

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

In the Matter of the Accusation Against:

MIGUEL PEREZ
QUALITY TUNE-UP #40
3846 Fruitridge Road
Sacramento, CA 95820-4858

Automotive Repair Dealer Registration
No. ARD 183857
Smog Check Station License
No. RC 183857
Advanced Emission Specialist Technician
License No. EA 314602

Case No. 79/12-83

OAH No. 2012031135

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

1/14/13

DATED: December 18, 2012


DOREATHEA JOHNSON
Deputy Director, Legal Affairs
Department of Consumer Affairs

1 KAMALA D. HARRIS
Attorney General of California
2 JANICE K. LACHMAN
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9 **BEFORE THE**
DEPARTMENT OF CONSUMER AFFAIRS
10 **FOR THE BUREAU OF AUTOMOTIVE REPAIR**
STATE OF CALIFORNIA

11
12 **In the Matter of the Accusation Against:**

Case No. 79/12-83

13
14 **MIGUEL PEREZ**
QUALITY TUNE-UP #40
15 **3846 Fruitridge Road**
Sacramento, CA 95820-4858

OAH No. 2012031135

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

16 **Automotive Repair Dealer Registration**
No. ARD 183857
17 **Smog Check Station License No. RC 183857**
Advanced Emission Specialist Technician
18 **License No. EA 314602**

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20 Respondents.

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

25 **PARTIES**

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

3 2. Respondent Miguel Perez, Quality Tune-Up #40 (Respondent), is representing
4 himself in this proceeding and has chosen not to exercise his right to be represented by counsel.

5 3. On or about January 1, 1995, the Bureau issued Automotive Repair Dealer
6 Registration No. ARD 183857 to Respondent. The Automotive Repair Dealer Registration was
7 in full force and effect at all times relevant to the charges brought in Accusation No. 79/12-83 and
8 will expire on May 31, 2013, unless renewed.

9 4. On or about May 31, 1995, the Bureau issued Smog Check Station License No. RC
10 183857 to Respondent. The Smog Check Station License was in full force and effect at all times
11 relevant to the charges brought in Accusation No. 79/12-83 and will expire on May 31, 2013,
12 unless renewed.

13 5. On a date uncertain in 1996, the Bureau issued Advanced Emission Specialist
14 Technician License No. EA 314602 ("technician license") to Respondent. The technician license
15 was in full force and effect at all times relevant to the charges brought in Accusation
16 No. 79/12-83 and will expire on October 31, 2012 unless renewed.

17 JURISDICTION

18 6. Accusation No. 79/12-83 was filed before the Director of Consumer Affairs
19 (Director), for the Bureau, and is currently pending against Respondent. The Accusation and all
20 other statutorily required documents were properly served on Respondent on February 29, 2012.
21 Respondent timely filed his Notice of Defense contesting the Accusation.

22 7. A copy of Accusation No. 79/12-83 is attached as exhibit A and incorporated herein
23 by reference.

24 ADVISEMENT AND WAIVERS

25 8. Respondent has carefully read and understands the charges and allegations in
26 Accusation No. 79/12-83. Respondent has also carefully read and understands the effects of this
27 Stipulated Settlement and Disciplinary Order.

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1 person or in writing as prescribed by the Bureau of Automotive Repair, on a schedule set by the
2 Bureau, but no more frequently than each quarter, on the methods used and success achieved in
3 maintaining compliance with the terms and conditions of probation.

4 **5. Report Financial Interest.** Within 30 days of the effective date of this action, report
5 any financial interest which any partners, officers, or owners of the Respondent facility may have
6 in any other business required to be registered pursuant to section 9884.6 of the Business and
7 Professions Code.

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

10 **7. Jurisdiction.** If an accusation is filed against Respondent during the term of
11 probation, the Director of Consumer Affairs shall have continuing jurisdiction over this matter
12 until the final decision on the accusation, and the period of probation shall be extended until such
13 decision.

14 **8. Violation of Probation.** Should the Director of Consumer Affairs determine that
15 Respondent has failed to comply with the terms and conditions of probation, the Department may,
16 after giving notice and opportunity to be heard, revoke or suspend the Automotive Dealer
17 Registration or Advanced Emissions Specialists License or both.

18 **9. False and Misleading Advertising.** If the accusation involves false and misleading
19 advertising, during the period of probation, Respondent shall submit any proposed advertising
20 copy, whether revised or new, to the Bureau at least thirty (30) days prior to its use.

