

1  
2  
3  
4  
5  
6 **BEFORE THE**  
7 **DEPARTMENT OF CONSUMER AFFAIRS**  
8 **FOR THE BUREAU OF AUTOMOTIVE REPAIR**  
9 **STATE OF CALIFORNIA**

9 In the Matter of the Accusation Against:

Case No. 79/11-79

10 **ERNESTOS AUTO REPAIR**  
11 **261 Atwater Boulevard**  
12 **Atwater, CA 95301 and/or**  
13 **9175 Petaluma Ave.**  
14 **Delhi, CA 95315**  
15 **MARIA L. ARROYO, OWNER**  
16 **Automotive Repair Dealer Registration No.**  
17 **ARD 248747**  
18 **Smog Check Station License No. RC 248747**

OAH No. 2011060287

**DEFAULT DECISION AND ORDER**

[Gov. Code, §11520]

15 **And**  
16 **ALEJANDRO ARROYO**  
17 **15520 August Avenue**  
18 **Delhi, CA 95315**  
19 **Advanced Emission Specialist Technician**  
20 **License No. EA 145958**

Respondents.

21 **FINDINGS OF FACT**

22 1. On or about March 22, 2011, Complainant Sherry Mehl, in her official capacity as the  
23 Chief of the Bureau of Automotive Repair, Department of Consumer Affairs, filed Accusation  
24 No. 79/11-79 (Accusation) against Ernestos Auto Repair, Maria L. Arroyo, owner (Respondent  
25 Ernestos) and Alejandro Arroyo (Respondent Arroyo) before the Director of Consumer Affairs.  
26 (Accusation attached as Exhibit A.)

27 2. On or about February 8, 2007, the Bureau of Automotive Repair (Bureau) issued  
28 Automotive Repair Dealer Registration No. ARD 248747 to Respondent Ernestos. The

1 Automotive Repair Dealer Registration was in full force and effect at all times relevant to the  
2 charges brought in the Accusation No. 79/11-79 and expired on December 31, 2011, and has not  
3 been renewed. This lapse in licensure, however, pursuant to Business and Professions Code  
4 section 118(b) does not deprive the Bureau of its authority to institute or continue this disciplinary  
5 proceeding.

6 3. On or about April 10, 2007, the Bureau issued Smog Check Station License No. RC  
7 248747 to Respondent Ernestos. The Smog Check Station License was in full force and effect at  
8 all times relevant to the charges brought in the Accusation and expired on December 31, 2011,  
9 and has not been renewed. This lapse in licensure, however, pursuant to Business and  
10 Professions Code section 118(b) does not deprive the Bureau of its authority to institute or  
11 continue this disciplinary proceeding.

12 4. In or about 2006, the Bureau issued Advanced Emissions Specialist Technician  
13 License No. EA 145958 to Respondent Arroyo. The Advanced Emissions Specialist Technician  
14 License was in full force and effect at all times relevant to the charges brought in the Accusation  
15 and expired on July 31, 2011, and has not been renewed. This lapse in licensure, however,  
16 pursuant to Business and Professions Code section 118(b) does not deprive the Bureau of its  
17 authority to institute or continue this disciplinary proceeding.

18 5. On or about April 26, 2011, Respondents were served by Certified and First Class  
19 Mail copies of the Accusation, Statement to Respondent, Notice of Defense, Request for  
20 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at  
21 Respondents' addresses of record which, pursuant to Business and Professions Code section 136,  
22 are required to be reported and maintained with the Bureau, which were and are:

23 Ernestos Auto Repair  
24 Maria L. Arroyo, owner  
25 261 Atwater Boulevard  
26 Atwater, CA 95301 and/or  
27 9175 Petaluma Ave.  
28 Delhi, CA 95315

And  
Alejandro Arroyo  
15520 August Avenue  
Delhi, CA 95315.



1           4.     The Director of Consumer Affairs is authorized to revoke Respondent Ernesto's  
2 Automotive Repair Dealer Registration and Smog Check Station License and Respondent  
3 Arroyo's Advanced Emissions Specialist Technician License based upon the following violations  
4 alleged in the Accusation which are supported by the evidence contained in the affidavit of  
5 Bureau Representative Jerry Esmay in this case:

- 6           a.     Business and Professions Code section 9884.7(a)(1) (misleading statements)
- 7           b.     Business and Professions Code section 9884.7(a)(4) (fraud)
- 8           c.     Health and Safety Code sections 44072.2, 44012, 44015, and 44059 (violations of the  
9 motor vehicle inspection program).
- 10          d.     Health and Safety Code section 44072.2 and sections 3340.24(c), 3340.30(a),  
11 3340.35, and 3340.42 of Title 16 of the California Code of Regulations (violations of regulations  
12 of the motor vehicle inspection program).
- 13          e.     Health and Safety Code section 44072.2(d) (dishonesty, fraud, or deceit).

