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

12 In the Matter of the Accusation Against:

Case No. 77/24-12763

13 **ADAM A. GOMEZ**
dba GOMEZ AUTO REPAIR
710 E. Market St.
14 Salinas, CA 93905

ACCUSATION

15 **Automotive Repair Dealer Registration No. ARD 214734**
Smog Check Station License No. RC 214734
16 **Brake Station License No BS 214734 (cancelled)**
Lamp Station License No LS 214734 (cancelled)

17 **and**

18 **ADAN GOMEZ CERVANTES**
19 **AKA ADAN GOMEZ JR.,**
710 E. Market St.
20 Salinas, CA 93905

21 **Smog Check Inspector License No. EO 639552**
Smog Check Repair Technician License No. EI 639552
22 **Brake Adjuster License No. 639552 (cancelled)**
Lamp Adjuster License No. 639552 (cancelled)

23 Respondents.
24

25
26 **PARTIES**

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

2. In or about 2001, the Bureau issued Automotive Repair Dealer Registration Number ARD 214734 to Adam A. Gomez (Respondent Gomez), dba Gomez Auto Repair. The Automotive Repair Dealer Registration was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2026, unless renewed.

3. On or about July 2, 2009, the Bureau issued Smog Check Station License Number RC 214734 to Respondent Gomez, dba Gomez Auto Repair. The Smog Check Station License was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2026, unless renewed.

4. On or about June 3, 2009, the Bureau issued Lamp Station License No LS 214734, class A, to Respondent Gomez, dba Gomez Auto Repair. The Lamp Station License was due to expire on January 31, 2025, but was cancelled on September 27, 2024, pursuant to Business and Professions Code section 9887.5.

5. On or about June 3, 2009, the Bureau issued Brake Station License No BS 214734, class C, to Respondent Gomez, dba Gomez Auto Repair. The Brake Station License was due to expire on January 31, 2025, but was cancelled on September 27, 2024, pursuant to Business and Professions Code section 9887.5.

6. On or about August 15, 2016, The Bureau Issued Smog Check Inspector License No. EO 639552 to Adan Gomez Cervantes (Respondent Cervantes). The Smog Check Inspector License was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2026, unless renewed.

7. On or about March 23, 2018, The Bureau Issued Smog Check Repair Technician License No. EI 639552 to Respondent Cervantes. The Smog Check Repair Technician License was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2026, unless renewed.

8. On or about March 22, 2018, the Bureau issued Brake Adjuster License No BA 639552, class C, to Respondent Cervantes. The Brake Adjuster License expired on June 30, 2021, and was cancelled on June 4, 2023.

9. On or about November 3, 2017, the Bureau issued Lamp Adjuster License No LA 639552, class A, to Respondent Cervantes. The Brake Adjuster License expired on June 30, 2021, and was cancelled on August 30, 2021.

JURISDICTION

10. This Accusation is brought before the Director of the Department of Consumer Affairs (Director) for the Bureau of Automotive Repair, under the authority of the following laws.

11. Section 118, subdivision (b), of the Code provides that the suspension/expiration/surrender/cancellation of a license shall not deprive the Board/Registrar/Director of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

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

13. 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.

14. 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 Director of Consumer Affairs, or a court of law, or the voluntary surrender of the license shall not deprive the Director of jurisdiction to proceed with any investigation of, or action or disciplinary proceedings against the licensee, or to render a decision suspending or revoking the license.

STATUTORY PROVISIONS

15. Section 9884.7 of the Code states:

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

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

4 ...

5 (4) Any other conduct that constitutes fraud.

6 ...

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

9 ...

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

15 ...

16 (e) For purposes of this section, "fraud" includes, but is not limited to,
17 violations of this chapter involving misrepresentations and all of the following:

18 (1) Any act or omission that is included within the definition of either "actual
19 fraud" or "constructive fraud," as those terms are defined in Sections 1572 and 1573
20 of the Civil Code.

21 (2) A misrepresentation in any manner, whether intentionally false or due to
22 gross negligence, of a material fact.

23 (3) A promise or representation not made honestly and in good faith.

24 (4) An intentional failure to disclose a material fact.

25 (5) Any act in violation of Section 484 of the Penal Code.

26 16. Section 9888.3 of the Code states:

27 No person shall operate an "official" lamp or brake adjusting station unless a
28 license therefor has been issued by the director. No person shall issue, or cause or
29 permit to be issued, any certificate purporting to be an official lamp adjustment
30 certificate unless he or she is a licensed lamp adjuster or an official brake adjustment
31 certificate unless he or she is a licensed brake adjuster.

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

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

36 ...

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

3 . . .

4 18. Section 44072.8 of the Health and Safety Code states:

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

8 **REGULATORY PROVISIONS**

9 19. California Code of Regulations, title 16, section 3316, Subdivision (e)(3), provides
10 that only a licensed (Lamp) adjuster employed at an official adjusting station may sign an
11 enforcement form as an official adjuster. The adjuster's license number, class, and official station
12 number shall be included with the signature.

