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8 **BEFORE THE**
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **FOR THE BUREAU OF AUTOMOTIVE REPAIR**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:
12 **CHEROKEE SMOG & REPAIR**
900 S. Cherokee Lane
13 Lodi, CA 95240
LILUMA BAYANZAY, OWNER
14 Automobile Repair Dealer
15 Registration No. ARD 227347
Smog Check Station License No. RC 227347
16 **SHERAQA BAYANZAY**
17 3725 Massimo Court
Stockton, CA 95212
18 Advanced Emission Specialist Technician
19 License No. EA 314232
20 **SAJJAD KHAN JAFFAR**
521 E. Maple Street
21 Lodi, CA 95240
22 Advanced Emission Specialist Technician
License No. EA 151410
23 Brake Adjuster License No. JC 151410, Class C
24 Respondents.

Case No. 79-09-12

ACCUSATION

SMOG CHECK

25 Sherry Mehl ("Complainant") alleges:

26 **PARTIES**

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

1 **Automotive Repair Dealer Registration**

2 2. On or about May 13, 2003, the Bureau issued Automotive Repair Dealer
3 Registration Number ARD 227347 (“registration”) to Liluma Bayanzay (“Respondent Liluma”),
4 doing business as Cherokee Smog & Repair. The registration will expire on April 30, 2009.

5 **Smog Check Test Only Station License**

6 3. On or about June 5, 2003, the Bureau issued Smog Check Station License
7 Number RC 227347 (“station license”) to Respondent Liluma. The station license will expire on
8 April 30, 2009.

9 **Advanced Emission Specialist Technician License - Sheraqa Bayanzay**

10 4. On or about September 15, 1998, the Bureau issued Advanced Emission
11 Specialist Technician License Number EA 314232 (“technician license”) to Sheraqa Bayanzay
12 (“Respondent Sheraqa”). The technician license will expire on August 31, 2009.

13 **Advanced Emission Specialist Technician License - Sajjad Khan Jaffar**

14 5. On or about May 19, 2005, the Bureau issued Advanced Emission
15 Specialist Technician License Number EA 151410 (“technician license”) to Sajjad Khan Jaffar
16 (“Respondent Jaffar”). The technician license will expire on November 30, 2008.

17 **Brake Adjuster License**

18 6. On or about May 10, 2006, the Bureau issued Brake Adjuster
19 License Number JC 151410, Class C, to Respondent Jaffar. The license will expire on
20 November 30, 2010.

21 **STATUTORY PROVISIONS**

22 7. Business and Professions Code (“Code”) section 9884.7 states, in pertinent
23 part:

24 (a) The director, where the automotive repair dealer cannot show there
25 was a bona fide error, may refuse to validate, or may invalidate temporarily or
26 permanently, the registration of an automotive repair dealer for any of the
27 following acts or omissions related to the conduct of the business of the
28 automotive repair dealer, which are done by the automotive repair dealer or any
automotive technician, employee, partner, officer, or member of the automotive
repair dealer.

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

5 (2) Causing or allowing a customer to sign any work order that does
6 not state the repairs requested by the customer or the automobile's odometer
7 reading at the time of repair.

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

10 (4) Any other conduct which constitutes fraud.

11 (b) Except as provided for in subdivision (c), if an automotive repair
12 dealer operates more than one place of business in this state, the director pursuant
13 to subdivision (a) shall only invalidate temporarily or permanently the registration
14 of the specific place of business which has violated any of the provisions of this
15 chapter. This violation, or action by the director, shall not affect in any manner
16 the right of the automotive repair dealer to operate his or her other places of
17 business.

18 (c) Notwithstanding subdivision (b), the director may invalidate
19 temporarily or permanently, the registration for all places of business operated in
20 this state by an automotive repair dealer upon a finding that the automotive repair
21 dealer has, or is, engaged in a course of repeated and willful violations of this
22 chapter, or regulations adopted pursuant to it.

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

25 8. Code section 9884.9 states, in pertinent part:

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

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

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

5 _____
(signature or initials)"

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

8 9. Code section 9889.9 states:

9 When any license has been revoked or suspended following a hearing
10 under the provisions of this article, any additional license issued under Articles 5
and 6 of this chapter in the name of the licensee may be likewise revoked or
suspended by the director.

