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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. 79/11-46

13 **PAJARO AUTO CENTER**  
14 **ALEXIS Q. BAJOG,**  
15 **a.k.a. ALEXIS QUITASOL BAJOG, OWNER**  
16 **225 Salinas Road, Bldg. 4-B**  
17 **Watsonville, California 95076**  
**Mailing Address:**  
18 **115 Paloma Way**  
19 **Watsonville, CA 95076**  
20 **Automotive Repair Dealer Reg. No. ARD 240495**  
21 **Smog Check Station License No. RC 240495**

**A C C U S A T I O N**  
**(Smog Check)**

18 and

19 **MIGUEL R. GARCIA**  
20 **P.O. Box 1841**  
21 **Watsonville, CA 95077**  
22 **Advanced Emission Specialist Technician**  
23 **License No. EA 037113**

22 Respondents.

24 Complainant alleges:

25 **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 and revoked its smog check station license. The permanent invalidation and revocation were  
2 stayed and Pajaro was placed on probation for three (3) years subject to certain terms and  
3 conditions. Pajaro's registration and smog check station license were also suspended for ten (10)  
4 days.

5 8. In or about July 2005, Respondent Bajog submitted applications to the Bureau for an  
6 automotive repair dealer registration and smog check station license as sole owner of Pajaro Auto  
7 Center.

8 9. On August 11, 2005, in the disciplinary proceeding titled *In the Matter of the*  
9 *Statement of Issues Against: Alexis Q. Bajog, Owner of Pajaro Auto Center*, Case No.  
10 79/05-30 S, Respondent Bajog entered into a Stipulation and Agreement, Decision and Order,  
11 with the Director. Respondent stipulated that Accusation Number 79/05-30 may be deemed to  
12 constitute a Statement of Issues against her for purposes of denial of her applications, and that a  
13 registration and smog check station license may be issued to her contingent upon her full  
14 compliance with the requirements for licensure. The Director ordered that upon issuance of a  
15 registration and smog check station license to Respondent, Respondent's registration and smog  
16 check station license would be immediately revoked, the revocations stayed, and Respondent  
17 placed on probation for three (3) years subject to the same terms and conditions of probation set  
18 forth in the Decision after Reconsideration.

### 19 JURISDICTION

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

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

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

1 13. Health & Saf. Code section 44072.6 provides, in pertinent part, that the expiration or  
2 suspension of a license by operation of law, or by order or decision of the Director of Consumer  
3 Affairs, or a court of law, or the voluntary surrender of the license shall not deprive the Director  
4 of jurisdiction to proceed with disciplinary action.

5 **STATUTORY PROVISIONS**

6 14. Bus. & Prof. Code section 9884.7 states, in pertinent part:

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

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

16 . . . .

17 (4) Any other conduct that constitutes fraud.

18 . . . .

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

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

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

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

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

5 . . . .

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

9 . . . .

10 (4) Intentional or willful violation of this chapter or any regulation,  
standard, or procedure of the department implementing this chapter . . .

11 18. Health & Saf. Code section 44072.8 states that when a license has been revoked or  
12 suspended following a hearing under this article, any additional license issued under this chapter  
13 in the name of the licensee may be likewise revoked or suspended by the director.

14 **COST RECOVERY**

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

19 **VID DATA REVIEW**

20 20. The Bureau initiated an investigation against Respondent Bajog based on a review of  
21 information from the Bureau's Vehicle Information Database ("VID"), which indicated that  
22 Respondent may be engaging in fraudulent smog check activities.

23 21. On June 2, 2010, and July 8, 2010, a representative of the Bureau conducted detailed  
24 reviews of VID data for all smog inspections performed at Respondent Bajog's facility for the  
25 periods of July 15, 2009, to August 31, 2009, and July 15, 2009, to May 27, 2010. The  
26 representative found that the 12 vehicles identified below recorded various diagnostic trouble

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1 codes (hereinafter "code") during the OBD II tests<sup>1</sup>. The representative obtained information  
2 indicating that certain of these codes were not applicable to the vehicles. The VID data also  
3 showed that Respondent Garcia had performed the inspections on all of the vehicles.

4 22. The Bureau concluded that Respondent Garcia performed the smog inspections on the  
5 vehicles using a different vehicle(s) during the OBD II tests, a method known as "clean  
6 plugging",<sup>2</sup> resulting in the issuance of fraudulent certificates of compliance for the vehicles.

7 23. On August 17, 2010, the representative performed a station inspection at Respondent  
8 Bajog's facility and obtained copies of vehicle inspection reports pertaining to the smog  
9 inspections conducted on vehicles 1 through 3, 5 through 7, and 9 through 11. Bajog confirmed  
10 that she was the owner of vehicle 4, the 1996 Dodge Caravan.