21 **10. Continuing Education Courses.** During the period of probation, Respondent shall
22 attend and successfully complete a sixty-eight (68) hour Bureau Certified Licensed inspector
23 training course in diagnosis and repair of emission systems failures and engine performance,
24 applicable to the class of license held by the Respondent. The course shall be completed and
25 proof of completion submitted to the Bureau within one hundred-eighty (180) days of the
26 effective date of this decision and order. If proof of completion of the course is not furnished to
27 the Bureau within the one hundred-eighty (180) day period, Respondents' registration and
28 licenses shall be immediately suspended until the proof is received by the Bureau.

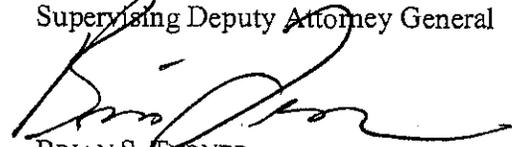
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ENDORSEMENT

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

DATED: 9/28/12

Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
JANICE K. LACHMAN
Supervising Deputy Attorney General



BRIAN S. FURNER
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 79/12-83

1 KAMALA D. HARRIS
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2 ARTHUR D. TAGGART
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3 PATRICK M. KENADY
Deputy Attorney General
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7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against: 12 QUALITY TUNE-UP #40 13 3846 Fruitridge Road 14 Sacramento, CA 95820-4858 15 MIGUEL PEREZ, OWNER 16 Automotive Repair Dealer Registration No. 17 ARD 183857 18 Smog Check Station License No. RC 183857, 19 and 20 MIGUEL PEREZ 21 7686 Bluebook Way 22 Sacramento, CA 95823 23 Advanced Emission Specialist Technician 24 License No. EA 314602 25 Respondents.	Case No. 79/12-83 ACCUSATION SMOG CHECK
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22 Complainant alleges:

23 **PARTIES**

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

26 **Automotive Repair Dealer Registration**

27 2. On a date uncertain in 1995, the Bureau issued Automotive Repair Dealer
28 Registration Number ARD 183857 ("registration") to Miguel Perez ("Respondent"), doing

1 business as Quality Tune-Up #40. The registration was in full force and effect at all times
2 relevant to the charges brought herein and will expire on May 31, 2012, unless renewed.

3 **Smog Check Station License**

4 3. On or about May 31, 1995, the Bureau issued Smog Check Station License Number
5 RC 183857 ("station license") to Respondent. The station license was in full force and effect at
6 all times relevant to the charges brought herein and will expire on May 31, 2012, unless renewed.

7 **Advanced Emission Specialist Technician License**

8 4. On a date uncertain in 1996, the Bureau issued Advanced Emission Specialist
9 Technician License Number EA 314602 ("technician license") to Respondent. The technician
10 license was in full force and effect at all times relevant to the charges brought herein and will
11 expire on October 31, 2012, unless renewed.

12 **STATUTORY PROVISIONS**

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

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

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

21 (4) Any other conduct that constitutes fraud.

22 (b) Except as provided for in subdivision (c), if an automotive repair
23 dealer operates more than one place of business in this state, the director pursuant to
24 subdivision (a) shall only suspend, revoke, or place on probation the registration of
25 the specific place of business which has violated any of the provisions of this chapter.
26 This violation, or action by the director, shall not affect in any manner the right of the
27 automotive repair dealer to operate his or her other places of business.

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

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1 6. Code section 9884.13 provides, 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 7. Code section 477 provides, in pertinent part, that "Board" includes "bureau,"
6 "commission," "committee," "department," "division," "examining committee," "program," and
7 "agency." "License" includes certificate, registration or other means to engage in a business or
8 profession regulated by the Code.

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

12 9. Section 44072.2 of the Health and Safety Code states, in pertinent part:

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

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

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

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

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

27 11. Section 44072.8 of the Health and Safety Code states:

28 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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COST RECOVERY

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

UNDERCOVER OPERATION – JUNE 6, 2011

13. On or about June 6, 2011, a Bureau undercover operator drove a Bureau-documented 1995 Chevrolet Caprice to Respondent's facility and requested a smog inspection. The vehicle could not pass the visual portion of a smog inspection because the vehicle's positive crankcase ventilation system ("PCV") was missing. The operator signed a work order but did not receive copy of the document prior to the smog inspection. Carlos Rios, a licensed technician, performed the smog inspection and issued electronic Certificate of Compliance No. OE062122C for that vehicle. The operator paid \$59.99 for the smog inspection and received a copy of Invoice No. 40-44202 and the Vehicle Inspection Report ("VIR").

