

1 KAMALA D. HARRIS
Attorney General of California
2 KAREN B. CHAPPELLE
Supervising Deputy Attorney General
3 WILLIAM D. GARDNER
Deputy Attorney General
4 State Bar No. 244817
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2114
6 Facsimile: (213) 897-2804
Attorneys for Complainant

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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. 7911-94

13 **ATM MOTORS**
14 **5168 South Vermont Ave**
15 **Los Angeles, CA 90037**
16 **ANGEL TORRES, AKA**
17 **ANGEL A. TORRES, AKA**
18 **JOSE ANGEL TORRES MEDRANO, OWNER**
19 **Automotive Repair Dealer Registration**
20 **No. ARD 211032**
21 **Smog Check Test Only Station License**
22 **No. TC 211032,**

A C C U S A T I O N
S M O G C H E C K

and

18 **JUAN A. RIOS; AKA**
19 **JUAN ANDRES RIOS, AKA**
20 **JUAN ANDRES RIOS VELIZ**
21 **3703 1/2 South Victoria Ave**
22 **Los Angeles, CA 90016**
23 **Advanced Emission Specialist Technician License**
24 **No. EA 631361**

Respondents.

25 Complainant alleges:

PARTIES

26 1. Sherry Mehl ("Complainant") brings this Accusation solely in her official capacity as
27 the Chief of the Bureau of Automotive Repair ("Bureau"), Department of Consumer Affairs.
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1 subdivision (a) shall only invalidate temporarily or permanently the registration of the
2 specific place of business which has violated any of the provisions of this chapter.
This violation, or action by the director, shall not affect in any manner the right of the
3 automotive repair dealer to operate his or her other places of business.

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

9 6. Code section 9884.13 provides, in pertinent part, that the expiration of a valid
10 registration shall not deprive the director or chief of jurisdiction to proceed with a disciplinary
11 proceeding against an automotive repair dealer or to render a decision invalidating a registration
12 temporarily or permanently.

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

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

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

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

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

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

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

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

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

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

4 **COST RECOVERY**

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

9 **SURVEILLANCE OPERATION – DECEMBER 7, 2010**

10 13. On or about December 7, 2010, the Bureau performed a video-taped surveillance
11 operation at Respondent ATM's facility. The surveillance operation and information obtained
12 from the Bureau's Vehicle Information Database ("VID") revealed that between 0831 hours and
13 1633 hours, Respondent Rios, with the assistance of an unidentified male ("Doe"), performed
14 four (4) smog inspections that resulted in the issuance of electronic certificates of compliance for
15 the vehicles set forth in Table 1, below, certifying that he had tested and inspected those vehicles
16 and that the vehicles were in compliance with applicable laws and regulations. In fact,
17 Respondent Rios performed the smog inspections using the clean piping method¹ by using the
18 tail pipe emissions of vehicles other than the vehicles being certified in order to issue the
19 electronic certificates of compliance.

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26 ¹ "Clean piping" is sampling the (clean) tailpipe emissions and/or the RPM readings of
27 another vehicle for the purpose of illegally issuing smog certifications to vehicles that are not in
28 compliance or are not present in the smog check area during the time of the certification.

Table 1

Date and Test Times	Vehicle Certified	Vehicle Actually Tested	Certificate Issued	Details
NO. 1 12/7/2010 0831 hours to 0858 hours	1996 Ford Windstar, License No. 4FMB841	2000 Ford Ranger, License No. 6H57317	WP785959C	Respondent Rios and Doe performed the inspection. Certified vehicle not seen.
NO. 2 12/7/2010 1416 hours To 1430 hours	2003 Mitsubishi, License No. 5AQV901	2000 Ford Ranger, License No. 6H57317	WP785964C	Respondent Rios and Doe performed the inspection. Certified vehicle not seen.
NO. 3 12/7/2010 1435 hours to 1448 hours	1977 Dodge B200 Van, License No. 7T67122	1996 Mitsubishi, License No. 5BGH828	WP785965C	Respondent Rios and Doe performed the inspection. Certified vehicle was seen on the premises but not on the dynamometer.
NO. 4 12/7/2010 1612 hours to 1633 hours	1996 Chevrolet Asto Minivan, License No. 5KSM333	1997 Chevrolet pickup, License No. 7A04365	WP785969C	Respondent Rios and Doe performed the inspection. Certified vehicle not seen.

