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

12 In the Matter of the Accusation Against:

Case No. 7708-39

13 **NOEL QUINTERO**  
dba **SELECT AUTO REPAIR**  
14 18730 8<sup>th</sup> Street, Suite A  
Bloomington, California 92316  
15  
**Automotive Repair Dealer Registration No. ARD 252308**  
16 **Smog Check Station License No. RC 252308**  
**Official Brake Station License No. BS 252308**  
17 **Official Lamp Station License No. LS 252308**  
18  
**DANIEL LEE NELSON**  
21690 High Street  
19 Perris, California 92570  
20  
**Advanced Emission Specialist Technician License**  
**No. EA 150527**  
21 **Brake Adjuster License No. BA 150527C**  
**Lamp Adjuster License No. LA 150527A**  
22

**A C C U S A T I O N**

Respondents.

23  
24 Sherry Mehl ("Complainant") alleges:

25 **PARTIES**

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

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**Automotive Repair Dealer Registration**

2. On or about October 26, 2007, the Bureau issued Automotive Repair Dealer Registration Number ARD 252308 (“registration”) to Noel Quintero (“Respondent Quintero”), doing business as Select Auto Repair. The registration will expire on September 30, 2009, unless renewed.

**Smog Check Station License**

3. On or about October 30, 2007, the Bureau issued Smog Check Station License Number RC 252308 (“station license”) to Respondent Quintero. The station license will expire on September 30, 2009, unless renewed.

**Official Brake Station License**

4. On or about November 20, 2007, the Bureau issued Official Brake Station License Number BS 252308 to Respondent Quintero. The official brake station license will expire on September 30, 2009, unless renewed.

**Official Lamp Station License**

5. On or about November 20, 2007, the Bureau issued Official Lamp Station License Number LS 252308 to Respondent Quintero. The official brake lamp station license will expire on September 30, 2009, unless renewed.

**Advanced Emission Specialist Technician License - Daniel Lee Nelson**

6. In or about 2004, the Bureau issued Advanced Emission Specialist Technician License Number EA 150527 (“technician license”) to Daniel Lee Nelson (“Respondent Nelson”). The technician license was in full force and effect at all times relevant to the charges brought herein and will expire on February 28, 2011, unless renewed.

**Brake Adjuster License - Daniel Lee Nelson**

7. In or about 2005, the Bureau issued Brake Adjuster License Number BA 150527C to Respondent Nelson. The brake adjuster license was in full force and effect at all times relevant to the charges brought herein and will expire on February 28, 2010, unless renewed.

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Lamp Adjuster License - Daniel Lee Nelson

8. In or about 2005, the Bureau issued Lamp Adjuster License Number LA 150527A to Respondent Nelson. The lamp adjuster license was in full force and effect at all times relevant to the charges brought herein. The license expired on February 28, 2009, and has not been renewed.

STATUTORY PROVISIONS

9. Business and Professions Code ("Code") section 9884.7 states, in pertinent part:

(a) The director, where the automotive repair dealer cannot show there was a bona fide error, may refuse to validate, or may invalidate temporarily or permanently, 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.

(1) Making or authorizing in any manner or by any means whatever any 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.

(4) Any other conduct which constitutes fraud.

(6) Failure in any material respect to comply with the provisions of this chapter [the Automotive Repair Act (Bus. & Prof. Code, § 9880, et seq.)] or regulations adopted pursuant to it.

(b) Except as provided for in subdivision (c), if an automotive repair dealer operates more than one place of business in this state, the director pursuant to subdivision (a) shall only refuse to validate, or shall only invalidate temporarily or permanently the registration of 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.

(c) Notwithstanding subdivision (b), the director may refuse to validate, or may invalidate temporarily or permanently, the registration for all places of business operated in this state by an 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.

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10. 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 Code section 9889.1) of the Automotive Repair Act] if the licensee or any partner, officer, or director thereof:

(a) Violates any section of the 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.

11. 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.

12. Health and Safety Code section 44072.2(d) states, in pertinent part, that 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, commits any act involving dishonesty, fraud, or deceit whereby another is injured.

