

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

In the Matter of the Accusation Against:

**CALIFORNIA FINEST OIL,**  
**dba NORTH PARK 76,**  
**RAAD Y. ATTISHA, PRESIDENT**  
3154 El Cajon Boulevard  
San Diego, CA 92104

Case No. 79/11-49

Automotive Repair Dealer Registration No.  
ARD 228130  
Smog Check Station License No.  
RC 228130  
Brake Inspection Station License No.  
BS 228130  
Lamp Inspection Station License No.  
LS 228130

**JOSE MANUEL SALAZAR**  
2063 Crystal Clear Drive  
Spring Valley, CA 91978

Advanced Emission Specialist Technician  
License No. EA 030584

Respondents.

**DECISION**

The attached Stipulated Settlement and Disciplinary Order with Jose Manuel Salazar 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 Jose Manuel Salazar, Advanced Emission Specialist Technician License No. EA 030584.

This Decision shall become effective 12/18/12.

DATED: 001 3 1 2012

  
\_\_\_\_\_  
DOREATHEA JOHNSON  
Deputy Director, Legal Affairs  
Department of Consumer Affairs

1 KAMALA D. HARRIS  
Attorney General of California  
2 LINDA K. SCHNEIDER  
Supervising Deputy Attorney General  
3 RITA M. LANE  
Deputy Attorney General  
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*Attorneys for Complainant*

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

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16 **RAAD Y. ATTISHA, PRESIDENT**  
17 **3154 El Cajon Boulevard**  
18 **San Diego, CA 92104**

**STIPULATED SETTLEMENT AND**  
**DISCIPLINARY ORDER WITH JOSE**  
**MANUEL SALAZAR ONLY**

19 **Automotive Repair Dealer Registration No.**  
20 **ARD 228130**  
21 **Smog Check Station License No. RC 228130**

22 **And**

23 **JOSE MANUEL SALAZAR**  
24 **2063 Crystal Clear Drive**  
25 **Spring Valley, CA 91978**

26 **Advanced Emission Specialist Technician**  
27 **License No. EA030584**

28 Respondents.

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

///



1 documents; the right to reconsideration and court review of an adverse decision; and all other  
2 rights accorded by the California Administrative Procedure Act and other applicable laws.

3 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and  
4 every right set forth above.

5 CULPABILITY

6 9. Respondent admits the truth of each and every charge and allegation in Accusation  
7 No. 79/11-49.

8 10. Respondent agrees that his Advanced Emission Specialist Technician License is  
9 subject to discipline and he agrees to be bound by the Director's probationary terms as set forth in  
10 the Disciplinary Order below.

11 RESERVATION

12 11. The admissions made by Respondent herein are only for the purposes of this  
13 proceeding, or any other proceedings in which the Director of Consumer Affairs, Bureau of  
14 Automotive Repair, or other professional licensing agency is involved, and shall not be  
15 admissible in any other criminal or civil proceeding.

16 CONTINGENCY

17 12. This stipulation shall be subject to approval by the Director of Consumer Affairs or  
18 his designee. Respondent understands and agrees that counsel for Complainant and the staff of  
19 the Bureau of Automotive Repair may communicate directly with the Director and staff of the  
20 Department of Consumer Affairs regarding this stipulation and settlement, without notice to or  
21 participation by Respondent or his counsel. By signing the stipulation, Respondent understands  
22 and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the  
23 time the Director considers and acts upon it. If the Director fails to adopt this stipulation as the  
24 Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or  
25 effect, except for this paragraph, it shall be inadmissible in any legal action between the parties,  
26 and the Director shall not be disqualified from further action by having considered this matter.

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1 in any other business required to be registered pursuant to Section 9884.6 of the Business and  
2 Professions Code.

3       5.    **Random Inspections.** Provide Bureau representatives unrestricted access to inspect  
4 all vehicles (including parts) undergoing repairs, up to and including the point of completion.

5       6.    **Jurisdiction.** If an accusation is filed against Respondent during the term of  
6 probation, the Director of Consumer Affairs shall have continuing jurisdiction over this matter  
7 until the final decision on the accusation, and the period of probation shall be extended until such  
8 decision.

9       7.    **Violation of Probation.** Should the Director of Consumer Affairs determine that  
10 Respondent has failed to comply with the terms and conditions of probation, the Department may,  
11 after giving notice and opportunity to be heard revoke the Advanced Emission Specialist  
12 Technician License issued to Respondent Jose Manuel Salazar.

