

1 KAMALA D. HARRIS
Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 ADRIAN R. CONTRERAS
Deputy Attorney General
4 State Bar No. 267200
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2634
7 Facsimile: (619) 645-2061
E-mail: Adrian.Contreras@doj.ca.gov
8 *Attorneys for Complainant*

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

13 In the Matter of the Accusation Against:
14 **MICAR INTERNATIONAL, INC., DBA**
15 **905 SMOG & AUTO REPAIR; MIGUEL**
16 **ANGEL CARRANZA, PRESIDENT**
17 **6960 Camino Maquiladora #G**
18 **San Diego, CA 92154**
19 **Automotive Repair Dealer Registration No.**
20 **ARD 240846**
21 **Smog Check Station License No. RC 240846**
22 **Lamp Station License No. LS 240846**
23 **Brake Station License No. BS 240846,**
24 **and**
25 **MIGUEL ANGEL CARRANZA**
26 **929 Yosemite**
27 **Chula Vista, CA 91914**
28 **Brake Adjuster License No. BA 138952**
Lamp Adjuster License No. LA 138952
Smog Check Inspector License No. EO
138952
Smog Check Repair Technician License No.
EI 138952 (formerly Advanced Emission
Specialist Technician License No. EA
138952)
Respondents.

Case No. 77/14-62

ACCUSATION

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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 2. On or about October 3, 2005, the Bureau of Automotive Repair issued Automotive
6 Repair Dealer Registration Number ARD 240846 to Micar International, Inc., dba 905 Smog &
7 Auto Repair; Miguel Angel Carranza, President (905 Smog & Auto Repair). The Automotive
8 Repair Dealer Registration was in full force and effect at all times relevant to the charges brought
9 herein and will expire on July 31, 2014, unless renewed.

10 3. On or about October 26, 2005, the Bureau of Automotive Repair issued Smog Check
11 Station License Number RC 240846 to 905 Smog & Auto Repair. The Smog Check Station
12 License was in full force and effect at all times relevant to the charges brought herein and will
13 expire on July 31, 2014, unless renewed.

14 4. On or about October 13, 2005, the Bureau of Automotive Repair issued Lamp Station
15 License Number LS 240846 to 905 Smog & Auto Repair. The Lamp Station License was in full
16 force and effect at all times relevant to the charges brought herein and will expire on July 31,
17 2014, unless renewed.

18 5. On or about October 13, 2005, the Bureau of Automotive Repair issued Brake Station
19 License Number BS 240846 to 905 Smog & Auto Repair. The Brake Station License was in full
20 force and effect at all times relevant to the charges brought herein and will expire on July 31,
21 2014, unless renewed.

22 6. In 2001, the Bureau of Automotive Repair issued Brake Adjuster License Number BA
23 138952 to Miguel Angel Carranza (Carranza). The Brake Adjuster License was in full force and
24 effect at all times relevant to the charges brought herein and will expire on October 31, 2017,
25 unless renewed.

26 7. In 2001, the Bureau of Automotive Repair issued Lamp Adjuster License Number LA
27 138952 to Carranza. The Lamp Adjuster License was in full force and effect at all times relevant
28 to the charges brought herein and will expire on October 31, 2017, unless renewed.

1 the accusation may be filed within two years after the discovery, by the bureau, of the alleged
2 facts constituting the fraud or misrepresentation.”

3 13. Section 9884.22 of the Code states:

4 “(a) Notwithstanding any other provision of law, the director may revoke, suspend, or deny
5 at any time any registration required by this article on any of the grounds for disciplinary action
6 provided in this article. The proceedings under this article shall be conducted in accordance with
7 Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government
8 Code, and the director shall have all the powers granted therein.

9 “...”

10 14. Section 9889.1 of the Code provides, in pertinent part, that the Director may suspend
11 or revoke any license issued under Articles 5 and 6 (commencing with section 9887.1) of the
12 Automotive Repair Act.

13 15. Section 9889.5 of the Code states:

14 “The director may take disciplinary action against any licensee after a hearing as provided
15 in this article by any of the following:

16 “(a) Imposing probation upon terms and conditions to be set forth by the director.

17 “(b) Suspending the license.

