

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

In the Matter of the Accusation Against:

FS GROUP, INC.
dba PRECISION MOTORS
8740 Jamacha Road, Suite A
Spring Valley, California 91977
RICARDO SANCHEZ MEDINA, President
Automotive Repair Dealer Registration
No. AK 202114

and

FS GROUP, INC.
dba PRECISION MOTORS
619 K Street
Chula Vista, California 91911
RICARDO SANCHEZ MEDINA, President
Automotive Repair Dealer Registration
No. AK 202116
Smog Check Station License No. RK 202116

Respondents.

Case No. 77/08-08

OAH Case No. L2008090814

DECISION

The attached Stipulated Revocation 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.

The suspension of Automotive Repair Dealer Registration No. AK 202116 and Smog Check Station License No. RK 202116 shall commence on the effective date of this Decision.

This Decision shall become effective

July 21, 2009

DATED: June 15, 2009

P. J. Harris
PATRICIA HARRIS
Acting Chief Deputy Director
Department of Consumer Affairs

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 LINDA K. SCHNEIDER
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8 Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

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14 8740 Jamacha Road, Suite A
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Automotive Repair Dealer Registration
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Smog Check Station License No. RK 202116

21 Respondents.

Case No. 77/08-08

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**STIPULATED REVOCATION
AND DISCIPLINARY ORDER**

Trial Date: May 12, 2009

23 IT IS HEREBY STIPULATED AND AGREED by and between Complainant and
24 Respondents FS Group, Inc., dba Precision Motors, Ricardo Sanchez Medina, President, that the
25 following matters are true:

26 PARTIES

27 1. Complainant Sherry Mehl (Complainant) is the Chief of the Bureau of
28 Automotive Repair (Bureau). She brought this action solely in her official capacity and is

1 represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California,
2 by G. Michael German, Deputy Attorney General.

3 2. Respondents FS Group, Inc., dba Precision Motors, Ricardo Sanchez Medina,
4 President, are represented by Guevara, Phippard & James, PC, Scott D. Waddle, Esq., 1420
5 Kettner Boulevard, Ste. 600, San Diego, California 92101-2433 (619) 531-0123.

6 **Automotive Repair Dealer Registration - Spring Valley Facility**

7 3. On or about January 28, 1999, the Bureau issued Automotive Repair Dealer
8 Registration (ARD) Number AK 202114 to FS Group, Inc., doing business as Precision Motors,
9 with Ricardo Sanchez Medina as President. The registration will expire on October 31, 2009,
10 unless renewed.

11 **Automotive Repair Dealer Registration - Chula Vista Facility**

12 4. On a date uncertain in 1998, the Bureau issued Automotive Repair Dealer
13 Registration Number AK 202116 to FS Group, Inc., doing business as Precision Motors, with
14 Ricardo Sanchez Medina as President. The registration will expire on October 31, 2009, unless
15 renewed.

16 **Smog Check Station License - Chula Vista Facility**

17 5. On or about January 18, 2001, the Bureau issued Smog Check Station License
18 Number RK 202116 ("Station License") to FS Group, Inc., doing business as Precision Motors,
19 with Ricardo Sanchez Medina as President. The Station License will expire on October 31,
20 2009, unless renewed. Respondents' ARDs and Station License were in full force and effect at
21 all times relevant to the charges brought herein.

22 JURISDICTION

23 6. Accusation No. 77/08-08 was filed before the Director of Consumer Affairs
24 (Director), for the Bureau, and is currently pending against Respondents. The Accusation and all
25 other statutorily required documents were properly served on Respondents on August 21, 2008.
26 On August 21, 2008, Respondents timely filed their Notice of Defense contesting the
27 Accusation. A true and correct copy of Accusation No. 77/08-08 is attached as exhibit A and
28 incorporated herein by reference.

1 Order, the Stipulated Revocation and Disciplinary Order shall be of no force or effect, except for
2 this paragraph, it shall be inadmissible in any legal action between the parties, and the Director
3 shall not be disqualified from further action by having considered this matter.

4 13. The parties understand and agree that facsimile copies of this Stipulated
5 Revocation and Disciplinary Order, including facsimile signatures thereto, shall have the same
6 force and effect as the originals.

7 14. In consideration of the foregoing stipulations, the parties agree that the Director
8 may, without further notice or formal proceeding, issue and enter the following Disciplinary
9 Order:

10 **DISCIPLINARY ORDER**

11 IT IS HEREBY ORDERED that Automotive Repair Dealer Registration Nos. AK
12 202114 and AK 202116, and Smog Check Station License Number RK 202116 issued to FS
13 Group, Inc., doing business as Precision Motors, with Ricardo Sanchez Medina as President, are
14 revoked.

15 1. The revocation of Respondents' ARDs and Station License shall constitute the
16 imposition of discipline against Respondents. This stipulation constitutes a record of the
17 discipline and shall become a part of Respondents' license histories with the Bureau.

18 2. Respondents shall lose all rights and privileges as to ARD AK202114 as of the
19 effective date of the Director's Decision and Order.

20 3. Respondents shall cause to be delivered to the Bureau all their registration and
21 license wall and pocket license certificates relating to ARD AK 202114 on or before the
22 effective date of the Decision and Order.

23 4. Respondents shall not petition for reinstatement of AK 202114, or apply for any
24 new registration or license with the Bureau, for a period of one year from the effective date of
25 this Decision and Order. If Respondents ever apply for licensure or petition for reinstatement in
26 the state of California, the Bureau shall treat it as a new application for licensure. Respondents
27 must comply with all the laws, regulations and procedures for licensure in effect at the time the
28 application or petition is filed.

