KAMALA D. HARRIS
Attorney General of California
ARMANDO ZAMBRANO
Supervising Deputy Attorney General
MICHAEL BROWN
Deputy Attorney General
State Bar No. 231237
300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 897-2095
Facsimile: (213) 897-2804
E-mail: MichaelB.Brown@doj.ca.gov
Attorneys for Complainant

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

In the Matter of the Accusation Against: **GHOLAM REZA DADVASH, OWNER, DBA SMOG CHECK STATION,** **13435 S. Prairie Avenue #A** **Hawthorne, CA 90250** **Automotive Repair Dealer Registration No. ARD 196100** **Smog Check Station License No. RC 196100** **Brake Adjuster License No. BS 196100** **Lamp Station License No. LS 196100** **and** **GHOLAM REZA DADVASH** **2595 Plaza Del Amo, #403** **Torrance, CA 90503** **Smog Check Inspector License No. EO 125142** **Smog Check Repair Technician License Number EI 125142 (formerly Advanced Emission Specialist Technician License No. EA 125142)** **Brake Adjuster License No. BA 125142** **Lamp Adjuster License No. LA 125142** Respondents.	Case No. 79/15-116 **A C C U S A T I O N**

Complainant alleges:

PARTIES/LICENSE INFORMATION

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

Gholam Reza Dadvash, Owner, dba Smog Check Station

Automotive Repair Dealer Registration

2. In or about 1997, the Bureau issued Automotive Repair Dealer Registration Number ARD 196100 ("registration") to Gholam Reza Dadvash, Owner, dba Smog Check Station ("Respondent Smog Station"). The Automotive Repair Dealer Registration was in full force and effect at all times relevant to the charges brought herein and will expire on September 30, 2015, unless renewed.

Smog Check Station License

3. On or about October 27, 1997, the Bureau issued Smog Check Station License Number RC 196100 to Respondent Smog Station. The Smog Check Station License was in full force and effect at all times relevant to the charges brought herein and will expire on September 30, 2015, unless renewed.

Lamp Station License

4. On or about November 12, 2002, the Bureau of Automotive Repair issued Lamp Station License Number LS 196100 Respondent Smog Station. The lamp station license was in full force and effect at all times relevant to the charges brought herein and will expire on September 30, 2015, unless renewed.

Brake Station License

5. On or about November 12, 2002, the Bureau issued Brake Station License Number BS 196100 to Respondent Smog Station. The brake station license was in full force and effect at all times relevant to the charges brought herein and will expire on September 30, 2015, unless renewed.

///

///

Gholam Reza Dadvash

Technician License/Inspector License
(formerly Advanced Emission Specialist Technician License Number EA 125142)

6. In or about 1996, the Bureau issued Advanced Emission Specialist Technician License Number EA 125142 to Gholam Reza Dadvash ("Respondent Dadvash").

Respondent Dadvash's Advanced Emission Specialist Technician License was due to expire on January 31, 2014, however, was cancelled on December 13, 2013. Pursuant to California Code of Regulations, title 16, section 3340.28, subdivision (e) [1], the license was renewed, pursuant to Respondent Dadvash's election, as Smog Check Inspector License Number EO 125142 ("inspector license") and Smog Check Repair Technician License Number EI 125142 ("repair technician license"), effective December 13, 2013. Respondent Dadvash's inspector license and repair technician license were in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2016, unless renewed.

Brake Adjuster License

7. In or about 2002, the Bureau issued Brake Adjuster License Number BA 125142 to Respondent Dadvash. Respondent Dadvash's brake adjuster license was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2019, unless renewed.

Lamp Adjuster License

8. In or about 1992, the Bureau issued Lamp Adjuster License Number LA 125142 to Respondent Dadvash. Respondent Dadvash's lamp adjuster license was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2019, unless renewed.

///

///

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

JURISDICTION

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

10. Business and Professions Code ("Code") section 9884.7 provides that the director may revoke an automotive repair dealer registration.

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

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

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

14. Section 44072.8 of the Health and Safety Code states:

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

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

///

///

///

STATUTORY PROVISIONS

16. Section 9884.7 of the Code states:

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

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

. . . .

"(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.

"(4) Any other conduct which constitutes fraud.

"(5) Conduct constituting gross negligence.

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

17. Section 9884.8 of the Code states:

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

18. Section 9884.9 of the Code states:

"(a) 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 if 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, and shall do either of the following:

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

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

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

_____

(signature or initials)"

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

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

20. Section 9889.3 of the Code states:

"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:

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

. . . .

"(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."

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

22. Section 9889.9 of the Code states:

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

23. Section 9889.16 of the Code 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."

///

REGULATORY PROVISION

24. California Code of Regulations, title 16, section 3305 states, in pertinent part:

"(a) Performance Standards. All adjusting, inspecting, servicing, and repairing of brake systems and lamp systems shall be performed in official stations in accordance with current standards, specifications, instructions, and directives issued by the bureau and by the manufacturer of the device or vehicle."