11 10. Code section 9884.13 provides, in pertinent part, that the expiration of a
12 valid registration shall not deprive the director or chief of jurisdiction to proceed with a
13 disciplinary proceeding against an automotive repair dealer or to render a decision invalidating a
14 registration temporarily or permanently.

15 11. Code section 9889.3 states, in pertinent part:

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

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

20 12. Health and Safety Code section 44002 provides, in pertinent part, that the
21 Director has all the powers and authority granted under the Automotive Repair Act for enforcing
22 the Motor Vehicle Inspection Program.

23 13. Health and Safety Code section 44072.2 states:

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

26 (a) Violates any section of this chapter [the Motor Vehicle Inspection
27 Program (Health and Saf. Code, § 44000, et seq.)] and the regulations adopted
pursuant to it, which related to the licensed activities.

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1 (c) Violates any of the regulations adopted by the director pursuant to
2 this chapter.

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

5 14. Health and Safety Code section 44072.6 provides, in pertinent part, that
6 the expiration or suspension of a license by operation of law, or by order or decision of the
7 Director of Consumer Affairs, or a court of law, or the voluntary surrender of the license shall
8 not deprive the Director of jurisdiction to proceed with disciplinary action.

9 15. Health and Safety Code section 44072.8 states that when a license has
10 been revoked or suspended following a hearing under this article, any additional license issued
11 under this chapter in the name of the licensee may be likewise revoked or suspended by the
12 director.

13 16. Code section 477 provides, in pertinent part, that "Board" includes
14 "bureau," "commission," "committee," "department," "division," "examining committee,"
15 "program," and "agency." "License" includes certificate, registration or other means to engage in
16 a business or profession regulated by the Code.

17 COST RECOVERY

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

22 UNDERCOVER OPERATION - AUGUST 31, 2007

23 18. On August 31, 2007, a Bureau undercover operator using the alias
24 Lester McCoy ("operator") drove a Bureau-documented 1997 Chevrolet Astro, California
25 License Plate No. 3UBG685, to Respondent Liluma's facility for a smog inspection. The vehicle
26 could not pass a smog inspection because the vehicle's positive crankcase ventilation ("PCV")
27 valve and hose were missing. The operator signed a blank work order. The operator was not
28 provided with a copy of an estimate. Respondent Sheraqa performed the smog inspection and
issued electronic Certificate of Compliance No. MU397077C, certifying that he had tested and

1 inspected the vehicle and that the vehicle was in compliance with applicable laws and
2 regulations. In fact, the vehicle could not have passed the visual portion of the smog inspection
3 because the vehicle's PCV system was missing. Respondent Liluma provided the operator with
4 Invoice No. 1146 and a Vehicle Inspection Report ("VIR").

5 **FIRST CAUSE FOR DISCIPLINE**

6 (Untrue or Misleading Statements)

7 19. Respondent Liluma's registration is subject to disciplinary action pursuant
8 to Code section 9884.7, subdivision (a)(1), in that on or about August 31, 2007, Respondent
9 Liluma made or authorized statements which she knew or in the exercise of reasonable care she
10 should have known to be untrue or misleading by issuing electronic Certificate of Compliance
11 No. MU397077C for the 1997 Chevrolet Astro, certifying that the vehicle was in compliance
12 with applicable laws and regulations. In fact, the vehicle could not have passed the smog
13 inspection because the vehicle's PCV system was missing.

14 **SECOND CAUSE FOR DISCIPLINE**

15 (Fraud)

16 20. Respondent Liluma's registration is subject to disciplinary action pursuant
17 to Code section 9884.7, subdivision (a)(4), in that on or about August 31, 2007, she committed
18 acts which constitute fraud by issuing electronic Certificate of Compliance No. MU397077C for
19 the 1997 Chevrolet Astro without performing a bona fide inspection of the emission control
20 devices and systems on the vehicle, thereby depriving the People of the State of California of the
21 protection afforded by the Motor Vehicle Inspection Program.

22 **THIRD CAUSE FOR DISCIPLINE**

23 (Failure to Comply with the Automotive Repair Act)

24 21. Respondent Liluma's registration is subject to denial under Code section
25 9884.7, subdivision (a)(2), in that on or about August 31, 2007, Respondent Liluma allowed the
26 operator to sign a work order that failed to state the repairs requested by the operator.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 (Work Order Requirements)

3 22. Respondent Liluma's registration is subject to disciplinary action pursuant
4 to Code section 9884.7, subdivision (a)(3), in that on or about August 31, 2007, Respondent
5 Liluma failed to provide the operator with a copy of the work order as soon as she signed the
6 document.

