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

In the Matter of the Accusation Against:	Case No. 79/11-57
WEST COAST SMOG; ROBERT RUVALCABA, Owner **2643 Crenshaw Blvd** **Los Angeles, CA 90016** **Automotive Repair Dealer Registration No. ARD 241213** **Smog Check Test Only Station License No. TC 241213** Respondent.	**DEFAULT DECISION AND ORDER** [Gov. Code, §11520]

FINDINGS OF FACT

1. On or about January 31, 2011, Complainant Sherry Mehl, in her official capacity as the Chief of the Bureau of Automotive Repair, Department of Consumer Affairs, filed Accusation No. 79/11-57 against West Coast Smog; Robert Ruvalcaba, Owner (Respondent) before the Director of Consumer Affairs. (Accusation attached as Exhibit A.)

2. On or about November 30, 2005, the Bureau of Automotive Repair (Bureau) issued Automotive Repair Dealer Registration No. ARD 241213 to Respondent. The Automotive Repair Dealer Registration was in full force and effect at all times relevant to the charges brought herein and expired on August 31, 2010. Pursuant to Business and Professions Code sections

118(b) and 9884.13, the lapse in licensure does not deprive the [Board] of its authority to institute or continue this disciplinary proceeding.

3. On or about December 22, 2005, the Bureau of Automotive Repair issued Smog Check Test Only Station License No. TC 241213 to Respondent. The Smog Check Test Only Station License was in full force and effect at all times relevant to the charges brought herein and expired on August 31, 2010. Pursuant to Business and Professions Code section 118(b), the lapse in licensure does not deprive the [Board] of its authority to institute or continue this disciplinary proceeding.

4. On or about February 23, 2011, Respondent was served by Certified and First Class Mail copies of the Accusation No. 79/11-57, Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code section 136, is required to be reported and maintained with the Bureau, which was and is: 2643 Crenshaw Blvd, Los Angeles, CA 90016. The aforementioned documents were also served at a secondary address located at 2642 S. Harvard Bvd. #2, Los Angeles, CA 90018.

5. Service of the Accusation was effective as a matter of law under the provisions of Government Code section 11505, subdivision (c) and/or Business & Professions Code section 124.

6. On or about March 10, 2011, the aforementioned documents served on his secondary address of record were returned by the U.S. Postal Service marked "Unclaimed."

7. Government Code section 11506 states, in pertinent part:

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

8. Respondent failed to file a Notice of Defense within 15 days after service upon him of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No. 79/11-57.

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

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

10. Pursuant to its authority under Government Code section 11520, the Director after having reviewed the proof of service dated February 23, 2011, signed by Lisa M. Robinson, and the return envelope, finds Respondent is in default. The Director will take action without further hearing and based on the Accusation (No. 79/11-57), proof of service, and on the Affidavit of Bureau Representative Albert Ramos, finds that the allegations in Accusation are true.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent has subjected his Automotive Repair Dealer Registration (No. ARD 241213) and Smog Check Test Only Station License (No. TC 241213) to discipline.

2. The agency has jurisdiction to adjudicate this case by default.

3. The Director of Consumer Affairs is authorized to revoke Respondent's Automotive Repair Dealer Registration based upon the following violations alleged in the Accusation which are supported by the evidence contained in the affidavit of Bureau Representative Albert Ramos in this case:

a. Business and Professions Code section 9884.7, subdivision (a)(1) (Misleading Statements.)

b. Business and Professions Code section 9884.7, subdivision (a)(4) (Fraud.)

c. Health and Safety Code section 44072.2, subdivision (a) (Violations of the Motor Vehicle Inspection Program.)

d. Health and Safety Code section 44072.2, subdivision (c) (Violations of Regulations Pursuant to the Motor Vehicle Inspection Program.)

e. Health and Safety Code section 44072.2, subdivision (d) (Dishonesty, Fraud or Deceit.)

