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

12 In the Matter of the Accusation Against:

Case No. 77/15-29

13 **Z & M SMOG & REPAIR**
14 **AHMAD ZIA CHOPAN, PARTNER**
15 **MIKHAIL IVANOVICH TKACHEV, PARTNER**
16 **613 Galveston**
17 **West Sacramento, CA 95691**

A C C U S A T I O N

18 **Automotive Repair Dealer Reg. No. ARD 216481**
19 **Smog Check Station License No. RC 216481**
20 **Lamp Station License No. LS 216481**
21 **Brake Station License No. BS 216481**

22 **and**

23 **AHMAD ZIA CHOPAN**
24 **613 Galveston Street**
25 **West Sacramento, CA 95691**

26 **Smog Check Inspector License No. EO 132232**
27 **Smog Check Repair Technician License No.**
28 **EI 132232 (formerly Advanced Emission Specialist**
Technician License No. EA 132232)
Brake Adjuster License No. BA 132232
Lamp Adjuster License No. LA 132232

Respondents.

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1 Complainant alleges:

2 **PARTIES**

3 1. Patrick Dorais (“Complainant”) brings this Accusation solely in his official capacity
4 as the Chief of the Bureau of Automotive Repair (“Bureau”), Department of Consumer Affairs.

5 **Z & M Smog & Repair**

6 2. In or about 2001, the Director of Consumer Affairs (“Director”) issued Automotive
7 Repair Dealer Registration Number ARD 216481 (“registration”) to Z & M Smog & Repair
8 (“Respondent Z & M”), with Ahmad Zia Chopan (“Respondent Chopan”) and Mikhail Ivanovich
9 Tkachev as partners. The registration was in full force and effect at all times relevant to the
10 charges brought herein and will expire on May 31, 2015, unless renewed.

11 3. On or about July 30, 2001, the Director issued Smog Check Station License Number
12 RC 216481 to Respondent Z & M. The smog check station license was in full force and effect at
13 all times relevant to the charges brought herein and will expire on May 31, 2015, unless renewed.

14 4. On or about July 26, 2001, the Director issued Lamp Station License Number LS
15 216481 to Respondent Z & M. The lamp station license was in full force and effect at all times
16 relevant to the charges brought herein and will expire on May 31, 2015, unless renewed.

17 5. On or about July 26, 2001, the Director issued Brake Station License Number BS
18 216481 to Respondent Z & M. The brake station license was in full force and effect at all times
19 relevant to the charges brought herein and will expire on May 31, 2015, unless renewed.

20 **Ahmad Zia Chopan**

21 6. In or about 1997, the Director issued Advanced Emission Specialist Technician
22 License Number EA 132232 to Respondent Chopan. Respondent's advanced emission specialist
23 technician license expired on September 30, 2012. Pursuant to California Code of Regulations,
24 title 16, section 3340.28, subdivision (e), the license was renewed, pursuant to Respondent's
25 election, as Smog Check Inspector License Number EO 132232 and Smog Check

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1 Repair Technician License Number EI 132232 ("technician licenses"), effective August 17,
2 2012.¹ Respondent's Smog Check Repair Technician License expired on September 30, 2014 and
3 had not been renewed, and his Smog Check Inspector License will expire on September 30, 2016,
4 unless renewed.

5 7. In or about 2001, the Director issued Brake Adjuster License Number BA 132232 to
6 Respondent Chopan. The brake adjuster license was in full force and effect at all times relevant
7 to the charges brought herein and will expire on September 30, 2017, unless renewed.

8 8. In or about 1997, the Director issued Lamp Adjuster License Number LA 132232 to
9 Respondent Chopan. The lamp adjuster license was in full force and effect at all times relevant to
10 the charges brought herein and will expire on September 30, 2017, unless renewed.

11 **JURISDICTION**

12 9. Business and Professions Code ("Bus. & Prof. Code") section 9884.7 provides that
13 the Director may revoke an automotive repair dealer registration.

