

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

In the Matter of the Accusation Against:

**ABC NICKS AUTOMOTIVE;  
NIKKI LEE EVANS**  
P.O. Box 1128  
Oroville, CA 95965

4280 Lincoln Boulevard  
Oroville, CA 95966-6765

Automotive Repair Dealer Registration No.  
ARD 162848  
Smog Check Station License No. RC 162848

Respondent.

Case No. 79/12-176

OAH No. 2012080778

**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. The typographical errors on page 2, lines 8 and 12, are noted: The expiration date of the Automotive Repair Dealer Registration No. ARD 162848 and the Smog Check Station License No. RC 162848 should be changed from "September 30, 2014" to "September 30, 2013."

This Decision shall become effective 8/12/13.

DATED: July 12, 2013

  
\_\_\_\_\_  
DONALD CHANG  
Assistant Chief Counsel  
Department of Consumer Affairs

1 KAMALA D. HARRIS  
Attorney General of California  
2 JANICE K. LACHMAN  
Supervising Deputy Attorney General  
3 JEFFREY M. PHILLIPS  
Deputy Attorney General  
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Facsimile: (916) 327-8643  
7 *Attorneys for Complainant*

8 **BEFORE THE**  
9 **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. 79/12-176

13 **ABC NICKS AUTOMOTIVE; NIKKI LEE**  
14 **EVANS**

OAH No. 2012080778

15 **P.O. Box 1128**  
16 **Oroville, CA 95965**

**STIPULATED SETTLEMENT AND**  
**DISCIPLINARY ORDER**

17 **4280 Lincoln Boulevard**  
18 **Oroville, CA 95966-6765**

19 **Automotive Repair Dealer Registration No.**  
20 **ARD 162848**

21 **Smog Check Station License No. RC 162848**

22 Respondent.

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

25 **PARTIES**

26 1. John Wallauch (Complainant) is the Chief of the Bureau of Automotive Repair. He  
27 brought this action solely in his official capacity and is represented in this matter by Kamala D.  
28 Harris, Attorney General of the State of California, by Jeffrey M. Phillips, Deputy Attorney  
General.

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1 the right to present evidence and to testify on his own behalf; the right to the issuance of  
2 subpoenas to compel the attendance of witnesses and the production of documents; the right to  
3 reconsideration and court review of an adverse decision; and all other rights accorded by the  
4 California Administrative Procedure Act and other applicable laws.

5 9. Respondent voluntarily, knowingly, and intelligently waives and gives up each and  
6 every right set forth above.

7 CULPABILITY

8 10. Respondent admits the truth of each and every charge and allegation in Amended  
9 Accusation No. 79/12-176.

10 11. Respondent agrees that his Automotive Repair Dealer Registration and Smog Check  
11 Station License are subject to discipline and he agrees to be bound by the Director's probationary  
12 terms as set forth in the Disciplinary Order below.

13 RESERVATION

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

18 CONTINGENCY

19 13. This stipulation shall be subject to approval by the Director of Consumer Affairs or  
20 the Director's designee. Respondent understands and agrees that counsel for Complainant and the  
21 staff of the Bureau of Automotive Repair may communicate directly with the Director and staff of  
22 the Department of Consumer Affairs regarding this stipulation and settlement, without notice to  
23 or participation by Respondent or his counsel. By signing the stipulation, Respondent  
24 understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation  
25 prior to the time the Director considers and acts upon it. If the Director fails to adopt this  
26 stipulation as the Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of  
27 no force or effect, except for this paragraph, it shall be inadmissible in any legal action between  
28

1 the parties, and the Director shall not be disqualified from further action by having considered  
2 this matter.

3 14. The parties understand and agree that facsimile copies of this Stipulated Settlement  
4 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and  
5 effect as the originals.

