KAMALA D. HARRIS
Attorney General of California
GREGORY J. SALUTE
Supervising Deputy Attorney General
ALVARO MEJIA
Deputy Attorney General
State Bar No. 216956
300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 897-0083
Facsimile: (213) 897-2804
Attorneys for Complainant

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

In the Matter of the Accusation Against: **J A SMOG CHECK ONLY STATION** **4481 Mission Blvd** **Montclair, CA 91763** **Mailing Address:** **4888 Howard Street** **Montclair, CA 91763** **JOSE ARTEAGA, JR., OWNER** **Automotive Repair Dealer Registration No. ARD 263725** **Smog Check Test Only Station License No. TC 263725,** **and** **JOSE ARTEAGA, JR.** **4888 Howard Street** **Montclair, CA 91763** **Advanced Emission Specialist Technician License No. EA 632164** Respondents.	Case No. 79/12-82 **ACCUSATION** **SMOG CHECK**

Complainant alleges:

PARTIES

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

///

Automotive Repair Dealer Registration

2. On or about January 10, 2011, the Bureau issued Automotive Repair Dealer Registration Number ARD 263725 ("registration") to Jose Arteaga, Jr. ("Respondent"), doing business as J A Smog Check Only Station. The registration was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2012, unless renewed.

Smog Check Test Only Station License

3. On or about January 11, 2011, the Bureau issued Smog Check Test Only Station License Number TC 263725 ("station license") to Respondent. The station license was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2012, unless renewed.

Advanced Emission Specialist Technician License

4. On or about June 10, 2010, the Bureau issued Advanced Emission Specialist Technician License Number EA 632164 ("technician license") to Respondent. The technician license was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2012, unless renewed.

STATUTORY PROVISIONS

5. Section 9884.7 of the Business and Professions Code ("Code") states, in pertinent part:

> (a) The director, where the automotive repair dealer cannot show there was a bona fide error, may refuse to validate, or may invalidate temporarily or permanently, the registration of an automotive repair dealer for any of the 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) Making or authorizing in any manner or by any means whatever any statement written or oral which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading.
>
> (4) Any other conduct which constitutes fraud.
>
> (b) Except as provided for in subdivision (c), if an automotive repair dealer operates more than one place of business in this state, the director pursuant to subdivision (a) shall only invalidate temporarily or permanently the registration of the specific place of business which has violated any of the provisions of this chapter. This violation, or action by the director, shall not affect in any manner the right of the automotive repair dealer to operate his or her other places of business.

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

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

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

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

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

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

(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.

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

///

///

11. Section 44072.8 of the Health and Safety Code states:

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

COST RECOVERY

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

UNDERCOVER OPERATION – JUNE 6, 2011

13. On or about June 6, 2011, a Bureau undercover operator drove a Bureau-documented 2002 Honda Accord to Respondent's facility and requested a smog inspection. The vehicle could not pass the smog inspection due to an OBDII communications failure. The operator spoke with Respondent and informed him that he wanted a smog inspection. Respondent began the inspection; however, he informed the operator that the vehicle would not pass the inspection due to a communications problem with the OBDII test. The operator asked Respondent what to do and Respondent told the operator he could use another Honda for the OBDII[1] functional portion of the test but, that it would cost an additional $20. Respondent substituted a gold Honda for the OBDII functional portion of the test, which constitutes clean plugging. The operator watched as Respondent connected a cable in the driver's side of a gold Honda. Respondent issued Certificate of Compliance No. WV589042C for the 2002 Honda Accord. Several minutes later, Respondent presented the operator with paperwork and requested $70. The operator paid Respondent $70 and

---

[1] The On Board Diagnostics (OBDII) functional test is an automated function of the BAR-97 analyzer. During the OBDII functional test, the technician is required to connect an interface cable from the BAR-97 analyzer to a Diagnostic Link Connector (DLC) which is located inside the vehicle. Through the DLC, the BAR-97 analyzer automatically retrieves information from the vehicle's on-board computer about the status of the readiness indicators, trouble codes, and the MIL (malfunction indicator light). If the vehicle fails the OBDII functional test, it will fail the overall inspection.

