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

12
13 **In the Matter of the Accusation Against:**
LAMAS BROTHERS AUTOMOTIVE INC.
14 **DBA LEOS AUTO REPAIR, LEONEL**
15 **LAMAS**
1860 Pacific Coast Highway
16 **Lomita, CA 90717**

Case No. 78/21-9982

ACCUSATION

17 **Automotive Repair Dealer Registration No.**
ARD 249859
18 **Smog Check Station License No. RC 249859**
19 **Lamp Station License No. LS 249859, Class A**
20 **Brake Inspection station BS 249859, Class C**

21 **and**

22 **LEONEL LAMAS**
23 **4641 W. 154th Street**
Lawndale, CA 90260

24 **Smog Check Inspector License No. EO 37143**
25 **Smog Check Repair Technician License No.**
EI 37143
26 **Brake Adjuster License No. BA 37143, Class C**
Lamp Adjuster License No. LA37143, Class A

27 Respondents.
28

1 **PARTIES**

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

4 **Lamas Brothers Automotive Inc. dba Leos Auto Repair**

5 **Automotive Repair Dealer Registration**

6 2. In or about 2007, the Bureau of Automotive Repair issued Automotive Repair Dealer
7 Registration Number ARD 249859 to Lamas Brothers Automotive Inc. dba Leos Auto Repair,
8 with Leonel Lamas as the president, secretary and treasurer (Respondent Leos Auto Repair). The
9 Automotive Repair Dealer Registration was in full force and effect at all times relevant to the
10 charges brought herein and will expire on March 31, 2022, unless renewed.

11 **Smog Check Repair Station License**

12 3. On or about May 15, 2007, the Bureau of Automotive Repair issued Smog Check
13 Station License Number RC 249859 to Respondent Leos Auto Repair. The Smog Check Station
14 License was in full force and effect at all times relevant to the charges brought herein and will
15 expire on March 31, 2022, unless renewed.

16 **Lamp Station License**

17 4. On or about September 7, 2017, the Bureau of Automotive Repair issued Lamp
18 Station License Number LS 249859, Class A to Respondent Leos Auto Repair. The Lamp
19 Station License was in full force and effect at all times relevant to the charges brought herein and
20 will expire on March 31, 2022, unless renewed.

21 **Brake Inspection License**

22 5. On or about September 7, 2017, the Bureau of Automotive Repair issued Brake
23 Inspection station BS 249859, Class C to Respondent Leos Auto Repair. The Brake Inspection
24 License was in full force and effect at all times relevant to the charges brought herein and will
25 expire on March 31, 2022, unless renewed.

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1 **STAR Station Certification**

2 6. In or about 2013, the Bureau certified Respondent Leos Auto Repair as a STAR
3 Station. The certification will remain active unless ARD 249859 and/or RC 249859 is revoked,
4 canceled, becomes delinquent, or the certification is invalidated.

5 **Leonel Lamas**

6 7. On or about October 23, 2013, the Bureau of Automotive Repair issued Smog Check
7 Inspector License Number EO 37143 to Leonel Lamas (Respondent Lamas). The Smog Check
8 Inspector License was in full force and effect at all times relevant to the charges brought herein
9 and will expire on October 31, 2023, unless renewed.

10 8. On or about October 23, 2013, the Bureau of Automotive Repair issued Smog Check
11 Repair Technician License Number EI 37143 to Respondent Lamas. The Smog Check Repair
12 Technician License was in full force and effect at all times relevant to the charges brought herein
13 and expired on October 31, 2021 and has not been renewed.

14 9. On or about May 1, 2017, the Bureau of Automotive Repair issued Brake Adjuster
15 License Number BA 37143, Class C to Respondent Lamas. The Brake Adjuster License expired
16 on October 31, 2020, and has not been renewed.

17 10. In 2017, the Bureau of Automotive Repair issued Lamp Adjuster License No.
18 LA37143, Class A to Respondent Lamas. The Lamp Adjuster License expired on October 31,
19 2020, and was canceled on December 6, 2020.

