

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

In the Matter of the Accusation Against:

MR. AUTO

REZA FATHI, Owner
1924 E. Compton Blvd.
Compton, CA 90221

Automotive Repair Dealer Registration
No. ARD 181092
Smog Check Station License No. RC 181092
Official Lamp Station License No. LS 181092
Official Brake Station License No. BS 181092

and

REZA FATHI

1924 E. Compton Blvd.
Compton, CA 90221

Advanced Emission Specialist Technician
License No. EA 300807
Brake Adjuster License No. BA 300807
Lamp Adjuster License No. LA 300807

Respondent.

Case No. 77/10-14

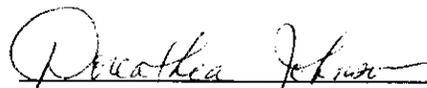
OAH No. L-2011050495

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 January 3, 2012.

DATED: November 21, 2011



DOREATHEA JOHNSON
Deputy Director, Legal Affairs
Department of Consumer Affairs

1 KAMALA D. HARRIS
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
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Attorneys for Complainant
7

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

12 In the Matter of the Accusation Against:

Case No. 77/10-14

OAH No. L-2011050495

13 **MR. AUTO**
14 **REZA FATHI, OWNER**
15 **1924 E. Compton Blvd.**
16 **Compton, CA 90221**
17 **Automotive Repair Dealer Reg. No. ARD**
18 **181092 1**
19 **Smog Check Station License No. RC 181092**
20 **Official Lamp Station License No. LS**
21 **181092**
22 **Official Brake Station License No. BS**
23 **181092**

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

18 and

19 **REZA FATHI**
20 **1924 E. Compton Blvd.**
21 **Compton, CA 90221**
22 **Advanced Emission Specialist Technician**
23 **License No. EA 300807**
24 **Brake Adjuster License No. BA 300807**
25 **Lamp Adjuster License No. LA 300807**

Respondent.

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

28 ///

1 PARTIES

2 1. Sherry Mehl (Complainant) is the Chief of the Bureau of Automotive Repair. She
3 brought this action solely in her official capacity and is represented in this matter by Kamala D.
4 Harris, Attorney General of the State of California, by Shawn P. Cook, Deputy Attorney General.

5 Mr. Auto; Reza Fathi, Owner

6 2. On or about December 27, 1994, the Director of the Department of Consumer Affairs
7 ("Director") issued Automotive Repair Dealer Registration Number ARD 181092 to Reza Fathi
8 ("Respondent"), owner of Mr. Auto. Respondent's registration was in full force and effect at all
9 times relevant to the charges brought herein and will expire on November 30, 2012, unless
10 renewed.

11 3. On or about January 9, 1995, the Director issued Smog Check Station License
12 Number RC 181092 to Respondent. Respondent's smog check station license was in full force
13 and effect at all times relevant to the charges brought herein and will expire on November 30,
14 2012, unless renewed.

15 4. On or about January 6, 1995, the Director issued Official Lamp Station License
16 Number LS 181092 to Respondent. Respondent's official lamp station license was in full force
17 and effect at all times relevant to the charges brought herein and will expire on November 30,
18 2012, unless renewed.

19 5. On or about January 6, 1995, the Director issued Official Brake Station License
20 Number BS 181092 to Respondent. Respondent's official brake station license was in full force
21 and effect at all times relevant to the charges brought herein and will expire on November 30,
22 2012, unless renewed.

23 Reza Fathi:

24 6. In or about 1998, the Director issued Advanced Emission Specialist Technician
25 License Number EA 300807 to Respondent. Respondent's advanced emission specialist
26 technician license was in full force and effect at all times relevant to the charges brought herein
27 and will expire on March 31, 2012, unless renewed.

1 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
2 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
3 writing executed by an authorized representative of each of the parties.

4 19. In consideration of the foregoing admissions and stipulations, the parties agree that
5 the Director may, without further notice or formal proceeding, issue and enter the following
6 Disciplinary Order:

7 **DISCIPLINARY ORDER**

8 IT IS HEREBY ORDERED that Automotive Repair Dealer Registration No. ARD 181092;
9 Smog Station License No. RC 181092; Official Lamp Station License No. LS 181092; Official
10 Brake Station License No. BS 181092; Advanced Emission Specialist Technician License No.
11 EA 300807; Brake Adjuster License No. BA 300807; and Lamp Adjuster License No. LA
12 300807, issued to Respondent are each and all revoked as to the aforementioned licenses, and
13 permanently invalidated as to the registration. However, the revocation or permanent invalidation
14 is stayed only as to Automotive Repair Dealer Registration No. ARD 181092; Smog Station
15 License No. RC 181092; and Advanced Emission Specialist Technician License No. EA 300807
16 and as to those three (3) licenses or registrations, only, Respondent is placed on probation for five
17 (5) years on the following terms and conditions.