13       8.    **Continuing Education Courses.** During the period of probation, Respondent shall  
14 attend and successfully complete a Bureau Certified Licensed Inspector Training Course (Level  
15 2), applicable to the class of license held by Respondent. Said course shall be completed and  
16 proof of completion submitted to the Bureau within 180 days of the effective date of this decision  
17 and order. If proof of completion of the course is not furnished to the Bureau within the 180-day  
18 period, Respondent's license shall be immediately suspended until such proof is received.

19       9.    **Cost Recovery.** Payment to the Bureau of \$9,712.64 in cost recovery shall be  
20 payable in forty-seven (47) monthly payments of \$202, with a forty-eighth (48) payment being in  
21 the amount of \$218.64. The final payment shall be received no later than 12 months before  
22 probation terminates. Failure to complete payment of cost recovery within this time frame shall  
23 constitute a violation of probation which may subject Respondent's Advanced Emission  
24 Specialist Technician License to outright revocation; however, the Director or the Director's  
25 Bureau of Automotive Repair designee may elect to continue probation until such time as  
26 reimbursement of the entire cost recovery amount has been made to the Bureau.

27 ///

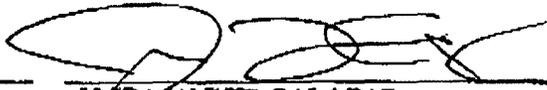
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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Michael Levin. I understand the stipulation and the effect it will have on my Advanced Emission Specialist Technician License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Director of Consumer Affairs.

DATED: 9/6/12

  
\_\_\_\_\_  
JOSE MANUEL SALAZAR  
Respondent

I have read and fully discussed with Respondent Jose Manuel Salazar the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 9/6/12

  
\_\_\_\_\_  
MICHAEL B. LEVIN  
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Director of Consumer Affairs.

Dated: 9-6-12

Respectfully submitted,

KAMALA D. HARRIS  
Attorney General of California  
LINDA K. SCHNEIDER  
Supervising Deputy Attorney General

  
\_\_\_\_\_  
RITA M. LANE  
Deputy Attorney General  
Attorneys for Complainant

SD2010701020

**Exhibit A**

**Accusation No. 79/11-49**

1 EDMUND G. BROWN JR.  
Attorney General of California  
2 ALFREDO TERRAZAS  
Senior Assistant Attorney General  
3 JAMES M. LEDAKIS  
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*Attorneys for Complainant*

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16 **Automotive Repair Dealer Reg. No. ARD 228130**  
**Smog Check Station License No. RC 228130**  
17  
18 **and**  
19 **JOSE MANUEL SALAZAR**  
**2063 Crystal Clear Drive**  
20 **Spring Valley, CA 91978**  
**Advanced Emission Specialist Technician**  
21 **License No. EA 030584**  
22 Respondents.

79/11-49  
Case No.

**ACCUSATION**  
**(Smog Check)**

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                   **California Finest Oil dba North Park 76**

2           2.     On or about June 27, 2003, the Director of Consumer Affairs ("Director") issued  
3 Automotive Repair Dealer Registration Number ARD 228130 (hereinafter "registration") to  
4 California Finest Oil ("Respondent California Finest Oil"), doing business as North Park 76, with  
5 Raad Y. Attisha as president. Respondent's registration was in full force and effect at all times  
6 relevant to the charges brought herein and will expire on June 30, 2011, unless renewed.

7           3.     On or about September 15, 2003, the Director issued Smog Check Station License  
8 Number RC 228130 to Respondent. Respondent's smog check station license was in full force  
9 and effect at all times relevant to the charges brought herein and will expire on June 30, 2011,  
10 unless renewed.

11                   **Jose Manuel Salazar**

12           4.     In or about 1996, the Director issued Advanced Emission Specialist Technician  
13 License Number EA 030584 (hereinafter "technician license") to Jose Manuel Salazar  
14 ("Respondent Salazar" or "Salazar"). Respondent's technician license was in full force and effect  
15 at all times relevant to the charges brought herein and will expire on May 31, 2012, unless  
16 renewed.

17                                           **JURISDICTION**

18           5.     Business and Professions Code ("Bus. & Prof. Code") section 9884.7 provides that  
19 the Director may revoke an automotive repair dealer registration.

