

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

In the Matter of the Accusation Against:

**JOVANIES ELECTRO MECHANICS;  
ORLANDO ARISTIZABAL**

11577 Sheldon Avenue  
Sun Valley, CA 91352  
Automotive Repair Dealer Registration  
No. ARD 140167  
Smog Check Station License  
No. RC 140167  
Lamp Station License  
No. LS 140167  
Brake Station License No. BS 140167

and

**ORLANDO ARISTIZABAL**

11577 Sheldon Street  
Sun Valley, CA 91352

Advanced Emission Specialist Technician  
License No. EA 306961  
Lamp Adjuster License No. LA 306961  
Brake Adjuster License No. BA 306961

Case No. 77/10-42

OAH No. 2012031202

Respondents.

**DECISION**

The attached Stipulated Settlement and Disciplinary Order is hereby accepted and adopted as the Decision of the Director of the Department of Consumer Affairs in the above-entitled matter, following typographical error corrected to include Brake Station License No. BS 140167 in line 16 of the caption.

This Decision shall become effective 12/26/12.

DATED: December 4, 2012

  
DOREATHEA JOHNSON  
Deputy Director, Legal Affairs  
Department of Consumer Affairs

1 KAMALA D. HARRIS  
Attorney General of California  
2 KAREN B. CHAPPELLE  
Supervising Deputy Attorney General  
3 WILLIAM D. GARDNER  
Deputy Attorney General  
4 State Bar No. 244817  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-2114  
6 Facsimile: (213) 897-2804  
*Attorneys for Complainant*  
7

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

11 In the Matter of the Accusation Against:  
12 **JOVANIES ELECTRO MECHANICS;**  
13 **ORLANDO ARISTIZABAL**  
14 **11577 Sheldon Avenue**  
**Sun Valley, CA 91352**  
15 **Automotive Repair Dealer Registration No.**  
**ARD 140167**  
16 **Smog Check Station License No. RC 140167**  
**Lamp Station License No. LS 140167,**

17 **and**

18 **ORLANDO ARISTIZABAL**  
19 **11577 Sheldon Street**  
**Sun Valley, CA 91352**  
20 **Advanced Emission Specialist Technician**  
**License No. EA 306961**  
**Lamp Adjuster License No. LA 306961**  
21 **Brake Adjuster License No. BA 306961**

22 Respondents.

Case No. 77/10-42

OAH No. 2012031202  
**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

23  
24 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
25 entitled proceedings that the following matters are true:

26 **PARTIES**

27 1. John Wallauch (Complainant) is the Chief of the Bureau of Automotive Repair. He  
28 brought this action solely in his official capacity and is represented in this matter by Kamala D.

1 Harris, Attorney General of the State of California, by William D. Gardner, Deputy Attorney  
2 General.

3 2. Respondent Jovanies Electro Mechanics; Orlando Aristizabal and respondent Orlando  
4 Aristizabal (collectively, "Respondent") is represented in this proceeding by attorney Grace  
5 White, whose address is: 21650 Oxford Street, Ste. 1630, Woodland Hills, CA 91367.

6 3. On or about May 26, 1988, the Bureau of Automotive Repair issued Automotive  
7 Repair Dealer Registration No. ARD 140167 to respondent Jovanies Electro Mechanics; Orlando  
8 Aristizabal. The Automotive Repair Dealer Registration was in full force and effect at all times  
9 relevant to the charges brought in Accusation No. 77/10-42 and will expire on June 30, 2013,  
10 unless renewed.

11 4. On or about July 8, 1988, the Bureau of Automotive Repair issued Smog Check  
12 Station License No. RC 140167 to respondent Jovanies Electro Mechanics; Orlando Aristizabal.  
13 The Smog Check Station License was in full force and effect at all times relevant to the charges  
14 brought in Accusation No. 77/10-42 and will expire on June 30, 2013, unless renewed.

15 5. On or about September 4, 1998, the Bureau of Automotive Repair issued Lamp  
16 Station License No. LS 140167 to respondent Jovanies Electro Mechanics; Orlando Aristizabal.  
17 The Lamp Station License was in full force and effect at all times relevant to the charges brought  
18 in Accusation No. 77/10-42 and will expire on June 30, 2013, unless renewed.

19 6. On or about September 4, 1998, the Bureau of Automotive Repair issued Brake  
20 Station License No. BS 140167 to respondent Jovanies Electro Mechanics; Orlando Aristizabal.  
21 The Brake Station License was in full force and effect at all times relevant to the charges brought  
22 in Accusation No. 77/10-42 and will expire on June 30, 2013, unless renewed.

23 7. On a date uncertain in 1998, the Bureau of Automotive Repair issued Advanced  
24 Emission Specialist Technician License No. EA 306961 to respondent Orlando Aristizabal. The  
25 Advanced Emission Specialist Technician license was in full force and effect at all times relevant  
26 to the charges brought in Accusation No. 77/10-42 and will expire on October 31, 2012, unless  
27 renewed.

28 ///



1 **CULPABILITY**

2 **Revocation of Licenses**

3 15. Respondent admits the truth of each and every charge and allegation in Accusation  
4 No. 77/10-42 and agrees that cause exists for discipline and hereby agrees to revocation of the  
5 following licenses: Lamp Station License No. LS 140167; Brake Station License No. LS 140167;  
6 Lamp Adjuster License No. 306961; and Brake Adjuster License No. 306961.

7 16. Respondent understands that by signing this stipulation he enables the Director to  
8 issue his order accepting the voluntary revocation of his Lamp Station License No. LS 140167,  
9 Brake Station License No. LS 140167, Lamp Adjuster License No. 306961 and his Brake  
10 Adjuster License No. 306961, without further process.

11 **Probationary Licenses & Registration**

12 17. Respondent agrees that his Automotive Repair Dealer Registration No. ARD 140167,  
13 Smog Check Station License No. RC 140167 and his Advanced Emission Specialist Technician  
14 License No. EA 306961 are subject to discipline, and he agrees to be bound by the Director's  
15 probationary terms as set forth in the Disciplinary Order below.

16 **CONTINGENCY**

17 18. This stipulation shall be subject to approval by the Director of Consumer Affairs or  
18 his designee. Respondent understands and agrees that counsel for Complainant and the staff of  
19 the Bureau of Automotive Repair may communicate directly with the Director and staff of the  
20 Department of Consumer Affairs regarding this stipulation and settlement, without notice to or  
21 participation by Respondent or his counsel. By signing the stipulation, Respondent understands  
22 and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the  
23 time the Director considers and acts upon it. If the Director fails to adopt this stipulation as the  
24 Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or  
25 effect, except for this paragraph, it shall be inadmissible in any legal action between the parties,  
26 and the Director shall not be disqualified from further action by having considered this matter.

27 ///

28 ///



1 comply with all the laws, regulations and procedures for reinstatement of a revoked license in  
2 effect at the time the petition is filed, and all of the charges and allegations contained in  
3 Accusation No. 77/10-42 shall be deemed to be true, correct and admitted by Respondent when  
4 the Director determines whether to grant or deny the petition.

5 **IT IS FURTHER ORDERED** that Automotive Repair Dealer Registration No. ARD  
6 140167, Smog Check Station License No. RC 140167 and Advanced Emission Specialist  
7 Technician License No. EA 306961 are revoked. However, the revocations are stayed and  
8 Respondent's Automotive Repair Dealer Registration, Smog Check Station License and  
9 Advanced Emission Specialist Technician License are placed on probation for five (5) years on  
10 the following terms and conditions.

11 1. **Obey All Laws.** Comply with all statutes, regulations and rules governing  
12 automotive inspections, estimates and repairs.

