

1 EDMUND G. BROWN JR.  
Attorney General of California  
2 ARTHUR D. TAGGART  
Supervising Deputy Attorney General  
3 PATRICK M. KENADY  
Deputy Attorney General  
4 State Bar No. 050882  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 324-5377  
Facsimile: (916) 327-8643  
7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 77/10-11

13 **LOS AMIGOS AUTO**  
14 **EFRAIN P. HARO, OWNER**  
57 E. Gridley  
Gridley, CA 95948  
15 Mailing Address:  
2136 Sacramento St.  
Vallejo, CA 94590  
16 Automotive Repair Dealer Reg. No. ARD 195692  
Office Lamp Station License No. LS 195692  
17 Official Brake Station License No. BS 195692

**ACCUSATION**

18 and

19 **EFRAIN HARO**  
1950 Nevada Street  
20 Gridley, CA 95948  
Brake Adjuster License No. BA 142689  
21 Lamp Adjuster License No. LA 142689

22 Respondents.

23  
24 Complainant alleges:

25 **PARTIES**

26 1. Sherry Mehl ("Complainant") brings this Accusation solely in her official capacity as  
27 the Chief of the Bureau of Automotive Repair ("Bureau") Department of Consumer Affairs.

28 ///



1 9. Code section 9889.1 provides, in pertinent part, that the Director may suspend or  
2 revoke any license issued under Articles 5 and 6 (commencing with section 9887.1) of the  
3 Automotive Repair Act.

4 10. Code section 9889.7 provides, in pertinent part, that the expiration or suspension of a  
5 license by operation of law or by order or decision of the Director or a court of law, or the  
6 voluntary surrender of a license shall not deprive the Director of jurisdiction to proceed with any  
7 disciplinary proceedings.

8 **STATUTORY PROVISIONS**

9 11. Code section 9884.7 states, in pertinent part:

10 (a) The director, where the automotive repair dealer cannot show there  
11 was a bona fide error, may refuse to validate, or may invalidate temporarily or  
12 permanently, the registration of an automotive repair dealer for any of the following  
13 acts or omissions related to the conduct of the business of the automotive repair  
14 dealer, which are done by the automotive repair dealer or any automotive technician,  
15 employee, partner, officer, or member of the automotive repair dealer.

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

19 . . . .

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

22 . . . .

23 (c) Notwithstanding subdivision (b), the director may refuse to validate,  
24 or may invalidate temporarily or permanently, the registration for all places of  
25 business operated in this state by an automotive repair dealer upon a finding that the  
26 automotive repair dealer has, or is, engaged in a course of repeated and willful  
27 violations of this chapter, or regulations adopted pursuant to it.

28 12. Code section 9889.3 states, in pertinent part:

The director may suspend, revoke, or take other disciplinary action  
against a license as provided in this article [Article 7 (commencing with section  
9889.1) of the Automotive Repair Act] if the licensee or any partner, officer, or  
director thereof:

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

. . . .

///

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

2 . . . .

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

5 13. Code section 9884.8 states:

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

13 14. Code section 9887.1 states:

14 The director shall have the authority to issue licenses for official lamp  
15 and brake adjusting stations and shall license lamp and brake adjusters. The licenses  
16 shall be issued in accordance with this chapter and regulations adopted by the director  
17 pursuant thereto. The director shall establish by regulation the terms of adjusters'  
18 licenses as are necessary for the practical administration of the provisions relating to  
19 adjusters, but those terms shall not be for less than one nor more than four years.  
20 Licenses may be renewed upon application and payment of the renewal fees if the  
21 application for renewal is made within the 30-day period prior to the date of  
22 expiration. Persons whose licenses have expired shall immediately cease the activity  
23 requiring a license, but the director shall accept applications for renewal during the  
24 30-day period following the date of expiration if they are accompanied by a new  
25 license fee. In no case shall a license be renewed where the application is received  
26 more than 30 days after the date of expiration.

21 15. Code section 9888.3 states:

22 No person shall operate an "official" lamp or brake adjusting station  
23 unless a license therefor has been issued by the director. No person shall issue, or  
24 cause or permit to be issued, any certificate purporting to be an official lamp  
25 adjustment certificate unless he or she is a licensed lamp adjuster or an official brake  
26 adjustment certificate unless he or she is a licensed brake adjuster.

