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

13 In the Matter of the Accusation Against:

Case No. 77/11-24

14 **SHERVIN ENTERPRISES, INC.,**
15 **dba AUTO CARE EXPERTS**
16 **FARZIN LAJEVARDI, PRESIDENT**
17 **23662 Via Fabricante, #A**
18 **Mission Viejo, CA 92691-3934**
19 **Automotive Repair Dealer Reg. No. ARD 187074**
20 **Smog Check Station License No. RC 187074**
21 **Lamp Station License No. LS 187074**
22 **Brake Station License No. BS 187074**

A C C U S A T I O N

Respondent.

23 Complainant alleges:

24 **PARTIES/LICENSE INFORMATION**

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

27 2. In or about 1996, the Director of Consumer Affairs ("Affairs") issued Automotive
28 Repair Dealer Registration Number ARD 187074 ("registration") to Shervin Enterprises, Inc.
("Respondent"), doing business as Auto Care Experts, with Farzin Lajevardi as president.

Respondent's registration was in full force and effect at all times relevant to the charges brought
herein and will expire on January 31, 2012, unless renewed.

1 14. Bus. & Prof. Code section 9884.9, subdivision (a), states, in pertinent part:

2 The automotive repair dealer shall give to the customer a written
3 estimated price for labor and parts necessary for a specific job. No work shall be done
4 and no charges shall accrue before authorization to proceed is obtained from the
5 customer. No charge shall be made for work done or parts supplied in excess of the
6 estimated price without the oral or written consent of the customer that shall be
7 obtained at some time after it is determined that the estimated price is insufficient and
8 before the work not estimated is done or the parts not estimated are supplied. Written
9 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 when 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 . . .

10 15. Bus. & Prof. Code section 9889.3 states, in pertinent part:

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

14

15 (d) Commits any act involving dishonesty, fraud, or deceit whereby
16 another is injured

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

21 17. Bus. & Prof. Code section 22, subdivision (a), states:

22 “Board” as used in any provision of this Code, refers to the board in
23 which the administration of the provision is vested, and unless otherwise expressly
24 provided, shall include “bureau,” “commission,” “committee,” “department,”
“division,” “examining committee,” “program,” and “agency.”

25 18. Bus. & Prof. Code section 477, subdivision (b), states, in pertinent part, that a
26 “license” includes “registration” and “certificate.”

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1 19. Health & Saf. Code section 44072.2 states, in pertinent part:

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

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

7 20. Health & Saf. Code section 44072.8 states that when a license has been revoked or
8 suspended following a hearing under this article, any additional license issued under this chapter
9 in the name of the licensee may be likewise revoked or suspended by the director.

10 21. California Code of Regulations, title 16, section ("Regulation") 3356 states, in
11 pertinent part:

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

14

15 (2) The invoice shall separately list, describe and identify all of the
16 following:

17 (A) All service and repair work performed, including all diagnostic and
18 warranty work, and the price for each described service and repair . . .

18 22. Regulation 3366 states, in pertinent part:

19 (a) Except as provided in subsection (b) of this section, any automotive
20 repair dealer that advertises or performs, directly or through a sublet contractor,
21 automotive air conditioning work and uses the words service, inspection, diagnosis,
22 top off, performance check or any expression or term of like meaning in any form of
23 advertising or on a written estimate or invoice shall include and perform all of the
24 following procedures as part of that air conditioning work:

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24 (15) High and low side system operating pressures, as applicable, have
25 been measured and recorded on the final invoice; and,

26 (16) The center air distribution outlet temperature has been measured and
27 recorded on the final invoice.

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1 (b) Whenever the automotive air conditioning work being advertised or
2 performed does not involve opening the refrigerant portion of the air conditioning
3 system, refrigerant evacuation, or full or partial refrigerant recharge, the procedures
4 specified in subsection (a) need be performed only to the extent required by accepted
5 trade standards.

6 23. Regulation 3373 states:

7 No automotive repair dealer or individual in charge shall, in filling out an
8 estimate, invoice, or work order, or record required to be maintained by section
9 3340.15(f) of this chapter, withhold therefrom or insert therein any statement or
10 information which will cause any such document to be false or misleading, or where
11 the tendency or effect thereby would be to mislead or deceive customers, prospective
12 customers, or the public.

13 COST RECOVERY

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

18 CONSUMER COMPLAINT #1 (SALEHDOOST): 2000 VOLKSWAGEN JETTA

19 25. On or about April 2, 2009, Maryam Salehdoost ("Salehdoost") was involved in a rear
20 end collision while driving her 2000 Volkswagen Jetta.

