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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. 77/14-32

13 **CHARLES SUTTON CHEVRON, INC.,**
14 **DBA SIERRA AUTOMOTIVE, CHARLES**
15 **L. SUTTON, President/Secretary/Treasurer**
16 **701 N. Chester Avenue**
17 **Bakersfield, CA 93308**
18 **Automotive Repair Dealer Registration No.**
19 **ARD 92968**
20 **Smog Check Station License No. RC 92968**
21 **Brake Check Station License No. BS 92968**
22 **Lamp Station License No. LS 92968**

A C C U S A T I O N

23 **ANTHONY ALLEN HAZELWOOD**
24 **1005 Meadows Street**
25 **Bakersfield, CA 93306**
26 **Smog Check Inspector License No. EO**
27 **306035**
28 **Smog Check Repair Technician License**
Number EI 306035 (formerly Advanced
Emission Specialist Technician License No.
EA 306035)
Brake Adjuster License No. BA 306035
Lamp Adjuster License No. LA 306035

and

25 **DAVID LEE MCCOY**
26 **2634 Center Street**
27 **Bakersfield, CA 93306**
28 **Advanced Emission Specialist Technician**
License No. EA 74536 (to be redesignated
upon renewal as EO 74536 and/or EI 74536)
Brake Adjuster License No. BA 74536

1 **Lamp Adjuster License No. LA 74536**

2 Respondents.

3 Complainant alleges:

4 **PARTIES/LICENSE INFORMATION**

5 1. Patrick Dorais (“Complainant”) brings this Accusation solely in his official capacity
6 as the Chief of the Bureau of Automotive Repair (“Bureau”), Department of Consumer Affairs.

7 **Charles Sutton Chevron Inc dba Sierra Automotive**

8 **Automotive Repair Dealer Registration**

9 2. On or about January 27, 1982, the Bureau issued Automotive Repair Dealer
10 Registration Number ARD 92968 (“registration”) to Charles Sutton Chevron Inc., dba Sierra
11 Automotive; Charles L. Sutton (“Respondent Sierra”), with Charles L. Sutton as President,
12 Secretary and Treasurer. The registration was in full force and effect at all times relevant to the
13 charges brought herein and will expire on January 31, 2014, unless renewed.

14 **Smog Check Station License**

15 3. On or about November 21, 1985, the Bureau issued Smog Check Station License
16 Number RC 92968 (“station license”) to Respondent Sierra. The station license was in full force
17 and effect at all times relevant to the charges brought herein and will expire on January 31, 2014,
18 unless renewed.

19 **Lamp Station License**

20 4. On or about March 24, 1998, the Bureau issued Lamp Station License Number LS
21 92968 to Respondent Sierra. The Lamp Station License was in full force and effect at all times
22 relevant to the charges brought herein and will expire on January 31, 2014, unless renewed.

23 **Brake Station License**

24 5. On or about April 13, 1988, the Bureau issued Brake Station License Number BS
25 92968 to Respondent Sierra. The brake station license was in full force and effect at all times
26 relevant to the charges brought herein and will expire on January 31, 2014, unless renewed.

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1 **Anthony Allen Hazelwood**

2 **Technician License/Inspector License**
3 **(formerly Advanced Emission Specialist Technician License Number EA 306035)**

4 6. In or about 1996, the Bureau issued Advanced Emission Specialist Technician
5 License Number EA 306035 to Anthony Allen Hazelwood ("Respondent Hazelwood").
6 Respondent Hazelwood's Advanced Emission Specialist Technician License expired on July 31,
7 2012. Pursuant to California Code of Regulations, title 16, section 3340.28, subdivision (e)¹, the
8 license was renewed, pursuant to Respondent Hazelwood's election, as Smog Check Inspector
9 License Number EO 306035 ("inspector license") and Smog Check Repair Technician License
10 Number EI 306035 ("repair technician license"), effective August 16, 2012. Respondent
11 Hazelwood's inspector license and repair technician license were in full force and effect at all
12 times relevant to the charges brought herein and will expire on July 31, 2014, unless renewed.

13 **Brake Adjuster License**

14 7. In or about 1998, the Bureau issued Brake Adjuster License Number BA 306035 to
15 Respondent Hazelwood. Respondent Hazelwood's brake adjuster license was in full force and
16 effect at all times relevant to the charges brought herein and will expire on July 31, 2014, unless
17 renewed.

18 **Lamp Adjuster License**

19 8. In or about 1998, the Bureau issued Lamp Adjuster License Number LA 306035 to
20 Respondent Hazelwood. Respondent Hazelwood's lamp adjuster license was in full force and
21 effect at all times relevant to the charges brought herein and will expire on July 31, 2014, unless
22 renewed.

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26 ¹ Effective August 1, 2012, California Code of Regulations, title 16, sections 3340.28,
27 3340.29, and 3340.30 were amended to implement a license restructure from the Advanced
28 Emission Specialist Technician (EA) license and Basic Area (EB) Technician license to Smog
Check Inspector (EO) license and/or Smog Check Repair Technician (EI) license.

