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

12 In the Matter of the Accusation Against:

Case No. *79/15-119*

13 **PJS AND CARS AUTOMOTIVE**
14 **NICK N. NIX, OWNER**
15 **1140 Stabler Lane**
Yuba City, California 95993

ACCUSATION

16 Automotive Repair Dealer Registration No. ARD 255434
17 Smog Test and Repair Station License No. RC 255434
18 Lamp Station License No. LS 255434
Brake Station License No. BS 255434

19 **NICK N. NIX**
20 **1140 Stabler Lane**
Yuba City, California 95993

21 Smog Check Repair Technician License No. EI 139351
22 (formerly Basic Area Technician License No. EB 139351)
Smog Check Inspector License No. EO 139351
23 Brake Adjuster License No. BA 139351
24 Lamp Adjuster License No. LA 139351

25 Respondents.

26
27 Patrick Dorais ("Complainant") alleges:
28

1 **PARTIES**

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

4 **LICENSE INFORMATION**

5 **Automotive Repair Dealer Registration**

6 2. On or about July 7, 2008, the Bureau issued Automotive Repair Dealer Registration
7 Number ARD 255434 (“registration”) to Nick N. Nix, doing business as PJS and Cars
8 Automotive, (collectively referred to as “Respondent.” The registration was in full force and
9 effect at all times relevant to the charges brought herein and will expire on March 31, 2016,
10 unless renewed.

11 **Smog Check Station License**

12 3. On or about July 29, 2008, the Bureau issued Smog Check Station Number RC 255434
13 (“smog station license”) to Respondent. The station license was in full force and effect at all
14 times relevant to the charges brought herein and will expire on March 31, 2016, unless renewed.

15 **Lamp Station License**

16 4. On or about August 14, 2008, the Bureau issued Lamp Station License Number LS
17 255434 (“lamp station license”) to Respondent. The lamp station license was in full force and
18 effect at all times relevant to the charges brought herein and will expire on March 31, 2016,
19 unless renewed.

20 **Brake Station License**

21 5. On or about August 14, 2008, the Bureau issued Brake Station License Number BS
22 255434 (“brake station license”) to Respondent. The brake station license was in full force and
23 effect at all times relevant to the charges brought herein and will expire on March 31, 2016,
24 unless renewed.

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1 (a) The director, where the automotive repair dealer cannot show there was a
2 bona fide error, may deny, suspend, revoke, or place on probation the registration of
3 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.

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

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

8 (4) Any other conduct which constitutes fraud.

9 (5) Conduct constituting gross negligence.

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

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

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

18 11. Section 9884.8 of the Code states:

19 All work done by an automotive repair dealer, including all warranty work,
20 shall be recorded on an invoice and shall describe all service work done and parts
21 supplied. Service work and parts shall be listed separately on the invoice, which shall
22 also state separately the subtotal prices for service work and for parts, not including
23 sales tax, and shall state separately the sales tax, if any, applicable to each. If any
24 used, rebuilt, or reconditioned parts are supplied, the invoice shall clearly state that
25 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.

26 12. Section 9884.9 of the Code states:

27 (a) The automotive repair dealer shall give to the customer a written estimated
28 price for labor and parts necessary for a specific job. No work shall be done and no
charges shall accrue before authorization to proceed is obtained from the customer.

1 No charge shall be made for work done or parts supplied in excess of the estimated
2 price without the oral or written consent of the customer that shall be obtained at
3 some time after it is determined that the estimated price is insufficient and before the
4 work not estimated is done or the parts not estimated are supplied. Written consent or
5 authorization for an increase in the original estimated price may be provided by
6 electronic mail or facsimile transmission from the customer. The bureau may specify
7 in regulation the procedures to be followed by an automotive repair dealer when an
8 authorization or consent for an increase in the original estimated price is provided by
9 electronic mail or facsimile transmission. If that consent is oral, the dealer shall make
10 a notation on the work order of the date, time, name of person authorizing the
11 additional repairs and telephone number called, if any, together with a specification of
12 the additional parts and labor and the total additional cost, and shall do either of the
13 following:

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

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

19 I acknowledge notice and oral approval of an increase in the original
20 estimated price.

21 _____
22 (signature or initials)

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

26 13. Section 9889.1 of the Code states:

27 Any license issued pursuant to Articles 5 and 6, may be suspended or revoked
28 by the director. The director may refuse to issue a license to any applicant for the
reasons set forth in Section 9889.2. The proceedings under this article shall be
conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1
of Division 3 of Title 2 of the Government Code, and the director shall have all the
powers granted therein.

