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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**:** **PHIRITH YU** **DBA STOCKTON AUTO CARE** 1025 East Park St. Stockton, CA 95205 **Automotive Repair Dealer Registration No. ARD 240289** **Smog Check Station License No. RC 240289** **Brake Station License No. BS 240289, Class A** **Lamp Station License No. LS 240289, Class A** **PHIRITH YU** 5534 Governor Circle Stockton, CA 95210 **Smog Check Inspector License No. EO 147355** **Smog Check Repair Technician License No. EI 147355** **Brake Adjuster License No. BA 147355, Class C** **Lamp Adjuster License No. LA 147355, Class A** Respondent.	Case No. 77/21-16187 **ACCUSATION**

PARTIES

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

Automotive Repair Dealer Registration

2. In or about 2005, the Bureau issued Automotive Repair Dealer Registration Number ARD 240289 (registration) to Phirith Yu, doing business as Stockton Auto Care (Respondent). The registration was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2023, unless renewed.

Smog Check Station

3. On or about June 8, 2009, the Bureau issued Smog Check Station License Number RC 240289 to 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 June 30, 2023, unless renewed.

Brake Station License

4. On or about May 21, 2009, the Bureau issued Brake Station License Number BS 240289, in class A, to Respondent. The brake station license was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2023, unless renewed.

Lamp Station License

5. On or about May 21, 2009, the Bureau issued Lamp Station License Number LS 240289, in class A, to Respondent. The lamp station license was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2023, unless renewed.

Smog Check Inspector/Smog Check Repair Technician

6. In or about 2005, the Bureau of Automotive Repair issued Advanced Emission Specialist Technician License Number EA 147355 to Respondent. The license was due to expire on April 30, 2014. Effective November 15, 2013, pursuant to Respondent's election, the licenses were renewed as a Smog Check Inspector License Number EO 147355, and Smog Check Repair Technician License Number EI 147355.[1] The Smog Check Inspector License and Smog Check Repair Technician License were in full force and effect at all times relevant to the charges brought herein and will expire on April 30, 2024, unless renewed.

[1] Effective August 1, 2012, California Code of Regulations, title 16, section 3340.28, 3340.29 and 3340.30 were amended to implement a license restructure from the Advanced Emission Specialist Technician (EA) license and Basic Area (EB) Technician license to Smog Check Inspector (EO) license and and/or Smog Check Repair Technician (EI) license.

Brake Adjuster License

7. In or about 2003, the Bureau issued Brake Adjuster License Number BA 147355, in class C, to Respondent. The brake adjuster license was in full force and effect at all times relevant to the charges brought herein and will expire on April 30, 2026, unless renewed.

Lamp Adjuster License

8. In or about 2004, the Bureau issued Lamp Adjuster License Number LA 147355, in class A, to Respondent. The lamp adjuster license was in full force and effect at all times relevant to the charges brought herein and will expire on April 30, 2024, unless renewed.

STATUTORY PROVISIONS

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

> (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.
>
> (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.
>
> (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.

10. 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.

11. 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 when 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 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. Section 9889.1 of the Code states:

Any license issued pursuant to Articles 5 and 6, may be suspended or revoked by the director. The director may refuse to issue a license to any applicant for the reasons set forth in Section 9889.2. 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.

13. Section 9889.3 of the Code 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:
>
> (a) Violates any section of the Business and Professions Code that relates to his or her licensed activities.
>
> (c) Violates any of the regulations promulgated by the director pursuant to this chapter.
>
> (d) Commits any act involving dishonesty, fraud, or deceit whereby another is injured.
>
> (h) Violates or attempts to violate the provisions of this chapter relating to the particular activity for which he or she is licensed.

14. Section 9889.7 of the Code states:

> The expiration or suspension of a license by operation of law or by order or decision of the director or a court of law, or the voluntary surrender of a license by a licensee shall not deprive the director of jurisdiction to proceed with any investigation of or action or disciplinary proceedings against such licensee, or to render a decision suspending or revoking such license.