1 5. Should Respondents ever apply or reapply for a new license or certification, or
2 petition for reinstatement of a license, all of the charges and allegations contained in Accusation
3 No. 77/08-08 shall be deemed to be true, correct, and admitted by Respondents for the purpose
4 of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

5 IT IS FURTHER ORDERED that the revocations of ARD AK 202116 and Station
6 License RK 202116 are stayed and Respondents are placed on probation for five years on the
7 following terms and conditions:

8 1. **Actual Suspension.** Respondents' ARD AK 202116 and Station License RK
9 202116 are suspended for twenty business days beginning on the effective date of the Director's
10 Decision and Order.

11 2. **Post Sign.** Respondents shall post a prominent sign, provided by the Bureau,
12 indicating the beginning and ending dates of the suspension and indicating the reason(s) for the
13 suspension. The sign shall be conspicuously displayed at Respondents' Chula Vista facility in a
14 location open to and frequented by customers and shall remain posted during the entire period of
15 actual suspension.

16 3. **Obey All Laws.** Respondents shall comply with all statutes, regulations and rules
17 governing automotive inspections, estimates and repairs.

18 4. **Reporting.** Respondents or Respondents' authorized representative must report
19 in person or in writing as prescribed by the Bureau, on a schedule set by the Bureau, but no more
20 frequently than each quarter, on the methods used and success achieved in maintaining
21 compliance with the terms and conditions of probation.

22 5. **Report Financial Interest.** Within thirty days of the effective date of this action,
23 Respondents shall report any financial interest which any partners, officers, or owners of
24 Respondents' Chula Vista facility may have in any other business required to be registered
25 pursuant to Section 9884.6 of the Business and Professions Code.

26 6. **Random Inspections.** Respondents shall provide Bureau representatives
27 unrestricted access to inspect all vehicles (including parts) undergoing repairs at their Chula
28 Vista facility, up to and including the point of completion.

1 7. **Jurisdiction.** If an accusation or petition to revoke probation is filed against
2 Respondents during the term of probation, the Director shall have continuing jurisdiction over
3 these matters until the final decision on the accusation or petition to revoke probation, and the
4 period of probation shall be extended until such decision.

5 8. **Violation of Probation.** Should the Director determine that Respondents have
6 failed to comply with the terms and conditions of probation, the Department may, after giving
7 notice and opportunity to be heard, temporarily or permanently invalidate their ARD AK202116
8 and/or Station License RK 202116.

9 9. **Submission of Advertising.** During the period of probation, Respondents shall
10 submit any proposed advertising copy, whether revised or new, to the Bureau at least thirty days
11 prior to its use.

12 10. **Cost Recovery.** Pursuant to Business & Professions Code section 125.3, the
13 costs of investigation and enforcement of this case are \$84,387.16 through May 8, 2009. The
14 Bureau waives all but \$30,000.00 of this cost recovery as to Respondents, who shall pay this
15 amount in full not later than six months prior to the end of their five-year probationary period.
16 Payments shall be in the form of a certified check, cashier's check or money order, payable to
17 the Bureau of Automotive Repair and shall be mailed or delivered to the Bureau of Automotive
18 Repair, 10240 Systems Parkway, Sacramento, California, 95827, Attention: I & M
19 Headquarters. Failure to complete payment of cost recovery within this time frame shall
20 constitute a violation of probation which may subject Respondents' ARD AK 202116 and
21 Station License RK 202116 to outright revocation; however, the Director or the Director's
22 Bureau of Automotive Repair designee may elect to continue probation until such time as
23 reimbursement of the entire cost recovery amount has been made to the Bureau.

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Exhibit A

Accusation No. 77/08-08

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 G. MICHAEL GERMAN, State Bar No. 103312
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15 **RICARDO SANCHEZ MEDINA, PRESIDENT**
Automotive Repair Dealer Registration
16 No. AK 202114

A C C U S A T I O N

17 and

18 **FS GROUP, INC., dba**
PRECISION MOTORS
19 619 K Street
Chula Vista, California 91911
20 **RICARDO SANCHEZ MEDINA, PRESIDENT**
Automotive Repair Dealer Registration
21 No. AK 202116
Smog Check Station License No. RK 202116

22
23 Respondents.

24
25 Sherry Mehl ("Complainant") alleges:

26 **PARTIES**

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

1 (7) Any willful departure from or disregard of accepted trade standards for
2 good and workmanlike repair in any material respect, which is prejudicial to
another without consent of the owner or his or her duly authorized representative.

3 (b) Except as provided for in subdivision (c), if an automotive repair
4 dealer operates more than one place of business in this state, the director pursuant
5 to subdivision (a) shall only invalidate temporarily or permanently the registration
6 of the specific place of business which has violated any of the provisions of this
chapter. This violation, or action by the director, shall not affect in any manner
the right of the automotive repair dealer to operate his or her other places of
business.

7 (c) Notwithstanding subdivision (b), the director may invalidate
8 temporarily or permanently, the registration for all places of business operated in
9 this state by an automotive repair dealer upon a finding that the automotive repair
dealer has, or is, engaged in a course of repeated and willful violations of this
chapter, or regulations adopted pursuant to it.

