

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

In the Matter of the Accusation Against:

**CONTRERAS BUDGET SMOG CENTER;
LARRY M. CONTRERAZ**

4444 N. Blackstone Avenue
Fresno, California 93726
Automotive Repair Dealer Registration
No. ARD 253392
Smog Check Station License No. RC 253392
Lamp Station License No. LS 253392

**LARRY M. CONTRERAZ
dba CONTRERAZ BUDGET SMOG CENTER**

4444 N. Blackstone Avenue
Fresno, California
Brake Station License No. BS 253392

and

KULBIR S. BRAR

4569 North State Avenue
Fresno, California 93722
Advanced Emission Specialist Technician
License No. EA 144594

Respondents.

Case No. 77/11-96

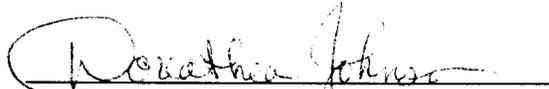
OAH No. 2011061458

DECISION

The attached Stipulation for Revocation of License and Disciplinary Order is hereby accepted and adopted as the Decision of the Director of the Department of Consumer Affairs in the above-entitled matter only as to respondent Kulbir S. Brar, Advanced Emission Specialist Technician License No. EA 144594.

This Decision shall become effective 10/10/11.

DATED: September 2, 2011



DOREATHEA JOHNSON
Deputy Director, Legal Affairs
Department of Consumer Affairs

1 KAMALA D. HARRIS
Attorney General of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 STERLING A. SMITH
Deputy Attorney General
4 State Bar No. 84287
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7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:
12
13 **CONTRERAZ BUDGET SMOG CENTER;**
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Automotive Repair Dealer Registration No.
15 ARD 253392
Smog Check Station License No. RC 253392
16 Lamp Station License No. LS 253392,

17 **LARRY M. CONTRERAZ DOING**
BUSINESS AS CONTRERAZ BUDGET
18 **SMOG CENTER**
4444 N. Blackstone Avenue
19 Fresno, California
Brake Station license No. BS 253392,
20
21 **and**

22 **KULBIR S. BRAR**
4569 North State Avenue
23 Fresno, California 93722
Advanced Emission Specialist Technician
24 License No. EA 144594

25 Respondent.

Case No. 79/11-96
OAH No. 2011061458

**STIPULATION FOR REVOCATION OF
LICENSE AND DISCIPLINARY ORDER**

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

3 PARTIES

4 1. Sherry Mehl (Complainant) is the Chief of the Bureau of Automotive Repair,
5 Department of Consumer Affairs, State of California (Bureau). She brought this action solely in
6 her official capacity and is represented in this matter by Kamala D. Harris, Attorney General of
7 the State of California, by Sterling A. Smith, Deputy Attorney General.

8 2. In or about 2002, the Bureau issued Advanced Emission Specialist Technician
9 License No. EA 144594 to Respondent Kulbir S. Brar. The Advanced Emission Specialist
10 Technician License was in full force and effect at all times relevant to the charges brought in
11 Accusation No. 70/11-96 and will expire on May 31, 2012, unless renewed.

12 JURISDICTION

13 3. Accusation No. 79/11-96 was filed before the Director of Consumer Affairs
14 (Director), for the Bureau of Automotive Repair (Bureau), and is currently pending against
15 Respondent. The Accusation and all other statutorily required documents were properly served
16 on Respondents on June 27, 2011. Respondent timely filed his Notice of Defense contesting the
17 Accusation. A copy of Accusation No. 79/11-96 is attached as exhibit A and incorporated herein
18 by reference.

19 5. Respondent is represented in this proceeding by Myron Smith, attorney at law, 4321
20 N. West Avenue, Suite 105, Fresno, California 93705.

21 ADVISEMENT AND WAIVERS

22 6. Respondent has carefully read, discussed with his counsel and understands the
23 charges and allegations in Accusation No. 79/11-96. Respondent has also carefully read,
24 discussed with counsel and understands the effects of this Stipulation for Revocation of License
25 and Disciplinary Order.

26 5. Respondent is fully aware of his legal rights in this matter, including the right to a
27 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at
28 his own expense; the right to confront and cross-examine the witnesses against him; the right to

1 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel
2 the attendance of witnesses and the production of documents; the right to reconsideration and
3 court review of an adverse decision; and all other rights accorded by the California
4 Administrative Procedure Act and other applicable laws.

