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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. 77/21-4475

13 **MONTEREY AUTO SERVICE INC., DBA**
14 **YOUNGS AUTOMOTIVE INC.**
15 **MICHAEL JOHN TELLEZ, PRESIDENT**
16 **JOSE LUIS TELLEZ, SECRETARY & TREASURER**
1117 F Street
Los Banos, CA 93635

ACCUSATION

17 **Automotive Repair Dealer Registration No. ARD 283219**
18 **Smog Check Station License No. RC 283219**
19 **Lamp Station License No. LS 283219, Class A**
20 **Brake Station License No. BS 283219, Class C**

and

21 **SERGIO CASTILLO**
106 2nd Street
Los Banos, CA 93635

22 **Smog Check Inspector License No. EO 153436**
23 **Smog Check Repair Technician License No. EI 153436**
24 **Brake Adjuster License No. BA 153436, Class C**
25 **Lamp Adjuster License No. LA 153436, Class A**

Respondents.

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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 **Monterey Auto Service, dba Youngs Automotive Inc.**

5 2. On or about April 5, 2016, the Bureau issued Automotive Repair Dealer Registration
6 Number ARD 283219 to Monterey Auto Service Inc. doing business as Youngs Automotive Inc.
7 (Respondent Monterey), with Michael John Tellez, as its President and Jose Luis Tellez, as its
8 Secretary and Treasurer. The Automotive Repair Dealer Registration was in full force and effect
9 at all times relevant to the charges brought herein and will expire on April 30, 2022, unless
10 renewed.

11 3. On or about April 27, 2016, the Bureau issued Smog Check Station License Number
12 RC 283219 to Respondent Monterey. The Smog Check Station License was in full force and
13 effect at all times relevant to the charges brought herein and will expire on April 30, 2022, unless
14 renewed.

15 4. On or about April 27, 2016, the Bureau issued Lamp Station License Number
16 LS 283219, Class A, to Respondent Monterey. The Lamp Station License was in full force and
17 effect at all times relevant to the charges brought herein and will expire on April 30, 2022, unless
18 renewed.

19 5. On or about April 27, 2016, the Bureau issued Brake Station License Number BS
20 283219, Class C, to Respondent Monterey. The Brake Station License was in full force and
21 effect at all times relevant to the charges brought herein and will expire on April 30, 2022, unless
22 renewed.

23 **Sergio Castillo**

24 6. On or about October 30, 2012, the Bureau issued Smog Check Inspector License
25 Number EO 153436 and Smog Check Repair Technician License Number EI 153436 to Sergio
26 Castillo (Respondent Castillo). The Smog Check Inspector License and Smog Check Repair
27 Technician Licenses were in full force and effect at all times relevant to the charges brought
28 herein and will expire on November 30, 2022, unless renewed.

7. On or about January 1, 2007, the Bureau issued Brake Adjuster License Number BA 153436, Class C, to Respondent Castillo. The Brake Adjuster License was in full force and effect at all times relevant to the charges brought herein and will expire on November 30, 2023, unless renewed.

8. On or about January 1, 2007, the Bureau of Automotive Repair issued Lamp Adjuster License Number LA 153436, Class A, to Respondent Castillo. The Lamp Adjuster License was in full force and effect at all times relevant to the charges brought herein and will expire on November 30, 2023, unless renewed.

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.

10. Business and Professions Code (“Code”) section 9884.7 provides 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 license by a licensee shall not deprive the director of jurisdiction to proceed with any investigation of or action or disciplinary proceedings against such licensee, or to render a decision suspending or revoking such license.”

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

The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, 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.

15. 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."

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

STATUTORY AND REGULATORY PROVISIONS

17. 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 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) 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.

...

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

(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.

(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.

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 18. Code section 9887.1 states, in pertinent part:

5 The director shall have the authority to issue licenses for official lamp and
6 brake adjusting stations and shall license lamp and brake adjusters. The licenses shall
7 be issued in accordance with this chapter and regulations adopted by the director
8 pursuant thereto. The director shall establish by regulation the terms of adjusters'
9 licenses as are necessary for the practical administration of the provisions relating to
10 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 . . .

11 19. Code section 9889.3 states, in pertinent part:

12 The director may suspend, revoke, or take other disciplinary action against a
13 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:

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

16 . . .

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

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

. . .

