

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

In the Matter of the Accusation Against:

GIL'S AUTO CARE & SALES
LUIS EDUARDO GIL, Owner
528 N. Fries Ave.
Wilmington, CA 90744

Automotive Repair Dealer Registration No.
ARD 258720
Smog Check Test & Repair Station License
No. RC 258720
Lamp Station License No. LS 258720
Brake Station License No. BS 258720

and

ALAN DAVID MORRIS
5617 W. Tampion Avenue
Santa Ana, CA 92704

Advanced Emission Specialist Technician
License No. EA 140060
Brake Adjuster License No. BA 140060
Lamp Adjuster License No. LA 140060

Respondents.

Case No. 77/11-13

OAH No. 2012021160

DECISION

The attached Stipulated Settlement and Disciplinary Order 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 Alan David Morris, Advanced Emission Specialist Technician License No. EA 140060, Brake Adjuster License No. BA 140060, and Lamp Adjuster License No. LA 140060.

The suspension of Advanced Emission Specialist Technician License No. EA 140060 shall commence on the effective date of this Decision.

This Decision shall become effective

12/11/12

DATED: 001 3 1 2012


DOREATHEA JOHNSON
Deputy Director, Legal Affairs
Department of Consumer Affairs

1 KAMALA D. HARRIS
Attorney General of California
2 GLORIA A. BARRIOS
Supervising Deputy Attorney General
3 MICHAEL BROWN
Deputy Attorney General
4 State Bar No. 231237
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2095
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7 Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

Case No. 77/11-13

13 **GIL'S AUTO CARE & SALES**
14 **LUIS EDUARDO GIL, OWNER**
528 N. Fries Ave
15 Wilmington, CA 90744
Automotive Repair Dealer Reg. No. ARD
16 258720
Smog Check Test & Repair Station License
17 No. RC 258720
Lamp Station License No. LS 258720
Brake Station License No. BS 258720

OAH No. 2012021160
**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

18 and

19 **ALAN DAVID MORRIS**
5617 W. Tampion Avenue
20 Santa Ana, CA 92704
Brake Adjuster No. BA 140060
21 Lamp Adjuster No. LA 140060

22 Respondents.

23
24 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
25 entitled proceedings that the following matters are true:

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1 PARTIES

2 1. John Wallauch (Complainant) is the Chief of the Bureau of Automotive Repair. He
3 brought this action solely in his official capacity and is represented in this matter by Kamala D.
4 Harris, Attorney General of the State of California, by Michael Brown, Deputy Attorney General.

5 2. Alan David Morris (Respondent Morris) is represented in this proceeding by attorney
6 Michael B. Levin, Esq., whose address is: 3727 Camino del Rio South, Suite 200, San Diego,
7 CA 92108.

8 3. On or about November 2, 2009, the Bureau of Automotive Repair issued Brake
9 Adjuster License No. BA 140060 to Respondent Morris. The Brake Adjuster License was in full
10 force and effect at all times relevant to the charges brought in Accusation No. 77/11-13 and will
11 expire on January 31, 2013, unless renewed.

12 4. On or about December 9, 2009, the Bureau of Automotive Repair issued Lamp
13 Adjuster License No. LA 140060 to Respondent Morris. The Brake Adjuster License was in full
14 force and effect at all times relevant to the charges brought in Accusation No. 77/11-13 and will
15 expire on January 31, 2013, unless renewed.

16 5. On or about July 6, 2009, the Bureau of Automotive Repair issued Advanced
17 Emission Specialist Technician License No. EA 140060 to Respondent Morris. The Advanced
18 Emission Specialist Technician License was in full force and effect at all times relevant to the
19 charges brought in Accusation No. 77/11-13 and will expire on January 31, 2013, unless renewed.

20 JURISDICTION

21 6. Accusation No. 77/11-13 was filed before the Director of Consumer Affairs
22 (Director), for the Bureau of Automotive Repair (Bureau), and is currently pending against
23 Respondent Morris. The Accusation and all other statutorily required documents were properly
24 served on Respondent Morris on October 12, 2012. Respondent Morris timely filed his Notice of
25 Defense contesting the Accusation.

26 7. A copy of Accusation No. 77/11-13 is attached as exhibit A and incorporated herein
27 by reference.

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1 staff of the Bureau of Automotive Repair may communicate directly with the Director and staff of
2 the Department of Consumer Affairs regarding this stipulation and settlement, without notice to
3 or participation by Respondent or his counsel. By signing the stipulation, Respondent Morris
4 understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation
5 prior to the time the Director considers and acts upon it. If the Director fails to adopt this
6 stipulation as the Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of
7 no force or effect, except for this paragraph, it shall be inadmissible in any legal action between
8 the parties, and the Director shall not be disqualified from further action by having considered
9 this matter.

