

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

In the Matter of the Accusation Against:

**FLACO CARBURETORS**  
**ERNESTO RODRIGUEZ, Owner**  
226 E. Florence Avenue  
Los Angeles, CA 90003

Automotive Repair Dealer Registration  
No. ARd 211527  
Smog Check, Test Only, Station License  
No. RC 211527

and

**SUN TE KIM**  
Advanced Emission specialist Technician  
License No. EA 148666

Respondents.

Case No. 79/11-21

OAH No. 2010120511

**DECISION**

The attached Order on Application for Corrected Proposed Decision, Corrected Proposed Decision, and Proposed Decision of the Administrative Law Judge are hereby accepted and adopted by the Director of Consumer Affairs as the Decision in the above-entitled matter only as to respondent Sun Te Kim, Advanced Emission Specialist Technician License No. EA 148666.

This Decision shall become effective \_\_\_\_\_

4/16/12

DATED: March 12, 2012

  
DOREATHEA JOHNSON  
Deputy Director, Legal Affairs  
Department of Consumer Affairs

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FOR THE BUREAU OF AUTOMOTIVE REPAIR  
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Respondents.

Case No. 79/11-21

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**ORDER ON APPLICATION FOR CORRECTED PROPOSED DECISION**

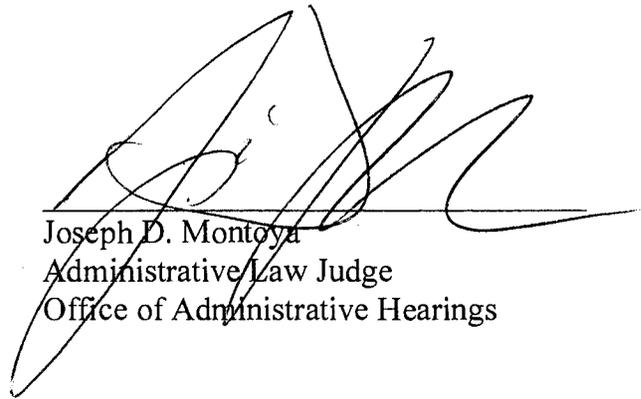
The hearing in the above-captioned matter was held on December 1, 2011, at Los Angeles, California. Joseph D. Montoya, Administrative Law Judge (ALJ), Office of Administrative Hearings, presided. Complainant was represented by Gregory J. Salute, Deputy Attorney General. Respondent Ernesto Rodriguez, doing business as Flaco Carburetors, appeared and represented himself. Respondent Sun Te Kim appeared with his attorney, Jeffrey Osborn. Juan Carlos Morales served as interpreter for Mr. Rodriguez.

On January 25, 2012, the ALJ issued his proposed decision. On February 23, 2012, Dianne Dobbs, Senior Staff Counsel, Department of Consumer Affairs, wrote to Susan Formaker, Presiding ALJ at the Los Angeles branch of OAH, requesting that the Proposed Decision be corrected. That letter application was received at OAH on February 27, 2012. The basis of the request was that the ALJ had, in Legal Conclusion number 7, held that the Bureau of Automotive Repair (Bureau) was entitled to recover costs in the amount of \$7,133.77 from Respondent Kim, but that the ALJ had not included such in the order.

It was the intent of the undersigned ALJ to order Respondent to pay costs to the Bureau. The failure to include such a probation term resulted from inadvertence and mistake of the undersigned in the course of editing and completing the proposed decision. It is deemed a technical mistake, subject to correction by the undersigned. (*See Russ v. Smith* (1968) 264 Cal. App. 2d 385, 391.)

The application is therefore granted, and a Corrected Proposed Decision shall issue forthwith, to reflect the decision to order cost reimbursement. Furthermore, a typographical error, found on the second line of Factual Finding 11 shall be corrected as well, to insert the word "facility" after the words "return to." A copy of this order shall become part of the record.

March 6, 2012



Joseph D. Montoya  
Administrative Law Judge  
Office of Administrative Hearings

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SUN TE KIM  
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Respondents.

Case No. 79/11-21

OAH No. 2010120511

**CORRECTED PROPOSED DECISION**

The hearing in this matter was held on December 1, 2011, at Los Angeles, California. Joseph D. Montoya, Administrative Law Judge, Office of Administrative Hearings, presided. Complainant was represented by Gregory J. Salute, Deputy Attorney General. Respondent Ernesto Rodriguez, doing business as Flaco Carburetors, appeared and represented himself. Respondent Sun Te Kim appeared with his attorney, Jeffrey Osborn. Juan Carlos Morales served as interpreter for Mr. Rodriguez.

At the outset of the proceeding, it was disclosed that Complainant and Respondent Rodriguez had settled the proceeding against Rodriguez, which was verified on the record.<sup>1</sup> In the course of discussing the matter, it was disclosed that Respondent Rodriguez had agreed to pay \$7,000 toward the costs of the proceeding. Based on the settlement stipulation, the action proceeded on the claims against Respondent Kim only.

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<sup>1</sup> Subsequent to the hearing, documentary evidence of the settlement was received at OAH, that being the first and signature pages of the stipulation to settle the matter.

Thereafter, Complainant and Respondent Kim stipulated to a number of matters, including the truth of the allegations contained in paragraphs 22, 23, and 24, as well as to the claim that four vehicles were illegally tested by "clean piping." However, Respondent Kim disputed the claim that he had clean piped those vehicles, or that he had otherwise violated the statutes and regulations in connection with those tests. He did, however, admit that during an undercover investigation by the Bureau, in 2010, that he failed to properly conduct a visual test of a car's emission control system in that he failed to detect that a component of the emissions controls was missing.

Evidence was received, the case argued, and the matter submitted for decision on the hearing date. On January 25, 2012, the Administrative Law Judge issued his proposed decision. On February 23, 2012, Dianne, Senior Staff Counsel, Department of Consumer Affairs, applied to have the Proposed Decision corrected, because the order therein did not require Respondent Kim to pay costs, even though Legal Conclusion 7 found the Bureau of Automotive Repair should recover costs from Respondent Kim.

The application was granted, in a separate order, which also found cause to correct a typographical error in Factual Finding 11. Therefore, the Administrative Law Judge issues his Corrected Proposed Decision, with the following factual findings, legal conclusions, and orders.

