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7

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

12 In the Matter of the Accusation Against:

Case No. 77/09-31

13 **BAJA AUTO**
14 **TUSOP KIM, OWNER**
15 **817 East Holt Blvd., Unit A**
16 **Ontario, CA 91764**
17 **Automotive Repair Dealer Reg. No. ARD 214103**
18 **Smog Check Station License No. RC 214103**
19 **Official Lamp Station License No. LS 214103**
20 **Official Brake Station License No. BS 214103**

ACCUSATION

21 and

22 **TUSOP KIM**
23 **11362 Fulbourn Court**
24 **Rancho Cucamonga, CA 91730**
25 **Advanced Emission Specialist Technician**
26 **License No. EA 036194**
27 **Brake Adjuster License No. BA 036194**
28 **Lamp Adjuster License No. LA 036194**

Respondents.

Complainant alleges:

PARTIES

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

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1 **Baja Auto:**

2 2. On or about January 22, 2001, the Director of Consumer Affairs ("Director") issued
3 Automotive Repair Dealer Registration Number ARD 214103 to Tusop Kim ("Respondent"),
4 owner of Baja Auto. Respondent's automotive repair dealer registration was in full force and
5 effect at all times relevant to the charges brought herein and will expire on December 31, 2010,
6 unless renewed.

7 3. On or about February 6, 2001, the Director issued Smog Check Station License
8 Number RC 214103 to Respondent. Respondent's smog check station license was in full force
9 and effect at all times relevant to the charges brought herein and will expire on December 31,
10 2010, unless renewed.

11 4. On or about May 7, 2001, the Director issued Official Lamp Station License Number
12 LS 214103 to Respondent. Respondent's official lamp station license was in full force and effect
13 at all times relevant to the charges brought herein and will expire on December 31, 2010, unless
14 renewed.

15 5. On or about May 7, 2001, the Director issued Official Brake Station License Number
16 BS 214103 to Respondent. Respondent's official brake station license was in full force and effect
17 at all times relevant to the charges brought herein and will expire on December 31, 2010, unless
18 renewed.

19 **Tusop Kim:**

20 6. In or about 1997, the Director issued Advanced Emission Specialist Technician
21 License Number EA 036194 to Respondent. Respondent's advanced emission specialist
22 technician license was in full force and effect at all times relevant to the charges brought herein
23 and will expire on February 28, 2011, unless renewed.

24 7. In or about 2001, the Director issued Brake Adjuster License Number BA 036194 to
25 Respondent. Respondent's brake adjuster license was in full force and effect at all times relevant
26 to the charges brought herein and will expire on September 30, 2013, unless renewed.

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

2 The director may suspend, revoke, or take other disciplinary action
3 against a license as provided in this article [Article 7 (commencing with section
4 9889.1) of the Automotive Repair Act] if the licensee or any partner, officer, or
5 director thereof:

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

8

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

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

13

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

16 18. Bus. & Prof. Code section 9889.16 states:

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

25 19. Bus. & Prof. Code section 9889.22 states:

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

20. Bus. & Prof. Code section 9889.9 states that “[w]hen any license has been revoked or
suspended following a hearing under the provisions of this article [Article 7 (commencing with
section 9889.1) of the Automotive Repair Act], 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.”

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

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

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

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

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

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

....

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

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

24. Health & Saf. Code section 44072.8 states that 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.

COST RECOVERY

25. Bus. & Prof. 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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1 drums were not within manufacturer's specifications, and the wheels on the right side of the
2 vehicle had not been removed to inspect the brakes.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Untrue or Misleading Statements)**

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

9 a. Respondent certified under penalty of perjury on the vehicle inspection report that he
10 performed the smog inspection on the Bureau's 2000 Chevrolet S-10 pickup. In fact,
11 Respondent's employee, Moy, accessed the emissions inspection system ("EIS") using
12 Respondent's confidential access code and conducted the smog inspection on the vehicle.

13 b. Respondent certified under penalty of perjury on Brake Certificate Number BC
14 681761 that the applicable inspection was performed on the brake system on the Bureau's 2000
15 Chevrolet S-10 pickup. In fact, Respondent failed to inspect the entire brake system on the
16 vehicle, as set forth in paragraph 27 above.

