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

12 In the Matter of the Accusation Against:

Case No. 79/16-81

13 **EDGAR ANTONIO AVILES AKA EDGAR**  
14 **A. AVILES DIAZ DBA LA AUTO SMOG**  
15 **& REPAIR**  
16 **915 E. Manchester Blvd.**  
17 **Los Angeles, CA 90001**

ACCUSATION

*Smog Check*

18 **Automotive Repair Dealer Registration No.**  
19 **ARD 237813**  
20 **Brake Station License No. BS 237813**  
21 **Lamp Station License No. LS 237813**  
22 **Smog Check Test and Repair Station**  
23 **License No. RC 237813**

24 **EDGAR ANTONIO AVILES AKA EDGAR**  
25 **A. AVILES DIAZ**  
26 **12101 Oklahoma Ave.**  
27 **South Gate, CA 90280**

28 **Smog Check Inspector License No. EO**  
**632546 (formerly Advanced Emission**  
**Specialist Technician EA 632546)**  
**Smog Check Repair Technician License No.**  
**EI 632546 (formerly Advanced Emission**  
**Specialist Technician EA 632546)**

and

1  
2 **RICARDO ARTURO GUEVARA**  
3 **11855 Archwood Street**  
4 **North Hollywood, CA 91606**

5 **Brake Adjuster License No. BA 150505-C**  
6 **Lamp Adjuster License No. LA 150505-A**

7 Respondents.

8 Complainant alleges:

9 **PARTIES**

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

12 ***Edgar Antonio Aviles dba LA Auto Smog & Repair***

13 2. In 2005, the Bureau of Automotive Repair (Bureau) issued Automotive Repair Dealer  
14 Registration Number ARD 237813 to Edgar Antonio Aviles AKA Edgar A. Aviles Diaz dba LA  
15 Auto Smog & Repair (Respondent Aviles). The Automotive Repair Dealer Registration was in  
16 full force and effect at all times relevant to the charges brought herein, expired on February 29,  
17 2016, and has not been renewed.

18 3. On or about October 19, 2006, the Bureau issued Brake Station License Number BS  
19 237813, class C, to Respondent Aviles. The Brake Station License was in full force and effect at  
20 all times relevant to the charges brought herein, expired on February 29, 2016, and has not been  
21 renewed.

22 4. On or October 19, 2006, the Bureau issued Lamp Station License Number LS  
23 237813, class A, to Respondent Aviles. The Lamp Station License was in full force and effect at  
24 all times relevant to the charges brought herein, expired on February 29, 2016, and has not been  
25 renewed.

26 5. On or about April 27, 2005, the Bureau issued Smog Check Test and Repair Station  
27 License Number RC 237813 to Respondent Aviles. The Smog Check Station License was in full  
28

1 force and effect at all times relevant to the charges brought herein, expired on February 29, 2016,  
2 and has not been renewed.

3 ***Edgar Antonio Aviles***

4 6. On October 4, 2010, the Bureau issued Advanced Emission Specialist Technician  
5 License EA 632546 to Respondent Aviles. Said license was due to expire on August 31, 2012 but  
6 was cancelled on August 9, 2012 and pursuant to California Code of Regulations, title 16, section  
7 3340.28, subdivision (e), was renewed upon Respondent Aviles' election as Smog Check  
8 Inspector License EO 632456 and Smog Check Repair Technician License No. EI 632456,  
9 effective August 9, 2012. Smog Check Inspector License EO 632456 and Smog Check Repair  
10 Technician License No. EI 632456 were in full force and effect at all times relevant to the charges  
11 brought herein and will expire on August 31, 2016, unless renewed.<sup>1</sup>

12 ***Ricardo Arturo Guevara***

13 7. In 2006, the Bureau issued Brake Adjuster License Number BA 150505, class C to  
14 Respondent Ricardo Arturo Guevara (Respondent Guevara). The Brake Adjuster License will  
15 expire on January 31, 2018, unless renewed.

16 8. In 2006, the Bureau issued Lamp Adjuster License Number LA 150505, class A to  
17 Respondent Guevara. The Lamp Adjuster License will expire on January 31, 2019, unless  
18 renewed.

19 **JURISDICTION**

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

24  
25  
26 <sup>1</sup> Effective August 1, 2012, California Code of Regulations, title 16, section 3340.28, 3340.29 and  
27 3340.30 were amended to implement a license restructure from the Advanced Emission Specialist  
28 Technician (EA) license and Basic Area (EB) Technician license to Smog Check Inspector (EO) license  
and and/or Smog Check Repair Technician (EI) license.



....

(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.

15. 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.

(b) Is convicted of any crime substantially related to the qualifications, functions, or duties of the licenseholder in question.

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

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

....

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

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

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

17. 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.

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

6           19. Health & Saf. Code section 44014 states, in pertinent part:

7                   (a) Except as otherwise provided in this chapter, the testing and repair  
8 portion of the program shall be conducted by smog check stations licensed by the  
9 department, and by smog check technicians who have qualified pursuant to this  
10 chapter.