1 **David Lee McCoy**

2 **Advanced Emission Specialist Technician License**

3 9. In or about 1996, the Bureau issued Advanced Emission Specialist Technician
4 License Number EA 74536 ("technician license") to David Lee McCoy ("Respondent McCoy").
5 Respondent McCoy's technician license was in full force and effect at all times relevant to the
6 charges brought herein and will expire on December 31, 2013, unless renewed. Upon timely
7 renewal of the license, the license will be redesignated as EO 74536 and/or EI 74536.²

8 **Brake Adjuster License**

9 10. In or about 1987, the Bureau issued Brake Adjuster License Number BA 74536 to
10 Respondent McCoy. Respondent McCoy's brake adjuster license was in full force and effect at
11 all times relevant to the charges brought herein and will expire on December 31, 2014, unless
12 renewed.

13 **Lamp Adjuster License**

14 11. In or about 1987, the Bureau issued Lamp Adjuster License Number LA 74536 to
15 Respondent McCoy. Respondent McCoy's lamp adjuster license was in full force and effect at all
16 times relevant to the charges brought herein and will expire on December 31, 2014, unless
17 renewed.

18 **JURISDICTION**

19 12. Business and Professions Code ("Code") section 9884.7 provides that the director
20 may revoke an automotive repair dealer registration.

21 13. Section 9884.13 of the Code provides, in pertinent part, that the expiration of a valid
22 registration shall not deprive the Director of jurisdiction to proceed with a disciplinary proceeding
23 against an automotive repair dealer or to render a decision invalidating a registration temporarily
24 or permanently.

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26 ² Effective August 1, 2012, California Code of Regulations, title 16, sections 3340.28,
27 3340.29, and 3340.30 were amended to implement a license restructure from the Advanced
28 Emission specialist Technician (EA) license and Basic Area (EB) Technician license to Smog
Check Inspector (EO) license and/or Smog Check Repair Technician (EI) license.

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

4 ...

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

7 “(4) Any other conduct that constitutes fraud.

8 “(5) Conduct constituting gross negligence.

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

11 20. Section 9884.9 of the Code states:

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

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

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

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

5 _____

6 (signature or initials)”

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

9 21. Section 9889.1 of the Code provides, in pertinent part, that the Director may suspend
10 or revoke any license issued under Articles 5 and 6 (commencing with section 9887.1) of the
11 Automotive Repair Act.

12 22. Section 9889.3 of the Code states, in pertinent part:

13 “The director may suspend, revoke, or take other disciplinary action against a license as
14 provided in this article [Article 7 (commencing with section 9889.1) of the Automotive Repair
15 Act] if the licensee or any partner, officer, or director thereof:

16 “(a) Violates any section of the Business and Professions Code which relates to his or her
17 licensed activities.

18 ...

19 “(c) Violates any of the regulations promulgated by the director pursuant to this chapter
20 [the Automotive Repair Act].

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

22 ...

23 “(h) Violates or attempts to violate the provisions of this chapter relating to the particular
24 activity for which he or she is licensed.”

25 23. Section 9889.7 of the Code provides, in pertinent part, that the expiration or
26 suspension of a license by operation of law or by order or decision of the Director or a court of
27 law, or the voluntary surrender of a license shall not deprive the Director of jurisdiction to
28 proceed with any disciplinary proceedings.

1 standards, specifications, instructions, and directives issued by the bureau and by the
2 manufacturer of the device or vehicle.

3 28. California Code of Regulations, title 16, section 3316 states, in pertinent part:

4 (d)(2) Inspection of the Entire Lighting System. "Where all of the lamps, lighting
5 equipment, and related electrical systems on a vehicle have been inspected and found in
6 compliance with all requirements of the Vehicle Code and bureau regulations, the certificate shall
7 certify that the entire system meets all such requirement."

8 29. California Code of Regulations, title 16, section 3321 states, in pertinent part:

9 (c)(2) Inspection of the Entire Brake System. "Where the entire brake system on any
10 vehicle has been inspected or tested and found in compliance with all requirements of the
11 Vehicle Code and bureau regulations, and the vehicle has been road-tested, the certificate
12 shall certify that the entire system meets all such requirements."

13 30. California Code of Regulation, title 16, section 3340.24, subdivision (c), states:

14 "The bureau may suspend or revoke the license of or pursue other legal action against a
15 licensee, if the licensee falsely or fraudulently issues or obtains a certificate of compliance or a
16 certificate of noncompliance."

17 31. California Code of Regulation, title 16, section 3340.30, subdivision (a), states that

18 a licensed smog technician shall at all times "[i]nspect, test and repair vehicles, as applicable, in
19 accordance with section 44012 of the Health and Safety Code, section 44035 of the Health and
20 Safety Code, and section 3340.42 of this article."

21 **COST RECOVERY**

22 32. Section 125.3 of the Code provides, in pertinent part, that a board may request the
23 administrative law judge to direct a licentiate found to have committed a violation or violations of
24 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
25 enforcement of the case.

