

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 BRETT A. KINGSBURY
Deputy Attorney General
4 State Bar No. 243744
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-1192
6 Facsimile: (415) 703-5480
Attorneys for Complainant

7
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:

13 **FASTER AUTO SERVICE, INC. D.B.A.**
14 **FASTER AUTO SERVICE,**
15 **HAYATULLAH HAMIDI, PRESIDENT,**
16 **SECRETARY & TREASURER**
2655 Monument Blvd., Unit J
Concord, CA 94520
Automotive Repair Dealer Registration No.
ARD 260665
Smog Check Station License No. RC 260665
Lamp Station License LS 260665, A
Brake Station License BS 260665, C

17
18 **HAYATULLAH HAMIDI**
881 San Simeon Drive
Concord, CA 94518
19 **Advanced Emission Specialist Technician**
License No. EA 138584
20 **Brake Adjuster License BA 138584, C**
21 **Lamp Adjuster License LA 138584, A**

22 Respondents.

Case No. 77/13-10

ACCUSATION

23 Complainant alleges:

24 **PARTIES**

25 1. John Wallauch (Complainant) brings this Accusation solely in his official capacity as
26 the Chief of the Bureau of Automotive Repair, Department of Consumer Affairs.

27 **Automotive Repair Dealer Registration**

1 2. On or about February 3, 2010, the Bureau of Automotive Repair issued Automotive
2 Repair Dealer Registration Number ARD 260665 to Hayatullah Hamidi - President, Secretary,
3 and Treasurer, Faster Auto Service, Inc. d.b.a. Faster Auto Service (Respondent Shop). The
4 Automotive Repair Dealer Registration was in full force and effect at all times relevant to the
5 charges brought herein and will expire on January 31, 2013, unless renewed.

6 **Smog Check Station License**

7 3. On or about February 8, 2010, the Bureau of Automotive Repair issued Smog Check
8 Station License Number RC 260665 to Respondent Shop. The Smog Check Station License was
9 in full force and effect at all times relevant to the charges brought herein and will expire on
10 January 31, 2013, unless renewed.

11 **Lamp Station License**

12 4. On or about February 11, 2010, the Bureau of Automotive Repair issued Lamp
13 Station license LS 260665, A, to Respondent Shop. The Lamp Station license was in full force
14 and effect at all times relevant to the charges brought herein and will expire on January 31, 2013,
15 unless renewed.

16 **Brake Station License**

17 5. On or about February 10, 2010, the Bureau of Automotive Repair issued Brake
18 Station license BS 260665, C, to Respondent Shop. The Brake Station license was in full force
19 and effect at all times relevant to the charges brought herein and will expire on January 31, 2013,
20 unless renewed.

21 **Advanced Emission Specialist Technician License**

22 6. In 2003, the Bureau of Automotive Repair issued Advanced Emission Specialist
23 Technician License Number EA 138584 to Hayatullah Hamidi (Respondent Hamidi). The
24 Advanced Emission Specialist Technician License was in full force and effect at all times
25 relevant to the charges brought herein and will expire on December 31, 2012, unless renewed.

26 **Brake Adjuster License**

1 (5) Conduct constituting gross negligence.

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

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

7 (8) Making false promises of a character likely to influence, persuade, or induce a
8 customer to authorize the repair, service, or maintenance of automobiles.

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

12 (10) Conviction of a violation of Section 551 of the Penal Code.

13 Upon denial of registration, the director shall notify the applicant thereof, in writing, by
14 personal service or mail addressed to the address of the applicant set forth in the application, and
15 the applicant shall be given a hearing under Section 9884.12 if, within 30 days thereafter, he or
16 she files with the bureau a written request for hearing, otherwise the denial is deemed affirmed.

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

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

26 20. Section 9884.8 of the Code provides:

27 "All work done by an automotive repair dealer, including all warranty work, shall be
28 recorded on an invoice and shall describe all service work done and parts supplied. Service work

1 and parts shall be listed separately on the invoice, which shall also state separately the subtotal
2 prices for service work and for parts, not including sales tax, and shall state separately the sales
3 tax, if any, applicable to each. If any used, rebuilt, or reconditioned parts are supplied, the invoice
4 shall clearly state that fact. If a part of a component system is composed of new and used, rebuilt
5 or reconditioned parts, that invoice shall clearly state that fact. The invoice shall include a
6 statement indicating whether any crash parts are original equipment manufacturer crash parts or
7 nonoriginal equipment manufacturer aftermarket crash parts. One copy of the invoice shall be
8 given to the customer and one copy shall be retained by the automotive repair dealer."