15. Section 9889.9 of the Code states:

> When any license has been revoked or suspended following a hearing under the provisions of this article, any additional license issued under Articles 5 and 6 of this chapter in the name of the licensee may be likewise revoked or suspended …

16. Section 9889.16 of the Code states:

> Whenever a licensed adjuster in a licensed station upon an inspection or after an adjustment, made in conformity with the instructions of the bureau, determines that the lamps or the brakes upon any vehicle conform with the requirements of the Vehicle Code, he shall, when requested by the owner or driver of the vehicle, issue a certificate of adjustment on a form prescribed by the director, which certificate shall contain the date of issuance, the make and registration number of the vehicle, the name of the owner of the vehicle, and the official license of the station.

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

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

19. Section 44072.2 of the Health and Safety Code 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.

20. 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 order or decision of the Director of Consumer Affairs, or a court of law, or the voluntary surrender of the license shall not deprive the Director of jurisdiction to proceed with disciplinary action.

21. Section 44072.8 of the Health and Safety Code 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.

REGULATIONS

22. California Code of Regulations, title 16, section 3340.28(e), states that, "[u]pon renewal of an unexpired Basic Area Technician license or an Advanced Emission Specialist Technician license issued prior to the effective date of this regulation, the licensee may apply to renew as a Smog Check Inspector, Smog check Repair Technician, or both.

23. California Code of Regulations, title 16, section 3305, states, in pertinent part:

> (a) All adjusting, inspecting, servicing, and repairing of brake systems and lamp systems for the purpose of issuing any certificate of compliance or adjustment shall be performed in official stations, by official adjusters, in accordance with the following, in descending order of precedence, as applicable:
>
> (1) Vehicle Manufacturers' current standards, specifications and recommended procedures, as published in the manufacturers' vehicle service and repair manuals.
>
> (2) Current standards, specifications, procedures, directives, manuals, bulletins and instructions issued by vehicle and equipment or device manufacturers.
>
> (3) Standards, specifications and recommended procedures found in current industry-standard reference manuals and periodicals published by nationally recognized repair information providers.
>
> (4) The bureau's Handbook for Brake Adjusters and Stations, February 2003, which is hereby incorporated by reference.
>
> (5) The bureau's Handbook for Lamp Adjusters and Stations, February 2003,

which is hereby incorporated by reference.

24. California Code of Regulations, title 16, section 3316, states, in pertinent part:

(d) Effective April 1, 1999, licensed stations shall purchase certificates of adjustment from the bureau for a fee of three dollars and fifty cents ($3.50) each and shall not purchase or otherwise obtain such certificates from any other source. Full payment is required at the time certificates are ordered. Certificates are not exchangeable following delivery. A licensed station shall not sell or otherwise transfer unused certificates of adjustment. Issuance of a lamp adjustment certificate shall be in accordance with the following provisions:

(2) Where all of the lamps, lighting equipment, and related electrical systems on a vehicle have been inspected and found to be in compliance with all requirements of the Vehicle Code and bureau regulations, the certificate shall certify that the entire system meets all of those requirements.

25. California Code of Regulations, title 16, section 3321, states, in pertinent part:

(c) Effective April 1, 1999, licensed stations shall purchase certificates of adjustment from the bureau for a fee of three dollars and fifty cents ($3.50) and shall not purchase or otherwise obtain such certificates from any other source. A licensed station shall not sell or otherwise transfer unused certificates of adjustment. Full payment is required at the time certificates are ordered. Certificates are not exchangeable following delivery. Issuance of a brake adjustment certificate shall be in accordance with the following provisions:

(2) Where the entire brake system on any vehicle has been inspected or tested and found to be in compliance with all requirements of the Vehicle Code and bureau regulations, and the vehicle has been road-tested, the certificate shall certify that the entire system meets all such requirements.

26. California Code of Regulations, title 16, section 3356, states, in pertinent part:

(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.

COST RECOVERY

27. Code section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate 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 licentiate 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.

UNDERCOVER OPERATION NO. 1: PONTIAC

28. On or about December 2, 2021, an undercover Bureau operator (operator) drove a Bureau documented Pontiac to Respondent's facility and requested a brake, lamp, and smog inspection. The vehicle could not have passed the inspections because the right front and left rear brake rotors were below manufacturer's specifications (undersized).

29. When the operator arrived at Respondent's facility, he was asked to write down his information on a blank notepad. The operator was not provided with a copy of that document or an estimate. After the smog inspection, the operator paid Respondent $120 and was asked to sign two documents, but was not provided with a copy of those documents or an invoice. The operator was provided with certificates for the brake inspection (BA3624389), lamp inspection (LA3579437), and the Vehicle Inspection Report for the smog inspection. The operator stayed with the vehicle while at Respondent's facility and noted that Respondent did not perform the brake or lamp inspections.

