial to
another without consent of the owner or his or her duly authorized
representative.
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11 (9) Having repair work done by someone other than the dealer or his or her
12 employees without the knowledge or consent of the customer unless the dealer
can demonstrate that the customer could not reasonably have been notified . . .
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14 9. Bus. & Prof. Code section 9884.7, subdivision (c), states, in pertinent part,
15 that the Director may refuse to validate, or may invalidate temporarily or permanently, the
16 registration for all places of business operated in this state by an automotive repair dealer upon a
17 finding that the automotive repair dealer has, or is, engaged in a course of repeated and willful
18 violations of the laws and regulations pertaining to an automotive repair dealer.

19 10. Bus. & Prof. Code section 9884.8 states, in pertinent part:

20 All work done by an automotive repair dealer, including all warranty
21 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
22 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,
23 if any, applicable to each . . .

24 11. Bus. & Prof. Code section 9884.9, subdivision (a), states, in pertinent part:

25 The automotive repair dealer shall give to the customer a written estimated
26 price for labor and parts necessary for a specific job. No work shall be done and
no charges shall accrue before authorization to proceed is obtained from the
27 customer. No charge shall be made for work done or parts supplied in excess of
the estimated price without the oral or written consent of the customer that shall
28 be obtained at some time after it is determined that the estimated price is
insufficient and before the work not estimated is done or the parts not estimated

1 are supplied. Written consent or authorization for an increase in the original
2 estimated price may be provided by electronic mail or facsimile transmission from
3 the customer. The bureau may specify in regulation the procedures to be followed
4 by an automotive repair dealer when an authorization or consent for an increase in
5 the original estimated price is provided by electronic mail or facsimile
transmission. If that consent is oral, the dealer shall make a notation on the work
order of the date, time, name of person authorizing the additional repairs and
telephone number called, if any, together with a specification of the additional
parts and labor and the total additional cost . . .

6 12. Bus. & Prof. Code section 9884.11 states that "[e]ach automotive repair
7 dealer shall maintain any records that are required by regulations adopted to carry out this chapter
8 [the Automotive Repair Act]. Those records shall be open for reasonable inspection by the chief
9 or other law enforcement officials. All of those records shall be maintained for at least three
10 years."

11 13. Bus. & Prof. Code section 22, subdivision (a), states:

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

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

17 15. Health & Saf. Code section 44072.2 states, in pertinent part:

18 The director may suspend, revoke, or take other disciplinary action
19 against a license as provided in this article if the licensee, or any partner,
officer, or director thereof, does any of the following:

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21 (d) Commits any act involving dishonesty, fraud, or deceit whereby
22 another is injured . . .

23 16. Health & Saf. Code section 44072.8 states that when a license has been
24 revoked or suspended following a hearing under this article, any additional license issued under
25 this chapter in the name of the licensee may be likewise revoked or suspended by the director.

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1 Regulatory Provisions

2 17. California Code of Regulations, title 16, section ("Regulation") 3353,
3 subdivision (d), states:

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

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

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

17 18. Regulation 3356, subdivision (a), states, in pertinent part:

18 The invoice shall show the dealer's registration number and the
19 corresponding business name and address. If the dealer's telephone number is
20 shown, it shall comply with the requirements of Subsection 3371(b) of this
21 chapter. In addition, the invoice shall describe all service work done, including all
warranty work, and shall separately identify each part in such a manner that the
customer can understand what was purchased . . .

22 19. Regulation 3358 states:

23 Each automotive repair dealer shall maintain legible copies of the
24 following records for not less than three years:

25 (a) All invoices relating to automotive repair including invoices received
from other sources for parts and/or labor.

26 (b) All written estimates pertaining to work performed.

27 (c) All work orders and/or contracts for repairs, parts and labor. All such
28 records shall be open for reasonable inspection and/or reproduction by the bureau
or other law enforcement officials during normal business hours.

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20. Regulation 3361.1 states, in pertinent part:

The following minimum requirements specifying accepted trade standards for good and workmanlike rebuilding of automatic transmissions are intended to define terms that have caused confusion to the public and unfair competition within the automotive repair industry . . . All automotive repair dealers engaged in the repair, sale, or installation of automatic transmissions in vehicles covered under the Act shall be subject to the following minimum requirements:

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

....

