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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. 79/08-68

12 **SERRAMONTE 76**  
13 137 Serramonte Boulevard  
Daly City, California 94015  
14 **HIEN TRONG HOANG, OWNER**  
Automotive Repair Dealer Registration  
15 No. AM 230996  
Smog Check Test Only Station License  
16 No. TM 230996,

**ACCUSATION**  
**SMOG CHECK**

17 and

18 **HIEN TRONG HOANG**  
624 Santa Barbara Terrace  
19 Sunnyvale, California 94085  
20 Advanced Emission Specialist Technician  
License No. EA 040823

21 Respondents.

22  
23  
24 Sherry Mehl ("Complainant") alleges:

25 **PARTIES**

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

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1                   **Automotive Repair Dealer Registration**

2                   2.       On or about January 21, 2004, the Bureau issued Automotive Repair  
3 Dealer Registration Number AM 230996 (“registration”) to Hien Trong Hoang (“Respondent”),  
4 doing business as Serramonte 76. The registration will expire on December 31, 2008, unless  
5 renewed.

6                   **Smog Check Test Only Station License**

7                   3.       On or about December 8, 2005, the Bureau issued Smog Check Test Only  
8 Station License Number TM 230996 (“station license”) to Respondent. The station license will  
9 expire on December 31, 2008, unless renewed.

10                   **Advanced Emission Specialist Technician License**

11                   4.       On or about July 1, 2003, the Bureau issued Advanced Emission Specialist  
12 Technician License Number EA 040823 (“technician license”) to Respondent. The technician  
13 license will expire on August 31, 2009, unless renewed.

14   **STATUTORY PROVISIONS**

15                   5.       Section 9884.7 of the Business and Professions Code (“Code”) states, in  
16 pertinent part:

17   (a) The director, where the automotive repair dealer cannot show there was  
18 a bona fide error, may refuse to validate, or may invalidate temporarily or  
19 permanently, the registration of an automotive repair dealer for any of the  
20 following acts or omissions related to the conduct of the business of the  
automotive repair dealer, which are done by the automotive repair dealer or any  
automotive technician, employee, partner, officer, or member of the automotive  
repair dealer.

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

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

25   (4) Any other conduct which constitutes fraud.

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

28   (b) Except as provided for in subdivision (c), if an automotive repair

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

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

13  
14 6. Code section 9884.13 provides, in pertinent part, that the expiration of a  
15 valid registration shall not deprive the director or chief of jurisdiction to proceed with a  
16 disciplinary proceeding against an automotive repair dealer or to render a decision invalidating a  
17 registration temporarily or permanently.

18  
19 7. Code section 477 provides, in pertinent part, that "Board" includes  
20 "bureau," "commission," "committee," "department," "division," "examining committee,"  
21 "program," and "agency." "License" includes certificate, registration or other means to engage  
22 in a business or profession regulated by the Code.

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

27  
28 9. Section 44072.2 of the Health and Safety Code states, in pertinent part:

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

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

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

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

39  
40 10. Section 44072.6 of the Health and Safety Code provides, in pertinent part,  
41 that the expiration or suspension of a license by operation of law, or by order or decision of the

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

3 11. Section 44072.8 of the Health & Safety Code states:

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

#### 6 COST RECOVERY

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

#### 11 UNDERCOVER OPERATION - JANUARY 9, 2007

12 13. On January 9, 2007, a Bureau undercover operator using the alias  
13 Colleen O'Brien ("operator") drove a Bureau-documented 1995 Honda Civic, Arizona License  
14 Plate No. 814EPV, to Respondent's facility for a smog inspection and an oil change. The  
15 operator signed an estimate; however, she was not provided with a copy of the document. After  
16 the work was performed, the operator paid Respondent \$87.90 for the services and received  
17 Invoice No. 3300.

#### 18 FIRST CAUSE FOR DISCIPLINE

##### 19 (Failure to Provide a Copy of a Signed Document)

20 14. Respondent's registration is subject to discipline pursuant to Code section  
21 9884.7, subdivision (a)(3), in that on or about January 9, 2007, Respondent failed to provide the  
22 operator with a copy of the estimate as soon as she signed the document.

#### 23 UNDERCOVER OPERATION - JANUARY 10, 2007

24 15. On or about January 10, 2007, a Bureau undercover operator using the  
25 alias Colleen O'Brien ("operator") drove a Bureau documented 1993 Chevrolet pickup truck to  
26 Respondent's facility. The vehicle could not pass a smog inspection because the ignition timing  
27 was adjusted beyond the manufacturer's specifications. The operator spoke with Respondent and  
28 requested a smog inspection. The operator also told Respondent that the battery light on the dash

1 had come one and asked whether or not he could fix the problem. Respondent hooked a device  
2 up to the vehicle and told the operator that the alternator needed to be replaced and that the  
3 vehicle could not be smogged until the alternator was replaced. The operator asked Respondent  
4 if he could replace the alternator and he said he could. The operator signed an estimate but she  
5 was not provided with a copy of the document. A timing light was not used during the smog  
6 inspection of the operator's vehicle. Following the smog inspection and replacement of the  
7 alternator, the operator paid Respondent \$344.83 and received Invoice No. 008702. Electronic  
8 Certificate of Compliance No. MO419657 was issued to the vehicle.