10 15. The parties understand and agree that facsimile copies of this Stipulated Settlement
11 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and
12 effect as the originals.

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

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

22 **DISCIPLINARY ORDER**

23 IT IS HEREBY ORDERED that Brake Adjuster License No. BA 140060, Lamp Adjuster
24 License No. LA 140060 and Advanced Emission Specialist Technician License No. EA 140060
25 issued to Alan David Morris (Respondent Morris) are revoked. However, the revocation of the
26 Advanced Emission Specialist Technician License is stayed and Respondent Morris is placed on
27 probation for three (3) years on the following terms and conditions.

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- 1 1. **Actual Suspension.** Advanced Emission Specialist Technician License No. EA
2 140060 issued to Respondent Morris is suspended for 10 days.
- 3 2. **Obey All Laws.** Comply with all statutes, regulations and rules governing
4 automotive inspections, estimates and repairs.
- 5 3. **Reporting.** Respondent Morris or Respondent's authorized representative must report
6 in person or in writing as prescribed by the Bureau of Automotive Repair, on a schedule set by
7 the Bureau, but no more frequently than each quarter, on the methods used and success achieved
8 in maintaining compliance with the terms and conditions of probation.
- 9 4. **Report Financial Interest.** Within 30 days of the effective date of this action, report
10 any financial interest which any partners, officers, or owners of the Respondent facility may have
11 in any other business required to be registered pursuant to Section 9884.6 of the Business and
12 Professions Code.
- 13 5. **Random Inspections.** Provide Bureau representatives unrestricted access to inspect
14 all vehicles (including parts) undergoing repairs, up to and including the point of completion.
- 15 6. **Jurisdiction.** If an accusation is filed against Respondent Morris during the term of
16 probation, the Director of Consumer Affairs shall have continuing jurisdiction over this matter
17 until the final decision on the accusation, and the period of probation shall be extended until such
18 decision.
- 19 7. **Violation of Probation.** Should the Director of Consumer Affairs determine that
20 Respondent Morris has failed to comply with the terms and conditions of probation, the
21 Department may, after giving notice and opportunity to be heard temporarily or permanently
22 invalidate the registrations or suspend or revoke their license.
- 23 8. **A Bureau Certified Licensed Inspector Training Course (Type 2).** During the
24 period of probation, Respondent Morris shall attend and successfully complete a Bureau Certified
25 Licensed Inspector Training Course. Said courses shall be completed and proof of completion
26 submitted to the Bureau within 180 days of the effective date of this decision and order. If proof
27 of completion of the course is not furnished to the Bureau within the 180-day period, Respondent
28 Morris's license shall be immediately suspended until such proof is received.

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I have read and fully discussed with Respondent Morris the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 8/20/12 Michael B. Levin
Michael B. Levin, Esq.
Attorney for Respondent

ENDORSEMENT

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

Dated: August __, 2012

Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
GLORIA A. BARRIOS
Supervising Deputy Attorney General

MICHAEL BROWN
Deputy Attorney General
Attorneys for Complainant

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1 I have read and fully discussed with Respondent Morris the terms and conditions and other
2 matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form
3 and content.

4 DATED: _____
5 Michael B. Levin, Esq.
6 Attorney for Respondent

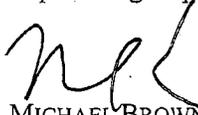
7 ENDORSEMENT

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

10 Dated: August 20, 2012

Respectfully submitted,

11 KAMALA D. HARRIS
12 Attorney General of California
13 GLORIA A. BARRIOS
14 Supervising Deputy Attorney General

15 
16 MICHAEL BROWN
17 Deputy Attorney General
18 *Attorneys for Complainant*

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20 51147838.doc

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Exhibit A

Accusation No. 77/11-13

1 KAMALA D. HARRIS
Attorney General of California
2 ALFREDO TERRAZAS
Senior Assistant Attorney General
3 GREGORY J. SALUTE
Supervising Deputy Attorney General
4 State Bar No. 164015
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
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Attorneys for Complainant
7

8 **BEFORE THE**
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9 **FOR THE BUREAU OF AUTOMOTIVE REPAIR**
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13 **LUIS EDUARDO GIL, OWNER**
14 **528 N. Fries Ave**
Wilmington, CA 90744
15 **Automotive Repair Dealer Reg. No. ARD 258720**
Smog Check Test & Repair Station License No.
16 **RC 258720**
Lamp Station License No. LS 258720
Brake Station License No. BS 258720

ACCUSATION

17 and

18 **ALAN DAVID MORRIS**
19 **5617 W. Tampion Avenue**
Santa Ana, CA 92704
20 **Brake Adjuster No. BA 140060**
Lamp Adjuster No. LA 140060