18 “(c) Revoking the license.”

19 16. Section 9889.7 of the Code states:

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

24 17. Section 9889.8 of the Code states:

25 “All accusations against licensees shall be filed within three years after the act or omission
26 alleged as the ground for disciplinary action, except that with respect to an accusation alleging a
27 violation of subdivision (d) of Section 9889.3, the accusation may be filed within two years after
28

1 the discovery by the bureau of the alleged facts constituting the fraud or misrepresentation
2 prohibited by that section.”

3 18. Section 44002 of the Health and Safety Code states:

4 “The department shall have the sole and exclusive authority within the state for developing
5 and implementing the motor vehicle inspection program in accordance with this chapter.

6 “For the purposes of administration and enforcement of this chapter, the department, and
7 the director and officers and employees thereof, shall have all the powers and authority granted
8 under Division 1 (commencing with Section 1) and Division 1.5 (commencing with Section 475)
9 and Chapter 20.3 (commencing with Section 9880) of Division 3 of the Business and Professions
10 Code and under Chapter 33 (commencing with Section 3300) of Title 16 of the California Code
11 of Regulations. Inspections and repairs performed pursuant to this chapter, in addition to meeting
12 the specific requirements imposed by this chapter, shall also comply with all requirements
13 imposed pursuant to Division 1 (commencing with Section 1) and Division 1.5 (commencing with
14 Section 475) and Chapter 20.3 (commencing with Section 9880) of Division 3 of the Business
15 and Professions Code and Chapter 33 (commencing with Section 3300) of Title 16 of the
16 California Code of Regulations.”

17 19. Section 44072.4 of the Health and Safety Code states:

18 “The director may take disciplinary action against any licensee after a hearing as provided
19 in this article by any of the following:

20 “(a) Imposing probation upon terms and conditions to be set forth by the director.

21 “(b) Suspending the license.

22 “(c) Revoking the license.”

23 20. Section 44072.6 of the Health and Safety Code states:

24 “The expiration or suspension of a license by operation of law or by order or decision of the
25 director or a court of law, or the voluntary surrender of a license by a licensee shall not deprive
26 the director of jurisdiction to proceed with any investigation of, or action or disciplinary
27 proceedings against, the licensee, or to render a decision suspending or revoking the license.”

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1 26. Section 9884.7 of the Code states:

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

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

10 “... ”

11 “(4) Any other conduct that constitutes fraud.

12 “... ”

13 “(7) Any willful departure from or disregard of accepted trade standards for good and
14 workmanlike repair in any material respect, which is prejudicial to another without consent of the
15 owner or his or her duly authorized representative.

16 “... ”

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

21 27. Section 9884.8 of the Code states:

22 “All work done by an automotive repair dealer, including all warranty work, shall be
23 recorded on an invoice and shall describe all service work done and parts supplied. Service work
24 and parts shall be listed separately on the invoice, which shall also state separately the subtotal
25 prices for service work and for parts, not including sales tax, and shall state separately the sales
26 tax, if any, applicable to each. If any used, rebuilt, or reconditioned parts are supplied, the invoice
27 shall clearly state that fact. If a part of a component system is composed of new and used, rebuilt
28 or reconditioned parts, that invoice shall clearly state that fact. The invoice shall include a

1 statement indicating whether any crash parts are original equipment manufacturer crash parts or
2 nonoriginal equipment manufacturer aftermarket crash parts. One copy of the invoice shall be
3 given to the customer and one copy shall be retained by the automotive repair dealer."

4 28. Section 9884.9 of the Code states:

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

19 "(1) Make a notation on the invoice of the same facts set forth in the notation on the work
20 order.

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

24 "I acknowledge notice and oral approval of an increase in the original estimated price.

25 _____
26 (signature or initials)"

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

1 "(b) The automotive repair dealer shall include with the written estimated price a statement
2 of any automotive repair service that, if required to be done, will be done by someone other than
3 the dealer or his or her employees. No service shall be done by other than the dealer or his or her
4 employees without the consent of the customer, unless the customer cannot reasonably be
5 notified. The dealer shall be responsible, in any case, for any service in the same manner as if the
6 dealer or his or her employees had done the service.

