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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. 77/15-32

13 **TAHIRA TRADING AND**  
14 **MANAGEMENT INC. DBA**  
15 **AMERICAN TIRES & AUTO SERVICE,**  
16 **SHAFQAT ARSHAD, PRESIDENT/  
SECRETARY/TREASURER**  
6800 Fair Oaks Boulevard, Suite No.1  
Carmichael, California 95608

**A C C U S A T I O N**

17 **Automotive Repair Dealer Registration No.**  
18 **ARD 274971**

Respondent.

19  
20 Patrick Dorais ("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 December 5, 2013, the Director of Consumer Affairs ("Director") issued  
25 Automotive Repair Dealer Registration Number ARD 274971 to Shafqat Arshad, President,  
26 Secretary, and Treasurer of Tahira Trading and Management, Inc., doing business as American  
27 Tires & Auto Service. The automotive repair dealer registration was in full force and effect at all

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1 times relevant to the charges brought herein and will expire on December 31, 2014, unless  
2 renewed.

3 **STATUTORY AND REGULATORY PROVISIONS**

4 3. Business and Professions Code ("Code") section 9884.13 provides, in pertinent part,  
5 that the expiration of a valid registration shall not deprive the Director or chief of jurisdiction to  
6 proceed with a disciplinary proceeding against an automotive repair dealer or to render a decision  
7 invalidating a registration temporarily or permanently.

8 4. Code section 9884.7 states, in pertinent part:

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

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

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

17 (4) Any other conduct that constitutes fraud.

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

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

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

26 5. Code section 477 provides, in pertinent part, that "Board" includes "bureau,"  
27 "commission," "committee," "department," "division," "examining committee," "program," and

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1 "agency." "License" includes certificate, registration or other means to engage in a business or  
2 profession regulated by the Code.

3 6. Code section 9884.8 states:

4 All work done by an automotive repair dealer, including all warranty work,  
5 shall be recorded on an invoice and shall describe all service work done and parts  
6 supplied. Service work and parts shall be listed separately on the invoice, which  
7 shall also state separately the subtotal prices for service work and for parts, not  
8 including sales tax, and shall state separately the sales tax, if any, applicable to each.  
9 If any used, rebuilt, or reconditioned parts are supplied, the invoice shall clearly state  
10 that fact. If a part of a component system is composed of new and used, rebuilt or  
11 reconditioned parts, that invoice shall clearly state that fact. The invoice shall  
12 include a statement indicating whether any crash parts are original equipment  
13 manufacturer crash parts or nonoriginal equipment manufacturer aftermarket crash  
14 parts. One copy of the invoice shall be given to the customer and one copy shall be  
15 retained by the automotive repair dealer.

16 7. Code section 9884.9(a), states:

17 The automotive repair dealer shall give to the customer a written estimated  
18 price for labor and parts necessary for a specific job. No work shall be done and no  
19 charges shall accrue before authorization to proceed is obtained from the customer.  
20 No charge shall be made for work done or parts supplied in excess of the estimated  
21 price without the oral or written consent of the customer that shall be obtained at  
22 some time after it is determined that the estimated price is insufficient and before the  
23 work not estimated is done or the parts not estimated are supplied. Written consent  
24 or authorization for an increase in the original estimated price may be provided by  
25 electronic mail or facsimile transmission from the customer. The bureau may specify  
26 in regulation the procedures to be followed by an automotive repair dealer if an  
27 authorization or consent for an increase in the original estimated price is provided by  
28 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, 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)"

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

1 8. California Code of Regulations, title 16 (“Regulation”), section 3356, states, in  
2 pertinent part:

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

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

8 9. Regulation, section 3371, states, in pertinent part:

9 No dealer shall publish, utter, or make or cause to be published, uttered, or  
10 made any false or misleading statement or advertisement which is known to be false  
or misleading, or which by the exercise of reasonable care should be known to be  
11 false or misleading. . . .

12 **COST RECOVERY**

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

17 **UNDERCOVER OPERATION – JANUARY 15, 2014**

18 11. On or about January 15, 2014, at approximately 0925 hours, a Bureau undercover  
19 operator using an alias (the “operator”) took a Bureau-documented 2001 Mitsubishi to  
20 Respondent’s facility and asked Respondent’s employee, “Curtis”, for a tire rotation and brake  
21 inspection, as advertised for free in Respondent’s coupons, and an oil change for \$14.99 as  
22 advertised in Respondent’s coupon for “most cars and lt. trucks 10/30 & 5/30. . .” The operator  
23 gave Curtis coupons for the aforementioned services. Curtis told the operator the oil change  
24 would cost \$30 because the vehicle took a different engine oil other than that specified on the  
25 coupon. Curtis provided the operator with an estimate for a tire rotation, brake inspection, and an  
26 oil and oil filter change for \$30, which the operator authorized.

