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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. 77/11-60

13 **NORTHGATE SHELL**
14 **YADOLLAH MISSAGHIAN, OWNER**
15 **5405 N. Blackstone**
16 **Fresno, CA 93710**
17 **Automotive Repair Dealer Reg. No. ARD 206883**
18 **Smog Check Station License No. RC 206883,**

A C C U S A T I O N

19 **SLATER SHELL AUTO REPAIR**
20 **YADOLLAH MISSAGHIAN, OWNER**
21 **1014 E. Bullard**
22 **Fresno, CA 93710**
23 **Automotive Repair Dealer Reg. No. ARD 247924**
24 **Smog Check Station License No. RC 247924,**

25 **A1 76 AUTO REPAIR UNIT 2**
26 **YADOLLAH MISSAGHIAN, OWNER**
27 **7010 North Cedar Avenue**
28 **Fresno, CA 93710**
Automotive Repair Dealer Reg. No. ARD 256231
Smog Check Station License No. RC 256231,

A1 76 AUTO REPAIR UNIT 1
YADOLLAH MISSAGHIAN, OWNER
7010 North West Avenue
Fresno, CA 93711
Automotive Repair Dealer Reg. No. ARD 255333
Smog Check Station License No. RC 255333,

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and

**GATEWAY SHELL
YADOLLAH MISSAGHIAN, OWNER
640 Shaw Avenue
Clovis, CA 93612
Automotive Repair Dealer Reg. No. ARD 247830
Smog Check Station License No. RC 247830**

Respondents.

Complainant alleges:

PARTIES/LICENSE INFORMATION

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

Northgate Shell

2. On a date uncertain in 1999, the Director of Consumer Affairs ("Director") issued Automotive Repair Dealer ("ARD") Registration Number ARD 206883 to Yadollah Missaghian ("Respondent"), owner of Northgate Shell. Respondent's ARD registration was in full force and effect at all times relevant to the charges brought herein and will expire on August 31, 2012, unless renewed.

3. On a date uncertain in 1999, the Director issued Smog Check Station License Number RC 206883 to Respondent, owner of Northgate Shell. Respondent's smog check station license was in full force and effect at all times relevant to the charges brought herein and will expire on August 31, 2012, unless renewed.

Slater Shell Auto Repair

4. On a date uncertain in 2006, the Director issued ARD Registration Number ARD 247924 to Respondent, owner of Slater Shell Auto Repair. Respondent's ARD registration was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2012, unless renewed.

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1 5. On or about December 21, 2006, the Director issued Smog Check Station License
2 Number RC 247924 to Respondent, owner of Slater Shell Auto Repair. Respondent's smog check
3 station license was in full force and effect at all times relevant to the charges brought herein and
4 will expire on October 31, 2012, unless renewed.

5 **A1 76 Auto Repair Unit 2**

6 6. On or about September 24, 2008, the Director issued ARD Registration Number ARD
7 256231 to Respondent, owner of A1 76 Auto Repair Unit 2. Respondent's ARD registration was
8 in full force and effect at all times relevant to the charges brought herein and will expire on June
9 30, 2012, unless renewed.

10 7. On or about October 8, 2008, the Director issued Smog Check Station License
11 Number RC 256231 to Respondent, owner of A1 76 Auto Repair Unit 2. Respondent's smog
12 check station license was in full force and effect at all times relevant to the charges brought herein
13 and will expire on June 30, 2012, unless renewed.

14 **A1 76 Auto Repair Unit 1**

15 8. On or about June 27, 2008, the Director issued ARD Registration Number ARD
16 255333 to Respondent, owner of A1 76 Auto Repair Unit 1. Respondent's ARD registration will
17 expire on June 30, 2012, unless renewed.

18 9. On or about July 17, 2008, the Director issued Smog Check Station License Number
19 RC 255333 to Respondent, owner of A1 76 Auto Repair Unit 1. Respondent's smog check station
20 license expired on June 30, 2010.

21 **Gateway Shell**

22 10. On a date uncertain in 2006, the Director issued ARD Registration number ARD
23 247830 to Respondent, owner of Gateway Shell. Respondent's ARD registration was canceled on
24 August 10, 2010.

25 11. On or about December 4, 2006, the Director issued Smog Check Station License
26 Number RC 247830 to Respondent, owner of Gateway Shell. Respondent's smog check station
27 license was canceled on August 10, 2010.

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(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.

(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 . . .

18. Bus. & Prof. Code section 9884.7, subdivision (c), states, in pertinent part, that 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 the laws and regulations pertaining to an automotive repair dealer.

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

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 . . .

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

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

21. Bus. & Prof. Code section 477, subdivision (b), states, in pertinent part, that a “license” includes “registration” and “certificate.”

