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

In the Matter of the Accusation Against:

AUTO SMOG EXPRESS #2;
MICHAEL C. MENSAH
2601 East Alondra Blvd.
Compton, CA 90221
Automotive Repair Dealer Registration No. ARD 260305
Smog Check, Test Only, Station License No. TC 260305

AUTO SMOG EXPRESS;
MICHAEL C. MENSAH
4201 E. Rosencrans Ave.
Compton, CA 90221
Automotive Repair Dealer Registration No. ARD 254379
Smog Check, Test Only, Station License No. TC 254379

AUTO SMOG EXPRESS #3
MICHAEL C. MENSAH
2215 E. Alondra Blvd.
Compton, CA 90220
Automotive Repair Dealer Registration No. ARD 267711
Smog Check, Test Only, Station License No. TC 267711

MICHAEL C. MENSAH
8674 Harrison Way
Buena Park, CA 90620
Advanced Emission Specialist Technician License No. EA 155148

Case No. 79/12-118

OAH No. 2012070638

RUBEN PALOMARES
6812 Motz Street
Paramount, CA 90723
Advanced Emission Specialist Technician
License No. EA 155105

EVERARDO RODRIGUEZ, JR.
1313 w. Park Western Drive, #22
San Pedro, CA 90732
Advanced Emission Specialist Technician
License No. EA 632939

and

JOSEPH O. OKAI
10070 Gilbert Street, Apt. #10
Anaheim, CA 92804
Advanced Emission Specialist Technician
License No. EA 630113

Respondents.

DECISION

The attached Stipulated Revocation of License and Order is hereby accepted and adopted as the Decision of the Director of the Department of Consumer Affairs in the above-entitled matter only as to respondents Auto Smog Express #2, Automotive Repair Dealer Registration No. ARD 260305 and Smog Check, Test Only, Station License No. TC 260305; Auto Smog Express, Automotive Repair Dealer Registration No. 254379 and Smog Check, Test Only, Station License No. TC 254379; Auto Smog Express #3, Automotive Repair Dealer Registration No. ARD 267711 and Smog Check, Test Only Station License No. TC 267711, and Michael C. Mensah, Advanced Emission Specialist Technician License No. EA 155148.

This Decision shall become effective 12/5/12.

DATED: OCT 31 2012

DOREATHEA JOHNSON
Deputy Director, Legal Affairs
Department of Consumer Affairs

KAMALA D. HARRIS
Attorney General of California
KAREN B. CHAPPELLE
Supervising Deputy Attorney General
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Attorneys for Complainant

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

In the Matter of the Accusation Against: **AUTO SMOG EXPRESS #2; MICHAEL C. MENSAH** **2601 East Alondra Blvd** **Compton, CA 90221** **Automotive Repair Dealer Registration No. ARD 260305** **Smog Check, Test Only, Station License No. TC 260305,** **AUTO SMOG EXPRESS; MICHAEL C. MENSAH** **4201 E. Rosencrans Ave.** **Compton, CA 90221** **Automotive Repair Dealer Registration No. ARD 254379** **Smog Check, Test Only, Station License No. TC 254379,** **AUTO SMOG EXPRESS #3; MICHAEL C. MENSAH** **2215 E-Alondra Blvd.** **Compton, CA 90220** **Automotive Repair Dealer Registration No. ARD 267711** **Smog Check, Test Only, Station License No. TC 267711,** **MICHAEL C. MENSAH** **8674 Harrison Way** **Buena Park, CA 90620** **Advanced Emission Specialist Technician License No. EA 155148,**	Case No. 79/12-118 OAH No. 2012070638 **STIPULATED REVOCATION OF LICENSE AND ORDER**

RUBEN PALOMARES
6812 Motz Street
Paramount, CA 90723
Advanced Emission Specialist Technician
License No. EA 155105,

EVERARDO RODRIGUEZ, JR.
1313 W. Park Western Drive, #22
San Pedro, CA 90732
Advanced Emission Specialist Technician
License No. EA 632939,

and

JOSEPH O. OKAI
10070 Gilbert Street, Apt. #10
Anaheim, CA 92804
Advanced Emission Specialist Technician
License No. EA 630113

Respondents.

IT IS HEREBY STIPULATED AND AGREED by and between the parties to this stipulation that the following matters are true:

PARTIES

1. John Wallauch (Complainant) is the Chief of the Bureau of Automotive Repair. He brought this action solely in his official capacity and is represented in this matter by Kamala D. Harris, Attorney General of the State of California, by William D. Gardner, Deputy Attorney General.

2. Auto Smog Express #2; Michael C. Mensah, Auto Smog Express; Michael C. Mensah, Auto Smog Express #3; Michael C. Mensah, and Michael C. Mensah (collectively, "Respondent") are represented in this proceeding by attorney Michael B. Levin, whose address is: The Law Offices of Michael B. Levin, 3727 Camino del Rio South, #200, San Diego, CA 92108.

Automotive Repair Dealer Registrations

3. On or about December 22, 2009, the Bureau of Automotive Repair issued Automotive Repair Dealer Registration Number ARD 260305 to Auto Smog Express #2; Michael C. Mensah. The Automotive Repair Dealer Registration was suspended on or about June 13,

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2012, but was otherwise in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2012, unless renewed.

4. On or about April 8, 2008, the Bureau of Automotive Repair issued Automotive Repair Dealer Registration Number ARD 254379 to Auto Smog Express; Michael C. Mensah. The Automotive Repair Dealer Registration was suspended on or about June 13, 2012, but was otherwise in full force and effect at all times relevant to the charges brought herein and will expire on April 30, 2013, unless renewed.

5. On or about January 13, 2012, the Bureau of Automotive Repair issued Automotive Repair Dealer Registration Number ARD 267711 to Auto Smog Express #3; Michael C. Mensah. The Automotive Repair Dealer Registration was suspended on or about June 13, 2012, but was otherwise in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2013, unless renewed.

Smog Check Test Only Station Licenses

6. On or about December 23, 2009, the Bureau of Automotive Repair issued Smog Check, Test Only, Station License Number TC 260305 to Auto Smog Express #2; Michael C. Mensah. The Smog Check, Test Only, Station License was suspended on or about June 13, 2012, but was otherwise in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2012, unless renewed.

7. On or about April 21, 2008, the Bureau of Automotive Repair issued Smog Check, Test Only, Station License Number TC 254379 to Auto Smog Express; Michael C. Mensah. The Smog Check, Test Only, Station License was suspended on or about June 13, 2012, but was otherwise in full force and effect at all times relevant to the charges brought herein and will expire on April 30, 2013, unless renewed.

8. On or about February 2, 2012, the Bureau of Automotive Repair issued Smog Check, Test Only, Station License Number TC 267711 to Auto Smog Express #3; Michael C. Mensah. The Smog Check, Test Only, Station License was suspended on or about June 13, 2012, but was otherwise in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2013, unless renewed.

