

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

In the Matter of the Accusation Against:

ROBERT BRIAN MARTIN
B & B AUTOMOTIVE
2610 Hwy 32, Unit D
Chico, CA 95973
Automotive Repair Dealer Registration No.
ARD 162013
Lamp Station License No. LS 162013
Brake Station License No. BS 162013

and

ROBERT BRIAN MARTIN
842 Coit Tower Way
Chico, CA 95928

Brake Adjuster License No. BA 621227
Lamp Adjuster License No. LA 621227

Respondents.

Case No. 77/14-49

OAH No. 2014040417

DECISION

The attached Stipulated for Revocation is hereby accepted and adopted as the Decision of the Director of the Department of Consumer Affairs in the above-entitled matter.

This Decision shall become effective September 23, 2014.

DATED: August 28, 2014



DOREATHEA JOHNSON
Deputy Director, Legal Affairs
Department of Consumer Affairs

1 KAMALA D. HARRIS
Attorney General of California
2 GREGORY J. SALUTE
Acting Senior Assistant Attorney General
3 KENT D. HARRIS
Supervising Deputy Attorney General
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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:
13 **ROBERT BRIAN MARTIN**
B & B AUTOMOTIVE
14 **2610 Hwy 32, Unit D**
Chico, CA 95973
15 **Automotive Repair Dealer Registration No.**
ARD162013
16 **Lamp Station License No. LS 162013**
Brake Station License No. BS 162013

17 and

18 **ROBERT BRIAN MARTIN**
842 Coit Tower Way
19 **Chico, CA 95928**
20 **Brake Adjuster License No. BA 621227**
Lamp Adjuster License No. LA 621227

21
22
23 Respondents.

Case No. 77/14-49

OAH No. 2014040417

STIPULATION FOR REVOCATION

24
25 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
26 entitled proceedings that the following matters are true:
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28

1 PARTIES

2 1. Patrick Dorais (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 Kent D. Harris, Supervising Deputy
5 Attorney General.

6 2. Robert Brian Martin, B & B Automotive (Respondent) is representing himself in this
7 proceeding and has chosen not to exercise his right to be represented by counsel.

8 **B & B Automotive; Robert Brian Martin, Owner**

9 3. On or about August 5, 1991, the Director of Consumer Affairs ("Director") issued
10 Automotive Repair Dealer Registration Number ARD 162013 ("registration") to Robert Brian
11 Martin ("Respondent"), owner of B & B Automotive. Respondent's registration was in full force
12 and effect at all times relevant to the charges brought herein and will expire on August 31, 2014,
13 unless renewed.

14 4. On or about May 23, 1996, the Director issued Lamp Station License Number LS
15 162013 to Respondent. Respondent's lamp station license was in full force and effect at all times
16 relevant to the charges brought herein and will expire on August 31, 2014, unless renewed.

17 5. On or about May 23, 1996, the Director issued Brake Station License Number BS
18 162013 to Respondent. Respondent's brake station license was in full force and effect at all times
19 relevant to the charges brought herein and will expire on August 31, 2014, unless renewed.

20 **Robert Brian Martin**

21 6. In or about 1993, the Director issued Brake Adjuster License Number BA 621227 to
22 Respondent. Respondent's brake adjuster license was in full force and effect at all times relevant
23 to the charges brought herein and will expire on August 31, 2017, unless renewed.

24 7. In or about 1993, the Director issued Lamp Adjuster License Number LA 621227 to
25 Respondent. Respondent's lamp adjuster license was in full force and effect at all times relevant
26 to the charges brought herein and will expire on August 31, 2017, unless renewed.

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ACCEPTANCE

I have carefully read the Stipulation for Revocation. I understand the stipulation and the effect it will have on my Automotive Repair Dealer Registration, Lamp Station License, Brake Station License, Brake Adjuster License, and Lamp Adjuster License. I enter into this Stipulation for Revocation voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Director of Consumer Affairs.

DATED: 8-8-14



ROBERT BRIAN MARTIN, B & B
AUTOMOTIVE
Respondent

ENDORSEMENT

The foregoing Stipulation for Revocation is hereby respectfully submitted for consideration by the Director of Consumer Affairs.

