

1 KAMALA D. HARRIS
Attorney General of California
2 ALFREDO TERRAZAS
Senior Assistant Attorney General
3 GREGORY J. SALUTE
Supervising Deputy Attorney General
4 State Bar No. 164015
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2520
6 Facsimile: (213) 897-2804
Attorneys for Complainant

7
8 **BEFORE THE**
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **FOR THE BUREAU OF AUTOMOTIVE REPAIR**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 79/12-32

13 **CORA'S TEST ONLY**
18689 Valley Blvd
14 Bloomington, CA 92316
Mailing Address:
15 8831 Jennrich Avenue
Westminster, CA 92683
16 **MY THE VU, OWNER**
Automotive Repair Dealer Registration No.
ARD 246517
17 Smog Check Test Only Station License No.
TC 246517,
18 Advanced Emission Specialist Technician
License No. EA 150104

A C C U S A T I O N

S M O G C H E C K

19 and

20 **ALEXANDER HERRERA ZAMBRANO**
5800 Norman Way
21 Riverside, CA 92504
Advanced Emission Specialist Technician
22 License No. EA 151823

23 Respondents.

24
25 Complainant alleges:

26 **PARTIES**

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

1 **Automotive Repair Dealer Registration**

2 2. On or about August 2, 2006, the Bureau issued Automotive Repair Dealer
3 Registration Number ARD 246517 (“registration”) to My The Vu (“Respondent Cora’s”), doing
4 business as Cora’s Test Only. The registration was in full force and effect at all times relevant to
5 the charges brought herein and will expire on July 31, 2012, unless renewed.

6 **Smog Check Test Only Station License**

7 3. On or about August 16, 2006, the Bureau issued Smog Check Test Only Station
8 License Number TC 246517 (“station license”) to Respondent Cora’s. The station license was in
9 full force and effect at all times relevant to the charges brought herein and will expire on July 31,
10 2012, unless renewed.

11 **Advanced Emission Specialist Technician License**

12 4. On a date uncertain in 2005, the Bureau issued Advanced Emission Specialist
13 Technician License Number EA 151823 (“technician license”) to Alexander Herrera Zambrano
14 (“Respondent Zambrano”). The technician license was in full force and effect at all times
15 relevant to the charges brought herein and will expire on September 30, 2011, unless renewed.

16 **Advanced Emission Specialist Technician License**

17 5. On a date uncertain in 2004, the Bureau issued Advanced Emission Specialist
18 Technician License Number EA 150104 (“technician license”) to My The Vu. The technician
19 license was in full force and effect at all times relevant to the charges brought herein and will
20 expire on February 28, 2013, unless renewed.

21 **SURVEILLANCE OPERATION – JULY 1, 2010**

22 6. On or about July 1, 2010, the Bureau performed a video-taped surveillance at
23 Respondent Cora’s facility. The surveillance operation and information obtained from the
24 Bureau’s Vehicle Information Database (“VID”) revealed that between 1120 hours and 1212
25 hours, Respondent Zambrano, with the assistance of Eriberto Benavidez, who is not a licensed
26 smog technician, performed three (3) smog inspections that resulted in the issuance of electronic
27 certificates of compliance for the vehicles set forth in Table 1, below, certifying that he had tested
28 and inspected those vehicles and that the vehicles were in compliance with applicable laws and

1 regulations. In fact, Respondent Zambrano failed to perform the functional gas cap test on those
2 vehicles, as more particularly set forth in Table 1, below.

3 **Table 1**

4

Date and Test Times	Vehicle Tested and Certified	Certificate Issued	Details
5 6 7 1 7/1/2010 1120 hours to 1127 hours	1999 Chevrolet, License No. 6DYN308	WL464116C	Respondent Zambrano and Benavidez performed the smog inspection. Respondent Zambrano failed to perform a functional gas cap test.
8 9 10 2 7/1/2010 1131 hours to 1138 hours	1999 Infinity, License No. 6DHC917	WL464117C	Respondent Zambrano and Benavidez performed the smog inspection. Respondent Zambrano failed to perform a functional gas cap test.
11 12 13 3 7/1/2010 1203 hours to 1212 hours	1999 Ford, License No. 4HGU101	WL464120C	Respondent Zambrano and Benavidez performed the smog inspection. Respondent Zambrano failed to perform a functional gas cap test.

