

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 BRETT A. KINGSBURY
Deputy Attorney General
4 State Bar No. 243744
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-1192
6 Facsimile: (415) 703-5480
Attorneys for Complainant

7
8 **BEFORE THE**
DEPARTMENT OF CONSUMER AFFAIRS
9 **FOR THE BUREAU OF AUTOMOTIVE REPAIR**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

11 **FASTER AUTO SERVICE, INC. D.B.A.**
12 **FASTER AUTO SERVICE,**
13 **HAYATULLAH HAMIDI, PRESIDENT,**
SECRETARY & TREASURER
2655 Monument Blvd., Unit J
14 Concord, CA 94520
Automotive Repair Dealer Registration No.
15 **ARD 260665**
Smog Check Station License No. RC 260665
16 **Lamp Station License No. LS 260665, A**
Brake Station License No. BS 260665, C

17 **HAYATULLAH HAMIDI**
18 881 San Simeon Drive
Concord, CA 94518
19 **Smog Check Inspector License No. EO**
138584
20 **Smog Check Check Repair Technician No.**
EI 138584
21 **(Formerly Advanced Emission Specialist**
Technician License No. EA 138584)
22 **Brake Adjuster License No. BA 138584, C**
Lamp Adjuster License No. LA 138584, A

23 Respondents.

Case No. 77/13-10

24 **AMENDED ACCUSATION**

25 Complainant alleges:

26 **PARTIES**

27 1. John Wallauch (Complainant) brings this Amended Accusation solely in his official
28 capacity as the Chief of the Bureau of Automotive Repair, Department of Consumer Affairs.

1 **Automotive Repair Dealer Registration**

2 2. On or about February 3, 2010, the Bureau of Automotive Repair issued Automotive
3 Repair Dealer Registration Number ARD 260665 to Hayatullah Hamidi - President, Secretary,
4 and Treasurer, Faster Auto Service, Inc. d.b.a. Faster Auto Service (Respondent Shop). The
5 Automotive Repair Dealer Registration was in full force and effect at all times relevant to the
6 charges brought herein and will expire on January 31, 2013, unless renewed.

7 **Smog Check Station License**

8 3. On or about February 8, 2010, the Bureau of Automotive Repair issued Smog Check
9 Station License Number RC 260665 to Respondent Shop. The Smog Check Station License was
10 in full force and effect at all times relevant to the charges brought herein and will expire on
11 January 31, 2013, unless renewed.

12 **Lamp Station License**

13 4. On or about February 11, 2010, the Bureau of Automotive Repair issued Lamp
14 Station License LS 260665, A, to Respondent Shop. The Lamp Station License was in full force
15 and effect at all times relevant to the charges brought herein and will expire on January 31, 2013,
16 unless renewed.

17 **Brake Station License**

18 5. On or about February 10, 2010, the Bureau of Automotive Repair issued Brake
19 Station License No. BS 260665, C, to Respondent Shop. The Brake Station License was in full
20 force and effect at all times relevant to the charges brought herein and will expire on January 31,
21 2013, unless renewed.

22 **Advanced Emission Specialist Technician License**

23 6. In 2003, the Bureau of Automotive Repair issued Advanced Emission Specialist
24 Technician License Number EA 138584 to Hayatullah Hamidi (Respondent Hamidi). The
25 Advanced Emission Specialist Technician License was in full force and effect at all times
26 relevant to the charges brought herein and expired on December 31, 2012. Pursuant to California
27 Code of Regulations, title 16, section 3340.28, subdivision (e), said license was renewed,
28 pursuant to Respondent's election, as Smog Check Inspector License No. EO 138584 and Smog

1 Check Repair Technician License No. EI 138584, effective December 31, 2012.¹ Respondent's
2 Smog Check Inspector license and Smog Check Repair Technician license will expire on
3 December 31, 2014.

4 **Brake Adjuster License**

5 7. In 1998, the Bureau of Automotive Repair issued Brake Adjuster License number BA
6 138584, C, to Respondent Hamidi. The license was in full force and effect at all times relevant to
7 the charges brought herein and will expire on December 31, 2014, unless renewed.

8 **Lamp Adjuster License**

9 8. In 1999, the Bureau of Automotive Repair issued Lamp Adjuster License number LA
10 138584, A, to Respondent Hamidi. The license was in full force and effect at all times relevant to
11 the charges brought herein and will expire on December 31, 2015, unless renewed.

12 **JURISDICTION**

13 9. This Accusation is brought before the Director of Consumer Affairs (Director) for the
14 Bureau of Automotive Repair, under the authority of the following laws. All section references
15 are to the Business and Professions Code unless otherwise indicated.

16 10. Section 118, subdivision (b), of the Code provides that the suspension, expiration,
17 surrender, or cancellation of a license shall not deprive the Director of jurisdiction to proceed
18 with a disciplinary action during the period within which the license may be renewed, restored,
19 reissued or reinstated.

