

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

In the Matter of the Accusation Against:

ENRIQUE F. JIMENEZ dba TUNE KARS AUTO REPAIR

5813 Quinn Street, Unit A

Bell Gardens, CA 90201

Automotive Repair Dealer Registration License No. ARD 240896

Smog Check Station License No. RC 240896

Lamp Station License No. LS 240896, Class A

Brake Station License No. BS 240896, Class A

and

ENRIQUE JIMENEZ-FARIAS

7942 Jaboneria Rd.

Bell Gardens, CA 90201

Smog Check Inspector License No. EO 308868

Smog Check Repair Technician License No. EI 308868

Lamp Adjuster License No. LA 308868, Class A

Brake Adjuster License No. BS 308868, Class C

Respondents.

Case No. 77/18-11463

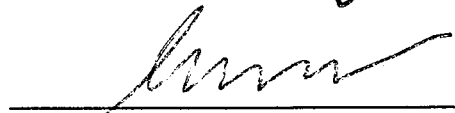
OAH No. 2019080178

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby accepted and adopted by the Director of the Department of Consumer Affairs as the Decision in the above-entitled matter.

This Decision shall become effective on February 21, 2020.

DATED: Jan. 15, 2020



GRACE ARUPO RODRIGUEZ
Assistant Deputy Director
Legal Affairs Division
Department of Consumer Affairs

1 XAVIER BECERRA
Attorney General of California
2 ARMANDO ZAMBRANO
Supervising Deputy Attorney General
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7

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

11 In the Matter of the Accusation Against:
12 **ENRIQUE F. JIMENEZ DBA TUNE KARS**
13 **AUTO REPAIR**
14 **5813 Quinn Street, #A**
Bell Gardens, CA 90201

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

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

21 **and**

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

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

28 Respondents.

Case No. 77/18-11463

OAH No. 2019080178

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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

3 **PARTIES**

4 1. Patrick Dorais (Complainant) is the Chief of the Bureau of Automotive Repair
5 (“Bureau” or “BAR”). He brought this action solely in his official capacity and is represented in
6 this matter by Xavier Becerra, Attorney General of the State of California, by Brian Lee, Deputy
7 Attorney General.

8 2. Respondent Enrique F. Jimenez (aka Enrique Jimenez-Farias, Enrique Farias
9 Jimenez, Enrique Jimenez Farias, and Enrique F. Jimenez) (“Respondent Jimenez”), individually
10 and doing business as Tune Kars Auto Repair is representing himself in this proceeding and has
11 chosen not to exercise his right to be represented by counsel.

12 ***Respondent Jimenez dba Tune Kars Auto Repair***

13 3. In 2005, the Bureau issued Automotive Repair Dealer Registration No. ARD 240896
14 to Respondent Jimenez dba Tune Kars Auto Repair. The Automotive Repair Dealer Registration
15 was in full force and effect at all times relevant to the charges brought in Accusation No. 77/18-
16 11463 and expired on August 31, 2019, and has not been renewed.

17 4. On or about August 17, 2009, the Bureau issued Smog Check Station License No. RC
18 240896 to Respondent Jimenez dba Tune Kars Auto Repair. The Smog Check Station License
19 was cancelled on February 18, 2010.

20 5. On or about July 5, 2007, the Bureau issued Lamp Station License No. LS 240896,
21 Class A to Respondent Jimenez dba Tune Kars Auto Repair. The Lamp Station License was in
22 full force and effect at all times relevant to the charges brought in Accusation No. 77/18-11463,
23 and expired on August 31, 2019, and has not been renewed.

24 6. On or about September 11, 2013, the Bureau issued Brake Station License Number
25 BS 240896, Class A to Respondent Jimenez dba Tune Kars Auto Repair. The Brake Station
26 License was in full force and effect at all times relevant to the charges brought in Accusation No.
27 77/18-11463, and expired on August 31, 2019, and has not been renewed.

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1 **ADVISEMENT AND WAIVERS**

2 13. Respondents have carefully read, fully discussed with counsel, and understand the
3 charges and allegations in Accusation No. 77/18-11463. Respondents have also carefully read,
4 fully discussed with counsel, and understand the effects of this Stipulated Settlement and
5 Disciplinary Order.

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

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

14 **CULPABILITY**

15 16. Respondents understand and agree that the charges and allegations in Accusation No.
16 77/18-11463, if proven at a hearing, constitute cause for imposing discipline upon Respondent
17 Jimenez dba Tune Kars Auto Repair's Automotive Repair Dealer Registration, Smog Check
18 Station License, Brake Station License and Lamp Station License, and Respondent Jimenez's
19 Smog Check Inspector License, Smog Check Repair Technician License, Brake Adjuster License,
20 and Lamp Adjuster License.

