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

12 In the Matter of the Accusation Against:

Case No. 77/06-107

13 GROUP SPECIALIST, LLC
14 BITA IMANI, PRESIDENT
15 421 Hurlingame Avenue
Redwood City, CA 94063

OAH No. N2007060338

FIRST AMENDED ACCUSATION

16 Automotive Repair Dealer Reg. No. AM 219396

17 Respondent.

18 Complainant alleges:

19 **PARTIES**

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

23 2. On or about January 18, 2002, the Director of Consumer Affairs
24 ("Director") issued Automotive Repair Dealer Registration Number AM 219396 to Group
25 Specialist, LLC ("Respondent"), with Bitá Imani ("Imani") as president. Respondent's
26 automotive repair dealer registration was in full force and effect at all times relevant to the
27 charges brought herein and will expire on December 31, 2007, unless renewed.
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1 JURISDICTION

2 3. Business and Professions Code ("Code") section 9884.7 provides that the
3 Director may invalidate an automotive repair dealer registration.

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

8 STATUTORY AND REGULATORY PROVISIONS

9 Statutory Provisions

10 5. Code section 9884.7 states, in pertinent part:

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

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

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22 (4) Any other conduct which constitutes fraud.

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

26 6. Code section 9884.7, subdivision (c), states, in pertinent part, that the
27 Director may refuse to validate or may invalidate temporarily or permanently, the registration for
28 all places of business operated in this state by an automotive repair dealer upon a finding that the
automotive repair dealer has, or is, engaged in a course of repeated and willful violations of the
laws and regulations pertaining to an automotive repair dealer.

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1 7. Code section 9884.8 states:

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

12 8. Code section 9884.9, subdivision (a), states, in pertinent part:

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

18 9. Code section 22, subdivision (a), states:

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

23 10. Code section 477, subdivision (b), states, in pertinent part, that a "license"
24 includes "registration" and "certificate."

24 Regulatory Provisions

25 11. California Code of Regulations, title 16, section ("Regulation") 3303,
26 subdivision (k), states:

27 "Authorization" means consent. Authorization shall consist of the
28 customer's signature on the work order, taken before repair work begins.
Authorization shall be valid without the customer's signature only when oral or

1 electronic authorization is documented in accordance with applicable sections of
2 these regulations.

3 COST RECOVERY

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

8 VEHICLE INSPECTION: 2001 MERCEDES BENZ S500

9 13. On or about December 3, 2003, consumer Arthur Schneiderman
10 ("Schneiderman") took his 2001 Mercedes Benz S500 to Park Avenue Motors located in Palo
11 Alto, California, because the ABS/ESP/Distronic /BAS warning lights on the instrument panel
12 had come on and were still illuminated. The technicians at Park Avenue Motors found that the
13 wiring harness on the driver's side of the engine compartment had been damaged by rodents.
14 Schneiderman had Park Avenue Motors repair the wiring harness for \$730.47, rather than replace
15 the component for \$8,000. Schneiderman had been told by Mercedes that the vehicle would still
16 be safe to drive even though the warning lights would come on periodically after the repairs were
17 completed. Schneiderman eventually decided to have the wiring harness replaced on the vehicle.

18 14. On or about October 6, 2004, Schneiderman took the vehicle to
19 Respondent's facility and told them about the history of the vehicle and the rodent damage to the
20 wiring harness. The facility informed Schneiderman that the repairs would be covered under his
21 comprehensive insurance policy through Allied Insurance. Schneiderman agreed to have the
22 facility repair the vehicle, but was not asked to sign a work order authorizing the repairs.
23 Schneiderman also did not receive a written estimate.

24 15. On or about November 22, 2004, Respondent completed the repair work
25 on the vehicle. In and between November 2004, and May 2005, Schneiderman returned the
26 vehicle to the facility on four or five occasions because the warnings lights kept coming on in the
27 vehicle. The facility told Schneiderman that he had additional rodent damage as evidenced by
28 dangling wires and rodent feces and that he should make a new claim with his insurance

1 company. Schneiderman decided not to have Respondent perform any further repair work on the
2 vehicle.

3 16. On or about May 26, 2005, Schneiderman had the vehicle towed to Park
4 Avenue Motors for inspection. The technicians at Park Avenue Motors advised Schneiderman
5 that there was no evidence of rodent damage and that the problem with the warning lights was
6 due to a broken front strut wiring connector. The front struts on the vehicle were replaced, which
7 resolved the problem with the warning lights. Park Avenue Motor's technicians also advised
8 Schneiderman that there were many parts on the vehicle that were not replaced as invoiced by
9 Respondent.