13 20. California Code of Regulations, title 16, section 3321, Subdivision (d)(3), provides
14 that only a licensed (Brake) adjuster employed at an official adjusting station may sign an
15 enforcement form as an official adjuster. The adjuster's license number, class, and official station
16 number shall be included with the signature.

17 21. California Code of Regulations, title 16, section 3371, states:

18 No automotive repair dealer shall publish, utter, or make or cause to be
19 published, uttered, or made any false or misleading statement or advertisement which
20 is known to be false or misleading, or which by the exercise of reasonable care should
21 be known to be false or misleading. Advertisements and advertising signs shall
clearly show the name and address listed on the automotive repair dealer's State
registration certificate.

22 **COST RECOVERY**

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

FORMER BRAKE AND LAMP PROGRAM

23. California's Brake and Lamp program has been replaced with the Vehicle Safety Systems Inspection. The Brake and Lamp program was cancelled on September 27, 2024, pursuant to Business and Professions Code sections 9887.5 and 9889.19.1. The violations alleged herein involve violations of the Brake and Lamp program. The violations of the Brake and Lamp program also constitute violations of the Automotive Repair Act and the Motor Vehicle Inspection program as alleged below.

24. Pursuant to the Business and Professions Code section 9887.1, the Bureau had the authority to license official brake and lamp stations and adjusters. The adjuster must pass a written examination by the Bureau prior to obtaining a license to inspect. Pursuant to Business and Professions Code section 9889.16, a licensed adjuster in a licensed station, upon an inspection or after an adjustment, made in conformity with instructions of the Bureau, determined whether the brakes or the lamps upon any vehicle conforms with the requirements of the Vehicle Code sections, including but not limited to, 26451, 26453, 26454, 26456, 24252 and 24407. Certificate of Compliance/Adjustment are issued to conforming vehicles.

25. The Brake and Lamp Certificates of Compliance/Adjustment have the following statement above where the adjuster was required to sign the certificate: "All items above are of an approved type and I have performed the applicable inspection, adjustment, or repair as specified by the Bureau of Automotive Repair and the vehicle manufacturer, and in accordance with Title 13 and Title 16 of the California Code of Regulations, the Vehicle Code, and the Business and Professions Code. I hereby certify under penalty of the laws of the State of California that all statements made on this certificate are true and correct."

26. Except under special circumstances, Brake and Lamp Certificates of adjustment were required by the Department of Motor Vehicles to register a salvaged vehicle or a specially constructed vehicle. A brake or lamp inspection may also have been required to clear an enforcement document issued by California Highway Patrol or another police agency.

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27. A salvaged vehicle is one that has been damaged to such an extent that the vehicles insurer deems it too expensive to repair. The California Vehicle Code Section 544 defines a salvaged vehicle as follows:

"Total loss salvage vehicle" means either of the following:

(a) A vehicle, other than a non-repairable vehicle, of a type subject to registration that has been wrecked, destroyed, or damaged, to the extent that the owner, leasing company, financial institution, or the insurance company that insured or is responsible for repair of the vehicle, considers it uneconomical to repair the vehicle and because of this, the vehicle is not repaired by or for the person who owned the vehicle at the time of the event resulting in damage.

(b) A vehicle that was determined to be uneconomical to repair, for which a total loss payment has been made by an insurer, whether or not the vehicle is subsequently repaired, if prior to or upon making the payment to the claimant, the insurer obtains the agreement of the claimant to the amount of the total loss settlement, and informs the client that, pursuant to subdivision (a) or (b) of Section 11515, the total loss settlement must be reported to the Department of Motor Vehicles, which will issue a salvage certificate for the vehicle.

28. Given the extensive damage often sustained by salvaged vehicles, the need for an inspection to check the integrity of the braking and lighting systems is self-evident. Complex lighting system and braking system components are often crushed and destroyed in a serious collision.

FACTUAL ALLEGATIONS

29. On or about July 12, 2024, a Bureau program representative made a field visit to Respondent Gomez's shop Gomez Auto Repair. The Bureau representative met with Respondent Cervantes to following up on both respondents' inquiry about their application to the new Vehicle Safety System Inspection program.

30. During the application inquiry, the representative noticed Respondent Cervantes's Brake and Lamp Adjuster licenses had expired over three years prior. The representative requested all of Respondent Gomez's Brake and Lamp Certificates of Compliance booklets that were present at the facility.

