

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

In the Matter of the Accusation Against:

**CHEVREM CORPORATION, DBA
CLEAR BLUE TEST ONLY SMOG
STATION**

2850 Crow Canyon Road
San Ramon, California 94583
FATIH TEKIN, PRESIDENT
Automotive Repair Dealer Registration
No. ARD 241700
Smog Check, Test Only Station License
No. TC 241700,

HARPREET SINGH CHHINA

2680 Cherry Blossom Way
Union City, California 94587
Advanced Emission Specialist Technician
License No. EA 152180

**CHEVREM CORPORATION, DBA
CLEAR BLUE TEST ONLY SMOG
STATION 2**

3790 Hopyard Road
Pleasanton, California 94588
FATIH TEKIN, PRESIDENT
Automotive Repair Dealer Registration
No. ARD 244942
Smog Check, Test Only Station License
No. TC 244942,

CHRISTOPHER BRYAN HARRISON

143 Roxanne Court, #2
Walnut Creek, California 94597
Advanced Emission Specialist Technician
License No. EA 151176

**CHEVREM CORPORATION, DBA
CLEAR BLUE TEST ONLY SMOG
STATION 3**

898 A Street
Hayward, California 94541
FATIH TEKIN, PRESIDENT
Automotive Repair Dealer Registration
No. ARD 248804
Smog Check Test Only Station License
No. TC 248804

Case No. 79/09-21

[As to MATTHEW JARED PHELPS
only]

///

WINCHESTER SIBUMA ORDONEZ
2210 Grove Way
Castro Valley, California 94546
Advanced Emission Specialist Technician
License No. EA 144440

**CHEVREM CORPORATION, DBA
TEST ONLY SMOG STATION II**
5200 Telegraph Avenue
Oakland, California 94609
FATIH TEKIN, PRESIDENT
Automotive Repair Dealer Registration
No. ARD 236306
Smog Check, Test Only Station
No. TC 236306

BRYAN LEONARD SCHAUB
46410 Briar Place
Fremont, California 94539
Advanced Emission Specialist Technician
License No. EA 152893

NUSRET B. TOPCU
2427 Byron Street
Berkeley, California 94702
Advanced Emission Specialist Technician
License No. EA 147911

MATTHEW JARED PHELPS
916 Magnolia Drive
Alameda, California 94502
Advanced Emission Specialist Technician
License No. EA 151026

**CHEVREM CORPORATION, DBA
G I C SMOG STATION**
690 Ygnacio Valley Road, #3
Walnut Creek, California 94596
FATIH TEKIN, PRESIDENT
Automotive Repair Dealer Registration
No. ARD 221700
Smog Check, Test Only Station License
No. TC 221700

NUSRET B. TOPCU
2427 Byron Street
Berkeley, California 94702
Advanced Emission Specialist Technician
License No. EA 147911

Respondents.

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order [As To Matthew Jared Phelps only] is hereby accepted and adopted as the Decision of the Director of the Department of Consumer Affairs in the above-entitled matter only as to respondent Matthew Jared Phelps, Advanced Emission Specialist Technician License No. EA 151026.

This Decision shall become effective 3/2/09.

DATED: January 27, 2009

P. J. Harris
PATRICIA HARRIS
Deputy Director, Board/Bureau Support
Department of Consumer Affairs

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 WILBERT E. BENNETT
Supervising Deputy Attorney General
3 KIM M. SETTLES, State Bar No. 116945
Deputy Attorney General
4 1515 Clay Street, 20th Floor
P.O. Box 70550
5 Oakland, CA 94612-0550
Telephone: (510) 622-2138
6 Facsimile: (510) 622-2270
7 Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

Case No. 79/09-21

12 **CHEVREM CORPORATION, DBA**
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14 **STATION**
2850 Crow Canyon Road
14 San Ramon, California 94583
15 **FATIH TEKIN, PRESIDENT**
Automotive Repair Dealer Registration
No. ARD 241700
16 Smog Check, Test Only Station License
No. TC 241700,

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

[As to MATTHEW JARED PHELPS
only]

17 **HARPREET SINGH CHHINA**
18 2680 Cherry Blossom Way
Union City, California 94587
19 Advanced Emission Specialist Technician
License No. EA 152180

20 **CHEVREM CORPORATION, DBA**
21 **CLEAR BLUE TEST ONLY SMOG**
22 **STATION 2**
3790 Hopyard Road
Pleasanton, California 94588
23 **FATIH TEKIN, PRESIDENT**
Automotive Repair Dealer Registration
24 No. ARD 244942
Smog Check, Test Only Station License
25 No. TC 244942,

26 **CHRISTOPHER BRYAN HARRISON**
143 Roxanne Court, #2
27 Walnut Creek, California 94597
Advanced Emission Specialist Technician
28 License No. EA 151176

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8 **WINCHESTER SIBUMA ORDONEZ**
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9 Castro Valley, California 94546
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License No. EA 144440
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46410 Briar Place
19 Fremont, California 94539
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916 Magnolia Drive
25 Alameda, California 94502
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No. TC 221700
///

1 **NUSRET B. TOPCU**
2427 Byron Street
2 Berkeley, California 94702
Advanced Emission Specialist Technician
3 License No. EA 147911

4 Respondents.

5
6 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
7 above-entitled proceedings that the following matters are true:

8 **PARTIES**

9 1. Sherry Mehl (Complainant) is the Chief of the Bureau of Automotive
10 Repair. She brought this action solely in her official capacity and is represented in this matter by
11 Edmund G. Brown Jr., Attorney General of the State of California, by Kim M. Settles, Deputy
12 Attorney General.

13 2. Respondent, MATTHEW JARED PHELPS (Respondent) is representing
14 himself in this proceeding and has chosen not to exercise his right to be represented by counsel.

15 3. On or about May 13, 2002, the Bureau of Automotive Repair issued
16 Advanced Emission Specialist Technician License No. EA 151026 to MATTHEW JARED
17 PHELPS (Respondent). The technician license was in full force and effect at all times relevant to
18 the charges brought herein and will expire on December 31, 2008, unless renewed.

19 **JURISDICTION**

20 4. Accusation No. 79/09-21 was filed before the Department of Consumer
21 Affairs (Director), for the Bureau of Automotive Repair (Bureau), and is currently pending
22 against Respondent. The Accusation and all other statutorily required documents were properly
23 served on Respondent on September 24, 2008. Respondent timely filed his Notice of Defense
24 contesting the Accusation. A copy of Accusation No. 79/09-21 is attached as Exhibit A and
25 incorporated herein by reference.

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1 **ADVISEMENT AND WAIVERS**

2 5. Respondent has carefully read, and understands the charges and allegations
3 in Accusation No. 79/09-21. Respondent has also carefully read, and understands the effects of
4 this Stipulated Settlement and Disciplinary Order.

5 6. Respondent is fully aware of his legal rights in this matter, including the
6 right to a hearing on the charges and allegations in the Accusation; the right to be represented by
7 counsel at his own expense; the right to confront and cross-examine the witnesses against him;
8 the right to present evidence and to testify on his own behalf; the right to the issuance of
9 subpoenas to compel the attendance of witnesses and the production of documents; the right to
10 reconsideration and court review of an adverse decision; and all other rights accorded by the
11 California Administrative Procedure Act and other applicable laws.

12 7. Respondent voluntarily, knowingly, and intelligently waives and gives up
13 each and every right set forth above.

14 **CULPABILITY**

15 8. Respondent admits the truth of each and every charge and allegation in
16 Accusation No. 79/09-21, as such allegations may pertain to the use of his technician license.

17 9. Respondent agrees that his Advanced Emission Specialist Technician
18 License Number EA 151026 is subject to discipline and he agrees to be bound by the Director's
19 imposition of discipline as set forth in the Disciplinary Order below.

20 **CONTINGENCY**

21 10. The parties understand and agree that facsimile copies of this Stipulated
22 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
23 force and effect as the originals.

24 11. Respondent understands that by signing this stipulation he is enabling the
25 Director to issue her order disciplining Advanced Emission Specialist Technician License
26 Number EA 151026 without further process. In the event this stipulation is rejected for any
27 reason by the Director, it will be of no force or effect for either party. The Director will not be
28 disqualified from further action in this matter by virtue of her consideration of this stipulation.

Exhibit A

Accusation No. 79/09-21

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 WILBERT E. BENNETT
Supervising Deputy Attorney General
3 KIM M. SETTLES, State Bar No. 116945
Deputy Attorney General
4 1515 Clay Street, 20th Floor
P.O. Box 70550
5 Oakland, CA 94612-0550
Telephone: (510) 622-2138
6 Facsimile: (510) 622-2270

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No. TC 241700,

A C C U S A T I O N
[SMOG CHECK]

19 **HARPREET SINGH CHHINA**
20 2680 Cherry Blossom Way
Union City, California 94587
Advanced Emission Specialist Technician
License No. EA 152180

21 **CHEVREM CORPORATION, DBA**
22 **CLEAR BLUE TEST ONLY SMOG**
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24 Pleasanton, California 94588
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Automotive Repair Dealer Registration
25 No. ARD 244942
Smog Check, Test Only Station License
No. TC 244942,

26 **CHRISTOPHER BRYAN HARRISON**
143 Roxanne Court, #2
27 Walnut Creek, California 94597
Advanced Emission Specialist Technician
28 License No. EA 151176

1 **CHEVREM CORPORATION, DBA**
2 **CLEAR BLUE TEST ONLY SMOG**
3 **STATION 3**
4 898 A Street
5 Hayward, California 94541
6 **FATIH TEKIN, PRESIDENT**
7 Automotive Repair Dealer Registration
8 No. ARD 248804
9 Smog Check Test Only Station License
10 No. TC 248804
11
12 **WINCHESTER SIBUMA ORDONEZ**
13 2210 Grove Way
14 Castro Valley, California 94546
15 Advanced Emission Specialist Technician
16 License No. EA 144440
17
18 **CHEVREM CORPORATION, DBA**
19 **TEST ONLY SMOG STATION II**
20 5200 Telegraph Avenue
21 Oakland, California 94609
22 **FATIH TEKIN, PRESIDENT**
23 Automotive Repair Dealer Registration
24 No. ARD 236306
25 Smog Check, Test Only Station
26 No. TC 236306
27
28 **BRYON LEONARD SCHAUB**
46410 Briarplace
Fremont, California 94539
Advanced Emission Specialist Technician
License No. EA 152893

29 **NUSRET B. TOPCU**
2427 Byron Street
Berkeley, California 94702
Advanced Emission Specialist Technician
License No. EA 147911

30 **MATTHEW JARED PHELPS**
916 Magnolia Drive
Alameda, California 94502
Advanced Emission Specialist Technician
License No. EA 151026

31 **CHEVREM CORPORATION, DBA**
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35 **FATIH TEKIN, PRESIDENT**
36 Automotive Repair Dealer Registration
37 No. ARD 221700
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39 No. TC 221700
40 ///

1 **NUSRET B. TOPCU**
2427 Byron Street
2 Berkeley, California 94702
Advanced Emission Specialist Technician
3 License No. EA 147911

4 Respondents.

5
6 Sherry Mehl ("Complainant") alleges:

7 **PARTIES**

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

10 **LICENSE HISTORY**

11 **RESPONDENT NO. 1**

12 **Automotive Repair Dealer Registration**

13 2. On or about February 3, 2006, the Bureau issued Automotive Repair
14 Dealer Registration Number ARD 241700 ("registration") to Chevrem Corporation, doing
15 business as Clear Blue Test Only Smog Station ("Respondent No. 1") with Fatih Tekin as
16 president. The registration will expire on September 30, 2008, unless renewed.

17 **Smog Check, Test Only Station License**

18 3. On or about February 16, 2006, the Bureau issued Smog Check, Test Only
19 Station License Number TC 241700 to Respondent No. 1. The registration will expire on
20 September 30, 2008, unless renewed.

21 **Advanced Emission Specialist Technician License**

22 4. On or about December 21, 2006, the Bureau issued Advanced Emission
23 Specialist Technician License Number EA 152180 ("technician license") to Harpreet Singh
24 Chhina ("Respondent Chhina"). The technician license will expire on June 30, 2010, unless
25 renewed.

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RESPONDENT NO. 2

Automotive Repair Dealer Registration

5. On or about July 11, 2006, the Bureau issued Automotive Repair Dealer Registration Number ARD 244942 ("registration") to Chevrem Corporation, doing business as Clear Blue Test Only Smog Station 2 ("Respondent No. 2") with Fatih Tekin as president. The registration will expire on April 30, 2009, unless renewed.

Smog Check, Test Only Station License

6. On or about November 20, 2006, the Bureau issued Smog Check, Test Only Station License Number TC 244942 ("station license") to Respondent No. 2. The registration will expire on April 30, 2009, unless renewed.

Advanced Emission Specialist Technician License

7. On or about March 23, 2005, the Bureau issued Advanced Emission Specialist Technician License Number EA 151176 ("technician license") to Christopher Bryan Harrison ("Respondent Harrison"). The technician license will expire on July 31, 2009, unless renewed.

RESPONDENT NO. 3

Automotive Repair Dealer Registration

8. On or about February 14, 2007, the Bureau issued Automotive Repair Dealer Registration Number ARD 248804 ("registration") to Chevrem Corporation, doing business as Clear Blue Test Only Smog Station 3 ("Respondent No. 3") with Fatih Tekin as president. The registration will expire on January 31, 2009, unless renewed.