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

7 CULPABILITY

8 7. Respondent admits the truth of each and every charge and allegation in Accusation
9 79//11-96. The admissions made by Respondent herein are solely for the purpose of this
10 proceeding or any other proceeding in which the Bureau of Automotive Repair or the Department
11 of Consumer Affairs is involved, and shall not be admissible in any other civil or criminal
12 proceeding.

13 8. Respondent agrees that his Advanced Emission Specialist Technician license is
14 subject to discipline, including outright revocation, and agrees to be bound by the Director of
15 Consumer Affairs (Director) imposition of discipline as set forth in the Disciplinary Order below.

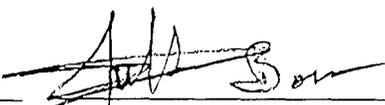
16 CONTINGENCY

17 9. This stipulation shall be subject to approval by the Director or designee. Respondent
18 understands and agrees that counsel for Complainant and the staff of the Bureau may
19 communicate directly with the Director and staff of the Department of Consumer Affairs
20 regarding this stipulation and settlement, without notice to or participation by Respondent.. By
21 signing the stipulation, Respondent understands and agrees that he may not withdraw his
22 agreement or seek to rescind the stipulation prior to the time the Director considers and acts upon
23 it. If the Director fails to adopt this stipulation as the Decision and Order, the Stipulation for
24 Revocation of License and Disciplinary Order shall be of no force or effect, except for this
25 paragraph, it shall be inadmissible in any legal action between the parties, and the Director shall
26 not be disqualified from further action by having considered this matter.

1 4. As a condition precedent to consideration by the Bureau of Automotive Repair of
 2 Respondent's application for issuance of a new Automobile Repair Dealer Registration, a new
 3 smog check station license or a new smog technician license, Respondent shall fully pay the
 4 Bureau of Automotive Repair its costs of investigation and prosecution in the reduced amount of
 5 \$5,000.00.

6 ACCEPTANCE

7 I have carefully read and discussed with my counsel Myron Smith the above Stipulation for
 8 Revocation of License and Disciplinary Order, understand the stipulation, and understand the
 9 effect it will have on my Advanced Emission Specialist Technician license. I enter into this
 10 Stipulation for Revocation of License and Disciplinary Order voluntarily, knowingly, and
 11 intelligently, and agree to be bound by the Decision and Order of the Director of Consumer
 12 Affairs.

13
 14 DATED: 7/25/11 
 15 KULBIR S. BRAR, Respondent

16 I have read and fully discussed with Respondent Kulbir S. Brar the terms and conditions
 17 and other matters contained in the above Stipulation for Revocation of License and Disciplinary
 18 Order. I approve its form and content.

19
 20 DATED: 7/25/11 Law Offices of Myron Smith
 21 Myron F. Smith
 22 By: Myron Smith
 23 Attorney for Respondent

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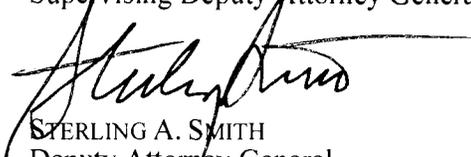
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ENDORSEMENT

The foregoing Stipulation for Revocation of License and Disciplinary Order is hereby respectfully submitted for consideration by the Director of Consumer Affairs.

DATED: July 28, 2011

Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
ARTHUR D. TAGGART
Supervising Deputy Attorney General

STERLING A. SMITH
Deputy Attorney General
Attorneys for Complainant

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7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 79/11-96

13 **CONTRERAZ BUDGET SMOG CENTER**
14 **LARRY M. CONTRERAZ, OWNER**
15 **4444 N. Blackstone Avenue**
16 **Fresno, CA 93726**
17 **Automotive Repair Dealer Reg. No. ARD 253392**
18 **Smog Check Station License No. RC 253392**
19 **Lamp Station License No. LS 253392**
20 **Brake Station License No. BS 253392**

A C C U S A T I O N

(Smog Check)

17 and

18 **KULBIR S. BRAR**
19 **4569 North State Avenue**
20 **Fresno, CA 93722**
21 **Advanced Emission Specialist Technician**
22 **License No. EA 144594**

21 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 **Contreraz Budget Smog Center; Larry M. Contreraz, Owner**

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

7 3. On or about January 30, 2008, the Director issued Smog Check Station License
8 Number RC 253392 to Respondent. Respondent's smog check station license was in full force
9 and effect at all times relevant to the charges brought herein and will expire on December 31,
10 2011, unless renewed.