26 **UNDERCOVER OPERATION NO. 1: 1991 BUICK**

27 33. On July 18, 2012, an undercover operator of the Bureau ("operator") took the
28 Bureau's 1991 Buick to Respondent Sierra's facility and requested a brake, lamp and smog

1 inspection. The vehicle defects included a brake system with the left front brake rotor thickness
2 below manufacturer's discard thickness and the right rear brake drum's diameter above the
3 manufacturer's discard diameter. The vehicle's front left headlamp was out of adjustment and the
4 rear license plate bulb was inoperative. Also, the vehicle's emission system was missing the
5 Positive Crankcase Ventilation (PCV) valve system and had a non-functioning Service Engine
6 Soon (SES) light or Malfunction Indicator Light (MIL) bulb. When the operator arrived at
7 Respondent Sierra's facility, a male employee completed a repair order. The operator was not
8 provided a copy of the signed document. Respondent Hazelwood performed the brake and lamp
9 inspections and issued brake and lamp certificates. Respondent Hazelwood performed the smog
10 inspection and the vehicle failed due to the PCV valve system was missing from the vehicle and
11 an aftermarket filter was installed in its place. The operator paid \$115.95 and was provided with
12 a copy of Invoice No. [REDACTED] Brake Certificate Number [REDACTED] and Lamp Certificate
13 Number [REDACTED].

14 34. On July 26, 2012, a Bureau representative re-inspected the vehicle and found that the
15 right front wheel and the right rear brake drum were not removed, the left front brake rotor and
16 the right rear brake drum were out of the manufacturer's specification. In addition, both front
17 headlamps had not been adjusted, the driver's side headlamp was out of the manufacturer's
18 specification and the license plate light bulb was inoperative.

19 **FIRST CAUSE FOR DISCIPLINE**

20 **(Untrue or Misleading Statements)**

21 35. Respondent Sierra's registration is subject to discipline under Code section
22 9884.7(a)(1), in that on or about July 18, 2012, regarding the 1991 Buick, Respondent Sierra
23 made or authorized statements which it knew or in the exercise of reasonable care should have
24 known to be untrue or misleading, as follows:

25 a. Respondent Sierra certified under penalty of perjury on Brake Certificate Number
26 [REDACTED] that the applicable inspection was performed on the brake system when, in fact,
27 Respondent Sierra's adjuster, Respondent Hazelwood, failed to inspect the brake system on the
28 vehicle, as evidenced by his failure to remove the right front wheel and the right rear brake drum.

1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Failure to Provide a Copy of a Signed Document)**

3 38. Respondent Sierra's registration is subject to discipline under Code section
4 9884.7(a)(3), in that on or about July 18, 2012, regarding the 1991 Buick, Respondent Sierra
5 failed to provide the operator with a copy of the estimate as soon as the operator signed the
6 document.

7 **FIFTH CAUSE FOR DISCIPLINE**

8 **(Failure to Comply with the Code)**

9 39. Respondent Sierra's registration is subject to discipline pursuant to Code section
10 9884.7(a)(6), in that on or about July 18, 2012, regarding the 1991 Buick, Respondent Sierra
11 failed to comply with provisions of that Code in the following material respects:

12 a. **Section 9884.9(a):** Respondent Sierra failed to provide the operator with a written
13 estimated price for parts and labor for a specific job.

14 b. **Section 9889.16:**

15 i. Respondent Hazelwood issued Brake Certificate Number [REDACTED] for the
16 vehicle, when the vehicle was not in compliance with Bureau regulations or the requirements of
17 the Vehicle Code, in that the left front brake rotor and the right rear brake drum were out of
18 manufacturer's specifications.

19 ii. Respondent Hazelwood issued Lamp Certificate Number [REDACTED] for the
20 vehicle, when the vehicle was not in compliance with Bureau regulations or the requirements of
21 the Vehicle Code, in that both front headlamps had not been adjusted, the driver's side headlamp
22 was out of the manufacturer's specification and the license plate light bulb was inoperative.

23 **SIXTH CAUSE FOR DISCIPLINE**

24 **(Failure to Comply with Regulations)**

25 40. Respondent Sierra's registration is subject to discipline pursuant to Code section
26 9884.7(a)(6), in that on or about July 18, 2012, regarding the 1991 Buick, Respondent Sierra
27 failed to comply with provisions of California Code of Regulations, title 16, in the following
28 material respects:

1 a. **Section 3305(a):** Respondent Hazelwood failed to perform a brake and lamp
2 inspection in accordance with the vehicle's manufacturer standards and/or current standards,
3 specifications, recommended procedures, and/or directives issued by the Bureau.

4 b. **Section 3316(d)(2):** Respondent Hazelwood issued Lamp Certificate Number
5 [REDACTED] certifying that the vehicle's lamp system had been inspected and was in satisfactory
6 condition when, in fact, it was not.

7 c. **Section 3321(c)(2):** Respondent Hazelwood issued Brake Certificate Number
8 [REDACTED] certifying that the vehicle's brake system had been inspected and was in satisfactory
9 condition when, in fact, it was not.

10 **SEVENTH CAUSE FOR DISCIPLINE**

11 **(Failure to Comply with the Code)**

12 41. Respondent Sierra's brake and lamp station licenses are subject to discipline under
13 Code section 9889.3(a), in that on or about July 18, 2012, regarding the 1991 Buick, Respondent
14 Sierra violated sections of the Code, relating to its licensed activities, as more particularly set
15 forth above in paragraph 37.

16 **EIGHTH CAUSE FOR DISCIPLINE**

17 **(Failure to Comply with Regulations)**

18 42. Respondent Sierra's brake and lamp station licenses are subject to discipline under
19 Code section 9889.3(c), in that on or about July 18, 2012, regarding the 1991 Buick, Respondent
20 Sierra failed to comply with provisions of California Code of Regulations, title 16, as more
21 particularly set forth above in paragraph 38.