Clean plugging is the use of the OBDII readiness monitor status and stored fault code (trouble code) status of a passing vehicle for the purpose of illegally issuing a smog certificate to another vehicle that is not in compliance due to a failure to complete the minimum number of self tests, known as monitors, or due to the presence of a stored fault code that indicates an emission control system or component failure.

was provided with an invoice dated June 6, 2011, that only showed $50. Respondent also provided the operator with a Vehicle Inspection Report ("VIR"). Respondent told the operator that he did not want to put $70 on the invoice because the transaction was illegal. Respondent told the operator he was trying to drum up business and asked the operator to tell his buddies about him.

FIRST CAUSE FOR DISCIPLINE

(Misleading Statements)

14. Respondent has subjected his registration to discipline under Code section 9884.7, subdivision (a)(1), in that on or about June 6, 2011, he made statements which he knew or which by exercise of reasonable care he should have known were untrue or misleading when he issued electronic Certificate of Compliance No. WV589042C for the 2002 Honda Accord, certifying that the vehicle was in compliance with applicable laws and regulations. In fact, Respondent conducted the inspection on that vehicle using clean plugging methods by substituting or using a different vehicle during the OBDII functional test in order to issue smog certificate of compliance for that vehicle, and did not test or inspect the vehicle as required by Health and Safety Code section 44012.

SECOND CAUSE FOR DISCIPLINE

(Fraud)

15. Respondent has subjected his registration to discipline under Code section 9884.7, subdivision (a)(4), in that on or about June 6, 2011, he committed acts which constitute fraud by issuing electronic Certificate of Compliance No. WV589042C for the 2002 Honda Accord without performing a bona fide inspection of the emission control devices and systems on that vehicle, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

///

///

///

///

THIRD CAUSE FOR DISCIPLINE

(Violation of the Motor Vehicle Inspection Program)

16. Respondent has subjected his station license to discipline under Health and Safety Code section 44072.2, subdivision (a), in that on or about June 6, 2011, regarding the 2002 Honda Accord, he violated sections of that Code, as follows:

a. **Section 44012, subdivision (a)**: Respondent failed to determine that all emission control devices and systems required by law were installed and functioning correctly in accordance with test procedures.

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

c. **Section 44015, subdivision (b)**: Respondent issued electronic Certificate of Compliance No. WV589042C without properly testing and inspecting the vehicle to determine if it was in compliance with section 44012 of that Code.

FOURTH CAUSE FOR DISCIPLINE

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

17. Respondent has subjected his station license to discipline under Health and Safety Code section 44072.2, subdivision (c), in that on or about June 6, 2011, regarding the 2002 Honda Accord, he violated sections of the California Code of Regulations, title 16, as follows:

a. **Section 3340.35, subdivision (c)**: Respondent issued electronic Certificate of Compliance No. WV589042C even though that vehicle had not been inspected in accordance with section 3340.42 of that Code.

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

FIFTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

18. Respondent subjected his station license to discipline under Health and Safety Code section 44072.2, subdivision (d), in that on or about June 6, 2011, regarding the 2002 Honda Accord, he committed acts involving dishonesty, fraud or deceit whereby another was injured by

issuing electronic Certificate of Compliance No. WV589042C for that vehicle without performing a bona fide inspection of the emission control devices and system on the vehicle, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

SIXTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

19. Respondent has subjected his technician license to discipline under Health and Safety Code section 44072.2, subdivision (a), in that on or about June 6, 2011, regarding the 2002 Honda Accord, he violated sections of that Code, as follows:

a. **Section 44012, subdivision (a)**: Respondent failed to determine that all emission control devices and systems required by law were installed and functioning correctly in accordance with test procedures.

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

c. **Section 44032**: Respondent failed to perform tests of the emission control devices and systems on that vehicle in accordance with section 44012 of that Code.

