

1 KAMALA D. HARRIS
Attorney General of California
2 JANICE K. LACHMAN
Supervising Deputy Attorney General
3 KRISTINA T. JARVIS
Deputy Attorney General
4 State Bar No. 258229
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-5403
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation and Petition to
12 Revoke Probation Against:

Case No. 177/16-34

13 **MEXICO AUTO REPAIR**
14 **MARTIN G. VAZQUEZ,**
aka MARTIN GUIZAR VAZQUEZ, Owner
15 **6229 Watt Ave., #A**
North Highlands, CA 95660
16 **Mailing Address:**
3711 Didcot Circle
Sacramento, CA 95838
17 **Automotive Repair Dealer Reg. No. ARD 252812**
Lamp Station License No. LS 252812
18 **Brake Station License No. BS 252812**

**ACCUSATION AND PETITION TO
REVOKE PROBATION**

19 **and**

20 **MARTIN GUIZAR VAZQUEZ**
3711 Didcot Circle
21 **Sacramento, CA 95838**
Advanced Emission Specialist Technician
22 **License No. EA 149636 (to be re-designated**
upon renewal as EO 149636 and/or EI 149636)
23 **Brake Adjuster License No. BA 149636**
24 **Lamp Adjuster License No. LA 149636**

25 Respondents

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1 Complainant alleges:

2 **PARTIES**

3 1. Patrick Dorais (“Complainant”) brings this Accusation and Petition to Revoke
4 Probation solely in his official capacity as the Chief of the Bureau of Automotive Repair
5 (“Bureau”), Department of Consumer Affairs.

6 2. On or about November 9, 2007, the Director of Consumer Affairs (“Director”) issued
7 Automotive Repair Dealer Registration Number ARD 252812 (“registration”) to Martin G.
8 Vazquez, also known Martin Guizar Vazquez (“Respondent”), owner of Mexico Auto Sales &
9 Repair. On or about March 17, 2015, Respondent’s business name was changed to Mexico Auto
10 Repair. The registration was in effect at all times relevant to the charges brought herein and
11 expired on November 30, 2015.

12 3. On or about April 2, 2008, the Director issued Lamp Station License Number LS
13 252812 to Respondent. The lamp station license was in effect at all times relevant to the charges
14 brought herein and expired on November 30, 2015.

15 4. On or about March 3, 2008, the Director issued Brake Station License Number BS
16 252812 to Respondent. The brake station license was in effect at all times relevant to the charges
17 brought herein and expired on November 30, 2015.

18 5. In or about 2004, the Director issued Advanced Emission Specialist Technician
19 License Number EA 149636 (“smog technician license”) to Respondent. The smog technician
20 license expired on January 31, 2010. Upon renewal of the license, the license will be re-
21 designated as EO 149636 and/or EI 149636.¹

22 6. In or about January 2008, the Director issued Brake Adjuster License Number BA
23 149636 to Respondent. The brake adjuster license was in effect at all times relevant to the
24 charges brought herein and will expire on January 31, 2017, unless renewed.

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26 ¹ Effective August 1, 2012, California Code of Regulations, title 16, sections 3340.28,
27 3340.29, and 3340.30 were amended to implement a license restructure from the Advanced
28 Emission Specialist Technician (EA) license and Basic Area (EB) Technician license to Smog
Check Inspector (EO) license and/or Smog Check Repair Technician (EI) license.

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

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

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

11 16. California Code of Regulations, title 16, section ("Regulation") 3340.28, subdivision
12 (e), states that "[u]pon renewal of an unexpired Basic Area Technician license or an Advanced
13 Emission Specialist Technician license issued prior to the effective date of this regulation, the
14 licensee may apply to renew as a Smog Check Inspector, Smog Check Repair Technician, or
15 both.

