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7
8 **BEFORE THE**
DEPARTMENT OF CONSUMER AFFAIRS
9 **FOR THE BUREAU OF AUTOMOTIVE REPAIR**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:
12 **ENRIQUE F. JIMENEZ DBA TUNE KARS**
AUTO REPAIR
13 **5813 Quinn Street, #A**
Bell Gardens, CA 90201

Case No. 77/18-11463

A C C U S A T I O N

14 Mailing Address:
15 7942 Vaboneria Rd.
16 Bell Gardens, CA 90201

17 Automotive Repair Dealer Registration No.
ARD240896
18 Brake Station License No. BS240896, Class A
Lamp Station License No. LS240896, Class A
19 Smog Test and Repair Station License No.
20 RC240896,

21 **and**

22 **ENRIQUE JIMENEZ-FARIAS**
23 **7942 Jaboneria Rd.**
Bell Gardens, CA 90201

24 Brake Adjuster License No. BA308868, Class A
25 Lamp Adjuster License No. LA308868, Class A
26 Smog Check Inspector License No. EO 308868
27 Smog Check Repair Technician License No. EI
308868

28 Respondents.

PARTIES

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2 1.e Patrick Dorais (“Complainant”) brings this Accusation solely in his official capacity
3 as the Chief of the Bureau of Automotive Repair (“Bureau”), Department of Consumer Affairs.

4 2.e In 2005, the Bureau issued Automotive Repair Dealer Registration Number ARDe
5 240896 to Enrique F. Jimenez (aka Enrique Farias Jimenez, Enrique Jimenez Farias, Enrique
6 Jimenez-Farias) dba Tune Kars Auto Repair (“Respondent Tune Kars”). The Automotive Repair
7 Dealer Registration was in full force and effect at all times relevant to the charges brought herein
8 and will expire on August 31, 2019, unless renewed.

9 3.e On or about August 17, 2009, the Bureau issued Smog Check Station Licensee
10 Number RC 240896 to Respondent Tune Kars. The Smog Check Station License was cancelled
11 on February 18, 2010.

12 4.e On or about July 5, 2007, the Bureau issued Lamp Station License Number LSe
13 240896, Class A to Respondent Tune Kars. The Lamp Station License was in full force and
14 effect at all times relevant to the charges brought herein and will expire on August 31, 2019,
15 unless renewed.

16 5.e On or about September 11, 2013, the Bureau issued Brake Station License Numbere
17 BS 240896, Class A to Respondent Tune Kars. The Brake Station License was in full force and
18 effect at all times relevant to the charges brought herein and will expire on August 31, 2019,
19 unless renewed.

20 6.e In 1996, Advanced Emission Specialist (EA) Technician License No. 308868 wase
21 issued to Enrique Jimenez-Farias (aka Enrique Farias Jimenez, Enrique Jimenez Farias, Enrique
22 F.Jimenez) (“Respondent Jimenez”), under SB 1997, the biennial Smog Check Programe
23 implemented January 1, 1990. License number EA 308868 expired on September 30, 2011.

24 7.e On or about September 26, 2014, the Bureau issued Smog Check Inspector Licensee
25 Number EO 308868 to Respondent Jimenez. The Smog Check Inspector License expired on
26 September 30, 2018, and has not been renewed.

27 8.e On or about September 25, 2014, the Bureau issued Smog Check Repair Techniciane
28 License Number EI 308868 to Respondent Jimenez. The Smog Check Repair Technician License

1 was in full force and effect at all times relevant to the charges brought herein and will expire on
2 September 30, 2020, unless renewed.

3 9.o In 1994, the Bureau issued Brake Adjuster License Number BA 308868, Class A too
4 Respondent Jimenez. The Brake Adjuster License was in full force and effect at all times
5 relevant to the charges brought herein and will expire on September 30, 2020, unless renewed.

6 10.o In 1996, the Bureau issued Lamp Adjuster License Number LA 308868, Class A too
7 Respondent Jimenez. The Lamp Adjuster License was in full force and effect at all times relevant
8 to the charges brought herein and will expire on September 30, 2019, unless renewed.