14 ///  
15 ///  
16 ///  
17 ///  
18 ///  
19 ///  
20 ///  
21 ///  
22 ///  
23 ///  
24 ///  
25 ///  
26 ///  
27 ///  
28 ///

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

ORDER

IT IS SO ORDERED that Automotive Repair Dealer Registration No. ARD 248747, heretofore issued to Respondent Ernestos, is revoked.

IT IS ALSO ORDERED that Smog Check Station License No. RC 248747, heretofore issued to Respondent Ernestos, is revoked.

IT IS ALSO ORDERED that Advanced Emissions Specialist Technician License No. EA 145958, heretofore issued to Respondent Arroyo, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondents 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, 10220 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 4/16/12.

It is so ORDERED March 8, 2012

  
DOREATHEA JOHNSON  
Deputy Director, Legal Affairs  
Department of Consumer Affairs

10827034.DOC  
DOJ Matter ID:SA2010101581

Attachment:  
Exhibit A: Accusation

# Exhibit A

Accusation

1 KAMALA D. HARRIS  
Attorney General of California  
2 ARTHUR D. TAGGART  
Supervising Deputy Attorney General  
3 GEOFFREY S. ALLEN  
Deputy Attorney General  
4 State Bar No. 193338  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 324-5341  
Facsimile: (916) 327-8643  
7 *Attorneys for Complainant*

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. 79/11-79

13 **ERNESTOS AUTO REPAIR**  
261 Atwater Boulevard  
Atwater, CA 95301  
14 **MARIA L. ARROYO, OWNER**  
Automotive Repair Dealer Registration  
15 No. ARD 248747  
Smog Check Station License No. RC 248747,

**ACCUSATION**

SMOG CHECK

16 and

17 **ALEJANDRO ARROYO**  
18 15520 August Avenue  
Delhi, CA 95315  
19 Advanced Emission Specialist Technician License  
20 No. EA 145958

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.

27 ///

28 ///



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

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

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

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

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

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

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

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

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

28 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.

///

///

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

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

#### 5 COST RECOVERY

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

#### 10 FACTUAL BACKGROUND

11 13. The Bureau conducted a detailed review of the Vehicle Information Database  
12 (“VID”) for all smog inspections performed at Respondent Ernestos for the periods March 25,  
13 2009, through July 1, 2009, and January 1, 2010, through March 8, 2010. The VID for the above-  
14 referenced dates showed a pattern of various random diagnostic trouble codes stored in memory  
15 of the power train control module (“PCM”) on different vehicles. Vehicles 1 through 10 and 12  
16 through 16, set forth in Table 1, below, were all certified with various pending codes stored in the  
17 PCM memory while the original equipment manufacturer (“OEM”) service information shows  
18 these vehicles do not support the pending codes stored in the PCM memory. The vehicles  
19 receiving smog certificates were not tested during the OBD II functional test<sup>1</sup> and another vehicle  
20 was used, constituting clean plugging<sup>2</sup>. Vehicle 11, was not issued a smog certification; however,

21  
22 <sup>1</sup> The On Board Diagnostics (OBD II) functional test is an automated function of the  
23 BAR-97 analyzer. During the OBD II functional test, the technician is required to connect an  
24 interface cable from the BAR-97 analyzer to a Diagnostic Link Connector (DLC) which is  
25 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.

26 <sup>2</sup> Clean plugging is the use of the OBD II readiness monitor status and stored fault code  
27 (trouble code) status of a passing vehicle for the purpose of illegally issuing a smog certificate to  
28 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.

1 that vehicle was not properly tested and inspected as required. All of the following inspections  
 2 were performed by Respondent Arroyo.

