

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

In the Matter of the Accusation Against:

Case No. 79/14-11

**PRECISION SMOG & SERVICE
HEDAYAT MOHAMMADI, OWNER
37900 Cedar Blvd
Newark, CA 94560**

DEFAULT DECISION AND ORDER

**Automotive Repair Dealer Registration No.
ARD 227811
Smog Check Station License No. RC 227811
Lamp Station License No. LS 227811, Class A
Brake Station License No. BS 227811, Class C
Smog Check Technician - Advanced
Emission Specialist License No. EA 301685
(to be redesignated upon renewal as EO
301685 and/or EI 301685)
Lamp Adjuster License No. LA 301685
Brake Adjuster License No. BA 301685**

[Gov. Code, §11520]

Respondent.

FINDINGS OF FACT

1. On or about August 2, 2013, Complainant Patrick Dorais, in his official capacity as the Acting Chief of the Bureau of Automotive Repair ("Bureau"), Department of Consumer Affairs, filed Accusation No. 79/14-11 against Hedayat Mohammadi ("Respondent") before the Director of Consumer Affairs. (Accusation attached as Exhibit A.)

///

1 **Automotive Repair Dealer Registration**

2 2. On or about June 4, 2003, the Bureau issued Automotive Repair Dealer Registration
3 Number ARD 277811 (ARD Registration) to Respondent, doing business as, Precision Smog &
4 Service. The ARD Registration was in full force and effect at all times relevant to the charges
5 brought herein and expired on May 31, 2013, and has not been renewed.

6 **Smog Check Station License**

7 3. On or about June 27, 2003, the Bureau issued Smog Check Station License Number
8 RC 227811, to Respondent. The Smog Check Station License was in full force and effect at all
9 times relevant to the charges brought herein and expired on May 31, 2013, and has not been
10 renewed.

11 **Lamp Station License**

12 4. On or about August 18, 2003, the Bureau issued Lamp Station License Number LS
13 227811, Class A, to Respondent. The Lamp Station License was in full force and effect at all
14 times relevant to the charges brought herein and expired on May 31, 2013, and has not been
15 renewed.

16 **Brake Station License**

17 5. On or about June 18, 2003, the Bureau issued Brake Station License Number BS
18 227811, Class C, to Respondent. The Brake Station License was in full force and effect at all
19 times relevant to the charges brought herein and expired on May 31, 2013, and has not been
20 renewed

21 **Advanced Emission Specialist Technician License**

22 6. In or about 1997, the Bureau issued Advanced Emission Specialist Technician
23 License Number EA 301685 to Respondent. The Advanced Emission Specialist Technician
24 License was in full force and effect at all times relevant to the charges brought herein and expired
25 on October 31, 2013, and has not been renewed. Upon renewal of the license, the license will be
26 redesignated as EO 301685 and/or EI 301685.

27 ///

28 ///

1 **Lamp Adjuster License**

2 7. In or about 1991, the Bureau issued Lamp Adjuster License Number LA 301685 to
3 Respondent. Respondent's Lamp Adjuster License was in full force and effect at all times
4 relevant to the charges brought herein and expired on October 31, 2013, and has not been
5 renewed.

6 **Brake Adjuster License**

7 8. In or about 1991, the Bureau of Automotive Repair issued Brake Adjuster License
8 Number BA 301685 to Respondent. The Brake Adjuster License was in full force and effect at
9 all times relevant to the charges brought herein and will expire on October 31, 2014, unless
10 renewed.

11 9. On or about August 5, 2013, Respondent was served by Certified and First Class Mail
12 copies of the Accusation No. 79/14-11, Statement to Respondent, Notice of Defense, Request for
13 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at
14 Respondent's address of record which, pursuant to Business and Professions Code (Code) section
15 136, is required to be reported and maintained with the Bureau. Respondent's address of record
16 was and is: 37900 Cedar Blvd, Newark, CA 94560. (Attached as Exhibit B.)

17 10. Service of the Accusation was effective as a matter of law under the provisions of
18 Government Code section 11505, subdivision (c) and/or Code section 124.

19 11. On November 4, 2013, this office received the aforementioned document, returned by
20 the U.S. Postal Service marked as "Return to Sender/Unclaimed/Unable to Forward/Return to
21 Sender." (Attached as Exhibit B.)

22 12. Government Code section 11506 states, in pertinent part:

23 (c) The respondent shall be entitled to a hearing on the merits if the respondent
24 files a notice of defense, and the notice shall be deemed a specific denial of all parts
25 of the accusation not expressly admitted. Failure to file a notice of defense shall
26 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
27 may nevertheless grant a hearing.

28 13. Respondent failed to file a Notice of Defense within 15 days after service upon him
of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
79/14-11.

1 14. California Government Code section 11520 states, in pertinent part:

2 (a) If the respondent either fails to file a notice of defense or to appear at the
3 hearing, the agency may take action based upon the respondent's express admissions
4 or upon other evidence and affidavits may be used as evidence without any notice to
5 respondent.

6 15. Pursuant to its authority under Government Code section 11520, the Director after
7 having reviewed the proof of service dated August 5, 2013, signed by Carmencita Choy, finds
8 Respondent is in default. The Director will take action without further hearing and, based on
9 Accusation No. 79/14-11, the proof of service, and the Affidavit of Bureau Representative James
10 Anderson (Attached as Exhibit C.), finds that the allegations in Accusation are true.

11 DETERMINATION OF ISSUES

12 1. Based on the foregoing findings of fact, Respondent has subjected his Automotive
13 Repair Dealer Registration No. ARD 227811; Smog Check Station License No. RC 227811;
14 Lamp Station License No. LS 227811, Class A; Brake Station License No. BS 227811, Class C;
15 Emission Specialist License No. EA 301685 (to be redesignated upon renewal as EO 301685
16 and/or EI 301685); Lamp Adjuster License No. LA 301685; and Brake Adjuster License No.
17 301685 to discipline.

18 2. The agency has jurisdiction to adjudicate this case by default.

19 3. The Director of Consumer Affairs is authorized to revoke Respondent's Automotive
20 Repair Dealer Registration, Smog Check Station License, Lamp Station License, Brake Station
21 License, Emission Specialist License, Lamp Adjuster License, and Brake Adjuster License based
22 upon the following violations alleged in the Accusation which are supported by the evidence
23 contained in the affidavit of Bureau Representative James Anderson in this case:

- 24 a. Code section 9884.7, subdivision (a)(1), Untrue and/or Misleading Statements;
- 25 b. Code section 9884.7, subdivision (a)(4), Fraud;
- 26 c. Code section 9884.7, subdivision (a)(6) by reference to sections 9884.7, subdivisions
27 (a)(3) and (a)(4), 9884.9, subdivision (a), Failure to Comply with the Code;
- 28 d. Code section 9884.7, subdivision (a)(6) by reference to California Code of
Regulations, title 16, sections 3305, subdivision (a), 3316, subdivision (d)(2), and section 3321,

- 1 subdivision (c)(2), Failure to Comply with Regulations;
- 2 e. Code section 9889.3, subdivisions (a) and (h), Failure to Comply with the Code;
- 3 f. Code section 9889.3, subdivision (c), Failure to Comply with Regulations;
- 4 g. Code section 9889.3, subdivision (d), Dishonesty, Fraud, or Deceit
- 5 h. Health and Safety Code section 44072.2, subdivision (a), by reference to Health and
- 6 Safety Code sections 44012, subdivisions (a) and (f), 44015, subdivision (b), and 44032,
- 7 Violation of the Motor Vehicle Inspection Program;
- 8 i. Health and Safety Code section 44072.2, subdivision (c), by reference to California
- 9 Code of Regulations, title 16, sections 3340.30, subdivision (a), 3340.35, subdivision (c),
- 10 3340.41, subdivision (c), and 3340.42, Violations of Regulations Pursuant to the Motor Vehicle
- 11 Inspection Program; and
- 12 j. Health and Safety Code section 44072.2, subdivision (d), Dishonesty, Fraud, or
- 13 Deceit.
- 14 ///
- 15 ///
- 16 ///
- 17 ///
- 18 ///
- 19 ///
- 20 ///
- 21 ///
- 22 ///
- 23 ///
- 24 ///
- 25 ///
- 26 ///
- 27 ///
- 28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ORDER

