

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

In the Matter of the Accusation Against:

**RODOLFO MADRID GUTIERREZ, OWNER, dba AUTO PROS**

44136 10<sup>th</sup> St. West #205

Lancaster, CA 93534

Automotive Repair Dealer Registration No. ARD 204090

Smog Check Station License No. RC 204090

Brake Station License No. BS 204090. Class C

Lamp Station License No. LS 204090, Class A

and

**RODOLFO MADRID GUTIERREZ**

44136 10<sup>th</sup> St. West #205

Lancaster, CA 93534

Smog Check Inspector License No. EO 26647

Smog Check Repair Technician License No. EI 26647

Brake Adjuster License No. BA 26647, Class C

Lamp Adjuster License No. LA 26647, Class A

Respondents.

Case No. 79/20-11696

OAH No. 2021030841

**DECISION**

The attached Proposed Decision of the Administrative Law Judge is hereby accepted and adopted by the Director of the Department of Consumer Affairs as the Decision in the above-entitled matter.

This Decision shall be effective on September 14, 2021.

IT IS SO ORDERED this 9 day of August, 2021.

Signature on File

GRACE ARUPO RODRIGUEZ  
Assistant Deputy Director  
Legal Affairs Division  
Department of Consumer Affairs

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

**In the Matter of the Accusation against:**

**RODOLFO MADRID GUTIERREZ, Owner**

**doing business as AUTO PROS**

**Automotive Repair Dealer Registration No. ARD 204090**

**Smog Check Station License No. RC 204090**

**Brake Station License No. BS 204090, class C**

**Lamp Station License No. LS 204090, class A**

**and**

**RODOLFO MADRID GUTIERREZ,**

**Smog Check Inspector License No. EO 26647**

**Smog Check Repair Technician License No. EI 26647**

**Brake Adjuster License No. BA 26647, class C**

**Lamp Adjuster License No. LA 26647, class A**

## **Respondents.**

**Agency Case No. 79/20-11696**

**OAH No. 2021030841**

### **PROPOSED DECISION**

Jennifer M. Russell, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter by videoconference on June 30, 2021.

Diana Petikyan, Deputy Attorney General, represented complainant Patrick Dorais, Chief of the Bureau of Automotive Repair (Bureau), Department of Consumer Affairs (Department). Rodolfo Madrid Gutierrez (Gutierrez), who owns and does business as Auto Pros, represented himself individually and as doing business as Auto Pros (collectively respondents).

Testimony and documentary evidence were received in evidence. The case was argued. The record closed and the matter was submitted for decision at the conclusion of the hearing.

### **SUMMARY**

Complainant seeks to discipline the respondents' registration and licenses based on allegations respondents violated the Automotive Repair Act by engaging in, among other things, conduct constituting dishonesty, fraud, and deceit in contravention of the California Motor Vehicle Inspection Program when Auto Pros

issued Certificates of Compliance to at least seven vehicles, none of which was subjected to a bona fide emission inspection. Complainant proved some but not all the allegations. Respondents offered evidence of extenuation, mitigation, and rehabilitation in connection with the proven allegations. The Administrative Law Judge makes the following Factual Findings, Legal Conclusions, and Order staying revocation of respondents' registration and certain licenses with probationary terms and conditions.

## **FACTUAL FINDINGS**

### **Jurisdictional Matters**

1. In 1999, the Bureau issued Automotive Repair Dealer Registration number ARD 204090 to Gutierrez doing business as Auto Pros. The registration, which was in full force and effect at all times relevant to the allegations in the Accusation, expires on March 31, 2022, unless renewed.

2. On March 12, 1999, the Bureau issued Smog Check Station License number RC 204090 to Gutierrez, owner, doing business as Auto Pros. The station license, which was in full force and effect at all times relevant to the allegations in the Accusation, expires on March 31, 2022, unless renewed.

3. On July 9, 2009, the Bureau issued Brake Adjuster License number BA 26647, class C to Gutierrez. The brake adjuster license, which was in full force and effect at all times relevant to the allegations in the Accusation, expired on September 30, 2020, and is currently in a delinquent status. Pursuant to Business and Professions Code section 9889.7, the Board retains jurisdiction over the expired brake adjuster license.

4. On July 9, 2009, the Bureau issued Lamp Adjuster License number LA 26647, class A to Gutierrez. The lamp adjuster license, which was in full force and effect at all times relevant to the allegations in the Accusation, expired on September 30, 2020, and is currently in a delinquent status. Pursuant to Business and Professions Code section 9889.7, the Board retains jurisdiction over the expired lamp adjuster license.

5. On February 4, 2010, the Bureau issued Brake Station License number BS 204090, class C to Gutierrez, owner, doing business as Auto Pros. The brake station license, which was in full force and effect at all times relevant to the allegations in the Accusation, expires March 31, 2022, unless renewed.

6. On February 4, 2010, the Bureau issued Lamp Station License number LS 204090, class A to Gutierrez, doing business as Auto Pros. The lamp station license, which was in full force and effect at all times relevant to the allegations in the Accusation, expires March 31, 2022, unless renewed.

7. On August 15, 2012, the Bureau issued Smog Check Inspector License number EO 26647 to Gutierrez. The inspector license, which was in full force and effect at all times relevant to the allegations in Accusation, expires on September 30, 2022, unless renewed.

8. On August 15, 2012, the Bureau issued Smog Check Repair Technician License number EI 26647 to Gutierrez. The technician license, which was in full force and effect at all times relevant to the allegations in the Accusation, expires on September 30, 2022, unless renewed.

9. On March 25, 2013, the Bureau issued Auto Pros a STAR Station Certification, which remains in effect unless invalidated or Auto Pros' Automotive

Repair Dealer Registration or Smog Check Station License is revoked, canceled, or delinquent.