14 10. Bus. & Prof. Code section 9884.13 provides, in pertinent part, that the expiration of a
15 valid 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 permanently
17 invalidating (suspending or revoking) a registration.

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

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

25
26 ¹ Effective August 1, 2012, California Code of Regulations, title 16, sections 3340.28,
27 3340.29, and 3340.30 were amended to implement a license restructure from the Advanced
28 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 13. Health and Safety Code ("Health & Saf. Code") section 44002 provides, in pertinent
2 part, that the Director has all the powers and authority granted under the Automotive Repair Act
3 for enforcing the Motor Vehicle Inspection Program.

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

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

11 16. California Code of Regulations, title 16, section 3340.28, subdivision (e), states that
12 "[u]pon renewal of an unexpired Basic Area Technician license or an Advanced Emission
13 Specialist Technician license issued prior to the effective date of this regulation, the licensee may
14 apply to renew as a Smog Check Inspector, Smog Check Repair Technician, or both.

15 **STATUTORY PROVISIONS**

16 17. Bus. & Prof. Code section 9884.7 states, in pertinent part:

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

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

26

27 (4) Any other conduct that constitutes fraud.

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

. . . .

(c) Notwithstanding subdivision (b), the director may suspend, revoke or

1 place on probation the registration for all places of business operated in this state by
2 an automotive repair dealer upon a finding that the automotive repair dealer has, or is,
engaged in a course of repeated and willful violations of this chapter, or regulations
adopted pursuant to it.

3 18. Bus. & Prof. Code section 9884.8 states, in pertinent part, that “[a]ll work done by an
4 automotive repair dealer, including all warranty work, shall be recorded on an invoice and shall
5 describe all service work done and parts supplied”

6 19. Bus. & Prof. Code section 9884.9, subdivision (a), states, in pertinent part, that “[t]he
7 automotive repair dealer shall give to the customer a written estimated price for labor and parts
8 necessary for a specific job. No work shall be done and no charges shall accrue before
9 authorization to proceed is obtained from the customer”

10 20. 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
9889.1) of the Automotive Repair Act] if the licensee or any partner, officer, or
13 director thereof:

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

15

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

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

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

22 21. Bus. & Prof. Code section 9889.9 states that “[w]hen any license has been revoked or
23 suspended following a hearing under the provisions of this article [Article 7 (commencing with
24 section 9889.1) of the Automotive Repair Act], any additional license issued under Articles 5 and
25 6 of this chapter in the name of the licensee may be likewise revoked or suspended by the
26 director.”

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

28 “Board” as used in any provision of this Code, refers to the board in

1 which the administration of the provision is vested, and unless otherwise expressly
2 provided, shall include "bureau," "commission," "committee," "department,"
3 "division," "examining committee," "program," and "agency."

4 23. Bus. & Prof. Code section 477, subdivision (b), states, in pertinent part, that a
5 "license" includes "registration" and "certificate."

6 24. Health & Saf. Code section 44072.2 states, in pertinent part:

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

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

13 **COST RECOVERY**

14 25. 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 **UNDERCOVER OPERATION #1: 2002 HONDA**

19 26. On or about December 19, 2013, a representative of the Bureau, acting in an
20 undercover capacity ("operator"), took the Bureau's 2002 Honda to Respondent Z & M's facility
21 and requested smog, lamp and brake inspections on the vehicle. The right front and right rear
22 brake rotors on the Bureau-documented vehicle were machined below the manufacturer's
23 minimum thickness specifications, the right headlamp was out of adjustment, and the bulb in the
24 right outer tail lamp was defective, preventing the lamp from functioning. Respondent Chopan
25 ("Chopan") advised the operator that he was too busy to inspect the vehicle and requested that he
26 return later.

