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

11 In the Matter of the Accusation Against:

Case No. **77/14-01**

12
13 **MEXICO AUTO SALES & REPAIR**
3711 Didcot Circle
14 Sacramento, California 95838
MARTIN VAZQUEZ, OWNER

ACCUSATION

15 Automotive Repair Dealer Reg. No. 252812
16 Lamp Station License No. LS252812, Class A
17 Brake Station License No. BS252812, Class C

18 and

19 **MARTIN GUIZAR VAZQUEZ, AKA**
MARTIN VAZQUEZ
3711 Didcot Circle
20 Sacramento, California 95838

21 Lamp Adjuster License No. LA 149636, Class A
22 Brake Adjuster License No. BA 149636, Class C

23 Respondents.

24
25 John Wallauch ("Complainant") alleges:

26 **PARTIES**

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

his or her licensed activities.

1
2 (c) Violates any of the regulations promulgated by the director pursuant to this chapter [the Automotive Repair Act].

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

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

6 13. Code section 9887.1 states:

7 The director shall have the authority to issue licenses for official lamp and
8 brake adjusting stations and shall license lamp and brake adjusters. The licenses shall
9 be issued in accordance with this chapter and regulations adopted by the director
10 pursuant thereto. The director shall establish by regulation the terms of adjusters'
11 licenses as are necessary for the practical administration of the provisions relating to
12 adjusters, but those terms shall not be for less than one nor more than four years.
13 Licenses may be renewed upon application and payment of the renewal fees if the
14 application for renewal is made within the 30-day period prior to the date of
15 expiration. Persons whose licenses have expired shall immediately cease the activity
16 requiring a license . . .

13 14. Code section 9888.3 states:

14 No person shall operate an "official" lamp or brake adjusting station unless a
15 license therefor has been issued by the director. No person shall issue, or cause or
16 permit to be issued, any certificate purporting to be an official lamp adjustment
17 certificate unless he or she is a licensed lamp adjuster or an official brake adjustment
18 certificate unless he or she is a licensed brake adjuster.

17 15. Code section 9889.9 states:

18 When any license has been revoked or suspended following a hearing under the
19 provisions of this article, any additional license issued under Articles 5 and 6 of this
20 chapter in the name of the licensee may be likewise revoked or suspended by the
21 director.

21 16. Code section 22 states:

22 "Board," as used in any provision of this code, refers to the board in which the
23 administration of the provision is vested, and unless otherwise expressly provided,
24 shall include "bureau," "commission," "committee," "department," "division,"
25 "examining committee," "program," and "agency."

25 17. Code section 477 provides, in pertinent part, that "Board" includes "bureau,"
26 "commission," "committee," "department," "division," "examining committee," "program," and
27 "agency." "License" includes certificate, registration or other means to engage in a business or
28 profession regulated by the Code.

1 18. Health and Safety Code, section 44072.2, provides, in pertinent part:

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

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

6 19. Health and Safety Code, section 44072.8 states, "When a license has been revoked or
7 suspended following a hearing under this article, any additional license issued under this chapter
8 in the name of the licensee may be likewise revoked or suspended by the director."

9 20. California Code of Regulations, title 16, section ("Regulation") 3305, subdivision (a),
10 states, in pertinent part, that [a]ll adjusting, inspecting, servicing, and repairing of brake systems
11 and lamp systems for the purpose of issuing any certificate of compliance or adjustment shall be
12 performed in official stations, by official adjusters. . ."

13 21. Regulation 3307 states, in pertinent part:

14 Official stations shall comply with the following provisions governing display of
15 licenses, maintenance of equipment, and record keeping.

16 (a) An official station license shall be placed under glass or other transparent cover
and prominently displayed in an area of the station frequented by customers.

17 (d) Each official station, except a fleet owner station, may make a reasonable charge
18 for the work performed and shall post conspicuously, in an area frequented by customers, a
list of prices for the specific activities for which it is licensed. . . .

19 22. Regulation 3308 states:

20 An official station shall stop performing the functions for which it has been licensed
21 when it no longer has the services of a licensed adjuster, or when its station license has
expired or has been surrendered, suspended, or revoked. The station must dispose of
22 materials related to its formerly licensed activity according to these provisions.