30. On or about December 13, 2021, a Bureau representative inspected the vehicle and found that the right front and left rear brake rotors remained undersized.

FIRST CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

31. Respondent's registration is subject to discipline pursuant to Code section 9884.7, subdivision (a)(1), in that on or about December 2, 2021, Respondent made or authorized statements which he knew or in the exercise of reasonable care should have known to be untrue or misleading, as follows:

a. Respondent certified under penalty of perjury on Brake Certificate Number BA3624389 that the applicable inspection was performed on the brake system when, in fact, it was not.

b. Respondent certified under penalty of perjury on Lamp Certificate Number LA3579437 that an applicable inspection was performed on the lamp system when it was not.

SECOND CAUSE FOR DISCIPLINE

(Fraud)

32. Respondent's registration is subject to discipline pursuant to Code section 9884.7, subdivision (a)(4), in that on or about December 2, 2021, Respondent committed acts that constitute fraud, in that Respondent obtained payment from the operator for performing the applicable inspections and adjustments on the vehicle's brake and lamp system, as specified by the Bureau and in accordance with the Vehicle Code, when, in fact, Respondent failed to perform the necessary inspections, as more particularly set forth above in paragraph 31.

THIRD CAUSE FOR DISCIPLINE

(Gross Negligence)

33. Respondent's registration is subject to discipline under Code section 9884.7, subdivision (a)(5), in that on or about December 2, 2021, Respondent committed acts constituting gross negligence, in that Respondent failed to properly inspect the vehicle's brake system and issued Brake Certificate Number BA3624389, indicating that the vehicle's brake system was in satisfactory condition and were in accordance with the Vehicle Code when, in fact, the right front and left rear brake rotors remained below manufacturer's specifications (undersized).

FOURTH CAUSE FOR DISCIPLINE

(Failure to Comply with the Code)

34. Respondent's registration is subject to discipline pursuant to Code section 9884.7, subdivision (a)(6), in that on or about December 2, 2021, Respondent failed to comply with provisions of that Code in the following material respects:

a. **Section 9884.8:** Respondent failed to provide the operator with an invoice describing all work performed.

b. **Section 9884.9(a):** Respondent failed to provide the operator with a written estimated price for parts and labor for the smog, brake, and lamp inspections.

c. **Section 9889.16:**

i. Respondent issued Brake Certificate Number BA3624389 for the vehicle indicating that the vehicle's brake system was in compliance with Bureau regulations or the requirements of the Vehicle Code, when, in fact, it was not.

ii. Respondent issued Lamp Certificate Number LA3579437 for the vehicle indicating that the vehicle's lamp system was in compliance with Bureau regulations or the requirements of the Vehicle Code, when, in fact, the vehicle's lamp system was not inspected.

FIFTH CAUSE FOR DISCIPLINE

(Failure to Comply with Regulations)

35. Respondent's registration is subject to discipline pursuant to Code section 9884.7, subdivision (a)(6), in that on or about December 2, 2021, Respondent failed to comply with provisions of California Code of Regulations, title 16, in the following material respects:

a. **Section 3305(a):** Respondent failed to perform a brake and lamp inspection in accordance with the vehicle's manufacturer standards and/or current standards, specifications, recommended procedures, and/or directives issued by the Bureau.

b. **Section 3316(d)(2):** Respondent issued Lamp Certificate Number LA3579437, certifying that the vehicle's lamp system had been inspected and was in satisfactory condition when, in fact, the lamp system was not inspected.

c. **Section 3321(c)(2):** Respondent issued Brake Certificate Number BA3624389, certifying that the vehicle's brake system had been inspected and was in satisfactory condition when, in fact, it was not.

SIXTH CAUSE FOR DISCIPLINE

(Failure to Comply with the Code)

36. Respondent's brake and lamp station licenses are subject to discipline under Code section 9889.3, subdivisions (a) and (h), in that on or about December 2, 2021, Respondent violated sections of the Code, as more particularly set forth above in paragraph 34.