13. Code section 9884.13 provides, in pertinent part, that the expiration of a valid registration shall not deprive the director or chief of jurisdiction to proceed with a disciplinary proceeding against an automotive repair dealer or to render a decision invalidating a registration temporarily or permanently.

14. Code section 477 provides, in pertinent 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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1 **REGULATORY PROVISION**

2 15. California Code of Regulations, title 16, section 3305 states, in pertinent  
3 part:

4 (a) Performance Standards. All adjusting, inspecting, servicing, and  
5 repairing of brake systems and lamp systems shall be performed in official  
6 stations in accordance with current standards, specifications, instructions, and  
7 directives issued by the bureau and by the manufacturer of the device or vehicle.

8 16. California Code of Regulations, title 16, section 3310(e) states, in  
9 pertinent part, that an adjuster shall not engage in the activity of an official adjuster unless  
10 employed at an official station.

11 17. California Code of Regulations, title 16, section 3316 states, in pertinent  
12 part:

13 (d)(2) Inspection of the Entire Lighting System. Where all of the lamps,  
14 lighting equipment, and related electrical systems on a vehicle have been  
15 inspected and found in compliance with all requirements of the Vehicle Code and  
16 bureau regulations, the certificate shall certify that the entire system meets all  
17 such requirements.

18 18. California Code of Regulations, title 16, section 3321 states, in pertinent  
19 part:

20 (c)(2) Inspection of the Entire Brake System. Where the entire brake  
21 system on any vehicle has been inspected or tested and found in compliance with  
22 all requirements of the Vehicle Code and bureau regulations, and the vehicle has  
23 been road-tested, the certificate shall certify that the entire system meets all such  
24 requirements.

25 **BACKGROUND INFORMATION**

26 19. On or about September 16, 2007, Respondent Quintero purchased an auto  
27 repair facility from Mostafa Frad ("Frad"), who was doing business as Select Imports under  
28 Automotive Repair Dealer No. ARD 240239.

20 20. On or about September 25, 2007, the Bureau received the following  
21 applications from Respondent Quintero: 1) Application for Automotive Repair Dealer  
22 Registration; 2) Application for Station License (Lamp); and 3) Application for Station License  
23 (Brake).

24 21. On or about October 26, 2007, the Bureau issued Respondent Quintero  
25 Automotive Repair Dealer Registration No. ARD 252308.

1           22.     On or about November 20, 2007, a representative conducted an official  
2 lamp and brake station inspection at Respondent Quintero's facility, and it passed. On that same  
3 day, the Bureau issued Respondent Quintero Official Brake Station License No. BS 252308, and  
4 Official Lamp Station License No. LS 252308.

5                           **CONSUMER COMPLAINT/STATION INSPECTIONS**

6           23.     On or about December 3, 2007, the Bureau received a complaint from J.R.  
7 ("consumer"). The consumer stated that she took her vehicle to Respondent Quintero's facility  
8 on November 13, 2007, for a brake and lamp inspection. When she arrived, Brake Certificate  
9 Number BC 578569 and Lamp Certificate Number LC 569920 had already been completed  
10 without an inspection being performed on the consumer's 1990 Honda Accord. Brake  
11 Certificate Number BC 578569 and Lamp Certificate Number LC 569920, were back dated to  
12 October 26, 2007 (18 days **prior**), and were issued using Frad's lamp station license number  
13 LF 240239 and Frad's brake station license number BF 240239. Further, Brake Certificate  
14 Number BC 578569 and Lamp Certificate Number LC 569920 were not purchased from the  
15 Bureau until November 5, 2007, and as such, could not have been issued on October 26, 2007.

16           24.     On or about December 12, 2007, while investigating the consumer's  
17 complaint, a Bureau representative went to Respondent Quintero's facility and discovered that  
18 on that same day, Respondent Nelson had issued three (3) lamp certificates (LC 570153,  
19 LC 570155, and LC 570161), and two (2) brake certificates (BC 578703 and BC 578705), using  
20 lamp station license number LF 240239 and brake station license number BF 240239.

