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8
9 **BEFORE THE**
DEPARTMENT OF CONSUMER AFFAIRS
10 **FOR THE BUREAU OF AUTOMOTIVE REPAIR**
11 **STATE OF CALIFORNIA**

12
13 In the Matter of the Accusation Against:

Case No. 77/23-3240

14 **CHARLES BRYAN GAMA, OWNER**
15 **DBA K&C SMOG**
16 **2431 E. Slauson Ave, Unit B**
Huntington Park, CA 90255

ACCUSATION

17 **Automotive Repair Dealer Registration**
18 **No. ARD 300424, Smog Check Station**
19 **License No. RC 300424, Brake Station**
20 **License No. BS 300424, Class C, Lamp**
21 **Station License No. LS 300424, Class A,**

and

22 **CHARLES BRYAN GAMA**
23 **129 S. Spruce St**
Montebello, CA 90640

24 **Smog Check Inspector License No. EO**
25 **642598, Smog Check Repair Technician**
26 **License No. EI 642598, Brake Adjuster**
27 **License No. BA 642598, Class C, Lamp**
28 **Adjuster License No. LA 642598, Class A,**

Respondent.

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 **K&C's Automotive Repair Registration**

5 2. On or about August 2, 2021, the Bureau issued Automotive Repair Dealer
6 Registration Number ARD 300424 to Charles Bryan Gama, dba K&C Smog (Respondent K&C).
7 From August 31, 2022 to September 5, 2022, the Automotive Repair Dealer Registration was
8 delinquent. The Automotive Repair Dealer Registration was in full force and effect at all times
9 relevant to the charges brought here and will expire on August 31, 2024, unless renewed.

10 **K&C's Smog Check Station License**

11 3. On or about September 14, 2021, the Bureau issued Smog Check Station License
12 Number RC 300424 to Respondent K&C. From August 31, 2022 to September 5, 2022, the Smog
13 Check Station License was delinquent. The Smog Check Station License was in full force and
14 effect at all times relevant to the charges brought herein and will expire on August 31, 2024,
15 unless renewed.

16 **K&C's STAR Station Certification**

17 4. On or about March 2, 2022, the Bureau issued STAR Station Certification to
18 Respondent (K&C). The Certification was suspended on December 13, 2022, and was reinstated
19 on August 8, 2023, and will remain active unless the ARD Registration and/or Smog Check
20 Station License is revoked/canceled, licenses become delinquent, or the Certification is
21 invalidated.

22 **K&C's Brake Station License**

23 5. On or about October 1, 2021, the Bureau issued Brake Station License Number BS
24 300424, Class C, to Respondent K&C. From August 31, 2022 to September 5, 2022, the Brake
25 Station License was delinquent. The Brake Station License was in full force and effect at all times
26 relevant to the charges brought herein and will expire on August 31, 2024.

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1 K&C's Lamp Station License

2 6. On or about October 1, 2021, the Bureau issued Lamp Station License Number LS
3 300424, Class A, to Respondent K&C. From August 31, 2022 to September 5, 2022, the Lamp
4 Station License was delinquent. The Lamp Station License was in full force and effect at all times
5 relevant to the charges brought herein and will expire on August 31, 2024.

6 Gama Smog Check Inspector License

7 7. On or about July 15, 2020, the Bureau issued Smog Check Inspector License Number
8 EO 642598 to Charles Bryan Gama (Respondent Gama). The Smog Check Inspector License was
9 in full force and effect at all times relevant to the charges brought herein and will expire on
10 December 31, 2024.

11 Gama Smog Check Repair Technician License

12 8. On or about July 16, 2020, the Bureau issued Smog Check Repair Technician License
13 Number EI 642598 to Respondent Gama. The Smog Check Repair Technician License was in full
14 force and effect at all times relevant to the charges brought herein and will expire on December
15 31, 2024.

16 Gama Brake Adjuster License

17 9. On or about February 24, 2021, the Bureau issued Brake Adjuster License Number
18 BA 642598, Class C, to Respondent Gama. The Brake Adjuster License was in full force and
19 effect at all times relevant to the charges brought herein and will expire on December 31, 2024.