20 **JURISDICTION**

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

23 12. Section 118, subdivision (b), of the Business and Professions Code (Bus. & Prof.
24 Code) provides that the suspension, expiration, surrender, or cancellation of a license shall not
25 deprive the Director of jurisdiction to proceed with a disciplinary action during the period within
26 which the license may be renewed, restored, reissued or reinstated.

27 13. Bus. & Prof. Code section 9884.13 provides, in pertinent part, that the expiration of a
28 valid registration shall not deprive the Director of jurisdiction to proceed with a disciplinary

proceeding against an automotive repair dealer or to render a decision temporarily or permanently invalidating (suspending or revoking) a registration.

14. Health and Safety Code (Health & Saf. Code) section 44002 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.

15. Health & Saf. Code section 44072.6 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 disciplinary action.

STATUTORY PROVISIONS

16. Bus. & Prof. Code section 9884.7 states, in pertinent part:

(a) The director, where the automotive repair dealer cannot show there was a bona fide error, may refuse to validate, or may invalidate temporarily or permanently, 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) Making or authorizing in any manner or by any means whatever any statement written or oral which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading.

....

(4) Any other conduct that constitutes fraud.

....

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

....

(c) Notwithstanding subdivision (b), the director may suspend, revoke, or place on probation the registration for all places of business operated in this state 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 this chapter, or regulations adopted pursuant to it.

17. Bus. & Prof. Code section 9889.3 states, in pertinent part:

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

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

4
5 18. Bus. & Prof. Code section 477 provides, in pertinent part, that “Board” includes
6 “bureau,” “commission,” “committee,” “department,” “division,” “examining committee,”
7 “program,” and “agency.” “License” includes certificate, registration or other means to engage in
8 a business or profession regulated by the Bus. & Prof. Code.

9 19. Section 44012 of the Health & Saf. Code provides, in pertinent part, that tests at smog
10 check stations shall be performed in accordance with procedures prescribed by the department.

11 20. Section 44015, subdivision (b), of the Health & Saf. Code provides that a certificate
12 of compliance shall be issued if a vehicle meets the requirements of Health & Saf. Code section
13 44012.

14 21. Health & Saf. Code section 44072.2 states, in pertinent part:

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

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

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

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

26 22. Health & Saf. Code section 44072.10 states, in pertinent part:

27
28 (c) The department shall revoke the license of any smog check technician or
station licensee who fraudulently certifies vehicles or participates in the fraudulent
inspection of vehicles. A fraudulent inspection includes, but is not limited to, all of
the following:

(4) Intentional or willful violation of this chapter or any regulation, standard, or

procedure of the department implementing this chapter . . .

23. Health & Saf. Code section 44072.8 states that 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.

REGULATORY PROVISIONS

24. California Code of Regulations (CCR), title 16, section 3340.24, subdivision (c), states:

The bureau may suspend or revoke the license of or pursue other legal action against a licensee, if the licensee falsely or fraudulently issues or obtains a certificate of compliance or a certificate of noncompliance.

25. CCR, title 16, section 3340.30, subdivision (a), states that a licensed smog technician shall at all times:

Inspect, test and repair vehicles, as applicable, in accordance with section 44012 of the Health & Saf. Code, section 44035 of the Health & Saf. Code, and section 3340.42 of this article.

26. CCR, title 16, section 3340.35, subdivision (c), states that a licensed smog check station:

Shall issue a certificate of compliance or noncompliance to the owner or operator of any vehicle that has been inspected in accordance with the procedures specified in section 3340.42 of this article and has all the required emission control equipment and devices installed and functioning correctly.

27. CCR, title 16, section 3340.41, subdivision (c), states:

No person shall enter into the BAR-97 Emissions Inspection System or the OBD Inspection System any vehicle identification information or emission control system identification data for any vehicle other than the one being tested. Nor shall any person knowingly enter into the BAR-97 Emissions Inspection System or the OBD Inspection System any false information about the vehicle being tested.