20           6.     Bus. & Prof. Code section 9884.13 provides, in pertinent part, that the expiration of a  
21 valid registration shall not deprive the Director of jurisdiction to proceed with a disciplinary  
22 proceeding against an automotive repair dealer or to render a decision temporarily or permanently  
23 invalidating (suspending or revoking) a registration.

24           7.     Health and Safety Code ("Health & Saf. Code") section 44002 provides, in pertinent  
25 part, that the Director has all the powers and authority granted under the Automotive Repair Act  
26 for enforcing the Motor Vehicle Inspection Program.

27           8.     Health & Saf. Code section 44072.6 provides, in pertinent part, that the expiration or  
28 suspension of a license by operation of law, or by order or decision of the Director of Consumer

1 Affairs, or a court of law, or the voluntary surrender of the license shall not deprive the Director  
2 of jurisdiction to proceed with disciplinary action.

3 **STATUTORY PROVISIONS**

4 9. Bus. & Prof. Code section 9884.7 states, in pertinent part:

5 (a) The director, where the automotive repair dealer cannot show there  
6 was a bona fide error, may deny, suspend, revoke, or place on probation the  
7 registration of an automotive repair dealer for any of the following acts or omissions  
8 related to the conduct of the business of the automotive repair dealer, which are done  
9 by the automotive repair dealer or any automotive technician, employee, partner,  
10 officer, or member of the automotive repair dealer.

11 (1) Making or authorizing in any manner or by any means whatever any  
12 statement written or oral which is untrue or misleading, and which is known, or which  
13 by the exercise of reasonable care should be known, to be untrue or misleading.

14 . . . .

15 (3) Failing or refusing to give to a customer a copy of any document  
16 requiring his or her signature, as soon as the customer signs the document.

17 (4) Any other conduct which constitutes fraud.

18 . . . .

19 (6) Failure in any material respect to comply with the provisions of this  
20 chapter or regulations adopted pursuant to it.

21 (7) Any willful departure from or disregard of accepted trade standards  
22 for good and workmanlike repair in any material respect, which is prejudicial to  
23 another without consent of the owner or his or her duly authorized representative.

24 . . . .

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

9. Bus. & Prof. Code section 9884.8 states:

All work done by an automotive repair dealer, including all warranty work, shall be recorded on an invoice and shall describe all service work done and parts supplied. Service work and parts shall be listed separately on the invoice, which shall also state separately the subtotal prices for service work and for parts, not including sales tax, and shall state separately the sales tax, if any, applicable to each. If any used, rebuilt, or reconditioned parts are supplied, the invoice shall clearly state that fact. If a part of a component system is composed of new and used, rebuilt or reconditioned parts, that invoice shall clearly state that fact. The invoice shall include a statement indicating whether any crash parts are original equipment manufacturer

1 crash parts or nonoriginal equipment manufacturer aftermarket crash parts. One copy  
2 of the invoice shall be given to the customer and one copy shall be retained by the  
3 automotive repair dealer.

4 11. Bus. & Prof. Code section 9884.9, subdivision (a), states, in pertinent part:

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

20 12. Bus. & Prof. Code section 477 provides, in pertinent part, that "Board" includes  
21 "bureau," "commission," "committee," "department," "division," "examining committee,"  
22 "program," and "agency." "License" includes certificate, registration or other means to engage in  
23 a business or profession regulated by the Bus. & Prof. Code.

24 13. Health & Saf. Code section 44072.2 states, in pertinent part:

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

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

.....

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

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

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1 14. Health & Saf. Code section 44072.10 states, in pertinent part:

2 . . . .

3 (c) The department shall revoke the license of any smog check technician  
4 or station licensee who fraudulently certifies vehicles or participates in the fraudulent  
5 inspection of vehicles. A fraudulent inspection includes, but is not limited to, all of  
6 the following:

6 . . . .

7 (4) Intentional or willful violation of this chapter or any regulation,  
8 standard, or procedure of the department implementing this chapter . . .

8 15. Health & Saf. Code section 44072.8 states that when a license has been revoked or  
9 suspended following a hearing under this article, any additional license issued under this chapter  
10 in the name of the licensee may be likewise revoked or suspended by the director.

