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8
9 **BEFORE THE**
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. 79/21-16497

13 **OAKDALE GARAGE, INC.**
14 **NATHANIAL I. HERRERA,**
15 **PRESIDENT/SECRETARY/TREASURER**
500 East F Street
Oakdale, CA 95361

ACCUSATION

16 **Automotive Repair Dealer Registration No.**
17 **ARD 76055**
18 **Smog Check Station License No. RC 76055**
19 **Brake Station License No. BS 76055, Class C**
20 **Lamp Station License No. LS 76055, Class A**

21 **and**

22 **JORGE LUIS MENDEZ**
2131 Laredo Lane
Riverbank, CA 95367

23 Mailing Address:
6350 Rock Creek Road
Riverbank, CA 95367

24 **Smog Check Inspector License No. EO 148549**
25 **Smog Check Repair Technician License No. EI**
26 **148549**
27 **Brake Adjuster License No. BA 148549, Class C**
28 **Lamp Adjuster License No. 148549, Class A**

Respondents.

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 **OAKDALE GARAGE, INC.**

5 **Automotive Repair Dealer Registration**

6 2. On or about January 1, 1980, the Bureau issued Automotive Repair Dealer
7 Registration Number ARD 76055 (registration) to Oakdale Garage, Inc. with Carey Lee Gregg as
8 the President, Secretary, and Treasurer until on or about April 8, 2022, when Carey Lee Gregg
9 disassociated from the corporation and Nathaniel I. Herrera associating as President, Secretary,
10 and Treasurer (Respondent). The Automotive Repair Dealer Registration was in full force and
11 effect at all times relevant to the charges brought herein and will expire on February 28, 2023,
12 unless renewed.

13 **Smog Check Station License**

14 3. On or about January 16, 1990, the Bureau issued Smog Check Station License
15 Number RC 76055 to Respondent Oakdale Garage. The Smog Check Station License was in full
16 force and effect at all times relevant to the charges brought herein and will expire on February 28,
17 2023, unless renewed.

18 **Brake Station License**

19 4. On or about September 9, 2010, the Bureau issued Brake Station License Number BS
20 76055, Class C, to Respondent Oakdale Garage. The Brake Station License was in full force and
21 effect at all times relevant to the charges brought herein and will expire on February 28, 2023,
22 unless renewed.

23 **Lamp Station License**

24 5. On or about September 9, 2010, the Bureau issued Lamp Station License Number LS
25 76055, Class A, to Respondent Oakdale Garage. The Lamp Station License was in full force and
26 effect at all times relevant to the charges brought herein and will expire on February 28, 2023,
27 unless renewed.

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1 **JORGE LUIS MENDEZ**

2 **Smog Check Inspector License**

3 6. On or about August 29, 2012, the Bureau issued Smog Check Inspector License
4 Number EO 148549 to Jorge Luis Mendez (Respondent Mendez). The Smog Check Inspector
5 License was in full force and effect at all times relevant to the charges brought herein and will
6 expire on August 31, 2022, unless renewed.

7 **Smog Check Repair Technician License**

8 7. On or about August 29, 2012, the Bureau issued Smog Check Repair Technician
9 License Number EI 148549 to Respondent Mendez. The Smog Check Repair Technician License
10 expired on August 31, 2020, and has not been renewed.

11 **Brake Adjuster License**

12 8. On or about October 21, 2010, the Bureau issued Brake Adjuster License Number BA
13 148549, Class C, to Respondent Mendez. The Brake Adjuster License was in full force and effect
14 at all times relevant to the charges brought herein and will expire on August 31, 2022, unless
15 renewed.

16 **Lamp Adjuster License**

17 9. On or about October 25, 2010, the Bureau issued Lamp Adjuster License Number LA
18 148549, Class A, to Respondent Mendez. The Lamp Adjuster License was in full force and effect
19 at all times relevant to the charges brought herein and will expire on August 31, 2022, unless
20 renewed.

21 **JURISDICTION**

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

25 11. Code section 9884.7 provides that the Director may revoke an automotive repair
26 dealer registration.

27 12. Code section 9884.13 states, “The expiration of a valid registration shall not deprive
28 the director or chief of jurisdiction to proceed with any investigation or disciplinary proceeding

1 against an automotive repair dealer or to render a decision invalidating a registration temporarily
2 or permanently.”

