

1 ROB BONTA
Attorney General of California
2 SHAWN P. COOK
Supervising Deputy Attorney General
3 ANDREW AMARA
Deputy Attorney General
4 State Bar No. 271311
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 269-6531
6 Facsimile: (916) 731-2126
Attorneys for Complainant
7

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

12
13 In the Matter of the Accusation Against:

Case No. 77/21-6538

14 **ADVANCED COMPUTER**
15 **AUTOMOTIVE, INC., DBA ACA**
16 **AUTOMOTIVE, ADAM JUSTIN KALB**
5101 E. Willow St.
Long Beach, CA 90815

ACCUSATION

17 **Automotive Repair Dealer Registration No.**
18 **ARD 270901**
Smog Check Station License No. RC 270901

19 Respondent.
20

21 **PARTIES**

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

24 2. On or about November 16, 2012, the Bureau of Automotive Repair issued
25 Automotive Repair Dealer Registration Number ARD 270901 to Advanced Computer
26 Automotive, Inc., dba ACA Automotive, Adam Justin Kalb (respondent). The Automotive
27 Repair Dealer Registration was in full force and effect at all times relevant to the charges brought
28 herein and will expire on November 30, 2022, unless renewed.

3. On or about December 3, 2012, the Bureau of Automotive Repair issued Smog Check Station License Number RC 270901 to Advanced Computer Automotive, Inc., dba ACA Automotive, Adam Justin Kalb (respondent). The Smog Check Station License was in full force and effect at all times relevant to the charges brought herein and will expire on November 30, 2022, unless renewed.

JURISDICTION

4. This Accusation is brought before the Director of the Department of Consumer Affairs (Director) for the Bureau of Automotive Repair, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

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

STATUTORY PROVISIONS

6. Section 9884.7, subdivision (a) of the BPC states, in pertinent part:

“(a) The director, where the automotive repair dealer cannot show there was a bona fide error, may refuse to validate, or may invalidate temporarily or permanently, the registration of an automotive repair dealer for any of the following acts or omissions related to the conduct of the business of the automotive repair dealer, which are done by the automotive repair dealer or any automotive technician, employee, partner, officer, or member of the automotive repair dealer.

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

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

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

1 (4) Any other conduct which constitutes fraud.

2 (5) Conduct constituting gross negligence.

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

5 7. Section 9884.8 of the Code provides, in pertinent part:

6 All work done by an automotive repair dealer, including all warranty work, shall be
7 recorded on an invoice and shall describe all service work done and parts supplied. Service work
8 and parts shall be listed separately on the invoice, which shall also state separately the subtotal
9 prices for service work and for parts, not including sales tax, and shall state separately the sales
10 tax, if any, applicable to each. If any used, rebuilt, or reconditioned parts are supplied, the invoice
11 shall clearly state that fact. If a part of a component system is composed of new and used, rebuilt
12 or reconditioned parts, that invoice shall clearly state that fact. The invoice shall include a
13 statement indicating whether any crash parts are original equipment manufacturer crash parts or
14 non-original equipment manufacturer aftermarket crash parts. One copy of the invoice shall be
15 given to the customer and one copy shall be retained by the automotive repair dealer that tests at
16 smog check stations shall be performed in accordance with procedures prescribed by the
17 department.

18 8. Section 9884.9 of the Code states, in pertinent part:

19 “(a) The automotive repair dealer shall give to the customer a written estimated price for
20 labor and parts necessary for a specific job, except as provided in subdivision (e). No work shall
21 be done and no charges shall accrue before authorization to proceed is obtained from the
22 customer. No charge shall be made for work done or parts supplied in excess of the estimated
23 price, or the posted price specified in subdivision (e), without the oral or written consent of the
24 customer that shall be obtained at some time after it is determined that the estimated or posted
25 price is insufficient and before the work not estimated or posted is done or the parts not estimated
26 or posted are supplied. Written consent or authorization for an increase in the original estimated
27 or posted price may be provided by electronic mail or facsimile transmission from the customer.
28 The bureau may specify in regulation the procedures to be followed by an automotive repair

1 dealer if an authorization or consent for an increase in the original estimated price is provided by
2 electronic mail or facsimile transmission. If that consent is oral, the dealer shall make a notation
3 on the work order of the date, time, name of person authorizing the additional repairs, and
4 telephone number called, if any, together with a specification of the additional parts and labor and
5 the total additional cost, and shall do either of the following . . .”

6 **REGULATORY PROVISIONS**

7 9. California Code of Regulations (CCR), title 16, section 3353.1, subdivision (b) states:
8 “(b) If the customer provides a written authorization, the automotive repair dealer shall capture
9 his or her signature and record the date of signature on the estimate or on documents that
10 supplement the estimate.”