9 JURISDICTION

10 11.o Business and Professions Code (“Bus. & Prof. Code”) section 9884.13 provides, ino
11 pertinent part, that the expiration of a valid registration shall not deprive the Director of
12 jurisdiction to proceed with a disciplinary proceeding against an automotive repair dealer or to
13 render a decision temporarily or permanently invalidating (suspending or revoking) a registration.

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

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

21 14.o Health and Safety Code section 44002 provides, in pertinent part, that the Directoro
22 has all the powers and authority granted under the Automotive Repair Act for enforcing the
23 Motor Vehicle Inspection Program.

24 15.o Health & Safety Code section 44072.6 provides, in pertinent part, that the expirationo
25 or suspension of a license by operation of law, or by order or decision of the Director of
26 Consumer Affairs, or a court of law, or the voluntary surrender of the license shall not deprive the
27 Director of jurisdiction to proceed with disciplinary action.

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STATUTORY PROVISIONS

16.e 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.

(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.

(5) Conduct constituting gross negligence.

(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.

17.e Bus. & Prof. Code section 9884.9 states, in pertinent part:

“(a) The automotive repair dealer shall give to the customer a written estimated price for labor and parts necessary for a specific job. . .”

18.e 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.

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

19.e Bus. & Prof. Code section 9889.9 states:e

When any license has been revoked or suspended following a hearing under the provisions of this article, 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.

20.e Bus. & Prof. Code section 9889.16 states:e

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

21.e Bus. & Prof. Code section 9889.22 states:e

The willful making of any false statement or entry with regard to a material matter in any oath, affidavit, certificate of compliance or noncompliance, or application form which is required by this chapter [the Automotive Repair Act] or Chapter 5 (commencing with Section 44000) of Part 5 of Division 26 of the Health and Safety Code constitutes perjury and is punishable as provided in the Penal Code.

22.e Healthy and Safety Code section 44072.2, subdivision (d) states:e

“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.”

23. Healthy and Safety Code section 44072.8 states:e

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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REGULATIONS

24.e California Code of Regulations, title 16, section 3305, subdivision (a), states:

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

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

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

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

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

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

25.e California Code of Regulations, title 16, section 3316, subdivision (d), states in pertinent part:

“Effective April 1, 1999, licensed stations shall purchase certificates of adjustment from the bureau for a fee of three dollars and fifty cents (\$3.50) each and shall not purchase or otherwise obtain such certificates from any other source. Full payment is required at the time certificates are ordered. Certificates are not exchangeable following delivery. A licensed station shall not sell or otherwise transfer unused certificates of adjustment. Issuance of a lamp adjustment certificate shall be in accordance with the following provisions:

...

“(2) Where all of the lamps, lighting equipment, and related electrical systems on a vehicle have been inspected and found to be in compliance with all requirements of the Vehicle Code and bureau regulations, the certificate shall certify that the entire system meets all of those requirements.”

26.e California Code of Regulations, title 16, section 3321, subdivision (c), states in pertinent part:

“Effective April 1, 1999, licensed stations shall purchase certificates of adjustment from the bureau for a fee of three dollars and fifty cents (\$3.50) and shall not purchase or otherwise obtain such certificates from any other source. A licensed

1 station shall not sell or otherwise transfer unused certificates of adjustment. Full
2 payment is required at the time certificates are ordered. Certificates are not
exchangeable following delivery. Issuance of a brake adjustment certificate shall be
in accordance with the following provisions:

3 . . .

4 “(2) Where the entire brake system on any vehicle has been inspected or
5 tested and found to be in compliance with all requirements of the Vehicle Code and
6 bureau regulations, and the vehicle has been road-tested, the certificate shall certify
that the entire system meets all such requirements.”

7 27.e Prior to September 13, 2018, California Code of Regulations, title 16, section 3353¹,
8 stated, in pertinent part:

9 “No work for compensation shall be commenced and no charges shall
10 accrue without specific authorization from the customer in accordance with the
following requirements:

11 (a) Estimate for Parts and Labor. Every dealer shall give to each customer
12 a written estimated price for parts and labor for a specific job....”

13 28.e California Code of Regulations, title 16, section 3373, states:

14 No automotive repair dealer or individual in charge shall, in filling out an
15 estimate, invoice, or work order, or record required to be maintained by section
16 3340.15(e) of this chapter, withhold therefrom or insert therein any statement or
17 information which will cause any such document to be false or misleading, or where
the tendency or effect thereby would be to mislead or deceive customers, prospective
customers, or the public.