11 **COST RECOVERY**

12 16. Bus. & Prof. Code section 125.3 provides, in pertinent part, that a Board may request  
13 the administrative law judge to direct a licentiate found to have committed a violation or  
14 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
15 and enforcement of the case.

16 **VIDEOTAPED UNDERCOVER OPERATION #1: 1979 BUICK LE SABRE**

17 17. On September 8, 2009, an undercover operator with the Bureau (hereinafter  
18 "operator") took the Bureau's 1979 Buick Le Sabre to Respondent California Finest Oil's facility.  
19 The internal components of the carburetor on the Bureau-documented vehicle had been  
20 misadjusted, causing the vehicle to fail the California Smog Check Vehicle Inspection due to  
21 excessive tailpipe emissions. The operator met with Respondent Salazar and requested a smog  
22 inspection to complete the transfer of ownership of the vehicle. The operator told Salazar that a  
23 friend had informed him that "Jose" could help him and showed Salazar a DMV Report of  
24 Deposit of Fees for the vehicle. Salazar performed the smog inspection then told the operator that  
25 the vehicle needed an adjustment. The operator asked Salazar how much it would cost to perform  
26 the adjustment and pass the vehicle. Salazar told the operator that the cost was \$200, which the  
27 operator approved. Salazar had the operator sign a work order, but did not provide him with a  
28 copy. The operator left the facility at approximately 1205 hours.

1 18. At approximately 1720 hours, the operator returned to the facility, paid Salazar \$200  
2 in cash, and received a copy of a vehicle inspection report ("VIR"), indicating that the vehicle  
3 passed the inspection. Salazar did not provide the operator with a final invoice.

4 19. The Bureau's VID (vehicle information database) data showed that on September 8,  
5 2009, between 1544 and 1552 hours, Salazar performed a smog inspection on the vehicle,  
6 resulting in the issuance of an electronic smog certificate of compliance, No. WD218007C. The  
7 VID data also showed that Salazar had not reported any adjustments or repairs on the vehicle.

8 20. On September 10, 2009, the Bureau inspected the vehicle and found that the  
9 carburetor had not been disturbed, indicating that the emission control component had not been  
10 adjusted or repaired. The Bureau performed a smog test on the vehicle. The vehicle failed the  
11 test due to excessive emissions. The video tape of the undercover operation revealed that Salazar  
12 had not performed any adjustments or repairs on the vehicle and failed to conduct the required  
13 functional ignition timing test and functional fuel evaporative test during the smog inspection.

14 **FIRST CAUSE FOR DISCIPLINE**

15 **(Untrue or Misleading Statements)**

16 21. Respondent California Finest Oil's registration is subject to disciplinary action  
17 pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(1), in that Respondent made or  
18 authorized statements which it knew or in the exercise of reasonable care should have known to  
19 be untrue or misleading, as follows: Respondent California Finest Oil's technician, Respondent  
20 Salazar, certified under penalty of perjury on the VIR that he performed the smog inspection on  
21 the Bureau's 1979 Buick Le Sabre in accordance with all Bureau requirements and that the  
22 vehicle had passed inspection and was in compliance with applicable laws and regulations. In  
23 fact, Salazar failed to perform the functional ignition timing test and functional fuel evaporative  
24 test on the vehicle. Further, the internal components of the carburetor were misadjusted and the  
25 vehicle would not pass the inspection required by Health & Saf. Code section 44012.

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1 FIFTH CAUSE FOR DISCIPLINE

2 (Failure to Comply with Provisions of the Bus. & Prof. Code)

3 25. Respondent California Finest Oil's registration is subject to disciplinary action  
4 pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(6), in that Respondent failed to  
5 comply with provisions of that Code in the following material respects:

6 a. Section 9884.8: Respondent California Finest Oil's technician, Respondent Salazar,  
7 failed to provide the operator with an invoice for all service work performed and/or parts supplied  
8 on the Bureau's 1979 Buick Le Sabre.

9 b. Section 9884.9, subdivision (a): Respondent California Finest Oil's technician,  
10 Respondent Salazar, failed to provide the operator with a written estimate for the smog inspection  
11 on the Bureau's 1979 Buick Le Sabre. Further, Salazar failed to obtain the operator's  
12 authorization for the smog inspection in that Salazar failed to have the operator sign a work order.

