

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

In the Matter of the Accusation Against:

SUNLAND VALERO SERVICE STATION
MOE H. AYACH, Partner
BASSAM ESKAF, Partner
8404 Foothill Blvd.
Sunland, CA 91040

Automotive Repair Dealer Registration
No. AM 186717
Smog Check Station License No. RM 186717
Official Brake Station License No. BM 186717
Official Lamp Station License No. LM 186717

MOE H. AYACH
10359 Haines Canyon
Tujunga, CA 91042

Advanced Emission Specialist Technician
License No. EA 141957

and

JOSE G. GARCIA
132 S. Jackson Street, #5
Glendale, CA 91205

Brake Adjuster License No. JC 101697
Lamp Adjuster License No. RY 101697

Respondents.

Case No. 79/08-67

OAH No. L-2008120245

DECISION

The attached Stipulated Settlement and Disciplinary Order Re: Respondent Moe H. Ayach Only is hereby accepted and adopted as the Decision of the Director of the Department of Consumer Affairs in the above-entitled matter only as to respondent Moe H. Ayach, Advanced Emission Specialist Technician License No. EA 141957.

The suspension of Advanced Emission Specialist Technician License No. EA 141957 shall commence on the effective date of this Decision.

This Decision shall become effective 2/30/09.

DATED: May 26, 2009

P. J. Harris
PATRICIA HARRIS
Acting Chief Deputy Director
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 TERRENCE M. MASON, State Bar No. 158935
Deputy Attorney General
4 300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
5 Telephone: (213) 897-6294
Facsimile: (213) 897-2804
6

Attorneys for Complainant
7

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

11 In the Matter of the Accusation Against:

12 **SUNLAND VALERO SERVICE STATION**
MOE H. AYACH, Partner
13 BASSAM ESKAF, Partner
8404 Foothill Blvd.
14 Sunland, CA 91040

15 Automotive Repair Dealer Reg. No. AM186717
Smog Check Station License No. RM 186717
16 Official Brake Station License No. BM 186717
Official Lamp Station License No. LM 186717
17

and
18

19 **MOE H. AYACH**
10359 Haines Canyon
Tujunga, CA 91042
20

Advanced Emission Specialist Technician
21 License No. EA 141957

22 Respondents.
23

Case No. 79/08-67

OAH No. L-2008120245

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER RE:
RESPONDENT MOE H. AYACH
ONLY**

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 ("Bureau"). She brought this action solely in her official capacity and is represented in

1 this matter by Edmund G. Brown Jr., Attorney General of the State of California, by Terrence M.
2 Mason, Deputy Attorney General.

3 2. Moe H. Ayach ("Respondent") is represented in this proceeding by
4 attorney Michael B. Levin, whose address is 3727 Camino del Rio South, Suite 200, San Diego,
5 California 92108.

6 3. On or about May 2, 2001, the Bureau of Automotive Repair issued
7 **Advanced Emission Specialist Technician License No. EA 141957** to Respondent Moe H.
8 Ayach. The Advanced Emission Specialist Technician License was in full force and effect at all
9 times relevant to the charges brought in Accusation No. 79/08-67 and will expire on December
10 31, 2009, unless renewed.

11 JURISDICTION

12 4. Accusation No. 79/08-67 was filed before the Bureau of Automotive
13 Repair and is currently pending against Respondent. The Accusation and all other statutorily
14 required documents were properly served on Respondent on May 6, 2008. Respondent timely
15 filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 79/08-67 is
16 attached as Exhibit A and incorporated herein by reference.

17 ADVISEMENT AND WAIVERS

18 5. Respondent has carefully read, fully discussed with counsel, and
19 understands the charges and allegations in Accusation No. 79/08-67. Respondent has also
20 carefully read, fully discussed with counsel, and understands the effects of this Stipulated
21 Settlement and Disciplinary Order.

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

1 to be bound by the Decision and Order of the Director of the Department of Consumer Affairs.

2 DATED: _____.

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MOE H. AYACH
Respondent

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I have read and fully discussed with Respondent Moe H. Ayach the terms and
8 conditions and other matters contained in the above Stipulated Settlement and Disciplinary
9 Order. I approve its form and content.

10 DATED: _____.

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MICHAEL B. LEVIN
Attorney for Respondent

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15

16

ENDORSEMENT

17

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

19 DATED: _____

20

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

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TERRENCE M. MASON
Deputy Attorney General

24

25

Attorneys for Complainant

26

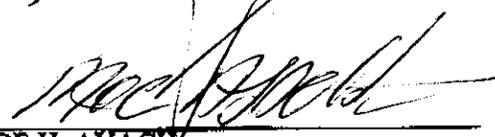
DOJ Matter ID: LA2007601912
Ayach.wpd

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1 to be bound by the Decision and Order of the Director of the Department of Consumer Affairs.

2 DATED: 4-29-2009

3
4 
5 MOE H. AYACH
6 Respondent

7 I have read and fully discussed with Respondent Moe H. Ayach the terms and
8 conditions and other matters contained in the above Stipulated Settlement and Disciplinary
9 Order. I approve its form and content.

10 DATED: 5/1/09

11
12 
13 MICHAEL B. LEVIN
14 Attorney for Respondent

15
16 **ENDORSEMENT**

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

19 DATED: _____

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

22
23 TERRENCE M. MASON
24 Deputy Attorney General

25 Attorneys for Complainant

26 DOJ Matter ID: LA2007601912
27 Ayach.wpd

28

1 to be bound by the Decision and Order of the Director of the Department of Consumer Affairs.

