

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

In the Matter of the Accusation Against:

**PJS AND CARS AUTOMOTIVE
NICK N. NIX, OWNER**
1140 Stabler Lane
Yuba City, CA 95993

Case No. 79/15-119

Automotive Repair Dealer Registration No.
ARD 255434
Smog Test and Repair Station License No.
RC 255434
Lamp Station License No. LS 255434
Brake Station License No. BS 255434

NICK N. NIX
1140 Stabler Lane
Yuba City, CA 95993

Smog Check Repair Technician License No.
EI 139351 (formerly Basic Area
Technician License No. EB 139351)
Smog Check Inspector License No.
EO 139351
Brake Adjuster License No. BA 139351
Lamp Adjuster License No. LA 139351

Respondent.

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 10, 2016.

DATED: January 11, 2016



TAMARA COLSON
Assistant General Counsel
Department of Consumer Affairs

1 KAMALA D. HARRIS
Attorney General of California
2 KENT D. HARRIS
Supervising Deputy Attorney General
3 LESLIE A. BURGERMYER
Deputy Attorney General
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7 *Attorneys for Complainant*

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

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18 **NICK N. NIX**
19 **1140 Stabler Lane**
20 **Yuba City, California 95993**

21 Smog Check Repair Technician License No. EI 139351
(formerly Basic Area Technician License No. EB 139351)
22 Smog Check Inspector License No. EO 139351
Brake Adjuster License No. BA 139351
23 Lamp Adjuster License No. LA 139351

24 Respondent.

Case No. 79/15-119

**STIPULATED
SETTLEMENT AND
DISCIPLINARY ORDER**

1 **Brake Station License**

2 6. On or about August 14, 2008, the Bureau issued Brake Station License Number BS
3 255434 to Respondent PJS. The Brake Station License was in full force and effect at all times
4 relevant to the charges brought herein and will expire on March 31, 2016, unless renewed.

5 **Smog Check Repair Technician License**

6 7. In or about 1998, the Bureau issued Basic Area Technician License Number EB
7 139351 to Respondent Nick Nix ("Respondent Nix").¹ The Basic Area Technician License was
8 due to expire on September 30, 2012. Pursuant to California Code of Regulations, title 16,
9 section 3340.28(e), the license was renewed pursuant to Respondent Nix's election as a Smog
10 Check Repair Technician License Number EI 139351 effective August 15, 2012. The Repair
11 Technician License was in full force and effect at all times relevant to the charges brought herein
12 and will expire on September 30, 2016, unless renewed.

13 **Smog Check Inspector License**

14 8. Effective August 15, 2012, the Bureau issued Smog Check Inspector License No. EO
15 139351 to Respondent Nix. The Smog Inspector License was in full force and effect at all times
16 relevant to the charges brought herein and will expire on September 30, 2016, unless renewed.

17 **Brake Adjuster License**

18 9. In or about 2007, the Bureau issued Brake Adjuster License Number BA 139351 to
19 Respondent Nix. The Brake Adjuster License was in full force and effect at all times relevant to
20 the charges brought herein and will expire on September 30, 2015, unless renewed.

21 **Lamp Adjuster License**

22 10. In or about 2001, the Bureau issued Lamp Adjuster License Number LA 139351 to
23 Respondent Nix. The Lamp Adjuster License was in full force and effect at all times relevant to
24 the charges brought herein and will expire on September 30, 2015, unless renewed.

25 _____
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/or Smog Check Repair Technician (EI) license.

1 11. As used herein, "Respondent" collectively refers to Respondent PJS and Respondent
2 Nix unless stated otherwise.

3 **JURISDICTION**

4 12. Accusation No. 79/15-119 was filed before the Director of the Department of
5 Consumer Affairs ("Director"), for the Bureau, and is currently pending against Respondent. The
6 Accusation and all other statutorily required documents were properly served on Respondent on
7 May 12, 2015. Respondent timely filed his Notice of Defense contesting the Accusation.

8 13. A true and correct copy of Accusation No. 79/15-119 is attached hereto, marked
9 Exhibit A, and incorporated herein by reference.

10 **ADVISEMENT AND WAIVERS**

11 14. Respondent has carefully read, fully discussed with counsel, and understands the
12 charges and allegations in Accusation No. 79/15-119. Respondent has also carefully read, fully
13 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary
14 Order.