1 22. Health & Saf. Code section 44072.2 states, in pertinent part:

2 The director may suspend, revoke, or take other disciplinary action
3 against a license as provided in this article if the licensee, or any partner, officer, or
4 director thereof, does any of the following:

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

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

10 24. California Code of Regulations, title 16, section ("Regulation") 3356 states, in
11 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:

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

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

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

21 25. Regulation 3366 states:

22 (a) Except as provided in subsection (b) of this section, any automotive
23 repair dealer that advertises or performs, directly or through a sublet contractor,
24 automotive air conditioning work and uses the words service, inspection, diagnosis,
25 top off, performance check or any expression or term of like meaning in any form of
26 advertising or on a written estimate or invoice shall include and perform all of the
27 following procedures as part of that air conditioning work:

26 (1) Exposed hoses, tubing and connections are examined for damage or
27 leaks;

28 (2) The compressor and clutch, when accessible, are examined for
29 damage, missing bolts, missing hardware, broken housing and leaks;

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- (3) The compressor is rotated to determine if it is seized or locked up;
 - (4) Service ports are examined for missing caps, damaged threads and conformance with labeling;
 - (5) The condenser coil is examined for damage, restrictions or leaks;
 - (6) The expansion device, if accessible, is examined for physical damage or leaks;
 - (7) The accumulator receiver dryer and in-line filter have been checked for damage, missing or loose hardware or leaks;
 - (8) The drive belt system has been checked for damaged or missing pulleys or tensioners and for proper belt routing, tension, alignment, excessive wear or cracking;
 - (9) The fan clutch has been examined for leakage, bearing wear and proper operation;
 - (10) The cooling fan has been checked for bent or missing blades;
 - (11) Accessible electrical connections have been examined for loose, burnt, broken or corroded parts;
 - (12) The refrigerant in use has been identified and checked for contamination;
 - (13) The system has been checked for leakage at a minimum of 50-PSI system pressure;
 - (14) The compressor clutch, blower motor and air control doors have been checked for proper operation;
 - (15) High and low side system operating pressures, as applicable, have been measured and recorded on the final invoice; and,
 - (16) The center air distribution outlet temperature has been measured and recorded on the final invoice.
- (b) Whenever the automotive air conditioning work being advertised or performed does not involve opening the refrigerant portion of the air conditioning system, refrigerant evacuation, or full or partial refrigerant recharge, the procedures specified in subsection (a) need be performed only to the extent required by accepted trade standards.

26. Regulation 3371 states, in pertinent part:

No 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 . . .

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27. Regulation 3372 states:

In determining whether any advertisement, statement, or representation is false or misleading, it shall be considered in its entirety as it would be read or heard by persons to whom it is designed to appeal. An advertisement, statement, or representation shall be considered to be false or misleading if it tends to deceive the public or impose upon credulous or ignorant persons.

28. Regulation 3372.1 states:

An automotive repair dealer shall not advertise automotive service at a price which is misleading. Price advertising is misleading in circumstances which include but are not limited to the following:

(a) The automotive repair dealer does not intend to sell the advertised service at the advertised price but intends to entice the consumer into a more costly transaction.

(b) The advertisement for service has the capacity to mislead the public as to the extent that anticipated parts, labor or other services are included in the advertised price; or

(c) The advertisement for service or repair has the capacity to mislead the public as to the need for additional related parts, labor or other services; or

(d) The automotive repair dealer knows or should know that the advertised service cannot usually be performed in a good and workmanlike manner without additional parts, services or labor; provided, however, that an advertisement which clearly and conspicuously discloses that additional labor, parts or services are often needed will, to that extent, not be regarded as misleading. Any such disclosure statement shall indicate that many instances of performance of the service involve extra cost and, if the automotive dealer reasonably expects that the extra cost will be more than 25% of the advertised costs, that the extra cost may be substantial. The type size of the disclosure statement shall be at least 1/2 the type size used in the advertised price and the statement shall either be shown near the price or shall be prominently footnoted through use of an asterisk or similar reference.

29. Regulation 3373 states:

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

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1 use on the vehicle was not contaminated, and the vehicle was not in need of any refrigerant or a
2 refrigerant service.

3 b. Respondent represented on the invoice that the Bureau's 1989 Chevrolet Caprice had
4 the wrong high pressure retrofit valve. In fact, the existing high pressure retrofit valve was the
5 correct part for the vehicle.

6 **SECOND CAUSE FOR DISCIPLINE**

7 **(Fraud)**

8 39. Respondent's ARD Registration No. 206883 is subject to disciplinary action pursuant
9 to Bus. & Prof. Code section 9884.7, subdivision (a)(4), in that Respondent committed acts
10 constituting fraud, as follows:

11 a. Respondent obtained payment from the operator for evacuating and recharging the
12 A/C system on the Bureau's 1989 Chevrolet Caprice as part of the A/C service on the vehicle. In
13 fact, Respondent had no basis for selling the evacuation and recharging of the A/C system in that
14 the refrigerant in use on the vehicle had not been identified and checked for contamination by the
15 facility as required by Regulation 3366, subdivision (a)(12). Further, the A/C system had been
16 evacuated and charged with refrigerant prior to the time the vehicle was taken to Respondent's
17 facility, the refrigerant in use on the vehicle was not contaminated, and the vehicle was not in
18 need of any refrigerant or a refrigerant service. In addition, the facility replaced the existing
19 refrigerant with Freon *that was contaminated*.

