

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

In the Matter of the Accusation Against:

**RICHARD BYUN SHELL, RICHARD
HONG BYUN, Owner**
700 E. Rosecrans Ave.
Compton, CA 90221-2144

Case No. 77/16-4071

OAH No. 2017080996

Automotive Repair Dealer Registration No.
ARD 143420
Smog Check Test and Repair Station License
No. RC 143420
Break Station License No. BS 143420, Class C
Lamp Station License No. LS 143420, Class A

and

CARLOS G. SOSA
21825 Belshire Ave., #6
Hawaiian Gardens, CA 90716

Smog Check Inspector License No. EO 139065
Smog Check Repair Technician License No.
EI 139065
Brake Adjuster License No. BA 139065, Class C
Lamp Adjuster License No. LA 139065, Class A

Respondents.

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby accepted and adopted by the Director of the Department of Consumer Affairs as the Decision in the above-entitled matter only as to respondent CARLOS G. SOSA.

This Decision shall become effective May 1st, 2018.

DATED: 3/22/18



GRACE ARUPO RODRIGUEZ
Assistant Deputy Director
Legal Affairs Division
Department of Consumer Affairs

1 XAVIER BECERRA
Attorney General of California
2 THOMAS L. RINALDI
Supervising Deputy Attorney General
3 EMILY Y. WADA
Deputy Attorney General
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Attorneys for Complainant
7

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

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11 In the Matter of the Accusation Against:
RICHARD BYUN SHELL, RICHARD
12 **HONG BYUN, Owner**
13 **700 E. Rosecrans Ave.**
Compton, CA 90221-2144

14 Automotive Repair Dealer Registration No.
ARD 143420
15 Smog Check Test and Repair Station License
No. RC 143420
16 Brake Station License No. BS 143420, Class
C,
17 Lamp Station License No. LS143420, Class A,

18 **and**

19 **CARLOS G. SOSA**
20 **21825 Belshire Ave., #6**
Hawaiian Gardens, CA 90716

21 Smog Check Inspector License No. EO 139065
22 Smog Check Repair Technician License No. EI
139065
23 Brake Adjuster License No. BA 139065, Class
C,
24 Lamp Adjuster License No. LA 139065, Class
A

25 Respondents.

Case No. 77/16-4071

OAH No. 2017080996

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER ONLY AS TO
CARLOS G. SOSA**

26
27 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
entitled proceedings that the following matters are true:
28

1 PARTIES

2 1. Patrick Dorais (“Complainant”) is the Chief of the Bureau of Automotive Repair
3 (“Bureau”). He brought this action solely in his official capacity and is represented in this matter
4 by Xavier Becerra, Attorney General of the State of California, by Emily Y. Wada, Deputy
5 Attorney General.

6 2. Respondent Carlos G. Sosa (“Respondent Sosa”) is represented in this proceeding by
7 attorney Fred G. Minassian, whose address is Law Offices of Fred G. Minassian, 101 N. Brand
8 Blvd, Suite 1970, Glendale, CA 91203.

9 3. In 1998, the Bureau issued Advanced Emission Specialist Technician License EA
10 139065 to Respondent Sosa. Said license was due to expire on January 31, 2014, but was
11 cancelled on September 12, 2013, and pursuant to California Code of Regulations, title 16,
12 section 3340.28, subdivision (e), and was renewed upon Respondent Sosa’s election as Smog
13 Check Inspector License EO 139065 and Smog Check Repair Technician License No. EI 139065,
14 effective September 12, 2013. Smog Check Inspector License EO 139065 and Smog Check
15 Repair Technician License No. EI 139065 were in full force and effect at all times relevant to the
16 charges brought herein and will expire on January 31, 2018, unless renewed.¹

17 4. In 2005, the Bureau issued Brake Adjuster License Number BA 139065, class C, to
18 Respondent Sosa. The Brake Adjuster License will expire on January 31, 2022, unless renewed.

19 5. In 2005, the Bureau issued Lamp Adjuster License Number LA 139065, class A, to
20 Respondent Sosa. The Lamp Adjuster License will expire on January 31, 2022, unless renewed.