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

22 20. Code section 9884.9 states, in pertinent part:

23 (a) The automotive repair dealer shall give to the customer a written estimated
24 price for labor and parts necessary for a specific job, except as provided in
25 subdivision (e). No work shall be done and no charges shall accrue before
26 authorization to proceed is obtained from the customer. No charge shall be made for
27 work done or parts supplied in excess of the estimated price, or the posted price
28 specified in subdivision (e), without the oral or written consent of the customer that
shall be obtained at some time after it is determined that the estimated or posted price
is insufficient and before the work not estimated or posted is done or the parts not
estimated or posted are supplied. Written consent or authorization for an increase in
the original estimated or posted price may be provided by electronic mail or facsimile
transmission from the customer. The bureau may specify in regulation the procedures

1 to be followed by an automotive repair dealer if an authorization or consent for an
2 increase in the original estimated price is provided by electronic mail or facsimile
3 transmission. If that consent is oral, the dealer shall make a notation on the work
4 order of the date, time, name of person authorizing the additional repairs, and
5 telephone number called, if any, together with a specification of the additional parts
6 and labor and the total additional cost, and shall do either of the following:

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

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

12 I acknowledge notice and oral approval of an increase in the original estimated
13 price.

14 (signature or initials)

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

18 . . .

19 21. Code section 9889.9 states, "When any license has been revoked or suspended
20 following a hearing under the provisions of this article, any additional license issued under
21 Articles 5 and 6 of this chapter in the name of the licensee may be likewise revoked or suspended
22 by the director."

23 22. Code section 9889.16 states,

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

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

32 24. Health & Saf. Code section 44072.2 states, in pertinent part:

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 (a) Violates any section of this chapter [the Motor Vehicle Inspection

1 Program (Health and Saf. Code, section 44000, et seq.)) and the regulations
2 adopted pursuant to it, which related to the licensed activities.

3 . . .

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

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

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

10 **COST RECOVERY**

11 26. Code section 125.3 provides, in pertinent part, that the Bureau may request the
12 administrative law judge to direct a licentiate found to have committed a violation or violations of
13 the licensing act to pay a sum not to exceed the reasonable costs of investigation and enforcement
14 of the case, with failure of the licentiate to comply subjecting the license to not being renewed or
15 reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a
16 stipulated settlement.

17 **UNDERCOVER OPERATION NO. 1**

18 27. On or about April 8, 2021, a Bureau undercover operator using an alias (the operator)
19 took a Bureau-documented 2007 Nissan to Respondent’s facility and requested brake and lamp
20 inspections. Respondent Castillo told the operator it would cost \$100. The operator signed a
21 repair order, but did not receive a copy of the signed document or a written estimate.

22 28. A few hours later, the operator received a telephone call from another employee of
23 Respondent Monterey, who told the operator that the front driver side brake rotor needed to be
24 replaced, bringing the total cost to \$243.39. The operator authorized the work.

25 29. The operator retrieved the 2007 Nissan that same day. Respondent Castillo gave the
26 operator Invoice No. 4967 for \$243.39, which the operator paid. Respondent Castillo also
27 provided the operator with Certificate of Compliance – Brake Adjustment, No. BA 3492130; and,
28 Certificate of Compliance – Lamp Adjustment, No. LA 3448382. The Certificate of Compliance

1 – Brake Adjustment, No. BA 3492130, was signed by Respondent Castillo on April 8, 2021, as
2 the adjustor.

3 30. A Bureau representative subsequently inspected the 2007 Nissan using Respondent
4 Monterey's Invoice No. 4967 and the brake and lamp certificates of compliance that Respondent
5 gave the operator for comparison. The Bureau representative determined that the vehicle could
6 not have passed a proper California brake inspection because the right rear brake rotor was
7 undersized.

8 **FIRST CAUSE FOR DISCIPLINE**

9 **(Untrue or Misleading Statements)**

10 31. Respondent Monterey's registration is subject to discipline pursuant to Code section
11 9884.7, subdivision (a)(1), in that regarding the Bureau's 2007 Nissan, it made or authorized
12 statements which it knew or in the exercise of reasonable care should have known to be untrue or
13 misleading. Specifically, on or about April 8, 2021, Respondent Monterey issued Certificate of
14 Compliance – Brake Adjustment, No. BA 3492130 to the operator, certifying that the vehicle was
15 in compliance with Bureau Regulations or the requirements of the Vehicle Code, as set forth in
16 paragraph 29, above. In fact, a brake certificate should not have been issued for the vehicle
17 because the right rear brake rotor was undersized, as set forth in paragraph 30, above.