Dated: 8-14-14

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
JANICE K. LACHMAN
Acting Senior Assistant Attorney General



KENT D. HARRIS
Supervising Deputy Attorney General
Attorneys for Complainant

Exhibit A

Accusation No. 77/14-49

1 KAMALA D. HARRIS
 Attorney General of California
 2 ALFREDO TERRAZAS
 Senior Assistant Attorney General
 3 KENT D. HARRIS
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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. *77/14-49*

13 **B & B AUTOMOTIVE**
 14 **ROBERT BRIAN MARTIN, OWNER**
 2610 Hwy 32, Unit D
 Chico, CA 95973-8799

ACCUSATION

15 **Automotive Repair Dealer Reg. No. ARD 162013**
 16 **Lamp Station License No. LS 162013**
Brake Station License No. BS 162013

17 and

18 **ROBERT BRIAN MARTIN**
 842 Coit Tower Way
 19 Chico, CA 95928

20 **Brake Adjuster License No. BA 621227**
Lamp Adjuster License No. LA 621227

21 Respondents.

22
 23 Complainant alleges:

24 **PARTIES/LICENSE INFORMATION**

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

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

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

8 STATUTORY PROVISIONS

9 11. Code section 9884.7 states, in pertinent part:

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

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

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

22 (4) Any other conduct that constitutes fraud.

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

26

27 (c) Notwithstanding subdivision (b), the director may suspend, revoke or
28 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.

12. 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

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1 a specific job. No work shall be done and no charges shall accrue before authorization to proceed
2 is obtained from the customer . . . “

3 13. Code section 9889.3 states, in pertinent part:

4 The director may suspend, revoke, or take other disciplinary action
5 against a license as provided in this article [Article 7 (commencing with section
6 9889.1) of the Automotive Repair Act] if the licensee or any partner, officer, or
7 director thereof:

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

10

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

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

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

18 14. Code section 9889.9 states that “[w]hen any license has been revoked or suspended
19 following a hearing under the provisions of this article [Article 7 (commencing with section
20 9889.1) of the Automotive Repair Act], any additional license issued under Articles 5 and
21 6 of this chapter in the name of the licensee may be likewise revoked or suspended by the
22 director.”

23 15. Code section 22, subdivision (a), states:

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

28 16. Code section 477, subdivision (b), states, in pertinent part, that a “license” includes
“registration” and “certificate.”

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1 17. California Code of Regulations, title 16, section 3305 states, in pertinent part:

2 (a) All adjusting, inspecting, servicing, and repairing of brake systems
3 and lamp systems for the purpose of issuing any certificate of compliance or
4 adjustment shall be performed in official stations, by official adjusters, in accordance
5 with the following, in descending order of precedence, as applicable:

6 (1) Vehicle Manufacturers' current standards, specifications and
7 recommended procedures, as published in the manufacturers' vehicle service and
8 repair manuals.

9 (2) Current standards, specifications, procedures, directives, manuals,
10 bulletins and instructions issued by vehicle and equipment or device manufacturers.

11 (3) Standards, specifications and recommended procedures found in
12 current industry-standard reference manuals and periodicals published by nationally
13 recognized repair information providers.

14 (4) The bureau's Handbook for Brake Adjusters and Stations, February
15 2003, which is hereby incorporated by reference.

16 (5) The bureau's Handbook for Lamp Adjusters and Stations, February
17 2003, which is hereby incorporated by reference . . .

18 COST RECOVERY

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

23 PERIODIC BRAKE AND LAMP STATION INSPECTIONS

24 Inspection of May 8, 2012

25 19. On May 8, 2012, Bureau Representative B. H. conducted a periodic inspection¹ of
26 Respondent's brake and lamp station. B. H. found that the facility's single service bay was being
27 used for storage and was unable to accommodate a vehicle for the purpose of performing brake
28 and lamp inspections. Respondent admitted to B. H. that he was performing brake and lamp
inspections next door at Irmers Auto Repair located at 2610 Hwy 32, Unit C. B. H. advised
Respondent that all brake and lamp inspections were to be performed at B & B Automotive as

¹ As set forth in the Bureau's handbooks for brake adjusters and stations and lamp
adjusters and stations, each official brake adjusting station and lamp adjusting station will be
inspected periodically by a BAR (Bureau) representative.