Advanced Emission Specialist Technician Licenses

9. On a date uncertain in 2008, the Bureau of Automotive Repair issued Advanced Emission Specialist Technician License Number EA 155148 to Michael C. Mensah. The Advanced Emission Specialist Technician License was suspended on or about June 13, 2012, but was otherwise in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2013, unless renewed.

JURISDICTION

10. Accusation No. 79/12-118 was filed before the Director of Consumer Affairs (Director), for the Bureau of Automotive Repair (Bureau), and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on July 5, 2012. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 79/12-118 is attached as Exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

11. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 79/12-118. Respondent also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Revocation of License and Order.

12. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

13. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

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CULPABILITY

14. Respondent admits the truth of each and every charge and allegation in Accusation No. 79/12-118, agrees that cause exists for discipline and hereby agrees to revocation of the following licenses and registrations for the Bureau's formal acceptance: Automotive Repair Dealer Registration No. ARD 260305; Automotive Repair Dealer Registration Number ARD 254379; Automotive Repair Dealer Registration Number ARD 267711; Smog Check, Test Only, Station License Number TC 260305; Smog Check, Test Only, Station License Number TC 254379; Smog Check, Test Only, Station License Number TC 267711; and Advanced Emission Specialist Technician License Number EA 155148.

15. Respondent understands that by signing this stipulation he enables the Director to issue his order accepting the voluntary revocation of his Automotive Repair Dealer Registrations, Smog Check, Test Only, Station Licenses, and his Advanced Emission Specialist Technician License without further process.

RESERVATION

16. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Director of Consumer Affairs, Bureau of Automotive Repair or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

CONTINGENCY

17. This stipulation shall be subject to approval by the Director of Consumer Affairs or his designee. Respondent understands and agrees that counsel for Complainant and the staff of the Bureau of Automotive Repair may communicate directly with the Director and staff of the Department of Consumer Affairs regarding this stipulation and revocation, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Director considers and acts upon it. If the Director fails to adopt this stipulation as the Decision and Order, the Stipulated Revocation and Disciplinary Order shall be of no force or

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effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Director shall not be disqualified from further action by having considered this matter.

18. The parties understand and agree that facsimile copies of this Stipulated Revocation of License and Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

19. This Stipulated Revocation of License and Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Revocation of License and Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

20. In consideration of the foregoing admissions and stipulations, the parties agree that the Director may, without further notice or formal proceeding, issue and enter the following Order:

ORDER

IT IS HEREBY ORDERED that the following licenses and registrations are revoked and accepted by the Director of Consumer Affairs: Automotive Repair Dealer Registration No. ARD 260305 issued to Auto Smog Express #2; Michael C. Mensah; Automotive Repair Dealer Registration Number ARD 254379 issued to Auto Smog Express; Michael C. Mensah; Automotive Repair Dealer Registration Number ARD 267711 issued to Auto Smog Express #3; Michael C. Mensah; Smog Check, Test Only, Station License No. TC 260305 issued to Auto Smog Express #2; Michael C. Mensah; Smog Check, Test Only, Station License Number TC 254379 issued to Auto Smog Express; Michael C. Mensah; Smog Check, Test Only, Station License Number TC 267711 issued to Auto Smog Express #3; Michael C. Mensah; and Advanced Emission Specialist Technician License No. EA 155148 issued Michael C. Mensah.

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1. The voluntary revocation of Respondent's Automotive Repair Dealer Registrations, Smog Check, Test Only, Station Licenses, and Advanced Emission Specialist Technician License and the acceptance of the revoked licenses and registration by the Bureau shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Bureau of Automotive Repair.

2. Respondent shall lose all rights and privileges as an Automotive Repair Dealer, a licensed Smog Check Station and an Advanced Emission Specialist Technician in the State of California as of the effective date of the Director's Decision and Order.

3. Respondent shall cause to be delivered to the Bureau his pocket licenses and, if issued, his wall certificates on or before the effective date of the Decision and Order.

4. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Bureau shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation No. 79/12-118 shall be deemed to be true, correct and admitted by Respondent when the Director determines whether to grant or deny the petition.

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5. Respondent shall be jointly and severally liable to the agency for investigation and enforcement costs related to this matter in the amount of $9,909.50. Said costs must be paid in full to the agency prior to issuance of any new or reinstated license or registration.

ACCEPTANCE

I have carefully read the above Stipulated Revocation of License and Order and have fully discussed it with my attorney, Michael B. Levin. I understand the stipulation and the effect it will have on my Automotive Repair Dealer Registrations, Smog Check Station Licenses and Advanced Emission Specialist Technician License. I enter into this Stipulated Revocation of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Director of Consumer Affairs.

DATED: 09/12/2012

AUTO SMOG EXPRESS #2, MICHAEL C. MENSAH; AUTO SMOG EXPRESS, MICHAEL C. MENSAH; AUTO SMOG EXPRESS #3, MICHAEL C. MENSAH; and MICHAEL C. MENSAH
Respondent

I have read and fully discussed with Respondent Michael C. Mensah the terms and conditions and other matters contained in this Stipulated Revocation of License and Order. I approve its form and content.

DATED: 9/12/12

MICHAEL B. LEVIN
Attorney for Respondent

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ENDORSEMENT

The foregoing Stipulated Revocation of License and Order is hereby respectfully submitted for consideration by the Director of Consumer Affairs.

Dated: 9/13/12

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
KAREN B. CHAPPELLE
Supervising Deputy Attorney General

WILLIAM D. GARDNER
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 79/12-118

KAMALA D. HARRIS
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Attorneys for Complainant

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

In the Matter of the Accusation Against:	Case No. 79/12-118
AUTO SMOG EXPRESS #2; MICHAEL C. MENSAH **2601 East Alondra Blvd** **Compton, CA 90221** **Automotive Repair Dealer Registration No. ARD 260305** **Smog Check, Test Only, Station License No. TC 260305,**	OAH No. **A C C U S A T I O N** SMOG CHECK
AUTO SMOG EXPRESS; MICHAEL C. MENSAH **4201 E. Rosencrans Ave.** **Compton, CA 90221** **Automotive Repair Dealer Registration No. ARD 254379** **Smog Check, Test Only, Station License No. TC 254379,**	
AUTO SMOG EXPRESS #3; MICHAEL C. MENSAH **2215 E-Alondra Blvd.** **Compton, CA 90220** **Automotive Repair Dealer Registration No. ARD 267711** **Smog Check, Test Only, Station License No. TC 267711,**	
MICHAEL C. MENSAH **8674 Harrison Way** **Buena Park, CA 90620** **Advanced Emission Specialist Technician License No. EA 155148,**	

RUBEN PALOMARES
6812 Motz Street
Paramount, CA 90723
Advanced Emission Specialist Technician
License No. EA 155105,

EVERARDO RODRIGUEZ, JR.
1313 W. Park Western Drive, #22
San Pedro, CA 90732
Advanced Emission Specialist Technician
License No. EA 632939,

and

JOSEPH O. OKAI
10070 Gilbert Street, Apt. #10
Anaheim, CA 92804
Advanced Emission Specialist Technician
License No. EA 630113

Respondents.

