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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. 79/09-89

13 **GLENORA TEST ONLY & SMOG**
857 E. Arrow Highway
14 Glendora, California 91740
HANNIBAL DABBOUS, PARTNER
HELLAL DABBOUS, PARTNER

ACCUSATION

SMOG CHECK

15 Automotive Repair Dealer Registration
No. ARD 247613
16 Smog Check Test Only Station No. TC 247613

17 Respondent.

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19 Sherry Mehl ("Complainant") alleges:

20 **PARTIES**

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

23 **Automotive Repair Dealer Registration**

24 2. On or about December 1, 2006, the Bureau issued Automotive Repair
25 Dealer Registration Number ARD 247613 ("registration") to Glendora Test Only & Smog
26 ("Respondent") with Hannibal Dabbous and Hellal Dabbous as partners. The registration will
27 expire on October 31, 2009, unless renewed.

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1 **Smog Check Test Only Station License**

2 3. On or about December 5, 2006, the Bureau issued Smog Check Test Only
3 Station Number TC 247613 ("station license") to Respondent. The station license will expire on
4 October 31, 2009, unless renewed.

5 **STATUTORY PROVISIONS**

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

8 (a) The director, where the automotive repair dealer cannot show there was
9 a bona fide error, may refuse to validate, or may invalidate temporarily or
10 permanently, the registration of an automotive repair dealer for any of the
11 following acts or omissions related to the conduct of the business of the
12 automotive repair dealer, which are done by the automotive repair dealer or any
13 automotive technician, employee, partner, officer, or member of the automotive
14 repair dealer.

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

19 (4) Any other conduct which constitutes fraud.

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

27 (c) Notwithstanding subdivision (b), the director may invalidate
28 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.

3 5. Code section 9884.9, subdivision (a), states:

4 (a) The automotive repair dealer shall give to the customer a written
5 estimated price for labor and parts necessary for a specific job. No work shall be
6 done and no charges shall accrue before authorization to proceed is obtained from
7 the customer. No charge shall be made for work done or parts supplied in excess
8 of the estimated price without the oral or written consent of the customer that
9 shall be obtained at some time after it is determined that the estimated price is
10 insufficient and before the work not estimated is done or the parts not estimated
11 are supplied. Written consent or authorization for an increase in the original
12 estimated price may be provided by electronic mail or facsimile transmission from

1 the customer. The bureau may specify in regulation the procedures to be followed
2 by an automotive repair dealer if an authorization or consent for an increase in the
3 original estimated price is provided by electronic mail or facsimile transmission.
4 If that consent is oral, the dealer shall make a notation on the work order of the
5 date, time, name of person authorizing the additional repairs and telephone
6 number called, if any, together with a specification of the additional parts and
7 labor and the total additional cost, and shall do either of the following:

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

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

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

15 _____
16 (signature or initials)"

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

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

24 7. 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 Code.

28 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:

(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
2 chapter.

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

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

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

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

13 COST RECOVERY

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

18 UNDERCOVER OPERATION - OCTOBER 20, 2008

19 13. On October 20, 2008, a Bureau undercover using the alias Roberto
20 Vasquez ("operator") drove a Bureau-documented 1999 Suzuki Grand Vitara to Respondent's
21 facility for a smog inspection. The vehicle could not pass a smog inspection because the
22 vehicle's evaporative system canister was missing. The operator was not provided with a copy of
23 the estimate prior to the performance of the smog inspection. Garabet H. Sandjian, a licensed
24 technician, performed the smog inspection and issued electronic Certificate of Compliance No.
25 VT890381, certifying that he had tested and inspected the 1999 Suzuki Grand Vitara and that the
26 vehicle was in compliance with applicable laws and regulations. In fact, the vehicle could not
27 have passed the visual portion of the smog inspection because the vehicle's evaporative system
28 canister was missing.

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1 regarding the 1999 Suzuki Grand Vitara, Respondent failed to comply with the following
2 sections of that Code:

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

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

8 c. Section 44015, subdivision (b): Respondent issued electronic Certificate
9 of Compliance No. VT890381 for that vehicle without properly testing and inspecting the vehicle
10 to determine if it was in compliance with Health & Safety Code section 44012.

11 d. Section 44059: Respondent willfully made false entries for electronic
12 Certificate of Compliance No. VT890381, by certifying that the vehicle had been inspected as
13 required when, in fact, it had not.

14 **FIFTH CAUSE FOR DISCIPLINE**

15 **(Failure to Comply with Regulations Pursuant
16 to the Motor Vehicle Inspection Program)**

17 18. Respondent's station license is subject to discipline pursuant to Health &
18 Safety Code section 44072.2, subdivision (c), in that on or about October 20, 2008, regarding the
19 1999 Suzuki Grand Vitara, Respondent failed to comply with provisions of California Code of
20 Regulations, title 16, as follows:

21 a. Section 3340.24, subdivision (c): Respondent falsely or fraudulently
22 issued electronic Certificate of Compliance No. VT890381 for that vehicle, in that the vehicle
23 could not pass the visual portion of the smog inspection because the vehicle's evaporative system
24 canister was missing.

