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

12 In the Matter of the Accusation Against:

Case No. 79/11-23

13 **INNO SMOG**  
5505 Stevenson Blvd.  
14 Fremont, California 94538  
**MARIO B. ESDRELON, OWNER**  
Automotive Repair Dealer Registration  
15 No. ARD 247287  
Smog Check Test Only Station License  
16 No. TC 247287

**ACCUSATION**

SMOG CHECK

17 **MARIO BLANCO ESDRELON**  
18 1396 Lafayette Street  
Santa Clara, CA 95050  
19 **Advanced Emission Specialist Technician**  
License No. EA 151994

20 Respondent.

21  
22  
23 Complainant alleges:

24 **PARTIES**

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

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1 This violation, or action by the director, shall not affect in any manner the right of the  
2 automotive repair dealer to operate his or her other places of business.

3 (c) Notwithstanding subdivision (b), the director may suspend, revoke, or  
4 place on probation the registration for all places of business operated in this state by  
5 an automotive repair dealer upon a finding that the automotive repair dealer has, or is,  
6 engaged in a course of repeated and willful violations of this chapter, or regulations  
7 adopted pursuant to it."

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

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

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

19 9. Section 44072.2 of the Health and Safety Code states, in pertinent part:

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

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

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

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

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

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

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

5 **COST RECOVERY**

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

10 **UNDERCOVER OPERATION – NOVEMBER 9, 2009**

11 13. On or about November 9, 2009, a Bureau undercover operator ("operator") drove a  
12 Bureau-documented 1989 Ford F-Super Duty to Respondent's facility and requested a smog  
13 inspection. The vehicle could not pass the functional portion of a smog inspection because the  
14 vehicle's exhaust gas recirculation (EGR) system was non-functional. The operator filled out and  
15 signed a work order; however, the operator was not provided with a copy of the document.  
16 Faramarz Aflatooni, a licensed technician, performed the smog inspection and issued electronic  
17 Certificate of Compliance No. NO603021 for that vehicle even though the vehicle could not have  
18 passed the functional portion of the smog inspection. The operator paid \$98 for the smog  
19 inspection and received a copy of Invoice No. 014203 and the Vehicle Inspection Report  
20 ("VIR").

21 **FIRST CAUSE FOR DISCIPLINE**

22 **(Misleading Statements)**

23 14. Respondent has subjected his registration to discipline under Code section 9884.7,  
24 subdivision (a)(1), in that on or about November 9, 2009, he made statements which he knew or  
25 which by exercise of reasonable care he should have known were untrue or misleading when he  
26 issued electronic Certificate of Compliance No. NO603021 for the 1989 Ford F-Super Duty,  
27 certifying that the vehicle was in compliance with applicable laws and regulations when, in fact,  
28 the vehicle's EGR system was non-functional.



1 FOURTH CAUSE FOR DISCIPLINE

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

3 17. Respondent has subjected his station license to discipline under Health and Safety  
4 Code section 44072.2, subdivision (c), in that on or about November 9, 2009, regarding the 1989  
5 Ford F-Super Duty, he violated sections of California Code of Regulations, title 16, as follows:

6 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued  
7 electronic Certificate of Compliance No. NO603021 without performing a bona fide inspection of  
8 the emission control devices and systems on that vehicle as required by Health and Safety Code  
9 section 44012.

10 b. **Section 3340.35, subdivision (c):** Respondent issued electronic Certificate of  
11 Compliance No. NO603021 even though that vehicle had not been inspected in accordance with  
12 section 3340.42 of that Code.

13 c. **Section 3340.42:** Respondent failed to conduct the required smog tests and  
14 inspections on that vehicle in accordance with the Bureau's specifications.

15 FIFTH CAUSE FOR DISCIPLINE

16 (Dishonesty, Fraud or Deceit)

17 18. Respondent subjected his station license to discipline under Health and Safety Code  
18 section 44072.2, subdivision (d), in that on or about November 9, 2009, regarding the 1989 Ford  
19 F-Super Duty, he committed acts involving dishonesty, fraud or deceit whereby another was  
20 injured by issuing electronic Certificate of Compliance No. NO603021 for that vehicle without  
21 performing a bona fide inspection of the emission control devices and system on the vehicle,  
22 thereby depriving the People of the State of California of the protection afforded by the Motor  
23 Vehicle Inspection Program.

24 PRIOR CITATIONS

25 19. To determine the degree of penalty, if any, to be imposed upon Respondent,  
26 Complainant alleges as follows:

27 a. On July 30, 2008, the Bureau issued Citation No. C09-0111 to Respondent against his  
28 registration and station licenses for violations of Health and Safety Code section 44012,

1 subdivision (f) (failure to perform a visual/functional check of emission control devices) and  
2 California Code of Regulations, title 16, ("Regulation"), section 3340.35, subdivision (c) (issuing  
3 a certificate of compliance to a vehicle improperly tested). Respondent issued a certificate of  
4 compliance to a Bureau vehicle with a missing air suction system reed valve assembly. The  
5 Bureau assessed a civil penalty of \$500. Respondent complied with this citation on September 3,  
6 2008.

