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

9 In the Matter of the Accusation Against:

Case No. 79/09-99

10 SYMAR ENTERPRISES, INC.
11 dba PURRFECT AUTO SERVICE
11600 South Street
12 Artesia, CA 90701
SUNEETA SYAL, President

ACCUSATION

SMOG CHECK

13 Automotive Repair Dealer Registration No. ARD
14 252912
Smog Check Station License No. RC 252912

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

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

22 **Automotive Repair Dealer Registration No. ARD 252912**

23 2. On or about January 8, 2008, the Director of Consumer Affairs
24 ("Director") issued Automotive Repair Dealer Registration Number ARD 252912 to Symar
25 Enterprises, Inc. ("Respondent"), a corporation, doing business as Purrfect Auto Service, with
26 Suneeta Syal as president. Respondent's automotive repair dealer registration was in full force
27 and effect at all times relevant to the charges brought herein and will expire on November 30,
28 2009, unless renewed.

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(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.

(4) Any other conduct which constitutes fraud.

....

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

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

....

(c) Notwithstanding subdivision (b), the director may refuse to validate, or may invalidate temporarily or permanently, the registration for all places of business operated in this state by an automotive repair dealer upon a finding that the automotive repair dealer has, or is, engaged in a course of repeated and willful violations of this chapter, or regulations adopted pursuant to it.

9. Bus. & Prof. Code section 9884.9, subdivision (a), states, in pertinent part:

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

10. Bus. & Prof. Code section 477 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 Bus. & Prof. Code.

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1 11. Health & Saf. Code section 44072.2, subdivision (d), states, in pertinent
2 part:

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

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

9 12. Health & Saf. Code section 44072.8 states that when a license has been
10 revoked or suspended following a hearing under this article, any additional license issued under
11 this chapter in the name of the licensee may be likewise revoked or suspended by the director.

12 **COST RECOVERY**

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

17 **UNDERCOVER OPERATION #1: 1992 CHEVROLET S10 PICK-UP**

18 14. On March 6, 2008, at approximately 0940 hours, a representative of the
19 Bureau acting in an undercover capacity and using the alias Louie Hernandez ("Hernandez"),
20 took the Bureau's 1992 Chevrolet S10 pickup to Respondent's facility and requested a smog
21 inspection. A defective coolant temperature sensor ("CTS") was installed in the engine of the
22 Bureau-documented vehicle, causing the vehicle to fail a smog inspection. Respondent's
23 employee, Johnnie Shah ("Shah"), instructed Hernandez to fill up the gas tank and bring the
24 vehicle back. When Hernandez returned at approximately 1004 hours, Moni Syal ("Syal"), who
25 represented himself as the owner of the facility, had him complete and sign a work order/invoice
26 and told him that the cost for the smog check was \$38.95.

27 15. After Hernandez waited approximately 30 minutes at the facility, Shah
28 informed him that the vehicle had not passed the smog test and would require a diagnosis, at a
cost of \$49.95. Hernandez authorized the diagnosis and left the facility without receiving any
paperwork.

1 16. At approximately 1335 hours, Hernandez contacted the facility and spoke
2 to Shah. Shah told him that they had completed the diagnosis and determined that the CTS, idle
3 air control ("IAC") valve, and the throttle body base gaskets needed to be replaced, at a cost of
4 \$492.54, plus tax. Hernandez asked Shah on two separate occasions if the repairs were necessary
5 for the vehicle to pass the smog test, and he responded "yes." Shah also told Hernandez that,
6 after the repairs were performed, the vehicle would have to be taken to a Test Only station in
7 order to get a smog certificate, but that they could do a "pre-test" after the repairs to show that the
8 vehicle would pass the smog test. Hernandez authorized the repairs.

9 17. At 1615 hours, Hernandez contacted Shah and was told that the vehicle
10 was ready. Hernandez arranged to pick the vehicle up the next day.

11 18. On March 7, 2008, at approximately 1402 hours, Hernandez returned to
12 Respondent's facility to pick up the vehicle. Shah showed Hernandez a Vehicle Inspection
13 Report ("VIR") and pointed out the emission levels between the first and second smog checks.
14 Shah told Hernandez that the vehicle was running a lot better, that it was ready to pass the smog
15 inspection, and that he could take it to J&B Smog for the smog test. Hernandez requested the old
16 parts from the vehicle, which Shah provided to him. Hernandez then paid Shah for the repairs,
17 totaling \$513.11, and received a copy of the work order/invoice along with two VIRs.