10. On February 10, 2021, complainant made the Accusation in an official capacity.

11. On February 22, 2021, respondents filed a Notice of Defense requesting a hearing on the merits of the Accusation.

12. All jurisdictional requirements are met.

### **Respondents' History of Prior Discipline**

13. Automotive Repair Dealer Registration number ARD 204090 and Smog Check Station License number RC 204090 issued to Gutierrez doing business as Auto Pros have a history of prior discipline consisting of the following citations issued on November 13, 2001, August 20, 2003, December 30, 2003, and June 2015.

a. On November 13, 2001, the Bureau issued Citation Number C02-0300 to Auto Pros for issuing Certificate of Compliance EJ604913 to a Bureau undercover vehicle with a non-functional gas cap and timing advanced 10 degrees from manufacturer's specifications, in violation of Health and Safety Code section 44012, subdivision (f), and California Code of Regulations, title 16, section 3340.35, subdivision (c). The citation assessed a \$250 penalty, which has been paid.

b. On August 20, 2003, the Bureau issued Citation Number C04-0090 to Auto Pros for issuing Certificate of Compliance FB667062 to a Bureau undercover vehicle with a missing positive crankcase ventilation system, in violation of Health and Safety Code section 44012, subdivision (f), and California Code of Regulations, title 16,

section 3340.35, subdivision (c). The citation assessed a \$500 penalty, which has been paid.

c. On December 30, 2003, the Bureau issued Citation Number C04-0367 to Auto Pros for performing an improper inspection of a Bureau undercover vehicle with a missing exhaust gas recirculation system, in violation of Health and Safety Code section 44012, subdivision (f). The citation assessed a \$1000 penalty, which has been paid.

d. On June 3, 2015, the Bureau issued Citation C2015-0679 to Auto Pros for issuing Certificate of Compliance YP871243C to a 2000 Ford E150 Econoline using the Emission Inspection System (EIS), also known as a BAR 97 when an On-Board Diagnostic Inspection System called the BAR-OIS (as discussed in Factual Findings 15 through 23) was required, in violation of Health and Safety Code section 44012. The citation assessed a \$1000 penalty. The citation, after formal appeal, was modified and became effective. The evidence offered at the administrative hearing does not establish the nature of the modification or respondent's payment of a penalty.

14. Smog Check Inspector License number EO 26647 and Smog Repair Technician License number EI 26647 issued to Gutierrez have a history of prior discipline consisting of the following citations issued on November 13, 2001, August 20, 2003, and June 2015.

a. On November 13, 2001, the Bureau issued Citation M02-0301 to Gutierrez for issuing Certificate of Compliance EJ604913 to a Bureau undercover vehicle with a non-functional gas cap and timing advanced 10 degrees from manufacturer's specifications, in violation of Health and Safety Code section 44012, subdivision (f), and California Code of Regulations, title 16, section 3340.35,

subdivision (c). The citation directed Gutierrez to complete an eight-hour training course, which he completed.

b. On August 20, 2003, the Bureau issued Citation M04-0091 to Gutierrez for issuing Certificate of Compliance FB667062 to a Bureau undercover vehicle with a missing positive crankcase ventilation system, in violation of Health and Safety Code section 44012, subdivision (f), and California Code of Regulations, title 16, section 3340.35, subdivision (c). The citation directed Gutierrez to complete an eight-hour training course, which he completed.

c. On June 3, 2015, the Bureau issued Citation M2015-0680 with an Order of Abatement to Gutierrez for issuing Certificate of Compliance YP871243C to a 2000 Ford E150 Econoline using the BAR 97 when a BAR-OIS test was required, in violation of Health and Safety Code section 44032. The citation, after formal appeal, became effective.

## **California Smog Check Program**

15. California's smog check program is designed to improve air quality and to protect the public health by reducing air pollution produced through vehicle emissions. The smog check program requires owners to submit their vehicles to smog inspections and obtain certificates of compliance. Licensed smog check inspectors at licensed smog check stations conduct these mandated smog check inspections and are the only persons authorized by the Bureau to perform official inspections. Smog check inspectors are issued a license and a personal access code, which they must personally enter to initiate and perform the smog check inspections. Use of another inspector's license, access code, or username and password is prohibited.

16. A smog inspection consists of a three-part test. For vehicles built in 1999 and earlier, the smog inspection is performed using the BAR 97. The first part of the inspection is an emission sample test to analyze tail pipe emissions obtained while the vehicle's engine is running. The smog inspector then conducts a visual inspection to verify the presence of required emission control systems and components. Finally, the smog inspector performs a functional test to physically test certain emission system components, such as the malfunction indicator light (MIL) or pressure test of the gas cap.

17. On most 1996 to 1999 model-year vehicles, an On-Board Diagnostics (OBDII) functional test is also performed. The inspector is required to connect a test cable from the EIS to a Diagnostic Link Connector (DLC), which is a plug located in the vehicle's passenger compartment. Through the DLC the EIS retrieves information from the vehicle's on-board computer. When that information is retrieved, it is relayed to a database maintained by the Bureau, the Vehicle Information Database (VID).

18. In March 2015, the smog inspection process was updated for most vehicles manufactured after 1999. The updated inspection process requires the use of the BAR-OIS. The BAR-OIS consists of a certified Data Acquisition Device (DAD), a computer, a bar code scanner, and a printer. The BAR-OIS requires a continuous Internet connection during a smog inspection. Inspectors use their personal access information to sign in and then use a bar code scanner to input the Vehicle Identification Number (VIN) and Department of Motor Vehicles (DMV) renewal information. Inspectors then connect the DAD, an On-Board Diagnostic scan tool, to the vehicle's DLC inside the vehicle's passenger cabin. Through the Internet connection, the DAD forms a link between the vehicle's DLC and the BAR-OIS. When requested by the BAR-OIS, the DAD retrieves OBDII data from the vehicle and

transmits it to the Bureau's VID. Some of the data retrieved and recorded to the Bureau's VID includes the VIN, the vehicle's communication protocol, and the Parameter Identification (PID) count.

19. For model-year 2005 and newer vehicles and on some earlier model-years, the VIN is programmed into the vehicle's Powertrain Control Module (PCM). The electronically programmed VIN (even) is captured by the BAR-OIS during a smog inspection and, under normal circumstances, matches the physical VIN on the vehicle.

20. The communication protocol is a specific combination of letters and numbers used by each vehicle's on-board computer to relay information to scan tools and other computers such as the BAR-OIS. The communication protocol is programmed into the vehicle's on-board computer during manufacture and does not change. The communication protocol can be recorded in its basic characters or in an expanded form that includes additional characters. The basic form is always contained within the expanded form (i.e., ICAN11bt5 vs. ICANbt*500*, I194 v. I194*0808*, JVPW vs. JVPW *1850*, JPWM vs. JPWM *1850*, KWPF vs. KWPF*8FEF*). Additional characters in examples are italicized.