18 1. **Actual Suspension.** Automotive Repair Dealer Registration No. ARD 181092;
19 Smog Station License No. RC 181092 and Advanced Emission Specialist Technician License
20 No. EA 300807, issued to Respondent Reza Fathi are each suspended for fifteen (15) days
21 beginning on the effective date of the Decision adopting this Stipulation.

22 2. **Obey All Laws.** Comply with all statutes, regulations and rules governing
23 automotive inspections, estimates and repairs.

24 3. **Post Sign.** Post a prominent sign, provided by the Bureau, indicating the beginning
25 and ending dates of the suspension and indicating the reason for the suspension. The sign shall be
26 conspicuously displayed in a location open to and frequented by customers and shall remain
27 posted during the entire period of actual suspension.

28 4. **Reporting.** Respondent or Respondent's authorized representative must report in

1 person or in writing as prescribed by the Bureau of Automotive Repair, on a schedule set by the
2 Bureau, but no more frequently than each quarter, on the methods used and success achieved in
3 maintaining compliance with the terms and conditions of probation.

4 5. **Report Financial Interest.** Within 30 days of the effective date of this action, report
5 any financial interest which any partners, officers, or owners of the Respondent facility may have
6 in any other business required to be registered pursuant to Section 9884.6 of the Business and
7 Professions Code.

8 6. **Random Inspections.** Provide Bureau representatives unrestricted access to inspect
9 all vehicles (including parts) undergoing repairs, up to and including the point of completion.

10 7. **Jurisdiction.** If an accusation is filed against Respondent during the term of
11 probation, the Director of Consumer Affairs shall have continuing jurisdiction over this matter
12 until the final decision on the accusation, and the period of probation shall be extended until such
13 decision.

14 8. **Violation of Probation.** Should the Director of Consumer Affairs determine that
15 Respondent has failed to comply with the terms and conditions of probation, the Department may,
16 after giving notice and opportunity to be heard suspend or revoke each and every license or
17 registration that has been granted probation.

18 9. **False and Misleading Advertising.** If the accusation involves false and misleading
19 advertising, during the period of probation, Respondent shall submit any proposed advertising
20 copy, whether revised or new, to the Bureau at least thirty (30) days prior to its use.

21 10. **Continuing Education Course.** During the period of probation, Respondent shall
22 attend and successfully complete the Bureau's Advanced Clean Air Car Course. Said course shall
23 be completed and proof of completion submitted to the Bureau within 180 days of the effective
24 date of this decision and order. If proof of completion of the course is not furnished to the Bureau
25 within the 180-day period, Respondents' licenses and registration that have been granted
26 probation shall be immediately suspended until such proof is received.

27 11. **Restrictions.** During the period of probation, Respondent shall not perform any form
28 of smog inspection, or emission system diagnosis or repair, until Respondent has purchased,

1 installed, and maintained the diagnostic and repair equipment prescribed by BAR necessary to
2 properly perform such work, and BAR has been given 10 days notice of the availability of the
3 equipment for inspection by a BAR representative.

4 12. Cost Recovery. Payment to the Bureau of fifty (50) per cent of the full amount of
5 cost recovery, which fifty (50) percent is the sum of \$15,953.65, shall be paid in equal monthly
6 installments over the first forty-eight (48) months of the probation. Failure to complete payment
7 of cost recovery within this time frame shall constitute a violation of probation which may subject
8 each and all of Respondent's licenses or registration to outright revocation; however, the Director
9 or the Director's Bureau of Automotive Repair designee may elect to continue probation until
10 such time as reimbursement of the entire cost recovery amount has been made to the Bureau.

11 ACCEPTANCE

12 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
13 discussed it with my attorney, Michael B. Levin, Esq.. I understand the stipulation and the effect
14 it will have on my Automotive Repair Dealer License, and Brake Adjuster License, and Lamp
15 Adjuster License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily,
16 knowingly, and intelligently, and agree to be bound by the Decision and Order of the Director of
17 Consumer Affairs.

18
19 DATED: 11/3/11 Reza Fathi
20 MR. AUTO; REZA FATHI, Sole Owner
Respondent

21 I have read and fully discussed with Respondent Mr. Auto; Reza Fathi the terms and
22 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
23 I approve its form and content.

