

BEFORE THE DIRECTOR
DEPARTMENT OF CONSUMER AFFAIRS
BUREAU OF AUTOMOTIVE REPAIR
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

**SUPERB AUTO REPAIR AND TIRE CENTER
VIRENDRA SINGH**

2680 Florin Road, Unit 101
Sacramento, California 95822

Automotive Repair Dealer Registration
No. ARD 225180

Smog Check Test and Repair Station License
No. RC 225180

Respondent.

Case No. 79/10-53


OAH No. 2010041439

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby accepted and adopted as the Decision of the Director of the Department of Consumer Affairs in the above-entitled matter.

This Decision shall become effective on February 24, 2011.

DATED: December 20, 2010


DOREATHEA JOHNSON
Deputy Director, Legal Affairs
Department of Consumer Affairs

1 EDMUND G. BROWN JR.
Attorney General of California
2 ARTHUR TAGGART
Supervising Deputy Attorney General
3 BRIAN S. TURNER
Deputy Attorney General
4 State Bar No. 108991
1300 I Street, Suite 125
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Attorneys for Complainant

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

11
12 In the Matter of the Accusation Against:

Case No. 79/10-53

13 **SUPERB AUTO REPAIR AND TIRE**
CENTER; VIRENDRA SINGH
14 **2680 Florin Road, Unit 101**
Sacramento, California 95822

OAH No. 2010041439

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

15
16 **Automotive Repair Dealer Registration**
No. ARD 225180
17 **Smog Check Test and Repair License**
No. RC 225180

18
19 Respondent.

20
21 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
22 entitled proceedings that the following matters are true:

23 **PARTIES**

24 1. Sherry Mehl (Complainant) is the Chief of the Bureau of Automotive Repair
25 (Bureau). She brought this action solely in her official capacity and is represented in this matter
26 by Edmund G. Brown Jr., Attorney General of the State of California, by Brian S. Turner, Deputy
27 Attorney General.

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1 its own expense; the right to confront and cross-examine the witnesses against them; the right to
2 present evidence and to testify on its own behalf; the right to the issuance of subpoenas to compel
3 the attendance of witnesses and the production of documents; the right to reconsideration and
4 court review of an adverse decision; and all other rights accorded by the California
5 Administrative Procedure Act and other applicable laws.

6 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
7 every right set forth above.

8 **CULPABILITY**

9 9. Respondent admits the truth of each and every charge and allegation in the First
10 Amended Accusation No. 79/10-53 attached as Exhibit A.

11 10. Respondent agrees that its Automotive Repair Dealer Registration and Smog Check
12 Test And Repair License are subject to discipline and agrees to be bound by the Director's
13 probationary terms as set forth in the Disciplinary Order below.

14 **CONTINGENCY**

15 11. This stipulation shall be subject to approval by the Director or his designee.
16 Respondent understands and agrees that counsel for Complainant and the staff of the Bureau may
17 communicate directly with the Director and staff of the Department of Consumer Affairs
18 regarding this stipulation and settlement, without notice to or participation by Respondent or its
19 counsel. By signing the stipulation, Respondent understands and agrees that they may not
20 withdraw its agreement or seek to rescind the stipulation prior to the time the Director considers
21 and acts upon it. If the Director fails to adopt this stipulation as the Decision and Order, the
22 Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this
23 paragraph, it shall be inadmissible in any legal action between the parties, and the Director shall
24 not be disqualified from further action by having considered this matter.

25 12. The parties understand and agree that facsimile copies of this Stipulated Settlement
26 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and
27 effect as the originals.

28 ///

1 IT IS FURTHER ORDERED that Respondent shall not be eligible to apply for
2 reinstatement for any licenses, certificates or registrations issued by the Bureau until February 24,
3 2013 and must meet all conditions for reinstatement in effect at the time the application for
4 reinstatement is submitted.

5 IT IS FURTHER ORDERED that upon application for reinstatement Respondent shall pay
6 to the Bureau the sum of Fifteen Thousand Dollars (\$15,000.00) as and for costs of enforcement
7 incurred in this proceeding pursuant to Business and Professions Code section 125.3.

8

9 ACCEPTANCE

10 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
11 discussed it with my attorney, Robin Perkins. I understand the stipulation and the effect it will
12 have on my Automotive Repair Dealer Registration and Smog Check Test and Repair License. I
13 enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and
14 intelligently, and agree to be bound by the Decision and Order of the Director of Consumer
15 Affairs.

16

17 DATED: _____
18 SUPERB AUTO REPAIR AND TIRE CENTER;
19 VIRENDRA SINGH
Respondent

20 I have read and fully discussed with Respondent Superb Auto Repair and Tire Center;
21 Virendra Singh the terms and conditions and other matters contained in the above Stipulated
22 Settlement and Disciplinary Order. I approve its form and content.

23 DATED: _____
24 Robin Perkins
25 Attorney for Respondent

26 ///

27 ///

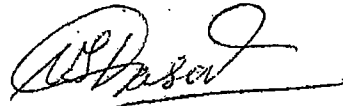
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1 IT IS FURTHER ORDERED that upon application for reinstatement Respondent shall pay
2 to the Bureau the sum of Fifteen Thousand Dollars (\$15,000) as and for costs of enforcement
3 incurred in this proceeding.
4

5 ACCEPTANCE

6 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
7 discussed it with my attorney, Robin Perkins. I understand the stipulation and the effect it will
8 have on my Automotive Repair Dealer Registration and Smog Check Test and Repair License. I
9 enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and
10 intelligently, and agree to be bound by the Decision and Order of the Director of Consumer
11 Affairs.

