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

In the Matter of the Petition to Revoke
Probation Against:

Case No.: 79/15-57

**IN & OUT SMOG AND OIL CHANGE;
AMIR HOSSEIN LOTFIZADEH
10344 1/2 West Olympic Blvd.
Los Angeles, CA 90064
Automotive Repair Dealer Registration No.
ARD 243065
Smog Check Test Only Station License No.
TC 243065**

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

Respondents.

FINDINGS OF FACT

1. On or about October 15, 2014, Complainant Patrick Dorais, in his official capacity as the Chief of the Bureau of Automotive Repair, Department of Consumer Affairs, filed Petition to Revoke Probation No. 79/15-57 against In & Out Smog and Oil Change; Amir Hossein Lotfizadeh (Respondent) before the Director of Consumer Affairs. (Petition to Revoke Probation attached as Exhibit A.)

2. On or about April 12, 2006, the Bureau of Automotive Repair (Bureau) issued Automotive Repair Dealer Registration No. ARD 243065 to Respondent. The Automotive

1 Repair Dealer Registration was in full force and effect at all times relevant to the charges brought
2 in Petition to Revoke Probation No. 79/15-57 and expired on December 31, 2014, and has not
3 been renewed.

4 3. On or about April 24, 2006, the Bureau of Automotive Repair issued Smog Check
5 Test Only Station License No. TC 243065 to Respondent. The Smog Check Test Only Station
6 License was in full force and effect at all times relevant to the charges brought in Petition to
7 Revoke Probation No. 79/15-57 and expired on December 31, 2014, and has not been renewed.

8 4. On or about November 4, 2014, Respondent was served by Certified and First Class
9 Mail copies of the Petition to Revoke Probation No. 79/15-57, Statement to Respondent, Notice
10 of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5,
11 11507.6, and 11507.7) at Respondent's address of record which, pursuant to Business and
12 Professions Code section 136, is required to be reported and maintained with the Bureau.

13 Respondent's address of record was and is:

14 10344 1/2 West Olympic Blvd.
15 Los Angeles, CA 90064.

16 5. Service of the Petition to Revoke Probation was effective as a matter of law under the
17 provisions of Government Code section 11505, subdivision (c) and/or Business & Professions
18 Code section 124.

19 6. Government Code section 11506 states, in pertinent part:

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

25 7. Respondent failed to file a Notice of Defense within 15 days after service upon him
26 of the Petition to Revoke Probation, and therefore waived his right to a hearing on the merits of
27 Petition to Revoke Probation No. 79/15-57.

28 8. California Government Code section 11520 states, in pertinent part:

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

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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 November 4, 2015.

It is so ORDERED October 14, 2015



TAMARA COLSON
Assistant General Counsel
Department of Consumer Affairs

DEFAULT DECISION AND ORDER.DOCX
DOJ Matter ID:LA2014511928

Attachment:
Exhibit A: Petition to Revoke Probation
Exhibit B: Affidavit of Luis G. Marin

Exhibit A

Petition to Revoke Probation

1 KAMALA D. HARRIS
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 SHAWN P. COOK
Deputy Attorney General
4 State Bar No. 117851
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-9954
6 Facsimile: (213) 897-2804
Attorneys for Complainant
7

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

12 In the Matter of the Petition to Revoke
Probation Against:
13 **IN & OUT SMOG AND OIL CHANGE;**
14 **AMIR Hossein Lotfizadeh,**
15
16 Respondents.
17

Case No. 79/12-38
STATEMENT TO RESPONDENT
[Gov. Code §§ 11504, 11505(b)]

18
19 **TO RESPONDENT:**

20 Enclosed is a copy of the Petition to Revoke Probation that has been filed with the Director
21 of Consumer Affairs, Bureau of Automotive Repair (Bureau), and which is hereby served on you.