10 17. On or about May 27, 2005, Bureau Representative Warren Sam ("Sam")
11 received information from Carlos Rubio ("Rubio"), Special Investigator with Allied Insurance,
12 regarding suspected fraudulent activity by Respondent. Rubio alleged that Respondent billed
13 Allied Insurance for parts that were not replaced on Schneiderman's vehicle.

14 18. In or about June 2005, Sam received copies of Schneiderman's insurance
15 file from Rubio, including Respondent's Order ID No. 13218, dated October 6, 2004, totaling
16 \$11,575.67, Order ID No. 13363, dated November 22, 2004, totaling \$3,162.61, and Order ID
17 No. 13395, dated December 1, 2004, totaling \$900. Sam also received documentation indicating
18 that Allied Insurance had paid Respondent \$14,238.28 for the repair work on the vehicle.

19 19. On August 25, 2005, Sam inspected the vehicle at Park Avenue Motors
20 with the assistance of Elliott Dan ("Dan"), the shop foreman. Sam and Dan compared the repair
21 work performed by Respondent with Order ID Nos. 13218 and 13363 and found that Respondent
22 failed to repair the vehicle as invoiced. Sam estimated that Respondent failed to perform
23 approximately \$10,926.50 in repairs on the vehicle.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Untrue or Misleading Statements)**

3 20. Respondent is subject to disciplinary action pursuant to Code section
4 9884.7, subdivision (a)(1), Respondent made or authorized statements which it knew or in the
5 exercise of reasonable care should have known to be untrue or misleading, as follows:

6 a. Respondent represented on Order ID No. 13363 that the closing assist
7 pump on Schneiderman's 2001 Mercedes Benz S500 was replaced when, in fact, that part was
8 not replaced on the vehicle.

9 b. Respondent represented on Order ID No. 13363 that the driver's seat
10 frame on Schneiderman's 2001 Mercedes Benz S500 was replaced when, in fact, that part was
11 not replaced on the vehicle.

12 c. Respondent represented on Order ID No. 13363 that the sunroof motor on
13 Schneiderman's 2001 Mercedes Benz S500 was replaced when, in fact, that part was not
14 replaced on the vehicle.

15 d. Respondent represented on Order ID No. 13218 that the BAS control unit
16 on Schneiderman's 2001 Mercedes Benz S500 was replaced when, in fact, that part was not
17 replaced on the vehicle.

18 e. Respondent represented on Order ID No. 13218 that the engine wiring
19 harness on Schneiderman's 2001 Mercedes Benz S500 was replaced when, in fact, that part was
20 not replaced on the vehicle.

21 f. Respondent represented on Order ID No. 13218 that the engine cable
22 harness on Schneiderman's 2001 Mercedes Benz S500 was replaced when, in fact, that part was
23 not replaced on the vehicle.

24 g. Respondent represented on Order ID No. 13218 that the sender unit on
25 Schneiderman's 2001 Mercedes Benz S500 was replaced when, in fact, that part was not
26 replaced on the vehicle.

27 h. Respondent represented on Order ID No. 13395 that it had supplied
28 Schneiderman with a rental vehicle for thirty days at a total cost of \$900 (the insurance policy

1 maximum), when, in fact, Schneiderman did not have a rental car at any time during the repair
2 work on his 2001 Mercedes Benz S500 (Schneiderman used one of his other personal vehicles).

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Fraud)**

5 21. Respondent is subject to disciplinary action pursuant to Code section
6 9884.7, subdivision (a)(4), in that Respondent committed acts constituting fraud, as follows:

7 a. Respondent charged and obtained payment from Allied Insurance for
8 replacing the closing assist pump on Schneiderman's 2001 Mercedes Benz S500 when, in fact,
9 that part was not replaced on the vehicle as invoiced.

10 b. Respondent charged and obtained payment from Allied Insurance for
11 replacing the driver's seat frame on Schneiderman's 2001 Mercedes Benz S500 when, in fact,
12 that part was not replaced on the vehicle.

13 c. Respondent charged and obtained payment from Allied Insurance for
14 replacing the sunroof motor on Schneiderman's 2001 Mercedes Benz S500 when, in fact, that
15 part was not replaced on the vehicle.

16 d. Respondent charged and obtained payment from Allied Insurance for
17 replacing the BAS control unit on Schneiderman's 2001 Mercedes Benz S500 when, in fact, that
18 part was not replaced on the vehicle.

19 e. Respondent charged and obtained payment from Allied Insurance for
20 replacing the engine wiring harness on Schneiderman's 2001 Mercedes Benz S500 when, in fact,
21 that part was not replaced on the vehicle.

