

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

In the Matter of the Accusation Against:

**CHANG SIK KIM DBA KIMS AUTO
REPAIR**

5121 E. Florence Ave.
Bell, CA 90201

Automotive Repair Dealer Registration No.
ARD 99676
Brake Station License No. BS 99676
Lamp Station License No. LS 99676
Smog Check Test and Repair Station License
No. RC 99676

Smog Check Inspector License No. EO
111109
Smog Check Repair Technician License No.
EI 111109 (*formerly Advanced Emission
Specialist Technician License No. EA 111109*)
Brake Adjuster License No. BA 111109-C
Lamp Adjuster License No. LA 111109-A

Respondent.

Case No. 79/16-139

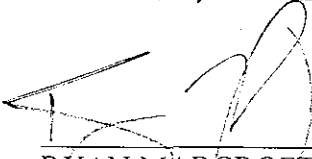
OAH No. 2016090868

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby accepted and adopted as the Decision of the Director of the Department of Consumer Affairs in the above-entitled matter.

This Decision shall become effective October 13, 2017.

DATED: September 5, 2017



RYAN MARCROFT
Deputy Director
Legal Affairs Division
Department of Consumer Affairs

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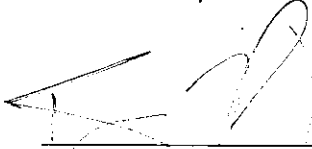
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Department of Consumer Affairs

1 XAVIER BECERRA
Attorney General of California
2 THOMAS L. RINALDI
Supervising 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

10
11 In the Matter of the Accusation Against:

Case No. 79/16-139

12 **CHANG SIK KIM DBA KIMS AUTO**
REPAIR
13 **5121 E. Florence Ave.**
Bell, CA 90201
14

OAH No. 2016090868

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

15 **Automotive Repair Dealer Registration No.**
ARD 99676
16 **Brake Station License No. BS 99676**
Lamp Station License No. LS 99676
17 **Smog Check Test and Repair Station**
License No. RC 99676

18 **Smog Check Inspector License No.**
EO 111109
19 **Smog Check Repair Technician License No.**
20 **EI 111109 (formerly Advanced Emission**
Specialist Technician EA 111109)
21 **Brake Adjuster License No. BA 111109-C**
Lamp Adjuster License No. LA 111109-A

22
23 Respondent.

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

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PARTIES

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1. Patrick Dorais (Complainant) is the Chief of the Bureau of Automotive Repair (Bureau). He brought this action solely in his official capacity and is represented in this matter by Xavier Becerra, Attorney General of the State of California, by M. Travis Peery, Deputy Attorney General.

2. Respondent Chang Sik Kim dba Kims Auto Repair (Respondent) is represented in this proceeding by attorney Michael B. Levin, Esq., whose address is:
3727 Camino del Rio South, Suite 200
San Diego, CA 92108.

3. In 1983, the Bureau issued Automotive Repair Dealer Registration Number ARD 99676 to Respondent. The Automotive Repair Dealer Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 79/16-139, and will expire on January 31, 2018, unless renewed.

4. On or about September 19, 1988, the Bureau issued Brake Station License Number BS 99676, class C, to Respondent. The Brake Station License was in full force and effect at all times relevant to the charges brought in Accusation No. 79/16-139, and will expire on January 31, 2018, unless renewed.

5. On or about September 19, 1988, the Bureau issued Lamp Station License Number LS 99676, class A, to Respondent. The Lamp Station License was in full force and effect at all times relevant to the charges brought in Accusation No. 79/16-139, and will expire on January 31, 2018, unless renewed.

6. On or about September 12, 2007, the Bureau issued Smog Check Test and Repair Station License Number RC 99676 to Respondent. The Smog Check Station License was in full force and effect at all times relevant to the charges brought in Accusation No. 79/16-139, and will expire on January 31, 2018, unless renewed.

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

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

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

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

18 **DISCIPLINARY ORDER**

19 IT IS HEREBY ORDERED that Brake Station License No. BS 99676 and Brake Adjuster
20 License No. BA 111109, class C, both issued to Respondent, are revoked.