14. Section 9889.3 of the Code states, in pertinent 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:

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

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

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

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

2 15. Section 9889.7 of the Code states:

3 The expiration or suspension of a license by operation of law or by order or
4 decision of the director or a court of law, or the voluntary surrender of a license by a
licensee shall not deprive the director of jurisdiction to proceed with any investigation
5 of or action or disciplinary proceedings against such licensee, or to render a decision
suspending or revoking such license.

6 16. Section 9889.9 of the Code states:

7 When any license has been revoked or suspended following a hearing under the
8 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
9 director.

10 17. Section 9889.16 of the Code states:

11 Whenever a licensed adjuster in a licensed station upon an inspection or after
12 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
13 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
14 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.

15 18. Section 9884.13 of the Code provides, in pertinent part, that the expiration of a valid
16 registration shall not deprive the Director of jurisdiction to proceed with a disciplinary proceeding
17 against an automotive repair dealer or to render a decision invalidating a registration temporarily
18 or permanently.

19 19. Section 44002 of the Health and Safety Code provides, in pertinent part, that the
20 Director has all the powers and authority granted under the Automotive Repair Act for enforcing
21 the Motor Vehicle Inspection Program.

22 20. Section 44072.2 of the Health and Safety Code states, in pertinent part:

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

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

27 21. Section 44072.6 of the Health and Safety Code provides, in pertinent part, that the
28 expiration or suspension of a license by operation of law, or by order or decision of the

1 Director of Consumer Affairs, or a court of law, or the voluntary surrender of the license shall not
2 deprive the Director of jurisdiction to proceed with disciplinary action.

3 22. Section 44072.8 of the Health and Safety Code states:

4 When a license has been revoked or suspended following a hearing under this
5 article, any additional license issued under this chapter in the name of the licensee
6 may be likewise revoked or suspended by the director.

6 REGULATIONS

7 23. California Code of Regulations, title 16, section 3340.28(e), states that, “[u]pon
8 renewal of an unexpired Basic Area Technician license or an Advanced Emission Specialist
9 Technician license issued prior to the effective date of this regulation, the licensee may apply to
10 renew as a Smog Check Inspector, Smog check Repair Technician, or both.

11 24. California Code of Regulations, title 16, section 3305, states, in pertinent part:

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

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

19 (2) Current standards, specifications, procedures, directives, manuals,
20 bulletins and instructions issued by vehicle and equipment or device manufacturers.

21 (3) Standards, specifications and recommended procedures found in
22 current industry-standard reference manuals and periodicals published by nationally
23 recognized repair information providers.

24 (4) The bureau's Handbook for Brake Adjusters and Stations, February
25 2003, which is hereby incorporated by reference.

26 (5) The bureau's Handbook for Lamp Adjusters and Stations, February
27 2003, which is hereby incorporated by reference.

28 25. California Code of Regulations, title 16, section 3316, states, in pertinent part: . . .

(d) 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) each and
shall not purchase or otherwise obtain such certificates from any other source. Full
payment is required at the time certificates are ordered. Certificates are not
exchangeable following delivery. A licensed station shall not sell or otherwise
transfer unused certificates of adjustment. Issuance of a lamp adjustment certificate
shall be in accordance with the following provisions: . . .

1
2 (2) Where all of the lamps, lighting equipment, and related electrical
3 systems on a vehicle have been inspected and found to be in compliance with all
4 requirements of the Vehicle Code and bureau regulations, the certificate shall certify
5 that the entire system meets all of those requirements.

6
7 26. California Code of Regulations, title 16, section 3321, states, in pertinent part: . . .