25. California Code of Regulations, title 16, section 3316 states, in pertinent part:

(d)(2) Inspection of the Entire Lighting System. "Where all of the lamps, lighting equipment, and related electrical systems on a vehicle have been inspected and found in compliance with all requirements of the Vehicle Code and bureau regulations, the certificate shall certify that the entire system meets all such requirement."

26. California Code of Regulations, title 16, section 3321 states, in pertinent part:

"(c)(2) Inspection of the Entire Brake System. "Where the entire brake system on any vehicle has been inspected or tested and found 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."

27. California Code of Regulation, title 16, section 3340.24, subdivision (c), states:

"The bureau may suspend or revoke the license of or pursue other legal action against a licensee, if the licensee falsely or fraudulently issues or obtains a certificate of compliance or a certificate of noncompliance."

28. California Code of Regulation, title 16, section 3353, subdivision (a), states:

"No work for compensation shall be commenced and no charges shall accrue without specific authorization from the customer in accordance with the following requirements:

(a) Estimate for Parts and Labor. Every dealer shall give to each customer a written estimated price for parts and labor for a specific job."

29. California Code of Regulation, title 16, section 3356, subdivision (a)2(A) and (a)2(B), states:

///

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

. . . .

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

"(A) All service and repair work performed, including all diagnostic and warranty work, and the price for each described service and repair.

"(B) Each part supplied, in such a manner that the customer can understand what was purchased, and the price for each described part. The description of each part shall state whether the part was new, used, reconditioned, rebuilt, or an OEM crash part, or a non-OEM aftermarket crash part."

30. California Code of Regulation, title 16, section 3373, states:

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

COST RECOVERY

31. Section 125.3 of the Code provides, in pertinent part, that a board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

UNDERCOVER OPERATION NO. 1: 2000 MAZDA

32. On September 17, 2013, an undercover operator of the Bureau ("Operator") took the Bureau's 2000 Mazda to Respondent Smog Station's facility and requested a brake and lamp inspection. The vehicle defects included a brake system with the right and left rear brake drums out of the manufacturer's specifications. Tamper indicators were installed on all the wheels of the vehicle. The vehicle's front right headlamp was out of adjustment and the rear license plate lights were inoperative. When the Operator arrived at Respondent Smog Station's facility, Respondent

Dadvash completed an estimate. The Operator was not provided a copy of the signed estimate. A Hispanic male inspected the Mazda brakes and lamps. Respondent Dadvash called the Operator over and told him the headlight adjusters were broken and not working even though Respondent Dadvash did not use a headlamp aiming/measurement device. Respondent Dadvash stated that he could not do the inspection. The Operator stated that he would have the headlight adjusters replaced and come back for the brake and lamp inspection at a later date. The Operator was not supplied with a written estimate or an invoice and was not charged for the inspection.

33. On September 18, 2013, a Bureau representative re-inspected the vehicle and found that the right front and rear wheel were not removed, the right and left rear brake drums were out of the manufacturer's specifications. In addition, the right front headlamp had not been adjusted and the rear license plate light bulbs were inoperative.

FIRST CAUSE FOR DISCIPLINE

(Untrue and Misleading Statements)

34. Respondent Smog Station registration is subject to discipline under Code section 9884.7(a)(1), in that on or September 17, 2013, regarding the 2000 Mazda, Respondent Smog Station made or authorized statements which it knew or in the exercise of reasonable care should have known to be untrue or misleading, as follows:

a. Respondent Smog Station's helper did not conduct a complete lamp inspection. Respondent Dadvash stated that a problem with the headlamp adjusters prevented testing without determining that the headlamps were in need of adjustment.

SECOND CAUSE FOR DISCIPLINE

(Failure to Provide a Copy of Estimate and Invoice)

35. Respondent Smog Station's registration is subject to discipline under Code section 9884.8, 9884.9, subdivision (a) and California Code of Regulations, title 16, section 3353, subdivision (a), in that on or about September 17, 2013, regarding the 2000 Mazda, Respondent Smog Station failed to provide the Operator with a copy of the estimate and invoice.

///

///

THIRD CAUSE FOR DISCIPLINE

(Failure to Provide a Copy of a Signed Document)

36. Respondent Smog Station's registration is subject to discipline under Code section 9884.7, subdivision (a)(3), in that on or about September 17, 2013, regarding the 2000 Mazda, Respondent Smog Station failed to provide the operator with a copy of the estimate as soon as the Operator signed the estimate.