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

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

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

21 **Kulbir S. Brar**

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

26 **JURISDICTION**

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

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

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

....

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

....

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

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

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

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

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1 16. Bus. & Prof. Code section 9889.3 states, in pertinent part:

2 The director may suspend, revoke, or take other disciplinary action
3 against a license as provided in this article [Article 7 (commencing with section
4 9889.1) of the Automotive Repair Act] if the licensee or any partner, officer, or
5 director thereof:

6
7 (d) Commits any act involving dishonesty, fraud, or deceit whereby
8 another is injured . . .

9 17. Bus. & Prof. Code section 9889.9 states that “[w]hen any license has been revoked or
10 suspended following a hearing under the provisions of this article [Article 7 (commencing with
11 section 9889.1) of the Automotive Repair Act], any additional license issued under Articles 5 and
12 6 of this chapter in the name of the licensee may be likewise revoked or suspended by the
13 director.”

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

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

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

21 20. Health & Saf. Code section 44072.2 states, in pertinent part:

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

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

28
(c) Violates any of the regulations adopted by the director pursuant to
this chapter.

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

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1 24. Regulation 3392.5 states, in pertinent part:

2 (a) It shall be cause for the Bureau to invalidate the certification of a Gold
3 Shield station, temporarily or permanently, if any of the following occur:

4 (1) The Gold Shield station, manager or Smog Check technicians
5 employed by the station, engage in any conduct which violates any provision of this
6 article or which would be cause for discipline of, or which would be cause for
7 issuance of a citation to the station's Automotive Repair Dealer registration or Smog
8 Check station license, or the license of a technician employed by the station.

9

10 (3) The bureau disciplines the Gold Shield station's Automotive Repair
11 Dealer registration or Smog Check station license in any form or manner . . .

12 **CONSUMER ASSISTANCE PROGRAM**

13 25. Regulation 3394.1 states, in pertinent part:

14 The purpose of the Consumer Assistance Program (CAP) is to improve
15 California air quality. Vehicle owners, who meet eligibility requirements are offered
16 the following:

17

18 (b) Financial assistance to make emissions-related repairs to a vehicle that
19 fails a smog check inspection.

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

23 27. Regulation 3394.3 states, in pertinent part:

24 An applicant determined to be eligible under the Consumer Assistance
25 Program may receive the following assistance:

26

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

COST RECOVERY

29 28. Bus. & Prof. Code section 125.3 provides, in pertinent part, that a Board may request
the administrative law judge to direct a licentiate found to have committed a violation or

1 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
2 and enforcement of the case.

3 **COMPLAINT BY CONSUMER ASSISTANCE PROGRAM: 1996 INFINITY Q45**

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

10 30. On May 31, 2010, the Bureau received copies of CAP's records on the vehicle,
11 including a Repair Notification Form dated April 29, 2010, and an invoice dated April 28, 2010,
12 which had been issued by the station. The notification form indicated that a total of \$1,102.53 in
13 diagnostic and repair services had been performed on the vehicle, including the replacement of
14 the knock sensor, and that the station had used the labor guide Alldata to diagnose and repair the
15 vehicle. The repair order indicated that a diagnosis had been performed on the vehicle for two
16 diagnostic trouble codes ("code"), a code related to the EGR (exhaust gas recirculation) valve¹
17 and a code related to the knock sensor.

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

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

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

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

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

7 **FIRST CAUSE FOR DISCIPLINE**

8 **(Departure from Trade Standards)**

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

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

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

20 **SECOND CAUSE FOR DISCIPLINE**

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

22 34. Respondent Contreras's smog check station license is subject to disciplinary action
23 pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to
24 comply with section 44016 of that Code, as follows: Respondent failed to diagnose and repair the
25 1996 Infinity Q45 in accordance with established specifications and procedures.

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1 **THIRD CAUSE FOR DISCIPLINE**

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

4 35. Respondent Contreras's smog check station license is subject to disciplinary action
5 pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to
6 comply with Regulation 3340.41, subdivision (d), as follows: Respondent failed to follow
7 applicable specifications and procedures when diagnosing and repairing the 1996 Infinity Q45.

