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

In the Matter of the Accusation Against:

**BUDGET SMOG TEST ONLY CENTER**  
538 Olive Avenue, Suite 300  
Vista, CA 92083  
**DALE CLIFTON WRIGHT, PARTNER**  
**TANA MARIE HANNIBAL-WRIGHT,**  
**PARTNER**  
Automotive Repair Dealer Registration  
No. ARD 229367  
Smog Check Test Only Station License No.  
TC 229367

and

**DALE CLIFTON WRIGHT**  
538 Olive Avenue, #300 C  
Vista, CA 92083  
Advanced Emission Specialist Technician  
License No. EA 147941

Respondents.

Case No. 79/10-50

**DEFAULT DECISION AND ORDER**

[Gov. Code, §11520]

**FINDINGS OF FACT**

1. On or about January 13, 2010, Complainant Sherry Mehl, in her official capacity as the Chief of the Bureau of Automotive Repair (Bureau), filed Accusation No. 79/10-50 against Respondents Budget Smog Test Only Center, Dale Clifton Wright, Partner, Tana Marie Hannibal-Wright, Partner and Dale Clifton Wright before the Bureau. (See Default Decision Evidence Packet (DDEP), Exhibit 3.)



1           8.     Government Code section 11506 states, in pertinent part:

2                   (c) The respondent shall be entitled to a hearing on the merits if the respondent  
3                   files a notice of defense, and the notice shall be deemed a specific denial of all parts  
4                   of the accusation not expressly admitted. Failure to file a notice of defense shall  
5                   constitute a waiver of respondent's right to a hearing, but the agency in its discretion  
6                   may nevertheless grant a hearing.

7           9.     Respondent Wright filed a Notice of Defense on behalf of himself, only, within 15  
8           days after service upon him of the Accusation. No other respondent filed a Notice of Defense  
9           within 15 days after service of the Accusation. Respondent Wright appeared at the hearing duly  
10          noticed for August 24, 2010, but at that hearing, and on the record, withdrew his Notice of  
11          Defense and declined to defend the allegations contained in Accusation No. 79/10-50 against him.  
12          The Honorable Mary Agnes Matyszewski, Administrative Law Judge, presiding at the hearing,  
13          thereafter, and on the record, remanded this matter to the Bureau for preparation of an agency  
14          default. The Attorney General confirmed Respondent Wright's withdrawing his Notice of  
15          Defense and declining to defend the allegations against him in a letter to Respondent Wright  
16          dated August 25, 2010. (See DDEP, Exs. 3 and 6.)

17          10.    California Government Code section 11520 states, in pertinent part:

18                   (a) If the respondent either fails to file a notice of defense or to appear at the  
19                   hearing, the agency may take action based upon the respondent's express admissions  
20                   or upon other evidence and affidavits may be used as evidence without any notice to  
21                   respondent.

22          11.    Title 1, California Code of regulations, section 1014 states, in pertinent part:

23                   .....

24                   (c) A party who withdraws a notice of defense, a request for Hearing, or an  
25                   asserted special defense shall immediately notify OAH and all other parties.

26                   (d) When a party withdraws a notice of defense or a request for Hearing, the  
27                   agency shall promptly notify OAH of the agency's decision either to proceed with the  
28                   hearing as a default or request that the scheduled hearing be taken off calendar as a  
29                   result of the party's withdrawal of the notice of defense or request for Hearing. . . .

30          12.    Pursuant to its authority under Government Code section 11520, the Director of the  
31          Department of Consumer Affairs (Director) finds that Respondents are in default. The Director  
32          will take action without further hearing and, based on the relevant evidence before it in the  
33          Default Decision Evidence Packet in this matter, and the officially noticed investigative reports,

1 exhibits, and statements on file at the Bureau's offices regarding Accusation, Case No. 79/10-50,  
2 finds that the allegations therein are jointly and severally found to be true and correct by clear and  
3 convincing evidence.