3 **TABLE I**

<b>Date &amp; Time of Inspection</b>	<b>Vehicle Certified &amp; License No.</b>	<b>Certificate No.</b>
1. 03/28/2009 1206 – 1213 hours	2000 Dodge Neon, License No. APJ8705	NI670764C
2. 03/30/2009 0959 – 1013 hours	2003 GMC Sonoma, License No. 7C48428	NI670767C
3. 04/08/2009 0944 – 0955 hours	2001 Dodge Stratus, Vin No. 1B3EJ46X41N534753	NI819704C
4. 04/10/2009 1134 – 1142 hours	1996 Ford Aerostar, License No. 5NYF621	NI819719C
5. 04/13/2009 1034 – 1047 hours	2004 Cadillac CTS, License No. 6DNX918	NI819727C
6. 04/14/2009 1005 – 1020 hours	1999 Plymouth Breeze, License No. 4DXY383	NI819734C
7. 04/16/2009 1012 – 1020 hours	1997 Nissan Sentra, License No. 4KWU331	NI819743C
8. 04/23/2009 1451 – 1459 hours	2000 Dodge Neon, License No. 4GZK290	NI985417C
9. 05/01/2009 1602 – 1612 hours	1999 GMC C1500, License No. 8C55697	NK147809C
10. 05/08/2009 1648 – 1654 hours	1996 Dodge Caravan, License No. 3LYA220	NK147842C
11. 05/09/2009 1013 – 1021 hours	1998 Chevrolet Cavalier, License No. 5UKU494	No Cert Issued
12. 06/23/2009 1703 – 1710 hours	2000 Plymouth Voyager, License No. 6BTW373	NK761590C
13. 06/29/2009 1439 – 1447 hours	2001 GMC Yukon XL, License No. 6AEE584	NK891618C
14. 11/13/2009 1331 – 1338 hours	1997 Ford Expedition, License No. 4WMW960	NO681856C
15. 01/21/2010 1136 – 1142 hours	1996 Ford Taurus, License No. 3PQJ337	NQ451110C
16. 01/21/2010 1148 – 1156 hours	2001 KIA Optima, License No. 4VKE181	NQ451111C

22 **FIRST CAUSE FOR DISCIPLINE**

23 **(Misleading Statements)**

24  
 25 14. Respondent Ernestos has subjected her registration to discipline under Code section  
 26 9884.7, subdivision (a)(1), in that on or about March 28, 2009, through January 21, 2010, she  
 27 made statements which she knew or which by exercise of reasonable care she should have known  
 28 were untrue or misleading as follows: Respondent Ernestos certified that vehicles 1 through 10,

1 and vehicles 12 through 16, set forth in Table 1, above, had passed inspection and were in  
2 compliance with applicable laws and regulations. In fact, Respondent Ernestos conducted the  
3 inspections on those vehicles using clean plugging methods by substituting or using different  
4 vehicles during the OBD II functional tests in order to issue smog certificates of compliance for  
5 vehicles 1 through 10, and vehicles 12 through 16, and did not test or inspect the 16 vehicles as  
6 required by Health and Safety Code section 44012.

7 **SECOND CAUSE FOR DISCIPLINE**

8 **(Fraud)**

9 15. Respondent Ernestos has subjected her registration to discipline under Code section  
10 9884.7, subdivision (a)(4), in that on or about March 28, 2009, through January 21, 2010, she  
11 committed acts which constitute fraud by issuing electronic certificates of compliance for  
12 vehicles 1 through 10 and vehicles 12 through 16, set forth in Table 1, above, without performing  
13 bona fide inspections of the emission control devices and systems on those vehicles, thereby  
14 depriving the People of the State of California of the protection afforded by the Motor Vehicle  
15 Inspection Program.

16 **THIRD CAUSE FOR DISCIPLINE**

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

18 16. Respondent Ernestos has subjected her station license to discipline under Health and  
19 Safety Code section 44072.2, subdivision (a), in that on or about March 28, 2009, through  
20 January 21, 2010, regarding the vehicles, set forth in Table 1, above, she violated sections of that  
21 Code, as follows:

22 a. **Section 44012:** Respondent Ernestos failed to ensure that the emission control tests  
23 were performed on vehicles 1 through 16, in accordance with procedures prescribed by the  
24 department.

25 b. **Section 44015:** Respondent Ernestos issued electronic certificates of compliance for  
26 vehicles 1 through 10, and vehicles 12 through 16, without ensuring that the vehicles were  
27 properly tested and inspected to determine if they were in compliance with Health and Safety  
28 Code section 44012.

