

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

In the Matter of the Accusation Against:

**MISSION AUTO SERVICES, INC., OWNER
DBA MISSION AUTO SERVICES
ZIPING ZHONG, PRESIDENT**

Automotive Repair Dealer Registration
No. ARD 246831

Smog Check Test Only Station License
No. RC 246831

Smog Check Technician - Advanced
Emission Specialist License No. EA
602036 (to be redesignated upon
renewal as EO 602036 and/or EI 602036

and

JIE ZHANG

Advanced Emission Specialist Technician
License No. EA 631324 (to be
redesignated upon renewal as EO
631324 and/or EI 631324.)

Case No. 79/13-32

OAH No. 2013020390

Respondents.

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby accepted and adopted by the Director of Consumer Affairs as the Decision in the above-entitled matter.

This Decision shall become effective 8 / 23 / 13.

DATED: August 2, 2013



DONALD CHANG
Assistant Chief Counsel
Department of Consumer Affairs

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

In the Matter of the Accusation Against:

MISSION AUTO SERVICES, INC.,
OWNER
DBA MISSION AUTO SERVICES
ZIPING ZHONG, PRESIDENT
Automotive Repair Dealer Registration
No. ARD 246831
Smog Check Test Only Station License
No. RC 246831
Smog Check Technician – Advanced
Emission Specialist License No. EA 602036
(to be redesignated upon renewal as EO
602036 and/or EI 602036

and

JIE ZHANG
Advanced Emission Specialist Technician
License No. EA 631324 (to be redesignated
upon renewal as EO 631324 and/or EI
631324.)

Respondents.

Case No. 79/13-32

OAH No. 2013020390

PROPOSED DECISION

Administrative Law Judge Jill Schlichtmann, State of California, Office of Administrative Hearings, heard this matter on June 27, 2013, in Oakland, California.

Deputy Attorney General Char Sachson represented complainant John Wallauch, Chief of the Bureau of Automotive Repair.

Respondent Jie Zhang was present throughout the proceeding and assisted by David Feng.

Respondent Mission Auto Services, Inc., and its president Ziping Zhong, resolved this matter with the Bureau of Automotive Repair in advance of the hearing and were not a party to the hearing.

At the outset of the hearing, the parties stipulated that between January 24, 2012, and March 8, 2012, the 35 smog inspections identified in the accusation were performed at Mission Auto Service by Ziping Zhong, using respondent's license number and personal access code, while respondent was not present at the facility.

The matter was submitted for decision on June 27, 2013.

FACTUAL FINDINGS

1. On September 14, 2009, the Bureau of Automotive Repair (bureau) issued Advanced Emission Specialist Technician License number EA 631324 to Jie Zhang (respondent). The license is current and will expire October 31, 2013, unless renewed.

2. Respondent was employed at Mission Auto Services for eight years. He worked both as a mechanic and a smog check technician. At all times relevant here, respondent was the only licensed smog check technician at the facility. Respondent's employer, Ziping Zhong, had been licensed as a smog check technician; however, his license expired on January 31, 2008.

3. Respondent's days off at Mission Auto Services were Sunday and Monday. Because he was the sole licensed smog check technician, the station did not offer smog inspections on respondent's days off. On at least one occasion, when respondent returned to work on Tuesday, he saw indications that a smog check inspection had been completed on his day off. Respondent suspected that Zhong had used his access code, but did not have proof and was afraid to say anything.

4. On January 24, 2012, respondent was injured in a traffic accident. As a result of his injuries, respondent was unable to work until March 8, 2012.

5. On March 8, 2012, respondent went to the local bureau office to request that his access code be changed because someone else knew his personal access code. He completed a technician access code change request.

6. Fidel Reyes III, the supervisor of the local bureau office, interviewed respondent regarding his request. Respondent advised Reyes that he had been employed at Mission Auto Services, but had been injured on January 24, 2012, and had been unable to work since that time. Respondent further advised Reyes he suspected that Zhong was using his personal access code without his permission.

7. Reyes researched tests performed between January 24, 2012 and March 8, 2012, while respondent was at the bureau office. Reyes's research indicated that respondent's personal access code was used to perform 42 smog inspections while respondent was not working. Of the 42 inspections, 26 certificates of compliance were issued. Respondent told Reyes that Zhong must have been using his license and personal access code to perform the inspections.