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

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

15 **DISCIPLINARY ORDER**

16 IT IS HEREBY ORDERED that Automotive Repair Dealer Registration No. ARD 162848  
17 and Smog Check Station License No. RC 162848 issued to Respondent ABC Nicks Automotive;  
18 Nikki Lee Evans (Respondent) is revoked. However, the revocation is stayed as to the  
19 Automotive Repair Dealer Registration No. ARD 162848 only and Respondent is placed on  
20 probation for three (3) years on the following terms and conditions. Smog Check Station License  
21 No. RC 162848 will remain revoked.

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

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

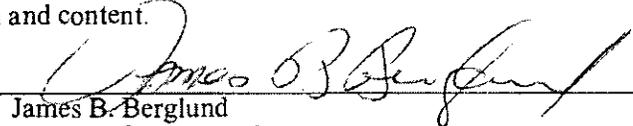
28 //



1 intelligently, and agree to be bound by the Decision and Order of the Director of Consumer  
2 Affairs.

3  
4 DATED: 6-12-13   
5 ABC NICKS AUTOMOTIVE; NIKKI LEE EVANS  
6 Respondent

7 I have read and fully discussed with Respondent ABC Nicks Automotive; Nikki Lee Evans  
8 the terms and conditions and other matters contained in the above Stipulated Settlement and  
9 Disciplinary Order. I approve its form and content.

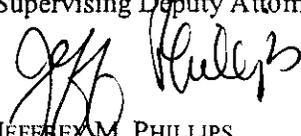
10 DATED: 6/12/13   
11 James B. Berglund  
12 Attorney for Respondent

13 ENDORSEMENT

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

16 Dated: 6/12/13

17 Respectfully submitted,  
18 KAMALA D. HARRIS  
19 Attorney General of California  
20 JANICE K. LACHMAN  
21 Supervising Deputy Attorney General

  
22 JEFFREY M. PHILLIPS  
23 Deputy Attorney General  
24 Attorneys for Complainant

25 SA2012105038  
26 Stipulation.rtf

**Exhibit A**

**Amended Accusation No. 79/12-176**

1 KAMALA D. HARRIS  
Attorney General of California  
2 JANICE K. LACHMAN  
Supervising Deputy Attorney General  
3 JEFFREY M. PHILLIPS  
Deputy Attorney General  
4 State Bar No. 154990  
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Sacramento, CA 94244-2550  
6 Telephone: (916) 324-6292  
Facsimile: (916) 327-8643  
7 *Attorneys for Complainant*

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

12 In the Matter of the First Amended Accusation Against:

Case No. 79/12-176

13 **ABC NICKS AUTOMOTIVE**  
14 **4280 Lincoln Boulevard**  
15 **Oroville, CA 95966-6765**  
16 **Mailing Address:**  
17 **P.O. Box 1128**  
18 **Oroville, CA 95965**  
19 **NIKKI LEE EVANS, OWNER**  
20 **Automotive Repair Dealer Reg. No. ARD 162848**  
21 **Smog Check Station License No. RC 162848**

OAH No. 2012080778

**FIRST AMENDED  
ACCUSATION**

**SMOG CHECK**

18 and

19 **POOMPIBOON JIAMSAKUL BELCHER**  
20 **1083 Ohio Street**  
21 **Gridley, CA 95948**  
22 **Advanced Emission Specialist Technician License**  
23 **No. EA 631163 (to be redesignated upon renewal as**  
24 **EO 631163 and/or EI 631163)**

25 Respondents.

26 Complainant alleges:

27 **PARTIES**

28 1. John Wallauch ("Complainant") brings this First Amended Accusation solely in his  
official capacity as the Chief of the Bureau of Automotive Repair ("Bureau"), Department of

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1 Consumer Affairs. This First Amended Accusation replaces in its entirety Accusation No.  
2 79/12-176 filed on June 27, 2012.

3 **Automotive Repair Dealer Registration**

4 2. On or about September 20, 1991, the Bureau issued Automotive Repair Dealer  
5 Registration Number ARD 162848 ("registration") to Nikki Lee Evans ("Respondent ABC"),  
6 doing business as ABC Nicks Automotive. The registration was in full force and effect at all  
7 times relevant to the charges brought herein and will expire on September 30, 2013, unless  
8 renewed.