27 27. At approximately 1128 hours that same day, the operator took the vehicle back to the
28 facility and requested smog, brake and lamp inspections. At approximately 1145 hours, Chopan
informed the operator that the vehicle had failed the smog inspection due to incomplete monitors.
Chopan told the operator to drive the vehicle about 30 miles and return later to finish the

1 inspection. Chopan did not provide the operator with a written estimate or invoice (Chopan did
2 not charge the operator for any services during the visit).

3 28. On or about December 23, 2013, the operator returned the vehicle to the facility for
4 the inspections. Later, Chopan told the operator that the rear side brake light was not working.
5 Chopan had the operator remove the inner tail light cover and inspect the bulb. Chopan
6 confirmed that the bulb was in need of replacement. Chopan sold the operator a new bulb for \$2
7 and assisted the operator in installing it on the vehicle. Chopan completed the lamp inspection.
8 At approximately 1045 hours, Chopan informed the operator that the vehicle passed the brake,
9 lamp and smog inspections. The operator paid Chopan a total of \$82 in cash and received copies
10 of a vehicle inspection report for the smog inspection, an invoice, Certificate of Brake
11 Adjustment No. BC [REDACTED], and Certificate of Lamp Adjustment No. LC [REDACTED]. The
12 operator left the facility.

13 29. On or about December 30, 2013, the Bureau inspected the vehicle and found that the
14 right headlamp had been adjusted and the bulb in the right outer tail lamp had been replaced. The
15 Bureau also found that none of the wheels had been removed, indicating that the brake inspection
16 had not been properly performed on the vehicle. Further, the right front and right rear brake
17 rotors were not within manufacturer's specifications.

18 **FIRST CAUSE FOR DISCIPLINE**

19 **(Untrue or Misleading Statements)**

20 30. Respondent Z & M's registration is subject to disciplinary action pursuant to Bus. &
21 Prof. Code section 9884.7, subdivision (a)(1), Respondent made or authorized a statement which
22 it knew or in the exercise of reasonable care should have known to be untrue or misleading, as
23 follows: Respondent Z & M's brake and lamp adjuster, Respondent Chopan, certified under
24 penalty of perjury on Brake Certificate No. BC [REDACTED] that the drums and rotors on the
25 Bureau's 2002 Honda were in a satisfactory condition. In fact, the right front and right rear disc
26 brake rotors on the vehicle were machined below the manufacturer's minimum thickness
27 specifications at the time the vehicle was taken to Respondent Z & M's facility.

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

3 b. **Section 3321, subdivision (c)(2)**: Respondent Z & M issued Brake Certificate No.
4 BC [REDACTED] as to the Bureau's 2002 Honda when the brake system on the vehicle had not been
5 completely tested or inspected.

6 **FIFTH CAUSE FOR DISCIPLINE**

7 **(Failure to Comply with the Bus. & Prof. Code)**

8 34. Respondent Z & M's brake and lamp station licenses are subject to disciplinary action
9 pursuant to Bus. & Prof. Code section 9889.3, subdivisions (a) and (h), in that Respondent
10 violated Bus. & Prof. Code sections 9884.8 and 9884.9, subdivision (a), relating to its licensed
11 activities, as set forth in 32 above.

12 **SIXTH CAUSE FOR DISCIPLINE**

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

14 35. Respondent Z & M's brake station license is subject to disciplinary action pursuant to
15 Bus. & Prof. Code section 9889.3, subdivision (c), in that Respondent failed to comply with the
16 provisions of California Code of Regulations, title 16, sections 3305, subdivision (a), and 3321,
17 subdivision (c)(2), as set forth in paragraph 33 above.

18 **SEVENTH CAUSE FOR DISCIPLINE**

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

20 36. Respondent Z & M's brake and lamp station licenses are subject to disciplinary action
21 pursuant to Bus. & Prof. Code section 9889.3, subdivision (d), in that Respondent committed an
22 act involving dishonesty, fraud, or deceit whereby another was injured, as set forth in paragraph
23 31 above.

