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

In the Matter of the Accusation Against: **CONTRERAZ BUDGET SMOG CENTER** **LARRY M. CONTRERAZ, OWNER** **4444 N. Blackstone Avenue** **Fresno, CA 93726** **Automotive Repair Dealer Reg. No. ARD 253392** **Smog Check Station License No. RC 253392** **Lamp Station License No. LS 253392** **Brake Station License No. BS 253392** **and** **KULBIR S. BRAR** **4569 North State Avenue** **Fresno, CA 93722** **Advanced Emission Specialist Technician** **License No. EA 144594** Respondents.	Case No. 79/11-96 **ACCUSATION** **(Smog Check)**

Complainant alleges:

PARTIES

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.

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Contreraz Budget Smog Center; Larry M. Contreraz, Owner

2. On or about January 28, 2008, the Director of Consumer Affairs ("Director") issued Automotive Repair Dealer Registration Number ARD 253392 ("registration") to Larry M. Contreraz ("Respondent Contreraz" or "Contreraz"), owner of Contreraz Budget Smog Center. Respondent's registration was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2011, unless renewed.

3. On or about January 30, 2008, the Director issued Smog Check Station License Number RC 253392 to Respondent. Respondent's smog check station license was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2011, unless renewed.

4. On or about August 24, 2009, Contreraz Budget Smog Center was certified by the Bureau as a Gold Shield Station.

5. On or about June 16, 2010, the Director issued Lamp Station License Number LS 253392 to Respondent. Respondent's lamp station license was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2011, unless renewed.

6. On or about June 16, 2010, the Director issued Brake Station License Number BS 253392 to Respondent. Respondent's brake station license was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2011, unless renewed.

Kulbir S. Brar

7. In or about 2002, the Director issued Advanced Emission Specialist Technician License Number EA 144594 ("technician license") to Kulbir S. Brar ("Respondent Brar" or "Brar"). Respondent's technician license was in full force and effect at all times relevant to the charges brought herein and will expire on May 31, 2012, unless renewed.

JURISDICTION

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

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

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

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

12. Health and Safety Code ("Health & Saf. Code") section 44002 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.

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

STATUTORY PROVISIONS

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

> (a) The director, where the automotive repair dealer cannot show there was a bona fide error, may deny, suspend, revoke, or place on probation 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.
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> (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.
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> . . . .
>
> (4) Any other conduct that constitutes fraud.

. . . .

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

(7) Any willful departure from or disregard of accepted trade standards for good and workmanlike repair in any material respect, which is prejudicial to another without consent of the owner or his or her duly authorized representative.

. . . .

(9) Having repair work done by someone other than the dealer or his or her employees without the knowledge or consent of the customer unless the dealer can demonstrate that the customer could not reasonably have been notified.

. . . .

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

15. Bus. & Prof. Code section 9884.9 states, in pertinent part:

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

(b) The automotive repair dealer shall include with the written estimated price a statement of any automotive repair service which, if required to be done, will be done by someone other than the dealer or his employees. No service shall be done by other than the dealer or his employees without the consent of the customer, unless the customer cannot reasonably be notified. The dealer shall be responsible, in any case, for any such service in the same manner as if he or his employees had done the service . . .

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16. 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:
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> . . . .
>
> (d) Commits any act involving dishonesty, fraud, or deceit whereby another is injured . . .

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

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

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

19. Bus. & Prof. Code section 477, subdivision (b), states, in pertinent part, that a "license" includes "registration" and "certificate."

20. Health & Saf. Code section 44072.2 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:
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> (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.
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> . . . .
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> (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 . . .

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21. Health & Saf. Code section 44072.8 states that 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.

GOLD SHIELD PROGRAM

22. California Code of Regulations, title 16, section ("Regulation") 3392.1 states:

> The Gold Shield Program is a voluntary program that permits any licensed Smog Check test-and-repair station, which meets or exceeds the standards established pursuant to this article to obtain a certification that may be publicly displayed and otherwise advertised.
>
> (a) The purposes of the Gold Shield program are to:
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> (1) Reduce the complexity of the Smog Check Program by allowing Smog Check stations certified as Gold Shield stations to offer consumers a wider array of inspection and repair services.
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> (2) Encourage consumer confidence in the required emissions inspections and repairs by the establishment of inspection and repair standards that stations must meet or exceed to receive and retain certification from the Bureau.
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> (3) Improve the identification and repair of high-emitting vehicles to enhance the effectiveness of the Smog Check Program.
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> (4) Contribute to the emissions reductions objectives required by the State Implementation Plan and federal standards.

23. Regulation 3392.2 states, in pertinent part:

> (a) Smog Check test-and-repair stations certified as Gold Shield stations shall provide the following services to the public:
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> (1) State subsidized emissions-related repairs, under the terms and conditions of a contract executed pursuant to Section 3394.2, as a component of the Bureau's Consumer Assistance Program established pursuant to Article 11 of this Division . . .
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> . . . .
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> (b) All emissions-related repairs at a Gold Shield station shall be performed in a good and workmanlike manner and in accordance with the procedures specified by the vehicle manufacturer or by repair standards generally accepted by the industry . . .

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24. Regulation 3392.5 states, in pertinent part:

> (a) It shall be cause for the Bureau to invalidate the certification of a Gold Shield station, temporarily or permanently, if any of the following occur:
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> (1) The Gold Shield station, manager or Smog Check technicians employed by the station, engage in any conduct which violates any provision of this article or which would be cause for discipline of, or which would be cause for issuance of a citation to the station's Automotive Repair Dealer registration or Smog Check station license, or the license of a technician employed by the station.
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> . . . .
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> (3) The bureau disciplines the Gold Shield station's Automotive Repair Dealer registration or Smog Check station license in any form or manner . . .

CONSUMER ASSISTANCE PROGRAM

25. Regulation 3394.1 states, in pertinent part:

> The purpose of the Consumer Assistance Program (CAP) is to improve California air quality. Vehicle owners, who meet eligibility requirements are offered the following:
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> . . . .
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> (b) Financial assistance to make emissions-related repairs to a vehicle that fails a smog check inspection.

26. Regulation 3394.2 provides that the Consumer Assistance Program shall be administered by the Bureau through contracts with dismantlers, licensed smog check test-and-repair stations, and other entities as necessary.

27. Regulation 3394.3 states, in pertinent part:

> An applicant determined to be eligible under the Consumer Assistance Program may receive the following assistance:
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> . . . .
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> (b) Under the Repair Assistance option, a vehicle owner that has not previously participated in or received repair assistance pursuant to the Consumer Assistance Program for the same vehicle will receive up to five hundred dollars ($500) in emissions-related diagnostic and repair services performed at a licensed smog check test-and-repair station operating under contract with the Bureau of Automotive Repair . . .

COST RECOVERY

28. Bus. & Prof. Code section 125.3 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.

COMPLAINT BY CONSUMER ASSISTANCE PROGRAM: 1996 INFINITY Q45

29. On or about May 24, 2010, the Bureau received a complaint from the Consumer Assistance Program ("CAP") pertaining to emissions-related repairs performed by Contreraz's Gold Shield Smog Station ("station") on a 1996 Infinity Q45. The complaint stated that the station had submitted a repair notification form to CAP, indicating that the knock sensor on the vehicle was in need of replacement. CAP later determined that this repair was not needed for the vehicle to pass a smog inspection.

30. On May 31, 2010, the Bureau received copies of CAP's records on the vehicle, including a Repair Notification Form dated April 29, 2010, and an invoice dated April 28, 2010, which had been issued by the station. The notification form indicated that a total of $1,102.53 in diagnostic and repair services had been performed on the vehicle, including the replacement of the knock sensor, and that the station had used the labor guide Alldata to diagnose and repair the vehicle. The repair order indicated that a diagnosis had been performed on the vehicle for two diagnostic trouble codes ("code"), a code related to the EGR (exhaust gas recirculation) valve[1] and a code related to the knock sensor.

31. The Bureau found that the station had performed smog inspections on the vehicle on April 19, 2010, and April 22, 2010. The vehicle failed the inspections because the MIL (malfunction indicator lamp)[2] had illuminated during the smog tests. The two codes described above were recorded in the power train control module ("PCM") during both tests. The Bureau obtained information from Alldata and another labor guide pertaining to the knock sensor code.

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[1] The repair order indicated that the hose from the back pressure transducer to the EGR valve was blocked and that the hose was repaired at "no cost". The blocked hose to the EGR valve would have resulted in a check smog failure of the vehicle.

[2] The MIL, or check engine light, is designed to alert the driver of a failure within the electronic engine controls that could lead to elevated emissions. A vehicle will automatically fail a smog check inspection if the MIL is illuminated during the inspection.

The Bureau determined based on the above that the replacement of the knock sensor was not necessary for the vehicle to pass a smog inspection.

32. On July 25, 2010, a representative of the Bureau went to the station and met with Contreraz, Brar, and Larry Contreraz, Jr., the manager, to discuss the complaint. Brar stated that he performed the repairs on the vehicle, including the replacement of the knock sensor, and had used Alldata to diagnose the vehicle.

FIRST CAUSE FOR DISCIPLINE

(Departure from Trade Standards)

33. Respondent Contreraz's registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(7), in that Respondent willfully departed from or disregarded accepted trade standards for good and workmanlike repair without the consent of the owner or the owner's duly authorized representative in the following material respects:

a. Respondent failed to properly diagnose the emissions-control devices or systems on the 1996 Infinity Q45 in that Respondent determined that the knock sensor was in need of replacement based on the knock sensor code. In fact, the MIL will not illuminate on the 1996 Infinity Q45 during a smog inspection when a knock sensor code is recorded in the PCM, and the vehicle will not fail a smog test due to the presence of a knock sensor code.

b. Respondent replaced the knock sensor on the 1996 Infinity Q45 when, in fact, that repair was not necessary for the vehicle to pass a smog inspection.