28. CCR, title 16, section 3340.42, sets forth specific emissions test methods and procedures which apply to all vehicles inspected in the State of California.

29. CCR, title 16, section 3340.45, states:

“(a) All Smog Check inspections shall be performed in accordance with requirements and procedures prescribed in the following:

(1) Smog Check Manual, dated 2013, which is hereby incorporated by reference. This manual became effective on or after January 1, 2013. This manual shall remain in effect until subparagraph (2) is implemented.

(2) Smog Check Manual, dated November 2, 2017, which is hereby incorporated by reference. This manual shall become effective on August 2, 2018.”

30. CCR, title 16, section 3373, states:

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

COST RECOVERY

31. Bus. & Prof. Code section 125.3 provides, in pertinent part, that a Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FACTUAL ALLEGATIONS

32. At all times alleged herein, Respondent Lamas was acting in the course and within the scope of a technician, employee, partner, officer, or member of Leos Auto Repair.

33. The On-Board Diagnostics – Generation II (OBD II) communication protocol describes the specified communication “language” used by the OBD II system electronic control unit to communicate to scan tools and other devices such as the On-Board Diagnostic Inspection System (OIS). The communication protocol is programmed into the OBD II system electronic control unit during manufacture and does not change.

1 34. Parameter Identifications (PID) are data points reported by the OBD II system
2 electronic control unit to the scan tool or OIS. Examples of PIDs are engine speed (RPM),
3 vehicle speed, engine temperature, and other input and output values utilized by the OBD II
4 system electronic control unit. The PID count is the number of data points reported by the OBD
5 II system electronic control unit and is programmed during manufacture.

6 35. The Vehicle Identification Number (VIN) that is physically present on all vehicles is
7 also required to be programmed into the vehicle's OBD II on 2005 and newer vehicles, and on
8 many occasions was programmed into the OBD II system electronic control unit in earlier model-
9 years. This electronically programmed VIN, also known as the "eVIN," is captured by BAR
10 during a Smog Check, and should match the physical VIN on the vehicle.

11 36. A Bureau representative initiated an investigation in which he reviewed OIS test data
12 for Leos Auto Repair. The review showed vehicles being certified with a different eVIN. The
13 data for the vehicles certified may also have contained a different communication protocol and
14 different PID amounts. This confirms the vehicles receiving smog certificates were not tested
15 during the OBD II functional test, which constitutes "clean plugging."¹

16 37. Based on review of confidential Smog Check data, the Bureau of Automotive Repair
17 (Bureau) initiated an investigation into the Smog Check activities of Leos Auto Repair. The data
18 showed that five (5) Smog Check Certificates of Compliance were fraudulently issued to vehicles
19 using the clean plugging method."

20 38. A detailed explanation of each fraudulent smog check is as follows:

21 **Fraudulent Inspection Number 1 (Clean Plug Number 1)**

22 39. On March 16, 2019, a 2004 Nissan Xterra XE, VIN #5N1ED28T74C621028, CA
23 License #7WSS578, was tested and smog certificate #ID476412C was issued under licensed
24 Smog Check Technician #EO 37143 Respondent Lamas.

25 40. The OIS Test Data for the 2004 Nissan Xterra XE shows the eVIN was transmitted as

26
27 ¹ "Clean plugging" refers to the use of another vehicle's properly functioning On Board
28 Diagnostic, generation II, (OBD II) system, or another source, to generate passing diagnostic
readings for the purpose of issuing fraudulent smog Certificates of Compliance to vehicles that
are not in smog compliance and/or not present for testing.

1 3TMJU62N08M065704, the communication protocol was transmitted as ICAN11bt5, and the
2 PID count was 46.

3 41. Similar Vehicle OIS Test Data for 2004 Nissan Xterra XE vehicles show they do not
4 transmit an eVIN. Similar vehicles had the expected communication protocol I914 and they
5 transmit a PID count of 22.