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

14 7. Code section 477 provides, in pertinent part, that "Board" includes
15 "bureau," "commission," "committee," "department," "division," "examining committee,"
16 "program," and "agency." "License" includes certificate, registration or other means to engage
17 in a business or profession regulated by the Code.

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

21 9. Section 44072.2 of the Health and Safety Code states, in pertinent part:

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

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

26 10. California Code of Regulations, title 16, section 3366, states, in pertinent
27 part:

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1 (a) Except as provided in subsection (b) of this section, any automotive
2 repair dealer that advertises or performs, directly or through a sublet contractor,
3 automotive air conditioning work or uses the words service, inspection, diagnosis,
4 top off, performance check or any expression or term of like meaning in any form
5 of advertising or on a written estimate or invoice shall include and perform all of
6 the following procedures as part of that air conditioning work:

7 (15) High and low side system operating pressures, as applicable, have
8 been measured and recorded on the final invoice; and,

9 (16) The center air distribution outlet temperature has been measured and
10 recorded on the final invoice.

11 11. California Code of Regulations, title 16, section 3372.1, subdivision (a),
12 states:

13 An automotive repair dealer shall not advertise automotive service at a
14 price which is misleading. Price advertising is misleading in circumstances which
15 include but are not limited to the following:

16 (a) The automotive repair dealer does not intend to sell the advertised
17 service at the advertised price but intends to entice the consumer into a more
18 costly transaction.

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

23 13. Section 44072.8 of the Health and Safety Code states:

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

27 COST RECOVERY

28 14. Code section 125.3 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.

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RESPONDENT NO. 1

UNDERCOVER OPERATION NO. 1 - 1997 PONTIAC GRAND AM

15. On or about October 3, 2006, a Bureau undercover operator using the alias Steven Carson ("operator") drove a Bureau documented 1997 Pontiac Grand Am, California License Plate Number 5AFV696, to Respondent No. 1's facility. The only repairs necessary were to replace the front brake pads and reconnect the electrical connector at the air-conditioning ("A/C") compressor. The operator spoke with a female employee who identified herself as Jenny and requested the advertised brake special and a brake inspection. Jenny told the operator that the brake inspection would cost \$25. The operator also provided Jenny with the A/C service advertisement and requested that service. Jenny informed the operator that the advertised price did not include costs incurred to repair leaks. Jenny prepared Estimate No. 055911 and provided the operator with a copy of the document after he signed it. On the estimate, under the heading "labor description", it states "customer states there is a delay when applying the brakes"; however, the operator did not make that statement.

16. Later that morning, the operator telephoned Respondent No. 1's facility and spoke with Jenny. Jenny told the operator that the front brakes needed to be replaced and that the brake pedal was low because the rear brakes were out of adjustment. Jenny went on to say that the rear brake drums and front brake rotors needed to be machined. Jenny told the operator that the cost of all of these repairs would be \$250.58. The operator authorized the repairs.

17. Later that afternoon, Jenny spoke with the operator and informed him that they machined the rear brake drums but that the drums were warped and needed to be replaced. She said the cost was an additional \$50 to replace both brake drums. The operator authorized that repair.

18. On October 4, 2006, the operator telephoned Respondent No. 1's facility and spoke with a female, who told him that the repairs were complete and that the total cost was \$401.32. She said the A/C system was low, and they added 1.75 pounds of Freon. She said they also added a leak detector because the system had a small leak. Later that day, the operator

1 returned to Respondent No. 1's facility to retrieve the vehicle. The operator paid Jenny \$401.32
2 and received a copy of Invoice No. 018321.

3 19. On or about October 26, 2006, the Bureau reinspected the vehicle using
4 Invoice No. 018321. The inspection revealed the following:

5 a. The front brake rotors were machined; however, that repair was not
6 necessary. Further, the right front brake rotor was out of specification with excessive run out.

7 b. The rear brake drums had been replaced; however, that repair was not
8 necessary.

9 c. The operator was charged \$19.95 to evacuate and recharge the A/C
10 system; however, that service was not necessary.

11 **FIRST CAUSE FOR DISCIPLINE**

12 **(Misleading Statements)**

13 20. Respondent No. 1 has subjected its registration to discipline under Code
14 section 9884.7, subdivision (a)(1), in that on or about October 3, 2006, it made statements which
15 it knew or which by exercise of reasonable care it should have known to be untrue or misleading,
16 as follows:

17 a. Respondent No. 1's employee falsely represented to the operator that the
18 front brake rotors and rear brake drums needed to be resurfaced when, in fact, that service was
19 not necessary.

20 b. Respondent No. 1's employee falsely represented to the operator that the
21 brake pedal was low and the rear brakes needed to be adjusted when, in fact, those services were
22 not necessary.

23 c. Respondent No. 1's employee falsely represented to the operator that the
24 A/C system needed to be evacuated and recharged with Freon when, in fact, that service was not
25 necessary.

26 d. Invoice No. 018321 reflects that on October 3, at 1:20 p.m. the operator
27 authorized additional charges of \$75.43; however, the only additional charge the operator
28 authorized at that time was \$50 to replace both rear brake drums.

1 e. Invoice No. 018321 reflects that on October 3 at 4:59 p.m. the operator
2 authorized additional charges of \$72.10; however, the operator did not speak to anyone at that
3 time nor did he authorize any further additional charges.