14 **FIRST CAUSE FOR DISCIPLINE**

15 **(Misleading Statements)**

16 7. Respondent Cora's has subjected his registration to discipline under Code section
17 9884.7, subdivision (a)(1), in that on or about July 1, 2010, he made statements which he knew or
18 which by exercise of reasonable care he should have known were untrue or misleading when he
19 issued electronic certificates of compliance for the vehicles set forth in Table 1, above, certifying
20 that those vehicles were in compliance with applicable laws and regulations when, in fact, no
21 functional gas cap test had been performed on those vehicles.

22 **SECOND CAUSE FOR DISCIPLINE**

23 **(Fraud)**

24 8. Respondent Cora's has subjected his registration to discipline under Code section
25 9884.7, subdivision (a)(4), in that on or about July 1, 2010, he committed acts which constitute
26 fraud by issuing electronic certificates of compliance for the vehicles set forth in Table 1, above,
27 without performing bona fide inspections of the emission control devices and systems on those

28 ///

1 vehicles, thereby depriving the People of the State of California of the protection afforded
2 by the Motor Vehicle Inspection Program.

3 **THIRD CAUSE FOR DISCIPLINE**

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

5 9. Respondent Cora's has subjected his station license to discipline under Health and
6 Safety Code section 44072.2, subdivision (a), in that on or about July 1, 2010, regarding the
7 vehicles set forth in Table 1, above, he violated sections of that Code, as follows:

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

11 b. **Section 44012, subdivision (f):** Respondent Cora's failed to perform emission
12 control tests on those vehicles in accordance with procedures prescribed by the department.

13 c. **Section 44014:** Respondent Cora's allowed Eriberto Benavidez, who is not a
14 licensed smog technician, to participate in the smog inspections of those vehicles.

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

18 e. **Section 44059:** Respondent Cora's 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 10. Respondent Cora's has subjected his station license to discipline under Health and
24 Safety Code section 44072.2, subdivision (c), in that on or about July 1, 2010, regarding the
25 vehicles set forth in Table 1, above, he violated sections of the California Code of Regulations,
26 title 16, as follows:

27 a. **Section 3340.24, subdivision (c):** Respondent Cora's 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 Cora's issued electronic certificates of
4 compliance even though those vehicles had not been inspected in accordance with section
5 3340.42 of that Code.

6 c. **Section 3340.42:** Respondent Cora's 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 11. Respondent Cora's subjected his station license to discipline under Health and Safety
11 Code section 44072.2, subdivision (d), in that on or about July 1, 2010, regarding the vehicles set
12 forth in Table 1, above, he committed acts involving dishonesty, fraud or deceit whereby another
13 was injured by issuing electronic certificates of compliance for those vehicles without performing
14 bona fide inspections of the emission control devices and system on those vehicles, thereby
15 depriving the People of the State of California of the protection afforded by the Motor Vehicle
16 Inspection Program.

17 **SIXTH CAUSE FOR DISCIPLINE**

18 **(Aiding and Abetting an Unlicensed Person)**

19 12. Respondent Cora's has subjected his station license to discipline under Health and
20 Safety Code section 44072.2, subdivision (f), in that on or about July 1, 2010, he aided and
21 abetted Eriberto Benavidez, who is not licensed as a smog technician, to evade the provisions of
22 this chapter by allowing Benavidez to participate in the performance of the smog inspections on
23 the vehicles set forth in Table 1, above.

24 **SEVENTH CAUSE FOR DISCIPLINE**

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

26 13. Respondent Zambrano has subjected his technician license to discipline under Health
27 and Safety Code section 44072.2, subdivision (a), in that on or about July 1, 2010, regarding the
28 vehicles set forth in Table 1, above, he violated sections of that Code, as follows:

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

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

6 c. **Section 44014:** Respondent Zambrano allowed Eriberto Benavidez, who is not a
7 licensed smog technician, to participate in the smog inspections of those vehicles.

