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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 Accusation Against:

Case No. 79/15-135

13 **RENTERIAS TIRE SERVICE &**
14 **MECHANIC**
15 **305 Salinas Road #B**
16 **Watsonville, CA 95076**
17 **Mailing Address:**
18 **300 Salinas Road**
19 **Watsonville, CA 95076**
20 **EFRAIN RENTERIA, PARTNER**
21 **MARIA G. MARTINEZ, PARTNER**

ACCUSATION

(SMOG CHECK)

22 **Automotive Repair Dealer Registration**
23 **No. ARD 251157**
24 **Smog Check Station License No. RC 251157**
25 **Lamp Station License No. LS 251157, Class**
26 **A**
27 **Brake Station License No. BS 251157, Class**
28 **A**

and

22 **ALVARO CARRILLO**
23 **488 Green Valley Road**
24 **Watsonville, CA 95076**

25 **Smog Check Inspector License No. EO**
26 **153838**
27 **Smog Check Repair Technician License No.**
28 **EI 153838 (formerly Advanced Emission**
Specialist Technician License No. EA
153838)

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1 **Brake Adjuster License No. BA 153838,**
2 **Class C**
3 **Lamp Adjuster License No. LA 153838,**
4 **Class A**

Respondents.

5 Complainant alleges:

6 **PARTIES**

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

9 2. On or about June 21, 2007, the Bureau issued Automotive Repair Dealer Registration
10 Number ARD 251157 to Renterias Tire Service & Mechanic (Respondent Renterias), with Efrain
11 Renteria and Maria G. Martinez as partners. The Automotive Repair Dealer Registration was in
12 full force and effect at all times relevant to the charges brought herein and will expire on June 30,
13 2016, unless renewed.

14 3. On or about August 21, 2007, the Bureau issued Smog Check Station License
15 Number RC 251157 to Respondent Renterias. The Smog Check Station License was in full force
16 and effect at all times relevant to the charges brought herein and will expire on June 30, 2016,
17 unless renewed.

18 4. On or about June 12, 2012, the Bureau issued Lamp Station License Number LS
19 251157, Class A to Respondent Renterias. The Lamp Station License was in full force and effect
20 at all times relevant to the charges brought herein and will expire on June 30, 2016, unless
21 renewed.

22 5. On or about June 12, 2012, the Bureau issued Brake Station License Number BS
23 251157, Class A to Respondent Renterias. The Brake Station License was in full force and effect
24 at all times relevant to the charges brought herein and will expire on June 30, 2016, unless
25 renewed.

26 6. In or about 2006, the Director issued Advanced Emission Specialist Technician
27 License Number EA 153838 to Alvaro Carrillo (Respondent Carrillo). Respondent Carrillo's
28 Advanced Emission Specialist Technician License was due to expire on March 31, 2013.

1 Pursuant to California Code of Regulations, title 16, section 3340.28, subdivision (e), the license
2 was renewed, pursuant to Respondent Carrillo's election, as Smog Check Inspector License
3 Number EO 153838 and Smog Check Repair Technician License Number EI 153838 (technician
4 licenses), effective January 25, 2013. Respondent Carrillo's technician licenses will expire on
5 March 31, 2017, unless renewed.¹

6 7. On or about November 8, 2013, the Bureau issued Brake Adjuster License Number
7 BA 153838, Class C to Respondent Carrillo. The Brake Adjuster License was in full force and
8 effect at all times relevant to the charges brought herein and will expire on March 31, 2017,
9 unless renewed.

10 8. On or about August 7, 2014, the Bureau issued Lamp Adjuster License Number LA
11 153838, Class A to Respondent Carrillo. The Lamp Adjuster License was in full force and effect
12 at all times relevant to the charges brought herein and will expire on March 31, 2018, unless
13 renewed.

14 JURISDICTION

15 9. This Accusation is brought before the Director of the Department of Consumer
16 Affairs (Director) for the Bureau of Automotive Repair under the authority of the following laws.
17 All section references are to the Business and Professions Code (Code) unless otherwise
18 indicated.

19 10. Section 9884.13 of the Code provides, in pertinent part, that the expiration of a valid
20 registration shall not deprive the Director of jurisdiction to proceed with a disciplinary proceeding
21 against an automotive repair dealer or to render a decision temporarily or permanently
22 invalidating (suspending or revoking) a registration.

23 11. Section 118, subdivision (b) of the Code states:

24 "The suspension, expiration, or forfeiture by operation of law of a license issued by a board
25 in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of

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

1 a court of law, or its surrender without the written consent of the board, shall not, during any
2 period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its
3 authority to institute or continue a disciplinary proceeding against the licensee upon any ground
4 provided by law or to enter an order suspending or revoking the license or otherwise taking
5 disciplinary action against the licensee on any such ground.”