24 **EIGHTH CAUSE FOR DISCIPLINE**

25 **(Violations of Regulations)**

26 37. Respondent Chopan's brake adjuster license is subject to disciplinary action pursuant
27 to Bus. & Prof. Code section 9889.3, subdivision (c), in that he failed to comply with provisions

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1 of California Code of Regulations, title 16, sections 3305, subdivision (a), and 3321, subdivision
2 (c)(2), as set forth in paragraph 33 above.

3 **NINTH CAUSE FOR DISCIPLINE**

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

5 38. Respondent Chopan's brake adjuster license is subject to disciplinary action pursuant
6 to Bus. & Prof. Code section 9889.3, subdivision (d), in that Respondent committed an act
7 involving dishonesty, fraud, or deceit whereby another was injured, as set forth in paragraph 31
8 above.

9 **UNDERCOVER OPERATION #2: 2007 NISSAN**

10 39. On or about January 23, 2014, the undercover operator ("operator") took the Bureau's
11 2007 Nissan to Respondent Z & M's facility. The right front and left rear brake rotors on the
12 Bureau-documented vehicle were machined below the manufacturer's minimum thickness
13 specifications, the right headlamp was out of adjustment, and the bulbs in both reverse lamps
14 were defective, preventing the lamps from functioning. At approximately 1045 hours, the
15 operator met with Chopan and requested smog, brake and lamp inspections on the vehicle. At
16 approximately 1101 hours, Chopan informed the operator that the back-up lights were not
17 working. Chopan told the operator to have the back-up lights repaired and to return for a re-
18 inspection. The operator paid Chopan \$80 in cash for the inspections, but was not given an
19 invoice at that time or a written estimate. The operator left the facility. Later, the Bureau
20 replaced the bulbs in the reverse lamps.

21 40. At approximately 1238 hours, the operator returned the vehicle to the facility. At
22 approximately 1257 hours, the operator was advised that the vehicle passed the brake, lamp and
23 smog inspections. The operator received an invoice, a vehicle inspection report for the smog
24 inspection, Certificate of Brake Adjustment No. BC [REDACTED] and Certificate of Lamp Adjustment
25 No. LC [REDACTED]. The operator left the facility.

26 41. On or about January 23, 2014, the Bureau inspected the vehicle and found that the
27 right headlamp had been adjusted and the reverse lamps were functioning normally. The Bureau
28 also found that none of the wheels had been removed, indicating that the brake inspection had not

1 been properly performed on the vehicle. Further, the right front and left rear brake rotors were
2 not within manufacturer's specifications.

3 **TENTH CAUSE FOR DISCIPLINE**

4 **(Untrue or Misleading Statements)**

5 42. Respondent Z & M's registration is subject to disciplinary action pursuant to Bus. &
6 Prof. Code section 9884.7, subdivision (a)(1), 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 Z & M's brake and lamp adjuster, Respondent Chopan, certified under
9 penalty of perjury on Brake Certificate No. BC [REDACTED] that the drums and rotors on the
10 Bureau's 2007 Nissan were in a satisfactory condition. In fact, the right front and left rear brake
11 rotors on the vehicle were machined below the manufacturer's minimum thickness specifications
12 at the time the vehicle was taken to Respondent Z & M's facility.

13 **ELEVENTH CAUSE FOR DISCIPLINE**

14 **(Fraud)**

15 43. Respondent Z & M's registration is subject to disciplinary action pursuant to Bus. &
16 Prof. Code section 9884.7, subdivision (a)(4), Respondent committed an act constituting fraud, as
17 follows: Respondent Z & M obtained payment from the operator for performing the applicable
18 inspections, adjustments, or repairs of the brake and lighting systems on the Bureau's 2007
19 Nissan as specified by the Bureau and in accordance with the Vehicle Code. In fact, Respondent
20 Z & M's employee, Respondent Chopan, failed to perform the necessary inspections,
21 adjustments, and repairs in compliance with Bureau Regulations or the Vehicle Code.