(c) Any automotive repair dealer that advertises or performs, directly or through a sublet contractor, automatic transmission work and uses the words "exchanged," "rebuilt," "remanufactured," "reconditioned," or "overhauled," or any expression of like meaning, to describe an automatic transmission in any form of advertising or on a written estimate or invoice shall only do so when all of the following work has been done since the transmission was last used:

....

- (3) All bands have been replaced with new or relined bands.
- (4) All the following parts have been replaced with new parts:
 - (A) Lined friction plates
 - (B) Internal and external seals including seals that are bonded to metal parts
 - (C) All sealing rings
 - (D) Gaskets . . .

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1 FIRST CAUSE FOR DISCIPLINE

2 (Violations of the Bus. & Prof. Code)

3 26. Respondent is subject to disciplinary action pursuant to Bus. & Prof. Code
4 section 9884.7, subdivision (a)(6), in that it failed to comply with section 9884.9, subdivision (a),
5 of that Code by failing to properly document the Pittmans' authorization for the repairs on their
6 1995 Ford Contour. Respondent documented on the transmission repair order dated April 4,
7 2003, that Rick Pittman had authorized a revised estimate price of \$2,691.05 on April 10, 2003,
8 and a revised estimate price of \$3,025.81 on April 12, 2003, but failed to specify the additional
9 repairs or services to be performed on the vehicle.

10 CONSUMER COMPLAINT (CONTRERAS): 1997 DODGE 1500 PICKUP

11 27. On or about January 11, 2003, consumer David Contreras ("Contreras")
12 took his 1997 Dodge 1500 pickup to Respondent's facility to have the transmission repaired.
13 On or about January 13, 2003, Contreras returned to the facility to retrieve the vehicle after the
14 repairs were completed and received a copy of Transmission Repair Order 451, totaling
15 \$1,892.39.

16 28. In or about September 2003, Contreras took the vehicle back to the facility
17 due to continued problems with the transmission. On or about September 17, 2003, Contreras
18 retrieved the vehicle from the facility and was given a copy of Transmission Repair Order 832,
19 totaling \$953.43.

20 29. In or about October 2003, Contreras had additional repair work performed
21 on the transmission, including the installation of a torque converter, and was given a copy of
22 Transmission Repair Order 905. The repair order stated that "all parts installed are new unless
23 specified otherwise".

24 30. In or about November 2003, Contreras filed a complaint with the Bureau,
25 stating that he had to return the vehicle to the facility on at least five occasions to repair the
26 transmission; however, the component still was not working properly (it was grinding, slipping,
27 and noisy).

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set forth on Repair Order 451, or failed to make those records available for inspection by the Bureau.

FOURTH CAUSE FOR DISCIPLINE

(Violations of Regulations)

35. Respondent is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(6), Respondent failed to comply with Regulation 3356, subdivision (a), by failing to separately identify parts on Transmission Repair Invoice 451 in such a manner that the customer could understand what was purchased. Respondent represented on the invoice that an "overhaul kit" had been installed in Contreras' 1997 Dodge 1500 pickup, but failed to separately identify or specify the parts that were included in the kit.¹

CONSUMER COMPLAINT (AIRA/DAVIS): 1995 DODGE STRATUS

36. In or about November 2003, consumer Linda Davis ("Davis") and her daughter, Rachel Aira ("Aira"), took Davis' 1995 Dodge Stratus to Respondent's facility to have the transmission repaired because it would not go into reverse. After the repairs were completed, Davis and Aira received a copy of Transmission Repair Invoice 1004, totaling \$2,740.89.

37. On or about February 6, 2004, Aira filed a complaint with the Bureau, alleging that Respondent refused to give Davis a warranty on the transmission repairs.

38. On March 16, 2004, Bureau Representative Lawrence Merrill ("Merrill") went to Respondent's facility and met with Billeh. Billeh told Merrill, among other things, that they had conducted an external inspection of the transmission.

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1. An overhaul kit typically includes friction plates, sealing rings (metal and Teflon), gaskets, and other soft parts.

