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

In the Matter of the Accusation/Petition to Revoke Probation Against: **WINCHESTER SIBUMA ORDONEZ** 1555 West Middlefield Road #88 Mountain View, CA 94043 Advanced Emission Specialist Technician License No. EA 144440 Respondent.	Case No. 79/12-28 OAH No. 2011091115

DECISION

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

This Decision shall become effective 5/10/12.

DATED: April 5, 2012

DOREATHEA JOHNSON
Deputy Director, Legal Affairs
Department of Consumer Affairs

KAMALA D. HARRIS
Attorney General of California
DIANN SOKOLOFF
Supervising Deputy Attorney General
KIM M. SETTLES
Deputy Attorney General
State Bar No. 116945
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Attorneys for Complainant

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Office of Administrative Hearings
By

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

In the Matter of the Accusation/Petition to Revoke Probation Against: **WINCHESTER SIBUMA ORDONEZ** **1555 West Middlefield Road #88** **Mountain View, CA 94043** **Advanced Emission Specialist Technician License No. EA 144440** Respondent.	Case No. IN20109472 OAH No. 2011091115 **STIPULATED SURRENDER OF LICENSE AND ORDER**

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

PARTIES

1. Sherry Mehl (Complainant) is the Chief of the Bureau of Automotive Repair. She brought this action solely in her official capacity and is represented in this matter by Kamala D. Harris, Attorney General of the State of California, by Kim M. Settles, Deputy Attorney General.

2. Winchester Sibuma Ordonez (Respondent) is representing himself in this proceeding and has chosen not to exercise his right to be represented by counsel.

3. On or about January 1, 2002, the Bureau of Automotive Repair issued Advanced Emission Specialist Technician License No. EA 144440 to Winchester Sibuma Ordonez (Respondent). The Advanced Emission Specialist Technician License was in full force and effect

at all times relevant to the charges brought in Accusation/Petition to Revoke Probation No. IN20109472 and will expire on October 31, 2012, unless renewed.

JURISDICTION

4. Accusation/Petition to Revoke Probation No. IN20109472 was filed before the Director of Consumer Affairs (Director), for the Bureau of Automotive Repair (Bureau), and is currently pending against Respondent. The Accusation/Petition to Revoke Probation and all other statutorily required documents were properly served on Respondent on November 16, 2011. Respondent timely filed his Notice of Defense contesting the Accusation/Petition to Revoke Probation. A copy of Accusation/Petition to Revoke Probation No. IN20109472 is attached as Exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and understands the charges and allegations in Accusation/Petition to Revoke Probation No. IN20109472. Respondent also has carefully read, and understands the effects of this Stipulated Surrender of License and Order.

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

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

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Accusation/Petition to Revoke Probation No. IN20109472, agrees that cause exists for discipline and hereby surrenders his Advanced Emission Specialist Technician License No. EA 144440 for the Bureau's formal acceptance.

9. Respondent understands that by signing this stipulation he enables the Director to issue his order accepting the surrender of his Advanced Emission Specialist Technician License without further process.

CONTINGENCY

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

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

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

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

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ORDER

IT IS HEREBY ORDERED that Advanced Emission Specialist Technician License No. EA 144440, issued to Respondent Winchester Sibuma Ordonez, is surrendered and accepted by the Director of Consumer Affairs.

1. The surrender of Respondent's Advanced Emission Specialist Technician License and the acceptance of the surrendered license by the Bureau shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Bureau of Automotive Repair.

2. Respondent shall lose all rights and privileges as an Advanced Emission Specialist Technician in California as of the effective date of the Director's Decision and Order.

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

4. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Bureau shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation/Petition to Revoke Probation No. IN20109472 shall be deemed to be true, correct and admitted by Respondent when the Director determines whether to grant or deny the petition.

5. Respondent shall pay the agency its costs of investigation and enforcement in the amount of $1,082.50 prior to issuance of a new or reinstated license.

ACCEPTANCE

I have carefully read the Stipulated Surrender of License and Order. I understand the stipulation and the effect it will have on my Advanced Emission Specialist Technician License. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Director of Consumer Affairs.

DATED: Nov. 23, 2011

WINCHESTER SIBUMA ORDONEZ
Respondent

ENDORSEMENT

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

Dated: 11/23/11

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
DIANN SOKOLOFF
Supervising Deputy Attorney General

Kim M. Settles

KIM M. SETTLES
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation/Petition to Revoke Probation No. IN20109472

KAMALA D. HARRIS
Attorney General of California
DIANN SOKOLOFF
Supervising Deputy Attorney General
SUSANA A. GONZALES
Deputy Attorney General
State Bar No. 253027
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P.O. Box 70550
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Telephone: (510) 622-2221
Facsimile: (510) 622-2270
Attorneys for Complainant

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

In the Matter of the Accusation/Petition to Revoke Probation Against: **WINCHESTER SIBUMA ORDONEZ** **1555 West Middlefield Road, #88** **Mountain View, CA 94043** **Advanced Emission Specialist Technician License No. EA 144440** Respondent.	Case No. 79/12-28 **ACCUSATION AND PETITION TO REVOKE PROBATION** SMOG CHECK

Complainant alleges:

PARTIES

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

Advanced Emission Specialist Technician License

2. On a date uncertain in 2002, the Bureau issued Advanced Emission Specialist Technician License Number EA 144440 ("technician license") to Winchester Sibuma Ordonez ("Respondent"). The technician license was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2012, unless renewed.

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PRIOR DISCIPLINARY ACTION

3. Pursuant to the Stipulated Settlement and Disciplinary Order in Accusation No. 79/09-21, attached hereto as **Exhibit "A"** and incorporated herein by reference, effective December 23, 2008, the Director of Consumer Affairs ("Director") revoked Respondent's Advanced Emission Specialist Technician License No. EA 144440; however, the revocation was stayed, and Respondent was placed on probation for three (3) years with terms, including Term 1, set forth as follows:

Term 1 - Obey all Laws: Comply with all statutes, regulations and rules governing automotive inspections, estimates and repairs.

STATUTORY PROVISIONS

4. Business and Professions Code section 477 provides, in pertinent part, that "Board" includes "bureau," "commission," "committee," "department," "division," "examining committee," "program," and "agency." "License" includes certificate, registration or other means to engage in a business or profession regulated by the Code.

5. Section 44002 of the Health and Safety Code provides, in pertinent part, that the Director has all the powers and authority granted under the Automotive Repair Act for enforcing the Motor Vehicle Inspection Program.

6. Section 44072.2 of the Health and Safety Code 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.

7. Section 44072.6 of the Health and Safety Code provides, in pertinent part, that the expiration or suspension of a license by operation of law, or by order or decision of the Director

of Consumer Affairs, or a court of law, or the voluntary surrender of the license shall not deprive the Director of jurisdiction to proceed with disciplinary action.

8. Section 44072.8 of the Health and Safety Code states:

"When a license has been revoked or suspended following a hearing under this article, any additional license issued under this chapter in the name of the licensee may be likewise revoked or suspended by the director."

COST RECOVERY

9. 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.

ACCUSATION

UNDERCOVER OPERATION – JULY 29, 2010

10. On or about July 29, 2010, a Bureau undercover operator ("operator") drove a Bureau documented 1997 Honda Accord to SV Smog Testing and requested a smog inspection. The vehicle could not pass a smog inspection because the vehicle's fuel evaporative control system canister was missing. The operator signed and received a copy of an estimate. Respondent performed the smog inspection and issued electronic Certificate of Compliance No. WL898817 certifying that the vehicle was in compliance with all applicable laws and regulations. In fact, the vehicle could not pass the visual portion of the smog inspection because the vehicle's fuel evaporative control system canister was missing. The operator paid $57 for the inspection and received a copy of Invoice No. 13836 and a Vehicle Inspection Report.

FIRST CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

11. Respondent has subjected his technician license to discipline under Health and Safety Code section 44072.2, subdivision (a), in that regarding the 1997 Honda Accord, he violated sections of that Code, as follows:

a. **Section 44012, subdivision (a)**: Respondent failed to determine that all emission control devices and systems required by law were installed and functioning correctly in accordance with test procedures.

b. **Section 44012, subdivision (f)**: Respondent failed to perform emission control tests on that vehicle in accordance with procedures prescribed by the department.

c. **Section 44032**: Respondent failed to perform tests of the emission control devices and systems on that vehicle in accordance with section 44012 of that Code, in that the vehicle's evaporative control system canister was missing.

d. **Section 44059**: Respondent entered false information for electronic Certificate of Compliance No. WL898817, certifying that the vehicle had been inspected as required when, in fact, it had not.

SECOND CAUSE FOR DISCIPLINE

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

12. Respondent has subjected his technician license to discipline under Health and Safety Code section 44072.2, subdivision (c), in that regarding the 1997 Honda Accord, he violated sections of the California Code of Regulations, title 16, as follows:

a. **Section 3340.24, subdivision (c)**: Respondent falsely or fraudulently issued electronic Certificate of Compliance No. WL898817 without performing a bona fide inspection of the emission control devices and systems on that vehicle as required by Health and Safety Code section 44012.

b. **Section 3340.30, subdivision (a)**: Respondent failed to inspect and test that vehicle in accordance with Health and Safety Code section 44012.

c. **Section 3340.41, subdivision (c)**: Respondent entered false information into the Emission Inspection System for electronic Certificate of Compliance No. WL898817 by entering vehicle identification information or emission control information for a vehicle other than the vehicle being certified.

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

THIRD CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

13. Respondent has subjected his technician license to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (d), in that he committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing electronic Certificate of Compliance No. WL898817 for the 1997 Honda Accord without performing a bona fide inspection of the emission control devices and systems on that vehicle, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

PETITION TO REVOKE PROBATION

14. The allegations of paragraphs 1 through 13 of the accusation above are incorporated herein by reference as though fully set forth and are realleged.

15.. Grounds exist to revoke the probation and reimpose the order of revocation of Respondent's Advanced Emission Specialist Technician License No. EA 144440, in that Respondent failed to comply with all statutes, regulations, and rules governing estimates and inspections as required by Term 1 of the terms of the probation under Stipulated Settlement and Disciplinary Order in Accusation No. 79/09-21, as set forth in paragraphs 10 through 13 of the accusation above.

OTHER MATTERS

16. Under section 44072.8 of the Health and Safety Code, if Advanced Emission Specialist Technician License No. EA 144440, issued to Winchester Sibuma Ordonez, is revoked or suspended, any additional license issued under this chapter in the name of said licensee may be likewise revoked or suspended by the director.

PRAYER

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

1. Vacating the stay and reimposing the order of revocation of Advanced Emission Specialist Technician License Number EA 144440, issued to Winchester Sibuma Ordonez;

2. Revoking or suspending any additional license issued under this chapter in the name of Winchester Sibuma Ordonez;

3 Ordering Winchester Sibuma Ordonez 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; and,

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

DATED: 9/9/11

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

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

In the Matter of the Accusation Against:

CHEVREM CORPORATION, DBA CLEAR BLUE TEST ONLY SMOG STATION
2850 Crow Canyon Road
San Ramon, California 94583
FATIH TEKIN, PRESIDENT
Automotive Repair Dealer Registration No. ARD 241700
Smog Check, Test Only Station License No. TC 241700,

HARPREET SINGH CHHINA
2680 Cherry Blossom Way
Union City, California 94587
Advanced Emission Specialist Technician License No. EA 152180

CHEVREM CORPORATION, DBA CLEAR BLUE TEST ONLY SMOG STATION 2
3790 Hopyard Road
Pleasanton, California 94588
FATIH TEKIN, PRESIDENT
Automotive Repair Dealer Registration No. ARD 244942
Smog Check, Test Only Station License No. TC 244942,

CHRISTOPHER BRYAN HARRISON
143 Roxanne Court, #2
Walnut Creek, California 94597
Advanced Emission Specialist Technician License No. EA 151176

CHEVREM CORPORATION, DBA CLEAR BLUE TEST ONLY SMOG STATION 3
898 A Street
Hayward, California 94541
FATIH TEKIN, PRESIDENT
Automotive Repair Dealer Registration No. ARD 248804
Smog Check Test Only Station License No. TC 248804

///

Case No. 79/09-21

[As to WINCHESTER SIBUMA ORDONEZ only]

WINCHESTER SIBUMA ORDONEZ
2210 Grove Way
Castro Valley, California 94546
Advanced Emission Specialist Technician
License No. EA 144440

CHEVREM CORPORATION, DBA
TEST ONLY SMOG STATION II
5200 Telegraph Avenue
Oakland, California 94609
FATIH TEKIN, PRESIDENT
Automotive Repair Dealer Registration
No. ARD 236306
Smog Check, Test Only Station
No. TC 236306

BRYON LEONARD SCHAUB
46410 Briarplace
Fremont, California 94539
Advanced Emission Specialist Technician
License No. EA 152893

NUSRET B. TOPCU
2427 Byron Street
Berkeley, California 94702
Advanced Emission Specialist Technician
License No. EA 147911

MATTHEW JARED PHELPS
916 Magnolia Drive
Alameda, California 94502
Advanced Emission Specialist Technician
License No. EA 151026

CHEVREM CORPORATION, DBA
G I C SMOG STATION
690 Ygnacio Valley Road, #3
Walnut Creek, California 94596
FATIH TEKIN, PRESIDENT
Automotive Repair Dealer Registration
No. ARD 221700
Smog Check, Test Only Station License
No. TC 221700

NUSRET B. TOPCU
2427 Byron Street
Berkeley, California 94702
Advanced Emission Specialist Technician
License No. EA 147911

Respondents.

DECISION

The attached Stipulated Settlement and Disciplinary Order (As to Winchester Sibuma Ordonez 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 Winchester Sibuma Ordonez, Advanced Emission Specialist Technician License No. EA 144440.

This Decision shall become effective 12-23-08.

DATED: November 17, 2008

P. J. Harris

PATRICIA HARRIS
Deputy Director, Board/Bureau Support
Department of Consumer Affairs

EDMUND G. BROWN JR., Attorney General
of the State of California
WILBERT E. BENNETT
Supervising Deputy Attorney General
KIM M. SETTLES, State Bar No. 116945
Deputy Attorney General
1515 Clay Street, 20th Floor
P.O. Box 70550
Oakland, CA 94612-0550
Telephone: (510) 622-2138
Facsimile: (510) 622-2270

Attorneys for Complainant

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

In the Matter of the Accusation Against: **CHEVREM CORPORATION, DBA CLEAR BLUE TEST ONLY SMOG STATION** 2850 Crow Canyon Road San Ramon, California 94583 **FATIH TEKIN, PRESIDENT** Automotive Repair Dealer Registration No. ARD 241700 Smog Check, Test Only Station License No. TC 241700, **HARPREET SINGH CHHINA** 2680 Cherry Blossom Way Union City, California 94587 Advanced Emission Specialist Technician License No. EA 152180 **CHEVREM CORPORATION, DBA CLEAR BLUE TEST ONLY SMOG STATION 2** 3790 Hopyard Road Pleasanton, California 94588 **FATIH TEKIN, PRESIDENT** Automotive Repair Dealer Registration No. ARD 244942 Smog Check, Test Only Station License No. TC 244942, **CHRISTOPHER BRYAN HARRISON** 143 Roxanne Court, #2 Walnut Creek, California 94597 Advanced Emission Specialist Technician License No. EA 151176	Case No. 79/09-21 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER** [As to WINCHESTER SIBUMA ORDONEZ only]

CHEVREM CORPORATION, DBA CLEAR BLUE TEST ONLY SMOG STATION 3
898 A Street
Hayward, California 94541
FATIH TEKIN, PRESIDENT
Automotive Repair Dealer Registration No. ARD 248804
Smog Check Test Only Station License No. TC 248804

WINCHESTER SIBUMA ORDONEZ
2210 Grove Way
Castro Valley, California 94546
Advanced Emission Specialist Technician License No. EA 144440

CHEVREM CORPORATION, DBA TEST ONLY SMOG STATION II
5200 Telegraph Avenue
Oakland, California 94609
FATIH TEKIN, PRESIDENT
Automotive Repair Dealer Registration No. ARD 236306
Smog Check, Test Only Station No. TC 236306

BRYON LEONARD SCHAUB
46410 Briarplace
Fremont, California 94539
Advanced Emission Specialist Technician License No. EA 152893

NUSRET B. TOPCU
2427 Byron Street
Berkeley, California 94702
Advanced Emission Specialist Technician License No. EA 147911

MATTHEW JARED PHELPS
916 Magnolia Drive
Alameda, California 94502
Advanced Emission Specialist Technician License No. EA 151026

CHEVREM CORPORATION, DBA G I C SMOG STATION
690 Ygnacio Valley Road, #3
Walnut Creek, California 94596
FATIH TEKIN, PRESIDENT
Automotive Repair Dealer Registration No. ARD 221700
Smog Check, Test Only Station License No. TC 221700
///

NUSRET B. TOPCU
2427 Byron Street
Berkeley, California 94702
Advanced Emission Specialist Technician
License No. EA 147911

Respondents.