22 **NINTH CAUSE FOR DISCIPLINE**

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

24 43. Respondent Sierra's brake and lamp station licenses are subject to discipline pursuant
25 to Code section 9889.3(d), in that on or about July 18, 2012, regarding the 1991 Buick,
26 Respondent Sierra committed acts involving dishonesty, fraud, or deceit whereby another was
27 injured, as more particularly set forth above in paragraphs 33 and 34.

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TENTH CAUSE FOR DISCIPLINE

(Failure to Comply with the Code)

44. Respondent Hazelwood's brake and lamp adjuster licenses are subject to discipline under Code section 9889.3(a), in that on or about July 18, 2012, regarding the 1991 Buick, Respondent Hazelwood violated sections of the Code, relating to his licensed activities, as more particularly set forth above in paragraph 37.

ELEVENTH CAUSE FOR DISCIPLINE

(Failure to Comply with Regulations)

45. Respondent Hazelwood's brake and lamp adjuster licenses are subject to discipline under Code section 9889.3(c), in that on or about July 18, 2012, regarding the 1991 Buick, Respondent Hazelwood failed to comply with provisions of California Code of Regulations, title 16, as more particularly set forth above in paragraph 38.

TWELFTH CAUSE FOR DISCIPLINE

(Acts Involving Dishonesty, Fraud, or Deceit - Adjuster Licenses)

46. Respondent Hazelwood's brake and lamp adjuster licenses are subject to discipline under Code section 9889.3(d), in that on or July 18, 2012, regarding the 1991 Buick, Respondent Hazelwood committed acts involving dishonesty, fraud, or deceit, by issuing Brake Certificate Number [REDACTED] and Lamp Certificate Number [REDACTED] certifying that the brake and lamp systems were in satisfactory condition and in accordance with the Vehicle Code, when, in fact, they were not.

UNDERCOVER OPERATION NO. 2: 1994 PONTIAC

47. On October 8, 2012, an operator took the Bureau's 1994 Pontiac to Respondent Sierra's facility and requested a brake, lamp and smog inspection. The vehicle's rear brake rotors were below the manufacturer's recommended discard specification. The vehicle's right front headlamp was out of specification and the rear license plate bulb was inoperative. Also, the vehicle's emission system had an inoperative MIL bulb. When the operator arrived at Respondent Sierra's facility, a male employee completed a repair order. The operator was not provided a copy of the signed document. Respondent Hazelwood performed the brake inspection,

1 lamp inspection and the smog inspection. The operator paid \$124.20 and was provided with a
2 copy of Invoice No. [REDACTED] Brake Certificate Number [REDACTED] Lamp Certificate Number
3 [REDACTED] and the Vehicle Inspection Report (VIR) with Certificate of Compliance No.
4 [REDACTED]

5 48. On October 9, 2012, a Bureau representative re-inspected the vehicle and found that
6 the left front wheel and both right side wheels were not removed and both rear brake rotors were
7 below the manufacturer's discard specification. Also, the vehicle's right front headlamp was out
8 of adjustment and the rear license plate light bulb was inoperative. A smog inspection was
9 performed on the vehicle and it failed the functional portion of the smog inspection due to the
10 inoperative MIL bulb.

11 **THIRTEENTH CAUSE FOR DISCIPLINE**

12 **(Untrue or Misleading Statements)**

13 49. Respondent Sierra's registration is subject to discipline under Code section
14 9884.7(a)(1), in that on or about October 8, 2012, regarding the 1994 Pontiac, Respondent Sierra
15 made or authorized statements which it knew or in the exercise of reasonable care should have
16 known to be untrue or misleading, as follows:

17 a. Respondent Sierra issued electronic Certificate of Compliance No. [REDACTED]
18 certifying that the vehicle was in compliance with applicable laws and regulations when, in fact, it
19 could not have passed the functional portion of the smog inspection because the vehicle's MIL
20 bulb was inoperative.

21 b. Respondent Sierra certified under penalty of perjury on Brake Certificate Number
22 [REDACTED] that the applicable inspection was performed on the brake system when, in fact,
23 Respondent Sierra's adjuster, Respondent Hazelwood, failed to inspect the brake system on the
24 vehicle, as evidenced by his failure to remove the left front wheel and both right side wheels.

25 c. Respondent Sierra certified under penalty of perjury on Brake Certificate Number
26 [REDACTED] that both rear brake rotors were in satisfactory condition when, in fact, they were
27 below the manufacturer's discard specification.

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1 d. Respondent Sierra certified under penalty of perjury on Lamp Certificate Number
2 [REDACTED] that the applicable adjustments had been performed on the lamp system when, in
3 fact, the right front headlamp was out of adjustment. In addition, the rear license plate light was
4 inoperative.

5 **FOURTEENTH CAUSE FOR DISCIPLINE**

6 **(Fraud)**

7 50. Respondent Sierra's registration is subject to discipline pursuant to Code section
8 9884.7(a)(4), in that on or about October 8, 2012, regarding the 1994 Pontiac, Respondent Sierra
9 committed acts that constitute fraud, as follows:

10 a. Respondent Sierra issued electronic Certificate of Compliance No. [REDACTED]
11 without performing a bona fide inspection of the emission control devices and systems on the
12 vehicle, thereby depriving the People of the State of California of the protection afforded by the
13 Motor Vehicle Inspection Program.

