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

In the Matter of the Accusation Against:

H & R SMOG CHECK & AUTO REPAIR
CESAR TRUJILLO, Owner
715 E. Mill Street
San Bernardino, CA 92408
Mailing Address:
143 Chant St.
Perris, CA 92571
Automotive Repair Dealer Registration
No. ARD 207580
Smog Check Station License No. RC 207580
Official Lamp Station License No. LS 207580
Official Brake Station License No. BS 207580

and

HECTOR ALAN TRUJILLO
715 E. Mill Street
San Bernardino, CA 92408

Advanced Emission Specialist Technician
License No. EA 151444
Brake Adjuster License No. BA 151444
Lamp Adjuster License No. LA 151444

Respondents.

Case No. 79/11-19

OAH No. L-2010120509

DECISION

The attached Stipulated Revocation and Disciplinary Order 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 H & R Smog Check & Auto Repair, Cesar Trujillo, Owner, Automotive Repair Dealer Registration No. ARD 207580, Smog Check Station License No. LS 207580, Official Lamp Station License No. LS 207580, and Official Brake Station License No. BS 207580.

This Decision shall become effective 4/19/12.

DATED: March 13, 2012

Doreathea J
DOREATHEA JOHNSON
Deputy Director, Legal Affairs
Department of Consumer Affairs

KAMALA D. HARRIS
Attorney General of California
GLORIA A. BARRIOS
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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: **H & R SMOG CHECK & AUTO REPAIR** **CESAR TRUJILLO, OWNER** **715 E. Mill Street** **San Bernardino, CA 92408** **Mailing Address:** **143 Chant St.** **Perris, CA 92571** **Automotive Repair Dealer Reg. No. ARD 207580** **Smog Check Station License No. RC 207580** **Official Lamp Station License No. LS 207580** **Official Brake Station License No. BS 207580** **and** **HECTOR ALAN TRUJILLO** **715 E. Mill Street** **San Bernardino, CA 92408** **Advanced Emission Specialist Technician License No. EA 151444** **Brake Adjuster License No. BA 151444** **Lamp Adjuster License No. LA 151444** Respondents.	Case No. 79/11-19 OAH No. L-2010120509 **STIPULATED REVOCATION AND DISCIPLINARY ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties in this proceeding that the following matters are true:

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PARTIES

1. Sherry Mehl (Complainant) is the Chief of the Bureau of Automotive Repair. She brought this action solely in her official capacity and is represented in this matter by Kamala D. Harris, Attorney General of the State of California, by Michael Brown, Deputy Attorney General.

2. Respondent Cesar Trujillo, owner of H & R Smog Check & Auto Repair (Respondent Cesar Trujillo) is represented in this proceeding by attorney Miles Clark III, whose address is Clark, Clark & Associates, 10370 Hemet Street, Suite 220, Riverside, CA 92503.

Automotive Repair Dealer Registration

3. In or about 1999, the Bureau of Automotive Repair issued Automotive Repair Dealer Registration No. ARD 207580 to Respondent Cesar Trujillo, owner of H & R Smog Check & Auto Repair. The Automotive Repair Dealer Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 79/11-19 and will expire on October 31, 2012, unless renewed.

Smog Check Station License

4. On or about November 17, 1999, the Bureau of Automotive Repair issued Smog Check Station License No. RC 207580 to Respondent Cesar Trujillo. The Smog Check Station License was in full force and effect at all times relevant to the charges brought in Accusation No. 79/11-19 and expired on October 31, 2010, and has not been renewed.

Official Lamp Station License

5. On October 2, 2003, the Bureau of Automotive Repair issued Official Lamp Station License No. LS 207580 to Respondent Cesar Trujillo. The Official Lamp Station License was in full force and effect at all times relevant to the charges brought in Accusation No. 79/11-19 and will expire on October 31, 2012, unless renewed.

Official Brake Station License

6. On or about October 2, 2003, the Bureau of Automotive Repair issued Official Brake Station License Number BS 207580 to Respondent Cesar Trujillo. The Official Brake Station 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.

JURISDICTION

7. Accusation No. 79/11-19 was filed before the Director of Consumer Affairs (Director), for the Bureau of Automotive Repair (Bureau), and is currently pending against Respondent Cesar Trujillo. The Accusation and all other statutorily required documents were properly served on Respondent Cesar Trujillo on October 20, 2010. Respondent Cesar Trujillo timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 79/11-19 is attached as Exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

8. Respondent Cesar Trujillo has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 79/11-19. Respondent Cesar Trujillo also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Revocation and Disciplinary Order.

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

10. Respondent Cesar Trujillo voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

11. Respondent Cesar Trujillo admits the truth of each and every charge and allegation in Accusation No. 79/11-19.

12. Respondent Cesar Trujillo agrees that his Automotive Repair Dealer Registration No. ARD 207580, Smog Check Station License No. RC 207580, Official Lamp Station License No. LS 207580 and Official Brake Station License No. BS 207580 are subject to discipline and he

agrees to be bound by the Director of Consumer Affairs imposition of discipline as set forth in the Disciplinary Order below.