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

6 14. Code section 9889.7 states, “The expiration or suspension of a license by operation of
7 law or by order or decision of the director or a court of law, or the voluntary surrender of a license
8 by a licensee shall not deprive the director of jurisdiction to proceed with any investigation of or
9 action or disciplinary proceedings against such licensee, or to render a decision suspending or
10 revoking such license.”

11 15. Code section 118, subdivision (b), states:

12 The suspension, expiration, or forfeiture by operation of law of a license issued
13 by a board in the department, or its suspension, forfeiture, or cancellation by order of
14 the board or by order of a court of law, or its surrender without the written consent of
15 the board, shall not, during any period in which it may be renewed, restored, reissued,
16 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.

17 **STATUTORY AND REGULATORY PROVISIONS**

18 16. Code section 9884.7 states, in pertinent part:

19 (a) The director, where the automotive repair dealer cannot show there was a
20 bona fide error, may deny, suspend, revoke, or place on probation the registration of
21 an automotive repair dealer for any of the following acts or omissions related to the
22 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.

23 (1) Making or authorizing in any manner or by any means whatever any
24 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.

...

25 (4) Any other conduct that constitutes fraud.

...

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

28 (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.

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

17. Code section 9887.1 states:

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

18. Code section 9888.3 states:

No person shall operate an "official" lamp or brake adjusting station unless a license therefor has been issued by the director. No person shall issue, or cause or permit to be issued, any certificate purporting to be an official lamp adjustment certificate unless he or she is a licensed lamp adjuster or an official brake adjustment certificate unless he or she is a licensed brake adjuster.

19. Code section 9889.1 states:

Any license issued pursuant to Articles 5 and 6, may be suspended or revoked by the director. The director may refuse to issue a license to any applicant for the reasons set forth in Section 9889.2. The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the director shall have all the powers granted therein.

20. Code section 9889.3 states, in pertinent part:

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

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

...

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

chapter.

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

...

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

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

22. Code section 9889.16 states,

Whenever a licensed adjuster in a licensed station upon an inspection or after an adjustment, made in conformity with the instructions of the bureau, determines that the lamps or the brakes upon any vehicle conform with the requirements of the Vehicle Code, the adjuster shall, when requested by the owner or driver of the vehicle, issue a 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.

23. 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.

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

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

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

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

...

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

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

3 26. Health & Saf. section 44072.6 states, "The expiration or suspension of a license by
4 operation of law or by order or decision of the director or a court of law, or the voluntary
5 surrender of a license by a licensee shall not deprive the director of jurisdiction to proceed with
6 any investigation of, or action or disciplinary proceedings against, the licensee, or to render a
7 decision suspending or revoking the license."

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

11 28. California Code of Regulations, title 16, section 3305, states, in pertinent part:

12 (a) All adjusting, inspecting, servicing, and repairing of brake systems and lamp
13 systems for the purpose of issuing any certificate of compliance or adjustment shall
14 be performed in official stations, by official adjusters, in accordance with the
15 following, in descending order of precedence, as applicable:

16 (1) Vehicle Manufacturers' current standards, specifications and recommended
17 procedures, as published in the manufacturers' vehicle service and repair manuals.

18 (2) Current standards, specifications, procedures, directives, manuals, bulletins
19 and instructions issued by vehicle and equipment or device manufacturers.

20 (3) Standards, specifications and recommended procedures found in current
21 industry-standard reference manuals and periodicals published by nationally
22 recognized repair information providers.

23 (4) The bureau's Handbook for Brake Adjusters and Stations, February 2003,
24 which is hereby incorporated by reference.

25 (5) The bureau's Handbook for Lamp Adjusters and Stations, February 2003,
26 which is hereby incorporated by reference.

27 ...

28 29. California Code of Regulations, title 16, section 3321, states, in pertinent part:

...

(c) Effective April 1, 1999, licensed stations shall purchase certificates of
adjustment from the bureau for a fee of three dollars and fifty cents (\$3.50) and shall
not purchase or otherwise obtain such certificates from any other source. A licensed
station shall not sell or otherwise transfer unused certificates of adjustment. Full
payment is required at the time certificates are ordered. Certificates are not
exchangeable following delivery. Issuance of a brake adjustment certificate shall be
in accordance with the following provisions:

1 (2) Where the entire brake system on any vehicle has been inspected or tested
2 and found to be in compliance with all requirements of the Vehicle Code and bureau
3 regulations, and the vehicle has been road-tested, the certificate shall certify that the
4 entire system meets all such requirements.

