

**BEFORE THE DIRECTOR
DEPARTMENT OF CONSUMER AFFAIRS
BUREAU OF AUTOMOTIVE REPAIR
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**KUMA TIRE AND WHEEL,
DAVID FRANK KUMA, OWNER**
6589 Magnolia Avenue
Riverside, CA 92506-2411

Automotive Repair Dealer Registration No.
ARD 61007
Lamp Station License No. LS 61007
Brake Station License No. BS 61007

DAVID FRANK KUMA
6589 Magnolia Avenue
Riverside, CA 92506-2411

Lamp Adjuster License No. LA 040866
Brake Adjuster License No. BA 040866

Respondent.


Case No. 77/15-40

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby accepted and adopted as the Decision of the Director of the Department of Consumer Affairs in the above-entitled matter.

This Decision shall become effective December 8, 2015.

DATED: November 10, 2015



TAMARA COLSON
Assistant General Counsel
Department of Consumer Affairs

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Attorney General of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
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9 **BEFORE THE**
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. 77/15-40

13 **KUMA TIRE AND WHEEL,**
DAVID FRANK KUMA, OWNER
14 **6589 Magnolia Avenue**
Riverside, CA 92506-2411

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

15 **Automotive Repair Dealer Registration No.**
16 **ARD 61007**
Lamp Station License No. LS 61007
17 **Brake Station License No. BS 61007**

18 **DAVID FRANK KUMA**
6589 Magnolia Avenue
19 **Riverside, CA 92506-2411**

20 **Lamp Adjuster License No. LA 040866**
21 **Brake Adjuster License No. BA 040866**

22 Respondent.

23 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
24 entitled proceedings that the following matters are true:

25 PARTIES

26 1. Patrick Dorais (Complainant) is the Chief of the Bureau of Automotive Repair. He
27 brought this action solely in his official capacity and is represented in this matter by Kamala D.
28

1 Harris, Attorney General of the State of California, by Manuel Arambula, Deputy Attorney
2 General.

3 2. Respondent Kuma Tire and Wheel, David Frank Kuma, Owner (Respondent) is
4 representing himself in this proceeding and has chosen not to exercise his right to be represented
5 by counsel.

6 3. In 1977, the Bureau of Automotive Repair issued Automotive Repair Dealer
7 Registration No. ARD 61007 to Kuma Tire and Wheel, David Frank Kuma, Owner (Respondent).
8 The Automotive Repair Dealer Registration was in full force and effect at all times relevant to the
9 charges brought in Accusation No. 77/15-40 and will expire on November 30, 2015, unless
10 renewed.

11 4. On or about April 24, 1992, the Bureau of Automotive Repair issued Lamp Station
12 License No. LS 61007 to Kuma Tire and Wheel, David Frank Kuma, Owner. The Lamp Station
13 License was in full force and effect at all times relevant to the charges brought in Accusation No.
14 77/15-40 and will expire on November 30, 2015, unless renewed.

15 5. On or about August 24, 1993, the Bureau of Automotive Repair issued Brake Station
16 License No. BS 61007 to Kuma Tire and Wheel, David Frank Kuma, Owner. The Brake Station
17 License was in full force and effect at all times relevant to the charges brought in Accusation No.
18 77/15-40 and will expire on November 30, 2015, unless renewed.

19 6. In 1992, the Bureau of Automotive Repair issued Lamp Adjuster License No. LA
20 40866 to David Frank Kuma. The Lamp Adjuster License was in full force and effect at all
21 times relevant to the charges brought in Accusation No. 77/15-40 and will expire on September
22 30, 2015, unless renewed.

23 7. In 1993, the Bureau of Automotive Repair issued Brake Adjuster License No. BA
24 40866 to David Frank Kuma. The Brake Adjuster License was in full force and effect at all times
25 relevant to the charges brought in Accusation No. 77/15-40 and will expire on September 30,
26 2017, unless renewed.

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1 5. **Report Financial Interest.** Within 30 days of the effective date of this action, report
2 any financial interest which any partners, officers, or owners of the Respondent facility may have
3 in any other business required to be registered pursuant to Section 9884.6 of the Business and
4 Professions Code.

5 6. **Random Inspections.** Provide Bureau representatives unrestricted access to inspect
6 all vehicles (including parts) undergoing repairs, up to and including the point of completion.

7 7. **Jurisdiction.** If an accusation is filed against Respondent during the term of
8 probation, the Director of Consumer Affairs shall have continuing jurisdiction over this matter
9 until the final decision on the accusation, and the period of probation shall be extended until such
10 decision.

