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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.

77/16-22

13 **BRAKE MASTERS OF SACRAMENTO, INC.,**
dba BRAKE MASTERS #135
14 **SHALOM LAYTIN, PRESIDENT/TREASURER**
ERIC LAYTIN, VICE PRESIDENT/SECRETARY
15 **2265 Sunrise Blvd.**
Gold River, CA 95670-4341
16 **Mailing Address:**
6179 E. Broadway Blvd.
17 **Tucson, AZ 85711-4028**

A C C U S A T I O N

18 **Automotive Repair Dealer Reg. No. ARD 200485,**

19 **BRAKE MASTERS OF SACRAMENTO, INC.,**
dba BRAKE MASTERS #195
20 **SHALOM LAYTIN, PRESIDENT/TREASURER**
ERIC LAYTIN, VICE PRESIDENT/SECRETARY
21 **8456 Elk Grove Blvd.**
Elk Grove, CA 95758
22 **Mailing Address:**
6179 E. Broadway Blvd.
23 **Tucson, AZ 85711-4028**

24 **Automotive Repair Dealer Reg. No. ARD 233690,**

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1 **BRAKE MASTERS OF SACRAMENTO, INC.,**
2 **dba BRAKE MASTERS #220**
3 **SHALOM LAYTIN, PRESIDENT**
4 **ERIC LAYTIN, VICE PRESIDENT**
5 **SARAH LAYTIN, SECRETARY/TREASURER**
6 **8000 Greenback Lane**
7 **Citrus Heights, CA 95610**
8 **Mailing Address:**
9 **6179 E. Broadway Blvd.**
10 **Tucson, AZ 85711-4028**

11 **Automotive Repair Dealer Reg. No. ARD 274417,**

12 **BRAKE MASTERS OF SACRAMENTO, INC.,**
13 **dba BRAKE MASTERS #132**
14 **SHALOM LAYTIN, PRESIDENT/TREASURER**
15 **ERIC LAYTIN, VICE PRESIDENT/SECRETARY**
16 **3261 Northgate Blvd.**
17 **Sacramento, CA 95833**
18 **Mailing Address:**
19 **6179 E. Broadway Blvd.**
20 **Tucson, AZ 85711-4028**

21 **Automotive Repair Dealer Reg. No. ARD 200489,**

22 **and**

23 **BRAKE MASTERS OF SACRAMENTO, INC.,**
24 **dba BRAKE MASTERS #131**
25 **SHALOM LAYTIN, PRESIDENT/TREASURER**
26 **ERIC LAYTIN, VICE PRESIDENT/SECRETARY**
27 **5810 Auburn Blvd.**
28 **Sacramento, CA 95841**
Mailing Address:
6179 E. Broadway Blvd.
Tucson, AZ 85711-4028

Automotive Repair Dealer Reg. No. ARD 200488

Respondents.

Complainant alleges:

PARTIES

1. Patrick Dorais ("Complainant") brings this Accusation solely in his official capacity as the Chief of the Bureau of Automotive Repair ("Bureau"), Department of Consumer Affairs.
2. On or about July 21, 1998, the Director of Consumer Affairs ("Director") issued Automotive Repair Dealer Registration Number ARD 200485 to Brake Masters of Sacramento,

1 Inc. ("Respondent"), doing business as Brake Masters #135, with Shalom Laytin as president and
2 treasurer and Eric Laytin as vice president and secretary. The automotive repair dealer
3 registration was in full force and effect at all times relevant to the charges brought herein and will
4 expire on July 31, 2016, unless renewed.

5 3. On or about June 24, 2004, the Director issued Automotive Repair Dealer
6 Registration Number ARD 233690 to Respondent, doing business as Brake Masters #195, with
7 Shalom Laytin as president and treasurer and Eric Laytin as vice president and secretary. The
8 automotive repair dealer registration was in full force and effect at all times relevant to the
9 charges brought herein and will expire on May 31, 2016, unless renewed.

10 4. On or about October 3, 2013, the Director issued Automotive Repair Dealer
11 Registration Number ARD 274417 to Respondent, doing business as Brake Masters #220, with
12 Shalom Laytin as president, Eric Laytin as vice president, and Sarah Laytin as secretary and
13 treasurer. The automotive repair dealer registration was in full force and effect at all times
14 relevant to the charges brought herein and will expire on October 31, 2016.

15 5. In or about 1998, the Director issued Automotive Repair Dealer Registration Number
16 ARD 200489 to Respondent, doing business as Brake Masters #132, with Shalom Laytin as
17 president and treasurer and Eric Laytin as vice president and secretary. The automotive repair
18 dealer registration was in full force and effect at all times relevant to the charges brought herein
19 and will expire on July 31, 2016, unless renewed.