1 FIFTH CAUSE FOR DISCIPLINE

2 (Violations of the Bus. & Prof. Code)

3 39. Respondent is subject to disciplinary action pursuant to Bus. & Prof. Code
4 section 9884.7, subdivision (a)(6), in that Respondent failed to comply with provisions of that
5 Code, as follows:

- 6 a. Section 9884.8: Respondent failed to record on Transmission Repair
7 Invoice 1004 the external inspection of the transmission on Davis' 1995
8 Dodge Stratus.
- 9 b. Section 9884.9, subdivision (a): Respondent failed to document on
10 Transmission Repair Invoice 1004 Davis' authorization for the external
11 inspection of the transmission on her 1995 Dodge Stratus.

12 **CONSUMER COMPLAINT (GONZALES):**

13 1995 OLDSMOBILE SILHOUETTE VAN

14 40. On or about April 8, 2004, consumer Aurelio Gonzales ("Gonzales") had
15 his 1995 Oldsmobile Silhouette van towed to Respondent's facility for diagnosis of a transmission
16 problem. Gonzales authorized the facility to conduct an external inspection of the transmission.
17 Later that same day, Gonzales was advised that the facility needed to disassemble the transmission
18 in order to give him an estimate for repair. Gonzales authorized the facility to remove the
19 transmission from the vehicle and to disassemble and inspect the component. Several days later,
20 Gonzales was advised that it would cost approximately \$1,800 to rebuild the transmission.
21 Gonzales declined the repairs. When Gonzales went to the facility to retrieve the vehicle, the
22 transmission was returned to him in boxes (disassembled). In or about late April 2004, Gonzales
23 filed a complaint with the Bureau.

24 41. On May 5, 2004, Bureau Representative Merrill went to Respondent's
25 facility and met with manager Wayne Snook ("Snook"). Snook told Merrill that he gave
26 Gonzales an initial estimate of \$130 for an external inspection of the transmission (including
27 towing charges). The facility checked the vehicle for trouble codes, but found no problems.
28 Gonzales authorized the facility to remove, disassemble, and inspect the transmission for \$385,

1 including towing. Snook provided Merrill with a copy of Transmission Repair Invoice 1266, but
2 had no other documentation relating to the repair of the vehicle.

3 **SIXTH CAUSE FOR DISCIPLINE**

4 **(Departure From Trade Standards)**

5 42. Respondent is subject to disciplinary action pursuant to Bus. & Prof. Code
6 section 9884.7, subdivision (a)(7), in that Respondent willfully departed from or disregarded
7 accepted trade standards for good and workmanlike repair as defined in Regulation 3361.1,
8 without the consent of the owner or the owner's duly authorized representative, in the following
9 material respects:

10 a. Respondent provided Gonzales with an estimated price for the teardown of
11 the transmission on his 1995 Oldsmobile Silhouette van before removing the component from the
12 vehicle, but failed to include the cost of reassembling the transmission, in violation of Regulation
13 3353, subdivision (d).

14 b. Respondent failed to notify Gonzales orally and in writing as to the
15 maximum time it would take to reassemble the transmission on Gonzales' 1995 Oldsmobile
16 Silhouette van once Gonzales declined the recommended repairs, i.e., the rebuilding of the
17 transmission, in violation of Regulation 3353, subdivision (d).

18 **SEVENTH CAUSE FOR DISCIPLINE**

19 **(Violations of the Bus. & Prof. Code)**

20 43. Respondent is subject to disciplinary action pursuant to Bus. & Prof. Code
21 section 9884.7, subdivision (a)(6), in that Respondent failed to comply with provisions of that
22 Code, as follows:

23 a. **Section 9884.8:** Respondent failed to record on Transmission Repair
24 Invoice 1266 the external inspection of the transmission on Gonzales'
25 1995 Oldsmobile Silhouette van.

26 b. **Section 9884.11:** Respondent failed to maintain a copy of the original
27 estimate for the external inspection of the transmission on Gonzales'

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1995 Oldsmobile Silhouette van or make the original estimate available for inspection by the Bureau.

CONSUMER COMPLAINT (HARRIS): 1988 BMW 735i

44. On or about April 15, 2004, consumer Michael Harris ("Harris") took his 1988 BMW 735i to Respondent's facility for diagnosis of a transmission problem on the vehicle. That same day, Harris signed a written estimate in the amount of \$65, but was not given a copy of the document.

