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7  
8 **BEFORE THE**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **FOR THE BUREAU OF AUTOMOTIVE REPAIR**  
11 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No.

79/11-67

12 **EXPERT AUTO CARE**  
2686 Pleasant Hill Road  
13 Pleasant Hill, CA 94523  
**RAJ KUMAR DHAWAN**  
14 Automotive Repair Dealer Registration No.  
ARD 186865  
15 Smog Check Test Only Station License No.  
TC 186865

**ACCUSATION**

**SMOG CHECK**

16 and

17 **RAJ KUMAR DHAWAN**  
3725 W. Ruby Hill Drive  
18 Pleasanton, CA 94566  
19 Advanced Emission Specialist Technician  
License No. EA 134529

20 Respondents.

21  
22 Complainant alleges:

23 **PARTIES**

24 1. Sherry Mehl (Complainant) brings this Accusation solely in her official capacity as  
25 the Chief of the Bureau of Automotive Repair ("Bureau"), Department of Consumer Affairs.

26 **Automotive Repair Dealer Registration**

27 2. On a date uncertain in 1995, the Bureau issued Automotive Repair Dealer  
28 Registration Number ARD 186865 ("registration") to Raj Kumar Dhawan doing business as

1 Expert Auto Care ("Respondent"). The registration was in full force and effect at all times  
2 relevant to the charges brought herein and will expire on December 31, 2011.

3 **Smog Check Test Only Station License**

4 3. On or about May 3, 2005, the Bureau issued Smog Check Test Only Station License  
5 Number TC 186865 ("station license") to Respondent. The station license was in full force and  
6 effect at all times relevant to the charges brought herein and will expire on December 31, 2011.

7 **Advanced Emission Specialist Technician License**

8 4. On a date uncertain in 2003, the Bureau issued Advanced Emission Specialist  
9 Technician License Number EA 134529 ("technician license") to Respondent. The technician  
10 license was in full force and effect at all times relevant to the charges brought herein and will  
11 expire on February 29, 2012, unless renewed.

12 **STATUTORY PROVISIONS**

13 5. Section 9884.7 of the Business and Professions Code ("Code") states, in pertinent  
14 part:

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

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

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

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

(4) Any other conduct that constitutes fraud.

(b) Except as provided for in subdivision (c), if an automotive repair  
dealer operates more than one place of business in this state, the director pursuant to  
subdivision (a) shall only suspend, revoke, or place on probation the registration of  
the specific place of business which has violated any of the provisions of this chapter.  
This violation, or action by the director, shall not affect in any manner the right of the  
automotive repair dealer to operate his or her other places of business.

1 (c) Notwithstanding subdivision (b), the director may suspend, revoke, or  
2 place on probation the registration for all places of business operated in this state by  
3 an automotive repair dealer upon a finding that the automotive repair dealer has, or is,  
4 engaged in a course of repeated and willful violations of this chapter, or regulations  
5 adopted pursuant to it.

6 6. Code section 118, subdivision (b) states:

7 The suspension, expiration, or forfeiture by operation of law of a license  
8 issued by a board in the department, or its suspension, forfeiture, or cancellation by  
9 order of the board or by order of a court of law, or its surrender without the written  
10 consent of the board, shall not, during any period in which it may be renewed,  
11 restored, reissued, or reinstated, deprive the board of its authority to institute or  
12 continue a disciplinary proceeding against the licensee upon any ground provided by  
13 law or to enter an order suspending or revoking the license or otherwise taking  
14 disciplinary action against the licensee on any such ground.

15 7. Code section 9884.9 states, in pertinent part:

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

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

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

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

\_\_\_\_\_  
(signature or initials)"

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

1           8.     Code section 9884.13 provides, in pertinent part, that the expiration of a valid  
2 registration shall not deprive the director or chief of jurisdiction to proceed with a disciplinary  
3 proceeding against an automotive repair dealer or to render a decision invalidating a registration  
4 temporarily or permanently.

5           9.     Code section 477 provides, in pertinent part, that "Board" includes "bureau,"  
6 "commission," "committee," "department," "division," "examining committee," "program," and  
7 "agency." "License" includes certificate, registration or other means to engage in a business or  
8 profession regulated by the Code.

9           10.    Section 44002 of the Health and Safety Code provides, in pertinent part, that the  
10 Director has all the powers and authority granted under the Automotive Repair Act for enforcing  
11 the Motor Vehicle Inspection Program.

12           11.    Section 44072.2 of the Health and Safety Code states, in pertinent part:

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

16                   (a) Violates any section of this chapter [the Motor Vehicle Inspection  
17 Program (Health and Saf. Code, § 44000, et seq.)] and the regulations adopted  
18 pursuant to it, which related to the licensed activities.

19                   (c) Violates any of the regulations adopted by the director pursuant to  
20 this chapter.