20 Gama Lamp Adjuster License

21 10. On or about July 14, 2021, the Bureau issued Lamp Adjuster License Number LA
22 642598, Class A, to Respondent Gama. The Lamp Adjuster License was in full force and effect at
23 all times relevant to the charges brought herein and will expire on December 31, 2024.

24 **JURISDICTION**

25 11. This Accusation is brought before the Director of the Department of Consumer
26 Affairs (Director) for the Bureau of Automotive Repair under the authority of the following laws.
27 Unless otherwise indicated, all section references are to the Business and Profession Code (Code).

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1 12. Section 9884.13 of the Code states, in pertinent part, that the expiration of a valid
2 registration shall not deprive the director or chief of jurisdiction to proceed with a disciplinary
3 proceeding against an automotive repair dealer or to render a decision invalidating a registration
4 temporarily or permanently.

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

8 14. Section 9889.7 of the Code states, in pertinent part, that the expiration or suspension
9 of a license by operation of law or by order or decision of the Director or a court of law, or the
10 voluntary surrender of a license shall not deprive the Director of jurisdiction to proceed with any
11 disciplinary proceedings.

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

15 16. Section 44072.6 of the Health and Safety Code states, in pertinent part, that the
16 expiration or suspension of a license by operation of law, or by order or decision of the Director
17 of Consumer Affairs, or a court of law, or the voluntary surrender of the license shall not deprive
18 the Director of jurisdiction to proceed with disciplinary action.

19 **STATUTORY PROVISIONS**

20 17. Section 9884.7 of the Code states in pertinent part:

21 (a) The director, if the automotive repair dealer cannot show there was a bona
22 fide error, may deny, suspend, revoke, or place on probation the registration of an
23 automotive repair dealer for any of the following acts or omissions related to the
24 conduct of the business of the automotive repair dealer, which are done by the
25 automotive repair dealer or any automotive technician, employee, partner, officer, or
26 member of the automotive repair dealer:

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

27 ...

28 (4) Any other conduct that constitutes fraud.

1 (5) Conduct constituting gross negligence.

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

4 ...

5 (e) For purposes of this section, "fraud" includes, but is not limited to, violations
6 of this chapter involving misrepresentations and all of the following:

7 (1) Any act or omission that is included within the definition of either "actual
8 fraud" or "constructive fraud," as those terms are defined in Sections 1572 and 1573
9 of the Civil Code.

10 (2) A misrepresentation in any manner, whether intentionally false or due to
11 gross negligence, of a material fact.

12 (3) A promise or representation not made honestly and in good faith.

13 (4) An intentional failure to disclose a material fact.

14 18. Section 9884.8 of the Code states:

15 All work done by an automotive repair dealer, including all warranty work, shall
16 be recorded on an invoice and shall describe all service work done and parts supplied.
17 Service work and parts shall be listed separately on the invoice, which shall also state
18 separately the subtotal prices for service work and for parts, not including sales tax,
19 and shall state separately the sales tax, if any, applicable to each. If any used, rebuilt,
20 or reconditioned parts are supplied, the invoice shall clearly state that fact. If a part of
21 a component system is composed of new and used, rebuilt or reconditioned parts, that
22 invoice shall clearly state that fact. The invoice shall include a statement indicating
23 whether any crash parts are original equipment manufacturer crash parts or nonoriginal
24 equipment manufacturer aftermarket crash parts. One copy of the invoice shall be
25 given to the customer and one copy shall be retained by the automotive repair dealer.

26 19. Section 9884.9 of the Code states in pertinent part:

27 (a) The automotive repair dealer shall give to the customer a written estimated
28 price for labor and parts necessary for a specific job, except as provided in subdivision
(e). No work shall be done and no charges shall accrue before authorization to proceed
is obtained from the customer. No charge shall be made for work done or parts supplied
in excess of the estimated price, or the posted price specified in subdivision (e), without
the oral or written consent of the customer that shall be obtained at some time after it
is determined that the estimated or posted price is insufficient and before the work not
estimated or posted is done or the parts not estimated or posted are supplied. Written
consent or authorization for an increase in the original estimated or posted price may
be provided by electronic mail or facsimile transmission from the customer. The
bureau may specify in regulation the procedures to be followed by an automotive repair
dealer if an authorization or consent for an increase in the original estimated price is
provided by electronic mail or facsimile transmission. If that consent is oral, the dealer
shall make a notation on the work order of the date, time, name of person authorizing
the additional repairs, and telephone number called, if any, together with a
specification of the additional parts and labor and the total additional cost, and shall do
either of the following:

///

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

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

4 "I acknowledge notice and oral approval of an increase in the original estimated
5 price.

