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7

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

12 In the Matter of the Accusation Against:

Case No. 77/21-14654

13 **ALEJANDRO CARBAJAL, PARTNER**
14 **DIANA CARBAJAL, PARTNER**
15 **DBA ALEX AUTO DIAGNOSTICS**
650 Oller Street
Mendota, CA 93640

ACCUSATION

16 **Automotive Repair Dealer Registration**
17 **No. ARD 248849**
18 **Smog Check Station License No. RC 248849**
19 **Lamp Station License No. LS 248849, Class A**
20 **Brake Station License No. BS 248849, Class C**

and

21 **ALEJANDRO CARBAJAL**
650 Oller Street
Mendota, CA 93640

22 **Smog Check Inspector License No. EO 145004**
23 **Smog Check Repair Technician License**
24 **No. EI 145004**
25 **Brake Adjuster License No. BA 145004, Class C**
26 **Lamp Adjuster License No. LA 145004, Class A**

Respondents.

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PARTIES

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

Automotive Repair Dealer Registration

2. On or about January 12, 2007, the Bureau issued Automotive Repair Dealer Registration Number ARD 248849 to Alejandro Carbajal and Diana Carbajal, a partnership, doing business as Alex Auto Diagnostics (Respondent Alex Auto). 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, 2023, unless renewed.

Smog Check Station License

3. On or about January 17, 2007, the Bureau issued Smog Check Station License Number RC 248849 to Respondent Alex Auto. 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, 2023, unless renewed.

Lamp Station License

4. On or about September 8, 2010, the Bureau issued Lamp Station License Number LS 248849, Class A, to Respondent Alex Auto. The Lamp Station License was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2023, unless renewed.

Brake Station License

5. On or about September 8, 2010, the Bureau issued Brake Station License Number BS 248849, Class C, to Respondent Alex Auto. The Brake Station License was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2023, unless renewed.

Smog Check Inspector License

6. On a date uncertain in 2003, the Bureau issued Advanced Emission Specialist Technician License No. EA 145004 to Alejandro Carbajal (Respondent Carbajal). Pursuant to California Code of Regulations, title 16 ("CCR"), section 3340.28, subdivision (e), upon

Respondent Carbajal's election, effective February 4, 2014, said license was renewed by the Bureau as Smog Check Inspector License Number EO 145004 and Smog Check Repair Technician License Number EI 145004. The Smog Check Inspector and Smog Check Repair Technician Licenses were in full force and effect at all times relevant to the charges brought herein and will expire on February 29, 2024, unless renewed.

Brake Adjuster License

7. On or about May 17, 2010, the Bureau issued Brake Adjuster License Number 145004, Class C, to Respondent Carbajal. The Brake Adjuster License expired on February 28, 2022, and has not been renewed.

Lamp Adjuster License

8. On or about June 28, 2010, the Bureau issued Lamp Adjuster License Number 145004, Class A, to Respondent Carbajal. The Lamp Adjuster License expired on February 28, 2022, and was cancelled on April 3, 2022.

JURISDICTION

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

10. Code section 9884.7 provides, in pertinent part, that the Director may revoke an automotive repair dealer registration.

11. Code section 9884.13 states, "The expiration of a valid registration shall not deprive the director or chief of jurisdiction to proceed with any investigation or disciplinary proceeding against an automotive repair dealer or to render a decision invalidating a registration temporarily or permanently."

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

13. Code section 9889.7 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

1 license by a licensee shall not deprive the director of jurisdiction to proceed with any
2 investigation of or action or disciplinary proceedings against such licensee, or to render a decision
3 suspending or revoking such license.”

4 14. Code section 118, subdivision (b), states:

5 The suspension, expiration, or forfeiture by operation of law of a license issued
6 by a board in the department, or its suspension, forfeiture, or cancellation by order of
7 the board or by order of a court of law, or its surrender without the written consent of
8 the board, shall not, during any period in which it may be renewed, restored, reissued,
9 or reinstated, deprive the board of its authority to institute or continue a disciplinary
proceeding against the licensee upon any ground provided by law or to enter an order
suspending or revoking the license or otherwise taking disciplinary action against the
licensee on any such ground.

