BEFORE THE DIRECTOR OF THE

DEPARTMENT OF CONSUMER AFFAIRS

BUREAU OF AUTOMOTIVE REPAIR

STATE OF CALIFORNIA

In the Matter of the Accusation Against:

ELEAZAR HERNANDEZ dba VICTORY SMOG

2306 E. McKinley, Unit C

Fresno, CA 93703

Automotive Repair Dealer Registration No. ARD 294816

Smog Check Station License No. RC 294816

Brake Station License No. BS 294816, Class C

Lamp Station License No. LS 294816, Class A

ELEAZAR HERNANDEZ

1534 La Jolla Way

Madera, CA 93638

Smog Check Inspector License No. EO 636633

Smog Check Repair Technician License No. EI 636633

Brake Adjuster License No. BA 636633, Class C

Lamp Adjuster License No. LA 636633, Class A

ANTHONY J. SORIANO

2315 Stillman Street

Selma, CA 93662

Smog Check Inspector License No. EO 635350

Smog Check Repair Technician License No. EI 635350

Brake Adjuster License No. BA 635350, Class C

Respondents.

Case No. 77/21-9335

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby accepted and adopted by the Director of the Department of Consumer Affairs as the Decision in the above-entitled matter.

This Decision shall become effective on MAR 24 2023.

DATED: Feb 8, 2023

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

ROB BONTA
Attorney General of California
KAREN R. DENVIR
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Attorneys for Complainant

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

In the Matter of the Accusation Against: **ELEAZAR HERNANDEZ, DBA VICTORY SMOG** 2306 E. McKinley, Unit C Fresno, CA 93703 *Mailing Address*: 1534 La Jolla Way Madera, CA 93638 Automotive Repair Dealer Registration No. ARD 294816 Smog Check Station License No. RC 294816 Lamp Station License No. LS 294816, Class A Brake Station License No. BS 294816, Class C **ELEAZAR HERNANDEZ** 1534 La Jolla Way Madera, CA 93638 Smog Check Inspector License No. EO 636633 Smog Check Repair Technician License No. EI 63663 Brake Adjuster License No. BA 636633, Class C Lamp Adjuster License No. LA 636633, Class A	Case No. 77/21-9335 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

ANTHONY J. SORIANO
2315 Stillman Street
Selma, CA 93662

Smog Check Inspector License No. EO 635350
Smog Check Repair Technician License No. EI 635350
Brake Adjuster License No. BA 635350, Class C

Respondents.

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-entitled proceedings that the following matters are true:

PARTIES

1. Patrick Dorais (Complainant) is the Chief of the Bureau of Automotive Repair (Bureau). He brought this action solely in his official capacity and is represented in this matter by Rob Bonta, Attorney General of the State of California, by Lorrie M. Yost, Deputy Attorney General.

Victory Smog, Eleazar Hernandez, Owner

2. On or about July 10, 2019, the Bureau issued Automotive Repair Dealer Registration No. ARD 294816 to Eleazar Hernandez (Respondent Hernandez), owner of Victory Smog. The Automotive Repair Dealer Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 77/21-9335, and will expire on July 31, 2022, unless renewed.

3. On or about October 24, 2019, the Bureau issued Smog Check Station License Number RC 294816 to Respondent Hernandez, dba Victory Smog. The Smog Check Station License was in full force and effect at all times relevant to the charges brought herein and will expire on July 31, 2022, unless renewed.

4. On or about November 6, 2020, the Bureau issued Lamp Station License Number LS 294816, Class A, to Respondent Hernandez, dba Victory Smog. The Lamp Station License was in full force and effect at all times relevant to the charges brought herein and will expire on July 31, 2022, unless renewed.

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5. On or about November 6, 2020, the Bureau issued Brake Station License Number BS 294816, Class C, to Respondent Hernandez, dba Victory Smog. The Brake Station License was in full force and effect at all times relevant to the charges brought herein and will expire on July 31, 2022, unless renewed.

ELEAZAR HERNANDEZ

6. On or about March 17, 2014, the Bureau issued Smog Check Inspector License Number EO 636633 to Respondent Hernandez. The Smog Check Inspector License was in full force and effect at all times relevant to the charges brought herein and expired on April 20, 2022.