Smog Check, Test Only Station License

9. On or about March 2, 2007, the Bureau issued Smog Check, Test Only Station License Number TC 248804 to Respondent No. 3. The station license will expire on January 31, 2009, unless renewed.

Advanced Emission Specialist Technician License

10. On or about May 13, 2002, the Bureau issued Advanced Emission Specialist Technician License Number EA 144440 ("technician license") to Winchester Sibuma

1 Ordonez ("Respondent Ordonez"). The technician license will expire on October 31, 2010
2 unless renewed.

3 **RESPONDENT NO. 4**

4 **Automotive Repair Dealer Registration**

5 11. On or about February 9, 2005, the Bureau issued Automotive Repair
6 Dealer Registration Number ARD 236306 ("registration") to Chevrem Corporation, doing
7 business as Test Only Smog Station II ("Respondent No. 4") with Fatih Tekin as president. The
8 registration will expire on October 31, 2008, unless renewed.

9 **Smog Check, Test Only Station License**

10 12. On or about February 14, 2005, the Bureau issued Smog Check, Test Only
11 Station License Number TC 236306 ("station license") to Respondent No. 4. The station license
12 will expire on October 31, 2008, unless renewed.

13 **Advanced Emission Specialist Technician License**

14 13. On or about July 7, 2006, the Bureau issued Advanced Emission Specialist
15 Technician License Number EA 152893 ("technician license") to Bryan Leonard Schaub
16 ("Respondent Schaub"). The technician license will expire on September 30, 2010, unless
17 renewed.

18 **Advanced Emission Specialist Technician License**

19 14. On or about November 26, 2003, the Bureau issued Advanced Emission
20 Specialist Technician License Number EA 147911 ("technician license") to Nusret B. Topcu
21 ("Respondent Topcu"). The technician license expired on October 31, 2007.

22 **Advanced Emission Specialist Technician License**

23 15. On or about February 18, 2005, the Bureau issued Advanced Emission
24 Specialist Technician License Number EA 151026 ("technician license") to Matthew Jared
25 Phelps ("Respondent Phelps"). The technician license will expire on December 31, 2008, unless
26 renewed.

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1 (6) Failure in any material respect to comply with the provisions of this
2 chapter [the Automotive Repair Act (Bus. & Prof. Code, 9880, et seq.)] or
regulations adopted pursuant to it.

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

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

10 20. Code section 9884.9, subdivision (a), states:

11 (a) The automotive repair dealer shall give to the customer a written
12 estimated price for labor and parts necessary for a specific job. No work shall be
13 done and no charges shall accrue before authorization to proceed is obtained from
14 the customer. No charge shall be made for work done or parts supplied in excess
15 of the estimated price without the oral or written consent of the customer that
16 shall be obtained at some time after it is determined that the estimated price is
17 insufficient and before the work not estimated is done or the parts not estimated
18 are supplied. Written consent or authorization for an increase in the original
19 estimated price may be provided by electronic mail or facsimile transmission from
the customer. The bureau may specify in regulation the procedures to be followed
by an automotive repair dealer if an authorization or consent for an increase in the
original estimated price is provided by electronic mail or facsimile transmission.
If that consent is oral, the dealer shall make a notation on the work order of the
date, time, name of person authorizing the additional repairs and telephone
number called, if any, together with a specification of the additional parts and
labor and the total additional cost, and shall do either of the following:

20 (1) Make a notation on the invoice of the same facts set forth in the
notation on the work order.

21 (2) Upon completion of the repairs, obtain the customer's signature or
initials to an acknowledgment of notice and consent, if there is an oral consent of
the customer to additional repairs, in the following language:

22 "I acknowledge notice and oral approval of an increase in the original estimated
23 price.

24 _____
(signature or initials)"

25 Nothing in this section shall be construed as requiring an automotive
26 repair dealer to give a written estimated price if the dealer does not agree to
perform the requested repair.

27 21. Code section 9884.13 provides, in pertinent part, that the expiration of a
28 valid registration shall not deprive the director or chief of jurisdiction to proceed with a

1 disciplinary proceeding against an automotive repair dealer or to render a decision invalidating a
2 registration temporarily or permanently.

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

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

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

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

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

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

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

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

25 26. Section 44072.8 of the Health and Safety Code states:

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

REGULATORY PROVISION

29 27. California Code of Regulations, title 16, section 3356, subdivision (a)(1),
30 states:

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

3 (1) The invoice shall show the automotive repair dealer's registration
4 number and the corresponding business name and address as shown in the
Bureau's records.

5 **COST RECOVERY**

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

10 **RESPONDENT NO. 1**

11 **UNDERCOVER OPERATION - JUNE 26, 2007**

12 29. On June 26, 2007, a Bureau undercover operator using the alias
13 Ron Picard ("operator") drove a Bureau-documented 1992 Toyota, California License Plate No.
14 4S12688, to Respondent No. 1's facility for a smog inspection. The vehicle could not pass a
15 smog inspection because the vehicle's air suction ("AS") system was missing. Respondent
16 Chhina performed the smog inspection and issued electronic Certificate of Compliance No.
17 MS616778, certifying that he had tested and inspected the 1992 Toyota and that the vehicle was
18 in compliance with applicable laws and regulations. In fact, the vehicle could not have passed
19 the visual portion of the smog inspection because the vehicle's AS system was missing.

20 **FIRST CAUSE FOR DISCIPLINE**

21 **(Untrue or Misleading Statements)**

22 30. Respondent No. 1's registration is subject to disciplinary action pursuant
23 to Code section 9884.7, subdivision (a)(1), in that on or about June 26, 2007, it made or
24 authorized statements which it knew or in the exercise of reasonable care it should have known
25 to be untrue or misleading by issuing electronic Certificate of Compliance No. MS616778 for the
26 1992 Toyota, certifying that the vehicle was in compliance with applicable laws and regulations.
27 In fact, the vehicle could not have passed the visual portion of the smog inspection because the
28 vehicle's AS system was missing.

1 SECOND CAUSE FOR DISCIPLINE

2 (Fraud)

3 31. Respondent No. 1's registration is subject to disciplinary action pursuant
4 to Code section 9884.7, subdivision (a)(4), in that on or about June 26, 2007, it committed acts
5 which constitute fraud by issuing electronic Certificate of Compliance No. MS616778 for the
6 1992 Toyota without performing a bona fide inspection of the emission control devices and
7 systems on the vehicle, thereby depriving the People of the State of California of the protection
8 afforded by the Motor Vehicle Inspection Program.

9 THIRD CAUSE FOR DISCIPLINE

10 (Violations of the Motor Vehicle Inspection Program)

11 32. Respondent No. 1's station license is subject to disciplinary action
12 pursuant to Health & Safety Code section 44072.2, subdivision (a), in that on or about
13 June 26, 2007, regarding the 1992 Toyota, it failed to comply with the following sections of that
14 Code:

15 a. Section 44012, subdivision (a): Respondent No.1 failed to determine
16 that all emission control devices and systems required by law were installed and functioning
17 correctly in accordance with test procedures.

18 b. Section 44012, subdivision (f): Respondent No. 1 failed to perform
19 emission control tests on the vehicle in accordance with procedures prescribed by the department.

20 c. Section 44015, subdivision (b): Respondent No. 1 issued electronic
21 Certificate of Compliance No. MS616778 for the vehicle without properly testing and inspecting
22 the vehicle to determine if it was in compliance with Health & Safety Code section 44012.

23 d. Section 44059: Respondent No. 1 willfully made false entries for
24 electronic Certificate of Compliance No. MS616778 by certifying that the vehicle had been
25 inspected as required when, in fact, it had not.

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NINTH CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

39. Respondent No. 1's registration is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(1), in that on or about July 25, 2007, it made or authorized statements which it knew or in the exercise of reasonable care it should have known to be untrue or misleading by issuing electronic Certificate of Compliance No. MU025610 for the 1994 Toyota Camry, certifying that the vehicle was in compliance with applicable laws and regulations. In fact, the vehicle could not have passed the functional portion of the smog inspection because the vehicle's ignition timing was adjusted beyond the manufacturer's specifications.

TENTH CAUSE FOR DISCIPLINE

(Fraud)

40. Respondent No. 1's registration is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(4), in that on or about July 25, 2007, it committed acts which constitute fraud by issuing electronic Certificate of Compliance No. MU025610 for the 1994 Toyota Camry without performing a bona fide inspection of the emission control devices and systems on the vehicle, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

ELEVENTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

41. Respondent No. 1's station license is subject to disciplinary action pursuant to Health & Safety Code section 44072.2, subdivision (a), in that on or about July 25, 2007, regarding the 1994 Toyota Camry, it failed to comply with the following sections of that Code:

a. **Section 44012, subdivision (a):** Respondent No. 1 failed to determine that all emission control devices and systems required by law were installed and functioning correctly in accordance with test procedures.

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1 July 25, 2007, it committed dishonest, fraudulent or deceitful acts whereby another is injured by
2 issuing electronic Certificate of Compliance No. MU025610 for the 1994 Toyota Camry without
3 performing a bona fide inspection of the emission control devices and systems on the vehicle,
4 thereby depriving the People of the State of California of the protection afforded by the Motor
5 Vehicle Inspection Program.

6 **FOURTEENTH CAUSE FOR DISCIPLINE**

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

8 44. Respondent Chhina has subjected his technician license to disciplinary
9 action pursuant to Health and Safety Code section 44072.2, subdivision (a), in that on or about
10 July 25, 2007, regarding the 1994 Toyota Camry, he violated the following sections of that Code:

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

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

16 c. **Section 44032:** Respondent Chhina failed to perform tests of the
17 emission control devices and systems on the vehicle in accordance with section 44012 of that
18 Code.

19 d. **Section 44059:** Respondent entered false information for electronic
20 Certificate of Compliance No. MU025610 by certifying that the vehicle had been inspected as
21 required when, in fact, it had not.

22 **FIFTEENTH CAUSE FOR DISCIPLINE**

23 **(Failure to Comply with Regulations Pursuant
24 to the Motor Vehicle Inspection Program)**

25 45. Respondent Chhina has subjected his technician license to disciplinary
26 action pursuant to Health and Safety Code section 44072.2, subdivision (c), in that on or about
27 July 25, 2007, regarding the 1994 Toyota Camry, he violated the following sections of the
28 California Code of Regulations, title 16:

1 a. **Section 3340.24, subdivision (c):** Respondent Chhina falsely or
2 fraudulently issued electronic Certificate of Compliance No. MU025610 for the vehicle, in that
3 the vehicle could not pass the functional portion of the smog inspection because the vehicle's
4 ignition timing was adjusted beyond the manufacturer's specifications.

5 b. **Section 3340.30, subdivision (a):** Respondent Chhina failed to inspect
6 and test the vehicle in accordance with Health and Safety Code section 44012.

7 c. **Section 3340.41, subdivision (c):** Respondent Chhina entered false
8 information into the EIS unit by entering "Pass" for the functional portion of the smog inspection
9 when, in fact, the vehicle the vehicle could not have passed the functional portion of the
10 inspection because the vehicle's ignition timing was adjusted beyond the manufacturer's
11 specifications.

12 d. **Section 3340.42:** Respondent Chhina failed to conduct the required smog
13 tests on the vehicle in accordance with the Bureau's specifications.

14 **SIXTEENTH CAUSE FOR DISCIPLINE**

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

16 46. Respondent Chhina has subjected his technician license to disciplinary
17 action pursuant to Health and Safety Code section 44072.2, subdivision (d), in that on or about
18 July 25, 2007, regarding the 1994 Toyota Camry, he committed acts involving dishonesty, fraud
19 or deceit whereby another was injured by issuing electronic Certificate of Compliance No.
20 MU025610 for that vehicle without performing a bona fide inspection of the emission control
21 devices and systems on the vehicle, thereby depriving the People of the State of California of the
22 protection afforded by the Motor Vehicle Inspection Program.

23 **UNDERCOVER OPERATION - JULY 26, 2007**

24 47. On July 26, 2007, a Bureau undercover operator using the alias
25 Steve Palmer ("operator") drove a Bureau-documented 1996 Ford Explorer, California License
26 Plate No. 3PZE600, to Respondent No. 1's facility for a smog inspection. The vehicle could not
27 pass a smog inspection because the vehicle's positive crankcase ventilation ("PCV") system was
28 missing. Respondent Chhina performed the smog inspection and issued electronic Certificate of

1 Compliance No. MU025621, certifying that he had tested and inspected the 1996 Ford Explorer
2 and that the vehicle was in compliance with applicable laws and regulations. In fact, the vehicle
3 could not have passed the visual portion of the smog inspection because the vehicle's PCV
4 system was missing.

5 **SEVENTEENTH CAUSE FOR DISCIPLINE**

6 **(Untrue or Misleading Statements)**

7 48. Respondent No. 1's registration is subject to disciplinary action pursuant
8 to Code section 9884.7, subdivision (a)(1), in that on or about July 26, 2007, it made or
9 authorized statements which it knew or in the exercise of reasonable care it should have known
10 to be untrue or misleading by issuing electronic Certificate of Compliance No. MU025621 for
11 the 1996 Ford Explorer, certifying that the vehicle was in compliance with applicable laws and
12 regulations. In fact, the vehicle could not have passed the visual portion of the smog inspection
13 because the vehicle's PCV system was missing.