2 DATED: _____

3

4

MOE H. AYACH
Respondent

5

6

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8

9

I have read and fully discussed with Respondent Moe H. Ayach the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

10

DATED: 4/29/09

11

12


MICHAEL B. LEVIN
Attorney for Respondent

13

14

15

16

ENDORSEMENT

17

18

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

19

DATED: 4/30/09

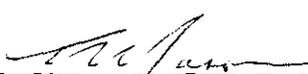
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EDMUND G. BROWN JR., Attorney General
of the State of California

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23


TERRENCE M. MASON
Deputy Attorney General

24

Attorneys for Complainant

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DOI Matter ID: LA2007601912
Ayach.wpd

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Exhibit A
Accusation No. 79/08-67

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 KAREN B. CHAPPELLE
Supervising Deputy Attorney General
3 GREGORY J. SALUTE, State Bar No. 164015
Deputy Attorney General
4 300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
5 Telephone: (213) 897-2520
Facsimile: (213) 897-2804

6 Attorneys for Complainant
7

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

11 In the Matter of the Accusation Against:

Case No. 79/08-67

12 SUNLAND VALERO SERVICE STATION
MOE H. AYACH, PARTNER
13 BASSAM ESKAF, PARTNER
8404 Foothill Blvd.
14 Sunland, CA 91040

ACCUSATION

SMOG CHECK

15 Automotive Repair Dealer Reg. No. AM 186717
Smog Check Station License No. RM 186717
16 Official Brake Station License No. BM 186717
Official Lamp Station License No. LM 186717,

17 MOE H. AYACH
18 10359 Haines Canyon
Tujunga, CA 91042

19 Advanced Emission Specialist Technician
20 License No. EA 141957,

21 and

22 JOSE G. GARCIA
132 S. Jackson Street, #5
23 Glendale, CA 91205

24 Brake Adjuster License No. JC 101697
Lamp Adjuster License No. RY 101697

Respondents.

27 ///

28 ///

1 Complainant alleges:

2 **PARTIES**

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

6 **Sunland Valero Service Station:**

7 2. On or about December 22, 1995, the Director of Consumer Affairs
8 ("Director") issued Automotive Repair Dealer Registration Number AM 186717 ("registration")
9 to Tujunga Shell, with Moe H. Ayach and Bassam Eskaf as partners. In or about January 2006,
10 the partnership name was changed to Tujunga Service Station. On or about February 7, 2007, the
11 partnership name was changed to Sunland Valero Service Station ("Respondent Sunland").
12 Respondent Sunland's registration was in full force and effect at all times relevant to the charges
13 brought herein and will expire on December 31, 2008, unless renewed.

14 3. On or about September 9, 1996, the Director issued Smog Check Station
15 License Number RM 186717 to Respondent Sunland. Respondent Sunland's smog check station
16 license was in full force and effect at all times relevant to the charges brought herein and will
17 expire on December 31, 2008, unless renewed.

18 4. On or about December 8, 2004, the Director issued Official Brake Station
19 License Number BM 186717 to Respondent Sunland. Respondent Sunland's official brake
20 station license was in full force and effect at all times relevant to the charges brought herein and
21 will expire on December 31, 2008, unless renewed.

22 5. On or about December 22, 2004, the Director issued Official Lamp Station
23 License Number LM 186717 to Respondent Sunland. Respondent Sunland's official lamp
24 station license was in full force and effect at all times relevant to the charges brought herein and
25 will expire on December 31, 2008, unless renewed.

26 **Moe H. Ayach:**

27 6. On or about May 2, 2001, the Director issued Advanced Emission
28 Specialist Technician License Number EA 141957 to Moe H. Ayach ("Respondent Ayach").

1 Respondent Ayach's advanced emission specialist technician license was in full force and effect
2 at all times relevant to the charges brought herein and will expire on December 31, 2008, unless
3 renewed.

4 **Jose G. Garcia:**

5 7. In or about 1997, the Director issued Advanced Emission Specialist
6 Technician License Number EA 101697 to Jose G. Garcia ("Respondent Garcia"). Respondent
7 Garcia's advanced emission specialist technician license expired on March 31, 2007.

8 8. On or about December 2, 2004, the Director issued Brake Adjuster
9 License Number JC 101697 to Respondent Garcia. Respondent Garcia's brake adjuster license
10 was in full force and effect at all times relevant to the charges brought herein and will expire on
11 March 31, 2009, unless renewed.

12 9. On or about December 2, 2004, the Director issued Lamp Adjuster License
13 Number RY 101697 to Respondent Garcia. Respondent Garcia's lamp adjuster license was in
14 full force and effect at all times relevant to the charges brought herein and will expire on March
15 31, 2009, unless renewed.

16 **JURISDICTION**

17 10. Business and Professions Code ("Bus. & Prof. Code") section 9884.7
18 provides that the Director may invalidate an automotive repair dealer registration.

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

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

26 13. Bus. & Prof. Code section 9889.7 provides, in pertinent part, that the
27 expiration or suspension of a license by operation of law or by order or decision of the Director

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1 or a court of law, or the voluntary surrender of a license shall not deprive the Director of
2 jurisdiction to proceed with any disciplinary proceedings.

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

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

10 **STATUTORY PROVISIONS**

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

12 (a) The director, where the automotive repair dealer cannot show there
13 was a bona fide error, may refuse to validate, or may invalidate temporarily or
14 permanently, the registration of an automotive repair dealer for any of the
15 following acts or omissions related to the conduct of the business of the
16 automotive repair dealer, which are done by the automotive repair dealer or any
17 automotive technician, employee, partner, officer, or member of the automotive
18 repair dealer.

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

23

24 (4) Any other conduct which constitutes fraud.

25

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

28 (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.

. . . .

(c) Notwithstanding subdivision (b), the director may refuse to
validate, or may invalidate temporarily or permanently, the registration
for all places of business operated in this state by an automotive repair

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1 dealer upon a finding that the automotive repair dealer has, or is, engaged
2 in a course of repeated and willful violations of this chapter, or regulations
adopted pursuant to it.

3 17. Bus. & Prof. Code section 9884.8 states:

4 All work done by an automotive repair dealer, including all warranty
5 work, shall be recorded on an invoice and shall describe all service work done
and parts supplied. Service work and parts shall be listed separately on the
6 invoice, which shall also state separately the subtotal prices for service work
and for parts, not including sales tax, and shall state separately the sales tax,
7 if any, applicable to each. If any used, rebuilt, or reconditioned parts are
supplied, the invoice shall clearly state that fact. If a part of a component
8 system is composed of new and used, rebuilt or reconditioned parts, such
invoice shall clearly state that fact. One copy shall be given to the customer
and one copy shall be retained by the automotive repair dealer.