FIRST CAUSE FOR DISCIPLINE

(Misleading Statements)

14. Respondent ATM has subjected his registration to discipline under Code section 9884.7, subdivision (a)(1), in that on or about December 7, 2010, 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 certificates of compliance for the vehicles set forth in Table 1, above, certifying that those vehicles were in compliance with applicable laws and regulations when, in fact, those vehicles had been clean piped.

SECOND CAUSE FOR DISCIPLINE

(Fraud)

15. Respondent ATM has subjected his registration to discipline under Code section 9884.7, subdivision (a)(4), in that on or about December 7, 2010, he committed acts which constitute fraud by issuing electronic certificates of compliance for the vehicles set forth in Table 1, above, without performing bona fide inspections of the emission control devices and systems

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

3 **THIRD CAUSE FOR DISCIPLINE**

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

5 16. Respondent ATM has subjected his station license to discipline under Health and
6 Safety Code section 44072.2, subdivision (a), in that on or about December 7, 2010, regarding the
7 vehicles set forth in Table 1, above, he violated sections of that Code, as follows:

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

10 b. **Section 44015, subdivision (b):** Respondent ATM issued electronic certificates of
11 compliance without properly testing and inspecting the vehicles to determine if they were in
12 compliance with section 44012 of that Code.

13 c. **Section 44059:** Respondent ATM willfully made false entries for the electronic
14 certificates of compliance by certifying that those vehicles had been inspected as required when,
15 in fact, they had not.

16 **FOURTH CAUSE FOR DISCIPLINE**

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

18 17. Respondent ATM has subjected his station license to discipline under Health and
19 Safety Code section 44072.2, subdivision (c), in that on or about December 7, 2010, regarding the
20 vehicles set forth in Table 1, above, he violated sections of the California Code of Regulations,
21 title 16, as follows:

22 a. **Section 3340.24, subdivision (c):** Respondent ATM falsely or fraudulently issued
23 electronic certificates of compliance without performing bona fide inspections of the emission
24 control devices and systems on those vehicles as required by Health and Safety Code section
25 44012.

26 b. **Section 3340.35, subdivision (c):** Respondent ATM issued electronic certificates of
27 compliance even though those vehicles had not been inspected in accordance with section
28 3340.42 of that Code.

1 c. **Section 3340.42:** Respondent ATM failed to conduct the required smog tests and
2 inspections on those vehicles in accordance with the Bureau's specifications.

3 **FIFTH CAUSE FOR DISCIPLINE**

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

5 18. Respondent ATM has subjected his station license to discipline under Health and
6 Safety Code section 44072.2, subdivision (d), in that on or about December 7, 2010, regarding the
7 vehicles set forth in Table 1, above, he committed acts involving dishonesty, fraud or deceit
8 whereby another was injured by issuing electronic certificates of compliance for those vehicles
9 without performing bona fide inspections of the emission control devices and system on those
10 vehicles, thereby depriving the People of the State of California of the protection afforded by the
11 Motor Vehicle Inspection Program.

12 **SIXTH CAUSE FOR DISCIPLINE**

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

14 19. Respondent Rios has subjected his technician license to discipline under Health and
15 Safety Code section 44072.2, subdivision (a), in that on or about December 7, 2010, regarding the
16 vehicles set forth in Table 1, above, he violated sections of that Code, as follows:

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

19 b. **Section 44032:** Respondent Rios failed to perform tests of the emission control
20 devices and systems on those vehicles in accordance with section 44012 of that Code, in that the
21 vehicles had been clean piped.