21 IT IS HEREBY FURTHER ORDERED that Automotive Repair Dealer Registration No.
22 ARD 99676, Lamp Station License No. LS 99676, Smog Check Test and Repair Station License
23 No. RC 99676, Smog Check Inspector License No. EO 111109, Smog Check Repair Technician
24 License No. EI 111109, and Lamp Adjuster License No. LA 111109, class A, all issued to
25 Respondent, are revoked. However, the revocations are stayed and Respondent is placed on
26 probation for three (3) years on the following terms and conditions.

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1 1. **Obey All Laws.** During the period of probation, Respondent shall comply with all
2 federal and state statutes, regulations and rules governing all BAR registrations and licenses held
3 by Respondent.

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

8 3. **Report Financial Interests.** Respondent shall, within 30 days of the effective date
9 of the decision and within 30 days from the date of any request by BAR during the period of
10 probation, report any financial interest which any Respondent or any partners, officers, or owners
11 of any Respondent facility may have in any other business required to be registered pursuant to
12 Section 9884.6 of the Business and Professions Code.

13 4. **Access to Examine Vehicles and Records.** Respondent shall provide BAR
14 representatives unrestricted access to examine all vehicles (including parts) undergoing service,
15 inspection, or repairs, up to and including the point of completion. Respondent shall also provide
16 BAR representatives unrestricted access to all records pursuant to BAR laws and regulations.

17 5. **Tolling of Probation** If, during probation, Respondent leaves the jurisdiction of
18 California to reside or do business elsewhere or otherwise ceases to do business in the jurisdiction
19 of California, Respondent shall notify BAR in writing within 10 days of the dates of departure
20 and return, and of the dates of cessation and resumption of business in California. All provisions
21 of probation other than cost reimbursement requirements, restitution requirements, training
22 requirements, and that Respondent obey all laws, shall be held in abeyance during any period of
23 time of 30 days or more in which Respondent is not residing or engaging in business within the
24 jurisdiction of California. All provisions of probation shall recommence on the effective date of
25 resumption of business in California. Any period of time of 30 days or more in which Respondent
26 is not residing or engaging in business within the jurisdiction of California shall not apply to the
27 reduction of this probationary period or to any period of actual suspension not previously
28 completed. Tolling is not available if business or work relevant to the probationary license or

1 registration is conducted or performed during the tolling period.

2 **6. Violation of Probation.** If Respondent violates or fails to comply with the terms and
3 conditions of probation in any respect, the Director, after giving notice and opportunity to be
4 heard may set aside the stay order and carry out the disciplinary order provided in the decision.
5 Once Respondent is served notice of BAR's intent to set aside the stay, the Director shall
6 maintain jurisdiction, and the period of probation shall be extended until final resolution of the
7 matter.

8 **7. Maintain Valid License.** Respondent shall, at all times while on probation, maintain
9 a current and active registration and licenses with BAR, including any period during which
10 suspension or probation is tolled. If Respondent's registration or license is expired at the time the
11 decision becomes effective, the registration or license must be renewed by Respondent within 30
12 days of that date. If Respondent's registration or license expires during a term of probation, by
13 operation of law or otherwise, then upon renewal Respondent's registration or license shall be
14 subject to any and all terms and conditions of probation not previously satisfied. Failure to
15 maintain a current and active registration and/or license during the period of probation shall also
16 constitute a violation of probation.

17 **8. Cost Recovery.** Respondent shall pay the Bureau of Automotive Repair \$6,684.00
18 for the reasonable costs of the investigation and enforcement of case No. 79/16-139. Respondent
19 shall make such payment as follows: 24 equal monthly payments of \$278.50 with the final
20 payment due no later than 12 months prior to the termination of probation. Respondent shall
21 make payment by check or money order payable to the Bureau of Automotive Repair and shall
22 indicate on the check or money order that it is for cost recovery payment for case No. 79/16-139.
23 Any order for payment of cost recovery shall remain in effect whether or not probation is tolled.
24 Probation shall not terminate until full cost recovery payment has been made. BAR reserves the
25 right to pursue any other lawful measures in collecting on the costs ordered and past due, in
26 addition to taking action based upon the violation of probation.

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1 9. **Completion of Probation.** Upon successful completion of probation, Respondent's
2 affected registration and licenses will be fully restored or issued without restriction, if Respondent
3 meets all current requirements for registration or licensure and has paid all outstanding fees,
4 monetary penalties, or cost recovery owed to BAR.

