

BEFORE THE DIRECTOR  
DEPARTMENT OF CONSUMER AFFAIRS  
BUREAU OF AUTOMOTIVE REPAIR  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

**S.H.F., INC.**  
**dba STERLING CAR CARE AUTO CENTER**  
**AHMAD RADWAN BAKAR, President**  
**ANN L. BAKAR, Treasurer**  
**HASSAN S. BAKAR, Secretary**  
7610 Sterling Avenue  
San Bernardino, CA 92410

Case No. 77/10-55

OAH No. 2011070958

Automotive Repair Dealer Registration  
No. ARD 260522  
Smog Check Station License No. RC 260522  
Lamp Station License No. LS 260522  
Brake Station License No. BS 260522

and

**AHMAD RADWAN BAKAR**  
3608 Sepulveda Avenue  
San Bernardino, CA 92404

Advanced Emission Specialist Technician  
License No. EA 30651  
Brake Adjuster License No. BA 300651  
Lamp Adjuster License No. LA 300651

Respondents.

**DECISION**

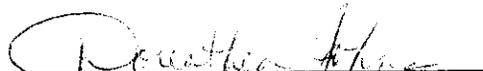
The attached Proposed Decision of the Administrative Law Judge is hereby accepted and adopted by the Director of Consumer Affairs as the Decision in the above-entitled matter, except that, pursuant to Government Code section 11517(c)(2)(C), the typographical error under Factual Findings, page 5, paragraph 7, third line, of the Proposed Decision is corrected as follows:

The word "trough" is corrected to read "through."

This Decision shall become effective

March 16, 2012

DATED: February 9, 2012

  
DOREATHEA JOHNSON  
Deputy Director, Legal Affairs  
Department of Consumer Affairs

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Case No. 77/10-55

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**PROPOSED DECISION**

On December 16, 2011, James Ahler, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this disciplinary matter in San Bernardino, California.

Kevin J. Rigley, Deputy Attorney General, Department of Justice, State of California, represented Complainant Sherry Mehl, Chief, Bureau of Automotive Repair, Department of Consumer Affairs, State of California.

Respondent Ahmad Radwan Bakar appeared in his personal capacity and on behalf of Respondent S.H.F., Inc., doing business as Sterling Car Care Auto Center. Mr. Bakar was present throughout the disciplinary proceeding.

This matter was submitted on December 16, 2011.

### PRELIMINARY STATEMENT

The Bureau of Automotive Repair issues registrations to automotive repair dealers and occupational licenses to smog check stations, lamp stations, brake stations, advanced emission technicians, lamp adjusters, and brake adjusters. Registrants and licensees are expected to follow applicable laws and regulations when issuing certificates of compliance to vehicles that have been inspected and/or repaired at licensed facilities.

All relevant transactions occurred at Sterling Car Care Auto Center in San Bernardino, an entity owned by S.H.F., INC. (SHF). On January 21, 2010, Mr. Bakar issued a pre-dated brake certificate and a pre-dated lamp certificate for a vehicle belonging to Abraham Murad without first inspecting the vehicle. On January 21 and January 22, 2010, Mr. Bakar improperly issued brake certificates and lamp certificates for nine other vehicles by issuing certificates that were purchased from the Bureau by the previous owner of Sterling Car Care Auto Center and not by Mr. Bakar's corporation, which owned Sterling Car Care Auto Center when the certificates were issued.

On January 29, 2010, the Bureau conducted an undercover operation involving a specially prepared 2002 Toyota 4Runner. Mr. Bakar performed a brake and lamp inspection at SHF, after which SHF issued Brake Certificate Number BC993620 and Lamp Certificate Number LC 972029. The brake certificate and the lamp certificate should not have been issued because the 2002 Toyota 4Runner's front headlamps were out of adjustment and the vehicle's front brake rotors were outside manufacturer's specifications.

On June 9, 2010, the Bureau conducted an undercover operation involving a specially prepared 1996 Plymouth Voyager. Mr. Bakar performed a brake, lamp, and smog check inspection at SHF, after which SHF issued Brake Certificate Number BC1062586, Lamp Certificate Number LC1047586, and an electronic smog Certificate of Compliance No. WJ904694. The brake certificate, the lamp certificate, and the certificate of compliance should not have been issued because the vehicle's rear brake drums were machined beyond applicable specifications, the front headlamps were out of adjustment, and a required component of the vehicle's emission system was missing.

Grounds exist to revoke the lamp and brake station licenses issued to SHF, and to revoke the brake adjuster license and lamp adjuster licenses issued to Mr. Bakar. Grounds exist to revoke the automotive repair dealer registration and the smog check station license issued to SHF, and to revoke the advanced emission specialist technician license issued to Mr. Bakar, but it would not be contrary to the public interest to stay the revocations and to place SHF and Mr. Bakar on probation for a period of three years on condition that SHF and Mr. Bakar pay \$15,000 for the Bureau's cost of investigation and enforcement and to require Mr. Bakar to pass a 16-hour emission training course. This measure of discipline, coupled with the monitoring of SHF's operations, will protect the public.

## FACTUAL FINDINGS

### *Jurisdictional Matters*

1. On June 23, 2011, Complainant signed the Accusation (Case No. 77/10-55) in her official capacity as Chief, Bureau of Automotive Repair (BAR or Bureau), Department of Consumer Affairs, State of California.

The Accusation sought to impose discipline against the registration and licenses issued to S.H.F., Inc. (SHF), and to Ahmad Radwan Bakar (Mr. Bakar). The Accusation also sought recovery of the Bureau's costs of investigation and enforcement. The Accusation was served on SHF and Mr. Bakar, who timely filed a Notice of Defense. The matter was set for a disciplinary hearing.

On December 16, 2011, the record in the administrative proceeding was opened; jurisdictional documents were presented; a written and signed trial stipulation was received<sup>1</sup>, as was sworn testimony and documentary evidence; closing arguments were given; the record was closed; and the matter was submitted.

### *License Histories*

2. The Registration and Licenses Held by Walid Kodsi, doing business as Sterling Car Care Auto Center:

On April 24, 1995, the Bureau issued Automotive Repair Dealer Registration No. ARD 183412 to Walid Kodsi (Mr. Kodsi), who was identified by the Bureau as the sole owner of Sterling Car Care Auto Center, 7610 Sterling Avenue, San Bernardino, CA 92410. The Bureau cancelled ARD Registration No. ARD 183412 on January 27, 2010.

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<sup>1</sup> Respondents admitted all of the facts and violations alleged in the Accusation, with the exception of the facts and violations set forth in paragraphs 41 through 48.

On February 7, 1996, the Bureau issued Smog Check Station License No. RC 183412 to Mr. Kodsí. The Bureau cancelled Smog Check Station License No. RC 183412 on January 27, 2010.

In 1995, the Bureau issued Lamp Station License No. LS 183412, Class 2, to Mr. Kodsí. The Bureau cancelled Lamp Station License No. LS 183412 on January 27, 2010.

In 1995, the Bureau issued Brake Station License No. BS 183412, Class A, to Mr. Kodsí. The Bureau cancelled Brake Station License No. BS 183412 on January 27, 2010.

3. Mr. Bakar's Ownership of Sterling Car Care Auto Center:

Ahmad Radwan Bakar (Mr. Bakar) testified that he was Mr. Kodsí's silent partner during Mr. Kodsí's ownership and operation of Sterling Car Care Auto Center. Mr. Bakar said that he had a partial ownership interest in Sterling Car Care Auto Center from approximately 1985 through 2010. This testimony was credible despite the fact that Mr. Bakar's name did not appear in any the Bureau's license histories provided in this matter before SHF began doing business as Sterling Car Care Auto Center.

In 2009 or so, Mr. Kodsí began living in Syria. Mr. Bakar continued to own and operate Sterling Car Care Auto Center. When it became necessary for Mr. Kodsí to meet with Bureau representatives concerning an unrelated issue, Mr. Kodsí provided Mr. Bakar with a power of attorney. Sometime thereafter, Mr. Bakar purchased Mr. Kodsí's ownership interest in Sterling Car Care Auto Center. Mr. Bakar elected to continue to do business in the corporate form. SHF became the sole owner of Sterling Car Care Auto Center.

4. SHF's Registration and Licensure:

On January 20, 2010, the Bureau issued Automotive Repair Dealer Registration No. ARD 260522 to SHF, doing business as Sterling Car Care Auto Center, 7610 Sterling Avenue, San Bernardino, CA 92410. Corporate officers of record included Ahmad Radwan Bakar, President, Ann I. Bakar, Treasurer, and Hassan S. Bakar, Secretary. That registration is active.

On February 17, 1996, the Bureau issued a Smog Check Station License No. RC 260552, Lamp Station License No. LS 260522, Class BL, and Brake Station License No. BS 206552, Class C, to SHF. Those licenses are active.

There is no history of any prior administrative discipline having been brought against the registration and licenses issued to SHF.

5. Mr. Bakar's Smog Technician License:

On a date that was not established, the Bureau issued Smog Technician – Advanced Emission Specialist License No. No. EA 30651 to Mr. Bakar. That license is active.

On June 4, 1997, the Bureau cited Mr. Bakar for failing to follow required smog check inspection procedures. He was required to take an eight-hour training course.

On February 25, 1998, the Bureau cited Mr. Bakar for failing to follow required smog check inspection procedures. He was required to take a 16-hour training course.

6. Mr. Bakar's Brake Adjuster and Lamp Adjuster Licenses:

On a date that was not established, the Bureau issued Brake Adjuster License No. BA 300651 and Lamp Adjuster License No. LA 300651 to Mr. Bakar. Those licenses are active.

There is no history of any prior administrative discipline having been brought against the brake adjuster and lamp adjuster licenses issued to Mr. Bakar.

