

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

In the Matter of the Accusation Against:

**EDS AUTMOTIVE SERVICE;  
DUARTE MANUEL NEVES, OWNER**  
3560 La Grande Blvd.  
Sacramento, CA 95823-1011

Automotive Repair Dealer Registration No.  
ARD 133114  
Smog Check Station License No. RC 133114  
Lamp Station License No. LS 133114  
Brake Station License No. BS 133114

and

**DUARTE MANUEL NEVES**  
3560 La Grande Blvd.  
Sacramento, CA 95823-1011

Brake Adjuster License No. BA 78642  
Lamp Adjuster License No. LA 78642  
Smog Check Inspector License No. EO 78642  
Smog Check Repair Technician License No. EI  
78642 (formerly Advanced Emission Specialist  
Technician License No. EA 78642)

Respondent.

Case No. 79/14-104

OAH No. 2014040187

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.

This Decision shall become effective February 25, 2015.

DATED: January 2, 2015

  
\_\_\_\_\_  
TAMARA COLSON  
Assistant General Counsel  
Department of Consumer Affairs

1 KAMALA D. HARRIS  
Attorney General of California  
2 JANICE K. LACHMAN  
Supervising Deputy Attorney General  
3 KRISTINA T. JANSEN  
Deputy Attorney General  
4 State Bar No. 258229  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 324-5403  
Facsimile: (916) 327-8643  
7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 79/14-104

12 **EDS AUTOMOTIVE SERVICE;**  
13 **DUARTE MANUEL NEVES, OWNER**  
14 **3560 La Grande Blvd.**  
**Sacramento, CA 95823-1011**

OAH No. 2014040187

**STIPULATED SETTLEMENT AND**  
**DISCIPLINARY ORDER**

15 **Automotive Repair Dealer Registration**  
**No. ARD 133114**  
16 **Smog Check Station License No. RC 133114**  
17 **Lamp Station License No. LS 133114**  
**Brake Station License No. BS 133114**

18 **and**

19 **DUARTE MANUEL NEVES**  
20 **3560 La Grande Blvd.**  
**Sacramento, CA 95823-1011**

21 **Brake Adjuster License No. BA 78642**  
22 **Lamp Adjuster License No. LA 78642**  
**Smog Check Inspector License No. EO 78642**  
23 **Smog Check Repair Technician License**  
**No. EI 78642 (formerly Advanced Emission**  
24 **Specialist Technician License No. EA 78642)**

25 Respondent.

26  
27 **IT IS HEREBY STIPULATED AND AGREED** by and between the parties to the above-  
28 entitled proceedings that the following matters are true:

**PARTIES**

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

4           **Eds Automotive Service**

5           2.   On or about June 19, 1987, the Bureau of Automotive Repair (Bureau) issued  
6 Automotive Repair Dealer Number ARD 133114 to Eds Automotive Service; Duarte Manuel  
7 Neves, Owner (Respondent Eds Automotive). Respondent's registration was in full force and  
8 effect at all times relevant to the charges brought herein and will expire on June 30, 2015, unless  
9 renewed.

10          3.   On or about December 11, 1987, the Bureau issued Smog Check Station Number RC  
11 133114 to Respondent Eds Automotive. Respondent's Smog Check Station license was in full  
12 force and effect at all times relevant to the charges brought herein and will expire on June 30,  
13 2015, unless renewed.

14          4.   On or about December 11, 1987, the Bureau issued Lamp Station Number LS 133114  
15 to Respondent Eds Automotive. Respondent's Lamp Station license was in full force and effect  
16 at all times relevant to the charges brought herein and will expire on June 30, 2015, unless  
17 renewed.

18          5.   On or about December 11, 1987, the Bureau issued Brake Station Number BS 133114  
19 to Respondent Eds Automotive Service. Respondent's Brake Station license was in full force and  
20 effect at all times relevant to the charges brought herein and will expire on June 30, 2015, unless  
21 renewed.

22           **Duarte Manuel Neves**

23          6.   In 1979, the Bureau issued Brake Adjuster License Number BA 78642 to Duarte  
24 Manuel Neves (Respondent Neves). Respondent's Brake Adjuster license was in full force and  
25 effect at all times relevant to the charges brought herein and will expire on November 30, 2018,  
26 unless renewed.

27       ///

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1 maintaining compliance with the terms and conditions of probation.

2       3.    **Report Financial Interest.** Within 30 days of the effective date of this action, report  
3 any financial interest which any partners, officers, or owners of the Respondent facility may have  
4 in any other business required to be registered pursuant to Section 9884.6 of the Business and  
5 Professions Code.