IT IS SO ORDERED that Automotive Repair Dealer Registration No. ARD 227811; Smog Check Station License No. RC 227811; Lamp Station License No. LS 227811, Class A; Brake Station License No. BS 227811, Class C; Emission Specialist License No. EA 301685 (to be redesignated upon renewal as EO 301685 and/or EI 301685); Lamp Adjuster License No. LA 301685; and Brake Adjuster License No. 301685 issued to Respondent Hedayat Mohammadi, are revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The motion should be sent to the Bureau of Automotive Repair, ATTN: William D. Thomas, 10949 North Mather Blvd., Rancho Cordova, CA 95670. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on February 7, 2014

It is so ORDERED JAN 14 2014



DONALD CHANG
Assistant Chief Counsel
Department of Consumer Affairs

40799020.DOC
DOJ Matter ID:SF2013404268

Attachments:

Exhibit A: Accusation

Exhibit B: Proof of Service and Returned Envelope

Exhibit C: Affidavit of James Anderson

Exhibit A

Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 JOSHUA A. ROOM
Supervising Deputy Attorney General
3 ROSAILDA PEREZ
Deputy Attorney General
4 State Bar No. 284646
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-1618
6 Facsimile: (415) 703-5480
Attorneys for Complainant

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

10
11 In the Matter of the Accusation Against:

Case No. 79/14-11

12 **PRECISION SMOG & SERVICE**
HEDAYAT MOHAMMADI, OWNER
13 37900 Cedar Blvd
Newark, CA 94560

ACCUSATION
smog check

14 **Automotive Repair Dealer Registration No.**
15 **ARD 227811**
Smog Check Station License No. RC 227811
16 **Lamp Station License No. LS 227811, Class**
A Brake Station License No. BS 227811,
17 **Class C**
Smog Check Technician - Advanced
18 **Emission Specialist License No. EA 301685**
(to be redesignated upon renewal as EO
19 **301685 and/or EI 301685)**
Lamp Adjuster License No. LA 301685
20 **Brake Adjuster License No. BA 301685**

21 Respondent.

22 Complainant alleges:

23 PARTIES

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

26 **Automotive Repair Dealer Registration**

27 2. On or about June 4, 2003, the Bureau of Automotive Repair issued Automotive
28

1 Repair Dealer Registration Number ARD 277811 (ARD Registration) to Hedayat Mohammadi
2 (Respondent), doing business as, Precision Smog & Service. The ARD Registration was in full
3 force and effect at all times relevant to the charges brought herein and expired on May 31, 2013,
4 and has not been renewed.

5 **Smog Check Station License**

6 3. On or about June 27, 2003, the Bureau of Automotive Repair issued Smog Check
7 Station License Number RC 227811, to Respondent. The Smog Check Station License was in
8 full force and effect at all times relevant to the charges brought herein and expired on May 31,
9 2013, and has not been renewed.

10 **Lamp Station License**

11 4. On or about August 18, 2003, the Bureau of Automotive Repair issued Lamp Station
12 License Number LS 227811, Class A, to Respondent. The Lamp Station License was in full force
13 and effect at all times relevant to the charges brought herein and expired on May 31, 2013, and
14 has not been renewed.

15 **Brake Station License**

16 5. On or about June 18, 2003, the Bureau of Automotive Repair issued Brake Station
17 License Number BS 227811, class C, to Respondent. The Brake Station License was in full force
18 and effect at all times relevant to the charges brought herein and expired on May 31, 2013, and
19 has not been renewed.

20 **Advanced Emission Specialist Technician License**

21 6. In or about 1997, the Bureau of Automotive Repair issued Advanced Emission
22 Specialist Technician License Number EA 301685 to Respondent. The Advanced Emission
23 Specialist Technician License was in full force and effect at all times relevant to the charges
24 brought herein and will expire on October 31, 2013, unless renewed. Upon renewal of the
25 license, the license will be redesignated as EO 301685 and/or EI 301685.¹

26 ¹ Effective August 1, 2012, California Code of Regulations, title 16, sections 3340.28,
27 3340.29, and 3340.30 were amended to implement a license restructure from the Advanced
28 Emission Specialist Technician (EA) license and Basic Area (EB) Technician license to Smog
Check Inspector (EO) license and/or Smog Check Repair Technician (EI) license.

1 or suspension of a license by operation of law, or by order or decision of the Director of
2 Consumer Affairs, or a court of law, or the voluntary surrender of the license shall not deprive the
3 Director of jurisdiction to proceed with disciplinary action.

4 15. Health and Safety Code section 44072.8 states that when a licensee has been revoked
5 or suspended following a hearing under this article, any additional licenses issued under this
6 chapter in the name of the licensee may be likewise revoked or suspended by the director.

7 16. California Code of Regulations, title 16, section 3340.28, subdivision (e), states that
8 "[u]pon renewal of an unexpired Basic Area Technician license or an Advanced Emission
9 Specialist Technician license issued prior to the effective date of this regulation, the licensee may
10 apply to renew as a Smog Check Inspector, Smog Check Repair Technician, or both.

11 **STATUTORY PROVISIONS**

12 17. Code section 9884.7 states:

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

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

21 "...

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

24 (4) Any other conduct that constitutes fraud.

25 "...

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

28 (7) Any willful departure from or disregard of accepted trade standards for good and

1 workmanlike repair in any material respect, which is prejudicial to another without consent of the
2 owner or his or her duly authorized representative.

3 "...

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

8 18. Code section 9884.9 states:

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

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

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

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

(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.

"(b) The automotive repair dealer shall include with the written estimated price a statement of any automotive repair service that, if required to be done, will be done by someone other than the dealer or his or her employees. No service shall be done by other than the dealer or his or her employees without the consent of the customer, unless the customer cannot reasonably be notified. The dealer shall be responsible, in any case, for any service in the same manner as if the dealer or his or her employees had done the service.

"(c) In addition to subdivisions (a) and (b), an automotive repair dealer, when doing auto body or collision repairs, shall provide an itemized written estimate for all parts and labor to the customer. The estimate shall describe labor and parts separately and shall identify each part, indicating whether the replacement part is new, used, rebuilt, or reconditioned. Each crash part shall be identified on the written estimate and the written estimate shall indicate whether the crash part is an original equipment manufacturer crash part or a nonoriginal equipment manufacturer aftermarket crash part.

"(d) A customer may designate another person to authorize work or parts supplied in excess of the estimated price, if the designation is made in writing at the time that the initial authorization to proceed is signed by the customer. The bureau may specify in regulation the form and content of a designation and the procedures to be followed by the automotive repair dealer in recording the designation. For the purposes of this section, a designee shall not be the automotive repair dealer providing repair services or an insurer involved in a claim that includes the motor vehicle being repaired, or an employee or agent or a person acting on behalf of the dealer or insurer."

19. Code section 9889.3 states, in pertinent part:

"The director may suspend, revoke, or take other disciplinary action against a license as provided in this article [Article 7 (commencing with section 9889.1) of the Automotive Repair

1 Act] if the licensee or any partner, officer, or director thereof:

2 "(a) Violates any section of the Business and Professions Code which relates to his or her
3 licensed activities.