6 42. On March 9, 2016, a previous test was performed on the 2004 Nissan Xterra XE, VIN
7 #5N1ED28T74C621028, CA License #5GMS252 at a different Smog Check facility. The OIS
8 Test Data for the 2004 Nissan Xterra XE shows the eVIN was not transmitted, the
9 communication protocol was transmitted as I914, and the PID count was 22, consistent with the
10 expected Similar Vehicle OIS Test Data.

11 43. The discrepancies in the OIS Test Data obtained by Respondent Lamas reflect that
12 the OIS Data Acquisition Device (DAD) was not connected to the 2004 Nissan Xterra XE during
13 the certification process. This resulted in the issuance of a fraudulent Smog Certificate of
14 Compliance to the 2004 Nissan Xterra XE.

15 44. Moreover, the OIS Test Data obtained by Respondent Lamas is consistent with the
16 following vehicle: 2008 Tacoma Double Cab PreRunner, VIN 3TMJU62N08M065704.

17 **Fraudulent Inspection Number 2 (Clean Plug Number 2)**

18 45. On July 12, 2019, a 2001 Ford Expedition XLT, VIN #1FMRU15W71LA93383, CA
19 License #5CBR918, was tested and smog certificate #QU619720C was issued under licensed
20 Smog Check Technician #EO 37143 Respondent Lamas.

21 46. The OIS Test Data for the 2001 Ford Expedition XLT shows the eVIN was
22 transmitted as 1FTRW07L23KB52182, the communication protocol was transmitted as JPWM,
23 and the PID count was 22.

24 47. Similar Vehicle OIS Test Data for 2001 Ford Expedition XLT vehicles show they
25 transmit the correct eVIN, they have an expected communication protocol JPWM, and they
26 transmit a PID count of 22.

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1 48. The discrepancies in the OIS Test Data obtained by Respondent Lamas reflect that
2 the OIS DAD was not connected to the 2001 Ford Expedition XLT being certified, causing the
3 issuance of a fraudulent Smog Certificate of Compliance.

4 49. Moreover, the OIS Test Data obtained by Respondent Lamas is consistent with the
5 following vehicle: 2003 Ford F150 Supercrew, VIN 1FTRW07L23KB52182. Records reflect
6 that this vehicle is registered to Respondent Lamas.

7 **Fraudulent Inspection Number 3 (Clean Plug Number 3)**

8 50. On August 12, 2019, a 2005 Nissan Pathfinder LE, VIN #5N1AR18U65C756960,
9 CA License #6FVK347, was tested and smog certificate #QU619749C was issued under licensed
10 Smog Check Technician #EO 37143, Respondent Lamas.

11 51. The OIS Test Data for the 2005 Nissan Pathfinder LE shows the eVIN was
12 transmitted as 5N1AN0NU3DN810079, the communication protocol was transmitted as
13 ICAN11bt5, and the PID count was 43.

14 52. Similar Vehicle OIS Test Data for 2005 Nissan Pathfinder LE vehicles show they
15 transmit the correct eVIN, they had the expected communication protocol I914, and they transmit
16 a PID count of 22.

17 53. The discrepancies in the OIS Test Data obtained by Respondent Lamas reflect that
18 the OIS DAD was not connected to the 2005 Nissan Pathfinder LE being certified, causing the
19 issuance of a fraudulent Smog Certificate of Compliance.

20 54. Moreover, the OIS Test Data obtained by Respondent Lamas is consistent with the
21 following vehicle: 2013 Nissan Xterra X, VIN 5N1AN0NU3DN810079.

22 **Fraudulent Inspection Number 4 (Clean Plug Number 4)**

23 55. On March 30, 2020, a 2000 Toyota Tundra Access Cab Limited, VIN#
24 5TBRT3817YS118917, CA License #6K25488, was tested and smog certificate #IH745172C
25 was issued under licensed Smog Check Technician #EO 37143, Respondent Lamas.

26 56. The OIS Test Data for the 2000 Toyota Tundra Access Cab Limited shows the eVIN
27 was transmitted as 1FTRW07L23KB52182, the communication protocol was transmitted as
28 JPWM, and the PID count was 22.

