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7

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

11 In the Matter of the Accusation Against:

Case No. 79/08-66

12 **NAZ AUTO SERVICE, dba**
13 **NAZ AUTO SERVICE**
3300 Cesar Chavez
San Francisco, California 94110
14 **NASIR JAVAID, PRESIDENT**

ACCUSATION

SMOG CHECK

15 Automotive Repair Dealer Registration
No. AC 215194
16 Smog Check Station License No. RC 215194
Lamp Station License No. LC 215194, Class A
17 Brake Station License No. BC 215194, Class C

18 and

19 **NASIR JAVAID**
471 Joost Avenue
20 San Francisco, California 94127

21 Advanced Emission Specialist Technician
License No. EA 130168
22 Brake Adjuster License No. JC 130168C
Lamp Adjuster License No. RY 130168C

23 Respondents.
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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.

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Automotive Repair Dealer Registration

2. On or about March 8, 2001, the Bureau issued Automotive Repair Dealer Registration Number AC 215194, (“registration”) to Naz Auto Service, doing business as Naz Auto Service (“Respondent Auto Service”). The registration will expire on March 31, 2008, unless renewed.

Smog Check Station License

3. On or about May 16, 2001, the Bureau issued Smog Check Station License Number RC 215194 (“station license”) to Respondent Auto Service. The station license will expire on March 31, 2008, unless renewed.

Lamp Station License

4. On or about May 18, 2001, the Bureau issued Lamp Station License Number LC 215194, Class A to Respondent Auto Service. The lamp station license will expire on March 31, 2008, unless renewed.

Brake Station License

5. On or about May 18, 2001, the Bureau issued Brake Station License Number BC 215194, Class C to Respondent Auto Service. The brake station license will expire on March 31, 2008, unless renewed.

Advanced Emission Specialist Technician License

6. On a date uncertain in 1998, the Bureau issued Advanced Emission Specialist Technician License Number EA 130168 (“technician license”) to Nasir Javaid (“Respondent Javaid”). The technician license will expire on June 30, 2008, unless renewed.

Brake Adjustor License

7. On a date uncertain in 1993, the Bureau issued Brake Adjustor License Number JC 130168C to Respondent Javaid. The brake adjuster license will expire on June 30, 2010, unless renewed.

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1 **Lamp Adjuster License**

2 8. On a date uncertain in 1993, the Bureau issued Lamp Adjuster License
3 Number RY 130168A to Respondent Javaid. The lamp adjuster license will expire on June 30,
4 2010, unless renewed.

5 **STATUTORY PROVISIONS**

6 9. Section 9884.7 of the Business and Professions Code ("Code") states, in
7 pertinent part:

8 (a) The director, where the automotive repair dealer cannot show there
9 was a bona fide error, may refuse to validate, or may invalidate temporarily or
10 permanently, the registration of an automotive repair dealer for any of the
11 following acts or omissions related to the conduct of the business of the
12 automotive repair dealer, which are done by the automotive repair dealer or any
13 automotive technician, employee, partner, officer, or member of the automotive
14 repair dealer.

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

19 (4) Any other conduct which constitutes fraud.

20 (5) Conduct constituting gross negligence.

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

24 (b) Except as provided for in subdivision (c), if an automotive repair
25 dealer operates more than one place of business in this state, the director pursuant
26 to subdivision (a) shall only refuse to validate, or shall only invalidate temporarily
27 or permanently the registration of the specific place of business which has
28 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.

(c) Notwithstanding subdivision (b), the director may refuse to validate, or
may invalidate temporarily or permanently, the registration for all places of
business operated in 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. Code section 9884.8 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,

1 which shall also state separately the subtotal prices for service work and for parts,
2 not including sales tax, and shall state separately the sales tax, if any, applicable to
3 each. If any used, rebuilt, or reconditioned parts are supplied, the invoice shall
4 clearly state that fact. If a part of a component system is composed of new and
5 used, rebuilt or reconditioned parts, that invoice shall clearly state that fact. The
6 invoice shall include a statement indicating whether any crash parts are original
7 equipment manufacturer crash parts or nonoriginal equipment manufacturer
8 aftermarket crash parts. One copy of the invoice shall be given to the customer
9 and one copy shall be retained by the automotive repair dealer.

10 11. Code section 9884.9, subdivision (a), states:

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

27 (1) Make a notation on the invoice of the same facts set forth in the
28 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.

