

**BEFORE THE DIRECTOR OF THE  
DEPARTMENT OF CONSUMER AFFAIRS  
BUREAU OF AUTOMOTIVE REPAIR  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**CHARLES BRYAN GAMA, OWNER dba K&C SMOG**

2431 E. Slauson Ave. Unit B

Huntington Park, CA 90255

Automotive Repair Dealer Registration No. ARD 300424

Smog Check Station License No. RC 300424

Brake Station License No. BS 300424. Class C

Lamp Station License No. LS 300424, Class A

**CHARLES BRYAN GAMA**

129 S. Spruce St.

Montebello, CA 90640

Smog Check Inspector License No. EO 642598

Smog Check Repair Technician License No. EI 642598

Brake Adjuster License No. BA 642598, Class C

Lamp Adjuster License No. LA 642598, Class A

Respondents.

Case No. 77/23-3240

OAH No. 2024050864

**DECISION**

The attached Proposed Decision of the Administrative Law Judge 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 be effective on June 20, 2025.

IT IS SO ORDERED May 1, 2025.



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

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

**In the Matter of the Accusation Against:**

**CHARLES BRYAN GAMA, Owner,**

**doing business as K&C SMOG,**

**Automotive Repair Dealer Registration No. ARD 300424**

**Smog Check Test and Repair Station License No. RC 300424**

**Brake Station License No. BS 300424, Class C**

**Lamp Station License No. LS 300424, Class A,**

**and**

**CHARLES BRYAN GAMA,**

**Smog Check Inspector License No, EO 642598**

**Smog Check Repair Technician License No. EI 642598**

**Brake Adjuster License No. BA 642598, Class C**

**Lamp Adjuster License No. LA 642598, Class A,**

## **Respondents.**

**Agency Case No. 77/23-3240**

**OAH No. 2024050864**

### **PROPOSED DECISION**

Jennifer M. Russell, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter by videoconference on February 20 and 21, 2025.

Shonda L. Edwards, Deputy Attorney General, represented complainant Patrick Dorais, Chief of the Bureau of Automotive Repair (Bureau), Department of Consumer Affairs (Department). William D. Ferreira, Attorney at Law, represented Charles Bryan Gama (Gama), owner, doing business as K&C Smog ("respondent"). Gama was present at the hearing.

Testimony and documentary evidence were received in evidence. The case was argued. The record closed and the matter was submitted for decision at the conclusion of the hearing on February 21, 2025.

### **SUMMARY**

Complainant proved by a preponderance of the evidence respondent issued brake and lamp certificates falsely certifying inspections, repairs, or adjustments were lawfully performed when in fact no such lawful inspections, repairs, or adjustments occurred. Respondent admitted to misconduct and offered evidence of substantial

remediation. The Administrative Law Judge makes the following Factual Findings, Legal Conclusions, and Order staying revocation of respondent's registration and licenses for five years with probationary terms and conditions.

## **FACTUAL FINDINGS**

### **Jurisdictional Matters**

1. On March 26, 2024, complainant made the Accusation in an official capacity.
2. On April 8, 2024, respondent filed a Notice of Defense requesting a hearing on the merits of the Accusation.
3. All jurisdictional requirements are met.

### **Respondent's License History**

#### **GAMA**

4. On July 15, 2020, the Bureau issued Smog Check Inspector License Number E0 642598 to Gama. The Smog Check Inspector License, which was in full force and effect at all time relevant to the allegations in the Accusation, expires on December 31, 2026.
5. On July 16, 2020, the Bureau issued Smog Check Repair Technician License Number EI 642598 to Gama. The Smog Check Repair Technician License, which was in full force and effect at all times relevant to the allegations in the Accusation, expires on December 31, 2026.

6. On February 24, 2021, the Bureau issued Brake Adjuster License Number BA 642598, Class C, to Gama. The Brake Adjuster License, which was in full force and effect at all times relevant to the allegations in the Accusation, was due to expire on December 31, 2024. Pursuant to Business and Professions Code section 9887.5, however, the Brake Adjuster License was cancelled on September 27, 2024. Cancellation of the Brake Adjuster License does not extinguish jurisdiction to proceed with this disciplinary proceeding. (Bus. & Prof. Code, § 9889.7; Health & Saf Code, §44072.6.)

7. On July 14, 2021, the Bureau issued Lamp Adjuster License Number LA 642598, Class A, to Gama. The Lamp Adjuster License, which was in full force and effect at all times relevant to the allegations in the Accusation, was due to expire on December 31, 2024. Pursuant to Business and Professions Code section 9887.5, however, the Lamp Adjuster License was cancelled on September 27, 2024. Cancellation of the Lamp Adjuster License does not extinguish jurisdiction to proceed with this disciplinary proceeding. (Bus. & Prof. Code, § 9889.7; Health & Saf Code, §44072.6.)

#### **GAMA DOING BUSINESS AS K&C SMOG**

8. On August 2, 2021, the Bureau issued Automotive Repair Dealer Registration Number ARD 300424 to Gama doing business as K&C Smog. The Automotive Repair Dealer Registration, which was in full force and effect at all times relevant to the allegations in the Accusation, expires on August 31, 2025.

9. On September 14, 2021, the Bureau issued Smog Check Test & Repair Station License Number RC 300424 to Gama doing business as K&C Smog. The Smog

Check Test & Repair Station License, which was in full force and effect at all times relevant to the allegations in the Accusation, expires on August 31, 2025.

10. On October 1, 2021, the Bureau issued Brake Station License Number BS 300424, Class C, to Gama doing business as K&C Smog. The Brake Station License, which was in full force and effect at all times relevant to the allegations in the Accusation, expires on August 31, 2025.