Complainant alleges:

PARTIES

1. John Wallauch (Complainant) brings this Accusation solely in his official capacity as the Chief of the Bureau of Automotive Repair, Department of Consumer Affairs.

Automotive Repair Dealer Registrations

2. On or about December 22, 2009, the Bureau of Automotive Repair issued Automotive Repair Dealer Registration Number ARD 260305 to Auto Smog Express #2; Michael C. Mensah. The Automotive Repair Dealer Registration was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2012, unless renewed.

3. On or about April 8, 2008, the Bureau of Automotive Repair issued Automotive Repair Dealer Registration Number ARD 254379 to Auto Smog Express; Michael C. Mensah. The Automotive Repair Dealer Registration was in full force and effect at all times relevant to the charges brought herein and will expire on April 30, 2013, unless renewed.

4. On or about January 13, 2012, the Bureau of Automotive Repair issued Automotive Repair Dealer Registration Number ARD 267711 to Auto Smog Express #3; Michael C. Mensah.

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The Automotive Repair Dealer Registration was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2013, unless renewed.

Smog Check Test Only Station Licenses

5. On or about December 23, 2009, the Bureau of Automotive Repair issued Smog Check, Test Only, Station License Number TC 260305 to Auto Smog Express #2; Michael C. Mensah. The Smog Check, Test Only, Station License was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2012, unless renewed.

6. On or about April 21, 2008, the Bureau of Automotive Repair issued Smog Check, Test Only, Station License Number TC 254379 to Auto Smog Express; Michael C. Mensah. The Smog Check, Test Only, Station License was in full force and effect at all times relevant to the charges brought herein and will expire on April 30, 2013, unless renewed.

7. On or about February 2, 2012, the Bureau of Automotive Repair issued Smog Check, Test Only, Station License Number TC 267711 to Auto Smog Express #3; Michael C. Mensah. The Smog Check, Test Only, Station License was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2013, unless renewed.

Advanced Emission Specialist Technician Licenses

8. On a date uncertain in 2008, the Bureau of Automotive Repair issued Advanced Emission Specialist Technician License Number EA 155148 to Michael C. Mensah. The Advanced Emission Specialist Technician License was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2013, unless renewed.

9. On a date uncertain in 2008, the Bureau of Automotive Repair issued Advanced Emission Specialist Technician License Number EA 155105 to Ruben Palomares. The Advanced Emission Specialist Technician License expired on April 30, 2012.

10. On or about March 21, 2011, the Bureau of Automotive Repair issued Advanced Emission Specialist Technician License Number EA 632939 to Everardo Rodriguez, Jr. The Advanced Emission Specialist Technician License was in full force and effect at all times relevant to the charges brought herein and will expire on July 31, 2013, unless renewed.

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11. On or about March 27, 2008, the Bureau of Automotive Repair issued Advanced Emission Specialist Technician License Number EA 630113 to Joseph O. Okai. The Advanced Emission Specialist Technician License was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2013, unless renewed.

STATUTORY PROVISIONS

12. Section 9884.13 of the Business and Professions Code ("BPC") provides, in pertinent part, that "[t]he 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."

13. Section 9884.7 of the BPC 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 . . . .

(4) Any other conduct which constitutes fraud."

. . . .

(6) Failure in any material respect to comply with the provisions of this chapter or regulations adopted pursuant to it.

14. Section 44002 of the Health and Safety Code ("HSC") 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.

15. Section 44012 of the HSC provides, in pertinent part, that tests at smog check stations shall be performed in accordance with procedures prescribed by the department.

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16. Section 44014, subdivision (a), of the HSC provides that the testing and repair portion of the smog check program shall be conducted only by licensed smog check technicians.

17. Section 44015, subdivision (b), of the HSC provides that a certificate of compliance shall be issued if a vehicle meets the requirements of HSC section 40012.

18. Section 44032 of the HSC provides, in pertinent part, that "[q]ualified technicians shall perform tests of emission control devices and systems in accordance with Section 44012."

19. Section 44059 of the HSC provides:

"The willful making of any false statement or entry with regard to a material matter in any oath, affidavit, certificate of compliance or noncompliance, or application form which is required by this chapter or Chapter 20.3 (commencing with Section 9880) of Division 3 of the Business and Professions Code, constitutes perjury and is punishable as provided in the Penal Code."

20. Section 44072.2 of the HSC 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 . . . .

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

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

21. Section 44072.8 of the HSC 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."

REGULATORY PROVISIONS

22. California Code of Regulations ("CCR"), title 16, section 3340.24, subdivision (c), states:

"The bureau may suspend or revoke the license of or pursue other legal action against a licensee, if the licensee falsely or fraudulently issues or obtains a certificate of compliance or a certificate of noncompliance."

23. CCR, title 16, section 3340.30, subdivision (a), states that a licensed smog technician shall at all times "[i]nspect, test and repair vehicles, as applicable, in accordance with section 44012 of the Health and Safety Code, section 44035 of the Health and Safety Code, and section 3340.42 of this article."

24. CCR, title 16, section 3340.35, subdivision (c), states that a licensed smog check station "shall issue a certificate of compliance or noncompliance to the owner or operator of any vehicle that has been inspected in accordance with the procedures specified in section 3340.42 of this article and has all the required emission control equipment and devices installed and functioning correctly."

25. CCR, title 16, section 3340.41, subdivision (c), provides: "No person shall enter into the emissions inspection system any vehicle identification information or emission control system identification data for any vehicle other than the one being tested. Nor shall any person knowingly enter into the emissions inspection system any false information about the vehicle being tested."

26. CCR, title 16, section 3340.42, sets forth specific emissions test methods and procedures which apply to all vehicles inspected in the State of California.