9 21. Section 9884.9 of the Code states:

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

24 "(1) Make a notation on the invoice of the same facts set forth in the notation on the work
25 order.

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

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

2 _____
3 (signature or initials)"

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

6 "(b) The automotive repair dealer shall include with the written estimated price a statement
7 of any automotive repair service that, if required to be done, will be done by someone other than
8 the dealer or his or her employees. No service shall be done by other than the dealer or his or her
9 employees without the consent of the customer, unless the customer cannot reasonably be
10 notified. The dealer shall be responsible, in any case, for any service in the same manner as if the
11 dealer or his or her employees had done the service.

12 "(c) In addition to subdivisions (a) and (b), an automotive repair dealer, when doing auto
13 body or collision repairs, shall provide an itemized written estimate for all parts and labor to the
14 customer. The estimate shall describe labor and parts separately and shall identify each part,
15 indicating whether the replacement part is new, used, rebuilt, or reconditioned. Each crash part
16 shall be identified on the written estimate and the written estimate shall indicate whether the crash
17 part is an original equipment manufacturer crash part or a nonoriginal equipment manufacturer
18 aftermarket crash part.

19 "(d) A customer may designate another person to authorize work or parts supplied in
20 excess of the estimated price, if the designation is made in writing at the time that the initial
21 authorization to proceed is signed by the customer. The bureau may specify in regulation the
22 form and content of a designation and the procedures to be followed by the automotive repair
23 dealer in recording the designation. For the purposes of this section, a designee shall not be the
24 automotive repair dealer providing repair services or an insurer involved in a claim that includes
25 the motor vehicle being repaired, or an employee or agent or a person acting on behalf of the
26 dealer or insurer."

27 22. Section 9889.3 of the Code states, in pertinent part:
28

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

4 "(a) Violates any section of the Business and Professions Code which relates to his or her
5 licensed activities.

6 "(b) Is convicted of any crime substantially related to the qualifications, functions and
7 duties of the licenseholder in question.

8 "(c) Violates any of the regulations promulgated by the director pursuant to this chapter
9 [the Automotive Repair Act].

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

11 "(e) Has misrepresented a material fact in obtaining a license.

12 "(f) Aids or abets an unlicensed person to evade the provisions of this chapter.

13 "(g) Fails to make and keep records showing his or her transactions as a licensee, or fails to
14 have the records available for inspection by the director or his or her duly authorized
15 representative for a period of not less than three years after completion of any transaction to
16 which the records refer, or refuses to comply with a written request of the director to make the
17 record available for inspection.

18 "(h) Violates or attempts to violate the provisions of this chapter relating to the particular
19 activity for which he or she is licensed.

20 "(i) Is convicted of a violation of Section 551 of the Penal Code."

21 23. Section 44072.2 of the Health and Safety Code states, in pertinent part:

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

25 ". . . .

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

27 ". . . ."

28 24. Section 3305(a) of the California Code of Regulations provides:

1 described above in the Second Cause for Discipline and "Undercover Operation #1: 1995 Honda
2 Civic."

3 **TENTH CAUSE FOR DISCIPLINE**

4 **(Violation of Regulation)**

5 39. Respondent Shop's Brake Station and Lamp Station licenses are subject to
6 disciplinary action under section 9889.3(c) of the Code in that Respondent Shop violated a
7 regulation promulgated pursuant to chapter 20.3 of the Business and Professions Code. The
8 circumstances are described above in the Third Cause for Discipline and "Undercover Operation
9 #1: 1995 Honda Civic."