10 **STATUTORY AND REGULATORY PROVISIONS**

11 15. Code section 9884.7 states, in pertinent part:

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

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

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

24 (3) Failing or refusing to give to a customer a copy of any document requiring
25 the customer's signature as soon as the customer signs the document. (4) Any other
26 conduct that constitutes fraud.

27 . . .

28 (5) Conduct constituting gross negligence.

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

. . .

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

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

4 16. Code section 9884.9, subdivision (a), states, in pertinent part, that “the automotive
5 repair dealer shall give to the customer a written estimated price for labor and parts necessary for
6 a specific job. . . . No work shall be done and no charges shall accrue before authorization to
7 proceed is obtained from the customer.”

8 17. Code section 9887.1 states:

9 The director shall have the authority to issue licenses for official lamp and
10 brake adjusting stations and shall license lamp and brake adjusters. The licenses shall
11 be issued in accordance with this chapter and regulations adopted by the director
12 pursuant thereto. The director shall establish by regulation the terms of adjusters'
13 licenses as are necessary for the practical administration of the provisions relating to
14 adjusters, but those terms shall not be for less than one nor more than four years.
Licenses may be renewed upon application and payment of the renewal fees if the
application for renewal is made within the 30-day period prior to the date of
expiration. Persons whose licenses have expired shall immediately cease the activity
requiring a license . . .

15 18. Code section 9889.3 states, in pertinent part:

16 The director may suspend, revoke, or take other disciplinary action against a
17 license as provided in this article [Article 7 (commencing with section 9889.1) of the
Automotive Repair Act] if the licensee or any partner, officer, or director thereof:

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

20 . . .

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

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

23 . . .

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

25 19. Code section 9889.9 states, “When any license has been revoked or suspended
26 following a hearing under the provisions of this article, any additional license issued under
27 Articles 5 and 6 of this chapter in the name of the licensee may be likewise revoked or suspended
28 by the director.”

1 20. Code section 9889.16 states,

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

9 21. Code section 477 provides, in pertinent part, that "Board" includes "bureau,"
10 "commission," "committee," "department," "division," "examining committee," "program," and
11 "agency." "License" includes certificate, registration or other means to engage in a business or
12 profession regulated by the Code.

13 22. Health and Safety Code ("Health & Saf.") section 44002 provides, in pertinent part,
14 that the Director has all the powers and authority granted under the Automotive Repair Act for
15 enforcing the Motor Vehicle Inspection Program.

16 23. Health & Saf. Code section 44072.2 states, in pertinent part:

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

20 (a) Violates any section of this chapter [the Motor Vehicle Inspection
21 Program (Health and Saf. Code, section 44000, et seq.)] and the regulations
22 adopted pursuant to it, which related to the licensed activities.

23 . . .

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

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

28 24. Health & Saf. Code section 44072.6 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, the licensee, or to render a
decision suspending or revoking the license."

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25. Health & Saf. Code section 44072.8 states, “When a license has been revoked or suspended following a hearing under this article, any additional license issued under this chapter in the name of the licensee may be likewise revoked or suspended by the director.”

COST RECOVERY

26. Code section 125.3 provides, in pertinent part, that the Bureau 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 investigation and enforcement of the case, with failure of the licentiate to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

UNDERCOVER OPERATION NO. 1

27. On or about September 9, 2021, a Bureau representative inspected the Bureau's 2015 Chevrolet (2015 Chevrolet) and documented that the vehicle braked normally. The Bureau representative then installed right front and left rear brake rotors that were undersized (below the brake rotor discard thickness specifications).

28. On or about November 8, 2021, a Bureau undercover operator using an alias (the operator) took the Bureau's 2015 Chevrolet to Respondent Alex Auto's facility and asked "Diana" to have Respondent Alex Auto perform brake and lamp inspections. Diana did not provide the operator with an estimate.

29. Later that same day the operator returned to retrieve the 2015 Chevrolet. Diana gave the operator a copy of an estimate and instructed the operator to sign, which he did. Diana gave the operator Invoice No. 00005093 for \$90, which the operator paid. Diana provided the operator with Certificate of Compliance – Brake Adjustment, No. BA 3615991, and Certificate of Compliance - Lamp Adjustment, No. LA 3571141. The Certificates of Compliance were signed by Respondent Carbajal as the adjuster. Diana did not give the operator a copy of the estimate that he signed.