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

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Exhibit A

Accusation No. 79/16-139

1 KAMALA D. HARRIS
Attorney General of California
2 THOMAS L. RINALDI
Supervising Deputy Attorney General
3 M. TRAVIS PEERY
Deputy Attorney General
4 State Bar No. 261887
300 So. Spring Street, Suite 1702
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9 FOR THE BUREAU OF AUTOMOTIVE REPAIR
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Case No. 79/16-139

CHANG SIK KIM DBA KIMS AUTO REPAIR

5121 E. Florence Ave.
Bell, CA 90201

ACCUSATION
smog check

Automotive Repair Dealer Registration No.
ARD 99676
Brake Station License No. BS 99676
Lamp Station License No. LS 99676
Smog Check Test and Repair Station
License No. RC 99676

Smog Check Inspector License No.
EO 111109
Smog Check Repair Technician License No.
EI 111109 (formerly Advanced Emission
Specialist Technician EA 111109)
Brake Adjuster License No. BA 111109-C
Lamp Adjuster License No. LA 111109-A

Respondent.

Complainant alleges:

PARTIES

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

1 2. In 1983, the Bureau of Automotive Repair (Bureau) issued Automotive Repair Dealer
2 Registration Number ARD 99676 to Chang Sik Kim dba Kims Auto Repair (Respondent). The
3 Automotive Repair Dealer Registration was in full force and effect at all times relevant to the
4 charges brought herein and will expire on January 31, 2017, unless renewed.

5 3. On or about September 19, 1988, the Bureau issued Brake Station License Number
6 BS 99676, class C, to Respondent. The Brake Station License was in full force and effect at all
7 times relevant to the charges brought herein and will expire on January 31, 2017, unless renewed.

8 4. On or September 19, 1988, the Bureau issued Lamp Station License Number LS
9 99676, class A, to Respondent. The Lamp Station License was in full force and effect at all times
10 relevant to the charges brought herein and will expire on January 31, 2017, unless renewed.

11 5. On or about September 12, 2007, the Bureau issued Smog Check Test and Repair
12 Station License Number RC 99676 to Respondent. The Smog Check Station License was in full
13 force and effect at all times relevant to the charges brought herein and will expire on January 31,
14 2017, unless renewed.

15 6. In 1996, the Bureau issued Advanced Emission Specialist Technician License EA
16 111109 to Respondent. Said license expired on July 31, 2012, was cancelled the same day, and
17 renewed pursuant to Respondent's election as Smog Check Inspector License No. EO 111109 and
18 Smog Check Repair Technician License No. EI 111109, effective July 31, 2012. Smog Check
19 Inspector License EO 111109 and Smog Check Repair Technician License No. EI 111109 were
20 in full force and effect at all times relevant to the charges brought herein and will expire on July
21 31, 2018, unless renewed.¹

22 7. In 1988, the Bureau issued Brake Adjuster License Number BA 111109, class C to
23 Respondent. The Brake Adjuster License will expire on July 31, 2017, unless renewed.

24 8. In 1988, the Bureau issued Lamp Adjuster License Number LA 111109, class A to
25 Respondent. The Lamp Adjuster License will expire on July 31, 2017, unless renewed.

26 ¹ Effective August 1, 2012, California Code of Regulations, title 16, section 3340.28, 3340.29 and
27 3340.30 were amended to implement a license restructure from the Advanced Emission Specialist
28 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 JURISDICTION

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

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

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

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

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

20 STATUTORY PROVISIONS

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

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

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

....

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

2 (4) Any other conduct that constitutes fraud.

3 (5) Conduct constituting gross negligence.

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

6

7 (c) Notwithstanding subdivision (b), the director may suspend, revoke or
8 place on probation the registration for all places of business operated in this state by
9 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.

10 15. Bus. & Prof. Code section 9889.3 states, in pertinent part:

11 The director may suspend, revoke, or take other disciplinary action
12 against a license as provided in this article [Article 7 (commencing with section
13 9889.1) of the Automotive Repair Act] if the licensee or any partner, officer, or
director thereof:

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

15 (b) Is convicted of any crime substantially related to the qualifications,
16 functions, or duties of the licenseholder in question.

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

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

20

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

22 16. 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,
determines that the lamps or the brakes upon any vehicle conform with the
25 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,
26 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
27 station.

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1 17. Bus. & Prof. Code section 9889.22 states:

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

7 18. Bus. & Prof. Code section 9889.9 states that "[w]hen any license has been revoked or
8 suspended following a hearing under the provisions of this article [Article 7 (commencing with
9 section 9889.1) of the Automotive Repair Act], any additional license issued under Articles 5 and
10 6 of this chapter in the name of the licensee may be likewise revoked or suspended by the
11 director."