5 **COST RECOVERY**

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

12 **UNDERCOVER OPERATION NO. 1**

13 31. On or about December 15, 2021, a Bureau undercover operator (operator) took a
14 Bureau-documented 2015 Chevrolet to Respondent Oakdale Garage, and requested brake and
15 lamp inspections. Respondent Oakdale Garage's employee did not provide the operator with an
16 estimate.

17 32. On or about December 16, 2021, the operator returned to the facility to retrieve the
18 2015 Chevrolet. The operator was provided with Final Invoice No. 21604 dated December 16,
19 2021, in the amount of \$137.00, Certificate of Compliance-Brake Adjustment number BA
20 3602149, and Certificate of Compliance-Lamp Adjustment number LA 3580988. The Certificate
21 of Compliance-Brake Adjustment, Number BA 3602149, was signed by Respondent Mendez as
22 the adjuster.

23 33. On or about December 22, 2021, a Bureau representative inspected the 2015
24 Chevrolet using Final Invoice No. 21604, and the brake and lamp certificates of compliance
25 Respondent Oakdale Garage gave the operator for comparison. The Bureau representative
26 determined the vehicle should not have passed a proper brake inspection because the right front
27 and left rear rotors were undersized.

28 34. Undercover Operation No. 1 revealed that Respondent Oakdale Garage and
Respondent Mendez failed to properly perform a California brake inspection on the 2015

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1 Chevrolet, resulting in the issuance of a fraudulent Certificate of Compliance-Brake
2 Adjustment BA 3602149.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Untrue or Misleading Statements - ARD)**

5 35. Respondent Oakdale Garage's registration is subject to disciplinary action pursuant to
6 Code section 9884.7, subdivision (a)(1), in that regarding the Bureau's 2015 Chevrolet, it made or
7 authorized statements which it knew or in the exercise of reasonable care should have known to
8 be untrue or misleading. Specifically, on or about December 16, 2021, Respondent Oakdale
9 Garage issued Certificate of Compliance-Brake Adjustment, No. BA 3602149 to the operator,
10 certifying that the vehicle was in compliance with Bureau Regulations or the requirements of the
11 Vehicle Code. In fact, a brake certificate should not have been issued for the vehicle because the
12 right front brake rotor and the left rear brake rotor were undersized.

13 **SECOND CAUSE FOR DISCIPLINE**

14 **(Fraud - ARD)**

15 36. Respondent Oakdale Garage's registration is subject to disciplinary action pursuant to
16 Code section 9884.7, subdivision (a)(4), in that on or about December 16, 2021, it committed acts
17 that constitute fraud. Specifically, Respondent Oakdale Garage obtained payment from the
18 operator for performing the applicable inspections, adjustments, or repairs of the brake system on
19 the Bureau's 2015 Chevrolet as specified by the Bureau and in accordance with the Vehicle Code
20 when, in fact, he had not, as set forth in paragraph 35, above.

21 **THIRD CAUSE FOR DISCIPLINE**

22 **(Gross Negligence - ARD)**

23 37. Respondent Oakdale Garage's registration is subject to disciplinary action pursuant to
24 Code section 9884.7, subdivision (a)(5), in that Respondent Oakdale Garage committed an act
25 constituting gross negligence in that Respondent Oakdale Garage's technician, Respondent
26 Mendez, failed to properly perform, the brake inspection on the Bureau's 2015 Chevrolet, leaving
27 the vehicle in unsafe condition, as set forth in paragraph in paragraph 33, above.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Violations of Motor Vehicle Inspection Program - ARD)**

3 38. Respondent Oakdale Garage's registration is subject to disciplinary action pursuant to
4 Code section 9884.7, subdivision (a)(6), in that regarding the Bureau's 2015 Chevrolet, on or
5 about December 16, 2021, it failed to materially comply with provisions of the Automobile
6 Repair Act, as follows:

7 a. **Code Section 9884.9, subdivision (a):** On or about December 15, 2021,
8 Respondent Oakdale Garage failed to provide the operator with a written estimate prior to
9 commencing work on the vehicle.