13 2. **Reporting.** Respondent or Respondent's authorized representative must report in  
14 person or in writing as prescribed by the Bureau of Automotive Repair, on a schedule set by the  
15 Bureau, but no more frequently than each quarter, on the methods used and success achieved in  
16 maintaining compliance with the terms and conditions of probation.

17 3. **Report Financial Interest.** Within 30 days of the effective date of this action, report  
18 any financial interest which any partners, officers, or owners of the Respondent facility may have  
19 in any other business required to be registered pursuant to Section 9884.6 of the Business and  
20 Professions Code.

21 4. **Random Inspections.** Provide Bureau representatives unrestricted access to inspect  
22 all vehicles (including parts) undergoing repairs, up to and including the point of completion.

23 5. **Jurisdiction.** If an accusation is filed against Respondent during the term of  
24 probation, the Director of Consumer Affairs shall have continuing jurisdiction over this matter  
25 until the final decision on the accusation, and the period of probation shall be extended until such  
26 decision.

27 ///

28 ///



1 6. **Violation of Probation.** Should the Director of Consumer Affairs determine that  
2 Respondent has failed to comply with the terms and conditions of probation, the Department may,  
3 after giving notice and opportunity to be heard, suspend or revoke the License.

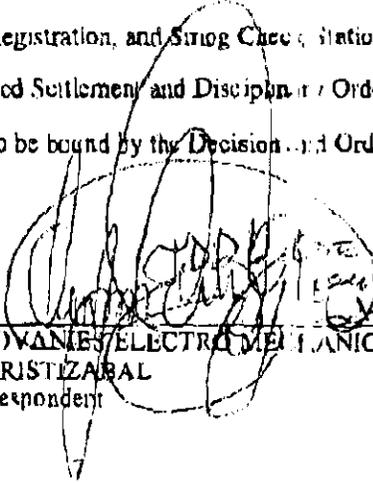
4 7. **Education.** Respondent shall successfully complete a 68-hour Bureau certified  
5 Licensed Inspector Training Course within one hundred eighty (180) days of the effective date of  
6 the decision. If proof of completion of the course is not furnished to the Bureau within the one  
7 hundred eighty (180) day period, Respondent's Advanced Emission Specialist Technician  
8 License shall be suspended until such proof is received.

9 8. **Cost Recovery.** Payment to the Bureau the amount of \$10,211.01 as reasonable  
10 reimbursement for the costs related to the investigation and enforcement of this matter.  
11 Respondent shall make such payment in forty-eight (48) equal monthly installments with final  
12 payment due no later than twelve (12) months prior to the termination of probation. Failure to  
13 complete payment of cost recovery within this time frame shall constitute a violation of probation  
14 which may subject Respondent's automotive repair dealer registration, smog check station license  
15 and/or smog technician license to outright revocation; however, the Director or the Director's  
16 Bureau of Automotive Repair designee may elect to continue probation until such time as  
17 reimbursement of the entire cost recovery amount has been made to the Bureau.

18 **ACCEPTANCE**

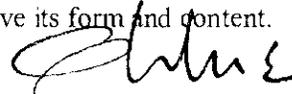
19 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
20 discussed it with my attorney, Grace White. I understand the stipulation and the effect it will  
21 have on my Automotive Repair Dealer Registration, and Smog Check Station License, and Lamp  
22 Station License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily,  
23 knowingly, and intelligently, and agree to be bound by the Decision and Order of the Director of  
24 Consumer Affairs.

25  
26 DATED: 9/27/12

27   
28 JOVANNIE ELECTRO MECHANICS, ORLANDO  
ARISTIZABAL  
Respondent

1 I have read and fully discussed with Respondent Jovanies Electro Mechanics; Orlando  
2 Aristizabal the terms and conditions and other matters contained in the above Stipulated  
3 Settlement and Disciplinary Order. I approve its form and content.

4 DATED: 9/27/2012

  
\_\_\_\_\_  
Grace White  
Attorney for Respondent

6  
7 **ENDORSEMENT**

8 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully  
9 submitted for consideration by the Director of Consumer Affairs.

10 Dated: 9/27/12

Respectfully submitted,

11  
12 KAMALA D. HARRIS  
Attorney General of California  
13 KAREN B. CHAPPELLE  
Supervising Deputy Attorney General

14  
15   
16 WILLIAM D. GARDNER  
Deputy Attorney General  
Attorneys for Complainant

17  
18  
19 LA2010600615  
20 51167282.doc

**Exhibit A**

**Accusation No. 77/10-42**

1 KAMALA D. HARRIS  
Attorney General of California  
2 GREGORY J. SALUTE  
Supervising Deputy Attorney General  
3 ALVARO MEJIA  
Deputy Attorney General  
4 State Bar No. 216956  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-0083  
6 Facsimile: (213) 897-2804  
*Attorneys for Complainant*  
7

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

11 In the Matter of the Accusation Against:

Case No. 77/10-42

12 **JOVANIES ELECTRO MECHANICS**  
13 **ORLANDO ARISTIZABAL,**  
14 **aka ORLANDO DEJ ARISTIZABAL, OWNER**  
15 **11577 Sheldon Avenue**  
16 **Sun Valley, CA 91352-1012**  
17 **Automotive Repair Dealer Reg. No. ARD 140167**  
18 **Smog Check Station License No. RC 140167**  
19 **Lamp Station License No. LS 140167**  
20 **Brake Station License No. BS 140167**

**A C C U S A T I O N**

21 and

22 **ORLANDO DEJ ARISTIZABAL**  
23 **11577 Sheldon Street**  
24 **Sun Valley, CA 91352**  
25 **Advanced Emission Specialist Technician License**  
26 **No. EA 306961**  
27 **Lamp Adjuster License No. LA 306961**  
28 **Brake Adjuster License No. BA 306961**

Respondents.

Complainant alleges:

**PARTIES/LICENSE INFORMATION**

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

///

1           **Jovanies Electro Mechanics; Orlando Aristizabal aka Orlando Dej Aristizabal, Owner**

2           2.     On or about May 26, 1988, the Director of Consumer Affairs ("Director") issued  
3 Automotive Repair Dealer Registration Number ARD 140167 ("registration") to Orlando  
4 Aristizabal, also known as Orlando Dej Aristizabal ("Respondent"), owner of Jovanies Electro  
5 Mechanics. Respondent's registration was in full force and effect at all times relevant to the  
6 charges brought herein and will expire on June 30, 2011, unless renewed.

7           3.     On or about July 8, 1988, the Director issued Smog Check Station License Number  
8 RC 140167 to Respondent. Respondent's smog check station license was in full force and effect  
9 at all times relevant to the charges brought herein and will expire on June 30, 2011, unless  
10 renewed.

11          4.     On or about September 4, 1998, the Director issued Lamp Station License Number  
12 LS 140167 to Respondent. Respondent's lamp station license was in full force and effect at all  
13 times relevant to the charges brought herein and will expire on June 30, 2011, unless renewed.

14          5.     On or about September 4, 1998, the Director issued Brake Station License Number  
15 BS 140167 to Respondent. Respondent's brake station license was in full force and effect at all  
16 times relevant to the charges brought herein and will expire on June 30, 2011, unless renewed.

17           **Orlando Aristizabal**

18          6.     In or about 1998, the Director issued Advanced Emission Specialist Technician  
19 License Number EA 306961 ("technician license") to Respondent. Respondent's technician  
20 license was in full force and effect at all times relevant to the charges brought herein and will  
21 expire on October 31, 2012, unless renewed.

22          7.     In or about 1989, the Director issued Lamp Adjuster License Number LA 306961 to  
23 Respondent. Respondent's lamp adjuster license was in full force and effect at all times relevant  
24 to the charges brought herein and will expire on October 31, 2011, unless renewed.