9 **Smog Check Station License**

10 3. On or about August 22, 1997, the Bureau issued Smog Check Station License  
11 Number RC 162848 ("station license") to Respondent ABC. The station license was in full force  
12 and effect at all times relevant to the charges brought herein and will expire on September 30,  
13 2013, unless renewed.

14 **Technician License**

15 4. On or about July 13, 2009, the Bureau issued Advanced Emission Specialist  
16 Technician License Number EA 631163 ("technician license") to Poompi boon Jiamsakul Belcher  
17 ("Respondent Belcher"). Respondent's technician license is due to expire on July 31, 2013.  
18 Upon renewal of the license, the license will be redesignated as EO 631163 and/or EI 631163.<sup>1</sup>

19 **JURISDICTION**

20 5. Business and Professions Code ("Code") section 9884.7 provides that the Director  
21 may revoke an automotive repair dealer registration.

22 6. Code section 9884.13 provides, in pertinent part, that the expiration of a valid  
23 registration shall not deprive the Director of jurisdiction to proceed with a disciplinary proceeding  
24 against an automotive repair dealer or to render a decision temporarily or permanently  
25 invalidating (suspending or revoking) a registration.

26 <sup>1</sup> 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 (c) Notwithstanding subdivision (b), the director may invalidate  
2 temporarily or permanently, the registration for all places of business operated in this  
3 state by an automotive repair dealer upon a finding that the automotive repair dealer  
4 has, or is, engaged in a course of repeated and willful violations of this chapter, or  
5 regulations adopted pursuant to it.

6 12. Code section 477 provides, in pertinent part, that "Board" includes "bureau,"  
7 "commission," "committee," "department," "division," "examining committee," "program," and  
8 "agency." "License" includes certificate, registration or other means to engage in a business or  
9 profession regulated by the Code.

10 13. Section 44072.2 of the Health and Safety Code states, in pertinent part:

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

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

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

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

### 21 COST RECOVERY

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

### 26 UNDERCOVER OPERATION – AUGUST 17, 2011

27 15. On August 17, 2011, a Bureau undercover operator ("operator") drove a Bureau-  
28 documented 1997 Chevrolet Astro to Respondent ABC's facility and requested a smog  
29 inspection. The vehicle could not pass the visual portion of a smog inspection because the  
30 vehicle's evaporation canister ("EVAP canister") was missing. The operator signed a work order  
31 and received a copy of Estimate No. [REDACTED] prior to the smog inspection. Respondent Belcher  
32 performed the smog inspection and issued electronic Certificate of Compliance No. [REDACTED]

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1 for that vehicle. The operator paid Respondent ABC \$40 for the smog inspection and received  
2 Invoice No. [REDACTED] and a copy of the Vehicle Inspection Report ("VIR").

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Misleading Statements)**

5 16. Respondent ABC has subjected his registration to discipline under Code section  
6 9884.7, subdivision (a)(1), in that on or about August 17, 2011, he made statements which he  
7 knew or which by exercise of reasonable care he should have known were untrue or misleading  
8 when he issued electronic Certificate of Compliance No. [REDACTED] for the 1997 Chevrolet  
9 Astro, certifying that the vehicle was in compliance with applicable laws and regulations when, in  
10 fact, the vehicle's EVAP canister was missing.

11 **SECOND CAUSE FOR DISCIPLINE**

12 **(Fraud)**

13 17. Respondent ABC has subjected his registration to discipline under Code section  
14 9884.7, subdivision (a)(4), in that on or about August 17, 2011, he committed acts which  
15 constitute fraud by issuing electronic Certificate of Compliance No. [REDACTED] for the 1997  
16 Chevrolet Astro, without performing a bona fide inspection of the emission control devices and  
17 systems on that vehicle, thereby depriving the People of the State of California of the protection  
18 afforded by the Motor Vehicle Inspection Program.