17 c. Respondent certified under penalty of perjury on Brake Certificate Number BC
18 681761 that the rear brake drums on the Bureau's 2000 Chevrolet S-10 pickup were in a
19 satisfactory condition. In fact, the rear brake drums had been machined beyond the
20 manufacturer's drum discard diameter specifications.

21 d. Respondent certified under penalty of perjury on Brake Certificate Number BC
22 681761 that the Bureau's 2000 Chevrolet S-10 pickup had a stopping distance of 19 feet from a
23 speed of 20 miles per hour as a result of a road-test. In fact, Respondent never road tested the
24 vehicle.

25 e. Respondent certified under penalty of perjury on Lamp Certificate Number LC
26 673161 that the applicable adjustment had been performed on the lighting system on the Bureau's
27 2000 Chevrolet S-10 pickup. In fact, both headlamps were out of adjustment at the time the
28 Bureau inspected the vehicle following the undercover operation.

1 f. Respondent certified under penalty of perjury on Brake Certificate Number BC
2 681761 and Lamp Certificate Number LC 673161 that he performed the inspections of the brake
3 and lighting systems on the Bureau's 2000 Chevrolet S-10 pickup. In fact, Respondent's
4 employee, Moy, performed the inspections on the vehicle.

5 **SECOND CAUSE FOR DISCIPLINE**

6 **(Failure to Provide Customer with Copy of Signed Document)**

7 29. Respondent's automotive repair dealer registration is subject to disciplinary action
8 pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(3), in that Respondent's employee,
9 Moy, failed to provide the operator with a copy of the work order as soon as the operator signed
10 the document.

11 **THIRD CAUSE FOR DISCIPLINE**

12 **(Fraud)**

13 30. Respondent's automotive repair dealer registration is subject to disciplinary action
14 pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(4), Respondent committed an act
15 which constitutes fraud, as follows: Respondent obtained payment from the operator for
16 performing the applicable inspections, adjustments, or repairs of the brake and lighting systems
17 on the Bureau's 2000 Chevrolet S-10 pickup as specified by the Bureau and in accordance with
18 the Vehicle Code. In fact, Respondent failed to perform the necessary inspections, adjustments,
19 and repairs in compliance with Bureau Regulations or the Vehicle Code as set forth in paragraph
20 28 above.

21 **FOURTH CAUSE FOR DISCIPLINE**

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

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

26 a. **Section 9884.9, subdivision (a):** Respondent's employee, Moy, failed to provide the
27 operator with a written estimate for parts and/or labor necessary for specific job.

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1 violated the provisions of Bus. & Prof. Code sections 9884.9, subdivision (a), 9889.16, and
2 9889.22 relating to Respondent's licensed activities, as set forth in paragraph 31 above.

3 **SEVENTH CAUSE FOR DISCIPLINE**

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

5 34. Respondent's official brake and lamp station licenses are subject to disciplinary
6 action pursuant to Bus. & Prof. Code section 9889.3, subdivision (c), in that Respondent failed to
7 comply with the provisions of California Code of Regulations, title 16, sections 3305, subdivision
8 (a), 3316, subdivision (d)(2), and 3321, subdivision (c)(2), as set forth in paragraph 32 above.

9 **EIGHTH CAUSE FOR DISCIPLINE**

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

11 35. Respondent's official brake and lamp station licenses are subject to disciplinary
12 action pursuant to Bus. & Prof. Code section 9889.3, subdivision (d), in that Respondent
13 committed an act involving dishonesty, fraud, or deceit whereby another was injured, as set forth
14 in paragraph 30 above.

15 **NINTH CAUSE FOR DISCIPLINE**

16 **(Violations of the Motor Vehicle Inspection Program)**

17 36. Respondent's smog check station license is subject to disciplinary action pursuant to
18 Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to comply with
19 section 44012 of that Code in a material respect, as follows: Respondent failed to ensure that the
20 emission control tests were performed on the Bureau's 2000 Chevrolet S-10 pickup in accordance
21 with procedures prescribed by the department.

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1 **TENTH CAUSE FOR DISCIPLINE**

2 (Failure to Comply with Regulations Pursuant
3 to the Motor Vehicle Inspection Program)

4 37. Respondent's smog check station license is subject to disciplinary action pursuant to
5 Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to comply with
6 provisions of California Code of Regulations, title 17, in the following material respects:

7 a. **Section 3340.41, subdivision (b)**: Respondent permitted his employee, Moy, to
8 access the EIS using the confidential access code issued to Respondent and to enter false
9 information into the unit concerning the identity of the technician performing the smog test on the
10 Bureau's 2000 Chevrolet S-10 pickup.

