

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

In the Matter of the Second Amended Accusation
Against:

CORA'S TEST ONLY

18689 Valley Blvd
Bloomington, CA 92316

Mailing Address:

8831 Jennrich Avenue
Westminster, CA 92683

MY THE VU, OWNER

Automotive Repair Dealer Registration No.

ARD 246517

Smog Check, Test Only, Station License No.

TC 246517

Smog Check Inspector License No.

EO 150104 (formerly Advanced Emission

Specialist Technician License No.

EA 150104)

and

BRYAN FERNANDEZ

769 N. Wilson St.

San Bernardino, CA 92411

Smog Check Inspector License No. EO 632956

Smog Check Repair Technician License

No. EI 632956 (formerly Advanced

Emission Specialist Technician License

No. EA 632956)

Respondents.

Case No. 79/12-32


OAH No. 2012050798

DECISION

The attached Stipulated Revocation of Licenses and Order As To Respondent Cora's Test Only; My The Vu, Owner is hereby accepted and adopted as the Decision of the Director of the Department of Consumer Affairs in the above-entitled matter only as to respondent Cora's Test Only, My The Vu, Owner, Automotive Repair Dealer Registration No. ARD 246517, Smog Check, Test Only, Station License No. TC 246517, and Smog Check Inspector License No. EO 150104 (formerly Advanced Emission Specialist Technician License No. EA 150104).

This Decision shall become effective April 9, 2014.

DATED: MAR 18 2014



DONALD CHANG
Assistant Chief Counsel
Department of Consumer Affairs

1 KAMALA D. HARRIS
Attorney General of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 KEVIN J. RIGLEY
Deputy Attorney General
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Attorneys for Complainant
7

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 Second Amended
12 Accusation Against:

Case No. 79/12-32

13 **CORA'S TEST ONLY**

OAH No. 2012050798

14 18689 Valley Blvd
Bloomington, CA 92316

15 Mailing Address:

8831 Jennrich Avenue
Westminster, CA 92683

16 **MY THE VU, OWNER**

**STIPULATED REVOCATION OF
LICENSES AND ORDER AS TO
RESPONDENT CORA'S TEST ONLY;
MY THE VU, OWNER**

17 Automotive Repair Dealer Registration No.
ARD 246517
18 Smog Check Test Only Station License No. TC
246517
19 Smog Check Inspector License No. EO 150104
(formerly Advanced Emission Specialist
20 Technician License No. EA 150104)

21 **and**

22 **BRYAN FERNANDEZ**

23 769 N. WILSON ST.
San Bernardino, CA 92411

24 Smog Check Inspector License No. EO 632956
Smog Check Repair Technician License
25 No. EI 632956 (formerly Advanced Emission
Specialist Technician License No. EA 632956)
26

27 Respondents.
28

1 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
2 entitled proceedings that the following matters are true:

3 PARTIES

4 1. Patrick Dorais (Complainant) is the Acting Chief of the Bureau of Automotive
5 Repair. He brought this action solely in his official capacity and is represented in this matter by
6 Kamala D. Harris, Attorney General of the State of California, by Kevin J. Rigley, Deputy
7 Attorney General.

8 2. Cora Test Only; My The Vu (Respondent Vu) is representing himself in this
9 proceeding and has chosen not to exercise his right to be represented by counsel.

10 **Automotive Repair Dealer Registration**

11 3. On or about August 2, 2006, the Bureau issued Automotive Repair Dealer
12 Registration Number ARD 246517 ("registration") to My The Vu ("Respondent Vu"), doing
13 business as Cora's Test Only. The registration, which was in full force and effect at all times
14 relevant to the charges brought herein, expired on July 31, 2012, was not renewed, and is now
15 delinquent.

16 **Smog Check Test Only Station License**

17 4. On or about August 16, 2006, the Bureau issued Smog Check Test Only Station
18 License Number TC 246517 ("station license") to Respondent Vu. The station license, which
19 was in full force and effect at all times relevant to the charges brought herein, expired on July 31,
20 2012, was not renewed, and is now delinquent.

21 **Smog Check Inspector**

22 5. In or about 2004, the Director issued Advanced Emission Specialist Technician
23 License Number EA 150104 to My The Vu (Respondent Vu). Respondent Vu's advanced
24 emission specialist technician license was due to expire on February 28, 2013. Pursuant to
25 California Code of Regulations, title 16, section 3340.28, subdivision (e), the license was
26 renewed, pursuant to Vu's election, as Smog Check Inspector License Number EO 150104,
27
28

1 effective February 28, 2013. Respondent Vu's smog check inspector license will expire on
2 February 28, 2015, unless renewed.¹

3 JURISDICTION

4 6. Second Amended Accusation No. 79/12-32 was filed before the Director of
5 Consumer Affairs (Director), for the Bureau of Automotive Repair (Bureau), and is currently
6 pending against Respondent Vu. The Second Amended Accusation and all other statutorily
7 required documents were properly served on Respondent Vu on November 1, 2013. Respondent
8 Vu timely filed his Notice of Defense contesting the Accusation. A copy of Second Amended
9 Accusation No. 79/12-32 is attached as Exhibit A and incorporated by reference.

10 ADVISEMENT AND WAIVERS

11 7. Respondent Vu has carefully read, and understands the charges and allegations in
12 Second Amended Accusation No. 79/12-32. Respondent Vu also has carefully read, and
13 understands the effects of this Stipulated Revocation of Licenses and Order.

14 8. Respondent Vu is fully aware of his legal rights in this matter, including the right to a
15 hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at
16 his own expense; the right to confront and cross-examine the witnesses against him; the right to
17 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel
18 the attendance of witnesses and the production of documents; the right to reconsideration and
19 court review of an adverse decision; and all other rights accorded by the California
20 Administrative Procedure Act and other applicable laws.

21 9. Respondent Vu voluntarily, knowingly, and intelligently waives and gives up each
22 and every right set forth above.

