

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 PATRICK M. KENADY, State Bar No. 050882
Deputy Attorney General
4 1300 I Street, Suite 125
P.O. Box 944255
5 Sacramento, CA 94244-2550
Telephone: (916) 324-5377
6 Facsimile: (916) 327-8643
7 Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

Case No. 79/09-102

13 AUTOTEK
CHRIS MICHAEL LULL, OWNER
14 8650 Antelope North Road, Suite E
Antelope, CA 95843

ACCUSATION

SMOG CHECK

15 Automotive Repair Dealer Reg. No. ARD 200544
16 Smog Check, Test Only, Station License
No. TC 200544

17 and

18 JONATHAN CLYDE FORD
19 6869 Barbara Lee Circle
Sacramento, CA 95842

20 Advanced Emission Specialist Technician License
21 No. EA 149931

22 Respondents.

23
24 Complainant alleges:

25 **PARTIES**

26 1. Sherry Mehl ("Complainant") brings this Accusation solely in her official
27 capacity as the Chief of the Bureau of Automotive Repair ("Bureau"), Department of Consumer
28 Affairs.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Automotive Repair Dealer Registration No. ARD 200544

2. On or about July 20, 1998, the Director of Consumer Affairs (“Director”) issued Automotive Repair Dealer Registration Number ARD 200544 to Chris Michael Lull (“Respondent Lull”), owner of Autotek. Respondent’s automotive repair dealer registration was in full force and effect at all times relevant to the charges brought herein and will expire on July 31, 2009, unless renewed.

Smog Check, Test Only, Station License No. TC 200544

3. In or about 2001, the Director issued Smog Check, Test Only, Station License Number TC 200544 to Respondent Lull. Respondent’s smog check station license was in full force and effect at all times relevant to the charges brought herein and will expire on July 31, 2009, unless renewed.

Advanced Emission Specialist Technician License No. EA 149931

4. On or about August 10, 2004, the Director issued Advanced Emission Specialist Technician License Number EA 149931 to Jonathan Clyde Ford (“Respondent Ford”). Respondent’s technician license was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2010, unless renewed.

JURISDICTION

5. Business and Professions Code (“Bus. & Prof. Code”) section 9884.7 provides that the Director may invalidate an automotive repair dealer registration.

6. Bus. & Prof. Code section 9884.13 provides, in pertinent part, that the expiration of a valid registration shall not deprive the Director of jurisdiction to proceed with a disciplinary proceeding against an automotive repair dealer or to render a decision invalidating a registration temporarily or permanently.

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

8. Health & Saf. Code section 44072.6 provides, in pertinent part, that the expiration or suspension of a license by operation of law, or by order or decision of the Director

1 of Consumer Affairs, or a court of law, or the voluntary surrender of the license shall not deprive
2 the Director of jurisdiction to proceed with disciplinary action.

3 STATUTORY PROVISIONS

4 9. Bus. & Prof. Code section 9884.7 states, in pertinent part:

5 (a) The director, where the automotive repair dealer cannot show there
6 was a bona fide error, may refuse to validate, or may invalidate temporarily or
7 permanently, the registration of an automotive repair dealer for any of the
8 following acts or omissions related to the conduct of the business of the
9 automotive repair dealer, which are done by the automotive repair dealer or any
10 automotive technician, employee, partner, officer, or member of the automotive
11 repair dealer.

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

16

17 (4) Any other conduct which constitutes fraud.

18

19 (c) Notwithstanding subdivision (b), the director may refuse to
20 validate, or may invalidate temporarily or permanently, the registration
21 for all places of business operated in this state by an automotive repair
22 dealer upon a finding that the automotive repair dealer has, or is, engaged
23 in a course of repeated and willful violations of this chapter, or regulations
24 adopted pursuant to it.

25 10. Bus. & Prof. Code section 477 provides, in pertinent part, that "Board"
26 includes "bureau," "commission," "committee," "department," "division," "examining
27 committee," "program," and "agency." "License" includes certificate, registration or other
28 means to engage in a business or profession regulated by the Bus. & Prof. Code.

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

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

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

. . . .

///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

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

12. Health & Saf. Code section 44072.10 states, in pertinent part:

. . . .