25 16. Code section 9889.22 states:

26 The willful making of any false statement or entry with regard to a  
27 material matter in any oath, affidavit, certificate of compliance or noncompliance, or  
28 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.

1 17. Code section 9889.9 states that "[w]hen any license has been revoked or suspended  
2 following a hearing under the provisions of this article [Article 7 (commencing with section  
3 9889.1) of the Automotive Repair Act], any additional license issued under Articles 5 and 6 of  
4 this chapter in the name of the licensee may be likewise revoked or suspended by the director."

5 18. Code section 22, subdivision (a), states:

6 "Board" as used in any provision of this Code, refers to the board in  
7 which the administration of the provision is vested, and unless otherwise expressly  
8 provided, shall include "bureau," "commission," "committee," "department,"  
"division," "examining committee," "program," and "agency."

9 19. Code section 477, subdivision (b), states, in pertinent part, that a "license" includes  
10 "registration" and "certificate."

#### 11 COST RECOVERY

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

#### 16 BACKGROUND

17 21. On April 2, 2009, Bureau Representative Carl Holmes ("Holmes") performed an  
18 inspection of Respondent's smog check station (the inspection was required since Respondent had  
19 moved his business from Vallejo, California, to Gridley). Holmes found that Respondent was the  
20 only licensed adjuster at the facility and that his lamp and brake adjuster licenses had expired on  
21 February 28, 2006. Holmes obtained the facility's unused lamp and brake certificates, a book of  
22 50 brake certificates numbered BC783351 to BC783400 and a book of 50 lamp certificates  
23 numbered LC771501 to LC771550. Holmes told Respondent that the books would be held by the  
24 Bureau until further notice, that his lamp and brake adjuster licenses had expired, and that he  
25 could not perform lamp and brake inspections without valid adjuster licenses.

26 22. On or about June 18, 2009, Bureau Representative Kelly Renihan ("Renihan")  
27 performed a follow-up lamp and brake station inspection of the facility. At the time of the  
28 inspection, Renihan had an inventory sheet of lamp and brake certificates that Respondent had

1 purchased from the Bureau between April 10, 2008, and December 16, 2008. Renihan asked  
2 Respondent for the lamp and brake certificate books listed on the inventory sheet. Respondent  
3 provided Renihan with the certificate books as requested, including 50 lamp certificates  
4 numbered LC771551 to LC771600 and 50 brake certificates numbered BC783401 to BC783450,  
5 all of which were purchased on December 16, 2008. Renihan browsed through the certificates  
6 and found that Respondent had issued certain certificates after Holmes' inspection on April 2,  
7 2009. Renihan asked Respondent why he issued the certificates when his adjuster licenses were  
8 invalid (expired). Respondent stated that he had taken and passed his lamp and brake adjuster  
9 license tests and provided Renihan with copies of the test results (Respondent had passed the tests  
10 on May 13, 2009, but his adjuster licenses were not issued or reissued by the Bureau until May  
11 15, 2009). Renihan told Respondent that his facility had not been approved by the Bureau as an  
12 official lamp and brake station at his current location and that he did not have valid lamp and  
13 brake adjuster licenses posted at the facility. Renihan warned Respondent not to operate as a  
14 lamp and brake station until his facility passed the Bureau's inspection.

15 23. Later that same day, Renihan reviewed the certificate books numbered BC783401 to  
16 BC783450 and LC771551 to LC771600 and found that Respondent had issued the brake and  
17 lamp certificates, identified below, while his adjuster licenses were expired and/or after he was  
18 warned by Holmes not to perform lamp and brake inspections without valid adjuster licenses.  
19 Renihan also found that the lamp and brake certificates were not issued in sequence by date.