23 CULPABILITY

24 10. Respondent Vu admits the truth of each and every charge and allegation in Second
25 Amended Accusation No. 79/12-32; agrees that cause exists for discipline and hereby agrees to
26

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

1 the revocation of his Automotive Repair Dealer Registration No. ARD 246517 for the Bureau's
2 formal acceptance.

3 11. Respondent Vu understands that by signing this stipulation he enables the Director to
4 issue his order accepting the revocation of his Automotive Repair Dealer Registration without
5 further process.

6 12. Respondent Vu admits the truth of each and every charge and allegation in Second
7 Amended Accusation No. 79/12-32, agrees that cause exists for discipline and hereby agrees to
8 the revocation of his Smog Check Test Only Station License No. TC 246517 for the Bureau's
9 formal acceptance.

10 13. Respondent Vu understands that by signing this stipulation he enables the Director to
11 issue his order accepting the revocation of his Smog Check Test Only Station License without
12 further process.

13 14. Respondent Vu admits the truth of each and every charge and allegation in Second
14 Amended Accusation No. 79/12-32, agrees that cause exists for discipline and hereby agrees to
15 the revocation of his Smog Check Inspector License No. EO 150104 for the Bureau's formal
16 acceptance.

17 15. Respondent Vu understands that by signing this stipulation he enables the Director to
18 issue his order accepting the revocation of his Smog Check Inspector License without further
19 process.

20 CONTINGENCY

21 16. This stipulation shall be subject to approval by the Director or the Director's designee.
22 Respondent Vu understands and agrees that counsel for Complainant and the staff of the Bureau
23 of Automotive Repair may communicate directly with the Director and staff regarding this
24 stipulation and revocation, without notice to or participation by Respondent Vu. By signing the
25 stipulation, Respondent Vu understands and agrees that he may not withdraw his agreement or
26 seek to rescind the stipulation prior to the time the Director considers and acts upon it. If the
27 Director fails to adopt this stipulation as the Decision and Order, the Stipulated Revocation of
28 Licenses and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall

1 be inadmissible in any legal action between the parties, and the Director shall not be disqualified
2 from further action by having considered this matter.

3 17. The parties understand and agree that Portable Document Format (PDF) and facsimile
4 copies of this Stipulated Revocation of Licenses and Order, including Portable Document Format
5 (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

6 18. This Stipulated Revocation of Licenses and Order is intended by the parties to be an
7 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
8 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
9 negotiations, and commitments (written or oral). This Stipulated Revocation of Licenses and
10 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
11 writing executed by an authorized representative of each of the parties.

12 19. In consideration of the foregoing admissions and stipulations, the parties agree that
13 the Director may, without further notice or formal proceeding, issue and enter the following
14 Order:

15 **ORDER**

16 IT IS HEREBY ORDERED that Automotive Repair Dealer Registration No. ARD 246517,
17 Smog Check, Test Only, Station License No. TC 246517, and Smog Inspector License No.
18 EO 150104 issued to Respondent Vu are revoked and accepted by the Director of Consumer
19 Affairs.

20 1. The revocation of Respondent Vu's Automotive Repair Dealer Registration, Smog
21 Check, Test Only, Station License, and Smog Inspector License, and the acceptance of the
22 revoked licenses by the Bureau shall constitute the imposition of discipline against Respondent
23 Vu. This stipulation constitutes a record of the discipline and shall become a part of Respondent
24 Vu's license history with the Bureau of Automotive Repair.

25 2. Respondent Vu shall lose all rights and privileges as an Automotive Repair Dealer,
26 Smog Check, Test Only, Station owner, and Smog Inspector in California as of the effective date
27 of the Director's Decision and Order.
28

3. Respondent Vu shall cause to be delivered to the Bureau his pocket licenses and, if one was issued, his wall certificates on or before the effective date of the Decision and Order.

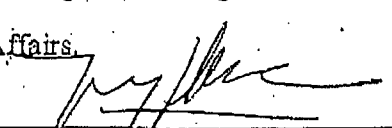
4. If Respondent Vu ever applies for licensure or petitions for reinstatement in the State of California, the Bureau shall treat it as a new application for licensure. Respondent Vu must comply with all the laws, regulations and procedures for licensure in effect at the time the application or petition is filed, and all of the charges and allegations contained in Second Amended Accusation No. 79/12-32 shall be deemed to be true, correct and admitted by Respondent Vu when the Director determines whether to grant or deny the application or petition.

5. Respondent Vu shall pay the agency its costs of investigation and enforcement in the amount of \$24,725.21 prior to issuance of a new or reinstated license.

ACCEPTANCE

I have carefully read the Stipulated Revocation of Licenses and Order. I understand the stipulation and the effect it will have on my Automotive Repair Dealer Registration, and Smog Check, Test Only, Station License, and Smog Inspector License. I enter into this Stipulated Revocation of Licenses and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Director of Consumer Affairs.

DATED: 2/10/2014


CORA TEST ONLY, MY THIE VU
Respondent

ENDORSEMENT

The foregoing Stipulated Revocation of License and Order is hereby respectfully submitted for consideration by the Director of Consumer Affairs.

Dated: 1/22/14

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
GREGORY J. SALUTE
Supervising Deputy Attorney General

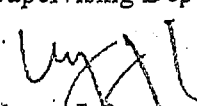

KEVIN J. RIGLEY
Deputy Attorney General
Attorneys for Complainant

Exhibit A

Accusation No. 79/12-32

1 KAMALA D. HARRIS
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6 *Attorneys for Complainant*

7
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17 **MY THE VU, OWNER**

SECOND AMENDED ACCUSATION

SMOG CHECK

18 Automotive Repair Dealer Registration No.
ARD 246517
19 Smog Check Test Only Station License No. TC
246517
20 Smog Check Inspector License No. EO 150104
(formerly Advanced Emission Specialist
21 Technician License No. EA 150104)

22 **and**

23 **BRYAN FERNANDEZ**

24 769 N. WILSON ST.
San Bernardino, CA 92411
Smog Check Inspector License No. EO 632956
Smog Check Repair Technician License
25 No. EI 632956 (formerly Advanced Emission
26 Specialist Technician License No. EA 632956)

27 Respondents.
28

1 Complainant alleges:

2 **PARTIES**

3 1. Patrick Dorais ("Complainant") brings this Second Amended Accusation solely in his
4 official capacity as the Acting Chief of the Bureau of Automotive Repair ("Bureau"), Department
5 of Consumer Affairs.