24
25 DATED: 11/3/11 Michael B. Levin
26 Michael B. Levin, Esq.
27 Attorney for Respondent
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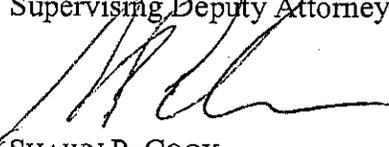
ENDORSEMENT

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

Dated: November 3, 2011

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
MARC D. GREENBAUM
Supervising Deputy Attorney General



SHAWN P. COOK
Deputy Attorney General
Attorneys for Complainant

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Stipulation.rtf

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17 and

18 **REZA FATHI**
1924 E. Compton Blvd.
19 Compton, CA 90221
Advanced Emission Specialist Technician
20 License No. EA 300807
Brake Adjuster License No. BA 300807
21 Lamp Adjuster License No. LA 300807

22 Respondents.

Case No. 77/10-14

ACCUSATION

24 Complainant alleges:

25 **PARTIES**

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

28 ///

1 **Mr. Auto; Reza Fathi, Owner**

2 2. On or about December 27, 1994, the Director of Consumer Affairs ("Director")
3 issued Automotive Repair Dealer Registration Number ARD 181092 (hereinafter "registration")
4 to Reza Fathi ("Respondent"), owner of Mr. Auto. Respondent's registration was in full force and
5 effect at all times relevant to the charges brought herein and will expire on November 30, 2010,
6 unless renewed.

7 3. On or about January 9, 1995, the Director issued Smog Check Station License
8 Number RC 181092 to Respondent. Respondent's smog check station license was in full force
9 and effect at all times relevant to the charges brought herein and will expire on November 30,
10 2010, unless renewed.

11 4. On or about January 6, 1995, the Director issued Official Lamp Station License
12 Number LS 181092 to Respondent. Respondent's official lamp station license was in full force
13 and effect at all times relevant to the charges brought herein and will expire on November 30,
14 2010, unless renewed.

15 5. On or about January 6, 1995, the Director issued Official Brake Station License
16 Number BS 181092 to Respondent. Respondent's official brake station license was in full force
17 and effect at all times relevant to the charges brought herein and will expire on November 30,
18 2010, unless renewed.

19 **Reza Fathi:**

20 6. In or about 1998, the Director issued Advanced Emission Specialist Technician
21 License Number EA 300807 to Respondent. Respondent's advanced emission specialist
22 technician license was in full force and effect at all times relevant to the charges brought herein
23 and will expire on March 31, 2012, unless renewed.

24 7. In or about 1993, the Director issued Lamp Adjuster License Number LA 300807 to
25 Respondent. Respondent's lamp adjuster license was in full force and effect at all times relevant
26 to the charges brought herein and will expire on March 31, 2012, unless renewed.

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1 obtained at some time after it is determined that the estimated price is insufficient and
2 before the work not estimated is done or the parts not estimated are supplied. Written
3 consent or authorization for an increase in the original estimated price may be
4 provided by electronic mail or facsimile transmission from the customer. The bureau
5 may specify in regulation the procedures to be followed by an automotive repair
6 dealer when an authorization or consent for an increase in the original estimated price
7 is provided by electronic mail or facsimile transmission. If that consent is oral, the
8 dealer shall make a notation on the work order of the date, time, name of person
9 authorizing the additional repairs and telephone number called, if any, together with a
10 specification of the additional parts and labor and the total additional cost . . .

11 18. Bus. & Prof. Code section 9888.3 states:

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

17 19. Bus. & Prof. Code section 9889.3 states, in pertinent part:

18 The director may suspend, revoke, or take other disciplinary action
19 against a license as provided in this article [Article 7 (commencing with section
20 9889.1) of the Automotive Repair Act] if the licensee or any partner, officer, or
21 director thereof:

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

24

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

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

. . . .

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

. . . .

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

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1 20. Bus. & Prof. Code section 9889.16 states:

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

10 21. Bus. & Prof. Code section 9889.22 states:

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

16 22. Bus. & Prof. Code section 9889.9 states that “[w]hen any license has been revoked or
17 suspended following a hearing under the provisions of this article [Article 7 (commencing with
18 section 9889.1) of the Automotive Repair Act], any additional license issued under Articles 5 and
19 6 of this chapter in the name of the licensee may be likewise revoked or suspended by the
20 director.”

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

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

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

28 25. 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:

....

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

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Untrue or Misleading Statements)**

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

7 a. Respondent certified under penalty of perjury on Brake Certificate Number
8 BC 823839 that the applicable inspection was performed on the brake system on the Bureau's
9 1994 Chevrolet S-10 pickup. In fact, Respondent failed to inspect the brakes on the vehicle.

10 b. Respondent certified under penalty of perjury on Brake Certificate Number
11 BC 823839 that the rear brake drums on the Bureau's 1994 Chevrolet S-10 pickup were in a
12 satisfactory condition. In fact, the rear brake drums had been machined beyond the
13 manufacturer's drum discard diameter specifications.