19 **THIRD CAUSE FOR DISCIPLINE**

20 **(Violation of the Motor Vehicle Inspection Program)**

21 18. Respondent ABC has subjected his station license to discipline under Health and  
22 Safety Code section 44072.2, subdivision (a), in that on or about August 17, 2011, regarding the  
23 1997 Chevrolet Astro, he violated sections of that Code, as follows:

24 a. **Section 44012, subdivision (a):** Respondent ABC failed to determine that all  
25 emission control devices and systems required by law were installed and functioning correctly in  
26 accordance with test procedures.

27 b. **Section 44012, subdivision (f):** Respondent ABC failed to perform emission control  
28 tests on that vehicle in accordance with procedures prescribed by the department.

1 c. **Section 44015, subdivision (b):** Respondent ABC issued electronic Certificate of  
2 Compliance No. [REDACTED] without properly testing and inspecting the vehicle to determine if  
3 it was in compliance with section 44012 of that Code.

4 **FOURTH CAUSE FOR DISCIPLINE**

5 **(Violations of Regulations Pursuant to the Motor Vehicle Inspection Program)**

6 19. Respondent ABC has subjected his station license to discipline under Health and  
7 Safety Code section 44072.2, subdivision (c), in that on or about August 17, 2011, regarding the  
8 1997 Chevrolet Astro, he violated sections of the California Code of Regulations, title 16, as  
9 follows:

10 a. **Section 3340.35, subdivision (c):** Respondent ABC issued electronic Certificate of  
11 Compliance No. [REDACTED] even though that vehicle had not been inspected in accordance with  
12 section 3340.42 of that Code.

13 b. **Section 3340.42:** Respondent ABC failed to conduct the required smog tests and  
14 inspections on that vehicle in accordance with the Bureau's specifications.

15 **FIFTH CAUSE FOR DISCIPLINE**

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

17 20. Respondent ABC subjected his station license to discipline under Health and Safety  
18 Code section 44072.2, subdivision (d), in that on or about August 17, 2011, regarding the 1997  
19 Chevrolet Astro, he committed acts involving dishonesty, fraud or deceit whereby another was  
20 injured by issuing electronic Certificate of Compliance No. [REDACTED] to that vehicle without  
21 performing a bona fide inspection of the emission control devices and systems on the vehicle,  
22 thereby depriving the People of the State of California of the protection afforded by the Motor  
23 Vehicle Inspection Program.

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1 SIXTH CAUSE FOR DISCIPLINE

2 (Violations of the Motor Vehicle Inspection Program)

3 21. Respondent Belcher has subjected his technician license to discipline under Health  
4 and Safety Code section 44072.2, subdivision (a), in that on or about August 17, 2011, regarding  
5 the 1997 Chevrolet Astro, he violated sections of that Code, as follows:

6 a. **Section 44012, subdivision (a):** Respondent Belcher failed to determine that all  
7 emission control devices and systems required by law were installed and functioning correctly in  
8 accordance with test procedures.

9 b. **Section 44012, subdivision (f):** Respondent Belcher failed to perform emission  
10 control tests on that vehicle in accordance with procedures prescribed by the department.

11 c. **Section 44032:** Respondent Belcher failed to perform tests of the emission control  
12 devices and systems on that vehicle in accordance with section 44012 of that Code.

13 SEVENTH CAUSE FOR DISCIPLINE

14 (Violations of Regulations Pursuant to the Motor Vehicle Inspection Program)

15 22. Respondent Belcher has subjected his technician license to discipline under Health  
16 and Safety Code section 44072.2, subdivision (c), in that on or about August 17, 2011, regarding  
17 the 1997 Chevrolet Astro, he violated sections of the California Code of Regulations, title 16, as  
18 follows:

19 a. **Section 3340.30, subdivision (a):** Respondent Belcher failed to inspect and test that  
20 vehicle in accordance with Health and Safety Code section 44012.