1 57. Similar Vehicle OIS Test Data for 2000 Toyota Tundra Access Cab Limited vehicles
2 show they do not transmit an eVIN, they had the expected communication protocol I914, and they
3 transmit a PID count of 20.

4 58. The discrepancies in the OIS Test Data obtained by Respondent Lamas reflect that
5 the OIS DAD was not connected to the 2000 Toyota Tundra Access Cab Limited being certified,
6 causing the issuance of a fraudulent Smog Certificate of Compliance.

7 59. Moreover, the OIS Test Data obtained by Respondent Lamas is consistent with the
8 following vehicle: 2003 Ford F150 Supercrew, VIN 1FTRW07L23KB52182. Records reflect
9 that this vehicle is registered to Respondent Lamas.

10 **Fraudulent Inspection Number 5 (Clean Plug Number 5)**

11 60. On July 23, 2021, a 2009 Suzuki SX4 Sport, VIN #JS2YC414996201849, CA
12 License #6NGG409, was tested and smog certificate #IL517844C was issued under licensed
13 Smog Check Technician #EO 37143, Respondent Lamas

14 61. The OIS Test Data for the 2009 Suzuki SX4 Sport shows the eVIN was transmitted as
15 1G8JW84R23Y540847, the communication protocol was transmitted as I914, and the PID count
16 was 19|1.

17 62. Similar Vehicle OIS Test Data for 2009 Suzuki SX4 Sport vehicles show they
18 transmit the correct eVIN, they had the expected communication protocol ICAN11bt5, and they
19 transmit a PID count of 36, or 36|9.

20 63. The discrepancies in the OIS Test Data obtained by Respondent Lamas reflect that
21 the OIS DAD was not connected to the 2009 Suzuki SX4 Sport being certified, causing the
22 issuance of a fraudulent Smog Certificate of Compliance.

23 64. Moreover, the OIS Test Data obtained by Respondent Lamas is consistent with the
24 following vehicle: 2003 Saturn LW300, VIN 1G8JW84R23Y540847.

25 **Certificate**

26 65. The Certificates of Compliance for each vehicle fraudulently issued by Leos Auto
27 Repair were purchased through and delivered to the OIS platform at Leos Auto Repair using an
28 Automated Clearing House (ACH) payment method. The certificates were delivered between

1 March 5, 2019, and June 2, 2021, and, as such, were under the exclusive control of Leos Auto
2 Repair for issuance by OIS platform CV008807.

3 **FIRST CAUSE FOR DISCIPLINE**

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

5 66. Respondents Leos Auto Repair and Lamas are subject to disciplinary action under
6 Health and Saf. Code sections 44072.10, subdivisions (a) and (c) and 44072.2, subdivision (a), in
7 that Respondents failed to comply with the following sections of that Code:

8 a. **Section 44012**: Leos Auto Repair and Lamas failed to perform the tests of the
9 emission control systems and devices on the vehicles identified above in accordance with
10 procedures prescribed by the department.

11 b. **Section 44012 subd(f)**: Leos Auto Repair and Lamas failed to perform to perform a
12 visual and/or functional check of required emission control devices.

13 c. **Section 44015, subd. (b)**: Respondent Leos Auto Repair issued a certificate of
14 compliance for the vehicles identified above that without properly testing and inspecting them to
15 determine if they were in compliance with Health & Saf. Code section 44012.

16 d. **Section 44032**: Respondent Lamas, a qualified technician, failed to perform tests of
17 emission control devices and systems in accordance with section 44012

18 e. **Section 44059**: Respondents Leos Auto Repair and Lamas willfully made false
19 entries for the electronic certificates of compliance by certifying that the vehicles identified above
20 had been inspected as required when, in fact, they had not.

21 67. Complainant refers to, and by this reference incorporates, the allegations set forth
22 above in paragraphs 32 through 65, as though set forth fully herein.

