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

In the Matter of the Accusation Against**:** **BRAKE LAND, LLC, DBA BRAKE LAND, MOHAMMAD CHITSAZZADEH, MANSOUREH A. SHAJARI** **22734 Ventura Blvd.** **Woodland Hills, CA 91364** **Automotive Repair Dealer Registration No. ARD 237478;** **Smog Check, Station License No. RC 237478** Respondent.	Case No. 79/20-2200 **ACCUSATION**

PARTIES

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

2. On or about January 1, 2005, the Bureau of Automotive Repair issued Automotive Repair Dealer Registration Number ARD 237478 to Brake Land, LLC, dba Brake Land, Mohammad Chitsazzadeh, Mansoureh A. Shajari (Respondent). The Automotive Repair Dealer Registration was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2021, unless renewed.

3. On or about October 26, 2006, the Bureau of Automotive Repair issued Smog Check, Station License Number RC 237478 to Brake Land, LLC, dba Brake Land, Mohammad Chitsazzadeh, Mansoureh A. Shajari (Respondent). The Smog Check, Station License was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2021, unless renewed.

JURISDICTION

4. This Accusation is brought before the Director of the Department of Consumer Affairs (Director) for the Bureau of Automotive Repair, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

5. Sections 22 and 477 of the Code provide, in pertinent part, that "board" includes bureau. Sections 23.7 and 477 provide, in pertinent part, that "license" includes certificate, registration or other means to engage in a business or profession regulated by the Code.

6. Section 9884.22 of the Code provides, in pertinent part:

> Notwithstanding any other provision of law, the director may revoke, suspend, or deny at any time any registration required by this article on any of the grounds for disciplinary action provided in this article. The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the director shall have all the powers granted therein

7. Section 118, subsection (b), of the Code provides that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Director of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

8. Section 9884.13 of the Code 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.

9. Section 44072.4 of the Health and Safety Code states:

> The director may take disciplinary action against any licensee after a hearing as provided in this article by any of the following:

(a) Imposing probation upon terms and conditions to be set forth by the director.

(b) Suspending the license.

(c) Revoking the license.

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

STATUTORY PROVISIONS AND REGULATIONS

11. Section 9884.7 of the Code states:

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

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

(2) Causing or allowing a customer to sign any work order that does not state the repairs requested by the customer or the automobile's odometer reading at the time of repair.

(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 which constitutes fraud.

(5) Conduct constituting gross negligence.

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

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

(8) Making false promises of a character likely to influence, persuade, or induce a customer to authorize the repair, service, or maintenance of automobiles.

(9) Having repair work done by someone other than the dealer or his or her employees without the knowledge or consent of the customer unless the dealer can demonstrate that the customer could not reasonably have been notified.

(10) Conviction of a violation of Section 551 of the Penal Code.

Upon denial of registration, the director shall notify the applicant thereof, in writing, by personal service or mail addressed to the address of the applicant set forth in the application, and the applicant shall be given a hearing under Section 9884.12 if, within 30 days thereafter, he or she files with the bureau a written request for hearing, otherwise the denial is deemed affirmed.

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

(c) Notwithstanding subdivision (b), the director may suspend, revoke, or place on probation 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.

12. Section 9884.8 of the Code 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, which shall also state separately the subtotal prices for service work and for parts, not including sales tax, and shall state separately the sales tax, if any, applicable to each. If any used, rebuilt, or reconditioned parts are supplied, the invoice shall clearly state that fact. If a part of a component system is composed of new and used, rebuilt or reconditioned parts, that invoice shall clearly state that fact. The invoice shall include a statement indicating whether any crash parts are original equipment manufacturer crash parts or nonoriginal equipment manufacturer aftermarket crash parts. One copy of the invoice shall be given to the customer and one copy shall be retained by the automotive repair dealer.

13. Section 9884.9 of the Code states:

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

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

(b) The automotive repair dealer shall include with the written estimated price a statement of any automotive repair service that, if required to be done, will be done by someone other than the dealer or his or her employees. No service shall be done by other than the dealer or his or her employees without the consent of the customer, unless the customer cannot reasonably be notified. The dealer shall be responsible, in any case, for any service in the same manner as if the dealer or his or her employees had done the service.

(c) In addition to subdivisions (a) and (b), an automotive repair dealer, when doing auto body or collision repairs, shall provide an itemized written estimate for all parts and labor to the customer. The estimate shall describe labor and parts separately and shall identify each part, indicating whether the replacement part is new, used, rebuilt, or reconditioned. Each crash part shall be identified on the written estimate and the written estimate shall indicate whether the crash part is an original equipment manufacturer crash part or a nonoriginal equipment manufacturer aftermarket crash part.

