

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

In the Matter of the Accusation Against:

**RCP AUTO CARE INC. (MIDAS SOUTH
PORT)**
**ROBERTA PALMER; MICHAEL PALMER,
ALEXIS GARRETT, RENTON GARRETT**
853 Jefferson Blvd.
West Sacramento, CA 95691

Case No. 77/16-45

Automotive Repair Dealer Registration No.
ARD 241954
Smog Check Station License No. RC 241954
Lamp Station License No. LS 241954
Brake Station License No. BS 241954

MICHAEL CLINTON PALMER
8436 Cobble Creek Lane
Orangevale, CA 95628

Smog Check Inspector License No. EI 153
Smog Check Repair License No. EO 153
Brake Adjuster License No. BA 153
Lamp Adjuster License No. LA 153


Respondents.

DECISION

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

This Decision shall become effective February 14, 2017.

DATED: 1/3/2017



RYAN MARCROFT
Assistant Chief Counsel
Division of Legal Affairs
Department of Consumer Affairs

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

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12 In the Matter of the Accusation Against:

Case No. 77/16-45

13 **RCP AUTO CARE INC. (MIDAS SOUTH**
PORT)
14 **ROBERTA PALMER; MICHAEL**
PALMER, ALEXIS GARRETT, RENTON
15 **GARRETT**
16 853 Jefferson Blvd.
West Sacramento, CA 95691

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

17 Automotive Repair Dealer Registration No.
ARD 241954
18 Smog Check Station License No. RC 241954
Lamp Station License No. LS 241954
19 Brake Station License Number BS 241954

20 **MICHAEL CLINTON PALMER**
21 8436 Cobble Creek Lane
Orangevale, CA 95628

22 Smog Check Inspector License No. EI 153
23 Smog Check Repair License No. EO 153
24 Brake Adjuster License No. BA 153
Lamp Adjuster License No. LA 153

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

3 PARTIES

4 1. Patrick Dorais (Complainant) is the Chief of the Bureau of Automotive Repair. He
5 brought this action solely in his official capacity and is represented in this matter by Kamala D.
6 Harris, Attorney General of the State of California, by Jeffrey M. Phillips, Deputy Attorney
7 General.

8 **RCP Auto Care, Inc.**

9 **Automotive Repair Dealer Registration**

10 1. On or about November 18, 2005, the Bureau issued Automotive Repair Dealer
11 Registration Number ARD 241954 to RCP Auto Care Inc., doing business as Midas South Port
12 ("Respondent Midas") with Roberta Palmer as the President, Michael Palmer as the Vice
13 President, Alexis Garrett as the Secretary and Renton Garrett as the Treasurer. The registration
14 was in full force and effect at all times relevant to the charges brought herein and will expire on
15 October 31, 2016, unless renewed.

16 **Smog Check Repair Station License**

17 2. On or about January 28, 2010, the Bureau issued Smog Check Station License
18 Number RC 241954 to Respondent Midas. The station license was in full force and effect at all
19 times relevant to the charges brought herein and will expire on October 31, 2016, unless renewed.

20 **Lamp Station License**

21 3. On or about January 5, 2006, the Bureau issued Lamp Station License Number LS
22 241954 to Respondent Midas. The lamp station license was in full force and effect at all times
23 relevant to the charges brought herein and will expire on October 31, 2016, unless renewed.

24 **Brake Station License**

25 4. On or about January 5, 2006, the Bureau issued Brake Station License Number BS
26 241954 to Respondent Midas. The brake station license was in full force and effect at all times
27 relevant to the charges brought herein and will expire on October 31, 2016, unless renewed.

28 //

1 **Michael Clinton Palmer**

2 **Smog Check Inspector/Smog Check Repair Technician License**

3 5. In or about 1997, the Bureau issued Advanced Emission Specialist Technician
4 License Number EA 153 to Michael Clinton Palmer ("Respondent Palmer"). The license was due
5 to expire on August 31, 2013, however, it was cancelled on June 10, 2013, and reissued pursuant
6 to California Code of Regulations, title 16, section 3340.28, subdivision (e)¹. Respondent elected
7 a Smog Check Inspector (EO) License Number 153, and Smog Check Repair Technician (EI)
8 License Number 153. The licenses will expire on August 31, 2017, unless renewed.

9 **Brake Adjuster License**

10 6. In or about 2001, the Bureau issued Brake Adjuster License Number BA 153 to
11 Respondent Palmer. The license was in full force and effect at all times relevant to the charges
12 brought herein and will expire on August 31, 2016, unless renewed.

13 **Lamp Adjuster License**

14 7. In or about 2001, the Bureau issued Lamp Adjuster License Number LA 153 to
15 Respondent Palmer. The license was in full force and effect at all times relevant to the charges
16 brought herein and will expire on August 31, 2016, unless renewed.