13 SIXTH CAUSE FOR DISCIPLINE

14 (Violations of the Motor Vehicle Inspection Program)

15 26. Respondent California Finest Oil's smog check station license is subject to  
16 disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that  
17 Respondent failed to comply with provisions of that Code, as follows:

18 a. Section 44012: Respondent failed to ensure that the emission control tests were  
19 performed on the Bureau's 1979 Buick Le Sabre in accordance with procedures prescribed by the  
20 department.

21 b. Section 44015: Respondent issued an electronic smog certificate of compliance for  
22 the Bureau's 1979 Buick Le Sabre without properly testing and inspecting the vehicle to  
23 determine if it was in compliance with Health & Saf. Code section 44012.

24 c. Section 44016: Respondent failed to diagnose and repair the Bureau's 1979 Buick Le  
25 Sabre in accordance with established specifications and procedures, as set forth in paragraph 24  
26 above.

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1 Respondent committed a dishonest, fraudulent or deceitful act whereby another is injured by  
2 issuing an electronic smog certificate of compliance for the Bureau's 1979 Buick Le Sabre  
3 without ensuring that a bona fide inspection was performed of the emission control devices and  
4 systems on the vehicle, thereby depriving the People of the State of California of the protection  
5 afforded by the Motor Vehicle Inspection Program.

6 **NINTH CAUSE FOR DISCIPLINE**

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

8 29. Respondent Salazar's technician license is subject to disciplinary action pursuant to  
9 Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to comply with  
10 provisions of that Code, as follows:

- 11 a. **Section 44012:** Respondent failed to perform the emission control tests on the  
12 Bureau's 1979 Buick Le Sabre in accordance with procedures prescribed by the department.
- 13 b. **Section 44016:** Respondent failed to diagnose and repair the Bureau's 1979 Buick Le  
14 Sabre in accordance with established specifications and procedures, as set forth in paragraph 24  
15 above.
- 16 c. **Section 44059:** Respondent willfully made false entries on the VIR, as set forth in  
17 paragraph 21 above.

18 **TENTH CAUSE FOR DISCIPLINE**

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

21 30. Respondent Salazar's technician license is subject to disciplinary action pursuant to  
22 Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to comply with  
23 provisions of California Code of Regulations, title 16, as follows:

- 24 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued an  
25 electronic smog certificate of compliance for the Bureau's 1979 Buick Le Sabre.
- 26 b. **Section 3340.30, subdivision (a):** Respondent failed to inspect and test the Bureau's  
27 1979 Buick Le Sabre in accordance with Health & Saf. Code sections 44012 and 44035, and  
28 California Code of Regulations, title 16, section 3340.42.

1 c. **Section 3340.41, subdivision (c):** Respondent entered false information into the EIS  
2 by entering data indicating that the Bureau's 1979 Buick Le Sabre had passed the functional  
3 ignition timing test and functional fuel evaporative test. In fact, Salazar had not performed those  
4 tests on the vehicle.

5 d. **Section 3340.41, subdivision (d):** Respondent failed to follow applicable  
6 specifications and procedures when diagnosing and repairing the Bureau's 1979 Buick Le Sabre,  
7 as set forth in paragraph 24 above.

8 e. **Section 3340.42:** Respondent failed to conduct the required smog tests on the  
9 Bureau's 1979 Buick Le Sabre in accordance with the Bureau's specifications.

10 **ELEVENTH CAUSE FOR DISCIPLINE**

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

12 31. Respondent Salazar's technician license is subject to disciplinary action pursuant to  
13 Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed a dishonest,  
14 fraudulent or deceitful act whereby another is injured by issuing an electronic smog certificate of  
15 compliance for the Bureau's 1979 Buick Le Sabre without performing a bona fide inspection of  
16 the emission control devices and systems on the vehicle, thereby depriving the People of the State  
17 of California of the protection afforded by the Motor Vehicle Inspection Program.