11 b. **Section 3340.42**: Respondent failed to ensure that the required smog tests were
12 conducted on the Bureau's 2000 Chevrolet S-10 pickup in accordance with the Bureau's
13 specifications.

14 **ELEVENTH CAUSE FOR DISCIPLINE**

15 (Dishonesty, Fraud, or Deceit)

16 38. Respondent's smog check station license is subject to disciplinary action pursuant to
17 Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed a dishonest,
18 fraudulent, or deceitful act whereby another is injured, as set forth in paragraph 30 above.

19 **UNDERCOVER OPERATION #2: 2000 TOYOTA TACOMA**

20 39. On May 5, 2009, a representative of the Bureau, acting in an undercover capacity
21 (hereinafter "operator"), took the Bureau's 2000 Toyota Tacoma to Respondent's facility and was
22 greeted by a man, who identified himself as "Tony". The operator requested smog, brake, and
23 lamp inspections on the vehicle. The rear brake drums on the Bureau-documented vehicle were
24 machined beyond the manufacturer's drum discard diameter specifications, the left side headlamp
25 was out of adjustment, and the back up lamps were not functioning. Tony had the operator sign a
26 work order, then backed the vehicle onto the EIS dynamometer. The operator gave the work
27 order back to Tony but did not receive a copy of the document. Tony performed a smog test on
28 the vehicle. After the smog test was completed, Tony pulled the vehicle off of the dynamometer

1 and partway into the adjacent bay. The operator observed the front of the vehicle being lifted
2 with a floor jack. None of the wheels were removed from the vehicle and the rear of the vehicle
3 was never off of the ground. Tony told the operator that the backup lights did not work and
4 would cost \$35 to repair. Tony also stated that the left headlamp needed adjustment. The
5 operator authorized Tony to repair the back up lights. After Tony replaced the back up bulbs, he
6 gave the operator an invoice totaling \$130, a vehicle inspection report, Certificate of Brake
7 Adjustment Number BC 797835, and Certificate of Lamp Adjustment Number LC 787085. The
8 operator paid Tony \$130 then left the facility.

9 40. Later that same day, the Bureau inspected the vehicle and found that the back up
10 lamps were now functional; however, both headlamps were out of adjustment, the rear brake
11 drums were not within manufacturer's specifications, and none of the wheels had not been
12 removed to inspect the brakes.

13 **TWELFTH CAUSE FOR DISCIPLINE**

14 **(Untrue or Misleading Statements)**

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

19 a. Respondent certified under penalty of perjury on Brake Certificate Number BC
20 797835 that the applicable inspection was performed on the brake system on the Bureau's 2000
21 Toyota Tacoma. In fact, Respondent failed to inspect the brake system on the vehicle, as set forth
22 in paragraph 40 above.

23 b. Respondent certified under penalty of perjury on Brake Certificate Number BC
24 797835 that the rear brake drums on the Bureau's 2000 Toyota Tacoma were in a satisfactory
25 condition. In fact, the rear brake drums had been machined beyond the manufacturer's drum
26 discard diameter specifications.

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1 c. Respondent certified under penalty of perjury on Brake Certificate Number BC
2 797835 that the Bureau's 2000 Toyota Tacoma had a stopping distance of 19 feet from a speed of
3 20 miles per hour as a result of a road-test. In fact, Respondent never road tested the vehicle.

4 d. Respondent certified under penalty of perjury on Lamp Certificate Number LC
5 787085 that the applicable adjustment had been performed on the lighting system on the Bureau's
6 2000 Toyota Tacoma. In fact, both headlamps were out of adjustment at the time the Bureau
7 inspected the vehicle following the undercover operation.

8 **THIRTEENTH CAUSE FOR DISCIPLINE**

9 **(Failure to Provide Customer with Copy of Signed Document)**

10 42. Respondent's automotive repair dealer registration is subject to disciplinary action
11 pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(3), in that Respondent failed to
12 provide the operator with a copy of the work order as soon as the operator signed the document.

