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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 First Amended Accusation
13 Against:

14 **HARRIS ELECTRIC SERVICE**
15 **JOHN C. CLARKE, OWNER**
487 S. Hwy 59
Merced, CA 95340-4615

16 **Automotive Repair Dealer Reg. No. ARD 117908**
17 **Smog Check Station License No. RC 117908**
18 **Lamp Station License No. LS 117908**
19 **Brake Station License No. BS 117908**

20 and

21 **JOHN CHARLES INTARDONATO**
22 P.O. Box 2772
Merced, CA 95344

23 **Smog Check Inspector License No. EO 005523**
24 **Smog Check Repair Technician License No.**
25 **EI 005523 (formerly Advanced Emission**
26 **Specialist Technician License No. EA 005523)**
27 **Brake Adjuster License No. BA 005523**
28 **Lamp Adjuster License No. LA 005523**

Respondents.

Case No. 79/16-26

FIRST AMENDED ACCUSATION

(Smog Check)

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1 Complainant alleges:

2 **PARTIES**

3 1. Patrick Dorais ("Complainant") brings this First Amended Accusation solely in his
4 official capacity as the Chief of the Bureau of Automotive Repair ("Bureau"), Department of
5 Consumer Affairs. This First Amended Accusation replaces in its entirety Accusation No. 79/16-
6 26 filed on September 10, 2015.

7 **Harris Electric Service; John C. Clarke, Owner**

8 2. In or about 1985, the Director of Consumer Affairs ("Director") issued Automotive
9 Repair Dealer Registration Number ARD 117908 ("registration") to John C. Clarke ("Respondent
10 Clarke"), owner of Harris Electric Service. The registration was in full force and effect at all
11 times relevant to the charges brought herein and will expire on May 31, 2016, unless renewed.

12 3. On or about May 18, 2005, the Director issued Smog Check Station License Number
13 RC 117908 to Respondent Clarke. The smog check station license was in full force and effect at
14 all times relevant to the charges brought herein and will expire on May 31, 2016, unless renewed.

15 4. On or about June 8, 2005, the Director issued Lamp Station License Number LS
16 117908 to Respondent Clarke. The lamp station license was in full force and effect at all times
17 relevant to the charges brought herein and will expire on May 31, 2016, unless renewed.

18 5. On or about June 8, 2005, the Director issued Brake Station License Number BS
19 117908 to Respondent Clarke. The brake station license was in full force and effect at all times
20 relevant to the charges brought herein and will expire on May 31, 2016, unless renewed.

21 **John Charles Intardonato**

22 6. In or about 2002, the Director issued Advanced Emission Specialist Technician
23 License Number EA 005523 to John Charles Intardonato ("Respondent Intardonato"). The
24 advanced emission specialist technician license was due to expire on October 31, 2013. Pursuant
25 to California Code of Regulations, title 16, section 3340.28, subdivision (e), the license was
26 renewed, pursuant to Respondent's election, as Smog Check Inspector License Number EO
27 005523 and Smog Check Repair Technician License Number EI 005523 ("technician licenses"),

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1 effective August 21, 2013.¹ Respondent's technician licenses will expire on October 31, 2017,
2 unless renewed.

3 7. In or about 1981, the Director issued Brake Adjuster License Number BA 005523 to
4 Respondent Intardonato. The brake adjuster license expired on October 31, 2014, but was
5 renewed on July 10, 2015. The brake adjuster license will expire on October 31, 2018, unless
6 renewed.

7 8. In or about 1981, the Director issued Lamp Adjuster License Number LA 005523 to
8 Respondent Intardonato. The lamp adjuster license was in full force and effect at all times
9 relevant to the charges brought herein and will expire on October 31, 2017, unless renewed.

10 JURISDICTION

11 9. Business and Professions Code ("Bus. & Prof. Code") section 9884.7 provides that
12 the Director may revoke an automotive repair dealer registration.