11. On October 1, 2021, the Bureau issued Lamp Station License Number LS 300424, Class A, to Gama doing business as K&C Smog. The Lamp Station License, which was in full force and effect at all times relevant to the allegations in the Accusation, expires on August 31, 2025.

12. On March 2, 2022, the Bureau issued K&C Smog a STAR Station Certification, which remains in effect unless invalidated or K&C Smog's Automotive Repair Dealer Registration or Smog Check Station License is revoked, canceled, or delinquent.

### **Gama's Background and Business Operations**

13. Gama grew up "hanging out" in his father's auto body shop. Gama's father encouraged him "to enter the business."

14. For two years not specified in the evidentiary record, Gama attended Universal Technical Institute, where he studied "auto body mechanics—electrical, brakes, suspension, tires, [and] alliance." Gama's employment history includes working five years at Midas doing "quick stuff," meaning "oil changes, brakes, and tires." Gama next worked at AAMCO Transmissions, where he removed and installed transmissions, a task he references as "R and R" or "remove and replacement work." Gama then

worked at an automobile dealership performing "diagnostics, removing engines and transmissions, oil changes, and tire suspension work." Thereafter, Toyota employed Gama in an entry level position doing preventive maintenance as he received training "to go on the road to service forklifts."

15. During the COVID pandemic, Gama was laid off from work, and a friend "suggested getting into smog." Gama attended the Smogtech Institute in Torrance, California, where he "took the smog inspector program and BAR diagnostic program."

16. Gama satisfied the required amount of relevant hands-on work experience to warrant Automotive Service Excellence (ASE) Certifications A4R (Suspension and Steering), A5R (Brakes), and A6 (Electrical/Electronic Systems).

17. Since 2021, Gama has owned and operated K&C Smog. On October 1, 2021, the Bureau conducted its initial station inspection to allow Gama doing business as K&C Smog to perform official brake and lamp inspections. The facility passed both inspections. On August 16, 2022, the Bureau conducted an audit inspection of K&C Smog and found deficient records maintenance and noncompliant documentation of estimates and invoices. The Bureau admonished respondent to perform complete and accurate inspections in accordance with all laws and regulations, analyzer prompts, and lamp and brake adjuster handbooks.

### **The Bureau's 2023 Undercover Vehicle Operations**

18. In 2023, the Bureau conducted two separate undercover documented vehicle operations to confirm respondent's compliance with the Automotive Repair Act and regulations.

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## **THE 2007 FORD MUSTANG**

19. To effectuate the first undercover vehicle operation, Gilberto Hernandez, Program Representative II, documented a 2007 Ford Mustang, Vehicle Identification Number 1ZVFT80N775305517, California license plate number 6YUE550, for a California "Certificate of Compliance—Brake Adjustment." Hernandez removed the rear brake rotors and measured their thickness. The left rear brake rotor thickness measured 0.627 inches. The right rear brake thickness measured 0.622 inches. The 2007 Ford Mustang's left and right rear brake rotors measured less than the manufacturer's published minimum rear brake rotor thickness specification, which is 0.680 inches. Hernandez placed tamper indicator markings on the left and right rear brake rotors, photographed the markings, reinstalled the brake rotors on the 2007 Ford Mustang, and reassembled the brake system.

20. Hernandez additionally inspected the 2007 Ford Mustang's exterior lighting system and found the system fully operational.

21. On February 23, 2023, Rodolpho Flores, Program Representative I, drove the 2007 Ford Mustang to K&C Smog. Using an alias, Flores requested respondent perform the brake and lamp inspection required to complete the vehicle's registration with the Department of Motor Vehicles (DMV). Flores did not receive a written estimate with a price for necessary labor and parts prior to the inspection. Flores observed Gama's inspection of the vehicle. Flores saw Gama and an older gentleman, who was identified at hearing as Gama's father, walk around the vehicle looking at its front wheels. Flores saw Gama turn on the Mustang's exterior lights. Flores did not see Gama use an aiming device for the headlights. Gama asked Flores whether the Mustang's brakes were new, and Flores stated he did not know. Flores saw Gama drive

the Mustang out of the facility, return a few minutes later, and parked the vehicle in the service bay, where it remained unattended for several minutes.

22. Gama gave Flores Certificate of Compliance—Brake Adjustment number BA 3936023, on which the hand-written word "pass" appears and checked boxes indicate the 2007 Ford Mustang was inspected for registration of a reconstructed vehicle and the vehicle's service brake, parking brake, lining and shoes, drums/rotors, warning device/system, antilock brake system, emergency stopping system, and connections were inspected. Certificate of Compliance—Brake Adjustment number BA 3936023 certifies respondent "performed the applicable inspection, adjustment or repair specified by the Bureau of Automotive Repair and the vehicle manufacturer, and in accordance with Title 13 and Title 16 of the California Code of Regulations, the Vehicle Code, and the Business and Professions Code." (Exh. 25.)

23. Gama also gave Flores Certificate of Compliance—Lamp Adjustment number LA 3887973, on which checked boxes indicate the 2007 Ford Mustang was inspected for registration of a reconstructed vehicle and the vehicle's lamp type signal, warning lamps, rear lamps, stop lamps, reflectors, license plate lamps, side lamps, and back-up lamps were inspected or repaired. In addition, checked boxes indicate completed inspection of the vehicle's lighting, including headlights, driving lights, passing lights, and fog lights. A check next to "Optical" denotes the type of headlight aimer used to inspect the vehicle's headlights. An additional checked box indicates the vehicle's headlights were adjusted. Certificate of Compliance—Lamp Adjustment number LA 3887973 certifies respondent "performed the applicable inspection, adjustment or repair specified by the Bureau of Automotive Repair and the vehicle manufacturer, and in accordance with Title 13 and Title 16 of the California Code of Regulations, the Vehicle Code, and the Business and Professions Code." (Exh. 26.)