CONTINGENCY

13. This stipulation shall be subject to approval by the Director of Consumer Affairs or her designee. Respondent Cesar Trujillo understands and agrees that counsel for Complainant and the staff of the Bureau of Automotive Repair may communicate directly with the Director and staff of the Department of Consumer Affairs regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent Cesar Trujillo understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Director considers and acts upon it. If the Director fails to adopt this stipulation as the Decision and Order, the Stipulated Revocation and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Director shall not be disqualified from further action by having considered this matter.

14. The parties understand and agree that facsimile copies of this Stipulated Revocation and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

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

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

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ORDER

IT IS HEREBY ORDERED that Automotive Repair Dealer Registration No. ARD 207580, Smog Check Station License No. RC 207580, Official Lamp Station License No. LS 207580 and Official Brake Station License No. BS 207580 issued to Respondent Cesar Trujillo, owner of H & R Smog Check & Auto Repair are revoked.

Respondent Cesar Trujillo shall be held jointly and severally responsible for payment of the total investigative and enforcement costs incurred in this case amounting to $12,838.70. These costs shall be deferred until reapplication for any registration or license the Bureau issues. The payments must be tendered to: Bureau of Automotive Repair, Enforcement Division, 10240 Systems Parkway, Sacramento, CA 95827.

ACCEPTANCE

I have carefully read the above Stipulated Revocation and Disciplinary Order and have fully discussed it with my attorney, Miles Clark III. I understand the stipulation and the effect it will have on my Automotive Repair Dealer Registration, Smog Check Station License, Official Lamp Station License and Official Brake Station License. I enter into this Stipulated Revocation and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Director of Consumer Affairs.

DATED: 1/6/12

H & R SMOG CHECK & AUTO REPAIR;
CESAR TRUJILLO
Respondent

I have read and fully discussed with Respondent Cesar Trujillo, owner of H & R Smog Check & Auto Repair the terms and conditions and other matters contained in this Stipulated Revocation and Disciplinary Order. I approve its form and content.

DATED: 1-6-12

MILES CLARK III
Attorney for Respondent Cesar Trujillo

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ENDORSEMENT

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

Dated: January 20, 2011

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
GLORIA A. BARRIOS
Supervising Deputy Attorney General

MICHAEL BROWN
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 79/11-19

EDMUND G. BROWN JR.
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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: **H & R SMOG CHECK & AUTO REPAIR** **CESAR TRUJILLO, OWNER** **715 E. Mill Street** **San Bernardino, CA 92408** **Mailing Address:** **143 Chant St.** **Perris, CA 92571** **Automotive Repair Dealer Reg. No. ARD 207580** **Smog Check Station License No. RC 207580** **Official Lamp Station License No. LS 207580** **Official Brake Station License No. BS 207580** **and** **HECTOR ALAN TRUJILLO** **715 E. Mill Street** **San Bernardino, CA 92408** **Advanced Emission Specialist Technician License No. EA 151444** **Brake Adjuster License No. BA 151444** **Lamp Adjuster License No. LA 151444** Respondents.	Case No. 79/11-19 **ACCUSATION** **(Smog Check)**

Complainant alleges:

PARTIES

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

H & R Smog Check & Auto Repair; Cesar Trujillo, Owner

2. In or about 1999, the Director of Consumer Affairs ("Director") issued Automotive Repair Dealer Registration Number ARD 207580 (hereinafter "registration") to Cesar Trujillo ("Respondent Cesar Trujillo"), owner of H & R Smog Check & Auto Repair. Respondent's registration was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2010, unless renewed.

3. On or about November 17, 1999, the Director issued Smog Check Station License Number RC 207580 to Respondent Cesar Trujillo. Respondent's smog check station license was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2010, unless renewed.

4. On or about October 2, 2003, the Director issued Official Lamp Station License Number LS 207580 (hereinafter "lamp station license") to Respondent Cesar Trujillo. Respondent's lamp station license was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2010, unless renewed.

5. On or about October 2, 2003, the Director issued Official Brake Station License Number BS 207580 (hereinafter "brake station license") to Respondent Cesar Trujillo. Respondent's brake station license was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2010, unless renewed.

Hector Alan Trujillo

6. In or about 2005, the Director issued Advanced Emission Specialist Technician License Number EA 151444 (hereinafter "technician license") to Hector Alan Trujillo ("Respondent Hector Trujillo"). Respondent's technician license was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2011, unless renewed.

7. In or about 2005, the Director issued Brake Adjuster License Number BA 151444 to Respondent Hector Trujillo. Respondent's brake adjuster license was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2013, unless renewed.

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8. In or about 2007, the Director issued Lamp Adjuster License Number LA 151444 to Respondent Hector Trujillo. Respondent's lamp adjuster license was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2011, unless renewed.