4 "(b) Is convicted of any crime substantially related to the qualifications, functions and
5 duties of the licenseholder in question.

6 "(c) Violates any of the regulations promulgated by the director pursuant to this chapter
7 [the Automotive Repair Act].

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

9 "(e) Has misrepresented a material fact in obtaining a license.

10 "(f) Aids or abets an unlicensed person to evade the provisions of this chapter.

11 "(g) Fails to make and keep records showing his or her transactions as a licensee, or fails to
12 have the records available for inspection by the director or his or her duly authorized
13 representative for a period of not less than three years after completion of any transaction to
14 which the records refer, or refuses to comply with a written request of the director to make the
15 record available for inspection.

16 "(h) Violates or attempts to violate the provisions of this chapter relating to the particular
17 activity for which he or she is licensed.

18 "(i) Is convicted of a violation of Section 551 of the Penal Code."

19 20. Health and Safety Code section 44072.2 states, in pertinent part:

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

23 (a) Violates any section of this chapter and the regulations adopted pursuant to it, which
24 related to the licensed activities.

25 "...

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

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

28 "...

1 (h) Violates or attempts to violate the provisions of this chapter relating to the particular
2 activity for which he or she is licensed."

3 **REGULATORY PROVISION**

4 21. California Code of Regulations, title 16, section 3305, subdivision (a), provides:

5 "(a) All adjusting, inspecting, servicing, and repairing of brake systems and lamp systems
6 for the purpose of issuing any certificate of compliance or adjustment shall be performed in
7 official stations, by official adjuster, in accordance with the following, in descending order of
8 precedence, as applicable:

9 "(1) Vehicle Manufacturer's current standards, specifications and recommended
10 procedures, as published in the manufacturer's vehicle service and repair manuals.

11 "(2) Current standards, specifications, procedures, directives, manuals, bulletins, and
12 instructions issued by vehicle and equipment or device manufacturers.

13 "(3) Standards, specification and recommended procedures found in current industry-
14 standard reference manuals and periodicals published by nationally recognized repair information
15 providers.

16 "(4) The bureau's Handbook for Brake Adjusters and Stations, February 2003, which is
17 hereby incorporated by reference.

18 "(5) The bureau's Handbook for Lamp Adjusters and Stations, February 2003, which is
19 hereby incorporated by reference.

20 **COST RECOVERY**

21 22. Code section 125.3 provides, in pertinent part, that the Board may request the
22 administrative law judge to direct a licentiate found to have committed a violation or violations of
23 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
24 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
25 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
26 included in a stipulated settlement.

27 **FIRST UNDERCOVER VEHICLE OPERATION**

28 23. On or about March 27, 2012, a Bureau operator drove a Bureau documented, 2000

1 Honda to Respondent's facility, Precision Smog & Service for smog, brake, and lamp inspections.
2 The 2000 Honda had been documented with a noncompliant undersized right front brake rotor,
3 noncompliant oversized left rear brake drum, misaligned headlamps, and inoperative modified
4 wiring to the OBDII data link connector (DLC). The Bureau operator met with Respondent who
5 identified himself as, "Ed" and requested the above inspections. The Bureau operator signed
6 work order number [REDACTED]. Respondent did not provide the Bureau operator with a written
7 estimate and did not sign a work order prior to the repair.

8 24. The Bureau operator observed the smog inspection. Respondent told the Bureau
9 operator that the vehicle would not pass the smog inspection because there was no
10 communication with the DLC.

11 25. The Bureau operator observed the lamp and brake inspections. Respondent did not
12 remove any wheels or use any tools and/or equipment to inspect the adjustment of the headlamps.

13 26. Respondent completed and signed Lamp Certificate of Adjustment number
14 [REDACTED] and Brake Certificate of Adjustment number [REDACTED].

15 27. The operator paid Respondent \$100.00 and received Invoice Number [REDACTED]. Lamp
16 Certificate of Adjustment number [REDACTED] and Brake Certificate of Adjustment number
17 [REDACTED].

18 28. The Bureau reinspected the vehicle on or about April 3, 2012. None of the wheels
19 had been removed, the noncompliant front brake rotor was still undersized, and the noncompliant
20 left brake drum was still oversized. The headlights of the vehicle had not been adjusted and were
21 still misaligned.

22 **FIRST CAUSE FOR DISCIPLINE**

23 **(Untrue and/or Misleading Statements)**

24 29. Respondent's ARD Registration is subject to disciplinary action under Code section
25 9884.7, subdivision (a)(1), in that Respondent made untrue and/or misleading statements which
26 he knew or in the exercise of reasonable care should have known to be untrue or misleading as
27 follows:

28 a. Respondent certified under penalty of perjury on Lamp Certificate of Adjustment

1 number [REDACTED] that the headlights on the 2000 Honda were in satisfactory condition when,
2 in fact, they were not and Respondent had not performed the necessary inspection.

3 b. Respondent certified under penalty of perjury on Brake Certificate of Adjustment
4 number [REDACTED] that the drums and rotors on the Bureau's 2000 Honda were in satisfactory
5 condition when, in fact, they were not and Respondent had not performed the necessary
6 inspection.

7 **SECOND CAUSE FOR DISCIPLINE**

8 (Fraud)

9 30. Respondent's ARD Registration is subject to disciplinary action under Code section
10 9884.7, subdivision (a)(4), in that Respondent committed fraud when he accepted payment for
11 inspections that were not performed, and issued Lamp Certificate of Adjustment number
12 [REDACTED] and Brake Certificate of Adjustment number [REDACTED] for the 2000 Honda that
13 would have failed the lamp and brake inspections, as set forth in paragraphs 23-28, above.

14 **THIRD CAUSE FOR DISCIPLINE**

15 (Failure to Comply with the Code)

16 31. Respondent's ARD Registration is subject to disciplinary action under Code section
17 9884.7, subdivision (a)(6), in that, with regard to the 2000 Honda, Respondent failed to comply
18 with provisions of the Code, in the following material respects, as described in paragraphs 24-29,
19 above:

20 a. **Section 9884.7, subdivision (a)(3)**: Respondent failed to provide the Bureau
21 operator with a copy of the signed work order.

22 b. **Section 9884.9, subdivision (a)**: Respondent failed to provide the Bureau
23 operator with a written estimate.

24 **FOURTH CAUSE FOR DISCIPLINE**

25 (Failure to Comply with Regulations)

26 32. Respondent's ARD Registration is subject to disciplinary action under Code section
27 9884.7, subdivision (a)(6), in that, with regard to the 2000 Honda, Respondent failed to comply
28 with the California Code of Regulations, title 16, in the following material respects:

1 a. Section 3305, subdivision (a): Respondent failed to perform a brake and lamp
2 inspection in accordance with the specifications, instructions, and directives issued by the Bureau
3 and the manufacturer.

4 b. Section 3316, subdivision (d)(2): Respondent issued Lamp Adjustment
5 Certificate Number [REDACTED], certifying that the vehicle's lamp system had been inspected and
6 was in satisfactory condition, when, in fact, it was not in compliance with the Bureau and Vehicle
7 Code regulations.

8 c. Section 3321, subdivision (c)(2): Respondent issued Brake Adjustment
9 Certificate Number [REDACTED], certifying that the vehicle's brake system had been inspected
10 and was in satisfactory condition, when if fact, it was not in compliance with the Bureau and
11 Vehicle Code regulations.

12 **FIFTH CAUSE FOR DISCIPLINE**

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

14 33. Respondent's Lamp Station and Brake Station licenses are subject to disciplinary
15 action under Code section 9889.3, subdivisions (a) and (h), in that Respondent failed to comply
16 with provisions of the Code, as described in paragraphs 23-31, above.