15 15. Respondent is fully aware of his legal rights in this matter, including the right to a
16 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at
17 his own expense; the right to confront and cross-examine the witnesses against him; the right to
18 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel
19 the attendance of witnesses and the production of documents; the right to reconsideration and
20 court review of an adverse decision; and all other rights accorded by the California
21 Administrative Procedure Act and other applicable laws.

22 16. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
23 every right set forth above.

24 **CULPABILITY**

25 17. Respondent admits the truth of each and every charge and allegation in Accusation
26 No. 79/15-119.

27 18. Respondent agrees that his Automotive Repair Dealer Registration, Lamp Station
28 License, Brake Station License, Brake Adjuster License, and Lamp Adjuster License are subject

1 to discipline and he agrees to be bound by the Director's probationary terms as set forth in the
2 Disciplinary Order below.

3 **CONTINGENCY**

4 19. This stipulation shall be subject to approval by the Director of the Department of
5 Consumer Affairs or the Director's designee. Respondent understands and agrees that counsel for
6 Complainant and the staff of the Bureau of Automotive Repair may communicate directly with
7 the Director and staff of the Department of Consumer Affairs regarding this stipulation and
8 settlement, without notice to or participation by Respondent or his counsel. By signing the
9 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek
10 to rescind the stipulation prior to the time the Director considers and acts upon it. If the Director
11 fails to adopt this stipulation as the Decision and Order, the Stipulated Settlement and
12 Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible
13 in any legal action between the parties, and the Director shall not be disqualified from further
14 action by having considered this matter.

15 20. The parties understand and agree that Portable Document Format (PDF) and facsimile
16 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile
17 signatures thereto, shall have the same force and effect as the originals.

18 21. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
19 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
20 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
21 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
22 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
23 writing executed by an authorized representative of each of the parties.

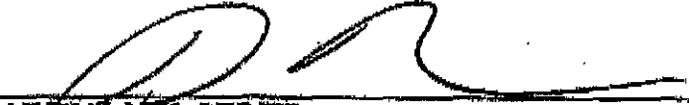
24 22. In consideration of the foregoing admissions and stipulations, the parties agree that
25 the Director may, without further notice or formal proceeding, issue and enter the following
26 Disciplinary Order:

27 ///

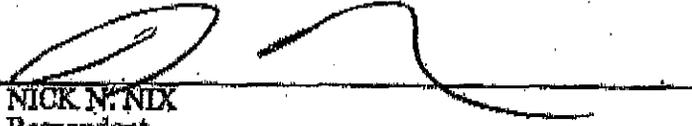
28 ///

1 Lamp Adjuster License No. LA 139351. I enter into this Stipulated Settlement and Disciplinary
2 Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order
3 of the Director of the Department of Consumer Affairs.

4
5 DATED: 10/12/15

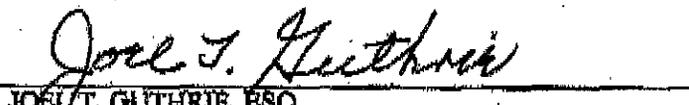

NICK N. NIX, OWNER,
DBA PJS AND CARS AUTOMOTIVE
Respondent

6
7
8
9 DATED: 10/12/15


NICK N. NIX
Respondent

10
11 I have read and fully discussed with Respondent Nick N. Nix, Owner, doing business as
12 PJS and Cars Automotive, and Nick N. Nix, the terms and conditions and other matters contained
13 in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

14
15 DATED: 10-12-15


JOEL T. GUTHRIE, ESQ.
Attorney for Respondent

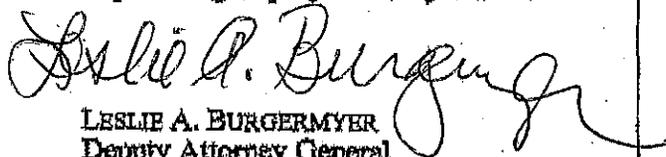
16
17 **ENDORSEMENT**

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

20 DATED: 10-12-2015

Respectfully submitted,

21 KAMALA D. HARRIS
22 Attorney General of California
23 KENT D. HARRIS
24 Supervising Deputy Attorney General


25 LESLIE A. BURGERMYER
26 Deputy Attorney General
27 Attorneys for Complainant

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Exhibit A

Accusation No. 79/15-119

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ACCUSATION

16 Automotive Repair Dealer Registration No. ARD 255434
17 Smog Test and Repair Station License No. RC 255434
18 Lamp Station License No. LS 255434
Brake Station License No. BS 255434