20 b. Respondent obtained payment from the operator for installing a high pressure retrofit
21 valve on the Bureau's 1989 Chevrolet Caprice. In fact, the high pressure retrofit valve was not in
22 need of replacement at the time the vehicle was taken to Respondent's facility. Further, the repair
23 was performed on the vehicle without the operator's knowledge or consent.

24 **THIRD CAUSE FOR DISCIPLINE**

25 **(Departure from Trade Standards)**

26 40. Respondent's ARD Registration No. 206883 is subject to disciplinary action pursuant
27 to Bus. & Prof. Code section 9884.7, subdivision (a)(7), in that Respondent willfully departed
28 from or disregarded accepted trade standards for good and workmanlike repair without the

1 consent of the owner or the owner's duly authorized representative, in the following material
2 respects:

3 a. Respondent replaced the existing refrigerant in the Bureau's 1989 Chevrolet Caprice
4 with Freon that was contaminated.

5 b. Respondent failed to record on the invoice the high and low side system operating
6 pressures of the A/C system on the Bureau's 1989 Chevrolet Caprice, as required by Regulation
7 3366, subdivision (a)(15).

8 c. Respondent replaced the high pressure retrofit valve on the Bureau's 1989 Chevrolet
9 Caprice when, in fact, that part was not in need of replacement at the time the vehicle was taken
10 to Respondent's facility.

11 d. Respondent damaged the blower motor relay on the Bureau's 1989 Chevrolet
12 Caprice, preventing the blower fan from operating on low or medium speeds; i.e., the fan would
13 only operate on the high speed setting.

14 e. Respondent stripped the insulation from the pressure cycling switch, leaving the wire
15 bare and exposed to the elements.

16 f. Respondent removed the protective tape and sheath from the compressor diode and
17 wiring, exposing the wiring and diode to possible damage.

18 **FOURTH CAUSE FOR DISCIPLINE**

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

20 41. Respondent's ARD Registration No. 206883 is subject to disciplinary action pursuant
21 to Bus. & Prof. Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with
22 section 9884.9, subdivision (a), of that Code in the following material respects: Respondent
23 replaced the idle speed power steering pressure switch and high pressure retrofit valve on the
24 Bureau's 1989 Chevrolet Caprice without the operator's authorization.

25 **FIFTH CAUSE FOR DISCIPLINE**

26 **(Violations of Regulations)**

27 42. Respondent's ARD Registration No. 206883 is subject to disciplinary action pursuant
28 to Bus. & Prof. Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with

1 Regulation 3356, subdivision (a)(2)(B), in a material respect, as follows: Respondent failed to
2 state on the invoice whether the high pressure retrofit valve and the idle speed power steering
3 pressure switch supplied on the Bureau's 1989 Chevrolet Caprice were new, used, reconditioned,
4 or rebuilt.

5 **UNDERCOVER OPERATION #2: 1996 TOYOTA CAMRY**

6 43. On September 28, 2011, an undercover operator with the Bureau ("operator") took
7 the Bureau's 1996 Toyota Camry to Respondent's facility, Northgate Shell. The A/C relay on the
8 Bureau-documented vehicle was defective. The operator met with an employee, who identified
9 himself as "Jessie". The operator requested an A/C service on the vehicle at the advertised price
10 of \$19.95 and gave Jessie Respondent's coupon from the Fresno Bee. Jessie had the operator
11 sign a written estimate and gave him a copy. The estimate stated that an A/C service would be
12 performed on the vehicle for \$101.05 and that the service included evacuating and recharging the
13 A/C system with Freon and checking the system with a leak detector. The operator left the
14 vehicle at the facility.

15 44. At approximately 11:50 a.m. that same day, Jessie called the operator and told him
16 that the vehicle needed an A/C relay for \$54.64, for total repair costs on the vehicle of \$160. The
17 operator told Jessie that he would need to speak with his wife and would call him back. Later, the
18 operator called the facility and authorized the replacement of the A/C relay.

19 45. At approximately 3:30 p.m., the operator returned to the facility, paid \$160.05 for the
20 repairs, and received a copy of an invoice.

21 46. On September 29, 2011, the Bureau inspected the vehicle using the invoice for
22 comparison. The Bureau found that the facility had replaced the defective A/C relay, but had
23 evacuated and recharged the A/C system with refrigerant when, in fact, that service or repair was
24 not needed on the vehicle.