17 JURISDICTION

18 2. Accusation No. 77/16-45 was filed before the Director of Consumer Affairs
19 (Director), for the Bureau of Automotive Repair (Bureau), and is currently pending against
20 Respondent. The Accusation and all other statutorily required documents were properly served
21 on Respondents on March 9, 2016. Respondents timely filed their Notice of Defense contesting
22 the Accusation.

23 3. A copy of Accusation No. 77/16-45 is attached as exhibit A and incorporated herein
24 by reference.

25 //

26 ¹ Effective August 1, 2012, California Code of Regulations, title 16, sections 3340.28,
27 3340.29, and 3340.30 were amended to implement a license restructure from the Advanced
28 Emission Specialist Technician (EA) license and Basic Area (EB) Technician license to Smog
Check Inspector (EO) license and/or Smog Check Repair Technician (EI) license.

CONTINGENCY

1
2 10. This stipulation shall be subject to approval by the Director of Consumer Affairs or
3 the Director's designee. Respondents understand and agrees that counsel for Complainant and the
4 staff of the Bureau of Automotive Repair may communicate directly with the Director and staff of
5 the Department of Consumer Affairs regarding this stipulation and settlement, without notice to
6 or participation by Respondents. By signing the stipulation, Respondents understand and agree
7 that they may not withdraw this agreement or seek to rescind the stipulation prior to the time the
8 Director considers and acts upon it. If the Director fails to adopt this stipulation as the Decision
9 and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except
10 for this paragraph, it shall be inadmissible in any legal action between the parties, and the
11 Director shall not be disqualified from further action by having considered this matter.

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

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

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

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1 DISCIPLINARY ORDER

2 IT IS HEREBY ORDERED that Automotive Repair Dealer Registration No. ARD 241954,
3 Brake Station License No. BS 241954, and Lamp Station License No. LS 241954 issued to
4 Respondent RCP Auto Care Inc., dba as Midas South Port, Roberta Palmer; Michael Palmer,
5 Alexis Garrett, Renton Garrett is revoked. However, the revocation is stayed and Respondent is
6 placed on probation for three (3) years on the following terms and conditions.

7 IT IS ALSO ORDERED that Brake Adjuster License No. BA 153 and Lamp Adjuster
8 License No. LA 153 issued to Respondent Michael Clinton Palmer is revoked. However, the
9 revocation is stayed and Respondent is placed on probation for three (3) years on the following
10 terms and conditions.

11 1. **Obey All Laws.** Comply with all statutes, regulations and rules governing
12 automotive inspections, estimates and repairs.

13 2. **Reporting.** Respondent or Respondent's authorized representative must report in
14 person or in writing as prescribed by the Bureau of Automotive Repair, on a schedule set by the
15 Bureau, but no more frequently than each quarter, on the methods used and success achieved in
16 maintaining compliance with the terms and conditions of probation.

17 3. **Report Financial Interest.** Within 30 days of the effective date of this action, report
18 any financial interest which any partners, officers, or owners of the Respondent facility may have
19 in any other business required to be registered pursuant to Section 9884.6 of the Business and
20 Professions Code.

21 4. **Random Inspections.** Provide Bureau representatives unrestricted access to inspect
22 all vehicles (including parts) undergoing repairs, up to and including the point of completion.

23 5. **Jurisdiction.** If an accusation is filed against Respondent during the term of
24 probation, the Director of Consumer Affairs shall have continuing jurisdiction over this matter
25 until the final decision on the accusation, and the period of probation shall be extended until such
26 decision.

27 6. **Violation of Probation.** Should the Director of Consumer Affairs determine that
28 Respondent has failed to comply with the terms and conditions of probation, the Department may,

1 after giving notice and opportunity to be heard may temporarily or permanently invalidate the
2 registration and/or suspend or revoke the licenses.

3 7. **Cost Recovery.** Payment to the Bureau of cost recovery in the amount of \$8,150.00.
4 These payments must be made in 30 consecutive installments in the amount of \$271.00 for the
5 first 29 months and \$291.00 on the 30th month from the effective date of the decision, with final
6 and full payment made no later than 6 months before probation terminates. Respondents are
7 jointly and severally responsible for full payments for cost recovery. Failure to complete
8 payment of cost recovery within this time frame shall constitute a violation of probation which
9 may subject Respondents' license/registration to outright revocation; however, the Director or the
10 Director's designee may elect to continue probation until such time as reimbursement of the
11 entire cost recovery amount has been made to the Bureau.

12 ACCEPTANCE

13 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the
14 stipulation and the effect it will have on RCP Auto Care, Inc.'s Automotive Repair Dealer
15 Registration, Lamp Station License, and Brake Station License. I enter into this Stipulated
16 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, have authority to
17 enter into this agreement and agree to be bound by the Decision and Order of the Director of
18 Consumer Affairs.