14 b. Respondent Sierra obtained payment from the operator for performing the applicable
15 inspections and adjustments on the vehicle's brake and lamp system as specified by the Bureau
16 and in accordance with the Vehicle Code when, in fact, Respondent Sierra failed to perform the
17 necessary inspections.

18 **FIFTEENTH CAUSE FOR DISCIPLINE**

19 **(Gross Negligence)**

20 51. Respondent Sierra's registration is subject to discipline under Code section
21 9884.7(a)(5), in that on or about October 8, 2012, regarding the 1994 Pontiac, Respondent Sierra
22 committed acts constituting gross negligence, in that Respondent's adjuster, Respondent
23 Hazelwood, failed to properly inspect the vehicle's brake and lamp systems and issued Brake
24 Certificate [REDACTED] and Lamp Certificate Number [REDACTED], indicating that the vehicle's
25 brake and lamp systems were in satisfactory condition and were in accordance with the Vehicle
26 Code when, in fact, they were not.

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1 a. **Section 3305(a):** Respondent Hazelwood failed to perform a brake and lamp
2 inspection in accordance with the vehicle's manufacturer standards and/or current standards,
3 specifications, recommended procedures, and/or directives issued by the Bureau.

4 b. **Section 3316(d)(2):** Respondent Hazelwood issued Lamp Certificate Number
5 [REDACTED] certifying that the vehicle's lamp system had been inspected and was in satisfactory
6 condition when, in fact, it was not.

7 c. **Section 3321(c)(2):** Respondent Hazelwood issued Brake Certificate Number
8 [REDACTED] certifying that the vehicle's brake system had been inspected and was in satisfactory
9 condition when, in fact, it was not.

10 **NINETEENTH CAUSE FOR DISCIPLINE**

11 **(Failure to Comply with the Code)**

12 55. Respondent Sierra's brake and lamp station licenses are subject to discipline under
13 Code section 9889.3(a), in that on or about October 8, 2012, regarding the 1994 Pontiac,
14 Respondent Sierra violated sections of the Code, relating to its licensed activities, as more
15 particularly set forth above in paragraph 51.

16 **TWENTIETH CAUSE FOR DISCIPLINE**

17 **(Failure to Comply with Regulations)**

18 56. Respondent Sierra's brake and lamp station licenses are subject to discipline under
19 Code section 9889.3(c), in that on or about October 8, 2012, regarding the 1994 Pontiac,
20 Respondent Sierra failed to comply with provisions of California Code of Regulations, title 16, as
21 more particularly set forth above in paragraph 52.

22 **TWENTY-FIRST CAUSE FOR DISCIPLINE**

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

24 57. Respondent Sierra's brake and lamp station licenses are subject to discipline pursuant
25 to Code section 9889.3(d), in that on or about October 8, 2012, regarding the 1994 Pontiac,
26 Respondent Sierra committed acts involving dishonesty, fraud, or deceit whereby another was
27 injured, as more particularly set forth above in paragraphs 47 and 48.

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1 2012, regarding the 1994 Pontiac, Respondent Hazelwood failed to comply with the following
2 sections of that Code:

3 a. **Section 44012:** Respondent Hazelwood failed to perform the emission control tests
4 on the vehicle in accordance with procedures prescribed by the department.

5 b. **Section 44032:** Respondent Hazelwood failed to perform a test of the emission
6 control devices and systems on the vehicle in accordance with Health and Safety Code section
7 44012.

8 **TWENTY-NINTH CAUSE FOR DISCIPLINE**

9 **(Failure to Comply with Regulations)**

10 65. Respondent Hazelwood's inspector license and repair technician license are subject to
11 discipline under Health and Safety Code section 44072.2(c), in that on or about October 8, 2012,
12 regarding the 1994 Pontiac, he failed to comply with provisions of California Code of
13 Regulations, title 16, as follows:

14 a. **Section 3340.30(a):** Respondent Hazelwood failed to inspect and test the vehicle in
15 accordance with Health and Safety Code section 44012.

16 b. **Section 3340.42:** Respondent Hazelwood failed to conduct the required smog tests
17 and inspections on the vehicle in accordance with the Bureau's specifications.

18 **THIRTIETH CAUSE FOR DISCIPLINE**

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

20 66. Respondent Hazelwood's inspector license and repair technician license are subject to
21 discipline pursuant to Health and Safety Code section 44072.2(d), in that on or about
22 October 8, 2012, Respondent Hazelwood committed a dishonest, fraudulent, or deceitful act
23 whereby another was injured by issuing electronic smog Certificate of Compliance Number
24 [REDACTED] for the 1994 Pontiac without performing a bona fide inspection of the emission control
25 devices and systems on the vehicle, thereby depriving the People of the State of California of the
26 protection afforded by the Motor Vehicle Inspection Program.

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1 Sierra committed acts constituting gross negligence, in that Respondent's adjuster, Respondent
2 McCoy, failed to properly inspect the vehicle's brake and lamp systems and issued Brake
3 Certificate [REDACTED] and Lamp Certificate Number [REDACTED] indicating that the vehicle's
4 brake and lamp systems were in satisfactory condition and were in accordance with the Vehicle
5 Code when, in fact, they were not.

6 **THIRTY-FOURTH CAUSE FOR DISCIPLINE**

7 **(Failure to Provide a Copy of a Signed Document)**

8 72. Respondent Sierra's registration is subject to discipline under Code section
9 9884.7(a)(3), in that on or about November 21, 2012, regarding the 1997 Dodge, Respondent
10 Sierra failed to provide the operator with a copy of the estimate as soon as the operator signed the
11 document.