### **FACTUAL FINDINGS**

#### *The Parties and Jurisdiction*

1. Complainant Sherry Mehl filed the Accusation and First Amended Accusation in the above-captioned matter while acting in her official capacity as Chief of the Bureau of Automotive Repair (Bureau), Department of Consumer Affairs (Department). The Bureau is authorized by law to license and regulate persons and firms that repair automobiles, and those who inspect, test, and repair vehicle emissions systems. Under the law, the Bureau may take disciplinary action against those licensees who violate specific statutes and regulations governing the licensed activities.

2. (A) In 2000, the Bureau issued Automotive Repair Dealer Registration (ARD) Number ARD 211527 to Respondent Ernesto Rodriguez, an individual doing business as Flaco Carburetors (Rodriguez or Flaco). That business is operated in Los Angeles, California. Respondent's ARD license will expire on June 30, 2012, unless otherwise renewed.

(B) On March 22, 2007, the Bureau issued Smog Check Station License number RC 211527 to Respondent Rodriguez. That license expired on June 30, 2010.

3. On May 30, 2003, the Bureau issued Advanced Emission Specialist Technician license number EA 148666 to Respondent Sim Te Kim (Kim), which will expire on October

31, 2012 unless renewed. At all times relevant to this matter, Kim was employed by Rodriquez at the Flaco Carburetors facility.

*The Surveillance of September 1, 2009*

4. On September 1, 2009, Bureau personnel conducted a surveillance of the Flaco facility using video recording equipment. The facility was under surveillance from approximately 8:59 a.m. until 2:36 p.m. Prior to starting the surveillance, the personnel compared the clock on the video gear with the Vehicle Information Database (VID) system, where the data generated from smog tests is stored. They determined that the VID system clock was two minutes ahead of the clock on the camera.

5. (A) Smog tests are conducted with the use of the Emission Inspection System, or EIS. Essentially, the EIS is a computer-based system that accesses a substantial database to perform the test procedure under the control of the licensed technician, and the EIS sends data regarding each smog test to the Bureau and to the Department of Motor Vehicles. For example, when the technician accesses the EIS, he or she inputs the car's Vehicle Identification Number (VIN), and data from the Department of Motor Vehicles is accessed, identifying the car, and that information is used to determine the particulars of the test. The system will cue the smog technician as to steps he or she should take in the inspection of the vehicle. For example, the technician might be cued to check the integrity of the gas cap, and if the gas cap passes the test, the technician confirms that by inputting that fact into the EIS.

(B) The part of the smog test most relevant to this case is the analysis of the vehicle's exhaust emissions. The EIS uses an exhaust gas analyzer to determine the chemical properties of each vehicle's emissions. Such a test is performed by placing a probe that is inserted in the exhaust pipe of the car during the test process. The results are entered into the EIS.

(C) The EIS system connects via a telephone modem with the Bureau's computers and the Bureau's VID. Thus, for every smog check station, the Bureau can obtain a print-out showing all the tests performed on a given day, and the identity of the cars, the technician, and all the test results. The time that each test was conducted is also reported to the central data base. Such a report is provided to the customer for each car. Further, if the vehicle passes, a certificate of compliance is transmitted electronically to the Department of Motor Vehicles. The certificate verifies that the vehicle has passed the smog inspection. The EIS can not be used unless a technician gains access by using his or her license number and personal identification number. The technicians are obligated not to divulge their personal entry number to others.

(D) The technician can access the EIS system by inputting the badge number and PIN, or by swiping the technician's badge, which has a bar code, and then inputting the PIN.

7. (A) The parties stipulated, and the evidence otherwise establishes, that on the day of the surveillance four automobiles were certified as being in compliance with the laws and regulations governing vehicle emission controls, when the vehicles were not even present at the Flaco facility. The vehicles in question were improperly tested by “clean piping” them. Clean piping describes the situation where the exhaust emissions of one vehicle are substituted for the exhaust emissions of a vehicle that is undergoing a smog test. The methodology is to put a car with “clean” emissions output onto the dynamometer, sampling its emissions, while reporting the information about the car ostensibly being tested into the EIS and thereafter the VID.<sup>2</sup>

(B) The following vehicles were improperly tested:

A 2001 Volkswagen, tested between 1249 and 1303;

A 2002 Mercury, tested between 1307 and 1316;

A 2002 Toyota, tested between 1338 and 1350;<sup>3</sup>

A 2002 Mitsubishi, tested between 1354 and 1409.<sup>4</sup>

8. In each test, including the aborted test, the EIS system was accessed by swiping Respondent Kim’s badge. However, Kim denies involvement in the illegal tests. He also testified that he had not shared his personal identification number, needed to access the system along with the badge, to anyone.

9. (A) A thorough review of some four hours of video from the surveillance system establishes that, contrary to his testimony, Kim was present when the clean piping occurred. It was contended that he left the facility at about the time the clean piping started, and that he returned when the illegal testing ended. That was not the case, as detailed below.

(B) To be sure, the video is not perfect, in that it does not depict the whole facility. The camera was in a vehicle, parked across the street from the driveway, more on a line even with the left side of the property (as seen from the camera) than the right; the view is at an angle from left to right. The garage itself, and the test equipment, can not be seen. What can be seen are some cars parked on each side of the driveway that appears to go down

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<sup>2</sup> Clean piping is defined at California Code of Regulations (hereafter CCR), title 16, section 3340.1, subdivision (t).

<sup>3</sup> The record indicates that a test was started on this car at 1323 and aborted at 1326. While the First Amended Accusation implies that there may have been two 2002 Toyota Camry’s that were tested, there was only one, as the VIN numbers are the same. (Compare Ex. 4, tab K with tab L.)

<sup>4</sup> The EIS system uses military time. Hence, all the tests were conducted between 12:49 p.m. and 2:09 p.m.

the center of the property and into the back. While passing cars, trucks, and busses sometimes obscure the view, that is momentary in every instance.

10. (A) Respondent Kim can be seen to arrive at approximately 11:22. He is seen in the video, either out at the street or near a car parked in the yard, on several occasions prior to 12:44. At 12:44 (video time) Respondent Kim and his friend, Mr. Nava, come out to the street, and are seen on the video to be standing in the entrance to the facility. At times, they walk out of sight, to the right side of the scene depicted on the video.