UNDERCOVER OPERATION NO. 2: 2000 MAZDA

37. On October 2, 2013, an undercover operator of the Bureau ("Operator") took the Bureau's 2000 Mazda to Respondent Smog Station's facility and requested a brake and lamp inspection. The vehicle defects included a brake system with the right and left rear brake drums out of the manufacturer's specifications. Tamper indicators were installed on all the wheels of the vehicle. The vehicle's front right and left headlamp were out of adjustment and the rear license plate light bulbs were inoperative. The Operator spoke to Respondent Dadvash and told him his boss had replaced the headlamp assemblies as Respondent Dadvash had recommended during the previous visit. Respondent Dadvash remembered the Operator. Respondent Dadvash told the Operator that they had previously inspected the brakes and lamps and there was no need to do it again. Respondent Dadvash completed an estimate and the Operator signed it. The Operator was not provided a copy of the signed estimate. Respondent Dadvash filled out a brake and lamp certificate. The Operator paid $70.00 and was provided with a copy of an invoice, Brake Certificate Number [redacted] and Lamp Certificate Number [redacted]

38. On October 8, 2013, a Bureau representative re-inspected the 2000 Mazda vehicle and found that the right and left rear brake drums were out of the manufacturer's specifications. In addition, both front headlamps were out of manufacturer's specifications and the rear license plate light bulbs were inoperative.

FOURTH CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

39. Respondent Smog Station's registration is subject to discipline under Code section 9884.7(a)(1), in that on or about October 2, 2013, regarding the 2000 Mazda, Respondent Smog

Station made or authorized statements which it knew or in the exercise of reasonable care should have known to be untrue or misleading, as follows:

a. Respondent Smog Station certified under penalty of perjury on Brake Certificate Number [redacted] that the applicable inspection was performed on the brake system when, in fact, Respondent Dadvash failed to inspect the brake system on the vehicle, as evidenced by his failure to remove the wheels and the rear brake drums were not checked. In addition, the vehicle was not road tested.

b. Respondent Smog Station certified under penalty of perjury on Brake Certificate Number [redacted] that the right and left rear drums were within manufacturer's specifications.

c. Respondent Smog Station certified under penalty of perjury on Lamp Certificate Number [redacted] that the applicable adjustments had been performed on the lamp system when, in fact, both front headlamps had not been adjusted and were out of manufacturer's specifications. In addition, the rear license plate light bulbs were inoperative.

FIFTH CAUSE FOR DISCIPLINE

(Fraud)

40. Respondent Smog Station's registration is subject to discipline pursuant to Code section 9884.7(a)(4), in that on or about October 2, 2013, regarding the 2000 Mazda, Respondent Smog Station committed acts that constitute fraud, as follows:

a. Respondent Smog Station obtained payment from the operator for performing the applicable inspections and adjustments on the vehicle's brake and lamp systems as specified by the Bureau and in accordance with the Vehicle Code when, in fact, Respondent Smog Station failed to perform the necessary inspections.

SIXTH CAUSE FOR DISCIPLINE

(Gross Negligence)

41. Respondent Smog Station's registration is subject to discipline under Code section 9884.7(a)(5), in that on or about October 2, 2013, regarding the 2000 Mazda, Respondent Smog Station committed acts constituting gross negligence, in that Respondent Dadvash, failed to properly inspect the vehicle's brake and lamp systems and issued Brake Certificate [redacted]

and Lamp Certificate Number [redacted], indicating that the vehicle's brake and lamp systems were in satisfactory condition and were in accordance with the Vehicle Code when, in fact, they were not.

SEVENTH CAUSE FOR DISCIPLINE

(Failure to Provide a Copy of a Signed Document)

42. Respondent Smog Station's registration is subject to discipline under Code section 9884.7(a)(3), in that on or about October 2, 2013, regarding the 2000 Mazda, Respondent Smog Station failed to provide the operator with a copy of the estimate as soon as the operator signed the document.

EIGHTH CAUSE FOR DISCIPLINE

(Failure to Comply with the Code)

43. Respondent Smog Station's registration is subject to discipline pursuant to Code section 9884.7(a)(6), in that on or about October 2, 2013, regarding the 2000 Mazda, Respondent Smog Station failed to comply with provisions of that Code in the following material respects:

a. **Section 9884.9(a):** Respondent Smog Station failed to provide the operator with a written estimated price for parts and labor for a specific job.

b. **Section 9889.16:**

i. Respondent Dadvash issued Brake Certificate Number [redacted] for the vehicle, when the vehicle was not in compliance with Bureau regulations or the requirements of the Vehicle Code, in that the right and left rear brake drums were out of manufacturer's specifications.

ii. Respondent Dadvash issued Lamp Certificate Number [redacted] for the vehicle, when the vehicle was not in compliance with Bureau regulations or the requirements of the Vehicle Code, in that both front headlamps had not been adjusted and were out of the manufacturer's specifications and the rear license plate light bulbs were inoperative.

