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

12 In the Matter of the Accusation and  
Petition to Revoke Probation Against:

Case No. **79/16-79**

13 **SHERVIN ENTERPRISES, INC.,**  
14 **DBA AUTO CARE EXPERTS,**  
15 **FARZIN LAJEVARDI, PRESIDENT**  
16 **23662 Via Fabricante #A**  
**Mission Viejo, CA 92691-3934**

**ACCUSATION AND PETITION  
TO REVOKE PROBATION**

17 **Automotive Repair Dealer Registration No.**  
**ARD 187074**  
18 **Smog Check Station License No. RC**  
**187074**  
19 **Lamp Station License No. LS 187074**  
**Brake Station License No. BS 187074**

20 Respondent.

21  
22 Complainant alleges:

23 **PARTIES**

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

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1           **Automotive Repair Dealer Registration**

2           2.       In 1996, the Bureau of Automotive Repair (Bureau) issued Automotive Repair  
3 Dealer Registration Number ARD 187074 to Shervin Enterprises, Inc., doing business as Auto  
4 Care Experts, with Farzin Lajevardi, President (Respondent). The Automotive Repair Dealer  
5 Registration was in full force and effect at all times relevant to the charges brought herein and  
6 will expire on January 31, 2017, unless renewed.

7           **Smog Check Station License**

8           3.       On January 6, 1999, the Bureau issued Smog Check Station License Number RC  
9 187074 to Respondent. The Smog Check Station License was in full force and effect at all times  
10 relevant to the charges brought herein and will expire on January 31, 2017, unless renewed.

11          **Lamp Station License**

12          4.       On September 20, 2006, the Bureau issued Lamp Station License Number LS  
13 187074 to Respondent. The Lamp Station License was in full force and effect at all times  
14 relevant to the charges brought herein and will expire on January 31, 2017, unless renewed.

15          **Brake Station License**

16          5.       On September 20, 2006, the Bureau issued Brake Station License Number BS  
17 187074 to Respondent. The Brake Station License was in full force and effect at all times  
18 relevant to the charges brought herein and will expire on January 31, 2017, unless renewed.

19          6.       In a disciplinary action entitled *In the Matter of the Accusation Against Shervin*  
20 *Enterprises, Inc., dba Auto Care Experts, Farzin Lajevardi, President*, Case No. 77/11-24, the  
21 Director of the Department of Consumer Affairs, adopted a Decision and Order, effective  
22 December 12, 2012, in which Respondent's Automotive Repair Dealer Registration Number  
23 ARD 187074, Smog Check Station License Number RC 187074, Lamp Station License Number  
24 LS 187074, and Brake Station License Number BS 187074 were revoked. However, the  
25 revocation was stayed and Respondent's Automotive Repair Dealer Registration, Smog Check  
26 Station License, Lamp Station License, and Brake Station License were placed on probation for a  
27 period of three years with certain terms and conditions. A copy of that decision is attached as  
28 Exhibit A and is incorporated by reference.

1 **JURISDICTION**

2 7. This Accusation and Petition to Revoke Probation is brought before the Director  
3 of the Department of Consumer Affairs (Director) for the Bureau, under the authority of the  
4 following laws. All section references are to the Business and Professions Code (Code) unless  
5 otherwise indicated.

6 8. Code section 22, subdivision (a), states:

7 "Board" as used in any provision of this Code, refers to the board in which  
8 the administration of the provision is vested, and unless otherwise expressly  
9 provided, shall include "bureau," "commission," "committee," "department,"  
"division," "examining committee," "program," and "agency."

10 9. Code section 477, subdivision (b), states, in pertinent part, that a "license"  
11 includes "registration" and "certificate."

12 10. Code section 9884.7 provides that the Director may revoke an automotive repair  
13 dealer registration.

14 11. Code section 9884.13 provides, in pertinent part, that the expiration of a valid  
15 registration shall not deprive the Director of jurisdiction to proceed with a disciplinary  
16 proceeding against an automotive repair dealer or to render a decision temporarily or  
17 permanently invalidating (suspending or revoking) a registration.

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

21 13. Code section 9889.7 provides, in pertinent part, that the expiration or suspension  
22 of a license by operation of law or by order or decision of the Director or a court of law, or the  
23 voluntary surrender of a license shall not deprive the Director of jurisdiction to proceed with any  
24 disciplinary proceedings.