17 **SIXTH CAUSE FOR DISCIPLINE**

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

19 34. Respondent's Lamp Station and Brake Station licenses are subject to disciplinary
20 action under Code section 9889.3, subdivision (c), in that Respondent failed to comply with
21 provisions of the California Code of Regulations, as more particularly set forth in paragraph 32,
22 above.

23 **SEVENTH CAUSE FOR DISCIPLINE**

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

25 35. Respondent's Lamp Station and Brake Station licenses are subject to disciplinary
26 action under Code section 9889.3, subdivision (d), in that Respondent committed acts involving
27 dishonesty, fraud, or deceit whereby another was injured, as more particularly set forth in
28 paragraphs 29 and 30, above.

1 **EIGHTH CAUSE FOR DISCIPLINE**

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

3 36. Respondent's Lamp Adjuster and Brake Adjuster licenses are subject to disciplinary
4 action under 9889.3, subdivision (a), in that, Respondent failed to comply with provision of the
5 Code, relating to his licensed activities, as more particularly set forth in paragraphs 23-31, above.

6 **NINTH CAUSE FOR DISCIPLINE**

7 **(Failure to Comply with Regulations)**

8 37. Respondent's Lamp Adjuster and Brake Adjuster licenses are subject to disciplinary
9 action under 9889.3, subdivision (c), in that Respondent failed to comply with provisions of the
10 California Code of Regulations, title 16, as more particularly set forth above in paragraph 32,
11 above.

12 **TENTH CAUSE FOR DISCIPLINE**

13 **(Acts Involving Dishonesty, Fraud, Deceit)**

14 38. Respondent's Lamp Adjuster and Brake Adjuster licenses are subject to disciplinary
15 action under 9889.3, subdivision (d), in that Respondent in that Respondent committed acts
16 involving dishonesty, fraud, or deceit whereby another was injured, as more particularly set forth
17 in paragraphs 29 and 30, above.

18 **SECOND UNDERCOVER VEHICLE OPERATION**

19 39. On or about May 24, 2012, a Bureau operator drove a Bureau documented, 2002
20 Dodge to Respondent's facility, Precision Smog & Service, for smog, brake, and lamp
21 inspections. The 2002 Dodge had been documented with a noncompliant undersized left front
22 brake rotor, noncompliant oversized right rear brake drum, misaligned right front headlamp, and a
23 missing Positive Crankcase Ventilation (PCV) system. The Bureau operator met with
24 Respondent who identified himself as, "Ed" and requested the above inspections. The Bureau
25 operator signed work order number [REDACTED]. Respondent did not provide the Bureau operator
26 with a written estimate or a copy of the work order prior to the repair.

27 40. The Bureau operator observed the smog inspection. The Vehicle Inspection Report
28 showed that the 2002 Dodge passed the smog inspection and that Respondent performed the

1 smog inspection.

2 41. Respondent issued Electronic Certificate of Compliance number [REDACTED]

3 42. The Bureau operator observed the lamp and brake inspections. Respondent did not
4 remove any wheels or use any tools and/or equipment to inspect the adjustment of the headlamps.

5 43. Respondent completed and signed Lamp Certificate of Adjustment number
6 [REDACTED] and Brake Certificate of Adjustment number [REDACTED]

7 44. The operator paid Respondent \$150.00 and received Invoice Number [REDACTED]. Lamp
8 Certificate of Adjustment number [REDACTED] and Brake Certificate of Adjustment number

9 [REDACTED]

10 45. The Bureau reinspected the vehicle on or about May 29, 2012. None of the wheels
11 had been removed, the noncompliant left brake rotor was still undersized, and the noncompliant
12 right brake drum was still oversized. The right front headlight of the vehicle had not been
13 adjusted and was still misaligned.

14 **ELEVENTH CAUSE FOR DISCIPLINE**

15 **(Untrue and/or Misleading Statements)**

16 46. Respondent's ARD Registration is subject to disciplinary action under Code section
17 9884.7, subdivision (a)(1), in that Respondent made untrue and/or misleading statements which
18 he knew or in the exercise of reasonable care should have known to be untrue or misleading as
19 follows:

20 a. Respondent certified under penalty of perjury on Lamp Certificate of Adjustment
21 number [REDACTED] that the headlights on the Bureau's 2002 Dodge were in satisfactory
22 condition when, in fact, they were not and Respondent had not performed the necessary
23 inspection.

24 b. Respondent certified under penalty of perjury on Brake Certificate of Adjustment
25 number [REDACTED] that the drums and rotors on the Bureau's 2002 Dodge were in satisfactory
26 condition when, in fact, they were not and Respondent had not performed the necessary
27 inspection.

28 c. Respondent certified under penalty of perjury on Smog Certificate of Compliance

1 number [REDACTED] that the Bureau's 2002 Dodge smog system was in satisfactory condition
2 when, in fact, it was not and Respondent had not performed the necessary inspection.

3 **TWELFTH CAUSE FOR DISCIPLINE**

4 (Fraud)

5 47. Respondent's ARD Registration is subject to disciplinary action under Code section
6 9884.7, subdivision (a)(4), in that Respondent committed fraud when he accepted payment for
7 inspections that were not performed, and issued Smog Certificate of Compliance number
8 [REDACTED], Lamp Certificate of Adjustment number [REDACTED], Brake Certificate of
9 Adjustment number [REDACTED] for the 2002 Dodge that would have failed the lamp and brake
10 inspections, as set forth in paragraphs 39-45, above.

11 **THIRTEENTH CAUSE FOR DISCIPLINE**

12 (Failure to Comply with Code)

13 48. Respondent's ARD Registration is subject to disciplinary action under Code section
14 9884.7, subdivisions (a)(6) in that, with regard to the 2002 Dodge, Respondent failed to comply
15 with provisions of the Code, in the following material respects, as described in paragraphs 39-45,
16 above:

17 a. **Section 9884.7, subdivision (a)(3)**: Respondent failed to provide the Bureau
18 operator with a copy of the signed work order.

19 b. **Section 9884.9, subdivision (a)**: Respondent failed to provide the Bureau
20 operator with a written estimate.

21 **FOURTEENTH CAUSE FOR DISCIPLINE**

22 (Failure to Comply with Regulations)

23 49. Respondent's ARD Registration is subject to disciplinary action under Code section
24 9884.7, subdivisions (a)(6) in that, with regard to the 2002 Dodge, Respondent failed to comply
25 with the California Code of Regulations, title 16, in the following material respects:

26 a. **Section 3305, subdivision (a)**: Respondent failed to perform a lamp and brake
27 inspection in accordance with the specifications, instructions, and directives issued by the Bureau
28 and the manufacturer.

1 action under 9889.3, subdivision (a), in that, Respondent failed to comply with provision of the
2 Code, relating to his licensed activities, as more particularly set forth in paragraphs 40-48, above.

3 **NINETEENTH CAUSE FOR DISCIPLINE**

4 **(Failure to Comply with Regulations)**

5 54. Respondent's Lamp Adjuster and Brake Adjuster licenses are subject to disciplinary
6 action under 9889.3, subdivision (c), in that Respondent failed to comply with provisions of the
7 California Code of Regulations, title 16, as more particularly set forth above in paragraph 49,
8 above.

9 **TWENTIETH CAUSE FOR DISCIPLINE**

10 **(Acts Involving Dishonesty, Fraud, Deceit)**

11 55. Respondent's Lamp Adjuster and Brake Adjuster licenses are subject to disciplinary
12 action under 9889.3, subdivision (d), in that Respondent committed acts involving dishonesty,
13 fraud, or deceit whereby another was injured, as more particularly set forth in paragraphs 46 and
14 47, above.