8. Reyes went to Mission Auto Services on March 8, 2012, to further investigate. Reyes determined that Zhong had performed the 42 smog inspections using respondent's license number and personal access code. Zhong signed some of the vehicle inspection reports; other vehicle inspection reports were unsigned.

9. On March 9, 2012, respondent returned to the local bureau office. He wanted to correct his statement to reflect the fact that he did not know for certain that Zhong had used his personal access code in his absence, just that someone at the facility had done so.

Respondent's Evidence

10. Respondent testified credibly that he did not give Zhong his confidential personal access code. When he first became licensed, Zhong assisted him in performing the smog check inspections, and respondent wonders whether Zhong saw his personal access code at that time. In addition, respondent recalls an occasion when he forgot his personal access code and called the bureau to retrieve it; he may have written it down while on the telephone with the bureau, and respondent wonders if Zhong saw the code at that time. Mission Auto Service is an automobile repair facility and while respondent was employed there, they focused on repair work rather than smog inspections.

11. After recovering from his traffic accident, on February 20, 2012, respondent went to Mission Auto Service and asked Zhong if he could return to work. Zhong refused to rehire respondent. While at Mission Auto Service, respondent saw a vehicle hooked up to the smog analyzer. He wondered if Zhong was performing smog inspections with his license.

12. On March 5, 2012, respondent returned to Mission Auto Service and confronted Zhong about his use of respondent's license. Zhong denied using the license and threatened respondent physically if he reported his suspicions to the bureau. Respondent thought about it over a couple of days then decided to report it to the bureau and ask for a new personal access code.

13. Richard Escalambre, an automotive technology professor at Skyline College, submitted a letter of character reference dated June 23, 2013, on respondent's behalf. Escalambre has been a bureau-certified instructor for 29 years and has trained thousands of smog technicians. Escalambre has known respondent since he enrolled in Skyline College's evening automotive program over eight years ago. Respondent took and successfully completed courses in engine performance, computer controls, onboard diagnostics and smog

inspections. Escalambre considers respondent to be a dedicated technician, and he does not believe that respondent voluntarily gave Zhong his access code.

14. Respondent has never before been disciplined by the bureau. Respondent promises that he will be careful not to allow anyone to see his personal access code in the future, and to immediately report it to the bureau if he suspects someone has access to it.

LEGAL CONCLUSIONS

1. The standard of proof applied in this proceeding is preponderance of the evidence. (*Imports Performance et al., v. Department of Consumer Affairs, Bureau of Automotive Repair* (2011) 201 Cal.App.4th 911, 915-916.)

Cause for Discipline

2. Health and Safety Code section 44072.2, subdivision (f), authorizes the bureau to suspend, revoke, or take other disciplinary action against a license if the licensee violates the Motor Vehicle Inspection Program¹ or the regulations adopted by the bureau. Complainant asserts that respondent aided and abetted Zhong in violating the Motor Vehicle Inspection Program by allowing Zhong to use his Advanced Emissions Specialist license and his confidential access code to perform smog inspections in his absence.

3. Business and Professions Code section 119, subdivisions (b) and (c), provide that a licensee who lends his or her license to another, knowingly permits another to use his or her license, or knowingly permits the unlawful use of a license issued to him or her, is guilty of a misdemeanor. Complainant asserts that respondent violated Business and Professions Code section 119 by knowingly permitting Zhong to use his license.

4. Complainant requests that upon a finding of a violation of either Health and Safety Code section 44072.2, or Business and Professions Code section 119, respondent's license be revoked, that the revocation be stayed for a period of three years, a probationary license be issued on standard terms, and that respondent be ordered to complete a bureau-certified Licensed Inspection Training Course, Type I.

5. In this matter, respondent became suspicious that Zhong was using his license and confidential access code. Once he became convinced that this was occurring, he confronted Zhong, who denied it. After careful consideration over a couple of days, he reported it to the bureau. (Factual Findings 10 through 12.) The bureau did not establish by a preponderance of the evidence that respondent knowingly permitted Zhong to use his license.

