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

10 In the Matter of the Accusation Against:

11 **VERMONT AUTOMOBILE**
Robert Kisang Kwon, Owner
12 **850 West Century Blvd.**
Los Angeles, CA 90044
13 Automotive Repair Dealer Registration No. ARD 168791
Brake Station License No. BS 168791
14 Lamp Station License No. LS 168791
Smog Check Station License No. RC 168791

15 and

16
17 **ROBERT KISANG KWON**
1405 Stonewood Court
San Pedro, CA 90732
18 Brake Adjuster License No. BA 314760
Lamp Adjuster License No. LA 314760
19 Smog Check Inspector License No. EO 314760
Smog Check Repair Technician License No. EI 314760
20 (formerly Advanced Emission Specialist Technician
License No. EA 314760),
21

Respondents.

OAH Case No.

BAR Case No. 77/14-27

A C C U S A T I O N

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23 Complainant alleges:

24 PARTIES

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

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1 **Vermont Automobile- Registration and Station Licenses**

2 2. On a date unknown in 1992, the Bureau issued Automotive Repair Dealer
3 Registration Number ARD 168791 (“Registration”) to Respondent Vermont Automobile
4 (“Respondent Vermont”), Robert Kisang Kwon, Owner. The Automotive Repair Dealer
5 Registration was in effect at all times relevant to the charges brought herein and will expire on
6 September 30, 2014, unless renewed.

7 3. On or about November 9, 1992, the Bureau issued Lamp Station License Number LS
8 168791, class A, to Respondent Vermont. The Lamp Station License was in effect at all times
9 relevant to the charges brought herein and will expire on September 30, 2014, unless renewed.

10 4. On or about November 9, 1992, the Bureau issued Brake Station License No. BS
11 168791, class C, to Respondent Vermont. The Brake Station License was in effect at all times
12 relevant to the charges brought herein and will expire on September 30, 2014, unless renewed.

13 5. On or about November 9, 1992, the Bureau issued Smog Check Station License
14 Number RC 168791 to Respondent Vermont. The Smog Check Station License was in effect at
15 all times relevant to the charges brought herein and will expire on September 30, 2014, unless
16 renewed.

17 **Robert Kisang Kwon- Brake and Lamp Adjuster Licenses**

18 6. On a date unknown in 1988, the Bureau issued Brake Adjuster License No. BA
19 314760, class C, to Respondent Robert Kisang Kwon (“Respondent Kwon”). The Brake Adjuster
20 License was in effect at all times relevant to the charges brought herein and will expire on
21 September 30, 2014, unless renewed.

22 7. On a date unknown in 1988, the Bureau issued Lamp Adjuster License No. LA
23 314760, class A, to Respondent Kwon. The Lamp Adjuster License was in effect at all times
24 relevant to the charges brought herein. It was cancelled on December 1, 2013, and has not been
25 renewed.

26 8. On a date unknown in 1997, the Bureau issued Advanced Emission Specialist
27 Technician License No. EA 314760 to Respondent Kwon. The Advanced Emission Specialist
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1 Technician License was in effect at all times relevant to the charges brought herein and was due
2 to expire on September 30, 2013, however it was cancelled on July 10, 2013.

3 a. Pursuant to Cal. Code Regs., title 16, section 3340.28, subdivision (e), the Advanced
4 Emission Specialist Technician License was renewed as Smog Check Inspector License No. EO
5 314760 and Smog Check Repair Technician License No. EI 314760, effective July 10, 2013, and
6 said licenses will expire on September 30, 2015, unless renewed.¹

7 **STATUTORY PROVISIONS**

8 9. Section 9884.7 of the Business and Professions Code ("Code") states, in pertinent
9 part:

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

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

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

21 (4) Any other conduct that constitutes fraud.

