BEFORE THE DIRECTOR
DEPARTMENT OF CONSUMER AFFAIRS
BUREAU OF AUTOMOTIVE REPAIR
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

MERCED 1STOP AUTO & TIRE
MARIO ANTONIO ZAZUETA, PARTNER
JESUS ZAZUETA, PARTNER
1406 W. Olive Avenue
Merced, CA 95348
Mailing Address:
P.O. Box 367
Livingston, CA 95348

Automotive Repair Dealer Registration No. ARD 263987
Smog Check Station License No. RC 263987
Lamp Station License No. LS 263987
Brake Station License No. BS 263987

and

SOCRATES FILEBERTO AGUILERA
727 Massasso Street
Merced, CA 95341

Brake Adjuster License No. BA 634330

Respondents.

Case No. 77/14-24

DECISION

The attached Stipulated Settlement and Disciplinary Order (Merced 1Stop Auto & Tire, Mario Antonio Zazueta, and Jesus Zazueta Only) is hereby accepted and adopted as the Decision of the Director of the Department of Consumer Affairs in the above-entitled matter only as to respondent Merced 1Stop Auto & Tire, Mario Antonio Zazueta and Jesus Zazueta, Partners, Automotive Repair Dealer Registration No. ARD 263987, Smog Check Station License No.RC 263987, Lamp Station License No. LS 263987, and Brake Station License No. BS 263987.

This Decision shall become effective February 19, 2014.

DATED: JAN 27 2014

DONALD CHANG
Assistant Chief Counsel
Department of Consumer Affairs

KAMALA D. HARRIS
Attorney General of California
KENT D. HARRIS
Supervising Deputy Attorney General
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Attorneys for Complainant

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

In the Matter of the Accusation Against: **MERCED 1STOP AUTO & TIRE** **MARIO ANTONIO ZAZUETA, PARTNER** **JESUS ZAZUETA, PARTNER** **1406 W. Olive Avenue** **Merced, CA 95348** **Mailing Address:** **P.O. Box 367** **Livingston, CA 95348** **Automotive Repair Dealer Registration No. ARD 263987** **Smog Check Station License No. RC 263987** **Lamp Station License No. LS 263987** **Brake Station License No. BS 263987** **and** **SOCRATES FILEBERTO AGUILERA** **727 Massasso Street** **Merced, CA 95341** **Brake Adjuster License No. BA 634330** Respondents.	Case No. 77/14-24 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER (MERCED 1STOP AUTO & TIRE, MARIO ANTONIO ZAZUETA, AND JESUS ZAZUETA ONLY)**

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-entitled proceedings that the following matters are true:

PARTIES

1. Patrick Dorais ("Complainant") is the Chief of the Bureau of Automotive Repair. He brought this action solely in his former official capacity as Acting Chief of the Bureau of Automotive Repair, and is represented in this matter by Kamala D. Harris, Attorney General of the State of California, by Phillip L. Arthur, Deputy Attorney General.

2. Respondents Merced 1Stop Auto & Tire, Mario Antonio Zazueta, and Jesus Zazueta ("Respondents") are represented in this proceeding by attorney Bruce J. Hendricks, whose address is: Callister, Hendricks, & Spencer, 544 W. 20th Street, Merced, CA 95340.

3. On or about January 28, 2011, the Bureau of Automotive Repair issued Automotive Repair Dealer Registration No. ARD 263987 to Merced 1Stop Auto & Tire ("Respondent Merced"), with Mario Antonio Zazueta and Jesus Zazueta as partners. The Automotive Repair Dealer Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 77/14-24 and will expire on January 31, 2014, unless renewed.

4. On or about February 7, 2011, the Bureau of Automotive Repair issued Smog Check Station License No. RC 263987 to Respondent Merced. The Smog Check Station License was in full force and effect at all times relevant to the charges brought in Accusation No. 77/14-24 and will expire on January 31, 2014, unless renewed.

5. On or about February 7, 2011, the Bureau of Automotive Repair issued Lamp Station License No. LS 263987 to Respondent Merced. The Lamp Station License was in full force and effect at all times relevant to the charges brought in Accusation No. 77/14-24 and will expire on January 31, 2014, unless renewed.

6. On or about February 7, 2011, the Bureau of Automotive Repair issued Brake Station License Number BS 263987 to Respondent Merced. The Brake Station License was in full force and effect at all times relevant to the charges brought in Accusation No. 77/14-24 and will expire on January 31, 2014, unless renewed.

JURISDICTION

7. Accusation No. 77/14-24 was filed before the Director of Consumer Affairs (Director), for the Bureau of Automotive Repair (Bureau), and is currently pending against

Respondents. The Accusation and all other statutorily required documents were properly served on Respondents on November 8, 2013. Respondents timely filed their Notice of Defense contesting the Accusation.

