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7
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.

79/16-68

13 **NASER EGHAMI -**
14 **PRESIDENT/SECRETARY/TREASURER,**
15 **NICK'S AUTO EXPERTS, INC., D.B.A.**
16 **AUTO EXPERTS**
17 **3825 S. El Camino Real**
18 **San Mateo, CA 94403**

A C C U S A T I O N

19 **Automotive Repair Dealer Registration No.**
20 **ARD 273102**
21 **Smog Check Station License No. RC 273102**

Respondent.

22 Complainant alleges:

23 **PARTIES**

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

26 **LICENSE INFORMATION**

27 **Automotive Repair Dealer Registration No. ARD 273102**

28 2. On or about May 22, 2013, the Bureau of Automotive Repair (Bureau) issued
Automotive Repair Dealer Registration Number ARD 273102 to Naser Eghdami - President/
Secretary/ Treasurer, Nick's Auto Experts, Inc., d.b.a. Auto Experts (Respondent). The

1 automotive repair dealer registration was in full force and effect at all times relevant to the
2 charges brought herein and will expire on May 31, 2016, unless renewed.

3 **Smog Check Station License No. RC 273102**

4 3. On or about June 28, 2013, the Bureau issued Smog Check Station License Number
5 RC 273102 to Respondent. The smog check station license was in full force and effect at all
6 times relevant to the charges brought herein and will expire on May 31, 2016, unless renewed.

7 **JURISDICTION**

8 4. This Accusation is brought before the Director of the Department of Consumer
9 Affairs (Director) for the Bureau, under the authority of the following laws.

10 5. Business and Professions Code section 9884.7 provides that the Director may revoke
11 any automotive repair dealer registration.

12 6. Business and Professions Code section 9884.13 provides, in pertinent part, that the
13 expiration of a valid registration shall not deprive the Director of jurisdiction to proceed with a
14 disciplinary proceeding against an automotive repair dealer or to render a decision temporarily or
15 permanently invalidating (suspending or revoking) a registration.

16 7. Section 118, subdivision (b), of the Business and Professions Code provides that the
17 suspension, expiration, surrender, or cancellation of a license shall not deprive the Director of
18 jurisdiction to proceed with a disciplinary action during the period within which the license may
19 be renewed, restored, reissued or reinstated. Pursuant to Business and Professions Code section
20 9884.5, an automotive repair dealer registration may be renewed within three years following its
21 expiration.

22 8. Health and Safety Code section 44002 provides, in pertinent part, that the Director has
23 all the powers and authority granted under the Automotive Repair Act for enforcing the Motor
24 Vehicle Inspection Program. Section 44002 further provides that any inspection or repair
25 performed pursuant to the Motor Vehicle Inspection Program must satisfy the requirements of
26 Chapter 20.3 [Automotive Repair] of Division 3 of the Business and Professions Code, and
27 Chapter 33 of title 16, Code of California Regulations.

1 any of the provisions of this chapter. This violation, or action by the director, shall not affect in
2 any manner the right of the automotive repair dealer to operate his or her other places of business.

3 "(c) Notwithstanding subdivision (b), the director may suspend, revoke, or place on
4 probation the registration for all places of business operated in this state by an automotive repair
5 dealer upon a finding that the automotive repair dealer has, or is, engaged in a course of repeated
6 and willful violations of this chapter, or regulations adopted pursuant to it."

7 12. Section 9884.8 of the Business and Professions Code states:

8 "All work done by an automotive repair dealer, including all warranty work, shall be
9 recorded on an invoice and shall describe all service work done and parts supplied. Service work
10 and parts shall be listed separately on the invoice, which shall also state separately the subtotal
11 prices for service work and for parts, not including sales tax, and shall state separately the sales
12 tax, if any, applicable to each. If any used, rebuilt, or reconditioned parts are supplied, the invoice
13 shall clearly state that fact. If a part of a component system is composed of new and used, rebuilt
14 or reconditioned parts, that invoice shall clearly state that fact. The invoice shall include a
15 statement indicating whether any crash parts are original equipment manufacturer crash parts or
16 nonoriginal equipment manufacturer aftermarket crash parts. One copy of the invoice shall be
17 given to the customer and one copy shall be retained by the automotive repair dealer."