4 13. Taking official notice of its own internal records, pursuant to Business and  
5 Professions Code (Code) section 125.3, the Director determines that total costs for investigation  
6 and enforcement in connection with the Accusation are \$10,478.18 as of August 23, 2010. (See  
7 DDEP, Ex. 5.)

### 8 **DETERMINATION OF ISSUES**

9 1. Based on the foregoing findings of fact, Respondents Budget Smog Test Only Center,  
10 Dale Clifton Wright, Partner, Tana Marie Hannibal-Wright, Partner, and Dale Clifton Wright,  
11 have subjected their Automotive Repair Dealer Registration No. ARD 229367, Smog Check Test  
12 Only Station License No. TC 229367, and Advanced Emission Specialist Technician License  
13 Number EA 147941 to discipline.

14 2. A copy of Accusation No. 79/10-50 is attached, as Exhibit A.

15 3. The agency has jurisdiction to adjudicate this case by default.

16 4. The Director of Consumer Affairs is authorized to revoke Respondents' licenses  
17 based upon the following violations alleged in the Accusation which are supported by the  
18 evidence contained in the Default Decision Evidence Packet. (See Default Decision Evidence  
19 Packet, Ex. 3.);

20 a. Respondent Budget is subject to discipline under Code section 9884.7, subdivision  
21 (a)(1), in that on or about June 12, 2009, it made statements which it knew or which by exercise  
22 of reasonable care it should have known were untrue or misleading by issuing electronic  
23 Certificate of Compliance No. WB061325 for the 1992 Toyota Corolla, certifying that the vehicle  
24 was in compliance with applicable laws and regulations. In fact, the vehicle could not have  
25 passed the functional portion of the smog inspection because the vehicle's ignition timing was  
26 adjusted beyond the manufacturer's specifications.

1           b.     Respondent Budget has subjected its registration to disciplinary action pursuant to  
2 Code section 9884.7, subdivision (a)(3), in that on or about June 12, 2009, it failed to provide the  
3 operator with a copy of the work order as soon as she signed the document.

4           c.     Respondent Budget has subjected its registration to disciplinary action pursuant to  
5 Code section 9884.7, subdivision (a)(4), in that on or about June 12, 2009, it committed acts  
6 which constitute fraud by issuing electronic Certificate of Compliance No. WB061325 for the  
7 1992 Toyota Corolla without performing a bona fide inspection of the emission control devices  
8 and systems on the vehicle, thereby depriving the People of the State of California of the  
9 protection afforded by the Motor Vehicle Inspection Program.

10          d.     Respondent Budget has subjected its registration to disciplinary action pursuant to  
11 Code section 9884.7, subdivision (a)(6), in that on or about June 12, 2009, Respondent failed to  
12 materially comply with the following Business and Professions Code sections:

13               1.     **Code section 9884.8:** Regarding Invoice No. 14559, Respondent failed to  
14 separately set forth subtotal prices for service work, parts, and any sales tax.

15               2.     **Code section 9884.9, subdivision (a):** Respondent Budget failed to provide  
16 the operator with a written estimated price for parts and labor for a specific job for the smog  
17 inspection.

18          e.     Respondent Budget has subjected its registration to disciplinary action pursuant to  
19 Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with California  
20 Code of Regulations, title 16, section 3356, subdivision (a). Regarding Invoice No. 14559,  
21 Respondent failed to set forth its correct business address as it appears on Bureau records.

22          f.     Respondent Budget has subjected its station license to disciplinary action pursuant to  
23 Health and Safety Code section 44072.2, subdivision (a), in that on or about June 12, 2009,  
24 regarding the 1992 Toyota Corolla, it violated sections of the Health and Safety Code, as follows:

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

28

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

3           3.    **Section 44015, subdivision (b):** Respondent Budget issued electronic  
4 Certificate of Compliance No. WB061325 without properly testing and inspecting the vehicle to  
5 determine if it was in compliance with Code section 44012.

6           4.    **Section 44059:** Respondent Budget willfully made false entries for electronic  
7 Certificate of Compliance No. WB061325, certifying that the vehicle had been inspected as  
8 required when, in fact, it had not.