11           20. Health & Saf. Code section 44032 states, in pertinent part:

12                   No person shall perform, for compensation, tests or repairs of emission  
13 control devices or systems of motor vehicles required by this chapter unless the  
14 person performing the test or repair is a qualified smog check technician and the test  
15 or repair is performed at a licensed smog check station. Qualified technicians shall  
16 perform tests of emission control devices and systems in accordance with Section  
17 44012.

18           21. Health & Saf. Code section 44059 states, in pertinent part:

19                   The willful making of any false statement or entry with regard to a  
20 material matter in any oath, affidavit, certificate of compliance or noncompliance, or  
21 application form which is required by this chapter or Chapter 20.3 (commencing with  
22 Section 9880) of Division 3 of the Business and Professions Code, constitutes perjury  
23 and is punishable as provided in the Penal Code.

24           22. Health & Saf. Code section 44072.2 states, in pertinent part:

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

28                   (a) Violates any section of this chapter [the Motor Vehicle Inspection  
Program (Health and Saf. Code § 44000, et seq.)] and the regulations adopted  
pursuant to it, which related to the licensed activities.

...

(f) Aids or abets unlicensed persons to evade the provisions of this chapter.

23           23. Health & Saf. Code section 44072.8 states that when a license has been revoked or  
24 suspended following a hearing under this article, any additional license issued under this chapter  
25 in the name of the licensee may be likewise revoked or suspended by the director.  
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28

REGULATIONS

24. 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. 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

1 bureau regulations, the certificate shall certify that the entire system meets all of those  
2 requirements.”

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

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

11 ...

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

16 27. California Code of Regulations, title 16, section 3340.35 states, in pertinent part:

17 (d) No person shall sell, issue, cause or permit to be issued any certificate  
18 purported to be a valid certificate of compliance or noncompliance unless duly  
licensed to do so.

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

20 No automotive repair dealer or individual in charge shall, in filling out an  
21 estimate, invoice, or work order, or record required to be maintained by section  
22 3340.15(e) of this chapter, withhold therefrom or insert therein any statement or  
23 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.

### 24 COST RECOVERY

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

**UNDERCOVER OPERATION #1: 1998 TOYOTA**

1  
2           30.    On September 26, 2014, a Bureau undercover operator (operator) took the Bureau's  
3 1998 Toyota to LA Auto Smog & Repair and requested brake, lamp, and smog inspections on the  
4 vehicle. At that time, the 1998 Toyota had the following documented defective conditions: the  
5 right front brake rotor was machined to undersized dimensions and was no longer within the  
6 manufacturer's minimum thickness specifications, the left front headlamp was misaimed, and two  
7 defective license plate lamp bulbs were installed. Due to the presence of these defects, the  
8 vehicle was incapable of passing a brake or lamp inspection.

9           31.    Respondent Guevara informed the operator that the total charge for the smog check  
10 inspection and the brake and lamp inspections would be \$140.00. The operator agreed to the  
11 price and Respondent Guevara provided a written estimate which the operator signed and  
12 received a copy of. Respondent Guevara then conducted brake and lamp inspections of the  
13 vehicle and another employee of Respondent Aviles, Ruben Adolfo Payes, conducted the smog  
14 check inspection. Mr. Payes then told the operator that the car needed to have the license plate  
15 lights repaired in order to pass the brake and lamp inspections and that he could repair them for  
16 an additional \$10.00. The operator paid \$140.00 in cash for the inspections and Mr. Payes gave  
17 him a Vehicle Inspection Report and an invoice and left the shop. The operator returned shortly  
18 thereafter and asked Mr. Payes to repair the license plate lights. Mr. Payes then asked  
19 Respondent Guevara to repair the license plate lights, which he did. After the repairs were  
20 completed, Mr. Payes filled out a work order that the operator signed. Mr. Payes then provided  
21 the operator with two copies of the work order, Certificate of Adjustment – Brake Adjustment  
22 #BC [REDACTED], and Certificate of Adjustment – Lamp Adjustment #LC [REDACTED]. Both certificates  
23 of adjustment were signed by Respondent Guevara under penalty of perjury. The operator paid  
24 Mr. Payes \$10.00 in cash and drove the car away from the facility. The lamp certificate of  
25 adjustment indicated various lamps were inspected, an optical aimer for the headlamps was used,  
26 and the inspection was for a reconstructed vehicle. The brake certificate of adjustment indicated  
27 that an inspection of the parking brake, linings and shoes, and drums and rotors was performed to  
28 register a salvaged vehicle.





1 of adjustment were signed by Respondent Guevara under penalty of perjury. The Vehicle  
2 Inspection Report listed Respondent Aviles and his inspector license number as the inspector who  
3 performed the smog test when in fact, the smog test was performed by Respondent Guevara. The  
4 operator paid Respondent Aviles \$90.00 in cash and drove the car away from the facility. The  
5 lamp certificate of adjustment indicated various lamps were inspected, an optical aimer for the  
6 headlamps was used, and the inspection was for a reconstructed vehicle. The brake certificate of  
7 adjustment indicated that an inspection of the parking brake, linings and shoes, and drums and  
8 rotors was performed to register a salvaged vehicle. The brake certificate of adjustment also  
9 indicated that the vehicle was road tested and stopped within 25 ft. from a speed of 20 mph.