*The Trial Stipulation*

7. Mr. Bakar signed a Trial Stipulation in this matter on his own behalf and on behalf of SHF. Mr. Bakar stipulated that "the underlying facts and violations contained in paragraphs twenty seven (27) through sixty five (65) of Accusation No. 77/10-55 (the Accusation) are hereby deemed to be true and correct, with the exception of those facts and violations alleged in paragraphs forty one (41) through forty eight (48) of the Accusation, which shall remain disputed by Respondents herein." (Original emphasis.)

8. Based on the stipulation, the following factual matters were established:

The January 29, 2010, Undercover Operation

28. On January 29, 2010, an undercover operator with the Bureau ("operator") took the Bureau's 2002 Toyota 4Runner to Respondent S.H.F.'s facility and requested smog, brake, and lamp inspections. The front brake rotors on the Bureau-documented vehicle were machined beyond the manufacturer's discard diameter specifications, the front headlamps were out of adjustment, and the rear backup lamps were not functioning. A male employee told the operator that he would take care of the inspections, but he did not give her a written estimate. The employee had the operator step on the brake pedal while he checked the brake lights. The employee then had the operator turn on the signals and put the vehicle in reverse while he checked the other lights. The employee placed a piece of equipment onto the headlamps, but did not make any adjustments to the lights. The employee told the operator that the backup lamps were not working and he

had her get out of the vehicle so that he could check the fuse. The employee checked the fuse, and then replaced the two backup lamp bulbs. The employee took the vehicle on a road test, and then later reported that the brakes were fine. The operator did not observe the employee remove any of the wheels from the vehicle at any time during the brake inspection. Later, the employee told [the operator] that they did not perform smog inspections at their facility and offered to take the vehicle to another shop for the inspection. The operator authorized the employee to sublet the smog inspection. A second employee got into the vehicle and drove away. The second employee returned about 10 minutes later and told the operator that the vehicle could not be smog tested as it had come up as a "test only" vehicle. The operator paid the facility \$75 in cash for the inspection and the repair of the backup lamp bulbs and received copies of a written estimate, an invoice, Brake Certificate Number BC993620 and Lamp Certificate Number LC 972029. The certificates indicated that the brake and lamp inspections were performed by Respondent Bakar.

29. On February 2, 2010, the Board inspected the vehicle and found that the rear back up lamps were now functional; however, the front headlamps were still out of adjustment, the front brake rotors were not within manufacturer's specifications, and none of the wheels had been removed to inspect the brakes.

#### The June 9, 2010, Undercover Operation

28. On June 9, 2010, an undercover operator with the Bureau ("operator") took the Bureau's 1996 Plymouth Voyager to Respondent S.H.F.'s facility. The rear brake drums on the Bureau-documented vehicle were machined beyond the manufacturer's discard diameter specifications, the front headlamps were out of adjustment, the rear backup lamps were not functioning, and the positive crankcase ventilation (PCV) system was removed from the vehicle. The operator met with a male employee and told him that she needed a brake and lamp inspection on the vehicle. The operator stated that she needed a smog inspection as well, but would have the smog test performed at another facility. The employee gave the operator a verbal estimate for the lamp and

brake inspections, then took the vehicle on a road test accompanied by the operator. After returning to the facility, the employee checked the brake lights as well as the left and right signal lights and the headlamps. The employee had the operator put the vehicle in reverse, and then told her that the backup lights were not working. The employee stated that it would cost \$10 to replace the backup light bulbs if they were bad. The operator observed the employee remove the lenses from the lights and replace both bulbs. Later, the operator authorized the employee to perform a smog inspection on the vehicle, and signed and received a copy of the written estimate. After the smog inspection was completed, the operator paid the employee \$110 and received copies of an invoice, Brake Certificate Number BC1062586, Lamp Certificate Number LC1047586, and a vehicle inspection report. The certificates and vehicle inspection report indicated that brake, lamp, and smog inspections were performed by Respondent Bakar. The same day, electronic smog Certificate of Compliance No. WJ904694 was issued for the vehicle.

50. On June 15, 2010, the Board inspected the vehicle and found that the rear back up lamps were now functional; however, the front headlamps were still out of adjustment, the rear brake drums were not within manufacturer's specifications, none of the wheels had been removed to inspect the brakes, and the PCV system was still missing.

#### *The Purpose of Smog Checks and Brake and Lamp Inspections*

9. The California Legislature enacted clean air legislation to reduce toxic emissions resulting from the operation of motor vehicles and to provide for a cleaner, healthier environment. The clean air legislation requires most motor vehicles registered in California to pass a smog check inspection upon change of ownership and every two years in areas that are subject to the biennial smog certification program. A licensed smog check station issues an electronic certificate of compliance when a vehicle passes a smog check inspection. When the vehicle does not pass the inspection, it must be repaired and retested. A certificate of compliance cannot be issued until a vehicle passes a smog check inspection. Only a licensed smog check technician can perform a legitimate smog check inspection.

The purpose of a smog check inspection is to ensure that the vehicle being inspected will not unduly pollute the environment.

10. Division 12 of the California Vehicle Code regulates lighting, brakes, windshields, mirrors, horns, sirens, exhaust devices, safety belts, inflatable restraints, children's seats, headsets, earplugs, tires and other equipment required in the operation of a motor vehicle. Business and Professions Code section 9889.16 authorizes a licensed brake or lamp adjuster to issue a certificate of compliance to establish that the brakes or lights for a vehicle that has been inspected meet Vehicle Code requirements.

Lamp inspections are conducted at licensed stations. A lamp adjuster steps on the brakes to make sure the brake lights are working, has the car backed up to make certain the backup lights are working, and uses one of several techniques to ensure that the front headlamp is properly adjusted. When the lamps are in good working order, persons behind a vehicle that has passed the inspection will know when the brakes of that vehicle are being applied and when the vehicle is being put into reverse and is backing up. When the lamps are in good working order, a person driving the vehicle will have proper illumination when the front headlights are on and oncoming vehicles will not be blinded by misaligned front headlamps.

Obtaining a brake certificate or a lamp certificate may be necessary to comply with a "fix-it" ticket, to acquire registration for a salvaged vehicle, or to satisfy a consumer that a vehicle complies with Vehicle Code provisions.

One of the primary purposes of a brake or lamp inspection is to ensure that the vehicle being tested meets the minimal equipment requirements set forth in the Vehicle Code and is safe to operate.

#### *Respondents' Evidence*

11. Mr. Bakar is 55 years old. He was born in Lebanon. He came to the United States in 1978. Mr. Bakar worked as an auto mechanic at Alhambra Dodge for seven years, beginning in 1978. He also began attending California State University, Los Angeles.

In 1985, Mr. Bakar received a bachelor's degree in mechanical engineering, with a minor in automotive technology, from California State University, Los Angeles. He stopped working at Alhambra Dodge and went into partnership with a friend, Walid Kodsí. Mr. Bakar and Mr. Kodsí opened and conducted business as Sterling Car Care Auto Center, 7610 Sterling Avenue, San Bernardino, CA 92410. Only Mr. Kodsí was listed as the owner of that business for purposes of registration and licensure with the Bureau.

Mr. Bakar and Mr. Kodsí owned and operated Sterling Car Care Auto Center from 1985 through 2009. During that period, the Bureau cited Mr. Bakar two times for failing to perform proper smog check inspections: Sometime around 2009, the Bureau wanted to speak with Mr. Kodsí about a written estimate that had been issued by Sterling Car Care Auto Center. Mr. Kodsí had, by that time, returned to Syria with the intention of remaining there permanently. Mr. Kodsí provided Mr. Bakar with a power of attorney and instructed Mr. Bakar to meet and confer with the Bureau on his behalf. Mr. Bakar did so. Sometime

thereafter, Mr. Kodosi and Mr. Bakar agreed that Mr. Kodosi would transfer his partnership interest in Sterling Car Care Auto Center to Mr. Bakar, who wished to do business in the corporate form under the name of S.H.F., Inc.

12. Mr. Bakar applied for an automotive repair dealer registration, a smog check station license, a brake inspection station license, and a lamp inspection station license in the name of S.H.F., Inc. He maintained all the equipment, documents and forms that had been issued to Mr. Kodosi. Mr. Bakar believed that he could lawfully issue brake and lamp certificates that he and Mr. Kodosi had purchased from the Bureau when Mr. Kodosi was the licensee of record. At some point after Mr. Bakar and SHF became owners of record, Mr. Bakar learned that SHF had to purchase its own brake and lamp certificates and that SHF could no longer use the brake and lamp certificates that were issued to Mr. Kodosi.

13. Before January 21, 2010, Mr. Bakar contacted ten customers and told them to bring their vehicles to Sterling Car Care Auto Center for lamp and brake inspections. Mr. Bakar believed at that time that he could issue brake and lamp certificates that had been purchased by Sterling Car Care Auto Center when Mr. Kodosi was the owner of record.

All of the customers Mr. Bakar contacted, other than Abraham Murad, brought their vehicles to Sterling Car Care Auto Center for inspections. Mr. Bakar inspected the nine vehicles that his customers delivered to Sterling Car Care Auto Center on January 21 and 22, 2010, and following inspections he issued Brake Certificate Nos. BC993620 through BC993629 and Lamp Certificates No. LC972029 through LC 972038 for the vehicles he had inspected. Mr. Bakar testified that the nine vehicles passed the inspections, and there was no evidence to the contrary.

Abraham Murad, Mr. Bakar's friend, did not deliver his vehicle to Sterling Car Care Auto Center for a brake and lamp inspection on either January 21 or January 22, 2010, but did so sometime thereafter. Nevertheless, Mr. Bakar issued brake and lamp certifications for the Murad vehicle because Mr. Bakar planned to inspect and provide adjustments, if required, for that vehicle in the near future. It was not established whether Mr. Bakar conducted the inspection of the Murad vehicle, and that factual issue is not essential to reaching a decision in this matter.