9 **SECOND CAUSE FOR DISCIPLINE**

10 **(Untrue or Misleading Statements)**

11 16. Respondent's registration is subject to discipline pursuant to Code section  
12 9884.7, subdivision (a)(1), in that on or about January 10, 2007, Respondent made or authorized  
13 statements which he knew or in the exercise of reasonable care he should have known to be  
14 untrue or misleading by issuing electronic Certificate of Compliance No. MO419657 for the  
15 1993 Chevrolet, certifying that the vehicle was in compliance with applicable laws and  
16 regulations. In fact, the vehicle could not have passed the smog inspection because the vehicle's  
17 ignition timing was adjusted beyond the manufacturer's specifications.

18 **THIRD CAUSE FOR DISCIPLINE**

19 **(Failure to Provide a Copy of a Signed Document)**

20 17. Respondent's registration is subject to discipline pursuant to Code section  
21 9884.7, subdivision (a)(3), in that on or about January 10, 2007, Respondent failed to provide the  
22 operator with a copy of the estimate as soon as she signed the document.

23 **FOURTH CAUSE FOR DISCIPLINE**

24 **(Fraud)**

25 18. Respondent's registration is subject to discipline pursuant to Code section  
26 9884.7, subdivision (a)(4), in that on or about January 10, 2007, he committed acts which  
27 constitute fraud by issuing electronic Certificate of Compliance No. MO419657 for the 1993  
28 Chevrolet without performing a bona fide inspection of the emission control devices and systems

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

3 **FIFTH CAUSE FOR DISCIPLINE**

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

5 19. Respondent's station license is subject to discipline pursuant to Health &  
6 Safety Code section 44072.2, subdivision (a), in that on or about January 10, 2007, regarding the  
7 1993 Chevrolet, Respondent failed to comply with the following sections of that Code:

8 a. **Section 44012, subdivision (f)**: Respondent failed to perform emission  
9 control tests on the vehicle in accordance with procedures prescribed by the department. .

10 b. **Section 44014.5, subdivision (b)**: Respondent replaced the alternator on  
11 the operator's vehicle when, in fact, test only stations are prohibited from performing any  
12 automotive repairs.

13 c. **Section 44015, subdivision (b)**: Respondent issued electronic Certificate  
14 of Compliance No. MO419657 for the vehicle without properly testing and inspecting the vehicle  
15 to determine if it was in compliance with Health & Safety Code section 44012.

16 d. **Section 44059**: Respondent willfully made false entries for electronic  
17 Certificate of Compliance No. MO419657 by certifying that the vehicle had been inspected as  
18 required when, in fact, it had not.

19 **SIXTH CAUSE FOR DISCIPLINE**

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

22 20. Respondent's station license is subject to discipline pursuant to Health &  
23 Safety Code section 44072.2, subdivision (c), in that on or about January 10, 2007, regarding the  
24 1993 Chevrolet, Respondent failed to comply with provisions of California Code of Regulations,  
25 title 16, as follows:

26 a. **Section 3340.16, subdivision (d)**: Respondent replaced the alternator on  
27 the operator's vehicle when, in fact, test only stations are prohibited from performing any  
28 automotive repairs.



1 the vehicle could not have passed the smog inspection because the vehicle's ignition timing was  
2 adjusted beyond the manufacturer's specifications.

3 c. **Section 44059:** Respondent entered false information into the Emission  
4 Inspection System ("EIS") for electronic Certificate of Compliance No. MO419657, by certifying  
5 that the vehicle had been inspected as required when, in fact, it had not.

6 **NINTH CAUSE FOR DISCIPLINE**

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

8 23. Respondent has subjected his technician license to discipline under Health  
9 and Safety Code section 44072.2, subdivision (c), in that on or about January 10, 2007, regarding  
10 the 1993 Chevrolet, he violated sections of the California Code of Regulations, title 16, as  
11 follows:

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

14 b. **Section 3340.41, subdivision (c):** Respondent entered false information  
15 into the EIS unit by entering "Pass" for the functional portion of the smog test when, in fact, the  
16 vehicle's ignition timing was adjusted beyond the manufacturer's specifications.

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

19 **TENTH CAUSE FOR DISCIPLINE**

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

21 24. Respondent has subjected his technician license to discipline under Health  
22 and Safety Code section 44072.2, subdivision (d), in that on or about January 10, 2007, he  
23 committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing  
24 electronic Certificate of Compliance No. MO419657 for the 1993 Chevrolet without performing  
25 a bona fide inspection of the emission control devices and systems on the vehicle, thereby  
26 depriving the People of the State of California of the protection afforded by the Motor Vehicle  
27 Inspection Program.