10 b. **Code Section 9889.16:** On or about December 16, 2021, Respondent Oakdale
11 Garage issued Certificate of Compliance-Brake Adjustment, No. BA 3602149, to the operator,
12 certifying that the vehicle was in compliance with Bureau regulations or the requirements of the
13 Vehicle Code. In fact, Respondent Oakdale Garage's employee, Respondent Mendez, did not test
14 or inspect the vehicle in a manner that conforms with Bureau regulations or requirements of the
15 Vehicle Code.

16 **FIFTH CAUSE FOR DISCIPLINE**

17 **(Failure to Comply with Regulations - ARD)**

18 39. Respondent Oakdale Garage's registration is subject to disciplinary action
19 pursuant to Code section 9884.7(a)(6), in that on or about December 16, 2021, Respondent failed
20 to comply with provisions of California Code of Regulations, title 16, in the following material
21 respects:

22 a. **Section 3305, subdivision (a):** Respondent Oakdale Garage failed to
23 perform a brake and lamp inspection in accordance with the vehicle's manufacturer standards
24 and/or current standards, specifications, recommended procedures, and/or directives issued by the
25 Bureau.

26 b. **Section 3321, subdivision (c)(2):** Respondent Oakdale Garage issued
27 Certificate of Compliance-Brake Adjustment, No. 3602149, certifying that the vehicle's brake
28 system had been properly inspected by Respondent Oakdale Garage's employee, Respondent

1 Mendez, when in fact, it had not.

2 **SIXTH CAUSE FOR DISCIPLINE**

3 **(Dishonesty, Fraud, or Deceit - Brake and Lamp Station)**

4 40. Respondent Oakdale Garage's brake and lamp station licenses are subject to
5 disciplinary action pursuant to Code section 9889.3, subdivision (d), in that it committed
6 dishonest, fraudulent, or deceitful acts whereby another was injured, as set forth in paragraphs 31
7 through 34, above.

8 **SEVENTH CAUSE FOR DISCIPLINE**

9 **(Violations of Motor Vehicle Inspection Program - Brake and Lamp Station)**

10 41. Respondent Oakdale Garage's brake and lamp station licenses are subject to
11 disciplinary action pursuant to Code section 9889.3, subdivision (a) and (h), in that regarding the
12 Bureau's 2015 Chevrolet, on or about December 16, 2021, it failed to materially comply with
13 provision of the Automobile Repair Act as set forth in paragraph 38, above.

14 **EIGHTH CAUSE FOR DISCIPLINE**

15 **(Violation of Regulations - Brake and Lamp Station)**

16 42. Respondent Oakdale Garage's brake and lamp station licenses are subject to
17 disciplinary pursuant to Code section 9889.3, subdivision (c), in that regarding the Bureau's 2015
18 Chevrolet, on or about December 16, 2021, it committed acts in violation of provisions of the
19 California Code of Regulations, title 16, as more particularly set forth in paragraph 39, above.

20 **NINTH CAUSE FOR DISCIPLINE**

21 **(Dishonesty, Fraud, or Deceit - Smog Station)**

22 43. Respondent Oakdale Garage's smog check station license is subject to disciplinary
23 action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that it committed
24 dishonest, fraudulent, or deceitful acts whereby another was injured, as set forth in paragraphs 31
25 through 34, above.

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1 **TENTH CAUSE FOR DISCIPLINE**

2 **(Dishonesty, Fraud, or Deceit - Brake and Lamp Adjuster)**

3 44. Respondent Mendez's brake and lamp adjuster licenses are subject to disciplinary
4 action pursuant to Code section 9889.3, subdivision (d), in that on or about December 16, 2021,
5 regarding the Bureau's 2015 Chevrolet, he committed dishonest, fraudulent, or deceitful acts
6 whereby another was injured, as set forth in paragraphs 32 and 33, above.

7 **ELEVENTH CAUSE FOR DISCIPLINE**

8 **(Violations of Regulations - Brake and Lamp Adjuster)**

9 45. Respondent Mendez's brake and lamp adjuster licenses are subject to disciplinary
10 action pursuant to Code section 9889.3, subdivision (c), in that on or about December 16, 2021,
11 regarding the Bureau's 2015 Chevrolet, he committed acts in violation of the Code of
12 Regulations, as set forth in paragraph 39, above.