6       4.    **Random Inspections.** Provide Bureau representatives unrestricted access to inspect  
7 all vehicles (including parts) undergoing repairs, up to and including the point of completion.

8       5.    **Jurisdiction.** If an accusation is filed against Respondent during the term of  
9 probation, the Director of Consumer Affairs shall have continuing jurisdiction over this matter  
10 until the final decision on the accusation, and the period of probation shall be extended until such  
11 decision.

12       6.    **Violation of Probation.** Should the Director of Consumer Affairs determine that  
13 Respondent has failed to comply with the terms and conditions of probation, the Department may,  
14 after giving notice and opportunity to be heard permanently invalidate or revoke any or all  
15 licenses or registrations issued to Duarte Manuel Neves, Ed's Automotive Service.

16       7.    **False and Misleading Advertising.** If the accusation involves false and misleading  
17 advertising, during the period of probation, Respondent shall submit any proposed advertising  
18 copy, whether revised or new, to the Bureau at least thirty (30) days prior to its use.

19       8.    **Cost Recovery.** Automotive Repair Dealer Number ARD 133114, Smog Check  
20 Station Number RC 133114, Brake Station Number BS 133114 and Lamp Station Number LS  
21 133114, issued to Respondent Duarte Manuel Neves, Ed's Automotive Service are ordered to  
22 make payment to the Bureau of cost recovery in the amount of \$15,193.88, which shall be paid in  
23 forty-eight (48) equal monthly payment to be completed no later than twelve (12) months before  
24 probation terminates.

25       Brake Adjuster License Number BA 78642, Lamp Adjuster License Number LA 78642,  
26 Smog Check Inspector License Number EO 78642, and Smog Check Repair Technician License  
27 Number EI 78642 issued to Respondent Duarte Manuel Neves are jointly and severally liable to  
28 the Bureau for the cost recovery in the amount of \$15,193.88, and are equally responsible for the

1 payment plan as set forth in the paragraph above.

2 Failure of either the station licenses or the technician licenses to complete payment of the  
3 total amount of cost recovery in the amount of \$15,193.88 within this time frame shall constitute  
4 a violation of probation which may subject Respondent's licenses or registration to outright  
5 revocation; however, the Director or the Director's Bureau of Automotive Repair designee may  
6 elect to continue probation until such time as reimbursement of the entire cost recovery amount  
7 has been made to the Bureau.

8 **ACCEPTANCE**

9 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
10 discussed it with my attorney, Eric Hintz. I understand the stipulation and the effect it will have  
11 on my Automotive Repair Dealer, Smog Check Station, Brake Station, and Lamp Station licenses  
12 as well as my Brake Adjuster, Lamp Adjuster, Smog Check Inspector and Smog Check Repair  
13 licenses. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly,  
14 and intelligently, and agree to be bound by the Decision and Order of the Director of Consumer  
15 Affairs.

16 DATED: 12-3-14

Duarte Manuel Neves  
DUARTE MANUEL NEVES,  
ED'S AUTOMOTIVE SERVICE  
Respondent

17  
18  
19  
20 I have read and fully discussed with Respondent Duarte Manuel Neves, Ed's Automotive  
21 Service the terms and conditions and other matters contained in the above Stipulated Settlement  
22 and Disciplinary Order. I approve its form and content.

23  
24 DATED: 12/3/14

Eric Hintz  
Eric Hintz  
Attorney for Respondent

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**ENDORSEMENT**

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

Dated:

Respectfully submitted,

KAMALA D. HARRIS  
Attorney General of California  
JANICE K. LACHMAN  
Supervising Deputy Attorney General



KRISTINA T. JANSEN  
Deputy Attorney General  
*Attorneys for Complainant*

**Exhibit A**

**Accusation No. 79/14-104**

1 KAMALA D. HARRIS  
Attorney General of California  
2 JANICE K. LACHMAN  
Supervising Deputy Attorney General  
3 KRISTINA T. JANSEN  
Deputy Attorney General  
4 State Bar No. 258229  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 324-5403  
Facsimile: (916) 327-8643  
7 *Attorneys for Complainant*

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13 **EDS AUTOMOTIVE SERVICE;**  
14 **DUARTE MANUEL NEVES, OWNER**  
3560 La Grande Blvd.  
Sacramento, CA 95823-1011

**ACCUSATION**

15 **Automotive Repair Dealer Registration**  
16 **No. ARD 133114**  
17 **Smog Check Station License No. RC 133114**  
18 **Lamp Station License No. LS 133114**  
19 **Brake Station License No. BS 133114**

and

20 **DUARTE MANUEL NEVES**  
3560 La Grande Blvd.  
Sacramento, CA 95823-1011

21 **Brake Adjuster License No. BA 78642**  
22 **Lamp Adjuster License No. LA 78642**  
23 **Smog Check Inspector License No. EO 78642**  
24 **Smog Check Repair Technician License**  
25 **No. EI 78642 (formerly Advanced Emission**  
26 **Specialist Technician License No. EA 78642)**

Respondent.

