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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. 77/15-63

13 **SOUTH JAPANESE MOTORS**
14 **GHODRAT SOLTANI, OWNER**
6780 Franklin Boulevard
Sacramento, CA 95823

A C C U S A T I O N

15 **Automotive Repair Dealer Registration**
16 **No. ARD 228765**
Smog Check Station License No. RC 228765
17 Respondent.

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19 Patrick Dorais ("Complainant") alleges:

20 **PARTIES**

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

23 **Automotive Repair Dealer Registration**

24 2. On or about July 18, 2003, the Bureau issued Automotive Repair Dealer Registration
25 Number ARD 228765 (the "Registration") to Ghodrat Soltani, owner of South Japanese Motors
26 ("Respondent"). The Registration was in full force and effect at all times relevant to the charges
27 brought herein and will expire on July 31, 2016, unless renewed.

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1 reconditioned parts, that invoice shall clearly state that fact. The invoice shall include
2 a statement indicating whether any crash parts are original equipment manufacturer
3 crash parts or nonoriginal equipment manufacturer aftermarket crash parts. One copy
4 of the invoice shall be given to the customer and one copy shall be retained by the
5 automotive repair dealer.

6 6. Code section 118(b) states:

7 The suspension, expiration, or forfeiture by operation of law of a license issued
8 by a board in the department, or its suspension, forfeiture, or cancellation by order of
9 the board or by order of a court of law, or its surrender without the written consent of
10 the board, shall not, during any period in which it may be renewed, restored, reissued,
11 or reinstated, deprive the board of its authority to institute or continue a disciplinary
12 proceeding against the licensee upon any ground provided by law or to enter an order
13 suspending or revoking the license or otherwise taking disciplinary action against the
14 licensee on any such ground.

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

19 8. Code section 22 provides, in pertinent part, that "Board" as used in any provision of
20 this Code, refers to the board in which the administration of the provision is vested, and unless
21 otherwise provided, shall include "bureau," "commission," "committee," "department,"
22 "division," "examining committee," "program," and "agency."

23 9. Code section 477 provides, in pertinent part, that "License" includes certificate,
24 registration or other means to engage in a business or profession regulated by the Code.

25 10. Health and Safety Code ("Health & Saf. Code") section 44002 provides, in pertinent
26 part, that the Director has all the powers and authority granted under the Automotive Repair Act
27 for enforcing the Motor Vehicle Inspection Program.

28 11. 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:

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

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1 for ease of accessibility, and there is no need to remove the intake air plenum to access and
2 replace the MAP sensor. The Bureau representative determined that Respondent replaced the
3 MAP sensor but did not remove and replace the intake air plenum, as invoiced.

4 **FIRST CAUSE FOR DISCIPLINE**

5 (Untrue or Misleading Statements)

6 17. Respondent's Registration is subject to discipline under Code section 9884.7(a)(1), in
7 that, as regards the Bureau's 2001 Mitsubishi, Respondent made or allowed statements on his
8 behalf which he knew or which by exercise of reasonable care should have known to be untrue or
9 misleading, as follows:

10 a. On or about March 17, 2014, Respondent falsely represented to a Bureau operator
11 that the intake manifold had to be removed to replace the MAP sensor when, in fact, it did not
12 need to be removed.

13 b. On or about March 18, 2014, Respondent's employee falsely represented to a Bureau
14 operator that the intake air plenum had been removed when, in fact, it had not been.

15 c. On or about March 18, 2014, Respondent falsely represented to the Bureau operator
16 on Invoice No. [REDACTED] that the intake air plenum had been removed when, in fact, it had not been.

17 **SECOND CAUSE FOR DISCIPLINE**

18 (Fraudulent Acts)

19 18. Respondent's Registration is subject to discipline under Code section 9884.7(a)(4), in
20 that, as regards the Bureau's 2001 Mitsubishi, Respondent committed acts that constitute fraud,
21 by making false or misleading statements to the Bureau operator in order to induce the operator to
22 authorize unnecessary repairs on the vehicle, and then sold the operator the unnecessary repairs as
23 set forth in paragraphs 14 through 17, above.