22 Unless a written request for a hearing signed by you or on your behalf is delivered or
23 mailed to the Bureau, represented by Deputy Attorney General Shawn P. Cook, within fifteen
24 (15) days after a copy of the Petition to Revoke Probation was personally served on you or mailed
25 to you, you will be deemed to have waived your right to a hearing in this matter and the Bureau
26 may proceed upon the Petition to Revoke Probation without a hearing and may take action
27 thereon as provided by law.
28

1 The request for hearing may be made by delivering or mailing one of the enclosed forms
2 entitled "Notice of Defense," or by delivering or mailing a Notice of Defense as provided in
3 section 11506 of the Government Code, to

4
5 **Shawn P. Cook**
6 **Deputy Attorney General**
7 **Ronald Reagan Building**
8 **300 South Spring Street, Suite 1702**
9 **Los Angeles, CA 90013**

10 You may, but need not, be represented by counsel at any or all stages of these proceedings.

11 The enclosed Notice of Defense, if signed and filed with the Bureau, shall be deemed a
12 specific denial of all parts of the Petition to Revoke Probation, but you will not be permitted to
13 raise any objection to the form of the Petition to Revoke Probation unless you file a further Notice
14 of Defense as provided in section 11506 of the Government Code within fifteen (15) days after
15 service of the Petition to Revoke Probation on you.

16 If you file any Notice of Defense within the time permitted, a hearing will be held on the
17 charges made in the Petition to Revoke Probation.

18 The hearing may be postponed for good cause. If you have good cause, you are obliged to
19 notify the Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los Angeles,
20 CA 90013, within ten (10) working days after you discover the good cause. Failure to notify the
21 Office of Administrative Hearings within ten (10) days will deprive you of a postponement.

22 Copies of sections 11507.5, 11507.6, and 11507.7 of the Government Code are enclosed.

23 If you desire the names and addresses of witnesses or an opportunity to inspect and copy
24 the items mentioned in section 11507.6 of the Government Code in the possession, custody or
25 control of the Bureau you may send a Request for Discovery to the above designated Deputy
26 Attorney General.

27 **NOTICE REGARDING STIPULATED SETTLEMENTS**

28 It may be possible to avoid the time, expense and uncertainties involved in an
administrative hearing by disposing of this matter through a stipulated settlement. A stipulated

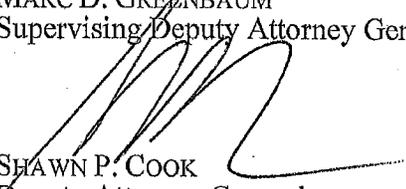
1 settlement is a binding written agreement between you and the government regarding the matters
2 charged and the discipline to be imposed. Such a stipulation would have to be approved by the
3 Director of Consumer Affairs, Bureau of Automotive Repair but, once approved, it would be
4 incorporated into a final order.

5 Any stipulation must be consistent with the Bureau's established disciplinary guidelines;
6 however, all matters in mitigation or aggravation will be considered. A copy of the Bureau's
7 Disciplinary Guidelines will be provided to you on your written request to the state agency
8 bringing this action.

9 If you are interested in pursuing this alternative to a formal administrative hearing, or if you
10 have any questions, you or your attorney should contact Deputy Attorney General Shawn P. Cook
11 at the earliest opportunity.

12 Dated: November 4, 2014

13 KAMALA D. HARRIS
14 Attorney General of California
15 MARC D. GREENBAUM
16 Supervising Deputy Attorney General

17 
18 SHAWN P. COOK
19 Deputy Attorney General
20 *Attorneys for Complainant*

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1 KAMALA D. HARRIS
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 SHAWN P. COOK
Deputy Attorney General
4 State Bar No. 117851
300 So. Spring Street, Suite 1702
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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 Petition to Revoke
12 Probation Against,

Case No.

79/15-57

13

13 **IN & OUT SMOG AND OIL CHANGE;**
AMIR HOSSEIN LOTFIZADEH, Owner
14 **10344 1/2 West Olympic Blvd.**
Los Angeles, CA 90064
15 **Automotive Repair Dealer Registration No.**
ARD 243065
16 **Smog Check Test Only Station License No.**
TC 243065

PETITION TO REVOKE PROBATION

17

Respondent.

18

19 Complainant alleges:

20

PARTIES

21

1. Patrick Dorais (Complainant) brings this Petition to Revoke Probation solely in his
22 official capacity as the Chief of the Bureau of Automotive Repair, Department of Consumer
23 Affairs.

24

2. On or about April 12, 2006, the Bureau of Automotive Repair issued Automotive
25 Repair Dealer Registration Number ARD 243065 to Respondent In & Out Smog and Oil Change;
26 Amir Hossein Lotfizadeh, owner. The Automotive Repair Dealer Registration was in effect at all
27 times relevant to the charges brought herein and will expire on December 31, 2014, unless
28 renewed.