18 **SECOND CAUSE FOR DISCIPLINE**

19 **(Fraud)**

20 32. Respondent Monterey's registration is subject to discipline pursuant to Code section
21 9884.7, subdivision (a)(4), in that on or about April 8, 2021, it committed acts that constitute
22 fraud. Specifically, Respondent Monterey obtained payment from the operator for performing the
23 applicable inspections, adjustments, or repairs of the brake system on the Bureau's 2007 Nissan
24 as specified by the Bureau and in accordance with the Vehicle Code when, in fact, it had not, as
25 set forth in paragraph 31, above.

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1 **THIRD CAUSE FOR DISCIPLINE**

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

3 33. Respondent Monterey's registration is subject to disciplinary action pursuant to Code
4 section 9884.7, subdivision (a)(3), in that on or about April 8, 2021, Respondent Monterey failed
5 to ensure that the operator was provided with a copy of the repair order as soon as the operator
6 signed the document, as set forth in paragraph 27, above.

7 **FOURTH CAUSE FOR DISCIPLINE**

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

9 34. Respondent Monterey's registration is subject to discipline pursuant to Code
10 section 9884.7, subdivision (a)(6), in that regarding the Bureau's 2007 Nissan, on or about
11 April 8, 2021, it failed to materially comply with provisions of the Automobile Repair Act, as
12 follows:

13 a. As set forth in paragraph 29, above, Respondent Monterey issued Certificate of
14 Compliance – Brake Adjustment, No. BA 3492130, to the operator, certifying that the vehicle
15 was in compliance with Bureau regulations or the requirements of the Vehicle Code. In fact, as
16 set forth in paragraph 30, above, Respondent Monterey's employee, Respondent Castillo, did not
17 test or inspect the vehicle in a manner that conforms with Bureau regulations or requirements of
18 the Vehicle Code, in violation of Code section 9889.16.

19 b. As set forth in paragraph 27, above, on or about April 8, 2021, Respondent
20 Monterey failed to provide the operator with a written estimate prior to commencing work on the
21 vehicle, in violation of Code section 9884.9, subdivision (a).

22 **FIFTH CAUSE FOR DISCIPLINE**

23 **(Violations of Regulations)**

24 35. Respondent Monterey's registration is subject to discipline pursuant to Code section
25 9884.7, subdivision (a)(6), in that, as set forth in paragraphs 29 and 30, above, on or about
26 April 8, 2021, regarding the Bureau's 2007 Nissan, it failed to comply with Regulations, as
27 follows:
28

a. Respondent Monterey failed to ensure that the brake system was inspected in accordance with specifications, instructions, and directives issued by the Bureau and vehicle manufacturer, in violation of CCR section 3305, subdivision (a).

b. Respondent Monterey issued Certificate of Compliance - Brake Adjustment, No. BA 3492130, for the vehicle, certifying that the vehicle's brake system had been properly tested or inspected by Respondent Monterey's employee, Respondent Castillo. In fact, Respondent Castillo had not properly tested or inspected the vehicle, in violation of CCR section 3321, subdivision (c)(2).

SIXTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud, or Deceit)

36. Respondent Monterey's brake and lamp station licenses are subject to discipline pursuant to Code section 9889.3, subdivision (d), in that it committed dishonest, fraudulent, or deceitful acts whereby another was injured, as set forth in paragraphs 27 through 32, above.

SEVENTH CAUSE FOR DISCIPLINE

(Violations of Motor Vehicle Inspection Program)

37. Respondent Monterey's brake and lamp station licenses are subject to discipline pursuant to Code section 9889.3, subdivisions (a) and (h), in that on or about April 8, 2021, regarding the Bureau's 2007 Nissan, it committed acts in violation of the Code relating to its licensed activities, as set forth in paragraph 34, above.

EIGHTH CAUSE FOR DISCIPLINE

(Violations of Regulations)

38. Respondent Monterey's brake and lamp station licenses are subject to discipline pursuant to Code section 9889.3, subdivision (c), in that on or about April 8, 2021, regarding the Bureau's 2007 Nissan, it committed acts in violation of Regulations, as set forth in paragraph 35, above.