25 14. Health and Safety Code (H & S Code) section 44002 provides, in pertinent part,  
26 that the Director has all the powers and authority granted under the Automotive Repair Act for  
27 enforcing the Motor Vehicle Inspection Program.

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1 19. Code section 9884.9 states, in pertinent part:

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

18 . . . .

19 20. Code section 9889.3, states, in pertinent part:

20 The director may suspend, revoke, or take other disciplinary action against  
21 a license as provided in this article if the licensee or any partner, officer, or  
22 director thereof:

23 . . .

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

26 . . . .

27 21. H & S Code section 44012 states:

28 The test at the smog check stations shall be performed in accordance with  
procedures prescribed by the department and may require loaded mode  
dynamometer testing in enhanced areas, two-speed idle testing, testing utilizing a  
vehicle's onboard diagnostic system, or other appropriate test procedures as  
determined by the department in consultation with the state board. The  
department shall implement testing using onboard diagnostic systems, in lieu of  
loaded mode dynamometer or two-speed idle testing, on model year 2000 and  
newer vehicles only, beginning no earlier than January 1, 2013. However, the  
department, in consultation with the state board, may prescribe alternative test  
procedures that include loaded mode dynamometer or two-speed idle testing for  
vehicles with onboard diagnostic systems that the department and the state board  
determine exhibit operational problems. The department shall ensure, as  
appropriate to the test method, the following:

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1 (a) Emission control systems required by state and federal law are  
2 reducing excess emissions in accordance with the standards adopted pursuant to  
subdivisions (a) and (c) of Section 44013.

3 (b) If a vehicle meets the requirements of Section 44012, a smog check  
4 station licensed to issue certificates shall issue a certificate of compliance or a  
certificate of noncompliance.

5 (c) For other than diesel-powered vehicles, the vehicle's exhaust emissions  
6 of hydrocarbons, carbon monoxide, carbon dioxide, and oxides of nitrogen in an  
7 idle mode or loaded mode are tested in accordance with procedures prescribed by  
the department. In determining how loaded mode and evaporative emissions  
8 testing shall be conducted, the department shall ensure that the emission reduction  
targets for the enhanced program are met.

9 (d) For other than diesel-powered vehicles, the vehicle's fuel evaporative  
10 system and crankcase ventilation system are tested to reduce any nonexhaust  
sources of volatile organic compound emissions, in accordance with procedures  
prescribed by the department.

11 (e) For diesel-powered vehicles, a visual inspection is made of emission  
12 control devices and the vehicle's exhaust emissions are tested in accordance with  
procedures prescribed by the department, that may include, but are not limited to,  
13 onboard diagnostic testing. The test may include testing of emissions of any or all  
of the pollutants specified in subdivision (c) and, upon the adoption of applicable  
14 standards, measurement of emissions of smoke or particulates, or both.

15 (f) A visual or functional check is made of emission control devices  
16 specified by the department, including the catalytic converter in those instances in  
which the department determines it to be necessary to meet the findings of  
17 Section 44001. The visual or functional check shall be performed in accordance  
with procedures prescribed by the department.

18 (g) A determination as to whether the motor vehicle complies with the  
19 emission standards for that vehicle's class and model-year as prescribed by the  
department.

20 (h) An analysis of pass and fail rates of vehicles subject to an onboard  
21 diagnostic test and a tailpipe test to assess whether any vehicles passing their  
onboard diagnostic test have, or would have, failed a tailpipe test, and whether  
22 any vehicles failing their onboard diagnostic test have or would have passed a  
tailpipe test.

23 (i) The test procedures may authorize smog check stations to refuse the  
24 testing of a vehicle that would be unsafe to test, or that cannot physically be  
inspected, as specified by the department by regulation. The refusal to test a  
25 vehicle for those reasons shall not excuse or exempt the vehicle from compliance  
with all applicable requirements of this chapter.

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22. H & S Code section 44013 states:

(a) (1) The department, in cooperation with the state board, shall prescribe maximum emission standards to be applied in inspecting motor vehicles under this chapter.

(2) In prescribing the standards, the department shall undertake studies and experiments which are necessary and feasible, evaluate available data, and confer with automotive engineers.