(B) Between 12:48 and 12:49, and while Kim and Mr. Nava are out of the scene, a yellow SUV that was parked in the facility backs out, and drives away. A white compact car, apparently a Toyota, that was parked in front of that yellow vehicle also pulls out, and drives away, out of the scene to the left. Mr. Rodriguez was driving that car, a matter than can be discerned when the video is advanced one frame at a time. At 12:50, Mr. Rodriguez, coming from the left side of the scene, walks back into the facility with keys in his hand.

(C) Meanwhile, at 12:49, before Rodriguez returns, Respondent Kim's friend Mr. Nava walks back into the facility without Respondent. As he walks in, he is followed into the facility by a blue Honda compact car. It was established that the Honda is owned by Rodriguez, but he was not driving it, as he had been driving the white Toyota, and he walked back into the facility after the Honda comes in. The driver of the blue Honda can not be seen on the video.

(D) Kim is not shown outside the facility after approximately 12:47, that is, he is last seen prior to the time the blue Honda comes in the facility. It is true that he is not seen again on the video for about an hour. Again, he later claimed to have left for lunch, and Nava claims to have hung around the facility playing video games in the office area.

(E) The video shows a number of people coming out, and then back into the facility at various times after 12:50, including Mr. Nava. Some people, including a man on a bicycle, and a lady on foot, go into the facility from the street, and then leave. Most importantly, however, Respondent is not seen coming back to the facility. Then, at 13:53 a large white van, driven by a man, pulls up in front of the facility, and then backs up, blocking the driveway.

(F) At 13:54:01, Respondent Kim can clearly be seen walking from the back of the property, down the center drive, and toward the van. At one point, his upper torso is plainly revealed over the white top of a small sports car parked on the left side of that center driveway; he is revealed to be walking from behind that car and toward the street. He appears to speak to the driver of the van on the side of the van nearest the facility. The driver walks into the facility, and while he does, Respondent walks to the front of the van, and looks across the street right at the camera. At 13:54:28 Respondent walks back into the facility. At 13:58 Respondent and Nava walk out to the van, and Respondent stays there until approximately 14:00, when the driver returns to the van. The driver appears to have

papers in his hand when he walks to the passenger window, and speaks to a woman who had moved into the driver's seat. The driver can then be observed to go back into the Flaco facility until 14:02, when he comes out, takes over the driver's seat, and drives away.

11. The recitation above is set out to make it clear that Respondent Kim did not return to the facility at 13:53-13:54, or otherwise at that time. Instead, he comes out of the back of the facility to greet the driver of the van; it is clear he was inside the facility at that point in time. Since he was not seen to walk back into the facility between 12:47 and 13:53, it is reasonably inferred—and is indeed the only reasonable inference—that it was Respondent Kim who drove the blue Honda into the facility at 12:49, following his friend Nava up the driveway and out of the picture.

12. Mr. Rodriguez testified that Respondent Kim signed the Certificates of Compliance that were issued for the clean-piped vehicles. That testimony is credited given Factual Findings 8 through 11.<sup>5</sup>

13. It was also established, by his stipulation, that Respondent Kim conducted a smog test of a 2001 Honda Prelude on October 5, 2010, while he was employed at Highland Arco Smog in Glendale. That vehicle was owned by the Bureau, and had been modified by removing the car's evaporative canister, a necessary component of the emissions control system. In conducting the test, Respondent was obligated to verify that the evaporative canister was present. He did not do so, instead certifying that the canister was present when it was not. As a result, he caused an inaccurate certificate of compliance to be issued for that Honda Prelude.

14. The Bureau has incurred costs of investigation and prosecution in the sum of \$14,130.77. Respondent Rodriguez, in settling his part of the matter, agreed to pay \$7,000 of the costs, leaving a balance of \$7,130.77 unaccounted for. The total cost claim is reasonable under all of the circumstances, and it is reasonable that Respondent Kim, whose technician's license and skills were necessary to carry out the clean piping, pay slightly more than one half of the total costs.

### **LEGAL CONCLUSIONS**

1. Jurisdiction was established to proceed in this matter, pursuant to sections 9884.7 and 9884.13 of the Business and Professions Code, and sections 44002, 44072.2, 44072.6, and 44072.8 of the Health and Safety Code, based on Factual Findings 1 through 3.

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<sup>5</sup> Factual Finding 8 is of some relevance given Respondent Kim's claim that he did not give his PIN to anyone. That someone might have swiped his badge to gain access to the EIS is one thing, but without his PIN, that would be a futile act. There is no evidence that Rodriguez or someone else stole the PIN number.

2. Cause exists to discipline the advanced emission specialist technician's license issued to Respondent Kim pursuant to Health and Safety Code section 44072.2, subdivision (a), in that on September 1, 2009, he failed to comply with provisions of the Health and Safety Code which regulate the testing of emission control systems, including sections 44012, subdivisions (a) and (f); 44015, subdivision (b), and section 44059 of that Code, based on Factual Findings 3 through 12.

3. Cause exists to discipline the advanced emission specialist technician's license issued to Respondent Kim pursuant to Health and Safety Code section 44072.2, subdivision (c), in that on September 1, 2010, he violated and failed to comply with the following provisions of title 16 of the California Code of Regulations: 3340.24, subdivision (c); 3340.30, subdivision (a); 3340.41, subdivision (c); and, 3340.42. This Conclusion is based on Factual Findings 3 through 12.

4. Cause exists to discipline the advanced emission specialist technician's license held by Respondent Kim pursuant to Health and Safety Code section 44072.2, subdivision (d), in that he committed acts involving, dishonesty, fraud, and deceit in clean piping vehicles and issuing fraudulent certificates of compliance for such vehicles on September 1, 2009, based on Factual Findings 3 through 12.

5. Cause exists to discipline the advanced emission specialist technician's license issued to Respondent Kim pursuant to Health and Safety Code section 44072.2, subdivision (a), in that on October 5, 2010, he failed to comply with provisions of the Health and Safety Code which regulate the testing of emission control systems, including sections 44012, subdivisions (a) and (f), and 44032 of that Code, based on Factual Findings 3 and 13.