13 **FOURTEENTH CAUSE FOR DISCIPLINE**

14 **(Fraud)**

15 43. Respondent's automotive repair dealer registration is subject to disciplinary action
16 pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(4), Respondent committed an act
17 which constitutes fraud, as follows: Respondent obtained payment from the operator for
18 performing the applicable inspections, adjustments, or repairs of the brake and lighting systems
19 on the Bureau's 2000 Toyota Tacoma as specified by the Bureau and in accordance with the
20 Vehicle Code. In fact, Respondent failed to perform the necessary inspections, adjustments, and
21 repairs in compliance with Bureau Regulations or the Vehicle Code as set forth in paragraph 41
22 above.

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1 **FIFTEENTH CAUSE FOR DISCIPLINE**

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

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

6 a. **Section 9884.9, subdivision (a)**: Respondent failed to provide the operator with a
7 written estimate for parts and/or labor necessary for specific job.

8 b. **Section 9889.16**: Respondent issued Brake Certificate Number BC 797835 and
9 Lamp Certificate Number LC 787085 as to the Bureau's 2000 Toyota Tacoma when the vehicle
10 was not in compliance with Bureau Regulations or the requirements of the Vehicle Code.

11 c. **Section 9889.22**: Respondent willfully made false statements or entries on Brake
12 Certificate Number BC 797835 and Lamp Certificate Number LC 787085, as set forth in
13 paragraph 41 above.

14 **SIXTEENTH CAUSE FOR DISCIPLINE**

15 **(Violations of Regulations)**

16 45. Respondent's automotive repair dealer registration is subject to disciplinary action
17 pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(6), in that Respondent failed to
18 comply with provisions of California Code of Regulations, title 16, in the following material
19 respects:

20 a. **Section 3305, subdivision (a)**: Respondent failed to perform the inspection of the
21 brake system and adjustment of the lamp system on the Bureau's 2000 Toyota Tacoma in
22 accordance with the specifications, instructions, and directives issued by the Bureau and the
23 vehicle manufacturer.

24 b. **Section 3316, subdivision (d)(2)**: Respondent issued Lamp Certificate Number LC
25 787085 as to the Bureau's 2000 Toyota Tacoma when all of the lamps, lighting equipment, and/or
26 related electrical systems on the vehicle were not in compliance with Bureau regulations, as set
27 forth in paragraph 41 above.

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1 c. Section 3321, subdivision (c)(2): Respondent issued Brake Certificate Number BC
2 797835 as to the Bureau's 2000 Toyota Tacoma when the brake system on the vehicle had not
3 been tested or inspected, as set forth in paragraph 41 above.

4 **SEVENTEENTH CAUSE FOR DISCIPLINE**

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

6 46. Respondent's official brake and lamp station licenses are subject to disciplinary
7 action pursuant to Bus. & Prof. Code section 9889.3, subdivisions (a) and (h), in that Respondent
8 violated the provisions of Bus. & Prof. Code sections 9884.9, subdivision (a), 9889.16, and
9 9889.22 relating to Respondent's licensed activities, as set forth in paragraph 44 above.

10 **EIGHTEENTH CAUSE FOR DISCIPLINE**

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

12 47. Respondent's official brake and lamp station licenses are subject to disciplinary
13 action pursuant to Bus. & Prof. Code section 9889.3, subdivision (c), in that Respondent failed to
14 comply with the provisions of California Code of Regulations, title 16, sections 3305, subdivision
15 (a), 3316, subdivision (d)(2), and 3321, subdivision (c)(2), as set forth in paragraph 45 above.

16 **NINETEENTH CAUSE FOR DISCIPLINE**

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

18 48. Respondent's official brake and lamp station licenses are subject to disciplinary
19 action pursuant to Bus. & Prof. Code section 9889.3, subdivision (d), in that Respondent
20 committed an act involving dishonesty, fraud, or deceit whereby another was injured, as set forth
21 in paragraph 43 above.

22 **TWENTIETH CAUSE FOR DISCIPLINE**

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

24 49. Respondent's brake and lamp adjuster licenses are subject to disciplinary action
25 pursuant to Bus. & Prof. Code section 9889.3, subdivisions (a) and (h), in that he violated the
26 provisions of Bus. & Prof. Code sections 9884.9, subdivision (a), 9889.16, and 9889.22 relating
27 to his licensed activities, as set forth in paragraph 44 above.