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1 **NINTH CAUSE FOR DISCIPLINE**

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

3 39. Respondent Monterey's smog check station license is subject to discipline pursuant to
4 Health & Saf. Code section 44072.2, subdivision (d), in that it committed dishonest, fraudulent,
5 or deceitful acts whereby another was injured, as set forth in paragraphs 27 through 32, above.

6 **TENTH CAUSE FOR DISCIPLINE**

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

8 40. Respondent Castillo's brake and lamp adjuster licenses are subject to discipline
9 pursuant to Code section 9889.3, subdivision (d), in that on or about April 8, 2021, regarding the
10 Bureau's 2007 Nissan, he committed dishonest, fraudulent, or deceitful acts whereby another was
11 injured, as set forth in paragraphs 29 and 30, above.

12 **ELEVENTH CAUSE FOR DISCIPLINE**

13 **(Violations of Regulations)**

14 41. Respondent Castillo's brake and lamp adjuster licenses are subject to discipline
15 pursuant to Code section 9889.3, subdivision (c), in that on or about April 8, 2021, regarding the
16 Bureau's 2007 Nissan, he committed acts in violation of Regulations, as set forth in paragraph 35,
17 above.

18 **TWELFTH CAUSE FOR DISCIPLINE**

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

20 42. Respondent Castillo's smog check inspector and smog check repair technician
21 licenses are subject to discipline pursuant to Health & Saf. Code section 44072.2, subdivision (d),
22 in that he committed dishonest, fraudulent, or deceitful acts whereby another was injured, as set
23 forth in paragraphs 29 and 30, above.

24 **UNDERCOVER OPERATION NO. 2**

25 43. On or about April 9, 2021, a Bureau undercover operator using an alias (the operator)
26 took a Bureau-documented 2015 Chevrolet to Respondent's facility and requested brake and lamp
27 inspections. Respondent Castillo told the operator it would cost \$100. The operator signed an
28 estimate, but did not receive a copy.

44. The operator retrieved the 2015 Chevrolet that same day. Respondent Castillo gave the operator Invoice No. 4977 for \$100, which the operator paid. Respondent Castillo also provided the operator with Certificate of Compliance – Brake Adjustment, No. BA 3492132; and, Certificate of Compliance – Lamp Adjustment, No. LA 3448384. The Certificate of Compliance – Brake Adjustment, No. BA 3492132, was signed by Respondent Castillo on April 9, 2021, as the adjustor.

45. A Bureau representative subsequently inspected the 2015 Chevrolet using Respondent Monterey's Invoice No. 4977 and the brake and lamp certificates of compliance that Respondent gave the operator for comparison. The Bureau representative determined that the vehicle could not have passed a proper California brake inspection because the right front and left rear brake rotors were undersized.

THIRTEENTH CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

46. Respondent Monterey's registration is subject to discipline pursuant to Code section 9884.7, subdivision (a)(1), in that regarding the Bureau's 2015 Chevrolet, it made or authorized statements which it knew or in the exercise of reasonable care should have known to be untrue or misleading. Specifically, on or about April 9, 2021, Respondent Monterey issued Certificate of Compliance – Brake Adjustment, No. BA 3492132 to the operator, certifying that the vehicle was in compliance with Bureau Regulations or the requirements of the Vehicle Code, as set forth in paragraph 44, above. In fact, a brake certificate should not have been issued for the vehicle because the right rear brake rotor was undersized, as set forth in paragraph 45, above.

FOURTEENTH CAUSE FOR DISCIPLINE

(Fraud)

47. Respondent Monterey's registration is subject to discipline pursuant to Code section 9884.7, subdivision (a)(4), in that on or about April 9, 2021, it committed acts that constitute fraud. Specifically, Respondent Monterey obtained payment from the operator for performing the applicable inspections, adjustments, or repairs of the brake system on the Bureau's 2015

1 Chevrolet as specified by the Bureau and in accordance with the Vehicle Code when, in fact, he
2 had not, as set forth in paragraph 45, above.

3 **FIFTEENTH CAUSE FOR DISCIPLINE**

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

5 48. Respondent Monterey's registration is subject to disciplinary action pursuant to Code
6 section 9884.7, subdivision (a)(3), in that on or about April 9, 2021, Respondent Monterey failed
7 to ensure that the operator was provided with a copy of the estimate as soon as the operator
8 signed the document, as set forth in paragraph 43, above.