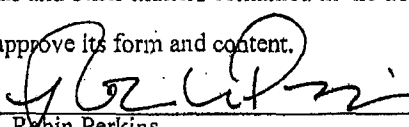
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13 DATED: 11/18/10



14 SUPERB AUTO REPAIR AND TIRE CENTER;
15 VIRENDRA SINGH
16 Respondent

17 I have read and fully disoussed with Respondent Superb Auto Repair and Tire Center;
18 Virendra Singh the terms and conditions and other matters contained in the above Stipulated
19 Settlement and Disciplinary Order. I approve its form and content.

20 DATED: 11/18/10



21 Robin Perkins
22 Attorney for Respondent

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Director of Consumer Affairs.

Dated: _____

Respectfully Submitted,

EDMUND G. BROWN JR.
Attorney General of California
ARTHUR TAGGART
Supervising Deputy Attorney General

BRIAN S. TURNER
Deputy Attorney General
Attorneys for Complainant

SA2009310410
Stipulation.rtf

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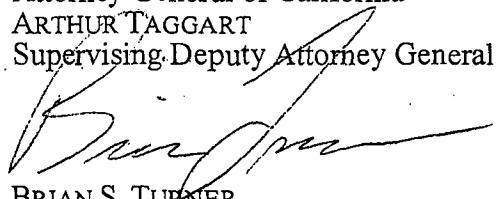
ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Director of Consumer Affairs.

Dated: 11/18/10

Respectfully Submitted,

EDMUND G. BROWN JR.
Attorney General of California
ARTHUR TAGGART
Supervising Deputy Attorney General



BRIAN S. TURNER
Deputy Attorney General
Attorneys for Complainant

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Stipulation.rtf

Exhibit A

First Amended Accusation No. 79/10-53

1 EDMUND G. BROWN JR.
Attorney General of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 BRIAN S. TURNER
Deputy Attorney General
4 State Bar No. 108991
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5 P.O. Box 944255
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6 Telephone: (916) 445-0603
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

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 First Amended Accusation
12 Against:

13 **VIRENDRA SINGH**
14 **dba SUPERB AUTO REPAIR**
2680 Florin Rd., Unit 103
15 Sacramento, California 95822

16 **Automotive Repair Dealer Registration**
17 **No. 225180**
18 **Smog Check Test and Repair License No.**
19 **RC 225180**

Respondent.

Case No. 79/10-53

OAH No. 2010041439

FIRST AMENDED ACCUSATION

20
21 Sherry Mehl ("Complainant") alleges:

22 **PARTIES**

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

25 **Automotive Repair Dealer Registration**

26 2. On or about February 6, 2003, the Bureau issued Automotive Repair Dealer
27 Registration Number 225180 ("registration") to Virendra Singh ("Respondent"), doing business
28 as Superb Auto Repair. The registration will expire on December 31, 2010, unless renewed.

1 **Smog Check Test and Repair License**

2 3. On or about March 17, 2005, the Bureau issued Smog Check Test and Repair License
3 Number RC 225180 ("station license") to Respondent. The station license will expire on
4 December 31, 2010, unless renewed.

5 **STATUTORY PROVISIONS**

6 4. Section 9884.7 of the Business and Professions Code ("Code") states, in pertinent
7 part:

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

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

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

19 (4) Any other conduct which constitutes fraud.

20 (6) Failure in any material respect to comply with the provisions of this chapter [the
21 Automotive Repair Act (Bus. & Prof. Code, 9880, et seq.)] or regulations adopted pursuant
22 to it.

23 (b) Except as provided for in subdivision (c), if an automotive repair dealer operates
24 more than one place of business in this state, the director pursuant to subdivision (a) shall
25 only refuse to validate, or shall only invalidate temporarily or permanently the registration
26 of the specific place of business which has violated any of the provisions of this chapter.
27 This violation, or action by the director, shall not affect in any manner the right of the
28 automotive repair dealer to operate his or her other places of business.

(c) Notwithstanding subdivision (b), the director may refuse to validate, or may
invalidate temporarily or permanently, the registration for 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 this chapter, or
regulations adopted pursuant to it.

5. Section 9889.4 states:

A plea or verdict of guilty or a conviction following a
plea of nolo contendere is deemed to be a conviction within the
meaning of this article. The director may order the license
suspended or revoked, or may decline to issue a license, when the
time for appeal has elapsed, or the judgment of conviction has been
affirmed on appeal, or when an order granting probation is made

1 suspending the imposition of sentence, irrespective of a subsequent
2 order under the provisions of Section 1203.4 of the Penal Code
3 allowing such person to withdraw his plea of guilty and to enter a
4 plea of not guilty, or setting aside the verdict of guilty, or
5 dismissing the accusation, information or indictment.

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

10 7. Code section 9884.8 states:

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

22 8. Code section 9884.9(a) states:

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

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

3 9. Code section 9889.1 provides, in pertinent part, that the Director may suspend or
4 revoke any license issued under Articles 5 and 6 (commencing with Code section 9887.1) of the
5 Automotive Repair Act.

6 10. Code section 9889.7 provides, in pertinent part, that the expiration or suspension of a
7 license by operation of law or by order or decision of the Director or a court of law, or the
8 voluntary surrender of a license shall not deprive the Director of jurisdiction to proceed with any
9 disciplinary proceedings.

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

14 12. Code section 490(a), states:

15 In addition to any other action that a board is permitted to take against a licensee, a board
16 may suspend or revoke a license on the ground that the licensee has been convicted of a
17 crime, if the crime is substantially related to the qualifications, functions, or duties of the
18 business or profession for which the license was issued.

19 13. Health and Safety Code section 44002 provides, in pertinent part, that the Director
20 has all the powers and authority granted under the Automotive Repair Act for enforcing the
21 Motor Vehicle Inspection Program.

22 14. Health and Safety Code section 44072.2 states, in pertinent part:

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

26 (b) Is convicted of any crime substantially related to the qualifications, functions, or
27 duties of the licenseholder in question.

