

1 KAMALA D. HARRIS
Attorney General of California
2 JANICE K. LACHMAN
Supervising Deputy Attorney General
3 KRISTINA T. JANSEN
Deputy Attorney General
4 State Bar No. 258229
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-5403
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 77/14-46

12 **ALS AUTOMOTIVE REPAIR & TIRE;**
13 **ALI T. GHOLAMREZAEI, OWNER**
14 **2006 E. McKinley Ave**
Fresno, CA 93703

A C C U S A T I O N

15 **Automotive Repair Dealer Registration No.**
16 **ARD 235180**

17 Respondent.

18 Complainant alleges:

19 **PARTIES**

20 1. Patrick Dorais (Complainant) brings this Accusation solely in his official capacity as
21 the Chief of the Bureau of Automotive Repair, Department of Consumer Affairs.

22 2. On or about August 13, 2004, the Bureau of Automotive Repair issued Automotive
23 Repair Dealer Registration Number ARD 235180 to Ali T. Gholamrezaei, doing business as (dba)
24 Als Automotive Repair & Tire (Respondent). The Automotive Repair Dealer Registration was in
25 full force and effect at all times relevant to the charges brought herein and will expire on August
26 31, 2014, unless renewed.

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1 **JURISDICTION**

2 3. This Accusation is brought before the Director of Consumer Affairs (Director) for the
3 Bureau of Automotive Repair, under the authority of the following laws. All section references
4 are to the Business and Professions Code unless otherwise indicated.

5 4. Business and Professions Code (“Bus. & Prof. Code”) section 9884.7 provides that
6 the Director may revoke an automotive repair dealer registration.

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

11 **STATUTORY PROVISIONS**

12 6. Section 9884.7 of the Code states in pertinent part:

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
technician, employee, partner, officer, or member of the automotive repair dealer.

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

19 “...

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

21 “(4) Any other conduct that constitutes fraud.

22 “(5) Conduct constituting gross negligence.

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

25 “(7) Any willful departure from or disregard of accepted trade standards for good and
26 workmanlike repair in any material respect, which is prejudicial to another without consent of the
27 owner or his or her duly authorized representative.

28 “...

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

5 7. Section 9884.9 of the Code states:

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

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

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

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

26 _____
27 (signature or initials)”

28 “...”

8. Section 477 of the Code provides, in pertinent part, that “Board” includes “bureau,”
“commission,” “committee,” “department,” “division,” “examining committee,” “program,” and
“agency.” “License” includes certificate, registration or other means to engage in a business or
profession regulated by the Code.

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1 REGULATORY PROVISIONS

2 9. California Code of Regulations, title 16, section 3353, states in pertinent part:

3 “No work for compensation shall be commenced and no charges shall accrue without
4 specific authorization from the customer in accordance with the following requirements:

5 “(a) Estimate for Parts and Labor. Every dealer shall give to each customer a written
6 estimated price for labor and parts for a specific job.

7 “...

8 “(c) Additional Authorization. The dealer shall obtain the customer’s authorization before
9 any additional work not estimated is done or parts not estimated are supplied. This authorization
10 shall be in written, oral, or electronic form, and shall describe additional repairs, parts, labor and
11 the total additional cost.

12 “(1) If the authorization from the customer for additional repairs, parts, or labor in excess of
13 the written estimated price is obtained orally, the dealer shall also make a notation on the work
14 order and on the invoice of the date, time, name of the person authorizing the additional repairs,
15 and the telephone number called, if any, together with the specification of the additional repairs,
16 parts, labor and the total additional costs.

17 “...

18 “(4) The additional repairs, parts, labor, total additional cost, and a statement that the
19 additional repairs were authorized either orally, or by fax, or by e-mail shall be recorded on the
20 final invoice to Section 9884.9 of the Business and Professions Code. All documentation must be
21 retained pursuant to Section 9884.11 of the Business and Professions Code.

22 “...”

23 10. California Code of Regulations, title 16, section 3356, states:

24 “(a) All invoices for service and repair work performed, and parts supplied, as provided for
25 in Section 9884.8 of the Business and Professions Code, shall comply with the following:

26 “(1) The invoice shall show the automotive repair dealer's registration number and the
27 corresponding business name and address as shown in the Bureau's records. If the automotive
28 repair dealer's telephone number is shown, it shall comply with the requirements of subsection (b)
of Section 3371 of this chapter.