13 10. Bus. & Prof. Code section 9884.13 provides, in pertinent part, that the expiration of a
14 valid registration shall not deprive the Director of jurisdiction to proceed with a disciplinary
15 proceeding against an automotive repair dealer or to render a decision temporarily or permanently
16 invalidating (suspending or revoking) a registration.

17 11. Bus. & Prof. Code section 9889.1 provides, in pertinent part, that the Director may
18 suspend or revoke any license issued under Articles 5 and 6 (commencing with section 9887.1) of
19 the Automotive Repair Act.

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

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

1 13. Health and Safety Code ("Health & Saf. Code") section 44002 provides, in pertinent
2 part, that the Director has all the powers and authority granted under the Automotive Repair Act
3 for enforcing the Motor Vehicle Inspection Program.

4 14. Health & Saf. Code section 44072.6 provides, in pertinent part, that the expiration or
5 suspension of a license by operation of law, or by order or decision of the Director of Consumer
6 Affairs, or a court of law, or the voluntary surrender of the license shall not deprive the Director
7 of jurisdiction to proceed with disciplinary action.

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

11 16. California Code of Regulations, title 16, section 3340.28, subdivision (e), states that
12 "[u]pon renewal of an unexpired Basic Area Technician license or an Advanced Emission
13 Specialist Technician license issued prior to the effective date of this regulation, the licensee may
14 apply to renew as a Smog Check Inspector, Smog Check Repair Technician, or both.

15 **STATUTORY AND REGULATORY PROVISIONS**

16 17. Bus. & Prof. Code section 9884.7 states, in pertinent part:

17 (a) The director, where the automotive repair dealer cannot show there
18 was a bona fide error, may deny, suspend, revoke, or place on probation the
19 registration of an automotive repair dealer for any of the following acts or omissions
20 related to the conduct of the business of the automotive repair dealer, which are done
21 by the automotive repair dealer or any automotive technician, employee, partner,
22 officer, or member of the automotive repair dealer.

23 (1) Making or authorizing in any manner or by any means whatever any
24 statement written or oral which is untrue or misleading, and which is known, or which
25 by the exercise of reasonable care should be known, to be untrue or misleading.

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27 (4) Any other conduct that constitutes fraud.

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(6) Failure in any material respect to comply with the provisions of this
chapter or regulations adopted pursuant to it.

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1 (c) Notwithstanding subdivision (b), the director may suspend, revoke or
2 place on probation the registration for all places of business operated in this state by
3 an automotive repair dealer upon a finding that the automotive repair dealer has, or is,
4 engaged in a course of repeated and willful violations of this chapter, or regulations
5 adopted pursuant to it.

6 18. Bus. & Prof. Code section 9884.9, subdivision (a), states, in pertinent part:

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

22 19. Bus. & Prof. Code section 9889.3 states, in pertinent part:

23 The director may suspend, revoke, or take other disciplinary action
24 against a license as provided in this article [Article 7 (commencing with section
25 9889.1) of the Automotive Repair Act] if the licensee or any partner, officer, or
26 director thereof:

27 (a) Violates any section of the Business and Professions Code which
28 relates to his or her licensed activities.

.....

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

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

.....

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

20. Bus. & Prof. Code section 9887.1 states, in pertinent part:

The director shall have the authority to issue licenses for official lamp
and brake adjusting stations and shall license lamp and brake adjusters. The licenses
shall be issued in accordance with this chapter and regulations adopted by the director
pursuant thereto . . . Licenses may be renewed upon application and payment of the
renewal fees if the application for renewal is made within the 30-day period prior to

1 the date of expiration. Persons whose licenses have expired shall immediately cease
2 the activity requiring a license . . .

3 21. Bus. & Prof. Code section 9888.3 states:

4 No person shall operate an "official" lamp or brake adjusting station
5 unless a license therefor has been issued by the director. No person shall issue, or
6 cause or permit to be issued, any certificate purporting to be an official lamp
7 adjustment certificate unless he or she is a licensed lamp adjuster or an official brake
8 adjustment certificate unless he or she is a licensed brake adjuster.