///

///

///

NINTH CAUSE FOR DISCIPLINE

(Failure to Comply with Regulations)

44. Respondent Smog Station's registration is subject to discipline pursuant to Code section 9884.7(a)(6), in that on or about October 2, 2013, regarding the 2000 Mazda, Respondent Smog Station failed to comply with provisions of California Code of Regulations, title 16, in the following material respects:

a. **Section 3305(a):** Respondent Dadvash failed to perform a brake and lamp inspection in accordance with the vehicle's manufacturer standards and/or current standards, specifications, recommended procedures, and/or directives issued by the Bureau.

b. **Section 3316(d)(2):** Respondent Dadvash issued Lamp Certificate Number [redacted], certifying that the vehicle's lamp system had been inspected and was in satisfactory condition when, in fact, it was not.

c. **Section 3321(c)(2):** Respondent Dadvash issued Brake Certificate Number [redacted], certifying that the vehicle's brake system had been inspected and was in satisfactory condition when, in fact, it was not.

TENTH CAUSE FOR DISCIPLINE

(Failure to Comply with the Code)

45. Respondent Smog Station's brake and lamp station licenses are subject to discipline under Code section 9889.3(a) and (h), in that on or about October 2, 2013, regarding the 2000 Mazda, Respondent Smog Station violated sections of the Code, relating to its licensed activities, as more particularly set forth above in paragraph 43.

ELEVENTH CAUSE FOR DISCIPLINE

(Failure to Comply with Regulations)

46. Respondent Smog Station's brake and lamp station licenses are subject to discipline under Code section 9889.3(c), in that on or about October 2, 2013, regarding the 2000 Mazda, Respondent Smog Station failed to comply with provisions of California Code of Regulations, title 16, as more particularly set forth above in paragraph 44.

///

TWELFTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud, or Deceit)

47. Respondent Smog Station's brake and lamp station licenses are subject to discipline pursuant to Code section 9889.3(d), in that on or about October 2, 2013, regarding the 2000 Mazda, Respondent Smog Station committed acts involving dishonesty, fraud, or deceit whereby another was injured, as more particularly set forth above in paragraphs 37 and 38.

THIRTEENTH CAUSE FOR DISCIPLINE

(Failure to Comply with the Code)

48. Respondent Dadvash's brake and lamp adjuster licenses are subject to discipline under Code section 9889.3(a), in that on or about October 2, 2013, regarding the 2000 Mazda, Respondent Dadvash violated sections of the Code, relating to his licensed activities, as more particularly set forth above in paragraph 43.

FOURTEENTH CAUSE FOR DISCIPLINE

(Failure to Comply with Regulations)

49. Respondent Dadvash's brake and lamp adjuster licenses are subject to discipline under Code section 9889.3(c), in that on or about October 2, 2013, regarding the 2000 Mazda, Respondent Dadvash failed to comply with provisions of California Code of Regulations, title 16, as more particularly set forth above in paragraph 44.

FIFTEENTH CAUSE FOR DISCIPLINE

(Acts Involving Dishonesty, Fraud, or Deceit - Adjuster Licenses)

50. Respondent Dadvash's brake and lamp adjuster licenses are subject to discipline under Code section 9889.3(d), in that on or October 2, 2013, regarding the 2000 Mazda, Respondent Dadvash committed acts involving dishonesty, fraud, or deceit, by issuing Brake Certificate Number [redacted] and Lamp Certificate Number [redacted], certifying that the brake and lamp systems were in satisfactory condition and in accordance with the Vehicle Code, when, in fact, they were not.

///

///

UNDERCOVER OPERATION NO. 3: 2000 CHEVROLET

51. On November 5, 2013, an undercover operator of the Bureau ("Operator") took the Bureau's 2000 Chevrolet to Respondent Smog Station's facility and requested a brake and lamp inspection. The vehicle defects included a brake system with the right and left rear brake drums out of the manufacturer's specifications. The vehicle driver's side headlamp was out of adjustment and the right rear tail lamp bulb, turn signal/brake light bulb was inoperative. The Operator spoke to Respondent Dadvash and the Operator was instructed to write the vehicle's information on a blank repair order and sign it. The Operator was not provided a copy of the signed estimate. Respondent Dadvash instructed his helper to inspect the vehicle for a brake and lamp certification. The helper pulled the Bureau vehicle into a bay. The helper turned on all the vehicles exterior lights and walked around the vehicle to if they were illuminated. The helper told Respondent Dadvash that the right brake turn signal was burned out. The helper replaced the bulb. Respondent Dadvash or his helper did not use a headlamp aiming/measurement device on the vehicle.

52. The helper removed the passenger side wheels and inspected the right front rotor, removed and inspected the right rear drum and put it back, reinstalled the wheels and lowered the vehicle, but did not test drive the vehicle. Respondent Dadvash did not participate in the inspection. The operator paid $70.00 and was provided with a copy of invoice, Brake Certificate Number [redacted] and Lamp Certificate Number [redacted] The driver's side wheels were never removed and the driver side brakes were never inspected.

53. A Bureau representative re-inspected the vehicle and found that the right and left rear brake drums were out of the manufacturer's specifications. The Bureau representative discovered that the tamper indicators he had installed on the two (2) drivers wheel and tire assemblies were intact and unbroken. In addition, the vehicle's driver's side headlamp was out of adjustment. The right rear turn signal brake light bulb was functioning normally. The Bureau representative found that the tamper indicator he had installed on the headlamp adjusters were intact and unbroken, indicating no adjustment of the headlamps were performed.