24 **THIRD CAUSE FOR DISCIPLINE**

25 (Failure to Comply with the Automotive Repair Act)

26 19. Respondent's Registration is subject to discipline under Code section 9884.7(a)(6), in
27 that, as regards the Bureau's 2001 Mitsubishi, Respondent failed to materially comply with Code
28 Section 9884.8 by failing to charge the applicable sales tax on Invoice No. [REDACTED].

1 **UNDERCOVER OPERATION – JUNE 3-4, 2014**

2 20. On or about June 3, 2014, a Bureau undercover operator using an alias (the
3 “operator”) took a Bureau-documented 1999 Pontiac to Respondent’s facility and told
4 Respondent’s employee, “Jim” that the vehicle’s check engine light was on and the engine ran
5 rough. Jim recommended a diagnostic check for \$88 and to test drive the vehicle for \$44, a total
6 of \$132. The operator left the facility and, some time later, Jim told the operator over the
7 telephone that the spark plugs were fifteen years old and needed replacement and three fuel
8 injectors needed replacement. Jim stated that the repairs would cost \$828.21 and that the repairs
9 were needed to fix the check engine light. The operator authorized the repairs.

10 21. The operator retrieved the 1999 Pontiac the following day. Respondent provided the
11 operator with Invoice No. [REDACTED], totaling \$828.21, which the operator paid. Respondent charged
12 8.5% sales tax, when the applicable sales tax rate in effect for the location of Respondent’s
13 facility was 8.0%.

14 22. On or about June 20, 2014, a Bureau representative inspected the 1999 Pontiac using
15 Respondent’s Invoice No. [REDACTED] for comparison. The Bureau representative determined that
16 Respondent replaced three fuel injectors and the spark plugs on the 1999 Pontiac, when the only
17 repair needed was replacement of the #3 fuel injector.

18 **FOURTH CAUSE FOR DISCIPLINE**

19 (Untrue or Misleading Statements)

20 23. Respondent’s Registration is subject to discipline under Code section 9884.7(a)(1), in
21 that, as regards the 1999 Pontiac, on or about June 3, 2014, Respondent made or allowed
22 statements on his behalf which he knew or which by exercise of reasonable care should have
23 known to be untrue or misleading. Specifically, Respondent’s employee falsely represented to a
24 Bureau operator that six spark plugs and three fuel injectors needed replacement when, in fact, the
25 only repair necessary was the replacement of one fuel injector.

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1 **FIFTH CAUSE FOR DISCIPLINE**

2 (Fraudulent Acts)

3 24. Respondent's Registration is subject to discipline under Code section 9884.7(a)(4), in
4 that, as regards the Bureau's 1999 Pontiac, Respondent committed acts that constitute fraud, by
5 making false or misleading statements to the Bureau operator in order to induce the operator to
6 authorize unnecessary repairs on the vehicle, and then sold the operator the unnecessary repairs as
7 set forth in paragraphs 20 through 23, above.

8 **SIXTH CAUSE FOR DISCIPLINE**

9 (Failure to Comply with the Automotive Repair Act)

10 25. Respondent's Registration is subject to discipline under Code section 9884.7(a)(6), in
11 that, as regards the Bureau's 1999 Pontiac, Respondent failed to materially comply with Code
12 Section 9884.8 by failing to charge the applicable sales tax on Invoice No. [REDACTED]

13 **UNDERCOVER OPERATION – JUNE 11-12, 2014**

14 26. On or about June 11, 2014, a Bureau representative caused a Bureau-documented
15 1999 Chevrolet to be towed to Respondent's facility. The vehicle was accompanied by a Bureau
16 undercover operator using an alias (the "operator"). The operator told Respondent's employee,
17 "Rafael", that the vehicle would not start. Rafael recommended a diagnostic check for \$88. Later
18 that day Rafael spoke to the operator on the telephone, informing the operator that a new fuel
19 pump would correct the problem. Rafael said the cost of repairs would be \$842.13. The operator
20 authorized the repairs.

21 27. The operator retrieved the 1999 Chevrolet the following day. Rafael stated that the
22 fuel pump had been replaced and the vehicle should start. Respondent provided the operator with
23 Invoice No. [REDACTED] totaling \$969.73, which charged parts and labor for removal and replacement
24 of the fuel filter and fuel pump on the vehicle. The operator paid Respondent \$969.73.