14 **EIGHTEENTH CAUSE FOR DISCIPLINE**

15 **(Fraud)**

16 49. Respondent No. 1's registration is subject to disciplinary action pursuant
17 to Code section 9884.7, subdivision (a)(4), in that on or about July 26, 2007, it committed acts
18 which constitute fraud by issuing electronic Certificate of Compliance No. MU025621 for the
19 1996 Ford Explorer without performing a bona fide inspection of the emission control devices
20 and systems on the vehicle, thereby depriving the People of the State of California of the
21 protection afforded by the Motor Vehicle Inspection Program.

22 **NINETEENTH CAUSE FOR DISCIPLINE**

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

24 50. Respondent No. 1's station license is subject to disciplinary action
25 pursuant to Health & Safety Code section 44072.2, subdivision (a), in that on or about
26 July 26, 2007, regarding the 1996 Ford Explorer, it failed to comply with the following sections
27 of that Code:

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1 a. **Section 44012, subdivision (a):** Respondent No. 1 failed to determine
2 that all emission control devices and systems required by law were installed and functioning
3 correctly in accordance with test procedures.

4 b. **Section 44012, subdivision (f):** Respondent No. 1 failed to perform
5 emission control tests on the vehicle in accordance with procedures prescribed by the department.

6 c. **Section 44015, subdivision (b):** Respondent No. 1 issued electronic
7 Certificate of Compliance No. MU025621 for the vehicle without properly testing and inspecting
8 the vehicle to determine if it was in compliance with Health & Safety Code section 44012.

9 d. **Section 44059:** Respondent No. 1 willfully made false entries for
10 electronic Certificate of Compliance No. MU025621 by certifying that the vehicle had been
11 inspected as required when, in fact, it had not.

12 **TWENTIETH CAUSE FOR DISCIPLINE**

13 **(Failure to Comply with Regulations Pursuant
14 to the Motor Vehicle Inspection Program)**

15 51. Respondent No. 1's station license is subject to disciplinary action
16 pursuant to Health & Safety Code section 44072.2, subdivision (c), in that on or about
17 July 26, 2007, regarding the 1996 Ford Explorer, it failed to comply with provisions of California
18 Code of Regulations, title 16, as follows:

19 a. **Section 3340.24, subdivision (c):** Respondent No. 1 falsely or
20 fraudulently issued electronic Certificate of Compliance No. MU025621 for the vehicle, in that
21 the vehicle could not pass the visual portion of the smog inspection because the vehicle's PCV
22 system was missing.

23 b. **Section 3340.35, subdivision (c):** Respondent No. 1 issued electronic
24 Certificate of Compliance No. MU025621 for the vehicle even though the vehicle had not been
25 inspected in accordance with section 3340.42.

26 c. **Section 3340.42:** Respondent No. 1 failed to conduct the required smog
27 tests on the vehicle in accordance with the Bureau's specifications.

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1 **TWENTY-FIRST CAUSE FOR DISCIPLINE**

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

3 52. Respondent No. 1's station license is subject to disciplinary action
4 pursuant to Health & Safety Code section 44072.2, subdivision (d), in that on or about
5 July 26, 2007, it committed dishonest, fraudulent or deceitful acts whereby another is injured by
6 issuing electronic Certificate of Compliance No. MU025621 for the 1996 Ford Explorer without
7 performing a bona fide inspection of the emission control devices and systems on the vehicle,
8 thereby depriving the People of the State of California of the protection afforded by the Motor
9 Vehicle Inspection Program.

10 **TWENTY-SECOND CAUSE FOR DISCIPLINE**

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

12 53. Respondent Chhina has subjected his technician license to disciplinary
13 action pursuant to Health and Safety Code section 44072.2, subdivision (a), in that on or about
14 July 26, 2007, regarding the 1996 Ford Explorer, he violated the following sections of that Code:

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

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

20 c. **Section 44032:** Respondent Chhina failed to perform tests of the
21 emission control devices and systems on the vehicle in accordance with section 44012 of that
22 Code.

23 d. **Section 44059:** Respondent entered false information for electronic
24 Certificate of Compliance No. MU025621 by certifying that the vehicle had been inspected as
25 required when, in fact, it had not.

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1 **TWENTY-THIRD CAUSE FOR DISCIPLINE**

2 **(Failure to Comply with Regulations Pursuant**
3 **to the Motor Vehicle Inspection Program)**

4 54. Respondent Chhina has subjected his technician license to disciplinary
5 action pursuant to Health and Safety Code section 44072.2, subdivision (c), in that on or about
6 July 26, 2007, regarding the 1996 Ford Explorer, he violated the following sections of the
7 California Code of Regulations, title 16:

8 a. **Section 3340.24, subdivision (c):** Respondent Chhina falsely or
9 fraudulently issued electronic Certificate of Compliance No. MU025621 for the vehicle, in that
10 the vehicle could not pass the visual portion of the smog inspection because the vehicle's PCV
11 system was missing.

12 b. **Section 3340.30, subdivision (a):** Respondent Chhina failed to inspect
13 and test the vehicle in accordance with Health and Safety Code section 44012.

14 c. **Section 3340.41, subdivision (c):** Respondent Chhina entered false
15 information into the EIS unit by entering "Pass" for the visual portion of the smog test when, in
16 fact, the vehicle's PCV system was missing.

17 d. **Section 3340.42:** Respondent Chhina failed to conduct the required smog
18 tests on the vehicle in accordance with the Bureau's specifications.

19 **TWENTY-FOURTH CAUSE FOR DISCIPLINE**

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

21 55. Respondent Chhina has subjected his technician license to disciplinary
22 action pursuant to Health and Safety Code section 44072.2, subdivision (d), in that on or about
23 July 26, 2007, regarding the 1996 Ford Explorer, he committed acts involving dishonesty, fraud
24 or deceit whereby another was injured by issuing electronic Certificate of Compliance No.
25 MU025621 for that vehicle without performing a bona fide inspection of the emission control
26 devices and systems on the vehicle, thereby depriving the People of the State of California of the
27 protection afforded by the Motor Vehicle Inspection Program.

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1 **TWENTY-SEVENTH CAUSE FOR DISCIPLINE**

2 **(Fraud)**

3 59. Respondent No. 2's registration is subject to disciplinary action pursuant
4 to Code section 9884.7, subdivision (a)(4), in that on or about September 21, 2007, it committed
5 acts which constitute fraud by issuing electronic Certificate of Compliance No. MU744740 for
6 the 1989 Ford Ranger without performing a bona fide inspection of the emission control devices
7 and systems on the vehicle, thereby depriving the People of the State of California of the
8 protection afforded by the Motor Vehicle Inspection Program.

9 **TWENTY-EIGHTH CAUSE FOR DISCIPLINE**

10 **(Failure to Comply with Regulations)**

11 60. Respondent is subject to discipline under Code section 9884.7, subdivision
12 (a)(6), in that on or about September 21, 2007, Respondent failed to materially comply with
13 California Code of Regulations, title 16, section 3356, subdivision (a)(1), by failing to set forth
14 its business name as reflected on Bureau records.

15 **TWENTY-NINTH CAUSE FOR DISCIPLINE**

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

17 61. Respondent No. 2's station license is subject to disciplinary action
18 pursuant to Health & Safety Code section 44072.2, subdivision (a), in that on or about
19 September 21, 2007, regarding the 1989 Ford Ranger, it failed to comply with the following
20 sections of that Code:

21 a. **Section 44012, subdivision (a):** Respondent No. 2 failed to determine
22 that all emission control devices and systems required by law were installed and functioning
23 correctly in accordance with test procedures.

24 b. **Section 44012, subdivision (f):** Respondent No. 2 failed to perform
25 emission control tests on the vehicle in accordance with procedures prescribed by the department.

26 c. **Section 44015, subdivision (b):** Respondent No. 2 issued electronic
27 Certificate of Compliance No. MU744740 for the vehicle without properly testing and inspecting
28 the vehicle to determine if it was in compliance with Health & Safety Code section 44012.

1 d. Section 44059: Respondent No. 2 willfully made false entries for
2 electronic Certificate of Compliance No. MU744740 by certifying that the vehicle had been
3 inspected as required when, in fact, it had not.

4 **THIRTIETH CAUSE FOR DISCIPLINE**

5 **(Failure to Comply with Regulations Pursuant
6 to the Motor Vehicle Inspection Program)**

7 62. Respondent No. 2's station license is subject to disciplinary action
8 pursuant to Health & Safety Code section 44072.2, subdivision (c), in that on or about
9 September 21, 2007, regarding the 1989 Ford Ranger, it failed to comply with provisions of
10 California Code of Regulations, title 16, as follows:

11 a. Section 3340.24, subdivision (c): Respondent No. 2 falsely or
12 fraudulently issued electronic Certificate of Compliance No. MU744740 for the vehicle, in that
13 the vehicle could not pass the visual portion of the smog inspection because the vehicle's TAC
14 was missing.

15 b. Section 3340.35, subdivision (c): Respondent No. 2 issued electronic
16 Certificate of Compliance No. MU744740 for the vehicle even though the vehicle had not been
17 inspected in accordance with section 3340.42.

18 c. Section 3340.42: Respondent No. 2 failed to conduct the required smog
19 tests on the vehicle in accordance with the Bureau's specifications.

20 **THIRTY-FIRST CAUSE FOR DISCIPLINE**

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

22 63. Respondent No. 2's station license is subject to disciplinary action
23 pursuant to Health & Safety Code section 44072.2, subdivision (d), in that on or about
24 September 21, 2007, it committed dishonest, fraudulent or deceitful acts whereby another is
25 injured by issuing electronic Certificate of Compliance No. MU744740 for the 1989 Ford Ranger
26 without performing a bona fide inspection of the emission control devices and systems on the
27 vehicle, thereby depriving the People of the State of California of the protection afforded by the
28 Motor Vehicle Inspection Program.

1 b. Section 3340.30, subdivision (a): Respondent Harrison failed to inspect
2 and test the vehicle in accordance with Health and Safety Code section 44012.

3 c. Section 3340.41, subdivision (c): Respondent Harrison entered false
4 information into the EIS unit by entering "N/A" for the visual inspection of the TAC indicating
5 that the system was not applicable when, in fact, the TAC system is applicable but was missing
6 from the vehicle.

7 d. Section 3340.42: Respondent Harrison failed to conduct the required
8 smog tests on the vehicle in accordance with the Bureau's specifications.

9 **THIRTY-FOURTH CAUSE FOR DISCIPLINE**

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

11 66. Respondent Harrison has subjected his technician license to disciplinary
12 action pursuant to Health and Safety Code section 44072.2, subdivision (d), in that on or about
13 September 21, 2007, regarding the 1989 Ford Ranger, he committed acts involving dishonesty,
14 fraud or deceit whereby another was injured by issuing electronic Certificate of Compliance No.
15 MU744740 for that vehicle without performing a bona fide inspection of the emission control
16 devices and systems on the vehicle, thereby depriving the People of the State of California of the
17 protection afforded by the Motor Vehicle Inspection Program.

18 **UNDERCOVER OPERATION - SEPTEMBER 21, 2007**

19 67. On September 21, 2007, a Bureau undercover operator using the alias
20 Joseph Cook ("operator") drove a Bureau-documented 1998 Ford E-150, California License Plate
21 No. 5R77178, to Respondent No. 2's facility for a smog inspection. The vehicle could not pass a
22 smog inspection because the vehicle's positive crankcase ventilation ("PCV") system was
23 missing. Respondent Harrison performed the smog inspection and issued electronic Certificate
24 of Compliance No. MU744743, certifying that he had tested and inspected the 1998 Ford E-150
25 and that the vehicle was in compliance with applicable laws and regulations. In fact, the vehicle
26 could not have passed the visual portion of the smog inspection because the vehicle's PCV
27 system was missing.

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THIRTY-FIFTH CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

68. Respondent No. 2's registration is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(1), in that on or about September 21, 2007, it made or authorized statements which it knew or in the exercise of reasonable care it should have known to be untrue or misleading by issuing electronic Certificate of Compliance No. MU744743 for the 1998 Ford E-150, certifying that the vehicle was in compliance with applicable laws and regulations. In fact, the vehicle could not have passed the visual portion of the smog inspection because the vehicle's PCV system was missing.

THIRTY-SIXTH CAUSE FOR DISCIPLINE

(Fraud)

69. Respondent No. 2's registration is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(4), in that on or about September 21, 2007, it committed acts which constitute fraud by issuing electronic Certificate of Compliance No. MU744743 for the 1998 Ford E-150 without performing a bona fide inspection of the emission control devices and systems on the vehicle, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

THIRTY-SEVENTH CAUSE FOR DISCIPLINE

(Failure to Comply with Regulations)

70. Respondent is subject to discipline under Code section 9884.7, subdivision (a)(6), in that on or about September 21, 2007, Respondent failed to materially comply with California Code of Regulations, title 16, section 3356, subdivision (a)(1), by failing to set forth its business name as reflected on Bureau records.