20 6. In or about 1998, the Director issued Automotive Repair Dealer Registration Number
21 ARD 200488 to Respondent, doing business as Brake Masters #131, with Shalom Laytin as
22 president and treasurer and Eric Laytin as vice president and secretary. The automotive repair
23 dealer registration was in full force and effect at all times relevant to the charges brought herein
24 and will expire on July 31, 2016, unless renewed.

25 **JURISDICTION**

26 7. Business and Professions Code ("Code") section 9884.7 provides that the Director
27 may revoke an automotive repair dealer registration.

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

STATUTORY PROVISIONS

9. Code section 9884.7 states, in pertinent part:

(a) The director, where the automotive repair dealer cannot show there was a bona fide error, may deny, suspend, revoke, or place on probation the registration of an automotive repair dealer for any of the following acts or omissions related to the conduct of the business of the 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.

(1) Making or authorizing in any manner or by any means whatever any statement written 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.

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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 that 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.

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(9) Having repair work done by someone other than the dealer or his or her employees without the knowledge or consent of the customer unless the dealer can demonstrate that the customer could not reasonably have been notified . . .

10. Code section 9884.7, subdivision (c), states, in pertinent part, that the Director may suspend, revoke, or place on probation 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 the laws and regulations pertaining to an automotive repair dealer.

1 11. Code section 9884.9 states, in pertinent part:

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 when an authorization or consent for an increase in the original estimated price
13 is 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 a
16 specification of the additional parts and labor and the total additional cost . . .

17 (b) The automotive repair dealer shall include with the written estimated
18 price a statement of any automotive repair service which, if required to be done, will
19 be done by someone other than the dealer or his employees. No service shall be done
20 by other than the dealer or his employees without the consent of the customer, unless
21 the customer cannot reasonably be notified. The dealer shall be responsible, in any
22 case, for any such service in the same manner as if he or his employees had done the
23 service . . .

24 12. Code section 22, subdivision (a), states:

25 "Board" as used in any provision of this Code, refers to the board in
26 which the administration of the provision is vested, and unless otherwise expressly
27 provided, shall include "bureau," "commission," "committee," "department,"
28 "division," "examining committee," "program," and "agency."

13. Code section 477, subdivision (b), states, in pertinent part, that a "license" includes
"registration" and "certificate."

COST RECOVERY

14. 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.

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1 22. On or about November 18, 2013, the Bureau inspected the vehicle and confirmed that
2 the shock absorbers were not leaking.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Untrue or Misleading Statements)**

5 23. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
6 subdivision (a)(1), in that Respondent made or authorized a statement which it knew or in the
7 exercise of reasonable care should have known to be untrue or misleading, as follows:

8 Respondent falsely represented on Invoice No. 34204 that the front and rear struts and shock
9 absorbers on D. P.'s 2004 Toyota 4 Runner were leaking.

10 **UNDERCOVER OPERATION #1**

11 24. On or about March 5, 2014, an undercover operator with the Bureau ("operator") took
12 the Bureau's 2000 Chevrolet to Brake Masters #135. The front brake pads on the Bureau-
13 documented vehicle were in need of replacement. The operator told a male employee that she
14 wanted the oil and filter changed and a squeaking noise inspected. The operator signed and
15 received a copy of a written estimate in the amount of \$27.95 and left the facility.

16 25. At approximately 1034 hours that same day, the operator received a call from
17 Respondent's employee, "Tim". Tim told the operator that the front brakes were worn, and
18 recommended replacing the front brake pads and resurfacing the front rotors. Tim claimed that
19 the master cylinder was leaking, that it was dangerous to drive the vehicle as "the brake
20 hydraulics could fail at any minute", and that the master cylinder needed replacement. Tim also
21 claimed that the brake fluid needed to be flushed. Tim told the operator that it would cost a total
22 of \$597 for the repairs. The operator told Tim she would call him back. At approximately 1044
23 hours, the operator called the facility and authorized the repairs.

24 26. At approximately 1200 hours, the operator received another call from Tim. Tim
25 claimed that the left caliper piston "would not go back in" because it was damaged from
26 overheating and that the left front brake caliper needed replacement at a total cost of \$129.15.
27 The operator told Tim she would call him back. At approximately 1209 hours, the operator called
28 the facility and authorized the additional work.

1 27. On or about March 6, 2014, the operator returned to the facility to retrieve the
2 vehicle, paid \$760.30 for the repairs, and received a copy of an invoice.

3 28. On or about March 11, 2014, the Bureau inspected the vehicle and found that the
4 facility had performed approximately \$540.80 in unnecessary repairs.

5 **SECOND CAUSE FOR DISCIPLINE**

6 **(Untrue or Misleading Statements)**

7 29. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
8 subdivision (a)(1), in that Respondent made or authorized statements which it knew or in the
9 exercise of reasonable care should have known to be untrue or misleading, as follows:

10 a. Respondent's employee, Tim, represented to the operator that the master cylinder on
11 the Bureau's 2000 Chevrolet was leaking, that it was dangerous to drive the vehicle as the brake
12 hydraulics could fail at any minute, and that the master cylinder needed replacement. In fact, the
13 only repair needed on the vehicle was the replacement of the front brake pads. Further, the
14 master cylinder was new and in good working condition, was free of defects, and was not in need
15 of replacement.