(c) The department shall revoke the license of any smog check technician or station licensee who fraudulently certifies vehicles or participates in the fraudulent inspection of vehicles. A fraudulent inspection includes, but is not limited to, all of the following:

(1) Clean piping, as defined by the department . . .

13. Health & Saf. Code section 44072.8 states that 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.

COST RECOVERY

14. Bus. & Prof. 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.

VIDEO SURVEILLANCE OPERATION OF DECEMBER 6, 2008

15. On December 6, 2008, a representative of the Bureau conducted a video surveillance operation of Respondent Lull's smog check facility. The surveillance video and information obtained from the Bureau's vehicle information database ("VID") revealed that Respondent Ford issued electronic smog certificates of compliance on behalf of Respondent Lull, certifying that he had tested and inspected the vehicles identified below and that the vehicles were in compliance with applicable laws and regulations. In fact, Respondent conducted the

///
///
///
///

1 inspections using clean piping methods¹, resulting in the issuance of fraudulent certificates of
2 compliance for the vehicles.

3 Time of Smog Inspection	4 Vehicle Certified & License No.	5 Certificate of Compliance No.	6 Vehicle Actually Tested
7 1. 1245 - 1255	8 2002 Toyota Camry; 9 #4UVT440	10 NG268919C	11 1997 to 1999 Toyota Camry
12 2. 1436 - 1442	13 1989 Ford Mustang; 14 #5FNG100 (the vehicle was 15 issued a new license number, 16 6FXG848, as of 12/18/2008)	17 NG268920C	18 1994 to 1998 Ford Mustang
19 3. 1510 - 1522	20 1993 Nissan Maxima; 21 #5GHS222	22 NG268921C	23 1992 Toyota Camry

24 **FIRST CAUSE FOR DISCIPLINE**

25 **(Untrue or Misleading Statements)**

26 16. Respondent Lull's automotive repair dealer registration is subject to
27 disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(1), in that
28 Respondent made or authorized statements which he knew or in the exercise of reasonable care
should have known to be untrue or misleading, as follows: Respondent Lull's technician,
Respondent Ford, certified that vehicles 1 through 3, identified in paragraph 15 above, had
passed inspection and were in compliance with applicable laws and regulations. In fact,
Respondent Ford used clean piping methods in order to issue certificates for the vehicles and did
not test or inspect the vehicles as required by Health & Saf. Code section 44012.

29 **SECOND CAUSE FOR DISCIPLINE**

30 **(Fraud)**

31 17. Respondent Lull's automotive repair dealer registration is subject to
32 disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(4), in that
33 Respondent committed acts which constitute fraud by issuing electronic smog certificates of
34 compliance for vehicles 1 through 3, identified in paragraph 15 above, without performing bona

35 1. Pursuant to California Code of Regulations, title 16, section 3340.1, subdivision (t), "clean piping"
36 means the use of a sample of the exhaust emissions of one vehicle in order to cause the EIS to issue a certificate of
37 compliance for another vehicle.

1 fide inspections of the emission control devices and systems on the vehicles, thereby depriving
2 the People of the State of California of the protection afforded by the Motor Vehicle Inspection
3 Program.

4 **THIRD CAUSE FOR DISCIPLINE**

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

6 18. Respondent Lull's smog check station license is subject to disciplinary
7 action pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed
8 to comply with provisions of that Code, as follows:

- 9 a. **Section 44012:** Respondent failed to perform emission control tests on
10 vehicles 1 through 3, identified in paragraph 15 above, in accordance with
11 procedures prescribed by the department.
12 b. **Section 44015:** Respondent issued electronic smog certificates of
13 compliance for vehicles 1 through 3, identified in paragraph 15 above,
14 without properly testing and inspecting the vehicles to determine if they
15 were in compliance with Health & Saf. Code section 44012.