23 **SECOND CAUSE FOR DISCIPLINE**

24 **(Failure to Comply with Regulations**

25 **Pursuant to the Motor Vehicle Inspection Program)**

26 68. Respondent Leos Auto Repair is subject to disciplinary action under Health and Saf.
27 Code sections 44072.10, subdivisions (a) and (c) and 44072.2, subdivision (a), in that it failed to
28 comply with the following sections of Title 16, California Code of Regulations:

1 a. **Section 3340.35, subdivision (c)**: Respondent Leos Auto Repair failed to inspect and
2 test the vehicles identified above in accordance with the procedures specified in section 3340.42
3 of the Regulations and failed to ensure that the vehicles had all the required emission control
4 equipment and devices installed and functioning correctly.

5 b. **Section 3373**: Respondent Leos Auto Repair issued false or misleading records in
6 connection with as estimate, invoice, or work order, or record required to be maintained by
7 section 3340.15(e) of this chapter to mislead or deceive customers, prospective customers, or the
8 public.

9 69. Complainant refers to, and by this reference incorporates, the allegations set forth
10 above in paragraphs 32 through 65, as though set forth fully herein.

11 **THIRD CAUSE FOR DISCIPLINE**

12 **(Failure to Comply with Regulations**

13 **Pursuant to the Motor Vehicle Inspection Program)**

14 70. Respondent Lamas, a licensed technician, is subject to disciplinary action under
15 Health and Saf. Code sections 44072.10, subdivisions (a) and (c) and 44072.2, subdivision (a), in
16 that he failed to comply with the following sections of Title 16, California Code of Regulations:

17 a. **Section 3340.30, subdivision (a)**: Respondent Lamas failed to inspect vehicles in
18 accordance with test procedures.

19 b. **Section 3340.41, subdivision (c)**: Respondent Lamas knowingly entered into the
20 Emissions Inspection System false information about the vehicles identified above providing
21 results for smog inspections which were not actually performed.

22 71. Complainant refers to, and by this reference incorporates, the allegations set forth
23 above in paragraphs 32 through 65, as though set forth fully herein.

24 **FOURTH CAUSE FOR DISCIPLINE**

25 **(Untrue or Misleading Statement)**

26 72. Respondent Leos Auto Repair is subject to disciplinary action under Code section
27 9884.7, subdivisions (a)(1) and (c) on the grounds that between March 16, 2019 and July 23,
28 2021, Respondent Leos Auto Repair, made statements which it knew or which by exercise of

1 reasonable care should have known were untrue or misleading when it issued electronic smog
2 certificates of compliance for the vehicles identified above, certifying that those vehicles were in
3 compliance with applicable laws and regulations when, in fact, those vehicles had not been
4 properly inspected as required by Health and Safety Code section 44012. Complainant refers to,
5 and by this reference incorporates, the allegations set forth above in paragraphs 32 through 65, as
6 though set forth fully herein.

7 **FIFTH CAUSE FOR DISCIPLINE**

8 **(Fraud)**

9 73. Respondent Leos Auto Repair is subject to disciplinary action under Code section
10 9884.7, subdivisions (a)(4) and (c), on the grounds that between March 16, 2019 through July 23,
11 2021, Respondent Leos Auto Repair, committed acts which constitute fraud when it issued
12 electronic smog certificates of compliance for the vehicles identified above without performing
13 bona fide inspections of the emission control devices and systems on those vehicles, thereby
14 depriving the People of the State of California of the protection afforded by the Motor Vehicle
15 Inspection Program. Complainant refers to, and by this reference incorporates, the allegations set
16 forth above in paragraphs 32 through 65, as though set forth fully herein.

17 **SIXTH CAUSE FOR DISCIPLINE**

18 **(False Statement or Entry on a Certificate of Compliance)**

19 74. Respondent Leos Auto Repair is subject to disciplinary action pursuant to Code
20 section 9884.7, subdivisions (a)(6) and (c), on the grounds that between March 16, 2019 through
21 July 23, 2021, Respondent Leos Auto Repair, failed in a material respect to comply with the
22 provisions of this chapter or regulations adopted pursuant to it when it issued electronic smog
23 certificates of compliance for the vehicles identified above without performing bona fide
24 inspections of the emission control devices and systems on those vehicles, thereby depriving the
25 People of the State of California of the protection afforded by the Motor Vehicle Inspection
26 Program. Complainant refers to, and by this reference incorporates, the allegations set forth
27 above in paragraphs 32 through 65, as though set forth fully herein.