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

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

1 15. Health and Safety Code section 44072.3 states:

2
3 A plea or verdict of guilty or a conviction following a plea of nolo contendere is a
4 conviction within the meaning of this article. The director may order the license suspended
5 or revoked or may decline to issue a license, when the time for appeal has elapsed, or the
6 judgment of conviction has been affirmed on appeal, or when an order granting probation is
7 made suspending the imposition of sentence irrespective of a subsequent order under
8 Section 1203.4 of the Penal Code allowing the person to withdraw a plea of guilty and to
9 enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation,
10 information, or indictment.

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

15 17. Health and Safety Code section 44072.8 states:
16 “When a license has been revoked or suspended following a hearing under this article, any
17 additional license issued under this chapter in the name of the licensee may be likewise revoked
18 or suspended by the director.”

19 **COST RECOVERY**

20 18. Code section 125.3 provides, in pertinent part, that a Board may request the
21 administrative law judge to direct a licentiate found to have committed a violation or violations of
22 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
23 enforcement of the case.

24 **UNDERCOVER OPERATION NO. 1 - 1988 OLDSMOBILE CUTLASS**

25 19. On or about November 5, 2008, a Bureau undercover operator using the alias Hillary
26 Williams (“operator”) drove a Bureau documented 1988 Oldsmobile Cutlass to Respondent’s
27 facility. The only repair necessary was to repair the vacuum hose leak. Respondent greeted the
28 operator, who asked him to check why the engine seemed to run rough and to change the oil and
filter. Respondent gave the operator a verbal estimate of \$25 to change the oil and filter, and \$45
to diagnose the reason for the rough running engine. The operator filled out and signed a work
order but did not receive a copy.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Dishonesty, Fraud or Deceit)**

3 25. Respondent's station license is subject to discipline under Health and Safety Code
4 section 44072.2(d), in that on or about November 5, 2008, Respondent committed acts involving
5 dishonesty, fraud or deceit, as more particularly set forth above in paragraph 24.

6 **FOURTH CAUSE FOR DISCIPLINE**

7 **(Failure to Provide a Copy of a Signed Document)**

8 26. Respondent's registration is subject to discipline under Code section 9884.7(a)(3), in
9 that on or about November 5, 2008, Respondent failed to provide the operator with a copy of the
10 estimate.

11 **FIFTH CAUSE FOR DISCIPLINE**

12 **(Failure to Comply with Code)**

13 27. Respondent's registration is subject to discipline under Code section 9884.7(a)(6), in
14 that on or about November 5, 2008, Respondent failed to comply with the following Code
15 sections:

16 a. **Section 9884.9(a):**

17 i. Respondent failed to provide the operator with a written estimated price for parts and
18 labor for a specific job.

19 ii. Respondent failed to obtain and record the operator's authorization for additional
20 repairs.

21 **UNDERCOVER OPERATION NO. 2 - 1995 NISSAN ALTIMA**

22 28. On or about January 22, 2009, a Bureau undercover operator using the alias Stephanie
23 Pena ("operator") drove a Bureau documented 1995 Nissan Altima to Respondent's facility. The
24 only repair necessary was to repair the mass airflow sensor signal wire. The operator was greeted
25 by Respondent. The operator asked Respondent to diagnose the cause of the illuminated
26 malfunction indicator lamp ("MIL"). The operator handed Respondent a Penny Saver coupon for
27 \$25 to diagnose the vehicle. Respondent gave the operator a verbal estimate of \$25 to diagnose
28

1 the reason for the illuminated MIL. The operator filled out and signed a work order but did not
2 receive a copy.

3 29. On that same day, the operator telephoned Respondent's facility and spoke with an
4 unidentified man. The operator requested an oil and filter change. The unidentified man told the
5 operator that the mass airflow sensor would probably need to be replaced but they needed to
6 check the wiring first.

7 30. Later that same day, the operator telephoned Respondent's facility and spoke with an
8 unidentified man who told the operator that the wiring to the mass airflow sensor needed to be
9 repaired, and that the spark plugs were fouled because of the malfunctioning mass airflow sensor
10 and recommended that they be replaced. The total cost of the repairs would be \$191. The
11 operator authorized repairs.

12 31. On or about January 22, 2009, the operator returned to the Respondent's facility to
13 retrieve the vehicle and paid Respondent \$195.51 for the repairs.

14 32. On or about January 30, 2009, the Bureau inspected the vehicle using Invoice No.
15 001749 as a reference. The inspection revealed that Respondent made repairs as invoiced, but
16 failed to provide the operator with a written estimate, and failed to document the additional
17 authorization when the estimate was exceeded.

18 **SIXTH CAUSE FOR DISCIPLINE**

19 **(Failure to Provide a Copy of a Signed Document)**

20 33. Respondent's registration is subject to discipline under Code section 9884.7(a)(3), in
21 that on or about January 22, 2009, Respondent failed to provide the operator with a copy of the
22 estimate.

23 **SEVENTH CAUSE FOR DISCIPLINE**

24 **(Failure to Comply with Code)**

25 34. Respondent's registration is subject to discipline under Code section 9884.7(a)(6), in
26 that on or about January 22, 2009, Respondent failed to comply with Code section 9884.9(a), in
27 that he failed to document the additional authorization when the estimate was exceeded.

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1 **UNDERCOVER OPERATION NO. 3 - 1994 CHEVROLET SILVERADO PICKUP**

2 35. On or about February 3, 2009, a Bureau undercover operator using the alias Mike
3 Perez (“operator”) had a Bureau documented 1994 Chevrolet Silverado pickup towed to
4 Respondent’s facility. The only repair necessary was to replace the fuel pump relay. The
5 operator was greeted by Respondent. The operator asked Respondent to diagnose the cause of the
6 extended cranking when starting the vehicle. Respondent told the operator that the fuel pump
7 was probably bad and gave the operator a verbal estimate of \$45 to diagnose the vehicle. The
8 operator filled out and signed a work order but did not receive a copy.