18 13. Section 9884.9(a) of the Business and Professions Code states:

19 "The automotive repair dealer shall give to the customer a written estimated price for labor
20 and parts necessary for a specific job. No work shall be done and no charges shall accrue before
21 authorization to proceed is obtained from the customer. No charge shall be made for work done or
22 parts supplied in excess of the estimated price without the oral or written consent of the customer
23 that shall be obtained at some time after it is determined that the estimated price is insufficient
24 and before the work not estimated is done or the parts not estimated are supplied. Written consent
25 or authorization for an increase in the original estimated price may be provided by electronic mail
26 or facsimile transmission from the customer. The bureau may specify in regulation the procedures
27 to be followed by an automotive repair dealer if an authorization or consent for an increase in the
28 original estimated price is provided by electronic mail or facsimile transmission. If that consent is

1 oral, the dealer shall make a notation on the work order of the date, time, name of person
2 authorizing the additional repairs and telephone number called, if any, together with a
3 specification of the additional parts and labor and the total additional cost, and shall do either of
4 the following:

5 "(1) Make a notation on the invoice of the same facts set forth in the notation on the work
6 order .

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

10 "I acknowledge notice and oral approval of an increase in the original estimated price.

11 _____
12 (signature or initials)"

13 "Nothing in this section shall be construed as requiring an automotive repair dealer to give a
14 written estimated price if the dealer does not agree to perform the requested repair."

15 14. Section 44012 of the Health and Safety Code states, in pertinent part:

16 "The test at the smog check stations shall be performed in accordance with procedures
17 prescribed by the department . . . and shall ensure all of the following:

18 ". . . .

19 "(f) A visual or functional check is made of emission control devices specified by the
20 department, including the catalytic converter in those instances in which the department
21 determines it to be necessary to meet the findings of Section 44001. The visual or functional
22 check shall be performed in accordance with procedures prescribed by the department.

23 ". . . ."

24 15. California Health and Safety Code section 44072.2 provides:

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

28

1 "(a) Violates any section of this chapter and the regulations adopted pursuant to it, which
2 related to the licensed activities.

3 ". . . .

4 "(c) Violates any of the regulations adopted by the director pursuant to this chapter.

5 ". . . .

6 "(h) Violates or attempts to violate the provisions of this chapter relating to the particular
7 activity for which he or she is licensed."

8 16. California Code of Regulations, title 16, section 3340.15(e) provides:

9 "The station shall make, keep secure, and have available for inspection on request of the
10 bureau, or its representative, legible records showing the station's transactions as a licensee for a
11 period of not less than three years after completion of any transaction to which the records refer.

12 All records shall be open for reasonable inspection and/or reproduction by the bureau or its
13 representative. Station records required to be maintained shall include copies of:

14 "(1) All certificates of compliance and certificates of noncompliance in stock and/or issued,

15 "(2) Repair orders relating to the inspection and repair activities, and

16 "(3) Vehicle inspection reports generated either manually or by the emissions inspection
17 system.

18 ". . . ."

19 17. California Code of Regulations, title 16, section 3340.35, states:

20 ". . . .

21 "(b) A licensed station shall not sell or otherwise transfer unused certificates to another
22 licensed station, to a new owner of the business, or to any person other than a customer whose
23 vehicle has been inspected in accordance with the procedures specified in section 3340.42 of this
24 article.

25 ". . . ."

26 18. California Code of Regulations, title 16, section 3340.42, states, in pertinent part:

27 "Smog check inspection methods are prescribed in the Smog Check Manual, referenced by
28 section 3340.45.

1 ". . . .

2 "(b) In addition to subsection (a), all vehicles subject to the smog check program shall
3 receive the following:

4 "(1) A visual inspection of emission control components and systems to verify the vehicle's
5 emission control systems are properly installed.

6 "(2) A functional inspection of emission control systems as specified in the Smog Check
7 Manual, referenced by section 3340.45, which may include an OBD test, to verify their proper
8 operation.

9 ". . . ."

10 19. California Code of Regulations, title 16, section 3340.45, states:

11 "(a) All Smog Check inspections shall be performed in accordance with requirements and
12 procedures prescribed in the following:

13 "(1) Smog Check Inspection Procedures Manual, dated August 2009, which is hereby
14 incorporated by reference. This manual shall be in effect until subparagraph (2) is implemented.