8
9 (c) Effective April 1, 1999, licensed stations shall purchase certificates of
10 adjustment from the bureau for a fee of three dollars and fifty cents (\$3.50) and shall
11 not purchase or otherwise obtain such certificates from any other source. A licensed
12 station shall not sell or otherwise transfer unused certificates of adjustment. Full
13 payment is required at the time certificates are ordered. Certificates are not
14 exchangeable following delivery. Issuance of a brake adjustment certificate shall be
15 in accordance with the following provisions: . . .

16
17 (2) Where the entire brake system on any vehicle has been inspected or
18 tested and found to be in compliance with all requirements of the Vehicle Code and
19 bureau regulations, and the vehicle has been road-tested, the certificate shall certify
20 that the entire system meets all such requirements.

21
22 27. California Code of Regulations, title 16, section 3356, states, in pertinent part:

23
24 (a) All invoices for service and repair work performed, and parts supplied, as
25 provided for in Section 9884.8 of the Business and Professions Code, shall comply
26 with the following:

27
28 (1) The invoice shall show the automotive repair dealer's registration
number and the corresponding business name and address as shown in the Bureau's
records. If the automotive repair dealer's telephone number is shown, it shall comply
with the requirements of subsection (b) of Section 3371 of this chapter.

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

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

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

COST RECOVERY

28 28. Code section 125.3 provides, in pertinent part, that a Board may request the
administrative law judge to direct a licentiate found to have committed a violation or violations of
the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
enforcement of the case.

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1 **UNDERCOVER OPERATION NO. 1: OLDSMOBILE**

2 29. On or about December 10, 2013, an undercover Bureau operator (“operator”) drove a
3 Bureau documented Oldsmobile to Respondent's facility and requested a brake and lamp
4 inspection. The vehicle could not have passed the inspections because the front headlamps were
5 out of adjustment, the left and right rear brake drums were beyond factory specifications for
6 maximum diameter (oversized), the rear side marker lamps and rear license plate lamps were
7 inoperative, and the parking brake was out of adjustment. When the operator arrived at
8 Respondent's facility, he requested a brake and lamp inspection. An employee prepared a work
9 order and the operator signed it, but did not receive a copy. Approximately one hour later, a male
10 technician told the operator that the vehicle was ready. The technician told the operator that he
11 replaced a couple of bulbs at no charge². The operator paid \$95.00 for the inspections and
12 received a copy of Invoice No. [REDACTED] Lamp Certificate of Adjustment Number [REDACTED] and
13 Brake Certificate of Adjustment Number [REDACTED]

14 30. On or about December 18, 2013, a Bureau representative inspected the vehicle using
15 Invoice No. [REDACTED], Lamp Certificate of Adjustment Number [REDACTED], and Brake Certificate of
16 Adjustment Number [REDACTED], as a reference. The Bureau representative found the following:
17 1) The rear side marker lamps remained inoperative; 2) The headlamps were still out of
18 adjustment; 3) The rear brake drums remained oversized; and 4) The parking brake was still out
19 of adjustment.

20 **FIRST CAUSE FOR DISCIPLINE**

21 **(Untrue or Misleading Statements)**

22 31. Respondent’s registration is subject to discipline pursuant to Code section 9884.7,
23 subdivision (a)(1), in that on or about December 10, 2013, Respondent made or authorized
24 statements which he knew or in the exercise of reasonable care should have known to be untrue or
25 misleading, as follows:

26
27
28 ² Respondent failed to record this repair and parts supplied on Invoice No. [REDACTED].

1 a. Respondent certified under penalty of perjury on Brake Certificate Number
2 [REDACTED] that the applicable inspection was performed on the brake system when, in fact,
3 Respondent failed to inspect the brake system on the vehicle, in that Respondent failed to remove
4 the wheels on the vehicle.

5 b. Respondent certified under penalty of perjury on Brake Certificate Number
6 [REDACTED] that the left and right rear brake drums were in satisfactory condition when, in fact,
7 the rear brake drums were beyond factory specifications for maximum diameter (oversized), and
8 the parking brake was out of adjustment.