16 b. Respondent's employee, Tim, represented to the operator that the brake fluid on the
17 Bureau's 2000 Chevrolet needed to be flushed. In fact, the brake system had been flushed with
18 new fluid prior to the time the vehicle was taken to Respondent's facility, and the brake fluid
19 exceeded the minimum specification for use, showed no signs of contamination, and was in good
20 condition.

21 c. Respondent's employee, Tim, represented to the operator that the left caliper piston
22 on the Bureau's 2000 Chevrolet "would not go back in" because it was damaged from
23 overheating and that the left front brake caliper needed replacement. In fact, the left front caliper
24 was in good working condition, was free of defects, and was not in need of replacement.

25 d. Respondent falsely represented on the invoice that the left front caliper was not
26 retracting, the brake fluid failed the test, and the master cylinder was leaking.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Fraud)**

3 30. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
4 subdivision (a)(4), in that Respondent committed acts constituting fraud, as follows:
5 Respondent's employee, Tim, made false or misleading representations to the operator regarding
6 the Bureau's 2000 Chevrolet, as set forth in subparagraphs 29 (a) through (c) above, in order to
7 induce the operator to authorize and pay for unnecessary repairs on the vehicle, then sold the
8 operator unnecessary repairs, including the replacement of the master cylinder and left front brake
9 caliper, the brake fluid flush, and the cleaning and adjustment of the rear brakes.

10 **FOURTH CAUSE FOR DISCIPLINE**

11 **(Violations of the Code)**

12 31. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
13 subdivision (a)(6), in that Respondent failed to comply with section 9884.9, subdivision (a), of
14 that Code in a material respect, as follows: Respondent failed to document on the invoice the
15 operator's authorization for the additional repairs on the vehicle.

16 **UNDERCOVER OPERATION #2**

17 32. On or about April 10, 2014, an undercover operator with the Bureau ("operator") took
18 the Bureau's 2000 Pontiac to Brake Masters #135. The front brake pads on the Bureau-
19 documented vehicle were in need of replacement and the #1 cylinder spark plug was defective,
20 causing the check engine light to illuminate. The operator told a male employee that she wanted
21 the brakes and illuminated check engine light inspected and presented him with a coupon from
22 Brake Masters #135 for a free brake inspection and check engine lamp inspection. The operator
23 signed and received a copy of a written estimate and left the facility.

24 33. At approximately 1420 hours that same day, the operator received a call from
25 Respondent's employee, "Bo". Bo told the operator that the front brake pads were badly worn
26 and needed replacement and that the front brake rotors needed replacement as well. The operator
27 told Bo she would call him back. At approximately 1435 hours, the operator called the facility
28 and asked Bo if they could resurface the rotors instead of replacing them. Bo claimed that he

1 could not resurface the rotors because they would be too thin after machining. Bo also told the
2 operator that the check engine light was illuminated because of a diagnostic trouble code for a #1
3 engine misfire and that they would require an additional \$98 for a diagnosis of the check engine
4 light. Bo stated that the repairs and diagnosis would cost \$532.43, which the operator authorized.

5 34. On or about April 11, 2014, the operator received a voice mail message from
6 Respondent's employee, "Mike", requesting a return phone call. At approximately 1045 hours,
7 the operator called the facility and spoke with Mike. Mike told the operator that all six spark
8 plugs were worn out and were the incorrect type for the vehicle, the coil pack was burnt and had
9 high resistance, and the spark plug wires were bad. Mike claimed that all of these parts would
10 need to be replaced in order to correct the illuminated check engine light. Mike gave the operator
11 a revised estimate price of \$1,137.73 for the repairs, which the operator authorized.

12 35. At approximately 1600 hours that same day, the operator returned to the facility to
13 retrieve the vehicle, paid \$1,135 for the repairs, and received a copy of an invoice.

14 36. On or about April 14, 2014, the Bureau inspected the vehicle and found that the
15 facility had performed approximately \$777 in unnecessary repairs.

16 **FIFTH CAUSE FOR DISCIPLINE**

17 **(Untrue or Misleading Statements)**

18 37. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
19 subdivision (a)(1), in that Respondent made or authorized statements which it knew or in the
20 exercise of reasonable care should have known to be untrue or misleading, as follows:

21 a. Respondent's employee, Bo, represented to the operator that the front brake pads on
22 the Bureau's 2000 Pontiac were badly worn and needed replacement and that the front brake
23 rotors needed replacement as well. In fact, the only brake repair needed on the vehicle was the
24 replacement of the front brake pads. Further, the front brake rotors were new, were within
25 manufacturers specifications, and were not in need of replacement.