21. PIDs are data points reported by the vehicle's OBDII system to the BAR-OIS. Examples of PIDs are engine speed/rpm, vehicle speed, engine temperature and other input/output values utilized by the OBDII system. The PID count is the number of data points reported by the OBDII system. The PID count is programmed during manufacture and does not change. Each vehicle reports a specific PID count with slight variations based on whether the vehicle is equipped with an automatic or manual transmission and in rare occurrences on vehicle trim variations.

22. As with the EIS, inspectors also perform a visual and functional test on the vehicle. Based on the results of the on-board diagnostic information and the visual and functional tests, the BAR-OIS software determines whether a vehicle passes the overall inspection. If a vehicle passes the inspection, a certificate of compliance, with a unique control number, is issued and transmitted electronically to the VID. The vehicle information and test results are also electronically transmitted to the DMV. The BAR-OIS prints a Vehicle Inspection Report (VIR), which is a physical record of the test results and shows the Smog Check Certificate of Compliance number for a vehicle that passes the smog inspection. Each Smog Check Certificate of Compliance has a unique control number to identify the station which purchased the certificate and the vehicle to which it was issued. Inspectors must sign the VIR certifying under penalty of perjury the inspection was performed within BAR guidelines.

23. The Bureau's VID contains the dates and times of all smog inspections, the identity of the vehicles tested (license plates and VINs), all data obtained during the smog check inspections, and the identities of the inspectors and stations performing the inspections. Bureau employees have access to the VID and use the information stored there when conducting investigations.

24. "Clean plugging" is a method used by some smog check stations and smog check inspectors to issue fraudulent smog check certificates of compliance. "Clean plugging" involves using a surrogate vehicle's properly functioning OBDII system, or another source, to generate passing diagnostic readings for the purpose of issuing fraudulent certificates of compliance to vehicles not in smog compliance or not present for testing. To clean plug, the DAD is connected to a vehicle other than that which is being certified or to a data generating OBDII simulator to obtain a false smog certification.

## **Clean Plugging Activity at Auto Pros in Contravention of the California Smog Inspection Program**

25. The Bureau's employee Marc Ortega holds the position of Program Representative II with responsibility for, among other things, the examination of smog inspection data stored in the Bureau's VID. At the administrative hearing Ortega explained the Bureau's responsibility for licensure and regulation of smog check stations and smog check inspectors. He explained the Bureau's role maintaining California's air quality by monitoring the performance of licensees conducting smog check inspections of vehicles. He explained how the Bureau compiles, maintains, and conducts analyses of numerous vehicles' smog check data, including eVIN values, expected communication protocol, and expected PID counts. Ortega additionally explained how the Bureau's comparative analysis of such data enables the Bureau to determine the percentage of vehicles statewide reporting expected OBD characteristics. Ortega is familiar with how some technicians use surrogate vehicles or other sources to clean plug and thereby circumvent California's Smog Check Program.

26. Ortega examined OIS test data corresponding with smog check inspections performed at Auto Pros. He discovered discrepant OIS test data for the seven vehicles set forth in Factual Findings 27 through 33.

27. On April 1, 2019, Auto Pros issued Certificate of Compliance number ID733774C to a 2007 Dodge Magnum SE. OIS test data report no eVIN value when the eVIN value 2D4FV47TX7H717551 should have been reported. OIS test data also indicate a communication protocol of I914 and a PID count of 16. Based on OIS test data of similar vehicles of the same year, make, and model, the expected protocol for that vehicle is ICAN11bt5 and the expected PID count is 43.

28. On April 1, 2019, Auto Pros also issued Certificate of Compliance number ID733775C to a 2001 Ford Mustang. The OIS test data report 1LNHM86S54Y632199 for the vehicle's eVIN value when 1FAFP44481F209727 should have been reported as the eVIN value. OIS test data also indicate a communication protocol of ICAN11bt5 and a PID count of 27. Based on OIS test data of similar vehicles of the same year, make, and model, the expected communication protocol for that vehicle is JPWM and the expected PID count is 21.

29. On December 20, 2019, Auto Pros issued Certificate of Compliance number RC172162C to a 2004 Cadillac SRX. OIS test data report 3GNEC12T94G232132 for the vehicle's eVIN value when 1GYDE63A740156417 should have been reported as the eVIN value. OIS test data also indicate a communication protocol of JVPW and a PID count of 22. Based on OIS test data of similar vehicles of the same year, make, and model, the expected communication protocol for that vehicle is ICAN11bt5 and the expected PID count is 43/3.

30. On February 21, 2020, Auto Pros issued Certificate of Compliance number RE907457C to a 2002 Oldsmobile Alero GL. OIS test data report J3GNEC12T94G2322132 as the vehicle's eVIN value when the eVIN value 1G3NL52F92C209153 should have been reported. OIS test data report the vehicle's expected communication protocol, which is JVPW. OIS test data also indicate a PID count of 22 when, based on OIS test data of similar vehicles of the same year, make, and model, the expected PID count for that vehicle is 18.

31. On February 28, 2020, Auto Pros issued Certificate of Compliance number RE907468C to a 2001 GMC Sierra K2500 Heavy Duty. OIS test data report no eVIN value when the eVIN value 1GTHK29G51E189855 should have been reported. OIS test data also indicate a communication protocol of I914 and a PID count of 21. Based

on OIS test data of similar vehicles of the same year, make, and model, the expected communication protocol for that vehicle is JVPW and the expected PID count is 20 or 20/1 or 23/1 or 23/2.

32. On August 14, 2020, Auto Pros issued Certificate of Compliance number RO244716C to a 2001 GMC New Sierra C1500. OIS test data report no eVIN value when the eVIN value 2GTEC19V211120972 should have been reported. OIS test data also indicate a communication protocol of I914 and a PID count of 21. Based on OIS test data of similar vehicles of the same year, make, and model, the expected communication protocol for that vehicle is JVPW and the expected PID count is 22 or 23.

33. On September 18, 2020, Auto Pros issued Certificate of Compliance number RO959218C to a 2010 Cadillac SRX Luxury Collection. OIS test data report 1FTYR10U61TA44294 for the vehicle's eVIN value when 3GYFNAEY2AS620174 should have been reported as the eVIN value. OIS test data also indicate a communication protocol of JPWM and a PID count of 19. Based on OIS test data of similar vehicles of the same year, make, and model, the expected protocol for that vehicle is ICAN11bt5 and the expected PID count is 45/7/8.