25          8.     In or about 1989, the Director issued Brake Adjuster License Number BA 306961 to  
26 Respondent. Respondent's brake adjuster license was in full force and effect at all times relevant  
27 to the charges brought herein and will expire on October 31, 2011, unless renewed.

28         ///

1 **JURISDICTION**

2 9. Business and Professions Code ("Bus. & Prof. Code") section 9884.7 provides that  
3 the Director may revoke an automotive repair dealer registration.

4 10. Bus. & Prof. Code section 9884.13 provides, in pertinent part, that the expiration of a  
5 valid registration shall not deprive the Director of jurisdiction to proceed with a disciplinary  
6 proceeding against an automotive repair dealer or to render a decision temporarily or permanently  
7 invalidating (suspending or revoking) a registration.

8 11. Bus. & Prof. Code section 9889.1 provides, in pertinent part, that the Director may  
9 suspend or revoke any license issued under Articles 5 and 6 (commencing with section 9887.1) of  
10 the Automotive Repair Act.

11 12. Bus. & Prof. Code section 9889.7 provides, in pertinent part, that the expiration or  
12 suspension of a license by operation of law or by order or decision of the Director or a court of  
13 law, or the voluntary surrender of a license shall not deprive the Director of jurisdiction to  
14 proceed with any disciplinary proceedings.

15 13. Health and Safety Code ("Health & Saf. Code") section 44002 provides, in pertinent  
16 part, that the Director has all the powers and authority granted under the Automotive Repair Act  
17 for enforcing the Motor Vehicle Inspection Program.

18 14. Health & Saf. Code section 44072.6 provides, in pertinent part, that the expiration or  
19 suspension of a license by operation of law, or by order or decision of the Director of Consumer  
20 Affairs, or a court of law, or the voluntary surrender of the license shall not deprive the Director  
21 of jurisdiction to proceed with disciplinary action.

22 **STATUTORY PROVISIONS**

23 15. Bus. & Prof. Code section 9884.7 states, in pertinent part:

24 (a) The director, where the automotive repair dealer cannot show there  
25 was a bona fide error, may deny, suspend, revoke or place on probation the  
26 registration of an automotive repair dealer for any of the following acts or omissions  
27 related to the conduct of the business of the automotive repair dealer, which are done  
28 by the automotive repair dealer or any automotive technician, employee, partner,  
officer, or member of the automotive repair dealer.

///

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

4 . . . .

5 (3) Failing or refusing to give to a customer a copy of any document  
6 requiring his or her signature, as soon as the customer signs the document

7 (4) Any other conduct that constitutes fraud.

8 . . . .

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

11 . . . .

12 (c) Notwithstanding subdivision (b), the director may suspend, revoke or  
13 place on probation the registration for all places of business operated in this state by  
14 an automotive repair dealer upon a finding that the automotive repair dealer has, or is,  
15 engaged in a course of repeated and willful violations of this chapter, or regulations  
16 adopted pursuant to it.

17 16. Bus. & Prof. Code section 9884.9, subdivision (a), states, in pertinent part:

18 The automotive repair dealer shall give to the customer a written  
19 estimated price for labor and parts necessary for a specific job. No work shall be done  
20 and no charges shall accrue before authorization to proceed is obtained from the  
21 customer. No charge shall be made for work done or parts supplied in excess of the  
22 estimated price without the oral or written consent of the customer that shall be  
23 obtained at some time after it is determined that the estimated price is insufficient and  
24 before the work not estimated is done or the parts not estimated are supplied. Written  
25 consent or authorization for an increase in the original estimated price may be  
26 provided by electronic mail or facsimile transmission from the customer. The bureau  
27 may specify in regulation the procedures to be followed by an automotive repair  
28 dealer when an authorization or consent for an increase in the original estimated price  
is provided by electronic mail or facsimile transmission. If that consent is oral, the  
dealer shall make a notation on the work order of the date, time, name of person  
authorizing the additional repairs and telephone number called, if any, together with a  
specification of the additional parts and labor and the total additional cost . . .

17. Bus. & Prof. Code section 9889.3 states, in pertinent part:

The director may suspend, revoke, or take other disciplinary action  
against a license as provided in this article [Article 7 (commencing with section  
9889.1) of the Automotive Repair Act] if the licensee or any partner, officer, or  
director thereof:

(a) Violates any section of the Business and Professions Code which  
relates to his or her licensed activities.

. . . .

///

1 (c) Violates any of the regulations promulgated by the director pursuant  
to this chapter.

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

4 . . . .

5 (h) Violates or attempts to violate the provisions of this chapter relating  
to the particular activity for which he or she is licensed . . .

6 18. Bus. & Prof. Code section 9889.16 states:

7 Whenever a licensed adjuster in a licensed station upon an inspection or  
8 after an adjustment, made in conformity with the instructions of the bureau,  
determines that the lamps or the brakes upon any vehicle conform with the  
9 requirements of the Vehicle Code, he shall, when requested by the owner or driver of  
the vehicle, issue a certificate of adjustment on a form prescribed by the director,  
10 which certificate shall contain the date of issuance, the make and registration number  
of the vehicle, the name of the owner of the vehicle, and the official license of the  
11 station.

12 19. Bus. & Prof. Code section 9889.22 states:

13 The willful making of any false statement or entry with regard to a  
14 material matter in any oath, affidavit, certificate of compliance or noncompliance, or  
application form which is required by this chapter [the Automotive Repair Act] or  
15 Chapter 5 (commencing with Section 44000) of Part 5 of Division 26 of the Health  
and Safety Code constitutes perjury and is punishable as provided in the Penal Code.

16 20. Bus. & Prof. Code section 9889.9 states that “[w]hen any license has been revoked or  
17 suspended following a hearing under the provisions of this article [Article 7 (commencing with  
18 section 9889.1) of the Automotive Repair Act], any additional license issued under Articles 5 and  
19 6 of this chapter in the name of the licensee may be likewise revoked or suspended by the  
20 director.”

21 21. Bus. & Prof. Code section 22, subdivision (a), states:

22 “Board” as used in any provision of this Code, refers to the board in  
23 which the administration of the provision is vested, and unless otherwise expressly  
provided, shall include “bureau,” “commission,” “committee,” “department,”  
24 “division,” “examining committee,” “program,” and “agency.”

25 22. Bus. & Prof. Code section 477, subdivision (b), states, in pertinent part, that a  
26 “license” includes “registration” and “certificate.”

27 ///

28 ///

1 23. Health & Saf. Code section 44072.2 states, in pertinent part:

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

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

6 . . . .

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

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

11 24. Health & Saf. Code section 44072.8 states that when a license has been revoked or  
12 suspended following a hearing under this article, any additional license issued under this chapter  
13 in the name of the licensee may be likewise revoked or suspended by the director.

#### 13 COST RECOVERY

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

#### 18 UNDERCOVER OPERATION #1: 2000 MAZDA PROTÉGÉ

19 26. On May 18, 2009, an undercover operator of the Bureau ("operator") took the  
20 Bureau's 2000 Mazda Protégé to Respondent's facility and requested brake, lamp, and smog  
21 inspections on the vehicle. The rear brake drums on the Bureau-documented vehicle were  
22 machined beyond the manufacturer's discard specifications, the right headlamp was out of  
23 adjustment, and the license plate light bulbs and the fuel cap were defective. Respondent told the  
24 operator that the inspections would take about thirty minutes to complete and provided her with a  
25 written estimate totaling \$138. The operator left the facility.

26 27. At approximately 1218 hours that same day, the operator called the facility and spoke  
27 with Respondent. Respondent told the operator that the vehicle needed two rear license plate  
28 light bulbs and that the repair would cost \$25. The operator authorized the work.