“...”

29 11. California Code of Regulations, title 16, section 3366, subdivision (a), states in
30 pertinent part:

31 “(a) Except as provided in subsection (b) of this section, any automotive repair dealer that
32 advertises or performs, directly or through a sublet contractor, automotive air conditioning work
33 and uses the words service, inspection, diagnosis, top off, performance check or any expression or
34

1 term of like meaning in any form of advertising or on a written estimate or invoice shall include
2 and perform all of the following procedures as part of that air conditioning work:

3 “ ...

4 “(15) High and low side system operating pressures, as applicable, have been measured and
5 recorded on the final invoice; and,

6 “ ...

7 “(16) The center air distribution outlet temperature has been measured and recorded on the
8 final invoice.”

9 “ ...”

10 12. California Code of Regulations, title 16, section 3371, states in pertinent part that no
11 automotive repair dealer shall make any false or misleading statement which is known to be false
12 or misleading, or which by the exercise of reasonable care should be known to be false or
13 misleading.

14 COST RECOVERY

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

19 UNDERCOVER OPERATION OF AUGUST 7, 2012: 1997 CHEVROLET

20 14. On or about August 7, 2012, a representative of the Bureau acting in an undercover
21 capacity (“Operator 1”) took a 1997 Chevrolet belonging to the Bureau to Respondent’s facility.
22 Prior to this operation, the vehicle was thoroughly inspected and the air conditioning system was
23 evacuated and recharged with two (2) pounds of refrigerant¹. The vehicle was not in need of any
24 services or repairs. Operator 1 also obtained a coupon printed from the Fresno Bee newspaper for
25 Respondent’s facility, advertising a \$19.95 price for air conditioning service. Upon arrival at
26 Respondent’s facility, Operator 1 spoke with an individual identifying himself as “Al.” Operator 1
27 requested air conditioning service and provided Al with the coupon, and was directed to sign a
28 repair order. Respondent did not provide Operator 1 with a copy of the signed repair order, or

¹ Refrigerant is frequently referred to by the trade name “Freon.”

1 with a written estimate. Later that day, Operator 1 received a telephone call from a man who
2 identified himself as "Al" who informed her the air conditioning was good, but that he needed to
3 change the valves in the compressor and add Freon, stating this service would cost \$85.00.
4 Operator 1 orally authorized the service. Respondent failed to note this oral authorization on the
5 final invoice.

6 15. When Operator 1 returned to retrieve the vehicle, Respondent provided Operator 1
7 with a final invoice with a business name of "Al's Automotive Repair Wheel & Tire," which states
8 two (2) pounds of Freon were added to the air conditioning system, and the low port valve and
9 high port valve were replaced. Respondent charged \$20.21 for labor, and \$60.00 for parts, which,
10 including tax, was \$85.00 for the total service.

11 16. After the operation, the vehicle was inspected by a Bureau employee who determined
12 that the servicing of the air conditioning system and the replacement of the high and low port
13 valves was unnecessary.

14 **FIRST CAUSE FOR DISCIPLINE**

15 **(Untrue or Misleading Statements)**

16 17. Respondent's registration is subject to disciplinary action pursuant to Bus. & Prof.
17 Code section 9884.7, subdivision (a)(1), in that he made untrue or misleading statements. The
18 circumstances are that on or about August 7, 2012, Respondent telephoned Operator 1 and
19 informed her the 1997 Chevrolet needed two port valves replaced and two pounds of refrigerant.
20 In fact, no refrigerant was needed and neither port valve needed to be replaced.