15 "(2) Smog Check Manual, dated 2013, which is hereby incorporated by reference. This
16 manual shall become effective on or after January 1, 2013."

17 20. California Code of Regulations, title 16, section 3353, states:

18 "No work for compensation shall be commenced and no charges shall accrue without
19 specific authorization from the customer in accordance with the following requirements:

20 "(a) Estimate for Parts and Labor. Every dealer shall give to each customer a written
21 estimated price for labor and parts for a specific job.

22 "(b) Estimate for Auto Body or Collision Repairs. Every dealer, when doing auto body or
23 collision repairs, shall give to each customer a written estimated price for parts and labor for a
24 specific job. Parts and labor shall be described separately and each part shall be identified,
25 indicating whether the replacement part is new, used, rebuilt or reconditioned. The estimate shall
26 also describe replacement crash parts as original equipment manufacturer (OEM) crash parts or
27 non-OEM aftermarket crash parts.

28

1 "(c) Additional Authorization. The dealer shall obtain the customer's authorization before
2 any additional work not estimated is done or parts not estimated are supplied. This authorization
3 shall be in written, oral, or electronic form, and shall describe additional repairs, parts, labor and
4 the total additional cost.

5 "(1) If the authorization from the customer for additional repairs, parts, or labor in excess of
6 the written estimated price is obtained orally, the dealer shall also make a notation on the work
7 order and on the invoice of the date, time, name of the person authorizing the additional repairs,
8 and the telephone number called, if any, together with the specification of the additional repairs,
9 parts, labor and the total additional cost.

10 ". . . .

11 "(4) The additional repairs, parts, labor, total additional cost, and a statement that the
12 additional repairs were authorized either orally, or by fax, or by e-mail shall be recorded on the
13 final invoice pursuant to Section 9884.9 of the Business and Professions Code. All
14 documentation must be retained pursuant to Section 9884.11 of the Business and Professions
15 Code.

16 ". . . ."

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

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

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

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

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

27 (B) Each part supplied, in such a manner that the customer can understand what was
28 purchased, and the price for each described part. The description of each part shall state whether

1 the part was new, used, reconditioned, rebuilt, or an OEM crash part, or a non-OEM aftermarket
2 crash part.

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

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

5 (E) The applicable sales tax, if any.

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

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

12 "(d) The automotive repair dealer shall give the customer a legible copy of the invoice and
13 shall retain a legible copy as part of the automotive repair dealer's records pursuant to Section
14 9884.11 of the Business and Professions Code and Section 3358 of this article."

15 22. California Code of Regulations, title 16, section 3373, states:

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

21 **COSTS**

22 23. Section 125.3 of the Code provides, in pertinent part, that the Bureau may request the
23 administrative law judge to direct a licentiate found to have committed a violation or violations of
24 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
25 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
26 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
27 included in a stipulated settlement.

28 ///

1 January 2013 Office Conference

2 24. Following a consumer complaint against Respondent, the Bureau held an office
3 conference with Respondent. The consumer complaint had alleged that Respondent's shop
4 fraudulently invoiced for work and/or parts not supplied. Respondent generally admitted the
5 fraud. The relevant laws and regulations were discussed in detail with Respondent, and
6 Respondent was informed that the Bureau may ensure compliance in the future by sending
7 undercover vehicles. The following three undercover operations ensued.

8 Undercover Operation #1: 2000 Toyota

9 25. On August 6, 2014, an undercover operator drove a Bureau-documented 2000 Toyota
10 to Respondent's shop. The 2000 Toyota was documented as having an open wire in the Bank 1,
11 Sensor 2 oxygen sensor heater circuit, causing the malfunction indicator light (MIL) to illuminate
12 and creating a Diagnostic Trouble Code.

13 26. At Respondent's shop, the operator spoke with an individual named Sean. The
14 operator requested that Respondent diagnose the problem with the MIL. Sean attached a
15 handheld computer to the vehicle and said that the vehicle had an oxygen sensor code. Sean
16 asked the operator to write his name and telephone number on an estimate and sign it. The
17 operator did so but was not provided a copy. The operator left the 2000 Toyota at the shop for
18 diagnosis and departed.