COST RECOVERY

27. Section 125.3, subdivision (a), of the BPC 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."

AUTO SMOG EXPRESS #2: CLEAN PIPING

28. On or about October 6, 2011, Bureau program representatives Albert Ramos and Raul Galvan performed a video-taped surveillance of the Auto Smog Express #2 smog check station, located at 2601 East Alondra Blvd., Compton, CA. Bureau program representatives

Ramos and Galvan observed respondents Rodriguez and Palomares at the Auto Smog Express #2 smog check station during the surveillance period. The surveillance operation and information obtained from the Bureau's VID revealed that between approximately 1604 hours and 1908 hours, respondents Palomares and Rodriguez, with the assistance of an unlicensed individual identified as Raul Padilla, combined to perform a total of ten (10) illegal smog inspections, resulting in the issuance by respondent Auto Smog Express #2; Michael C. Mensah of nine (9) fraudulent certificates of compliance and one (1) fraudulent test failure. The details of Respondents' fraudulent activities on October 6, 2011, are as follows:

a. The Bureau's surveillance operation and information obtained from the Bureau's VID revealed that between approximately 1604 and 1628 hours, respondent Rodriguez's smog technician license (EA 632939) and access code were used to perform a smog inspection that resulted in the issuance of electronic Certificate of Compliance No. WZ670711C for a 1987 Dodge B250 Van, certifying that he had tested and inspected that vehicle and that the vehicle was in compliance with applicable laws and regulations. At no time during the test period was the Dodge B250 Van seen in or around the station's test bay. Instead, the tail pipe emissions of a green 1997 Nissan Pathfinder, license plate 3WUM668, registered to the aforementioned Raul Padilla, were used in a method known as "clean piping"[1] to issue a fraudulent electronic certificate of compliance.

b. The Bureau's surveillance operation and information obtained from the Bureau's VID revealed that between approximately 1722 and 1727 hours, respondent Palomares' smog technician license (EA 155105) and access code were used to perform a smog inspection that resulted in the issuance of electronic Certificate of Compliance No. WZ670712C for a 1978 Toyota pickup truck, certifying that he had tested and inspected that vehicle and that the vehicle was in compliance with applicable laws and regulations. At no time during the test period was the

[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.

Toyota pickup truck seen in or around the station's test bay. Instead, Padilla's green 1997 Nissan Pathfinder, license plate 3WUM668, was used to issue a fraudulent electronic certificate of compliance through the clean piping method as previously described.

c. The Bureau's surveillance operation and information obtained from the Bureau's VID revealed that between approximately 1733 and 1737 hours, respondent Palomares' smog technician license (EA 155105) and access code were used to perform a smog inspection that resulted in a failed test for a 1987 Mercedes 300E. This vehicle was fraudulently tested. At no time during the test period was the 1987 Mercedes 300E seen in or around the station's test bay. Instead, Padilla's green 1997 Nissan Pathfinder, license plate 3WUM668, remained in the test bay during the test period.

d. The Bureau's surveillance operation and information obtained from the Bureau's VID revealed that between approximately 1740 and 1746 hours, respondent Palomares' smog technician license (EA 155105) and access code were used to perform a smog inspection that resulted in the issuance of electronic Certificate of Compliance No. WZ670713C for a 2001 Dodge Neon, certifying that he had tested and inspected that vehicle and that the vehicle was in compliance with applicable laws and regulations. At no time during the test period was the Dodge Neon seen in or around the station's test bay. Instead, Padilla's green 1997 Nissan Pathfinder, license plate 3WUM668, was used to issue a fraudulent electronic certificate of compliance through the clean piping method as previously described.

e. The Bureau's surveillance operation and information obtained from the Bureau's VID revealed that between approximately 1753 and 1758 hours, respondent Palomares' smog technician license (EA 155105) and access code were used to perform a smog inspection that resulted in the issuance of electronic Certificate of Compliance No. WZ670714C for a 1994 Honda Civic, certifying that he had tested and inspected that vehicle and that the vehicle was in compliance with applicable laws and regulations. At no time during the test period was the Honda Civic seen in or around the station's test bay. Instead, Padilla's green 1997 Nissan Pathfinder, license plate 3WUM668, was used to issue a fraudulent electronic certificate of compliance through the clean piping method as previously described.

f. The Bureau's surveillance operation and information obtained from the Bureau's VID revealed that between approximately 1803 and 1810 hours, respondent Palomares' smog technician license (EA 155105) and access code were used to perform a smog inspection that resulted in the issuance of electronic Certificate of Compliance No. WZ670715C for a 1988 Honda Civic, certifying that he had tested and inspected that vehicle and that the vehicle was in compliance with applicable laws and regulations. At no time during the test period was the Honda Civic seen in or around the station's test bay. Instead, Padilla's green 1997 Nissan Pathfinder, license plate 3WUM668, was used to issue a fraudulent electronic certificate of compliance through the clean piping method as previously described.

g. The Bureau's surveillance operation and information obtained from the Bureau's VID revealed that between approximately 1823 and 1827 hours, respondent Palomares' smog technician license (EA 155105) and access code were used to perform a smog inspection that resulted in the issuance of electronic Certificate of Compliance No. WZ670716C for a 1999 Honda Civic, certifying that he had tested and inspected that vehicle and that the vehicle was in compliance with applicable laws and regulations. At no time during the test period was the Honda Civic seen in or around the station's test bay. Instead, Padilla's green 1997 Nissan Pathfinder, license plate 3WUM668, was used to issue a fraudulent electronic certificate of compliance through the clean piping method as previously described.

h. The Bureau's surveillance operation and information obtained from the Bureau's VID revealed that between approximately 1832 and 1836 hours, respondent Palomares' smog technician license (EA 155105) and access code were used to perform a smog inspection that resulted in the issuance of electronic Certificate of Compliance No. WZ670717C for a 2001 Chevrolet Monte Carlo, certifying that he had tested and inspected that vehicle and that the vehicle was in compliance with applicable laws and regulations. At no time during the test period was the Chevrolet Monte Carlo seen in or around the station's test bay. Instead, Padilla's green 1997 Nissan Pathfinder, license plate 3WUM668, was used to issue a fraudulent electronic certificate of compliance through the clean piping method as previously described.

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i. The Bureau's surveillance operation and information obtained from the Bureau's VID revealed that between approximately 1841 and 1845 hours, respondent Palomares' smog technician license (EA 155105) and access code were used to perform a smog inspection that resulted in the issuance of electronic Certificate of Compliance No. WZ670718C for a 1990 Ford Mustang, certifying that he had tested and inspected that vehicle and that the vehicle was in compliance with applicable laws and regulations. At no time during the test period was the Ford Mustang seen in or around the station's test bay. Instead, Padilla's green 1997 Nissan Pathfinder, license plate 3WUM668, was used to issue a fraudulent electronic certificate of compliance through the clean piping method as previously described.

j. The Bureau's surveillance operation and information obtained from the Bureau's VID revealed that between approximately 1852 and 1908 hours, respondent Palomares' smog technician license (EA 155105) and access code were used to perform a smog inspection that resulted in the issuance of electronic Certificate of Compliance No. WZ670719C for a 1997 Ford Explorer, certifying that he had tested and inspected that vehicle and that the vehicle was in compliance with applicable laws and regulations. At no time during the test period was the Ford Explorer seen in or around the station's test bay. Instead, Padilla's green 1997 Nissan Pathfinder, license plate 3WUM668, was used to issue a fraudulent electronic certificate of compliance through the clean piping method as previously described.

