

1 KAMALA D. HARRIS
Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 SUSANA A. GONZALES
Deputy Attorney General
4 State Bar No. 253027
1515 Clay Street, 20th Floor
5 P.O. Box 70550
Oakland, CA 94612-0550
6 Telephone: (510) 622-2221
Facsimile: (510) 622-2270
7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **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. 77/16-26

13 **ROMI TRANSMISSIONS CORP.**
14 **d.b.a. AAMCO TRANSMISSIONS**
15 **ROMILA MALIK, PRESIDENT/**
16 **TREASURER**
17 **SUBHASH MALIK, SECRETARY**
18 3670 Thornton Ave.
Fremont, CA 94536

A C C U S A T I O N

19 Mailing Address:
20 242 Prairie Dog Lane
Fremont, CA 94539

21 **Automotive Repair Dealer Registration No.**
22 **ARD 215084**

Respondent.

23 Complainant alleges:

24 **PARTIES**

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

27 2. On or about March 13, 2001, the Bureau of Automotive Repair issued Automotive
28 Repair Dealer Registration Number ARD 215084 to Romi Transmissions Corp., doing business

1 as AAMCO Transmissions (“Respondent”), with Romila Malik as President and Treasurer and
2 Subhash Malik as Secretary. The ARD Registration will expire on February 29, 2016, unless
3 renewed.

4 JURISDICTION

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

8 4. Business and Professions Code (“Code”) section 118, subdivision (b), provides that
9 the suspension/expiration/surrender/cancellation of a license shall not deprive the
10 Board/Registrar/Director of jurisdiction to proceed with a disciplinary action during the period
11 within which the license may be renewed, restored, reissued or reinstated.

12 5. Section 9884.13 of the Code provides, in pertinent part, that the expiration of a valid
13 registration shall not deprive the director or chief of jurisdiction to proceed with a disciplinary
14 proceeding against an automotive repair dealer or to render a decision invalidating a registration
15 temporarily or permanently.

16 6. Code section 477 provides, in pertinent part, that “Board” includes “bureau,”
17 “commission,” “committee,” “department,” “division,” “examining committee,” “program,” and
18 “agency.” “License” includes certificate, registration or other means to engage in a business or
19 profession regulated by the code.

20 STATUTORY AND REGULATORY PROVISIONS

21 7. Section 9884.7 of the Code states, in pertinent part:

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

27 ///

28 ///

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

4 ...

5 “(4) Any other conduct that constitutes fraud.”

6 8. Code section 9884.9, subdivision (a), states:

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

21 “(1) Make a notation on the invoice of the same facts set forth in the notation on the work
22 order.

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

26 ‘I acknowledge notice and oral approval of an increase in the original estimated price.

27
28 (signature or initials)’

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

3 9. Code section 9884.8 states:

4 “All work done by an automotive repair dealer, including all warranty work, shall be
5 recorded on an invoice and shall describe all service work done and parts supplied. Service work
6 and parts shall be listed separately on the invoice, which shall also state separately the subtotal
7 prices for service work and for parts, not including sales tax, and shall state separately the sales
8 tax, if any, applicable to each. If any used, rebuilt, or reconditioned parts are supplied, the invoice
9 shall clearly state that fact. If a part of a component system is composed of new and used, rebuilt
10 or reconditioned parts, that invoice shall clearly state that fact. The invoice shall include a
11 statement indicating whether any crash parts are original equipment manufacturer crash parts or
12 nonoriginal equipment manufacturer aftermarket crash parts. One copy of the invoice shall be
13 given to the customer and one copy shall be retained by the automotive repair dealer.”

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

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

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

21 “(b) Telephone Number. If a telephone number appears in an advertisement or on an
22 advertising sign, this number shall be the same number as that listed for the dealer's firm name
23 and address in the telephone directory, or in the telephone company records if such number is
24 assigned to the dealer subsequent to the publication of such telephone directory.”

25 11. California Code of Regulations title 16 section 3356, subdivision (a), states:

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

28

1 “(1) The invoice shall show the automotive repair dealer's registration number and the
2 corresponding business name and address as shown in the Bureau's records. If the automotive
3 repair dealer's telephone number is shown, it shall comply with the requirements of subsection
4 (b) of Section 3371 of this chapter.

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

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

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

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

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

14 “(E) The applicable sales tax, if any.”

15 12. California Code of Regulations, title 16, section 3353, subdivision (c), states:

16 “No work for compensation shall be commenced and no charges shall accrue without
17 specific authorization from the customer in accordance with the following requirements:

18 ...