21 JURISDICTION

22 6. Accusation No. 77/16-4071 was filed before the Director, and is currently pending
23 against Respondent Sosa. The Accusation and all other statutorily required documents were
24 properly served on Respondent Sosa on August 1, 2017. Respondent Sosa timely filed his Notice
25 of Defense contesting the Accusation.

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

1 Respondent Sosa understands and agrees that he may not withdraw his agreement or seek to
2 rescind the stipulation prior to the time the Director considers and acts upon it. If the Director
3 fails to adopt this stipulation as the Decision and Order, the Stipulated Settlement and
4 Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible
5 in any legal action between the parties, and the Director shall not be disqualified from further
6 action by having considered this matter.

7 14. The parties understand and agree that Portable Document Format (PDF) and facsimile
8 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile
9 signatures thereto, shall have the same force and effect as the originals.

10 15. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
11 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
12 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
13 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
14 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
15 writing executed by an authorized representative of each of the parties.

16 16. In consideration of the foregoing admissions and stipulations, the parties agree that
17 the Director may, without further notice or formal proceeding, issue and enter the following
18 Disciplinary Order:

19 **DISCIPLINARY ORDER**

20 IT IS HEREBY ORDERED that Brake Adjuster License No. BA 139065, Class C, and
21 Lamp Adjuster License No. LA 139065, Class A, issued to Respondent Sosa are revoked.

22 IT IS ALSO HEREBY ORDERED that Smog Check Inspector License No. EO 139065 and
23 Smog Check Repair Technician License No. EI 139065 issued to Respondent Sosa are revoked.
24 However, as to the Smog Check Inspector License and Smog Check Repair Technician License
25 only, the revocation is stayed and Respondent Sosa is placed on probation for three (3) years on
26 the following terms and conditions.

27 1. **Obey All Laws.** During the period of probation, Respondent Sosa shall comply with
28 all federal and state statutes, regulations and rules governing all BAR registrations and licenses

1 held by Respondent Sosa.

2 2. **Actual Suspension.** Smog Check Inspector License No. EO 139065 and Smog
3 Check Repair Technician License No. EI 139065 issued to Respondent Sosa are suspended for
4 seven (7) consecutive days beginning on the effective date of the Decision and Order.

5 3. **Posting of Sign.** During the period of suspension, Respondent Sosa shall
6 prominently post a sign or signs, provided by BAR, indicating the beginning and ending dates of
7 the suspension and indicating the reason for the suspension. The sign or signs shall be
8 conspicuously displayed in a location or locations open to and frequented by customers. The
9 location(s) of the sign(s) shall be approved by BAR and shall remain posted during the entire
10 period of actual suspension.

11 4. **Quarterly Reporting.** During the period of probation, Respondent Sosa shall report
12 either by personal appearance or in writing as determined by BAR on a schedule set by BAR, but
13 no more frequently than once each calendar quarter, on the methods used and success achieved in
14 maintaining compliance with the terms and conditions of probation.

15 5. **Report Financial Interests.** Respondent Sosa shall, within 30 days of the effective
16 date of the decision and within 30 days from the date of any request by BAR during the period of
17 probation, report any financial interest which any Respondent or any partners, officers, or owners
18 of any Respondent facility may have in any other business required to be registered pursuant to
19 Section 9884.6 of the Business and Professions Code.

20 6. **Access to Examine Vehicles and Records.** Respondent Sosa shall, within 30 days
21 of the effective date of the decision and within 30 days from the date of any request by BAR
22 during the period of probation, report any financial interest which Respondent may have in any
23 other business required to be registered pursuant to Section 9884.6 of the Business and
24 Professions Code.