20 11. Section 477 of the Code provides, in pertinent part, that "Board" includes "bureau,"
21 "commission," "committee," "department," "division," "examining committee," "program," and
22 "agency." "License" includes certificate, registration or other means to engage in a business or
23 profession regulated by the Code.

24 12. Section 9884.7 of the Code provides that the Director may revoke an automotive
25 repair dealer registration.

26 ¹ Effective August 1, 2012, California Code of Regulations, title 16, sections 3340.28,
27 3340.29, and 3340.30 were amended to implement a license restructure from the Advanced
28 Emissions Specialist Technician (EA) license and Basic Area (EB) Technician license to Smog
Check Inspector (EO) license and/or Smog Check Repair Technician (EI) license.

1 13. Section 9884.13 of the Code provides, in pertinent part, that the expiration of a valid
2 registration shall not deprive the Director of jurisdiction to proceed with a disciplinary proceeding
3 against an automotive repair dealer or to render a decision invalidating a registration temporarily
4 or permanently.

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

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

12 16. Section 44002 of the Health and Safety Code provides, in pertinent part, that the
13 Director has all the powers and authority granted under the Automotive Repair Act for enforcing
14 the Motor Vehicle Inspection Program.

15 17. Section 44072 of the Health and Safety Code provides that the Director may suspend
16 or revoke any license issued pursuant to the Motor Vehicle Inspection Program.

17 18. Section 44072.6 of the Health and Safety Code provides, in pertinent part, that the
18 expiration or suspension of a license by operation of law, or by order or decision of the Director
19 of Consumer Affairs, or a court of law, or the voluntary surrender of the license shall not deprive
20 the Director of jurisdiction to proceed with disciplinary action.

21 19. Section 44072.8 of the Health and Safety Code states that when a licensee has been
22 revoked or suspended following a hearing under this article, any additional licenses issued under
23 this chapter in the name of the licensee may be likewise revoked or suspended by the director.

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

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1 Upon denial of registration, the director shall notify the applicant thereof, in writing, by
2 personal service or mail addressed to the address of the applicant set forth in the application, and
3 the applicant shall be given a hearing under Section 9884.12 if, within 30 days thereafter, he or
4 she files with the bureau a written request for hearing, otherwise the denial is deemed affirmed.

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

10 "(c) Notwithstanding subdivision (b), the director may suspend, revoke, or place on
11 probation the registration for all places of business operated in this state by an automotive repair
12 dealer upon a finding that the automotive repair dealer has, or is, engaged in a course of repeated
13 and willful violations of this chapter, or regulations adopted pursuant to it."

14 22. Section 9884.8 of the Code provides:

15 "All work done by an automotive repair dealer, including all warranty work, shall be
16 recorded on an invoice and shall describe all service work done and parts supplied. Service work
17 and parts shall be listed separately on the invoice, which shall also state separately the subtotal
18 prices for service work and for parts, not including sales tax, and shall state separately the sales
19 tax, if any, applicable to each. If any used, rebuilt, or reconditioned parts are supplied, the invoice
20 shall clearly state that fact. If a part of a component system is composed of new and used, rebuilt
21 or reconditioned parts, that invoice shall clearly state that fact. The invoice shall include a
22 statement indicating whether any crash parts are original equipment manufacturer crash parts or
23 nonoriginal equipment manufacturer aftermarket crash parts. One copy of the invoice shall be
24 given to the customer and one copy shall be retained by the automotive repair dealer."

25 23. Section 9884.9 of the Code states:

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

1 done or parts supplied in excess of the estimated price without the oral or written consent of the
2 customer that shall be obtained at some time after it is determined that the estimated price is
3 insufficient and before the work not estimated is done or the parts not estimated are supplied.
4 Written consent or authorization for an increase in the original estimated price may be provided
5 by electronic mail or facsimile transmission from the customer. The bureau may specify in
6 regulation the procedures to be followed by an automotive repair dealer if an authorization or
7 consent for an increase in the original estimated price is provided by electronic mail or facsimile
8 transmission. If that consent is oral, the dealer shall make a notation on the work order of the date,
9 time, name of person authorizing the additional repairs and telephone number called, if any,
10 together with a specification of the additional parts and labor and the total additional cost, and
11 shall do either of the following:

12 "(1) Make a notation on the invoice of the same facts set forth in the notation on the work
13 order.

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

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

18 _____

19 (signature or initials)"

20 "Nothing in this section shall be construed as requiring an automotive repair dealer to give a
21 written estimated price if the dealer does not agree to perform the requested repair.

22 "(b) The automotive repair dealer shall include with the written estimated price a statement
23 of any automotive repair service that, if required to be done, will be done by someone other than
24 the dealer or his or her employees. No service shall be done by other than the dealer or his or her
25 employees without the consent of the customer, unless the customer cannot reasonably be
26 notified. The dealer shall be responsible, in any case, for any service in the same manner as if the
27 dealer or his or her employees had done the service.