16 **FOURTH CAUSE FOR DISCIPLINE**

17 **(Failure to Comply with Regulations Pursuant
18 to the Motor Vehicle Inspection Program)**

19 19. Respondent Lull's smog check station license is subject to disciplinary
20 action pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed
21 to comply with provisions of California Code of Regulations, title 16, as follows:

- 22 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently
23 issued electronic smog certificates of compliance for vehicles 1 through
24 3, identified in paragraph 15 above.
25 b. **Section 3340.35, subdivision (c):** Respondent issued electronic smog
26 certificates of compliance for vehicles 1 through 3, identified in paragraph
27 15 above, even though those vehicles had not been inspected in
28 accordance with section 3340.42.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- c. **Section 3340.41, subdivision (c):** Respondent's technician, Respondent Ford, entered false information into the Emission Inspection System ("EIS") by entering vehicle identification information or emission control system identification data for vehicles other than the ones being tested.
- d. **Section 3340.42:** Respondent failed to conduct the required smog tests on vehicles 1 through 3, identified in paragraph 15 above, in accordance with the Bureau's specifications.

FIFTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

20. Respondent Lull's smog check station license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed dishonest, fraudulent or deceitful acts whereby another is injured by issuing electronic smog certificates of compliance for vehicles 1 through 3, identified in paragraph 15 above, without performing bona fide inspections of the emission control devices and systems on the vehicles, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

SIXTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

21. Respondent Ford's advanced emission specialist technician license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to comply with provisions of that Code, as follows:

- a. **Section 44012:** Respondent failed to perform emission control tests on vehicles 1 through 3, identified in paragraph 15 above, in accordance with procedures prescribed by the department.
- b. **Section 44059:** Respondent willfully made false entries in the EIS, resulting in the issuance of fraudulent certificates of compliance for vehicles 1 through 3, identified in paragraph 15 above.

///

1 SEVENTH CAUSE FOR DISCIPLINE

2 **(Failure to Comply with Regulations Pursuant**
3 **to the Motor Vehicle Inspection Program)**

4 22. Respondent Ford's advanced emission specialist technician license is
5 subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (c), in
6 that Respondent failed to comply with provisions of California Code of Regulations, title 16, as
7 follows:

- 8 a. Section 3340.24, subdivision (c): Respondent falsely or fraudulently
9 issued electronic smog certificates of compliance for vehicles 1 through
10 3, identified in paragraph 15 above.
- 11 b. Section 3340.30, subdivision (a): Respondent failed to inspect and test
12 vehicles 1 through 3, identified in paragraph 15 above, in accordance with
13 Health & Saf. Code sections 44012 and 44035, and California Code of
14 Regulations, title 16, section 3340.42.
- 15 c. Section 3340.41, subdivision (c): Respondent entered false information
16 into the EIS by entering vehicle identification information or emission
17 control system identification data for vehicles other than the ones being
18 tested.
- 19 d. Section 3340.42: Respondent failed to conduct the required smog tests on
20 vehicles 1 through 3, identified in paragraph 15 above, in accordance with
21 the Bureau's specifications.

22 EIGHTH CAUSE FOR DISCIPLINE

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

24 23. Respondent Ford's advanced emission specialist technician license is
25 subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in
26 that Respondent committed dishonest, fraudulent or deceitful acts whereby another is injured by
27 issuing electronic smog certificates of compliance for vehicles 1 through 3, identified in
28 paragraph 15 above, without performing bona fide inspections of the emission control devices

1 and systems on the vehicles, thereby depriving the People of the State of California of the
2 protection afforded by the Motor Vehicle Inspection Program.

3 **VIDEO SURVEILLANCE OPERATION OF JANUARY 3, 2009**

4 24. On January 3, 2009, a representative of the Bureau conducted a video
5 surveillance operation of Respondent Lull's smog check facility. The surveillance video and
6 information obtained from the Bureau's VID revealed that Respondent Ford issued electronic
7 smog certificates of compliance on behalf of Respondent Lull, certifying that he had tested and
8 inspected the vehicles identified below and that the vehicles were in compliance with applicable
9 laws and regulations. In fact, Respondent conducted the inspections using clean piping methods,
10 resulting in the issuance of fraudulent certificates of compliance for the vehicles.