18 **VIDEOTAPED UNDERCOVER OPERATION #2: 1993 MAZDA PROTÉGÉ**

19 32. On October 22, 2009, an undercover operator with the Bureau (hereinafter  
20 "operator") took the Bureau's 1993 Mazda Protégé to Respondent California Finest Oil's facility.  
21 The airflow meter on the Bureau-documented vehicle was altered or misadjusted and an opening  
22 had been created in the oxygen sensor wire near the connector, causing the vehicle to fail the  
23 California Smog Check Vehicle Inspection due to excessive tailpipe emissions. Also, the MIL  
24 (malfunction indicator light) bulb had been disabled, preventing the MIL from operating. The  
25 operator met with Respondent Salazar and requested a smog inspection to complete the transfer  
26 of ownership of the vehicle. The operator told Salazar that a friend had informed him that "Jose"  
27 could help him and gave Salazar a DMV Report of Deposit of Fees for the vehicle. Salazar  
28 performed the smog inspection then told the operator that the vehicle failed because it was

1 wasting a lot of gas. The operator asked Salazar how much it would cost to get the vehicle to  
2 pass smog. Salazar told the operator that he needed to perform a diagnosis on the vehicle for \$40.  
3 Salazar had the operator sign a work order, but did not provide him with a copy. The operator left  
4 the facility at approximately 1134 hours.

5 33. At approximately 1400 hours, Salazar called the operator and told him that the  
6 diagnosis was completed. Salazar stated that the vehicle needed several repairs in order to pass  
7 the smog test and that the repairs cost \$400. The operator told Salazar that he had charged his  
8 friend only \$200 for his car to pass smog. Salazar reduced the repair costs to \$350. The operator  
9 authorized Salazar to proceed with the work. Salazar told the operator that he would take the  
10 vehicle to a test only station after the repairs were completed.

11 34. On October 23, 2009, the operator returned to the facility. An employee named  
12 "Roberto" told the operator that Salazar went to pick up the vehicle from the test only station.  
13 Later, the operator observed Salazar driving a Chevrolet Cavalier into the facility and an  
14 unidentified person driving the Bureau's vehicle. Salazar told the operator that the vehicle was  
15 ready. The operator asked Salazar to describe on the invoice the repairs that were performed on  
16 the vehicle. While Salazar was preparing the invoice, the operator observed that Roberto had  
17 opened the hood of the vehicle and was doing something in the engine compartment. The  
18 operator paid the cashier \$350 in cash and received copies of the final invoice and three VIR's,  
19 two VIR's from North Park 76 and one VIR from El Cajon Test Only Center (the operator was  
20 also given the DMV Report of Deposit of Fees). The initial VIR from North Park 76 stated that  
21 the vehicle failed the smog inspection as a gross polluter. The second VIR from North Park 76  
22 stated that the vehicle passed all portions of the smog test, but that a certificate of compliance  
23 could only be issued by a test only facility since the vehicle was identified as a gross polluter.  
24 The VIR from El Cajon Test Only Center stated that the vehicle passed the inspection, resulting  
25 in the issuance of a certificate of compliance.

26 35. The Bureau's VID data showed that on October 22, 2009, between 1534 and 1548  
27 hours, Salazar performed the second smog inspection on the vehicle, which the vehicle passed,  
28 and that Salazar had replaced the spark plugs, spark plug wires, distributor cap, and ignition rotor

1 on the vehicle. The VID data also showed that on October 22, 2009, between 16:40 and 17:12  
2 hours, technician Kristian Diaz had performed a smog inspection on the vehicle at El Cajon Test  
3 Only Center, resulting in the issuance of an electronic smog certificate of compliance, No.  
4 WD672594.

5 36. On October 28, 2009, the Bureau performed smog inspections on the vehicle, a  
6 "loaded mode" type (ASM) test and a Two Speed Idle test. The vehicle failed the functional  
7 check of the MIL during both inspections because the MIL bulb was still disabled. The vehicle  
8 failed the ASM test due to excessive tailpipe emissions. The Bureau inspected the vehicle and  
9 observed that the open circuit in the oxygen sensor wire near the connector had been repaired,  
10 although that repair had not been recorded on the invoice. The Bureau also found that the air  
11 flow meter had not been disturbed, indicating that the emission control component had not been  
12 adjusted or replaced, that unnecessary repairs were performed on the vehicle, and that certain  
13 repairs were not performed to accepted trade standards.

14 37. The video tape of the undercover operation revealed that Salazar failed to conduct the  
15 required functional ignition timing test during both of his smog inspections on the vehicle and  
16 that the spark plug wires were replaced on the vehicle *after* the electronic smog certificate of  
17 compliance was issued.