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

10 e. **Section 44059:** Respondent Zambrano willfully made false entries for the electronic
11 certificates of compliance by certifying that those vehicles had been inspected as required when,
12 in fact, they had not.

13 **EIGHTH CAUSE FOR DISCIPLINE**

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

15 14. Respondent Zambrano has subjected his technician license to discipline under Health
16 and Safety Code section 44072.2, subdivision (c), in that on or about July 1, 2010, regarding the
17 vehicles set forth in Table 1, above, he violated sections of the California Code of Regulations,
18 title 16, as follows:

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

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

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

27 ///

28 ///

1 **NINTH CAUSE FOR DISCIPLINE**

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

3 15. Respondent Zambrano has subjected his technician license to discipline under Health
4 and Safety Code section 44072.2, subdivision (d), in that on or about July 1, 2010, he committed
5 acts involving dishonesty, fraud or deceit whereby another was injured by issuing electronic
6 certificates of compliance for the vehicles set forth in Table 1, above, without performing bona
7 fide inspections of the emission control devices and systems on those vehicles, thereby depriving
8 the People of the State of California of the protection afforded by the Motor Vehicle Inspection
9 Program.

10 **TENTH CAUSE FOR DISCIPLINE**

11 **(Aiding and Abetting an Unlicensed Person)**

12 16. Respondent Zambrano has subjected his technician license to discipline under Health
13 and Safety Code section 44072.2, subdivision (f), in that on or about July 1, 2010, he aided and
14 abetted Eriberto Benavidez, who is not licensed as a smog technician, to evade the provisions of
15 this chapter by allowing Benavidez to participate in the performance of the smog inspections on
16 the vehicles set forth in Table 1, above.

17 **SURVEILLANCE OPERATION – JULY 15, 2010**

18 17. On or about July 15, 2010, the Bureau performed a video-taped surveillance at
19 Respondent Cora's facility. The surveillance operation and information obtained from the
20 Bureau's VID revealed that between 1050 hours and 1129 hours, Respondent Zambrano, with the
21 assistance of Eriberto Benavidez, performed three (3) smog inspections that resulted in the
22 issuance of electronic certificates of compliance for the vehicles set forth in Table 2, below,
23 certifying that he had tested and inspected those vehicles and that the vehicles were in compliance
24 with applicable laws and regulations. In fact, Respondent Zambrano failed to perform the
25 functional gas cap test and/or the low pressure fuel evaporative test on those vehicles, as more
26 particularly set forth in Table 2, below.

27 ///

28 ///

Table 2

Date and Test Times	Vehicle Tested and Certified	Certificate Issued	Details
1 7/15/2010 1050 hours to 1056 hours	1995 Nissan, License No. 3MUG853	WL677916C	Respondent Zambrano and Benavidez performed the smog inspection. Respondent Zambrano failed to perform a functional gas cap test or the low pressure fuel evaporative test.
6 7/15/2010 1101 hours to 1107 hours	1997 Jeep, License No. 4JBA890	WL677917C	Respondent Zambrano and Benavidez performed the smog inspection. Respondent Zambrano failed to perform a functional gas cap test.
9 7/15/2010 1122 hours to 1129 hours	1997 Honda, License No. 3VKW459	WL677919C	Respondent Zambrano and Benavidez performed the smog inspection. Respondent Zambrano failed to perform a functional gas cap test.

ELEVENTH CAUSE FOR DISCIPLINE

(Misleading Statements)

18. Respondent Cora's has subjected his registration to discipline under Code section 9884.7, subdivision (a)(1), in that on or about July 15, 2010, 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 2, above, certifying that those vehicles were in compliance with applicable laws and regulations when, in fact, no functional gas cap test and/or low pressure fuel evaporative test had been performed on those vehicles.