9 c. Respondent certified under penalty of perjury on Lamp Certificate Number
10 [REDACTED] that the applicable adjustments had been performed on the lamp system when, in
11 fact, both headlamps were out of adjustment, and the rear side marker lamps were inoperative.

12 **SECOND CAUSE FOR DISCIPLINE**

13 **(Fraud)**

14 32. Respondent's registration is subject to discipline pursuant to Code section 9884.7,
15 subdivision (a)(4), in that on or about December 10, 2013, Respondent committed acts that
16 constitute fraud, in that Respondent obtained payment from the operator for performing the
17 applicable inspections and adjustments on the vehicle's brake and lamp system, as specified by
18 the Bureau and in accordance with the Vehicle Code, when, in fact, Respondent failed to perform
19 the necessary inspections, as more particularly set forth above in paragraph 31 and all of its
20 subparts.

21 **THIRD CAUSE FOR DISCIPLINE**

22 **(Gross Negligence)**

23 33. Respondent's registration is subject to discipline under Code section 9884.7,
24 subdivision (a)(5), in that on or about December 10, 2013, Respondent committed acts
25 constituting gross negligence, in that Respondent failed to properly inspect the vehicle's brake
26 and lamp systems and issued Brake Certificate Number [REDACTED] and Lamp Certificate
27 Number [REDACTED], indicating that the vehicle's brake and lamp systems were in satisfactory
28 condition and were in accordance with the Vehicle Code when, in fact, they were not.

1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Failure to Provide a Copy of a Signed Document)**

3 34. Respondent's registration is subject to discipline under Code section 9884.7,
4 subdivision (a)(3), in that on or about December 10, 2013, Respondent failed to provide the
5 operator with a copy of the estimate as soon as the operator signed the document.

6 **FIFTH CAUSE FOR DISCIPLINE**

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

8 35. Respondent's registration is subject to discipline pursuant to Code section 9884.7,
9 subdivision (a)(6), in that on or about December 10, 2013, Respondent failed to comply with
10 provisions of that Code in the following material respects:

- 11 a. **Section 9884.8:** Respondent failed to record all work performed and parts
12 supplied on Invoice No. [REDACTED].
- 13 b. **Section 9884.9, subdivision (a):** Respondent failed to provide the operator
14 with a written estimated price for parts and labor for a specific job.
- 15 c. **Section 9889.16:**
- 16 i. Respondent issued Brake Certificate Number [REDACTED] for the vehicle
17 when the vehicle was not in compliance with Bureau regulations or the requirements of the
18 Vehicle Code, in that the rear brake drums were beyond factory specifications for maximum
19 diameter (oversized), and the parking brake was out of adjustment.
- 20 ii. Respondent issued Lamp Certificate Number [REDACTED] for the vehicle
21 when the vehicle was not in compliance with Bureau regulations or the requirements of the
22 Vehicle Code, in that both headlamps were out of adjustment, and the rear side marker lamps
23 were inoperative.

24 **SIXTH CAUSE FOR DISCIPLINE**

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

26 36. Respondent's registration is subject to discipline pursuant to Code section 9884.7,
27 subdivision (a)(6), in that on or about December 10, 2013, Respondent failed to comply with
28 provisions of California Code of Regulations, title 16, in the following material respects:

1 a. **Section 3305, subdivision (a):** Respondent failed to perform a brake and lamp
2 inspection in accordance with the vehicle's manufacturer standards and/or current standards,
3 specifications, recommended procedures, and/or directives issued by the Bureau.

4 b. **Section 3316, subdivision (d)(2):** Respondent issued Lamp Certificate Number
5 [REDACTED], certifying that the vehicle's lamp system had been inspected and was in satisfactory
6 condition when, in fact, it was not.

7 c. **Section 3321, subdivision (c)(2):** Respondent issued Brake Certificate Number
8 [REDACTED], certifying that the vehicle's brake system had been inspected and was in satisfactory
9 condition when, in fact, it was not.