22 **TWELFTH CAUSE FOR DISCIPLINE**

23 **(Failure to Comply with the Bus. & Prof. Code)**

24 44. Respondent Z & M's registration is subject to disciplinary action pursuant to Bus. &
25 Prof. Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with section
26 9884.9, subdivision (a), of that Code in a material respect, as follows: Respondent Z & M failed
27 to ensure that the operator was provided with a written estimate for the smog, brake and lamp
28 inspections on the Bureau's 2007 Nissan.

1 **THIRTEENTH CAUSE FOR DISCIPLINE**

2 **(Violations of Regulations)**

3 45. Respondent Z & M's registration is subject to disciplinary action pursuant to Bus. &
4 Prof. Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with
5 provisions of California Code of Regulations, title 16, in the following material respects:

6 a. **Section 3305, subdivision (a):** Respondent Z & M's brake and lamp adjuster,
7 Respondent Chopan, failed to perform the inspection of the brake system on the Bureau's 2007
8 Nissan in accordance with the specifications, instructions, and directives issued by the Bureau and
9 the vehicle manufacturer.

10 b. **Section 3321, subdivision (c)(2):** Respondent Z & M issued Brake Certificate No.
11 BC [REDACTED] as to the Bureau's 2007 Nissan when the brake system on the vehicle had not been
12 completely tested or inspected.

13 **FOURTEENTH CAUSE FOR DISCIPLINE**

14 **(Failure to Comply with the Bus. & Prof. Code)**

15 46. Respondent Z & M's brake and lamp station licenses are subject to disciplinary action
16 pursuant to Bus. & Prof. Code section 9889.3, subdivisions (a) and (h), in that Respondent
17 violated Bus. & Prof. Code section 9884.9, subdivision (a), relating to its licensed activities, as set
18 forth in 44 above.

19 **FIFTEENTH CAUSE FOR DISCIPLINE**

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

21 47. Respondent Z & M's brake station license is subject to disciplinary action pursuant to
22 Bus. & Prof. Code section 9889.3, subdivision (c), in that Respondent failed to comply with the
23 provisions of California Code of Regulations, title 16, sections 3305, subdivision (a), and 3321,
24 subdivision (c)(2), as set forth in paragraph 45 above.

25 **SIXTEENTH CAUSE FOR DISCIPLINE**

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

27 48. Respondent Z & M's brake and lamp station licenses are subject to disciplinary action
28 pursuant to Bus. & Prof. Code section 9889.3, subdivision (d), in that Respondent committed an

1 act involving dishonesty, fraud, or deceit whereby another was injured, as set forth in paragraph
2 43 above.

3 **SEVENTEENTH CAUSE FOR DISCIPLINE**

4 **(Violations of Regulations)**

5 49. Respondent Chopan's brake adjuster license is subject to disciplinary action pursuant
6 to Bus. & Prof. Code section 9889.3, subdivision (c), in that he failed to comply with provisions
7 of California Code of Regulations, title 16, sections 3305, subdivision (a), and 3321, subdivision
8 (c)(2), as set forth in paragraph 45 above.

9 **EIGHTEENTH CAUSE FOR DISCIPLINE**

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

11 50. Respondent Chopan's brake adjuster license is subject to disciplinary action pursuant
12 to Bus. & Prof. Code section 9889.3, subdivision (d), in that Respondent committed an act
13 involving dishonesty, fraud, or deceit whereby another was injured, as set forth in paragraph 43
14 above.