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

PARTIES

1. Sherry Mehl (Complainant) is the Chief of the Bureau of Automotive Repair. She brought this action solely in her official capacity and is represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California, by Kim M. Settles, Deputy Attorney General.

2. Respondent, WINCHESTER SIBUMA ORDONEZ (Respondent) is representing himself in this proceeding and has chosen not to exercise his right to be represented by counsel.

3. On or about May 13, 2002, the Bureau of Automotive Repair issued Advanced Emission Specialist Technician License No. EA 144440 to WINCHESTER SIBUMA ORDONEZ (Respondent). The technician license was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2008, unless renewed.

JURISDICTION

4. Accusation No. 79/09-21 was filed before the Department of Consumer Affairs (Director), for the Bureau of Automotive Repair (Bureau), and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on September 24, 2008. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 79/09-21 is attached as Exhibit A and incorporated herein by reference.

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ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and understands the charges and allegations in Accusation No. 79/09-21. Respondent has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary Order.

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

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

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Accusation No. 79/09-21, as such allegations may pertain to the use of his technician license.

9. Respondent agrees that his Advanced Emission Specialist Technician License Number EA 144440 is subject to discipline and he agrees to be bound by the Director's imposition of discipline as set forth in the Disciplinary Order below.

CONTINGENCY

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

11. Respondent understands that by signing this stipulation he is enabling the Director to issue her order disciplining Advanced Emission Specialist Technician License Number EA 144440 without further process. In the event this stipulation is rejected for any reason by the Director, it will be of no force or effect for either party. The Director will not be disqualified from further action in this matter by virtue of her consideration of this stipulation.

12. The parties hereto stipulate that in the event that this Stipulated Settlement is not adopted by the Director, nothing herein recited shall be construed as a waiver of Respondent's right to a hearing or as an admission of the truth of any of the matters charged in the Accusation.

13. The parties acknowledge that based on the foregoing recitals, IT IS HEREBY STIPULATED AND AGREED that the Director of Consumer Affairs may issue the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Advanced Emission Specialist Technician License No. EA 144440 issued to Respondent WINCHESTER SIBUMA ORDONEZ is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

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

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

3. **Jurisdiction.** If an accusation or petition to revoke probation is filed against Respondent during the term of probation, the Director of Consumer Affairs shall have continuing jurisdiction over this matter until the final decision on the accusation or petition, and the period of probation shall be extended until such decision.

4. **Violation of Probation.** Should the Director of Consumer Affairs determine that Respondent has failed to comply with the terms and conditions of probation, the Director may, after giving notice and opportunity to be heard, suspend or revoke Respondent's license.

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5. **Continuing Education Courses.** During the period of probation, Respondent shall attend and successfully complete a Bureau certified "Basic Clean Air Course" (68 hours). Said course shall be completed and proof of completion submitted to the Bureau within 60 days of the effective date of this decision and order. If proof of completion of the course is not furnished to the Bureau within the 60-day period, Respondent's license shall be immediately suspended until such proof is received. If proof of completion of the course is not furnished to the Bureau within 120 days of the effective date of this decision and order, Respondent's license shall be permanently revoked.

ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Advanced Emission Specialist Technician License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Director of Consumer Affairs.

DATED: 10/8/08.

WINCHESTER SIBUMA ORDONEZ
Respondent

ENDORSEMENT

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

DATED: 10/10/08

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

WILBERT E. BENNETT
Supervising Deputy Attorney General

Kim M. Settles
KIM M. SETTLES
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 79/09-21

EDMUND G. BROWN JR., Attorney General
of the State of California
WILBERT E. BENNETT
Supervising Deputy Attorney General
KIM M. SETTLES, State Bar No. 116945
Deputy Attorney General
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Oakland, CA 94612-0550
Telephone: (510) 622-2138
Facsimile: (510) 622-2270

Attorneys for Complainant

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

In the Matter of the Accusation Against:

CHEVREM CORPORATION, DBA CLEAR BLUE TEST ONLY SMOG STATION
2850 Crow Canyon Road
San Ramon, California 94583
FATIH TEKIN, PRESIDENT
Automotive Repair Dealer Registration No. ARD 241700
Smog Check, Test Only Station License No. TC 241700,

HARPREET SINGH CHHINA
2680 Cherry Blossom Way
Union City, California 94587
Advanced Emission Specialist Technician License No. EA 152180

CHEVREM CORPORATION, DBA CLEAR BLUE TEST ONLY SMOG STATION 2
3790 Hopyard Road
Pleasanton, California 94588
FATIH TEKIN, PRESIDENT
Automotive Repair Dealer Registration No. ARD 244942
Smog Check, Test Only Station License No. TC 244942,

CHRISTOPHER BRYAN HARRISON
143 Roxanne Court, #2
Walnut Creek, California 94597
Advanced Emission Specialist Technician License No. EA 151176

Case No. 79/09-21

ACCUSATION

[SMOG CHECK]

CHEVREM CORPORATION, DBA CLEAR BLUE TEST ONLY SMOG STATION 3
898 A Street
Hayward, California 94541
FATIH TEKIN, PRESIDENT
Automotive Repair Dealer Registration No. ARD 248804
Smog Check Test Only Station License No. TC 248804

WINCHESTER SIBUMA ORDONEZ
2210 Grove Way
Castro Valley, California 94546
Advanced Emission Specialist Technician License No. EA 144440

CHEVREM CORPORATION, DBA TEST ONLY SMOG STATION II
5200 Telegraph Avenue
Oakland, California 94609
FATIH TEKIN, PRESIDENT
Automotive Repair Dealer Registration No. ARD 236306
Smog Check, Test Only Station No. TC 236306

BRYON LEONARD SCHAUB
46410 Briarplace
Fremont, California 94539
Advanced Emission Specialist Technician License No. EA 152893

NUSRET B. TOPCU
2427 Byron Street
Berkeley, California 94702
Advanced Emission Specialist Technician License No. EA 147911

MATTHEW JARED PHELPS
916 Magnolia Drive
Alameda, California 94502
Advanced Emission Specialist Technician License No. EA 151026

CHEVREM CORPORATION, DBA G I C SMOG STATION
690 Ygnacio Valley Road, #3
Walnut Creek, California 94596
FATIH TEKIN, PRESIDENT
Automotive Repair Dealer Registration No. ARD 221700
Smog Check, Test Only Station License No. TC 221700
///

NUSRET B. TOPCU
2427 Byron Street
Berkeley, California 94702
Advanced Emission Specialist Technician
License No. EA 147911

Respondents.

Sherry Mehl ("Complainant") alleges:

PARTIES

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

LICENSE HISTORY

RESPONDENT NO. 1

Automotive Repair Dealer Registration

2. On or about February 3, 2006, the Bureau issued Automotive Repair Dealer Registration Number ARD 241700 ("registration") to Chevrem Corporation, doing business as Clear Blue Test Only Smog Station ("Respondent No. 1") with Fatih Tekin as president. The registration will expire on September 30, 2008, unless renewed.

Smog Check, Test Only Station License

3. On or about February 16, 2006, the Bureau issued Smog Check, Test Only Station License Number TC 241700 to Respondent No. 1. The registration will expire on September 30, 2008, unless renewed.

Advanced Emission Specialist Technician License

4. On or about December 21, 2006, the Bureau issued Advanced Emission Specialist Technician License Number EA 152180 ("technician license") to Harpreet Singh Chhina ("Respondent Chhina"). The technician license will expire on June 30, 2010, unless renewed.

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RESPONDENT NO. 2

Automotive Repair Dealer Registration

5. On or about July 11, 2006, the Bureau issued Automotive Repair Dealer Registration Number ARD 244942 ("registration") to Chevrem Corporation, doing business as Clear Blue Test Only Smog Station 2 ("Respondent No. 2") with Fatih Tekin as president. The registration will expire on April 30, 2009, unless renewed.

Smog Check, Test Only Station License

6. On or about November 20, 2006, the Bureau issued Smog Check, Test Only Station License Number TC 244942 ("station license") to Respondent No. 2. The registration will expire on April 30, 2009, unless renewed.

Advanced Emission Specialist Technician License

7. On or about March 23, 2005, the Bureau issued Advanced Emission Specialist Technician License Number EA 151176 ("technician license") to Christopher Bryan Harrison ("Respondent Harrison"). The technician license will expire on July 31, 2009, unless renewed.

RESPONDENT NO. 3

Automotive Repair Dealer Registration

8. On or about February 14, 2007, the Bureau issued Automotive Repair Dealer Registration Number ARD 248804 ("registration") to Chevrem Corporation, doing business as Clear Blue Test Only Smog Station 3 ("Respondent No. 3") with Fatih Tekin as president. The registration will expire on January 31, 2009, unless renewed.

Smog Check, Test Only Station License

9. On or about March 2, 2007, the Bureau issued Smog Check, Test Only Station License Number TC 248804 to Respondent No. 3. The station license will expire on January 31, 2009, unless renewed.

Advanced Emission Specialist Technician License

10. On or about May 13, 2002, the Bureau issued Advanced Emission Specialist Technician License Number EA 144440 ("technician license") to Winchester Sibuma

Ordonez ("Respondent Ordonez"). The technician license will expire on October 31, 2010 unless renewed.

RESPONDENT NO. 4

Automotive Repair Dealer Registration

11. On or about February 9, 2005, the Bureau issued Automotive Repair Dealer Registration Number ARD 236306 ("registration") to Chevrem Corporation, doing business as Test Only Smog Station II ("Respondent No. 4") with Fatih Tekin as president. The registration will expire on October 31, 2008, unless renewed.

Smog Check, Test Only Station License

12. On or about February 14, 2005, the Bureau issued Smog Check, Test Only Station License Number TC 236306 ("station license") to Respondent No. 4. The station license will expire on October 31, 2008, unless renewed.

Advanced Emission Specialist Technician License

13. On or about July 7, 2006, the Bureau issued Advanced Emission Specialist Technician License Number EA 152893 ("technician license") to Bryan Leonard Schaub ("Respondent Schaub"). The technician license will expire on September 30, 2010, unless renewed.

Advanced Emission Specialist Technician License

14. On or about November 26, 2003, the Bureau issued Advanced Emission Specialist Technician License Number EA 147911 ("technician license") to Nusret B. Topcu ("Respondent Topcu"). The technician license expired on October 31, 2007.

Advanced Emission Specialist Technician License

15. On or about February 18, 2005, the Bureau issued Advanced Emission Specialist Technician License Number EA 151026 ("technician license") to Matthew Jared Phelps ("Respondent Phelps"). The technician license will expire on December 31, 2008, unless renewed.

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RESPONDENT NO. 5

Automotive Repair Dealer Registration

16. On or about June 12, 2002, the Bureau issued Automotive Repair Dealer Registration Number ARD 221700 ("registration") to Chevrem Corporation, doing business as G I C Smog Station ("Respondent No. 5") with Fatih Tekin as president. The registration will expire on May 31, 2009, unless renewed.

Smog Check, Test Only Station License

17. On or about June 21, 2002, the Bureau issued Smog Check, Test Only Station License Number TC 221700 ("station license") to Respondent No. 5. The station license will expire on May 31, 2009, unless renewed.

Advanced Emission Specialist Technician License

18. On or about November 26, 2003, the Bureau issued Advanced Emission Specialist Technician License Number EA 147911 ("technician license") to Nusret B. Topcu ("Respondent Topcu"). The technician license will expire on October 31, 2008, unless renewed.

STATUTORY PROVISIONS

19. Section 9884.7 of the Business and Professions Code ("Code") states, in pertinent part:

> (a) The director, where the automotive repair dealer cannot show there was a bona fide error, may refuse to validate, or may invalidate temporarily or permanently, the registration of an automotive repair dealer for any of the following acts or omissions related to the conduct of the business of the automotive repair dealer, which are done by the automotive repair dealer or any automotive technician, employee, partner, officer, or member of the automotive repair dealer.
>
> (1) Making or authorizing in any manner or by any means whatever any statement written or oral which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading.
>
> (2) Causing or allowing a customer to sign any work order that does not state the repairs requested by the customer or the automobile's odometer reading at the time of repair.
>
> (3) Failing or refusing to give to a customer a copy of any document requiring his or her signature, as soon as the customer signs the document.
>
> (4) Any other conduct which constitutes fraud.

(6) Failure in any material respect to comply with the provisions of this chapter [the Automotive Repair Act (Bus. & Prof. Code, 9880, et seq.)] or regulations adopted pursuant to it.

(b) Except as provided for in subdivision (c), if an automotive repair dealer operates more than one place of business in this state, the director pursuant to subdivision (a) shall only invalidate temporarily or permanently the registration of the specific place of business which has violated any of the provisions of this chapter. This violation, or action by the director, shall not affect in any manner the right of the automotive repair dealer to operate his or her other places of business.

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

20. Code section 9884.9, subdivision (a), states:

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

(1) Make a notation on the invoice of the same facts set forth in the notation on the work order.

(2) Upon completion of the repairs, obtain the customer's signature or initials to an acknowledgment of notice and consent, if there is an oral consent of the customer to additional repairs, in the following language:

"I acknowledge notice and oral approval of an increase in the original estimated price.

_____

(signature or initials)"

Nothing in this section shall be construed as requiring an automotive repair dealer to give a written estimated price if the dealer does not agree to perform the requested repair.

21. Code section 9884.13 provides, in pertinent part, that the expiration of a valid registration shall not deprive the director or chief of jurisdiction to proceed with a

disciplinary proceeding against an automotive repair dealer or to render a decision invalidating a registration temporarily or permanently.

22. Code section 477 provides, in pertinent part, that "Board" includes "bureau," "commission," "committee," "department," "division," "examining committee," "program," and "agency." "License" includes certificate, registration or other means to engage in a business or profession regulated by the Code.

23. Section 44002 of the Health and Safety Code provides, in pertinent part, that the Director has all the powers and authority granted under the Automotive Repair Act for enforcing the Motor Vehicle Inspection Program.

24. Section 44072.2 of the Health and Safety Code 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.

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

26. Section 44072.8 of the Health and Safety Code states:

"When a license has been revoked or suspended following a hearing under this article, any additional license issued under this chapter in the name of the licensee may be likewise revoked or suspended by the director."

REGULATORY PROVISION

27. California Code of Regulations, title 16, section 3356, subdivision (a)(1), states:

(a) All invoices for service and repair work performed, and parts supplied, as provided for in Section 9884.8 of the Business and Professions Code, shall comply with the following:

(1) The invoice shall show the automotive repair dealer's registration number and the corresponding business name and address as shown in the Bureau's records.

COST RECOVERY

28. 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.