25 7. **Tolling of Probation.** If, during probation, Respondent Sosa leaves the jurisdiction
26 of California to reside or do business elsewhere or otherwise ceases to do business in the
27 jurisdiction of California, Respondent shall notify BAR in writing within 10 days of the dates of
28 departure and return, and of the dates of cessation and resumption of business in California. All

1 provisions of probation other than cost reimbursement requirements, restitution requirements,
2 training requirements, and that Respondent obey all laws, shall be held in abeyance during any
3 period of time of 30 days or more in which Respondent is not residing or engaging in business
4 within the jurisdiction of California. All provisions of probation shall recommence on the
5 effective date of resumption of business in California. Any period of time of 30 days or more in
6 which Respondent is not residing or engaging in business within the jurisdiction of California
7 shall not apply to the reduction of this probationary period or to any period of actual suspension
8 not previously completed. Tolling is not available if business or work relevant to the probationary
9 license or registration is conducted or performed during the tolling period.

10 **8. Violation of Probation.** If Respondent Sosa violates or fails to comply with the
11 terms and conditions of probation in any respect, the Director, after giving notice and opportunity
12 to be heard may set aside the stay order and carry out the disciplinary order provided in the
13 decision. Once Respondent is served notice of BAR's intent to set aside the stay, the Director
14 shall maintain jurisdiction, and the period of probation shall be extended until final resolution of
15 the matter.

16 **9. Maintain Valid License.** Respondent Sosa shall, at all times while on probation,
17 maintain a current and active registration and/or license(s) with BAR, including any period during
18 which suspension or probation is tolled. If Respondent's registration or license is expired at the
19 time the decision becomes effective, the registration or license must be renewed by Respondent
20 within 30 days of that date. If Respondent's registration or license expires during a term of
21 probation, by operation of law or otherwise, then upon renewal Respondent's registration or
22 license shall be subject to any and all terms and conditions of probation not previously satisfied.
23 Failure to maintain a current and active registration and/or license during the period of probation
24 shall also constitute a violation of probation.

25 **10. Cost Recovery.** Respondent Sosa shall pay the Bureau of Automotive Repair
26 \$7,149.01 for the reasonable costs of the investigation and enforcement of Case No. 77/16-4071.
27 Respondent shall make such payment as follows: in equal monthly installments over the first 24
28 months of probation. Any agreement for a scheduled payment plan shall require full payment to

1 be completed no later than six (6) months before probation terminates. Respondent shall make
2 payment by check or money order payable to the Bureau of Automotive Repair and shall indicate
3 on the check or money order that it is for cost recovery payment for case No. 77/16-4071. Any
4 order for payment of cost recovery shall remain in effect whether or not probation is tolled.
5 Probation shall not terminate until full cost recovery payment has been made. BAR reserves the
6 right to pursue any other lawful measures in collecting on the costs ordered and past due, in
7 addition to taking action based upon the violation of probation.

8 **11. Completion of Probation.** Upon successful completion of probation, Respondent
9 Sosa's affected registration and/or license will be fully restored or issued without restriction, if
10 Respondent meets all current requirements for registration or licensure and has paid all
11 outstanding fees, monetary penalties, or cost recovery owed to BAR.

12 **12. License Surrender.** Following the effective date of a decision that orders a stay of
13 invalidation or revocation, if Respondent Sosa ceases business operations or is otherwise unable
14 to satisfy the terms and conditions of probation, Respondent may request that the stay be vacated.
15 Such request shall be made in writing to BAR. The Director and the BAR Chief reserve the right
16 to evaluate the Respondent's request and to exercise discretion whether to grant the request or
17 take any other action deemed appropriate or reasonable under the circumstances. Upon formal
18 granting of the request, the Director will vacate the stay order and carry out the disciplinary order
19 provided in the decision. Respondent may not petition the Director for reinstatement of the
20 surrendered registration and/or license, or apply for a new registration or license under the
21 jurisdiction of BAR at any time before the date of the originally scheduled completion of
22 probation. If Respondent applies to BAR for a registration or license at any time after that date,
23 Respondent must meet all current requirements for registration or licensure and pay all
24 outstanding fees or cost recovery owed to BAR and left outstanding at the time of surrender.