SECOND CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

34. Respondent Contreraz'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 section 44016 of that Code, as follows: Respondent failed to diagnose and repair the 1996 Infinity Q45 in accordance with established specifications and procedures.

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THIRD CAUSE FOR DISCIPLINE

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

35. Respondent Contreraz'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 Regulation 3340.41, subdivision (d), as follows: Respondent failed to follow applicable specifications and procedures when diagnosing and repairing the 1996 Infinity Q45.

FOURTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

36. Respondent Brar's technician license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to comply with section 44016 of that Code, as follows: Respondent failed to diagnose and repair the 1996 Infinity Q45 in accordance with established specifications and procedures.

FIFTH CAUSE FOR DISCIPLINE

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

37. Respondent Brar's technician license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to comply with Regulation 3340.41, subdivision (d), as follows: Respondent failed to follow applicable specifications and procedures when diagnosing and repairing the 1996 Infinity Q45.

CONSUMER COMPLAINT (DE LA CRUZ): 1998 HONDA ACCORD

38. On June 19, 2010, Richard De La Cruz ("De La Cruz") took his 1998 Honda Accord to Sunnyskys Smog located in Fresno, California, for a smog inspection. The vehicle failed the inspection because the MIL had illuminated during the test. De La Cruz applied to CAP to obtain financial assistance for repairs on the vehicle.

39. On June 29, 2010, De La Cruz's application was approved by CAP. That same day, De La Cruz took the vehicle to Contreraz's station and authorized them to perform a diagnosis of the vehicle for $184. De La Cruz paid the station the $20 CAP co-payment.

40. On June 30, 2010, Contreraz's technician, "KB", called De La Cruz and told him that the vehicle's oxygen sensor and catalytic converter needed replacement at a cost of $238 and $647, respectively. De La Cruz authorized KB to replace only the oxygen sensor.

41. On July 1, 2010, De La Cruz returned to the station to pick up the vehicle and received an invoice in the net amount of $402.31. De La Cruz was not given any other paperwork on the vehicle.

42. On July 2, 2010, De La Cruz filed a complaint with the Bureau. That same day, the Bureau inspected the vehicle and found that the oxygen sensor had not been replaced. Information from the Bureau's vehicle information database ("VID") showed that on June 30, 2010, the station had smog-tested the vehicle, that the vehicle had failed the test, and that a code had been recorded during the test, indicating a problem with the catalytic converter. The Bureau obtained De La Cruz's consent to have another Gold Shield Station, The Auto Works located in Pinedale, California, diagnose the vehicle.

43. On July 7, 2010, a representative of the Bureau went to the Auto Works and observed the vehicle as it was undergoing a diagnostic test. The representative found that the "upstream" or front oxygen sensor was actually an A/F (air/fuel) sensor, also referred to as a wideband oxygen sensor (a scan tool is used to test the A/F sensor; when this sensor becomes defective, the vehicle will set a particular code), and that neither an oxygen sensor code nor an A/F sensor code had been recorded in the vehicle's PCM. The representative also found that the vehicle's A/F sensor was in good working condition and was not in need of replacement.

44. On or about July 7, 2010, Contreraz's station submitted a Repair Notification Form to CAP seeking payment of $402.31 for the replacement of the oxygen sensor.

SIXTH CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

45. Respondent Contreraz's registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized

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statements which he knew or in the exercise of reasonable care should have known to be untrue or misleading, as follows:

a. Respondent represented on the invoice that the oxygen sensor (A/F sensor) on De La Cruz's 1998 Honda Accord was replaced. In fact, the A/F sensor was not replaced on the vehicle.

b. Respondent represented on the invoice that the oxygen sensor on De La Cruz's 1998 Honda Accord was in need of replacement. In fact, the A/F sensor was in good working condition and was not in need of replacement.

SEVENTH CAUSE FOR DISCIPLINE

(Fraud)

46. Respondent Contreraz's registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(4), in that Respondent committed an act that constitutes fraud, as follows: Respondent charged De La Cruz and CAP for replacing the oxygen sensor on De La Cruz's 1998 Honda Accord when, in fact, the A/F sensor was not replaced on the vehicle.

EIGHTH CAUSE FOR DISCIPLINE

(Departure from Trade Standards)

47. Respondent Contreraz's registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(7), in that Respondent willfully departed from or disregarded accepted trade standards for good and workmanlike repair without the consent of the owner or the owner's duly authorized representative in the following material respects:

a. Respondent failed to recognize that the oxygen sensor in De La Cruz's 1998 Honda Accord was actually an A/F sensor and/or used the wrong test procedure on the A/F sensor during the diagnosis of the vehicle (the test procedures for an oxygen sensor and an A/F sensor are different; the oxygen sensor is measured in voltage whereas an A/F sensor's amperage or current flow is measured using a scan tool to indicate the air in the exhaust system).

b. Respondent failed to properly diagnose the emissions-control devices or systems on De La Cruz's 1998 Honda Accord in that Respondent determined that the A/F sensor was in need

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of replacement when, in fact, the A/F sensor was in good working condition and was not in need of replacement.

NINTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

48. Respondent Contreraz'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 section 44016 of that Code, as follows: Respondent failed to diagnose De La Cruz's 1998 Honda Accord in accordance with established specifications and procedures.

TENTH CAUSE FOR DISCIPLINE

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

49. Respondent Contreraz'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 provisions of California Code of Regulations, title 16, as follows:

a. **Section 3340.41, subdivision (a):** Respondent failed to provide De La Cruz with a copy of the vehicle inspection report ("VIR") for the smog inspection of June 30, 2010.

b. **Section 3340.41, subdivision (d):** Respondent failed to follow applicable specifications and procedures when diagnosing De La Cruz's 1998 Honda Accord.

ELEVENTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

50. Respondent Contrerez'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, as follows: Respondent charged De La Cruz and CAP for replacing the oxygen sensor on De La Cruz's 1998 Honda Accord when, in fact, the A/F sensor was not replaced on the vehicle.

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TWELFTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

51. Respondent Brar's technician license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to comply with section 44016 of that Code, as follows: Respondent failed to diagnose and repair the 1998 Honda Accord in accordance with established specifications and procedures.

THIRTEENTH CAUSE FOR DISCIPLINE

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

52. Respondent Brar's technician license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to comply with Regulation 3340.41, subdivision (d), as follows: Respondent failed to follow applicable specifications and procedures when diagnosing and repairing the 1998 Honda Accord.

CONSUMER COMPLAINT (HENSON): 1993 DODGE SPIRIT

53. On August 16, 2010, Erica Henson ("Henson") took her 1993 Dodge Spirit to Sunnyskys Smog for a smog inspection. The vehicle failed the inspection due to excessive NOx (oxides of nitrogen) emissions.

54. On August 17, 2010, Henson applied to CAP to obtain financial assistance for repairs on the vehicle and her application was approved. Later, Henson took the vehicle to Contreraz's station and authorized them to perform a diagnosis of the vehicle for $184.

55. On August 18, 2010, Brar called Henson and told her that the vehicle needed an oxygen sensor, valve cover gasket, oxygen sensor wiring harness, and catalytic converter ("CAT"). Brar stated that the repairs would cost a total of $1,050 and that Henson would be responsible for $574.70 of this amount. Brar also told Henson that she could not decline the repairs due to CAP's policy, but recanted his statement when Henson refused to authorize the work. Later, Henson returned to the station to pick up the vehicle, paid the station $20, and

received copies of a VIR[3] and "Diagnosis Notes" dated August 18, 2010. The diagnosis notes indicated that there were problems with the valve cover gasket, oxygen sensor, oxygen sensor harness, and CAT and that the diagnosis was performed by Brar. After Henson left, she went to the Bureau and filed a complaint against the station. That same day, representatives of the Bureau inspected the vehicle and found oil on the oxygen sensor harness near the valve cover and a possible oil leak from the valve cover gasket. The Bureau obtained Henson's consent to have the vehicle diagnosed and repaired at The Auto Works.

56. On August 19, 2010, a representative of the Bureau went to the Auto Works and observed the vehicle as it was undergoing a baseline smog test. The technician performing the test found that the PCV hose from the valve cover to the air cleaner was missing, which was causing oil to leak on the rear of the valve cover area[4]. Later, the representative observed the technician test the oxygen sensor. The representative and the technician reviewed the test results, which indicated that the oxygen sensor was faulty and needed replacement. The technician had also tested the CAT; the test results indicated that the CAT was marginal in efficiency.

57. The Bureau determined that the replacement or repair of the oxygen sensor wiring harness and the valve cover gasket would not have contributed to the smog check failure on the vehicle. Further, neither repair was considered to be an emission related repair under CAP.

FOURTEENTH CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

58. Respondent Contreraz's registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized a statement which he knew or in the exercise of reasonable care should have known to be untrue or misleading, as follows: Respondent Contreraz's technician, Respondent Brar, represented to Henson that the valve cover gasket and oxygen sensor wiring harness on her 1993 Dodge Spirit

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[3] The VIR indicated that the station performed a smog test on the vehicle on August 18, 2010, and that the vehicle failed the inspection due to excessive NOx.

[4] It was not clear if the PCV hose was missing at the time the station tested the vehicle; however, the hose was missing at the time of the Bureau's inspection on August 18, 2010.

were in need of replacement. In fact, neither part would have contributed to the smog test failure on the vehicle.

