

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

In the Matter of the Accusation Against:

**EDGAR ANTONIO AVILES AKA EDGAR  
A. AVILES DIAZ DBA LA AUTO SMOG  
& REPAIR**

915 E. Manchester Blvd.  
Los Angeles, CA 90001

Automotive Repair Dealer Registration No.  
ARD 237813  
Brake Station License No. BS 237813  
Lamp Station License No. LS 237813  
Smog Check Test and Repair Station  
License No. RC 237813

**EDGAR ANTONIO AVILES AKA EDGAR  
A. AVILES DIAZ**

12101 Oklahoma Ave.  
South Gate, CA 90280

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**

**RICARDO ARTURO GUEVARA**

11855 Archwood Street  
North Hollywood, CA 91606

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

Respondents.

Case No. 79/16-81

OAH No. 2016070790

**DECISION REGARDING EDGAR  
ANTONIO AVILES AKA  
EDGAR A. AVILES DIAZ DBA LA  
AUTO SMOG & REPAIR [ARD 237813,  
BS 237813, LS 237813, RC 237813, EO  
632546, AND EI 632546] ONLY**

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**DECISION**

The attached Stipulated Settlement and Disciplinary Order is hereby accepted and adopted as the Decision of the Director of the Department of Consumer Affairs in the above-entitled matter only as to Respondent EDGAR ANTONIO AVILES AKA EDGAR A. AVILES DIAZ DBA LA AUTO SMOG & REPAIR, Automotive Repair Dealer Registration No. ARD 237813, Brake Station License No. BS 237813, Lamp Station License No. LS 237813, Smog Check Test and Repair Station License No. RC 237813, Smog Check Inspector License No. EO 632546, and Smog Check Repair Technician License No. EI 632546.

This Decision shall become effective June 16, 2017.

DATED: 5/9/2017



RYAN MARCROFT  
Assistant Chief Counsel  
Division of Legal Affairs  
Department of Consumer Affairs

1 KAMALA D. HARRIS  
Attorney General of California  
2 THOMAS L. RINALDI  
Supervising Deputy Attorney General  
3 M. TRAVIS PEERY  
Deputy Attorney General  
4 State Bar No. 261887  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-0962  
6 Facsimile: (213) 897-2804  
*Attorneys for Complainant*

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**

OAH No. 2016070790

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**

**STIPULATED SETTLEMENT AND**  
**DISCIPLINARY ORDER AS TO EDGAR**  
**ANTONIO AVILES AKA EDGAR A.**  
**AVILES DIAZ DBA LA AUTO SMOG &**  
**REPAIR [ARD 237813, BS 237813, LS**  
**237813, RC 237813, EO 632546, AND EI**  
**632546] ONLY**

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

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**RICARDO ARTURO GUEVARA**  
**11855 Archwood Street**  
**North Hollywood, CA 91606**

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

Respondents.

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

PARTIES

1. Patrick Dorais (Complainant) is the Chief of the Bureau of Automotive Repair (Bureau). He brought this action solely in his official capacity and is represented in this matter by Kamala D. Harris, Attorney General of the State of California, by M. Travis Peery, Deputy Attorney General.

2. Respondent Edgar Antonio Aviles AKA Edgar A. Aviles Diaz dba LA Auto Smog & Repair (Respondent) is represented in this proceeding by attorney Scott J. Harris, Esq., whose address is:  
8383 Wilshire Blvd., Suite 830  
Beverly Hills, CA 90211

3. In, 2005, the Bureau issued Automotive Repair Dealer Registration No. ARD 237813 to Respondent. The Automotive Repair Dealer Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 79/16-81, expired on February 29, 2016, and is currently delinquent.

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

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

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

10          5.     **Tolling of Probation.** If, during probation, Respondent leaves the jurisdiction of  
11 California to reside or do business elsewhere or otherwise ceases to do business in the jurisdiction  
12 of California, Respondent shall notify BAR in writing within 10 days of the dates of departure  
13 and return, and of the dates of cessation and resumption of business in California.