9
10 18. Bus. & Prof. Code section 9884.9, subdivision (a), states, in pertinent part:

11 The automotive repair dealer shall give to the customer a written
12 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
13 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
14 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
15 estimated are supplied. Written consent or authorization for an increase in the
original estimated price may be provided by electronic mail or facsimile
16 transmission from the customer. The bureau may specify in regulation the
procedures to be followed by an automotive repair dealer when an authorization
17 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
18 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
19 specification of the additional parts and labor and the total additional cost . . .

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

21 The director may suspend, revoke, or take other disciplinary action
22 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:

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

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

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

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

20. Bus. & Prof. Code section 9889.16 states:

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

21. Bus. & Prof. Code section 9889.22 states:

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

22. 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."

23. 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."

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

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1 121361, and Certificate of Lamp Adjustment Number LC 118763. The operator was not given a
2 final invoice. That same day, electronic smog Certificate of Compliance Number FW901832C
3 was issued for the vehicle.

4 29. The Bureau's surveillance video revealed that an unidentified person
5 performed the brake and lamp inspections on the vehicle.

6 30. On August 17, 2005, a representative of the Bureau inspected the vehicle
7 and found that the PCV system was still missing, the left rear wheel had not been removed from
8 the vehicle, the defective light bulbs in the license plate lights had not been replaced, and the
9 headlamps had not been adjusted.

10 **FIRST CAUSE FOR DISCIPLINE**

11 **(Untrue or Misleading Statements)**

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

16 a. Respondent Sunland's smog check technician, Respondent Ayach,
17 certified under penalty of perjury on the vehicle inspection report that the Bureau's 1994
18 Chevrolet S-10 pickup passed the smog check inspection and was in compliance with applicable
19 laws and regulations. In fact, the PCV system was missing and as such, the vehicle would not
20 pass the inspection required by Health & Saf. Code section 44012.

21 b. Respondent certified under penalty of perjury on Brake Certificate Number
22 BC 121361 that the applicable inspection was performed on the brake system on the Bureau's
23 1994 Chevrolet S-10 pickup. In fact, Respondent failed to inspect the left rear brake on the
24 vehicle.

25 c. Respondent certified under penalty of perjury on Lamp Certificate Number
26 LC 118763 that the applicable adjustment was performed on the lighting system on the Bureau's
27 1994 Chevrolet S-10 pickup. In fact, the headlamps had not been adjusted. Further, the right

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1 headlamp was 10 inches out of adjustment at the time the vehicle was taken to Respondent's
2 facility.

3 d. Respondent certified under penalty of perjury on Lamp Certificate Number
4 LC 118763 that the applicable repairs had been performed on the lighting system on the Bureau's
5 1994 Chevrolet S-10 pickup. In fact, the license plate lamps were not repaired or operating (the
6 burned-out bulbs were still installed on the vehicle).

7 e. Respondent certified under penalty of perjury on Brake Certificate Number
8 BC 121361 and Lamp Certificate Number LC 118763 that Respondent Garcia performed the
9 inspections of the brake and lighting systems on the Bureau's 1994 Chevrolet S-10 pickup. In
10 fact, the inspections were performed by an unidentified person.

11 **SECOND CAUSE FOR DISCIPLINE**

12 **(Fraud)**

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

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

20 b. Respondent charged and obtained payment from the operator for
21 performing the applicable inspections, adjustments, or repairs of the brake and lighting systems
22 on the Bureau's 1994 Chevrolet S-10 pickup as specified by the Bureau and in accordance with
23 the Vehicle Code. In fact, Respondent failed to conduct the inspections and perform the
24 necessary adjustments and repairs in compliance with Bureau Regulations or the Vehicle Code,
25 as set forth in subparagraphs 31 (b) through (d) above.

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1 **THIRD CAUSE FOR DISCIPLINE**

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

3 33. Respondent Sunland's registration is subject to disciplinary action
4 pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(6), in that Respondent failed in a
5 material respect to comply with provisions of that Code, as follows:

- 6 a. **Section 9884.8:** Respondent failed to provide the operator with an invoice
7 listing all service work performed on the Bureau's 1994 Chevrolet S-10
8 pickup.
- 9 b. **Section 9884.9, subdivision (a):** Respondent failed to provide the
10 operator with a written estimate for parts and/or labor necessary for the
11 smog, brake, and lamp inspections on the Bureau's 1994 Chevrolet S-10
12 pickup.
- 13 c. **Section 9889.16:** Respondent issued Brake Certificate Number
14 BC 121361 and Lamp Certificate Number LC 118763 as to the Bureau's
15 1994 Chevrolet S-10 pickup when the vehicle was not in compliance with
16 Bureau Regulations or the requirements of the Vehicle Code.
- 17 d. **Section 9889.22:** Respondent willfully made false statements or entries
18 on Brake Certificate Number BC 121361 and Lamp Certificate Number
19 LC 118763, as set forth in subparagraphs 31 (b) through (e) above.

20 **FOURTH CAUSE FOR DISCIPLINE**

21 **(Violations of Regulations)**

22 34. Respondent Sunland's registration is subject to disciplinary action
23 pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(6), in that Respondent failed in a
24 material respect to comply with provisions of California Code of Regulations, title 16, as
25 follows:

- 26 a. **Section 3303, subdivision (j):** Respondent failed to have the operator
27 sign a work order authorizing the smog check, brake, and lamp inspections
28 on the Bureau's 1994 Chevrolet S-10 pickup.

1 b. Section 3340.35, subdivision (c): Respondent issued an electronic smog
2 certificate of compliance for the Bureau's 1994 Chevrolet S-10 pickup
3 even though the vehicle had not been inspected in accordance with section
4 3340.42.

5 c. Section 3340.42: Respondent failed to conduct the required smog tests on
6 the Bureau's 1994 Chevrolet S-10 pickup in accordance with the Bureau's
7 specifications.