10 **ELEVENTH CAUSE FOR DISCIPLINE**

11 **(Fraud)**

12 40. Respondent Hamidi's Advanced Emission Specialist Technician License is subject to
13 disciplinary action under section 44072.2(d) of the California Health & Safety Code in that
14 Respondent Hamidi committed an act involving dishonesty, fraud, or deceit whereby another was
15 injured. Specifically, Respondent obtained payment from the operator, and issued brake and
16 lamp certificates, for performing the applicable inspections, adjustments, or repairs of the brake
17 and lighting systems on the Bureau's 1995 Honda Civic. In fact, the applicable inspections,
18 adjustments, or repairs were not performed.

19 **TWELFTH CAUSE FOR DISCIPLINE**

20 **(Fraud)**

21 41. Respondent Hamidi's Brake Adjuster and Lamp Adjuster licenses are subject to
22 disciplinary action under section 9889.3(d) of the Code in that Respondent Hamidi committed an
23 act involving dishonesty, fraud, or deceit whereby another was injured. Specifically, Respondent
24 obtained payment from the operator, and issued brake and lamp certificates, for performing the
25 applicable inspections, adjustments, or repairs of the brake and lighting systems on the Bureau's
26 1995 Honda Civic. In fact, the applicable inspections, adjustments, or repairs were not
27 performed.

28 **THIRTEENTH CAUSE FOR DISCIPLINE**

1 (Violation of Regulations)

2 42. Respondent Hamidi's Brake Adjuster and Lamp Adjuster licenses are subject to
3 disciplinary action under section 9889.3(c) of the Code in that Respondent Hamidi violated a
4 regulation promulgated pursuant to chapter 20.5 of the Business & Professions Code, specifically:

- 5 i) **Section 3305(a)**: Respondent Hamidi failed to perform the inspection/ adjustment of
6 the brake system and inspection/ adjustment of the lighting system on the Bureau's
7 1995 Honda Civic in accordance with the specifications, instructions, and directives
8 issued by the Bureau and the vehicle manufacturer.

9 **UNDERCOVER OPERATION #2: 1994 FORD THUNDERBIRD**

10 43. On February 23, 2012, an undercover operator took the Bureau's 1994 Ford
11 Thunderbird to Respondent Shop and told Respondent Hamidi he needed a smog, brake and lamp
12 inspection. The 1994 Ford Thunderbird was a Bureau-documented vehicle with an oversized rear
13 brake drum on the driver's side, an undersized driver's side front disc brake rotor, misaligned
14 headlights, and a license plate bulb that was inoperative. Respondent Hamidi informed the
15 operator the inspections would take about an hour. The operator was provided no written
16 estimate and signed no work order prior to the inspections.

17 44. A smog inspection was performed. Thereafter, an unidentified male employee
18 removed the front driver's side wheel, inspected the area of the brakes, and reinstalled the driver's
19 side wheel.

20 45. Following these inspections, Respondent Hamidi prepared a brake certificate and a
21 lamp certificate, and the operator paid Hamidi \$150. Respondent Hamidi provided the operator
22 with a document that was unsigned, listed various inspection charges, and was entitled "estimate
23 for services." Respondent Hamidi further provided the operator with a certificate of adjustment
24 for the brakes and a certificate of adjustment for the lamps.

25 46. The Bureau then reinspected the vehicle. The headlights of the vehicle had not been
26 adjusted and were still misaligned. The license plate bulb had been replaced. The front disc
27 brake rotor on the driver's side was not changed and remained below the manufacturer's minimum
28

1 thickness specification. Similarly, the rear brake drum on the driver's side was not changed and
2 was still above the manufacturer's maximum diameter specification.

3 **FOURTEENTH CAUSE FOR DISCIPLINE**

4 **(Untrue Statements)**

5 47. Respondent Shop's registration is subject to disciplinary action under section
6 9884.7(a)(1) of the Code in that Respondent Hamidi made or authorized statements which he
7 knew or in the exercise of reasonable care should have known to be untrue or misleading, as
8 follows:

- 9 i) Respondent Hamidi certified under penalty of perjury on Brake Certificate Number
10 BC1389349 that the drums and rotors on the Bureau's 1994 Ford Thunderbird were in
11 satisfactory condition. In fact, the driver's side front disc brake rotor had been
12 machined to a thickness that is below the factory minimum specification, and the
13 driver's side rear brake drum had been machined to a diameter larger than the factory
14 maximum specification.
- 15 ii) Respondent Hamidi certified under penalty of perjury on Brake Certificate Number
16 BC1389349 that he had performed the applicable inspection, adjustment, or repair on
17 the drums and rotors of the Bureau's 1994 Ford Thunderbird when in fact he had not.
- 18 iii) Respondent Hamidi certified under penalty of perjury on Lamp Certificate Number
19 LC1394589 that he had performed the applicable inspection and adjustment of the
20 headlights of the Bureau's 1994 Ford Thunderbird when in fact he had not.

