

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

In the Matter of the Accusation Against:

**BROTHERS SMOG TEST CENTER;
KYU HWANG CHAE**
8101 S. Figueroa Street
Los Angeles, California 90003-2722

Automotive Repair Dealer Registration
No. AB 182534
Smog Check Test Only Station License
No. TB 182534

and

KYU HWANG CHAE
523 Clement Drive
Glendale, CA 91202

Advanced Emission Specialist Technician
License No. EA 113872

Respondents.

Case No. 79/08-53

OAH No. L-2008090275

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby accepted and adopted as the Decision of the Director of the Department of Consumer Affairs in the above-entitled matter.

This Decision shall become effective 4-20-09.

DATED: March 13, 2009

P. J. Harris
PATRICIA HARRIS
Deputy Director, Board/Bureau Support
Department of Consumer Affairs

1 EDMUND G. BROWN JR., Attorney General
of the State of California

2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 ALVARO MEJIA, State Bar No. 216956

4 Deputy Attorney General
300 So. Spring Street, Suite 1702
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5 Telephone: (213) 897-0083
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6 Attorneys for Complainant
7

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

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License No. EA 113872

21 Respondents.
22

Case No. 79/08-53

OAH No. L-2008090275

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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

26 **PARTIES**

27 1. Sherry Mehl (Complainant) is the Chief of the Bureau of Automotive
28 Repair. She brought this action solely in her official capacity and is represented in this matter by

1 ADVISEMENT AND WAIVERS

2 7. Respondent has carefully read, fully discussed with counsel, and
3 understands the charges and allegations in Accusation No. 79/08-53. Respondent has also
4 carefully read, fully discussed with counsel, and understands the effects of this Stipulated
5 Settlement and Disciplinary Order.

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

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

15 CULPABILITY

16 10. Respondent expressly admits that the Director of Consumer Affairs
17 (Director) has the authority to decide this matter, pursuant to Business and Professions Code
18 sections 9884.7 and 9884.13 and Health and Safety Code sections 44002 and 44072.6.
19 Respondent expressly admits the truth of each of the charges and allegations contained in
20 paragraphs 30, 31, 32 (a) and (b), 33 (c), 34 (a), and 35 (a) and (c) of Accusation No. 79/08-53.
21 As to the remaining causes for discipline, Respondent does not agree that cause exists to
22 discipline his registration or any of his licenses.

23 11. Respondent agrees that his Automotive Repair Dealer Registration, Smog
24 Check Test Only Station License, and Advanced Emission Specialist Technician License are
25 each subject to discipline and he agrees to be bound by the Director's imposition of discipline as
26 set forth in the Disciplinary Order below.

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1 CONTINGENCY

2 12. This stipulation shall be subject to approval by the Director of Consumer
3 Affairs or her designee. Respondent understands and agrees that counsel for Complainant and
4 the staff of the Bureau of Automotive Repair may communicate directly with the Director and
5 staff of the Department of Consumer Affairs regarding this stipulation and settlement, without
6 notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent
7 understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation
8 prior to the time the Director considers and acts upon it. If the Director fails to adopt this
9 stipulation as the Decision and Order, the Stipulated Settlement and Disciplinary Order shall be
10 of no force or effect, except for this paragraph, it shall be inadmissible in any legal action
11 between the parties, and the Director shall not be disqualified from further action by having
12 considered this matter.

13 13. The parties understand and agree that facsimile copies of this Stipulated
14 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
15 force and effect as the originals.

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

19 DISCIPLINARY ORDER

20 IT IS HEREBY ORDERED that Automotive Repair Dealer Registration No. AB
21 182534 issued to Respondent Kyu Hwang Chae, owner of Brothers Smog Test Center, Smog
22 Check Test Only Station License No. TB 182534 issued to Respondent Kyu Hwang Chae, owner
23 of Brothers Smog Test Center, and Advanced Emission Specialist Technician License No. EA
24 113872 issued to Respondent Kyu Hwang Chae are revoked. However, the revocations are
25 stayed and Respondent's Automotive Repair Dealer Registration, Smog Check Test Only Station
26 License, and Advanced Emission Specialist Technician License are each placed on probation for
27 three (3) years on the following terms and conditions:

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- 1 1. **Obey All Laws.** Comply with all statutes, regulations and rules governing
2 automotive inspections, estimates and repairs.
- 3 2. **Reporting.** Respondent or Respondent's authorized representative must
4 report in person or in writing as prescribed by the Bureau of Automotive Repair, on a schedule
5 set by the Bureau, but no more frequently than each quarter, on the methods used and success
6 achieved in maintaining compliance with the terms and conditions of probation.
- 7 3. **Report Financial Interest.** Within 30 days of the effective date of this
8 action, report any financial interest which any partners, officers, or owners of the Respondent
9 facility may have in any other business required to be registered pursuant to Section 9884.6 of
10 the Business and Professions Code.
- 11 4. **Random Inspections.** Provide Bureau representatives unrestricted access
12 to inspect all vehicles (including parts) undergoing repairs, up to and including the point of
13 completion.
- 14 5. **Jurisdiction.** If an accusation is filed against Respondent during the term
15 of probation, the Director of Consumer Affairs shall have continuing jurisdiction over this matter
16 until the final decision on the accusation, and the period of probation shall be extended until such
17 decision.
- 18 6. **Violation of Probation.** Should the Director of Consumer Affairs
19 determine that Respondent has failed to comply with the terms and conditions of probation, the
20 Department may, after giving notice and opportunity to be heard temporarily or permanently
21 invalidate the registration and suspend or revoke the licenses.
- 22 7. **Continuing Education Courses.** During the period of probation,
23 Respondent shall attend and successfully complete a sixteen (16) hour Bureau certified training
24 course in diagnosis and repair of emission systems failures and engine performance, applicable
25 to the class of license held by the Respondent. Said course shall be completed and proof of
26 completion submitted to the Bureau within 60 days of the effective date of this decision and
27 order. If proof of completion of the course is not furnished to the Bureau within the 60-day
28 period, Respondents' license shall be immediately suspended until such proof is received.

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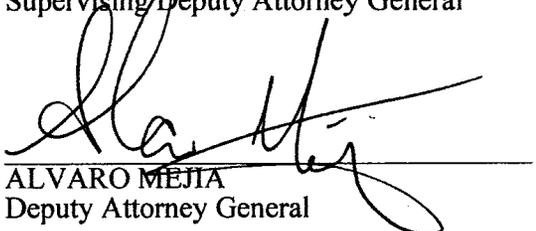
ENDORSEMENT

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

DATED: 1/12/2009

EDMUND G. BROWN JR., Attorney General
of the State of California

GREGORY J. SALUTE
Supervising Deputy Attorney General



A handwritten signature in black ink, appearing to read 'Alvaro Mejia', is written over a horizontal line.

ALVARO MEJIA
Deputy Attorney General

Attorneys for Complainant

DOJ Matter ID: LA2007600990
60371866.wpd

1 EDMUND G. BROWN JR., Attorney General
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15 Smog Check, Test Only, Station License
No. TB 182534,
16
and
17
KYU HWANG CHAE
18 523 Clement Drive
Glendale, CA 91202
19
Advanced Emission Specialist Technician
20 License No. EA 113872
21
Respondents.

Case No. 79/08-53

ACCUSATION
SMOG CHECK

22
23 Complainant alleges:

24 **PARTIES**

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

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11. 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."

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

13. 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:

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

....

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

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

COST RECOVERY

14. 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.

UNDERCOVER OPERATION #1: 1987 BUICK REGAL

15. On January 12, 2006, a Bureau undercover operator ("operator") took the Bureau's 1987 Buick Regal to Chung's Auto Repair ("Chung's") and requested a smog inspection. The carburetor throttle position sensor ("TPS") on the Bureau-documented vehicle had been misadjusted, causing the exhaust tailpipe emissions to exceed the gross polluter limits. After the smog inspection was completed, Chung's employee, "Ted", told the operator that the vehicle had failed the test. The operator authorized Chung's to diagnose the problem with the vehicle. Ted

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1 constitutes fraud, as follows: Respondent issued an electronic smog certificate of compliance for
2 the Bureau's 1987 Buick Regal without performing a bona fide inspection of the emission
3 control devices and systems on the vehicle, thereby depriving the People of the State of
4 California of the protection afforded by the Motor Vehicle Inspection Program.

5 **THIRD CAUSE FOR DISCIPLINE**

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

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

10 a. **Section 44012:** Respondent failed to perform the emission control tests
11 on the Bureau's 1987 Buick Regal in accordance with procedures
12 prescribed by the department.

13 b. **Section 44015:** Respondent issued an electronic smog certificate of
14 compliance for the Bureau's 1987 Buick Regal without properly testing
15 and inspecting the vehicle to determine if it was in compliance with Health
16 & Saf. Code section 44012.

17 **FOURTH CAUSE FOR DISCIPLINE**

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

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

23 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently
24 issued an electronic smog certificate of compliance for the Bureau's 1987
25 Buick Regal.

