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

11
12 In the Matter of the Accusation Against:

Case No. 79/10-74

13 **WOODCREST SMOG & TEST ONLY;**
14 **18451 Van Buren Blvd.**
Riverside, CA 92508
15 **LUIS ENRIQUE ZAMORA, OWNER**
Automotive Repair Dealer Registration
16 **No. ARD 238340**
Smog Check Test Only Station License
17 **No. TC 238340**

A C C U S A T I O N

S M O G C H E C K

18 **and**

19 **PETER JAMES DEVANEY**
30300 Antelope Road, No. 1216
Menifee, CA 92584
20 **Advanced Emission Specialist Technician**
21 **License No. EA 140761**

22 Respondents.

23 Complainant alleges:

24 **PARTIES**

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

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

6 6. Code section 9884.13 provides, in pertinent part, that the expiration of a valid
7 registration shall not deprive the director or chief of jurisdiction to proceed with a disciplinary
8 proceeding against an automotive repair dealer or to render a decision invalidating a registration
9 temporarily or permanently.

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

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

17 9. Section 44072.2 of the Health and Safety Code states, in pertinent part:

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

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

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

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

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

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1 11. Section 44072.8 of the Health and Safety Code states:

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

5 **COST RECOVERY**

6 12. Code section 125.3 provides, in pertinent part, that a Board may request the
7 administrative law judge to direct a licentiate found to have committed a violation or violations of
8 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
9 enforcement of the case.

10 **SURVEILLANCE OPERATION – AUGUST 12, 2009**

11 13. On or about August 12, 2009, the Bureau performed a videotaped surveillance at
12 Respondent Woodcrest's facility. The surveillance operation and information obtained from the
13 Bureau's VID revealed that between 1328 hours and 1334 hours, Respondent Devaney performed
14 one (1) smog inspection that resulted in the issuance of electronic Certificate of Compliance No.
15 WB940274C for a 2004 Nissan 350Z, certifying that he had tested and inspected that vehicle and
16 that the vehicle was in compliance with applicable laws and regulations. In fact, Respondent
17 Devaney performed the smog inspection using the clean piping¹ method by using the tail pipe
18 emissions of a vehicle other than the vehicle being certified in order to issue the electronic
19 certificate of compliance. The vehicle certified was not in the test bay at the time of the smog
20 inspection

21 **FIRST CAUSE FOR DISCIPLINE**

22 **(Misleading Statements)**

23 14. Respondent Woodcrest has subjected his registration to discipline under Code section
24 9884.7, subdivision (a)(1), in that on or about August 12, 2009, he made statements which he

25 _____
26 ¹ "Clean piping" is sampling the (clean) tailpipe emissions and/or the RPM readings of
27 another vehicle for the purpose of illegally issuing smog certifications to vehicles that are not in
28 compliance or are not present in the smog check area during the time of the certification.

1 knew or which by exercise of reasonable care he should have known were untrue or misleading
2 when he issued electronic Certificate of Compliance No. WB940274C for the 2004 Nissan 350Z,
3 certifying that the vehicle was in compliance with applicable laws and regulations when, in fact,
4 the vehicle had been clean piped.

5 **SECOND CAUSE FOR DISCIPLINE**

6 **(Fraud)**

7 15. Respondent Woodcrest has subjected his registration to discipline under Code section
8 9884.7, subdivision (a)(4), in that on or about August 12, 2009, he committed acts which
9 constitute fraud by issuing electronic Certificate of Compliance No. WB940274C for the 2004
10 Nissan 350Z without performing a bona fide inspection of the emission control devices and
11 systems on that vehicle, thereby depriving the People of the State of California of the protection
12 afforded by the Motor Vehicle Inspection Program.

13 **THIRD CAUSE FOR DISCIPLINE**

14 **(Violation of the Motor Vehicle Inspection Program)**

15 16. Respondent Woodcrest has subjected his station license to discipline under Health
16 and Safety Code section 44072.2, subdivision (a), in that on or about August 12, 2009, regarding
17 the 2004 Nissan 350Z, he violated sections of that Code, as follows:

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

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

23 c. **Section 44015, subdivision (b):** Respondent Woodcrest issued electronic Certificate
24 of Compliance No. WB940274C without properly testing and inspecting that vehicle to determine
25 if it was in compliance with section 44012 of that Code.

26 d. **Section 44059:** Respondent Woodcrest willfully made false entries for electronic
27 Certificate of Compliance No. WB940274C, certifying that the vehicle had been inspected as
28 required when, in fact, it had not.