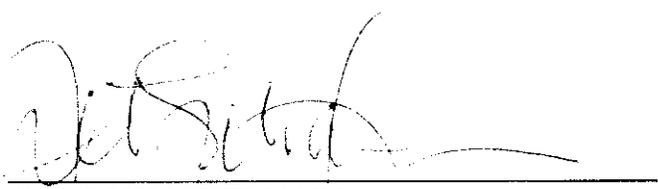
¹ The Motor Vehicle Inspection Program is found at Health and Safety Code section 44000, et seq.

6. The purpose of this proceeding is not to punish the licensee, but rather to protect the public. (*Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 856.) While respondent did not immediately report his suspicions to the bureau, he did so voluntarily despite being threatened by Zhong. Respondent's license has never before been disciplined and he has promised to immediately report any such instances and to carefully protect the confidentiality of her personal access code, in the future. (Factual Finding 14.) On this record it has not been shown that the protection of the public requires discipline of respondent's license.

ORDER

The accusation against respondent Jie Zhang is dismissed.

DATED: 7/2/13



JILL SCHLICHTMANN
Administrative Law Judge
Office of Administrative Hearings

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 CHAR SACHSON
Deputy Attorney General
4 State Bar No. 161032
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-5558
6 Facsimile: (415) 703-5480
Attorneys for Complainant

7
8 **BEFORE THE**
DEPARTMENT OF CONSUMER AFFAIRS
9 **FOR THE BUREAU OF AUTOMOTIVE REPAIR**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Amended Accusation
12 Against:

13 **MISSION AUTO SERVICES, INC -**
OWNER
14 **DBA MISSION AUTO SERVICES**
ZIPING ZHONG, PRESIDENT
15 **5897 Mission Street**
San Francisco, CA 94112

16 **Automotive Repair Dealer Registration No.**
ARD 246831
17 **Smog Check Station License No. RC 246831**
Smog Check Technician - Advanced
18 **Emission Specialist License No. EA 602036**
19 **(to be redesignated upon renewal as EO**
602036 and/or EI 602036)

20 **JIE ZHANG**
21 **1722 32nd Ave.**
San Francisco, CA 94122

22 **Advanced Emissions Specialist Technician**
23 **License No. EA 631324 (to be redesignated**
upon renewal as EO 631324 and/or EI
24 **632324)**

25 Respondents.

26 Complainant alleges:

27 **PARTIES**

28 1. John Wallauch (Complainant) brings this Amended Accusation solely in his official

1 capacity as the Chief of the Bureau of Automotive Repair (BAR), Department of Consumer
2 Affairs.

3 **Automotive Repair Dealer Registration No. ARD 246831**

4 2. In 2006, the BAR issued Automotive Repair Dealer Registration Number ARD
5 246831 (Registration) to Mission Auto Services Inc., Ziping Zhong, also known as – James
6 Zhong - President/Secretary/Treasurer, dba Mission Auto Services (Respondent Zhong). The
7 Registration was in full force and effect at all times relevant to the charges brought herein and
8 expires on August 31, 2013.

9 **Smog Check, Station License Number RC 246831**

10 3. On or about October 3, 2006, the BAR issued Smog Check Station License Number
11 RC 246831 (Smog Check Station License) to Respondent Zhong. The Smog Check Station
12 License was in full force and effect at all times relevant to the charges brought herein and expired
13 on August 31, 2012.

14 **Advanced Emission Specialist Technician License Number EA 602036**

15 4. In 2003, the Bureau of Automotive Repair issued Advanced Emission Specialist
16 Technician License Number EA 602036 to Ziping Zhong. The Advanced Emission Specialist
17 Technician License expired on January 31, 2008. Pursuant to California Code of Regulations,
18 title 16, section 3340.28, subdivision (e), said license will be renewed, pursuant to Respondent's
19 election, as Smog Check Inspector License No. EO 602036 and Smog Check Repair Technician
20 License No. EI 602036.¹

21 **Advanced Emission Specialist Technician License Number EA 631324**

22 5. On or about September 14, 2009, the Bureau of Automotive Repair issued Advanced
23 Emission Specialist Technician License Number EA 631324 to Jie Zhang (Respondent Zhang).
24 The Advanced Emission Specialist Technician License was in full force and effect at all times
25 relevant to the charges brought herein and expires on October 31, 2013. Pursuant to California

26 ¹ Effective August 1, 2012, California Code of Regulations, title 16, sections 3340.28,
27 3340.29, and 3340.30 were amended to implement a license restructure from the Advanced
28 Emissions Specialist Technician (EA) license and Basic Area (EB) Technician license to Smog
Check Inspector (EO) license and/or Smog Check Repair Technician (EI) license.