7 "(c) In addition to subdivisions (a) and (b), an automotive repair dealer, when doing auto
8 body or collision repairs, shall provide an itemized written estimate for all parts and labor to the
9 customer. The estimate shall describe labor and parts separately and shall identify each part,
10 indicating whether the replacement part is new, used, rebuilt, or reconditioned. Each crash part
11 shall be identified on the written estimate and the written estimate shall indicate whether the crash
12 part is an original equipment manufacturer crash part or a nonoriginal equipment manufacturer
13 aftermarket crash part.

14 "(d) A customer may designate another person to authorize work or parts supplied in excess
15 of the estimated price, if the designation is made in writing at the time that the initial
16 authorization to proceed is signed by the customer. The bureau may specify in regulation the
17 form and content of a designation and the procedures to be followed by the automotive repair
18 dealer in recording the designation. For the purposes of this section, a designee shall not be the
19 automotive repair dealer providing repair services or an insurer involved in a claim that includes
20 the motor vehicle being repaired, or an employee or agent or a person acting on behalf of the
21 dealer or insurer."

22 29. Section 9889.3 of the Code states:

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

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

27 "...

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

1 “...”

2 30. Section 9889.9 of the Code states:

3 “When any license has been revoked or suspended following a hearing under the provisions
4 of this article, any additional license issued under Articles 5 and 6 of this chapter in the name of
5 the licensee may be likewise revoked or suspended by the director.”

6 31. Section 9889.16 of the Code states:

7 “Whenever a licensed adjuster in a licensed station upon an inspection or after an
8 adjustment, made in conformity with the instructions of the bureau, determines that the lamps or
9 the brakes upon any vehicle conform with the requirements of the Vehicle Code, he shall, when
10 requested by the owner or driver of the vehicle, issue a certificate of adjustment on a form
11 prescribed by the director, which certificate shall contain the date of issuance, the make and
12 registration number of the vehicle, the name of the owner of the vehicle, and the official license of
13 the station.”

14 32. Section 44072.2 of the Health and Safety Code states:

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

18 “... ”

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

20 “... ”

21 33. Section 44072.10 of the Health and Safety Code states:

22 “(a) Notwithstanding Sections 44072 and 44072.4, the director, or the director's designee,
23 pending a hearing conducted pursuant to subdivision (e), may temporarily suspend any smog
24 check station or technician's license issued under this chapter, for a period not to exceed 60 days,
25 if the department determines that the licensee's conduct would endanger the public health, safety,
26 or welfare before the matter could be heard pursuant to subdivision (e), based upon reasonable
27 evidence of any of the following:

28 “(1) Fraud.

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

3 "..."

4 35. California Code of Regulations, title 16, section 3321, states:

5 "The operation of official brake adjusting stations shall be subject to the following
6 provisions:

7 "...

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

14 "...

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

19 "..."

20 36. California Code of Regulations, title 16, section 3353, states:

21 "No work for compensation shall be commenced and no charges shall accrue without
22 specific authorization from the customer in accordance with the following requirements:

23 "(a) Estimate for Parts and Labor. Every dealer shall give to each customer a written
24 estimated price for labor and parts for a specific job.

25 "..."

26 37. California Code of Regulations, title 16, section 3356, states:

27 "(a) All invoices for service and repair work performed, and parts supplied, as provided for
28 in Section 9884.8 of the Business and Professions Code, shall comply with the following:

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“... ”

“(2) The invoice shall separately list, describe and identify all of the following:

“... ”

“(C) The subtotal price for all service and repair work performed.

“... ”

“(d) The automotive repair dealer shall give the customer a legible copy of the invoice and shall retain a legible copy as part of the automotive repair dealer’s records pursuant to Section 9884.11 of the Business and Professions Code and Section 3358 of this article.”

38. Title 16, California Code of Regulations, Section 3395.4 states:

“In reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code Section 11400 et seq.), including formal hearings conducted by the Office of Administrative Hearing, the Bureau of Automotive Repair shall consider the disciplinary guidelines entitled ‘Guidelines for Disciplinary Penalties and Terms of Probation’ [May, 1997] which are hereby incorporated by reference. The ‘Guidelines for Disciplinary Penalties and Terms of Probation’ are advisory. Deviation from these guidelines and orders, including the standard terms of probation, is appropriate where the Bureau of Automotive Repair in its sole discretion determines that the facts of the particular case warrant such deviation -for example: the presence of mitigating factors; the age of the case; evidentiary problems.”