12 19. Health & Saf. Code section 44014 states, in pertinent part:

13 (a) Except as otherwise provided in this chapter, the testing and repair
14 portion of the program shall be conducted by smog check stations licensed by the
15 department, and by smog check technicians who have qualified pursuant to this
16 chapter.

17 20. Health & Saf. Code section 44032 states, in pertinent part:

18 No person shall perform, for compensation, tests or repairs of emission
19 control devices or systems of motor vehicles required by this chapter unless the
20 person performing the test or repair is a qualified smog check technician and the test
21 or repair is performed at a licensed smog check station. Qualified technicians shall
22 perform tests of emission control devices and systems in accordance with Section
23 44012.

24 21. Health & Saf. Code section 44059 states, in pertinent part:

25 The willful making of any false statement or entry with regard to a
26 material matter in any oath, affidavit, certificate of compliance or noncompliance, or
27 application form which is required by this chapter or Chapter 20.3 (commencing with
28 Section 9880) of Division 3 of the Business and Professions Code, constitutes perjury
and is punishable as provided in the Penal Code.

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

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

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

...

1 (f) Aids or abets unlicensed persons to evade the provisions of this chapter.

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

5 REGULATIONS

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

7 All adjusting, inspecting, servicing, and repairing of brake systems and
8 lamp systems for the purpose of issuing any certificate of compliance or adjustment
9 shall be performed in official stations, by official adjusters, in accordance with the
10 following, in descending order of precedence, as applicable:

11 (1) Vehicle Manufacturers' current standards, specifications and
12 recommended procedures, as published in the manufacturers' vehicle service and
13 repair manuals.

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

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

19 (4) The bureau's Handbook for Brake Adjusters and Stations, February
20 2003, which is hereby incorporated by reference.

21 (5) The bureau's Handbook for Lamp Adjusters and Stations, February
22 2003, which is hereby incorporated by reference.

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

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

...

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

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1 26. California Code of Regulations, title 16, section 3340.35 states, in pertinent part:

2 (d) No person shall sell, issue, cause or permit to be issued any certificate
3 purported to be a valid certificate of compliance or noncompliance unless duly
4 licensed to do so.

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

6 No automotive repair dealer or individual in charge shall, in filling out an
7 estimate, invoice, or work order, or record required to be maintained by section
8 3340.15(e) of this chapter, withhold therefrom or insert therein any statement or
9 information which will cause any such document to be false or misleading, or where
10 the tendency or effect thereby would be to mislead or deceive customers, prospective
11 customers, or the public.

12 **COST RECOVERY**

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

17 **UNDERCOVER OPERATION #1: 2000 HONDA**

18 29. On January 15, 2015, a Bureau undercover operator (operator) took the Bureau's
19 2000 Honda to Kims Auto Repair and requested brake, lamp, and smog inspections on the
20 vehicle. At that time, the 2000 Honda had the following documented defective conditions: the
21 right front brake rotor was machined to undersized dimensions and was no longer within the
22 manufacturer's minimum thickness specifications, the left front headlamp was misaimed, and a
23 non-operational rear license plate light was installed. Due to the presence of these defects, the
24 vehicle was incapable of passing a brake or lamp inspection.

25 30. Respondent informed the operator that the total charge for the smog check inspection
26 and the brake and lamp inspections would be \$128.00. The operator agreed to the price and
27 Respondent provided a written estimate which the operator signed and received a copy of.
28 Respondent then sat in the waiting area in the same room as Respondent while work was being
done on the vehicle. From this vantage point the operator observed that Respondent did not do
the brake, lamp, or smog check inspections on the vehicle and that instead, the work was
performed by an unidentified male. The operator observed the unidentified male drive the vehicle

