

1 Thomas C. Horne  
2 Attorney General  
(Firm State Bar No. 14000)  
3 Rebecca Salisbury  
4 Assistant Attorney General  
5 State Bar No. 22006  
6 Office of the Attorney General  
1275 West Washington Street  
7 Phoenix, AZ 85007-2926  
Telephone: (602) 542-3725  
8 Facsimile: (602) 542-4377  
9 consumer@azag.gov  
10 Attorneys for Plaintiff

11 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**  
12 **IN AND FOR THE COUNTY OF MARICOPA**

13 STATE OF ARIZONA, *ex rel.* THOMAS C.  
14 HORNE, Attorney General,

Case No.: CV2011-012492

15 Plaintiff,

**ADDENDUM TO CONSENT JUDGMENT**

16 vs.

17 GARO ENTERPRISES, INC. an Arizona  
18 Corporation, D/B/A TRANS-PLANT PLUS  
19 and TRANS-PLANT TRANSMISSIONS;  
20 GARY LUTHER and SUZANNE LUTHER,  
21 husband and wife; and ROBERT BRADY and  
22 MICHELLE BRADY, husband and wife,

(Assigned to the Honorable John Buttrick)

23 Defendants.

24 The State of Arizona and the Defendants, Garo Enterprises, Inc. D/B/A Trans-Plant Plus  
25 and Trans-plant Transmissions, Robert Brady and Michelle Brady having entered into a  
26 Consent Judgment that took effect on July 8, 2011, admit that pursuant to A.R.S. § 44-1532 the  
Court has continuing jurisdiction over the subject matter and the parties for the purpose of entry  
of this Addendum to Consent Judgment.

1 **I. PARTIES**

2 1. Plaintiff is the State of Arizona, *ex rel.* Thomas C. Home, the Attorney General of  
3 Arizona, who is authorized to bring this action under the Consumer Fraud Act,  
4 A.R.S. § 44-1521, *et seq.*

5 2. Defendant Garo Enterprises, Inc. is an Arizona corporation located at 1750 E.  
6 Elliot Rd. in Tempe, Arizona, that does business as a transmission rebuilding and installation  
7 facility under the names of Trans-plant Plus, Trans-plant Transmissions and Transplant  
8 Transmission Factory.

9 3. Defendant Robert Brady, a resident of Maricopa County, is the Secretary and sole  
10 Director of Garo Enterprises, Inc.

11 4. Defendants Robert Brady and Michelle Brady, husband and wife, are residents of  
12 Maricopa County, State of Arizona, and at all times relevant to this action acted for the benefit  
13 of their marital community. Michelle Brady is named herein solely because of her interest in  
14 the marital community of Robert and Michelle Brady.

15 **II. APPLICATION**

16 5. The injunctive terms of this Addendum to Consent Judgment apply to Garo  
17 Enterprises, Inc. or any successor companies or businesses, including all trade names, and to  
18 the current or future officers, directors, managerial or supervisory employees of Garo  
19 Enterprises, Inc., and to any other employees or agents having responsibilities with respect to  
20 the subject matter of this Order, but not in an individual capacity, except for Defendant Robert  
21 Brady.

22 6. As set forth herein, the injunctive terms of this Addendum to Consent Judgment  
23 apply to Robert Brady as an individual and member of his marital community, as an officer and  
24 director of Garo Enterprises, Inc. and to the extent he owns, operates or is employed in a motor  
25 vehicle repair facility in the State of Arizona.

26 7. This Addendum to Consent Judgment purposely excepts Defendants Gary Luther  
and Suzanne Luther from its provisions based upon representations from Defendants Gary

1 Luther and Suzanne Luther that they currently hold no property or management interest in  
2 Defendant Garo Enterprises Inc. and have not held such an interest or received any income  
3 from Defendant Garo Enterprises Inc. since June 29, 2011. Defendants Gary and Suzanne  
4 Luther remain obligated under the terms of the Consent Judgment previously entered in this  
5 case.

### 6 **III. STIPULATED FINDINGS OF FACT**

7 8. The parties stipulate that Defendant Robert Brady and Defendant Garo  
8 Enterprises, Inc. violated specific provisions of the Consent Judgment as follows:

9 A. Paragraph 14(f) of the Consent Judgment requires Defendant Robert  
10 Brady and Defendant Garo Enterprises, Inc. to respond to all consumer complaints filed with  
11 either the Better Business Bureau or the Attorney General within two weeks of receipt. The  
12 Better Business Bureau of Central and Northern and Western Arizona (the "BBB") has  
13 reported to the Attorney General that they have received 12 consumer complaints since July 8,  
14 2011, all of which were forwarded to Defendant Garo Enterprises, Inc. for response.  
15 Defendant Robert Brady and Defendant Garo Enterprises, Inc. did not respond to the  
16 Complaints until after the State filed its Contempt Petition on January 30, 2012.

