

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

In the Matter of the Accusation Against:

Case No 77/13-75.

**CARRISALEZ AUTOMOTIVE
CHRISTOPHER JULIUS CARRISALEZ, OWNER
2534 N. Blackstone, Suite B
Fresno, CA 93702
Mailing Address:
4426 E. Austin Way
Fresno, CA 93726**

**DEFAULT DECISION AND
ORDER**

Automotive Repair Dealer Reg. No. ARD 265691

and

**CHRISTOPHER JULIUS CARRISALEZ
4426 E. Austin Way
Fresno, CA 93726**

**Advanced Emission Specialist Technician License
No. EA 147478 (to be redesignated upon renewal as
EO 147478 and/or EI 147478)**

Respondents.

FINDINGS OF FACT

1
2 1. On or about June 13, 2013, Complainant John Wallauch, in his official capacity as the
3 Chief of the Bureau of Automotive Repair, Department of Consumer Affairs, filed Accusation
4 No. 77/13-75 against (Respondent) before the Director of Consumer Affairs. (Accusation
5 attached as Exhibit A.)

6 2. On or about June 27, 2011, the Bureau of Automotive Repair (Bureau) issued
7 Automotive Repair Dealer Registration No. ARD 265691 to Respondent Carrisalez Automotive,
8 Christopher Julius Carrisalez, owner (Respondent). The Automotive Repair Dealer Registration
9 was in full force and effect at all times relevant to the charges brought in Accusation No. 77/13-
10 75 and will expire on June 30, 2014, unless renewed.

11 3. On or about January 1, 2003, the Bureau of Automotive Repair issued Advanced
12 Emission Specialist Technician No. EA 147478 (to be redesignated upon renewal as EO 147478
13 and/or EI 147478) to Respondent. The Advanced Emission Specialist Technician License was in
14 full force and effect at all times relevant to the charges brought in Accusation No. 77/13-75 and
15 will expire on October 31, 2013, unless renewed.

16 4. On or about June 18, 2013, Respondent was served by Certified Mail and First Class
17 United States mail with copies of the Accusation No. 77/13-75, Statement to Respondent, Notice
18 of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5,
19 11507.6, and 11507.7) to Respondent's address of record which, pursuant to Business and
20 Professions Code section 136, is required to be reported and maintained with the Bureau.
21 Respondent's address of record was and is: 2534 N. Blackstone, Suite B, Fresno, CA 93702. In
22 addition, on or about June 18, 2013, Respondent was served by Certified Mail and First Class
23 United States mail with copies of the aforesaid documents to Respondent's mailing address at
24 4426 E. Austin Way, Fresno, CA 93726.

25 5. Service of the Accusation was effective as a matter of law under the provisions of
26 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
27 124.

1 3. Complainant is authorized to revoke Respondent's Automotive Repair Dealer
2 Registration and Advanced Emission Specialist Technician license based upon the following
3 violations alleged in the Accusation which are supported by the evidence contained in the
4 affidavit of Bureau Representative Willy S. Thygesen in this case:

5 a. Violation of Business & Professions Code section 9884.7(a)(1) for making untrue or
6 misleading statements in Respondent's application for an automotive repair dealer registration;

7 b. Violation of Health & Safety Code section 44072.2(d) for dishonesty, fraud and deceit by
8 making untrue or misleading statements in Respondent's application for an automotive repair
9 dealer registration;

10 c. Violation of Business & Professions Code section 9884.7(a)(1) for making untrue or
11 misleading statements by representing to an undercover operator that replacement of the head
12 gasket on the Bureau's 1994 Toyota as well as replacement of various valves were necessary
13 when, in fact, such repairs were not necessary.