10 d. **Section 3356, subdivision (a):** Respondent used the business name "PJ's &
11 C.A.R.S.," on Invoice No. [REDACTED], which is different from the name of record with the Bureau of
12 "PJS and Cars Automotive."

13 e. **Section 3356, subdivision (a)(2)(A):** Respondent failed to list, describe, and
14 identify the work performed and the price for each service and/or repair on Invoice No. [REDACTED].

15 f. **Section 3356, subdivision (a)(2)(B):** Respondent failed to list, describe, and
16 identify each part supplied, the price for each part, and whether or not the part was new, used,
17 reconditioned, rebuilt, or an OEM crash part, or a non-OEM aftermarket crash part on Invoice
18 No. [REDACTED].

19 **SEVENTH CAUSE FOR DISCIPLINE**

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

21 37. Respondent's brake and lamp station licenses are subject to discipline under Code
22 section 9889.3, subdivision (a) and (h), in that on or about December 10, 2013, Respondent
23 violated sections of the Code, relating to his licensed activities, as more particularly set forth
24 above in paragraph 35 and all of its subparts, incorporated herein by reference.

25 **EIGHTH CAUSE FOR DISCIPLINE**

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

27 38. Respondent's brake and lamp station licenses are subject to discipline under Code
28 section 9889.3, subdivision (c), in that on or about December 10, 2013, Respondent failed to

1 comply with provisions of California Code of Regulations, title 16, as more particularly set forth
2 above in paragraph 36 and all of its subparts, above, incorporated herein by reference.

3 **NINTH CAUSE FOR DISCIPLINE**

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

5 39. Respondent's brake and lamp station licenses are subject to discipline pursuant to
6 Code section 9889.3, subdivision (d), in that on or about December 10, 2013, Respondent
7 committed acts involving dishonesty, fraud, or deceit whereby another was injured, as more
8 particularly set forth above in paragraphs 31 and all of its subparts and 32, above, incorporated
9 herein by reference.

10 **TENTH CAUSE FOR DISCIPLINE**

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

12 40. Respondent's brake and lamp adjuster licenses are subject to discipline under Code
13 section 9889.3, subdivision (a) and (h), in that on or about December 10, 2013, Respondent
14 violated sections of the Code, relating to his licensed activities, as more particularly set forth
15 above in paragraph 35, subparagraph (c), above, incorporated herein by reference.

16 **ELEVENTH CAUSE FOR DISCIPLINE**

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

18 41. Respondent's brake and lamp adjuster licenses are subject to discipline under Code
19 section 9889.3, subdivision (c), in that on or about December 10, 2013, Respondent failed to
20 comply with provisions of California Code of Regulations, title 16, as more particularly set forth
21 above in paragraph 36 and all of its subparts, incorporated herein by reference.

22 **TWELFTH CAUSE FOR DISCIPLINE**

23 **(Acts Involving Dishonesty, Fraud, or Deceit)**

24 42. Respondent's brake and lamp adjuster licenses are subject to discipline under Code
25 section 9889.3, subdivision (d), in that on or about December 10, 2013, Respondent committed
26 acts involving dishonesty, fraud, or deceit, by issuing Brake Certificate Number [REDACTED] and
27 Lamp Certificate Number [REDACTED], certifying that the brake and lamp systems were in
28 satisfactory condition and in accordance with the Vehicle Code when, in fact, they were not.

1 **UNDERCOVER OPERATION NO. 2: TOYOTA**

2 43. On or about February 5, 2014, an undercover Bureau operator ("operator") drove a
3 Bureau documented Toyota to Respondent's facility and requested a brake and lamp inspection.
4 The vehicle could not have passed the inspections because the front headlamps were out of
5 adjustment, the left and right rear brake drums were beyond factory specifications for maximum
6 diameter (oversized), the rear side marker lamps and rear license plate lamp was inoperative, and
7 the parking brake was out of adjustment. When the operator arrived at Respondent's facility, he
8 requested a brake and lamp inspection. An employee prepared a work order and the operator
9 signed it, but was not provided a copy. Approximately a half hour later, the operator was told the
10 vehicle was ready. The operator paid \$95.00 for the inspections and received a copy of Estimate
11 No. [REDACTED], Invoice No. [REDACTED], Lamp Certificate of Adjustment Number [REDACTED], and Brake
12 Certificate of Adjustment Number [REDACTED].