6. Cause exists to discipline the advanced emission specialist technician's license issued to Respondent Kim pursuant to Health and Safety Code section 44072.2, subdivision (c), in that on October 5, 2010, he violated and failed to comply with the following provisions of title 16 of the California Code of Regulations: 3340.30, subdivision (a); 3340.35, subdivision (c); and, 3340.42. This Conclusion is based on Factual Findings 3 and 13.

7. The Bureau is entitled to recover its costs of investigation and prosecution pursuant to Code section 125.3, based on Legal Conclusions 1 through 6, and Factual Finding 3. The reasonable amount of those costs owing by Kim is \$7,133.77, based on Factual Finding 14.

8. There are no mitigating facts as to the conduct of Respondent Kim and no evidence of rehabilitation. Indeed, his false testimony at the hearing is evidence of his lack of remorse and his failure to take any steps toward rehabilitation. In aggravation, the wrongful conduct was part of a planned scheme to defraud the smog check system, and indirectly, the People of California.

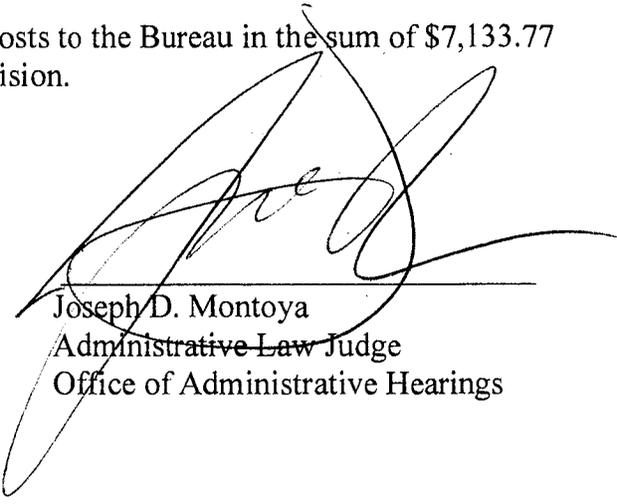
8. The purpose of proceedings of this type are not to punish the Respondents, but to protect the public from the dishonest and the incompetent. (E.g., *Camacho v. Youde* (1979) 95 Cal.App.3d 161, 164.) Given Respondent Kim's lack of remorse for his misconduct and failure to show any steps toward rehabilitation, the public can only be protected by revocation of his license.

**ORDER**

1. The Advanced Emission Specialist Technician license issued to Respondent Sun Te Kim, number EA 148666, is hereby revoked.

2. Respondent Sun Te Kim shall pay costs to the Bureau in the sum of \$7,133.77 within 30 days of the effective date of this decision.

March 6, 2012



Joseph D. Montoya  
Administrative Law Judge  
Office of Administrative Hearings

**LEGAL AFFAIRS**

1625 N. Market Blvd., Suite S 309, Sacramento, CA 95834  
P (916) 574-8220 F (916) 574-8623



February 23, 2012

Susan Formaker  
Presiding Judge  
Office of Administrative Hearings  
320 West Fourth St., Suite 630  
Los Angeles, CA 90013

**RE: OAH No. 2010120511  
Sun Te Kim (Flaco Carburetors)  
Application to Modify Proposed Decision**

Dear Judge Formaker:

By way of introduction, my name is Dianne Dobbs, and I am employed by the Department of Consumer Affairs as legal counsel for the Bureau of Automotive Repair. I am making this application to correct a technical error in the Proposed Decision issued in the above matter by ALJ Joseph Montoya on January 25, 2012.

Page 7, paragraph 7, under Legal Conclusions, reads:

"7. The Bureau is entitled to recover its costs of investigation and prosecution pursuant to Code section 125.3, based on Legal Conclusions 1 through 6, and Factual Finding 3. The reasonable amount of those costs owing by Kim is \$7,133.77, based on Factual Finding 14."

The Order on page 8 of the Proposed Decision does not reflect the above conclusion. We are requesting that the Order be changed to include the reimbursement of costs of investigation and prosecution to the Bureau of Automotive Repair in the amount of \$7,133.77.

Thank you for your consideration of this matter. If you should have any questions regarding the above, please do not hesitate to call me at (916) 574-8220.

DOREATHEA JOHNSON  
Deputy Director  
Legal Affairs

A handwritten signature in cursive script that reads 'Dianne Dobbs'.

By DIANNE DOBBS  
Senior Staff Counsel

cc: Jeffrey Osborn, Attorney for Respondent  
Ernesto Rodriguez, Owner, Flaco Carburetors  
Sun Te Kim, Technician, Flaco Carburetors  
Gregory J. Salute, Attorney for Complainant

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**PROPOSED DECISION**

The hearing in this matter was held on December 1, 2011, at Los Angeles, California. Joseph D. Montoya, Administrative Law Judge, Office of Administrative Hearings, presided. Complainant was represented by Gregory J. Salute, Deputy Attorney General. Respondent Ernesto Rodriguez, doing business as Flaco Carburetors, appeared and represented himself. Respondent Sun Te Kim appeared with his attorney, Jeffrey Osborn. Juan Carlos Morales served as interpreter for Mr. Rodriguez.

At the outset of the proceeding, it was disclosed that Complainant and Respondent Rodriguez had settled the proceeding against Rodriguez, which was verified on the record.<sup>1</sup> In the course of discussing the matter, it was disclosed that Respondent Rodriguez had agreed to pay \$7,000 toward the costs of the proceeding. Based on the settlement stipulation, the action proceeded on the claims against Respondent Kim only.

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Thereafter, Complainant and Respondent Kim stipulated to a number of matters, including the truth of the allegations contained in paragraphs 22, 23, and 24, as well as to the claim that four vehicles were illegally tested by "clean piping." However, Respondent Kim disputed the claim that he had clean piped those vehicles, or that he had otherwise violated the statutes and regulations in connection with those tests. He did, however, admit that during an undercover investigation by the Bureau, in 2010, that he failed to properly conduct a visual test of a car's emission control system in that he failed to detect that a component of the emissions controls was missing.

Evidence was received, the case argued, and the matter submitted for decision on the hearing date. The Administrative Law Judge hereby makes his factual findings, legal conclusions, and orders, as follows.