18 **COST RECOVERY**

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

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25 ¹ California Code of Regulations, title 16, section 3353 was amended as of September 13, 2018. As for
26 subdivision (a), the current version, states in pertinent part: “An estimate shall be provided to and authorized by the
customer before any work commences. The estimate shall meet the requirements of Business and Professions Code
section 9884.9 as well as the following:

27 (a) Estimate for Parts and Labor. Every automotive repair dealer shall give to each customer an estimate
28 containing the estimated price for parts and labor for a specific job prior to obtaining authorization. Each part listed in
the estimate shall be new unless specifically identified as a used, rebuilt or reconditioned part....”

1 The renewal fee for a license or certificate in an active status shall apply also for renewal of
2 a license or certificate in an inactive status.”

3 **FACTUAL BASIS FOR DISCIPLINE**

4 30.a Between August 30, 2018 and December 5, 2018, the Bureau conducted three (3)a
5 separate undercover operations involving Tune Kars Auto Repair and Respondent Jimenez. In all
6 three undercover operations, Respondent Jimenez failed to properly conduct Brake and Lamp
7 inspections and certified vehicles that were incapable of being certified. Furthermore, in each of
8 these undercover operations Respondent Jimenez signed Brake and Lamp certifications, under the
9 penalty of perjury, that contained the following statement:

10 “All items checked above are of an approved type and I have performed the
11 applicable inspection, adjustment, or repair as specified by the Bureau of Automotive
12 Repair and the vehicle manufacturer, and in accordance with Title 13 and Title 16 of
13 the California Code of Regulations, the Vehicle Code, and the Business and
Professions Code. I hereby certify under penalty of perjury under the laws of the
State of California that all statements made on this certificate are true and correct.”

14 **UNDERCOVER OPERATION #1: 2000 HONDA**

15 31.a On or about August 30, 2018, at the direction of a Bureau investigator, a Bureau
16 undercover operator (operator) took the Bureau’s vehicle, a 2000 Honda with an odometer
17 reading of 120,909 miles, to Tune Kars Auto Repair and requested brake, lamp, and smog check
18 inspections from Respondent Jimenez. At that time, the 2000 Honda had the following
19 documented defective conditions: left rear brake drum was beyond discard specifications;
20 misadjusted left front headlamp; and the license plate lamps were non-operational. Due to the
21 presence of these defects, the vehicle was incapable of passing a brake or lamp inspection.

22 32.a The operator arrived at Tune Kars at approximately 1044 hours with an odometera
23 reading of 120,909 miles and was greeted by Respondent Jimenez. The operator recognized
24 Respondent Jimenez from seeing a copy of the technician license photograph. The operator
25 requested brake, lamp, and smog check inspections. Respondent Jimenez replied that he would
26 perform the brake and lamp inspections for \$60, but that the facility did not perform smog check
27 inspections. The operator authorized the work but was never provided a work order prior to the
28 work being performed.

1 33.e The operator then positioned himself in an area where he could observe all the worke
2 being done on the Honda and the person doing the work. The operator observed the following:
3 (1) Only the rear wheels on the Honda were removed; (2) Respondent Jimenez never road teste
4 the Honda; and (3) The lights were turned on and then off.

5 34.e The operator paid \$60 and received an invoice numbered [REDACTED], the Brake Certificatee
6 of Adjustment # [REDACTED], and the Lamp Certificate of Adjustment # [REDACTED]

7 35.e The operator left Tune Kars at approximately 1140 hours with an odometer reading of
8 120,910 and returned the vehicle to the Bureau investigator at approximately 1145 hours with an
9 odometer reading of 120,911. Upon review of the certificates of compliance, it was determined
10 that Respondent Jimenez issued and signed them under the penalty of perjury.