9 36. On that same day, Bureau operator, T. Toy (“Toy”), telephoned Respondent’s facility
10 on behalf of operator Mike Perez, and spoke with an unidentified man who told Toy that the fuel
11 pump and fuel filter needed to be replaced. Toy also requested an oil and filter change. The
12 unidentified man told Toy it would cost \$377 plus tax. Toy authorized the repairs.

13 37. On or about February 4, 2009, the operator returned to Respondent’s facility to
14 retrieve the vehicle and paid Respondent \$390 for the repairs.

15 38. On or about February 5, 2009, the Bureau inspected the vehicle using Invoice No.
16 001888 as a reference. The inspection revealed that Respondent unnecessarily replaced the
17 vehicle’s fuel pump and fuel filter. The inspection also revealed that the fuel pump relay had
18 been replaced but was not on the invoice.

19 **EIGHTH CAUSE FOR DISCIPLINE**

20 **(Misleading Statements)**

21 39. Respondent’s registration is subject to discipline under Code section 9884.7(a)(1), in
22 that on or about February 3, 2009, Respondent made statements which he knew or which by
23 exercise of reasonable care should have known to be untrue or misleading, in that Respondent
24 falsely represented to the operator that the fuel pump and fuel filter needed to be replaced, when
25 in fact, they did not.

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1 **NINTH CAUSE FOR DISCIPLINE**

2 **(Fraud)**

3 40. Respondent's registration is subject to discipline under Code section 9884.7(a)(4), in
4 that on or about February 3, 2009, Respondent committed acts constituting fraud, in that
5 Respondent charged for and accepted payment from the operator to replace the fuel pump and
6 fuel filter with knowledge those repairs were not necessary.

7 **TENTH CAUSE FOR DISCIPLINE**

8 **(Dishonesty, Fraud or Deceit)**

9 41. Respondent's station license is subject to discipline under Health and Safety Code
10 section 44072.2(d), in that on or about February 3, 2009, Respondent committed acts involving
11 dishonesty, fraud or deceit, as more particularly set forth above in paragraph 40.

12 **ELEVENTH CAUSE FOR DISCIPLINE**

13 **(Failure to Provide a Copy of a Signed Document)**

14 42. Respondent's registration is subject to discipline under Code section 9884.7(a)(3), in
15 that on or about February 3, 2009, Respondent failed to provide the operator with a copy of the
16 estimate.

17 **TWELFTH CAUSE FOR DISCIPLINE**

18 **(Failure to Comply with Code)**

19 43. Respondent's registration is subject to discipline under Code section 9884.7(a)(6), in
20 that on or about February 3, 2009, Respondent failed to comply with the following Code sections:

21 a. **Section 9884.8:** Respondent failed to record all service work performed and parts
22 used in the repair of the operator's vehicle, in that the replacement of the fuel pump relay was not
23 on the invoice.

24 b. **Section 9884.9(a):**

25 i. Respondent failed to provide the operator with a written estimated price for
26 parts and labor for a specific job.

27 ii. Respondent failed to obtain and record the operator's authorization for the
28 replacement of the fuel pump relay.

1 **CONSUMER COMPLAINT - 1999 TOYOTA CAMRY**

2 44. On or about February 25, 2009, the Bureau received a consumer complaint from
3 Thomas Liu ("consumer") regarding repairs to his 1999 Toyota Camry performed by Respondent.
4 On or about January 28, 2009, the consumer had his vehicle towed to Respondent's facility due to
5 a dead battery and empty coolant reservoir. The consumer was greeted by Respondent.
6 Respondent jumped the vehicle's battery; the engine cranked fast but did not start. Respondent
7 told the consumer that the engine needed to be replaced and gave him an estimate of \$2,800 to
8 install a used engine in the vehicle.

9 45. The following day, Respondent contacted the consumer and told him a leaky water
10 pump caused the timing belt to become soft and slip, and the cylinder head gasket was leaking.
11 Respondent told the consumer that his vehicle's engine did not need to be replaced and revised
12 the estimate to \$2,400. The consumer authorized the repairs.

13 46. On or about February 25, 2009, the Bureau inspected the vehicle using Invoice No.
14 1861 as a reference. The inspection revealed that Respondent failed to replace the cylinder head
15 gasket, as invoiced.

16 **THIRTEENTH CAUSE FOR DISCIPLINE**

17 **(Untrue or Misleading Statements)**

18 47. Respondent's registration is subject to discipline under Code section 9884.7(a)(1), in
19 that on or about January 28, 2009, Respondent made statements which he knew or which by
20 exercise of reasonable care should have known were untrue or misleading, in that Respondent
21 falsely represented to the consumer on Invoice No. 1861 that he had replaced the cylinder head
22 gasket, when in fact, he did not.

23 **FOURTEENTH CAUSE FOR DISCIPLINE**

24 **(Fraud)**

25 48. Respondent's registration is subject to discipline under Code section 9884.7(a)(4), in
26 that on or about January 28, 2009, Respondent committed acts constituting fraud, in that
27 Respondent charged for and accepted payment from the consumer to replace the cylinder head
28 gasket, when in fact, those repairs had not been performed.

1 **FIFTEENTH CAUSE FOR DISCIPLINE**

2 **(Dishonesty, Fraud or Deceit)**

3 49. Respondent's station license is subject to discipline under Health and Safety Code
4 section 44072.2(d), in that on or about January 28, 2009, Respondent committed acts involving
5 dishonesty, fraud or deceit, as more particularly set forth above in paragraph 48.