SEVENTH CAUSE FOR DISCIPLINE

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

20. Respondent has subjected his technician license to discipline under Health and Safety Code section 44072.2, subdivision (c), in that on or about June 6, 2011, regarding the 2002 Honda Accord, he violated sections of the California Code of Regulations, title 16, as follows:

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

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

///

///

///

EIGHTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

21. Respondent has subjected his technician license to discipline under Health and Safety Code section 44072.2, subdivision (d), in that on or about June 6, 2011, regarding the 2002 Honda Accord, he committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing electronic Certificate of Compliance No. WV589042C without performing a bona fide inspection of the emission control devices and systems on that vehicle, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

UNDERCOVER OPERATION – JULY 7, 2011

22. On or about July 7, 2011, a Bureau undercover operator drove a Bureau-documented 1995 Acura Integra to Respondent's facility and requested a smog inspection. The vehicle could not pass the visual or tailpipe portions of the smog inspection due to excessive tailpipe emissions, a modified PCV system, a missing three-way catalytic converter, and disconnected emissions related components. The operator spoke with Respondent, who recognized him from the June 6, 2011 smog inspection. The operator told Respondent that he had a friend that needed a smog check for his Acura Integra. Respondent told the operator he would smog the vehicle but that it would cost $120 if the vehicle was at the station or $150 if the vehicle was not at the station. The operator told Respondent to do the test without the vehicle present. The operator asked Respondent if he wanted him to pull the 2002 Honda into the test bay. Respondent told the operator he would use the Honda already in the test bay for the inspection. The operator was not provided with any paperwork or estimate. After Respondent performed the test, he issued Certificate of Compliance No. WX027405C, certifying that the vehicle was in compliance with applicable laws and regulations. In fact, Respondent performed the smog inspection using the clean piping method[2] by using the tail pipe emissions of a vehicle other than the vehicle being

[2] "Clean piping" is sampling the (clean) tailpipe emissions and/or the RPM readings of another vehicle for the purpose of illegally issuing smog certifications to vehicles that are not in compliance or are not present in the smog check area during the time of the certification.

certified in order to issue the electronic certificate of compliance. The vehicle certified was not in the test bay at the time of the smog inspection. Respondent told the operator he would only charge $140 and if he sent more business Respondent's way, the charge would be cheaper. The operator paid Respondent $140 and was provided with a VIR.

NINTH CAUSE FOR DISCIPLINE

(Misleading Statements)

23. Respondent has subjected his registration to discipline under Code section 9884.7, subdivision (a)(1), in that on or about July 7, 2011, he made statements which he knew or which by exercise of reasonable care he should have known were untrue or misleading when he issued electronic Certificate of Compliance No. WX027405C for the 1995 Acura Integra, certifying that the vehicle was in compliance with applicable laws and regulations. In fact, Respondent conducted the inspection on that vehicle using the clean piping method in order to issue smog certificate of compliance for that vehicle, and did not test or inspect the vehicle as required by Health and Safety Code section 44012.

TENTH CAUSE FOR DISCIPLINE

(Fraud)

24. Respondent has subjected his registration to discipline under Code section 9884.7, subdivision (a)(4), in that on or about July 7, 2011, he committed acts which constitute fraud by issuing electronic Certificate of Compliance No. WX027405C for the 1995 Acura Integra without performing a bona fide inspection of the emission control devices and systems on that vehicle, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

ELEVENTH CAUSE FOR DISCIPLINE

(Violation of the Motor Vehicle Inspection Program)

25. Respondent has subjected his station license to discipline under Health and Safety Code section 44072.2, subdivision (a), in that on or about July 7, 2011, regarding the 1995 Acura Integra, he violated sections of that Code, as follows:

///

a. **Section 44012, subdivision (a)**: Respondent failed to determine that all emission control devices and systems required by law were installed and functioning correctly in accordance with test procedures.

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

c. **Section 44015, subdivision (b)**: Respondent issued electronic Certificate of Compliance No. WX027405C without properly testing and inspecting the vehicle to determine if it was in compliance with section 44012 of that Code.

TWELFTH CAUSE FOR DISCIPLINE

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

26. Respondent has subjected his station license to discipline under Health and Safety Code section 44072.2, subdivision (c), in that on or about July 7, 2011, regarding the 1995 Acura Integra, he violated sections of the California Code of Regulations, title 16, as follows:

a. **Section 3340.35, subdivision (c)**: Respondent issued electronic Certificate of Compliance No. WX027405C even though that vehicle had not been inspected in accordance with section 3340.42 of that Code.