1 **SEVENTH CAUSE FOR DISCIPLINE**

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

3 36. Respondent's brake and lamp station licenses are subject to disciplinary action  
4 pursuant to Bus. & Prof. Code section 9889.3, subdivision (d), in that Respondent committed acts  
5 involving dishonesty, fraud, or deceit whereby another was injured, as set forth in paragraph 31  
6 above.

7 **EIGHTH CAUSE FOR DISCIPLINE**

8 **(Failure to Comply with the Bus. & Prof. Code)**

9 37. Respondent's brake and lamp adjuster licenses are subject to disciplinary action  
10 pursuant to Bus. & Prof. Code section 9889.3, subdivisions (a) and (h), in that he violated the  
11 provisions of Bus. & Prof. Code sections 9884.9, subdivision (a), 9889.16, and 9889.22 relating  
12 to his licensed activities, as set forth in paragraph 32 above.

13 **NINTH CAUSE FOR DISCIPLINE**

14 **(Violations of Regulations)**

15 38. Respondent's brake and lamp adjuster licenses are subject to disciplinary action  
16 pursuant to Bus. & Prof. Code section 9889.3, subdivision (c), in that he failed to comply with the  
17 provisions of California Code of Regulations, title 16, sections 3305, subdivision (a), 3316,  
18 subdivision (d)(2), and 3321, subdivision (c)(2), as set forth in paragraph 33 above.

19 **TENTH CAUSE FOR DISCIPLINE**

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

21 39. Respondent's smog check station license is subject to disciplinary action pursuant to  
22 Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to comply with the  
23 following sections of that Code:

24 a. **Section 44012:** Respondent failed to perform the emission control tests on the  
25 Bureau's 2000 Mazda Protégé in accordance with procedures prescribed by the department.

26 b. **Section 44015:** Respondent issued an electronic smog certificate of compliance for  
27 the Bureau's 2000 Mazda Protégé without properly testing and inspecting the vehicle to  
28 determine if it was in compliance with Health & Saf. Code section 44012.

1 c. **Section 44033, subdivision (c)**: Respondent failed to include on the written estimate  
2 the required notice stating that the customer may choose another smog check station to perform  
3 needed repairs, installations, adjustments, or subsequent tests.

4 **ELEVENTH CAUSE FOR DISCIPLINE**  
5 **(Failure to Comply with Regulations Pursuant**  
6 **to the Motor Vehicle Inspection Program)**

7 40. Respondent's smog check station license is subject to disciplinary action pursuant to  
8 Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to comply with the  
9 provisions of California Code of Regulations, title 16, as follows:

10 a. **Section 3340.24, subdivision (c)**: Respondent falsely or fraudulently issued an  
11 electronic smog certificate of compliance for the Bureau's 2000 Mazda Protégé.

12 b. **Section 3340.35, subdivision (c)**: Respondent issued an electronic smog certificate  
13 of compliance for the Bureau's 2000 Mazda Protégé even though the vehicle had not been  
14 inspected in accordance with California Code of Regulations, title 16, section 3340.42.

15 c. **3340.41, subdivision (c)**: Respondent knowingly entered into the emissions  
16 inspection system ("EIS") false information about the Bureau's 2000 Mazda Protégé.

17 d. **Section 3340.42**: Respondent failed to conduct the required smog tests on the  
18 Bureau's 2000 Mazda Protégé in accordance with the Bureau's specifications.

19 **TWELFTH CAUSE FOR DISCIPLINE**

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

21 41. Respondent's smog check station license is subject to disciplinary action pursuant to  
22 Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed a dishonest,  
23 fraudulent, or deceitful act whereby another is injured by issuing an electronic smog certificate of  
24 compliance for the Bureau's 2000 Mazda Protégé without performing a bona fide inspection of  
25 the emission control devices and systems on the vehicle, thereby depriving the People of the State  
26 of California of the protection afforded by the Motor Vehicle Inspection Program.

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1 **THIRTEENTH CAUSE FOR DISCIPLINE**

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

3 42. Respondent's technician license is subject to disciplinary action pursuant to Health &  
4 Saf. Code section 44072.2, subdivision (a), in that Respondent failed to comply with the  
5 following sections of that Code:

6 a. **Section 44012:** Respondent failed to perform the emission control tests on the  
7 Bureau's 2000 Mazda Protégé in accordance with procedures prescribed by the department.

8 b. **Section 44059:** Respondent willfully made a false entry on the vehicle inspection  
9 report, as set forth in subparagraph 30 (a) above.

10 **FOURTEENTH CAUSE FOR DISCIPLINE**

11 **(Failure to Comply with Regulations Pursuant**  
12 **to the Motor Vehicle Inspection Program)**

13 43. Respondent's technician license is subject to disciplinary action pursuant to Health &  
14 Saf. Code section 44072.2, subdivision (c), in that he failed to comply with provisions of  
15 California Code of Regulations, title 16, as follows:

16 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued an  
17 electronic smog certificate of compliance for the Bureau's 2000 Mazda Protégé.

18 b. **Section 3340.30, subdivision (a):** Respondent failed to inspect and test the Bureau's  
19 2000 Mazda Protégé in accordance with Health & Saf. Code sections 44012 and 44035, and  
20 Regulation 3340.42.

21 c. **3340.41, subdivision (c):** Respondent knowingly entered into the EIS false  
22 information about the Bureau's 2000 Mazda Protégé.

23 d. **Section 3340.42:** Respondent failed to conduct the required smog tests on the  
24 Bureau's 2000 Mazda Protégé in accordance with the Bureau's specifications.

25 **FIFTEENTH CAUSE FOR DISCIPLINE**

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

27 44. Respondent's technician license is subject to disciplinary action pursuant to Health &  
28 Saf. Code section 44072.2, subdivision (d), in that Respondent committed a dishonest, fraudulent,

1 or deceitful act whereby another is injured by issuing an electronic smog certificate of compliance  
2 for the Bureau's 2000 Mazda Protégé without performing a bona fide inspection of the emission  
3 control devices and systems on the vehicle, thereby depriving the People of the State of California  
4 of the protection afforded by the Motor Vehicle Inspection Program.

5 **UNDERCOVER OPERATION #2: 1994 CHEVROLET S-10 PICKUP**

6 45. On August 13, 2009, an undercover operator of the Bureau ("operator") took the  
7 Bureau's 1994 Chevrolet S-10 pickup to Respondent's facility to have brake, lamp, and smog  
8 inspections performed on the vehicle. The rear brake drums on the Bureau-documented vehicle  
9 were machined beyond the manufacturer's discard specifications, the right headlamp was out of  
10 adjustment, both backup light bulbs were defective, and the positive crankcase ventilation  
11 ("PCV") system was missing. A male individual told the operator that the inspections would cost  
12 a total of \$138 and requested payment in advance. The operator paid the individual \$138 in cash,  
13 was given an invoice, and left the facility.

14 46. At approximately 1046 hours that same day, the operator received a call from the  
15 facility. A male individual told the operator that he had performed the inspections and that the  
16 vehicle failed. The individual stated that the backup lights were inoperative, the fuel evaporative  
17 canister was disconnected, and the ignition timing was incorrect. The operator asked the  
18 individual if he could repair the vehicle so that it would pass the inspections. The individual  
19 indicated that he could, and stated that it would cost \$45.50 to repair the backup lights and \$150  
20 to repair the disconnected fuel evaporative canister. The individual also recommended a fuel  
21 injector service, a decarbonizer, and the adjustment of the ignition timing to the correct setting for  
22 \$124.50, for total repair costs on the vehicle of \$458. The operator authorized the repairs.

23 47. At approximately 1120 hours, the operator went to the facility and met with  
24 Respondent. Respondent stated that he had performed the brake, lamp, and smog inspections on  
25 the vehicle, but the vehicle failed the inspections. Respondent told the operator that the vehicle  
26 needed two new backup light bulbs, a wiring repair to the backup lights, a fuel injector service, a  
27 decarbonizer, the repair of the fuel evaporative canister, and the adjustment of the ignition timing,  
28 and that the repairs would be completed by 1500 hours. The operator left the facility.