11

12 Time of Smog Inspection	Vehicle Certified & License No.	Certificate of Compliance No.	Vehicle Actually Tested
13 1. 1013 - 1018	1990 Honda Accord; #5XTN719	NG564203C	1991 Honda Accord; #5NZD184
14 2. 1041 - 1048	1991 Oldsmobile Ninety- Eight; #2XXD769	NG564205C	1990 Buick Century; #4381KDP
15 3. 1153 - 1200	1996 Dodge Caravan; #DPK5983	NG564207C	1996 Chrysler Town & Country; #3NRZ273
16 4. 1316 - 1324	1996 Dodge Intrepid; #5WZJ338	NG564210C	1996 Chrysler Town & Country; #3NRZ273
17 5. 1432 - 1455	1988 Toyota Tercel; #2GGF854	NG564213C	1991 Toyota Corolla; #2XBF081

18
19

20 **NINTH CAUSE FOR DISCIPLINE**

21 **(Untrue or Misleading Statements)**

22 25. Respondent Lull's automotive repair dealer registration is subject to
23 disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(1), in that
24 Respondent made or authorized statements which he knew or in the exercise of reasonable care
25 should have known to be untrue or misleading, as follows: Respondent Lull's technician,
26 Respondent Ford, certified that vehicles 1 through 5, identified in paragraph 24 above, had
27 passed inspection and were in compliance with applicable laws and regulations. In fact,

28 ///

1 Respondent Ford used clean piping methods in order to issue certificates for the vehicles and did
2 not test or inspect the vehicles as required by Health & Saf. Code section 44012.

3 **TENTH CAUSE FOR DISCIPLINE**

4 **(Fraud)**

5 26. Respondent Lull's automotive repair dealer registration is subject to
6 disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(4), in that
7 Respondent committed acts which constitute fraud by issuing electronic smog certificates of
8 compliance for vehicles 1 through 5, identified in paragraph 24 above, without performing bona
9 fide inspections of the emission control devices and systems on the vehicles, thereby depriving
10 the People of the State of California of the protection afforded by the Motor Vehicle Inspection
11 Program.

12 **ELEVENTH CAUSE FOR DISCIPLINE**

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

14 27. Respondent Lull's smog check station license is subject to disciplinary
15 action pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed
16 to comply with provisions of that Code, as follows:

- 17 a. **Section 44012:** Respondent failed to perform emission control tests on
18 vehicles 1 through 5, identified in paragraph 24 above, in accordance with
19 procedures prescribed by the department.
- 20 b. **Section 44015:** Respondent issued electronic smog certificates of
21 compliance for vehicles 1 through 5, identified in paragraph 24 above,
22 without properly testing and inspecting the vehicles to determine if they
23 were in compliance with Health & Saf. Code section 44012.

24 ///

25 ///

26 ///

27 ///

28 ///

1 TWELFTH CAUSE FOR DISCIPLINE

2 **(Failure to Comply with Regulations Pursuant**
3 **to the Motor Vehicle Inspection Program)**

4 28. Respondent Lull's smog check station license is subject to disciplinary
5 action pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed
6 to comply with provisions of California Code of Regulations, title 16, as follows:

- 7 a. Section 3340.24, subdivision (c): Respondent falsely or fraudulently
8 issued electronic smog certificates of compliance for vehicles 1 through
9 5, identified in paragraph 24 above.
- 10 b. Section 3340.35, subdivision (c): Respondent issued electronic smog
11 certificates of compliance for vehicles 1 through 5, identified in paragraph
12 24 above, even though those vehicles had not been inspected in
13 accordance with section 3340.42.
- 14 c. Section 3340.41, subdivision (c): Respondent's technician, Respondent
15 Ford, entered false information into the EIS by entering vehicle
16 identification information or emission control system identification data
17 for vehicles other than the ones being tested.
- 18 d. Section 3340.42: Respondent failed to conduct the required smog tests on
19 vehicles 1 through 5, identified in paragraph 24 above, in accordance with
20 the Bureau's specifications.