21 b. **Section 3340.41, subdivision (c):** Respondent Belcher entered false information into  
22 the Emission Inspection System ("EIS") for electronic Certificate of Compliance No.  
23 [REDACTED] by entering "Pass" for the visual inspection portion of the smog inspection when, in  
24 fact, the vehicle could not pass the visual portion of the inspection because the vehicle's EVAP  
25 canister was missing.

26 c. **Section 3340.42:** Respondent Belcher failed to conduct the required smog tests and  
27 inspections on that vehicle in accordance with the Bureau's specifications.

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1 **EIGHTH CAUSE FOR DISCIPLINE**

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

3 23. Respondent Belcher has subjected his technician license to discipline under Health  
4 and Safety Code section 44072.2, subdivision (d), in that on or about August 17, 2011, regarding  
5 the 1997 Chevrolet Astro, he committed acts involving dishonesty, fraud or deceit whereby  
6 another was injured by issuing electronic Certificate of Compliance No. [REDACTED] without  
7 performing a bona fide inspection of the emission control devices and systems on that vehicle,  
8 thereby depriving the People of the State of California of the protection afforded by the Motor  
9 Vehicle Inspection Program.

10 **FACTUAL BACKGROUND**

11 24. The Bureau conducted a detailed review of the Vehicle Information Database  
12 (“VID”) for all smog inspections performed at Respondent ABC’s facility for the period June 6,  
13 2011, through September 9, 2011. The Bureau found that Respondent Belcher performed all of  
14 the smog inspections for this time period. Respondent Belcher had inspected and tested the 6  
15 vehicles set forth in Table 1, below, that failed or would have failed the smog inspection due to  
16 too many incomplete OBD-II monitors or the Malfunction Indicator Light (“MIL”) had been  
17 commanded on by the Power Train Control Module (“PCM”), as more particularly set forth in  
18 Table 1, below. The Bureau discovered that Respondent Belcher had knowingly entered false  
19 information into the EIS regarding the functional testing of the OBD II for those vehicles.  
20 Vehicles 1 through 6 received smog certificates; however, they had not been tested during the  
21 OBD II functional test.

22 **TABLE 1**

23

Date & Time of Inspection	Vehicle Certified & License No.	Certificate No.	Details
1. 6/7/2011 0839 hours	1997 Acura Integra, License No. 6BUX239	OE027191C	Vehicle should have failed due to too many incomplete monitors.
1a. 6/9/2011 1514 hours	1997 Acura Integra, License No. 6BUX239	OE190306C	Vehicle should have failed due to too many incomplete monitors.

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<b>Date &amp; Time of Inspection</b>	<b>Vehicle Certified &amp; License No.</b>	<b>Certificate No.</b>	<b>Details</b>
2. 6/22/2011 1107 hours	1998 Volkswagen Jetta, License No. 4TUD591	OE190332C	Vehicle should have failed due to too many incomplete monitors.
3. 6/28/2011 1057 hours	1998 Dodge Ram 2500 Diesel, License No. 7G16537	OE190347C	Vehicle should have failed due to the MIL being commanded on by the PCM
4. 8/1/2011 1124 hours	1999 Honda Accord, License No. 5CPS529	OE676578C	Vehicle should have failed due to too many incomplete monitors.
5. 8/25/2011 0859 hours	1997 Mercury Tracer, License No. 3UVH099	OG058546C	Vehicle should have failed due to the MIL being commanded on by the PCM
6. 6/17/2011 1053 hours	2000 Honda Civic, License No. 5BYF877	OE190321C	Vehicle should have failed all portions of the smog inspection due to an engine change, which would require that all monitors had to be completed before the vehicle could pass the inspection.

**NINTH CAUSE FOR DISCIPLINE**

**(Misleading Statements)**

25. Respondent ABC has subjected his registration to discipline under Code section 9884.7, subdivision (a)(1), in that between June 7, 2011, through August 25, 2011, he made statements which he knew or which by exercise of reasonable care he should have known were untrue or misleading as follows: Respondent ABC certified that vehicles 1 through 6, identified in Table 1, above, had passed inspection and were in compliance with applicable laws and regulations. In fact, Respondent ABC issued certificates of compliance to those vehicles without testing or inspecting those vehicles as required by Health and Safety Code section 44012.