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

23           12.    Section 44072.6 of the Health and Safety Code provides, in pertinent part, that the  
24 expiration or suspension of a license by operation of law, or by order or decision of the Director  
25 of Consumer Affairs, or a court of law, or the voluntary surrender of the license shall not deprive  
26 the Director of jurisdiction to proceed with disciplinary action.

27           13.    Section 44072.8 of the Health and Safety Code states:

28                   When a license has been revoked or suspended following a hearing under  
this article, any additional license issued under this chapter in the name of the  
licensee may be likewise revoked or suspended by the director.

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1 COST RECOVERY

2 14. Code section 125.3 provides, 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 UNDERCOVER OPERATION – MAY 28, 2010

7 15. On or about May 28, 2010, a Bureau undercover operator drove a Bureau-  
8 documented 2001 Chrysler 300M to Respondent's facility and requested a smog inspection. The  
9 vehicle could not pass the visual portion of a smog inspection because the vehicle's positive  
10 crankcase ventilation (PCV) valve was missing. The operator was not provided with an estimate  
11 prior to the smog inspection. Respondent performed the smog inspection and issued electronic  
12 Certificate of Compliance No. NU186821 for that vehicle. The operator paid \$69.95 for the smog  
13 inspection and received a copy of Service Invoice No. 79898 and the Vehicle Inspection Report  
14 ("VIR").

15 FIRST CAUSE FOR DISCIPLINE

16 (Misleading Statements)

17 16. Respondent has subjected his registration to discipline under Code section 9884.7,  
18 subdivision (a)(1), in that on or about May 28, 2010, he made statements which he knew or which  
19 by exercise of reasonable care he should have known were untrue or misleading when he issued  
20 electronic Certificate of Compliance No. NU186821 for the 2001 Chrysler 300M, certifying that  
21 the vehicle was in compliance with applicable laws and regulations when, in fact, the vehicle's  
22 PCV valve was missing.

23 SECOND CAUSE FOR DISCIPLINE

24 (Allowed Operator to Sign a Document that Did Not State the  
25 Current Odometer Reading)

26 17. Respondent has subjected his registration to discipline under Code section 9884.7,  
27 subdivision (a)(2), in that on or about May 28, 2010, he allowed the operator to sign a work order  
28 that did not set forth the vehicle's current odometer reading.

1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Failed to Provide a Copy of a Signed Document)**

3 18. Respondent has subjected his registration to discipline under Code section 9884.7,  
4 subdivision (a)(3), in that on or about May 28, 2010, Respondent failed to provide the operator  
5 with a copy of the work order as soon as she signed the document.

6 **FOURTH CAUSE FOR DISCIPLINE**

7 **(Fraud)**

8 19. Respondent has subjected his registration to discipline under Code section 9884.7,  
9 subdivision (a)(4), in that on or about May 28, 2010, he committed acts which constitute fraud by  
10 issuing electronic Certificate of Compliance No. NU186821 for the 2001 Chrysler 300M, without  
11 performing a bona fide inspection of the emission control devices and systems on that vehicle,  
12 thereby depriving the People of the State of California of the protection afforded by the Motor  
13 Vehicle Inspection Program.

14 **FIFTH CAUSE FOR DISCIPLINE**

15 **(Failure to Provide a Written Estimate Prior to Repairs)**

16 20. Respondent has subjected his registration to discipline under Code section 9884.7,  
17 subdivision (a)(6), in that on or about May 28, 2010, Respondent failed to comply with Code  
18 section 9884.9, subdivision (a), by failing to provide the operator with a written estimated price  
19 for parts and labor for a specific job.

20 **SIXTH CAUSE FOR DISCIPLINE**

21 **(Violation of the Motor Vehicle Inspection Program)**

22 21. Respondent has subjected his station license to discipline under Health and Safety  
23 Code section 44072.2, subdivision (a), in that on or about May 28, 2010, regarding the 2001  
24 Chrysler 300M, he violated sections of that Code, as follows:

25 a. **Section 44012, subdivision (a):** Respondent failed to determine that all emission  
26 control devices and systems required by law were installed and functioning correctly in  
27 accordance with test procedures.

28



1 bona fide inspection of the emission control devices and system on the vehicle, thereby depriving  
2 the People of the State of California of the protection afforded by the Motor Vehicle Inspection  
3 Program.

4 **NINTH CAUSE FOR DISCIPLINE**

5 **(Violations of the Motor Vehicle Inspection Program)**

6 24. Respondent has subjected his technician license to discipline under Health and Safety  
7 Code section 44072.2, subdivision (a), in that on or about May 28, 2010, regarding the 2001  
8 Chrysler 300M, he violated sections of that Code, as follows:

9 a. **Section 44012, subdivision (a):** Respondent failed to determine that all emission  
10 control devices and systems required by law were installed and functioning correctly in  
11 accordance with test procedures.