24. Gama gave Flores an unnumbered invoice lacking a description of work performed and parts supplied, if any, in connection with the 2007 Ford Mustang inspection. Flores was charged \$90 for the inspection.

25. At the conclusion of the February 23, 2023 undercover operation, Hernández reinspected the 2007 Ford Mustang's brake rotors. The tamper indicator markings Hernandez previously made on the vehicle's left and right rear rotors were still present on the rotors. Hernandez removed the vehicle's rear brake rotors and measured their thickness. The thickness of the left rear brake rotor still measured 0.627 inches. The thickness of the right rear brake rotor still measured 0.622 inches. Both measurements continued to be less than the manufacturer's published minimum specifications.

### **THE 2001 HONDA PRELUDE**

26. To effectuate the second undercover vehicle operation, Jonathan Navarro, Program Representative II, documented the Bureau's 2001 Honda Prelude, Vehicle Identification Number JHMBB62471C001800, California license plate 8HEJ753, for a "Certificate of Compliance—Brake Adjustment." Navarro removed the rear brake rotors and measured their thickness. The left rear brake rotor measured 6.3 millimeters. The right rear brake rotor measured 6.4 millimeters. The 2001 Honda Prelude's left and right rear brake rotors measured less than the manufacturer's published minimum rear brake rotor thickness specification, which is 8.0 millimeters. Navarro placed tamper indicator markings on the left and right rear brake rotors, photographed the markings, and reinstalled the brake rotors on the 2001 Honda Prelude. Navarro additionally installed and photographed tamper indicator markings he placed on the vehicle's wheels to detect any attempt to remove the wheels.

27. Navarro additionally inspected the 2001 Honda Prelude's exterior lighting system and found the exterior lighting system fully operational. Navarro inspected the headlight aim using an aiming screen and determined the headlights were properly adjusted.

28. On May 5, 2023, Luis Araya, Program Representative I, drove the 2001 Honda Prelude to K&C Smog. Araya parked the vehicle in the open service bay. Gama approached Araya, who requested a brake and lamp inspection. Araya and Gama engaged in "lots of small talk" about the vehicle's "impeccable" condition. Gama did not provide Araya with any written estimate or price quote. Gama did not touch the 2001 Honda Prelude. Gama did not remove or inspect the vehicle's wheels and rotors. Gama did not road test the vehicle, which was never moved from the service bay where Araya parked it. Gama did not check the aim of the vehicle's headlights.

29. At some point, Gama walked away from Araya. When Gama subsequently returned to Araya, Gama gave Araya Certificate of Compliance—Brake Adjustment number BA 3970485, on which the hand-written word "pass" appears and checked boxes indicate the 2001 Honda Prelude was inspected for registration of a reconstructed vehicle and the vehicle's service brake, parking brake, lining and shoes, drums/rotors, warning device/system, antilock brake system, emergency stopping system, and connections were inspected. In addition, Certificate of Compliance—Brake Adjustment number BA 3970485 indicates the 2001 Honda Prelude was road tested and the vehicle requires 25 feet to stop when driving 20 miles per hour. Certificate of Compliance—Brake Adjustment number BA 3970485 certifies respondent "performed the applicable inspection, adjustment or repair specified by the Bureau of Automotive Repair and the vehicle manufacturer, and in accordance with Title 13 and Title 16 of

the California Code of Regulations, the Vehicle Code, and the Business and Professions Code." (Exh. 47.)

30. Gama also gave Araya Certificate of Compliance—Lamp Adjustment number LA 3922085, on which checked boxes indicate the 2001 Honda Prelude was inspected for registration of a reconstructed vehicle and the vehicle's lamp type signal, warning lamps, rear lamps, stop lamps, reflectors, license plate lamps, side lamps, and back-up lamps were inspected. In addition, checked boxes indicate completed inspection of the vehicle's lighting, including headlights, driving lights, passing lights, and fog lights. A check next to "Optical" denotes the type of headlight aimer used to inspect the vehicle's headlights. An additional checked box indicates the vehicle's headlights were adjusted. Certificate of Compliance—Lamp Adjustment number LA 3922085 certifies respondent "performed the applicable inspection, adjustment or repair specified by the Bureau of Automotive Repair and the vehicle manufacturer, and in accordance with Title 13 and Title 16 of the California Code of Regulations, the Vehicle Code, and the Business and Professions Code." (Exh. 48.)

31. Gama did not give Araya an invoice describing work performed and parts supplied in connection with the inspection Araya requested for the 2001 Honda Prelude. Ayara paid Gama \$100 in cash. Ayara did not receive a receipt for the payment.

32. At the conclusion of the May 5, 2023<sup>33</sup> undercover operation, Navarro inspected the tamper indicator markings he previously inscribed on the 2001 Honda Prelude's wheels and found the tamper indicator markings remained intact, thus indicating the vehicle's wheels were not removed during the brake inspection at K&C Smog. Navarro reinspected the 2001 Honda Prelude's brake rotors. The markings Navarro previously made on the vehicle's left and right rear rotors were still present on

the rotors. Navarro removed the vehicle's rear brake rotors and measured their thickness. The thickness of the left rear brake rotor still measured 6.3 millimeters. The thickness of the right rear brake rotor still measured 6.4 millimeters. Both measurements continued to be less than the manufacturer's published minimum specifications.