### **FACTUAL FINDINGS**

#### *The Parties and Jurisdiction*

1. Complainant Sherry Mehl filed the Accusation and First Amended Accusation in the above-captioned matter while acting in her official capacity as Chief of the Bureau of Automotive Repair (Bureau), Department of Consumer Affairs (Department). The Bureau is authorized by law to license and regulate persons and firms that repair automobiles, and those who inspect, test, and repair vehicle emissions systems. Under the law, the Bureau may take disciplinary action against those licensees who violate specific statutes and regulations governing the licensed activities.

2. (A) In 2000, the Bureau issued Automotive Repair Dealer Registration (ARD) Number ARD 211527 to Respondent Ernesto Rodriguez, an individual doing business as Flaco Carburetors (Rodriguez or Flaco). That business is operated in Los Angeles, California. Respondent's ARD license will expire on June 30, 2012, unless otherwise renewed.

(B) On March 22, 2007, the Bureau issued Smog Check Station License number RC 211527 to Respondent Rodriguez. That license expired on June 30, 2010.

3. On May 30, 2003, the Bureau issued Advanced Emission Specialist Technician license number EA 148666 to Respondent Sim Te Kim (Kim), which will expire on October 31, 2012 unless renewed. At all times relevant to this matter, Kim was employed by Rodriguez at the Flaco Carburetors facility.

#### *The Surveillance of September 1, 2009*

4. On September 1, 2009, Bureau personnel conducted a surveillance of the Flaco facility using video recording equipment. The facility was under surveillance from approximately 8:59 a.m. until 2:36 p.m. Prior to starting the surveillance, the personnel

compared the clock on the video gear with the Vehicle Information Database (VID) system, where the data generated from smog tests is stored. They determined that the VID system clock was two minutes ahead of the clock on the camera.

5. (A) Smog tests are conducted with the use of the Emission Inspection System, or EIS. Essentially, the EIS is a computer-based system that accesses a substantial database to perform the test procedure under the control of the licensed technician, and the EIS sends data regarding each smog test to the Bureau and to the Department of Motor Vehicles. For example, when the technician accesses the EIS, he or she inputs the car's Vehicle Identification Number (VIN), and data from the Department of Motor Vehicles is accessed, identifying the car, and that information is used to determine the particulars of the test. The system will cue the smog technician as to steps he or she should take in the inspection of the vehicle. For example, the technician might be cued to check the integrity of the gas cap, and if the gas cap passes the test, the technician confirms that by inputting that fact into the EIS.

(B) The part of the smog test most relevant to this case is the analysis of the vehicle's exhaust emissions. The EIS uses an exhaust gas analyzer to determine the chemical properties of each vehicle's emissions. Such a test is performed by placing a probe that is inserted in the exhaust pipe of the car during the test process. The results are entered into the EIS.

(C) The EIS system connects via a telephone modem with the Bureau's computers and the Bureau's VID. Thus, for every smog check station, the Bureau can obtain a print-out showing all the tests performed on a given day, and the identity of the cars, the technician, and all the test results. The time that each test was conducted is also reported to the central data base. Such a report is provided to the customer for each car. Further, if the vehicle passes, a certificate of compliance is transmitted electronically to the Department of Motor Vehicles. The certificate verifies that the vehicle has passed the smog inspection. The EIS can not be used unless a technician gains access by using his or her license number and personal identification number. The technicians are obligated not to divulge their personal entry number to others.

(D) The technician can access the EIS system by inputting the badge number and PIN, or by swiping the technician's badge, which has a bar code, and then inputting the PIN.

7. (A) The parties stipulated, and the evidence otherwise establishes, that on the day of the surveillance four automobiles were certified as being in compliance with the laws and regulations governing vehicle emission controls, when the vehicles were not even present at the Flaco facility. The vehicles in question were improperly tested by "clean piping" them. Clean piping describes the situation where the exhaust emissions of one vehicle are substituted for the exhaust emissions of a vehicle that is undergoing a smog test.

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8. In each test, including the aborted test, the EIS system was accessed by swiping Respondent Kim’s badge. However, Kim denies involvement in the illegal tests. He also testified that he had not shared his personal identification number, needed to access the system along with the badge, to anyone.

9. (A) A thorough review of some four hours of video from the surveillance system establishes that, contrary to his testimony, Kim was present when the clean piping occurred. It was contended that he left the facility at about the time the clean piping started, and that he returned when the illegal testing ended. That was not the case, as detailed below.

(B) To be sure, the video is not perfect, in that it does not depict the whole facility. The camera was in a vehicle, parked across the street from the driveway, more on a line even with the left side of the property (as seen from the camera) than the right; the view is at an angle from left to right. The garage itself, and the test equipment, can not be seen. What can be seen are some cars parked on each side of the driveway that appears to go down the center of the property and into the back. While passing cars, trucks, and busses sometimes obscure the view, that is momentary in every instance.

10. (A) Respondent Kim can be seen to arrive at approximately 11:22. He is seen in the video, either out at the street or near a car parked in the yard, on several occasions prior to 12:44. At 12:44 (video time) Respondent Kim and his friend, Mr. Nava, come out to

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<sup>2</sup> Clean piping is defined at California Code of Regulations (hereafter CCR), title 16, section 3340.1, subdivision (t).

<sup>3</sup> The record indicates that a test was started on this car at 1323 and aborted at 1326. While the First Amended Accusation implies that there may have been two 2002 Toyota Camry’s that were tested, there was only one, as the VIN numbers are the same. (Compare Ex. 4, tab K with tab L.)

<sup>4</sup> The EIS system uses military time. Hence, all the tests were conducted between 12:49 p.m. and 2:09 p.m.

the street, and are seen on the video to be standing in the entrance to the facility. At times, they walk out of sight, to the right side of the scene depicted on the video.

(B) Between 12:48 and 12:49, and while Kim and Mr. Nava are out of the scene, a yellow SUV that was parked in the facility backs out, and drives away. A white compact car, apparently a Toyota, that was parked in front of that yellow vehicle also pulls out, and drives away, out of the scene to the left. Mr. Rodriguez was driving that car, a matter than can be discerned when the video is advanced one frame at a time. At 12:50, Mr. Rodriguez, coming from the left side of the scene, walks back into the facility with keys in his hand.

