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

11 In the Matter of the Accusation Against:
12 **LEE'S AUTO SERVICE; SANG TOK YI**
2580 W. Venice Blvd., #1
13 Los Angeles, CA 90019
14 **Automotive Repair Dealer Registration No.**
ARD 197295
15 **Smog Check Station License No. RC 197295**
Lamp Station License No. LS 197295
16 **Brake Station License No. BS 197295**
17
and
18 **SANG TOK YI**
937 3rd Avenue
19 Los Angeles, CA 90019
20
Advanced Emission Specialist Technician
21 License No. EA 311547 (to be redesignated
upon renewal as EO 311547 and/or EI
22 311547)
Brake Adjuster License No. BA 311547
23 Lamp Adjuster License No. LA 311547
24 Respondents.

Case No. 79/14-46

FIRST AMENDED ACCUSATION

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1 Complainant alleges:

2 PARTIES

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

5 2. On or about December 10, 1997, the Bureau of Automotive Repair issued
6 Automotive Repair Dealer Registration Number ARD 197295 to Lee's Auto Service; Sang Tok
7 Yi. The Automotive Repair Dealer Registration was in full force and effect at all times relevant
8 to the charges brought herein and will expire on November 30, 2013, unless renewed.

9 3. On or about December 19, 1997, the Bureau of Automotive Repair issued Smog
10 Check Station License Number RC 197295 to Lee's Auto Service; Sang Tok Yi (Respondents).
11 The Smog Check Station License was in full force and effect at all times relevant to the charges
12 brought herein and will expire on November 30, 2013, unless renewed.

13 4. On or about January 7, 1998, the Bureau of Automotive Repair issued Lamp Station
14 License Number LS 197295 to Lee's Auto Service; Sang Tok Yi. The Lamp Station License was
15 in full force and effect at all times relevant to the charges brought herein and will expire on
16 November 30, 2013, unless renewed.

17 5. On or about January 7, 1998, the Bureau of Automotive Repair issued Brake Station
18 License Number BS 197295 to Lee's Auto Service; Sang Tok Yi (Respondent station). The Lamp
19 Station License was in full force and effect at all times relevant to the charges brought herein and
20 will expire on November 30, 2013, unless renewed.

21 6. In 1996 the Bureau of Automotive Repair issued Advanced Emission Specialist
22 Technician License Number EA 311547 to Sang Tok Yi. The Advanced Emission Specialist
23 Technician License was in full force and effect at all times relevant to the charges brought herein
24 and will expire on May 31, 2014, unless renewed. Upon renewal, Respondent's license will be
25 redesignated as EO 311547 and/or 311547.¹

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

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

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4 14. Section 44072.8 of the HSC provides:

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

8 15. Section 44072.6 of the HSC provides, in pertinent part, that the expiration or
9 suspension of a license by operation of law, or by order or decision of the Director of Consumer
10 Affairs, or a court of law, or the voluntary surrender of the license shall not deprive the Director
11 of jurisdiction to proceed with disciplinary action.

12 **STATUTES AND REGULATIONS**

13 16. BPC Code section 9884.7 states, in pertinent part:

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

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

23

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

26 (4) Any other conduct that constitutes fraud.

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

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17. BPC Code section 9884.9, subdivision (a), states, in pertinent part:

The automotive repair dealer shall give to the customer a written estimated price for labor and parts necessary for a specific job. No work shall be done and no charges shall accrue before authorization to proceed is obtained from the customer. No charge shall be made for work done or parts supplied in excess of the estimated price without the oral or written consent of the customer that shall be obtained at some time after it is determined that the estimated price is insufficient and before the work not estimated is done or the parts not estimated are supplied. Written consent or authorization for an increase in the original estimated price may be provided by electronic mail or facsimile transmission from the customer. The bureau may specify in regulation the procedures to be followed by an automotive repair dealer when an authorization or consent for an increase in the original estimated price is provided by electronic mail or facsimile transmission. If that consent is oral, the dealer shall make a notation on the work order of the date, time, name of person authorizing the additional repairs and telephone number called, if any, together with a specification of the additional parts and labor and the total additional cost . . .

18. BPC Code section 9889.3 states, in pertinent part:

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

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

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

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

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

. . . .

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

19. BPC Code section 9889.16 states:

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

1 20. BPC 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
Chapter 5 (commencing with Section 44000) of Part 5 of Division 26 of the Health
and Safety Code constitutes perjury and is punishable as provided in the Penal Code.

5 21. California Code of Regulations, title 16, section 3340.10, provides that only a
6 registered automotive repair dealer may be licensed as a smog check station.
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8 COST RECOVERY

9 22. BPC Code section 125.3 provides, in pertinent part, that a Board may request the
10 administrative law judge to direct a licensee found to have committed a violation or violations of
11 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
12 enforcement of the case.