RESPONDENT NO. 1

UNDERCOVER OPERATION - JUNE 26, 2007

29. On June 26, 2007, a Bureau undercover operator using the alias Ron Picard ("operator") drove a Bureau-documented 1992 Toyota, California License Plate No. 4S12688, to Respondent No. 1's facility for a smog inspection. The vehicle could not pass a smog inspection because the vehicle's air suction ("AS") system was missing. Respondent Chhina performed the smog inspection and issued electronic Certificate of Compliance No. MS616778, certifying that he had tested and inspected the 1992 Toyota and that the vehicle was in compliance with applicable laws and regulations. In fact, the vehicle could not have passed the visual portion of the smog inspection because the vehicle's AS system was missing.

FIRST CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

30. Respondent No. 1's registration is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(1), in that on or about June 26, 2007, it made or authorized statements which it knew or in the exercise of reasonable care it should have known to be untrue or misleading by issuing electronic Certificate of Compliance No. MS616778 for the 1992 Toyota, certifying that the vehicle was in compliance with applicable laws and regulations. In fact, the vehicle could not have passed the visual portion of the smog inspection because the vehicle's AS system was missing.

SECOND CAUSE FOR DISCIPLINE

(Fraud)

31. Respondent No. 1's registration is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(4), in that on or about June 26, 2007, it committed acts which constitute fraud by issuing electronic Certificate of Compliance No. MS616778 for the 1992 Toyota 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.

THIRD CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

32. Respondent No. 1's station license is subject to disciplinary action pursuant to Health & Safety Code section 44072.2, subdivision (a), in that on or about June 26, 2007, regarding the 1992 Toyota, it failed to comply with the following sections of that Code:

a. **Section 44012, subdivision (a):** Respondent No.1 failed to determine that all emission control devices and systems required by law were installed and functioning correctly in accordance with test procedures.

b. **Section 44012, subdivision (f):** Respondent No. 1 failed to perform emission control tests on the vehicle in accordance with procedures prescribed by the department.

c. **Section 44015, subdivision (b)**: Respondent No. 1 issued electronic Certificate of Compliance No. MS616778 for the vehicle without properly testing and inspecting the vehicle to determine if it was in compliance with Health & Safety Code section 44012.

d. **Section 44059:** Respondent No. 1 willfully made false entries for electronic Certificate of Compliance No. MS616778 by certifying that the vehicle had been inspected as required when, in fact, it had not.

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FOURTH CAUSE FOR DISCIPLINE

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

33. Respondent No. 1's station license is subject to disciplinary action pursuant to Health & Safety Code section 44072.2, subdivision (c), in that on or about June 26, 2007, regarding the 1992 Toyota, it failed to comply with provisions of California Code of Regulations, title 16, as follows:

a. **Section 3340.24, subdivision (c):** Respondent No. 1 falsely or fraudulently issued electronic Certificate of Compliance No. MS616778 for the vehicle, in that the vehicle could not pass the visual portion of the smog inspection because the vehicle's AS system was missing.

b. **Section 3340.35, subdivision (c):** Respondent No. 1 issued electronic Certificate of Compliance No. MS616778 for the vehicle even though the vehicle had not been inspected in accordance with section 3340.42.

c. **Section 3340.42:** Respondent No. 1 failed to conduct the required smog tests on the vehicle in accordance with the Bureau's specifications.

FIFTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

34. Respondent No. 1's station license is subject to disciplinary action pursuant to Health & Safety Code section 44072.2, subdivision (d), in that on or about June 26, 2007, it committed dishonest, fraudulent or deceitful acts whereby another is injured by issuing electronic Certificate of Compliance No. MS616778 for the 1992 Toyota 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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SIXTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

35. Respondent Chhina has subjected his technician license to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (a), in that on or about June 26, 2007, regarding the 1992 Toyota, he violated the following sections of that Code:

a. **Section 44012, subdivision (a):** Respondent Chhina failed to determine that all emission control devices and systems required by law were installed and functioning correctly in accordance with test procedures.

b. **Section 44012, subdivision (f):** Respondent Chhina failed to perform emission control tests on the vehicle in accordance with procedures prescribed by the department.

c. **Section 44032:** Respondent Chhina failed to perform tests of the emission control devices and systems on the vehicle in accordance with section 44012 of that Code.

d. **Section 44059:** Respondent Chhina entered false information for electronic Certificate of Compliance No. MS616778 by certifying that the vehicle had been inspected as required when, in fact, it had not.

SEVENTH CAUSE FOR DISCIPLINE

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

36. Respondent Chhina has subjected his technician license to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (c), in that on or about June 26, 2007, regarding the 1992 Toyota, he violated the following sections of the California Code of Regulations, title 16:

a. **Section 3340.24, subdivision (c):** Respondent Chhina falsely or fraudulently issued electronic Certificate of Compliance No. MS616778 for the vehicle, in that the vehicle could not pass the visual portion of the smog inspection because the vehicle's AS system was missing.

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b. **Section 3340.30, subdivision (a):** Respondent Chhina failed to inspect and test the vehicle in accordance with Health and Safety Code section 44012.

c. **Section 3340.41, subdivision (c):** Respondent Chhina entered false information into the Emission Inspection System ("EIS") by entering "Pass" for the visual portion of the smog test when, in fact, the vehicle could not have passed the visual portion of the smog inspection because the vehicle's AS system was missing.

d. **Section 3340.42:** Respondent Chhina failed to conduct the required smog tests on the vehicle in accordance with the Bureau's specifications.

EIGHTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

37. Respondent Chhina has subjected his technician license to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (d), in that on or about June 26, 2007, regarding the 1992 Toyota, he committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing electronic Certificate of Compliance No. MS616778 for that vehicle 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.

UNDERCOVER OPERATION - JULY 25, 2007

38. On July 25, 2007, a Bureau undercover operator using the alias Steve Palmer ("operator") drove a Bureau-documented 1994 Toyota Camry, California License Plate No. 3FLD508, to Respondent No. 1's facility for a smog inspection. The vehicle could not pass the functional portion of the smog inspection because the vehicle's ignition timing was adjusted beyond the manufacturer's specifications. Respondent Chhina performed the smog inspection and issued electronic Certificate of Compliance No. MU025610, certifying that he had tested and inspected the 1994 Toyota Camry and that the vehicle was in compliance with applicable laws and regulations. In fact, the vehicle could not have passed the functional portion of the smog inspection because the vehicle's ignition timing was adjusted beyond the manufacturer's specifications.

NINTH CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

39. Respondent No. 1's registration is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(1), in that on or about July 25, 2007, it made or authorized statements which it knew or in the exercise of reasonable care it should have known to be untrue or misleading by issuing electronic Certificate of Compliance No. MU025610 for the 1994 Toyota Camry, certifying that the vehicle was in compliance with applicable laws and regulations. In fact, the vehicle could not have passed the functional portion of the smog inspection because the vehicle's ignition timing was adjusted beyond the manufacturer's specifications.

TENTH CAUSE FOR DISCIPLINE

(Fraud)

40. Respondent No. 1's registration is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(4), in that on or about July 25, 2007, it committed acts which constitute fraud by issuing electronic Certificate of Compliance No. MU025610 for the 1994 Toyota Camry 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.

ELEVENTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

41. Respondent No. 1's station license is subject to disciplinary action pursuant to Health & Safety Code section 44072.2, subdivision (a), in that on or about July 25, 2007, regarding the 1994 Toyota Camry, it failed to comply with the following sections of that Code:

a. **Section 44012, subdivision (a):** Respondent No. 1 failed to determine that all emission control devices and systems required by law were installed and functioning correctly in accordance with test procedures.

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b. **Section 44012, subdivision (f):** Respondent No. 1 failed to perform emission control tests on the vehicle in accordance with procedures prescribed by the department.

c. **Section 44015, subdivision (b)**: Respondent No. 1 issued electronic Certificate of Compliance No. MU025610 for the vehicle without properly testing and inspecting the vehicle to determine if it was in compliance with Health & Safety Code section 44012.

d. **Section 44059:** Respondent No. 1 willfully made false entries for electronic Certificate of Compliance No. MU025610 by certifying that the vehicle had been inspected as required when, in fact, it had not.

TWELFTH CAUSE FOR DISCIPLINE

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

42. Respondent No. 1's station license is subject to disciplinary action pursuant to Health & Safety Code section 44072.2, subdivision (c), in that on or about July 25, 2007, regarding the 1994 Toyota Camry, it failed to comply with provisions of California Code of Regulations, title 16, as follows:

a. **Section 3340.24, subdivision (c):** Respondent No. 1 falsely or fraudulently issued electronic Certificate of Compliance No. MU025610 for the vehicle, in that the vehicle could not pass the functional portion of the smog inspection because the vehicle's ignition timing was adjusted beyond the manufacturer's specifications.

b. **Section 3340.35, subdivision (c):** Respondent No. 1 issued electronic Certificate of Compliance No. MU025610 for the vehicle even though the vehicle had not been inspected in accordance with section 3340.42.

c. **Section 3340.42:** Respondent No. 1 failed to conduct the required smog tests on the vehicle in accordance with the Bureau's specifications.

THIRTEENTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

43. Respondent No. 1's station license is subject to disciplinary action pursuant to Health & Safety Code section 44072.2, subdivision (d), in that on or about

July 25, 2007, it committed dishonest, fraudulent or deceitful acts whereby another is injured by issuing electronic Certificate of Compliance No. MU025610 for the 1994 Toyota Camry 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.

FOURTEENTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

44. Respondent Chhina has subjected his technician license to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (a), in that on or about July 25, 2007, regarding the 1994 Toyota Camry, he violated the following sections of that Code:

a. **Section 44012, subdivision (a):** Respondent Chhina failed to determine that all emission control devices and systems required by law were installed and functioning correctly in accordance with test procedures.

b. **Section 44012, subdivision (f):** Respondent Chhina failed to perform emission control tests on the vehicle in accordance with procedures prescribed by the department.

c. **Section 44032:** Respondent Chhina failed to perform tests of the emission control devices and systems on the vehicle in accordance with section 44012 of that Code.

d. **Section 44059:** Respondent entered false information for electronic Certificate of Compliance No. MU025610 by certifying that the vehicle had been inspected as required when, in fact, it had not.

FIFTEENTH CAUSE FOR DISCIPLINE

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

45. Respondent Chhina has subjected his technician license to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (c), in that on or about July 25, 2007, regarding the 1994 Toyota Camry, he violated the following sections of the California Code of Regulations, title 16:

a. **Section 3340.24, subdivision (c):** Respondent Chhina falsely or fraudulently issued electronic Certificate of Compliance No. MU025610 for the vehicle, in that the vehicle could not pass the functional portion of the smog inspection because the vehicle's ignition timing was adjusted beyond the manufacturer's specifications.

b. **Section 3340.30, subdivision (a):** Respondent Chhina failed to inspect and test the vehicle in accordance with Health and Safety Code section 44012.

c. **Section 3340.41, subdivision (c):** Respondent Chhina entered false information into the EIS unit by entering "Pass" for the functional portion of the smog inspection when, in fact, the vehicle the vehicle could not have passed the functional portion of the inspection because the vehicle's ignition timing was adjusted beyond the manufacturer's specifications.

d. **Section 3340.42:** Respondent Chhina failed to conduct the required smog tests on the vehicle in accordance with the Bureau's specifications.

SIXTEENTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

46. Respondent Chhina has subjected his technician license to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (d), in that on or about July 25, 2007, regarding the 1994 Toyota Camry, he committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing electronic Certificate of Compliance No. MU025610 for that vehicle 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.

UNDERCOVER OPERATION - JULY 26, 2007

47. On July 26, 2007, a Bureau undercover operator using the alias Steve Palmer ("operator") drove a Bureau-documented 1996 Ford Explorer, California License Plate No. 3PZE600, to Respondent No. 1's facility for a smog inspection. The vehicle could not pass a smog inspection because the vehicle's positive crankcase ventilation ("PCV") system was missing. Respondent Chhina performed the smog inspection and issued electronic Certificate of

Compliance No. MU025621, certifying that he had tested and inspected the 1996 Ford Explorer and that the vehicle was in compliance with applicable laws and regulations. In fact, the vehicle could not have passed the visual portion of the smog inspection because the vehicle's PCV system was missing.

SEVENTEENTH CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

48. Respondent No. 1's registration is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(1), in that on or about July 26, 2007, it made or authorized statements which it knew or in the exercise of reasonable care it should have known to be untrue or misleading by issuing electronic Certificate of Compliance No. MU025621 for the 1996 Ford Explorer, certifying that the vehicle was in compliance with applicable laws and regulations. In fact, the vehicle could not have passed the visual portion of the smog inspection because the vehicle's PCV system was missing.

EIGHTEENTH CAUSE FOR DISCIPLINE

(Fraud)

49. Respondent No. 1's registration is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(4), in that on or about July 26, 2007, it committed acts which constitute fraud by issuing electronic Certificate of Compliance No. MU025621 for the 1996 Ford Explorer 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.

NINETEENTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

50. Respondent No. 1's station license is subject to disciplinary action pursuant to Health & Safety Code section 44072.2, subdivision (a), in that on or about July 26, 2007, regarding the 1996 Ford Explorer, it failed to comply with the following sections of that Code:

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a. **Section 44012, subdivision (a):** Respondent No. 1 failed to determine that all emission control devices and systems required by law were installed and functioning correctly in accordance with test procedures.

b. **Section 44012, subdivision (f):** Respondent No. 1 failed to perform emission control tests on the vehicle in accordance with procedures prescribed by the department.

c. **Section 44015, subdivision (b)**: Respondent No. 1 issued electronic Certificate of Compliance No. MU025621 for the vehicle without properly testing and inspecting the vehicle to determine if it was in compliance with Health & Safety Code section 44012.

d. **Section 44059:** Respondent No. 1 willfully made false entries for electronic Certificate of Compliance No. MU025621 by certifying that the vehicle had been inspected as required when, in fact, it had not.

TWENTIETH CAUSE FOR DISCIPLINE

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

51. Respondent No. 1's station license is subject to disciplinary action pursuant to Health & Safety Code section 44072.2, subdivision (c), in that on or about July 26, 2007, regarding the 1996 Ford Explorer, it failed to comply with provisions of California Code of Regulations, title 16, as follows:

a. **Section 3340.24, subdivision (c):** Respondent No. 1 falsely or fraudulently issued electronic Certificate of Compliance No. MU025621 for the vehicle, in that the vehicle could not pass the visual portion of the smog inspection because the vehicle's PCV system was missing.

b. **Section 3340.35, subdivision (c):** Respondent No. 1 issued electronic Certificate of Compliance No. MU025621 for the vehicle even though the vehicle had not been inspected in accordance with section 3340.42.

c. **Section 3340.42:** Respondent No. 1 failed to conduct the required smog tests on the vehicle in accordance with the Bureau's specifications.

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TWENTY-FIRST CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

52. Respondent No. 1's station license is subject to disciplinary action pursuant to Health & Safety Code section 44072.2, subdivision (d), in that on or about July 26, 2007, it committed dishonest, fraudulent or deceitful acts whereby another is injured by issuing electronic Certificate of Compliance No. MU025621 for the 1996 Ford Explorer 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.

TWENTY-SECOND CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

53. Respondent Chhina has subjected his technician license to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (a), in that on or about July 26, 2007, regarding the 1996 Ford Explorer, he violated the following sections of that Code:

a. **Section 44012, subdivision (a):** Respondent Chhina failed to determine that all emission control devices and systems required by law were installed and functioning correctly in accordance with test procedures.

b. **Section 44012, subdivision (f):** Respondent Chhina failed to perform emission control tests on the vehicle in accordance with procedures prescribed by the department.

c. **Section 44032:** Respondent Chhina failed to perform tests of the emission control devices and systems on the vehicle in accordance with section 44012 of that Code.

d. **Section 44059:** Respondent entered false information for electronic Certificate of Compliance No. MU025621 by certifying that the vehicle had been inspected as required when, in fact, it had not.