11 8. **Violation of Probation.** Should the Director of Consumer Affairs determine that
12 Respondent has failed to comply with the terms and conditions of probation, the Department may,
13 after giving notice and opportunity to be heard.

14 9. **Cost Recovery.** Payment to the Bureau of the full amount of cost recovery in the
15 amount of \$10,328.19 shall paid in twenty four (24) consecutive, equal monthly installments with
16 the final payment due twelve (12) months before the termination of probation. Failure to complete
17 payment of cost recovery within this time frame shall constitute a violation of probation which
18 may subject Respondent's licenses to outright revocation; however, the Director or the Director's
19 Bureau of Automotive Repair designee may elect to continue probation until such time as
20 reimbursement of the entire cost recovery amount has been made to the Bureau.

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ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Automotive Repair Dealer Registration, Lamp Station License, Brake Station License, Lamp Adjuster License, and Brake Adjuster License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Director of Consumer Affairs.

DATED: 6-22-15



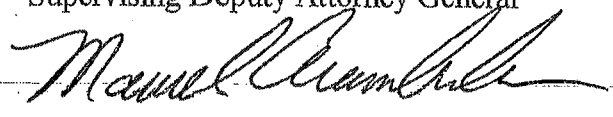
KUMA TIRE AND WHEEL,
DAVID FRANK KUMA, OWNER
Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Director of Consumer Affairs.

Dated: 8/11/15

Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
GREGORY J. SALUTE
Supervising Deputy Attorney General



MANUEL ARAMBULA
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 77/15-40

1 KAMALA D. HARRIS
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2 LINDA K. SCHNEIDER
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Attorneys for Complainant

8
9 **BEFORE THE**
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. **77/15-40**
A C C U S A T I O N

13 **KUMA TIRE AND WHEEL,**
14 **DAVID FRANK KUMA, OWNER**
15 **6589 Magnolia Avenue**
Riverside, CA 92506-2411

16 **Automotive Repair Dealer Registration No.**
ARD 61007
17 **Lamp Station License No. LS 61007**
Brake Station License No. BS 61007,

18 **and**

19 **DAVID FRANK KUMA**
20 **6589 Magnolia Avenue**
Riverside, CA 92506

21 **Lamp Adjuster License No. LA 40866**
22 **Brake Adjuster License No. BA 40866**

23 **Respondent.**

24
25 **Complainant alleges:**

26 **PARTIES**

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

1 **AUTOMOTIVE REPAIR DEALER REGISTRATION**

2 2. In 1977, the Bureau of Automotive Repair issued Automotive Repair Dealer
3 Registration Number ARD 61007 to David Frank Kuma (Respondent), owner of Kuma Tire and
4 Wheel. The Automotive Repair Dealer Registration was in full force and effect at all times
5 relevant to the charges brought herein and will expire on November 30, 2015, unless renewed.

6 **LAMP STATION LICENSE**

7 3. On April 24, 1992, the Bureau of Automotive Repair issued Lamp Station License
8 Number LS 61007 to Respondent. The Lamp Station License was in full force and effect at all
9 times relevant to the charges brought herein and will expire on November 30, 2015, unless
10 renewed.

11 **BRAKE STATION LICENSE**

12 4. On August 24, 1993, the Bureau of Automotive Repair issued Brake Station
13 License Number BS 61007 to Respondent. The Brake Station License was in full force and effect
14 at all times relevant to the charges brought herein and will expire on November 30, 2015, unless
15 renewed.

16 **LAMP ADJUSTER LICENSE**

17 5. In 1992, the Bureau of Automotive Repair issued Lamp Adjuster License Number
18 LA 40866 to Respondent. The Lamp Adjuster License was in full force and effect at all times
19 relevant to the charges brought herein and will expire on September 30, 2015, unless renewed.

20 **BRAKE ADJUSTER LICENSE**

21 6. In 1993, the Bureau of Automotive Repair issued Brake Adjuster License Number
22 BA 40866 to Respondent. The Brake Adjuster License was in full force and effect at all times
23 relevant to the charges brought herein and will expire on September 30, 2017, unless renewed.

24 **JURISDICTION**

25 7. This Accusation is brought before the Director of Consumer Affairs (Director) for
26 the Bureau of Automotive Repair, under the authority of the following laws. All section
27 references are to the Business and Professions Code unless otherwise indicated.

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

6 9. Section 9884.13 provides, in pertinent part, that the expiration of a valid
7 registration shall not deprive the Director of jurisdiction to proceed with a disciplinary proceeding
8 against an automotive repair dealer or to render a decision temporarily or permanently
9 invalidating (suspending or revoking) a registration.

