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

10 In the Matter of the Accusation Against:

Case No. 77/18-5735

11 **QUICK TUNE & BRAKE, INC., DBA Quick**
12 **Tune & Brake, Inc.; SHAFIULLAH**
13 **WARDAK, President**
14 **141 Jackson Street**
Hayward, CA 94544
15 **Automotive Repair Dealer Registration No.**
ARD 267117
16 **Smog Check Station License No. RC 267117,**
Brake Station License No. BS 267117, Class C
17 **Lamp Station License No. LS 267117, Class A**

ACCUSATION

18 **and**

19 **SHAFIULLAH SHIZROY WARDAK**
20 **141 Jackson Street**
Hayward, CA 94544
21 **Brake Adjuster License No. BA 30707, Class C**
Lamp Adjuster License No. LA 30707, Class A
22 **Smog Check Inspector License No. EO 30707**
23 **Smog Check Repair Technician License No. EI**
30707

24 Respondents.

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PARTIES

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

Automotive Repair Dealer Registration

2. On November 9, 2011, the Bureau issued Automotive Repair Dealer Registration Number ARD 267117 (registration) to Quick Tune & Brake, Inc. with Shafiullah Wardak as President. (Respondent Quick Tune & Brake, Inc.). The registration was in full force and effect at all times relevant to the charges brought within this Accusation and will expire on November 30, 2020, unless renewed.

Lamp Station License

3. On March 28, 2012, the Bureau issued Lamp Station License Number LS 267117, Class A, to Respondent Quick Tune & Brake, Inc., with Shafiullah Wardak as President. The license was in full force and effect at all times relevant to the charges brought within this Accusation and will expire on November 30, 2020, unless renewed.

Brake Station License

4. On March 28, 2012, the Bureau issued Brake Station License Number BS 267117, Class C, to Respondent Quick Tune & Brake, Inc., with Shafiullah Wardak as President. The license was in full force and effect at all times relevant to the charges brought within this Accusation, and will expire on November 30, 2020, unless renewed.

Smog Check Station License

5. On March 28, 2012, the Bureau issued Smog Check Station License Number RC 267117 to Respondent Quick Tune & Brake, Inc., with Shafiullah Wardak as President. The license was in full force and effect at all times relevant to the charges brought within this Accusation and will expire on November 30, 2020, unless renewed.

Smog Check Inspector License

6. On or about September 4, 2013, the Bureau issued Smog Check Inspector License Number EO 30707 to Respondent Shafiulllah Shirzoy Wardak (Respondent Wardak). The

1 license was in full force and effect at all times relevant to the charges brought within this
2 Accusation and will expire on August 31, 2021, unless renewed.

3 **Smog Check Repair Technician License**

4 7. On or about September 4, 2013, the Bureau issued Smog Check Repair Technician
5 License Number EI 30707 to Respondent Wardak. The license was in full force and effect at all
6 times relevant to the charges brought within this Accusation, and is delinquent.

7 **Brake Adjustor License**

8 8. In or about 1997, the Bureau issued Brake Adjustor License Number BA 30707,
9 Class C to Respondent Wardak. The license was in full force and effect at all times relevant to
10 the charges brought within this Accusation; it expired on August 31, 2018; but has since been
11 renewed, and will expire on August 31, 2022, unless renewed.

12 **Lamp Adjuster License**

13 9. In or about 1997, the Bureau issued Lamp Adjuster License Number LA 30707, Class
14 A, to Respondent Wardak. The license was in full force and effect at all times relevant to the
15 charges brought within this Accusation, and will expire on August 31, 2021, unless renewed.

16 **JURISDICTION**

17 10. This Accusation is brought before the Director of the Department of Consumer
18 Affairs (Director) for the Bureau of Automotive Repair, under the authority of the following laws.
19 All section references are to the Business and Professions Code (Code) unless otherwise
20 indicated.

21 11. Code section 118, subdivision (b), states:

22 “The suspension, expiration, or forfeiture by operation of law of a license issued by a board
23 in the department, or its suspension, forfeiture, or cancellation by order of the board or by order
24 of a court of law, or its surrender without the written consent of the board, shall not, during any
25 period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its
26 authority to institute or continue a disciplinary proceeding against the licensee upon any ground
27 provided by law or to enter an order suspending or revoking the license or otherwise taking
28 disciplinary action against the licensee on any such ground.”

12. Code section 9882, subdivision (a), states in part:

“There is in the Department of Consumer Affairs a Bureau of Automotive Repair under the supervision and control of the director. The duty of enforcing and administering this chapter is vested in the chief who is responsible to the director. The director may adopt and enforce those rules and regulations that he or she determines are reasonably necessary to carry out the purposes of this chapter and declaring the policy of the bureau, including a system for the issuance of citations for violations of this chapter as specified in Section 125.9.”

13. Code section 9884.13 states:

“The expiration of a valid registration shall not deprive the director or chief of jurisdiction to proceed with any investigation or disciplinary proceeding against an automotive repair dealer or to render a decision invalidating a registration temporarily or permanently.”

14. Code section 9889.1 states, in relevant part, that the Director may suspend or revoke any license issued under Articles 5 and 6 (commencing with section 9887.1) of the Automotive Repair Act.

15. Code section 9889.7 states, in relevant part, that the expiration or suspension of a license by operation of law or by order or decision of the Director or a court of law, or the voluntary surrender of a license shall not deprive the Director of jurisdiction to proceed with any disciplinary proceedings.