7 **FIFTH CAUSE FOR DISCIPLINE**

8 (Failure to Comply with Code)

9 23. Respondent Liluma's registration is subject to disciplinary action pursuant
10 to Code section 9884.7, subdivision (a)(6), in that on or about August 31, 2007, Respondent
11 Liluma failed to comply with Code section 9884.9, subdivision (a) by failing to provide the
12 operator with a written estimated price for parts and labor for a specific job regarding the vehicle.

13 **SIXTH CAUSE FOR DISCIPLINE**

14 (Violations of the Motor Vehicle Inspection Program)

15 24. Respondent Liluma's station license is subject to disciplinary action
16 pursuant to Health & Safety Code section 44072.2, subdivision (a), in that on or about
17 August 31, 2007, regarding the 1997 Chevrolet Astro, she failed to comply with provisions of
18 that Code, as follows:

19 a. **Section 44012, subdivision (f)**: Respondent Liluma failed to perform
20 emission control tests on the vehicle in accordance with procedures prescribed by the department.

21 b. **Section 44015, subdivision (b)**: Respondent Liluma issued electronic
22 Certificate of Compliance No. MU397077C for the vehicle without properly testing and
23 inspecting the vehicle to determine if it was in compliance with Health & Safety Code section
24 44012.

25 c. **Section 44059**: Respondent Liluma willfully made false entries for
26 electronic Certificate of Compliance No. MU397077C, by certifying that the vehicle had been
27 inspected as required when, in fact, it had not.

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1 **SEVENTH CAUSE FOR DISCIPLINE**

2 (Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection Program)

3 25. Respondent Liluma's station license is subject to disciplinary action
4 pursuant to Health & Safety Code section 44072.2, subdivision (c), in that on or about
5 August 31, 2007, regarding the 1997 Chevrolet Astro, she failed to comply with provisions of
6 California Code of Regulations, title 16, as follows:

7 a. **Section 3340.24, subdivision (c)**: Respondent Liluma falsely or
8 fraudulently issued electronic Certificate of Compliance No. MU397077C for the vehicle, in that
9 it could not pass the smog inspection because the vehicle's PCV system was missing.

10 b. **Section 3340.35, subdivision (c)**: Respondent Liluma issued electronic
11 Certificate of Compliance No. MU397077C for the vehicle, even though the vehicle had not been
12 inspected in accordance with California Code of Regulations, title 16, section 3340.42.

13 c. **Section 3340.42**: Respondent Liluma failed to conduct the required smog
14 tests on the vehicle in accordance with the Bureau's specifications.

15 **EIGHTH CAUSE FOR DISCIPLINE**

16 (Dishonesty, Fraud or Deceit)

17 26. Respondent Liluma's station license is subject to disciplinary action
18 pursuant to Health & Safety Code section 44072.2, subdivision (d), in that on or about
19 August 31, 2007, Respondent Liluma committed dishonest, fraudulent or deceitful acts whereby
20 another is injured by issuing electronic Certificate of Compliance No. MU397077C for the 1997
21 Chevrolet Astro without performing a bona fide inspection of the emission control devices and
22 systems on the vehicle, thereby depriving the People of the State of California of the protection
23 afforded by the Motor Vehicle Inspection Program.

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1 c. **Section 3340.42:** Respondent Sheraqa failed to conduct the required smog
2 tests on the vehicle in accordance with the Bureau's specifications.

3 **ELEVENTH CAUSE FOR DISCIPLINE**

4 (Dishonesty, Fraud or Deceit)

5 29. Respondent Sheraqa's technician license is subject to disciplinary action
6 pursuant to Health & Safety Code section 44072.2, subdivision (d), in that on or about
7 August 31, 2007, regarding the 1997 Chevrolet Astro, he committed dishonest, fraudulent or
8 deceitful acts whereby another is injured by issuing electronic Certificate of Compliance No.
9 MU397077C for the vehicle without performing a bona fide inspection of the emission control
10 devices and systems on the vehicle, thereby depriving the People of the State of California of the
11 protection afforded by the Motor Vehicle Inspection Program.