15 **UNDERCOVER OPERATION #3: 2001 MITSUBISHI**

16 51. On or about February 3, 2014, the undercover operator ("operator") took the Bureau's
17 2001 Mitsubishi to Respondent Z & M's facility and requested smog, brake, and lamp inspections
18 on the vehicle. The right front and left rear brake rotors on the Bureau-documented vehicle were
19 machined below the manufacturer's minimum thickness specifications and both headlamps were
20 out of adjustment. Chopan did not provide the operator with a written estimate. At
21 approximately 1020 hours, Chopan informed the operator that the vehicle passed the brake, lamp
22 and smog inspections. The operator paid Chopan \$80 in cash for the inspections and received an
23 invoice, a vehicle inspection report for the smog inspection, Certificate of Brake Adjustment No.
24 BC [REDACTED], and Certificate of Lamp Adjustment No. LC [REDACTED]. The operator left the
25 facility.

26 52. On or about February 5, 2014, the Bureau inspected the vehicle and found that the
27 right headlamp had been adjusted within specifications, but that the left headlamp was out of
28 adjustment. The Bureau also found that none of the wheels had been removed, indicating that the

1 brake inspection had not been properly performed on the vehicle, the right front and left rear
2 brake rotors were not within manufacturer's specifications,

3 **NINETEENTH CAUSE FOR DISCIPLINE**

4 **(Untrue or Misleading Statements)**

5 53. Respondent Z & M's registration is subject to disciplinary action pursuant to Bus. &
6 Prof. Code section 9884.7, subdivision (a)(1), Respondent made or authorized statements which it
7 knew or in the exercise of reasonable care should have known to be untrue or misleading, as
8 follows:

9 a. Respondent Z & M's brake and lamp adjuster, Respondent Chopan, certified under
10 penalty of perjury on Brake Certificate No. BC [REDACTED] that the drums and rotors on the
11 Bureau's 2001 Mitsubishi were in a satisfactory condition. In fact, the right front and left rear
12 brake rotors on the vehicle were machined below the manufacturer's minimum thickness
13 specifications at the time the vehicle was taken to Respondent Z & M's facility.

14 b. Respondent Z & M's brake and lamp adjuster, Respondent Chopan, certified under
15 penalty of perjury on Lamp Certificate No. LC [REDACTED] that the applicable adjustment had been
16 performed on the lighting system on the Bureau's 2001 Mitsubishi. In fact, the left headlamp was
17 out of adjustment.

18 **TWENTIETH CAUSE FOR DISCIPLINE**

19 **(Fraud)**

20 54. Respondent Z & M's registration is subject to disciplinary action pursuant to Bus. &
21 Prof. Code section 9884.7, subdivision (a)(4), Respondent committed an act constituting fraud, as
22 follows: Respondent Z & M obtained payment from the operator for performing the applicable
23 inspections, adjustments, or repairs of the brake and lighting systems on the Bureau's 2001
24 Mitsubishi as specified by the Bureau and in accordance with the Vehicle Code. In fact,
25 Respondent Z & M's employee, Respondent Chopan, failed to perform the necessary inspections,
26 adjustments, and repairs in compliance with Bureau Regulations or the Vehicle Code.

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1 **TWENTY-FIRST CAUSE FOR DISCIPLINE**

2 **(Failure to Comply with the Bus. & Prof. Code)**

3 55. Respondent Z & M's registration is subject to disciplinary action pursuant to Bus. &
4 Prof. Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with section
5 9884.9, subdivision (a), of that Code in a material respect, as follows: Respondent Z & M failed
6 to ensure that the operator was provided with a written estimate for the smog, brake and lamp
7 inspections on the Bureau's 2001 Mitsubishi.

8 **TWENTY-SECOND CAUSE FOR DISCIPLINE**

9 **(Violations of Regulations)**

10 56. Respondent Z & M's registration is subject to disciplinary action pursuant to Bus. &
11 Prof. Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with
12 provisions of California Code of Regulations, title 16, in the following material respects:

13 a. **Section 3305, subdivision (a)**: Respondent Z & M's brake and lamp adjuster,
14 Respondent Chopan, failed to perform the inspection of the brake system and inspection and
15 adjustment of the lighting system on the Bureau's 2001 Mitsubishi in accordance with the
16 specifications, instructions, and directives issued by the Bureau and the vehicle manufacturer.