14 d. Violation of Business & Professions Code section 9884.7(a)(2) by causing the operator
15 to sign the work order/estimate for the Bureau's 1994 Toyota that did not state the odometer
16 reading of the vehicle;

17 e. Violation of Business & Professions Code section 9884.7(a)(4) and Health & Safety
18 Code section 44072.2(d) for acts of fraud whereby others were injured by making false or
19 misleading representations to the operator regarding the repairs needed to the 1994 Toyota;

20 f. Violation of Business & Professions Code section 9884.7(a)(7) by Respondent's willful
21 departure from or disregard of accepted trade standards of good and workmanlike repair of the
22 Bureau's 1994 Toyota;

23 g. Violation of Business & Professions Code section 9884.7(a)(5) by Respondent's gross
24 negligence in the repair of the 1994 Toyota;

25 h. Violation of Business & Professions Code section 9884.7(a)(6) by Respondent's failure
26 to comply with provisions of California Code of Regulations, Title 16, including Regulations
27 3356(a)(1), 3356(a)(2)(a), 3356(a)(2)(B) and 3371;

28

1 i. Violation of Business & Professions Code section 9884.7(a)(2) by causing the owner to
2 sign the work order/estimate for the 1999 Chevrolet that did not state the odometer reading of the
3 vehicle;

4 j. Violation of Business & Professions Code section 9884.7(a)(6) by pressure testing and
5 resurfacing engine heads of the 1999 Chevrolet without the owner's authorization;

6 k. Violation of Business & Professions Code section 9884.7(a)(6) by Respondent's failure
7 to comply with California Code of Regulations, title 16, sections 3356(a)(1), 3356(a)(2)(A) and
8 3356(a)(2)(B) in repairing the consumer's 1999 Chevrolet;

9 l. Violation of Health & Safety Code section 44072.2(a) by Respondent's failure to comply
10 with Health & Safety Code section 44012(f) with respect to his smog inspection of the Bureau's
11 1997 Toyota;

12 m. Violation of Health & Safety Code section 44072.2(c) by Respondent's failure to
13 comply with California Code of Regulations, title 16, sections 3340(a) and 3340.42 with respect
14 to his smog inspection of the Bureau's 1997 Toyota;

15 n. Violation of Health & Safety Code section 44072.2(d) by Respondent's commission of
16 dishonest, fraudulent or Deceitful acts whereby another was injured in his smog inspection of the
17 Bureau's 1997 Toyota;

18 o. Violation of Health & Safety Code section 44072.2(d) by Respondent's commission of
19 dishonest, fraudulent or deceitful acts whereby another was injured in his smog inspection of the
20 Bureau's 1987 Toyota; and

21 p. Violation of Health & Safety Code section 44072.2(a) by Respondent's failure to comply
22 with Health & Safety Code section 44014.5(c) by Respondent's smog repair of the Bureau's 1987
23 Toyota when he was not licensed to do so in his test only facility.

24 ORDER

25 IT IS SO ORDERED that Automotive Repair Dealer Registration No. ARD 265691 and
26 Advanced Emission Specialist Technician License No. EA 147478 heretofore issued to
27 Respondent, are revoked.

28

1 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
2 written motion requesting that the Decision be vacated and stating the grounds relied on within
3 seven (7) days after service of the Decision on Respondent. The motion should be sent to the
4 Bureau of Automotive Repair, ATTN: William D. Thomas, 10949 North Mather Blvd., Rancho
5 Cordova, CA 95670. The agency in its discretion may vacate the Decision and grant a hearing on
6 a showing of good cause, as defined in the statute.