14 c. Respondent certified under penalty of perjury on Lamp Certificate Number
15 LC 811739 that the applicable adjustment had been performed on the lighting system on the
16 Bureau's 1994 Chevrolet S-10 pickup. In fact, the right headlamp had not been adjusted.

17 d. Respondent certified under penalty of perjury on Lamp Certificate Number
18 LC 811739 that the applicable repair had been performed on the lighting system on the Bureau's
19 1994 Chevrolet S-10 pickup. In fact, the backup lights were not repaired or functioning.

20 **SECOND CAUSE FOR DISCIPLINE**

21 **(Fraud)**

22 31. Respondent's registration is subject to disciplinary action pursuant to Bus. & Prof.
23 Code section 9884.7, subdivision (a)(4), Respondent committed an act which constitutes fraud, as
24 follows: Respondent obtained payment from the operator for performing the applicable
25 inspections, adjustments, or repairs of the brake and lighting systems on the Bureau's 1994
26 Chevrolet S-10 pickup as specified by the Bureau and in accordance with the Vehicle Code. In
27 fact, Respondent failed to perform the necessary inspections, adjustments, and repairs in
28 compliance with Bureau Regulations or the Vehicle Code as set forth in paragraph 30 above.

1 THIRD CAUSE FOR DISCIPLINE

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

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

6 a. Section 9884.8: Respondent failed to provide the operator with an invoice listing all
7 service work performed on the Bureau's 1994 Chevrolet S-10 pickup.

8 b. Section 9884.9, subdivision (a): Respondent failed to provide the operator with a
9 written estimate for parts and/or labor necessary for specific job and failed to obtain the
10 operator's authorization for the lamp and brake inspection on the Bureau's 1994 Chevrolet S-10
11 pickup.

12 c. Section 9889.16: Respondent issued Brake Certificate Number BC 823839 and
13 Lamp Certificate Number LC 811739 as to the Bureau's 1994 Chevrolet S-10 pickup when the
14 vehicle was not in compliance with Bureau Regulations or the requirements of the Vehicle Code.

15 d. Section 9889.22: Respondent willfully made false statements or entries on Brake
16 Certificate Number BC 823839 and Lamp Certificate Number LC 811739, as set forth in
17 paragraph 30 above.

18 FOURTH CAUSE FOR DISCIPLINE

19 (Violations of Regulations)

20 33. Respondent's registration is subject to disciplinary action pursuant to Bus. & Prof.
21 Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with provisions of
22 California Code of Regulations, title 16, in the following material respects:

23 a. Section 3305, subdivision (a): Respondent failed to perform the inspection of the
24 brake system and inspection, adjustment, and repair of the lamp system on the Bureau's 1994
25 Chevrolet S-10 pickup in accordance with the specifications, instructions, and directives issued
26 by the Bureau and the vehicle manufacturer.

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1 **EIGHTH CAUSE FOR DISCIPLINE**

2 **(Failure to Comply with the Code)**

3 37. Respondent's brake and lamp adjuster licenses are subject to disciplinary action
4 pursuant to Bus. & Prof. Code section 9889.3, subdivisions (a) and (h), in that he violated the
5 provisions of Bus. & Prof. Code sections 9884.8, 9884.9, subdivision (a), 9889.16, and 9889.22
6 relating to his licensed activities, as set forth in paragraph 32 above.

7 **NINTH CAUSE FOR DISCIPLINE**

8 **(Violations of Regulations)**

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

13 **UNDERCOVER OPERATION #2: 1998 TOYOTA COROLLA**

14 39. On June 19, 2009, the operator involved in the first undercover operation took the
15 Bureau's 1998 Toyota Corolla to Respondent's facility and requested a brake and lamp inspection
16 for a salvage vehicle. The rear brake drums on the Bureau-documented vehicle were machined
17 beyond the manufacturer's drum discard diameter specifications, the right headlamp was out of
18 adjustment, and the license plate light bulbs were defective. Respondent's technician told the
19 operator that he would have to wait about a half hour for the inspection. The technician did not
20 give the operator a written estimate or have him sign a repair order, authorizing the inspection.
21 The technician drove the vehicle into a stall and raised it on a lift. The technician then removed
22 the wheels on the vehicle and appeared to inspect the rear brakes. Later, the technician told the
23 operator that the vehicle did not pass the brake or lamp inspection and that there was no charge
24 for the inspection. The technician did not give the operator a final invoice.

25 40. On December 3, 2009, the Bureau determined that Respondent was the only licensed
26 brake and lamp adjuster at the facility.