16. Code section 9889.9 states, in relevant part, that when any license has been revoked or suspended following a hearing under the provisions of this article, any additional license issued under Articles 5 and 6 of this chapter in the name of the licensee may be likewise revoked or suspended by the director.

17. Code section 477 states, in relevant part, that “Board” includes “bureau,” “commission,” “committee,” “department,” “division,” “examining committee,” “program,” and “agency.” “License” includes certificate, registration or other means to engage in a business or profession regulated by the code.

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

• • • •

(5) Conduct constituting gross negligence.

(7) Any willful departure from or disregard of accepted trade standards for good and workmanlike repair in any material respect, which is prejudicial to another without consent of the owner or his or her duly authorized representative.

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19. Code section 9887.1, subdivision (a) states, in relevant part:

20. Code section 9889.3 states, in relevant part:

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

....

(c) Violates any of the regulations promulgated by the director pursuant to this chapter [the Automotive Repair Act].

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

....

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

21. Code 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.

22. Code 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 [the Automotive Repair Act] 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.

23. Health and Safety Code section 44072.2 states, in relevant part:

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

(a) Violates any section of this chapter [the Motor Vehicle Inspection Program (Health and Saf. Code § 44000, et seq.)] and the regulations adopted pursuant to it, which related to the licensed activities.

...

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

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

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REGULATORY PROVISIONS

24. California Code of Regulations, title 16, section 3305, subdivision (a) states that 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 specified procedures.

25. California Code of Regulations, title 16, section 3316, subdivision (d)(2) states: “Where all of the lamps, lighting equipment, and related electrical systems on a vehicle have been inspected and found in compliance with all requirements of the Vehicle Code and bureau regulations, the certificate shall certify that the entire system meets all such requirement.”

26. California Code of Regulations, title 16, section 3321, subdivision (c)(2) provides, in relevant part: “Where the entire brake system on any vehicle has been inspected or tested and found 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.”

27. California Code of Regulations, title 16, section 3340.24, subdivision (c), provides:

“(c) The bureau may suspend or revoke the license of or pursue other legal action against a licensee, if the licensee falsely or fraudulently issues or obtains a certificate of compliance or a certificate of noncompliance.”

28. California Code of Regulations, title 16, section 3340.30, provides, in relevant part:

“A smog check technician shall comply with the following requirements at all times while licensed.

“(a) A licensed technician shall inspect, test and repair vehicles in accordance with section 44012 of the Health and Safety Code, section 44035 of the Health and Safety Code, and section 3340.42 of this article.”

29. California Code of Regulations, title 16, section 3340.35, subdivision (c), states:

“(c) A licensed station shall issue a certificate of compliance or noncompliance to the owner or operator of any vehicle that has been inspected in accordance with the procedures

1 specified in section 3340.42 of this article and has all the required emission control equipment
2 and devices installed and functioning correctly.”

3 30. California Code of Regulations, title 16, section 3340.41, subdivision (c), states:

4 “(c) No person shall enter into the emissions inspection system any vehicle identification
5 information or emission control system identification data for any vehicle other than the one
6 being tested. Nor shall any person knowingly enter into the emissions inspection system any false
7 information about the vehicle being tested.”

8 31. California Code of Regulations, title 16, section 3371 states:

9 “No dealer shall publish, utter, or make or cause to be published, uttered, or made any false
10 or misleading statement or advertisement which is known to be false or misleading, or which by
11 the exercise of reasonable care should be known to be false or misleading...”

12 32. California Code of Regulations, title 16, section 3373, states:

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

18 **COST RECOVERY**

19 33. Code section 125.3 states, in relevant part, that the Board may request the
20 administrative law judge to direct a licensee found to have committed a violation or violations of
21 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
22 enforcement of the case, with failure of the licensee to comply subjecting the license to not being
23 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
24 included in a stipulated settlement.

25 **FIRST UNDERCOVER OPERATION: 2001 FORD**

26 34. On August 14, 2018, at approximately 10:45 a.m., a Bureau undercover operator
27 (operator) drove a Bureau-documented 2001 Ford to Quick Tune & Brake, Inc. and requested
28 brake and lamp inspections. The Quick Tune & Brake, Inc., representative, Sean, confirmed that

1 the fee to inspect the brake and lamp systems in the Ford would be \$89.00, and that the
2 inspections would take one to one and one half hours to complete. The operator approved and
3 signed the work order, and left the Ford at Quick Tune & Brake, Inc. for the inspections.

4 35. Previously, in July 2018, a Bureau Forensic Documentation Laboratory (Doc Lab)
5 Representative removed and replaced the Ford's left front brake rotor and right rear brake drum
6 with an undersized brake rotor and an oversized brake drum, intentionally creating defects in the
7 Ford's brake system. Because of the defect introduced by the Bureau Doc Lab Representative to
8 the Ford's left front brake rotor, the brake rotor measured under the minimum manufacture
9 service specifications. Because of the defect introduced by the Bureau Doc Lab Representative to
10 the Ford's right rear brake drum, the brake drum measured over the maximum manufacturer
11 service specifications. The Bureau Doc Lab Representative installed and photographed tamper
12 indicators on all four wheels to detect removal. The Bureau Doc Lab Representative also
13 adjusted both low beam headlamp patterns in the Ford's headlamps to be approximately 12 inches
14 below the maximum specification provided by the Bureau's Handbook for Lamp Adjusting
15 Stations¹ (Lamp Adjusters Handbook). Because of the defect introduced by the Bureau Doc Lab
16 Representative to the Ford's headlamps, the headlamp patterns were out of compliance with lamp
17 adjuster specifications. The Bureau Doc Lab Representative installed and photographed tamper
18 indicators on the headlamp adjuster assemblies to detect removal.