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

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1 13. Code section 9889.1 provides, in pertinent part, that the Director may
2 suspend or revoke any license issued under Articles 5 and 6 (commencing with Code section
3 9887.1) of the Automotive Repair Act.

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

8 15. Code section 9889.3 states, in pertinent part:

9 The director may suspend, revoke, or take other disciplinary action against
10 a license as provided in this article [Article 7 (commencing with Code section
11 9889.1) of the Automotive Repair Act] if the licensee or any partner, officer, or
12 director thereof:

13 (a) Violates any section of the Code which relates to his or her licensed
14 activities.

15 (c) Violates any of the regulations promulgated by the director pursuant to
16 this chapter [the Automotive Repair Act].

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

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

21 16. Code section 9889.9 states:

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

26 17. Code section 9889.22 states:

27 The willful making of any false statement or entry with regard to a
28 material matter in any oath, affidavit, certificate of compliance or noncompliance,
or 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.

 18. Code section 477 provides, in pertinent part, that "Board" includes
"bureau," "commission," "committee," "department," "division," "examining committee,"

1 “program,” and “agency.” “License” includes certificate, registration or other means to engage
2 in a business or profession regulated by the Code.

3 **REGULATORY PROVISIONS**

4 19. California Code of Regulations, title 16, section 3305 states, in pertinent
5 part:

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

10 20. California Code of Regulations, title 16, section 3316 states, in pertinent
11 part:

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

17 21. California Code of Regulations, title 16, section 3321 states, in pertinent
18 part:

19 (c)(2) Inspection of the Entire Brake System. Where the entire brake
20 system on any vehicle has been inspected or tested and found in compliance with
21 all requirements of the Vehicle Code and bureau regulations, and the vehicle has
22 been road-tested, the certificate shall certify that the entire system meets all such
23 requirements.

24 **COST RECOVERY**

25 22. Code section 125.3 provides, in pertinent part, that a Board may request
26 the administrative law judge to direct a licentiate found to have committed a violation or
27 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
28 and enforcement of the case.

UNDERCOVER OPERATION - SEPTEMBER 18-19, 2006

29 23. On or about September 18 - 19, 2006, a Bureau undercover operator using
30 the alias Jose Gonzales (“operator”) drove a Bureau documented 1993 Chevrolet Caprice,
31 California License Plate No. 4LSY836, to Respondent Auto Service’s facility. The only repairs
32 necessary were replacement of the two defective tail light bulbs. Further, the engine coolant

1 a. Respondent Auto Service falsely represented to the operator that the
2 headlamps were out of adjustment and needed to be adjusted when, in fact, that service was not
3 necessary.

4 b. Respondent Auto Service falsely represented on Invoice No. 22177 that
5 the headlamps had been adjusted when, in fact, that service had not been performed as invoiced.

6 c. Respondent Auto Service falsely represented on Lamp Adjustment
7 Certificate No. LC185837 that the lighting system had been inspected and/or repaired as required
8 when, in fact, the two (2) right rear tail lamp bulbs were inoperable.

9 d. Respondent Auto Service falsely represented to the operator that the
10 engine coolant thermostat was bad and needed to be replaced when, in fact, that part was in good
11 serviceable condition and not in need of replacement.

12 **SECOND CAUSE FOR DISCIPLINE**

13 **(Fraud)**

14 26. Respondent Auto Service has subjected its registration to discipline under
15 Code section 9884.7, subdivision (a)(4), in that on or about September 18-19, 2006, regarding
16 the 1993 Chevrolet Caprice, it committed acts which constitute fraud by receiving payment from
17 the operator, as follows:

18 a. For adjustment of the headlamps when, in fact, that service had not been
19 performed as invoiced.

20 b. For replacement of the engine coolant thermostat when, in fact, that repair
21 was not necessary.

22 **THIRD CAUSE FOR DISCIPLINE**

23 **(Failure to Comply with the Automotive Repair Act)**

24 27. Respondent Auto Service has subjected its registration to discipline under
25 Code section 9884.7, subdivision (a)(6), in that on or about September 18-19, 2006, regarding
26 the 1993 Chevrolet Caprice, Respondent failed to materially comply with the following Code
27 sections:

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1 a. **Section 9884.8:** Regarding Invoice No. 22177, Respondent Auto Service
2 failed to describe all service work done and parts supplied for a specific job, specifically
3 regarding the “convenience processing” fee of \$29.02.