(3) The standards shall be set at a level reasonably achievable for each class and model of motor vehicle when operating in a reasonably sound mechanical condition, allowing for the effects of installed motor vehicle pollution control devices and the motor vehicle's age and total mileage.

(4) The standards shall be designed so that motor vehicles failing the test specified in Section 44012 will be operated, as soon as possible, with a substantial reduction in emissions, and shall be revised from time to time as experience justifies.

(b) The department, in cooperation with the state board, shall research and prescribe test procedures to be applied in inspecting motor vehicles under this chapter, which procedures shall be simple, cost-effective, and consistent with Section 44012. The department may revise the test procedures from time to time as experience justifies. To the extent that any test procedure revision requires new equipment, or a change in equipment, at licensed smog check stations, the department shall provide a reasonable period of time for the acquisition and installation of that new or changed equipment.

(c) Notwithstanding any other provision of this chapter, the maximum emission standards and test procedures prescribed in subdivisions (a) and (b) for a motor vehicle class and model-year shall not be more stringent than the emission standards and test procedures under which that motor vehicle's class and model-year was certified. Emission standards and test procedures prescribed by the department shall ensure that not more than 5 percent of the vehicles or engines, which would otherwise meet the requirements of this part, will fail the inspection and maintenance test for that class of vehicle or engine.

(d) This section shall become operative five years from the date determined pursuant to Section 32 of the act adding this section.

23. H & S Code section 44015 states in pertinent part:

...

(b) If a vehicle meets the requirements of Section 44012, a smog check station licensed to issue certificates shall issue a certificate of compliance or a certificate of noncompliance.

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24. H & S Code section 44072.2 states, in pertinent part:

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

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

...

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

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

### REGULATORY PROVISIONS

25. Title 16, California Code of Regulations (CCR), section 3340.15 states, in pertinent part:

A smog check station shall meet the following requirements for licensure and shall comply with these requirements at all times while licensed.

...

(e) The station shall make, keep secure, and have available for inspection on request of the bureau, or its representative, legible records showing the station's transactions as a licensee for a period of not less than three years after completion of any transaction to which the records refer. All records shall be open for reasonable inspection and/or reproduction by the bureau or its representative. Station records required to be maintained shall include copies of:

(1) All certificates of compliance and certificates of noncompliance in stock and/or issued,

(2) Repair orders relating to the inspection and repair activities, and

(3) Vehicle inspection reports generated either manually or by the emissions inspection system.

The above listed station records shall be maintained in such a manner that the records for each transaction are kept together, so as to facilitate access to those records by the bureau or its representative. In this regard, the second copy of an issued certificate shall be attached to the final invoice record.

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26. Title 16, CCR section 3340.35 states, in pertinent part:

...

(c) A licensed station shall issue a certificate of compliance or noncompliance to the owner or operator of any vehicle that has been inspected in accordance with the procedures specified in section 3340.42 of this article and has all the required emission control equipment and devices installed and functioning correctly. The following conditions shall apply:

(1) Customers shall be charged the same price for certificates as that paid by the licensed station; and

(2) Sales tax shall not be assessed on the price of certificates.

....

27. Title 16, CCR section 3353 states, in pertinent part:

No work for compensation shall be commenced and no charges shall accrue without specific authorization from the customer in accordance with the following requirements:

...

(c) Additional Authorization. Except as provided in subsection (f), the dealer shall obtain the customer's authorization before any additional work not estimated is done or parts not estimated are supplied. This authorization shall be in written, oral, or electronic form, and shall describe the additional repairs, parts, labor and the total additional cost.

(1) If the authorization from the customer for additional repairs, parts, or labor in excess of the written estimated price is obtained orally, the dealer shall also make a notation on the work order and on the invoice of the date, time, name of the person authorizing the additional repairs, and the telephone number called, if any, together with the specification of the additional repairs, parts, labor and the total additional cost.

...

(d) Estimated Price to Tear Down, Inspect, Report and Reassemble. For purposes of this article, to "tear down" shall mean to disassemble, and "teardown" shall mean the act of disassembly. If it is necessary to tear down a vehicle component in order to prepare a written estimated price for required repair, the dealer shall first give the customer a written estimated price for the teardown. This price shall include the cost of reassembly of the component. The estimated price shall also include the cost of parts and necessary labor to replace items such as gaskets, seals and O rings that are normally destroyed by teardown of the component. If the act of teardown might prevent the restoration of the component to its former condition, the dealer shall write that information on the work order containing the teardown estimate before the work order is signed by the customer.

