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

11 In the Matter of the Accusation Against:

Case No. 79/12-106

12 **ULISES AUTO SMOG AND REPAIR**  
13 **ULISES GUIZAR, OWNER**  
14 1100 East Market Street  
Salinas, CA 93905  
15 **Automotive Repair Dealer Registration**  
**No. ARD 231103**  
16 **Smog Check Station License No. RC 231103**  
**Lamp Station License No. LS 231103, Class A**  
**Brake Station License No. BS 231103, Class C**

**ACCUSATION**

Smog Check

17 **ULISES GUIZAR**  
18 1100 East Market Street  
Salinas, CA 93905  
19 **Advanced Emission Specialist Technician License**  
**No. EA 141286**  
20 **Lamp Adjuster License No. LA 141286, Class A**  
**Brake Adjuster License No. BA 141286, Class C**

21 **JUSTINO L. URIBE**  
22 P.O. Box 1943  
Gonzales, CA 93926  
23 **Advanced Emission Specialist Technician License**  
**No. EA 148163**  
24 **Lamp Adjuster License No. LA 148163, Class A**  
**Brake Adjuster License No. BA 148163, Class C**

25  
26 Respondents.

27  
28 John Wallauch (Complainant) alleges:

1 **PARTIES**

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

4 **LICENSE INFORMATION**

5 **Ulises Auto Smog and Repair**

6 2. In 2003, the Bureau issued Automotive Repair Dealer Registration Number ARD  
7 231103 to Ulises Auto Smog and Repair with Ulises Guizar as Owner (Respondent Ulises). The  
8 Automotive Repair Dealer Registration expires on December 31, 2012, unless renewed.

9 3. On or about January 27, 2004, the Bureau issued Smog Check Station License  
10 Number RC 231103 to Respondent Ulises. The Smog Check Station License expires on  
11 December 31, 2012, unless renewed.

12 4. On or about January 30, 2006, the Bureau issued Lamp Station License Number LS  
13 231103, Class A to Respondent Ulises. The Lamp Station License expires on December 31,  
14 2012, unless renewed.

15 5. On or about January 30, 2006, the Bureau issued Brake Station License Number BS  
16 231103, Class C to Respondent Ulises. The Brake Station License expires on December 31,  
17 2012, unless renewed.

18 **Ulises Guizar**

19 6. In 1999, the Bureau issued Basic Area Technician License No. EB 141286 to Ulises  
20 Guizar (Respondent Guizar). The license was cancelled on or about April 3, 2009, when the  
21 Bureau issued Advanced Emission Specialist Technician License No. EA 141286 to Respondent  
22 Guizar. The Advanced Emission Specialist Technician License expires on March 31, 2013,  
23 unless renewed.

24 7. In 2005, the Bureau issued Lamp Adjuster License No. LA 141286, Class A, to  
25 Respondent Guizar. The Lamp Adjuster license expires on March 31, 2013, unless renewed.

26 8. In 2005, the Bureau issued Brake Adjuster License No. BA 141286, Class C, to  
27 Respondent Guizar. The Brake Adjuster License expires on March 31, 2015, unless renewed.  
28



1 subdivision (a) shall only suspend, revoke, or place on probation the registration of  
2 the specific place of business which has violated any of the provisions of this chapter.  
This violation, or action by the director, shall not affect in any manner the right of the  
automotive repair dealer to operate his or her other places of business.

3 (c) Notwithstanding subdivision (b), the director may suspend, revoke, or  
4 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,  
5 engaged in a course of repeated and willful violations of this chapter, or regulations  
adopted pursuant to it.

6 13. Section 9889.3 of the Code states, in pertinent part:

7 The director may suspend, revoke, or take other disciplinary action  
8 against a license as provided in this article if the licensee or any partner, officer, or  
director thereof:

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

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

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

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

15 14. Section 9889.1 of the Code states:

16 Any license issued pursuant to Articles 5 and 6, may be suspended or  
17 revoked by the director. The director may refuse to issue a license to any applicant  
for the reasons set forth in Section 9889.2. The proceedings under this article shall be  
18 conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1  
of Division 3 of Title 2 of the Government Code, and the director shall have all the  
19 powers granted therein.

20 15. Section 9889.9 of the Code states:

21 When any license has been revoked or suspended following a hearing  
22 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.

23 16. Section 9889.16 of the Code states:

24 Whenever a licensed adjuster in a licensed station upon an inspection or  
25 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  
26 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,  
27 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  
28 station.