13 44. On or about February 10, 2014, a Bureau representative inspected the vehicle using
14 Invoice No. [REDACTED], Lamp Certificate of Adjustment Number [REDACTED], and Brake Certificate of
15 Adjustment Number [REDACTED], as a reference. The Bureau representative found the following:
16 1) the rear side marker lamps remained inoperative; 2) one license plate lamp was still
17 inoperative; 3) The headlamps were out of adjustment; 4) The rear brake drums remained
18 oversized; and 5) The parking brake was still out of adjustment.

19 **THIRTEENTH CAUSE FOR DISCIPLINE**

20 **(Untrue or Misleading Statements)**

21 45. Respondent's registration is subject to discipline pursuant to Code section 9884.7,
22 subdivision (a)(1), in that on or about February 5, 2014, Respondent made or authorized
23 statements which he knew or in the exercise of reasonable care should have known to be untrue or
24 misleading, as follows:

25 a. Respondent certified under penalty of perjury on Brake Certificate Number
26 [REDACTED] that the applicable inspection was performed on the brake system when, in fact,
27 Respondent failed to inspect the brake system on the vehicle, in that Respondent failed to remove
28 the wheels on the vehicle.

1 b. Respondent certified under penalty of perjury on Brake Certificate Number
2 [REDACTED] that the left and right rear brake drums were in satisfactory condition when, in fact,
3 the rear brake drums were beyond manufacturer's specifications for maximum diameter
4 (oversized), and the parking brake was out of adjustment.

5 c. Respondent certified under penalty of perjury on Lamp Certificate Number
6 [REDACTED] that the applicable adjustments had been performed on the lamp system when, in
7 fact, both headlamps were out of adjustment, the rear side marker lamps were inoperative, and
8 one rear license plate lamp was inoperative.

9 **FOURTEENTH CAUSE FOR DISCIPLINE**

10 **(Fraud)**

11 46. Respondent's registration is subject to discipline pursuant to Code section 9884.7,
12 subdivision (a)(4), in that on or about February 5, 2014, Respondent committed acts that
13 constitute fraud, in that Respondent obtained payment from the operator for performing the
14 applicable inspections and adjustments on the vehicle's brake and lamp system, as specified by
15 the Bureau and in accordance with the Vehicle Code, when, in fact, Respondent failed to perform
16 the necessary inspections, as more particularly set forth in paragraph 44, above, incorporated
17 herein by reference.

18 **FIFTEENTH CAUSE FOR DISCIPLINE**

19 **(Gross Negligence)**

20 47. Respondent's registration is subject to discipline under Code section 9884.7,
21 subdivision (a)(5), in that on or about February 5, 2014, Respondent committed acts constituting
22 gross negligence, in that Respondent failed to properly inspect the vehicle's brake and lamp
23 systems and issued Brake Certificate [REDACTED] and Lamp Certificate Number [REDACTED],
24 indicating that the vehicle's brake and lamp systems were in satisfactory condition and were in
25 accordance with the Vehicle Code when, in fact, they were not.

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1 **SIXTEENTH CAUSE FOR DISCIPLINE**

2 **(Failure to Provide a Copy of a Signed Document)**

3 48. Respondent's registration is subject to discipline under Code section 9884.7(a)(3), in
4 that on or about February 5, 2014, Respondent failed to provide the operator with a copy of the
5 estimate as soon as the operator signed the document.

6 **SEVENTEENTH CAUSE FOR DISCIPLINE**

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

8 49. Respondent's registration is subject to discipline pursuant to Code section 9884.7,
9 subdivision (a)(6), in that on or about February 5, 2014, Respondent failed to comply with
10 provisions of that Code in the following material respects:

11 a. **Section 9884.9, subdivision (a):** Respondent failed to provide the operator
12 with a written estimated price for parts and labor for a specific job.