19 DATED: Aug 26, 2016

Roberta Palmer

RCP AUTO CARE INC. (MIDAS SOUTH PORT)
Respondent

21 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the
22 stipulation and the effect it will have on my Brake Adjuster License and Lamp Adjuster License.
23 I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and
24 intelligently, and agree to be bound by the Decision and Order of the Director of Consumer
25 Affairs.

26 DATED: Aug 26, 2016

Michael Palmer

MICHAEL CLINTON PALMER
Respondent

1 KAMALA D. HARRIS
Attorney General of California
2 JANICE K. LACHMAN
Supervising Deputy Attorney General
3 JEFFREY M. PHILLIPS
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7 *Attorneys for Complainant*

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10 **BEFORE THE**
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11 **FOR THE BUREAU OF AUTOMOTIVE REPAIR**
STATE OF CALIFORNIA

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14 In the Matter of the Accusation Against:

15 **RCP AUTO CARE INC.**
dba MIDAS SOUTH PORT
16 **ROBERTA PALMER, President**
MICHAEL PALMER, Vice President
17 **ALEXIS GARRETT, Secretary**
RENTON GARRETT, Treasurer
18 853 Jefferson Blvd.
West Sacramento, CA 95691
19 Automotive Repair Dealer Registration No. ARD
20 241954
Smog Check Station License No. RC 241954
21 Lamp Station License No. LS 241954
22 Brake Station License No. BS 241954

23 **MICHAEL CLINTON PALMER**
8436 Cobble Creek Lane
24 Orangevale, CA 95628
Smog Check Inspector License No. EO 153
25 (formerly Advanced Emission Specialist Technician
License No. EA 153)
26 Smog Check Repair Technician License No. EI 153
27 Brake Adjuster License No. BA 153
Lamp Adjuster License No. LA 153
28

Case No. 77/16-45
A C C U S A T I O N



1 **JASON WALTER HUCK**
2 **2390 Carlsbad Avenue**
3 **Sacramento, CA 95821**
4 **Smog Check Inspector License No. EO 631327**
5 **(formerly Advanced Emission Specialist Technician**
6 **License No. EA 631327)**
7 **Lamp Adjuster License No. LA 631327**
8 **Brake Adjuster License No. BA 631327 (formerly**
9 **BA 633941)**

Respondents.

Patrick Dorais ("Complainant") alleges:

PARTIES

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

Automotive Repair Dealer Registration

2. On or about November 18, 2005, the Bureau issued Automotive Repair Dealer Registration Number ARD 241954 to RCP Auto Care Inc., doing business as Midas South Port ("Respondent Midas") with Roberta Palmer as the President, Michael Palmer as the Vice President, Alexis Garrett as the Secretary and Renton Garrett as the Treasurer. The registration was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2016, unless renewed.

Smog Check Repair Station License

3. On or about January 28, 2010, the Bureau issued Smog Check Station License Number RC 241954 to Respondent Midas. The station license was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2016, unless renewed.

Lamp Station License

4. On or about January 5, 2006, the Bureau issued Lamp Station License Number LS 241954 to Respondent Midas. The lamp station license was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2016, unless renewed.

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1 **Brake Station License**

2 5. On or about January 5, 2006, the Bureau issued Brake Station License Number BS
3 241954 to Respondent Midas. The brake station license was in full force and effect at all times
4 relevant to the charges brought herein and will expire on October 31, 2016, unless renewed.

5 **Michael Clinton Palmer**

6 **Smog Check Inspector/Smog Check Repair Technician License**

7 6. In or about 1997, the Bureau issued Advanced Emission Specialist Technician
8 License Number EA 153 to Michael Clinton Palmer (“Respondent Palmer”). The license was due
9 to expire on August 31, 2013, however, it was cancelled on June 10, 2013, and reissued pursuant
10 to California Code of Regulations, title 16, section 3340.28, subdivision (e)¹. Respondent elected
11 a Smog Check Inspector (EO) License Number 153, and Smog Check Repair Technician (EI)
12 License Number 153. The licenses will expire on August 31, 2017, unless renewed.

13 **Brake Adjuster License**

14 7. In or about 2001, the Bureau issued Brake Adjuster License Number BA 153 to
15 Respondent Palmer. The license was in full force and effect at all times relevant to the charges
16 brought herein and will expire on August 31, 2016, unless renewed.

17 **Lamp Adjuster License**

18 8. In or about 2001, the Bureau issued Lamp Adjuster License Number LA 153 to
19 Respondent Palmer. The license was in full force and effect at all times relevant to the charges
20 brought herein and will expire on August 31, 2016, unless renewed.