25 **SIXTH CAUSE FOR DISCIPLINE**

26 **(Untrue or Misleading Statements)**

27 47. Respondent's ARD Registration No. 206883 is subject to disciplinary action pursuant
28 to Bus. & Prof. Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized

1 statements which he knew or in the exercise of reasonable care should have known to be untrue or
2 misleading, as follows:

3 a. Respondent represented on the written estimate that the A/C system on the Bureau's
4 1996 Toyota Camry would be evacuated and recharged with reconditioned Freon as part of the
5 A/C service on the vehicle. In fact, Respondent had no basis for recommending, selling, or
6 performing the evacuation and recharging of the A/C system in that the refrigerant in use on the
7 vehicle had not been identified and checked for contamination by the facility as required by
8 Regulation 3366, subdivision (a)(12). Further, the A/C system had been evacuated and charged
9 with refrigerant prior to the time the vehicle was taken to Respondent's facility, the refrigerant in
10 use on the vehicle was not contaminated, and the vehicle was not in need of any refrigerant or a
11 refrigerant service.

12 b. Respondent represented on the invoice that 2 belts on the Bureau's 1996 Toyota
13 Camry were cracked and should be replaced. In fact, the 2 accessory drive belts were in good
14 serviceable condition, were within manufacturer's specifications, and were not in need of
15 replacement at the time the vehicle was taken to Respondent's facility.

16 **SEVENTH CAUSE FOR DISCIPLINE**

17 **(Fraud)**

18 48. Respondent's ARD Registration No. 206883 is subject to disciplinary action pursuant
19 to Bus. & Prof. Code section 9884.7, subdivision (a)(4), in that Respondent committed acts
20 constituting fraud, as follows: Respondent obtained payment from the operator for evacuating
21 and recharging the A/C system on the Bureau's 1996 Toyota Camry as part of the A/C service on
22 the vehicle. In fact, Respondent had no basis for selling the evacuation and recharging of the A/C
23 system in that the refrigerant in use on the vehicle had not been identified and checked for
24 contamination by the facility as required by Regulation 3366, subdivision (a)(12). Further, the
25 A/C system had been evacuated and charged with refrigerant prior to the time the vehicle was
26 taken to Respondent's facility, the refrigerant in use on the vehicle was not contaminated, and the
27 vehicle was not in need of any refrigerant or a refrigerant service.

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1 **EIGHTH CAUSE FOR DISCIPLINE**

2 **(Violations of Regulations)**

3 49. Respondent's ARD Registration No. 206883 is subject to disciplinary action pursuant
4 to Bus. & Prof. Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with
5 Regulation 3356, subdivision (a)(2)(B), in a material respect, as follows: Respondent failed to
6 state on the invoice whether the A/C relay supplied on the Bureau's 1996 Toyota Camry was
7 new, used, reconditioned, or rebuilt.

8 **SLATER SHELL AUTO REPAIR**

9 **UNDERCOVER OPERATION #1: 1997 CHEVROLET TRUCK**

10 50. On October 18, 2011, an undercover operator with the Bureau ("operator") took the
11 Bureau's 1997 Chevrolet truck to Respondent's facility, Slater Shell Auto Repair. An open circuit
12 had been created at the ground wire to the A/C compressor on the Bureau-documented vehicle.
13 The operator met with an employee, who identified himself as "Eric". The operator requested an
14 A/C service on the vehicle at the advertised price of \$19.95 and gave Eric Respondent's coupon
15 from the Fresno Bee. Eric told the operator that the service would cost \$125 "if everything works
16 right". Eric had the operator sign a work order or estimate, but did not give her a copy. The
17 operator left the vehicle at the facility.

18 51. At approximately 1:15 p.m. that same day, Eric called the operator and told her that
19 the vehicle was ready.

20 52. At approximately 1:25 p.m., the operator returned to the facility, paid \$127.82 for the
21 repairs, and received a copy of an invoice.

22 53. On October 20, 2011, the Bureau inspected the vehicle using the invoice for
23 comparison. The Bureau found that the facility had repaired the broken ground wire to the A/C
24 compressor and relocated the diode connector on the wire harness, although those repairs were
25 not recorded on the invoice. The Bureau also found that the facility had evacuated and recharged
26 the A/C system with refrigerant when, in fact, that service or repair was not needed on the
27 vehicle.

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1 **NINTH CAUSE FOR DISCIPLINE**

2 **(Failure to Provide Customer with Copy of Signed Document)**

3 54. Respondent's ARD Registration No. 247924 is subject to disciplinary action pursuant
4 to Bus. & Prof. Code section 9884.7, subdivision (a)(3), in that Respondent's employee, Eric,
5 failed to provide the operator with a copy of the work order or estimate.