22 c. **Section 44059:** Respondent Rios willfully made false entries for the electronic
23 certificates of compliance by certifying that those vehicles had been inspected as required when,
24 in fact, they had not.

25 **SEVENTH CAUSE FOR DISCIPLINE**

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

27 20. Respondent Rios has subjected his technician license to discipline under Health and
28 Safety Code section 44072.2, subdivision (c), in that on or about December 7, 2010, regarding the

1 vehicles set forth in Table 1, above, he violated sections of the California Code of Regulations,
2 title 16, as follows:

3 a. **Section 3340.24, subdivision (c):** Respondent Rios falsely or fraudulently issued
4 electronic certificates of compliance without performing bona fide inspections of the emission
5 control devices and systems on those vehicles as required by Health and Safety Code section
6 44012.

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

9 c. **Section 3340.41, subdivision (c):** Respondent Rios entered false information into the
10 Emission Inspection System ("EIS") for the electronic certificates of compliance by entering
11 vehicle emission control information for vehicles other than the vehicles being certified.

12 d. **Section 3340.42:** Respondent Rios failed to conduct the required smog tests and
13 inspections on those vehicles in accordance with the Bureau's specifications.

14 **EIGHTH CAUSE FOR DISCIPLINE**

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

16 21. Respondent Rios has subjected his technician license to discipline under Health and
17 Safety Code section 44072.2, subdivision (d), in that on or about December 7, 2010, he
18 committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing
19 electronic certificates of compliance for the vehicles set forth in Table 1, above, without
20 performing bona fide inspections of the emission control devices and systems on those vehicles,
21 thereby depriving the People of the State of California of the protection afforded by the Motor
22 Vehicle Inspection Program.

23 **SURVEILLANCE OPERATION – DECEMBER 8, 2010**

24 22. On or about December 8, 2010, the Bureau performed a video-taped surveillance
25 operation at Respondent ATM's facility. The surveillance operation and information obtained
26 from the Bureau's VID revealed that between 1045 hours and 1554 hours, Respondent Rios
27 performed four (4) smog inspections and three (3) of those inspections resulted in the issuance of
28 electronic certificates of compliance for the vehicles set forth in Table 2, below, certifying that he

1 had tested and inspected those vehicles and that the vehicles were in compliance with applicable
 2 laws and regulations. Doe assisted Respondent Rios regarding the inspections to vehicles 1, 3,
 3 and 4, set forth in Table 2, below. In fact, Respondent Rios performed the smog inspections
 4 using the clean piping method by using the tail pipe emissions of vehicles other than the vehicles
 5 being certified in order to issue the electronic certificates of compliance. Vehicle 1 was false
 6 failed and no certificate of compliance was issued. Further, vehicle 1 was not on the premises
 7 when the false fail test was performed.

8 **Table 2**

Date and Test Times	Vehicle Certified	Vehicle Actually Tested	Certificate Issued	Details
NO. 1 12/8/2010 1045 hours to 1059 hours	1978 Chevrolet G20 Van, License No. 3BUM647	1996 Mitsubishi, License No. 5BGH828	No certificate issued	Respondent Rios and Doe performed the inspection. Vehicle was false failed. Vehicle not seen.
NO. 2 12/8/2010 1155 hours to 1218 hours	1996 Jeep, License No. 4VCV023	2004 Toyota, License No. 5HLT683	WP785974C	Respondent Rios performed the inspection. The driver of the Toyota performed the trace drive. Certified vehicle not seen.
NO. 3 12/8/2010 1511 hours to 1526 hours	1985 Chevrolet G30 Van, License No. 2U42537	1996 Mitsubishi, License No. 5BGH828	WP785979C	Respondent Rios and Doe performed the inspection. Certified vehicle not seen.
NO. 4 12/8/2010 1531 hours to 1554 hours	1988 Honda, License No. 2KDV866	1996 Mitsubishi, License No. 5BGH828	WP785980C	Respondent Rios and Doe performed the inspection. Certified vehicle not seen.