19 27. Sean called the operator later that day and stated that the oxygen sensor would cost
20 \$220.00 along with \$100.00 for labor. Sean also recommended that the engine timing belt and
21 water pump be replaced. The operator indicated that he only wanted to replace the oxygen sensor.

22 28. The next day, the operator returned and met with Sean, who requested \$338.24. The
23 operator paid \$338.00. Sean provided the operator Invoice # [REDACTED], which indicated charges
24 (among other things) for the time needed to "trace [the] problem to its cause." The total included
25 labor relating to the initial diagnosis of the problem (in the amount of \$47.60). The invoice did
26 not contain a notation of the date, time, name of the person authorizing additional repairs, and
27 telephone number Sean had called to obtain authorization to replace the Oxygen Sensor; nor did
28 the operator sign or initial an acknowledgment of having previously authorized the work orally.

1 estimated price for labor and parts prior to beginning work on diagnosing the 2000 Toyota.
2 Respondent then charged the operator \$47.60 for that work. The circumstances are more fully
3 described above in "Undercover Operation #1: 2000 Toyota."

4 **FOURTH CAUSE FOR DISCIPLINE**

5 **(Failure to Comply with Requirements for Oral Authorization)**

6 33. Respondent's automotive repair dealer registration is subject to disciplinary action
7 under Business and Professions Code sections 9884.7(a)(6) in that Respondent failed to comply
8 with Business and Professions Code section 9884.9(a) and/or California Code of Regulations, title
9 16, section 3353(c). After obtaining oral authorization from the operator to replace the oxygen
10 sensor, Respondent failed to either (1) have the operator sign or initial an acknowledgement of
11 notice and consent or (2) make a notation on the invoice of the facts of the oral consent. The
12 circumstances are more fully described above in "Undercover Operation #1: 2000 Toyota."

13 **Undercover Operation #2: 2006 Chevrolet**

14 34. On September 17, 2014, an undercover operator drove a Bureau-documented 2006
15 Chevrolet to Respondent's shop. The 2006 Chevrolet was documented as having a missing
16 Exhaust Gas Recirculation system (EGR). The EGR system, consisting of an EGR cooler tube,
17 EGR valve, and a computer controlled EGR motor, reduces the engine's production of Oxides of
18 Nitrogen Emissions (Nox) when properly installed. With the missing EGR system (which was a
19 necessary component for the 2006 Chevrolet's emissions system), the vehicle should not have
20 passed the visual/functional component of a properly performed smog inspection.

21 35. The operator paid \$55.00 for the inspection. Respondent passed the vehicle and
22 issued a Certificate of Compliance. Respondent's technician signed the Smog Check Vehicle
23 Inspection Report (VIR) under penalty of perjury below the following statement: "I certify, under
24 penalty of perjury, under the laws of the State of California, that I performed the inspection in
25 accordance with all bureau requirements, and that the information listed on this vehicle inspection
26 report is true and accurate." The technician specifically reported during the smog inspection that
27 the "Exhaust gas recirculation" for the 2006 Chevrolet passed inspection.

28 ///

1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(False or Misleading Statements)**

3 36. Respondent's automotive repair dealer registration is subject to discipline under
4 Business and Professions Code section 9884.7(a)(1), in that Respondent's technician made or
5 authorized a statement which was untrue or misleading and which was known, or which by the
6 exercise of reasonable care should have been known, to be untrue or misleading. The
7 circumstances are described above in "Undercover Operation #2: 2006 Chevrolet."

8 **SIXTH CAUSE FOR DISCIPLINE**

9 **(Conduct Constituting Fraud)**

10 37. Respondent's automotive repair dealer registration is subject to discipline under
11 Business and Professions Code section 9884.7(a)(4), in that Respondent's technician engaged in
12 conduct that constitutes fraud. The circumstances are described above in "Undercover Operation
13 #2: 2006 Chevrolet."