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

10 STATUTORY PROVISIONS

11 13. Section 9884.7 of the Code provides, in relevant part:

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

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

20 “(2) Causing or allowing a customer to sign any work order that does not state the repairs
21 requested by the customer or the automobile’s odometer reading at the time of repair.

22 ...

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

25 ...”

26 ///

27 ///

28 ///

1 14. Section 9884.9 of the Code provides, in relevant part:

2 “(a) The automotive repair dealer shall give to the customer a written estimated price for
3 labor and parts necessary for a specific job. No work shall be done and no charges shall accrue
4 before authorization to proceed is obtained from the customer. . . .”

5 15. Section 44012 of the Health and Safety Code provides, in relevant part:

6 “The test at the smog check stations shall be performed in accordance with procedures
7 prescribed by the department, pursuant to Section 44013, shall require, at a minimum, loaded
8 mode dynamometer testing in enhanced areas, and two-speed testing in all other program areas,
9 and shall ensure all of the following:

10 . . .

11 “(f) A visual or functional check is made of emission control devices specified by the
12 department, including the catalytic converter in those instances in which the department
13 determines it to be necessary to meet the findings of Section 44001. The visual or functional
14 check shall be performed in accordance with procedures prescribed by the department.

15 . . .”

16 16. Section 44032 of the Health and Safety Code states:

17 “No person shall perform, for compensation, tests or repairs of emission control devices or
18 systems of motor vehicles required by this chapter unless the person performing the test or repair
19 is a qualified smog check technician and the test or repair is performed at a licensed smog check
20 station. Qualified technicians shall perform tests of emission control devices and systems in
21 accordance with Section 44012.”

22 17. Section 44059 of the Health and Safety Code states:

23 “The willful making of any false statement or entry with regard to a material matter in any
24 oath, affidavit, certificate of compliance or noncompliance, or application form which is required
25 by this chapter or Chapter 20.3 (commencing with Section 9880) of Division 3 of the Business
26 and Professions Code, constitutes perjury and is punishable as provided in the Penal Code.”

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1 18. Section 44072.2 of the Health and Safety Code states, in relevant part:

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

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

7 ...

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

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

10 ...”

11 **REGULATORY PROVISIONS**

12 19. California Code of Regulations, title 16, section 3340.30 provides, in relevant part:

13 “A smog check technician shall comply with the following requirements at all times while
14 licensed.

15 “(a) A licensed technician shall inspect, test and repair vehicles in accordance with section
16 44012 of the Health and Safety Code, section 44035 of the Health and Safety Code, and section
17 3340.42 of this article.

18 ...”

19 20. California Code of Regulations, title 16, section 3340.35 provides, in relevant part:

20 “(c) A licensed station shall issue a certificate of compliance or noncompliance to the
21 owner or operator of any vehicle that has been inspected in accordance with the procedures
22 specified in section 3340.42 of this article and has all the required emission control equipment
23 and devices installed and functioning correctly. . . .”

24 21. California Code of Regulations, title 16, section 3340.42 provides, in relevant part:

25 “Smog check stations and smog check technicians shall conduct tests and inspections in
26 accordance with the bureau’s BAR-97 Emissions Inspection System Specifications referenced in
27 subsections (a) and (b) of Section 3340.17”

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1 22. California Code of Regulations, title 16, section 3353 provides, in relevant part:

2 “No work for compensation shall be commenced and no charges shall accrue without
3 specific authorization from the customer in accordance with the following requirements:

4 “(a) Estimate for Parts and Labor. Every dealer shall give to each customer a written
5 estimated price for labor and parts for a specific job.

6 ...”

7 23. California Code of Regulations, title 16, section 3373 states:

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

13 **COSTS**

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

20 **FACTUAL BACKGROUND**

21 25. In or around July and August 2014, a Bureau representative documented a 1992
22 Toyota. The Bureau representative machined the Toyota’s front brake rotors and rear brake
23 drums to exceed the manufacturer’s service limits. The Bureau representative also adjusted the
24 Toyota’s headlamps outside of the manufacturer’s specifications. Next, the Bureau representative
25 removed the Toyota’s P.A.I.R./Air Suction System Reed Valve, Air Intake Hose, and Exhaust
26 Pipe Tube, and then performed a smog inspection on the Toyota. The Toyota failed the smog
27 inspection due to the missing P.A.I.R./Air Suction System Reed Valve, Air Intake Hose, and
28 Exhaust Pipe Tube.