18 19. On March 10, 2008 and March 11, 2008, Bureau Representative Paul
19 Stump ("Stump") inspected the vehicle and found that the CTS, throttle body base gaskets, and
20 IAC valve had been replaced when, in fact, the only repair needed was the replacement of the
21 CTS to make the vehicle pass the smog inspection. Further, Stump found that Respondent had
22 failed to put the thermostatic air cleaner preheat tube in place at the exhaust manifold side of the
23 tube.

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1 workmanlike repair without the consent of the owner or the owner's duly authorized
2 representative, in a material respect, as follows: Respondent failed to properly repair the
3 Bureau's 1992 Chevrolet S10 pick-up by failing to put the thermostatic air cleaner preheat tube
4 in place at the exhaust manifold side of the tube.

5 **FOURTH CAUSE FOR DISCIPLINE**

6 **(Failure to Provide Customer with Copy of Work Order/Invoice)**

7 23. Respondent's automotive repair dealer registration is subject to
8 disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(3), in that
9 Respondent's employee, Shah, failed to give Hernandez a copy of the work order/invoice as soon
10 as the document was signed.

11 **FIFTH CAUSE FOR DISCIPLINE**

12 **(Violations of the Code)**

13 24. Respondent's automotive repair dealer registration is subject to
14 disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(6), in that
15 Respondent failed to comply with section 9884.9, subdivision (a), of that Code. Respondent
16 failed to provide Hernandez with a written estimate for parts and labor necessary for a specific
17 job and failed to obtain Hernandez's signature on the work order/invoice prior to commencing
18 repair work on the Bureau's 1992 Chevrolet S10 pick-up.

19 **SIXTH CAUSE FOR DISCIPLINE**

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

21 25. Respondent's smog check station license is subject to disciplinary action
22 pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed a
23 dishonest, fraudulent, or deceitful act whereby another is injured, as follows: Respondent made a
24 false or misleading representation to Hernandez regarding the Bureau's 1992 Chevrolet S10 pick-
25 up, as set forth in paragraph 20 above, in order to induce Hernandez to purchase unnecessary
26 repairs on the vehicle, i.e. replacement of the IAC valve and the throttle body base gaskets, then
27 sold Hernandez the unnecessary repairs.

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1 was illuminated. Respondent's employee told Gonzalez that he would have to diagnose the
2 vehicle first and then, after the repair, he would be able to perform the smog test. Gonzalez
3 authorized the work and then waited in the customer area.

4 38. Approximately one hour later, Respondent's employee, Syal, told
5 Gonzalez that the oxygen sensors had to be replaced and the electronic fuel injection system
6 ("EFI") would need to be cleaned. Gonzalez asked Syal if the fuel cleaning was necessary to
7 pass the smog check and he replied, "It has to be done to operate better with the new parts
8 installed and to pass the smog test." Syal told Gonzalez that the cost of the repairs would be
9 \$450, plus the price of the smog test. Gonzalez authorized the work, was given a copy of the
10 work order/invoice he had signed, and left the facility.

11 39. At 1415 hours, Gonzalez contacted Respondent and was told that the
12 vehicle was ready to be picked up.

13 40. At 1500 hours, Gonzalez returned to Respondent's facility and was met by
14 Syal. Syal told Gonzalez that the total of the repairs was \$503.64. Gonzalez paid for the repairs
15 and received a copy of the work order/invoice and the VIR. Gonzalez again asked Syal if all the
16 parts and repairs were necessary to pass the smog check and Syal replied, "It was all necessary to
17 pass the smog check." Gonzalez then left the facility.

18 41. At 1533 hours, Gonzalez contacted Syal and requested that he clarify the
19 charges for the parts and fuel cleaning because the work order/invoice did not specify. Syal said
20 he would check and call Gonzalez back. Syal called Gonzalez back a few minutes later and told
21 him that two sensors had been replaced, the first sensor was \$130 and the second was \$135, and
22 the EFI system service was \$100. Gonzalez then asked Syal what was done on the fuel system
23 service and he replied that it was, "A three step system, the air filter and fuel filter were replaced
24 and a chemical was used in the system." Then Syal said, "The three step system may not have
25 been done because my problem was with the smog test." Syal told Gonzalez that he would have
26 to check with the mechanic to find out if the service was done and get back to him later;
27 however, Syal never called Gonzalez back.