27 41. On December 29, 2009, representatives of the Bureau went to the facility and
28 interviewed technician Bruno Gutierrez ("Gutierrez"). Gutierrez stated that he occasionally

1 performs lamp and brake inspections and checks the specifications for compliance as directed by
2 Respondent. Gutierrez admitted that he knew it was illegal to perform inspections without a
3 brake or lamp adjuster license and that he occasionally signed Respondent's name on lamp and
4 brake certificates of adjustment with Respondent's knowledge. Later, the representative met with
5 Respondent and obtained copies of certain lamp and brake certificates of adjustment. Respondent
6 was asked to review the signatures on the certificates. Respondent acknowledged signing the
7 certificates, but later admitted that he occasionally allowed Gutierrez and another unlicensed
8 technician, Michael Keller ("Keller"), to sign lamp and brake certificates of adjustment on his
9 behalf. Respondent also admitted that Gutierrez and Keller helped him perform brake and lamp
10 inspections when it was busy, including specifications for compliance, and that it was illegal to
11 allow unlicensed technicians to perform lamp and brake inspections and to sign certificates of
12 adjustment.

13 42. On January 7, 2010, the Bureau determined that Gutierrez had performed the brake
14 and lamp inspections on the Bureau's 1998 Toyota Corolla and 2000 Mazda Protégé (the vehicle
15 involved in the third undercover operation, set forth below).

16 **TENTH CAUSE FOR DISCIPLINE**

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

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

21 a. **Section 9884.8**: Respondent's technician, Gutierrez, failed to provide the operator
22 with an invoice for the lamp and brake inspection on the Bureau's 1998 Toyota Corolla.

23 b. **Section 9884.9, subdivision (a)**: Respondent's technician, Gutierrez, failed to
24 provide the operator with a written estimate for parts and/or labor necessary for specific job and
25 failed to obtain the operator's authorization for the lamp and brake inspection on the Bureau's
26 1998 Toyota Corolla.

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1 provided, then drove the vehicle into the repair bay. Gutierrez did not give the operator a written
2 estimate or have him sign a work order, authoring the inspection. Gutierrez got out of the vehicle
3 and appeared to check the lights. Gutierrez then leaned into the driver's door, came back out, and
4 left the vehicle. Later, Gutierrez waved the operator over to the repair shop desk. Gutierrez told
5 the operator that the vehicle was ready and that the cost was \$60. Gutierrez provided the operator
6 with Certificate of Brake Adjustment Number BC 896345 and Certificate of Lamp Adjustment
7 Number LC 883245. The operator was given a final invoice and paid the facility \$60 in cash.

8 49. On August 17, 2009, the Bureau inspected the vehicle and found that the right
9 headlamp was still out of adjustment, the rear side marker lights still were not functioning, the
10 rear brake drums were not within manufacturer's specifications, and the wheels had not been
11 removed to inspect the brakes.

12 50. On December 29, 2009, Respondent told representatives of the Bureau that he signed
13 Certificate of Brake Adjustment Number BC 896345 and Certificate of Lamp Adjustment
14 Number LC 883245.

15 **FOURTEENTH CAUSE FOR DISCIPLINE**

16 **(Untrue or Misleading Statements)**

17 51. Respondent's automotive repair dealer registration is subject to disciplinary action
18 pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(1), Respondent made or authorized
19 statements which he knew or in the exercise of reasonable care should have known to be untrue or
20 misleading, as follows:

21 a. Respondent certified under penalty of perjury on Brake Certificate Number
22 BC 896345 that the applicable inspection was performed on the brake system on the Bureau's
23 2000 Mazda Protégé. In fact, Respondent failed to inspect the brakes on the vehicle.

24 b. Respondent certified under penalty of perjury on Brake Certificate Number
25 BC 896345 that the rear brake drums on the Bureau's 2000 Mazda Protégé were in a satisfactory
26 condition. In fact, the rear brake drums had been machined beyond the manufacturer's drum
27 discard diameter specifications.

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1 c. Respondent certified under penalty of perjury on Lamp Certificate Number
2 LC 883245 that the applicable adjustment had been performed on the lighting system on the
3 Bureau's 2000 Mazda Protégé. In fact, the right headlamp had not been adjusted.

4 d. Respondent certified under penalty of perjury on Lamp Certificate Number
5 LC 883245 that the applicable repair had been performed on the lighting system on the Bureau's
6 2000 Mazda Protégé. In fact, the rear side marker lights were not repaired or functioning.

7 e. Respondent certified under penalty of perjury on Brake Certificate Number
8 BC 896345 and Lamp Certificate Number LC 883245 that he performed the inspections of the
9 brake and lighting systems on the Bureau's 2000 Mazda Protégé. In fact, the inspections were
10 performed by Respondent's unlicensed technician, Gutierrez.