1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Work Order with Missing Repairs and Odometer Reading)**

3 31. Respondent Renterias's registration is subject to disciplinary action under section
4 9884.7, subdivision (a)(2) of the Code in that Respondent Renterias caused and/or allowed a
5 customer to sign a work order that does not state the repairs requested by the customer or the
6 automobile's odometer reading at the time of repair.

7 **THIRD CAUSE FOR DISCIPLINE**

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

9 32. Respondent Renterias's registration is subject to disciplinary action under sections
10 9884.7, subdivision (a)(6) and 9884.9, subdivision (a) of the Code in that Respondent Renterias
11 failed to provide a customer with a written estimated price for labor and parts necessary for a
12 specific job.

13 **FOURTH CAUSE FOR DISCIPLINE**

14 **(Performing Work Without Obtaining Authorization)**

15 33. Respondent Renterias's registration is subject to disciplinary action under sections
16 9884.7, subdivision (a)(6) and 9884.9, subdivision (a) of the Code in that Respondent Renterias
17 performed work on a vehicle without obtaining authorization from the customer.

18 **FIFTH CAUSE FOR DISCIPLINE**

19 **(Performing Smog Inspection Without Checking Emission Control Devices)**

20 34. Respondent Renterias's station license is subject to disciplinary action under sections
21 44072.2, subdivision (a) and 44012, subdivision (f) of the Health and Safety Code in that
22 Respondent Renterias performed a smog inspection on a vehicle without ensuring that a visual or
23 functional check was made of emission control devices specified by the Department.

24 **SIXTH CAUSE FOR DISCIPLINE**

25 **(Making a False Statement in a Certificate of Compliance)**

26 35. Respondent Renterias's station license is subject to disciplinary action under sections
27 44072.2, subdivisions (a) and/or (d) and 44059 of the Health and Safety Code in that Respondent
28 Renterias willfully issued a certificate of compliance for a vehicle indicating that the vehicle had

1 passed a smog inspection when Respondent should not have issued a certificate of compliance for
2 that vehicle.

3 SEVENTH CAUSE FOR DISCIPLINE

4 (Violations of Regulations Governing the Motor Vehicle Inspection Program)

5 36. Respondent Renterias's station license is subject to disciplinary action under Health
6 and Safety Code section 44072.2, subdivision (c) in that, with regard to the smog inspection
7 performed on the Toyota on September 10, 2014, Respondent Renterias violated the following
8 sections of title 16 of the California Code of Regulations:

9 a. Section 3340.35, subdivision (c). Respondent Renterias issued a certificate of
10 compliance to a vehicle that (1) had not been inspected in accordance with the procedures
11 specified in section 3340.42; and (2) did not have all the required emission control equipment and
12 devices installed and functioning correctly.

13 b. Section 3340.42. Respondent Renterias failed to conduct the required smog
14 inspection on the vehicle in accordance with the Bureau's specifications.

15 c. Section 3353. Respondent Renterias performed work on the vehicle without
16 obtaining authorization from the customer.

17 d. Section 3353, subdivision (a). Respondent Renterias failed to provide a customer
18 with a written estimated price for labor and parts necessary for a specific job.

19 e. Section 3373. Respondent Renterias issued a certificate of compliance for the vehicle
20 indicating that the vehicle had passed a smog inspection when Respondent Renterias should not
21 have issued a certificate of compliance for that vehicle.

22 EIGHTH CAUSE FOR DISCIPLINE

23 (Failure to Perform Proper Smog Inspection)

24 37. Respondent Carrillo's technician licenses are subject to disciplinary action under
25 Health and Safety Code sections 44072.2, subdivision (a) and 44032 in that Respondent Carrillo,
26 by stating a vehicle passed a smog inspection when the vehicle should have failed the smog
27 inspection, failed to perform tests of emission control devices and systems in accordance with
28 Health and Safety Code section 44012.

1 **NINTH CAUSE FOR DISCIPLINE**

2 **(Failure to Comply with Requirements Governing Smog Inspections)**

3 38. Respondent Carrillo's technician licenses are subject to disciplinary action under
4 Health and Safety Code section 44072.2, subdivisions (a) and/or (c) in that, with regard to the
5 smog inspection he performed on September 10, 2014, Respondent Carrillo violated California
6 Code of Regulations, title 16, section 3340.30, subdivision (a) when he failed to perform the
7 smog inspection in accordance with Health and Safety Code sections 44012 and 44035 and
8 California Code of Regulations, title 16, section 3340.42.

