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8
9 **BEFORE THE**
DEPARTMENT OF CONSUMER AFFAIRS
10 **FOR THE BUREAU OF AUTOMOTIVE REPAIR**
11 **STATE OF CALIFORNIA**
12

13 In the Matter of the Accusation and Petition to
14 Revoke Probation Against:

15 **BRAKE LAND, LLC, DBA BRAKE LAND,**
16 **MOHAMMAD CHITSAZZADEH,**
MANSOUREH A. SHAJARI
17 **22734 Ventura Blvd.**
Woodland Hills, CA 91364

18 **Automotive Repair Dealer Registration No.**
19 **ARD 237478**
20 **Smog Check Station License No. RC 237478**

21 Respondent.

Case No. 77/22-4431

**ACCUSATION AND PETITION TO
REVOKE PROBATION**

22
23 **PARTIES**

24 1. Patrick Dorais (Complainant) brings this Accusation and Petition to Revoke
25 Probation solely in his official capacity as the Chief of the Bureau of Automotive Repair,
26 Department of Consumer Affairs.

27 2. On or about January 1, 2005, the Bureau of Automotive Repair issued Automotive
28 Repair Dealer Registration Number ARD 237478 to Brake Land, LLC, dba Brake Land,

1 Mohammad Chitsazzadeh, Mansoureh A. Shajari (Respondent). The Automotive Repair Dealer
2 Registration was in full force and effect at all times relevant to the charges brought herein and
3 will expire on January 31, 2023, unless renewed.

4 3. On or about October 26, 2006, the Bureau of Automotive Repair issued Smog Check
5 Station License Number RC 237478 to Respondent. The Smog Check Station License was in full
6 force and effect at all times relevant to the charges brought herein and will expire on January 31,
7 2023, unless renewed.

8 4. In a disciplinary action titled *In the Matter of the Accusation Against Brake Land,*
9 *LLC, dba Brake Land, Mohammad Chitsazzadeh, Mansoureh A. Shajari*, Case No. 79/20-2200,
10 the Bureau of Automotive Repair issued a Decision and Order, effective April 15, 2021, in which
11 Respondent's Automotive Repair Dealer Registration Number ARD 237478 and Smog Check
12 Station License Number RC 237478 were revoked. However, the revocations were stayed and
13 Respondent's Automotive Repair Dealer Registration and Smog Check Station License were
14 placed on probation for five (5) years with certain terms and conditions. A copy of that Decision
15 and Order is attached as Exhibit A and is incorporated by reference.

16 **JURISDICTION PROVISIONS FOR ACCUSATION**

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

21 6. Section 477 provides that "Board" includes "bureau," "commission," "committee,"
22 "department," "division," "examining committee," "program," and "agency." "License" includes
23 certificates, registrations, or other means to engage in a business or profession regulated by the
24 Code.

25 7. Section 9884.7 of the Code provides that the Director may revoke an automotive
26 repair dealer registration.

27 8. Section 9884.13 of the Code provides, in pertinent part, that the expiration of a valid
28 registration shall not deprive the Director of jurisdiction to proceed with a disciplinary proceeding

1 against an automotive repair dealer or to render a decision temporarily or permanently
2 (suspending or revoking) a registration.

3 9. Section 9884.22, subdivision (a), of the Code states:

4 (a) Notwithstanding any other provision of law, the director may revoke,
5 suspend, or deny at any time any registration required by this article on any of the
6 grounds for disciplinary action provided in this article. The proceedings under this
7 article shall be conducted in accordance with Chapter 5 (commencing with Section
8 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the director
9 shall have all the powers granted therein.

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

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

17 **STATUTORY PROVISIONS FOR ACCUSATION**

18 12. Section 9884.7 of the Code 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 . . .

(4) Any other conduct that constitutes fraud.

. . .

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

. . .

(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.