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- 1 a. Respondent's employee falsely represented to a Bureau operator that:
- 2 i. All fluids needed to be changed, including the radiator and brake fluids. In fact,
- 3 the radiator and brake fluids had been changed before the vehicle was taken to Respondent's
- 4 facility and did not need to be replaced.
- 5 ii. The windshield wiper blades needed replacement. In fact, the windshield wiper
- 6 blades were in good working condition before the vehicle was taken to Respondent's facility and
- 7 did not need to be replaced.
- 8 iii. The air filter was dirty and needed replacement. In fact, the air filter was in good,
- 9 clean condition before the vehicle was taken to Respondent's facility and did not need to be
- 10 replaced.
- 11 b. Respondent falsely represented to the Bureau operator on Invoice No. [REDACTED] that
- 12 services were performed when, in fact, they were not, as follows:
- 13 i. Respondent falsely represented that the brakes had been inspected. In fact, the
- 14 brakes had not been inspected.
- 15 ii. Respondent falsely represented that the tires had been rotated. In fact, they had
- 16 not been rotated.

17 **SECOND CAUSE FOR DISCIPLINE**

18 (Fraudulent Acts)

19 16. Respondent is subject to disciplinary action under Code section 9884.7(a)(4), in that

20 regarding the Bureau's 2001 Mitsubishi, Respondent committed acts that constitute fraud, as

21 follows:

- 22 a. Respondent's employee made false or misleading statements, as set forth in
- 23 paragraph 15, subparagraph a, above, to the Bureau operator in order to induce the operator to
- 24 purchase unnecessary repairs on the vehicle, and then sold the operator the unnecessary repairs.
- 25 b. Respondent obtained payment from the operator for repairs that were not performed
- 26 on the vehicle as invoiced, as set forth in paragraph 15, subparagraph b, above,

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1 **THIRD CAUSE FOR DISCIPLINE**

2 (Failure to Comply with the Automotive Repair Act)

3 17. Respondent is subject to disciplinary action under Code section 9884.7(a)(6), in that,  
4 as regards the Bureau's 2001 Mitsubishi, Respondent failed to materially comply with that Code,  
5 as follows:

6 a. **Section 9884.9(a)**: Respondent failed to obtain the Bureau operator's authorization  
7 prior to performing a "fuel injection service" on the vehicle.

8 b. **Section 9884.9(a)**: Respondent failed to properly document on Invoice No. [REDACTED]  
9 the Bureau operator's verbal authorization for additional repairs.

10 c. **Section 9884.8**: Respondent failed to charge the applicable sales tax on Invoice  
11 No. [REDACTED].

12 **UNDERCOVER OPERATION – MARCH 19, 2014**

13 18. On or about March 19, 2014, at approximately 0928 hours, a Bureau undercover  
14 operator using an alias (the "operator") took a Bureau-documented 2003 Buick to Respondent's  
15 facility and asked Respondent's employee, "Curtis", for an oil and oil filter change. Curtis told  
16 the operator the oil and filter change would cost \$20. The operator signed an estimate for \$19.40.

17 19. At approximately 0940 hours, Curtis told the operator that the vehicle's rear brake  
18 pads were worn out and needed replacement and advised that the vehicle was missing two lug  
19 nuts on the left rear wheel. The operator authorized the repairs and signed another estimate, but  
20 did not receive a copy of the signed estimate.

21 20. The operator returned to Respondent's facility at approximately 1045 hours to  
22 retrieve the vehicle. Respondent issued Invoice No. [REDACTED], dated March 19, 2014, totaling  
23 \$218.25, for replacement of two lug nuts and the rear brake pads, which the operator paid. Curtis  
24 told the operator that the rear brake pads that were replaced were worn out and had less than 20%  
25 remaining. The percentage of wear on the front and rear brakes was not written on the invoice.  
26 Respondent charged 8.5% sales tax on the invoice, when the applicable sales tax rate in effect for  
27 Carmichael, California, was 8.0%.

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1 AF, which she paid. Respondent charged 8.5% sales tax on the invoice, when the applicable sales  
2 tax rate in effect for Carmichael, California, was 8.0%.

3 **NINTH CAUSE FOR DISCIPLINE**

4 (Failure to Comply with the Automotive Repair Act)

5 29. Respondent is subject to disciplinary action under Code section 9884.7(a)(6), in that  
6 on or about February 11, 2014, as regards A.F.'s 2003 Hyundai, Respondent failed to materially  
7 comply with that Code, as follows:

8 a. **Section 9884.8:**

9 i. Respondent failed to charge the applicable sales tax on Invoice No. 12794.