9 **SIXTEENTH CAUSE FOR DISCIPLINE**

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

11 49. Respondent Monterey's registration is subject to discipline pursuant to Code
12 section 9884.7, subdivision (a)(6), in that regarding the Bureau's 2015 Chevrolet, on or about
13 April 9, 2021, it failed to materially comply with provisions of the Automobile Repair Act, as
14 follows:

15 a. As set forth in paragraph 44, above, Respondent Monterey issued Certificate of
16 Compliance – Brake Adjustment, No. BA 3492132, to the operator, certifying that the vehicle
17 was in compliance with Bureau regulations or the requirements of the Vehicle Code. In fact, as
18 set forth in paragraph 45, above, Respondent Monterey's employee, Respondent Castillo, did not
19 test or inspect the vehicle in a manner that conforms with Bureau regulations or requirements of
20 the Vehicle Code, in violation of Code section 9889.16.

21 b. As set forth in paragraph 43, above, on or about April 9, 2021, Respondent
22 Monterey failed to provide the operator with a written estimate prior to commencing work on the
23 vehicle, in violation of Code section 9884.9, subdivision (a).

24 **SEVENTEENTH CAUSE FOR DISCIPLINE**

25 **(Violations of Regulations)**

26 50. Respondent Monterey's registration is subject to discipline pursuant to Code section
27 9884.7, subdivision (a)(6), in that, as set forth in paragraphs 44 and 45, above, on or about
28

1 April 9, 2021, regarding the Bureau's 2015 Chevrolet, it failed to comply with Regulations, as
2 follows:

3 a. Respondent Monterey failed to ensure that the brake system was inspected in
4 accordance with specifications, instructions, and directives issued by the Bureau and vehicle
5 manufacturer, in violation of CCR section 3305, subdivision (a).

6 b. Respondent Monterey issued Certificate of Compliance - Brake Adjustment,
7 No. BA 3492132, for the vehicle, certifying that the vehicle's brake system had been properly
8 tested or inspected by Respondent Monterey's employee, Respondent Castillo. In fact,
9 Respondent Castillo had not properly tested or inspected the vehicle, in violation of CCR
10 section 3321, subdivision (c)(2).

11 **EIGHTEENTH CAUSE FOR DISCIPLINE**

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

13 51. Respondent Monterey's brake and lamp station licenses are subject to discipline
14 pursuant to Code section 9889.3, subdivision (d), in that it committed dishonest, fraudulent, or
15 deceitful acts whereby another was injured, as set forth in paragraphs 45 and 46, above.

16 **NINETEENTH CAUSE FOR DISCIPLINE**

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

18 52. Respondent Monterey's brake and lamp station licenses are subject to discipline
19 pursuant to Code section 9889.3, subdivisions (a) and (h), in that on or about April 9, 2021,
20 regarding the Bureau's 2015 Chevrolet, it committed acts in violation of the Code relating to its
21 licensed activities, as set forth in paragraph 49, above.

22 **TWENTIETH CAUSE FOR DISCIPLINE**

23 **(Violations of Regulations)**

24 53. Respondent Monterey's brake and lamp station licenses are subject to discipline
25 pursuant to Code section 9889.3, subdivision (c), in that on or about April 9, 2021, regarding the
26 Bureau's 2015 Chevrolet, it committed acts in violation of Regulations, as set forth in
27 paragraph 50, above.

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1 **TWENTY-FIRST CAUSE FOR DISCIPLINE**

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

3 54. Respondent Monterey's smog check station license is subject to discipline pursuant to
4 Health & Saf. Code section 44072.2, subdivision (d), in that it committed dishonest, fraudulent,
5 or deceitful acts whereby another was injured, as set forth in paragraphs 44 through 47, above.

6 **TWENTY-SECOND CAUSE FOR DISCIPLINE**

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

8 55. Respondent Castillo's brake and lamp adjuster licenses are subject to discipline
9 pursuant to Code section 9889.3, subdivision (d), in that on or about April 9, 2021, regarding the
10 Bureau's 2015 Chevrolet, he committed dishonest, fraudulent, or deceitful acts whereby another
11 was injured, as set forth in paragraphs 44 and 45, above.