9 22. Bus. & Prof. Code section 9889.9 states that "[w]hen any license has been revoked or
10 suspended following a hearing under the provisions of this article [Article 7 (commencing with
11 section 9889.1) of the Automotive Repair Act], any additional license issued under Articles 5 and
12 6 of this chapter in the name of the licensee may be likewise revoked or suspended by the
13 director."

14 23. Bus. & Prof. Code section 22, subdivision (a), states:

15 "Board" as used in any provision of this Code, refers to the board in
16 which the administration of the provision is vested, and unless otherwise expressly
17 provided, shall include "bureau," "commission," "committee," "department,"
18 "division," "examining committee," "program," and "agency."

19 24. Bus. & Prof. Code section 477, subdivision (b), states, in pertinent part, that a
20 "license" includes "registration" and "certificate."

21 25. Health & Saf. Code section 44072.2 states, in pertinent part:

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

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

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

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

26 26. California Code of Regulations, title 16, section ("Regulation") 3305, subdivision (a),
27 states, in pertinent part, that [a]ll adjusting, inspecting, servicing, and repairing of brake systems

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1 and lamp systems for the purpose of issuing any certificate of compliance or adjustment shall be
2 performed in official stations, by official adjusters . . . "

3 27. Regulation 3308 states:

4 An official station shall stop performing the functions for which it has
5 been licensed when it no longer has the services of a licensed adjuster, or when its
6 station license has expired or has been surrendered, suspended, or revoked. The
7 station must dispose of materials related to its formerly licensed activity according to
8 these provisions.

9 (a) An official station that no longer has the services of a licensed adjuster
10 shall immediately remove or cover the official station sign in accordance with
11 subsection (b) of this section. If the station does not employ a licensed adjuster within
12 60 days, the station shall surrender its official station license to the bureau and shall
13 return to the bureau all unused certificates of adjustments bought by the station to
14 carry out the function for which it is no longer licensed.

15 (b) An official station that is no longer authorized to perform the function
16 for which it has been licensed shall remove or cover the sign pertaining to the
17 licensed function. A station that has a multipurpose sign shall cover those portions of
18 the sign that pertain to the functions for which it is no; longer licensed.

19 (c) When an official station license has expired or has been surrendered,
20 suspended, or revoked, the station shall return to the bureau all unused certificates
21 purchased by the station to carry out the function for which it is no longer licensed.

22 28. Regulation 3373 states:

23 No automotive repair dealer or individual in charge shall, in filling out an
24 estimate, invoice, or work order, or record required to be maintained by section
25 3340.15(f) of this chapter, withhold therefrom or insert therein any statement or
26 information which will cause any such document to be false or misleading, or where
27 the tendency or effect thereby would be to mislead or deceive customers, prospective
28 customers, or the public.

COST RECOVERY

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

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1 were installed on L. J.'s 1998 GMC C1500 pickup. In fact, only one oxygen sensor was installed
2 on the vehicle.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Fraud)**

5 35. Respondent Clarke's registration is subject to disciplinary action pursuant to Bus. &
6 Prof. Code section 9884.7, subdivision (a)(4), in that Respondent committed an act constituting
7 fraud, as follows: Respondent charged or obtained payment from Valley CAN and/or others for
8 installing two oxygen sensors on L. J.'s 1998 GMC C1500 pickup. In fact, only one oxygen
9 sensor was installed on the vehicle.

10 **THIRD CAUSE FOR DISCIPLINE**

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

12 36. Respondent Clarke's smog check station license is subject to disciplinary action
13 pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed
14 dishonest, fraudulent, or deceitful acts whereby another is injured, as set forth in paragraphs 34
15 and 35 above.