6 —

(signature or initials)"

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

9 20. Section 9889.16 of the Code states:

10 Whenever a licensed adjuster in a licensed station upon an inspection or after an
11 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
12 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
13 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.

15 21. Section 9889.22 of the Code states:

16 The willful making of any false statement or entry with regard to a material
17 matter in any oath, affidavit, certificate of compliance or noncompliance, or
application form which is required by this chapter or Chapter 5 (commencing with
18 Section 44000) of Part 5 of Division 26 of the Health and Safety Code constitutes
perjury and is punishable as provided in the Penal Code.

20 22. Section 9889.3 of the Code states:

21 The Director may suspend, revoke, or take other disciplinary action against a
22 license as provided in this article if the licensee or any partner, officer, or Director
thereof:

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

25 . . .

26 (c) Violates any of the regulations promulgated by the Director pursuant to this
chapter.

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

28 . . .

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

2 23. Section 44072.2, subd. (d), Health and Safety Code states:

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

5 . . .

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

8 **REGULATORY PROVISIONS**

9 24. California Code of Regulations, title 16, section 3305 states:

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

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

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

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

19 (4) The bureau's *Handbook for Brake Adjusters and Stations*, May 2015, which
20 is hereby incorporated by reference.

21 (5) The bureau's *Handbook for Lamp Adjusters and Stations*, May 2015, which
22 is hereby incorporated by reference.

23 25. California Code of Regulations, title 16, section 3316 states in pertinent part:

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

. . .

1 (2) Where all of the lamps, lighting equipment, and related electrical systems on
2 a vehicle have been inspected and found to be in compliance with all requirements of
3 the Vehicle Code and bureau regulations, the certificate shall certify that the entire
4 system meets all of those requirements.

5 26. California Code of Regulations, title 16, section 3321 states in pertinent part:

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

13 . . .

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

18 27. California Code of Regulations, title 16, section 3353, states in pertinent part:

19 No work for compensation shall be commenced and no charges shall accrue
20 without specific authorization from the customer in accordance with the following
21 requirements:

22 (a) Estimate for Parts and Labor. Every dealer shall give to each customer a
23 written estimated price for labor and parts for a specific job.

24 28. California Code of Regulations, title 16, section 3373, states:

25 No automotive repair dealer or individual in charge shall, in filling out an
26 estimate, invoice, or work order, or record required to be maintained by section
27 3340.15(f) of this chapter, withhold therefrom or insert therein any statement or
28 information which will cause any such document to be false or misleading, or where
the tendency or effect thereby would be to mislead or deceive customers, prospective
customers, or the public.

COST RECOVERY

29 Section 125.3 of the Code states, in pertinent part, that a Board may request the
30 administrative law judge to direct a licentiate found to have committed a violation or violations of
31 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
32 enforcement of the case.

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UNDERCOVER VEHICLE OPERATION NO. 1: 2007 FORD

1
2 30. On February 23, 2023, an undercover operator of the Bureau (“operator RF”) took
3 the Bureau’s 2007 Ford to Respondent K&C’s facility. Operator RF parked the vehicle in the
4 service bay, and an older male approached and asked him to wait for the owner. A short time
5 later, a larger young male approached, who was identified as Respondent Gama. Operator RF
6 recognized Respondent Gama from a photo he was previously shown. Respondent Gama asked
7 what the operator needed for the Ford, and the operator requested brake and lamp inspections.
8 Respondent Gama began inspecting the vehicle. He turned on the exterior lights of the car.
9 However, Operator RF did not see Respondent Gama use an aiming device for the headlights.
10 After a few minutes, the older male gave the operator an estimate document. He asked the
11 operator to write his name and contact information on the form and to return it to him, which the
12 operator did. However, the operator did not receive a written estimate before the inspection
13 performance.