21 THIRTEENTH CAUSE FOR DISCIPLINE

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

23 29. Respondent Lull's smog check station license is subject to disciplinary
24 action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent
25 committed dishonest, fraudulent or deceitful acts whereby another is injured by issuing electronic
26 smog certificates of compliance for vehicles 1 through 5, identified in paragraph 24 above.
27 without performing bona fide inspections of the emission control devices and systems on the

28 ///

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

3 **FOURTEENTH CAUSE FOR DISCIPLINE**

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

5 30. Respondent Ford's advanced emission specialist technician license is
6 subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (a), in
7 that Respondent failed to comply with provisions of that Code, as follows:

- 8 a. **Section 44012:** Respondent failed to perform emission control tests on
9 vehicles 1 through 5, identified in paragraph 24 above, in accordance with
10 procedures prescribed by the department.
11 b. **Section 44059:** Respondent willfully made false entries in the EIS,
12 resulting in the issuance of fraudulent certificates of compliance for
13 vehicles 1 through 5, identified in paragraph 24 above.

14 **FIFTEENTH CAUSE FOR DISCIPLINE**

15 **(Failure to Comply with Regulations Pursuant**
16 **to the Motor Vehicle Inspection Program)**

17 31. Respondent Ford's advanced emission specialist technician license is
18 subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (c), in
19 that Respondent failed to comply with provisions of California Code of Regulations, title 16, as
20 follows:

- 21 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently
22 issued electronic smog certificates of compliance for vehicles 1 through
23 5, identified in paragraph 24 above.
24 b. **Section 3340.30, subdivision (a):** Respondent failed to inspect and test
25 vehicles 1 through 5, identified in paragraph 24 above, in accordance with
26 Health & Saf. Code sections 44012 and 44035, and California Code of
27 Regulations, title 16, section 3340.42.

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

c. Section 3340.41, subdivision (c): Respondent entered false information into the EIS by entering vehicle identification information or emission control system identification data for vehicles other than the ones being tested.

d. Section 3340.42: Respondent failed to conduct the required smog tests on vehicles 1 through 5, identified in paragraph 24 above, in accordance with the Bureau's specifications.

SIXTEENTH CAUSE FOR DISCIPLINE
(Dishonesty, Fraud or Deceit)

32. Respondent Ford's advanced emission specialist technician license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed dishonest, fraudulent or deceitful acts whereby another is injured by issuing electronic smog certificates of compliance for vehicles 1 through 5, identified in paragraph 24 above, without performing bona fide inspections of the emission control devices and systems on the vehicles, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

VIDEO SURVEILLANCE OPERATION OF JANUARY 10, 2009

33. On January 10, 2009, a representative of the Bureau conducted a video surveillance operation of Respondent Lull's smog check facility. The surveillance video and information obtained from the Bureau's VID revealed that Respondent Ford issued electronic smog certificates of compliance on behalf of Respondent Lull, certifying that he had tested and inspected the vehicles identified below and that the vehicles were in compliance with applicable laws and regulations. In fact, Respondent conducted the inspections using clean piping methods, resulting in the issuance of fraudulent certificates of compliance for the vehicles.

Time of Smog Inspection	Vehicle Certified & License No.	Certificate of Compliance No.	Vehicle Actually Tested
1. 1407 - 1414	1999 GMC Sonoma; #5Y36921	NG624986C	1996 GMC S15; #8R43648

Time of Smog Inspection	Vehicle Certified & License No.	Certificate of Compliance No.	Vehicle Actually Tested
2. 1435 - 1450	1985 Chevrolet G20 van; #5YBZ309	NG624987C	1991 Chevrolet S10; #7Z64676

SEVENTEENTH CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

34. Respondent Lull's automotive repair dealer registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized statements which he knew or in the exercise of reasonable care should have known to be untrue or misleading, as follows: Respondent Lull's technician, Respondent Ford, certified that vehicles 1 and 2, identified in paragraph 33 above, had passed inspection and were in compliance with applicable laws and regulations. In fact, Respondent Ford used clean piping methods in order to issue certificates for the vehicles and did not test or inspect the vehicles as required by Health & Saf. Code section 44012.