34. Ortega's credible testimony at the hearing established the discrepant OIS test data for each of the seven vehicles indicates none of the vehicles was connected to the DAD for retrieval of OBDII data from the vehicles for transmittal to the Bureau's VID. Thus, none of the seven vehicles was subjected to a bona fide inspection of its emission control devices and systems at Auto Pros.

35. At Auto Pros, a 2004 Chevrolet Avalanche registered to Gutierrez served as the surrogate vehicle in connection with the improper smog inspection of the 2004

Cadillac SRX (Factual Finding 29) and the 2002 Oldsmobile Alero GL (Factual Finding 30). The vehicle or source used in connection with the improper smog inspection of the other five vehicles set forth in Factual Findings 27, 28, and 31 through 33 was not identified at the administrative hearing.

36. Smog Check Inspector License number EO 26647 issued to Gutierrez was used at Auto Pros in connection with the improper smog inspection of the seven vehicles set forth in Factual Findings 27 through 33.

37. VIRs generated in connection with the improper smog inspections of the seven vehicles set forth in Factual Findings 27 through 33 bear a signature purportedly belonging to Gutierrez.

38. Certificates of Compliance issued in connection with the improper smog inspections of the seven vehicles set forth in Factual Findings 27 through 33 contain untrue, misleading, or otherwise fraudulent statements.

39. Certificates of Compliance issued in connection with the improper smog inspections of the seven vehicles set forth in Factual Findings 27 through 33 were purchased through OIS platform CV0003383 at Auto Pros using an Automated Clearing House payment method. Between March 12, 2019 and August 28, 2020, the Certificates of Compliance were delivered through OIS platform CV0003383 to Auto Pros, which retained and exercised exclusive control over them.

40. A preponderance of the evidence establishes clean plugging activity occurred at Auto Pros.

## **Respondents' Evidence of Extenuation, Mitigation, and Rehabilitation**

41. Gutierrez earned a Bachelor of Science in Engineering from California State University at Northridge. He accumulated several years' experience in a variety of occupational roles in the automotive industry prior to owning and operating Auto Pros.

42. When clean plugging of the vehicles set forth in Factual Findings 27 through 33 occurred, Gutierrez was absent from Auto Pros. Beginning in late 2017, Gutierrez left Auto Pros and put his stepdaughter "in the shop to watch" as he cared for his ailing spouse until her death in 2019. Gutierrez explained his stepdaughter grew up around Auto Pros, which he describes as "the family business." After his spouse's death in 2019, Gutierrez returned to the shop but, as he testified, "It was hard for me. . . I stayed a couple of hours and got emotional. I would lose my temper." Gutierrez commenced therapy. He limited his presence at Auto Pros to Tuesdays and Thursdays, and on those days, he conducted "spot checks" and signed checks.

43. Gutierrez surmised the clean plugging activities at Auto Pros occurred because, in his absence, his stepdaughter re-employed a technician who was previously terminated for engaging in citable misconduct at Auto Pros. Gutierrez's stepdaughter, the technician, and others likely used Gutierrez's licensee information, including access code, and username and password to access the BAR-OIS platform. Gutierrez admitted not always maintaining his technician badge containing his licensee information in his possession or on his person. He also explained it was widely known he used the names and birth dates of his grandchildren as passwords to the BAR-OIS platform, which he wrote on pieces of papers accessible to all at Auto Pros. Gutierrez's 2004 Chevrolet Avalanche used to clean plug the 2004 Cadillac SRX (Factual Finding

29) and the 2002 Oldsmobile Alero GL (Factual Finding 30) was similarly accessible to all at Auto Pros because Gutierrez left that vehicle in the shop during his absence.

44. Gutierrez noted all seven clean plugging incidents occurred when he was not present at Auto Pros. In particular, the improper smog inspections involving the 2001 Ford Mustang and the 2007 Dodge Magnum SE occurred when Gutierrez was out of the State. The improper smog inspections involving the 2004 Cadillac SRX, the 2002 Oldsmobile Alero, the 2001 GMC Sierra K2500 Heavy Duty, and the 2001 GMC New Sierra C1500 occurred on Fridays when Gutierrez was typically not present at Auto Pros. The improper smog inspection involving the 2010 Cadillac SRX Luxury Collection occurred when Gutierrez was out of the country celebrating his birthday in Mexico.

45. Gutierrez's un rebutted testimony establishes his purported signature appearing on VIRs generated in connection with the improper smog inspections of the seven vehicles is a forgery. "Those are not my signatures," he testified.

46. Gutierrez acknowledges his affirmative duty to ensure illegal activities do not occur at Auto Pros. In the aftermath of the clean plugging activities at Auto Pros, Gutierrez initiated several remediations. He is "now present Mondays through Fridays to keep an eye on everything." He terminated his stepdaughter. He testified, "She wasn't a good choice. Let's put it that way." He fired the technician she rehired as well as another employee. Gutierrez has since hired new employees, whom he requires to watch videos focusing on the statutory and regulatory requirements governing the automotive services, including smog check inspections, provided at Auto Pros.

47. Gutierrez explained narrowing the scope of the shop's services to "deal with problem cars so there is more time [for him to be] in the front office to monitor the use of certificates." He further explained, "I watch the machines like a hawk. I

installed cameras I can watch on my phone. The cameras are directed at the smog machine. I can see the numbers as they are putting them in. I have alarms on the door, so I know who is coming and going in the shop.”

48. Gutierrez no longer writes his password on papers readily accessible to those present at Auto Pros. He changes his password regularly every three-months when prompted to do so. He no longer leaves his 2004 Chevrolet Avalanche at Auto Pros.

49. Gutierrez contacted six of the seven owners of the clean plugged vehicles. Only one of the six owners returned to Auto Pros; that owner’s vehicle had a code related to its transmission, which was repaired three or four months prior to the administrative hearing.

50. Gutierrez condemned the clean plugging activities at Auto Pros stating, “I do believe it wrong. I know it was wrong.” He accepted responsibility for its occurrence stating, “I didn’t supervise everybody as diligent as I should have There was a bad apple I do accept responsibility that I should have watched a lot better.”

### **Costs of Investigation and Prosecution**

51. The Bureau incurred investigation costs totaling \$3,473.17 and prosecution costs totaling \$8,843.75. These costs are reasonable pursuant to Business and Professions Code section 125.3.