26 b. Respondent's employee, Mike, represented to the operator that all six spark plugs on
27 the Bureau's 2000 Pontiac were worn out and were the incorrect type for the vehicle, that the coil
28 pack was burnt and had high resistance, that the spark plug wires were bad, and that all of these

1 parts would need to be replaced in order to correct the illuminated check engine light. In fact, the
2 only ignition component that was in need of replacement was the defective #1 cylinder spark
3 plug. Further, the ignition coils and spark plug wires were new, were within manufacturer
4 specifications, and were not in need of replacement.

5 c. Respondent falsely represented on the invoice that the front brake rotors on the
6 Bureau's 2000 Pontiac were below specifications.

7 **SIXTH CAUSE FOR DISCIPLINE**

8 **(Fraud)**

9 38. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
10 subdivision (a)(4), in that Respondent committed acts constituting fraud, as follows:
11 Respondent's employees, Bo and Mike, made false or misleading representations to the operator
12 regarding the Bureau's 2000 Pontiac, as set forth in subparagraphs 37 (a) and (b) above, in order
13 to induce the operator to authorize and pay for unnecessary repairs on the vehicle, then sold the
14 operator unnecessary repairs, including the replacement of the front brake rotors, ignition coils,
15 and ignition cables.

16 **SEVENTH CAUSE FOR DISCIPLINE**

17 **(Violations of the Code)**

18 39. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
19 subdivision (a)(6), in that Respondent failed to comply with section 9884.9, subdivision (a), of
20 that Code in a material respect, as follows: Respondent failed to document on the invoice the
21 operator's authorization for the additional repairs on the vehicle.

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1 **BRAKE MASTERS #131**

2 **UNDERCOVER OPERATION**

3 40. On or about July 17, 2014, an undercover operator of the Bureau ("operator") took
4 the Bureau's 2003 Honda to Brake Masters #131. The front brake pads on the Bureau-
5 documented vehicle were in need of replacement and the #5 fuel injector was defective, causing
6 the engine to misfire. The operator told Respondent's employee, "Owen", that the check engine
7 light had come on while she was driving and the vehicle was making a squeaking sound when
8 stopping. The operator signed a written estimate authorizing an inspection of the vehicle, but did
9 not receive a copy. The operator left the facility.

10 41. At approximately 1730 hours that same day, Owen called the operator and told her
11 that the front brake pads needed replacement and the front brake rotors needed resurfacing.
12 Owen also stated that the vehicle had a misfire on all six cylinders and required additional
13 diagnosis, and that it would cost \$98 for the diagnosis and approximately \$174 for the front brake
14 service. The operator authorized the work.

15 42. On or about July 18, 2014, the operator called the facility and spoke with Owen.
16 Owen told the operator that they had identified the cause of the misfire and illuminated check
17 engine light, that the vehicle needed six new spark plugs and ignition coils, and that it would cost
18 \$934.65 for the brake repairs and the replacement of the spark plugs and ignition coils. The
19 operator authorized the additional work.

20 43. On or about July 21, 2014, at approximately 0909 hours, the operator telephoned the
21 facility and spoke with Respondent's employee, "Brian". The operator requested an update on
22 the repairs. Brian told the operator that they replaced the spark plugs and ignition coils, but the
23 replacement parts "repaired" only "70% of the misfire", and that further diagnosis was needed.

24 44. At approximately 1510 hours that same day (July 21, 2014), the operator called the
25 facility and asked Brian for another update. Brian stated that they were still inspecting the vehicle
26 and that he "assumed" the valves were improperly adjusted. Brian told the operator that the
27 facility would be performing a valve adjustment on the vehicle and that she would be required to
28 pay an additional \$200. The operator authorized the work.

1 45. On or about July 22, 2014, the operator called the facility and was advised by Owen
2 that the valve adjustment on the vehicle was incorrect and the valves were too tight.

3 46. On or about July 24, 2014, the operator called the facility to check on the status of the
4 vehicle. Owen told the operator that they had taken the vehicle to the dealer for inspection and
5 that it required additional repair.

6 47. On or about July 30, 2014, the operator telephoned the facility and was informed by
7 Owen that the #5 fuel injector was leaking. Owen stated that they replaced the fuel injector, that
8 they had also repaired a leaking EGR (exhaust gas recirculation) valve, and that the total repair
9 costs were now \$1,243.74.

10 48. At approximately 1139 hours that same day (July 30, 2014), the operator went to the
11 facility to pick up the vehicle, paid the facility \$1,181.07 in cash for the repairs, and received a
12 copy of the final invoice.

13 49. On or about July 30, 2014, the Bureau inspected the vehicle and found that the
14 facility had performed approximately \$731.42 in unnecessary repairs.