19 **NICK N. NIX**
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20 **Yuba City, California 95993**

21 Smog Check-Repair Technician License No. EI 139351
22 (formerly Basic Area Technician License No. EB 139351)
Smog Check Inspector License No. EO 139351
23 Brake Adjuster License No. BA 139351
24 Lamp Adjuster License No. LA 139351

Respondents.

27 Patrick Dorais ("Complainant") alleges:
28

1 PARTIES

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

4 LICENSE INFORMATION

5 **Automotive Repair Dealer Registration**

6 2. On or about July 7, 2008, the Bureau issued Automotive Repair Dealer Registration
7 Number ARD 255434 ("registration") to Nick N. Nix, doing business as PJS and Cars
8 Automotive, (collectively referred to as "Respondent." The registration was in full force and
9 effect at all times relevant to the charges brought herein and will expire on March 31, 2016,
10 unless renewed.

11 **Smog Check Station License**

12 3. On or about July 29, 2008, the Bureau issued Smog Check Station Number RC 255434
13 ("smog station license") to Respondent. The station license was in full force and effect at all
14 times relevant to the charges brought herein and will expire on March 31, 2016, unless renewed.

15 **Lamp Station License**

16 4. On or about August 14, 2008, the Bureau issued Lamp Station License Number LS
17 255434 ("lamp station license") to Respondent. The lamp station license was in full force and
18 effect at all times relevant to the charges brought herein and will expire on March 31, 2016,
19 unless renewed.

20 **Brake Station License**

21 5. On or about August 14, 2008, the Bureau issued Brake Station License Number BS
22 255434 ("brake station license") to Respondent. The brake station license was in full force and
23 effect at all times relevant to the charges brought herein and will expire on March 31, 2016,
24 unless renewed.

25 ///

26 ///

27 ///

28 -//-

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

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

10 (3) Failing or refusing to give to a customer a copy of any document
11 requiring his or her signature, as soon as the customer signs the document.

12 (4) Any other conduct which constitutes fraud.

13 (5) Conduct constituting gross negligence.

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

16 (b) Except as provided for in subdivision (c), if an automotive repair dealer
17 operates more than one place of business in this state, the director pursuant to
18 subdivision (a) shall only suspend, revoke, or place on probation the registration of
19 the specific place of business which has violated any of the provisions of this chapter.
20 This violation, or action by the director, shall not affect in any manner the right of the
21 automotive repair dealer to operate his or her other places of business.

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

27 11. Section 9884.8 of the Code states:

28 All work done by an automotive repair dealer, including all warranty work,
shall be recorded on an invoice and shall describe all service work done and parts
supplied. Service work and parts shall be listed separately on the invoice, which shall
also state separately the subtotal prices for service work and for parts, not including
sales tax, and shall state separately the sales tax, if any, applicable to each. If any
used, rebuilt, or reconditioned parts are supplied, the invoice shall clearly state that
fact. If a part of a component system is composed of new and used, rebuilt or
reconditioned parts, that invoice shall clearly state that fact. The invoice shall include
a statement indicating whether any crash parts are original equipment manufacturer
crash parts or nonoriginal equipment manufacturer aftermarket crash parts. One copy
of the invoice shall be given to the customer and one copy shall be retained by the
automotive repair dealer.

12. Section 9884.9 of the Code states:

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

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

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

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

19 I acknowledge notice and oral approval of an increase in the original
20 estimated price.

21 _____
22 (signature or initials)

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

26 13. Section 9889.1 of the Code states:

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

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

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

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

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

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

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

15. Section 9889.7 of the Code states:

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

16. Section 9889.9 of the Code states:

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

17. Section 9889.16 of the Code states:

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

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

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

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

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

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

21. Section 44072.6 of the Health and Safety Code provides, in pertinent part, that the expiration or suspension of a license by operation of law, or by order or decision of the

1 Director of Consumer Affairs, or a court of law, or the voluntary surrender of the license shall not
2 deprive the Director of jurisdiction to proceed with disciplinary action.