14. On January 21 and 22, 2010, SHF did not have its own brake and lamp certificates. Mr. Bakar did not have the authority to issue Brake Certificate Nos. BC993620 through BC993629 and Lamp Certificates No. LC972029 through LC 972038 because they had not been issued to SHF, despite the fact that he and Mr. Kodosi had paid for them. While the "misuse" of the nine certificates violated applicable laws in several respects, those violations were not the result of Mr. Bakar's intent to violate the law and the violations were somewhat technical in nature.

Mr. Bakar's issuing a pre-dated brake certificate and a pre-dated lamp certificate for the Murad vehicle, which he had not yet inspected, involved untrue or misleading statements

because when he signed the certificates, Mr. Bakar represented that he had inspected the Murad vehicle when he had not done so.

15. Mr. Bakar testified that it was his custom and practice to remove the wheels from vehicles when he provided a brake inspection, and that he always road tested a vehicle in connection with a brake inspection. Mr. Bakar surmised he must have been under a lot of time constraints and other pressures when he claimed he inspected the brakes on the two undercover vehicles. He admitted that he did not remove the wheels from those vehicles in conducting the brake inspections, as was required, although he road tested each of them.

Mr. Bakar testified that he knows that a proper brake inspection requires the removal of the wheels from the vehicle being inspected to properly examine the brakes.

16. Mr. Bakar testified that it was his custom and practice to use an electronic device to check front headlight alignment. He believed that he used such a device with respect to each undercover vehicle, but he had no explanation for his failure to ensure that the front headlamps for those vehicles were properly aligned before he issued certificates.

17. Mr. Bakar testified that he runs a small automotive repair and inspection business. Sterling Car Care Auto Center is open Mondays through Fridays, from 8:30 a.m. to 6:30 p.m., and on Saturdays from 9:00 a.m. until 6:30 p.m. Mr. Bakar is on duty whenever Sterling Car Care Auto Center is open. Mr. Bakar estimated that he conducts four or five smog inspections per day, two or three brake inspections per day, and two or three lamp inspections per day. The remainder of the work is related to automotive repair.

Mr. Bakar is assisted by a part-time employee named "Steve," who does not hold any BAR licenses. Mr. Bakar believes Steve is a superior automotive mechanic. Mr. Bakar has two sons who attend college, each of whom is licensed as a smog check technician and each of whom helps Mr. Bakar at his shop.

Mr. Bakar, himself, holds certifications from the National Institute for Automotive Service Excellence (ASE) in many specialty areas including brakes, engine repair, engine performance, and electrical systems. Mr. Bakar believes he has the requisite mechanical and automotive repair skills, but he feels it would be impossible for him to obtain employment elsewhere as an automotive mechanic because he is overweight and has difficulty moving about.

Mr. Bakar's formal education, his ASE certifications, and his lengthy experience as an automotive mechanic established that his improper issuance of brake and lamp certificates to the two undercover vehicles was not a matter of simple negligence.

18. Mr. Bakar surmised that he issued certifications to the two undercover vehicles because he was under a lot of pressure to get inspection and repair work done. He testified that greed was not a motive, but being in a hurry and not paying attention were certainly factors in bringing about the violations to which he stipulated.

When asked how his business had changed, Mr. Bakar testified that he now does "everything by the book" and that he refuses to inspect vehicles if he is too busy to do so in a thorough and competent fashion. He supervises the work performed by his sons and Steve.

19. Mr. Bakar offered several letters in support of his industry and good moral character.

Pastor Gareth Nickerson, San Bernardino Holiness Church, believed that Mr. Bakar was a kind, caring and helpful neighbor who had assisted Pastor Nickerson's family and congregation members many times. Mr. Bakar was always honest and fair. He won the trust of all those with whom he had contact. His staff was courteous and prompt. Mr. Bakar offered emergency services to Pastor Nickerson's congregation.

Dan Talley, the owner of Sterling Electrical Construction, believed that Mr. Bakar was an honest, knowledgeable, and fair automotive repair dealer who provided excellent service to the San Bernardino community. Mr. Bakar's sons were honest and helpful. Mr. Talley described Mr. Bakar as a kind and honest man who was a community asset.

Jessie Richard believed that Mr. Bakar was "an amazing mechanic . . . who gets the work done in a timely manner and with a warm smile."

Frank Dias believed that Mr. Bakar was very honest, that he went out of his way to help others, that his repair work was reliable and reasonably priced, and that Mr. Bakar was particularly helpful to senior citizens.

Paul Black has had a working relationship with Mr. Bakar for many years and had no complaints. He believed that Mr. Bakar was a very honest and helpful individual.

Clinton Goddard had taken the vehicles he used in his business to Mr. Bakar for service and repair and Mr. Bakar always conducted himself in an honest, reasonable, and reliable manner. Mr. Goddard was aware of occasions on which Mr. Bakar refused to accept payment from indigent persons whose vehicles needed repairs.

20. With regard to the violations related to the two undercover vehicles, Mr. Bakar testified, "I admit I didn't follow the book . . . I have learned my lesson . . . I am sorry it happened." Mr. Bakar was unaware that he was not permitted to use the brake and lamp certificates he and Mr. Kodsí purchased before they expired.

Counsel for Complainant remarked in closing argument that Mr. Bakar's expression of remorse was sincere.

21. Mr. Bakar estimated that he has gross earnings of approximately \$40,000 per year from all sources. He and his wife of 30 years are buying their San Bernardino home. They have two sons, each of whom attends Victor Valley College, and one daughter, who is

enrolled in public high school. Mr. Bakar and his family own a 1996 Chevrolet pickup, a 2000 Hyundai Accent, and a 2001 Nissan Pathfinder. They have no other significant assets.

### *Evaluation of the Evidence*

22. Brake and Lamp Licenses: Mr. Bakar issued ten brake certificates and ten lamp certificates on January 21 and 22, 2010, when he was not authorized to do so because the certificates he issued had been purchased when Mr. Kodsí owned Sterling Car Care Auto Center and not when SHF owned Sterling Car Care Auto Center. There was no evidence that Mr. Bakar did not actually inspect the brakes and lamps of nine of those vehicles; Mr. Bakar admitted that he failed to inspect the brakes and lamps of Mr. Murad's vehicle before he signed the brake certificate and lamp certificate for that vehicle.

If Mr. Bakar had improperly issued a brake certificate and a lamp certificate to one of the undercover vehicles, that easily might be explained as being the result of an oversight, forgetfulness, or some other innocent circumstance. But Mr. Bakar's improper issuing of brake certificates and lamp certificates to both undercover vehicles established a much larger problem, one affecting public safety.

Based on the evidence established by stipulation and the other evidence in this matter, the only measure of discipline that will protect the public is the revocation of SHF's brake station license and lamp station license, and the revocation of Mr. Bakar's brake adjuster license and lamp adjuster license.

The Smog Check Station/Advanced Emission Technician Licenses: The undercover vehicles should not have passed a legitimate smog check inspection.

With regard to the first undercover operation, Sterling Car Care Auto Center did not issue a certificate of compliance.

With regard to the second undercover operation, Mr. Bakar improperly inspected the 1996 Plymouth Voyager, failed to observe that the PCV system had been removed, and caused an electronic certificate of compliance to be issued for that vehicle. The inspection was improper and the certificate should not have been issued.

Mr. Bakar has a history of two citations. Under the circumstances, it would not be contrary to the public interest to revoke Mr. Bakar's advanced emission technician license, but to stay the revocation on condition that he complete a 16-hour retraining course approved by the Bureau within 90 days of the effective date of the Decision in this matter.

An administrative penalty would, ordinarily be imposed for SHF's improper issuance of a certificate of compliance. SHF and Mr. Bakar will be required to pay a substantial amount related to the Bureau's costs of investigation and prosecution in this matter, which is somewhat in the nature of a monetary penalty. That being the case, it would not be contrary to the public interest to revoke SHF's smog check station license and the automotive repair

dealer registration issued to SHF, but to stay the revocation and place SHF's license and registration on probation for three years. Probation will permit the Bureau to closely monitor SHF's operations and will remind Mr. Bakar that he must conduct his business by the book.

### *Costs of Investigation and Enforcement*

23. Timothy Corcoran, Program Manager I, Bureau of Automotive Repair, submitted a declaration that established the Bureau's costs in specially preparing the two undercover vehicles, in conducting the undercover operations, and in carrying out the investigation in this matter totaled approximately \$22,500. The investigation was meticulous and well documented.

Deputy Attorney General Kevin J. Rigley submitted a declaration describing his office's record-keeping system, to which was attached billing records related to the prosecution in this matter. Legal services were billed at the rate of \$170 per hour; paralegal services were billed at the rate of \$120 per hour. The time spent in the prosecution of this matter was reasonable. The Attorney General's Office billed \$4,250 in the prosecution of this matter, a reasonable amount.

Total reasonable costs of investigation enforcement are determined to be \$26,750. However, under *Zuckerman v. Board of Chiropractic Examiners* (2002) 29 Cal.4th 32, it is concluded that full costs should not be awarded in this matter given Mr. Bakar's financial circumstances and his good faith use of this disciplinary proceeding to preserve the registration and licenses issued to him and his corporation by the Bureau.

Issuing an order requiring respondents here to pay a total \$15,000 for the Bureau's costs of investigation and enforcement is reasonable under all the circumstances.