7 This Decision shall become effective on 8/22/13.

8 It is so ORDERED August 2, 2013

9
10
11 
12 DONALD CHANG
13 Assistant Chief Counsel
14 Department of Consumer Affairs

15 Attachments:
16 Exhibit A: Accusation
17 Exhibit B: Proof of Service and returned mail
18
19
20
21
22
23
24
25
26
27
28

1 KAMALA D. HARRIS
Attorney General of California
2 KENT D. HARRIS
Supervising Deputy Attorney General
3 STERLING A. SMITH
Deputy Attorney General
4 State Bar No. 84287
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 445-0378
Facsimile: (916) 327-8643
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. 77/13-75

13 **CARRISALEZ AUTOMOTIVE**
14 **CHRISTOPHER JULIUS CARRISALEZ, OWNER**
2534 N. Blackstone, Suite B
15 Fresno, CA 93702
Mailing Address:
16 4426 E. Austin Way
Fresno, CA 93726

ACCUSATION

17 Automotive Repair Dealer Reg. No. ARD 265691

18 and

19 **CHRISTOPHER JULIUS CARRISALEZ**
4426 E. Austin Way
20 Fresno, CA 93726

21 **Advanced Emission Specialist Technician License**
22 **No. EA 147478 (to be redesignated upon renewal as**
EO 147478 and/or EI 147478)

23 Respondents.

24 Complainant alleges:

25 **PARTIES**

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

28 ///

1 Technician license issued prior to the effective date of this regulation, the licensee may apply to
2 renew as a Smog Inspector, Smog Check Repair Technician, or both”.

3 **STATUTORY AND REGULATORY PROVISIONS**

4 9. Bus. & Prof. Code section 9884.7 states, in pertinent part:

5 (a) The director, where the automotive repair dealer cannot show there
6 was a bona fide error, may deny, suspend, revoke or place on probation the
7 registration of an automotive repair dealer for any of the following acts or omissions
8 related to the conduct of the business of the automotive repair dealer, which are done
9 by the automotive repair dealer or any automotive technician, employee, partner,
10 officer, or member of the automotive repair dealer.

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

14 (2) Causing or allowing a customer to sign any work order which does
15 not state the repairs requested by the customer or the automobile's odometer reading
16 at the time of repair.

17

18 (4) Any other conduct that constitutes fraud.

19 (5) Conduct constituting gross negligence.

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

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

25 10. Bus. & Prof. Code section 9884.7, subdivision (c), states, in pertinent part, that the
26 Director may suspend, revoke or place on probation the registration for all places of business
27 operated in this state by an automotive repair dealer upon a finding that the automotive repair
28 dealer has, or is, engaged in a course of repeated and willful violations of the laws and regulations
pertaining to an automotive repair dealer.

11. Bus. & Prof. Code section 9884.9, subdivision (a), states, in pertinent part:

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

1 consent or authorization for an increase in the original estimated price may be
2 provided by electronic mail or facsimile transmission from the customer. The bureau
3 may specify in regulation the procedures to be followed by an automotive repair
4 dealer when an authorization or consent for an increase in the original estimated price
5 is provided by electronic mail or facsimile transmission. If that consent is oral, the
6 dealer shall make a notation on the work order of the date, time, name of person
7 authorizing the additional repairs and telephone number called, if any, together with a
8 specification of the additional parts and labor and the total additional cost . . .

9 12. Bus. & Prof. Code section 22, subdivision (a), states:

10 "Board" as used in any provision of this Code, refers to the board in
11 which the administration of the provision is vested, and unless otherwise expressly
12 provided, shall include "bureau," "commission," "committee," "department,"
13 "division," "examining committee," "program," and "agency."

14 13. Bus. & Prof. Code section 477, subdivision (b), states, in pertinent part, that a
15 "license" includes "registration" and "certificate."

16 14. Health & Saf. Code section 44072.2 states, in pertinent part:

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

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

23

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

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

28 15. Health & Saf. Code section 44072.8 states that when a license has been revoked or
suspended following a hearing under this article, any additional license issued under this chapter
in the name of the licensee may be likewise revoked or suspended by the director.

16. Health & Saf. Code section 44014, subdivision (a), states:

Except as otherwise provided in this chapter, the testing and repair
portion of the program shall be conducted by smog check stations licensed by the
department, and by smog check technicians who have qualified pursuant to this
chapter.