8 **TENTH CAUSE FOR DISCIPLINE**

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

10 40. Respondent Sunland's smog check station license is subject to disciplinary
11 action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent
12 committed a dishonest, fraudulent, or deceitful act whereby another is injured, as follows:
13 Respondent issued an electronic smog certificate of compliance for the Bureau's 1994 Chevrolet
14 S-10 pickup without performing a bona fide inspection of the emission control devices and
15 systems on the vehicle, thereby depriving the People of the State of California of the protection
16 afforded by the Motor Vehicle Inspection Program.

17 **ELEVENTH CAUSE FOR DISCIPLINE**

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

19 41. Respondent Ayach's advanced emission specialist technician license is
20 subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (a), in
21 that Respondent failed in a material respect to comply with provisions of that Code, as follows:

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

25 b. Section 44059: Respondent willfully made false entries on the vehicle
26 inspection report, as set forth in subparagraph 31 (a) above.

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1 TWELFTH CAUSE FOR DISCIPLINE

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

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

- 8 a. Section 3340.24, subdivision (c): Respondent falsely or fraudulently
9 issued an electronic smog certificate of compliance for the Bureau's 1994
10 Chevrolet S-10 pickup.
- 11 b. Section 3340.30, subdivision (a): Respondent failed to inspect and test
12 the Bureau's 1994 Chevrolet S-10 pickup in accordance with Health &
13 Saf. Code sections 44012 and 44035, and California Code of Regulations,
14 title 16, section 3340.42.
- 15 c. Section 3340.42: Respondent failed to conduct the required smog tests on
16 the Bureau's 1994 Chevrolet S-10 pickup in accordance with the Bureau's
17 specifications.

18 THIRTEENTH CAUSE FOR DISCIPLINE

19 (Dishonesty, Fraud or Deceit)

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

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1 **UNDERCOVER-VIDEO SURVEILLANCE OPERATION #2:**

2 **1987 TOYOTA CAMRY WAGON**

3 44. On January 27, 2006, an undercover operator with the Bureau, using the
4 fictitious name "Chris Fayez" (hereinafter "operator"), took the Bureau's 1987 Toyota Camry
5 wagon to Respondent Sunland's facility and requested a smog inspection and a brake and lamp
6 inspection. The ignition timing on the Bureau-documented vehicle was not adjusted to
7 manufacturer's specifications, the inside diameters of the rear brake drums were machined
8 beyond the manufacturer's discard specifications, requiring the replacement of the brake drums,
9 the headlamps were mis-adjusted, and the light bulbs in the two rear license plate lights were
10 burned out, preventing the license plate lights from operating. The operator signed and received
11 a copy of a written estimate, totaling \$120, for the inspections, then left the facility.

12 45. At approximately 1115 hours that same day, the operator received a
13 telephone call from the facility. The operator was informed that the ignition timing on the
14 vehicle needed adjustment and two license plate lamps were burned out and needed replacement.
15 The operator authorized the facility to perform the repairs for an additional \$39.33. After the
16 inspections and repairs were completed, the operator paid the facility \$159.33 and received
17 copies of various documents, including Invoice Number 001841, Certificate of Brake Adjustment
18 Number BC 175201, and Certificate of Lamp Adjustment Number LC 172701. The certificates
19 were signed by Respondent Garcia.

20 46. On February 7, 2006, a representative of the Bureau inspected the vehicle
21 and found that the brake drums had not been replaced as required and the headlamps had not
22 been adjusted.

23 **FOURTEENTH CAUSE FOR DISCIPLINE**

24 **(Untrue or Misleading Statements)**

25 47. Respondent Sunland's registration is subject to disciplinary action
26 pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(1), in that Respondent made or

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1 **SIXTEENTH CAUSE FOR DISCIPLINE**

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

3 49. Respondent Sunland's registration is subject to disciplinary action
4 pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(6), in that Respondent failed in a
5 material respect to comply with provisions of that Code, as follows:

- 6 a. **Section 9884.9, subdivision (a):** Respondent Sunland failed to document
7 on Invoice Number 001841 the operator's authorization for the additional
8 repairs on the Bureau's 1987 Toyota Camry wagon, i.e., the adjustment of
9 the ignition timing and replacement of the two license plate lamps.
- 10 b. **Section 9889.16:** Respondent Sunland's technician, Respondent Garcia,
11 issued Brake Certificate Number BC 175201 and Lamp Certificate
12 Number LC 172701 as to the Bureau's 1987 Toyota Camry wagon when
13 the vehicle was not in compliance with Bureau Regulations or the
14 requirements of the Vehicle Code.
- 15 c. **Section 9889.22:** Respondent Sunland's technician, Respondent Garcia,
16 willfully made false statements or entries on Brake Certificate Number BC
17 175201 and Lamp Certificate Number LC 172701, as set forth in
18 paragraph 47 above.

19 **SEVENTEENTH CAUSE FOR DISCIPLINE**

20 **(Violations of Regulations)**

21 50. Respondent Sunland's registration is subject to disciplinary action
22 pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(6), in that Respondent failed in a
23 material respect to comply with provisions of California Code of Regulations, title 16, as
24 follows:

- 25 a. **Section 3305, subdivision (a):** Respondent Sunland's technician,
26 Respondent Garcia, failed to perform the inspection of the brake system
27 and inspection and adjustment of the lamp system on the Bureau's 1987

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1 Toyota Camry wagon in accordance with the specifications, instructions,
2 and directives issued by the Bureau and the vehicle manufacturer.

3 b. **Section 3316, subdivision (d)(2)**: Respondent Sunland's technician,
4 Respondent Garcia, issued Lamp Certificate Number LC 172701 as to the
5 Bureau's 1987 Toyota Camry wagon when all of the lamps, lighting
6 equipment, and/or related electrical systems on the vehicle had not been
7 inspected and were not in compliance with Bureau regulations, as set forth
8 in paragraph 47 above.

9 c. **Section 3356, subdivision (a)**: Respondent Sunland failed to show its
10 registration number on Invoice Number 001841. Further, Respondent
11 showed its business name on the invoice as ROD 77 Service Station when,
12 in fact, its business name at that time was Tujung Service Station.