8 **FOURTH CAUSE FOR DISCIPLINE**

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

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

14 **FIFTH CAUSE FOR DISCIPLINE**

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

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

21 **CONSUMER COMPLAINT (DE LA CRUZ): 1998 HONDA ACCORD**

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

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

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

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

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

8 **SEVENTH CAUSE FOR DISCIPLINE**

9 **(Fraud)**

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

15 **EIGHTH CAUSE FOR DISCIPLINE**

16 **(Departure from Trade Standards)**

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

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

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

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

3 **NINTH CAUSE FOR DISCIPLINE**

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

5 48. Respondent Contreras's smog check station license is subject to disciplinary action
6 pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to
7 comply with section 44016 of that Code, as follows: Respondent failed to diagnose De La Cruz's
8 1998 Honda Accord in accordance with established specifications and procedures.

9 **TENTH CAUSE FOR DISCIPLINE**

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

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

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

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

19 **ELEVENTH CAUSE FOR DISCIPLINE**

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

21 50. Respondent Contreras's smog check station license is subject to disciplinary action
22 pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed a
23 dishonest, fraudulent or deceitful act whereby another is injured, as follows: Respondent charged
24 De La Cruz and CAP for replacing the oxygen sensor on De La Cruz's 1998 Honda Accord when,
25 in fact, the A/F sensor was not replaced on the vehicle.

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1 **TWELFTH CAUSE FOR DISCIPLINE**

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

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

7 **THIRTEENTH CAUSE FOR DISCIPLINE**

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

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

14 **CONSUMER COMPLAINT (HENSON): 1993 DODGE SPIRIT**

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

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

21 55. On August 18, 2010, Brar called Henson and told her that the vehicle needed an
22 oxygen sensor, valve cover gasket, oxygen sensor wiring harness, and catalytic converter
23 ("CAT"). Brar stated that the repairs would cost a total of \$1,050 and that Henson would be
24 responsible for \$574.70 of this amount. Brar also told Henson that she could not decline the
25 repairs due to CAP's policy, but recanted his statement when Henson refused to authorize the
26 work. Later, Henson returned to the station to pick up the vehicle, paid the station \$20, and
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1 received copies of a VIR³ and "Diagnosis Notes" dated August 18, 2010. The diagnosis notes
2 indicated that there were problems with the valve cover gasket, oxygen sensor, oxygen sensor
3 harness, and CAT and that the diagnosis was performed by Brar. After Henson left, she went to
4 the Bureau and filed a complaint against the station. That same day, representatives of the
5 Bureau inspected the vehicle and found oil on the oxygen sensor harness near the valve cover and
6 a possible oil leak from the valve cover gasket. The Bureau obtained Henson's consent to have
7 the vehicle diagnosed and repaired at The Auto Works.

8 56. On August 19, 2010, a representative of the Bureau went to the Auto Works and
9 observed the vehicle as it was undergoing a baseline smog test. The technician performing the
10 test found that the PCV hose from the valve cover to the air cleaner was missing, which was
11 causing oil to leak on the rear of the valve cover area⁴. Later, the representative observed the
12 technician test the oxygen sensor. The representative and the technician reviewed the test results,
13 which indicated that the oxygen sensor was faulty and needed replacement. The technician had
14 also tested the CAT; the test results indicated that the CAT was marginal in efficiency.

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

18 **FOURTEENTH CAUSE FOR DISCIPLINE**

19 **(Untrue or Misleading Statements)**

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

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

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

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

3 **FIFTEENTH CAUSE FOR DISCIPLINE**

4 **(Departure from Trade Standards)**

5 59. Respondent Contreras's registration is subject to disciplinary action pursuant to Bus.
6 & Prof. Code section 9884.7, subdivision (a)(7), in that Respondent willfully departed from or
7 disregarded accepted trade standards for good and workmanlike repair without the consent of the
8 owner or the owner's duly authorized representative in the following material respect:
9 Respondent failed to properly diagnose the emissions-control devices or systems on Henson's
10 1993 Dodge Spirit in that Respondent determined that the valve cover gasket and oxygen sensor
11 wiring harness were in need of replacement. In fact, neither part would have contributed to the
12 smog test failure on the vehicle.

13 **SIXTEENTH CAUSE FOR DISCIPLINE**

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

15 60. Respondent Contreras's smog check station license is subject to disciplinary action
16 pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to
17 comply with section 44016 of that Code, as follows: Respondent failed to diagnose Henson's
18 1993 Dodge Spirit in accordance with established specifications and procedures.