(C) Meanwhile, at 12:49, before Rodriguez returns, Respondent Kim's friend Mr. Nava walks back into the facility without Respondent. As he walks in, he is followed into the facility by a blue Honda compact car. It was established that the Honda is owned by Rodriguez, but he was not driving it, as he had been driving the white Toyota, and he walked back into the facility after the Honda comes in. The driver of the blue Honda can not be seen on the video.

(D) Kim is not shown outside the facility after approximately 12:47, that is, he is last seen prior to the time the blue Honda comes in the facility. It is true that he is not seen again on the video for about an hour. Again, he later claimed to have left for lunch, and Nava claims to have hung around the facility playing video games in the office area.

(E) The video shows a number of people coming out, and then back into the facility at various times after 12:50, including Mr. Nava. Some people, including a man on a bicycle, and a lady on foot, go into the facility from the street, and then leave. Most importantly, however, Respondent is not seen coming back to the facility. Then, at 13:53 a large white van, driven by a man, pulls up in front of the facility, and then backs up, blocking the driveway.

(F) At 13:54:01, Respondent Kim can clearly be seen walking from the back of the property, down the center drive, and toward the van. At one point, his upper torso is plainly revealed over the white top of a small sports car parked on the left side of that center driveway; he is revealed to be walking from behind that car and toward the street. He appears to speak to the driver of the van on the side of the van nearest the facility. The driver walks into the facility, and while he does, Respondent walks to the front of the van, and looks across the street right at the camera. At 13:54:28 Respondent walks back into the facility. At 13:58 Respondent and Nava walk out to the van, and Respondent stays there until approximately 14:00, when the driver returns to the van. The driver appears to have papers in his hand when he walks to the passenger window, and speaks to a woman who had moved into the driver's seat. The driver can then be observed to go back into the Flaco facility until 14:02, when he comes out, takes over the driver's seat, and drives away.

11. The recitation above is set out to make it clear that Respondent Kim did not return to the at 13:53-13:54, or otherwise at that time. Instead, he comes out of the back of

the facility to greet the driver of the van; it is clear he was inside the facility at that point in time. Since he was not seen to walk back into the facility between 12:47 and 13:53, it is reasonably inferred—and is indeed the only reasonable inference—that it was Respondent Kim who drove the blue Honda into the facility at 12:49, following his friend Nava up the driveway and out of the picture.

12. Mr. Rodriguez testified that Respondent Kim signed the Certificates of Compliance that were issued for the clean-piped vehicles. That testimony is credited given Factual Findings 8 through 11.<sup>5</sup>

13. It was also established, by his stipulation, that Respondent Kim conducted a smog test of a 2001 Honda Prelude on October 5, 2010, while he was employed at Highland Arco Smog in Glendale. That vehicle was owned by the Bureau, and had been modified by removing the car's evaporative canister, a necessary component of the emissions control system. In conducting the test, Respondent was obligated to verify that the evaporative canister was present. He did not do so, instead certifying that the canister was present when it was not. As a result, he caused an inaccurate certificate of compliance to be issued for that Honda Prelude.

14. The Bureau has incurred costs of investigation and prosecution in the sum of \$14,130.77. Respondent Rodriguez, in settling his part of the matter, agreed to pay \$7,000 of the costs, leaving a balance of \$7,130.77 unaccounted for. The total cost claim is reasonable under all of the circumstances, and it is reasonable that Respondent Kim, whose technician's license and skills were necessary to carry out the clean piping, pay slightly more than one half of the total costs.

### **LEGAL CONCLUSIONS**

1. Jurisdiction was established to proceed in this matter, pursuant to sections 9884.7 and 9884.13 of the Business and Professions Code, and sections 44002, 44072.2, 44072.6, and 44072.8 of the Health and Safety Code, based on Factual Findings 1 through 3.

2. Cause exists to discipline the advanced emission specialist technician's license issued to Respondent Kim pursuant to Health and Safety Code section 44072.2, subdivision (a), in that on September 1, 2009, he failed to comply with provisions of the Health and Safety Code which regulate the testing of emission control systems, including sections 44012, subdivisions (a) and (f); 44015, subdivision (b), and section 44059 of that Code, based on Factual Findings 3 through 12.

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<sup>5</sup> Factual Finding 8 is of some relevance given Respondent Kim's claim that he did not give his PIN to anyone. That someone might have swiped his badge to gain access to the EIS is one thing, but without his PIN, that would be a futile act. There is no evidence that Rodriguez or someone else stole the PIN number.

3. Cause exists to discipline the advanced emission specialist technician's license issued to Respondent Kim pursuant to Health and Safety Code section 44072.2, subdivision (c), in that on September 1, 2010, he violated and failed to comply with the following provisions of title 16 of the California Code of Regulations: 3340.24, subdivision (c); 3340.30, subdivision (a); 3340.41, subdivision (c); and, 3340.42. This Conclusion is based on Factual Findings 3 through 12.

4. Cause exists to discipline the advanced emission specialist technician's license held by Respondent Kim pursuant to Health and Safety Code section 44072.2, subdivision (d), in that he committed acts involving, dishonesty, fraud, and deceit in clean piping vehicles and issuing fraudulent certificates of compliance for such vehicles on September 1, 2009, based on Factual Findings 3 through 12.

5. Cause exists to discipline the advanced emission specialist technician's license issued to Respondent Kim pursuant to Health and Safety Code section 44072.2, subdivision (a), in that on October 5, 2010, he failed to comply with provisions of the Health and Safety Code which regulate the testing of emission control systems, including sections 44012, subdivisions (a) and (f), and 44032 of that Code, based on Factual Findings 3 and 13.

6. Cause exists to discipline the advanced emission specialist technician's license issued to Respondent Kim pursuant to Health and Safety Code section 44072.2, subdivision (c), in that on October 5, 2010, he violated and failed to comply with the following provisions of title 16 of the California Code of Regulations: 3340.30, subdivision (a); 3340.35, subdivision (c); and, 3340.42. This Conclusion is based on Factual Findings 3 and 13.

7. The Bureau is entitled to recover its costs of investigation and prosecution pursuant to Code section 125.3, based on Legal Conclusions 1 through 6, and Factual Finding 3. The reasonable amount of those costs owing by Kim is \$7, 133.77, based on Factual Finding 14.