12 b. **Section 44012, subdivision (f):** Respondent failed to perform emission control tests  
13 on that vehicle in accordance with procedures prescribed by the department.

14 c. **Section 44032:** Respondent failed to perform tests of the emission control devices  
15 and systems on that vehicle in accordance with section 44012 of that Code.

16 d. **Section 44059:** Respondent willfully made false entries for electronic Certificate of  
17 Compliance No. NU186821, certifying that the vehicle had been inspected as required when, in  
18 fact, it had not.

19 **TENTH CAUSE FOR DISCIPLINE**

20 **(Violations of Regulations Pursuant to the Motor Vehicle Inspection Program)**

21 25. Respondent has subjected his technician license to discipline under Health and Safety  
22 Code section 44072.2, subdivision (c), in that on or about May 28, 2010, regarding the 2001  
23 Chrysler 300M, he violated sections of the California Code of Regulations, title 16, as follows:

24 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued  
25 electronic Certificate of Compliance No. NU186821 without performing a bona fide inspection of  
26 the emission control devices and systems on that vehicle as required by Health and Safety Code  
27 section 44012.



1           b.     On July 29, 2004, the Bureau issued Citation No. C05-0032 to Respondent against his  
2 registration and station licenses for violations of Health and Safety Code section 44012,  
3 subdivision (f) (failure to perform a visual/functional check of emission control devices) and  
4 Regulation, section 3340.35, subdivision (c) (issuing a certificate of compliance to a vehicle  
5 improperly tested). Respondent issued a certificate of compliance to a Bureau vehicle with the  
6 ignition timing adjusted beyond the manufacturer's specifications. The Bureau assessed a civil  
7 penalty of \$500. Respondent complied with this citation on August 18, 2004.

8           c.     On June 5, 2009, the Bureau issued Citation No. C09-1392 to Respondent against his  
9 registration and station licenses for violations of Health and Safety Code section 44012,  
10 subdivision (f) (failure to perform a visual/functional check of emission control devices) and  
11 Regulation, section 3340.35, subdivision (c) (issuing a certificate of compliance to a vehicle  
12 improperly tested). Respondent issued a certificate of compliance to a Bureau vehicle with the  
13 ignition timing adjusted beyond the manufacturer's specifications. The Bureau assessed a civil  
14 penalty of \$500. Respondent complied with this citation on June 29, 2009.

15           d.     On September 25, 2009, the Bureau issued Citation No. C2010-0238 to Respondent  
16 against his registration and station licenses for violations of Health and Safety Code section  
17 44012, subdivision (f) (failure to perform a visual/functional check of emission control devices)  
18 and Regulation, section 3340.35, subdivision (c) (issuing a certificate of compliance to a vehicle  
19 improperly tested). Respondent issued a certificate of compliance to a Bureau vehicle with a  
20 missing pulse air injection system. The Bureau assessed a civil penalty of \$1,000. Respondent  
21 appealed this citation on November 23, 2009. Respondent complied with this citation on  
22 September 3, 2010.

23           e.     On January 29, 2010, the Bureau issued Citation No. C2010-0777 to Respondent  
24 against his registration and station licenses for violations of Health and Safety Code section  
25 44012, subdivision (f) (failure to perform a visual/functional check of emission control devices)  
26 and Regulation, section 3340.35, subdivision (c) (issuing a certificate of compliance to a vehicle  
27 improperly tested). Respondent issued a certificate of compliance to a Bureau vehicle with the  
28 ignition timing adjusted beyond the manufacturer's specifications. The Bureau assessed a civil

1 penalty of \$2,000. Respondent appealed this citation on April 7, 2010. Respondent complied  
2 with this citation on October 5, 2010.

3 f. On July 29, 2004, the Bureau issued Citation No. M05-0033 to Respondent against  
4 his technician license for violations of Health and Safety Code section 44032, (qualified  
5 technicians shall perform tests of emission control systems and devices in accordance with  
6 section 44012 of that Code) and California Code of Regulations, title 16, ("Regulation") section  
7 3340.30, subdivision (a) (qualified technicians shall inspect, test, and repair vehicles in  
8 accordance with sections 44012 and 44035 of the Health and Safety Code, and Regulation section  
9 3340.42). Respondent issued a certificate of compliance to a Bureau vehicle with the ignition  
10 timing adjusted beyond the manufacturer's specifications. Respondent was required to attend an  
11 8-hour training course. Respondent complied with this citation on October 2, 2004.