21 Respondents.
22

23 Complainant alleges:

24 **PARTIES/LICENSE INFORMATION**

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

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1 **Gil's Auto Care & Sales; Luis Eduardo Gil, Owner**

2 2. On or about July 6, 2009, the Director of Consumer Affairs ("Director") issued
3 Automotive Repair Dealer Registration Number ARD 258720 ("registration") to Luis Eduardo
4 Gil ("Respondent Gil"), owner of Gil's Auto Care & Sales. Respondent's registration was in full
5 force and effect at all times relevant to the charges brought herein and will expire on June 30,
6 2012, unless renewed.

7 3. On or about March 22, 2010, the Director issued Smog Check Test & Repair Station
8 License Number RC 258720 ("smog check station license") to Respondent Gil. Respondent's
9 smog check station license was in full force and effect at all times relevant to the charges brought
10 herein and will expire on June 30, 2012, unless renewed.

11 4. On or about July 8, 2009, the Director issued Lamp Station License Number LS
12 258720 to Respondent Gil. Respondent's lamp station license was in full force and effect at all
13 times relevant to the charges brought herein and will expire on June 30, 2012, unless renewed.

14 5. On or about July 7, 2009, the Director issued Brake Station License Number BS
15 258720 to Respondent Gil. Respondent's brake station license was in full force and effect at all
16 times relevant to the charges brought herein and will expire on June 30, 2012, unless renewed.

17 **Alan David Morris**

18 6. On or about November 2, 2009, the Director issued Brake Adjuster License Number
19 BA 140060 to Alan David Morris ("Respondent Morris"). Respondent's brake adjuster license
20 was in full force and effect at all times relevant to the charges brought herein and will expire on
21 January 31, 2013, unless renewed.

22 7. On or about December 9, 2009, the Director issued Lamp Adjuster License Number
23 LA 140060 to Respondent Morris. Respondent's lamp adjuster license was in full force and effect
24 at all times relevant to the charges brought herein and will expire on January 31, 2013, unless
25 renewed.

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

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5 (3) Failing or refusing to give to a customer a copy of any document
6 requiring his or her signature, as soon as the customer signs the document.

7 (4) Any other conduct that constitutes fraud.

8

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

11

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

17 15. Bus. & Prof. Code section 9889.3 states, in pertinent part:

18 The director may suspend, revoke, or take other disciplinary action
19 against a license as provided in this article [Article 7 (commencing with section
20 9889.1) of the Automotive Repair Act] if the licensee or any partner, officer, or
21 director thereof:

22 (a) Violates any section of the Business and Professions Code which
23 relates to his or her licensed activities.

24

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

27 (d) Commits any act involving dishonesty, fraud, or deceit whereby
28 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 . . .

16. Bus. & Prof. Code section 9889.16 states:

Whenever a licensed adjuster in a licensed station upon an inspection or
after an adjustment, made in conformity with the instructions of the bureau,
determines that the lamps or the brakes upon any vehicle conform with the
requirements of the Vehicle Code, he shall, when requested by the owner or driver of
the vehicle, issue a certificate of adjustment on a form prescribed by the director,

1 which certificate shall contain the date of issuance, the make and registration number
2 of the vehicle, the name of the owner of the vehicle, and the official license of the
3 station.

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

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

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

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

16 20. Health & Saf. Code section 44072.2 states, in pertinent part:

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

20

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

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

26 COST RECOVERY

27 22. Bus. & Prof. Code section 125.3 provides, in pertinent part, that a Board may request
28 the administrative law judge to direct a licensee 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.

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1 system on the Bureau's 2000 Honda CRV. In fact, the right rear brake drum was machined
2 beyond the manufacturer's drum discard specifications and had not been replaced on the vehicle.

3 b. Respondent Gil's technician, Respondent Morris, certified under penalty of perjury on
4 Lamp Certificate No. LC1087267 that the applicable adjustment had been performed on the
5 lighting system on the Bureau's 2000 Honda CRV. In fact, Respondent Morris failed to adjust
6 the headlamps to manufacturer's specifications, as set forth in paragraph 24 above.

7 **SECOND CAUSE FOR DISCIPLINE**

8 **(Failure to Provide Customer with Copy of Signed Document)**

9 26. Respondent Gil's registration is subject to disciplinary action pursuant to Bus. & Prof.
10 Code section 9884.7, subdivision (a)(3), in that Respondent Gil's technician, Respondent Morris,
11 failed to provide the operator with a copy of the work order/estimate as soon as the operator
12 signed the document.