1           b.     Respondent certified under penalty of perjury on the vehicle inspection report issued  
2 at 0959 hours that the Bureau's 1994 Chevrolet S-10 pickup had failed the functional low-  
3 pressure fuel evaporation test (LPFET) and the functional ignition timing test. In fact, the fuel  
4 evaporative system was not in need of servicing or replacement and the ignition timing was set to  
5 manufacturer's specifications and was not in need of adjustment at the time the vehicle was taken  
6 to Respondent's facility.

7           c.     Respondent certified under penalty of perjury on all three vehicle inspection reports  
8 that the PCV system on the Bureau's 1994 Chevrolet S-10 pickup had passed the visual portion of  
9 the smog inspection. In fact, the PCV system was missing at the time the vehicle was taken to  
10 Respondent's facility.

11          d.     Respondent certified under penalty of perjury on all three vehicle inspection reports  
12 that he performed the smog inspections on the Bureau's 1994 Chevrolet S-10 pickup in  
13 accordance with all Bureau requirements. In fact, Respondent failed to perform, or properly  
14 perform, the functional ignition timing check on the vehicle.

15          e.     Respondent certified under penalty of perjury on the vehicle inspection report issued  
16 at 1444 hours that the Bureau's 1994 Chevrolet S-10 pickup had passed inspection and was in  
17 compliance with applicable laws and regulations. In fact, the PCV system was missing and as  
18 such, the vehicle would not pass the inspection required by Health & Saf. Code section 44012.

19          f.     Respondent certified under penalty of perjury on the vehicle inspection report issued  
20 at 1444 hours that he had repaired the vapor lines and the ignition timing on the Bureau's 1994  
21 Chevrolet S-10 pickup. In fact, the ignition timing had not been repaired or adjusted and no  
22 repairs were performed on the fuel evaporative system. Further, the vacuum line to the  
23 evaporative canister purge valve had been removed from the throttle body and was plugged with a  
24 small bolt, and the orifice at the throttle body was left open and was leaking vacuum during off-  
25 idle engine operation (ported vacuum).

26          g.     Respondent certified under penalty of perjury on Brake Certificate No. BC872396  
27 that the applicable inspection was performed on the brake system on the Bureau's 1994 Chevrolet  
28 S-10 pickup. In fact, Respondent failed to inspect the brakes on the vehicle.

1 h. Respondent certified under penalty of perjury on Brake Certificate No. BC872396  
2 that the rear brake drums on the Bureau's 1994 Chevrolet S-10 pickup were in a satisfactory  
3 condition. In fact, the rear brake drums had been machined beyond the manufacturer's drum  
4 discard diameter specifications.

5 i. Respondent certified under penalty of perjury on Lamp Certificate No. LC859285  
6 that the applicable adjustment had been performed on the lighting system on the Bureau's 1994  
7 Chevrolet S-10 pickup. In fact, the right headlamp was out of adjustment and one of the backup  
8 light bulbs was still inoperative at the time the Bureau inspected the vehicle following the  
9 undercover operation.

10 **SEVENTEENTH CAUSE FOR DISCIPLINE**

11 **(Fraud)**

12 53. Respondent's registration is subject to disciplinary action pursuant to Bus. & Prof.  
13 Code section 9884.7, subdivision (a)(4), Respondent committed acts that constitute fraud, as  
14 follows:

15 a. Respondent made false or misleading representations to the operator regarding the  
16 Bureau's 1994 Chevrolet S-10 pickup, as set forth in subparagraph 52 (a) above, in order to  
17 induce the operator to purchase unnecessary repairs on the vehicle, then sold the operator  
18 unnecessary repairs, including the fuel injection service, the decarbonizer, the repair of the fuel  
19 evaporative canister, and the adjustment of the ignition timing.

20 b. Respondent issued an electronic smog certificate of compliance for the Bureau's 1994  
21 Chevrolet S-10 pickup without performing a bona fide inspection of the emission control devices  
22 and systems on the vehicle, thereby depriving the People of the State of California of the  
23 protection afforded by the Motor Vehicle Inspection Program.

24 c. Respondent obtained payment from the operator for performing the applicable  
25 inspections, adjustments, or repairs of the brake and lighting systems on the Bureau's 1994  
26 Chevrolet S-10 pickup as specified by the Bureau and in accordance with the Vehicle Code. In  
27 fact, Respondent failed to perform the necessary inspections, adjustments, and repairs in  
28 compliance with Bureau Regulations or the Vehicle Code.

1 d. Respondent charged the operator twice for the brake, lamp, and smog inspections on  
2 the Bureau's 1994 Chevrolet S-10 pickup and the brake, lamp, and smog certificates.

3 **EIGHTEENTH CAUSE FOR DISCIPLINE**

4 **(Failure to Comply with the Bus. & Prof. Code)**

5 54. Respondent's registration is subject to disciplinary action pursuant to Bus. & Prof.  
6 Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with provisions of  
7 that Code in the following material respects:

8 a. **Section 9884.9, subdivision (a)**: Respondent failed to record on the invoice the  
9 operator's authorization for the additional repairs on the vehicle.

10 b. **Section 9889.16**: Respondent issued Brake Certificate No. BC872396 and Lamp  
11 Certificate No. LC859285 as to the Bureau's 1994 Chevrolet S-10 pickup when the vehicle was  
12 not in compliance with Bureau Regulations or the requirements of the Vehicle Code.

13 c. **Section 9889.22**: Respondent willfully made false statements or entries on Brake  
14 Certificate No. BC872396 and Lamp Certificate No. LC859285, as set forth in subparagraphs 52  
15 (g) through (i) above.

16 **NINETEENTH CAUSE FOR DISCIPLINE**

17 **(Violations of Regulations)**

18 55. Respondent's registration is subject to disciplinary action pursuant to Bus. & Prof.  
19 Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with provisions of  
20 California Code of Regulations, title 16, in the following material respects:

21 a. **Section 3305, subdivision (a)**: Respondent failed to perform the inspection of the  
22 brake system and inspection and adjustment of the lamp system on the Bureau's 1994 Chevrolet  
23 S-10 pickup in accordance with the specifications, instructions, and directives issued by the  
24 Bureau and the vehicle manufacturer.

25 b. **Section 3316, subdivision (d)(2)**: Respondent issued Lamp Certificate No.  
26 LC859285 as to the Bureau's 1994 Chevrolet S-10 pickup when all of the lamps, lighting  
27 equipment, and/or related electrical systems on the vehicle were not in compliance with Bureau  
28 regulations.

1 c. **Section 3321, subdivision (c)(2):** Respondent issued Brake Certificate No.  
2 BC872396 as to the Bureau's 1994 Chevrolet S-10 pickup when the brake system on the vehicle  
3 had not been completely tested or inspected.

4 d. **Section 3356, subdivision (a)(2)(B):** Respondent failed to state on the invoice  
5 whether the light bulb(s) installed on the Bureau's 1994 Chevrolet S10-pickup were new, used,  
6 reconditioned, or rebuilt.

7 **TWENTIETH CAUSE FOR DISCIPLINE**

8 **(Failure to Comply with the Bus. & Prof. Code)**

9 56. Respondent's brake and lamp station licenses are subject to disciplinary action  
10 pursuant to Bus. & Prof. Code section 9889.3, subdivisions (a) and (h), in that Respondent  
11 violated the provisions of Bus. & Prof. Code sections 9884.9, subdivision (a), 9889.16, and  
12 9889.22 relating to Respondent's licensed activities, as set forth in paragraph 54 above.