14 **SEVENTH CAUSE FOR DISCIPLINE**

15 **(Failure to Perform Visual/Functional Check According to Prescribed Procedures)**

16 38. Respondent's smog check station license is subject to disciplinary action under Health
17 and Safety Code section 44072.2(a) and/or (h) in conjunction with Health and Safety Code section
18 44012(f), or under Health and Safety Code section 44072.2(a) and/or (c) in conjunction with
19 California Code of Regulations, title 16, sections 3340.45 and/or 3340.42(b), in that Respondent
20 did not perform the visual/functional check on the 2006 Chevrolet according to prescribed
21 procedures. Specifically: (1) The 2006 Chevrolet was not inspected according to the methods
22 prescribed in the Smog Check Manual with respect to the visual test, and/or (2) The 2006
23 Chevrolet did not receive a visual inspection of emission control components to verify that all
24 components were properly installed. The details are described above more fully in "Undercover
25 Operation #2: 2006 Chevrolet."

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27 ///

28 ///

1 **EIGHTH CAUSE FOR DISCIPLINE**

2 **(Improper Issuance of Certificate)**

3 39. Respondent's smog check station license is subject to disciplinary action under Health
4 and Safety Code section 44072.2(a) and/or (c) in conjunction with California Code of
5 Regulations, title 16, section 3340.35(b), in that Respondent issued a Certificate of Compliance to
6 a customer whose vehicle had not been inspected in accord with the procedures specified in
7 California Code of Regulations, title 16, section 3340.42. Specifically: (1) The 2006 Chevrolet
8 was not inspected according to the methods prescribed in the Smog Check Manual with respect to
9 the visual test, and/or (2) The 2006 Chevrolet did not receive a visual inspection of emission
10 control components to verify that all components were properly installed. The details are
11 described above more fully in "Undercover Operation #2: 2006 Chevrolet."

12 **NINTH CAUSE FOR DISCIPLINE**

13 **(Misleading/ False Entries on VIR)**

14 40. Respondent's smog check station license is subject to disciplinary action under Health
15 and Safety Code section 44072.2(a) and/or (c), in conjunction with California Code of
16 Regulations, title 16, section 3373, in that Respondent's technician, in filling out a record required
17 to be maintained by section 3340.15(e), withheld therefrom or inserted therein a statement or
18 information which caused such a document to be false or misleading, or where the tendency or
19 effect thereof would be to mislead or deceive customers, prospective customers, or the public.
20 The details are described above more fully in "Undercover Operation #2: 2006 Chevrolet."

21 **Undercover Operation #3: 1994 Toyota**

22 41. On December 16, 2014, an undercover operator drove a Bureau-documented 1994
23 Toyota to Respondent's shop. The 1994 Toyota had been documented as having a defective fuel
24 injector, which caused the vehicle's MIL to remain illuminated.

25 42. The operator spoke with Sean and requested that the problem be diagnosed. Sean told
26 the operator that the diagnosis would be \$60.00, and the operator agreed. Sean provided the
27 operator a blank estimate and told the operator to write the operator's name and telephone number
28 and then to sign. The operator did so and was not provided a copy.

1 43. Later that day, the operator received a call from Sean stating that a fuel injector for
2 one of the cylinders was bad. Sean stated the fuel injector needed to be replaced. Sean also told
3 the operator that (1) the water pump was badly leaking and needed to be replaced, and that (2) the
4 timing belt was worn and needed to be replaced. The operator told Sean he would call him back.

5 44. The operator later called back less than an hour later and spoke with Nick. Nick said
6 Sean would call the operator back. Later, the operator called back again and stated he still had not
7 heard from Sean. Nick stated that the 1994 Toyota had a bad fuel injector, the water pump was
8 leaking, and the timing belt was worn, and that the charge would be \$1,100.00 plus tax. Nick
9 assured the operator that all three items needed to be repaired. The operator authorized the
10 repairs.

11 45. The operator called Respondent's shop two days later, when the work was expected to
12 be completed. Sean told the operator that the engine mount was also broken and that Sean had
13 already replaced it. The operator told Sean that the car belonged to the operator's daughter and
14 that the operator had not obtained the daughter's permission to replace the engine mount. Sean
15 reassured the operator that Sean would show the operator the broken engine mount when the
16 operator came in. A price for the engine mount was not discussed.

17 46. The operator went to Respondent's shop. Sean provided the operator an invoice for
18 \$1,421.12, and the operator paid \$1,420.00. Sean gave the operator a copy of the invoice but did
19 not explain the work performed or show the operator the engine mount that was replaced.