30. As set forth in paragraph 27 above, the vehicle could not have passed a proper California brake inspection because the right front and left rear brake rotors were undersized.

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Untrue or Misleading Statements)**

3 31. Respondent Alex Auto's registration is subject to discipline pursuant to Code section
4 9884.7, subdivision (a)(1), in that on or about November 8, 2021, regarding the Bureau's 2015
5 Chevrolet, it made or authorized statements which it knew or in the exercise of reasonable care
6 should have known to be untrue or misleading. Specifically, Respondent Alex Auto issued
7 Certificate of Compliance – Brake Adjustment, No. BA 3615991 to the operator, certifying that
8 the vehicle was in compliance with Bureau Regulations or the requirements of the Vehicle Code,
9 as set forth in paragraph 29, above. In fact, a brake certificate should not have been issued for the
10 vehicle because the right front and left rear brake rotors were undersized, as set forth in
11 paragraphs 27 and 30, above.

12 **SECOND CAUSE FOR DISCIPLINE**

13 **(Fraud)**

14 32. Respondent Alex Auto's registration is subject to discipline pursuant to Code
15 section 9884.7, subdivision (a)(4), in that on or about November 8, 2021, it committed acts that
16 constitute fraud. Specifically, Respondent Alex Auto obtained payment from the operator for
17 performing the applicable inspections, adjustments, or repairs of the brake system on the Bureau's
18 2015 Chevrolet as specified by the Bureau and in accordance with the Vehicle Code when, in
19 fact, it had not, as set forth in paragraph 31, above.

20 **THIRD CAUSE FOR DISCIPLINE**

21 **(Conduct Constituting Gross Negligence)**

22 33. Respondent Alex Auto's registration is subject to discipline pursuant to Code
23 section 9884.7, subdivision (a)(5), in that Respondent Alex Auto committed an act constituting
24 gross negligence when on or about November 8, 2021, Respondent Alex Auto issued Brake
25 Adjustment Certificate of Compliance No. BA 3615991 for the Bureau's 2015 Chevrolet, when
26 the front right and left rear brake rotors were undersized and below the brake rotor discard
27 thickness specifications, as set forth in paragraph 29, above.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Failure to Provide Customer with Copy of Signed Document)**

3 34. Respondent Alex Auto's registration is subject to disciplinary action pursuant to Code
4 section 9884.7, subdivision (a)(3), in that on or about November 8, 2021, Respondent Alex Auto
5 failed to ensure that the operator was provided with a copy of the estimate as soon as the operator
6 signed the document, as set forth in paragraph 29, above.

7 **FIFTH CAUSE FOR DISCIPLINE**

8 **(Violations of the Motor Vehicle Inspection Program)**

9 35. Respondent Alex Auto's registration is subject to discipline pursuant to Code
10 section 9884.7, subdivision (a)(6), in that on or about November 8, 2021, regarding the Bureau's
11 2015 Chevrolet, it failed to materially comply with provisions of that Code as follows:

12 a. **Section 9889.16:** Respondent Alex Auto caused the issuance of Certificate of
13 Compliance – Brake Adjustment, No. BA 3615991 certifying that the vehicle was in compliance
14 with Bureau regulations or the requirements of the Vehicle Code. In fact, Respondent Alejandro
15 Carbajal did not test or inspect the vehicle in a manner that conforms with Bureau regulations or
16 requirements of the Vehicle Code, as set forth in paragraphs 27 through 29, above.

17 b. **Section 9884.9(a):** Respondent Alex Auto failed to give the operator a written
18 estimated price, as set forth in paragraphs 28 and 29, above.

19 **SIXTH CAUSE FOR DISCIPLINE**

20 **(Violations of Regulations)**

21 36. Respondent Alex Auto's registration is subject to discipline pursuant to Code section
22 9884.7, subdivision (a)(6), in that on or about November 8, 2021, regarding the Bureau's 2015
23 Chevrolet, it failed to comply with Regulations, as set forth in paragraphs 27 through 29, above,
24 as follows:

25 a. **Section 3305, subdivision (a):** Respondent Alex Auto failed to ensure that the
26 brake system was inspected in accordance with specifications, instructions, and directives issued
27 by the Bureau and vehicle manufacturer.