13 **TWENTY-FIRST CAUSE FOR DISCIPLINE**

14 **(Failure to Comply with Regulations)**

15 57. Respondent's brake and lamp station licenses are subject to disciplinary action  
16 pursuant to Bus. & Prof. Code section 9889.3, subdivision (c), in that Respondent failed to  
17 comply with the provisions of California Code of Regulations, title 16, sections 3305, subdivision  
18 (a), 3316, subdivision (d)(2), 3321, subdivision (c)(2), and 3356, subdivision (a)(2)(B), as set  
19 forth in paragraph 55 above.

20 **TWENTY-SECOND CAUSE FOR DISCIPLINE**

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

22 58. Respondent's brake and lamp station licenses are subject to disciplinary action  
23 pursuant to Bus. & Prof. Code section 9889.3, subdivision (d), in that Respondent committed acts  
24 involving dishonesty, fraud, or deceit whereby another was injured, as set forth in paragraph 53  
25 above.

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**TWENTY-THIRD CAUSE FOR DISCIPLINE**

**(Failure to Comply with the Bus. & Prof. Code)**

59. Respondent's brake and lamp adjuster licenses are subject to disciplinary action pursuant to Bus. & Prof. Code section 9889.3, subdivisions (a) and (h), in that he violated the provisions of Bus. & Prof. Code sections 9884.9, subdivision (a), 9889.16, and 9889.22 relating to his licensed activities, as set forth in paragraph 54 above.

**TWENTY-FOURTH CAUSE FOR DISCIPLINE**

**(Violations of Regulations)**

60. Respondent's brake and lamp adjuster licenses are subject to disciplinary action pursuant to Bus. & Prof. Code section 9889.3, subdivision (c), in that he failed to comply with the provisions of California Code of Regulations, title 16, sections 3305, subdivision (a), 3316, subdivision (d)(2), 3321, subdivision (c)(2), and 3356, subdivision (a)(B)(2), as set forth in paragraph 55 above.

**TWENTY-FIFTH CAUSE FOR DISCIPLINE**

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

61. Respondent's smog check station license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to comply with the following sections of that Code:

a. **Section 44012:** Respondent failed to perform the emission control tests on the Bureau's 1994 Chevrolet S-10 pickup in accordance with procedures prescribed by the department.

b. **Section 44015:** Respondent issued an electronic smog certificate of compliance for the Bureau's 1994 Chevrolet S-10 pickup without properly testing and inspecting the vehicle to determine if it was in compliance with Health & Saf. Code section 44012.

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1 **TWENTY-SIXTH CAUSE FOR DISCIPLINE**

2 **(Failure to Comply with Regulations Pursuant**  
3 **to the Motor Vehicle Inspection Program)**

4 62. Respondent's smog check station license is subject to disciplinary action pursuant to  
5 Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to comply with the  
6 provisions of California Code of Regulations, title 16, as follows:

7 a. **Section 3340.24, subdivision (c)**: Respondent falsely or fraudulently issued an  
8 electronic smog certificate of compliance for the Bureau's 1994 Chevrolet S-10 pickup.

9 b. **Section 3340.35, subdivision (c)**: Respondent issued an electronic smog certificate  
10 of compliance for the Bureau's 1994 Chevrolet S-10 pickup even though the vehicle had not been  
11 inspected in accordance with California Code of Regulations, title 16, section 3340.42.

12 c. **3340.41, subdivision (c)**: Respondent knowingly entered into the EIS false  
13 information about the Bureau's 1994 Chevrolet S-10 pickup.

14 d. **Section 3340.42**: Respondent failed to conduct the required smog tests on the  
15 Bureau's 1994 Chevrolet S-10 pickup in accordance with the Bureau's specifications.

16 **TWENTY-SEVENTH CAUSE FOR DISCIPLINE**

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

18 63. Respondent's smog check station license is subject to disciplinary action pursuant to  
19 Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed a dishonest,  
20 fraudulent, or deceitful act whereby another is injured by issuing an electronic smog certificate of  
21 compliance for the Bureau's 1994 Chevrolet S-10 pickup without performing a bona fide  
22 inspection of the emission control devices and systems on the vehicle, thereby depriving the  
23 People of the State of California of the protection afforded by the Motor Vehicle Inspection  
24 Program.

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1 **TWENTY-EIGHTH CAUSE FOR DISCIPLINE**

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

3 64. Respondent's technician license is subject to disciplinary action pursuant to Health &  
4 Saf. Code section 44072.2, subdivision (a), in that Respondent failed to comply with the  
5 following sections of that Code:

6 a. **Section 44012:** Respondent failed to perform the emission control tests on the  
7 Bureau's 1994 Chevrolet S-10 pickup in accordance with procedures prescribed by the  
8 department.

9 b. **Section 44059:** Respondent willfully made false entries on the vehicle inspection  
10 reports, as set forth in subparagraphs 52 (b) through (f) above.

11 **TWENTY-NINTH CAUSE FOR DISCIPLINE**

12 **(Failure to Comply with Regulations Pursuant**

13 **to the Motor Vehicle Inspection Program)**

14 65. Respondent's technician license is subject to disciplinary action pursuant to Health &  
15 Saf. Code section 44072.2, subdivision (c), in that he failed to comply with provisions of  
16 California Code of Regulations, title 16, as follows:

17 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued an  
18 electronic smog certificate of compliance for the Bureau's 1994 Chevrolet S-10 pickup.

19 b. **Section 3340.30, subdivision (a):** Respondent failed to inspect and test the Bureau's  
20 1994 Chevrolet S-10 pickup in accordance with Health & Saf. Code sections 44012 and 44035,  
21 and Regulation 3340.42.

22 c. **3340.41, subdivision (c):** Respondent knowingly entered into the EIS false  
23 information about the Bureau's 1994 Chevrolet S-10 pickup.

24 d. **Section 3340.42:** Respondent failed to conduct the required smog tests on the  
25 Bureau's 1994 Chevrolet S-10 pickup in accordance with the Bureau's specifications.

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1 **THIRTIETH CAUSE FOR DISCIPLINE**

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

3 66. Respondent's technician license is subject to disciplinary action pursuant to Health &  
4 Saf. Code section 44072.2, subdivision (d), in that Respondent committed a dishonest, fraudulent,  
5 or deceitful act whereby another is injured by issuing an electronic smog certificate of compliance  
6 for the Bureau's 1994 Chevrolet S-10 pickup without performing a bona fide inspection of the  
7 emission control devices and systems on the vehicle, thereby depriving the People of the State of  
8 California of the protection afforded by the Motor Vehicle Inspection Program.

9 **UNDERCOVER OPERATION #3: 1990 HONDA ACCORD**

10 67. On October 15, 2009, an undercover operator of the Bureau ("operator") took the  
11 Bureau's 1990 Honda Accord to Respondent's facility and requested brake, lamp, and smog  
12 inspections on the vehicle. The rear brake drums on the Bureau-documented vehicle were  
13 machined beyond the manufacturer's discard specifications, the left headlamp was out of  
14 adjustment, the license plate light bulbs were defective, and the ignition timing was not adjusted  
15 to manufacturer's specifications. Respondent asked the operator to pay \$153 in advance for the  
16 inspections, which the operator did. Respondent had the operator sign a written estimate for the  
17 inspections, but did not provide him with a copy. Respondent gave the operator an invoice  
18 totaling \$153. The operator left the facility.

19 68. At approximately 1300 hours, the operator went to the facility to pick up the vehicle  
20 and received copies of Certificate of Brake Adjustment No. BC911889 and Certificate of Lamp  
21 Adjustment No. LC898680. The operator left the facility, but returned later and obtained a copy  
22 of the vehicle inspection report. That same day, electronic smog Certificate of Compliance No.  
23 NO093417C was issued for the vehicle.