1 Code of Regulations, title 16, section 3340.28, subdivision (e), said license will be renewed,
2 pursuant to Respondent's election, as Smog Check Inspector License No. EO 631324 and Smog
3 Check Repair Technician License No. EI 631324.

4 **JURISDICTION**

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

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

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

14 9. California Code of Regulations, title 16, section 3340.28, subdivision (e), states that
15 "[u]pon renewal of an unexpired Basic Area Technician license or an Advanced Emission Specialist
16 Technician license issued prior to the effective date of this regulation, the licensee may apply to renew
17 as a Smog Check Inspector, Smog Check Repair Technician, or both.

18 **STATUTORY PROVISIONS**

19 10. Section 119 of the Business and Professions Code ("Code") states, in pertinent part:

20 Any person who does any of the following is guilty of a misdemeanor:

21 (b) Lends his or her license to any other person or knowingly permits the use
22 thereof by another.

23 (c) Knowingly permits any unlawful use of a license issued to him or her.

24 11. Section 9884.7 of the Code states, in pertinent part:

25 (a) The director, where the automotive repair dealer cannot show there was a
26 bona fide error, may refuse to validate, or may invalidate temporarily or
27 permanently, the registration of an automotive repair dealer for any of the
28 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.

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

5 (4) Any other conduct which constitutes fraud.

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

9 (b) Except as provided for in subdivision (c), if an automotive repair dealer
10 operates more than one place of business in this state, the director pursuant to
11 subdivision (a) shall only refuse to validate, or shall only invalidate temporarily or
12 permanently the registration of the specific place of business which has violated
13 any of the provisions of this chapter. This violation, or action by the director,
14 shall not affect in any manner the right of the automotive repair dealer to operate
15 his or her other places of business.

16 (c) Notwithstanding subdivision (b), the director may refuse to validate, or
17 may invalidate temporarily or permanently, the registration for all places of
18 business operated in this state by an automotive repair dealer upon a finding that
19 the automotive repair dealer has, or is, engaged in a course of repeated and willful
20 violations of this chapter, or regulations adopted pursuant to it.

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

25 13. Section 477 of the Code provides, in pertinent part, that "Board" includes "bureau,"
26 "commission," "committee," "department," "division," "examining committee," "program," and
27 "agency." "License" includes certificate, registration or other means to engage in a business or
28 profession regulated by the Code.

14. Section 118(b) of the Code states:

The suspension, expiration, or forfeiture by operation of law of a license
issued by a board in the department, or its suspension, forfeiture, or cancellation
by order of the board or by order of a court of law, or its surrender without the
written consent of the board, shall not, during any period in which it may be
renewed, restored, reissued, or reinstated, deprive the board of its authority to
institute or continue a disciplinary proceeding against the licensee upon any
ground provided by law or to enter an order suspending or revoking the license or
otherwise taking disciplinary action against the licensee on any such ground.

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

4 16. Section 44072.2 of the Health and Safety Code states, in pertinent part:

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

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

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

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

15 (f) Aids or abets unlicensed persons to evade the provisions of this chapter.

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

20 18. Section 44072.8 of the Health and Safety Code states:

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

24 19. Health & Saf. Code section 44014, subdivision (a), states:

25 Except as otherwise provided in this chapter, the testing and repair portion of the
26 program shall be conducted by smog check stations licensed by the department, and
27 by smog check technicians who have qualified pursuant to this chapter.

28 20. Health & Saf. Code section 44032 states, in pertinent part:

[n]o person shall perform, for compensation, tests or repairs of emission control
devices or systems of motor vehicles required by this chapter unless the person
performing the test or repair is a qualified smog check technician.