EIGHTEENTH CAUSE FOR DISCIPLINE

(Fraud)

35. Respondent Lull's automotive repair dealer registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(4), in that Respondent committed acts which constitute fraud by issuing electronic smog certificates of compliance for vehicles 1 and 2, identified in paragraph 33 above, without performing bona fide inspections of the emission control devices and systems on the vehicles, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

///

///

///

///

///

1 **NINETEENTH CAUSE FOR DISCIPLINE**

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

3 36. Respondent Lull's smog check station license is subject to disciplinary
4 action pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed
5 to comply with provisions of that Code, as follows:

- 6 a. **Section 44012:** Respondent failed to perform emission control tests on
7 vehicles 1 and 2, identified in paragraph 33 above, in accordance with
8 procedures prescribed by the department.
9 b. **Section 44015:** Respondent issued electronic smog certificates of
10 compliance for vehicles 1 and 2, identified in paragraph 33 above,
11 without properly testing and inspecting the vehicles to determine if they
12 were in compliance with Health & Saf. Code section 44012.

13 **TWENTIETH CAUSE FOR DISCIPLINE**

14 **(Failure to Comply with Regulations Pursuant**
15 **to the Motor Vehicle Inspection Program)**

16 37. Respondent Lull's smog check station license is subject to disciplinary
17 action pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed
18 to comply with provisions of California Code of Regulations, title 16, as follows:

- 19 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently
20 issued electronic smog certificates of compliance for vehicles 1 and
21 2, identified in paragraph 33 above.
22 b. **Section 3340.35, subdivision (c):** Respondent issued electronic smog
23 certificates of compliance for vehicles 1 and 2, identified in paragraph
24 33 above, even though those vehicles had not been inspected in
25 accordance with section 3340.42.
26 c. **Section 3340.41, subdivision (c):** Respondent's technician, Respondent
27 Ford, entered false information into the EIS by entering vehicle
28

///

1 identification information or emission control system identification data
2 for vehicles other than the ones being tested.
3 d. **Section 3340.42:** Respondent failed to conduct the required smog tests on
4 vehicles 1 and 2, identified in paragraph 33 above, in accordance with
5 the Bureau's specifications.

6 **TWENTY-FIRST CAUSE FOR DISCIPLINE**

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

8 38. Respondent Lull's smog check station license is subject to disciplinary
9 action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent
10 committed dishonest, fraudulent or deceitful acts whereby another is injured by issuing electronic
11 smog certificates of compliance for vehicles 1 and 2, identified in paragraph 33 above, without
12 performing bona fide inspections of the emission control devices and systems on the vehicles,
13 thereby depriving the People of the State of California of the protection afforded by the Motor
14 Vehicle Inspection Program.

15 **TWENTY-SECOND CAUSE FOR DISCIPLINE**

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

17 39. Respondent Ford's advanced emission specialist technician license is
18 subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (a), in
19 that Respondent failed to comply with provisions of that Code, as follows:

- 20 a. **Section 44012:** Respondent failed to perform emission control tests on
21 vehicles 1 and 2, identified in paragraph 33 above, in accordance with
22 procedures prescribed by the department.
23 b. **Section 44059:** Respondent willfully made false entries in the EIS,
24 resulting in the issuance of fraudulent certificates of compliance for
25 vehicles 1 and 2, identified in paragraph 33 above.

26 ///
27 ///
28 ///

1 **TWENTY-THIRD CAUSE FOR DISCIPLINE**

2 **(Failure to Comply with Regulations Pursuant**
3 **to the Motor Vehicle Inspection Program)**

4 40. Respondent Ford's advanced emission specialist technician license is
5 subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (c), in
6 that Respondent failed to comply with provisions of California Code of Regulations, title 16, as
7 follows:

- 8 a. **Section 3340.24, subdivision (c)**: Respondent falsely or fraudulently
9 issued electronic smog certificates of compliance for vehicles 1 and
10 2, identified in paragraph 33 above.
- 11 b. **Section 3340.30, subdivision (a)**: Respondent failed to inspect and test
12 vehicles 1 and 2, identified in paragraph 33 above, in accordance with
13 Health & Saf. Code sections 44012 and 44035, and California Code of
14 Regulations, title 16, section 3340.42.
- 15 c. **Section 3340.41, subdivision (c)**: Respondent entered false information
16 into the EIS by entering vehicle identification information or emission
17 control system identification data for vehicles other than the ones being
18 tested.
- 19 d. **Section 3340.42**: Respondent failed to conduct the required smog tests on
20 vehicles 1 and 2, identified in paragraph 33 above, in accordance with
21 the Bureau's specifications.