19 “(c) Additional Authorization. Except as provided in subsection (f), the dealer shall obtain
20 the customer's authorization before any additional work not estimated is done or parts not
21 estimated are supplied. This authorization shall be in written, oral, or electronic form, and shall
22 describe the additional repairs, parts, labor and the total additional cost.”

23 13. California Code of Regulations, title 16, section 3373 states:

24 “No automotive repair dealer or individual in charge shall, in filling out an estimate,
25 invoice, or work order, or record required to be maintained by section 3340.15(e) of this chapter,
26 withhold therefrom or insert therein any statement or information which will cause any such
27 document to be false or misleading, or where the tendency or effect thereby would be to mislead
28 or deceive customers, prospective customers, or the public.”

1 **COST RECOVERY**

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

6 **FACTUAL ALLEGATIONS**

7 15. On or about December 1, 2014, A. Miroy ran over a curb in her 1998 Toyota Corolla,
8 and oil began to leak from under her car. Miroy called Respondent to repair her car. Respondent
9 towed Miroy's car for inspection. Zach Bartel, Respondent's Customer Service Manager, later
10 called Miroy and told her that her transmission was broken and needed to be replaced. Miroy was
11 told that the transmission replacement would cost over \$3,000.00. Miroy authorized the repair
12 and provided Bartel her credit card information over the phone. Miroy paid Respondent
13 \$3,562.57 for the new transmission. When the car was later returned to Miroy, she was asked to
14 pay an additional \$200. The additional \$200 was charged to Miroy's credit card, but she was
15 never provided an invoice or any other documentation regarding the additional \$200 charge.
16 Miroy, however, was provided an invoice for the \$3,562.57 charge, and copies of the credit card
17 receipts for the charges to her credit card. The invoice Miroy received states that the transmission
18 case on Miroy's vehicle was broken, and that "AAMCO exchanged rebuilt transmission with an
19 exchanged rebuilt torque converter."

20 16. In January 2015, Miroy's grandson C. Maglaya filed a complaint with the Bureau,
21 alleging that Respondent did not in fact replace the transmission on Miroy's 1998 Toyota Corolla.
22 On or about January 26, 2015, a representative of the Bureau inspected Miroy's car and
23 determined that the transmission had not been removed, rebuilt, or replaced recently. The
24 transmission was covered in dirt, the bolts assembling the transmission and attaching the
25 transmission to the vehicle showed no signs of having been removed recently, and the VIN
26 number printed on a metal tag riveted to the transmission matched the VIN number on Miroy's
27 car. The matching VIN numbers indicate that the transmission in the car had not been replaced
28 since the car was assembled in 1998.

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Bus. & Prof. Code, § 9884.7, subd. (a)(1))**

3 **(Making or Authorizing an Untrue or Misleading Statement)**

4 17. Respondent has subjected its registration to disciplinary action because on or about
5 December 1, 2014, Respondent made or authorized statements which it knew or by the exercise
6 of reasonable care should have known to be untrue or misleading. (Bus. & Prof. Code, § 9884.7,
7 subd. (a)(1).) Specifically, Respondent stated that the transmission in Miroy's car was broken,
8 and that the transmission would be replaced with a rebuilt transmission. The circumstances are
9 set forth in further detail in paragraphs 15 and 16, above.

10 **SECOND CAUSE FOR DISCIPLINE**

11 **(Bus. & Prof. Code, § 9884.7, subd. (a)(4))**

12 **(Fraud)**

13 18. Respondent has subjected its registration to discipline because Respondent committed
14 acts constituting fraud. (Bus. & Prof. Code, § 9884.7, subd. (a)(4).) Specifically, on or about
15 December 2, 2014, Respondent charged Miroy \$3,562.57 for a replacement rebuilt transmission,
16 but did not install a new transmission. The circumstances are set forth in further detail in
17 paragraphs 15 and 16, above.

18 **THIRD CAUSE FOR DISCIPLINE**

19 **(Bus. & Prof. Code, § 9884.9, subd. (a))**

20 **(Exceeding the Estimate)**

21 19. Respondent has subjected its registration to discipline because Respondent charged
22 Miroy in excess of the estimate and did not receive prior authorization for the additional charges.
23 (Bus. & Prof. Code, § 9884.9, subd. (a).) Specifically, on or about December 12, 2014,
24 Respondent charged Miroy an extra \$200 without receiving the required authorization. The
25 circumstances are set forth in further detail in paragraphs 15 and 16, above.

