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

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11 In the Matter of the Accusation Against:

Case No. 79111-84

12 **GUERO TEST ONLY**
460 W. 92nd Street
13 Los Angeles, CA 90003
FRANCISCO VAZQUEZ, OWNER
14 **Automotive Repair Dealer Registration**
No. ARD 262321
15 **Smog Check Test Only Station License**
No. TC 262321

A C C U S A T I O N
S M O G C H E C K

16 and

17 **JAMES EDWARD KNOX**
18 8241 South Country Way
Sacramento, CA 95828 and/or
19 4823 Arlington Avenue
Los Angeles, CA 90043
20 **Advanced Emission Specialist Technician**
License No. EA 631224

21 Respondents.

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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.

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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
29 expiration or suspension of a license by operation of law, or by order or decision of the Director
30 of Consumer Affairs, or a court of law, or the voluntary surrender of the license shall not deprive
31 the Director of jurisdiction to proceed with disciplinary action.

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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
licensee may be likewise revoked or suspended by the director.

4 **COST RECOVERY**

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

9 **UNDERCOVER OPERATION – AUGUST 26, 2010**

10 13. On or about August 26, 2010, the Bureau performed an undercover operation at
11 Respondent Guero's facility based on information it received that smog certificates could be
12 purchased for \$250 apiece without a smog inspection. The undercover operation and information
13 obtained from the Bureau's Vehicle Information Database ("VID") revealed that Respondent
14 Knox performed three (3) smog inspections, which resulted in the issuance of electronic
15 certificates of compliance for the vehicles set forth in Table 1, below, certifying that he had tested
16 and inspected those vehicles and that the vehicles were in compliance with applicable laws and
17 regulations. In fact, Respondent Knox performed the smog inspections using the clean piping
18 method¹ by using the tail pipe emissions of vehicles other than the vehicles being certified in
19 order to issue the electronic certificates of compliance. The vehicles certified were not in the test
20 bay at the time of the smog inspections.

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

Table 1

Date and Test Times	Vehicle Certified	Vehicle Actually Tested	Certificate Issued
8/26/2010 0825 hours to 0834 hours	2000 Honda Accord	Unknown	WN339960C
8/26/2010 0839 hours to 0854 hours	1994 Dodge Ram 2500	Unknown	WN339961C
8/26/2010 0906 hours to 0915 hours	1990 Pontiac 6000	Unknown	WN339963C

FIRST CAUSE FOR DISCIPLINE

(Misleading Statements)

14. Respondent Guero has subjected his registration to discipline under Code section 9884.7, subdivision (a)(1), in that on or about August 26, 2010, he made statements which he knew or which by exercise of reasonable care he should have known were untrue or misleading when he issued electronic certificates of compliance for the vehicles set forth in Table 1, above, certifying that those vehicles were in compliance with applicable laws and regulations when, in fact, the vehicles had been clean piped.

SECOND CAUSE FOR DISCIPLINE

(Fraud)

15. Respondent Guero has subjected his registration to discipline under Code section 9884.7, subdivision (a)(4), in that on or about August 26, 2010, he committed acts which constitute fraud by issuing electronic certificates of compliance for the vehicles set forth 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.

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

4 **SEVENTH CAUSE FOR DISCIPLINE**

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

6 20. Respondent Knox has subjected his technician license to discipline under Health and
7 Safety Code section 44072.2, subdivision (c), in that on or about August 26, 2010, regarding the
8 vehicles set forth in Table 1, above, he violated sections of the California Code of Regulations,
9 title 16, as follows:

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

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

16 c. **Section 3340.41, subdivision (c):** Respondent Knox entered false information into
17 the Emission Inspection System for the electronic certificates of compliance by entering vehicle
18 emission control information for vehicles other than the vehicles being certified.

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

21 **EIGHTH CAUSE FOR DISCIPLINE**

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

23 21. Respondent Knox has subjected his technician license to discipline under Health and
24 Safety Code section 44072.2, subdivision (d), in that on or about August 26, 2010, he committed
25 acts involving dishonesty, fraud or deceit whereby another was injured by issuing electronic
26 certificates of compliance for the vehicles set forth in Table 1, above, without performing bona
27 fide inspections of the emission control devices and systems on those vehicles, thereby depriving
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1 the People of the State of California of the protection afforded by the Motor Vehicle Inspection
2 Program.

3 **OTHER MATTERS**

4 22. Pursuant to Code section 9884.7, subdivision (c), the Director may refuse to validate,
5 or may invalidate temporarily or permanently, the registrations for all places of business operated
6 in this state by Francisco Vazquez doing business as Guero Test Only, upon a finding that he has,
7 or is, engaged in a course of repeated and willful violations of the laws and regulations pertaining
8 to an automotive repair dealer.

9 23. Pursuant to Health & Safety Code section 44072.8, if Smog Check Test Only Station
10 License Number TC 262321, issued to Francisco Vazquez doing business as Guero Test Only, is
11 revoked or suspended, any additional license issued under this chapter in the name of said
12 licensee may be likewise revoked or suspended by the director.

13 24. Pursuant to Health & Safety Code section 44072.8, if Advanced Emission Specialist
14 Technician License Number EA 631224, issued to James Edward Knox, is revoked or suspended,
15 any additional license issued under this chapter in the name of said licensee may be likewise
16 revoked or suspended by the director.

17 **PRAYER**

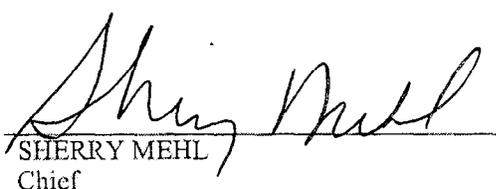
18 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
19 and that following the hearing, the Director of Consumer Affairs issue a decision:

- 20 1. Revoking, suspending, placing on probation, Automotive Repair Dealer Registration
21 Number ARD 262321, issued to Francisco Vazquez doing business as Guero Test Only;
- 22 2. Revoking, suspending, or placing on probation any other automotive repair dealer
23 registration issued to Francisco Vazquez;
- 24 3. Revoking or suspending Smog Check Test Only Station License Number TC 262321,
25 issued to Francisco Vazquez doing business as Guero Test Only;
- 26 4. Revoking or suspending any additional license issued under Chapter 5 of the Health
27 and Safety Code in the name of Francisco Vazquez;
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- 1 5. Revoking or suspending Advanced Emission Specialist Technician License Number
- 2 EA 631224, issued to James Edward Knox;
- 3 6. Revoking or suspending any additional license issued under Chapter 5 of the Health
- 4 and Safety Code in the name of James Edward Knox;
- 5 7. Ordering Francisco Vazquez and James Edward Knox to pay the Bureau of
- 6 Automotive Repair the reasonable costs of the investigation and enforcement of this case,
- 7 pursuant to Business and Professions Code section 125.3; and,
- 8 8. Taking such other and further action as deemed necessary and proper.

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DATED: 5/5/11



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

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