1 c. **Section 44059:** Respondent Ernestos willfully made false entries for the electronic  
2 certificates of compliance for vehicles 1 through 10 and vehicles 12 through 16, certifying that  
3 those vehicles had been inspected as required when, in fact, they had not.

4 **FOURTH CAUSE FOR DISCIPLINE**

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

6 17. Respondent Ernestos has subjected her station license to discipline under Health and  
7 Safety Code section 44072.2, subdivision (c), in that on or about March 28, 2009, through  
8 January 21, 2010, regarding the vehicles, set forth in Table 1, above, she violated sections of the  
9 California Code of Regulations, title 16, as follows:

10 a. **Section 3340.24, subdivision (c):** Respondent Ernestos falsely or fraudulently issued  
11 electronic certificates of compliance for vehicles 1 through 10 and vehicles 12 through 16,  
12 without performing bona fide inspections of the emission control devices and systems on the  
13 vehicles as required by Health and Safety Code section 44012.

14 b. **Section 3340.35, subdivision (c):** Respondent Ernestos issued electronic certificates  
15 of compliance for vehicles 1 through 10 and vehicles 12 through 16, even though those vehicles  
16 had not been inspected in accordance with section 3340.42 of that Code.

17 c. **Section 3340.42:** Respondent Ernestos failed to conduct the required smog tests and  
18 inspections on vehicles 1 through 16, in accordance with the Bureau's specifications.

19 **FIFTH CAUSE FOR DISCIPLINE**

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

21 18. Respondent Ernestos has subjected her station license to discipline under Health and  
22 Safety Code section 44072.2, subdivision (d), in that on or about March 28, 2009, through  
23 January 21, 2010, regarding vehicles 1 through 10 and vehicles 12 through 16, set forth in Table  
24 1, above, she committed acts involving dishonesty, fraud or deceit whereby another was injured  
25 by issuing electronic certificates of compliance for those vehicles without performing bona fide  
26 inspections of the emission control devices and system on the vehicles, thereby depriving the  
27 People of the State of California of the protection afforded by the Motor Vehicle Inspection  
28 Program.

1 **SIXTH CAUSE FOR DISCIPLINE**

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

3 19. Respondent Arroyo has subjected his technician license to discipline under Health  
4 and Safety Code section 44072.2, subdivision (a), in that on or about March 28, 2009, through  
5 January 21, 2010, regarding the vehicles, set forth in Table 1, above, he failed to comply with  
6 section 44012 of that Code in a material respect, as follows: Respondent Arroyo failed to  
7 perform the emission control tests on vehicles 1 through 16, set forth in Table 1, above, in  
8 accordance with procedures prescribed by the department.

9 **SEVENTH CAUSE FOR DISCIPLINE**

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

11 20. Respondent Arroyo has subjected his technician license to discipline under Health  
12 and Safety Code section 44072.2, subdivision (c), in that on or about March 28, 2009, through  
13 January 21, 2010, regarding the vehicles, set forth in Table 1, above, he violated sections of the  
14 California Code of Regulations, title 16, as follows:

15 a. **Section 3340.24, subdivision (c):** Respondent Arroyo falsely or fraudulently issued  
16 electronic certificates of compliance to vehicles 1 through 10 and vehicles 12 through 16, without  
17 performing bona fide inspections of the emission control devices and systems on those vehicles as  
18 required by Health and Safety Code section 44012.

19 b. **Section 3340.30, subdivision (a):** Respondent Arroyo failed to inspect and test  
20 vehicles 1 through 16 in accordance with Health and Safety Code section 44012.

21 c. **Section 3340.42:** Respondent Arroyo failed to conduct the required smog tests and  
22 inspections on vehicles 1 through 16, in accordance with the Bureau's specifications.

23 **EIGHTH CAUSE FOR DISCIPLINE**

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

25 21. Respondent Arroyo has subjected his technician license to discipline under Health  
26 and Safety Code section 44072.2, subdivision (d), in that on or about March 28, 2009, through  
27 January 21, 2010, regarding vehicles 1 through 10 and vehicles 12 through 16, set forth in Table  
28 1, above, he committed acts involving dishonesty, fraud or deceit whereby another was injured by

1 issuing electronic certificates of compliance without performing bona fide inspections of the  
2 emission control devices and systems on those vehicles, thereby depriving the People of the State  
3 of California of the protection afforded by the Motor Vehicle Inspection Program.