26 b. **Section 3340.35, subdivision (c):** Respondent issued an electronic smog
27 certificate of compliance for the Bureau's 1987 Buick Regal even though

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1 the vehicle had not been inspected in accordance with Health & Saf. Code
2 section 3340.42.

- 3 c. **3340.41, subdivision (c)**: Respondent knowingly entered into the
4 emissions inspection system false information about the Bureau's 1987
5 Buick Regal.
6 d. **Section 3340.42**: Respondent failed to conduct the required smog tests on
7 the Bureau's 1987 Buick Regal in accordance with the Bureau's
8 specifications.

9 **FIFTH CAUSE FOR DISCIPLINE**

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

11 22. Respondent's smog check station license is subject to disciplinary action
12 pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed a
13 dishonest, fraudulent or deceitful act whereby another is injured by issuing an electronic smog
14 certificate of compliance for the Bureau's 1987 Buick Regal without performing a bona fide
15 inspection of the emission control devices and systems on the vehicle, thereby depriving the
16 People of the State of California of the protection afforded by the Motor Vehicle Inspection
17 Program.

18 **SIXTH CAUSE FOR DISCIPLINE**

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

20 23. Respondent's technician license is subject to disciplinary action pursuant
21 to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to comply with
22 provisions of that Code as follows:

- 23 a. **Section 44012**: Respondent failed to perform the emission control tests
24 on the Bureau's 1987 Buick Regal in accordance with procedures
25 prescribed by the department.
26 b. **Section 44059**: Respondent willfully made false entries on the VIR, as set
27 forth in paragraph 18 above.

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1 **SEVENTH CAUSE FOR DISCIPLINE**

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

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

- 7 a. **Section 3340.24, subdivision (c)**: Respondent falsely or fraudulently
8 issued an electronic smog certificate of compliance for the Bureau's
9 1987 Buick Regal.
- 10 b. **Section 3340.30, subdivision (a)**: Respondent failed to inspect and test
11 the Bureau's 1987 Buick Regal in accordance with Health & Saf.
12 Code sections 44012 and 44035, and California Code of Regulations, title
13 16, section 3340.42.
- 14 c. **3340.41, subdivision (c)**: Respondent knowingly entered into the
15 emissions inspection system false information about the Bureau's 1987
16 Buick Regal.
- 17 d. **Section 3340.42**: Respondent failed to conduct the required smog tests on
18 the Bureau's 1987 Buick Regal in accordance with the Bureau's
19 specifications.

20 **EIGHTH CAUSE FOR DISCIPLINE**

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

22 25. Respondent's technician license is subject to disciplinary action pursuant
23 to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed a
24 dishonest, fraudulent or deceitful act whereby another is injured by issuing an electronic smog
25 certificate of compliance for the Bureau's 1987 Buick Regal without performing a bona fide
26 inspection of the emission control devices and systems on the vehicle, thereby depriving the
27 People of the State of California of the protection afforded by the Motor Vehicle Inspection
28 Program.

1 ignition timing on the vehicle was 10 degrees BTDC (before top dead center) or "B10" and was
2 within manufacturer's specifications at the time the vehicle was taken to Respondent's facility.

3 **TENTH CAUSE FOR DISCIPLINE**

4 **(Failure to Provide an Invoice)**

5 31. Respondent's registration is subject to disciplinary action pursuant to Bus.
6 & Prof. Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with section
7 9884.8 of that Code, as follows: On or about May 17, 2006, Respondent failed to provide the
8 operator with an invoice listing all service work performed and/or parts supplied on the Bureau's
9 1993 Mazda Protege following the smog inspection on the vehicle.

10 **ELEVENTH CAUSE FOR DISCIPLINE**

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

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

- 15 a. **Section 44012:** On or about May 17, 2006, Respondent failed to perform
16 the emission control tests on the Bureau's 1993 Mazda Protege in
17 accordance with procedures prescribed by the department.
- 18 b. **Section 44014.5, subdivision (c):** On or about May 17, 2006, Respondent
19 or his employee(s) referred the operator to a particular provider of vehicle
20 repair services, i.e., Chung's.

21 **TWELFTH CAUSE FOR DISCIPLINE**

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

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

- 27 a. **Section 3340.41, subdivision (a):** On or about May 17, 2006, Respondent
28 failed to give a copy of the VIR to the operator.

- 1 b. **3340.41, subdivision (c)**: On or about May 17, 2006, Respondent
2 knowingly entered into the emissions inspection system false information
3 about the Bureau's 1993 Mazda Protege.
4 c. **Section 3340.42**: On or about May 17, 2006, Respondent failed to
5 conduct the required smog tests on the Bureau's 1993 Mazda Protege in
6 accordance with the Bureau's specifications.