23 (a) An official station that no longer has the services of a licensed adjuster shall
immediately remove or cover the official station sign in accordance with subsection (b) of
24 this section. If the station does not employ a licensed adjuster within 60 days, the station
shall surrender its official station license to the bureau and shall return to the bureau all
25 unused certificates of adjustments bought by the station to carry out the function for which
it is no longer licensed.

26 (b) An official station that is no longer authorized to perform the function for which it
has been licensed shall remove or cover the sign pertaining to the licensed function. A
27 station that has a multipurpose sign shall cover those portions of the sign that pertain to the
functions for which it is no longer licensed.
28

1 (c) When an official station license has expired or has been surrendered, suspended,
2 or revoked, the station shall return to the bureau all unused certificates purchased by the
3 station to carry out the function for which it is no longer licensed.

4 23. Regulation 3351.3 states, in pertinent part:

5 (a) Except as provided in subsection (b), all automotive repair dealers shall display
6 the following in a place and manner conspicuous to their customers:

7 (1) A current and valid certificate of registration as an automotive repair dealer issued
8 by the bureau. . .

9 COST RECOVERY

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

14 BACKGROUND

15 25. On or about July 10, 2012, a representative of the Bureau conducted a periodic lamp
16 and brake station inspection at Respondent's facility. The representative asked for the facility's
17 official station license and the lamp and brake adjuster licenses that are required to be posted,
18 which Respondent was unable to produce. The representative found that Respondent's lamp and
19 brake adjuster licenses expired on January 31, 2012, and had not been renewed. Respondent
20 informed the representative that he was the only licensed lamp and brake adjuster at the facility.
21 The representative requested the facility's lamp and brake certificate books for review, which
22 Respondent provided. Upon reviewing the books, the representative found that after Respondent's
23 lamp and brake adjuster licenses expired, between February 2, 2012, through July 9, 2012,
24 Respondent issued at the facility 106 Lamp Certificates numbered LC1363972 through
25 LC1364000, LC1412801 through LC1412850, and LC1460901 through LC1460927, and 101
26 Brake Certificates numbered BC1385222 through BC1385250, BC1435051 through BC1435100,
27 and BC1483551 through BC1483572. Respondent admitted that he signed and issued the
28 certificates, but claimed that he did not realize his brake and lamp adjuster licenses were expired
at the time the certificates were issued. The representative took possession of the certificate

1 books. When the representative asked Respondent where the lamp inspection price sign was
2 posted, Respondent located it on the ground between two buildings. The representative instructed
3 Respondent to cover all official lamp and brake inspection signs until a licensed adjuster was
4 employed at the facility.

5 **FIRST CAUSE FOR DISCIPLINE**

6 (Untrue or Misleading Statements)

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

10 a. Respondent certified under penalty of perjury on the lamp certificates, identified in
11 paragraph 25, above, that he performed the applicable inspections of the lighting systems on the
12 vehicles, as described in the certificates, as specified by the Bureau and in accordance with
13 Regulations and Code. In fact, Respondent issued the certificates after his lamp adjuster license
14 expired, in violation of Code sections 9887.1 and 9888.3, and Regulation section 3305,
15 subdivision (a).

16 b. Respondent certified under penalty of perjury on the brake certificates, identified in
17 paragraph 25, above, that he performed the applicable inspections of the brake systems on the
18 vehicles, as described in the certificates, as specified by the Bureau and in accordance with
19 Regulations and Code. In fact, Respondent issued the certificates after his brake adjuster license
20 expired, in violation of Code sections 9887.1 and 9888.3, and Regulation section 3305,
21 subdivision (a).

22 **SECOND CAUSE FOR DISCIPLINE**

23 (Failure to Comply with the Code)

24 27. Respondent's registration is subject to discipline pursuant to Code section 9884.7,
25 subdivision (a)(6), in that Respondent failed to comply with sections 9887.1 and 9888.3 of that
26 Code in the following material respects: Respondent issued lamp and brake certificates after his
27 lamp and brake adjuster licenses expired on January 31, 2012.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 (Failure to Comply with Regulations)

3 28. Respondent's registration is subject to discipline pursuant to Code section 9884.7,
4 subdivision (a)(6), in that Respondent failed to comply with Regulations in the following material
5 respects:

6 a. **Section 3305, subdivision (a)**: Respondent continued to issue lamp and brake
7 certificates after his lamp and brake adjuster licenses expired on January 31, 2012.