13 UNDERCOVER OPERATION #1: 2000 TOYOTA

14 23. On April 25, 2012, an undercover operator of the Bureau ("operator") took the
15 Bureau's 2000 Toyota pickup to Respondent station and requested brake, lamp and smog
16 inspections. The rear brake drums on the Bureau-documented vehicle were oversized and had
17 been machined beyond the manufacturer's discard specifications. In addition, both headlamps
18 were misadjusted and the license plate lights were not operational. Due to these conditions, the
19 Bureau-documented vehicle was incapable of passing a brake or lamp inspection without
20 appropriate adjustments and/or repairs. Respondent instructed the operator to sign and provide
21 her name and contact information on a blank repair order, which the operator did. Respondent
22 failed to provide a copy of the signed document or any written estimate to the operator.
23 Respondent then directed the operator to a waiting area.

24 24. Respondent later returned and informed the operator that the vehicle had passed the
25 brake inspection and, after he replaced the license plate bulbs, the lamp inspection as well.
26 Respondent then provided the operator with an invoice for \$96.75 along with Brake Certificate
27 No. [REDACTED] and Lamp Certificate No. [REDACTED], both of which were signed under penalty
28 of perjury. The invoice failed to separately list and describe all of the service and repair work

1 performed or the price of each service and repair. In addition, the invoice failed to separately
2 record the subtotal price of the service work performed or to state separately the price for parts
3 supplied. Respondent also failed to obtain authorization to from the operator to perform any
4 repair work on the vehicle.

5 25. After Respondent issued the brake certificate and lamp certificate for the 2000 Toyota
6 pickup, the Bureau documented that the vehicle's rear brake drums remained oversized and
7 outside of the manufacturer's discard specifications. The Bureau also documented that both
8 headlamps were in the same misadjusted position that they had been in prior to Respondent's
9 inspection. Due to these conditions, the Bureau-documented vehicle should not have passed
10 Respondent brake or lamp inspection.

11 **UNDERCOVER OPERATION #2: 1986 CHEVROLET**

12 26. On September 14, 2012, an undercover operator of the Bureau ("operator") took the
13 Bureau's 1986 Chevrolet to Respondent station and requested brake, lamp and smog inspections.
14 The front brake rotors on the Bureau-documented vehicle were undersized and were beyond the
15 manufacturer's discard specifications. In addition, both headlamps were misadjusted and the
16 license plate lights were not operational. Due to these conditions, the vehicle was incapable of
17 passing a brake or lamp inspection without appropriate adjustments and/or repairs. Respondent
18 instructed the operator to sign and provide her name and contact information on a blank repair
19 order, which the operator did. Respondent provided a copy of the repair order to the operator
20 and directed her to the waiting area.

21 27. Respondent later returned and informed the operator that the vehicle had passed the
22 brake inspection and, after he replaced the license plate bulbs, the lamp inspection as well.
23 Respondent then provided the operator with an invoice for \$111.75, along with Brake Certificate
24 No. [REDACTED] and Lamp Certificate No. [REDACTED], both of which were signed under penalty
25 of perjury. The invoice failed to separately list and describe all of the service and repair work
26 performed or the price of each service and repair. In addition, the invoice failed to separately
27 record the subtotal price of the service work performed. Due to these conditions, the Bureau-
28 documented vehicle should not have passed Respondent's brake or lamp inspection.

1 28. After Respondent issued the brake certificate and lamp certificate for the 1986
2 Chevrolet, the Bureau documented that the vehicle's front brake rotors remained undersized and
3 outside of the manufacturer's discard specifications. The Bureau also documented that both
4 headlamps were in the same misadjusted position that they had been in prior to Respondent's
5 inspection.

6 **FIRST CAUSE FOR DISCIPLINE**

7 **(Untrue or Misleading Statements)**

8 29. Respondent Lee's Auto Service; Sang Tok Yi's registration is subject to disciplinary
9 action pursuant to BPC Code section 9884.7, subdivision (a)(1), Respondent made or authorized
10 statements which he knew or in the exercise of reasonable care should have known to be untrue or
11 misleading, as follows:

12 a. Respondent verbally informed the undercover operator that the Bureau's 2000 Toyota
13 and 1986 Chevrolet had passed their respective brake and lamp inspections when, in fact, neither
14 Bureau-documented vehicle was capable of passing either inspection without appropriate
15 adjustments and/or repairs.

16 b. Respondent issued, and signed under penalty of perjury, Brake Certificate No.
17 [REDACTED] and Lamp Certificate No. [REDACTED] for the Bureau's 2000 Toyota when, in fact,
18 the Bureau-documented vehicle was not capable of passing either inspection without appropriate
19 adjustments and/or repairs.