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

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

(c) Notwithstanding subdivision (b), the director may suspend, revoke, or place on
probation the registration for all places of business operated in this state by an automotive

¹ Effective August 1, 2012, California Code of Regulations, title 16, sections 3340.28,
3340.29, and 3340.30 were amended to implement a license restructure from the Advanced
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 repair dealer upon a finding that the automotive repair dealer has, or is, engaged in a course
2 of repeated and willful violations of this chapter, or regulations adopted pursuant to it.

3 10. Code section 118, subdivision (b) states:

4 The suspension, expiration, or forfeiture by operation of law of a license issued by a
5 board in the department, or its suspension, forfeiture, or cancellation by order of the board
6 or by order of a court of law, or its surrender without the written consent of the board, shall
7 not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive
8 the board of its authority to institute or continue a disciplinary proceeding against the
9 licensee upon any ground provided by law or to enter an order suspending or revoking the
10 license or otherwise taking disciplinary action against the licensee on any such ground.

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

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

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

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

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

(signature or initials)"

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

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

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

8 15. Code section 9889.7 provides, in pertinent part, that the expiration or suspension of a
9 license by operation of law or by order or decision of the Director or a court of law, or the
10 voluntary surrender of a license shall not deprive the Director of jurisdiction to proceed with any
11 disciplinary proceedings.

12 16. Code section 9889.3 states, in pertinent part:

13 The director may suspend, revoke, or take other disciplinary action against a license
14 as provided in this article [Article 7 (commencing with section 9889.1) of the Automotive
15 Repair 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
17 her licensed activities.

18 (c) Violates any of the regulations promulgated by the director pursuant to this
19 chapter.

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

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

24 17. Code section 9887.1 states, in pertinent part:

25 The director shall have the authority to issue licenses for official lamp and brake
26 adjusting stations and shall license lamp and brake adjusters. The licenses shall be issued in
27 accordance with this chapter and regulations adopted by the director pursuant thereto . . .
28 Licenses may be renewed upon application and payment of the renewal fees if the
application for renewal is made within the 30-day period prior to the date of expiration.
Persons whose licenses have expired shall immediately cease the activity requiring a license
. . .

 18. Code section 9888.3 states:

1 No person shall operate an "official" lamp or brake adjusting station unless a license
2 therefor has been issued by the director. No person shall issue, or cause or permit to be
3 issued, any certificate purporting to be an official lamp adjustment certificate unless he or
she is a licensed lamp adjuster or an official brake adjustment certificate unless he or she is
a licensed brake adjuster.

4 19. Code section 9889.9 states that "[w]hen any license has been revoked or suspended
5 following a hearing under the provisions of this article [Article 7 (commencing with section
6 9889.1) of the Automotive Repair Act], any additional license issued under Articles 5 and 6 of
7 this chapter in the name of the licensee may be likewise revoked or suspended by the director."

8 COST RECOVERY

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

13 **FIRST UNDERCOVER OPERATION – APRIL 11, 2013**

14 21. On or about April 11, 2013, a Bureau undercover operator drove a Bureau-
15 documented 1997 GMC to Respondent Vermont's facility and requested brake and lamp
16 inspections. The vehicle was unable to pass the brake inspection because the right and left rear
17 brake drums were oversized. Further, the vehicle could not pass the lamp inspection because the
18 right headlight was out of adjustment and the license plate lights were out. The operator signed
19 an invoice/estimate but was not provided with a copy of that document prior to the inspections.

20 22. Respondent Kwon asked the operator to turn on the headlights and to step on the
21 brake. Kwon then got in the vehicle and drove the vehicle off of the premises, returning
22 approximately two minutes later. Kwon completed the invoice by writing down "BRAKE
23 INSPECTION" and "LAMP" in the description side of the invoice. He then asked the operator to
24 sign the invoice. The wheels were never removed from the vehicle and Respondent Kwon never
25 made any attempt to visually inspect the brakes or measure the rear brake drums. He also never
26 used any lamp aiming/measuring equipment on the vehicle, and did not mention the license plate
27 lamps were inoperative. Respondent signed the brake and lamp certificates under penalty of
28 perjury. The operator paid him \$60.00 in cash and received the pink and the goldenrod colored

1 copies of the invoice, Certificate of Brake Adjustment No. [REDACTED] and Certificate of Lamp
2 Adjustment No. [REDACTED] certifying that both the brake and lamp systems were in satisfactory
3 condition.