## LEGAL CONCLUSIONS

### *Standard of Proof*

1. In determining the proper standard of proof to apply in administrative license revocation proceedings, courts have drawn a clear distinction between professional licenses such as those held by doctors, lawyers, and real estate brokers, and nonprofessional or occupational licenses such as those held by food processors and vehicle salespersons. Proceedings to revoke professional licenses apply the clear and convincing evidence standard of proof while proceedings to revoke occupational or nonprofessional licenses apply the preponderance of the evidence standard of proof. Although an applicant for an advanced emission specialist technician license must complete certain coursework (Cal.Code Regs., tit. 16, § 3340.28, subd. (b)(3)) and pass an examination (Cal.Code Regs., tit. 16, § 3340.29), those licensing requirements are not similar to the extensive educational, training and testing requirements necessary to obtain a professional license. Accordingly, an advanced emission specialist technician license is a nonprofessional or occupational license and proceedings to

revoke such a license are governed by the preponderance of evidence standard of proof. (*Imports Performance v. Department of Consumer Affairs, Bureau of Automotive Repair* (December 7, 2011) 11 Cal. Daily Op. Serv. 14, 790.)

2. Since no special education, training or experience is required to hold an automotive repair dealer registration, a smog check station license, a lamp station license, or a brake station license, the burden of proof to revoke such a registration or license is on the Bureau. The standard of proof is a preponderance of the evidence.

3. Since the level of education, training and experience required to hold an advanced emission specialist technician license, a brake adjuster license, and a lamp adjuster license is less than that required to hold a professional license, such as that issued to a doctor, lawyer, or real estate broker, the standard of proof to revoke such a nonprofessional license is a preponderance of the evidence.

#### *Applicable Statutes and Regulations*

4. Business and Professions Code section 9884.7 provides in part:

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

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

[¶] . . . [¶]

(4) Any other conduct that constitutes fraud.

[¶] . . . [¶]

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

[¶] . . . [¶]

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

5. Business and Professions Code section 9884.9 provides in part:

(a) The automotive repair dealer shall give to the customer a written estimated price for labor and parts necessary for a specific job. No work shall be done and no charges shall accrue before authorization to proceed is obtained from the customer. . . .

6. Business and Professions Code section 9888.3 provides:

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

7. Business and Professions Code section 9889.3 provides in 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:

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

[¶] . . . [¶]

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

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

[¶] . . . [¶]

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

8. Business and Professions Code section 9889.16 provides:

Whenever a licensed adjuster in a licensed station upon an inspection or after an adjustment, made in conformity with the instructions of the bureau, determines that the lamps or the brakes upon any vehicle conform with the requirements of the Vehicle Code, he shall, when requested by the owner or driver of the vehicle, issue a certificate of adjustment on a form prescribed by the director, which certificate shall contain the date of issuance, the make and registration number of the vehicle, the name of the owner of the vehicle, and the official license of the station.

9. Business and Professions Code section 9889.22 provides:

The willful making of any false statement or entry with regard to a material matter in any oath, affidavit, certificate of compliance or noncompliance, or application form which is required by this chapter or Chapter 5 (commencing with Section 44000) of Part 5 of Division 26 of the Health and Safety Code constitutes perjury and is punishable as provided in the Penal Code.

10. Business and Professions Code section 9889.9 provides:

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

11. Health and Safety Code section 44072.2 provides in 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 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.

[¶] . . . [¶]

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

#### *Cause Exists to Impose Discipline*

12. Cause exists to impose discipline against Automotive Repair Dealer Registration No. ARD 260522, Smog Check Station License No. RC 260522, Lamp Station License No. LS 260522, and Brake Station License No. BS 260522 issued to S.H.F., Inc., and to impose discipline against Advanced Emission Specialist Technician License No. EA 300651, Brake Adjuster License No. LS 300651, and Brake Adjuster License No. LA 300651 issued to Ahmad Radwan Bakar. A preponderance of the evidence established that in connection with the undercover operation occurring on January 29, 2010, S.H.F., Inc., violated the Business and Professions Code sections and regulations set forth in paragraphs 30 through 39 as alleged in the Accusation and as stipulated to in this proceeding.

13. Cause exists to impose discipline against Automotive Repair Dealer Registration No. ARD 260522, Smog Check Station License No. RC 260522, Lamp Station License No. LS 260522, and Brake Station License No. BS 260522 issued to S.H.F., Inc., and to impose discipline against Advanced Emission Specialist Technician License No. EA 300651, Brake Adjuster License No. LS 300651, and Brake Adjuster License No. LA 300651 issued to Ahmad Radwan Bakar. A preponderance of the evidence established that S.H.F., Inc. issued Brake Certificate Nos. BC 993620 through BC 993592 on January 21 and January 22, 2010, when it was not authorized to do so, and in violation of Business and Professions Code section 9884.7, subdivision (a)(1). A preponderance of the evidence established that Mr. Bakar was not authorized at the time to perform the brake and lamp inspections because S.H.F., Inc.'s brake and lamp station license had not been issued, which violated Business and Professions Code section 9888.3. Mr. Bakar falsely represented that he had inspected a vehicle owned by Mr. Murad when he had not yet done so, in violation of Business and Profession Cod section 9889.22. and the Bureau's regulations identified in paragraphs 44, 46 and 48 of the Accusation. A preponderance of the evidence also

established that S.H.F., Inc. violated Business and Professions Code section 9889.3, subdivisions (a) and (h) for the reasons set forth herein.

14. Cause exists to impose discipline against Automotive Repair Dealer Registration No. ARD 260522, Smog Check Station License No. RC 260522, Lamp Station License No. LS 260522, and Brake Station License No. BS 260522 issued to S.H.F., Inc., and to impose discipline against Advanced Emission Specialist Technician License No. EA 300651, Brake Adjuster License No. LS 300651, and Brake Adjuster License No. LA 300651 issued to Ahmad Radwan Bakar. A preponderance of the evidence established that in connection with the undercover operation occurring on June 9, 2010, S.H.F., Inc., violated the Business and Professions Code sections and regulations set forth in paragraphs 49 through 64 as alleged in the Accusation and as stipulated to in this proceeding.

#### *The Appropriate Measure of Discipline*

15. To foster uniformity of penalties and to make sure its licensees and registrants understand the consequences of violating the Automotive Repair Act or the Smog Check Program, the Bureau established guidelines for disciplinary penalties and terms of probation. When an Administrative Law Judge imposes probation as part of a proposed disciplinary decision, the Bureau requests that the Administrative Law Judge impose the appropriate "Terms and Conditions of Probation" as outlined in the guidelines. The terms and conditions of probation are intended to protect the public from continued illegal behavior and to facilitate the rehabilitation of the probationer without being unduly burdensome or anti-competitive.

The guidelines list the following factors in aggravation: prior warnings from BAR; prior notices of violations; prior office conferences; prior adverse inspection reports; prior demonstrations of incompetence; a history of citations; a history of formal disciplinary action; the failure to permit BAR inspection of records; the abuse of a mechanic's lien; attempts to intimidate a consumer; negligent or willful improper repair work that endangers consumer; evidence that the unlawful act was part of a pattern of practice; the failure to comply with BAR request for corrective action/retraining; whether the licensee or registrant is currently on probation for improper acts; the failure to successfully complete prior period of probation; the failure to pay a court judgment to victim; the violation of a court order; and any other conduct which constitutes fraud or gross negligence.

The guidelines list the following factors in mitigation: evidence that respondent accepted BAR's suggested resolution to consumer complaint; evidence of voluntary participation in retraining for self or employees; evidence of voluntary purchase of proper diagnostic equipment and manuals; evidence of temporary medical condition that prevented respondent from exercising supervision and control over employees or others, which led to wrongdoing; no loss to consumer and no damage to consumer's property (undercover vehicles treated as if they were consumers); evidence that shop has taken specific steps for retraining and has initiated steps to minimize recurrence; evidence of resolution of all

consumer complaints with a subsequent change in business practice; and evidence of internal controls or audits designed to eliminate errors.

The penalty guidelines for the offenses SHF and Mr. Bakar committed are essentially as follows:

Minimum sanction: 90 day suspension, 80 day stayed - 2 year probation

Maximum sanction: Revocation

Counsel for complainant's comments and arguments were considered in reaching the disciplinary order set forth herein.

16. The public will be protected by revoking SHF's brake station license and lamp station license, and by revoking Mr. Bakar's brake adjuster license and lamp adjuster license. Mr. Bakar's advanced emission technician license shall be revoked, but the revocation shall be stayed on condition that Mr. Bakar be placed on probation for a period of three years on condition that he complete a 16-hour retraining course approved by the Bureau within 90 days of the effective date of the Decision in this matter. SHF's smog check station license and automotive repair dealer registration shall be revoked, but the revocation shall be stayed and SHF shall be placed on three years probation.

There is no need to impose a suspension on any registration or license.

#### *The Award of Costs*

17. Business and Professions Code section 125.3 provides in part:

(a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before any board within the department . . . upon request of the entity bringing the proceeding, the administrative law judge may direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

18. *Zuckerman v. State Board of Chiropractic Examiners* (2002) 29 Cal.4th 32 held that imposing costs under California Code of Regulations, title 16, section 317.5 (a regulation that is which is very similar to Business and Professions Code section 125.3) did not violate due process so long the Board of Chiropractic Examiners exercised its discretion so that the cost regulation did not deter chiropractors with potentially meritorious claims or defenses from exercising their right to a hearing.

The Supreme Court set forth four factors that must be considered in deciding whether to reduce or eliminate costs: (1) Whether the chiropractor used the hearing process to obtain dismissal of other charges or a reduction in the severity of the discipline imposed; (2) whether the chiropractor had a "subjective" good faith belief in the merits of his position; (3) whether the chiropractor raised a "colorable challenge" to the proposed discipline; and (4) whether the chiropractor had the financial ability to make payments.

Since Regulation 317.5 and Business and Professions Code section 125.3 contain substantially the same language and seek the same sort of cost recovery, the reasoning in *Zuckerman* must be applied to Business and Professions Code section 125.3 to avoid constitutional pitfalls.