8. A copy of Accusation No. 77/14-24 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

9. Respondents have carefully read, fully discussed with counsel, and understand the charges and allegations in Accusation No. 77/14-24. Respondents have also carefully read, fully discussed with counsel, and understand the effects of this Stipulated Settlement and Disciplinary Order.

10. Respondents are fully aware of their legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at their own expense; the right to confront and cross-examine the witnesses against them; the right to present evidence and to testify on their own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

11. Respondents voluntarily, knowingly, and intelligently waive and give up each and every right set forth above.

CULPABILITY

12. Respondents admit the truth of each and every charge and allegation in Accusation No. 77/14-24 as they relate to them as a facility and as individuals.

13. Respondents agree that their Automotive Repair Dealer Registration, Brake Station License, and Lamp Station License are subject to discipline and they agree to be bound by the Director's probationary terms as set forth in the Disciplinary Order below.

CONTINGENCY

14. This stipulation shall be subject to approval by the Director of Consumer Affairs or the Director's designee. Respondents understand and agree that counsel for Complainant and the

staff of the Bureau of Automotive Repair may communicate directly with the Director and staff of the Department of Consumer Affairs regarding this stipulation and settlement, without notice to or participation by Respondents or their counsel. By signing the stipulation, Respondents understand and agree that they may not withdraw their agreement or seek to rescind the stipulation prior to the time the Director considers and acts upon it. If the Director fails to adopt this stipulation as the Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Director shall not be disqualified from further action by having considered this matter.

15. The parties understand and agree that Portable Document Format (PDF), electronic, and facsimile copies of this Stipulated Settlement and Disciplinary Order, including Portable Document Format (PDF), electronic, and facsimile signatures thereto, shall have the same force and effect as the originals.

16. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

17. In consideration of the foregoing admissions and stipulations, the parties agree that the Director may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Automotive Repair Dealer Registration No. ARD 263987 issued to Merced 1Stop Auto & Tire, with Mario Antonio Zazueta and Jesus Zazueta as partners, is revoked. Brake Station License Number BS 263987 and Lamp Station License Number LS 263987 issued to Merced 1Stop Auto & Tire, are revoked. However, the revocations are stayed and Respondents are placed on probation for five (5) years on the following terms and conditions.

1. **Actual Suspension.** Brake Station License Number BS 263987 and Lamp Station License Number LS 263987 issued to Respondent Merced 1Stop Auto & Tire are suspended for thirty (30) days. The suspension shall be imposed and run for thirty (30) consecutive days from the effective date of this order.

2. **Obey All Laws.** Comply with all statutes, regulations and rules governing automotive inspections, estimates and repairs.

3. **Post Sign.** Post a prominent sign, provided by the Bureau, indicating the beginning and ending dates of the suspension and indicating the reason for the suspension. The sign shall be conspicuously displayed in a location open to and frequented by customers and shall remain posted during the entire period of actual suspension.

4. **Reporting.** Respondents or Respondents' authorized representative must report in person or in writing as prescribed by the Bureau of Automotive Repair, on a schedule set by the Bureau, but no more frequently than each quarter, on the methods used and success achieved in maintaining compliance with the terms and conditions of probation.

5. **Report Financial Interest.** Within 30 days of the effective date of this action, report any financial interest which any partners, officers, or owners of the Respondents' facility may have in any other business required to be registered pursuant to Section 9884.6 of the Business and Professions Code.

6. **Random Inspections.** Provide Bureau representatives unrestricted access to inspect all vehicles (including parts) undergoing repairs, up to and including the point of completion.

7. **Jurisdiction.** If an accusation is filed against Respondents during the term of probation, the Director of Consumer Affairs shall have continuing jurisdiction over this matter until the final decision on the accusation, and the period of probation shall be extended until such decision.

8. **Violation of Probation.** Should the Director of Consumer Affairs determine that Respondents have failed to comply with the terms and conditions of probation, the Department may, after giving notice and opportunity to be heard revoke Respondents' Automotive Repair Dealer Registration, Brake Station License, and Lamp Station License.

9. **False and Misleading Advertising.** If the accusation involves false and misleading advertising, during the period of probation, Respondents shall submit any proposed advertising copy, whether revised or new, to the Bureau at least thirty (30) days prior to its use.