19 **SEVENTEENTH CAUSE FOR DISCIPLINE**

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

22 61. Respondent Contreras's smog check station license is subject to disciplinary action
23 pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to
24 comply with Regulation 3340.41, subdivision (d), in a material respect, as follows: Respondent
25 failed to follow applicable specifications and procedures when diagnosing Henson's 1993 Dodge
26 Spirit.

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1 **EIGHTEENTH CAUSE FOR DISCIPLINE**

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

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

7 **NINETEENTH CAUSE FOR DISCIPLINE**

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

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

14 **SPECIAL ACTION REPORT/REFEREE CENTER: 1997 HONDA PASSPORT**

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

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

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

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

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

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

20 **TWENTIETH CAUSE FOR DISCIPLINE**

21 **(Departure from Trade Standards)**

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

1 **TWENTY-FIRST CAUSE FOR DISCIPLINE**

2 **(Violations of the Bus. & Prof. Code)**

3 70. Respondent Contreras's registration is subject to disciplinary action pursuant to Bus.
4 & Prof. Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with section
5 9884.9, subdivision (a), of that Code, as follows: Respondent listed on the invoice the date and
6 time additional repairs were authorized on the 1997 Honda Passport and the person authorizing
7 the repairs, but failed to specify or describe the additional repairs.

8 **TWENTY-SECOND CAUSE FOR DISCIPLINE**

9 **(Violations of Regulations)**

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

15 **TWENTY-THIRD CAUSE FOR DISCIPLINE**

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

17 72. Respondent Contreras's smog check station license is subject to disciplinary action
18 pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to
19 comply with section 44016 of that Code, as follows: Respondent failed to diagnose the 1997
20 Honda Passport in accordance with established specifications and procedures.

21 **TWENTY-FOURTH CAUSE FOR DISCIPLINE**

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

24 73. Respondent Contreras's smog check station license is subject to disciplinary action
25 pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to
26 comply with Regulation 3340.41, subdivision (d), as follows: Respondent failed to follow
27 applicable specifications and procedures when diagnosing the 1997 Honda Passport.

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1 **TWENTY-FIFTH CAUSE FOR DISCIPLINE**

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

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

7 **TWENTY-SIXTH CAUSE FOR DISCIPLINE**

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

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

14 **CONSUMER COMPLAINT (GONZALEZ): 1999 TOYOTA CAMRY**

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

17 77. On July 13, 2010, a representative of the Bureau contacted Gonzalez. Gonzalez told
18 the representative that the vehicle had been repaired by the station on April 2, 2010, but the check
19 engine light came back on. On July 4, 2010, Gonzalez returned the vehicle to the station. The
20 technician, "KB", plugged a tool into the vehicle then told Gonzalez that it would cost \$760 in
21 parts and labor to resolve the problem with the check engine light. Later, the Bureau
22 representative obtained information from the Bureau's VID, indicating that the station had
23 performed smog inspections on the vehicle on March 27, 2010, March 30, 2010, and April 2,
24 2010. The vehicle failed the first inspection due to incomplete monitors (4) and the second
25 inspection due to the illumination of the MIL. Two codes were present in the PCM during the
26 second test, a code relating to the knock sensor and a code relating to a defect in the fuel
27 evaporation vent control circuit. The vehicle passed the third inspection on April 2, 2010.

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

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

19 **TWENTY-SEVENTH CAUSE FOR DISCIPLINE**

20 **(Departure from Trade Standards)**

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

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TWENTY-EIGHTH CAUSE FOR DISCIPLINE

(Violations of Regulations)

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

TWENTY-NINTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

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

THIRTIETH CAUSE FOR DISCIPLINE

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

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

THIRTY-FIRST CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

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

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1 **THIRTY-SECOND CAUSE FOR DISCIPLINE**

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

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

8 **CONSUMER COMPLAINT (RENDON): 2000 MITSUBISHI GALANT**

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

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

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

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

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

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

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

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

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

5 **THIRTY-FOURTH CAUSE FOR DISCIPLINE**

6 **(Fraud)**

7 97. Respondent Contreras's registration is subject to disciplinary action pursuant to Bus.
8 & Prof. Code section 9884.7, subdivision (a)(4), in that Respondent committed an act that
9 constitutes fraud, as follows: Respondent charged CAP for replacing the EGR valve on Rendon's
10 2000 Mitsubishi Galant when, in fact, the EGR solenoid was replaced on the vehicle.