4 **FIRST CAUSE FOR DISCIPLINE**

5 **(Misleading Statements)**

6 23. Respondent Vermont has subjected its registration to discipline under Code section
7 9884.7, subdivision (a)(1), in that on or about April 11, 2013, regarding the 1997 GMC, it made
8 statements which it knew or which by exercise of reasonable care it should have known were
9 untrue or misleading, as follows:

10 a. Respondent Vermont issued Brake Certificate No. [REDACTED] certifying that the
11 brake system on that vehicle was in satisfactory condition when, in fact, the right and left rear
12 brake drums were oversized.

13 b. Respondent Vermont issued Lamp Certificate No. [REDACTED] certifying that the
14 lamp system was in satisfactory condition when, in fact, the right headlight was out of adjustment
15 and the license plate lights were inoperable.

16 **SECOND CAUSE FOR DISCIPLINE**

17 **(Failed to Provide a Copy of a Signed Document)**

18 24. Respondent Vermont has subjected its registration to discipline under Code section
19 9884.7, subdivision (a)(3), in that on or about April 11, 2013, Respondent failed to provide the
20 operator with a copy of the work order as soon as he signed the document.

21 **THIRD CAUSE FOR DISCIPLINE**

22 **(Fraud)**

23 25. Respondent Vermont has subjected its registration to discipline under Code section
24 9884.7, subdivision (a)(4), in that on or about April 11, 2013, regarding the 1997 GMC, it
25 received \$60 for certificates of compliance that should not have been issued, constituting acts
26 involving fraud, as follows:

1 a. Respondent Vermont issued Brake Certificate No. [REDACTED] certifying that the
2 brake system on that vehicle was in satisfactory condition when, in fact, the right and left rear
3 brake drums were oversized.

4 b. Respondent Vermont issued Lamp Certificate No. [REDACTED], certifying that the
5 lamp system was in satisfactory condition when, in fact, the right headlight was out of adjustment
6 and the license plate lights were inoperable.

7 **FOURTH CAUSE FOR DISCIPLINE**

8 **(Failure to Provide a Written Estimate)**

9 26. Respondent Vermont has subjected its registration to discipline under Code section
10 9884.7, subdivision (a)(6), in that on or about April 11, 2013, it failed to comply with section
11 9884.9, subdivision (a) of that Code by failing to provide the operator with a written estimated
12 price for a specific job prior to commencement of the inspections.

13 **FIFTH CAUSE FOR DISCIPLINE**

14 **(Violations of Regulations)**

15 27. Respondent Vermont's registration is subject to discipline under Code section 9884.7,
16 subdivision (a)(6), in that on or about April 11, 2013, Respondent Vermont failed to comply with
17 provisions of California Code of Regulations, title 16, in the following material respects:

18 a. Section 3305, subdivision (a): Respondent Vermont failed to perform the inspection
19 of the brake system and inspection and adjustment of the lighting system on the Bureau's 1997
20 GMC in accordance with the specifications, instructions, and directives issued by the Bureau and
21 the vehicle manufacturer.

22 b. Section 3316, subdivision (d)(2): Respondent Vermont issued Lamp Certificate No.
23 [REDACTED] as to the Bureau's 1997 GMC when the right headlight was out of adjustment and the
24 license plate lights were inoperable, and not in compliance with Bureau regulations.

25 c. Section 3321, subdivision (c)(2): Respondent Vermont issued Brake Certificate No.
26 [REDACTED] as to the Bureau's 1997 GMC when the brake system on the vehicle had not been
27 properly/ completely tested or inspected.