4 b. **Section 9884.9, subdivision (a):** Respondent Auto Service failed to
5 provide the operator with a written estimated price for parts and labor for a specific job regarding
6 the replacement of the engine coolant temperature sensor and engine coolant thermostat.

7 c. **Section 9889.22:** Regarding Lamp Certificate No. LC185837,
8 Respondent Auto Service falsely represented that the lighting system had been inspected,
9 adjusted, and/or repaired as required when, in fact, the two (2) right rear tail lamp bulbs were
10 inoperable.

11 **FOURTH CAUSE FOR DISCIPLINE**

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

13 28. Respondent Auto Service has subjected its registration to discipline under
14 Code section 9884.7, subdivision (a)(6), in that on or about February 18-19, 2006, regarding the
15 1993 Chevrolet Caprice, he failed to comply with the following sections of California Code of
16 Regulations, title 16:

17 a. **Section 3305, subdivision (a):** Respondent Auto Service failed to
18 perform the lighting system inspection in accordance with current standards, specifications,
19 instructions, and directives issued by the Bureau.

20 b. **Section 3316, subdivision (d)(2):** Respondent failed to inspect the entire
21 lighting system on the vehicle.

22 **FIFTH CAUSE FOR DISCIPLINE**

23 **(Failure to Comply with Code and Regulations)**

24 29. Respondent has subjected its official lamp station license to discipline
25 under Code section 9889.3, subsections, (a) through (d), and (h), in that on or about
26 September 18-19, 2006, regarding the 1993 Chevrolet Caprice, it committed acts in violation of
27 the Code and California Code of Regulations, title 16, relating to Respondent’s licensed
28 activities, as set forth in paragraphs 22 through 27, above.

1 **SIXTH CAUSE FOR DISCIPLINE**

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

3 30. Respondent Javaid has subjected his lamp adjuster license to discipline
4 under Code section 9889.3, subdivision (a), in that on or about September 18-19, 2006, regarding
5 the 1993 Chevrolet Caprice, he failed to comply with provisions of Code section 9889.22.
6 Regarding Lamp Adjustment Certificate No. LC185837, Respondent Javaid certified that he had
7 inspected, adjusted, and/or repaired the lighting system when, in fact, the two (2) right rear tail
8 lamp bulbs were inoperable.

9 **SEVENTH CAUSE FOR DISCIPLINE**

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

11 31. Respondent Javaid has subjected his lamp adjuster license to discipline
12 under Code section 9889.3, subdivision (a), in that on or about September 18-19, 2006, regarding
13 the 1993 Chevrolet Caprice, he failed to comply with the following provisions of California
14 Code of Regulations, title 16:

15 a. **Section 3305, subdivision (a)**: Respondent Javaid failed to perform the
16 lamp inspections on the vehicle in accordance with current standards, specifications, instructions,
17 and directives issued by the Bureau.

18 b. **Section 3316, subdivision (d)(2)**: Respondent Javaid failed to inspect the
19 entire lighting system on the vehicle.

20 **EIGHTH CAUSE FOR DISCIPLINE**

21 **(Acts Involving Dishonesty, Fraud or Deceit)**

22 32. Respondent Javaid has subjected his lamp adjuster license to discipline
23 under Code section 9889.3, subdivision (d), in that on or about September 18-19, 2006, regarding
24 the 1993 Chevrolet Caprice, he committed acts involving dishonesty, fraud or deceit by issuing
25 Lamp Adjustment Certificate No. LC185837, certifying that the lamp equipment had been
26 inspected and/or repaired when, in fact, the two (2) right rear tail lamp bulbs were inoperable.

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1 **NINTH CAUSE FOR DISCIPLINE**

2 **(Failure to Comply with Chapter Requirements)**

3 33. Respondent Javaid has subjected his lamp adjuster license to discipline
4 under Code section 9889.3, subdivision (h), in that on or about September 18-19, 2006, regarding
5 the 1993 Chevrolet Caprice, he violated provisions of this Chapter, as set forth in paragraphs 28
6 through 31, above.