21                           **FIRST CAUSE FOR DISCIPLINE**

22                           **(Misleading Statements - Automotive Repair Dealer Registration)**

23           25.     Respondent Quintero's registration is subject to discipline under Code  
24 section 9884.7(a)(1), in that he made statements which he knew or which by exercise of  
25 reasonable care should have known to be untrue or misleading, as follows:

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1 a. On or about December 10, 2007, Respondent Quintero issued three (3)  
2 lamp certificates (LC 570153, LC 570155, and LC 570161) and two (2) brake certificates  
3 (BC 578703 and BC 578705) using Frad's lamp station license number LF 240239 and Frad's  
4 brake station license number BF 240239.

5 b. On or about November 13, 2007, Respondent Quintero issued Lamp  
6 Certificate Number LC 569920 and Brake Certificate Number BC 578569: i) certifying that a  
7 brake and lamp inspection had been performed, when in fact, they had not; ii) representing  
8 himself as a licensed brake and lamp facility, when in fact, he was not licensed until  
9 November 20, 2007; and iii) dating the certificates October 26, 2007, when in fact, the  
10 certificates had not been purchased until November 5, 2007.

11 **SECOND CAUSE FOR DISCIPLINE**

12 **(Fraud - Automotive Repair Dealer Registration)**

13 26. Respondent Quintero's registration is subject to discipline under Code  
14 section 9884.7(a)(4), in that he committed acts that constitute fraud, in that on or about  
15 November 13, 2007, Respondent accepted payment for Lamp Certificate Number LC 569920  
16 and Brake Certificate Number BC 578569, certifying that the consumer's vehicle, a 1990 Honda  
17 Accord, had been inspected by an official station and was in compliance with all the  
18 requirements of the Vehicle Code and Bureau regulations, when in fact, it had not.

19 **THIRD CAUSE FOR DISCIPLINE**

20 **(Unlicensed Activity - Automotive Repair Dealer Registration)**

21 27. Respondent Quintero's registration is subject to discipline under Code  
22 section 9884.7(a)(6), in that on or about November 13, 2007, Respondent failed to comply with  
23 Code section 9888.3, in that he issued Lamp Certificate Number LC 569920 and Brake  
24 Certificate Number BC 578569, without being licensed to do so.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Failure to Comply with Regulations -  
3 Automotive Repair Dealer Registration)**

4 28. Respondent Quintero's registration is subject to discipline under Code  
5 section 9884.7(a)(6), in that he failed to comply with the following sections of California Code  
6 of Regulations, title 16:

7 a. **Section 3316(d)(2)**: On or about November 13, 2007, Respondent failed  
8 to perform a lamp inspection on the consumer's 1990 Honda Accord in accordance with all  
9 requirements of the Vehicle Code and Bureau regulations, in that, an inspection was never  
10 performed on the vehicle.

11 b. **Section 3321(c)(2)**: On or about November 13, 2007, Respondent failed  
12 to perform a brake inspection on Ms. Root's 1990 Honda Accord in accordance with all  
13 requirements of the Vehicle Code and Bureau regulations, in that, an inspection was never  
14 performed on the vehicle.

15 **FIFTH CAUSE FOR DISCIPLINE**

16 **(Purchase of Brake and Lamp Adjustment Certificates -  
17 Brake and Lamp Station Licenses)**

18 29. Respondent Quintero's official lamp and brake station licenses are subject  
19 to discipline under Code section 9889.3(c), in that between October 5, 2007, and  
20 November 5, 2007, he failed to comply with California Code of Regulations, title 16, sections  
21 3316(d) and 3321(c), in that he obtained certificates of adjustment from a source other than the  
22 Bureau.