11 **THIRTY-FIFTH CAUSE FOR DISCIPLINE**

12 **(Departure from Trade Standards)**

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

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

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

22 **THIRTY-SIXTH CAUSE FOR DISCIPLINE**

23 **(Violations of Regulations)**

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

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

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

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

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

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

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

9 **FORTY-SECOND CAUSE FOR DISCIPLINE**

10 **(Untrue or Misleading Statements)**

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

19 **FORTY-THIRD CAUSE FOR DISCIPLINE**

20 **(Fraud)**

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

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1 **FORTY-FOURTH CAUSE FOR DISCIPLINE**

2 **(Departure from Trade Standards)**

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

7 a. Respondent failed to follow the proper diagnostic procedures in determining the
8 cause of the transmission code in Garcia's 1998 Chevrolet S-10 truck, as set forth in paragraph
9 106 above. Further, Respondent had the transmission overhauled or rebuilt on the vehicle when,
10 in fact, that repair was not needed for the vehicle to pass a smog inspection.

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

13 **FORTY-FIFTH CAUSE FOR DISCIPLINE**

14 **(Unauthorized Sublet of Repairs)**

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

19 **FORTY-SIXTH CAUSE FOR DISCIPLINE**

20 **(Violations of Regulations)**

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

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FORTY-SEVENTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

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

FORTY-EIGHTH CAUSE FOR DISCIPLINE

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

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

FORTY-NINTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

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

FIFTIETH CAUSE FOR DISCIPLINE

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

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

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1 **CONSUMER COMPLAINT (PHILLIPS): 1999 MITSUBISHI MONTERO**

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

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

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

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

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

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

5 **FIFTY-SECOND CAUSE FOR DISCIPLINE**

6 **(Departure from Trade Standards)**

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

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

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

21 **FIFTY-THIRD CAUSE FOR DISCIPLINE**

22 **(Violations of Regulations)**

23 132. Respondent Contreraz's registration is subject to disciplinary action pursuant to Bus.
24 & Prof. Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with
25 Regulation 3356, subdivision (a)(2)(A), as follows: Respondent failed to separately list, describe,
26 and identify on his invoice dated August 28, 2010, all diagnostic work performed on Phillips'
27 1999 Mitsubishi Montero or the results of the diagnostic work.

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1 **FIFTY-FOURTH CAUSE FOR DISCIPLINE**

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

3 133. Respondent Contreras's smog check station license is subject to disciplinary action
4 pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to
5 comply with section 44016 of that Code, as follows: Respondent failed to diagnose Phillips' 1999
6 Mitsubishi Montero in accordance with established specifications and procedures.

7 **FIFTY-FIFTH CAUSE FOR DISCIPLINE**

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

10 134. Respondent Contreras's smog check station license is subject to disciplinary action
11 pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to
12 comply with Regulation 3340.41, subdivision (d), in a material respect, as follows: Respondent
13 failed to follow applicable specifications and procedures when diagnosing Phillips' 1999
14 Mitsubishi Montero.

15 **FIFTY-SIXTH CAUSE FOR DISCIPLINE**

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

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

21 **FIFTY-SEVENTH CAUSE FOR DISCIPLINE**

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

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

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1 **FIFTY-EIGHTH CAUSE FOR DISCIPLINE**

2 **(Untrue or Misleading Statements)**

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

9 **FIFTY-NINTH CAUSE FOR DISCIPLINE**

10 **(Departure from Trade Standards)**

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

19 **SIXTIETH CAUSE FOR DISCIPLINE**

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

21 145. Respondent Contreraz's smog check station license is subject to disciplinary action
22 pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to
23 comply with section 44016 of that Code, as follows: Respondent failed to diagnose Jordan Ortiz's
24 1996 Ford Explorer in accordance with established specifications and procedures.

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1 **SIXTY-FIRST CAUSE FOR DISCIPLINE**

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

4 146. Respondent Contreraz's smog check station license is subject to disciplinary action
5 pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to
6 comply with Regulation 3340.41, subdivision (d), in a material respect, as follows: Respondent
7 failed to follow applicable specifications and procedures when diagnosing Jordan Ortiz's 1996
8 Ford Explorer.