21 **FIFTEENTH CAUSE FOR DISCIPLINE**

22 **(Acts Constituting Fraud)**

23 48. Respondent Shop's registration is subject to disciplinary action pursuant to section
24 9884.7(a)(4) of the Code in that Respondent Hamidi committed acts constituting fraud, as
25 follows:

- 26 i) Respondent Hamidi issued Brake Certificate Number BC1389349 and Lamp
27 Certificate Number LC1394589 for the Bureau's 1994 Ford Thunderbird without
28 ensuring that bona fide inspections were performed of the vehicle's lamps and brakes.

1 ii) Respondent Hamidi obtained payment from the operator for performing, in
2 compliance with Bureau regulations and/or the Vehicle Code, the applicable
3 inspections, adjustments, or repairs of the brake and lighting systems on the Bureau's
4 1994 Ford Thunderbird. In fact, the applicable inspections, adjustments, or repairs
5 were not performed in compliance with the Bureau regulations or the Vehicle Code.

6 **SIXTEENTH CAUSE FOR DISCIPLINE**

7 **(Violations of Regulations)**

8 49. Respondent Shop's registration is subject to disciplinary action under section
9 9884.7(a)(6) in that Respondent failed to comply with the California Code of Regulations, title
10 16, in the following material respect:

11 i) **Section 3305(a):** Respondent failed to have a licensed adjuster perform the inspection/
12 adjustment of the brake system and inspection/ adjustment of the lighting system on
13 the Bureau's 1994 Ford Thunderbird in accordance with the specifications,
14 instructions, and directives issued by the Bureau and the vehicle manufacturer.

15 **SEVENTEENTH CAUSE FOR DISCIPLINE**

16 **(No Estimate)**

17 50. Respondent Shop's registration is subject to disciplinary action under sections
18 9884.7(a)(6) and 9884.9(a) of the Code in that Respondent failed to give the operator a written
19 estimated price for labor and necessary parts prior to performing the work.

20 **EIGHTEENTH CAUSE FOR DISCIPLINE**

21 **(No Repair Authorization)**

22 51. Respondent Shop's registration is subject to disciplinary action under sections
23 9884.7(a)(6) and 9884.9(a) of the Code in that Respondent replaced a lightbulb on the Bureau's
24 1994 Ford Thunderbird without first obtaining authorization from the operator.

25 **NINETEENTH CAUSE FOR DISCIPLINE**

26 **(Deficient Invoice)**

27 52. Respondent Shop's registration is subject to disciplinary action under sections
28 9884.7(a)(6) and 9884.8 of the Code in that the invoice provided to the operator with respect to

1 the 1994 Ford Thunderbird did not include all parts supplied. Specifically, the invoice failed to
2 include any statement about the lightbulb that had been replaced.

3 **TWENTIETH CAUSE FOR DISCIPLINE**

4 **(Fraud)**

5 53. Respondent Shop's Smog Check Station License is subject to disciplinary action
6 under section 44072.2(d) of the California Health and Safety Code in that Respondent committed
7 an act involving dishonesty, fraud, or deceit whereby another was injured. The circumstances are
8 described above in the Fifteenth Cause for Discipline and "Undercover Operation #2:1994 Ford
9 Thunderbird."

10 **TWENTY-FIRST CAUSE FOR DISCIPLINE**

11 **(Violations of Bus. & Prof. Code)**

12 54. Respondent Shop's Brake Station and Lamp Station licenses are subject to
13 disciplinary action under section 9889.3(a) of the Code in that Respondent violated various
14 sections of Business and Professions Code Chapter 20.3. The circumstances are described above
15 in the Fourteenth through Nineteenth Cause for Discipline and "Undercover Operation #2:1994
16 Ford Thunderbird."