9           g.    Respondent Budget has subjected its station license to disciplinary action pursuant to  
10 Health and Safety Code section 44072.2, subdivision (c), in that on or about June 12, 2009,  
11 regarding the 1992 Toyota Corolla, it violated sections of the California Code of Regulations, title  
12 16, as follows:

13           1.    **Section 3340.24, subdivision (c):** Respondent Budget falsely or fraudulently  
14 issued electronic Certificate of Compliance No. WB061325 without performing a bona fide  
15 inspection of the emission control devices and systems on that vehicle as required by Health and  
16 Safety Code section 44012.

17           2.    **Section 3340.35, subdivision (c):** Respondent Budget issued electronic  
18 Certificate of Compliance No. WB061325 even though the vehicle had not been inspected in  
19 accordance with section 3340.42 of that Code.

20           3.    **Section 3340.42:** Respondent Budget failed to conduct the required smog tests  
21 and inspections on that vehicle in accordance with the Bureau's specifications.

22           h.    Respondent Budget has subjected its station license to disciplinary action pursuant to  
23 Health and Safety Code section 44072.2, subdivision (d), in that on or about June 12, 2009, it  
24 committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing  
25 Certificate of Compliance No. WB061325 without performing a bona fide inspection of the  
26 emission control devices and systems on the 1992 Toyota Corolla, thereby depriving the People  
27 of the State of California of the protection afforded by the Motor Vehicle Inspection Program.  
28

1           i.       Respondent Wright has subjected his technician license to discipline under Health  
2 and Safety Code section 44072.2, subdivision (a), in that on or about June 12, 2009, regarding the  
3 1992 Toyota Corolla, he violated sections of the Health and Safety Code, as follows:

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

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

9               3.       **Section 44032:** Respondent Wright failed to perform tests of the emission  
10 control devices and systems on that vehicle in accordance with section 44012 of that Code.

11              4.       **Section 44059:** Respondent Wright willfully entered false information for  
12 electronic Certificate of Compliance No. WB061325, certifying that the vehicle had been  
13 inspected as required when, in fact, it had not.

14           j.       Respondent Wright has subjected his technician license to discipline under Health  
15 and Safety Code section 44072.2, subdivision (c), in that on or about June 12, 2009, regarding the  
16 1992 Toyota Corolla, he violated sections of the California Code of Regulations, title 16, as  
17 follows:

18              1.       **Section 3340.24, subdivision (c):** Respondent Wright falsely or fraudulently  
19 issued electronic Certificate of Compliance No. WB061325 without performing a bona fide  
20 inspection of the emission control devices and systems on that vehicle as required by Health and  
21 Safety Code section 44012.

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

24              3.       **Section 3340.41, subdivision (c):** Respondent Wright entered false  
25 information into the Emission Inspection System (“EIS”) unit by entering “Pass” for the  
26 functional portion of the smog test when, in fact, the vehicle could not have passed the functional  
27 portion of the smog inspection because the vehicle’s ignition timing was adjusted beyond the  
28 manufacturer’s specifications.



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*Attorneys for Complainant*

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

11 79/10-50

12 In the Matter of the Accusation Against:

Case No.

13 **BUDGET SMOG TEST ONLY CENTER**  
538 Olive Avenue, Suite 300  
14 Vista, CA 92083  
**DALE CLIFTON WRIGHT, PARTNER**  
15 **TANA MARIE HANNIBAL-WRIGHT, PARTNER**  
Automotive Repair Dealer Registration  
16 No. ARD 229367  
Smog Check Test Only Station License No. TC 229367

**ACCUSATION**

**SMOG CHECK**

17 and

18 **DALE CLIFTON WRIGHT**  
19 538 Olive Avenue, #300 C  
Vista, CA 92083  
20 **Advanced Emission Specialist Technician License**  
No. EA 147941

21 Respondents.

22  
23 Complainant alleges:

24 **PARTIES**

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

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1 (6) Failure in any material respect to comply with the provisions of this  
chapter [the Automotive Repair Act (Bus. & Prof. Code, 9880, et seq.)] or  
2 regulations adopted pursuant to it.