11 10. CCR, title 16, section 3354, subdivision (a)(1) and (2) states:

12 “(a) Exceeding Original Estimate. Except as provided in subsection (c), before any
13 additional diagnosis or repair is commenced, and before any additional charges accrue for labor
14 or parts in excess of the original estimated and authorized price, the automotive repair dealer
15 shall:

16 (1) give the customer an estimate that describes all additional parts and labor, provides the
17 cost of all additional parts and labor, and provides a total revised cost; and

18 (2) obtain customer authorization and record the authorization as specified in sections
19 3353.1 and 3356 of this Article and section 9884.9 of the Business and Professions Code.”

20 11. CCR, title 16, section 3356 states, in pertinent, part:

21 “(a) All invoices for service and repair work performed, and parts supplied, as provided for
22 in Section 9884.8 of the Business and Professions Code, shall comply with this section.

23 (b) The invoice shall show the automotive repair dealer's registration number and the
24 corresponding business name and address as shown in the Bureau's records.

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

26 (1) All services and repairs performed, including any diagnosis or warranty repairs, and the
27 prices for each.

1 (2) Each part supplied, in such a manner that the customer can understand what was
2 purchased, and the price for each described part. The description of each part shall state whether
3 the part was new, used, reconditioned, rebuilt, an OEM crash part, or a non-OEM aftermarket
4 crash part. Part kits containing several components may be listed as a single part on the invoice
5 and identified by brand name and corresponding part number or similar designation.

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

7 (4) The subtotal price for all parts supplied, not including sales tax.

8 (5) The applicable sales tax, if any.

9 (6) The total cost for all service and repair work, parts supplied and applicable sales tax.”

10 12. California Code of Regulations, title 16, section 3371, states:

11 No dealer shall publish, utter, or make or cause to be published, uttered, or made any false
12 or misleading statement or advertisement which is known to be false or misleading, or which by
13 the exercise of reasonable care should be known to be false or misleading. Advertisements and
14 advertising signs shall clearly show the following:

15 (a) Firm Name and Address. The dealer’s firm name and address as they appear on the
16 State registration certificate as an automotive repair dealer; and

17 (b) Telephone Number. If a telephone number appears in an advertisement or on an
18 advertising sign, this number shall be the same number as that listed for the dealer’s firm name
19 and address in the telephone directory, or in the telephone company records if such number is
20 assigned to the dealer subsequent to the publication of such telephone directory.

21 **COST RECOVERY**

22 13. Business and Professions Code section 125.3 provides, in pertinent part, that the
23 Board may request the administrative law judge to direct a licentiate found to have committed a
24 violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the
25 investigation and enforcement of the case, with failure of the licentiate to comply subjecting the
26 license to not being renewed or reinstated. If a case settles, recovery of investigation and
27 enforcement costs may be included in a stipulated settlement.

28 ///

FACTUAL ALLEGATIONS

14. On or about May 21, 2021, the Bureau conducted an operation at respondent's shop using an undercover Bureau vehicle, a 2005 Pontiac (Pontiac). Bureau Representative J.N. previously documented the Pontiac in the Bureau's Forensic Documentation Laboratory. As documented, the Pontiac only needed spark plugs replaced.

15. On or about May 21, 2021, at approximately 7:41 A.M., an undercover operator (Operator) met with a Bureau Representative (Representative). The Operator used a pseudonym for the operation.

16. On the same day, at approximately 7:52 A.M., J.N. released custody of the Pontiac to the Representative. Later, at approximately 8:04 A.M., the Representative released custody of the Pontiac to the Operator and instructed him to drive the Pontiac to respondent's shop, ACA Automotive (referred to as "respondent" or the "shop" below), 5101 East Willow Street, Long Beach, and request they check the illuminated check engine light.

17. At approximately 8:16 A.M., the Operator arrived at ACA Automotive and entered the office where he was greeted by a black male, who identified himself as Cyprian. The Operator told Cyprian that the Pontiac has a flashing yellow light on the dash that is shaped like an engine, and the engine was shaking all the time. Cyprian replied that it sounded like the spark plugs.

18. The Operator then filled out a form Cyprian handed him, and returned it. Cyprian explained that it would be \$140.00 for the diagnosis and he would apply half of the diagnosis cost toward the repair.

19. Cyprian next had the Operator sign a document titled, Estimate of Repairs or Service and provided a copy to him. Cyprian informed the Operator he would telephone later in the day with their findings. The Operator left the Pontiac and departed ACA Automotive.