7 **UNDERCOVER OPERATION - DECEMBER 19-22, 2006**

8 34. On or about December 19-22, 2006, a Bureau undercover operator using
9 the alias William O'Brien ("operator") drove a Bureau documented 1994 Chevrolet pickup,
10 California License Plate No. 4X28574, to Respondent Auto Service's facility. The rear brake
11 drums were oversized and the left rear tail lamp was inoperable. Further, the manifold absolute
12 pressure ("MAP") sensor was defective. Due to these conditions, the vehicle could not pass a
13 brake, lamp, or smog inspection. The operator spoke with Respondent Javaid and requested
14 smog and brake and lamp inspections for certification. Respondent Javaid provided the operator
15 with an estimate for \$330.86. The operator left the vehicle. A short time later, Respondent
16 Javaid telephoned the operator and informed him that the vehicle failed the emissions portion of
17 the smog inspection. Respondent Javaid told the operator that the vehicle's "check engine" light
18 was on and that the vehicle needed an "emissions diagnosis". Respondent Javaid told the
19 operator that the brakes were fine; however, he would need to replace a rear tail light bulb and
20 adjust the headlights. The operator authorized the repairs.

21 35. Later that day, Respondent Javaid informed the operator that the oxygen
22 sensor was bad and that the total bill would be \$1,058.57. When asked by the operator if the
23 oxygen sensor was needed in order for the vehicle to pass the smog inspection, Respondent
24 Javaid confirmed it was.

25 36. On December 21, 2006, the operator contacted Respondent Javaid and he
26 informed the operator that the vehicle was still unable to pass the smog inspection. Respondent
27 Javaid said it was because the MAP sensor was bad and the fuel injector was leaking.
28 Respondent Javaid also told the operator that the revised estimate was \$1,730.23. The operator

1 again asked if these repairs were necessary for the vehicle to pass the smog inspection and
2 Respondent Javaid confirmed they were. The operator authorized the repairs. Later that day, the
3 operator returned to Respondent Auto Service to retrieve the vehicle. The operator paid
4 Respondent Javaid \$1,862.45 and received Estimate No. 059750, Invoice No. 22748, two VIRS,
5 Brake Adjustment Certificate No. BC368018, and Lamp Adjustment Certificate No. LC320940.

6 **TENTH CAUSE FOR DISCIPLINE**

7 **(Misleading Statements)**

8 37. Respondent Auto Service has subjected its registration to discipline under
9 Code section 9884.7, subdivision (a)(1), in that on or about December 19-22, 2006, regarding the
10 1994 Chevrolet pickup, it made statements which it knew or which by exercise of reasonable
11 care it should have known were untrue or misleading, as follows:

12 a. Respondent Auto Service falsely represented to the operator that the
13 headlamps were out of adjustment and needed to be adjusted when, in fact, that service was not
14 necessary.

15 b. Respondent Auto Service falsely represented on Brake Adjustment
16 Certificate No. BC368018 that the brake drums were satisfactory when, in fact, the rear brake
17 drums were oversized.

18 c. Respondent Auto Service falsely represented to the operator that the fuel
19 injectors and oxygen sensor needed to be replaced when, in fact, the only repair necessary was
20 replacement of the MAP sensor.

21 **ELEVENTH CAUSE FOR DISCIPLINE**

22 **(Fraud)**

23 38. Respondent Auto Service has subjected its registration to discipline under
24 Code section 9884.7, subdivision (a)(4), in that on or about December 19-22, 2006, regarding the
25 1994 Chevrolet pickup, it committed acts which constitute fraud, as follows:

26 a. Respondent Auto Service received payment from the operator to adjust the
27 headlights when, in fact, that service was not necessary.

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b. **Section 9884.9, subdivision (a):**

i. Regarding Estimate No. 059750, Respondent Auto Service failed to show the operator's authorization for additional repairs.

ii. Respondent Auto Service failed to obtain the operator's consent to exceed the original estimate.

c. **Section 9889.22:** Regarding Brake Certificate No. BC368018, Respondent Auto Service falsely represented that the brake drums were satisfactory when, in fact, the brake drums were oversized.

FIFTEENTH CAUSE FOR DISCIPLINE

(Failure to Comply with Regulations)

42. Respondent Auto Service has subjected its registration to discipline under Code section 9884.7, subdivision (a)(6), in that on or about December 19-22, 2006, regarding the 1994 Chevrolet pickup, he failed to comply with the following sections of California Code of Regulations, title 16:

a. **Section 3305, subdivision (a):** Respondent Auto Service failed to perform the brake inspection in accordance with current standards, specifications, instructions, and directives issued by the Bureau.

b. **Section 3321, subdivision (c)(2):** Respondent failed to inspect the entire brake system on the vehicle.