21 26. On or about April 7, 2009, Salehdoost took the vehicle to Respondent's facility for
22 repair and met with Farzin Lajevardi ("Lajevardi"), who identified himself as the owner.
23 Lajevardi told Salehdoost that he needed to inspect the vehicle at least one day before it was
24 inspected by the insurance adjuster. Respondent's manager, Mark Pomerhn ("Pomerhn"), had
25 Salehdoost sign a repair order, but did not provide her with a copy.

26 27. On or about April 8, 2009, Lajevardi called Salehdoost and told her that he inspected
27 the vehicle and had marked "everything" needing collision repairs.

28 28. On or about April 10, 2009, the facility faxed Salehdoost a copy of a written estimate.

29 29. On or about April 21, 2009, Salehdoost went to the facility to retrieve the vehicle,
30 endorsed two checks totaling \$2,256.70 which had been issued by Farmer's Insurance Company
31 ("Farmer's"), and paid Lajevardi a \$500 insurance deductible. When Lajevardi showed
32 Salehdoost the vehicle, she noticed that the rear bumper still had a crack on the left side, the trunk

1 lid still would not open properly, and there was a gap between the trunk lid and the rear body.
2 Salehdoost told Lajevardi that she was not satisfied with the repairs. Lajevardi told Salehdoost to
3 leave the vehicle at the facility and he would contact Farmer's for another inspection. Later,
4 Salehdoost called Lajevardi and told him that she wanted to pick up the vehicle. Lajevardi told
5 Salehdoost that they had already started the corrective repairs and that the vehicle would be ready
6 the following day.

7 30. On or about April 22, 2009, Salehdoost returned to the facility. Salehdoost looked at
8 the vehicle and found that the gap between the trunk lid and the body had been repaired and the
9 trunk lid opened more easily; however, the trunk latch had been ground, and there were metal
10 particles all over the inside of the trunk. Later, Salehdoost took the vehicle to a Volkswagen
11 dealer in Irvine and had them inspect the repairs. The service manager called Respondent's
12 facility and told Pomerhn that the collision repairs were not done completely and that Salehdoost
13 still was not satisfied with the repairs.

14 31. On or about April 23, 2009, Salehdoost took the vehicle to Respondent's facility.
15 Farmer's insurance adjuster, Michael Hammer ("Hammer"), and Lajevardi re-inspected the
16 collision repairs. Hammer questioned Lajevardi regarding the poor collision repairs on the trunk
17 lid and rear bumper and the damage on the inside of the trunk.

18 32. On or about April 29, 2009, Salehdoost filed a complaint with the Bureau.

19 33. On or about May 18, 2009, and June 26, 2009, the Bureau inspected the vehicle using
20 as a reference an itemized estimate, "Supplement of Record 1 with Summary", dated April 23,
21 2009, in the net amount of \$2,256.70 that had been prepared by Mid-Century Insurance
22 Company/Farmer's. The Bureau found that Respondent's facility had not repaired the vehicle as
23 estimated, and that the repairs had not been performed to accepted trade standards. The total
24 value of the repairs the facility failed to perform on the vehicle is approximately \$1,222.17.

25 34. On or about August 19, 2009, a representative of the Bureau went to the facility and
26 obtained copies of Respondent's repair records on the vehicle, including an invoice dated April
27 22, 2009. The representative met with Respondent's technician, Jose Moses Hernandez

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1 ("Hernandez"). Hernandez admitted that he did not set the vehicle up on a rack and measure the
2 frame or perform the structural realignment.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Untrue or Misleading Statements)**

5 35. Respondent's registration is subject to disciplinary action pursuant to Bus. & Prof.
6 Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized a statement which
7 it knew or in the exercise of reasonable care should have known to be untrue or misleading, as
8 follows: Respondent represented on the invoice that the rear body damage on Salehdoost's 2000
9 Volkswagen Jetta had been repaired. In fact, the rear body damage had not been repaired or
10 properly repaired on the vehicle, as set forth in paragraphs 37 and 38 below.

11 **SECOND CAUSE FOR DISCIPLINE**

12 **(Failure to Provide Customer with Copy of Signed Document)**

13 36. Respondent's registration is subject to disciplinary action pursuant to Bus. & Prof.
14 Code section 9884.7, subdivision (a)(3), in that Respondent's manager, Pomerhn, failed to
15 provide Salehdoost with a copy of the repair order as soon as she signed the document.