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1 "(c) In addition to subdivisions (a) and (b), an automotive repair dealer, when doing auto
2 body or collision repairs, shall provide an itemized written estimate for all parts and labor to the
3 customer. The estimate shall describe labor and parts separately and shall identify each part,
4 indicating whether the replacement part is new, used, rebuilt, or reconditioned. Each crash part
5 shall be identified on the written estimate and the written estimate shall indicate whether the crash
6 part is an original equipment manufacturer crash part or a nonoriginal equipment manufacturer
7 aftermarket crash part.

8 "(d) A customer may designate another person to authorize work or parts supplied in
9 excess of the estimated price, if the designation is made in writing at the time that the initial
10 authorization to proceed is signed by the customer. The bureau may specify in regulation the
11 form and content of a designation and the procedures to be followed by the automotive repair
12 dealer in recording the designation. For the purposes of this section, a designee shall not be the
13 automotive repair dealer providing repair services or an insurer involved in a claim that includes
14 the motor vehicle being repaired, or an employee or agent or a person acting on behalf of the
15 dealer or insurer."

16 24. Section 9889.3 of the Code states, in pertinent part:

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

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

22 "(b) Is convicted of any crime substantially related to the qualifications, functions and
23 duties of the licenseholder in question.

24 "(c) Violates any of the regulations promulgated by the director pursuant to this chapter
25 [the Automotive Repair Act].

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

27 "(e) Has misrepresented a material fact in obtaining a license.

28 "(f) Aids or abets an unlicensed person to evade the provisions of this chapter.

1 “(g) Fails to make and keep records showing his or her transactions as a licensee, or fails to
2 have the records available for inspection by the director or his or her duly authorized
3 representative for a period of not less than three years after completion of any transaction to
4 which the records refer, or refuses to comply with a written request of the director to make the
5 record available for inspection.

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

8 “(i) Is convicted of a violation of Section 551 of the Penal Code.”

9 25. Section 44072.2 of the Health and Safety Code states, in pertinent part:

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

13 ”. . . .

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

15 ”

16 26. Section 3305(a) of the California Code of Regulations provides:

17 “(a) All adjusting, inspecting, servicing, and repairing of brake systems and lamp systems
18 for the purpose of issuing any certificate of compliance or adjustment shall be performed in
19 official stations, by official adjusters, in accordance with the following, in descending order of
20 precedence, as applicable:

21 “(1) Vehicle Manufacturers' current standards, specifications and recommended procedures,
22 as published in the manufacturers' vehicle service and repair manuals.

23 “(2) Current standards, specifications, procedures, directives, manuals, bulletins and
24 instructions issued by vehicle and equipment or device manufacturers.

25 “(3) Standards, specifications and recommended procedures found in current industry-
26 standard reference manuals and periodicals published by nationally recognized repair information
27 providers.

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1 The noncompliant rear brake drums were still oversized. Both license plate bulbs had been
2 replaced.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Untrue Statements)**

5 32. Respondent Shop's registration is subject to disciplinary action under section
6 9884.7(a)(1) of the Code in that Respondent Hamidi made or authorized statements which he
7 knew or in the exercise of reasonable care should have known to be untrue or misleading, as
8 follows:

- 9 i) Respondent Hamidi certified under penalty of perjury on Brake Certificate Number
10 [REDACTED] that the drums and rotors on the Bureau's 1995 Honda Civic were in
11 satisfactory condition. In fact, both front rotors were impermissibly undersized and
12 both rear brake drums were oversized and beyond permissible size.
- 13 ii) Respondent Hamidi certified under penalty of perjury on Brake Certificate Number
14 [REDACTED] that he had performed the applicable inspection, adjustment, or repair on
15 the drums and rotors of the Bureau's 1995 Honda Civic when in fact he had not.
- 16 iii) Respondent Hamidi certified under penalty of perjury on Lamp Certificate Number
17 [REDACTED] that he had performed the applicable inspection and adjustment of the
18 headlights of the Bureau's 1995 Honda Civic when in fact he had not.

19 **SECOND CAUSE FOR DISCIPLINE**

20 **(Acts Constituting Fraud)**

21 33. Respondent Shop's registration is subject to disciplinary action pursuant to section
22 9884.7(a)(4) in that Respondent Hamidi committed acts constituting fraud, as follows:

- 23 i) Respondent Hamidi issued Brake Certificate Number [REDACTED] and Lamp
24 Certificate Number [REDACTED] for the the Bureau's 1995 Honda Civic without
25 ensuring that bona fide inspections were performed of the vehicle's lamps and brakes.
- 26 ii) Respondent Hamidi obtained payment from the operator for performing, in
27 compliance with the Bureau regulations and/or the Vehicle Code, the applicable
28 inspections, adjustments, or repairs of the brake and lighting systems on the Bureau's

1 1995 Honda Civic. In fact, the applicable inspections, adjustments, or repairs were not
2 performed.