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1 b. **Section 3321, subdivision (c)(2)**: Respondent Alex Auto caused the issuance
2 of Certificate of Compliance – Brake Adjustment, No. BA 3615991, for the vehicle, certifying
3 that the vehicle’s brake system had been properly tested or inspected. In fact, Respondent
4 Carbajal had not properly tested or inspected the vehicle.

5 **SEVENTH CAUSE FOR DISCIPLINE**

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

7 37. Respondent Alex Auto’s brake and lamp station licenses are subject to discipline
8 pursuant to Code section 9889.3, subdivision (d), in that it committed dishonest, fraudulent, or
9 deceitful acts whereby another was injured, as set forth in paragraph 31, above.

10 **EIGHTH CAUSE FOR DISCIPLINE**

11 **(Violations of Motor Vehicle Inspection Program)**

12 38. Respondent Alex Auto’s brake and lamp station licenses are subject to discipline
13 pursuant to Code section 9889.3, subdivisions (a) and (h), in that on or about November 8, 2021,
14 regarding the Bureau’s 2015 Chevrolet, it committed acts in violation of the Code relating to its
15 licensed activities, as set forth in paragraph 31, above.

16 **NINTH CAUSE FOR DISCIPLINE**

17 **(Violations of Regulations)**

18 39. Respondent Alex Auto’s brake and lamp station licenses are subject to discipline
19 pursuant to Code section 9889.3, subdivision (c), in that on or about November 8, 2021, regarding
20 the Bureau’s 2015 Chevrolet, it committed acts in violation of Regulations, as set forth in
21 paragraph 36, above.

22 **TENTH CAUSE FOR DISCIPLINE**

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

24 40. Respondent Alejandro Carbajal’s brake and lamp adjuster licenses are subject to
25 discipline pursuant to Code section 9889.3, subdivision (d), in that he committed dishonest,
26 fraudulent, or deceitful acts whereby another was injured, as set forth in paragraph 35,
27 subparagraph a, above.

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1 **ELEVENTH CAUSE FOR DISCIPLINE**

2 **(Violations of Regulations)**

3 41. Respondent Alejandro Carbajal's brake and lamp adjuster licenses are subject to
4 discipline pursuant to Code section 9889.3, subdivision (c), in that on or about November 8,
5 2021, regarding the Bureau's 2015 Chevrolet, he committed acts in violation of Regulations, as
6 set forth in paragraph 36, subparagraph b, above.

7 **TWELFTH CAUSE FOR DISCIPLINE**

8 **(Dishonesty, Fraud, or Deceit Causing Injury to Another)**

9 42. Respondent Alex Auto's smog check station license is subject to discipline pursuant
10 to Health and Saf. Code section 44072.2, subdivision (d), in that it committed dishonest,
11 fraudulent, or deceitful acts whereby another was injured, as set forth in paragraph 31, above.

12 **THIRTEENTH CAUSE FOR DISCIPLINE**

13 **(Dishonesty, Fraud, or Deceit Causing Injury to Another)**

14 43. Respondent Alejandro Carbajal's smog check inspector and smog check repair
15 technician licenses are subject to discipline pursuant to Health and Saf. Code section 44072.2,
16 subdivision (d), in that he committed dishonest, fraudulent, or deceitful acts whereby another was
17 injured, as set forth in paragraphs 35, subdivision (a), and 36, subdivision (b), above.

18 **UNDERCOVER OPERATION NO. 2**

19 44. On or about October 15, 2021, a Bureau representative inspected the Bureau's 2007
20 Chevrolet (2007 Chevrolet) and documented that the vehicle braked normally. The Bureau
21 representative then installed left front and right rear brake rotors that were undersized (below the
22 brake rotor discard thickness specifications).

23 45. On or about November 8, 2021, a Bureau undercover operator using an alias (the
24 operator) took the Bureau's 2007 Chevrolet to Respondent Alex Auto's facility and asked Diana
25 to have Respondent Alex Auto perform brake and lamp inspections. Diana had the operator sign,
26 but did not provide the operator with, an estimate.