13 **EIGHTEENTH CAUSE FOR DISCIPLINE**

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

15 51. Respondent Sunland's official brake and lamp station licenses are subject
16 to disciplinary action pursuant to Bus. & Prof. Code sections 9889.3, subdivision (a), and 9889.3,
17 subdivision (h), in that Respondent violated the provisions of Bus. & Prof. Code sections
18 9889.16 and 9889.22 relating to Respondent's licensed activities, as set forth in paragraph 49
19 above.

20 **NINETEENTH CAUSE FOR DISCIPLINE**

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

22 52. Respondent Sunland's official brake and lamp station licenses are subject
23 to disciplinary action pursuant to Bus. & Prof. Code section 9889.3, subdivision (c), in that
24 Respondent failed to comply with the provisions of California Code of Regulations, title 16,
25 sections 3305, subdivision (a), and 3316, subdivision (d)(2), as set forth in paragraph 50 above.

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1 **TWENTIETH CAUSE FOR DISCIPLINE**

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

3 53. Respondent Sunland's official brake and lamp station licenses are subject
4 to disciplinary action pursuant to Bus. & Prof. Code section 9889.3, subdivision (d), in that
5 Respondent committed an act involving dishonesty, fraud, or deceit whereby another was
6 injured, as set forth in paragraph 48 above.

7 **TWENTY-FIRST CAUSE FOR DISCIPLINE**

8 **(Failure to Comply with the Code)**

9 54. Respondent Garcia's brake and lamp adjuster licenses are subject to
10 disciplinary action pursuant to Bus. & Prof. Code sections 9889.3, subdivision (a), and 9889.3,
11 subdivision (h), in that he violated the provisions of Bus. & Prof. Code sections 9889.16 and
12 9889.22 relating to his licensed activities, as set forth in subparagraphs 49 (b) and (c) above.

13 **TWENTY-SECOND CAUSE FOR DISCIPLINE**

14 **(Violations of Regulations)**

15 55. Respondent Garcia's brake and lamp adjuster licenses are subject to
16 disciplinary action pursuant to Bus. & Prof. Code section 9889.3, subdivision (c), in that he
17 failed to comply with the provisions of California Code of Regulations, title 16, sections 3305,
18 subdivision (a), and 3316, subdivision (d)(2), as set forth in subparagraphs 50 (a) and (b) above.

19 **CAP VEHICLE REPAIR VERIFICATION**

20 56. Consumer Joan Pleasants ("Pleasants") was directed by the Consumer
21 Assistance Program ("CAP") to take her 1984 Ford Mustang to Respondent Sunland's facility to
22 have a diagnostic test performed on the vehicle to determine why it had failed a prior smog check
23 inspection.

24 57. On or about March 15, 2006, Pleasant took the vehicle to Respondent
25 Sunland's facility and was given a written estimate in the amount of \$136 for the diagnostic test.
26 Pleasant also authorized the facility to repair a tear in the exhaust pipe and change the engine oil.
27 On March 18, 2006, Pleasants returned to the facility to retrieve the vehicle and received copies
28 of Invoice Number 001175 dated March 15, 2006, for the CAP repairs, an invoice dated March

1 18, 2006, for the exhaust pipe repair and oil change, and a vehicle inspection report dated March
2 17, 2006, signed by Respondent Ayach. The vehicle inspection report indicated that on March
3 17, 2006, the vehicle passed a smog inspection, resulting in the issuance of Certificate of
4 Compliance Number GC021321.

5 58. On May 10, 2006, Bureau Representative Tom Oliver ("Oliver") inspected
6 the vehicle and determined that Respondent Sunland's facility failed to properly perform the
7 CAP repairs. Oliver also found that the facility had issued a certificate of compliance for the
8 vehicle even though certain emission-related components were modified and disconnected.

9 **TWENTY-THIRD CAUSE FOR DISCIPLINE**

10 **(Untrue or Misleading Statements)**

11 59. Respondent Sunland's registration is subject to disciplinary action
12 pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(1), in that Respondent made or
13 authorized a statement which it knew or in the exercise of reasonable care should have known to
14 be untrue or misleading, as follows: Respondent Sunland's smog check technician, Respondent
15 Ayach, certified under penalty of perjury on the vehicle inspection report that Pleasants' 1984
16 Ford Mustang had passed the smog check inspection and was in compliance with applicable laws
17 and regulations. In fact, the vent solenoid on the new exhaust gas recirculation ("EGR") valve
18 was capped off and the line was disconnected, and the straight vacuum connector at the top of the
19 early fuel evaporative ("EFE") actuator vacuum nipple did not fit properly and was leaking. As
20 such, the vehicle would not pass the inspection required by Health & Saf. Code section 44012.

21 **TWENTY-FOURTH CAUSE FOR DISCIPLINE**

22 **(Fraud)**

23 60. Respondent Sunland's registration is subject to disciplinary action
24 pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(4), in that Respondent committed
25 an act which constitutes fraud, as follows: Respondent issued an electronic smog certificate of
26 compliance for Pleasants' 1984 Ford Mustang without performing a bona fide inspection of the
27 emission control devices and systems on the vehicle, thereby depriving the People of the State of
28 California of the protection afforded by the Motor Vehicle Inspection Program.

1 **TWENTY-FIFTH CAUSE FOR DISCIPLINE**

2 **(Departure From Trade Standards)**

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

8 a. Respondent failed to properly install the new EGR valve on Pleasants'
9 1984 Ford Mustang in that the EGR vent solenoid was capped off and the line was disconnected.

10 b. Respondent failed to properly repair the EFE actuator vacuum nipple by
11 inserting a straight vacuum connector into the top where the original vacuum nipple had broken
12 off. Further, the connector fit improperly and was leaking.

13 **TWENTY-SIXTH CAUSE FOR DISCIPLINE**

14 **(Violations of Regulations)**

15 62. Respondent Sunland's registration is subject to disciplinary action
16 pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(6), in that Respondent failed in a
17 material respect to comply with California Code of Regulations, title 16, section 3356,
18 subdivision (a), as follows:

19 a. Respondent showed its business name as Tujunga Alliance on the invoice
20 dated March 18, 2006, when, in fact, its business name was Tujunga Service Station as of that
21 time.