1 of Lotfizadeh or his authorized Representative, to the local Bureau of Automotive Repair office
2 on a schedule set by the Bureau.

3 B. On May 03, 2013, Bureau of Automotive Repair Representative Kevin Sanderson
4 sent a Probation Conference Notification letter to Amir Hossein Lotfizadeh to the address of
5 record. The letter was sent to request his presence at the Bureau of Automotive Repair' Culver
6 City Field Office for the next scheduled Probation Conference that was to be held on May 28,
7 2013 at 10:00 a.m. Neither Amir Hossein Lotfizadeh, nor his authorized Representative attended
8 the conference or called to reschedule.

9 C. On December 03, 2013, Bureau of Automotive Repair Representative Kevin
10 Sanderson sent a Probation Conference Notification letter to Amir Hossein Lotfizadeh to the
11 address of record. The letter was sent to request his presence at the Bureau of Automotive Repair'
12 Culver City Field Office for the next scheduled Probation Conference that was to be held on
13 December 20, 2013, at 10:00 a.m. Neither Amir Hossein Lotfizadeh, nor his authorized
14 Representative attended the conference or called to reschedule.

15 D. On February 07, 2014, Bureau of Automotive Repair Representative Luis Marin sent
16 a letter, via certified return receipt, to Amir Hossein Lotfizadeh to the address of record. The letter
17 basically stated: Amir Hossein Lotfizadeh was placed on probation. Amir Hossein Lotfizadeh has
18 only attended the first probation conference. The Bureau of Automotive Repair's Culver City
19 Field office has made repeated attempts to get Amir Hossein Lotfizadeh to attend follow-up
20 scheduled probation conferences. Based on Amir Hossein Lotfizadeh 's lack of cooperation a
21 petition will be forwarded to vacate the stay to revoke his probationary license. The United States
22 Postal Service mail receipt was signed as received on February 12, 2014.

23 SECOND CAUSE TO REVOKE PROBATION

24 (Failure to Pay Cost Recovery)

25 10. At all times after the effective date of Respondent's probation, Condition 10 stated:
26 "10. **Cost Recovery.** Payment to the Bureau of fifty percent of the total amount of cost
27 recovery (\$10,151.77) shall be received no later than 6 months before probation terminates, to be
28 paid in twenty-four (24) equal monthly installments. The amount to be paid is \$5,075.88. Failure

1 to complete payment of cost recovery within this time frame shall constitute a violation of
2 probation which may subject Respondent's License and/or Registration to outright revocation
3 without further hearing; however, the Director or the Director's Bureau of Automotive Repair
4 designee may elect to continue probation until such time as reimbursement of the entire cost
5 recovery amount has been made to the Bureau."

6 11. Respondent Amir Hossein Lotfizadeh's probation is subject to revocation because he
7 failed to comply with Probation Condition 10, referenced above. The facts and circumstances
8 regarding this violation are as follows:

9 A. As of March 26, 2014, Amir Hossein Lotfizadeh had failed to pay the BAR cost
10 recovery in 24 monthly installments as agreed. The payments were then past due by \$634.35

11 DISCIPLINE CONSIDERATIONS

12 12. To determine the degree of discipline, if any, to be imposed on Respondent Amir
13 Hossein Lotfizadeh, Complainant alleges that on or about September 28, 2012, in a prior
14 disciplinary action entitled "In the Matter of Accusation Against In & Out Smog and Oil Change
15 and Amir Hossein Lotfizadeh," before the Director of Consumer Affairs in Case No. . 79/12-38,
16 Respondent's licenses were disciplined for the violations alleged in that underlying Accusation.
17 That decision is now final and is incorporated by reference as if fully set forth.

18 PRAYER

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

21 1. Revoking the probation that was granted by the Bureau of Automotive Repair in Case
22 No. 79/12-38 and imposing the disciplinary order that was stayed thereby revoking Automotive
23 Repair Dealer Registration No. ARD 243065 issued to In & Out Smog and Oil Change; Amir
24 Hossein Lotfizadeh;

25 2. Revoking or suspending Automotive Repair Dealer Registration No. ARD 243065,
26 issued to In & Out Smog and Oil Change; Amir Hossein Lotfizadeh;

27 3. Revoking the probation that was granted by the Bureau of Automotive Repair in Case
28 No. 79/12-38 and imposing the disciplinary order that was stayed thereby revoking Smog Check

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Test Only Station License No. TC 243065, issued to In & Out Smog and Oil Change; Amir Hossein Lotfizadeh.