6 **Automotive Repair Dealer Registration**

7 2. On or about August 2, 2006, the Bureau issued Automotive Repair Dealer
8 Registration Number ARD 246517 ("registration") to My The Vu ("Respondent Cora's"), doing
9 business as Cora's Test Only. The registration, which was in full force and effect at all times
10 relevant to the charges brought herein, expired on July 31, 2012, was not renewed, and is now
11 delinquent.

12 **Smog Check Test Only Station License**

13 3. On or about August 16, 2006, the Bureau issued Smog Check Test Only Station
14 License Number TC 246517 ("station license") to Respondent Cora's. The station license, which
15 was in full force and effect at all times relevant to the charges brought herein, expired on July 31,
16 2012, was not renewed, and is now delinquent.

17 **Smog Check Inspector**

18 4. In or about 2004, the Director issued Advanced Emission Specialist Technician
19 License Number EA 150104 to My The Vu (Respondent Vu). Respondent Vu's advanced
20 emission specialist technician license was due to expire on February 28, 2013. Pursuant to
21 California Code of Regulations, title 16, section 3340.28, subdivision (e), the license was
22 renewed, pursuant to Vu's election, as Smog Check Inspector License Number EO 150104,
23 effective February 28, 2013. Respondent Vu's smog check inspector license will expire on
24 February 28, 2015, unless renewed.¹

25
26 ¹ Effective August 1, 2012, California Code of Regulations, title 16, section 3340.28,
27 3340.29 and 3340.30 were amended to implement a license restructure from the Advanced
28 Emission Specialist Technician (EA) license and Basic Area (EB) Technician license to Smog
Check Inspector (EO) license and and/or Smog Check Repair Technician (EI) license.

1 **Smog Check Inspector License and Smog Check Repair Technician License**

2 5. On or about March 28, 2011, the Director issued Advanced Emission Specialist
3 Technician License Number EA 632956 to Bryan Fernandez (Respondent Fernandez).
4 Respondent Fernandez' advanced emission specialist technician license was due to expire on
5 February 28, 2013. Pursuant to California Code of Regulations, title 16, section 3340.28,
6 subdivision (e), the license was renewed, pursuant to Respondent Fernandez' election, as Smog
7 Check Inspector License Number EO 632956 (effective January 31, 2013) and Smog Check
8 Repair Technician License Number EI 632956 (effective March 14, 2013) ("technician licenses").
9 Respondent Fernandez' technician licenses will expire on February 28, 2015, unless renewed.

10 **JURISDICTION**

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

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

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

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

24 10. Effective August 1, 2012, California Code of Regulations, title 16, section 3340.28,
25 3340.29 and 3340.30 were amended to implement a license restructure from the Advanced
26 Emission Specialist Technician (EA) license and Basic Area (EB) Technician license to Smog
27 Check Inspector (EO) license and and/or Smog Check Repair Technician (EI) license.

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STATUTORY PROVISIONS

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

"(a) The director, where the automotive repair dealer cannot show there was a bona fide error, may deny, suspend, revoke, or place on probation 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 that constitutes fraud.

(6) Failure in any material respect to comply with the provisions of this chapter or regulations adopted pursuant to it.

"(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 suspend, revoke, or place on probation 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 suspend, revoke, or place on probation 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."

12. Section 9884.13 of the Code 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.

13. Section 477 of the Code 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.

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.

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15. 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 Safety Code, Section 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."

16. 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.

17. 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."

SURVEILLANCE OPERATION – JULY 1, 2010

18. On or about July 1, 2010, the Bureau performed a video-taped surveillance at Respondent Cora's facility. The surveillance operation and information obtained from the Bureau's Vehicle Information Database ("VID") revealed that between 1120 hours and 1212 hours, former smog technician and Respondent Cora's ex-employee Alexander Zambrano (Zambrano), with the assistance of Eriberto Benavidez, who is not a licensed smog technician, performed three (3) smog inspections that resulted in the issuance of electronic certificates of compliance for the vehicles set forth in Table 1, below, certifying that he had tested and inspected those vehicles and that the vehicles were in compliance with applicable laws and regulations. In fact, Zambrano failed to perform the functional gas cap test on those vehicles, as more particularly set forth in Table 1, below:

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///

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Table 1

Date and Test Times	Vehicle Tested and Certified	Certificate Issued	Details
1 7/1/2010 1120 hours to 1127 hours	1999 Chevrolet, License No. 6DYN308	WL464116C	Zambrano and Benavidez performed the smog inspection. Zambrano failed to perform a functional gas cap test.
2 7/1/2010 1131 hours to 1138 hours	1999 Infinity, License No. 6DHC917	WL464117C	Zambrano and Benavidez performed the smog inspection. Zambrano failed to perform a functional gas cap test.
3 7/1/2010 1203 hours to 1212 hours	1999 Ford, License No. 4HGU101	WL464120C	Zambrano and Benavidez performed the smog inspection. Zambrano failed to perform a functional gas cap test.

FIRST CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

19. Respondent Cora's has subjected his registration to discipline under Code section 9884.7, subdivision (a)(1), in that on or about July 1, 2010, he made statements which he knew or which by exercise of reasonable care it should have known were untrue or misleading when it issued electronic certificates of compliance for the vehicles set forth in Table 1, above, certifying that those vehicles were in compliance with applicable laws and regulations when, in fact, no functional gas cap test had been performed on those vehicles.