17 **TWENTY-SECOND CAUSE FOR DISCIPLINE**

18 **(Dishonesty)**

19 55. Respondent Shop's Brake Station and Lamp Station licenses are subject to
20 disciplinary action under section 9889.3(d) of the Code in that Respondent committed an act
21 involving dishonesty, fraud, or deceit whereby another was injured. The circumstances are
22 described above in the Fifteenth Cause for Discipline and "Undercover Operation #2:1994 Ford
23 Thunderbird."

24 **TWENTY-THIRD CAUSE FOR DISCIPLINE**

25 **(Violation of Regulations)**

26 56. Respondent Shop's Brake Station and Lamp Station licenses are subject to
27 disciplinary action under 9889.3(c) of the Code in that Respondent Shop violated a regulation
28

1 promulgated pursuant to chapter 20.3 of the Business and Professions Code. The circumstances
2 are described above in the Sixteenth Cause for Discipline.

3 **TWENTY-FOURTH CAUSE FOR DISCIPLINE**

4 **(Fraud)**

5 57. Respondent Hamidi's Advanced Emission Specialist Technician License is subject to
6 disciplinary action under section 44072.2(d) of the California Health and Safety Code in that
7 Respondent Hamidi committed an act involving dishonesty, fraud, or deceit whereby another was
8 injured. Specifically, Respondent obtained payment from the operator, and issued brake and
9 lamp certificates, for performing the applicable inspections, adjustments, or repairs of the brake
10 and lighting systems on the Bureau's 1994 Ford Thunderbird. In fact, the applicable inspections,
11 adjustments, or repairs were not performed.

12 **TWENTY-FIFTH CAUSE FOR DISCIPLINE**

13 **(Fraud)**

14 58. Respondent Hamidi's Brake Adjuster and Lamp Adjuster licenses are subject to
15 disciplinary action under section 9889.3(d) of the Code in that Respondent Hamidi committed an
16 act involving dishonesty, fraud, or deceit whereby another was injured. Specifically, Respondent
17 obtained payment from the operator, and issued brake and lamp certificates, for performing the
18 applicable inspections, adjustments, or repairs of the brake and lighting systems on the Bureau's
19 1994 Ford Thunderbird. In fact, the applicable inspections, adjustments, or repairs were not
20 performed.

21 **TWENTY-SIXTH CAUSE FOR DISCIPLINE**

22 **(Violation of Regulations)**

23 59. Respondent Hamidi's Brake Adjuster and Lamp Adjuster licenses are subject to
24 disciplinary action under section 9889.3(c) of the Code in that Respondent Hamidi violated a
25 regulation promulgated pursuant to chapter 20.3 of the Business & Professions Code, specifically:

- 26 i) **Section 3305(a)**: Respondent failed to perform the inspection/ adjustment of the brake
27 system and inspection/ adjustment of the lighting system on the Bureau's 1994 Ford
28

1 Thunderbird in accordance with the specifications, instructions, and directives issued
2 by the Bureau and the vehicle manufacturer.

3 **UNDERCOVER OPERATION #3: 1985 OLDSMOBILE CUTLASS**

4 60. On February 23, 2012, an undercover operator of the Bureau took the Bureau's 1985
5 Oldsmobile Cutlass to Respondent Shop and requested brake, lamp, and smog inspections from
6 Respondent Hamidi. The 1985 Oldsmobile Cutlass was a Bureau-documented vehicle with rear
7 brake drums that were machined beyond the maximum discard diameter, front brake rotors that
8 were machined to below minimum allowable thickness, a burnt out filament in a side marker
9 bulb, a broken side marker lens, and misaligned headlamps. Respondent Hamidi informed the
10 operator the inspections would take about an hour. The operator was provided no written
11 estimate before the inspections.

12 61. A smog inspection was performed.

13 62. Following the smog inspection, Respondent Hamidi prepared and provided the
14 operator with a brake certificate and a lamp certificate, and the operator paid Hamidi \$150.
15 Respondent Hamidi further provided the operator a document that was unsigned, listed various
16 inspection charges, and was entitled "estimate for services."