20 c. Respondent issued, and signed under penalty of perjury, Brake Certificate No.
21 [REDACTED] and Lamp Certificate No. [REDACTED] for the Bureau's 1986 Chevrolet when, in fact,
22 the Bureau-documented vehicle was not capable of passing either inspection without appropriate
23 adjustments and/or repairs.

24 **SECOND CAUSE FOR DISCIPLINE**

25 **(Fraud)**

26 30. Respondent Lee's Auto Service; Sang Tok Yi's registration is subject to disciplinary
27 action pursuant to BPC Code section 9884.7, subdivision (a)(4), Respondent committed acts that
28 constitute fraud by obtaining payment from the operator for performing the applicable

1 inspections, adjustments and/or repairs of the brake and lighting systems on the Bureau's 2000
2 Toyota and the Bureau's 1986 Chevrolet as specified by the Bureau and in accordance with the
3 Vehicle Code. In fact, Respondent failed to perform the necessary inspections, adjustments, and
4 repairs on those vehicles in compliance with Bureau Regulations or the Vehicle Code.
5 Complainant refers to, and by this reference incorporates, the allegations set forth above in
6 paragraphs 22 through 27, inclusive, as though set forth fully herein.

7 **THIRD CAUSE FOR DISCIPLINE**

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

9 31. Respondent Lee's Auto Service; Sang Tok Yi's registration is subject to disciplinary
10 action pursuant to BPC Code section 9884.7, subdivision (a)(6), in that Respondent failed to
11 comply with provisions of that Code in the following material respects:

12 a. **Section 9884.9, subdivision (a)**: Respondent failed to record on the invoice the
13 operator's authorization for the additional repairs on the Bureau's 2000 Toyota; i.e., the
14 replacement of the defective license plate light bulbs.

15 b. **Section 9889.16**: Respondent issued, and signed under penalty of perjury, Brake
16 Certificate No. [REDACTED] and Lamp Certificate No. [REDACTED] for the Bureau's 2000 Toyota
17 when the vehicle was not in compliance with Bureau Regulations or the requirements of the
18 Vehicle Code. Respondent also issued, and signed under penalty of perjury, Brake Certificate
19 No. [REDACTED] and Lamp Certificate No. [REDACTED] for the Bureau's 1986 Chevrolet when the
20 vehicle was not in compliance with Bureau Regulations or the requirements of the Vehicle Code.

21 c. **Section 9889.22**: Respondent willfully made false statements or entries on Brake
22 Certificate No. [REDACTED], Lamp Certificate No. [REDACTED], Brake Certificate No. [REDACTED]
23 and Lamp Certificate No. [REDACTED], as set forth in paragraphs 22 through 27, above.

24 **FOURTH CAUSE FOR DISCIPLINE**

25 **(Violations of Regulations)**

26 32. Respondent's registration is subject to disciplinary action pursuant to BPC Code
27 section 9884.7, subdivision (a)(6), in that Respondent failed to comply with provisions of
28 California Code of Regulations, title 16, in the following material respects:

1 a. **Section 3305, subdivision (a)**: Respondent failed to perform the inspection of the
2 brake system and inspection and adjustment of the lamp system on the Bureau's 2000 Toyota in
3 accordance with the specifications, instructions, and directives issued by the Bureau and the
4 vehicle manufacturer. Respondent also failed to perform the inspection of the brake system and
5 inspection and adjustment of the lamp system on the Bureau's 1986 Chevrolet in accordance with
6 the specifications, instructions, and directives issued by the Bureau and the vehicle manufacturer.

7 b. **Section 3316, subdivision (d)(2)**: Respondent issued Lamp Certificate No.
8 [REDACTED] for the Bureau's 2000 Toyota and Lamp Certificate No. [REDACTED] for the Bureau's
9 1986 Chevrolet when all of the lamps, lighting equipment, and/or related electrical systems on
10 those vehicles were not in compliance with Bureau regulations.

11 c. **Section 3321, subdivision (c)(2)**: Respondent issued Brake Certificate No.
12 [REDACTED] for the Bureau's 2000 Toyota and Brake Certificate No. [REDACTED] for the Bureau's
13 1986 Chevrolet when the brake systems on those vehicles had not been completely tested or
14 inspected.

15 **FIFTH CAUSE FOR DISCIPLINE**

16 **(Failure to Provide Customer with Signed Document)**

17 33. Respondent Lec's Auto Service; Sang Tok Yi's registration is subject to disciplinary
18 action pursuant to BPC Code section 9884.7, subdivision (a)(3), in that Respondent failed to give
19 to a customer a copy of any document requiring his or her signature, as soon as the customer
20 signs the document. Complainant refers to, and by this reference incorporates, the allegations set
21 forth above in paragraph 22, inclusive, as though set forth fully herein.