6 **SIXTEENTH CAUSE FOR DISCIPLINE**

7 **(Conviction of a Crime)**

8 50. Respondent's registration is subject to discipline under Code section 490, in that he
9 was convicted of the following crimes that are substantially related to the qualifications, functions
10 or duties of an automotive repair dealer:

11 a. On or about September 10, 2010, in the case of *People v. Virendra Singh*, (Super. Ct.
12 Sacramento County, Case No. 09M11317), Respondent was convicted by the Court on his plea of
13 nolo contendere of violating Business and Professions Code section 9884.9(a) (failed to provide a
14 written estimated price for labor and parts necessary for a specific job). The circumstances of the
15 crime was that on or about February 3, 2009, Respondent failed to provide the consumer a written
16 estimated price for labor and parts for a specific job, as set forth above in paragraph 41(b)(i).

17 b. On or about July November 15, 2007, in the case of *People v. Virendra Singh*, (Super.
18 Ct. Sacramento County, Case No. 07F07705), Respondent was convicted by the Court on his plea
19 of nolo contendere of violating Penal Code section 550(b)(1) (false and misleading written and
20 oral statements). The circumstances of the crime was that on or about August 29, 2003,
21 Respondent gave a statement to CSAA Insurance stating that he was the driver of a vehicle that
22 had been involved in a traffic collision on August 27, 2003, when in fact, Respondent's son was
23 the driver of the vehicle. Furthermore, on or about October 27, 2006, while under oath in a
24 deposition proceeding, Respondent stated again that he was the driver of the vehicle involved in a
25 traffic collision on August 27, 2003, knowing and to the contrary to such oath, attempt to state as
26 true, a material matter which he knew to be false.

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1 **SEVENTEENTH CAUSE FOR DISCIPLINE**

2 **(Conviction of a Crime)**

3 51. Respondent's station license is subject to discipline under Health and Safety Code
4 section 44072.2(b), in that he was convicted of the following crimes that are substantially related
5 to the qualifications, functions or duties of an automotive repair dealer:

6 a. On or about September 10, 2010, in the case of *People v. Virendra Singh*, (Super. Ct.
7 Sacramento County, Case No. 09M11317), Respondent was convicted by the Court on his plea of
8 nolo contendere of violating Business and Professions Code section 9884.9(a) (failed to provide a
9 written estimated price for labor and parts necessary for a specific job). The circumstances of the
10 crime was that on or about February 3, 2009, Respondent failed to provide the consumer a written
11 estimated price for labor and parts for a specific job, as set forth above in paragraph 41(b)(i).

12 b. On or about July November 15, 2007, in the case of *People v. Virendra Singh*, (Super.
13 Ct. Sacramento County, Case No. 07F07705), Respondent was convicted by the Court on his plea
14 of nolo contendere of violating Penal Code section 550(b)(1) (false and misleading written and
15 oral statements). The circumstances of the crime was that on or about August 29, 2003,
16 Respondent gave a statement to CSAA Insurance stating that he was the driver of a vehicle that
17 had been involved in a traffic collision on August 27, 2003, when in fact, Respondent's son was
18 the driver of the vehicle. Furthermore, on or about October 27, 2006, while under oath in a
19 deposition proceeding, Respondent stated again that he was the driver of the vehicle involved in a
20 traffic collision on August 27, 2003, knowing and to the contrary to such oath, attempt to state as
21 true, a material matter which he knew to be false.

22 **EIGHTEENTH CAUSE FOR DISCIPLINE**

23 **(Fraudulent Acts)**

24 52. Respondent's registration is subject to discipline under Code section 9884.7(a)(4), in
25 that Respondent committed acts constituting fraud in the following respects:

26 a. On or about August 28, 2003, Respondent aided, abetted, solicited, and conspired with
27 another, and did knowingly present and cause to be presented a false and fraudulent claim for the
28 payment of a loss and injury, including payment of a loss under a contract of insurance.

1 b. On or about August 29, 2003, Respondent assisted and conspired with another to and
2 present and caused to be presented a written and oral statement as part of, and in support of, and
3 in opposition to, a claim for payment and other benefits to an insurance policy, knowing that the
4 statement contained false and misleading information concerning a material fact.

5 c. Between August 15, 2005, and August 18, 2005, Respondent aided, abetted, solicited,
6 and conspired with another and did knowingly prepare, make and subscribe a writing, with intent
7 to present and use it, and to allow it to be presented in support of a false and fraudulent claim.

8 d. On or about October 27, 2006, Respondent assisted and conspired with another to and
9 presented and caused to be presented a written and oral statement as part of, and in support of,
10 and in opposition to, a claim for payment and other benefits to an insurance policy, knowing that
11 the statement contained false and misleading information concerning a material fact.
12 Furthermore, Respondent, having taken an oath that he would testify, declare, depose, and certify
13 truthfully before a competent tribunal, officer, and person in a case in which such an oath may by
14 law be administered, to wit, a deposition, did and contrary to such oath, testified as true a material
15 matter which he knew to be false.

16 **NINETEENTH CAUSE FOR DISCIPLINE**

17 **(Dishonesty, Fraud or Deceit)**

18 53. Respondent's station license is subject to discipline under Health and Safety Code
19 section 44072.2(d), in that Respondent committed acts involving dishonesty, fraud or deceit, as
20 more particularly set forth above in paragraph 52.

21 **OTHER MATTERS**

22 54. Under Code section 9884.7(c), the director may invalidate or refuse to validate,
23 temporarily or permanently, the registrations for all places of business operated in this state by
24 Virendra Singh, doing business as Superb Auto Repair, upon a finding that he has, or is, engaged
25 in a course of repeated and willful violations of the laws and regulations pertaining to an
26 automotive repair dealer.

27 55. Pursuant to Health and Safety Code section 44072.8, if Smog Check Test and Repair
28 License Number RC 225180, issued to Virendra Singh, doing business as Superb Auto Repair, is

1 revoked or suspended, any additional license issued under this chapter in the name of said
2 licensee may be likewise revoked or suspended by the director.