23 **SIXTH CAUSE FOR DISCIPLINE**

24 **(Failure to Comply with Code and Regulations -  
25 Brake and Lamp Station Licenses)**

26 30. Respondent Quintero's official brake and lamp station licenses are subject  
27 to discipline under Code section 9889.3, subsections, (a), (c), (d), and (h), in that Respondent  
28 committed acts in violation of the Code and California Code of Regulations, title 16, relating to

1 Respondent's licensed activities, as more particularly set forth above in paragraphs 25  
2 through 29.

3 **SEVENTH CAUSE FOR DISCIPLINE**

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

5 31. Respondent Quintero's smog check station license is subject to discipline  
6 under Health and Safety Code section 44072.2(d), in that he committed acts involving  
7 dishonesty, fraud or deceit whereby another was injured, as more particularly set forth above in  
8 paragraphs 25 through 29.

9 **EIGHTH CAUSE FOR DISCIPLINE**

10 **(False Statements - Adjuster Licenses)**

11 32. Respondent Nelson's brake and lamp adjuster licenses are subject to  
12 discipline under Code section 9889.3(a), in that he failed to comply with provisions of Code  
13 section 9889.22, in that he willfully made false statements or entries with regard to a material  
14 matter in certificates of compliance or noncompliance, as follows:

15 a. On or about December 10, 2007, Respondent issued three (3) lamp  
16 certificates (LC 570153, LC 570155, and LC 570161) and two (2) brake certificates (BC 578703  
17 and BC 578705) on behalf of Respondent Quintero using lamp station license number LF  
18 240239 and brake station license number BF 240239, which did not belong to Respondent  
19 Quintero. Furthermore, Respondent certified under penalty of perjury that all statements on the  
20 certificates were true and correct, when in fact, they were not.

21 b. On or about November 13, 2007, Respondent presented the consumer with  
22 Lamp Certificate Number LC 569920 and Brake Certificate Number BC 578569, back dated to  
23 October 26, 2007.

24 c. On or about November 13, 2007, Respondent provided the consumer with  
25 brake and lamp certificates certifying that the vehicle's brake and lamp systems had been  
26 inspected at a licensed brake and lamp facility, when in fact, Respondent Quintero's official  
27 brake and lamp station licenses were not issued until November 20, 2007.

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1 d. On or about November 13, 2007, Respondent represented that he had  
2 inspected the vehicles lamp and brake systems, when in fact, he did not.

3 **NINTH CAUSE FOR DISCIPLINE**

4 **(Dishonesty, Fraud, or Deceit - Adjuster Licenses)**

5 33. Respondent Nelson's brake and lamp adjuster licenses are subject to  
6 discipline under Code section 9889.3(d), in that he committed acts of dishonesty, fraud, or deceit  
7 whereby another was injured, in the following respects:

8 a. On or about December 10, 2007, Respondent issued three (3) lamp  
9 certificates (LC 570153, LC 570155, and LC 570161) using Frad's lamp station license number  
10 LF 240239.

11 b. On or about December 10, 2007, Respondent issued two (2) brake  
12 certificates (BC 578703 and BC 578705) using Frad's brake station license number BF 240239.

13 c. Respondent back dated Lamp Certificate Number LC 569920 and Brake  
14 Certificate Number BC 578569 to October 26, 2007, when in fact, the consumer was not at  
15 Respondent's facility on that day.

16 d. On or about November 13, 2007, Respondent falsely represented on Lamp  
17 Certificate Number LC 569920 and Brake Certificate Number BC 578569 that the certificates  
18 were issued by an official station, when in fact, they were not.

19 e. On or about November 13, 2007, Respondent certified on Lamp Certificate  
20 Number LC 569920 and Brake Certificate Number BC 578569 that the consumer's 1990 Honda  
21 Accord had been inspected and was in compliance with all the requirements of the Vehicle Code  
22 and bureau regulations, when in fact, the vehicle had never been inspected.

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OTHER MATTERS

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2           38.     Under Code section 9884.7, subdivision (c), the director may invalidate  
3 temporarily or permanently or refuse to validate, the registrations for all places of business  
4 operated in this state by Noel Quintero, doing business as Select Auto Repair, upon a finding that  
5 he has, or is, engaged in a course of repeated and willful violations of the laws and regulations  
6 pertaining to an automotive repair dealer.