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1 **SIXTH CAUSE FOR DISCIPLINE**

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

3 28. Respondent Vermont's brake and lamp station licenses are subject to discipline under
4 Code section 9889.3, subdivision (c), in that Respondent failed to comply with the provisions of
5 California Code of Regulations, title 16, sections 3305, subdivision (a), 3316, subdivision (d)(2),
6 and 3321, subdivision (c)(2), as set forth in paragraph 27, above.

7 **SEVENTH CAUSE FOR DISCIPLINE**

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

9 29. Respondent Vermont's brake and lamp station licenses are subject to discipline under
10 Code section 9889.3, subdivision (d), in that Respondent committed acts involving dishonesty,
11 fraud, or deceit whereby another was injured, in that Respondent issued brake and lamp
12 certificates of adjustment without performing bona fide inspections of those systems, thereby
13 depriving the People of the State of California of the protections afforded by the Bureau's
14 regulations.

15 **EIGHTH CAUSE FOR DISCIPLINE**

16 **(Violations of Regulations)**

17 30. Respondent Kwon's brake and lamp adjuster licenses are subject to discipline under
18 Code section 9889.3, subdivision (c), in that on or about April 11, 2013, he failed to comply with
19 the provisions of California Code of Regulations, title 16, sections 3305, subdivision (a), 3316,
20 subdivision (d)(2), and 3321, subdivision (c)(2), as set forth in paragraph 27, above.

21 **NINTH CAUSE FOR DISCIPLINE**

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

23 31. Respondent Kwon's brake and lamp adjuster licenses are subject to discipline under
24 Code section 9889.3, subdivision (d), in that on or about April 11, 2013, he committed acts
25 involving dishonesty, fraud, or deceit whereby another was injured, in that Respondent issued
26 brake and lamp certificates of adjustment without performing bona fide inspections of those
27 systems, thereby depriving the People of the State of California of the protections afforded by the
28 Bureau's regulations.

1 **SECOND UNDERCOVER OPERATION – MAY 22, 2013**

2 32. On or about May 22, 2013, a Bureau undercover operator drove a Bureau-
3 documented 2000 Chevrolet to Respondent Vermont’s facility and requested brake and lamp
4 inspections. The vehicle was unable to pass the brake inspection because the right and left rear
5 brake drums were oversized. Further, the vehicle could not pass the lamp inspection because the
6 left headlight was out of adjustment and the license plate lights were inoperable. The operator
7 parked the truck in front of the middle of the three bays and waited for assistance from
8 Respondent Kwon. Kwon instructed the operator to write his information on a blank repair order
9 and sign it. The operator filled out the repair order, signed it, and gave it back to Kwon, who did
10 not provide him with a copy of the estimate.

11 33. Respondent Kwon then asked the operator to turn on the headlights and to step on the
12 brake. Kwon walked around the vehicle and mentioned the license plate lights were inoperative.
13 The operator then got out of the vehicle and Respondent Kwon got in. Kwon looked around and
14 then got out. Kwon completed the invoice by writing down “BRAKE INSPECTION” and
15 “LAMP” on the description side of the invoice. The operator paid Kwon \$60.00. Respondent
16 Kwon never removed any wheels or make any attempt to visually inspect the brakes or measure
17 the rear brake drums, nor use any lamp adjustment/measuring equipment on the vehicle to check
18 the headlights. He never test drove the vehicle and it did not move from the spot where the
19 operator had parked it. Respondent Kwon said the license plate lights needed to be replaced and
20 he signed and gave the operator Brake Certificate of Adjustment [REDACTED] and Lamp
21 Certificate of Adjustment # [REDACTED] certifying that both the brake and lamp systems were in
22 satisfactory condition, as well as the pink and goldenrod colored copies of the repair invoice.

23 **TENTH CAUSE FOR DISCIPLINE**

24 **(Misleading Statements)**

25 34. Respondent Vermont has subjected its registration to discipline under Code section
26 9884.7, subdivision (a)(1), in that on or about May 22, 2013, regarding the 2000 Chevrolet, it
27 made statements which it knew or which by exercise of reasonable care it should have known
28 were untrue or misleading, as follows:

1 a. Respondent Vermont issued Brake Certificate No. [REDACTED], certifying that the
2 brake system on that vehicle was in satisfactory condition when, in fact, the right and left rear
3 brake drums were oversized.