19 36. At approximately 12:55 p.m. on August 14, 2018, the operator returned to Quick Tune
20 & Brake, Inc. to retrieve the Ford. After paying the \$89.00 invoice for the lamp and brake
21 inspections, the operator received a copy of the invoice and the following certificates:

22 a. Certificate of Compliance – Lamp Adjustment No. LA 2853733

23 b. Certificate of Compliance – Brake Adjustment No. BA 2890398

24 37. On August 20, 2018, the Bureau Doc Lab Representative re-inspected the Ford, after
25 reviewing the invoice and certificates of compliance. Based on the re-inspection, the Bureau Doc
26 Lab Representative determined the following:

27 ¹ According to the handbook's introduction, "The objective [of the handbook] is to provide
28 uniformity in the licensing of stations and adjusters, and in the adjusting, servicing and inspecting of
vehicle lighting equipment to ensure the safety of the motoring public."

- 1 a. The tamper indicators installed on the headlamp adjusters were found intact and
2 undisturbed, and both headlamps remained below specifications.
- 3 b. The tamper indicators on all four wheels were found to have been disturbed,
4 indicating the wheels were removed.
- 5 c. The left front brake rotor, previously marked, had not been replaced and continued
6 to be beneath the manufacturer's minimum allowable thickness. Based on this
7 finding, the brake system should have failed the brake inspection.
- 8 d. The right rear brake drum, previously marked, had not been replaced and was over
9 the manufacturer's maximum allowable diameter. Based on this finding, the brake
10 system should have failed the brake inspection.

11 38. The Bureau Doc Lab Representative determined that in issuing the brake and lamp
12 compliance certificates, Respondent Quick Tune & Brake, Inc. failed to adhere to the Bureau's
13 Brake Adjusters' Handbook inspection and certification criteria. Additionally, Respondent Quick
14 Tune & Brake, Inc. failed to adhere to the Lamp Adjusters' Handbook inspection and certification
15 criteria. As a result, the Certificate of Compliance – Lamp Adjustment No. LA 2853733 and the
16 Certificate of Compliance – Brake Adjustment No. BA 2890398 should not have issued.

17 **CAUSES FOR DISCIPLINE**

18 **AUTOMOTIVE REPAIR DEAL REGISTRATION NUMBER ARD 267117; BRAKE**
19 **ADJUSTING STATION NUMBER BS 267117;**
20 **LAMP ADJUSTING STATION NUMBER LS 267117**
21 **SPECIFIC TO RESPONDENT QUICK TUNE & BRAKE, INC.**

22 **FIRST CAUSE FOR DISCIPLINE**

23 (Making or Authorizing False and Misleading Statements)

24 39. Respondent Quick Tune & Brake, Inc. has subjected its Automotive Repair Dealer
25 Registration to disciplinary action under Code section 9884.7, subdivision (a)(1), in that
26 Respondent Quick Tune & Brake, Inc. made or authorized statements which it knew, or which by
27 exercise of reasonable care it should have known, were untrue or misleading, as follows:
28

1 a. Respondent Quick Tune & Brake, Inc. certified under penalty of perjury on Brake
2 Adjustment Number BA 2890398 and Lamp Adjustment Number LA 2853733 that the applicable
3 inspections were performed on the brake and lamp systems on the Bureau's Ford. In fact,
4 Respondent Quick Tune & Brake, Inc. failed to properly inspect the lamps and brakes on the
5 Ford, as more fully explained in paragraphs 34-38, above.

6 **SECOND CAUSE FOR DISCIPLINE**

7 (Fraud)

8 40. Respondent Quick Tune & Brake, Inc. has subjected its Automotive Repair Dealer
9 Registration to disciplinary action for fraud under Code section 9884.7, subdivision (a)(4), in that
10 Respondent Quick Tune & Brake, Inc. committed acts which constitute fraud, as follows:
11 Respondent Quick Tune & Inc. charged and obtained an \$89.00 payment from the operator for
12 performing the applicable inspection, adjustment, or repair of the brake and lamp systems on the
13 Bureau's Ford; however, the inspections were not performed, or were inadequately performed,
14 and Respondent fraudulently issued certificates of compliance that should not have issued,
15 constituting acts of fraud. The circumstances are more fully explained in paragraphs 34-38,
16 above.