SIXTEENTH CAUSE FOR DISCIPLINE

(Failure to Comply with Code and Regulations)

43. Respondent has subjected its official brake station license to discipline under Code section 9889.3, subsections, (a) through (d), and (h), in that on or about December 19-22, 2006, regarding the 1994 Chevrolet pickup, it committed acts in violation of the Code and California Code of Regulations, title 16, relating to Respondent's licensed activities, as set forth in paragraphs 33 through 41, above.

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1 **SEVENTEENTH CAUSE FOR DISCIPLINE**

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

3 44. Respondent Javaid has subjected his brake adjuster license to discipline
4 under Code section 9889.3, subdivision (a), in that on or about December 19-22, 2006, regarding
5 the 1994 Chevrolet pickup, he failed to comply with provisions of Code section 9889.22.
6 Regarding Brake Adjustment Certificate No. BC368018, Respondent Javaid certified that he had
7 inspected the brake system and that the brake drums were satisfactory when, in fact, the brake
8 drums were oversized.

9 **EIGHTEENTH CAUSE FOR DISCIPLINE**

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

11 45. Respondent Javaid has subjected his brake adjuster license to discipline
12 under Code section 9889.3, subdivision (a), in that on or about December 19-22, 2006, regarding
13 the 1994 Chevrolet pickup, he failed to comply with the following provisions of California Code
14 of Regulations, title 16:

15 a. **Section 3305, subdivision (a)**: Respondent Javaid failed to perform the
16 brake inspection on the vehicle in accordance with current standards, specifications, instructions,
17 and directives issued by the Bureau.

18 b. **Section 3321, subdivision (c)(2)**: Respondent Javaid failed to inspect the
19 entire brake system on the vehicle.

20 **NINETEENTH CAUSE FOR DISCIPLINE**

21 **(Acts Involving Dishonesty, Fraud or Deceit)**

22 46. Respondent Javaid has subjected his brake adjuster license to discipline
23 under Code section 9889.3, subdivision (d), in that on or about December 19-22, 2006, regarding
24 the 1994 Chevrolet pickup, he committed acts involving dishonesty, fraud or deceit by issuing
25 Brake Adjustment Certificate No. BC368018, certifying that the rear brake drums were
26 satisfactory when, in fact, the rear brake drums were oversized.

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1 **TWENTIETH CAUSE FOR DISCIPLINE**

2 **(Failure to Comply with Chapter Requirements)**

3 47. Respondent Javaid has subjected his brake adjuster license to discipline
4 under Code section 9889.3, subdivision (h), in that on or about December 19-22, 2006, regarding
5 the 1994 Chevrolet pickup, he violated provisions of this Chapter, as set forth in paragraphs 42
6 through 45, above.

7 **UNDERCOVER OPERATION - FEBRUARY 26 -28, 2007**

8 48. On or about February 26-28, 2007, a Bureau undercover operator using the
9 alias Lawrence Tom ("operator") drove a Bureau documented 1986 Oldsmobile Cutlass
10 Supreme, California License Plate No. 1PSB269, to Respondent Auto Service's facility. The
11 rear brake drums had been machined beyond the manufacturer's specifications, the right rear tail
12 lamp was inoperable, and one of the headlamps was defective. Further, there was an open circuit
13 in the carburetor mixture control solenoid, causing the "check engine" light to be illuminated.
14 This condition also creates excessive tailpipe emissions. Due to these conditions, the vehicle
15 could not pass a brake, lamp, or smog inspection. The operator spoke with Respondent Javaid
16 and requested smog and brake and lamp inspections for certification. Respondent Javaid
17 provided the operator with an estimate for \$289.46. The operator left the vehicle. A short time
18 later, Respondent Javaid telephoned the operator and informed him that the vehicle passed the
19 brake and lamp inspections; however, the vehicle failed the smog inspection. Respondent Javaid
20 told the operator that because the vehicle's "check engine" light was illuminated, a diagnosis
21 would be required. Respondent Javaid also told the operator that the vehicle needed an
22 emissions diagnosis and that the cost for the additional diagnoses would be \$400. The operator
23 authorized the additional repairs.

24 49. At 1630 hours the same day, Respondent Javaid informed the operator that
25 there was a broken wire going to the carburetor solenoid, which needed to be replaced before the
26 vehicle could pass a smog inspection; however, the smog inspection had already been performed
27 and electronic Certificate of Compliance No. MO783336 had been issued at 1617 hours.