21 17. For the purpose of resolving the Accusation without the expense and uncertainty of
22 further proceedings, Respondents agree that, at a hearing, Complainant could establish a factual
23 basis for the charges in the Accusation, and that Respondents hereby gives up their right to
24 contest those charges.

25 18. Respondents agree that their respective registration and licenses are subject to
26 discipline and agree to be bound by the Director's probationary terms as set forth in the
27 Disciplinary Order below.

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1 CONTINGENCY

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

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

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

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

24 DISCIPLINARY ORDER

25 IT IS HEREBY ORDERED that Smog Check Station License No. RC 240896, Lamp
26 Station License No. LS 240896, Class A and Brake Station License No. BS 240896, Class A
27 issued to Respondent Enrique F. Jimenez dba Tune Kars Auto Repair and Smog Check Inspector
28 License No. EO 308868, Smog Check Repair Technician License No. EI 308868, Brake Adjuster

1 License BA 308868, Class A and Lamp Adjuster License No, LA 308868, Class A issued to
2 Respondent Enrique Jimenez-Farias, are revoked.

3 IT IS HEREBY FURTHER ORDERED that Automotive Repair Dealer Registration No.
4 ARD 240896 issued to Respondent Enrique F. Jimenez dba Tune Kars Auto Repair, is revoked.
5 However, the revocation is stayed and Respondent's Automotive Repair Dealer Registration is
6 placed on probation for five (5) years on the following terms and conditions.

7 1. **Obey All Laws.** During the period of probation, Respondent shall comply with all
8 federal and state statutes, regulations and rules governing all BAR registrations and licenses held
9 by Respondent.

10 2. **Quarterly Reporting.** During the period of probation, Respondent shall report either
11 by personal appearance or in writing as determined by BAR on a schedule set by BAR, but no
12 more frequently than once each calendar quarter, on the methods used and success achieved in
13 maintaining compliance with the terms and conditions of probation.

14 3. **Report Financial Interests.** Respondent shall, within 30 days of the effective date
15 of the decision and within 30 days from the date of any request by BAR during the period of
16 probation, report any financial interest which any Respondent or any partners, officers, or owners
17 of any Respondent facility may have in any other business required to be registered pursuant to
18 Section 9884.6 of the Business and Professions Code.

19 4. **Access to Examine Vehicles and Records.** Respondent shall provide BAR
20 representatives unrestricted access to examine all vehicles (including parts) undergoing service,
21 inspection, or repairs, up to and including the point of completion. Respondent shall also provide
22 BAR representatives unrestricted access to all records pursuant to BAR laws and regulations.

23 5. **Tolling of Probation.** If, during probation, Respondent leaves the jurisdiction of
24 California to reside or do business elsewhere or otherwise ceases to do business in the jurisdiction
25 of California, Respondent shall notify BAR in writing within 10 days of the dates of departure
26 and return, and of the dates of cessation and resumption of business in California. All provisions
27 of probation other than cost reimbursement requirements, restitution requirements, training
28 requirements, and that Respondent obey all laws, shall be held in abeyance during any period of

1 time of 30 days or more in which Respondent is not residing or engaging in business within the
2 jurisdiction of California. All provisions of probation shall recommence on the effective date of
3 resumption of business in California. Any period of time of 30 days or more in which Respondent
4 is not residing or engaging in business within the jurisdiction of California shall not apply to the
5 reduction of this probationary period or to any period of actual suspension not previously
6 completed. Tolling is not available if business or work relevant to the probationary license or
7 registration is conducted or performed during the tolling period.

8 **6. Violation of Probation.** If Respondent violates or fails to comply with the terms and
9 conditions of probation in any respect, the Director, after giving notice and opportunity to be
10 heard may set aside the stay order and carry out the disciplinary order provided in the decision.
11 Once Respondent is served notice of BAR's intent to set aside the stay, the Director shall maintain
12 jurisdiction, and the period of probation shall be extended until final resolution of the matter.

13 **7. Maintain Valid License.** Respondent shall, at all times while on probation, maintain
14 a current and active registration and/or license(s) with BAR, including any period during which
15 suspension or probation is tolled. If Respondent's registration or license is expired at the time the
16 decision becomes effective, the registration or license must be renewed by Respondent within 30
17 days of that date. If Respondent's registration or license expires during a term of probation, by
18 operation of law or otherwise, then upon renewal Respondent's registration or license shall be
19 subject to any and all terms and conditions of probation not previously satisfied. Failure to
20 maintain a current and active registration and/or license during the period of probation shall also
21 constitute a violation of probation.