ORDER

IT IS SO ORDERED that Automotive Repair Dealer Registration No. ARD 241213 and Smog Check Test Only Station License No. TC 241213, heretofore issued to Respondent, are revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The motion should be sent to the Bureau of Automotive Repair, ATTN: Tim Corcoran, 10235 Systems Parkway, Sacramento, CA 95827. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on 8/15/11.

It is so ORDERED July 11, 2011

DOREATHEA JOHNSON
Deputy Director, Legal Affairs
Department of Consumer Affairs

50877201.DOC
DOJ Matter ID:LA2010503805

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

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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: **WEST COAST SMOG** **2643 Crenshaw Blvd** **Los Angeles, CA 90016** **ROBERT RUVALCABA, OWNER** **Automotive Repair Dealer Registration No. ARD 241213** **Smog Check Test Only Station License No. TC 241213** **and** **FREDERICK E. QUINTERO** **1306 West 60th Street** **Los Angeles, CA 90044** **Advanced Emission Specialist Technician License No. EA 630221** Respondents.	Case No. 79/11-57 **ACCUSATION** **SMOG CHECK**

Complainant alleges:

PARTIES

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

Automotive Repair Dealer Registration

2. On or about November 30, 2005, the Bureau issued Automotive Repair Dealer Registration Number ARD 241213 ("registration") to Robert Ruvalcaba ("Respondent West

Coast") doing business as West Coast Smog. The registration was in full force and effect at all times relevant to the charges brought herein and expired on August 31, 2010.

Smog Check Test Only Station License

3. On or about December 22, 2005, the Bureau issued Smog Check Test Only Station License Number TC 241213 ("station license") to Respondent West Coast. The station license was in full force and effect at all times relevant to the charges brought herein and expired on August 31, 2010.

Advanced Emission Specialist Technician License

4. On or about May 22, 2008, the Bureau issued Advanced Emission Specialist Technician License Number EA 630221 ("technician license") to Frederick E. Quintero ("Respondent Quintero"). The technician license was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2011, unless renewed.

STATUTORY PROVISIONS

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

> (a) The director, where the automotive repair dealer cannot show there was a bona fide error, may refuse to validate, or may invalidate temporarily or permanently, the registration of an automotive repair dealer for any of the following acts or omissions related to the conduct of the business of the automotive repair dealer, which are done by the automotive repair dealer or any automotive technician, employee, partner, officer, or member of the automotive repair dealer.
>
> (1) Making or authorizing in any manner or by any means whatever any statement written or oral which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading.
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> (4) Any other conduct which constitutes fraud.
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> (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 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. 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.
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> (c) Notwithstanding subdivision (b), the director may invalidate temporarily or permanently, the registration for all places of business operated in this 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 regulations adopted pursuant to it.

6. Code section 9884.13 provides, in pertinent part, that the expiration of a valid registration shall not deprive the director or chief 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. Code section 477 provides, in pertinent part, that "Board" includes "bureau," "commission," "committee," "department," "division," "examining committee," "program," and "agency." "License" includes certificate, registration or other means to engage in a business or profession regulated by the Code.

8. Section 44002 of the Health and Safety Code 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.

9. Section 44072.2 of the Health and Safety Code 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:
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> (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.
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> (c) Violates any of the regulations adopted by the director pursuant to this chapter.
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> (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.

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

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

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COST RECOVERY

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

SURVEILLANCE OPERATION – MARCH 22, 2010

13. On or about March 22, 2010, the Bureau performed a video-taped surveillance at Respondent West Coast's facility. The surveillance operation and information obtained from the Bureau's Vehicle Information Database ("VID") revealed that between 1134 hours and 1202 hours, Respondent Quintero, with the assistance of Doe 1, performed a smog inspection that resulted in the issuance of electronic Certificate of Compliance No. WH919130C for a 1992 Honda Accord, certifying that he had tested and inspected that vehicle and that the vehicle was in compliance with applicable laws and regulations. In fact, Respondent Quintero performed the smog inspection using the clean piping method[1] by using the tail pipe emissions of a vehicle other than the vehicle being certified in order to issue the electronic certificate of compliance.