4 b. Respondent Vermont issued Lamp Certificate No. [REDACTED], certifying that the
5 lamp system was in satisfactory condition when, in fact, the left headlight was out of adjustment
6 and the license plate lights were inoperable.

7 **ELEVENTH CAUSE FOR DISCIPLINE**

8 **(Failed to Provide a Copy of a Signed Document)**

9 35. Respondent Vermont has subjected its registration to discipline under Code section
10 9884.7, subdivision (a)(3), in that on or about May 22, 2013, Respondent failed to provide the
11 operator with a copy of the work order as soon as he signed the document.

12 **TWELFTH CAUSE FOR DISCIPLINE**

13 **(Fraud)**

14 36. Respondent Vermont has subjected its registration to discipline under Code section
15 9884.7, subdivision (a)(4), in that on or about May 22, 2013, regarding the 2000 Chevrolet, it
16 received \$60 for certificates of compliance that should not have been issued, constituting acts
17 involving fraud, as follows:

18 a. Respondent Vermont issued Brake Certificate No. [REDACTED] certifying that the
19 brake system on that vehicle was in satisfactory condition when, in fact, the right and left rear
20 brake drums were oversized.

21 b. Respondent Vermont issued Lamp Certificate No. [REDACTED] certifying that the
22 lamp system was in satisfactory condition when, in fact, the left headlight was out of adjustment
23 and the license plate lights were inoperable.

24 **THIRTEENTH CAUSE FOR DISCIPLINE**

25 **(Failure to Provide a Written Estimate)**

26 37. Respondent Vermont has subjected its registration to discipline under Code section
27 9884.7, subdivision (a)(6), in that on or about May 22, 2013, it failed to comply with section
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1 9884.9, subdivision (a) of that Code by failing to provide the operator with a written estimated
2 price for a specific job prior to commencement of the alleged inspections.

3 **FOURTEENTH CAUSE FOR DISCIPLINE**

4 **(Violations of Regulations)**

5 38. Respondent Vermont's registration is subject to discipline under Code section 9884.7,
6 subdivision (a)(6), in that on or about May 22, 2013, Respondent Vermont failed to comply with
7 provisions of California Code of Regulations, title 16, in the following material respects:

8 a. Section 3305, subdivision (a): Respondent Vermont failed to perform the inspection
9 of the brake system and inspection and adjustment of the lighting system on the Bureau's 2000
10 Chevrolet in accordance with the specifications, instructions, and directives issued by the Bureau
11 and the vehicle manufacturer.

12 b. Section 3316, subdivision (d)(2): Respondent Vermont issued Lamp Certificate No.
13 [REDACTED] as to the Bureau's 2000 Chevrolet when the left headlight was out of adjustment and
14 the license plate lights were inoperable, and not in compliance with Bureau regulations.

15 c. Section 3321, subdivision (c)(2): Respondent Vermont issued Brake Certificate No.
16 [REDACTED] as to the Bureau's 2000 Chevrolet when the brake system on the vehicle had not
17 been properly/ completely tested or inspected.

18 **FIFTEENTH CAUSE FOR DISCIPLINE**

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

20 39. Respondent Vermont's brake and lamp station licenses are subject to discipline under
21 Code section 9889.3, subdivision (c), in that in that on or about May 22, 2013, Respondent failed
22 to comply with the provisions of California Code of Regulations, title 16, sections 3305,
23 subdivision (a), 3316, subdivision (d)(2), and 3321, subdivision (c)(2), as set forth in paragraph
24 38, above.