23 **TENTH CAUSE FOR DISCIPLINE**

24 **(Misleading Statements)**

25 23. Respondent ATM has subjected his registration to discipline under Code section
 26 9884.7, subdivision (a)(1), in that on or about December 8, 2010, he made statements which he
 27 knew or which by exercise of reasonable care he should have known were untrue or misleading
 28 when he issued electronic certificates of compliance for vehicles 2, 3, and 4, set forth in Table 2.

1 above, certifying that those vehicles were in compliance with applicable laws and regulations
2 when, in fact, those vehicles had been clean piped.

3 **ELEVENTH CAUSE FOR DISCIPLINE**

4 **(Fraud)**

5 24. Respondent ATM has subjected his registration to discipline under Code section
6 9884.7, subdivision (a)(4), in that on or about December 8, 2010, he committed acts which
7 constitute fraud by issuing electronic certificates of compliance for vehicles 2, 3, and 4, set forth
8 in Table 2, above, without performing bona fide inspections of the emission control devices and
9 systems on those vehicles, thereby depriving the People of the State of California of the
10 protection afforded by the Motor Vehicle Inspection Program.

11 **TWELFTH CAUSE FOR DISCIPLINE**

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

13 25. Respondent ATM has subjected his station license to discipline under Health and
14 Safety Code section 44072.2, subdivision (a), in that on or about December 8, 2010, regarding the
15 vehicles set forth in Table 2, above, he violated sections of that Code, as follows:

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

18 b. **Section 44015, subdivision (b):** Respondent ATM issued electronic certificates of
19 compliance for vehicles 2, 3, and 4, without properly testing and inspecting the vehicles to
20 determine if they were in compliance with section 44012 of that Code.

21 c. **Section 44059:** Respondent ATM willfully made false entries for the electronic
22 certificates of compliance for vehicles 2, 3, and 4, by certifying that those vehicles had been
23 inspected as required when, in fact, they had not.

24 **THIRTEENTH CAUSE FOR DISCIPLINE**

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

26 26. Respondent ATM has subjected his station license to discipline under Health and
27 Safety Code section 44072.2, subdivision (c), in that on or about December 8, 2010, regarding the
28

1 vehicles set forth in Table 2, above, he violated sections of the California Code of Regulations,
2 title 16, as follows:

3 a. **Section 3340.24, subdivision (c):** Respondent ATM falsely or fraudulently issued
4 electronic certificates of compliance for vehicles 2, 3, and 4, without performing bona fide
5 inspections of the emission control devices and systems on those vehicles as required by Health
6 and Safety Code section 44012.

7 b. **Section 3340.35, subdivision (c):** Respondent ATM issued electronic certificates of
8 compliance for vehicles 2, 3, and 4, even though those vehicles had not been inspected in
9 accordance with section 3340.42 of that Code.

10 c. **Section 3340.42:** Respondent ATM failed to conduct the required smog tests and
11 inspections on those vehicles in accordance with the Bureau's specifications.

12 **FOURTEENTH CAUSE FOR DISCIPLINE**

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

14 27. Respondent ATM has subjected his station license to discipline under Health and
15 Safety Code section 44072.2, subdivision (d), in that on or about December 8, 2010, regarding the
16 vehicles set forth in Table 2, above, he committed acts involving dishonesty, fraud or deceit
17 whereby another was injured by issuing electronic certificates of compliance for vehicles 2, 3,
18 and 4, without performing bona fide inspections of the emission control devices and system on
19 those vehicles, thereby depriving the People of the State of California of the protection afforded
20 by the Motor Vehicle Inspection Program.