14. On the same day, between 1313 hours and 1319 hours, the surveillance operation further revealed that Respondent Quintero, with the assistance of Doe 2 and Doe 3, performed the inspection of a 1987 Toyota Corolla. Respondent Quintero performed the inspection using the clean piping method by using the tail pipe emissions of a 2000 Mitsubishi. The test was aborted and no certificate of compliance was issued to the 1987 Toyota Corolla.

FIRST CAUSE FOR DISCIPLINE

(Misleading Statements)

15. Respondent West Coast has subjected his registration to discipline under Code section 9884.7, subdivision (a)(1), in that on or about March 22, 2010, he made statements which

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

he knew or which by exercise of reasonable care he should have known were untrue or misleading when he issued electronic Certificate of Compliance No. WH919130C for the 1992 Honda Accord, certifying that the vehicle was in compliance with applicable laws and regulations when, in fact, the vehicle had been clean piped.

SECOND CAUSE FOR DISCIPLINE

(Fraud)

16. Respondent West Coast has subjected his registration to discipline under Code section 9884.7, subdivision (a)(4), in that on or about March 22, 2010, he committed acts which constitute fraud by issuing electronic Certificate of Compliance No. WH919130C for the 1992 Honda Accord without performing a bona fide inspection of the emission control devices and systems on that vehicle, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

THIRD CAUSE FOR DISCIPLINE

(Violation of the Motor Vehicle Inspection Program)

17. Respondent West Coast has subjected his station license to discipline under Health and Safety Code section 44072.2, subdivision (a), in that on or about March 22, 2010, he violated sections of that Code, as follows:

a. **Section 44012, subdivision (a)**: Respondent West Coast failed to determine that all emission control devices and systems required by law were installed and functioning correctly in accordance with test procedures regarding the 1992 Honda Accord and 1987 Toyota Corolla.

b. **Section 44012, subdivision (f)**: Respondent West Coast failed to perform emission control tests on those vehicles in accordance with procedures prescribed by the department regarding the 1992 Honda Accord and 1987 Toyota Corolla.

c. **Section 44015, subdivision (b)**: Respondent West Coast issued electronic Certificate of Compliance No. WH919130C, for the 1992 Honda Accord, without properly testing and inspecting that vehicle to determine if it was in compliance with section 44012 of that Code.

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d. **Section 44059**: Respondent West Coast willfully made false entries for electronic Certificate of Compliance No. WH919130C, for the 1992 Honda Accord, certifying that the vehicle had been inspected as required when, in fact, it had not.

FOURTH CAUSE FOR DISCIPLINE

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

18. Respondent West Coast has subjected his station license to discipline under Health and Safety Code section 44072.2, subdivision (c), in that on or about March 22, 2010, he violated sections of the California Code of Regulations, title 16, as follows:

a. **Section 3340.24, subdivision (c)**: Respondent West Coast falsely or fraudulently issued electronic Certificate of Compliance No. WH919130C for the 1992 Honda Accord without performing a bona fide inspection of the emission control devices and systems on that vehicle as required by Health and Safety Code section 44012.

b. **Section 3340.35, subdivision (c)**: Respondent West Coast issued electronic Certificate of Compliance No. WH919130C for the 1992 Honda Accord even though that vehicle had not been inspected in accordance with section 3340.42 of that Code.

c. **Section 3340.42**: Respondent West Coast failed to conduct the required smog tests and inspections on the 1992 Honda Accord and 1987 Toyota Corolla in accordance with the Bureau's specifications.

FIFTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

19. Respondent West Coast subjected his station license to discipline under Health and Safety Code section 44072.2, subdivision (d), in that on or about March 22, 2010, regarding the 1992 Honda Accord, he committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing electronic Certificate of Compliance No. WH919130C without performing a bona fide inspection of the emission control devices and system on that vehicle, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

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SIXTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

20. Respondent Quintero has subjected his technician license to discipline under Health and Safety Code section 44072.2, subdivision (a), in that on or about March 22, 2010, regarding the 1992 Honda Accord and 1987 Toyota Corolla, he violated sections of that Code, as follows:

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

b. **Section 44012, subdivision (f)**: Respondent Quintero failed to perform emission control tests on those vehicles in accordance with procedures prescribed by the department.

c. **Section 44032**: Respondent Quintero failed to perform tests of the emission control devices and systems on the 1992 Honda Accord and the 1987 Toyota Corolla in accordance with section 44012 of that Code.

d. **Section 44059**: Respondent Quintero willfully made false entries for electronic Certificate of Compliance No. WH919130C, certifying that that vehicle had been inspected as required when, in fact, it had not.

SEVENTH CAUSE FOR DISCIPLINE

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

21. Respondent Quintero has subjected his technician license to discipline under Health and Safety Code section 44072.2, subdivision (c), in that on or about March 22, 2010, he violated sections of the California Code of Regulations, title 16, as follows:

a. **Section 3340.24, subdivision (c)**: Respondent Quintero falsely or fraudulently issued electronic Certificate of Compliance No. WH919130C for the 1992 Honda Accord without performing a bona fide inspection of the emission control devices and systems on that vehicle as required by Health and Safety Code section 44012.

b. **Section 3340.30, subdivision (a)**: Respondent Quintero failed to inspect and test the 1992 Honda Accord and 1987 Toyota Corolla in accordance with Health and Safety Code section 44012.

c. **Section 3340.41, subdivision (c)**: Respondent Quintero entered false information into the Emission Inspection System ("EIS") for electronic Certificate of Compliance No. WH919130C by entering vehicle information or emissions control information for a vehicle other than the 1992 Honda Accord actually being certified.

d. **Section 3340.42**: Respondent Quintero failed to conduct the required smog tests and inspections on the 1992 Honda Accord and 1987 Toyota Corolla in accordance with the Bureau's specifications.

EIGHTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

22. Respondent Quintero has subjected his technician license to discipline under Health and Safety Code section 44072.2, subdivision (d), in that on or about March 22, 2010, he committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing electronic Certificate of Compliance No. WH919130C for the 1992 Honda Accord without performing a bona fide inspection of the emission control devices and systems on that vehicle, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

FACTUAL BACKGROUND

23. On or about April 12, 2010, the Bureau conducted a detailed review of the VID for all smog inspections performed at Respondent West Coast's facility for the period January 12, 2010, through April 12, 2010. The VID showed a pattern of two different diagnostic trouble codes stored in memory of the power train control module ("PCM") on ten different vehicles. Vehicles 1 through 10, set forth in Table 1, below, were all certified using one or the other of the two pending codes stored in the PCM memory while the original equipment manufacturer ("OEM") service information shows these vehicles do not support the pending codes stored in the PCM memory. The vehicles receiving smog certificates were not tested during the OBD II

functional test[2] and other vehicles were used constituting clean plugging[3]. All of the following inspections were performed by Respondent Quintero.