14 31. Operator RF observed Respondent Gama drive the Ford out of the facility and return
15 it a few minutes later to the service bay. The Ford sat in the service bay for several minutes
16 without further service. Respondent Gama approached the operator with the completed brake and
17 lamp certificates and the final invoice and charged the operator \$90.00 for the inspections. The
18 operator paid him and received Brake Certificate of Adjustment Number BA3936023 and the
19 Lamp Certificate of Adjustment Number LA3887973.

20 32. At a confidential location, the operator initialed and dated the brake and lamp
21 certificates and released custody of these certificates to a BAR representative. Both the yellow
22 and pink invoice copies were still attached and unnumbered. In the section entitled “REPAIR
23 ORDERS-LABOR INSTRUCTIONS,” the entire field was blank. The parts of the invoice filled
24 in were the brake pad thicknesses, the customer information field, the date, the odometer reading,
25 the original estimate price, the customer signature, and the inspection and certificate fees. All
26 other portions remained blank. There was no requested work listed, information about work
27 completed, or the results of the inspections.

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1 33. Later, a Bureau representative re-inspected the Ford and concluded that the rear brake
2 rotors were below the manufacturer’s published minimum thickness specification. The
3 identification marks were still present as previously applied at the Bureau.

4 34. Respondent Gama, a licensed brake and lamp adjuster, issued Brake Certificate of
5 Adjustment Number BA3936023 to a vehicle with the brake system out of manufacturer
6 specification. Further, he issued Lamp Certificate of Adjustment Number LA3887973 to a vehicle
7 without using the aiming equipment shown on the certificate.

8 35. Brake Certificate of Adjustment BA3936023 indicates inspection of the service
9 brake, parking brake, lining and shoes, drums/rotors, warning system, antilock brake system,
10 emergency stopping system, and connections checked. Also, the Brake Certificate of Adjustment
11 indicates that the inspection was for registering a reconstructed vehicle. The vehicle was certified
12 with undersized rear brake rotors. In addition, the Brake Certificate of Adjustment shows the
13 stopping distance from 20 miles per hour was 25 feet. Respondent Gama signed Certificate of
14 Adjustment BA3936023 under penalty of perjury, indicating that he had performed the necessary
15 inspection and adjustments when, in fact, he had not properly inspected the vehicle.

16 36. Lamp Certificate of Adjustment LA3887973 indicates inspection of the lamp type
17 signals, warning lamps, rear lamps, stop lamps, reflectors, license plate lamps, side lamps, and
18 backup lamps. The Lamp Certificate of Adjustment indicates that the inspection was to register a
19 reconstructed vehicle. The Lamp Certificate of Adjustment shows the headlights were aimed
20 using an optical aimer; however, no aiming equipment was used. Respondent Gama signed the
21 Certificate of Adjustment under penalty of perjury, indicating that he had performed the
22 necessary inspection and adjustments when, in fact, he had not performed a complete inspection
23 of the vehicle.

24 **UNDERCOVER VEHICLE OPERATION NO. 2: 2001 HONDA**

25 37. On May 5, 2023, an undercover operator of the Bureau (“operator LA”) took the
26 Bureau’s 2001 Honda to Respondent K&C’s facility. Operator LA parked the vehicle in the
27 service bay, and a young male approached, who was identified as Respondent Gama. Operator

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1 LA recognized Respondent Gama from a photo he was previously shown. The operator asked for
2 a brake and lamp inspection to be completed.

3 38. The Honda was not moved from where Operator LA parked it. The wheels were not
4 removed. The headlights were not checked for aim. The operator paid Respondent Gama \$100.00
5 cash but did not receive any receipt for payment or invoice for the work performed. The operator
6 received a Brake Certificate of Adjustment No. BA3970485 and Lamp Certificate of Adjustment
7 No. LA3922085.

8 39. At a confidential location, the operator initialed and dated the brake and lamp
9 certificates and released custody of these certificates to a BAR representative.

10 40. Later, a Bureau representative re-inspected the Honda and concluded that the rear
11 brake rotors were below the manufacturer's published minimum thickness specification. The
12 identification marks were still present as previously applied at the Bureau. The tamper indicators
13 placed on the wheels were undisturbed. The wheels were not removed to inspect the brakes.