1 21. Regulation 3340.45 states:

2 All vehicle emission tests, visual inspections of the emissions control systems,
3 functional inspections of the emissions control systems, liquid fuel leak inspections,
4 and visible smoke tests shall be conducted at licensed smog check stations by licensed
5 smog check technicians. The inspections shall be performed in accordance with the
6 Emissions Inspection System test prompts and the inspection requirements and
7 procedures prescribed in the Bureau's Smog Check Inspection Procedures Manual,
8 dated August 2009, which is hereby incorporated by reference.

9 22. Section 1.1.0 of the Bureau's Smog Check Inspection Procedures Manual states, in
10 pertinent part:

11 The individual technician license number and access code together provide access
12 into the Emissions Inspection System (EIS) Smog Check inspection mode . . .

13 The access code is assigned by BAR and is unique to each technician. Each
14 technician must maintain the security of his or her access code. Disclosure of one's
15 access code or use of another technician's access code or license information is
16 prohibited. If the security of your access code has been compromised, or you suspect
17 another person is using your access code, you must contact your local BAR field
18 office immediately to have the access code changed.

19 COST RECOVERY

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

24 UNLICENSED ACTIVITY INVESTIGATION

25 24. On or about March 8, 2012, the BAR initiated an investigation of Respondents
26 based on an interview of licensed technician Jie Zhang, EA631324 (Zhang), by Bureau personnel
27 at the South San Francisco Field Office. Zhang had presented himself at the field office to request
28 a change of his Smog Check Technician personal access code. Zhang stated that Ziping Zhong,
aka – James Zhong (Zhong) also knew his access code. Zhang said that on January 24, 2012 he
had been involved in an automobile accident and had not returned to work at Mission Auto
Services since that date. A Bureau representative then performed a cursory check of tests
performed at Mission Auto Services on the Bureau's Vehicle Identification Database (VID)

1 between the dates of January 25, 2012 and March 8, 2012 and noted numerous tests and vehicle
2 certifications that were performed using Zhang's access code.

3 25. Later on March 8, 2012, Bureau representatives visited Mission Auto Services and
4 gathered evidence in the form of invoices for smog checks performed at the facility between
5 January 25, 2012 and March 8, 2012. They then interviewed Zhong and he admitted that he had
6 asked for and received Zhang's personal access code and had used it and Zhang's Advanced
7 Emissions Specialist Technician License to perform the smog tests and certifications at his
8 facility during that timeframe. He also admitted to signing some of the Vehicle Inspection
9 Reports (VIR) for the vehicles he had tested in Zhang's absence. Zhong did not possess a valid
10 Advanced Emissions Specialist Technician License at the time of these tests.

11 26. On March 19, 2012, a representative of the BAR conducted a detailed review of VID
12 data for all smog inspections performed at Respondent Zhong's automotive repair dealership for
13 the period of, January 25, 2012 through March 8, 2012. On that day, the Bureau representative
14 also received, via Certified U.S. mail, the invoices and Vehicle Inspection Reports that were
15 requested, but not provided, during the March 8, 2012 inspection at Zhong's facility. The Bureau
16 representative was able to specifically identify that Zhong utilized Zhang's personal access code
17 and license to perform thirty five (35) illegal inspections resulting in twenty six (26) fraudulent
18 certifications. Also identified, were seventeen VIRs that were signed by Zhong in place of Zhang.

19 27. Illegal tests and fraudulent certificates of compliance, as referenced in paragraphs 25
20 and 26 above, for the vehicles that were tested are outlined in the following table.

21

22

23

24

25

26

27

28

Table 1, Unlicensed Tests and Certifications							
Vehicles Tested/Certified Using EA631324							
#	Test Date Start-End	Year	Make	Model	License #	Signed by	Certificate #
1	1/26/2012 1008-1023	1996	Buick	Century	5PNH819	James	Pretest
2	1/26/2012 1027-1101	1997	Buick	Skylark	5PNH819	James	OI184492C