4 **SECOND CAUSE FOR DISCIPLINE**

5 **(Fraud)**

6 21. Respondent No. 1 has subjected its registration to discipline under Code
7 section 9884.7, subdivision (a)(4), in that on or about October 3, 2006, it committed fraud when
8 it accepted payment from the operator for the following unnecessary services:

9 a. For machining the front brake rotors when, in fact, that service was not
10 necessary.

11 b. For cleaning and adjusting the rear brakes when, in fact, that service was
12 not necessary.

13 c. For replacing the rear brake drums when, in fact, that service was not
14 necessary.

15 d. For evacuating the recharging the A/C system with Freon when, in fact,
16 that service was not necessary.

17 e. For a leak detector when, in fact, that service was not necessary.

18 **THIRD CAUSE FOR DISCIPLINE**

19 **(Disregard for Accepted Trade Standards)**

20 22. Respondent No. 1 has subjected its registration to discipline under Code
21 section 9884.7, subdivision (a)(7), in that on or about October 3, 2006, it willfully departed from
22 or disregarded the accepted trade standards for good and workmanlike repair, machining the right
23 front rotor out of specification with excessive run-out.

24 **FOURTH CAUSE FOR DISCIPLINE**

25 **(Failure to Comply with Code)**

26 23. Respondent No. 1 has subjected its registration to discipline under Code
27 section 9884.7, subdivision (a)(6), in that on or about October 3, 2006, it failed to comply with
28 the following Code sections:

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a. **Section 9884.8:**

i. Regarding Invoice No. 018321, Respondent No. 1 failed to record all service work performed and parts used in the repair of the operator's vehicle.

ii. Regarding Invoice No. 018321, Respondent No. 1 failed to document the repair of the electrical connector to the A/C compressor.

b. **Section 9884.9, subdivision (a):** Regarding Invoice No. 018321, Respondent No. 1 failed to properly record the operator's authorization for additional repairs.

FIFTH CAUSE FOR DISCIPLINE

(Failure to Comply with Regulations)

24. Respondent No. 1 has subjected its registration to discipline under Code section 9884.7, subdivision (a)(6), in that on or about October 3, 2006, it failed to comply with the following sections of California Code of Regulations, title 16:

a. **Section 3372.1, subdivision (a):**

i. Respondent No. 1's employee used the \$49.95 advertised brake special to entice the operator into a more costly transaction by falsely representing to the operator that the front brake rotors and rear brake drums needed to be resurfaced when, in fact, those services were not necessary.

ii. Respondent No. 1's employee used the \$19.95 advertised A/C special to entice the operator into a more costly transaction by falsely representing to the operator that the A/C system was low on Freon, requiring a leak detector when, in fact, those services were not necessary.

b. **Section 3366, subdivision (a)(15):** Respondent No. 1 failed to record the high and low side A/C system operating pressures on the invoice dated October 3, 2006.

c. **Section 3366, subdivision (a)(16):** Respondent No. 1 failed to record the center air-distribution outlet temperature on the invoice dated October 3, 2006.

UNDERCOVER OPERATION NO. 2 - 1995 CHRYSLER LEBARON

25. On or about November 8, 2006, a Bureau undercover operator using the alias Connie Baker ("operator") drove a Bureau documented 1995 Chrysler LeBaron, California

1 License Plate No. 3LJA311, to Respondent No. 1's facility and requested the advertised brake
2 special and the tune-up special. The only repairs necessary were to replace the front brake pads
3 and adjust the ignition timing. Prior to arriving at Respondent No. 1's facility, the operator
4 telephoned the facility and spoke with a female employee who identified herself as Marie. The
5 operator asked Marie about the advertised specials for brakes and a tune-up. Marie told the
6 operator they would tell her the cost of brakes after the brakes were inspected. When asked
7 about the language in the tune-up special that said "settings if applicable", Marie told the
8 operator that meant they would check the compression and timing.

9 26. Upon the operator's arrival at Respondent No. 1's facility, she spoke with
10 a male employee and told him she wanted the tune-up and brake specials. The male opened the
11 hood of the vehicle. While waiting for the male to return, the operator spoke with Jenny and told
12 her she wanted a tune-up and an inspection of the brakes because they squealed. The operator
13 gave Jenny the advertisement coupons and her information for Estimate No. 056598. The
14 operator signed and received a copy of the estimate.

15 27. Later that day, the operator telephoned Respondent No. 1's facility and
16 spoke to Jenny, who told her that the front brakes were "really bad". Jenny told the operator that
17 the caliper was "seizing up". Jenny went on to say that when the brake pedal was pushed the
18 caliper would close; however, the calipers on the operator's vehicle would not open when the
19 brake pedal was released. Jenny also told the operator that the master cylinder was leaking brake
20 fluid, causing the brake pedal to go to the floor. Jenny said they would have to replace the master
21 cylinder, the front brake pads, and the calipers. Jenny also told the operator that they would need
22 to resurface the rotors because the brake pads were metal to metal. Further, Jenny told the
23 operator that the valve covers were leaking oil and that the valve cover gasket needed to be
24 replaced. Jenny told the operator that the cost of the brake repairs would be \$677.31 and the
25 valve cover gasket would be \$129.49, for a total cost of repairs of \$872.30. The operator
26 authorized the repairs.

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1 a. Respondent No. 1's employee represented to the operator that the front
2 brake calipers were seizing up, the master cylinder was leaking brake fluid, the front rotors were
3 metal to metal, and the rear brakes needed to be cleaned and adjusted when, in fact, none of these
4 statements were true and none of these repairs were necessary.