10. **Cost Recovery.** Respondents shall reimburse their pro rata amount of $13,801.16, representing the Bureau's costs for investigation and prosecution of this action. Payment to the Bureau of the full amount of cost recovery shall be made in forty-eight (48) equal installments with the last payment due no later than 12 months before probation terminates. Failure to complete payment of cost recovery within this time frame shall constitute a violation of probation which may subject Respondents' Automotive Repair Dealer Registration, Brake Station License, and Lamp Station License to outright revocation; however, the Director or the Director's Bureau of Automotive Repair designee may elect to continue probation until such time as reimbursement of the entire cost recovery amount has been made to the Bureau.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Bruce J. Hendricks. I understand the stipulation and the effect it will have on my Automotive Repair Dealer Registration, Smog Check Station License, and Lamp Station License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Director of Consumer Affairs.

DATED: 1-8-14

MERCED 1STOP AUTO & TIRE,
MARIO ANTONIO ZAZUETA, PARTNER
Respondent

DATED: 1-8-14

MERCED 1STOP AUTO & TIRE,
JESUS ZAZUETA, PARTNER
Respondent

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I have read and fully discussed with Respondents Merced 1Stop Auto & Tire, Mario Antonio Zazueta, and Jesus Zazueta the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: Jan 8, 2014

BRUCE J. HENDRICKS
Attorney for Respondents

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Director of Consumer Affairs.

Dated: 1/9/14

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
KENT D. HARRIS
Supervising Deputy Attorney General

PHILLIP L. ARTHUR
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 77/14-24

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Attorneys for Complainant

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

In the Matter of the Accusation Against: **MERCED 1STOP AUTO & TIRE** **MARIO ANTONIO ZAZUETA, PARTNER** **JESUS ZAZUETA, PARTNER** **1406 W. Olive Avenue** **Merced, CA 95348** **Mailing Address:** **P.O. Box 367** **Livingston, CA 95348** **Automotive Repair Dealer Reg. No. ARD 263987** **Smog Check Station License No. RC 263987** **Lamp Station License No. LS 263987** **Brake Station License No. BS 263987** **and** **SOCRATES FILEBERTO AGUILERA** **727 Massasso Street** **Merced, CA 95341** **Brake Adjuster License No. BA 634330** Respondents.	Case No. 77/14-24 **ACCUSATION**

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Complainant alleges:

PARTIES

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

Merced 1Stop Auto & Tire

2. On or about January 28, 2011, the Director of Consumer Affairs ("Director") issued Automotive Repair Dealer Registration Number ARD 263987 ("registration") to Merced 1Stop Auto & Tire ("Respondent Merced"), with Mario Antonio Zazueta and Jesus Zazueta as partners. Respondent's registration was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2014, unless renewed.

3. On or about February 7, 2011, the Director issued Smog Check Station License Number RC 263987 to Respondent Merced. Respondent's smog check station license was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2014, unless renewed.

4. On or about February 7, 2011, the Director issued Lamp Station License Number LS 263987 to Respondent Merced. Respondent's lamp station license was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2014, unless renewed.

5. On or about February 7, 2011, the Director issued Brake Station License Number BS 263987 to Respondent Merced. Respondent's brake station license was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2014, unless renewed.

Socrates Fileberto Aguilera

6. On or about June 7, 2012, the Director issued Brake Adjuster License Number BA 634330 to Socrates Fileberto Aguilera ("Respondent Aguilera"). Respondent's brake adjuster license was in full force and effect at all times relevant to the charges brought herein and will expire on July 31, 2015, unless renewed.

JURISDICTION

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

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

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

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

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

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

STATUTORY PROVISIONS

13. Bus. & Prof. 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 deny, suspend, revoke or place on probation 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.

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(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 that constitutes fraud.

. . . .

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

. . . .

(c) Notwithstanding subdivision (b), the director may suspend, revoke or place on probation 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.

14. Bus. & Prof. Code section 9884.9, subdivision (a), states, in pertinent part, that "[t]he automotive repair dealer shall give to the customer a written estimated price for labor and parts necessary for a specific job. No work shall be done and no charges shall accrue before authorization to proceed is obtained from the customer . . ."

15. Bus. & Prof. Code section 9884.17 states:

The bureau shall design and approve of a sign which shall be placed in all automotive repair dealer locations in a place and manner conspicuous to the public. That sign shall give notice that inquiries concerning service may be made to the bureau and shall contain the telephone number and Internet Web site address of the bureau. The sign shall also give notice that the customer is entitled to a return of replaced parts upon his or her request therefor at the time the work order is taken.

16. Bus. & Prof. 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.

. . . .

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

(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 . . .

17. Bus. & Prof. Code section 9888.3 states:

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

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

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

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

20. Bus. & Prof. Code section 477, subdivision (b), states, in pertinent part, that a "license" includes "registration" and "certificate."

21. 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 . . .