15 **TWENTY-FIRST CAUSE FOR DISCIPLINE**

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

17 56. Respondent's Smog Check Station is license subject to disciplinary action under
18 Health and Safety Code section 44072.2, subdivision (a), in that, with regard to the 2002 Dodge,
19 Respondent violated sections of that code as follows:

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

23 b. **Section 44012, subdivision (f)**: Respondent failed to perform emission control
24 tests on the 2002 Dodge, in accordance with procedures prescribed by the department.

25 c. **Section 44015, subdivision (b)**: Respondent issued Electronic Certificate of
26 Compliance No. [REDACTED] without properly testing and inspecting the vehicle to determine if it
27 was in compliance with Health and Safety Code section 44012.

28 ///

1 control devices and systems on the vehicle in accordance with the Health and Safety Code.

2 **TWENTY-FIFTH CAUSE FOR DISCIPLINE**

3 **(Failure to Comply with Regulations)**

4 60. Respondent's Advanced Emission Specialist Technician license is subject to
5 disciplinary action under Health and Safety Code section 44072.2, subdivision (c), in that, with
6 regard to the 2002 Dodge, Respondent failed to comply with provisions of the California Code of
7 Regulations, title 16, as follows:

8 a. **Section 3340.30, subdivision (a)**: Respondent failed to perform the emission
9 control inspection in accordance with Health and Safety Code section 44012.

10 b. **Section 3340.41, subdivision (c)**: Respondent entered false information into
11 the Emission Inspection System by entering "Pass" for the visual portion of the smog inspection
12 when, in fact, the 2002 Dodge could not pass the visual portion of the inspection because the
13 vehicle's PCV system had been removed.

14 c. **Section 3340.42**: Respondent failed to conduct the required smog inspection in
15 accordance with the Bureau's specifications.

16 **TWENTY-SIXTH CAUSE FOR DISCIPLINE**

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

18 61. Respondent's Advanced Emission Specialist Technician license is subject to
19 disciplinary action under Health and Safety Code section 44072.2, subdivision (d), in that
20 Respondent committed acts involving dishonesty, fraud, or deceit whereby another was injured
21 by issuing Electronic Certificate of Compliance No. [REDACTED] to the 2002 Dodge without
22 performing a bona fide inspection of the emission control devices and systems on the vehicle,
23 thereby depriving the People of the State of California of the protection afforded by the Motor
24 Vehicle Inspection Program.

25 **THIRD UNDERCOVER VEHICLE OPERATION**

26 62. On or about June 13, 2012, a Bureau operator drove a Bureau documented, 1996
27 Honda to Respondent's facility, Precision Smog & Service, for smog, brake, and lamp
28 inspections. The 1996 Honda had been documented with a noncompliant undersized left front

1 brake rotor, noncompliant oversized right rear brake drum, misaligned left front headlamp, and a
2 missing Fuel Evaporative System (EVAP) charcoal canister. The Bureau operator met with
3 Respondent who identified himself as, "Ed" and requested the above inspections. The Bureau
4 operator signed work order number [REDACTED]. Respondent did not provide the Bureau operator
5 with a written estimate or a copy of the work order prior to the repair.

6 63. The Bureau operator observed the smog inspection. The Vehicle Inspection Report
7 showed that the 1996 Honda passed the smog inspection and that Respondent performed the
8 smog inspection.

9 64. Respondent issued Electronic Certificate of Compliance number [REDACTED].

10 65. The Bureau operator observed the lamp and brake inspections. Respondent did not
11 remove any wheels or use any tools and/or equipment to inspect the adjustment of the headlamps.

12 66. Respondent completed and signed Lamp Certificate of Adjustment number
13 [REDACTED] and Brake Certificate of Adjustment number [REDACTED].

14 67. The Bureau operator then presented Respondent with a Report of Deposit of Fees
15 (RDF), for a 2002 Honda that belonged to the Bureau, and asked Respondent for brake and lamp
16 certificates. The 2002 Honda was not present at Precision Smog & Service.

17 68. Respondent completed and signed Lamp Certificate of Adjustment number
18 [REDACTED] and Brake Certificate of Adjustment number [REDACTED].

19 69. The operator paid Respondent \$240.00 and received, for the 1996 Honda, Invoice
20 Number [REDACTED], Electronic Certificate of Compliance number [REDACTED], Lamp Certificate of
21 Adjustment number [REDACTED], and Brake Certificate of Adjustment number [REDACTED] and
22 for the 2002 Honda, Invoice Number [REDACTED] B, Lamp Certificate of Adjustment number
23 [REDACTED], and Brake Certificate of Adjustment number [REDACTED].

24 70. The Bureau reinspected the 1996 Honda on or about June 29, 2012. None of the
25 wheels had been removed, the noncompliant left brake rotor was still undersized, and the
26 noncompliant right rear brake drum was still oversized. The left front headlight of the vehicle
27 had not been adjusted and was still misaligned and the EVAP charcoal canister was still missing
28 from the vehicle.

1 **TWENTY-SEVENTH CAUSE FOR DISCIPLINE**

2 **(Untrue and/or Misleading Statements)**

3 71. Respondent's ARD Registration is subject to disciplinary action under Code section
4 9884.7, subdivision (a)(1), in that Respondent made untrue and/or misleading statements which
5 he knew or in the exercise of reasonable care should have known to be untrue or misleading as
6 follows:

7 a. Respondent certified under penalty of perjury on Lamp Certificate of Adjustment
8 number [REDACTED] that the headlights on the Bureau's 1996 Honda were in satisfactory
9 condition when, in fact, they were not and Respondent had not performed the necessary
10 inspection.

11 b. Respondent certified under penalty of perjury on Brake Certificate of Adjustment
12 number [REDACTED] that the drums and rotors on the Bureau's 1996 Honda were in satisfactory
13 condition when, in fact, they were not and Respondent had not performed the necessary
14 inspection.

15 c. Respondent certified under penalty of perjury on Electronic Smog Certificate of
16 Compliance number [REDACTED] that the Bureau's 1996 Honda smog's system was in satisfactory
17 condition when, in fact, it was not and Respondent had not performed the necessary inspection.

18 **TWENTY-EIGHTH CAUSE FOR DISCIPLINE**

19 **(Fraud)**

20 72. Respondent's ARD Registration is subject to disciplinary action under Code section
21 9884.7, subdivision (a)(4), in that Respondent committed fraud when he accepted payment for
22 inspections that were not performed, and issued Electronic Smog Certificate of Compliance
23 number [REDACTED], Lamp Certificate of Adjustment number [REDACTED], and Brake Certificate
24 of Adjustment number [REDACTED] for the 1996 Honda that would have failed the lamp and brake
25 inspections, as set forth in paragraphs 62-70, above.

26 **TWENTY-NINTH CAUSE FOR DISCIPLINE**

27 **(Failure to Comply with the Code)**

28 73. Respondent's ARD Registration is subject to disciplinary action under Code section

1 9884.7, subdivision (a)(6) in that, with regard to the 1996 Honda, Respondent failed to comply
2 with provisions of the Code, in the following material respects, as described in paragraphs 62-70,
3 above:

4 a. Section 9884.7, subdivision (a)(3): Respondent failed to provide the Bureau
5 operator with a copy of the signed work order.

6 b. Section 9884.9, subdivision (a): Respondent failed to provide the Bureau
7 operator with a written estimate.

8 **THIRTIETH CAUSE FOR DISCIPLINE**

9 **(Failure to Comply with Regulations)**

10 74. Respondent's ARD Registration is subject to disciplinary action under Code section
11 9884.7, subdivision (a)(6), in that, with regard to the 1996 Honda, Respondent failed to comply
12 with the California Code of Regulations, title 16, in the following material respects:

13 a. Section 3305, subdivision (a): Respondent failed to perform a lamp and brake
14 inspection in accordance with the specifications, instructions, and directives issued by the Bureau
15 and the manufacturer.