11 **FIFTEENTH CAUSE FOR DISCIPLINE**

12 **(Fraud)**

13 52. Respondent's registration is subject to disciplinary action pursuant to Bus. & Prof.
14 Code section 9884.7, subdivision (a)(4), Respondent committed an act which constitutes fraud, as
15 follows: Respondent obtained payment from the operator for performing the applicable
16 inspections, adjustments, or repairs of the brake and lighting systems on the Bureau's 2000
17 Mazda Protégé as specified by the Bureau and in accordance with the Vehicle Code. In fact,
18 Respondent failed to perform the necessary inspections, adjustments, and repairs in compliance
19 with Bureau Regulations or the Vehicle Code as set forth in paragraph 51 above.

20 **SIXTEENTH CAUSE FOR DISCIPLINE**

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

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

25 a. **Section 9884.9, subdivision (a):** Respondent failed to provide the operator with a
26 written estimate for parts and/or labor necessary for specific job and failed to obtain the
27 operator's authorization for the brake and lamp inspection on the Bureau's 2000 Mazda Protégé.

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1 **NINETEENTH CAUSE FOR DISCIPLINE**

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

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

7 **TWENTIETH CAUSE FOR DISCIPLINE**

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

9 57. Respondent's official brake and lamp station licenses are subject to disciplinary
10 action pursuant to Bus. & Prof. Code section 9889.3, subdivision (d), in that Respondent
11 committed an act involving dishonesty, fraud, or deceit whereby another was injured, as set forth
12 in paragraph 52 above.

13 **TWENTY-FIRST CAUSE FOR DISCIPLINE**

14 **(Aiding and Abetting Unlicensed Person)**

15 58. Respondent's official brake and lamp station licenses are subject to disciplinary
16 action pursuant to Bus. & Prof. Code section 9889.3, subdivision (f), in that Respondent aided or
17 abetted an unlicensed person to evade the provisions of this chapter, as follows: Respondent
18 directed and/or permitted his unlicensed technician, Gutierrez, to perform the brake and lamp
19 inspections on the Bureau's 2000 Mazda Protégé.

20 **TWENTY-SECOND CAUSE FOR DISCIPLINE**

21 **(Failure to Comply with the Code)**

22 59. Respondent's brake and lamp adjuster licenses are subject to disciplinary action
23 pursuant to Bus. & Prof. Code section 9889.3, subdivisions (a) and (h), in that he violated the
24 provisions of Bus. & Prof. Code sections 9884.9, subdivision (a), 9889.16, and 9889.22 relating
25 to his licensed activities, as set forth in paragraph 53 above.

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1 TWENTY-THIRD CAUSE FOR DISCIPLINE

2 (Violations of Regulations)

3 60. Respondent's brake and lamp adjuster licenses are subject to disciplinary action
4 pursuant to Bus. & Prof. Code section 9889.3, subdivision (c), in that he failed to comply with the
5 provisions of California Code of Regulations, title 16, sections 3305, subdivision (a), 3316,
6 subdivision (d)(2), and 3321, subdivision (c)(2), as set forth in paragraph 54 above.

7 UNDERCOVER OPERATION #4: 1992 HONDA CIVIC

8 61. On October 26, 2009, the operator took the Bureau's 1992 Honda Civic to
9 Respondent's facility and requested a brake and lamp inspection on the vehicle. The rear brake
10 drums on the Bureau-documented vehicle were machined beyond the manufacturer's drum
11 discard diameter specifications, the right headlamp was out of adjustment, and the left and right
12 rear brake light bulbs were defective. Respondent asked the operator to pull the vehicle into the
13 first stall. After parking the vehicle, the operator got out and went to the waiting area. Later,
14 Respondent called the operator over to the vehicle and had him back it out of the stall.
15 Respondent indicated to the operator that the left and right brake lights were not working. The
16 operator authorized Respondent to repair the lights and gave him the keys and vehicle
17 registration. Respondent had the operator write his name and telephone number on a "Post-It"
18 note, but did not provide him with a written estimate or have him sign a repair order, authorizing
19 the work. Later, the operator called the facility to check on the status of the vehicle. Respondent
20 told the operator that the wiring from the fuse box to the rear taillights needed to be repaired and
21 gave the operator an estimate of \$160 for the electrical repair and \$60 for the brake and lamp
22 inspection. The operator authorized the work.

23 62. On October 28, 2009, the operator returned to the facility and paid Respondent \$220
24 in cash. Respondent gave the operator an invoice and Certificate of Brake Adjustment Number
25 BC 935405 and Certificate of Lamp Adjustment Number LC 922105.

26 63. On November 2, 2009, the Bureau inspected the vehicle and found that the defective
27 brake light bulbs had been replaced; however, the right headlamp was still out of adjustment, the

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1 rear brake drums were not within manufacturer's specifications, and only three of the four wheels
2 had been removed to inspect the brakes.