17 **THIRD CAUSE FOR DISCIPLINE**

18 (Gross Negligence)

19 41. Respondent Quick Tune & Brake, Inc. has subjected its Automotive Repair Dealer
20 Registration to disciplinary action for gross negligence under Code section 9884.7, subdivision
21 (a)(5) in that Respondent failed to competently inspect the brake and lighting systems on the
22 Bureau's 2001 Ford and issued certificates of compliance for brake adjustment and lamp
23 adjustment when both the brake and lighting systems should not have passed the inspections
24 because they should have failed compliance criteria. By failing to adhere to the inspection and
25 certification criteria specified in the Bureau's Handbooks for Brake and Lamp Adjusters,
26 Respondent Quick Tune & Brake, Inc. was grossly negligent. The circumstances are more fully
27 explained in paragraphs 34-38, above.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 (Failure to comply with Automotive Repair Act)

3 42. Respondent Quick Tune & Brake, Inc. has subjected its Automotive Repair Dealer
4 Registration to disciplinary action for failing to comply with the Automotive Repair Act under
5 Code section 9884.7, subdivision (a)(6) in that Respondent Quick Tune & Brake, Inc. failed to
6 properly perform brake and lamp inspections on the Bureau's 2001 Ford. In doing so,
7 Respondent failed to comply with provisions of the Code in the following material respects:

8 a. Code section 9889.16: Respondent issued Brake Certificate of Compliance Number BA
9 2890398 and Lamp Certificate of Compliance Number LA 2853733 for the Bureau's 2001 Ford;
10 however, the vehicle did not comply with Vehicle Code requirements or Bureau regulations.

11 b. Code section 9889.22: Respondent willfully made false statements or entries on Brake
12 Certificate of Compliance Number BA 2890398 and Lamp Certificate of Compliance Number
13 LA 2853733, in violation of the Automotive Repair Act.

14 The circumstances establishing Respondent's failure to comply with the Automotive
15 Repair Act are more fully explained in paragraphs 34-38, above.

16 **FIFTH CAUSE FOR DISCIPLINE**

17 (Violation of Regulations)

18 43. Respondent Quick Tune & Brake, Inc. has subjected its Automotive Repair Dealer
19 Registration to disciplinary action for failing to comply with the Automotive Repair Act under
20 Code section 9884.7, subdivision (a)(6) in that Respondent Quick Tune & Brake, Inc. failed to
21 comply with the provisions of the California Code of Regulations, title 16, in the following
22 material respects:

23 a. Section 3305, subdivision (a): Respondent Quick Tune & Brake, Inc. failed to perform
24 the inspections of the brake and lamp systems on the Bureau's 2001 Ford in accordance with the
25 specifications, instructions, and directives issued by the Bureau and the vehicle manufacturer.

26 b. Section 3316, subdivision (d)(2): Respondent Quick Tune & Brake, Inc. issued Lamp
27 Certificate of Compliance Number LA 2853733 for the Bureau's 2001 Ford when the lamps were
28 not in compliance with Bureau regulations.

1 c. Section 3321, subdivision (c)(2): Respondent Quick Tune &
2 Brake, Inc. issued Brake Certificate of Compliance Number BA 2890398 for the Bureau's 2001
3 Ford when the brake system on the vehicle should not have passed the inspection because the
4 brake system had not been completely tested nor inspected.

5 d. Section 3373: Respondent Quick Tune & Brake, Inc. issued Brake Certificate of
6 Compliance Number BA 2890398 and Lamp Certificate of Compliance Number LA 28537331;
7 however, the certificates contained false statements of information, given that neither the brake
8 system nor the lamp system were in compliance.

9 The circumstances establishing Respondent's failure to comply with the California Code of
10 Regulations, title 16, are more fully explained in paragraphs 34-38, above.

11 **SIXTH CAUSE FOR DISCIPLINE**

12 (Willful Departure from Accepted Trade Standards)

13 44. Respondent Quick Tune & Brake, Inc. has subjected its Automotive Repair Dealer
14 Registration to disciplinary action for willfully departing from or disregarding accepted trade
15 standards for good and workmanlike repairs under Code section 9884.7, subdivision (a)(7)
16 because Respondent Quick Tune & Brake, Inc. failed to properly perform brake and lamp
17 inspections on the Bureau's 2001 Ford. The circumstances are more fully explained in
18 paragraphs 34-38, above.

19 **SEVENTH CAUSE FOR DISCIPLINE**

20 (Violation of Lamp/Brake Station Adjuster Laws)

21 45. Respondent Quick Tune & Brake, Inc. has subjected its brake and lamp station
22 licenses to disciplinary action pursuant to Code section 9889.3, subdivision (a), because
23 Respondent Quick Tune & Brake, Inc. failed to properly perform brake and lamp inspections on
24 the Bureau's 2001 Ford. The circumstances are more fully explained in paragraphs 34-38, above.

25 **EIGHTH CAUSE FOR DISCIPLINE**

26 (Violations of Lamp/Brake Station Adjuster Regulations)

27 46. Respondent Quick Tune & Brake, Inc. has subjected its brake and lamp station
28 licenses to disciplinary action pursuant to Code section 9889.3, subdivision (c), because

Respondent Quick Tune & Brake, Inc. failed to comply with the provisions of California Code of Regulations, title 16, sections 3305, subdivision (a); 3316, subdivision (d)(2); 3221, subdivision (c)(2); and 3773. The circumstances are more fully explained in paragraphs 34-38, above.

NINTH CAUSE FOR DISCIPLINE

(Committing an Act Involving Dishonesty, Fraud, or Deceit)

47. Respondent Quick Tune & Brake, Inc. has subjected its brake and lamp licenses to disciplinary action under Code section 9889.3, subdivision (d), because Respondent Quick Tune & Brake, Inc. committed acts involving dishonesty, fraud, or deceit when it charged the Bureau operator \$89.00 for brake and lamp inspections that were not competently performed. The circumstances are more fully explained in paragraphs 34-38, above.