1 from the front of the building to the rear at a very slow speed then park the vehicle approximately
2 ten feet in front of a white screen. The unidentified male then walked around the vehicle with a
3 flashlight looking at the tires and turned on the lights and turn signals. The vehicle was never
4 road tested and the operator never saw any equipment connected to the vehicle, never saw the
5 hood of the vehicle opened for a visual inspection, and never saw the wheels removed. After
6 sitting in the waiting area for approximately ten minutes, Respondent informed the operator that
7 the vehicle had passed all the inspections. Respondent handed the operator an invoice, Brake
8 Certificate of Adjustment [REDACTED], Lamp Certificate of Adjustment [REDACTED], and a
9 Vehicle Inspection Report (VIR). The operator paid \$128.00 in cash for the inspections and left
10 the shop in the vehicle. All certificates of adjustment were signed by Respondent under penalty
11 of perjury. The lamp certificate of adjustment indicated that a screen was used for adjustment,
12 various lights were inspected, and the inspection was for a reconstructed vehicle. The brake
13 certificate of adjustment indicated that an inspection of the parking brake, brake pads, and rotors
14 was performed to register a salvaged vehicle. The VR indicated that Respondent conducted the
15 smog inspection of the 2000 Honda.

16 31. On or about January 16, 2015, the Bureau re-inspected the 2000 Honda and found
17 that it should not have received a Certificate of Brake Adjustment since the right front brake rotor
18 was still below the manufacturer's thickness specification and the tamper indicators were still
19 intact on all four wheels indicating the wheels were not removed and the brakes were never
20 properly inspected. The Bureau found that the 2000 Honda was eligible for a Certificate of Lamp
21 Adjustment since the left headlamp had been adjusted and the non-operational rear license plate
22 light had been replaced.

23 UNDERCOVER OPERATION #2: 2002 HONDA

24 32. On February 12, 2015, a Bureau undercover operator (operator) took the Bureau's
25 2002 Honda to Kims Auto Repair and requested brake, lamp, and smog inspections on the
26 vehicle. At that time, the 2002 Honda had the following documented defective conditions: the
27 right front brake rotor was machined to be undersized and no longer within the manufacturer's
28 specifications, the left front headlamp was misaimed, and a non-operational rear license plate

1 light was installed. Due to the presence of these defects, the vehicle was incapable of passing a
2 brake or lamp inspection.

3 33. Respondent agreed to perform the brake, lamp, and smog inspections for \$128.00.
4 The operator observed Respondent get in the vehicle and move it at a very slow rate of speed to
5 the back of the building where Respondent sat in the vehicle while an unidentified male standing
6 near the rear of the vehicle checked the lights. Respondent then informed the operator that one
7 license plate light was inoperative and it would cost an additional \$5.00 to repair it. The operator
8 authorized Respondent to replace the bulb and, at Respondent's request, wrote his personal
9 information and signed an invoice. The operator handed the paperwork back to Respondent who
10 walked away with it and placed it on the dashboard of the vehicle. The operator then observed
11 the unidentified male adjusting the headlights with the vehicle eight to ten feet in front of a white
12 screen and repairing the license plate light. The operator also observed Respondent walk around
13 the vehicle once and look into the wheels with a flashlight at the brakes. Respondent never
14 removed the wheels from the vehicle or physically inspected any of the brakes and the car was
15 never road tested. The operator paid Respondent \$133.00 in cash and Respondent provided the
16 operator with a copy of the invoice, a Vehicle Inspection Report, Brake Certificate of Adjustment
17 [REDACTED], and Lamp Certificate of Adjustment [REDACTED]. Both certificates of adjustment
18 were signed by Respondent under penalty of perjury. The lamp certificate of adjustment
19 indicated that a screen was used for adjustment, various lamps were inspected, and the inspection
20 was for a reconstructed vehicle. The brake certificate of adjustment indicated that an inspection
21 of the parking brake, brake pads, and rotors was performed to register a salvaged vehicle.

22 34. On or about February 17, 2015, the Bureau re-inspected the 2002 Honda and found
23 that it should not have received a Certificate of Brake Adjustment since the right front brake rotor
24 was still below the manufacturer's thickness specification and the tamper indicators were still
25 intact on all four wheels indicating the wheels were not removed and the brakes were never
26 properly inspected. The Bureau found that the 2002 Honda was eligible for a Certificate of Lamp
27 Adjustment since the left headlamp had been adjusted and the non-operational rear license plate
28 light had been replaced.

UNDERCOVER OPERATION #3: 2002 HONDA

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2 35. On February 13, 2015, a Bureau undercover operator (operator) took the Bureau's
3 2002 Honda to Kims Auto Repair and requested brake, lamp, and smog inspections on the
4 vehicle. At that time, the 2002 Honda had the following documented defective conditions: the
5 right front brake rotor was machined to be undersized and no longer within the manufacturer's
6 specifications, the right front headlamp was misaimed, and a non-operational rear license plate
7 light was installed. Due to the presence of these defects, the vehicle was incapable of passing a
8 brake or lamp inspection.

