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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 Accusation Against:

Case No. 77/13-60

A C C U S A T I O N

13 **AFFAF AUTO MANAGEMENT, INC.**
14 **dba SUNDANCE AUTO SERVICE**
15 **MAZHAR IQBAL, PR./SEC./TR.**
16 **9701 Folsom Boulevard**
17 **Sacramento, CA 95827**

18 **Automotive Repair Dealer Registration No.**
19 **ARD 262929**

Respondent.

20 John Wallauch ("Complainant") alleges:

21 **PARTIES**

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

24 2. On or about August 6, 2010, the Bureau issued Automotive Repair Dealer
25 Registration Number ARD 262929 to Affaf Auto Management, Inc., doing business as Sundance
26 Auto Service ("Respondent"), with Mazhar Iqbal as the President, Secretary, and Treasurer. The
27 registration was in full force and effect at all times relevant to the charges brought herein. The
28 registration was cancelled on February 16, 2012.

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3. Section 9884.7 of the Business and Professions Code (“Code”) states, in pertinent

1 5. Code section 9884.9 states:

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

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

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

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

25 _____
26 (signature or initials)"

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

30 6. Code section 9884.13 provides, in pertinent part, that the expiration of a valid
31 registration shall not deprive the Director of jurisdiction to proceed with a disciplinary proceeding
32 against an automotive repair dealer or to render a decision invalidating a registration temporarily
33 or permanently.

34 REGULATORY PROVISIONS

35 7. California Code of Regulations, title 16, section 3356 states:

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

(2) The invoice shall separately list, describe and identify all of the following:

(A) All service and repair work performed, including all diagnostic and warranty work, and the price for each described service and repair.

COST RECOVERY

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

CONSUMER COMPLAINT NO. 1 – 1996 FORD F350

9. On or about October 15, 2011, Jeffrey Faulks ("Faulks") drove his 1996 Ford F350 pickup truck to Respondent's facility to have the front tires replaced and then have the tires that were removed from the front, installed on the rear outer rims of the vehicle (the truck has dual rear wheels). During that process, Respondent damaged the rear outer rims with the tire machine and damaged the right front rim by dropping it on the ground. Faulks paid Respondent \$249.94 and received Invoice No. 13811. Respondent acknowledged the damage done to Faulks rims. Faulks obtained several estimates to repair the damaged rims and presented the estimates to Respondent but Respondent refused to pay for the damages pursuant to those estimates, stating the estimates were too high.

10. On or about November 8, 2011, a Bureau representative inspected the vehicle and found that the two outer rear rims have clamp marks on the outer surface that are consistent with the use of a tire machine. Also, the right front rim was scratched on the hub part of the rim.

FIRST CAUSE FOR DISCIPLINE

(Departure from Accepted Trade Standards)

11. Respondent's registration is subject to discipline under Code section 9884.7(a)(7), in that on or about October 15, 2011, regarding the 1996 Ford F350, Respondent willfully departed from or disregarded accepted trade standards for good and workmanlike repair without the consent of the owner or the owner's duly authorized representative in a material respect, in

1 that Respondent failed to properly operate the tire machine when changing/replacing the tires on
2 Faulks vehicle, as more particularly set forth above in paragraphs 9 and 10.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Failure to Comply with Provisions of the Automotive Repair Act)**

5 12. Respondent's registration is subject to discipline under Code section 9884.7(a)(6),
6 in that on or about October 15, 2011, regarding the 1996 Ford F350, Respondent failed to
7 materially comply with Code section 9884.8, in that it failed to describe all service work
8 performed on Invoice No. 13811.

9 **CONSUMER COMPLAINT NO. 2 – 2001 TOYOTA COROLLA**

10 13. On or about October 4, 2011, Tomiyo Nojiri ("Nojiri") drove her 2001 Toyota
11 Corolla to Respondent's facility to have the oil and filter changed and a safety check. Respondent
12 performed the safety check. Nojiri paid Respondent \$85 and received Invoice No. 13743.

13 **THIRD CAUSE FOR DISCIPLINE**

14 **(Failure to Comply with Provisions of the Automotive Repair Act)**

15 14. Respondent's registration is subject to discipline under Code section 9884.7(a)(6),
16 in that on or about October 4, 2011, regarding the 2001 Toyota Corolla, Respondent failed to
17 materially comply with Code section 9884.8, in that it failed to describe what was included in the
18 "bumper to bumper safety check" inspection on Invoice No. 13743.

19 **CONSUMER COMPLAINT NO. 3 – 1991 HONDA CIVIC**

20 15. On or about November 22, 2011, Peggy Fayyaz ("Fayyaz") drove her 1991 Honda
21 Civic to Respondent's facility and requested replacement of the spark plugs and an oil and filter
22 change. Respondent recommended that Fayyaz also have the distributor cap, rotor, spark plug
23 wires, and two drive belts replaced. Fayyaz paid Respondent \$240. Following the repairs, the
24 vehicle continued to run poorly and died. Fayyaz had the vehicle towed back to Respondent's
25 facility for an inspection. Respondent told Fayyaz that the ignition coil ("coil") and the ignition
26 module ("igniter")¹ were the original parts that came on the vehicle and needed to be replaced.

27 ¹ The igniter had been replaced on February 24, 2011, at Folsom Lake Honda under a
28 recall.

