

1 EDMUND G. BROWN JR.
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 SHANA A. BAGLEY
Deputy Attorney General
4 State Bar No. 169423
1515 Clay Street, 20th Floor
5 P.O. Box 70550
Oakland, CA 94612-0550
6 Telephone: (510) 622-2129
Facsimile: (510) 622-2270
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. 79/10-76

13 **FIRE HOUSE SMOG**
2900 Lone Tree Way
14 Antioch, CA 94509
TESLIM OLAMIDE OLADUNJOYE, PRESIDENT
Automotive Repair Dealer Registration No.
15 ARD 239271
Smog Check Test Only Station License No. TC 239271

16 **ACCUSATION**
17 **SMOG CHECK**

18 and

19 **TESLIM OLAMIDE OLADUNJOYE**
2900 Lone Tree Way
20 Antioch, CA 94509
Advanced Emission Specialist Technician License
No. EA 146343

21 and

22 **FERNANDO HEYNAR SOLORZANO**
306 Worrell Road
23 Antioch, CA 94509
Advanced Emission Specialist Technician License
24 No. EA 150758

25 Respondents.

26 Complainant alleges:

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1 PARTIES

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

4 **Automotive Repair Dealer Registration**

5 2. On or about May 3, 2005, the Bureau issued Automotive Repair Dealer Registration
6 Number ARD 239271 ("registration") to Fire House Smog ("Respondent Fire House") with
7 Teslim Olamide Ojadunjoye as President. The registration was in full force and effect at all times
8 relevant to the charges brought herein and will expire on April 30, 2010, unless renewed.

9 **Smog Check Test Only Station License**

10 3. On or about May 9, 2005, the Bureau issued Smog Check Test Only Station License
11 Number TC 239271 ("station license") to Respondent Fire House. The station license was in full
12 force and effect at all times relevant to the charges brought herein and will expire on April 30,
13 2010, unless renewed.

14 **Advanced Emission Specialist Technician License**

15 4. On a date uncertain in 2003, the Bureau issued Advanced Emission Specialist
16 Technician License Number EA 146343 ("technician license") to Teslim Olamide Oladunjoye.
17 The technician license will expire on June 30, 2011, unless renewed.

18 **Advanced Emission Specialist Technician License**

19 5. On a date uncertain in 2005, the Bureau issued Advanced Emission Specialist
20 Technician License Number EA 150758 ("technician license") to Fernando Heynar Solorzano
21 ("Respondent Solorzano"). The technician license expired on August 31, 2009, and has not been
22 renewed.

23 STATUTORY PROVISIONS

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

26 (a) The director, where the automotive repair dealer cannot show there
27 was a bona fide error, may refuse to validate, or may invalidate temporarily or
28 permanently, the registration of an automotive repair dealer for any of the following
acts or omissions related to the conduct of the business of the automotive repair

employee, partner, officer, or member of the automotive repair dealer.

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

(4) Any other conduct which constitutes fraud.

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

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

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

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

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

10. Section 44072.2 of the Health and Safety Code state, in pertinent part:

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

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

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

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

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

6 12. Section 44072.8 of the Health and Safety Code states:

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

10 COST RECOVERY

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

15 SURVEILLANCE OPERATION – AUGUST 26, 2009

16 14. On or about August 26, 2009, the Bureau performed a video-taped surveillance at
17 Respondent Fire House's facility. The surveillance operation and information obtained from the
18 Bureau's Vehicle Information Database ("VID") revealed that between 1029 hours and 1832
19 hours, Daniel Ramirez, an unlicensed person, performed three (3) smog inspections using
20 Respondent Solorzano's access code in order to access the Emission Inspection System ("EIS").
21 Respondent Solorzano was not seen during the inspection of those three vehicles.

22 15. Respondent Solorzano performed three (3) smog inspections using the clean piping
23 method and allowed Daniel Ramirez to assist with the inspections of two of those vehicles.
24 Electronic certificates of compliance were issued for each of the vehicles set forth in Table 1,
25 below, certifying that Respondent Solorzano tested and inspected those vehicles and that the
26 vehicles were in compliance with applicable laws and regulation; however, Respondent
27 Solorzano failed to perform proper inspections of those vehicles or clean piped some of the
28 vehicles as detailed in Table 1, below.