8. There are no mitigating facts as to the conduct of Respondent Kim and no evidence of rehabilitation. Indeed, his false testimony at the hearing is evidence of his lack of remorse and his failure to take any steps toward rehabilitation. In aggravation, the wrongful conduct was part of a planned scheme to defraud the smog check system, and indirectly, the People of California.

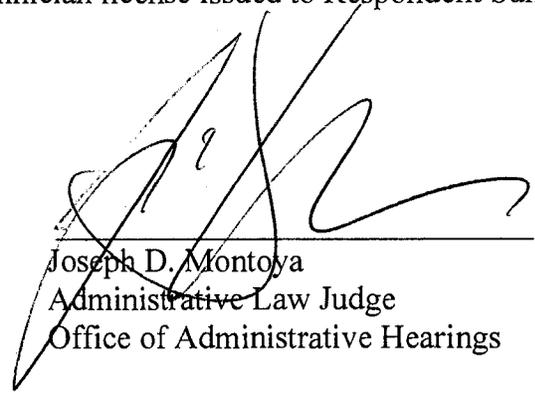
8. The purpose of proceedings of this type are not to punish the Respondents, but to protect the public from the dishonest and the incompetent. (E.g., *Camacho v. Youde* (1979) 95 Cal.App.3d 161, 164.) Given Respondent Kim's lack of remorse for his misconduct and failure to show any steps toward rehabilitation, the public can only be protected by revocation of his license.

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**ORDER**

The Advanced Emission Specialist Technician license issued to Respondent Sun Te Kim, number EA 148666, is hereby revoked.

January 25, 2012



Joseph D. Montoya  
Administrative Law Judge  
Office of Administrative Hearings

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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 First Amended Accusation  
Against:

Case No. 79/11-21

13 **FLACO CARBURETORS**  
226 E. Florence Ave.  
14 Los Angeles, CA 90003  
15 **ERNESTO RODRIGUEZ, Owner Automotive**  
Dealer Repair Registration  
16 No. ARD 211527  
Smog Check Station License No. RC 211527

**FIRST AMENDED ACCUSATION**

**SMOG CHECK**

17 **and**

18 **SUN TE KIM**  
7100 Wyngate Street  
19 Tujunga, CA 91042  
Advanced Emission Specialist Technician License  
20 No. EA 148666

21 Respondents.

22  
23 Complainant alleges:

24 **PARTIES**

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

28 **Automotive Repair Dealer Registration**



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

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

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

12           9. Section 44072.2 of the Health and Safety Code states:

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

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

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

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

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

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

28                   "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."

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1 COST RECOVERY

2 12. 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 **SURVEILLANCE OPERATION – SEPTEMBER 1, 2009**

7 13. On or about September 1, 2009, the Bureau performed a video-taped surveillance at  
8 Respondent Flaco’s facility. The surveillance operation and information obtained from the  
9 Bureau’s Vehicle Information Database (“VID”) revealed that between 1249 hours and 1409  
10 hours, Respondent Kim performed four (4) smog inspections that resulted in the issuance of  
11 electronic certificates of compliance for vehicles 1, 2, 4, & 5, as set forth in Table 1, below,  
12 certifying that he had tested and inspected those vehicles and that the vehicles were in compliance  
13 with applicable laws and regulations. In fact, Respondent performed the smog inspections using  
14 the clean piping method<sup>1</sup> by using the tail pipe emissions of vehicles other than the vehicles  
15 being certified in order to issue the electronic certificates of compliance. Vehicle 3 was not  
16 issued a certificate of compliance. None of the vehicles tested or certified were in the test bay at  
17 the time of the smog inspections.

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

Table 1

Vehicle No.	Date and Test Times	Vehicle Certified	Vehicle Actually Tested	Certificate Issued
1.	9/1/2009 1249 hours to 1303 hours	2001 Volkswagen	Unknown	WD018789C
2.	9/1/2009 1307 hours to 1316 hours	2002 Mercury	Unknown	WD018790C
3.	9/1/2009 1323 hours to 1326 hours	2002 Toyota Camry	Unknown	No Cert Issued, Test Aborted
4.	9/1/2009 1338 hours to 1350 hours	2002 Toyota	Unknown	WD018791C
5.	9/1/2009 1354 hours to 1409 hours	2002 Mitsubishi	Unknown	WD018792C

**FIRST CAUSE FOR DISCIPLINE**

**(Misleading Statements)**

14.. Respondent Flaco has subjected his registration to discipline under Code section 9884.7, subdivision (a)(1), in that on or about September 1, 2009, he made statements which he knew or which by exercise of reasonable care he should have known were untrue or misleading when he issued electronic certificates of compliance for the vehicles set forth in Table 1, above, certifying that those vehicles were in compliance with applicable laws and regulations when, in fact, the vehicles had been clean piped.

**SECOND CAUSE FOR DISCIPLINE**

**(Fraud)**

15. Respondent Flaco has subjected his registration to discipline under Code section 9884.7, subdivision (a)(4), in that on or about September 1, 2009, he committed acts which

1 constitute fraud by issuing electronic certificates of compliance for the vehicles set forth in Table  
2 1, above, without performing bona fide inspections of the emission control devices and systems  
3 on those vehicles, thereby depriving the People of the State of California of the protection  
4 afforded by the Motor Vehicle Inspection Program.

5 **THIRD CAUSE FOR DISCIPLINE**

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

7 16. Respondent Flaco has subjected his station license to discipline under Health and  
8 Safety Code section 44072.2, subdivision (a), in that on or about September 1, 2009, regarding  
9 the vehicles set forth in Table 1, above, he violated sections of that Code, as follows:

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

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

15 c. **Section 44015, subdivision (b):** Respondent Flaco issued electronic certificates of  
16 compliance without properly testing and inspecting those vehicles to determine if they were in  
17 compliance with section 44012 of that Code.

18 d. **Section 44059:** Respondent Flaco willfully made false entries for the electronic  
19 certificates of compliance by certifying that those vehicles had been inspected as required when,  
20 in fact, they had not.