27 46. Later that same day, the operator returned to retrieve the 2007 Chevrolet. Diana gave
28 the operator Invoice No. 00005107 for \$90, which the operator paid. Diana provided the operator

1 with Certificate of Compliance – Brake Adjustment, No. BA 3615993, and Certificate of
2 Compliance - Lamp Adjustment, No. LA 3571143. The Certificates of Compliance were signed
3 by Respondent Carbajal as the adjustor. Respondent Carbajal indicated on the Certificate of
4 Compliance – Brake Adjustment, No. BA 3615993, that the vehicle had “Road Test-feet required
5 to stop at 20 mph” at 23’; however, another Bureau representative observed that the 2007 Chevy
6 never left Respondent Alex Auto’s premises for the duration of the lamp and brake inspections.

7 47. As set forth in paragraph 44 above, the vehicle could not have passed a proper
8 California brake inspection because the left front and right rear brake rotors were undersized.

9 **FOURTEENTH CAUSE FOR DISCIPLINE**

10 **(Untrue or Misleading Statements)**

11 48. Respondent Alex Auto’s registration is subject to discipline pursuant to Code section
12 9884.7, subdivision (a)(1), in that on or about November 8, 2021, regarding the Bureau’s 2007
13 Chevrolet, it made or authorized statements which it knew or in the exercise of reasonable care
14 should have known to be untrue or misleading, as follows:

15 a. Respondent Alex Auto issued Certificate of Compliance – Brake Adjustment,
16 No. BA 3615993 to the operator, certifying that the vehicle was in compliance with Bureau
17 Regulations or the requirements of the Vehicle Code, as set forth in paragraph 46, above. In fact,
18 a brake certificate should not have been issued for the vehicle because the left front and right rear
19 brake rotors were undersized, as set forth in paragraphs 44 and 47, above.

20 b. Respondent Carbajal certified under penalty of perjury on Brake Certificate No.
21 BA3615993 that 20 feet were required to stop the vehicle at 20 mph; however, the vehicle was
22 not road tested, as set forth in paragraph 46, above.

23 **FIFTEENTH CAUSE FOR DISCIPLINE**

24 **(Fraud)**

25 49. Respondent Alex Auto’s registration is subject to discipline pursuant to Code section
26 9884.7, subdivision (a)(4), in that on or about November 8, 2021, it committed acts that constitute
27 fraud. Specifically, Respondent Alex Auto obtained payment from the operator for performing
28 the applicable inspections, adjustments, or repairs of the brake system on the Bureau’s 2007

Chevrolet as specified by the Bureau and in accordance with the Vehicle Code when, in fact, it had not, as set forth in paragraph 48, above.

SIXTEENTH CAUSE FOR DISCIPLINE

(Conduct Constituting Gross Negligence)

50. Respondent Alex Auto's registration is subject to discipline pursuant to Code section 9884.7(a)(5), in that Respondent Alex Auto committed an act constituting gross negligence when on or about November 8, 2021, Respondent Alex Auto issued Brake Adjustment Certificate of Compliance No. BA 3615993 for the Bureau's 2007 Chevrolet, when the left right and right rear brake rotors were undersized and below the brake rotor discard thickness specifications, as set forth in paragraphs 44 and 47, above.

SEVENTEENTH CAUSE FOR DISCIPLINE

(Failure to Provide Customer with Copy of Signed Document)

51. Respondent Alex Auto's registration is subject to disciplinary action pursuant to Code section 9884.7(a)(3), in that on or about November 8, 2021, Respondent Alex Auto failed to ensure that the operator was provided with a copy of the estimate as soon as the operator signed the document, as set forth in paragraph 45, above.

EIGHTEENTH CAUSE FOR DISCIPLINE

(Violations of Motor Vehicle Inspection Program)

52. Respondent Alex Auto's registration is subject to discipline pursuant to Code section 9884.7, subdivision (a)(6), in that on or about November 8, 2021, regarding the Bureau's 2007 Chevrolet, it failed to materially comply with provisions of that Code as follows:

a. **Section 9889.16:** Respondent Alex Auto caused the issuance of Certificate of Compliance – Brake Adjustment, No. BA 3615993 certifying that the vehicle was in compliance with Bureau regulations or the requirements of the Vehicle Code, as set forth in paragraph 46, above. In fact, Respondent Alejandro Carbajal did not test or inspect the vehicle in a manner that conforms with Bureau regulations or requirements of the Vehicle Code, as set forth in paragraphs 44, 46, and 47, above.