5 b. Respondent No. 1 represented to the operator that the brake pedal was low
6 and the rear brakes needed to be adjusted when, in fact, those services were not necessary.

7 **SEVENTH CAUSE FOR DISCIPLINE**

8 **(Fraud)**

9 31. Respondent No. 1 has subjected its registration to discipline under Code
10 section 9884.7, subdivision (a)(4), in that on or about November 8, 2006, it committed fraud
11 when it accepted payment from the operator for the following services/repairs that were not
12 necessary or were not performed:

13 a. For replacement of the two calipers when, in fact, that service was not
14 necessary.

15 b. For replacement of the master cylinder when, in fact, that service was not
16 necessary.

17 c. For resurfacing the front brake rotors when, in fact, that service was not
18 necessary.

19 d. For cleaning and adjustment of the rear brakes when, in fact, that service
20 was not necessary.

21 e. For adjustment of the timing when, in fact, the timing was still out of
22 adjustment.

23 **EIGHTH CAUSE FOR DISCIPLINE**

24 **(Disregard for Accepted Trade Standards)**

25 32. Respondent No. 1 has subjected its registration to discipline under Code
26 section 9884.7, subdivision (a)(7), in that on or about November 8, 2006, it willfully departed
27 from or disregarded the accepted trade standards for good and workmanlike repair by failing to

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1 properly bleed the brake system, causing the brake pedal to feel soft and almost go to the
2 floorboard when pushed.

3 **UNDERCOVER OPERATION NO. 3 - 1997 TOYOTA COROLLA**

4 33. On or about May 3, 2007, a Bureau undercover operator using the alias
5 John Shilling ("operator") drove a Bureau documented 1997 Toyota, California License Plate
6 Number 3TCT718, to Respondent No. 1's facility. The only repairs necessary were to replace
7 the front brake pads, change the oil and filter, and replace the A/C relay. The operator spoke
8 with a female employee who identified herself as Jenny. The operator provided Jenny with a
9 Pennysaver advertisement and requested the lube, oil and filter special, which included a free
10 brake inspection. The operator provided Jenny with his information, signed the estimate, and
11 was provided with a copy of Estimate No. 059772.

12 34. Later that afternoon, the operator telephoned Respondent No. 1's facility
13 and spoke with a male who identified himself as Hector. Hector told the operator that the rear
14 brakes had noise and that the front brake pads were low. A short time later, Hector telephoned
15 the operator and informed him that the A/C had a leak. Further, he told the operator he would
16 add dye to the system in order to find the leak at a cost of \$75.43. Hector also told the operator
17 that they would install ceramic brakes pads on the front brakes and machine the rotors for
18 \$177.60. Hector went on to say that the rear brakes were making noise and that was caused by
19 the drum rubbing against the backing plate. Hector said the backing plate was bent but that they
20 would repair the backing plate at no charge. Hector said the cost to replace the rear brake shoes
21 and machine the drums would be \$181.64. Hector stated that the rear brake shoes had 30 to 40%
22 remaining and the rear brake shoes had not been installed properly, causing excessive dust.
23 Hector said that the total cost of the repairs would be \$476.42. The operator authorized the
24 repairs.

25 35. On May 4, 2006, the operator returned to Respondent No. 1's facility to
26 retrieve the vehicle. The operator paid Jenny \$501.93 and received Invoice No. 019379.

27 36. On or about May 16, 2006, the Bureau reinspected the vehicle using
28 Invoice No. 019379. The inspection revealed the following:

1 a. The front brake rotors had been resurfaced; however, that repair was not
2 necessary. Further, both front brake rotors were out of specification with excessive run out.

3 b. The rear brake shoes had been replaced; however, that repair was not
4 necessary.

5 c. The rear brake drums had been resurfaced; however, that repair was not
6 necessary.

7 d. The A/C magnetic clutch relay was not replaced; instead, the relay was
8 switched with the number 4 fan relay, which made the A/C system operational; however, that
9 condition causes the condenser fan to be inoperable. This repair was not set forth on the final
10 invoice.

11 e. The operator was charged \$74.25 for Freon and \$25 for A/C dye when, in
12 fact, neither of those services were necessary.

13 **NINTH CAUSE FOR DISCIPLINE**

14 **(Misleading Statements)**

15 37. Respondent No. 1 has subjected its registration to discipline under Code
16 section 9884.7, subdivision (a)(1), in that on or about May 3, 2007, it made statements which it
17 knew or which by exercise of reasonable care it should have known to be untrue or misleading,
18 as follows:

19 a. Respondent No. 1 represented to the operator that the A/C system had a
20 small leak and was "short a pound" of Freon when, in fact, that statement was not true and the
21 only repair necessary to the A/C system was replacement of the magnetic clutch relay.

22 b. Respondent No. 1 represented to the operator that the reason the rear
23 brakes were making noise was because the rear brake drum was rubbing against the backing plate
24 and the backing plate was bent. In fact, that statement was not true. The backing plate was not
25 bent.

26 c. Respondent No. 1 represented to the operator that the rear brake shoes had
27 30% to 40% remaining when, in fact, the rear brake shoes had 98% remaining.

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1 d. Respondent No. 1 represented to the operator that the rear brake shoes had
2 been incorrectly installed when, in fact, that statement was not true.