**TENTH CAUSE FOR DISCIPLINE**

**(Fraud)**

26. Respondent ABC has subjected its registration to discipline under Code section 9884.7, subdivision (a)(4), in that between June 7, 2011, through August 25, 2011, he committed acts which constitute fraud by issuing electronic certificates of compliance for vehicles 1 through

1 6, identified in Table 1, above, without performing bona fide inspections of the emission control  
2 devices and systems on those vehicles, thereby depriving the People of the State of California of  
3 the protection afforded by the Motor Vehicle Inspection Program.

4 **ELEVENTH CAUSE FOR DISCIPLINE**

5 **(Violation of the Motor Vehicle Inspection Program)**

6 27. Respondent ABC has subjected his station license to discipline under Health and  
7 Safety Code section 44072.2, subdivision (a), in that between June 7, 2011, through August 25,  
8 2011, regarding vehicles 1 through 6, identified in Table 1, above, he violated sections of that  
9 Code, as follows:

10 a. **Section 44012:** Respondent ABC failed to ensure that the emission control tests were  
11 performed on those vehicles in accordance with procedures prescribed by the department.

12 b. **Section 44015:** Respondent ABC issued electronic certificates of compliance for  
13 those vehicles without ensuring that the vehicles were properly tested and inspected to determine  
14 if they were in compliance with Health and Safety Code section 44012.

15 **TWELFTH CAUSE FOR DISCIPLINE**

16 **(Violations of Regulations Pursuant to the Motor Vehicle Inspection Program)**

17 28. Respondent ABC has subjected his station license to discipline under Health and  
18 Safety Code section 44072.2, subdivision (c), in that between June 7, 2011, through August 25,  
19 2011, regarding vehicles 1 through 6, identified in Table 1, above, he violated sections of the  
20 California Code of Regulations, title 16, as follows:

21 a. **Section 3340.35, subdivision (c):** Respondent ABC issued electronic certificates of  
22 compliance even though those vehicles had not been inspected in accordance with section  
23 3340.42 of that Code.

24 b. **Section 3340.42:** Respondent ABC failed to conduct the required smog tests and  
25 inspections on those vehicles in accordance with the Bureau's specifications.

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1 **THIRTEENTH CAUSE FOR DISCIPLINE**

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

3 29. Respondent ABC has subjected his station license to discipline under Health and  
4 Safety Code section 44072.2, subdivision (d), in that between June 7, 2011, through August 25,  
5 2011, regarding vehicles 1 through 6, identified in Table 1, above, it committed acts involving  
6 dishonesty, fraud or deceit whereby another was injured by issuing electronic certificates of  
7 compliance for those vehicles without performing bona fide inspections of the emission control  
8 devices and systems on the vehicles, thereby depriving the People of the State of California of the  
9 protection afforded by the Motor Vehicle Inspection Program.

10 **FOURTEENTH CAUSE FOR DISCIPLINE**

11 **(Violations of the Motor Vehicle Inspection Program)**

12 30. Respondent Belcher has subjected his technician license to discipline under Health  
13 and Safety Code section 44072.2, subdivision (a), in that between June 7, 2011, through August  
14 25, 2011, regarding vehicles 1 through 6, identified in Table 1, above, Respondent Belcher failed  
15 to comply with section 44012 of that Code in a material respect, as follows: Respondent Belcher  
16 failed to perform the emission control tests on vehicles 1 through 6, in accordance with  
17 procedures prescribed by the department.