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1 Regulations, title 16, section 3340.16, subdivision (d), by replacing the radiator on the operator's  
2 vehicle when, in fact, test only stations are prohibited from performing any automotive repairs.

3 **UNDERCOVER OPERATION - APRIL 26, 2007**

4 29. On or about April 26, 2007, a Bureau undercover operator using the alias  
5 Colleen O'Brien ("operator") drove a Bureau documented 1987 Ford Thunderbird, California  
6 License Plate No. 4XSK187, to Respondent's facility. The operator pulled the vehicle up to the  
7 gas tank area of the facility and turned the engine off. When she tried to restart the engine, it  
8 would not start. The operator spoke with Respondent and asked him if he could fix the problem.  
9 Respondent inspected the vehicle and told the operator he could replace the starter solenoid. The  
10 operator signed an estimate but she was not provided with a copy of the document. Following  
11 the replacement of the starter solenoid, the operator paid Respondent \$212.50 and received  
12 Invoice No. 009630.

13 **FOURTEENTH CAUSE FOR DISCIPLINE**

14 **(Failure to Provide a Copy of a Signed Document)**

15 30. Respondent's registration is subject to discipline pursuant to Code section  
16 9884.7, subdivision (a)(3), in that on or about April 26, 2007, Respondent failed to provide the  
17 operator with a copy of the estimate as soon as she signed the document.

18 **FIFTEENTH CAUSE FOR DISCIPLINE**

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

20 31. Respondent's station license is subject to discipline pursuant to Health &  
21 Safety Code section 44072.2, subdivision (a), in that on or about April 26, 2007, regarding the  
22 1987 Ford Thunderbird, Respondent failed to comply with section 44014.5, subdivision (b), of  
23 that Code, by replacing the starter solenoid on the operator's vehicle when, in fact, test only  
24 stations are prohibited from performing any automotive repairs.

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1 **SIXTEENTH CAUSE FOR DISCIPLINE**

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

4 32. Respondent's station license is subject to discipline pursuant to Health &  
5 Safety Code section 44072.2, subdivision (c), in that on or about April 26, 2007, regarding the  
6 1987 Ford Thunderbird, Respondent failed to comply with provisions of California Code of  
7 Regulations, title 16, section 3340.16, subdivision (d), by replacing the starter solenoid on the  
8 operator's vehicle when, in fact, test only stations are prohibited from performing any automotive  
9 repairs.

10 **OTHER MATTERS**

11 33. Pursuant to Code section 9884.7, subdivision (c), the Director may  
12 invalidate temporarily or permanently, the registrations for all places of business operated in this  
13 state by Hien Trong Hoang, doing business as Serramonte 76, upon a finding that said he has, or  
14 is, engaged in a course of repeated and willful violations of the laws and regulations pertaining to  
15 an automotive repair dealer.

16 34. Pursuant to Health & Safety Code section 44072.8, if Smog Check Test  
17 Only Station License Number TM 230996, issued to Hien Trong Hoang, doing business as  
18 Serramonte 76, is revoked or suspended, any additional license issued under this chapter in the  
19 name of said licensee may be likewise revoked or suspended by the director.

20 35. Pursuant to Health & Safety Code section 44072.8, if Advanced Emission  
21 Specialist Technician License Number EA 040823, issued to Hien Trong Hoang, is revoked or  
22 suspended, any additional license issued under this chapter in the name of said licensee may be  
23 likewise revoked or suspended by the director.

24 **PRAYER**

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

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- 1                   1.     Temporarily or permanently invalidating Automotive Repair Dealer
- 2 Registration Number AM 230996, issued to Hien Trong Hoang, doing business as
- 3 Serramonte 76;
- 4                   2.     Temporarily or permanently invaliding any other automotive repair dealer
- 5 registration issued to Hien Trong Hoang, doing business as Serramonte 76;
- 6                   3.     Revoking or suspending Smog Check Test Only Station License Number
- 7 TM 230996, issued to Hien Trong Hoang, doing business as Serramonte 76;
- 8                   4.     Revoking or suspending any additional license issued under this chapter in
- 9 the name of Hien Trong Hoang, doing business as Serramonte 76;
- 10                  5.     Revoking or suspending Advanced Emission Specialist Technician
- 11 License Number EA 040823, issued to Hien Trong Hoang;
- 12                  6.     Revoking or suspending any additional license issued under this chapter in
- 13 the name of Hien Trong Hoang;
- 14                  7.     Ordering Hien Trong Hoang to pay the Bureau of Automotive Repair the
- 15 reasonable costs of the investigation and enforcement of this case, pursuant to Code section
- 16 125.3; and,
- 17                  8.     Taking such other and further action as deemed necessary and proper.
- 18

19 DATED: 4-2-08

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21  
22   
23 SHERRY MEHL  
24 Chief  
25 Bureau of Automotive Repair  
26 Department of Consumer Affairs  
27 State of California  
28 Complainant