1           The repair dealer shall notify the customer orally and conspicuously in  
2 writing on the teardown estimate the maximum time it will take the repair dealer  
3 to reassemble the vehicle or the vehicle component in the event the customer  
4 elects not to proceed with the repair or maintenance of the vehicle and shall  
5 reassemble the vehicle within that time period if the customer elects not to  
6 proceed with the repair or maintenance. The maximum time shall be counted from  
7 the date of authorization of teardown.

8           After the teardown has been performed, the dealer shall prepare a written  
9 estimated price for labor and parts necessary for the required repair. All parts  
10 required for such repair shall be listed on the estimate. The dealer shall then  
11 obtain the customer's authorization for either repair or reassembly before any  
12 further work is done.

13           (e) Revising an Itemized Work Order. If the customer has authorized  
14 repairs according to a work order on which parts and labor are itemized, the  
15 dealer shall not change the method of repair or parts supplied without the written,  
16 oral, or electronic authorization of the customer. The authorization shall be  
17 obtained from the customer as provided in subsection (c) and Section 9884.9 of  
18 the Business and Professions Code.

19           .....

20 28. Title 16, CCR section 3356 states, in pertinent part:

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

24           (1) The invoice shall show the automotive repair dealer's  
25 registration number and the corresponding business name and address as shown in  
26 the Bureau's records. If the automotive repair dealer's telephone number is  
27 shown, it shall comply with the requirements of subsection (b) of Section 3371 of  
28 this chapter.

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

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

          .....

29 29. Title 16, CCR section 3373 states:

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

1 **COST RECOVERY**

2 30. Section 125.3 of the Code provides, in pertinent part, that the Bureau may request  
3 the administrative law judge to direct a licentiate found to have committed a violation or  
4 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
5 and enforcement of the case, with failure of the licentiate to comply subjecting the license to not  
6 being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs  
7 may be included in a stipulated settlement.

8 **ACCUSATION**

9 **UNDERCOVER OPERATION: 2008 Ford**

10 31. On April 17, 2015, the Bureau conducted an undercover operation at  
11 Respondent's smog check station. The Bureau's vehicle, a 2008 Ford, was modified to fail a  
12 proper smog inspection due to the missing diesel particulate filter/periodic trap oxidizer  
13 (DPF/PTOX) component.

14 32. A Bureau undercover operator took the vehicle to Respondent's smog check  
15 station and requested a smog check inspection. The operator did not sign or receive a written  
16 estimate before the inspection was started. After the smog test was completed, the operator paid  
17 \$78.20, and was provided invoice number 19940. The operator was also issued a Vehicle  
18 Inspection Report (VIR) bearing Certificate of Compliance Number [REDACTED].

19 33. On April 21, 2015, Bureau personnel re-inspected the vehicle after the smog test  
20 at Respondent's smog check station. The condition of the vehicle as modified before testing at  
21 Respondent's smog check station had not changed; the DPF/PTOX component was still missing.

22 **FIRST CAUSE FOR DISCIPLINE**

23 **(Misleading Statements – ARD Registration)**

24 34. Respondent has subjected its Automotive Repair Dealer Registration to discipline  
25 under Code section 9884.7, subdivision (a)(1), in that on April 17, 2015, it made statements  
26 which it knew, or which by the exercise of reasonable care should have known, were untrue or  
27 misleading when it issued electronic Certificate of Compliance No. [REDACTED] for the 2008

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1 Ford, certifying that the vehicle was in compliance with applicable laws and regulations when, in  
2 fact, the vehicle had a missing DPF/PTOX component.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Fraud – ARD Registration)**

5 35. Respondent has subjected its Automotive Repair Dealer Registration to discipline  
6 under Code section 9884.7, subdivision (a)(4), in that Respondent committed an act which  
7 constitutes fraud by issuing electronic Certificate of Compliance No. [REDACTED] for the 2008  
8 Ford, without performing a bona fide inspection of the emission control devices and systems on  
9 the vehicle, thereby depriving the People of the State of California of the protection afforded by  
10 the Motor Vehicle Inspection Program (H & S Code section 44000, et seq.).