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1 b. **Section 9884.9(a)**: Respondent Alex Auto failed to give the operator a written
2 estimated price, as set forth in paragraph 45, above.

3 **NINETEENTH CAUSE FOR DISCIPLINE**

4 **(Violations of Regulations)**

5 53. Respondent Alex Auto's registration is subject to discipline pursuant to Code
6 section 9884.7, subdivision (a)(6), in that on or about November 8, 2021, regarding the Bureau's
7 2007 Chevrolet, it failed to comply with Regulations, as set forth in paragraphs 44 through 47,
8 above.

9 a. **Section 3305, subdivision (a)**: Respondent Alex Auto failed to ensure that the brake
10 system was inspected in accordance with specifications, instructions, and directives issued by the
11 Bureau and vehicle manufacturer.

12 b. **Section 3321, subdivision (c)(2)**: Respondent Alex Auto caused the issuance of
13 Certificate of Compliance – Brake Adjustment, No. BA 3615993, for the vehicle, certifying that
14 the vehicle's brake system had been properly tested or inspected. In fact, Respondent Carbajal
15 had not properly tested or inspected the vehicle.

16 **TWENTIETH CAUSE FOR DISCIPLINE**

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

18 54. Respondent Alex Auto's brake and lamp station licenses are subject to discipline
19 pursuant to Code section 9889.3, subdivision (d), in that it committed dishonest, fraudulent, or
20 deceitful acts whereby another was injured, as set forth in paragraph 48, above.

21 **TWENTY-FIRST CAUSE FOR DISCIPLINE**

22 **(Violations of the Motor Vehicle Inspection Program)**

23 55. Respondent Alex Auto's brake and lamp station licenses are subject to discipline
24 pursuant to Code section 9889.3, subdivisions (a) and (h), in that on or about November 8, 2021,
25 regarding the Bureau's 2007 Chevrolet, it committed acts in violation of the Code relating to its
26 licensed activities, as set forth in paragraph 52, above.

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TWENTY-SECOND CAUSE FOR DISCIPLINE

(Violations of Regulations)

56. Respondent Alex Auto's brake and lamp station licenses are subject to discipline pursuant to Code section 9889.3, subdivision (c), in that on or about November 8, 2021, regarding the Bureau's 2007 Chevrolet, it committed acts in violation of Regulations, as set forth in paragraph 53, above.

TWENTY-THIRD CAUSE FOR DISCIPLINE

(Dishonesty, Fraud, or Deceit)

57. Respondent Alejandro Carbajal's brake and lamp adjuster licenses are subject to discipline pursuant to Code section 9889.3, subdivision (d), in that he committed dishonest, fraudulent, or deceitful acts whereby another was injured, as set forth in paragraphs 52, subdivision (a), and 53, subdivision (b), above.

TWENTY-FOURTH CAUSE FOR DISCIPLINE

(Violations of Regulations)

58. Respondent Alejandro Carbajal's brake and lamp adjuster licenses are subject to discipline pursuant to Code section 9889.3, subdivision (c), in that on or about November 8, 2021, regarding the Bureau's 2007 Chevrolet, he committed acts in violation of Regulations, as set forth in paragraph 53, above.

TWENTY-FIFTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud, or Deceit Causing Injury to Another)

59. Respondent Alex Auto's smog check station license is subject to discipline pursuant to Health and Saf. Code section 44072.2, subdivision (d), in that it committed dishonest, fraudulent, or deceitful acts whereby another was injured, as set forth in paragraph 48, above.

TWENTY-SIXTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud, or Deceit Causing Injury to Another)

60. Respondent Alejandro Carbajal's smog check inspector and smog check repair technician licenses are subject to discipline pursuant to Health and Saf. Code section 44072.2,

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subdivision (d), in that he committed dishonest, fraudulent, or deceitful acts whereby another was injured, as set forth in paragraph 48, above.