10 10. Section 9889.1 provides, in pertinent part, that the Director may suspend or
11 revoke any license issued under Articles 5 and 6 (commencing with section 9887.1) of the
12 Automotive Repair Act.

13 11. Section 9889.7 provides, in pertinent part, that the expiration or suspension of a
14 license by operation of law or by order or decision of the Director or a court of law, or the
15 voluntary surrender of a license shall not deprive the Director of jurisdiction to proceed with any
16 disciplinary proceedings.

17 STATUTORY PROVISIONS

18 12. Section 22, subdivision (a), states:

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

23 13. Section 477, subdivision (b), provides, in pertinent part, that a “license” includes
24 “registration” and “certificate.”

25 14. Section 9884.7 states, in pertinent part:

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

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

4

5 (3) Failing or refusing to give to a customer a copy of any
6 document requiring his or her signature, as soon as the customer signs the
document.

7 (4) Any other conduct that constitutes fraud.

8

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

11

12 15. Section 9884.8 states:

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

19 16. Section 9884.9 states:

20 (a) The automotive repair dealer shall give to the customer a written
21 estimated price for labor and parts necessary for a specific job. No work shall be
22 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 if an authorization or consent for an increase in the
original estimated price is provided by electronic mail or facsimile transmission. If
that consent is oral, the dealer shall make a notation on the work order of the date,
time, name of person authorizing the additional repairs, and telephone

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1 number called, if any, together with a specification of the additional parts and labor
2 and the total additional cost, and shall do either of the following:

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

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

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

10 _____
11 (signature or initials)"

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

15 17. Section 9889.3 states, in pertinent part:

16 The director may suspend, revoke, or take other disciplinary action against
17 a license as provided in this article if the licensee or any partner, officer, or director
18 thereof:

19 (a) Violates any section of the Business and Professions Code that relates
20 to his or her licensed activities.

21

22 (c) Violates any of the regulations promulgated by the director pursuant to
23 this chapter.

24

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

27

28 18. Section 9889.16 states:

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

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19. Section 9889.22 states:

The willful making of any false statement or entry with regard to a material matter in any oath, affidavit, certificate of compliance or noncompliance, or application form which is required by this chapter or Chapter 5 (commencing with Section 44000) of Part 5 of Division 26 of the Health and Safety Code constitutes perjury and is punishable as provided in the Penal Code.

REGULATORY PROVISIONS

20. California Code of Regulations (CCR), Section 3305 states, in pertinent part:

(a) All adjusting, inspecting, servicing, and repairing of brake systems and lamp systems for the purpose of issuing any certificate of compliance or adjustment shall be performed in official stations, by official adjusters, in accordance with the following, in descending order of precedence, as applicable:

(1) Vehicle Manufacturers' current standards, specifications and recommended procedures, as published in the manufacturers' vehicle service and repair manuals.

....

21. CCR Section 3321 states, in pertinent part:

The operation of official brake adjusting stations shall be subject to the following provisions:

....

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

....

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

....

22. CCR Section 3353 states, in pertinent part:

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

....

1 23. CCR Section 3356 states, in pertinent part:

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

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

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

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

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

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

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

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

23 24. CCR Section 3371 states:

24 No dealer shall publish, utter, or make or cause to be published, uttered, or
25 made any false or misleading statement or advertisement which is known to be
26 false or misleading, or which by the exercise of reasonable care should be known
27 to be false or misleading. Advertisements and advertising signs shall clearly show
28 the following:

(a) Firm Name and Address. The dealer's firm name and address as they
appear on the State registration certificate as an automotive repair dealer; and

(b) Telephone Number. If a telephone number appears in an advertisement
or on an advertising sign, this number shall be the same number as that listed for
the dealer's firm name and address in the telephone directory, or in the telephone
company records if such number is assigned to the dealer subsequent to the
publication of such telephone directory.