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

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COST RECOVERY

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

UNDERCOVER OPERATION OF NOVEMBER 2, 2012: 2002 FORD

24. On November 2, 2012, Bureau Representative J. G., acting in an undercover capacity, took the Bureau's 2002 Ford to Respondent Merced's facility and requested a smog check inspection and lamp and brake inspections on the vehicle. The right front and left rear brake rotors on the Bureau-documented vehicle were machined below the manufacturer's minimum thickness specifications, both front headlamps were out of adjustment, and a defective malfunction indicator lamp (also called the "check engine light") bulb was installed, causing the vehicle to fail a smog inspection. J. G. signed and received a copy of a written estimate in the amount of $142. Smog check technician, E. R., performed the smog inspection on the vehicle. Later, J. G. observed Respondent Aguilera ("Aguilera") perform the brake and lamp inspections. Aguilera did not road test the vehicle, remove the wheels to inspect the brakes, or adjust the headlamps. At approximately 1330 hours, Aguilera informed J. G. that the vehicle was ready. Aguilera went behind the counter, filled out the brake and lamp certificates, and handed the paperwork to an employee. The employee told J. G. that the vehicle failed the smog inspection because the check engine light was not working and possibly needed a bulb. J. G. paid the employee $133.75 and received copies of a vehicle inspection report, Invoice No. [redacted] Certificate of Brake Adjustment No. BC[redacted] and Certificate of Lamp Adjustment No. LC. [redacted] J. G. left Respondent Merced's facility.

25. On November 6, 2012, the Bureau inspected the vehicle and found that both front headlamps were still out of adjustment and the right front and left rear brake rotors were not within manufacturer's specifications.

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FIRST CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

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

a. Respondent Merced's employee, Respondent Aguilera, certified under penalty of perjury on Brake Certificate No. BC [redacted] that the drums and rotors on the Bureau's 2002 Ford were in a satisfactory condition. In fact, the right front and left rear brake rotors on the vehicle were machined below the manufacturer's minimum thickness specifications at the time the vehicle was taken to Respondent Merced's facility.

b. Respondent Merced's employee, Respondent Aguilera, certified under penalty of perjury on Brake Certificate No. BC [redacted] that the Bureau's 2002 Ford had a stopping distance of 25 feet from a speed of 20 miles per hour as a result of a road-test. In fact, Aguilera never road tested the vehicle.

c. Respondent Merced's employee, Respondent Aguilera, certified under penalty of perjury on Lamp Certificate No. LC [redacted] that the applicable adjustment had been performed on the lighting system of the Bureau's 2002 Ford. In fact, both front headlamps were out of adjustment at the time the vehicle was taken to Respondent Merced's facility.

d. Respondent Merced's employee, Respondent Aguilera, represented on Lamp Certificate No. LC [redacted] that his lamp adjuster license number was LC 00237108. In fact, Aguilera did not have a lamp adjuster license.

e. Respondent Merced's employee, Respondent Aguilera, represented on Brake Certificate No. BC [redacted] that his brake adjuster license number was BC 207390 when, in fact, his license number is BA 634330.

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SECOND CAUSE FOR DISCIPLINE

(Fraud)

27. Respondent Merced's registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(4), in that Respondent committed acts constituting fraud as follows: Respondent Merced obtained payment from Bureau Representative J. G. for performing the applicable inspections, adjustments, or repairs of the brake and lighting systems on the Bureau's 2002 Ford as specified by the Bureau and in accordance with the Vehicle Code. In fact, Respondent Merced's employee, Respondent Aguilera, failed to perform the necessary inspections, adjustments, and repairs in compliance with Bureau Regulations and the Vehicle Code.

THIRD CAUSE FOR DISCIPLINE

(Failure to Comply with the Bus. & Prof. Code)

28. Respondent Merced's registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with section 9888.3 of that Code in a material respect, as follows: Respondent Merced authorized or permitted Respondent Aguilera to perform the lamp inspection on the Bureau's 2002 Ford when, in fact, Aguilera did not have a lamp adjuster license.

FOURTH CAUSE FOR DISCIPLINE

(Violations of Regulations)

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

a. **Section 3305, subdivision (a):** Respondent Merced's employee, Respondent Aguilera, failed to perform the inspection of the brake system and inspection and adjustment of the lighting system on the Bureau's 2002 Ford in accordance with the specifications, instructions, and directives issued by the Bureau and vehicle manufacturer.

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b. **Section 3308:** Respondent Merced performed official functions as a lamp station, including authorizing or permitting Respondent Aguilera to perform the lamp inspection on the Bureau's 2002 Ford when, in fact, Aguilera did not have a lamp adjuster license.

c. **Section 3316, subdivision (d)(2):** Respondent Merced issued Lamp Certificate No. LC 1363248 for the Bureau's 2002 Ford when all of the lamps, lighting equipment, and/or related electrical systems on the vehicle were not in compliance with Bureau regulations.

d. **Section 3321, subdivision (c)(2):** Respondent Merced issued Brake Certificate No. BC [redacted] for the Bureau's 2002 Ford when the brake system on the vehicle had not been completely tested or inspected.

e. **Section 3356, subdivision (a)(1):** Respondent Merced failed to show on Invoice No. [redacted] its correct registration [redacted] in that the registration number was listed as ARD 206683.