SECOND CAUSE FOR DISCIPLINE

(Fraud)

20. Respondent Cora's has subjected his registration to discipline under Code section 9884.7, subdivision (a)(4), in that on or about July 1, 2010, he committed acts which constitute fraud by issuing electronic certificates of compliance for the vehicles set forth in Table 1, above, without performing bona fide inspections of the emission control devices and systems on those vehicles; thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Violation of the Motor Vehicle Inspection Program)**

3 21. Respondent Cora's has subjected his station license to discipline under Health and
4 Safety Code section 44072.2, subdivision (a), in that on or about July 1, 2010, regarding the
5 vehicles set forth in Table 1, above, he violated sections of that Code, as follows:

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

9 b. **Section 44012, subdivision (f):** Respondent Cora's failed to perform emission
10 control tests on those vehicles in accordance with procedures prescribed by the department.

11 c. **Section 44014:** Respondent Cora's allowed Eriberto Benavidez, who is not a
12 licensed smog technician, to participate in the smog inspections of those vehicles.

13 d. **Section 44015, subdivision (b):** Respondent Cora's issued electronic certificates of
14 compliance without properly testing and inspecting the vehicles to determine if they were in
15 compliance with section 44012 of that Code.

16
17 **FOURTH CAUSE FOR DISCIPLINE**

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

19 22. Respondent Cora's has subjected his station license to discipline under Health and
20 Safety Code section 44072.2, subdivision (c), in that on or about July 1, 2010, regarding the
21 vehicles set forth in Table 1, above, he violated sections of the California Code of Regulations,
22 title 16, as follows:

23 a. **Section 3340.35, subdivision (c):** Respondent Cora's issued electronic certificates of
24 compliance even though those vehicles had not been inspected in accordance with section
25 3340.42 of that Code.

26 b. **Section 3340.42:** Respondent Cora's failed to conduct the required smog tests and
27 inspections on those vehicles in accordance with the Bureau's specifications.

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1 **FIFTH CAUSE FOR DISCIPLINE**

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

3 23. Respondent Cora's subjected his station license to discipline under Health and Safety
4 Code section 44072.2, subdivision (d), in that on or about July 1, 2010, regarding the vehicles set
5 forth in Table 1, above, he committed acts involving dishonesty, fraud or deceit whereby another
6 was injured by issuing electronic certificates of compliance for those vehicles without performing
7 bona fide inspections of the emission control devices and systems on those vehicles, thereby
8 depriving the People of the State of California of the protection afforded by the Motor Vehicle
9 Inspection Program.

10 **SIXTH CAUSE FOR DISCIPLINE**

11 **(Aiding and Abetting an Unlicensed Person)**

12 24. Respondent Cora's has subjected his station license to discipline under Health and
13 Safety Code section 44072.2, subdivision (f), in that on or about July 1, 2010, he aided and
14 abetted Eriberto Benavidez, who is not licensed as a smog technician, to evade the provisions of
15 this chapter by allowing Benavidez to participate in the performance of the smog inspections on
16 the vehicles set forth in Table 1, above.

17 **SURVEILLANCE OPERATION – JULY 15, 2010**

18 25. On or about July 15, 2010, the Bureau performed a video-taped surveillance at
19 Respondent Cora's facility. The surveillance operation and information obtained from the
20 Bureau's VID revealed that between 1050 hours and 1129 hours, Zambrano, with the assistance
21 of Eriberto Benavidez, performed three (3) smog inspections that resulted in the issuance of
22 electronic certificates of compliance for the vehicles set forth in Table 2, below, certifying that he
23 had tested and inspected those vehicles and that the vehicles were in compliance with applicable
24 laws and regulations. In fact, Zambrano failed to perform the functional gas cap test and/or the
25 low pressure fuel evaporative test on those vehicles, as more particularly set forth in Table 2,
26 below:

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28 ///

Table 2

Date and Test Times	Vehicle Tested and Certified	Certificate Issued	Details
1 7/15/2010 1050 hours to 1056 hours	1995 Nissan, License No. 3MUG853	WL677916C	Zambrano and Benavidez performed the smog inspection. Zambrano failed to perform a functional gas cap test or the low pressure fuel evaporative test.
2 7/15/2010 1101 hours to 1107 hours	1997 Jeep, License No. 4JBA890	WL677917C	Zambrano and Benavidez performed the smog inspection. Zambrano failed to perform a functional gas cap test.
3 7/15/2010 1122 hours to 1129 hours	1997 Honda, License No. 3VKW459	WL677919C	Zambrano and Benavidez performed the smog inspection. Zambrano failed to perform a functional gas cap test.

SEVENTH CAUSE FOR DISCIPLINE

(Misleading Statements)

26. Respondent Cora's has subjected his registration to discipline under Code section 9884.7, subdivision (a)(1), in that on or about July 15, 2010, 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 certificates of compliance for the vehicles set forth in Table 2, above, certifying that those vehicles were in compliance with applicable laws and regulations when, in fact, no functional gas cap test and/or low pressure fuel evaporative test had been performed on those vehicles.

EIGHTH CAUSE FOR DISCIPLINE

(Fraud)

27. Respondent Cora's has subjected his registration to discipline under Code section 9884.7, subdivision (a)(4), in that on or about July 15, 2010, he committed acts which constitute fraud by issuing electronic certificates of compliance for the vehicles set forth in Table 2, above, without performing bona fide inspections of the emission control devices and systems on those

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

3 **NINTH CAUSE FOR DISCIPLINE**

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

5 28. Respondent Cora's has subjected his station license to discipline under Health and
6 Safety Code section 44072.2, subdivision (a), in that on or about July 15, 2010, regarding the
7 vehicles set forth in Table 2, above, it violated sections of that Code, as follows:

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

11 b. **Section 44012, subdivision (f):** Respondent Cora's failed to perform emission
12 control tests on those vehicles in accordance with procedures prescribed by the department.