27 ///

28 ///

1 Complainant alleges:

2 PARTIES

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

5 **Eds Automotive Service**

6 2. On or about June 19, 1987, the Bureau of Automotive Repair (Bureau) issued  
7 Automotive Repair Dealer Number ARD 133114 to Eds Automotive Service; Duarte Manuel  
8 Neves, Owner (Respondent Eds Automotive). Respondent's registration was in full force and  
9 effect at all times relevant to the charges brought herein and will expire on June 30, 2014, unless  
10 renewed.

11 3. On or about December 11, 1987, the Bureau issued Smog Check Station Number RC  
12 133114 to Respondent Eds Automotive. Respondent's Smog Check Station license was in full  
13 force and effect at all times relevant to the charges brought herein and will expire on June 30,  
14 2014, unless renewed.

15 4. On or about December 11, 1987, the Bureau issued Lamp Station Number LS 133114  
16 to Respondent Eds Automotive. Respondent's Lamp Station license was in full force and effect  
17 at all times relevant to the charges brought herein and will expire on June 30, 2014, unless  
18 renewed.

19 5. On or about December 11, 1987, the Bureau issued Brake Station Number BS 133114  
20 to Respondent Eds Automotive Service. Respondent's Brake Station license was in full force and  
21 effect at all times relevant to the charges brought herein and will expire on June 30, 2014, unless  
22 renewed.

23 **Duarte Manuel Neves**

24 6. In 1979, the Bureau issued Brake Adjuster License Number BA 78642 to Duarte  
25 Manuel Neves (Respondent Neves). Respondent's Brake Adjuster license was in full force and  
26 effect at all times relevant to the charges brought herein and will expire on November 30, 2014,  
27 unless renewed.

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1 16. Bus. & Prof. Code section 22, subdivision (a), states: "Board" as used in any  
2 provision of this Code, refers to the board in which the administration of the provision is vested,  
3 and unless otherwise expressly provided, shall include "bureau," "commission," "committee,"  
4 "department," "division," "examining committee," "program," and "agency."

5 17. Section 477 of the Code provides, in pertinent part, that "license" includes certificate,  
6 registration or other means to engage in a business or profession regulated by the Code.

7 18. Health and Safety Code section 44072.2, states in pertinent part:

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

11 (a) Violates any section of this chapter and the regulations adopted pursuant to it, which  
12 related to the licensed activities.

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

14 19. Health and Safety Code section 44072.8 states:

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

### 17 STATUTORY PROVISIONS

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

19 "(a) All adjusting, inspecting, servicing, and repairing of brake systems and lamp systems  
20 for the purpose of issuing any certificate of compliance or adjustment shall be performed in  
official stations, by official adjusters, in accordance with the following, in descending order of  
21 precedence, as applicable:

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

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

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

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

1 (5) The bureau's Handbook for Lamp Adjusters and Stations, February 2003, which is  
2 hereby incorporated by reference.”

3 21. California Code of Regulations, title 16, section 3316, states in pertinent part:

4 The operation of official lamp adjusting stations shall be subject to the following provisions:

5 . . . .

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

12 . . . .

13 (2) Where all of the lamps, lighting equipment, and related electrical systems on a vehicle  
14 have been inspected and found to be in compliance with all requirements of the Vehicle Code and  
15 bureau regulations, the certificate shall certify that the entire system meets all of those  
16 requirements. . .

17 22. California Code of Regulations, title 16, section 3321 states, in pertinent part:

18 The operation of official brake adjusting stations shall be subject to the following  
19 provisions:

20 . . . .

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

27 . . . .

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

29 23. California Code of Regulations, title 16, section 3371, states in pertinent part:

30 “No dealer shall publish, utter, or make or cause to be published, uttered, or made any false  
31 or misleading statement or advertisement which is known to be false or misleading, or which by  
32 the exercise of reasonable care should be known to be false or misleading.”

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Untrue or Misleading Statements)**

3 29. Respondent Eds Automotive's registration is subject to disciplinary action pursuant to  
4 Bus. & Prof. Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized  
5 statements which it knew or should have known to be untrue or misleading, as follows:

6 a. Respondent certified under penalty of perjury on Brake Adjustment Certificate  
7 number [REDACTED] that all rotors on the 1996 Acura were within manufacturer's specifications.  
8 In fact, the right front and right rear rotors were below specifications.