3 22. Section 44072.8 of the Health and Safety Code states:

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

6 REGULATIONS

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

11 24. California Code of Regulations, title 16, section 3305, states, in pertinent part:

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

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

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

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

24 (4) The bureau's Handbook for Brake Adjusters and Stations, February
25 2003, which is hereby incorporated by reference.

26 (5) The bureau's Handbook for Lamp Adjusters and Stations, February
27 2003, which is hereby incorporated by reference.

28 25. California Code of Regulations, title 16, section 3316, states, in pertinent part: . . .

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

1
2 (2) Where all of the lamps, lighting equipment, and related electrical
3 systems on a vehicle have been inspected and found to be in compliance with all
4 requirements of the Vehicle Code and bureau regulations, the certificate shall certify
5 that the entire system meets all of those requirements.

6 26. California Code of Regulations, title 16, section 3321, states, in pertinent part: . . .

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

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

18 27. California Code of Regulations, title 16, section 3356, states, in pertinent part:

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

22 (1) The invoice shall show the automotive repair dealer's registration
23 number and the corresponding business name and address as shown in the Bureau's
24 records. If the automotive repair dealer's telephone number is shown, it shall comply
25 with the requirements of subsection (b) of Section 3371 of this chapter.

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

28 (A) All service and repair work performed, including all diagnostic and
warranty work, and the price for each described service and repair.

(B) Each part supplied, in such a manner that the customer can
understand what was purchased, and the price for each described part. The description
of each part shall state whether the part was new, used, reconditioned, rebuilt, or an
OEM crash part, or a non-OEM aftermarket crash part.

COST RECOVERY

28 28. Code section 125.3 provides, in pertinent part, that a Board 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.

///

1 **UNDERCOVER OPERATION NO. 1: OLDSMOBILE**

2 29. On or about December 10, 2013, an undercover Bureau operator ("operator") drove a
3 Bureau documented Oldsmobile to Respondent's facility and requested a brake and lamp
4 inspection. The vehicle could not have passed the inspections because the front headlamps were
5 out of adjustment, the left and right rear brake drums were beyond factory specifications for
6 maximum diameter (oversized), the rear side marker lamps and rear license plate lamps were
7 inoperative, and the parking brake was out of adjustment. When the operator arrived at
8 Respondent's facility, he requested a brake and lamp inspection. An employee prepared a work
9 order and the operator signed it, but did not receive a copy. Approximately one hour later, a male
10 technician told the operator that the vehicle was ready. The technician told the operator that he
11 replaced a couple of bulbs at no charge². The operator paid \$95.00 for the inspections and
12 received a copy of Invoice No. [REDACTED], Lamp Certificate of Adjustment Number LC1686034, and
13 Brake Certificate of Adjustment Number BC1712533.

14 30. On or about December 18, 2013, a Bureau representative inspected the vehicle using
15 Invoice No. [REDACTED] Lamp Certificate of Adjustment Number LC1686034, and Brake Certificate of
16 Adjustment Number BC1712533, as a reference. The Bureau representative found the following:
17 1) The rear side marker lamps remained inoperative; 2) The headlamps were still out of
18 adjustment; 3) The rear brake drums remained oversized; and 4) The parking brake was still out
19 of adjustment.

20 **FIRST CAUSE FOR DISCIPLINE**

21 **(Untrue or Misleading Statements)**

22 31. Respondent's registration is subject to discipline pursuant to Code section 9884.7,
23 subdivision (a)(1), in that on or about December 10, 2013, Respondent made or authorized
24 statements which he knew or in the exercise of reasonable care should have known to be untrue or
25 misleading, as follows:

26
27
28 ² Respondent failed to record this repair and parts supplied on Invoice No. [REDACTED]

1 a. Respondent certified under penalty of perjury on Brake Certificate Number
2 BC1712533 that the applicable inspection was performed on the brake system when, in fact,
3 Respondent failed to inspect the brake system on the vehicle, in that Respondent failed to remove
4 the wheels on the vehicle.