13 c. **Section 44015, subdivision (b):** Respondent Cora's issued electronic certificates of
14 compliance without properly testing and inspecting the vehicles to determine if they were in
15 compliance with section 44012 of that Code.

16 **TENTH CAUSE FOR DISCIPLINE**

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

18 29. Respondent Cora's has subjected his station license to discipline under Health and
19 Safety Code section 44072.2, subdivision (c), in that on or about July 15, 2010, regarding the
20 vehicles set forth in Table 2, above, he violated sections of the California Code of Regulations,
21 title 16, as follows:

22 a. **Section 3340.35, subdivision (c):** Respondent Cora's issued electronic certificates of
23 compliance even though those vehicles had not been inspected in accordance with section
24 3340.42 of that Code.

25 b. **Section 3340.42:** Respondent Cora's failed to conduct the required smog tests and
26 inspections on those vehicles in accordance with the Bureau's specifications.

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1 **ELEVENTH CAUSE FOR DISCIPLINE**

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

3 30. Respondent Cora's subjected his station license to discipline under Health and Safety
4 Code section 44072.2, subdivision (d), in that on or about July 15, 2010, regarding the vehicles
5 set forth in Table 2, above, he committed acts involving dishonesty, fraud or deceit whereby
6 another was injured by issuing electronic certificates of compliance for those vehicles without
7 performing bona fide inspections of the emission control devices and systems on those vehicles,
8 thereby depriving the People of the State of California of the protection afforded by the Motor
9 Vehicle Inspection Program.

10 **TWELFTH CAUSE FOR DISCIPLINE**

11 **(Aiding and Abetting an Unlicensed Person)**

12 31. Respondent Cora's has subjected his station license to discipline under Health and
13 Safety Code section 44072.2, subdivision (f), in that on or about July 15, 2010, he aided and
14 abetted Eriberto Benavidez, who is not licensed as a smog technician, to evade the provisions of
15 this chapter by allowing Benavidez to participate in the performance of the smog inspections on
16 the vehicles set forth in Table 2, above.

17 **SURVEILLANCE OPERATION – OCTOBER 6, 2010**

18 32. On or about October 6, 2010, the Bureau performed a video-taped surveillance at
19 Respondent Cora's facility. The surveillance operation and information obtained from the
20 Bureau's VID revealed that between 1006 hours and 1233 hours, Zambrano, with the assistance
21 of Eriberto Benavidez, performed four (4) smog inspections that resulted in the issuance of
22 electronic certificates of compliance for the vehicles set forth in Table 3, below, certifying that he
23 had tested and inspected those vehicles and that the vehicles were in compliance with applicable
24 laws and regulations. In fact, Zambrano used the "clean plugging"² method in order to perform

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26 ² Clean plugging is the use of the OBD II readiness monitor status and stored fault code
27 (trouble code) status of a passing vehicle for the purpose of illegally issuing a smog certificate to
28 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

the OBD II functional test³ on vehicles 1 and 2, set forth in Table 3, below. Further, Zambrano failed to perform the functional gas cap test and the low pressure fuel evaporative test on vehicles 3 and 4, also set forth in Table 3, below:

Table 3

Date and Test Times	Vehicle Tested and Certified	Certificate Issued	Details
1 10/6/2010 1006 hours to 1015 hours	2000 Oldsmobile, License No. 6FSV288	WP017111C	Zambrano and Benavidez performed the smog inspection. Zambrano used a Scion XB instead of the certified vehicle, to perform the OBD II functional test.
2 10/6/2010 1020 hours to 1033 hours	1997 BMW, License No. 4SSY113	WP017112C	Zambrano and Benavidez performed the smog inspection. Zambrano used a Scion XB instead of the certified vehicle to perform the OBD II functional test.
3 10/6/2010 1200 hours to 1208 hours	1978 Chevrolet, License No. 4USX084	WP017114C	Zambrano and Benavidez performed the smog inspection. Zambrano failed to perform a functional gas cap test or the low pressure fuel evaporative test.
4 10/6/2010 1225 hours to 1233 hours	1979 Nissan, License No. 1S53819	WP017115C	Zambrano and Benavidez performed the smog inspection. Zambrano failed to perform a functional gas cap test or the low pressure fuel evaporative test.

THIRTEENTH CAUSE FOR DISCIPLINE

(Misleading Statements)

33. Respondent Cora's has subjected his registration to discipline under Code section 9884.7, subdivision (a)(1), in that on or about October 6, 2010, he made statements which he knew or which by exercise of reasonable care he should have known were untrue or misleading

³ The On Board Diagnostics (OBD II) functional test is an automated function of the BAR-97 analyzer. During the OBD II 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 OBD II functional test, it will fail the overall inspection.

1 when he issued electronic certificates of compliance for the vehicles set forth in Table 3, above,
2 certifying that those vehicles were in compliance with applicable laws and regulations when, in
3 fact, vehicles 1 and 2 had not been tested during the OBD II functional test and no functional gas
4 cap test or low pressure fuel evaporative test had been performed on vehicles 3 and 4.

5 **FOURTEENTH CAUSE FOR DISCIPLINE**

6 **(Fraud)**

7 34. Respondent Cora's has subjected his registration to discipline under Code section
8 9884.7, subdivision (a)(4), in that on or about October 6, 2010, he committed acts which
9 constitute fraud by issuing electronic certificates of compliance for the vehicles set forth in Table
10 3, above, without performing bona fide inspections of the emission control devices and systems
11 on those vehicles, thereby depriving the People of the State of California of the protection
12 afforded by the Motor Vehicle Inspection Program.

