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

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

In the Matter of the First Amended Accusation Against: **CORA'S TEST ONLY** **18689 Valley Blvd** **Bloomington, CA 92316** **Mailing Address:** **8831 Jennrich Avenue** **Westminster, CA 92683** **MY THE VU, OWNER** **Automotive Repair Dealer Registration No. ARD 246517** **Smog Check Test Only Station License No. TC 246517,** **Advanced Emission Specialist Technician License No. EA 150104** **and** **ALEXANDER HERRERA ZAMBRANO** **5800 Norman Way** **Riverside, CA 92504** **Advanced Emission Specialist Technician License No. EA 151823** Respondents.	Case No. 79/12-32 **FIRST AMENDED ACCUSATION** **SMOG CHECK**

Complainant alleges:

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PARTIES

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

Automotive Repair Dealer Registration

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

Smog Check Test Only Station License

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

Advanced Emission Specialist Technician License

4. On a date uncertain in 2005, the Bureau issued Advanced Emission Specialist Technician License Number EA 151823 ("technician license") to Alexander Herrera Zambrano ("Respondent Zambrano"). The technician license was in full force and effect at all times relevant to the charges brought herein and expired on September 30, 2011.

Advanced Emission Specialist Technician License

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

SURVEILLANCE OPERATION – JULY 1, 2010

6. On or about July 1, 2010, the Bureau performed a video-taped surveillance at Respondent Cora's facility. The surveillance operation and information obtained from the Bureau's Vehicle Information Database ("VID") revealed that between 1120 hours and 1212

hours, Respondent Zambrano, with the assistance of Eriberto Benavidez, who is not a licensed smog technician, performed three (3) smog inspections that resulted in the issuance of electronic certificates of compliance for the vehicles set forth in Table 1, below, certifying that he had tested and inspected those vehicles and that the vehicles were in compliance with applicable laws and regulations. In fact, Respondent Zambrano failed to perform the functional gas cap test on those vehicles, as more particularly set forth in Table 1, below.

Table 1

Date and Test Times	Vehicle Tested and Certified	Certificate Issued	Details
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.
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.
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.

FIRST CAUSE FOR DISCIPLINE

(Misleading Statements)

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

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SECOND CAUSE FOR DISCIPLINE

(Fraud)

8. Respondent Cora's has subjected his registration to discipline under Code section 9884.7, subdivision (a)(4), in that on or about July 1, 2010, he committed acts which constitute fraud by issuing electronic certificates of compliance for the vehicles set forth in Table 1, 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.

THIRD CAUSE FOR DISCIPLINE

(Violation of the Motor Vehicle Inspection Program)

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

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

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

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

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

FOURTH CAUSE FOR DISCIPLINE

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

10. Respondent Cora's has subjected his station license to discipline under Health and Safety Code section 44072.2, subdivision (c), in that on or about July 1, 2010, regarding the

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vehicles set forth in Table 1, above, he violated sections of the California Code of Regulations, title 16, as follows:

a. **Section 3340.35, subdivision (c)**: Respondent Cora's issued electronic certificates of compliance even though those vehicles had not been inspected in accordance with section 3340.42 of that Code.

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

FIFTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

11. Respondent Cora's subjected his station license to discipline under Health and Safety Code section 44072.2, subdivision (d), in that on or about July 1, 2010, regarding the vehicles set forth in Table 1, above, he committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing electronic certificates of compliance for those vehicles 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.

SIXTH CAUSE FOR DISCIPLINE

(Aiding and Abetting an Unlicensed Person)

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

SEVENTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

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

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

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

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

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

EIGHTH CAUSE FOR DISCIPLINE

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

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

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

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

NINTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

15. Respondent Zambrano has subjected his technician license to discipline under Health and Safety Code section 44072.2, subdivision (d), in that on or about July 1, 2010, he committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing electronic certificates of compliance for the vehicles set forth in Table 1, 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.

TENTH CAUSE FOR DISCIPLINE

(Aiding and Abetting an Unlicensed Person)

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

SURVEILLANCE OPERATION – JULY 15, 2010

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

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.
2 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.
3 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.

THIRTEENTH CAUSE FOR DISCIPLINE

(Violation of the Motor Vehicle Inspection Program)

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

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

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

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

FOURTEENTH CAUSE FOR DISCIPLINE

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

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

a. **Section 3340.35, subdivision (c)**: Respondent Cora's issued electronic certificates of compliance even though those vehicles had not been inspected in accordance with section 3340.42 of that Code.

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

FIFTEENTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

22. Respondent Cora's subjected his station license to discipline under Health and Safety Code section 44072.2, subdivision (d), in that on or about July 15, 2010, regarding the vehicles set forth in Table 2, above, he committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing electronic certificates of compliance for those vehicles 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.

SIXTEENTH CAUSE FOR DISCIPLINE

(Aiding and Abetting an Unlicensed Person)

23. Respondent Cora's has subjected his station license to discipline under Health and Safety Code section 44072.2, subdivision (f), in that on or about July 15, 2010, he aided and abetted Eriberto Benavidez, who is not licensed as a smog technician, to evade the provisions of

this chapter by allowing Benavidez to participate in the performance of the smog inspections on the vehicles set forth in Table 2, above.

SEVENTEENTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

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

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

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

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

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

EIGHTEENTH CAUSE FOR DISCIPLINE

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

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

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

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

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NINETEENTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

26. Respondent Zambrano has subjected his technician license to discipline under Health and Safety Code section 44072.2, subdivision (d), in that on or about July 15, 2010, he committed acts involving dishonesty, fraud or deceit whereby another was injured 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.

TWENTIETH CAUSE FOR DISCIPLINE

(Aiding and Abetting an Unlicensed Person)

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

SURVEILLANCE OPERATION – OCTOBER 6, 2010

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

[1] The On Board Diagnostics (OBDII) functional test is an automated function of the BAR-97 analyzer. During the OBD II functional test, the technician is required to connect an interface cable from 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...)

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

Table 3

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.

TWENTY-FIRST CAUSE FOR DISCIPLINE

(Misleading Statements)

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

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

Clean plugging is the use of the OBD II readiness monitor status and stored fault code (trouble code) status of a passing vehicle for the purpose of illegally issuing a smog certificate to another vehicle 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.

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

TWENTY-SECOND CAUSE FOR DISCIPLINE

(Fraud)

30. Respondent Cora's has subjected his registration to discipline under Code section 9884.7, subdivision (a)(4), in that on or about October 6, 2010, he committed acts which constitute fraud by issuing electronic certificates of compliance for the vehicles set forth in Table 3, 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.

TWENTY-THIRD CAUSE FOR DISCIPLINE

(Violation of the Motor Vehicle Inspection Program)

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

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

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

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

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TWENTY-FOURTH CAUSE FOR DISCIPLINE

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

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

a. **Section 3340.35, subdivision (c)**: Respondent Cora's issued electronic certificates of compliance even though those vehicles had not been inspected in accordance with section 3340.42 of that Code.

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

TWENTY-FIFTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

33. Respondent Cora's subjected his station license to discipline under Health and Safety Code section 44072.2, subdivision (d), in that on or about October 6, 2010, regarding the vehicles set forth in Table 3, above, he committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing electronic certificates of compliance for those vehicles 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.

TWENTY-SIXTH CAUSE FOR DISCIPLINE

(Aiding and Abetting an Unlicensed Person)

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

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TWENTY-SEVENTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

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

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

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

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

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

TWENTY-EIGHTH CAUSE FOR DISCIPLINE

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

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

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

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

TWENTY-NINTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

37. Respondent Zambrano has subjected his technician license to discipline under Health and Safety Code section 44072.2, subdivision (d), in that on or about October 6, 2010, he

committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing electronic certificates of compliance for the vehicles set forth in Table 3, 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.

THIRTIETH CAUSE FOR DISCIPLINE

(Aiding and Abetting an Unlicensed Person)

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

SURVEILLANCE OPERATION – AUGUST 30, 2011

39. On or about August 30, 2011, the Bureau performed a video-taped surveillance at Respondent Cora's facility. The surveillance operation and information obtained from the Bureau's VID revealed that between 1041 hours and 1140 hours, Respondent Zambrano, with the assistance of Eriberto Benavidez, performed three (3) smog inspections that resulted in the issuance of electronic certificates of compliance for the vehicles set forth in Table 4, below, certifying that he had tested and inspected those vehicles and that the vehicles were in compliance with applicable laws and regulations. In fact, Respondent Zambrano used a Honda Civic instead of the certified vehicle in order to perform the OBD II functional test on vehicles 1 and 2, set forth in Table 4, below. Further, with regard to vehicle 3, Eriberto Benavidez, using Respondent Zambrano's access code, performed the smog inspection, entered information into the EIS, and issued the certificate of compliance, as more particularly set forth in Table 4, below:

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Table 4

Date and Test Times	Vehicle Tested and Certified	Certificate Issued	Details
1 8/30/2011 1041 hours to 1055 hours	1997 Acura, License No. 4PIL364	WX984493C	Respondent Zambrano and Benavidez performed the smog inspection. Respondent Zambrano used a Honda Civic instead of the certified vehicle, to perform the OBD II functional test.
2 8/30/2011 1103 hours to 1110 hours	2002 Mitsubishi, License No. 6DEY164	WX984494C	Respondent Zambrano and Benavidez performed the smog inspection. Respondent Zambrano used a Honda Civic instead of the certified vehicle to perform the OBD II functional test.
3 8/30/2011 1129 hours to 1140 hours	1989 Honda, License No. 2PER611	WX984495C	Benavidez performed the smog inspection using Respondent Zambrano's access code. Benavidez made entries into the EIS and signed the certificate of compliance.

THIRTY-FIRST CAUSE FOR DISCIPLINE

(Misleading Statements)

40. Respondent Cora's has subjected his registration to discipline under Code section 9884.7, subdivision (a)(1), in that on or about August 30, 2011, 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 4, above, certifying that those vehicles were in compliance with applicable laws and regulations when, in fact, vehicles 1 and 2 had not been tested during the OBD II functional test and vehicle 3 was tested by Eriberto Benavidez, an unlicensed person.