25 ///

26 ///

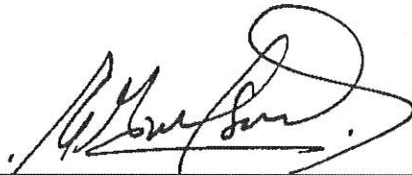
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28 ///

1 ACCEPTANCE


2 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
3 discussed it with my attorney, Fred Minnassian. I understand the stipulation and the effect it will
4 have on my Automotive Repair Dealer Registration, and Smog Check Test and Repair Station
5 License, and Lamp Station License. I enter into this Stipulated Settlement and Disciplinary Order
6 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the
7 Director of Consumer Affairs.

8
9 DATED: 02/08/2018


CARLOS G. SOSA
Respondent

11 I have read and fully discussed with Respondent Carlos G. Sosa the terms and conditions
12 and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve
13 its form and content.

14
15 DATED: 2/8/18


Fred G. Minassian, Esq.
Attorney for Respondent

18 ENDORSEMENT

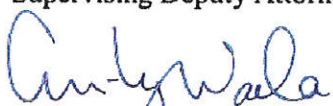
19 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
20 submitted for consideration by the Director of Consumer Affairs.

21 Dated:

22 February 9, 2018

Respectfully submitted,

23 XAVIER BECERRA
Attorney General of California
24 THOMAS L. RINALDI
Supervising Deputy Attorney General


25 EMILY Y. WADA
26 Deputy Attorney General
27 Attorneys for Complainant

28 LA2017604334/52783465

Exhibit A

Accusation No. 77/16-4071

1 XAVIER BECERRA
Attorney General of California
2 THOMAS L. RINALDI
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12 **RICHARD BYUN SHELL, RICHARD**
13 **HONG BYUN, Owner**
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ACCUSATION

15 Automotive Repair Dealer Registration No.
ARD 143420
16 Smog Check Test and Repair Station License
No. RC 143420,
17 Brake Station License No. BS 143420, Class
C,
18 Lamp Station License No. LS143420, Class A

19 and

20 **CARLOS G. SOSA**
21 **21825 Belshire Ave., #6**
Hawaiian Gardens, CA 90716

22 Smog Check Inspector License No. EO 139065
23 Smog Check Repair Technician License No. EI
139065, formerly Advanced Emissions
24 Specialist Technician License No. EA 139065
Brake Adjuster License No. BA 139065, Class
C,
25 Lamp Adjuster License No. LA 139065

26 Respondents.
27

28 ///

1 Complainant alleges:

2 **PARTIES**

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

5 ***Richard Byun Shell, Richard Hong Byun***

6 2. In 1988, the Bureau of Automotive Repair issued Automotive Repair Dealer
7 Registration Number ARD 143420 to Richard Byun Shell, Richard Hong Byun ("Respondent
8 Byun"). The Automotive Repair Dealer Registration was in full force and effect at all times
9 relevant to the charges brought herein and will expire on November 30, 2017, unless renewed.

10 3. In 1988, the Bureau of Automotive Repair issued Smog Check Test and Repair
11 Station License Number RC 143420 to Respondent Byun. The Smog Check Test and Repair
12 Station License was in full force and effect at all times relevant to the charges brought herein and
13 will expire on November 30, 2017, unless renewed.

14 4. On or about October 17, 2000, the Bureau issued Brake Station License Number BS
15 143420, class C, to Respondent Byun. The Brake Station License was in full force and effect at
16 all times relevant to the charges brought herein and will expire on November 30, 2017, unless
17 renewed.

18 5. On or about October 17, 2000, the Bureau issued Lamp Station License Number LS
19 143420, class A, to Respondent Byun. The Lamp Station License was in full force and effect at
20 all times relevant to the charges brought herein and will expire on November 30, 2017, unless
21 renewed.