19. The *Zuckerman* criteria were applied. SHF and Mr. Bakar's financial circumstances and his partially successful challenge to the proposed sanction of the revocation of all registrations and licenses, and the evidence of rehabilitation justify the reduction of an award of costs to \$15,000, which is a joint and several liability.

#### ORDERS

Lamp Station License No. LS 260522 and Brake Station License No. BS 260522 issued to S.H.F., Inc. are revoked.

Brake Adjuster License No. BA 300651 and Lamp Adjuster License No. LA 300651 issued to Ahmad Radwan Bakar are revoked.

ARD Registration No. ARD 260522 and Smog Check License No. RC 260522 issued to S.H.F., Inc. are revoked; provided, however, that the order of revocation is stayed and the registration and license are placed on probation for a period of three years on the following terms and conditions of probation:

1. During the period of probation, S.H.F., Inc. shall:
  - a. Comply with all statutes, regulations and rules governing automotive inspections, estimates and repairs.
  - b. Require that its authorized representative must report in person or in writing as prescribed by the Bureau of Automotive Repair, on a schedule set by the Bureau, but no more frequently than each quarter, on the methods used and success achieved in maintaining compliance with the terms and conditions of probation.
  - c. Within 30 days of the effective date of this Decision, report any financial interest which any partners, officers, or owners of the respondent facility

may have in any other business required to be registered pursuant to Section 9884.6 of the Business and Professions Code.

- d. Provide Bureau representatives unrestricted access to inspect all vehicles (including parts) undergoing repairs, up to and including the point of completion.

2. S.H.F., Inc. shall reimburse the Bureau of Automotive Repair a total of \$15,000 for the Bureau's costs of investigation and enforcement. This is a joint and several obligation so that credit shall be given against the total award for any payments made by Ahmad Radwan Bakar. S.H.F., Inc. shall not be permitted to obtain an unrestricted license, nor shall S.H.F., Inc. be permitted to petition to modify or terminate probation herein, until there is full payment of the investigation and enforcement costs. However, respondent may petition the Department to modify the cost order based upon a showing of good cause.

3. If an accusation is filed against S.H.F., Inc., during the term of probation, the Director of Consumer Affairs shall have continuing jurisdiction over this matter until the final decision on the accusation, and the period of probation shall be extended until such decision.

4. Should the Director of Consumer Affairs determine that S.H.F., Inc., has failed to comply with the terms and conditions of probation, the Department may, after giving notice and opportunity to be heard temporarily or permanently invalidate the registration and/or suspend or revoke the license.

5. Upon the successful completion of probation, S.H.F., Inc. shall be entitled to the issuance of an unrestricted license and an unrestricted registration.

Advanced Emission Specialist Technician License No. EA 300651 issued to Ahmad Radwan Bakar is revoked; provided, however, that the order of revocation is stayed and the license shall be placed on probation for a period of three years on the following terms and conditions of probation:

- I. During the period of probation, Ahmad Radwan Bakar shall:
  - a. Comply with all statutes, regulations and rules governing automotive inspections, estimates and repairs, including all statutes, regulation and rules required of advanced emission specialist technician licensees.
  - b. Within 30 days of the effective date of this Decision, report any financial interest which any partners, officers, or owners of the respondent facility may have in any other business required to be registered pursuant to Section 9884.6 of the Business and Professions Code.

- c. Provide Bureau representatives unrestricted access to inspect all vehicles (including parts) undergoing repairs and smog check inspections, up to and including the point of completion.

2. Within 90 days of the effective date of this Decision, Ahmad Radwan Bakar shall attend and successfully complete a 16-hour Bureau certified training course in diagnosis and repair of emission systems failures and engine performance, applicable to the class of license he holds. Said course shall be completed and proof of completion submitted to the Bureau within 90 days of the effective date of this decision and order. If proof of completion of the course is not furnished to the Bureau within the 90-day period, the advanced emission specialist technician's license issued to Ahmad Radwan Bakar shall be immediately suspended and shall so remain until such proof of completion is received.

3. Ahmad Radwan Bakar shall reimburse the Bureau of Automotive Repair a total of \$15,000 for the Bureau's costs of investigation and enforcement. This is a joint and several obligation so that credit shall be given against the total award for any payments made by S.H.F., Inc. Ahmad Radwan Bakar shall not be permitted to obtain an unrestricted license, nor shall he be permitted to petition to modify or terminate probation herein, until there is full payment of the investigation and enforcement costs. However, respondent may petition to modify costs as indicated.

4. If an accusation is filed against Ahmad Radwan Bakar during the term of probation, the Director of Consumer Affairs shall have continuing jurisdiction over this matter until the final decision on the accusation, and the period of probation shall be extended until such decision.

5. Should the Director of Consumer Affairs determine that Ahmad Radwan Bakar has failed to comply with the terms and conditions of probation, the Department may, after giving notice and opportunity to be heard, temporarily or permanently invalidate the registration and/or suspend or revoke the license.

6. Upon the successful completion of probation, Ahmad Radwan Bakar shall be entitled to the issuance of an unrestricted license.

DATED: January 5, 2012



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JAMES AHLER  
Administrative Law Judge  
Office of Administrative Hearings

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Attorney General of California  
2 GREGORY J. SALUTE  
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*Attorneys for Complainant*

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. 77/10-55

13 **S.H.F., INC.,**  
14 **dba STERLING CAR CARE AUTO CENTER**  
15 **AHMAD RADWAN BAKAR, PRESIDENT**  
16 **ANN L. BAKAR, TREASURER**  
17 **HASSAN S. BAKAR, SECRETARY**  
18 7610 Sterling Avenue  
19 San Bernardino, CA 92410

**ACCUSATION**

20 Mailing Address:  
21 P.O. Box 1076  
22 Patton, CA 92369

23 Automotive Repair Dealer Reg. No. ARD 260522  
24 Smog Check Station License No. RC 260522  
25 Lamp Station License No. LS 260522  
26 Brake Station License No. BS 260522

27 **and**

28 **AHMAD RADWAN BAKAR**  
3608 Sepulveda Avenue  
San Bernardino, CA 92404

Advanced Emission Specialist Technician License  
No. EA 300651  
Brake Adjuster License No. BA 300651  
Lamp Adjuster License No. LA 300651

Respondents.

1 Complainant alleges:

2 **PARTIES/LICENSE INFORMATION**

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

5 **Sterling Car Care Auto Center**

6 2. On or about January 20, 2010, the Director of Consumer Affairs ("Director") issued  
7 Automotive Repair Dealer Registration Number ARD 260522 ("registration") to S.H.F., Inc.  
8 ("Respondent S.H.F." or "S.H.F."), doing business as Sterling Car Care Auto Center, with Ahmad  
9 Radwan Bakar as president, Ann L. Bakar as treasurer, and Hassan S. Bakar as secretary.  
10 Respondent S.H.F.'s automotive repair dealer registration will expire on December 31, 2011,  
11 unless renewed.

12 3. On or about February 17, 2010, the Director issued Smog Check Station License  
13 Number RC 260522 to Respondent S.H.F. Respondent S.H.F.'s smog check station license will  
14 expire on December 31, 2011, unless renewed.

15 4. On or about February 17, 2010, the Director issued Lamp Station License Number  
16 LS 260522 to Respondent S.H.F. Respondent S.H.F.'s lamp station license will expire on  
17 December 31, 2011, unless renewed.

18 5. On or about February 17, 2010, the Director issued Brake Station License Number  
19 BS 260522 to Respondent. Respondent S.H.F.'s brake station license will expire on December  
20 31, 2011, unless renewed.

21 **Ahmad Radwan Bakar**

22 6. In or about 1996, the Director issued Advanced Emission Specialist Technician  
23 License Number EA 300651 ("technician license") to Ahmad Radwan Bakar ("Respondent  
24 Bakar"). Respondent Bakar's technician license will expire on March 31, 2012, unless renewed.

25 7. In or about 1999, the Director issued Brake Adjuster License Number BA 300651 to  
26 Respondent Bakar. Respondent Bakar's brake adjuster license will expire on March 31, 2012,  
27 unless renewed.

28 ///





1 17. Bus. & Prof. Code section 9888.3 states:

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

7 18. Bus. & Prof. Code section 9889.3 states, in pertinent part:

8 The director may suspend, revoke, or take other disciplinary action  
9 against a license as provided in this article [Article 7 (commencing with section  
10 9889.1) of the Automotive Repair Act] if the licensee or any partner, officer, or  
11 director thereof:

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

14 . . . .

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

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

19 . . . .

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

22 19. Bus. & Prof. Code section 9889.16 states:

23 Whenever a licensed adjuster in a licensed station upon an inspection or  
24 after an adjustment, made in conformity with the instructions of the bureau,  
25 determines that the lamps or the brakes upon any vehicle conform with the  
26 requirements of the Vehicle Code, he shall, when requested by the owner or driver of  
27 the vehicle, issue a certificate of adjustment on a form prescribed by the director,  
28 which certificate shall contain the date of issuance, the make and registration number  
of the vehicle, the name of the owner of the vehicle, and the official license of the  
station.

20. Bus. & Prof. Code section 9889.22 states:

The willful making of any false statement or entry with regard to a  
material matter in any oath, affidavit, certificate of compliance or noncompliance, or  
application form which is required by this chapter [the Automotive Repair Act] or  
Chapter 5 (commencing with Section 44000) of Part 5 of Division 26 of the Health  
and Safety Code constitutes perjury and is punishable as provided in the Penal Code.

21. Bus. & Prof. Code section 9889.9 states that "[w]hen any license has been revoked or  
suspended following a hearing under the provisions of this article [Article 7 (commencing with

1 section 9889.1) of the Automotive Repair Act], any additional license issued under Articles 5 and  
2 6 of this chapter in the name of the licensee may be likewise revoked or suspended by the  
3 director.”