#### 4 **FACTUAL BACKGROUND**

5 22. The Bureau also conducted a detailed review of Respondent Ernesto's test data for all  
6 smog inspections performed at Respondent Ernestos for the period January 1, 2010, through  
7 March 8, 2010, and found that on vehicles 1 through 4, set forth in Table 2, below, Respondent  
8 Arroyo entered "No" into the EIS when the machine prompted the question "Is this vehicle  
9 supposed to receive an OBD II functional test?" In fact, vehicles 1 through 4 did require an OBD  
10 II functional test. Respondent Arroyo subsequently issued smog certificates to those vehicles  
11 without performing the OBD II functional tests as required.

12 **TABLE 2**

13

14 <b>Date &amp; Time of Inspection</b>	<b>Vehicle Certified &amp; License No.</b>	<b>Certificate No.</b>
15 1. 01/05/2010 1420 – 1425 hours	1999 Toyota Camry, License No. 4HSW006	NQ163133C
16 2. 01/07/2010 1013 – 1021 hours	1998 Mitsubishi Montero, License No. 4WHG402	NQ163140C
17 3. 01/28/2010 1420 – 1429 hours	1997 Cadillac Eldorado, Vin No. 1G6ET1293VU610654	NQ548214C
18 4. 03/06/2010 0933 – 0942 hours	2001 Chevrolet Cavalier, License No. 5SKS168	NS064613C

19 **NINTH CAUSE FOR DISCIPLINE**

20 **(Misleading Statements)**

21 23. Respondent Ernestos has subjected her registration to discipline under Code section  
22 9884.7, subdivision (a)(1), in that on or about January 5, 2010, through March 6, 2010, she made  
23 statements which she knew or which by exercise of reasonable care she should have known were  
24 untrue or misleading as follows: Respondent Ernestos certified that vehicles 1 through 4, set  
25 forth in Table 2, above, had passed inspection and were in compliance with applicable laws and  
26 regulations. In fact, Respondent Ernestos conducted the inspections on those vehicles by  
27 bypassing the OBD II functional test in order to issue smog certificates of compliance for vehicles  
28

1 1 through 4, and did not perform the OBD II functional test on those vehicles as required by  
2 Health and Safety Code section 44012.

3 **TENTH CAUSE FOR DISCIPLINE**

4 **(Fraud)**

5 24. Respondent Ernestos has subjected her registration to discipline under Code section  
6 9884.7, subdivision (a)(4), in that on or about January 5, 2010, through March 6, 2010, she  
7 committed acts which constitute fraud by issuing electronic certificates of compliance for  
8 vehicles 1 through 4, set forth in Table 2, above, without performing bona fide inspections of the  
9 emission control devices and systems on those vehicles, thereby depriving the People of the State  
10 of California of the protection afforded by the Motor Vehicle Inspection Program.

11 **ELEVENTH CAUSE FOR DISCIPLINE**

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

13 25. Respondent Ernestos has subjected her station license to discipline under Health and  
14 Safety Code section 44072.2, subdivision (a), in that on or about January 5, 2010, through March  
15 6, 2010, regarding vehicles 1 through 4, set forth in Table 2, above, she violated sections of that  
16 Code, as follows:

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

19 b. **Section 44015:** Respondent Ernestos issued electronic certificates of compliance for  
20 those vehicles without ensuring that the vehicles were properly tested and inspected to determine  
21 if they were in compliance with Health and Safety Code section 44012.

22 c. **Section 44059:** Respondent Ernestos willfully made false entries for the electronic  
23 certificates of compliance for those vehicles, certifying those vehicles had been inspected as  
24 required when, in fact, they had not.

25 **TWELFTH CAUSE FOR DISCIPLINE**

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

27 26. Respondent Ernestos has subjected her station license to discipline under Health and  
28 Safety Code section 44072.2, subdivision (c), in that on or about January 5, 2010, through March

1 6, 2010, regarding vehicles 1 through 4, set forth in Table 2, above, she violated sections of the  
2 California Code of Regulations, title 16, as follows:

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

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

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

12 **THIRTEENTH CAUSE FOR DISCIPLINE**

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

14 27. Respondent Ernestos has subjected her station license to discipline under Health and  
15 Safety Code section 44072.2, subdivision (d), in that on or about January 5, 2010, through March  
16 6, 2010, regarding vehicles 1 through 4, set forth in Table 2, above, she committed acts involving  
17 dishonesty, fraud or deceit whereby another was injured by issuing electronic certificates of  
18 compliance for those vehicles without performing bona fide inspections of the emission control  
19 devices and system on the vehicles, thereby depriving the People of the State of California of the  
20 protection afforded by the Motor Vehicle Inspection Program.