25 28. On or about June 18, 2014, a Bureau representative inspected the 1999 Chevrolet
26 using Respondent's Invoice No. [REDACTED] for comparison. The only repair necessary was removal
27 and replacement of the defective fuel pump relay. The Bureau representative determined that
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1 Respondent replaced the fuel pump relay, as well as the fuel pump assembly, fuel filter and
2 daytime running lights relay.

3 **SEVENTH CAUSE FOR DISCIPLINE**

4 (Untrue or Misleading Statements)

5 29. Respondent's Registration is subject to disciplinary action under Code section
6 9884.7(a)(1), in that, as regards the 1999 Chevrolet, Respondent made or allowed statements on
7 his behalf which he knew or which by exercise of reasonable care should have known to be
8 untrue or misleading. Specifically, on or about June 11, 2014 and June 12, 2014, Respondent's
9 employee falsely represented to a Bureau operator that the fuel pump needed replacement and its
10 replacement would, and did, fix the vehicle when, in fact, the only repair needed was removal and
11 replacement of the fuel pump relay.

12 **EIGHTH CAUSE FOR DISCIPLINE**

13 (Fraudulent Acts)

14 30. Respondent's Registration is subject to disciplinary action under Code section
15 9884.7(a)(4), in that, as regards the Bureau's 1999 Chevrolet, Respondent committed acts that
16 constitute fraud, by making false or misleading statements to the Bureau operator in order to
17 induce the operator to authorize unnecessary repairs on the vehicle, and then sold the operator the
18 unnecessary repairs, as set forth in paragraphs 26 through 29, above.

19 **NINTH CAUSE FOR DISCIPLINE**

20 (Failure to Comply with the Automotive Repair Act)

21 31. Respondent's Registration is subject to disciplinary action under Code section
22 9884.7(a)(6), in that, as regards the Bureau's 1999 Chevrolet, Respondent failed to materially
23 comply with Code Section 9884.8, as follows:

- 24 a. Respondent failed to charge the applicable sales tax on Invoice No. [REDACTED].
25 b. Respondent failed to describe on Invoice No. [REDACTED] all work done on the vehicle.

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TENTH CAUSE FOR DISCIPLINE

(Violation of the Motor Vehicle Inspection Program)

32. Respondent's Station License is subject to disciplinary action under Health & Saf. Code section 44072.2(d), in that Respondent committed acts involving dishonesty, fraud, or deceit whereby another is injured, as set forth in paragraphs 18, 24, and 30, above.

MATTERS IN AGGRAVATION

33. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that on or about April 6, 2011, the Bureau issued Citation No. C2011-1138 against Respondent for violation of Health & Safety Code section 44012(f) (failure to determine that emission control devices and systems required by State and Federal law are installed and functioning correctly in accordance with test procedures) and California Code of Regulations, title 16, section 3340.35(c) (issuing a certificate of compliance to a vehicle that was improperly tested). On March 8, 2011, Respondent issued a certificate of compliance to a Bureau undercover vehicle with a missing positive crankcase ventilation (PCV) system. The Bureau assessed civil penalties totaling \$1,000 against Respondent for the violations. Respondent paid the fine on May 18, 2011.

OTHER MATTERS

34. Pursuant to Code section 9884.7(c), the Director may suspend, revoke, or place on probation the registration for all places of business operated in this state by Respondent Ghodrat Soltani, doing business as South Japanese Motors, upon a finding that Respondent has, or is, engaged in a course of repeated and willful violations of the laws and regulations pertaining to an automotive repair dealer.

35. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Station License Number RC 228765, issued to Ghodrat Soltani, doing business as South Japanese Motors, is revoked or suspended, any additional license issued under this chapter in the name of said licensee may be likewise revoked or suspended by the director.

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PRAYER

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

1. Revoking or suspending Automotive Repair Dealer Registration Number ARD 228765, issued to Ghodrat Soltani, doing business as South Japanese Motors;
2. Revoking or suspending any other automotive repair dealer registration issued to Ghodrat Soltani, doing business as South Japanese Motors;
3. Revoking or suspending Smog Check Station License Number RC 228765, issued to Ghodrat Soltani, doing business as South Japanese Motors;
4. Revoking or suspending any additional license issued under Chapter 5 of the Health and Safety Code in the name of Ghodrat Soltani;
5. Ordering Ghodrat Soltani 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; and,
6. Taking such other and further action as deemed necessary and proper.

DATED: June 11, 2015


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

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