20. At approximately 12:17 P.M., the Operator received a voicemail from Cyprian stating he had a report on the check engine light, and requesting a return telephone call. The Operator returned Cyprian's telephone call, and Cyprian recommended replacing the spark plugs, cleaning the throttle body and a fuel injector service. Cyprian informed the Operator the following: 1) All

1 of the spark plugs were fouled; 2) The throttle body was contaminated and clogged, which was
2 blocking the airway; and 3) The fuel lines were dirty and blocked, which was preventing the fuel
3 from reaching the spark plugs and causing the fuel to not burn completely.

4 21. Cyprian informed the Operator the cost of repair would be \$771.88. Further, Cyprian
5 explained he would need to retest the coils after the repairs are completed.

6 22. At approximately 12:35 P.M., the Operator instructed Cyprian to go ahead with all
7 the repairs during a telephone call.

8 23. Later, at around 1:15 P.M., the Operator received a voicemail from Cyprian
9 requesting a return phone call, and stating that he discovered new information. At approximately
10 1:22 P.M., Cyprian left the Operator another voicemail, explaining that the shop was checking out
11 the spark plugs and wanted to know when they were last changed, because they appeared new.
12 Cyprian explained the shop would consider adjusting the price if the spark plugs were indeed
13 new.

14 24. At approximately 1:36 P.M., the Operator received a telephone call from an
15 individual that identified himself as Vic from ACA Automotive. Vic informed the Operator that
16 upon inspection respondent found the spark plugs were brand new and recommended leaving
17 them in. Vic recommended replacing the one bad spark plug for a revised total of \$651.80, and
18 noted the Operator's car would be ready Monday morning. The Operator instructed Vic to go
19 ahead with the repairs, thanked him, and ended the call.

20 25. At approximately 4:14 P.M., the Operator received a voicemail message from
21 Cyprian at informing him the car was ready to pick-up and requesting a return call.

22 26. On or about May 24, 2021, at approximately 9:36 A.M., the Operator returned to
23 ACA Automotive and requested return of the Pontiac. The cashier informed the Operator the
24 total cost of repairs was \$659.48. The Operator gave the cashier \$670.00 in cash, received
25 change.

26 27. The cashier then gave the Operator a one-page document titled ACA Automotive,
27 with an invoice number and date. The Operator signed and initialed the document at the cashier's
28 request and received a copy.

1 28. The Operator then spoke with Vic who told the operator they checked-out his car and
2 found one bad spark plug, and that the rest of the spark plugs looked new. The Operator inquired
3 about a “throttle service” and Vic explained that respondent cleans the throttle plate for such a
4 repair. The Operator next asked Vic what was involved with a fuel injection service. Vic
5 explained that such a service is a two-step process where “something like an ‘IV’ is used to run
6 chemicals to the intake and another chemical is put in the fuel tank.”

7 29. On or about May 24, 2021, at approximately 9:50 A.M., the Operator returned
8 custody of the Pontiac to the Representative at a confidential location. The Operator further
9 provided the document titled, “Estimate of Repairs or Service, no. 741202” and the document
10 titled “ACA Automotive invoice no. 202761” to the Representative, which both the
11 Representative and Operator initialed and dated. The Representative subsequently returned
12 custody of the Pontiac to J.N.

13 30. J.N. then re-inspected the vehicle and found the following:

- 14 • One (1) spark plug was replaced as invoiced.
- 15 • The invoice shows, “Fuel Injection Service. Clean out injectors with two step
16 chemical process.” The upper and lower intake manifolds were documented clean
17 and not in need of service. The high pressure fuel system was never accessed, nor
18 were the fuel injectors removed from the engine. The fuel injectors were
19 documented in good condition and did not need to be cleaned.
- 20 • The invoice shows, “Service Throttle Body. Remove air duct boot clean throttle
21 bore & blade with upper intake cleaner.” The throttle body and bore were
22 documented clean and did not need a service of the throttle body.

23 31. J.N. determined that Cyprian made false and misleading statements when he told the
24 operator the throttle body was contaminated, clogged and blocking the airway, and the fuel lines
25 were dirty and blocked, causing the fuel to not burn completely. This was untrue and resulted an
26 unnecessary throttle bore and upper intake cleaning and an unnecessary cleaning of the fuel
27 injectors. Respondent recommended and invoiced \$353.01 for a throttle body service and fuel
28 injection service when a spark plug replacement was the only necessary repair.