16 **UNDERCOVER OPERATION #1: 1996 CHEVROLET**

17 37. On or about September 26, 2014, an undercover operator with the Bureau
18 ("operator") took the Bureau's 1996 Chevrolet to Clarke's facility and told a female employee, in
19 Spanish, that she needed a smog inspection on the vehicle. The pre-converter oxygen sensor
20 ground circuit wire on the Bureau-documented vehicle had been severed, resulting in excessive
21 tailpipe emissions and the illumination of the malfunction indicator lamp on the dashboard. The
22 female employee left the counter area and returned with Respondent Intardonato ("Intardonato").
23 Intardonato told the operator that it would be a 30 minute wait for the inspection. Approximately
24 one hour later, Intardonato returned to the counter area with an unidentified male employee. The
25 male employee told the operator that the vehicle failed the inspection and that a diagnosis needed
26 to be performed at a cost of \$85. The operator authorized the diagnosis. The operator was not
27 asked to sign a repair order and was not given a written estimate. The operator left the facility.

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1 38. At approximately 3:30 p.m. that same day, the operator called the facility and spoke
2 with the male employee. The employee told the operator that the oxygen sensor needed
3 replacement at a total cost of \$274.59. The operator authorized the repair.

4 39. At approximately 5:00 p.m., the operator received a call from the male employee.
5 The employee stated that the vehicle failed the smog inspection even though the oxygen sensor
6 had been replaced.

7 40. At approximately 5:15 p.m., the operator called the facility and was told that the
8 repairs would now cost \$650, which would include the replacement of the catalytic converter.

9 41. On or about September 29, 2014, a representative of the Bureau, acting in an
10 undercover capacity, called the facility and spoke with Intardonato. The representative indicated
11 that he was a friend of the operator's. Intardonato told the representative that he checked the
12 vehicle further, that it needed a computer, and that the total repair costs would be \$1,075,
13 including the catalytic converter and computer. Later, Intardonato told the representative that he
14 would not be sure whether the catalytic converter was needed until the computer was replaced.
15 The representative asked Intardonato if the oxygen sensor was bad, and he said, "yes". The
16 representative authorized Intardonato to replace the computer on the vehicle.

17 42. On or about September 30, 2014, the operator returned to the facility to retrieve the
18 vehicle and met with Intardonato. Intardonato told the operator that the vehicle did not need a
19 computer or catalytic converter after all. The operator paid Intardonato \$420 in cash for the
20 repairs and was given copies of an estimate, invoice, and two vehicle inspection reports. The
21 invoice indicated that the thermostat/gasket had been replaced on the vehicle.

22 43. On or about October 15, 2014, the Bureau inspected the vehicle using the invoice for
23 comparison and found that the ground circuit wire defect had been repaired. The Bureau also
24 found that the facility had performed unnecessary repairs on the vehicle.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Untrue or Misleading Statements)**

3 44. Respondent Clarke's registration is subject to disciplinary action pursuant to Bus. &
4 Prof. Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized statements
5 which he knew or in the exercise of reasonable care should have known to be untrue or
6 misleading, as follows:

7 a. Respondent's male employee represented to the operator that the oxygen sensor on
8 the Bureau's 1996 Chevrolet needed replacement. In fact, the only repair necessary on the
9 vehicle was the repair of the severed pre-converter oxygen sensor ground circuit wire.

10 b. Respondent represented on the invoice that the oxygen sensor on the Bureau's 1996
11 Chevrolet was bad. In fact, the oxygen sensor was new, was functioning properly, and was not in
12 need of replacement at the time the vehicle was taken to the facility.

13 c. Respondent represented on the invoice that on September 30, 2014, the facility had
14 obtained the operator's authorization for a smog retest on the Bureau's 1996 Chevrolet. In fact,
15 the operator had not authorized the facility to retest the vehicle.

16 **FIFTH CAUSE FOR DISCIPLINE**

17 **(Fraud)**

18 45. Respondent Clarke's registration is subject to disciplinary action pursuant to Bus. &
19 Prof. Code section 9884.7, subdivision (a)(4), in that Respondent committed acts constituting
20 fraud, as follows:

21 a. Respondent's employee made a false or misleading representation to the operator
22 regarding the Bureau's 1996 Chevrolet, as set forth in subparagraph 44 (a) above, in order to
23 induce the operator to authorize and pay for an unnecessary repair on the vehicle, then sold the
24 operator an unnecessary repair, the replacement of the oxygen sensor.