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1 25. CCR Section 3373 states:

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

8 **COST RECOVERY**

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

15 **UNDERCOVER OPERATION #1: 1998 CHEVROLET**

16 27. On May 15, 2014, an undercover operator of the Bureau (operator) took the
17 Bureau's 1998 Chevrolet to Respondent's facility, Kuma Tire and Wheel, and told Respondent
18 that she needed a brake and lamp inspection and certificates for the vehicle. Respondent told the
19 operator that the inspection and certifications would cost her \$97.00. The right front brake rotor
20 on the Bureau-documented vehicle was machined below the manufacturer's discard thickness
21 specifications. The right front headlamp was misadjusted, and the left front marker lamp, and the
22 rear license plate illumination lamp were disabled. The vehicle's odometer reading was 116,111
23 miles when she brought it to Respondent's facility. Respondent had the operator sign a work
24 order with an estimate of \$97.00. Respondent did not give the operator a copy of the signed work
25 order. Respondent then took the work order and car keys, then drove the Chevrolet from the
26 parking area to the work area of the facility. Thereafter, Respondent informed the operator that
27 the vehicle passed the brake inspection but did not pass the lamp inspection. Respondent said that
28 it would cost the operator another \$8.00 for him to replace the left front marker lamp and the rear
 license plate illumination lamp. Respondent informed the operator that the lights needed to be
 replaced for the vehicle to pass the lamp inspection. Respondent also gave the operator the option

1 to return to the shop when the lights had been replaced for the issuance of the lamp adjustment
2 certificate.

3 28. The operator paid Respondent \$97.00, received invoice number [REDACTED] for the
4 payment, and left without the certificates. The operator called Respondent's facility and returned
5 there after assurance that the light bulbs could be replaced and the corresponding lamp adjustment
6 certificate issued. A staff at Respondent's shop informed the operator that the lamp adjustment
7 and the brake adjustment certificates had to be issued together. The operator arrived at
8 Respondent's facility's waiting area. The operator handed the car keys to Respondent, who did
9 not provide a written estimate and did not request the operator to sign a work order for the
10 replacement of the bulbs. Respondent drove the vehicle to the work area and returned after
11 approximately fifteen minutes informing the operator that the bulbs had been replaced. The
12 operator paid Respondent \$8.00. Respondent provided the operator receipt number [REDACTED],
13 Brake Adjustment Certificate number [REDACTED] and Lamp Adjustment Certificate number
14 [REDACTED]. The operator left the facility with the Chevrolet's odometer reading remaining at
15 116,111 miles.

16 29. On May 28, 2014, a Bureau representative (representative) inspected the vehicle
17 and found that the right front headlamp had been adjusted and the tamper indicator on the
18 adjuster had been broken. The left front marker lamp and the license plate illumination lamp were
19 operative. However, the representative found that the tamper indicators for the right front and the
20 right rear wheels were undisturbed, indicating that the right side wheels were not removed during
21 the brake inspection. Further, the representative found the right front rotor was still below the
22 manufacturer's discard thickness and in need of replacement. In this condition, the vehicle could
23 not have passed a properly performed brake adjustment inspection.

24 FIRST CAUSE FOR DISCIPLINE

25 (Untrue or Misleading Statements)

26 30. Respondent's registration is subject to disciplinary action under Code section
27 9884.7, subdivision (a)(1), in that he made or authorized statements which he knew or in the
28 exercise of reasonable care should have known to be untrue or misleading, as follows:

1 a. Respondent certified under penalty of perjury on Brake Certificate No.
2 [REDACTED] that the applicable inspection was performed on the brake system on the Bureau's
3 1998 Chevrolet. In fact, Respondent failed to inspect the brakes on the right wheels of the vehicle.

4 b. Respondent certified under penalty of perjury on Brake Certificate No.
5 [REDACTED] that the right front brake rotor on the Bureau's 1998 Chevrolet was in a satisfactory
6 condition. In fact, the right front brake rotor had been machined below the manufacturer's brake
7 rotor minimum thickness specifications.

8 c. Respondent certified under penalty of perjury on Brake Certificate No.
9 [REDACTED] that the Bureau's 1998 Chevrolet had a stopping distance of 17 feet from a speed of
10 20 miles per hour as a result of a road-test. In fact, Respondent never road tested the vehicle.

11 **SECOND CAUSE FOR DISCIPLINE**

12 **(Failure to Provide Signed Copy of Document to Customer)**

13 31. Respondent's registration is subject to disciplinary action under Code section
14 9884.7, subdivision (a)(3), in that he failed to give to the operator a copy of the repair order
15 requiring the operator's signature, as soon as the operator signed the document.

16 **THIRD CAUSE FOR DISCIPLINE**

17 **(Fraud)**

18 32. Respondent's registration is subject to disciplinary action under Code section
19 9884.7, subdivision (a)(4), in that on May 15, 2014, he committed acts which constitute fraud by
20 issuing Brake Certificate No. [REDACTED] for the 1998 Chevrolet without performing a bona fide
21 inspection of the brakes on the right wheels of the vehicle.