13. Section 9884.9 of the Code states, in pertinent part:

(a) The automotive repair dealer shall give to the customer a written estimated price for labor and parts necessary for a specific job, except as provided in subdivision (e). 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, or the posted price specified in subdivision (e), without the oral or written consent of the customer that shall be obtained at some time after it is determined that the estimated or posted price is insufficient and before the work not estimated or posted is done or the parts not estimated or posted are supplied. Written consent or authorization for an increase in the original estimated or posted 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.

...

14. Health and Safety 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.

...

15. Health and Safety Code section 44072.8 states:

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.

REGULATORY PROVISIONS FOR ACCUSATION

16. California Code of Regulations, title 16, section 3353 provides, in pertinent part:

An estimate shall be provided to and authorized by the customer before any work commences. The estimate shall meet the requirements of Business and Professions Code section 9884.9 as well as the following:

(a) Estimate for Parts and Labor. Every automotive repair dealer shall give to each customer an estimate containing the estimated price for parts and labor for a specific job prior to obtaining authorization. Each part listed in the estimate shall be new unless specifically identified as a used, rebuilt, or reconditioned part.

...

17. California Code of Regulations, title 16, section 3354 provides, in pertinent part:

(a) Exceeding Original Estimate. Except as provided in subsection (c), before any additional diagnosis or repair is commenced, and before any additional charges accrue for labor or parts in excess of the original estimated and authorized price, the automotive repair dealer shall:

(1) give the customer an estimate that describes all additional parts and labor, provides the cost of all additional parts and labor, and provides a total revised cost; and

(2) obtain customer authorization and record the authorization as specified in sections 3353.1 and 3356 of this Article and section 9884.9 of the Business and Professions Code.

...

18. California Code of Regulations, title 16, section 3371 provides:

No automotive repair dealer shall publish, utter, or make or cause to be published, uttered, or made any false or misleading statement or advertisement which is known to be false or misleading, or which by the exercise of reasonable care should be known to be false or misleading. Advertisements and advertising signs shall clearly show the name and address listed on the automotive repair dealer's State registration certificate.

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1 19. California Code of Regulations, title 16, section 3373 provides:

2 No automotive repair dealer or individual in charge shall, in filling out an
3 estimate, invoice, or work order, or record required to be maintained by section
4 3340.15(e) of this chapter, withhold therefrom or insert therein any statement or
5 information which will cause any such document to be false or misleading, or where
6 the tendency or effect thereby would be to mislead or deceive customers, prospective
7 customers, or the public.

8 **COST RECOVERY FOR ACCUSATION**

9 20. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
10 administrative law judge to direct a licensee found to have committed a violation or violations of
11 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
12 enforcement of the case, with failure of the licensee to comply subjecting the license to not being
13 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
14 included in a stipulated settlement.

15 **PROBATION CONFERENCES**

16 21. On or about April 15, 2021, the Bureau held an initial Probation Conference with
17 Respondent. At the conference, Respondent was advised that the Bureau may audit repair
18 records and/or send undercover vehicle(s) to confirm compliance with the Automotive Repair
19 Act. Respondent was also advised that failure to adhere to the Laws and Regulations of the
20 Automotive Repair Act could result in disciplinary action against Respondent's license with
21 the Bureau.

22 22. Between August 2, 2021 and December 3, 2021, the Bureau held two additional
23 Probation Conferences with Respondent. During these conferences, Respondent was again
24 advised of the requirements and the terms and conditions of his probation.

25 **BUREAU UNDERCOVER OPERATION**

26 23. Between on or about February 23, 2022 and March 10, 2022, a Bureau Representative
27 inspected and documented the condition of the Bureau's 2007 Nissan (Nissan) at the Bureau's
28 Forensic Documentation Laboratory. The Bureau Representative inspected, marked, and
photographed components of the Nissan's brake system. Based on the condition of the vehicle,
the Bureau Representative documented that the Nissan's front brake pads needed to be replaced.

1 The Bureau Representative verified that all other brake system components, including the front
2 brake rotors, were in good working condition, within specification, and did not need to be
3 replaced. Accordingly, the only service work that was needed on the Nissan was replacement of
4 the front brake pads.