///

SIXTEENTH CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

54. Respondent Smog Station's registration is subject to discipline under Code section 9884.7(a)(1), in that on or about November 5, 2013, regarding the 2000 Chevrolet, Respondent Smog Station made or authorized statements which it knew or in the exercise of reasonable care should have known to be untrue or misleading, as follows:

a. Respondent Smog Station certified under penalty of perjury on Brake Certificate Number [redacted] that the applicable inspection was performed on the brake system when, in fact, Respondent Dadvash failed to inspect the brake system on the vehicle, as evidenced by his failure to remove the driver's side wheels.

b. Respondent Smog Station certified under penalty of perjury on Brake Certificate Number [redacted] that the right and left rear drums were within manufacturer's specifications.

c. Respondent Smog Station certified under penalty of perjury on Lamp Certificate Number [redacted] that the applicable adjustments had been performed on the lamp system when, in fact, the driver's side headlamp had not been adjusted and was out of manufacturer's specification. In addition, the tamper indicator that had been installed on the headlamp adjusters were intact and unbroken, indicating no adjustment of the headlamps were performed.

SEVENTEENTH CAUSE FOR DISCIPLINE

(Fraud)

55. Respondent Smog Station's registration is subject to discipline pursuant to Code section 9884.7(a)(4), in that on or about November 5, 2013, regarding the 2000 Chevrolet, Respondent Smog Station committed acts that constitute fraud, as follows:

a. Respondent Smog Station obtained payment from the operator for performing the applicable inspections and adjustments on the vehicle's brake and lamp systems as specified by the Bureau and in accordance with the Vehicle Code when, in fact, Respondent Smog Station failed to perform the necessary inspections.

///

///

EIGHTEENTH CAUSE FOR DISCIPLINE

(Gross Negligence)

56. Respondent Smog Station's registration is subject to discipline under Code section 9884.7(a)(5), in that on or about November 5, 2013, regarding the 2000 Chevrolet, Respondent Smog Station committed acts constituting gross negligence, in that Respondent Dadvash, failed to properly inspect the vehicle's brake and lamp systems and issued Brake Certificate [redacted] and Lamp Certificate Number [redacted], indicating that the vehicle's brake and lamp systems were in satisfactory condition and were in accordance with the Vehicle Code when, in fact, they were not.

NINETEENTH CAUSE FOR DISCIPLINE

(Failure to Provide a Copy of a Signed Document)

57. Respondent Smog Station's registration is subject to discipline under Code section 9884.7(a)(3), in that on or about November 5, 2013, regarding the 2000 Chevrolet, Respondent Smog Station failed to provide the operator with a copy of the estimate as soon as the operator signed the document.

TWENTIETH CAUSE FOR DISCIPLINE

(Failure to Comply with the Code)

58. Respondent Smog Station's registration is subject to discipline pursuant to Code section 9884.7(a)(6), in that on or about November 5, 2013, regarding the 2000 Chevrolet, Respondent Smog Station failed to comply with provisions of that Code in the following material respects:

a. **Section 9884.9(a):** Respondent Smog Station failed to provide the operator with a written estimated price for parts and labor for a specific job.

b. **Section 9889.16:**

i. Respondent Dadvash issued Brake Certificate Number [redacted] for the vehicle, when the vehicle was not in compliance with Bureau regulations or the requirements of the Vehicle Code, in that the right and left rear brake drums were out of manufacturer's specifications.

ii. Respondent Dadvash issued Lamp Certificate Number [redacted] for the vehicle, when the vehicle was not in compliance with Bureau regulations or the requirements of the Vehicle Code, in that the driver's side headlamp had not been adjusted and was out of manufacturer's specification. In addition, the tamper indicator that had been installed on the headlamp adjusters were intact and unbroken, indicating no adjustment of the headlamps were performed.

TWENTY-FIRST CAUSE FOR DISCIPLINE

(Failure to Comply with Regulations)

59. Respondent Smog Station's registration is subject to discipline pursuant to Code section 9884.7(a)(6), in that on or about November 5, 2013, regarding the 2000 Chevrolet, Respondent Smog Station failed to comply with provisions of California Code of Regulations, title 16, in the following material respects:

a. **Section 3305(a):** Respondent Dadvash failed to perform a brake and lamp inspection in accordance with the vehicle's manufacturer standards and/or current standards, specifications, recommended procedures, and/or directives issued by the Bureau.

b. **Section 3316(d)(2):** Respondent Dadvash issued Lamp Certificate Number [redacted], certifying that the vehicle's lamp system had been inspected and was in satisfactory condition when, in fact, it was not.

c. **Section 3321(c)(2):** Respondent Dadvash issued Brake Certificate Number [redacted], certifying that the vehicle's brake system had been inspected and was in satisfactory condition when, in fact, it was not.