21 **SECOND CAUSE FOR DISCIPLINE**

22 **(Fraud)**

23 18. Respondent's registration is subject to disciplinary action pursuant to Bus. & Prof.
24 Code section 9884.7, subdivision (a)(4), in that on or about August 7, 2012, Respondent
25 committed acts constituting fraud as follows:

26 a. Respondent charged Operator 1 for two (2) pounds of refrigerant one (1) high port
27 valve, and one (1) low port valve, all of which were unnecessary.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Failure to Comply with the Bus. & Prof. Code)**

3 19. Respondent's registration is subject to disciplinary action pursuant to Bus. & Prof.
4 Code section 9884.7, subdivision (a)(3), in that Respondent failed to provide Operator 1 with a
5 copy of any document requiring a signature. The circumstances are that on or about August 7,
6 2012, Respondent directed Operator 1 to sign a repair order. Respondent did not provide a copy
7 of this document to Operator 1.

8 **FOURTH CAUSE FOR DISCIPLINE**

9 **(Violation of Regulations)**

10 20. Respondent's registration is subject to disciplinary action pursuant to Bus. & Prof.
11 Code section 9884.7, subdivision (a)(6), in that on or about August 7, 2012, Respondent failed to
12 comply with provision of California Code of Regulations, title 16, in the following respects:

13 a. **Section 3353, subdivision (a):** Respondent failed to provide Operator 1 with a
14 written estimate for labor and parts to the 1997 Chevrolet prior to commencing work.

15 b. **Section 3353, subdivisions (c)(1) and (c)(4):** Respondent telephoned Operator 1
16 and obtained oral approval to perform further services at increased expense. Respondent failed to
17 document this approval on the final invoice.

18 **FIFTH CAUSE FOR DISCIPLINE**

19 **(Disregard of Accepted Trade Standards)**

20 21. Respondent's registration is subject to disciplinary action pursuant to Bus. & Prof.
21 Code section 9884.7, subdivision (a)(7), in that on or about August 7, 2012, Respondent willfully
22 disregarded or departed from accepted trade standards for good and workmanlike repair as defined
23 by California Code of Regulations, title 16, section 3366, as follows:

24 a. **Section 3366, subdivision (a)(15):** Respondent provided Operator 1 with a final
25 invoice for service and parts on the 1997 Chevrolet. There was no documentation of measurement
26 of the high and low side operating pressures in the final invoice.

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1 relay with the No. 3 engine cooling fan relay, which enabled the compressor to function, but
2 caused the engine cooling fans to not operate properly. This could cause the engine to overheat.

3 **SEVENTH CAUSE FOR DISCIPLINE**

4 **(Gross Negligence)**

5 26. Respondent's registration is subject to disciplinary action pursuant to Bus. & Prof.
6 Code section 9884.7, subdivision (a)(5), in that on or about September 6, 2012, Respondent
7 committed gross negligence by swapping one of the engine cooling fan relays for the defective
8 magnetic clutch relay.

9 **EIGHTH CAUSE FOR DISCIPLINE**

10 **(Untrue or Misleading Statements)**

11 27. Respondent's registration is subject to disciplinary action pursuant to Bus. & Prof.
12 Code section 9884.7, subdivision (a)(1), in that he made untrue or misleading statements. The
13 circumstances are that on or about September 6, 2012, Respondent spoke with Operator 2 and
14 informed her the 2000 Toyota required one-half (1/2) pound of Freon. In fact, the vehicle did not
15 need Freon.

16 **NINTH CAUSE FOR DISCIPLINE**

17 **(Fraud)**

18 28. Respondent's registration is subject to disciplinary action pursuant to Bus. & Prof.
19 Code section 9884.7, subdivision (a)(4), in that on or about September 6, 2012, Respondent
20 committed acts constituting fraud as follows:

21 a. Respondent charged Operator 2 for one-half (1/2) pounds of refrigerant which was
22 unnecessary.

23 **TENTH CAUSE FOR DISCIPLINE**

24 **(Failure to Comply with the Bus. & Prof. Code)**

25 29. Respondent's registration is subject to disciplinary action pursuant to Bus. & Prof.
26 Code section 9884.7, subdivision (a)(3), in that Respondent failed to provide Operator 2 with a
27 copy of any document requiring a signature. The circumstances are that on or about September 6,
28

1 2012, Respondent directed Operator 2 to sign a repair order. Respondent did not provide a copy
2 of this document to Operator 2.