9 36. Respondent agreed to perform the brake, lamp, and smog inspections for \$118.00.
10 The operator observed an unidentified male get in the vehicle and move it at a very slow rate of
11 speed to the back of the building. The operator walked through the building and sat in a position
12 to see the vehicle and who was working on it. The operator observed the unidentified male
13 checking the vehicle's lights while the vehicle was parked six to eight feet from a white screen.
14 The operator then signed a work order at the unidentified male's request but never received an
15 estimate copy. Respondent then informed the operator that the license plate light was not
16 working. The operator then observed the unidentified male adjusting the left headlight against the
17 white screen and repairing the license plate light. Respondent then walked to the vehicle and
18 flashed a light at the left front wheel but never removed the wheels from the vehicle or physically
19 inspected any of the brakes. The car was never road tested. The operator paid Respondent
20 \$120.00 in cash for the inspections and the repair of the license plate light and Respondent
21 provided the operator with a copy of the invoice, a Vehicle Inspection Report, Brake Certificate
22 of Adjustment [REDACTED], and Lamp Certificate of Adjustment [REDACTED]. Both certificates
23 of adjustment were signed by Respondent under penalty of perjury. The lamp certificate of
24 adjustment indicated that a screen was used for adjustment, various lamps were inspected, and the
25 inspection was for a reconstructed vehicle. The brake certificate of adjustment indicated that an
26 inspection of the parking brake, brake pads, and rotors was performed to register a salvaged
27 vehicle.

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1 accordance with the specifications, instructions, and directives issued by the Bureau or the
2 vehicles' manufacturer.

3 b. Section 3321, subdivision (c)(2): Respondent issued brake certificates for the
4 Bureau's 2000 Honda, 2002 Honda, and 2002 Honda when the brake systems on those vehicles
5 had not been completely tested or inspected in that the wheels were never removed and the
6 vehicles were never road tested.

7 c. Section 3340.35, subdivision (d): Respondent issued or caused to be issued a
8 smog check certificate to the Bureau's 2000 Honda during undercover run #1 on January 15,
9 2015, when the test was conducted by an unidentified male using Respondent's technician access
10 code.

11 d. Section 3373: Respondent filled out and issued a false or misleading VIR for
12 the Bureau's 2000 Honda and false or misleading brake and lamp certificates of adjustment for
13 the Bureau's 2000 Honda, 2002 Honda, and 2002 Honda.

14 43. Complainant refers to, and by this reference incorporates, the allegations set forth
15 above in paragraphs 29 through 37, inclusive, as though fully set forth herein.

16 **FOURTH CAUSE FOR DISCIPLINE**

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

18 44. Respondent's brake and lamp station licenses are subject to disciplinary action
19 pursuant to Bus. & Prof. Code section 9889.3, subdivisions (a) and (h), in that he violated the
20 provisions of Bus. & Prof. Code sections 9884.7, subdivision (a)(3), 9884.7, subdivision (a)(5),
21 9889.16, and 9889.22 relating to Respondent's licensed activities, as set forth in paragraphs 40
22 and 41 above.

23 **FIFTH CAUSE FOR DISCIPLINE**

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

25 45. Respondent's brake and lamp station licenses are subject to disciplinary action
26 pursuant to Bus. & Prof. Code section 9889.3, subdivision (c), in that he failed to comply with the
27 provisions of California Code of Regulations, title 16, sections 3305, subdivision (a), 3321,
28 subdivision (c)(2), 3340.35, subdivision (d), and 3373, as set forth in paragraphs 42 and 43 above.

1 SIXTH CAUSE FOR DISCIPLINE

2 (Dishonesty, Fraud, or Deceit)

3 46. Respondent's brake and lamp station licenses are subject to disciplinary action
4 pursuant to Bus. & Prof. Code section 9889.3, subdivision (d), in that he committed acts
5 involving dishonesty, fraud, or deceit whereby another was injured, as set forth in paragraphs 29
6 through 37 above.