52. Evidence of respondents’ financial circumstances consists of Gutierrez’s un rebutted testimony establishing Auto Pros currently averages 60 smog check inspections per month, which is a decrease from previous years’ average of 73 smog

check inspections per month. Neither party offered evidence of respondents' ability to pay a cost award.

## **LEGAL CONCLUSIONS**

### **Applicable Statutes and Regulation**

1. Business and Professions Code section 9884.7 authorizes the Director of the Department (Director) to suspend, revoke, or place on probation the registration of an automotive repair dealer for, among other things, making untrue or misleading statements (Bus. & Prof. Code, § 9884.7, subd. (a)(1)); engaging in conduct constituting fraud (Bus. & Prof. Code, § 9884.7, subd. (a)(4)); or failing in any material respect to comply with Automotive Repair Act or regulations adopted pursuant to the Automotive Repair Act (Bus. & Prof. Code, § 9884.7, subd. (a)(6)).

2. Business and Professions Code section 9884.7 further authorizes the Director to invalidate the registration for all places of business operated by an automotive repair dealer "upon a finding that the automotive repair dealer has, or is, engaged in a course of repeated and willful violations of the [Automotive Repair Act] or regulations adopted pursuant to it." (Bus. & Prof. Code, § 9884.7, subd. (c)). (See also Health and Safety Code section 44072.8 providing for the revocation or suspension of a licensee's additional licenses when a license has been revoked or suspended following a hearing.)

3. Health and Safety Code section 44072.2 authorizes the Director to suspend, revoke, or take other disciplinary action against a license should the license holder violate provisions of the Motor Vehicle Inspection Program establishing inspections standards and test procedures as set forth in sections 44012, 44015, and

44059 in this instance (Health & Saf. Code, § 44072.2, subd. (a)); should the license holder violate regulations relating to the licensed activities, including California Code of Regulations, title 16, sections 3340.24, subdivision (c) (prohibiting false or fraudulent issuance of a certificate of compliance), 3340.30, subdivision (a) (mandating inspections and tests in accordance with the Motor Vehicle Inspection Program), 3340.35, subdivision (c) (mandating issuance of a certificate of compliance for an inspected vehicle in accordance with the Motor Vehicle Inspection Program), 3340.41, subdivision (c) (prohibiting the entry of false information about a vehicle into the EIS), 3340.42 (establishing applicable emissions test methods and standards), and 3373 (prohibiting false and misleading information or statements in specified documents) (Health & Saf. Code, § 44072.2, subd. (c)); or should the license holder commit any act involving dishonesty, fraud, or deceit (Health & Saf. Code, § 44072.2, subd. (d)).

4. Protection of the public is the Bureau's highest priority when exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests, the protection of the public shall be paramount. (Bus. & Prof. Code, § 9880.3.)

### **Standard and Burden of Proof**

5. Complainant has the burden of proving by a preponderance of the evidence public protection requires discipline of respondents' registration and licenses. (*Imports Performance v. Department of Consumer Affairs, Bureau of Automotive Repair* (2011) 201 Cal.App.4th 911, 916-917; See also *Owens v. Sands* (1992) 176 Cal.App.4th 985.)

6. "'Preponderance of the evidence means evidence that has more convincing force than that opposed to it.' (Citations.) . . . [T]he sole focus of the legal

definition of 'preponderance' in the phrase 'preponderance of the evidence' is the *quality* of the evidence. The *quantity* of the evidence presented by each side is irrelevant." (*Glage v. Hawes Firearms Company* (1990) 226 Cal.App.3d 314, 324-325, original italics.) In meeting the burden of proof by a preponderance of the evidence, the complainant "must produce substantial evidence, contradicted or un-contradicted, which supports the finding." (*In re Shelley J.* (1998) 68 Cal.App.4th 322, 339.)

**Cause Exists to Discipline Automotive Repair Dealer Registration number ARD 204090 and Smog Check Station License number RC 204090 issued to Gutierrez, owner, doing business as Auto Pros**

7. A licensee electing to operate its business through employees is responsible to the licensing authority for the conduct of its employees. (*Ford Dealers Assn. v. Department of Motor Vehicles* (1982) 32 Cal.3d 347, 360; *Kirby v. Alcoholic Beverage Control Appeals Bd.* (1973) 33 Cal.App.3d 732, 737.) "If a licensee elects to operate his business through employees, he must be responsible to the licensing authority for their conduct in the exercise of his license," and this holds true even if the licensee "does not authorize the unlawful acts and did not have actual knowledge of the activities." *Arenstein v California State Bd. of Pharmacy* (1968) 265 Cal.App.2d 179, 192-193; see also *Rob-Mac, Inc. v. Department of Motor Vehicles* (1983) 148 Cal.App.3d 793 [applying a non-delegable theory of tort liability to discipline licensed automobile dealer for the misconduct of salesperson acting under its license].)

8. Gutierrez chose to operate Auto Pros' smog inspection activities through individuals employed by Auto Pros. Gutierrez is therefore responsible to the Bureau for ensuring Auto Pros' employees' compliance with the Automotive Repair Act and its implementing regulations and the Motor Vehicle Inspection Program. A preponderance of the evidence establishes Auto Pros' employees clean plugged seven

vehicles—a 2007 Dodge Magnum SE, a 2001 Ford Mustang, a 2004 Cadillac SRX, a 2002 Oldsmobile Alero GL, a 2001 GMC SierraK2500 Heavy Duty, a 2001 GMC New Sierra C1500, and a 20210 Cadillac SRX Luxury Collection—at Auto Pros, which issued Certificates of Compliance for the vehicles that were untrue, misleading, or otherwise fraudulent. (Factual Findings 27 through 40 and 43.) Such conduct is contrary to the California Smog Inspection Program policy objectives codified in the Automotive Repair Act and the Motor Vehicle Inspection Program and promulgated regulations. Under these circumstances, Gutierrez’s registration and smog check station license, which permit licensed activities at Auto Pros, a business he owns, are subject to discipline for employee misconduct committed at Auto Pros.

9. With respect to the First Cause for Discipline (Untrue or Misleading Statements), complainant proved by a preponderance of the evidence cause exists pursuant to Business and Professions Code section 9884.7, subdivision (a)(1), to discipline Automotive Repair Dealer Registration number ARD 204090 issued to Gutierrez, owner, doing business as Auto Pros. Through its employees, Auto Pros, made or authorized statements known, or in the exercise of reasonable care should have been known, to be untrue and misleading statements in connection with the issuance of erroneous Certificates of Compliance for the seven vehicles identified in Factual Findings 27 through 33.