10 ii. Respondent failed to describe whether parts provided were new, used, or  
11 reconditioned on Invoice No. 12794.

12 b. **Section 9884.9(a):**

13 i. Respondent failed to describe what repairs in the amount of \$495.72 were for on  
14 Estimate No. 12794.

15 ii. Respondent's Estimate No. 12794 showed "Rear Brake Pads. . . 39.95" and "Rear  
16 Brake Shoes. . . 50.00"; however, both are not required for the brakes on the 2003 Hyundai.

17 **CONSUMER COMPLAINT NO. 2**

18 30. On or about March 11, 2014, "M.A." took a 2007 Nissan to Respondent's facility and  
19 asked Respondent's employee, Curtis, for a brake inspection. Curtis informed M.A. that the front  
20 and rear brake pads were worn to metal and all four brake rotors were damaged and/or worn from  
21 metal contact and needed replacement. M.A. authorized the repairs. Respondent completed the  
22 work and Respondent issued Invoice No. 12979, dated March 11, 2014, totaling \$735, for  
23 replacement of the front and rear brake pads and rotors, which M.A. paid. Respondent charged  
24 8.5% sales tax, when the applicable sales tax rate in effect for Carmichael, California, was 8.0%.  
25 M.A. took possession of the parts replaced by Respondent.

26 31. On or about March 25, 2014, M.A. filed a complaint with the Bureau. The replaced  
27 parts that Respondent provided to M.A. were inspected by a Bureau representative, who  
28 determined that all four brake rotors and the rear brake pads did not need replacement.

1 **TENTH CAUSE FOR DISCIPLINE**

2 (Untrue or Misleading Statements)

3 32. Respondent is subject to disciplinary action under Code section 9884.7(a)(1), in that,  
4 on or about March 11, 2014, as regards M.A.'s 2007 Nissan, Respondent made or allowed  
5 statements on its behalf which it knew or which by exercise of reasonable care should have  
6 known to be untrue or misleading. Specifically, Respondent's employee represented to M.A. that  
7 the vehicle's rear brake pads and all four brake rotors needed to be replaced. In fact, they did not  
8 need replacement.

9 **ELEVENTH CAUSE FOR DISCIPLINE**

10 (Fraudulent Acts)

11 33. Respondent is subject to disciplinary action under Code section 9884.7(a)(4), in that  
12 Respondent committed acts that constitute fraud, by making false or misleading statements to  
13 M.A. regarding her 2007 Nissan, as set forth in paragraph 33, above, in order to induce M.A. to  
14 authorize unnecessary repairs on the vehicle, and then sold M.A. the unnecessary repairs.

15 **TWELFTH CAUSE FOR DISCIPLINE**

16 (Failure to Comply with the Automotive Repair Act)

17 34. Respondent is subject to disciplinary action under Code section 9884.7(a)(6), in that,  
18 as regards M.A.'s 2007 Nissan, Respondent failed to materially comply with Code section 9884.8  
19 by failing to charge the applicable sales tax on Invoice No. 12979.

20 **THIRTEENTH CAUSE FOR DISCIPLINE**

21 (Failure to Comply with Regulations)

22 35. Respondent is subject to disciplinary action under Code section 9884.7(a)(6), in that,  
23 as regards M.A.'s 2007 Nissan, Respondent failed to materially comply with Regulation section  
24 3356(a)(1), by failing to provide on Invoice No. 12979 the automotive repair dealer registration  
25 number that corresponds with the business name and address.

26 **OTHER MATTERS**

27 36. Pursuant to Code section 9884.7(c), the Director may suspend, revoke, or place on  
28 probation the registration for all places of business operated in this state by Respondent Tahira

1 Trading and Management Inc., doing business as American Tires & Auto Service, upon a finding  
2 that Respondent has, or is, engaged in a course of repeated and willful violations of the laws and  
3 regulations pertaining to an automotive repair dealer.

4 **PRAYER**

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

- 7 1. Revoking or suspending Automotive Repair Dealer Registration Number  
8 ARD 274971, issued to Tahira Trading and Management Inc., doing business as American Tires  
9 & Auto Service;
- 10 2. Revoking or suspending any other automotive repair dealer registration issued to  
11 Tahira Trading and Management Inc., doing business as American Tires & Auto Service;
- 12 3. Ordering Tahira Trading and Management Inc., doing business as American Tires &  
13 Auto Service, to pay the Director of Consumer Affairs the reasonable costs of the investigation  
14 and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,
- 15 4. Taking such other and further action as deemed necessary and proper.

16  
17 DATED: January 14, 2015 

18 PATRICK DORAIS  
19 Chief  
20 Bureau of Automotive Repair  
21 Department of Consumer Affairs  
22 State of California  
23 *Complainant*

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