THIRTY-EIGHTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

71. Respondent No. 2's station license is subject to disciplinary action pursuant to Health & Safety Code section 44072.2, subdivision (a), in that on or about

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1 September 21, 2007, regarding the 1998 Ford E-150, it failed to comply with the following
2 sections of that Code:

3 a. **Section 44012, subdivision (a):** Respondent No. 2 failed to determine
4 that all emission control devices and systems required by law were installed and functioning
5 correctly in accordance with test procedures.

6 b. **Section 44012, subdivision (f):** Respondent No. 2 failed to perform
7 emission control tests on the vehicle in accordance with procedures prescribed by the department.

8 c. **Section 44015, subdivision (b):** Respondent No. 2 issued electronic
9 Certificate of Compliance No. MU744743 for the vehicle without properly testing and inspecting
10 the vehicle to determine if it was in compliance with Health & Safety Code section 44012.

11 d. **Section 44059:** Respondent No. 2 willfully made false entries for
12 electronic Certificate of Compliance No. MU744743 by certifying that the vehicle had been
13 inspected as required when, in fact, it had not.

14 **THIRTY-NINTH CAUSE FOR DISCIPLINE**

15 **(Failure to Comply with Regulations Pursuant**
16 **to the Motor Vehicle Inspection Program)**

17 72. Respondent No. 2's station license is subject to disciplinary action
18 pursuant to Health & Safety Code section 44072.2, subdivision (c), in that on or about
19 September 21, 2007, regarding the 1998 Ford E-150, it failed to comply with provisions of
20 California Code of Regulations, title 16, as follows:

21 a. **Section 3340.24, subdivision (c):** Respondent No. 2 falsely or
22 fraudulently issued electronic Certificate of Compliance No. MU744743 for the vehicle, in that
23 the vehicle could not pass the visual portion of the smog inspection because the vehicle's PCV
24 system was missing.

25 b. **Section 3340.35, subdivision (c):** Respondent No. 2 issued electronic
26 Certificate of Compliance No. MU744743 for the vehicle even though the vehicle had not been
27 inspected in accordance with section 3340.42.

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1 c. **Section 3340.42:** Respondent No. 2 failed to conduct the required smog
2 tests on the vehicle in accordance with the Bureau's specifications.

3 **FORTIETH CAUSE FOR DISCIPLINE**

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

5 73. Respondent No. 2's station license is subject to disciplinary action
6 pursuant to Health & Safety Code section 44072.2, subdivision (d), in that on or about
7 September 21, 2007, it committed dishonest, fraudulent or deceitful acts whereby another is
8 injured by issuing electronic Certificate of Compliance No. MU744743 for the 1998 Ford E-150
9 without performing a bona fide inspection of the emission control devices and systems on the
10 vehicle, thereby depriving the People of the State of California of the protection afforded by the
11 Motor Vehicle Inspection Program.

12 **FORTY-FIRST CAUSE FOR DISCIPLINE**

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

14 74. Respondent Harrison has subjected his technician license to disciplinary
15 action pursuant to Health and Safety Code section 44072.2, subdivision (a), in that on or about
16 September 21, 2007, regarding the 1998 Ford E-150, he violated the following sections of that
17 Code:

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

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

23 c. **Section 44032:** Respondent Harrison failed to perform tests of the
24 emission control devices and systems on the vehicle in accordance with section 44012 of that
25 Code.

26 d. **Section 44059:** Respondent entered false information for electronic
27 Certificate of Compliance No. MU744743 by certifying that the vehicle had been inspected as
28 required when, in fact, it had not.

1 **FORTY-SIXTH CAUSE FOR DISCIPLINE**

2 **(Fraud)**

3 80. Respondent No. 3's registration is subject to disciplinary action pursuant
4 to Code section 9884.7, subdivision (a)(4), in that on or about October 24, 2007, it committed
5 acts which constitute fraud by issuing electronic Certificate of Compliance No. MW137423 for
6 the 1994 Toyota Camry without performing a bona fide inspection of the emission control
7 devices and systems on the vehicle, thereby depriving the People of the State of California of the
8 protection afforded by the Motor Vehicle Inspection Program.

9 **FORTY-SEVENTH CAUSE FOR DISCIPLINE**

10 **(Failure to Comply with Code)**

11 81. Respondent No. 3's registration is subject to disciplinary action pursuant to
12 Code section 9884.7, subdivision (a)(6), in that on or about October 24, 2007, it failed to comply
13 with Code section 9884.9, subdivision (a), by failing to provide the operator with a written
14 estimated price for parts and labor for a specific job.

15 **FORTY-EIGHTH CAUSE FOR DISCIPLINE**

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

17 82. Respondent No. 3's station license is subject to disciplinary action
18 pursuant to Health & Safety Code section 44072.2, subdivision (a), in that on or about
19 October 24, 2007, regarding the 1994 Toyota Camry, it failed to comply with the following
20 sections of that Code:

21 a. **Section 44012, subdivision (a):** Respondent No. 3 failed to determine
22 that all emission control devices and systems required by law were installed and functioning
23 correctly in accordance with test procedures.

24 b. **Section 44012, subdivision (f):** Respondent No. 3 failed to perform
25 emission control tests on the vehicle in accordance with procedures prescribed by the department.

26 c. **Section 44015, subdivision (b):** Respondent No. 3 issued electronic
27 Certificate of Compliance No. MW137423 for the vehicle without properly testing and

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1 inspecting the vehicle to determine if it was in compliance with Health & Safety Code section
2 44012.

3 d. **Section 44059:** Respondent No. 3 willfully made false entries for
4 electronic Certificate of Compliance No. MW137423 by certifying that the vehicle had been
5 inspected as required when, in fact, it had not.

6 **FORTY-NINTH CAUSE FOR DISCIPLINE**

7 **(Failure to Comply with Regulations Pursuant
8 to the Motor Vehicle Inspection Program)**

9 83. Respondent No. 3's station license is subject to disciplinary action
10 pursuant to Health & Safety Code section 44072.2, subdivision (c), in that on or about
11 October 24, 2007, regarding the 1994 Toyota Camry, it failed to comply with provisions of
12 California Code of Regulations, title 16, as follows:

13 a. **Section 3340.24, subdivision (c):** Respondent No. 3 falsely or
14 fraudulently issued electronic Certificate of Compliance No. MW137423 for the vehicle, in that
15 the vehicle could not pass the functional portion of the smog inspection because the vehicle's
16 ignition timing was adjusted beyond the manufacturer's specification.

17 b. **Section 3340.35, subdivision (c):** Respondent No. 3 issued electronic
18 Certificate of Compliance No. MW137423 for the vehicle even though the vehicle had not been
19 inspected in accordance with section 3340.42.

20 c. **Section 3340.42:** Respondent No. 3 failed to conduct the required smog
21 tests on the vehicle in accordance with the Bureau's specifications.

22 **FIFTIETH CAUSE FOR DISCIPLINE**

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

24 84. Respondent No. 3's station license is subject to disciplinary action
25 pursuant to Health & Safety Code section 44072.2, subdivision (d), in that on or about
26 October 24, 2007, it committed dishonest, fraudulent or deceitful acts whereby another is injured
27 by issuing electronic Certificate of Compliance No. MW137423 for the 1994 Toyota Camry
28 without performing a bona fide inspection of the emission control devices and systems on the

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

3 **FIFTY-FIRST CAUSE FOR DISCIPLINE**

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

5 85. Respondent Ordonez has subjected his technician license to disciplinary
6 action pursuant to Health and Safety Code section 44072.2, subdivision (a), in that on or about
7 October 24, 2007, regarding the 1994 Toyota Camry, he violated the following sections of that
8 Code:

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

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

14 c. **Section 44032:** Respondent Ordonez failed to perform tests of the
15 emission control devices and systems on the vehicle in accordance with section 44012 of that
16 Code.

17 d. **Section 44059:** Respondent willfully entered false information for
18 electronic Certificate of Compliance No. MW137423 by certifying that the vehicle had been
19 inspected as required when, in fact, it had not.

20 **FIFTY-SECOND CAUSE FOR DISCIPLINE**

21 **(Failure to Comply with Regulations Pursuant
22 to the Motor Vehicle Inspection Program)**

23 86. Respondent Ordonez has subjected his technician license to disciplinary
24 action pursuant to Health and Safety Code section 44072.2, subdivision (c), in that on or about
25 October 24, 2007, regarding the 1994 Toyota Camry, he violated the following sections of the
26 California Code of Regulations, title 16:

27 a. **Section 3340.24, subdivision (c):** Respondent Ordonez falsely or
28 fraudulently issued electronic Certificate of Compliance No. MW137423 for the vehicle, in that

1 the vehicle could not pass the functional portion of the smog inspection because the vehicle's
2 ignition timing was adjusted beyond the manufacturer's specification.

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

5 c. **Section 3340.41, subdivision (c):** Respondent Ordonez entered false
6 information into the EIS unit by entering "Pass" for the ignition timing portion of the smog test
7 when, in fact, the vehicle's ignition timing was adjusted beyond the manufacturer's specification.

8 d. **Section 3340.42:** Respondent Ordonez failed to conduct the required
9 smog tests on the vehicle in accordance with the Bureau's specifications.

10 **FIFTY-THIRD CAUSE FOR DISCIPLINE**

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

12 87. Respondent Ordonez has subjected his technician license to disciplinary
13 action pursuant to Health and Safety Code section 44072.2, subdivision (d), in that on or about
14 October 24, 2007, regarding the 1994 Toyota Camry, he committed acts involving dishonesty,
15 fraud or deceit whereby another was injured by issuing electronic Certificate of Compliance No.
16 MW137423 for that vehicle without performing a bona fide inspection of the emission control
17 devices and systems on the vehicle, thereby depriving the People of the State of California of the
18 protection afforded by the Motor Vehicle Inspection Program.

19 **UNDERCOVER OPERATION - OCTOBER 31, 2007**

20 88. On October 31, 2007, a Bureau undercover operator using the alias
21 Robert ("operator") drove a Bureau-documented 1992 Toyota, California License Plate No.
22 4S12688, to Respondent No. 3's facility for a smog inspection. The vehicle could not pass a
23 smog inspection because the vehicle's air suction ("AS") system was missing. The operator
24 filled out and signed a work order but was not provided with a copy of the document.
25 Respondent Ordonez performed the smog inspection and issued electronic Certificate of
26 Compliance No. MW137444, certifying that he had tested and inspected the 1992 Toyota and
27 that the vehicle was in compliance with applicable laws and regulations. In fact, the vehicle

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1 could not have passed the visual portion of the smog inspection because the vehicle's AS system
2 was missing.

3 **FIFTY-FOURTH CAUSE FOR DISCIPLINE**

4 **(Untrue or Misleading Statements)**

5 89. Respondent No. 3's registration is subject to disciplinary action pursuant
6 to Code section 9884.7, subdivision (a)(1), in that on or about October 31, 2007, it made or
7 authorized statements which it knew or in the exercise of reasonable care it should have known
8 to be untrue or misleading by issuing electronic Certificate of Compliance No. MW137444 for
9 the 1992 Toyota, certifying that the vehicle was in compliance with applicable laws and
10 regulations. In fact, the vehicle could not have passed the visual portion of the smog inspection
11 because the vehicle's AS system was missing.

12 **FIFTY-FIFTH CAUSE FOR DISCIPLINE**

13 **(Failure to Provide Copy of Document)**

14 90. Respondent No. 3's registration is subject to disciplinary action pursuant
15 to Code section 9884.7, subdivision (a)(3), in that on or about October 31, 2007, it failed to
16 provide the operator with a copy of the work order as soon as he signed the document.

17 **FIFTY-SIXTH CAUSE FOR DISCIPLINE**

18 **(Fraud)**

19 91. Respondent No. 3's registration is subject to disciplinary action pursuant
20 to Code section 9884.7, subdivision (a)(4), in that on or about October 31, 2007, it committed
21 acts which constitute fraud by issuing electronic Certificate of Compliance No. MW137444 for
22 the 1992 Toyota without performing a bona fide inspection of the emission control devices and
23 systems on the vehicle, thereby depriving the People of the State of California of the protection
24 afforded by the Motor Vehicle Inspection Program.

25 **FIFTY-SEVENTH CAUSE FOR DISCIPLINE**

26 **(Failure to Comply with Code)**

27 92. Respondent No. 3's registration is subject to disciplinary action pursuant to
28 Code section 9884.7, subdivision (a)(6), in that on or about October 31, 2007, it failed to comply

1 a. **Section 3340.24, subdivision (c):** Respondent No. 3 falsely or
2 fraudulently issued electronic Certificate of Compliance No. MW137444 for the vehicle, in that
3 the vehicle could not pass the visual portion of the smog inspection because the vehicle's AS
4 system was missing.

5 b. **Section 3340.35, subdivision (c):** Respondent No. 3 issued electronic
6 Certificate of Compliance No. MW137444 for the vehicle even though the vehicle had not been
7 inspected in accordance with section 3340.42.

8 c. **Section 3340.42:** Respondent No. 3 failed to conduct the required smog
9 tests on the vehicle in accordance with the Bureau's specifications.

10 **SIXTIETH CAUSE FOR DISCIPLINE**

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

12 95. Respondent No. 3's station license is subject to disciplinary action
13 pursuant to Health & Safety Code section 44072.2, subdivision (d), in that on or about
14 October 31, 2007, it committed dishonest, fraudulent or deceitful acts whereby another is injured
15 by issuing electronic Certificate of Compliance No. MW137444 for the 1992 Toyota without
16 performing a bona fide inspection of the emission control devices and systems on the vehicle,
17 thereby depriving the People of the State of California of the protection afforded by the Motor
18 Vehicle Inspection Program.