TABLE 1

	Date & Time	Vehicle Certified	Vehicle Tested	Certificate Issued	Details
1	8/26/2009 1029 hours to 1034 hours	1999 Dodge Ram	1999 Dodge Ram	NM699724C	Daniel Ramirez performed the smog inspection using Respondent Solorzano's access code.
2	8/26/09 1148 hours to 1153 hours	1997 Chevrolet Suburban	1997 Chevrolet Suburban	NM699726C	Daniel Ramirez performed the smog inspection using Respondent Solorzano's access code.
3	8/26/2009 1202 hours to 1219 hours	1991 Ford F250 pickup truck	1991 Ford F250 pickup truck	NM699727C	Daniel Ramirez performed the smog inspection using Respondent Solorzano's access code.
4	8/26/2009 1521 hours to 1543 hours	1990 Ford E350 Econoline Van	White Ford pickup	NM699729C	Respondent Solorzano and Daniel Ramirez clean piped the 1990 Ford E350 Econoline Van
5	8/26/2009 1535 hours to 1544 hours	1993 Ford E150 Econoline Van	White Ford pickup	NM708715C	Respondent Solorazano and Daniel Ramirez clean piped the 1993 E150 Ford Econoline Van.
6	8/26/2009 1821 hours to 1832 hours	1978 Chevrolet Caprice	White Ford pickup	NM699733C	Respondent Solorzano clean piped the 1978 Chevrolet Caprice.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Misleading Statements)**

3 15. Respondent Fire House has subjected its registration to discipline under Code section
4 9884.7, subdivision (a)(1), in that on or about August 26, 2009, it made statements which it knew
5 or which by exercise of reasonable care it should have known were untrue or misleading when it
6 issued electronic certificates of compliance for the vehicles set forth in Table 1, above, certifying
7 that those vehicles were in compliance with applicable laws and regulations and had been
8 inspected by a licensed technician when, in fact, the smog inspections for vehicle nos. 1, 2, and 3,
9 were performed by Daniel Ramirez, an unlicensed person, and vehicle nos. 4, 5, and 6, had been
10 clean piped. Further, Daniel Ramirez assisted in the clean piping of vehicle nos. 4 and 5.

11 **SECOND CAUSE FOR DISCIPLINE**

12 **(Fraud)**

13 16. Respondent Fire House has subjected its registration to discipline under Code section
14 9884.7, subdivision (a)(4), in that on or about August 26, 2009, it committed acts which
15 constitute fraud by issuing electronic certificates of compliance for the vehicles set forth in Table
16 1, above, without performing bona fide inspections of the emission control devices and systems
17 on those vehicles, thereby depriving the People of the State of California of the protection
18 afforded by the Motor Vehicle Inspection Program.

19 **THIRD CAUSE FOR DISCIPLINE**

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

21 17. Respondent Fire House has subjected its station license to discipline under Health and
22 Safety Code section 44072.2, subdivision (a), in that on or about August 26, 2009, regarding the
23 vehicles set forth in Table 1, above, it violated sections of that Code, as follows:

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

27 b. **Section 44012, subdivision (f):** Respondent Fire House failed to perform emission
28 control tests on those vehicles in accordance with procedures prescribed by the department.

1 c. **Section 4014, subdivision (a):** Respondent Fire House allowed Daniel Ramirez to
2 perform smog inspections and/or assist in smog inspections for vehicles 1, 2, 3, 4, and 5, when he
3 was not licensed to do so.

4 d. **Section 44015, subdivision (b):** Respondent Fire House issued electronic certificates
5 of compliance without properly testing and inspecting those vehicles to determine if they were in
6 compliance with section 44012 of that Code.

7 e. **Section 44059:** Respondent Fire House willfully made false entries for the electronic
8 certificates of compliance, certifying that those vehicles had been inspected as required when, in
9 fact, they had not.

10 **FOURTH CAUSE FOR DISCIPLINE**

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

12 18. Respondent Fire House has subjected its station license to discipline under Health and
13 Safety Code section 44072.2, subdivision (c), in that on or about August 26, 2009, regarding the
14 vehicles set forth in Table 1, above, it violated sections of the California Code of Regulations,
15 title 16, as follows:

16 a. **Section 3340.24, subdivision (c):** Respondent Fire House falsely or fraudulently
17 issued the electronic certificates of compliance without performing bona fide inspections of the
18 emission control devices and systems on those vehicles as required by Health and Safety Code
19 section 44012.

20 b. **Section 3340.35, subdivision (c):** Respondent Fire House issued electronic
21 certificates of compliance even though the vehicles had not been inspected in accordance with
22 section 3340.42 of that Code.

23 c. **Section 3340.42:** Respondent Fire House failed to conduct the required smog tests
24 and inspections on those vehicles in accordance with the Bureau's specifications.