13 **TWELFTH CAUSE FOR DISCIPLINE**

14 **(Dishonesty, Fraud, or Deceit Causing Injury to Another - Smog Check Inspector and**
15 **Repair)**

16 46. Respondent Mendez's smog check inspector and smog check repair technician
17 licenses are subject to disciplinary action pursuant to Health & Saf. Code section 44072.2,
18 subdivision (d), in that he committed dishonest, fraudulent, or deceitful acts whereby another was
19 injured, as set forth in paragraphs 32 and 33, above.

20 **UNDERCOVER OPERATION NO. 2**

21 47. On or about December 16, 2021, a Bureau undercover operator took a Bureau-
22 documented 2007 Chevrolet to Respondent Oakdale Garage's facility and requested brake and
23 lamp inspections. Respondent Oakdale Garage's employee did not provide the operator with an
24 estimate.

25 48. Later that same day, the operator returned to the facility to retrieve the 2007
26 Chevrolet. The operator was provided with Repair Order No. 21608 dated December 16, 2021, in
27 the amount of \$137, Certificate of Compliance-Brake Adjustment number BA 3602150, and
28 Certificate of Compliance-Lamp Adjustment number LA 3580989. The Certificate of

1 Compliance-Brake Adjustment, Number BA 3602150, was signed by Respondent Mendez as the
2 adjuster.

3 49. On or about December 21, 2021, a Bureau representative inspected the 2007
4 Chevrolet using Repair Order No. 21608, and the brake and lamp certificates of compliance
5 Respondent's facility gave the operator for comparison. The Bureau representative determined
6 that the vehicle should not have passed a proper California brake inspection because the right rear
7 brake rotor and the left front brake rotor were undersized.

8 50. Undercover Operation No. 2 revealed that Respondent Oakdale Garage and
9 Respondent Mendez failed to properly perform a California brake inspection on the 2007
10 Chevrolet resulting in the issuance of Certificate of Compliance-Brake Adjustment BA 3602150.

11 **THIRTEENTH CAUSE FOR DISCIPLINE**

12 **(Untrue or Misleading Statements - ARD)**

13 51. Respondent Oakdale Garage's registration is subject to disciplinary action pursuant to
14 Code section 9884.7, subdivision (a)(1), in that regarding the Bureau's 2007 Chevrolet, it made or
15 authorized statements which it knew or in the exercise of reasonable care should have known to
16 be untrue or misleading. Specifically, on or about December 16, 2021, Respondent Oakdale
17 Garage issued Certificate of Compliance-Brake Adjustment, No. BA 3602150 to the operator,
18 certifying that the vehicle was in compliance with Bureau Regulations or the requirements of the
19 Vehicle Code. In fact, a brake certificate should not have been issued for the vehicle because the
20 right front brake rotor and the left rear brake rotor were undersized.

21 **FOURTEENTH CAUSE FOR DISCIPLINE**

22 **(Fraud - ARD)**

23 52. Respondent Oakdale Garage's registration is subject to disciplinary action pursuant to
24 Code section 9884.7, subdivision (a)(4), in that on or about December 16, 2021, it committed acts
25 that constitute fraud. Specifically, Respondent Oakdale Garage obtained payment from the
26 operator for performing the applicable inspections, adjustments, or repairs of the brake system on
27 the Bureau's 2007 Chevrolet as specified by the Bureau and in accordance with the Vehicle Code
28 when, in fact, he had not, as set forth in paragraph 51, above.

1 **FIFTEENTH CAUSE FOR DISCIPLINE**

2 **(Gross Negligence - ARD)**

3 53. Respondent Oakdale Garage's registration is subject to disciplinary action pursuant to
4 Code section 9884.7, subdivision (a)(5), in that Respondent Oakdale Garage committed an act
5 constituting gross negligence in that Respondent Oakdale Garage's technician, Respondent
6 Mendez, failed to properly perform, the brake inspection on the Bureau's 2007 Chevrolet, leaving
7 the vehicle in unsafe condition, as set forth in paragraph in paragraph 49, above.