5 b. Respondent certified under penalty of perjury on Brake Certificate Number
6 BC1712533 that the left and right rear brake drums were in satisfactory condition when, in fact,
7 the rear brake drums were beyond factory specifications for maximum diameter (oversized), and
8 the parking brake was out of adjustment.

9 c. Respondent certified under penalty of perjury on Lamp Certificate Number
10 LC1686034 that the applicable adjustments had been performed on the lamp system when, in
11 fact, both headlamps were out of adjustment, and the rear side marker lamps were inoperative.

12 **SECOND CAUSE FOR DISCIPLINE**

13 **(Fraud)**

14 32. Respondent's registration is subject to discipline pursuant to Code section 9884.7,
15 subdivision (a)(4), in that on or about December 10, 2013, Respondent committed acts that
16 constitute fraud, in that Respondent obtained payment from the operator for performing the
17 applicable inspections and adjustments on the vehicle's brake and lamp system, as specified by
18 the Bureau and in accordance with the Vehicle Code, when, in fact, Respondent failed to perform
19 the necessary inspections, as more particularly set forth above in paragraph 31 and all of its
20 subparts.

21 **THIRD CAUSE FOR DISCIPLINE**

22 **(Gross Negligence)**

23 33. Respondent's registration is subject to discipline under Code section 9884.7,
24 subdivision (a)(5), in that on or about December 10, 2013, Respondent committed acts
25 constituting gross negligence, in that Respondent failed to properly inspect the vehicle's brake
26 and lamp systems and issued Brake Certificate Number BC1712533 and Lamp Certificate
27 Number LC1686034, indicating that the vehicle's brake and lamp systems were in satisfactory
28 condition and were in accordance with the Vehicle Code when, in fact, they were not.

1 a. Section 3305, subdivision (a): Respondent failed to perform a brake and lamp
2 inspection in accordance with the vehicle's manufacturer standards and/or current standards,
3 specifications, recommended procedures, and/or directives issued by the Bureau.

4 b. Section 3316, subdivision (d)(2): Respondent issued Lamp Certificate Number
5 LC1686034, certifying that the vehicle's lamp system had been inspected and was in satisfactory
6 condition when, in fact, it was not.

7 c. Section 3321, subdivision (c)(2): Respondent issued Brake Certificate Number
8 BC1712533, certifying that the vehicle's brake system had been inspected and was in satisfactory
9 condition when, in fact, it was not.

10 d. Section 3356, subdivision (a): Respondent used the business name "PJ's &
11 C.A.R.S.," on Invoice No. [REDACTED], which is different from the name of record with the Bureau of
12 "PJS and Cars Automotive."

13 e. Section 3356, subdivision (a)(2)(A): Respondent failed to list, describe, and
14 identify the work performed and the price for each service and/or repair on Invoice No. [REDACTED].

15 f. Section 3356, subdivision (a)(2)(B): Respondent failed to list, describe, and
16 identify each part supplied, the price for each part, and whether or not the part was new, used,
17 reconditioned, rebuilt, or an OEM crash part, or a non-OEM aftermarket crash part on Invoice
18 No. [REDACTED].

19 **SEVENTH CAUSE FOR DISCIPLINE**

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

21 37. Respondent's brake and lamp station licenses are subject to discipline under Code
22 section 9889.3, subdivision (a) and (h), in that on or about December 10, 2013, Respondent
23 violated sections of the Code, relating to his licensed activities, as more particularly set forth
24 above in paragraph 35 and all of its subparts, incorporated herein by reference.

25 **EIGHTH CAUSE FOR DISCIPLINE**

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

27 38. Respondent's brake and lamp station licenses are subject to discipline under Code
28 section 9889.3, subdivision (c), in that on or about December 10, 2013, Respondent failed to.

1 comply with provisions of California Code of Regulations, title 16, as more particularly set forth
2 above in paragraph 36 and all of its subparts, above, incorporated herein by reference.

3 **NINTH CAUSE FOR DISCIPLINE**

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

5 39. Respondent's brake and lamp station licenses are subject to discipline pursuant to
6 Code section 9889.3, subdivision (d), in that on or about December 10, 2013, Respondent
7 committed acts involving dishonesty, fraud, or deceit whereby another was injured, as more
8 particularly set forth above in paragraphs 31 and all of its subparts and 32, above, incorporated
9 herein by reference.