14 41. Respondent Gama, a licensed brake and lamp adjuster, issued Brake Certificate of
15 Adjustment BA3970485 to a vehicle with a brake system out of manufacturer specification. He
16 issued Lamp Certificate LA3922085 without using the aiming equipment as shown on the
17 certificate.

18 42. Brake Certificate of Adjustment BA3970485 indicates inspection of the service
19 brake, parking brake, lining and shoes, drums/rotors, warning system, antilock brake system,
20 emergency stopping system, and connections checked. The Brake Certificate of Adjustment
21 indicates that the inspection was to register a reconstructed vehicle. The vehicle was certified with
22 undersized rear brake rotors. The Brake Certificate of Adjustment shows the stopping distance
23 from 20 miles per hour was 25 feet. Respondent Gama signed Certificate of Adjustment
24 BA3970485 under penalty of perjury, indicating that he had performed the necessary inspection
25 and adjustments when, in fact, he had not performed a complete inspection of the vehicle.

26 43. Lamp Certificate of Adjustment LA3922085 indicates inspection of the lamp type
27 signals, warning lamps, rear lamps, stop lamps, reflectors, license plate lamps, side lamps, and
28 backup lamps. The Lamp Certificate of Adjustment indicates that the inspection was to register a

1 reconstructed vehicle. The Lamp Certificate of Adjustment shows the headlights were aimed
2 using an optical aimer; however, no aiming equipment was used. Respondent Gama signed
3 Certificate of Adjustment LA3922085 under penalty of perjury, indicating that he had performed
4 the necessary inspection and adjustments when he had not inspected the vehicle.

5 **FIRST CAUSE FOR DISCIPLINE**

6 **(Untrue or Misleading Statements)**

7 44. Respondent K&C's registration is subject to disciplinary action under Code section
8 9884.7, subd. (a)(1), in that Respondent Gama made or authorized statements he knew or in the
9 exercise of reasonable care should have known to be untrue or misleading as follows:

10 2007 Ford

11 a. Respondent Gama certified under penalty of perjury on Brake Certificate No.
12 BA3936023, the applicable inspection was performed on the Bureau's 2007 Ford brake system.
13 In fact, the vehicle was certified with undersized rear brake rotors.

14 b. Respondent Gama certified under penalty of perjury on Brake Certificate No.
15 BA3936023, the rear rotor thickness on the Bureau's 2007 Ford, was satisfactory. In fact, the rear
16 rotor thickness was documented to be out of compliance.

17 c. Respondent Gama certified under penalty of perjury on Brake Certificate No.
18 LA3887973, the applicable adjustment was performed using an optical aimer on the Bureau's
19 2007 Ford lighting system. In fact, no optical aimer was used on the lighting system.

20 2001 Honda

21 a. Respondent Gama certified under penalty of perjury on Brake Certificate No.
22 BA3970485 was the applicable inspection on the brake system on the Bureau's 2001 Honda. In
23 fact, the vehicle was certified with undersized rear brake rotors.

24 b. Respondent Gama certified under penalty of perjury on Brake Certificate No.
25 BA3970485 that the Bureau's 2001 Honda had a stopping distance of 25 feet from 20 miles per
26 hour as a result of a road test.

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1 c. Respondent Gama certified under penalty of perjury on Brake Certificate No.
2 BA3970485, the rear rotor thickness on the Bureau's 2001 Honda, was satisfactory. In fact, the
3 rear rotor thickness was documented to be out of compliance.

4 d. Respondent Gama certified under penalty of perjury on Brake Certificate No.
5 LA3922085, the applicable adjustment was performed using an optical aimer on the lighting
6 system of the Bureau's 2001 Honda. In fact, no optical aimer was used on the lighting system.

7 Complainant refers to and incorporates all the facts and allegations contained in paragraphs
8 30 through 36 for the 2007 Ford and paragraphs 37 through 43 for the 2001 Honda, as though set
9 forth fully.