The following chart ("Table 1") illustrates the illegal smog tests performed at Auto Smog Express #2 on October 6, 2011:

Table 1

Test Date and Time	Vehicle Certified & License No.	Vehicle Actually Tested & License No.	Certificate Issued	Details
10/6/2011 1604-1628 hours	1987 Dodge B250 Van 7F32378	1997 Nissan Pathfinder 3WUM668	WZ670711C	Vehicle not seen at shop during time that it was certified. Vehicle certified by respondent Rodriguez.

10/6/2011 1722-1727 hours	1978 Toyota Pickup 6G00334	1997 Nissan Pathfinder 3WUM668	WZ670712C	Vehicle not seen at shop during time that it was certified. Vehicle certified by respondent Palomares.
10/6/2011 1733-1737 hours	1987 Mercedes 300E 4MST075	1997 Nissan Pathfinder 3WUM668	None	Vehicle not seen at shop during time that test was performed. Vehicle falsely failed by respondent Palomares.
10/6/2011 1740-1746 hours	2001 Dodge Neon 4ZZK669	1997 Nissan Pathfinder 3WUM668	WZ670713C	Vehicle not seen at shop during time that it was certified. Vehicle certified by respondent Palomares.
10/6/2011 1753-1758 hours	1994 Honda Civic 4LJP450	1997 Nissan Pathfinder 3WUM668	WZ670714C	Vehicle not seen at shop during time that it was certified. Vehicle certified by respondent Palomares.
10/6/2011 1803-1810 hours	1988 Honda Civic 6APK928	1997 Nissan Pathfinder 3WUM668	WZ670715C	Vehicle not seen at shop during time that it was certified. Vehicle certified by respondent Palomares.
10/6/2011 1823-1827 hours	1999 Honda Civic 4HKU256	1997 Nissan Pathfinder 3WUM668	WZ670716C	Vehicle not seen at shop during time that it was certified. Vehicle certified by respondent Palomares.

10/6/2011 1832-1836 hours	2001 Chevrolet Monte Carlo 5GBJ009	1997 Nissan Pathfinder 3WUM668	WZ670717C	Vehicle not seen at shop during time that it was certified. Vehicle certified by respondent Palomares.
10/6/2011 1841-1845 hours	1990 Ford Mustang 5PNG142	1997 Nissan Pathfinder 3WUM668	WZ670718C	Vehicle not seen at shop during time that it was certified. Vehicle certified by respondent Palomares.
10/6/2011 1852-1908 hours	1997 Ford Explorer 6HNE979	1997 Nissan Pathfinder 3WUM668	WZ670719C	Vehicle not seen at shop during time that it was certified. Vehicle certified by respondent Palomares.

29. On or about October 27, 2011, Bureau program representatives Albert Ramos and Raul Galvan performed a second video-taped surveillance of the Auto Smog Express #2 smog check station, located at 2601 East Alondra Blvd., Compton, CA. Bureau program representatives Ramos and Galvan observed respondent Palomares at the Auto Smog Express #2 smog check station during the surveillance period. The surveillance operation and information obtained from the Bureau's VID revealed that between approximately 1710 hours and 1834 hours, respondent Palomares, with the assistance of an unlicensed individual identified as Raul Padilla, performed a total of six (6) illegal smog inspections, resulting in the issuance by respondent Auto Smog Express #2; Michael C. Mensah of six (6) fraudulent certificates of compliance. The details of Respondents' fraudulent activities on October 27, 2011, are as follows:

a. The Bureau's surveillance operation and information obtained from the Bureau's VID revealed that between approximately 1710 and 1716 hours, respondent Palomares' smog technician license (EA 155105) and access code were used to perform a smog inspection that resulted in the issuance of electronic Certificate of Compliance No. WZ926240C for a 1995 Nissan Altima, license plate number 3KMR077, certifying that he had tested and inspected that vehicle and that the vehicle was in compliance with applicable laws and regulations. The 1995

Nissan Altima was a Bureau undercover vehicle that had been equipped with several hidden cameras to obtain surveillance video of the smog inspection. The surveillance video obtained from the vehicle's onboard cameras demonstrates that respondent Palomares failed to perform a visual inspection and a functional inspection of the vehicle, both of which are required under state law.

b. The Bureau's surveillance operation and information obtained from the Bureau's VID revealed that between approximately 1721 and 1727 hours, respondent Palomares' smog technician license (EA 155105) and access code were used to perform a smog inspection that resulted in the issuance of electronic Certificate of Compliance No. WZ926241C for a 2002 Toyota Camry, certifying that he had tested and inspected that vehicle and that the vehicle was in compliance with applicable laws and regulations. At no time during the test period was the Toyota Camry seen in or around the station's test bay. Instead, the Bureau's undercover Nissan Altima, license plate number 3KMR077, was used to issue a fraudulent electronic certificate of compliance through the clean piping method as previously described.

c. The Bureau's surveillance operation and information obtained from the Bureau's VID revealed that between approximately 1733 and 1742 hours, respondent Palomares' smog technician license (EA 155105) and access code were used to perform a smog inspection that resulted in the issuance of electronic Certificate of Compliance No. WZ926242C for a 2001 Toyota Camry Solara, certifying that he had tested and inspected that vehicle and that the vehicle was in compliance with applicable laws and regulations. At no time during the test period was the Toyota Camry Solara seen in or around the station's test bay. Instead, the Bureau's undercover Nissan Altima, license plate number 3KMR077, was used to issue a fraudulent electronic certificate of compliance through the clean piping method as previously described.

d. The Bureau's surveillance operation and information obtained from the Bureau's VID revealed that between approximately 1746 and 1801 hours, respondent Palomares' smog technician license (EA 155105) and access code were used to perform a smog inspection that resulted in the issuance of electronic Certificate of Compliance No. WZ926243C for a 1990 Cadillac Deville, certifying that he had tested and inspected that vehicle and that the vehicle was

in compliance with applicable laws and regulations. At no time during the test period was the Cadillac Deville seen in or around the station's test bay. Instead, the green 1997 Nissan Pathfinder, license plate 3WUM668, registered to the aforementioned Raul Padilla was used to issue a fraudulent electronic certificate of compliance through the clean piping method as previously described.

e. The Bureau's surveillance operation and information obtained from the Bureau's VID revealed that between approximately 1812 and 1819 hours, respondent Palomares' smog technician license (EA 155105) and access code were used to perform a smog inspection that resulted in the issuance of electronic Certificate of Compliance No. WZ926244C for a 1996 GMC S15 Sonoma, certifying that he had tested and inspected that vehicle and that the vehicle was in compliance with applicable laws and regulations. At no time during the test period was the GMC S15 Sonoma seen in or around the station's test bay. Instead, Padilla's green 1997 Nissan Pathfinder, license plate 3WUM668, was used to issue a fraudulent electronic certificate of compliance through the clean piping method as previously described.

f. The Bureau's surveillance operation and information obtained from the Bureau's VID revealed that between approximately 1825 and 1834 hours, respondent Palomares' smog technician license (EA 155105) and access code were used to perform a smog inspection that resulted in the issuance of electronic Certificate of Compliance No. WZ926245C for a 2000 Ford Windstar, certifying that he had tested and inspected that vehicle and that the vehicle was in compliance with applicable laws and regulations. At no time during the test period was the Ford Windstar seen in or around the station's test bay. Instead, Padilla's green 1997 Nissan Pathfinder, license plate 3WUM668, was used to issue a fraudulent electronic certificate of compliance through the clean piping method as previously described.

g. Bureau program representatives Ramos and Galvan observed Raul Padilla performing tasks which should only be done by a licensed Qualified Smog Technician. Padilla was allowed to position vehicles on the dynamometer, drive the trace, and type information into the EIS analyzer.

