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

12 In the Matter of the Accusation Against:

Case No. 77/13-39

13 **G & J AUTO REPAIR**
14 **PARMJIT KAUR GILL, Owner**
15 **1199 Saratoga Avenue, Unit A**
16 **San Jose, CA 95129**

A C C U S A T I O N

17 **Automotive Repair Dealer Registration No.**
18 **ARD 256975**
19 **Smog Check Station License No. RC 256975**

Respondent.

20 John Wallauch ("Complainant") alleges:

21 **PARTIES**

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

24 **Automotive Repair Dealer Registration No. ARD 256975**

25 2. On or about December 22, 2008, the Bureau issued Automotive Repair Dealer
26 Registration Number ARD 256975 ("registration") to Parmjit Kaur Gill ("Respondent"), doing
27 business as G & J Auto Repair. The registration was in full force and effect at all times relevant
28 to the charges brought herein and will expire on November 30, 2013, unless renewed.

1 **Smog Check Station License No. RC 256975**

2 3. On or about December 29, 2008, the Bureau issued Smog Check Station License
3 Number RC 256975 ("station license") to Respondent. The registration was in full force and
4 effect at all times relevant to the charges brought herein and will expire on November 30, 2013,
5 unless renewed.

6 **STATUTORY PROVISIONS**

7 4. Section 9884.7 of the Business and Professions Code ("Code") states, in pertinent
8 part:

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

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

18 (4) Any other conduct that constitutes fraud.

19 (6) Failure in any material respect to comply with the provisions of this
20 chapter [the Automotive Repair Act (Bus. & Prof. Code, § 9880, et seq.)] or
21 regulations adopted pursuant to it.

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

28 (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.

5. Code section 9884.8 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

1 reconditioned parts, that invoice shall clearly state that fact. The invoice shall include
2 a statement indicating whether any crash parts are original equipment manufacturer
3 crash parts or nonoriginal equipment manufacturer aftermarket crash parts. One copy
4 of the invoice shall be given to the customer and one copy shall be retained by the
5 automotive repair dealer.

6 6. Code section 9884.9 states:

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

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

25 (2) Upon completion of the repairs, obtain the customer's signature or
26 initials to an acknowledgment of notice and consent, if there is an oral consent of the
27 customer to additional repairs, in the following language:

28 "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.

7. Code section 9884.13 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.

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1 was the addition of brake fluid to the master cylinder. The operator arrived at Respondent's
2 facility and was greeted by a female standing behind the counter. The operator told her that she
3 needed her vehicle inspected, in that the brake warning light was illuminated. The operator
4 completed and signed Repair Order No. [REDACTED] but was not provided a copy. Respondent
5 contacted the operator and told her that the master cylinder was low on fluid and that the front
6 brake pads were worn and needed to be replaced. The cost of the repairs would be \$200. The
7 operator authorized the repairs.

8 17. On or about November 30, 2011, the operator returned to Respondent's facility to
9 retrieve the vehicle. The operator paid Respondent \$206.60 and received a copy of Repair Order
10 No. [REDACTED]

11 18. On or about December 29, 2011, a Bureau representative re-inspected the vehicle
12 using Repair Order No. [REDACTED] dated November 30, 2011, as a reference. The Bureau
13 representative found that Respondent unnecessarily replaced the front brake pads and resurfaced
14 the front brake rotors.

15 **FOURTH CAUSE FOR DISCIPLINE**

16 **(Untrue or Misleading Statements)**

17 19. Respondent's registration is subject to discipline under Code section 9884.7(a)(1),
18 in that on or about November 30, 2011, Respondent made statements which he knew or which by
19 exercise of reasonable care, should have known were untrue or misleading, in that Respondent
20 falsely represented to the operator that the front brake pads needed to be replaced when, in fact,
21 they did not.

22 **FIFTH CAUSE FOR DISCIPLINE**

23 **(Fraudulent Acts)**

24 20. Respondent's registration is subject to discipline under Code section 9884.7(a)(4),
25 in that on or about November 30, 2011, Respondent committed acts which constitute fraud, in
26 that Respondent told the operator that the front brake pads needed to be replaced, and then
27 invoiced and received payment from the operator for that repair when, in fact, that repair was not
28 necessary.

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SIXTH CAUSE FOR DISCIPLINE

(Failure to Comply with the Automotive Repair Act)

21. Respondent's registration is subject to discipline under Code section 9884.7(a)(6), in that in or about November 30, 2011, Respondent failed to comply with Code section 9884.9(a), by failing to provide the operator with a written estimated price for labor and parts necessary for a specific job.

SEVENTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud, or Deceit)

22. Respondent's station license is subject to discipline under Health and Safety Code section 44072.2(d), in that on or about October 4, 2011, and November 30, 2011, he committed acts involving dishonesty, fraud, or deceit whereby another was injured, as more particularly set forth above in paragraphs 14 and 20.

OTHER MATTERS

23. Under Code section 9884.7(c), the director may deny, suspend, revoke, or place on probation the registrations for all places of business operated in this state by Parmjit Kaur Gill, doing business as G & J Auto Repair, upon a finding that he has, or is, engaged in a course of repeated and willful violations of the laws and regulations pertaining to an automotive repair dealer.

24. Pursuant to Health and Safety Code section 44072.8, if Smog Check Station License Number RC 256975, issued to Parmjit Kaur Gill, doing business as G & J Auto Repair, is revoked or suspended, any additional license issued under this chapter in the name of said licensee may be likewise revoked or suspended by the director.

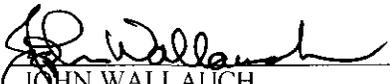
PRAAYER

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. Suspend, revoke, or place on probation Automotive Repair Dealer Registration Number ARD 256975, issued to Parmjit Kaur Gill, doing business as G & J Auto Repair;

- 1 2. Suspend, revoke, or place on probation any other automotive repair dealer
- 2 registration issued to Parmjit Kaur Gill;
- 3 3. Suspend, revoke, or place on probation Smog Check Station License Number RC
- 4 256975, issued to Parmjit Kaur Gill, doing business as G & J Auto Repair;
- 5 4. Suspend, revoke, or place on probation any additional license issued under Chapter
- 6 5 of the Health and Safety Code in the name of Parmjit Kaur Gill;
- 7 5. Ordering Parmjit Kaur Gill to pay the Bureau of Automotive Repair the reasonable
- 8 costs of the investigation and enforcement of this case, pursuant to Code section 125.3; and,
- 9 6. Taking such other and further action as deemed necessary and proper.

10 DATED: March 1, 2013


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

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