9 **DISCIPLINE CONSIDERATIONS**

10 39. To determine the degree of discipline, if any, to be imposed on Respondent Renterias,
11 Complainant alleges that on or about April 2, 2013, in a prior disciplinary action entitled *In the*
12 *Matter of the Accusation Against Renterias Tire Service & Mechanic* before the Bureau, Case No.
13 79/13-01, Respondent Renterias's Automotive Repair Dealer Registration Number ARD 251157,
14 Smog Check Station License Number RC 251157, Lamp Station License Number LS 251157, and
15 Brake Station License Number BS 251157 were revoked, the revocation was stayed, and
16 Respondent Renterias was placed on probation for two (2) years subject to certain terms and
17 conditions. That decision is now final and is incorporated by reference as if fully set forth.

18 40. To determine the degree of discipline, if any, to be imposed on Respondent Renterias,
19 Complainant further alleges that on or about October 30, 2008, the Bureau issued Citation No.
20 C09-0512 against Respondent Renterias for violating Health and Safety Code section 44012,
21 subdivision (f) (failure to perform a visual/functional check of emission control devices according
22 to procedures prescribed by the Department), and California Code of Regulations, title 16, section
23 3340.35, subdivision (c) (issuing a certificate of compliance to a vehicle that was improperly
24 tested).

25 41. To determine the degree of discipline, if any, to be imposed on Respondent Carrillo,
26 Complainant alleges that on or about March 13, 2008, the Bureau issued Citation No. M08-0783
27 against Respondent Carrillo for violating Health and Safety Code section 44032 (failure to
28 perform proper smog inspection), and California Code of Regulations, title 16, section 3340.30,

1 subdivision (a) (failure to comply with requirements governing smog inspections).

2 42. To determine the degree of discipline, if any, to be imposed on Respondent Carrillo,
3 Complainant further alleges that on or about September 17, 2008, the Bureau issued Citation No.
4 M09-0249 against Respondent Carrillo for violating Health and Safety Code section 44032
5 (failure to perform proper smog inspection), and California Code of Regulations, title 16, section
6 3340.30, subdivision (a) (failure to comply with requirements governing smog inspections).

7 43. To determine the degree of discipline, if any, to be imposed on Respondent Carrillo,
8 Complainant further alleges that on or about June 24, 2011, the Bureau issued Citation No.
9 M2011-1504 against Respondent Carrillo for violating Health and Safety Code section 44032
10 (failure to perform proper smog inspection).

11 **OTHER MATTERS**

12 44. Under section 9884.7, subdivision (c) of the Code, the Director may suspend, revoke,
13 or place on probation the registrations for all places of business operated in this state by
14 Respondent Renterias upon a finding that it has, or is, engaged in a course of repeated and willful
15 violations of the laws and regulations pertaining to an automotive repair dealer.

16 45. Under Health and Safety Code section 44072.8, if Smog Check Station License
17 Number RC 251157 issued to Respondent Renterias is revoked or suspended, any additional
18 license issued under this chapter in the name of said licensee may be likewise revoked or
19 suspended by the Director.

20 46. Under section 9889.9 of the Code, if Lamp Station License Number LS 251157, Class
21 A issued to Respondent Renterias is revoked or suspended, any additional license issued under
22 Articles 5 and 6 of Chapter 20.3 of the Code in the name of said licensee may be likewise revoked
23 or suspended by the Director.

24 47. Under section 9889.9 of the Code, if Brake Station License Number BS 251157,
25 Class A issued to Respondent Renterias is revoked or suspended, any additional license issued
26 under Articles 5 and 6 of Chapter 20.3 of the Code in the name of said licensee may be likewise
27 revoked or suspended by the Director.

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1 7. Revoking or suspending any additional license issued under Articles 5 and 6 of
2 Chapter 20.3 of the Business and Professions Code in the name of Renterias Tire Service &
3 Mechanic;

4 8. Revoking or suspending Smog Check Inspector License No. EO 153838 and Smog
5 Check Repair Technician License No. EI 153838 issued to Alvaro Carrillo;

6 9. Revoking or suspending any additional license issued under Chapter 5 of the Health
7 and Safety Code in the name of Alvaro Carrillo;

8 10. Revoking or suspending Brake Adjuster License Number BA 153838, Class C issued
9 to Alvaro Carrillo;

10 11. Revoking or suspending Lamp Adjuster License Number LA 153838, Class A issued
11 to Alvaro Carrillo;

12 12. Revoking or suspending any additional license issued under Articles 5 and 6 of
13 Chapter 20.3 of the Business and Professions Code in the name of Alvaro Carrillo;

14 13. Ordering Renterias Tire Service & Mechanic and Alvaro Carrillo to pay the Bureau of
15 Automotive Repair the reasonable costs of the investigation and enforcement of this case pursuant
16 to Business and Professions Code section 125.3; and

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

18
19 DATED:

June 25, 2015

Patrick Dorais

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

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