8 b. **Section 3308**: Respondent continued to perform his official function as a lamp and
9 brake station, including issuing lamp and brake certificates, after Respondent's lamp and brake
10 adjuster licenses expired on January 31, 2012.

11 c. **Section 3307, subdivision (a)**: Respondent failed to prominently display his official
12 lamp and brake station licenses in an area frequented by customers.

13 d. **Section 3307, subdivision (d)**: Respondent failed to conspicuously post a list of
14 prices for a lamp inspection in an area frequented by customers.

15 e. **Section 3351.3, subdivision (a)(1)**: Respondent failed to conspicuously display a
16 current and valid registration as an automotive repair dealer in an area frequented by customers.

17 **FOURTH CAUSE FOR DISCIPLINE**

18 (Failure to Comply with the Code)

19 29. Respondent's brake and lamp station licenses are subject to disciplinary action
20 pursuant to Code section 9889.3, subdivisions (a) and (h), in that Respondent violated the
21 provisions of Code sections 9887.1 and 9888.3 relating to his licensed activities, as set forth in
22 paragraph 27, above.

23 **FIFTH CAUSE FOR DISCIPLINE**

24 (Failure to Comply with Regulations)

25 30. Respondent's brake and lamp station licenses are subject to disciplinary action
26 pursuant to Code section 9889.3, subdivision (c), in that Respondent failed to comply with the
27 provisions of Regulations 3305, subdivision (a), 3308, and 3307, subdivisions (a) and (d), as set
28 forth in paragraph 28, above.

1 **SIXTH CAUSE FOR DISCIPLINE**

2 (Failure to Comply with the Code)

3 31. Respondent's brake and lamp adjuster licenses are subject to disciplinary action
4 pursuant to Code section 9889.3, subdivisions (a) and (h), in that Respondent violated the
5 provisions of Code sections 9887.1 and 9888.3 relating to his licensed activities, as set forth in
6 paragraph 27, above.

7 **SEVENTH CAUSE FOR DISCIPLINE**

8 (Failure to Comply with Regulations)

9 32. Respondent's brake and lamp adjuster licenses are subject to disciplinary action
10 pursuant to Code section 9889.3, subdivision (c), in that Respondent failed to comply with the
11 provisions of Regulation sections 3305, subdivision (a).

12 **OTHER MATTERS**

13 33. Under Code section 9884.7, subdivision (c), the Director may suspend, revoke, or
14 place on probation the registration for all places of business operated in this state by Respondent
15 Martin Vazquez, also known as Martin Guizar Vazquez, owner of Mexico Auto Sales and Repair,
16 upon a finding that Respondent has, or is, engaged in a course of repeated and willful violations
17 of the laws and regulations pertaining to an automotive repair dealer.

18 34. Under Code section 9889.9, if Official Lamp Station License Number LS 252812,
19 Class A, issued to Martin Vazquez, also known as Martin Guizar Vazquez, owner of Mexico
20 Auto Sales and Repair, is revoked or suspended, any additional license issued under Division 3,
21 Chapter 20.3, Articles 5 and 6 of the Code in the name of said licensee may be likewise revoked
22 or suspended by the Director.

23 35. Under Code section 9889.9, if Official Brake Station License Number BS 252812,
24 Class C, issued to Martin Vazquez, also known as Martin Guizar Vazquez, owner of Mexico
25 Auto Sales and Repair, is revoked or suspended, any additional license issued under Division 3,
26 Chapter 20.3, Articles 5 and 6 of the Code in the name of said licensee may be likewise revoked
27 or suspended by the Director.

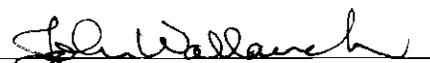
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1 8. Revoking or suspending any additional license issued under Division 26, Part 5,
2 Chapter 5, of the Health and Safety Code in the name of Martin Vazquez, also known as Martin
3 Guizar Vazquez;

4 9. Ordering Martin Vazquez, also known as Martin Guizar Vazquez, owner of Mexico
5 Auto Sales and Repair, to pay the Director of Consumer Affairs the reasonable costs of the
6 investigation and enforcement of this case, pursuant to Business and Professions Code section
7 125.3; and,

8 10. Taking such other and further action as deemed necessary and proper.
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10
11 DATED: July 3, 2013


JOHN WALLAUCH
Chief
Bureau of Automotive Repair (CPO)
Department of Consumer Affairs
State of California
Complainant

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