9 b. Respondent certified under penalty of perjury on Lamp Adjustment Certificate  
10 number [REDACTED] that the side marker lamps were working. In fact, the left and right rear side  
11 marker lamps were not working.

12 c. Respondent stated on Invoice number [REDACTED] that a head lamp adjustment is  
13 recommended. The head lamps on this vehicle did not require adjusting.

14 **SECOND CAUSE FOR DISCIPLINE**

15 **(Fraud)**

16 30. Respondent Eds Automotive's registration is subject to disciplinary action pursuant to  
17 Bus. & Prof. Code section 9884.7, subdivision (a)(4), in that Respondent committed acts  
18 constituting fraud, as follows: Respondent obtained payment for performing the applicable  
19 inspections, adjustments, or repairs of the brake and lighting systems on the 1996 Acura as  
20 specified by the Bureau and in accordance with the Vehicle Code. In fact, Respondent failed to  
21 provide the necessary inspections, adjustments, and repairs in compliance with Bureau regulations  
22 or the Vehicle Code.

23 **THIRD CAUSE FOR DISCIPLINE**

24 **(Violations of Regulations)**

25 31. Respondent Eds Automotive's registration is subject to disciplinary action pursuant to  
26 Bus. & Prof. Code section 9884.7, subdivision (a)(6), in that Respondent Eds Automotive failed  
27 to comply with provision of California Code of Regulation, title 16, in the following material  
28 respects:

1 a. **Section 3305, subdivision (a):** Respondent failed to perform the inspection of the  
2 brake system and inspection and adjustment of the lighting system on the 1996 Acura in  
3 accordance with the specifications, instructions, and directives issued by the Bureau and the  
4 vehicle manufacturer.

5 b. **Section 3316, subdivision (d)(2):** Respondent issued Lamp Certificate No. LC  
6 [REDACTED] to the Bureau's 1996 Acura when all of the lamps, lighting equipment, and/or related  
7 electrical systems on the vehicle were not in compliance with Bureau regulations.

8 c. **Section 3321, subdivision (c)(2):** Respondent issued Brake Certificate No. BC  
9 [REDACTED] to the Bureau's 1996 Acura when the brake system on the vehicle was not compliant  
10 with the manufacturer's specifications and should have failed the inspection.

11 d. **Section 3371:** Respondent made or caused to be made a false or misleading statement  
12 by issuing Lamp Certificate No. LC [REDACTED] and Brake Certificate No. BC [REDACTED] to the  
13 Bureau's 1996 Acura when in fact the vehicle was not compliant with the manufacturer's  
14 specifications in either respect. Further, Respondent stated on Invoice number [REDACTED] that a  
15 headlamp adjustment was recommended when in fact it was not necessary.

16 e. **Section 3373:** Respondent inserted a statement or information on invoice number  
17 [REDACTED] causing said document to be false and misleading where the tendency or effect thereby  
18 would be to mislead or deceive customers, or prospective customers by stating that a headlamp  
19 adjustment was recommended for the 1996 Acura when in fact it was not necessary.

20 **FOURTH CAUSE FOR DISCIPLINE**

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

22 32. Respondent Eds Automotive brake and lamp station licenses are subject to  
23 disciplinary action pursuant to Bus. & Prof. Code section 9889.3, subdivision (c), in that  
24 Respondent failed to comply with the provisions of California Code of Regulations, title 16,  
25 sections 3305, subdivision (a), 3316, subdivision (d)(2), 3321, subdivision (c)(2), 3371, and 3373  
26 as set forth in paragraph 31, above.

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1 **FIFTH CAUSE FOR DISCIPLINE**

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

3 33. Respondent Eds Automotive's brake and lamp station licenses are subject to  
4 disciplinary action pursuant to Bus. & Prof. Code section 9889.3, subdivision (d), in that  
5 Respondent committed acts involving dishonesty, fraud, or deceit whereby another was injured, as  
6 set forth in paragraphs 29 and 30, above.

7 **SIXTH CAUSE FOR DISCIPLINE**

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

9 34. Respondent Eds Automotive's Smog Check Station License is subject to disciplinary  
10 action pursuant to Health and Safety code section 44072.2, subdivision (d), in that Respondent  
11 committed acts involving dishonesty, fraud, or deceit whereby another was injured, as set forth in  
12 paragraphs 29 and 30, above.