1	3	1/27/2012 1224-1250	1999	Honda	Civic	4HHD964	unsigned	Pretest
2	4	1/28/2012 1015-1024	2004	Honda	Accord	5GJZ204	James	OI184493C
3	5	1-30-2012 1200-1207	2002	Toyota	Highlander	6W50848	James	OI184494C
4	6	1/31/2012 1028-1046	2000	Acura	3.2TL	4JHW287	unsigned	OI184495C
5	7	2/1/2012 1304-1319	2002	Honda	Civic	6ASN545	unsigned	OI184496C
6	8	2/2/2012 1458-1506	2006	Chevrolet	Express	8B27521	James	OI184497C
7	9	2/2/2012 1601-1620	1996	Honda	Accord	3PZW602	James	OI184498C
8	10	2/3/2012 0923-0936	1996	Buick	Regal	6NZA003	N/A	Failed
9	11	2/3/2012 0941-0951	2006	Acura	TL	5TMX265	James	OI184499C
10	12	2/3/2012 1549-1601	1996	Buick	Regal	6NZA003	James	OI184500C
11	13	2/4/2012 1653-1712	2007	Toyota	Camry	5YLS957	James	OK299201C
12	14	2/7/2012 1153-1200	2006	Lexus	RX 330	5TJW278	James	OK299202C
13	15	2/7/2012 1430-1442	2002	Honda	Accord	4WKM508	unsigned	OK299203C
14	16	2/7/2012 1532-1603	1993	Nissan	Pickup	932XFR	James	Failed
15	17	2/9/2012 1212-1228	2000	Nissan	Xterra	4JYC596	James	OK299204C
16	18	2/9/2012 1243-1255	2004	Toyota	Corolla	ZZE13OZ	unsigned	OK299205C
17	19	2/9/2012 1301-1313	2000	Toyota	Tacoma	6E79384	unsigned	Failed
18	20	2/9/2012 1604-1620	2000	Toyota	Tacoma	6E79384	unsigned	Pretest
19	21	2/11/2012 1126-1142	2002	Toyota	RAV 4	LMS2828	unsigned	OK299206C
20	22	2/11/2012 1430-1450	2000	Honda	Civic	4NDD518	James	OK299207C
21	23	2/15/2012 1401-1413	2004	Nissan	Altima	5FYK705	unsigned	OK299208C

1	24	2/16/2012 1724-1735	2006	Mazda	Mazda6	6PUH658	unsigned	OK299209C
2	25	2/17/2012 1329-1342	1997	Acura	2.2CL	5SEK097	James	OK299210C
3	26	2/20/2012 1110-1123	2000	Toyota	Sienna	4LFW373	unsigned	OK299211C
4	27	2/20/2012 1416-1423	2005	BMW	3-Series	6NDG663	unsigned	OK299212C
5	28	2/20/2012 1517-1527	2001	BMW	X5	4UDM430	unsigned	OK299213C
6	29	2/20/2012 1535-1554	1993	Nissan	Pickup	932XFR	unsigned	Failed
7	30	2/24/2012 0923-0952	2000	Toyota	Corolla	4KDC404	James	Pretest
8	31	2/24/2012 1605-0834	2000	Toyota	RAV 4	4MVN680	unsigned	Failed
9	32	2/27/2012 1333-1344	2006	Subaru	Legacy	5UPE259	unsigned	OK299214C
10	33	2/28/2012 0854-0905	2006	Toyota	Sienna	6JHS408	unsigned	OK299215C
11	34	2/28/2012 0940-1040	2000	Toyota	RAV 4	4MVN680	James	OK299216C
12	35	3/3/2012 1244-1255	2000	Mercedes	ML320	4KRV061	unsigned	OK299217C

FIRST CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

27. Respondent Zhong's registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(1), in that he made or authorized statements which he knew or in the exercise of reasonable care should have known to be untrue or misleading as follows: Respondent certified that vehicles 1 through 35, identified in Table 1 of paragraph 27 above, were inspected in compliance with applicable laws and regulations. In fact Zhong is not currently licensed to conduct inspections on the vehicles and instead utilized the license and personal access code of a different technician, Jie Zhang, thus the vehicles were not tested or inspected, as required by Health and Safety Code section 44012.

1 emission control devices and systems on the vehicles, thereby depriving the People of the State of
2 California of the protection afforded by the Motor Vehicle Inspection Program.