3 **PRAYER**

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

6 1. Temporarily or permanently invalidating Automotive Repair Dealer Registration
7 Number ARD 225180, issued to Virendra Singh, doing business as Superb Auto Repair;

8 2. Temporarily or permanently invalidating any other automotive repair dealer
9 registration issued to Virendra Singh;

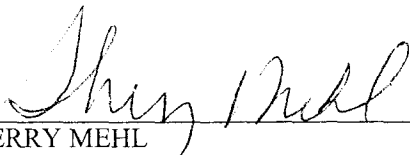
10 3. Revoking or suspending Smog Check Test and Repair License Number RC 225180,
11 issued to Virendra Singh, doing business as Superb Auto Repair;

12 4. Revoking or suspending any additional license issued under Chapter 5 of the Health
13 and Safety Code in the name of Virendra Singh;

14 5. Ordering Virendra Singh to pay the Director of Consumer Affairs the reasonable
15 costs of the investigation and enforcement of this case, pursuant to Code section 125.3; and,

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

17
18
19 DATED: 1-18-10



20 SHERRY MEHL
21 Chief
22 Bureau of Automotive Repair I/M Smog
23 Department of Consumer Affairs
24 State of California
25 *Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 79/10-53

13 **VIRENDRA SINGH**
dba SUPERB AUTO REPAIR
14 2680 Florin Rd., Unit 103
Sacramento, California 95822

A C C U S A T I O N

15 **Automotive Repair Dealer Registration No. 225180**
16 **Smog Check Test and Repair License No. RC 225180**

17 Respondent.

18
19 Sherry Mehl ("Complainant") alleges:

20 **PARTIES**

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

23 **Automotive Repair Dealer Registration**

24 2. On or about February 6, 2003, the Bureau issued Automotive Repair Dealer
25 Registration Number 225180 ("registration") to Virendra Singh ("Respondent"), doing business
26 as Superb Auto Repair. The registration will expire on December 31, 2010, unless renewed.

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1 **Smog Check Test and Repair License**

2 3. On or about March 17, 2005, the Bureau issued Smog Check Test and Repair
3 License Number RC 225180 ("station license") to Respondent. The station license will expire on
4 December 31, 2010, unless renewed.

5 **STATUTORY PROVISIONS**

6 4. Section 9884.7 of the Business and Professions Code ("Code") states, in pertinent
7 part:

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

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

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

21 (4) Any other conduct which constitutes fraud.

22 (6) Failure in any material respect to comply with the provisions of this
23 chapter [the Automotive Repair Act (Bus. & Prof. Code, 9880, et seq.)] or
24 regulations adopted pursuant to it.

25 (b) Except as provided for in subdivision (c), if an automotive repair
26 dealer operates more than one place of business in this state, the director pursuant
27 to subdivision (a) shall only refuse to validate, or shall only invalidate temporarily
28 or permanently 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.

(c) Notwithstanding subdivision (b), the director may refuse to
validate, or may invalidate temporarily or permanently, the registration for 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 this chapter, or regulations adopted pursuant to it.

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1 5. 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 6. Code section 9884.8 states:

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

18 7. Code section 9884.9(a) states:

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

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

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

4 _____
(signature or initials)"

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

7
8 8. Code section 9889.1 provides, in pertinent part, that the Director may suspend or
9 revoke any license issued under Articles 5 and 6 (commencing with Code section 9887.1) of the
10 Automotive Repair Act.

11 9. Code section 9889.7 provides, in pertinent part, that the expiration or suspension
12 of a license by operation of law or by order or decision of the Director or a court of law, or the
13 voluntary surrender of a license shall not deprive the Director of jurisdiction to proceed with any
14 disciplinary proceedings.

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

19 11. Health and Safety Code section 44002 provides, in pertinent part, that the Director
20 has all the powers and authority granted under the Automotive Repair Act for enforcing the
21 Motor Vehicle Inspection Program.

22 12. Health and Safety Code section 44072.2 states, in pertinent part:

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

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

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

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1 13. Health and Safety Code section 44072.6 provides, in pertinent part, that the
2 expiration or suspension of a license by operation of law, or by order or decision of the Director
3 of Consumer Affairs, or a court of law, or the voluntary surrender of the license shall not deprive
4 the Director of jurisdiction to proceed with disciplinary action.

5 14. Health and Safety Code section 44072.8 states:

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

9 **COST RECOVERY**

10 15. Code section 125.3 provides, in pertinent part, that a Board may request the
11 administrative law judge to direct a licensee found to have committed a violation or violations
12 of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
13 enforcement of the case.

14 **UNDERCOVER OPERATION NO. 1 - 1988 OLDSMOBILE CUTLASS**

15 16. On or about November 5, 2008, a Bureau undercover operator using the alias
16 Hillary Williams (“operator”) drove a Bureau documented 1988 Oldsmobile Cutlass to
17 Respondent’s facility. The only repair necessary was to repair the vacuum hose leak.
18 Respondent greeted the operator, who asked him to check why the engine seemed to run rough
19 and to change the oil and filter. Respondent gave the operator a verbal estimate of \$25 to change
20 the oil and filter, and \$45 to diagnose the reason for the rough running engine. The operator
21 filled out and signed a work order but did not receive a copy.

22 17. On that same day, the operator telephoned Respondent’s facility and spoke with
23 an unidentified man who told the operator that the oil and filter had been changed and the
24 vehicle’s intake manifold gasket needed to be replaced. The man told the operator that it would
25 cost \$380 to replace the intake manifold gasket. The operator authorized the repairs.

26 18. Later that same day, the operator telephoned Respondent’s facility and spoke with
27 an unidentified man who told the operator that the vehicle was ready to be picked up. The
28 operator returned to the facility to retrieve the vehicle and paid \$457 for the repairs.

1 19. On or about November 6, 2008, the Bureau inspected the vehicle using Invoice
2 No. 001051 as a reference. The inspection revealed that Respondent failed to replace the intake
3 manifold gasket set as invoiced.