11 36.e On or about September 26, 2018, the Bureau re-inspected the 2000 Honda with ane
12 odometer reading of 120,911 miles, and found the following:

13 a)e The headlamp tamper indicators were intact and undisturbed indicating that noe
14 adjustment took place;e

15 b)e The left headlight was still not aimed correctly;e

16 c)e The tamper indicator on the rear license plate bulb mounting was unbroken;e

17 d)e The rear license plate lamps were still inoperative;e

18 e)e The tamper indicators on the rear wheels were broken;e

19 f)e The left rear drum tamper indicator was broken, however the tamper indicator one
20 the right rear brake drum was undisturbed; ande

21 g)e The rear brake drums were not replaced, and the left rear brake drum remainede
22 beyond specifications.e

23 37. Based on these findings, the vehicle was not in a condition that would allow it to pass
24 properly performed brake and lamp inspections on August 30, 2018. Additionally, although the
25 Brake Certificate of Adjustment provides that the vehicle was driven and that a stopping distance
26 of twenty-five (25) feet from twenty (20) miles per hour measured, that was not done.

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1 **UNDERCOVER OPERATION #2: 2008 TOYOTA**

2 38.e On or about September 28, 2018, at the direction of a Bureau investigator, a Bureau
3 undercover operator (operator) took the Bureau's vehicle, a 2008 Toyota with an odometer
4 reading of 52,934 miles, to Tune Kars Auto Repair and requested brake, lamp, and smog check
5 inspections from Respondent Jimenez. At that time, the 2008 Toyota had the following
6 documented defective conditions: two (2) rear brake drums that were machined beyond discard
7 specifications; misadjusted left front headlamp; and back-up lamps that were non-operational.
8 Due to the presence of these defects, the vehicle was incapable of passing a brake or lamp
9 inspection.

10 39.e The operator arrived at Tune Kars at approximately 1021 hours with an odometer
11 reading of 52,934 miles and was greeted by Respondent Jimenez. The operator recognized
12 Respondent Jimenez from seeing a copy of the technician license photograph. The operator
13 requested brake, lamp, and smog check inspections. Respondent Jimenez replied that he would
14 perform the brake and lamp inspections for \$60, but that the facility did not perform smog check
15 inspections. The operator authorized the work but was never provided a work order prior to the
16 work being performed.

17 40.e The operator then positioned himself in an area where he could observe all the work
18 being done on the Toyota and the person doing the work. The operator observed the following:
19 (1) Only the left rear wheel was removed from the Toyota; (2) Respondent Jimenez never road
20 tested the Toyota; and (3) The lights were not turned on during the inspection.

21 41.e The operator paid \$60 and received an invoice numbered [REDACTED], the Brake Certificate
22 of Adjustment # [REDACTED], and the Lamp Certificate of Adjustment # [REDACTED]

23 42.e The operator left Tune Kars at approximately 1148 hours with an odometer reading of
24 52,934 and returned the vehicle to the Bureau investigator at approximately 1155 hours with an
25 odometer reading of 52,935. Upon review of the certificates of compliance, it was determined
26 that Respondent Jimenez issued and signed them under the penalty of perjury.

27 43.e On or about October 19, 2018, the Bureau re-inspected the 2008 Toyota with an
28 odometer reading of 52,935, and found the following:

- 1 a)e The headlamp tamper indicators were intact and undisturbed indicating that no
2 adjustment took place;e
3 b)e The left headlight was still not aimed correctly;e
4 c)e The back-up plate lamps were still inoperative;e
5 d)e The left rear wheel had a broken tamper indicator indicating that it was removed,e
6 however on the other three wheels the tamper indicators were still intact indicatinge
7 the wheels were never removed; ande
8 e)e The rear brake drums were not replaced, and the left rear brake drum remainede
9 beyond specifications.e

10 44.e Based on these findings, the vehicle was not in a condition that would allow it to pass
11 a properly performed brake and lamp inspections on September 28, 2018. Additionally, although
12 the Brake Certificate of Adjustment provides that the vehicle was driven and that a stopping
13 distance of twenty-five (25) feet from twenty (20) miles per hour measured, that was not done.

14 **UNDERCOVER OPERATION #3: 2006 FORD**

15 45.e On or about December 5, 2018, at the direction of a Bureau investigator, a Bureau
16 undercover operator (operator) took the Bureau's vehicle, a 2006 Ford with an odometer reading
17 of 203,506 miles, to Tune Kars Auto Repair and requested brake and lamp inspections from
18 Respondent Jimenez. At that time, the 2006 Ford had the following documented defective
19 conditions: two (2) rear brake rotors that were machined beyond discard specifications;
20 misadjusted left front headlamp; and license plate lamps that were non-operational. Due to the
21 presence of these defects, the vehicle was incapable of passing a brake or lamp inspection.