25 b. Respondent obtained payment from the operator for replacing the thermostat/gasket
26 on the Bureau's 1996 Chevrolet when, in fact, the operator had not authorized that repair on the
27 vehicle. Further, the thermostat/gasket was not in need of replacement.

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1 **SIXTH CAUSE FOR DISCIPLINE**

2 **(Violations of the Code)**

3 46. Respondent Clarke's registration is subject to disciplinary action pursuant to Bus. &
4 Prof. Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with section
5 9884.9, subdivision (a), of that Code in the following material respects:

6 a. Respondent failed to provide the operator with a written estimate for the initial smog
7 inspection on the Bureau's 1996 Chevrolet.

8 b. Respondent failed to obtain the operator's authorization for the second smog
9 inspection (smog retest) on the Bureau's 1996 Chevrolet and the replacement of the
10 thermostat/gasket.

11 **SEVENTH CAUSE FOR DISCIPLINE**

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

13 47. Respondent Clarke's smog check station license is subject to disciplinary action
14 pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed
15 dishonest, fraudulent, or deceitful acts whereby another is injured, as set forth in paragraphs 44
16 and 45 above.

17 **UNDERCOVER OPERATION #2: 1990 HONDA**

18 48. On or about December 4, 2014, an undercover operator with the Bureau ("operator")
19 took the Bureau's 1990 Honda to Clarke's facility and met with Intardonato. The operator
20 requested a smog inspection on the vehicle. The intake valve lash on the Bureau-documented
21 vehicle was set to zero on all four intake valves, lowering the engine's manifold vacuum level and
22 causing the exhaust tailpipe emissions to exceed gross polluter levels. Approximately one hour
23 later, Intardonato returned to the office area and told the operator that the vehicle failed the
24 inspection. The operator asked Intardonato if he could repair the vehicle so that it would pass the
25 inspection. Intardonato told the operator that he would have to perform a diagnosis. The operator
26 authorized the work, then left the facility.

27 49. Later that same day, the operator called the facility and spoke with Intardonato.
28 Intardonato told the operator that the vehicle needed a new oxygen sensor and that the ignition

1 timing needed to be adjusted. Intardonato stated that the repairs would cost approximately \$330.
2 The operator authorized the additional repairs.

3 50. On or about December 5, 2014, the operator returned to the facility to retrieve the
4 vehicle, paid Intardonato \$335 in cash, and received copies of two estimates, an invoice and two
5 vehicle inspection reports (VIR) signed by Intardonato, one dated December 4, 2014, and the
6 other dated December 5, 2014. While the operator was driving back to the pre-determined
7 location, the vehicle ran so poorly that it stalled and needed to be restarted. Information retrieved
8 from the Bureau's vehicle information database showed that the vehicle had passed the inspection
9 on December 5, 2014, resulting in the issuance of electronic smog Certificate of Compliance
10 Number [REDACTED].

11 51. On or about December 9, 2014, the Bureau conducted a smog inspection on the
12 vehicle. The vehicle failed the inspection due to the exhaust tailpipe emissions, which exceeded
13 gross polluter levels. The Bureau found during their continued inspection of the vehicle that the
14 intake valve lash had not been inspected or adjusted and that the facility had performed
15 unnecessary repairs on the vehicle.

16 **EIGHTH CAUSE FOR DISCIPLINE**

17 **(Untrue or Misleading Statements)**

18 52. Respondent Clarke's registration is subject to disciplinary action pursuant to Bus. &
19 Prof. Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized statements
20 which he knew or in the exercise of reasonable care should have known to be untrue or
21 misleading, as follows:

22 a. Respondent Clarke's smog check technician, Respondent Intardonato, represented to
23 the operator that the Bureau's 1990 Honda needed a new oxygen sensor and that the ignition
24 timing needed to be adjusted. In fact, the only repairs necessary on the vehicle were the removal
25 of the valve cover and the adjustment of the four intake valves on the intake valve lash. Further,
26 the oxygen sensor was new, was operating normally, and was not in need of replacement, and the
27 ignition timing was adjusted to manufacturer's specifications and was not in need of adjustment
28 at the time the vehicle was taken to the facility.