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TWENTY-THIRD CAUSE FOR DISCIPLINE

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

54. Respondent Chhina has subjected his technician license to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (c), in that on or about July 26, 2007, regarding the 1996 Ford Explorer, he violated the following sections of the California Code of Regulations, title 16:

a. **Section 3340.24, subdivision (c):** Respondent Chhina falsely or fraudulently issued electronic Certificate of Compliance No. MU025621 for the vehicle, in that the vehicle could not pass the visual portion of the smog inspection because the vehicle's PCV system was missing.

b. **Section 3340.30, subdivision (a):** Respondent Chhina failed to inspect and test the vehicle in accordance with Health and Safety Code section 44012.

c. **Section 3340.41, subdivision (c):** Respondent Chhina entered false information into the EIS unit by entering "Pass" for the visual portion of the smog test when, in fact, the vehicle's PCV system was missing.

d. **Section 3340.42:** Respondent Chhina failed to conduct the required smog tests on the vehicle in accordance with the Bureau's specifications.

TWENTY-FOURTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

55. Respondent Chhina has subjected his technician license to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (d), in that on or about July 26, 2007, regarding the 1996 Ford Explorer, he committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing electronic Certificate of Compliance No. MU025621 for that vehicle 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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RESPONDENT NO. 2

UNDERCOVER OPERATION - SEPTEMBER 21, 2007

56. On September 21, 2007, a Bureau undercover operator using the alias Joseph Cook ("operator") drove a Bureau-documented 1989 Ford Ranger, California License Plate No. 3Y13631, to Respondent No. 2's facility for a smog inspection. The vehicle could not pass a smog inspection because the vehicle's thermostatic air cleaner ("TAC") was missing. The operator was provided with a copy of the signed work order; however, the document did not contain the vehicle's current odometer reading. Respondent Harrison performed the smog inspection and issued electronic Certificate of Compliance No. MU744740, certifying that he had tested and inspected the 1989 Ford Ranger and that the vehicle was in compliance with applicable laws and regulations. In fact, the vehicle could not have passed the visual portion of the smog inspection because the vehicle's TAC was missing.

TWENTY-FIFTH CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

57. Respondent No. 2's registration is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(1), in that on or about September 21, 2007, it made or authorized statements which it knew or in the exercise of reasonable care it should have known to be untrue or misleading by issuing electronic Certificate of Compliance No. MU744740 for the 1989 Ford Ranger, certifying that the vehicle was in compliance with applicable laws and regulations. In fact, the vehicle could not have passed the visual portion of the smog inspection because the vehicle's TAC was missing.

TWENTY-SIXTH CAUSE FOR DISCIPLINE

(Failure to Record Vehicle's Current Odometer Reading on the Work Order)

58. Respondent's registration is subject to discipline under Code section 9884.7, subdivision (a)(2), in that Respondent allowed the operator to sign the work order dated September 21, 2007, that did not contain the vehicle's current odometer reading.

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TWENTY-SEVENTH CAUSE FOR DISCIPLINE

(Fraud)

59. Respondent No. 2's registration is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(4), in that on or about September 21, 2007, it committed acts which constitute fraud by issuing electronic Certificate of Compliance No. MU744740 for the 1989 Ford Ranger 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.

TWENTY-EIGHTH CAUSE FOR DISCIPLINE

(Failure to Comply with Regulations)

60. Respondent is subject to discipline under Code section 9884.7, subdivision (a)(6), in that on or about September 21, 2007, Respondent failed to materially comply with California Code of Regulations, title 16, section 3356, subdivision (a)(1), by failing to set forth its business name as reflected on Bureau records.

TWENTY-NINTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

61. Respondent No. 2's station license is subject to disciplinary action pursuant to Health & Safety Code section 44072.2, subdivision (a), in that on or about September 21, 2007, regarding the 1989 Ford Ranger, it failed to comply with the following sections of that Code:

a. **Section 44012, subdivision (a):** Respondent No. 2 failed to determine that all emission control devices and systems required by law were installed and functioning correctly in accordance with test procedures.

b. **Section 44012, subdivision (f):** Respondent No. 2 failed to perform emission control tests on the vehicle in accordance with procedures prescribed by the department.

c. **Section 44015, subdivision (b)**: Respondent No. 2 issued electronic Certificate of Compliance No. MU744740 for the vehicle without properly testing and inspecting the vehicle to determine if it was in compliance with Health & Safety Code section 44012.

d. **Section 44059:** Respondent No. 2 willfully made false entries for electronic Certificate of Compliance No. MU744740 by certifying that the vehicle had been inspected as required when, in fact, it had not.

THIRTIETH CAUSE FOR DISCIPLINE

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

62. Respondent No. 2's station license is subject to disciplinary action pursuant to Health & Safety Code section 44072.2, subdivision (c), in that on or about September 21, 2007, regarding the 1989 Ford Ranger, it failed to comply with provisions of California Code of Regulations, title 16, as follows:

a. **Section 3340.24, subdivision (c):** Respondent No. 2 falsely or fraudulently issued electronic Certificate of Compliance No. MU744740 for the vehicle, in that the vehicle could not pass the visual portion of the smog inspection because the vehicle's TAC was missing.

b. **Section 3340.35, subdivision (c):** Respondent No. 2 issued electronic Certificate of Compliance No. MU744740 for the vehicle even though the vehicle had not been inspected in accordance with section 3340.42.

c. **Section 3340.42:** Respondent No. 2 failed to conduct the required smog tests on the vehicle in accordance with the Bureau's specifications.

THIRTY-FIRST CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

63. Respondent No. 2's station license is subject to disciplinary action pursuant to Health & Safety Code section 44072.2, subdivision (d), in that on or about September 21, 2007, it committed dishonest, fraudulent or deceitful acts whereby another is injured by issuing electronic Certificate of Compliance No. MU744740 for the 1989 Ford Ranger 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.

THIRTY-SECOND CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

64. Respondent Harrison has subjected his technician license to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (a), in that on or about September 21, 2007, regarding the 1989 Ford Ranger, he violated the following sections of that Code:

a. **Section 44012, subdivision (a):** Respondent Harrison failed to determine that all emission control devices and systems required by law were installed and functioning correctly in accordance with test procedures.

b. **Section 44012, subdivision (f):** Respondent Harrison failed to perform emission control tests on the vehicle in accordance with procedures prescribed by the department.

c. **Section 44032:** Respondent Harrison failed to perform tests of the emission control devices and systems on the vehicle in accordance with section 44012 of that Code.

d. **Section 44059:** Respondent entered false information for electronic Certificate of Compliance No. MU744740 by certifying that the vehicle had been inspected as required when, in fact, it had not.

THIRTY-THIRD CAUSE FOR DISCIPLINE

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

65. Respondent Harrison has subjected his technician license to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (c), in that on or about September 21, 2007, regarding the 1989 Ford Ranger, he violated the following sections of the California Code of Regulations, title 16:

a. **Section 3340.24, subdivision (c):** Respondent Harrison falsely or fraudulently issued electronic Certificate of Compliance No. MU744740 for the vehicle, in that the vehicle could not pass the visual portion of the smog inspection because the vehicle's TAC was missing.

b. **Section 3340.30, subdivision (a):** Respondent Harrison failed to inspect and test the vehicle in accordance with Health and Safety Code section 44012.

c. **Section 3340.41, subdivision (c):** Respondent Harrison entered false information into the EIS unit by entering "N/A" for the visual inspection of the TAC indicating that the system was not applicable when, in fact, the TAC system is applicable but was missing from the vehicle.

d. **Section 3340.42:** Respondent Harrison failed to conduct the required smog tests on the vehicle in accordance with the Bureau's specifications.

THIRTY-FOURTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

66. Respondent Harrison has subjected his technician license to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (d), in that on or about September 21, 2007, regarding the 1989 Ford Ranger, he committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing electronic Certificate of Compliance No. MU744740 for that vehicle 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.

UNDERCOVER OPERATION - SEPTEMBER 21, 2007

67. On September 21, 2007, a Bureau undercover operator using the alias Joseph Cook ("operator") drove a Bureau-documented 1998 Ford E-150, California License Plate No. 5R77178, to Respondent No. 2's facility for a smog inspection. The vehicle could not pass a smog inspection because the vehicle's positive crankcase ventilation ("PCV") system was missing. Respondent Harrison performed the smog inspection and issued electronic Certificate of Compliance No. MU744743, certifying that he had tested and inspected the 1998 Ford E-150 and that the vehicle was in compliance with applicable laws and regulations. In fact, the vehicle could not have passed the visual portion of the smog inspection because the vehicle's PCV system was missing.

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THIRTY-FIFTH CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

68. Respondent No. 2's registration is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(1), in that on or about September 21, 2007, it made or authorized statements which it knew or in the exercise of reasonable care it should have known to be untrue or misleading by issuing electronic Certificate of Compliance No. MU744743 for the 1998 Ford E-150, certifying that the vehicle was in compliance with applicable laws and regulations. In fact, the vehicle could not have passed the visual portion of the smog inspection because the vehicle's PCV system was missing.

THIRTY-SIXTH CAUSE FOR DISCIPLINE

(Fraud)

69. Respondent No. 2's registration is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(4), in that on or about September 21, 2007, it committed acts which constitute fraud by issuing electronic Certificate of Compliance No. MU744743 for the 1998 Ford E-150 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.

THIRTY-SEVENTH CAUSE FOR DISCIPLINE

(Failure to Comply with Regulations)

70. Respondent is subject to discipline under Code section 9884.7, subdivision (a)(6), in that on or about September 21, 2007, Respondent failed to materially comply with California Code of Regulations, title 16, section 3356, subdivision (a)(1), by failing to set forth its business name as reflected on Bureau records.

THIRTY-EIGHTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

71. Respondent No. 2's station license is subject to disciplinary action pursuant to Health & Safety Code section 44072.2, subdivision (a), in that on or about

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September 21, 2007, regarding the 1998 Ford E-150, it failed to comply with the following sections of that Code:

a. **Section 44012, subdivision (a):** Respondent No. 2 failed to determine that all emission control devices and systems required by law were installed and functioning correctly in accordance with test procedures.

b. **Section 44012, subdivision (f):** Respondent No. 2 failed to perform emission control tests on the vehicle in accordance with procedures prescribed by the department.

c. **Section 44015, subdivision (b)**: Respondent No. 2 issued electronic Certificate of Compliance No. MU744743 for the vehicle without properly testing and inspecting the vehicle to determine if it was in compliance with Health & Safety Code section 44012.

d. **Section 44059:** Respondent No. 2 willfully made false entries for electronic Certificate of Compliance No. MU744743 by certifying that the vehicle had been inspected as required when, in fact, it had not.

THIRTY-NINTH CAUSE FOR DISCIPLINE

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

72. Respondent No. 2's station license is subject to disciplinary action pursuant to Health & Safety Code section 44072.2, subdivision (c), in that on or about September 21, 2007, regarding the 1998 Ford E-150, it failed to comply with provisions of California Code of Regulations, title 16, as follows:

a. **Section 3340.24, subdivision (c):** Respondent No. 2 falsely or fraudulently issued electronic Certificate of Compliance No. MU744743 for the vehicle, in that the vehicle could not pass the visual portion of the smog inspection because the vehicle's PCV system was missing.

b. **Section 3340.35, subdivision (c):** Respondent No. 2 issued electronic Certificate of Compliance No. MU744743 for the vehicle even though the vehicle had not been inspected in accordance with section 3340.42.

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c. **Section 3340.42:** Respondent No. 2 failed to conduct the required smog tests on the vehicle in accordance with the Bureau's specifications.

FORTIETH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

73. Respondent No. 2's station license is subject to disciplinary action pursuant to Health & Safety Code section 44072.2, subdivision (d), in that on or about September 21, 2007, it committed dishonest, fraudulent or deceitful acts whereby another is injured by issuing electronic Certificate of Compliance No. MU744743 for the 1998 Ford E-150 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.

FORTY-FIRST CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

74. Respondent Harrison has subjected his technician license to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (a), in that on or about September 21, 2007, regarding the 1998 Ford E-150, he violated the following sections of that Code:

a. **Section 44012, subdivision (a):** Respondent Harrison failed to determine that all emission control devices and systems required by law were installed and functioning correctly in accordance with test procedures.

b. **Section 44012, subdivision (f):** Respondent Harrison failed to perform emission control tests on the vehicle in accordance with procedures prescribed by the department.

c. **Section 44032:** Respondent Harrison failed to perform tests of the emission control devices and systems on the vehicle in accordance with section 44012 of that Code.

d. **Section 44059:** Respondent entered false information for electronic Certificate of Compliance No. MU744743 by certifying that the vehicle had been inspected as required when, in fact, it had not.

FORTY-SECOND CAUSE FOR DISCIPLINE

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

75. Respondent Harrison has subjected his technician license to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (c), in that on or about September 21, 2007, regarding the 1998 Ford E-150, he violated the following sections of the California Code of Regulations, title 16:

a. **Section 3340.24, subdivision (c):** Respondent Harrison falsely or fraudulently issued electronic Certificate of Compliance No. MU744743 for the vehicle, in that the vehicle could not pass the visual portion of the smog inspection because the vehicle's PCV system was missing.

b. **Section 3340.30, subdivision (a):** Respondent Harrison failed to inspect and test the vehicle in accordance with Health and Safety Code section 44012.

c. **Section 3340.41, subdivision (c):** Respondent Harrison entered false information into the EIS unit by entering "Pass" for the visual portion of the smog test when, in fact, the vehicle's PCV system was missing.

d. **Section 3340.42:** Respondent Harrison failed to conduct the required smog tests on the vehicle in accordance with the Bureau's specifications.

FORTY-THIRD CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

76. Respondent Harrison has subjected his technician license to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (d), in that on or about September 21, 2007, regarding the 1998 Ford E-150, he committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing electronic Certificate of Compliance No. MU744743 for that vehicle 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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RESPONDENT NO. 3

UNDERCOVER OPERATION - OCTOBER 24, 2007

77. On October 24, 2007, a Bureau undercover operator using the alias Bob Johnson ("operator") drove a Bureau-documented 1994 Toyota Camry, California License Plate No. 3FLD508, to Respondent No. 3's facility for a smog inspection. The vehicle could not pass a smog inspection because the vehicle's ignition timing was adjusted beyond the manufacturer's specifications. The operator filled out and signed a work order but was not provided with a copy of the document. Respondent Ordonez performed the smog inspection and issued electronic Certificate of Compliance No. MW137423, certifying that he had tested and inspected the 1994 Toyota Camry and that the vehicle was in compliance with applicable laws and regulations. In fact, the vehicle could not have passed the functional portion of the smog inspection because the vehicle's ignition timing was adjusted beyond the manufacturer's specifications.

FORTY-FOURTH CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

78. Respondent No. 3's registration is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(1), in that on or about October 24, 2007, it made or authorized statements which it knew or in the exercise of reasonable care it should have known to be untrue or misleading by issuing electronic Certificate of Compliance No. MW137423 for the 1994 Toyota Camry, certifying that the vehicle was in compliance with applicable laws and regulations. In fact, the vehicle could not have passed the functional portion of the smog inspection because the vehicle's ignition timing was adjusted beyond the manufacturer's specification.

FORTY-FIFTH CAUSE FOR DISCIPLINE

(Failure to Provide Copy of Document)

79. Respondent No. 3's registration is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(3), in that on or about October 24, 2007, it failed to provide the operator with a copy of the work order as soon as he signed the document.

FORTY-SIXTH CAUSE FOR DISCIPLINE

(Fraud)

80. Respondent No. 3's registration is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(4), in that on or about October 24, 2007, it committed acts which constitute fraud by issuing electronic Certificate of Compliance No. MW137423 for the 1994 Toyota Camry 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.