7           39.     Pursuant to Health and Safety Code section 44072.8, if Smog Check  
8 Station License Number RC 252308, issued to Noel Quintero, doing business as Select Auto  
9 Repair, is revoked or suspended, any additional license issued under this chapter in the name of  
10 said licensee may be likewise revoked or suspended by the director.

11           40.     Under Code section 9889.9, if Official Brake Station License Number  
12 BS 252308, issued to Noel Quintero, doing business as Select Auto Repair, is revoked or  
13 suspended, any additional license, including Official Lamp Station License Number LS 252308,  
14 issued under this chapter in the name of said licensee, may be likewise revoked or suspended by  
15 the director.

16           41.     Under Code section 9889.9, if Brake Adjuster License Number  
17 BA 150527 C, issued to Daniel Lee Nelson, is revoked or suspended, any additional license,  
18 including Lamp Adjuster License Number LA 150527 A, issued under this chapter in the name  
19 of said licensee, may be likewise revoked or suspended by the director.

20           42.     Under Health and Safety Code section 44072.8, if Advanced Emission  
21 Specialist Technician License Number EA 150527, issued to Daniel Lee Nelson, is revoked or  
22 suspended, any additional license issued under this chapter in the name of said licensee may be  
23 likewise revoked or suspended by the director.

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PRAYER

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

4           1.       Temporarily or permanently invalidating Automotive Repair Dealer  
5 Registration Number ARD 252308, issued to Noel Quintero, doing business as Select Auto  
6 Repair;

7           2.       Temporarily or permanently invaliding any other automotive repair dealer  
8 registration issued to Noel Quintero, doing business as Select Auto Repair;

9           3.       Temporarily or permanently invalidating Smog Check Station License  
10 Number RC 252308, issued to Noel Quintero, doing business as Select Auto Repair;

11          4.       Revoking or suspending any additional license issued under Chapter 5 of  
12 the Health and Safety Code in the name of Noel Quintero, doing business as Select Auto Repair;

13          5.       Temporarily or permanently invalidating Official Brake Station License  
14 Number BS 252308, issued to Noel Quintero, doing business as Select Auto Repair;

15          6.       Temporarily or permanently invaliding any additional license issued under  
16 this chapter in the name of Noel Quintero, doing business as Select Auto Repair;

17          7.       Temporarily or permanently invalidating Official Lamp Station License  
18 Number LS 252308, issued to Noel Quintero, doing business as Select Auto Repair;

19          8.       Temporarily or permanently invaliding any additional license issued under  
20 this chapter in the name of Noel Quintero, doing business as Select Auto Repair;

21          9.       Revoking or suspending Advanced Emission Specialist Technician  
22 Number EA 150527, issued to Daniel Lee Nelson;

23          10.       Revoking or suspending any additional license issued under Chapter 5 of  
24 the Health and Safety Code in the name of Daniel Lee Nelson;

25          11.       Revoking or suspending Brake Adjuster License Number BA 150527 C,  
26 issued to Daniel Lee Nelson;

27          12.       Revoking or suspending any additional license issued under this chapter in  
28 the name of Daniel Lee Nelson;

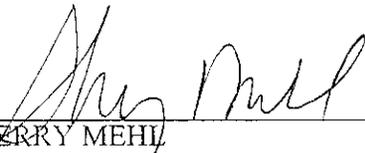
1                   13.     Revoking or suspending Lamp Adjuster License Number LA 150527 A,  
2 issued to Daniel Lee Nelson;

3                   14.     Revoking or suspending any additional license issued under this chapter in  
4 the name of Daniel Lee Nelson;

5                   15.     Ordering Noel Quintero and Daniel Lee Nelson to pay the Director of  
6 Consumer Affairs the reasonable costs of the investigation and enforcement of this case,  
7 pursuant to Code section 125.3; and,

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

9 DATED: 3-23-09

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13 SHERRY MEHL  
14 Chief  
15 Bureau of Automotive Repair  
16 Department of Consumer Affairs  
17 State of California  
18 Complainant

15 LA2008900207  
16 Accusation (kdg) 3/16/09

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