TWELFTH CAUSE FOR DISCIPLINE

(Fraud)

19. Respondent Cora's has subjected his registration to discipline under Code section 9884.7, subdivision (a)(4), in that on or about July 15, 2010, he committed acts which constitute fraud by issuing electronic certificates of compliance for the vehicles set forth in Table 2, above, without performing bona fide inspections of the emission control devices and systems on those vehicles, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

1 THIRTEENTH CAUSE FOR DISCIPLINE

2 (Violation of the Motor Vehicle Inspection Program)

3 20. Respondent Cora's has subjected his station license to discipline under Health and
4 Safety Code section 44072.2, subdivision (a), in that on or about July 15, 2010, regarding the
5 vehicles set forth in Table 2, above, he violated sections of that Code, as follows:

6 a. **Section 44012, subdivision (a):** Respondent Cora's failed to determine that all
7 emission control devices and systems required by law were installed and functioning correctly in
8 accordance with test procedures.

9 b. **Section 44012, subdivision (f):** Respondent Cora's failed to perform emission
10 control tests on those vehicles in accordance with procedures prescribed by the department.

11 c. **Section 44015, subdivision (b):** Respondent Cora's issued electronic certificates of
12 compliance without properly testing and inspecting the vehicles to determine if they were in
13 compliance with section 44012 of that Code.

14 d. **Section 44059:** Respondent Cora's willfully made false entries for the electronic
15 certificates of compliance by certifying that those vehicles had been inspected as required when,
16 in fact, they had not.

17 FOURTEENTH CAUSE FOR DISCIPLINE

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

19 21. Respondent Cora's has subjected his station license to discipline under Health and
20 Safety Code section 44072.2, subdivision (c), in that on or about July 15, 2010, regarding the
21 vehicles set forth in Table 2, above, he violated sections of the California Code of Regulations,
22 title 16, as follows:

23 a. **Section 3340.24, subdivision (c):** Respondent Cora's falsely or fraudulently issued
24 electronic certificates of compliance without performing bona fide inspections of the emission
25 control devices and systems on those vehicles as required by Health and Safety Code section
26 44012.

27 ///

28 ///

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

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

6 c. **Section 44014:** Respondent Zambrano allowed Eriberto Benavidez, who is not a
7 licensed smog technician, to participate in the smog inspections of those vehicles.

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

10 e. **Section 44059:** Respondent Zambrano willfully made false entries for the electronic
11 certificates of compliance by certifying that those vehicles had been inspected as required when,
12 in fact, they had not.

13 **EIGHTEENTH CAUSE FOR DISCIPLINE**

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

15 25. Respondent Zambrano has subjected his technician license to discipline under Health
16 and Safety Code section 44072.2, subdivision (c), in that on or about July 15, 2010, regarding the
17 vehicles set forth in Table 2, above, he violated sections of the California Code of Regulations,
18 title 16, as follows:

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

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

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

27 ///

28 ///

1 **NINETEENTH CAUSE FOR DISCIPLINE**

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

3 26. Respondent Zambrano has subjected his technician license to discipline under Health
4 and Safety Code section 44072.2, subdivision (d), in that on or about July 15, 2010, he committed
5 acts involving dishonesty, fraud or deceit whereby another was injured by issuing electronic
6 certificates of compliance for the vehicles set forth in Table 2, above, without performing bona
7 fide inspections of the emission control devices and systems on those vehicles, thereby depriving
8 the People of the State of California of the protection afforded by the Motor Vehicle Inspection
9 Program.

10 **TWENTIETH CAUSE FOR DISCIPLINE**

11 **(Aiding and Abetting an Unlicensed Person)**

12 27. Respondent Zambrano has subjected his technician license to discipline under Health
13 and Safety Code section 44072.2, subdivision (f), in that on or about July 15, 2010, he aided and
14 abetted Eriberto Benavidez, who is not licensed as a smog technician, to evade the provisions of
15 this chapter by allowing Benavidez to participate in the performance of the smog inspections on
16 the vehicles set forth in Table 2, above.