25 **FIFTH CAUSE FOR DISCIPLINE**

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

27 19. Respondent Fire House has subjected its station license to discipline under Health and
28 Safety Code section 44072.2, subdivision (d), in that on or about August 26, 2009, regarding the

1 vehicles set forth in Table 1, above, it committed acts involving dishonesty, fraud or deceit
2 whereby another was injured by issuing electronic certificates of compliance without performing
3 bona fide inspections of the emission control devices and systems on those vehicles, thereby
4 depriving the People of the State of California of the protection afforded by the Motor Vehicle
5 Inspection Program.

6 **SIXTH CAUSE FOR DISCIPLINE**

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

8 20. Respondent Solorzano has subjected his technician license to discipline under Health
9 and Safety Code section 44072.2, subdivision (a), in that on or about August 26, 2009, regarding
10 the vehicles set forth in Table 1, above, he violated sections of that Code, as follows:

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

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

16 c. **Section 44014, subdivision (a):** Respondent Solorzano allowed Daniel Ramirez to
17 assist him with the inspections of vehicles 4 and 5 when Daniel Ramirez was not licensed to do
18 so.

19 d. **Section 44032:** Respondent Solorzano failed to perform tests of the emission control
20 devices and systems on those vehicles in accordance with section 44012 of that Code.

21 e. **Section 44059:** Respondent Solorzano willfully made false entries for the electronic
22 certificates of compliance, certifying that those vehicles had been inspected as required when, in
23 fact, they had not.

24 **SEVENTH CAUSE FOR DISCIPLINE**

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

26 21. Respondent Solorzano has subjected his technician license to discipline under Health
27 and Safety Code section 44072.2, subdivision (c), in that on or about August 26, 2009, regarding
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1 the vehicles set forth in Table 1, above, he violated sections of the California Code of
2 Regulations, title 16, as follows:

3 a. **Section 3340.24, subdivision (c):** Respondent Solorzano falsely or fraudulently
4 issued electronic certificates of compliance without performing bona fide inspections of the
5 emission control devices and systems on those vehicles as required by Health and Safety Code
6 section 44012.

7 b. **Section 3340.30, subdivision (a):** Respondent Solorzano failed to inspect and test
8 those vehicles in accordance with Health and Safety Code section 44012.

9 c. **Section 3340.41, subdivision (c):** Respondent Solorzano entered false information
10 into the EIS for the electronic certificates of compliance by entering vehicle identification or
11 emission control information for vehicles other than the vehicles certified for vehicle nos. 4, 5,
12 and 6.

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

15 **EIGHTH CAUSE FOR DISCIPLINE**

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

17 22. Respondent Solorzano has subjected his technician license to discipline under Health
18 and Safety Code section 44072.2, subdivision (d), in that on or about August 26, 2009, he
19 committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing
20 electronic certificates of compliance for the vehicles set forth in Table 1, above, without
21 performing bona fide inspections of the emission control devices and systems on those vehicles,
22 thereby depriving the People of the State of California of the protection afforded by the Motor
23 Vehicle Inspection Program.

24 **PRIOR CITATIONS**

25 23. To determine the degree of discipline, if any, to be imposed on Respondent,
26 Complainant alleges as follows:

27 a. On or about September 22, 2006, the Bureau issued Citation No. C07-0145 against
28 Respondent Fire House's registration and station licenses for violations of Health & Safety Code

1 section 44012, subdivision (f) (failure to perform a visual/functional check of emission control
2 devices according to procedures prescribed by the department); and, California Code of
3 Regulations, title 16, section ("Regulation") 3340.35, subdivision (c) (issuing a certificate of
4 compliance to a vehicle that was improperly tested), for issuing a certificate of compliance to a
5 Bureau undercover vehicle with the ignition timing adjusted beyond the manufacturer's
6 specifications. The Bureau assessed civil penalties totaling \$500 against Respondent Fire House
7 for the violations. Respondent Fire House complied with this citation on November 22, 2006.

8 b. On or about November 25, 2008, the Bureau issued Citation No. C09-0665 against
9 Respondent Fire House's registration and station licenses for violations of Health & Safety Code
10 section 44012, subdivision (f) (failure to perform a visual/functional check of emission control
11 devices according to procedures prescribed by the department), and California Code of
12 Regulations, title 16, section ("Regulation") 3340.35, subdivision (c) (issuing a certificate of
13 compliance to a vehicle that was improperly tested), for issuing a certificate of compliance to a
14 Bureau undercover vehicle with a missing pulse air injection system. The Bureau assessed civil
15 penalties totaling \$500 against Respondent Fire House for the violations. Respondent Fire House
16 complied with this citation on January 13, 2009.