15 50. On or about August 14, 2014, a Bureau Representative went to Maita Honda
16 ("Maita") located in Citrus Heights and spoke with the service advisor, J. W. J. W. told the
17 representative that on July 23, 2014, Brake Masters #131 drove the vehicle to Maita and
18 requested a diagnosis of the illuminated check engine light. Maita inspected the vehicle and
19 found that the #5 fuel injector needed replacement. Brake Masters #131 told Maita that they
20 would replace the part themselves. On July 24, 2014, Brake Masters #131 returned the vehicle to
21 Maita and reported that they had replaced the fuel injector, but the vehicle was still in need of
22 repair. Maita inspected the vehicle again and found that Brake Masters #131 had failed to install
23 the replacement fuel injector in the correct cylinder.

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1 **EIGHTH CAUSE FOR DISCIPLINE**

2 **(Untrue or Misleading Statements)**

3 51. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
4 subdivision (a)(1), in that Respondent made or authorized statements which it knew or in the
5 exercise of reasonable care should have known to be untrue or misleading, as follows:

6 a. Respondent's employee, Owen, represented to the operator that the front brake rotors
7 on the Bureau's 2003 Honda needed resurfacing. In fact, the only brake repair needed on the
8 vehicle was the replacement on the front brake pads. Further, the front brake rotors were in good
9 condition, were within manufacturer specifications, and were not in need of replacement.

10 b. Respondent's employee, Owen, represented to the operator that they had identified
11 the cause of the misfire and illuminated check engine light on the Bureau's 2003 Honda and that
12 the vehicle needed six new spark plugs and ignition coils. In fact, the only repair needed to
13 correct the illuminated check engine light and engine misfire was the replacement of the defective
14 #5 fuel injector. Further, the ignition coils and spark plugs were new and were not in need of
15 replacement.

16 **NINTH CAUSE FOR DISCIPLINE**

17 **(Failure to Provide Customer with Copy of Signed Document)**

18 52. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
19 subdivision (a)(3), in that Respondent's employee, Owen, Failed to provide the operator with a
20 copy of the written estimate, as set forth in paragraph 40 above.

21 **TENTH CAUSE FOR DISCIPLINE**

22 **(Fraud)**

23 53. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
24 subdivision (a)(4), in that Respondent committed acts constituting fraud, as follows:
25 Respondent's employee, Owen, made false or misleading representations to the operator
26 regarding the Bureau's 2003 Honda, as set forth in paragraph 51 above, in order to induce the
27 operator to authorize and pay for unnecessary repairs on the vehicle, then sold the operator

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unnecessary repairs, including the resurfacing of the front brake rotors, the replacement of the ignition coils and spark plugs, and the valve adjustment.

ELEVENTH CAUSE FOR DISCIPLINE

(Unauthorized Sublet of Automotive Repairs)

54. Respondent is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(9), in that Respondent sublet the diagnosis of the illuminated check engine light on the Bureau's 2003 Honda to Maita Honda, without the operator's consent.

TWELFTH CAUSE FOR DISCIPLINE

(Violations of the Code)

55. Respondent is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with section 9884.9, subdivision (a), of that Code in a material respect, as follows: Respondent failed to document on the invoice the operator's authorization for the additional repairs on the vehicle.

BRAKE MASTERS #132

UNDERCOVER OPERATION

56. On or about July 15, 2014, an undercover operator of the Bureau ("operator") took the Bureau's 2003 Buick to Brake Masters #132. The front brake pads on the Bureau-documented vehicle were in need of replacement and the #5 cylinder spark plug was defective, causing the engine to misfire. The operator told an unidentified male employee that she wanted the brakes and illuminated check engine light inspected. The employee had the operator sign a written estimate, but did not provide her with a copy. The operator left the facility.

57. At approximately 1212 hours that same day, the operator received a telephone call from Respondent's employee, "Kenny". Kenny told the operator that the vehicle required new front brake pads and resurfacing of the front brake rotors, and that the repairs would cost \$176.40. Kenny also stated that it would cost \$89 to diagnose the cause of the illuminated check engine light. The operator authorized the repairs and diagnosis.

58. At approximately 1530 hours, Kenny called the operator and informed her that the check engine light was illuminated due to a diagnostic trouble code for a engine misfire and that

1 the spark plugs, spark plug wires and the #5 ignition coil needed to be replaced on the vehicle.
2 The operator told Kenny that she would call him back. At approximately 1534 hours, the
3 operator called the facility and authorized the additional repairs on the vehicle.

4 59. On or about July 16, 2014, the operator returned to the facility to retrieve the vehicle,
5 paid \$540 in cash for the repairs, and received a copy of the final invoice. That same day, the
6 Bureau inspected the vehicle and found, among other things, that the facility had performed
7 approximately \$219.19 in unnecessary repairs.