21 **Jason Walter Huck**

22 **Smog Check Inspector License**

23 9. On or about September 14, 2009, the Bureau issued Advanced Emission Specialist
24 Technician License Number EA 631327 to Jason Walter Huck (“Respondent Huck”). The
25 license was due to expire on January 31, 2014, however, it was cancelled on April 30, 2014, and

26 ¹ Effective August 1, 2012, California Code of Regulations, title 16, sections 3340.28,
27 3340.29, and 3340.30 were amended to implement a license restructure from the Advanced
28 Emission Specialist Technician (EA) license and Basic Area (EB) Technician license to Smog
Check Inspector (EO) license and/or Smog Check Repair Technician (EI) license.

1 reissued pursuant to California Code of Regulations, title 16, section 3340.28, subdivision (e)².
2 Respondent elected a Smog Check Inspector (EO) License Number 631327. The license expired
3 on January 31, 2016, and has not been renewed.

4 **Lamp Adjuster License**

5 10. On or about December 13, 2012, the Bureau issued Lamp Adjuster License Number
6 LA 631327 to Respondent Huck. The license was in full force and effect at all times relevant to
7 the charges brought herein. The license expired on January 31, 2016, and has not been renewed.

8 **Brake Adjuster License**

9 11. On or about January 11, 2012, the Bureau issued Brake Adjuster License Number BA
10 633941 to Respondent Huck. The license expired on January 31, 2015; however, on or about
11 February 4, 2015, the license was redesignated as Brake Adjuster License Number BA 631327.
12 The license has not been renewed.

13 **STATUTORY PROVISIONS**

14 12. Section 9884.7 of the Business and Professions Code ("Code") states, in pertinent
15 part:

16 (a) The director, where the automotive repair dealer cannot show there
17 was a bona fide error, may deny, suspend, revoke, or place on probation the
18 registration of an automotive repair dealer for any of the following acts or omissions
19 related to the conduct of the business of the automotive repair dealer, which are done
20 by the automotive repair dealer or any automotive technician, employee, partner,
21 officer, or member of the automotive repair dealer.

22 (1) Making or authorizing in any manner or by any means whatever any
23 statement written or oral which is untrue or misleading, and which is known, or which
24 by the exercise of reasonable care should be known, to be untrue or misleading.

25 (4) Any other conduct which constitutes fraud.

26 (5) Conduct constituting gross negligence.

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

(b) Except as provided for in subdivision (c), if an automotive repair

² Effective August 1, 2012, California Code of Regulations, title 16, sections 3340.28, 3340.29, and 3340.30 were amended to implement a license restructure from the Advanced Emission Specialist Technician (EA) license and Basic Area (EB) Technician license to Smog Check Inspector (EO) license and/or Smog Check Repair Technician (EI) license.

1 dealer operates more than one place of business in this state, the director pursuant to
2 subdivision (a) shall only suspend, revoke, or place on probation the registration of
3 the specific place of business which has violated any of the provisions of this chapter.
4 This violation, or action by the director, shall not affect in any manner the right of the
5 automotive repair dealer to operate his or her other places of business.

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

11 13. Section 9889.3 of the Code states, in pertinent part:

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

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

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

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

21 14. Section 9889.1 of the Code states:

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

28 15. Section 9889.9 of the Code 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.

16. Section 9889.16 of the Code 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, he 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.

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1 17. Section 9889.7 of the Code states:

2 The expiration or suspension of a license by operation of law or by order
3 or decision of the director or a court of law, or the voluntary surrender of a license by
4 a licensee shall not deprive the director of jurisdiction to proceed with any
5 investigation of or action or disciplinary proceedings against such licensee, or to
6 render a decision suspending or revoking such license.

7 18. Section 9884.13 of the Code provides, in pertinent part, that the expiration of a
8 valid registration shall not deprive the Director of jurisdiction to proceed with a disciplinary
9 proceeding against an automotive repair dealer or to render a decision invalidating a registration
10 temporarily or permanently.

11 19. Section 44002 of the Health and Safety Code provides, in pertinent part, that the
12 Director has all the powers and authority granted under the Automotive Repair Act for enforcing
13 the Motor Vehicle Inspection Program.

14 20. Section 44072.2 of the Health and Safety Code states, in pertinent part:

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

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

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

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

25 21. Section 44072.6 of the Health and Safety Code provides, in pertinent part, that the
26 expiration or suspension of a license by operation of law, or by order or decision of the
27 Director of Consumer Affairs, or a court of law, or the voluntary surrender of the license shall not
28 deprive the Director of jurisdiction to proceed with disciplinary action.

 22. Section 44072.8 of the Health and Safety Code states:

 When a license has been revoked or suspended following a hearing under
 this article, any additional license issued under this chapter in the name of the
 licensee may be likewise revoked or suspended by the director.