19 **SIXTY-FIRST CAUSE FOR DISCIPLINE**

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

21 96. Respondent Ordonez has subjected his technician license to disciplinary
22 action pursuant to Health and Safety Code section 44072.2, subdivision (a), in that on or about
23 October 31, 2007, regarding the 1992 Toyota, he violated the following sections of that Code:

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

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

1 c. **Section 44032:** Respondent Ordonez failed to perform tests of the
2 emission control devices and systems on the vehicle in accordance with section 44012 of that
3 Code.

4 d. **Section 44059:** Respondent Ordonez entered false information for
5 electronic Certificate of Compliance No. MW137444 by certifying that the vehicle had been
6 inspected as required when, in fact, it had not.

7 **SIXTY-SECOND CAUSE FOR DISCIPLINE**

8 **(Failure to Comply with Regulations Pursuant**
9 **to the Motor Vehicle Inspection Program)**

10 97. Respondent Ordonez has subjected his technician license to disciplinary
11 action pursuant to Health and Safety Code section 44072.2, subdivision (c), in that on or about
12 October 31, 2007, regarding the 1992 Toyota, he violated the following sections of the California
13 Code of Regulations, title 16:

14 a. **Section 3340.24, subdivision (c):** Respondent Ordonez falsely or
15 fraudulently issued electronic Certificate of Compliance No. MW137444 for the vehicle, in that
16 the vehicle could not pass the visual portion of the smog inspection because the vehicle's AS
17 system was missing.

18 b. **Section 3340.30, subdivision (a):** Respondent Ordonez failed to inspect
19 and test the vehicle in accordance with Health and Safety Code section 44012.

20 c. **Section 3340.41, subdivision (c):** Respondent Ordonez entered false
21 information into the EIS unit by entering "Pass" for the visual portion of the smog inspection
22 when, in fact, the vehicle could not pass the visual portion of the inspection because the vehicle's
23 AS system was missing.

24 d. **Section 3340.42:** Respondent Ordonez failed to conduct the required
25 smog tests on the vehicle in accordance with the Bureau's specifications.

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1 and regulations. In fact, the vehicle could not have passed the visual portion of the smog
2 inspection because the vehicle's PCV system was missing.

3 **SIXTY-FIFTH CAUSE FOR DISCIPLINE**

4 **(Failure to Provide Copy of Document)**

5 101. Respondent No. 3's registration is subject to disciplinary action pursuant
6 to Code section 9884.7, subdivision (a)(3), in that on or about November 5, 2007, it failed to
7 provide the operator with a copy of the work order as soon as he signed the document.

8 **SIXTY-SIXTH CAUSE FOR DISCIPLINE**

9 **(Fraud)**

10 102. Respondent No. 3's registration is subject to disciplinary action pursuant
11 to Code section 9884.7, subdivision (a)(4), in that on or about November 5, 2007, it committed
12 acts which constitute fraud by issuing electronic Certificate of Compliance No. MW279311 for
13 the 1995 Chevrolet Astro Van without performing a bona fide inspection of the emission control
14 devices and systems on the vehicle, thereby depriving the People of the State of California of the
15 protection afforded by the Motor Vehicle Inspection Program.

16 **SIXTY-SEVENTH CAUSE FOR DISCIPLINE**

17 **(Failure to Comply with Code)**

18 103. Respondent No. 3's registration is subject to disciplinary action pursuant to
19 Code section 9884.7, subdivision (a)(6), in that on or about November 5, 2007, it failed to
20 comply with Code section 9884.9, subdivision (a), by failing to provide the operator with a
21 written estimated price for parts and labor for a specific job.

22 **SIXTY-EIGHTH CAUSE FOR DISCIPLINE**

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

24 104. Respondent No. 3's station license is subject to disciplinary action
25 pursuant to Health & Safety Code section 44072.2, subdivision (a), in that on or about
26 November 5, 2007, regarding the 1995 Chevrolet Astro Van, it failed to comply with the
27 following sections of that Code:

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1 a. **Section 44012, subdivision (a):** Respondent No. 3 failed to determine
2 that all emission control devices and systems required by law were installed and functioning
3 correctly in accordance with test procedures.

4 b. **Section 44012, subdivision (f):** Respondent No. 3 failed to perform
5 emission control tests on the vehicle in accordance with procedures prescribed by the department.

6 c. **Section 44015, subdivision (b):** Respondent No. 3 issued electronic
7 Certificate of Compliance No. MW279311 for the vehicle without properly testing and
8 inspecting the vehicle to determine if it was in compliance with Health & Safety Code section
9 44012.

10 d. **Section 44059:** Respondent No. 3 willfully made false entries for
11 electronic Certificate of Compliance No. MW279311 by certifying that the vehicle had been
12 inspected as required when, in fact, it had not.

13 **SIXTY-NINTH CAUSE FOR DISCIPLINE**

14 **(Failure to Comply with Regulations Pursuant
15 to the Motor Vehicle Inspection Program)**

16 105. Respondent No. 3's station license is subject to disciplinary action
17 pursuant to Health & Safety Code section 44072.2, subdivision (c), in that on or about
18 November 5, 2007, regarding the 1995 Chevrolet Astro Van, it failed to comply with provisions
19 of California Code of Regulations, title 16, as follows:

20 a. **Section 3340.24, subdivision (c):** Respondent No. 3 falsely or
21 fraudulently issued electronic Certificate of Compliance No. MW279311 for the vehicle, in that
22 the vehicle could not pass the visual portion of the smog inspection because the vehicle's PCV
23 system was missing.

24 b. **Section 3340.35, subdivision (c):** Respondent No. 3 issued electronic
25 Certificate of Compliance No. MW279311 for the vehicle even though the vehicle had not been
26 inspected in accordance with section 3340.42.

27 c. **Section 3340.42:** Respondent No. 3 failed to conduct the required smog
28 tests on the vehicle in accordance with the Bureau's specifications.

1 **SEVENTIETH CAUSE FOR DISCIPLINE**

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

3 106. Respondent No. 3's station license is subject to disciplinary action
4 pursuant to Health & Safety Code section 44072.2, subdivision (d), in that on or about
5 November 5, 2007, it committed dishonest, fraudulent or deceitful acts whereby another is
6 injured by issuing electronic Certificate of Compliance No. MW279311 for the 1995 Chevrolet
7 Astro Van without performing a bona fide inspection of the emission control devices and systems
8 on the vehicle, thereby depriving the People of the State of California of the protection afforded
9 by the Motor Vehicle Inspection Program.

10 **SEVENTY-FIRST CAUSE FOR DISCIPLINE**

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

12 107. Respondent Ordonez has subjected his technician license to disciplinary
13 action pursuant to Health and Safety Code section 44072.2, subdivision (a), in that on or about
14 November 5, 2007, regarding the 1995 Chevrolet Astro Van, he violated the following sections
15 of that Code:

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

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

21 c. **Section 44032:** Respondent Ordonez failed to perform tests of the
22 emission control devices and systems on the vehicle in accordance with section 44012 of that
23 Code.

24 d. **Section 44059:** Respondent Ordonez willfully made false entries for
25 electronic Certificate of Compliance No. MW279311 by certifying that the vehicle had been
26 inspected as required when, in fact, it had not.

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1 **SEVENTY-SEVENTH CAUSE FOR DISCIPLINE**

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

3 114. Respondent No. 4's station license is subject to disciplinary action
4 pursuant to Health & Safety Code section 44072.2, subdivision (d), in that on or about
5 June 26, 2007, it committed dishonest, fraudulent or deceitful acts whereby another is injured,
6 thereby depriving the People of the State of California of the protection afforded by the Motor
7 Vehicle Inspection Program, as follows:

8 a. Respondent No. 4 created a VIR that was false and misleading, in that the
9 VIR provided that the vehicle passed the visual inspection when, in fact, the vehicle could not
10 have passed the visual inspection because the vehicle's AS system was missing.

11 b. Respondent No. 4 created a VIR that was false and misleading, in that the
12 VIR provided that the vehicle failed the functional inspection due to the vehicle's ignition timing
13 when, in fact, the vehicle's ignition timing was within the manufacturer's specifications.

14 **SEVENTY-EIGHTH CAUSE FOR DISCIPLINE**

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

16 115. Respondent Schaub has subjected his technician license to disciplinary
17 action pursuant to Health and Safety Code section 44072.2, subdivision (a), in that on or about
18 June 26, 2007, regarding the 1992 Toyota, he violated the following sections of that Code:

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

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

24 c. **Section 44032:** Respondent Schaub failed to perform tests of the
25 emission control devices and systems on the vehicle in accordance with section 44012 of that
26 Code.

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d. **Section 44059:**

i. Respondent Schaub willfully made false entries for the VIR by indicating the vehicle passed the visual inspection when, in fact, the vehicle could not have passed the visual inspection because the vehicle's AS system was missing.

ii. Respondent Schaub willfully made false entries for the VIR by indicating the vehicle failed the functional portion of the inspection due to the vehicle's ignition timing when, in fact, the vehicle's ignition timing was within the manufacturer's specifications.

SEVENTY-NINTH CAUSE FOR DISCIPLINE

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

116. Respondent Schaub has subjected his technician license to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (c), in that on or about June 26, 2007, regarding the 1992 Toyota, he violated the following sections of the California Code of Regulations, title 16:

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

b. **Section 3340.41, subdivision (c):**
i. Respondent Schaub entered false information into the EIS unit by entering "Pass" for the visual portion of the smog test when, in fact, the vehicle's AS system was missing.

ii. Respondent Schaub entered false information into the EIS unit by entering "Fail" for the function portion of the smog test due to the vehicle's ignition timing when, in fact, the vehicle's ignition timing was within the manufacturer's specifications.

c. **Section 3340.42:** Respondent Schaub failed to conduct the required smog tests on the vehicle in accordance with the Bureau's specifications.

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1 **EIGHTIETH CAUSE FOR DISCIPLINE**

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

3 117. Respondent Schaub has subjected his technician license to disciplinary
4 action pursuant to Health and Safety Code section 44072.2, subdivision (d), in that on or about
5 June 26, 2007, regarding the 1992 Toyota, he committed acts involving dishonesty, fraud or
6 deceit whereby another was injured, thereby depriving the People of the State of California of the
7 protection afforded by the Motor Vehicle Inspection Program, as follows:

8 a. Respondent Schaub created a VIR that was false and misleading, in that
9 the VIR provided that the vehicle passed the visual inspection when, in fact, the vehicle could not
10 have passed the visual inspection because the vehicle's AS system was missing.

11 b. Respondent Schaub created a VIR that was false and misleading, in that
12 the VIR provided that the vehicle failed the functional inspection due to the vehicle's ignition
13 timing when, in fact, the vehicle's ignition timing was within the manufacturer's specifications.

14 **UNDERCOVER OPERATION - JUNE 27, 2007**

15 118. On June 27, 2007, a Bureau undercover operator using the alias
16 Bob Strom ("operator") drove a Bureau-documented 1995 Chevrolet Astro Van, California
17 License Plate No. 3NUD802, to Respondent No. 4's facility for a smog inspection. The vehicle
18 could not pass a smog inspection because the vehicle's PCV system was missing. Respondent
19 Topcu performed the smog inspection and issued electronic Certificate of Compliance No.
20 MS578192, certifying that he had tested and inspected the 1995 Chevrolet Astro Van and that the
21 vehicle was in compliance with applicable laws and regulations. In fact, the vehicle could not
22 have passed the visual portion of the smog inspection because the vehicle's PCV system was
23 missing.

24 **EIGHTY-FIRST CAUSE FOR DISCIPLINE**

25 **(Untrue or Misleading Statements)**

26 119. Respondent No. 4's registration is subject to disciplinary action pursuant
27 to Code section 9884.7, subdivision (a)(1), in that on or about June 27, 2007, it made or
28 authorized statements which it knew or in the exercise of reasonable care it should have known

1 to be untrue or misleading by issuing electronic Certificate of Compliance No. MS578192 for the
2 1995 Chevrolet Astro Van, certifying that the vehicle was in compliance with applicable laws
3 and regulations. In fact, the vehicle could not have passed the visual portion of the smog
4 inspection because the vehicle's PCV system was missing.

5 **EIGHTY-SECOND CAUSE FOR DISCIPLINE**

6 **(Fraud)**

7 120. Respondent No. 4's registration is subject to disciplinary action pursuant
8 to Code section 9884.7, subdivision (a)(4), in that on or about June 27, 2007, it committed acts
9 which constitute fraud by issuing electronic Certificate of Compliance No. MS578192 for the
10 1995 Chevrolet Astro Van without performing a bona fide inspection of the emission control
11 devices and systems on the vehicle, thereby depriving the People of the State of California of the
12 protection afforded by the Motor Vehicle Inspection Program.

13 **EIGHTY-THIRD CAUSE FOR DISCIPLINE**

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

15 121. Respondent No. 4's station license is subject to disciplinary action
16 pursuant to Health & Safety Code section 44072.2, subdivision (a), in that on or about
17 June 27, 2007, regarding the 1995 Chevrolet Astro Van, it failed to comply with the following
18 sections of that Code:

19 a. **Section 44012, subdivision (a):** Respondent No. 4 failed to determine
20 that all emission control devices and systems required by law were installed and functioning
21 correctly in accordance with test procedures.