21 **FOURTEENTH CAUSE FOR DISCIPLINE**

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

23 28. Respondent Arroyo has subjected his technician license to discipline under Health  
24 and Safety Code section 44072.2, subdivision (a), in that on or about January 5, 2010, through  
25 March 6, 2010, regarding vehicles 1 through 4, set forth in Table 2, above, he failed to comply  
26 with section 44012 of that Code in a material respect, as follows: Respondent Arroyo failed to  
27 perform the emission control tests on vehicles 1 through 4, set forth in Table 2, above, in  
28 accordance with procedures prescribed by the department.

1 **FIFTEENTH CAUSE FOR DISCIPLINE**

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

3 29. Respondent Arroyo has subjected his technician license to discipline under Health  
4 and Safety Code section 44072.2, subdivision (c), in that on or about January 5, 2010, through  
5 March 6, 2010, regarding vehicles 1 through 4, set forth in Table 2, above, he violated sections of  
6 the California Code of Regulations, title 16, as follows:

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

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

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

15 **SIXTEENTH CAUSE FOR DISCIPLINE**

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

17 30. Respondent Arroyo has subjected his technician license to discipline under Health  
18 and Safety Code section 44072.2, subdivision (d), in that on or about January 5, 2010, through  
19 March 6, 2010, regarding vehicles 1 through 4, set forth in Table 2, above, he committed acts  
20 involving dishonesty, fraud or deceit whereby another was injured by issuing electronic  
21 certificates of compliance without performing bona fide inspections of the emission control  
22 devices and systems on those vehicles, thereby depriving the People of the State of California of  
23 the protection afforded by the Motor Vehicle Inspection Program.

24 **OTHER MATTERS**

25 31. Pursuant to Code section 9884.7, subdivision (c), the Director may refuse to validate,  
26 or may invalidate temporarily or permanently, the registrations for all places of business operated  
27 in this state by Maria L. Arroyo doing business as Ernestos Auto Repair upon a finding that she  
28

1 has, or is, engaged in a course of repeated and willful violations of the laws and regulations  
2 pertaining to an automotive repair dealer.

3 32. Pursuant to Health & Safety Code section 44072.8, if Smog Check Station License  
4 Number RC 248747, issued to Maria L. Arroyo doing business as Ernestos Auto Repair, is  
5 revoked or suspended, any additional license issued under this chapter in the name of said  
6 licensee may be likewise revoked or suspended by the director.

7 33. Pursuant to Health & Safety Code section 44072.8, if Advanced Emission Specialist  
8 Technician License Number EA 145958, issued to Alejandro Arroyo, is revoked or suspended,  
9 any additional license issued under this chapter in the name of said licensee may be likewise  
10 revoked or suspended by the director.

11 **PRAYER**

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

14 1. Revoking, suspending, or placing on probation Automotive Repair Dealer  
15 Registration Number ARD 248747, issued to Maria L. Arroyo doing business as Ernestos Auto  
16 Repair;

17 2. Revoking, suspending, or placing on probation any other automotive repair dealer  
18 registration issued to Maria L. Arroyo;

19 3. Revoking or suspending Smog Check Station License Number RC 248747, issued to  
20 Maria L. Arroyo doing business as Ernestos Auto Repair;

21 4. Revoking or suspending any additional license issued under Chapter 5 of the Health  
22 and Safety Code in the name of Maria L. Arroyo;

23 5. Revoking or suspending Advanced Emission Specialist Technician License Number  
24 EA 145958, issued to Alejandro Arroyo;

25 6. Revoking or suspending any additional license issued under Chapter 5 of the Health  
26 and Safety Code in the name of Alejandro Arroyo;

27 ///

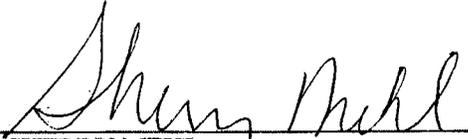
28 ///

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

7. Ordering Maria L. Arroyo and Alejandro Arroyo 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: 3/22/11

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