FIRST CAUSE FOR DISCIPLINE

(Misleading Statements)

14. Respondent has subjected his registration to discipline under Code section 9884.7, subdivision (a)(1), in that on or about June 6, 2011, he made statements which he knew or which by exercise of reasonable care he should have known were untrue or misleading when he issued electronic Certificate of Compliance No. OE062122C for the 1995 Chevrolet Caprice, certifying that the vehicle was in compliance with applicable laws and regulations when, in fact, the vehicle's PCV system was missing.

SECOND CAUSE FOR DISCIPLINE

(Fraud)

15. Respondent has subjected his registration to discipline under Code section 9884.7, subdivision (a)(4), in that on or about June 6, 2011, he committed acts which constitute fraud by issuing electronic Certificate of Compliance No. OE062122C for the 1995 Chevrolet Caprice without performing a bona fide inspection of the emission control devices and systems on that

1 vehicle, thereby depriving the People of the State of California of the protection afforded by the
2 Motor Vehicle Inspection Program.

3 **THIRD CAUSE FOR DISCIPLINE**

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

5 16. Respondent has subjected his station license to discipline under Health and Safety
6 Code section 44072.2, subdivision (a), in that on or about June 6, 2011, regarding the 1995
7 Chevrolet Caprice, he violated sections of that Code, as follows:

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

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

13 c. **Section 44015, subdivision (b):** Respondent issued electronic Certificate of
14 Compliance No. OE062122C without properly testing and inspecting the vehicle to determine if it
15 was in compliance with section 44012 of that Code.

16 **FOURTH CAUSE FOR DISCIPLINE**

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

18 17. Respondent has subjected his station license to discipline under Health and Safety
19 Code section 44072.2, subdivision (c), in that on or about June 6, 2011, regarding the 1995
20 Chevrolet Caprice, he violated sections of the California Code of Regulations, title 16, as follows:

21 a. **Section 3340.35, subdivision (c):** Respondent issued electronic Certificate of
22 Compliance No. OE062122C even though that vehicle had not been inspected in accordance with
23 section 3340.42 of that Code.

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

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1 **FIFTH CAUSE FOR DISCIPLINE**

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

3 18. Respondent subjected his station license to discipline under Health and Safety Code
4 section 44072.2, subdivision (d), in that on or about June 6, 2011, regarding the 1995 Chevrolet
5 Caprice, he committed acts involving dishonesty, fraud or deceit whereby another was injured by
6 issuing electronic Certificate of Compliance No. OE062122C for that vehicle without performing
7 a bona fide inspection of the emission control devices and system on the vehicle, thereby
8 depriving the People of the State of California of the protection afforded by the Motor Vehicle
9 Inspection Program.

10 **UNDERCOVER OPERATION – JUNE 20, 2011**

11 19. On or about June 20, 2011, a Bureau undercover operator drove a Bureau-
12 documented 1996 Pontiac Grand Prix to Respondent's facility and requested a smog inspection.
13 The vehicle could not pass the visual portion of a smog inspection because the vehicle's
14 evaporative emissions system ("EVAP") was missing. The operator signed a work order but did
15 not receive copy of the document prior to the smog inspection. Respondent performed the smog
16 inspection and issued electronic Certificate of Compliance No. OE305106C for that vehicle. The
17 operator paid \$49.95 for the smog inspection and received a copy of Invoice No. 44480 and the
18 VIR.

19 **SIXTH CAUSE FOR DISCIPLINE**

20 **(Misleading Statements)**

21 20. Respondent has subjected his registration to discipline under Code section 9884.7,
22 subdivision (a)(1), in that on or about June 20, 2011, he made statements which he knew or which
23 by exercise of reasonable care he should have known were untrue or misleading when he issued
24 electronic Certificate of Compliance No. OE305106C for the 1996 Pontiac Grand Prix, certifying
25 that the vehicle was in compliance with applicable laws and regulations when, in fact, the
26 vehicle's EVAP system was missing.

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1 SEVENTH CAUSE FOR DISCIPLINE

2 (Fraud)

3 21. Respondent has subjected his registration to discipline under Code section 9884.7,
4 subdivision (a)(4), in that on or about June 20, 2011, he committed acts which constitute fraud by
5 issuing electronic Certificate of Compliance No. OE305106C for the 1996 Pontiac Grand Prix
6 without performing a bona fide inspection of the emission control devices and systems on that
7 vehicle, thereby depriving the People of the State of California of the protection afforded by the
8 Motor Vehicle Inspection Program.