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1 REGULATORY PROVISIONS

2 23. California Code of Regulations, title 16, section 3305 states, in pertinent part:

3 (a) Performance Standards. All adjusting, inspecting, servicing, and
4 repairing of brake systems and lamp systems shall be performed in official stations in
5 accordance with current standards, specifications, instructions, and directives issued
6 by the bureau and by the manufacturer of the device or vehicle.

7 24. California Code of Regulations, title 16, section 3316 states, in pertinent part:

8 (d)(2) Inspection of the Entire Lighting System. Where all of the lamps,
9 lighting equipment, and related electrical systems on a vehicle have been inspected
10 and found in compliance with all requirements of the Vehicle Code and bureau
11 regulations, the certificate shall certify that the entire system meets all such
12 requirements.

13 25. California Code of Regulations, title 16, section 3321 states, in pertinent part:

14 (c)(2) Inspection of the Entire Brake System. Where the entire brake
15 system on any vehicle has been inspected or tested and found in compliance with all
16 requirements of the Vehicle Code and bureau regulations, and the vehicle has been
17 road-tested, the certificate shall certify that the entire system meets all such
18 requirements.

19 COST RECOVERY

20 26. Code section 125.3 provides, in pertinent part, that a Board may request the
21 administrative law judge to direct a licentiate found to have committed a violation or violations of
22 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
23 enforcement of the case.

24 UNDERCOVER OPERATION NO. 1: HONDA

25 27. On or about April 15, 2014, an undercover Bureau operator ("operator") drove a
26 Bureau documented Honda to Respondent Midas's facility and requested a brake and lamp
27 inspection. The vehicle defect included undersized right and left rear brake rotors, an inoperative
28 right outer tail lamp, and the right headlamp was out of adjustment. The operator arrived at
Respondent Midas's facility and requested a brake and lamp inspection for the purposes of
registering a reconstructed vehicle. The operator was given a written estimate in the amount of
\$159.98. He signed it and received a copy. Respondent Huck told the operator the vehicle
needed a brake light bulb and rear brake rotors. The operator authorized a \$20 repair for the

1 replacement of the brake light bulb. The operator paid \$179.99 and received a copy of Invoice
2 [REDACTED] and Lamp Certificate [REDACTED].

3 28. On or about April 21, 2014, a Bureau representative re-inspected the vehicle and
4 found that the right headlamp remained out of adjustment.

5 **FIRST CAUSE FOR DISCIPLINE**

6 **(Untrue or Misleading Statements)**

7 29. Respondent Midas's registration is subject to discipline under Code section
8 9884.7(a)(1), in that on or about April 15, 2014, regarding the Honda, Respondent Midas made or
9 authorized statements which it knew or in the exercise of reasonable care should have known to
10 be untrue or misleading, in that Respondent Midas certified under penalty of perjury on Lamp
11 Certificate [REDACTED] that the applicable adjustments had been performed on the lamp
12 system when, in fact, the right headlamp was out of adjustment.

13 **SECOND CAUSE FOR DISCIPLINE**

14 **(Fraud)**

15 30. Respondent Midas's registration is subject to discipline pursuant to Code section
16 9884.7(a)(4), in that on or about April 15, 2014, regarding the Honda, Respondent Midas
17 committed acts that constitute fraud, in that Respondent Midas obtained payment from the
18 operator for performing the applicable inspections and adjustments on the vehicle's lamp system
19 as specified by the Bureau and in accordance with the Vehicle Code and issued Lamp Certificate
20 [REDACTED], certifying that the applicable adjustments had been performed on the lamp
21 system when, in fact, the right headlamp was out of adjustment, as more particularly set forth
22 above in paragraph 29.

23 **THIRD CAUSE FOR DISCIPLINE**

24 **(Gross Negligence)**

25 31. Respondent Midas's registration is subject to discipline under Code section
26 9884.7(a)(5), in that on or about April 15, 2014, regarding the Honda, Respondent Midas
27 committed acts constituting gross negligence, in that Respondent's technician, Respondent Huck,
28 failed to properly inspect the vehicle's lamp system and issued Lamp Certificate No.

1 [REDACTED], indicating that the vehicle's lamp system was in satisfactory condition and in
2 accordance with the Vehicle Code when, in fact, it was not.

3 **FOURTH CAUSE FOR DISCIPLINE**

4 **(Failure to Comply with the Code)**

5 32. Respondent Midas's registration is subject to discipline pursuant to Code section
6 9884.7(a)(6), in that on or about April 15, 2014, regarding the Honda, Respondent Midas failed to
7 comply with provisions of Code section 9889.16, in that Respondent Huck issued Lamp
8 Certificate Number [REDACTED] for the vehicle, when the vehicle was not in compliance with
9 Bureau regulations or the requirements of the Vehicle Code, in that the right headlamp was out of
10 adjustment.