12 **UNDERCOVER OPERATION - SEPTEMBER 17, 2007**

13 30. On September 17, 2007, a Bureau undercover operator using the alias
14 Lester McCoy ("operator") drove a Bureau-documented 1994 Ford Ranger, California License
15 Plate No. 5B57772, to Respondent Liluma's facility for a smog inspection. The vehicle could
16 not pass a smog inspection because the vehicle's PCV valve and hose were missing. Respondent
17 Sheraqa performed the smog inspection and issued electronic Certificate of Compliance
18 No. MU562043C, certifying that he had tested and inspected the vehicle and that the vehicle was
19 in compliance with applicable laws and regulations. In fact, the vehicle could not have passed
20 the visual portion of the smog inspection because the vehicle's PCV system was missing.
21 Respondent Liluma provided the operator with Invoice No. 2817 and a VIR.

22 **TWELFTH CAUSE FOR DISCIPLINE**

23 (Untrue or Misleading Statements)

24 31. Respondent Liluma's registration is subject to disciplinary action pursuant
25 to Code section 9884.7, subdivision (a)(1), in that on or about September 17, 2007, Respondent
26 Liluma made or authorized statements which she knew or in the exercise of reasonable care he
27 should have known to be untrue or misleading by issuing electronic Certificate of Compliance
28 No. MU562043C for the 1994 Ford Ranger, certifying that the vehicle was in compliance with

1 applicable laws and regulations. In fact, the vehicle could not have passed the smog inspection
2 because the vehicle's PCV system was missing.

3 **THIRTEENTH CAUSE FOR DISCIPLINE**

4 (Fraud)

5 32. Respondent Liluma's registration is subject to disciplinary action pursuant
6 to Code section 9884.7, subdivision (a)(4), in that on or about September 17, 2007, she
7 committed acts which constitute fraud by issuing electronic Certificate of Compliance No.
8 MU562043C for the 1994 Ford Ranger without performing a bona fide inspection of the
9 emission control devices and systems on the vehicle, thereby depriving the People of the State of
10 California of the protection afforded by the Motor Vehicle Inspection Program.

11 **FOURTEENTH CAUSE FOR DISCIPLINE**

12 (Violations of the Motor Vehicle Inspection Program)

13 33. Respondent Liluma's station license is subject to disciplinary action
14 pursuant to Health & Safety Code section 44072.2, subdivision (a), in that on or about
15 September 17, 2007, regarding the 1994 Ford Ranger, she failed to comply with that Code, as
16 follows:

17 a. **Section 44012, subdivision (f)**: Respondent Liluma failed to perform
18 emission control tests on the vehicle in accordance with procedures prescribed by the department.

19 b. **Section 44015, subdivision (b)**: Respondent Liluma issued electronic
20 Certificate of Compliance No. MU562043C for the vehicle without properly testing and
21 inspecting the vehicle to determine if it was in compliance with Health & Safety Code section
22 44012.

23 c. **Section 44059**: Respondent Liluma willfully made false entries for
24 electronic Certificate of Compliance No. MU562043C, by certifying that the vehicle had been
25 inspected as required when, in fact, it had not.

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1 **FIFTEENTH CAUSE FOR DISCIPLINE**

2 (Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection Program)

3 34. Respondent Liluma's station license is subject to disciplinary action
4 pursuant to Health & Safety Code section 44072.2, subdivision (c), in that on or about
5 September 17, 2007, regarding the 1994 Ford Ranger, she failed to comply with provisions of
6 California Code of Regulations, title 16, as follows:

7 a. **Section 3340.24, subdivision (c)**: Respondent Liluma falsely or
8 fraudulently issued electronic Certificate of Compliance No. MU562043C for the vehicle, in that
9 it could not pass the smog inspection because the vehicle's PCV system was missing.

10 b. **Section 3340.35, subdivision (c)**: Respondent Liluma issued electronic
11 Certificate of Compliance No. MU562043C for the vehicle, even though the vehicle had not been
12 inspected in accordance with California Code of Regulations, title 16, section 3340.42.

13 c. **Section 3340.42**: Respondent Liluma failed to conduct the required smog
14 tests on the vehicle in accordance with the Bureau's specifications.

15 **SIXTEENTH CAUSE FOR DISCIPLINE**

16 (Dishonesty, Fraud or Deceit)

17 35. Respondent Liluma's station license is subject to disciplinary action
18 pursuant to Health & Safety Code section 44072.2, subdivision (d), in that on or about
19 September 17, 2007, Respondent Liluma committed dishonest, fraudulent or deceitful acts
20 whereby another is injured by issuing electronic Certificate of Compliance No. MU562043C for
21 the 1994 Ford Ranger without performing a bona fide inspection of the emission control devices
22 and systems on the vehicle, thereby depriving the People of the State of California of the
23 protection afforded by the Motor Vehicle Inspection Program.