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1 **TWENTY-FIRST CAUSE FOR DISCIPLINE**

2 **(Violations of Regulations)**

3 50. Respondent's brake and lamp adjuster licenses are subject to disciplinary action
4 pursuant to Bus. & Prof. Code section 9889.3, subdivision (c), in that he failed to comply with the
5 provisions of California Code of Regulations, title 16, sections 3305, subdivision (a), 3316,
6 subdivision (d)(2), and 3321, subdivision (c)(2), as set forth in paragraph 45 above.

7 **UNDERCOVER OPERATION #3: 1998 TOYOTA CAMRY**

8 51. On July 8, 2009, a representative of the Bureau, acting in an undercover capacity
9 (hereinafter "operator"), took the Bureau's 1998 Toyota Camry to Respondent's facility and was
10 greeted by Tony. The operator told Tony that he needed a smog inspection on the vehicle and
11 asked Tony if he needed to go to the Highway Patrol to have the brake and headlights checked.
12 Tony told the operator that he would do all of the work for \$100. The front brake rotors on the
13 Bureau-documented vehicle were machined beyond the manufacturer's rotor discard diameter
14 specifications, both headlamps were out of adjustment, and amber bulbs were installed in both
15 license plate lamps.

16 52. At approximately 10:50 a.m., Tony drove the vehicle into the service bay and onto the
17 EIS dynamometer. Tony then had the operator sign a work order/estimate and gave him a copy.
18 The operator observed a man with the name "Julio" on his shirt get into the vehicle and move it to
19 the adjacent service bay. Julio parked the vehicle, then set a single headlamp aiming device on
20 the left headlamp and then on the right headlamp. Julio checked the running lights, brake lights,
21 and turn signals. Julio then took a flash light and shone it through the spokes on the front wheels.
22 Julio raised the right rear of the vehicle and removed the right rear wheel and drum (the front of
23 the vehicle was never lifted). Julio took a tool with a hook on the end and appeared to lift the
24 edge of the wheel cylinder boot, then put the drum back on. Julio did not take any measurements.
25 Julio lowered the vehicle then parked it in the lot. Julio returned to the building and met with
26 Tony. Later, Tony provided the operator with an invoice, vehicle inspection report, Certificate of
27 Brake Adjustment Number BC 854346, and Certificate of Lamp Adjustment Number LC 841446.
28 The operator paid Tony \$100, then left the facility.

1 installed in the license plate lamps instead of white bulbs as required by California Vehicle Code
2 section 24601.

3 f. Respondent certified under penalty of perjury on Brake Certificate Number BC
4 854346 and Lamp Certificate Number LC 841446 that he performed the inspections of the brake
5 and lighting systems on the Bureau's 1998 Toyota Camry. In fact, Respondent's employee, Julio,
6 performed the inspections on the vehicle.

7 **TWENTY-THIRD CAUSE FOR DISCIPLINE**

8 **(Fraud)**

9 55. Respondent's automotive repair dealer registration is subject to disciplinary action
10 pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(4), Respondent committed an act
11 which constitutes fraud, as follows: Respondent obtained payment from the operator for
12 performing the applicable inspections, adjustments, or repairs of the brake and lighting systems
13 on the Bureau's 1998 Toyota Camry as specified by the Bureau and in accordance with the
14 Vehicle Code. In fact, Respondent failed to perform the necessary inspections, adjustments, and
15 repairs in compliance with Bureau Regulations or the Vehicle Code as set forth in paragraph 54
16 above.

17 **TWENTY-FOURTH CAUSE FOR DISCIPLINE**

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

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

22 a. **Section 9889.16:** Respondent issued Brake Certificate Number BC 854346 and
23 Lamp Certificate Number LC 841446 as to the Bureau's 1998 Toyota Camry when the vehicle
24 was not in compliance with Bureau Regulations or the requirements of the Vehicle Code.

25 b. **Section 9889.22:** Respondent willfully made false statements or entries on Brake
26 Certificate Number BC 854346 and Lamp Certificate Number LC 841446, as set forth in
27 paragraph 54 above.

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1 **TWENTY-FIFTH CAUSE FOR DISCIPLINE**

2 **(Violations of Regulations)**

3 57. Respondent's automotive repair dealer registration is subject to disciplinary action
4 pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(6), in that Respondent failed to
5 comply with provisions of California Code of Regulations, title 16, in the following material
6 respects:

7 a. **Section 3305, subdivision (a)**: Respondent failed to perform the inspection of the
8 brake system and inspection, adjustment, and repair of the lamp system on the Bureau's 1998
9 Toyota Camry in accordance with the specifications, instructions, and directives issued by the
10 Bureau and the vehicle manufacturer.