13 **FIFTEENTH CAUSE FOR DISCIPLINE**

14 **(Violation of the Motor Vehicle Inspection Program)**

15 35. Respondent Cora's has subjected his station license to discipline under Health and
16 Safety Code section 44072.2, subdivision (a), in that on or about October 6, 2010, regarding the
17 vehicles set forth in Table 3, above, he violated sections of that Code, as follows:

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

21 b. **Section 44012, subdivision (f):** Respondent Cora's failed to perform emission
22 control tests on those vehicles in accordance with procedures prescribed by the department.

23 c. **Section 44015, subdivision (b):** Respondent Cora's issued electronic certificates of
24 compliance without properly testing and inspecting the vehicles to determine if they were in
25 compliance with section 44012 of that Code.

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1 **SIXTEENTH CAUSE FOR DISCIPLINE**

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

3 36. Respondent Cora's has subjected his station license to discipline under Health and
4 Safety Code section 44072.2, subdivision (c), in that on or about October 6, 2010, regarding the
5 vehicles set forth in Table 3, above, he violated sections of the California Code of Regulations,
6 title 16, as follows:

7 a. **Section 3340.35, subdivision (c):** Respondent Cora's issued electronic certificates of
8 compliance even though those vehicles had not been inspected in accordance with section
9 3340.42 of that Code.

10 b. **Section 3340.42:** Respondent Cora's failed to conduct the required smog tests and
11 inspections on those vehicles in accordance with the Bureau's specifications.

12 **SEVENTEENTH CAUSE FOR DISCIPLINE**

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

14 37. Respondent Cora's subjected his station license to discipline under Health and Safety
15 Code section 44072.2, subdivision (d), in that on or about October 6, 2010, regarding the vehicles
16 set forth in Table 3, above, he committed acts involving dishonesty, fraud or deceit whereby
17 another was injured by issuing electronic certificates of compliance for those vehicles without
18 performing bona fide inspections of the emission control devices and systems on those vehicles,
19 thereby depriving the People of the State of California of the protection afforded by the Motor
20 Vehicle Inspection Program.

21 **EIGHTEENTH CAUSE FOR DISCIPLINE**

22 **(Aiding and Abetting an Unlicensed Person)**

23 38. Respondent Cora's has subjected his station license to discipline under Health and
24 Safety Code section 44072.2, subdivision (f), in that on or about October 6, 2010, he aided and
25 abetted Eriberto Benavidez, who is not licensed as a smog technician, to evade the provisions of
26 this chapter by allowing Benavidez to participate in the performance of the smog inspections on
27 the vehicles set forth in Table 3, above:

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SURVEILLANCE OPERATION – AUGUST 30, 2011

39. On or about August 30, 2011, the Bureau performed a video-taped surveillance at Respondent Cora's facility. The surveillance operation and information obtained from the Bureau's VID revealed that between 1041 hours and 1140 hours, Zambrano, with the assistance of Eriberto Benavidez, performed three (3) smog inspections that resulted in the issuance of electronic certificates of compliance for the vehicles set forth in Table 4, below, certifying that he had tested and inspected those vehicles and that the vehicles were in compliance with applicable laws and regulations. In fact, Zambrano used the "clean plugging" method in order to perform the OBD II functional test on vehicles 1 and 2, set forth in Table 4, below. Further, with regard to vehicle 3, Eriberto Benavidez, using Zambrano's access code, performed the smog inspection, entered information into the EIS, and issued the certificate of compliance, as more particularly set forth in Table 4, below:

Table 4

Date and Test Times	Vehicle Tested and Certified	Certificate Issued	Details
1 8/30/2011 1041 hours to 1055 hours	1997 Acura, License No. 4PIL364	WX984493C	Zambrano and Benavidez performed the smog inspection. Zambrano used a Honda Civic instead of the certified vehicle, to perform the OBD II functional test.
2 8/30/2011 1103 hours to 1110 hours	2002 Mitsubishi, License No. 6DEY164	WX984494C	Zambrano and Benavidez performed the smog inspection. Zambrano used a Honda Civic instead of the certified vehicle to perform the OBD II functional test.
3 8/30/2011 1129 hours to 1140 hours	1989 Honda, License No. 2PER611	WX984495C	Benavidez performed the smog inspection using Zambrano's access code. Benavidez made entries into the EIS and signed the certificate of compliance.

NINETEENTH CAUSE FOR DISCIPLINE

(Misleading Statements)

40. Respondent Cora's has subjected his registration to discipline under Code section 9884.7, subdivision (a)(1), in that on or about August 30, 2011, he made statements which he

1 knew or which by exercise of reasonable care he should have known were untrue or misleading
2 when he issued electronic certificates of compliance for the vehicles set forth in Table 4, above,
3 certifying that those vehicles were in compliance with applicable laws and regulations when, in
4 fact, vehicles 1 and 2 had not been tested during the OBD II functional test and vehicle 3 was
5 tested by Eriberto Benavidez, an unlicensed person.

6 **TWENTIETH CAUSE FOR DISCIPLINE**

7 **(Fraud)**

8 41. Respondent Cora's has subjected his registration to discipline under Code section
9 9884.7, subdivision (a)(4), in that on or about August 30, 2011, he committed acts which
10 constitute fraud by issuing electronic certificates of compliance for the vehicles set forth in Table
11 4, above, without performing bona fide inspections of the emission control devices and systems
12 on those vehicles, thereby depriving the People of the State of California of the protection
13 afforded by the Motor Vehicle Inspection Program.

14 **TWENTY FIRST CAUSE FOR DISCIPLINE**

15 **(Violation of the Motor Vehicle Inspection Program)**

16 42. Respondent Cora's has subjected his station license to discipline under Health and
17 Safety Code section 44072.2, subdivision (a), in that on or about August 30, 2011, regarding the
18 vehicles set forth in Table 4, above, he violated sections of that Code, as follows:

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

22 b. **Section 44012, subdivision (f):** Respondent Cora's failed to perform emission
23 control tests on those vehicles in accordance with procedures prescribed by the department.

24 c. **Section 44015, subdivision (b):** Respondent Cora's issued electronic certificates of
25 compliance without properly testing and inspecting the vehicles to determine if they were in
26 compliance with section 44012 of that Code.