3 **THIRD CAUSE FOR DISCIPLINE**

4 **(Violations of Regulations)**

5 34. Respondent Shop's registration is subject to disciplinary action under section
6 9884.7(a)(6) in that Respondent failed to comply with the California Code of Regulations, title
7 16, in the following material respect:

- 8 i) **Section 3305(a):** Respondent failed to have a licensed adjuster perform the inspection/
9 adjustment of the brake system and inspection/ adjustment of the lighting system on
10 the Bureau's 1995 Honda Civic in accordance with the specifications, instructions, and
11 directives issued by the Bureau and the vehicle manufacturer.

12 **FOURTH CAUSE FOR DISCIPLINE**

13 **(No Estimate)**

14 35. Respondent Shop's registration is subject to disciplinary action under sections
15 9884.7(a)(6) and 9884.9(a) of the Code in that Respondent failed to give the operator a written
16 estimated price for labor and necessary parts prior to performing the work.

17 **FIFTH CAUSE FOR DISCIPLINE**

18 **(No Repair Authorization)**

19 36. Respondent Shop's registration is subject to disciplinary action under sections
20 9884.7(a)(6) and 9884.9(a) of the Code in that Respondent replaced light bulbs on the Bureau's
21 1995 Honda Civic without first obtaining authorization from the operator.

22 **SIXTH CAUSE FOR DISCIPLINE**

23 **(Deficient Invoice)**

24 37. Respondent Shop's registration is subject to disciplinary action under sections
25 9884.7(a)(6) and 9884.8 of the Code in that the invoice supplied to the operator with respect to
26 the 1995 Honda Civic did not include all parts supplied. Specifically, the invoice failed to
27 include any statement about the lightbulbs that had been replaced.

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1 **SEVENTH CAUSE FOR DISCIPLINE**

2 **(Fraud)**

3 38. Respondent Shop's Smog Check Station License is subject to disciplinary action
4 under section 44072.2(d) of the California Health and Safety Code in that Respondent committed
5 an act involving dishonesty, fraud, or deceit whereby another was injured. The circumstances are
6 described above in the Second Cause for Discipline and "Undercover Operation #1: 1995 Honda
7 Civic."

8 **EIGHTH CAUSE FOR DISCIPLINE**

9 **(Violations of Bus. & Prof. Code)**

10 39. Respondent Shop's Brake Station and Lamp Station licenses are subject to
11 disciplinary action under sections 9889.3(a) & (h) of the Code in that Respondent violated various
12 sections of Business and Professions Code Chapter 20.3. The circumstances are described above
13 in the First through Sixth Causes for Discipline and "Undercover Operation #1: 1995 Honda
14 Civic."

15 **NINTH CAUSE FOR DISCIPLINE**

16 **(Dishonesty)**

17 40. Respondent Shop's Brake Station and Lamp Station licenses are subject to
18 disciplinary action under section 9889.3(d) of the Code in that Respondent committed an act
19 involving dishonesty, fraud, or deceit whereby another was injured. The circumstances are
20 described above in the Second Cause for Discipline and "Undercover Operation #1: 1995 Honda
21 Civic."

22 **TENTH CAUSE FOR DISCIPLINE**

23 **(Violation of Regulation)**

24 41. Respondent Shop's Brake Station and Lamp Station licenses are subject to
25 disciplinary action under section 9889.3(c) of the Code in that Respondent Shop violated a
26 regulation promulgated pursuant to chapter 20.3 of the Business and Professions Code. The
27 circumstances are described above in the Third Cause for Discipline and "Undercover Operation
28 #1: 1995 Honda Civic."

1 **ELEVENTH CAUSE FOR DISCIPLINE**

2 **(Fraud)**

3 42. Respondent Hamidi's Smog Check Inspector License and Smog Check Repair
4 Technician License are subject to disciplinary action under section 44072.2(d) of the California
5 Health & Safety Code in that Respondent Hamidi committed an act involving dishonesty, fraud,
6 or deceit whereby another was injured. Specifically, Respondent obtained payment from the
7 operator, and issued brake and lamp certificates, for performing the applicable inspections,
8 adjustments, or repairs of the brake and lighting systems on the Bureau's 1995 Honda Civic. In
9 fact, the applicable inspections, adjustments, or repairs were not performed.

10 **TWELFTH CAUSE FOR DISCIPLINE**

11 **(Fraud)**

12 43. Respondent Hamidi's Brake Adjuster and Lamp Adjuster licenses are subject to
13 disciplinary action under section 9889.3(d) of the Code in that Respondent Hamidi committed an
14 act involving dishonesty, fraud, or deceit whereby another was injured. Specifically, Respondent
15 obtained payment from the operator, and issued brake and lamp certificates, for performing the
16 applicable inspections, adjustments, or repairs of the brake and lighting systems on the Bureau's
17 1995 Honda Civic. In fact, the applicable inspections, adjustments, or repairs were not
18 performed.