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TWENTY-SECOND CAUSE FOR DISCIPLINE

(Fraud)

52. Respondent Auto Service has subjected its registration to discipline under Code section 9884.7, subdivision (a)(4), in that on or about February 26-28, 2007, regarding the 1986 Oldsmobile Cutlass Supreme, it committed acts which constitute fraud by receiving payment from the operator to perform a “service engine soon” and emissions diagnosis when, in fact, the only repair necessary was to perform a diagnostic circuit check, retrieve the stored trouble code 23, and follow the diagnostic flow chart for trouble code.

TWENTY-THIRD CAUSE FOR DISCIPLINE

(Failure to Comply with the Automotive Repair Act)

53. Respondent Auto Service has subjected its registration to discipline under Code section 9884.7, subdivision (a)(6), in that on or about February 26-28, 2007, regarding the 1986 Oldsmobile Cutlass Supreme, Respondent failed to materially comply with the following Code sections:

a. **Section 9884.8:**

i. Regarding Estimate No. 061101, which was used as a final invoice, Respondent Auto Service failed to show subtotal prices for service work and parts. Further, the document does not specify the sales tax.

ii. Regarding Estimate No. 061101, which was used as a final invoice, Respondent Auto Service failed to describe all service work done and parts supplied for a specific job, specifically regarding the “convenience processing” fee of \$28.43.

b. **Section 9884.9, subdivision (a):** Regarding Estimate No. 061101, Respondent Auto Service failed to document the operator’s authorization for additional repairs.

c. **Section 9889.22:**

i. Regarding Brake Certificate No. BC368057, Respondent Auto Service falsely represented that the rear brake drums were satisfactory when, in fact, the rear brake drums were oversized.

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1 ii. Regarding Lamp Certificate No. LC360170, Respondent Auto
2 Service falsely represented that the lighting system had been inspected, adjusted, and/or repaired
3 when, in fact, the right rear tail lamp was inoperative and one of the headlights was defective.

4 **TWENTY-FOURTH CAUSE FOR DISCIPLINE**

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

6 54. Respondent Auto Service has subjected its registration to discipline under
7 Code section 9884.7, subdivision (a)(6), in that on or about February 26-28, 2007, regarding the
8 1986 Oldsmobile Cutlass Supreme, he failed to comply with the following sections of California
9 Code of Regulations, title 16:

10 a. **Section 3305, subdivision (a):** Respondent Auto Service failed to
11 perform the brake inspection in accordance with current standards, specifications, instructions,
12 and directives issued by the Bureau.

13 b. **Section 3316, subdivision (d)(2):** Respondent Auto Service failed to
14 inspect the entire lighting system.

15 c. **Section 3321, subdivision (c)(2):** Respondent failed to inspect the entire
16 brake system on the vehicle.

17 **TWENTY-FIFTH CAUSE FOR DISCIPLINE**

18 **(Failure to Comply with Code and Regulations)**

19 55. Respondent has subjected its official brake and lamp station licenses to
20 discipline under Code section 9889.3, subsections, (a) through (d), and (h), in that on or about
21 February 26-28, 2007, regarding the 1986 Oldsmobile Cutlass Supreme, it committed acts in
22 violation of the Code and California Code of Regulations, title 16, relating to Respondent's
23 licensed activities, as set forth in paragraphs 47 through 53, above.

24 **TWENTY-SIXTH CAUSE FOR DISCIPLINE**

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

26 56. Respondent Javaid has subjected his brake and lamp adjuster licenses to
27 discipline under Code section 9889.3, subdivision (a), in that on or about February 26-28, 2007,

28 ///

1 regarding the 1986 Oldsmobile Cutlass Supreme, he failed to comply with provisions of Code
2 section 9889.22, as follows:

3 a. Regarding Brake Adjustment Certificate No. BC368057, Respondent
4 Javaid certified that he had inspected the brake system and that the rear brake drums were
5 satisfactory when, in fact, the rear brake drums were oversized.

6 b. Regarding Lamp Adjustment Certificate No. LC360170, Respondent
7 certified that he had inspected, adjusted, and/or repaired the lighting system when, in fact, the
8 right rear tail lamp was inoperative and one of the headlights was defective.