16 **THIRD CAUSE FOR DISCIPLINE**

17 **(Fraud)**

18 37. Respondent's registration is subject to disciplinary action pursuant to Bus. & Prof.
19 Code section 9884.7, subdivision (a)(4), in that Respondent committed acts constituting fraud, as
20 follows:

21 a. Respondent obtained payment from Farmer's and Salehdoost for replacing the rear
22 bumper assembly on Salehdoost's 2000 Volkswagen Jetta. In fact, that part had not been replaced
23 on the vehicle, but was partially repaired instead. The rear bumper cover had been repaired and
24 was held together with wire, and the mounting holes were enlarged to fit. The impact bar and
25 bumper absorbers had not been repaired or replaced and still had collision damage.

26 b. Respondent obtained payment from Farmer's and Salehdoost for repairing the rear
27 body panel on Salehdoost's 2000 Volkswagen Jetta. In fact, that part had not been repaired on the
28 vehicle.

1 c. Respondent obtained payment from Farmer's and Salehdoost for repairing the left
2 frame rail on Salehdoost's 2000 Volkswagen Jetta. In fact, that part had not been repaired on the
3 vehicle.

4 d. Respondent obtained payment from Farmer's and Salehdoost for setting Salehdoost's
5 2000 Volkswagen Jetta on a frame rack and measuring the frame. In fact, those labor operations
6 or repairs were not performed on the vehicle.

7 e. Respondent obtained payment from Farmer's and Salehdoost for performing a
8 structural realignment on Salehdoost's 2000 Volkswagen Jetta. In fact, that repair was not
9 performed on the vehicle.

10 f. Respondent obtained payment from Farmer's and Salehdoost for repairing the clamp
11 marks on Salehdoost's 2000 Volkswagen Jetta. In fact, that repair was not performed on the
12 vehicle.

13 **FOURTH CAUSE FOR DISCIPLINE**

14 **(Departure from Trade Standards)**

15 38. Respondent's registration is subject to disciplinary action pursuant to Bus. & Prof.
16 Code section 9884.7, subdivision (a)(7), in that Respondent willfully departed from or
17 disregarded accepted trade standards for good and workmanlike repair without the consent of the
18 owner or the owner's duly authorized representative in the following material respects:

19 a. Respondent failed to restore the 2000 Volkswagen Jetta's structure to its original
20 configuration or repair the frame to manufacturer's specifications in that the right frame rail was
21 12 millimeters long and 4 millimeters down; and the left frame rail was 8 millimeters long, and
22 was swayed inward 5 millimeters and down 7 millimeters. Further, the left rear tail lamp
23 mounting holes and the bumper cover mounting holes were enlarged to compensate for the
24 unrepaired collision damage at the rear body panel.

25 b. Respondent ground the trunk lid latch receiver to compensate for the unrepaired
26 collision damage to the rear body panel.

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1 core and expansion valve on her 2003 Honda Accord EX. In fact, those parts had not been
2 replaced on the vehicle.

3 **EIGHTH CAUSE FOR DISCIPLINE**

4 **(Departure from Trade Standards)**

5 50. Respondent's registration is subject to disciplinary action pursuant to Bus. & Prof.
6 Code section 9884.7, subdivision (a)(7), in that Respondent willfully departed from or
7 disregarded accepted trade standards for good and workmanlike repair without the consent of the
8 owner or the owner's duly authorized representative in the following material respects:

9 a. Respondent failed to record on Invoice No. 012487 the high and low side system
10 operating pressures of the air conditioning system on Wood's 2003 Honda Accord EX, as
11 required by Regulation 3366, subdivision (a)(15).

12 b. Respondent failed to record on Invoice No. 012487 the center air distribution outlet
13 temperature of the air conditioning system on Wood's 2003 Honda Accord EX, as required by
14 Regulation 3366, subdivision (a)(16).

15 **NINTH CAUSE FOR DISCIPLINE**

16 **(Violations of the Bus. & Prof. Code)**

17 51. Respondent's registration is subject to disciplinary action pursuant to Bus. & Prof.
18 Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with section 9884.9,
19 subdivision (a), of that Code in a material respect, as follows: Respondent failed to obtain or
20 document on Invoice No. 012487 Wood's authorization for the additional repairs on her 2003
21 Honda Accord EX, including the replacement of the cabin air filter, Freon, oil dye, and expansion
22 valve.