11 **THIRD CAUSE FOR DISCIPLINE**

12 **(Failure to Comply with the Code – ARD Registration)**

13 36. Respondent has subjected its Automotive Repair Dealer Registration to discipline  
14 under Code section 9884.7, subdivision (a)(6), in that it failed to comply with the Code in the  
15 following material respects:

16 a. **Section 9884.8:** Respondent provided invoice 19940 dated April 17, 2015,  
17 that had the incorrect business address for Respondent.

18 b. **Section 9884.9, subdivision (a):** Respondent failed to give to the  
19 customer a written estimated price for labor and parts necessary for a specific job.

20 **FOURTH CAUSE FOR DISCIPLINE**

21 **(Violation of Regulations – ARD Registration)**

22 37. Respondent has subjected its Automotive Repair Dealer Registration to discipline  
23 under Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with  
24 provisions section 3373 of title 16 of the California Code of Regulations in a material respect.  
25 The circumstances are that Respondent indicated in a vehicle inspection report that the 2008  
26 Ford passed the smog check inspection. Respondent also indicated that the 2008 Ford passed all  
27 visual inspection categories including computers, sensors, switches, and wiring; exhaust gas  
28 after-treatment systems; fuel metering system; turbocharger/supercharger; crankcase emission

1 controls; exhaust gas recirculation; other emission related components/systems; and vacuum  
2 lines to sensors/switches. However, the diesel particulate filter/periodic trap oxidizer was  
3 missing. Respondent's vehicle inspection report contained false and/or misleading information  
4 that would mislead its customer into believing that the 2008 Ford passed the smog check  
5 inspection when it did not.

6 **FIFTH CAUSE FOR DISCIPLINE**

7 **(Violation of the Motor Vehicle Inspection Program - Smog Check Station License)**

8 38. Respondent has subjected its Smog Check Station License to discipline under H  
9 & S Code section 44072.2, subdivision (a), in that on April 17, 2015, regarding the 2008 Ford, it  
10 violated the following sections of the H & S Code:

11 a. **Section 44012:** Respondent failed to perform the emission control tests on  
12 the vehicle in accordance with procedures prescribed by the Department, pursuant to H & S  
13 Code section 44013.

14 b. **Section 44012, subdivision (f):** Respondent failed to perform visual or  
15 functional tests on the vehicle in accordance with procedures prescribed by the Department,  
16 pursuant to H & S Code section 44013.

17 c. **Section 44015, subdivision (b):** Respondent issued electronic Certificate  
18 of Compliance No. [REDACTED] without properly testing and inspecting the vehicle to determine  
19 if it was in compliance with Code section 44012 .

20 **SIXTH CAUSE FOR DISCIPLINE**

21 **(Violations of Regulations - Smog Check Station License)**

22 39. Respondent has subjected its Smog Check Station License to discipline under H  
23 & S Code section 44072.2, subdivision (c), in that on April 17, 2015, regarding the 2008 Ford, it  
24 violated the following sections of the CCR:

25 a. **Section 3340.35, subdivision (c):** Respondent issued electronic Certificate  
26 of Compliance No. [REDACTED] to a vehicle that had not been inspected in accordance with H &  
27 S Code section 3340.42 and/or did not have required emission control devices installed and  
28 functioning.

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

3           c.     **Section 3356, subdivision (a)(1):** Respondent failed to provide the  
4 customer with a written estimate before the inspection started, as provided for in section 9884.8,  
5 which indicates the automotive repair dealer's business name as shown in the Bureau's records,  
6 as detailed in paragraphs 31 to 33, above.

7           d.     **Section 3373:** Respondent made false or misleading records with respect  
8 to the 2008 Ford, by issuing Certificate of Compliance No [REDACTED] without performing  
9 bona fide inspections of the emission control devices and systems on the 2008 Ford, thereby  
10 depriving the People of the State of California of the protections afforded under the Motor  
11 Vehicle Inspection Program (H & S Code section 44000, et seq.).

12                                   **SEVENTH CAUSE FOR DISCIPLINE**

13                                   **(Dishonesty, Fraud or Deceit - Smog Check Station License)**

14           40.     Respondent has subjected its Smog Check Station License to discipline under H  
15 & S Code section 44072.2, subdivision (d), in that on April 17, 2015, regarding the 2008 Ford, it  
16 committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing  
17 electronic Certificate of Compliance No. [REDACTED] for that vehicle without performing a bona  
18 fide inspection of the emission control devices and systems on the vehicle.