19 **THIRTEENTH CAUSE FOR DISCIPLINE**

20 **(Violation of Regulations)**

21 44. Respondent Hamidi's Brake Adjuster and Lamp Adjuster licenses are subject to
22 disciplinary action under section 9889.3(c) of the Code in that Respondent Hamidi violated a
23 regulation promulgated pursuant to chapter 20.5 of the Business & Professions Code, specifically:

- 24 i) **Section 3305(a):** Respondent Hamidi failed to perform the inspection/ adjustment of
25 the brake system and inspection/ adjustment of the lighting system on the Bureau's
26 1995 Honda Civic in accordance with the specifications, instructions, and directives
27 issued by the Bureau and the vehicle manufacturer.

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1 i) Respondent Hamidi certified under penalty of perjury on Brake Certificate Number
2 [REDACTED] that the drums and rotors on the Bureau's 1994 Ford Thunderbird were in
3 satisfactory condition. In fact, the driver's side front disc brake rotor had been
4 machined to a thickness that is below the factory minimum specification, and the
5 driver's side rear brake drum had been machined to a diameter larger than the factory
6 maximum specification.

7 ii) Respondent Hamidi certified under penalty of perjury on Brake Certificate Number
8 [REDACTED] that he had performed the applicable inspection, adjustment, or repair on
9 the drums and rotors of the Bureau's 1994 Ford Thunderbird when in fact he had not.

10 iii) Respondent Hamidi certified under penalty of perjury on Lamp Certificate Number
11 [REDACTED] that he had performed the applicable inspection and adjustment of the
12 headlights of the Bureau's 1994 Ford Thunderbird when in fact he had not.

13 **FIFTEENTH CAUSE FOR DISCIPLINE**

14 **(Acts Constituting Fraud)**

15 50. Respondent Shop's registration is subject to disciplinary action pursuant to section
16 9884.7(a)(4) of the Code in that Respondent Hamidi committed acts constituting fraud, as
17 follows:

18 i) Respondent Hamidi issued Brake Certificate Number [REDACTED] and Lamp
19 Certificate Number [REDACTED] for the Bureau's 1994 Ford Thunderbird without
20 ensuring that bona fide inspections were performed of the vehicle's lamps and brakes.

21 ii) Respondent Hamidi obtained payment from the operator for performing, in
22 compliance with Bureau regulations and/or the Vehicle Code, the applicable
23 inspections, adjustments, or repairs of the brake and lighting systems on the Bureau's
24 1994 Ford Thunderbird. In fact, the applicable inspections, adjustments, or repairs
25 were not performed in compliance with the Bureau regulations or the Vehicle Code.

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1 **SIXTEENTH CAUSE FOR DISCIPLINE**

2 **(Violations of Regulations)**

3 51. Respondent Shop's registration is subject to disciplinary action under section
4 9884.7(a)(6) in that Respondent failed to comply with the California Code of Regulations, title
5 16, in the following material respect:

- 6 i) **Section 3305(a):** Respondent failed to have a licensed adjuster perform the inspection/
7 adjustment of the brake system and inspection/ adjustment of the lighting system on
8 the Bureau's 1994 Ford Thunderbird in accordance with the specifications,
9 instructions, and directives issued by the Bureau and the vehicle manufacturer.

10 **SEVENTEENTH CAUSE FOR DISCIPLINE**

11 **(No Estimate)**

12 52. Respondent Shop's registration is subject to disciplinary action under sections
13 9884.7(a)(6) and 9884.9(a) of the Code in that Respondent failed to give the operator a written
14 estimated price for labor and necessary parts prior to performing the work.

15 **EIGHTEENTH CAUSE FOR DISCIPLINE**

16 **(No Repair Authorization)**

17 53. Respondent Shop's registration is subject to disciplinary action under sections
18 9884.7(a)(6) and 9884.9(a) of the Code in that Respondent replaced a lightbulb on the Bureau's
19 1994 Ford Thunderbird without first obtaining authorization from the operator.

20 **NINETEENTH CAUSE FOR DISCIPLINE**

21 **(Deficient Invoice)**

22 54. Respondent Shop's registration is subject to disciplinary action under sections
23 9884.7(a)(6) and 9884.8 of the Code in that the invoice provided to the operator with respect to
24 the 1994 Ford Thunderbird did not include all parts supplied. Specifically, the invoice failed to
25 include any statement about the lightbulb that had been replaced.

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TWENTIETH CAUSE FOR DISCIPLINE

(Fraud)

55. Respondent Shop's Smog Check Station License is subject to disciplinary action under section 44072.2(d) of the California Health and Safety Code in that Respondent committed an act involving dishonesty, fraud, or deceit whereby another was injured. The circumstances are described above in the Fifteenth Cause for Discipline and "Undercover Operation #2:1994 Ford Thunderbird."

TWENTY-FIRST CAUSE FOR DISCIPLINE

(Violations of Bus. & Prof. Code)

56. Respondent Shop's Brake Station and Lamp Station licenses are subject to disciplinary action under section 9889.3(a) of the Code in that Respondent violated various sections of Business and Professions Code Chapter 20.3. The circumstances are described above in the Fourteenth through Nineteenth Cause for Discipline and "Undercover Operation #2:1994 Ford Thunderbird."