1 approved by the Bureau. Respondent told B. H. that he would clear his service bay of
2 obstructions and would only perform brake and lamp inspections at his facility.

3 20. Irmers Auto Repair ("Irmers") is registered with the Bureau as an automotive repair
4 dealer or facility, but is not licensed as an official lamp and brake adjusting station.

5 **Inspection of June 13, 2012**

6 21. On June 13, 2012, B. H. made a follow-up visit at B & B Automotive. B. H. found
7 that Respondent had cleaned his work area, but failed to possess an approved aiming screen and
8 optical aiming equipment as required by the Bureau to test, inspect, adjust and repair all lamps
9 and related electrical systems on vehicles.

10 **UNDERCOVER VEHICLE OPERATION #1: 1996 TOYOTA**

11 22. On April 17, 2013, from approximately 1154 hours to 1239 hours, Bureau
12 Representative K. R. conducted an undercover vehicle operation at Respondent's facility, B & B
13 Automotive.

14 23. At approximately 1201 hours that same day, Bureau Representative M. B., acting in
15 an undercover capacity, took the Bureau's 1996 Toyota to the facility and met with Respondent.
16 M. B. requested a brake and lamp inspection on the vehicle. The right front brake rotor on the
17 Bureau-documented vehicle was undersized and exceeded the manufacturer's service limits, the
18 left rear brake drum was oversized and exceeded the manufacturer's service limits, both
19 headlamps were out of adjustment, and both rear license plate lamps were inoperative.
20 Respondent prepared a written estimate in the amount of \$100 for the inspection. M. B. signed
21 the estimate, but was not given a copy. Respondent instructed M. B. to drive the vehicle into
22 Irmers located next door. M. B. took the vehicle to Irmers, then left the premises.

23 24. At approximately 1231 hours, M. B. returned to Irmers and observed the vehicle as it
24 was being lowered from a floor jack in the work area. Respondent told M. B. that the vehicle had
25 passed the brake and lamp inspection. M. B. paid Respondent \$100 in cash and received copies
26 of an invoice from "B & B Auto", Certificate of Brake Adjustment No. [REDACTED] and
27 Certificate of Lamp Adjustment No. [REDACTED]

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1 25. K. R. did not see the Bureau's vehicle enter the service bay of B & B Automotive
2 during his surveillance of the facility.

3 26. On April 23, 2013, the Bureau inspected the vehicle and found that both headlamps
4 were still out of adjustment, both rear license plate lamps were still inoperative, and the right
5 front brake rotor and left rear brake drum exceeded the manufacturer's service limits.

6 **FIRST CAUSE FOR DISCIPLINE**

7 **(Untrue or Misleading Statements)**

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

11 a. Respondent certified under penalty of perjury on Brake Certificate No. [REDACTED]
12 that the brake drums and rotors on the Bureau's 1996 Toyota were in a satisfactory condition. In
13 fact, the right front brake rotor and left rear brake drum exceeded the manufacturer's service
14 limits.

15 b. Respondent certified under penalty of perjury on Lamp Certificate No. [REDACTED]
16 that the applicable adjustment or repair had been performed on the lighting system on the
17 Bureau's 1996 Toyota. In fact, both headlamps were out of adjustment and both rear license plate
18 lamps were inoperative.

19 **SECOND CAUSE FOR DISCIPLINE**

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

21 28. Respondent's registration is subject to disciplinary action pursuant to Code section
22 9884.7, subdivision (a)(3), in that Respondent failed to provide M. B. with a copy of the estimate
23 as soon as he signed the document.