1 **FOURTH CAUSE FOR DISCIPLINE**

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

3 17. Respondent Woodcrest has subjected his station license to discipline under Health
4 and Safety Code section 44072.2, subdivision (c), in that on or about August 12, 2009, regarding
5 the 2004 Nissan 350Z, he violated sections of the California Code of Regulations, title 16, as
6 follows:

7 a. **Section 3340.24, subdivision (c):** Respondent Woodcrest falsely or fraudulently
8 issued electronic Certificate of Compliance No. WB940274C without performing a bona fide
9 inspection of the emission control devices and systems on that vehicle as required by Health and
10 Safety Code section 44012.

11 b. **Section 3340.35, subdivision (c):** Respondent Woodcrest issued electronic
12 Certificate of Compliance No. WB940274C even though that vehicle had not been inspected in
13 accordance with section 3340.42 of that Code.

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

16 **FIFTH CAUSE FOR DISCIPLINE**

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

18 18. Respondent Woodcrest has subjected his station license to discipline under Health
19 and Safety Code section 44072.2, subdivision (d), in that on or about August 12, 2009, regarding
20 the 2004 Nissan 350Z, he committed acts involving dishonesty, fraud or deceit whereby another
21 was injured by issuing electronic Certificate of Compliance No. WB940274C without performing
22 a bona fide inspection of the emission control devices and system on that vehicle, thereby
23 depriving the People of the State of California of the protection afforded by the Motor Vehicle
24 Inspection Program.

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1 c. **Section 3340.41, subdivision (c):** Respondent Devaney entered false information
2 into the Emission Inspection System (“EIS”) for electronic Certificate of Compliance No.
3 WB940274C by entering vehicle emission control information for a vehicle other than the vehicle
4 being certified.

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

7 **EIGHTH CAUSE FOR DISCIPLINE**

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

9 21. Respondent Devaney has subjected his technician license to discipline under Health
10 and Safety Code section 44072.2, subdivision (d), in that on or about August 12, 2009, regarding
11 the 2004 Nissan 350Z, he committed acts involving dishonesty, fraud or deceit whereby another
12 was injured by issuing electronic Certificate of Compliance No. WB940274C without performing
13 a bona fide inspection of the emission control devices and systems on that vehicle, thereby
14 depriving the People of the State of California of the protection afforded by the Motor Vehicle
15 Inspection Program.

16 **SURVEILLANCE OPERATION – AUGUST 27, 2009**

17 22. On or about August 27, 2009, the Bureau performed a second videotaped surveillance
18 at Respondent Woodcrest’s facility. The surveillance operation and information obtained from
19 the Bureau’s VID revealed that between 1201 hours and 1215 hours, Respondent performed one
20 (1) smog inspection that resulted in the issuance of electronic Certificate of Compliance No.
21 WD165206C for a 1998 Toyota Tacoma, certifying that he had tested and inspected that vehicle
22 and that the vehicle was in compliance with applicable laws and regulations. In fact, Respondent
23 performed the smog inspection using the clean piping method by using the tail pipe emissions of
24 a vehicle other than the vehicle being certified in order to issue the electronic certificate of
25 compliance. The vehicle certified was not in the test bay at the time of the smog inspection

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1 **NINTH CAUSE FOR DISCIPLINE**

2 **(Misleading Statements)**

3 23. Respondent Woodcrest has subjected his registration to discipline under Code section
4 9884.7, subdivision (a)(1), in that on or about August 27, 2009, he made statements which he
5 knew or which by exercise of reasonable care he should have known were untrue or misleading
6 when he issued electronic Certificate of Compliance No. WD165206C for the 1998 Toyota
7 Tacoma, certifying that the vehicle was in compliance with applicable laws and regulations when,
8 in fact, the vehicle had been clean piped.

9 **TENTH CAUSE FOR DISCIPLINE**

10 **(Fraud)**

11 24. Respondent Woodcrest has subjected his registration to discipline under Code section
12 9884.7, subdivision (a)(4), in that on or about August 27, 2009, he committed acts which
13 constitute fraud by issuing electronic Certificate of Compliance No. WD165206C for the 1998
14 Toyota Tacoma without performing a bona fide inspection of the emission control devices and
15 systems on that vehicle, thereby depriving the People of the State of California of the protection
16 afforded by the Motor Vehicle Inspection Program.

17 **ELEVENTH CAUSE FOR DISCIPLINE**

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

19 25. Respondent Woodcrest has subjected his station license to discipline under Health
20 and Safety Code section 44072.2, subdivision (a), in that on or about August 27, 2009, regarding
21 the 1998 Toyota Tacoma, he violated sections of that Code, as follows:

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

25 b. **Section 44012, subdivision (f):** Respondent Woodcrest failed to perform emission
26 control tests on that vehicle in accordance with procedures prescribed by the department.
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1 c. **Section 44015, subdivision (b):** Respondent Woodcrest issued electronic Certificate
2 of Compliance No. WD165206C without properly testing and inspecting that vehicle to determine
3 if it was in compliance with section 44012 of that Code.