13 **SEVENTH CAUSE FOR DISCIPLINE**

14 **(Violations of Regulations)**

15 35. Respondent Neves' brake and lamp adjuster licenses are subject to disciplinary action  
16 pursuant to Bus. & Prof. Code section 9889.3, subdivision (c), in that he failed to comply with the  
17 provisions of California Code of Regulations, title 16, sections 3305, subdivision (a), 3316,  
18 subdivision (d)(2), 3321, subdivision (c)(2), 3371, and 3373, as set forth in paragraph 31, above.

19 **EIGHTH CAUSE FOR DISCIPLINE**

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

21 36. Respondent Neves' brake and lamp adjuster licenses are subject to disciplinary action  
22 pursuant to Bus. & Prof. Code section 9889.3, subdivision (d), in that he committed acts  
23 involving dishonesty, fraud, or deceit whereby another was injured, as set forth in paragraphs 29  
24 and 30, above.

25 **NINTH CAUSE FOR DISCIPLINE**

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

27 37. Respondent Neves' Smog Check Inspector and Smog Check Repair Technician  
28 Licenses are subject to disciplinary action pursuant to Health and Safety Code section 44072.2,

1 subdivision (d), in that he committed acts involving dishonesty, fraud, or deceit whereby another  
2 was injured, as set forth in paragraphs 29 and 30, above.

3 **UNDERCOVER OPERATION OF JANUARY 9, 2013: 1995 OLDSMOBILE**

4 38. On January 9, 2013, a representative of the Bureau acting in an undercover capacity  
5 (“Operator”), drove a Bureau-documented 1995 Oldsmobile to Respondent’s facility and  
6 requested lamp and brake inspections on the vehicle. The vehicle was disqualified from receiving  
7 a Brake Certificate of Adjustment because the right front rotor was machined below the  
8 manufacturer’s minimum thickness specifications, and the right rear drum was machined to  
9 exceed the manufacturer’s maximum specifications. Tamper indicators were installed on all four  
10 wheels of the vehicle. The license plate lamps and right rear side marker lamp were also  
11 inoperable, disqualifying the vehicle from receiving a Lamp Certificate of Adjustment. Upon  
12 arrival at Respondent’s facility the odometer of the 1995 Oldsmobile read 67,452 miles.

13 39. After approximately 45 minutes, Respondent informed the Operator that the vehicle  
14 had passed the brake inspection, but failed the lamp inspection due to non-working license plate  
15 lamps. The Operator paid \$60.00 and received copies of invoice number [REDACTED] and Brake  
16 Adjustment Certificate number BC [REDACTED]

17 40. On January 31, 2013, the Bureau inspected the vehicle and found that the tamper  
18 indicators remained in place on three (3) of the four (4) wheels, indicating that Respondent failed  
19 to remove all four wheels as required to complete a brake inspection. The right front rotor  
20 remained under the manufacturer’s minimum specifications. The right rear drum remained over  
21 the manufacturer’s maximum specifications.

22 **TENTH CAUSE FOR DISCIPLINE**

23 **(Untrue or Misleading Statements)**

24 41. Respondent Eds Automotive’s registration is subject to disciplinary action pursuant to  
25 Bus. & Prof. Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized  
26 statements which it knew or should have known to be untrue or misleading, as follows:

27 a. Respondent certified under penalty of perjury on Brake Adjustment Certificate  
28 number [REDACTED] that all rotors on the vehicle were within manufacturer’s specifications. In

1 fact, the right front rotor was below specifications and the right rear drum was above  
2 specifications.

3 **ELEVENTH CAUSE FOR DISCIPLINE**

4 (Fraud)

5 42. Respondent Eds Automotive's registration is subject to disciplinary action pursuant  
6 to Bus. & Prof. Code section 9884.7, subdivision (a)(4), in that Respondent committed acts  
7 constituting fraud, as follows: Respondent obtained payment for performing the applicable  
8 inspections, adjustments, or repairs of the brake system on the vehicle as specified by the Bureau  
9 and in accordance with the Vehicle Code. In fact, Respondent failed to provide the necessary  
10 inspections, adjustments, and repairs in compliance with Bureau regulations or the Vehicle Code.

11 **TWELFTH CAUSE FOR DISCIPLINE**

12 (Violations of Regulations)

13 43. Respondent Eds Automotive's registration is subject to disciplinary action pursuant to  
14 Bus. & Prof. Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with  
15 provision of California Code of Regulation, title 16, in the following material respects:

16 a. **Section 3305, subdivision (a):** Respondent failed to perform the inspection of the  
17 brake system on the Bureau's 1995 Oldsmobile in accordance with the specifications,  
18 instructions, and directives issued by the Bureau and the vehicle manufacturer.