24 **THIRD CAUSE FOR DISCIPLINE**

25 **(Fraud)**

26 29. Respondent's registration is subject to disciplinary action pursuant to Code section
27 9884.7, subdivision (a)(4), Respondent committed acts constituting fraud, as follows:
28 Respondent obtained payment from M. B. for performing the applicable inspections, adjustments,

1 or repairs of the brake and lighting systems on the Bureau's 1996 Toyota as specified by the
2 Bureau and in accordance with the Vehicle Code. In fact, Respondent failed to perform the
3 necessary inspections, adjustments, and repairs in compliance with Bureau Regulations or the
4 Vehicle Code.

5 **FOURTH CAUSE FOR DISCIPLINE**

6 **(Violations of Regulations)**

7 30. Respondent's registration is subject to disciplinary action pursuant to Code section
8 9884.7, subdivision (a)(6), in that Respondent failed to comply with provisions of California
9 Code of Regulations, title 16, in the following material respects:

10 a. **Section 3305, subdivision (a)**: Respondent failed to perform the inspection of the
11 brake system and inspection and adjustment of the lighting system on the Bureau's 1996 Toyota
12 in accordance with the specifications, instructions, and directives issued by the Bureau and the
13 vehicle manufacturer. Further, Respondent failed to perform the inspection in an official lamp
14 and brake adjusting station.

15 b. **Section 3316, subdivision (d)(2)**: Respondent issued Lamp Certificate No.
16 [REDACTED] as to the Bureau's 1996 Toyota when all of the lamps, lighting equipment, and/or
17 related electrical systems on the vehicle were not in compliance with Bureau regulations.

18 c. **Section 3321, subdivision (c)(2)**: Respondent issued Brake Certificate No.
19 [REDACTED] as to the Bureau's 1996 Toyota when the brake system on the vehicle had not been
20 completely tested or inspected.

21 **FIFTH CAUSE FOR DISCIPLINE**

22 **(Violations of Regulations)**

23 31. Respondent's brake and lamp station licenses are subject to disciplinary action
24 pursuant to Code section 9889.3, subdivision (c), in that he failed to comply with the provisions
25 of California Code of Regulations, title 16, sections 3305, subdivision (a), 3316, subdivision
26 (d)(2), and 3321, subdivision (c)(2), as set forth in paragraph 30 above.

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1 **SIXTH CAUSE FOR DISCIPLINE**

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

3 32. Respondent's brake and lamp station licenses are subject to disciplinary action
4 pursuant to Code section 9889.3, subdivision (d), in that Respondent committed acts involving
5 dishonesty, fraud, or deceit whereby another was injured, as set forth in paragraph 29 above.

6 **SEVENTH CAUSE FOR DISCIPLINE**

7 **(Violations of Regulations)**

8 33. Respondent's brake and lamp adjuster licenses are subject to disciplinary action
9 pursuant to Code section 9889.3, subdivision (c), in that he failed to comply with the provisions
10 of California Code of Regulations, title 16, sections 3305, subdivision (a), 3316, subdivision
11 (d)(2), and 3321, subdivision (c)(2), as set forth in paragraph 30 above.

12 **UNDERCOVER VEHICLE OPERATION #2: 1995 OLDSMOBILE**

13 34. On August 5, 2013, an undercover operator of the Bureau ("operator") took the
14 Bureau's 1995 Oldsmobile to B & B Automotive and requested a brake and lamp inspection. The
15 right front brake rotor on the Bureau-documented vehicle was undersized and did not meet
16 manufacturer's specifications, the right rear brake drum was oversized and exceeded the
17 manufacturer's discard specifications, and the right rear side marker lamp and both license plate
18 lamps were inoperative. Respondent told the operator that the inspection would cost \$100, but
19 did not provide him with a written estimate. Respondent drove the vehicle into Irmers located
20 next door. During the inspection, Respondent asked the operator to "look at something" on the
21 vehicle. The operator observed that the vehicle had been raised on a hoist and the front wheels
22 had been removed. Respondent told the operator that the right front brake rotor was too thin and
23 needed replacement and that the vehicle would not pass the inspection. Respondent reinstalled
24 the front tires and lowered the vehicle. Respondent told the operator that there would not be a
25 charge for the service, then offered to install a new brake rotor free of charge if the operator
26 returned the vehicle. Respondent gave the operator copies of an invoice from "B & B Auto" as
27 well as a business card for B & B Automotive. At approximately 1403 hours, the operator left
28 Irmers. At approximately 1500 hours, the operator called Respondent and told him that he had

1 obtained a new brake rotor for the vehicle. The operator asked Respondent when he would be
2 able to install the rotor and complete the brake and lamp inspection. Respondent stated that he
3 could perform the service the following day.