10. With respect to the Second Cause for Discipline (Fraud), complainant proved by a preponderance of the evidence cause exists pursuant to Business and Professions Code section 9884.7, subdivision (a)(4), to discipline Automotive Repair Dealer Registration number ARD 204090 issued to Gutierrez, owner, doing business as Auto Pro. Through its employees, Auto Pros engaged in conduct constituting fraud by

issuing erroneous Certificates of Compliance for the seven vehicles identified in Factual Findings 27 through 33.

11. With respect to the Third Cause for Discipline (Failure to Comply with the Automotive Repair Act), complainant proved by a preponderance of the evidence cause exists pursuant to Business and Professions Code section 9884.7, subdivision (a)(6), to discipline Automotive Repair Dealer Registration number ARD 204090 issued to Gutierrez, owner, doing business as Auto Pros. Through its employees, Auto Pros failed in material respect to comply with the provisions of the Automotive Repair Act and promulgated regulations relating to the issuance of erroneous Certificates of Compliance for the seven vehicles identified in Factual Findings 27 through 33.

12. With respect to the Fourth Cause for Discipline (Failure to Comply with the Motor Vehicle Inspection Program), complainant proved by a preponderance of the evidence cause exists pursuant to Health and Safety Code sections 44072.2, subdivision (a), to discipline Smog Check Station License number RC 204090 issued to Gutierrez, owner, doing business as Auto Pros. Through its employees, Auto Pros failed to comply with provisions of the Motor Vehicle Inspection Program. Specifically, Auto Pros failed to comply with Health and Safety Code sections 44012 by failing to ensure its employees performed the emission control tests on the seven vehicles identified in Factual Findings 27 through 33 in accordance with prescribed procedures; 44015 by issuing Certificates of Compliance for the seven improperly tested and inspected vehicles; and 44059 by falsely certifying the seven vehicles were inspected in accordance with prescribed procedures when in actuality they were not.

13. With respect to the Fifth Cause for Discipline (Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection Program), complainant proved by a preponderance of the evidence cause exists pursuant to Health and Safety Code

section 44072.2, subdivision (c), to discipline Smog Check Station License number RC 204090 issued to Gutierrez, owner, doing business as Auto Pros, for violations of the regulations promulgated pursuant to the Motor Vehicle Inspection Program. Specifically, Auto Pros failed to comply with California Code of Regulations, title 16, sections 3340.24, subdivision (c), by falsely or fraudulently issuing Certificates of Compliance to the seven vehicles identified in Factual Findings 27 through 33; 3340.35, subdivision (c), by issuing Certificates of Compliance to the seven vehicles identified in Factual Findings 27 through 33 when these vehicles were not inspected in accordance with section 3340.42; and 3340.42 by failing to ensure its employees conducted required smog tests and inspections according to Bureau specifications.

14. With respect to the Sixth Cause for Discipline (Dishonesty, Fraud or Deceit), complainant proved by a preponderance of the evidence cause exists pursuant to Health and Safety Code section 44072.2, subdivision (d), to discipline Smog Check Station License number RC 204090 issued to Gutierrez, owner, doing business as Auto Pros. Through its employees, Auto Pros committed dishonest, fraudulent, and deceitful acts whereby another was injured by issuing erroneous Certificates of Compliance for the seven vehicles identified in Factual Findings 27 through 33 and by depriving the People of the State of California of the protections afforded by the Motor Vehicle Inspection Program.

### **No Cause Exists to Discipline Smog Check Inspector License Number EO 26647 issued to Gutierrez on Grounds Alleged in the Seventh, Eighth, and Ninth Causes for Discipline in the Accusation**

15. Someone other than Gutierrez used Gutierrez's Smog Check Inspector License number EO 26647 at Auto Pros for the false certification of the 2007 Dodge Magnum SE, 2001 Ford Mustang, 2004 Cadillac SRX, 2002 Oldsmobile Alero GL, 2001

GMC Sierra K2500 Heavy Duty, 2001 GMC New Sierra C1500, and 20210 Cadillac SRX Luxury Collection. Gutierrez's purported signature appearing on documents accompanying the improper smog inspections of those seven vehicles is a forgery. (Factual Finding 37.) No evidence offered at the administrative hearing established Gutierrez's actual participation as a smog check inspector in the illegal certification of these seven vehicles. Gutierrez was absent from Auto Pros at the time the improper smog inspections culminating in those illegal certifications occurred. (Factual Findings 42 through 45.) He conducted no inspection of and performed no emission control tests on those seven vehicles.

16. With respect to the Seventh Cause for Discipline (Violations of the Motor Vehicle Inspection Program), complainant failed to prove by a preponderance of the evidence cause exists pursuant to Health and Safety Code sections 44072.2, subdivision (a), to discipline Smog Check Inspector License number EO 26647 issued to Gutierrez by reason of Legal Conclusion 15.

17. With respect to the Eighth Cause for Discipline (Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection Program), complainant failed to prove by a preponderance of the evidence cause exists pursuant to Health and Safety Code sections 44072.2, subdivision (c), and California Code of Regulations, title 16, sections 3340.24, subdivision (c), 3340.30, subdivision (a), and 3340.42 to discipline Smog Check Inspector License number EO 26647 issued to Gutierrez by reason of Legal Conclusion 15.

18. With respect to the Ninth Cause for Discipline (Dishonesty, Fraud or Deceit), complainant failed to prove by a preponderance of the evidence cause exists pursuant to Health and Safety Code sections 44072.2, subdivision (d), to discipline

Smog Check Inspector License number EO 26647 issued to Gutierrez by reason of Legal Conclusion 15.