TWENTY-SECOND CAUSE FOR DISCIPLINE

(Invoice Requirements)

60. Respondent Smog Station's registration is subject to discipline under Code section 9884.8 and California Code of Regulations, title 16, section 3356, subdivision (a)(2)(a) and (b), in that on or about November 5, 2013, regarding the 2000 Chevrolet, Respondent Smog Station failed to record all service and repair work performed and failed to record the price for each service and repair.

TWENTY-THIRD CAUSE FOR DISCIPLINE

(Failure to Comply with the Code)

61. Respondent Smog Station's brake and lamp station licenses are subject to discipline under Code section 9889.3(a) and (h), in that on or about November 5, 2013, regarding the 2000 Chevrolet, Respondent Smog Station violated sections of the Code, relating to its licensed activities, as more particularly set forth above in paragraph 58.

TWENTY-FOURTH CAUSE FOR DISCIPLINE

(Failure to Comply with Regulations)

62. Respondent Smog Station's brake and lamp station licenses are subject to discipline under Code section 9889.3(c), in that on or about November 5, 2013, regarding the 2000 Chevrolet, Respondent Smog Station failed to comply with provisions of California Code of Regulations, title 16, as more particularly set forth above in paragraph 59.

TWENTY-FIFTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud, or Deceit)

63. Respondent Smog Station's brake and lamp station licenses are subject to discipline pursuant to Code section 9889.3(d), in that on or about November 5, 2013, regarding the 2000 Chevrolet, Respondent Smog Station committed acts involving dishonesty, fraud, or deceit whereby another was injured, as more particularly set forth above in paragraphs 51, 52 and 53.

TWENTY-SIXTH CAUSE FOR DISCIPLINE

(Failure to Comply with the Code)

64. Respondent Dadvash's brake and lamp adjuster licenses are subject to discipline under Code section 9889.3(a), in that on or about November 5, 2013, regarding the 2000 Chevrolet, Respondent Dadvash violated sections of the Code, relating to his licensed activities, as more particularly set forth above in paragraph 58.

///

///

///

///

TWENTY-SEVENTH CAUSE FOR DISCIPLINE

(Failure to Comply with Regulations)

65. Respondent Dadvash's brake and lamp adjuster licenses are subject to discipline under Code section 9889.3(c), in that on or about November 5, 2013, regarding the 2000 Chevrolet, Respondent Dadvash failed to comply with provisions of California Code of Regulations, title 16, as more particularly set forth above in paragraph 59.

TWENTY-EIGHTH CAUSE FOR DISCIPLINE

(Acts Involving Dishonesty, Fraud, or Deceit - Adjuster Licenses)

66. Respondent Dadvash's brake and lamp adjuster licenses are subject to discipline under Code section 9889.3(d), in that on or November 5, 2013, regarding the 2000 Chevrolet, Respondent Dadvash committed acts involving dishonesty, fraud, or deceit, by issuing Brake Certificate Number [redacted] and Lamp Certificate Number [redacted] certifying that the brake and lamp systems were in satisfactory condition and in accordance with the Vehicle Code, when, in fact, they were not.

UNDERCOVER OPERATION NO. 4: 2000 TOYOTA

67. On January 8, 2014, an undercover operator of the Bureau ("Operator") took the Bureau's 2000 Toyota to Respondent Smog Station's facility and requested a brake and lamp inspection. The vehicle defects included a brake system with the right and left rear brake drums out of the manufacturer's specifications. The vehicle's driver side headlamp was out of adjustment and the rear license plate bulbs were inoperative. The Operator spoke to Respondent Dadvash and the Operator was instructed to write the vehicle's information on a blank estimate and sign it. The Operator was not provided a copy of the signed estimate. Respondent Dadvash went to his office and pulled out a brake and lamp certificate booklets from his desk and filled out a brake and lamp certificates. Respondent Dadvash did not perform a brake or lamp inspection. Respondent Dadvash did not test drive the vehicle. Also, Respondent Dadvash did not use a headlamp aiming/measurement device on the vehicle. The Operator paid $70.00 and was provided with a copy of invoice, Brake Certificate Number [redacted] and Lamp Certificate Number [redacted].

68. A Bureau representative re-inspected the vehicle and found that the right and left rear brake drums were out of the manufacturer's specifications. The Bureau representative discovered that the tamper indicators he had installed on the four (4) drivers wheel and tire assemblies were intact and unbroken. In addition, the vehicle's driver's side headlamp was out of adjustment and the rear license plate bulbs were inoperative.