20 47. The invoice contained charges for the initial diagnosis and the fuel injector, water
21 pump, and timing belt. The invoice also, however, charged the operator for work that was never
22 authorized. Respondent charged the operator \$110.00 for the new engine mount along with
23 \$59.50 in related labor. Respondent also charged the operator for a new alternator belt (\$17.65), a
24 new power steering belt (\$23.40), and a new air conditioning belt (\$18.45). Finally, Respondent
25 charged the operator \$2.00 as a miscellaneous "shop" fee, as well as \$33.00 for coolant.

26 48. Although the operator was charged for a new alternator belt, a new power steering
27 belt, and a new air conditioning belt, the 1994 Toyota only has two such belts: (1) a power
28 steering belt and (2) an alternator and air conditioning belt. Moreover, at the time the operator

1 took the 1994 Toyota to Respondent's shop, these two belts were new and in good condition.

2 Respondent thus charged for a belt not provided and for others that were unnecessary.

3 49. The Bureau then re-inspected the 1994 Toyota. Respondent had replaced the fuel
4 injector, which was the only repair needed. Respondent had also replaced the two belts discussed
5 above (the power steering belt and the alternator and air conditioning belt), the water pump, the
6 timing belt, and the front engine mount. Respondent had also refilled the engine coolant.

7 **TENTH CAUSE FOR DISCIPLINE**

8 **(False/ Misleading Statements)**

9 50. Respondent's automotive repair dealer registration is subject to disciplinary action
10 under Business and Professions Code section 9884.7(a)(1) in that Respondent made or authorized
11 in any manner by any means whatever any statement written or oral which was untrue or
12 misleading, and which was known, or which by the exercise of reasonable care should have been
13 known, to be untrue or misleading. As more fully discussed above in "Undercover Operation #3:
14 1994 Toyota":

- 15 A. Both Nick and Sean told the operator that the 1994 Toyota's water pump was
16 leaking badly and needed to be replaced. This was untrue.
- 17 B. Sean told the operator that the 1994 Toyota's engine mount was broken. This
18 was untrue.
- 19 C. Respondent wrote on the invoice that a new alternator belt and a new air
20 conditioning belt had been installed on the 1994 Toyota. The 1994 Toyota only
21 has a single alternator and air conditioner belt.

22 **ELEVENTH CAUSE FOR DISCIPLINE**

23 **(Conduct Constituting Fraud)**

24 51. Respondent's automotive repair dealer registration is subject to discipline under
25 Business and Professions Code section 9884.7(a)(4), in that Respondent's technician engaged in
26 conduct that constitutes fraud. Although the operator was charged for a new alternator belt, a new
27 power steering belt, and a new air conditioning belt, the 1994 Toyota only has two such belts.
28 Additionally, at the time the operator took the 1994 Toyota to Respondent's shop, these two belts

1 were new and in good condition. Respondent thus charged for a belt not provided and for two
2 others that were unnecessary. The circumstances are more fully described above in "Undercover
3 Operation #3: 1994 Toyota."

4 **TWELFTH CAUSE FOR DISCIPLINE**

5 **(Misleading/ False Statement on Invoice)**

6 52. Respondent's automotive repair dealer registration is subject to disciplinary action
7 under Business and Professions Code section 9884.7(a)(6), in conjunction with California Code
8 of Regulations, title 16, section 3373, in that Respondent inserted into the invoice for the 1994
9 Toyota a statement or information which caused it to be false or misleading, or where the
10 tendency or effect thereof would be to mislead or deceive customers, prospective customers, or
11 the public. The details are described above more fully in "Undercover Operation #3: 1994
12 Toyota."

13 **THIRTEENTH CAUSE FOR DISCIPLINE**

14 **(Failure to Provide Copy of Document Requiring Signature)**

15 53. Respondent's automotive repair dealer registration is subject to disciplinary action
16 under Business and Professions Code section 9884.7(a)(3) in that Respondent failed or refused to
17 give a customer a copy of a document requiring the customer's signature as soon as the customer
18 signed the document. Specifically, Respondent failed or refused to provide a copy of the blank
19 estimate after the operator signed it. The circumstances are more fully described above in
20 "Undercover Operation #3: 1994 Toyota."