COSTS

39. Section 125.3 of the Code provides, in pertinent part, that the Director may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case, with failure of the licentiate to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

FIRST UNDERCOVER RUN – 1997 FORD

40. On August 19, 2013, a Bureau undercover operator drove a Bureau-documented 1997 Ford to the 905 Smog & Auto Repair’s facility for repairs. The undercover operator drove to the

1 facility and spoke with 905 Smog & Auto Repair's employee, Gildardo Romero. The undercover
2 operator requested a smog inspection and a brake and lamp inspection. The undercover operator
3 did not sign a work order or receive a written estimate before the work began. After the
4 inspections were completed, the undercover operator paid Romero \$120.00. Romero gave the
5 undercover operator a Vehicle Inspection Report, a copy of the Certificate of Adjustment
6 [REDACTED] for the brake inspection and Certificate of Adjustment [REDACTED] for the lamp
7 inspection. The undercover operator was not given an invoice for the brake, lamp, or smog
8 inspections. The undercover operator then left the facility and transferred custody of the vehicle
9 to a Bureau representative.

10 **FIRST CAUSE FOR DISCIPLINE**

11 **(Violation of Estimate Requirements)**

12 41. Complainant re-alleges and incorporates by reference the allegations set forth above
13 in paragraph 40.

14 42. 905 Smog & Auto Repair's Registration is subject to disciplinary action under Code
15 section 9884.9 and California Code of Regulations, title 16, section 3353, subdivision (a) in that
16 905 Smog & Auto Repair failed to obtain specific authorization from the undercover operator and
17 failed to give a written estimate of labor and parts before beginning the inspections.

18 **SECOND CAUSE FOR DISCIPLINE**

19 **(Violation of Invoice Requirements)**

20 43. Complainant re-alleges and incorporates by reference the allegations set forth above
21 in paragraph 40.

22 44. 905 Smog & Auto Repair's Registration is subject to disciplinary action under Code
23 section 9884.8, in that 905 Smog & Auto Repair violated the invoice requirements. The
24 violations include the following:

25 a. **Title 16, California Code of Regulations, Section 3356, subd. (d):** Failure to
26 provide the customer a legible copy of the invoice.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Violation of Estimate Requirements)**

3 48. Complainant re-alleges and incorporates by reference the allegations set forth above
4 in paragraphs 45-47.

5 49. 905 Smog & Auto Repair's Registration is subject to disciplinary action under Code
6 section 9884.9 and California Code of Regulations, title 16, section 3353, subdivision (a) in that
7 905 Smog & Auto Repair failed to obtain specific authorization from the undercover operator and
8 failed to give a written estimate of labor and parts before beginning the inspections.

9 **FOURTH CAUSE FOR DISCIPLINE**

10 **(Untrue or Misleading Statements)**

11 50. Complainant re-alleges and incorporates by reference the allegations set forth above
12 in paragraphs 45-47.

13 51. 905 Smog & Auto Repair's Registration is subject to disciplinary action under Code
14 section 9884.7, subdivision (a)(1), in that 905 Smog & Auto Repair made or authorized
15 statements which 905 Smog & Auto Repair knew or in the exercise of reasonable care should
16 have known to be untrue or misleading. The untrue or misleading statements include the
17 following:

18 a. 905 Smog & Auto Repair represented that 905 Smog & Auto Repair had
19 inspected the brake and lamp systems on the vehicle and that they were in passable condition,
20 when in fact and in truth they had not been properly inspected.

21 **FIFTH CAUSE FOR DISCIPLINE**

22 **(Fraud)**

23 52. Complainant re-alleges and incorporates by reference the allegations set forth above
24 in paragraphs 45-47.