14           All provisions of probation other than cost reimbursement requirements, restitution  
15 requirements, training requirements, and that Respondent obey all laws, shall be held in abeyance  
16 during any period of time of 30 days or more in which Respondent is not residing or engaging in  
17 business within the jurisdiction of California. All provisions of probation shall recommence on  
18 the effective date of resumption of business in California. Any period of time of 30 days or more  
19 in which Respondent is not residing or engaging in business within the jurisdiction of California  
20 shall not apply to the reduction of this probationary period or to any period of actual suspension  
21 not previously completed. Tolling is not available if business or work relevant to the probationary  
22 licenses is conducted or performed during the tolling period.

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

1           7.     **Maintain Valid License.** Respondent shall, at all times while on probation, maintain  
2 current and active licenses with BAR, including any period during which suspension or probation  
3 is tolled. If Respondent's licenses are expired at the time the decision becomes effective, the  
4 licenses must be renewed by Respondent within 30 days of that date. If Respondent's licenses  
5 expire during a term of probation, by operation of law or otherwise, then upon renewal  
6 Respondent's licenses shall be subject to any and all terms and conditions of probation not  
7 previously satisfied. Failure to maintain current and active licenses during the period of probation  
8 shall also constitute a violation of probation.

9           8.     **Cost Recovery.** Respondent shall pay the Bureau of Automotive Repair \$6,523.68  
10 for the reasonable costs of the investigation and enforcement of case No. 79/16-81. Respondent  
11 shall make such payment as follows: 24 equally monthly payments of \$271.82. Any agreement  
12 for a scheduled payment plan shall require full payment to be completed no later than six (6)  
13 months before probation terminates. Respondent shall make payment by check or money order  
14 payable to the Bureau of Automotive Repair and shall indicate on the check or money order that it  
15 is for cost recovery payment for case No. 79/16-81. Any order for payment of cost recovery shall  
16 remain in effect whether or not probation is tolled. Probation shall not terminate until full cost  
17 recovery payment has been made. BAR reserves the right to pursue any other lawful measures in  
18 collecting on the costs ordered and past due, in addition to taking action based upon the violation  
19 of probation.

20           9.     **Completion of Probation.** Upon successful completion of probation, Respondent's  
21 affected licenses will be fully restored without restriction, if Respondent meets all current  
22 requirements for licensure and has paid all outstanding fees, monetary penalties, or cost recovery  
23 owed to BAR.

24           10.    **License Surrender.** Following the effective date of a decision that orders a stay of  
25 invalidation or revocation, if Respondent ceases business operations or is otherwise unable to  
26 satisfy the terms and conditions of probation, Respondent may request that the stay be vacated.  
27 Such request shall be made in writing to BAR. The Director and the BAR Chief reserve the right  
28 to evaluate the Respondent's request and to exercise discretion whether to grant the request or

1 take any other action deemed appropriate or reasonable under the circumstances. Upon formal  
2 granting of the request, the Director will vacate the stay order and carry out the disciplinary order  
3 provided in the decision.

4 Respondent may not petition the Director for reinstatement of the surrendered licenses, or  
5 apply for a new registration or license under the jurisdiction of BAR at any time before the date  
6 of the originally scheduled completion of probation. If Respondent applies to BAR for a  
7 registration or license at any time after that date, Respondent must meet all current requirements  
8 for registration or licensure and pay all outstanding fees or cost recovery owed to BAR and left  
9 outstanding at the time of surrender.

10 11. **Training Course.** During the period of probation, Respondent shall attend and  
11 successfully complete a 68 hour BAR-specified and -approved training course in inspection,  
12 diagnosis and/or repair of emission systems failures and engine performance, applicable to the  
13 class of license held by the Respondent. Respondent shall provide to the Bureau proof of  
14 enrollment in the course within 30 days of the effective date of the decision, and proof of  
15 successful course completion within 180 days of the effective date of the decision. Failure to  
16 provide proof of enrollment and/or successful course completion to the Bureau within the  
17 timeframes specified shall constitute a violation of probation, and Respondent shall be prohibited  
18 from issuing any certificate of compliance or noncompliance until such proof is received.