#### 18 TWELFTH CAUSE FOR DISCIPLINE

##### 19 (Untrue or Misleading Statements)

20 38. Respondent California Finest Oil's registration is subject to disciplinary action  
21 pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(1), in that Respondent made or  
22 authorized statements which it knew or in the exercise of reasonable care should have known to  
23 be untrue or misleading, as follows:

24 a. Respondent California Finest Oil's technician, Respondent Salazar, certified under  
25 penalty of perjury on both VIR's issued by North Park 76 that he performed the smog inspections  
26 on the Bureau's 1993 Mazda Protégé in accordance with all Bureau requirements. In fact, Salazar  
27 failed to conduct the functional ignition timing test during both inspections on the vehicle.

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1 **FOURTEENTH CAUSE FOR DISCIPLINE**

2 **(Fraud)**

3 40. Respondent California Finest Oil's registration is subject to disciplinary action  
4 pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(4), in that Respondent committed  
5 an act that constitutes fraud, as follows: Respondent obtained payment from the operator for  
6 repairing a blown fuse in the MIL on the Bureau's 1993 Mazda Protégé. In fact, the MIL fuse  
7 was intact at the time the Bureau inspected the vehicle on October 28, 2009.

8 **FIFTEENTH CAUSE FOR DISCIPLINE**

9 **(Departure from Trade Standards)**

10 41. Respondent California Finest Oil's registration is subject to disciplinary action  
11 pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(7), in that Respondent willfully  
12 departed from or disregarded accepted trade standards for good and workmanlike repair without  
13 the consent of the owner or the owner's duly authorized representative in the following material  
14 respects:

15 a. Respondent replaced the spark plugs, spark plug wires, distributor cap, ignition rotor,  
16 and oxygen sensor on the Bureau's 1993 Mazda Protégé when, in fact, those parts were in good  
17 condition and were not in need of replacement. Further, the only repairs needed on the vehicle  
18 were the repair of the open wire in the oxygen sensor circuit, the replacement of the MIL bulb,  
19 and the replacement or re-adjustment of the airflow meter.

20 b. Respondent failed to tighten the new oxygen sensor on the Bureau's 1993 Mazda  
21 Protégé to Mazda's specification of 22 to 36 foot pounds.

22 c. Respondent failed to properly repair the open circuit in the oxygen sensor wire near  
23 the connector on the Bureau's 1993 Mazda Protégé in that Respondent used a standard crimp  
24 splice type of connector that was not watertight rather than the factory locking watertight  
25 connector that was originally in place on the vehicle.

26 d. Respondent installed new spark plugs on the Bureau's 1993 Mazda Protégé that were  
27 one range higher in heat range than the spark plugs which were originally in place on the vehicle.

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1 e. Respondent failed to diagnose and repair all of the defects in the emission control  
2 components on the Bureau's 1993 Mazda Protégé in that the airflow meter was still altered or  
3 misadjusted and the MIL bulb was still disabled at the time the Bureau inspected the vehicle on  
4 October 28, 2009.

5 **SIXTEENTH CAUSE FOR DISCIPLINE**

6 **(Failure to Comply with Provisions of the Bus. & Prof. Code)**

7 42. Respondent California Finest Oil's registration is subject to disciplinary action  
8 pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(6), in that Respondent failed to  
9 comply with provisions of that Code in the following material respects:

10 a. **Section 9884.8:** Respondent California Finest Oil's technician, Respondent Salazar,  
11 failed to record on the invoice the diagnostic work that was performed on the Bureau's 1993  
12 Mazda Protégé as well as the repair of the open circuit in the oxygen sensor wire near the  
13 connector.

14 b. **Section 9884.9, subdivision (a):** Respondent California Finest Oil's technician,  
15 Respondent Salazar, failed to provide the operator with a written estimate for the smog inspection  
16 on the Bureau's 1993 Mazda Protégé. Further, Salazar failed to obtain the operator's authorization  
17 for the smog inspection in that Salazar failed to have the operator sign a work order.

18 **SEVENTEENTH CAUSE FOR DISCIPLINE**

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

20 43. Respondent California Finest Oil's smog check station license is subject to  
21 disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that  
22 Respondent failed to comply with provisions of that Code, as follows:

23 a. **Section 44012:** Respondent failed to ensure that the emission control tests were  
24 performed on the Bureau's 1993 Mazda Protégé in accordance with procedures prescribed by the  
25 department.