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

THIRTEENTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

27. Respondent subjected his station license to discipline under Health and Safety Code section 44072.2, subdivision (d), in that on or about July 7, 2011, regarding the 1995 Acura Integra, he committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing electronic Certificate of Compliance No. WX027405C for that vehicle without performing a bona fide inspection of the emission control devices and system on the vehicle, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

///

FOURTEENTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

28. Respondent has subjected his technician license to discipline under Health and Safety Code section 44072.2, subdivision (a), in that on or about July 7, 2011, regarding the 1995 Acura Integra, he violated sections of that Code, as follows:

a. **Section 44012, subdivision (a)**: Respondent failed to determine that all emission control devices and systems required by law were installed and functioning correctly in accordance with test procedures.

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

c. **Section 44032**: Respondent failed to perform tests of the emission control devices and systems on that vehicle in accordance with section 44012 of that Code.

FIFTEENTH CAUSE FOR DISCIPLINE

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

29. Respondent has subjected his technician license to discipline under Health and Safety Code section 44072.2, subdivision (c), in that on or about July 7, 2011, regarding the 1995 Acura Integra, he violated sections of the California Code of Regulations, title 16, as follows:

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

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

SIXTEENTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

30. Respondent has subjected his technician license to discipline under Health and Safety Code section 44072.2, subdivision (d), in that on or about July 7, 2011, regarding the 1995 Acura Integra, he committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing electronic Certificate of Compliance No. WX027405C without performing a bona fide inspection of the emission control devices and systems on that vehicle, thereby depriving the

People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

STATION INSPECTION – JULY 19, 2011

31. On or about July 19, 2011, a Bureau representative ("representative") performed a station inspection at Respondent's facility. When the representative arrived, Respondent was not at the station but the representative observed a 1997 Honda Accord in the test bay. At approximately 1517 hours, the representative entered the facility and Respondent was at the EIS entering information and appeared to be in the process of testing a vehicle. Respondent completed the test and provided the customer with some paperwork and the keys to the Honda Accord. The customer left the area in the 1997 Honda Accord. At approximately 1524 hours, the representative confirmed that Respondent certified a 1995 Honda Civic and issued Certificate of Compliance No. WX187874C to a 1995 Honda Civic, certifying that he had tested and inspected the vehicle and that it was in compliance with applicable laws and regulations. In fact Respondent performed the smog inspection using the clean piping method by using the tail pipe emissions of a 1997 Honda Accord in order to issue the electronic certificate of compliance to the 1995 Honda Civic. When confronted by the representative, Respondent stated he had clean piped the 1995 Honda Civic using a 1997 Honda Accord that belonged to the owner of a smog facility next door to Respondent. Respondent told the operator that he sometimes did illegal smog inspections for family and friends.

SEVENTEENTH CAUSE FOR DISCIPLINE

(Misleading Statements)

32. Respondent has subjected his registration to discipline under Code section 9884.7, subdivision (a)(1), in that on or about July 19, 2011, he made statements which he knew or which by exercise of reasonable care he should have known were untrue or misleading when he issued electronic Certificate of Compliance No. WX187874C for the 1995 Honda Civic, certifying that the vehicle was in compliance with applicable laws and regulations. In fact, Respondent conducted the inspection on that vehicle using the clean piping method in order to issue smog

///

certificate of compliance for that vehicle, and did not test or inspect the vehicle as required by Health and Safety Code section 44012.

EIGHTEENTH CAUSE FOR DISCIPLINE

(Fraud)

33. Respondent has subjected his registration to discipline under Code section 9884.7, subdivision (a)(4), in that on or about July 19, 2011, he committed acts which constitute fraud by issuing electronic Certificate of Compliance No. WX187874C for the 1995 Honda Civic without performing a bona fide inspection of the emission control devices and systems on that vehicle, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

NINETEENTH CAUSE FOR DISCIPLINE

(Violation of the Motor Vehicle Inspection Program)

34. Respondent has subjected his station license to discipline under Health and Safety Code section 44072.2, subdivision (a), in that on or about July 19, 2011, regarding the 1995 Honda Civic, he violated sections of that Code, as follows:

a. **Section 44012, subdivision (a)**: Respondent failed to determine that all emission control devices and systems required by law were installed and functioning correctly in accordance with test procedures.

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

c. **Section 44015, subdivision (b)**: Respondent issued electronic Certificate of Compliance No. WX187874C without properly testing and inspecting the vehicle to determine if it was in compliance with section 44012 of that Code.