8 **SIXTEENTH CAUSE FOR DISCIPLINE**

9 **(Violations of Motor Vehicle Inspection Program - ARD)**

10 54. Respondent Oakdale Garage's registration is subject to disciplinary action pursuant to
11 Code section 9884.7, subdivision (a)(6), in that regarding the Bureau's 2007 Chevrolet, on or
12 about December 16, 2021, it failed to materially comply with provisions of the Automobile
13 Repair Act, as follows:

14 a. **Code Section 9884.9, subdivision (a):** On or about December 16, 2021,
15 Respondent Oakdale Garage failed to provide the operator with a written estimate prior to
16 commencing work on the vehicle.

17 b. **Code Section 9889.16:** On or about December 16, 2021, Respondent Oakdale
18 Garage issued Certificate of Compliance-Brake Adjustment, No. BA 3602150, to the operator,
19 certifying that the vehicle was in compliance with Bureau regulations or the requirements of the
20 Vehicle Code. In fact, Respondent Oakdale Garage's employee, Respondent Mendez, did not test
21 or inspect the vehicle in a manner that conforms with Bureau regulations or requirements of the
22 Vehicle Code.

23 **SEVENTEENTH CAUSE FOR DISCIPLINE**

24 **(Failure to Comply with Regulations - ARD)**

25 55. Respondent Oakdale Garage's registration is subject to disciplinary action
26 pursuant to Code section 9884.7(a)(6), in that on or about December 16, 2021, Respondent failed
27 to comply with provisions of California Code of Regulations, title 16, in the following material
28 respects:

1 a. **Section 3305, subdivision (a):** Respondent Oakdale Garage failed to
2 perform a brake and lamp inspection in accordance with the vehicle's manufacturer standards
3 and/or current standards, specifications, recommended procedures, and/or directives issued by the
4 Bureau.

5 b. **Section 3321, subdivision (c)(2):** Respondent Oakdale Garage issued
6 Certificate of Compliance-Brake Adjustment, No. 3602150, certifying that the vehicle's brake
7 system had been properly inspected by Respondent Oakdale Garage's employee, Respondent
8 Mendez, when in fact, it had not.

9 **EIGHTEENTH CAUSE FOR DISCIPLINE**

10 **(Dishonesty, Fraud, or Deceit - Brake and Lamp Station)**

11 56. Respondent Oakdale Garage's brake and lamp station licenses are subject to
12 disciplinary action pursuant to Code section 9889.3, subdivision (d), in that it committed
13 dishonest, fraudulent, or deceitful acts whereby another was injured, as set forth in paragraphs 47
14 through 50, above.

15 **NINETEENTH CAUSE FOR DISCIPLINE**

16 **(Violations of Motor Vehicle Inspection Program - Brake and Lamp Station)**

17 57. Respondent Oakdale Garage's brake and lamp station licenses are subject to
18 disciplinary action pursuant to Code section 9889.3, subdivision (a) and (h), in that regarding the
19 Bureau's 2007 Chevrolet, on or about December 16, 2021, it failed to materially comply with
20 provision of the Automobile Repair Act as set forth in paragraph 54, above.

21 **TWENTIETH CAUSE FOR DISCIPLINE**

22 **(Violation of Regulations - Brake and Lamp Station)**

23 58. Respondent Oakdale Garage's brake and lamp station licenses are subject to
24 disciplinary pursuant to Code section 9889.3, subdivision (c), in that regarding the Bureau's 2007
25 Chevrolet, on or about December 16, 2021, it committed acts in violation of provisions of the
26 California Code of Regulations, title 16, as more particularly set forth in paragraph 55.

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1 **TWENTY-FIRST CAUSE FOR DISCIPLINE**

2 **(Dishonesty, Fraud, or Deceit - Smog Station)**

3 59. Respondent Oakdale Garage's smog check station license is subject to disciplinary
4 action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that it committed
5 dishonest, fraudulent, or deceitful acts whereby another was injured, as set forth in paragraphs 47
6 through 50, above.

7 **TWENTY-SECOND CAUSE FOR DISCIPLINE**

8 **(Dishonesty, Fraud, or Deceit - Brake and Lamp Adjuster)**

9 60. Respondent Mendez's brake and lamp adjuster licenses are subject to disciplinary
10 action pursuant to Code section 9889.3, subdivision (d), in that on or about December 16, 2021,
11 regarding the Bureau's 2007 Chevrolet, he committed dishonest, fraudulent, or deceitful acts
12 whereby another was injured, as set forth in paragraphs 48 and 49, above.