6 **TENTH CAUSE FOR DISCIPLINE**

7 **(Fraud)**

8 55. Respondent's ARD Registration No. 247924 is subject to disciplinary action pursuant
9 to Bus. & Prof. Code section 9884.7, subdivision (a)(4), in that Respondent committed acts
10 constituting fraud, as follows: Respondent sold and obtained payment from the operator for
11 performing an A/C service on the Bureau's 1997 Chevrolet truck which included evacuating and
12 recharging the A/C system. In fact, Respondent had no basis for selling the evacuation and
13 recharging of the A/C system in that the refrigerant in use on the vehicle had not been identified
14 and checked for contamination by the facility as required by Regulation 3366, subdivision
15 (a)(12). Further, the A/C system had been evacuated and charged with refrigerant prior to the
16 time the vehicle was taken to Respondent's facility, the refrigerant in use on the vehicle was not
17 contaminated, and the vehicle was not in need of any refrigerant or a refrigerant service.

18 **ELEVENTH CAUSE FOR DISCIPLINE**

19 **(Violations of Regulations)**

20 56. Respondent's ARD Registration No. 247924 is subject to disciplinary action pursuant
21 to Bus. & Prof. Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with
22 Regulation 3356, subdivision (a)(2)(A), in a material respect, as follows: Respondent failed to
23 list, describe, or identify on the invoice all repair work performed on the Bureau's 1997 Chevrolet
24 truck, specifically, the repair of the broken ground wire to the A/C compressor and relocation of
25 the diode connector on the wires harness.

26 **UNDERCOVER OPERATION #2: 1999 DODGE STRATUS**

27 57. On October 24, 2011, an undercover operator with the Bureau ("operator") took the
28 Bureau's 1999 Dodge Stratus to Respondent's facility, Slater Shell Auto Repair. The A/C

1 compressor relay on the Bureau-documented vehicle was defective. The operator requested an
2 A/C service on the vehicle at the advertised price of \$19.95 and gave an employee Respondent's
3 coupon from the Fresno Bee. The employee told the operator that the A/C service would cost
4 \$95.45 if the vehicle only needed Freon. The employee had the operator sign a written estimate
5 and gave her a copy. The estimate stated that an A/C service would be performed on the vehicle
6 for \$95.44 and that the service included recharging the A/C system with reconditioned Freon and
7 checking the system for leaks. The operator left the vehicle at the facility.

8 58. At approximately 12:05 p.m. that same day, the operator received a call from the
9 facility and was informed that two valves needed replacement at a cost of \$14.99. The operator
10 authorized the repair.

11 59. At approximately 3:00 p.m., the operator returned to the facility, paid \$111.62 for the
12 repairs, and received a copy of an invoice. The invoice indicated that a Schrader valve had been
13 installed on the vehicle.

14 60. On November 9, 2011, the Bureau inspected the vehicle using the invoice for
15 comparison and found that the facility performed unnecessary repairs, failed to properly repair the
16 vehicle, constituting gross negligence, and charged the operator for more refrigerant than the A/C
17 holds.

18 **TWELFTH CAUSE FOR DISCIPLINE**

19 **(Untrue or Misleading Statements)**

20 61. Respondent's ARD Registration No. 247924 is subject to disciplinary action pursuant
21 to Bus. & Prof. Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized
22 statements which he knew or in the exercise of reasonable care should have known to be untrue or
23 misleading, as follows:

24 a. Respondent represented on the written estimate that the A/C system on the Bureau's
25 1999 Dodge Stratus would be evacuated and recharged with reconditioned Freon as part of the
26 A/C service on the vehicle. In fact, Respondent had no basis for recommending, selling, or
27 performing the evacuation and recharging of the A/C system in that the refrigerant in use on the
28 vehicle had not been identified and checked for contamination by the facility as required by

1 Regulation 3366, subdivision (a)(12). Further, the A/C system had been evacuated and charged
2 with refrigerant prior to the time the vehicle was taken to Respondent's facility, the refrigerant in
3 use on the vehicle was not contaminated, and the vehicle was not in need of any refrigerant or a
4 refrigerant service.

5 b. Respondent's agent, employee, and/or representative told the operator that two valves
6 on the Bureau's 1999 Dodge Stratus needed replacement. In fact, the Schrader valves were
7 functioning properly, held vacuum and did not leak, and were not in need of replacement at the
8 time the vehicle was taken to Respondent's facility.

9 **THIRTEENTH CAUSE FOR DISCIPLINE**

10 **(Fraud)**

11 62. Respondent's ARD Registration No. 247924 is subject to disciplinary action pursuant
12 to Bus. & Prof. Code section 9884.7, subdivision (a)(4), in that Respondent committed acts
13 constituting fraud, as follows:

14 a. Respondent obtained payment from the operator for evacuating and recharging the
15 A/C system on the Bureau's 1999 Dodge Stratus as part of the A/C service on the vehicle. In
16 fact, Respondent had no basis for selling the evacuation and recharging of the A/C system in that
17 the refrigerant in use on the vehicle had not been identified and checked for contamination by the
18 facility as required by Regulation 3366, subdivision (a)(12). Further, the A/C system had been
19 evacuated and charged with refrigerant prior to the time the vehicle was taken to Respondent's
20 facility, the refrigerant in use on the vehicle was not contaminated, and the vehicle was not in
21 need of any refrigerant or a refrigerant service.