3 (b) Except as provided for in subdivision (c), if an automotive repair  
dealer operates more than one place of business in this state, the director pursuant to  
4 subdivision (a) shall only invalidate temporarily or permanently the registration of the  
specific place of business which has violated any of the provisions of this chapter.  
5 This violation, or action by the director, shall not affect in any manner the right of the  
automotive repair dealer to operate his or her other places of business.

6 (c) Notwithstanding subdivision (b), the director may invalidate  
temporarily or permanently, the registration for all places of business operated in this  
7 state by an automotive repair dealer upon a finding that the automotive repair dealer  
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 9884.8 states:

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

16  
17 7. Code section 9884.9, subdivision (a), states:

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

26  
27 (1) Make a notation on the invoice of the same facts set forth in the  
notation on the work order.

28

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

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

6 \_\_\_\_\_  
7 (signature or initials)"

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

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

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

### 19 REGULATORY PROVISION

20 10. California Code of Regulations, title 16, section 3356, subdivision (a)(1), states:

21 (a) All invoices for service and repair work performed, and parts  
22 supplied, as provided for in Section 9884.8 of the Business and Professions Code,  
23 shall comply with the following:

24 (1) The invoice shall show the automotive repair dealer's registration  
25 number and the corresponding business name and address as shown on the Bureau's  
26 records.

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

12. Section 44072.2 of the Health and Safety Code states:

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:

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

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

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

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

12 14. Section 44072.8 of the Health and Safety Code states:

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

#### 16 COST RECOVERY

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

#### 21 **UNDERCOVER OPERATION - JUNE 12, 2009**

22 16. On or about June 12, 2009, a Bureau undercover operator using the alias "Ramona  
23 Torres" ("operator") drove a Bureau documented 1992 Toyota Corolla to Respondent Budget's  
24 facility and requested a smog inspection. The vehicle could not pass a smog inspection because  
25 the vehicle's ignition timing was adjusted beyond the manufacturer's specifications. The operator  
26 signed a work order; however, she was not provided with a copy of the document prior to the  
27 smog inspection. Respondent Wright performed the smog inspection and issued electronic  
28 Certificate of Compliance No. WB061325, certifying that the vehicle was in compliance with  
applicable laws and regulations when, in fact, the vehicle could not have passed the smog  
inspection because the vehicle's ignition timing was adjusted beyond the manufacturer's

1 specifications. Following the inspection, the operator paid Respondent Budget \$59 and was  
2 provided with Invoice No. 14559 and a Vehicle Inspection Report.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Untrue or Misleading Statements)**

5 17. Respondent Budget has subjected its registration to disciplinary action pursuant to  
6 Code section 9884.7, subdivision (a)(1), in that on or about June 12, 2009, it made statements  
7 which it knew or which by exercise of reasonable care it should have known were untrue or  
8 misleading by issuing electronic Certificate of Compliance No. WB061325 for the 1992 Toyota  
9 Corolla, certifying that the vehicle was in compliance with applicable laws and regulations. In  
10 fact, the vehicle could not have passed the functional portion of the smog inspection because the  
11 vehicle's ignition timing was adjusted beyond the manufacturer's specifications.

12 **SECOND CAUSE FOR DISCIPLINE**

13 **(Failure to Immediately Provide a Copy of a Signed Document)**

14 18. Respondent Budget has subjected its registration to disciplinary action pursuant to  
15 Code section 9884.7, subdivision (a)(3), in that on or about June 12, 2009, it failed to provide the  
16 operator with a copy of the work order as soon as she signed the document.