17. Section 9884.9 of the Code states:

1 (a) The automotive repair dealer shall give to the customer a written  
2 estimated price for labor and parts necessary for a specific job. No work shall be done  
3 and no charges shall accrue before authorization to proceed is obtained from the  
4 customer. No charge shall be made for work done or parts supplied in excess of the  
5 estimated price without the oral or written consent of the customer that shall be  
6 obtained at some time after it is determined that the estimated price is insufficient and  
7 before the work not estimated is done or the parts not estimated are supplied. Written  
8 consent or authorization for an increase in the original estimated price may be  
9 provided by electronic mail or facsimile transmission from the customer. The bureau  
10 may specify in regulation the procedures to be followed by an automotive repair  
11 dealer when an authorization or consent for an increase in the original estimated price  
12 is provided by electronic mail or facsimile transmission. If that consent is oral, the  
13 dealer shall make a notation on the work order of the date, time, name of person  
14 authorizing the additional repairs and telephone number called, if any, together with a  
15 specification of the additional parts and labor and the total additional cost, and shall  
16 do either of the following:

17 (1) Make a notation on the invoice of the same facts set forth in the  
18 notation on the work order.

19 (2) Upon completion of repairs, obtain the customer's signature or initials  
20 to an acknowledgment of notice and consent, if there is an oral consent of the  
21 customer to additional repairs, in the following language:

22 I acknowledge notice and oral approval of an increase in the original  
23 estimated price.

24 \_\_\_\_\_  
25 (signature or initials)

26 Nothing in this section shall be construed as requiring an automotive  
27 repair dealer to give a written estimated price if the dealer does not agree to perform  
28 the requested repair.

18. Section 9889.7 of the Code states:

19 The expiration or suspension of a license by operation of law or by order  
20 or decision of the director or a court of law, or the voluntary surrender of a license by  
21 a licensee shall not deprive the director of jurisdiction to proceed with any  
22 investigation of or action or disciplinary proceedings against such licensee, or to  
23 render a decision suspending or revoking such license.

24 19. Section 9884.13 of the Code provides, in pertinent part, that the expiration of a  
25 valid registration shall not deprive the Director of jurisdiction to proceed with a disciplinary  
26 proceeding against an automotive repair dealer or to render a decision invalidating a registration  
27 temporarily or permanently.  
28

1           20.     Section 44002 of the Health and Safety Code provides, in pertinent part, that the  
2 Director has all the powers and authority granted under the Automotive Repair Act for enforcing  
3 the Motor Vehicle Inspection Program.

4           21.     Section 44072.2 of the Health and Safety Code states, in pertinent part:

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

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

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

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

15           22.     Section 44072.6 of the Health and Safety Code provides, in pertinent part, that the  
16 expiration or suspension of a license by operation of law, or by order or decision of the  
17 Director of Consumer Affairs, or a court of law, or the voluntary surrender of the license shall not  
18 deprive the Director of jurisdiction to proceed with disciplinary action.

19           23.     Section 44072.8 of the Health and Safety Code states:

20                     When a license has been revoked or suspended following a hearing under  
21 this article, any additional license issued under this chapter in the name of the  
22 licensee may be likewise revoked or suspended by the director.

#### 23                                     **COST RECOVERY**

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

#### 28                                     **FACTUAL BACKGROUND**

          25.     From on or around June 2, 2011 to on or around September 1, 2011, the Bureau  
conducted an undercover investigation of Respondent Ulises' auto repair and smog, brake, and  
lamp inspection facility. The investigation involved three undercover vehicles and revealed that  
Respondent Ulises improperly issued two smog certificates of compliance, two brake certificates

1 of compliance, and one lamp certificate of compliance, with each certificate signed by either  
 2 Respondent Guizar or Respondent Uribe as set forth in Tables 1 and 3, below. In addition, a  
 3 second lamp certificate of compliance, while properly issued, contained incorrect information, as  
 4 set forth in Table 2, below.

5 **Table 1: Improper Certificates by Respondent Guizar**

Date	Vehicle	Certificate	Details
June 2, 2011	1997 Honda Accord	Smog Check	Vehicle lacked working MIL (Malfunction Indicator Lamp).
June 14, 2011	1997 Honda Accord	Brake Adjustment	Vehicle's wheels were not removed during inspection and vehicle was not road-tested. Also, vehicle's rear-brake drums were too large and its front disk brake rotors were too thin.

12  
 13 **Table 2: Proper Certificate but with Incorrect Information by Respondent Guizar**

Date	Vehicle	Certificate	Details
June 14 2011	1997 Honda Accord	Lamp Adjustment	Semaphore type signals and spot lamps were marked as inspected or repaired; the vehicle, however, was not equipped with semaphore type signals or spot lamps.

19 **Table 3: Improper Certificates by Respondent Uribe**

Date	Vehicle	Certificate	Details
June 17, 2011	1993 Honda Accord	Smog Check	Vehicle's ignition timing was beyond manufacturer's specifications.
September 1, 2011	1990 Chevrolet truck	Brake Adjustment	Vehicle's wheels were not removed during inspection and vehicle was not road-tested. Also, vehicle's rear-brake drums were too large and its front disk brake rotors were too thin.
September 1, 2011	1990 Chevrolet truck	Lamp Adjustment	Vehicle had rear back-up light that did not work.