21 **FOURTEENTH CAUSE FOR DISCIPLINE**

22 **(Written Estimate)**

23 54. Respondent's automotive repair dealer registration is subject to disciplinary action
24 under Business and Professions Code section 9884.7(a)(6) in that Respondent failed to comply
25 with Business and Professions Code section 9884.9(a) and/or California Code of Regulations, title
26 16, sections 3353 and/or 3353(a). Respondent failed to provide the operator with a written
27 estimated price prior to beginning work on diagnosing the 1994 Toyota. The circumstances are
28 more fully described above in "Undercover Operation #3: 1994 Toyota."

1 **FIFTEENTH CAUSE FOR DISCIPLINE**

2 **(Failure to Comply with Requirements for Oral Authorization)**

3 55. Respondent's automotive repair dealer registration is subject to disciplinary action
4 under Business and Professions Code sections 9884.7(a)(6) in that Respondent failed to comply
5 with Business and Professions Code section 9884.9(a) and/or California Code of Regulations, title
6 16, section 3353(c). After obtaining oral authorization from the operator to repair/replace the fuel
7 injector, water pump, and timing belt, Respondent failed to either (1) have the operator sign or
8 initial an acknowledgement of notice and consent or (2) make a notation on the invoice of the
9 facts of the oral consent. The circumstances are more fully described above in "Undercover
10 Operation #3: 1994 Toyota."

11 **SIXTEENTH CAUSE FOR DISCIPLINE**

12 **(Work Performed Without Authorization)**

13 56. Respondent's automotive repair dealer registration is subject to discipline under
14 Business and Professions Code section 9884.7(a)(6) in that Respondent failed to comply with
15 Business and Professions Code section 9884.9(a) and/or California Code of Regulations, title 16,
16 section 3353. Respondent performed significant work on the 1994 Toyota without obtaining prior
17 authorization to do so from the operator. Respondent replaced the engine mount, installed new
18 belts, and refilled the 1994 Toyota's engine coolant without first obtaining authorization from the
19 operator. Respondent then charged the operator for this labor and/or parts. The circumstances are
20 more fully discussed above in "Undercover Operation #3: 1994 Toyota."

21 **FOURTEENTH CAUSE FOR DISCIPLINE**

22 **(Invoice Charges for General Items)**

23 57. Respondent's automotive repair dealer registration is subject to discipline under
24 Business and Professions Code section 9884.7(a)(6), in that Respondent violated California Code
25 of Regulations, title 16, section 3356(c). Respondent separately billed the operator on the invoice
26 for generically noted "Shop" costs of \$2.00. The circumstances are more fully discussed above in
27 "Undercover Operation #3: 1994 Toyota."

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1 **DISCIPLINE CONSIDERATIONS**

2 58. In order to determine the degree of discipline, if any, to be imposed, Complainant
3 alleges that on or about July 22, 2014, the Bureau issued Citation No. C2014-0126 to Respondent
4 for issuing a Certificate of Compliance to an undercover vehicle with a missing Pulse Secondary
5 Air (PAIR) system. The citation was paid on August 14, 2014, and is incorporated by reference
6 herein as if fully set forth.

7 59. In order to determine the degree of discipline, if any, to be imposed, Complainant
8 alleges that on or about September 26, 2012, the Bureau issued Citation No. C2013-0233 to
9 Carlmont Village Shell, Naser Eghdami - Partner (ARD212171/ RC212171), for issuing a
10 Certificate of Compliance to an undercover vehicle with a missing Air Injection System. The
11 citation was paid on November 7, 2012, and is incorporated by reference herein as if fully set
12 forth.

13 **PRAYER**

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

- 16 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
17 273102, issued to Naser Eghdami - President/ Secretary/ Treasurer, Nick's Auto Experts, Inc.,
18 d.b.a. Auto Experts;
- 19 2. Revoking or suspending Smog Check Station License Number RC 273102, issued to
20 Naser Eghdami - President/ Secretary/ Treasurer, Nick's Auto Experts, Inc., d.b.a. Auto Experts;
- 21 3. Ordering Naser Eghdami - President/ Secretary/ Treasurer, Nick's Auto Experts, Inc.,
22 d.b.a. Auto Experts to pay the Bureau of Automotive Repair the reasonable costs of the
23 investigation and enforcement of this case, pursuant to Business and Professions Code section
24 125.3;

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

DATED: *February 26, 2016*

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

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