TWENTIETH CAUSE FOR DISCIPLINE

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

35. Respondent has subjected his station license to discipline under Health and Safety Code section 44072.2, subdivision (c), in that on or about July 19, 2011, regarding the 1995 Honda Civic, he violated sections of the California Code of Regulations, title 16, as follows:

a. **Section 3340.35, subdivision (c)**: Respondent issued electronic Certificate of Compliance No. WX187874C even though that vehicle had not been inspected in accordance with section 3340.42 of that Code.

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

TWENTY-FIRST CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

36. Respondent subjected his station license to discipline under Health and Safety Code section 44072.2, subdivision (d), in that on or about July 19, 2011, regarding the 1995 Honda Civic, he committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing electronic Certificate of Compliance No. WX187874C for that vehicle without performing a bona fide inspection of the emission control devices and system on the vehicle, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

TWENTY-SECOND CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

37. Respondent has subjected his technician license to discipline under Health and Safety Code section 44072.2, subdivision (a), in that on or about July 19, 2011, regarding the 1995 Honda Civic, he violated sections of that Code, as follows:

a. **Section 44012, subdivision (a)**: Respondent failed to determine that all emission control devices and systems required by law were installed and functioning correctly in accordance with test procedures.

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

c. **Section 44032**: Respondent failed to perform tests of the emission control devices and systems on that vehicle in accordance with section 44012 of that Code.

///

///

TWENTY-THIRD CAUSE FOR DISCIPLINE

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

38. Respondent has subjected his technician license to discipline under Health and Safety Code section 44072.2, subdivision (c), in that on or about July 19, 2011, regarding the 1995 Honda Civic, he violated sections of the California Code of Regulations, title 16, as follows:

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

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

TWENTY-FOURTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

39. Respondent has subjected his technician license to discipline under Health and Safety Code section 44072.2, subdivision (d), in that on or about July 19, 2011, regarding the 1995 Honda Civic, he committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing electronic Certificate of Compliance No. WX187874C without performing a bona fide inspection of the emission control devices and systems on that vehicle, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

OTHER MATTERS

40. Pursuant to Code section 9884.7, subdivision (c), the Director may refuse to validate, or may invalidate temporarily or permanently, the registrations for all places of business operated in this state by Jose Arteaga, Jr., upon a finding that he has, or is, engaged in a course of repeated and willful violations of the laws and regulations pertaining to an automotive repair dealer.

41. Pursuant to Health & Safety Code section 44072.8, if Smog Check Test Only Station License Number TC 263725, issued to Jose Arteaga, Jr., doing business as J A Smog Check Only Station, is revoked or suspended, any additional license issued under this chapter in the name of said licensee may be likewise revoked or suspended by the director.

///

42. Pursuant to Health & Safety Code section 44072.8, if Advanced Emission Specialist Technician License Number EA 632164, issued to Jose Arteaga, Jr., is revoked or suspended, any additional license issued under this chapter in the name of said licensee may be likewise revoked or suspended by the director.

PRAYER

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

1. Revoking, suspending or placing on probation Automotive Repair Dealer Registration Number ARD 263725, issued to Jose Arteaga, Jr., doing business as J A Smog Check Only Station;

2. Revoking, suspending or placing on probation any other automotive repair dealer registration issued to Jose Arteaga, Jr.;

3. Revoking or suspending Smog Check Test Only Station License Number TC 263725, issued to Jose Arteaga, Jr., doing business as J A Smog Check Only Station;

4. Revoking or suspending any additional license issued under Chapter 5 of the Health and Safety Code in the name of Jose Arteaga, Jr.;

5. Revoking or suspending Advanced Emission Specialist Technician License Number EA 632164, issued to Jose Arteaga, Jr.;

6. Revoking or suspending any additional license issued under Chapter 5 of the Health and Safety Code in the name of Jose Arteaga, Jr.,

///

///

///

///

///

///

///

///

7. Ordering Jose Arteaga, Jr. to pay the Bureau of Automotive Repair the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

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

DATED: 2/21/12

John Wallauch by Doug Balatti

JOHN WALLAUCH
Chief
Bureau of Automotive Repair
Department of Consumer Affairs
State of California
Complainant

Doug Balatti
Assist. Chief

LA2011504772
10839320.doc