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1 **SEVENTEENTH CAUSE FOR DISCIPLINE**

2 (Violations of the Motor Vehicle Inspection Program)

3 36. Respondent Sheraqa's technician license is subject to disciplinary action
4 pursuant to Health & Safety Code section 44072.2, subdivision (a), in that on or about
5 September 17, 2007, regarding the 1994 Ford Ranger, he failed to comply with provisions of that
6 Code, as follows:

7 a. **Section 44012, subdivision (f)**: Respondent Sheraqa failed to perform
8 emission control tests on the vehicle in accordance with procedures prescribed by the department.

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

12 c. **Section 44059**: Respondent Sheraqa willfully made false entries into the
13 EIS for electronic Certificate of Compliance No. MU562043C by entering "Pass" in the unit for
14 the PCV system even though that system was missing from the vehicle.

15 **EIGHTEENTH CAUSE FOR DISCIPLINE**

16 (Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection Program)

17 37. Respondent Sheraqa's technician license is subject to disciplinary action
18 pursuant to Health & Safety Code section 44072.2, subdivision (c), in that on or about
19 September 17, 2007, regarding the 1994 Ford Ranger, he failed to comply with provisions of
20 California Code of Regulations, title 16, as follows:

21 a. **Section 3340.30, subdivision (a)**: Respondent Sheraqa failed to inspect
22 and test the vehicle in accordance with procedures prescribed by Health & Safety Code sections
23 44012 and 44035, and California Code of Regulations, title 16, section 3340.42.

24 b. **Section 3340.41, subdivision (c)**: Respondent Sheraqa entered false
25 information into the EIS unit by entering "Pass" in the unit for the PCV system even though that
26 system was missing from the vehicle.

27 c. **Section 3340.42**: Respondent Sheraqa failed to conduct the required smog
28 tests on the vehicle in accordance with the Bureau's specifications.

1 **NINETEENTH CAUSE FOR DISCIPLINE**

2 (Dishonesty, Fraud or Deceit)

3 38. Respondent Sheraqa's technician license is subject to disciplinary action
4 pursuant to Health & Safety Code section 44072.2, subdivision (d), in that on or about
5 September 17, 2007, regarding the 1994 Ford Ranger, he committed dishonest, fraudulent or
6 deceitful acts whereby another is injured by issuing electronic Certificate of Compliance No.
7 MU562043C for the vehicle without performing a bona fide inspection of the emission control
8 devices and systems on the vehicle, thereby depriving the People of the State of California of the
9 protection afforded by the Motor Vehicle Inspection Program.

10 **UNDERCOVER OPERATION - OCTOBER 19, 2007**

11 39. On October 19, 2007, a Bureau undercover operator using the alias
12 Regina Diaz ("operator") drove a Bureau-documented 1991 Chevrolet Corsica, California
13 License Plate No. 2WAY626, to Respondent Liluma's facility for a smog inspection. The
14 vehicle could not pass a smog inspection because the vehicle's exhaust gas recirculation ("EGR")
15 system had been rendered inoperable. The operator signed a copy of the work order; however,
16 she was not provided with a copy of it. Respondent Jaffar performed the smog inspection and
17 issued electronic Certificate of Compliance No. MU907699C, certifying that he had tested and
18 inspected the vehicle and that the vehicle was in compliance with applicable laws and
19 regulations. In fact, the vehicle could not have passed the smog inspection test because the
20 vehicle's EGR system had been rendered inoperable. Respondent Liluma provided the operator
21 with Invoice No. 1783 and a VIR.

22 **TWENTIETH CAUSE FOR DISCIPLINE**

23 (Untrue or Misleading Statements)

24 40. Respondent Liluma's registration is subject to disciplinary action pursuant
25 to Code section 9884.7, subdivision (a)(1), in that on or about October 19, 2007, Respondent
26 Liluma made or authorized statements which she knew or in the exercise of reasonable care she
27 should have known to be untrue or misleading by issuing electronic Certificate of Compliance
28 No. MU907699C for the 1991 Chevrolet Corsica, certifying that the vehicle was in compliance

1 with applicable laws and regulations. In fact, the vehicle could not have passed the smog
2 inspection because the vehicle's EGR system had been rendered inoperable.