17 B. Paragraph 14(g) of the Consent Judgment requires Defendant Robert  
18 Brady and Defendant Garo Enterprises, Inc. to register their trade name or "DBA" with the  
19 Arizona Secretary of State within 60 days of the Effective Date of the Consent Judgment,  
20 making the due date September 6, 2011. Despite representing to the State that they had done  
21 so on October 1, 2011, Defendant Garo Enterprises, Inc. did not satisfy the conditions for  
22 registration until January 13, 2012.

23 C. Paragraph 14(i) of the Consent Judgment prohibits Defendant Robert  
24 Brady and Defendant Garo Enterprises, Inc. from claiming or representing in any written  
25 warranty or agreement with a customer that they have the right to repossess a consumer's  
26 vehicle if, after delivery of the vehicle to the consumer, a consumer does not make or  
attempts to reverse payment. For a period after July 8, 2011, Defendant Garo Enterprises,

1 Inc. continued to include in its written warranty provided to consumers the following  
2 statement:

3 7. Indeed if any form of payment that Purchaser uses to pay for the  
4 work or services performed does not pay through TP's bank or  
5 financial institution, or if the payment is reversed, the purchaser  
6 gives TP the right to repossess Purchaser's vehicle and charge a \$99  
7 repossession fee, plus the maximum storage fee and maximum  
8 towing fee allowed by law.

9 This violation was repeated with approximately 500 consumers whose vehicles were serviced  
10 by Defendant after July 8, 2011.

11 D. Paragraph 14(j) prohibits Defendant Robert Brady and Defendant Garo  
12 Enterprises, Inc. from making any oral or written statements that conflict with the Consent  
13 Judgment's injunctive terms. Defendant Garo Enterprises, Inc. violated this prohibition  
14 because the written warranty provided to its customers conflicts in numerous ways with the  
15 injunctive terms found in Paragraph 14(h). Paragraph 14(h) states that Defendant Robert  
16 Brady and Defendant Garo Enterprises, Inc. shall provide a full refund for defective  
17 transmissions returned to them at the purchaser's expense within 60 days of the consumer's  
18 receipt of the transmission. Yet after July 8, 2011, Defendant Garo Enterprises, Inc.  
19 continued to include, in its written warranty provided to consumers, the following statements:

- 20 • ...if a TP product does not remain operational for the warranty term,  
21 then upon return of the defective TP product to TP by the Purchaser;  
22 by the Purchaser's expense, TP will, at its sole [sic] discretion  
23 provide a product exchange or refund.
- 24 • Transmissions are non-returnable after 30 days of their original purchase.
- 25 • All Returns are subject to a minimum 20% restocking fee, and there are no  
26 refunds, only merchandise credit given for any returns.
- The performance of repairs or refund, at TP's election, is the exclusive remedy  
under this written warranty.

This violation was repeated with approximately 500 consumers whose vehicles were serviced  
by Defendant after July 8, 2011.

1 **IV. STIPULATED CONCLUSIONS OF LAW**

2 9. Defendant Robert Brady and Defendant Garo Enterprises, Inc.'s acts and  
3 practices set forth in the foregoing Stipulated Findings of Facts violate the orders and  
4 injunctions issued in the Consent Judgment previously entered in this case pursuant to Article 7  
5 of Title 44 of Arizona Revised Statutes, Consumer Fraud. A.R.S. § 44-1521 *et seq.*

6 **V. INJUNCTION**

7 10. Defendant Robert Brady and Defendant Garo Enterprises, Inc. shall comply with  
8 the Arizona Consumer Fraud Act, A.R.S. § 44-1521, *et seq.* as it is currently written or as it is  
9 amended in the future.

10 11. On May 31, 2012, Defendant Garo Enterprises, Inc. shall cease advertising,  
11 performing, seeking or accepting automobile related work, including any and all transmission  
12 work.

13 12. If consumer vehicles are still present on Defendant Garo Enterprises, Inc.'s shop  
14 premises on June 1, 2012, the vehicle(s) shall be returned to consumers with a full refund of any  
15 monies paid. All vehicle work must be completed and the vehicles returned to the consumers  
16 within 60 days of the Effective Date of this Addendum to the Consent Judgment. Defendant  
17 Garo Enterprises, Inc. shall inform the Arizona Attorney General in writing when its operations  
18 have completely ceased. Defendant Garo Enterprises, Inc. shall have fully wound up its  
19 business within 60 days of the Effective Date of this Addendum to Consent Judgment.