FIFTH CAUSE FOR DISCIPLINE

(Failure to Comply with the Bus. & Prof. Code)

30. Respondent Merced's brake and lamp station licenses are subject to disciplinary action pursuant to Bus. & Prof. Code section 9889.3, subdivisions (a) and (h), in that Respondent violated Bus. & Prof. Code section 9888.3 relating to its licensed activities, as set forth in paragraph 28 above.

SIXTH CAUSE FOR DISCIPLINE

(Failure to Comply with California Code of Regulations)

31. Respondent Merced's brake and lamp station licenses are subject to disciplinary action pursuant to Bus. & Prof. Code section 9889.3, subdivision (c), in that Respondent failed to comply with the provisions of California Code of Regulations, title 16, sections 3305, subdivision (a), 3308, 3316, subdivision (d)(2), 3321, subdivision (c)(2), and 3356, subdivision (a)(1), as set forth in paragraph 29, and all of its subparts, above.

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SEVENTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud, or Deceit)

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

EIGHTH CAUSE FOR DISCIPLINE

(Failure to Comply with the Bus. & Prof. Code)

33. Respondent Aguilera's brake adjuster license is subject to disciplinary action pursuant to Bus. & Prof. Code section 9889.3, subdivisions (a) and (h), in that Respondent violated Bus. & Prof. Code section 9888.3 relating to his licensed activities, as set forth in paragraph 28 above.

NINTH CAUSE FOR DISCIPLINE

(Violations of California Code of Regulations)

34. Respondent Aguilera's brake adjuster license is subject to disciplinary action pursuant to Bus. & Prof. Code section 9889.3, subdivision (c), in that he failed to comply with the provisions of California Code of Regulations, title 16, sections 3305, subdivision (a), 3316, subdivision (d)(2), and 3321, subdivision (c)(2), as set forth in paragraph 29, and all of its subparts, above.

TENTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud, or Deceit)

35. Respondent Aguilera's brake adjuster license is subject to disciplinary action pursuant to Bus. & Prof. Code section 9889.3, subdivision (d), in that Respondent committed acts involving dishonesty, fraud, or deceit whereby another was injured, as set forth in paragraph 26, and all of its subparts, above.

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UNDERCOVER OPERATION OF JANUARY 17, 2013: 2001 FORD AND 2006 CHEVROLET

36. On January 17, 2013, J. G. and another representative of the Bureau, G. C., also acting in an undercover capacity, took the Bureau's 2001 Ford and 2006 Chevrolet to Respondent Merced's facility (J. G. drove the 2001 Ford and G. C. drove the 2006 Chevrolet). J. G. and G. C. entered the facility together. J. G. told a female employee that he needed a smog check inspection and brake and lamp inspections on both vehicles. The right rear brake drum on the Bureau-documented 2001 Ford was machined beyond the manufacturer's drum discard diameter specifications, the right front brake rotor was machined below the manufacturer's minimum thickness specifications, and both front headlamps were out of adjustment. The left rear brake drum on the Bureau-documented 2006 Chevrolet was machined beyond the manufacturer's drum discard diameter specifications, the right front brake rotor was machined below the manufacturer's minimum thickness specifications, and both front headlamps were out of adjustment. The employee prepared two repair orders, but did not give J. G. a price for the inspections or written estimates. J. G. and G. C. waited at the facility. J. G. observed Respondent Aguilera perform brake and lamp inspections on the vehicles. Aguilera did not road test the vehicles or remove the wheels to inspect the brakes, and did not check the headlamp adjustment on either vehicle. Smog check technician, E. R., performed the smog inspections. At approximately 1125 hours, J. G. was informed that the vehicles were ready. J. G. and G. C. observed Aguilera fill out the brake and lamp certificates for both vehicles. J. G. paid the female employee $284 in cash for the inspections, and received copies of Invoice No. [redacted] Certificate of Brake Adjustment No. BC [redacted] Certificate of Lamp Adjustment No. LC [redacted] and a vehicle inspection report for the 2001 Ford; and Invoice No. [redacted], Certificate of Brake Adjustment No. BC [redacted] Certificate of Lamp Adjustment No. LC [redacted] and a vehicle inspection report for the 2006 Chevrolet. J. G. and G. C. left the facility.