10 **SECOND CAUSE FOR DISCIPLINE**

11 **(Fraud)**

12 45. Respondent K&C's registration is subject to disciplinary action under Code section
13 9884.7, subd. (a)(4), in that Respondent Gama committed acts that constitute fraud by obtaining
14 payment from the operators for performing the brake and lighting systems inspections on the
15 Bureau's 2007 Ford and 2001 Honda as specified by the Bureau and in accordance with the
16 Vehicle Code. In fact, respondent Gama failed to perform the necessary inspections, adjustments,
17 and repairs on those vehicles in compliance with Bureau Regulations or the Vehicle Code.
18 Complainant refers to and incorporates all the facts and allegations contained in paragraphs 30
19 through 36 for the 2007 Ford and paragraphs 37 through 43 for the 2001 Honda, as though set
20 forth fully.

21 **THIRD CAUSE FOR DISCIPLINE**

22 **(Gross Negligence)**

23 46. Respondent K&C's registration is subject to disciplinary action under Code section
24 9884.7, subd. (a)(5), in that Respondent Gama failed to comply with provisions of that Code in
25 the following material respects:

26 a. Section 9889.16: Respondent issued and signed under penalty of perjury, brake and
27 lamp certificates for the Bureau's 2007 Ford and 2001 Honda when, in fact, the vehicles were not
28 in compliance with Bureau Regulations or the requirements of the Vehicle Code.

1 b. Section 9889.22: Respondent willfully made false statements or entries on the
2 brake and lamp certificates he issued for the Bureau’s 2007 Ford and 2001 Honda.

3 Complainant refers to and incorporates all the facts and allegations contained in paragraphs
4 30 through 36 for the 2007 Ford and paragraphs 37 through 43 for the 2001 Honda, as though set
5 forth fully.

6 **FOURTH CAUSE FOR DISCIPLINE**

7 **(Violations of Regulations)**

8 47. Respondent K&C’s registration is subject to disciplinary action under Code section
9 9884.7, subd. (a)(6), in that Respondent Gama failed to comply with provisions of the California
10 Code of Regulations, title 16, in the following material respects:

11 a. Section 3305, subd. (a): Respondent failed to perform the inspections of the brake
12 systems and inspection and adjustment of the lamp systems on the Bureau’s 2007 Ford and 2001
13 Honda in accordance with the specifications, instructions, and directives issued by the Bureau and
14 the vehicle manufacturer, as set forth in paragraphs 30 through 36 for the Ford and 37 through 43
15 for the Honda above.

16 b. Section 3316, subd. (d)(2): Respondent issued lamp certificates for the Bureau’s
17 2007 Ford and 2001 Honda when all of the lamps, lighting equipment, and/or related electrical
18 systems on those vehicles were not in compliance with Bureau regulations, as set forth in
19 paragraphs 30 through 36 for the Ford and 37 through 43 for the Honda above

20 c. Section 3321, subd. (c)(2): Respondent issued brake certificates for Bureau’s 2007
21 Ford and 2001 Honda when the brake systems on those vehicles had not been thoroughly tested
22 or inspected, as set forth in paragraphs 30 through 36 for the Ford and 37 through 43 for the
23 Honda above.

24 d. Section 3353, subd. (a): Respondent failed to provide the customer an estimate for
25 the inspections before commencing any work, as set forth in paragraphs 30 through 36 for the
26 Ford and 37 through 43 for the Honda above.

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1 e. Section 3373: Respondent provided false or misleading statements or information
2 on the inspection certificates, as set forth in paragraphs 30 through 36 for the Ford and 37 through
3 43 for the Honda above.

4 **FIFTH CAUSE FOR DISCIPLINE**

5 **(Failure to Record Work on an Invoice)**

6 48. Respondent K&C's registration is subject to disciplinary action under Code section
7 9884.8, in that Respondent Gama failed to record on an invoice and describe all service work
8 done and parts supplied with subtotal prices for service work and parts for the brake and lamp
9 inspections for the Bureau's 2007 Ford and 2001 Honda.

10 Complainant refers to and incorporates all the facts and allegations contained in paragraphs
11 30 through 36 for the 2007 Ford and paragraphs 37 through 43 for the 2001 Honda, as though set
12 forth fully.

13 **SIXTH CAUSE FOR DISCIPLINE**

14 **(Failure to Provide an Estimate Before Beginning Repairs)**

15 49. Respondent K&C's registration is subject to disciplinary action under Code section
16 9884.9, subd. (a), in that Respondent Gama failed to provide the customer with a written
17 estimated price for labor and parts necessary for a specific job for the Bureau's 2007 Ford and
18 2001 Honda. Complainant refers to and incorporates all the facts and allegations contained in
19 paragraphs 30 through 36 for the 2007 Ford and paragraphs 37 through 43 for the 2001 Honda, as
20 though set forth fully.