16 b. Section 3316, subdivision (d)(2): Respondent issued Lamp Adjustment
17 Certificate Number [REDACTED] to the 1996 Honda, certifying that the vehicle's lamp system had
18 been inspected and was in satisfactory condition, when, in fact, it was not in compliance with the
19 Bureau and Vehicle Code regulations.

20 c. Section 3321, subdivision (c)(2): Respondent issued Brake Adjustment
21 Certificate Number [REDACTED] to the 1996 Honda, certifying that the vehicle's brake system
22 had been inspected and was in satisfactory condition, when if fact, it was not in compliance with
23 the Bureau and Vehicle Code regulations.

24 **THIRTY-FIRST CAUSE FOR DISCIPLINE**

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

26 75. Respondent's Lamp Station and Brake Station licenses are subject to disciplinary
27 action under Code section 9884.3, subdivisions (a) and (h), in that Respondent failed to comply
28 with provisions of the Code, as described in paragraphs 62-73, above.

1 paragraphs 71 and 72, above.

2 **THIRTY-SEVENTH CAUSE FOR DISCIPLINE**

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

4 81. Respondent's Smog Check Station license subject to disciplinary action under Health
5 and Safety Code section 44072.2, subdivision (a), in that, with regard to the 1996 Honda,
6 Respondent violated sections of that code as follows:

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

10 b. **Section 44012, subdivision (f)**: Respondent failed to perform emission control
11 tests on the 1996 Honda, in accordance with procedures prescribed by the department.

12 c. **Section 44015, subdivision (b)**: Respondent issued Electronic Certificate of
13 Compliance No. [REDACTED] without properly testing and inspecting the vehicle to determine if it
14 was in compliance with Health and Safety Code section 44012.

15 **THIRTY-EIGHTH CAUSE FOR DISCIPLINE**

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

17 82. Respondent's Smog Check Station license is subject to disciplinary action under
18 Health and Safety Code section 44072.2, subdivision (c), in that Respondent violated sections of
19 the California Code of Regulations, title 16, as follows:

20 a. **Section 3340.35, subdivision (c)**: Respondent issued Electronic Certificate of
21 Compliance No. [REDACTED] even though he had not inspected the 1996 Honda in accordance with
22 Health and Safety Code section 3340.42.

23 b. **Section 3340.42**: Respondent failed to conduct the required smog tests and
24 inspections on the 1996 Honda in accordance with the Bureau's specifications.

25 **THIRTY-NINTH CAUSE FOR DISCIPLINE**

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

27 83. Respondent's Smog Check Station license is subject to disciplinary action under
28 Health and Safety Code section 44072.2, subdivision (d), in that Respondent committed a

1 dishonest, fraudulent, or deceitful act whereby another was injured, in that he issued Smog
2 Certificate of Compliance number [REDACTED] to the 1996 Honda, without performing a bona fide
3 inspection of the emission control devices and systems on the vehicle, thereby depriving the
4 People of the State of California of the protection afforded by the Motor Vehicle Inspection
5 Program.

6 **FORTIETH CAUSE FOR DISCIPLINE**

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

8 84. Respondent's Advanced Emission Specialist Technician license is subject to
9 disciplinary action under Health and Safety Code section 44072.2, subdivision (a), in that
10 Respondent violated the following sections of the Health and Safety Code:

11 a. **Section 44012, subdivision (f)**: Respondent failed to perform an emission
12 control inspection on the 1996 Honda in accordance with the procedures prescribed by the
13 department.

14 b. **Section 44032**: Respondent failed to perform an inspection of the emission
15 control devices and systems on the vehicle in accordance with the Health and Safety Code.

16 **FORTY-FIRST CAUSE FOR DISCIPLINE**

17 **(Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection Program)**

18 85. Respondent's Advanced Emission Specialist Technician license is subject to
19 disciplinary action under Health and Safety Code section 44072.2, subdivision (c), in that, with
20 regard to the 1996 Honda, Respondent failed to comply with provisions of the California Code of
21 Regulations, title 16, as follows:

22 a. **Section 3340.30, subdivision (a)**: Respondent failed to inspect and test the
23 1996 Honda in accordance with Health and Safety Code section 44012.

24 b. **Section 3340.41, subdivision (c)**: Respondent entered false information into
25 the Emission Inspection System by entering "Pass" for the visual portion of the smog inspection
26 when, in fact, the 1996 Honda could not pass the visual portion of the inspection because the
27 vehicle's EVAP charcoal canister was missing.

28 c. **Section 3340.42**: Respondent failed to conduct the required smog inspection in

1 accordance with the Bureau's specifications.

2 **FORTY-SECOND CAUSE FOR DISCIPLINE**

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

4 86. Respondent's Advanced Emission Specialist Technician license is subject to
5 disciplinary action under Health and Safety Code section 44072.2, subdivision (d), in that
6 Respondent committed acts involving dishonesty, fraud, or deceit whereby another was injured
7 by issuing Electronic Certificate of Compliance No. [REDACTED] to the 1996 Honda without
8 performing a bona fide inspection of the emission control devices and systems on the vehicle,
9 thereby depriving the People of the State of California of the protection afforded by the Motor
10 Vehicle Inspection Program.

11 **FORTY-THIRD CAUSE FOR DISCIPLINE**

12 **(Untrue and/or Misleading Statements)**

13 87. Respondent's ARD Registration is subject to disciplinary action under Code section
14 9884.7, subdivision (a)(1), in that Respondent made untrue and/or misleading statements which
15 he knew or in the exercise of reasonable care should have known to be untrue or misleading as
16 follows:

17 a. Respondent certified under penalty of perjury on Lamp Certificate of
18 Adjustment number [REDACTED] that he had inspected the 2002 Honda and that the headlights
19 were in satisfactory condition, when in fact, the 2002 Honda was not present at Precision Smog &
20 Service and no inspections could have been performed.

21 b. Respondent certified under penalty of perjury on Brake Certificate of Adjustment
22 number [REDACTED] that he had inspected the 2002 Honda and that the drums and rotors on the
23 were in satisfactory condition when, in fact, the 2002 Honda was not present at Precision Smog &
24 Service and no inspections could have been performed.

25 **FORTY-FOURTH CAUSE FOR DISCIPLINE**

26 **(Fraud)**

27 88. Respondent's ARD Registration is subject to disciplinary action under Code section
28 9884.7, subdivision (a)(4), in that Respondent committed fraud when he accepted payment for

1 inspections that were not performed and issued Lamp Certificate of Adjustment number
2 [REDACTED] and Brake Certificate of Adjustment number [REDACTED] for the 2002 Honda
3 without performing the necessary inspections, as set forth in paragraphs 67-69, above.

4 **FORTY-FIFTH CAUSE FOR DISCIPLINE**

5 **(Failure to Comply with the Code)**

6 89. Respondent's ARD Registration is subject to disciplinary action under Code
7 section 9884.7, subdivisions (a)(6), in that, with regard to the 2002 Honda, Respondent failed to
8 comply with provisions of the Code in the following material respect, as described in paragraphs
9 67-69, above:

10 a. **Section 9884.7, subdivision (a)(4)**: Respondent committed fraud when he issued
11 Lamp Certificate of Adjustment number [REDACTED] and Brake Certificate of Adjustment number
12 [REDACTED] for the 2002 Honda certifying he had performed the necessary inspections when, in
13 fact, Respondent could not have performed the inspections because the vehicle was not present at
14 the facility.

15 **FORTY-SIXTH CAUSE FOR DISCIPLINE**

16 **(Violation of Regulations)**

17 90. Respondent's ARD Registration is subject to disciplinary action under Code section
18 9884.7, subdivisions (a)(6) in that, with regard to the 2002 Honda, Respondent failed to comply
19 with the California Code of Regulations, title 16, in the following material respects:

20 a. **Section 3305, subdivision (a)**: Respondent failed to perform a lamp and brake
21 inspection in accordance with the specifications, instructions, and directives issued by the Bureau
22 and the manufacturer.