26 **FOURTH CAUSE FOR DISCIPLINE**

27 **(Bus. & Prof. Code, § 9884.8)**

28 **(Failure to Describe All Service Work and Parts on Invoice)**

29 20. Respondent has subjected its registration to discipline because on or about December
30 1, 2014, Respondent failed to document the services provided for the extra \$200 charged to

1 Miroy. (Bus. & Prof. Code, § 9884.8.) The circumstances are set forth in further detail in
2 paragraphs 15 and 16, above.

3 **FIFTH CAUSE FOR DISCIPLINE**
4 **(Cal. Code of Regs., tit. 16, § 3371)**
5 **(False or Misleading Statements)**

6 21. Respondent has subjected its registration to discipline because on or about December
7 1, 2014, it made false or misleading statements. (Cal. Code of Regs., tit. 16, § 3371.)
8 Specifically, on or about December 1, 2014, Respondent told Miroy that the transmission in her
9 vehicle needed to be replaced and would be replaced with a rebuilt transmission. Respondent did
10 not replace the transmission. The circumstances are set forth in further detail in paragraphs 15
11 and 16, above.

12 **SIXTH CAUSE FOR DISCIPLINE**
13 **(Cal. Code Regs. § 3356, subd. (a))**
14 **(Failure to Describe on Invoice All Service Work and Parts)**

15 22. Respondent has subjected its registration to discipline because on or about December
16 12, 2014, Respondent failed to document the services rendered for the extra \$200 charged to
17 Miroy. (Cal. Code of Regs., tit. 16, § 3356.) The circumstances are set forth in further detail in
18 paragraphs 15 and 16, above.

19 **SEVENTH CAUSE FOR DISCIPLINE**
20 **(Cal. Code Regs., tit. 16, § 3353, subd. (c))**
21 **(Failure to Obtain Authorization for Additional Repairs)**

22 23. Respondent has subjected its registration to discipline because on or about December
23 12, 2014, Respondent failed to obtain Miroy's consent prior to charging her for work beyond
24 what was stated in the estimate. (Cal. Code of Regs., tit. 16, § 3353, subd. (c).) The
25 circumstances are set forth in further detail in paragraphs 15 and 16, above.

26 **SEVENTH CAUSE FOR DISCIPLINE**
27 **(Cal. Code Regs., tit. 16, § 3373)**
28 **(False or Misleading Statement in Document)**

29 24. Respondent has subjected its registration to discipline because on or about December
30 2, 2014, Respondent made false or misleading statements on the invoice provided to Miroy.
31 (Cal. Code of Regs., tit. 16, § 3373.) Specifically, Respondent charged Miroy \$3,562.57 for an

1 “AAMCO exchanged rebuilt transmission” as stated on the invoice provided to Miroy, but did not
2 exchange the transmission. The circumstances are set forth in further detail in paragraphs 15 and
3 16, above.

4 **DISCIPLINARY CONSIDERATIONS**

5 25. In determining the level of discipline to be imposed on Respondent, if any, the
6 Bureau further alleges that on or about December 14, 2011, the Bureau conducted an Office
7 Conference with Respondent’s President and Treasurer, Romila Malik. At the Office Conference,
8 the Bureau reviewed violations from an undercover operation conducted on September 8, 2011,
9 and violations and allegations from eight consumer complaints received by the Bureau between
10 December 3, 2009, and July 11, 2011. Following the conference, the Bureau Representative
11 conducting the conference made specific recommendations to Respondent regarding written
12 estimates, obtaining consent for work done or parts supplied beyond the estimate, making untrue
13 or misleading statements to customers, compliance with industry standards, and recordkeeping.

14 26. On May 27, 2014, the Bureau conducted a Pro-Active Conference with Respondent’s
15 Customer Service Manager, Bartel. There, the Bureau warned Bartel of violations found during a
16 Complainant Investigation. The Bureau provided Bartel with laws and regulations training, and
17 he stated that AAMCO would comply with the laws and regulations.

18 **PRAYER**

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

- 21 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
22 215084, issued to Romi Transmissions Corp., doing business as AAMCO Transmissions
23 (“Respondent”), with Romila Malik as President and Treasurer and Subhash Malik as Secretary;
- 24 2. Ordering Respondent to pay the Bureau of Automotive Repair the reasonable costs of
25 the investigation and enforcement of this case, pursuant to Business and Professions Code section
26 125.3;

27 ///

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

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

DATED: December 7, 2015 

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

SF2015900716
90590407.doc