4 d. **Section 44059:** Respondent Woodcrest willfully made false entries for electronic
5 Certificate of Compliance No. WD165206C, certifying that the vehicle had been inspected as
6 required when, in fact, it had not.

7 **TWELFTH CAUSE FOR DISCIPLINE**

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

9 26. Respondent Woodcrest has subjected his station license to discipline under Health
10 and Safety Code section 44072.2, subdivision (e), in that on or about August 27, 2009, regarding
11 the 1998 Toyota Tacoma, he violated sections of the California Code of Regulations, title 16, as
12 follows:

13 a. **Section 3340.24, subdivision (c):** Respondent Woodcrest falsely or fraudulently
14 issued electronic Certificate of Compliance No. WD165206C without performing a bona fide
15 inspection of the emission control devices and systems on that vehicle as required by Health and
16 Safety Code section 44012.

17 b. **Section 3340.35, subdivision (c):** Respondent Woodcrest issued electronic
18 Certificate of Compliance No. WD165206C even though that vehicle had not been inspected in
19 accordance with section 3340.42 of that Code.

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

22 **THIRTEENTH CAUSE FOR DISCIPLINE**

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

24 27. Respondent Woodcrest has subjected his station license to discipline under Health
25 and Safety Code section 44072.2, subdivision (d), in that on or about August 27, 2009, regarding
26 the 1998 Toyota Tacoma, he committed acts involving dishonesty, fraud or deceit whereby
27 another was injured by issuing electronic Certificate of Compliance No. WD165206C for that
28 vehicle without performing a bona fide inspection of the emission control devices and system on

1 the vehicle, thereby depriving the People of the State of California of the protection afforded by
2 the Motor Vehicle Inspection Program.

3 **FOURTEENTH CAUSE FOR DISCIPLINE**

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

5 28. Respondent Devaney has subjected his technician license to discipline under Health
6 and Safety Code section 44072.2, subdivision (a), in that on or about August 27, 2009, regarding
7 the 1998 Toyota Tacoma, he violated sections of that Code, as follows:

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

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

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

15 d. **Section 44059:** Respondent Devaney willfully made false entries for electronic
16 Certificate of Compliance No. WD165206C, certifying that the vehicle had been inspected as
17 required when, in fact, it had not.

18 **FIFTEENTH CAUSE FOR DISCIPLINE**

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

20 29. Respondent Devaney has subjected his technician license to discipline under Health
21 and Safety Code section 44072.2, subdivision (c), in that on or about August 27, 2009, regarding
22 the 1998 Toyota Tacoma, he violated sections of the California Code of Regulations, title 16, as
23 follows:

24 a. **Section 3340.24, subdivision (c):** Respondent Devaney falsely or fraudulently issued
25 electronic Certificate of Compliance No. WD165206C without performing a bona fide inspection
26 of the emission control devices and systems on that vehicle as required by Health and Safety
27 Code section 44012.

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

3 **PRAYER**

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

6 1. Temporarily or permanently invalidating Automotive Repair Dealer Registration
7 Number ARD 238340, issued to Luis Enrique Zamora doing business as Woodcrest Smog & Test
8 Only;

9 2. Temporarily or permanently invalidating any other automotive repair dealer
10 registration issued to Luis Enrique Zamora;

11 3. Revoking or suspending Smog Check Test Only Station License Number TC 238340,
12 issued to Luis Enrique Zamora doing business as Woodcrest Smog & Test Only;

13 4. Revoking or suspending any additional license issued under Chapter 5 of the Health
14 and Safety Code in the name of Luis Enrique Zamora;

15 5. Revoking or suspending Advanced Emission Specialist Technician License Number
16 EA 140761, issued to Peter James Devaney;

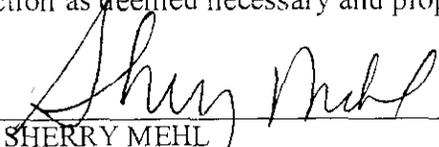
17 6. Revoking or suspending any additional license issued under Chapter 5 of the Health
18 and Safety Code in the name of Peter James Devaney;

19 7. Ordering Luis Enrique Zamora and Peter James Devaney to pay the Bureau of
20 Automotive Repair the reasonable costs of the investigation and enforcement of this case,
21 pursuant to Business and Professions Code section 125.3; and,

22 8. Taking such other and further action as deemed necessary and proper.

23 DATED: _____

4/28/10

24 
SHERRY MEHL

25 Chief

Bureau of Automotive Repair

26 Department of Consumer Affairs

State of California

27 Complainant

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