22 b. Respondent's agent, employee, and/or representative made a false or misleading
23 representation to the operator regarding the Bureau's 1999 Dodge Stratus, as set forth in
24 subparagraph 61 (b) above, in order to induce the operator to purchase an unnecessary repair on
25 the vehicle, then sold the operator the unnecessary repair, the replacement of the Schrader valves.

26 c. Respondent obtained payment from the operator for recharging the A/C system on the
27 Bureau's 1999 Dodge Stratus with 28 ounces of reconditioned Freon when, in fact, the A/C
28 system on the vehicle only holds 19 ounces of refrigerant.

1 **FOURTEENTH CAUSE FOR DISCIPLINE**

2 **(Gross Negligence)**

3 63. Respondent's ARD Registration No. 247924 is subject to disciplinary action pursuant
4 to Bus. & Prof. Code section 9884.7, subdivision (a)(5), in that Respondent committed acts
5 constituting gross negligence, as follows: Respondent switched or exchanged the defective A/C
6 relay on the Bureau's 1999 Dodge Stratus with the windshield wiper relay to repair the A/C
7 system. As a result thereof, the windshield wiper system no longer operates, compromising the
8 safety of the driver.

9 **FIFTEENTH CAUSE FOR DISCIPLINE**

10 **(Departure from Trade Standards)**

11 64. Respondent's ARD Registration No. 247924 is subject to disciplinary action pursuant
12 to Bus. & Prof. Code section 9884.7, subdivision (a)(7), in that Respondent willfully departed
13 from or disregarded accepted trade standards for good and workmanlike repair without the
14 consent of the owner or the owner's duly authorized representative, in the following material
15 respects:

16 a. Respondent switched or exchanged the defective A/C relay on the Bureau's 1999
17 Dodge Stratus with the windshield wiper relay to repair the A/C system. As a result thereof, the
18 windshield wiper system no longer operates, compromising the safety of the driver.

19 b. Respondent failed to record on the invoice the high and low side system operating
20 pressures of the A/C system on the Bureau's 1999 Dodge Stratus, as required by Regulation 3366,
21 subdivision (a)(15).

22 c. Respondent failed to record on the invoice the center air distribution outlet
23 temperature of the AC system on the Bureau's 1999 Dodge Stratus, as required by Regulation
24 3366, subdivision (a)(16).

25 d. Respondent replaced the Schrader valves on the Bureau's 1999 Dodge Stratus when,
26 in fact, the Schrader valves were functioning properly, held vacuum and did not leak, and were
27 not in need of replacement at the time the vehicle was taken to Respondent's facility.

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SEVENTEENTH CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

70. Respondent's ARD Registration No. 256231 is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(1), in that 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: Respondent's employee, Keith, represented to the operator that the A/C system on the Bureau's 1996 Toyota Camry may require 2 pounds of Freon, then provided the operator with a written estimate stating that the A/C system would be evacuated and recharged with Freon as part of the A/C service on the vehicle. In fact, Respondent's employee, Keith, had no basis for recommending or selling the evacuation and recharging of the A/C system in that the refrigerant in use on the vehicle had not been identified and checked for contamination by the facility as required by Regulation 3366, subdivision (a)(12). Further, the A/C system had been evacuated and charged with refrigerant prior to the time the vehicle was taken to Respondent's facility, the refrigerant in use on the vehicle was not contaminated, and the vehicle was not in need of any refrigerant or a refrigerant service.

EIGHTEENTH CAUSE FOR DISCIPLINE

(Fraud)

71. Respondent's ARD Registration No. 256231 is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(4), in that Respondent committed acts constituting fraud, as follows: Respondent obtained payment from the operator for evacuating and recharging the A/C system on the Bureau's 1996 Toyota Camry as part of the A/C service on the vehicle. In fact, Respondent had no basis for selling the evacuation and recharging of the A/C system in that the refrigerant in use on the vehicle had not been identified and checked for contamination by the facility as required by Regulation 3366, subdivision (a)(12). Further, the A/C system had been evacuated and charged with refrigerant prior to the time the vehicle was taken to Respondent's facility, the refrigerant in use on the vehicle was not contaminated, and the vehicle was not in need of any refrigerant or a refrigerant service.

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1 **NINETEENTH CAUSE FOR DISCIPLINE**

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

3 72. Respondent's ARD Registration No. 256231 is subject to disciplinary action pursuant
4 to Bus. & Prof. Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with
5 section 9884.9, subdivision (a), of that Code in a material respect, as follows: Respondent
6 documented on the invoice that the operator had authorized an additional repair on the Bureau's
7 1996 Toyota Camry, but failed to specify the additional repair, the replacement of the defective
8 A/C relay.