20 13. Defendant Robert Brady shall not own, manage, hold or present himself as holding  
21 a supervisory or management position of any kind in any business that offers motor vehicle  
22 repairs, or the purchase, sale, resale, refurbishment, remanufacture or installation of motor  
23 vehicle parts, within the State of Arizona for 10 years from the Effective Date of this  
24 Addendum. Defendant Robert Brady can immediately serve as a technician or employee of a  
25  
26

1 business that offers motor vehicle repairs, including transmissions, or the purchase, sale, resale,  
2 refurbishment, remanufacture or installation of motor vehicle parts, within the State of Arizona.<sup>1</sup>

3 14. Defendant Robert Brady shall not own, manage, hold or present himself as holding  
4 a supervisory or management position of any kind in any business that offers motor vehicle  
5 transmission replacement, repair, rebuilding or refurbishment as its primary service within the  
6 State of Arizona. Defendant Robert Brady may serve as a technician or employee of a business  
7 that offers motor vehicle transmission replacement, repair, rebuilding or refurbishment as its  
8 primary service within the State of Arizona.

9 15. Defendant Garo Enterprises, Inc. will file for dissolution as a corporation no later  
10 than 60 days after the Effective Date of this Addendum to Consent Judgment.

#### 11 VI. PAYMENTS

12 16. Defendant Robert Brady, the marital community of Defendants Robert and  
13 Michelle Brady, and Defendant Garo Enterprises, Inc. shall make restitution to damaged  
14 consumers who have filed complaints with the Attorney General or the Better Business Bureau  
15 since July 8, 2011 in the amount of \$27,835.42.

16 17. Restitution amounts shall be made payable to the Attorney General's Office and  
17 shall be distributed by the Attorney General's Office to those consumers who filed complaints  
18 against Defendant Robert Brady and Defendant Garo Enterprises, Inc.'s business after the July  
19 8, 2011 Effective Date of the Consent Judgment. The amount of restitution due each eligible  
20 consumer will be determined at the sole discretion of the Attorney General.

21 18. The Attorney General may place restitution funds within an interest bearing  
22 account. If, within 30 days of receiving the last payment, the Attorney General is unable to  
23 locate a consumer or consumers to provide restitution, any restitution amount that has not been  
24 distributed, and any interest that has accrued, shall be deposited into the consumer protection-  
25 consumer fraud revolving fund as provided in A.R.S. § 44-1531.01.

---

26 <sup>1</sup> For example, Defendant Robert Brady can immediately serve as a customer service/sales representative for such businesses.

1           19.     Should Defendant Robert Brady, the marital community of Defendants Robert and  
2 Michelle Brady, and Defendant Garo Enterprises, Inc. default on any restitution payment, and  
3 further fail to cure the deficiency within five business days after having received written notice  
4 from the State of any amount past due, the full amount of \$27,835.42 , less any amount  
5 previously paid, will cease to be payable as restitution or costs and attorneys' fees and become  
6 immediately due and owing as an unsuspended civil penalty owed to the State.

7           20.     Defendant Robert Brady, the marital community of Defendants Robert and  
8 Michelle Brady, and Defendant Garo Enterprises, Inc. shall pay the State's costs and attorney's  
9 fees, totaling \$11,925.00. The costs and attorney's fees shall be deposited into the consumer  
10 protection-consumer fraud revolving fund as provided in A.R.S. § 44-1531.0101 and used for  
11 the purposes set forth therein. Should Defendant Robert Brady, the marital community of  
12 Defendants Robert and Michelle Brady, and Defendant Garo Enterprises, Inc. default on any  
13 cost and attorney's fee payment, and further fail to cure the deficiency within five business days  
14 after having received written notice from the State of any amount past due, the full amount of  
15 \$11,925.00, less any amount previously paid, will cease to be payable as costs and attorneys'  
16 fees and become immediately due and owing as an unsuspended civil penalty owed to the State.