SEVENTH CAUSE FOR DISCIPLINE

(Failure to Comply with Regulations)

37. Respondent's brake and lamp station licenses are subject to discipline under Code section 9889.3, subdivision (c), in that on or about December 2, 2021, Respondent failed to comply with provisions of California Code of Regulations, title 16, as more particularly set forth above in paragraph 35.

EIGHTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud, or Deceit)

38. Respondent's brake and lamp station licenses are subject to discipline pursuant to Code section 9889.3, subdivision (d), in that on or about December 2, 2021, Respondent committed acts involving dishonesty, fraud, or deceit whereby another was injured, as more particularly set forth above in paragraphs 31 and 32.

NINTH CAUSE FOR DISCIPLINE

(Failure to Comply with the Code)

39. Respondent's brake and lamp adjuster licenses are subject to discipline under Code section 9889.3, subdivisions (a) and (h), in that on or about December 2, 2021, Respondent violated sections of the Code, relating to his licensed activities, as more particularly set forth above in paragraph 36.

TENTH CAUSE FOR DISCIPLINE

(Failure to Comply with Regulations)

40. Respondent's brake and lamp adjuster licenses are subject to discipline under Code section 9889.3, subdivision (c), in that on or about December 2, 2021, Respondent failed to comply with provisions of California Code of Regulations, title 16, as more particularly set forth above in paragraph 37.

ELEVENTH CAUSE FOR DISCIPLINE

(Acts Involving Dishonesty, Fraud, or Deceit)

41. Respondent's brake and lamp adjuster licenses are subject to discipline under Code section 9889.3, subdivision (d), in that on or about December 2, 2021, Respondent committed

acts involving dishonesty, fraud, or deceit, by issuing Brake Certificate Number BA3624389 and Lamp Certificate Number LA3579437, certifying that the brake and lamp systems were in satisfactory condition and in accordance with the Vehicle Code when, in fact, they were not.

UNDERCOVER OPERATION NO. 2: HONDA

42. On or about April 18, 2022, an undercover Bureau operator (operator) drove a Bureau documented Honda to Respondent's facility and requested a brake, lamp, and smog inspection. The vehicle could not have passed the inspections because the left front and right rear disc brake rotors were below manufacturer's specifications (undersized), and the right headlamp was out of adjustment. When the operator arrived at Respondent's facility, he requested a brake, lamp, and smog inspection. The operator was not provided with an estimate. After the smog inspection, the operator paid Respondent $120 and was asked to sign two documents, but was not provided with a copy of those documents or an invoice. The operator paid Respondent $120 and was provided certificates for the brake inspection (BA3726683), lamp inspection (LA3680830), and the Vehicle Inspection Report for the smog inspection. The operator stayed with the vehicle while at Respondent's facility and noted that Respondent did not perform the brake or lamp inspections.

43. On or about April 19, 2022, a Bureau representative inspected the vehicle and found the following: 1) the right headlamp remained out of adjustment; and 2) the left front and right rear disc brake rotors remained undersized.

TWELFTH CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

44. Respondent's registration is subject to discipline pursuant to Code section 9884.7, subdivision (a)(1), in that on or about April 18, 2022, Respondent made or authorized statements which he knew or in the exercise of reasonable care should have known to be untrue or misleading, as follows:

a. Respondent certified under penalty of perjury on Brake Certificate Number BA3726683 that the applicable inspections were performed on the brake system when, in fact, they were not.

b. Respondent certified under penalty of perjury on Lamp Certificate Number LA3680830 that the applicable inspections were performed on the lamp system when, in fact, they were not.

THIRTEENTH CAUSE FOR DISCIPLINE

(Fraud)

45. Respondent's registration is subject to discipline pursuant to Code section 9884.7, subdivision (a)(4), in that on or about April 18, 2022, Respondent committed acts that constitute fraud, in that Respondent obtained payment from the operator for performing the applicable inspections and adjustments on the vehicle's brake and lamp systems, as specified by the Bureau and in accordance with the Vehicle Code when, in fact, Respondent failed to perform the inspections, as more particularly set forth above in paragraph 44.

FOURTEENTH CAUSE FOR DISCIPLINE

(Gross Negligence)

46. Respondent's registration is subject to discipline under Code section 9884.7, subdivision (a)(5), in that on or about April 18, 2022, Respondent committed acts constituting gross negligence, in that Respondent failed to inspect the vehicle's brake and lamp systems and issued Brake Certificate Number BA3726683 and Lamp Certificate Number LA3680830, indicating that the vehicle's brake and lamp systems were in satisfactory condition and were in accordance with the Vehicle Code when, in fact, they were not.