9 **TWENTIETH CAUSE FOR DISCIPLINE**

10 **(Violations of Regulations)**

11 73. Respondent's ARD Registration No. 256231 is subject to disciplinary action pursuant
12 to Bus. & Prof. Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with
13 Regulation 3356, subdivision (a)(2)(A), in a material respect, as follows: Respondent
14 documented on the invoice that a relay (A/C relay) was supplied on the Bureau's 1996 Toyota
15 Camry, but failed to list, describe, or identify the repair work that was performed on the vehicle.

16 **UNDERCOVER OPERATION #2: 1997 CHEVROLET TRUCK**

17 74. On November 1, 2011, an undercover operator with the Bureau ("operator") took the
18 Bureau's 1997 Chevrolet truck to Respondent's facility, A1 76 Auto Repair Unit 2. An open
19 circuit had been created at the ground wire to the A/C compressor on the Bureau-documented
20 vehicle. The operator met with an employee, who identified himself as "Keith". The operator
21 requested an A/C service on the vehicle at the advertised price of \$19.95 and gave Keith
22 Respondent's coupon from the Fresno Bee. Keith had the operator sign a written estimate and
23 gave her a copy. The estimate stated that an A/C service would be performed on the vehicle for
24 \$107.02 and that the service included evacuating and recharging the A/C system with Freon. The
25 operator left the vehicle at the facility.

26 75. At approximately 2:15 p.m. that same day, Keith called the operator and told her that
27 the vehicle was ready. Keith stated that the Freon had to be replaced on the vehicle and that a
28 wire was disconnected, which he reconnected at no charge.

1 **TWENTY-SECOND CAUSE FOR DISCIPLINE**

2 **(Fraud)**

3 79. Respondent's ARD Registration No. 256231 is subject to disciplinary action pursuant
4 to Bus. & Prof. Code section 9884.7, subdivision (a)(4), in that Respondent committed acts
5 constituting fraud, as follows: Respondent obtained payment from the operator for evacuating
6 and recharging the A/C system on the Bureau's 1997 Chevrolet truck as part of the A/C service
7 on the vehicle. In fact, Respondent had no basis for selling the evacuation and recharging of the
8 A/C system in that the refrigerant in use on the vehicle had not been identified and checked for
9 contamination by the facility as required by Regulation 3366, subdivision (a)(12). Further, the
10 A/C system had been evacuated and charged with refrigerant prior to the time the vehicle was
11 taken to Respondent's facility, the refrigerant in use on the vehicle was not contaminated, and the
12 vehicle was not in need of any refrigerant or a refrigerant service.

13 **TWENTY-THIRD CAUSE FOR DISCIPLINE**

14 **(Departure from Trade Standards)**

15 80. Respondent's ARD Registration No. 256231 is subject to disciplinary action pursuant
16 to Bus. & Prof. Code section 9884.7, subdivision (a)(7), in that Respondent willfully departed
17 from or disregarded accepted trade standards for good and workmanlike repair without the
18 consent of the owner or the owner's duly authorized representative, in a material respect, as
19 follows: Respondent failed to reinstall the diode connector on the A/C compressor wire harness.¹

20 **TWENTY-FOURTH CAUSE FOR DISCIPLINE**

21 **(Violations of Regulations)**

22 81. Respondent's ARD Registration No. 256231 is subject to disciplinary action pursuant
23 to Bus. & Prof. Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with
24 Regulation 3356, subdivision (a)(2)(A), in a material respect, as follows: Respondent failed to
25 list, describe, or identify on the invoice all repair work performed on the Bureau's 1997 Chevrolet
26 truck, specifically, the repair of the broken ground wire to the A/C compressor.

27 ¹ The A/C compressor electrical circuit contains a diode that controls normal voltage
28 spikes created during the clutch cycling sequences.

1 TWENTY-FIFTH CAUSE FOR DISCIPLINE

2 (Misleading Price Advertising)

3 82. Respondent's ARD Registration Numbers 206883, 247924, and 256231 are subject to
4 disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(6), in that
5 Respondent failed to comply with Regulation 3372.1 by advertising the A/C service at a price
6 which was misleading, as follows:

7 a. Respondent represented in the advertisement/coupon, described in paragraph 31
8 above, that the A/C service would be \$19.95. In fact, Respondent did not intend to sell the
9 advertised service for \$19.95, but intended to entice the consumer into a more costly transaction,
10 as follows: Respondent represented on the written estimates provided to the undercover operators
11 that the A/C system on the Bureau's vehicles would be evacuated and recharged with Freon as
12 part of the A/C service on the vehicles. In fact, Respondent had no basis for recommending,
13 selling, or performing the evacuation and recharging of the A/C systems in that the refrigerant in
14 use on the vehicles had not been identified and checked for contamination by the facility as
15 required by Regulation 3366, subdivision (a)(12). Further, the A/C systems had been evacuated
16 and charged with refrigerant prior to the time the vehicles were taken to Respondent's facility, the
17 refrigerant in use on the vehicles was not contaminated, and the vehicles were not in need of any
18 refrigerant or a refrigerant service.