22 ***Carlos G. Sosa***

23 6. In 1998, the Bureau issued Advanced Emission Specialist Technician License EA
24 139065 to Carlos G. Sosa ("Respondent Sosa"). Said license was due to expire on January 31,
25 2014, but was cancelled on September 12, 2013, and pursuant to California Code of Regulations,
26 title 16, section 3340.28, subdivision (e), and was renewed upon Respondent Sosa's election as
27 Smog Check Inspector License EO 139065 and Smog Check Repair Technician License No. EI
28 139065, effective September 12, 2013. Smog Check Inspector License EO 139065 and Smog

1 Check Repair Technician License No. EI 139065 were in full force and effect at all times relevant
2 to the charges brought herein and will expire on January 31, 2018, unless renewed.¹

3 7. In 2005, the Bureau issued Brake Adjuster License Number BA 139065, class C, to
4 Respondent Sosa. The Brake Adjuster License will expire on January 31, 2018, unless renewed.

5 8. In 2005, the Bureau issued Lamp Adjuster License Number LA 139065, class A, to
6 Respondent Sosa. The Lamp Adjuster License will expire on January 31, 2018, unless renewed.

7 JURISDICTION

8 9. Business and Professions Code ("Bus. & Prof. Code") section 9884.13 provides, in
9 pertinent part, that the expiration of a valid registration shall not deprive the Director of
10 jurisdiction to proceed with a disciplinary proceeding against an automotive repair dealer or to
11 render a decision temporarily or permanently invalidating (suspending or revoking) a registration.

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

15 11. Bus. & Prof. Code section 9889.7 provides, in pertinent part, that the expiration or
16 suspension of a license by operation of law or by order or decision of the Director or a court of
17 law, or the voluntary surrender of a license shall not deprive the Director of jurisdiction to
18 proceed with any disciplinary proceedings.

19 12. Health and Safety Code ("Health & Saf. Code") section 44002 provides, in pertinent
20 part, that the Director has all the powers and authority granted under the Automotive Repair Act
21 for enforcing the Motor Vehicle Inspection Program.

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

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

STATUTORY PROVISIONS

1
2 14. Bus. & Prof. Code section 9884.7 states, in pertinent part:

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

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

14

15 (3) Failing or refusing to give to a customer a copy of any
16 document requiring his or her signature, as soon as the customer
17 signs the document.

18 (4) Any other conduct that constitutes fraud.

19 (5) Conduct constituting gross negligence.

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

22

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

15. Bus. & Prof. Code section 9884.8 states:

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

1 copy of the invoice shall be given to the customer and one copy
2 shall be retained by the automotive repair dealer.

3 16. Bus. & Prof. Code section 9889.3 states, in pertinent part:

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

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

10

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

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

15

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

18 17. Bus. & Prof. Code section 9889.16 states:

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

28 18. 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.

19. 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
section 9889.1) of the Automotive Repair Act], any additional license issued under Articles 5 and

1 6 of this chapter in the name of the licensee may be likewise revoked or suspended by the
2 director.”

3 20. Health & Saf. Code section 44072.2 states, in pertinent part:

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

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

11 21. Health & Saf. Code section 44072.8 states that “[w]hen a license has been revoked or
12 suspended following a hearing under this article, any additional license issued under this chapter
13 in the name of the licensee may be likewise revoked or suspended by the director.”

14 REGULATIONS

15 22. California Code of Regulations, title 16, section 3305, subdivision (a), states:

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

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

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

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

(4) The bureau's Handbook for Brake Adjusters and Stations,
May 2015, which is hereby incorporated by reference.

(5) The bureau's Handbook for Lamp Adjusters and Stations,
May 2015, which is hereby incorporated by reference.

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1 23. California Code of Regulations, title 16, section 3316, subdivision (d), states in
2 pertinent part:

3 (d) Effective April 1, 1999, licensed stations shall purchase
4 certificates of adjustment from the bureau for a fee of three dollars
5 and fifty cents (\$ 3.50) each and shall not purchase or otherwise
6 obtain such certificates from any other source. Full payment is
7 required at the time certificates are ordered. Certificates are not
8 exchangeable following delivery. A licensed station shall not sell
9 or otherwise transfer unused certificates of adjustment. Issuance of
10 a lamp adjustment certificate shall be in accordance with the
11 following provisions:

12

13 (2) Where all of the lamps, lighting equipment, and related
14 electrical systems on a vehicle have been inspected and found to be
15 in compliance with all requirements of the Vehicle Code and
16 bureau regulations, the certificate shall certify that the entire
17 system meets all of those requirements. . . .