11 b. **Section 3316, subdivision (d)(2)**: Respondent issued Lamp Certificate Number LC
12 841446 as to the Bureau's 1998 Toyota Camry when all of the lamps, lighting equipment, and/or
13 related electrical systems on the vehicle were not in compliance with Bureau regulations, as set
14 forth in paragraph 54 above.

15 c. **Section 3321, subdivision (c)(2)**: Respondent issued Brake Certificate Number BC
16 854346 as to the Bureau's 1998 Toyota Camry when the brake system on the vehicle had not
17 been completely tested or inspected, as set forth in paragraph 54 above.

18 **TWENTY-SIXTH CAUSE FOR DISCIPLINE**

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

20 58. Respondent's official brake and lamp station licenses are subject to disciplinary
21 action pursuant to Bus. & Prof. Code section 9889.3, subdivisions (a) and (h), in that Respondent
22 violated the provisions of Bus. & Prof. Code sections 9889.16, and 9889.22 relating to
23 Respondent's licensed activities, as set forth in paragraph 56 above.

24 **TWENTY-SEVENTH CAUSE FOR DISCIPLINE**

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

26 59. Respondent's official brake and lamp station licenses are subject to disciplinary
27 action pursuant to Bus. & Prof. Code section 9889.3, subdivision (c), in that Respondent failed to

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1 comply with the provisions of California Code of Regulations, title 16, sections 3305, subdivision
2 (a), 3316, subdivision (d)(2), and 3321, subdivision (c)(2), as set forth in paragraph 57 above.

3 **TWENTY-EIGHTH CAUSE FOR DISCIPLINE**

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

5 60. Respondent's official brake and lamp station licenses are subject to disciplinary
6 action pursuant to Bus. & Prof. Code section 9889.3, subdivision (d), in that Respondent
7 committed an act involving dishonesty, fraud, or deceit whereby another was injured, as set forth
8 in paragraph 55 above.

9 **OTHER MATTERS**

10 61. Pursuant to Bus. & Prof. Code section 9884.7, subdivision (c), the Director may
11 refuse to validate, or may invalidate temporarily or permanently, the registrations for all places of
12 business operated in this state by Respondent Tusop Kim, owner of Baja Auto, upon a finding
13 that said Respondent has, or is, engaged in a course of repeated and willful violations of the laws
14 and regulations pertaining to an automotive repair dealer.

15 62. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Station License
16 Number RC 214103, issued to Respondent Tusop Kim, owner of Baja Auto, is revoked or
17 suspended, any additional license issued under Chapter 5 of the Health & Saf. Code in the name
18 of said licensee, including, but not limited to, Advanced Emission Specialist Technician License
19 Number EA 036194, may be likewise revoked or suspended by the Director.

20 63. Pursuant to Bus. & Prof. Code section 9889.9, if Official Lamp Station License
21 Number LS 214103, issued to Respondent Tusop Kim, owner of Baja Auto, is revoked or
22 suspended, any additional license issued under Articles 5 and 6 of Chapter 20.3 of the Bus. &
23 Prof. Code in the name of said licensee may be likewise revoked or suspended by the Director.

24 64. Pursuant to Bus. & Prof. Code section 9889.9, if Official Brake Station License
25 Number BS 214103, issued to Respondent Tusop Kim, is revoked or suspended, any additional
26 license issued under Articles 5 and 6 of Chapter 20.3 of the Bus. & Prof. Code in the name of said
27 licensee may be likewise revoked or suspended by the Director.

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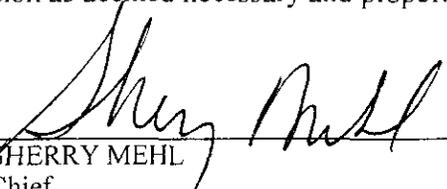
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9. Revoking or suspending any additional license issued under Articles 5 and 6 of Chapter 20.3 of the Business and Professions Code in the name of Tusop Kim;

10. Ordering Tusop Kim, individually, and as owner of Baja Auto, to pay the Director of Consumer Affairs the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED: 5/6/10


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