45. On or about April 17, 2004, Harris authorized the facility to remove, teardown, and inspect the transmission to determine the problem with the component at an estimated cost of \$585.

46. On or about April 20, 2004, Respondent's manager, Snook, contacted Harris and told him that it would cost \$2,800 to repair the transmission. Harris did not receive any documentation from the facility relating to the repair work on the vehicle.

47. On or about May 17, 2004, Harris filed a complaint with the Bureau, alleging that he disagreed with the \$2,800 estimated price for the repair of the transmission, but authorized the work when he learned that the facility had already commenced the repairs.

48. On May 26, 2004, Bureau Representative Merrill went to the facility and met with Snook and Billeh. Snook provided Merrill with copies of Transmission Repair Invoice 1275² and parts receipts for the vehicle. Snook explained that the \$65 noted on the invoice was for an external inspection of the vehicle and the \$585 was for the teardown of the transmission.

EIGHTH CAUSE FOR DISCIPLINE

(Departure From Trade Standards)

49. Respondent is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(7), in that Respondent willfully departed from or disregarded accepted trade standards for good and workmanlike repair as defined in Regulation 3361.1,

The invoice provided by Respondent was a four part, carbonized document. Merrill noted that none of the pages were missing, indicating that Harris had not, in fact, received a copy of the original estimate he signed on April 15, 2004.

1 without the consent of the owner or the owner's duly authorized representative, in a material
2 respect. Respondent failed to provide Harris with a written estimated price for the teardown of
3 the transmission on his 1988 BMW 735i , in violation of Regulation 3353, subdivision (d).

4 **NINTH CAUSE FOR DISCIPLINE**

5 **(Failure to Provide Copy of Signed Estimate)**

6 50. Respondent is subject to disciplinary action pursuant to Bus. & Prof. Code
7 section 9884.7, subdivision (a)(3), in that Respondent failed or refused to give Harris a copy of the
8 written estimate as soon as Harris signed the document.

9 **TENTH CAUSE FOR DISCIPLINE**

10 **(Violations of the Bus. & Prof. Code)**

11 51. Respondent is subject to disciplinary action pursuant to Bus. & Prof. Code
12 section 9884.7, subdivision (a)(6), in that Respondent failed to comply with provisions of that
13 Code, as follows:

14 a. **Section 9884.8:**

- 15 1. Respondent failed to record on Transmission Repair
16 Invoice 1275 the external inspection of the transmission on
17 Harris' 1988 BMW 735i.
- 18 2. Respondent failed to provide Harris with an invoice listing
19 all service work performed and parts supplied on his 1988
20 BMW 735i.

21 b. **Section 9884.9, subdivision (a):** Respondent failed to provide Harris with
22 a written estimate for parts and labor necessary for the repair of the
23 transmission on his 1988 BMW 735i.

24 **CONSUMER COMPLAINT (JOHNSON): 1992 FORD AEROSTAR**

25 52. On or about April 12, 2004, Consumer Cleveland Johnson ("Johnson")
26 took his 1992 Ford Aerostar to Respondent's facility for repair due to a problem with the
27 transmission. On or about April 15, 2004, Johnson returned to the facility to retrieve the vehicle
28 after the repairs were completed (Respondent overhauled or rebuilt the transmission) and received

1 a copy of Transmission Repair Invoice 1248, totaling \$1,684.67, which included a 12
2 month/12,000 mile written warranty on all parts and labor listed on the invoice.

3 53. Sometime after the repairs were completed, the transmission on the vehicle
4 failed while Johnson was traveling to Texas. Johnson took the vehicle to Complete Car Care
5 Center in Galveston, Texas, and had the transmission rebuilt for \$1,852.77.

6 54. On or about July 22, 2004, Johnson filed a complaint with the Bureau,
7 stating that Respondent would only issue him a refund of the labor charges invoiced by Complete
8 Car Care Center.

9 55. On August 20, 2004, Bureau Representative Merrill went to Respondent's
10 facility and met with Snook and Billeh. Snook and Billeh provided Merrill with copies of the
11 repair records on the vehicle, including Transmission Repair Invoice 1248.