4. Revoking or suspending Smog Check Test Only Station License No. TC 243065, issued to In & Out Smog and Oil Change; Amir Hossein Lotfizadeh.

5. Taking such other and further action as deemed necessary and proper.

DATED: October 15, 2014 Patrick Dorais

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

LA2014511928
In & out ptr final.doc

Exhibit A

Decision and Order

Bureau of Automotive Repair Case No. 79/12-38

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

In the Matter of the Accusation Against:

IN & OUT SMOG AND OIL CHANGE;
AMIR HOSSEIN LOTFIZADEH
10344 ½ West Olympic Blvd.
Los Angeles, CA 90064

Automotive Repair Dealer Registration
No. ARD 243065
Smog Check, Test Only, Station License
No. TC 243065
Advanced Emission Specialist License
No. EA 146857

Case No. 79/12-38

OAH No. 2012040516

Respondents.

DECISION

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

This Decision shall become effective 9/28/12

DATED: September 7, 2012

Doreatha Johnson
DOREATHEA JOHNSON
Deputy Director, Legal Affairs
Department of Consumer Affairs

1 KAMALA D. HARRIS
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 SHAWN P. COOK
Deputy Attorney General
4 State Bar No. 117851
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-9954
6 Facsimile: (213) 897-2804
7 Attorneys for Complainant

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. 79/12-38

12 IN & OUT SMOG AND OIL CHANGE;
AMIR HOSSEIN LOTFIZADEH
13 10344 1/2 West Olympic Blvd.
Los Angeles, CA 90064
14 Automotive Repair Dealer Registration No.
ARD 243065
15 Smog Check, Test Only, Station License No.
TC 243065
16 Advanced Emission Specialist License No.
EA 146857
17

OAH No. 2012040516

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

18 Respondents.

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

21 PARTIES

22 1. John Wallaich (Complainant) is the Chief of the Bureau of Automotive Repair. He
23 brought this action solely in his official capacity and is represented in this matter by Kamala D.
24 Harris, Attorney General of the State of California, by Shawn P. Cook, Deputy Attorney General.

25 2. Respondent In & Out Smog and Oil Change; Amir Hossein Lotfizadeh (Respondent)
26 is represented in this proceeding by attorney Jeffrey T. Osborn, whose address is: Jeffrey T.
27 Osborn, Esq.; Law Offices of Jeffrey T. Osborn; 16152 Beach Blvd., Ste. 250; Huntington Beach,
28 CA 92647

1 and ending dates of the suspension and indicating the reason for the suspension. The sign shall be
2 conspicuously displayed in a location open to and frequented by customers and shall remain
3 posted during the entire period of actual suspension.

4 4. Reporting. Respondent or Respondent's authorized representative must report in
5 person or in writing as prescribed by the Bureau of Automotive Repair, on a schedule set by the
6 Bureau, but no more frequently than each quarter, on the methods used and success achieved in
7 maintaining compliance with the terms and conditions of probation.

8 5. Report Financial Interest. Within 30 days of the effective date of this action, report
9 any financial interest which any partners, officers, or owners of the Respondent facility may have
10 in any other business required to be registered pursuant to Section 9884.6 of the Business and
11 Professions Code.

12 6. Random Inspections. Provide Bureau representatives unrestricted access to inspect
13 all vehicles (including parts) undergoing repairs, up to and including the point of completion.

14 7. Jurisdiction. If an accusation is filed against Respondent during the term of
15 probation, the Director of Consumer Affairs shall have continuing jurisdiction over this matter
16 until the final decision on the accusation, and the period of probation shall be extended until such
17 decision.

18 8. Violation of Probation. Should the Director of Consumer Affairs determine that
19 Respondent has failed to comply with the terms and conditions of probation, the Department may,
20 after giving notice and opportunity to be heard, lift the stay herein of invalidation of the
21 Automotive Repair Dealer Registration and/or revocation of the Smog Check, Test Only, Station
22 License).

23 9. Restrictions. During the period of probation, Respondent shall not perform any form
24 of smog inspection, or emission system diagnosis or repair, until Respondent has purchased,
25 installed, and maintained the diagnostic and repair equipment prescribed by BAR necessary to
26 properly perform such work, and BAR has been given 10 days notice of the availability of the
27 equipment for inspection by a BAR representative.