24 69. On October 21, 2009, the Bureau inspected the vehicle and found that the ignition  
25 timing had not been adjusted and still was not set to manufacturer's specifications, the defective  
26 license plate light bulbs were still in place on the vehicle, the left headlamp was still out of  
27 adjustment, the left rear wheel had not been removed for inspection, and the rear brake drums  
28 were not within manufacturer's specifications.

1 **THIRTY-FIRST CAUSE FOR DISCIPLINE**

2 **(Untrue or Misleading Statements)**

3 70. Respondent's registration is subject to disciplinary action pursuant to Bus. & Prof.  
4 Code section 9884.7, subdivision (a)(1), Respondent made or authorized statements which he  
5 knew or in the exercise of reasonable care should have known to be untrue or misleading, as  
6 follows:

7 a. Respondent certified under penalty of perjury on the vehicle inspection report that the  
8 Bureau's 1990 Honda Accord had passed inspection and was in compliance with applicable laws  
9 and regulations. In fact, the ignition timing was not set to manufacturer's specifications and as  
10 such, the vehicle would not pass the inspection required by Health & Saf. Code section 44012.

11 b. Respondent certified under penalty of perjury on Brake Certificate No. BC911889  
12 that the rear brake drums on the Bureau's 1990 Honda Accord were in a satisfactory condition.  
13 In fact, the rear brake drums had been machined beyond the manufacturer's drum discard  
14 diameter specifications.

15 c. Respondent certified under penalty of perjury on Brake Certificate No. BC911889  
16 that the applicable inspection was performed on the brake system on the Bureau's 1990 Honda  
17 Accord. In fact, Respondent failed to inspect the entire brake system on the vehicle in that the  
18 left rear wheel had not been removed for inspection.

19 d. Respondent certified under penalty of perjury on Lamp Certificate No. LC898680  
20 that the applicable adjustment had been performed on the lighting system on the Bureau's 1990  
21 Honda Accord. In fact, the left headlamp was out of adjustment and the license plate light bulbs  
22 were defective at the time the vehicle was taken to Respondent's facility.

23 **THIRTY-SECOND CAUSE FOR DISCIPLINE**

24 **(Failure to Provide Customer with Copy of Signed Document)**

25 71. Respondent's registration is subject to disciplinary action pursuant to Bus. & Prof.  
26 Code section 9884.7, subdivision (a)(3), in that Respondent failed to provide the operator with a  
27 copy of the written estimate as soon as the operator signed the document.

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1 THIRTY-THIRD CAUSE FOR DISCIPLINE

2 (Fraud)

3 72. Respondent's registration is subject to disciplinary action pursuant to Bus. & Prof.  
4 Code section 9884.7, subdivision (a)(4), Respondent committed acts that constitute fraud, as  
5 follows:

6 a. Respondent issued an electronic smog certificate of compliance for the Bureau's 1990  
7 Honda Accord without performing a bona fide inspection of the emission control devices and  
8 systems on the vehicle, thereby depriving the People of the State of California of the protection  
9 afforded by the Motor Vehicle Inspection Program.

10 b. Respondent obtained payment from the operator for performing the applicable  
11 inspections, adjustments, or repairs of the brake and lighting systems on the Bureau's 1990  
12 Honda Accord as specified by the Bureau and in accordance with the Vehicle Code. In fact,  
13 Respondent failed to perform the necessary inspections, adjustments, and repairs in compliance  
14 with Bureau Regulations or the Vehicle Code.

15 THIRTY-FOURTH CAUSE FOR DISCIPLINE

16 (Failure to Comply with the Bus. & Prof. Code)

17 73. Respondent's registration is subject to disciplinary action pursuant to Bus. & Prof.  
18 Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with provisions of  
19 that Code in the following material respects:

20 a. Section 9889.16: Respondent issued Brake Certificate No. BC911889 and Lamp  
21 Certificate No. LC898680 as to the Bureau's 1990 Honda Accord when the vehicle was not in  
22 compliance with Bureau Regulations or the requirements of the Vehicle Code.

23 b. Section 9889.22: Respondent willfully made false statements or entries on Brake  
24 Certificate No. BC911889 and Lamp Certificate No. LC898680, as set forth in subparagraphs 70  
25 (b) through (d) above.

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1 **THIRTY-FIFTH CAUSE FOR DISCIPLINE**

2 **(Violations of Regulations)**

3 74. Respondent's registration is subject to disciplinary action pursuant to Bus. & Prof.  
4 Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with provisions of  
5 California Code of Regulations, title 16, in the following material respects:

6 a. **Section 3305, subdivision (a)**: Respondent failed to perform the inspection of the  
7 brake system and inspection and adjustment of the lamp system on the Bureau's 1990 Honda  
8 Accord in accordance with the specifications, instructions, and directives issued by the Bureau  
9 and the vehicle manufacturer.

10 b. **Section 3316, subdivision (d)(2)**: Respondent issued Lamp Certificate No.  
11 LC898680 as to the Bureau's 1990 Honda Accord when all of the lamps, lighting equipment,  
12 and/or related electrical systems on the vehicle were not in compliance with Bureau regulations.

13 c. **Section 3321, subdivision (c)(2)**: Respondent issued Brake Certificate No.  
14 BC911889 as to the Bureau's 1990 Honda Accord when the brake system on the vehicle had not  
15 been completely tested or inspected.

16 **THIRTY-SIXTH CAUSE FOR DISCIPLINE**

17 **(Failure to Comply with the Bus. & Prof. Code)**

18 75. Respondent's brake and lamp station licenses are subject to disciplinary action  
19 pursuant to Bus. & Prof. Code section 9889.3, subdivisions (a) and (h), in that Respondent  
20 violated the provisions of Bus. & Prof. Code sections 9884.9, subdivision (a), 9889.16, and  
21 9889.22 relating to Respondent's licensed activities, as set forth in paragraph 73 above.

22 **THIRTY-SEVENTH CAUSE FOR DISCIPLINE**

23 **(Failure to Comply with Regulations)**

24 76. Respondent's brake and lamp station licenses are subject to disciplinary action  
25 pursuant to Bus. & Prof. Code section 9889.3, subdivision (c), in that Respondent failed to  
26 comply with the provisions of California Code of Regulations, title 16, sections 3305, subdivision  
27 (a), 3316, subdivision (d)(2), and 3321, subdivision (c)(2), as set forth in paragraph 74 above.

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**FORTY-SECOND CAUSE FOR DISCIPLINE**  
**(Failure to Comply with Regulations Pursuant  
to the Motor Vehicle Inspection Program)**

81. Respondent's smog check station license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to comply with the provisions of California Code of Regulations, title 16, as follows:

- a. **Section 3340.24, subdivision (c)**: Respondent falsely or fraudulently issued an electronic smog certificate of compliance for the Bureau's 1990 Honda Accord.
- b. **Section 3340.35, subdivision (c)**: Respondent issued an electronic smog certificate of compliance for the Bureau's 1990 Honda Accord even though the vehicle had not been inspected in accordance with California Code of Regulations, title 16, section 3340.42.
- c. **3340.41, subdivision (c)**: Respondent knowingly entered into the EIS false information about the Bureau's 1990 Honda Accord.
- d. **Section 3340.42**: Respondent failed to conduct the required smog tests on the Bureau's 1990 Honda Accord in accordance with the Bureau's specifications.

**FORTY-THIRD CAUSE FOR DISCIPLINE**  
**(Dishonesty, Fraud or Deceit)**

82. Respondent's smog check station license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed a dishonest, fraudulent, or deceitful act whereby another is injured by issuing an electronic smog certificate of compliance for the Bureau's 1990 Honda Accord without performing a bona fide inspection of the emission control devices and systems on the vehicle, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

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1 **FORTY-FOURTH CAUSE FOR DISCIPLINE**

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

3 83. Respondent's technician license is subject to disciplinary action pursuant to Health &  
4 Saf. Code section 44072.2, subdivision (a), in that Respondent failed to comply with the  
5 following sections of that Code:

6 a. **Section 44012:** Respondent failed to perform the emission control tests on the  
7 Bureau's 1990 Honda Accord in accordance with procedures prescribed by the department.