5 24. On or about March 23, 2022 at approximately 0920 hours, an undercover operator
6 took the Nissan to Respondent's station and requested a brake inspection from an employee who
7 identified himself as "Mike." Respondent failed to provide a written estimate prior to
8 commencing the brake inspection.

9 25. After the brake inspection, Mike informed the undercover operator that the Nissan's
10 front brake pads and front brake rotors needed to be replaced, and that the cost for the repairs
11 would be \$380.00. The undercover operator told Mike that she would return later that day if she
12 got authorization to proceed with the repairs. The undercover operator also requested Mike
13 provide her with a written estimate for the repairs. Mike agreed and provided a written estimate
14 for his diagnosis of replacement of the front brake pads and front brake rotors for \$380.00. Mike
15 then informed the undercover operator that \$60.00 was owed for the brake inspection. The
16 undercover operator paid \$60.00 and departed Respondent's station with the Nissan.

17 26. At approximately 0956 hours, the undercover operator met with the Bureau
18 Representative regarding Respondent's diagnosis and estimate for repairs to the Nissan. The
19 Bureau Representative authorized the undercover operator to return to Respondent's station to
20 complete the repairs.

21 27. At approximately 1007 hours, the undercover operator arrived at Respondent's
22 station, spoke with Mike, and authorized the replacement of the front brake rotors and front brake
23 pads in accordance with his prior diagnosis and estimate. Mike agreed to credit the \$60.00 the
24 undercover operator had previously paid for the brake inspection towards the total cost for the
25 repairs.

26 28. Once the repairs were completed, at approximately 1439 hours, the undercover
27 operator returned to Respondent's station to retrieve the vehicle. Respondent provided an invoice
28 that listed the total cost of the repairs to be \$460.00. Because Mike had agreed to credit the

1 \$60.00 previously paid for the brake inspection, the undercover operator paid \$400.00 in cash.
2 Respondent charged and received a total of \$460.00 for the repairs, when the original estimate
3 was \$380.00.

4 29. Later that day, the undercover operator called Respondent's station and inquired as to
5 why the total price of repairs was \$460.00, when the original estimate and authorized price was
6 \$380.00. Mike responded by telling the undercover operator that he needed to charge for labor.
7 Respondent did not obtain authorization or written consent from the undercover operator for the
8 increase in the estimated price prior to completing the repairs.

9 30. On or about April 7, 2022, the Bureau Representative that documented the Nissan re-
10 inspected the vehicle. The Bureau representative confirmed that the Nissan's front brake rotors
11 and front brake pads were replaced as invoiced by Respondent; however, based on the condition
12 of the vehicle at the time of service, the Nissan's front brake rotors were in good condition and
13 within specification, and therefore replacement of the front brake rotors was not needed or
14 required to repair the vehicle.

15 31. The Bureau Representative determined that the amount Respondent received for
16 upselling the replacement of the front brake rotors, when this service was not needed or required
17 to repair the vehicle, was approximately \$196.20.

18 **FIRST CAUSE FOR DISCIPLINE**

19 **(Untrue or Misleading Statements)**

20 32. Respondent's Automotive Repair Dealer Registration is subject to disciplinary action
21 under Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized
22 statement(s) that were untrue or misleading that were known, or by the exercise of reasonable
23 care should have been known, to be untrue or misleading, as follows:

24 a. Respondent stated that the Nissan needed new front brake rotors when, at the time of
25 the service, the Nissan's front brake rotors were in good condition and within specification, and
26 therefore the only needed repair on the Nissan was replacement of the front brake pads, resulting
27 in the undercover operator authorizing unnecessary repairs to the vehicle in the amount of
28 approximately \$196.20.

b. Respondent provided the undercover operator with a written estimate to replace the front brake pads and front brake rotors for a total of \$380.00. The undercover operator authorized the repairs at this price. However, once the repairs were completed, Respondent provided an invoice and charged a total of \$460.00 for these repairs.

Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 21-31, as though set forth fully.