### **Bureau's Experts' Opinion**

33. Oran Medina, Program Representative III, provided overall supervision for the Bureau's 2023 undercover vehicle operations. Medina, in addition to Hernandez, who documented the 2007 Ford Mustang, and Navarro, who documented the 2001 Honda Prelude, testified at hearing. Medina, Hernandez, and Navarro's training, experience, knowledge, licensure, and certifications qualify them as experts in automotive repair. Their credible, collective opinions established, consistent with the Bureau's Brake Adjusters' Handbook admitted as Exhibit 33, an adjuster should not certify a vehicle when its drum or rotors exceed the vehicle or parts manufacturer's service limits. Hernandez's Declarations admitted in evidence as Exhibits 8 and 9 to supplement his testimony establish the 2007 Ford Mustang's rear brake rotors were undersized and therefore the vehicle was not in a condition to receive a "Certificate of Compliance—Brake Adjustment." Navarro's Declaration admitted in evidence as Exhibit 30 to supplement his testimony establishes the 2001 Honda Prelude's rear brake rotors measured below the manufacturer's published minimum rear brake rotor thickness specification and therefore the vehicle was not in a condition to receive a "Certificate of Compliance—Brake Adjustment."

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## **Respondent's Evidence of Mitigation, Extenuation, and Rehabilitation**

34. On average, respondent performs 50 to 60 brake and lamp inspections weekly. Respondent explained his processes for performing brake and lamp inspections as follows: "A car comes in. I do the receipt. I give an estimate. I jack up the car, take off the tires, the wheels. I do a visual inspection of the brakes, calipers, pads, disc. I measure the rotors. I put the wheels back on, torque them to specification, reinstall the lug nuts using a torque wrench, and click when reach certain pound. . . . I inspect the lamp—the turn signal, hazard lights, turn lights, and backup lights."

35. At hearing, Gama admitted to the allegations in the Accusation testifying he took "short cuts," performed "improper " brake inspections, did not use an aiming device during lamp inspections, and failed to provide estimates, invoices, or receipts in connection with the Bureau's 2023 undercover vehicle operations at K&C Smog. Gama testified, "I made a mistake. I must have overlooked somethings in the process. I don't remember the vehicles. Sometimes I get busy. I understand that is not okay. I understand certificates are used to get DMV registration to operate the vehicle on the road. I understand the vehicle has to be safe on the road. . . . This process has compelled me big time to take a different approach. I check everything 100 percent. I take time and not rush through things."

36. During lamp inspections, Gama now uses a "head lamp aimer," which he describes as "a device that checks the intensity of the head lamp so that I am able to adjust the lamp."

37. In August or September 2024, Gama hired a person whose sole responsibility is to lift vehicles and remove the vehicles' wheels to facilitate brake inspections. Gama performs the brake inspections. Gama testified, "I take my time."

38. On January 28, 2025, Gama paid a \$1,750 registration fee to Master Automotive Training to enroll in its newly offered continuing education course titled *Vehicle Safety System Inspection*. Gama explained he registered for the course "to correct mistakes with the brake and lamp inspections" so that he will be "able to do new inspections and not make any more mistakes.". Gama noted the course has taught him how to properly use the head lamp aimer and as a result, "I feel more confident and capable."

39. Gama testified, "This case opened my eyes to a lot of things I was doing wrong, and I wasn't aware of the consequences. I never want to go through this again."

40. As a Bureau licensee operating a registered and licensed automobile repair dealer, neither Gama nor K&C Smog has a prior history of citations or formal disciplinary actions.

### **Costs of Investigation and Enforcement**

41. The Bureau incurred investigation costs totaling \$12,143.07 and enforcement costs totaling \$14,450.50.

42. Respondent is financially responsible for his two minor children. K&C Smog's revenue stream, which was not specified at hearing, is respondent's sole source of income. Respondent has no other financial resources. Respondent testified he is able to make installment payments toward a cost recovery award, if any.

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## LEGAL CONCLUSIONS

### Standard and Burden of Proof

1. Complainant has the burden of proving by a preponderance of the evidence public protection requires discipline of respondent's' registration. (*Imports Performance v. Department of Consumer Affairs, Bureau of Automotive Repair* (2011) 201 Cal.App.4th 911, 916-917; See also *Owens v. Sands* (1992) 176 Cal.App.4th 985.)

2. "Preponderance of the evidence means evidence that has more convincing force than that opposed to it.' [Citations.] . . . [T]he sole focus of the legal definition of 'preponderance' in the phrase 'preponderance of the evidence' is the *quality* of the evidence. The *quantity* of the evidence presented by each side is irrelevant." (*Glage v. Hawes Firearms Company* (1990) 226 Cal.App.3d 314, 324-325, original italics.) In meeting the burden of proof by a preponderance of the evidence, the complainant "must produce substantial evidence, contradicted or un-contradicted, which supports the finding." (*In re Shelley J.* (1998) 68 Cal.App.4th 322, 339.)

### Cause Exists to Discipline

3. Gama's acts and omissions in connection with the brake and lamp inspections of the 2007 Ford Mustang and 2001 Honda Prelude at K&C Smog on February 23 and May 5, 2023, respectively, constitute fraud. ( See Bus. & Prof. Code, §9884.7 subd.(e) [defining fraud to include misrepresentation of a material fact in any manner].) Gama failed to examine each vehicle's brake system and component parts. The Bureau's tamper indicator markings Hernandez and Navarro applied to the subject vehicles' rear rotors during the documentation process remained in place, thus indicating Gama never properly inspected or checked either vehicle's the rear rotors to

determine compliance or noncompliance with applicable manufacturers' specifications to warrant a grant of certification. Gama nonetheless provided Bureau undercover operators with brake certifications containing untrue and misleading representations that each vehicle's rear brake rotors were in good condition when in actuality the rear brake rotors were not.

4. Gama's acts and omissions in connection with the 2001 Honda Prelude's brake inspection are especially egregious. Gama intentionally misrepresented the 2001 Honda Prelude was road-tested and reported the vehicle requires 25 feet to stop at 20 miles per hour. However, the credible, undisputed evidence establishes, after the Bureau undercover operator drove and parked the 2001 Honda Prelude in the service bay at K&C Smog, Gama never touched or moved the vehicle.