25 53. 905 Smog & Auto Repair's Registration is subject to disciplinary action under Code
26 section 9884.7, subdivision (a)(4), in that 905 Smog & Auto Repair committed acts which
27 constitute fraud. The fraud includes the following:
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1 a. 905 Smog & Auto Repair misrepresented to the undercover operator that 905
2 Smog & Auto Repair inspected the brake and lamp systems on the vehicle and that they were in
3 passable condition; 905 Smog & Auto Repair knew that in fact and in truth these systems had not
4 been properly inspected; 905 Smog & Auto Repair intended the undercover operator to rely on
5 these misrepresentations; 905 Smog & Auto Repair charged for these services and accepted
6 payment.

7 **SIXTH CAUSE FOR DISCIPLINE**

8 **(Willful Departure from or Disregard of Accepted Trade Standards)**

9 54. Complainant re-alleges and incorporates by reference the allegations set forth above
10 in paragraphs 45-47.

11 55. 905 Smog & Auto Repair's Registration is subject to disciplinary action under Code
12 section 9884.7, subdivision (a)(7), in that 905 Smog & Auto Repair willfully departed from or
13 disregarded accepted trade standards for good and workmanlike repair in a material respect which
14 was prejudicial to another without consent of the owner or his or her duly authorized
15 representative.

16 **SEVENTH CAUSE FOR DISCIPLINE**

17 **(Certificate Issued to Nonconforming Vehicle)**

18 56. Complainant re-alleges and incorporates by reference the allegations set forth above
19 in paragraphs 45-47.

20 57. 905 Smog & Auto Repair's Registration is subject to disciplinary action under Code
21 section 9889.16 and Title 16, California Code of Regulations, sections 3321, subdivision (c)(2)
22 and 3316, subdivision (d)(2) in that upon an inspection or after an adjustment purportedly made in
23 conformity with the instructions of the Bureau, 905 Smog & Auto Repair issued a brake and lamp
24 certificate of adjustment to a vehicle that purportedly conformed with the requirements of the
25 Vehicle Code and Bureau regulations, when in fact and in truth the vehicle did not conform with
26 these requirements.

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EIGHTH CAUSE FOR DISCIPLINE

(Estimate Violations)

58. Complainant re-alleges and incorporates by reference the allegations set forth above in paragraphs 45-47.

59. 905 Smog & Auto Repair's Registration is subject to disciplinary action under Code section 9884.8, subdivision (a) in that 905 Smog & Auto Repair failed to comply with estimate requirements before beginning the inspections. The violations include the following:

a. **Regulations section 3353, subd. (a)**: Failure to provide a written estimate price for parts and labor for a specific job.

NINTH CAUSE FOR DISCIPLINE

(Invoice Violations)

60. Complainant re-alleges and incorporates by reference the allegations set forth above in paragraphs 45-47.

61. 905 Smog & Auto Repair's Registration is subject to disciplinary action under Code section 9884.8, in that 905 Smog & Auto Repair failed to comply with invoice requirements for the subtotal of parts and labor. The violations include the following:

a. **Regulations section 3356, subd. (a)(2)(C)**: Failure to show the subtotal price for all service and repair work performed.

TENTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud, or Deceit)

62. Complainant re-alleges and incorporates by reference the allegations set forth above in paragraphs 45-47.

63. 905 Smog & Auto Repair's Registration is subject to disciplinary action under Code section 9884.7, subdivision (a)(4), the Smog Check Station License is subject to disciplinary action under Health and Safety Code sections 44072.10, subdivision (a) and (c) and 44072.2, subdivision (d), and the Lamp Station License and Brake Station Licenses are subject to disciplinary action under Code section 9889.3, subdivisions (a) and (d), in that 905 Smog & Auto Repair committed dishonest, fraudulent, or deceitful acts whereby another is injured by issuing

1 certificates of adjustment for a vehicle without performing bona fide inspections of them, thereby
2 depriving the People of the State of California of the protection afforded by the Automotive
3 Repair Act.

4 **ELEVENTH CAUSE FOR DISCIPLINE**

5 **(Certificate Issued to Nonconforming Vehicle)**

6 64. Complainant re-alleges and incorporates by reference the allegations set forth above
7 in paragraphs 45-47.