**UNDERCOVER VEHICLE NO. 1: 1997 HONDA ACCORD**

1  
2           26.    On June 2, 2011, an undercover Bureau operator (“operator”) drove a 1997 Honda  
3 Accord to Respondent Ulises’ facility and requested a lamp, brake, and smog inspection. The  
4 vehicle could not properly pass a brake inspection in that both front brake rotors were below  
5 factory allowable specifications (undersized), and both rear brake drums were above factory  
6 diameter specifications (oversized). In addition, the vehicle could not pass a lamp inspection, in  
7 that both front headlights were out of adjustment, and one of the front turn signal lenses was  
8 cracked. Finally, the vehicle could not pass a smog inspection in that it was missing the  
9 Malfunction Indicator Lamp in the instrument cluster.

10           27.    The operator was not provided with a written estimate but was told the cost for the  
11 inspections would be \$135.

12           28.    Respondent Guizar performed a smog inspection, signed a Vehicle Inspection  
13 Report , and had a Smog Certificate of Compliance issued. He told the operator he would not do  
14 the lamp and brake inspection until the cracked front turn signal lens was repaired. Respondent  
15 was charged \$45 for the smog certificate.

16           29.    On June 14, 2011, the operator returned to Respondent Ulises’ facility after the  
17 broken turn signal was replaced and asked for a brake and lamp inspection. The operator was not  
18 provided with a written estimate. Respondent Guizar signed a Lamp Certificate of Adjustment  
19 and a Brake Certificate of Adjustment for the vehicle. Tthe operator paid \$90 for the  
20 certifications.

21           30.    In issuing the lamp certificate of adjustment, Respondent Guizar marked that  
22 semaphore type signals and spot lamps were inspected or repaired; the vehicle, however, was not  
23 equipped with semaphore type signals or spot lamps.

24           31.    In conducting the brake inspection, Respondent Guizar failed to remove the vehicle’s  
25 wheels or to road test the vehicle. In addition, he issued a Certificate of Adjustment despite the  
26 vehicle’s rear-brake drums being too large and its front disk brake rotors too thin.

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Untrue or Misleading Statements)**

3 32. Respondent Ulises' registration is subject to discipline under Code section 9884.7,  
4 subdivision (a)(1), in that on or about June 14, 2011, regarding the 1997 Honda Accord, it made  
5 untrue or misleading statements, as follows:

6 a. Respondent Ulises and Respondent Guizar represented in the Brake Certificate of  
7 Adjustment that the applicable inspections had been performed on the vehicle's brake system  
8 when, in fact, they had not.

9 b. Respondent Ulises and Respondent Guizar represented in the Brake Certificate of  
10 Adjustment that the vehicle's front brake rotors and rear brake drums were in satisfactory  
11 condition when, in fact, they were not.

12 **SECOND CAUSE FOR DISCIPLINE**

13 **(Fraud)**

14 33. Respondent Ulises' registration is subject to discipline under Code section 9884.7,  
15 subdivision (a)(4), in that on or about June 14, 2011, it committed acts that constitute fraud by  
16 accepting payment from the operator for performing the applicable inspections, adjustments, or  
17 repairs of the brake system on the vehicle as specified by the Bureau and in accordance with the  
18 Vehicle Code. In fact, Respondent Ulises failed to perform the necessary inspections,  
19 adjustments, or repairs in compliance with Bureau Regulations and/or the Vehicle Code. In  
20 addition, Respondent Ulises' issued a Brake Certificate of Adjustment certifying that the vehicle's  
21 brake system was in satisfactory condition when, in fact, the front brake rotors were undersized  
22 and the rear brake drums were oversized.

23 **THIRD CAUSE FOR DISCIPLINE**

24 **(Gross Negligence)**

25 34. Respondent Ulises' registration is subject to discipline under Code section 9884.7,  
26 subdivision (a)(5), in that on or about June 14, 2011, regarding the 1997 Honda Accord, it  
27 committed acts constituting gross negligence, in that Respondent failed to properly inspect the  
28 brake system on the vehicle and issued a Brake Certificate of Adjustment certifying that the

1 vehicle's brake system was in compliance with Bureau Regulations and/or the Vehicle Code  
2 when, in fact, the front brake rotors were undersized and the rear brake drums were oversized.