<b>Lamp Certificate No.</b>	<b>Date of Issuance</b>
LC 771551	February 2, 2009
LC 771552	April 28, 2009
LC 771553	May 11, 2009
LC 771554	April 1, 2009
LC 771555	April 2, 2009
LC 771556	April 3, 2009
LC 771557	April 4, 2009
LC 771558	March 21, 2009
LC 771559	May 1, 2009

27 ///

28 ///

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

<b>Brake Certificate No.</b>	<b>Date of Issuance:</b>
BC 783401	February 2, 2009
BC 783402	April 28, 2009
BC 783403	May 11, 2009
BC 783404	March 19, 2009
BC 783405	March 20, 2009
BC 783406	March 20, 2009
BC 783407	April 20, 2009
BC 783408	March 21, 2009
BC 783409	May 1, 2009

24. On July 31, 2009, Renihan returned to the facility and requested invoices for all lamp and brake inspections performed by Respondent from March 2009 through May of 2009. Respondent provided Renihan with invoices relating to vehicle repairs performed during the specified time period, but only provided two invoices relating to lamp and brake inspections. Renihan requested invoices for the lamp and brake inspections identified in the certificate books numbered BC783401 to BC783450 and LC771551 to LC771600. Respondent stated that those customers were from the Vallejo area and had not requested invoices, and that he had not created invoices relating to those inspections. Renihan asked Respondent why he issued lamp and brake certificates after Holmes warned him not to perform inspections without valid adjuster licenses. Respondent stated that he needed the cash and knew that he was violating the law when he issued the certificates.

**FIRST CAUSE FOR DISCIPLINE**  
**(Untrue or Misleading Statements)**

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

a. Respondent certified under penalty of perjury on the lamp certificates, identified in paragraph 23 above, that he performed the applicable inspections of the lighting systems on the vehicles, described in the certificates, as specified by the Bureau and in accordance with Title 16 of the California Code of Regulations and the Business and Professions Code. In fact, Respondent issued the certificates when his lamp adjuster license had expired, in violation of

1 Code sections 9887.1 and 9888.3 and California Code of Regulations, title 16, section 3305,  
2 subdivision (a). Further, Respondent issued Lamp Certificate Numbers LC 771552, LC 771553,  
3 LC 771556, LC 771557, and LC 771559 after Bureau Representative Holmes told him that he  
4 could not perform lamp and brake inspections without valid adjuster licenses.

5 b. Respondent certified under penalty of perjury on the brake certificates, identified in  
6 paragraph 23 above, that he performed the applicable inspections of the brake systems on the  
7 vehicles, described in the certificates, as specified by the Bureau and in accordance with Title 16  
8 of the California Code of Regulations and the Business and Professions Code. In fact,  
9 Respondent issued the certificates when his brake adjuster license had expired, in violation of  
10 Code sections 9887.1 and 9888.3 and California Code of Regulations, title 16, section 3305,  
11 subdivision (a). Further, Respondent issued Brake Certificate Numbers BC 783402, BC 783403,  
12 BC 783407, and BC 783409 after Bureau Representative Holmes told him that he could not  
13 perform lamp and brake inspections without valid adjuster licenses.

14 **SECOND CAUSE FOR DISCIPLINE**

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

16 26. Respondent's registration is subject to disciplinary action pursuant to Code section  
17 9884.7, subdivision (a)(6), in that Respondent failed to comply with provisions of that Code in  
18 the following material respects:

19 a. **Section 9884.8:** Respondent failed to make or maintain invoices for the lamp and  
20 brake inspections identified in the certificate books numbered BC783401 to BC783450 and  
21 LC771551 to LC771600.

22 b. **Sections 9887.1 and 9888.3:** Respondent continued to issue lamp and brake  
23 certificates despite the fact that his lamp and brake adjuster licenses had expired on February 28,  
24 2006.

25 c. **Section 9889.22:** Respondent willfully made false statements on the lamp and brake  
26 certificates, as set forth in paragraph identified in paragraph 25 above.

27 ///

28 ///

1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Violations of Regulations)**

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

6 a. **Section 3305, subdivision (a):** Respondent continued to issue lamp and brake  
7 certificates despite the fact that his lamp and brake adjuster licenses had expired on February 28,  
8 2006.

9 b. **Section 3308:** Respondent continued to perform his official functions as a lamp and  
10 brake station, including issuing lamp and brake certificates, even though his brake and lamp  
11 adjuster licenses had expired on February 28, 2006.

12 **FOURTH CAUSE FOR DISCIPLINE**

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

14 28. Respondent's official brake and lamp station licenses are subject to disciplinary  
15 action pursuant to Code section 9889.3, subdivisions (a) and (h), in that Respondent violated the  
16 provisions of Code sections 9884.8, 9887.1, 9888.3, and 9889.22 relating to his licensed  
17 activities, as set forth in paragraph 26 above.