7 **THIRTEENTH CAUSE FOR DISCIPLINE**

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

9 34. Respondent's technician license is subject to disciplinary action pursuant
10 to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to comply with
11 provisions of that Code as follows:

- 12 a. **Section 44012**: On or about May 17, 2006, Respondent failed to perform
13 the emission control tests on the Bureau's 1993 Mazda Protege in
14 accordance with procedures prescribed by the department.
15 b. **Section 44059**: Respondent willfully made false entries on the VIR
16 dated May 17, 2006, as set forth in paragraph 30 above.

17 **FOURTEENTH CAUSE FOR DISCIPLINE**

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

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

- 23 a. **Section 3340.30, subdivision (a)**: On or about May 17, 2006, Respondent
24 failed to inspect and test the Bureau's 1993 Mazda Protege in accordance
25 with Health & Saf. Code sections 44012 and 44035, and California Code
26 of Regulations, title 16, section 3340.42.

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1 b. **3340.41, subdivision (c)**: On or about May 17, 2006, Respondent
2 knowingly entered into the emissions inspection system false information
3 about the Bureau's 1993 Mazda Protege.

4 c. **Section 3340.42**: On or about May 17, 2006, Respondent failed to
5 conduct the required smog tests on the Bureau's 1993 Mazda Protege in
6 accordance with the Bureau's specifications.

7 **UNDERCOVER OPERATION #3: 1986 JEEP CHEROKEE**

8 36. On December 5, 2006, a Bureau undercover operator ("operator") took the
9 Bureau's 1986 Jeep Cherokee to Respondent's facility and requested a smog inspection. A
10 defective coolant temperature sensor had been installed in the Bureau-documented vehicle. The
11 operator signed and received a copy of a work order for the inspection. After the inspection was
12 completed, the operator was told that the vehicle had failed the test. The operator paid the
13 facility \$42 and was given an invoice and a VIR signed by Respondent. The VIR indicated that
14 the vehicle failed the inspection as a gross polluter.

15 37. At approximately 1135 hours that same day, the operator took the vehicle
16 to Chung's and requested a diagnosis of the smog inspection failure. After the diagnosis was
17 performed on the vehicle, Chung's employee, "Ted", told the operator that the engine needed
18 major adjustments along with vacuum and electrical repairs at an estimated cost of \$350. The
19 operator authorized the work.

20 38. On December 6, 2006, the operator returned to Chung's to retrieve the
21 vehicle. Ted gave the operator an invoice totaling \$360.82 and told him that the vehicle had
22 passed the smog inspection and that he was charging the operator an additional \$10 for the smog
23 certificate. The operator paid Ted \$360 in cash and received copies of various documents,
24 including a VIR dated December 5, 2006, with a time of 1516 hours, signed by Respondent.
25 That same day, electronic smog Certificate of Compliance Number VD211924C was issued for
26 the vehicle.

27 39. On December 7, 2006, a Bureau representative inspected and performed a
28 smog test on the vehicle. The representative found that the vehicle failed the functional ignition

1 timing test because the ignition timing was not adjusted properly and was not within
2 manufacturer's specifications¹. Further, the defective coolant temperature sensor was still in
3 place on the vehicle, causing excessive exhaust tailpipe emissions.

4 **FIFTEENTH CAUSE FOR DISCIPLINE**

5 **(Untrue or Misleading Statements)**

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

10 a. Respondent certified under penalty of perjury on the VIR dated December
11 5, 2006, with a time of 1516 hours, that the Bureau's 1986 Jeep Cherokee had passed inspection
12 and was in compliance with applicable laws and regulations. In fact, the ignition timing was not
13 adjusted properly and was not within manufacturer's specifications. Further, the coolant
14 temperature sensor was defective, causing excessive exhaust tailpipe emissions. As such, the
15 vehicle would not pass the inspection required by Health & Saf. Code section 44012.

16 b. Respondent certified under penalty of perjury on the VIR dated December
17 5, 2006, with a time of 1516 hours, that the ignition timing on the Bureau's 1986 Jeep Cherokee
18 was "B11". In fact, the ignition timing was 5 degrees before top dead center or "B5" at the time
19 the Bureau representative inspected the vehicle on December 7, 2006.