17           21.     Defendants shall make the restitution to damaged consumers in the amount of  
18 \$27,835.42, and pay the costs and attorney's fees in the amount of \$11,925.00, for a total  
19 payment amount of \$39,760.42, according to the following schedule:

20               (a)     An initial payment, in the amount of \$500.00, shall be due within 5 days of  
21 the Effective Date;

22               (b)     As a result of Defendant Robert Brady's loss of employment and Defendant  
23 Michelle Brady's anticipated inability to work for the months of June, July and August, 2012,  
24 the payment obligations for both the original Consent Judgment and this Addendum shall be  
25 suspended without the accrual of interest, during the months of June, July and August, 2012,  
26 with no monies due;

1 (c) On or before September 30, 2012, the \$1,000.00 monthly payments being  
2 made under the original Consent Judgment shall recommence, and \$500.00 shall be paid  
3 towards the restitution and legal fees assessed under this Addendum by September 30, 2012,  
4 with \$500.00 due every 30 days thereafter towards the Addendum amounts. This \$500.00  
5 payment amount and interval for the Addendum shall continue until the \$1,000.00 monthly  
6 payments being made under the Consent Judgment have been completed, at which time the  
7 monthly payment amount under this Addendum will increase to \$1,500.00 per month until the  
8 \$39,760.42 in restitution and legal fees is paid; and

9 (d) All payments will be mailed to:

10 Office of the Attorney General  
11 Consumer Protection & Advocacy Section  
12 Attn: Stephanie Paine, Statistical Project Specialist  
13 1275 W Washington St  
14 Phoenix, AZ 85007

15 22. In addition to the above restitution and costs and attorney's fees, Defendant Robert  
16 Brady, the marital community of Defendants Robert and Michelle Brady, and Defendant Garo  
17 Enterprises, Inc. shall pay \$250,000.00 in civil penalties to the State of Arizona within 15 days  
18 of the Effective Date of the Addendum to Consent Judgment. The civil penalties shall be  
19 deposited into the consumer protection-consumer fraud revolving fund as provided in A.R.S. §  
20 44-1531.01 and used for the purposes set forth therein.

21 23. The payment of the \$250,000.00 civil penalties is, however, suspended for 60 days  
22 after the Effective Date of the Addendum to Consent Judgment while Defendant Garo  
23 Enterprises, Inc.'s automotive repair business winds up. Upon receipt of written notification on  
24 behalf of Defendant Garo Enterprises, Inc. to the State that Defendant Garo Enterprises, Inc.'s  
25 operations have fully ceased, within the time allotted, this amount shall be considered waived,  
26 unless and until the State receives verifiable information that Defendant Garo Enterprises, Inc.  
has not, in fact, ceased all operations. If the State receives verifiable information that Defendant

1 Garo Enterprises, Inc. has not, in fact, ceased all operations, the civil penalty amount of  
2 \$250,000.00 shall become immediately due and payable.

3 24. Any amount that becomes due and payable under this Addendum to Consent  
4 Judgment and remains unpaid shall accrue interest at ten percent (10%) per annum until paid.  
5 Such interest shall be characterized as civil penalties, be deposited into the Consumer Fraud  
6 Revolving Fund pursuant to A.R.S. § 44-1531.01, and used for the purposes set forth therein.

7 25. Defendant Robert Brady, the marital community of Defendants Robert and  
8 Michelle Brady, and Defendant Garo Enterprises, Inc. shall bear Plaintiff's reasonable costs,  
9 including reasonable attorneys' fees, in any successful action to enforce any provisions of this  
10 Addendum to Consent Judgment.

11 26. Defendant Robert Brady, the marital community of Defendants Robert and  
12 Michelle Brady, and Defendant Garo Enterprises, Inc. are jointly and severally liable for the  
13 payment of the restitution, civil penalties and costs and attorney's fees ordered in this  
14 Addendum to Consent Judgment.

## 15 VI. GENERAL TERMS

16 27. "Effective Date" of this Addendum to Consent Judgment means the date it is  
17 signed by the Court.

18 28. This Addendum to Consent Judgment applies to Garo Enterprises, Inc. or any  
19 successor companies or businesses, including all trade names, and to the current or future  
20 officers, directors, managerial or supervisory employees of Garo Enterprises, Inc., and to any  
21 other employees or agents having responsibilities with respect to the subject matter of this  
22 Order, but not in an individual capacity except for Defendant Robert Brady.

23 29. This Addendum to Consent Judgment applies to Robert Brady as an individual and  
24 member of his marital community and as an officer and director of Garo Enterprises, Inc.

25 30. All notices required to be given under the terms of this Addendum to Consent  
26 Judgment should be addressed to:

1 Assistant Attorney General Rebecca Salisbury  
2 Arizona Attorney General's Office  
3 1275 W. Washington Street  
4 Phoenix, AZ 85007

4 Robert Brady  
5 3053 E. Vaughan Avenue  
6 Gilbert, AZ 85234

7 With copy to:

8 John Mascari, Esq.  
9 Venable, Campillo, Logan & Meaney, P.C.  
10 1938 E. Osborn Rd.  
11 Phoenix, AZ 85016

11 31. The terms and conditions agreed to by the parties in the original Consent  
12 Judgment are still in full effect and shall be construed in harmony with this Addendum to  
13 Consent Judgment, except to the degree that the original Consent Judgment permits Defendant  
14 Robert Brady and Defendant Garo Enterprises, Inc. to own, manage and operate an ongoing  
15 transmission parts and repair business.