FORTY-SEVENTH CAUSE FOR DISCIPLINE

(Failure to Comply with Code)

81. Respondent No. 3's registration is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(6), in that on or about October 24, 2007, it failed to comply with Code section 9884.9, subdivision (a), by failing to provide the operator with a written estimated price for parts and labor for a specific job.

FORTY-EIGHTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

82. Respondent No. 3's station license is subject to disciplinary action pursuant to Health & Safety Code section 44072.2, subdivision (a), in that on or about October 24, 2007, regarding the 1994 Toyota Camry, it failed to comply with the following sections of that Code:

a. **Section 44012, subdivision (a):** Respondent No. 3 failed to determine that all emission control devices and systems required by law were installed and functioning correctly in accordance with test procedures.

b. **Section 44012, subdivision (f):** Respondent No. 3 failed to perform emission control tests on the vehicle in accordance with procedures prescribed by the department.

c. **Section 44015, subdivision (b)**: Respondent No. 3 issued electronic Certificate of Compliance No. MW137423 for the vehicle without properly testing and

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inspecting the vehicle to determine if it was in compliance with Health & Safety Code section 44012.

d. **Section 44059:** Respondent No. 3 willfully made false entries for electronic Certificate of Compliance No. MW137423 by certifying that the vehicle had been inspected as required when, in fact, it had not.

FORTY-NINTH CAUSE FOR DISCIPLINE

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

83. Respondent No. 3's station license is subject to disciplinary action pursuant to Health & Safety Code section 44072.2, subdivision (c), in that on or about October 24, 2007, regarding the 1994 Toyota Camry, it failed to comply with provisions of California Code of Regulations, title 16, as follows:

a. **Section 3340.24, subdivision (c):** Respondent No. 3 falsely or fraudulently issued electronic Certificate of Compliance No. MW137423 for the vehicle, in that the vehicle could not pass the functional portion of the smog inspection because the vehicle's ignition timing was adjusted beyond the manufacturer's specification.

b. **Section 3340.35, subdivision (c):** Respondent No. 3 issued electronic Certificate of Compliance No. MW137423 for the vehicle even though the vehicle had not been inspected in accordance with section 3340.42.

c. **Section 3340.42:** Respondent No. 3 failed to conduct the required smog tests on the vehicle in accordance with the Bureau's specifications.

FIFTIETH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

84. Respondent No. 3's station license is subject to disciplinary action pursuant to Health & Safety Code section 44072.2, subdivision (d), in that on or about October 24, 2007, it committed dishonest, fraudulent or deceitful acts whereby another is injured by issuing electronic Certificate of Compliance No. MW137423 for the 1994 Toyota Camry 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.

FIFTY-FIRST CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

85. Respondent Ordonez has subjected his technician license to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (a), in that on or about October 24, 2007, regarding the 1994 Toyota Camry, he violated the following sections of that Code:

a. **Section 44012, subdivision (a):** Respondent Ordonez failed to determine that all emission control devices and systems required by law were installed and functioning correctly in accordance with test procedures.

b. **Section 44012, subdivision (f):** Respondent Ordonez failed to perform emission control tests on the vehicle in accordance with procedures prescribed by the department.

c. **Section 44032:** Respondent Ordonez failed to perform tests of the emission control devices and systems on the vehicle in accordance with section 44012 of that Code.

d. **Section 44059:** Respondent willfully entered false information for electronic Certificate of Compliance No. MW137423 by certifying that the vehicle had been inspected as required when, in fact, it had not.

FIFTY-SECOND CAUSE FOR DISCIPLINE

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

86. Respondent Ordonez has subjected his technician license to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (c), in that on or about October 24, 2007, regarding the 1994 Toyota Camry, he violated the following sections of the California Code of Regulations, title 16:

a. **Section 3340.24, subdivision (c):** Respondent Ordonez falsely or fraudulently issued electronic Certificate of Compliance No. MW137423 for the vehicle, in that

the vehicle could not pass the functional portion of the smog inspection because the vehicle's ignition timing was adjusted beyond the manufacturer's specification.

b. **Section 3340.30, subdivision (a):** Respondent Ordonez failed to inspect and test the vehicle in accordance with Health and Safety Code section 44012.

c. **Section 3340.41, subdivision (c):** Respondent Ordonez entered false information into the EIS unit by entering "Pass" for the ignition timing portion of the smog test when, in fact, the vehicle's ignition timing was adjusted beyond the manufacturer's specification.

d. **Section 3340.42:** Respondent Ordonez failed to conduct the required smog tests on the vehicle in accordance with the Bureau's specifications.

FIFTY-THIRD CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

87. Respondent Ordonez has subjected his technician license to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (d), in that on or about October 24, 2007, regarding the 1994 Toyota Camry, he committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing electronic Certificate of Compliance No. MW137423 for that vehicle 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.

UNDERCOVER OPERATION - OCTOBER 31, 2007

88. On October 31, 2007, a Bureau undercover operator using the alias Robert ("operator") drove a Bureau-documented 1992 Toyota, California License Plate No. 4S12688, to Respondent No. 3's facility for a smog inspection. The vehicle could not pass a smog inspection because the vehicle's air suction ("AS") system was missing. The operator filled out and signed a work order but was not provided with a copy of the document. Respondent Ordonez performed the smog inspection and issued electronic Certificate of Compliance No. MW137444, certifying that he had tested and inspected the 1992 Toyota and that the vehicle was in compliance with applicable laws and regulations. In fact, the vehicle

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could not have passed the visual portion of the smog inspection because the vehicle's AS system was missing.

FIFTY-FOURTH CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

89. Respondent No. 3's registration is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(1), in that on or about October 31, 2007, it made or authorized statements which it knew or in the exercise of reasonable care it should have known to be untrue or misleading by issuing electronic Certificate of Compliance No. MW137444 for the 1992 Toyota, certifying that the vehicle was in compliance with applicable laws and regulations. In fact, the vehicle could not have passed the visual portion of the smog inspection because the vehicle's AS system was missing.

FIFTY-FIFTH CAUSE FOR DISCIPLINE

(Failure to Provide Copy of Document)

90. Respondent No. 3's registration is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(3), in that on or about October 31, 2007, it failed to provide the operator with a copy of the work order as soon as he signed the document.

FIFTY-SIXTH CAUSE FOR DISCIPLINE

(Fraud)

91. Respondent No. 3's registration is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(4), in that on or about October 31, 2007, it committed acts which constitute fraud by issuing electronic Certificate of Compliance No. MW137444 for the 1992 Toyota 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.

FIFTY-SEVENTH CAUSE FOR DISCIPLINE

(Failure to Comply with Code)

92. Respondent No. 3's registration is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(6), in that on or about October 31, 2007, it failed to comply

with Code section 9884.9, subdivision (a), by failing to provide the operator with a written estimated price for parts and labor for a specific job.

FIFTY-EIGHTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

93. Respondent No. 3's station license is subject to disciplinary action pursuant to Health & Safety Code section 44072.2, subdivision (a), in that on or about October 31, 2007, regarding the 1992 Toyota, it failed to comply with the following sections of that Code:

a. **Section 44012, subdivision (a):** Respondent No. 3 failed to determine that all emission control devices and systems required by law were installed and functioning correctly in accordance with test procedures.

b. **Section 44012, subdivision (f):** Respondent No. 3 failed to perform emission control tests on the vehicle in accordance with procedures prescribed by the department.

c. **Section 44015, subdivision (b)**: Respondent No. 3 issued electronic Certificate of Compliance No. MW137444 for the vehicle without properly testing and inspecting the vehicle to determine if it was in compliance with Health & Safety Code section 44012.

d. **Section 44059:** Respondent No. 3 willfully made false entries for electronic Certificate of Compliance No. MW137444 by certifying that the vehicle had been inspected as required when, in fact, it had not.

FIFTY-NINTH CAUSE FOR DISCIPLINE

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

94. Respondent No. 3's station license is subject to disciplinary action pursuant to Health & Safety Code section 44072.2, subdivision (c), in that on or about October 31, 2007, regarding the 1992 Toyota, it failed to comply with provisions of California Code of Regulations, title 16, as follows:

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a. **Section 3340.24, subdivision (c):** Respondent No. 3 falsely or fraudulently issued electronic Certificate of Compliance No. MW137444 for the vehicle, in that the vehicle could not pass the visual portion of the smog inspection because the vehicle's AS system was missing.

b. **Section 3340.35, subdivision (c):** Respondent No. 3 issued electronic Certificate of Compliance No. MW137444 for the vehicle even though the vehicle had not been inspected in accordance with section 3340.42.

c. **Section 3340.42:** Respondent No. 3 failed to conduct the required smog tests on the vehicle in accordance with the Bureau's specifications.

SIXTIETH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

95. Respondent No. 3's station license is subject to disciplinary action pursuant to Health & Safety Code section 44072.2, subdivision (d), in that on or about October 31, 2007, it committed dishonest, fraudulent or deceitful acts whereby another is injured by issuing electronic Certificate of Compliance No. MW137444 for the 1992 Toyota 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.

SIXTY-FIRST CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

96. Respondent Ordonez has subjected his technician license to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (a), in that on or about October 31, 2007, regarding the 1992 Toyota, he violated the following sections of that Code:

a. **Section 44012, subdivision (a):** Respondent Ordonez failed to determine that all emission control devices and systems required by law were installed and functioning correctly in accordance with test procedures.

b. **Section 44012, subdivision (f):** Respondent Ordonez failed to perform emission control tests on the vehicle in accordance with procedures prescribed by the department.

c. **Section 44032:** Respondent Ordonez failed to perform tests of the emission control devices and systems on the vehicle in accordance with section 44012 of that Code.

d. **Section 44059:** Respondent Ordonez entered false information for electronic Certificate of Compliance No. MW137444 by certifying that the vehicle had been inspected as required when, in fact, it had not.

SIXTY-SECOND CAUSE FOR DISCIPLINE

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

97. Respondent Ordonez has subjected his technician license to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (c), in that on or about October 31, 2007, regarding the 1992 Toyota, he violated the following sections of the California Code of Regulations, title 16:

a. **Section 3340.24, subdivision (c):** Respondent Ordonez falsely or fraudulently issued electronic Certificate of Compliance No. MW137444 for the vehicle, in that the vehicle could not pass the visual portion of the smog inspection because the vehicle's AS system was missing.

b. **Section 3340.30, subdivision (a):** Respondent Ordonez failed to inspect and test the vehicle in accordance with Health and Safety Code section 44012.

c. **Section 3340.41, subdivision (c):** Respondent Ordonez entered false information into the EIS unit by entering "Pass" for the visual portion of the smog inspection when, in fact, the vehicle could not pass the visual portion of the inspection because the vehicle's AS system was missing.

d. **Section 3340.42:** Respondent Ordonez failed to conduct the required smog tests on the vehicle in accordance with the Bureau's specifications.

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SIXTY-THIRD CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

98. Respondent Ordonez has subjected his technician license to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (d), in that on or about October 31, 2007, regarding the 1992 Toyota, he committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing electronic Certificate of Compliance No. MW137444 for that vehicle 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.

UNDERCOVER OPERATION - NOVEMBER 5, 2007

99. On November 5, 2007, a Bureau undercover operator using the alias Robert ("operator") drove a Bureau-documented 1995 Chevrolet Astro Van, California License Plate No. 3NUD802, to Respondent No. 3's facility for a smog inspection. The vehicle could not pass a smog inspection because the vehicle's positive crankcase ventilation ("PCV") system was missing. The operator filled out and signed a work order but was not provided with a copy of the document. Respondent Ordonez performed the smog inspection and issued electronic Certificate of Compliance No. MW279311, certifying that he had tested and inspected the 1995 Chevrolet Astro Van and that the vehicle was in compliance with applicable laws and regulations. In fact, the vehicle could not have passed the visual portion of the smog inspection because the vehicle's PCV system was missing.

SIXTY-FOURTH CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

100. Respondent No. 3's registration is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(1), in that on or about November 5, 2007, it made or authorized statements which it knew or in the exercise of reasonable care it should have known to be untrue or misleading by issuing electronic Certificate of Compliance No. MW279311 for the 1995 Chevrolet Astro Van, certifying that the vehicle was in compliance with applicable laws

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and regulations. In fact, the vehicle could not have passed the visual portion of the smog inspection because the vehicle's PCV system was missing.

SIXTY-FIFTH CAUSE FOR DISCIPLINE

(Failure to Provide Copy of Document)

101. Respondent No. 3's registration is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(3), in that on or about November 5, 2007, it failed to provide the operator with a copy of the work order as soon as he signed the document.

SIXTY-SIXTH CAUSE FOR DISCIPLINE

(Fraud)

102. Respondent No. 3's registration is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(4), in that on or about November 5, 2007, it committed acts which constitute fraud by issuing electronic Certificate of Compliance No. MW279311 for the 1995 Chevrolet Astro Van 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.

SIXTY-SEVENTH CAUSE FOR DISCIPLINE

(Failure to Comply with Code)

103. Respondent No. 3's registration is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(6), in that on or about November 5, 2007, it failed to comply with Code section 9884.9, subdivision (a), by failing to provide the operator with a written estimated price for parts and labor for a specific job.

SIXTY-EIGHTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

104. Respondent No. 3's station license is subject to disciplinary action pursuant to Health & Safety Code section 44072.2, subdivision (a), in that on or about November 5, 2007, regarding the 1995 Chevrolet Astro Van, it failed to comply with the following sections of that Code:

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a. **Section 44012, subdivision (a):** Respondent No. 3 failed to determine that all emission control devices and systems required by law were installed and functioning correctly in accordance with test procedures.

b. **Section 44012, subdivision (f):** Respondent No. 3 failed to perform emission control tests on the vehicle in accordance with procedures prescribed by the department.

c. **Section 44015, subdivision (b)**: Respondent No. 3 issued electronic Certificate of Compliance No. MW279311 for the vehicle without properly testing and inspecting the vehicle to determine if it was in compliance with Health & Safety Code section 44012.

d. **Section 44059:** Respondent No. 3 willfully made false entries for electronic Certificate of Compliance No. MW279311 by certifying that the vehicle had been inspected as required when, in fact, it had not.

SIXTY-NINTH CAUSE FOR DISCIPLINE

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

105. Respondent No. 3's station license is subject to disciplinary action pursuant to Health & Safety Code section 44072.2, subdivision (c), in that on or about November 5, 2007, regarding the 1995 Chevrolet Astro Van, it failed to comply with provisions of California Code of Regulations, title 16, as follows:

a. **Section 3340.24, subdivision (c):** Respondent No. 3 falsely or fraudulently issued electronic Certificate of Compliance No. MW279311 for the vehicle, in that the vehicle could not pass the visual portion of the smog inspection because the vehicle's PCV system was missing.

b. **Section 3340.35, subdivision (c):** Respondent No. 3 issued electronic Certificate of Compliance No. MW279311 for the vehicle even though the vehicle had not been inspected in accordance with section 3340.42.

c. **Section 3340.42:** Respondent No. 3 failed to conduct the required smog tests on the vehicle in accordance with the Bureau's specifications.

SEVENTIETH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

106. Respondent No. 3's station license is subject to disciplinary action pursuant to Health & Safety Code section 44072.2, subdivision (d), in that on or about November 5, 2007, it committed dishonest, fraudulent or deceitful acts whereby another is injured by issuing electronic Certificate of Compliance No. MW279311 for the 1995 Chevrolet Astro Van 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.