7. On or about March 14, 2014, the Bureau issued Smog Check Repair Technician License Number EI 636633 to Respondent Hernandez. The Smog Check Repair Technician License was in full force and effect at all times relevant to the charges brought herein and will expire on April 30, 2023, unless renewed.

8. On or about November 19, 2020, the Bureau issued Brake Adjuster License Number BA 636633, Class C, to Respondent Hernandez. The Brake Adjuster License was in full force and effect at all times relevant to the charges brought herein and will expire on April 30, 2024, unless renewed.

9. On or about June 1, 2020, the Bureau issued Lamp Adjuster License Number LA 636633, Class A, to Respondent Hernandez. The Lamp Adjuster License was in full force and effect at all times relevant to the charges brought herein and will expire on April 30, 2024, unless renewed.

ANTHONY J. SORIANO

10. On or about March 28, 2013, the Bureau issued Smog Check Inspector License Number EO 635350 to Anthony J. Soriano (Respondent Soriano). The Smog Check Inspector License was in full force and effect at all times relevant to the charges brought herein and will expire on July 31, 2023, unless renewed.

11. On or about October 6, 2016, the Bureau issued Smog Check Repair Technician License Number EI 635350 to Respondent Soriano. The Smog Check Repair Technician License expired on July 31, 2018, and has not been renewed.

12. On or about November 2, 2020, the Bureau issued Brake Adjuster License Number BA 635350, Class C, to Respondent Soriano. The Brake Adjuster License was in full force and effect at all times relevant to the charges brought herein and will expire on July 31, 2024, unless renewed.

13. Respondent Hernandez and Respondent Soriano are represented in this matter by attorney Sarkis V. Paronyan, Esq.

JURISDICTION

14. Accusation No. 77/21-9335 was filed before the Director of the Department of Consumer Affairs (Director) and is currently pending against Respondents. The Accusation and all other statutorily required documents were properly served on Respondents on January 20, 2022. Respondents timely filed their Notices of Defense contesting the Accusation.

15. A copy of Accusation No. 77/21-9335 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

16. Respondents have carefully read and understand the charges and allegations in Accusation No. 77/21-9335. Respondents have also carefully read, and understand, the effects of this Stipulated Settlement and Disciplinary Order.

17. Respondents are fully aware of their legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at its own expense; the right to confront and cross-examine the witnesses against them; the right to present evidence and to testify on its own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

18. Respondents voluntarily, knowingly, and intelligently waives and give up each and every right set forth above.

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CULPABILITY

19. Respondents understand and agree that the charges and allegations in Accusation No. 77/21-9335, if proven at a hearing, constitute cause for imposing discipline upon the Automotive Repair Dealer Registration, Smog Check Station License, Lamp Station License, Brake Station License, Smog Check Inspector Licenses, Smog Check Repair Technician Licenses, Brake Adjuster Licenses, and Lamp Adjuster License.

20. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent Hernandez agrees that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation, although Respondent would contest them, and that Respondent hereby gives up his right to contest those charges.

21. Respondent Hernandez agrees that his Automotive Repair Dealer Registration, Smog Check Station License, Lamp Station License, Brake Station License, Smog Check Inspector License, Smog Check Repair Technician License, Brake Adjuster License, and Lamp Adjuster License are subject to discipline, and he agrees to be bound by the Director's probationary terms as set forth in the Disciplinary Order below.

22. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent Soriano agrees that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation, although Respondent would contest them, and that Respondent hereby gives up his right to contest those charges.

23. Respondent Soriano agrees that his Smog Check Inspector License, Smog Check Repair Technician License, and Brake Adjuster License are subject to discipline, and he agrees to be bound by the Director's probationary terms as set forth in the Disciplinary Order below.

RESERVATION

24. The admissions made by the Respondents herein are only for the purposes of this proceeding, or any other proceedings in which the Director of the Department of Consumer Affairs, Bureau of Automotive Repair, or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

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CONTINGENCY

25. This stipulation shall be subject to approval by the Director or the Director's designee. Respondents understand and agree that counsel for Complainant and the staff of the Bureau of Automotive Repair may communicate directly with the Director and staff of the Department of Consumer Affairs regarding this stipulation and settlement, without notice to or participation by Respondents. By signing the stipulation, Respondents understand and agree that they may not withdraw their agreement or seek to rescind the stipulation prior to the time the Director considers and acts upon it. If the Director fails to adopt this stipulation as the Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Director shall not be disqualified from further action by having considered this matter.

26. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

27. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

28. In consideration of the foregoing admissions and stipulations, the parties agree that the Director may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Automotive Repair Dealer Registration No. ARD 294816, Smog Check Station License No. RC 294816, Lamp Station License No. LS 294816, and Brake Station License Number BS 294816, Class C issued to Respondent Victory Smog; Eleazar Hernandez, Owner; and Smog Check Inspector License Number EO 636633, Smog Check Repair

Technician License Number EI 636633, Brake Adjuster License Number BA 636633, Class C, and Lamp Adjuster License Number LA 636633 issued to Respondent Eleazar Hernandez; and Smog Check Inspector License Number EO 635350, Smog Check Repair Technician License Number EI 635350, and Brake Adjuster License Number BA 635350 issued to Respondent Anthony J. Soriano are revoked. However, the revocations are stayed and Respondents are placed on probation for four (4) years on the following terms and conditions:

1. **Obey All Laws.** During the period of probation, Respondents shall comply with all federal and state statutes, regulations and rules governing all BAR registrations and licenses held by Respondents.

2. **Actual Suspension.** Automotive Repair Dealer Registration No. ARD 294816 issued to Respondent Hernandez, dba Victory Smog, is suspended for three (3) consecutive calendar days beginning on the effective date of the Decision and Order.

Smog Check Station License Number RC 294816 issued to Respondent Hernandez, dba Victory Smog, is suspended for three (3) consecutive calendar days beginning on the effective date of the Decision and Order.

Lamp Station License Number LS 294816 Class A issued to Respondent Hernandez, dba Victory Smog, is suspended for three (3) consecutive calendar days beginning on the effective date of the Decision and Order.

Brake Station License Number BS 294816, Class C issued to Respondent Hernandez, dba Victory Smog, is suspended for three (3) consecutive calendar days beginning on the effective date of the Decision and Order.

Smog Check Inspector License Number EO 636633 issued to Respondent Hernandez is suspended for three (3) consecutive calendar days beginning on the effective date of the Decision and Order.

Smog Check Repair Technician License Number EI 636633 issued to Respondent Hernandez is suspended for three (3) consecutive calendar days beginning on the effective date of the Decision and Order.

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Brake Adjuster License Number BA 636633, Class C issued to Respondent Hernandez is suspended for three (3) consecutive calendar days beginning on the effective date of the Decision and Order.

Lamp Adjuster License Number LA 636633, Class A issued to Respondent Hernandez is suspended for three (3) consecutive calendar days beginning on the effective date of the Decision and Order.

Smog Check Inspector License Number EO 635350 issued to Respondent Soriano is suspended for three (3) consecutive calendar days beginning on the effective date of the Decision and Order.

Smog Check Repair Technician License Number EI 635350 issued to Respondent Soriano is suspended for three (3) consecutive calendar days beginning on the effective date of the Decision and Order.

Brake Adjuster License Number BA 635350, Class C issued to Respondent Soriano is suspended for three (3) consecutive calendar days beginning on the effective date of the Decision and Order.

3. **Posting of Sign.** During the period of suspension, Respondents shall prominently post a sign or signs, provided by BAR, indicating the beginning and ending dates of the suspension and indicating the reason for the suspension. The sign or signs shall be conspicuously displayed in a location or locations open to and frequented by customers. The location(s) of the sign(s) shall be approved by BAR and shall remain posted during the entire period of actual suspension.

4. **Quarterly Reporting.** During the period of probation, Respondents shall report either by personal appearance or in writing as determined by BAR on a schedule set by BAR, but no more frequently than once each calendar quarter, on the methods used and success achieved in maintaining compliance with the terms and conditions of probation.

5. **Report Financial Interests.** Respondents shall, within 30 days of the effective date of the decision and within 30 days from the date of any request by BAR during the period of probation, report any financial interest which any Respondents or any partners, officers, or

owners of any Respondent facility may have in any other business required to be registered pursuant to Section 9884.6 of the Business and Professions Code.