FIFTEENTH CAUSE FOR DISCIPLINE

(Departure from Trade Standards)

59. Respondent Contreraz's registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(7), in that Respondent willfully departed from or disregarded accepted trade standards for good and workmanlike repair without the consent of the owner or the owner's duly authorized representative in the following material respect: Respondent failed to properly diagnose the emissions-control devices or systems on Henson's 1993 Dodge Spirit in that Respondent determined that the valve cover gasket and oxygen sensor wiring harness were in need of replacement. In fact, neither part would have contributed to the smog test failure on the vehicle.

SIXTEENTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

60. Respondent Contreraz'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 section 44016 of that Code, as follows: Respondent failed to diagnose Henson's 1993 Dodge Spirit in accordance with established specifications and procedures.

SEVENTEENTH CAUSE FOR DISCIPLINE

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

61. Respondent Contreraz'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 Regulation 3340.41, subdivision (d), in a material respect, as follows: Respondent failed to follow applicable specifications and procedures when diagnosing Henson's 1993 Dodge Spirit.

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EIGHTEENTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

62. Respondent Brar's technician license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to comply with section 44016 of that Code, as follows: Respondent failed to diagnose Henson's 1993 Dodge Spirit in accordance with established specifications and procedures.

NINETEENTH CAUSE FOR DISCIPLINE

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

63. Respondent Brar's technician license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to comply with Regulation 3340.41, subdivision (d), as follows: Respondent failed to follow applicable specifications and procedures when diagnosing Henson's 1993 Dodge Spirit.

SPECIAL ACTION REPORT/REFEREE CENTER: 1997 HONDA PASSPORT

64. On October 8, 2009, and April 14, 2010, Fresno Test Only Center performed smog inspections on a 1997 Honda Passport owned by consumer Charles Nagel. The vehicle failed both inspections due to high emissions and the illumination of the MIL during the tests. Various codes were recorded during both tests, including a code related to the EGR and a code related to the CAT. The vehicle's owner ("consumer") applied to CAP for financial assistance for repairs on the vehicle.

65. On or about April 15, 2010, the consumer's application was approved. That same day, the consumer took the vehicle to Contreraz's station. The station conducted a baseline smog test on the vehicle. The vehicle failed the test due to high emissions, a functional failure of the fuel cap, and the illumination of the MIL. The same two codes listed above were recorded or set in the vehicle's PCM during the baseline test. The station's invoice dated April 15, 2010, indicated that the linear EGR and gasket were replaced on the vehicle. The station's VIR indicated that Brar had performed the repairs. Brar conducted a post-repair smog inspection on the vehicle; however, the vehicle failed due to high emissions and a failure of the OBDII monitor

test (four monitors, including the EGR and CAT efficiency monitors, were not run to completion and the MIL light was not commanded on due to the incomplete monitors). The station referred the consumer to the State Referee Center ("Referee").

66. On April 19, 2010, the Referee conducted a smog inspection on the vehicle. The vehicle failed due to high emissions and the illumination of the MIL. The two codes indicated above were recorded during the test. That same day, the Referee submitted a Special Action Report to the Bureau, indicating that the diagnosis and repairs performed by Contreraz's station were "questionable".

67. On or about July 1, 2010, Contreraz's station submitted a Repair Notification Form to CAP seeking payment for the services and repairs on the vehicle. The notification form stated that the station used the labor guide Alldata to diagnose and repair the vehicle.

68. On August 12, 2010, the Bureau inspected the vehicle using Respondent's invoice for comparison. The Bureau found that the EGR valve had been replaced as invoiced; however, the invoice did not state what diagnostic work was performed on the vehicle, the results of the diagnosis, or the basis for replacing the EGR valve. Further, neither of the above two codes was listed on the invoice. The Bureau obtained the diagnostic and repair information for the EGR valve code from Alldata. The Bureau determined based on this information and the results of the above smog tests that Contreraz's station failed to follow recommended procedures for the diagnosis and repair of the vehicle.

TWENTIETH CAUSE FOR DISCIPLINE

(Departure from Trade Standards)

69. Respondent Contreraz's registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(7), in that Respondent willfully departed from or disregarded accepted trade standards for good and workmanlike repair without the consent of the owner or the owner's duly authorized representative in a material respect, as follows: Respondent failed to properly diagnose and repair the emissions-control devices or systems on the 1997 Honda Passport in that after replacing the EGR valve, Respondent failed to verify the repair by driving the vehicle and running the EGR monitor to completion.

TWENTY-FIRST CAUSE FOR DISCIPLINE

(Violations of the Bus. & Prof. Code)

70. Respondent Contreraz's registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with section 9884.9, subdivision (a), of that Code, as follows: Respondent listed on the invoice the date and time additional repairs were authorized on the 1997 Honda Passport and the person authorizing the repairs, but failed to specify or describe the additional repairs.

TWENTY-SECOND CAUSE FOR DISCIPLINE

(Violations of Regulations)

71. Respondent Contreraz's registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with Regulation 3356, subdivision (a)(2)(A), as follows: Respondent failed to separately list, describe, and identify on the invoice all diagnostic work performed on the 1997 Honda Passport, the results of the diagnostic work, or the basis for replacing the EGR valve on the vehicle.

TWENTY-THIRD CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

72. Respondent Contreraz'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 section 44016 of that Code, as follows: Respondent failed to diagnose the 1997 Honda Passport in accordance with established specifications and procedures.

TWENTY-FOURTH CAUSE FOR DISCIPLINE

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

73. Respondent Contreraz'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 Regulation 3340.41, subdivision (d), as follows: Respondent failed to follow applicable specifications and procedures when diagnosing the 1997 Honda Passport.

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TWENTY-FIFTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

74. Respondent Brar's technician license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to comply with section 44016 of that Code, as follows: Respondent failed to diagnose the 1997 Honda Passport in accordance with established specifications and procedures.

TWENTY-SIXTH CAUSE FOR DISCIPLINE

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

75. Respondent Brar's technician license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to comply with Regulation 3340.41, subdivision (d), as follows: Respondent failed to follow applicable specifications and procedures when diagnosing the 1997 Honda Passport.

CONSUMER COMPLAINT (GONZALEZ): 1999 TOYOTA CAMRY

76. In or about July 2010, Jose Gonzalez ("Gonzalez") filed a complaint with the Bureau, alleging that Contrerez's station failed to properly repair his 1999 Toyota Camry.

77. On July 13, 2010, a representative of the Bureau contacted Gonzalez. Gonzalez told the representative that the vehicle had been repaired by the station on April 2, 2010, but the check engine light came back on. On July 4, 2010, Gonzalez returned the vehicle to the station. The technician, "KB", plugged a tool into the vehicle then told Gonzalez that it would cost $760 in parts and labor to resolve the problem with the check engine light. Later, the Bureau representative obtained information from the Bureau's VID, indicating that the station had performed smog inspections on the vehicle on March 27, 2010, March 30, 2010, and April 2, 2010. The vehicle failed the first inspection due to incomplete monitors (4) and the second inspection due to the illumination of the MIL. Two codes were present in the PCM during the second test, a code relating to the knock sensor and a code relating to a defect in the fuel evaporation vent control circuit. The vehicle passed the third inspection on April 2, 2010.

78. On July 14, 2010, the Bureau representative met with Gonzalez to inspect the vehicle. Gonzalez gave the representative an invoice dated April 2, 2010 in the amount of $1,281.40 that he had received from the station. The invoice indicated that a knock sensor, the fuel evaporative canister ("EVAP"), and the purge control valve had been replaced on the vehicle. The representative inspected the vehicle using the invoice for comparison and found that the repairs had been performed as invoiced. The representative also found that a connector to the EVAP pressure sensor was disconnected, causing the MIL to come on in the vehicle and an EVAP code to be recorded in the PCM. The representative obtained Gonzalez's permission to have Contreraz's station inspect the vehicle.

79. On July 16, 2010, the Bureau representative met with Gonzalez, Contreraz, and Brar at the station. Brar connected a scan tool to the vehicle and retrieved the same code relating to the EVAP identified above. The representative asked Brar about the code. Brar stated that it could be related to "many things" in the EVAP system and that he would have to perform a diagnosis on the vehicle. The representative asked Brar why he would not recheck his repair work first since the code was in the same area of the repairs, but Brar did not answer. The representative informed Brar that he knew what was wrong with the vehicle because he had previously inspected it and discussed his findings with Brar. Brar put the vehicle on a jack and properly engaged the connector, which cleared the EVAP code.

TWENTY-SEVENTH CAUSE FOR DISCIPLINE

(Departure from Trade Standards)

80. Respondent Contreraz's registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(7), in that Respondent willfully departed from or disregarded accepted trade standards for good and workmanlike repair without the consent of the owner or the owner's duly authorized representative in a material respect, as follows: Respondent failed to properly repair the emissions-control devices or systems on Gonzalez's 1999 Toyota Camry in that Respondent failed to properly engage the electrical connector on the EVAP canister's pressure sensor, which caused the connector to pull away from the sensor and the MIL to illuminate in the vehicle.

TWENTY-EIGHTH CAUSE FOR DISCIPLINE

(Violations of Regulations)

81. Respondent Contreraz's registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with Regulation 3356, subdivision (a)(2)(A), as follows: Respondent failed to separately list, describe, and identify on the invoice all diagnostic work performed on Gonzalez's 1999 Toyota Camry and the results of the diagnostic work.

TWENTY-NINTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

82. Respondent Contreraz'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 section 44016 of that Code, as follows: Respondent failed to repair Gonzalez's 1999 Toyota Camry in accordance with established specifications and procedures.

