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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 and Petition to
Revoke Probation Against:

13 **LOS AMIGOS AUTO**
14 **EFRAIN P. HARO, OWNER**
15 **57 E. Gridley**
16 **Gridley, CA 95948**
17 **Automotive Repair Dealer Reg. No. ARD 195692**
18 **Smog Check Station License No. RC 195692**

19 and

20 **EFRAIN HARO**
21 **57 E. Gridley Road**
22 **Gridley, CA 95948**
23 **Advanced Emission Specialist Technician**
24 **License No. EA 142689**

25 Respondents.

Case No. *79/13-21*

**ACCUSATION AND PETITION TO
REVOKE PROBATION**

(Smog Check)

26 Complainant alleges:

27 **PARTIES**

28 1. John Wallauch ("Complainant") brings this Accusation and Petition to Revoke
Probation solely in his official capacity as the Chief of the Bureau of Automotive Repair
("Bureau"), Department of Consumer Affairs.

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1 **Efrain P. Haro dba Los Amigos Auto**

2 2. On or about August 6, 1997, the Director of Consumer Affairs ("Director") issued
3 Automotive Repair Dealer Registration Number ARD 195692 ("registration") to Efrain P. Haro
4 ("Respondent"), doing business as Los Amigos Auto. On December 9, 2011, Respondent's
5 registration was revoked; however, the revocation was stayed and Respondent was placed on
6 probation for three (3) years on terms and conditions, as forth in paragraph 7 below.

7 Respondent's registration was also suspended for 15 days effective December 9, 2011.

8 Respondent's registration will expire on August 31, 2013, unless renewed.

9 3. On or about November 16, 2001, the Director issued Smog Check Station License
10 Number RC 195692 to Respondent. On December 9, 2011, Respondent's smog check station
11 license was revoked; however, the revocation was stayed and Respondent was placed on
12 probation for three (3) years on terms and conditions, as forth in paragraph 7 below.

13 Respondent's smog check station license was also suspended for 15 days effective December 9,
14 2011. Respondent's smog check station license will expire on August 31, 2013, unless renewed.

15 4. On or about September 3, 2003, the Director issued Lamp Station License Number
16 LS 195692 and Brake Station License Number BS 195692 to Respondent. On December 9, 2011,
17 Respondent's lamp and brake station licenses were revoked, as set forth in paragraph 7 below.

18 **Efrain Haro**

19 5. In or about 2003, the Director issued Advanced Emission Specialist Technician
20 License Number EA 142689 ("technician license") to Respondent. On December 9, 2011,
21 Respondent's technician license was revoked; however, the revocation was stayed and
22 Respondent was placed on probation for three (3) years on terms and conditions, as forth in
23 paragraph 7 below. Respondent's technician license was also suspended for 15 days effective
24 December 9, 2011. Respondent's technician license will expire on February 28, 2013, unless
25 renewed.

26 6. In or about 2002, the Director issued Brake Adjuster License Number BA 142689 and
27 Lamp Adjuster License Number LA 142689 to Respondent. On December 9, 2011, Respondent's
28 brake and lamp adjuster licenses were revoked, as set forth in paragraph 7 below.

1 **DISCIPLINARY HISTORY**

2 7. On or about November 2, 2011, pursuant to the Proposed Decision of the
3 Administrative Law Judge adopted by the Director as the Decision in the disciplinary proceeding
4 titled "In the Matter of the First Amended Accusation Against: Efrain P. Haro", Case No. 77/10-
5 11, the Director revoked Respondent's registration, smog check station license, technician
6 license, lamp and brake station licenses, and lamp and brake adjuster licenses effective December
7 9, 2011. However, the revocations as to Respondent's registration, smog check station license
8 and technician license were stayed and Respondent was placed on probation for three (3) years on
9 terms and conditions. Respondent's registration, smog check station license, and technician
10 license were also suspended for 15 days effective December 9, 2011. A true and correct copy of
11 the Decision and Order is attached hereto as **exhibit A** and incorporated herein.

12 **JURISDICTION**

13 8. Business and Professions Code ("Bus. & Prof. Code") section 9884.7 provides that
14 the Director may revoke an automotive repair dealer registration.

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

19 10. Health and Safety Code ("Health & Saf. Code") section 44002 provides, in pertinent
20 part, that the Director has all the powers and authority granted under the Automotive Repair Act
21 for enforcing the Motor Vehicle Inspection Program.

22 11. Health & Saf. Code section 44072.6 provides, in pertinent part, that the expiration or
23 suspension of a license by operation of law, or by order or decision of the Director of Consumer
24 Affairs, or a court of law, or the voluntary surrender of the license shall not deprive the Director
25 of jurisdiction to proceed with disciplinary action.

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

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

4 16. Health & Saf. Code section 44072.8 states that when a license has been revoked or
5 suspended following a hearing under this article, any additional license issued under this chapter
6 in the name of the licensee may be likewise revoked or suspended by the director.

7 **COST RECOVERY**

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

12 **ACCUSATION**

13 **UNDERCOVER OPERATION: 1990 PONTIAC GRAND PRIX**

14 18. On May 24, 2012, a representative of the Bureau, acting in an undercover capacity
15 (“operator”), took the Bureau’s 1990 Pontiac Grand Prix to Respondent’s facility and requested a
16 smog inspection. The exhaust gas recirculation (“EGR”) valve on the Bureau-documented
17 vehicle was defective and the EGR passageway was blocked, preventing the EGR system from
18 functioning. The operator did not sign a work order or receive a written estimate for the
19 inspection. After the inspection was completed, the operator paid the facility \$40 and received
20 copies of an invoice and a vehicle inspection report (“VIR”). The VIR indicated that
21 Respondent’s technician, Jesus Haro, had performed the smog inspection on the vehicle. That
22 same day, electronic smog Certificate of Compliance No. OM811887C was issued for the
23 vehicle.

24 19. On June 1 and 7, 2012, the Bureau inspected the vehicle and found that the EGR
25 system still was not functioning.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Untrue or Misleading Statements)**

3 20. Respondent's registration is subject to disciplinary action pursuant to Bus. & Prof.
4 Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized a statement which
5 he knew or in the exercise of reasonable care should have known to be untrue or misleading, as
6 follows: Respondent's technician, Jesus Haro, certified under penalty of perjury on the VIR that
7 the Bureau's 1990 Pontiac Grand Prix had passed the inspection and was in compliance with
8 applicable laws and regulations. In fact, the EGR valve on the vehicle was defective and the EGR
9 passageway was blocked, preventing the EGR system from functioning. As such, the vehicle
10 would not pass the inspection required by Health & Saf. Code section 44012.

11 **SECOND CAUSE FOR DISCIPLINE**

12 **(Fraud)**

13 21. Respondent's registration is subject to disciplinary action pursuant to Bus. & Prof.
14 Code section 9884.7, subdivision (a)(4), in that Respondent committed an act that constitutes
15 fraud by issuing an electronic smog certificate of compliance for the Bureau's 1990 Pontiac
16 Grand Prix without ensuring that a bona fide inspection was performed of the emission control
17 devices and systems on the vehicle, thereby depriving the People of the State of California of the
18 protection afforded by the Motor Vehicle Inspection Program.

19 **THIRD CAUSE FOR DISCIPLINE**

20 **(Violations of the Bus. & Prof. Code)**

21 22. Respondent's registration is subject to disciplinary action pursuant to Bus. & Prof.
22 Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with section 9884.9,
23 subdivision (a), of that Code in the following material respects: Respondent or his employees
24 failed to provide the operator with a written estimate for the smog inspection on the Bureau's
25 1990 Pontiac Grand Prix.

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