22 b. **Section 44012, subdivision (f):** Respondent No. 4 failed to perform
23 emission control tests on the vehicle in accordance with procedures prescribed by the department.

24 c. **Section 44015, subdivision (b):** Respondent No. 4 issued electronic
25 Certificate of Compliance No. MS578192 for the vehicle without properly testing and inspecting
26 the vehicle to determine if it was in compliance with Health & Safety Code section 44012.

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1 d. Section 44059: Respondent No. 4 willfully made false entries for
2 electronic Certificate of Compliance No. MS578192 by certifying that the vehicle had been
3 inspected as required when, in fact, it had not.

4 **EIGHTY-FOURTH CAUSE FOR DISCIPLINE**

5 **(Failure to Comply with Regulations Pursuant
6 to the Motor Vehicle Inspection Program)**

7 122. Respondent No. 4's station license is subject to disciplinary action
8 pursuant to Health & Safety Code section 44072.2, subdivision (c), in that on or about
9 June 27, 2007, regarding the 1995 Chevrolet Astro Van, it failed to comply with provisions of
10 California Code of Regulations, title 16, as follows:

11 a. Section 3340.24, subdivision (c): Respondent No. 4 falsely or
12 fraudulently issued electronic Certificate of Compliance No. MS578192 for the vehicle, in that
13 the vehicle could not pass the visual portion of the smog inspection because the vehicle's PCV
14 system was missing.

15 b. Section 3340.35, subdivision (c): Respondent No. 4 issued electronic
16 Certificate of Compliance No. MS578192 for the vehicle even though the vehicle had not been
17 inspected in accordance with section 3340.42.

18 c. Section 3340.42: Respondent No. 4 failed to conduct the required smog
19 tests on the vehicle in accordance with the Bureau's specifications.

20 **EIGHTY-FIFTH CAUSE FOR DISCIPLINE**

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

22 123. Respondent No. 4's station license is subject to disciplinary action
23 pursuant to Health & Safety Code section 44072.2, subdivision (d), in that on or about
24 June 27, 2007, it committed dishonest, fraudulent or deceitful acts whereby another is injured by
25 issuing electronic Certificate of Compliance No. MS578192 for the 1995 Chevrolet Astro Van
26 without performing a bona fide inspection of the emission control devices and systems on the
27 vehicle, thereby depriving the People of the State of California of the protection afforded by the
28 Motor Vehicle Inspection Program.

1 b. Section 3340.30, subdivision (a): Respondent Topcu failed to inspect
2 and test the vehicle in accordance with Health and Safety Code section 44012.

3 c. Section 3340.41, subdivision (c): Respondent Topcu entered false
4 information into the EIS unit by entering "Pass" for the PCV system when, in fact, the vehicle's
5 PCV system was missing.

6 d. Section 3340.42: Respondent Topcu failed to conduct the required smog
7 tests on the vehicle in accordance with the Bureau's specifications.

8 **EIGHTY-EIGHTH CAUSE FOR DISCIPLINE**

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

10 126. Respondent Topcu has subjected his technician license to disciplinary
11 action pursuant to Health and Safety Code section 44072.2, subdivision (d), in that on or about
12 June 27, 2007, regarding the 1995 Chevrolet Astro Van, he committed acts involving dishonesty,
13 fraud or deceit whereby another was injured by issuing electronic Certificate of Compliance No.
14 MS578192 for that vehicle without performing a bona fide inspection of the emission control
15 devices and systems on the vehicle, thereby depriving the People of the State of California of the
16 protection afforded by the Motor Vehicle Inspection Program.

17 **UNDERCOVER OPERATION - JULY 26, 2007**

18 127. On July 26, 2007, a Bureau undercover operator using the alias
19 Bob Strom ("operator") drove a Bureau-documented 1996 Ford Explorer, California License
20 Plate No. 3PZE600, to Respondent No. 4's facility for a smog inspection. The vehicle could not
21 pass a smog inspection because the vehicle's PCV system was missing. Respondent Phelps
22 performed the smog inspection and issued electronic Certificate of Compliance No. MS960291,
23 certifying that he had tested and inspected the 1996 Ford Explorer and that the vehicle was in
24 compliance with applicable laws and regulations. In fact, the vehicle could not have passed the
25 visual portion of the smog inspection because the vehicle's PCV system was missing.

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1 **EIGHTY-NINTH CAUSE FOR DISCIPLINE**

2 **(Untrue or Misleading Statements)**

3 128. Respondent No. 4's registration is subject to disciplinary action pursuant
4 to Code section 9884.7, subdivision (a)(1), in that on or about July 26, 2007, it made or
5 authorized statements which it knew or in the exercise of reasonable care it should have known
6 to be untrue or misleading by issuing electronic Certificate of Compliance No. MS960291 for the
7 1996 Ford Explorer, certifying that the vehicle was in compliance with applicable laws and
8 regulations. In fact, the vehicle could not have passed the visual portion of the smog inspection
9 because the vehicle's PCV system was missing.

10 **NINETIETH CAUSE FOR DISCIPLINE**

11 **(Fraud)**

12 129. Respondent No. 4's registration is subject to disciplinary action pursuant
13 to Code section 9884.7, subdivision (a)(4), in that on or about July 26, 2007, it committed acts
14 which constitute fraud by issuing electronic Certificate of Compliance No. MS960291 for the
15 1996 Ford Explorer without performing a bona fide inspection of the emission control devices
16 and systems on the vehicle, thereby depriving the People of the State of California of the
17 protection afforded by the Motor Vehicle Inspection Program.

18 **NINETY-FIRST CAUSE FOR DISCIPLINE**

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

20 130. Respondent No. 4's station license is subject to disciplinary action
21 pursuant to Health & Safety Code section 44072.2, subdivision (a), in that on or about
22 July 26, 2007, regarding the 1996 Ford Explorer, it failed to comply with the following sections
23 of that Code:

- 24 a. **Section 44012, subdivision (a):** Respondent No. 4 failed to determine
25 that all emission control devices and systems required by law were installed and functioning
26 correctly in accordance with test procedures.
- 27 b. **Section 44012, subdivision (f):** Respondent No. 4 failed to perform
28 emission control tests on the vehicle in accordance with procedures prescribed by the department.

1 c. **Section 44015, subdivision (b)**: Respondent No. 4 issued electronic
2 Certificate of Compliance No. MS960291 for the vehicle without properly testing and inspecting
3 the vehicle to determine if it was in compliance with Health & Safety Code section 44012.

4 d. **Section 44059**: Respondent No. 4 willfully made false entries for
5 electronic Certificate of Compliance No. MS960291 by certifying that the vehicle had been
6 inspected as required when, in fact, it had not.

7 **NINETY-SECOND CAUSE FOR DISCIPLINE**

8 **(Failure to Comply with Regulations Pursuant
9 to the Motor Vehicle Inspection Program)**

10 131. Respondent No. 4's station license is subject to disciplinary action
11 pursuant to Health & Safety Code section 44072.2, subdivision (c), in that on or about
12 July 26, 2007, regarding the 1996 Ford Explorer, it failed to comply with provisions of California
13 Code of Regulations, title 16, as follows:

14 a. **Section 3340.24, subdivision (c)**: Respondent No. 4 falsely or
15 fraudulently issued electronic Certificate of Compliance No. MS960291 for the vehicle, in that
16 the vehicle could not pass the visual portion of the smog inspection because the vehicle's PCV
17 system was missing.

18 b. **Section 3340.35, subdivision (c)**: Respondent No. 4 issued electronic
19 Certificate of Compliance No. MS960291 for the vehicle even though the vehicle had not been
20 inspected in accordance with section 3340.42.

21 c. **Section 3340.42**: Respondent No. 4 failed to conduct the required smog
22 tests on the vehicle in accordance with the Bureau's specifications.

23 **NINETY-THIRD CAUSE FOR DISCIPLINE**

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

25 132. Respondent No. 4's station license is subject to disciplinary action
26 pursuant to Health & Safety Code section 44072.2, subdivision (d), in that on or about
27 July 26, 2007, it committed dishonest, fraudulent or deceitful acts whereby another is injured by
28 issuing electronic Certificate of Compliance No. MS960291 for the 1996 Ford Explorer without

1 performing a bona fide inspection of the emission control devices and systems on the vehicle,
2 thereby depriving the People of the State of California of the protection afforded by the Motor
3 Vehicle Inspection Program.

4 **NINETY-FOURTH CAUSE FOR DISCIPLINE**

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

6 133. Respondent Phelps has subjected his technician license to disciplinary
7 action pursuant to Health and Safety Code section 44072.2, subdivision (a), in that on or about
8 July 26, 2007, regarding the 1996 Ford Explorer, he violated the following sections of that Code:

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

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

14 c. **Section 44032:** Respondent Phelps failed to perform tests of the emission
15 control devices and systems on the vehicle in accordance with section 44012 of that Code.

16 d. **Section 44059:** Respondent Phelps willfully made false entries for
17 electronic Certificate of Compliance No. MS960291 by certifying that the vehicle had been
18 inspected as required when, in fact, it had not.

19 **NINETY-FIFTH CAUSE FOR DISCIPLINE**

20 **(Failure to Comply with Regulations Pursuant
21 to the Motor Vehicle Inspection Program)**

22 134. Respondent Phelps has subjected his technician license to disciplinary
23 action pursuant to Health and Safety Code section 44072.2, subdivision (c), in that on or about
24 July 26, 2007, regarding the 1996 Ford Explorer, he violated the following sections of the
25 California Code of Regulations, title 16:

26 a. **Section 3340.24, subdivision (c):** Respondent Phelps falsely or
27 fraudulently issued electronic Certificate of Compliance No. MS960291 for the vehicle, in that

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1 the vehicle could not pass the visual portion of the smog inspection because the vehicle's PCV
2 system was missing.

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

5 c. **Section 3340.41, subdivision (c):** Respondent Phelps entered false
6 information into the EIS unit by entering "Pass" for the PCV system when, in fact, the vehicle's
7 PCV system was missing.

8 d. **Section 3340.42:** Respondent Phelps failed to conduct the required smog
9 tests on the vehicle in accordance with the Bureau's specifications.

10 **NINETY-SIXTH CAUSE FOR DISCIPLINE**

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

12 135. Respondent Phelps has subjected his technician license to disciplinary
13 action pursuant to Health and Safety Code section 44072.2, subdivision (d), in that on or about
14 July 26, 2007, regarding the 1996 Ford Explorer, he committed acts involving dishonesty, fraud
15 or deceit whereby another was injured by issuing electronic Certificate of Compliance No.
16 MS960291 for that vehicle without performing a bona fide inspection of the emission control
17 devices and systems on the vehicle, thereby depriving the People of the State of California of the
18 protection afforded by the Motor Vehicle Inspection Program.

19 **RESPONDENT NO. 5**

20 **UNDERCOVER OPERATION - JULY 27, 2007**

21 136. On July 27, 2007, a Bureau undercover operator using the alias
22 Bob Strom ("operator") drove a Bureau-documented 1996 Ford Explorer, California License
23 Plate No. 3PZE600, to Respondent No. 5's facility for a smog inspection. The vehicle could not
24 pass a smog inspection because the vehicle's PCV system was missing. Respondent Topcu
25 performed the smog inspection and issued electronic Certificate of Compliance No. MU037023,
26 certifying that he had tested and inspected the 1996 Ford Explorer and that the vehicle was in
27 compliance with applicable laws and regulations. In fact, the vehicle could not have passed the
28 visual portion of the smog inspection because the vehicle's PCV system was missing.

1 **NINETY-SEVENTH CAUSE FOR DISCIPLINE**

2 **(Untrue or Misleading Statements)**

3 137. Respondent No. 5's registration is subject to disciplinary action pursuant
4 to Code section 9884.7, subdivision (a)(1), in that on or about July 27, 2007, it made or
5 authorized statements which it knew or in the exercise of reasonable care it should have known
6 to be untrue or misleading by issuing electronic Certificate of Compliance No. MU037023 for
7 the 1996 Ford Explorer, certifying that the vehicle was in compliance with applicable laws and
8 regulations. In fact, the vehicle could not have passed the visual portion of the smog inspection
9 because the vehicle's PCV system was missing.

10 **NINETY-EIGHTH CAUSE FOR DISCIPLINE**

11 **(Fraud)**

12 138. Respondent No. 5's registration is subject to disciplinary action pursuant
13 to Code section 9884.7, subdivision (a)(4), in that on or about July 27, 2007, it committed acts
14 which constitute fraud by issuing electronic Certificate of Compliance No. MU037023 for the
15 1996 Ford Explorer without performing a bona fide inspection of the emission control devices
16 and systems on the vehicle, thereby depriving the People of the State of California of the
17 protection afforded by the Motor Vehicle Inspection Program.

18 **NINETY-NINTH CAUSE FOR DISCIPLINE**

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

20 139. Respondent No. 5's station license is subject to disciplinary action
21 pursuant to Health & Safety Code section 44072.2, subdivision (a), in that on or about
22 July 27, 2007, regarding the 1996 Ford Explorer, it failed to comply with the following sections
23 of that Code:

24 a. **Section 44012, subdivision (a):** Respondent No. 5 failed to determine
25 that all emission control devices and systems required by law were installed and functioning
26 correctly in accordance with test procedures.