8 b. **Section 44059:** Respondent willfully made a false entry on the vehicle inspection  
9 report, as set forth in subparagraph 70 (a) above.

10 **FORTY-FIFTH CAUSE FOR DISCIPLINE**

11 **(Failure to Comply with Regulations Pursuant**  
12 **to the Motor Vehicle Inspection Program)**

13 84. Respondent's technician license is subject to disciplinary action pursuant to Health &  
14 Saf. Code section 44072.2, subdivision (c), in that he failed to comply with provisions of  
15 California Code of Regulations, title 16, as follows:

16 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued an  
17 electronic smog certificate of compliance for the Bureau's 1990 Honda Accord.

18 b. **Section 3340.30, subdivision (a):** Respondent failed to inspect and test the Bureau's  
19 1990 Honda Accord in accordance with Health & Saf. Code sections 44012 and 44035, and  
20 Regulation 3340.42.

21 c. **3340.41, subdivision (c):** Respondent knowingly entered into the EIS false  
22 information about the Bureau's 1990 Honda Accord.

23 d. **Section 3340.42:** Respondent failed to conduct the required smog tests on the  
24 Bureau's 1990 Honda Accord in accordance with the Bureau's specifications.

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1 **FORTY-SIXTH CAUSE FOR DISCIPLINE**

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

3 85. Respondent's technician license is subject to disciplinary action pursuant to Health &  
4 Saf. Code section 44072.2, subdivision (d), in that Respondent committed a dishonest, fraudulent,  
5 or deceitful act whereby another is injured by issuing an electronic smog certificate of compliance  
6 for the Bureau's 1990 Honda Accord without performing a bona fide inspection of the emission  
7 control devices and systems on the vehicle, thereby depriving the People of the State of California  
8 of the protection afforded by the Motor Vehicle Inspection Program.

9 **OTHER MATTERS**

10 86. Pursuant to Bus. & Prof. Code section 9884.7, subdivision (c), the Director may  
11 suspend, revoke or place on probation the registration for all places of business operated in this  
12 state by Respondent Orlando Aristizabal, also known as Orlando Dej Aristizabal, owner of  
13 Jovanies Electro Mechanics, upon a finding that said Respondent has, or is, engaged in a course  
14 of repeated and willful violations of the laws and regulations pertaining to an automotive repair  
15 dealer.

16 87. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Station License  
17 Number RC 140167, issued to Orlando Aristizabal, also known as Orlando Dej Aristizabal,  
18 owner of Jovanies Electro Mechanics, is revoked or suspended, any additional license issued  
19 under Chapter 5 of the Health & Saf. Code in the name of said licensee may be likewise revoked  
20 or suspended by the Director.

21 88. Pursuant to Bus. & Prof. Code section 9889.9, if Lamp Station License Number  
22 LS 140167, issued to Respondent Orlando Aristizabal, also known as Orlando Dej Aristizabal,  
23 owner of Jovanies Electro Mechanics, is revoked or suspended, any additional license issued  
24 under Articles 5 and 6 of Chapter 20.3 of the Bus. & Prof. Code in the name of said licensee may  
25 be likewise revoked or suspended by the Director.

26 89. Pursuant to Bus. & Prof. Code section 9889.9, if Brake Station License Number  
27 BS 140167, issued to Respondent Orlando Aristizabal, also known as Orlando Dej Aristizabal,  
28 owner of Jovanies Electro Mechanics, is revoked or suspended, any additional license issued

1 under Articles 5 and 6 of Chapter 20.3 of the Bus. & Prof. Code in the name of said licensee may  
2 be likewise revoked or suspended by the Director.

3 90. Pursuant to Health & Saf. Code section 44072.8, if Advanced Emission Specialist  
4 Technician License Number EA 306961, issued to Respondent Orlando Aristizabal, also known  
5 as Orlando Dej Aristizabal, is revoked or suspended, any additional license issued under Chapter  
6 5 of the Health & Saf. Code in the name of said licensee may be likewise revoked or suspended  
7 by the Director.

8 91. Pursuant to Bus. & Prof. Code section 9889.9, if Brake Adjuster License Number  
9 BA 306961, issued to Respondent Orlando Aristizabal, also known as Orlando Dej Aristizabal, is  
10 revoked or suspended, any additional license issued under Articles 5 and 6 of Chapter 20.3 of the  
11 Bus. & Prof. Code in the name of said licensee may be likewise revoked or suspended by the  
12 Director.

13 92. Pursuant to Bus. & Prof. Code section 9889.9, if Lamp Adjuster License Number  
14 LA 306961, issued to Respondent Orlando Aristizabal, also known as Orlando Dej Aristizabal, is  
15 revoked or suspended, any additional license issued under Articles 5 and 6 of Chapter 20.3 of the  
16 Bus. & Prof. Code in the name of said licensee may be likewise revoked or suspended by the  
17 Director.

18 **PRAYER**

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

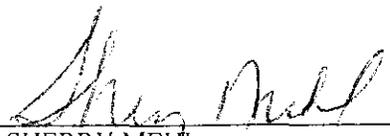
21 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD  
22 140167, issued to Orlando Aristizabal, also known as Orlando Dej Aristizabal, owner of Jovanies  
23 Electro Mechanics;

24 2. Revoking or suspending any other automotive repair dealer registration issued to  
25 Orlando Aristizabal, also known as Orlando Dej Aristizabal;

26 3. Revoking or suspending Smog Check Station License Number RC 140167, issued to  
27 Orlando Aristizabal, also known as Orlando Dej Aristizabal, owner of Jovanies Electro  
28 Mechanics;

- 1           4.    Revoking or suspending Advanced Emission Specialist Technician License Number
- 2 EA 306961, issued to Orlando Aristizabal, also known as Orlando Dej Aristizabal;
- 3           5.    Revoking or suspending any additional license issued under Chapter 5 of the Health
- 4 and Safety Code in the name of Orlando Aristizabal, also known as Orlando Dej Aristizabal;
- 5           6.    Revoking or suspending Lamp Station License Number LS 140167, issued to Orlando
- 6 Aristizabal, also known as Orlando Dej Aristizabal, owner of Jovanies Electro Mechanics;
- 7           7.    Revoking or suspending Brake Station License Number BS 140167, issued to
- 8 Orlando Aristizabal, also known as Orlando Dej Aristizabal, owner of Jovanies Electro
- 9 Mechanics;
- 10          8.    Revoking or suspending Brake Adjuster License Number BA 306961, issued to
- 11 Orlando Aristizabal, also known as Orlando Dej Aristizabal,
- 12          9.    Revoking or suspending Lamp Adjuster License Number LA 306961, issued to
- 13 Orlando Aristizabal, also known as Orlando Dej Aristizabal;
- 14          10.   Revoking or suspending any additional license issued under Articles 5 and 6 of
- 15 Chapter 20.3 of the Business and Professions Code in the name of Orlando Aristizabal, also
- 16 known as Orlando Dej Aristizabal;
- 17          11.   Ordering Orlando Aristizabal, also known as Orlando Dej Aristizabal, individually,
- 18 and as owner of Jovanies Electro Mechanics to pay the Director of Consumer Affairs the
- 19 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
- 20 Professions Code section 125.3;
- 21          12.   Taking such other and further action as deemed necessary and proper.

22  
23 DATED: 3/22/11

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

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28 LA2010600615  
accusation.rtf