**BRAKE ADJUSTER LICENSE NUMBER BA 30707 AND
LAMP ADJUSTER LICENSE NUMBER LA 30707
SPECIFIC TO RESPONDENT SHAFIULLAH WARDAK**

TENTH CAUSE FOR DISCIPLINE

(Violation of Lamp/Brake Station Adjuster Laws)

48. Respondent Shafiullah Wardak (Respondent Wardak) has subjected his brake and lamp adjuster licenses to disciplinary action pursuant to Code section 9889.3, subdivision (a) in that Respondent Wardak failed to properly perform brake and lamp inspections on the Bureau's 2001 Ford and improperly issued certificates of compliance for the Ford's brake and lamp systems. The circumstances are more fully explained in paragraphs 34-38, above.

ELEVENTH CAUSE FOR DISCIPLINE

(Violations of Lamp and Brake Station Adjuster Regulations)

49. Respondent Wardak has subjected his brake and lamp adjuster licenses to disciplinary action pursuant to Code section 9889.3, subdivision (c) in that Respondent Wardak failed to comply with the provisions of California Code of Regulations, title 16, sections 3305, subdivision (a); 3316, subdivision (d)(2); 3221, subdivision (c)(2); and 3773. The circumstances are more fully explained in paragraphs 34-38, above.

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1 **TWELFTH CAUSE FOR DISCIPLINE**

2 (Committing an Act Involving Dishonesty, Fraud, or Deceit)

3 50. Respondent Wardak has subjected his brake and lamp adjuster licenses to disciplinary
4 action pursuant to Code section 9889.3, subdivision (d) in that Respondent Wardak committed
5 acts involving dishonesty, fraud, or deceit when he issued certificates of brake and lamp
6 compliance that fraudulently reflected that the 2001 Ford's brake and lamp systems were in
7 compliance when they were not. The circumstances are more fully explained in paragraphs 34-
8 38, above.

9 **THIRTEENTH CAUSE FOR DISCIPLINE**

10 (Violation of Lamp and Brake Laws Relating to Licensing)

11 51. Respondent Wardak has subjected his brake and lamp adjuster licenses to disciplinary
12 action pursuant to Code section 9889.3, subdivision (h) in that Respondent Wardak issued Brake
13 Certificate of Compliance Number BA 2890398 and Lamp Certificate of Compliance Number
14 LA 2853733, when neither the 2001 Ford's brake system nor its lamp system was actually in
15 compliance. The circumstances are more fully explained in paragraphs 34-38, above.

16 **FOURTEENTH CAUSE FOR DISCIPLINE**

17 (Failure to Properly Perform a Brake and Lamp Inspection)

18 52. Respondent Wardak has subjected his brake and lamp adjuster licenses to disciplinary
19 action pursuant to Code section 9889.16 in that Respondent Wardak failed to inspect the left front
20 brake rotor, the right rear brake drum, and the headlight aim on the 2001 Ford. The
21 circumstances are more fully explained in paragraphs 34-38, above.

22 **FIFTEENTH CAUSE FOR DISCIPLINE**

23 (Willfully Making a False Statement on a Certificate of Compliance)

24 53. Respondent Wardak has subjected his brake and lamp adjuster licenses to disciplinary
25 action pursuant to Code section 9889.22 in that Respondent Wardak issued Brake Certificate of
26 Compliance Number BA 2890398 and Lamp Certificate of Compliance Number LA 2853733
27 when neither the brake system nor the lamp system on the 2001 Ford was actually in compliance.
28 The circumstances are more fully explained in paragraphs 34-38, above.

1 **SMOG CHECK INSPECTOR LICENSE NUMBER EO 30707 AND**
2 **SMOG CHECK REPAIR TECHNICIAN LICENSE NUMBER EI 30707**
3 **SPECIFIC TO RESPONDENT SHAFIULLAH WARDAK**

4 **SIXTEENTH CAUSE FOR DISCIPLINE**
5 **(Dishonesty, Fraud or Deceit)**

6 54. Respondent Wardak has subjected his smog check inspector license to disciplinary
7 action pursuant to Health and Safety Code section 44072.2, subdivision (d), in that Respondent
8 Wardak committed dishonest, fraudulent, and/or deceitful acts resulting in the injury to another,
9 as more fully set forth in paragraphs 34-38, above.

10 55. Respondent Wardak has subjected his smog check repair technician license to
11 disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (d), in that
12 Respondent Wardak committed dishonest, fraudulent, and/or deceitful acts resulting in the injury
13 to another, as more fully set forth in paragraphs 34-38, above.

14 **SECOND UNDERCOVER OPERATION: 2007 TOYOTA**

15 56. On February 21, 2019, at approximately 10:47 a.m., an undercover operator
16 (operator) with the Bureau took the Bureau's 2007 Toyota to Quick Tune & Brake, Inc. and
17 requested brake and lamp inspections. In January and February 2019, a Bureau Forensic
18 Documentation Laboratory (Doc Lab) Representative replaced the right front brake rotor with a
19 brake rotor under the minimum manufacture service specifications. At the same time, the Bureau
20 Doc Lab Representative replaced the left rear brake rotor with a brake rotor under the minimum
21 manufacturer service specifications, and misadjusted the right and left low beam headlamps
22 excessively down, so that both headlights were out of specification.

