

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

In the Matter of the Accusation Against:

VICTOR HUGO DELEON
227 W. Imperial Highway, Apt. #C
Los Angeles, CA 90061

Advanced Emission Specialist Technician
License No. EA 145370

Respondent.

Case No. 79/11-54

OAH No. L-2011031619

DECISION

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

This Decision shall become effective 8/25/11.

DATED: July 19, 2011



DOREATHEA JOHNSON
Deputy Director, Legal Affairs
Department of Consumer Affairs

1 KAMALA D. HARRIS
Attorney General of California
2 KAREN B. CHAPPELLE
Supervising Deputy Attorney General
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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:

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14 Los Angeles, CA 90061
Advanced Emission Specialist Technician
License No. EA 145370

OAH No. L-2011031619
**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

15 Respondent.
16

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

19 PARTIES

20 1. Sherry Mehl (Complainant) is the Chief of the Bureau of Automotive Repair. She
21 brought this action solely in her official capacity and is represented in this matter by Kamala D.
22 Harris, Attorney General of the State of California, by Thomas L. Rinaldi, Deputy Attorney
23 General.

24 2. Victor Hugo Deleon (Respondent) is representing himself in this proceeding and has
25 chosen not to exercise his right to be represented by counsel.

26 3. On or about January 1, 2002, the Bureau of Automotive Repair issued Advanced
27 Emission Specialist Technician License No. EA 145370 to Respondent. The Advanced Emission
28

1 Specialist Technician License was in full force and effect at all times relevant to the charges
2 brought in Accusation No. 79/11-54 and will expire on October 31, 2012, unless renewed.

3 JURISDICTION

4 4. Accusation No. 79/11-54 was filed before the Director of Consumer Affairs
5 (Director), for the Bureau of Automotive Repair (Bureau), and is currently pending against
6 Respondent. The Accusation and all other statutorily required documents were properly served
7 on Respondent on February 25, 2011. Respondent timely filed his Notice of Defense contesting
8 the Accusation. A copy of Accusation No. 79/11-54 is attached as exhibit A and incorporated
9 herein by reference.

10 ADVISEMENT AND WAIVERS

11 5. Respondent has carefully read, and understands the charges and allegations in
12 Accusation No. 79/11-54. Respondent has also carefully read, and understands the effects of this
13 Stipulated Settlement and Disciplinary Order.

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

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

23 CULPABILITY

24 8. Respondent admits the truth of each and every charge and allegation in Accusation
25 No. 79/11-54.

26 9. Respondent agrees that his Advanced Emission Specialist Technician License is
27 subject to discipline and he agrees to be bound by the Director's probationary terms as set forth in
28 the Disciplinary Order below.

CONTINGENCY

1
2 10. This stipulation shall be subject to approval by the Director of Consumer Affairs or
3 his designee. Respondent understands and agrees that counsel for Complainant and the staff of
4 the Bureau of Automotive Repair may communicate directly with the Director and staff of the
5 Department of Consumer Affairs regarding this stipulation and settlement, without notice to or
6 participation by Respondent. By signing the stipulation, Respondent understands and agrees that
7 he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Director
8 considers and acts upon it. If the Director fails to adopt this stipulation as the Decision and
9 Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for
10 this paragraph, it shall be inadmissible in any legal action between the parties, and the Director
11 shall not be disqualified from further action by having considered this matter.

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

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

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

DISCIPLINARY ORDER

24
25 IT IS HEREBY ORDERED that Advanced Emission Specialist Technician License No. EA
26 145370 issued to Respondent is revoked. However, the revocation is stayed and Respondent is
27 placed on probation for three (3) years on the following terms and conditions.

28 1. **Obey All Laws.** Comply with all statutes, regulations and rules governing

1 automotive inspections, estimates and repairs.

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

6 3. **Report Financial Interest.** Within 30 days of the effective date of this action, report
7 any financial interest which any partners, officers, or owners of the Respondent facility may have
8 in any other business required to be registered pursuant to Section 9884.6 of the Business and
9 Professions Code.

10 4. **Random Inspections.** Provide Bureau representatives unrestricted access to inspect
11 all vehicles (including parts) undergoing repairs, up to and including the point of completion.

12 5. **Jurisdiction.** If an accusation is filed against Respondent during the term of
13 probation, the Director of Consumer Affairs shall have continuing jurisdiction over this matter
14 until the final decision on the accusation, and the period of probation shall be extended until such
15 decision.