SEVENTY-FIRST CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

107. Respondent Ordonez has subjected his technician license to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (a), in that on or about November 5, 2007, regarding the 1995 Chevrolet Astro Van, he violated the following sections of that Code:

a. **Section 44012, subdivision (a):** Respondent Ordonez failed to determine that all emission control devices and systems required by law were installed and functioning correctly in accordance with test procedures.

b. **Section 44012, subdivision (f):** Respondent Ordonez failed to perform emission control tests on the vehicle in accordance with procedures prescribed by the department.

c. **Section 44032:** Respondent Ordonez failed to perform tests of the emission control devices and systems on the vehicle in accordance with section 44012 of that Code.

d. **Section 44059:** Respondent Ordonez willfully made false entries for electronic Certificate of Compliance No. MW279311 by certifying that the vehicle had been inspected as required when, in fact, it had not.

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SEVENTY-SECOND CAUSE FOR DISCIPLINE

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

108. Respondent Ordonez has subjected his technician license to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (c), in that on or about November 5, 2007, regarding the 1995 Chevrolet Astro Van, he violated the following sections of the California Code of Regulations, title 16:

a. **Section 3340.24, subdivision (c):** Respondent Ordonez falsely or fraudulently issued electronic Certificate of Compliance No. MW279311 for the vehicle, in that the vehicle could not pass the visual portion of the smog inspection because the vehicle's PCV system was missing.

b. **Section 3340.30, subdivision (a):** Respondent Ordonez failed to inspect and test the vehicle in accordance with Health and Safety Code section 44012.

c. **Section 3340.41, subdivision (c):** Respondent Ordonez entered false information into the EIS unit by entering "Pass" for the PCV system when, in fact, the vehicle's PCV system was missing.

d. **Section 3340.42:** Respondent Ordonez failed to conduct the required smog tests on the vehicle in accordance with the Bureau's specifications.

SEVENTY-THIRD CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

109. Respondent Ordonez has subjected his technician license to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (d), in that on or about November 5, 2007, regarding the 1995 Chevrolet Astro Van, he committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing electronic Certificate of Compliance No. MW279311 for that vehicle 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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RESPONDENT NO. 4

UNDERCOVER OPERATION - JUNE 26, 2007

110. On June 26, 2007, a Bureau undercover operator using the alias Ron Picard ("operator") drove a Bureau-documented 1992 Toyota, California License Plate No. 4S12688, to Respondent No. 4's facility for a smog inspection. The vehicle could not pass a smog inspection because the vehicle's air suction ("AS") system was missing. Respondent Schaub performed the smog inspection; however, Respondent Schaub's entries into the EIS unit included a "pass" for the visual inspection and a "fail" for the ignition timing, creating a false and misleading Vehicle Inspection Report ("VIR"). In fact, the vehicle should not have passed the visual inspection because the vehicle's AS system was missing and the vehicle's ignition timing should not have failed because the vehicle's ignition timing was within the manufacturer's specifications. No certificate of compliance was issued.

SEVENTY-FOURTH CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

111. Respondent No. 4's registration is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(1), in that on or about June 26, 2007, it made or authorized statements which it knew or in the exercise of reasonable care it should have known to be untrue or misleading as follow:

a. Respondent No. 4 provided the operator with a VIR that was false and misleading, in that the VIR provided that the vehicle passed the visual inspection when, in fact, the vehicle could not have passed the visual inspection because the vehicle's AS system was missing.

b. Respondent No. 4 provided the operator with a VIR that was false and misleading, in that the VIR provided that the vehicle failed the functional inspection due to the vehicle's ignition timing when, in fact, the vehicle's ignition timing was within the manufacturer's specifications.

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SEVENTY-FIFTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

112. Respondent No. 4's station license is subject to disciplinary action pursuant to Health & Safety Code section 44072.2, subdivision (a), in that on or about June 26, 2007, regarding the 1992 Toyota, it failed to comply with the following sections of that Code:

a. **Section 44012, subdivision (a):** Respondent No. 4 failed to determine that all emission control devices and systems required by law were installed and functioning correctly in accordance with test procedures.

b. **Section 44012, subdivision (f):** Respondent No. 4 failed to perform emission control tests on the vehicle in accordance with procedures prescribed by the department.

c. **Section 44059:**

i. Respondent No. 4 willfully made false entries for the VIR by indicating the vehicle passed the visual inspection when, in fact, the vehicle could not have passed the visual inspection because the vehicle's AS system was missing.

ii. Respondent No. 4 willfully made false entries for the VIR by indicating the vehicle failed the functional portion of the inspection due to the vehicle's ignition timing when, in fact, the vehicle's ignition timing was within the manufacturer's specifications.

SEVENTY-SIXTH CAUSE FOR DISCIPLINE

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

113. Respondent No. 4's station license is subject to disciplinary action pursuant to Health & Safety Code section 44072.2, subdivision (c), in that on or about June 26, 2007, regarding the 1992 Toyota, it failed to comply with provisions of California Code of Regulations, title 16, section 3340.42 by failing to conduct the required smog tests on the vehicle in accordance with the Bureau's specifications.

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SEVENTY-SEVENTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

114. Respondent No. 4's station license is subject to disciplinary action pursuant to Health & Safety Code section 44072.2, subdivision (d), in that on or about June 26, 2007, it committed dishonest, fraudulent or deceitful acts whereby another is injured, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program, as follows:

a. Respondent No. 4 created a VIR that was false and misleading, in that the VIR provided that the vehicle passed the visual inspection when, in fact, the vehicle could not have passed the visual inspection because the vehicle's AS system was missing.

b. Respondent No. 4 created a VIR that was false and misleading, in that the VIR provided that the vehicle failed the functional inspection due to the vehicle's ignition timing when, in fact, the vehicle's ignition timing was within the manufacturer's specifications.

SEVENTY-EIGHTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

115. Respondent Schaub has subjected his technician license to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (a), in that on or about June 26, 2007, regarding the 1992 Toyota, he violated the following sections of that Code:

a. **Section 44012, subdivision (a):** Respondent Schaub failed to determine that all emission control devices and systems required by law were installed and functioning correctly in accordance with test procedures.

b. **Section 44012, subdivision (f):** Respondent Schaub failed to perform emission control tests on the vehicle in accordance with procedures prescribed by the department.

c. **Section 44032:** Respondent Schaub failed to perform tests of the emission control devices and systems on the vehicle in accordance with section 44012 of that Code.

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d. **Section 44059:**

i. Respondent Schaub willfully made false entries for the VIR by indicating the vehicle passed the visual inspection when, in fact, the vehicle could not have passed the visual inspection because the vehicle's AS system was missing.

ii. Respondent Schaub willfully made false entries for the VIR by indicating the vehicle failed the functional portion of the inspection due to the vehicle's ignition timing when, in fact, the vehicle's ignition timing was within the manufacturer's specifications.

SEVENTY-NINTH CAUSE FOR DISCIPLINE

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

116. Respondent Schaub has subjected his technician license to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (c), in that on or about June 26, 2007, regarding the 1992 Toyota, he violated the following sections of the California Code of Regulations, title 16:

a. **Section 3340.30, subdivision (a):** Respondent Schaub failed to inspect and test the vehicle in accordance with Health and Safety Code section 44012.

b. **Section 3340.41, subdivision (c):**

i. Respondent Schaub entered false information into the EIS unit by entering "Pass" for the visual portion of the smog test when, in fact, the vehicle's AS system was missing.

ii. Respondent Schaub entered false information into the EIS unit by entering "Fail" for the function portion of the smog test due to the vehicle's ignition timing when, in fact, the vehicle's ignition timing was within the manufacturer's specifications.

c. **Section 3340.42:** Respondent Schaub failed to conduct the required smog tests on the vehicle in accordance with the Bureau's specifications.

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EIGHTIETH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

117. Respondent Schaub has subjected his technician license to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (d), in that on or about June 26, 2007, regarding the 1992 Toyota, he committed acts involving dishonesty, fraud or deceit whereby another was injured, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program, as follows:

a. Respondent Schaub created a VIR that was false and misleading, in that the VIR provided that the vehicle passed the visual inspection when, in fact, the vehicle could not have passed the visual inspection because the vehicle's AS system was missing.

b. Respondent Schaub created a VIR that was false and misleading, in that the VIR provided that the vehicle failed the functional inspection due to the vehicle's ignition timing when, in fact, the vehicle's ignition timing was within the manufacturer's specifications.

UNDERCOVER OPERATION - JUNE 27, 2007

118. On June 27, 2007, a Bureau undercover operator using the alias Bob Strom ("operator") drove a Bureau-documented 1995 Chevrolet Astro Van, California License Plate No. 3NUD802, to Respondent No. 4's facility for a smog inspection. The vehicle could not pass a smog inspection because the vehicle's PCV system was missing. Respondent Topcu performed the smog inspection and issued electronic Certificate of Compliance No. MS578192, certifying that he had tested and inspected the 1995 Chevrolet Astro Van and that the vehicle was in compliance with applicable laws and regulations. In fact, the vehicle could not have passed the visual portion of the smog inspection because the vehicle's PCV system was missing.

EIGHTY-FIRST CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

119. Respondent No. 4's registration is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(1), in that on or about June 27, 2007, it made or authorized statements which it knew or in the exercise of reasonable care it should have known

to be untrue or misleading by issuing electronic Certificate of Compliance No. MS578192 for the 1995 Chevrolet Astro Van, certifying that the vehicle was in compliance with applicable laws and regulations. In fact, the vehicle could not have passed the visual portion of the smog inspection because the vehicle's PCV system was missing.

EIGHTY-SECOND CAUSE FOR DISCIPLINE

(Fraud)

120. Respondent No. 4's registration is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(4), in that on or about June 27, 2007, it committed acts which constitute fraud by issuing electronic Certificate of Compliance No. MS578192 for the 1995 Chevrolet Astro Van 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.

EIGHTY-THIRD CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

121. Respondent No. 4's station license is subject to disciplinary action pursuant to Health & Safety Code section 44072.2, subdivision (a), in that on or about June 27, 2007, regarding the 1995 Chevrolet Astro Van, it failed to comply with the following sections of that Code:

a. **Section 44012, subdivision (a):** Respondent No. 4 failed to determine that all emission control devices and systems required by law were installed and functioning correctly in accordance with test procedures.

b. **Section 44012, subdivision (f):** Respondent No. 4 failed to perform emission control tests on the vehicle in accordance with procedures prescribed by the department.

c. **Section 44015, subdivision (b)**: Respondent No. 4 issued electronic Certificate of Compliance No. MS578192 for the vehicle without properly testing and inspecting the vehicle to determine if it was in compliance with Health & Safety Code section 44012.

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d. **Section 44059:** Respondent No. 4 willfully made false entries for electronic Certificate of Compliance No. MS578192 by certifying that the vehicle had been inspected as required when, in fact, it had not.

EIGHTY-FOURTH CAUSE FOR DISCIPLINE

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

122. Respondent No. 4's station license is subject to disciplinary action pursuant to Health & Safety Code section 44072.2, subdivision (c), in that on or about June 27, 2007, regarding the 1995 Chevrolet Astro Van, it failed to comply with provisions of California Code of Regulations, title 16, as follows:

a. **Section 3340.24, subdivision (c):** Respondent No. 4 falsely or fraudulently issued electronic Certificate of Compliance No. MS578192 for the vehicle, in that the vehicle could not pass the visual portion of the smog inspection because the vehicle's PCV system was missing.

b. **Section 3340.35, subdivision (c):** Respondent No. 4 issued electronic Certificate of Compliance No. MS578192 for the vehicle even though the vehicle had not been inspected in accordance with section 3340.42.

c. **Section 3340.42:** Respondent No. 4 failed to conduct the required smog tests on the vehicle in accordance with the Bureau's specifications.

EIGHTY-FIFTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

123. Respondent No. 4's station license is subject to disciplinary action pursuant to Health & Safety Code section 44072.2, subdivision (d), in that on or about June 27, 2007, it committed dishonest, fraudulent or deceitful acts whereby another is injured by issuing electronic Certificate of Compliance No. MS578192 for the 1995 Chevrolet Astro Van 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.

EIGHTY-SIXTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

124. Respondent Topcu has subjected his technician license to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (a), in that on or about June 27, 2007, regarding the 1995 Chevrolet Astro Van, he violated the following sections of that Code:

a. **Section 44012, subdivision (a):** Respondent Topcu failed to determine that all emission control devices and systems required by law were installed and functioning correctly in accordance with test procedures.

b. **Section 44012, subdivision (f):** Respondent Topcu failed to perform emission control tests on the vehicle in accordance with procedures prescribed by the department.

c. **Section 44032:** Respondent Topcu failed to perform tests of the emission control devices and systems on the vehicle in accordance with section 44012 of that Code.

d. **Section 44059:** Respondent Topcu entered false information for electronic Certificate of Compliance No. MS578192 by certifying that the vehicle had been inspected as required when, in fact, it had not.

EIGHTY-SEVENTH CAUSE FOR DISCIPLINE

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

125. Respondent Topcu has subjected his technician license to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (c), in that on or about June 27, 2007, regarding the 1995 Chevrolet Astro Van, he violated the following sections of the California Code of Regulations, title 16:

a. **Section 3340.24, subdivision (c):** Respondent Topcu falsely or fraudulently issued electronic Certificate of Compliance No. MS578192 for the vehicle, in that the vehicle could not pass the visual portion of the smog inspection because the vehicle's PCV system was missing.

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b. **Section 3340.30, subdivision (a):** Respondent Topcu failed to inspect and test the vehicle in accordance with Health and Safety Code section 44012.

c. **Section 3340.41, subdivision (c):** Respondent Topcu entered false information into the EIS unit by entering "Pass" for the PCV system when, in fact, the vehicle's PCV system was missing.

d. **Section 3340.42:** Respondent Topcu failed to conduct the required smog tests on the vehicle in accordance with the Bureau's specifications.

EIGHTY-EIGHTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

126. Respondent Topcu has subjected his technician license to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (d), in that on or about June 27, 2007, regarding the 1995 Chevrolet Astro Van, he committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing electronic Certificate of Compliance No. MS578192 for that vehicle 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.

UNDERCOVER OPERATION - JULY 26, 2007

127. On July 26, 2007, a Bureau undercover operator using the alias Bob Strom ("operator") drove a Bureau-documented 1996 Ford Explorer, California License Plate No. 3PZE600, to Respondent No. 4's facility for a smog inspection. The vehicle could not pass a smog inspection because the vehicle's PCV system was missing. Respondent Phelps performed the smog inspection and issued electronic Certificate of Compliance No. MS960291, certifying that he had tested and inspected the 1996 Ford Explorer and that the vehicle was in compliance with applicable laws and regulations. In fact, the vehicle could not have passed the visual portion of the smog inspection because the vehicle's PCV system was missing.

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EIGHTY-NINTH CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

128. Respondent No. 4's registration is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(1), in that on or about July 26, 2007, it made or authorized statements which it knew or in the exercise of reasonable care it should have known to be untrue or misleading by issuing electronic Certificate of Compliance No. MS960291 for the 1996 Ford Explorer, certifying that the vehicle was in compliance with applicable laws and regulations. In fact, the vehicle could not have passed the visual portion of the smog inspection because the vehicle's PCV system was missing.

NINETIETH CAUSE FOR DISCIPLINE

(Fraud)

129. Respondent No. 4's registration is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(4), in that on or about July 26, 2007, it committed acts which constitute fraud by issuing electronic Certificate of Compliance No. MS960291 for the 1996 Ford Explorer 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.

NINETY-FIRST CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

130. Respondent No. 4's station license is subject to disciplinary action pursuant to Health & Safety Code section 44072.2, subdivision (a), in that on or about July 26, 2007, regarding the 1996 Ford Explorer, it failed to comply with the following sections of that Code:

a. **Section 44012, subdivision (a):** Respondent No. 4 failed to determine that all emission control devices and systems required by law were installed and functioning correctly in accordance with test procedures.

b. **Section 44012, subdivision (f):** Respondent No. 4 failed to perform emission control tests on the vehicle in accordance with procedures prescribed by the department.

c. **Section 44015, subdivision (b)**: Respondent No. 4 issued electronic Certificate of Compliance No. MS960291 for the vehicle without properly testing and inspecting the vehicle to determine if it was in compliance with Health & Safety Code section 44012.

d. **Section 44059:** Respondent No. 4 willfully made false entries for electronic Certificate of Compliance No. MS960291 by certifying that the vehicle had been inspected as required when, in fact, it had not.