3 **SIXTH CAUSE FOR DISCIPLINE**

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

5 31. Respondent Zhang's technician license(s) is subject to disciplinary action pursuant to
6 Health & Safety Code section 44072.2, subdivision (f), in that Respondent aided and abetted
7 Respondent Zhong, allowing this unlicensed person to utilize his Advanced Emissions Specialist
8 Technician license and confidential access code to perform the emission control tests on the
9 vehicles, identified in Table 1 of paragraph 27 above.

10 **SEVENTH CAUSE FOR DISCIPLINE**

11 **(Licensing Violations)**

12 32. Respondent Zhang's technician license(s) is subject to disciplinary action pursuant to
13 Bus. & Prof. Code section 119 subsections (b) and (c), in that Respondent knowingly allowed
14 Respondent Zhong to use his Advanced Emissions Specialist Technician license and confidential
15 access code to perform the emission control tests on the vehicles, identified in Table 1 of
16 paragraph 27 above.

17 **OTHER MATTERS**

18 33. Pursuant to Bus. & Prof. Code section 9884.7, subdivision (c), the Director may
19 suspend, revoke or place on probation the registration for all places of business operated in this
20 state by Respondent, Ziping Zhong, president of Mission Auto Services Inc., DBA Mission Auto
21 Services, upon a finding that Respondent has, or is, engaged in a course of repeated and willful
22 violations of the laws and regulations pertaining to an automotive repair dealer.

23 34. Pursuant to Health & Safety Code section 44072.8, if Smog Check Station License
24 Number RC246831, issued to Respondent, Ziping Zhong, president of Mission Auto Services
25 Inc., DBA Mission Auto Services, is revoked or suspended, any additional license issued under
26 the same chapter in the name of said licensee may be likewise revoked or suspended by the
27 Director.

28 35. Pursuant to Health & Safety Code section 44072.8, if Respondent Zhong's technician

1 license(s), currently designated as Advanced Emission Specialist Technician License Number EA
2 602036 and as redesignated upon timely renewal as EO 602036 and/or EI 602036 is/are revoked
3 or suspended, any additional license issued under the same chapter in the name of said licensee
4 may be likewise revoked or suspended by the Director.

5 36. Pursuant to Health & Safety Code section 44072.8, if Respondent Zhang's technician
6 license(s), currently designated as Advanced Emission Specialist Technician License Number EA
7 631324 and as redesignated upon timely renewal as EO 631324 and/or EI 631324 is/are revoked
8 or suspended, any additional license issued under the same chapter in the name of said licensee
9 may be 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 issue a decision:

13 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
14 246831, issued to Ziping Zhong, president of Mission Auto Services Inc., DBA Mission Auto
15 Services;

16 2. Revoking or suspending Smog Check – Test and Repair Station License Number RC
17 246831, issued to Ziping Zhong, president of Mission Auto Services Inc., DBA Mission Auto
18 Services;

19 3. Revoking or suspending any additional license issued under Chapter 5 of the Health
20 and Safety Code in the name of Ziping Zhong, president of Mission Auto Services Inc, DBA
21 Mission Auto Services;

22 4. Revoking or suspending Ziping Zhong's smog technician license(s), currently
23 designated as Advanced Emission Specialist Technician License Number EA 602036 and as
24 redesignated upon timely renewal as EO 602036 and/or EI 602036;

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

27 6. Revoking or suspending Jie Zhang's smog technician license(s), currently designated
28 as Advanced Emission Specialist Technician License Number EA 631324 and as redesignated

1 upon timely renewal as EO 631324 and/or EI 631324;

2 7. Revoking or suspending any additional license issued under Chapter 5 of the Health
3 and Safety Code in the name of Jie Zhang;

4 8. Ordering Respondents, Ziping Zhong, president of Mission Auto Services Inc., DBA
5 Mission Auto Services and Jie Zhang to pay the Director the reasonable costs of the investigation
6 and enforcement of this case, pursuant to Business and Professions Code section 125.3; and
7 Taking such other and further action as deemed necessary and proper.

8

9

10

11

DATED: 6/7/13

John Wallauch by Doug Balatti
JOHN WALLAUCH
Chief
Bureau of Automotive Repair
Department of Consumer Affairs
State of California

12

13

14

15

16

SF2012403087
40618411.doc

17

18

19

20

21

22

23

24

25

26

27

28