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The following chart ("Table 2") illustrates the illegal smog tests performed at Auto Smog Express #2 on October 27, 2011:

Table 2

Test Date and Time	Vehicle Certified & License No.	Vehicle Actually Tested & License No.	Certificate Issued	Details
10/27/2011 1710-1716 hours	1995 Nissan Altima 3KMR077 (BAR Undercover vehicle)	1995 Nissan Altima 3KMR077 (BAR Undercover vehicle)	WZ926240C	No visual inspection or functional inspection performed. Vehicle certified by respondent Palomares.
10/27/2011 1721-1727 hours	2002 Toyota Camry 4VGP895	1995 Nissan Altima 3KMR077 (BAR Undercover vehicle)	WZ926241C	Vehicle not seen at shop during time that it was certified. Vehicle certified by respondent Palomares.
10/27/2011 1733-1742 hours	2001 Toyota Camry Solara 4TSJ114	1995 Nissan Altima 3KMR077 (BAR Undercover vehicle)	WZ926242C	Vehicle not seen at shop during time that it was certified. Vehicle certified by respondent Palomares.
10/27/2011 1746-1801 hours	1990 Cadillac Deville 4WFS334	1997 Nissan Pathfinder 3WUM668	WZ926243C	Vehicle not seen at shop during time that it was certified. Vehicle certified by respondent Palomares.
10/27/2011 1812-1819 hours	1996 GMC S15 Sonoma 7P44690	1997 Nissan Pathfinder 3WUM668	WZ926244C	Vehicle not seen at shop during time that it was certified. Vehicle certified by respondent Palomares.

10/27/2011 1825-1834 hours	2000 Ford Windstar VIN# 2FNZA5147YBB92252	1997 Nissan Pathfinder 3WUM668	WZ926245C	Vehicle not seen at shop during time that it was certified. Vehicle certified by respondent Palomares.

FIRST CAUSE FOR DISCIPLINE

(Misleading Statements)

30. Respondent Auto Smog Express #2; Michael C. Mensah, owner, has subjected his registration to discipline under BPC section 9884.7, subdivision (a)(1), in that on or about October 6, 2011, and October 27, 2011, he made statements which he knew or which by exercise of reasonable care should have known were untrue or misleading when he issued electronic certificates of compliance for the vehicles set forth in Tables 1 and 2 above, certifying that those vehicles were in compliance with applicable laws and regulations when, in fact, those vehicles had not been inspected.

SECOND CAUSE FOR DISCIPLINE

(Fraud)

31. Respondent Auto Smog Express #2; Michael C. Mensah, owner, has subjected his registration to discipline under BPC section 9884.7, subdivision (a)(4), in that on or about October 6, 2011 and October 27, 2011, he committed acts which constitute fraud by issuing electronic certificates of compliance for the vehicles set forth in Tables 1 and 2 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.

THIRD CAUSE FOR DISCIPLINE

(Material Violation of Automotive Repair Act)

32. Respondent Auto Smog Express #2; Michael C. Mensah, owner, has subjected his registration to discipline under BPC section 9884.7, subdivision (a)(6), in that on or about October 6, 2011 and October 27, 2011, he failed in a "material respect to comply with the

provisions of this chapter or regulations adopted pursuant to it" when he issued electronic certificates of compliance for the vehicles set forth in Tables 1 and 2 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.

FOURTH CAUSE FOR DISCIPLINE

(Violation of the Motor Vehicle Inspection Program)

33. Respondent Auto Smog Express #2; Michael C. Mensah, owner, has subjected his station license to discipline under HSC section 44072.2, subdivision (a), in that, with respect to the vehicles set forth in Tables 1 and 2, above, on or about October 6, 2011 and October 27, 2011, Respondent violated the following sections of the HSC:

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

b. **Section 44014**: Respondent Mensah allowed an unlicensed person, Raul Padilla, to perform emission control tests on those vehicles in violation of procedures prescribed by the department.

c. **Section 44015, subdivision (b)**: Respondent Mensah issued electronic certificates of compliance without properly testing and inspecting the vehicles to determine if they were in compliance with section 44012 of the HSC.

e. **Section 44059**: Respondent Mensah 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.

FIFTH CAUSE FOR DISCIPLINE

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

34. Respondent Auto Smog Express #2; Michael C. Mensah, owner, has subjected his station license to discipline under HSC section 44072.2, subdivision (c), in that, with respect to the vehicles set forth in Tables 1 and 2 above, on or about October 6, 2011 and October 27, 2011, Respondent violated the following sections of title 16 of the CCR:

a. **Section 3340.24, subdivision (c)**: Respondent Mensah 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 HSC section 44012.

c. **Section 3340.35, subdivision (c)**: Respondent Mensah issued electronic certificates of compliance even though those vehicles had not been inspected in accordance with section 3340.42 of the HSC.

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

SIXTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

35. Respondent Auto Smog Express #2; Michael C. Mensah, owner, has subjected his station license to discipline under HSC section 44072.2, subdivision (d), in that, with respect to the vehicles set forth in Tables 1 and 2 above, on or about October 6, 2011 and October 27, 2011, Respondent 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 systems on those vehicles, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

SEVENTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

36. Respondent Palomares has subjected his technician license to discipline under HSC section 44072.2, subdivision (a), in that on or about October 6, 2011, and October 27, 2011, regarding the vehicles set forth in Tables 1 and 2 above, he violated sections of the HSC, as follows:

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

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b. **Section 44032**: Respondent Palomares failed to perform tests of the emission control devices and systems on those vehicles in accordance with section 44012 of the HSC, in that the vehicles had been clean piped.

c. **Section 44059**: Respondent Palomares 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.

EIGHTH CAUSE FOR DISCIPLINE

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

37. Respondent Palomares has subjected his technician license to discipline under HSC section 44072.2, subdivision (c), in that on or about October 6, 2011, and October 27, 2011, regarding the vehicles set forth in Tables 1 and 2 above, he violated sections of the CCR, title 16, as follows:

a. **Section 3340.24, subdivision (c)**: Respondent Palomares 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 HSC section 44012.