12 **THIRTY-FIFTH CAUSE FOR DISCIPLINE**

13 **(Failure to Comply with the Code)**

14 73. Respondent Sierra's registration is subject to discipline pursuant to Code section
15 9884.7(a)(6), in that on or about November 21, 2012, regarding the 1997 Dodge, Respondent
16 Sierra failed to comply with provisions of that Code in the following material respects:

17 a. **Section 9884.9(a):** Respondent Sierra failed to provide the operator with a written
18 estimated price for parts and labor for a specific job.

19 b. **Section 9889.16:**

20 i. Respondent McCoy issued Brake Certificate Number [REDACTED] for the
21 vehicle, when the vehicle was not in compliance with Bureau regulations or the requirements of
22 the Vehicle Code, in that both rear brake rotors were beyond the manufacturer's discard
23 specification.

24 ii. Respondent McCoy issued Lamp Certificate Number [REDACTED] for the
25 vehicle, when the vehicle was not in compliance with Bureau regulations or the requirements of
26 the Vehicle Code, in that the front right headlamp was out of adjustment and the headlamp aiming
27 adjusters were not adjusted. In addition, the rear license plate lamp was inoperative.

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1 **THIRTY-SIXTH CAUSE FOR DISCIPLINE**

2 **(Failure to Comply with Regulations)**

3 74. Respondent Sierra's registration is subject to discipline pursuant to Code section
4 9884.7(a)(6), in that on or about November 21, 2012, regarding the 1997 Dodge, Respondent
5 Sierra failed to comply with provisions of California Code of Regulations, title 16, in the
6 following material respects:

7 a. **Section 3305(a)**: Respondent McCoy failed to perform a brake and lamp inspection
8 in accordance with the vehicle's manufacturer standards and/or current standards, specifications,
9 recommended procedures, and/or directives issued by the Bureau.

10 b. **Section 3316(d)(2)**: Respondent McCoy issued Lamp Certificate Number
11 [REDACTED], certifying that the vehicle's lamp system had been inspected and was in satisfactory
12 condition when, in fact, it was not.

13 c. **Section 3321(c)(2)**: Respondent McCoy issued Brake Certificate Number
14 [REDACTED], certifying that the vehicle's brake system had been inspected and was in satisfactory
15 condition when, in fact, it was not

16 **THIRTY-SEVENTH CAUSE FOR DISCIPLINE**

17 **(Failure to Comply with the Code)**

18 75. Respondent Sierra's brake and lamp station licenses are subject to discipline under
19 Code section 9889.3(a), in that on or about November 21, 2012, regarding the 1997 Dodge,
20 Respondent Sierra violated sections of the Code, relating to its licensed activities, as more
21 particularly set forth above in paragraph 71.

22 **THIRTY-EIGHTH CAUSE FOR DISCIPLINE**

23 **(Failure to Comply with Regulations)**

24 76. Respondent Sierra's brake and lamp station licenses are subject to discipline under
25 Code section 9889.3(c), in that on or about November 21, 2012, regarding the 1997 Dodge,
26 Respondent Sierra failed to comply with provisions of California Code of Regulations, title 16, as
27 more particularly set forth above in paragraph 72.

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1 **THIRTY-NINTH CAUSE FOR DISCIPLINE**

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

3 77. Respondent Sierra's brake and lamp station licenses are subject to discipline pursuant
4 to Code section 9889.3(d), in that on or about November 21, 2012, regarding the 1997 Dodge,
5 Respondent Sierra committed acts involving dishonesty, fraud, or deceit whereby another was
6 injured, as more particularly set forth above in paragraphs 67 and 68.

7 **FORTIETH CAUSE FOR DISCIPLINE**

8 **(Failure to Comply with the Code)**

9 78. Respondent McCoy's brake and lamp adjuster licenses are subject to discipline under
10 Code section 9889.3(a), in that on or about November 21, 2012, regarding the 1997 Dodge,
11 Respondent McCoy violated sections of the Code, relating to his licensed activities, as more
12 particularly set forth above in paragraph 71.

13 **FORTY-FIRST CAUSE FOR DISCIPLINE**

14 **(Failure to Comply with Regulations)**

15 79. Respondent McCoy's brake and lamp adjuster licenses are subject to discipline under
16 Code section 9889.3(c), in that on or about November 21, 2012, regarding the 1997 Dodge,
17 Respondent McCoy failed to comply with provisions of California Code of Regulations, title 16,
18 as more particularly set forth above in paragraph 72.

19 **FORTY-SECOND CAUSE FOR DISCIPLINE**

20 **(Acts Involving Dishonesty, Fraud, or Deceit - Adjuster Licenses)**

21 80. Respondent McCoy's brake and lamp adjuster licenses are subject to discipline under
22 Code section 9889.3(d), in that on or about November 21, 2012, regarding the 1997 Dodge,
23 Respondent McCoy committed acts involving dishonesty, fraud, or deceit, by issuing Brake
24 Certificate Number [REDACTED] and Lamp Certificate Number [REDACTED], certifying that the
25 brake and lamp systems were in satisfactory condition and in accordance with the Vehicle Code,
26 when, in fact, they were not.