3 **ELEVENTH CAUSE FOR DISCIPLINE**

4 **(Violation of Regulations)**

5 30. Respondent's registration is subject to disciplinary action pursuant to Bus. & Prof.
6 Code section 9884.7, subdivision (a)(6), in that on or about September 6, 2012, Respondent failed
7 to comply with provision of California Code of Regulations, title 16, in the following respects:

8 a. **Section 3353, subdivision (a):** Respondent failed to provide Operator 2 with a
9 written estimate for labor and parts to the 2000 Toyota prior to commencing work.

10 b. **Section 3353, subdivisions (c)(1) and (c)(4):** Respondent spoke with Operator 2
11 and obtained oral approval to perform further services at increased expense. Respondent failed to
12 document this approval on the final invoice.

13 **TWELFTH CAUSE FOR DISCIPLINE**

14 **(Disregard of Accepted Trade Standards)**

15 31. Respondent's registration is subject to disciplinary action pursuant to Bus. & Prof.
16 Code section 9884.7, subdivision (a)(7), in that on or about September 6, 2012, Respondent
17 willfully disregarded or departed from accepted trade standards for good and workmanlike repair
18 as defined by California Code of Regulations, title 16, section 3366, as follows:

19 a. **Section 3366, subdivision (a)(15):** Respondent provided Operator 2 with a final
20 invoice for service and parts on the 2000 Toyota. There was no documentation of measurement of
21 the high and low side operating pressures in the final invoice.

22 b. **Section 3366, subdivision (a)(16):** Respondent provided Operator 2 with a final
23 invoice for service and parts on the 2000 Toyota. There was no documentation of measurement of
24 the center air distribution outlet temperature in the final invoice.

25 **THIRTEENTH CAUSE FOR DISCIPLINE**

26 **(Failure to Provide Estimate and Document Oral Approval)**

27 32. Respondent's registration is subject to disciplinary action pursuant to Bus. & Prof.
28 Code section 9884.9, subdivision (a), and in that on or about September 6, 2012, Respondent

1 failed to provide an estimate to the customer and failed to document oral approval of increased
2 costs. The circumstances are as stated in paragraph 31, subdivision (a) and (b), above.

3 **UNDERCOVER OPERATION OF NOVEMBER 26, 2012: 1993 HONDA**

4 33. On or about November 26, 2012, Operator 1 took a 1993 Honda belonging to the
5 Bureau to Respondent's facility. Prior to the operation, the vehicle was thoroughly inspected to
6 ensure all parts were in good working condition, including replacing and testing the spark plugs,
7 distributor cap, distributor rotor, and ignition wires. An open circuit for the number one cylinder's
8 fuel injector was induced causing the Malfunction Indicator Lamp (MIL) to illuminate with
9 diagnostic trouble code #16 stored inside the engine control module's memory. This also caused
10 the 1993 Honda to have a rough running condition. Upon arrival at the facility, Operator 1 spoke
11 with Al, who she was acquainted with from a previous undercover operation, and asked him to
12 check the vehicle because the check engine light was on and the vehicle shook when driven. Al
13 instructed Operator 1 to sign a repair order. Respondent failed to provide Operator 1 with a copy
14 of the signed document, and failed to provide Operator 1 with a written estimate.

15 34. On November 27, 2012, Operator 1 received a telephone call from Al, who stated the
16 1993 Honda needed a tune-up including a distributor cap and spark plug wires, as well as
17 replacement of the fuel injector resistor box. Operator 1 orally authorized the service described by
18 Al. Respondent failed to note this oral authorization on the final invoice. Operator 1 picked up
19 the vehicle on the same date. Respondent provided Operator 1 with a final invoice with a business
20 name of "Al's Automotive Repair Wheel & Tire" The final invoice is dated November 26, 2012,
21 in the amount of \$375.00, and states four (4) spark plugs, a distributor cap, distributor rotor,
22 ignition wire set, and fuel injector resistor assembly were replaced.

23 35. The vehicle was inspected by a Bureau employee who determined that the replacement
24 of the spark plugs, distributor cap, distributor rotor, and ignition wire set was unnecessary.
25 Further, the diagnostic trouble codes were not cleared from the engine control module's memory.