17 b. **Section 3316, subdivision (d)(2)**: Respondent Z & M issued Lamp Certificate No.
18 LC [REDACTED] as to the Bureau's 2001 Mitsubishi when all of the lamps, lighting equipment, and/or
19 related electrical systems on the vehicle were not in compliance with Bureau regulations.

20 c. **Section 3321, subdivision (c)(2)**: Respondent Z & M issued Brake Certificate No.
21 BC [REDACTED] as to the Bureau's 2001 Mitsubishi when the brake system on the vehicle had not
22 been completely tested or inspected.

23 **TWENTY-THIRD CAUSE FOR DISCIPLINE**

24 **(Failure to Comply with the Bus. & Prof. Code)**

25 57. Respondent Z & M's brake and lamp station licenses are subject to disciplinary action
26 pursuant to Bus. & Prof. Code section 9889.3, subdivisions (a) and (h), in that Respondent
27 violated Bus. & Prof. Code section 9884.9, subdivision (a), relating to its licensed activities, as set
28 forth in 55 above.

1 **TWENTY-FOURTH CAUSE FOR DISCIPLINE**

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

3 58. Respondent Z & M's brake and lamp station licenses are subject to disciplinary action
4 pursuant to Bus. & Prof. Code section 9889.3, subdivision (c), in that Respondent failed to
5 comply with the provisions of California Code of Regulations, title 16, sections 3305, subdivision
6 (a), 3316, subdivision (d)(2), and 3321, subdivision (c)(2), as set forth in paragraph 56 above.

7 **TWENTY-FIFTH CAUSE FOR DISCIPLINE**

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

9 59. Respondent Z & M's brake and lamp station licenses are subject to disciplinary action
10 pursuant to Bus. & Prof. Code section 9889.3, subdivision (d), in that Respondent committed an
11 act involving dishonesty, fraud, or deceit whereby another was injured, as set forth in paragraph
12 54 above.

13 **TWENTY-SIXTH CAUSE FOR DISCIPLINE**

14 **(Violations of Regulations)**

15 60. Respondent Chopan's brake and lamp adjuster licenses are subject to disciplinary
16 action pursuant to Bus. & Prof. Code section 9889.3, subdivision (c), in that he failed to comply
17 with provisions of California Code of Regulations, title 16, sections 3305, subdivision (a), 3316,
18 subdivision (d)(2), and 3321, subdivision (c)(2), as set forth in paragraph 56 above.

19 **TWENTY-SEVENTH CAUSE FOR DISCIPLINE**

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

21 61. Respondent Chopan's brake and lamp adjuster licenses are subject to disciplinary
22 action pursuant to Bus. & Prof. Code section 9889.3, subdivision (d), in that Respondent
23 committed an act involving dishonesty, fraud, or deceit whereby another was injured, as set forth
24 in paragraph 54 above.

25 **TWENTY-EIGHTH CAUSE FOR DISCIPLINE**

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

27 62. Respondent Z & M's smog check station license is subject to disciplinary action
28 pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed

1 dishonest, fraudulent, or deceitful acts whereby another is injured, as set forth in paragraphs 31,
2 43, and 54 above.

3 **TWENTY-NINTH CAUSE FOR DISCIPLINE**

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

5 63. Respondent Chopan's technician licenses are subject to disciplinary action pursuant
6 to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed
7 dishonest, fraudulent, or deceitful acts whereby another is injured, as set forth in paragraphs 31,
8 43, and 54 above.

9 **OTHER MATTERS**

10 64. Pursuant to Bus. & Prof. Code section 9884.7, subdivision (c), the Director may
11 suspend, revoke or place on probation the registration for all places of business operated in this
12 state by Respondent Z & M Smog & Repair upon a finding that Respondent has, or is, engaged in
13 a course of repeated and willful violations of the laws and regulations pertaining to an automotive
14 repair dealer.