25 **SIXTEENTH CAUSE FOR DISCIPLINE**

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

27 40. Respondent Vermont's brake and lamp station licenses are subject to discipline under
28 Code section 9889.3, subdivision (d), in that in that on or about May 22, 2013, Respondent

1 committed acts involving dishonesty, fraud, or deceit whereby another was injured, in that
2 Respondent issued brake and lamp certificates of adjustment without performing bona fide
3 inspections of those systems, thereby depriving the People of the State of California of the
4 protections afforded by the Bureau's regulations.

5 **SEVENTEENTH CAUSE FOR DISCIPLINE**

6 **(Violations of Regulations)**

7 41. Respondent Kwon's brake and lamp adjuster licenses are subject to discipline under
8 Code section 9889.3, subdivision (c), in that on or about May 22, 2013, he failed to comply with
9 the provisions of California Code of Regulations, title 16, sections 3305, subdivision (a), 3316,
10 subdivision (d)(2), and 3321, subdivision (c)(2), as set forth in paragraph 38, above.

11 **EIGHTEENTH CAUSE FOR DISCIPLINE**

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

13 42. Respondent Kwon's brake and lamp adjuster licenses are subject to discipline under
14 Code section 9889.3, subdivision (d), in that on or about May 22, 2013, he committed acts
15 involving dishonesty, fraud, or deceit whereby another was injured, in that Respondent issued
16 brake and lamp certificates of adjustment without performing bona fide inspections of those
17 systems, thereby depriving the People of the State of California of the protections afforded by the
18 Bureau's regulations.

19 **THIRD UNDERCOVER OPERATION – JULY 25, 2013**

20 43. On or about July 25, 2013, a Bureau undercover operator drove a Bureau-documented
21 2000 Toyota to Respondent Vermont's facility and requested brake and lamp inspections. The
22 vehicle was unable to pass the brake inspection because the right and left rear brake drums were
23 oversized. Further, the vehicle could not pass the lamp inspection because the left headlight was
24 out of adjustment. The operator parked the vehicle in front of the middle of three service bays
25 and was approached by an employee. The operator requested brake and lamp inspections. The
26 employee instructed the operator to write his information on a blank repair order and sign it. The
27 operator filled out the repair order, using a fictitious name and address, and signed it. The
28 employee took the repair order and wrote in the vehicle information, including writing "BRAKE
CERTIFICATION" and "LAMP CERTIFICATION" in the description section of the invoice.

1 He did not give a copy of the estimate to the operator. The employee and a second employee
2 checked the truck's lights. The first employee turned on the lights and walked around the vehicle,
3 but did not use any lamp adjusting/measuring equipment. The vehicle was not road tested, and
4 never moved from the parking spot that the operator parked it in. The wheels were never
5 removed and no attempt was made to visually inspect the brakes or rear brake drums.

6 44. The operator was then instructed by the first employee to enter the office area of the
7 facility where he encountered Respondent Robert Kisang Kwon. Respondent Kwon signed a
8 Brake Certificate of Adjustment [REDACTED] and a Lamp Certificate of Adjustment
9 [REDACTED]. Kwon completed the invoice by writing the price of \$50.00 and the operator paid
10 him \$50.00. Kwon did not do any inspection of the truck. He never left the office, and signed the
11 certificates under penalty of perjury as if he had performed the inspections. The operator was
12 handed the pink and the goldenrod colored copies of the repair invoice, and the completed brake
13 and lamp certificates.

14 **NINETEENTH CAUSE FOR DISCIPLINE**

15 **(Misleading Statements)**

16 45. Respondent Vermont has subjected its registration to discipline under Code section
17 9884.7, subdivision (a)(1), in that on or about July 25, 2013, regarding the 2000 Toyota, it made
18 statements which it knew or which by exercise of reasonable care it should have known were
19 untrue or misleading, as follows:

20 a. Respondent Vermont issued Brake Certificate No. [REDACTED], certifying that the
21 brake system on that vehicle was in satisfactory condition when, in fact, the right and left rear
22 brake drums were oversized.

23 b. Respondent Vermont issued Lamp Certificate No. [REDACTED], certifying that the
24 lamp system was in satisfactory condition when, in fact, the left headlight was out of adjustment.