9 EIGHTH CAUSE FOR DISCIPLINE

10 (Violation of the Motor Vehicle Inspection Program)

11 22. Respondent has subjected his station license to discipline under Health and Safety
12 Code section 44072.2, subdivision (a), in that on or about June 20, 2011, regarding the 1996
13 Grand Prix, he violated sections of that Code, as follows:

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

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

19 c. **Section 44015, subdivision (b):** Respondent issued electronic Certificate of
20 Compliance No. OE305106C without properly testing and inspecting the vehicle to determine if it
21 was in compliance with section 44012 of that Code.

22 NINTH CAUSE FOR DISCIPLINE

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

24 23. Respondent has subjected his station license to discipline under Health and Safety
25 Code section 44072.2, subdivision (c), in that on or about June 20, 2011, regarding the 1996
26 Pontiac Grand Prix, he violated sections of the California Code of Regulations, title 16, as
27 follows:

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1 a. **Section 3340.35, subdivision (c):** Respondent issued electronic Certificate of
2 Compliance No. OE305106C even though that vehicle had not been inspected in accordance with
3 section 3340.42 of that Code.

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

6 **TENTH CAUSE FOR DISCIPLINE**

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

8 24. Respondent subjected his station license to discipline under Health and Safety Code
9 section 44072.2, subdivision (d), in that on or about June 20, 2011, regarding the 1996 Pontiac
10 Grand Prix, he committed acts involving dishonesty, fraud or deceit whereby another was injured
11 by issuing electronic Certificate of Compliance No. OE305106C for that vehicle without
12 performing a bona fide inspection of the emission control devices and system on the vehicle,
13 thereby depriving the People of the State of California of the protection afforded by the Motor
14 Vehicle Inspection Program.

15 **ELEVENTH CAUSE FOR DISCIPLINE**

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

17 25. Respondent has subjected his technician license to discipline under Health and Safety
18 Code section 44072.2, subdivision (a), in that on or about June 20, 2011, regarding the 1996
19 Pontiac Grand Prix, he violated sections of that Code, as follows:

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

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

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

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1 **TWELFTH CAUSE FOR DISCIPLINE**

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

3 26. Respondent has subjected his technician license to discipline under Health and Safety
4 Code section 44072.2, subdivision (c), in that on or about June 20, 2011, regarding the 1996
5 Pontiac Grand Prix, he violated sections of the California Code of Regulations, title 16, as
6 follows:

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

9 b. **Section 3340.41, subdivision (c):** Respondent entered false information into the EIS
10 for electronic Certificate of Compliance No. OE305106C by entering "Pass" for the visual
11 inspection of the fuel evaporative controls when, in fact, the vehicle could not pass that portion of
12 the inspection because the vehicle's EVAP was missing.

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

15 **THIRTEENTH CAUSE FOR DISCIPLINE**

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

17 27. Respondent has subjected his technician license to discipline under Health and Safety
18 Code section 44072.2, subdivision (d), in that on or about June 20, 2011, regarding the 1996
19 Pontiac Grand Prix, he committed acts involving dishonesty, fraud or deceit whereby another was
20 injured by issuing electronic Certificate of Compliance No. OE305106C without performing a
21 bona fide inspection of the emission control devices and systems on that vehicle, thereby
22 depriving the People of the State of California of the protection afforded by the Motor Vehicle
23 Inspection Program.

24 **PRIOR DISCIPLINE**

25 28. Effective February 27, 2009, pursuant to the Decision in Accusation No. 79/08-24,
26 Respondent's Automotive Repair Dealer Registration No. ARD 183857, Smog Check Station
27 License No. RC 183857, and Advanced Emission Specialist Technician License No. EA 314602

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1 were revoked. However, the revocations were stayed and Respondent's licenses were placed on
2 probation for a period of two (2) years with terms and condition.

3 PRIOR CITATIONS

4 29. To determine the degree of penalty, if any, to be imposed upon Respondent,
5 Complainant alleges as follows:

6 a. On March 15, 2006, the Bureau issued Citation No. C06-0552 to Respondent against
7 his registration and station licenses for violations of Health and Safety Code section 44012,
8 subdivision (f) (failure to perform a visual/functional check of emission control devices) and
9 California Code of Regulations, title 16, ("Regulation"), section 3340.35, subdivision (c) (issuing
10 a certificate of compliance to a vehicle improperly tested). Respondent issued a certificate of
11 compliance to a Bureau vehicle with a missing air injection system. The Bureau assessed a civil
12 penalty of \$500. Respondent complied with this citation on April 25, 2006.