4 35. On August 6, 2013, the operator took the vehicle to B & B Automotive and asked
5 Respondent to perform the brake and lamp inspection and install the right front brake rotor.
6 Respondent did not provide the operator with a written estimate for the work. Respondent drove
7 the vehicle into Irmers. Later, Respondent told the operator that he had installed the brake rotor
8 and that the vehicle had passed the brake and lamp inspection. The operator paid Respondent
9 \$100 in cash and received copies of an invoice from B & B Auto, Certificate of Brake
10 Adjustment No. [REDACTED] and Certificate of Lamp Adjustment No. [REDACTED]

11 36. The surveillance video revealed that Respondent performed the brake and lamp
12 inspection on the vehicle at Irmers, failed to use an optical headlamp aimer during the inspection,
13 and failed to test drive the vehicle.

14 37. On September 4, 2013, the Bureau inspected the vehicle and found that the right rear
15 side marker lamp and both license plate lamps were still inoperative and the right rear brake drum
16 exceeded the manufacturer's discard specifications.

17 **EIGHTH CAUSE FOR DISCIPLINE**

18 **(Untrue or Misleading Statements)**

19 38. Respondent's registration is subject to disciplinary action pursuant to Code section
20 9884.7, subdivision (a)(1), Respondent made or authorized statements which he knew or in the
21 exercise of reasonable care should have known to be untrue or misleading, as follows:

22 a. Respondent certified under penalty of perjury on Brake Certificate No. [REDACTED]
23 that the brake drums on the Bureau's 1995 Oldsmobile were in a satisfactory condition. In fact,
24 the right rear brake drum exceeded the manufacturer's discard specifications.

25 b. Respondent certified under penalty of perjury on Brake Certificate No. [REDACTED]
26 that the Bureau's 1995 Oldsmobile had a stopping distance of 16 feet from a speed of 20 miles
27 per hour as a result of a road-test. In fact, Respondent never road tested the vehicle.

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1 c. Respondent certified under penalty of perjury on Lamp Certificate No. [REDACTED]
2 that the applicable adjustment or repair had been performed on the lighting system on the
3 Bureau's 1995 Oldsmobile. In fact, the right rear side marker lamp and both license plate lamps
4 were still inoperative.

5 d. Respondent certified under penalty of perjury on Lamp Certificate No. [REDACTED]
6 that he used an optical aimer during the inspection of the lighting system on the Bureau's 1995
7 Oldsmobile. In fact, Respondent failed to use an optical headlamp aimer during the inspection.

8 **NINTH CAUSE FOR DISCIPLINE**

9 **(Fraud)**

10 39. Respondent's registration is subject to disciplinary action pursuant to Code section
11 9884.7, subdivision (a)(4), Respondent committed acts constituting fraud, as follows:
12 Respondent obtained payment from the operator for performing the applicable inspections,
13 adjustments, or repairs of the brake and lighting systems on the Bureau's 1995 Oldsmobile as
14 specified by the Bureau and in accordance with the Vehicle Code. In fact, Respondent failed to
15 perform the necessary inspections, adjustments, and repairs in compliance with Bureau
16 Regulations or the Vehicle Code.

17 **TENTH CAUSE FOR DISCIPLINE**

18 **(Failure to Comply with the Code)**

19 40. Respondent's registration is subject to disciplinary action pursuant to Code section
20 9884.7, subdivision (a)(6), in that Respondent failed to comply with section 9884.9, subdivision
21 (a), of that Code in the following material respects: Respondent failed to provide the operator
22 with written estimates for the brake and lamp inspections on the Bureau's 1995 Oldsmobile.