12 **ELEVENTH CAUSE FOR DISCIPLINE**

13 **(Violations of the Bus. & Prof. Code)**

14 56. Respondent is subject to disciplinary action pursuant to Bus. & Prof. Code
15 section 9884.7, subdivision (a)(6), in that Respondent failed to comply with section 9884.9,
16 subdivision (a), of that Code by failing to properly document Johnson's authorization for the
17 repairs on his 1992 Ford Aerostar, as follows:

18 a. Respondent documented on Transmission Repair Invoice 1248 that
19 Johnson had authorized an original estimate price of \$65, but failed to specify the repair or service
20 to be performed on the vehicle.

21 b. Respondent documented on Transmission Repair Invoice 1248 that on
22 April 12, 2004, at 3:00 p.m., \$385 in additional repairs, described as "RDI" (removal,
23 disassembly, and inspection of the transmission), had been authorized on the vehicle, but failed to
24 specify the name of the person who authorized the repairs.

25 c. Respondent documented on Transmission Repair Invoice 1248 that \$1,595
26 in additional repairs, described as "rebuild trans with converter, used case", had been authorized
27 on the vehicle, but failed to specify the name of the person who authorized the repairs or the date
28 and time the repairs were authorized.

1 TWELFTH CAUSE FOR DISCIPLINE

2 (Violations of Regulations)

3 57. Respondent is subject to disciplinary action pursuant to Bus. & Prof. Code
4 section 9884.7, subdivision (a)(6), Respondent failed to comply with Regulation 3356,
5 subdivision (a), by failing to separately identify parts on Transmission Repair Invoice 1248 in
6 such a manner that the customer could understand what was purchased. Respondent represented
7 on the invoice that an "overhaul kit" had been installed in Johnson's 1992 Ford Aerostar, but
8 failed to separately identify or specify the parts that were included in the kit.

9 UNDERCOVER OPERATION #1: 1992 PLYMOUTH SUNDANCE

10 58. On September 7, 2004, an undercover operator with the Bureau (hereinafter
11 "operator") took the Bureau's 1992 Plymouth Sundance to Respondent's facility. The reverse
12 band strut in the automatic transaxle had been broken, preventing the vehicle from operating in
13 reverse gear. The operator met with Respondent's employee, "Wally", and told him that the
14 vehicle would not back up. Wally gave the operator an estimate and asked her to fill in the
15 customer information and sign the document. The operator completed and signed the estimate,
16 but was not given a copy of the document.

17 59. At approximately 1:44 p.m. that same day, the operator telephoned the
18 facility and spoke with Wally. Wally told the operator that they checked the vehicle, that it would
19 not operate in reverse, and that it would cost \$360 for the repairs, including parts and labor, plus
20 sales tax. The operator authorized the repairs.

21 60. On September 8, 2004, at approximately 12:10 p.m., the operator called the
22 facility and spoke with Respondent's employee, "Wayne". Wayne told the operator that they had
23 installed a reverse band in the vehicle and serviced the transmission. Wayne also told the operator
24 that the belts were cracked, that she should have the belts and hoses replaced because they were in
25 bad condition, and that she could get stranded if she did not have the belts and hoses changed on
26 the vehicle.

27 61. At approximately 1:20 p.m. that same day, the operator telephoned the
28 facility and told Wally that she would pick up the vehicle, but did not want the belts and hoses

1 replaced. Wally told the operator that the belts and hoses were bad and that she should not drive
2 the vehicle in that condition. The operator told Wally that her father would replace the belts and
3 hoses himself.

4 62. At approximately 1:50 p.m, the operator returned to the facility to retrieve
5 the vehicle after the repairs were completed, paid the facility \$364.65, and received a copy of
6 Transmission Repair Invoice 1515. The invoice contained an "ATRA" emblem, signifying that
7 Top Quality Transmissions was a member of the Automatic Transmission Rebuilders Association.

8 63. On September 15, 2004, Bureau Representative Bruce Geloso inspected the
9 vehicle and determined, among other things, that the belts and hoses were free from defects and in
10 good working order.