25 **TWENTIETH CAUSE FOR DISCIPLINE**

26 **(Failed to Provide a Copy of a Signed Document)**

27 46. Respondent Vermont has subjected its registration to discipline under Code section
28 9884.7, subdivision (a)(3), in that on or about July 25, 2013, Respondent failed to provide the
operator with a copy of the work order as soon as he signed the document.

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TWENTY-FIRST CAUSE FOR DISCIPLINE

(Fraud)

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2 47. Respondent Vermont has subjected its registration to discipline under Code section
3 9884.7, subdivision (a)(4), in that on or about July 25, 2013, regarding the 2000 Toyota, it
4 received \$50 for certificates of compliance that should not have been issued, constituting acts
5 involving fraud, as follows:

6 a. Respondent Vermont issued Brake Certificate No. [REDACTED], certifying that the
7 brake system on that vehicle was in satisfactory condition when, in fact, the right and left rear
8 brake drums were oversized.

9 b. Respondent Vermont issued Lamp Certificate No. [REDACTED], certifying that the
10 lamp system was in satisfactory condition when, in fact, the left headlight was out of adjustment.

TWENTY-SECOND CAUSE FOR DISCIPLINE

(Failure to Provide a Written Estimate)

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12 48. Respondent Vermont has subjected its registration to discipline under Code section
13 9884.7, subdivision (a)(6), in that on or about July 25, 2013, it failed to comply with section
14 9884.9, subdivision (a) of that Code by failing to provide the operator with a written estimated
15 price for a specific job prior to commencement of the alleged inspections.

TWENTY-THIRD CAUSE FOR DISCIPLINE

(Violations of Regulations)

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18 49. Respondent Vermont's registration is subject to discipline under Code section 9884.7,
19 subdivision (a)(6), in that on or about July 25, 2013, Respondent Vermont failed to comply with
20 provisions of California Code of Regulations, title 16, in the following material respects:

21 a. Section 3305, subdivision (a): Respondent Vermont failed to perform the inspection
22 of the brake system and inspection and adjustment of the lighting system on the Bureau's 2000
23 Toyota in accordance with the specifications, instructions, and directives issued by the Bureau
24 and the vehicle manufacturer.

25 b. Section 3316, subdivision (d)(2): Respondent Vermont issued Lamp Certificate No.
26 [REDACTED] as to the Bureau's 2000 Toyota when the left headlight was out of adjustment and not
27 in compliance with Bureau regulations.
28

1 c. Section 3321, subdivision (c)(2): Respondent Vermont issued Brake Certificate No.
2 [REDACTED] as to the Bureau's 2000 Toyota when the brake system on the vehicle had not been
3 properly/ completely tested or inspected.

4 **TWENTY-FOURTH CAUSE FOR DISCIPLINE**

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

6 50. Respondent Vermont's brake and lamp station licenses are subject to discipline under
7 Code section 9889.3, subdivision (c), in that in that on or about July 25, 2013, Respondent failed
8 to comply with the provisions of California Code of Regulations, title 16, sections 3305,
9 subdivision (a), 3316, subdivision (d)(2), and 3321, subdivision (c)(2), as set forth in paragraph
10 49, above.

11 **TWENTY-FIFTH CAUSE FOR DISCIPLINE**

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

13 51. Respondent Vermont's brake and lamp station licenses are subject to discipline under
14 Code section 9889.3, subdivision (d), in that in that on or about July 25, 2013, Respondent
15 committed acts involving dishonesty, fraud, or deceit whereby another was injured, in that
16 Respondent issued brake and lamp certificates of adjustment without performing bona fide
17 inspections of those systems, thereby depriving the People of the State of California of the
18 protections afforded by the Bureau's regulations.