FIFTEENTH CAUSE FOR DISCIPLINE

(Failure to Comply with the Code)

47. Respondent's registration is subject to discipline pursuant to Code section 9884.7, subdivision (a)(6), in that on or about April 18, 2022, Respondent failed to comply with provisions of the Code in the following material respects:

a. **Section 9884.8:** Respondent failed to provide the operator with an invoice describing all work performed.

b. **Section 9884.9(a):** Respondent failed to provide the operator with a written estimated price for parts and labor for a specific job.

c. **Section 9889.16:**

i. Respondent issued Brake Certificate Number BA3726683 for the vehicle when the vehicle was not in compliance with Bureau regulations or the requirements of the Vehicle Code, in that the left front and right rear disc brake rotors were undersized.

ii. Respondent issued Lamp Certificate Number LA3680830 for the vehicle when the vehicle was not in compliance with Bureau regulations or the requirements of the Vehicle Code, in that the right headlamp was out of adjustment.

SIXTEENTH CAUSE FOR DISCIPLINE

(Failure to Comply with Regulations)

48. Respondent's registration is subject to discipline pursuant to Code section 9884.7, subdivision (a)(6), in that on or about April 18, 2022, Respondent failed to comply with provisions of California Code of Regulations, title 16, in the following material respects:

a. **Section 3305(a):** Respondent failed to perform a brake and lamp inspection in accordance with the vehicle's manufacturer standards and/or current standards, specifications, recommended procedures, and/or directives issued by the Bureau.

b. **Section 3316(d)(2):** Respondent issued Lamp Certificate Number LA3680830, certifying that the vehicle's lamp system had been inspected and was in satisfactory condition when, in fact, it was not.

c. **Section 3321(c)(2):** Respondent issued Brake Certificate Number BA3726683, certifying that the vehicle's brake system had been inspected and was in satisfactory condition when, in fact, it was not.

SEVENTEENTH CAUSE FOR DISCIPLINE

(Failure to Comply with the Code)

49. Respondent's brake and lamp station licenses are subject to discipline under Code section 9889.3, subdivisions (a) and (h), in that on or about April 18, 2022, Respondent violated sections of the Code, relating to his licensed activities, as more particularly set forth above in paragraph 47.

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EIGHTEENTH CAUSE FOR DISCIPLINE

(Failure to Comply with Regulations)

50. Respondent's brake and lamp station licenses are subject to discipline under Code section 9889.3, subdivision (c), in that on or about April 18, 2022, Respondent violated provisions of California Code of Regulations, title 16, as more particularly set forth above in paragraph 48.

NINETEENTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud, or Deceit)

51. Respondent's brake and lamp station licenses are subject to discipline pursuant to Code section 9889.3, subdivision (d), in that on or about April 18, 2022, Respondent committed acts involving dishonesty, fraud, or deceit whereby another was injured, as more particularly set forth above in paragraphs 44 and 45.

TWENTIETH CAUSE FOR DISCIPLINE

(Failure to Comply with the Code)

52. Respondent's brake and lamp adjuster licenses are subject to discipline under Code section 9889.3, subdivisions (a) and (h), in that on or about April 18, 2022, Respondent violated sections of the Code, relating to his licensed activities, as more particularly set forth above in paragraph 49.

TWENTY-FIRST CAUSE FOR DISCIPLINE

(Failure to Comply with Regulations)

53. Respondent's brake and lamp adjuster licenses are subject to discipline under Code section 9889.3, subdivision (c), in that on or about April 18, 2022, Respondent violated provisions of California Code of Regulations, title 16, as more particularly set forth above in paragraph 50.

TWENTY-SECOND CAUSE FOR DISCIPLINE

(Acts Involving Dishonesty, Fraud, or Deceit)

54. Respondent's brake and lamp adjuster licenses are subject to discipline under Code section 9889.3, subdivision (d), in that on or about April 18, 2022, Respondent committed acts

involving dishonesty, fraud, or deceit, by issuing Brake Certificate Number BA3726683 and Lamp Certificate Number LA3680830, certifying that the brake and lamp systems were in satisfactory condition and in accordance with the Vehicle Code, when, in fact, they were not.