25 b. Section 3340.35, subdivision (c): Respondent issued electronic
26 Certificate of Compliance No. VT890381 for that vehicle even though that vehicle had not been
27 inspected in accordance with section 3340.42.

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1 c. Section 3340.42: Respondent failed to conduct the required smog tests on
2 that vehicle in accordance with the Bureau's specifications.

3 **SIXTH CAUSE FOR DISCIPLINE**

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

5 19. Respondent's station license is subject to discipline pursuant to Health &
6 Safety Code section 44072.2, subdivision (d), in that on or about October 20, 2008, Respondent
7 committed dishonest, fraudulent or deceitful acts whereby another is injured by issuing electronic
8 Certificate of Compliance No. VT890381 for the 1999 Suzuki Grand without performing a bona
9 fide inspection of the emission control devices and systems on that vehicle, thereby depriving the
10 People of the State of California of the protection afforded by the Motor Vehicle Inspection
11 Program.

12 **PRIOR CITATIONS**

13 20. To determine the degree of discipline, if any, to be imposed on
14 Respondent, Complainant alleges as follows:

15 a. On or about May 10, 2007, the Bureau issued Citation No. C07-0863
16 against Respondent'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 when the ignition timing was adjusted beyond the manufacturer's
22 specifications. The Bureau assessed civil penalties totaling \$500 against Respondent for the
23 violations. Respondent complied with this citation on July 16, 2007.

24 b. On or about August 3, 2007, the Bureau issued Citation No. C08-0091
25 against Respondent's registration and station licenses for violations of Health & Safety Code
26 section 44012, subdivision (f) (failure to perform a visual/functional check of emission control
27 devices according to procedures prescribed by the department), and California Code of
28 Regulations, title 16, section ("Regulation") 3340.35, subdivision (c) (issuing a certificate of

1 compliance to a vehicle that was improperly tested), for issuing a certificate of compliance to a
2 Bureau undercover vehicle with a missing pulse air injection system. The Bureau assessed civil
3 penalties totaling \$1,000 against Respondent for the violations. Respondent complied with this
4 citation on September 17, 2007.

5 c. On or about December 17, 2007, the Bureau issued Citation No.
6 C08-0566 against Respondent's registration and smog station licenses for violations of Health &
7 Safety Code section 44012, subdivision (f) (failure to perform a visual/functional check of
8 emission control devices according to procedures prescribed by the department), and California
9 Code of Regulations, title 16, section ("Regulation") 3340.35, subdivision (c) (issuing a
10 certificate of compliance to a vehicle that was improperly tested), for issuing a certificate of
11 compliance to a Bureau undercover vehicle with a missing positive crankcase ventilation system.
12 The Bureau assessed civil penalties totaling \$2,000 against Respondent for the violations.
13 Respondent complied with this citation on February 4, 2008.

14 OTHER MATTERS

15 21. Pursuant to Code section 9884.7, subdivision (c), the Director may
16 invalidate temporarily or permanently or refuse to validate, the registrations for all places of
17 business operated in this state by Glendora Test Only & Smog upon a finding that it has, or is,
18 engaged in a course of repeated and willful violations of the laws and regulations pertaining to an
19 automotive repair dealer.

20 22. Pursuant to Health & Safety Code section 44072.8, if Smog Check Test
21 and Repair Station License Number TC 247613, issued to Glendora Test Only & Smog, is
22 revoked or suspended, any additional license issued under this chapter in the name of said
23 licensee may be likewise revoked or suspended by the director.

24 PRAYER

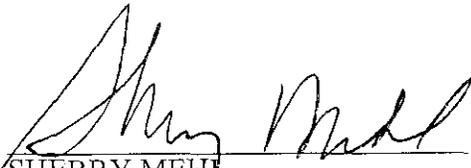
25 WHEREFORE, Complainant requests that a hearing be held on the matters herein
26 alleged, and that following the hearing, the Director of Consumer Affairs issue a decision:

27 1. Temporarily or permanently invalidating Automotive Repair Dealer
28 Registration Number ARD 247613, issued to Glendora Test Only & Smog;

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2. Temporarily or permanently invalidating any other automotive repair dealer registration issued to Glendora Test Only & Smog;
3. Revoking or suspending Smog Check Test Only Station License Number TC 247613, issued to Glendora Test Only & Smog;
4. Revoking or suspending any additional license issued under Chapter 5 of the Health and Safety Code in the name of Glendora Test Only & Smog;
7. Ordering Glendora Test Only & Smog to pay the Director of Consumer Affairs the reasonable costs of the investigation and enforcement of this case, pursuant to Code section 125.3; and,
8. Taking such other and further action as deemed necessary and proper.

DATED: 3/26/09


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