3 **TENTH CAUSE FOR DISCIPLINE**

4 **(Fraud)**

5 38. Respondent No. 1 has subjected its registration to discipline under Code
6 section 9884.7, subdivision (a)(4), in that on or about May 3, 2007, it committed fraud when it
7 accepted payment from the operator for services that were not necessary, as follows:

- 8 a. For resurfacing the front brake rotors when, in fact, that service was not
9 necessary.
- 10 b. For replacement of the rear brake shoes when, in fact, that service was not
11 necessary.
- 12 c. For resurfacing the rear brake drums when, in fact, that service was not
13 necessary.
- 14 d. For A/C oil and dye when, in fact, that service was not necessary.

15 **ELEVENTH CAUSE FOR DISCIPLINE**

16 **(Disregard for Accepted Trade Standards)**

17 39. Respondent No. 1 has subjected its registration to discipline under Code
18 section 9884.7, subdivision (a)(7), in that on or about May 3, 2007, it willfully departed from or
19 disregarded the accepted trade standards for good and workmanlike repair, as follows:

- 20 a. Respondent No. 1 resurfaced both front rotors out of specification, with
21 excessive run-out.
- 22 b. Respondent No. 1 switched the magnetic clutch relay and condenser fan
23 relay, causing the A/C condenser to be inoperable, affecting the air conditioner and engine
24 cooling efficiency.

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1 TWELFTH CAUSE FOR DISCIPLINE

2 (Failure to Comply with Code)

3 40. Respondent No. 1 has subjected its registration to discipline under Code
4 section 9884.7, subdivision (a)(6), in that on or about May 3, 2007, it failed to comply with the
5 following Code sections:

6 a. Section 9884.8:

7 i. Regarding Invoice No. 019379, Respondent No. 1 failed to record
8 all service work performed and parts used in the repair of the operator's vehicle.

9 ii. Regarding Invoice No. 019379, Respondent No. 1 failed to
10 document that it had switched the A/C relay with the number 4 fan relay.

11 b. Section 9884.9, subdivision (a): Regarding Invoice No. 019379,
12 Respondent No. 1 failed to obtain the operator's authorization for additional repairs.

13 THIRTEENTH CAUSE FOR DISCIPLINE

14 (Failure to Comply with Regulations)

15 41. Respondent No. 1 has subjected its registration to discipline under Code
16 section 9884.7, subdivision (a)(6), in that on or about May 3, 2007, it failed to comply with the
17 following sections of California Code of Regulations, title 16:

18 a. Section 3372.1, subdivision (a):

19 i. Respondent No. 1's employee used the \$12.95 advertised A/C
20 Service special to entice the operator into a more costly transaction by falsely representing to the
21 operator that the A/C system was a "pound short" and that it had a "small leak" when, in fact, the
22 only repair necessary to the A/C system was replacement of the magnetic clutch relay.

23 ii. Respondent No. 1's employee used the \$22.95 advertised Lube, Oil
24 & Filter w/Free Brake Inspection special to entice the operator into a more costly transaction by
25 falsely representing to the operator that the front brake rotors and rear brake drums needed to be
26 resurfaced when, in fact, those services were not necessary.

27 b. Section 3366, subdivision (a)(15): Respondent No. 1 failed to record the
28 high and low side A/C system operating pressures on Invoice No. 019379.

1 c. Section 3366, subdivision (a)(16): Respondent No. 1 failed to record the
2 center air-distribution outlet temperature on Invoice No. 019379.

3 **RESPONDENT NO. 2**

4 **UNDERCOVER OPERATION NO. 1 - 1996 CHEVROLET CORSICA**

5 42. On or about January 11, 2007, a Bureau undercover operator using the
6 alias Connie Metcalf ("operator") drove a Bureau documented 1996 Chevrolet Corsica,
7 California License Plate Number 3PBG348, to Respondent No. 2's facility. The only repair
8 necessary was to replace the front brake pads. The operator spoke with a female employee who
9 identified herself as Andrea. The operator showed Andrea Respondent No. 2's Pennysaver
10 advertisement for a free brake inspection and requested the inspection. The operator provided
11 Andrea with her information and signed the estimate; however, the operator did not receive a
12 copy of the document.

13 43. Later that morning, the operator telephoned Respondent No. 2's facility
14 and spoke with Andrea, who told her the master cylinder needed to be replaced because the
15 brakes were "mushy". Andrea said that when they replace the master cylinder they would bleed
16 the brakes and flush the brake fluid, replacing it with new brake fluid, and that the cost of the
17 master cylinder was \$284. Andrea also told the operator that the front brakes needed to be
18 replaced and the front brake rotors needed to be resurfaced and that the cost for those services
19 would be \$163. Andrea also recommended that the vehicle's rear brakes be cleaned and adjusted
20 for \$39, saying that rear brakes come out of adjustment slowly, causing excessive dust. The
21 operator authorized the repairs.

22 44. On January 12, 2007, the operator returned to Respondent No. 2's facility
23 to retrieve her vehicle. The operator paid Andrea \$487.86 and received a copy of Invoice No.
24 017003.

25 45. On or about January 16, 2007, the Bureau reinspected the vehicle using
26 Invoice No. 017003. The inspection revealed the following:

27 a. The front brake rotors were resurfaced; however, that repair was not
28 necessary. Further, the right front brake rotor was out of specification, with excessive run out.

- 1 a. For replacing the master cylinder when, in fact, that service was not
2 necessary.
- 3 b. For resurfacing the front brake rotors when, in fact, that service was not
4 necessary.
- 5 c. For cleaning and adjusting the rear brakes when, in fact, that service was
6 not necessary.