22 **TWENTY-FOURTH CAUSE FOR DISCIPLINE**

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

24 41. Respondent Ford's advanced emission specialist technician license is
25 subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in
26 that Respondent committed dishonest, fraudulent or deceitful acts whereby another is injured by
27 issuing electronic smog certificates of compliance for vehicles 1 and 2, identified in paragraph 33
28 above, without performing bona fide inspections of the emission control devices and systems on

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

3 **DISCIPLINE CONSIDERATIONS**

4 42. To determine the degree of discipline, if any, to be imposed on
5 Respondents, Complainant alleges as follows:

6 **Respondent Lull:**

7 a. On or about June 25, 2002, the Bureau issued Citation No. C02-1176
8 against Respondent for violations of Health & Saf. Code section 44012, subdivision (f) (failure to
9 determine that emission control devices and systems required by State and Federal law are
10 installed and functioning correctly in accordance with test procedures), and California Code of
11 Regulations, title 16, section ("Regulation") 3340.35, subdivision (c) (issuing a certificate of
12 compliance to a vehicle that was improperly tested). Respondent had issued a certificate of
13 compliance to a Bureau undercover vehicle with incorrect ignition timing. The Bureau assessed
14 civil penalties totaling \$500 against Respondent for the violations. Respondent appealed the
15 citation; however, it became final on June 18, 2003. Respondent complied with the citation and
16 paid the fine on July 17, 2003.

17 b. On or about March 9, 2006, the Bureau issued Citation No. C06-0543
18 against Respondent for violations of Health & Saf. Code section 44012, subdivision (f) (failure to
19 perform a visual/functional check of emission control devices according to procedures prescribed
20 by the department), and Regulation 3340.35, subdivision (c) (issuing a certificate of compliance
21 to a vehicle that was improperly tested). Respondent had issued a certificate of compliance to a
22 Bureau undercover vehicle with a missing air injection system. The Bureau assessed civil
23 penalties totaling \$500 against Respondent for the violations. Respondent complied with the
24 citation and paid the fine on May 18, 2006.

25 c. On or about October 10, 2006, the Bureau issued Citation No. C07-0187
26 against Respondent for violations of Health & Saf. Code section 44012, subdivision (f) (failure to
27 perform a visual/functional check of emission control devices according to procedures prescribed
28 by the department), and Regulation 3340.35, subdivision (c) (issuing a certificate of compliance

1 to a vehicle that was improperly tested). Respondent had issued a certificate of compliance to a
2 Bureau undercover vehicle with a non-functional EGR system. The Bureau assessed civil
3 penalties totaling \$1,000 against Respondent for the violations. Respondent complied with the
4 citation and paid the fine on November 27, 2006.

5 d. On or about December 6, 2006, the Bureau issued Citation No. C07-0367
6 against Respondent for violations of Health & Saf. Code section 44012, subdivision (f) (failure to
7 perform a visual/functional check of emission control devices according to procedures prescribed
8 by the department), and Regulation 3340.35, subdivision (c) (issuing a certificate of compliance
9 to a vehicle that was improperly tested). Respondent had issued a certificate of compliance to a
10 Bureau undercover vehicle with a missing air injection system reed valve. The Bureau assessed
11 civil penalties totaling \$2,000 against Respondent for the violations. Respondent complied with
12 the citation and paid the fine on February 16, 2007.

13 **Respondent Ford:**

14 e. On or about March 9, 2006, the Bureau issued Citation No. M06-0544
15 against Respondent for violations of Health & Saf. Code section 44032 (qualified technicians
16 shall perform tests of emission control systems and devices in accordance with Health & Saf.
17 Code section 44012) and Regulation 3340.30, subdivision (a) (qualified technicians shall inspect,
18 test, and repair vehicles in accordance with Health & Saf. Code sections 44012 and 44035 and
19 Regulation 3340.42). Respondent had issued a certificate of compliance to a Bureau undercover
20 vehicle with a missing air injection system. Respondent was directed to complete an 8 hour
21 training course, with proof of completion submitted to the Bureau within thirty (30) days from
22 receipt of the citation. Respondent complied with the citation and completed the training course
23 on May 8, 2006.