5. Gama's inspection of each vehicle's lighting or lamp system is also mired in acts and omissions constituting fraud. The Bureau undercover operative who observed Gama's inspection of the 2007 Ford Mustang did not see Gama use an aiming device to measure the projected light emanating from the 2007 Ford Mustang's headlights. Gama nonetheless intentionally misrepresented by falsely documenting on Certificate of Compliance—Lamp Adjustment number LA 3887973 that he used an optical headlight aimer and adjusted the 2007 Ford Mustang's headlights' beam. As discussed, Gama never touched the 2001 Honda Prelude. Yet Gama intentionally misrepresented by falsely documenting on Certificate of Compliance—Lamp Adjustment number LA 3922085 that he used an optical headlight aimer and adjusted the 2001 Honda Prelude's headlights' beam.

6. Gama additionally failed to adhere to applicable regulations governing estimates and invoices.

7. First Cause for Discipline (Untrue or Misleading Statements): Complainant proved by a preponderance of the evidence cause exists, pursuant to Business and Professions Code section 9884.7, subdivision (a)(1), to discipline Automotive Dealer Registration Number ARD 300424. Gama doing business as K&C Smog issued brake and lamp adjustment certificates falsely certifying inspections, repairs, or adjustments were lawfully performed on February 23 and May 5, 2023, on a 2007 Ford Mustang and on a 2001 Honda Prelude, respectively.

8. Second Cause for Discipline (Fraud): Complainant proved by a preponderance of the evidence cause exists, pursuant to Business and Professions Code section 9884.7, subdivision (a)(4), to discipline Automotive Dealer Registration Number ARD 300424. Gama doing business as K&C Smog committed fraud when he failed to perform inspections, adjustments, and repairs compliant with the Automotive Repair Act or regulations on February 23 and May 5, 2023, on a 2007 Ford Mustang and on a 2001 Honda Prelude, respectively.

9. Third Cause for Discipline (Gross Negligence): Complainant proved by a preponderance of the evidence cause exists, pursuant to Business and Professions Code section 9884.7, subdivision (a)(5), to discipline Automotive Dealer Registration Number ARD 300424. Gama doing business as K&C Smog issued brake and lamp certificates noncompliant with the requirements of Business and Professions Code section 9889.16 and 9889.22 on February 23 and May 5, 2023, for a 2007 Ford Mustang and a 2001 Honda Prelude, respectively.

10. Fourth Cause for Discipline (Violations of Regulations): Complainant proved by a preponderance of the evidence cause exists, pursuant to Business and Professions Code section 9884.7, subdivision (a)(6), to discipline Automotive Dealer Registration Number ARD 300424. Specifically, Gama doing business as K&C Smog

violated California Code of Regulations, title 16, (CCR) sections 3305, subdivision (a), by failing to perform brake and lamp adjustments, inspections, repairs, and services on February 23 and May 5, 2023, for a 2007 Ford Mustang and a 2001 Honda Prelude, respectively, in accordance with the standards, specifications, procedures, directives, manuals, bulletins, and instructions required by the Bureau and vehicle's manufacturer; 3316, subdivision (d)(2), by failing to use aiming equipment during lamp inspections as required by Bureau's standards and directives on February 23 and May 5, 2023, in connection with inspection of a 2007 Ford Mustang and a 2001 Honda Prelude, respectively; 3321, subdivision (c)(2), by failing to comply with all requirements of the Vehicle Code and Bureau regulations for inspecting or testing brake systems on February 23 and May 5, 2023, in connection with the inspection of a 2007 Ford Mustang and a 2001 Honda Prelude, respectively; 3353, subdivision (a), by failing to provide a written estimate for inspections before commencing any work on February 23 and May 5, 2023, in connection with the inspection of a 2007 Ford Mustang and a 2001 Honda Prelude, respectively; and 3373 by providing false or misleading statements or information on certificates on February 23 and May 5, 2023, in connection with the inspection of a 2007 Ford Mustang and a 2001 Honda Prelude, respectively.

11. Fifth Cause for Discipline (Failure to Record Work on an Invoice):

Complainant proved by a preponderance of the evidence cause exists pursuant, to Business and Professions Code section 9884.8, to discipline Automotive Dealer Registration Number ARD 300424. Gama doing business as K&C Smog failed to describe and record on an invoice all service work done and parts supplied with the subtotal prices for service work and for parts on February 23 and May 5, 2023, in connection with the inspection of a 2007 Ford Mustang and a 2001 Honda Prelude, respectively.

12. Sixth Cause for Discipline (Failure to Provide an Estimate Before Repairs):

Complainant proved by a preponderance of the evidence cause exists, pursuant to Business and Professions Code section 9884.9, subdivision (a), to discipline Automotive Dealer Registration Number ARD 300424. Gama doing business as K&C Smog failed to give a customer a written estimated price for labor and parts necessary on February 23 and May 5, 2023, before commencing the inspection of a 2007 Ford Mustang and a 2001 Honda Prelude, respectively.

13. Seventh Cause for Discipline (Failure to Comply with Business and Professions Code): Complainant proved by a preponderance of the evidence cause exists, pursuant to Business and Professions Code section 9889.3, subdivisions (a) and (h), to discipline Brake Station License Number BS 300424, Class C, and Lamp Station License Number LS 300424, Class A. Gama doing business as K&C Smog willfully issued brake and lamp certificates noncompliant with the requirements of Business and Professions Code section 9889.16 and 9889.22 on February 23 and May 5, 2023, for a 2007 Ford Mustang and a 2001 Honda Prelude, respectively.