22 f. Respondent charged and obtained payment from Allied Insurance for
23 replacing the engine cable harness on Schneiderman's 2001 Mercedes Benz S500 when, in fact,
24 that part was not replaced on the vehicle.

25 g. Respondent charged and obtained payment from Allied Insurance for
26 replacing the sender unit on Schneiderman's 2001 Mercedes Benz S500 when, in fact, that part
27 was not replaced on the vehicle.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Violations of the Code)**

3 22. Respondent is subject to disciplinary action pursuant to Code section
4 9884.7, subdivision (a)(6), in that Respondent failed to comply with Code section 9884.9,
5 subdivision (a), as follows: Respondent failed to obtain Schneiderman's authorization for the
6 repairs on his 2001 Mercedes Benz S500 or provide Schneiderman with a written estimate for
7 parts and labor necessary for a specific job.

8 **CONSUMER COMPLAINT (O'DONOGHUE): 1999 MERCEDES BENZ C280**

9 23. On or about May 4, 2005, consumer Erin O'Donoghue ("O'Donoghue")
10 took her 1999 Mercedes Benz C280 to Respondent's facility for repair because the electrical
11 system had been damaged by rodents.

12 24. On or about May 11, 2005, O'Donoghue's insurance company, 21st
13 Century Insurance, prepared an itemized estimate totaling \$8,135.42 for the vehicle repairs
14 (hereinafter "insurance estimate").

15 25. On or about June 3, 2005, the facility returned the vehicle to O'Donoghue
16 after the repairs were allegedly completed. O'Donoghue did not receive any documentation from
17 Respondent relating to the repair work on the vehicle and eventually requested a copy of her
18 repair file.

19 26. On or about June 10, 2005, O'Donoghue received copies of two invoices
20 from Respondent: Order ID No. 13925 dated May 4, 2005, totaling \$3,670.94, and Order ID No.
21 13925 dated May 4, 2005, totaling \$8,312.72.

22 27. On or about June 14, 2005, O'Donoghue returned the vehicle to the
23 facility due to problems with Respondent's repair work.

24 28. On or about June 16, 2005, O'Donoghue filed a complaint with the
25 Bureau. O'Donoghue stated that the two party check issued by 21st Century Insurance had been
26 cashed by Respondent even though the check had not been endorsed by O'Donoghue. Further,
27 O'Donoghue had not given Respondent a signed "poa" (power of attorney). O'Donoghue also
28 stated that the insurance company was pursuing an investigation against Respondent for fraud

1 subdivision (a), as follows: Respondent failed to obtain O'Donoghue's authorization for the
2 repairs on her 1999 Mercedes Benz C280 or provide O'Donoghue with a written estimate for
3 parts and labor necessary for a specific job.

4 **CONSUMER COMPLAINT (CONTI): 1992 MERCEDES BENZ 400 SE**

5 36. On or about February 3, 2005, Gina Conti ("Conti") took her 1992
6 Mercedes Benz 400 SE to Respondent's facility to have the vehicle repaired and certain body
7 work performed.

8 37. On or about February 22, 2005, State Farm Insurance Company ("State
9 Farm") prepared a supplemental estimate in the gross amount of \$8,222.47 (hereinafter
10 "insurance estimate") for the repairs. Pursuant to the insurance estimate, the stereo system was
11 to be repaired at an estimated cost of \$1,695 and the repairs were to be sublet to another
12 automotive repair dealer. That same day, State Farm issued two checks totaling \$8,222.47 made
13 payable to Conti's husband, Claudio, for the repairs. Conti signed the checks over to
14 Respondent.

15 38. On or about April 8, 2005, the vehicle was returned to Conti after the
16 repairs were allegedly completed. Conti experienced a number of problems with the vehicle
17 following the repairs and filed a complaint with the Bureau on approximately April 29, 2005.

18 39. On May 23, 2005, Bureau Representative Sam went to Respondent's
19 facility and spoke with Imani. Sam told Imani that Conti had complained that the radio/stereo
20 system still had static following the repairs. Imani told Sam that the stereo system was replaced
21 by Monney Car Audio ("Monney") and gave Sam an installation work order dated February 8,
22 2005, prepared by Monney. Sam asked Imani if her facility had, in fact, sublet the repair of the
23 stereo system to Monney. Imani told Sam that they did sublet the repair to Monney and that after
24 the repairs were completed, Conti had complained to Respondent's facility about static from the
25 stereo system.

