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

11 79/11-36

12 In the Matter of the Accusation Against:

Case No.

13 **MIKE EDWARD PULCHEON, President**  
14 **LAWLER WOODCREST SERVICE, INC.**  
18400 Van Buren Blvd.  
15 Riverside, California 92508  
**Automotive Repair Dealer Registration No. ARD**  
16 **201908**  
**Smog Test and Repair Station License No. RC 201908**  
17  
18 **FRANK R. ROMANO**  
4425 Picacho Drive  
19 Riverside, California 92507  
**Advanced Emission Specialist Technician License No.**  
20 **EA 006021**

**A C C U S A T I O N**

SMOG CHECK

21 Respondents.

22  
23 Sherry Mehl ("Complainant") alleges:

24 **PARTIES**

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

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

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

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

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

17 8. Section 44072.2 of the Health and Safety Code states, in pertinent part:

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

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

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

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

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1 constituting clean plugging<sup>2</sup>. All of the following inspections were performed by Respondent  
2 Romano.

3 **TABLE 1**

<b>Date and Time of Inspection</b>	<b>Vehicle Certified License No.</b>	<b>Certificate No.</b>
1. 08/08/2009 1045 – 1052	2001 Toyota Tundra License No. 6S05124	WB810582C
2. 08/18/2009 1349 – 1401	1997 Honda Civic License No. 4SLH272	WD011304C
3. 08/20/2009 1423 – 1442	2001 Dodge Dakota pickup License No. 6T80346	WD011321C
4. 09/30/2009 1557 – 1609	2001 Chevrolet S10 pickup License No. 6K29704	WD515035C
5. 09/30/2009 1633 – 1646	1999 Chevrolet C1500 License No. 6B38208	WD515036C
6. 10/01/2009 1127 – 1147	1996 Chrysler Sebring License No. 6BEH491	WD515044C
7. 02/17/2010 1527 – 1536	1998 Mitsubishi Mirage License No.6EOP715	WH307286C

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14 **FIRST CAUSE FOR DISCIPLINE**

15 **(Untrue or Misleading Statements)**

16 13. Respondent's registration is subject to discipline pursuant to Code section  
17 9884.7(a)(1), in that between August 8, 2009, and February 17, 2010, 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 certified that vehicles 1 through 7, set forth  
20 above in Table 1, had passed inspection and were in compliance with applicable laws and  
21 regulations. In fact, Respondent conducted the inspections on the vehicles using the clean  
22 plugging method by substituting or using different vehicles during the OBD II functional tests in  
23 order to issue smog certificates of compliance for the 7 vehicles, and did not test or inspect the 7  
24 vehicles as required by Health and Safety Code section 44012.

25 <sup>2</sup> Clean plugging is the use of the OBD II readiness monitor status and stored fault code  
26 (trouble code) status of a passing vehicle for the purposes of illegally issuing a smog certificate to  
27 another vehicle that is not in compliance due to a failure to complete the minimum number of self  
28 test, known as monitors, or due to the presence of a stored fault code that indicates an emission  
control system or component failure.



1 **FOURTH CAUSE FOR DISCIPLINE**

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

4 16. Respondent's station license is subject to discipline pursuant to Health and Safety  
5 Code section 44072.2(c), in that between August 8, 2009, and February 17, 2010, regarding  
6 vehicles 1 through 7, set forth above in Table 1, Respondent failed to comply with provisions of  
7 California Code of Regulations, title 16, as follows:

8 a. **Section 3340.24(c)**: Respondent falsely or fraudulently issued electronic certificates of  
9 compliance for those vehicles without performing bona fide inspections of the emission control  
10 devices and systems on the vehicles as required by Health and Safety Code section 44012.

11 b. **Section 3340.35(c)**: Respondent issued electronic certificates of compliance even  
12 though those vehicles had not been inspected in accordance with section 3340.42 of that Code.

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

15 **FIFTH CAUSE FOR DISCIPLINE**

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

17 17. Respondent's station license is subject to discipline pursuant to Health and Safety  
18 Code section 44072.2(d), in that between August 8, 2009, and February 17, 2010, regarding  
19 vehicles 1 through 7, set forth above in Table 1, Respondent committed acts involving dishonesty,  
20 fraud or deceit whereby another was injured by issuing electronic certificates of compliance for  
21 those vehicles without performing bona fide inspections of the emission control devices and  
22 systems on the vehicles, thereby depriving the People of the State of California of the protection  
23 afforded by the Motor Vehicle Inspection Program.