10 **TENTH CAUSE FOR DISCIPLINE**

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

12 40. Respondent's brake and lamp adjuster licenses are subject to discipline under Code
13 section 9889.3, subdivision (a) and (h), in that on or about December 10, 2013, Respondent
14 violated sections of the Code, relating to his licensed activities, as more particularly set forth
15 above in paragraph 35, subparagraph (c), above, incorporated herein by reference.

16 **ELEVENTH CAUSE FOR DISCIPLINE**

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

18 41. Respondent's brake and lamp adjuster licenses are subject to discipline under Code
19 section 9889.3, subdivision (c), in that on or about December 10, 2013, Respondent failed to
20 comply with provisions of California Code of Regulations, title 16, as more particularly set forth
21 above in paragraph 36 and all of its subparts, incorporated herein by reference.

22 **TWELFTH CAUSE FOR DISCIPLINE**

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

24 42. Respondent's brake and lamp adjuster licenses are subject to discipline under Code
25 section 9889.3, subdivision (d), in that on or about December 10, 2013, Respondent committed
26 acts involving dishonesty, fraud, or deceit, by issuing Brake Certificate Number BC1712533 and
27 Lamp Certificate Number LC1686034, certifying that the brake and lamp systems were in
28 satisfactory condition and in accordance with the Vehicle Code when, in fact, they were not.

1 a. Section 3305(a): Respondent failed to perform a brake and lamp inspection in
2 accordance with the vehicle's manufacturer standards and/or current standards, specifications,
3 recommended procedures, and/or directives issued by the Bureau.

4 b. Section 3316(d)(2): Respondent issued Lamp Certificate Number [REDACTED],
5 certifying that the vehicle's lamp system had been inspected and was in satisfactory condition
6 when, in fact, it was not.

7 c. Section 3321(c)(2): Respondent issued Brake Certificate Number [REDACTED],
8 certifying that the vehicle's brake system had been inspected and was in satisfactory condition
9 when, in fact, it was not.

10 d. Section 3356(a): Respondent used the business name "PJ's & C.A.R.S.," on
11 Invoice No. [REDACTED], which is different from the name of record with the Bureau of "PJS and Cars
12 Automotive."

13 **NINETEENTH CAUSE FOR DISCIPLINE**

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

15 51. Respondent's brake and lamp station licenses are subject to discipline under Code
16 section 9889.3, subdivisions (a) and (h), in that on or about February 5, 2014, Respondent
17 violated sections of the Code, relating to his licensed activities, as more particularly set forth
18 above in paragraph 49 and all of its subparts, above, incorporated herein by reference.

19 **TWENTIETH CAUSE FOR DISCIPLINE**

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

21 52. Respondent's brake and lamp station licenses are subject to discipline under Code
22 section 9889.3, subdivision (c), in that on or about February 5, 2014, Respondent failed to comply
23 with provisions of California Code of Regulations, title 16, as more particularly set forth above in
24 paragraph 50 and all of its subparts, above, incorporated herein by reference.

25 **TWENTY-FIRST CAUSE FOR DISCIPLINE**

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

27 53. Respondent's brake and lamp station licenses are subject to discipline pursuant to
28 Code section 9889.3, subdivision (d), in that on or about February 5, 2014, Respondent

1 committed acts involving dishonesty, fraud, or deceit whereby another was injured, as more
2 particularly set forth above in paragraphs 45 and all of its subparts and 46, above, incorporated
3 herein by reference.

4 **TWENTY-SECOND CAUSE FOR DISCIPLINE**

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

6 54. Respondent's brake and lamp adjuster licenses are subject to discipline under Code
7 section 9889.3, subdivisions (a) and (h), in that on or about February 5, 2014, Respondent
8 violated sections of the Code, relating to his licensed activities, as more particularly set forth
9 above in paragraph 49, subparagraph (b), above, incorporated herein by reference.

10 **TWENTY-THIRD CAUSE FOR DISCIPLINE**

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

12 55. Respondent's brake and lamp adjuster licenses are subject to discipline under Code
13 section 9889.3, subdivision (c), in that on or about February 5, 2014, Respondent failed to comply
14 with provisions of California Code of Regulations, title 16, as more particularly set forth above in
15 paragraph 50 and all of its subparts, above, incorporated herein by reference.