13 **THIRD CAUSE FOR DISCIPLINE**

14 **(Fraud)**

15 27. Respondent Gil's registration is subject to disciplinary action pursuant to Bus. & Prof.
16 Code section 9884.7, subdivision (a)(4), Respondent committed an act constituting fraud, as
17 follows: Respondent obtained payment from the operator for performing the applicable
18 adjustments or repairs of the brake and lighting systems on the Bureau's 2000 Honda CRV as
19 specified by the Bureau and in accordance with the Vehicle Code. In fact, Respondent failed to
20 perform the necessary adjustments and repairs in compliance with Bureau Regulations or the
21 Vehicle Code.

22 **FOURTH CAUSE FOR DISCIPLINE**

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

24 28. Respondent Gil's registration is subject to disciplinary action pursuant to Bus. & Prof.
25 Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with section 9889.16
26 of that Code in a material respect, as follows: Respondent issued Brake Certificate No.
27 BC1103465 and Certificate of Lamp Adjustment No. LC1087267 as to the Bureau's 2000 Honda

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1 CRV when the vehicle was not in compliance with Bureau Regulations or the requirements of the
2 Vehicle Code.

3 **FIFTH CAUSE FOR DISCIPLINE**

4 (Violations of Regulations)

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

8 a. **Section 3305, subdivision (a)**: Respondent failed to perform the inspection of the
9 brake system and adjustment of the lighting system on the Bureau's 2000 Honda CRV in
10 accordance with the specifications, instructions, and directives issued by the Bureau and the
11 vehicle manufacturer.

12 b. **Section 3316, subdivision (d)(2)**: Respondent issued Lamp Certificate No.
13 LC1087267 as to the Bureau's 2000 Honda CRV when all of the lamps, lighting equipment,
14 and/or related electrical systems on the vehicle were not in compliance with Bureau regulations.

15 c. **Section 3321, subdivision (c)(2)**: Respondent issued Brake Certificate No.
16 BC1103465 as to the Bureau's 2000 Honda CRV when the brake system on the vehicle had not
17 been completely tested or inspected.

18 **SIXTH CAUSE FOR DISCIPLINE**

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

20 30. Respondent Gil's brake and lamp station licenses are subject to disciplinary action
21 pursuant to Bus. & Prof. Code section 9889.3, subdivisions (a) and (h), in that Respondent
22 violated section 9889.16 of that Code relating to his licensed activities, as set forth in paragraph
23 28 above.

24 **SEVENTH CAUSE FOR DISCIPLINE**

25 (Failure to Comply with Regulations)

26 31. Respondent Gil's brake and lamp station licenses are subject to disciplinary action
27 pursuant to Bus. & Prof. Code section 9889.3, subdivision (c), in that Respondent failed to

28 ///

1 comply with the provisions of California Code of Regulations, title 16, sections 3305, subdivision
2 (a), 3316, subdivision (d)(2), and 3321, subdivision (c)(2), as set forth in paragraph 29 above.

3 **EIGHTH CAUSE FOR DISCIPLINE**

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

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

9 **NINTH CAUSE FOR DISCIPLINE**

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

11 33. Respondent Morris' brake and lamp adjuster licenses are subject to disciplinary action
12 pursuant to Bus. & Prof. Code section 9889.3, subdivisions (a) and (h), in that he violated section
13 9889.16 of that Code relating to his licensed activities, as set forth in paragraph 28 above.

14 **TENTH CAUSE FOR DISCIPLINE**

15 **(Violations of Regulations)**

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

20 **UNDERCOVER OPERATION #2: 1998 TOYOTA CAMRY**

21 35. On October 20, 2010, an undercover operator of the Bureau ("operator") took the
22 Bureau's 1998 Toyota Camry to Respondent Gil's facility and requested brake and lamp
23 inspections on the vehicle. The rear brake drums on the Bureau-documented vehicle were
24 machined beyond the manufacturer's drum discard specifications, the headlamps were out of
25 adjustment, and the right license plate lamp bulb and right rear side marker lamp bulb were
26 defective. Respondent Morris ("Morris") had the operator sign a work order/estimate totaling \$50
27 for the inspection, but did not give him a copy. Morris took the vehicle on a test drive. After
28 returning to the facility, Morris looked at the vehicle and told the operator that it needed a license

1 plate bulb at a cost of \$5. The operator authorized Morris to replace the bulb. Later, the operator
2 observed another individual put air in the tires. The individual torqued the wheels, but did not
3 remove them from the vehicle. The operator observed Morris shine the headlamps on an aiming
4 screen, but never saw Morris adjust the headlamps. The operator paid the facility \$50 in cash and
5 received copies of an invoice, Certificate of Brake Adjustment No. BC1138543, and Certificate
6 of Lamp Adjustment No. LC1121643.