22 b. Respondent showed its business name as ROD 77 Service Station on
23 Invoice Number 001175 when, in fact, its business name was Tujunga Service Station.

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1 **TWENTY-SEVENTH CAUSE FOR DISCIPLINE**

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

3 63. Respondent Sunland's smog check station license is subject to disciplinary
4 action pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed
5 in a material respect to comply with provisions of that Code, as follows:

- 6 a. **Section 44012:** Respondent failed to perform the emission control tests
7 on Pleasants' 1984 Ford Mustang in accordance with procedures
8 prescribed by the department.
- 9 b. **Section 44015:** Respondent issued an electronic smog certificate of
10 compliance for Pleasants' 1984 Ford Mustang without properly
11 testing and inspecting the vehicle to determine if it was in compliance with
12 Health & Saf. Code section 44012.
- 13 c. **Section 44016:** Respondent failed to repair Pleasants' 1984 Ford Mustang
14 in accordance with established specifications and procedures.

15 **TWENTY-EIGHTH CAUSE FOR DISCIPLINE**

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

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

- 22 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently
23 issued an electronic smog certificate of compliance for Pleasants' 1984
24 Ford Mustang.
- 25 b. **Section 3340.35, subdivision (c):** Respondent issued an electronic smog
26 certificate of compliance for Pleasants' 1984 Ford Mustang even though
27 the vehicle had not been inspected in accordance with section 3340.42.

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1 c. **Section 3340.41, subdivision (d)**: Respondent failed to follow applicable
2 specifications and procedures when repairing Pleasants' 1984 Ford
3 Mustang.

4 d. **Section 3340.42**: Respondent failed to conduct the required smog tests on
5 Pleasants' 1984 Ford Mustang in accordance with the Bureau's
6 specifications.

7 **TWENTY-NINTH CAUSE FOR DISCIPLINE**

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

9 65. Respondent Sunland's smog check station license is subject to disciplinary
10 action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent
11 committed a dishonest, fraudulent, or deceitful act whereby another is injured, as follows:
12 Respondent issued an electronic smog certificate of compliance for Pleasants' 1984 Ford
13 Mustang without performing a bona fide inspection of the emission control devices and systems
14 on the vehicle, thereby depriving the People of the State of California of the protection afforded
15 by the Motor Vehicle Inspection Program.

16 **THIRTIETH CAUSE FOR DISCIPLINE**

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

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

21 a. **Section 44012**: Respondent failed to perform the emission control tests
22 on Pleasants' 1984 Ford Mustang in accordance with procedures
23 prescribed by the department.

24 b. **Section 44059**: Respondent willfully made false entries on the vehicle
25 inspection report, as set forth in paragraph 59 above.

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1 **THIRTY-FIRST CAUSE FOR DISCIPLINE**

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

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

- 8 a. **Section 3340.24, subdivision (c)**: Respondent falsely or fraudulently
9 issued an electronic smog certificate of compliance for Pleasant's 1984
10 Ford Mustang.
- 11 b. **Section 3340.30, subdivision (a)**: Respondent failed to inspect and test
12 Pleasants' 1984 Ford Mustang in accordance with Health & Saf. Code
13 sections 44012 and 44035, and California Code of Regulations, title 16,
14 section 3340.42.
- 15 c. **Section 3340.42**: Respondent failed to conduct the required smog tests on
16 Pleasants' 1984 Ford Mustang in accordance with the Bureau's
17 specifications.

18 **THIRTY-SECOND CAUSE FOR DISCIPLINE**

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

20 68. Respondent Ayach's advanced emission specialist technician license is
21 subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in
22 that Respondent committed a dishonest, fraudulent, or deceitful act whereby another is injured,
23 as follows: Respondent issued an electronic smog certificate of compliance for Pleasants' 1984
24 Ford Mustang without performing a bona fide inspection of the emission control devices and
25 systems on the vehicle, thereby depriving the People of the State of California of the protection
26 afforded by the Motor Vehicle Inspection Program.

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1 **UNDERCOVER-VIDEO SURVEILLANCE OPERATION #3: 1990 HONDA ACCORD**

2 69. On September 13, 2006, an undercover operator with the Bureau, using the
3 fictitious name "Tran Nguyen" (hereinafter "operator"), took the Bureau's 1990 Honda Accord
4 to Respondent Sunland's facility and requested a smog inspection and a brake and lamp
5 inspection. The ignition timing on the Bureau-documented vehicle was not adjusted to
6 manufacturer's specifications, the front disc brake pads needed replacement, the inside diameters
7 of the rear brake drums were machined beyond the manufacturer's discard specifications,
8 requiring the replacement of the brake drums, the left headlamp was mis-adjusted, and defective
9 light bulbs had been installed in the two rear license plate lights, preventing the license plate
10 lights from operating. The operator signed and received a copy of a written estimate, totaling
11 \$109.99, for the inspections, then left the facility.

12 70. At approximately 1205 hours that same day, the operator received a
13 telephone call from a person who identified himself as "Moe". Moe told the operator that the
14 ignition timing on the vehicle needed adjustment and the front brake pads and front rotors needed
15 replacement. Moe gave the operator a revised estimate price of \$377.99 for the repairs, which
16 the operator authorized. The operator told Moe that he wanted the replaced parts returned to
17 him. After the inspections and repairs were completed, the operator paid the facility \$375.99,
18 was given the old brake pads and rotors, and received copies of various documents, including
19 Invoice Number 001254, Certificate of Brake Adjustment Number BC 313355, and Certificate of
20 Lamp Adjustment Number LC 303865. The certificates were signed by Respondent Garcia.

21 71. On September 25, 2006, a representative of the Bureau inspected the
22 vehicle and found that the rear brake drums had not been replaced, the front brake rotors had
23 been unnecessarily replaced, the left rear wheel had not been removed from the vehicle, the
24 headlamps had not been adjusted, and the defective license plate light bulbs had not been
25 replaced.