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1 **ELEVENTH CAUSE FOR DISCIPLINE**

2 **(Violations of Regulations)**

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

6 a. **Section 3305, subdivision (a)**: Respondent failed to perform the inspections of the
7 brake system and inspections and adjustment of the lighting system on the Bureau's 1995
8 Oldsmobile in accordance with the specifications, instructions, and directives issued by the
9 Bureau and the vehicle manufacturer. Further, Respondent failed to perform the inspections in an
10 official lamp and brake adjusting station.

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

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

17 **TWELFTH CAUSE FOR DISCIPLINE**

18 **(Failure to Comply with the Code)**

19 42. Respondent's brake and lamp station licenses are subject to disciplinary action
20 pursuant to Bus. & Prof. Code section 9889.3, subdivisions (a) and (h), in that Respondent
21 violated Bus. & Prof. Code section 9884.9, subdivision (a), relating to his licensed activities, as
22 set forth in paragraph 40 above.

23 **THIRTEENTH CAUSE FOR DISCIPLINE**

24 **(Violations of Regulations)**

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

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FOURTEENTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud, or Deceit)

44. Respondent's brake and lamp station licenses are subject to disciplinary action pursuant to 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 39 above.

FIFTEENTH CAUSE FOR DISCIPLINE

(Failure to Comply with the Code)

45. Respondent's brake and lamp adjuster licenses are subject to disciplinary action pursuant to Code section 9889.3, subdivisions (a) and (h), in that Respondent violated Code section 9884.9, subdivision (a), relating to his licensed activities, as set forth in paragraph 40 above.

SIXTEENTH CAUSE FOR DISCIPLINE

(Violations of Regulations)

46. Respondent's brake and lamp adjuster licenses are subject to disciplinary action pursuant to 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 41 above.

UNDERCOVER VEHICLE OPERATION #3: 1995 NISSAN

47. On September 12, 2013, a representative of the Bureau, acting in an undercover capacity ("operator"), took the Bureau's 1995 Nissan to B & B Automotive and requested a brake and lamp inspection. The left front brake rotor on the Bureau-documented vehicle was undersized and did not meet manufacturer's specifications, the right rear brake drum was oversized and exceeded the manufacturer's specifications for maximum diameter, and both front side marker lamps and both license plate lamps were inoperative. Respondent had the operator sign a written estimate for the inspection, but did not give him a copy. Respondent had the operator drive the vehicle into Irmers located next door. Later, Respondent told the operator that the vehicle failed the inspection because the left front brake rotor was worn below the minimum

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1 specifications, and the license plate bulbs were inoperative. Respondent gave the operator a copy
2 of an invoice from B & B Auto (the operator was not charged for the inspection).

3 48. At approximately 1116 hours that same day, the operator called Martin and asked him
4 if he would install a new brake rotor and license plate bulbs in the vehicle if the operator supplied
5 the parts. Respondent agreed to perform the work. At approximately 1129 hours, the operator
6 called Martin and informed him that he had obtained a new front brake rotor and had the license
7 plate bulbs replaced on the vehicle. Respondent told the operator that he could complete the
8 inspection now and that it would cost an additional \$20 to install the brake rotor.

9 49. At approximately 1138 hours, the operator took the vehicle to B & B Automotive.
10 The operator made visual contact with Respondent, who motioned him to drive the vehicle into
11 Irmers. Later, Respondent had the operator sign an estimate, but did not give him a copy. At
12 approximately 1212 hours, Respondent told the operator that he had installed the left front brake
13 rotor and that the vehicle had passed the brake and lamp inspection. The operator paid
14 Respondent \$120 in cash and received copies of an invoice from B & B Auto, Certificate of
15 Brake Adjustment No. [REDACTED] and Certificate of Lamp Adjustment No. [REDACTED]

16 50. The surveillance video revealed that Respondent performed the brake and lamp
17 inspection on the vehicle at Irmers.

18 51. On September 13, 2013, the Bureau inspected the vehicle and found that both front
19 side marker lamps were still inoperative and the right rear brake drum exceeded the
20 manufacturer's specifications for maximum diameter.