TWENTY-THIRD CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

55. Respondent's smog check station license, smog check repair technician license, and smog check inspector licenses are subject to discipline pursuant to Health and Safety Code section 44072.2, subdivision (d), in that Respondent committed dishonest, fraudulent, or deceitful acts whereby another was injured, as set forth above in paragraphs 31, 32, 38, 41, 44, 45, 51, and 54.

OTHER MATTERS

56. 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 Phirith Yu, upon a finding that he has, or is, engaged in a course of repeated and willful violation of the laws and regulations pertaining to an automotive repair dealer.

57. Pursuant to Health and Safety Code section 44072.8, if Smog Check Station License Number RC240289, issued to Phirith Yu, doing business as Stockton Auto Care, is revoked or suspended, any additional license issued under Chapter 5 of Part 5 of Division 26 in the name of said licensee may be likewise revoked or suspended by the director.

58. Pursuant to Health and Safety Code section 44072.8, if Smog Check Repair Technician License Number EI 147355, issued to Phirith Yu, is revoked or suspended, any additional license issued under Chapter 5 of Part 5 of Division 26 in the name of said licensee may be likewise revoked or suspended by the director.

59. Pursuant to Health and Safety Code section 44072.8, if Smog Check Inspector License Number EO 147355, issued to Phirith Yu, is revoked or suspended, any additional license issued under Chapter 5 of Part 5 of Division 26 in the name of said licensee may be likewise revoked or suspended by the director.

60. Pursuant to Code section 9889.9, if Lamp Station License Number LS240289, issued to Phirith Yu, doing business as Stockton Auto Care, is revoked or suspended, any additional license issued under Articles 5 and 6 of Chapter 20.3 of the Business and Professions Code in the name of said licensees may be likewise revoked or suspended by the director.

61. Pursuant to Code section 9889.9, if Brake Station License Number BS240289, issued to Phirith Yu, doing business as Stockton Auto Care, is revoked or suspended, any additional license issued under Articles 5 and 6 of Chapter 20.3 of the Business and Professions Code in the name of said licensees may be likewise revoked or suspended by the director.

62. Pursuant to Code section 9889.9, if Brake Adjuster License Number BA147355, issued to Phirith Yu, is revoked or suspended, any additional license issued under Articles 5 and 6 of Chapter 20.3 of the Business and Professions Code in the name of said licensee may be likewise revoked or suspended by the director.

63. Pursuant to Code section 9889.9, if Lamp Adjuster License Number LA147355, issued to Phirith Yu, is revoked or suspended, any additional license issued under Articles 5 and 6 of Chapter 20.3 of the Business and Professions 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, suspending, or placing on probation Automotive Repair Dealer Registration No. ARD 240289, issued to Phirith Yu, doing business as Stockton Auto Care;

2. Revoking, suspending, or placing on probation any other automotive repair dealer registration issued to Phirith Yu;

3. Revoking, suspending, or placing on probation Smog Check Repair Technician License Number EI 147355, issued to Phirith Yu;

4. Revoking, suspending, or placing on probation Smog Check Inspector License Number EO 147355, issued to Phirith Yu;

5. Revoking or suspending Smog Check Station License Number RC 240289, issued to Phirith Yu, doing business as Stockton Auto Care;

6. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code in the name of Phirith Yu;

7. Revoking or suspending Lamp Station License Number LS 240289, issued to Phirith Yu, doing business as Stockton Auto Care;

8. Revoking or suspending Brake Station License Number BS 240289, issued to Phirith Yu, doing business as Stockton Auto Care;

9. Revoking or suspending any additional license issued under Articles 5 and 6 of Chapter 20.3 of the Business and Professions Code in the name of Phirith Yu;

10. Revoking or suspending Lamp Adjuster License Number LA 147355, issued to Phirith Yu;

11. Revoking or suspending Brake Adjuster License Number BA 147355, issued to Phirith Yu;

12. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code in the name of Phirith Yu;

13. Ordering Phirith Yu, doing business as Stockton Auto Care to pay the Director of Consumer Affairs the reasonable costs of the investigation and enforcement of this case, pursuant to Code section 125.3; and,

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

DATED: As of Digital Signature Date

Dorais, Patrick@DCA

Digitally signed by Dorais, Patrick@DCA
Date: 2022.11.10 12:28:42 -08'00'

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

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