23 57. Upon arriving at Quick Tune & Brake Inc., the operator met with Respondent
24 Wardak. Respondent Wardak confirmed that the fee to inspect the brake and lamp systems in the
25 2007 Toyota would be \$90.00. The operator signed the work order, and left the 2007 Toyota in
26 the custody of Respondent Wardak.

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1 58. At approximately 1:00 p.m. on February 21, 2019, the operator returned to Quick
2 Tune & Brake, Inc. to retrieve the Bureau's 2007 Toyota. After paying the \$89.90 invoice, the
3 operator received a copy of the invoice and the following certificates of compliance:

4 a. Certificate of Adjustment– Lamp Adjustment No. LA 2962929

5 b. Certificate of Adjustment – Brake Adjustment No. BA 3001144

6 59. On April 9, 2019, after reviewing the invoice and the certificates of compliance, the
7 Bureau Doc Lab Representative re-inspected the 2007 Toyota and determined the following:

8 a. The tamper indicators installed on the headlamp adjusters were found intact and
9 undisturbed, and the headlamp illumination pattern remained out of specifications.

10 b. The tamper indicators on all four wheels were found to have been disturbed,
11 indicating the wheels were removed.

12 c. The right front brake rotor, previously marked, had not been replaced and
13 continued to be beneath the manufacturer's minimum allowable thickness. Based on
14 this finding, the brake system should have failed the brake inspection.

15 d. The left rear brake rotor, previously marked, had not been replaced and was under
16 the manufacturer's minimum allowable diameter. Based on this finding, the brake
17 system should have failed the brake inspection.

18 60. The Bureau technician determined that in issuing the brake and lamp adjustment
19 certificates, Quick Tune & Brake, Inc. failed to adhere to the Bureau's Brake Adjustors'
20 Handbook inspection and certification criteria. Additionally, Quick Tune & Brake Inc. failed to
21 adhere to the Lamp Adjusters' Handbook inspection and certification criteria. As a result, the
22 Certificate of Adjustment – Lamp Adjustment No. LA 2962929 and the Certificate of Adjustment
23 – Brake Adjustment No. BA 3001144 should not have issued.

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**AUTOMOTIVE REPAIR DEAL REGISTRATION NUMBER ARD 267117; BRAKE
ADJUSTING STATION NUMBER BS 267117;
LAMP ADJUSTING STATION NUMBER LS 267117
SPECIFIC TO RESPONDENT QUICK TUNE & BRAKE, INC.**

SEVENTEENTH CAUSE FOR DISCIPLINE

(Making or Authorizing False and Misleading Statements)

61. Respondent Quick Tune & Brake, Inc. has subjected its Automotive Repair Dealer Registration to disciplinary action under Code section 9884.7, subdivision (a)(1), in that Respondent Quick Tune & Brake, Inc. made or authorized statements which it knew, or which by exercise of reasonable care it should have known, were untrue or misleading, as follows:

a. Respondent Quick Tune & Brake, Inc. certified under penalty of perjury on Brake Adjustment Number BA 3001144 and Lamp Adjustment Number LA 2962929 that the applicable inspections were performed on the brake and lamp systems on the Bureau's 2007 Toyota. In fact, Respondent Quick Tune & Brake, Inc. failed to properly inspect the lamps and brakes on the Toyota, as more fully explained in paragraphs 56-60, above.

EIGHTEENTH CAUSE FOR DISCIPLINE

(Fraud)

62. Respondent Quick Tune & Brake, Inc. has subjected its Automotive Repair Dealer Registration to disciplinary action for fraud under Code section 9884.7, subdivision (a)(4), in that Respondent Quick Tune & Brake, Inc. committed acts which constitute fraud, as follows: Respondent Quick Tune & Inc. charged and obtained an \$89.90 payment from the operator for performing the inspection of the brake and lamp systems on the Bureau's 2007 Toyota; however, the inspections were not performed, or were inadequately performed, and Respondent fraudulently issued certificates of compliance that should not have issued, constituting acts of fraud. The circumstances are more fully explained in paragraphs 56-60, above.

NINETEENTH CAUSE FOR DISCIPLINE

(Gross Negligence)

63. Respondent Quick Tune & Brake, Inc. has subjected its Automotive Repair Dealer Registration to disciplinary action for gross negligence under Code section 9884.7, subdivision

1 (a)(5) in that Respondent Quick Tune & Brake, Inc. failed to competently inspect the brake and
2 lighting systems on the Bureau's 2007 Toyota and issued certificates of compliance for brake
3 adjustment and lamp adjustment when both the brake and lighting systems contained obvious
4 defects that should have prevented them from passing the inspections. By failing to adhere to the
5 inspection and certification criteria specified in the Bureau's Handbooks for Brake and Lamp
6 Adjusters, including failing to remove the headlamp adjusters to inspect the headlamps,
7 Respondent Quick Tune & Brake, Inc. was grossly negligent. The circumstances are more fully
8 explained in paragraphs 56-60, above.