21 **SEVENTH CAUSE FOR DISCIPLINE**

22 **(Failure to Comply with Business and Professions Code)**

23 50. Respondent K&C's brake and lamp station licenses are subject to disciplinary action
24 under Code section 9889.3, subds. (a) and (h), in that Respondent Gama violated sections 9889.16
25 and 9889.22 relating to his licensed activities. Complainant refers to and incorporates all the facts
26 and allegations contained in paragraphs 30 through 36 for the 2007 Ford and paragraphs 37
27 through 43 for the 2001 Honda, as though set forth fully.

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1 **EIGHTH CAUSE FOR DISCIPLINE**

2 **(Violating Brake/Lamp Station Regulations)**

3 51. Respondent K&C's brake and lamp station licenses are subject to disciplinary action
4 under Code section 9889.3, subd. (c), in that Respondent Gama failed to comply with the
5 provisions of California Code of Regulations, title 16, sections 3305, subd. (a), 3316, subd. (d)(2),
6 3321, subd. (c)(2), 3353, subd. (a), and 3373. Complainant refers to and incorporates all the facts
7 and allegations contained in paragraphs 30 through 36 for the 2007 Ford and paragraphs 37
8 through 43 for the 2001 Honda, as though set forth fully.

9 **NINTH CAUSE FOR DISCIPLINE**

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

11 52. Respondent K&C's brake and lamp station licenses are subject to disciplinary action
12 under Code section 9889.3, subd. (d), in that Respondent Gama committed acts involving
13 dishonesty, fraud, or deceit whereby another was injured. Complainant refers to and incorporates
14 all the facts and allegations contained in paragraphs 30 through 36 for the 2007 Ford and
15 paragraphs 37 through 43 for the 2001 Honda, as though set forth fully.

16 **TENTH CAUSE FOR DISCIPLINE**

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

18 53. Respondent K&C's smog check station license is subject to disciplinary action under
19 Health and Safety Code section 44072.2, (d), in that Respondent Gama committed acts involving
20 dishonesty, fraud, or deceit whereby another was injured. Complainant refers to and incorporates
21 all the facts and allegations contained in paragraphs 30 through 36 for the 2007 Ford and
22 paragraphs 37 through 43 for the 2001 Honda, as though set forth fully.

23 **ELEVENTH CAUSE FOR DISCIPLINE**

24 **(Failure to Comply with the Business and Professions Code)**

25 54. Respondent Gama's brake and lamp adjuster licenses are subject to disciplinary
26 action under Code section 9889.3, subds (a) and (h), in that he violated the provisions of sections
27 9884.9, subds. (a), 9889.16 and 9889.22, relating to his licensed activities. Complainant refers to

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1 and incorporates all the facts and allegations contained in paragraphs 30 through 36 for the 2007
2 Ford and paragraphs 37 through 43 for the 2001 Honda, as though set forth fully.

3 **TWELFTH CAUSE FOR DISCIPLINE**

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

5 55. Respondent Gama's brake and lamp adjuster licenses are subject to disciplinary
6 action under Code section 9889.3, subd. (d), in that he committed acts involving dishonesty,
7 fraud, or deceit whereby another was injured. Complainant refers to and incorporates all the facts
8 and allegations contained in paragraphs 30 through 36 for the 2007 Ford and paragraphs 37
9 through 43 for the 2001 Honda, as though set forth fully.

10 **THIRTEENTH CAUSE FOR DISCIPLINE**

11 **(Violations of Regulations)**

12 56. Respondent Gama's brake and lamp adjuster licenses are subject to disciplinary
13 action under Code section 9889.3, subd. (c), in that he failed to comply with the provisions of the
14 California Code of Regulations, title 16, sections 3305, subd. (a), 3316, subd. (d)(2), 3321, subd.
15 (c)(2), 3353, subd. (a), and 3373. Complainant refers to and incorporates all the facts and
16 allegations contained in paragraphs 30 through 35 for the 2007 Ford and paragraphs 36 through
17 43 for the 2001 Honda, as though set forth fully.