18 24. California Code of Regulations, title 16, section 3321, subdivision (c), states in
19 pertinent part:

20 (c) Effective April 1, 1999, licensed stations shall purchase
21 certificates of adjustment from the bureau for a fee of three dollars
22 and fifty cents (\$ 3.50) and shall not purchase or otherwise obtain
23 such certificates from any other source. A licensed station shall not
24 sell or otherwise transfer unused certificates of adjustment. Full
25 payment is required at the time certificates are ordered. Certificates
26 are not exchangeable following delivery. Issuance of a brake
27 adjustment certificate shall be in accordance with the following
28 provisions:

29

30 (2) Where the entire brake system on any vehicle has been
31 inspected or tested and found to be in compliance with all
32 requirements of the Vehicle Code and bureau regulations, and the
33 vehicle has been road-tested, the certificate shall certify that the
34 entire system meets all such requirements. . . .

35 25. California Code of Regulations, title 16, section 3356, states, in pertinent part:

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

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

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(C) The subtotal price for all service and repair work performed. . . .

26. California Code of Regulations, title 16, section 3373, states:

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

COST RECOVERY

27. Bus. & Prof. Code section 125.3 provides, in pertinent part, that the Bureau may request 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.

UNDERCOVER OPERATION #1: 2000 TOYOTA SIENNA

28. On April 27, 2016, a Bureau undercover operator (operator) took the Bureau's 2000 Toyota Sienna to Richard Byun Shell and requested brake, lamp, and smog inspections on the vehicle. At that time, the 2000 Toyota Sienna had the following documented defective conditions: (i) one front brake rotor that was undersized and not within manufacturer's specifications, (ii) one rear brake drum that was oversized and not within manufacturer's specifications, (iii) misadjusted both right and left headlamps, and (iv) non-operational license plate light bulbs. Due to the presence of these defects, the vehicle was incapable of passing a brake or lamp inspection.

29. The operator signed an estimate but did not receive a copy of the signed document. Later that day, Respondent Sosa provided the operator with a Vehicle Inspection Report, a Certificate of Compliance – Brake Adjustment # BA2302991, and a Certificate of Compliance – Lamp Adjustment # LA2274391, all of which were signed under penalty of perjury by Respondent Sosa. The lamp certificate of adjustment indicated various lamps were inspected, an optical aimer for the headlamps was used, and that the inspection was for a reconstructed vehicle. The brake certificate of adjustment indicated that inspections of the service and parking brakes,

1 lining and shoes, and drums and rotors were performed to register a reconstructed vehicle.
2 Respondent Sosa indicated on the certificate that he had performed a road test and stopped the
3 vehicle in a distance which was illegibly written at 20 miles per hour. The operator, however,
4 observed the vehicle to have never left the facility. The operator paid Respondent Richard Byun
5 Shell \$100.00 in cash for the brake, lamp, and smog inspections.

6 30. On or about May 6, 2015, the Bureau re-inspected the 2000 Toyota Sienna and found
7 that it should not have received a Certificate of Brake Adjustment due to an undersized front
8 brake rotor and an oversized rear brake drum that exceeded manufacturer's specifications, which
9 had not been replaced and had not been inspected as evidenced by the intact tamper seals on the
10 wheels indicating they had not been removed. The Bureau also found that the 2000 Toyota
11 Sienna should not have received a Certificate of Lamp Adjustment since the defective license
12 plate bulbs were still nonfunctioning and had not been replaced.

13 **UNDERCOVER OPERATION #2: 2001 FORD TAURUS**

14 31. On June 28, 2016, a Bureau undercover operator (operator) took the Bureau's 2001
15 Ford Taurus to Richard Byun Shell and requested brake, lamp, and smog inspections on the
16 vehicle. At that time, the 2001 Ford Taurus had the following documented defective conditions:
17 (i) one front brake rotor that was undersized and not within manufacturer's specifications, (ii) one
18 rear brake drum that was oversized and not within manufacturer's specifications, (iii) misadjusted
19 both right and left headlamps, and (iv) non-operational license plate light bulbs. Due to the
20 presence of these defects, the vehicle was incapable of passing a brake or lamp inspection.