13 b. On July 18, 2006, the Bureau issued Citation No. C07-0008 to Respondent against his
14 registration and station licenses for violations of Health and Safety Code section 44012,
15 subdivision (f) (failure to perform a visual/functional check of emission control devices) and
16 Regulation, section 3340.35, subdivision (c) (issuing a certificate of compliance to a vehicle
17 improperly tested). Respondent issued a certificate of compliance to a Bureau vehicle with a
18 missing PCV system. The Bureau assessed a civil penalty of \$1,000. Respondent complied with
19 this citation on August 22, 2006.

20 c. On November 27, 2006, the Bureau issued Citation No. C07-0329 to Respondent
21 against his registration and station licenses for violations of Health and Safety Code section
22 44012, subdivision (f) (failure to perform a visual/functional check of emission control devices)
23 and Regulation, section 3340.35, subdivision (c) (issuing a certificate of compliance to a vehicle
24 improperly tested). Respondent issued a certificate of compliance to a Bureau vehicle with a
25 missing air injection system. The Bureau assessed a civil penalty of \$2,000. Respondent
26 complied with this citation on January 11, 2007.

27 d. On July 18, 2005, the Bureau issued Citation No. M07-0009 to Respondent against
28 his technician license for violations of Health and Safety Code section 44032, (qualified

1 technicians shall perform tests of emission control systems and devices in accordance with
2 section 44012 of that Code) and California Code of Regulations, title 16, ("Regulation") section
3 3340.30, subdivision (a) (qualified technicians shall inspect, test, and repair vehicles in
4 accordance with sections 44012 and 44035 of the Health and Safety Code, and Regulation section
5 3340.42). Respondent issued a certificate of compliance to a Bureau vehicle with a missing PCV
6 system. Respondent was required to attend an 8-hour training course. Respondent complied with
7 this citation on September 8, 2006.

8 **OTHER MATTERS**

9 30. Pursuant to Code section 9884.7, subdivision (c), the Director may refuse to validate,
10 or may invalidate temporarily or permanently, the registrations for all places of business operated
11 in this state by Miguel Perez, upon a finding that he has, or is, engaged in a course of repeated
12 and willful violations of the laws and regulations pertaining to an automotive repair dealer.

13 31. Pursuant to Health & Safety Code section 44072.8, if Smog Check Station License
14 Number RC 183857, issued to Miguel Perez, doing business as Quality Tune Up #40, is revoked
15 or suspended, any additional license issued under this chapter in the name of said licensee may be
16 likewise revoked or suspended by the director.

17 32. Pursuant to Health & Safety Code section 44072.8, if Advanced Emission Specialist
18 Technician License Number EA 314602, issued to Miguel Perez, is revoked or suspended, any
19 additional license issued under this chapter in the name of said licensee may be likewise revoked
20 or suspended 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 Consumer Affairs issue a decision:

- 24 1. Revoking, suspending or placing on probation Automotive Repair Dealer Registration
25 Number ARD 183857, issued to Miguel Perez, doing business as Quality Tune-Up #40;
26 2. Revoking, suspending or placing on probation any other automotive repair dealer
27 registration issued to Miguel Perez;

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- 1 3. Revoking or suspending Smog Check Station License Number RC 183857, issued to
- 2 Miguel Perez, Quality Tune-Up #40;
- 3 4. Revoking or suspending any additional license issued under Chapter 5 of the Health
- 4 and Safety Code in the name of Miguel Perez;
- 5 5. Revoking or suspending Advanced Emission Specialist Technician License Number
- 6 EA 314602, issued to Miguel Perez;
- 7 6. Revoking or suspending any additional license issued under Chapter 5 of the Health
- 8 and Safety Code in the name of Miguel Perez;
- 9 7. Ordering Miguel Perez to pay the Bureau of Automotive Repair the reasonable costs
- 10 of the investigation and enforcement of this case, pursuant to Business and Professions Code
- 11 section 125.3; and,
- 12 8. Taking such other and further action as deemed necessary and proper.

15 DATED: 2/23/12 John Wallauch by Doug Balatt
16 JOHN WALLAUCH
17 Chief
18 Bureau of Automotive Repair
19 Department of Consumer Affairs
20 State of California
21 *Complainant*
22 *Doug Balatt*
23 *Assist. Chief*

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