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

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

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

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

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

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

18 . . . .

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

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

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

### 26 COST RECOVERY

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

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1 **BACKGROUND**

2 27. On or about April 24, 1995, the Director issued Automotive Repair Dealer  
3 Registration Number ARD 183412 to Walid Kodsí ("Kodsí"), owner of Sterling Car Care Auto  
4 Center. In or about 1995, the Director issued Lamp Station License No. LS 183412 and Brake  
5 Station License No. BS 183412 to Kodsí. On December 28, 2009, the Bureau sold Kodsí a lamp  
6 certificate book containing 50 certificates, numbered LC972001 to LC972050. On January 14,  
7 2010, the Bureau sold Kodsí a brake certificate book containing 50 certificates, numbered  
8 BC993601 to BC993650. On or about January 27, 2010, Kodsí's registration and lamp and brake  
9 station licenses were canceled. In or before January 2010, Kodsí sold the business to Respondent  
10 S.H.F.

11 **UNDERCOVER OPERATION #1: 2002 TOYOTA 4RUNNER**

12 28. On January 29, 2010, an undercover operator with the Bureau ("operator") took the  
13 Bureau's 2002 Toyota 4Runner to Respondent S. H. F.'s facility and requested smog, brake, and  
14 lamp inspections. The front brake rotors on the Bureau-documented vehicle were machined  
15 beyond the manufacturer's discard diameter specifications, the front headlamps were out of  
16 adjustment, and the rear backup lamps were not functioning. A male employee told the operator  
17 that he would take care of the inspections, but did not give her a written estimate. The employee  
18 had the operator step on the brake pedal while he checked the brake lights. The employee then  
19 had the operator turn on the signals and put the vehicle in reverse while he checked the other  
20 lights. The employee placed a piece of equipment onto the headlamps, but did not make any  
21 adjustments to the lights. The employee told the operator that the backup lamps were not  
22 working and had her get out of the vehicle so that he could check the fuse. The employee  
23 checked the fuse, and then replaced the two backup lamp bulbs. The employee took the vehicle  
24 on a road test, and then later reported that the brakes were fine. The operator did not observe the  
25 employee remove any of the wheels from the vehicle at any time during the brake inspection.  
26 Later, the employee told Wilson that they did not perform smog inspections at their facility and  
27 offered to take the vehicle to another shop for the inspection. The operator authorized the  
28 employee to sublet the smog inspection. A second employee got into the vehicle and drove away.

1 The second employee returned about 10 minutes later and told the operator that the vehicle could  
2 not be smog tested as it had come up as a "test only" vehicle. The operator paid the facility \$75  
3 in cash for the inspections and the repair of the back up lamp bulbs and received copies of a  
4 written estimate, an invoice, Brake Certificate Number BC993620, and Lamp Certificate Number  
5 LC972029. The certificates indicated that the brake and lamp inspections were performed by  
6 Respondent Bakar.

7 29. On February 2, 2010, the Bureau inspected the vehicle and found that the rear back  
8 up lamps were now functional; however, the front headlamps were still out of adjustment, the  
9 front brake rotors were not within manufacturer's specifications, and none of the wheels had been  
10 removed to inspect the brakes.

#### 11 FIRST CAUSE FOR DISCIPLINE

#### 12 (Untrue or Misleading Statements)

13 30. Respondent S.H.F.'s registration is subject to disciplinary action pursuant to Bus. &  
14 Prof. Code section 9884.7, subdivision (a)(1). Respondent made or authorized statements which it  
15 knew or in the exercise of reasonable care should have known to be untrue or misleading, as  
16 follows:

17 a. Respondent S.H.F. certified under penalty of perjury on Brake Certificate Number  
18 BC993620 that the applicable inspection was performed on the brake system on the Bureau's  
19 2002 Toyota 4Runner. In fact, Respondent S.H.F.'s technician, Respondent Bakar, failed to  
20 inspect the brakes on the vehicle.

21 b. Respondent S.H.F. certified under penalty of perjury on Brake Certificate Number  
22 BC993620 that the front brake rotors on the Bureau's 2002 Toyota 4Runner were in a satisfactory  
23 condition. In fact, the front brake rotors had been machined beyond the manufacturer's discard  
24 diameter specifications.

25 c. Respondent S.H.F. certified under penalty of perjury on Lamp Certificate Number  
26 LC972029 that the applicable adjustment had been performed on the lamp system on the  
27 Bureau's 2002 Toyota 4Runner. In fact, both headlamps were out of adjustment at the time the  
28 Bureau inspected the vehicle following the undercover operation.



1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Violations of Regulations)**

3 33. Respondent S.H.F.'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 S.H.F. failed to perform the inspection of  
7 the brake system and inspection and adjustment of the lamp system on the Bureau's 2002 Toyota  
8 4Runner in accordance with the specifications, instructions, and directives issued by the Bureau  
9 and the vehicle manufacturer. Further, Respondent S.H.F. authorized or permitted Respondent  
10 Bakar to perform the brake and lamp inspections on the vehicle before Respondent S.H.F.'s brake  
11 and lamp station licenses had been issued.

12 b. **Section 3316, subdivision (d)(2)**: Respondent issued Lamp Certificate Number  
13 LC972029 as to the Bureau's 2002 Toyota 4Runner when all of the lamps, lighting equipment,  
14 and/or related electrical systems on the vehicle were not in compliance with Bureau regulations,  
15 as set forth in paragraph 30 above.

16 c. **Section 3321, subdivision (c)(2)**: Respondent issued Brake Certificate Number  
17 BC993620 as to the Bureau's 2002 Toyota 4Runner when the hrake system on the vehicle had not  
18 been tested or inspected, as set forth in paragraph 30 above.

19 **FIFTH CAUSE FOR DISCIPLINE**

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

21 34. Respondent S.H.F.'s brake and lamp station licenses are subject to disciplinary action  
22 pursuant to Bus. & Prof. Code section 9889.3, subdivisions (a) and (h), in that Respondent  
23 violated the provisions of Bus. & Prof. Code sections 9884.9, subdivision (a), 9888.3, 9889.16,  
24 and 9889.22 relating to Respondent's licensed activities, as set forth in paragraph 32 above.

25 **SIXTH CAUSE FOR DISCIPLINE**

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

27 35. Respondent S.H.F.'s brake and lamp station licenses are subject to disciplinary action  
28 pursuant to Bus. & Prof. Code section 9889.3, subdivision (c), in that Respondent failed to

1 comply with the provisions of California Code of Regulations, title 16, sections 3305, subdivision  
2 (a), 3316, subdivision (d)(2), and 3321, subdivision (c)(2), as set forth in paragraph 33 above.

3 **SEVENTH CAUSE FOR DISCIPLINE**

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

5 36. Respondent S.H.F.'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 an  
7 act involving dishonesty, fraud, or deceit whereby another was injured, as set forth in paragraph  
8 31 above.

9 **EIGHTH CAUSE FOR DISCIPLINE**

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

11 37. Respondent Bakar's brake and lamp adjuster licenses are subject to disciplinary action  
12 pursuant to Bus. & Prof. Code section 9889.3, subdivisions (a) and (h), in that he violated the  
13 provisions of Bus. & Prof. Code sections 9888.3, 9889.16, and 9889.22 relating to his licensed  
14 activities, as set forth in paragraph 32 above.

15 **NINTH CAUSE FOR DISCIPLINE**

16 **(Violations of Regulations)**

17 38. Respondent Bakar's brake and lamp adjuster licenses are subject to disciplinary  
18 action pursuant to Bus. & Prof. Code section 9889.3, subdivision (c), in that he failed to comply  
19 with the provisions of California Code of Regulations, title 16, sections 3305, subdivision (a),  
20 3316, subdivision (d)(2), and 3321, subdivision (c)(2), as set forth in paragraph 33 above.

21 **TENTH CAUSE FOR DISCIPLINE**

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

23 39. Respondent S.H.F.'s smog check station license is subject to disciplinary action  
24 pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed a  
25 dishonest, fraudulent, or deceitful act whereby another is injured, as set forth in paragraph 31  
26 above.

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	<u>Lamp Certificate No.</u>	<u>Alleged Date of Issuance:</u>
1		
2	LC972029	January 21, 2010
	LC972030	See above
3	LC972031	" "
	LC972032	" "
4	LC972033	" "
	LC972034	" "
5	LC972035	" "
	LC972036	January 22, 2010
6	LC972037	See above
7	LC972038	" "

**ELEVENTH CAUSE FOR DISCIPLINE**

**(Untrue or Misleading Statements)**

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

a. Respondent S.H.F. certified under penalty of perjury on the brake and lamp certificates, identified in paragraph 41 above, that the applicable inspections were performed on the vehicles described on the certificates, including the Bureau's 2002 Toyota 4Runner, as specified by the Bureau and in accordance with Title 16 of the California Code of Regulations and the Business and Professions Code. In fact, Respondent S.H.F. authorized or permitted Respondent Bakar to perform the brake and lamp inspections on the vehicles before S.H.F.'s brake and lamp station licenses had been issued, in violation of Bus. & Prof. Code section 9888.3 and California Code of Regulations, title 16, section 3305, subdivision (a).

b. Respondent S.H.F. certified under penalty of perjury on the brake and lamp certificates, identified in paragraph 41 above, that the registration number of the station was AD 183412. In fact, that registration number had been issued to Kadi, the former owner of Sterling Car Care Auto Center, and had been canceled on January 27, 2010.

c. Respondent S.H.F. certified under penalty of perjury on the brake and lamp certificates, identified in paragraph 41 above, that the brake and lamp inspections were performed

1 on January 21, 2010, or January 22, 2010. In fact, the inspections were performed on or after  
2 January 29, 2010, and prior to February 1, 2010.