///

///

1 17. Health & Saf. Code section 44014.5, subdivision (b), states:

2 The repair of vehicles at test-only facilities is prohibited, except that the
3 minor repair of components damaged by station personnel during inspection at the
4 station, any minor repair that is necessary for the safe operation of a vehicle while at a
5 station, or other minor repairs, such as the reconnection of hoses or vacuum lines,
6 may be undertaken at no charge to the vehicle owner or operator if authorized in
7 advance in writing by the department.

8 18. Health & Saf. Code section 44032 states, in pertinent part:

9 No person shall perform, for compensation, tests or repairs of emission
10 control devices or systems of motor vehicles required by this chapter unless the
11 person performing the test or repair is a qualified smog check technician and the test
12 or repair is performed at a licensed smog check station . . .

13 19. California Code of Regulations, title 16, section ("Regulation") 3356 states, in
14 pertinent part:

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

18 (1) The invoice shall show the automotive repair dealer's registration
19 number . . .

20 (2) The invoice shall separately list, describe and identify all of the
21 following:

22 (A) All service and repair work performed, including all diagnostic and
23 warranty work, and the price for each described service and repair.

24 (B) Each part supplied, in such a manner that the customer can
25 understand what was purchased, and the price for each described part. The
26 description of each part shall state whether the part was new, used, reconditioned,
27 rebuilt, or an OEM crash part, or a non-OEM aftermarket crash part.

28 20. Regulation 3371 states, in pertinent part:

No dealer shall publish, utter, or make or cause to be published, uttered,
or made any false or misleading statement or advertisement which is known to be
false or misleading, or which by the exercise of reasonable care should be known to
be false or misleading . . .

21. Regulation 3372 states:

In determining whether any advertisement, statement, or representation is
false or misleading, it shall be considered in its entirety as it would be read or heard
by persons to whom it is designed to appeal. An advertisement, statement, or
representation shall be considered to be false or misleading if it tends to deceive the
public or impose upon credulous or ignorant persons.

1 COST RECOVERY

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

6 FIRST CAUSE FOR DISCIPLINE

7 (Untrue or Misleading Statements)

8 23. In or about June 2011, the Bureau received an application for automotive repair
9 dealer registration from Respondent. On or about April 11, 2011, Respondent certified under
10 penalty of perjury that all statements made in the application were true and correct.

11 24. Respondent's registration is subject to disciplinary action pursuant to Bus. & Prof.
12 Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized a statement which
13 he knew or in the exercise of reasonable care should have known to be untrue or misleading, as
14 follows: Respondent certified in his response to question 8 (a) on the application that he had
15 never been convicted of any offense in this state. In fact, Respondent had been convicted of the
16 following crimes:

<u>Conviction Date</u>	<u>Offense</u>	<u>Jurisdiction/Case No.</u>
18 01/17/1990	19 Penal Code section 664/Vehicle Code section 10851, subdivision (a) (attempted auto theft), a felony	Fresno Sup. Ct. Case No. 412855-9
20 02/15/1990	21 Health & Saf. Code section 11550 (under the influence of a controlled substance), a misdemeanor	Fresno Muni Ct. Case No. M39179-7
22 11/20/1990	Vehicle Code section 10851, subdivision (a) (vehicle theft), a felony	Fresno Sup. Ct. Case No. 429497-1
23 08/03/1993	24 Penal Code sections 211/212.5, subdivision (b) (second degree robbery), a felony	Fresno Sup. Ct. Case No. 492169-8
25 08/17/1993	26 Health & Saf. Code section 11550 (under the influence of a controlled substance), a misdemeanor	Fresno Muni Ct Case No. M285304-2

27 ///

28 ///

1 condition of the engine on the Bureau's 1994 Toyota, as set forth in paragraph 31 above, in order
2 to induce the operator to purchase unnecessary repairs on the vehicle, then sold the operator
3 unnecessary repairs, including the repair of the cylinder head, the replacement of the head gasket
4 and exhaust and intake gaskets, and valve work.