19                                   **CONSUMER COMPLAINT (GIBBS): 2004 FORD**

20           41.     On June 11, 2015, the Bureau received a complaint from Taylor Gibbs (Gibbs).  
21 Gibbs took her 2004 Ford to Respondent to have the overhead console, front seat handle, and  
22 headliner replaced. Gibbs also requested a diagnosis based on the activated service engine light  
23 indicator. Gibbs then went on a three-week vacation. When she returned to Respondent's shop,  
24 her car's engine was disassembled. When Gibbs requested that work be stopped, Respondent  
25 would not release the vehicle to be towed to another facility without receiving \$4,259.97. Gibbs  
26 reported the matter to the Orange County Sheriff's Department.

27           42.     The Bureau's investigation revealed Respondent charged Gibbs \$313.60 to  
28 replace the camshaft position sensor, \$282.00 to replace the air conditioning compressor,

1 \$145.00 to evacuate and recharge the air conditioner system, \$245.00 to replace the air  
2 conditioner receiver/dryer, \$98.00 for labor to install air conditioner dye, and \$400.00 to remove  
3 the left cylinder head. In addition, \$40.00 was charged for freon and \$25.00 was charged for the  
4 air conditioner dye part that were not installed. Bureau inspection found that the cylinder head  
5 was still installed on the engine. The air conditioning parts, the camshaft position sensor, and dye  
6 were not installed. The air conditioning system was not recharged. Vehicle inspection further  
7 showed that the air conditioner compressor and air conditioner receiver/dryer were not  
8 completely installed and mounted. In addition, the camshaft position sensor and the air  
9 conditioner hoses were not installed, the left side cylinder head was still installed on the engine,  
10 and the intake manifold was in the back of the vehicle. Respondent charged a total of \$1,548.60  
11 for work not performed and/or parts not installed and/or replaced.

12 43. Respondent failed to provide an estimate to tear down, inspect, report, and  
13 reassemble parts. Respondent also failed to provide an estimate for the removal of the left side  
14 cylinder head. In addition, Respondent failed to obtain the customer's authorization for  
15 additional repairs in that on May 11, 2015, P. Walker (Gibb's boyfriend) signed repair order  
16 number 020038 in the amount of \$576.95. On May 14, 2015, Gibbs signed repair order number  
17 020038 for \$659.88. The first customer was not notified of the increase in the price of the  
18 overhead console bracket from \$42.95 to \$62.02, the decrease in the price of the left seat  
19 reclining handle from \$32.00 to \$24.95, the additional charge of \$49.95 for checking temperature  
20 vent and leaks on exposed hoses, compressor, and condenser, and \$20.00 for the replacement of  
21 wipers. Moreover, Respondent failed to describe the service diagnosis for the replacement of the  
22 spark plugs and the cleaning of the combustion system.

### 23 **EIGHTH CAUSE FOR DISCIPLINE**

#### 24 **(Untrue or Misleading Statements – ARD Registration)**

25 44. Respondent has subjected its Automotive Repair Dealer Registration to discipline  
26 under Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized statements  
27 in invoice number 020038, which it knew, or in the exercise of reasonable care should have  
28 known to be untrue or misleading, as follows:

1 a. Respondent invoiced and charged Gibbs \$313.60 to replace the camshaft  
2 position sensor that was not installed.

3 b. Respondent invoiced and charged Gibbs \$282.00 to evaluate and recharge  
4 the air conditioning system that was not recharged.

5 c. Respondent invoiced and charged Gibbs \$145.00 to replace the air  
6 conditioning compressor that was not installed.

7 d. Respondent invoiced and charged Gibbs \$245.00 to replace the air  
8 conditioner receiver/dryer that was not replaced

9 e. Respondent invoiced and charged Gibbs \$98.00 for labor to install air  
10 conditioner dye that was not installed.

11 f. Respondent invoiced and charged Gibbs \$400.00 to remove the left  
12 cylinder head that remained installed on the engine.

13 g. Respondent invoiced and charged Gibbs \$40.00 for freon that was not  
14 installed.