<b>Date and Time of Inspection</b>	<b>Vehicle Certified and VIN or License No.</b>	<b>Certificate of Compliance No.</b>
1. 07/15/2009 17:59-18:06	2002 Dodge Ram 1500; VIN No. 3D7HA18N82G204832	NM114395C
2. 07/21/2009 14:30-14:42	2003 Chrysler PT Cruiser; VIN No. 3C4FY58B23T589324	NM253802C
3. 07/25/2009 15:07-15:17	1997 Mitsubishi Montero; License No. 3XLT478	NM309310C
4. 08/12/2009 14:39-14:50	1996 Dodge Caravan; License No. XCELJRJ	NM511530C
5. 08/28/2009 12:30-12:38	2001 Volkswagen Passat; License No. 4UVG909	NM756276C
6. 08/31/2009 13:37-13:44	1998 BMW 3-Series; License No. 6HZIP823	NM790912C
7. 11/10/2009 16:06-16:21	1996 Nissan 200SX; License No. 5EHD831	NO618544C

21 <sup>1</sup> The On Board Diagnostics (OBD II) functional test is an automated function of the  
22 BAR-97 analyzer. During the OBD II functional test, the technician is required to connect an  
23 interface cable from the BAR-97 analyzer to a Diagnostic Link Connector (DLC) which is  
24 located inside the vehicle. Through the DLC, the BAR-97 analyzer automatically retrieves  
information from the vehicle's on-board computer about the status of the readiness indicators,  
trouble codes, and the MIL (malfunction indicator light). If the vehicle fails the OBD II  
functional test, it will fail the overall inspection.

25 <sup>2</sup> Clean-plugging is the use of the OBD II readiness monitor status and stored fault code  
26 (trouble code) status of a passing vehicle for the purpose of illegally issuing a smog certificate to  
27 another vehicle that is not in compliance due to a failure to complete the minimum number of self  
28 tests, known as monitors, or due to the presence of a stored fault code that indicates an emission  
control system or component failure.

Date and Time of Inspection	Vehicle Certified and VIN or License No.	Certificate of Compliance No.
8. 02/19/2010 13:13-13:21	1997 Nissan Sentra; Illinois License No. 8386366	NQ841721C
9. 03/20/2010 12:56-13:04	2004 Mitsubishi Galant; VIN No. 4A3AB76S54E099579	NS249386C
10. 04/15/2010 16:44-16:52	1997 BMW 5-Series; License No. 6CIB378	NS636835C
11. 04/23/2010 15:28-15:36	1999 Dodge Durango; VIN No. 1B4HR28Y3XF681760	NS747772C
12. 05/27/2010 13:50-13:56	1997 Plymouth Voyager, VIN No. 2P4GP44R1VR250477	NU195197C

**FIRST CAUSE FOR DISCIPLINE**

**(Untrue or Misleading Statements)**

24. Respondent Bajog's 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 she knew or in the exercise of reasonable care should have known to be untrue or misleading, as follows:

a. Respondent Bajog's smog check technician, Respondent Garcia, certified under penalty of perjury on the vehicle inspection reports for vehicles 1 through 3, 5 through 7, and 9 through 11, identified in paragraph 23 above, that he performed the smog inspections on the vehicles in accordance with all Bureau requirements and that the vehicles had passed inspection and were in compliance with applicable laws and regulations. In fact, Respondent Garcia conducted the inspections on the vehicles using clean-plugging methods in that he used a different vehicle(s) during the OBD II functional tests in order to issue smog certificates of compliance for the vehicles, and did not test or inspect the vehicles as required by Health & Saf. Code section 44012.

b. Respondent Bajog's smog check technician, Respondent Garcia, certified that vehicles 4, 8, and 12, identified in paragraph 23 above, had passed inspection and were in compliance with applicable laws and regulations. In fact, Respondent Garcia conducted the inspections on the vehicles using clean-plugging methods in that he substituted or used a different vehicle(s) during the OBD II functional tests in order to issue smog certificates of compliance for

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1 the vehicles, and did not test or inspect the vehicles as required by Health & Saf. Code section  
2 44012.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Fraud)**

5 25. Respondent Bajog's registration is subject to disciplinary action pursuant to Bus. &  
6 Prof. Code section 9884.7, subdivision (a)(4), in that Respondent committed acts that constitute  
7 fraud by issuing electronic smog certificates of compliance for vehicles 1 through 12, identified in  
8 paragraph 23 above, without performing bona fide inspections of the emission control devices  
9 and systems on the vehicles, thereby depriving the People of the State of California of the  
10 protection afforded by the Motor Vehicle Inspection Program.