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

c. **Section 3340.41, subdivision (c)**: Respondent Palomares entered false information into the EIS for the electronic certificates of compliance by entering vehicle emission control information for vehicles other than the vehicles being certified.

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

NINTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

38. Respondent Palomares has subjected his technician license to discipline under HSC section 44072.2, subdivision (d), in that on or about October 6, 2011 and October 27, 2011, he committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing electronic certificates of compliance for the vehicles set forth in Tables 1 and 2 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.

TENTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

39. Respondent Rodriguez has subjected his technician license to discipline under HSC section 44072.2, subdivision (a), in that on or about October 6, 2011, regarding the vehicles set forth in Table 1 above, he violated sections of the HSC, as follows:

a. **Section 44012**: Respondent Rodriguez failed to ensure that the emission control tests were performed in accordance with procedures prescribed by the department with respect to the vehicle issued Certificate of Compliance No. WZ670711C.

b. **Section 44032**: Respondent Rodriguez failed to perform tests of the emission control devices and systems in accordance with section 44012 of the HSC with respect to the vehicle issued Certificate of Compliance No. WZ670711C, in that the vehicle had been clean piped.

c. **Section 44059**: With respect to the vehicle issued Certificate of Compliance No. WZ670711C, Respondent Rodriguez willfully made false entries for the electronic certificate of compliance by certifying that the vehicle had been inspected as required when, in fact, it had not.

ELEVENTH CAUSE FOR DISCIPLINE

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

40. Respondent Rodriguez has subjected his technician license to discipline under HSC section 44072.2, subdivision (c), in that on or about October 6, 2011 , regarding the vehicles set forth in Table 1 above, he violated sections of the CCR, title 16, as follows:

a. **Section 3340.24, subdivision (c)**: Respondent Rodriguez falsely or fraudulently issued Certificate of Compliance No. WZ670711C without performing a bona fide inspection of the emission control devices and systems on the vehicle as required by HSC section 44012.

b. **Section 3340.30, subdivision (a)**: Respondent Rodriguez failed to inspect and test the vehicle issued Certificate of Compliance No. WZ670711C in accordance with HSC section 44012.

c. **Section 3340.41, subdivision (c)**: With respect to the vehicle issued Certificate of Compliance No. WZ670711C, Respondent Rodriguez entered false information into the EIS for the electronic certificate of compliance by entering vehicle emission control information for a vehicle other than the vehicle being certified.

d. **Section 3340.42**: With respect to the vehicle issued Certificate of Compliance No. WZ670711C, Respondent Rodriguez failed to conduct the required smog test and inspection in accordance with the Bureau's specifications.

TWELFTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

41. Respondent Rodriguez has subjected his technician license to discipline under HSC section 44072.2, subdivision (d), in that on or about October 6, 2011, he committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing Certificate of Compliance No. WZ670711C without performing a bona fide inspection of the emission control devices and systems on the vehicle being certified, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

AUTO SMOG EXPRESS: CLEAN PLUGGING

42. Between April 16, 2012 and May 2, 2012, Bureau representative Albert Ramos downloaded and analyzed test data information from the vehicle information database (VID) for smog tests conducted by respondent Auto Smog Express for the period of January 2010 through April 15, 2012. Among other things, Bureau representative Ramos analyzed the diagnostic trouble codes stored in the memories of the power train control modules ("PCM") on fourteen (14) vehicles that were certified by respondent Auto Smog Express during that time period. After researching the original equipment manufacturer ("OEM") service information for these vehicles, and after consulting Mitchell On-Demand and Alldata Information Systems, Bureau representative Ramos determined that certain trouble codes not applicable to these fourteen (14) vehicles had been detected during their inspections, meaning that other vehicles were used in

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place of these fourteen (14) vehicles during their respective OBD II functional tests. This fraudulent conduct constitutes clean plugging.[2]

The following chart ("Table 3") illustrates the clean plugging activities discovered by Bureau Representative Ramos in analyzing the test data for smog tests conducted by respondent Auto Smog Express:

Table 3

Test Date and Time	Vehicle Certified & License No.	Certificate No.	Details
03/04/2010 1152-1204 hours	1999 Chevrolet Tahoe VIN# 3GNEK18R9XG151618	WH576729C	Inapplicable trouble code P1794 detected; vehicle certified by respondent Mensah.
03/04/2010 1237-1255 hours	1996 Land Rover Range Rover 6CXA108	WH576731C	Inapplicable trouble code P1794 detected; vehicle certified by respondent Okai.
03/04/2010 1451-1457 hours	2002 Hyundai Santa Fe 5YJD814	WH576734C	Inapplicable trouble code P1794 detected; vehicle certified by respondent Okai.
04/03/2010 1233-1244 hours	1997 Mitsubishi Eclipse 3UFF497	WH930792C	Inapplicable trouble code P1404 detected; vehicle certified by respondent Mensah.
04/10/2010 1251-1258 hours	1996 GMC Safari 4DKJ865	WJ177865C	Inapplicable trouble code P1404 detected; vehicle certified by respondent Mensah.
04/17/2010 1048-1101 hours	1997 Infinity I30 3UTB388	WJ177886C	Inapplicable trouble code P1404 detected; vehicle certified by respondent Mensah.

[2] 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.

04/22/2010 1709-1720 hours	1996 Mitsubishi Galant 5UXU526	WJ386459C	Inapplicable trouble code P1404 detected; vehicle certified by respondent Okai.
04/28/2010 1411-1424 hours	2001 Ford 150 Super Crew Cab 7Z44411	WJ386485C	Inapplicable trouble code P1404 detected; vehicle certified by respondent Okai.
04/28/2010 1449-1506 hours	1997 Nissan Altima 6BWA161	WJ386486C	Inapplicable trouble code P1404 detected; vehicle certified by respondent Okai.
07/21/2010 1528-1535 hours	1996 Ford Thunderbird 4WLH987	WL567696C	Inapplicable trouble code P1404 detected; vehicle certified by respondent Okai.
08/29/2011 1342-1350 hours	1999 Volkswagen New Beetle 6JOS026	WX909127C	Inapplicable trouble code P1320 detected; vehicle certified by respondent Okai.
03/05/2012 1636-1652 hours	2000 Ford Windstar 4JLW495	XD906128C	Inapplicable trouble code P1776 detected; vehicle certified by respondent Okai.
03/05/2012 1707-1712 hours	2002 Toyota Celica 5YFH924	XD906129C	Inapplicable trouble code P1776 detected; vehicle certified by respondent Okai.
03/05/2012 1756-1808 hours	2000 Ford Escort 4LFP973	XD906130C	Inapplicable trouble code P1776 detected; vehicle certified by respondent Okai.