17 **SURVEILLANCE OPERATION – OCTOBER 6, 2010**

18 28. On or about October 6, 2010, the Bureau performed a video-taped surveillance at
19 Respondent Cora's facility. The surveillance operation and information obtained from the
20 Bureau's VID revealed that between 1006 hours and 1233 hours, Respondent Zambrano, with the
21 assistance of Eriberto Benavidez, performed four (4) smog inspections that resulted in the
22 issuance of electronic certificates of compliance for the vehicles set forth in Table 3, below,
23 certifying that he had tested and inspected those vehicles and that the vehicles were in compliance
24 with applicable laws and regulations. In fact, Respondent Zambrano used a Scion XB instead of
25 the certified vehicle in order to perform the OBD II functional test¹ on vehicles 1 and 2, set forth

26 ¹ The On Board Diagnostics (OBDII) functional test is an automated function of the BAR-97
27 analyzer. During the OBD II functional test, the technician is required to connect an interface cable from
28 the BAR-97 analyzer to a Diagnostic Link Connector (DLC) which is located inside the vehicle. Through
the DLC, the BAR-97 analyzer automatically retrieves information from the vehicle's on-board computer
(continued...)

1 in Table 3, below. Further, Respondent Zambrano failed to perform the functional gas cap test
2 and the low pressure fuel evaporative test on vehicles 3 and 4, also set forth in Table 3, below

3 **Table 3**

4

Date and Test Times	Vehicle Tested and Certified	Certificate Issued	Details
1 10/6/2010 1006 hours to 1015 hours	2000 Oldsmobile, License No. 6FSV288	WP017111C	Respondent Zambrano and Benavidez performed the smog inspection. Respondent Zambrano used a Scion XB instead of the certified vehicle, to perform the OBD II functional test.
2 10/6/2010 1020 hours to 1033 hours	1997 BMW, License No. 4SSY113	WP017112C	Respondent Zambrano and Benavidez performed the smog inspection. Respondent Zambrano used a Scion XB instead of the certified vehicle to perform the OBD II functional test.
3 10/6/2010 1200 hours to 1208 hours	1978 Chevrolet, License No. 4USX084	WP017114C	Respondent Zambrano and Benavidez performed the smog inspection. Respondent Zambrano failed to perform a functional gas cap test or the low pressure fuel evaporative test.
4 10/6/2010 1225 hours to 1233 hours	1979 Nissan, License No. 1S53819	WP017115C	Respondent Zambrano and Benavidez performed the smog inspection. Respondent Zambrano failed to perform a functional gas cap test or the low pressure fuel evaporative test.

5
6
7
8
9
10
11
12
13
14
15
16
17
18

19 **TWENTY-FIRST CAUSE FOR DISCIPLINE**

20 **(Misleading Statements)**

21 29. Respondent Cora's has subjected his registration to discipline under Code section
22 9884.7, subdivision (a)(1), in that on or about October 6, 2010, he made statements which he
23 knew or which by exercise of reasonable care he should have known were untrue or misleading

24 about the status of the readiness indicators, trouble codes, and the MIL (malfunction indicator light). If the
25 vehicle fails the OBD II functional test, it will fail the overall inspection.

26 Clean plugging is the use of the OBD II readiness monitor status and stored fault code (trouble
27 code) status of a passing vehicle for the purpose of illegally issuing a smog certificate to another vehicle
28 that is not in compliance due to a failure to complete the minimum number of self tests, known as
monitors, or due to the presence of a stored fault code that indicates an emission control system or
component failure.

1 when he issued electronic certificates of compliance for the vehicles set forth in Table 3, above,
2 certifying that those vehicles were in compliance with applicable laws and regulations when, in
3 fact, vehicles 1 and 2 had not been tested during the OBD II functional test and no functional gas
4 cap test or low pressure fuel evaporative test had been performed on vehicles 3 and 4.

5 **TWENTY-SECOND CAUSE FOR DISCIPLINE**

6 **(Fraud)**

7 30. Respondent Cora's has subjected his registration to discipline under Code section
8 9884.7, subdivision (a)(4), in that on or about October 6, 2010, he committed acts which
9 constitute fraud by issuing electronic certificates of compliance for the vehicles set forth in Table
10 3, above, without performing bona fide inspections of the emission control devices and systems
11 on those vehicles, thereby depriving the People of the State of California of the protection
12 afforded by the Motor Vehicle Inspection Program.