3 **FOURTH CAUSE FOR DISCIPLINE**

4 **(Departure from Trade Standards)**

5 35. Respondent Ulises' registration is subject to discipline under Code section 9884.7,  
6 subdivision (a)(7), in that on or about June 14, 2011, regarding the 1997 Honda Accord, it  
7 willfully departed from or disregarded accepted trade standards for good and workmanlike repair  
8 without the consent of the owner or the owner's duly authorized representative in a material  
9 respect, in that it failed to inspect the brake system on the vehicle in accordance with the vehicle's  
10 manufacturer standards and/or current standards, specifications, recommended procedures, and/or  
11 directives issued by the Bureau. Respondent issued a Brake Certificate of Adjustment certifying  
12 that the vehicle's brake system was in compliance with Bureau Regulations and/or the Vehicle  
13 Code when, in fact, it was not.

14 **FIFTH CAUSE FOR DISCIPLINE**

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

16 36. Respondent Ulises' registration is subject to discipline under Code section 9884.7,  
17 subdivision (a)(6), in that on or about June 14, 2011, regarding the 1997 Honda Accord, it failed  
18 to comply with Code section 9889.16 by issuing a Brake Certificate of Adjustment certifying that  
19 the brake system was in compliance with the regulations of the Vehicle Code when, in fact, it was  
20 not.

21 **SIXTH CAUSE FOR DISCIPLINE**

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

23 37. Respondent Ulises' registration is subject to discipline under Code section 9884.7,  
24 subdivision (a)(6), in that on or about June 14, 2011, regarding the 1997 Honda Accord, it failed  
25 to comply with provisions of California Code of Regulations, title 16, in the following material  
26 respects:

27 a. **Section 3305, subdivision (a):** Respondent Ulises and Respondent Guizar failed  
28 to perform the inspection of the brake system on the vehicle in accordance with the vehicle's

1 manufacturer standards and/or current standards, specifications, recommended procedures, and/or  
2 directives issued by the Bureau.

3 b. Section 3321, subdivision (c)(2): Respondent Ulises and Respondent Guizar  
4 issued a Brake Certificate of Adjustment to the vehicle when the brake system on the vehicle had  
5 not been properly tested or inspected.

6 **SEVENTH CAUSE FOR DISCIPLINE**

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

8 38. Respondent Ulises' brake and lamp station licenses and Respondent Guizar's  
9 brake and lamp adjuster licenses are subject to discipline under Code section 9889.3, subdivision  
10 (a), in that on June 14, 2011, regarding the 1997 Honda Accord, they violated section 9889.16 of  
11 the Code, relating to their licensed activities.

12 **EIGHTH CAUSE FOR DISCIPLINE**

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

14 39. Respondent Ulises' brake and lamp station licenses and Respondent Guizar's  
15 brake and lamp adjuster licenses are subject to discipline under Code section 9889.3, subdivision  
16 (c), in that on or about June 14, 2011, regarding the 1997 Honda Accord, they failed to comply  
17 with provisions of California Code of Regulations, title 16, sections 3305, subdivision (a), and  
18 3321, subdivision (c)(2).

19 **NINTH CAUSE FOR DISCIPLINE**

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

21 40. Respondent Ulises' brake and lamp station licenses and Respondent Guizar's  
22 brake and lamp adjuster licenses are subject to discipline under Code section 9889.3, subdivision  
23 (d), in that on or about June 14, 2011, regarding the 1997 Honda Accord, they committed acts  
24 involving dishonesty, fraud, or deceit whereby another was injured.

25 **TENTH CAUSE FOR DISCIPLINE**

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

27 41. Respondent Ulises' smog check station license and Respondent Guizar's advanced  
28 emission technician license are subject to discipline under Health and Safety Code section

1 44072.2, subdivision (d), in that on or about June 2, 2011, they committed a dishonest, fraudulent,  
2 or deceitful act whereby another was injured.

3 **ELEVENTH CAUSE FOR DISCIPLINE**

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

5 42. Respondent Ulises' smog check station license and Respondent Guizar's technician  
6 license are subject to discipline under Health & Safety Code section 44072.2, subdivision (a), in  
7 that on or about June 2, 2011, regarding the 1997 Honda Accord, they failed to comply with the  
8 following sections of the Health and Safety Code:

9 a. **Section 44012, subdivision (a):** Respondent Ulises and Respondent Guizar failed to  
10 determine that all emission control devices and systems required by law were installed and  
11 functioning correctly in accordance with test procedures.

12 b. **Section 44012, subdivision (f):** Respondent Ulises and Respondent Guizar failed to  
13 perform emission control tests on the vehicle in accordance with procedures prescribed by the  
14 department.

15 **TWELFTH CAUSE FOR DISCIPLINE**

16 **(Failure to Properly Perform Required Testing)**

17 43. Respondent Ulises' smog check station license is subject to discipline under Health &  
18 Safety Code section 44015, subdivision (b), in that on or about June 2, 2011, regarding the 1997  
19 Honda Accord, the station issued a Certificate of Compliance for the vehicle without properly  
20 testing and inspecting the vehicle to determine if it was in compliance with Health & Safety Code  
21 section 44012.