19 b. **Section 3321, subdivision (c)(2):** Respondent issued Brake Certificate No. BC  
20 [REDACTED] to the Bureau's 1995 Oldsmobile when the brake system on the vehicle was not  
21 compliant with the manufacturer's specifications and should have failed the inspection.

22 c. **Section 3371:** Respondent made or caused to be made a false or misleading statement  
23 by issuing Brake Certificate No. BC [REDACTED] to the Bureau's 1995 Oldsmobile when in fact the  
24 vehicle was not compliant with the manufacturer's specifications.

25 **THIRTEENTH CAUSE FOR DISCIPLINE**

26 (Failure to Comply with Regulations)

27 44. Respondent Eds Automotive's brake and lamp station licenses are subject to  
28 disciplinary action pursuant to Bus. & Prof. Code section 9889.3, subdivision (c), in that

1 Respondent failed to comply with the provisions of California Code of Regulations, title 16,  
2 sections 3305, subdivision (a), 3321, subdivision (c)(2), and 3371, as set forth in paragraph 43,  
3 above.

4 **FOURTEENTH CAUSE FOR DISCIPLINE**

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

6 45. Respondent Eds Automotive's brake and lamp station licenses are subject to  
7 disciplinary action pursuant to Bus. & Prof. Code section 9889.3, subdivision (d), in that  
8 Respondent committed acts involving dishonesty, fraud, or deceit whereby another was injured, as  
9 set forth in paragraphs 41 and 42, above.

10 **FIFTEENTH CAUSE FOR DISCIPLINE**

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

12 46. Respondent Eds Automotive's Smog Check Station license is subject to disciplinary  
13 action pursuant to Health and Safety Code section 44072.2, subdivision (d), in that Respondent  
14 committed acts involving dishonesty, fraud, or deceit whereby another was injured, as set forth in  
15 paragraphs 41 and 42, above.

16 **SIXTEENTH CAUSE FOR DISCIPLINE**

17 **(Violations of Regulations)**

18 47. Respondent Neves' brake and lamp adjuster licenses are subject to disciplinary action  
19 pursuant to Bus. & Prof. Code section 9889.3, subdivision (c), in that he failed to comply with the  
20 provisions of California Code of Regulations, title 16, sections 3305, subdivision (a), 3321,  
21 subdivision (c)(2), and 3371, as set forth in paragraph 42, above.

22 **SEVENTEENTH CAUSE FOR DISCIPLINE**

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

24 48. Respondent Neves' brake and lamp adjuster licenses are subject to disciplinary action  
25 pursuant to Bus. & Prof. Code section 9889.3, subd. (d), in that he committed acts involving  
26 dishonesty, fraud, or deceit whereby another was injured, as set forth in paragraphs 41 and 42,  
27 above.

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1 **EIGHTEENTH CAUSE FOR DISCIPLINE**

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

3 49. Respondent Neves' smog check inspector and smog check repair technician licenses  
4 are subject to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision  
5 (d), in that he committed acts involving dishonesty, fraud, or deceit whereby another was injured,  
6 as set forth in paragraph 41 and 42, above.

7 **UNDERCOVER OPERATION OF FEBRUARY 27, 2013: 1992 TOYOTA**

8 50. On February 27, 2013, a representative of the Bureau acting in an undercover capacity  
9 ("Operator"), drove a Bureau-documented 1992 Toyota Respondent's facility and requested lamp  
10 and brake inspections on the vehicle. The vehicle was disqualified from receiving a Brake  
11 Certificate of Adjustment because the right front rotor on the vehicle was machined below the  
12 manufacturer's minimum thickness specifications, and the left rear drum was machined to exceed  
13 the manufacturer's maximum specifications. Tamper indicators were installed on all four wheels  
14 of the vehicle. The right front side marker lamp was also inoperative, and the head lamps were  
15 out of specification, disqualifying the vehicle from receiving a Lamp Certificate of Adjustment.

16 51. Respondent Neves informed the Operator that the vehicle had passed the brake  
17 inspection, but had failed the lamp inspection. The Operator paid \$60.00 and received copies of  
18 invoice number [REDACTED] and Brake Adjustment Certificate number BC [REDACTED]

19 52. On March 7, 2013, the Bureau inspected the vehicle and found that the tamper  
20 indicators remained in place on both right-side wheels, indicating that Respondent failed to  
21 remove all four wheels as required to complete a brake inspection. The right front rotor remained  
22 under the manufacturer's minimum specifications. The left rear drum remained over the  
23 manufacturer's maximum specifications.

