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7
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:
13 **CARLOS JAIME GABALDON**
14 18755 Alderbury Drive
Rowland Heights, CA 91748
Advanced Emission Specialist Technician
License No. EA 630001
15 Respondent.

Case No. 79111-81
ACCUSATION
SMOG CHECK

16
17 Complainant alleges:

18 **PARTIES**

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

21 **Advanced Emission Specialist Technician License**

22 2. On or about February 21, 2008, the Bureau issued Advanced Emission Specialist
23 Technician License Number EA 630001 ("technician license") to Carlos Jaime Gabaldon
24 ("Respondent"). The technician license was in full force and effect at all times relevant to the
25 charges brought herein and will expire on January 31, 2012, unless renewed.

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1 SECOND CAUSE FOR DISCIPLINE

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

3 11. Respondent has subjected his technician license to discipline under Health and Safety
4 Code section 44072.2, subdivision (c), in that on or about September 27, 2010, regarding the
5 1997 Honda Accord, he violated sections of the California Code of Regulations, title 16, as
6 follows:

7 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued
8 electronic Certificate of Compliance Number WN865524C without performing a bona fide
9 inspection of the emission control devices and systems on that vehicle as required by Health and
10 Safety Code section 44012.

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

13 c. **Section 3340.41, subdivision (c):** Respondent entered false information into the
14 Emission Inspection System for electronic Certificate of Compliance Number WN865524C by
15 entering "Pass" for the fuel evaporative controls even though the EVAP system was missing from
16 this vehicle.

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

19 THIRD CAUSE FOR DISCIPLINE

20 (Dishonesty, Fraud or Deceit)

21 12. Respondent has subjected his technician license to disciplinary action pursuant to
22 Health and Safety Code section 44072.2, subdivision (d), in that on or about September 27, 2010,
23 he committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing
24 electronic Certificate of Compliance No. WN865524C for the 1997 Honda Accord without
25 performing a bona fide inspection of the emission control devices and systems on that vehicle,
26 thereby depriving the People of the State of California of the protection afforded by the Motor
27 Vehicle Inspection Program.

PRIOR CITATIONS

1
2 13. To determine the degree of penalty, if any, to be imposed upon Respondent,
3 Complainant alleges as follows:

4 a. On October 8, 2008, the Bureau issued Citation No. M09-0319 to Respondent against
5 his technician license for violations of Health and Safety Code section 44032, (qualified
6 technicians shall perform tests of emission control systems and devices in accordance with
7 section 44012 of that Code) and California Code of Regulations, title 16, ("Regulation") section
8 3340.30, subdivision (a) (qualified technicians shall inspect, test, and repair vehicles in
9 accordance with sections 44012 and 44035 of the Health and Safety Code, and Regulation section
10 3340.42). Respondent issued a certificate of compliance to a Bureau vehicle with a missing PCV
11 system. Respondent was required to attend an 8-hour training course. Respondent complied with
12 this citation on November 23, 2008.

13 b. On February 13, 2009, the Bureau issued Citation No. M09-0944 to Respondent
14 against his technician license for violations of Health and Safety Code section 44032, (qualified
15 technicians shall perform tests of emission control systems and devices in accordance with
16 section 44012 of that Code) and California Code of Regulations, title 16, ("Regulation") section
17 3340.30, subdivision (a) (qualified technicians shall inspect, test, and repair vehicles in
18 accordance with sections 44012 and 44035 of the Health and Safety Code, and Regulation section
19 3340.42). Respondent issued a certificate of compliance to a Bureau vehicle with a missing air
20 pump. Respondent was required to attend a 16-hour training course. Respondent appealed this
21 citation on March 20, 2009; however, training was completed on August 20, 2009, and
22 Respondent withdrew the appeal on October 8, 2009.

23 c. On May 14, 2009, the Bureau issued Citation No. M09-1304 to Respondent against
24 his technician license for violations of Health and Safety Code section 44032, (qualified
25 technicians shall perform tests of emission control systems and devices in accordance with
26 section 44012 of that Code) and California Code of Regulations, title 16, ("Regulation") section
27 3340.30, subdivision (a) (qualified technicians shall inspect, test, and repair vehicles in
28 accordance with sections 44012 and 44035 of the Health and Safety Code, and Regulation section

1 3340.42). Respondent issued a certificate of compliance to a Bureau vehicle with a missing PCV
2 system. Respondent was required to attend a 68-hour training course. Respondent appealed this
3 citation on June 25, 2009; however, training was completed on January 27, 2010, and Respondent
4 withdrew the appeal on February 2, 2010.

5 OTHER MATTERS

6 14. Under Health and Safety Code section 44072.8, if Advanced Emission Specialist
7 Technician License Number EA 630001, issued to Carlos Jaime Gabaldon, 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.

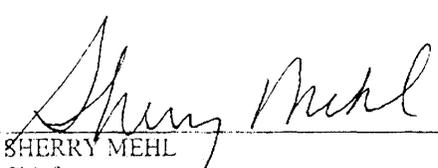
10 PRAYER

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

- 13 1. Revoking or suspending Advanced Emission Specialist Technician License Number
14 EA 630001, issued to Carlos Jaime Gabaldon;
- 15 2. Revoking or suspending any additional license issued under Chapter 5 of the Health
16 & Safety Code in the name of Carlos Jaime Gabaldon;
- 17 3. Ordering Carlos Jaime Gabaldon to pay the Bureau of Automotive Repair the
18 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
19 Professions Code section 125.3; and,
- 20 4. Taking such other and further action as deemed necessary and proper.

21
22
23 DATED: _____

3/23/11


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

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