16 6. **Violation of Probation.** Should the Director of Consumer Affairs determine that
17 Respondent has failed to comply with the terms and conditions of probation, the Department may,
18 after giving notice and opportunity to be heard suspend or revoke his advanced emissions
19 specialist technician license.

20 7. **Continuing Education Courses.** During the period of probation, Respondent shall
21 attend and successfully complete the Bureau's Clean Air Car Course and provide proof of
22 completion to the Bureau within six (6) months of the effective date of this decision and order. If
23 proof of completion of the course is not furnished to the Bureau within the 6 month period,
24 Respondent's license shall be immediately suspended until such proof is received.

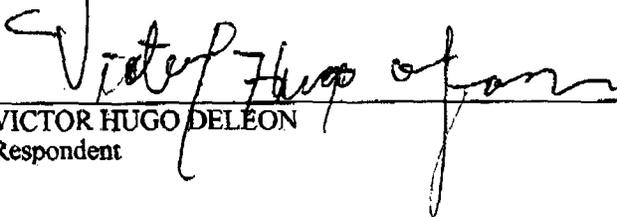
25 8. **Cost Recovery.** Payment to the Bureau of cost recovery in the amount of \$1,759
26 shall be received no later than 6 months before probation terminates. Failure to complete
27 payment of cost recovery within this time frame shall constitute a violation of probation which
28 may subject Respondent's **advanced emission specialist technician license** to outright

1 revocation; however, the Director or the Director's Bureau of Automotive Repair designee may
2 elect to continue probation until such time as reimbursement of the entire cost recovery amount
3 has been made to the Bureau.

4 ACCEPTANCE

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

10 DATED:

05-18-11 

VICTOR HUGO DELEON
Respondent

13 ENDORSEMENT

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

16 Dated: May 13, 2011

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
KAREN B. CHAPPELLE
Supervising Deputy Attorney General



THOMAS L. RINALDI
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 79/11-54

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227 W. Imperial Highway, Apt. #C
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Advanced Emission Specialist Technician
14 License No. EA 145370
15 Respondent.

Case No. 79/11-54
ACCUSATION
SMOG CHECK

16
17 Complainant alleges:

18 **PARTIES**

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

21 **Advanced Emission Specialist Technician License**

22 2. On a date uncertain in 2002, the Bureau of Automotive Repair issued Advanced
23 Emission Specialist Technician License Number EA 145370 ("technician license") to Victor
24 Hugo Deleon ("Respondent"). The technician license was in full force and effect at all times
25 relevant to the charges brought herein and will expire on October 31, 2012, unless renewed.

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1 SECOND CAUSE FOR DISCIPLINE

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

3 11. Respondent has subjected his technician license to discipline under Health and Safety
4 Code section 44072.2, subdivision (c), in that on or about May 17, 2010, regarding the 1991
5 Toyota pickup, he violated sections of the California Code of Regulations, title 16, as follows:

6 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued
7 electronic Certificate of Compliance No. WJ711276 without performing a bona fide inspection of
8 the emission control devices and systems on that vehicle as required by Health and Safety Code
9 section 44012.

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

12 c. **Section 3340.41, subdivision (c):** Respondent entered false information into the
13 Emission Inspection System for electronic Certificate of Compliance No. WJ711276 by entering
14 "Pass" for the visual portion of the inspection even though the vehicle could not pass the visual
15 portion of the smog inspection because the vehicle's air suction valve was missing.

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

18 THIRD CAUSE FOR DISCIPLINE

19 (Dishonesty, Fraud or Deceit)

20 12. Respondent has subjected his technician license to discipline under Health and Safety
21 Code section 44072.2, subdivision (d), in that on or about May 17, 2010, he committed acts
22 involving dishonesty, fraud or deceit whereby another was injured by issuing electronic
23 Certificate of Compliance No. WJ711276 for the 1991 Toyota pickup without performing a bona
24 fide inspection of the emission control devices and systems on that vehicle, thereby depriving the
25 People of the State of California of the protection afforded by the Motor Vehicle Inspection
26 Program.

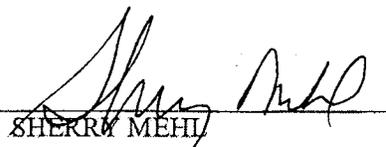
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1 3. Ordering Victor Hugo Deleon to pay the Bureau of Automotive Repair the reasonable
2 costs of the investigation and enforcement of this case, pursuant to Business and Professions
3 Code section 125.3; and,

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

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6 DATED: 1-14-11


7 SHERRY MEHL
8 Chief
9 Bureau of Automotive Repair
10 Department of Consumer Affairs
11 State of California
12 *Complainant*

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