THIRTIETH CAUSE FOR DISCIPLINE

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

83. Respondent Contreraz'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 Regulation 3340.41, subdivision (d), as follows: Respondent failed to follow applicable specifications and procedures when repairing Gonzalez's 1999 Toyota Camry.

THIRTY-FIRST CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

84. Respondent Brar's technician license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to comply with section 44016 of that Code, as follows: Respondent failed to repair Gonzalez's 1999 Toyota Camry in accordance with established specifications and procedures.

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THIRTY-SECOND CAUSE FOR DISCIPLINE

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

85. Respondent Brar's technician license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to comply with Regulation 3340.41, subdivision (d), as follows: Respondent failed to follow applicable specifications and procedures when repairing Gonzalez's 1999 Toyota Camry.

CONSUMER COMPLAINT (RENDON): 2000 MITSUBISHI GALANT

86. On August 4, 2010, Ofelia Rendon ("Rendon") took her 2000 Mitsubishi Galant to Contreraz's station for a smog inspection. The vehicle failed the inspection due to high NOx emissions and the illumination of the MIL. Three codes were recorded in the PCM during the test, a warm-up catalyst efficiency code, an EGR code, and an upstream misfire code.

87. On or about August 5, 2010, Rendon applied to CAP for financial assistance for the repairs on the vehicle and her application was approved.

88. On August 24, 2010, Rendon took the vehicle to Respondent's station and authorized them to perform a diagnosis of the vehicle. Rendon paid the station $20. Later, the station conducted a baseline smog test, which the vehicle failed. The three codes identified above were recorded in the PCM during the test.

89. On August 25, 2010, Rendon received a call from Respondent's station and was informed that the vehicle might pass the smog test if the spark plugs were replaced. Rendon authorized the repair. Later, Rendon received a call from the station. Larry Contreraz, Jr. ("Contreraz, Jr.") told Rendon that the MIL was still on, that the vehicle needed another engine because of a gasket problem, and that the vehicle could become disabled at any time. Contreraz, Jr. offered to replace the engine for $2,000, which Rendon declined. Contreraz, Jr. then offered to purchase the vehicle for $150, stating that it needed to be salvaged or traded in for another vehicle. Rendon declined that offer as well.

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90. On August 27, 2010, Rendon went to the facility to pick up the vehicle and was given an invoice dated August 27, 2010. Respondent's invoice indicated that the EGR solenoid was replaced on the vehicle in addition to the spark plugs.

91. On August 30, 2010, Rendon went to the Bureau and filed a complaint against the station. A representative of the Bureau met with Rendon and asked her if she had noticed any problems with the vehicle. Rendon stated that the vehicle ran fine, but occasionally ran rough when stopping. The representative started the vehicle and the check engine light came on. The representative put the vehicle into gear, applied slight throttle pressure while applying the brakes, and felt a distinctive misfire which he immediately recognized was a secondary-type of ignition misfire (a misfire involving the spark plugs, plug wires, or ignition coil). The representative obtained Rendon's permission to have the vehicle diagnosed by another Gold Shield Station, Rasmussen Auto Repair ("Rasmussen"). Later, the representative researched and obtained the diagnostic procedures for the above three codes.

92. On September 2, 2010, Rendon took the vehicle to Rasmussen for the diagnosis. The representative went to Rasmussen and had the technician remove the EGR solenoid and a spark plug from the vehicle. The representative inspected the parts; it appeared that they had been replaced on the vehicle. The representative told the technician that he would check back with them later to see what they found and left the facility. Later, Rasmussen told the representative that the vehicle failed their baseline smog test due to a defective spark plug coil boot (plug wire from the ignition coil), which caused a misfire and the MIL to illuminate. Rasmussen recommended that both ignition coil boots be replaced at a cost of $259.70, and indicated that the repair would be completed by September 3, 2010.

93. Later, the Bureau representative reviewed the invoice from Contreraz and found that the part number listed for the EGR solenoid was actually the part number of an EGR valve. The representative obtained CAP's records on the vehicle, including Respondent's Repair Notification Form and an invoice, both of which were dated August 25, 2010. The documents indicated that an EGR valve was replaced on the vehicle and that Contreraz's station had billed CAP a total of $271.44 for the repair ($72 for labor and $199.44 for the part, not including tax).

94. On September 3, 2010, the Bureau representative obtained various records from Contreraz's station relating to their diagnosis of the vehicle. The records indicated that the diagnosis was performed by Brar. That same day, Rasmussen performed a second smog test on the vehicle. The vehicle passed the inspection and a certificate was issued, indicating that the vehicle was in compliance with the Smog Check program. The representative met with the technician at Rasmussen and asked him if the vehicle overheated at any time. The technician stated no. The representative then asked the technician if there was any reason to suspect a head gasket problem or a cause for the engine to be replaced on the vehicle. The technician stated that the replacement of the ignition coil boot was all that was required for the vehicle to pass the smog check.

95. On September 16, 2010, the Bureau representative obtained the part numbers and cost for an EGR valve and an EGR solenoid from a Mitsubishi dealership. He found that the part number listed on Contreraz's invoice dated August 27, 2010, was, in fact, for an EGR valve with a suggested price of $103.40. The EGR solenoid had a suggested price of $51.64.

THIRTY-THIRD CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

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

a. Respondent Contreraz's manager, Contreraz, Jr, represented to Rendon that her 2000 Mitsubishi Galant needed another engine because of a gasket problem and that the vehicle could become disabled at any time. In fact, the only repair needed on the vehicle to pass the smog inspection was the replacement of the defective ignition coil boot on cylinder #2.

b. Respondent Contreraz represented on the Repair Notification Form and the invoice dated August 25, 2010, that the EGR valve was replaced on Rendon's 2000 Mitsubishi Galant. In fact, the EGR solenoid and not the EGR valve was replaced on the vehicle.

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c. Respondent's invoice given to the consumer identified that the EGR solenoid was replaced by Respondent, but the part number listed for the EGR solenoid on the invoice is actually the part number of an EGR valve. In fact, the part replaced by Respondent was an EGR solenoid.

THIRTY-FOURTH CAUSE FOR DISCIPLINE

(Fraud)

97. Respondent Contreraz's registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(4), in that Respondent committed an act that constitutes fraud, as follows: Respondent charged CAP for replacing the EGR valve on Rendon's 2000 Mitsubishi Galant when, in fact, the EGR solenoid was replaced on the vehicle.

THIRTY-FIFTH CAUSE FOR DISCIPLINE

(Departure from Trade Standards)

98. Respondent Contreraz's registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(7), in that Respondent willfully departed from or disregarded accepted trade standards for good and workmanlike repair without the consent of the owner or the owner's duly authorized representative in the following material respects:

a. Respondent failed to properly diagnose the upstream misfire code or the cause of the smog check failure on Rendon's 2000 Mitsubishi Galant; i.e., the defective spark plug coil boot.

b. Respondent failed to diagnose or address the cause of the upstream misfire code first before proceeding with the diagnosis of the warm-up catalyst efficiency code (the upstream misfire code can falsely set a warm-up catalyst efficiency code).

THIRTY-SIXTH CAUSE FOR DISCIPLINE

(Violations of Regulations)

99. Respondent Contreraz's registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with Regulation 3356, subdivision (a)(2)(A), as follows: Respondent failed to separately list, describe, and identify on the invoices dated August 25, 2010, and August 27, 2010, all diagnostic work performed on Rendon's 2000 Mitsubishi Galant or the results of the diagnostic work.

THIRTY-SEVENTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

100. Respondent Contreraz'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 section 44016 of that Code, as follows: Respondent failed to diagnose Rendon's 2000 Mitsubishi Galant in accordance with established specifications and procedures.

THIRTY-EIGHTH CAUSE FOR DISCIPLINE

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

101. Respondent Contreraz'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 Regulation 3340.41, subdivision (d), in a material respect, as follows: Respondent failed to follow applicable specifications and procedures when diagnosing Rendon's 2000 Mitsubishi Galant.

THIRTY-NINTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

102. Respondent Contreraz'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, as follows: Respondent charged CAP for replacing the EGR valve on Rendon's 2000 Mitsubishi Galant when, in fact, the EGR solenoid was replaced on the vehicle.

FORTIETH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

103. Respondent Brar's technician license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to comply with section 44016 of that Code, as follows: Respondent failed to diagnose Rendon's 2000 Mitsubishi Galant in accordance with established specifications and procedures.

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FORTY-FIRST CAUSE FOR DISCIPLINE

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

104. Respondent Brar's technician license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to comply with Regulation 3340.41, subdivision (d), as follows: Respondent failed to follow applicable specifications and procedures when diagnosing Rendon's 2000 Mitsubishi Galant.

CONSUMER COMPLAINT (GARCIA): 1998 CHEVROLET S-10 TRUCK

105. On or about September 13, 2010, Gerri Garcia ("Garcia") called CAP and informed them that Contreraz's station repaired her 1998 Chevrolet S-10 truck, but that the MIL came back on following the repairs. Garcia also claimed that the station overcharged her for the repairs. CAP notified field operations regarding Garcia's complaint and sent them various records on the vehicle.