24 **NINETEENTH CAUSE FOR DISCIPLINE**

25 **(Untrue or Misleading Statements)**

26 53. Respondent Eds Automotive's registration is subject to disciplinary action pursuant to  
27 Bus. & Prof. Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized  
28 statements which it knew or should have known to be untrue or misleading, as follows:

1 a. Respondent certified under penalty of perjury on Brake Adjustment Certificate  
2 number [REDACTED] that rotors and drums on the vehicle were within manufacturer's  
3 specifications. In fact, the right front rotor was below specifications and the left rear drum was  
4 above specifications.

5 **TWENTIETH CAUSE FOR DISCIPLINE**

6 (Fraud)

7 54. Respondent Eds Automotive's registration is subject to disciplinary action pursuant to  
8 Bus. & Prof. Code section 9884.7, subdivision (a)(4), in that Respondent committed acts  
9 constituting fraud, as follows: Respondent obtained payment for performing the applicable  
10 inspections, adjustments, or repairs of the brake system on the Bureau's 1992 Toyota as specified  
11 by the Bureau and in accordance with the Vehicle Code. In fact, Respondent Eds Automotive  
12 failed to provide the necessary inspections, adjustments, and repairs in compliance with Bureau  
13 regulations or the Vehicle Code.

14 **TWENTY-FIRST CAUSE FOR DISCIPLINE**

15 (Violations of Regulations)

16 55. Respondent Eds Automotive's registration is subject to disciplinary action pursuant to  
17 Bus. & Prof. Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with  
18 provisions of California Code of Regulation, title 16, in the following material respects:

19 a. **Section 3305, subdivision (a):** Respondent failed to perform the inspection of the  
20 brake system on the Bureau's 1992 Toyota in accordance with the specifications, instructions, and  
21 directives issued by the Bureau and the vehicle manufacturer.

22 b. **Section 3321, subdivision (c)(2):** Respondent issued Brake Certificate No. BC  
23 [REDACTED] when the brake system on the vehicle was not compliant with the manufacturer's  
24 specifications and should have failed the inspection.

25 c. **Section 3371:** Respondent made or caused to be made a false or misleading statement  
26 by issuing Brake Certificate No. BC [REDACTED] when in fact the vehicle was not compliant with the  
27 manufacturer's specifications.

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1 **TWENTY-SECOND CAUSE FOR DISCIPLINE**

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

3 56. Respondent Eds Automotive's brake and lamp station licenses are subject to  
4 disciplinary action pursuant to Bus. & Prof. Code section 9889.3, subd. (c), in that Respondent  
5 failed to comply with the provisions of California Code of Regulations, title 16, sections 3305,  
6 subd. (a), 3321, subd. (c)(2), and 3371, as set forth in paragraph 55, above.

7 **TWENTY-THIRD CAUSE FOR DISCIPLINE**

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

9 57. Respondent Eds Automotive's brake and lamp station licenses are subject to  
10 disciplinary action pursuant to Bus. & Prof. Code section 9889.3, subdivision (d), in that  
11 Respondent committed acts involving dishonesty, fraud, or deceit whereby another was injured, as  
12 set forth in paragraphs 53 and 54, above.

13 **TWENTY-FOURTH CAUSE FOR DISCIPLINE**

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

15 58. Respondent Eds Automotive's smog check station license is subject to disciplinary  
16 action pursuant to Health and Safety Code section 44072.2, subdivision (d), in that Respondent  
17 committed acts involving dishonesty, fraud, or deceit whereby another was injured, as set forth in  
18 paragraphs 53 and 54, above.

19 **TWENTY-FIFTH CAUSE FOR DISCIPLINE**

20 **(Violations of Regulations)**

21 59. Respondent Neves' brake and lamp adjuster licenses are subject to disciplinary action  
22 pursuant to Bus. & Prof. Code section 9889.3, subdivision (c), in that he failed to comply with the  
23 provisions of California Code of Regulations, title 16, sections 3305, subdivision (a), and 3321,  
24 subdivision (c)(2), as set forth in paragraph 55, above.

25 **TWENTY-SIXTH CAUSE FOR DISCIPLINE**

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

27 60. Respondent Neves' brake and lamp adjuster licenses are subject to disciplinary action  
28 pursuant to Bus. & Prof. Code section 9889.3, subd. (d), in that he committed acts involving

1 dishonesty, fraud, or deceit whereby another was injured, as set forth in paragraphs 53 and 54,  
2 above.

3 **TWENTY-SEVENTH CAUSE FOR DISCIPLINE**

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

5 61. Respondent Neves' smog check inspector and smog check repair technician licenses  
6 are subject to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision  
7 (d), in that he committed acts involving dishonesty, fraud, or deceit whereby another was injured,  
8 as set forth in paragraphs 53 and 54, above.