22 **8. Cost Recovery.** Respondent shall pay the Bureau of Automotive Repair \$12,000 for
23 the reasonable costs of the investigation and enforcement of case No. 77/18-11463 Respondent
24 shall make such payment as follows: Respondent shall make forty-eight (48) monthly payments
25 of \$250.00, beginning the same month as the effective date of the decision, and due no later than
26 twelve (12) months before probation terminates. Respondent shall make payment by check or
27 money order payable to the Bureau of Automotive Repair and shall indicate on the check or
28 money order that it is for cost recovery payment for case No. 77/18-11463. Any order for

1 payment of cost recovery shall remain in effect whether or not probation is tolled. Probation shall
2 not terminate until full cost recovery payment has been made. BAR reserves the right to pursue
3 any other lawful measures in collecting on the costs ordered and past due, in addition to taking
4 action based upon the violation of probation.

5 9. **Completion of Probation.** Upon successful completion of probation, Respondent's
6 affected registration and/or license will be fully restored or issued without restriction, if
7 Respondent meets all current requirements for registration or licensure and has paid all
8 outstanding fees, monetary penalties, or cost recovery owed to BAR.

9 10. **License Surrender.** Following the effective date of a decision that orders a stay of
10 invalidation or revocation, if Respondent ceases business operations or is otherwise unable to
11 satisfy the terms and conditions of probation, Respondent may request that the stay be vacated.
12 Such request shall be made in writing to BAR. The Director and the BAR Chief reserve the right
13 to evaluate the Respondent's request and to exercise discretion whether to grant the request or
14 take any other action deemed appropriate or reasonable under the circumstances. Upon formal
15 granting of the request, the Director will vacate the stay order and carry out the disciplinary order
16 provided in the decision. Respondent may not petition the Director for reinstatement of the
17 surrendered registration and/or license, or apply for a new registration or license under the
18 jurisdiction of BAR at any time before the date of the originally scheduled completion of
19 probation. If Respondent applies to BAR for a registration or license at any time after that date,
20 Respondent must meet all current requirements for registration or licensure and pay all
21 outstanding fees or cost recovery owed to BAR and left outstanding at the time of surrender.

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ACCEPTANCE

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

DATED: 12-05-2019


ENRIQUE F. JIMENEZ DBA TUNE KARS AUTO
REPAIR
Respondent

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Smog Check Inspector License, Smog Check Repair Technician License, Brake Adjuster License, and Lamp Adjuster License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Director of Consumer Affairs.

DATED: 12-05-2019


ENRIQUE JIMENEZ-FARIAS
Respondent

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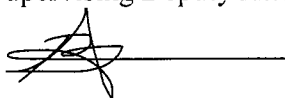
ENDORSEMENT

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

DATED: December 6, 2019

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
ARMANDO ZAMBRANO
Supervising Deputy Attorney General



BRIAN LEE
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 77/18-11463

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2 ARMANDO ZAMBRANO
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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

ACCUSATION

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
19 Lamp Station License No. LS240896, Class A
20 Smog Test and Repair Station License No.
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

1
2 1. 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. In 2005, the Bureau issued Automotive Repair Dealer Registration Number ARD
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. On or about August 17, 2009, the Bureau issued Smog Check Station License
10 Number RC 240896 to Respondent Tune Kars. The Smog Check Station License was cancelled
11 on February 18, 2010.

12 4. On or about July 5, 2007, the Bureau issued Lamp Station License Number LS
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. On or about September 11, 2013, the Bureau issued Brake Station License Number
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. In 1996, Advanced Emission Specialist (EA) Technician License No. 308868 was
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 Program
23 implemented January 1, 1990. License number EA 308868 expired on September 30, 2011.

24 7. On or about September 26, 2014, the Bureau issued Smog Check Inspector License
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. On or about September 25, 2014, the Bureau issued Smog Check Repair Technician
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. In 1994, the Bureau issued Brake Adjuster License Number BA 308868, Class A to
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. In 1996, the Bureau issued Lamp Adjuster License Number LA 308868, Class A to
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. Business and Professions Code (“Bus. & Prof. Code”) section 9884.13 provides, in
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. Bus. & Prof. Code section 9889.1 provides, in pertinent part, that the Director may
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. Bus. & Prof. Code section 9889.7 provides, in pertinent part, that the expiration or
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. Health and Safety Code section 44002 provides, in pertinent part, that the Director
22 has all the powers and authority granted under the Automotive Repair Act for enforcing the
23 Motor Vehicle Inspection Program.

24 15. Health & Safety Code section 44072.6 provides, in pertinent part, that the expiration
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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....

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

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

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. 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, 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. Bus. & Prof. Code section 9889.22 states:

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

“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:

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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1 REGULATIONS

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

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

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

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

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

15 "(4) The bureau's Handbook for Brake Adjusters and Stations, February
16 2003, which is hereby incorporated by reference.