28 10. Cost Recovery. Payment to the Bureau of fifty percent of the total amount of cost

1 recovery (\$10,151.77) shall be received no later than 6 months before probation terminates, to be
 2 paid to twenty-four (24) equal monthly installments. The amount to be paid is \$5,075.88. Failure
 3 to complete payment of cost recovery within this time frame shall constitute a violation of
 4 probation which may subject Respondent's License and/or Registration to outright revocation
 5 without further hearing; however, the Director or the Director's Bureau of Automotive Repair
 6 designee may elect to continue probation until such time as reimbursement of the entire cost
 7 recovery amount has been made to the Bureau.

ACCEPTANCE

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

15
16 DATED: July 31, 12

A. Lotfizadeh
 17 IN & OUT SMOG AND OIL CHANGE; AMIR
 18 HOSSEIN LOTFIZADEH

Respondent

19 I have read and fully discussed with Respondent In & Out Smog and Oil Change; Amir
 20 Hossein Lotfizadeh the terms and conditions and other matters contained in the above Stipulated
 21 Settlement and Disciplinary Order. I approve its form and content.

22
23 DATED: 8-1-12

Jeffrey T. Osborn
 24 Jeffrey T. Osborn
 25 Attorney for Respondent

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ENDORSEMENT

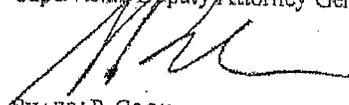
The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Director of Consumer Affairs.

Dated: July _____, 2012

August 2, 2012

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
MARC D. GREENBAUM
Supervising Deputy Attorney General



SHAWN P. COOK
Deputy Attorney General
Attorneys for Complainant

LA2011501738
Stipulation.rtf

Exhibit A

Accusation No. 79/12-38

1 KAMALA D. HARRIS
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 SHAWN P. COOK
Deputy Attorney General
4 State Bar No. 117851
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-9954
6 Facsimile: (213) 897-2804
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. 79112-38

12 IN & OUT SMOG AND OIL CHANGE
10344 1/2 West Olympic Blvd.
13 Los Angeles, CA 90064
AMIR HOSSEIN LOTFIZADEH
14 Automotive Repair Dealer Registration No.
ARD 243065
15 Smog Check Test Only Station License No.
TC 243065,
16

ACCUSATION

SMOG CHECK

17 and

18 AMIR HOSSEIN LOTFIZADEH
18236 Nardoff Street
Northridge, CA 91325
19 Advanced Emission Specialist Technician
License No. EA 146857
20

21 Respondents.

22 Complainant alleges:

23 PARTIES

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

26 Automotive Repair Dealer Registration

27 2. On a date uncertain in 2005, the Bureau issued Automotive Repair Dealer
28 Registration Number ARD 243065 ("registration") to Amir Hossein Lotfizadeh ("Respondent").

1 doing business as In & Out Smog and Oil Change. The registration was in full force and effect at
2 all times relevant to the charges brought herein and will expire on December 31, 2011, unless
3 renewed.

4 Smog Check Test Only Station License

5 3 On or about April 24, 2006, the Bureau issued Smog Check Test Only Station
6 License Number TC 243065 ("station license") to Respondent. The station license was in full
7 force and effect at all times relevant to the charges brought herein and will expire on December
8 31, 2011, unless renewed.

9 Advanced Emission Specialist Technician License

10 4. On a date uncertain in 2003, the Bureau issued Advanced Emission Specialist
11 Technician License Number EA 146857 ("technician license") to Respondent. The technician
12 license was in full force and effect at all times relevant to the charges brought herein and will
13 expire on February 28, 2013, unless renewed.

14 STATUTORY PROVISIONS

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

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

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

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

28 (4) Any other conduct that constitutes fraud.

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

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

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

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

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

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

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

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

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

(signature or initials)"

8. Code section 9884.13 provides, in pertinent part, that the expiration of a valid
registration shall not deprive the director or chief of jurisdiction to proceed with a disciplinary

1 proceeding against an automotive repair dealer or to render a decision invalidating a registration
2 temporarily or permanently.

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

7 10 Section 44002 of the Health and Safety Code provides, in pertinent part, that the
8 Director has all the powers and authority granted under the Automotive Repair Act for enforcing
9 the Motor Vehicle Inspection Program.