16 **TWENTY-FOURTH CAUSE FOR DISCIPLINE**

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

18 56. Respondent's brake and lamp adjuster licenses are subject to discipline under Code
19 section 9889.3(d), in that on or about February 5, 2014, Respondent committed acts involving
20 dishonesty, fraud, or deceit, by issuing Brake Certificate Number [REDACTED] and Lamp
21 Certificate Number [REDACTED] certifying that the brake and lamp systems were in satisfactory
22 condition and in accordance with the Vehicle Code, when, in fact, they were not.

23 **TWENTY-FIFTH CAUSE FOR DISCIPLINE**

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

25 57. Respondent's smog check station license, smog check repair technician license, and
26 smog check inspector licenses are subject to discipline pursuant to Health and Safety Code
27 section 44072.2, subdivision (d), in that Respondent committed dishonest, fraudulent, or deceitful
28

1 acts whereby another is injured, as set forth above in paragraphs 31 and all of its subparts, 32, 45
2 and all of its subparts, and 46, above, incorporated herein by reference.

3 **OTHER MATTERS**

4 58. Pursuant to Code section 9884.7(c), the director may suspend, revoke, or place on
5 probation the registrations for all places of business operated in this state by Nick N. Nix, doing
6 business as PJS and Cars Automotive, upon a finding that he has, or is, engaged in a course of
7 repeated and willful violation of the laws and regulations pertaining to an automotive repair
8 dealer.

9 59. Pursuant to Health and Safety Code section 44072.8, if Smog Check Station License
10 Number RC255434, issued to Nick N. Nix, doing business as PJS and Cars Automotive, is
11 revoked or suspended, any additional license issued under this chapter in the name of said
12 licensee may be likewise revoked or suspended by the director.

13 60. Pursuant to Health and Safety Code section 44072.8, if Smog Check Repair
14 Technician License Number EI 139351, issued to Nick N. Nix, is revoked or suspended, any
15 additional license issued under this chapter in the name of said licensee may be likewise revoked
16 or suspended by the director.

17 61. Pursuant to Health and Safety Code section 44072.8, if Smog Check Inspector
18 License Number EO 139351, issued to Nick N. Nix, is revoked or suspended, any additional
19 license issued under this chapter in the name of said licensee may be likewise revoked or
20 suspended by the director.

21 62. Pursuant to Code section 9889.9, if Lamp Station License Number LS255434, issued
22 to Nick N. Nix, doing business as PJS and Cars Automotive, is revoked or suspended, any
23 additional license issued under Articles 5 and 6 of Chapter 20.3 of the Business and Professions
24 Code in the name of said licensees may be likewise revoked or suspended by the director.

25 63. Pursuant to Code section 9889.9, if Brake Station License Number BS255434, issued
26 to Nick N. Nix, doing business as PJS and Cars Automotive, is revoked or suspended, any
27 additional license issued under Articles 5 and 6 of Chapter 20.3 of the Business and Professions
28 Code in the name of said licensees may be likewise revoked or suspended by the director.

1 8. Revoking or suspending Brake Station License Number BS 255434, issued to Nick
2 N. Nix, doing business as PJS and Cars Automotive Nick N. Nix, doing business as PJS and Cars
3 Automotive;

4 9. Revoking or suspending any additional license issued under Articles 5 and 6 of
5 Chapter 20.3 of the Business and Professions Code in the name of Nick N. Nix;

6 10. Revoking or suspending Lamp Adjuster License Number LA 139351, issued to
7 Nick N. Nix;

8 11. Revoking or suspending Brake Adjuster License Number BA 139351, issued to
9 Nick N. Nix;

10 12. Revoking or suspending any additional license issued under Chapter 5 of the Health
11 and Safety Code in the name of Nick N. Nix;

12 13. Ordering Nick N. Nix, doing business as PJS and Cars Automotive to pay the
13 Director of Consumer Affairs the reasonable costs of the investigation and enforcement of this
14 case, pursuant to Code section 125.3; and,

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

16
17 DATED: May 8, 2015


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

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