17 "(5) The bureau's Handbook for Lamp Adjusters and Stations, February
18 2003, which is hereby incorporated by reference."

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

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

28 . . .

"(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."

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

31 "Effective April 1, 1999, licensed stations shall purchase certificates of
32 adjustment from the bureau for a fee of three dollars and fifty cents (\$3.50) and shall
33 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. 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. 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
information which will cause any such document to be false or misleading, or where
17 the tendency or effect thereby would be to mislead or deceive customers, prospective
customers, or the public.

18 COST RECOVERY

19 29. 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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24
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. Between August 30, 2018 and December 5, 2018, the Bureau conducted three (3)
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
14 Professions Code. I hereby certify under penalty of perjury under the laws of the
15 State of California that all statements made on this certificate are true and correct.”

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

15 31. 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. The operator arrived at Tune Kars at approximately 1044 hours with an odometer
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. The operator then positioned himself in an area where he could observe all the work
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 tested
4 the Honda; and (3) The lights were turned on and then off.

5 34. The operator paid \$60 and received an invoice numbered 0636, the Brake Certificate
6 of Adjustment #BA2873749, and the Lamp Certificate of Adjustment #LA2837443.

7 35. 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. On or about September 26, 2018, the Bureau re-inspected the 2000 Honda with an
12 odometer reading of 120,911 miles, and found the following:

- 13 a) The headlamp tamper indicators were intact and undisturbed indicating that no
14 adjustment took place;
- 15 b) The left headlight was still not aimed correctly;
- 16 c) The tamper indicator on the rear license plate bulb mounting was unbroken;
- 17 d) The rear license plate lamps were still inoperative;
- 18 e) The tamper indicators on the rear wheels were broken;
- 19 f) The left rear drum tamper indicator was broken, however the tamper indicator on
20 the right rear brake drum was undisturbed; and
- 21 g) The rear brake drums were not replaced, and the left rear brake drum remained
22 beyond specifications.

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. 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. 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. 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. The operator paid \$60 and received an invoice numbered 0732, the Brake Certificate
22 of Adjustment #BA2894445, and the Lamp Certificate of Adjustment #LA2856980.

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

10 44. 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. 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. 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. The operator then positioned himself in an area where he could observe all the work
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. The operator paid \$60 and received an invoice numbered 0992, the Brake Certificate
7 of Adjustment #BA2942206, and the Lamp Certificate of Adjustment #LA2910422

8 49. The operator left Tune Kars at approximately 1029 hours with an odometer reading of
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. On or about December 13, 2018, the Bureau re-inspected the 2006 Ford with an
13 odometer reading of 203,562 miles, and found the following:

- 14 a) The headlamp tamper indicators were intact and undisturbed indicating that no
15 adjustment took place;
- 16 b) The left low beam headlight was still not aimed correctly;
- 17 c) The license plate lights were still inoperative;
- 18 d) The tamper indicators on both license plate light assemblies were intact and had
19 not been removed;
- 20 e) The tamper indicators on the left side wheels were broken but the tamper
21 indicators on the right side wheels remained intact; and
- 22 f) Both left and right rear brake rotors were still below specifications

23 51. 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 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. 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. 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. 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. 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. 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. 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. **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. **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. **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. 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. 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. **Section 3305, subdivision (a)**: Respondent failed to inspect and/or adjust the
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. **Section 3316, subdivision (d)(2)**: Respondent issued lamp certificates to the
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. **Section 3321, subdivision (c)(2)**: Respondent issued brake certificates for the
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. **Section 3353, subdivision (a)**: Respondent failed to provide a written estimate
13 to the operators of the Bureau's 2000 Honda, 2008 Toyota, and 2006 Ford.

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

16 60. Complainant refers to, and by this reference incorporates, the allegations set forth
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. Respondent Tune Kar's brake and lamp station licenses are subject to disciplinary
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. Respondent Tune Kars's brake and lamp station licenses are subject to disciplinary
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. Respondent Tune Kars's brake and lamp station licenses are subject to disciplinary
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. Respondent Tune Kars's smog check station license is subject to disciplinary action
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. Respondent Jimenez's brake and lamp adjuster licenses are subject to disciplinary
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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1 **TENTH CAUSE FOR DISCIPLINE**

2 **(Violations of Regulations)**

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

8 **ELEVENTH CAUSE FOR DISCIPLINE**

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

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

14 **TWELFTH CAUSE FOR DISCIPLINE**

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

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

20 **DISCIPLINARY CONSIDERATIONS**

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

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

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

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

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

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

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

15 6. 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
18 Enrique Jimenez-Farias;

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

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

24 10. 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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