NINETY-SECOND CAUSE FOR DISCIPLINE

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

131. Respondent No. 4's station license is subject to disciplinary action pursuant to Health & Safety Code section 44072.2, subdivision (c), in that on or about July 26, 2007, regarding the 1996 Ford Explorer, it failed to comply with provisions of California Code of Regulations, title 16, as follows:

a. **Section 3340.24, subdivision (c):** Respondent No. 4 falsely or fraudulently issued electronic Certificate of Compliance No. MS960291 for the vehicle, in that the vehicle could not pass the visual portion of the smog inspection because the vehicle's PCV system was missing.

b. **Section 3340.35, subdivision (c):** Respondent No. 4 issued electronic Certificate of Compliance No. MS960291 for the vehicle even though the vehicle had not been inspected in accordance with section 3340.42.

c. **Section 3340.42:** Respondent No. 4 failed to conduct the required smog tests on the vehicle in accordance with the Bureau's specifications.

NINETY-THIRD CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

132. Respondent No. 4's station license is subject to disciplinary action pursuant to Health & Safety Code section 44072.2, subdivision (d), in that on or about July 26, 2007, it committed dishonest, fraudulent or deceitful acts whereby another is injured by issuing electronic Certificate of Compliance No. MS960291 for the 1996 Ford Explorer 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.

NINETY-FOURTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

133. Respondent Phelps has subjected his technician license to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (a), in that on or about July 26, 2007, regarding the 1996 Ford Explorer, he violated the following sections of that Code:

a. **Section 44012, subdivision (a):** Respondent Phelps failed to determine that all emission control devices and systems required by law were installed and functioning correctly in accordance with test procedures.

b. **Section 44012, subdivision (f):** Respondent Phelps failed to perform emission control tests on the vehicle in accordance with procedures prescribed by the department.

c. **Section 44032:** Respondent Phelps failed to perform tests of the emission control devices and systems on the vehicle in accordance with section 44012 of that Code.

d. **Section 44059:** Respondent Phelps willfully made false entries for electronic Certificate of Compliance No. MS960291 by certifying that the vehicle had been inspected as required when, in fact, it had not.

NINETY-FIFTH CAUSE FOR DISCIPLINE

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

134. Respondent Phelps has subjected his technician license to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (c), in that on or about July 26, 2007, regarding the 1996 Ford Explorer, he violated the following sections of the California Code of Regulations, title 16:

a. **Section 3340.24, subdivision (c):** Respondent Phelps falsely or fraudulently issued electronic Certificate of Compliance No. MS960291 for the vehicle, in that

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the vehicle could not pass the visual portion of the smog inspection because the vehicle's PCV system was missing.

b. **Section 3340.30, subdivision (a):** Respondent Phelps failed to inspect and test the vehicle in accordance with Health and Safety Code section 44012.

c. **Section 3340.41, subdivision (c):** Respondent Phelps entered false information into the EIS unit by entering "Pass" for the PCV system when, in fact, the vehicle's PCV system was missing.

d. **Section 3340.42:** Respondent Phelps failed to conduct the required smog tests on the vehicle in accordance with the Bureau's specifications.

NINETY-SIXTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

135. Respondent Phelps has subjected his technician license to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (d), in that on or about July 26, 2007, regarding the 1996 Ford Explorer, he committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing electronic Certificate of Compliance No. MS960291 for that vehicle 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.

RESPONDENT NO. 5

UNDERCOVER OPERATION - JULY 27, 2007

136. On July 27, 2007, a Bureau undercover operator using the alias Bob Strom ("operator") drove a Bureau-documented 1996 Ford Explorer, California License Plate No. 3PZE600, to Respondent No. 5's facility for a smog inspection. The vehicle could not pass a smog inspection because the vehicle's PCV system was missing. Respondent Topcu performed the smog inspection and issued electronic Certificate of Compliance No. MU037023, certifying that he had tested and inspected the 1996 Ford Explorer and that the vehicle was in compliance with applicable laws and regulations. In fact, the vehicle could not have passed the visual portion of the smog inspection because the vehicle's PCV system was missing.

NINETY-SEVENTH CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

137. Respondent No. 5's registration is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(1), in that on or about July 27, 2007, it made or authorized statements which it knew or in the exercise of reasonable care it should have known to be untrue or misleading by issuing electronic Certificate of Compliance No. MU037023 for the 1996 Ford Explorer, certifying that the vehicle was in compliance with applicable laws and regulations. In fact, the vehicle could not have passed the visual portion of the smog inspection because the vehicle's PCV system was missing.

NINETY-EIGHTH CAUSE FOR DISCIPLINE

(Fraud)

138. Respondent No. 5's registration is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(4), in that on or about July 27, 2007, it committed acts which constitute fraud by issuing electronic Certificate of Compliance No. MU037023 for the 1996 Ford Explorer 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.

NINETY-NINTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

139. Respondent No. 5's station license is subject to disciplinary action pursuant to Health & Safety Code section 44072.2, subdivision (a), in that on or about July 27, 2007, regarding the 1996 Ford Explorer, it failed to comply with the following sections of that Code:

a. **Section 44012, subdivision (a):** Respondent No. 5 failed to determine that all emission control devices and systems required by law were installed and functioning correctly in accordance with test procedures.

b. **Section 44012, subdivision (f):** Respondent No. 5 failed to perform emission control tests on the vehicle in accordance with procedures prescribed by the department.

c. **Section 44015, subdivision (b)**: Respondent No. 5 issued electronic Certificate of Compliance No. MU037023 for the vehicle without properly testing and inspecting the vehicle to determine if it was in compliance with Health & Safety Code section 44012.

d. **Section 44059:** Respondent No. 5 willfully made false entries for electronic Certificate of Compliance No. MU037023 by certifying that the vehicle had been inspected as required when, in fact, it had not.

ONE HUNDREDTH CAUSE FOR DISCIPLINE

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

140. Respondent No. 5's station license is subject to disciplinary action pursuant to Health & Safety Code section 44072.2, subdivision (c), in that on or about July 27, 2007, regarding the 1996 Ford Explorer, it failed to comply with provisions of California Code of Regulations, title 16, as follows:

a. **Section 3340.24, subdivision (c)**: Respondent No. 5 falsely or fraudulently issued electronic Certificate of Compliance No. MU037023 for the vehicle, in that the vehicle could not pass the visual portion of the smog inspection because the vehicle's PCV system was missing.

b. **Section 3340.35, subdivision (c)**: Respondent No. 5 issued electronic Certificate of Compliance No. MU037023 for the vehicle even though the vehicle had not been inspected in accordance with section 3340.42.

c. **Section 3340.42**: Respondent No. 5 failed to conduct the required smog tests on the vehicle in accordance with the Bureau's specifications.

ONE HUNDRED FIRST CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

141. Respondent No. 5's station license is subject to disciplinary action pursuant to Health & Safety Code section 44072.2, subdivision (d), in that on or about July 27, 2007, it committed dishonest, fraudulent or deceitful acts whereby another is injured by issuing electronic Certificate of Compliance No. MU037023 for the 1996 Ford Explorer 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.

ONE HUNDRED SECOND CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

142. Respondent Topcu has subjected his technician license to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (a), in that on or about July 27, 2007, regarding the 1996 Ford Explorer, he violated the following sections of that Code:

a. **Section 44012, subdivision (a):** Respondent Topcu failed to determine that all emission control devices and systems required by law were installed and functioning correctly in accordance with test procedures.

b. **Section 44012, subdivision (f):** Respondent Topcu failed to perform emission control tests on the vehicle in accordance with procedures prescribed by the department.

c. **Section 44032:** Respondent Topcu failed to perform tests of the emission control devices and systems on the vehicle in accordance with section 44012 of that Code.

d. **Section 44059:** Respondent Topcu willfully entered false information for electronic Certificate of Compliance No. MU037023 by certifying that the vehicle had been inspected as required when, in fact, it had not.

ONE HUNDRED THIRD CAUSE FOR DISCIPLINE

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

143. Respondent Topcu has subjected his technician license to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (c), in that on or about July 27, 2007, regarding the 1996 Ford Explorer, he violated the following sections of the California Code of Regulations, title 16:

a. **Section 3340.24, subdivision (c):** Respondent Topcu falsely or fraudulently issued electronic Certificate of Compliance No. MU037023 for the vehicle, in that

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the vehicle could not pass the visual portion of the smog inspection because the vehicle's PCV system was missing.

b. **Section 3340.30, subdivision (a):** Respondent Topcu failed to inspect and test the vehicle in accordance with Health and Safety Code section 44012.

c. **Section 3340.41, subdivision (c):** Respondent Topcu entered false information into the EIS unit by entering "Pass" for the PCV system when, in fact, the vehicle's PCV system was missing.

d. **Section 3340.42:** Respondent Topcu failed to conduct the required smog tests on the vehicle in accordance with the Bureau's specifications.

ONE HUNDRED FOURTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

144. Respondent Topcu has subjected his technician license to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (d), in that on or about July 27, 2007, regarding the 1996 Ford Explorer, he committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing electronic Certificate of Compliance No. MU037023 for that vehicle 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.

UNDERCOVER OPERATION - AUGUST 2, 2007

145. On August 2, 2007, a Bureau undercover operator using the alias Joe R. Wong ("operator") drove a Bureau-documented 1992 Oldsmobile Bravada, California License Plate No. 3WGW652, to Respondent No. 5's facility for a smog inspection. The vehicle could not pass a smog inspection because of the vehicle's non-functional exhaust gas recirculation ("EGR") system. Respondent Topcu performed the smog inspection and issued electronic Certificate of Compliance No. MU098289, certifying that he had tested and inspected the 1992 Oldsmobile Bravada and that the vehicle was in compliance with applicable laws and regulations. In fact, the vehicle could not have passed the functional portion of the smog inspection because of the vehicle's non-functional EGR system.

ONE HUNDRED FIFTH CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

146. Respondent No. 5's registration is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(1), in that on or about August 2, 2007, it made or authorized statements which it knew or in the exercise of reasonable care it should have known to be untrue or misleading by issuing electronic Certificate of Compliance No. MU098289 for the 1992 Oldsmobile Bravada, certifying that the vehicle was in compliance with applicable laws and regulations. In fact, the vehicle could not have passed the functional portion of the smog inspection because of the vehicle's non-functional EGR system.

ONE HUNDRED SIXTH CAUSE FOR DISCIPLINE

(Fraud)

147. Respondent No. 5's registration is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(4), in that on or about August 2, 2007, it committed acts which constitute fraud by issuing electronic Certificate of Compliance No. MU098289 for the 1992 Oldsmobile Bravada 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.

ONE HUNDRED SEVENTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

148. Respondent No. 5's station license is subject to disciplinary action pursuant to Health & Safety Code section 44072.2, subdivision (a), in that on or about August 2, 2007, regarding the 1992 Oldsmobile Bravada, it failed to comply with the following sections of that Code:

a. **Section 44012, subdivision (a):** Respondent No. 5 failed to determine that all emission control devices and systems required by law were installed and functioning correctly in accordance with test procedures.

b. **Section 44012, subdivision (f):** Respondent No. 5 failed to perform emission control tests on the vehicle in accordance with procedures prescribed by the department.

c. **Section 44015, subdivision (b)**: Respondent No. 5 issued electronic Certificate of Compliance No. MU098289 for the vehicle without properly testing and inspecting the vehicle to determine if it was in compliance with Health & Safety Code section 44012.

d. **Section 44059:** Respondent No. 5 willfully made false entries for electronic Certificate of Compliance No. MU098289 by certifying that the vehicle had been inspected as required when, in fact, it had not.

ONE HUNDRED EIGHTH CAUSE FOR DISCIPLINE

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

149. Respondent No. 5's station license is subject to disciplinary action pursuant to Health & Safety Code section 44072.2, subdivision (c), in that on or about August 2, 2007, regarding the 1992 Oldsmobile Bravada, it failed to comply with provisions of California Code of Regulations, title 16, as follows:

a. **Section 3340.24, subdivision (c):** Respondent No. 5 falsely or fraudulently issued electronic Certificate of Compliance No. MU098289 for the vehicle, in that the vehicle could not pass the functional portion of the smog inspection because of the vehicle's non-functional EGR system.

b. **Section 3340.35, subdivision (c):** Respondent No. 5 issued electronic Certificate of Compliance No. MU098289 for the vehicle even though the vehicle had not been inspected in accordance with section 3340.42.

c. **Section 3340.42:** Respondent No. 5 failed to conduct the required smog tests on the vehicle in accordance with the Bureau's specifications.

ONE HUNDRED NINTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

150. Respondent No. 5's station license is subject to disciplinary action pursuant to Health & Safety Code section 44072.2, subdivision (d), in that on or about August 2, 2007, it committed dishonest, fraudulent or deceitful acts whereby another is injured by issuing electronic Certificate of Compliance No. MU098289 for the 1992 Oldsmobile

Bravada 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.

ONE HUNDRED TENTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

151. Respondent Topcu has subjected his technician license to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (a), in that on or about August 2, 2007, regarding the 1992 Oldsmobile Bravada, he violated the following sections of that Code:

a. **Section 44012, subdivision (a):** Respondent Topcu failed to determine that all emission control devices and systems required by law were installed and functioning correctly in accordance with test procedures.

b. **Section 44012, subdivision (f):** Respondent Topcu failed to perform emission control tests on the vehicle in accordance with procedures prescribed by the department.

c. **Section 44032:** Respondent Topcu failed to perform tests of the emission control devices and systems on the vehicle in accordance with section 44012 of that Code.

d. **Section 44059:** Respondent Topcu willfully entered false information for electronic Certificate of Compliance No. MU098289 by certifying that the vehicle had been inspected as required when, in fact, it had not.

ONE HUNDRED ELEVENTH CAUSE FOR DISCIPLINE

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

152. Respondent Topcu has subjected his technician license to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (c), in that on or about August 2, 2007, regarding the 1992 Oldsmobile Bravada, he violated the following sections of the California Code of Regulations, title 16:

a. **Section 3340.24, subdivision (c):** Respondent Topcu falsely or fraudulently issued electronic Certificate of Compliance No. MU098289 for the vehicle, in that

the vehicle could not pass the visual portion of the smog inspection because of the vehicle's non-functional EGR system.

b. **Section 3340.30, subdivision (a):** Respondent Topcu failed to inspect and test the vehicle in accordance with Health and Safety Code section 44012.

c. **Section 3340.41, subdivision (c):** Respondent Topcu entered false information into the EIS unit by entering "Pass" for the functional inspection of the EGR system when, in fact, that system was non-functional.

d. **Section 3340.42:** Respondent Topcu failed to conduct the required smog tests on the vehicle in accordance with the Bureau's specifications.

ONE HUNDRED TWELFTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

153. Respondent Topcu has subjected his technician license to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (d), in that on or about August 2, 2007, regarding the 1992 Oldsmobile Bravada, he committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing electronic Certificate of Compliance No. MU098289 for that vehicle 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.

UNDERCOVER OPERATION - AUGUST 13, 2007

154. On August 13, 2007, a Bureau undercover operator using the alias Joe Wong ("operator") drove a Bureau-documented 1994 Toyota Camry, California License Plate No. 3FLD508, to Respondent No. 5's facility for a smog inspection. The vehicle could not pass a smog inspection because the vehicle's ignition timing was adjusted beyond the manufacturer's specifications. Respondent Topcu performed the smog inspection and issued electronic Certificate of Compliance No. VJ442115, certifying that he had tested and inspected the 1994 Toyota Camry and that the vehicle was in compliance with applicable laws and regulations. In fact, the vehicle could not have passed the functional portion of the smog

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inspection because the vehicle's ignition timing was adjusted beyond the manufacturer's specifications.