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28 ///

1 **FORTY-THIRD CAUSE FOR DISCIPLINE**

2 **(Violations of the Motor Vehicle Inspection Program)**

3 81. Respondent Sierra's smog check station license is subject to discipline pursuant to
4 Health and Safety Code section 44072.2(a), in that regarding the 1997 Dodge, Respondent Sierra
5 failed to comply with the following sections of that Code:

6 a. **Section 44012:** Respondent Sierra failed to perform the emission control tests on the
7 vehicle in accordance with procedures prescribed by the department.

8 b. **Section 44015:** Respondent Sierra issued electronic smog Certificate of Compliance
9 Number [REDACTED] for the vehicle without properly testing and inspecting the vehicle to
10 determine if it was in compliance with Health and Safety Code section 44012.

11 **FORTY-FOURTH CAUSE FOR DISCIPLINE**

12 **(Failure to Comply with Regulations Pursuant to the**
13 **Motor Vehicle Inspection Program)**

14 82. Respondent Sierra's smog check station license is subject to discipline pursuant to
15 Health and Safety Code section 44072.2(c), in that regarding the 1997 Dodge, Respondent Sierra
16 failed to comply with the provisions of California Code of Regulations, title 16, as follows:

17 a. **Section 3340.35(c):** Respondent Sierra issued electronic smog Certificate of
18 Compliance Number [REDACTED] for the vehicle even though the vehicle had not been inspected in
19 accordance with California Code of Regulations, title 16, section 3340.42.

20 b. **Section 3340.42:** Respondent Sierra failed to conduct the required smog tests on the
21 vehicle in accordance with the Bureau's specifications.

22 **FORTY-FIFTH CAUSE FOR DISCIPLINE**

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

24 83. Respondent Sierra's smog check station license is subject to discipline pursuant to
25 Health and Safety Code section 44072.2(d), in that on or about November 21, 2012, Respondent
26 Sierra committed a dishonest, fraudulent, or deceitful act whereby another was injured by issuing
27 electronic smog Certificate of Compliance Number [REDACTED] for the 1997 Dodge without
28 performing a bona fide inspection of the emission control devices and systems on the vehicle,

1 thereby depriving the People of the State of California of the protection afforded by the Motor
2 Vehicle Inspection Program.

3 **FORTY-SIXTH CAUSE FOR DISCIPLINE**

4 **(Violations of the Motor Vehicle Inspection Program)**

5 84. Respondent McCoy's technician license is subject to discipline pursuant to Health
6 and Safety Code section 44072.2(a), in that on or about November 21, 2012, regarding the 1997
7 Dodge, Respondent McCoy failed to comply with the following sections of that Code:

8 a. **Section 44012:** Respondent McCoy failed to perform the emission control tests on
9 the vehicle in accordance with procedures prescribed by the department.

10 b. **Section 44032:** Respondent McCoy failed to perform a test of the emission control
11 devices and systems on the vehicle in accordance with Health and Safety Code section 44012.

12 **FORTY-SEVENTH CAUSE FOR DISCIPLINE**

13 **(Failure to Comply with Regulations)**

14 85. Respondent McCoy's technician license is subject to discipline under Health and
15 Safety Code section 44072.2(c), in that on or about November 21, 2012, regarding the 1997
16 Dodge, he failed to comply with provisions of California Code of Regulations, title 16, as
17 follows:

18 a. **Section 3340.30(a):** Respondent McCoy failed to inspect and test the vehicle in
19 accordance with Health and Safety Code section 44012.

20 b. **Section 3340.42:** Respondent McCoy failed to conduct the required smog tests and
21 inspections on the vehicle in accordance with the Bureau's specifications.

22 **FORTY-EIGHTH CAUSE FOR DISCIPLINE**

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

24 86. Respondent McCoy's technician license is subject to discipline pursuant to Health
25 and Safety Code section 44072.2(d), in that on or about November 21, 2012, Respondent McCoy
26 committed a dishonest, fraudulent, or deceitful act whereby another was injured by issuing
27 electronic smog Certificate of Compliance Number [REDACTED] for the 1997 Dodge without
28 performing a bona fide inspection of the emission control devices and systems on the vehicle,

1 thereby depriving the People of the State of California of the protection afforded by the Motor
2 Vehicle Inspection Program.

3 **OTHER MATTERS**

4 87. Pursuant to Code section 9884.7(c), the director may suspend, revoke, or place on
5 probation the registrations for all places of business operated in this state by Charles Sutton
6 Chevron, Inc., dba Sierra Automotive, upon a finding that it has, or is, engaged in a course of
7 repeated and willful violation of the laws and regulations pertaining to an automotive repair
8 dealer.

9 88. Pursuant to Health and Safety Code section 44072.8, if Smog Check Station License
10 Number RC 92968, issued to Charles Sutton Chevron, Inc., dba Sierra Automotive, is revoked or
11 suspended, any additional license issued under this chapter in the name of said licensee may be
12 likewise revoked or suspended by the director.

13 89. Pursuant to Code section 9889.9, if Lamp Station License Number LS 92968, issued
14 to Charles Sutton Chevron, Inc., dba Sierra Automotive, is revoked or suspended, any additional
15 license issued under Articles 5 and 6 of Chapter 20.3 of the Business and Professions Code in the
16 name of said licensees may be likewise revoked or suspended by the director.