5 **SIXTH CAUSE FOR DISCIPLINE**

6 **(Gross Negligence)**

7 34. Respondent's registration is subject to disciplinary action pursuant to Bus. & Prof.
8 Code section 9884.7, subdivision (a)(5), in that Respondent committed acts constituting gross
9 negligence in the repair of the Bureau's 1994 Toyota, which compromised the engine, as follows:

- 10 a. Respondent damaged the spark plug threads in the cylinder head.
11 b. Respondent over-tightened the valve cover.
12 c. Respondent failed to set two of the intake valves to the correct or specified clearance
13 of .007 to 0.11 inches.
14 d. Respondent failed to set the #3 spark plug to the specified gap of .043 inches (the gap
15 was set at .019 inches).
16 e. Respondent left the intake air duct clamp loose.
17 f. Respondent failed to reinstall various fasteners.
18 g. Respondent broke or damaged various electrical connectors, including the alternator
19 connector, oil pressure switch, and main ground wire to the engine.

20 **SEVENTH CAUSE FOR DISCIPLINE**

21 **(Departure from Trade Standards)**

22 35. Respondent's registration is subject to disciplinary action pursuant to Bus. & Code
23 section 9884.7, subdivision (a)(7), in that Respondent willfully departed from or disregarded
24 accepted trade standards for good and workmanlike repair without the consent of the owner or the
25 owner's duly authorized representative in certain material respects, as set forth in paragraph 34
26 above.

27 ///

28

1 **EIGHTH CAUSE FOR DISCIPLINE**

2 **(Violations of Regulations)**

3 36. Respondent's registration is subject to disciplinary action pursuant to Bus. & Prof.
4 Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with provisions of
5 California Code of Regulations, title 16, in the following material respects:

6 a. **Regulation 3356, subdivision (a)(1)**: Respondent failed to show his automotive
7 repair dealer registration number on the invoice.

8 b. **Regulation 3356, subdivision (a)(2)(A)**: Respondent failed to list, describe, or
9 identify on the invoice all repair work performed on the Bureau's 1994 Toyota, as follows:
10 Respondent failed to indicate that a new fuel injector had been installed in the #4 cylinder and
11 that one of the original injectors had been "swapped into" the #1 cylinder position, as set forth in
12 paragraph 29 above. Further, Respondent failed to specify or describe what was included in the
13 "valve train repair".

14 c. **Regulation 3356, subdivision (a)(2)(B)**: Respondent failed to state on the invoice
15 whether the parts installed on the Bureau's 1994 Toyota were new, used, reconditioned, or rebuilt.

16 d. **Regulation 3371**: Respondent published, uttered, or made, or caused to be
17 published, uttered, or made false or misleading statements or advertisements which are known to
18 be false or misleading, or which by the exercise of reasonable care should be known to be false or
19 misleading, as follows: Respondent represented on his discount coupon/advertisement and
20 business card that he could serve "all and any" of the public's automotive needs, including smog
21 services. In fact, Respondent had not been issued a smog check station license and as such, was
22 legally precluded from performing tests or repairs of emission control devices or systems on
23 motor vehicles.

24 **NINTH CAUSE FOR DISCIPLINE**

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

26 37. Respondent's technician license is subject to disciplinary action pursuant to Health &
27 Saf. Code section 44072.2, subdivision (d), in that Respondent committed dishonest, fraudulent,
28 or deceitful acts whereby another was injured, as set forth in paragraphs 31 and 33 above.

1 46. On or about November 17, 2011, Estrada and Pack authorized A-1 to tear down or
2 disassemble the engine.

3 47. On or about November 30, 2011, Estrada called W.T. and informed him that A-1 had
4 determined that the valve lifters on the vehicle were defective and that the coolant leak had
5 affected the operation of the lifters, causing the engine compression to be uneven. A-1
6 recommended replacing the engine.