ONE HUNDRED THIRTEENTH CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

155. Respondent No. 5's registration is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(1), in that on or about August 13, 2007, it made or authorized statements which it knew or in the exercise of reasonable care it should have known to be untrue or misleading by issuing electronic Certificate of Compliance No. VJ442115 for the 1994 Toyota Camry, certifying that the vehicle was in compliance with applicable laws and regulations. In fact, the vehicle could not have passed the functional portion of the smog inspection because the vehicle's ignition timing was adjusted beyond the manufacturer's specifications.

ONE HUNDRED FOURTEENTH CAUSE FOR DISCIPLINE

(Fraud)

156. Respondent No. 5's registration is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(4), in that on or about August 13, 2007, it committed acts which constitute fraud by issuing electronic Certificate of Compliance No. VJ442115 for the 1994 Toyota Camry 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.

ONE HUNDRED FIFTEENTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

157. Respondent No. 5's station license is subject to disciplinary action pursuant to Health & Safety Code section 44072.2, subdivision (a), in that on or about August 13, 2007, regarding the 1994 Toyota Camry, it failed to comply with the following sections of that Code:

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a. **Section 44012, subdivision (a):** Respondent No. 5 failed to determine that all emission control devices and systems required by law were installed and functioning correctly in accordance with test procedures.

b. **Section 44012, subdivision (f):** Respondent No. 5 failed to perform emission control tests on the vehicle in accordance with procedures prescribed by the department.

c. **Section 44015, subdivision (b)**: Respondent No. 5 issued electronic Certificate of Compliance No. VJ442115 for the vehicle without properly testing and inspecting the vehicle to determine if it was in compliance with Health & Safety Code section 44012.

d. **Section 44059:** Respondent No. 5 willfully made false entries for electronic Certificate of Compliance No. VJ442115 by certifying that the vehicle had been inspected as required when, in fact, it had not.

ONE HUNDRED SIXTEENTH CAUSE FOR DISCIPLINE

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

158. Respondent No. 5's station license is subject to disciplinary action pursuant to Health & Safety Code section 44072.2, subdivision (c), in that on or about August 13, 2007, regarding the 1994 Toyota Camry, it failed to comply with provisions of California Code of Regulations, title 16, as follows:

a. **Section 3340.24, subdivision (c):** Respondent No. 5 falsely or fraudulently issued electronic Certificate of Compliance No. VJ442115 for the vehicle, in that the vehicle could not pass the functional portion of the smog inspection because the vehicle's ignition timing was adjusted beyond the manufacturer's specifications.

b. **Section 3340.35, subdivision (c):** Respondent No. 5 issued electronic Certificate of Compliance No. VJ442115 for the vehicle even though the vehicle had not been inspected in accordance with section 3340.42.

c. **Section 3340.42:** Respondent No. 5 failed to conduct the required smog tests on the vehicle in accordance with the Bureau's specifications.

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ONE HUNDRED SEVENTEENTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

159. Respondent No. 5's station license is subject to disciplinary action pursuant to Health & Safety Code section 44072.2, subdivision (d), in that on or about August 13, 2007, it committed dishonest, fraudulent or deceitful acts whereby another is injured by issuing electronic Certificate of Compliance No. VJ442115 for the 1994 Toyota Camry 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.

ONE HUNDRED EIGHTEENTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

160. Respondent Topcu has subjected his technician license to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (a), in that on or about August 13, 2007, regarding the 1994 Toyota Camry, he violated the following sections of that Code:

a. **Section 44012, subdivision (a):** Respondent Topcu failed to determine that all emission control devices and systems required by law were installed and functioning correctly in accordance with test procedures.

b. **Section 44012, subdivision (f):** Respondent Topcu failed to perform emission control tests on the vehicle in accordance with procedures prescribed by the department.

c. **Section 44032:** Respondent Topcu failed to perform tests of the emission control devices and systems on the vehicle in accordance with section 44012 of that Code.

d. **Section 44059:** Respondent Topcu willfully entered false information for electronic Certificate of Compliance No. VJ442115 for the vehicle by certifying that the vehicle had been inspected as required when, in fact, it had not.

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ONE HUNDRED NINETEEN CAUSE FOR DISCIPLINE

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

161. Respondent Topcu has subjected his technician license to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (c), in that on or about August 13, 2007, regarding the 1994 Toyota Camry, he violated the following sections of the California Code of Regulations, title 16:

a. **Section 3340.24, subdivision (c):** Respondent Topcu falsely or fraudulently issued electronic Certificate of Compliance No. VJ442115 for the vehicle, in that the vehicle could not pass the functional portion of the smog inspection because the vehicle's ignition timing was adjusted beyond the manufacturer's specifications.

b. **Section 3340.30, subdivision (a):** Respondent Topcu failed to inspect and test the vehicle in accordance with Health and Safety Code section 44012.

c. **Section 3340.41, subdivision (c):** Respondent Topcu entered false information into the EIS unit by entering "Pass" for the functional portion of the smog inspection when, in fact, the vehicle's ignition timing was adjusted beyond the manufacturer's specifications.

d. **Section 3340.42:** Respondent Topcu failed to conduct the required smog tests on the vehicle in accordance with the Bureau's specifications.

ONE HUNDRED TWENTIETH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

162. Respondent Topcu has subjected his technician license to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (d), in that on or about August 13, 2007, regarding the 1994 Toyota Camry, he committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing electronic Certificate of Compliance No. VJ442115 for that vehicle 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.

PRIOR DISCIPLINE

RESPONDENT NO. 1

163. Pursuant to the Decision and Order, a stipulated settlement in Statement of Issues Case No. 79/04-00 S, which became effective January 30, 2006, the Bureau issued Respondent's Automotive Repair Dealer Registration No. ARD 241700 on February 3, 2006, and Smog Check Test Only Station License No. TC 241700 on February 16, 2006. Automotive Repair Dealer Registration No. ARD 241700 and Smog Check Test Only Station License No. TC 241700 were immediately revoked; however, revocations were stayed, and the licenses were placed on probation with terms and conditions. Pursuant to the settlement, Respondent agreed to be bound by all of the terms and conditions set forth in the Decision and Order in Accusation No. 79/04-00, a related case brought against Respondent No. 5, as more particularly set forth in paragraph 167, below. The probation term ended December 6, 2007.

RESPONDENT NO. 2

164. Pursuant to the Decision and Order, a stipulated settlement in Statement of Issues Case No. 79/04-00 S, which became effective June 30, 2006, the Bureau issued Respondent's Automotive Repair Dealer Registration No. ARD 244942 on July 11, 2006, and Smog Check Test Only Station License No. TC 244942 on November 20, 2006. Automotive Repair Dealer Registration No. ARD 244942 and Smog Check Test Only Station License No. TC 244942 were immediately revoked; however, revocations were stayed, and the licenses were placed on probation with terms and conditions. Pursuant to the settlement, Respondent agreed to be bound by all of the terms and conditions set forth in the Decision and Order in Accusation No. 79/04-00, a related case brought against Respondent No. 5, as more particularly set forth in paragraph 167, below. The probation term ended December 6, 2007.

RESPONDENT NO. 3

165. Pursuant to the Decision and Order, a stipulated settlement in Statement of Issues Case No. 79/04-00 S, which became effective February 8, 2007, the Bureau issued Respondent's Automotive Repair Dealer Registration No. ARD 248804 on February 14, 2007, and Smog Check Test Only Station License No. TC 248804 on March 2, 2007. Automotive

Repair Dealer Registration No. ARD 248804 and Smog Check Test Only Station License No. TC 248804 were immediately revoked; however, revocations were stayed, and the licenses were placed on probation with terms and conditions. Pursuant to the settlement, Respondent agreed to be bound by all of the terms and conditions set forth in the Decision and Order in Accusation No. 79/04-00, a related case brought against Respondent No. 5, as more particularly set forth in paragraph 167, below. The probation term ended December 6, 2007.

RESPONDENT NO. 4

166. Pursuant to the Decision and Order, a stipulated settlement in Statement of Issues Case No. 79/04-00 S, which became effective February 2, 2005, the Bureau issued Respondent's Automotive Repair Dealer Registration No. ARD 236306 on February 9, 2005, and Smog Check Test Only Station License No. TC 236306 on February 14, 2005. Automotive Repair Dealer Registration No. ARD 236306 and Smog Check Test Only Station License No. TC 236306 were immediately revoked; however, revocations were stayed, and the licenses were placed on probation with terms and conditions. Pursuant to the settlement, Respondent agreed to be bound by all of the terms and conditions set forth in the Decision and Order in Accusation No. 79/04-00, a related case brought against Respondent No. 5, as more particularly set forth in paragraph 167, below. The probation term ended December 6, 2007.

RESPONDENT NO. 5

167. Effective December 6, 2004, pursuant to the Decision and Order in Accusation Case No. 79/04-00, Respondent's Automotive Repair Dealer Registration No. ARD 221700 and Smog Check Test Only Station License No. TC 221700 were revoked; however, revocation was stayed, and the licenses were placed on probation with terms and conditions. Further, Smog Check Test Only Station License No. TC 221700 was suspended for thirty (30) days. The probation term ended December 6, 2007.

OTHER MATTERS

168. Under Code section 9884.7, subdivision (c), the director may invalidate temporarily or permanently or refuse to validate, the registrations for all places of business operated in this state by Chevrem Corporation doing business as Clear Blue Test Only Smog

Station including, but not limited to Clear Blue Test Only Smog Station #3; Clear Blue Test Only Station 2; Test Only Smog Station II; and, G I C Smog Station, upon a finding that it has, or is, engaged in a course of repeated and willful violations of the laws and regulations pertaining to an automotive repair dealer.

169. Under Health and Safety Code section 44072.8, if Smog Check Test Only Station License Number TC 241700, issued to Chevrem Corporation doing business as Clear Blue Test Only Smog Station, is revoked or suspended, any additional license issued under this chapter in the name of said licensee including, but not limited to, TC 244942, issued to Chevrem Corporation, doing business as Clear Blue Test Only Smog Station 2; TC 248804, issued to Chevrem Corporation, doing business as Clear Blue Test Only Smog Station 3; TC 236306, issued to Chevrem Corporation, doing business as Test Only Smog Station II; and TC 221700, issued to Chevrem Corporation, doing business as G I C Smog Station, may be likewise revoked or suspended by the director.

170. Under Health and Safety Code section 44072.8, if Advanced Emission Specialist Technician License Number EA 152180, issued to Harpreet Singh Chhina, is revoked or suspended, any additional license issued under this chapter in the name of said licensee may be likewise revoked or suspended by the director.

171. Under Health and Safety Code section 44072.8, if Advanced Emission Specialist Technician License Number EA 151176, issued to Christopher Bryan Harrison, is revoked or suspended, any additional license issued under this chapter in the name of said licensee may be likewise revoked or suspended by the director.

172. Under Health and Safety Code section 44072.8, if Advanced Emission Specialist Technician License Number EA 144440, issued to Winchester Sibuma Ordonez, is revoked or suspended, any additional license issued under this chapter in the name of said licensee may be likewise revoked or suspended by the director.

173. Under Health and Safety Code section 44072.8, if Advanced Emission Specialist Technician License Number EA 152893, issued to Bryon Leonard Schaub, is revoked

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or suspended, any additional license issued under this chapter in the name of said licensee may be likewise revoked or suspended by the director.

174. Under Health and Safety Code section 44072.8, if Advanced Emission Specialist Technician License Number EA 147911, issued to Nusret B. Topcu, is revoked or suspended, any additional license issued under this chapter in the name of said licensee may be likewise revoked or suspended by the director.

175. Under Health and Safety Code section 44072.8, if Advanced Emission Specialist Technician License Number EA 151026, issued to Matthew Jared Phelps, is revoked or suspended, any additional license issued under this chapter in the name of said licensee may be likewise revoked or suspended by the director.

PRAYER

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

1. Revoking or suspending Automotive Repair Dealer Registration Number ARD 241700, issued to Chevrem Corporation, doing business as Clear Blue Test Only Smog Station;

2. Revoking or suspending Automotive Repair Dealer Registration Number ARD 244942, issued to Chevrem Corporation, doing business as Clear Blue Test Only Smog Station 2;

3. Revoking or suspending Automotive Repair Dealer Registration Number ARD 248804, issued to Chevrem Corporation, doing business as Clear Blue Test Only Smog Station 3;

4. Revoking or suspending Automotive Repair Dealer Registration Number ARD 236306, issued to Chevrem Corporation, doing business as Test Only Smog Station II;

5. Revoking or suspending Automotive Repair Dealer Registration Number ARD 221700, issued to Chevrem Corporation, doing business as G I C Smog Station;

6. Temporarily or permanently invalidating any other automotive repair dealer registration issued to Chevrem Corporation;

7. Revoking or suspending Smog Check, Test Only Station License Number TC 241700, issued to Chevrem Corporation, doing business as Clear Blue Test Only Smog Station;

8. Revoking or suspending Smog Check, Test Only Station License Number TC 244942, issued to Chevrem Corporation, doing business as Clear Blue Test Only Smog Station 2;

9. Revoking or suspending Smog Check, Test Only Station License Number TC 248804, issued to Chevrem Corporation, doing business as Clear Blue Test Only Smog Station 3;

10. Revoking or suspending Smog Check, Test Only Station License Number TC 236306, issued to Chevrem Corporation, doing business as Test Only Smog Station II;

11. Revoking or suspending Smog Check, Test Only Station License Number TC 221700, issued to Chevrem Corporation, doing business as G I C Smog Station;

12. Revoking or suspending any additional license issued under Chapter 5 of the Health and Safety Code in the name of Chevrem Corporation;

13. Revoking or suspending Advanced Emission Specialist Technician License Number EA 152180, issued to Harpreet Singh Chhina;

14. Revoking or suspending any additional license issued under Chapter 5 of the Health and Safety Code in the name of Harpreet Singh Chhina;

15. Revoking or suspending Advanced Emission Specialist Technician License Number EA 151176, issued to Christopher Bryan Harrison;

16. Revoking or suspending any additional license issued under Chapter 5 of the Health and Safety Code in the name of Christopher Bryan Harrison;

17. Revoking or suspending Advanced Emission Specialist Technician License Number EA 144440, issued to Winchester Sibuma Ordonez;

18. Revoking or suspending any additional license issued under Chapter 5 of the Health and Safety Code in the name of Winchester Sibuma Ordonez;

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19. Revoking or suspending Advanced Emission Specialist Technician License Number EA 152893, issued to Bryon Leonard Schaub;

20. Revoking or suspending any additional license issued under Chapter 5 of the Health and Safety Code in the name of Bryon Leonard Schaub;

21. Revoking or suspending Advanced Emission Specialist Technician License Number EA 147911, issued to Nusret B. Topcu;

22. Revoking or suspending any additional license issued under Chapter 5 of the Health and Safety Code in the name of Nusret B. Topcu;

23. Revoking or suspending Advanced Emission Specialist Technician License Number EA 151026, issued to Matthew Jared Phelps;

24. Revoking or suspending any additional license issued under Chapter 5 of the Health and Safety Code in the name of Matthew Jared Phelps;

25. Ordering Chevrem Corporation, Harpreet Singh Chhina, Christopher Bryan Harrison, Winchester Sibuma Ordonez, Bryon Leonard Schaub, Nusret B. Topcu, and Matthew Jared Phelps to pay the Bureau of Automotive Repair the reasonable costs of the investigation and enforcement of this case, pursuant to Code section 125.3; and,

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

DATED: 9-15-08

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

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