13 **TWENTY-THIRD CAUSE FOR DISCIPLINE**

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

15 31. Respondent Cora's has subjected his station license to discipline under Health and
16 Safety Code section 44072.2, subdivision (a), in that on or about October 6, 2010, regarding the
17 vehicles set forth in Table 3, above, he violated sections of that Code, as follows:

18 a. **Section 44012, subdivision (a):** Respondent Cora's failed to determine that all
19 emission control devices and systems required by law were installed and functioning correctly in
20 accordance with test procedures.

21 b. **Section 44012, subdivision (f):** Respondent Cora's failed to perform emission
22 control tests on those vehicles in accordance with procedures prescribed by the department.

23 c. **Section 44015, subdivision (b):** Respondent Cora's issued electronic certificates of
24 compliance without properly testing and inspecting the vehicles to determine if they were in
25 compliance with section 44012 of that Code.

26 d. **Section 44059:** Respondent Cora's willfully made false entries for the electronic
27 certificates of compliance by certifying that those vehicles had been inspected as required when,
28 in fact, they had not.

1 abetted Eriberto Benavidez, who is not licensed as a smog technician, to evade the provisions of
2 this chapter by allowing Benavidez to participate in the performance of the smog inspections on
3 the vehicles set forth in Table 3, above.

4 **TWENTY-SEVENTH CAUSE FOR DISCIPLINE**

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

6 35. Respondent Zambrano has subjected his technician license to discipline under Health
7 and Safety Code section 44072.2, subdivision (a), in that on or about October 6, 2010, regarding
8 the vehicles set forth in Table 3, above, he violated sections of that Code, as follows:

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

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

14 c. **Section 44014:** Respondent Zambrano allowed Eriberto Benavidez, who is not a
15 licensed smog technician, to participate in the smog inspections of those vehicles.

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

18 e. **Section 44059:** Respondent Zambrano 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 **TWENTY-EIGHTH CAUSE FOR DISCIPLINE**

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

23 36. Respondent Zambrano has subjected his technician license to discipline under Health
24 and Safety Code section 44072.2, subdivision (c), in that on or about October 6, 2010, regarding
25 the vehicles set forth in Table 3, above, he violated sections of the California Code of
26 Regulations, title 16, as follows:

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

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

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

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

7 **TWENTY-NINTH CAUSE FOR DISCIPLINE**

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

9 37. Respondent Zambrano has subjected his technician license to discipline under Health
10 and Safety Code section 44072.2, subdivision (d), in that on or about October 6, 2010, he
11 committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing
12 electronic certificates of compliance for the vehicles set forth in Table 3, above, without
13 performing bona fide inspections of the emission control devices and systems on those vehicles,
14 thereby depriving the People of the State of California of the protection afforded by the Motor
15 Vehicle Inspection Program.

16 **THIRTIETH CAUSE FOR DISCIPLINE**

17 **(Aiding and Abetting an Unlicensed Person)**

18 38. Respondent Zambrano has subjected his technician license to discipline under Health
19 and Safety Code section 44072.2, subdivision (f), in that on or about October 6, 2010, he aided
20 and abetted Eriberto Benavidez, who is not licensed as a smog technician, to evade the provisions
21 of this chapter by allowing Benavidez to participate in the performance of the smog inspections
22 on the vehicles set forth in Table 3, above.

23 **OTHER MATTERS**

24 39. Under Code section 9884.7, subdivision (c), the director may invalidate temporarily
25 or permanently or refuse to validate, the registrations for all places of business operated in this
26 state by My The Vu, upon a finding that he has, or is, engaged in a course of repeated and willful
27 violations of the laws and regulations pertaining to an automotive repair dealer.

28 ///

1 7. Ordering My The Vu and Alexander Herrera Zambrano to pay the Bureau of
2 Automotive Repair the reasonable costs of the investigation and enforcement of this case,
3 pursuant to Business and Professions Code section 125.3; and,

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

5
6
7 DATED: _____

9/14/11


SHERRY MEHL

Chief

Bureau of Automotive Repair

Department of Consumer Affairs

State of California

Complainant

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27 LA2011502039
28 10747785.doc