11 THIRTEENTH CAUSE FOR DISCIPLINE

12 (Untrue or Misleading Statements)

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

17 a. Respondent's employee, Wayne, represented to the operator that the belts
18 on the Bureau's 1992 Plymouth Sundance were cracked, that she should have the belts and hoses
19 replaced because they were in bad condition, and that she could get stranded if she did not have
20 the belts and hoses changed. In fact, the belts were not cracked, excessively worn, or frayed and
21 were in good working order at the time the vehicle was taken to Respondent's facility. Further,
22 the coolant hoses were free of soft spots, were not leaking, and were in good working order as
23 well.

24 b. Respondent's employee, Wally, represented to the operator that the belts
25 and hoses were bad and that she should not drive the Bureau's 1992 Plymouth Sundance in that
26 condition. In fact, the belts and hoses were free from defects and in good working order, as set
27 forth in subparagraph (a) above.

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1 c. Respondent represented on Transmission Repair Invoice 1515 that Top
2 Quality Transmissions was a member of the Automatic Transmission Rebuilders Association. In
3 fact, Respondent's facility is not now, nor has it ever been, a member of ATRA.

4 **FOURTEENTH CAUSE FOR DISCIPLINE**

5 **(Failure to Provide Copy of Signed Estimate)**

6 65. Respondent is subject to disciplinary action pursuant to Bus. & Prof. Code
7 section 9884.7, subdivision (a)(3), in that its employee, Wally, failed or refused to give the
8 operator a copy of the estimate as soon as she signed the document.

9 **UNDERCOVER OPERATION #2: 1994 BUICK CENTURY**

10 66. On January 31, 2005, an undercover operator with the Bureau (hereinafter
11 "operator") had the Bureau's 1994 Buick Century towed to Respondent's facility for repair
12 because it would not operate. The oil pump drive shaft on the vehicle was defective (the splines
13 had been removed from the drive shaft) and as a result, the automatic transmission had no line
14 pressure and was unable to operate normally in any gear. Once the vehicle arrived at the facility,
15 the operator met with Respondent's employee, "Wayne". Wayne gave the operator an estimate
16 and asked her to fill in the customer information and sign the document. The operator completed
17 and signed the estimate, but was not given a copy of the document. Wayne told the operator that
18 he would check the vehicle and let her know if a teardown was needed. The operator authorized
19 the work, then left the facility.

20 67. At approximately 2:55 p.m. that same day, the operator telephoned the
21 facility and spoke with Wayne. Wayne told the operator that the transmission needed to be torn
22 down at an estimated cost of \$385, which the operator authorized.

23 68. On February 2, 2005, the operator called the facility and spoke with Wayne.
24 Wayne told the operator that the transmission needed a complete overhaul at an estimated cost of
25 \$1,700.

26 69. On February 4, 2005, the operator returned to the facility after the repairs
27 were completed, paid Wayne \$1,776.42, and signed and received a copy of Transmission Repair
28 Invoice 2003.

1 employee, "Wayne", that the transmission was not shifting into overdrive and that the "check
2 engine" light (malfunction indicator light) was on in the vehicle. Wayne gave the operator an
3 estimate and asked him to fill in the customer information and sign the document. The operator
4 completed and signed the estimate, but was not given a copy of the document. Wayne told the
5 operator that he would call the operator that afternoon after checking the transmission.

6 77. At approximately 2:54 p.m. that same day, the operator telephoned the
7 facility and spoke with Wayne. Wayne told the operator that the check engine light was on
8 because of a 3-4 gear malfunction, which meant that the overdrive on the vehicle was not
9 working. Wayne stated that he would check the wiring to the computer and remove the oil pan to
10 check for metal. The operator asked Wayne about the cost for those services. Wayne told the
11 operator that the cost was covered in the \$35 estimate.

12 78. At approximately 5:05 p.m., Wayne told the operator that the transmission
13 needed to be removed from the vehicle, but that the computer connections were "okay".

14 79. On June 2, 2005, at approximately 8:05 p.m., Wayne told the operator that
15 the transmission needed a complete overhaul at an estimated price of \$1,700. The operator
16 authorized the repairs.