11 **FIFTH CAUSE FOR DISCIPLINE**

12 **(Failure to Comply with Regulations)**

13 33. Respondent Midas's registration is subject to discipline pursuant to Code section
14 9884.7(a)(6), in that on or about April 15, 2014, regarding the Honda, Respondent Midas failed to
15 comply with provisions of California Code of Regulations, title 16, in the following material
16 respects:

17 a. **Section 3305(a):** Respondent Huck failed to perform a lamp inspection in
18 accordance with the vehicle's manufacturer standards and/or current standards, specifications,
19 recommended procedures, and/or directives issued by the Bureau.

20 b. **Section 3316(d)(2):** Respondent Huck issued Lamp Certificate [REDACTED],
21 certifying that the vehicle's lamp system had been inspected and was in satisfactory condition
22 when, in fact, it was not.

23 **SIXTH CAUSE FOR DISCIPLINE**

24 **(Failure to Comply with the Code)**

25 34. Respondent Midas's brake and lamp station licenses are subject to discipline under
26 Code section 9889.3(a), in that on or about April 15, 2014, regarding the Honda, Respondent
27 Midas violated sections of the Code, relating to its licensed activities, as more particularly set
28 forth above in paragraph 32.

1 acts involving dishonesty, fraud, or deceit, by issuing Lamp Certificate [REDACTED],
2 certifying that the lamp system was in satisfactory condition and in accordance with the Vehicle
3 Code, when, in fact, it was not.

4 **TWELFTH CAUSE FOR DISCIPLINE**

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

6 40. Respondent Huck's inspector license is subject to discipline pursuant to Health and
7 Safety Code section 44072.2(d), in that on or about April 15, 2014, Respondent Huck committed
8 dishonest, fraudulent, or deceitful acts whereby another was injured, as set forth above in
9 paragraphs 39.

10 **UNDERCOVER OPERATION NO. 2: HONDA**

11 41. On or about June 3, 2014, an undercover Bureau operator ("operator") drove a
12 Bureau documented Honda to Respondent Midas's facility and requested a brake and lamp
13 inspection. The vehicle defect included undersized front brake rotors, front brake pads at discard
14 thickness, oversized rear brake drums, and the right headlamp was out of adjustment. The
15 operator arrived at Respondent Midas's facility and requested a brake and lamp inspection. The
16 operator was given written estimate number 1041439 in the amount of \$159.98 that he signed and
17 received a copy of. Respondent Palmer told the operator the vehicle needed front brake pads and
18 rotors, and that the rear brakes were getting close but were okay. Respondent Palmer stated that
19 the vehicle passed the lamp inspection. The operator paid \$159.98 and received a copy of Invoice
20 [REDACTED] and Lamp Certificate [REDACTED].

21 42. On or about June 3, 2014, a Bureau representative installed new front brake pads
22 and rotors on the Honda in order to pass the brake inspection, as recommended by Respondent
23 Palmer.

24 43. On or about July 22, 2014, an undercover Bureau operator drove the Honda back
25 to Respondent Midas's facility and requested a brake inspection for the purposes of registering a
26 reconstructed vehicle. The operator was given written estimate [REDACTED] in the amount of
27 \$79.99 that he signed and received a copy of. Respondent Palmer told the operator the vehicle
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1 passed the inspection and there was no charge. The operator received a copy of Invoice [REDACTED].
2 [REDACTED] and Brake Certificate [REDACTED].

3 44. On or about July 22, 2014, a Bureau representative re-inspected the vehicle and
4 found that the right headlamp remained out of adjustment and the rear brake drums were out of
5 specification (oversized). Furthermore, Respondent Palmer had failed to remove any of the
6 vehicle's wheels.

7 **THIRTEENTH CAUSE FOR DISCIPLINE**
8 **(Untrue or Misleading Statements)**

9 45. Respondent Midas's registration is subject to discipline under Code section
10 9884.7(a)(1), in that regarding the Honda, Respondent Midas made or authorized statements
11 which it knew or in the exercise of reasonable care should have known to be untrue or
12 misleading, as follows:

13 **June 3, 2014**

14 a. Respondent Midas certified under penalty of perjury on Lamp Certificate No. LC
15 1427443 that the applicable adjustments had been performed on the lamp system when, in fact,
16 the right headlamp was out of adjustment.

17 **July 22, 2014**

18 b. Respondent Midas certified under penalty of perjury on Brake Certificate No. BC
19 1449645 that the applicable inspections were performed on the brake system when, in fact,
20 Respondent Palmer failed to inspect the brake system on the vehicle, as evidenced by his failure
21 to remove any of the vehicle's wheels.