7 48. On or about December 12, 2011, Bureau representative J.M. went to the facility to
8 obtain copies of Respondent's repair records on the vehicle, and found that the facility had closed
9 and was out of the business (the Bureau had requested the records on December 8, 2011). Later,
10 J.M. determined that Respondent was working as a smog check technician at All Superior Smog,
11 a test only facility located in Fresno.²

12 49. On or about December 14, 2011, Respondent provided the Bureau with copies of the
13 above invoice and an invoice from Ron's Machine Shop ("Ron's") dated September 29, 2011

14 50. On or about December 21, 2011, W.T. met with Respondent at All Superior Smog.
15 Respondent told W.T. that he had removed the engine heads on the vehicle and had them
16 resurfaced.

17 51. On or about December 22, 2011, W.T. made a field visit to Ron's and obtained
18 documentation showing that Ron's had pressure tested and resurfaced the engine heads before
19 Respondent had given Estrada and Pack the revised estimate.

20 **TENTH CAUSE FOR DISCIPLINE**

21 **(Failure to Record Odometer Reading)**

22 52. Respondent's registration is subject to disciplinary action pursuant to Bus. & Prof.
23 Code section 9884.7, subdivision (a)(2), in that Respondent caused or allowed Estrada to sign the
24 work order, identified in paragraph 38, which did not state the odometer reading of Estrada and
25 Pack's 1999 Chevrolet.

26
27 ² Test only facilities are licensed smog check stations that, by law, are only allowed to test
28 vehicles; they cannot repair them.

1 resulting in the issuance of electronic smog Certificate of Compliance No. [REDACTED] The
2 operator asked Respondent if he could diagnose his other vehicle, a 1987 Toyota, as the charge
3 and brake warning lights were illuminated. Respondent said "yes". The operator left the facility
4 at approximately 1253 hours.

5 **THIRTEENTH CAUSE FOR DISCIPLINE**

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

7 56. Respondent's technician license is subject to disciplinary action pursuant to Health &
8 Safety Code section 44072.2, subdivision (a), in that Respondent failed to comply with section
9 44012, subdivision (f), of that Code, as follows: Respondent failed to perform the visual
10 inspection of the emission control components on the Bureau's 1997 Toyota in accordance with
11 procedures prescribed by the department in that Respondent failed to determine that the fuel
12 evaporative charcoal canister was missing. Further, Respondent certified that the vehicle had
13 passed the inspection and was in compliance with applicable laws and regulations, when, in fact,
14 the vehicle would not pass the inspection required by Health & Safety Code section 44012 due to
15 the missing fuel evaporative charcoal canister.

16 **FOURTEENTH CAUSE FOR DISCIPLINE**

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

19 57. Respondent's technician license is subject to disciplinary action pursuant to Health &
20 Saf. Code section 44072.2, subdivision (c), in that Respondent failed to comply with provisions
21 of California Code of Regulations, title 16, as follows:

22 a. **Section 3340.30, subdivision (a):** Respondent failed to inspect and test the Bureau's
23 1997 Toyota in accordance with Health & Saf. Code sections 44012 and 44035, and California
24 Code of Regulations, title 16, section 3340.42.

25 b. **Section 3340.42:** Respondent failed to conduct the required smog tests on the
26 Bureau's 1997 Toyota in accordance with the Bureau's specifications.

27
28

1 **FIFTEENTH CAUSE FOR DISCIPLINE**

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

3 58. Respondent's technician license is subject to disciplinary action pursuant to Health &
4 Safety Code section 44072.2, subdivision (d), in that Respondent committed a dishonest,
5 fraudulent, or deceitful act whereby another is injured by issuing an electronic smog certificate of
6 compliance for the Bureau's 1997 Toyota without performing a bona fide inspection of the
7 emission control devices and systems on the vehicle, thereby depriving the People of the State of
8 California of the protection afforded by the Motor Vehicle Inspection Program.

