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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. 77/13-21

13 **ALS AUTO CLINIC**  
14 **ALI SAKHA, OWNER**  
15 **6615 N. Blackstone, #110**  
16 **Fresno, CA 93710**

**A C C U S A T I O N**

17 **Automotive Repair Dealer Reg. No. ARD 236758**  
**Smog Check Station License No. RC 236758**

Respondent.

18 Complainant alleges:

19 **PARTIES**

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

22 2. In or about 2004, the Director of Consumer Affairs ("Director") issued Automotive  
23 Repair Dealer Registration Number ARD 236758 ("registration") to Ali Sakha ("Respondent"),  
24 owner of Als Auto Clinic. Respondent's registration was in full force and effect at all times  
25 relevant to the charges brought herein and will expire on December 31, 2012, unless renewed.

26 3. On or about March 16, 2009, the Director issued Smog Check Station License Number RC  
27 236758 to Respondent. Respondent's smog check station license was in full force and effect at all

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1 times relevant to the charges brought herein and will expire on December 31, 2012, unless  
2 renewed.

### 3 JURISDICTION

4 4. Business and Professions Code ("Bus. & Prof. Code") section 9884.7 provides that  
5 the Director may revoke an automotive repair dealer registration.

6 5. Bus. & Prof. Code section 9884.13 provides, in pertinent part, that the expiration of a  
7 valid registration shall not deprive the Director of jurisdiction to proceed with a disciplinary  
8 proceeding against an automotive repair dealer or to render a decision temporarily or permanently  
9 invalidating (suspending or revoking) a registration.

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

13 7. Health & Saf. Code section 44072.6 provides, in pertinent part, that the expiration or  
14 suspension of a license by operation of law, or by order or decision of the Director of Consumer  
15 Affairs, or a court of law, or the voluntary surrender of the license shall not deprive the Director  
16 of jurisdiction to proceed with disciplinary action.

### 17 STATUTORY AND REGULATORY PROVISIONS

18 8. Bus. & Prof. Code section 9884.7 states, in pertinent part:

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

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

28 . . . .

(3) Failing or refusing to give to a customer a copy of any document  
requiring his or her signature, as soon as the customer signs the document

(4) Any other conduct that constitutes fraud.

. . . .

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

2 9. Bus. & Prof. Code section 9884.7, subdivision (c), states, in pertinent part, that the  
3 Director may suspend, revoke or place on probation the registration for all places of business  
4 operated in this state by an automotive repair dealer upon a finding that the automotive repair  
5 dealer has, or is, engaged in a course of repeated and willful violations of the laws and regulations  
6 pertaining to an automotive repair dealer.

7 10. Bus. & Prof. Code section 9884.9, subdivision (a), states, in pertinent part:

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

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

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

28 12. Bus. & Prof. Code section 477, subdivision (b), states, in pertinent part, that a  
"license" includes "registration" and "certificate."

13. 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 14. Health & Saf. Code section 44072.8 states that when a license has been revoked or  
2 suspended following a hearing under this article, any additional license issued under this chapter  
3 in the name of the licensee may be likewise revoked or suspended by the director.

4 15. California Code of Regulations, title 16, section ("Regulation") 3303, subdivision (j),  
5 states:

6 "Authorization" means consent. Authorization shall consist of the  
7 customer's signature on the work order, taken before repair work begins.  
8 Authorization shall be valid without the customer's signature only when oral or  
9 electronic authorization is documented in accordance with applicable sections of  
10 these regulations.

11 16. Regulation 3356 states, in pertinent part:

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

15 . . . .

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

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

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

24 **COST RECOVERY**

25 17. Bus. & Prof. Code section 125.3 provides, in pertinent part, that a Board may request  
26 the administrative law judge to direct a licensee 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.

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1 **SIXTH CAUSE FOR DISCIPLINE**

2 **(Violations of the Bus. & Prof. Code)**

3 30. Respondent's registration is subject to disciplinary action pursuant to Bus. & Prof.  
4 Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with section 9884.9,  
5 subdivision (a), in the following material respects:

6 a. Respondent failed to provide the operator with a written estimate for the brake  
7 inspection on the Bureau's 1996 Toyota Camry, and failed to have the operator sign a work order  
8 authorizing the inspection.

9 b. Respondent failed to obtain the operator's authorization for the replacement of the  
10 front brake rotors on the Bureau's 1996 Toyota Camry.

11 c. Respondent failed to document on the invoice the operator's authorization for  
12 replacement of the front brake pads on the Bureau's 1996 Toyota Camry.