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

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

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

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

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

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

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

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

25 COST RECOVERY

26 14. Code section 125.3 provides, in pertinent part, that a Board may request the
27 administrative law judge to direct a licensee found to have committed a violation or violations of
28

1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
2 enforcement of the case.

3 UNDERCOVER OPERATION - JANUARY 25, 2011

4 15. On or about January 25, 2011, a Bureau undercover operator drove a Bureau-
5 documented 2002 Chevrolet Monte Carlo to Respondent's facility and requested a smog
6 inspection. The vehicle could not pass the visual portion of a smog inspection because the
7 vehicle's positive crankcase ventilation ("PCV") system was missing. The operator signed a
8 work order estimate but was not provided with a copy of that document prior to the smog
9 inspection. Respondent performed the smog inspection and issued electronic Certificate of
10 Compliance No. WR658505C for that vehicle. The operator paid \$60 for the smog inspection
11 and received a copy of an invoice dated January 25, 2011, and an illegible copy of the Vehicle
12 Inspection Report.

13 FIRST CAUSE FOR DISCIPLINE

14 (Misleading Statements)

15 16. Respondent has subjected his registration to discipline under Code section 9884.7,
16 subdivision (a)(1), in that on or about January 25, 2011, he made statements which he knew or
17 which by exercise of reasonable care he should have known were untrue or misleading when he
18 issued electronic Certificate of Compliance No. WR658505C for the 2002 Chevrolet Monte
19 Carlo, certifying that the vehicle was in compliance with applicable laws and regulations when, in
20 fact, the vehicle's PCV system was missing.

21 SECOND CAUSE FOR DISCIPLINE

22 (Failed to Provide a Copy of a Signed Document)

23 17. Respondent has subjected his registration to discipline under Code section 9884.7,
24 subdivision (a)(3), in that on or about January 25, 2011, Respondent failed to provide the operator
25 with a copy of the work order as soon as she signed the document.

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1 d. Section 44059: Respondent willfully made false entries for electronic Certificate of
2 Compliance No. WR658505C by certifying that the vehicle had been inspected as required when,
3 in fact, it had not.

4 SIXTH CAUSE FOR DISCIPLINE

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

6 21. Respondent has subjected his station license to discipline under Health and Safety
7 Code section 44072.2, subdivision (c), in that on or about January 25, 2011, regarding the 2002
8 Chevrolet Monte Carlo, he violated sections of the California Code of Regulations, title 16, as
9 follows:

10 a. Section 3340.24, subdivision (c): Respondent falsely or fraudulently issued
11 electronic Certificate of Compliance No. WR658505C without performing a bona fide inspection
12 of the emission control devices and systems on that vehicle as required by Health and Safety
13 Code section 44012.

14 b. Section 3340.35, subdivision (c): Respondent issued electronic Certificate of
15 Compliance No. WR658505C even though that vehicle had not been inspected in accordance
16 with section 3340.42 of that Code.

17 c. Section 3340.42: Respondent failed to conduct the required smog tests and
18 inspections on that vehicle in accordance with the Bureau's specifications.

19 SEVENTH CAUSE FOR DISCIPLINE

20 (Dishonesty, Fraud or Deceit)

21 22. Respondent has subjected his station license to discipline under Health and Safety
22 Code section 44072.2, subdivision (d), in that on or about January 25, 2011, regarding the 2002
23 Chevrolet Monte Carlo, he committed acts involving dishonesty, fraud or deceit whereby another
24 was injured by issuing electronic Certificate of Compliance No. WR658505C for that vehicle
25 without performing a bona fide inspection of the emission control devices and system on the
26 vehicle, thereby depriving the People of the State of California of the protection afforded by the
27 Motor Vehicle Inspection Program.

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1 EIGHTH CAUSE FOR DISCIPLINE

2 (Violations of the Motor Vehicle Inspection Program)

3 23. Respondent has subjected his technician license to discipline under Health and Safety
4 Code section 44072.2, subdivision (a), in that on or about January 25, 2011, regarding the 2002
5 Chevrolet Monte Carlo, he violated sections of that Code, as follows:

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

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

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

13 d. Section 44059: Respondent willfully made false entries for electronic Certificate of
14 Compliance No. WR658505C by certifying that the vehicle had been inspected as required when,
15 in fact, it had not.