12 g. On June 5, 2009, the Bureau issued Citation No. M09-1393 to Respondent against his  
13 technician license for violations of Health and Safety Code section 44032, (qualified technicians  
14 shall perform tests of emission control systems and devices in accordance with section 44012 of  
15 that Code) and California Code of Regulations, title 16, ("Regulation") section 3340.30,  
16 subdivision (a) (qualified technicians shall inspect, test, and repair vehicles in accordance with  
17 sections 44012 and 44035 of the Health and Safety Code, and Regulation section 3340.42).  
18 Respondent issued a certificate of compliance to a Bureau vehicle with the ignition timing  
19 adjusted beyond the manufacturer's specifications. Respondent was required to attend an 8-hour  
20 training course. Respondent complied with this citation on July 2, 2009.

21 h. On September 25, 2009, the Bureau issued Citation No. M2010-0239 to Respondent  
22 against his technician license for violations of Health and Safety Code section 44032, (qualified  
23 technicians shall perform tests of emission control systems and devices in accordance with  
24 section 44012 of that Code) and California Code of Regulations, title 16, ("Regulation") section  
25 3340.30, subdivision (a) (qualified technicians shall inspect, test, and repair vehicles in  
26 accordance with sections 44012 and 44035 of the Health and Safety Code, and Regulation section  
27 3340.42). Respondent issued a certificate of compliance to a Bureau vehicle with a missing pulse  
28 air injection system. Respondent was required to attend a 16-hour training course. Respondent

1 appealed this citation on November 23, 2009. Respondent complied with this citation on August  
2 20, 2010.

3 i. On January 29, 2010, the Bureau issued Citation No. M2010-0778 to Respondent  
4 against his technician license for violations of Health and Safety Code section 44032, (qualified  
5 technicians shall perform tests of emission control systems and devices in accordance with  
6 section 44012 of that Code) and California Code of Regulations, title 16, ("Regulation") section  
7 3340.30, subdivision (a) (qualified technicians shall inspect, test, and repair vehicles in  
8 accordance with sections 44012 and 44035 of the Health and Safety Code, and Regulation section  
9 3340.42). Respondent issued a certificate of compliance to a Bureau vehicle with the ignition  
10 timing adjusted beyond the manufacturer's specifications. Respondent was required to attend a  
11 68-hour training course. Respondent appealed this citation on April 7, 2010. Respondent  
12 complied with this citation on October 1, 2010.

### 13 OTHER MATTERS

14 28. Under Code section 9884.7, subdivision (c), the director may invalidate temporarily  
15 or permanently or refuse to validate, the registrations for all places of business operated in this  
16 state by to Raj Kumar Dhawan doing business as Expert Auto Care, upon a finding that he has, or  
17 is, engaged in a course of repeated and willful violations of the laws and regulations pertaining to  
18 an automotive repair dealer.

19 29. Under Health and Safety Code section 44072.8, if Smog Check Test Only Station  
20 License Number TC 186865, issued to Raj Kumar Dhawan doing business as Expert Auto Care,  
21 is revoked or suspended, any additional license issued under this chapter in the name of said  
22 licensee including, but not limited to Advanced Emission Specialist Technician License Number  
23 EA 134529, issued to Raj Kumar Dhawan, may be likewise revoked or suspended by the director.

### 24 PRAYER

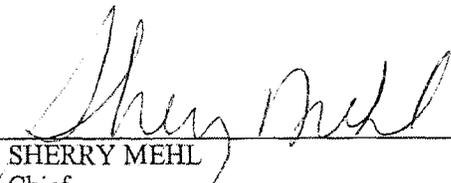
25 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
26 and that following the hearing, the Director of Consumer Affairs issue a decision:

27 1. Revoking, suspending, placing on probation, Automotive Repair Dealer Registration  
28 Number ARD 186865, issued to Raj Kumar Dhawan doing business as Expert Auto Care;

- 1           2.    Revoking, suspending, placing on probation any other automotive repair dealer  
2 registration issued in the name Raj Kumar Dhawan;
- 3           3.    Revoking or suspending Smog Check Test Only Station License Number TC 186865,  
4 issued to Raj Kumar Dhawan doing business as Expert Auto Care;
- 5           4.    Revoking or suspending any additional license issued under Chapter 5 of the Health  
6 & Safety Code in the name of Raj Kumar Dhawan;
- 7           5.    Revoking or suspending Advanced Emission Specialist Technician License Number  
8 EA 134529, issued to Raj Kumar Dhawan
- 9           6.    Revoking or suspending any additional license issued under Chapter 5 of the Health  
10 & Safety Code in the name of Raj Kumar Dhawan;
- 11          7.    Ordering Raj Kumar Dhawan to pay the Bureau of Automotive Repair the reasonable  
12 costs of the investigation and enforcement of this case, pursuant to Business and Professions  
13 Code section 125.3; and,
- 14          8.    Taking such other and further action as deemed necessary and proper.

15  
16  
17 DATED: \_\_\_\_\_

2/14/11



SHERRY MEHL  
Chief  
Bureau of Automotive Repair  
Department of Consumer Affairs  
State of California  
*Complainant*

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