22 46.e The operator arrived at Tune Kars at approximately 1003 hours with an odometer
23 reading of 203,561 miles and was greeted by Respondent Jimenez. The operator recognized
24 Respondent Jimenez from seeing a copy of the technician license photograph. The operator
25 requested brake and lamp inspections. Respondent Jimenez replied that he would perform the
26 brake and lamp inspections for \$60. The operator authorized the work but was never provided a
27 work order prior to the work being performed.

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1 47.e The operator then positioned himself in an area where he could observe all the worke
2 being done on the Ford and the person doing the work. The operator observed the following: (1)
3 Only the wheels from the left side of the Ford were removed; (2) Respondent Jimenez never road
4 tested the Ford; and (3) The lights were inspected while a large orange and black machine was
5 placed in front of the headlights.

6 48.e The operator paid \$60 and received an invoice numbered [REDACTED], the Brake Certificatee
7 of Adjustment # [REDACTED] and the Lamp Certificate of Adjustment # [REDACTED]

8 49.e The operator left Tune Kars at approximately 1029 hours with an odometer reading of e
9 203,562 and returned the vehicle to the Bureau investigator at approximately 1031 hours with an
10 odometer reading of 203,562. Upon review of the certificates of compliance, it was determined
11 that Respondent Jimenez issued and signed them under the penalty of perjury.

12 50.e On or about December 13, 2018, the Bureau re-inspected the 2006 Ford with ane
13 odometer reading of 203,562 miles, and found the following:

- 14 a)e The headlamp tamper indicators were intact and undisturbed indicating that noe
15 adjustment took place;e
16 b)e The left low beam headlight was still not aimed correctly;e
17 c)e The license plate lights were still inoperative;e
18 d)e The tamper indicators on both license plate light assemblies were intact and hade
19 not been removed;e
20 e)e The tamper indicators on the left side wheels were broken but the tampere
21 indicators on the right side wheels remained intact; ande
22 f)e Both left and right rear brake rotors were still below specificationse

23 51.e Based on these findings, the vehicle was not in a condition that would allow it to passe
24 properly performed brake and lamp inspections on December 5, 2018. Additionally, although the
25 Brake Certificate of Adjustment provides that the vehicle was driven and that a stopping distance
26 of twenty-five (25) feet from twenty (20) miles per hour measured, that was not done.

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1 **FOLLOW UP VISIT TO TUNE KARS AUTO REPAIR**

2 52.e On December 10, 2018, a Bureau representative went to Tune Kars Auto Repair to
3 speak with Respondent Jimenez and inspect the Brake and Lamp Station certificate booklets.
4 Respondent Jimenez provided the Bureau representative with the certificate books and admitted
5 that he performed the brake and lamp inspections himself. Respondent Jimenez asserted that he
6 performed the inspections in accordance with the requirements for brake and lamp inspections.

7 **CAUSES FOR DISCIPLINE AS TO RESPONDENT TUNE KARS**

8 **FIRST CAUSE FOR DISCIPLINE**

9 **(Untrue or Misleading Statements)**

10 53.e Respondent Tune Kars's Automotive Repair Dealer Registration is subject to
11 disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(1), in that
12 Respondent made or authorized statements which he knew or in the exercise of reasonable care
13 should have known were untrue or misleading in that Tune Kars Auto Repair issued brake and
14 lamp certificates to the Bureau's 2000 Honda, 2008 Toyota, and 2006 Ford, certifying that the
15 vehicles' brakes and lamps were in satisfactory condition when, in fact, none of the vehicles were
16 capable of passing brake and lamp inspections. Each of these fraudulently issued certificates was
17 signed under penalty of perjury by Respondent.

18 54.e Complainant refers to, and by this reference incorporates, the allegations set forth
19 above in above in paragraphs 30 through 52, inclusive, as though fully set forth herein.