15 h. Respondent invoiced and charged Gibbs \$25.00 for the air conditioner dye  
16 part that was not installed.

17 **NINTH CAUSE FOR DISCIPLINE**

18 **(Fraud – ARD Registration)**

19 45. Respondent has subjected its Automotive Repair Dealer Registration to discipline  
20 under Code section 9884.7, subdivision (a)(4), in that Respondent committed acts constituting  
21 fraud, as follows:

22 a. On May 11, 2015, Respondent issued repair order number 020038 for a  
23 2004 Ford to a customer named P. Walker in the amount of \$576.95. On May 14, 2015,  
24 Respondent reissued repair order number 020038 for the 2004 Ford to Gibbs in the amount of  
25 \$659.88. Respondent failed to notify the first customer of additional repairs or charges for the  
26 2004 Ford.

27 b. Respondent invoiced and charged Gibbs, as detailed in paragraph 43,  
28 above, for a total of \$1,548.60 in fraud.



1 d. **Section 3356, subdivision (a)(2)(A)**: Respondent failed to provide Gibbs  
2 an invoice for service and repair work performed, and parts supplied, as provided for in Code  
3 Section 9884.8, which separately lists, describes and identifies all of the service and repair work  
4 performed, including all diagnostic and warranty work, and the price for each described service  
5 and repair.

6 e. **Section 3373**: Respondent stated in invoice 020038 that the replacement  
7 parts were removed and replaced when in fact Bureau reinspection found that the cylinder head  
8 was still installed on the engine, the air conditioning parts were not installed and in the back of  
9 the vehicle, the camshaft position sensor was not installed, the air conditioning system was not  
10 recharged, and dye was not installed, which caused the invoice to be false or misleading, thereby  
11 misleading or deceiving Gibbs into believing her vehicle parts were replaced.

#### 12 **TWELFTH CAUSE FOR DISCIPLINE**

##### 13 **(Dishonesty, Fraud or Deceit – Lamp and Brake Station License)**

14 48. Respondent has subjected its Lamp Station License and Brake Station License to  
15 discipline under Code section 9889.3, subdivision (d), in that on and between May 11 and June  
16 9, 2015, regarding the 2004 Ford, it committed acts involving dishonesty, fraud or deceit  
17 whereby another was injured by invoicing and charging a customer for vehicle parts that were  
18 not installed and for repairs that were not performed, as detailed in paragraphs 41 to 47, above.

#### 19 **PETITION TO REVOKE PROBATION**

20 49. Petitioner incorporates by reference as though fully set forth herein the allegations  
21 contained in paragraphs 31 through 48 above.

22 50. This Petition to Revoke Probation is brought under Condition 8 of the  
23 Disciplinary Order that adopted the decision in Case No. 77/11-24, referenced in paragraph 6,  
24 above, which states:

##### 25 **Violation of Probation.**

26 Should the Director of the Department of Consumer Affairs determine that  
27 Respondent has failed to comply with the terms and conditions of probation, the  
28 Department may, after giving notice and opportunity to be heard, revoke the  
registration and/or license(s).

1 **CAUSE TO REVOKE PROBATION**

2 **(Obey All Laws)**

3 51. At all times after the effective date of Respondent's probation, Condition 2 stated;  
4 "Comply with all statutes, regulations and rules governing automotive inspections, estimates and  
5 repairs."

6 52. Respondent's probation is subject to revocation because it failed to comply with  
7 Probation Condition 2, referenced above. The facts and circumstances regarding this violation  
8 are as follows:

9 a. On April 17, 2015, the Bureau conducted an undercover operation at  
10 Respondent's smog check station and found that Respondent continued to issue fraudulent  
11 certificates of compliance, as detailed in paragraphs 31 to 40, above, and are incorporated herein  
12 by reference as if fully set forth.

13 b. On June 11, 2015, the Bureau received a complaint from Taylor Gibbs  
14 regarding Respondent's fraudulent business practices, in that Respondent violated the law on  
15 false and misleading records, as detailed in paragraphs 41 to 48, above, and are incorporated  
16 herein by reference as if fully set forth.