THIRTY-SECOND CAUSE FOR DISCIPLINE

(Fraud)

41. Respondent Cora's has subjected his registration to discipline under Code section 9884.7, subdivision (a)(4), in that on or about August 30, 2011, he committed acts which constitute fraud by issuing electronic certificates of compliance for the vehicles set forth in Table 4, 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.

THIRTY-THIRD CAUSE FOR DISCIPLINE

(Violation of the Motor Vehicle Inspection Program)

42. Respondent Cora's has subjected his station license to discipline under Health and Safety Code section 44072.2, subdivision (a), in that on or about August 30, 2011, regarding the vehicles set forth in Table 4, above, he violated sections of that Code, as follows:

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

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

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

THIRTY-FOURTH CAUSE FOR DISCIPLINE

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

43. Respondent Cora's has subjected his station license to discipline under Health and Safety Code section 44072.2, subdivision (c), in that on or about August 30, 2011, regarding the vehicles set forth in Table 4, above, he violated sections of the California Code of Regulations, title 16, as follows:

a. **Section 3340.35, subdivision (c)**: Respondent Cora's issued electronic certificates of compliance even though those vehicles had not been inspected in accordance with section 3340.42 of that Code.

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

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THIRTY-FIFTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

44. Respondent Cora's subjected his station license to discipline under Health and Safety Code section 44072.2, subdivision (d), in that on or about August 30, 2011, regarding the vehicles set forth in Table 4, above, he committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing electronic certificates of compliance for those vehicles 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.

THIRTY-SIXTH CAUSE FOR DISCIPLINE

(Aiding and Abetting an Unlicensed Person)

45. Respondent Cora's has subjected his station license to discipline under Health and Safety Code section 44072.2, subdivision (f), in that on or about August 30, 2011, he aided and abetted Eriberto Benavidez, who is not licensed as a smog technician, to evade the provisions of this chapter by allowing Benavidez to participate in the performance of the smog inspections on the vehicles set forth in Table 4, above.

THIRTY-SEVENTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

46. Respondent Zambrano has subjected his technician license to discipline under Health and Safety Code section 44072.2, subdivision (a), in that on or about August 30, 2011, regarding the vehicles set forth in Table 4, above, he violated sections of that Code, as follows:

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

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

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

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

THIRTY-EIGHTH CAUSE FOR DISCIPLINE

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

47. Respondent Zambrano has subjected his technician license to discipline under Health and Safety Code section 44072.2, subdivision (c), in that on or about August 30, 2011, regarding the vehicles set forth in Table 4, above, he violated sections of the California Code of Regulations, title 16, as follows:

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

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

THIRTY-NINTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

48. Respondent Zambrano has subjected his technician license to discipline under Health and Safety Code section 44072.2, subdivision (d), in that on or about August 30, 2011, he committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing electronic certificates of compliance for the vehicles set forth in Table 4, 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.

FOURTIETH CAUSE FOR DISCIPLINE

(Aiding and Abetting an Unlicensed Person)

49. Respondent Zambrano has subjected his technician license to discipline under Health and Safety Code section 44072.2, subdivision (f), in that on or about August 30, 2011, he aided and abetted Eriberto Benavidez, who is not licensed as a smog technician, to evade the provisions of this chapter by allowing Benavidez to participate in the performance of the smog inspections on the vehicles set forth in Table 4, above.

OTHER MATTERS

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

51. Under Health and Safety Code section 44072.8, if Smog Check Test Only Station License Number TC 246517, issued to My The Vu, doing business as Cora's Test Only, is revoked or suspended, any additional license issued under this chapter in the name of said licensee may be likewise revoked or suspended by the director.

52. Under Health and Safety Code section 44072.8, if Advanced Emission Specialist Technician License Number EA 151823, issued to Alexander Herrera Zambrano, is revoked or suspended, any additional license issued under this chapter in the name of said licensee may be likewise revoked or suspended by the director.

PRAYER

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

1. Revoking, suspending, or placing on probation, Automotive Repair Dealer Registration Number ARD 246517, issued to My The Vu, doing business as Cora's Test Only;

2. Revoking, suspending, or placing on probation any other automotive repair dealer registration issued to My The Vu;

3. Revoking or suspending Smog Check Test Only Station License Number TC 246517, issued to My The Vu, doing business as Cora's Test Only;

4. Revoking or suspending any additional license issued under Chapter 5 of the Health and Safety Code in the name of My The Vu, doing business as Cora's Test Only, is revoked or suspended, any additional license issued under this chapter in the name of said licensee may be likewise revoked or suspended by the director;

5. Revoking or suspending Advanced Emission Specialist Technician License Number EA 151823, issued to Alexander Herrera Zambrano;

6. Revoking or suspending any additional license issued under Chapter 5 of the Health and Safety Code in the name of Alexander Herrera Zambrano;

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

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

DATED: April 5, 2012

JOHN WALLAUCH,
Chief
Bureau of Automotive Repair
Department of Consumer Affairs
State of California
Complainant

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