TWENTY-SECOND CAUSE FOR DISCIPLINE

(Dishonesty)

57. Respondent Shop's Brake Station and Lamp Station licenses are subject to disciplinary action under section 9889.3(d) of the Code in that Respondent committed an act involving dishonesty, fraud, or deceit whereby another was injured. The circumstances are described above in the Fifteenth Cause for Discipline and "Undercover Operation #2:1994 Ford Thunderbird."

TWENTY-THIRD CAUSE FOR DISCIPLINE

(Violation of Regulations)

58. Respondent Shop's Brake Station and Lamp Station licenses are subject to disciplinary action under 9889.3(c) of the Code in that Respondent Shop violated a regulation promulgated pursuant to chapter 20.3 of the Business and Professions Code. The circumstances are described above in the Sixteenth Cause for Discipline.

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1 **TWENTY-FOURTH CAUSE FOR DISCIPLINE**

2 **(Fraud)**

3 59. Respondent Hamidi's Smog Check Inspector License and Smog Check Repair
4 Technician License are subject to disciplinary action under section 44072.2(d) of the California
5 Health and Safety Code in that Respondent Hamidi committed an act involving dishonesty, fraud,
6 or deceit whereby another was injured. Specifically, Respondent obtained payment from the
7 operator, and issued brake and lamp certificates, for performing the applicable inspections,
8 adjustments, or repairs of the brake and lighting systems on the Bureau's 1994 Ford Thunderbird.
9 In fact, the applicable inspections, adjustments, or repairs were not performed.

10 **TWENTY-FIFTH CAUSE FOR DISCIPLINE**

11 **(Fraud)**

12 60. Respondent Hamidi's Brake Adjuster and Lamp Adjuster licenses are subject to
13 disciplinary action under section 9889.3(d) of the Code in that Respondent Hamidi committed an
14 act involving dishonesty, fraud, or deceit whereby another was injured. Specifically, Respondent
15 obtained payment from the operator, and issued brake and lamp certificates, for performing the
16 applicable inspections, adjustments, or repairs of the brake and lighting systems on the Bureau's
17 1994 Ford Thunderbird. In fact, the applicable inspections, adjustments, or repairs were not
18 performed.

19 **TWENTY-SIXTH CAUSE FOR DISCIPLINE**

20 **(Violation of Regulations)**

21 61. Respondent Hamidi's Brake Adjuster and Lamp Adjuster licenses are subject to
22 disciplinary action under section 9889.3(c) of the Code in that Respondent Hamidi violated a
23 regulation promulgated pursuant to chapter 20.3 of the Business & Professions Code, specifically:

- 24 i) **Section 3305(a):** Respondent failed to perform the inspection/ adjustment of the brake
25 system and inspection/ adjustment of the lighting system on the Bureau's 1994 Ford
26 Thunderbird in accordance with the specifications, instructions, and directives issued
27 by the Bureau and the vehicle manufacturer.

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1 **UNDERCOVER OPERATION #3: 1985 OLDSMOBILE CUTLASS**

2 62. On February 23, 2012, an undercover operator of the Bureau took the Bureau's 1985
3 Oldsmobile Cutlass to Respondent Shop and requested brake, lamp, and smog inspections from
4 Respondent Hamidi. The 1985 Oldsmobile Cutlass was a Bureau-documented vehicle with rear
5 brake drums that were machined beyond the maximum discard diameter, front brake rotors that
6 were machined to below minimum allowable thickness, a burnt out filament in a side marker
7 bulb, a broken side marker lens, and misaligned headlamps. Respondent Hamidi informed the
8 operator the inspections would take about an hour. The operator was provided no written
9 estimate before the inspections.

10 63. A smog inspection was performed.

11 64. Following the smog inspection, Respondent Hamidi prepared and provided the
12 operator with a brake certificate and a lamp certificate, and the operator paid Hamidi \$150.
13 Respondent Hamidi further provided the operator a document that was unsigned, listed various
14 inspection charges, and was entitled "estimate for services."

15 65. The Bureau then reinspected the vehicle. The side marker lens was still broken. The
16 side marker bulb had been replaced. The headlamps were still out of adjustment. The undersized
17 front rotors and oversized rear drums were unchanged and still beyond permissible specifications.

18 **TWENTY-SEVENTH CAUSE FOR DISCIPLINE**

19 **(Untrue Statements)**

20 66. Respondent Shop's registration is subject to disciplinary action under section
21 9884.7(a)(1) of the Code in that Respondent Hamidi made or authorized statements which he
22 knew or in the exercise of reasonable care should have known to be untrue or misleading, as
23 follows:

- 24 i) Respondent Hamidi certified under penalty of perjury on Brake Certificate Number
25 [REDACTED] that the drums and rotors on the Bureau's 1985 Oldsmobile Cutlass were
26 in satisfactory condition. In fact, the rear brake drums had been machined beyond
27 maximum discard diameter, and the front brake rotors had been machined to below
28 minimum allowable thickness.