17 **OTHER MATTERS**

18 53. Pursuant to Code section 9884.7, subdivision (c), the Director may suspend,  
19 revoke or place on probation the registration for all places of business operated in this state by  
20 Respondent Shervin Enterprises, Inc. (Respondent), doing business as Auto Care Experts,  
21 including Automotive Repair Dealer Registration Number ARD 187074, issued to Shervin  
22 Enterprises, Inc., doing business as Auto Care Experts, upon a finding that Respondent has, or is,  
23 engaged in a course of repeated and willful violations of the laws and regulations pertaining to an  
24 automotive repair dealer.

25 54. Pursuant to H & S Code section 44072.8, if Smog Check Station License Number  
26 RC 187074, issued to Shervin Enterprises, Inc., doing business as Auto Care Experts, is revoked  
27 or suspended, any additional license issued under Chapter 5 of the Health and Safety Code

28 ///

1 (Motor Vehicle Inspection Program) in the name of said licensee may be likewise revoked or  
2 suspended by the Director.

3 55. Pursuant to Condition 8 of the Disciplinary Order that adopted the decision in  
4 Case No. 77/11-24, referenced in paragraph 6, should the Director of the Department of  
5 Consumer Affairs determine that Respondent has failed to comply with the terms and conditions  
6 of probation, the Department may, after giving notice and opportunity to be heard, revoke Lamp  
7 Station License Number LS 187074, issued to Shervin Enterprises, Inc., doing business as Auto  
8 Care Experts.

9 56. Pursuant to Code section 9889.9, if Lamp Station License Number LS 187074,  
10 issued to Shervin Enterprises, Inc., doing business as Auto Care Experts, is revoked or  
11 suspended, any additional license issued under Articles 5 and 6 of Chapter 20.3 of the Business  
12 and Professions Code in the name of said licensee may be likewise revoked or suspended by the  
13 Director.

14 57. Pursuant to Condition 8 of the Disciplinary Order that adopted the decision in Case  
15 No. 77/11-24, referenced in paragraph 6, should the Director of the Department of Consumer  
16 Affairs determine that Respondent has failed to comply with the terms and conditions of  
17 probation, the Department may, after giving notice and opportunity to be heard, revoke Brake  
18 Station License Number BS 187074 issued to Shervin Enterprises, Inc., doing business as Auto  
19 Care Experts.

20 58. Pursuant to Code section 9889.9, if Brake Station License Number BS 187074  
21 issued to Shervin Enterprises, Inc., doing business as Auto Care Experts, is revoked or  
22 suspended, any additional license issued under Articles 5 and 6 of Chapter 20.3 of the Business  
23 and Professions Code in the name of said licensee may be likewise revoked or suspended by the  
24 Director.

25 **PRAYER**

26 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this  
27 Accusation and Petition to Revoke Probation, and that following the hearing, the Director of  
28 Consumer Affairs issue a decision:

1           1.       Revoking the probation that was granted by the Bureau of Automotive Repair in  
2 Case No. 77/11-24 and imposing the disciplinary order that was stayed thereby revoking  
3 Automotive Repair Dealer Registration No. ARD 187074 issued to Shervin Enterprises, Inc.,  
4 doing business as Auto Care Experts, with Farzin Lajevardi as President;

5           2.       Revoking or suspending Automotive Repair Dealer Registration No. ARD  
6 187074, issued to Shervin Enterprises, Inc., doing business as Auto Care Experts, with Farzin  
7 Lajevardi as President;

8           3.       Revoking or suspending Smog Check Station License No. RC 187074, issued to  
9 Shervin Enterprises, Inc., doing business as Auto Care Experts, with Farzin Lajevardi as  
10 President.

11          4.       Revoking or suspending Lamp Station License No. LS 187074, issued to Shervin  
12 Enterprises, Inc., doing business as Auto Care Experts, with Farzin Lajevardi as President.

13          5.       Revoking or suspending Brake Station License No. BS 187074, issued to Shervin  
14 Enterprises, Inc., doing business as Auto Care Experts, with Farzin Lajevardi as President.

15          6.       Ordering Shervin Enterprises, Inc., doing business as Auto Care Experts, with  
16 Farzin Lajevardi as President to pay the Director of Consumer Affairs the reasonable costs of the  
17 investigation and enforcement of this case, pursuant to Business and Professions Code section  
18 125.3; and

19          7.       Taking such other and further action as deemed necessary and proper.  
20  
21

22  
23 DATED: March 8, 2016

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

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