3 **TWELFTH CAUSE FOR DISCIPLINE**

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

5 43. Respondent S.H.F.'s registration is subject to disciplinary action pursuant to Bus. &  
6 Prof. Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with  
7 provisions of that Code in the following material respects:

8 a. **Section 9888.3:** Respondent S.H.F. authorized or permitted Respondent Bakar to  
9 perform the brake and lamp inspections on the vehicles described on the brake and lamp  
10 certificates, identified in paragraph 41 above, before Respondent S.H.F.'s brake and lamp station  
11 licenses had been issued.

12 b. **Section 9889.22:** Respondent S.H.F. willfully made false statements or entries on the  
13 brake and lamp certificates, identified in paragraph 42 above.

14 **THIRTEENTH CAUSE FOR DISCIPLINE**

15 **(Violations of Regulations)**

16 44. Respondent S.H.F.'s registration is subject to disciplinary action pursuant to Bus. &  
17 Prof. Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with  
18 provisions of California Code of Regulations, title 16, in the following material respects:

19 a. **Section 3305, subdivision (a):** Respondent S.H.F. authorized or permitted  
20 Respondent Bakar to perform the brake and lamp inspections on the vehicles described on the  
21 brake and lamp certificates, identified in paragraph 41 above, before Respondent S.H.F.'s brake  
22 and lamp station licenses had been issued.

23 b. **Section 3316, subdivision (d):** Respondent S.H.F. purchased or otherwise obtained  
24 lamp certificate numbers LC972001 to LC972050 from a source other than the Bureau.

25 c. **Section 3321, subdivision (c):** Respondent S.H.F. purchased or otherwise obtained  
26 brake certificate numbers BC993601 to BC993650 from a source other than the Bureau.

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1 **FOURTEENTH CAUSE FOR DISCIPLINE**

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

3 45. Respondent S.H.F.'s brake and lamp station licenses are subject to disciplinary action  
4 pursuant to Bus. & Prof. Code section 9889.3, subdivisions (a) and (h), in that Respondent  
5 violated the provisions of Bus. & Prof. Code sections 9888.3 and 9889.22 relating to its licensed  
6 activities, as set forth in paragraph 43 above.

7 **FIFTEENTH CAUSE FOR DISCIPLINE**

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

9 46. Respondent S.H.F.'s brake and lamp station licenses are subject to disciplinary action  
10 pursuant to Bus. & Prof. Code section 9889.3, subdivision (c), in that Respondent failed to  
11 comply with the provisions of California Code of Regulations, title 16, sections 3305, subdivision  
12 (a), 3316, subdivision (d), and 3321, subdivision (c), as set forth in paragraph 44 above.

13 **SIXTEENTH CAUSE FOR DISCIPLINE**

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

15 47. Respondent Bakar's brake and lamp adjuster licenses are subject to disciplinary action  
16 pursuant to Bus. & Prof. Code section 9889.3, subdivisions (a) and (h), in that Respondent  
17 violated the provisions of Bus. & Prof. Code sections 9888.3 and 9889.22 relating to his licensed  
18 activities, as set forth in paragraph 43 above.

19 **SEVENTEENTH CAUSE FOR DISCIPLINE**

20 **(Violations of Regulations)**

21 48. Respondent Bakar's brake and lamp adjuster licenses are subject to disciplinary  
22 action pursuant to Bus. & Prof. Code section 9889.3, subdivision (c), in that he failed to comply  
23 with California Code of Regulations, title 16, section 3305, subdivision (a), as set forth in  
24 subparagraph 44 (a) above.

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UNDERCOVER OPERATION #2: 1996 PLYMOUTH VOYAGER

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2       49. On June 9, 2010, an undercover operator with the Bureau ("operator") took the  
3 Bureau's 1996 Plymouth Voyager to Respondent S. H. F.'s facility. The rear brake drums on the  
4 Bureau-documented vehicle were machined beyond the manufacturer's discard diameter  
5 specifications, the front headlamps were out of adjustment, the rear backup lamps were not  
6 functioning, and the positive crankcase ventilation (PCV) system was removed from the vehicle.  
7 The operator met with a male employee and told him that she needed a brake and lamp inspection  
8 on the vehicle. The operator stated that she needed a smog inspection as well, but would have the  
9 smog test performed at another facility. The employee gave the operator a verbal estimate for the  
10 lamp and brake inspections, then took the vehicle on a road test accompanied by the operator.  
11 After returning to the facility, the employee checked the brake lights on the vehicle as well as the  
12 left and right signal lights and the headlamps. The employee had the operator put the vehicle in  
13 reverse, and then told her that the backup lights were not working. The employee stated that it  
14 would cost \$10 to replace the backup light bulbs if they were bad. The operator observed the  
15 employee remove the lenses from the lights and replace both bulbs. Later, the operator  
16 authorized the employee to perform a smog inspection on the vehicle, and signed and received a  
17 copy of a written estimate. After the smog inspection was completed, the operator paid the  
18 employee \$110 and received copies of an invoice, Brake Certificate Number BC1062586, Lamp  
19 Certificate Number LC1047586, and a vehicle inspection report. The certificates and vehicle  
20 inspection report indicated that the brake, lamp, and smog inspections were performed by  
21 Respondent Bakar. That same day, electronic smog Certificate of Compliance No. WJ904694  
22 was issued for the vehicle.

23       50. On June 15, 2010, the Bureau inspected the vehicle and found that the rear back up  
24 lamps were now functional; however, the front headlamps were still out of adjustment, the rear  
25 brake drums were not within manufacturer's specifications, none of the wheels had been removed  
26 to inspect the brakes, and the PCV system was still missing.

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1 EIGHTEENTH CAUSE FOR DISCIPLINE

2 (Untrue or Misleading Statements)

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

7 a. Respondent certified under penalty of perjury on the vehicle inspection report that the  
8 Bureau's 1996 Plymouth Voyager had passed inspection and was in compliance with applicable  
9 laws and regulations. In fact, the PCV system had been removed from the vehicle and as such,  
10 the vehicle would not pass the inspection required by Health & Saf. Code section 44012.

11 b. Respondent S.H.F. certified under penalty of perjury on Brake Certificate Number  
12 BC1062586 that the applicable inspection was performed on the brake system on the Bureau's  
13 1996 Plymouth Voyager. In fact, Respondent S.H.F.'s technician, Respondent Bakar, failed to  
14 inspect the brakes on the vehicle.

15 c. Respondent S.H.F. certified under penalty of perjury on Brake Certificate Number  
16 BC1062586 that the rear brake drums on the Bureau's 1996 Plymouth Voyager were in a  
17 satisfactory condition. In fact, the rear brake drums were machined beyond the manufacturer's  
18 discard diameter specifications.

19 d. Respondent S.H.F. certified under penalty of perjury on Lamp Certificate Number  
20 LC1047586 that the applicable adjustment had been performed on the lamp system on the  
21 Bureau's 1996 Plymouth Voyager. In fact, both headlamps were out of adjustment at the time the  
22 Bureau inspected the vehicle following the undercover operation.

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1 **NINETEENTH CAUSE FOR DISCIPLINE**

2 (Fraud)

3 52. Respondent S.H.F.'s registration is subject to disciplinary action pursuant to Bus. &  
4 Prof. Code section 9884.7, subdivision (a)(4), Respondent committed acts that constitute fraud, as  
5 follows:

6 a. Respondent issued an electronic smog certificate of compliance for the Bureau's 1996  
7 Plymouth Voyager without performing a bona fide inspection of the emission control devices and  
8 systems on the vehicle, thereby depriving the People of the State of California of the protection  
9 afforded by the Motor Vehicle Inspection Program.

10 b. Respondent obtained payment from the operator for performing the applicable  
11 inspections, adjustments, or repairs of the brake and lamp systems on the Bureau's 1996  
12 Plymouth Voyager as specified by the Bureau and in accordance with the Vehicle Code. In fact,  
13 Respondent failed to perform the necessary inspections, adjustments, and repairs in compliance  
14 with Bureau Regulations or the Vehicle Code as set forth in paragraph 51 above.

15 **TWENTIETH CAUSE FOR DISCIPLINE**

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

17 53. Respondent S.H.F.'s registration is subject to disciplinary action pursuant to Bus. &  
18 Prof. Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with  
19 provisions of that Code in the following material respects:

20 a. **Section 9884.9, subdivision (a):** Respondent's employee failed to provide the  
21 operator with a written estimate before performing the brake and lamp inspections on the  
22 Bureau's 1996 Plymouth Voyager.

23 b. **Section 9889.16:** Respondent issued Brake Certificate Number BC1062586 and  
24 Lamp Certificate Number LC1047586 as to the Bureau's 1996 Plymouth Voyager when the  
25 vehicle was not in compliance with Bureau Regulations or the requirements of the Vehicle Code.

26 c. **Section 9889.22:** Respondent S.H.F. willfully made false statements or entries on  
27 Brake Certificate Number BC1062586 and Lamp Certificate Number LC1047586, as set forth in  
28 paragraph 51 above.

1 **TWENTY-FIRST CAUSE FOR DISCIPLINE**

2 **(Violations of Regulations)**

3 54. Respondent S.H.F.'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 failed to perform the inspection of the  
7 brake system and inspection and adjustment of the lamp system on the Bureau's 1996 Plymouth  
8 Voyager in accordance with the specifications, instructions, and directives issued by the Bureau  
9 and the vehicle manufacturer.

10 b. **Section 3316, subdivision (d)(2)**: Respondent issued Lamp Certificate Number  
11 LC1047586 as to the Bureau's 1996 Plymouth Voyager when all of the lamps, lighting  
12 equipment, and/or related electrical systems on the vehicle were not in compliance with Bureau  
13 regulations, as set forth in paragraph 51 above.