- 1 ii) Respondent Hamidi certified under penalty of perjury on Brake Certificate Number
2 [REDACTED] that he had performed the applicable inspection, adjustment, or repair on
3 the drums and rotors of the Bureau's 1985 Oldsmobile Cutlass when in fact he had not.
4 ii) Respondent Hamidi certified under penalty of perjury on Lamp Certificate Number
5 [REDACTED] that he had performed the applicable inspection and adjustment of the
6 headlights of the Bureau's 1985 Oldsmobile Cutlass when in fact he had not.

7 **TWENTY-EIGHTH CAUSE FOR DISCIPLINE**

8 **(Acts Constituting Fraud)**

9 67. Respondent Shop's registration is subject to disciplinary action pursuant to section
10 9884.7(a)(4) of the Code in that Respondent Hamidi committed acts constituting fraud, as
11 follows:

- 12 i) Respondent Hamidi issued Brake Certificate Number [REDACTED] and Lamp
13 Certificate Number [REDACTED] for the Bureau's 1985 Oldsmobile Cutlass without
14 ensuring that bona fide inspections were performed of the vehicle's lamps and brakes.
15 ii) Respondent Hamidi obtained payment from the operator for performing, in
16 compliance with Bureau regulations and/or the Vehicle Code, the applicable
17 inspections, adjustments, or repairs of the brake and lighting systems on the Bureau's
18 1985 Oldsmobile Cutlass. In fact, the applicable inspections, adjustments, or repairs
19 were not performed in compliance with the Bureau regulations or the Vehicle Code.

20 **TWENTY-NINTH CAUSE FOR DISCIPLINE**

21 **(Violations of Regulations)**

22 68. Respondent Shop's registration is subject to disciplinary action under section
23 9884.7(a)(6) in that Respondent failed to comply with the California Code of Regulations, title
24 16, in the following material respect:

- 25 i) **Section 3305(a):** Respondent failed to have a licensed adjuster perform the inspection/
26 adjustment of the brake system and inspection/ adjustment of the lighting system on
27 the Bureau's 1985 Oldsmobile Cutlass in accordance with the specifications,
28 instructions, and directives issued by the Bureau and the vehicle manufacturer.

1 **THIRTIETH CAUSE FOR DISCIPLINE**

2 **(No Estimate)**

3 69. Respondent Shop's registration is subject to disciplinary action under sections
4 9884.7(a)(6) and 9884.9(a) of the Code in that Respondent failed to give the operator a written
5 estimated price for labor and parts necessary prior to performing the work.

6 **THIRTY-FIRST CAUSE FOR DISCIPLINE**

7 **(No Repair Authorization)**

8 70. Respondent Shop's registration is subject to disciplinary action under sections
9 9884.7(a)(6) and 9884.9(a) of the Code in that Respondent replaced a side marker bulb on the
10 Bureau's 1985 Oldsmobile Cutlass without first obtaining authorization from the operator.

11 **THIRTY-SECOND CAUSE FOR DISCIPLINE**

12 **(Deficient Invoice)**

13 71. Respondent Shop's registration is subject to disciplinary action under sections
14 9884.7(a)(6) and 9884.8 of the Code in that the invoice provided to the operator with respect to
15 the 1985 Oldsmobile Cutlass did not include all parts supplied. Specifically, the invoice failed to
16 include any statement about the side marker bulb that had been replaced.

17 **THIRTY-THIRD CAUSE FOR DISCIPLINE**

18 **(Fraud)**

19 72. Respondent Shop's Smog Check Station License is subject to disciplinary action
20 under section 44072.2(d) of the California Health and Safety Code in that Respondent committed
21 an act involving dishonesty, fraud, or deceit whereby another was injured. The circumstances are
22 described above in the Twenty-Eighth Cause for Discipline and "Undercover Operation #3:1985
23 Oldsmobile Cutlass."

24 **THIRTY-FOURTH CAUSE FOR DISCIPLINE**

25 **(Violations of Bus. & Prof. Code)**

26 73. Respondent Shop's Brake Station and Lamp Station licenses are subject to
27 disciplinary action under section 9889.3(a) of the Code in that Respondent violated various
28 sections of Business and Professions Code Chapter 20.3. The circumstances are described above

1 in the Twenty-Seventh through Thirty-Second Cause for Discipline and "Undercover Operation
2 #3:1985 Oldsmobile Cutlass."

3 **THIRTY-FIFTH CAUSE FOR DISCIPLINE**

4 **(Dishonesty)**

5 74. Respondent Shop's Brake Station and Lamp Station licenses are subject to
6 disciplinary action under section 9889.3(d) of the Code in that Respondent committed an act
7 involving dishonesty, fraud, or deceit whereby another was injured. The circumstances are
8 described above in the Twenty-Eighth Cause for Discipline and "Undercover Operation #3:1985
9 Oldsmobile Cutlass."