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1 **SEVENTH CAUSE FOR DISCIPLINE**

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

3 75. Respondent Lamas' Smog Check Inspector License is subject to disciplinary action
4 under Health and Saf. Code sections 44072.10, subdivision (a) and (c) and 44072.2, subdivision
5 (d), in that Respondent Lamas committed dishonest, fraudulent, or deceitful acts whereby another
6 is injured by issuing a smog certificate of compliance for the vehicle identified above without
7 performing bona fide inspections of the emission control devices and systems on the vehicle,
8 thereby depriving the People of the State of California of the protection afforded by the Motor
9 Vehicle Inspection Program. Complainant refers to, and by this reference incorporates, the
10 allegations set forth above in paragraphs 32 through 65, as though set forth fully herein.

11 **EIGHT CAUSE FOR DISCIPLINE**

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

13 76. Respondent Leo's Auto Repair's Brake Inspection Station License and Lamp Station
14 License are subject to disciplinary action under Code section 9889.3 subdivision (d), in that
15 Respondent Leo's Auto Repair committed acts involving dishonesty, fraud, or deceit whereby
16 another is injured. Complainant refers to, and by this reference incorporates, the allegations set
17 forth above in paragraphs 32 through 65, as though set forth fully herein.

18 **NINTH CAUSE FOR DISCIPLINE**

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

20 77. Respondent Lamas' Brake Adjuster License and Lamp Adjuster License are subject
21 to disciplinary action under Code section 9889.3 subdivision (d), in that Respondent Lamas
22 committed acts involving dishonesty, fraud, or deceit whereby another is injured. Complainant
23 refers to, and by this reference incorporates, the allegations set forth above in paragraphs 32
24 through 65, as though set forth fully herein.

25 **TENTH CAUSE FOR DISCIPLINE**

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

27 78. Respondent Leo's Auto Repair's Smog Check Station License is subject to
28 disciplinary action under Health and Saf. Code sections 44072.10, subdivision (a) and (c) and

1 44072.2, subdivision (d), in that Respondent Leo's Auto Repair committed dishonest, fraudulent,
2 or deceitful acts whereby another is injured by issuing a smog certificate of compliance for the
3 vehicle identified above without performing bona fide inspections of the emission control devices
4 and systems on the vehicle, thereby depriving the People of the State of California of the
5 protection afforded by the Motor Vehicle Inspection Program. Complainant refers to, and by this
6 reference incorporates, the allegations set forth above in paragraphs 32 through 65, as though set
7 forth fully herein.

8 **DISCIPLINE CONSIDERATIONS**

9 79. On or about February 13, 2009, Citation C2009-947 was issued against Respondents
10 in the amount of \$500 for violations of 44012(f) failure to perform a visual/functional check of
11 emission control devices and 3340.35(d) issuing a Certificate of Compliance to a Bureau
12 undercover vehicle that was improperly tested and had a missing EGR Valve. The Citation
13 Service Conference was held on March 11, 2009. The citation is final and has been complied
14 with.

15 80. On or about June 5, 2009, Citation C2009-1390 was issued against Respondents in
16 the amount of \$1,000 for violations of 44012(f) failure to perform a visual/functional check of
17 emission control devices and 3340.35(d) issuing a Certificate of Compliance to a Bureau
18 undercover vehicle that was improperly tested and had a missing PCV System. The Citation
19 Service Conference was held on June 18, 2009. The citation is final and has been complied with.