7 b. On November 18, 2008, the Bureau issued Citation No. C09-0603 to Respondent  
8 against his registration and station licenses for violations of Health and Safety Code section  
9 44012, subdivision (f) (failure to perform a visual/functional check of emission control devices)  
10 and Regulation, section 3340.35, subdivision (c) (issuing a certificate of compliance to a vehicle  
11 improperly tested). Respondent issued a certificate of compliance to a Bureau vehicle with a  
12 missing air injection pump with its related components. The Bureau assessed a civil penalty of  
13 \$1,000. Respondent complied with this citation on January 9, 2009.

14 c. On March 5, 2009, the Bureau issued Citation No. C09-1046 to Respondent against  
15 his registration and station licenses for violations of Health and Safety Code section 44012,  
16 subdivision (f) (failure to perform a visual/functional check of emission control devices) and  
17 Regulation, section 3340.35, subdivision (c) (issuing a certificate of compliance to a vehicle  
18 improperly tested). Respondent issued a certificate of compliance to a Bureau vehicle with the  
19 ignition timing adjusted beyond the manufacturer's specifications. The Bureau assessed a civil  
20 penalty of \$2,000. Respondent appealed this citation on April 15, 2009. Respondent complied  
21 with this citation on October 19, 2009.

22 d. On or about July 30, 2008, the Bureau issued Citation No. M09-0112 against  
23 Respondent's technician license for violations of Health & Safety Code section 44032, (failure to  
24 perform a visual/functional check of emission control devices according to procedures prescribed  
25 by the department), and Regulation 3340.30, subdivision (a) (issuing a certificate of compliance  
26 to a vehicle that was improperly tested), for issuing a certificate of compliance to a Bureau  
27 undercover vehicle with a missing air suction system reed valve assembly. The Bureau directed  
28

1 Respondent to complete an 8-hour training course. Respondent complied with this citation on  
2 September 10, 2008.

3 e. On or about November 18, 2008, the Bureau issued Citation No. M09-0604 against  
4 Respondent's technician license for violations of Health & Safety Code section 44032, (failure to  
5 perform a visual/functional check of emission control devices according to procedures prescribed  
6 by the department), and Regulation 3340.30, subdivision (a) (issuing a certificate of compliance  
7 to a vehicle that was improperly tested), for issuing a certificate of compliance to a Bureau  
8 undercover vehicle with a missing air injection pump and its related components. The Bureau  
9 directed Respondent to complete a 16-hour training course. Respondent complied with this  
10 citation on January 29, 2009.

11 f. On or about March 5, 2009, the Bureau issued Citation No. M09-1047 against  
12 Respondent's technician license for violations of Health & Safety Code section 44032, (failure to  
13 perform a visual/functional check of emission control devices according to procedures prescribed  
14 by the department), and Regulation 3340.30, subdivision (a) (issuing a certificate of compliance  
15 to a vehicle that was improperly tested), for issuing a certificate of compliance to a Bureau  
16 undercover vehicle with the ignition timing adjusted beyond the manufacturer's specifications.  
17 The Bureau directed Respondent to complete a clean air car course. Respondent appealed this  
18 citation on April 15, 2009. Respondent complied with this citation on January 14, 2010.

19 **OTHER MATTERS**

20 20. Pursuant to Code section 9884.7, subdivision (c), the Director may refuse to validate,  
21 or may invalidate temporarily or permanently, the registrations for all places of business operated  
22 in this state by Mario B. Esdrelon doing business as Inno Smog upon a finding that he has, or is,  
23 engaged in a course of repeated and willful violations of the laws and regulations pertaining to an  
24 automotive repair dealer.

25 21. Pursuant to Health & Safety Code section 44072.8, if Smog Check Test Only Station  
26 License Number TC 247287, issued to Mario B. Esdrelon doing business as Inno Smog, is  
27 revoked or suspended, any additional license issued under this chapter in the name of said  
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1 licensee, including but not limited to Advanced Emission Specialist Technician License Number  
2 EA 151994, may be likewise revoked or suspended by the director.

3 PRAYER

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

6 1. Revoking, suspending or placing on probation Automotive Repair Dealer Registration  
7 Number ARD 247287, issued to Mario B. Esdrelon doing business as Inno Smog;

8 2. Revoking, suspending, or placing on probation any other automotive repair dealer  
9 registration issued in the name of Mario B. Esdrelon;

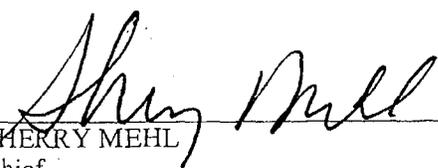
10 3. Revoking or suspending Smog Check Test Only Station Number TC 247287, issued  
11 to Mario B. Esdrelon doing business as Inno Smog;

12 4. Revoking or suspending any additional license issued under Chapter 5 of the Health  
13 and Safety Code in the name of Mario B. Esdrelon, including but not limited to Advanced  
14 Emission Specialist Technician License Number EA 151994;

15 5. Ordering Mario B. Esdrelon to pay the Bureau of Automotive Repair the reasonable  
16 costs of the investigation and enforcement of this case, pursuant to Business and Professions  
17 Code section 125.3; and,

18 6. Taking such other and further action as deemed necessary and proper.

19  
20  
21 DATED: 9/27/10

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

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