17 **THIRD CAUSE FOR DISCIPLINE**

18 **(Fraud)**

19 19. Respondent Budget has subjected its registration to disciplinary action pursuant to  
20 Code section 9884.7, subdivision (a)(4), in that on or about June 12, 2009, it committed acts  
21 which constitute fraud by issuing electronic Certificate of Compliance No. WB061325 for the  
22 1992 Toyota Corolla without performing a bona fide inspection of the emission control devices  
23 and systems on the vehicle, thereby depriving the People of the State of California of the  
24 protection afforded by the Motor Vehicle Inspection Program.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Failure to Comply with Code)**

3 20. Respondent Budget has subjected its registration to disciplinary action pursuant to  
4 Code section 9884.7, subdivision (a)(6), in that on or about June 12, 2009, Respondent failed to  
5 materially comply with the following Code sections:

6 a. **Code section 9884.8:** Regarding Invoice No. 14559, Respondent failed to separately  
7 set forth subtotal prices for service work, parts, and any sales tax.

8 b. **Code section 9884.9, subdivision (a):** Respondent Budget failed to provide the  
9 operator with a written estimated price for parts and labor for a specific job for the smog  
10 inspection.

11 **FIFTH CAUSE FOR DISCIPLINE**

12 **(Failure to Comply with Regulations)**

13 21. Respondent Budget has subjected its registration to disciplinary action pursuant to  
14 Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with California  
15 Code of Regulations, title 16, section 3356, subdivision (a). Regarding Invoice No. 14559,  
16 Respondent failed to set forth its correct business address as it appears on Bureau records.

17 **SIXTH CAUSE FOR DISCIPLINE**

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

19 22. Respondent Budget has subjected its station license to disciplinary action pursuant to  
20 Health and Safety Code section 44072.2, subdivision (a), in that on or about June 12, 2009,  
21 regarding the 1992 Toyota Corolla, it violated sections of that Code, as follows:

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

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

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1 c. **Section 44015, subdivision (b):** Respondent Budget issued electronic Certificate of  
2 Compliance No. WB061325 without properly testing and inspecting the vehicle to determine if it  
3 was in compliance with Code section 44012.

4 d. **Section 44059:** Respondent Budget willfully made false entries for electronic  
5 Certificate of Compliance No. WB061325, certifying that the vehicle had been inspected as  
6 required when, in fact, it had not.

7 **SEVENTH CAUSE FOR DISCIPLINE**

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

9 23. Respondent Budget has subjected its station license to disciplinary action pursuant to  
10 Health and Safety Code section 44072.2, subdivision (c), in that on or about June 12, 2009,  
11 regarding the 1992 Toyota Corolla, it violated sections of the California Code of Regulations, title  
12 16, as follows:

13 a. **Section 3340.24, subdivision (c):** Respondent Budget falsely or fraudulently issued  
14 electronic Certificate of Compliance No. WB061325 without performing a bona fide inspection  
15 of the emission control devices and systems on that vehicle as required by Health and Safety  
16 Code section 44012.

17 b. **Section 3340.35, subdivision (c):** Respondent Budget issued electronic Certificate of  
18 Compliance No. WB061325 even though the vehicle had not been inspected in accordance with  
19 section 3340.42 of that Code.

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

22 **EIGHTH CAUSE FOR DISCIPLINE**

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

24 24. Respondent Budget has subjected its station license to disciplinary action pursuant to  
25 Health and Safety Code section 44072.2, subdivision (d), in that on or about June 12, 2009, it  
26 committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing  
27 Certificate of Compliance No. WB061325 without performing a bona fide inspection of the  
28

1 emission control devices and systems on the 1992 Toyota Corolla, thereby depriving the People  
2 of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

3 **NINTH CAUSE FOR DISCIPLINE**

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

5 25. Respondent Wright has subjected his technician license to discipline under Health  
6 and Safety Code section 44072.2, subdivision (a), in that on or about June 12, 2009, regarding the  
7 1992 Toyota Corolla, he violated sections of that Code, as follows:

8 a. **Section 44012, subdivision (a):** Respondent Wright failed to determine that all  
9 emission 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 Wright failed to perform emission  
12 control tests on that vehicle in accordance with procedures prescribed by the department.

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

15 d. **Section 44059:** Respondent Wright willfully entered false information for electronic  
16 Certificate of Compliance No. WB061325, certifying that the vehicle had been inspected as  
17 required when, in fact, it had not.