1 involving dishonesty, fraud, or deceit whereby another was injured, as set forth in paragraphs 34,
2 35, 44, 45, 52 and 53 above.

3 **EIGHTEENTH CAUSE FOR DISCIPLINE**

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

5 62. Respondent Intardonato's brake and lamp adjuster licenses are subject to disciplinary
6 action pursuant to Bus. & Prof. Code section 9889.3, subdivision (d), in that Respondent
7 committed acts involving dishonesty, fraud, or deceit whereby another was injured, as set forth in
8 paragraphs 34, 35, 44, 45, 52, and 53 above.

9 **FIELD VISIT OF MAY 27, 2015**

10 63. On or about May 27, 2015, a Bureau representative made a field visit to Clarke's
11 facility and met with Intardonato. The representative requested the facility's records pertaining to
12 two consumer complaints. While Intardonato was searching for the documents, the representative
13 overheard a customer request a brake and lamp inspection. The representative checked the
14 licenses posted at the facility and found that Intardonato's brake adjuster license was not present.
15 The representative asked Intardonato about the missing license. Intardonato told the
16 representative that he was the only adjuster employed at the facility, and claimed that he had
17 recently renewed his license. The representative accessed the Bureau's licensee database and
18 found that Intardonato's brake adjuster license had been expired since October 31, 2014.

19 64. The representative asked Intardonato for the brake certificate book he had been using
20 at the facility. Intardonato provided the representative with a brake certificate book containing
21 Brake Certificate Nos. BC1968551 through BC1968600. The representative inspected the book
22 and found that Intardonato had issued 18 brake certificates after his brake adjuster license had
23 expired, as set forth below. Intardonato admitted that he was only one who signed the certificates

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1 in the book. The representative told Intardonato that he was to immediately cease performing
2 official brake inspections until he obtained a valid brake adjuster's license.

3	Brake Certificate No.	Date of Issuance
4	BC1968551	March 10, 2015
5	BC1968552	March 12, 2015
6	BC1968553	March 20, 2015
7	BC1968554	March 20, 2015
8	BC1968555	March 24, 2015
9	BC1968556	March 27, 2015
10	BC1968557	April 3, 2015
11	BC1968558	April 15, 2015
12	BC1968559	April 20, 2015
13	BC1968560	April 20, 2015
14	BC1968561	April 22, 2015
15	BC1968562	April 23, 2015
16	BC1968563	April 24, 2015
17	BC1968564	April 27, 2015
18	BC1968565	April 28, 2015
19	BC1968566	April 29, 2015
20	BC1968567	May 15, 2015
21	BC1968568	May 17, 2015

22 **NINETEENTH CAUSE FOR DISCIPLINE**

23 **(Untrue or Misleading Statements)**

24 65. Respondent Clarke's registration is subject to disciplinary action pursuant to Bus. &
25 Prof. Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized statements
26 which he knew or in the exercise of reasonable care should have known to be untrue or
27 misleading, as follows: Respondent Clarke's brake adjuster, Respondent Intardonato, certified
28 under penalty of perjury on the brake certificates, identified in paragraph 64 above, that he
performed the applicable inspections of the brake systems on the vehicles, described in the
certificates, as specified by the Bureau and in accordance with Title 16 of the California Code of
Regulations and the Business and Professions Code. In fact, Respondent Intardonato issued the
certificates when his brake adjuster license was expired, in violation of Bus. & Prof. Code
sections 9887.1 and 9888.3 and Regulation 3305, subdivision (a).

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OTHER MATTERS

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2 73. Pursuant to Bus. & Prof. Code section 9884.7, subdivision (c), the Director may
3 suspend, revoke or place on probation the registration for all places of business operated in this
4 state by Respondent John C. Clarke, owner of Harris Electric Service, upon a finding that
5 Respondent has, or is, engaged in a course of repeated and willful violations of the laws and
6 regulations pertaining to an automotive repair dealer.