106. On September 15, 2010, a representative of the Bureau met with Garcia. Garcia told the representative that the station overhauled her transmission and that she still owed them $1,300 for the repair, which the station had agreed to finance. Garcia stated that she was informed by the station that if she did not authorize the repairs, she would lose her CAP money. The representative asked Garcia if she had any problems with the transmission, such as slipping or failing to go into gear, before she took the vehicle to the station. Garcia stated that the transmission was working fine. The representative inspected the vehicle and found that the transmission appeared to have been recently removed. The representative also found various codes present in the PCM, including a code relating to the transmission. The representative reviewed the documents provided by CAP and information obtained from the Bureau's VID, which indicated as follows: On May 10, 2010, Garcia took the vehicle to Contreraz's station for a smog inspection. The vehicle failed the test due to the check engine light; the above code was recorded in the PCM during the test. Garcia applied to CAP for financial assistance on the repairs and her application was approved. On June 30, 2010, Garcia returned to the station and authorized them to diagnose the vehicle. On July 7, 2010, the station submitted a repair

notification form and invoice to CAP. The invoice indicated that the transmission was overhauled or rebuilt and that Garcia had been charged $1,899.99 for a "rebuiltmaster kit". The representative researched the part number listed on the invoice for the rebuild kit and found that the part number was actually for an OEM (original equipment manufacturer) factory transmission with a suggested price of $1,857.31. The representative found that the transmission on the vehicle was not a new GM or GM Goodwrench transmission.

107. On September 16, 2010, the Bureau representative met with Contreraz, Brar, and Contreraz, Jr. at Respondent's station and obtained their repair records on the vehicle, including Brar's "Diagnosis Notes". The representative asked which of the station's personnel rebuilds transmissions. Contreraz stated that they send transmissions out to another facility, M&M Transmission, for rebuilding, and provided the representative with an invoice dated July 10, 2010, that had been issued by M&M Transmission. The invoice indicated that M&M Transmission had charged the station $700 for the transmission overhaul on the vehicle, including a rebuilt torque converter.

108. Later, the Bureau representative asked Brar if he was familiar with the transmission code. Brar stated that he had repaired 22 of those codes in the last year and that in 21 of those cases, the transmission was rebuilt. The representative asked Brar what he did to diagnose the code. Brar stated that he followed the chart from Alldata. The representative had Brar print the Alldata diagnostic chart for the code (7 pages in all). Brar reviewed the chart and admitted to the representative that he did not follow it when diagnosing the vehicle, stating that it would take him "all day to do all of that". Brar also admitted that he did not test-drive the vehicle to see if there was transmission slippage, that he did not inspect the transmission pan for excessive clutch material (which would indicate clutch wear), and that he had recommended the transmission overhaul just based on the code being present. The representative asked Brar if he was aware of the technical service bulletins for the vehicle and the code, including a service bulletin indicating that under the circumstances of the vehicle, a worn TCC valve isolator in the transmission valve body was the probable cause of the transmission code. Brar admitted that he was not aware of the bulletins.

109. At the conclusion of the meeting on September 16, 2010, Contreraz agreed that their bill should be adjusted because they listed the part (rebuild kit) as an OEM transmission and that the station would have M&M transmission repair the vehicle since it was under warranty.

110. On September 29, 2010, Garcia took the vehicle to the station and left it for repair.

111. On October 1, 2010, Garcia notified the Bureau that the transmission had been repaired. Later, the Bureau representative went to the station and met with Contreraz, Brar, and Contreraz, Jr. Contreraz and the others told the representative that M&M Transmissions had replaced the transmission valve body on the vehicle and had cleared the transmission code.

FORTY-SECOND CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

112. Respondent Contreraz's registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized a statement which he knew or in the exercise of reasonable care should have known to be untrue or misleading, as follows: Respondent and or his employees represented to Garcia that the transmission on her 1998 Chevrolet S-10 truck needed to be overhauled or rebuilt when, in fact, that repair was not needed in order for the vehicle to pass the smog inspection. Further, another facility, M&M Transmissions, had determined that the transmission valve body was defective or in need of replacement.

FORTY-THIRD CAUSE FOR DISCIPLINE

(Fraud)

113. Respondent Contreraz's registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(4), in that Respondent committed an act that constitutes fraud, as follows: Respondent charged Garcia and CAP for installing a GM factory transmission in Garcia's 1998 Chevrolet S-10 truck when, in fact, the existing transmission had been rebuilt or overhauled on the vehicle.

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FORTY-FOURTH CAUSE FOR DISCIPLINE

(Departure from Trade Standards)

114. Respondent Contreraz's registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(7), in that Respondent willfully departed from or disregarded accepted trade standards for good and workmanlike repair without the consent of the owner or the owner's duly authorized representative in the following material respects:

a. Respondent failed to follow the proper diagnostic procedures in determining the cause of the transmission code in Garcia's 1998 Chevrolet S-10 truck, as set forth in paragraph 106 above. Further, Respondent had the transmission overhauled or rebuilt on the vehicle when, in fact, that repair was not needed for the vehicle to pass a smog inspection.

b. Respondent failed to inspect the transmission on Garcia's 1998 Chevrolet S-10 truck before it was removed from the vehicle, in violation of Regulation 3361.1, subdivision (a).

FORTY-FIFTH CAUSE FOR DISCIPLINE

(Unauthorized Sublet of Repairs)

115. Respondent Contreraz's registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(9), in that Respondent sublet the overhauling or rebuilding of the transmission on Garcia's 1998 Chevrolet S10 truck to M & M Transmission without Garcia's knowledge or consent.

FORTY-SIXTH CAUSE FOR DISCIPLINE

(Violations of Regulations)

116. Respondent Contreraz's registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with Regulation 3356, subdivision (a)(2)(A), as follows: Respondent failed to separately list, describe, and identify on his invoices dated July 6, 2010, July 7, 2010, and July 15, 2010, all diagnostic work performed on Garcia's 1998 Chevrolet S-10 truck or the results of the diagnostic work.

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FORTY-SEVENTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

117. Respondent Contreraz'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 section 44016 of that Code, as follows: Respondent failed to diagnose and repair Garcia's 1998 Chevrolet S-10 truck in accordance with established specifications and procedures.

FORTY-EIGHTH CAUSE FOR DISCIPLINE

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

118. Respondent Contreraz'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 Regulation 3340.41, subdivision (d), in a material respect, as follows: Respondent failed to follow applicable specifications and procedures when diagnosing and repairing Garcia's 1998 Chevrolet S-10 truck.

FORTY-NINTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

119. Respondent Brar's technician license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to comply with section 44016 of that Code, as follows: Respondent failed to diagnose and repair Garcia's 1998 Chevrolet S-10 truck in accordance with established specifications and procedures.

FIFTIETH CAUSE FOR DISCIPLINE

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

120. Respondent Brar's technician license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to comply with Regulation 3340.41, subdivision (d), as follows: Respondent failed to follow applicable specifications and procedures when diagnosing and repairing Garcia's 1998 Chevrolet S-10 truck.

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CONSUMER COMPLAINT (PHILLIPS): 1999 MITSUBISHI MONTERO

121. On June 18, 2010, Michelle Phillips ("Phillips") took her 1999 Mitsubishi Montero to Smog Master located in Clovis, California, and had them smog test the vehicle. The vehicle failed the test for high NOx emissions and the illumination of the MIL. A misfire code was recorded in the PCM during the test. Phillips applied to CAP for financial assistance for repairs on the vehicle and her application was approved on July 13, 2010.

122. On August 14, 2010, Phillips took the vehicle to Contreraz's station and signed a repair order, authorizing a diagnosis of the vehicle for $184. The station performed a baseline smog test on the vehicle. The vehicle failed the test due to the illumination of the MIL; the same misfire code was stored in the PCM during the test. Phillips was informed that the starter was bad and needed to be replaced before she could use her CAP money for repairs. Phillips made an appointment to return the vehicle for repair.

123. On or about August 26, 2010, the day of the appointment, the vehicle would not start, so Phillips had it towed to the station. Phillips authorized the station to replace the starter. Later, Phillips was informed that the vehicle also needed an intake manifold gasket, spark plugs, and spark plug wires (Phillips had the gasket and plugs replaced six months earlier).

124. On August 27, 2010, the station performed a post-repair smog test on the vehicle. The vehicle failed the test due to the illumination of the MIL. The PCM recorded a total of four codes during the test, including the misfire code. The station told Phillips that the engine was "blown" and would never pass. Later, when Phillips went to the station to pick up the vehicle, it had to be jump-started by Respondent. After Phillips returned home, the vehicle would not start again. Phillips had a new battery installed on the vehicle, which resolved the starting problem. Phillips applied to CAP to have the vehicle "retired" (crushed) based on the station's statement that the engine was blown. Later, Phillips filed a complaint with CAP, alleging that Contreraz's station performed unnecessary repairs on the vehicle.

125. On September 20, 2010, a representative of the Bureau contacted Phillips and obtained her authorization to have another Gold Shield Station, Alltech Automotive in Clovis, California, perform a diagnosis on the vehicle.

126. On September 21, 2010, the Bureau representative inspected the vehicle. The spark plug wires appeared new and the starter appeared to have been replaced. When the representative started the vehicle, the MIL came on. The representative noticed a definite misfire in the engine while it was running.

127. On September 22, 2010, Phillips dropped the vehicle off at Alltech Automotive.

128. On September 30, 2010, Alltech Automotive informed the representative that the vehicle's ignition control module (power transistor) was bad and was not allowing an ignition coil to provide spark to the #2 and #5 cylinders, and that this was the cause of the rough running condition of the vehicle and the setting of the misfire code.

129. On October 6, 2010, the Bureau representative met with Contreraz, Brar, and Contreraz, Jr. at the station and obtained their repair records on the vehicle, including Brar's "Diagnosis Notes". Brar stated in his notes that the starter on the vehicle "gets stuck" and that the battery was "in poor condition". The representative asked Brar how he diagnosed the starter when the vehicle had a bad battery. Brar stated that he used a "'high power battery charger" to diagnose the starting problem on the vehicle.