3 **TWENTY-FIRST CAUSE FOR DISCIPLINE**

4 (Fraud)

5 41. Respondent Liluma's registration is subject to disciplinary action pursuant
6 to Code section 9884.7, subdivision (a)(4), in that on or about October 19, 2007, she committed
7 acts which constitute fraud by issuing electronic Certificate of Compliance No. MU907699C for
8 the 1991 Chevrolet Corsica without performing a bona fide inspection of the emission control
9 devices and systems on the vehicle, thereby depriving the People of the State of California of the
10 protection afforded by the Motor Vehicle Inspection Program.

11 **TWENTY-SECOND CAUSE FOR DISCIPLINE**

12 (Work Order Requirements)

13 42. Respondent Liluma's registration is subject to disciplinary action pursuant
14 to Code section 9884.7, subdivision (a)(3), in that on or about October 19, 2007, Respondent
15 Liluma failed to provide the operator with a copy of the work order as soon as she signed the
16 document.

17 **TWENTY-THIRD CAUSE FOR DISCIPLINE**

18 (Failure to Comply with Code)

19 43. Respondent Liluma's registration is subject to disciplinary action pursuant
20 to Code section 9884.7, subdivision (a)(6), in that on or about October 19, 2007, Respondent
21 Liluma failed to comply with Code section 9884.9, subdivision (a) by failing to provide the
22 operator with a written estimated price for parts and labor for a specific job regarding the vehicle.

23 **TWENTY-FOURTH CAUSE FOR DISCIPLINE**

24 (Violations of the Motor Vehicle Inspection Program)

25 44. Respondent Liluma's station license is subject to disciplinary action
26 pursuant to Health & Safety Code section 44072.2, subdivision (a), in that on or about
27 October 19, 2007, regarding the 1991 Chevrolet Corsica, she failed to comply with that Code, as
28 follows:

1 a. **Section 44012, subdivision (f)**: Respondent Liluma failed to perform
2 emission control tests on the vehicle in accordance with procedures prescribed by the department.

3 b. **Section 44015, subdivision (b)**: Respondent Liluma issued electronic
4 Certificate of Compliance No. MU907699C for the vehicle without properly testing and
5 inspecting the vehicle to determine if it was in compliance with Health & Safety Code section
6 44012.

7 c. **Section 44059**: Respondent Liluma willfully made false entries for
8 electronic Certificate of Compliance No. MU907699C, by certifying that the vehicle had been
9 inspected as required when, in fact, it had not.

10 **TWENTY-FIFTH CAUSE FOR DISCIPLINE**

11 (Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection Program)

12 45. Respondent Liluma's station license is subject to disciplinary action
13 pursuant to Health & Safety Code section 44072.2, subdivision (c), in that on or about
14 October 19, 2007, regarding the 1991 Chevrolet Corsica, she failed to comply with provisions of
15 California Code of Regulations, title 16, as follows:

16 a. **Section 3340.24, subdivision (c)**: Respondent Liluma falsely or
17 fraudulently issued electronic Certificate of Compliance No. MU907699C for the vehicle, in that
18 it could not pass the smog inspection because the vehicle's EGR system had been rendered
19 inoperable.

20 b. **Section 3340.35, subdivision (c)**: Respondent Liluma issued electronic
21 Certificate of Compliance No. MU907699C for the vehicle, even though the vehicle had not been
22 inspected in accordance with California Code of Regulations, title 16, section 3340.42.

23 c. **Section 3340.42**: Respondent Liluma failed to conduct the required smog
24 tests on the vehicle in accordance with the Bureau's specifications.

25 **TWENTY-SIXTH CAUSE FOR DISCIPLINE**

26 (Dishonesty, Fraud or Deceit)

27 46. Respondent Liluma's station license is subject to disciplinary action
28 pursuant to Health & Safety Code section 44072.2, subdivision (d), in that on or about

1 October 19, 2007, Respondent Liluma committed dishonest, fraudulent or deceitful acts whereby
2 another is injured by issuing electronic Certificate of Compliance No. MU907699C for the 1991
3 Chevrolet Corsica without performing a bona fide inspection of the emission control devices and
4 systems on the vehicle, thereby depriving the People of the State of California of the protection
5 afforded by the Motor Vehicle Inspection Program.