14. Eighth Cause for Discipline (Violating Brake/Lamp Station Regulations): Complainant proved by a preponderance of the evidence cause exists, pursuant to Business and Professions Code section 9889.3, subdivision (c), to discipline Brake Station License Number BS 300424, Class C, and Lamp Station License Number LS 300424, Class A. Specifically, Gama doing business as K&C Smog violated CCR sections 3305, subdivision (a), by failing to perform brake and lamp adjustments, inspections, repairs, and services on February 23 and May 5, 2023, for a 2007 Ford Mustang and a 2001 Honda Prelude, respectively, in accordance with the standards, specifications, procedures, directives, manuals, bulletins, and instructions required by the Bureau and vehicle's manufacturer; 3316, subdivision (d)(2), by failing to use aiming equipment

during lamp inspections as required by Bureau's standards and directives on February 23 and May 5, 2023, in connection with inspection of a 2007 Ford Mustang and a 2001 Honda Prelude, respectively; 3321, subdivision (c)(2), by certifying vehicles noncompliant with all requirements of the Vehicle Code and Bureau regulations for inspecting or testing brake systems on February 23 and May 5, 2023, in connection with the inspection of a 2007 Ford Mustang and a 2001 Honda Prelude, respectively; 3353, subdivision (a), by failing to provide a written estimate for inspections before commencing any work on February 23 and May 5, 2023, in connection with the inspection of a 2007 Ford Mustang and a 2001 Honda Prelude, respectively; and 3373 by providing false or misleading statements or information on certificates on February 23 and May 5, 2023, in connection with the inspection of a 2007 Ford Mustang and a 2001 Honda Prelude, respectively.

15. Ninth Cause for Discipline (Dishonesty, Fraud or Deceit): Complainant proved by a preponderance of the evidence cause exists, pursuant to Business and Professions Code section 9889.3, subdivision (d), to discipline Brake Station License Number BS 300424, Class C, and Lamp Station License Number LS 300424, Class A. Gama doing business as K&C Smog committed acts involving dishonesty, fraud, or deceit and causing injury on February 23 and May 5, 2023, in connection with the inspection of a 2007 Ford Mustang and a 2001 Honda Prelude, respectively.

16. Tenth Cause for Discipline (Dishonesty, Fraud or Deceit): Complainant proved by a preponderance of the evidence cause exists, pursuant to Health and Safety Code section 44072.2, subdivision (d), to discipline Smog Check Test & Repair Station License Number RC 300424. Gama doing business as K&C Smog committed acts involving dishonesty, fraud, or deceit and causing injury on February 23 and May

5, 2023, in connection with the inspection of a 2007 Ford Mustang and a 2001 Honda Prelude, respectively.

17. Eleventh Cause for Discipline (Failure to Comply with Business and Professions Code): Complainant proved by a preponderance of the evidence cause exists, pursuant to Business and Professions Code section 9889.3, subdivisions (a) and (h), to discipline Brake Adjuster License Number BA 642598, Class C, and Lamp Adjuster License Number LA 642598, Class A. On February 23 and May 5, 2023, in connection with his inspections of a 2007 Ford Mustang and a 2001 Honda Prelude, respectively, Gama failed to provide a written estimate prior to commencing the inspections in violation of Business and Professions Code section 9884.9, subdivision (a). In addition, Gama willfully issued brake and lamp certificates noncompliant with the requirements of Business and Professions Code sections 9889.16 and 9889.22.

18. Twelfth Cause for Discipline (Dishonesty, Fraud or Deceit): Complainant proved by a preponderance of the evidence cause exists, pursuant to Business and Professions Code section 9889.3, subdivision (d), to discipline Brake Adjuster License Number BA 642598, Class C, and Lamp Adjuster License Number LA 642598, Class A. Gama committed acts involving dishonesty, fraud, or deceit and causing injury on February 23 and May 5, 2023, in connection with the inspection of a 2007 Ford Mustang and a 2001 Honda Prelude, respectively.

19. Thirteenth Cause for Discipline (Violations of Regulations): Complainant proved by a preponderance of the evidence cause exists, pursuant to Business and Professions Code section 9889.3, subdivision (c), to discipline Brake Adjuster License Number BA 642598, Class C, and Lamp Adjuster License Number LA 642598, Class A. Gama violated CCR sections 3305, subdivision (a), by failing to perform brake and lamp adjustments, inspections, repairs, and services on February 23 and May 5, 2023,

for a 2007 Ford Mustang and a 2001 Honda Prelude, respectively, in accordance with the standards, specifications, procedures, directives, manuals, bulletins, and instructions required by the Bureau and vehicle's manufacturer; 3316, subdivision (d)(2), by failing to use aiming equipment during lamp inspections as required by Bureau's standards and directives on February 23 and May 5, 2023, in connection with inspection of a 2007 Ford Mustang and a 2001 Honda Prelude, respectively; 3321, subdivision (c)(2), by certifying vehicles noncompliant with all requirements of the Vehicle Code and Bureau regulations applicable to inspecting and testing brake systems on February 23 and May 5, 2023, in connection with the inspection of a 2007 Ford Mustang and a 2001 Honda Prelude, respectively; 3353, subdivision (a), by failing to provide a written estimate for inspections before commencing any work on February 23 and May 5, 2023, in connection with the inspection of a 2007 Ford Mustang and a 2001 Honda Prelude, respectively; and 3373 for providing false or misleading statements or information on certificates on February 23 and May 5, 2023, in connection with the inspection of a 2007 Ford Mustang and a 2001 Honda Prelude, respectively.

20. Fourteenth Cause for Discipline (Dishonesty, Fraud or Deceit):

Complainant proved by a preponderance of the evidence cause exists, pursuant to Health and Safety Code section 44072.2, subdivision (d), to discipline Smog Check Inspector License Number EO 642598 and Smog Check Repair Technician License Number EI 642598. Gama committed acts involving dishonesty, fraud, or deceit and causing financial injury on February 23 and May 5, 2023, in connection with the inspection of a 2007 Ford Mustang and a 2001 Honda Prelude, respectively.