15 65. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Station License
16 Number RC 216481, issued to Respondent Z & M Smog & Repair is revoked or suspended, any
17 additional license issued under Chapter 5 of the Health & Saf. Code in the name of said licensee
18 may be likewise revoked or suspended by the Director.

19 66. Pursuant to Bus. & Prof. Code section 9889.9, if Lamp Station License Number
20 LS 216481, issued to Respondent Z & M Smog & Repair, is revoked or suspended, any
21 additional license issued under Articles 5 and 6 of Chapter 20.3 of the Bus. & Prof. Code in the
22 name of said licensee may be likewise revoked or suspended by the Director.

23 67. Pursuant to Bus. & Prof. Code section 9889.9, if Brake Station License Number
24 BS 216481, issued to Respondent Z & M Smog & Repair, is revoked or suspended, any
25 additional license issued under Articles 5 and 6 of Chapter 20.3 of the Bus. & Prof. Code in the
26 name of said licensee may be likewise revoked or suspended by the Director.

27 68. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Inspector License
28 Number EO 132232 and Smog Check Repair Technician License No. EI 132232, issued to

1 Respondent Ahmad Zia Chopan, are revoked or suspended, any additional license issued under
2 this chapter in the name of said licensee may be likewise revoked or suspended by the Director.

3 69. Pursuant to Bus. & Prof. Code section 9889.9, if Brake Adjuster License Number
4 BA 132232, issued to Respondent Ahmad Zia Chopan, is revoked or suspended, any additional
5 license issued under Articles 5 and 6 of Chapter 20.3 of the Bus. & Prof. Code in the name of said
6 licensee may be likewise revoked or suspended by the Director.

7 70. Pursuant to Bus. & Prof. Code section 9889.9, if Lamp Adjuster License Number
8 LA 132232, issued to Respondent Ahmad Zia Chopan, is revoked or suspended, any additional
9 license issued under Articles 5 and 6 of Chapter 20.3 of the Bus. & Prof. Code in the name of said
10 licensee may be likewise revoked or suspended by the Director.

11 **PRAYER**

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

14 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
15 216481, issued to Z & M Smog & Repair;

16 2. Revoking or suspending any other automotive repair dealer registration issued to Z &
17 M Smog & Repair;

18 3. Revoking or suspending Smog Check Station License Number RC 216481, issued to
19 Z & M Smog & Repair;

20 4. Revoking or suspending any additional license issued under Chapter 5 of the Health
21 and Safety Code in the name of Z & M Smog & Repair;

22 5. Revoking or suspending Lamp Station License Number LS 216481, issued to Z & M
23 Smog & Repair;

24 6. Revoking or suspending Brake Station License Number BS 216481, issued to Z & M
25 Smog & Repair;

26 7. Revoking or suspending any additional license issued under Articles 5 and 6 of
27 Chapter 20.3 of the Business and Professions Code in the name of Z & M Smog & Repair;

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1 8. Revoking or suspending Smog Check Inspector License Number EO 132232 and
2 Smog Check Repair Technician License No. EI 132232, issued to Ahmad Zia Chopan;

3 9. Revoking or suspending any additional license issued under Chapter 5 of the Health
4 and Safety Code in the name of Ahmad Zia Chopan;

5 10. Revoking or suspending Brake Adjuster License Number BA 132232, issued to
6 Ahmad Zia Chopan;

7 11. Revoking or suspending Lamp Adjuster License Number LA 132232, issued to
8 Ahmad Zia Chopan;

9 12. 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 Ahmad Zia Chopan;

11 13. Ordering Z & M Smog & Repair and Ahmad Zia Chopan to pay the Director of
12 Consumer Affairs the reasonable costs of the investigation and enforcement of this case, pursuant
13 to Business and Professions Code section 125.3;

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

15
16 DATED:

December 22, 2014

Patrick Dorais

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

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