20 **SECOND CAUSE FOR DISCIPLINE**

21 **(Fraud)**

22 55.e Respondent Tune Kars's Automotive Repair Dealer Registration is subject to
23 disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(4), in that
24 Respondent committed acts that constitute fraud when Respondent obtained payment from the
25 operators for performing the applicable inspections, adjustments, or repairs of the brake and
26 lighting systems on the Bureau's 2000 Honda, 2008 Toyota, and 2006 Ford, in accordance with
27 Bureau regulations and the Vehicle Code when, in fact, Respondent failed to perform the

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1 necessary inspections, adjustments, and repairs in compliance with Bureau regulations or the
2 Vehicle Code.

3 56.e Complainant refers to, and by this reference incorporates, the allegations set forth
4 above in above in paragraphs 30 through 52, inclusive, as though fully set forth herein.

5 **THIRD CAUSE FOR DISCIPLINE**

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

7 57.e Respondent Tune Kars's Automotive Repair Dealer Registration is subject to
8 disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(6), in that
9 Respondent failed to comply with provisions of that Code in the following material respects:

10 a.e **Section 9884.7, subdivision (a)(5):** Respondent engaged in conduct
11 constituting gross negligence when Respondent failed to perform the necessary inspections,
12 adjustments, and repairs to the Bureau's 2000 Honda, 2008 Toyota, and 2006 Ford.

13 b.e **Section 9884.9:** Respondent failed to provide a written estimate to the operator
14 of the Bureau's 2000 Honda, 2008 Toyota, and 2006 Ford.

15 c. **Section 9889.16:** Respondent issued brake and lamp certificates for the
16 Bureau's 2000 Honda, 2008 Toyota, and 2006 Ford, when those vehicles were not in compliance
17 with Bureau Regulations or the requirements of the Vehicle Code.

18 d.e **Section 9889.22:** Respondent willfully made false statements or entries on
19 brake and lamp certificates for the Bureau's 2000 Honda, 2008 Toyota, and 2006 Ford.

20 58.e Complainant refers to, and by this reference incorporates, the allegations set forth in
21 paragraphs 30 through 52, inclusive, as though fully set forth herein.

22 **FOURTH CAUSE FOR DISCIPLINE**

23 **(Violations of Regulations)**

24 59.e Respondent Tune Kars's Automotive Repair Dealer Registration is subject to
25 disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(6), in that
26 Respondent failed to comply with provisions of California Code of Regulations, title 16, in the
27 following material respects:

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1 a.e **Section 3305, subdivision (a):** Respondent failed to inspect and/or adjust thee
2 brake and lamp systems on the Bureau's 2000 Honda, 2008 Toyota, and 2006 Ford in accordance
3 with the specifications, instructions, and directives issued by the Bureau or the vehicles'
4 manufacturer.

5 b.e **Section 3316, subdivision (d)(2):** Respondent issued lamp certificates to thee
6 Bureau's 2000 Honda, 2008 Toyota, and 2006 Ford when not all of the lamps, lighting
7 equipment, and/or related electrical systems on those vehicles were in compliance with Bureau
8 regulations.

9 c.e **Section 3321, subdivision (c)(2):** Respondent issued brake certificates for thee
10 Bureau's 2000 Honda, 2008 Toyota, and 2006 Ford when the brake systems on those vehicles had
11 not been completely tested or inspected.

12 d.e **Section 3353, subdivision (a):** Respondent failed to provide a written estimatee
13 to the operators of the Bureau's 2000 Honda, 2008 Toyota, and 2006 Ford.

14 e.e **Section 3373:** Respondent filled out and issued false or misleading brake ande
15 lamp certificates of adjustment for the Bureau's 2000 Honda, 2008 Toyota, and 2006 Ford.

16 60.e Complainant refers to, and by this reference incorporates, the allegations set forthe
17 above in above in paragraphs 30 through 52, inclusive, as though fully set forth herein.

18 **FIFTH CAUSE FOR DISCIPLINE**

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

20 61.e Respondent Tune Kar's brake and lamp station licenses are subject to disciplinarye
21 action pursuant to Bus. & Prof. Code section 9889.3, subdivisions (a) and (h), in that Respondent
22 violated the provisions of Bus. & Prof. Code sections 9884.7, subdivisions (a)(1), (a)(4), (a)(5),
23 and (a)(6); 9884.7, subdivision (a)(5); 9884.9; 9889.16; and 9889.22 relating to Respondent's
24 licensed activities, as set forth in paragraphs 30 through 52 above, and incorporated as though
25 fully set forth herein.