18 **TENTH CAUSE FOR DISCIPLINE**

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

20 26. Respondent Wright has subjected his technician license to discipline under Health  
21 and Safety Code section 44072.2, subdivision (c), in that on or about June 12, 2009, regarding the  
22 1992 Toyota Corolla, he violated sections of the California Code of Regulations, title 16, as  
23 follows:

24 a. **Section 3340.24, subdivision (c):** Respondent Wright falsely or fraudulently issued  
25 electronic Certificate of Compliance No. WB061325 without performing a bona fide inspection  
26 of the emission control devices and systems on that vehicle as required by Health and Safety  
27 Code section 44012.

28



1 assessed civil penalties totaling \$500 against Respondent Budget for the violations. Respondent  
2 Budget appealed this citation on December 14, 2006. A decision upholding the citation was  
3 issued on September 19, 2007. Respondent Budget complied with this citation on October 25,  
4 2007.

5 b. On or about November 7, 2006, the Bureau issued Citation No. M07-0278 against  
6 Respondent Wright's technician license for violations of Health & Safety Code section 44032,  
7 (failure to perform tests and inspects in accordance with H&S section 44012), and California  
8 Code of Regulations, title 16, section ("Regulation") 3340.30, subdivision (a) (inspect, test, and  
9 repair vehicles in accordance with H&S sections 44012, 44035, and Regulation 3340.42) for  
10 issuing a certificate of compliance to a Bureau undercover vehicle with a missing positive  
11 crankcase ventilation system. Respondent Wright was required to attend an 8-hour training  
12 course. Respondent Wright appealed this citation on December 14, 2006. A decision upholding  
13 the citation was issued on September 19, 2007. Respondent Wright complied with this citation on  
14 October 29, 2007.

15 c. On or about May 14, 2007, the Bureau issued Citation No. C07-0874 against  
16 Respondent Budget's registration and station licenses for violations of Health & Safety Code  
17 section 44012, subdivision (f) (failure to perform a visual/functional check of emission control  
18 devices according to procedures prescribed by the department), and California Code of  
19 Regulations, title 16, section ("Regulation") 3340.35, subdivision (c) (issuing a certificate of  
20 compliance to a vehicle that was improperly tested), for issuing a certificate of compliance to a  
21 Bureau undercover vehicle with a missing air suction valve. The Bureau assessed civil penalties  
22 totaling \$1,000 against Respondent Budget for the violations. Respondent Budget appealed this  
23 citation on July 11, 2007. A decision upholding the citation was issued on June 16, 2008.  
24 Respondent Budget complied with this citation on April 6, 2009.

25 d. On or about May 14, 2007, the Bureau issued Citation No. M07-0875 against  
26 Respondent Wright's technician license for violations of Health & Safety Code section 44032,  
27 (failure to perform tests and inspects in accordance with H&S section 44012), and California  
28 Code of Regulations, title 16, section ("Regulation") 3340.30, subdivision (a) (inspect, test, and

1 repair vehicles in accordance with H&S sections 44012, 44035, and Regulation 3340.42) for  
2 issuing a certificate of compliance to a Bureau undercover vehicle with a missing air suction  
3 valve. Respondent Wright was required to attend a 16-hour training course. Respondent Wright  
4 appealed the citation on July 11, 2007. A decision upholding the citation was issued on June 16,  
5 2008. Respondent Wright complied with this citation on July 20, 2008.

6 e. On or about September 5, 2007, the Bureau issued Citation No. C08-0199 against  
7 Respondent Budget's registration and station licenses for violations of Health & Safety Code  
8 section 44012, subdivision (f) (failure to perform a visual/functional check of emission control  
9 devices according to procedures prescribed by the department), and California Code of  
10 Regulations, title 16, section ("Regulation") 3340.35, subdivision (c) (issuing a certificate of  
11 compliance to a vehicle that was improperly tested), for issuing a certificate of compliance to a  
12 Bureau undercover vehicle with a missing pulse air injection system. The Bureau assessed civil  
13 penalties totaling \$2,000 against Respondent Budget for the violations. Respondent Budget  
14 appealed this citation on November 13, 2007. A decision was issued upholding the citation on  
15 June 16, 2008. Respondent Budget complied with this citation on February 19, 2009.