7 36. On October 27, 2010, the Bureau inspected the vehicle and found that the defective
8 right license plate lamp bulb had been replaced. The Bureau also found that the headlamps had
9 not been adjusted, the defective right rear side marker lamp bulb was still in place on the vehicle,
10 the rear brake drums were not within manufacturer's specifications, and none of the wheels had
11 been removed from the vehicle for inspection.

12 **ELEVENTH CAUSE FOR DISCIPLINE**

13 **(Untrue or Misleading Statements)**

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

18 a. Respondent Gil's technician, Respondent Morris, certified under penalty of perjury on
19 Brake Certificate No. BC1138543 that the applicable inspection had been performed on the brake
20 system on the Bureau's 1998 Toyota Camry. In fact, Respondent Morris failed to inspect the
21 brake system on the vehicle.

22 b. Respondent Gil's technician, Respondent Morris, certified under penalty of perjury on
23 Brake Certificate No. BC1138543 that the applicable repair had been performed on the brake
24 system on the Bureau's 1998 Toyota Camry. In fact, the rear brake drums were machined beyond
25 the manufacturer's drum discard specifications and had not been replaced on the vehicle.

26 c. Respondent Gil's technician, Respondent Morris, certified under penalty of perjury on
27 Lamp Certificate No. LC1121643 that the applicable adjustment and repair had been performed
28 on the lighting system on the Bureau's 1998 Toyota Camry. In fact, Respondent Morris failed to

1 adjust the headlamps on the vehicle, the headlamps were not adjusted to manufacturer's
2 specifications, and the defective right rear side marker lamp bulb was still in place on the vehicle.

3 **TWELFTH CAUSE FOR DISCIPLINE**

4 **(Failure to Provide Customer with Copy of Signed Document)**

5 38. Respondent Gil's registration is subject to disciplinary action pursuant to Bus. & Prof.
6 Code section 9884.7, subdivision (a)(3), in that Respondent Gil's technician, Respondent Morris,
7 failed to provide the operator with a copy of the work order/estimate as soon as the operator
8 signed the document.

9 **THIRTEENTH CAUSE FOR DISCIPLINE**

10 **(Fraud)**

11 39. Respondent Gil's registration is subject to disciplinary action pursuant to Bus. & Prof.
12 Code section 9884.7, subdivision (a)(4), Respondent committed an act constituting fraud, as
13 follows: Respondent obtained payment from the operator for performing the applicable
14 inspections, adjustments, or repairs of the brake and lighting systems on the Bureau's 1998
15 Toyota Camry as specified by the Bureau and in accordance with the Vehicle Code. In fact,
16 Respondent failed to perform the necessary adjustments and repairs in compliance with Bureau
17 Regulations or the Vehicle Code.

18 **FOURTEENTH CAUSE FOR DISCIPLINE**

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

20 40. Respondent Gil's registration is subject to disciplinary action pursuant to Bus. & Prof.
21 Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with section 9889.16
22 of that Code in a material respect, as follows: Respondent issued Brake Certificate No.
23 BC1138543 and Certificate of Lamp Adjustment No. LC1121643 as to the Bureau's 1998 Toyota
24 Camry when the vehicle was not in compliance with Bureau Regulations or the requirements of
25 the Vehicle Code.

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1 **FIFTEENTH CAUSE FOR DISCIPLINE**

2 (Violations of Regulations)

3 41. Respondent Gil'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 adjustment and repair of the lighting system on the Bureau's 1998 Toyota
8 Camry in accordance with the specifications, instructions, and directives issued by the Bureau and
9 the vehicle manufacturer.

10 b. **Section 3316, subdivision (d)(2)**: Respondent issued Lamp Certificate No.
11 LC1121643 as to the Bureau's 1998 Toyota Camry when all of the lamps, lighting equipment,
12 and/or related electrical systems on the vehicle were not in compliance with Bureau regulations.

13 c. **Section 3321, subdivision (c)(2)**: Respondent issued Brake Certificate No.
14 BC1138543 as to the Bureau's 1998 Toyota Camry when the brake system on the vehicle had not
15 been completely tested or inspected.

16 **SIXTEENTH CAUSE FOR DISCIPLINE**

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

18 42. Respondent Gil's brake and lamp station licenses are subject to disciplinary action
19 pursuant to Bus. & Prof. Code section 9889.3, subdivisions (a) and (h), in that Respondent
20 violated section 9889.16 of that Code relating to his licensed activities, as set forth in paragraph
21 40 above.