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1 **SIXTH CAUSE FOR DISCIPLINE**

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

3 62.s Respondent Tune Kars's brake and lamp station licenses are subject to disciplinarys
4 action pursuant to Bus. & Prof. Code section 9889.3, subdivision (c), in that Respondent failed to
5 comply with the provisions of California Code of Regulations, title 16, sections 3305, subdivision
6 (a); 3316, subdivision (d)(2); 3321, subdivision (c)(2); 3353, subdivision (a); and 3373, as set
7 forth in paragraphs 30 through 52 above, and incorporated as though fully set forth herein.

8 **SEVENTH CAUSE FOR DISCIPLINE**

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

10 63.s Respondent Tune Kars's brake and lamp station licenses are subject to disciplinarys
11 action pursuant to Bus. & Prof. Code section 9889.3, subdivision (d), in that Respondent
12 committed acts involving dishonesty, fraud, or deceit whereby another was injured, as set forth in
13 paragraphs 30 through 52 above.

14 **EIGHTH CAUSE FOR DISCIPLINE**

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

16 64.s Respondent Tune Kars's smog check station license is subject to disciplinary actions
17 pursuant to Health and Safety Code section 44072.2, subdivision (d), in that Respondent
18 committed acts involving dishonesty, fraud, or deceit whereby another was injured, as set forth in
19 paragraphs 30 through 52 above.

20 **CAUSES FOR DISCIPLINE AS TO RESPONDENT JIMENEZ**

21 **NINTH CAUSE FOR DISCIPLINE**

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

23 65.s Respondent Jimenez's brake and lamp adjuster licenses are subject to disciplinarys
24 action pursuant to Bus. & Prof. Code section 9889.3, subdivisions (a) and (h), in that he violated
25 the provisions of Bus. & Prof. Code sections 9884.7, subdivisions (a)(1), (a)(4), (a)(5), and (a)(6);
26 9884.7, subdivision (a)(5); 9884.9; 9889.16; and 9889.22 relating to his licensed activities, as set
27 forth in paragraphs 30 through 52 above, and incorporated as though fully set forth herein.

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TENTH CAUSE FOR DISCIPLINE

(Violations of Regulations)

66.e Respondent Jimenez’s brake and lamp adjuster licenses are subject to disciplinary action pursuant to Bus. & Prof. Code section 9889.3, subdivision (c), in that he failed to comply with the provisions California Code of Regulations, title 16, sections 3305, subdivision (a); 3316, subdivision (d)(2); 3321, subdivision (c)(2); 3353, subdivision (a); and 3373, as set forth in paragraphs 30 through 52 above, and incorporated as though fully set forth herein.

ELEVENTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud, or Deceit)

67.e Respondent Jimenez’s brake and lamp adjuster licenses are subject to disciplinary action pursuant to Bus. & Prof. Code section 9889.3, subdivision (d), in that he committed acts involving dishonesty, fraud, or deceit whereby another was injured, as set forth in paragraphs 30 through 52 above.

TWELFTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud, or Deceit)

68.e Respondent Jimenez’s smog check inspector license (EO) and smog check repair technician license (EI) are subject to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (d), in that he committed acts involving dishonesty, fraud, or deceit whereby another was injured, as set forth in paragraphs 30 through 52 above.

DISCIPLINARY CONSIDERATIONS

69.e To determine the degree of discipline, if any, to be imposed on Respondents,e Complainant further alleges the following:

70.e In 1990, the Bureau issued Automotive Repair Dealer Registration No. ARD 151786e to Enrique Jimenez Farias, President of Technicos Auto Repair Corporation doing business as Technicos Auto Repair Corporation (“Technicos Auto”) located at 5813 Quinn St., Bell Gardens, CA 90201. The registration expired on February 28, 1999 and was revoked on March 22, 1999.

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1 71.e On or about April 24, 1990, the Bureau issued Smog Check Station License No.e
2 RC151786 to Technicos Auto. The license expired on February 28, 1999 and was revoked on
3 March 22, 1999.