TWENTY-NINTH CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

69. Respondent Smog Station's registration is subject to discipline under Code section 9884.7(a)(1), in that on or about January 8, 2014, regarding the 2000 Toyota, Respondent Smog Station made or authorized statements which it knew or in the exercise of reasonable care should have known to be untrue or misleading, as follows:

a. Respondent Smog Station certified under penalty of perjury on Brake Certificate Number [redacted] that the applicable inspection was performed on the brake system when, in fact, Respondent Smog Station failed to inspect the brake system on the vehicle, as evidenced by his failure to remove the vehicle wheels.

b. Respondent Smog Station certified under penalty of perjury on Brake Certificate Number [redacted] that the right and left rear drums were within manufacturer's specifications.

c. Respondent Smog Station certified under penalty of perjury on Lamp Certificate Number [redacted] that the applicable adjustments had been performed on the lamp system when, in fact, the driver's side headlamp had not been adjusted and was out of manufacturer's specification. In addition, the vehicle's driver's side headlamp was out of adjustment and the rear license plate bulbs were inoperative.

THIRTIETH CAUSE FOR DISCIPLINE

(Fraud)

70. Respondent Smog Station's registration is subject to discipline pursuant to Code section 9884.7(a)(4), in that on or about January 8, 2014, regarding the 2000 Toyota, Respondent Smog Station committed acts that constitute fraud, as follows:

///

a. Respondent Smog Station obtained payment from the operator for performing the applicable inspections and adjustments on the vehicle's brake and lamp systems as specified by the Bureau and in accordance with the Vehicle Code when, in fact, Respondent Smog Station failed to perform the necessary inspections.

THIRTY-FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

71. Respondent Smog Station's registration is subject to discipline under Code section 9884.7(a)(5), in that on or about January 8, 2014, regarding the 2000 Toyota, Respondent Smog Station committed acts constituting gross negligence, in that Respondent Dadvash, failed to properly inspect the vehicle's brake and lamp systems and issued Brake Certificate [redacted] and Lamp Certificate Number [redacted], indicating that the vehicle's brake and lamp systems were in satisfactory condition and were in accordance with the Vehicle Code when, in fact, they were not.

THIRTY-SECOND CAUSE FOR DISCIPLINE

(Failure to Provide a Copy of a Signed Document)

72. Respondent Smog Station's registration is subject to discipline under Code section 9884.7(a)(3), in that on or about January 8, 2014, regarding the 2000 Toyota, Respondent Smog Station failed to provide the operator with a copy of the estimate as soon as the operator signed the document.

THIRTY-THIRD CAUSE FOR DISCIPLINE

(Failure to Comply with the Code)

73. Respondent Smog Station's registration is subject to discipline pursuant to Code section 9884.7(a)(6), in that on or about January 8, 2014, regarding the 2000 Toyota, Respondent Smog Station failed to comply with provisions of that Code in the following material respects:

a. **Section 9884.9(a):** Respondent Smog Station failed to provide the operator with a written estimated price for parts and labor for a specific job.

///

///

b. **Section 9889.16:**

i. Respondent Dadvash issued Brake Certificate Number [redacted] for the vehicle, when the vehicle was not in compliance with Bureau regulations or the requirements of the Vehicle Code, in that the right and left rear brake drums were out of manufacturer's specifications.

ii. Respondent Dadvash issued Lamp Certificate Number [redacted] for the vehicle, when the vehicle was not in compliance with Bureau regulations or the requirements of the Vehicle Code, in that the driver's side headlamp had not been adjusted and was out of manufacturer's specification. In addition, the vehicle's driver's side headlamp was out of adjustment and the rear license plate light bulbs were inoperative.

THIRTY-FOURTH CAUSE FOR DISCIPLINE

(Failure to Comply with Regulations)

74. Respondent Smog Station's registration is subject to discipline pursuant to Code section 9884.7(a)(6), in that on or about January 8, 2014, regarding the 2000 Toyota, Respondent Smog Station failed to comply with provisions of California Code of Regulations, title 16, in the following material respects:

a. **Section 3305(a):** Respondent Dadvash failed to perform a brake and lamp inspection in accordance with the vehicle's manufacturer standards and/or current standards, specifications, recommended procedures, and/or directives issued by the Bureau.

b. **Section 3316(d)(2):** Respondent Dadvash issued Lamp Certificate Number [redacted], certifying that the vehicle's lamp system had been inspected and was in satisfactory condition when, in fact, it was not.

c. **Section 3321(c)(2):** Respondent Dadvash issued Brake Certificate Number [redacted], certifying that the vehicle's brake system had been inspected and was in satisfactory condition when, in fact, it was not.

///

///

///

THIRTY-FIFTH CAUSE FOR DISCIPLINE

(Failure to Comply with the Code)

75. Respondent Smog Station's brake and lamp station licenses are subject to discipline under Code section 9889.3(a) and (h), in that on or about January 8, 2014, regarding the 2000 Toyota, Respondent Smog Station violated sections of the Code, relating to its licensed activities, as more particularly set forth above in paragraph 73.

THIRTY-SIXTH CAUSE FOR DISCIPLINE

(Failure to Comply with Regulations)

76. Respondent Smog Station's brake and lamp station licenses are subject to discipline under Code section 9889.3(c), in that on or about January 8, 2014, regarding the 2000 Toyota, Respondent Smog Station failed to comply with provisions of California Code of Regulations, title 16, as more particularly set forth above in paragraph 74.