13 b. **Section 9889.16:**

14 i. Respondent issued Brake Certificate Number [REDACTED] for the vehicle
15 when the vehicle was not in compliance with Bureau regulations or the requirements of the
16 Vehicle Code, in that the rear brake drums were beyond manufacturer's specifications for
17 maximum diameter (oversized), and the parking brake was out of adjustment.

18 ii. Respondent issued Lamp Certificate Number [REDACTED] for the vehicle
19 when the vehicle was not in compliance with Bureau regulations or the requirements of the
20 Vehicle Code, in that both headlamps were out of adjustment, the rear side marker lamps were
21 inoperative, and one rear license plate lamp was inoperative.

22 **EIGHTEENTH CAUSE FOR DISCIPLINE**

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

24 50. Respondent's registration is subject to discipline pursuant to Code section 9884.7,
25 subdivision (a)(6), in that on or about February 5, 2014, Respondent failed to comply with
26 provisions of California Code of Regulations, title 16, in the following material respects:

1 a. **Section 3305(a):** Respondent failed to perform a brake and lamp inspection in
2 accordance with the vehicle's manufacturer standards and/or current standards, specifications,
3 recommended procedures, and/or directives issued by the Bureau.

4 b. **Section 3316(d)(2):** Respondent issued Lamp Certificate Number [REDACTED],
5 certifying that the vehicle's lamp system had been inspected and was in satisfactory condition
6 when, in fact, it was not.

7 c. **Section 3321(c)(2):** Respondent issued Brake Certificate Number [REDACTED],
8 certifying that the vehicle's brake system had been inspected and was in satisfactory condition
9 when, in fact, it was not.

10 d. **Section 3356(a):** Respondent used the business name "PJ's & C.A.R.S.," on
11 Invoice No. [REDACTED] which is different from the name of record with the Bureau of "PJS and Cars
12 Automotive."

13 **NINETEENTH CAUSE FOR DISCIPLINE**

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

15 51. Respondent's brake and lamp station licenses are subject to discipline under Code
16 section 9889.3, subdivisions (a) and (h), in that on or about February 5, 2014, Respondent
17 violated sections of the Code, relating to his licensed activities, as more particularly set forth
18 above in paragraph 49 and all of its subparts, above, incorporated herein by reference.

19 **TWENTIETH CAUSE FOR DISCIPLINE**

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

21 52. Respondent's brake and lamp station licenses are subject to discipline under Code
22 section 9889.3, subdivision (c), in that on or about February 5, 2014, Respondent failed to comply
23 with provisions of California Code of Regulations, title 16, as more particularly set forth above in
24 paragraph 50 and all of its subparts, above, incorporated herein by reference.

25 **TWENTY-FIRST CAUSE FOR DISCIPLINE**

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

27 53. Respondent's brake and lamp station licenses are subject to discipline pursuant to
28 Code section 9889.3, subdivision (d), in that on or about February 5, 2014, Respondent

1 committed acts involving dishonesty, fraud, or deceit whereby another was injured, as more
2 particularly set forth above in paragraphs 45 and all of its subparts and 46, above, incorporated
3 herein by reference.

4 **TWENTY-SECOND CAUSE FOR DISCIPLINE**

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

6 54. Respondent's brake and lamp adjuster licenses are subject to discipline under Code
7 section 9889.3, subdivisions (a) and (h), in that on or about February 5, 2014, Respondent
8 violated sections of the Code, relating to his licensed activities, as more particularly set forth
9 above in paragraph 49, subparagraph (b), above, incorporated herein by reference.

10 **TWENTY-THIRD CAUSE FOR DISCIPLINE**

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

12 55. Respondent's brake and lamp adjuster licenses are subject to discipline under Code
13 section 9889.3, subdivision (c), in that on or about February 5, 2014, Respondent failed to comply
14 with provisions of California Code of Regulations, title 16, as more particularly set forth above in
15 paragraph 50 and all of its subparts, above, incorporated herein by reference.