26 40. On May 24, 2005, Sam went to Monney's facility and spoke with
27 employee, Chris Drogitis ("Drogitis"). Sam showed Drogitis the installation work order.
28 Drogitis told Sam that the work order was only an estimate to replace the existing stereo receiver

1 and speakers on a 1992 Mercedes Benz 400 SE with Alpine receivers and front and rear
2 speakers. Drogitis also stated that Monney had faxed the estimate to Respondent's facility per
3 their request (the estimate totaled \$931.30), that the vehicle was never taken to Monney's for
4 repair, and that Monney did not install the stereo system in the vehicle.

5 41. On July 22, 2005, Sam took photographs of the vehicle and found
6 that the receiver and speakers were factory original equipment manufacturer parts and were not
7 new.

8 **SEVENTH CAUSE FOR DISCIPLINE**

9 **(Untrue or Misleading Statements)**

10 42. Respondent is subject to disciplinary action pursuant to Code section
11 9884.7, subdivision (a)(1), Respondent made or authorized statements which it knew or in the
12 exercise of reasonable care should have known to be untrue or misleading, as follows:
13 Respondent's president, Imani, represented to Bureau Representative Sam that Respondent's
14 facility had sublet the repair of the stereo system on Conti's 1992 Mercedes Benz 400 SE to
15 Monney and that Monney had replaced the stereo system on the vehicle. In fact, Respondent's
16 facility never took the vehicle to Monney for repair and the existing stereo receiver and speakers
17 had not been replaced on the vehicle. Further, Respondent represented on Invoice Number
18 13640 that the radio and speakers were not replaced on the vehicle because "the shop" found
19 nothing wrong with the parts.

20 **CONSUMER COMPLAINT (WADDINGHAM): 2001 MERCEDES BENZ ML320**

21 43. On or about September 7, 2005, consumer Philip Waddingham
22 ("Waddingham") took his 2001 Mercedes Benz ML320 to Respondent's facility and requested
23 the "27 point inspection" and "major service special" on the vehicle as advertised by Respondent.
24 After the service work was completed, Waddingham received Order ID No. 14258, dated
25 September 7, 2005, totaling \$507.38.

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1 **EIGHTH CAUSE FOR DISCIPLINE**

2 **(Violations of the Code)**

3 44. Respondent is subject to disciplinary action pursuant to Code section
4 9884.7, subdivision (a)(6), in that Respondent failed to comply with Code section 9884.8, as
5 follows: Respondent failed to list separately on Order ID No. 14258 the service work performed
6 and parts supplied on Waddingham's 2001 Mercedes Benz ML320 and failed to state separately
7 the subtotal prices for each, not including sales tax.

8 **UNDERCOVER OPERATION: 1999 MERCEDES BENZ S320**

9 45. On June 20, 2006, an undercover operator with the Bureau (hereinafter
10 "operator") took the Bureau's 1999 Mercedes Benz S320 to Respondent's facility. The vacuum
11 hose to the manifold absolute pressure ("MAP") sensor on the Bureau-documented vehicle had
12 been damaged, causing the check engine light to be illuminated on the instrument panel and a
13 diagnostic trouble code (PO105) to be set in the engine control module (computer). The operator
14 told Respondent's employee, "Matt", that she was concerned about the vehicle because the check
15 engine light was staying on all of the time. Matt accompanied the operator to the vehicle, started
16 the engine, and observed the check engine light come in the vehicle. Matt had the operator sign a
17 repair order, authorizing the facility to repair the vehicle. Matt told the operator that the facility
18 would perform a free diagnostic test on the vehicle and would call her in a couple of hours. The
19 operator was not given a written estimate for the repairs.

20 46. At approximately 4:30 p.m. that same day, the operator received a
21 telephone call from Matt. Matt told the operator that the vehicle needed \$4,500 in repairs,
22 including a new electronic control unit. The operator told Matt that she would call him later with
23 a decision. At approximately 5:00 p.m., the operator telephoned Matt and asked him to explain
24 why \$4,500 in repairs were needed on the vehicle. Matt told the operator, among other things,
25 that the wires on the M. E. Control Unit were rusty and that the vehicle needed a new control unit
26 at a cost of approximately \$1,200. Matt also stated that the replacement of the M. E. Control
27 Unit would fix the check engine light problem. The operator authorized Matt to replace the M.
28 E. Control Unit for \$1,200.

PRAYER

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

1. Temporarily or permanently invalidating Automotive Repair Dealer Registration Number AM 219396, issued to Group Specialist, LLC;
2. Temporarily or permanently invalidating any other automotive repair dealer registration issued in the name of Group Specialist, LLC;
3. Ordering Respondent Group Specialist, LLC 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;
4. Taking such other and further action as deemed necessary and proper.

DATED: 9-12-07



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

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