8 **THIRTEENTH CAUSE FOR DISCIPLINE**

9 **(Untrue or Misleading Statements)**

10 60. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
11 subdivision (a)(1), in that Respondent made or authorized statements which it knew or in the
12 exercise of reasonable care should have known to be untrue or misleading, as follows:

13 a. Respondent's employee, Kenny, represented to the operator that the front brake rotors
14 on the Bureau's 2003 Buick needed resurfacing. In fact, the only brake repair needed on the
15 vehicle was the replacement on the front brake pads. Further, the front brake rotors were new,
16 were within manufacturer specifications, and were not in need of resurfacing at the time the
17 vehicle was taken to Respondent's facility.

18 b. Respondent's employee, Kenny, represented to the operator that the check engine
19 light on the Bureau's 2003 Buick was illuminated due to a diagnostic trouble code for a engine
20 misfire and that the spark plugs, spark plug wires and the #5 ignition coil needed to be replaced
21 on the vehicle. In fact, the only repair needed to correct the illuminated check engine light and
22 engine misfire was the replacement of the defective #5 cylinder spark plug. Further, the ignition
23 coil and spark plug wires were new, were within specifications, and were not in need of
24 replacement.

25 c. Respondent represented on the final invoice that the front brake hardware on the
26 Bureau's 2003 Buick had been replaced when, in fact, that repair had not been performed on the
27 vehicle.

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1 d. Respondent represented on the final invoice that the right front rotor on the Bureau's
2 2003 Buick had been replaced when, in fact, the right front rotor had been resurfaced.

3 **FOURTEENTH CAUSE FOR DISCIPLINE**

4 **(Failure to Provide Customer with Copy of Signed Document)**

5 61. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
6 subdivision (a)(3), in that Respondent's employee failed to provide the operator with a copy of the
7 written estimate, as set forth in paragraph 56 above.

8 **FIFTEENTH CAUSE FOR DISCIPLINE**

9 **(Fraud)**

10 62. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
11 subdivision (a)(4), in that Respondent committed acts constituting fraud, as follows:
12 Respondent's employee, Kenny, made false or misleading representations to the operator
13 regarding the Bureau's 2003 Buick, as set forth in subparagraphs 60 (a) and (b) above, in order to
14 induce the operator to authorize and pay for unnecessary repairs on the vehicle, then sold the
15 operator unnecessary repairs, including the resurfacing of the front brake rotors and the
16 replacement of the ignition coil and spark plug wires.

17 **SIXTEENTH CAUSE FOR DISCIPLINE**

18 **(Departure from Trade Standards)**

19 63. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
20 subdivision (a)(7), in that Respondent willfully departed from or disregarded accepted trade
21 standards for good and workmanlike repair without the consent of the owner or the owner's duly
22 authorized representative in a material respect, as follows: Respondent failed to properly
23 resurface both front brake rotors on the Bureau's 2003 Buick in that the lateral runout exceeded
24 manufacturer's specifications.

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1 **BRAKE MASTERS #195**

2 **UNDERCOVER OPERATION**

3 64. On or about September 23, 2014, an undercover operator of the Bureau ("operator")
4 took the Bureau's 1995 Oldsmobile to Brake Masters #195. The front brake pads on the Bureau-
5 documented vehicle were in need of replacement and the #3 cylinder spark plug was defective,
6 causing an engine misfire. The operator told Respondent's employee, "Nicole", that she wanted
7 the brakes inspected and the rough running condition diagnosed. Nicole had the operator sign a
8 written estimate and gave her a copy. The operator left the facility.

9 65. At approximately 1547 hours that same day, Nicole called the operator and told her
10 that the front brake pads were badly worn and needed replacement. Nicole also stated that the
11 vehicle had a broken spark plug, requiring replacement of the spark plug wires. Nicole told the
12 operator that the repairs would cost \$478.07. The operator authorized the work.

13 66. On or about September 24, 2014, the operator returned to the facility to retrieve the
14 vehicle, paid \$478.07 for the repairs, and received a copy of a final invoice.

15 67. On or about September 30, 2014, the Bureau inspected the vehicle and found that the
16 facility had performed an unnecessary repair, the estimated value of which was approximately
17 \$53.91.

18 **SEVENTEENTH CAUSE FOR DISCIPLINE**

19 **(Untrue or Misleading Statements)**

20 68. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
21 subdivision (a)(1), in that Respondent made or authorized a statement which it knew or in the
22 exercise of reasonable care should have known to be untrue or misleading, as follows:
23 Respondent's employee, Nicole, represented to the operator that the Bureau's 1995 Oldsmobile
24 had a broken spark plug, requiring the replacement of the spark plug wires. In fact, the only
25 repair needed to correct the illuminated check engine light and engine misfire was the
26 replacement of the defective #3 cylinder spark plug. Further, the spark plug wires were new,
27 were within specifications, and were not in need of replacement.