23 b. **Section 3316, subdivision (d)(2)**: Respondent issued Lamp Certificate of
24 Adjustment number [REDACTED] for the 2002 Honda, certifying that the vehicle's lamp system
25 had been inspected and was in satisfactory condition, when, in fact, the 2002 Honda was not
26 present at the facility for inspection.

27 c. **Section 3321, subdivision (c)(2)**: Respondent issued Brake Adjustment
28 Certificate Number [REDACTED] for the 2002 Honda, certifying that the vehicle's brake system

1 had been inspected and was in satisfactory condition, when if fact, the 2002 Honda was not
2 present at the facility for inspection.

3 **FORTY-SEVENTH CAUSE FOR DISCIPLINE**

4 (Failure to Comply with the Code)

5 91. Respondent's Lamp Station and Brake Station licenses are subject to disciplinary
6 action under Code section 9889.3, subdivisions (a) and (h), in that Respondent failed to comply
7 with provisions of the Code, as described in paragraphs 67-69, and 89, above.

8 **FORTY-EIGHTH CAUSE FOR DISCIPLINE**

9 (Failure to Comply with Regulations)

10 92. Respondent's Lamp Station and Brake Station licenses are subject to disciplinary
11 action under Code section 9889.3, subdivision (c), in that Respondent failed to comply with
12 provisions of the California Code of Regulations, as more particularly set forth in paragraph 90,
13 above.

14 **FORTY-NINTH CAUSE FOR DISCIPLINE**

15 (Dishonesty Fraud, Deceit)

16 93. Respondent's Lamp Station and Brake Station licenses are subject to disciplinary
17 action under Code section 9889.3, subdivision (d), in that Respondent committed acts involving
18 dishonesty, fraud, or deceit whereby another was injured, as more particularly set forth in
19 paragraphs 87 and 88, above.

20 **FIFTIETH CAUSE FOR DISCIPLINE**

21 (Failure to Comply with Code)

22 94. Respondent's Lamp Adjuster and Brake Adjuster licenses are subject to disciplinary
23 action under 9889.3, subdivision (a), in that, Respondent failed to comply with provision of the
24 Code, relating to his licensed activities, as more particularly set forth in paragraphs 67-69 and 89,
25 above.

26 **FIFTY-FIRST CAUSE FOR DISCIPLINE**

27 (Failure to Comply with Regulations)

28 95. Respondent's Lamp Adjuster and Brake Adjuster licenses are subject to disciplinary

1 action under 9889.3, subdivision (c), in that Respondent failed to comply with provisions of the
2 California Code of Regulations, title 16, as more particularly set forth above in paragraph 90,
3 above.

4 **FIFTY-SECOND CAUSE FOR DISCIPLINE**

5 **(Acts Involving Dishonesty, Fraud, Deceit)**

6 96. Respondent's Lamp Adjuster and Brake Adjuster licenses are subject to
7 disciplinary action under 9889.3, subdivision (d), in that Respondent committed acts involving
8 dishonesty, fraud, or deceit whereby another was injured, as more particularly set forth in
9 paragraphs 87 and 88, above.

10 **PRIOR CITATIONS**

11 97. To determine the degree of discipline, if any, to be imposed on Respondent,
12 Complainant alleges that:

13 a. On or about December 9, 2008, in a prior action, the Bureau issued Citation
14 Number #C2009-0695 to Respondent against his Smog Station license for violations of Health
15 and Safety Code section 44012, subdivision (f) (failure to perform a visual/functional check of
16 emission control devices), and California Code of Regulations, title 16, section 3340.35,
17 subdivision (c) (issuing a certificate of compliance to a vehicle improperly tested). The Bureau
18 assessed a civil penalty of \$500. Respondent complied with this citation on January 9, 2009.
19 This citation is now final and is incorporated by reference as if fully set forth.

20 b. On or about December 9, 2008, in a prior action, the Bureau issued Citation
21 Number #M2009-0696 to Respondent against his Advanced Emissions Specialist Technician
22 license for violations of Health and Safety Code section 44032 (failure to perform a test of
23 emission control systems and devices in accordance with Health and Safety Code section 44012)
24 and California Code of Regulations, title 16, section 3340.30, subdivision (a) (failure to inspect
25 and properly test vehicles in accordance with Health and Safety Code sections 44012 and 44035
26 and California Code of Regulations, title 16, section 3340.42). The Bureau ordered an eight-hour
27 training course. Respondent complied with this citation on January 24, 2009. This citation is
28 now final and is incorporated by reference as if fully set forth.

1 OTHER MATTERS

2 98. Pursuant to Code section 9884.7(c), the director may suspend, revoke, or place on
3 probation the registrations for all places of business operated in this state by Hedayat
4 Mohammadi, upon a finding that he has, or is, engaged in a course of repeated and willful
5 violation of the laws and regulations pertaining to an automotive repair dealer.

6 99. Pursuant to Health and Safety Code section 44072.8, if Smog Check Station License
7 Number RC 227811, issued to Respondent, is revoked or suspended, any additional license issued
8 under this chapter in the name of said licensee may be likewise revoked or suspended by the
9 director.

10 100. Pursuant to Code section 9889.9, if Lamp Station License Number LS 227811, issued
11 to Respondent is revoked or suspended, any additional license issued under
12 Articles 5 and 6 of Chapter 20.3 of the Code in the name of said licensee maybe likewise revoked
13 or suspended by the Director.

14 101. Pursuant to Code section 9889.9, if Brake Station License Number BS 227811 issued
15 to Respondent is revoked or suspended, any additional license issued under
16 Articles 5 and 6 of Chapter 20.3 of the Code in the name of said licensee may be likewise
17 revoked or suspended by the Director.

18 102. Pursuant to Health and Safety Code section 44072.8, if Advanced Emission Specialist
19 Technician License number EA 301685, issued to Respondent is revoked or suspended, any
20 additional license issued under this chapter in the name of said licensee may be likewise revoked
21 or suspended by the director.

22 103. Pursuant to Code section 9889.9, if Lamp Adjuster License Number LA 301685,
23 issued to Respondent is revoked or suspended, any additional license issued under
24 Articles 5 and 6 of Chapter 20.3 of the Code in the name of said licensee may be likewise
25 revoked or suspended by the Director.

26 104. Pursuant to Code section 9889.9, if Brake Adjuster License Number BA 301685,
27 issued to Respondent is revoked or suspended, any additional license issued under Articles 5 and
28 6 of Chapter 20.3 of the Code in the name of said licensee may be likewise revoked or suspended

1 by the Director.