31. A review of those booklets revealed the Respondents illegally issued 81 Brake Certificates of Compliance and 81 Lamp Certificates of Compliance between July 26, 2021, to June 19, 2024. All were issued under Respondent Cervantes's expired licenses. All the Brake

1 and Lamp Certificates of Compliance were issued at Gomez Auto Repair under Respondent
2 Gomez's Brake or Lamp Station License. All the Brake and Lamp Certificates of Compliance
3 were signed by Respondent Cervantes and contained his Brake or Lamp Adjuster License
4 number.

5 32. Each certificate falsely stated the inspections were performed in accordance with the
6 Business and Professions Code and Title 16 of The California Code of Regulations. Both the
7 Business and Professional Code and Title 16 of the California Code of Regulations require Brake
8 and Lamp inspections be performed by validly licensed Brake or Lamp Adjusters. Respondent
9 Cervantes was not validly licensed at the time the inspections took place and the certificates were
10 issued.

11 33. Each certificate contained Respondent Cervantes's license number. There was no
12 indication on any certificate that Respondent Cervantes's license was expired, and not valid, at
13 the time of issuance.

14 **FIRST CAUSE FOR DISCIPLINE**

15 (Untrue or Misleading Statements)

16 34. Respondent Gomez has subjected his Automotive Repair Dealer registration to
17 discipline under Code section 9884.7, subdivision (a)(1), in that Respondent Gomez made and or
18 authorized statements which were untrue or misleading, and which Respondent knew, or should
19 have known were untrue or misleading. The circumstances are described in the Program and
20 Factual allegations above.

21 **SECOND CAUSE FOR DISCIPLINE**

22 (Violation of Statutes and Regulations)

23 35. Respondent Gomez has subjected his Automotive Repair Dealer registration to
24 discipline under Code section 9884.7, subdivision (a)(6), in that Respondent Gomez violated the
25 following provisions of the Automotive Repair act and the Regulation promulgated under that act:

- 26 a. Respondent Gomez violated Code section 9888.3 by issuing, causing to issue, and/or
27 permitting to be issued Brake and Lamp Certificates of Compliance while Respondent
28

1 Cervantes's licenses were expired and not valid. The circumstances are further
2 described in the Program and Factual allegations above.

- 3 b. Respondent Gomez violated California Code of Regulations, title 16, section 3371, in
4 that Respondent Gomez made false or misleading statements. The circumstances are
5 further described in the Program and Factual allegations above.

6 **THIRD CAUSE FOR DISCIPLINE**

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

8 36. Respondent Gomez has subjected his Smog Check Station License to discipline under
9 health and Safety Code section 44072.2 subdivision (d), in that Respondent Gomez committed
10 dishonesty, fraud, or deceit whereby another was injured. The circumstances are described in the
11 Program and Factual allegations above. Respondents' actions deprived the people of California
12 of the benefits and integrity of the Brake and Lamp Program.

13 **FOURTH CAUSE FOR DISCIPLINE**

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

15 37. Respondent Cervantes has subjected his Smog Check Inspector and Smog Check
16 Repair Technician Licenses to discipline under health and Safety Code section 44072.2
17 subdivision (d), in that Respondent Cervantes committed dishonesty, fraud, or deceit whereby
18 another was injured. The circumstances are described in the Program and Factual allegations
19 above. Respondents' actions deprived the people of California of the benefits and integrity of the
20 Brake and Lamp Program.

21 **PRAYER**

22 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
23 and that following the hearing, the Director of the Department of Consumer Affairs issue a
24 decision:

25 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
26 214734 issued to Adam A. Gomez dba Gomez Auto Repair;

27 2. Revoking or suspending Smog Check Station License Number RC 214734 issued to
28 Adam A. Gomez dba Gomez Auto Repair;

- 1 3. Revoking or suspending Smog Check Inspector License Number EO 639552, issued
2 to Adan Gomez Cervantes;
- 3 4. Revoking or suspending Smog Check Repair Technician License Number EI 639552,
4 issued to Adan Gomez Cervantes;
- 5 5. Revoking or suspending any additional Automotive Repair Dealer Registration(s)
6 issued to Adam A. Gomez;
- 7 6. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of
8 Division 26 of the Health and Safety Code to Adam A. Gomez;
- 9 7. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of
10 Division 26 of the Health and Safety Code to Adan Gomez Cervantes;
- 11 8. Ordering Adam A. Gomez to pay the Bureau of Automotive Repair the reasonable
12 costs of the investigation and enforcement of this case, pursuant to Business and Professions
13 Code section 125.3 and if placed on probation, the costs of probation monitoring;
- 14 9. Ordering Adan Gomez Cervantes to pay the Bureau of Automotive Repair the
15 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
16 Professions Code section 125.3 and if placed on probation, the costs of probation monitoring;
17 and,
- 18 10. Taking such other and further action as deemed necessary and proper.

19
20 DATED: As of Digital Signature Date

Dorais,
Patrick@DCA

Digitally signed by Dorais,
Patrick@DCA
Date: 2025.07.02 13:04:42 -07'00'

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

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