**Cause Exists to Discipline Brake Adjuster, Lamp Adjuster, Brake Station, and Lamp Station licenses issued to Gutierrez on Grounds Alleged in the Tenth Cause for Discipline in the Accusation**

19. Pursuant to Business and Professions Code section 9889.3, subdivision (d), other licenses issued to Gutierrez pursuant to the Automotive Repair Act are subject to discipline if Gutierrez “[c]omitted any act involving dishonesty, fraud, or deceit whereby another is injured.” As set forth in Factual Findings 3, 4, 6, and 7, the Bureau issued Brake Station, Lamp Station, Brake Adjuster, and Lamp Adjuster licenses to Gutierrez pursuant to the Automotive Repair Act. Gutierrez, owner, doing business as Auto Pros committed dishonest, fraudulent, and deceitful acts through Auto Pro employees. (Legal Conclusions 9, 10, and 14.) Consequently, Gutierrez’s Brake Station, Lamp Station, Brake Adjuster and Lamp Adjuster licenses are subject to discipline in accordance with section 9889.3.

20. With respect to the Tenth Cause for Discipline (Dishonesty, Fraud or Deceit), complainant proved by a preponderance of the evidence cause exists pursuant to Business and Professions Code section 9889.3, subdivision (d), to discipline Brake Adjuster License number BA 26647, Lamp Adjuster License number LA 26647, Brake Station License number BS 204090, class C, and Lamp Station License number LS 204090, class A by reason of Legal Conclusion 19.

## **Other Matters**

21. Pursuant to Business and Professions Code section 9884.7, subdivision (c), all places of business operated by Gutierrez may be disciplined because Gutierrez doing business as Auto Pros, through Auto Pros employees, engaged in a course of repeated and willful violations of the laws and regulations pertaining to an automotive repair dealer (See Legal Conclusions 7 through 11.)

22. As set forth in Legal Conclusion 15 through 18, cause to discipline Smog Check Inspector License number EO 26647 was not proven by a preponderance of the evidence. Consequently, under the circumstances of this case, Health and Safety Code section 44072.8 is not a legal predicate for discipline of any other licenses issued to Gutierrez pursuant to the Motor Vehicle Inspection Program, Health and Safety Code section 44000 et seq.

## **Level of Discipline**

23. Pursuant to California Code of Regulations, title 16, section 3395.4, the Bureau has promulgated *Guidelines for Disciplinary Penalties and Terms of Probation (Guidelines)* (March 2016), which requires consideration of specified factors in aggravation and mitigation when determining appropriate discipline.

24. Under the *Guidelines*, the minimum recommended discipline for violations proven by a preponderance of the evidence is the revocation of registration or license, or both, with the revocation period stayed, and the registration or license, or both, immediately placed on probation for a period of two to five years. The maximum recommended discipline is revocation. Multiple violations or multiple instances of the same violations are to be taken into consideration when determining the level of discipline.

25. Gutierrez doing business as Auto Pros is required to ensure Auto Pros employees perform lawful smog inspections according to specified procedures. Gutierrez failed to ensure compliance with the law and Auto Pros employees clean plugged several vehicles and caused Auto Pros to issue false Certificates of Compliance. Such misconduct placed the public at risk because it allowed vehicles to operate when their emission systems had not been confirmed as meeting established air quality standards designed to control sources of air pollution.

26. In mitigation, Gutierrez's care for his ailing spouse and his subsequent grief warranting therapeutic intervention temporarily prevented his exercise of supervision and control over Auto Pros employees at the time of the violations set forth in Factual Findings 27 through 40. Gutierrez has taken action to minimize recurrence of the violations. He terminated Auto Pros employees, including his stepdaughter, who perpetrated the violations. He has hired new employees for Auto Pros. New employee training offered at Auto Pros now includes video presentations instructing them how to conduct smog check inspections consistent with the law.

27. In further mitigation, Gutierrez contacted owners of the vehicles affected by Auto Pros employees' misconduct to determine whether any repairs were needed. Gutierrez's license information and password for accessing the BAR-OIS platform to conduct smog check inspections are no longer unsecured or widely available to everyone at Auto Pros. He routinely changes his password when prompted to do so. He is present daily during Auto Pros hours of operation. He has installed door alarms to alert him to who comes and goes from the Auto Pros station. He has installed cameras to monitor better Auto Pros' business practices, including the smog check inspections.

28. Under the facts and circumstances of this case, and given Auto Pros' history of prior citations, public protection warrants revoking the automotive repair dealer registration and smog check station license issued to Gutierrez doing business as Auto Pros, immediately staying the revocations, and placing the registration and station license on probation with terms and conditions.

### **Costs Award**

29. A registrant or licensee found to have violated the Automotive Repair Act and the Motor Vehicle Inspection Program may be directed to pay a sum not to exceed the reasonable costs of investigation and prosecution of the case. (Bus. & Prof. Code, § 125.3.)

30. Under *Zuckerman v. State Board of Chiropractic Examiners* (2002) 29 Cal. 4th 32, 45, the Bureau must exercise its discretion to reduce or eliminate costs so as to prevent cost award statutes from deterring licensees with potentially meritorious claims or defenses from exercising their right to a hearing. "Thus the [Bureau] may not assess the full costs of investigation and prosecution when to do so will unfairly penalize a [licensee] who has committed some misconduct, but who has used the hearing process to obtain dismissal of other charges or a reduction in the severity of the discipline imposed." (*Id.*) The Bureau, in imposing costs in such situations, must consider the licensee's subjective good faith belief in the merits of his or her position, and the Bureau must consider whether the licensee has raised a colorable defense. The Bureau must also consider the licensee's ability to make cost award payments.

31. Complainant failed to prove the allegations in the Seventh, Eighth, and Ninth causes for discipline asserted in the Accusation. (See Legal Conclusions 15 through 18.) The Seventh, Eighth, and Ninth causes for discipline constitute 30 percent

of the ten causes for discipline alleged in the Accusation. Thus, the Bureau's costs of investigation and prosecution totaling \$12,316.92 shall be reduced by 30 percent (\$3,695.07) to \$8,621.85. Respondent presented evidence of extenuation, mitigation, and rehabilitation which warranted a reduction from outright revocation to a stayed revocation with terms and conditions of probation. Thus, the \$8,621.85 is further reduced by 50 percent to \$4,310.92.

32. Cause exists pursuant to Business and Professions Code section 125.3 for the Bureau to recover \$4,310.92 of its costs of investigation and prosecution in this case from Gutierrez doing business as Auto Pros, by reason of Legal Conclusions 30 and 31.

## **ORDER**

1. Auto Repair Dealer Registration Number ARD 204090 issued to Rodolfo Madrid Gutierrez doing business as Auto Pros is revoked; however, the revocation is stayed, and the registration is placed on probation for a period of three (3) years with terms and conditions specified below.