13 **SEVENTH CAUSE FOR DISCIPLINE**

14 **(Violations of Regulations)**

15 31. Respondent's registration is subject to disciplinary action pursuant to Bus. & Prof.  
16 Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with Regulation  
17 3356, subdivision (a)(2)(B), in a material respect, as follows: Respondent failed to state on the  
18 invoice whether the front brake pads and rotors on the Bureau's 1996 Toyota Camry were new,  
19 used, reconditioned, or rebuilt.

20 **UNDERCOVER OPERATION #3: 1995 FORD EXPLORER**

21 32. On October 18, 2011, an undercover operator with the Bureau ("operator") had the  
22 Bureau's 1995 Ford Explorer towed to Respondent's facility (the operator rode to the facility with  
23 the tow truck driver). The front brake pads on the Bureau-documented vehicle were worn and in  
24 need of replacement and the fuel pump inertia switch was disconnected, preventing the vehicle  
25 from starting. The operator met with Respondent and asked him to diagnose the no start  
26 condition and inspect the brakes on the vehicle. Respondent told the operator that there was no  
27 charge for the inspection, but the diagnosis would cost \$70. The operator signed and received a  
28 copy of a written estimate for the diagnosis and inspection and left the facility.



1 **NINTH CAUSE FOR DISCIPLINE**

2 **(Fraud)**

3 37. Respondent's registration is subject to disciplinary action pursuant to Bus. & Prof.  
4 Code section 9884.7, subdivision (a)(4), in that Respondent committed an act constituting fraud,  
5 as follows: Respondent replaced the fuel pump assembly on the Bureau's 1995 Ford Explorer  
6 without the operator's knowledge or authorization. Further, the fuel pump assembly was not in  
7 need of replacement, as set forth in subparagraph 36 (a) above.

8 **TENTH CAUSE FOR DISCIPLINE**

9 **(Violations of the Bus. & Prof. Code)**

10 38. Respondent's registration is subject to disciplinary action pursuant to Bus. & Prof.  
11 Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with section 9884.9,  
12 subdivision (a), in a material respect, as follows: Respondent failed to obtain the operator's  
13 authorization for the replacement of the front brake pads and fuel pump assembly on the Bureau's  
14 1995 Ford Explorer.

15 **ELEVENTH CAUSE FOR DISCIPLINE**

16 **(Violations of Regulations)**

17 39. Respondent's registration is subject to disciplinary action pursuant to Bus. & Prof.  
18 Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with Regulation  
19 3356, subdivisions (a)(2)(A) and (a)(2)(B), in the following material respects:

20 a. **Subdivision (a)(2)(A)**: Respondent failed to record on the invoice the repair of the  
21 fuel pump inertia switch on the Bureau's 1995 Ford Explorer.

22 b. **Subdivision (a)(2)(B)**: Respondent failed to state on the invoice whether the front  
23 brake pads and fuel pump assembly on the Bureau's 1995 Ford Explorer were new, used,  
24 reconditioned, or rebuilt.

25 **TWELFTH CAUSE FOR DISCIPLINE**

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

27 40. Respondent's smog check station license is subject to disciplinary action pursuant to  
28 Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed dishonest,

1 fraudulent, or deceitful acts whereby another was injured, as set forth in paragraphs 22 and 37  
2 above.

3 **OTHER MATTERS**

4 41. Pursuant to Bus. & Prof. Code section 9884.7, subdivision (c), the Director may  
5 suspend, revoke, or place on probation the registration for all places of business operated in this  
6 state by Respondent Ali Sakha, owner of Als Auto Clinic, upon a finding that Respondent has, or  
7 is, engaged in a course of repeated and willful violations of the laws and regulations pertaining to  
8 an automotive repair dealer.

9 42. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Station License  
10 Number RC 236758, issued to Ali Sakha, owner of Als Auto Clinic, is revoked or suspended, any  
11 additional license issued under this chapter in the name of said licensee may be likewise revoked  
12 or suspended by the director.

13 **PRAYER**

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

16 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD  
17 236758, issued to Ali Sakha, owner of Als Auto Clinic;

18 2. Revoking or suspending any other automotive repair dealer registration issued to Ali  
19 Sakha;

20 3. Revoking or suspending Smog Check Station License Number RC 236758, issued to  
21 Ali Sakha, owner of Als Auto Clinic;

22 4. Revoking or suspending any additional license issued under Chapter 5 of the Health  
23 and Safety Code in the name of Ali Sakha;

24 5. Ordering Ali Sakha, owner of Als Auto Clinic, to pay the Director of Consumer  
25 Affairs the reasonable costs of the investigation and enforcement of this case, pursuant to  
26 Business and Professions Code section 125.3;

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

DATED: November 16, 2012 John WALLAUCH by 

JOHN WALLAUCH  
Chief  
Bureau of Automotive Repair  
Department of Consumer Affairs  
State of California  
*Complainant*

SA2012105058