18 **FIFTEENTH CAUSE FOR DISCIPLINE**

19 **(Violations of Regulations Pursuant to the Motor Vehicle Inspection Program)**

20 31. Respondent Belcher has subjected his technician license to discipline under Health  
21 and Safety Code section 44072.2, subdivision (c), in that between June 7, 2011, through August  
22 25, 2011, regarding vehicles 1 through 6, identified in Table 1, above, he violated sections of the  
23 California Code of Regulations, title 16, as follows:

24 a. **Section 3340.30, subdivision (a):** Respondent Belcher failed to inspect and test  
25 those vehicles in accordance with Health and Safety Code section 44012.

26 b. **Section 3340.42:** Respondent Belcher failed to conduct the required smog tests and  
27 inspections on those vehicles in accordance with the Bureau's specifications.

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1 c. On October 13, 2010, the Bureau issued Citation No. M2011-0411 to Respondent  
2 Belcher against his technician license for violations of Health and Safety Code section 44032,  
3 (qualified technicians shall perform tests of emission control systems and devices in accordance  
4 with section 44012 of that Code) and California Code of Regulations, title 16, ("Regulation")  
5 section 3340.30, subdivision (a) (qualified technicians shall inspect, test, and repair vehicles in  
6 accordance with sections 44012 and 44035 of the Health and Safety Code, and Regulation section  
7 3340.42). Respondent Belcher issued a certificate of compliance to a Bureau vehicle with a non-  
8 functional exhaust gas recirculation valve. Respondent Belcher was required to attend a 68-hour  
9 training course. Respondent Belcher complied with this citation on December 3, 2010.

10 **OTHER MATTERS**

11 34. Under Code section 9884.7, subdivision (c), the director may invalidate temporarily  
12 or permanently or refuse to validate, the registrations for all places of business operated in this  
13 state by Nikki Lee Evans upon a finding that he has, or is, engaged in a course of repeated and  
14 willful violations of the laws and regulations pertaining to an automotive repair dealer.

15 35. Under Health and Safety Code section 44072.8, if Smog Check Test Only Station  
16 License Number RC 162848, issued to Nikki Lee Evans, doing business as ABC Nicks  
17 Automotive, is revoked or suspended, any additional license issued under this chapter in the name  
18 of said licensee may be likewise revoked or suspended by the director.

19 36. Under Health and Safety Code section 44072.8, if Poompiboon Jiamsakul Belcher's  
20 technician license, currently designated as EA 631163, but upon renewal will be redesignated as  
21 EO 631163 and/or EI 631163, is revoked or suspended, any additional license issued under this  
22 chapter in the name of said licensee may be likewise revoked or suspended by the Director.

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1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
3 and that following the hearing, the Director of Consumer Affairs issue a decision:

4 1. Revoking, suspending or placing on probation Automotive Repair Dealer Registration  
5 Number ARD 162848, issued to Nikki Lee Evans, doing business as ABC Nicks Automotive;

6 2. Revoking, suspending, or placing on probation any other automotive repair dealer  
7 registration issued to Nikki Lee Evans;

8 3. Revoking or suspending Smog Check Station License Number RC 162848, issued to  
9 Nikki Lee Evans, ABC Nicks Automotive;

10 4. Revoking or suspending any additional license issued under Chapter 5 of the Health  
11 and Safety Code in the name of Nikki Lee Evans;

12 5. Revoking or suspending Poompiboon Jiamsakul Belcher's smog technician license,  
13 currently designated as EA 631163, but which, upon renewal, will be redesignated as EO 631163  
14 and/or EI 631163;

15 6. Revoking or suspending any additional license issued under Chapter 5 of the Health  
16 and Safety Code in the name of Poompiboon Jiamsakul Belcher;

17 7. Ordering Nikki Lee Evans and Poompiboon Jiamsakul Belcher to pay the Bureau of  
18 Automotive Repair the reasonable costs of the investigation and enforcement of this case,  
19 pursuant to Business and Professions Code section 125.3; and,

20 8. Taking such other and further action as deemed necessary and proper.

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22 DATED: May 28 2013

  
JOHN WALLAUCH  
Chief  
Bureau of Automotive Repair  
Department of Consumer Affairs  
State of California  
Complainant

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