4 **FIRST CAUSE FOR DISCIPLINE**

5 **(Misleading Statements)**

6 20. Respondent's registration is subject to discipline under Code section 9884.7(a)(1),
7 in that on or about November 5, 2008, Respondent made statements which he knew or which by
8 exercise of reasonable care should have known to be untrue or misleading, as follows:

9 a. Respondent falsely represented to the operator that the intake manifold gasket
10 needed to be replaced, when in fact, it did not.

11 b. Respondent falsely represented on Invoice No. 001051 that the intake manifold
12 gasket set was replaced, when in fact, it was not.

13 **SECOND CAUSE FOR DISCIPLINE**

14 **(Fraud)**

15 21. Respondent's registration is subject to discipline under Code section 9884.7(a)(4),
16 in that on or about November 5, 2008, Respondent committed acts constituting fraud, as follows:

17 a. Respondent charged and accepted payment from the operator to replace the intake
18 manifold gasket set with knowledge that repair was not necessary, and was not performed, as
19 invoiced.

20 **THIRD CAUSE FOR DISCIPLINE**

21 **(Failure to Provide a Copy of a Signed Document)**

22 22. Respondent's registration is subject to discipline under Code section 9884.7(a)(3),
23 in that on or about November 5, 2008, Respondent failed to provide the operator with a copy of
24 the estimate.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Failure to Comply with Code)**

3 23. Respondent's registration is subject to discipline under Code section 9884.7(a)(6),
4 in that on or about November 5, 2008, Respondent failed to comply with the following Code
5 sections:

6 a. **Section 9884.9(a)**

7 i. Respondent failed to provide the operator with a written estimated price
8 for parts and labor for a specific job.

9 ii. Respondent failed to obtain and record the operator's authorization for
10 additional repairs.

11 **UNDERCOVER OPERATION NO. 2 - 1995 NISSAN ALTIMA**

12 24. On or about January 22, 2009, a Bureau undercover operator using the alias
13 Stephanie Pena ("operator") drove a Bureau documented 1995 Nissan Altima to Respondent's
14 facility. The only repair necessary was to repair the mass airflow sensor signal wire. The
15 operator was greeted by Respondent. The operator asked Respondent to diagnose the cause of
16 the illuminated malfunction indicator lamp ("MIL"). The operator handed Respondent a Penny
17 Saver coupon for \$25 to diagnose the vehicle. Respondent gave the operator a verbal estimate of
18 \$25 to diagnose the reason for the illuminated MIL. The operator filled out and signed a work
19 order but did not receive a copy.

20 25. On that same day, the operator telephoned Respondent's facility and spoke with
21 an unidentified man. The operator requested an oil and filter change. The unidentified man told
22 the operator that the mass airflow sensor would probably need to be replaced but they needed to
23 check the wiring first.

24 26. Later that same day, the operator telephoned Respondent's facility and spoke with
25 an unidentified man who told the operator that the wiring to the mass airflow sensor needed to be
26 repaired, and that the spark plugs were fouled because of the malfunctioning mass airflow sensor
27 and recommended that they be replaced. The total cost of the repairs would be \$191. The
28 operator authorized repairs.

1 27. On or about January 22, 2009, the operator returned to the Respondent's facility to
2 retrieve the vehicle and paid Respondent \$195.51 for the repairs.

3 28. On or about January 30, 2009, the Bureau inspected the vehicle using Invoice No.
4 001749 as a reference. The inspection revealed that Respondent made repairs as invoiced, but
5 failed to provide the operator with a written estimate, and failed to document the additional
6 authorization when the estimate was exceeded.

7 **FIFTH CAUSE FOR DISCIPLINE**

8 **(Failure to Provide a Copy of a Signed Document)**

9 29. Respondent's registration is subject to discipline under Code section 9884.7(a)(3),
10 in that on or about January 22, 2009, Respondent failed to provide the operator with a copy of the
11 estimate.

12 **SIXTH CAUSE FOR DISCIPLINE**

13 **(Failure to Comply with Code)**

14 30. Respondent's registration is subject to discipline under Code section 9884.7(a)(6),
15 in that on or about January 22, 2009, Respondent failed to comply with Code section 9884.9(a),
16 in that he failed to document the additional authorization when the estimate was exceeded.

17 **UNDERCOVER OPERATION NO. 3 - 1994 CHEVROLET SILVERADO PICKUP**

18 31. On or about February 3, 2009, a Bureau undercover operator using the alias Mike
19 Perez ("operator") had a Bureau documented 1994 Chevrolet Silverado pickup towed to
20 Respondent's facility. The only repair necessary was to replace the fuel pump relay. The
21 operator was greeted by Respondent. The operator asked Respondent to diagnose the cause of
22 the extended cranking when starting the vehicle. Respondent told the operator that the fuel pump
23 was probably bad and gave the operator a verbal estimate of \$45 to diagnose the vehicle. The
24 operator filled out and signed a work order but did not receive a copy.

25 32. On that same day, Bureau operator, T. Toy ("Toy"), telephoned Respondent's
26 facility on behalf of operator Mike Perez, and spoke with an unidentified man who told Toy that
27 the fuel pump and fuel filter needed to be replaced. Toy also requested an oil and filter change.
28 The unidentified man told Toy it would cost \$377 plus tax. Toy authorized the repairs.

1 33. On or about February 4, 2009, the operator returned to Respondent's facility to
2 retrieve the vehicle and paid Respondent \$390 for the repairs.

3 34. On or about February 5, 2009, the Bureau inspected the vehicle using Invoice
4 No. 001888 as a reference. The inspection revealed that Respondent unnecessarily replaced the
5 vehicle's fuel pump and fuel filter. The inspection also revealed that the fuel pump relay had
6 been replaced but was not on the invoice.