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1 THIRTY-THIRD CAUSE FOR DISCIPLINE

2 (Untrue or Misleading Statements)

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

7 a. Respondent Sunland's employee, Moe, represented to the operator that the
8 front brake rotors on the Bureau's 1990 Honda Accord needed replacement. In fact, the front
9 brake rotors were in good condition and not in need of replacement.

10 b. Respondent Sunland's technician, Respondent Garcia, certified under
11 penalty of perjury on Brake Certificate Number BC 313355 that the applicable inspection was
12 performed on the brake system on the Bureau's 1990 Honda Accord. In fact, Respondent Garcia
13 failed to inspect the left rear brake on the vehicle.

14 c. Respondent Sunland's technician, Respondent Garcia, certified under
15 penalty of perjury on Brake Certificate Number BC 313355 that the rear brake drums on the
16 Bureau's 1990 Honda Accord were inspected and in a satisfactory condition. In fact, the inside
17 diameters of the rear brake drums had been machined beyond the manufacturer's discard
18 specifications, requiring the replacement of the brake drums.

19 d. Respondent Sunland's technician, Respondent Garcia, certified under
20 penalty of perjury on Lamp Certificate Number LC 303865 that the applicable adjustment had
21 been performed on the lighting system on the Bureau's 1990 Honda Accord. In fact, the
22 headlamps had not been adjusted. Further, the left headlamp was 10 inches out of adjustment at
23 the time the vehicle was taken to Respondent's facility.

24 e. Respondent Sunland's technician, Respondent Garcia, certified under
25 penalty of perjury on Lamp Certificate Number LC 303865 that the applicable repair had been
26 performed on the lighting system on the Bureau's 1990 Honda Accord. In fact, the light bulbs in
27 the two rear license plate lights were defective, preventing the license plate lights from operating.

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1 THIRTY-FOURTH CAUSE FOR DISCIPLINE

2 (Fraud)

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

6 a. Respondent's employee, Moe, made a false or misleading statement to the
7 operator regarding the condition of the brake system on the Bureau's 1990 Honda Accord, as set
8 forth in subparagraph 72 (a) above, in order to induce the operator to purchase an unnecessary
9 repair on the vehicle, then sold the operator an unnecessary repair, the replacement of the front
10 brake rotors.

11 b. Respondent charged and obtained payment from the operator for
12 performing the applicable inspections, adjustments, or repairs of the brake and lighting systems
13 on the Bureau's 1990 Honda Accord as specified by the Bureau and in accordance with the
14 Vehicle Code. In fact, Respondent failed to perform the necessary inspections, adjustments, and
15 repairs in compliance with Bureau Regulations or the Vehicle Code, as set forth in subparagraphs
16 72 (b) through (e) above.

17 THIRTY-FIFTH CAUSE FOR DISCIPLINE

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

19 74. Respondent Sunland's registration is subject to disciplinary action
20 pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(6), in that Respondent failed in a
21 material respect to comply with provisions of that Code, as follows:

22 a. Section 9884.9, subdivision (a): Respondent Sunland documented on
23 Invoice Number 001254 that the operator had authorized a revised
24 estimate price of \$377.99 for the additional repairs on the Bureau's 1990
25 Honda Accord, but failed to specify the parts and/or labor that were
26 authorized on the vehicle.

27 b. Section 9889.16: Respondent Sunland's technician, Respondent Garcia,
28 issued Brake Certificate Number BC 313355 and Lamp Certificate

1 Number LC 303865 as to the Bureau's 1990 Honda Accord when the
2 vehicle was not in compliance with Bureau Regulations or the
3 requirements of the Vehicle Code.

- 4 c. **Section 9889.22:** Respondent Sunland's technician, Respondent Garcia,
5 willfully made false statements or entries on Brake Certificate Number
6 BC 313355 and Lamp Certificate Number LC 303865, as set forth in
7 subparagraphs 72 (b) through (e) above.

8 **THIRTY-SIXTH CAUSE FOR DISCIPLINE**

9 **(Violations of Regulations)**

10 75. Respondent Sunland's registration is subject to disciplinary action
11 pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(6), in that Respondent failed in a
12 material respect to comply with provisions of California Code of Regulations, title 16, as
13 follows:

- 14 a. **Section 3305, subdivision (a):** Respondent Sunland's technician,
15 Respondent Garcia, failed to perform the inspection of the brake system
16 and inspection and adjustment of the lamp system on the Bureau's 1990
17 Honda Accord in accordance with the specifications, instructions, and
18 directives issued by the Bureau and the vehicle manufacturer.
- 19 b. **Section 3316, subdivision (d)(2):** Respondent Sunland's technician,
20 Respondent Garcia, issued Lamp Certificate Number LC 303865 as to the
21 Bureau's 1990 Honda Accord when all of the lamps, lighting equipment,
22 and/or related electrical systems on the vehicle had not been inspected,
23 adjusted, or repaired and were not in compliance with Bureau regulations,
24 as set forth in subparagraphs 72 (d) and (e) above.
- 25 c. **Section 3321, subdivision (c)(2):** Respondent Sunland's technician,
26 Respondent Garcia, issued Brake Certificate Number BC 313355 as to the
27 Bureau's 1990 Honda Accord when the entire brake system on the

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1 vehicle had not been tested or inspected, as set forth in subparagraph 72
2 (b) above.

- 3 d. **Section 3356, subdivision (a)**: Respondent failed to show its registration
4 number on Invoice Number 001254. Further, Respondent failed to show
5 its complete business name (Respondent's business name was shown as
6 "Service Station").

7 **THIRTY-SEVENTH CAUSE FOR DISCIPLINE**

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

9 76. Respondent Sunland's official brake and lamp station licenses are subject
10 to disciplinary action pursuant to Bus. & Prof. Code sections 9889.3, subdivision (a), and 9889.3,
11 subdivision (h), in that Respondent violated the provisions of Bus. & Prof. Code sections
12 9889.16 and 9889.22 relating to Respondent's licensed activities, as set forth in paragraph 74
13 above.