1 Total for parts and labor needed

Description	Parts	Labor
1 Lucas fuel treatment 10020	\$9.99	\$118.00
1 Upper intake cleaner UPI-2-1	\$19.96	INC
1 Fuel intake cleaner 5316	\$19.95	\$180.00
Subtotal Labor	\$298.00	
Subtotal Parts	\$49.90	
SUBTOTAL	\$347.90	
Sales Tax @ 10.25%	\$5.11	
GRAND TOTAL	\$353.01	

8
9 **FIRST CAUSE FOR DISCIPLINE**

10 (False or Misleading Records and Statements)

11 32. Respondent is subject to disciplinary action under Code section 9884.7, subdivision
12 (a)(1), in that respondent:

13 a. Made false and misleading statements when he told the undercover operator the
14 throttle body was contaminated, clogged and blocking the airway and the fuel lines were dirty and
15 blocked, causing the fuel to not burn completely.

16 33. Complainant refers to and incorporates by reference Paragraphs 14 - 31, inclusive,
17 above.

18 **SECOND CAUSE FOR DISCIPLINE**

19 (Fraud)

20 34. Respondent is subject to disciplinary action under Code section 9884.7, subdivision
21 (a)(4) in that respondent:

22 a. Recommended and invoiced \$353.01 for a throttle body service and fuel injection
23 service when a spark plug replacement would have been an acceptable repair.

24 35. Complainant refers to and incorporates by reference Paragraphs 14 - 31, inclusive,
25 above.

26 ///

27 ///

28 ///

1 **THIRD CAUSE FOR DISCIPLINE**

2 (Violation of the Code)

3 36. Respondent is subject to disciplinary action under Code section 9884.7, subdivision
4 (a)(6) in that respondent failed to comply with provisions of the Code in the following material
5 respects:

- 6 a. **Section 9884.8:** Respondent failed to comply with invoicing requirements.
7 b. **Section 9884.9:** Respondent failed to comply with estimate and work authorization
8 requirements.

9 37. Complainant refers to and incorporates by reference Paragraphs 14 - 31, inclusive,
10 above.

11 **FOURTH CAUSE FOR DISCIPLINE**

12 (Violation of Regulations)

13 38. Respondent is subject to disciplinary action under Code section 9884.7, subdivision
14 (a)(6) in that respondent failed to comply with provisions of the Code in the following material
15 respects:

- 16 a. **Section 3353.1, subdivision (b):** Respondent failed to record the date of the
17 customer's signature on the estimate.
18 b. **Section 3354, subdivision (a)(2):** Respondent failed to record on the estimate, the
19 date, time, name of the person authorizing the repairs, and the telephone number called.
20 c. **Section 3365, subdivision (a)(1):** Respondent failed to document their diagnostic
21 work to determine a fuel injection service and throttle body service were needed

22 **FIFTH CAUSE FOR DISCIPLINE**

23 (False or Misleading Statement)

24 39. Respondent is subject to disciplinary action under Cal. Code of Regs., title 16, section
25 3371 in that respondent made or authorized statements which he knew or in the exercise of
26 reasonable care should have known to be false or misleading. The circumstances are as follows:
27
28

1 a. Respondent made false and misleading statements when he told the undercover
2 operator the throttle body was contaminated, clogged and blocking the airway and the fuel lines
3 were dirty and blocked, causing the fuel to not burn completely.

4 40. Complainant refers to and incorporates by reference Paragraphs 14 - 31, inclusive,
5 above.

6 **OTHER MATTERS**

7 41. Pursuant to Code section 9884.7, subdivision (c), the director may suspend revoke, or
8 place on probation the registrations for all places of business operated in this state by Adam Justin
9 Kalb President/Secretary/Treasurer dba ACA Automotive, upon a finding that he has, or is,
10 engaged in a course of repeated and willful violation of the laws and regulations pertaining to an
11 automotive repair dealer.

12 **PRAYER**

13 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
14 and that following the hearing, the Director of the Department of Consumer Affairs issue a
15 decision:

16 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
17 270901, issued to Advanced Computer Automotive, Inc., dba ACA Automotive, Adam Justin
18 Kalb;

19 2. Revoking or suspending any other Automotive Repair Dealer Registration issued to
20 Advanced Computer Automotive, Inc., dba ACA Automotive, Adam Justin Kalb;

21 3. Revoking or suspending Smog Check Station License Number RC 270901, issued to
22 Advanced Computer Automotive, Inc., dba ACA Automotive, Adam Justin Kalb;

23 4. Ordering Adam Justin Kalb to pay the Bureau of Automotive Repair the reasonable
24 costs of the investigation and enforcement of this case, pursuant to Business and Professions
25 Code section 125.3; and,

26 5. Revoking or suspending any additional licenses issued under Chapter 5, of Part 5, of
27 Division 26 of the Health and Safety Code issued to Adam Justin Kalb;

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

DATED: As of Digital Signature Date

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

LA2021602944
64702833.docx