21 **FOURTH CAUSE FOR DISCIPLINE**

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

23 17. Respondent Flaco has subjected his station license to discipline under Health and  
24 Safety Code section 44072.2, subdivision (c), in that on or about September 1, 2009, regarding  
25 the vehicles set forth in Table 1, above, he violated sections of the California Code of  
26 Regulations, title 16, as follows:

27 a. **Section 3340.24, subdivision (c):** Respondent Flaco falsely or fraudulently issued  
28 electronic certificates of compliance without performing bona fide inspections of the emission

1 control devices and systems on those vehicles as required by Health and Safety Code section  
2 44012.

3 b. **Section 3340.35, subdivision (c):** Respondent Flaco issued electronic certificates of  
4 compliance even though the vehicles had not been inspected in accordance with section 3340.42  
5 of that Code.

6 c. **Section 3340.42:** Respondent Flaco failed to conduct the required smog tests and  
7 inspections on those vehicles in accordance with the Bureau's specifications.

8 **FIFTH CAUSE FOR DISCIPLINE**

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

10 18. Respondent Flaco subjected his station license to discipline under Health and Safety  
11 Code section 44072.2, subdivision (d), in that on or about September 1, 2009, regarding the  
12 vehicles set forth in Table 1, above, he committed acts involving dishonesty, fraud or deceit  
13 whereby another was injured by issuing electronic certificates of compliance for those vehicles  
14 without performing bona fide inspections of the emission control devices and system on those  
15 vehicles, thereby depriving the People of the State of California of the protection afforded by the  
16 Motor Vehicle Inspection Program.

17 **SIXTH CAUSE FOR DISCIPLINE**

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

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

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

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

27 ///

28 ///

1 c. **Section 44032:** Respondent Kim failed to perform tests of the emission control  
2 devices and systems on those vehicles in accordance with section 44012 of that Code, in that the  
3 vehicles had been clean piped.

4 d. **Section 44059:** Respondent Kim willfully made false entries for the electronic  
5 certificates of compliance by certifying that those vehicles had been inspected as required when,  
6 in fact, they had not.

7 **SEVENTH CAUSE FOR DISCIPLINE**

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

9 20. Respondent Kim has subjected his technician license to discipline under Health and  
10 Safety Code section 44072.2, subdivision (c), in that on or about September 1, 2009, regarding  
11 the vehicles set forth in Table 1, above, he violated sections of the California Code of  
12 Regulations, title 16, as follows:

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

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

19 c. **Section 3340.41, subdivision (c):** Respondent Kim entered false information into the  
20 Emission Inspection System ("EIS") for the electronic certificates of compliance by entering  
21 vehicle emission control information for vehicles other than the vehicles being certified.

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

24 **EIGHTH CAUSE FOR DISCIPLINE**

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

26 21. Respondent Kim has subjected his technician license to discipline under Health and  
27 Safety Code section 44072.2, subdivision (d), in that on or about September 1, 2009, he  
28 committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing

1 electronic certificates of compliance for the vehicles set forth in Table 1, above, without  
2 performing bona fide inspections of the emission control devices and systems on those vehicles,  
3 thereby depriving the People of the State of California of the protection afforded by the Motor  
4 Vehicle Inspection Program.

5 **UNDERCOVER OPERATION- HIGHLAND ARCO SMOG- OCTOBER 5, 2010**

6 22. On or about October 5, 2010, a Bureau documented vehicle (2001 Honda Prelude-  
7 License Plate No. 4PGX805) with a missing evaporative cannister was sent to Highland Arco  
8 Smog located at 5800 San Fernando Road, Glendale, Ca. 91202. Respondent Kim was the  
9 technician on duty at the time of the operation. Shortly after arriving at Highland Arco Smog,  
10 undercover operator Monica Bobadilla requested a Smog Check Inspection on the 2001 Honda  
11 Prelude. On or about October 5, 2010, at approximately 1:06 p.m., the inspection was performed  
12 by Respondent Kim and upon completion of the inspection, Certificate of Compliance No.  
13 NW939022C was issued for the vehicle. Bobadilla was provided with invoice no. 24537 and a  
14 vehicle inspection report for the vehicle. Had the inspection been properly performed by  
15 Respondent Kim, the vehicle would have failed the inspection and no certificate issued.

16 **NINTH CAUSE FOR DISCIPLINE**

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

18 23. Respondent Kim has subjected his technician license to discipline under Health and  
19 Safety Code section 44072.2, subdivision (a), in that on or about October 5, 2010, he violated  
20 sections of that Code, as follows:

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

24 b. **Section 44012, subdivision (f):** Respondent Kim failed to perform emission control  
25 tests on the 2001 Honda Prelude in accordance with procedures prescribed by the department.

26 c. **Section 44032:** Respondent Kim failed to perform tests of the emission control  
27 devices and systems on the 2001 Honda Prelude in accordance with section 44012 of that Code.

28 ///



1 PRAYER

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

4 1. Revoking, suspending, or placing on probation Automotive Dealer Repair  
5 Registration Number ARD 211527, issued to Ernesto Rodriguez, doing business as Flaco  
6 Carburetors;

7 2. Revoking, suspending, or placing on probation any other automotive repair dealer  
8 registration issued in the name of Ernesto Rodriguez;

9 3. Revoking or suspending Smog Check Station License Number RC 211527, issued to  
10 Ernesto Rodriguez, doing business as Flaco Carburetors;

11 4. Revoking or suspending any additional license issued under Chapter 5 of the Health  
12 & Safety Code in the name of Ernesto Rodriguez;

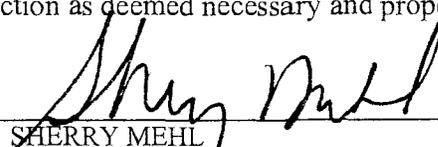
13 5. Revoking or suspending Advanced Emission Specialist Technician License Number  
14 EA 148666, issued to Sun Te Kim;

15 6. Revoking or suspending any additional license issued under Chapter 5 of the Health  
16 & Safety Code in the name of Sun Te Kim;

17 7. Ordering Ernesto Rodriguez and Sun Te Kim to pay the Bureau of Automotive  
18 Repair the reasonable costs of the investigation and enforcement of this case, pursuant to  
19 Business and Professions Code section 125.3; and,

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

21 DATED: 1/22/10

22   
23 SHERRY MEHL  
24 Chief  
25 Bureau of Automotive Repair  
26 Department of Consumer Affairs  
27 State of California  
28 Complainant

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