SECOND CAUSE FOR DISCIPLINE

(Fraud)

33. Respondent's Automotive Repair Dealer Registration is subject to disciplinary action under Code section 9884.7, subdivision (a)(4), in that Respondent committed acts constituting fraud when Respondent stated that the Nissan needed new front brake rotors when, at the time of the service, the Nissan's front brake rotors were in good condition and within specification, and therefore the only needed repair on the vehicle was replacement of the front brake pads. The amount Respondent received for upselling the replacement of the front brake rotors, when this service was not needed to repair the vehicle, was approximately \$196.20. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 21-31, as though set forth fully.

THIRD CAUSE FOR DISCIPLINE

(Failure to Comply with the Code)

34. Respondent's Automotive Repair Dealer Registration is subject to disciplinary action under Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with provisions of the Code, as follows;

a. **Section 9884.9, subdivision (a):** Respondent failed to provide a written estimate prior to commencing the brake inspection.

b. **Section 9884.9, subdivision (a):** Respondent failed to obtain authorization for the increase in the original estimated price for the repairs from \$380.00 to \$460.00.

Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 21-31, as though set forth fully.

1 **FOURTH CAUSE FOR DISCIPLINE**

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

3 35. Respondent's Automotive Repair Dealer Registration is subject to disciplinary action
4 under Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with
5 provisions of California Code of Regulations, title 16, as follows;

6 a. **Section 3353, subdivision (a):** Respondent failed to provide an itemized estimate
7 prior to commencing the brake inspection.

8 b. **Section 3354, subdivision (a):** Respondent failed to obtain authorization or written
9 consent for the increase in the estimated price from \$380.00 to \$460.00 prior to completing the
10 repairs.

11 c. **Section 3371:** Respondent made false and misleading statements, which he knew or
12 by the exercise of reasonable care should have known to be false at the time they were made,
13 when Respondent stated that the Nissan needed new front brake rotors when, at the time of the
14 service, the Nissan's front brake rotors were in good condition and within specification, and
15 therefore the only needed repair on the vehicle was replacement of the front brake pads, resulting
16 in the undercover operator authorizing unnecessary repairs to the Nissan in the amount of
17 approximately \$196.20.

18 d. **Section 3371:** Respondent made false and misleading statements, which he knew or
19 by the exercise of reasonable care should have known to be false at the time they were made,
20 when Respondent provided the undercover operator with a written estimate to replace the front
21 brake pads and front brake rotors for a total of \$380.00. The undercover operator authorized the
22 repairs at this price. However, once the repairs were completed, Respondent provided an invoice
23 and charged a total of \$460.00 for these repairs.

24 e. **Section 3373:** Respondent's estimate and/or invoice contained a statement or
25 information which would cause the document to be false or misleading, or where the tendency
26 or effect thereby would be to mislead or deceive customers, prospective customers, or the
27 public, in that the estimate and/or invoice stated that replacement of the front brake rotors was
28 required, when, at the time, the Nissan's front brake rotors were in good condition and within

1 specification, and therefore the only needed repair on the vehicle was replacement of the front
2 brake pads.

3 f. **Section 3373:** Respondent's estimate contained a statement or information which
4 would cause the document to be false or misleading, or where the tendency or effect thereby
5 would be to mislead or deceive customers, prospective customers, or the public, in that
6 Respondent provided a written estimate to replace the front brake pads and front brake rotors for
7 a total of \$380.00. The undercover operator authorized the repairs at this price. However, once
8 the repairs were completed, the Respondent provided an invoice and charged a total of \$460.00
9 for these repairs.

10 Complainant refers to, and by this reference incorporates, the allegations set forth above in
11 paragraphs 21-31, as though set forth fully.