21 32. The operator signed an estimate and received a copy of the signed document. Later
22 that day, Respondent Sosa provided the operator with a Vehicle Inspection Report, which was
23 signed under penalty of perjury, and an invoice for \$50.00. Respondent Sosa did not provide a
24 Certificate of Compliance – Brake Adjustment, or a Certificate of Compliance – Lamp
25 Adjustment to the operator. Instead, Respondent Sosa informed the operator that the right
26 headlamp needed to be adjusted, but before the operator could ask how much the adjustment
27 would cost, Respondent Sosa closed out the invoice. The operator paid Respondent Richard
28 Byun Shell \$50.00 in cash for the inspections.

1 Certificates of Adjustments when a vehicle passes the inspections. Respondent Sosa further
2 admitted that he signed the Brake and Lamp Certificates of Adjustment that were issued to the
3 Bureau's 2000 Toyota Sienna and 2001 Ford Taurus.

4 **FIRST CAUSE FOR DISCIPLINE**

5 **Against Respondent Richard Byun Shell**

6 **(Untrue or Misleading Statements)**

7 37. Respondent Richard Byun Shell's automotive repair dealer registration is subject to
8 discipline pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(1), in that Respondent
9 made or authorized statements which he knew, or in the exercise of reasonable care should have
10 known, to be untrue or misleading. Specifically, Respondent Richard Byun Shell employed
11 Respondent Sosa as the sole brake and lamp adjuster and Respondent Sosa issued brake and lamp
12 certificates to the Bureau's 2000 Toyota Sienna and 2001 Ford Taurus, which certified that the
13 vehicles' brakes and lamps were in satisfactory condition when, in fact, those vehicles were not
14 capable of passing brake and lamp inspections. Each of these fraudulently issued certificates
15 were signed under penalty of perjury by Respondent Sosa.

16 38. Complainant refers to, and by this reference incorporates, the allegations set forth
17 above in above in paragraphs 28 through 36, inclusive, as though fully set forth herein.

18 **SECOND CAUSE FOR DISCIPLINE**

19 **Against Respondent Richard Byun Shell**

20 **(Fraud)**

21 39. Respondent Richard Byun Shell's automotive repair dealer registration is subject to
22 discipline pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(4), in that Respondent
23 committed acts that constitute fraud when he received payment for performing the inspections,
24 adjustments, and/or repairs of the brake and lighting systems on the Bureau's 2000 Toyota Sienna
25 and 2001 Ford Taurus in accordance with Bureau regulations when, in fact, Respondent failed to
26 perform the necessary inspections, adjustments, and repairs in compliance with Bureau
27 regulations.

28 ///

1 a. **Section 3305, subdivision (a)**: Respondents failed to inspect and/or adjust the
2 brake and lamp systems on the Bureau's 2000 Toyota Sienna and 2001 Ford Taurus in
3 accordance with the specifications, instructions, and directives issued by the Bureau.

4 b. **Section 3316, subdivision (d)(2)**: Respondents issued lamp certificates to the
5 Bureau's 2000 Toyota Sienna and 2001 Ford Taurus when all of the lamps, lighting equipment,
6 and/or related electrical systems on those vehicles were not in compliance with Bureau
7 regulations.

8 c. **Section 3321, subdivision (c)(2)**: Respondents issued brake certificates for the
9 Bureau's 2000 Toyota Sienna and 2001 Ford Taurus when the brake systems on those vehicles
10 had not been completely tested or inspected.

11 d. **Section 3356, subdivision (a)(2)(C)**: Respondents failed to list subtotal prices
12 on the invoices he provided to the operators of the Bureau's 2000 Toyota Sienna and 2001 Ford
13 Taurus.