26 b. **Section 44016:** Respondent failed to diagnose and repair the Bureau's 1993 Mazda  
27 Protégé in accordance with established specifications and procedures, as set forth in paragraph 41  
28 above.

1 **EIGHTEENTH CAUSE FOR DISCIPLINE**

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

4 44. Respondent California Finest Oil's smog check station license is subject to  
5 disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that  
6 Respondent failed to comply with provisions of California Code of Regulations, title 16, as  
7 follows:

8 a. **Section 3340.41, subdivision (c)**: Respondent California Finest Oil permitted its  
9 smog check technician, Respondent Salazar, to enter false information into the EIS during both  
10 smog inspections on the Bureau's 1993 Mazda Protégé by entering data indicating that the vehicle  
11 had passed the functional ignition timing test. In fact, Salazar had not performed that test on the  
12 vehicle. Further, Salazar entered data during the second smog inspection indicating that the  
13 vehicle had passed the functional MIL test when, in fact, the MIL bulb had been disabled,  
14 preventing the MIL from operating.

15 b. **Section 3340.41, subdivision (d)**: Respondent California Finest Oil failed to follow  
16 applicable specifications and procedures when diagnosing and repairing the Bureau's 1993 Mazda  
17 Protégé, as set forth in paragraph 41 above.

18 c. **Section 3340.42**: Respondent California Finest Oil failed to ensure that the required  
19 smog tests were conducted on the Bureau's 1993 Mazda Protégé in accordance with the Bureau's  
20 specifications.

21 **NINETEENTH CAUSE FOR DISCIPLINE**

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

23 45. Respondent California Finest Oil's smog check station license is subject to  
24 disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that  
25 Respondent committed a dishonest, fraudulent or deceitful act whereby another is injured, as set  
26 forth in paragraph 40 above.

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1 c. **Section 3340.41, subdivision (d)**: Respondent failed to follow applicable  
2 specifications and procedures when diagnosing and repairing the Bureau's 1993 Mazda Protégé,  
3 as set forth in paragraph 41 above.

4 d. **Section 3340.42**: Respondent failed to conduct the required smog tests on the  
5 Bureau's 1993 Mazda Protégé in accordance with the Bureau's specifications.

6 **OTHER MATTERS**

7 48. Pursuant to Bus. & Prof. Code section 9884.7, subdivision (c), the Director may  
8 suspend, revoke, or place on probation the registration for all places of business operated in this  
9 state by Respondent California Finest Oil, doing business as North Park 76, upon a finding that  
10 Respondent has, or is, engaged in a course of repeated and willful violations of the laws and  
11 regulations pertaining to an automotive repair dealer.

12 49. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Station License  
13 Number RC 228130, issued to Respondent California Finest Oil, doing business as North Park  
14 76, is revoked or suspended, any additional license issued under this chapter in the name of said  
15 licensee may be likewise revoked or suspended by the Director.

16 50. Pursuant to Health & Saf. Code section 44072.8, if Advanced Emission Specialist  
17 Technician License Number EA 030584, issued to Respondent Jose Manuel Salazar, is revoked  
18 or suspended, any additional license issued under this chapter in the name of said licensee may be  
19 likewise revoked or suspended by the Director.

20 **PRAYER**

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

23 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD  
24 228130, issued to California Finest Oil, doing business as North Park 76;

25 2. Revoking or suspending any other automotive repair dealer registration issued to  
26 California Finest Oil;

27 3. Revoking or suspending Smog Check Station License Number RC 228130, issued to  
28 California Finest Oil, doing business as North Park 76;

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- 4. Revoking or suspending any additional license issued under Chapter 5 of the Health and Safety Code in the name of California Finest Oil;
- 5. Revoking or suspending Advanced Emission Specialist Technician License Number EA 030584, issued to Jose Manuel Salazar;
- 6. Revoking or suspending any additional license issued under Chapter 5 of the Health and Safety Code in the name of Jose Manuel Salazar;
- 7. Ordering California Finest Oil, doing business as North Park 76, and Jose Manuel Salazar to pay the Director of Consumer Affairs the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
- 8. Taking such other and further action as deemed necessary and proper.

DATED: 12/15/10



SHERRY MEHL  
Chief  
Bureau of Automotive Repair  
Department of Consumer Affairs  
State of California  
*Complainant*

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