10 38. On or about January 21, 2015, the Bureau re-inspected the 2002 Honda and found  
11 that it should not have received a Certificate of Brake Adjustment since the right front brake rotor  
12 was still undersized and not within the manufacturer's specifications and the right rear brake  
13 drum was still beyond maximum diameter specifications and not within the manufacturer's  
14 specifications. The Bureau also found that the 2002 Honda should not have received a Certificate  
15 of Lamp Adjustment since defective bulbs were still installed in both the left rear backup light  
16 assembly and the right rear tail light assembly.

17 **FIRST CAUSE FOR DISCIPLINE**

18 **(Untrue or Misleading Statements)**

19 39. Respondent Aviles' registration is subject to disciplinary action pursuant to Bus. &  
20 Prof. Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized statements  
21 which he knew or in the exercise of reasonable care should have known were untrue or  
22 misleading in that LA Auto Smog & Repair issued brake and lamp certificates to the Bureau's  
23 1998 Toyota, 2002 Honda, and 2002 Honda, certifying that the vehicles' brakes and lamps were  
24 in satisfactory condition when, in fact, none of the vehicles was capable of passing brake and  
25 lamp inspections. Each of these fraudulently issued certificates was signed under penalty of  
26 perjury by Respondent Guevara.

27 40. Complainant refers to, and by this reference incorporates, the allegations set forth  
28 above in above in paragraphs 30 through 38, inclusive, as though fully set forth herein.







1 d. **Section 44072.2, subdivision (f)**: Respondent aided and abetted an unlicensed  
2 individual, Respondent Guevara, to evade the provisions of this chapter by allowing him to  
3 perform a smog test on the Bureau's 2002 Honda during undercover run #3 on January 15, 2015.

4 49. Complainant refers to, and by this reference incorporates, the allegations set forth  
5 above in above in paragraph 37 as though fully set forth herein.

6 **EIGHTH CAUSE FOR DISCIPLINE**

7 **(Violations of the Motor Vehicle Inspection Program)**

8 50. Respondent Aviles' smog check inspector and smog check repair technician licenses  
9 are subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (a),  
10 in that he failed to comply with sections 44014, subdivision (a), 44032, 44059, and 44072.2,  
11 subdivision (f), of that code as set forth in paragraphs 48 and 49, above.

12 **NINTH CAUSE FOR DISCIPLINE**

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

14 51. Respondent Guevara's brake and lamp adjuster licenses are subject to disciplinary  
15 action pursuant to Bus. & Prof. Code section 9889.3, subdivisions (a) and (h), in that he violated  
16 the provisions of Bus. & Prof. Code sections 9884.7, subdivision (a)(5), 9889.16 and 9889.22  
17 relating to his licensed activities, as set forth in paragraphs 41 and 42 above.

18 **TENTH CAUSE FOR DISCIPLINE**

19 **(Violations of Regulations)**

20 52. Respondent Guevara's brake and lamp adjuster licenses are subject to disciplinary  
21 action pursuant to Bus. & Prof. Code section 9889.3, subdivision (c), in that he failed to comply  
22 with the provisions of California Code of Regulations, title 16, sections 3305, subdivision (a),  
23 3316, subdivision (d)(2), 3321, subdivision (c)(2), 3340.35, subdivision (d), and 3373, as set forth  
24 in paragraphs 43 and 44 above.

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- 1           4.    Revoking or suspending Lamp Station License No. LS 237813, issued to Edgar  
2 Antonio Aviles dba LA Auto Smog & Repair;
- 3           5.    Revoking or suspending Smog Check Inspector License No. EO 632546 and Smog  
4 Check Repair Technician License No. EI 632546 issued to Edgar Antonio Aviles;
- 5           6.    Revoking or suspending Brake Adjuster License No. BA 150505-C, issued to Ricardo  
6 Arturo Guevara;
- 7           7.    Revoking or suspending Lamp Adjuster License No. LA 150505-A, issued to Ricardo  
8 Arturo Guevara;
- 9           8.    Revoking or suspending any and all licenses issued under Articles 5 and 6 of the  
10 Automotive Repair Act in the name of Edgar Antonio Aviles pursuant to section 9889.9 of the  
11 Business and Professions Code;
- 12          9.    Revoking or suspending any and all licenses issued under the Motor Vehicle  
13 Inspection Program in the name of Edgar Antonio Aviles pursuant to section 44072.8 of the  
14 Health and Safety Code;
- 15          10.   Ordering Edgar Antonio Aviles and Ricardo Arturo Guevara to pay the Bureau of  
16 Automotive Repair the reasonable costs of the investigation and enforcement of this case,  
17 pursuant to Business and Professions Code section 125.3; and
- 18          11.   Taking such other and further action as deemed necessary and proper.

19  
20 DATED: 3-11-16

*Patrick Dorais by Duyl B...*  
PATRICK DORAIS  
Chief  
Bureau of Automotive Repair  
Department of Consumer Affairs  
State of California  
*Doris BAIATT*  
Complainant

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