22 **SEVENTEENTH CAUSE FOR DISCIPLINE**

23 (Failure to Comply with Regulations)

24 43. Respondent Gil's brake and lamp station licenses are subject to disciplinary action
25 pursuant to Bus. & Prof. Code section 9889.3, subdivision (c), in that Respondent failed to
26 comply with the provisions of California Code of Regulations, title 16, sections 3305, subdivision
27 (a), 3316, subdivision (d)(2), and 3321, subdivision (c)(2), as set forth in paragraph 41 above.

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1 **EIGHTEENTH CAUSE FOR DISCIPLINE**

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

3 44. Respondent Gil's brake and lamp station licenses are subject to disciplinary action
4 pursuant to Bus. & Prof. Code section 9889.3, subdivision (d), in that Respondent committed acts
5 involving dishonesty, fraud, or deceit whereby another was injured, as set forth in paragraph 39
6 above.

7 **NINETEENTH CAUSE FOR DISCIPLINE**

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

9 45. Respondent Morris' brake and lamp adjuster licenses are subject to disciplinary action
10 pursuant to Bus. & Prof. Code section 9889.3, subdivisions (a) and (h), in that he violated section
11 9889.16 of that Code relating to his licensed activities, as set forth in paragraph 40 above.

12 **TWENTIETH CAUSE FOR DISCIPLINE**

13 **(Violations of Regulations)**

14 46. Respondent Morris' brake and lamp adjuster licenses are subject to disciplinary action
15 pursuant to Bus. & Prof. Code section 9889.3, subdivision (c), in that he failed to comply with the
16 provisions of California Code of Regulations, title 16, sections 3305, subdivision (a), 3316,
17 subdivision (d)(2), and 3321, subdivision (c)(2), as set forth in paragraph 41 above.

18 **UNDERCOVER OPERATION #3: 2004 DODGE NEON**

19 47. On November 17, 2010, an undercover operator of the Bureau ("operator") took the
20 Bureau's 2004 Dodge Neon to Respondent Gil's facility and requested brake and lamp
21 inspections on the vehicle. The rear brake drums on the Bureau-documented vehicle were
22 machined beyond the manufacturer's drum discard specifications, the passenger side headlamp
23 was out of adjustment, and the license plate lamp bulb was defective. Respondent Morris
24 ("Morris") drove the vehicle into the shop and turned on the lights. Morris then came into the
25 office and had the operator sign a work order/estimate totaling \$50 for the inspection, but did not
26 give him a copy. Morris went back out to the shop and looked at the vehicle. Later, Morris told
27 the operator that the vehicle needed a license plate bulb, but did not offer to replace it on the
28 vehicle. The operator never saw Morris remove the wheels or adjust the headlamps on the

1 vehicle. The operator paid the facility \$50 in cash and received copies of an invoice, Certificate
2 of Brake Adjustment No. BC1154600, and Certificate of Lamp Adjustment No. LC1137700.

3 48. On November 24, 2010, the Bureau inspected the vehicle and found that the
4 passenger side headlamp had not been adjusted, the defective license plate lamp bulb was still in
5 place on the vehicle, the rear brake drums were not within manufacturer's specifications, and
6 none of the wheels had been removed from the vehicle for inspection.

7 **TWENTY-FIRST CAUSE FOR DISCIPLINE**

8 **(Untrue or Misleading Statements)**

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

13 a. Respondent Gil's technician, Respondent Morris, certified under penalty of perjury on
14 Brake Certificate No. BC1154600 that the applicable inspection had been performed on the brake
15 system on the Bureau's 2004 Dodge Neon. In fact, Respondent Morris failed to inspect the brake
16 system on the vehicle.

17 b. Respondent Gil's technician, Respondent Morris, certified under penalty of perjury on
18 Brake Certificate No. BC1154600 that the applicable repair had been performed on the brake
19 system on the Bureau's 2004 Dodge Neon. In fact, the rear brake drums were machined beyond
20 the manufacturer's drum discard specifications and had not been replaced on the vehicle.

21 c. Respondent Gil's technician, Respondent Morris, certified under penalty of perjury on
22 Lamp Certificate No. LC1137700 that the applicable adjustment and repair had been performed
23 on the lighting system on the Bureau's 2004 Dodge Neon. In fact, Respondent Morris failed to
24 adjust the passenger side headlamp on the vehicle, the headlamp was not adjusted to
25 manufacturer's specifications, and the defective license plate lamp bulb was still in place on the
26 vehicle.

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1 d. Respondent Gil represented on the invoice that the tire pressure was "set" and the
2 wheels were torqued on the Bureau's 2004 Dodge Neon. In fact, those repairs or services were
3 not performed on the vehicle.