FIFTY-FIRST CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

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

a. Respondent or his employees represented to Phillips that the starter on her 1999 Mitsubishi Montero was bad and needed replacement. In fact, Contreraz's technician, Respondent Brar, knew that the battery was in poor condition and knew, or should have known, that it was the cause of the starting problem on the vehicle and that the condition of the starter could not be determined unless the battery was first replaced.

b. Respondent or his employees represented to Phillips that the spark plugs and spark plug wires needed to be replaced on her 1999 Mitsubishi Montero. In fact, those repairs were not

needed to correct or clear the misfire code in the PCM of the vehicle. Further, another Gold Shield Station had determined that the ignition control module was defective and was not allowing an ignition coil to provide spark to the #2 and #5 cylinders, and that this was the cause of the rough running condition of the vehicle and the setting of the misfire code.

FIFTY-SECOND CAUSE FOR DISCIPLINE

(Departure from Trade Standards)

131. Respondent Contreraz's registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(7), in that Respondent willfully departed from or disregarded accepted trade standards for good and workmanlike repair without the consent of the owner or the owner's duly authorized representative in the following material respects:

a. Respondent failed to properly diagnose the starting problem on Phillips' 1999 Mitsubishi Montero in that Respondent failed to replace the battery first before continuing with the diagnosis, especially in view of the fact that the battery was documented by the station as being in poor condition.

b. Respondent failed to properly diagnose the misfire code on Phillips' 1999 Mitsubishi Montero in that Respondent determined that the spark plugs and spark plug wires were in need of replacement. In fact, those repairs were not needed to correct or clear the misfire code in the PCM of the vehicle. Further, another Gold Shield Station had determined that the ignition control module was defective and was the cause of the rough running condition of the vehicle and the setting of the misfire code, as set forth above.

FIFTY-THIRD CAUSE FOR DISCIPLINE

(Violations of Regulations)

132. Respondent Contreraz's registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with Regulation 3356, subdivision (a)(2)(A), as follows: Respondent failed to separately list, describe, and identify on his invoice dated August 28, 2010, all diagnostic work performed on Phillips' 1999 Mitsubishi Montero or the results of the diagnostic work.

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FIFTY-FOURTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

133. Respondent Contreraz'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 section 44016 of that Code, as follows: Respondent failed to diagnose Phillips' 1999 Mitsubishi Montero in accordance with established specifications and procedures.

FIFTY-FIFTH CAUSE FOR DISCIPLINE

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

134. Respondent Contreraz'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 Regulation 3340.41, subdivision (d), in a material respect, as follows: Respondent failed to follow applicable specifications and procedures when diagnosing Phillips' 1999 Mitsubishi Montero.

FIFTY-SIXTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

135. Respondent Brar's technician license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to comply with section 44016 of that Code, as follows: Respondent failed to diagnose Phillips' 1999 Mitsubishi Montero in accordance with established specifications and procedures.

FIFTY-SEVENTH CAUSE FOR DISCIPLINE

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

136. Respondent Brar's technician license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to comply with Regulation 3340.41, subdivision (d), as follows: Respondent failed to follow applicable specifications and procedures when diagnosing Phillips' 1999 Mitsubishi Montero.

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CONSUMER COMPLAINT (ORTIZ): 1996 FORD EXPLORER

137. On October 27, 2010, Jordan Ortiz ("Jordan") contacted the Bureau and informed them that Contreraz's station had attempted to sell him $2,000 in repairs on his 1996 Ford Explorer in order for the vehicle to pass a smog inspection. Jordan requested the Bureau's assistance in determining whether the repairs were actually needed on the vehicle.

138. On October 29, 2010, Jordan's father, John Ortiz ("John"), faxed the Bureau copies of various documents that he and Jordan had received from the station (John was present with Jordan when the vehicle was taken to and picked up from the station).

139. That same day (October 29), a representative of the Bureau reviewed the documents and information from the Bureau's VID, and found the following: On October 26, 2010, Smog Masters conducted a smog inspection on the vehicle. The vehicle failed the inspection due to the illumination of the MIL; two codes were recorded in the PCM during the test. On October 27, 2010, Contreraz's station performed a smog inspection on the vehicle. The vehicle failed the test for the MIL; the same two codes were recorded in the PCM as well as a misfire code. Contreraz's invoice dated October 27, 2010, stated that the vehicle was assigned to Brar for diagnosis, that the vehicle failed the smog test due to the MIL, and that codes were present for "Misfire, Oxygen Sensor, etc." The invoice also stated that there was low compression on the #4 cylinder, that the cylinder heads needed to be removed for inspection by a machine shop, and that the vehicle needed an oxygen sensor, thermostat, and gas cap (the repairs were declined by the "customer").

140. On November 8, 2010, the representative obtained John's consent to have the vehicle diagnosed by The Auto Works.

141. On November 9, 2010, the Auto Works called the representative and told him that the spark plug wire to the #4 cylinder was bad, that the wire was misrouted around the EGR tube and had been burnt, causing an intermittent misfire, and that this was the cause of the misfire code. The Auto Works also found that the cooling system thermostat and oxygen sensor were defective.

142. On November 10, 2010, the Auto Works performed a smog inspection on the vehicle. The vehicle passed the smog test and a certificate was issued, indicating that the vehicle was in compliance with the Smog Check program.

FIFTY-EIGHTH CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

143. Respondent Contreraz's registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized a statement which he knew or in the exercise of reasonable care should have known to be untrue or misleading, as follows: Respondent represented on the invoice that the cylinder heads on Jordan Ortiz's 1996 Ford Explorer needed to be removed for inspection when, in fact, that service/repair was not needed for the vehicle to pass a smog inspection.

FIFTY-NINTH CAUSE FOR DISCIPLINE

(Departure from Trade Standards)

144. Respondent Contreraz's registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(7), in that Respondent willfully departed from or disregarded accepted trade standards for good and workmanlike repair without the consent of the owner or the owner's duly authorized representative in a material respect, as follows: Respondent failed to properly diagnose the emissions-control devices or systems on Jordan Ortiz's 1996 Ford Explorer in that Respondent determined that the cylinder heads on the vehicle needed to be removed for inspection. In fact, that service/repair was not needed for the vehicle to pass a smog inspection.

SIXTIETH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

145. Respondent Contreraz'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 section 44016 of that Code, as follows: Respondent failed to diagnose Jordan Ortiz's 1996 Ford Explorer in accordance with established specifications and procedures.

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SIXTY-FIRST CAUSE FOR DISCIPLINE

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

146. Respondent Contreraz'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 Regulation 3340.41, subdivision (d), in a material respect, as follows: Respondent failed to follow applicable specifications and procedures when diagnosing Jordan Ortiz's 1996 Ford Explorer.

SIXTY-SECOND CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

147. Respondent Brar's technician license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to comply with section 44016 of that Code, as follows: Respondent failed to diagnose John Ortiz's 1996 Ford Explorer in accordance with established specifications and procedures.

SIXTY-THIRD CAUSE FOR DISCIPLINE

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

148. Respondent Brar's technician license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to comply with Regulation 3340.41, subdivision (d), as follows: Respondent failed to follow applicable specifications and procedures when diagnosing John Ortiz's 1996 Ford Explorer.

UNDERCOVER OPERATION #1: 1992 TOYOTA COROLLA

149. On June 10, 2010, an undercover operator with the Bureau ("operator") took the Bureau's 1992 Toyota Corolla to Smog-4-Less located in Fresno, California, and requested a smog inspection. A defective vacuum hose had been installed from the intake plenum gas filter to the MAP sensor on the Bureau-documented vehicle. After the smog inspection was completed, the operator was advised that the vehicle failed and was given an invoice and a VIR. The VIR indicated that the vehicle failed the emissions portion of the inspection as a gross polluter.

150. On June 16, 2010, the operator took the vehicle to Contreraz's station. The operator told a woman at the counter that the vehicle had failed a smog inspection and that she was there to have it repaired. The operator gave the woman the DMV paperwork for the vehicle, a letter indicating that the operator was eligible for repair assistance from CAP, and the VIR from Smog-4-Less. The operator was asked for the $20 CAP co-payment. The operator paid the station $20, signed an estimate and a repair order for a diagnosis of the vehicle, then left the station.

151. On June 17, 2010, the operator called the station and spoke with a man, who told her that the vehicle was receiving too much fuel and that the spark plugs had buildup. The man also stated that they needed to replace the spark plugs and oxygen sensor and possibly also the catalytic converter.

152. On June 18, 2010, the same man called the operator and told her that the catalytic converter needed to be replaced on the vehicle in order for the vehicle to pass the smog inspection, that the state (CAP) would pay $500 toward the repairs, and that the operator would have to pay the remaining $450. The operator authorized the repairs.

153. On June 21, 2010, the operator returned to the station to pick up the vehicle, paid the station $450.79, and received an invoice, the DMV paperwork, and a VIR dated June 19, 2010. The invoice indicated that the spark plugs on the vehicle were "fouled" and that the oxygen sensor was defective. The VIR indicated that the vehicle had passed the inspection, resulting in the issuance of a certificate of compliance for the vehicle, and that Brar had performed the inspection and repairs. The Bureau's VID data showed that the station actually performed four smog inspections on the vehicle, an inspection on June 17, 2010, two inspections on June 18, 2010, and the final inspection on June 19, 2010. The vehicle failed the inspections on June 17, 2010, and June 18, 2010, due to excessive tailpipe emissions.