THIRTEENTH CAUSE FOR DISCIPLINE

(Misleading Statements)

43. Respondent Auto Smog Express; Michael C. Mensah, owner, has subjected his registration to discipline under BPC section 9884.7, subdivision (a)(1), in that between March 4, 2010 and March 5, 2012, he made statements which he knew or which by exercise of reasonable care should have known were untrue or misleading when he issued electronic certificates of compliance for the vehicles set forth in Table 3, above, certifying that those vehicles were in

compliance with applicable laws and regulations when, in fact, those vehicles had been clean plugged.

FOURTEENTH CAUSE FOR DISCIPLINE

(Fraud)

44. Respondent Auto Smog Express; Michael C. Mensah, owner, has subjected his registration to discipline under BPC section 9884.7, subdivision (a)(4), in that between March 4, 2010 and March 5, 2012, he committed acts which constitute fraud by issuing electronic certificates of compliance for the vehicles set forth in Table 3, above, without performing bona fide inspections and functional testing 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.

FIFTEENTH CAUSE FOR DISCIPLINE

(Violation of the Motor Vehicle Inspection Program)

45. Respondent Auto Smog Express; Michael C. Mensah, owner, has subjected his station license to discipline under HSC section 44072.2, subdivision (a), in that, with respect to the vehicles set forth in Table 3, above, between March 4, 2010 and March 5, 2012, Respondent violated the following sections of the HSC:

a. **Section 44012**: Respondent Mensah failed to ensure that the onboard diagnostic system tests were performed on those vehicles in accordance with procedures prescribed by the department.

b. **Section 44015, subdivision (b)**: Respondent Mensah issued electronic certificates of compliance without properly testing and inspecting the vehicles to determine if they were in compliance with section 44012 of the HSC.

d. **Section 44059**: Respondent Mensah 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.

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SIXTEENTH CAUSE FOR DISCIPLINE

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

46. Respondent Auto Smog Express; Michael C. Mensah, owner, has subjected his station license and his technician license to discipline under HSC section 44072.2, subdivision (c), in that, with respect to the vehicles set forth in Table 3, above, be between March 4, 2010 and March 5, 2012, Respondent violated the following sections of title 16 of the CCR:

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

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

c. **Section 3340.35, subdivision (c)**: Respondent Mensah issued electronic certificates of compliance even though those vehicles had not been inspected in accordance with section 3340.42 of the HSC.

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

SEVENTEENTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

47. Respondent Auto Smog Express; Michael C. Mensah, owner, has subjected his station license to discipline under HSC section 44072.2, subdivision (d), in that, with respect to the vehicles set forth in Table 3, above, between March 4, 2010 and March 5, 2012, 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 and functional testing 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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EIGHTEENTH CAUSE FOR DISCIPLINE

(Violation of the Motor Vehicle Inspection Program)

48. Respondents Mensah and Okai have subjected their technician licenses to discipline under HSC section 44072.2, subdivision (a), in that, with respect to the vehicles set forth in Table 3, above, between March 4, 2010 and March 5, 2012, Respondents violated the following sections of the HSC:

a. **Section 44012**: Respondents failed to ensure that the onboard diagnostic system tests were performed on those vehicles in accordance with procedures prescribed by the department.

b. **Section 44015, subdivision (b)**: Respondents issued electronic certificates of compliance without properly testing and inspecting the vehicles to determine if they were in compliance with section 44012 of the HSC.

c. **Section 44032**: Respondents failed to perform tests of the onboard diagnostic systems on those vehicles in accordance with section 44012 of the HSC.

d. **Section 44059**: Respondents 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.

NINETEENTH CAUSE FOR DISCIPLINE

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

49. Respondents Mensah and Okai have subjected their technician licenses to discipline under HSC section 44072.2, subdivision (c), in that, with respect to the vehicles set forth in Table 3, above, between March 4, 2010 and March 5, 2012, Respondents violated the following sections of title 16 of the CCR:

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

b. **Section 3340.30, subdivision (a)**: Respondents failed to inspect and test those vehicles in accordance with HSC section 44012.

c. **Section 3340.35, subdivision (c)**: Respondents issued electronic certificates of compliance even though those vehicles had not been inspected in accordance with section 3340.42 of the HSC.

d. **Section 3340.41, subdivision (c)**: Respondents knowingly entered false information into the EIS about the vehicles being tested.

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

TWENTIETH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

50. Respondents Mensah and Okai have subjected their technician licenses to discipline under HSC section 44072.2, subdivision (d), in that, with respect to the vehicles set forth in Table 3, above, between March 4, 2010 and March 5, 2012, Respondents 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 and functional testing 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.

AUTO SMOG EXPRESS #3

TWENTY-FIRST CAUSE FOR DISCIPLINE

(Revocation of Additional Licenses)

51. Respondent Mensah has subjected his Automotive Repair Dealer Registration No. ARD 267711, his Smog Check, Test Only, Station License No. TC 267711, and his Advanced Emission Specialist Technician License No. EA 155148 to discipline under section 44072.8 of the Health and Safety Code in that Respondent Mensah has engaged in violations that have subjected other licenses issued by the Bureau to discipline. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 27 - 49, inclusive, as though set forth fully herein.

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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 or suspending Automotive Repair Dealer Registration Number ARD 260305, issued to Auto Smog Express #2; Michael C. Mensah;

2. Revoking or suspending Smog Check, Test Only, Station License Number TC 260305, issued to Auto Smog Express #2; Michael C. Mensah;

3. Revoking or suspending Automotive Repair Dealer Registration Number ARD 254379, issued to Auto Smog Express; Michael C. Mensah;

4. Revoking or suspending Smog Check, Test Only, Station License Number TC 254379, issued to Auto Smog Express; Michael C. Mensah;

5. Revoking or suspending Automotive Repair Dealer Registration Number ARD 267711, issued to Auto Smog Express #3; Michael C. Mensah;

6. Revoking or suspending Smog Check, Test Only, Station License Number TC 267711, issued to Auto Smog Express #3; Michael C. Mensah;

7. Revoking or suspending Advanced Emission Specialist Technician License Number EA 155148, issued to Michael C. Mensah;

8. Revoking or suspending Advanced Emission Specialist Technician License Number EA 155105, issued to Ruben Palomares;

9. Revoking or suspending Advanced Emission Specialist Technician License Number EA 632939, issued to Everardo Rodriguez, Jr.;

10. Revoking or suspending Advanced Emission Specialist Technician License Number EA 630113, issued to Joseph O. Okai;

11. Revoking or suspending any and all other licenses issued to Michael C. Mensah, Ruben Palomares, Everardo Rodriguez, Jr., and Joseph O. Okai by the Bureau of Automotive Repair pursuant to Health and Safety Code section 44072.8;

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12. Ordering Michael C. Mensah, Ruben Palomares, Everardo Rodriguez, Jr., and Joseph O. Okai 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;

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

DATED: June 25, 2012

JOHN WALLAUCH
Chief
Bureau of Automotive Repair
Department of Consumer Affairs
State of California
Complainant