17 90. Pursuant to Code section 9889.9, if Brake Station License Number BS 92968, issued
18 to Charles Sutton Chevron, Inc., dba Sierra Automotive, is revoked or suspended, any additional
19 license issued under Articles 5 and 6 of Chapter 20.3 of the Business and Professions Code in the
20 name of said licensees may be likewise revoked or suspended by the director.

21 91. Pursuant to Health and Safety Code section 44072.8, if Smog Check Inspector
22 License No. EO 306035 and Smog Check Repair Technician License Number EI 306035
23 (formerly Advanced Emission Specialist Technician License Number EA 306035), issued to
24 Anthony Allen Hazelwood, is revoked or suspended, any additional license issued under this
25 chapter in the name of said licensee may be likewise revoked or suspended by the director.

26 92. Pursuant to Code section 9889.9, if Brake Adjuster License Number BA 306035,
27 issued to Anthony Allen Hazelwood, is revoked or suspended, any additional license issued under
28

1 Articles 5 and 6 of Chapter 20.3 of the Business and Professions Code in the name of said
2 licensee may be likewise revoked or suspended by the director.

3 93. Pursuant to Code section 9889.9, if Lamp Adjuster License Number LA 306035,
4 issued to Anthony Allen Hazelwood, is revoked or suspended, any additional license issued under
5 Articles 5 and 6 of Chapter 20.3 of the Business and Professions Code in the name of said
6 licensee may be likewise revoked or suspended by the director.

7 94. Pursuant to Health and Safety Code section 44072.8, if Respondent David Lee
8 McCoy's Advanced Emission Specialist Technician License Number, currently designated as EA
9 74536 and as redesignated upon timely renewal as EO 74536 and/or EI 74536, is/are revoked or
10 suspended, any additional license issued under this chapter in the name of said licensee may be
11 likewise revoked or suspended by the Director.

12 95. Pursuant to Code section 9889.9, if Brake Adjuster License Number BA 74536,
13 issued to David Lee McCoy, is revoked or suspended, any additional license issued under Articles
14 5 and 6 of Chapter 20.3 of the Business and Professions Code in the name of said licensee may be
15 likewise revoked or suspended by the director.

16 96. Pursuant to Code section 9889.9, if Lamp Adjuster License Number LA 74536,
17 issued to David Lee McCoy, is revoked or suspended, any additional license issued under Articles
18 5 and 6 of Chapter 20.3 of the Business and Professions Code in the name of said licensee may be
19 likewise revoked or suspended by the director.

20 **PRAYER**

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

23 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
24 92968, issued to Charles Sutton Chevron, Inc., dba Sierra Automotive;

25 2. Revoking, suspending, or placing on probation any other automotive repair dealer
26 registration issued to Charles Sutton Chevron, Inc., dba Sierra Automotive;

27 3. Revoking or suspending Smog Check Station License Number RC 92968, issued to
28 Charles Sutton Chevron, Inc., dba Sierra Automotive;

1 4. Revoking or suspending any additional license issued under chapter 5, of the Health
2 and Safety Code in the name of Charles Sutton Chevron, Inc., dba Sierra Automotive;

3 5. Revoking or suspending Brake Station License Number BS 92968, issued to Charles
4 Sutton Chevron, Inc., dba Sierra Automotive;

5 6. Revoking or suspending Lamp Station License Number LS 92968, issued to Charles
6 Sutton Chevron, Inc., dba Sierra Automotive; Charles L. Sutton;

7 7. Revoking or suspending any additional license issued under Articles 5 and 6 of
8 Chapter 20.3 of the Business and Professions Code in the name of Charles Sutton Chevron, Inc.,
9 dba Sierra Automotive;

10 8. Revoking or suspending Smog Check Inspector License Number EO 306035
11 (formerly Advanced Emission Specialist Technician License Number EA 306035), issued to
12 Anthony Allen Hazelwood;

13 9. Revoking or suspending Smog Check Repair Technician License Number EI 306035
14 (formerly Advanced Emission Specialist Technician License Number EA 306035), issued to
15 Anthony Allen Hazelwood;

16 10. Revoking or suspending Brake Adjuster License Number BA 306035, issued to
17 Anthony Allen Hazelwood;

18 11. Revoking or suspending Lamp Adjuster License Number LA 306035, issued to
19 Anthony Allen Hazelwood;

20 12. Revoking or suspending any additional license issued under Chapter 5 of the Health
21 and Safety Code in the name of Anthony Allen Hazelwood;

22 13. Revoking or suspending David Lee McCoy's Advanced Emission Specialist
23 Technician License, currently designated as EA 74536 and as redesignated upon his timely
24 renewal as EO 74536 and/or EI 74536;

25 14. Revoking or suspending Brake Adjuster License Number BA 74536, issued to David
26 Lee McCoy;

27 15. Revoking or suspending Lamp Adjuster License Number LA 74536, issued to David
28 Lee McCoy;

1 16. Revoking or suspending any additional license issued under Chapter 5 of the Health
2 and Safety Code in the name of David Lee McCoy;

3 17. Ordering Charles Sutton Chevron, Inc., dba Sierra Automotive; Charles L. Sutton,
4 Anthony Allen Hazelwood and David Lee McCoy to pay the Bureau of Automotive Repair the
5 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
6 Professions Code section 125.3; and

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

8 DATED: December 4, 2013



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

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