4 72.e On or about October 14, 1994, the Bureau issued Lamp Station License No.e
5 LS151786, Class A, to Technicos Auto. The license was due to expire on April 30, 1999, but was
6 revoked prior to that on March 22, 1999.

7 73.e On or about October 14, 1994, the Bureau issued Brake Station License No.e
8 BS151786, Class A, to Technicos Auto. The license was due to expire on April 30, 1999, but was
9 revoked prior to that on March 22, 1999.

10 **OTHER MATTERS**

11 74.e Pursuant to Bus. & Prof. Code section 9884.7, subdivision (c), the Director maye
12 suspend, revoke, or place on probation the registration for all places of business operated in this
13 state by Enrique F. Jimenez, upon a finding that he has, or is, engaged in a course of repeated and
14 willful violations of the laws and regulations pertaining to an automotive repair dealer.

15 75.e Pursuant to Bus. & Prof. Code section 9889.9, if any license has been revoked ore
16 suspended following a hearing under the provisions of this article, any additional license issued
17 under Articles 5 and 6 of Chapter 20, Division 3 of the Code, in the name of Respondent Jimenez
18 may be likewise revoked or suspended by the Director, including Respondent Tune Kars brake
19 and lamp station licenses and Respondent Jimenez's brake and lamp adjuster licenses.

20 76.e Pursuant to Health & Safety Code section 44072.8, if Smog Check and Repair Statione
21 License No. RC240896, issued to Respondent Enrique F. Jimenez dba Tune Kars Auto Repair, is
22 revoked or suspended following a hearing, any additional license issued under Chapter 5 of Part 5
23 of Division 26 of the Health and Safety Code in the name of said licensee may be likewise
24 revoked or suspended by the Director.

25 77.e Pursuant to Health & Safety Code section 44072.8, if Smog Check Inspector Licensee
26 No. EO 308868 or Smog Check Repair Technician License No. EI 308868 issued to Respondent
27 Jimenez is revoked or suspended following a hearing, any additional license issued under Chapter
28 5 of Part 5 of Division 26 of the Health and Safety Code in the name of said licensee may be

1 likewise revoked or suspended by the Director.

2 **PRAYER**

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

5 1.a Revoking or suspending Automotive Repair Dealer Registration Number ARDa
6 240896, issued to Enrique F. Jimenez dba Tune Kars Auto Repair;

7 2.a Revoking or suspending Smog Check Station License Number RC 240896, issued to a
8 Enrique F. Jimenez dba Tune Kars Auto Repair;

9 3.a Revoking or suspending Lamp Station License Number LS 240896, Class A, issued a
10 to Enrique F. Jimenez dba Tune Kars Auto Repair;

11 4.a Revoking or suspending Brake Station License No. BS 240896, Class A, issued a
12 Enrique F. Jimenez dba Tune Kars Auto Repair;

13 5.a Revoking or suspending Brake Adjuster License No. BA 308868-A, issued to a
14 Enrique Jimenez-Farias;

15 6.a Revoking or suspending Lamp Adjuster License No. LA 308868-A, issued to Enrique
16 Jimenez-Farias;

17 7. Revoking or suspending Smog Check Inspector License No. EO 308868, issued to a
18 Enrique Jimenez-Farias;

19 8.a Revoking or suspending Smog Check Repair Technician License No. EI 308868,a
20 issued to Enrique Jimenez-Farias;

21 9.a Revoking or suspending any other automotive repair dealer registration issued to a
22 Enrique F. Jimenez (aka Enrique Farias Jimenez, Enrique Jimenez Farias, Enrique Jimenez-
23 Farias);

24 10.a Revoking or suspending any and all licenses issued under Articles 5 and 6 of the
25 Automotive Repair Act in the name of Enrique F. Jimenez (aka Enrique Farias Jimenez, Enrique
26 Jimenez Farias, Enrique Jimenez-Farias) pursuant to section 9889.9 of the Business and
27 Professions Code;

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11. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code in the name of Enrique F. Jimenez (aka Enrique Farias Jimenez, Enrique Jimenez Farias, Enrique Jimenez-Farias);

12. Ordering Enrique F. Jimenez to pay the Bureau of Automotive Repair the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

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

DATED: May 7, 2019 

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

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