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## **Other Matters**

21. Any other places of business operated by Gama is subject to discipline because Gama doing business as K&C Smog engaged in a course of repeated and willful violations of the laws and regulations pertaining to an automotive repair dealer. (Bus. & Prof. Code, § 9884.7, subd. (c).) No evidence of automotive repair dealer registration for other places of business operated by Gama was offered at hearing.

22. Any additional Smog Check Station License issued to Gama doing business as K&C Smog or any additional Smog Check Inspector License or Smog Check Technician License issued to Gama pursuant to the Motor Vehicle Inspection Program, Health and Safety Code section 44000 et seq., is also subject to discipline. (Health & Saf. Code, §44072.8.) No evidence of additional Smog Check Station Licenses, Smog Check Inspector Licenses, or Smog Check Technician Licenses was offered at hearing.

## **Level of Discipline**

23. Pursuant to CCR section 3395.4, the Bureau has promulgated *Guidelines for Disciplinary Orders and Terms of Probation (Guidelines)* (June 2021), which requires consideration of specified factors in aggravation and mitigation when determining appropriate discipline.

24. Under the *Guidelines*, the minimum recommended discipline for violations proven by a preponderance of the evidence is the stayed revocation of registration and the registration immediately placed on probation for a period of two to five years. The maximum recommended discipline is revocation. Multiple violations or multiple instances of the same violations are to be taken into consideration when determining the level of discipline.

25. Gama, when licensed as a brake and lamp adjuster, doing business as K&C Smog, failed to comply with the law and regulations governing automotive repair procedures, including inspections of vehicle braking and lighting systems. On February 23 and May 5, 2023, Gama failed to inspect or improperly inspected a 2007 Ford Mustang and a 2001 Honda Prelude, respectively. Gama engaged in serious misconduct constituting fraud. Such misconduct not only undermines public trust and confidence in the integrity of the automotive repair industry but also jeopardizes public safety.

26. Gama admits to and accepts responsibility for his misconduct. As discussed above, Gama has undertaken substantial and significant measures to remediate his practices and business operation so as to prevent recurrence of misconduct. Additionally, on his own volition, Gama has pursued continuing education in inspecting vehicle safety systems. Given Gama's history of no prior citations or formal discipline doing business as K&C Smog, the facts and circumstances of this case warrant a stayed revocation of respondent's registration and licenses for five years with probationary terms and conditions. This level of discipline is consistent with the Bureau's highest priority protecting the public. (See Bus. & Prof Code, § 9880.3.)

### **Cost Recovery**

27. A registrant or licensee found to have violated the Automotive Repair Act may be directed to pay a sum not to exceed the reasonable costs of investigation and prosecution of the case. (Code, § 125.3.)

28. Under *Zuckerman v. State Board of Chiropractic Examiners* (2002) 29 Cal. 4th 32, 45, the Bureau must exercise its discretion to reduce or eliminate costs to prevent cost award statutes from deterring licensees with potentially meritorious

claims or defenses from exercising their right to a hearing. "Thus the [Bureau] may not assess the full costs of investigation and prosecution when to do so will unfairly penalize a [licensee] who has committed some misconduct, but who has used the hearing process to obtain dismissal of other charges or a reduction in the severity of the discipline imposed." (*Id.*) The Bureau, in imposing costs in such situations, must consider the licensee's subjective good faith belief in the merits of his or her position, and the Bureau must consider whether the licensee has raised a colorable defense. The Bureau must also consider the licensee's ability to make cost award payments.

29. Gama doing business as K&C Smog presented evidence of substantial remediation to warrant a reduction from outright revocation to a stayed revocation with terms and conditions of probation. Gama as a licensed smog check inspector, smog check repair technician, and brake and lamp adjuster has no history of prior discipline. Gama doing business as S&C Smog has no history of prior discipline. Under these circumstances, assessment of the Bureau's full costs of investigation and prosecution totaling \$26,593.57 would be punitive. The purpose of this proceeding is not to inflict punishment. (See *Camacho v. Youde* (1979) 95 Cal.App.3d 161.) The Bureau's costs of investigation and prosecution totaling \$26,593.57 shall be reduced by 75 percent to \$6,648.39.

30. Cause exists pursuant to Code section 125.3 for the Bureau to recover \$6,648.39 of its costs of investigation and prosecution in Case Number 77/23-3240.

## **ORDER**

1. Automotive Repair Dealer Registration Number ARD 300424, Smog Check Test & Repair Station License Number RC 300424, Brake Station License

Number BS 300424, Class C, and Lamp Station License Number LS 300424, Class A, issued to Gama doing business as K&C Smog are revoked; however, the revocation is stayed, and these registration and licenses are placed on probation for a period of five (5) years on the terms and conditions set forth below.

2. Given the stayed revocation of K&C Smog's Automotive Repair Dealer Registration and Smog Check Station License, the STAR Station Certification issued to K&C Smog is invalidated accordingly.

3. Smog Check Inspector License Number E0 642598 and Smog Check Repair Technician License Number EI 642598 issued to Charles Bryan Gama are revoked; however, the revocation is stayed, and these licenses are placed on probation for a period of five (5) years on the terms and conditions set forth below.

4. Notably, Brake Adjuster License Number BA 642598, Class C, and Lamp Adjuster License Number LA 62598, Class A, issued to Charles Bryan Gama were previously cancelled. (See Factual Findings 6 and 7.)

## **TERMS AND CONDITIONS OF PROBATION**

1. **Actual Suspension:** Automotive Repair Dealer Registration Number ARD 300424, Smog Check Test & Repair Station License Number RC 300424, Brake Station License Number BS 300424, Class C, and Lamp Station License Number LS 300424, Class A, issued to Gama doing business as K&C Smog are suspended for five (5) consecutive days beginning of the effective date of the Decision and Order.