9 **TWENTIETH CAUSE FOR DISCIPLINE**

10 (Failure to comply with Automotive Repair Act)

11 64. Respondent Quick Tune & Brake, Inc. has subjected its Automotive Repair Dealer
12 Registration to disciplinary action for failing to comply with the Automotive Repair Act under
13 Code section 9884.7, subdivision (a)(6) in that Respondent Quick Tune & Brake, Inc. failed to
14 properly perform brake and lamp inspections on the Bureau's 2007 Toyota. In doing so,
15 Respondent failed to comply with provisions of the Code in the following material respects:

16 a. Code section 9889.16: Respondent issued Brake Certificate of Compliance Number BA
17 3001144 and Lamp Certificate of Compliance Number No. LA 2962929 for the Bureau's 2007
18 Toyota; however, the vehicle did not comply with Vehicle Code requirements or Bureau
19 regulations.

20 b. Code section 9889.22: Respondent willfully made false statements or entries on Brake
21 Certificate of Compliance BA 3001144 and Lamp Certificate of Compliance Number No. LA
22 2962929, in violation of the Automotive Repair Act.

23 The circumstances establishing Respondent's failure to comply with the Automotive
24 Repair Act are more fully explained in paragraphs 56-60, above.

25 **TWENTY-FIRST CAUSE FOR DISCIPLINE**

26 (Willful Departure from Accepted Trade Standards)

27 65. Respondent Quick Tune & Brake, Inc. has subjected its Automotive Repair Dealer
28 Registration to disciplinary action for willfully departing from or disregarding accepted trade

standards for good and workmanlike repairs under Code section 9884.7, subdivision (a)(7) because Respondent Quick Tune & Brake, Inc. failed to properly perform brake and lamp inspections on the Bureau's 2007 Toyota. The circumstances are more fully explained in paragraphs 56-60, above.

TWENTY-SECOND CAUSE FOR DISCIPLINE

(Violation of Lamp/Brake Station Adjuster Laws)

66. Respondent Quick Tune & Brake, Inc. has subjected its brake and lamp station licenses to disciplinary action pursuant to Code section 9889.3, subdivision (a), because Respondent Quick Tune & Brake, Inc. failed to properly perform brake and lamp inspections on the Bureau's 2007 Toyota. The circumstances are more fully explained in paragraphs 56-60, above.

TWENTY-THIRD CAUSE FOR DISCIPLINE

(Violations of Lamp/Brake Station Adjuster Regulations)

67. Respondent Quick Tune & Brake, Inc. has subjected its brake and lamp station licenses to disciplinary action pursuant to Code section 9889.3, subdivision (c), because Respondent Quick Tune & Brake, Inc. failed to comply with the provisions of California Code of Regulations, title 16, sections 3305, subdivision (a); 3316, subdivision (d)(2); 3221, subdivision (c)(2); and 3773. The circumstances are more fully explained in paragraphs 56-60, above.

TWENTY-FOURTH CAUSE FOR DISCIPLINE

(Committing an Act Involving Dishonesty, Fraud, or Deceit)

68. Respondent Quick Tune & Brake, Inc. has subjected its brake and lamp licenses to disciplinary action under Code section 9889.3, subdivision (d), because Respondent Quick Tune & Brake, Inc. committed acts involving dishonesty, fraud, or deceit when it charged the Bureau operator \$89.90 for brake and lamp inspections that were not competently performed. The circumstances are more fully explained in paragraphs 56-60, above.

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**BRAKE ADJUSTER LICENSE NUMBER BA 30707 AND
LAMP ADJUSTER LICENSE NUMBER LA 30707
SPECIFIC TO RESPONDENT SHAFIULLAH WARDAK**

TWENTY-FIFTH CAUSE FOR DISCIPLINE

(Violation of Lamp/Brake Station Adjuster Laws)

69. Respondent Wardak has subjected his brake and lamp adjuster licenses to disciplinary action pursuant to Code section 9889.3, subdivision (a) in that Respondent Wardak failed to properly perform brake and lamp inspections on the Bureau's 2007 Toyota and improperly issued certificates of compliance for the Toyota's brake and lamp systems. The circumstances are more fully explained in paragraphs 56-60, above.

TWENTY-SIXTH CAUSE FOR DISCIPLINE

(Violations of Lamp and Brake Station Adjuster Regulations)

70. Respondent Wardak has subjected his brake and lamp adjuster licenses to disciplinary action pursuant to Code section 9889.3, subdivision (c) in that Respondent Wardak failed to comply with the provisions of California Code of Regulations, title 16, sections 3305, subdivision (a); 3316, subdivision (d)(2); 3221, subdivision (c)(2); and 3773. The circumstances are more fully explained in paragraphs 56-60, above.

TWENTY-SEVENTH CAUSE FOR DISCIPLINE

(Committing an Act Involving Dishonesty, Fraud, or Deceit)

71. Respondent Wardak has subjected his brake and lamp adjuster licenses to disciplinary action pursuant to Code section 9889.3, subdivision (d) in that Respondent Wardak committed acts involving dishonesty, fraud, or deceit when he issued certificates of brake and lamp compliance that fraudulently reflected that the Toyota's brake and lamp systems were in compliance when they were not. The circumstances are more fully explained in paragraphs 56-60, above.

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1 **TWENTY-EIGHTH CAUSE FOR DISCIPLINE**

2 (Violation of Lamp and Brake Laws Relating to Licensing)

3 72. Respondent Wardak has subjected his brake and lamp adjuster licenses to disciplinary
4 action pursuant to Code section 9889.3, subdivision (h) in that Respondent Wardak issued Brake
5 Certificate of Compliance Number BA 3001144 and Lamp Certificate of Compliance Number
6 LA 2962929, when neither the brake system nor the lamp system was actually in compliance.
7 The circumstances are more fully explained in paragraphs 56-60, above.