16 32. Defendant Robert Brady and Defendant Garo Enterprises, Inc. shall not represent  
17 or imply that the Attorney General, the State of Arizona, or any agency thereof has approved  
18 any of their actions in Arizona or has approved any of their past, present or future business  
19 practices in Arizona.

20 33. Nothing in this Addendum to Consent Judgment restricts any person or entity from  
21 pursuing a private action or asserting any available right or remedy against Defendant Robert  
22 Brady and Defendant Garo Enterprises, Inc.

23 34. This Court retains jurisdiction of this matter for the purposes of entertaining an  
24 application by Plaintiff, State of Arizona, for the enforcement of this judgment.

25 35. This Addendum to Consent Judgment may be modified or vacated by order of this  
26 Court. After providing at least thirty (30) days written notice, and after making a good faith  
effort to obtain concurrence of the other party for the requested order to modify or vacate, which

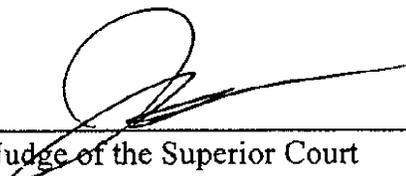
1 concurrence shall not be unreasonably withheld, the party seeking an order to modify or vacate  
2 may petition this Court therefore. The Court will modify or vacate this Addendum to Consent  
3 Judgment upon a showing of good cause.

4 36. This Addendum to Consent Judgment is entered as a result of a compromise and  
5 settlement agreement between the parties. Only the parties to this action may seek enforcement  
6 of this Addendum to Consent Judgment. Nothing herein is intended to create a private right of  
7 action by other persons or entities.

8 37. The State acknowledges by its execution hereof that this Addendum to Consent  
9 Judgment constitutes a complete settlement of the allegations made in its Petition for Order to  
10 Show Cause Re: Contempt, and it agrees it shall not institute any additional civil action against  
11 Defendants Robert and Michelle Brady and Defendant Garo Enterprises, Inc. based on their past  
12 violations of the Consent Judgment as described in the State's Petition for Order to Show Cause  
13 Re: Contempt.

14 38. Notwithstanding the foregoing, the State may institute an action or proceeding to  
15 enforce the terms and provisions of the Consent Judgment, this Addendum to Consent Judgment  
16 or to take action based on future conduct by Defendants.

17 DATED this 24<sup>TH</sup> day of May, 2012.

18  
19  
20 By   
Judge of the Superior Court

21  
22 JOHN A BUTTRICK  
23  
24  
25  
26

## CONSENT TO JUDGMENT

Defendants state that no promise of any kind or nature whatsoever was made to them to induce them to enter into this Addendum to Consent Judgment, and that they have entered into the Addendum to Consent Judgment voluntarily and not as the result of fraud, undue influence, duress, or any other known cause to set aside this Addendum to Consent Judgment.

Defendants have fully read and understood this Addendum to Consent Judgment, understand the legal consequences involved in signing it, assert that this is the entire agreement of the parties, and that there are no other representations or agreements not stated in writing herein and no force, threats, or coercion of any kind have been used to obtain their signatures.

Defendants acknowledge that the State of Arizona's acceptance of this Addendum to Consent Judgment is solely for the purpose of settling this litigation and, except as expressly provided therein, does not preclude the Attorney General, or any other agency or officer of this State, or subdivision thereof, from instituting other civil or criminal proceedings as may be appropriate now or in the future.

The corporate Defendant represents and warrants that the person signing below on its behalf is duly appointed and authorized to do so.

**GARO ENTERPRISES, INC.**



Robert Brady, Director and Secretary

Dated: 5/20/12

**INDIVIDUAL DEFENDANTS**

*Michelle L. Brady*

Dated: *5/20/2012*

Michelle Brady

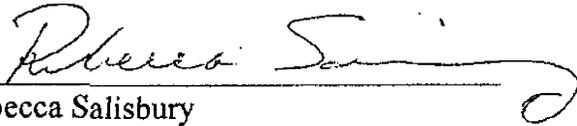
Dated: *5/20/12*

Robert Brady

*Robert Brady*

1  
2 **APPROVED AS TO FORM AND CONTENT**  
3

4 THOMAS C. HORNE, Attorney General

5  
6 

7 Rebecca Salisbury  
8 Assistant Attorney General  
9 State of Arizona

10 #2661525

11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26