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1 **EIGHTEENTH CAUSE FOR DISCIPLINE**

2 **(Fraud)**

3 69. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
4 subdivision (a)(4), in that Respondent committed acts constituting fraud, as follows:
5 Respondent's employee, Nicole, made a false or misleading representation to the operator
6 regarding the Bureau's 1995 Oldsmobile, as set forth in paragraph 68 above, in order to induce
7 the operator to authorize and pay for an unnecessary repair on the vehicle, then sold the operator
8 unnecessary repair, the replacement of the spark plug wires.

9 **CONSUMER COMPLAINT (L. H.): 2005 PONTIAC GRAND PRIX**

10 70. On or about June 6, 2014, L. H. took her 2005 Pontiac Grand Prix to Brake Masters
11 #195 for a brake inspection. That same day, L. H. received a call from the facility, advising her
12 that the rear brake pads needed replacement. L. H. authorized the work. Later, L. H. returned to
13 the facility to pick up the vehicle, paid \$131.12 for the repair, and received a copy of an invoice.

14 71. On or about September 20, 2014, L. H. returned the vehicle to the facility to have
15 various services performed, including an alignment check, fuel injection flush, engine flush, and
16 oil change. Respondent's employee, "Nicole", suggested that L. H. also have a free brake
17 inspection performed.

18 72. That same day, L. H. received a telephone call from Respondent's employee,
19 "Johnny". Johnny stated that they had completed their inspection of the vehicle, and that the
20 front and rear brake rotors were warped and the front wheel bearings and tie rod ends had
21 excessive play. L. H. told Johnny that the vehicle was recently inspected and asked him why
22 these defects had not been found at that time. Johnny did not have an answer. Johnny told L. H.
23 that he would call her back with an estimate. Later, L. H. called the facility and spoke with
24 Johnny. Johnny told L. H. that the repairs would cost approximately \$1,500. L. H. authorized the
25 work. At approximately 1800 hours that same day, L. H. went to the facility to retrieve the
26 vehicle, paid \$1,429.73 for the repairs, and received a copy of a final invoice.

27 73. On or about September 22, 2014, L. H. returned to the facility and met with Johnny.
28 L. H. told Johnny that she did not feel the repairs performed on the vehicle were necessary and

1 requested that they provide her with the old parts. L. H.'s conversation with Johnny became
2 heated and local law enforcement was called to the facility. L. H. was provided with a box of
3 parts which the facility represented were from the vehicle.

4 74. In or about October 2014, L. H. filed a complaint with the Bureau.

5 75. On or about November 12, 2014, the Bureau received the box of parts from L. H.

6 76. On or about November 13, 2014 and November 14, 2014, the Bureau inspected the
7 parts, including the front brake rotors and rear brake rotors. The Bureau found that both sets of
8 rotors were out of manufacturer's specifications; however, they were not in need of replacement
9 as there was sufficient material remaining to machine (resurface) them.

10 **NINETEENTH CAUSE FOR DISCIPLINE**

11 **(Untrue or Misleading Statements)**

12 77. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
13 subdivision (a)(1), in that Respondent made or authorized a statement which it knew or in the
14 exercise of reasonable care should have known to be untrue or misleading, as follows:
15 Respondent's employee, Johnny, falsely represented to L. H. that the front and rear brake rotors
16 on her 2005 Pontiac Grand Prix were warped.

17 **TWENTIETH CAUSE FOR DISCIPLINE**

18 **(Fraud)**

19 78. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
20 subdivision (a)(4), in that Respondent committed acts constituting fraud, as follows:
21 Respondent's employee, Johnny, made a false or misleading representation to L. H. regarding her
22 2005 Pontiac Grand Prix, as set forth in paragraph 77 above, in order to induce L. H. to authorize
23 and pay for unnecessary repairs on the vehicle, then sold L. H. unnecessary repairs, the
24 replacement of the front and rear brake rotors.

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1 **BRAKE MASTERS #220**

2 **UNDERCOVER OPERATION**

3 79. On or about February 26, 2015, an undercover operator of the Bureau ("operator")
4 took the Bureau's 2001 GMC to Brake Masters #220. The front brake pads on the Bureau-
5 documented vehicle were in need of replacement and the #2 cylinder spark plug was defective,
6 causing an engine misfire and the check engine light to illuminate. The operator met with a male
7 employee, who identified himself as James Estep ("Estep"). The operator told Estep that she
8 wanted the brakes inspected and the rough running condition diagnosed. Estep had the operator
9 sign a written estimate for the inspection and gave her a copy. The operator requested that Estep
10 contact her by email and provided him with her email address. The operator left the facility.

11 80. At approximately 1309 hours that same day, Estep sent the operator an email, stating
12 that the vehicle needed front brakes and a tune up. Estep identified himself as the "Area
13 Manager, Sacramento". Estep also provided the operator with a written estimate in the amount of
14 \$781.55. The estimate indicated that the vehicle needed front brake pads, front brake rotors,
15 spark plugs, ignition wires, a distributor cap, and an ignition rotor. A representative of the
16 Bureau, posing as the operator, sent a return email to Estep authorizing the repairs on the vehicle.