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1 **FOURTEENTH CAUSE FOR DISCIPLINE**

2 **(Untrue or Misleading Statements)**

3 36. Respondent's registration is subject to disciplinary action pursuant to Bus. & Prof.
4 Code section 9884.7, subdivision (a)(1), in that he made untrue or misleading statements. The
5 circumstances are that on or about November 27, 2012, Respondent spoke with Operator 1 and
6 informed her the 1993 Honda needed a tune-up including a distributor cap and spark plug wires.
7 In fact, the vehicle did not need these services or replacement parts.

8 **FIFTEENTH CAUSE FOR DISCIPLINE**

9 **(Fraud)**

10 37. Respondent's registration is subject to disciplinary action pursuant to Bus. & Prof.
11 Code section 9884.7, subdivision (a)(4), in that on or about November 27, 2012, Respondent
12 committed acts constituting fraud as follows:

13 a. Respondent charged Operator 1 for four (4) spark plugs, one (1) distributor cap, one
14 (1) distributor rotor, and one (1) ignition wire set, as well as the labor for replacement of these
15 parts, all of which was unnecessary.

16 **SIXTEENTH CAUSE FOR DISCIPLINE**

17 **(Failure to Comply with the Bus. & Prof. Code)**

18 38. Respondent's registration is subject to disciplinary action pursuant to Bus. & Prof.
19 Code section 9884.7, subdivision (a)(3), in that Respondent failed to provide Operator 1 with a
20 copy of any document requiring a signature. The circumstances are that on or about November
21 26, 2012, Respondent directed Operator 2 to sign a repair order. Respondent did not provide a
22 copy of this document to Operator 1.

23 **SEVENTEENTH CAUSE FOR DISCIPLINE**

24 **(Violation of Regulations)**

25 39. Respondent's registration is subject to disciplinary action pursuant to Bus. & Prof.
26 Code section 9884.7, subdivision (a)(6), in that on or about November 26 and 27, 2012,
27 Respondent failed to comply with provision of California Code of Regulations, title 16, in the
28 following respects:

1 a. **Section 3353, subdivision (a):** Respondent failed to provide Operator 1 with a
2 written estimate for labor and parts to the 1993 Honda prior to commencing work.

3 b. **Section 3353, subdivisions (c)(1) and (c)(4):** Respondent spoke with Operator 1
4 and obtained oral approval to perform further services at increased expense. Respondent failed to
5 document this approval on the final invoice.

6 **EIGHTEENTH CAUSE FOR DISCIPLINE**

7 **(Failure to Provide Estimate and Document Oral Approval)**

8 40. Respondent's registration is subject to disciplinary action pursuant to Bus. & Prof.
9 Code section 9884.9, subdivision (a), and in that on or about November 26, 2012, Respondent
10 failed to provide an estimate to the customer and failed to document oral approval of increased
11 costs. The circumstances are as stated in paragraph 39, subdivision (a) and (b), above.

12 **OTHER MATTERS**

13 41. Pursuant to Code section 9884.7, subdivision (c), the Director may temporarily or
14 permanently invalidate the registrations for all places of business operated in this state by Ali T.
15 Gholamrezaei, including but not limited to Als Automotive Repair & Tire, Automotive Repair
16 Dealer Registration No. ARD 235180, upon a finding that it has, or is, engaged in a course of
17 repeated and willful violations of the laws and regulations pertaining to an automotive repair
18 dealer.

19 **PRAYER**

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

22 1. Revoking, suspending, or placing on probation Automotive Repair Dealer Registration
23 Number ARD 235180, issued to Ali T. Gholamrezaei, dba Als Automotive Repair & Tire;

24 2. Revoking, suspending, or placing on probation any other automotive repair dealer
25 registration issued in the name Ali T. Gholamrezaei or Als Automotive Repair & Tire;

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1 3. Ordering Ali T. Gholamrezaei to pay the Bureau of Automotive Repair the reasonable
2 costs of the investigation and enforcement of this case, pursuant to Business and Professions Code
3 section 125.3; and

4 4. Taking such other and further action as deemed necessary and proper.
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7 DATED:

March 4, 2014



PATRICK DORAIS
Chief
Bureau of Automotive Repair
Department of Consumer Affairs
State of California
Complainant

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