20 **SIXTEENTH CAUSE FOR DISCIPLINE**

21 **(Fraud)**

22 41. Respondent's registration is subject to disciplinary action pursuant to Bus.
23 & Prof. Code section 9884.7, subdivision (a)(4), in that Respondent committed an act which
24 constitutes fraud, as follows: Respondent issued an electronic smog certificate of compliance for
25 the Bureau's 1986 Jeep Cherokee without performing a bona fide inspection of the emission

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28 1. The ignition timing was 10 degrees before top dead center and was within manufacturer's specifications
at the time the vehicle was taken to Respondent's facility.

1 control devices and systems on the vehicle, thereby depriving the People of the State of
2 California of the protection afforded by the Motor Vehicle Inspection Program.

3 **SEVENTEENTH CAUSE FOR DISCIPLINE**

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

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

- 8 a. **Section 44012**: Respondent failed to perform the emission control tests
9 on the Bureau's 1986 Jeep Cherokee in accordance with procedures
10 prescribed by the department.
- 11 b. **Section 44015**: Respondent issued an electronic smog certificate of
12 compliance for the Bureau's 1986 Jeep Cherokee without properly testing
13 and inspecting the vehicle to determine if it was in compliance with Health
14 & Saf. Code section 44012.

15 **EIGHTEENTH CAUSE FOR DISCIPLINE**

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

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

- 21 a. **Section 3340.24, subdivision (c)**: Respondent falsely or fraudulently
22 issued an electronic smog certificate of compliance for the Bureau's 1986
23 Jeep Cherokee.
- 24 b. **Section 3340.35, subdivision (c)**: Respondent issued an electronic smog
25 certificate of compliance for the Bureau's 1986 Jeep Cherokee even
26 though the vehicle had not been inspected in accordance with Health &
27 Saf. Code section 3340.42.

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- 1 c. **3340.41, subdivision (c):** Respondent knowingly entered into the
2 emissions inspection system false information about the Bureau's 1986
3 Jeep Cherokee.
4 d. **Section 3340.42:** Respondent failed to conduct the required smog tests on
5 the Bureau's 1986 Jeep Cherokee in accordance with the Bureau's
6 specifications.

7 **NINETEENTH CAUSE FOR DISCIPLINE**

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

9 44. Respondent's smog check station license is subject to disciplinary action
10 pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed a
11 dishonest, fraudulent or deceitful act whereby another is injured by issuing an electronic smog
12 certificate of compliance for the Bureau's 1986 Jeep Cherokee without performing a bona fide
13 inspection of the emission control devices and systems on the vehicle, thereby depriving the
14 People of the State of California of the protection afforded by the Motor Vehicle Inspection
15 Program.

16 **TWENTIETH CAUSE FOR DISCIPLINE**

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

18 45. Respondent's technician license is subject to disciplinary action pursuant
19 to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to comply with
20 provisions of that Code as follows:

- 21 a. **Section 44012:** Respondent failed to perform the emission control tests
22 on the Bureau's 1986 Jeep Cherokee in accordance with procedures
23 prescribed by the department.
24 b. **Section 44059:** Respondent willfully made false entries on the VIR with a
25 time of 1516 hours, as set forth in paragraph 40 above.

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TWENTY-FIRST CAUSE FOR DISCIPLINE

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

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

- a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued an electronic smog certificate of compliance for the Bureau's 1986 Jeep Cherokee.
- b. **Section 3340.30, subdivision (a):** Respondent failed to inspect and test the Bureau's 1986 Jeep Cherokee in accordance with Health & Saf. Code sections 44012 and 44035, and California Code of Regulations, title 16, section 3340.42.
- c. **3340.41, subdivision (c):** Respondent knowingly entered into the emissions inspection system false information about the Bureau's 1986 Jeep Cherokee.
- d. **Section 3340.42:** Respondent failed to conduct the required smog tests on the Bureau's 1986 Jeep Cherokee in accordance with the Bureau's specifications.

TWENTY-SECOND CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

47. Respondent's technician license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed a dishonest, fraudulent or deceitful act whereby another is injured by issuing an electronic smog certificate of compliance for the Bureau's 1986 Jeep Cherokee without performing a bona fide inspection of the emission control devices and systems on the vehicle, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

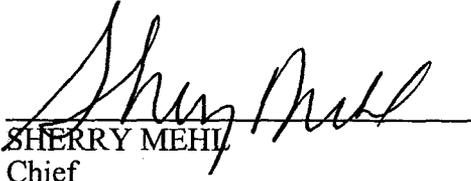
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5. Revoking or suspending any additional license issued under Chapter 5 of the Health and Safety Code in the name of Kyu Hwang Chae;

6. Ordering Respondent Kyu Hwang Chae, individually and as owner of Brothers Smog Test Center, to pay the Bureau of Automotive Repair the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED: 2-15-08



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

Complainant