22 **SIXTH CAUSE FOR DISCIPLINE**

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

24 34. Respondent Lec's Auto Service; Sang Tok Yi's brake and lamp station licenses are
25 subject to disciplinary action pursuant to BPC Code section 9889.3, subdivisions (a) and (h), in
26 that Respondent violated the provisions of BPC sections 9884.9, subdivision (a), 9889.16, and
27 9889.22 relating to Respondent's licensed activities. Complainant refers to, and by this reference

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1 incorporates, the allegations set forth above in paragraphs 22 through 27, inclusive, as though set
2 forth fully herein.

3 **SEVENTH CAUSE FOR DISCIPLINE**

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

5 35. Respondent Lee's Auto Service; Sang Tok Yi's brake and lamp station licenses are
6 subject to disciplinary action pursuant to BPC Code section 9889.3, subdivision (c), in that
7 Respondent failed to comply with the provisions of California Code of Regulations, title 16,
8 sections 3305, subdivision (a), 3316, subdivision (d)(2), and 3321, subdivision (c)(2).
9 Complainant refers to, and by this reference incorporates, the allegations set forth above in
10 paragraphs 22 through 27, inclusive, as though set forth fully herein.

11 **EIGHTH CAUSE FOR DISCIPLINE**

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

13 36. Respondent Lee's Auto Service; Sang Tok Yi's brake and lamp station licenses are
14 subject to disciplinary action pursuant to BPC Code section 9889.3, subdivision (d), in that
15 Respondent committed acts involving dishonesty, fraud, or deceit whereby another was injured.
16 Complainant refers to, and by this reference incorporates, the allegations set forth above in
17 paragraphs 22 through 27, inclusive, as though set forth fully herein.

18 **NINTH CAUSE FOR DISCIPLINE**

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

20 37. Respondent Sang Tok Yi's brake and lamp adjuster licenses are subject to
21 disciplinary action pursuant to BPC Code section 9889.3, subdivisions (a) and (h), in that he
22 violated the provisions of Bus. & Prof. Code sections 9884.9, subdivision (a), 9889.16, and
23 9889.22 relating to his licensed activities. Complainant refers to, and by this reference
24 incorporates, the allegations set forth above in paragraphs 22 through 27, inclusive, as though set
25 forth fully herein.

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1 licensure. Complainant refers to, and by this reference incorporates, the allegations set forth
2 above in paragraph 39, inclusive, as though set forth fully herein.

3 **DISCIPLINE CONSIDERATIONS**

4 41. To determine the degree of discipline, if any, to be imposed, Complainant alleges that
5 on or about August 12, 2005, in a prior disciplinary action entitled *In the Matter of the*
6 *Accusation Against Sang Tok Yi dba Lee's Automotive Service* before the Bureau of Automotive
7 Repair (Case Number 77/04-82), Respondent Lee's Auto Service; Sang Tok Yi's' ARD, official
8 brake station license, official lamp station license and smog check station license were disciplined
9 for fraudulently issuing lamp and brake certificates in violation of section 9889.16 of the
10 BPC. That decision is now final and is incorporated by reference as if fully set forth.

11 **PRAYER**

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

- 14 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
15 197295, issued to Lee's Auto Service; Sang Tok Yi;
- 16 2. Revoking or suspending Brake Station License Number BS 197295, issued to Lee's
17 Auto Service; Sang Tok Yi;
- 18 3. Revoking or suspending Lamp Station License Number LS 197295, issued to Lee's
19 Auto Service; Sang Tok Yi;
- 20 4. Revoking or suspending Smog Check Station License Number RC 197295, issued to
21 Lee's Auto Service; Sang Tok Yi;
- 22 5. Revoking or suspending Brake Adjuster License Number BA 311547, issued to Sang
23 Tok Yi;
- 24 6. Revoking or suspending Lamp Adjuster License Number LA 311547, issued to Sang
25 Tok Yi;
- 26 7. Revoking or suspending Sang Tok Yi's smog technician license, currently designated
27 as EA 311547 and as redesignated upon his timely renewal as EO 311547 and/or EI 311547;

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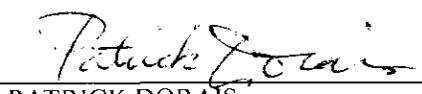
1 8. Revoking or suspending any additional license issued under Chapter 5 of the Health
2 and Safety Code in the name of Sang Tok Yi;

3 9. Ordering Lee's Auto Service; Sang Tok Yi and Sang Tok Yi to pay the Bureau of
4 Automotive Repair the reasonable costs of the investigation and enforcement of this case,
5 pursuant to Business and Professions Code section 125.3;

6 10. Taking such other and further action as deemed necessary and proper.

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DATED: November 5, 2013



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

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