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1 **TWENTY SECOND CAUSE FOR DISCIPLINE**

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

3 43. Respondent Cora's has subjected his station license to discipline under Health and
4 Safety Code section 44072.2, subdivision (c), in that on or about August 30, 2011, regarding the
5 vehicles set forth in Table 4, above, he violated sections of the California Code of Regulations,
6 title 16, as follows:

7 a. **Section 3340.35, subdivision (c):** Respondent Cora's issued electronic certificates of
8 compliance even though those vehicles had not been inspected in accordance with section
9 3340.42 of that Code.

10 b. **Section 3340.42:** Respondent Cora's failed to conduct the required smog tests and
11 inspections on those vehicles in accordance with the Bureau's specifications.

12 **TWENTY THIRD CAUSE FOR DISCIPLINE**

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

14 44. Respondent Cora's subjected his station license to discipline under Health and Safety
15 Code section 44072.2, subdivision (d), in that on or about August 30, 2011, regarding the vehicles
16 set forth in Table 4, above, he committed acts involving dishonesty, fraud or deceit whereby
17 another was injured by issuing electronic certificates of compliance for those vehicles without
18 performing bona fide inspections of the emission control devices and systems on those vehicles,
19 thereby depriving the People of the State of California of the protection afforded by the Motor
20 Vehicle Inspection Program.

21 **TWENTY FOURTH CAUSE FOR DISCIPLINE**

22 **(Aiding and Abetting an Unlicensed Person)**

23 45. Respondent Cora's has subjected his station license to discipline under Health and
24 Safety Code section 44072.2, subdivision (f), in that on or about August 30, 2011, he aided and
25 abetted Eriberto Benavidez, who is not licensed as a smog technician, to evade the provisions of
26 this chapter by allowing Benavidez to participate in the performance of the smog inspections on
27 the vehicles set forth in Table 4, above.

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SEARCH WARRANT EXECUTED – MARCH 1, 2012

46. A search warrant for Respondent Cora's facility was obtained based upon Smog Check Test emission readings being recorded in the State of California's Vehicle Information Database (VID), for vehicles tested by Respondent Cora's. In addition, Respondent Cora's had employed a new individual, Respondent Fernandez, as their Smog Check Technician. It was determined that a physical search of Respondent Cora's facility was needed to determine the reason for their abnormal emission readings. On or about March 1, 2012, members of the San Bernardino County District Attorney's Office, Bureau of Investigation, and the Bureau of Automotive Repair (BAR), served a search warrant on Respondent Cora's facility. Present at Respondent Cora's facility at the time were, Respondent Fernandez and employee Carlos Leanos. A gas bottle with a regulator and hose, and an Electronic Control Unit OBD II (ECU) Simulator, manufactured by Ozen Elektronik were recovered during the search. Respondent Fernandez stated that this equipment was supplied to him, and maintained by, Respondent Cora's owner, Respondent Vu. This investigation confirmed that Respondent Fernandez, by his own stated admission at the time the search warrant was executed, used a gas dilution system to alter vehicle exhaust samples being introduced into the State of California Emissions Inspection Unit (EIS), thereby causing normally failing vehicles with excessive emissions to pass the emission portion of the Smog Check test, a method BAR refers to as "clean gassing"⁴. The gas used to dilute the exhaust samples being measured by the EIS was determined to be a metallic inert gas (MIG) welding mix, commonly available through welding gas suppliers. In addition, an OBD II simulator was found which can be used to substitute for the computer systems of failing vehicles, thereby allowing those vehicles to pass the OBD II functional portion of the Smog Check test. Using these two methods, non-compliant vehicles were certified as passing their Smog Check

⁴ "Clean Gassing" is a term used by the Bureau to describe a situation where a gas dilution system is used to alter vehicle exhaust samples being introduced into the State of California Emissions Inspection Unit (EIS), thereby causing normally failing vehicles with excessive emissions to pass the emission portion of the Smog Check test. In this case, the gas that was used to dilute the exhaust samples being measured by the EIS was determined to be a metallic inert gas (MIG) welding mix, commonly available through welding gas suppliers.

1 tests at Respondent Cora's by Respondent Fernandez using the clean gassing method, as more
2 particularly set forth in Table 5, below:

3 **Table 5**

4	Test ID #	Test Date and Time	Vehicle Type	CA Lic No.	Certificate No.
5	1a 271204938	3/1/12 @ 1105 hrs	1997 Chevrolet C1500	5P75525	XD953876C
6	2a 271202024	3/1/12 @ 1040 hrs	1995 GMC C1500	7L73609	XD953875C
7	3a 271146634	2/29/12 @ 1043 hrs	1996 Acura Integra	3RRN163	XD953870C
8	4a 271120582	2/28/12 @ 1528 hrs	1994 Dodge Intrepid	3TVC131	XD953868C
9	5a 271117070	2/28/12 @ 1508 hrs	2000 Toyota Tacoma	6E53210	XD953867C

12
13 **TWENTY FIFTH CAUSE FOR DISCIPLINE**

14 **(Untrue or Misleading Statements)**

15 47. Respondent Cora's has subjected his registration to discipline under Code section
16 9884.7, subdivision (a)(1), in that between on or about February 28, 2012, and on or about March
17 1, 2012, he made statements which he knew or which by exercise of reasonable care it should
18 have known were untrue or misleading when it issued electronic certificates of compliance for the
19 vehicles set forth in Table 5, above, certifying that those vehicles were in compliance with
20 applicable laws and regulations when, in fact, the test analyzer system had been tampered with in
21 a manner that would cause the vehicles to falsely pass the emissions portion of the test.