TABLE 1

Date & Time of Inspection	Vehicle Certified & License No.	Certificate No.
1. 4/3/2010 1926 – 1937 hours	1996 Mercury Sable, License No. 121036W	WJ142902C
2. 4/3/2010 1855 – 1909 hours	2000 Chevrolet Tahoe, License No. 4LEM330	WJ142901C
3. 4/3/2010 1813 – 1825 hours	1997 Dodge Caravan, License No. 3UUZ666	WJ097099C
4. 4/3/2010 1441 – 1454 hours	1997 Nissan Altima, License No. 5EYB819	WJ097093C
5. 4/3/2010 1249 – 1301 hours	1997 Toyota RAV4, License No. 4NBC166	WJ097092C
6. 4/3/2010 1234 – 1246 hours	2001 Hyundai Santa Fe, License No. 4SFK504	WJ097091C
7. 4/2/2010 1311 – 1323 hours	2002 Lincoln LS, License No. 4XGG473	WJ097074C
8. 4/1/2010 1702 – 1713 hours	1996 Plymouth Voyager, License No. 4JMU230	WJ097063C
9. 3/30/2010 1655 – 1718 hours	1998 Chevrolet C3500, License No. 5S30444	WJ043772C
10. 1/18/2010 1725 – 1746 hours	1998 Lincoln Navigator, License No. 5ABD616	NQ398324C

TENTH CAUSE FOR DISCIPLINE

(Misleading Statements)

24. Respondent West Coast has subjected his registration to discipline under Code section 9884.7, subdivision (a)(1), in that on or about January 18, 2010, through April 3, 2010, he made statements which he knew or which by exercise of reasonable care he should have known were untrue or misleading as follows: Respondent certified that vehicles 1 through 10, identified

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[2] The On Board Diagnostics (OBD II) functional test is an automated function of the BAR-97 analyzer. During the OBD II functional test, the technician is required to connect an interface cable from the BAR-97 analyzer to a Diagnostic Link Connector (DLC) which is 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.

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

in Table 1, above, had passed inspection and were in compliance with applicable laws and regulations. In fact, Respondent conducted the inspections on those vehicles using clean plugging methods by substituting or using different vehicles during the OBD II functional tests in order to issue smog certificates of compliance for the 10 vehicles, and did not test or inspect those vehicles as required by Health and Safety Code section 44012.

ELEVENTH CAUSE FOR DISCIPLINE

(Fraud)

25. Respondent West Coast has subjected his registration to discipline under Code section 9884.7, subdivision (a)(4), in that on or about January 18, 2010, through April 3, 2010, he committed acts which constitute fraud by issuing electronic certificates of compliance for vehicles 1 through 10, identified in Table 1, above, without performing bona fide inspections of the emission control devices and systems on those vehicles, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

TWELFTH CAUSE FOR DISCIPLINE

(Violation of the Motor Vehicle Inspection Program)

26. Respondent West Coast has subjected his station license to discipline under Health and Safety Code section 44072.2, subdivision (a), in that on or about January 18, 2010, through April 3, 2010, regarding vehicles 1 through 10, identified in Table 1, above, he violated sections of that Code, as follows:

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

b. **Section 44015**: Respondent West Coast issued electronic certificates of compliance for vehicles 1 through 10, without ensuring that the vehicles were properly tested and inspected to determine if they were in compliance with Health and Safety Code section 44012.

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

THIRTEENTH CAUSE FOR DISCIPLINE

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

27. Respondent West Coast has subjected his station license to discipline under Health and Safety Code section 44072.2, subdivision (c), in that on or about January 18, 2010, through April 3, 2010, regarding vehicles 1 through 10, identified in Table 1, above, he violated sections of the California Code of Regulations, title 16, as follows:

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

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

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

FOURTEENTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

28. Respondent West Coast has subjected his station license to discipline under Health and Safety Code section 44072.2, subdivision (d), in that on or about January 18, 2010, through April 3, 2010, regarding vehicles 1 through 10, identified in Table 1, above, he committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing electronic certificates of compliance for those vehicles without performing bona fide inspections of the emission control devices and system on the vehicles, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

FIFTEENTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

29. Respondent Quintero has subjected his technician license to discipline under Health and Safety Code section 44072.2, subdivision (a), in that on or about, January 18, 2010, through

April 3, 2010, regarding vehicles 1 through 10, identified in Table 1, above, Respondent failed to comply with section 44012 of that Code in a material respect, as follows: Respondent failed to perform the emission control tests on vehicles 1 through 10, in accordance with procedures prescribed by the department.