22 **FOURTH CAUSE FOR DISCIPLINE**

23 **(Failure to Comply with the Code)**

24 33. Respondent's registration is subject to disciplinary action under Code section
25 9884.7, subdivision (a)(6), in that he failed to comply with the Code in the following material
26 respects:

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1 a. Section 9884.8: Respondent failed to describe on the invoice all service
2 work and parts, including all warranty work, in such a manner that the customer can understand
3 what was purchased.

4 b. Section 9884.9, subdivision (a): Respondent failed to give to the
5 customer a written estimated price for labor and parts necessary for a specific job.

6 **FIFTH CAUSE FOR DISCIPLINE**

7 **(Failure to Comply with the Code)**

8 34. Respondent's brake station license is subject to disciplinary action under Code
9 section 9889.3, subdivision (a), in that on May 15, 2014, regarding the 1998 Chevrolet,
10 Respondent violated sections of the Code, relating to its licensed activities, as more particularly
11 set forth in paragraph 38, below.

12 **SIXTH CAUSE FOR DISCIPLINE**

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

14 35. Respondent's brake station license is subject to disciplinary action under Code
15 section 9889.3, subdivision (c), in that on May 15, 2014, regarding the 1998 Chevrolet,
16 Respondent failed to comply with provisions of California Code of Regulations, title 16, as more
17 particularly set forth in paragraph 31, above.

18 **SEVENTH CAUSE FOR DISCIPLINE**

19 **(Issuance of Certificate to a Non-Conforming Vehicle)**

20 36. Respondent's brake station license is subject to disciplinary action under Code
21 section 9889.3, subdivision (h), in that Respondent issued Brake Adjustment Certificate number
22 [REDACTED] as to the Bureau's 1998 Chevrolet when the vehicle was not in compliance with
23 Bureau Regulations or the requirements of the Vehicle Code.

24 **EIGHTH CAUSE FOR DISCIPLINE**

25 **(Untrue or Misleading Statements)**

26 37. Respondent's brake adjuster license is subject to disciplinary action under Code
27 section 9884.7, subdivision (a)(1), in that he made or authorized statements which he knew or in
28 the exercise of reasonable care should have known to be untrue or misleading, as follows:

1 a. Respondent certified under penalty of perjury on Brake Certificate No.
2 [REDACTED] that the applicable inspection was performed on the brake system on the Bureau's
3 1998 Chevrolet. In fact, Respondent failed to inspect the brakes on the right wheels of the vehicle.

4 b. Respondent certified under penalty of perjury on Brake Certificate No.
5 [REDACTED] that the right front brake rotor on the Bureau's 1998 Chevrolet was in a satisfactory
6 condition. In fact, the right front brake rotor had been machined below the manufacturer's brake
7 rotor minimum thickness specifications.

8 c. Respondent certified under penalty of perjury on Brake Certificate No.
9 [REDACTED] that the Bureau's 1998 Chevrolet had a stopping distance of 17 feet from a speed of
10 20 miles per hour as a result of a road-test. In fact, Respondent never road tested the vehicle.

11 **NINTH CAUSE FOR DISCIPLINE**

12 **(Failure to Comply with the Code)**

13 38. Respondent's brake adjuster license is subject to disciplinary action under Code
14 section 9884.7, subdivision (a)(6), in that he failed to comply with the Code in the following
15 material respects:

16 a. **Section 9889.16:** Respondent issued Brake Certificate No. [REDACTED] for
17 the Bureau's 1998 Chevrolet, when the vehicle was not in compliance with Bureau regulations or
18 the requirements of the Vehicle Code, in that both right brake rotors were below the
19 manufacturer's discard specification.

20 b. **Section 9884.22:** Respondent issued Brake Certificate No. [REDACTED] for
21 the Bureau's 1998 Chevrolet, when the vehicle was not in compliance with the requirements of
22 chapter 20.3 of the Code, an act that constitutes perjury.

23 **TENTH CAUSE FOR DISCIPLINE**

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

25 39. Respondent's brake adjuster license is subject to disciplinary action under Code
26 section 9884.7, subdivision (a)(6), in that he failed to comply with provisions of California Code
27 of Regulations, title 16, in the following material respects:
28

1 a. Section 3305, subdivision (a)(1): Respondent issued Brake Certificate
2 No. [REDACTED] as to the Bureau's 1998 Chevrolet when the brake system on the vehicle was not
3 in compliance with Bureau regulations.

4 b. Section 3321, subdivision (c)(2): Respondent issued Brake Certificate
5 No. [REDACTED] as to the Bureau's 1998 Chevrolet when the brake system on the vehicle had not
6 been completely tested or inspected.