6 **TWENTY-SEVENTH CAUSE FOR DISCIPLINE**

7 (Violations of the Motor Vehicle Inspection Program)

8 47. Respondent Jaffar's technician license is subject to disciplinary action
9 pursuant to Health & Safety Code section 44072.2, subdivision (a), in that on or about
10 October 19, 2007, regarding the 1991 Chevrolet Corsica, he failed to comply with provisions of
11 that Code, as follows:

12 a. **Section 44012, subdivision (f)**: Respondent Jaffar failed to perform
13 emission control tests on the vehicle in accordance with procedures prescribed by the department.

14 b. **Section 44032**: Respondent Jaffar failed to perform tests of the emission
15 control devices and systems on the vehicle in accordance with Health & Safety Code section
16 44012.

17 c. **Section 44059**: Respondent Jaffar willfully made false entries into the
18 EIS for electronic Certificate of Compliance No. MU907699C by entering "Pass" in the unit for
19 the EGR system even though that system had been rendered inoperable.

20 **TWENTY-EIGHTH CAUSE FOR DISCIPLINE**

21 (Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection Program)

22 48. Respondent Jaffar's technician license is subject to disciplinary action
23 pursuant to Health & Safety Code section 44072.2, subdivision (c), in that on or about
24 October 19, 2007, regarding the 1991 Chevrolet Corsica, he failed to comply with provisions of
25 California Code of Regulations, title 16, as follows:

26 a. **Section 3340.30, subdivision (a)**: Respondent Jaffar failed to inspect and
27 test the vehicle in accordance with procedures prescribed by Health & Safety Code sections
28 44012 and 44035, and California Code of Regulations, title 16, section 3340.42.

1 b. Section 3340.41, subdivision (c): Respondent Jaffar entered false
2 information into the EIS unit by entering "Pass" in the unit for the EGR system even though that
3 system had been rendered inoperable.

4 c. Section 3340.42: Respondent Jaffar failed to conduct the required smog
5 tests on the vehicle in accordance with the Bureau's specifications.

6 **TWENTY-NINTH CAUSE FOR DISCIPLINE**

7 (Dishonesty, Fraud or Deceit)

8 49. Respondent Jaffar's technician license is subject to disciplinary action
9 pursuant to Health & Safety Code section 44072.2, subdivision (d), in that on or about
10 October 19, 2007, regarding the 1991 Chevrolet Corsica, he committed dishonest, fraudulent or
11 deceitful acts whereby another is injured by issuing electronic Certificate of Compliance No.
12 MU907699C for the vehicle without performing a bona fide inspection of the emission control
13 devices and systems on the vehicle, thereby depriving the People of the State of California of the
14 protection afforded by the Motor Vehicle Inspection Program.

15 **THIRTIETH CAUSE FOR DISCIPLINE**

16 (Dishonesty, Fraud or Deceit)

17 50. Respondent Jaffar's brake adjuster license is subject to disciplinary action
18 pursuant to Code section 9889.3, subdivision (d), in that he committed acts involving dishonesty,
19 fraud or deceit, as set forth in paragraphs 46 through 48, above.

20 **FACTORS IN AGGRAVATION**

21 51. To determine the degree of discipline, if any, to be imposed on
22 Respondent Sheraqa, Complainant alleges as follows:

23 a. In the case entitled *In the Matter of the Accusation Against Kars*
24 *International, Roderick R. Garcia and Sheraqa Bayanzay*, Case No. 79/94-8, before the Office of
25 Administrative Hearings, Sheraqa Bayanzay stipulated that he violated Health & Safety Code
26 sections 44015, subdivision (b) and 44012 (signing a certificate of compliance for a vehicle that
27 does has not met the Health and Safety Code requirements); Health and Safety Code section
28 44059 and 44072.2, subdivision (a) (false certification of vehicle inspection and compliance);

1 and Health & Safety Code section 44072.2, subdivision (c), and title 16, California Code of
2 Regulations, sections 3340.25, subdivision (d) (signed as licensed inspector for the issuance of a
3 certificate of compliance for vehicles that had not been inspected), 3340.35, subdivision (d)
4 (signed as licensed inspector without properly inspecting the required emission control
5 equipment and devices), 3340.35, subdivision (e) (signed certificates of compliance as a smog
6 check mechanic without properly inspecting required emission control equipment and devices),
7 and 3340.41, subdivision (c) (entered false information into the test analyzer system). Effective
8 June 10, 1994, pursuant an Order issued in this case by the Office of Administrative Hearings,
9 Unlimited Qualified Mechanic Certificate¹ No. EU314232 and Inspector License.No. NS
10 314232, issued to Sheraqa Bayanzay, were revoked.