12 **FIFTH CAUSE FOR DISCIPLINE**

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

14 36. Respondent's Smog Check Station License is subject to disciplinary action under
15 Health and Safety Code section 44072.2, subdivision (d), in that Respondent committed an act or
16 acts involving dishonesty, fraud, or deceit whereby another was injured, as follows:

17 a. Respondent stated that the Nissan needed new front brake rotors when, at the time of
18 the service, the Nissan's front brake rotors were in good condition and within specification, and
19 therefore the only needed repair on the vehicle was replacement of the front brake pads, resulting
20 in the undercover operator authorizing unnecessary repairs to the Nissan in the amount of
21 approximately \$196.20.

22 b. Respondent provided the undercover operator with a written estimate to replace the
23 front brake pads and front brake rotors for a total of \$380.00. The undercover operator authorized
24 the repairs at this price. However, once the repairs were completed, Respondent provided an
25 invoice and charged a total of \$460.00 for these repairs.

26 Complainant refers to, and by this reference incorporates, the allegations set forth above in
27 paragraphs 21-31, as though set forth fully.

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1 **OTHER MATTERS**

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

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

10 **JURISDICTION FOR PETITION TO REVOKE PROBATION**

11 39. This Petition to Revoke Probation is brought before the Director under Probation
12 Term and Condition Number 6 of the Decision and Order *In the Matter of the Accusation Against*
13 *Brake Land, LLC, dba Brake Land, Mohammad Chitsazzadeh, Mansoureh A. Shajari*, Case No.
14 79/20-2200. That term and condition states:

15 **Violation of Probation.** If Respondent violates or fails to comply with
16 the terms and conditions of probation in any respect, the Director, after giving notice
17 and opportunity to be heard may set aside the stay order and carry out the disciplinary
18 order provided in the decision. Once any Respondent is served notice of BAR's intent
19 to set aside the stay, the Director shall maintain jurisdiction, and the period of
20 probation shall be extended until final resolution of the matter.

21 **CAUSE TO REVOKE PROBATION**

22 **(Failure to Obey All Laws)**

23 7. At all times after the effective date of Respondent's probation, Condition 1 stated:

24 **Obey All Laws.** During the period of probation, Respondents shall
25 comply with all federal and state statutes, regulations, and rules governing all BAR
26 registrations and licenses held by Respondents.

27 8. Respondent's probation is subject to revocation because Respondent failed to comply
28 with Probation Condition 1, referenced above, as fully described in paragraphs 21-36 above.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this Accusation and Petition to Revoke Probation, and that following the hearing, the Director of the Department of Consumer Affairs issue a decision:

1. Revoking the probation that was granted by the Bureau of Automotive Repair in Case No. 79/20-2200 and imposing the disciplinary order that was stayed thereby revoking Automotive Repair Dealer Registration No. ARD 237478 and Smog Check Station License No. RC 237478, issued to Brake Land, LLC, dba Brake Land, Mohammad Chitsazzadeh, Mansoureh A. Shajari;

2. Revoking or suspending Automotive Repair Dealer Registration No. ARD 237478, issued to Brake Land, LLC, dba Brake Land, Mohammad Chitsazzadeh, Mansoureh A. Shajari;

3. Revoking or suspending Smog Check Station License No. RC 237478, issued to Brake Land, LLC, dba Brake Land, Mohammad Chitsazzadeh, Mansoureh A. Shajari.

4. Revoking or suspending any other automotive repair dealer registration issued to Brake Land, LLC, dba Brake Land, Mohammad Chitsazzadeh, Mansoureh A. Shajari;

5. Revoking or suspending any other licenses issued under Chapter 5, Part 5 of Division 26 of the Motor Vehicle Inspection Program in the name of Brake Land, LLC, dba Brake Land, Mohammad Chitsazzadeh, Mansoureh A. Shajari pursuant to section 44072.8 of the Health and Safety Code;

6. Ordering Brake Land, LLC, dba Brake Land, Mohammad Chitsazzadeh, Mansoureh A. Shajari to pay the Director of the Department of Consumer Affairs the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

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

DATED: As of digital signature

Dorais,
Patrick@DCA

Digitally signed by
Dorais, Patrick@DCA
Date: 2022.08.02
10:13:58 -07'00'

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

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