22 **THIRTEENTH CAUSE FOR DISCIPLINE**

23 **(Failure to Properly Perform Required Testing)**

24 44. Respondent Guizar's technician license is subject to discipline under Health & Safety  
25 Code section 44032 in that on or about June 2, 2011, regarding the 1997 Honda Accord, he failed  
26 to perform a test of the emission control devices and systems on the vehicle in accordance with  
27 Health and Safety Code section 44012.

1 **FOURTEENTH CAUSE FOR DISCIPLINE**

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

3 45. Respondent Ulises' smog check station license and Respondent Guizar's technician  
4 license are subject to discipline under Health & Safety Code section 44072.2, subdivision (c), in  
5 that on or about June 2, 2011, regarding the 1997 Honda Accord, they failed to comply with  
6 provisions of California Code of Regulations, title 16, as follows:

7 a. **Section 3340.35, subdivision (c):** Respondent Ulises issued a Certificate of  
8 Compliance for the vehicle even though the vehicle had not been inspected in accordance with  
9 California Code of Regulations, title 16, section 3340.42.

10 b. **Section 3340.30, subdivision (a):** Respondent Guizar failed to test and inspect the  
11 vehicle in accordance with Health and Safety Code sections 44012 and 44035 and California  
12 Code of Regulations, title 16, section 3340.42.

13 c. **Section 3340.42:** Respondent Ulises and Respondent Guizar failed to conduct the  
14 required smog tests on the vehicle in accordance with the Bureau's specifications.

15 **FIFTEENTH CAUSE FOR DISCIPLINE**

16 **(Failure to Provide Written Estimate)**

17 46. Respondent Ulises' smog check station license is subject to discipline under Code  
18 section 9884.9, subdivision (a), and California Code of Regulations, title 16, section 3353,  
19 subdivision (a), in that on or about June 2, 2011, regarding the 1997 Honda Accord, it failed to  
20 provide the customer with a written estimate for the inspections to be performed.

21 **UNDERCOVER CAR NO. 2: 1993 HONDA ACCORD**

22 47. On or about June 17, 2011, an undercover Bureau operator ("operator") drove a  
23 1993 Honda Accord to Respondent Ulises' facility and requested a lamp, brake, and smog  
24 inspection. The vehicle could not pass a brake inspection, in that both front brake rotors were  
25 beyond factory allowable specifications, and both rear brake rotors were beyond factory diameter  
26 specifications. In addition, the vehicle could not pass a lamp inspection, in that both front  
27 headlights were out of adjustment and the vehicle was missing its high beam indicator lamp in the  
28

1 dash. Finally, the vehicle could not properly pass smog inspection because its ignition timing was  
2 adjusted out of specification.

3 48. The operator was told the smog test would cost \$45, but was not provided a  
4 written estimate. Respondent Uribe performed the smog test and signed a Vehicle Inspection  
5 Report, and had a Smog Certificate of Compliance issued for the vehicle.

6 49. Respondent Uribe adjusted the misaligned headlights, but declined to provide  
7 brake and lamp certificates because of the too-thin brake rotors. He stated that he would do both  
8 inspections after the brakes were repaired.

9 **SIXTEENTH CAUSE FOR DISCIPLINE**

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

11 50. Respondent Ulises' smog check station license and Respondent Uribe's technician  
12 license are subject to discipline under Health & Safety Code section 44072.2, subdivision (a), in  
13 that on or about June 17, 2011, regarding the 1993 Honda Accord, they failed to comply with the  
14 following sections of the Health and Safety Code:

15 a. **Section 44012, subdivision (a):** Respondent Ulises and Respondent Uribe failed to  
16 determine that all emission control devices and systems required by law were installed and  
17 functioning correctly in accordance with test procedures.

18 b. **Section 44012, subdivision (f):** Respondent Ulises and Respondent Uribe failed to  
19 perform emission control tests on the vehicle in accordance with procedures prescribed by the  
20 department.

21 **SEVENTEENTH CAUSE FOR DISCIPLINE**

22 **(Failure to Properly Perform Required Testing)**

23 51. Respondent Ulises' smog check station license is subject to discipline under Health &  
24 Safety Code section 44015, subdivision (b), in that on or about June 17, 2011, regarding the 1993  
25 Honda Accord the station issued a Certificate of Compliance for the vehicle without properly  
26 testing and inspecting the vehicle to determine if it was in compliance with Health & Safety Code  
27 section 44012.

1 **EIGHTEENTH CAUSE FOR DISCIPLINE**

2 **(Failure to Properly Perform Required Testing)**

3 52. Respondent Uribe's technician license is subject to discipline under Health & Safety  
4 Code section 44032 in that on or about June 17, 2011, regarding the 1993 Honda Accord, he  
5 failed to perform a test of the emission control devices and systems on the vehicle in accordance  
6 with Health and Safety Code section 44012.