37. At approximately 1200 hours that same day, Bureau Representative W. N. went to Respondent Merced's facility to perform a station inspection. W. N. noted that the facility did not have an official automotive repair dealer's sign posted and failed to display Respondent

Aguilera's brake adjuster license. Later, W. N. met with Aguilera and asked him if he had a lamp adjuster license. Aguilera admitted that he did not have a lamp adjuster license as he had not passed the test. W. N. asked Aguilera for Respondent Merced's brake and lamp certificate books, which Aguilera provided. W. N. reviewed the certificate books and found copies of the certificates that were issued for the 2001 Ford and 2006 Chevrolet. W. N. asked Aguilera who performed the lamp inspections on the two vehicles. Aguilera admitted that he had performed the inspections. W. N. asked Aguilera to review the Lamp Certificate Book containing Certificate Nos. LC 1430051 through LC 1430100. Aguilera reviewed the lamp certificates and admitted signing the six certificates identified below:

Lamp Certificate No.	Date of Issuance
LC 1430051	08/27/2012
LC 1430054	09/04/2012
LC 1430078	01/02/2013
LC 1430079	2013
LC [redacted]	01/17/2013
LC [redacted]	01/17/2013

38. On January 25, 2013, the Bureau inspected the 2006 Chevrolet and found that both front headlamps were still out of adjustment and the left rear brake drum and right front brake rotor were not within manufacturer's specifications.

39. On January 28, 2013, the Bureau inspected the 2001 Ford and found that the both front headlamps were still out of adjustment and the right rear brake drum and right front brake rotor were not within manufacturer's specifications.

ELEVENTH CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

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

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2001 Ford

a. Respondent Merced's employee, Respondent Aguilera, certified under penalty of perjury on Brake Certificate No. BC[redacted] that the drums and rotors on the Bureau's 2001 Ford were in a satisfactory condition. In fact, the right rear brake drum on the vehicle was machined beyond the manufacturer's drum discard diameter specifications and the right front brake rotor was machined below the manufacturer's minimum thickness specifications at the time the vehicle was taken to Respondent Merced's facility.

b. Respondent Merced's employee, Respondent Aguilera, certified under penalty of perjury on Brake Certificate No. BC[redacted] that the Bureau's 2001 Ford had a stopping distance of 25 feet from a speed of 20 miles per hour as a result of a road-test. In fact, Aguilera never road tested the vehicle.

c. Respondent Merced's employee, Respondent Aguilera, certified under penalty of perjury on Lamp Certificate No. LC[redacted] that the applicable adjustment had been performed on the lighting system on the Bureau's 2001 Ford. In fact, both front headlamps were out of adjustment at the time the vehicle was taken to Respondent Merced's facility.

d. Respondent Merced's employee, Respondent Aguilera, represented on Lamp Certificate No. LC[redacted] that his lamp adjuster license number was 00237108. In fact, Aguilera did not have a lamp adjuster license.

e. Respondent Merced's employee, Respondent Aguilera, represented on Brake Certificate No. BC[redacted] that his brake adjuster license number was BC 207370 when, in fact, his license number is BA 634330.

2006 Chevrolet

f. Respondent Merced's employee, Respondent Aguilera, certified under penalty of perjury on Brake Certificate No. BC[redacted] that the applicable repair had been performed on the brake system on the Bureau's 2006 Chevrolet. In fact, the left rear brake drum on the vehicle was machined beyond the manufacturer's drum discard diameter specifications and the right front brake rotor was machined below the manufacturer's minimum thickness specifications at the time the vehicle was taken to Respondent Merced's facility.

g. Respondent Merced's employee, Respondent Aguilera, certified under penalty of perjury on Brake Certificate No. BC [redacted] that the Bureau's 2006 Chevrolet had a stopping distance of 25 feet from a speed of 20 miles per hour as a result of a road-test. In fact, Aguilera never road tested the vehicle.

h. Respondent Merced's employee, Respondent Aguilera, certified under penalty of perjury on Lamp Certificate No. LC [redacted] that the applicable adjustment had been performed on the lighting system of the Bureau's 2006 Chevrolet. In fact, both front headlamps were out of adjustment at the time the vehicle was taken to Respondent Merced's facility.

i. Respondent Merced's employee, Respondent Aguilera, represented on Lamp Certificate No. LC [redacted] that his lamp adjuster license number was 00237108. In fact, Aguilera did not have a lamp adjuster license.

j. Respondent Merced's employee, Respondent Aguilera, represented on Brake Certificate No. BC [redacted] that his brake adjuster license number was BC 207370 when, in fact, his license number is BA 634330.