16 **STATUTORY PROVISIONS**

17 17. Bus. & Prof. Code section 9884.7 states, in pertinent part:

18 (a) The director, where the automotive repair dealer cannot show there
19 was a bona fide error, may deny, suspend, revoke or place on probation the
20 registration of an automotive repair dealer for any of the following acts or omissions
21 related to the conduct of the business of the automotive repair dealer, which are done
22 by the automotive repair dealer or any automotive technician, employee, partner,
23 officer, or member of the automotive repair dealer.

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

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28 (4) Any other conduct that constitutes fraud.

.....

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

.....

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

6 18. Bus. & Prof. Code section 9889.3 states, in pertinent part:

7 The director may suspend, revoke, or take other disciplinary action
8 against a license as provided in this article [Article 7 (commencing with section
9 9889.1) of the Automotive Repair Act] if the licensee or any partner, officer, or
10 director thereof:

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

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

16 19. Bus. & Prof. Code section 9889.9 states that “[w]hen any license has been revoked or
17 suspended following a hearing under the provisions of this article [Article 7 (commencing with
18 section 9889.1) of the Automotive Repair Act], any additional license issued under Articles 5 and
19 6 of this chapter in the name of the licensee may be likewise revoked or suspended by the
20 director.”

21 20. Bus. & Prof. Code section 22, subdivision (a), states:

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

26 21. Bus. & Prof. Code section 477, subdivision (b), states, in pertinent part, that a
27 “license” includes “registration” and “certificate.”

28 22. Health & Saf. Code section 44072.2 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, does any of the following:

. . . .

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

1 **COST RECOVERY**

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

6 **ACCUSATION**

7 **UNDERCOVER OPERATION: 1995 CHEVROLET**

8 24. On or about January 27, 2015, an undercover operator of the Bureau ("operator")
9 took the Bureau's 1995 Chevrolet to Respondent's facility and requested a brake and lamp
10 inspection on the vehicle. The right front brake rotor on the Bureau-documented vehicle was
11 machined below the manufacturer's minimum thickness specifications, the left rear brake drum
12 was machined beyond the maximum diameter specifications, and the left headlamp was out of
13 adjustment. Respondent asked the operator about the purpose of the certification. The operator
14 told Respondent that the certification was for the registration of a salvaged vehicle. The operator
15 signed and received a copy of a written estimate in the amount of \$75. At approximately 1230
16 hours, the operator was informed that the vehicle passed the lamp and brake inspection. The
17 operator paid the facility \$75 and received copies of an invoice, Brake Certificate of Adjustment
18 No. [REDACTED], and Lamp Certificate of Adjustment No. [REDACTED]. The certificates indicated
19 that Respondent had performed the brake and lamp inspection on the vehicle.

20 25. On or about February 2, 2015, the Bureau inspected the vehicle and found that none
21 of the wheels had been removed for the brake inspection. Further, the right front brake rotor and
22 the left rear brake drum were not within manufacturer's specifications and the left headlamp was
23 still out of adjustment.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Untrue or Misleading Statements)**

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

6 a. Respondent certified under penalty of perjury on Brake Certificate of Adjustment No.
7 [REDACTED] that the drums and rotors on the Bureau's 1995 Chevrolet were in a satisfactory
8 condition. In fact, right front brake rotor was machined below the manufacturer's minimum
9 thickness specifications and the left rear brake drum was machined beyond the maximum
10 diameter specifications.

11 b. Respondent certified under penalty of perjury on Lamp Certificate of Adjustment No.
12 [REDACTED] that the applicable adjustment had been performed on the lighting system on the
13 Bureau's 1995 Chevrolet. In fact, the left headlamp was out of adjustment.

14 **SECOND CAUSE FOR DISCIPLINE**

15 **(Fraud)**

16 27. Respondent's registration is subject to disciplinary action pursuant to Bus. & Prof.
17 Code section 9884.7, subdivision (a)(4), Respondent committed an act constituting fraud, as
18 follows: Respondent obtained payment from the operator for performing the applicable
19 inspections, adjustments, or repairs of the brake and lighting systems on the Bureau's 1995
20 Chevrolet as specified by the Bureau and in accordance with the Vehicle Code. In fact,
21 Respondent failed to perform the necessary inspections, adjustments, and repairs in compliance
22 with Bureau Regulations or the Vehicle Code.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Violations of Regulations)**

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

6 a. **Section 3305, subdivision (a)**: Respondent failed to perform the inspection of the
7 brake system and inspection and adjustment of the lighting system on the Bureau's 1995
8 Chevrolet in accordance with the specifications, instructions, and directives issued by the Bureau
9 and the vehicle manufacturer.