21 **SEVENTEENTH CAUSE FOR DISCIPLINE**

22 **(Untrue or Misleading Statements)**

23 52. Respondent's registration is subject to disciplinary action pursuant to Code section
24 9884.7, subdivision (a)(1), Respondent made or authorized statements which he knew or in the
25 exercise of reasonable care should have known to be untrue or misleading, as follows:

26 a. Respondent certified under penalty of perjury on Brake Certificate No. [REDACTED]
27 that the brake drums on the Bureau's 1995 Nissan were in a satisfactory condition. In fact, the
28 right rear brake drum exceeded the manufacturer's specifications for maximum diameter.

1 b. Respondent certified under penalty of perjury on Lamp Certificate No. [REDACTED]
2 that the applicable adjustment or repair had been performed on the lighting system on the
3 Bureau's 1995 Nissan. In fact, both front side marker lamps were still inoperative.

4 **EIGHTEENTH CAUSE FOR DISCIPLINE**

5 **(Fraud)**

6 53. Respondent's registration is subject to disciplinary action pursuant to Code section
7 9884.7, subdivision (a)(4), Respondent committed acts constituting fraud, as follows:
8 Respondent obtained payment from the operator for performing the applicable inspections,
9 adjustments, or repairs of the brake and lighting systems on the Bureau's 1995 Nissan as
10 specified by the Bureau and in accordance with the Vehicle Code. In fact, Respondent failed to
11 perform the necessary inspections, adjustments, and repairs in compliance with Bureau
12 Regulations or the Vehicle Code.

13 **NINETEENTH CAUSE FOR DISCIPLINE**

14 **(Failure to Comply with the Code)**

15 54. Respondent's registration is subject to disciplinary action pursuant to Code section
16 9884.7, subdivision (a)(6), in that Respondent failed to comply with section 9884.9, subdivision
17 (a), of that Code in the following material respects: Respondent failed to provide the operator
18 with written estimates for the brake and lamp inspections on the Bureau's 1995 Nissan.

19 **TWENTIETH CAUSE FOR DISCIPLINE**

20 **(Violations of Regulations)**

21 55. Respondent's registration is subject to disciplinary action pursuant to Code section
22 9884.7, subdivision (a)(6), in that Respondent failed to comply with provisions of California
23 Code of Regulations, title 16, in the following material respects:

24 a. **Section 3305, subdivision (a)**: Respondent failed to perform the inspections of the
25 brake system and inspections and adjustment of the lighting system on the Bureau's 1995 Nissan
26 in accordance with the specifications, instructions, and directives issued by the Bureau and the
27 vehicle manufacturer. Further, Respondent failed to perform the inspections in an official lamp
28 and brake adjusting station.

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

4 c. Section 3321, subdivision (c)(2): Respondent issued Brake Certificate No.
5 [REDACTED] as to the Bureau's 1995 Nissan when the brake system on the vehicle had not been
6 completely tested or inspected.

7 **TWENTY-FIRST CAUSE FOR DISCIPLINE**

8 **(Failure to Comply with the Code)**

9 56. Respondent's brake and lamp station licenses are subject to disciplinary action
10 pursuant to Bus. & Prof. Code section 9889.3, subdivisions (a) and (h), in that Respondent
11 violated Bus. & Prof. Code section 9884.9, subdivision (a), relating to his licensed activities, as
12 set forth in paragraph 54 above.

13 **TWENTY-SECOND CAUSE FOR DISCIPLINE**

14 **(Violations of Regulations)**

15 57. Respondent's brake and lamp station licenses are subject to disciplinary action
16 pursuant to Code section 9889.3, subdivision (c), in that he failed to comply with the provisions
17 of California Code of Regulations, title 16, sections 3305, subdivision (a), 3316, subdivision
18 (d)(2), and 3321, subdivision (c)(2), as set forth in paragraph 55 above.