12 **TWENTY-THIRD CAUSE FOR DISCIPLINE**

13 **(Violations of Regulations)**

14 56. Respondent Castillo's brake and lamp adjuster licenses are subject to discipline
15 pursuant to Code section 9889.3, subdivision (c), in that on or about April 9, 2021, regarding the
16 Bureau's 2015 Chevrolet, he committed acts in violation of Regulations, as set forth in paragraph
17 50, above.

18 **TWENTY-FOURTH CAUSE FOR DISCIPLINE**

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

20 57. Respondent Castillo's smog check inspector and smog check repair technician
21 licenses are subject to discipline pursuant to Health & Saf. Code section 44072.2, subdivision (d),
22 in that he committed dishonest, fraudulent, or deceitful acts whereby another was injured, as set
23 forth in paragraphs 44 and 45, above.

24 **MATTERS IN AGGRAVATION**

25 58. To determine the degree of discipline against Respondent Castillo, if any, to be
26 imposed, Complainant alleges that on or about February 25, 2015, the Bureau issued Citation No.
27 M2015-139 against Respondent for violations of Health & Saf. Code sections 44032 and 44012
28 (failure to perform smog check tests in accord with procedures prescribed by the department). On

1 or about January 29, 2015, Respondent issued a Certificate of Compliance to a Bureau
2 undercover vehicle with missing Exhaust Gas Recirculation (EGR) System components.
3 Respondent was directed to complete an 8-hour Bar Certified Training Course. Respondent
4 complied with the Citation on or about May 3, 2015.

5 **OTHER MATTERS**

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

10 60. Pursuant to Business and Professions Code section 9889.9, if Brake Station License
11 Number BS 283219, or Lamp Station License Number LS 283219, issued to Respondent
12 Monterey, is revoked or suspended, any additional license issued under Articles 5 and 6 of
13 Chapter 20.3 of the Business and Professions Code in the name of said licensee may be likewise
14 revoked or suspended by the Director.

15 61. Pursuant to Health & Safety Code section 44072.8, if Smog Check Station License
16 Number RC 283219, issued to Respondent Monterey is revoked or suspended, any additional
17 licenses under Chapter 5 of part 5 of Division 26 of the Health & Safety Code in the name of
18 Monterey Auto Service Inc. may be likewise revoked or suspended by the Director.

19 62. Pursuant to Business and Professions Code section 9889.9, if Brake Adjuster License
20 Number BA 153436, or Lamp Adjuster License Number LA 153436, issued to Respondent
21 Sergio Castillo, is revoked or suspended, any additional license issued under Articles 5 and 6 of
22 Chapter 20.3 of the Business and Professions Code in the name of said licensee may be likewise
23 revoked or suspended by the Director.

24 63. Under Health & Saf. Code section 44072.8, if Smog Check Inspector License No.
25 EO 153436 or Smog Check Repair Technician License No. EI 153436 issued to Respondent
26 Sergio Castillo is revoked or suspended, then any additional license issued under Chapter 5 of
27 Part 5 of Division 26 of the Health & Saf. Code in the name of said licensee may be likewise
28 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 283219, issued to Monterey Auto Service Inc., doing business as Youngs Automotive Inc.;
2. Revoking or suspending any other automotive repair dealer registration issued to Monterey Auto Service Inc.;
3. Revoking or suspending Lamp Station License Number LS 283219 and Brake Station License Number BS 283219, issued to Monterey Auto Service Inc., doing business as Youngs Automotive Inc.;
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 Monterey Auto Service Inc.
5. Revoking or suspending Smog Check Station License Number RC 283219, issued to Monterey Auto Service Inc., doing business as Youngs Automotive Inc.;
6. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health & Saf. Code in the name of Monterey Auto Service Inc.;
7. Revoking or suspending Brake Adjuster License Number BA 153436, Class C, and Lamp Adjuster License Number LA 153436, Class A, issued to Sergio Castillo;
8. 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 Sergio Castillo;
9. Revoking or suspending Smog Check Inspector License Number EO 153436 and Smog Check Repair Technician Number EI 153436, issued to Sergio Castillo;
10. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health & Saf. Code in the name of Monterey Auto Service Inc.;
11. Ordering Monterey Auto Service Inc. and Sergio Castillow to pay the Bureau of Automotive Repair the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

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12. Taking such other and further action as deemed necessary and proper.

DATED: As of Digital Signature Date

Dorais, Patrick@DCA Digitally signed by Dorais,
Patrick@DCA
Date: 2022.03.04 15:37:04 -08'00'

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

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