27 b. **Section 44012, subdivision (f):** Respondent No. 5 failed to perform
28 emission control tests on the vehicle in accordance with procedures prescribed by the department.

1 c. **Section 44015, subdivision (b)**: Respondent No. 5 issued electronic
2 Certificate of Compliance No. MU037023 for the vehicle without properly testing and inspecting
3 the vehicle to determine if it was in compliance with Health & Safety Code section 44012.

4 d. **Section 44059**: Respondent No. 5 willfully made false entries for
5 electronic Certificate of Compliance No. MU037023 by certifying that the vehicle had been
6 inspected as required when, in fact, it had not.

7 **ONE HUNDREDTH CAUSE FOR DISCIPLINE**

8 **(Failure to Comply with Regulations Pursuant
9 to the Motor Vehicle Inspection Program)**

10 140. Respondent No. 5's station license is subject to disciplinary action
11 pursuant to Health & Safety Code section 44072.2, subdivision (c), in that on or about
12 July 27, 2007, regarding the 1996 Ford Explorer, it failed to comply with provisions of California
13 Code of Regulations, title 16, as follows:

14 a. **Section 3340.24, subdivision (c)**: Respondent No. 5 falsely or
15 fraudulently issued electronic Certificate of Compliance No. MU037023 for the vehicle, in that
16 the vehicle could not pass the visual portion of the smog inspection because the vehicle's PCV
17 system was missing.

18 b. **Section 3340.35, subdivision (c)**: Respondent No. 5 issued electronic
19 Certificate of Compliance No. MU037023 for the vehicle even though the vehicle had not been
20 inspected in accordance with section 3340.42.

21 c. **Section 3340.42**: Respondent No. 5 failed to conduct the required smog
22 tests on the vehicle in accordance with the Bureau's specifications.

23 **ONE HUNDRED FIRST CAUSE FOR DISCIPLINE**

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

25 141. Respondent No. 5's station license is subject to disciplinary action
26 pursuant to Health & Safety Code section 44072.2, subdivision (d), in that on or about
27 July 27, 2007, it committed dishonest, fraudulent or deceitful acts whereby another is injured by
28 issuing electronic Certificate of Compliance No. MU037023 for the 1996 Ford Explorer without

1 performing a bona fide inspection of the emission control devices and systems on the vehicle,
2 thereby depriving the People of the State of California of the protection afforded by the Motor
3 Vehicle Inspection Program.

4 **ONE HUNDRED SECOND CAUSE FOR DISCIPLINE**

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

6 142. Respondent Topcu has subjected his technician license to disciplinary
7 action pursuant to Health and Safety Code section 44072.2, subdivision (a), in that on or about
8 July 27, 2007, regarding the 1996 Ford Explorer, he violated the following sections of that Code:

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

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

14 c. **Section 44032:** Respondent Topcu failed to perform tests of the emission
15 control devices and systems on the vehicle in accordance with section 44012 of that Code.

16 d. **Section 44059:** Respondent Topcu willfully entered false information for
17 electronic Certificate of Compliance No. MU037023 by certifying that the vehicle had been
18 inspected as required when, in fact, it had not.

19 **ONE HUNDRED THIRD CAUSE FOR DISCIPLINE**

20 **(Failure to Comply with Regulations Pursuant
21 to the Motor Vehicle Inspection Program)**

22 143. Respondent Topcu has subjected his technician license to disciplinary
23 action pursuant to Health and Safety Code section 44072.2, subdivision (c), in that on or about
24 July 27, 2007, regarding the 1996 Ford Explorer, he violated the following sections of the
25 California Code of Regulations, title 16:

26 a. **Section 3340.24, subdivision (c):** Respondent Topcu falsely or
27 fraudulently issued electronic Certificate of Compliance No. MU037023 for the vehicle, in that

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1 the vehicle could not pass the visual portion of the smog inspection because the vehicle's PCV
2 system was missing.

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

5 c. **Section 3340.41, subdivision (c):** Respondent Topcu entered false
6 information into the EIS unit by entering "Pass" for the PCV system when, in fact, the vehicle's
7 PCV system was missing.

8 d. **Section 3340.42:** Respondent Topcu failed to conduct the required smog
9 tests on the vehicle in accordance with the Bureau's specifications.

10 **ONE HUNDRED FOURTH CAUSE FOR DISCIPLINE**

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

12 144. Respondent Topcu has subjected his technician license to disciplinary
13 action pursuant to Health and Safety Code section 44072.2, subdivision (d), in that on or about
14 July 27, 2007, regarding the 1996 Ford Explorer, he committed acts involving dishonesty, fraud
15 or deceit whereby another was injured by issuing electronic Certificate of Compliance No.
16 MU037023 for that vehicle without performing a bona fide inspection of the emission control
17 devices and systems on the vehicle, thereby depriving the People of the State of California of the
18 protection afforded by the Motor Vehicle Inspection Program.

19 **UNDERCOVER OPERATION - AUGUST 2, 2007**

20 145. On August 2, 2007, a Bureau undercover operator using the alias
21 Joe R. Wong ("operator") drove a Bureau-documented 1992 Oldsmobile Bravada, California
22 License Plate No. 3WGW652, to Respondent No. 5's facility for a smog inspection. The vehicle
23 could not pass a smog inspection because of the vehicle's non-functional exhaust gas
24 recirculation ("EGR") system. Respondent Topcu performed the smog inspection and issued
25 electronic Certificate of Compliance No. MU098289, certifying that he had tested and inspected
26 the 1992 Oldsmobile Bravada and that the vehicle was in compliance with applicable laws and
27 regulations. In fact, the vehicle could not have passed the functional portion of the smog
28 inspection because of the vehicle's non-functional EGR system.

1 c. **Section 44015, subdivision (b)**: Respondent No. 5 issued electronic
2 Certificate of Compliance No. MU098289 for the vehicle without properly testing and inspecting
3 the vehicle to determine if it was in compliance with Health & Safety Code section 44012.

4 d. **Section 44059**: Respondent No. 5 willfully made false entries for
5 electronic Certificate of Compliance No. MU098289 by certifying that the vehicle had been
6 inspected as required when, in fact, it had not.

7 **ONE HUNDRED EIGHTH CAUSE FOR DISCIPLINE**

8 **(Failure to Comply with Regulations Pursuant
9 to the Motor Vehicle Inspection Program)**

10 149. Respondent No. 5's station license is subject to disciplinary action
11 pursuant to Health & Safety Code section 44072.2, subdivision (c), in that on or about
12 August 2, 2007, regarding the 1992 Oldsmobile Bravada, it failed to comply with provisions of
13 California Code of Regulations, title 16, as follows:

14 a. **Section 3340.24, subdivision (c)**: Respondent No. 5 falsely or
15 fraudulently issued electronic Certificate of Compliance No. MU098289 for the vehicle, in that
16 the vehicle could not pass the functional portion of the smog inspection because of the vehicle's
17 non-functional EGR system.

18 b. **Section 3340.35, subdivision (c)**: Respondent No. 5 issued electronic
19 Certificate of Compliance No. MU098289 for the vehicle even though the vehicle had not been
20 inspected in accordance with section 3340.42.

21 c. **Section 3340.42**: Respondent No. 5 failed to conduct the required smog
22 tests on the vehicle in accordance with the Bureau's specifications.

23 **ONE HUNDRED NINTH CAUSE FOR DISCIPLINE**

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

25 150. Respondent No. 5's station license is subject to disciplinary action
26 pursuant to Health & Safety Code section 44072.2, subdivision (d), in that on or about
27 August 2, 2007, it committed dishonest, fraudulent or deceitful acts whereby another is injured
28 by issuing electronic Certificate of Compliance No. MU098289 for the 1992 Oldsmobile

1 Bravada without performing a bona fide inspection of the emission control devices and systems
2 on the vehicle, thereby depriving the People of the State of California of the protection afforded
3 by the Motor Vehicle Inspection Program.

4 **ONE HUNDRED TENTH CAUSE FOR DISCIPLINE**

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

6 151. Respondent Topcu has subjected his technician license to disciplinary
7 action pursuant to Health and Safety Code section 44072.2, subdivision (a), in that on or about
8 August 2, 2007, regarding the 1992 Oldsmobile Bravada, he violated the following sections of
9 that Code:

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

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

15 c. **Section 44032:** Respondent Topcu failed to perform tests of the emission
16 control devices and systems on the vehicle in accordance with section 44012 of that Code.

17 d. **Section 44059:** Respondent Topcu willfully entered false information for
18 electronic Certificate of Compliance No. MU098289 by certifying that the vehicle had been
19 inspected as required when, in fact, it had not.

20 **ONE HUNDRED ELEVENTH CAUSE FOR DISCIPLINE**

21 **(Failure to Comply with Regulations Pursuant
22 to the Motor Vehicle Inspection Program)**

23 152. Respondent Topcu has subjected his technician license to disciplinary
24 action pursuant to Health and Safety Code section 44072.2, subdivision (c), in that on or about
25 August 2, 2007, regarding the 1992 Oldsmobile Bravada, he violated the following sections of
26 the California Code of Regulations, title 16:

27 a. **Section 3340.24, subdivision (c):** Respondent Topcu falsely or
28 fraudulently issued electronic Certificate of Compliance No. MU098289 for the vehicle, in that

1 the vehicle could not pass the visual portion of the smog inspection because of the vehicle's non-
2 functional EGR system.

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

5 c. **Section 3340.41, subdivision (c):** Respondent Topcu entered false
6 information into the EIS unit by entering "Pass" for the functional inspection of the EGR system
7 when, in fact, that system was non-functional.

8 d. **Section 3340.42:** Respondent Topcu failed to conduct the required smog
9 tests on the vehicle in accordance with the Bureau's specifications.

10 **ONE HUNDRED TWELFTH CAUSE FOR DISCIPLINE**

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

12 153. Respondent Topcu has subjected his technician license to disciplinary
13 action pursuant to Health and Safety Code section 44072.2, subdivision (d), in that on or about
14 August 2, 2007, regarding the 1992 Oldsmobile Bravada, he committed acts involving
15 dishonesty, fraud or deceit whereby another was injured by issuing electronic Certificate of
16 Compliance No. MU098289 for that vehicle without performing a bona fide inspection of the
17 emission control devices and systems on the vehicle, thereby depriving the People of the State of
18 California of the protection afforded by the Motor Vehicle Inspection Program.

19 **UNDERCOVER OPERATION - AUGUST 13, 2007**

20 154. On August 13, 2007, a Bureau undercover operator using the alias
21 Joe Wong ("operator") drove a Bureau-documented 1994 Toyota Camry, California License
22 Plate No. 3FLD508, to Respondent No. 5's facility for a smog inspection. The vehicle could not
23 pass a smog inspection because the vehicle's ignition timing was adjusted beyond the
24 manufacturer's specifications. Respondent Topcu performed the smog inspection and issued
25 electronic Certificate of Compliance No. VJ442115, certifying that he had tested and inspected
26 the 1994 Toyota Camry and that the vehicle was in compliance with applicable laws and
27 regulations. In fact, the vehicle could not have passed the functional portion of the smog

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1 inspection because the vehicle's ignition timing was adjusted beyond the manufacturer's
2 specifications.

3 **ONE HUNDRED THIRTEENTH CAUSE FOR DISCIPLINE**

4 **(Untrue or Misleading Statements)**

5 155. Respondent No. 5's registration is subject to disciplinary action pursuant
6 to Code section 9884.7, subdivision (a)(1), in that on or about August 13, 2007, it made or
7 authorized statements which it knew or in the exercise of reasonable care it should have known
8 to be untrue or misleading by issuing electronic Certificate of Compliance No. VJ442115 for the
9 1994 Toyota Camry, certifying that the vehicle was in compliance with applicable laws and
10 regulations. In fact, the vehicle could not have passed the functional portion of the smog
11 inspection because the vehicle's ignition timing was adjusted beyond the manufacturer's
12 specifications.

13 **ONE HUNDRED FOURTEENTH CAUSE FOR DISCIPLINE**

14 **(Fraud)**

15 156. Respondent No. 5's registration is subject to disciplinary action pursuant
16 to Code section 9884.7, subdivision (a)(4), in that on or about August 13, 2007, it committed acts
17 which constitute fraud by issuing electronic Certificate of Compliance No. VJ442115 for the
18 1994 Toyota Camry without performing a bona fide inspection of the emission control devices
19 and systems on the vehicle, thereby depriving the People of the State of California of the
20 protection afforded by the Motor Vehicle Inspection Program.

21 **ONE HUNDRED FIFTEENTH CAUSE FOR DISCIPLINE**

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

23 157. Respondent No. 5's station license is subject to disciplinary action
24 pursuant to Health & Safety Code section 44072.2, subdivision (a), in that on or about
25 August 13, 2007, regarding the 1994 Toyota Camry, it failed to comply with the following
26 sections of that Code:

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1 a. **Section 44012, subdivision (a):** Respondent No. 5 failed to determine
2 that all emission control devices and systems required by law were installed and functioning
3 correctly in accordance with test procedures.

4 b. **Section 44012, subdivision (f):** Respondent No. 5 failed to perform
5 emission control tests on the vehicle in accordance with procedures prescribed by the department.