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

7. **Tolling of Probation.** If, during probation, either Respondent leaves the jurisdiction of California to reside or do business elsewhere or otherwise ceases to do business in the jurisdiction of California, that Respondent shall notify BAR in writing within 10 days of the dates of departure and return, and of the dates of cessation and resumption of business in California. All provisions of probation other than cost reimbursement requirements, restitution requirements, training requirements, and that Respondent obey all laws, shall be held in abeyance during any period of time of 30 days or more in which Respondent is not residing or engaging in business within the jurisdiction of California. All provisions of probation shall recommence on the effective date of resumption of business in California. Any period of time of 30 days or more in which Respondent is not residing or engaging in business within the jurisdiction of California shall not apply to the reduction of this probationary period or to any period of actual suspension not previously completed. Tolling is not available if business or work relevant to the probationary license or registration is conducted or performed during the tolling period.

8. **Violation of Probation.** If Respondents violate or fail to comply with the terms and conditions of probation in any respect, the Director, after giving notice and opportunity to be heard may set aside the stay order and carry out the disciplinary order provided in the decision. Once Respondents are served notice of BAR's intent to set aside the stay, the Director shall maintain jurisdiction, and the period of probation shall be extended until final resolution of the matter.

9. **Maintain Valid License.** Respondents shall, at all times while on probation, maintain a current and active registration and licenses with BAR, including any period during

which suspension or probation is tolled. If Respondents' registration or licenses are expired at the time the decision becomes effective, the registration or licenses must be renewed by Respondent within 30 days of that date. If Respondent's registration or license expires during a term of probation, by operation of law or otherwise, then upon renewal Respondents' registration or licenses shall be subject to any and all terms and conditions of probation not previously satisfied. Failure to maintain a current and active registration and/or license during the period of probation shall also constitute a violation of probation.

10. **Cost Recovery.** Respondents are jointly and severally liable for the cost recovery and shall pay the Bureau of Automotive Repair $2,370.62 for the reasonable costs of the investigation and enforcement of Case No. 77/21-9335. Respondents shall make such payment in 24 equal monthly payments beginning 30 days from the effective date of this order. Full payment must be completed no later than six (6) months before probation terminates. Respondents shall make payment by check or money order payable to the Bureau of Automotive Repair and shall indicate on the check or money order that it is for cost recovery payment for Case No. 77/21-9335. Any order for payment of cost recovery shall remain in effect whether or not probation is tolled. Probation shall not terminate until full cost recovery payment has been made. BAR reserves the right to pursue any other lawful measures in collecting on the costs ordered and past due, in addition to taking action based upon the violation of probation.

11. **Completion of Probation**. Upon successful completion of probation, Respondents' affected registration and licenses will be fully restored or issued without restriction, if Respondents meet all current requirements for registration or licensure and have paid all outstanding fees, monetary penalties, or cost recovery owed to BAR.

12. **License Surrender.** Following the effective date of a decision that orders a stay of invalidation or revocation, if Respondents cease business operations or are otherwise unable to satisfy the terms and conditions of probation, Respondents may request that the stay be vacated. Such request shall be made in writing to BAR. The Director and the BAR Chief reserve the right to evaluate the Respondents' request and to exercise discretion whether to grant the request or take any other action deemed appropriate or reasonable under the circumstances. Upon formal

granting of the request, the Director will vacate the stay order and carry out the disciplinary order provided in the decision. Respondents may not petition the Director for reinstatement of the surrendered registration or licenses or apply for a new registration or license under the jurisdiction of BAR at any time before the date of the originally scheduled completion of probation. If either Respondent applies to BAR for a registration or license at any time after that date, Respondent must meet all current requirements for registration or licensure and pay all outstanding fees or cost recovery owed to BAR and left outstanding at the time of surrender.

ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Automotive Repair Dealer Registration, Smog Check Station License, Lamp Station License, Brake Station License, Smog Check Inspector License, Smog Check Repair Technician License, Brake Adjuster License, and Lamp Adjuster License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Director of the Department of Consumer Affairs.

DATED: 10 / 10 / 2022

VICTORY SMOG; ELEAZAR HERNANDEZ, Owner
Respondent

ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Smog Check Inspector License, Smog Check Repair Technician License, and Brake Adjuster License. I enter into this Stipulated Settlement and

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Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Director of the Department of Consumer Affairs.

DATED: 10 / 10 / 2022

ANTHONY J. SORIANO
Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Director of the Department of Consumer Affairs.

DATED: _____

Respectfully submitted,

ROB BONTA
Attorney General of California
KAREN R. DENVIR
Supervising Deputy Attorney General

LORRIE M. YOST
Deputy Attorney General
Attorneys for Complainant

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