17 63. The Bureau then reinspected the vehicle. The side marker lens was still broken. The
18 side marker bulb had been replaced. The headlamps were still out of adjustment. The undersized
19 front rotors and oversized rear drums were unchanged and still beyond permissible specifications.

20 **TWENTY-SEVENTH CAUSE FOR DISCIPLINE**

21 **(Untrue Statements)**

22 64. Respondent Shop's registration is subject to disciplinary action under section
23 9884.7(a)(1) of the Code in that Respondent Hamidi made or authorized statements which he
24 knew or in the exercise of reasonable care should have known to be untrue or misleading, as
25 follows:

- 26 i) Respondent Hamidi certified under penalty of perjury on Brake Certificate Number
27 BCI416553 that the drums and rotors on the Bureau's 1985 Oldsmobile Cutlass were
28 in satisfactory condition. In fact, the rear brake drums had been machined beyond

1 maximum discard diameter, and the front brake rotors had been machined to below
2 minimum allowable thickness.

3 ii) Respondent Hamidi certified under penalty of perjury on Brake Certificate Number
4 BC1416553 that he had performed the applicable inspection, adjustment, or repair on
5 the drums and rotors of the Bureau's 1985 Oldsmobile Cutlass when in fact he had not.

6 iii) Respondent Hamidi certified under penalty of perjury on Lamp Certificate Number
7 LC1394593 that he had performed the applicable inspection and adjustment of the
8 headlights of the Bureau's 1985 Oldsmobile Cutlass when in fact he had not.

9 **TWENTY-EIGHTH CAUSE FOR DISCIPLINE**

10 **(Acts Constituting Fraud)**

11 65. Respondent Shop's registration is subject to disciplinary action pursuant to section
12 9884.7(a)(4) of the Code in that Respondent Hamidi committed acts constituting fraud, as
13 follows:

14 i) Respondent Hamidi issued Brake Certificate Number BC1416553 and Lamp
15 Certificate Number LC1394593 for the Bureau's 1985 Oldsmobile Cutlass without
16 ensuring that bona fide inspections were performed of the vehicle's lamps and brakes.

17 ii) Respondent Hamidi obtained payment from the operator for performing, in
18 compliance with Bureau regulations and/or the Vehicle Code, the applicable
19 inspections, adjustments, or repairs of the brake and lighting systems on the Bureau's
20 1985 Oldsmobile Cutlass. In fact, the applicable inspections, adjustments, or repairs
21 were not performed in compliance with the Bureau regulations or the Vehicle Code.

22 **TWENTY-NINTH CAUSE FOR DISCIPLINE**

23 **(Violations of Regulations)**

24 66. Respondent Shop's registration is subject to disciplinary action under section
25 9884.7(a)(6) in that Respondent failed to comply with the California Code of Regulations, title
26 16, in the following material respect:

27 i) **Section 3305(a):** Respondent failed to have a licensed adjuster perform the inspection/
28 adjustment of the brake system and inspection/ adjustment of the lighting system on

1 the Bureau's 1985 Oldsmobile Cutlass in accordance with the specifications,
2 instructions, and directives issued by the Bureau and the vehicle manufacturer.

3 **THIRTIETH CAUSE FOR DISCIPLINE**

4 **(No Estimate)**

5 67. Respondent Shop's registration is subject to disciplinary action under sections
6 9884.7(a)(6) and 9884.9(a) of the Code in that Respondent failed to give the operator a written
7 estimated price for labor and parts necessary prior to performing the work.

8 **THIRTY-FIRST CAUSE FOR DISCIPLINE**

9 **(No Repair Authorization)**

10 68. Respondent Shop's registration is subject to disciplinary action under sections
11 9884.7(a)(6) and 9884.9(a) of the Code in that Respondent replaced a side marker bulb on the
12 Bureau's 1985 Oldsmobile Cutlass without first obtaining authorization from the operator.