7 **NINETEENTH CAUSE FOR DISCIPLINE**

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

9 53. Respondent Ulises' station license and Respondent Uribe's technician license are  
10 subject to discipline under Health & Safety Code section 44072.2, subdivision (c), in that on or  
11 about June 17, 2011, regarding the 1993 Honda Accord, they failed to comply with provisions of  
12 California Code of Regulations, title 16, as follows:

13 a. **Section 3340.30, subdivision (a):** Respondent Uribe issued a Certificate of  
14 Compliance for the vehicle even though the vehicle had not been inspected in accordance with  
15 California Code of Regulations, title 16, section 3340.42.

16 b. **Section 3340.35, subdivision (c):** Respondent Ulises issued a Certificate of  
17 Compliance for the vehicle even though the vehicle had not been inspected in accordance with  
18 section 3340.42.

19 c. **Section 3340.42:** Respondent Ulises and Respondent Uribe failed to conduct the  
20 required smog tests on the vehicle in accordance with the Bureau's specifications.

21 **TWENTIETH CAUSE FOR DISCIPLINE**

22 **(Failure to Provide Written Estimate)**

23 54. Respondent Ulises' smog check station license is subject to discipline under Code  
24 section 9884.9, subdivision (a), and California Code of Regulations, title 16, section 3353,  
25 subdivision (a), in that on or about June 17, 2011, regarding the 1993 Honda Accord, it failed to  
26 provide the customer with a written estimate for the inspections to be performed.



1 **TWENTY-FIRST CAUSE FOR DISCIPLINE**

2 **(Untrue or Misleading Statements)**

3 60. Respondent Ulises' registration is subject to discipline under Code section 9884.7,  
4 subdivision (a)(1), in that on or about September 1, 2011, regarding the 1990 Chevrolet truck, it  
5 made untrue or misleading statements, as follows:

6 a. Respondent Ulises represented in the Brake Certificate of Adjustment that the  
7 applicable inspections had been performed on the vehicle's brake system when, in fact, they had  
8 not.

9 b. Respondent Ulises represented in the Brake Certificate of Adjustment that the  
10 vehicle's front brake rotors and rear brake drums were in satisfactory condition when, in fact, they  
11 were not.

12 c. Respondent issued a Lamp Certificate of Adjustment certifying that the vehicle's  
13 lamps were in compliance with Bureau Regulations and/or the Vehicle Code when, in fact, they  
14 were not (one of the back-up lamps was not illuminating).

15 **TWENTY-SECOND CAUSE FOR DISCIPLINE**

16 **(Fraud)**

17 61. Respondent Ulises' registration is subject to discipline under Code section 9884.7,  
18 subdivision (a)(4), in that on or about September 1, 2011, it committed acts that constitute fraud  
19 by accepting payment from the operator for performing the applicable inspections, adjustments,  
20 or repairs of the brake system on the vehicle as specified by the Bureau and in accordance with  
21 the Vehicle Code. In fact, Respondent Ulises failed to perform the necessary inspections,  
22 adjustments, or repairs in compliance with Bureau Regulations and/or the Vehicle Code. In  
23 addition, Respondent Ulises' issued a Brake Certificate of Adjustment certifying that the vehicle's  
24 brake system was in satisfactory condition when, in fact, the front brake rotors were undersized  
25 and the rear brake drums were oversized. In addition, Respondent issued a Lamp Certificate of  
26 Adjustment certifying that the vehicle's lamps were in compliance with Bureau Regulations  
27 and/or the Vehicle Code when, in fact, they were not (one of the back-up lamps was not  
28 illuminating).

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**TWENTY-THIRD CAUSE FOR DISCIPLINE**

**(Gross Negligence)**

62. Respondent Ulises' registration is subject to discipline under Code section 9884.7, subdivision (a)(5), in that on or about September 1, 2011, regarding the 1990 Chevrolet truck, it committed acts constituting gross negligence, in that Respondent failed to properly inspect the brake system on the vehicle and issued a Brake Certificate of Adjustment certifying that the vehicle's brake system was in compliance with Bureau Regulations and/or the Vehicle Code when, in fact, the front brake rotors were undersized and the rear brake drums were oversized. In addition, Respondent issued a Lamp Certificate of Adjustment certifying that the vehicle's lamps were in compliance with Bureau Regulations and/or the Vehicle Code when, in fact, they were not (one of the back-up lamps was not illuminating).