7 74. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Station License
8 Number RC 117908, issued to Respondent John C. Clarke, owner of Harris Electric Service, is
9 revoked or suspended, any additional license issued under Chapter 5 of the Health & Saf. Code in
10 the name of said licensee may be likewise revoked or suspended by the Director.

11 75. Pursuant to Bus. & Prof. Code section 9889.9, if Lamp Station License Number
12 LS 117908, issued to Respondent John C. Clarke, owner of Harris Electric Service, is revoked or
13 suspended, any additional license issued under Articles 5 and 6 of Chapter 20.3 of the Bus. &
14 Prof. Code in the name of said licensee may be likewise revoked or suspended by the Director.

15 76. Pursuant to Bus. & Prof. Code section 9889.9, if Brake Station License Number
16 BS 117908, issued to Respondent John C. Clarke, owner of Harris Electric Service, is revoked or
17 suspended, any additional license issued under Articles 5 and 6 of Chapter 20.3 of the Bus. &
18 Prof. Code in the name of said licensee may be likewise revoked or suspended by the Director.

19 77. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Inspector License
20 Number EO 005523 and Smog Check Repair Technician License Number EI 005523, issued to
21 Respondent John Charles Intardonato, are revoked or suspended, any additional license issued
22 under this chapter in the name of said licensee may be likewise revoked or suspended by the
23 Director.

24 78. Pursuant to Bus. & Prof. Code section 9889.9, if Brake Adjuster License Number
25 BA 005523, issued to Respondent John Charles Intardonato, is revoked or suspended, any
26 additional license issued under Articles 5 and 6 of Chapter 20.3 of the Bus. & Prof. Code in the
27 name of said licensee may be likewise revoked or suspended by the Director.

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1 79. Pursuant to Bus. & Prof. Code section 9889.9, if Lamp Adjuster License Number
2 LA 005523, issued to Respondent John Charles Intardonato, is revoked or suspended, any
3 additional license issued under Articles 5 and 6 of Chapter 20.3 of the Bus. & Prof. Code in the
4 name of said licensee may be likewise revoked or suspended by the Director.

5 **PRAYER**

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

- 8 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
9 117908, issued to John C. Clarke, owner of Harris Electric Service;
- 10 2. Revoking or suspending any other automotive repair dealer registration issued to John
11 C. Clarke;
- 12 3. Revoking or suspending Smog Check Station License Number RC 117908, issued to
13 John C. Clarke, owner of Harris Electric Service;
- 14 4. Revoking or suspending any additional license issued under Chapter 5 of the Health
15 and Safety Code in the name of John C. Clarke;
- 16 5. Revoking or suspending Lamp Station License Number LS 117908, issued to John C.
17 Clarke, owner of Harris Electric Service;
- 18 6. Revoking or suspending Brake Station License Number BS 117908, issued to John C.
19 Clarke, owner of Harris Electric Service;
- 20 7. Revoking or suspending any additional license issued under Articles 5 and 6 of
21 Chapter 20.3 of the Business and Professions Code in the name of John C. Clarke;
- 22 8. Revoking or suspending Smog Check Inspector License Number EO 005523 and
23 Smog Check Repair Technician License Number EI 005523, issued to John Charles Intardonato;
- 24 9. Revoking or suspending any additional license issued under Chapter 5 of the Health
25 and Safety Code in the name of John Charles Intardonato;
- 26 10. Revoking or suspending Brake Adjuster License Number BA 005523, issued to John
27 Charles Intardonato;

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1 11. Revoking or suspending Lamp Adjuster License Number LA 005523, issued to John
2 Charles Intardonato;

3 12. Revoking or suspending any additional license issued under Articles 5 and 6 of
4 Chapter 20.3 of the Business and Professions Code in the name of John Charles Intardonato;

5 13. Ordering John C. Clarke, owner of Harris Electric Service, and John Charles
6 Intardonato to pay the Director of Consumer Affairs the reasonable costs of the investigation and
7 enforcement of this case, pursuant to Business and Professions Code section 125.3;

8 14. Taking such other and further action as deemed necessary and proper.

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10 DATED: November 18, 2015



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

28 SA2015103652