3 **TWENTY-FOURTH CAUSE FOR DISCIPLINE**

4 **(Untrue or Misleading Statements)**

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

9 a. Respondent represented to the operator that the wiring from the fuse box to the rear
10 taillights on the Bureau's 1992 Honda Civic needed to be repaired. In fact, the only repair needed
11 on the lighting system was the replacement of the defective left and right rear brake light bulbs.
12 Further, the wiring harness to the rear taillights was in good working order at the time the vehicle
13 was taken to Respondent's facility.

14 b. Respondent certified under penalty of perjury on Brake Certificate Number
15 BC 935405 that the applicable inspection was performed on the brake system on the Bureau's
16 1992 Honda Civic. In fact, Respondent failed to perform a complete brake inspection on the
17 vehicle.

18 c. Respondent certified under penalty of perjury on Brake Certificate Number
19 BC 935405 that the rear brake drums on the Bureau's 1992 Honda Civic were in a satisfactory
20 condition. In fact, the rear brake drums had been machined beyond the manufacturer's drum
21 discard diameter specifications.

22 d. Respondent certified under penalty of perjury on Lamp Certificate Number
23 LC 922105 that the applicable adjustment had been performed on the lighting system on the
24 Bureau's 1992 Honda Civic. In fact, the right headlamp had not been adjusted.

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1 TWENTY-FIFTH CAUSE FOR DISCIPLINE

2 (Fraud)

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

6 a. Respondent made a false or misleading representation to the operator regarding the
7 condition of the lighting system on the Bureau's 1992 Honda Civic, as set forth in subparagraph
8 64 (a) above, in order to induce the operator to authorize and pay for an unnecessary repair on the
9 vehicle, then sold the operator the unnecessary repair; i.e., the repair of the wiring from the fuse
10 box to the rear taillights.

11 b. Respondent obtained payment from the operator for performing the applicable
12 inspections, adjustments, or repairs of the brake and lighting systems on the Bureau's 1992
13 Honda Civic as specified by the Bureau and in accordance with the Vehicle Code. In fact,
14 Respondent failed to perform the necessary inspections, adjustments, and repairs in compliance
15 with Bureau Regulations or the Vehicle Code as set forth in paragraph 64 above.

16 TWENTY-SIXTH CAUSE FOR DISCIPLINE

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

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

21 a. Section 9884.9, subdivision (a): Respondent failed to provide the operator with a
22 written estimate for parts and/or labor necessary for specific job and failed to obtain the
23 operator's authorization for the brake and lamp inspections on the Bureau's 1992 Honda Civic.

24 b. Section 9889.16: Respondent issued Brake Certificate Number BC 935405 and
25 Lamp Certificate Number LC 922105 as to the Bureau's 1992 Honda Civic when the vehicle was
26 not in compliance with Bureau Regulations or the requirements of the Vehicle Code.

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1 c. **Section 9889.22:** Respondent willfully made false statements or entries on Brake
2 Certificate Number BC 935405 and Lamp Certificate Number LC 922105, as set forth in
3 paragraph 64 above.

4 **TWENTY-SEVENTH CAUSE FOR DISCIPLINE**

5 **(Violations of Regulations)**

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

9 a. **Section 3305, subdivision (a):** Respondent failed to perform the inspection of the
10 brake system and inspection, adjustment, and repair of the lamp system on the Bureau's 1992
11 Honda Civic in accordance with the specifications, instructions, and directives issued by the
12 Bureau and the vehicle manufacturer.

13 b. **Section 3316, subdivision (d)(2):** Respondent issued Lamp Certificate Number
14 LC 922105 as to the Bureau's 1992 Honda Civic when all of the lamps, lighting equipment,
15 and/or related electrical systems on the vehicle had not been inspected and were not in
16 compliance with Bureau regulations, as set forth in paragraph 64 above.

17 c. **Section 3321, subdivision (c)(2):** Respondent issued Brake Certificate Number
18 BC 935405 as to the Bureau's 1992 Honda Civic when the brake system on the vehicle had not
19 been completely tested or inspected, as set forth in paragraph 64 above.

20 d. **Section 3356, subdivision (a):** Respondent failed to separately identify on the
21 invoice each part supplied on the Bureau's 1992 Honda Civic and the subtotal price(s) for each
22 part.

23 **TWENTY-EIGHTH CAUSE FOR DISCIPLINE**

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

25 68. Respondent's official brake and lamp station licenses are subject to disciplinary
26 action pursuant to Bus. & Prof. Code section 9889.3, subdivisions (a) and (h), in that Respondent
27 violated the provisions of Bus. & Prof. Code sections 9884.9, subdivision (a), 9889.16, and
28 9889.22 relating to Respondent's licensed activities, as set forth in paragraph 66 above.