**TWENTY-FOURTH CAUSE FOR DISCIPLINE**

**(Departure from Trade Standards)**

63. Respondent Ulises' registration is subject to discipline under Code section 9884.7, subdivision (a)(7), in that on or about September 1, 2011, regarding the 1990 Chevrolet truck, it willfully departed from or disregarded accepted trade standards for good and workmanlike repair without the consent of the owner or the owner's duly authorized representative in a material respect, in that it failed to inspect the lamps and brake system on the vehicle in accordance with the vehicle's manufacturer standards and/or current standards, specifications, recommended procedures, and/or directives issued by the Bureau. Respondent issued a Lamp Certificate of Adjustment and a Brake Certificate of Adjustment certifying that the vehicle's lamps and brake system were in compliance with Bureau Regulations and/or the Vehicle Code when, in fact, they were not.

**TWENTY-FIFTH CAUSE FOR DISCIPLINE**

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

64. Respondent Ulises' registration is subject to discipline under Code section 9884.7, subdivision (a)(6), in that on or about September 1, 2012, regarding the 1990 Chevrolet truck, it failed to comply with Code section 9889.16 by issuing a Lamp Certificate of Adjustment and a

1 Brake Certificate of Adjustment certifying that the vehicle's lamps and brake system were in  
2 compliance with the regulations of the Vehicle Code when, in fact, they were not.

3 **TWENTY-SIXTH CAUSE FOR DISCIPLINE**

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

5 65. Respondent Ulises' registration is subject to discipline under Code section 9884.7,  
6 subdivision (a)(6), in that on or about September 1, 2011, regarding the 1990 Chevrolet truck, it  
7 failed to comply with provisions of California Code of Regulations, title 16, in the following  
8 material respects:

9 a. **Section 3305, subdivision (a):** Respondent Ulises failed to perform the inspection  
10 of the lamps and brake system on the vehicle in accordance with the vehicle's manufacturer  
11 standards and/or current standards, specifications, recommended procedures, and/or directives  
12 issued by the Bureau.

13 b. **Section 3321, subdivision (c)(2):** Respondent Ulises and Respondent Uribe  
14 issued a Brake Certificate of Adjustment for a the vehicle when the brake system on the vehicle  
15 had not been properly tested or inspected.

16 c. **Section 3316, subdivision (d)(2):** Respondent Ulises and Respondent Uribe  
17 issued a Lamp Certificate of Adjustment for a vehicle without properly testing all the lamps it  
18 was required to test.

19 **TWENTY-SEVENTH CAUSE FOR DISCIPLINE**

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

21 66. Respondent Ulises' brake and lamp station licenses and Respondent Uribe's brake  
22 and lamp adjuster licenses are subject to discipline under Code section 9889.3, subdivision (a), in  
23 that on September 1, 2011, regarding the 1990 Chevrolet truck, they violated section 9889.16 of  
24 the Code, relating to their licensed activities.

25 **TWENTY-EIGHTH CAUSE FOR DISCIPLINE**

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

27 67. Respondent Ulises' brake and lamp station licenses and Respondent Uribe's brake  
28 and lamp adjuster licenses are subject to discipline under Code section 9889.3, subdivision (c), in

1 that on or about September 1, 2011, regarding the 1990 Chevrolet truck, they failed to comply  
2 with provisions of California Code of Regulations, title 16, sections 3305, subdivision (a), and  
3 3321, subdivision (c)(2).

4 **TWENTY-NINTH CAUSE FOR DISCIPLINE**

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

6 68. Respondent Ulises' brake and lamp station licenses and Respondent Guizar's  
7 brake and lamp adjuster licenses are subject to discipline under Code section 9889.3, subdivision  
8 (d), in that on or about September 1, 2011, regarding the 1990 Chevrolet truck, they committed  
9 acts involving dishonesty, fraud, or deceit whereby another was injured.

10 **THIRTIETH CAUSE FOR DISCIPLINE**

11 **(Failure to Provide Written Estimate)**

12 69. Respondent Ulises' smog check station license is subject to discipline under Code  
13 section 9884.9, subdivision (a), and California Code of Regulations, title 16, section 3353,  
14 subdivision (a), in that on or about September 1, 2011, regarding the 1990 Chevrolet truck, it  
15 failed to provide the customer with a written estimate for the inspections to be performed.

16 **OTHER MATTERS**

17 70. Under Code section 9884.7, subdivision (c), the director may suspend, revoke, or  
18 place on probation the registrations for all places of business operated in this state by Ulises  
19 Guizar, upon a finding that he has, or is, engaged in a course of repeated and willful violation of  
20 the laws and regulations pertaining to an automotive repair dealer.

21 71. Under Health and Safety Code section 44072.8, if Smog Check Station License  
22 Number RC 231103 issued to Ulises Guizar doing business as Ulises Auto Smog and Repair, is  
23 revoked or suspended, any additional license issued under this chapter in the name of the licensee  
24 may be likewise revoked or suspended by the director, including Advanced Emission Specialist  
25 Technician License Number EA 141286.