16 NINTH CAUSE FOR DISCIPLINE

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

18 24. Respondent has subjected his technician license to discipline under Health and Safety
19 Code section 44072.2, subdivision (c), in that on or about January 25, 2011, regarding the 2002
20 Chevrolet Monte Carlo, he violated sections of the California Code of Regulations, title 16, as
21 follows:

22 a. Section 3340.24, subdivision (c): Respondent falsely or fraudulently issued
23 electronic Certificate of Compliance No. WR658505C without performing a bona fide inspection
24 of the emission control devices and systems on that vehicle as required by Health and Safety
25 Code section 44012.

26 b. Section 3340.30, subdivision (a): Respondent failed to inspect and test that vehicle
27 in accordance with Health and Safety Code section 44012.

1 c. Section 3340.41, subdivision (c) Respondent entered false information into the
2 Emission Inspection System for electronic Certificate of Compliance No. WR658505C by
3 entering "Pass" for the visual inspection for the PCV system when, in fact, the vehicle could not
4 pass the visual inspection because the vehicle's PCV system was missing.

5 d. Section 3340.42: Respondent failed to conduct the required smog tests and
6 inspections on that vehicle in accordance with the Bureau's specifications.

7 TENTH CAUSE FOR DISCIPLINE

8 (Dishonesty, Fraud or Deceit)

9 25. Respondent has subjected his technician license to discipline under Health and Safety
10 Code section 44072.2, subdivision (d), in that on or about January 25, 2011, regarding the 2002
11 Chevrolet Monte Carlo, he committed acts involving dishonesty, fraud or deceit whereby another
12 was injured by issuing electronic Certificate of Compliance No. WR658505C without performing
13 a bona fide inspection of the emission control devices and systems on that vehicle, thereby
14 depriving the People of the State of California of the protection afforded by the Motor Vehicle
15 Inspection Program.

16 PRIOR CITATIONS

17 26. To determine the degree of penalty, if any, to be imposed upon Respondent,
18 Complainant alleges as follows:

19 a. On March 6, 2008, the Bureau issued Citation No. C08-0753 to Respondent against
20 his registration and station licenses for violations of Health and Safety Code section 44012,
21 subdivision (f) (failure to perform a visual/functional check of emission control devices) and
22 California Code of Regulations, title 16, ("Regulation"), section 3340.35, subdivision (c) (issuing
23 a certificate of compliance to a vehicle improperly tested). Respondent issued a certificate of
24 compliance to a Bureau vehicle with the ignition timing adjusted beyond the manufacturer's
25 specifications. The Bureau assessed a civil penalty of \$500. Respondent complied with this
26 citation on June 6, 2008.

27 b. On February 2, 2009, the Bureau issued Citation No. C09-0885 to Respondent against
28 his registration and station licenses for violations of Health and Safety Code section 44036,

1 subdivision (b) (all licensed smog check stations shall utilize original equipment and replacement
2 parts that are certified by the department) and Regulation, section 3340.17, subdivision (e) (the
3 analyzer shall be calibrated only with BAR-approved gases that are certified in accordance with
4 section 3340.18 of that chapter). Respondent was found to have modified his EIS by attaching an
5 air compressor in place of the BAR-approved certified Zero Air Gas. The Bureau assessed a civil
6 penalty of \$1,000. Respondent complied with this citation on March 27, 2009.

7 c. On July 8, 2009, the Bureau issued Citation No. C2010-0005 to Respondent against
8 his registration and station licenses for violations of Health and Safety Code section 44012,
9 subdivision (f) (failure to perform a visual/functional check of emission control devices) and
10 Regulation, section 3340.35, subdivision (c) (issuing a certificate of compliance to a vehicle
11 improperly tested). Respondent issued a certificate of compliance to a Bureau vehicle with a
12 missing evaporative canister. The Bureau assessed a civil penalty of \$500. Respondent complied
13 with this citation on September 24, 2009.

14 d. On December 30, 2009, the Bureau issued Citation No. C2010-0610 to Respondent
15 against his registration and station licenses for violations of Health and Safety Code section
16 44012, subdivision (f) (failure to perform a visual/functional check of emission control devices)
17 and Regulation, section 3340.35, subdivision (c) (issuing a certificate of compliance to a vehicle
18 improperly tested). Respondent issued a certificate of compliance to a Bureau vehicle with the
19 ignition timing adjusted beyond the manufacturer's specifications. The Bureau assessed a civil
20 penalty of \$2,000. Respondent appealed this citation on February 10, 2010. A citation hearing
21 was held on August 9, 2011. Respondent has not complied with this citation.