10 b. **Section 3316, subdivision (d)(2)**: Respondent issued Lamp Certificate of
11 Adjustment No. [REDACTED] as to the Bureau's 1995 Chevrolet when all of the lamps, lighting
12 equipment, and/or related electrical systems on the vehicle were not in compliance with Bureau
13 regulations.

14 c. **Section 3321, subdivision (c)(2)**: Respondent issued Brake Certificate of
15 Adjustment No. [REDACTED] as to the Bureau's 1995 Chevrolet when the brake system on the
16 vehicle had not been completely tested or inspected.

17 **FOURTH CAUSE FOR DISCIPLINE**

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

19 29. Respondent's brake and lamp station licenses are subject to disciplinary action
20 pursuant to Bus. & Prof. Code section 9889.3, subdivision (c), in that Respondent failed to
21 comply with the provisions of California Code of Regulations, title 16, sections 3305, subdivision
22 (a), 3316, subdivision (d)(2), and 3321, subdivision (c)(2), as set forth in paragraph 28 above.

23 **FIFTH CAUSE FOR DISCIPLINE**

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

25 30. Respondent's brake and lamp station licenses are subject to disciplinary action
26 pursuant to Bus. & Prof. Code section 9889.3, subdivision (d), in that Respondent committed acts
27 involving dishonesty, fraud, or deceit whereby another was injured, as set forth in paragraphs 26
28 and 27 above.

1 **SIXTH CAUSE FOR DISCIPLINE**

2 **(Violations of Regulations)**

3 31. Respondent's brake and lamp adjuster licenses are subject to disciplinary action
4 pursuant to Bus. & Prof. Code section 9889.3, subdivision (c), in that he failed to comply with
5 provisions of California Code of Regulations, title 16, sections 3305, subdivision (a), 3316,
6 subdivision (d)(2), and 3321, subdivision (c)(2), as set forth in paragraph 28 above.

7 **SEVENTH CAUSE FOR DISCIPLINE**

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

9 32. Respondent's brake and lamp adjuster licenses are subject to disciplinary action
10 pursuant to Bus. & Prof. Code section 9889.3, subdivision (d), in that Respondent committed acts
11 involving dishonesty, fraud, or deceit whereby another was injured, as set forth in paragraphs 26
12 and 27 above.

13 **EIGHTH CAUSE FOR DISCIPLINE**

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

15 33. Respondent's smog technician license is subject to disciplinary action pursuant to
16 Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed dishonest,
17 fraudulent, or deceitful acts whereby another is injured, as set forth in paragraphs 26 and 27
18 above.

19 **PETITION TO REVOKE PROBATION**

20 34. Complainant incorporates by reference as though fully set forth herein the allegations
21 contained in paragraphs 24 through 33 above.

22 35. Condition 7 of Respondent's probation states that if an accusation is filed against
23 Respondent during the term of probation, the Director shall have continuing jurisdiction over this
24 matter until the final decision on the accusation, and the period of probation shall be extended
25 until such decision.

26 36. Condition 8 of Respondent's probation states that should the Director determine that
27 Respondent has failed to comply with the terms and conditions of probation, the Department may,

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1 after giving notice and opportunity to be heard, temporarily or permanently invalidate, suspend,
2 or revoke any and all licenses or registration held by Respondent.