9 **OTHER MATTERS**

10 62. Pursuant to Bus. & Prof. Code section 9884.7, subdivision (c), the Director may  
11 suspend, revoke or place on probation the registration for all places of business operated in this  
12 state by Respondent Eds Automotive upon a finding that Respondent has, or is, engaged in a  
13 course of repeated and willful violations of the laws and regulations pertaining to an automotive  
14 repair dealer.

15 63. Pursuant to Bus. & Prof. Code section 9889.9, if Lamp Station License Number  
16 LS 133114, issued to Respondent Eds Automotive, is revoked or suspended, any additional  
17 license issued under Articles 5 and 6 of Chapter 20.3 of the Bus. & Prof. Code in the name of said  
18 licensee may be likewise revoked or suspended by the Director.

19 64. Pursuant to Bus. & Prof. Code section 9889.9, if Brake Station License Number  
20 BS 133114, issued to Respondent Eds Automotive, is revoked or suspended, any additional  
21 license issued under Articles 5 and 6 of Chapter 20.3 of the Bus. & Prof. Code in the name of said  
22 licensee may be likewise revoked or suspended by the Director.

23 65. Pursuant to Bus. & Prof. Code section 9889.9, if Lamp Adjuster License Number  
24 LA 78642, issued to Respondent Duarte Manuel Neves, is revoked or suspended, any additional  
25 license issued under Articles 5 and 6 of Chapter 20.3 of the Bus. & Prof. Code in the name of said  
26 licensee may be likewise revoked or suspended by the Director.

27 66. Pursuant to Bus. & Prof. Code section 9889.9, if Brake Adjuster License Number  
28 BA 78642, issued to Respondent Duarte Manuel Neves, is revoked or suspended, any additional

1 license issued under Articles 5 and 6 of Chapter 20.3 of the Bus. & Prof. Code in the name of said  
2 licensee may be likewise revoked or suspended by the Director.

3 67. Pursuant to Health and Safety Code section 44072.8, if Smog Check License  
4 RC133114 issued to Respondent Eds Automotive, is revoked or suspended, any additional  
5 license issued under Chapter 5 of the Health and Safety Code in the name of said licensee may be  
6 likewise revoked or suspended by the Director.

7 68. Pursuant to Health and Safety Code section 44072.8, if Smog Check Inspector  
8 License EO78642 and Smog Repair Technician EI78642 issued to Respondent Duarte Manuel  
9 Neves, is revoked or suspended, any additional license issued under Chapter 5 of the Health and  
10 Safety Code in the name of said licensee may be likewise revoked or suspended by the Director.

11 **PRAYER**

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

14 1. Revoking or suspending Automotive Repair Dealer Number ARD 133114, issued to  
15 Eds Automotive Service;

16 2. Revoking or suspending Smog Check Station License No. RC 133114, issued to Eds  
17 Automotive Service;

18 3. Revoking or suspending any other automotive repair dealer registration issued to Eds  
19 Automotive Service;

20 4. Revoking or suspending Lamp Station Number LS 133114, issued to Eds Automotive  
21 Service;

22 5. Revoking or suspending Brake Station Number BS 133114, issued to Eds Automotive  
23 Service;

24 6. Revoking or suspending any additional license issued under Articles 5 and 6 of  
25 Chapter 20.3 of the Business and Professions Code in the name of Eds Automotive Service;

26 7. Revoking or suspending any additional license issued under Chapter 5 of the Health  
27 and Safety Code in the name of Eds Automotive Service;

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- 1           8.    Revoking or suspending Brake Adjuster License Number BA 78642, issued to Duarte
- 2 Manuel Neves;
- 3           9.    Revoking or suspending Lamp Adjuster License Number BA 78642, issued to Duarte
- 4 Manuel Neves;
- 5           10.   Revoking or suspending Smog Check Inspector License No. EO 78642, issued to
- 6 Duarte Manuel Neves;
- 7           11.   Revoking or Suspending Smog Check Repair Technician License No. EI 78642,
- 8 issued to Duarte Manuel Neves;
- 9           12.   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 Duarte Manuel Neves;
- 11           13.   Revoking or suspending any additional license issued under Chapter 5 of the Health
- 12 and Safety Code in the name of Duarte Manuel Neves;
- 13           14.   Ordering Duarte Manuel Neves to pay the Bureau of Automotive Repair the
- 14 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
- 15 Professions Code section 125.3;
- 16           15.   Taking such other and further action as deemed necessary and proper.

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DATED: 3/12/14

*Pat Dorais by Doug Balatti*  
PATRICK DORAIS  
Chief  
Bureau of Automotive Repair  
Department of Consumer Affairs  
State of California  
*Complainant*  
DOUG BALATTI

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