Smog Check Inspector License Number E0 642598 and Smog Check Repair Technician License Number EI 642598 issued to Charles Bryan Gama are suspended for five (5) consecutive days beginning of the effective date of the Decision and Order.

**2. Obey All Laws:** During the period of probation, respondent shall comply with all federal and state statutes, regulations and rules governing all Bureau registrations and licenses held by respondent.

**3. Quarterly Reporting:** During the period of probation, respondent shall report either by personal appearance or in writing as determined by the Bureau on a schedule set by the Bureau, 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.

**4. Report Financial Interests:** Respondent shall, within thirty (30) days of the effective date of the decision and within thirty (30) days from the date of any request by the Bureau during the period of probation, report any financial interest which any respondent 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.

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

**6. Tolling of Probation:** Should respondent leave the jurisdiction of California to reside or do business elsewhere or otherwise cease to do business in the jurisdiction of California during the probationary term, respondent shall notify the Bureau in writing within ten (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, training requirements, and that respondents obey all laws, shall be held in abeyance during any period of time of thirty (30) days or more in which a respondent(s) 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 thirty (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.

**7. Violation of Probation:** Should respondent 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 respondent is served notice of the Bureau'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.

**8. Maintain Valid License:** Respondent shall, at all times while on probation, maintain a current and active registration and licenses with the Bureau, including any period during which probation is tolled. If respondent's registration or license is expired at the time the decision becomes effective, the registration or license must be renewed by respondent within thirty (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 respondent's license shall be subject to any and all terms and conditions of probation not previously satisfied. Failure to maintain a

current and active registration or license during the period of probation shall also constitute a violation of probation.

**9. Cost Recovery:** Respondent shall pay the Bureau \$6,648.39 for the reasonable costs of the investigation and enforcement of Case Number 79/23-3240. Respondent shall make such payment in accordance with a Bureau-approved payment plan. Any agreement for a scheduled payment plan shall require full payment to be completed no later than six (6) months before probation terminates. Respondent 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 in Case Number 79/23-3240. Any order for payment of cost recovery shall remain in effect whether probation is tolled. Probation shall not terminate until full cost recovery payment has been made. The Bureau reserves the right to pursue any other lawful measures in collecting the costs ordered and past due, in addition to taking action based upon the violation of probation.

**10. Completion of Probation:** Upon successful completion of probation, respondent's affected registration and licenses shall be fully restored or issued without restriction, if respondent meets all current requirements for licensure and has paid all outstanding fees, monetary penalties, or cost recovery owed to the Bureau.

**11. License Surrender:** Following the effective date of the decision staying invalidation or revocation, should respondent cease business operations or is otherwise unable to satisfy the terms and conditions of probation, respondent may request the stay be vacated. Such request shall be made in writing to the Bureau. The Director and the Bureau Chief reserve the right to evaluate respondent's 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.

Respondent may not petition the Director for reinstatement of a surrendered registration or license or apply for a new registration or license under the jurisdiction of the Bureau at any time before the date of the originally scheduled completion of probation. Should respondent apply to the Bureau 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 the Bureau and left outstanding at the time of surrender.

**12. Training Course:** During the period of probation, Respondent shall attend and successfully complete a Bureau-specified and approved training course in inspection, diagnosis and/or repair of emission systems failures and engine performance, applicable to the class of license held by the Respondent. Respondent shall provide to the Bureau proof of enrollment in the course within 30 days of the effective date of the decision, and proof of successful course completion within 180 days of the effective date of the decision. Failure to provide proof of enrollment and/or successful course completion to the Bureau within the timeframes specified shall constitute a violation of probation, and Respondent shall be prohibited from issuing any certificate of compliance or noncompliance until such proof is received.

Within 60 days of the effective date of a decision, Respondent shall attend a Write It Right presentation provided by a Bureau representative at a location, date, and time determined by the Bureau.

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Within 180 days of the effective date of a decision, Respondent shall submit to the Bureau satisfactory evidence of completion of a laws and regulations training course that meets the following requirements:

1) The course shall be instructor-led, in a classroom or online setting, and shall include instruction on registrant or licensee compliance with the laws and regulations related to the following areas:

(A) Estimate Requirements

(B) Customer Authorization

(C) Invoice Requirements

(D) Accepted Trade Standards

(E) Sublet Repair

(F) Return of Parts

(G) Advertising Requirements

(H) Guarantees and Warranties

(I) Maintenance of Records

(2) The course shall include an examination to verify the Respondent can apply the laws and regulations in daily automotive repair transactions.

(3) The course shall have a minimum of (8) eight hours of dedicated time to instruction and examination, where examination time shall be between thirty (30) minutes to an hour.

(4) The course shall require a minimum score of 70 percent on the examination to provide proof of completion.

If, in the case of a registered automotive repair dealer or licensed Smog Check, or lamp and/or brake station, the registration or license is issued to a partnership, corporation, or a limited liability company, then it shall be the responsibility of the registered automotive repair dealer or licensed Smog Check, or lamp and/or brake station manager, or another person who directly or indirectly controls or conducts the business to complete any required training course specified in the decision.

**13. Supervision Requirements:** Respondent shall not delegate his supervisory duties, as they relate to the business activities relevant to the probationary registration and/or license, to another person during the period of probation. Any persons employed by Respondent to carry out such business activities shall be directly supervised by Respondent. If a bona fide medical condition arises during the period of probation, which temporarily prevents Respondent from exercising direct supervision over employees, notice and medical substantiation of the condition shall be submitted to the Bureau within ten (10) days of the medical affirmation of the condition.

DATE: 03/24/2025



JENNIFER M. RUSSELL

Senior Administrative Law Judge

Office of Administrative Hearings