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1 **THIRTEENTH CAUSE FOR DISCIPLINE**

2 **(Fraud)**

3 44. Respondent's automotive repair dealer registration is subject to
4 disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(4), in that
5 Respondent committed acts constituting fraud, as follows:

6 a. Respondent's employee, Syal, made false or misleading representations to
7 Gonzalez regarding the Bureau's 2001 Toyota Corolla, as set forth in paragraph 43 above, in
8 order to induce Gonzalez to purchase unnecessary repairs on the vehicle, i.e. replacement of the
9 heated oxygen sensor (Bank 1 Sensor 2) and service of the EFI system, then sold Gonzalez the
10 unnecessary repairs.

11 b. Respondent charged and obtained payment from Gonzalez for the EFI
12 system service on the Bureau's 2001 Toyota Corolla when, in fact, the air filter and fuel filter (as
13 components of the EFI system) had not been replaced on the vehicle as invoiced.

14 **FOURTEENTH CAUSE FOR DISCIPLINE**

15 **(Failure to Provide Customer with Copy of Work Order/Invoice)**

16 45. Respondent's automotive repair dealer registration is subject to
17 disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(3), in that
18 Respondent's employee, Syal, failed to give Gonzalez a copy of the work order/invoice as soon
19 as the document was signed.

20 **FIFTEENTH CAUSE FOR DISCIPLINE**

21 **(Violations of the Code)**

22 46. Respondent's automotive repair dealer registration is subject to
23 disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(6), in that
24 Respondent failed to comply with section 9884.9, subdivision (a), of that Code. Respondent's
25 employee, Syal, failed to provide Gonzalez with a written estimate for parts and labor necessary
26 for a specific job and failed to obtain Gonzalez's signature on the work order/invoice prior to
27 commencing repair work on the Bureau's 2001 Toyota Corolla.

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1 **SIXTEENTH CAUSE FOR DISCIPLINE**

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

3 47. Respondent's smog check station license is subject to disciplinary action
4 pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed a
5 dishonest, fraudulent, or deceitful act whereby another is injured, as follows: Respondent's
6 employee, Syal, made false or misleading representations to Gonzalez regarding the Bureau's
7 2001 Toyota Corolla, as set forth in paragraph 43 above, in order to induce Gonzalez to purchase
8 unnecessary repairs on the vehicle i.e. replacement of the heated oxygen sensor (Bank 1 Sensor
9 2) and service of the EFI system, then sold Gonzalez the unnecessary repairs.

10 **OTHER MATTERS**

11 48. Pursuant to Bus. & Prof. Code section 9884.7, subdivision (c), the
12 Director may invalidate temporarily or permanently, the registrations for all places of business
13 operated in this state by Respondent Symar Enterprises, Inc., doing business as Purrfect Auto
14 Service, upon a finding that said Respondent has, or is, engaged in a course of repeated and
15 willful violations of the laws and regulations pertaining to an automotive repair dealer.

16 49. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Station
17 License Number RC 252912, issued to Symar Enterprises, Inc., doing business as Purrfect Auto
18 Service, is revoked or suspended, any additional license issued under this chapter in the name of
19 said licensee may be likewise revoked or suspended by the Director.

20 **PRAYER**

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

23 1. Temporarily or permanently invalidating Automotive Repair Dealer
24 Registration Number ARD 252912, issued to Symar Enterprises, Inc., doing business as Purrfect
25 Auto Service;

26 2. Temporarily or permanently invalidating any other automotive repair
27 dealer registration issued to Symar Enterprises, Inc., doing business as Purrfect Auto Service;

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3. Revoking or suspending Smog Check Station License Number
RC 252912, issued to Symar Enterprises, Inc., doing business as Purrfect Auto Service;

4. Ordering Respondent Symar Enterprises, Inc., doing business as Purrfect
Auto Service, to pay the Director of Consumer Affairs the reasonable costs of the investigation
and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

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

DATED: 5-8-09


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