23 **TENTH CAUSE FOR DISCIPLINE**

24 **(Violations of Regulations)**

25 52. Respondent's registration is subject to disciplinary action pursuant to Bus. & Prof.
26 Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with Regulation
27 3356, subdivision (a)(2)(A), in a material respect, as follows: Respondent failed to separately list,

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1 describe, or identify on Invoice No. 012487 the diagnostic work that was performed on Wood's
2 2003 Honda Accord EX in connection with the expansion valve.

3 **ELEVENTH CAUSE FOR DISCIPLINE**

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

5 53. Respondent's brake and lamp station licenses are subject to disciplinary action
6 pursuant to Bus. & Prof. Code section 9889.3, subdivision (d), in that Respondent committed acts
7 involving dishonesty, fraud, or deceit whereby another was injured, as set forth in paragraphs 37
8 and 49 above.

9 **TWELFTH CAUSE FOR DISCIPLINE**

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

11 54. Respondent's smog check station license is subject to disciplinary action pursuant to
12 Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed dishonest,
13 fraudulent, or deceitful acts whereby another was injured, as set forth in paragraphs 37 and 49
14 above.

15 **OTHER MATTERS**

16 55. Pursuant to Bus. & Prof. Code section 9884.7, subdivision (c), the Director may
17 suspend, revoke, or place on probation the registration for all places of business operated in this
18 state by Respondent Shervin Enterprises, Inc., doing business as Auto Care Experts, upon a
19 finding that Respondent has, or is, engaged in a course of repeated and willful violations of the
20 laws and regulations pertaining to an automotive repair dealer.

21 56. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Station License
22 Number RC 187074, issued to Respondent Shervin Enterprises, Inc., doing business as Auto Care
23 Experts, is revoked or suspended, any additional license issued under this chapter in the name of
24 said licensee may be likewise revoked or suspended by the director.

25 57. Pursuant to Bus. & Prof. Code section 9889.9, if Lamp Station License Number
26 LS 187074, issued to Respondent Shervin Enterprises, Inc., doing business as Auto Care Experts,

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1 is revoked or suspended, any additional license issued under Articles 5 and 6 of Chapter 20.3 of
2 the Bus. & Prof. Code in the name of said licensee may be likewise revoked or suspended by the
3 Director.

4 58. Pursuant to Bus. & Prof. Code section 9889.9, if Brake Station License Number
5 BS 187074, issued to Respondent Shervin Enterprises, Inc., doing business as Auto Care Experts,
6 is revoked or suspended, any additional license issued under Articles 5 and 6 of Chapter 20.3 of
7 the Bus. & Prof. Code in the name of said licensee may be likewise revoked or suspended by the
8 Director.

9 **PRAYER**

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

12 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
13 187074, issued to Shervin Enterprises, Inc., doing business as Auto Care Experts;

14 2. Revoking or suspending any other automotive repair dealer registration issued to
15 Shervin Enterprises, Inc.;

16 3. Revoking or suspending Smog Check Station License Number RC 187074, issued to
17 Shervin Enterprises, Inc., doing business as Auto Care Experts;

18 4. Revoking or suspending any additional license issued under Chapter 5 of the Health
19 and Safety Code in the name of Shervin Enterprises, Inc.;

20 5. Revoking or suspending Lamp Station License Number LS 187074, issued to Shervin
21 Enterprises, Inc., doing business as Auto Care Experts;

22 6. Revoking or suspending Brake Station License Number BS 187074, issued to Shervin
23 Enterprises, Inc., doing business as Auto Care Experts;

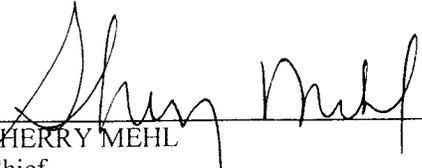
24 7. Revoking or suspending any additional license issued under Articles 5 and 6 of
25 Chapter 20.3 of the Business and Professions Code in the name of Shervin Enterprises, Inc.;

26 8. Ordering Shervin Enterprises, Inc., doing business as Auto Care Experts, to pay the
27 Director of Consumer Affairs the reasonable costs of the investigation and enforcement of this
28 case, pursuant to Business and Professions Code section 125.3;

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

DATED: 10-20-11


SHERRY MEHL
Chief
Bureau of Automotive Repair
Department of Consumer Affairs
State of California
Complainant

SD2011801334