8 65. Carranza's licenses are subject to disciplinary action under Code section 9889.16 and
9 Title 16, California Code of Regulations, sections 3321, subdivision (c)(2) and 3316, subdivision
10 (d)(2) in that upon an inspection or after an adjustment purportedly made in conformity with the
11 instructions of the Bureau, he issued a brake and lamp certificate of adjustment to a vehicle that
12 purportedly conformed with the requirements of the Vehicle Code and Bureau regulations, when
13 in fact and in truth the vehicle did not conform with these requirements.

14 **TWELFTH CAUSE FOR DISCIPLINE**

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

16 66. Complainant re-alleges and incorporates by reference the allegations set forth above
17 in paragraphs 45-47.

18 67. Carranza's smog technician license(s) is/are subject to disciplinary action under
19 Health and Safety Code sections 44072.10, subdivision (a) and (c) and 44072.2, subdivision (d),
20 and his Lamp Adjuster License and Brake Adjuster License are subject to disciplinary action
21 under Code section 9889.3, subdivisions (a) and (d), in that he committed dishonest, fraudulent,
22 or deceitful acts whereby another is injured by issuing certificates of adjustments for a vehicle
23 without performing bona fide inspections of the brake and lamp systems on them, thereby
24 depriving the People of the State of California of the protection afforded by the Automotive
25 Repair Act.

26 **THIRD UNDERCOVER RUN – OCTOBER 29, 2013**

27 68. On October 29, 2013, a Bureau undercover operator drove a Bureau-documented
28 1998 Chevrolet to 905 Smog & Auto Repair's facility for inspection. The following introduced

1 malfunctions were placed on the vehicle: installation of a right front brake rotor that was below
2 the minimum thickness specifications; disablement of the back-up lamps; and misadjustment of
3 the right front headlamp. For the vehicle to pass a brake and lamp inspection, it needed the front
4 right brake rotor replaced; the back-up lamps operational; and the right front headlamp adjusted
5 correctly. The undercover operator drove to the facility and spoke with Romero. The undercover
6 operator requested a smog inspection and a brake and lamp inspection. Romero told the
7 undercover operator that the inspections would cost \$100.00. The undercover operator agreed
8 and gave him the keys. The undercover operator did not sign a work order or receive a written
9 estimate before the work began. After the inspections were completed, the undercover operator
10 paid Romero \$100.00. Romero gave the undercover operator a Vehicle Inspection Report, a copy
11 of the Certificate of Adjustment # [REDACTED] for the brake inspection, Certificate of Adjustment
12 [REDACTED] for the lamp inspection; he did not receive an invoice. Carranza performed the
13 brake and lamp inspections. The undercover operator then left the facility and transferred custody
14 of the vehicle to a Bureau representative.

15 69. A Bureau representative later reinspected the vehicle. For the brake system, the
16 wheels had not been removed as needed to properly inspect the brakes and the defective right
17 front brake rotor was still on the vehicle. In light of the condition of the right front brake rotor, a
18 certificate of adjustment should not have been issued.

19 70. For the lighting system, the back-up lights were still inoperative and the right front
20 headlamp was still misadjusted. In light of the condition of the right front headlamp and the
21 back-up lamps, a certificate of adjustment should not have been issued.

22 **THIRTEENTH CAUSE FOR DISCIPLINE**

23 **(Violation of Estimate Requirements)**

24 71. Complainant re-alleges and incorporates by reference the allegations set forth above
25 in paragraphs 68-70.

26 72. 905 Smog & Auto Repair's Registration is subject to disciplinary action under Code
27 section 9884.9 and California Code of Regulations, title 16, section 3353, subdivision (a) in that
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1 905 Smog & Auto Repair failed to obtain specific authorization from the undercover operator and
2 failed to give a written estimate of labor and parts before beginning the inspections.

3 **FOURTEENTH CAUSE FOR DISCIPLINE**

4 **(Untrue or Misleading Statements)**

5 73. Complainant re-alleges and incorporates by reference the allegations set forth above
6 in paragraphs 68-70.

7 74. 905 Smog & Auto Repair's Registration is subject to disciplinary action under Code
8 section 9884.7, subdivision (a)(1), in that 905 Smog & Auto Repair made or authorized
9 statements which 905 Smog & Auto Repair knew or in the exercise of reasonable care should
10 have known to be untrue or misleading. The untrue or misleading statements include the
11 following:

12 a. 905 Smog & Auto Repair represented that 905 Smog & Auto Repair had
13 inspected the brake and lamp systems on the vehicle and that they were in passable condition,
14 when in fact and in truth they had not been properly inspected.