11 **THIRD CAUSE FOR DISCIPLINE**

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

13 26. Respondent Bajog's smog check station license is subject to disciplinary action  
14 pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to  
15 comply with the following sections of that Code:

16 a. **Section 44012:** Respondent failed to ensure that the emission control tests were  
17 performed on vehicles 1 through 12, identified in paragraph 23 above, in accordance with  
18 procedures prescribed by the department.

19 b. **Section 44015:** Respondent issued electronic smog certificates of compliance for  
20 vehicles 1 through 12, identified in paragraph 23 above, without ensuring that the vehicles were  
21 properly tested and inspected to determine if they were in compliance with Health & Saf. Code  
22 section 44012.

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1 FOURTH CAUSE FOR DISCIPLINE

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

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

7 a. Section 3340.24, subdivision (c): Respondent falsely or fraudulently issued  
8 electronic smog certificates of compliance for vehicles 1 through 12, identified in paragraph 23  
9 above.

10 b. Section 3340.35, subdivision (c): Respondent issued electronic smog certificates of  
11 compliance for vehicles 1 through 12, identified in paragraph 23 above even though the vehicles  
12 had not been inspected in accordance with section 3340.42.

13 c. Section 3340.42: Respondent failed to ensure that the required smog tests were  
14 conducted on vehicles 1 through 12, identified in paragraph 23 above in accordance with the  
15 Bureau's specifications.

16 FIFTH CAUSE FOR DISCIPLINE

17 (Dishonesty, Fraud or Deceit)

18 28. Respondent Bajog's smog check station license is subject to disciplinary action  
19 pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed  
20 dishonest, fraudulent or deceitful acts whereby another is injured by issuing electronic smog  
21 certificates of compliance for vehicles 1 through 12, identified in paragraph 23 above without  
22 performing bona fide inspections of the emission control devices and systems on the vehicles,  
23 thereby depriving the People of the State of California of the protection afforded by the Motor  
24 Vehicle Inspection Program.

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1 fraudulent, or deceitful acts whereby another is injured by issuing electronic smog certificates of  
2 compliance for vehicles 1 through 12, identified in paragraph 23 above, without performing bona  
3 fide inspections of the emission control devices and systems on the vehicles, thereby depriving  
4 the People of the State of California of the protection afforded by the Motor Vehicle Inspection  
5 Program.

6 **OTHER MATTERS**

7 32. Pursuant to Bus. & Prof. Code section 9884.7, subdivision (c), the Director may  
8 suspend, revoke or place on probation the registration for all places of business operated in this  
9 state by Respondent Alexis Q. Bajog, also known as Alexis Quitasol Bajog, owner of Pajaro Auto  
10 Center, upon a finding that Respondent has, or is, engaged in a course of repeated and willful  
11 violations of the laws and regulations pertaining to an automotive repair dealer.

12 33. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Station License  
13 Number RC 240495, issued to Respondent Alexis Q. Bajog, also known as Alexis Quitasol  
14 Bajog, owner of Pajaro Auto Center, is revoked or suspended, any additional license issued under  
15 this chapter in the name of said licensee may be likewise revoked or suspended by the director.

16 34. Pursuant to Health & Saf. Code section 44072.8, if Advanced Emission Specialist  
17 Technician License Number EA 037113, issued to Respondent Miguel R. Garcia, is revoked or  
18 suspended, any additional license issued under this chapter in the name of said licensee may be  
19 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 or suspending Automotive Repair Dealer Registration Number ARD  
24 240495, issued to Alexis Q. Bajog, also known as Alexis Quitasol Bajog, owner of Pajaro Auto  
25 Center;

26 2. Revoking or suspending any other automotive repair dealer registration issued to  
27 Alexis Q. Bajog, also known as Alexis Quitasol Bajog;

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1 3. Revoking or suspending Smog Check Station License Number RC 240495, issued to  
2 Alexis Q. Bajog, also known as Alexis Quitasol Bajog, owner of Pajaro Auto Center;

3 4. Revoking or suspending any additional license issued under Chapter 5 of the Health  
4 and Safety Code in the name of Alexis Q. Bajog, also known as Alexis Quitasol Bajog;

5 5. Revoking or suspending Advanced Emission Specialist Technician License Number  
6 EA 037113, issued to Miguel R. Garcia;

7 6. Revoking or suspending any additional license issued under Chapter 5 of the Health  
8 and Safety Code in the name of Miguel R. Garcia;

9 7. Ordering Respondents Alexis Q. Bajog, also known as Alexis Quitasol Bajog, owner  
10 of Pajaro Auto Center, and Miguel R. Garcia to pay the Director of Consumer Affairs the  
11 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
12 Professions Code section 125.3;

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

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DATED: \_\_\_\_\_

12/14/10

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SHERRY MEHL

Chief

Bureau of Automotive Repair

Department of Consumer Affairs

State of California

*Complainant*

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