9 **SIXTY-SECOND CAUSE FOR DISCIPLINE**

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

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

15 **SIXTY-THIRD CAUSE FOR DISCIPLINE**

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

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

22 **UNDERCOVER OPERATION #1: 1992 TOYOTA COROLLA**

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

1 150. On June 16, 2010, the operator took the vehicle to Contreraz's station. The operator
2 told a woman at the counter that the vehicle had failed a smog inspection and that she was there to
3 have it repaired. The operator gave the woman the DMV paperwork for the vehicle, a letter
4 indicating that the operator was eligible for repair assistance from CAP, and the VIR from Smog-
5 4-Less. The operator was asked for the \$20 CAP co-payment. The operator paid the station \$20,
6 signed an estimate and a repair order for a diagnosis of the vehicle, then left the station.

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

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

15 153. On June 21, 2010, the operator returned to the station to pick up the vehicle, paid the
16 station \$450.79, and received an invoice, the DMV paperwork, and a VIR dated June 19, 2010.
17 The invoice indicated that the spark plugs on the vehicle were "fouled" and that the oxygen
18 sensor was defective. The VIR indicated that the vehicle had passed the inspection, resulting in
19 the issuance of a certificate of compliance for the vehicle, and that Brar had performed the
20 inspection and repairs. The Bureau's VID data showed that the station actually performed four
21 smog inspections on the vehicle, an inspection on June 17, 2010, two inspections on June 18,
22 2010, and the final inspection on June 19, 2010. The vehicle failed the inspections on June 17,
23 2010, and June 18, 2010, due to excessive tailpipe emissions.

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

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

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

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

9 **SIXTY-SEVENTH CAUSE FOR DISCIPLINE**

10 **(Violations of the Bus. & Prof. Code)**

11 158. Respondent Contreraz's registration is subject to disciplinary action pursuant to Bus.
12 & Prof. Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with section
13 9884.9, subdivision (a), of that Code, as follows: Respondent replaced the defective vacuum hose
14 from the intake plenum gas filter to the MAP sensor and adjusted the ignition timing on the
15 Bureau's 1992 Toyota Corolla without the knowledge or consent of the operator.

16 **SIXTY-EIGHTH CAUSE FOR DISCIPLINE**

17 **(Violations of Regulations)**

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

24 **SIXTY-NINTH CAUSE FOR DISCIPLINE**

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

26 160. Respondent Contreraz's smog check station license is subject to disciplinary action
27 pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to

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

3 **SEVENTIETH CAUSE FOR DISCIPLINE**

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

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

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

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

13 **SEVENTY-FIRST CAUSE FOR DISCIPLINE**

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

15 162. Respondent Contreras's smog check station license is subject to disciplinary action
16 pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed a
17 dishonest, fraudulent or deceitful act whereby another is injured, as follows: Respondent or his
18 employees made false or misleading representations to the operator regarding the Bureau's 1992
19 Toyota Corolla, as set forth in paragraph 153 above, in order to induce the operator to purchase
20 unnecessary repairs on the vehicle, then sold the operator unnecessary repairs, including the
21 replacement of the spark plugs, oxygen sensor, and catalytic converter.

22 **SEVENTY-SECOND CAUSE FOR DISCIPLINE**

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

24 163. Respondent Brar's technician license is subject to disciplinary action pursuant to
25 Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to comply with
26 section 44016 of that Code, as follows: Respondent failed to diagnose and repair the Bureau's
27 1992 Toyota Corolla in accordance with established specifications and procedures.

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1 pressure on the vehicle was low, and that the fuel filter was clogged. The VIR indicated that the
2 vehicle had passed the inspection, resulting in the issuance of a certificate of compliance, and that
3 Brar had performed the inspection and repairs on the vehicle. The Bureau's VID data showed that
4 the station actually performed two smog inspections on the vehicle, an inspection on October 26,
5 2010 (the vehicle failed the inspection due to the illumination of the MIL), and the inspection on
6 October 28, 2010.

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

10 **SEVENTY-FOURTH CAUSE FOR DISCIPLINE**

11 **(Untrue or Misleading Statements)**

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

21 **SEVENTY-FIFTH CAUSE FOR DISCIPLINE**

22 **(Fraud)**

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

1 **SEVENTY-SIXTH CAUSE FOR DISCIPLINE**

2 **(Departure from Trade Standards)**

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

9 **SEVENTY-SEVENTH CAUSE FOR DISCIPLINE**

10 **(Violations of Regulations)**

11 174. Respondent Contreraz's registration is subject to disciplinary action pursuant to Bus.
12 & Prof. Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with
13 Regulation 3356, subdivision (a)(2)(A), as follows: Respondent failed to list on the invoice the
14 \$8.25 charge for the issuance of the smog check certificate on the Bureau's 1995 Nissan 240SX.