13 **THIRTY-SECOND CAUSE FOR DISCIPLINE**

14 **(Deficient Invoice)**

15 69. Respondent Shop's registration is subject to disciplinary action under sections
16 9884.7(a)(6) and 9884.8 of the Code in that the invoice provided to the operator with respect to
17 the 1985 Oldsmobile Cutlass did not include all parts supplied. Specifically, the invoice failed to
18 include any statement about the side marker bulb that had been replaced.

19 **THIRTY-THIRD CAUSE FOR DISCIPLINE**

20 **(Fraud)**

21 70. Respondent Shop's Smog Check Station License is subject to disciplinary action
22 under section 44072.2(d) of the California Health and Safety Code in that Respondent committed
23 an act involving dishonesty, fraud, or deceit whereby another was injured. The circumstances are
24 described above in the Twenty-Eighth Cause for Discipline and "Undercover Operation #3:1985
25 Oldsmobile Cutlass."

26 **THIRTY-FOURTH CAUSE FOR DISCIPLINE**

27 **(Violations of Bus. & Prof. Code)**

1 **THIRTY-EIGHTH CAUSE FOR DISCIPLINE**

2 **(Fraud)**

3 75. Respondent Hamidi's Brake Adjuster and Lamp Adjuster licenses are subject to
4 disciplinary action under section 9889.3(d) of the Code in that Respondent Hamidi committed an
5 act involving dishonesty, fraud, or deceit whereby another was injured. Specifically, Respondent
6 obtained payment from the operator and issued brake and lamp certificates for performing the
7 applicable inspections, adjustments, or repairs of the brake and lighting systems on the Bureau's
8 1985 Oldsmobile Cutlass. In fact, the applicable inspections, adjustments, or repairs were not
9 performed.

10 **THIRTY-NINTH CAUSE FOR DISCIPLINE**

11 **(Violation of Regulations)**

12 76. Respondent Hamidi's Brake Adjuster and Lamp Adjuster licenses are subject to
13 disciplinary action under section 9889.3(c) of the Code in that Respondent Hamidi violated a
14 regulation promulgated pursuant to chapter 20.3 of the Business & Professions Code, specifically:

- 15 i) **Section 3305(a)**: Respondent failed to perform the inspection/ adjustment of the brake
16 system and inspection/ adjustment of the lighting system on the Bureau's 1985
17 Oldsmobile Cutlass in accordance with the specifications, instructions, and directives
18 issued by the Bureau and the vehicle manufacturer.

19 **OTHER MATTERS**

20 77. Pursuant to Bus. & Prof. Code section 9884.7, subdivision (c), the Director may
21 suspend, revoke or place on probation the registration for all places of business operated in this
22 state by Respondent Hamidi, owner of Respondent Shop, upon a finding that Respondent Hamidi
23 has, or is, engaged in a course of repeated and willful violations of the laws and regulations
24 pertaining to an automotive repair dealer.

25 78. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Station License
26 RC260665, issued to Respondent Hamidi, owner of Respondent Shop, is revoked or suspended,
27 any additional license issued under Chapter 5 of the Health & Saf. Code in the name of said
28 licensee may be likewise revoked or suspended by the Director.

- 1 3. Revoking or suspending Lamp Station license LS 260665, A, issued to Respondent
2 Shop;
3 4. Revoking or suspending Brake Station license BS 260665, C, issued to Respondent
4 Shop;
5 5. Revoking or suspending Advanced Emission Specialist Technician License Number
6 EA 138584, issued to Hayatullah Hamidi (Respondent Hamidi);
7 6. Revoking or suspending Brake Adjuster License number BA 138584, C, issued to
8 Respondent Hamidi;
9 7. Revoking or suspending Lamp Adjuster License number LA 138584, A, issued to
10 Respondent Hamidi;
11 8. Ordering Respondent Shop and Respondent Hamidi to pay the Bureau of Automotive
12 Repair the reasonable costs of the investigation and enforcement of this case, pursuant to
13 Business and Professions Code section 125.3;
14 9. Taking such other and further action as deemed necessary and proper.

15
16 DATED: _____

9/10/12

17 *John Wallauch by Doug Balatti*
18 JOHN WALLAUCH
19 Chief
20 Bureau of Automotive Repair
21 Department of Consumer Affairs
22 State of California
23 *Complainant*

24
25 SF2012401848
26
27
28