10 **THIRTY-SIXTH CAUSE FOR DISCIPLINE**

11 **(Violation of Regulations)**

12 75. Respondent Shop's Brake Station and Lamp Station licenses are subject to
13 disciplinary action under 9889.3(c) of the Code in that Respondent Shop violated a regulation
14 promulgated pursuant to chapter 20.3 of the Business and Professions Code. The circumstances
15 are described above in the Twenty-Ninth Cause for Discipline and "Undercover Operation
16 #3:1985 Oldsmobile Cutlass."

17 **THIRTY-SEVENTH CAUSE FOR DISCIPLINE**

18 **(Fraud)**

19 76. Respondent Hamidi's Smog Check Inspector License and Smog Check Repair
20 Technician License are subject to disciplinary action under section 44072.2(d) of the California
21 Health and Safety Code in that Respondent Hamidi committed an act involving dishonesty, fraud,
22 or deceit whereby another was injured. Specifically, Respondent obtained payment from the
23 operator and issued brake and lamp certificates for performing the applicable inspections,
24 adjustments, or repairs of the brake and lighting systems on the Bureau's 1985 Oldsmobile
25 Cutlass. In fact, the applicable inspections, adjustments, or repairs were not performed.

26 ///

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1 **THIRTY-EIGHTH CAUSE FOR DISCIPLINE**

2 **(Fraud)**

3 77. Respondent Hamidi's Brake Adjuster and Lamp Adjuster licenses are subject to
4 disciplinary action under section 9889.3(d) of the Code in that Respondent Hamidi committed an
5 act involving dishonesty, fraud, or deceit whereby another was injured. Specifically, Respondent
6 obtained payment from the operator and issued brake and lamp certificates for performing the
7 applicable inspections, adjustments, or repairs of the brake and lighting systems on the Bureau's
8 1985 Oldsmobile Cutlass. In fact, the applicable inspections, adjustments, or repairs were not
9 performed.

10 **THIRTY-NINTH CAUSE FOR DISCIPLINE**

11 **(Violation of Regulations)**

12 78. Respondent Hamidi's Brake Adjuster and Lamp Adjuster licenses are subject to
13 disciplinary action under section 9889.3(c) of the Code in that Respondent Hamidi violated a
14 regulation promulgated pursuant to chapter 20.3 of the Business & Professions Code, specifically:

- 15 i) **Section 3305(a)**: Respondent failed to perform the inspection/ adjustment of the brake
16 system and inspection/ adjustment of the lighting system on the Bureau's 1985
17 Oldsmobile Cutlass in accordance with the specifications, instructions, and directives
18 issued by the Bureau and the vehicle manufacturer.

19 **OTHER MATTERS**

20 79. Pursuant to Bus. & Prof. Code section 9884.7, subdivision (c), the Director may
21 suspend, revoke or place on probation the registration for all places of business operated in this
22 state by Respondent Hamidi, owner of Respondent Shop, upon a finding that Respondent Hamidi
23 has, or is, engaged in a course of repeated and willful violations of the laws and regulations
24 pertaining to an automotive repair dealer.

25 80. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Station License
26 RC260665, issued to Respondent Hamidi, owner of Respondent Shop, is revoked or suspended,
27 any additional license issued under Chapter 5 of the Health & Saf. Code in the name of said
28 licensee may be likewise revoked or suspended by the Director.

- 1 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
2 260665, issued to Hayatullah Hamidi - President, Secretary, and Treasurer, Faster Auto Service,
3 Inc. d.b.a. Faster Auto Service (Respondent Shop);
4 2. Revoking or suspending Smog Check Station License Number RC 260665, issued to
5 Respondent Shop;
6 3. Revoking or suspending Lamp Station License Number LS 260665, A, issued to
7 Respondent Shop;
8 4. Revoking or suspending Brake Station License Number BS 260665, C, issued to
9 Respondent Shop;
10 5. Revoking or suspending Smog Check Inspector License Number EO 138584, issued
11 to Hayatullah Hamidi (Respondent Hamidi);
12 6. Revoking or suspending Smog Check Repair Technician License Number EI 138584,
13 issued to Hayatullah Hamidi (Respondent Hamidi);
14 7. Revoking or suspending Brake Adjuster License Number BA 138584, C, issued to
15 Respondent Hamidi;
16 8. Revoking or suspending Lamp Adjuster License Number LA 138584, A, issued to
17 Respondent Hamidi;
18 9. Ordering Respondent Shop and Respondent Hamidi to pay the Bureau of Automotive
19 Repair the reasonable costs of the investigation and enforcement of this case, pursuant to
20 Business and Professions Code section 125.3;
21 10. Taking such other and further action as deemed necessary and proper.

22
23
24 DATED: April 22, 2013


JOHN WALLAUCH
Chief
Bureau of Automotive Repair
Department of Consumer Affairs
State of California
Complainant

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