2. Smog Check Station License Number RC 204090 issued to Rodolfo Madrid Gutierrez doing business as Auto Pros is revoked; however, the revocation is stayed, and the smog check station license is placed on probation for a period of three (3) years with terms and conditions specified below.

3. Brake Station License Number BS 204090, class C issued to Rodolfo Madrid Gutierrez doing business as Auto Pros is revoked; however, the revocation is stayed, and the brake station license is placed on probation for a period of three (3) years with terms and conditions specified below.

4. Lamp Station License Number LS 204090, class A issued to Rodolfo Madrid Gutierrez doing business as Auto Pros is revoked; however, the revocation is stayed, and the lamp station license is placed on probation for a period of three (3) years with terms and conditions specified below.

5. Brake Adjuster License Number BA 26647, class C issued to Rodolfo Madrid Gutierrez is revoked; however, the revocation is stayed, and the brake adjuster license is placed on probation for a period of three (3) years with terms and conditions specified below.

6. Lamp Adjuster License Number LA 26647, class A issued to Rodolfo Madrid Gutierrez is revoked; however, the revocation is stayed, and the lamp adjuster license is placed on probation for a period of three (3) years with terms and conditions specified below.

7. Rodolfo Madrid Gutierrez doing business as Auto Pros shall pay the Bureau its costs of investigation and prosecution in this case in an amount totaling \$4,310.92 consistent with the terms and conditions of probation specified below.

## **TERMS AND CONDITIONS OF PROBATION**

**1. Obey All Laws:** During the period of probation, respondent Rodolfo Madrid Gutierrez doing business as Auto Pros shall comply with all federal and state statutes, regulations and rules governing all Bureau registrations and licenses held by respondent.

**2. Quarterly Reporting:** During the period of probation, respondent shall report either by personal appearance or in writing as determined by the Bureau on a

schedule set by the Bureau, but no more frequently than once each calendar quarter, on the methods used and success achieved in maintaining compliance with the terms and conditions of probation.

**3. Report Financial Interests:** Respondent shall, within thirty (30) days of the effective date of the decision and within thirty (30) days from the date of any request by the Bureau during the period of probation, report any financial interest which any respondent or any partners, officers, or owners of any respondent facility may have in any other business required to be registered pursuant to Section 9884.6 of the Business and Professions Code.

**4. Access to Examine Vehicles and Records:** Respondent shall provide Bureau representatives unrestricted access to examine all vehicles (including parts) undergoing service, inspection, or repairs, up to and including the point of completion. Respondent shall also provide Bureau representatives unrestricted access to all records pursuant to the laws and regulations.

**5. Cost Recovery:** Respondent shall pay the Bureau of Automotive Repair \$4,310.92 for the reasonable costs of the investigation and enforcement of case number 79/20-1169. Respondent shall make such payment in accordance with a Bureau-approved payment plan. Any agreement for a scheduled payment plan shall require full payment to be completed no later than six (6) months before probation terminates. Respondent shall make payment by check or money order payable to the Bureau of Automotive Repair and shall indicate on the check or money order that it is for cost recovery payment in case number 79/20-1169. Any order for payment of cost recovery shall remain in effect whether or not probation is tolled. Probation shall not terminate until full cost recovery payment has been made. The Bureau reserves the

right to pursue any other lawful measures in collecting on the costs ordered and past due, in addition to taking action based upon the violation of probation.

**6. Maintain Valid License:** Respondent shall, at all times while on probation, maintain a current and active registration and licenses with the Bureau, including any period during which probation is tolled. If respondent's license is expired at the time the decision becomes effective, the license must be renewed by respondent within thirty (30) days of that date. If respondent's license expires during a term of probation, by operation of law, or otherwise, then upon renewal respondent's license shall be subject to any and all terms and conditions of probation not previously satisfied. Failure to maintain a current and active license during the period of probation shall also constitute a violation of probation.

**7. License Surrender:** Following the effective date of the decision staying invalidation or revocation, if respondent ceases business operations or is otherwise unable to satisfy the terms and conditions of probation, respondent may request the stay be vacated. Such request shall be made in writing to the Bureau. The Director and the Bureau Chief reserve the right to evaluate respondent's request and to exercise discretion whether to grant the request or take any other action deemed appropriate or reasonable under the circumstances. Upon formal granting of the request, the Director will vacate the stay order and carry out the disciplinary order provided in the decision.

Respondent may not petition the Director for reinstatement of a surrendered registration or license or apply for a new registration or license under the jurisdiction of the Bureau at any time before the date of the originally scheduled completion of probation. If respondent applies to the Bureau for a registration or license at any time after that date, respondent must meet all current requirements for registration or

licensure and pay all outstanding fees or cost recovery owed to the Bureau and left outstanding at the time of surrender.

**8. Tolling of Probation:** If, during probation, respondent leaves the jurisdiction of California to reside or do business elsewhere or otherwise ceases to do business in the jurisdiction of California, respondent shall notify the Bureau in writing within ten (10) days of the dates of departure and return, and of the dates of cessation and resumption of business in California.

All provisions of probation other than cost reimbursement requirements, training requirements, and that respondents obey all laws, shall be held in abeyance during any period of time of thirty (30) days or more in which a respondent(s) is not residing or engaging in business within the jurisdiction of California. All provisions of probation shall recommence on the effective date of resumption of business in California. Any period of time of thirty (30) days or more in which respondent is not residing or engaging in business within the jurisdiction of California shall not apply to the reduction of this probationary period or to any period of actual suspension not previously completed. Tolling is not available if business or work relevant to the probationary license or registration is conducted or performed during the tolling period.

**9. Violation of Probation:** If respondent violates or fails to comply with the terms and conditions of probation in any respect, the Director, after giving notice and opportunity to be heard may set aside the stay order and carry out the disciplinary order provided in the decision. Once respondent is served notice of the Bureau's intent to set aside the stay, the Director shall maintain jurisdiction, and the period of probation shall be extended until final resolution of the matter.

**10. Completion of Probation:** Upon successful completion of probation, respondent's affected licenses shall be fully restored or issued without restriction, if respondent meets all current requirements for licensure and has paid all outstanding fees, monetary penalties, or cost recovery owed to the Bureau.

DATE: 07/21/2021

Signed Copy on File

JENNIFER M. RUSSELL  
Administrative Law Judge  
Office of Administrative Hearings