7 **ELEVENTH CAUSE FOR DISCIPLINE**

8 **(Failure to Comply with the Code)**

9 40. Respondent's brake adjuster license is subject to disciplinary action under Code
10 section 9889.3, subdivision (a), in that on May 15, 2014, regarding the 1998 Chevrolet,
11 Respondent violated sections of the Code, relating to its licensed activities, as more particularly
12 set forth in paragraph 38, above.

13 **TWELFTH CAUSE FOR DISCIPLINE**

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

15 41. Respondent's brake adjuster license is subject to disciplinary action under Code
16 section 9889.3, subdivision (c), in that on May 15, 2014, regarding the 1998 Chevrolet,
17 Respondent failed to comply with provisions of California Code of Regulations, title 16, as more
18 particularly set forth in paragraph 31, above.

19 **THIRTEENTH CAUSE FOR DISCIPLINE**

20 **(Issuance of Certificate to a Non-Conforming Vehicle)**

21 42. Respondent's brake adjuster license is subject to disciplinary action under Code
22 section 9889.3, subdivision (h), in that Respondent issued Brake Adjustment Certificate number
23 [REDACTED] as to the Bureau's 1998 Chevrolet when the vehicle was not in compliance with
24 Bureau Regulations or the requirements of the Vehicle Code.

25 **UNDERCOVER OPERATION #2: 2002 HONDA**

26 43. On June 26, 2014, an undercover operator of the Bureau (operator) took the
27 Bureau's 2002 Honda to Respondent's facility, Kuma Tire and Wheel, and requested from
28 Respondent a brake and lamp inspection and certificates for the vehicle. Respondent told the

1 operator that the inspection and certifications would cost \$97.00. The right front brake rotor on
2 the Bureau-documented vehicle was machined below the manufacturer's minimum thickness
3 specifications. The right front headlamps were misadjusted and the rear license plate illumination
4 lamp was disabled. The vehicle's odometer reading was 135,571 miles when the operator brought
5 the car to Respondent's facility. Respondent had the operator sign a work order with an estimate
6 of \$97.00. Respondent did not give the operator a copy of the signed work order. Respondent
7 then took the work order and car keys, then drove the Honda to the work area of the facility.
8 Thereafter, Respondent informed the operator that the vehicle passed the brake inspection but did
9 not pass the lamp inspection. Respondent said that it would cost the operator another \$3.00 for
10 him to replace the rear license plate illumination bulb. Respondent informed the operator that the
11 light needed to be replaced for the vehicle to pass the lamp inspection.

12 44. The operator paid Respondent \$100.00, received invoice number [REDACTED] for the
13 payment, Brake Adjustment Certificate number [REDACTED] and Lamp Adjustment Certificate
14 number [REDACTED]

15 45. On July 9, 2014, a Bureau representative (representative) inspected the vehicle and
16 found that the tamper indicators for the right front and the right rear wheels were broken,
17 indicating that the right side wheels were removed during the brake inspection. However, the
18 right front rotor was still below the manufacturer's discard thickness and in need of replacement.
19 In this condition, the vehicle could not have passed a properly performed brake adjustment
20 inspection and a Certificate of Adjustment-Brake Adjustment should not have been issued.
21 Further, the representative found that left side wheel tamper seals were intact, indicating that the
22 left side wheels were not removed during the brake inspection. The front headlamps had been
23 adjusted and the tamper indicator on the adjuster had been broken. The rear license plate
24 illumination bulb was replaced. The Certificate of Adjustment-Lamp Adjustment was properly
25 issued.

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27 ///

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1 **FOURTEENTH CAUSE FOR DISCIPLINE**

2 **(Untrue or Misleading Statements)**

3 46. Respondent's registration is subject to disciplinary action under Code section
4 9884.7, subdivision (a)(1), in that he made or authorized statements which he knew or in the
5 exercise of reasonable care should have known to be untrue or misleading, as follows:

6 a. Respondent certified under penalty of perjury on Brake Certificate No.
7 [REDACTED] that the applicable inspection was performed on the brake system on the Bureau's
8 2002 Honda. In fact, Respondent failed to replace the right front rotor that was still below the
9 manufacturer's discard thickness.

10 b. Respondent certified under penalty of perjury on Brake Certificate No.
11 [REDACTED] that the right front brake rotor on the Bureau's 2002 Honda was in a satisfactory
12 condition. In fact, the right front brake rotor had been machined below the manufacturer's brake
13 rotor minimum thickness specifications.