17 80. On June 6, 2005, the operator telephoned the facility and spoke with
18 Wayne. Wayne told the operator that the vehicle still did not have overdrive and that he had sent
19 the vehicle to an electrical shop.

20 81. On June 10, 2005, the operator returned to the facility after the repairs were
21 completed, paid the facility \$1,783.48, and signed and received a copy of Transmission Repair
22 Invoice 2466.

23 82. On June 17, 2005, Bureau Representative Bruce Geloso inspected the
24 vehicle and determined that Respondent failed to overhaul the transmission as required by
25 Regulation 3361.1.

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TWENTIETH CAUSE FOR DISCIPLINE

(Departure from Trade Standards)

83. Respondent is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(7), in that as to the Bureau's 1999 Dodge Dakota pickup, Respondent willfully departed from or disregarded accepted trade standards for good and workmanlike repair without the consent of the owner or the owner's duly authorized representative, in a material respect. Respondent failed to replace the rear band and the metal sealing rings in the front servo and accumulator, as required by Regulation 3361.1.

TWENTY-FIRST CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

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

a. Respondent represented on Transmission Repair Invoice 2466 that the automatic transmission on the Bureau's 1999 Dodge Dakota pickup had been overhauled when, in fact, the transmission had not been overhauled as required by Regulation 3361.1, as set forth in paragraph 82 above.

b. Respondent represented on Transmission Repair Invoice 2466 that Top Quality Transmissions was a member of the Automatic Transmission Rebuilders Association. In fact, Respondent's facility is not now, nor has it ever been, a member of ATRA.

TWENTY-SECOND CAUSE FOR DISCIPLINE

(Fraud)

85. Respondent is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(4), in that it committed an act which constitutes fraud. Respondent charged and obtained payment from the operator for overhauling the automatic transmission on the Bureau's 1999 Dodge Dakota pickup when, in fact, the transmission had not been overhauled as required by Regulation 3361.1, as set forth in paragraph 82 above.

1 TWENTY-SEVENTH CAUSE FOR DISCIPLINE

2 (Dishonesty, Fraud or Deceit)

3 90. Respondent's smog check station license is subject to disciplinary action
4 pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that it committed dishonest,
5 fraudulent or deceitful acts whereby another is injured, as set forth in paragraphs 73 and 84 above.

6 OTHER MATTERS

7 91. Pursuant to Bus. & Prof. Code section 9884.7, subdivision (c), the
8 Director may refuse to validate, or may invalidate temporarily or permanently, the registrations for
9 all places of business operated in this state by Respondent W. B. Transmissions, Inc., doing
10 business as Top Quality Transmissions, upon a finding that said Respondent has, or is, engaged in
11 a course of repeated and willful violations of the laws and regulations pertaining to an automotive
12 repair dealer.

13 92. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Station
14 License Number RB 220240, issued to Respondent W. B. Transmissions, Inc., doing business as
15 Top Quality Transmissions, is revoked or suspended, any additional license issued under this
16 chapter in the name of W. B. Transmissions, Inc. may be likewise revoked or suspended by the
17 Director.

18 PRAYER

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

- 21 1. Temporarily or permanently invalidating Automotive Repair Dealer
22 Registration Number AB 220240, issued to W. B. Transmissions, Inc., doing business as Top
23 Quality Transmissions;
- 24 2. Temporarily or permanently invalidating any other automotive repair dealer
25 registration issued to W. B. Transmissions, Inc.;
- 26 3. Revoking or suspending Smog Check Station License Number
27 RB 220240, issued to W. B. Transmissions, Inc., doing business as Top Quality Transmissions;

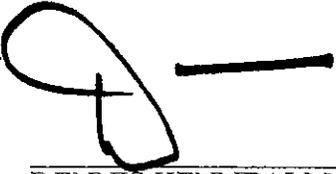
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4. Revoking or suspending any additional license issued under Chapter 5 of the Health and Safety Code in the name of W. B. Transmissions, Inc.;

5. Ordering Respondent W. B. Transmissions, Inc., doing business as Top Quality Transmissions, to pay the Director of Consumer Affairs the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED: 14 Sept 2006 

DENNIS KENNEALLY
Assistant Chief
Bureau of Automotive Repair
Department of Consumer Affairs
State of California

Complainant