4 **TWENTY-SECOND CAUSE FOR DISCIPLINE**

5 **(Failure to Provide Customer with Copy of Signed Document)**

6 50. Respondent Gil's registration is subject to disciplinary action pursuant to Bus. & Prof.
7 Code section 9884.7, subdivision (a)(3), in that Respondent Gil's technician, Respondent Morris,
8 failed to provide the operator with a copy of the work order/estimate as soon as the operator
9 signed the document.

10 **TWENTY-THIRD CAUSE FOR DISCIPLINE**

11 **(Fraud)**

12 51. Respondent Gil's registration is subject to disciplinary action pursuant to Bus. & Prof.
13 Code section 9884.7, subdivision (a)(4), Respondent committed an act constituting fraud, as
14 follows: Respondent obtained payment from the operator for performing the applicable
15 inspections, adjustments, or repairs of the brake and lighting systems on the Bureau's 2004
16 Dodge Neon as specified by the Bureau and in accordance with the Vehicle Code. In fact,
17 Respondent failed to perform the necessary adjustments and repairs in compliance with Bureau
18 Regulations or the Vehicle Code.

19 **TWENTY-FOURTH CAUSE FOR DISCIPLINE**

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

21 52. Respondent Gil's registration is subject to disciplinary action pursuant to Bus. & Prof.
22 Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with section 9889.16
23 of that Code in a material respect, as follows: Respondent issued Brake Certificate No.
24 BC1154600 and Certificate of Lamp Adjustment No. LC1137700 as to the Bureau's 2004 Dodge
25 Neon when the vehicle was not in compliance with Bureau Regulations or the requirements of the
26 Vehicle Code.

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1 **TWENTY-FIFTH CAUSE FOR DISCIPLINE**

2 (Violations of Regulations)

3 53. Respondent Gil'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 adjustment and repair of the lighting system on the Bureau's 2004 Dodge Neon
8 in accordance with the specifications, instructions, and directives issued by the Bureau and the
9 vehicle manufacturer.

10 b. **Section 3316, subdivision (d)(2)**: Respondent issued Lamp Certificate No.
11 LC1137700 as to the Bureau's 2004 Dodge Neon when all of the lamps, lighting equipment,
12 and/or related electrical systems on the vehicle were not in compliance with Bureau regulations.

13 c. **Section 3321, subdivision (c)(2)**: Respondent issued Brake Certificate No.
14 BC1154600 as to the Bureau's 2004 Dodge Neon when the brake system on the vehicle had not
15 been completely tested or inspected.

16 **TWENTY-SIXTH CAUSE FOR DISCIPLINE**

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

18 54. Respondent Gil's brake and lamp station licenses are subject to disciplinary action
19 pursuant to Bus. & Prof. Code section 9889.3, subdivisions (a) and (h), in that Respondent
20 violated section 9889.16 of that Code relating to his licensed activities, as set forth in paragraph
21 52 above.

22 **TWENTY-SEVENTH CAUSE FOR DISCIPLINE**

23 (Failure to Comply with Regulations)

24 55. Respondent Gil's brake and lamp station licenses are subject to disciplinary action
25 pursuant to Bus. & Prof. Code section 9889.3, subdivision (c), in that Respondent failed to
26 comply with the provisions of California Code of Regulations, title 16, sections 3305, subdivision
27 (a), 3316, subdivision (d)(2), and 3321, subdivision (c)(2), as set forth in paragraph 53 above.

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1 **TWENTY-EIGHTH CAUSE FOR DISCIPLINE**

2 (Dishonesty, Fraud, or Deceit)

3 56. Respondent Gil's brake and lamp station licenses are subject to disciplinary action
4 pursuant to Bus. & Prof. Code section 9889.3, subdivision (d), in that Respondent committed acts
5 involving dishonesty, fraud, or deceit whereby another was injured, as set forth in paragraph 51
6 above.

7 **TWENTY-NINTH CAUSE FOR DISCIPLINE**

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

9 57. Respondent Morris' brake and lamp adjuster licenses are subject to disciplinary action
10 pursuant to Bus. & Prof. Code section 9889.3, subdivisions (a) and (h), in that he violated section
11 9889.16 of that Code relating to his licensed activities, as set forth in paragraph 52 above.

12 **THIRTIETH CAUSE FOR DISCIPLINE**

13 (Violations of Regulations)

14 58. Respondent Morris' brake and lamp adjuster licenses are subject to disciplinary action
15 pursuant to Bus. & Prof. Code section 9889.3, subdivision (c), in that he failed to comply with
16 California Code of Regulations, title 16, sections 3305, subdivision (a), 3316, subdivision (d)(2),
17 and 3321, subdivision (c)(2), as set forth in paragraph 53 above.

18 **THIRTY-FIRST CAUSE FOR DISCIPLINE**

19 (Dishonesty, Fraud, or Deceit)

20 59. Respondent Gil's smog check station license is subject to disciplinary action pursuant
21 to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed dishonest,
22 fraudulent, or deceitful acts whereby another is injured, as set forth in paragraphs 27, 39, and 51
23 above.