22 **TWENTY SIXTH CAUSE FOR DISCIPLINE**

23 **(Fraud)**

24 48. Respondent Cora's has subjected his registration to discipline under Code section
25 9884.7, subdivision (a)(4), in that between on or about February 28, 2012, and on or about March
26 1, 2012, he committed acts which constitute fraud by issuing electronic certificates of compliance
27 for the vehicles set forth in Table 5, above, without performing bona fide inspections of the
28

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

3 **TWENTY SEVENTH CAUSE FOR DISCIPLINE**

4 **(Failure to Comply with the Automotive Repair Act)**

5 49. Respondent Cora's has subjected his registration to discipline under Code section
6 9884.7, subdivision (a)(6), in that between on or about February 28, 2012, and on or about March
7 1, 2012, he committed acts which violated the Automotive Repair Act by issuing electronic
8 certificates of compliance for the vehicles set forth in Table 5, above, without performing bona
9 fide inspections of the emission control devices and systems on those vehicles, thereby depriving
10 the People of the State of California of the protection afforded by the Motor Vehicle Inspection
11 Program.

12 **TWENTY EIGHTH CAUSE FOR DISCIPLINE**

13 **(Violation of the Motor Vehicle Inspection Program)**

14 50. Respondent Cora's has subjected his station license to discipline under Health and
15 Safety Code section 44072.2, subdivision (a), in that between on or about February 28, 2012, and
16 on or about March 1, 2012, regarding the vehicles set forth in Table 5, above, he violated sections
17 of that Code, as follows:

18 a. **Section 44012:** Respondent Cora's failed to perform such tests in accordance with
19 the procedures prescribed by the department, pursuant to Health and Safety Code section 44013.

20 b. **Section 44012, subdivision (f):** Respondent Cora's failed to perform emission
21 control tests on those vehicles in accordance with procedures prescribed by the department.

22 c. **Section 44015, subdivision (b):** Respondent Cora's issued electronic certificates of
23 compliance without properly testing and inspecting the vehicles to determine if they were in
24 compliance with section 44012 of that Code.

25 **TWENTY NINTH CAUSE FOR DISCIPLINE**

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

27 51. Respondent Cora's has subjected his station license to discipline under Health and
28 Safety Code section 44072.2, subdivision (c), in that between on or about February 28, 2012, and

1 on or about March 1, 2012, regarding the vehicles set forth in Table 5, above, he violated sections
2 of the California Code of Regulations, title 16, as follows:

3 a. **Section 3340.35, subdivision (c):** Respondent Cora's issued electronic certificates of
4 compliance even though those vehicles had not been inspected in accordance with section
5 3340.42 of that Code.

6 b. **Section 3340.42:** Respondent Cora's failed to conduct the required smog tests and
7 inspections on those vehicles in accordance with the Bureau's specifications.

8 c. **Section 3373:** Respondent Cora created and maintained false and misleading records
9 in connection with those vehicles.

10 **THIRTIETH CAUSE FOR DISCIPLINE**

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

12 52. Respondent Fernandez has subjected his technician licenses to discipline under
13 Health and Safety Code section 44072.2, subdivision (a), in that between on or about February
14 28, 2012, and on or about March 1, 2012, regarding the vehicles set forth in Table 5, above, he
15 violated sections of that Code, as follows:

16 b. **Section 44012, subdivision (f):** Respondent Fernandez failed to perform emission
17 control tests on those vehicles in accordance with procedures prescribed by the department.

18 d. **Section 44032:** Respondent Fernandez failed to perform tests of the emission control
19 devices and systems on those vehicles in accordance with section 44012 of that Code.

20 **THIRTY FIRST CAUSE FOR DISCIPLINE**

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

22 53. Respondent Fernandez has subjected his technician licenses to discipline under
23 Health and Safety Code section 44072.2, subdivision (c), in that between on or about February
24 28, 2012, and on or about March 1, 2012, regarding the vehicles set forth in Table 5, above, he
25 violated sections of the California Code of Regulations, title 16, as follows:

26 a. **Section 3340.30, subdivision (a):** Respondent Fernandez failed to inspect and test
27 those vehicles in accordance with Health and Safety Code section 44012.

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b. **Section 3340.41, subdivision (c):** Respondent Fernandez entered false information into the Emissions Inspection System on those vehicles.

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

OTHER MATTERS

54. Under Code section 9884.7, subdivision (c), the director may invalidate temporarily or permanently or refuse to validate, the registrations for all places of business operated in this state by My The Vu, 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.

55. Under Health and Safety Code section 44072.8, if Smog Check Test Only Station License Number TC 246517, issued to My The Vu, doing business as Cora's Test Only, 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.

56. Under Health and Safety Code section 44072.8, if under Health and Safety Code section 44072.8, if Smog Check Inspector License Number EO 632956 and Smog Check Repair Technician License Number EI 632956 (formerly Advanced Emission Specialist Technician License Number EA 632956) issued to Bryan Fernandez, are 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 246517, issued to My The Vu, doing business as Cora's Test Only;

2. Revoking, suspending, or placing on probation any other automotive repair dealer registration issued to My The Vu;

3. Revoking or suspending Smog Check Test Only Station License Number TC 246517,
issued to My The Vu, doing business as Cora's Test Only;

1 4. Revoking or suspending any additional license issued under Chapter 5 of the Health
2 and Safety Code in the name of My The Vu, doing business as Cora's Test Only;


3 5. Revoking or suspending Smog Check Inspector License Number EQ 632956 and
4 Smog Check Repair Technician License Number EI 632956 (formerly Advanced Emission
5 Specialist Technician License Number EA 632956) issued to Bryan Fernandez;

6 6. Revoking or suspending any additional license issued under Chapter 5 of the Health
7 and Safety Code in the name of Bryan Fernandez;

8 7. Ordering My The Vu and Bryan Fernandez to pay the Bureau of Automotive Repair
9 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and
10 Professions Code section 125.3; and,

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

12
13 DATED: October 31, 2013


PATRICK DORAIS,
Acting Chief
Bureau of Automotive Repair
Department of Consumer Affairs
State of California
Complainant