15 **FIFTEENTH CAUSE FOR DISCIPLINE**

16 **(Fraud)**

17 75. Complainant re-alleges and incorporates by reference the allegations set forth above
18 in paragraphs 68-70.

19 76. 905 Smog & Auto Repair's Registration is subject to disciplinary action under Code
20 section 9884.7, subdivision (a)(4), in that 905 Smog & Auto Repair committed acts which
21 constitute fraud. The fraud includes the following:

22 a. 905 Smog & Auto Repair misrepresented to the undercover operator that 905
23 Smog & Auto Repair inspected the brake and lamp systems on the vehicle and that they were in
24 passable condition; 905 Smog & Auto Repair knew that in fact and in truth these systems had not
25 been properly inspected; 905 Smog & Auto Repair intended the undercover operator to rely on
26 these misrepresentations; 905 Smog & Auto Repair charged for these services and accepted
27 payment.

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1 **SIXTEENTH CAUSE FOR DISCIPLINE**

2 **(Willful Departure from or Disregard of Accepted Trade Standards)**

3 77. Complainant re-alleges and incorporates by reference the allegations set forth above
4 in paragraphs 68-70.

5 78. 905 Smog & Auto Repair's Registration is subject to disciplinary action under Code
6 section 9884.7, subdivision (a)(7), in that 905 Smog & Auto Repair willfully departed from or
7 disregarded accepted trade standards for good and workmanlike repair in a material respect which
8 was prejudicial to another without consent of the owner or his or her duly authorized
9 representative.

10 **SEVENTEENTH CAUSE FOR DISCIPLINE**

11 **(Certificate Issued to Nonconforming Vehicle)**

12 79. Complainant re-alleges and incorporates by reference the allegations set forth above
13 in paragraphs 68-70.

14 80. 905 Smog & Auto Repair's Registration is subject to disciplinary action under Code
15 section 9889.16 and Title 16, California Code of Regulations, sections 3321, subdivision (c)(2)
16 and 3316, subdivision (d)(2) in that upon an inspection or after an adjustment purportedly made in
17 conformity with the instructions of the Bureau, 905 Smog & Auto Repair issued a brake and lamp
18 certificate of adjustment to a vehicle that purportedly conformed with the requirements of the
19 Vehicle Code and Bureau regulations, when in fact and in truth the vehicle did not conform with
20 these requirements.

21 **EIGHTEENTH CAUSE FOR DISCIPLINE**

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

23 81. Complainant re-alleges and incorporates by reference the allegations set forth above
24 in paragraphs 68-70.

25 82. 905 Smog & Auto Repair's Registration is subject to disciplinary action under Code
26 section 9884.7, subdivision (a)(4), the Smog Check Station License is subject to disciplinary
27 action under Health and Safety Code sections 44072.10, subdivision (a) and (c) and 44072.2,
28 subdivision (d), and the Lamp Station License and Brake Station Licenses are subject to

1 disciplinary action under Code section 9889.3, subdivisions (a) and (d), in that 905 Smog & Auto
2 Repair committed dishonest, fraudulent, or deceitful acts whereby another is injured by issuing
3 certificates of adjustment for a vehicle without performing bona fide inspections of them, thereby
4 depriving the People of the State of California of the protection afforded by the Automotive
5 Repair Act.

6 **NINETEENTH CAUSE FOR DISCIPLINE**

7 **(Certificate Issued to Nonconforming Vehicle)**

8 83. Complainant re-alleges and incorporates by reference the allegations set forth above
9 in paragraphs 68-70.

10 84. Carranza's licenses are subject to disciplinary action under Code section 9889.16 and
11 Title 16, California Code of Regulations, sections 3321, subdivision (c)(2) and 3316, subdivision
12 (d)(2) in that upon an inspection or after an adjustment purportedly made in conformity with the
13 instructions of the Bureau, he issued a brake and lamp certificate of adjustment to a vehicle that
14 purportedly conformed with the requirements of the Vehicle Code and Bureau regulations, when
15 in fact and in truth the vehicle did not conform with these requirements.