(d) A customer may designate another person to authorize work or parts supplied in excess of the estimated price, if the designation is made in writing at the time that the initial authorization to proceed is signed by the customer. The bureau may specify in regulation the form and content of a designation and the procedures to be followed by the automotive repair dealer in recording the designation. For the purposes of this section, a designee shall not be the automotive repair dealer providing repair services or an insurer involved in a claim that includes the motor vehicle being repaired, or an employee or agent or a person acting on behalf of the dealer or insurer.

14. Section 9884.11 of the Code states that "[e]ach automotive repair dealer shall maintain any records that are required by regulations adopted to carry out this chapter [the Automotive Repair Act]. Those records shall be open for reasonable inspection by the chief or other law enforcement officials. All of those records shall be maintained for at least three years."

15. California Code of Regulations, title 16, section 3356, states:

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

(1) The invoice shall show the automotive repair dealer's registration number and the corresponding business name and address as shown in the Bureau's records. If the automotive repair dealer's telephone number is shown, it shall comply with the requirements of subsection (b) of Section 3371 of this chapter.

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

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

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

(C) The subtotal price for all service and repair work performed.

(D) The subtotal price for all parts supplied, not including sales tax.

(E) The applicable sales tax, if any.

(b) If a customer is to be charged for a part, that part shall be specifically listed as an item in the invoice, as provided in subparagraph (B) of paragraph (2) of subsection (a) above. If that-item is not listed in the invoice, it shall not be regarded as a part, and a separate charge may not be made for it.

(c) Separate billing in an invoice for items generically noted as shop supplies, miscellaneous parts, or the like, is prohibited.

(d) The automotive repair dealer shall give the customer a legible copy of the invoice and shall retain a legible copy as part of the automotive repair dealer's records pursuant to Section 9884.11 of the Business and Professions Code and Section 3358 of this article.

16. Health and Safety Code section 44072.2 provides, in pertinent part, that:

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 Safety Code, section 44000 *et seq*.)] and the regulations adopted pursuant to it, which related to the licensed activities.

…

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

17. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee 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, with failure of the licensee to comply subjecting the license to not being

renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

FACTUAL ALLEGATIONS

18. At all times alleged herein, Respondents were acting in the course and within the scope of a technician, employee, partner, officer, or member of Respondent Brake Land LLC.

Undercover Operation: 2008 Toyota

19. On February 4, 2020, an undercover operator with the Bureau took the Bureau's 2008 Toyota to Respondent's facility. At the time of the undercover run, the only repair the 2008 Toyota required was the replacement of the front brake pads.

20. When the undercover operator arrived at Respondent's facility, he met with Respondent Mohammad Chitsazzadeh and told Mr. Chitsazzadeh that he wanted the 2008 Toyota's brakes checked. Mr. Chitsazzadeh agreed to have Respondent inspect the 2008 Toyota, but Respondent did not provide the operator with a written estimate.

21. Shortly thereafter, Respondent informed the operator that the 2008 Toyota required front brake pad replacement and rear brake shoe replacement, and that the total cost of these repairs would be $360. The operator told Respondent that Respondent was authorized to make the quoted repairs.

22. Later in the day on February 4, 2020, Respondent called the operator to inform him that the 2008 Toyota was ready. The operator paid the quoted $360, was given an invoice by Respondent, and retrieved the 2008 Toyota from Respondent. The invoice did not state whether the replacement parts were new, used, reconditioned, or rebuilt.

23. After the operator retrieved the vehicle from Respondent, the operator returned the 2008 Toyota to the Bureau's investigator; the Bureau's investigator confirmed that the front brake pads and the rear brake shoes had been replaced.

Undercover Operation: 2005 Toyota

24. On June 10, 2020, an undercover operator with the Bureau took the Bureau's 2005 Toyota to Respondent's facility. At the time of the undercover run, the only repair the 2005 Toyota required was the replacement of the front brake pads.

25. When the undercover operator arrived at Respondent's facility, he met with Respondent Mohammad Chitsazzadeh and told Mr. Chitsazzadeh that he wanted the 2005 Toyota's brakes inspected. Mr. Chitsazzadeh agreed that Respondent would inspect the 2005 Toyota, but Respondent did not provide the operator with a written estimate.

26. Shortly thereafter, Respondent informed the operator that the 2005 Toyota required front brake pad replacement, rear drum brake adjustment and a brake master cylinder replacement, and that the total cost of these repairs would be $620. The operator told Respondent that Respondent was authorized to make the quoted repairs. The operator was then presented with an estimate to sign, which he did, but Respondent did not thereafter give the operator a copy of the estimate.