22 e. On March 6, 2008, the Bureau issued Citation No. M08-0754 to Respondent against
23 his technician license for violations of Health and Safety Code section 44032, (qualified
24 technicians shall perform tests of emission control systems and devices in accordance with
25 section 44012 of that Code) and California Code of Regulations, title 16, ("Regulation") section
26 3340.30, subdivision (a) (qualified technicians shall inspect, test, and repair vehicles in
27 accordance with sections 44012 and 44035 of the Health and Safety Code, and Regulation section
28 3340.42). Respondent issued a certificate of compliance to a Bureau vehicle with the ignition

1 timing adjusted beyond the manufacturer's specifications. Respondent was required to attend an
2 8-hour training course. Respondent complied with this citation on June 9, 2008.

3 f. On July 8, 2009, the Bureau issued Citation No. M2010-0006 to Respondent against
4 his technician license for violations of Health and Safety Code section 44032, (qualified
5 technicians shall perform tests of emission control systems and devices in accordance with
6 section 44012 of that Code) and California Code of Regulations, title 16, ("Regulation") section
7 3340.30, subdivision (a) (qualified technicians shall inspect, test, and repair vehicles in
8 accordance with sections 44012 and 44035 of the Health and Safety Code, and Regulation section
9 3340.42). Respondent issued a certificate of compliance to a Bureau vehicle with a missing
10 evaporative canister. Respondent was required to attend an 8-hour training course. Respondent
11 complied with this citation on November 3, 2009.

12 g. On December 30, 2009, the Bureau issued Citation No. M2010-0611 to Respondent
13 against his technician license for violations of Health and Safety Code section 44032, (qualified
14 technicians shall perform tests of emission control systems and devices in accordance with
15 section 44012 of that Code) and California Code of Regulations, title 16, ("Regulation") section
16 3340.30, subdivision (a) (qualified technicians shall inspect, test, and repair vehicles in
17 accordance with sections 44012 and 44035 of the Health and Safety Code, and Regulation section
18 3340.42). Respondent issued a certificate of compliance to a Bureau vehicle with the ignition
19 timing adjusted beyond the manufacturer's specifications. Respondent was required to attend a
20 16-hour training course. Respondent appealed this citation on February 10, 2010. A citation
21 hearing was held on August 9, 2011. Respondent has not complied with this citation.

22 OTHER MATTERS

23 27. Under Code section 9884.7, subdivision (c), the director may invalidate temporarily
24 or permanently or refuse to validate, the registrations for all places of business operated in this
25 state by to Amir Hossein Lotfizadeh, upon a finding that he has, or is, engaged in a course of
26 repeated and willful violations of the laws and regulations pertaining to an automotive repair
27 dealer.

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1 28. Under Health and Safety Code section 44072.8, if Smog Check Test Only Station
2 License Number TC 243065, issued to Amir Hossein Lotfizadeh doing business as In & Out
3 Smog and Oil Change, is revoked or suspended, any additional license issued under this chapter
4 in the name of said licensee may be likewise revoked or suspended by the director including, but
5 not limited to, Advanced Emission Specialist Technician License Number EA 146857.

6 PRAYER

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

9 1. Revoking, suspending, or placing on probation, Automotive Repair Dealer
10 Registration Number ARD 243065, issued to Amir Hossein Lotfizadeh doing business as In &
11 Out Smog and Oil Change;

12 2. Revoking, suspending, placing on probation any other automotive repair dealer
13 registration issued to Amir Hossein Lotfizadeh;

14 3. Revoking or suspending Smog Check Test Only Station License Number TC 243065,
15 issued to Amir Hossein Lotfizadeh doing business as In & Out Smog and Oil Change;

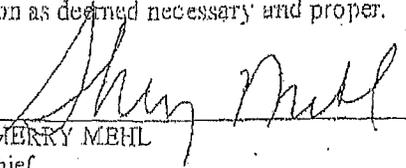
16 4. Revoking or suspending any additional license issued under Chapter 5 of the Health
17 and Safety Code in the name of Amir Hossein Lotfizadeh including, but not limited to, Advanced
18 Emission Specialist Technician License Number EA 146857;

19 5. Ordering Amir Hossein Lotfizadeh to pay the Bureau of Automotive Repair the
20 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
21 Professions Code section 125.3; and,

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

23 DATED: _____

9/19/11

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

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