1 **TWENTY-NINTH CAUSE FOR DISCIPLINE**

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

3 69. Respondent's official brake and lamp station licenses are subject to disciplinary
4 action pursuant to Bus. & Prof. Code section 9889.3, subdivision (c), in that Respondent failed to
5 comply with the provisions of California Code of Regulations, title 16, sections 3305, subdivision
6 (a), 3316, subdivision (d)(2), and 3321, subdivision (c)(2), as set forth in paragraph 67 above.

7 **THIRTIETH CAUSE FOR DISCIPLINE**

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

9 70. Respondent's official brake and lamp station licenses are subject to disciplinary
10 action pursuant to Bus. & Prof. Code section 9889.3, subdivision (d), in that Respondent
11 committed acts involving dishonesty, fraud, or deceit whereby another was injured, as set forth in
12 paragraph 65 above.

13 **THIRTY-FIRST CAUSE FOR DISCIPLINE**

14 **(Failure to Comply with the Code)**

15 71. Respondent's brake and lamp adjuster licenses are subject to disciplinary action
16 pursuant to Bus. & Prof. Code section 9889.3, subdivisions (a) and (h), in that he violated the
17 provisions of Bus. & Prof. Code sections 9884.9, subdivision (a), 9889.16, and 9889.22 relating
18 to his licensed activities, as set forth in paragraph 66 above.

19 **THIRTY-SECOND CAUSE FOR DISCIPLINE**

20 **(Violations of Regulations)**

21 72. Respondent's brake and lamp adjuster licenses are subject to disciplinary action
22 pursuant to Bus. & Prof. Code section 9889.3, subdivision (c), in that he failed to comply with the
23 provisions of California Code of Regulations, title 16, sections 3305, subdivision (a), 3316,
24 subdivision (d)(2), and 3321, subdivision (c)(2), as set forth in paragraph 67 above.

25 **THIRTY-THIRD CAUSE FOR DISCIPLINE**

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

27 73. Respondent's smog check station and advanced emission specialist technician
28 licenses are subject to disciplinary action pursuant to Health & Saf. Code section 44072.2,

1 subdivision (d), in that he committed dishonest, fraudulent, or deceitful acts whereby another is
2 injured, as set forth in paragraphs 31, 52, and 65 above.

3 **OTHER MATTERS**

4 74. Pursuant to Bus. & Prof. Code section 9884.7, subdivision (c), the Director may deny,
5 suspend, revoke, or place on probation the registration for all places of business operated in this
6 state by Respondent Reza Fathi, owner of Mr. Auto, upon a finding that said Respondent has, or
7 is, engaged in a course of repeated and willful violations of the laws and regulations pertaining to
8 an automotive repair dealer.

9 75. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Station License
10 Number RC 181092, issued to Respondent Reza Fathi, owner of Mr. Auto, is revoked or
11 suspended, any additional license issued under Chapter 5 of the Health & Saf. Code in the name
12 of said licensee may be likewise revoked or suspended by the Director.

13 76. Pursuant to Bus. & Prof. Code section 9889.9, if Official Lamp Station License
14 Number LS 181092, issued to Respondent Reza Fathi, owner of Mr. Auto, is revoked or
15 suspended, any additional license issued under Articles 5 and 6 of Chapter 20.3 of the Bus. &
16 Prof. Code in the name of said licensee may be likewise revoked or suspended by the Director.

17 77. Pursuant to Bus. & Prof. Code section 9889.9, if Official Brake Station License
18 Number BS 181092, issued to Respondent Reza Fathi, owner of Mr. Auto, is revoked or
19 suspended, any additional license issued under Articles 5 and 6 of Chapter 20.3 of the Bus. &
20 Prof. Code in the name of said licensee may be likewise revoked or suspended by the Director.

21 78. Pursuant to Health & Saf. Code section 44072.8, if Advanced Emission Specialist
22 Technician License Number EA 300807, issued to Respondent Reza Fathi, is revoked or
23 suspended, any additional license issued under Chapter 5 of the Health & Saf. Code in the name
24 of said licensee may be likewise revoked or suspended by the Director.

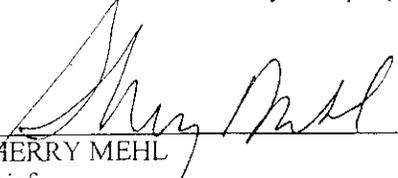
25 79. Pursuant to Bus. & Prof. Code section 9889.9, if Lamp Adjuster License Number
26 LA 300807, issued to Respondent Reza Fathi, is revoked or suspended, any additional license
27 issued under Articles 5 and 6 of Chapter 20.3 of the Bus. & Prof. Code in the name of said
28 licensee may be likewise revoked or suspended by the Director.

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11. Ordering Reza Fathi, individually, and as owner of Mr. Auto, to pay the Director of Consumer Affairs the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED: 9/13/10



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