11 b. On or about July 15, 1992, in the Superior Court of California, County of
12 Alameda, in the case entitled *People of the State of California v. Sheraqa Bayanzay* (Super. Ct.,
13 Alameda Cty. 1992, Case No. 275705B), Respondent was convicted by the Court of violating
14 Health and Safety Code section 44015, subdivision (a) (issuance of a certificate of compliance
15 for a vehicle failing to meet statutory criteria).

16 **OTHER MATTERS**

17 52. Under Code section 9884.7, subdivision (c), the director may invalidate or
18 refuse to validate, temporarily or permanently, the registrations for all places of business operated
19 in this state by Liluma Bayanzay, doing business as Cherokee Smog & Repair, upon a finding
20 that she has, or is, engaged in a course of repeated and willful violations of the laws and
21 regulations pertaining to an automotive repair dealer.

22 53. Pursuant to Health and Safety Code section 44072.8, if Smog Check
23 Station License Number RC 227347, issued to Liluma Bayanzay, doing business as Cherokee
24 Smog & Repair, is revoked or suspended, any additional license issued under this chapter in the
25 name of said licensee may be likewise revoked or suspended by the director.

26 ///

27 _____
28 1. Now smog check technician license.

1 54. Under Health and Safety Code section 44072.8, if Advanced Emission
2 Specialist Technician License Number EA 314232, issued to Sheraqa Bayanzay, is revoked or
3 suspended, any additional license issued under this chapter in the name of said licensee may be
4 likewise revoked or suspended by the director.

5 55. Under Health and Safety Code section 44072.8, if Advanced Emission
6 Specialist Technician License Number EA 151410, issued to Sajjad Kahn Jaffar, is revoked or
7 suspended, any additional license issued under this chapter in the name of said licensee may be
8 likewise revoked or suspended by the director.

9 56. Under Code section 9889.9, if Brake Adjuster License Number JC
10 151410, issued to Sajjad Kahn Jaffar, is revoked or suspended, any additional license issued
11 under this chapter in the name of said licensee may be likewise revoked or suspended by the
12 director.

13 **PRAYER**

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

16 1. Temporarily or permanently invalidating Automotive Repair Dealer
17 Registration Number ARD 227347, issued to Liluma Bayanzay, doing business as Cherokee
18 Smog & Repair;

19 2.. Temporarily or permanently invalidating any other automotive repair
20 dealer registration issued to Liluma Bayanzay;

21 3. Revoking or suspending Smog Check Station License Number
22 RC 227347, issued to Liluma Bayanzay, doing business as Cherokee Smog & Repair;

23 4. Revoking or suspending any additional license issued under Chapter 5 of
24 the Health and Safety Code in the name of Liluma Bayanzay;

25 5. Revoking or suspending Advanced Emission Specialist Technician
26 Number EA 314232, issued to Sheraqa Bayanzay;

27 6. Revoking or suspending any additional license issued under Chapter 5 of
28 the Health and Safety Code in the name of Sheraqa Bayanzay;

1 7. Revoking or suspending Advanced Emission Specialist Technician
2 Number EA 151410, issued to Sajjad Khan Jaffar;

3 8. Revoking or suspending any additional license issued under Chapter 5 of
4 the Health and Safety Code in the name of Sajjad Khan Jaffar;

5 9. Revoking or suspending Brake Adjuster License Number JC 151410 C,
6 issued to Sajjad Khan Jaffar;

7 10. Revoking or suspending any additional license issued under this chapter in
8 the name of Sajjad Khan Jaffar;

9 11. Ordering Liluma Bayanzay, Jaffar Bayanzay, and Sajjad Khan Jaffar to
10 pay the Director of Consumer Affairs the reasonable costs of the investigation and enforcement
11 of this case, pursuant to Code section 125.3; and,

12 12. Taking such other and further action as deemed necessary and proper.

13 DATED: 8/25/08

14
15 
16 SHERRY MEHL
17 Chief
18 Bureau of Automotive Repair
19 Department of Consumer Affairs
20 State of California
21 Complainant

19 03562110-SA2008300447
20 BayanzaySmog.Acc.wpd
21 [baf 4/15/08]