6 c. **Section 44015, subdivision (b):** Respondent No. 5 issued electronic
7 Certificate of Compliance No. VJ442115 for the vehicle without properly testing and inspecting
8 the vehicle to determine if it was in compliance with Health & Safety Code section 44012.

9 d. **Section 44059:** Respondent No. 5 willfully made false entries for
10 electronic Certificate of Compliance No. VJ442115 by certifying that the vehicle had been
11 inspected as required when, in fact, it had not.

12 **ONE HUNDRED SIXTEENTH CAUSE FOR DISCIPLINE**

13 **(Failure to Comply with Regulations Pursuant
14 to the Motor Vehicle Inspection Program)**

15 158. Respondent No. 5's station license is subject to disciplinary action
16 pursuant to Health & Safety Code section 44072.2, subdivision (c), in that on or about
17 August 13, 2007, regarding the 1994 Toyota Camry, it failed to comply with provisions of
18 California Code of Regulations, title 16, as follows:

19 a. **Section 3340.24, subdivision (c):** Respondent No. 5 falsely or
20 fraudulently issued electronic Certificate of Compliance No. VJ442115 for the vehicle, in that the
21 vehicle could not pass the functional portion of the smog inspection because the vehicle's
22 ignition timing was adjusted beyond the manufacturer's specifications.

23 b. **Section 3340.35, subdivision (c):** Respondent No. 5 issued electronic
24 Certificate of Compliance No. VJ442115 for the vehicle even though the vehicle had not been
25 inspected in accordance with section 3340.42.

26 c. **Section 3340.42:** Respondent No. 5 failed to conduct the required smog
27 tests on the vehicle in accordance with the Bureau's specifications.

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1 **PRIOR DISCIPLINE**

2 **RESPONDENT NO. 1**

3 163. Pursuant to the Decision and Order, a stipulated settlement in Statement of
4 Issues Case No. 79/04-00 S, which became effective January 30, 2006, the Bureau issued
5 Respondent's Automotive Repair Dealer Registration No. ARD 241700 on February 3, 2006, and
6 Smog Check Test Only Station License No. TC 241700 on February 16, 2006. Automotive
7 Repair Dealer Registration No. ARD 241700 and Smog Check Test Only Station License No.
8 TC 241700 were immediately revoked; however, revocations were stayed, and the licenses were
9 placed on probation with terms and conditions. Pursuant to the settlement, Respondent agreed to
10 be bound by all of the terms and conditions set forth in the Decision and Order in Accusation No.
11 79/04-00, a related case brought against Respondent No. 5, as more particularly set forth in
12 paragraph 167, below. The probation term ended December 6, 2007.

13 **RESPONDENT NO. 2**

14 164. Pursuant to the Decision and Order, a stipulated settlement in Statement of
15 Issues Case No. 79/04-00 S, which became effective June 30, 2006, the Bureau issued
16 Respondent's Automotive Repair Dealer Registration No. ARD 244942 on July 11, 2006, and
17 Smog Check Test Only Station License No. TC 244942 on November 20, 2006. Automotive
18 Repair Dealer Registration No. ARD 244942 and Smog Check Test Only Station License No.
19 TC 244942 were immediately revoked; however, revocations were stayed, and the licenses were
20 placed on probation with terms and conditions. Pursuant to the settlement, Respondent agreed to
21 be bound by all of the terms and conditions set forth in the Decision and Order in Accusation
22 No. 79/04-00, a related case brought against Respondent No. 5, as more particularly set forth in
23 paragraph 167, below. The probation term ended December 6, 2007.

24 **RESPONDENT NO. 3**

25 165. Pursuant to the Decision and Order, a stipulated settlement in Statement of
26 Issues Case No. 79/04-00 S, which became effective February 8, 2007, the Bureau issued
27 Respondent's Automotive Repair Dealer Registration No. ARD 248804 on February 14, 2007,
28 and Smog Check Test Only Station License No. TC 248804 on March 2, 2007. Automotive

1 Repair Dealer Registration No. ARD 248804 and Smog Check Test Only Station License No.
2 TC 248804 were immediately revoked; however, revocations were stayed, and the licenses were
3 placed on probation with terms and conditions. Pursuant to the settlement, Respondent agreed to
4 be bound by all of the terms and conditions set forth in the Decision and Order in Accusation No.
5 79/04-00, a related case brought against Respondent No. 5, as more particularly set forth in
6 paragraph 167, below. The probation term ended December 6, 2007.

7 **RESPONDENT NO. 4**

8 166. Pursuant to the Decision and Order, a stipulated settlement in Statement of
9 Issues Case No. 79/04-00 S, which became effective February 2, 2005, the Bureau issued
10 Respondent's Automotive Repair Dealer Registration No. ARD 236306 on February 9, 2005, and
11 Smog Check Test Only Station License No. TC 236306 on February 14, 2005. Automotive
12 Repair Dealer Registration No. ARD 236306 and Smog Check Test Only Station License No.
13 TC 236306 were immediately revoked; however, revocations were stayed, and the licenses were
14 placed on probation with terms and conditions. Pursuant to the settlement, Respondent agreed to
15 be bound by all of the terms and conditions set forth in the Decision and Order in Accusation No.
16 79/04-00, a related case brought against Respondent No. 5, as more particularly set forth in
17 paragraph 167, below. The probation term ended December 6, 2007.

18 **RESPONDENT NO. 5**

19 167. Effective December 6, 2004, pursuant to the Decision and Order in
20 Accusation Case No. 79/04-00, Respondent's Automotive Repair Dealer Registration No. ARD
21 221700 and Smog Check Test Only Station License No. TC 221700 were revoked; however,
22 revocation was stayed, and the licenses were placed on probation with terms and conditions.
23 Further, Smog Check Test Only Station License No. TC 221700 was suspended for thirty (30)
24 days. The probation term ended December 6, 2007.

25 **OTHER MATTERS**

26 168. Under Code section 9884.7, subdivision (c), the director may invalidate
27 temporarily or permanently or refuse to validate, the registrations for all places of business
28 operated in this state by Chevrem Corporation doing business as Clear Blue Test Only Smog

1 Station including, but not limited to Clear Blue Test Only Smog Station #3; Clear Blue Test Only
2 Station 2; Test Only Smog Station II; and, G I C Smog Station, upon a finding that it has, or is,
3 engaged in a course of repeated and willful violations of the laws and regulations pertaining to an
4 automotive repair dealer.

5 169. Under Health and Safety Code section 44072.8, if Smog Check Test Only
6 Station License Number TC 241700, issued to Chevrem Corporation doing business as Clear
7 Blue Test Only Smog Station, is revoked or suspended, any additional license issued under this
8 chapter in the name of said licensee including, but not limited to, TC 244942, issued to Chevrem
9 Corporation, doing business as Clear Blue Test Only Smog Station 2; TC 248804, issued to
10 Chevrem Corporation, doing business as Clear Blue Test Only Smog Station 3; TC 236306,
11 issued to Chevrem Corporation, doing business as Test Only Smog Station II; and TC 221700,
12 issued to Chevrem Corporation, doing business as G I C Smog Station, may be likewise revoked
13 or suspended by the director.

14 170. Under Health and Safety Code section 44072.8, if Advanced Emission
15 Specialist Technician License Number EA 152180, issued to Harpreet Singh Chhina, is revoked
16 or suspended, any additional license issued under this chapter in the name of said licensee may
17 be likewise revoked or suspended by the director.

18 171. Under Health and Safety Code section 44072.8, if Advanced Emission
19 Specialist Technician License Number EA 151176, issued to Christopher Bryan Harrison, is
20 revoked or suspended, any additional license issued under this chapter in the name of said
21 licensee may be likewise revoked or suspended by the director.

22 172. Under Health and Safety Code section 44072.8, if Advanced Emission
23 Specialist Technician License Number EA 144440, issued to Winchester Sibuma Ordonez, is
24 revoked or suspended, any additional license issued under this chapter in the name of said
25 licensee may be likewise revoked or suspended by the director.

26 173. Under Health and Safety Code section 44072.8, if Advanced Emission
27 Specialist Technician License Number EA 152893, issued to Bryon Leonard Schaub, is revoked

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1 or suspended, any additional license issued under this chapter in the name of said licensee may
2 be likewise revoked or suspended by the director.

3 174. Under Health and Safety Code section 44072.8, if Advanced Emission
4 Specialist Technician License Number EA 147911, issued to Nusret B. Topcu, is revoked or
5 suspended, any additional license issued under this chapter in the name of said licensee may be
6 likewise revoked or suspended by the director.

7 175. Under Health and Safety Code section 44072.8, if Advanced Emission
8 Specialist Technician License Number EA 151026, issued to Matthew Jared Phelps, is revoked
9 or suspended, any additional license issued under this chapter in the name of said licensee may
10 be likewise revoked or suspended by the director.

11 **PRAYER**

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

14 1. Revoking or suspending Automotive Repair Dealer Registration Number
15 ARD 241700, issued to Chevrem Corporation, doing business as Clear Blue Test Only Smog
16 Station;

17 2. Revoking or suspending Automotive Repair Dealer Registration Number
18 ARD 244942, issued to Chevrem Corporation, doing business as Clear Blue Test Only Smog
19 Station 2;

20 3. Revoking or suspending Automotive Repair Dealer Registration Number
21 ARD 248804, issued to Chevrem Corporation, doing business as Clear Blue Test Only Smog
22 Station 3;

23 4. Revoking or suspending Automotive Repair Dealer Registration Number
24 ARD 236306, issued to Chevrem Corporation, doing business as Test Only Smog Station II;

25 5. Revoking or suspending Automotive Repair Dealer Registration Number
26 ARD 221700, issued to Chevrem Corporation, doing business as G I C Smog Station;

27 6. Temporarily or permanently invalidating any other automotive repair
28 dealer registration issued to Chevrem Corporation;

- 1 7. Revoking or suspending Smog Check, Test Only Station License Number
2 TC 241700, issued to Chevrem Corporation, doing business as Clear Blue Test Only Smog
3 Station;
- 4 8. Revoking or suspending Smog Check, Test Only Station License Number
5 TC 244942, issued to Chevrem Corporation, doing business as Clear Blue Test Only Smog
6 Station 2;
- 7 9. Revoking or suspending Smog Check, Test Only Station License Number
8 TC 248804, issued to Chevrem Corporation, doing business as Clear Blue Test Only Smog
9 Station 3;
- 10 10. Revoking or suspending Smog Check, Test Only Station License Number
11 TC 236306, issued to Chevrem Corporation, doing business as Test Only Smog Station II;
- 12 11. Revoking or suspending Smog Check, Test Only Station License Number
13 TC 221700, issued to Chevrem Corporation, doing business as G I C Smog Station;
- 14 12. Revoking or suspending any additional license issued under Chapter 5 of
15 the Health and Safety Code in the name of Chevrem Corporation;
- 16 13. Revoking or suspending Advanced Emission Specialist Technician
17 License Number EA 152180, issued to Harpreet Singh Chhina;
- 18 14. Revoking or suspending any additional license issued under Chapter 5 of
19 the Health and Safety Code in the name of Harpreet Singh Chhina;
- 20 15. Revoking or suspending Advanced Emission Specialist Technician
21 License Number EA 151176, issued to Christopher Bryan Harrison;
- 22 16. Revoking or suspending any additional license issued under Chapter 5 of
23 the Health and Safety Code in the name of Christopher Bryan Harrison;
- 24 17. Revoking or suspending Advanced Emission Specialist Technician
25 License Number EA 144440, issued to Winchester Sibuma Ordonez;
- 26 18. Revoking or suspending any additional license issued under Chapter 5 of
27 the Health and Safety Code in the name of Winchester Sibuma Ordonez;

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1 19. Revoking or suspending Advanced Emission Specialist Technician
2 License Number EA 152893, issued to Bryon Leonard Schaub;

3 20. Revoking or suspending any additional license issued under Chapter 5 of
4 the Health and Safety Code in the name of Bryon Leonard Schaub;

5 21. Revoking or suspending Advanced Emission Specialist Technician
6 License Number EA 147911, issued to Nusret B. Topcu;

7 22. Revoking or suspending any additional license issued under Chapter 5 of
8 the Health and Safety Code in the name of Nusret B. Topcu;

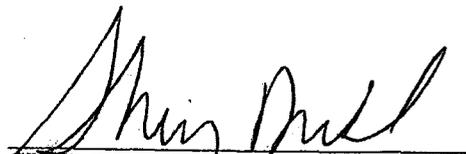
9 23. Revoking or suspending Advanced Emission Specialist Technician
10 License Number EA 151026, issued to Matthew Jared Phelps;

11 24. Revoking or suspending any additional license issued under Chapter 5 of
12 the Health and Safety Code in the name of Matthew Jared Phelps;

13 25. Ordering Chevrem Corporation, Harpreet Singh Chhina, Christopher
14 Bryan Harrison, Winchester Sibuma Ordonez, Bryon Leonard Schaub, Nusret B. Topcu, and
15 Matthew Jared Phelps to pay the Bureau of Automotive Repair the reasonable costs of the
16 investigation and enforcement of this case, pursuant to Code section 125.3; and,

17 26. Taking such other and further action as deemed necessary and proper.

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19 DATED: 9-15-08

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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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