21 **FIFTEENTH CAUSE FOR DISCIPLINE**

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

23 28. Respondent Rios has subjected his technician license to discipline under Health and
24 Safety Code section 44072.2, subdivision (a), in that on or about December 8, 2010, regarding the
25 vehicles set forth in Table 2, above, he violated sections of that Code, as follows:

26 a. **Section 44012:** Respondent Rios failed to ensure that the emission control tests were
27 performed on those vehicles in accordance with procedures prescribed by the department.
28

1 electronic certificates of compliance for vehicles 2, 3, and 4, set forth in Table 2, above, without
2 performing bona fide inspections of the emission control devices and systems on those vehicles,
3 thereby depriving the People of the State of California of the protection afforded by the Motor
4 Vehicle Inspection Program.

5 **OTHER MATTERS**

6 31. Pursuant to Code section 9884.7, subdivision (c), the Director may refuse to validate,
7 or may invalidate temporarily or permanently, the registrations for all places of business operated
8 in this state by Angel Torres, also known as Jose A. Torres and Jose Angel Torres Medrano doing
9 business as ATM Motors upon a finding that he has, or is, engaged in a course of repeated and
10 willful violations of the laws and regulations pertaining to an automotive repair dealer.

11 32. Pursuant to Health & Safety Code section 44072.8, if Smog Check Test Only Station
12 License Number TC 211032, issued to Angel Torres, also known as Jose A. Torres and Jose
13 Angel Torres Medrano doing business as ATM Motors, is revoked or suspended, any additional
14 license issued under this chapter in the name of said licensee may be likewise revoked or
15 suspended by the director.

16 33. Pursuant to Health & Safety Code section 44072.8, if Advanced Emission Specialist
17 Technician License Number EA 631361, issued to Juan A. Rios, also known as Juan Andres Rios,
18 and Juan Andres Rios Veliz, is revoked or suspended, any additional license issued under this
19 chapter in the name of said licensee may be likewise revoked or suspended by the director.

20 **PRAYER**

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

23 1. Revoking, suspending, or placing on probation Automotive Repair Dealer
24 Registration Number ARD 211032, issued to Angel Torres, also known as Jose A. Torres and
25 Jose Angel Torres Medrano doing business as ATM Motors;

26 2. Revoking, suspending, or placing on probation any other automotive repair dealer
27 registration issued in the name Angel Torres, also known as Jose A. Torres and Jose Angel Torres
28 Medrano;

1 3. Revoking or suspending Smog Check Test Only Station License Number TC 211032,
2 issued to Angel Torres, also known as Jose A. Torres and Jose Angel Torres Medrano doing
3 business as ATM Motors;

4 4. Revoking or suspending any additional license issued under Chapter 5 of the Health
5 and Safety Code in the name of Angel Torres, also known as Jose A. Torres and Jose Angel
6 Torres Medrano;

7 5. Revoking or suspending Advanced Emission Specialist Technician License Number
8 EA 631361, issued to Juan A. Rios, also known as Juan Andres Rios, and Juan Andres Rios
9 Veliz;

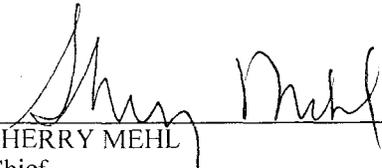
10 6. Revoking or suspending any additional license issued under Chapter 5 of the Health
11 and Safety Code in the name of Juan A. Rios, also known as Juan Andres Rios, and Juan Andres
12 Rios Veliz;

13 7. Ordering Angel Torres, also known as Jose A. Torres and Jose Angel Torres Medrano
14 and Juan A. Rios, also known as Juan Andres Rios, and Juan Andres Rios Veliz to pay the Bureau
15 of Automotive Repair the reasonable costs of the investigation and enforcement of this case,
16 pursuant to Business and Professions Code section 125.3; and,

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

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21 DATED: _____

6/21/11



SHERRY MEHL
Chief
Bureau of Automotive Repair
Department of Consumer Affairs
State of California
Complainant

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