19 b. Respondent represented in the advertisement/coupon, described in paragraph 31
20 above, that Freon would be "extra" for "most cars". In fact, Respondent's advertisement has the
21 capacity to mislead the public to the extent it implies that some consumers *will not* be charged for
22 Freon. Each of the undercover operators was charged for Freon regardless of the make or model
23 of the vehicle used in the undercover operation. Further, Respondent's advertisement implies that
24 the consumer's vehicle may need Freon, but does not clearly or conspicuously disclose the fact
25 that the need for Freon cannot be determined until the A/C service is performed and the
26 refrigerant in use on the consumer's vehicle has been identified and checked for contamination.

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1 **TWENTY-SIXTH CAUSE FOR DISCIPLINE**

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

3 83. Respondent's smog check station licenses are subject to disciplinary action pursuant
4 to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed dishonest,
5 fraudulent or deceitful acts whereby another is injured, as set forth in paragraphs 39, 48, 55, 62,
6 71, and 79 above.

7 **OTHER MATTERS**

8 84. Pursuant to Bus. & Prof. Code section 9884.7, subdivision (c), the Director may
9 suspend, revoke, or place on probation the registration for all places of business operated in this
10 state by Respondent Yadollah Missaghian, including, but not limited to, Automotive Repair
11 Dealer Registration Numbers ARD 255333 and ARD 247830, upon a finding that Respondent
12 has, or is, engaged in a course of repeated and willful violations of the laws and regulations
13 pertaining to an automotive repair dealer.

14 85. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Station License
15 Number RC 206883, issued to Yadollah Missaghian, owner of Northgate Shell, is revoked or
16 suspended, any additional license issued under this chapter in the name of said licensee,
17 including, but not limited to, Smog Check Station License Numbers RC 255333 and RC 247830,
18 may be likewise revoked or suspended by the Director.

19 86. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Station License
20 Number RC 247924, issued to Yadollah Missaghian, owner of Slater Shell Auto Repair, is
21 revoked or suspended, any additional license issued under this chapter in the name of said
22 licensee, including, but not limited to, Smog Check Station License Numbers RC 255333 and RC
23 247830, may be likewise revoked or suspended by the Director.

24 87. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Station License
25 Number RC 256231, issued to Yadollah Missaghian, owner of A1 76 Auto Repair Unit 2, is
26 revoked or suspended, any additional license issued under this chapter in the name of said
27 licensee, including, but not limited to, Smog Check Station License Numbers RC 255333 and RC
28 247830, may be likewise revoked or suspended by the Director.

1 **PRAYER**

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

4 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
5 206883, issued to Yadollah Missaghian, owner of Northgate Shell;

6 2. Revoking or suspending Automotive Repair Dealer Registration Number ARD
7 247924, issued to Yadollah Missaghian, owner of Slater Shell Auto Repair;

8 3. Revoking or suspending Automotive Repair Dealer Registration Number ARD
9 256231, issued to Yadollah Missaghian, owner of A1 76 Auto Repair Unit 2;

10 4. Revoking or suspending any other automotive repair dealer registration issued to
11 Yadollah Missaghian, including, but not limited to, Automotive Repair Dealer Registration
12 Numbers ARD 255333 and ARD 247830;

13 5. Revoking or suspending Smog Check Station License Number RC 206883, issued to
14 Yadollah Missaghian, owner of Northgate Shell;

15 6. Revoking or suspending Smog Check Station License Number RC 247924, issued to
16 Yadollah Missaghian, owner of Slater Shell Auto Repair;

17 7. Revoking or suspending Smog Check Station License Number RC 256231, issued to
18 Yadollah Missaghian, owner of A1 76 Auto Repair Unit 2;

19 8. Revoking or suspending any additional license issued under Chapter 5 of the Health
20 and Safety Code in the name of Yadollah Missaghian, including, but not limited to, Smog Check
21 Station License Numbers RC 255333 and RC 247830;

22 9. Ordering Yadollah Missaghian, owner of Northgate Shell, Slater Shell Auto Repair,
23 and A1 76 Auto Repair Unit 2, to pay the Director of Consumer Affairs the reasonable costs of
24 the investigation and enforcement of this case, pursuant to Business and Professions Code section
25 125.3;

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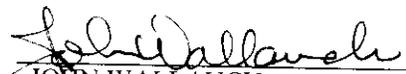
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10. Taking such other and further action as deemed necessary and proper.

DATED: June 1, 2012


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

SA2012104242