2 PRAYER

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

5 1. Revoking or suspending Automotive Repair Dealer Registration No. ARD 227811
6 issued to Hedayat Mohammadi (Respondent), dba Precision Smog & Service;

7 2. Revoking or suspending any other Automotive Repair Dealer Registration issued to
8 Respondent;

9 3. Revoking or suspending Smog Check Station License Number RC 227811, issued to
10 Respondent;

11 4. Revoking or suspending any additional license issued under chapter 5 of the Health
12 and Safety Code in the name of Respondent;

13 5. Revoking or suspending Lamp Station License Number LS 227811, issued to
14 Respondent;

15 6. Revoking or suspending Brake Station License Number BS 227811, issued to
16 Respondent;

17 7. Revoking or suspending Respondent's smog technician license(s) currently
18 designated as EA 301685, and redesignated upon his timely renewal as EO 301685 and/or EI
19 301685;

20 8. Revoking or suspending Lamp Adjuster License Number LA 301685, issued to
21 Respondent;

22 9. Revoking or suspending Brake Adjuster License Number BA 301685, issued to
23 Hedayat Mohammadi;

24 10. Ordering Respondent to pay the Bureau of Automotive Repair the reasonable costs of
25 the investigation and enforcement of this case, pursuant to Business and Professions Code section
26 125.3;

27 ///

28 ///

1 11. Taking such other and further action as deemed necessary and proper.
2
3

4 DATED: August 2, 2013
5

Patrick Dorias

6 Patrick Dorias
7 Acting Chief
8 Bureau of Automotive Repair
9 Department of Consumer Affairs
10 State of California
11 *Complainant*

12 SF2013404268
13 11122227.doc
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Exhibit B

Proof of Service and Returned Envelope

DECLARATION OF SERVICE BY CERTIFIED MAIL AND FIRST CLASS MAIL
(Separate Mailings)

Case Name: **In the Matter of the Accusation Against:
Precision Smog & Service; Hedayat Mohammadi, Owner & Technician**

No.: 79/14-11

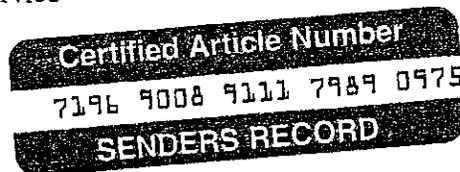
I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business.

On August 5, 2013, I served the attached **ACCUSATION; STATEMENT TO RESPONDENT; REQUEST FOR DISCOVERY; NOTICE OF DEFENSE (2 copies); and COPY OF GOVERNMENT CODE SECTIONS 11507.5, 11507.6 AND 11507.7** by placing a true copy thereof enclosed in a sealed envelope as certified mail with return receipt requested, and another true copy of the **ACCUSATION; STATEMENT TO RESPONDENT; REQUEST FOR DISCOVERY; NOTICE OF DEFENSE (2 copies); and COPY OF GOVERNMENT CODE SECTIONS 11507.5, 11507.6 AND 11507.7** was enclosed in a second sealed envelope as first class mail in the internal mail collection system at the Office of the Attorney General at 455 Golden Gate Avenue, Suite 11000, San Francisco, CA 94102-7004, addressed as follows:

Hedayat Mohammadi
Owner
Precision Smog & Service
37900 Cedar Blvd
Newark, CA 94560

Certified Mail No.



I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on August 5, 2013, at San Francisco, California.

Carmen Choy
Declarant

Carmen Choy
Signature

cc: OAH

7196 9008 9111 7989 0975

TO:

Hedayat Mohammadi
Owner
Precision Smog & Service...
37900 Cedar Blvd
Newark, CA 94560

SENDER:

Rosailda Perez

REFERENCE:

SF2013404268

PS Form 3800, January 2005

RETURN RECEIPT SERVICE	Postage	
	Certified Fee	
	Return Receipt Fee	
	Restricted Delivery	
	Total Postage & Fees	

USPS®
Receipt for
Certified Mail™

No Insurance Coverage Provided
Do Not Use for International Mail

POSTMARK OR DATE

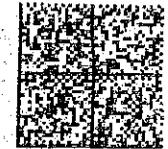
8/5/13

CERTIFIED MAIL

Rosailda Perez
Office of the Attorney General
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102



7196 9008 9111 7989 0975



U.S. POSTAGE
ZIP 94102 \$
02 17
0001367033



REASON CHECKED

- Unclaimed Refused
- Attempted - Not Known
- Insufficient Address
- No Such Street No Such Number
- No Such Office In State
- Do Not Remail This Envelope

10/18
10/23

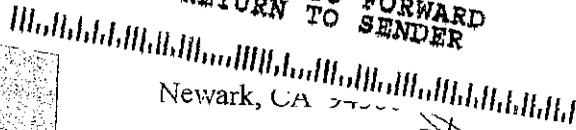
81613

NIXIE

945607037-1N

10/31/13

RETURN TO SENDER
UNCLAIMED
UNABLE TO FORWARD
RETURN TO SENDER



Newark, CA 07102

#

RECEIVED BY MAIL
NEW GATE
SAN FRANCISCO

Thank you for using Return Receipt Service

RETURN RECEIPT REQUESTED
USPS® MAIL CARRIER
DETACH ALONG PERFORATION

2. Article Number



7196 9008 9111 7989 0975

3. Service Type **CERTIFIED MAIL™**

4. Restricted Delivery? (Extra Fee) Yes

1. Article Addressed to:

Hedayat Mohammadi
Owner
Precision Smog & Service
37900 Cedar Blvd
Newark, CA 94560

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)

B. Date of Delivery

C. Signature

X

- Agent
- Addressee
- Yes
- No

D. Is delivery address different from item 1?
If YES, enter delivery address below:

SF2013404268
Rosailda Perez

Thank you for using Return Receipt Service

Exhibit C

Affidavit of James Anderson

AFFIDAVIT OF JAMES ANDERSON

1 I, James Anderson, Program Representative I, Bureau of Automotive Repair, San Jose
2 field office, hereby affirm the following facts regarding Hedayat Mohammadi, owner of
3 Precision Smog & Service, ARD 227811, Smog Station RC227811, Brake Station BS227811,
4 and Lamp Station LS227811, all located at 37900 Cedar Blvd., Unit I, Fremont, CA, 94560. Mr.
5 Mohammadi, respondent, was the sole licensed smog mechanic, brake and lamp adjuster
6 employed there, licenses EA301685, BA301685, and LA301685, respectively.

7 In the course and scope of my duties as Program Representative I in the San Jose field
8 office, I investigated the respondent and utilized documented vehicle operations. The operations
9 consisted of four vehicles presented to Mr. Mohammadi for emissions, brake, and lamp
10 certifications.

11 Respondent failed to perform visual checks or functional tests of emission control
12 systems and devices in accordance with Health and Safety Code §44012(f), or brake and lamp
13 systems in accordance with Business & Professions Code §9889.16. This conduct failed to
14 comply with California Code of Regulations §3340.30(a), 3316(d)(2), and 3321(c)(2).

15 Respondent issued a certificates of compliance to vehicles which had not been inspected
16 in accordance with Health and Safety Code §44015(b) and Business & Professions Code
17 §9889.16. This conduct failed to comply with California Code of Regulations §3340.35(c) ,
18 3316(d)(2), and 3321(c)(2).

19 Respondent made or authorized statements which he knew, or should have known to be
20 untrue or misleading by issuing certificates of compliance to vehicles that were not in
21 compliance with applicable laws and regulations. This conduct violated Business and
22 Professions Code §9884.7(a)(1).

23 Respondent issued certificates of compliance to vehicles without performing inspections
24 of the emission control or brake and lamp systems on those vehicles. This conduct violated
25 Business and Professions Code §9884.7(a)(4).

26 Respondent failed to provide copies of signed repair orders to the Bureau's undercover
27 vehicle operator. This conduct violated Business & Professions Code §9884.9(a)(3).

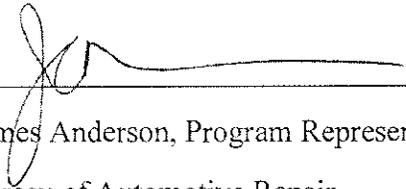
28 //

AFFIDAVIT OF JAMES ANDERSON

1 I could and would testify competently to those facts and to the facts, evidence, and
2 information contained within the investigation report supporting the violations asserted in the
3 Accusation and mentioned herein.

4 I declare under penalty of perjury under the laws of the State of California that the
5 foregoing is true and correct to best of my knowledge.

6 Executed on the 9th day of December, 2013, at
7 San Jose, California.

8 
9 _____
10 James Anderson, Program Representative I
11 Bureau of Automotive Repair