24 f. On or about October 10, 2006, the Bureau issued Citation No. M07-0188
25 against Respondent for violations of Health & Saf. Code section 44032 (qualified technicians
26 shall perform tests of emission control systems and devices in accordance with Health & Saf.
27 Code section 44012) and Regulation 3340.30, subdivision (a) (qualified technicians shall inspect,
28 test, and repair vehicles in accordance with Health & Saf. Code sections 44012 and 44035 and

1 Regulation 3340.42). Respondent had issued a certificate of compliance to a Bureau undercover
2 vehicle with a non-functional EGR system. Respondent was directed to complete a 16 hour
3 training course, with proof of completion submitted to the Bureau within thirty (30) days from
4 receipt of the citation. Respondent complied with the citation and completed the training course
5 on December 10, 2006.

6 g. On or about December 6, 2006, the Bureau issued Citation No. M07-0368
7 against Respondent for violations of Health & Saf. Code section 44032 (qualified technicians
8 shall perform tests of emission control systems and devices in accordance with Health & Saf.
9 Code section 44012) and Regulation 3340.30, subdivision (a) (qualified technicians shall inspect,
10 test, and repair vehicles in accordance with Health & Saf. Code sections 44012 and 44035 and
11 Regulation 3340.42). Respondent had issued a certificate of compliance to a Bureau undercover
12 vehicle with a missing air injection system reed valve. Respondent was directed to complete a
13 Basic Clean Air Car Course with proof of completion submitted to the Bureau. Respondent
14 complied with the citation and completed the training course on March 25, 2007.

15 OTHER MATTERS

16 43. Pursuant to Bus. & Prof. Code section 9884.7, subdivision (c), the
17 Director may refuse to validate, or may invalidate temporarily or permanently, the registrations
18 for all places of business operated in this state by Respondent Chris Michael Lull, owner of
19 Autotek, upon a finding that said Respondent has, or is, engaged in a course of repeated and
20 willful violations of the laws and regulations pertaining to an automotive repair dealer.

21 44. Pursuant to Health & Saf. Code section 44072.8, if Smog Check. Test
22 Only, Station License Number TC 200544, issued to Respondent Chris Michael Lull, owner of
23 Autotek, is revoked or suspended, any additional license issued under this chapter in the name of
24 said licensee may be likewise revoked or suspended by the Director.

25 45. Pursuant to Health & Saf. Code section 44072.8, if Advanced Emission
26 Specialist Technician License Number EA 149931, issued to Jonathan Clyde Ford, is revoked or
27 suspended, any additional license issued under this chapter in the name of said licensee may be
28 likewise revoked or suspended by the Director.

1 PRAYER

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

4 1. Temporarily or permanently invalidating Automotive Repair Dealer
5 Registration Number ARD 200544, issued to Chris Michael Lull, owner of Autotek;

6 2. Temporarily or permanently invalidating any other automotive repair
7 dealer registration issued to Chris Michael Lull;

8 3. Revoking or suspending Smog Check, Test Only, Station License Number
9 TC 200544, issued to Chris Michael Lull, owner of Autotek;

10 4. Revoking or suspending any additional license issued under Chapter 5 of
11 the Health and Safety Code in the name of Chris Michael Lull;

12 5. Revoking or suspending Advanced Emission Specialist Technician
13 License Number EA 149931, issued to Jonathan Clyde Ford;

14 6. Revoking or suspending any additional license issued under Chapter 5 of
15 the Health and Safety Code in the name of Jonathan Clyde Ford;

16 7. Ordering Chris Michael Lull, owner of Autotek, and Jonathan Clyde Ford
17 to pay the Bureau of Automotive Repair the reasonable costs of the investigation and
18 enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

21 DATED: 5-18-09

22
23
24 
25 SHERRY MEHL
26 Chief
27 Bureau of Automotive Repair
28 Department of Consumer Affairs
State of California
Complainant