20 81. On or about February 7, 2017, Citation C2017-397 was issued to Respondent Leos
21 Auto Repair for actions in violation of section 44012 of the Health and Safety Code and section
22 3340C of the California Code of Regulations, in that on December 21, 2016 Leos Auto Repair
23 illegally issued a certificate of compliance to a 1999 Ford F250 Diesel using the BAR97 when an
24 OBD Inspection System (OIS) was required. The Citation Service Conference was held on
25 March 9, 2017. The Decision became effective on April 9, 2017.

26 82. On or about February 7, 2017, Citation M2017-398 was issued to Respondent Lamas
27 for actions in violation of section 44012 of the Health and Safety Code and section 3340C of the
28 California Code of Regulations, in that on December 21, 2016 Lamas illegally Smog Check

1 inspected and issued a certificate of compliance to a 1999 Ford F250 Diesel using the BAR97
2 when an OBD Inspection System (OIS) was required. The Citation Service Conference was held
3 on March 9, 2017. The Decision became effective on April 9, 2017.

4 **OTHER MATTERS**

5 83. Pursuant to Bus. & Prof. Code section 9884.7, subdivision (c), the Director may
6 suspend, revoke, or place on probation the registration for all places of business operated in this
7 state by Respondent Leos Auto Repair, upon a finding that Respondent Leos Auto Repair has, or
8 is, engaged in a course of repeated and willful violations of the laws and regulations pertaining to
9 an automotive repair dealer.

10 84. Pursuant to Health & Saf. Code section 44072.8, if Leos Auto Repair Smog Check
11 Station License Number RC 249859, issued to Respondent Leos Auto Repair, is revoked or
12 suspended, any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health &
13 Saf. Code in the name of said licensee may be likewise revoked or suspended by the director.

14 85. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Inspector License
15 Number EO 37143 and EI 37143 (smog check repair tech) issued to Respondent Lamas, is
16 revoked or suspended, any additional license issued under Chapter 5 of Part 5 of Division 26 of
17 the Health & Saf. Code in the name of said licensee may be likewise revoked or suspended by the
18 director.

19 **PRAYER**

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

23 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
24 249859, issued to Lamas Brothers Automotive Inc. dba Leos Auto Repair and any other ARD
25 issued to Lamas Brothers Automotive, Inc.;

26 2. Revoking or suspending Smog Check Station License Number RC 249859, issued to
27 Lamas Brothers Automotive Inc. dba Leos Auto Repair;

- 1 3. Revoking or suspending Brake Station License Number BS 249859, issued to Lamas
2 Brothers Automotive Inc. dba Leos Auto Repair;
- 3 4. Revoking or suspending Lamp Station License Number LS 249859, issued to Lamas
4 Brothers Automotive Inc. dba Leos Auto Repair;
- 5 5. Revoking or suspending Smog Check Inspector License Number EO 37143, issued to
6 Leonel Lamas;
- 7 6. Revoking or suspending Smog Check Repair Technician License Number EI 37143,
8 issued to Leonel Lamas;
- 9 7. Revoking or suspending Brake Inspector License Number BA 37143, issued to
10 Leonel Lamas;
- 11 8. Revoking or suspending Lamp Inspector License Number LA 37143, issued to
12 Leonel Lamas;
- 13 9. Ordering Lamas Brothers Automotive Inc. dba Leos Auto Repair and Leonel Lamas
14 to pay the Bureau of Automotive Repair the reasonable costs of the investigation and enforcement
15 of this case, pursuant to Business and Professions Code section 125.3;
- 16 10. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of
17 Division 26 of the Health and Safety Code in the name of Leonel Lamas;
- 18 11. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of
19 Division 26 of the Health and Safety Code in the name of Lamas Brothers Automotive Inc. dba
20 Leos Auto Repair; and
- 21 12. Taking such other and further action as deemed necessary and proper.

22 DATED: As of Digital Signature Date

22 Dorais,
23 Patrick@DCA

Digitally signed by Dorais,
Patrick@DCA
Date: 2022.01.11 13:32:40 -08'00'

23 PATRICK DORAIS
24 Chief
25 Bureau of Automotive Repair
26 Department of Consumer Affairs
27 State of California
28 Complainant

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