26 72. Under Code section 9889.9, if Lamp Station License Number LS 231103, issued  
27 to Ulises Guizar, doing business as Ulises Auto Smog and Repair, is revoked or suspended, any  
28 additional license issued under Articles 5 and 6 of Chapter 20.3 of the Business and Professions

1 Code in the name of the licensee may be likewise revoked or suspended by the director, including  
2 Lamp Adjuster License Number LA 141286.

3 73. Under Code section 9889.9, if Brake Station License Number BS 231103, issued  
4 to Ulises Guizar, doing business as Ulises Auto Smog and Repair, is revoked or suspended, any  
5 additional license issued under Articles 5 and 6 of Chapter 20.3 of the Business and Professions  
6 Code in the name of the licensee may be likewise revoked or suspended by the director, including  
7 Brake Adjuster License Number BA 141286.

8 74. Under Health and Safety Code section 44072.8, if Advanced Emission Specialist  
9 Technician License Number EA 148163, issued to Justino L. Uribe, is revoked or suspended, any  
10 additional license issued under this chapter in the name of the licensee may be likewise revoked  
11 or suspended by the director.

12 75. Under Code section 9889.9, if Brake Adjuster License Number BA 148163,  
13 issued to Justino L. Uribe, is revoked or suspended, any additional license issued under Articles 5  
14 and 6 of Chapter 20.3 of the Business and Professions Code in the name of the licensee may be  
15 likewise revoked or suspended by the director.

16 76. Under Code section 9889.9, if Lamp Adjuster License Number LA 148163, issued  
17 to Justino L. Uribe, is revoked or suspended, any additional license issued under Articles 5 and 6  
18 of Chapter 20.3 of the Business and Professions Code in the name of the licensee may be likewise  
19 revoked or suspended by the director.

20 **PRAYER**

21 **THEREFORE**, Complainant requests that a hearing be held on the matters alleged in this  
22 Accusation, and that following the hearing, the Director of Consumer Affairs issue a decision:

23 1. Revoking, suspending, or placing on probation Automotive Repair Dealer  
24 Registration No. ARD 231103, issued to Ulises Guizar, doing business as Ulises Auto Smog and  
25 Repair;

26 2. Revoking, suspending, or placing on probation any other automotive repair dealer  
27 registration issued to Ulises Guizar;

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- 1           3.     Revoking or suspending Smog Check Station License Number RC 231103, issued  
2 to Ulises Guizar, doing business as Ulises Auto Smog and Repair;
- 3           4.     Revoking or suspending any additional license issued under chapter 5, of the  
4 Health and Safety Code in the name of Ulises Guizar;
- 5           5.     Revoking or suspending Lamp Station License Number LS 231103, issued to  
6 Ulises Guizar, doing business as Ulises Auto Smog and Repair;
- 7           6.     Revoking or suspending Brake Station License Number BS 231103, issued to  
8 Ulises Guizar, doing business as Ulises Auto Smog and Repair;
- 9           7.     Revoking or suspending any additional license issued under Articles 5 and 6 of  
10 Chapter 20.3 of the Business and Professions Code in the name of Ulises Guizar;
- 11          8.     Revoking or suspending Advanced Emission Specialist Technician License  
12 Number EA 141286, issued to Ulises Guizar;
- 13          9.     Revoking or suspending any additional license issued under Chapter 5 of the  
14 Health and Safety Code in the name of Ulises Guizar;
- 15          10.    Revoking or suspending Brake Adjuster License Number BA 141286, issued to  
16 Ulises Guizar;
- 17          11.    Revoking or suspending Lamp Adjuster License Number LA 141286, issued to  
18 Ulises Guizar;
- 19          12.    Revoking or suspending any additional license issued under Articles 5 and 6 of  
20 Chapter 20.3 of the Business and Professions Code in the name of Ulises Guizar;
- 21          13.    Revoking or suspending Advanced Emission Specialist Technician License  
22 Number EA 148163, issued to Justino L. Uribe;
- 23          14.    Revoking or suspending any additional license issued under Chapter 5 of the  
24 Health and Safety Code in the name of Justino L. Uribe;
- 25          15.    Revoking or suspending Brake Adjuster License Number BA 148163, issued to  
26 Justino L. Uribe;
- 27          16.    Revoking or suspending Lamp Adjuster License Number LA 148163, issued to  
28 Justino L. Uribe;

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17. Revoking or suspending any additional license issued under Articles 5 and 6 of Chapter 20.3 of the Business and Professions Code in the name of Justino L. Uribe;

18. Ordering Ulises Guizar and Justino L. Uribe to pay the Director of Consumer Affairs the reasonable costs of the investigation and enforcement of this case, under Code section 125.3; and

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

DATED: May 17, 2012



JOHN WALLAUCH  
Chief  
Bureau of Automotive Repair  
Department of Consumer Affairs  
State of California  
*Complainant*

SF2012900827