154. On June 29, 2010, the Bureau inspected the vehicle using Respondent's invoice for comparison. The Bureau found that the defective vacuum hose had been replaced on the vehicle, although that repair was not recorded on the invoice, and that the station had performed unnecessary repairs on the vehicle.

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SIXTY-FOURTH CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

155. Respondent Contreraz's registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized statements which he knew or in the exercise of reasonable care should have known to be untrue or misleading, as follows: Respondent or his employees represented to the operator that the spark plugs, oxygen sensor, and catalytic converter on the Bureau's 1992 Toyota Corolla needed replacement in order for the vehicle to pass the smog inspection. In fact, the only repair needed for the vehicle to pass the smog inspection was the replacement of the defective vacuum hose from the intake plenum gas filter to the MAP sensor. Further, the sparks plugs, oxygen sensor, and catalytic converter were in good working condition and were not in need of servicing or replacement at the time the vehicle was taken to Respondent's station.

SIXTY-FIFTH CAUSE FOR DISCIPLINE

(Fraud)

156. Respondent Contreraz's registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(4), in that Respondent committed acts that constitute fraud, as follows: Respondent or his employees made false or misleading representations to the operator regarding the Bureau's 1992 Toyota Corolla, as set forth in paragraph 153 above, in order to induce the operator to purchase unnecessary repairs on the vehicle, then sold the operator unnecessary repairs, including the replacement of the spark plugs, oxygen sensor, and catalytic converter.

SIXTY-SIXTH CAUSE FOR DISCIPLINE

(Departure from Trade Standards)

157. Respondent Contreraz's registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(7), in that Respondent willfully departed from or

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disregarded accepted trade standards for good and workmanlike repair without the consent of the owner or the owner's duly authorized representative in the following material respects:

a. Respondent adjusted the ignition timing on the Bureau's 1992 Toyota Corolla when, in fact, the ignition timing was adjusted to manufacturer's specifications and was not in need of adjustment at the time the vehicle was taken to Respondent's station.

b. Respondent replaced the spark plugs, oxygen sensor, and catalytic converter on the Bureau's 1992 Toyota Corolla when, in fact, none of those repairs were needed for the vehicle to pass the smog inspection.

SIXTY-SEVENTH CAUSE FOR DISCIPLINE

(Violations of the Bus. & Prof. Code)

158. Respondent Contreraz's registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with section 9884.9, subdivision (a), of that Code, as follows: Respondent replaced the defective vacuum hose from the intake plenum gas filter to the MAP sensor and adjusted the ignition timing on the Bureau's 1992 Toyota Corolla without the knowledge or consent of the operator.

SIXTY-EIGHTH CAUSE FOR DISCIPLINE

(Violations of Regulations)

159. Respondent Contreraz's registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with Regulation 3356, subdivision (a)(2)(A), as follows: Respondent failed to separately list, describe, and identify on the invoice all repair work performed on the Bureau's 1992 Toyota Corolla, i.e., the replacement of the defective vacuum hose from the intake plenum gas filter to the MAP sensor and the adjustment of the ignition timing.

SIXTY-NINTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

160. Respondent Contreraz'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

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comply with section 44016 of that Code, as follows: Respondent failed to diagnose and repair the Bureau's 1992 Toyota Corolla in accordance with established specifications and procedures.

SEVENTIETH CAUSE FOR DISCIPLINE

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

161. Respondent Contreraz'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 provisions of California Code of Regulations, title 16, as follows:

a. **Section 3340.41, subdivision (a):** Respondent failed to provide the operator with VIR's for the smog inspections that were performed on June 17, 2010, and June 18, 2010.

b. **Section 3340.41, subdivision (d):** Respondent failed to follow applicable specifications and procedures when diagnosing and repairing the Bureau's 1992 Toyota Corolla.

SEVENTY-FIRST CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

162. Respondent Contreraz'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, as follows: Respondent or his employees made false or misleading representations to the operator regarding the Bureau's 1992 Toyota Corolla, as set forth in paragraph 153 above, in order to induce the operator to purchase unnecessary repairs on the vehicle, then sold the operator unnecessary repairs, including the replacement of the spark plugs, oxygen sensor, and catalytic converter.

SEVENTY-SECOND CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

163. Respondent Brar's technician license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to comply with section 44016 of that Code, as follows: Respondent failed to diagnose and repair the Bureau's 1992 Toyota Corolla in accordance with established specifications and procedures.

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SEVENTY-THIRD CAUSE FOR DISCIPLINE

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

164. Respondent Brar's technician license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to comply with Regulation 3340.41, subdivision (d), as follows: Respondent failed to follow applicable specifications and procedures when diagnosing and repairing the Bureau's 1992 Toyota Corolla.

UNDERCOVER OPERATION #2: 1995 NISSAN 240SX

165. On October 20, 2010, an undercover operator with the Bureau ("operator") took the Bureau's 1995 Nissan 240SX to Smog-4-Less and requested a smog inspection. The intake air temperature ("IAT") sensor on the Bureau-documented vehicle was rendered defective. After the smog inspection was completed, the operator was informed that the vehicle failed because the MIL had illuminated during the test. The operator was given an invoice and a VIR.

166. On October 26, 2010, the operator took the vehicle to Contreraz's station. The operator gave a woman at the counter the DMV paperwork for the vehicle, a letter indicating that the operator was eligible for repair assistance from CAP, and the VIR from Smog-4-Less. The operator signed a repair order authorizing a diagnosis of the vehicle for $184, paid the $100 CAP co-payment, then left the station.

167. On October 27, 2010, the operator received a call from "Junior" at the station. Junior told the operator that the vehicle needed an IAT sensor and a fuel filter in order for the vehicle to pass a smog inspection and that the repairs would cost a total of $426.

168. On October 28, 2010, the operator received a call from "Navith", who informed her that the vehicle had passed the smog inspection. The operator asked Navith if there were any additional charges. Navith stated that there was an additional charge of $8.25 for the smog certificate.

169. On October 29, 2010, the operator returned to the station to pick up the vehicle, paid the station $8.25, and received an invoice, the DMV paperwork, and a VIR dated October 28, 2010. The invoice indicated that the vehicle was assigned to Brar for diagnosis, that the fuel

pressure on the vehicle was low, and that the fuel filter was clogged. The VIR indicated that the vehicle had passed the inspection, resulting in the issuance of a certificate of compliance, and that Brar had performed the inspection and repairs on the vehicle. The Bureau's VID data showed that the station actually performed two smog inspections on the vehicle, an inspection on October 26, 2010 (the vehicle failed the inspection due to the illumination of the MIL), and the inspection on October 28, 2010.

170. On November 5, 2010, the Bureau inspected the vehicle and found that the IAT sensor had been replaced as invoiced; however, the station had performed an unnecessary repair on the vehicle, as set forth below.

SEVENTY-FOURTH CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

171. Respondent Contreraz's registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized a statement which he knew or in the exercise of reasonable care should have known to be untrue or misleading, as follows: Respondent's employee, Junior, represented to the operator that the fuel filter on the Bureau's 1995 Nissan 240SX needed replacement in order for the vehicle to pass a smog inspection. In fact, the only repair needed for the vehicle to pass the smog inspection was the replacement of the defective IAT sensor. Further, the fuel filter was new and was not in need of replacement and the fuel pressure was within manufacturer's specifications at the time the vehicle was taken to Respondent's station.

SEVENTY-FIFTH CAUSE FOR DISCIPLINE

(Fraud)

172. Respondent Contreraz's registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(4), in that Respondent committed an act that constitute fraud, as follows: Respondent's employee, Junior, made a false or misleading representation to the operator regarding the Bureau's 1995 Nissan 240SX, as set forth in paragraph 169 above, in order to induce the operator to purchase an unnecessary repair on the vehicle, then sold the operator the unnecessary repair, the replacement of the fuel filter.

SEVENTY-SIXTH CAUSE FOR DISCIPLINE

(Departure from Trade Standards)

173. Respondent Contreraz's registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(7), in that Respondent willfully departed from or disregarded accepted trade standards for good and workmanlike repair without the consent of the owner or the owner's duly authorized representative in a material respect, as follows: Respondent replaced the fuel filter on the Bureau's 1995 Nissan 240SX when, in fact, that repair was not needed for the vehicle to pass the smog inspection.

SEVENTY-SEVENTH CAUSE FOR DISCIPLINE

(Violations of Regulations)

174. Respondent Contreraz's registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with Regulation 3356, subdivision (a)(2)(A), as follows: Respondent failed to list on the invoice the $8.25 charge for the issuance of the smog check certificate on the Bureau's 1995 Nissan 240SX.

SEVENTY-EIGHTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

175. Respondent Contreraz'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 section 44016 of that Code, as follows: Respondent failed to diagnose and repair the Bureau's 1995 Nissan 240SX in accordance with established specifications and procedures.

SEVENTY-NINTH CAUSE FOR DISCIPLINE

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

176. Respondent Contreraz'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 provisions of California Code of Regulations, title 16, as follows:

a. **Section 3340.41, subdivision (a):** Respondent failed to provide the operator with a VIR for the smog inspection that was performed on October 26, 2010.

b. **Section 3340.41, subdivision (d):** Respondent failed to follow applicable specifications and procedures when diagnosing and repairing the Bureau's 1995 Nissan 240SX.

EIGHTIETH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

177. Respondent Contreraz'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, as follows: Respondent's employee, Junior, made a false or misleading representation to the operator regarding the Bureau's 1995 Nissan 240SX, as set forth in paragraph 169 above, in order to induce the operator to purchase an unnecessary repair on the vehicle, then sold the operator the unnecessary repair, the replacement of the fuel filter.