14 **THIRTY-EIGHTH CAUSE FOR DISCIPLINE**

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

16 77. Respondent Sunland's official brake and lamp station licenses are subject
17 to disciplinary action pursuant to Bus. & Prof. Code section 9889.3, subdivision (c), in that
18 Respondent failed to comply with the provisions of California Code of Regulations, title 16,
19 sections 3305, subdivision (a), 3316, subdivision (d)(2), 3321, subdivision (c)(2), and 3356,
20 subdivision (a), as set forth in paragraph 75 above.

21 **THIRTY-NINTH CAUSE FOR DISCIPLINE**

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

23 78. Respondent Sunland's official brake and lamp station licenses are subject
24 to disciplinary action pursuant to Bus. & Prof. Code section 9889.3, subdivision (d), in that
25 Respondent committed acts involving dishonesty, fraud, or deceit whereby another was injured,
26 as set forth in paragraph 73 above.

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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:

SUNLAND VALERO SERVICE STATION
MOE H. AYACH, Partner
BASSAM ESKAF, Partner
8404 Foothill Blvd.
Sunland, CA 91040
Automotive Repair Dealer Reg. No. AM186717
Smog Check Station License No. RM 186717
Official Brake Station License No. BM 186717
Official Lamp Station License No. LM 186717

and

MOE H. AYACH
10359 Haines Canyon
Tujunga, CA 91042
Advanced Emission Specialist License
No. EA 141957,

Respondents.

Case No. 79/08-67

OAH No. L-2008120245

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Director of Consumer Affairs and the Bureau of Automotive Repair as the Decision and Order in the above entitled matter.

This Decision shall become effective on _____.

It is so ORDERED _____.

DOREATHEA JOHNSON
Deputy Director, Legal Affairs
Department of Consumer Affairs



Bureau of Automotive Repair

Inspection & Maintenance – Headquarters
10240 Systems Parkway
Sacramento, CA 95827
916.255.1326 Telephone
916.255.1390 Fax

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MEMORANDUM

To : Dianne Dobbs
Staff Counsel
DCA Legal

Date May 8, 2009

Case No: IN20056024 / EA141957

From : Curtis Worden *CW*
Program Manager I
Intake/Compliance Unit

RE: STIPULATED SETTLEMENT AND DISCIPLINARY ORDER AGAINST:

MOE H. AYACH, TECHNICIAN
EA141957

ACCUSATION NO. 79/08-67

The attached Stipulated Settlement and Disciplinary Order is submitted for your review. If the Director concurs, and after the necessary signatures, please return to us for processing and service.

Enclosure

EDMUND G. BROWN JR.
Attorney General

State of California
DEPARTMENT OF JUSTICE



RONALD REAGAN BUILDING
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Facsimile: (213) 897-2804

May 4, 2009

Curt Worden, Program Mgr. I
Bureau of Automotive Repair
10240 Systems Parkway
Sacramento, CA 95827

RE: RECOMMENDATION TO ADOPT STIPULATION RE: RESPONDENT MOE H. AYACH

In the Matter of the Accusation Against: Sunland Valero Service Station, et al.

OAH No. L-2008120245

Bureau of Automotive Repair Case No. 79/08-67

Dear Mr. Worden:

Enclosed for consideration by the Director of the Department of Consumer Affairs ("Director") are the Stipulated Settlement and Disciplinary Order for Respondent Moe H. Ayach in this matter. For the reasons stated below, our office recommends that the Director adopt the agreement and issue the enclosed Decision and Order.

The terms and conditions contained in the stipulation were coordinated with you and Randy Powers prior to being offered to Respondent.

LICENSEE INFORMATION

Respondent Moe H. Ayach is the co-owner of Respondent Sunland Valero Service Station. He was issued Advanced Emission Specialist Technician License No. EA141957 on May 2, 2001.

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ATTORNEY CLIENT COMMUNICATION AND WORK PRODUCT
DO NOT PLACE IN PUBLIC FILES

CHARGES AND ADMISSIONS

The Accusation against Respondents Sunland Valero Service Station and Moe H. Ayach was filed on March 25, 2008. It alleges that during an undercover operation conducted on August 11, 2005 and a Consumer Assistance Program ("CAP") visit on March 15, 2006, Respondent Ayach violated Health and Safety Code sections 44072.2(a) (violations of the Motor Vehicle Inspection Program); 44072.2(c) (failure to comply with regulations pursuant to the Motor Vehicle Inspection Program); and 44072.2(d) (dishonesty fraud or deceit). Respondent admits the charges.

PROPOSED SETTLEMENT CONTRASTED WITH PENALTY GUIDELINES

Revocation of Respondent's Advanced Emission Specialist Technician License, stayed with the license placed on three years probation and a ten day suspension. In addition to the Bureau's standard published terms and conditions of probation, Respondent has agreed to successfully complete a sixteen-hour training course approved by the Bureau within sixty days of the effective date of the decision.

MITIGATING OR AGGRAVATING CIRCUMSTANCES

This is the first time Respondent Ayach has been before the Bureau in a disciplinary matter. He has been cooperative in these proceedings. This appears to be an appropriate case for probation.

OTHER RESPONDENTS

The two other respondents in this matter, Sunland Valero Service Station and Jose G. Garcia, have executed separate stipulated settlement agreements, which are being forwarded concurrently with this agreement.

REASONS FOR RECOMMENDATION

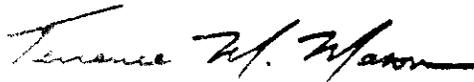
Based on the evidence in this case, this stipulation provides for meaningful discipline and a fair resolution of the charges in the Accusation while avoiding the additional time, expense, and uncertainty of an administrative hearing. This office therefore recommends that the Director ("Director") of the Department of Consumer Affairs adopt the proposed stipulation as the decision in this case.

I hope the above information is sufficient to enable the Director to make a decision in this matter. If you have any questions, please do not hesitate to contact me at your earliest convenience.

Curt Worden
May 4, 2009
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Respondent Moe H. Ayach is represented by attorney Michael B. Levin, who should be sent a copy of the decision at: 3727 Camino del Rio South, Suite 200, San Diego, California 92106.

Sincerely,



TERRENCE M. MASON
Deputy Attorney General

For EDMUND G. BROWN JR.
Attorney General

Enclosures: Proposed Stipulation and Accusation

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