14 c. Respondent certified under penalty of perjury on Brake Certificate No.
15 [REDACTED] that the Bureau's 2002 Honda had a stopping distance of 17 feet
16 from a speed of 20 miles per hour as a result of a road-test. In fact, Respondent never road tested
17 the vehicle.

18 **FIFTEENTH CAUSE FOR DISCIPLINE**

19 **(Failure to Provide Signed Copy of Document to Customer)**

20 47. Respondent's registration is subject to disciplinary action under Code section
21 9884.7, subdivision (a)(3), in that he failed to give to the operator a copy of the repair order
22 requiring the operator's signature, as soon as the operator signed the document.

23 **SIXTEENTH CAUSE FOR DISCIPLINE**

24 **(Fraud)**

25 48. Respondent's registration is subject to disciplinary action under Code section
26 9884.7, subdivision (a)(4), in that on June 26, 2014, he committed acts which constitute fraud by
27 issuing Brake Certificate No. [REDACTED] for the 2002 Honda without performing a bona fide
28 inspection of the brakes on the right wheels of the vehicle.

1 **SEVENTEENTH CAUSE FOR DISCIPLINE**

2 **(Failure to Comply with the Code)**

3 49. Respondent's registration is subject to disciplinary action under Code section
4 9884.7, subdivision (a)(6), in that he failed to comply with the Code in the following material
5 respects:

6 a. **Section 9884.8:** Respondent failed to describe on the invoice all service
7 work and parts, including all warranty work, in such a manner that the customer can understand
8 what was purchased.

9 b. **Section 9884.9, subdivision (a):** Respondent failed to give to the
10 customer a written estimated price for labor and parts necessary for a specific job.

11 **EIGHTEENTH CAUSE FOR DISCIPLINE**

12 **(Failure to Comply with the Code)**

13 50. Respondent's brake station license is subject to disciplinary action under Code
14 section 9889.3, subdivision (a), in that on June 26, 2014, regarding the 2002 Honda, Respondent
15 violated sections of the Code, relating to its licensed activities, as more particularly set forth in
16 paragraph 54, below.

17 **NINETEENTH CAUSE FOR DISCIPLINE**

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

19 51. Respondent's brake station license is subject to disciplinary action under Code
20 section 9889.3, subdivision (c), in that on June 26, 2014, regarding the 2002 Honda, Respondent
21 failed to comply with provisions of California Code of Regulations, title 16, as more particularly
22 set forth in paragraph 47, above.

23 **TWENTIETH CAUSE FOR DISCIPLINE**

24 **(Issuance of Certificate to a Non-Conforming Vehicle)**

25 52. Respondent's brake station license is subject to disciplinary action under Code
26 section 9889.3, subdivision (h), in that Respondent issued Brake Adjustment Certificate number
27 [REDACTED] as to the Bureau's 2002 Honda when the vehicle was not in compliance with Bureau
28 Regulations or the requirements of the Vehicle Code.

1 **TWENTY-FIRST CAUSE FOR DISCIPLINE**

2 **(Untrue or Misleading Statements)**

3 53. Respondent's brake adjuster license is subject to disciplinary action under Code
4 section 9884.7, subdivision (a)(1), in that he made or authorized statements which he knew or in
5 the exercise of reasonable care should have known to be untrue or misleading, as follows:

6 a. Respondent certified under penalty of perjury on Brake Certificate No.
7 [REDACTED] that the applicable inspection was performed on the brake system on the Bureau's
8 2002 Honda. In fact, Respondent failed to inspect the brakes on the right wheels of the vehicle.

9 b. Respondent certified under penalty of perjury on Brake Certificate No.
10 [REDACTED] that the right front brake rotor on the Bureau's 2002 Honda was in a satisfactory
11 condition. In fact, the right front brake rotor had been machined below the manufacturer's brake
12 rotor minimum thickness specifications.

13 c. Respondent certified under penalty of perjury on Brake Certificate No.
14 [REDACTED] that the Bureau's 2002 Honda had a stopping distance of 17 feet from a speed of 20
15 miles per hour as a result of a road-test. In fact, Respondent never road tested the vehicle.

16 **TWENTY-SECOND CAUSE FOR DISCIPLINE**

17 **(Failure to Comply with the Code)**

18 54. Respondent's brake adjuster license is subject to disciplinary action under Code
19 section 9884.7, subdivision (a)(6), in that he failed to comply with the Code in the following
20 material respects:

21 a. **Section 9889.16:** Respondent issued Brake Certificate No. [REDACTED] for
22 the Bureau's 2002 Honda, when the vehicle was not in compliance with Bureau regulations or the
23 requirements of the Vehicle Code, in that the right brake rotor was below the manufacturer's
24 discard specification.