24 **SIXTH CAUSE FOR DISCIPLINE**

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

26 18. Respondent Romano's technician license is subject to discipline pursuant to Health  
27 and Safety Code section 44072.2(a), in that between August 8, 2009, and February 17, 2010,  
28 regarding vehicles 1 through 7, set forth above in Table 1, he failed to comply with section 44012

1 of that Code in a material respect, as follows: Respondent Romano failed to perform the emission  
2 control tests on those vehicles in accordance with procedures prescribed by the department.

3 **SEVENTH CAUSE FOR DISCIPLINE**

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

6 19. Respondent Romano's technician license is subject to discipline pursuant to Health  
7 and Safety Code section 44072.2(c), in that between August 8, 2009, and February 17, 2010,  
8 regarding vehicles 1 through 7, set forth above in Table 1, he failed to comply with provisions of  
9 California Code of Regulations, title 16, as follows:

10 a. **Section 3340.24(c)**: Respondent Romano falsely or fraudulently issued electronic  
11 certificates of compliance without performing bona fide inspections of the emission control  
12 devices and systems on those vehicles as required by Health and Safety Code section 44012.

13 b. **Section 3340.30(a)**: Respondent Romano failed to inspect and test those vehicles in  
14 accordance with Health and Safety Code sections 44012.

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

17 **EIGHTH CAUSE FOR DISCIPLINE**

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

19 20. Respondent Romano's technician license is subject to discipline pursuant to Health  
20 and Safety Code section 44072.2(d), in that between August 8, 2009, and February 17, 2010,  
21 regarding vehicles 1 through 7, set forth above in Table 1, he committed acts involving  
22 dishonesty, fraud or deceit whereby another was injured by issuing electronic certificates of  
23 compliance without performing bona fide inspections of the emission control devices and systems  
24 on those vehicles, thereby depriving the People of the State of California of the protection  
25 afforded by the Motor Vehicle Inspection Program.

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1 **OTHER MATTERS**

2 21. Pursuant to Code section 9884.7(c), the director may suspend, revoke, or place on  
3 probation the registrations for all places of business operated in this state by Lawler Woodcrest  
4 Service, Inc., upon a finding that it has, or is, engaged in a course of repeated and willful violation  
5 of the laws and regulations pertaining to an automotive repair dealer.

6 22. Pursuant to Health and Safety Code section 44072.8, if Smog Test and Repair  
7 Station License Number RC 201908, issued to Lawler Woodcrest Service, Inc., is revoked or  
8 suspended, any additional license issued under this chapter in the name of said licensee may be  
9 likewise revoked or suspended by the director.

10 23. Pursuant to Health and Safety Code section 44072.8, if Advanced Emission Specialist  
11 Technician License Number EA 006021, issued to Frank R. Romano, is revoked or suspended,  
12 any additional license issued under this chapter in the name of said licensee may be likewise  
13 revoked or suspended by the director.

14 **PRAYER**

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

17 1. Revoking or suspending Automotive Repair Dealer Registration No. ARD  
18 201908, issued to Lawler Woodcrest Service, Inc.;

19 2. Revoking or suspending any other automotive repair dealer registration issued to  
20 Lawler Woodcrest Service, Inc.;

21 3. Revoking or suspending Smog Test and Repair Station License Number RC  
22 201908, issued to Lawler Woodcrest Service, Inc.;

23 4. Revoking or suspending Advanced Emission Specialist Technician License  
24 Number EA 006021, issued to Frank R. Romano;

25 5. Revoking or suspending any additional license issued under Chapter 5 of the  
26 Health and Safety Code in the name of Frank R. Romano;

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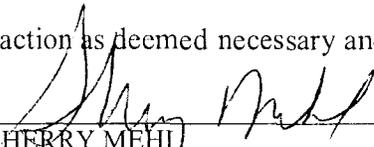
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6. Ordering Lawler Woodcrest Service, Inc. and Frank R. Romano to pay the Director of Consumer Affairs the reasonable costs of the investigation and enforcement of this case, pursuant to Code section 125.3; and,

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

DATED: 11-16-10

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

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