19 ACCEPTANCE

20 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
21 discussed it with my attorney, Scott J. Harris, Esq. I understand the stipulation and the effect it  
22 will have on my Automotive Repair Dealer Registration, and Smog Check Station License. I  
23 enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and  
24 intelligently, and agree to be bound by the Decision and Order of the Director of Consumer  
25 Affairs.

26 DATED: \_\_\_\_\_

27 LA AUTO SMOG & REPAIR, EDGAR ANTONIO  
28 AVILES  
*Respondent*

1 take any other action deemed appropriate or reasonable under the circumstances. Upon formal  
2 granting of the request, the Director will vacate the stay order and carry out the disciplinary order  
3 provided in the decision.

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5 apply for a new registration or license under the jurisdiction of BAR at any time before the date  
6 of the originally scheduled completion of probation. If Respondent applies to BAR for a  
7 registration or license at any time after that date, Respondent must meet all current requirements  
8 for registration or licensure and pay all outstanding fees or cost recovery owed to BAR and left  
9 outstanding at the time of surrender.

10 11. Training Course. During the period of probation, Respondent shall attend and  
11 successfully complete a 68 hour BAR-specified and -approved training course in inspection,  
12 diagnosis and/or repair of emission systems failures and engine performance, applicable to the  
13 class of license held by the Respondent. Respondent shall provide to the Bureau proof of  
14 enrollment in the course within 30 days of the effective date of the decision, and proof of  
15 successful course completion within 180 days of the effective date of the decision. Failure to  
16 provide proof of enrollment and/or successful course completion to the Bureau within the  
17 timeframes specified shall constitute a violation of probation, and Respondent shall be prohibited  
18 from issuing any certificate of compliance or noncompliance until such proof is received.

19 ACCEPTANCE

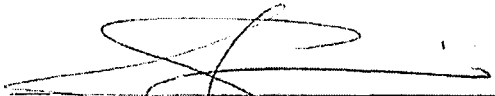
20 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
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23 enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and  
24 intelligently, and agree to be bound by the Decision and Order of the Director of Consumer  
25 Affairs.

26 DATED: \_\_\_\_\_  
27 LA AUTO SMOG & REPAIR, EDGAR ANTONIO  
28 AVILES  
Respondent

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I have read and fully discussed with Respondent LA Auto Smog & Repair, Edgar Antonio Aviles the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

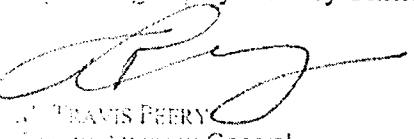
DATED: 11.14.16

  
SCOTT T. HARRIS, ESQ.  
*Attorney for Respondent*

ENDORSEMENT

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

Dated: 12-6-16

Respectfully submitted,  
SAMUELA D. HARRIS  
Attorney General of California  
THOMAS L. RINALDI  
Supervising Deputy Attorney General  
  
TRAVIS PEERY  
Deputy Attorney General  
*Attorney for Complainant*

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**Exhibit A**

**Accusation No. 79/16-81**

1 KAMALA D. HARRIS  
Attorney General of California  
2 THOMAS L. RINALDI  
Supervising Deputy Attorney General  
3 M. TRAVIS PEERY  
Deputy Attorney General  
4 State Bar No. 261887  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-0962  
6 Facsimile: (213) 897-2804  
*Attorneys for Complainant*

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

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In the Matter of the Accusation Against:

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A. AVILES DIAZ DBA LA AUTO SMOG  
& REPAIR**  
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632546 (*formerly Advanced Emission  
Specialist Technician EA 632546*)  
Smog Check Repair Technician License No.  
EI 632546 (*formerly Advanced Emission  
Specialist Technician EA 632546*)

and

Case No. 79/16-81

ACCUSATION

*Smog Check*

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**RICARDO ARTURO GUEVARA**  
**11855 Archwood Street**  
**North Hollywood, CA 91606**

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

Respondents.