17 81. On or about February 27, 2015, the operator returned to the facility to retrieve the
18 vehicle, paid a female employee \$641.26 for the repairs, and received a copy of a final invoice.
19 The employee told the operator that the brake rotors were resurfaced and not replaced as
20 previously estimated.

21 82. On or about March 3, 2015, the Bureau inspected the vehicle and found that the front
22 brake pads had been replaced and the front brake rotors had been resurfaced. The Bureau also
23 found that the facility had performed approximately \$231.74 in unnecessary repairs.

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1 **TWENTY-FIRST CAUSE FOR DISCIPLINE**

2 **(Untrue or Misleading Statements)**

3 83. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
4 subdivision (a)(1), in that Respondent made or authorized statements which it knew or in the
5 exercise of reasonable care should have known to be untrue or misleading, as follows:

6 a. Respondent's area manager, Estep, represented on the email of February 26, 2015,
7 that the Bureau's 2001 GMC needed a tune-up. In fact, the only repair needed to correct the
8 engine misfire and the illuminated check engine light was the replacement of the defective #2
9 cylinder spark plug.

10 b. Respondent represented on the written estimate, identified in paragraph 80 above, that
11 the front brake rotors on the Bureau's 2001 GMC needed replacement. In fact, the only brake
12 repair needed on the vehicle was the replacement of the front brake pads. Further, the front brake
13 rotors were new, were within manufacturer specifications, and were not in need of replacement.

14 c. Respondent represented on the written estimate, identified in paragraph 80 above, that
15 the spark plugs, ignition wires, distributor cap, and ignition rotor on the Bureau's 2001 GMC
16 needed replacement. In fact, the only repair needed to correct the engine misfire was the
17 replacement of the defective #2 cylinder spark plug. Further, the spark plug wires, distributor cap
18 and ignition rotor were new, were within manufacturer's specifications and were not in need of
19 replacement.

20 **TWENTY-SECOND CAUSE FOR DISCIPLINE**

21 **(Fraud)**

22 84. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
23 subdivision (a)(4), in that Respondent committed acts constituting fraud, as follows: Respondent
24 and its employees, including the area manager, Estep, made false or misleading representations to
25 the operator regarding the Bureau's 2001 GMC, as set forth in paragraph 83 above, in order to
26 induce the operator to authorize and pay for unnecessary repairs on the vehicle, then sold the
27 operator unnecessary repairs, the replacement of the front brake rotors, spark plug wires,
28 distributor cap, and ignition rotor.

1 **TWENTY-THIRD CAUSE FOR DISCIPLINE**

2 **(Violations of the Code)**

3 85. Respondent is subject to disciplinary action pursuant to Code section 9884.7,
4 subdivision (a)(6), in that Respondent failed to comply with section 9884.9, subdivision (a), of
5 that Code in a material respect, as follows: Respondent failed to document on the invoice the
6 operator's authorization for the additional repairs on the vehicle.

7 **OTHER MATTERS**

8 86. Pursuant to Code section 9884.7, subdivision (c), the Director may suspend, revoke,
9 or place on probation the registration for all places of business operated in this state by
10 Respondent Brake Masters of Sacramento, Inc. upon a finding that Respondent has, or is,
11 engaged in a course of repeated and willful violations of the laws and regulations pertaining to an
12 automotive repair dealer.

13 **PRAYER**

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

- 16 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
17 200485, issued to Brake Masters of Sacramento, Inc., doing business as Brake Masters #135;
- 18 2. Revoking or suspending Automotive Repair Dealer Registration Number ARD
19 233690, issued to Brake Masters of Sacramento, Inc., doing business as Brake Masters #195;
- 20 3. Revoking or suspending Automotive Repair Dealer Registration Number ARD
21 274417, issued to Brake Masters of Sacramento, Inc., doing business as Brake Masters #220;
- 22 4. Revoking or suspending Automotive Repair Dealer Registration Number ARD
23 200489, issued to Brake Masters of Sacramento, Inc., doing business as Brake Masters #132;
- 24 5. Revoking or suspending Automotive Repair Dealer Registration Number ARD
25 200488, issued to Brake Masters of Sacramento, Inc. doing business as Brake Masters #131;
- 26 6. Revoking or suspending any other automotive repair dealer registration issued to
27 Brake Masters of Sacramento, Inc.;

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1 7. Ordering Brake Masters of Sacramento, Inc., doing business as Brake Masters #135,
2 Brake Masters #195, Brake Masters #220, Brake Masters #132, and Brake Masters #131, to pay
3 the Director of Consumer Affairs the reasonable costs of the investigation and enforcement of this
4 case, pursuant to Business and Professions Code section 125.3;

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

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7 DATED: November 9, 2015 Patrick Dorais

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

28 SA2015104778