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

11 In the Matter of the Accusation Against:  
12 **TAMPA SMOG TEST ONLY**  
13 **8332 Tampa Avenue, Unit 2B**  
14 **Northridge, California 91324**  
15 **NARINRAT P. KUSUPHOLNAND,**  
**OWNER**  
16 **Automotive Repair Dealer Registration No.**  
**ARD 245147**  
**Smog Check Test Only Station License No.**  
**TC 245147,**  
17 **and**  
18 **PARAMESR KUSUPHOLNAND**  
19 **2245 Tapo Street, Unit 103**  
20 **Simi Valley, California 93063**  
**Advanced Emission Specialist Technician**  
**License No. EA 150126**  
21 Respondents.  
22

Case No. 79/10-33

**ACCUSATION**  
**SMOG CHECK**

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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 specific place of business which has violated any of the provisions of this chapter.  
2 This violation, or action by the director, shall not affect in any manner the right of the  
3 automotive repair dealer to operate his or her other places of business.

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

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

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

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

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

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

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

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

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

10. Section 44072.10, subdivision (c) states, in pertinent part:

(c) The department shall revoke the license of any smog check technician  
or station license that fraudulently certifies vehicles or participates in the fraudulent  
inspection of vehicles....



Table 1

Date and Test Times	Vehicle Certified	Vehicle Actually Tested	Certificate Issued
4/24/2009 1610 hours to 1621 hours	1994 Mercedes Lic. No. 5KUV739	White Volkswagen Golf	NI928389C
4/24/2009 1736 hours to 1745 hours	1980 Ford Van Lic. No. 2P20478	White Volkswagen Golf	NI928390C
4/24/2009 1913 hours to 1931 hours	1990 Nissan Lic. No. 2VOE385	White Volkswagen Golf	NI928392C
4/24/2009 2016 hours to 2030 hours	1995 Ford Lic. No. 5G91156	Dark Toyota Camry	NI928393C
4/24/2009 2043 hours to 2052 hours	1979 Dodge Lic. No. 5G26861	Dark Toyota Camry	NI928394C

**FIRST CAUSE FOR DISCIPLINE**

**(Misleading Statements)**

15. Respondent Tampa Smog, by and through its owner Respondent N. Kusupholnand, has subjected its registration to discipline under Code section 9884.7, subdivision (a)(1), in that on or about April 24, 2009, its owner made statements which it knew or which by exercise of reasonable care should have known were untrue or misleading when it issued electronic certificates of compliance for the vehicles set forth in Table 1 above by certifying that those vehicles were in compliance with applicable laws and regulations when in fact, the vehicles had been clean-piped.

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1 **FOURTH CAUSE FOR DISCIPLINE**

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

3 18. Respondent Tampa Smog, by and through its owner Respondent N. Kusupholnand,  
4 has subjected its station license to discipline under Health and Safety Code section 44072.2,  
5 subdivision (c), in that on or about April 24, 2009, regarding the vehicles set forth in Table 1  
6 above, it violated sections of the California Code of Regulations, title 16, as follows:

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

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

14 c. **Section 3340.42**: Respondent Tampa Smog failed to conduct the required smog tests  
15 and inspections in accordance with the Bureau's specifications.

16 **FIFTH CAUSE FOR DISCIPLINE**

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

18 19. Respondent Tampa Smog, by and through its owner Respondent N. Kusupholnand,  
19 has subjected its station license to discipline under Health and Safety Code section 44072.2,  
20 subdivision (d), in that on or about April 24, 2009, regarding the vehicles set forth in Table 1  
21 above, it committed acts involving dishonesty, fraud or deceit resulting in injury to another by  
22 issuing electronic certificates of compliance for those vehicles without performing bona fide  
23 inspections of the emission control devices and systems on those vehicles, thereby depriving the  
24 People of the State of California of the protection afforded by the Motor Vehicle Inspection  
25 Program.

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1 SIXTH CAUSE FOR DISCIPLINE

2 (Violations of the Motor Vehicle Inspection Program)

3 20. Respondent P. Kusupholnand has subjected his technician license to discipline under  
4 Health and Safety Code section 44072.2, subdivision (a), in that on or about April 24, 2009,  
5 regarding the vehicles set forth in Table 1 above, he violated sections of that Code, as follows:

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

9 b. Section 44012, subdivision (f): Respondent P. Kusupholnand failed to perform  
10 emission control tests in accordance with procedures prescribed by the department.

11 c. Section 44032: Respondent P. Kusupholnand failed to perform tests of the emission  
12 control devices and systems in accordance with section 44012 of that Code, in that those vehicles  
13 had been clean piped.

14 d. Section 44059: Respondent P. Kusupholnand willfully made false entries for the  
15 electronic certificates of compliance, certifying that those vehicles had been inspected as required  
16 when in fact, they had not been.

17 SEVENTH CAUSE FOR DISCIPLINE

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

19 21. Respondent P. Kusupholnand has subjected his technician license to discipline under  
20 Health and Safety Code section 44072.2, subdivision (c), in that on or about April 24, 2009,  
21 regarding the vehicles set forth in Table 1 above, he violated sections of the California Code of  
22 Regulations, title 16, as follows:

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

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

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

11/9/09



SHERRY MEHL  
Chief

Bureau of Automotive Repair  
Department of Consumer Affairs  
State of California  
*Complainant*

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