19 **TWENTY-SIXTH CAUSE FOR DISCIPLINE**

20 **(Violations of Regulations)**

21 52. Respondent Kwon's brake and lamp adjuster licenses are subject to discipline under
22 Code section 9889.3, subdivision (c), in that on or about July 25, 2013, he failed to comply with
23 the provisions of California Code of Regulations, title 16, sections 3305, subdivision (a), 3316,
24 subdivision (d)(2), and 3321, subdivision (c)(2), as set forth in paragraph 49, above.

25 **TWENTY-SEVENTH CAUSE FOR DISCIPLINE**

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

27 53. Respondent Kwon's brake and lamp adjuster licenses are subject to discipline under
28 Code section 9889.3, subdivision (d), in that on or about July 25, 2013, he committed acts
involving dishonesty, fraud, or deceit whereby another was injured, in that Respondent issued
brake and lamp certificates of adjustment under penalty of perjury without performing any bona
fide inspections of those systems, thereby depriving the People of the State of California of the
protections afforded by the Bureau's regulations.

OTHER MATTERS

1 54. Pursuant to Code section 9884.7, subdivision (c), the Director may suspend, revoke or
2 place on probation the registration for all places of business operated in this state by Respondent
3 Vermont Automobile, upon a finding that Respondent has, or is, engaged in a course of repeated
4 and willful violations of the laws and regulations pertaining to an automotive repair dealer.

5 55. Pursuant to Code section 9889.9, if Lamp Station License Number LS 168791, Class
6 A, issued to Respondent Vermont Automobile is revoked or suspended, any additional license
7 issued under Articles 5 and 6 of Chapter 20.3 of Code in the name of said licensee may be
8 likewise revoked or suspended by the Director.

9 55. Pursuant to Code section 9889.9, if Brake Station License Number BS 168791, Class
10 C, issued to Respondent Vermont Automobile, is revoked or suspended, any additional license
11 issued under Articles 5 and 6 of Chapter 20.3 of that Code in the name of said licensee may be
12 likewise revoked or suspended by the Director

13 56. Pursuant to Code section 9889.9, if Brake Adjuster License Number BA 314760,
14 Class C, issued to Respondent Robert Kisang Kwon, is revoked or suspended, any additional
15 license issued under Articles 5 and 6 of Chapter 20.3 of that Code in the name of said licensee
16 may be likewise revoked or suspended by the Director.

17 57. Pursuant to Code section 9889.9, if Lamp Adjuster License Number LA 314760,
18 Class A, issued to Respondent Robert Kisang Kwon, is revoked or suspended, any additional
19 license issued under Articles 5 and 6 of Chapter 20.3 of that Code in the name of said licensee
20 may be likewise revoked or suspended by the Director.

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, suspending, or placing on probation Automotive Repair Dealer
24 Registration Number ARD 168791, issued to Vermont Automobile;

25 2. Revoking, suspending, or placing on probation any other automotive repair dealer
26 registration issued to Vermont Automobile;

27 3. Revoking or suspending Lamp Station License Number LS 168791, Class A, issued
28 to Vermont Automobile;

1 4. Revoking or suspending Brake Station License Number BS 168791, Class C,
2 issued to Vermont Automobile;

3 5. Revoking or suspending any additional license issued under Articles 5 and 6 of
4 Chapter 20.3 of the Business and Professions Code in the name of Vermont Automobile;

5 6. Revoking or suspending Lamp Adjuster License Number LA 314760, Class A,
6 issued to Robert Kisang Kwon;

7 7. Revoking or suspending Brake Adjuster License Number BA 314760, Class C,
8 issued to Robert Kisang Kwon;

9 8. Revoking or suspending any additional license issued under Articles 5 and 6 of
10 Chapter 20.3 of the Business and Professions Code in the name of Robert Kisang Kwon;

11 9. Ordering Vermont Automobile and Robert Kisang Kwon to pay the Bureau of
12 Automotive Repair the reasonable costs of the investigation and enforcement of this case,
13 pursuant to Business and Professions Code section 125.3; and,

14 10. Taking such other and further action as deemed necessary and proper.

15
16 Dated: December 17, 2013 Patrick Dorais

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