9 **TWENTY-SEVENTH CAUSE FOR DISCIPLINE**

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

11 57. Respondent Javaid has subjected his brake and lamp adjuster licenses to
12 discipline under Code section 9889.3, subdivision (a), in that on or about February 26-28, 2007,
13 regarding the 1986 Oldsmobile Cutlass Supreme, he failed to comply with the following
14 provisions of California Code of Regulations, title 16:

15 a. **Section 3305, subdivision (a):** Respondent Javaid failed to perform the
16 brake inspection on the vehicle in accordance with current standards, specifications, instructions,
17 handbooks, and directives issued by the Bureau.

18 a. **Section 3316, subdivision (d)(2):** Respondent Javaid failed to inspect
19 the entire lighting system on the vehicle.

20 b. **Section 3321, subdivision (c)(2):** Respondent Javaid failed to inspect the
21 entire brake system on the vehicle.

22 **TWENTY-EIGHTH CAUSE FOR DISCIPLINE**

23 **(Acts Involving Dishonesty, Fraud or Deceit)**

24 58. Respondent Javaid has subjected his brake and lamp adjuster licenses to
25 discipline under Code section 9889.3, subdivision (d), in that on or about February 26-28, 2007,
26 regarding the 1986 Oldsmobile Cutlass Supreme, he committed acts involving dishonesty, fraud
27 or deceit, as follows:

28 ///

1 a. Respondent Javaid issued Lamp Adjustment Certificate No. LC360170,
2 certifying that he had inspected, adjusted, and/or repaired the lighting system when, in fact, the
3 right rear tail lamp was inoperative and one of the headlights was defective.

4 b. Respondent Javaid issued Brake Adjustment Certificate No. BC368057,
5 certifying that the brake drums were satisfactory when, in fact, the rear brake drums were
6 oversized.

7 **TWENTY-NINTH CAUSE FOR DISCIPLINE**

8 **(Failure to Comply with Chapter Requirements)**

9 59. Respondent Javaid has subjected his brake and lamp adjuster licenses to
10 discipline under Code section 9889.3, subdivision (h), in that on or about February 26-28, 2007,
11 he violated provisions of this Chapter, as set forth in paragraphs 54 through 57, above.

12 **OTHER MATTERS**

13 60. Under Code section 9884.7, subdivision (c), the director may invalidate or
14 refuse to validate, temporarily or permanently, the registrations for all places of business operated
15 in this state by Naz Auto Service, doing business as Naz Auto Service, upon a finding that it has,
16 or is, engaged in a course of repeated and willful violations of the laws and regulations pertaining
17 to an automotive repair dealer.

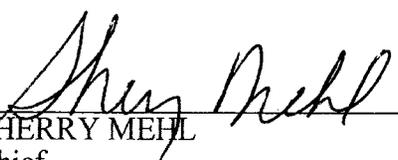
18 61. Under Code section 9889.9, if Official Brake Station License Number
19 BC 215194, Class C, issued to Naz Auto Service, doing business as Naz Auto Service, is
20 revoked or suspended, any additional license issued under this chapter in the name of said
21 licensee may be likewise revoked or suspended by the director.

22 62. Under Code section 9889.9, if Official Lamp Station License Number
23 LC 215194, Class A, issued to Naz Auto Service, doing business as Naz Auto Service, is revoked
24 or suspended, any additional license issued under this chapter in the name of said licensee may
25 be likewise revoked or suspended by the director.

26 63. Under Code section 9889.9, if Brake Adjuster License Number
27 JC 130168C, issued to Nasir Javaid, is revoked or suspended, any additional license issued under
28 this chapter in the name of said licensee may be likewise revoked or suspended by the director.

- 1 11. Revoking or suspending Brake Adjuster License Number JC 130168C,
- 2 issued to Nasir Javaid;
- 3 12. Revoking or suspending any additional license issued under this chapter in
- 4 the name of Nasir Javaid;
- 5 13. Revoking or suspending Lamp Adjuster License Number RY 130168C,
- 6 issued to Nasir Javaid;
- 7 14. Revoking or suspending any additional license issued under this chapter in
- 8 the name of Nasir Javaid;
- 9 15. Ordering Naz Auto Service and Nasir Javaid to pay the Bureau of
- 10 Automotive Repair the reasonable costs of the investigation and enforcement of this case,
- 11 pursuant to section 125.3; and,
- 12 16. Taking such other and further action as deemed necessary and proper.

14 DATED: 3/25/08

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16 
17 SHERRY MEHL
18 Chief
19 Bureau of Automotive Repair
20 Department of Consumer Affairs
21 State of California
22 Complainant