9 **UNDERCOVER OPERATION #3: 1987 TOYOTA**

10 59. On April 4, 2012, at approximately 1445 hours, the operator involved in the second
11 undercover operation, took the Bureau's 1997 Toyota to All Superior Smog, the test only facility
12 identified in paragraph 48 above. A defective fuse had been installed in the charging indicator
13 light on the Bureau-documented vehicle. Respondent approached the operator and asked him if
14 he needed a smog check. The operator told Respondent that he had spoken with him earlier about
15 checking the vehicle because the charge and brake warning lights were illuminated. Respondent
16 had a man by the name of "Rich" obtain the operator's contact information. The operator asked
17 Rich for a business card. Rich gave the operator a business card for "Carrisalez Auto". The
18 operator left the facility.

19 60. On April 10, 2012, the operator called the facility and was informed by Respondent
20 that the vehicle was ready. The operator asked Respondent what the repair costs were on the
21 vehicle. Respondent stated that the charge light and brake light repairs cost \$215 and the smog
22 inspection cost \$58. The operator told Respondent that he had not requested a smog inspection.
23 Respondent stated that he would "do some research" and call the operator back. Later,
24 Respondent called the operator and told him that there had been a mix up and that they had
25 obtained approval for the smog inspection on a different vehicle. The operator asked Respondent
26 what was wrong with the vehicle. Respondent told the operator that they found a broken wire
27 inside of the insulation and repaired it, cleaned the fuse box terminals and the alternator
28 connections, topped off the brake fluid, removed the rear wheels, and adjusted the rear brakes.

1 Respondent stated that the total repair costs were \$215. A few minutes later, the operator called
2 Respondent back and asked him if he could buy the "smog"; i.e., smog inspection, for the vehicle.
3 Respondent agreed to sell the operator the "smog" for \$35.

4 61. At approximately 1410 hours that same day (April 10, 2012), the operator returned to
5 the facility to retrieve the vehicle. The operator paid a man by the name of Daniel \$245 in cash
6 for the smog inspection and repairs and received a VIR, a business card for "Carrisalez Auto", an
7 invoice from All Superior Smog for the smog inspection, and a separate invoice for the repairs.
8 There was no business name or address listed on the second invoice.

9 62. On April 12, 2012, the Bureau inspected the vehicle using both invoices for
10 comparison and found that the defective fuse had been replaced in the charging indicator light,
11 although that repair was not listed on the second invoice. The Bureau also found that the vehicle
12 had not been repaired as invoiced.

13 **SIXTEENTH CAUSE FOR DISCIPLINE**

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

15 63. Respondent's technician license is subject to disciplinary action pursuant to Health &
16 Safety Code section 44072.2, subdivision (d), in that Respondent committed dishonest,
17 fraudulent, or deceitful acts whereby another was injured, as follows: Respondent obtained
18 payment from the operator for repairing a broken wire inside of the insulation on the Bureau's
19 1987 Toyota, cleaning the fuse box terminals and the alternator connections, removing the rear
20 wheels, and adjusting the rear brakes. In fact, none of those repairs had been performed on the
21 vehicle.

22 **SEVENTEENTH CAUSE FOR DISCIPLINE**

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

24 64. Respondent's technician license is subject to disciplinary action pursuant to Health &
25 Saf. Code section 44072.2, subdivision (a), in that Respondent failed to comply with section
26 44014.5, subdivision (b), of that Code, as follows: Respondent replaced the defective fuse in the
27 charging indicator light on the Bureau's 1987 Toyota, when, in fact, Respondent was not legally
28 authorized to repair the vehicle as All Superior Smog is licensed as a test only facility.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DATED: 6/13/13

John Wallauch by June B...
JOHN WALLAUCH
Chief
Bureau of Automotive Repair
Department of Consumer Affairs
State of California
DIVA B...
Complainant