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1 FOURTEENTH CAUSE FOR DISCIPLINE

2 (Fraud)

3 46. Respondent Midas's registration is subject to discipline pursuant to Code section
4 9884.7(a)(4), in that regarding the Honda, Respondent Midas committed acts that constitute
5 fraud, as follows:

6 **June 3, 2014**

7 a. Respondent Midas obtained payment from the operator for performing the
8 applicable inspections and adjustments on the vehicle's lamp system as specified by the Bureau
9 and in accordance with the Vehicle Code and issued Lamp Certificate [REDACTED],
10 certifying that the applicable adjustments had been performed on the lamp system when, in fact,
11 the right headlamp was out of adjustment, as more particularly set forth above in paragraph 45.

12 **July 22, 2014**

13 b. Respondent Midas obtained payment from the operator for performing the applicable
14 inspections and adjustments on the vehicle's brake system as specified by the Bureau and in
15 accordance with the Vehicle Code, and issued Brake Certificate [REDACTED], certifying that
16 the applicable inspections were performed on the brake system when, in fact, Respondent Palmer
17 failed to inspect the brake system on the vehicle, as evidenced by his failure to remove any of the
18 vehicle's wheels, as more particularly set forth above in paragraph 45.

19 FIFTEENTH CAUSE FOR DISCIPLINE

20 (Gross Negligence)

21 47. Respondent California's registration is subject to discipline under Code section
22 9884.7(a)(5), in that regarding the Honda, Respondent Midas committed acts constituting gross
23 negligence, in that on or about June 3, 2014, Respondent Palmer, failed to properly inspect the
24 vehicle's lamp system and issued Lamp Certificate [REDACTED], certifying that the vehicle's
25 lamp systems were in satisfactory condition and were in accordance with the Vehicle Code when,
26 in fact, they were not. Furthermore, on or about July 22, 2014, Respondent Palmer failed to
27 properly inspect the vehicle's brake system and issued Brake Certificate [REDACTED],
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1 certifying that the vehicle's brake systems were in satisfactory condition and were in accordance
2 with the Vehicle Code when, in fact, they were not.

3 **SIXTEENTH CAUSE FOR DISCIPLINE**

4 **(Failure to Comply with the Code)**

5 48. Respondent Midas's registration is subject to discipline pursuant to Code section
6 9884.7(a)(6), in that regarding the Honda, Respondent Midas failed to comply with provisions of
7 that Code in the following material respects:

8 a. **Section 9889.16:**

9 i. On or about July 22, 2014, Respondent Palmer issued Brake Certificate [REDACTED]
10 [REDACTED] for the vehicle, when the vehicle was not in compliance with Bureau regulations or the
11 requirements of the Vehicle Code, in that the rear brake drums were out of specification
12 (oversized).

13 ii. On or about June 3, 2014, Respondent Palmer issued Lamp Certificate [REDACTED]
14 [REDACTED] for the vehicle, when the vehicle was not in compliance with Bureau regulations or the
15 requirements of the Vehicle Code, in that the right headlamp was out of adjustment.

16 **SEVENTEENTH CAUSE FOR DISCIPLINE**

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

18 49. Respondent Midas's registration is subject to discipline pursuant to Code section
19 9884.7(a)(6), in that regarding the Honda, Respondent Midas failed to comply with provisions of
20 California Code of Regulations, title 16, in the following material respects:

21 **June 3, 2014**

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

25 **July 22, 2014**

26 b. **Section 3305(a):** Respondent Palmer failed to perform a brake inspection in
27 accordance with the vehicle's manufacturer standards and/or current standards, specifications,
28 recommended procedures, and/or directives issued by the Bureau.

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TWENTY-FIRST CAUSE FOR DISCIPLINE

(Failure to Comply with the Code)

53. Respondent Palmer's brake and lamp adjuster licenses are subject to discipline under Code section 9889.3(a), in that on or about June 3, 2014, and July 22, 2014, regarding the Honda, Respondent Palmer violated sections of the Code, relating to his licensed activities, as more particularly set forth above in paragraph 48.

TWENTY-SECOND CAUSE FOR DISCIPLINE

(Failure to Comply with Regulations)

54. Respondent Palmer's brake and lamp adjuster licenses are subject to discipline under Code section 9889.3(c), in that on or about June 3, 2014, and July 22, 2014, regarding the Honda, Respondent Palmer failed to comply with provisions of California Code of Regulations, title 16, as more particularly set forth above in paragraph 49.

TWENTY-THIRD CAUSE FOR DISCIPLINE

(Acts Involving Dishonesty, Fraud, or Deceit)

55. Respondent Palmer's brake and lamp adjuster licenses are subject to discipline under Code section 9889.3(d), in that regarding the Honda, Respondent Palmer committed acts involving dishonesty, fraud, or deceit, by issuing Brake Certificate [REDACTED] and Lamp Certificate [REDACTED], certifying that the brake and lamp systems were in satisfactory condition and in accordance with the Vehicle Code, when, in fact, they were not.