17 c. On or about November 25, 2008, the Bureau issued Citation No. M09-0666 against
18 Teslim Olamide Oladunjoye's (who serves as the President of Respondent herein) technician
19 license for violations of Health & Safety Code section 44032, (failure to perform tests and
20 inspects in accordance with Health & Safety Code section 44012), and California Code of
21 Regulations, title 16, section ("Regulation") 3340.30, subdivision (a) (inspect, test, and repair
22 vehicles in accordance with Health & Safety Code sections 44012, 44035, and Regulation
23 3340.42) for issuing a certificate of compliance to a Bureau undercover vehicle with a missing
24 pulse air injection system. Oladunjoye was required to attend an 8-hour training course.
25 Oladunjoye complied with this citation on January 17, 2009.

26 d. On or about May 19, 2009, the Bureau issued Citation No. M09-1330 against
27 Respondent Solorzano's technician license for violations of Health & Safety Code section 44032,
28 (failure to perform tests and inspects in accordance with Health & Safety Code section 44012),

1 and California Code of Regulations, title 16, section ("Regulation") 3340.30, subdivision (a)
2 (inspect, test, and repair vehicles in accordance with Health & Safety Code sections 44012,
3 44035, and Regulation 3340.42) for issuing a certificate of compliance to a Bureau undercover
4 vehicle with the ignition timing adjusted beyond the manufacturer's specifications. Respondent
5 Solorzano was required to attend an 8-hour training course. Respondent has not complied with
6 this citation.

7 **OTHER MATTERS**

8 24. Under Code section 9884.7, subdivision (c), the director may invalidate temporarily
9 or permanently or refuse to validate, the registrations for all places of business operated in this
10 state by Fire House Smog, upon a finding that it has, or is, engaged in a course of repeated and
11 willful violations of the laws and regulations pertaining to an automotive repair dealer.

12 25. Under Health and Safety Code section 44072.8, if Smog Check Test Only Station
13 License Number TC 239271, issued to Fire House Smog, is revoked or suspended, any additional
14 license issued under this chapter in the name of said licensee including, but not limited to
15 Advanced Emission Specialist Technician License Number EA 146343, issued to Teslim
16 Olamide Oladunjoye, may be likewise revoked or suspended by the director.

17 26. Under Health and Safety Code section 44072.8, if Advanced Emission Specialist
18 Technician License Number EA 150758, issued to Fernando Heynar Solorzano, is revoked or
19 suspended, any additional license issued under this chapter in the name of said licensee may be
20 likewise revoked or suspended by the director.

21 **PRAYER**

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

24 1. Temporarily or permanently invalidating Automotive Repair Dealer Registration
25 Number ARD 239271, issued to Fire House Smog;

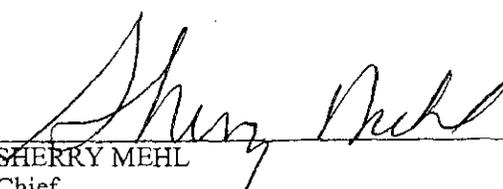
26 2. Temporarily or permanently invalidating any other automotive repair dealer
27 registration issued in the name of Fire House Smog;

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- 1 3. Revoking or suspending Smog Check Test Only Station License Number TC 239271,
- 2 issued to Fire House Smog;
- 3 4. Revoking or suspending any additional license issued under Chapter 5 of the Health
- 4 and Safety Code in the name of Fire House Smog;
- 5 5. Revoking or suspending Advanced Emission Specialist Technician License Number
- 6 EA 146343, issued to Teslim Olamide Oladunjoye;
- 7 6. Revoking or suspending any additional license issued under Chapter 5 of the Health
- 8 and Safety Code in the name of Teslim Olamide Oladunjoye;
- 9 7. Revoking or suspending Advanced Emission Specialist Technician License Number
- 10 EA 150758, issued to Fernando Heynar Solorzano;
- 11 8. Revoking or suspending any additional license issued under Chapter 5 of the Health
- 12 and Safety Code in the name of Fernando Heynar Solorzano;
- 13 9. Ordering Fire House Smog, Teslim Olamide Oladunjoye, and Fernando Heynar
- 14 Solorzano to pay the Bureau of Automotive Repair the reasonable costs of the investigation and
- 15 enforcement of this case, pursuant to Business and Professions Code section 125.3; and,
- 16 10. Taking such other and further action as deemed necessary and proper.

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DATED: 4/28/10


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

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