18 **FOURTEENTH CAUSE FOR DISCIPLINE**

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

20 57. Respondent Gama's smog check inspection license and smog check technician
21 licenses are subject to disciplinary action under Health and Safety Code section 44072.2, (d), in
22 that Respondent Gama committed acts involving dishonesty, fraud, or deceit whereby another
23 was injured. Complainant refers to and incorporates all the facts and allegations contained in
24 paragraphs 30 through 36 for the 2007 Ford and paragraphs 37 through 43 for the 2001 Honda, as
25 though set forth fully.

26 **OTHER MATTERS**

27 58. Business and Professions Code section 9884.7, subd. (c), states that "the director may
28 suspend, revoke, or place on probation the registration for all places of business operated in this

1 state by an automotive repair dealer upon a finding the automotive repair dealer has, or is,
2 engaged in a course of repeated and willful violations of this chapter, or regulations adopted
3 pursuant to it.”

4 59. Pursuant to Health and Safety Code section 44072.8, if Smog Check Station License
5 Number RC 300424, issued to Respondent Charles Bryan Gama, dba K&C Smog, is revoked or
6 suspended, any additional license issued under Chapter 5 of the Health and Safety Code in the
7 name of said licensee may be likewise revoked or suspended by the Director.

8 60. Pursuant to Health and Safety Code section 44072.8, if Smog Check Inspector
9 License Number EO 642598, issued to Respondent Charles Bryan Gama, is revoked or
10 suspended, any additional license issued under Chapter 5 of the Health and Safety Code in the
11 name of said licensee may be likewise revoked or suspended by the Director.

12 61. Pursuant to Health and Safety Code section 44072.8, if Smog Check Technician
13 License Number EI 642598, issued to Respondent Charles Bryan Gama, is revoked or suspended,
14 any additional license issued under Chapter 5 of the Health and Safety Code in the name of said
15 licensee may be likewise revoked or suspended by the Director.

16 62. Business and Professions Code section 9889 states that “[w]hen any license has been
17 revoked or suspended following a hearing under the provisions of this article [Article 7
18 (commencing with section 9889.1) of the Automotive Repair Act], any additional license under
19 Articles 5 and 6 of this Chapter in the name of the licensee may be likewise revoked or suspended
20 by the Director.”

21 **PRAYER**

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

25 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
26 300424, issued to Charles Bryan Gama, dba K&C Smog;

27 2. Revoking or suspending any other Automotive Repair Dealer Registration issued to
28 Charles Bryan Gama, pursuant to Business and Professions Code section 9884.7, subd. (c);

- 1 3. Revoking or suspending Smog Check Station License Number RC 300424, issued to
2 Charles Bryan Gama, dba K&C Smog;
- 3 4. Revoking or suspending Brake Station License Number BS 300424, Class C, issued
4 to Charles Bryan Gama, dba K&C Smog;
- 5 5. Revoking or suspending Lamp Station License Number LS 300424, Class A, issued
6 to Charles Bryan Gama, dba K&C Smog;
- 7 6. Revoking or suspending any additional license issued under Articles 5 and 6, Chapter
8 20.3 of Division 3 of the Automotive Repair Act in the name of Charles Bryan Gama, pursuant to
9 Business and Professions Code section 9889.9;
- 10 7. Revoking or suspending Smog Check Inspector License No. EO 642598 issued to
11 Charles Bryan Gama;
- 12 8. Revoking or suspending Smog Check Repair Technician License No. EI 642598
13 issued to Charles Bryan Gama;
- 14 9. Revoking or suspending Brake Adjuster License Number BA 642598, Class C, issued
15 to Charles Bryan Gama;
- 16 10. Revoking or suspending Lamp Adjuster License Number LA 642598, Class A, issued
17 to Charles Bryan Gama;
- 18 11. Revoking or suspending any additional licenses issued under Chapter 5 of the Health
19 and Safety Code in the name of Charles Bryan Gama;
- 20 12. Ordering Charles Bryan Gama to pay the Bureau of Automotive Repair the
21 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
22 Professions Code section 125.3; and, if placed on probation, the costs of probation monitoring;
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13. Taking such other and further action as deemed necessary and proper.

DATED: As of Digital Signature Date

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

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