15 **SEVENTY-EIGHTH CAUSE FOR DISCIPLINE**

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

17 175. Respondent Contreraz's smog check station license is subject to disciplinary action
18 pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to
19 comply with section 44016 of that Code, as follows: Respondent failed to diagnose and repair the
20 Bureau's 1995 Nissan 240SX in accordance with established specifications and procedures.

21 **SEVENTY-NINTH CAUSE FOR DISCIPLINE**

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

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

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

UNDERCOVER OPERATION #3: 1991 HONDA ACCORD

1
2 180. On November 2, 2010, an undercover operator with the Bureau ("operator") took the
3 Bureau's 1991 Honda Accord to Contreras's station and requested a smog inspection. The fuel
4 injector resistor for the #4 cylinder on the Bureau-documented vehicle was rendered defective,
5 preventing the #4 fuel injector from operating. After the inspection was completed, the operator
6 was informed that the vehicle failed and was given an invoice and a VIR. The Bureau's VID data
7 indicated that the vehicle's NOx emissions were at gross polluter levels and that the MIL had
8 illuminated during the test. The VID data also indicated that Brar had performed the inspection
9 on the vehicle and that the vehicle failed the functional ignition timing test for a mechanical
10 condition.

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

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

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

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

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

8 **EIGHTY-THIRD CAUSE FOR DISCIPLINE**

9 **(Untrue or Misleading Statements)**

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

19 **EIGHTY-FOURTH CAUSE FOR DISCIPLINE**

20 **(Fraud)**

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

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1 **EIGHTY-FIFTH CAUSE FOR DISCIPLINE**

2 **(Violations of the Bus. & Prof. Code)**

3 187. Respondent Contreraz's registration is subject to disciplinary action pursuant to Bus.
4 & Prof. Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with section
5 9884.9, subdivision (a), of that Code, as follows: Respondent exceeded the estimate price of
6 \$391.67 for the additional repairs on the vehicle without the operator's oral or written consent.

7 **EIGHTY-SIXTH CAUSE FOR DISCIPLINE**

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

10 188. Respondent Contreraz's smog check station license is subject to disciplinary action
11 pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to
12 comply with Regulation 3340.41, subdivision (a), as follows: Respondent failed to provide the
13 operator with VIR's for the smog inspections that were performed on November 4, 2010, and
14 November 9, 2010, described in paragraph 181 above.

15 **EIGHTY-SEVENTH CAUSE FOR DISCIPLINE**

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

17 189. Respondent Contreraz's smog check station license is subject to disciplinary action
18 pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed a
19 dishonest, fraudulent or deceitful act whereby another is injured, as follows: Respondent charged
20 the operator and CAP for adjusting the ignition timing on the Bureau's 1991 Honda Accord when,
21 in fact, that repair had not been performed on the vehicle as invoiced. Further, the ignition timing
22 was adjusted to manufacturer's specifications and was not in need of adjustment at the time the
23 vehicle was taken to Respondent's station. In addition, the station had not obtained the operator's
24 consent for that repair on the vehicle.

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

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

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

15 **PRAYER**

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

- 18 1. Revoking or suspending Automotive Repair Dealer Registration Number
19 ARD 253392, issued to Larry M. Contreras, owner of Contreras Budget Smog Center;
- 20 2. Revoking or suspending any other automotive repair dealer registration issued to
21 Larry M. Contreras;
- 22 3. Revoking or suspending Smog Check Station License Number RC 253392, issued to
23 Larry M. Contreras, owner of Contreras Budget Smog Center;
- 24 4. Revoking or suspending any additional license issued under Chapter 5 of the Health
25 and Safety Code in the name of Larry M. Contreras;
- 26 5. Temporarily or permanently invalidating the Gold Shield certification issued to
27 Contreras Budget Smog Center;

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

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

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

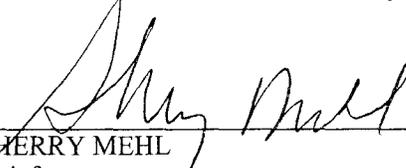
7 9. Revoking or suspending Advanced Emission Specialist Technician License Number
8 EA 144594, issued to Kulbir S. Brar;

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

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

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

15
16 DATED: 6/10/11



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

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