25 b. **Section 9889.22:** Respondent issued Brake Certificate No. [REDACTED] for
26 the Bureau's 2002 Honda, when the vehicle was not in compliance with the requirements of
27 chapter 20.3 of the Code, an act that constitute perjury.

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1 **TWENTY-THIRD CAUSE FOR DISCIPLINE**

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

3 55. Respondent's brake adjuster license is subject to disciplinary action under Code
4 Code section 9884.7, subdivision (a)(6), in that he failed to comply with provisions of California
5 Code of Regulations, title 16, in the following material respects:

6 a. **Section 3305, subdivision (a)(1):** Respondent issued Brake Certificate
7 No. [REDACTED] as to the Bureau's 2002 Honda when the brake system on the vehicle was not in
8 compliance with Bureau regulations.

9 b. **Section 3321, subdivision (c)(2):** Respondent issued Brake Certificate
10 No. [REDACTED] as to the Bureau's 2002 Honda when the brake system on the vehicle had not
11 been completely tested or inspected.

12 **TWENTY-FOURTH CAUSE FOR DISCIPLINE**

13 **(Failure to Comply with the Code)**

14 56. Respondent's brake adjuster license is subject to disciplinary action under Code
15 section 9889.3, subdivision (a), in that on June 26, 2014, regarding the 2002 Honda, Respondent
16 violated sections of the Code, relating to its licensed activities, as more particularly set forth in
17 paragraph 54, above.

18 **TWENTY-FIFTH CAUSE FOR DISCIPLINE**

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

20 57. Respondent's brake adjuster license is subject to disciplinary action under Code
21 section 9889.3, subdivision (c), in that on June 26, 2014, regarding the 2002 Honda, Respondent
22 failed to comply with provisions of California Code of Regulations, title 16, as more particularly
23 set forth in paragraph 47, above.

24 **TWENTY-SIXTH CAUSE FOR DISCIPLINE**

25 **(Issuance of Certificate to a Non-Conforming Vehicle)**

26 58. Respondent's brake adjuster license is subject to disciplinary action under Code
27 section 9889.3, subdivision (h), in that Respondent issued Brake Adjustment Certificate number
28 ///

1 [REDACTED] as to the Bureau's 2002 Honda when the vehicle was not in compliance with Bureau
2 Regulations or the requirements of the Vehicle Code.

3 OTHER MATTERS

4 59. Under Code section 9884.7, subdivision (c), the Director may suspend, revoke or
5 place on probation the registration for all places of business operated in this state by Respondent
6 David Frank Kuma, owner of Kuma Tire and Wheel, upon a finding that Respondent has, or is,
7 engaged in a course of repeated and willful violations of the laws and regulations pertaining to an
8 automotive repair dealer.

9 60. Under Code section 9889.9, if Brake Station License [REDACTED] issued to
10 Respondent David Frank Kuma, owner of Kuma Tire and Wheel, is revoked or suspended, Lamp
11 Station License Number LS 61007 and any additional license issued under Articles 5 and 6 of
12 Chapter 20.3 of the Business & Professions Code in the name of said licensee may be likewise
13 revoked or suspended by the Director.

14 61. Under Code section 9889.9, if Brake Adjuster License Number BA 40866, issued
15 to Respondent David Frank Kuma, is revoked or suspended, Lamp Adjuster License Number LA
16 40866 and any additional license issued under Articles 5 and 6 of Chapter 20.3 of the Business &
17 Professions Code in the name of said licensee may be likewise revoked or suspended by the
18 Director.

19 PRAYER

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

22 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
23 61007, issued to David Frank Kuma, owner of Kuma Tire and Wheel;

24 2. Revoking or suspending Brake Station License Number BS 61007, issued to
25 David Frank Kuma, owner of Kuma Tire and Wheel;

26 3. Revoking or suspending Lamp Station License Number LS 61007, issued to David
27 Frank Kuma, owner of Kuma Tire and Wheel;

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1 4. Revoking or suspending Brake Adjuster License Number BA 40866, issued to
2 David Frank Kuma;

3 5. Revoking or suspending Lamp Adjuster License Number LA 40866, issued to
4 David Frank Kuma;

5 6. Ordering David Frank Kuma, owner of Kuma Tire and Wheel, to pay the Bureau
6 of Automotive Repair the reasonable costs of the investigation and enforcement of this case,
7 under Business and Professions Code section 125.3; and

8 7. Taking such other and further action as deemed necessary and proper.
9

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11 DATED: March 2, 2015



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

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