18 **FIFTH CAUSE FOR DISCIPLINE**

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

20 29. Respondent's official brake and lamp station licenses are subject to disciplinary  
21 action pursuant to Code section 9889.3, subdivision (c), in that Respondent failed to comply with  
22 the provisions of California Code of Regulations, title 16, sections 3305, subdivision (a), and  
23 3308, as set forth in paragraph 27 above.

24 **SIXTH CAUSE FOR DISCIPLINE**

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

26 30. Respondent's brake and lamp adjuster licenses are subject to disciplinary action  
27 pursuant to Code section 9889.3, subdivisions (a) and (h), in that Respondent violated the

28 ///

1 provisions of Code sections 9887.1, 9888.3, and 9889.22 relating to his licensed activities, as set  
2 forth in paragraph 26 above.

3 **SEVENTH CAUSE FOR DISCIPLINE**

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

5 31. Respondent's brake and lamp adjuster licenses are subject to disciplinary action  
6 pursuant to Code section 9889.3, subdivision (c), in that Respondent failed to comply with  
7 California Code of Regulations, title 16, section 3305, subdivision (a), as set forth in paragraph 27  
8 above.

9 **OTHER MATTERS**

10 32.. Pursuant to Code section 9884.7, subdivision (c), the Director may refuse to validate,  
11 or may invalidate temporarily or permanently, the registrations for all places of business operated  
12 in this state by Respondent Efrain P. Haro, owner of Los Amigos Auto, upon a finding that  
13 Respondent has, or is, engaged in a course of repeated and willful violations of the laws and  
14 regulations pertaining to an automotive repair dealer.

15 33. Pursuant to Code section 9889.9, if Official Lamp Station License Number LS  
16 195692, issued to Respondent Efrain P. Haro, owner of Los Amigos Auto, is revoked or  
17 suspended, any additional license issued under Articles 5 and 6 of Chapter 20.3 of the Code in the  
18 name of said licensee may be likewise revoked or suspended by the Director.

19 34. Pursuant to Code section 9889.9, if Official Brake Station License Number BS  
20 195692, issued to Respondent Efrain P. Haro, owner of Los Amigos Auto, is revoked or  
21 suspended, any additional license issued under Articles 5 and 6 of Chapter 20.3 of the Code in the  
22 name of said licensee may be likewise revoked or suspended by the Director.

23 35. Pursuant to Code section 9889.9, if Brake Adjuster License Number BA 142689,  
24 issued to Respondent Efrain P. Haro, is revoked or suspended, any additional license issued under  
25 Articles 5 and 6 of Chapter 20.3 of the Code in the name of said licensee may be likewise  
26 revoked or suspended by the Director.

27 36. Pursuant to Code section 9889.9, if Lamp Adjuster License Number LA 142689,  
28 issued to Respondent Efrain P. Haro, is revoked or suspended, any additional license issued under

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

3 PRAYER

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

6 1. Temporarily or permanently invalidating Automotive Repair Dealer Registration  
7 Number ARD 195692, issued to Efrain P. Haro, owner of Los Amigos Auto;

8 2. Temporarily or permanently invalidating any other automotive repair dealer  
9 registration issued to Efrain P. Haro, owner of Los Amigos Auto;

10 3. Revoking or suspending Official Lamp Station License Number LS 195692, issued to  
11 Efrain P. Haro, owner of Los Amigos Auto;

12 4. Revoking or suspending Official Brake Station License Number BS 195692, issued to  
13 Efrain P. Haro, owner of Los Amigos Auto;

14 5. Revoking or suspending Brake Adjuster License Number BA 142689, issued to  
15 Efrain P. Haro;

16 6. Revoking or suspending Lamp Adjuster License Number LA 142689, issued to Efrain  
17 P. Haro;

18 7. Revoking or suspending any additional license issued under Articles 5 and 6 of  
19 Chapter 20.3 of the Business and Professions Code in the name of Efrain P. Haro;

20 8. Ordering Efrain P. Haro, individually, and as owner of Los Amigos Auto, to pay the  
21 Director of Consumer Affairs the reasonable costs of the investigation and enforcement of this  
22 case, pursuant to Business and Professions Code section 125.3;

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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

DATED: 8/23/10

  
SHERRY MEHL  
Chief  
Bureau of Automotive Repair  
Department of Consumer Affairs  
State of California  
*Complainant*

SA2009102828  
10579537.doc