MATTERS IN AGGRAVATION

61. To determine the degree of discipline, if any, to be imposed, Complainant alleges the following:

62. On or about December 3, 2010, the Bureau issued Citation No. C2011-0671 against Respondent Alex Auto for violations of Health & Saf. Code section 44012 (failure to perform smog check tests in accord with procedures prescribed by the department). On or about November 8, 2010, Respondent issued a certificate of compliance to a Bureau undercover vehicle that was missing an evaporative canister. Respondent Alex Auto was assessed a \$1,500 penalty. Respondent Alex Auto complied with the citation on or about January 10, 2011.

63. On or about October 18, 2011, the Bureau issued Citation No. C2012-0316 against Respondent Alex Auto for violations of Health & Saf. Code section 44012 (failure to perform smog check tests in accord with procedures prescribed by the department). On or about September 14, 2011, Respondent issued a certificate of compliance to a Bureau undercover vehicle that was missing an EGR valve. Respondent Alex Auto was assessed a \$1,500 penalty. Respondent Alex Auto complied with the citation on or about November 21, 2011.

OTHER MATTERS

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

65. Under Code section 9889.9, if Brake Station License No. BS 248849, Class C, or Lamp Station License No. LS 248849, Class A, issued to Respondent Alex Auto with Alejandro Carbajal and Diana Carbajal, Partners, is revoked or suspended, any additional license issued under Division 3, Chapter 20.3, Articles 5 and 6 of the Code in the name of said licensee may be likewise revoked or suspended by the Director.

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66. Under Code section 9889.9, if Brake Adjuster License No. BA 145004, Class C, or Lamp Adjuster License No. LA 145004, Class A, issued to Respondent Alejandro Carbajal is revoked or suspended, any additional license issued under Division 3, Chapter 20.3, Articles 5 and 6 of the Code in the name of said licensee may be likewise revoked or suspended by the Director.

67. Under Health & Saf. Code section 44072.8, if Smog Check Station License No. RC 248849 issued to Respondent Alex Auto is revoked or suspended, any additional license issued under Chapter 5 of part 5 of Division 26 of the Health & Saf. Code in the name of said licensee may be likewise revoked or suspended by the Director.

PRAYER

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

1. Revoking or suspending Automotive Repair Dealer Registration Number ARD 248849, issued to Alejandro Carbajal and Diana Carbajal, partners, doing business as Alex Auto Diagnostics;

2. Revoking or suspending any other automotive repair dealer registration issued to Alejandro Carbajal and Diana Carbajal;

3. Revoking or suspending Lamp Station License Number LS 248849, Class A, and Brake Station License Number BS 248849, Class C, issued to Alejandro Carbajal and Diana Carbajal, partners, doing business as Alex Auto Diagnostics;

4. Revoking or suspending any additional license issued under Division 3, Chapter 20.3, Articles 5 and 6 of the Business and Professions Code in the name of Alejandro Carbajal and Diana Carbajal;

5. Revoking or suspending Smog Check Station License Number RC 248849, issued to Alejandro Carbajal and Diana Carbajal, partners, doing business as Alex Auto Diagnostics;

6. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health and Saf. Code in the name of Alejandro Carbajal and Diana Carbajal;

- 1 7. Revoking or suspending Brake Adjuster License Number BA 145004, Class C, and
2 Lamp Adjuster License Number LA 145004, Class A, issued to Alejandro Carbajal;
- 3 8. Revoking or suspending any additional license issued under Division 3, Chapter 20.3,
4 Articles 5 and 6 of the Business and Professions Code in the name of Alejandro Carbajal;
- 5 9. Revoking or suspending Smog Check Inspector License Number EO 145004 and
6 Smog Check Repair Technician License Number EI 145004, issued to Alejandro Carbajal;
- 7 10. Revoking or suspending any additional license issued under of Chapter 5 of Part 5 of
8 Division 26 of the Health & Safety Code in the name of Alejandro Carbajal;
- 9 11. Ordering Alejandro Carbajal and Diana Carbajal to pay the Bureau of Automotive
10 Repair the reasonable costs of the investigation and enforcement of this case, pursuant to
11 Business and Professions Code section 125.3; and,
- 12 12. Taking such other and further action as deemed necessary and proper.

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15 DATED: As of Digital Signature Date

Dorais,
Patrick@DCA

Digitally signed by Dorais,
Patrick@DCA
Date: 2022.06.10 09:44:00 -07'00'

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

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