13 **TWENTY-THIRD CAUSE FOR DISCIPLINE**

14 **(Violations of Regulations - Brake and Lamp Adjuster)**

15 61. Respondent Mendez's brake and lamp adjuster licenses are subject to disciplinary
16 action pursuant to Code section 9889.3, subdivision (c), in that on or about December 16, 2021,
17 regarding the Bureau's 2007 Chevrolet, he committed acts in violation of Regulations, as set forth
18 in paragraph 55, above.

19 **TWENTY-FOURTH CAUSE FOR DISCIPLINE**

20 **(Dishonesty, Fraud, or Deceit Causing Injury to Another - Smog Check Inspector and**
21 **Repair)**

22 62. Respondent Mendez's smog check inspector and smog check repair technician
23 licenses are subject to disciplinary action pursuant to Health & Saf. Code section 44072.2,
24 subdivision (d), in that he committed dishonest, fraudulent, or deceitful acts whereby another was
25 injured, as set forth in paragraphs 48 and 49, above.

26 **OTHER MATTERS**

27 63. Pursuant to Code section 9884.7, subdivision (c), the Director may invalidate
28 temporarily or permanently or refuse to validate, the registrations for all places of business

1 operated in this state by Respondent Oakdale Garage upon a finding that it has, or is, engaged in a
2 course of repeated and willful violations of the laws and regulations pertaining to an automotive
3 repair dealer.

4 64. Pursuant to Code section 9889.9, if Brake Station License Number BS 076055, Class
5 C, or Lamp Station License Number LS 076055, Class A, issued to Respondent Oakdale Garage,
6 is revoked or suspended, any additional license issued under Articles 5 and 6 of Chapter 20.3 of
7 Code in the name of said licensee may be likewise revoked or suspended by the Director.

8 65. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Station License
9 Number RC 076055, issued to Respondent Oakdale Garage is revoked or suspended, any
10 additional licenses under Chapter 5 of part 5 of Division 26 of the Health & Safety Code in the
11 name of Oakdale Garage may be likewise revoked or suspended by the Director.

12 66. Pursuant to Code section 9889.9, if Brake Adjuster License Number BA 148549,
13 Class C, and/or Lamp Adjuster License Number LA 148549, Class A, issued to Respondent Jorge
14 Luis Mendez, is revoked or suspended, any additional license issued under Articles 5 and 6 of
15 Chapter 20.3 of the Code in the name of said licensee may be likewise revoked or suspended by
16 the Director.

17 67. Under Health & Saf. Code section 44072.8, if Smog Check Inspector License No. EO
18 148549 and/or Smog Check Repair Technician License No. EI 148549 issued to Respondent
19 Jorge Luis Mendez is revoked or suspended, then any additional license issued under Chapter 5 of
20 Part 5 of Division 26 of the Health & Safety Code in the name of said licensee may be likewise
21 revoked or suspended by the Director.

22 **PRAYER**

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

26 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
27 76055, issued to Oakdale Garage, Inc.;

28 2. Revoking or suspending any other automotive repair dealer registration issued to

Oakdale Garage, Inc.;

3. Revoking or suspending Lamp Station License Number LS 76055 and Brake Station License Number BS 76055, issued to Oakdale Garage, Inc.;

4. Revoking or suspending any additional license issued under Division 3, Chapter 20.3, Articles 5 and 6 of the Code in the name of Oakdale Garage, Inc.;

5. Revoking or suspending Smog Check Station License Number RC 76055, issued to Oakdale Garage 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 Oakdale Garage, Inc.;

7. Revoking or suspending Smog Check Inspector License Number EO 148549, issued to Jorge Luis Mendez;

8. Revoking or suspending Smog Check Repair Technician License Number EI 148549, issued to Jorge Luis Mendez;

9. 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 Jorge Luis Mendez;

10. Revoking or suspending Brake Adjuster License Number BA 148549 and/or Lamp Adjuster License No. LA 148549, issued to Jorge Luis Mendez;

11. Revoking or suspending any additional license issued under Division 3, Chapter 20.3, Articles 5 and 6 of the Code in the name of Jorge Luis Mendez;

12. Ordering Oakdale Garage, Inc., Nathaniel I. Herrera and Jorge Luis Mendez 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,

13. 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: 2022.06.24 16:52:21 -07'00'

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

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