Certificate Nos. LC 1430051 through LC [redacted]

k. Respondent Merced's employee, Respondent Aguilera, certified under penalty of perjury on the lamp certificates, identified in paragraph 37 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, Aguilera issued the certificates without a valid lamp adjuster license, in violation of Bus. and Prof. Code section 9888.3 and California Code of Regulations, title 16, section 3305, subdivision (a).

TWELFTH CAUSE FOR DISCIPLINE

(Fraud)

41. Respondent Merced's registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(4), in that Respondent committed acts constituting fraud, as follows: Respondent Merced obtained payment from Bureau Representative J. G. for performing the applicable inspections, adjustments, or repairs of the brake and lighting systems

on the Bureau's 2001 Ford and 2006 Chevrolet as specified by the Bureau and in accordance with the Vehicle Code. In fact, Respondent Merced's employee, Respondent Aguilera, failed to perform the necessary inspections, adjustments, and repairs in compliance with Bureau Regulations and the Vehicle Code.

THIRTEENTH CAUSE FOR DISCIPLINE

(Failure to Comply with the Bus. & Prof. Code)

42. Respondent Merced's registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with provisions of that Code in the following material respects:

a. **Section 9884.9, subdivision (a):** Respondent Merced's employee failed to provide Bureau Representative J. G. with written estimates for the smog check inspections and brake and lamp inspections on the Bureau's 2001 Ford and 2006 Chevrolet.

b. **Section 9884.17:** Respondent Merced failed to post the required automotive repair dealer's sign at its facility giving notice to the public that inquiries concerning service may be made to the Bureau (with the telephone number and Internet Web site address of the Bureau listed), and that the customer is entitled to a return of replaced parts upon his or her request therefore at the time the work order is taken.

c. **Section 9888.3:** Respondent Merced authorized or permitted Respondent Aguilera to perform the lamp inspections on the Bureau's 2001 Ford and 2006 Chevrolet when, in fact, Aguilera did not have a lamp adjuster license.

FOURTEENTH CAUSE FOR DISCIPLINE

(Violations of California Code of Regulations)

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

a. **Section 3305, subdivision (a):** Respondent Merced's employee, Respondent Aguilera, failed to perform the inspections of the brake systems and inspections and adjustment of

the lighting systems on the Bureau's 2001 Ford and 2006 Chevrolet in accordance with the specifications, instructions, and directives issued by the Bureau and the vehicle manufacturer.

b. **Section 3307, subdivision (b):** Respondent Merced failed to display Respondent Aguilera's brake adjuster license at the facility.

c. **Section 3308:** Respondent Merced performed official functions as a lamp station, including authorizing or permitting Respondent Aguilera to perform the lamp inspections on the Bureau's 2001 Ford and 2006 Chevrolet when, in fact, Aguilera did not have a lamp adjuster license.

d. **Section 3316, subdivision (d)(2):** Respondent Merced issued Lamp Certificate No. LC[redacted] for the Bureau's 2001 Ford and Lamp Certificate No. LC[redacted] for the [redacted] 2006 Chevrolet when all of the lamps, lighting equipment, and/or related electrical systems on these vehicles were not in compliance with Bureau regulations.

e. **Section 3321, subdivision (c)(2):** Respondent Merced issued Brake Certificate No. BC[redacted] for the Bureau's 2001 Ford and Brake Certificate No. BC[redacted] for the Bureau's 2006 Chevrolet when the brake systems on these vehicles had not been completely tested or inspected.

f. **Section 3356, subdivision (a)(1):** Respondent Merced failed to show on Invoice Nos. [redacted] and [redacted] its correct registration number in that the registration number was listed as ARD 206683.

FIFTEENTH CAUSE FOR DISCIPLINE

(Failure to Comply with the Bus. & Prof. Code)

44. Respondent Merced's brake and lamp station licenses are subject to disciplinary action pursuant to Bus. & Prof. Code section 9889.3, subdivisions (a) and (h), in that Respondent violated Bus. & Prof. Code sections 9884.9, subdivision (a), 9884.17, and 9888.3 relating to its licensed activities, as set forth in paragraph 42, and all of its subparts, above.

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SIXTEENTH CAUSE FOR DISCIPLINE

(Failure to Comply with California Code of Regulations)

45. Respondent Merced's brake and lamp station licenses are subject to disciplinary action pursuant to Bus. & Prof. Code section 9889.3, subdivision (c), in that Respondent failed to comply with the provisions of California Code of Regulations, title 16, sections 3305, subdivision (a), 3307, subdivision (b), 3308, 3316, subdivision (d)(2), 3321, subdivision (c)(2), and 3356, subdivision (a)(1), as set forth in paragraph 43, and all of its subparts, above.

SEVENTEENTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud, or Deceit)

46. Respondent Merced's brake and lamp station licenses are subject to disciplinary action pursuant to Bus. & Prof. Code section 9889.3, subdivision (d), in that Respondent committed acts involving dishonesty, fraud, or deceit whereby another was injured, as set forth in paragraph 41 above.

EIGHTEENTH CAUSE FOR DISCIPLINE

(Failure to Comply with the Bus. & Prof. Code)

47. Respondent Aguilera's brake adjuster license is subject to disciplinary action pursuant to Bus. & Prof. Code section 9889.3, subdivisions (a) and (h), in that Respondent violated Bus. & Prof. Code section 9888.3 relating to his licensed activities, as set forth in paragraph 42, and all of its subparts, above.

NINETEENTH CAUSE FOR DISCIPLINE

(Violations of California Code of Regulations)

48. Respondent Aguilera's brake adjuster license is subject to disciplinary action pursuant to Bus. & Prof. Code section 9889.3, subdivision (c), in that he failed to comply with the provisions of California Code of Regulations, title 16, sections 3305, subdivision (a), 3316, subdivision (d)(2), and 3321, subdivision (c)(2), as set forth in paragraph 43, and all of its subparts, above.

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TWENTIETH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud, or Deceit)

49. Respondent Aguilera's brake adjuster license is subject to disciplinary action pursuant to Bus. & Prof. Code section 9889.3, subdivision (d), in that Respondent committed acts involving dishonesty, fraud, or deceit whereby another was injured, as set forth in paragraph 40, and all of its subparts, above.

TWENTY-FIRST CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

50. Respondent Merced's smog check station license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed dishonest, fraudulent, or deceitful acts whereby another is injured, as set forth in paragraphs 27 and 41 above.

OTHER MATTERS

51. Pursuant to Bus. & Prof. Code section 9884.7, subdivision (c), the Director may suspend, revoke or place on probation the registration for all places of business operated in this state by Respondent Merced 1Stop Auto & Tire upon a finding that Respondent has, or is, engaged in a course of repeated and willful violations of the laws and regulations pertaining to an automotive repair dealer.

52. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Station License Number RC 263987, issued to Respondent Merced 1Stop Auto & Tire, is revoked or suspended, any additional license issued under Chapter 5 of the Health & Saf. Code in the name of said licensee may be likewise revoked or suspended by the Director.

53. Pursuant to Bus. & Prof. Code section 9889.9, if Lamp Station License Number LS 263987, issued to Respondent Merced 1Stop Auto & Tire, is revoked or suspended, any additional license issued under Articles 5 and 6 of Chapter 20.3 of the Bus. & Prof. Code in the name of said licensee may be likewise revoked or suspended by the Director.

54. Pursuant to Bus. & Prof. Code section 9889.9, if Brake Station License Number BS 263987, issued to Respondent Merced 1Stop Auto & Tire, is revoked or suspended, any

additional license issued under Articles 5 and 6 of Chapter 20.3 of the Bus. & Prof. Code in the name of said licensee may be likewise revoked or suspended by the Director.

55. Pursuant to Bus. & Prof. Code section 9889.9, if Brake Adjuster License Number BA 634330, issued to Respondent Socrates Fileberto Aguilera, is revoked or suspended, any additional license issued under Articles 5 and 6 of Chapter 20.3 of the Bus. & Prof. Code in the name of said licensee may be likewise revoked or suspended by the Director.

PRAYER

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

1. Revoking or suspending Automotive Repair Dealer Registration Number ARD 263987, issued to Merced 1Stop Auto & Tire;

2. Revoking or suspending any other automotive repair dealer registration issued to Merced 1Stop Auto & Tire;

3. Revoking or suspending Smog Check Station License Number RC 263987, issued to Merced 1Stop Auto & Tire;

4. Revoking or suspending any additional license issued under Chapter 5 of the Health and Safety Code in the name of Merced 1Stop Auto & Tire;

5. Revoking or suspending Lamp Station License Number LS 263987, issued to Merced 1Stop Auto & Tire;

6. Revoking or suspending Brake Station License Number BS 263987, issued to Merced 1Stop Auto & Tire;

7. Revoking or suspending any additional license issued under Articles 5 and 6 of Chapter 20.3 of the Business and Professions Code in the name of Merced 1Stop Auto & Tire;

8. Revoking or suspending Brake Adjuster License Number BA 634330, issued to Socrates Fileberto Aguilera;

9. Revoking or suspending any additional license issued under Articles 5 and 6 of Chapter 20.3 of the Business and Professions Code in the name of Socrates Fileberto Aguilera;

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10. Ordering Merced 1 Stop Auto & Tire and Socrates Fileberto Aguilera to pay the Director of Consumer Affairs the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

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

DATED: October 31, 2013

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

SA2013111967