7 **SEVENTEENTH CAUSE FOR DISCIPLINE**

8 **(Disregard for Accepted Trade Standards)**

9 49. Respondent No.2 has subjected its registration to discipline under Code
10 section 9884.7, subdivision (a)(7), in that on or about January 11, 2007, it willfully departed from
11 or disregarded the accepted trade standards for good and workmanlike repair by machining the
12 right front rotor out of specification, with excessive run-out.

13 **EIGHTEENTH CAUSE FOR DISCIPLINE**

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

15 50. Respondent No. 2 has subjected its registration to discipline under Code
16 section 9884.7, subdivision (a)(6), in that on or about January 11, 2007, it failed to comply with
17 the following Code sections:

18 a. **Section 9884.8:** Regarding Invoice No. 017003, Respondent No. 2 failed
19 to record all service work performed and parts used in the repair of the operator's vehicle.

20 b. **Section 9884.9, subdivision (a):** Respondent No. 2 failed to provide the
21 operator with a written estimated price for parts and labor for a specific job prior to
22 commencement of the repairs.

23 **UNDERCOVER OPERATION NO. 2 - 1995 MAZDA 626**

24 51. On or about September 27, 2007, a Bureau undercover operator using the
25 alias Judy Kercher ("operator") drove a Bureau documented 1995 Mazda 626, Arizona License
26 Plate No. 524MKH, to Respondent No. 2's facility. Prior to arriving at the facility, the operator
27 telephoned the facility and inquired about the cost of brakes. A male employee of Respondent
28 No. 2, later identified as Noel, told the operator that the cost to replace the front brake pads and

1 a. Respondent No. 2's employee falsely represented to the operator that the
2 front brake pads had a lifetime warranty; however, the invoice states "warranty on parts and labor
3 is 6 months or 6,000 miles".

4 b. Respondent No. 2's employee falsely represented to the operator that the
5 rear brakes needed to be cleaned and adjusted when, in fact, that service was not necessary
6 because the vehicle was equipped with self-adjusting brakes.

7 c. Regarding Invoice No. 018871, Respondent No. 2 represented to the
8 operator that the rear brakes had been adjusted when, in fact, that service had not been performed
9 as invoiced.

10 **TWENTIETH CAUSE FOR DISCIPLINE**

11 **(Failure to Provide a Copy of a Signed Document)**

12 56. Respondent No. 2 has subjected its registration to discipline under Code
13 section 9884.7, subdivision (a)(3), in that on or about September 27, 2007, it failed to provide the
14 operator with the estimate as soon as the operator signed the document.

15 **TWENTY-FIRST CAUSE FOR DISCIPLINE**

16 **(Fraud)**

17 57. Respondent No. 2 has subjected its registration to discipline under Code
18 section 9884.7, subdivision (a)(4), in that on or about September 27, 2007, it committed fraud
19 when it accepted payment from the operator to clean and adjust the rear brakes when, in fact, that
20 service was not necessary because that vehicle is equipped with self-adjusting brakes.

21 **TWENTY-SECOND CAUSE FOR DISCIPLINE**

22 **(Disregard for Accepted Trade Standards)**

23 58. Respondent No. 2 has subjected its registration to discipline under Code
24 section 9884.7, subdivision (a)(7), in that on or about September 27, 2007, it willfully departed
25 from or disregarded the accepted trade standards for good and workmanlike repair by resurfacing
26 the right and left front rotors out of specification with excessive run out.

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1 TWENTY-THIRD CAUSE FOR DISCIPLINE

2 (Failure to Comply with Code)

3 59. Respondent No. 2 has subjected its registration to discipline under Code
4 section 9884.7, subdivision (a)(6), in that on or about September 27, 2007, it failed to comply
5 with the following Code sections:

6 a. Section 9884.8: Regarding Invoice No. 018871, Respondent No. 2 failed
7 to record all service work performed and parts used in the repair of the operator's vehicle.

8 b. Section 9884.9, subdivision (a): Respondent No. 2 failed to provide the
9 operator with a written estimated price for parts and labor for a specific job prior to
10 commencement of the repairs.

11 UNDERCOVER OPERATION NO. 3 - 1999 DODGE STRATUS

12 60. On or about November 27, 2007, a Bureau undercover operator using the
13 alias Jim Carter ("operator") drove a Bureau documented 1999 Dodge Stratus, California License
14 Plate Number 4VIX517, to Respondent No. 2's facility. The only repair necessary was to replace
15 the front brake pads. The operator telephoned Respondent No. 2's facility and spoke with a
16 female employee who identified herself as Andrea. The operator told Andrea he wanted a brake
17 inspection and inquired about the cost of new brakes. Andrea informed the operator that a set of
18 new brakes, including resurfacing the rotors, would cost approximately \$175.

19 61. Shortly after the telephone call, the operator drove the vehicle to
20 Respondent No. 2's facility. The operator spoke with Andrea about a brake inspection. Andrea
21 took the operator's information. The operator signed an estimate but was not provided with a
22 copy of the document. Soon after leaving the facility, the operator received a telephone call from
23 Andrea. She informed the operator that the front brakes had approximately 15% left. Andrea
24 told the operator that they would replace the front brakes and resurface the rotors. Andrea
25 informed the operator that if they did not resurface the rotors, he would have problems later on.
26 She went on to say that the rotors could cause vibrations if they were not resurfaced. Further, she
27 said they would clean and adjust the rear brakes. Andrea said the total cost of services would be
28 \$235. The operator authorized the repairs.