19 **TWENTY-THIRD CAUSE FOR DISCIPLINE**

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

21 58. Respondent's brake and lamp station licenses are subject to disciplinary action
22 pursuant to Code section 9889.3, subdivision (d), in that Respondent committed acts involving
23 dishonesty, fraud, or deceit whereby another was injured, as set forth in paragraph 53 above.

24 **TWENTY-FOURTH CAUSE FOR DISCIPLINE**

25 **(Failure to Comply with the Code)**

26 59. Respondent's brake and lamp adjuster licenses are subject to disciplinary action
27 pursuant to Code section 9889.3, subdivisions (a) and (h), in that Respondent violated Code

28 ///

1 section 9884.9, subdivision (a), relating to his licensed activities, as set forth in paragraph 54
2 above.

3 **TWENTY-FIFTH CAUSE FOR DISCIPLINE**

4 **(Violations of Regulations)**

5 60. Respondent's brake and lamp adjuster licenses are subject to disciplinary action
6 pursuant to Code section 9889.3, subdivision (c), in that he failed to comply with the provisions
7 of California Code of Regulations, title 16, sections 3305, subdivision (a), 3316, subdivision
8 (d)(2), and 3321, subdivision (c)(2), as set forth in paragraph 55 above.

9 **OTHER MATTERS**

10 61. Pursuant to Code section 9884.7, subdivision (c), the Director may suspend, revoke or
11 place on probation the registration for all places of business operated in this state by Respondent
12 Robert Brian Martin, owner of B & B Automotive, upon a finding that Respondent has, or is,
13 engaged in a course of repeated and willful violations of the laws and regulations pertaining to an
14 automotive repair dealer.

15 62. Pursuant to Code section 9889.9, if Brake Station License Number BS 162013, issued
16 to Respondent Robert Brian Martin, owner of B & B Automotive, is revoked or suspended, any
17 additional license issued under Articles 5 and 6 of Chapter 20.3 of the Code in the name of said
18 licensee may be likewise revoked or suspended by the Director.

19 63. Pursuant to Code section 9889.9, if Lamp Station License Number LS 162013, issued
20 to Respondent Robert Brian Martin, is revoked or suspended, any additional license issued under
21 Articles 5 and 6 of Chapter 20.3 of the Code in the name of said licensee may be likewise
22 revoked or suspended by the Director.

23 64. Pursuant to Code section 9889.9, if Brake Adjuster License Number BA 621227,
24 issued to Respondent Robert Brian Martin, is revoked or suspended, any additional license issued
25 under Articles 5 and 6 of Chapter 20.3 of the Code in the name of said licensee may be likewise
26 revoked or suspended by the Director.

27 65. Pursuant to Code section 9889.9, if Lamp Adjuster License Number LA 621227,
28 issued to Respondent Robert Brian Martin, is revoked or suspended, any additional license issued

1 under Articles 5 and 6 of Chapter 20.3 of the Code in the name of said licensee may be likewise
2 revoked or suspended by the Director.

3 **PRAYER**

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

6 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
7 162013, issued to Robert Brian Martin, owner of B & B Automotive;

8 2. Revoking or suspending any other automotive repair dealer registration issued Robert
9 Brian Martin;

10 3. Revoking or suspending Brake Station License Number BS 162013, issued to Robert
11 Brian Martin, owner of B & B Automotive;

12 4. Revoking or suspending Lamp Station License Number LS 162013, issued to Robert
13 Brian Martin, owner of B & B Automotive;

14 5. Revoking or suspending Brake Adjuster License Number BA 621227, issued to
15 Robert Brian Martin,

16 6. Revoking or suspending Lamp Adjuster License Number LA 621227, issued to
17 Robert Brian Martin,

18 7. Revoking or suspending any additional license issued under Articles 5 and 6 of
19 Chapter 20.3 of the Business and Professions Code in the name of Robert Brian Martin;

20 8. Ordering Robert Brian Martin, individually, and as owner of B & B Automotive, to
21 pay the Director of Consumer Affairs the reasonable costs of the investigation and enforcement of
22 this case, pursuant to Business and Professions Code section 125.3;

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

DATED: 5/12/14

PAT DORAIS by Doug Balatti

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

DOUG BALATTI

SA2014114281