Complainant alleges:

**PARTIES**

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

*Edgar Antonio Aviles dba LA Auto Smog & Repair*

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

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

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

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

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.  
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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.



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(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.  
26

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 lamp systems for  
4 the purpose of issuing any certificate of compliance or adjustment shall be performed in official  
5 stations, by official adjusters, in accordance with the following, in descending order of  
6 precedence, as applicable:

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

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

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

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

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

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

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

26 . . .

27 "(2) Where all of the lamps, lighting equipment, and related electrical systems on a vehicle  
28 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**

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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 [REDACTED] and Certificate of Adjustment – Lamp Adjustment [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 real 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.





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**FIFTH CAUSE FOR DISCIPLINE**

**(Failure to Comply with Regulations)**

46. Respondent Aviles' brake and lamp station 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 of California Code of Regulations, title 16, sections 3305, subdivision (a), 3316, subdivision (d)(2), 3321, subdivision (c)(2), 3340.35, subdivision (d), and 3373, as set forth in paragraphs 43 and 44 above.

**SIXTH CAUSE FOR DISCIPLINE**

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

47. Respondent Aviles' brake and lamp station 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 38 above.

**SEVENTH CAUSE FOR DISCIPLINE**

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

48. Respondent Aviles' smog check test and repair station license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that he failed to comply with the following sections of that Code in the following material respects:

a. **Section 44014, subdivision (a)**: Respondent failed to ensure that the smog check inspection of the Bureau's 2002 Honda during undercover run #3 on January 15, 2015 was conducted by a licensed technician who was qualified pursuant to this chapter.

b. **Section 44032**: Respondent Guevara, an unqualified individual, performed a smog test on the Bureau's 2002 Honda during undercover run #3 on January 15, 2015.

c. **Section 44059**: Respondent committed perjury by issuing a smog check certificate to the Bureau's 2002 Honda during undercover run #3 on January 15, 2015 indicating that he had conducted the smog test on that vehicle when in fact that test was conducted by Respondent Guevara who was not licensed as a smog inspector.

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1 **ELEVENTH CAUSE FOR DISCIPLINE**

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

3 53. Respondent Guevara's brake and lamp adjuster licenses are subject to disciplinary  
4 action pursuant to Bus. & Prof. Code section 9889.3, subdivision (d), in that he committed acts  
5 involving dishonesty, fraud, or deceit whereby another was injured, as set forth in paragraphs 30  
6 through 38 above.

7 **TWELFTH CAUSE FOR DISCIPLINE**

8 **(Criminal Conviction)**

9 54. Respondent Guevara has subjected his Brake Adjuster License and Lamp Adjuster  
10 License to discipline under Bus. & Prof. Code section 9889.3, subdivision (b), in that on or about  
11 January 22, 2016, in the criminal matter entitled *People of the State of California v. Ricardo*  
12 *Arturo Guevara* (Super. Ct. Los Angeles, 2015, No. BA440206), Respondent entered a plea of no  
13 contest and was convicted of one count of violating Vehicle Code section 4463, subdivision (a)(1)  
14 [falsifying a registration card], a felony. Respondent was sentenced to 3 years formal probation  
15 on terms and conditions, including 80 hours of community service. In addition, the Court ordered  
16 Respondent's brake and lamp adjuster licenses forfeited and ordered that he perform no brake or  
17 lamp inspections. The circumstances surrounding the conviction are set forth in paragraphs 30  
18 through 38, above, and are incorporated herein by reference.

19 **PRAYER**

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

- 22 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD  
23 237813, issued to Edgar Antonio Aviles dba LA Auto Smog & Repair;
- 24 2. Revoking or suspending Smog Check Test and Repair Station License No. RC  
25 237813, issued to Edgar Antonio Aviles dba LA Auto Smog & Repair;
- 26 3. Revoking or suspending Brake Station License No. BS 237813, issued to Edgar  
27 Antonio Aviles dba LA Auto Smog & Repair;

28 ///

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

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