3 37. Grounds exist to revoke Respondent's probation, registration, brake and lamp station
4 licenses and brake and lamp adjuster licenses, as follows:

5 **FIRST CAUSE TO REVOKE PROBATION**

6 **(Failure to Obey all Laws)**

7 38. Condition 2 of Respondent's probation states that Respondent shall comply with all
8 statutes, regulations and rules governing automotive inspections, estimates, and repairs.

9 39. Respondent's probation is subject to revocation in that Respondent failed to comply
10 with all statutes, regulations, and rules governing automotive inspections, as set forth in
11 paragraphs 24 through 33 above.

12 **SECOND CAUSE TO REVOKE PROBATION**

13 **(Failure to Pay Cost Recovery)**

14 40. Condition 10 of Respondent's probation states, in pertinent part, that payment to the
15 Bureau of the full amount of cost recovery shall be made in the amount of \$8,631.47, in 48 equal
16 monthly payments of \$179.82, with the final payment due no later than 12 months before
17 probation terminates. Failure to complete payment of cost recovery within this time frame shall
18 constitute a violation of probation which may subject Respondent's licenses and registration to
19 outright revocation.

20 41. Respondent's probation is subject to revocation in that Respondent has failed to make
21 any cost recovery payments to the Bureau (Respondent did issue a check in the amount of
22 \$1,078.92 to the Bureau; however, it was not honored by the bank).

23 **OTHER MATTERS**

24 42. Pursuant to Bus. & Prof. Code section 9884.7, subdivision (c), the Director may
25 suspend, revoke or place on probation the registration for all places of business operated in this
26 state by Respondent Martin G. Vazquez, also known Martin Guizar Vazquez, owner of Mexico
27 Auto Repair, upon a finding that Respondent has, or is, engaged in a course of repeated and
28 willful violations of the laws and regulations pertaining to an automotive repair dealer.

- 1 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
2 252812, issued to Martin G. Vazquez, also known as Martin Guizar Vazquez, owner of Mexico
3 Auto Repair;
- 4 2. Revoking probation and reimposing the order of revocation of Automotive Repair
5 Dealer Registration Number ARD 252812, issued to Martin G. Vazquez, also known as Martin
6 Guizar Vazquez, owner of Mexico Auto Repair;
- 7 3. Revoking or suspending any other automotive repair dealer registration issued to
8 Martin G. Vazquez, also known as Martin Guizar Vazquez;
- 9 4. Revoking or suspending Lamp Station License Number LS 252812, issued to Martin
10 G. Vazquez, also known as Martin Guizar Vazquez, owner of Mexico Auto Repair;
- 11 5. Revoking or suspending Brake Station License Number BS 252812, issued to Martin
12 G. Vazquez, also known as Martin Guizar Vazquez, owner of Mexico Auto Repair;
- 13 6. Revoking probation and reimposing the order of revocation of Lamp Station License
14 Number LS 252812 and Brake Station License Number BS 252812, issued to Martin G. Vazquez,
15 also known as Martin Guizar Vazquez, owner of Mexico Auto Repair;
- 16 7. Revoking or suspending Martin Guizar Vazquez's, smog technician license, currently
17 designated as EA 149636, but which, upon renewal, will be re-designated as EO 149636 and/or
18 EI 149636;
- 19 8. Revoking or suspending any additional license issued under Chapter 5 of the Health
20 and Safety Code in the name of Martin Guizar Vazquez;
- 21 9. Revoking or suspending Brake Adjuster License Number BA 149636, issued to
22 Martin Guizar Vazquez;
- 23 10. Revoking or suspending Lamp Adjuster License Number LA 149636, issued to
24 Martin Guizar Vazquez;
- 25 11. Revoking probation and reimposing the order of revocation of Brake Adjuster
26 License Number BA 149636 and Lamp Adjuster License Number LA 149636, issued to Martin
27 Guizar Vazquez;

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1 12. Revoking or suspending any additional license issued under Articles 5 and 6 of
2 Chapter 20.3 of the Business and Professions Code in the name of Martin G. Vazquez, also
3 known as Martin Guizar Vazquez;

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

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

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10 DATED: February 1, 2016 

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

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