FIFTEENTH CAUSE FOR DISCIPLINE

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

30. Respondent has subjected his technician license to discipline under Health and Safety Code section 44072.2, subdivision (c), in that on or about January 18, 2010, through April 3, 2010, regarding vehicles 1 through 10, identified in Table 1, above, he violated sections of the California Code of Regulations, title 16, as follows:

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

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

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

SIXTEENTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

31. Respondent Quintero has subjected his technician license to discipline under Health and Safety Code section 44072.2, subdivision (d), in that on or about January 18, 2010, through April 3, 2010, regarding vehicles 1 through 10, identified in Table 1, above, he committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing electronic certificates of compliance without performing bona fide inspections of the emission control devices and systems on those vehicles, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

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PRIOR CITATIONS

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

a. On October 22, 2008, the Bureau issued Citation No. C09-0420 to Respondent West Coast against his registration and station licenses for violations of Health and Safety Code section 44012, subdivision (f) (failure to perform a visual/functional check of emission control devices) and California Code of Regulations, title 16, ("Regulation"), section 3340.35, subdivision (c) (issuing a certificate of compliance to a vehicle improperly tested). Respondent West Coast issued a certificate of compliance to a Bureau vehicle with a missing air system. The Bureau assessed a civil penalty of $500. Respondent West Coast complied with this citation on December 5, 2008.

b. On February 10, 2009, the Bureau issued Citation No. C09-0907 to Respondent West Coast against his registration and station licenses for violations of Health and Safety Code section 44012, subdivision (f) (failure to perform a visual/functional check of emission control devices) and Regulation, section 3340.35, subdivision (c) (issuing a certificate of compliance to a vehicle improperly tested). Respondent West Coast issued a certificate of compliance to a Bureau vehicle with a missing PCV system. The Bureau assessed a civil penalty of $1,000. Respondent West Coast complied with this citation on March 19, 2009.

OTHER MATTERS

33. Under Code section 9884.7, subdivision (c), the director may invalidate temporarily or permanently or refuse to validate, the registrations for all places of business operated in this state by Robert Ruvalcaba doing business as West Coast Smog, upon a finding that he has, or is, engaged in a course of repeated and willful violations of the laws and regulations pertaining to an automotive repair dealer.

34. Under Health and Safety Code section 44072.8, if Smog Check Test Only Station License Number TC 241213, issued to Robert Ruvalcaba doing business as West Coast Smog, is revoked or suspended, any additional license issued under this chapter in the name of said licensee may be likewise revoked or suspended by the director.

35. Under Health and Safety Code section 44072.8, if Advanced Emission Specialist Technician License Number EA 630221 issued to Frederick E. Quintero is revoked or suspended, any additional license issued under this chapter in the name of said licensee may be likewise revoked or suspended by the director.

PRAYER

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

1. Revoking, suspending, or placing on probation, Automotive Repair Dealer Registration Number ARD 241213, issued to Robert Ruvalcaba doing business as West Coast Smog;

2. Revoking, suspending, or placing on probation any other automotive repair dealer registration issued to Robert Ruvalcaba;

3. Revoking or suspending Smog Check Test Only Station License Number TC 241213, issued to Robert Ruvalcaba doing business as West Coast Smog;

4. Revoking or suspending any additional license issued under Chapter 5 of the Health and Safety Code in the name of Robert Ruvalcaba;

5. Revoking or suspending Advanced Emission Specialist Technician License Number EA 630221, issued to Frederick E. Quintero;

6. Revoking or suspending any additional license issued under Chapter 5 of the Health and Safety Code in the name of Frederick E. Quintero;

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7. Ordering Robert Ruvalcaba and Frederick E. Quintero to pay the Bureau of Automotive Repair the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

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

DATED: 1/31/11

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

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