EIGHTY-FIRST CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

178. Respondent Brar's technician license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to comply with section 44016 of that Code, as follows: Respondent failed to diagnose and repair the Bureau's 1995 Nissan 240SX in accordance with established specifications and procedures.

EIGHTY-SECOND CAUSE FOR DISCIPLINE

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

179. Respondent Brar's technician license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to comply with Regulation 3340.41, subdivision (d), as follows: Respondent failed to follow applicable specifications and procedures when diagnosing and repairing the Bureau's 1995 Nissan 240SX.

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UNDERCOVER OPERATION #3: 1991 HONDA ACCORD

180. On November 2, 2010, an undercover operator with the Bureau ("operator") took the Bureau's 1991 Honda Accord to Contreraz's station and requested a smog inspection. The fuel injector resistor for the #4 cylinder on the Bureau-documented vehicle was rendered defective, preventing the #4 fuel injector from operating. After the inspection was completed, the operator was informed that the vehicle failed and was given an invoice and a VIR. The Bureau's VID data indicated that the vehicle's NOx emissions were at gross polluter levels and that the MIL had illuminated during the test. The VID data also indicated that Brar had performed the inspection on the vehicle and that the vehicle failed the functional ignition timing test for a mechanical condition.

181. On November 3, 2010, the operator took the vehicle back to the station and told a woman at the counter that it had failed a smog test at their station the previous day and that she was there to have it repaired. The operator gave the woman the DMV paperwork for the vehicle, a letter stating that the operator was eligible for repair assistance from CAP, and the VIR and invoice dated November 2, 2010. The operator paid the station the $100 CAP co-payment, signed a repair order for a diagnosis of the vehicle, and left the station.

182. On November 4, 2010, Brar called the operator and told her that the vehicle was running on 3 cylinders instead of 4 cylinders and that the vehicle needed a new fuel injector resistor. Brar stated that the total cost of the repair would be $391.67. The operator authorized the work on the vehicle.

183. On November 10, 2010, the operator returned to the station and met with "Rita". Rita told the operator that she owed them $8.25 for the smog certificate. The operator paid Rita $8.25 and received copies of various documents, including an invoice in the gross amount of $439.92 dated November 10, 2010, and a VIR dated November 9, 2010 (the station did not return the VIR dated November 2, 2010, to the operator). The invoice and VIR stated that the ignition timing on the vehicle had been adjusted (the operator was charged $40 for this repair). The Bureau's VID data showed that on November 4, 2010, technician Steven Leal ("Leal") had performed a smog inspection on the vehicle and that the vehicle failed the functional ignition timing test at 12

degrees BTDC (before top dead center). The VID data also showed that on November 9, 2010, Leal performed two post-repair inspections of the vehicle and that the vehicle passed the functional ignition timing test at 15 degrees BTDC during each test.

184. On November 18, 2010, the Bureau inspected the vehicle using the invoice for comparison and found that the defective fuel injector resistor had been replaced on the vehicle. The Bureau also found that the station had charged the operator for adjusting the ignition timing on the vehicle when, in fact, that repair had not been performed as invoiced.

EIGHTY-THIRD CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

185. Respondent Contreraz's registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized statements which he knew or in the exercise of reasonable care should have known to be untrue or misleading, as follows: Respondent represented on the invoice dated November 10, 2010, and the VIR dated November 9, 2010, that the ignition timing on the Bureau's 1991 Honda Accord had been adjusted when, in fact, that repair had not been performed on the vehicle. Further, the ignition timing was adjusted to manufacturer's specifications, 15 degrees BTDC, at the time the vehicle was taken to Respondent's station and was not in need of adjustment. In addition, the station had not obtained the operator's consent for that repair on the vehicle.

EIGHTY-FOURTH CAUSE FOR DISCIPLINE

(Fraud)

186. Respondent Contreraz's registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(4), in that Respondent committed acts that constitute fraud, as follows: Respondent charged the operator and CAP for adjusting the ignition timing on the Bureau's 1991 Honda Accord when, in fact, that repair had not been performed on the vehicle as invoiced. Further, the ignition timing was adjusted to manufacturer's specifications and was not in need of adjustment at the time the vehicle was taken to Respondent's station. In addition, the station had not obtained the operator's consent for that repair on the vehicle.

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EIGHTY-FIFTH CAUSE FOR DISCIPLINE

(Violations of the Bus. & Prof. Code)

187. Respondent Contreraz's registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with section 9884.9, subdivision (a), of that Code, as follows: Respondent exceeded the estimate price of $391.67 for the additional repairs on the vehicle without the operator's oral or written consent.

EIGHTY-SIXTH CAUSE FOR DISCIPLINE

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

188. Respondent Contreraz'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 Regulation 3340.41, subdivision (a), as follows: Respondent failed to provide the operator with VIR's for the smog inspections that were performed on November 4, 2010, and November 9, 2010, described in paragraph 181 above.

EIGHTY-SEVENTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

189. Respondent Contreraz'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, as follows: Respondent charged the operator and CAP for adjusting the ignition timing on the Bureau's 1991 Honda Accord when, in fact, that repair had not been performed on the vehicle as invoiced. Further, the ignition timing was adjusted to manufacturer's specifications and was not in need of adjustment at the time the vehicle was taken to Respondent's station. In addition, the station had not obtained the operator's consent for that repair on the vehicle.

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EIGHTY-EIGHTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

190. Respondent Contreraz's Gold Shield Certification is subject to disciplinary action pursuant to Regulation 3392.5, subdivision (a)(1), in that Respondent Contreraz, Contreraz's manager, Larry Contreraz Jr., and Respondent Brar violated the provisions of the Motor Vehicle Inspection Program and engaged in conduct constituting causes for discipline against Contreraz's registration and smog check station license and Brar's technician license, as set forth above.

EIGHTY-NINTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud, or Deceit)

191. Respondent Contreraz's lamp and brake station licenses are subject to disciplinary action pursuant to Bus. & Prof. Code section 9889.3, subdivision (d), in that Respondent committed acts involving dishonesty, fraud, or deceit whereby another was injured, as set forth in paragraphs 46, 97, 113, 156, 172, and 186 above.

OTHER MATTERS

192. Pursuant to Bus. & Prof. Code section 9884.7, subdivision (c), the Director may suspend, revoke, or place on probation the registration for all places of business operated in this state by Respondent Larry M. Contreraz, owner of Contreraz Budget Smog Center, upon a finding that said Respondent has, or is, engaged in a course of repeated and willful violations of the laws and regulations pertaining to an automotive repair dealer.

193. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Station License Number RC 253392, issued to Respondent Larry M. Contreraz, owner of Contreraz Budget Smog Center, is revoked or suspended, any additional license issued under Chapter 5 of the Health & Saf. Code in the name of said licensee may be likewise revoked or suspended by the Director.

194. Pursuant to Regulation 3392.5, subdivision (a)(3), if Automotive Repair Dealer Registration Number ARD 253392 and/or Smog Check Station License Number RC 253392 issued to Respondent Larry M. Contreraz, owner of Contreraz Budget Smog Center, are revoked or suspended, the Gold Shield certification issued to Contreraz Budget Smog Center may be temporarily or permanently invalidated by the Bureau.

195. Pursuant to Bus. & Prof. Code section 9889.9, if Lamp Station License Number LS 253392, issued to Respondent Larry M. Contreraz, owner of Contreraz Budget Smog Center, is revoked or suspended, any additional license issued under Articles 5 and 6 of Chapter 20.3 of the Bus. & Prof. Code in the name of said licensee may be likewise revoked or suspended by the Director.

196. Pursuant to Bus. & Prof. Code section 9889.9, if Brake Station License Number BS 253392, issued to Respondent Larry M. Contreraz, owner of Contreraz Budget Smog Center, is revoked or suspended, any additional license issued under Articles 5 and 6 of Chapter 20.3 of the Bus. & Prof. Code in the name of said licensee may be likewise revoked or suspended by the Director.

197. Pursuant to Health & Saf. Code section 44072.8, if Advanced Emission Specialist Technician License Number EA 144594, issued to Respondent Kulbir S. Brar, is revoked or suspended, any additional license issued under Chapter 5 of the Health & Saf. Code in the name of said licensee may be likewise revoked or suspended by the Director.

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 253392, issued to Larry M. Contreraz, owner of Contreraz Budget Smog Center;

2. Revoking or suspending any other automotive repair dealer registration issued to Larry M. Contreraz;

3. Revoking or suspending Smog Check Station License Number RC 253392, issued to Larry M. Contreraz, owner of Contreraz Budget Smog Center;

4. Revoking or suspending any additional license issued under Chapter 5 of the Health and Safety Code in the name of Larry M. Contreraz;

5. Temporarily or permanently invalidating the Gold Shield certification issued to Contreraz Budget Smog Center;

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6. Revoking or suspending Lamp Station License Number LS 253392, issued to Larry M. Contreraz, owner of Contreraz Budget Smog Center;

7. Revoking or suspending Brake Station License Number BS 253392, issued to Larry M. Contreraz, owner of Contreraz Budget Smog Center;

8. Revoking or suspending any additional license issued under Articles 5 and 6 of Chapter 20.3 of the Business and Professions Code in the name of Larry M. Contreraz;

9. Revoking or suspending Advanced Emission Specialist Technician License Number EA 144594, issued to Kulbir S. Brar;

10. Revoking or suspending any additional license issued under Chapter 5 of the Health and Safety Code in the name of Kulbir S. Brar;

11. Ordering Larry M. Contreraz, owner of Contreraz Budget Smog Center, and Kulbir S. Brar to pay the Director of Consumer Affairs the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED: 6/10/11

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

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