8 **TWENTY-NINTH CAUSE FOR DISCIPLINE**

9 (Failure to Properly Perform a Brake and Lamp Inspection)

10 73. Respondent Wardak has subjected his brake and lamp adjuster licenses to disciplinary
11 action pursuant to Code section 9889.16 in that Respondent Wardak failed to inspect the left front
12 brake rotor, the right rear brake drum, and the headlight aim on the Ford. The circumstances are
13 more fully explained in paragraphs 56-60, above.

14 **THIRTIETH CAUSE FOR DISCIPLINE**

15 (Willfully Making a False Statement on a Certificate of Compliance)

16 74. Respondent Wardak has subjected his brake and lamp adjuster licenses to disciplinary
17 action pursuant to Code section 9889.22 in that Respondent Wardak issued Brake Certificate of
18 Compliance Number BA 3001144 and Lamp Certificate of Compliance Number LA 2962929
19 when neither the brake system nor the lamp system was actually in compliance. The
20 circumstances are more fully explained in paragraphs 56-60, above.

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1 **SMOG CHECK INSPECTOR LICENSE NUMBER EO 30707 AND**
2 **SMOG CHECK REPAIR TECHNICIAN LICENSE NUMBER EI 30707**
3 **SPECIFIC TO RESPONDENT SHAFIULLAH WARDAK**

4 **THIRTY-FIRST CAUSE FOR DISCIPLINE**
5 **(Dishonesty, Fraud or Deceit)**

6 75. Respondent Wardak has subjected his smog check inspector license to disciplinary
7 action pursuant to Health and Safety Code section 44072.2, subdivision (d), in that Respondent
8 Wardak committed dishonest, fraudulent, and/or deceitful acts resulting in the injury to another,
9 as more fully set forth in paragraphs 56-60, above.

10 76. Respondent Wardak has subjected his smog check repair technician license to
11 disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (d), in that
12 Respondent Wardak committed dishonest, fraudulent, and/or deceitful acts resulting in the injury
13 to another, as more fully set forth in paragraphs 56-60, above.

14 **THIRD INCIDENT/ FIELD VISIT: MAY 31, 2019**

15 77. On May 31, 2019, a Bureau field inspector (inspector) made a field visit to Quick
16 Tune & Brake, Inc. to perform a periodic Brake inspection. The inspector met with Respondent
17 Wardak and obtained brake certificate books from Respondent Wardak, which documented
18 Respondent Wardak's service history specific to his brake adjuster license. Respondent Wardak's
19 brake adjuster license, BA 30707, expired on August 31, 2018. The inspector identified 372
20 Certificates of Adjustment – Brake Adjustment that Respondent Wardak performed without a
21 valid brake adjuster license.

22 **THIRTIETH CAUSE FOR DISCIPLINE**

23 **(Operating with an Expired License)**

24 78. Respondent Quick Tune & Brake, Inc. has subjected its Automotive Repair Dealer
25 Registration to disciplinary action for operating with an expired license under Code section
26 9887.1, subdivision (a) in that Respondent Quick Tune & Brake, Inc. continued to Issue
27 Certificates of Adjustment –Brake adjustment without a valid brake adjuster license. The
28 circumstances are more fully explained in paragraph 77, above.

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5 and 6 of Chapter 20.3 of Division 3 of the Code in the name of said licensee may be likewise revoked or suspended by the Director.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this Accusation, and that following the hearing, the Director of Consumer Affairs issue a decision:

1. Revoking or suspending Automotive Repair Dealer Registration Number ARD 267117, issued to Shafiullah Wardak, President, doing business as Quick Tune & Brake, Inc.;
2. Revoking or suspending any other Automotive Repair Dealer Registration issued to Quick Tune & Brake, Inc. or Shafiullah Wardak;
3. Revoking or suspending Lamp Station License Number LS 267117, issued to Shafiullah Wardak, President, doing business as Quick Tune & Brake, Inc.;
4. Revoking or suspending Brake Station License Number BS 267117, issued to Shafiullah Wardak, President, doing business as Quick Tune & Brake, Inc.;
5. Revoking or suspending Smog Check Station License Number RC 267117, issued to Shafiullah Wardak, President, doing business as Quick Tune & Break Inc.;
6. Revoking or suspending Smog Check Inspector License Number EO 30707, issued to Shafiullah S. Wardak;
7. Revoking or suspending Smog Check Repair Technician License Number EI 30707, issued to Shafiullah S. Wardak.;
8. Revoking or suspending Brake Adjuster License Number BA 30707, class C, issued to Shafiullah S. Wardak;
9. Revoking or suspending Lamp Adjuster License Number LA 30707, class A, issued to Shafiullah S. Wardak;
10. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code in the name of Shafiullah S. Wardak;
11. Revoking or suspending any other license issued under Article 5 and 6, Chapter 20.3 of Division 3 in the name of Shafiullah S. Wardak;

1 12. Ordering Shafiullah S. Wardak to pay the Bureau of Automotive Repair the
2 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
3 Professions Code section 125.3; and,

4 13. Taking such other and further action as deemed necessary and proper.
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8 DATED: _____

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

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