7 **SEVENTH CAUSE FOR DISCIPLINE**

8 **(Misleading Statements)**

9 35. Respondent's registration is subject to discipline under Code section 9884.7(a)(1),
10 in that on or about February 3, 2009, Respondent made statements which he knew or which by
11 exercise of reasonable care should have known to be untrue or misleading, as follows:

12 a. Respondent falsely represented to the operator that the fuel pump and fuel filter
13 needed to be replaced, when in fact, they did not.

14 **EIGHTH CAUSE FOR DISCIPLINE**

15 **(Fraud)**

16 36. Respondent's registration is subject to discipline under Code section 9884.7(a)(4),
17 in that on or about February 3, 2009, Respondent committed acts constituting fraud, as follows:

18 a. Respondent charged for and accepted payment from the operator to replace the
19 fuel pump and fuel filter with knowledge those repairs were not necessary.

20 **NINTH CAUSE FOR DISCIPLINE**

21 **(Failure to Provide a Copy of a Signed Document)**

22 37. Respondent's registration is subject to discipline under Code section 9884.7(a)(3),
23 in that on or about February 3, 2009, Respondent failed to provide the operator with a copy of the
24 estimate.

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1 TENTH CAUSE FOR DISCIPLINE

2 (Failure to Comply with Code)

3 38. Respondent's registration is subject to discipline under Code section 9884.7(a)(6),
4 in that on or about February 3, 2009, Respondent failed to comply with the following Code
5 sections:

6 a. Section 9884.8: Respondent failed to record all service work performed and
7 parts used in the repair of the operator's vehicle, in that the replacement of the fuel pump relay
8 was not on the invoice.

9 b. Section 9884.9(a)

10 i. Respondent failed to provide the operator with a written estimated price
11 for parts and labor for a specific job.

12 ii. Respondent failed to obtain and record the operator's authorization for the
13 replacement of the fuel pump relay.

14 CONSUMER COMPLAINT - 1999 TOYOTA CAMRY

15 39. On or about February 25, 2009, the Bureau received a consumer complaint from
16 Thomas Liu ("consumer") regarding repairs to his 1999 Toyota Camry performed by
17 Respondent. On or about January 28, 2009, the consumer had his vehicle towed to Respondent's
18 facility due to a dead battery and empty coolant reservoir. The consumer was greeted by
19 Respondent. Respondent jumped the vehicle's battery; the engine cranked fast but did not start.
20 Respondent told the consumer that the engine needed to be replaced and gave him an estimate of
21 \$2,800 to install a used engine in the vehicle.

22 40. The following day, Respondent contacted the consumer and told him a leaky
23 water pump caused the timing belt to become soft and slip, and the cylinder head gasket was
24 leaking. Respondent told the consumer that his vehicle's engine did not need to be replaced and
25 revised the estimate to \$2,400. The consumer authorized the repairs.

26 41. On or about February 25, 2009, the Bureau inspected the vehicle using Invoice
27 No. 1861 as a reference. The inspection revealed that Respondent failed to replace the cylinder
28 head gasket, as invoiced.

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ELEVENTH CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

42. Respondent's registration is subject to discipline under Code section 9884.7(a)(1), in that on or about January 28, 2009, Respondent made statements which he knew or which by exercise of reasonable care should have known were untrue or misleading, in that Respondent falsely represented to the consumer on Invoice No. 1861 that he had replaced the cylinder head gasket, when in fact, he did not.

TWELFTH CAUSE FOR DISCIPLINE

(Fraudulent Acts)

43. Respondent's registration is subject to discipline under Code section 9884.7(a)(4), in that on or about January 29, 2009, Respondent committed acts which constitute fraud by receiving payment for parts and repairs that had not been performed, as more particularly set forth in paragraphs 39 through 41.

THIRTEENTH CAUSE FOR DISCIPLINE

(Fraudulent Acts)

44. Respondent's station license is subject to discipline under Health and Safety Code section 44072.2(d), in that on or about November 5, 2008, January 29, 2009, and February 3, 2009, Respondent committed fraud when he charged for and received payment for repairs or services not performed, as more particularly set forth in paragraphs 17 through 19, 32 through 34, and 39 through 41 above.

OTHER MATTERS

45. Under Code section 9884.7(c), the director may invalidate or refuse to validate, temporarily or permanently, the registrations for all places of business operated in this state by Virendra Singh, doing business as Superb Auto Repair, upon a finding that he 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 46. Pursuant to Health and Safety Code section 44072.8, if Smog Check Test and
2 Repair License Number RC 225180, issued to Virendra Singh, doing business as Superb Auto
3 Repair, is revoked or suspended, any additional license issued under this chapter in the name of
4 said licensee may be likewise revoked or suspended by the director.

5 **PRAYER**

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

8 1. Temporarily or permanently invalidating Automotive Repair Dealer Registration
9 Number ARD 225180, issued to Virendra Singh, doing business as Superb Auto Repair;

10 2. Temporarily or permanently invalidating any other automotive repair dealer
11 registration issued to Virendra Singh;

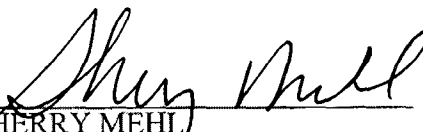
12 3. Revoking or suspending Smog Check Test and Repair License Number
13 RC 225180, issued to Virendra Singh, doing business as Superb Auto Repair;

14 4. Revoking or suspending any additional license issued under Chapter 5 of
15 the Health and Safety Code in the name of Virendra Singh;

16 5. Ordering Virendra Singh to pay the Director of Consumer Affairs the reasonable
17 costs of the investigation and enforcement of this case, pursuant to Code section 125.3; and,

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

19 DATED: 2/16/10

20
21 
22 SHERRY MEHL
23 Chief
24 Bureau of Automotive Repair
25 Department of Consumer Affairs
26 State of California
27 Complainant
28