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OTHER MATTERS

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2 60. Pursuant to Bus. & Prof. Code section 9884.7, subdivision (c), the Director may
3 suspend, revoke or place on probation the registration for all places of business operated in this
4 state by Respondent Luis Eduardo Gil, owner of Gil's Auto Care & Sales, upon a finding that
5 Respondent has, or is, engaged in a course of repeated and willful violations of the laws and
6 regulations pertaining to an automotive repair dealer.

7 61. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Test & Repair
8 Station License Number RC 258720, issued to Respondent Luis Eduardo Gil, owner of Gil's Auto
9 Care & Sales, is revoked or suspended, any additional license issued under Chapter 5 of the
10 Health & Saf. Code in the name of said licensee may be likewise revoked or suspended by the
11 Director.

12 62. Pursuant to Bus. & Prof. Code section 9889.9, if Lamp Station License Number
13 LS 258720, issued to Respondent Luis Eduardo Gil, owner of Gil's Auto Care & Sales, is revoked
14 or suspended, any additional license issued under Articles 5 and 6 of Chapter 20.3 of the Bus. &
15 Prof. Code in the name of said licensee may be likewise revoked or suspended by the Director.

16 63. Pursuant to Bus. & Prof. Code section 9889.9, if Brake Station License Number
17 BS 258720, issued to Respondent Luis Eduardo Gil, owner of Gil's Auto Care & Sales, is revoked
18 or suspended, any additional license issued under Articles 5 and 6 of Chapter 20.3 of the Bus. &
19 Prof. Code in the name of said licensee may be likewise revoked or suspended by the Director.

20 64. Pursuant to Bus. & Prof. Code section 9889.9, if Brake Adjuster License Number
21 BA 140060, issued to Respondent Alan David Morris, is revoked or suspended, any additional
22 license issued under Articles 5 and 6 of Chapter 20.3 of the Bus. & Prof. Code in the name of said
23 licensee may be likewise revoked or suspended by the Director.

24 65. Pursuant to Bus. & Prof. Code section 9889.9, if Lamp Adjuster License Number
25 LA 140060, issued to Respondent Alan David Morris, is revoked or suspended, any additional
26 license issued under Articles 5 and 6 of Chapter 20.3 of the Bus. & Prof. Code in the name of said
27 licensee may be 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 herein alleged,
3 and that following the hearing, the Director of Consumer Affairs issue a decision:

4 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
5 258720, issued to Luis Eduardo Gil, owner of Gil's Auto Care & Sales;

6 2. Revoking or suspending any other automotive repair dealer registration issued to Luis
7 Eduardo Gil;

8 3. Revoking or suspending Smog Check Test & Repair Station License Number RC
9 258720, issued to Luis Eduardo Gil, owner of Gil's Auto Care & Sales,;

10 4. Revoking or suspending any additional license issued under Chapter 5 of the Health
11 and Safety Code in the name of Luis Eduardo Gil;

12 5. Revoking or suspending Lamp Station License Number LS 258720, issued to Luis
13 Eduardo Gil, owner of Gil's Auto Care & Sales;

14 6. Revoking or suspending Brake Station License Number BS 258720, issued to Luis
15 Eduardo Gil, owner of Gil's Auto Care & Sales;

16 7. Revoking or suspending any additional license issued under Articles 5 and 6 of
17 Chapter 20.3 of the Business and Professions Code in the name of Luis Eduardo Gil;

18 8. Revoking or suspending Brake Adjuster License Number BA 140060, issued to
19 Respondent Alan David Morris;

20 9. Revoking or suspending Lamp Adjuster License Number LA 140060, issued to
21 Respondent Alan David Morris;

22 10. Revoking or suspending any additional license issued under Articles 5 and 6 of
23 Chapter 20.3 of the Business and Professions Code in the name of Alan David Morris;

24 11. Ordering Luis Eduardo Gil, owner of Gil's Auto Care & Sales, and Alan Davis Morris
25 to pay the Director of Consumer Affairs the reasonable costs of the investigation and enforcement
26 of this case, pursuant to Business and Professions Code section 125.3;

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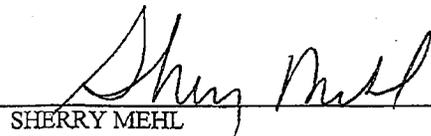
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12. Taking such other and further action as deemed necessary and proper.

DATED:

9/13/11



SHERRY MEHL
Chief
Bureau of Automotive Repair
Department of Consumer Affairs.
State of California
Complainant

LA2011600559