1 Respondent charged Fayyaz \$125.96 for the repairs. Fayyaz asked Respondent for the old parts
2 (coil and igniter) that it replaced, and Respondent complied. While leaving Respondent's facility,
3 Fayyaz noticed the vehicle was running rough. Fayyaz contacted Respondent and was asked to
4 bring the vehicle back in because they failed to reset the timing. Fayyaz refused to return the
5 vehicle to Respondent's facility.

6 16. On or about December 8, 2011, a Bureau representative met with Fayyaz and
7 inspected the vehicle. The Bureau representative found that the lower screw that secures the
8 distributor cap was loose and the distributor was rotated all the way back, indicating the ignition
9 timing may not be in specification. The Bureau representative also obtained the old parts (coil
10 and igniter) Fayyaz received from Respondent for inspection.

11 17. On or about December 15, 2011, Fayyaz drove her vehicle to Service Outlet for an
12 inspection. Service Outlet found that the vehicle's distributor bolts were loose and the timing
13 needed to be adjusted.

14 18. On or about December 20, 2011, a Bureau representative tested the coil and igniter
15 and found that the coil failed, but the igniter operated without any defect.

16 **FOURTH CAUSE FOR DISCIPLINE**

17 **(Untrue or Misleading Statements)**

18 19. Respondent's registration is subject to discipline under Code section 9884.7(a)(1),
19 in that on or about November 22, 2011, regarding the 1991 Honda Civic, Respondent made
20 statements which it knew or which by exercise of reasonable care should have known were untrue
21 or misleading, in that Respondent falsely represented to Fayyaz that the igniter was the original
22 part that came on the car and had 273,790 miles on it and that it needed to be replaced when, in
23 fact, it had been replaced on February 24, 2011, and did not need to be replaced.

24 **FIFTH CAUSE FOR DISCIPLINE**

25 **(Fraudulent Acts)**

26 20. Respondent's registration is subject to discipline under Code section 9884.7(a)(4),
27 in that on or about November 22, 2011, regarding the 1991 Honda Civic, Respondent committed
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1 fraud when it charged for and received payment from Fayyaz for replacing the vehicle's igniter
2 when, in fact, that repair was not necessary.

3 **SIXTH CAUSE FOR DISCIPLINE**

4 **(Failure to Comply with Regulations Pursuant to the Automotive Repair Act)**

5 21. Respondent's registration is subject to discipline under Code section 9884.7(a)(6),
6 in that on or about November 22, 2011, regarding the 1991 Honda Civic, Respondent failed to
7 comply with the California Code of Regulations, title 16, section 3356(a)(2)(A), by failing to
8 describe all diagnostic work performed on Invoice No. 10080.

9 **CONSUMER COMPLAINT NO. 4 – 1991 SAAB 900**

10 22. On or about November 5, 2011, Aneatra Harvey ("Harvey") had her 1991 Saab
11 900 towed to Respondent's facility because the vehicle's engine would stall/die out. Respondent
12 told Harvey that her vehicle needed a new catalytic converter, spark plugs, spark plug wires, and
13 a distributor cap and rotor to correct the problem. Respondent charged Harvey \$450. Following
14 the repairs, Harvey's vehicle continued to stall/die and she had it towed back to Respondent's
15 facility for an inspection. Respondent told Harvey that the vehicle needed a new Electronic
16 Control Module (ECM) and possibly a fuel pump. Harvey declined the additional repairs.

17 **SEVENTH CAUSE FOR DISCIPLINE**

18 **(Failure to Comply with Provisions of the Automotive Repair Act)**

19 23. Respondent's registration is subject to discipline under Code section 9884.7(a)(6),
20 in that on or about November 5, 2011, regarding the 1991 Saab 900, Respondent failed to
21 materially comply with Code section 9884.9, in that Respondent failed to document Harvey's
22 authorization for an inspection on work order number 10086.

23 **EIGHTH CAUSE FOR DISCIPLINE**

24 **(Failure to Comply with Regulations Pursuant to the Automotive Repair Act)**

25 24. Respondent's registration is subject to discipline under Code section 9884.7(a)(6),
26 in that on or about November 5, 2011, regarding the 1991 Saab 900, Respondent failed to comply
27 with the California Code of Regulations, title 16, section 3356(a)(2)(A), by failing to describe all
28 diagnostic work performed on Invoice No. 10086.

1 **OTHER MATTERS**

2 25. 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 Affaf Auto
4 Management, Inc., doing business as Sundance Auto Service, upon a finding that it has, or is,
5 engaged in a course of repeated and willful violation of the laws and regulations pertaining to an
6 automotive repair dealer.

7 **PRAYER**

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

10 1. Revoking, suspending, or placing on probation Automotive Repair Dealer
11 Registration No. ARD 262929, issued to Affaf Auto Management, Inc., doing business as
12 Sundance Auto Service;

13 2. Revoking, suspending, or placing on probation any other automotive repair dealer
14 registration issued to Affaf Auto Management, Inc., doing business as Sundance Auto Service;

15 3. Ordering Affaf Auto Management, Inc., doing business as Sundance Auto Service,
16 to pay the Bureau of Automotive Repair the reasonable costs of the investigation and enforcement
17 of this case, pursuant to Code section 125.3; and,

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

19 DATED: 5/6/13

John Wallauch
JOHN WALLAUCH

Chief

Bureau of Automotive Repair

Department of Consumer Affairs

State of California

Complainant

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