7 SEVENTH CAUSE FOR DISCIPLINE

8 (Violations of the Motor Vehicle Inspection Program)

9 47. Respondent's smog check test and repair station license is subject to disciplinary
10 action pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that he failed to
11 comply with the following sections of that Code in the following material respects:

12 a. Section 44014, subdivision (a): Respondent failed to ensure that the smog
13 check inspection of the Bureau's 2000 Honda during undercover run #1 on January 15, 2015, was
14 conducted by a licensed technician who was qualified pursuant to this chapter.

15 b. Section 44059: Respondent committed perjury by issuing a smog check
16 certificate to the Bureau's 2000 Honda during undercover run #1 on January 15, 2015, indicating
17 that he had conducted the smog test on that vehicle when in fact that test was conducted by an
18 unidentified male.

19 48. Complainant refers to, and by this reference incorporates, the allegations set forth
20 above in above in paragraph 30 as though fully set forth herein.

21 EIGHTH CAUSE FOR DISCIPLINE

22 (Violations of the Motor Vehicle Inspection Program)

23 49. Respondent's smog check inspector and smog check repair technician licenses are
24 subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (a), in
25 that he failed to comply with sections 44014, subdivision (a), and 44059 of that code as set forth
26 in paragraphs 47 and 48, above.

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NINTH CAUSE FOR DISCIPLINE

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

50. Respondent's brake and lamp adjuster licenses are subject to disciplinary action pursuant to Bus. & Prof. Code section 9889.3, subdivisions (a) and (h), in that he violated the provisions of Bus. & Prof. Code sections 9884.7, subdivisions (a)(3) and (a)(5), 9889.16 and 9889.22 relating to his licensed activities, as set forth in paragraphs 40 and 41 above.

TENTH CAUSE FOR DISCIPLINE

(Violations of Regulations)

51. Respondent's brake and lamp adjuster licenses are subject to disciplinary action pursuant to Bus. & Prof. Code section 9889.3, subdivision (c), in that he failed to comply with the provisions of California Code of Regulations, title 16, sections 3305, subdivision (a), 3321, subdivision (c)(2), 3340.35, subdivision (d), and 3373, as set forth in paragraphs 42 and 43 above.

ELEVENTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud, or Deceit)

52. Respondent's brake and lamp adjuster licenses are subject to disciplinary action pursuant to Bus. & Prof. Code section 9889.3, subdivision (d), in that he committed acts involving dishonesty, fraud, or deceit whereby another was injured, as set forth in paragraphs 29 through 37 above.

PRAYER

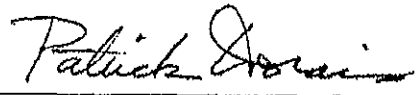
WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Director of Consumer Affairs issue a decision:

1. Revoking or suspending Automotive Repair Dealer Registration Number ARD 99676, issued to Chang Sik Kim dba Kims Auto Repair;
2. Revoking or suspending Smog Check Test and Repair Station License No. RC 99676, issued to Chang Sik Kim dba Kims Auto Repair;
3. Revoking or suspending Brake Station License No. BS 99676, issued to Chang Sik Kim dba Kims Auto Repair;

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- 1 4. Revoking or suspending Lamp Station License No. LS 99676, issued to Chang Sik
- 2 Kim dba Klms Auto Repair;
- 3 5. Revoking or suspending Smog Check Inspector License No. EO 111109 and Smog
- 4 Check Repair Technician License No. EI 111109, issued to Chang Sik Kim;
- 5 6. Revoking or suspending Brake Adjuster License No. BA 111109-C, issued to Chang
- 6 Sik Kim;
- 7 7. Revoking or suspending Lamp Adjuster License No. LA 111109-A, issued to Chang
- 8 Sik Kim;
- 9 8. Revoking or suspending any and all licenses issued under Articles 5 and 6 of the
- 10 Automotive Repair Act in the name of Chang Sik Kim pursuant to section 9889.9 of the Business
- 11 and Professions Code;
- 12 9. Revoking or suspending any and all licenses issued under the Motor Vehicle
- 13 Inspection Program in the name of Chang Sik Kim pursuant to section 44072.8 of the Health and
- 14 Safety Code;
- 15 10. Ordering Chang Sik Kim to pay the Bureau of Automotive Repair the reasonable
- 16 costs of the investigation and enforcement of this case, pursuant to Business and Professions
- 17 Code section 125.3; and
- 18 11. Taking such other and further action as deemed necessary and proper.

19
20 DATED: June 15, 2016


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

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