THIRTY-SEVENTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud, or Deceit)

77. Respondent Smog Station's brake and lamp station licenses are subject to discipline pursuant to Code section 9889.3(d), in that on or about January 8, 2014, regarding the 2000 Toyota, Respondent Smog Station committed acts involving dishonesty, fraud, or deceit whereby another was injured, as more particularly set forth above in paragraphs 67 and 68.

THIRTY-EIGHTH CAUSE FOR DISCIPLINE

(Failure to Comply with the Code)

78. Respondent Dadvash's brake and lamp adjuster licenses are subject to discipline under Code section 9889.3(a), in that on or about January 8, 2014, regarding the 2000 Toyota, Respondent Dadvash violated sections of the Code, relating to his licensed activities, as more particularly set forth above in paragraph 73.

THIRTY-NINTH CAUSE FOR DISCIPLINE

(Failure to Comply with Regulations)

79. Respondent Dadvash's brake and lamp adjuster licenses are subject to discipline under Code section 9889.3(c), in that on or about November 5, 2013, regarding the 2000,

Respondent Dadvash failed to comply with provisions of California Code of Regulations, title 16, as more particularly set forth above in paragraph 74.

FORTIETH CAUSE FOR DISCIPLINE

(Acts Involving Dishonesty, Fraud, or Deceit - Adjuster Licenses)

80. Respondent Dadvash's brake and lamp adjuster licenses are subject to discipline under Code section 9889.3(d), in that on or January 8, 2014, regarding the 2000 Toyota, Respondent Dadvash committed acts involving dishonesty, fraud, or deceit, by issuing Brake Certificate Number [redacted] and Lamp Certificate Number [redacted], certifying that the brake and lamp systems were in satisfactory condition and in accordance with the Vehicle Code, when, in fact, they were not.

OTHER MATTERS

81. Pursuant to Code section 9884.7(c), the director may suspend, revoke, or place on probation the registrations for all places of business operated in this state by Gholam Reza Dadvash, owner, dba Smog Check Station, upon a finding that he has, or is, engaged in a course of repeated and willful violation of the laws and regulations pertaining to an automotive repair dealer.

82. Pursuant to Code section 9889.9, if Lamp Station License Number LS 196100, issued to Gholam Reza Dadvash, owner, dba Smog Check Station, is revoked or suspended, any additional license issued under Articles 5 and 6 of Chapter 20.3 of the Business and Professions Code in the name of said licensees may be likewise revoked or suspended by the director.

83. Pursuant to Code section 9889.9, if Brake Station License Number BS 196100, issued to Gholam Reza Dadvash, owner, dba Smog Check Station, is revoked or suspended, any additional license issued under Articles 5 and 6 of Chapter 20.3 of the Business and Professions Code in the name of said licensees may be likewise revoked or suspended by the director.

84. Pursuant to Code section 9889.9, if Brake Adjuster License Number BA 125142, issued to Gholam Reza Dadvash, is revoked or suspended, any additional license issued under Articles 5 and 6 of Chapter 20.3 of the Business and Professions Code in the name of said licensee may be likewise revoked or suspended by the director.

85. Pursuant to Code section 9889.9, if Lamp Adjuster License Number LA 125142, issued to Gholam Reza Dadvash, is revoked or suspended, any additional license issued under Articles 5 and 6 of Chapter 20.3 of the Business and Professions Code in the name of said licensee may be likewise revoked or suspended by the director.

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 196100, issued to Gholam Reza Dadvash, owner, dba Smog Check Station;

2. Revoking, suspending, or placing on probation any other automotive repair dealer registration issued to Gholam Reza Dadvash, owner, dba Smog Check Station;

3. Revoking or suspending any additional license issued under chapter 5, of the Health and Safety Code in the name of Gholam Reza Dadvash, owner, dba Smog Check Station;

4. Revoking or suspending Brake Station License Number BS 196100, issued to Gholam Reza Dadvash, owner, dba Smog Check Station;

5. Revoking or suspending Lamp Station License Number LS 196100, issued to Gholam Reza Dadvash, owner, dba Smog Check Station;

6. Revoking or suspending any additional license issued under Articles 5 and 6 of Chapter 20.3 of the Business and Professions Code in the name of Gholam Reza Dadvash, owner, dba Smog Check Station;

7. Revoking or suspending Brake Adjuster License Number BA 125142, issued to Gholam Reza Dadvash;

8. Revoking or suspending Lamp Adjuster License Number LA 125142, issued to Gholam Reza Dadvash;

9. Revoking or suspending any additional license issued under Chapter 5 of the Health and Safety Code in the name of Gholam Reza Dadvash;

///

///

10. Ordering Gholam Reza Dadvash, owner, dba Smog Check Station and Gholam Reza Dadvash to pay the Bureau of Automotive Repair the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

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

DATED: May 6, 2015

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

LA2014512864
51750375_4.doc