14 c. **Section 3321, subdivision (c)(2)**: Respondent issued Brake Certificate Number  
15 BC1062586 as to the Bureau's 1996 Plymouth Voyager when the brake system on the vehicle had  
16 not been tested or inspected, as set forth in paragraph 51 above.

17 **TWENTY-SECOND CAUSE FOR DISCIPLINE**

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

19 55. Respondent S.H.F.'s brake and lamp station licenses are subject to disciplinary action  
20 pursuant to Bus. & Prof. Code section 9889.3, subdivisions (a) and (h), in that Respondent  
21 violated the provisions of Bus. & Prof. Code sections 9884.9, subdivision (a), 9889.16, and  
22 9889.22 relating to Respondent's licensed activities, as set forth in paragraph 53 above.

23 **TWENTY-THIRD CAUSE FOR DISCIPLINE**

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

25 56. Respondent S.H.F.'s brake and lamp station licenses are subject to disciplinary action  
26 pursuant to Bus. & Prof. Code section 9889.3, subdivision (c), in that Respondent failed to  
27 comply with the provisions of California Code of Regulations, title 16, sections 3305, subdivision  
28 (a), 3316, subdivision (d)(2), and 3321, subdivision (c)(2), as set forth in paragraph 54 above.

1 **TWENTY-FOURTH CAUSE FOR DISCIPLINE**

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

3 57. Respondent S.H.F.'s brake and lamp station licenses are subject to disciplinary action  
4 pursuant to Bus. & Prof. Code section 9889.3, subdivision (d), in that Respondent committed acts  
5 involving dishonesty, fraud, or deceit whereby another was injured, as set forth in paragraph 52  
6 above.

7 **TWENTY-FIFTH CAUSE FOR DISCIPLINE**

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

9 58. Respondent Bakar's brake and lamp adjuster licenses are subject to disciplinary action  
10 pursuant to Bus. & Prof. Code section 9889.3, subdivisions (a) and (h), in that he violated the  
11 provisions of Bus. & Prof. Code sections 9889.16 and 9889.22 relating to his licensed activities,  
12 as set forth in paragraph 53 above.

13 **TWENTY-SIXTH CAUSE FOR DISCIPLINE**

14 **(Violations of Regulations)**

15 59. Respondent Bakar'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 the provisions of California Code of Regulations, title 16, sections 3305, subdivision (a),  
18 3316, subdivision (d)(2), and 3321, subdivision (c)(2), as set forth in paragraph 54 above.

19 **TWENTY-SEVENTH CAUSE FOR DISCIPLINE**

20 **(Violations of the Motor Vehicle Inspection Program)**

21 60. Respondent S.H.F.'s smog check station license is subject to disciplinary action  
22 pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to  
23 comply with the following sections of that Code:

24 a. **Section 44012:** Respondent failed to perform the emission control tests on the  
25 Bureau's 1996 Plymouth Voyager in accordance with procedures prescribed by the department.

26 b. **Section 44015:** Respondent issued an electronic smog certificate of compliance for  
27 the Bureau's 1996 Plymouth Voyager without properly testing and inspecting the vehicle to  
28 determine if it was in compliance with Health & Saf. Code section 44012.

1 **TWENTY-EIGHTH CAUSE FOR DISCIPLINE**

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

4 61. Respondent S.H.F.'s smog check station license is subject to disciplinary action  
5 pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to  
6 comply with the provisions of California Code of Regulations, title 16, as follows:

7 a. **Section 3340.24, subdivision (c)**: Respondent S.H.F. falsely or fraudulently issued  
8 an electronic smog certificate of compliance for the Bureau's 1996 Plymouth Voyager.

9 b. **Section 3340.35, subdivision (c)**: Respondent S.H.F. issued an electronic smog  
10 certificate of compliance for the Bureau's 1996 Plymouth Voyager even though the vehicle had  
11 not been inspected in accordance with California Code of Regulations, title 16, section 3340.42.

12 c. **3340.41, subdivision (c)**: Respondent S.H.F. authorized or permitted Respondent  
13 Bakar to knowingly enter into the emissions inspection system ("EIS") false information about  
14 the Bureau's 1996 Plymouth Voyager.

15 d. **Section 3340.42**: Respondent S.H.F. failed to conduct the required smog tests on the  
16 Bureau's 1996 Plymouth Voyager in accordance with the Bureau's specifications.

17 **TWENTY-NINTH CAUSE FOR DISCIPLINE**

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

19 62. Respondent S.H.F.'s smog check station license is subject to disciplinary action  
20 pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed a  
21 dishonest, fraudulent, or deceitful act whereby another is injured by issuing an electronic smog  
22 certificate of compliance for the Bureau's 1996 Plymouth Voyager without performing a bona  
23 fide inspection of the emission control devices and systems on the vehicle, thereby depriving the  
24 People of the State of California of the protection afforded by the Motor Vehicle Inspection  
25 Program.

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1 dishonest, fraudulent, or deceitful act whereby another is injured by issuing an electronic smog  
2 certificate of compliance for the Bureau's 1996 Plymouth Voyager without performing a bona  
3 fide inspection of the emission control devices and systems on the vehicle, thereby depriving the  
4 People of the State of California of the protection afforded by the Motor Vehicle Inspection  
5 Program.

6 **OTHER MATTERS**

7 66. Pursuant to Bus. & Prof. Code section 9884.7, subdivision (c), the Director may  
8 suspend, revoke or place on probation the registration for all places of business operated in this  
9 state by Respondent S.H.F., Inc., doing business as Sterling Car Care Auto Center, upon a finding  
10 that said Respondent has, or is, engaged in a course of repeated and willful violations of the laws  
11 and regulations pertaining to an automotive repair dealer.

12 67. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Station License  
13 Number RC 260522, issued to Respondent S.H.F., Inc., doing business as Sterling Car Care Auto  
14 Center, is revoked or suspended, any additional license issued under Chapter 5 of the Health &  
15 Saf. Code in the name of said licensee may be likewise revoked or suspended by the Director.

16 68. Pursuant to Bus. & Prof. Code section 9889.9, if Lamp Station License Number  
17 LS 260522, issued to Respondent S.H.F., Inc., doing business as Sterling Car Care Auto Center,  
18 is revoked or suspended, any additional license issued under Articles 5 and 6 of Chapter 20.3 of  
19 the Bus. & Prof. Code in the name of said licensee may be likewise revoked or suspended by the  
20 Director.

21 69. Pursuant to Bus. & Prof. Code section 9889.9, if Brake Station License Number  
22 BS 260522, issued to Respondent S.H.F., Inc., doing business as Sterling Car Care Auto Center,  
23 is revoked or suspended, any additional license issued under Articles 5 and 6 of Chapter 20.3 of  
24 the Bus. & Prof. Code in the name of said licensee may be likewise revoked or suspended by the  
25 Director.

26 70. Pursuant to Health & Saf. Code section 44072.8, if Advanced Emission Specialist  
27 Technician License Number EA 300651, issued to Respondent Ahmad Radwan Bakar, is revoked  
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1 or suspended, any additional license issued under Chapter 5 of the Health & Saf. Code in the  
2 name of said licensee may be likewise revoked or suspended by the Director.

3 71. Pursuant to Bus. & Prof. Code section 9889.9, if Brake Adjuster License Number  
4 BA 300651, issued to Respondent Ahmad Radwan Bakar, is revoked or suspended, any  
5 additional license issued under Articles 5 and 6 of Chapter 20.3 of the Bus. & Prof. Code in the  
6 name of said licensee may be likewise revoked or suspended by the Director.

7 72. Pursuant to Bus. & Prof. Code section 9889.9, if Lamp Adjuster License Number  
8 LA 300651, issued to Respondent Ahmad Radwan Bakar, 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 260522, issued to S.H.F., Inc., doing business as Sterling Car Care Auto Center;

16 2. Revoking or suspending any other automotive repair dealer registration issued to  
17 S.H.F., Inc.;

18 3. Revoking or suspending Smog Check Station License Number RC 260522, issued to  
19 S.H.F., Inc., doing business as Sterling Car Care Auto Center;

20 4. Revoking or suspending any additional license issued under Chapter 5 of the Health  
21 and Safety Code in the name of S.H.F., Inc.;

22 5. Revoking or suspending Lamp Station License Number LS 260522, issued to S.H.F.,  
23 Inc., doing business as Sterling Car Care Auto Center;

24 6. Revoking or suspending Brake Station License Number BS 260522, issued to S.H.F.,  
25 Inc., doing business as Sterling Car Care Auto Center;

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 S.H.F., Inc.;

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8. Revoking or suspending Advanced Emission Specialist Technician License Number EA 300651, issued to Ahmad Radwan Bakar;

9. Revoking or suspending any additional license issued under Chapter 5 of the Health and Safety Code in the name of Ahmad Radwan Bakar;

10. Revoking or suspending Brake Adjuster License Number BA 300651, issued to Ahmad Radwan Bakar;

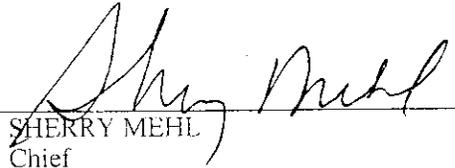
11. Revoking or suspending Lamp Adjuster License Number LA 300651, issued to Ahmad Radwan Bakar;

12. Revoking or suspending any additional license issued under Articles 5 and 6 of Chapter 20.3 of the Business and Professions Code in the name of Ahmad Radwan Bakar;

13. Ordering S.H.F., Inc., doing business as Sterling Car Care Auto Center, and Ahmad Radwan Bakar to pay the Director of Consumer Affairs the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED: 6-23-11



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