TWENTY-FOURTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

56. Respondent Palmer's technician license is subject to discipline pursuant to Health and Safety Code section 44072.2(d), in that on or about June 3, 2014, and July 22, 2014, Respondent Palmer committed dishonest, fraudulent, or deceitful acts whereby another was injured, as set forth above in paragraphs 53 and 54.

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1 TWENTY-FIFTH CAUSE FOR DISCIPLINE

2 (Dishonesty, Fraud or Deceit)

3 57. Respondent Midas's smog check station license is subject to discipline pursuant to
4 Health and Safety Code section 44072.2(d), in that on or about June 3, 2014, and July 22, 2014,
5 Respondent Midas committed dishonest, fraudulent, or deceitful acts whereby another was
6 injured, as set forth above in paragraphs 29, 30, 36, 45, 46, and 52.

7 OTHER MATTERS

8 58. Pursuant to Code section 9884.7(c), the director may suspend, revoke, or place on
9 probation the registrations for all places of business operated in this state by RCP Auto Care Inc.,
10 doing business as Midas South Port, upon a finding that it has, or is, engaged in a course of
11 repeated and willful violation of the laws and regulations pertaining to an automotive repair
12 dealer.

13 59. Pursuant to Health and Safety Code section 44072.8, if Smog Check Station
14 License Number RC 241954, issued to RCP Auto Care Inc., doing business as Midas South Port,
15 is revoked or suspended, any additional license issued under this chapter in the name of said
16 licensee may be likewise revoked or suspended by the director.

17 60. Pursuant to Code section 9889.9, if Lamp Station License Number LS 241954,
18 issued to RCP Auto Care Inc., doing business as Midas South Port, is revoked or suspended, any
19 additional license issued under Articles 5 and 6 of Chapter 20.3 of the Business and Professions
20 Code in the name of said licensees may be likewise revoked or suspended by the director.

21 61. Pursuant to Code section 9889.9, if Brake Station License Number BS 241954,
22 issued to RCP Auto Care Inc., doing business as Midas South Port, is revoked or suspended, any
23 additional license issued under Articles 5 and 6 of Chapter 20.3 of the Business and Professions
24 Code in the name of said licensees may be likewise revoked or suspended by the director.

25 62. Pursuant to Health and Safety Code section 44072.8, if Smog Check Inspector
26 License No. 153 and Smog Check Repair Technician License No. 153, issued to Michael Clinton
27 Palmer, is revoked or suspended, any additional license issued under this chapter in the name of
28 said licensee may be likewise revoked or suspended by the director.

1 3. Revoking or suspending Smog Check Station License Number RC 241954, issued
2 to RCP Auto Care Inc., doing business as Midas South Port;

3 4. Revoking or suspending any additional license issued under chapter 5, of the
4 Health and Safety Code in the name of RCP Auto Care Inc., doing business as Midas South Port;

5 5. Revoking or suspending Lamp Station License Number LS 241954, issued to RCP
6 Auto Care Inc., doing business as Midas South Port;

7 6. Revoking or suspending Brake Station License Number BS 241954, issued to RCP
8 Auto Care Inc., doing business as Midas South Port;

9 7. Revoking or suspending any additional license issued under Articles 5 and 6 of
10 Chapter 20.3 of the Business and Professions Code in the name of RCP Auto Care Inc., doing
11 business as Midas South Port;

12 8. Revoking or suspending Smog Check Inspector License No. 153, issued to
13 Michael Clinton Palmer;

14 9. Revoking or suspending Smog Check Repair Technician License No. 153, issued
15 to Michael Clinton Palmer;

16 10. Revoking or suspending any additional license issued under Chapter 5 of the
17 Health and Safety Code in the name of Michael Clinton Palmer;

18 11. Revoking or suspending Brake Adjuster License No. 153, issued to Michael
19 Clinton Palmer;

20 12. Revoking or suspending Lamp Adjuster License No. 153, issued to Michael
21 Clinton Palmer;

22 13. Revoking or suspending Smog Check Inspector License No. 631327, issued to
23 Jason Walter Huck;

24 14. Revoking or suspending Brake Adjuster License No. 631327, issued to Jason
25 Walter Huck;

26 15. Revoking or suspending Lamp Adjuster License No. 631327, issued to Jason
27 Walter Huck;

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1 16. Revoking or suspending any additional license issued under Chapter 5 of the
2 Health and Safety Code in the name of Jason Walter Huck;

3 17. Ordering RCP Auto Care Inc., doing business as Midas South Port, Michael
4 Clinton Palmer, and Jason Walter Huck to pay the Director of Consumer Affairs the reasonable
5 costs of the investigation and enforcement of this case, pursuant to Code section 125.3; and,

6 18. Taking such other and further action as deemed necessary and proper.

7 DATED: March 1, 2016

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

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