16 **TWENTIETH CAUSE FOR DISCIPLINE**

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

18 85. Complainant re-alleges and incorporates by reference the allegations set forth above
19 in paragraphs 68-70.

20 86. Carranza's smog technician license(s) is/are subject to disciplinary action under
21 Health and Safety Code sections 44072.10, subdivision (a) and (c) and 44072.2, subdivision (d),
22 and his Lamp Adjuster License and Brake Adjuster License are subject to disciplinary action
23 under Code section 9889.3, subdivisions (a) and (d), in that he committed dishonest, fraudulent,
24 or deceitful acts whereby another is injured by issuing certificates of adjustments for a vehicle
25 without performing bona fide inspections of the brake and lamp systems on them, thereby
26 depriving the People of the State of California of the protection afforded by the Automotive
27 Repair Act.

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1 **OTHER MATTERS**

2 87. Under Code section 9884.7, subdivision (c), the Director may invalidate temporarily
3 or permanently or refuse to validate, the registrations for all places of business operated in this
4 state by an automotive repair dealer upon a finding that the automotive repair dealer has engaged
5 in a course of repeated and willful violations of the laws and regulations pertaining to an
6 automotive repair dealer.

7 88. Under Code section 9889.9, if a license is revoked or suspended following a hearing
8 under Article 7 of the Automotive Repair Act, any additional license issued under Articles 5 and 6
9 in the name of Carranza, including Lamp Station License Number LS 240846; Brake Station
10 License Number BS 240846; Brake Adjuster License Number BA 138952; and Lamp Adjuster
11 License Number LA 138952 may be likewise revoked or suspended.

12 89. Under Health & Safety Code section 44072.8, if the Smog Check Station License is
13 revoked or suspended, the Director may likewise revoke or suspend any additional license issued
14 under Chapter 5 of the Health and Safety Code in the name of Carranza.

15 90. Under Health and Safety Code section 44072.8, if Carranza's technician license(s)
16 is/are revoked or suspended, any additional license issued under this chapter in the name of
17 Carranza may be likewise revoked or suspended by the Director.

18 **PRAYER**

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

21 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
22 240846, issued to Micar International, Inc. dba 905 Smog & Auto Repair, Miguel Angel
23 Carranza, President;

24 2. Revoking or suspending Smog Check Station License Number RC 240846, issued to
25 Micar International, Inc. dba 905 Smog & Auto Repair, Miguel Angel Carranza, President;

26 3. Revoking or suspending Lamp Station License Number LS 240846, issued to Micar
27 International, Inc. dba 905 Smog & Auto Repair, Miguel Angel Carranza, President;

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1 4. Revoking or suspending Brake Station License Number BS 240846, issued to Micar
2 International, Inc. dba 905 Smog & Auto Repair, Miguel Angel Carranza, President;

3 5. Revoking or suspending Brake Adjuster License Number BA 138952, issued to
4 Miguel Angel Carranza;

5 6. Revoking or suspending Lamp Adjuster License Number LA 138952, issued to
6 Miguel Angel Carranza;

7 7. Revoking or suspending Smog Check Inspector License No. EO 138952 and Smog
8 Check Repair Technician License No. EI 138952, issued to Miguel Angel Carranza;

9 8. Revoking or suspending the registrations for all places of business operated in this
10 state by Miguel Angel Carranza;

11 9. Revoking or suspending any additional license issued under Articles 5 and 6 of
12 Chapter 20.3 of the Code in the name of Miguel Angel Carranza;

13 10. Revoking or suspending any additional license issued under Chapter 5 of the Health
14 and Safety Code in the name of Carranza;

15 11. Ordering Micar International, Inc., dba 905 Smog & Auto Repair, and Miguel Angel
16 Carranza to pay the Bureau of Automotive Repair the reasonable costs of the investigation and
17 enforcement of this case, pursuant to Business and Professions Code section 125.3; and

18 12. Taking such other and further action as deemed necessary and proper.

19 DATED: May 30, 2014



PATRICK DORAIS

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

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