14 e. **Section 3373**: Respondents filled out and issued false or misleading brake and
15 lamp certificates of adjustment for the Bureau's 2000 Toyota Sienna and 2001 Ford Taurus.

16 48. Complainant refers to, and by this reference incorporates, the allegations set forth
17 above in above in paragraphs 28 through 36, inclusive, as though fully set forth herein.

18 **SEVENTH CAUSE FOR DISCIPLINE**

19 **Against Respondent Richard Byun Shell and Respondent Sosa**

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

21 49. Respondent Richard Byun Shell's brake and lamp station licenses and Respondent
22 Sosa's brake and lamp adjuster licenses are subject to discipline pursuant to Bus. & Prof. Code
23 section 9889.3, subdivision (d), in that they committed acts involving dishonesty, fraud, or deceit
24 whereby another was injured, as set forth in paragraphs 28 through 36 above.

25 **OTHER MATTERS**

26 35. Pursuant to Bus. & Prof. Code section 9884.7, subdivision (c), the Director may
27 suspend, revoke, or place on probation the registration for all places of business operated in this
28 state by Respondent Richard Hong Byun, owner of Richard Byun Shell, upon a finding that he

1 has, or is, engaged in a course of repeated and willful violations of the laws and regulations
2 pertaining to an automotive repair dealer.

3 36. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Test and Repair
4 Station License No. RC 143420, issued to Respondent Richard Hong Byun, owner of Richard
5 Byun Shell, is revoked or suspended, any additional license issued under Chapter 5 of Part 5 of
6 Division 26 of the Health and Safety Code in the name of said licensee may be likewise revoked
7 or suspended by the director.

8 37. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Inspector License
9 No. EO 139065, issued to Respondent Carlos G. Sosa, is revoked or suspended, any additional
10 license issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code in the name
11 of said licensee may be likewise revoked or suspended by the director.

12 **PRAYER**

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

15 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
16 143420, issued to Richard Byun Shell, Richard Hong Byun;

17 2. Revoking or suspending Smog Check Test and Repair Station License No. RC
18 143420, issued to Richard Byun Shell, Richard Hong Byun;

19 3. Revoking or suspending Brake Station License No. BS 143420, class C, issued to
20 Richard Byun Shell, Richard Hong Byun;

21 4. Revoking or suspending Lamp Station License No. LS 143420, class A, issued to
22 Richard Byun Shell, Richard Hong Byun;

23 5. Revoking or suspending Smog Check Inspector License No. EO 139065 and Smog
24 Check Repair Technician License No. EI 139065 issued to Carlos G. Sosa;

25 6. Revoking or suspending Brake Adjuster License No. BA 139065, class C, issued to
26 Carlos G. Sosa;

27 7. Revoking or suspending Lamp Adjuster License No. LA 139065, issued to Carlos G.
28 Sosa;

1 8. Revoking or suspending any and all licenses issued under Articles 5 and 6 of the
2 Automotive Repair Act in the name of Richard Byun Shell, Richard Hong Byun pursuant to
3 section 9889.9 of the Business and Professions Code;

4 9. Revoking or suspending any and all licenses issued under the Motor Vehicle
5 Inspection Program in the name of Richard Byun Shell, Richard Hong Byun pursuant to section
6 44072.8 of the Health and Safety Code;

7 10. Revoking or suspending any and all licenses issued under Articles 5 and 6 of the
8 Automotive Repair Act in the name of Carlos G. Sosa pursuant to section 9889.9 of the Business
9 and Professions Code;

10 11. Revoking or suspending any and all licenses issued under the Motor Vehicle
11 Inspection Program in the name of Carlos G. Sosa pursuant to section 44072.8 of the Health and
12 Safety Code;

13 12. Ordering Richard Byun Shell, Richard Hong Byun and Carlos G. Sosa to pay the
14 Bureau of Automotive Repair the reasonable costs of the investigation and enforcement of this
15 case, pursuant to Business and Professions Code section 125.3; and

16 13. Taking such other and further action as deemed necessary and proper.

17
18 DATED:

July 25, 2017



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

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