16 f. On or about September 5, 2007, the Bureau issued Citation No. M08-0200 against  
17 Respondent Wright's technician license for violations of Health & Safety Code section 44032,  
18 (failure to perform tests and inspects in accordance with H&S section 44012), and California  
19 Code of Regulations, title 16, section ("Regulation") 3340.30, subdivision (a) (inspect, test, and  
20 repair vehicles in accordance with H&S sections 44012, 44035, and Regulation 3340.42) for  
21 issuing a certificate of compliance to a Bureau undercover vehicle with a missing pulse air  
22 injection system. Respondent Wright was required to attend a 68-hour training course.  
23 Respondent Wright appealed this citation on November 13, 2007. A decision upholding the  
24 citation was issued on June 16, 2008. Respondent Wright complied with this citation on April 1,  
25 2009.

26 g. On or about March 26, 2009, the Bureau issued Citation No. C09-1110 against  
27 Respondent Budget's registration and station licenses for violations of Health & Safety Code  
28 section 44012, subdivision (f) (failure to perform a visual/functional check of emission control

1 devices according to procedures prescribed by the department), and California Code of  
2 Regulations, title 16, section ("Regulation") 3340.35, subdivision (c) (issuing a certificate of  
3 compliance to a vehicle that was improperly tested), for issuing a certificate of compliance to a  
4 Bureau undercover vehicle with the ignition timing adjusted beyond manufacturer's  
5 specifications. The Bureau assessed civil penalties totaling \$500 against Respondent Budget for  
6 the violations. Respondent Budget appealed this citation on May 4, 2009. A decision upholding  
7 the citation was issued on January 3, 2010; however, Respondent Budget complied with this  
8 citation on December 10, 2009.

9 h. On or about March 26, 2009, the Bureau issued Citation No. M09-1111 against  
10 Respondent Wright's technician license for violations of Health & Safety Code section 44032,  
11 (failure to perform tests and inspects in accordance with H&S section 44012), and California  
12 Code of Regulations, title 16, section ("Regulation") 3340.30, subdivision (a) (inspect, test, and  
13 repair vehicles in accordance with H&S sections 44012, 44035, and Regulation 3340.42) for  
14 issuing a certificate of compliance to a Bureau undercover vehicle with the ignition timing  
15 adjusted beyond manufacturer's specifications. Respondent Wright was required to attend an 8-  
16 hour training course. Respondent Wright appealed this citation on may 4, 2009. A decision  
17 upholding the citation was issued on January 3, 2010; however, Respondent Wright complied  
18 with this citation on December 20, 2009.

#### 19 OTHER MATTERS

20 29. Under Code section 9884.7, subdivision (c), the director may invalidate temporarily  
21 or permanently or refuse to validate, the registrations for all places of business operated in this  
22 state by Budget Smog Test Only Center, upon a finding that it has, or is, engaged in a course of  
23 repeated and willful violations of the laws and regulations pertaining to an automotive repair  
24 dealer.

25 30. Under Health & Safety Code section 44072.8, if Smog Check Station License  
26 Number TC 229367, issued to Budget Smog Test Only Center, is revoked or suspended, any  
27 additional license issued under this chapter in the name of said licensee may be likewise revoked  
28 or suspended by the director.

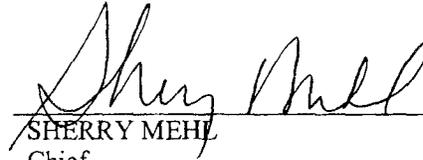


1           7.     Ordering Budget Smog Test Only Center and Dale Clifton Wright to pay the Bureau  
2 of Automotive Repair the reasonable costs of the investigation and enforcement of this case,  
3 pursuant to Business and Professions Code section 125.3; and,

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

5  
6  
7 DATED: \_\_\_\_\_

1/13/10



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

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