1 62. That afternoon, the operator returned to Respondent No. 2's facility to
2 retrieve the vehicle. The operator paid Andrea \$235 and received Invoice No. 019261.

3 63. On or about November 29, 2007, the Bureau reinspected the vehicle using
4 Invoice No. 019261. The inspection revealed the following:

5 a. The front brake rotors had been resurfaced; however, that repair was not
6 necessary.

7 b. The rear brakes had been cleaned but not adjusted as invoiced.

8 **TWENTY-FOURTH CAUSE FOR DISCIPLINE**

9 **(Misleading Statements)**

10 64. Respondent No. 2 has subjected its registration to discipline under Code
11 section 9884.7, subdivision (a)(1), in that on or about November 27, 2007, it made statements
12 which it knew or which by exercise of reasonable care it should have known to be untrue or
13 misleading, as follows:

14 a. Respondent No. 2's employee falsely represented to the operator that he
15 would have problems with the brakes later on if the rotors were not resurfaced when, in fact, that
16 statement was untrue.

17 b. Respondent No. 2's employee falsely represented to the operator that the
18 rear brakes needed to be cleaned and adjusted every six months when, in fact, that statement was
19 not true because this vehicle is equipped with self-adjusting brakes.

20 **TWENTY-FIFTH CAUSE FOR DISCIPLINE**

21 **(Failure to Provide a Copy of a Signed Document)**

22 65. Respondent No. 2 has subjected its registration to discipline under Code
23 section 9884.7, subdivision (a)(3), in that on or about November 27, 2007, it failed to provide the
24 operator with the work order as soon as the operator signed the document.

25 **TWENTY-SIXTH CAUSE FOR DISCIPLINE**

26 **(Fraud)**

27 66. Respondent No. 2 has subjected its registration to discipline under Code
28 section 9884.7, subdivision (a)(4), in that on or about November 27, 2007, it committed fraud

1 when it accepted payment from the operator to clean and adjust the rear brakes when, in fact, that
2 service was not necessary because this vehicle is equipped with self-adjusting brakes.

3 **TWENTY-SEVENTH CAUSE FOR DISCIPLINE**

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

5 67. Respondent No. 2 has subjected its registration to discipline under Code
6 section 9884.7, subdivision (a)(6), in that on or about November 27, 2007, it failed to comply
7 with the following Code sections:

8 a. **Section 9884.8:** Regarding Invoice No. 019261, Respondent No. 2 failed
9 to record all service work performed and parts used in the repair of the operator's vehicle.

10 b. **Section 9884.9, subdivision (a):** Respondent No. 2 failed to provide the
11 operator with a written estimated price for parts and labor for a specific job.

12 **TWENTY-EIGHTH CAUSE FOR DISCIPLINE**

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

14 68. Respondent No. 2 has subjected its station license to discipline under
15 Health and Safety Code section 44072.2, subdivision (d), in that on or about between January 11,
16 2007, September 27, 2007, and November 27, 2007, Respondent No. 2 committed acts involving
17 dishonesty, fraud or deceit whereby another was injured, as more particularly set forth in
18 paragraphs 46, 48, 55, 57, 64, and 66, above.

19 **OTHER MATTERS**

20 69. Under Code section 9884.7, subdivision (c), the director may invalidate
21 temporarily or permanently or refuse to validate, the registrations for all places of business
22 operated in this state by FS Group, Inc., doing business as Precision Motors, upon a finding that
23 it has, or is, engaged in a course of repeated and willful violations of the laws and regulations
24 pertaining to an automotive repair dealer.

25 70. Under Health and Safety Code section 44072.8, if Smog Check Station
26 License Number RK 202116, issued to FS Group, Inc., doing business as Precision Motors, is
27 revoked or suspended, any additional license issued under this chapter in the name of said
28 licensee may be likewise revoked or suspended by the director.

1 PRAYER

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

4 1. Temporarily or permanently invalidating Automotive Repair Dealer
5 Registration Number AK 202114, issued to FS Group, Inc., doing business as Precision Motors;

6 2. Temporarily or permanently invalidating Automotive Repair Dealer
7 Registration Number AK 202116, issued to FS Group, Inc., doing business as Precision Motors;

8 3. Temporarily or permanently invalidating any other automotive repair dealer
9 registration issued to FS Group, Inc., doing business as Precision Motors;

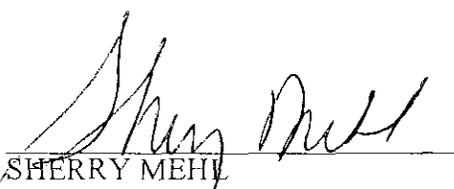
10 4. Revoking or suspending Smog Check Station License Number
11 RK 202116, issued to FS Group, Inc., doing business as Precision Motors;

12 5. Revoking or suspending any additional license issued under this chapter in
13 the name of FS Group, Inc., doing business as Precision Motors;

14 6. Ordering FS Group, Inc., to pay the Bureau of Automotive Repair the
15 reasonable costs of the investigation and enforcement of this case, pursuant to Code section
16 125.3; and,

17 7. Taking such other and further action as deemed necessary and proper.

18
19 DATED: 8/6/08

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22 
23 SHERRY MEHL
24 Chief
25 Bureau of Automotive Repair
26 Department of Consumer Affairs
27 State of California
28 Complainant