16 **TWENTY-FOURTH CAUSE FOR DISCIPLINE**

17 **(Acts Involving Dishonesty, Fraud, or Deceit)**

18 56. Respondent's brake and lamp adjuster licenses are subject to discipline under Code
19 section 9889.3(d), in that on or about February 5, 2014, Respondent committed acts involving
20 dishonesty, fraud, or deceit, by issuing Brake Certificate Number [REDACTED] and Lamp
21 Certificate Number [REDACTED], certifying that the brake and lamp systems were in satisfactory
22 condition and in accordance with the Vehicle Code, when, in fact, they were not.

23 **TWENTY-FIFTH CAUSE FOR DISCIPLINE**

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

25 57. Respondent's smog check station license, smog check repair technician license, and
26 smog check inspector licenses are subject to discipline pursuant to Health and Safety Code
27 section 44072.2, subdivision (d), in that Respondent committed dishonest, fraudulent, or deceitful
28

1 acts whereby another is injured, as set forth above in paragraphs 31 and all of its subparts, 32, 45
2 and all of its subparts, and 46, above, incorporated herein by reference.

3 **OTHER MATTERS**

4 58. Pursuant to Code section 9884.7(c), the director may suspend, revoke, or place on
5 probation the registrations for all places of business operated in this state by Nick N. Nix, doing
6 business as PJS and Cars Automotive, upon a finding that he has, or is, engaged in a course of
7 repeated and willful violation of the laws and regulations pertaining to an automotive repair
8 dealer.

9 59. Pursuant to Health and Safety Code section 44072.8, if Smog Check Station License
10 Number RC255434, issued to Nick N. Nix, doing business as PJS and Cars Automotive, is
11 revoked or suspended, any additional license issued under this chapter in the name of said
12 licensee may be likewise revoked or suspended by the director.

13 60. Pursuant to Health and Safety Code section 44072.8, if Smog Check Repair
14 Technician License Number EI 139351, issued to Nick N. Nix, is revoked or suspended, any
15 additional license issued under this chapter in the name of said licensee may be likewise revoked
16 or suspended by the director.

17 61. Pursuant to Health and Safety Code section 44072.8, if Smog Check Inspector
18 License Number EO 139351, issued to Nick N. Nix, is revoked or suspended, any additional
19 license issued under this chapter in the name of said licensee may be likewise revoked or
20 suspended by the director.

21 62. Pursuant to Code section 9889.9, if Lamp Station License Number LS255434, issued
22 to Nick N. Nix, doing business as PJS and Cars Automotive, is revoked or suspended, any
23 additional license issued under Articles 5 and 6 of Chapter 20.3 of the Business and Professions
24 Code in the name of said licensees may be likewise revoked or suspended by the director.

25 63. Pursuant to Code section 9889.9, if Brake Station License Number BS255434, issued
26 to Nick N. Nix, doing business as PJS and Cars Automotive, is revoked or suspended, any
27 additional license issued under Articles 5 and 6 of Chapter 20.3 of the Business and Professions
28 Code in the name of said licensees may be likewise revoked or suspended by the director.

1 8. Revoking or suspending Brake Station License Number BS 255434, issued to Nick
2 N. Nix, doing business as PJS and Cars Automotive Nick N. Nix, doing business as PJS and Cars
3 Automotive;

4 9. Revoking or suspending any additional license issued under Articles 5 and 6 of
5 Chapter 20.3 of the Business and Professions Code in the name of Nick N. Nix;

6 10. Revoking or suspending Lamp Adjuster License Number LA 139351, issued to
7 Nick N. Nix;


8 11. Revoking or suspending Brake Adjuster License Number BA 139351, issued to
9 Nick N. Nix;

10 12. Revoking or suspending any additional license issued under Chapter 5 of the Health
11 and Safety Code in the name of Nick N. Nix;

12 13. Ordering Nick N. Nix, doing business as PJS and Cars Automotive to pay the
13 Director of Consumer Affairs the reasonable costs of the investigation and enforcement of this
14 case, pursuant to Code section 125.3; and,

15 14. Taking such other and further action as deemed necessary and proper.

16
17 DATED: May 8, 2015


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

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