27. On June 11, 2020, the operator returned to Respondent's facility. The operator paid Respondent $650.76, was given an invoice by Respondent, and retrieved the 2005 Toyota from Respondent. The invoice did not state whether the replacement parts were new, used, reconditioned, or rebuilt.

28. After the operator retrieved the 2005 Toyota from Respondent, the operator returned the 2005 Toyota to the Bureau's investigator; the Bureau's investigator confirmed that the front brake pads and the brake master cylinder had been replaced, and that the rear brake shoes had been adjusted.

FIRST CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

29. Paragraphs 18-28 are incorporated herein by this reference as if fully set forth.

30. Respondent is subject to disciplinary action under Code section 9884.7, subdivision (a)(1), in that Respondent falsely told undercover operators that their respective automobiles required repairs which the automobiles did not in fact require.

SECOND CAUSE FOR DISCIPLINE

(Fraud)

31. Paragraphs 18-28 are incorporated herein by this reference as if fully set forth.

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32. Respondent is subject to disciplinary action under Code 9884.7, subdivision (a)(4), in that Respondent falsely told undercover operators that their respective automobiles required repairs which, as Respondent knew when Respondent made the subject representations, the automobiles did not in fact require. Respondent intended the operators to rely on these representations, the operators reasonably and actually relied on Respondent's representations, and suffered damages as a result.

THIRD CAUSE FOR DISCIPLINE

(Estimate and Authorization Requirements)

33. Paragraphs 18-28 are incorporated herein by this reference as if fully set forth.

34. Respondent is subject to disciplinary action under Code section 9884.9(a) in that Respondent did not provide the operator with a written estimate related to the 2008 Toyota.

35. Respondent is subject to disciplinary action under Code section 9884.7(a)(3) in that Respondent did not provide the operator with a copy of the signed written estimate related to the 2005 Toyota.

FOURTH CAUSE FOR DISCIPLINE

(Records Requirements)

36. Paragraphs 18-28 are incorporated herein by this reference as if fully set forth.

37. Respondent is subject to disciplinary action under Code section 9884.11 in that, on June 24 and June 30, 2020, Bureau representatives demanded that Respondent provide copies of Respondent's records related to the 2008 Toyota and to the 2005 Toyota. However, Respondent refused to provide Bureau representatives with the subject records despite repeated requests therefor.

FIFTH CAUSE FOR DISCIPLINE

(False or Misleading Statements)

38. Paragraphs 18-28 are incorporated herein by this reference as if fully set forth.

39. Respondent is subject to disciplinary action under Health and Safety Code section 44072.2 subsection (d), in that Respondent committed dishonest acts by falsely telling undercover

operators that their respective automobiles required repairs which the automobiles did not in fact require.

DISCIPLINARY CONSIDERATIONS

40. On January 3, 2020, the Bureau held a Proactive Conference with Respondent. A consumer complaint was discussed at this conference, and Bureau representatives discussed concerns that Respondent had failed to comply with estimate requirements for auto body repairs, had provided incomplete invoices, and had failed to make records available for inspection. During this conference, Respondent was advised about violations of the Business and Professions Code, the requirement to comply with all provisions of the Automotive Repair Act, that future violations may lead to legal action, and that issues addressed at the conference could be incorporate into future legal action.

OTHER MATTERS

41. Pursuant to Code section 9884.7, subdivision (c), the director may suspend, revoke, or place on probation the registrations for all places of business operated in this state by Respondent upon a finding that Respondent has, or is, engaged in a course of repeated and willful violation of the laws and regulations pertaining to an automotive repair dealer.

42. Pursuant to Health and Safety Code section 44072.8, if Smog Check, Station License Number RC 237478, issued to Respondent, is revoked or suspended, any additional license issued under Chapter 5, Part 5, Division 26 of the Health and Safety Code in the name of said licensee may be likewise revoked or suspended by the director.

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 237478, issued to Brake Land, LLC, dba Brake Land, Mohammad Chitsazzadeh, Mansoureh A. Shajari;

2. Revoking or suspending any other Automotive Repair Dealer Registration issued to Brake Land, LLC;

3. Revoking or suspending Smog Check, Station License Number RC 237478, issued to Brake Land, LLC, dba Brake Land, Mohammad Chitsazzadeh, Mansoureh A. Shajari;

4. Revoking or suspending any other license issued under Chapter 5, Part 5, Division 26 of the Health and Safety Code in the name of Brake Land, LLC;

5. Ordering Brake Land to pay the Bureau of Automotive Repair 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: ___September 18, 2020_

Signature on File

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

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