JURISDICTION

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

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

11. Bus. & Prof. Code section 9889.1 provides, in pertinent part, that the Director may suspend or revoke any license issued under Articles 5 and 6 (commencing with section 9887.1) of the Automotive Repair Act.

12. Bus. & Prof. Code section 9889.7 provides, in pertinent part, that the expiration or suspension of a license by operation of law or by order or decision of the Director or a court of law, or the voluntary surrender of a license shall not deprive the Director of jurisdiction to proceed with any disciplinary proceedings.

13. Health and Safety Code ("Health & Saf. Code") section 44002 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.

14. Health & Saf. Code section 44072.6 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.

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STATUTORY PROVISIONS

15. Bus. & Prof. Code section 9884.7 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.
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> . . . .
>
> (4) Any other conduct that constitutes fraud.
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> . . . .
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> (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.

16. Bus. & Prof. Code section 9889.3 states, in pertinent part:

> The director may suspend, revoke, or take other disciplinary action against a license as provided in this article [Article 7 (commencing with section 9889.1) of the Automotive Repair Act] if the licensee or any partner, officer, or director thereof:
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> . . . .
>
> (d) Commits any act involving dishonesty, fraud, or deceit whereby another is injured . . .

17. Bus. & Prof. Code section 9889.9 states that "[w]hen any license has been revoked or suspended following a hearing under the provisions of this article [Article 7 (commencing with section 9889.1) of the Automotive Repair Act], any additional license issued under Articles 5 and 6 of this chapter in the name of the licensee may be likewise revoked or suspended by the director."

18. Bus. & Prof. Code section 477 provides, in pertinent part, that "Board" includes "bureau," "commission," "committee," "department," "division," "examining committee,"

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"program," and "agency." "License" includes certificate, registration or other means to engage in a business or profession regulated by the Bus. & Prof. Code.

19. Health & Saf. Code section 44072.2 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:
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> (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.
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> . . . .
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> (c) Violates any of the regulations adopted by the director pursuant to this chapter.
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> (d) Commits any act involving dishonesty, fraud, or deceit whereby another is injured . . .

20. Health & Saf. Code section 44072.10 states, in pertinent part:

> . . . .
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> (c) The department shall revoke the license of any smog check technician or station licensee who fraudulently certifies vehicles or participates in the fraudulent inspection of vehicles. A fraudulent inspection includes, but is not limited to, all of the following:
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> . . . .
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> (4) Intentional or willful violation of this chapter or any regulation, standard, or procedure of the department implementing this chapter . . .

21. Health & Saf. Code section 44072.8 states that 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

22. Bus. & Prof. 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.

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VID DATA REVIEW

23. On or about April 12, 2010, the Bureau initiated an investigation against Respondent Cesar Trujillo based on a review of information from the Bureau's Vehicle Information Database ("VID"), which indicated that Respondent may be engaging in fraudulent smog check activities.

24. On or about April 14, 2010, a representative of the Bureau conducted a detailed review of VID data for all smog inspections performed at Respondent Cesar Trujillo's facility for the period of January 21, 2010, through January 29, 2010. The representative found that the 13 vehicles identified below recorded the same diagnostic trouble code (hereinafter "code") during the OBD II tests[1] regardless of the make or model of the vehicle. The representative obtained information indicating that the code was not applicable to any of the vehicles. The VID data also showed that Respondent Hector Trujillo performed the inspections on all of the vehicles.

25. The Bureau concluded that Respondent Hector Trujillo had performed the smog inspections on the 13 vehicles using a different vehicle(s) during the OBD II tests, a method known as "clean plugging",[2] resulting in the issuance of fraudulent certificates of compliance for the vehicles.

Date & Time of Inspection	Vehicle Certified & License or VIN No.	Certificate No.
1. 01/21/2010 09:58 – 10:07	1997 Ford Expedition; License No. 3TIX654	WF981508C
2. 01/25/2010 13:53 – 13:59	1999 Acura Integra; License No. 4JUN514	WF981536C

[1] 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.

[2] Clean-plugging is the use of the OBD II 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.

Date & Time of Inspection	Vehicle Certified & License No.	Certificate No.
3. 01/25/2010 15:32 – 15:37	1999 Honda Civic; License No. 5ESN321	WF981541C
4. 01/25/2010 16:32 – 16:47	1999 Nissan Altima; License No. 6KRG050	WF981542C
5. 01/26/2010 13:12 – 13:16	2000 Nissan Maxima; License No. 6DNV930	WF981546C
6. 01/26/2010 14:46 – 14:52	2001 Honda Accord; VIN #1HGCG66531A047566	WF981548C
7. 01/27/2010 17:09 – 17:17	2003 Toyota Celica; License No. 4ZYP290	WH049608C
8. 01/27/2010 17:25 – 17:30	2001 Ford Mustang; License No. 4UVJ458	WH049609C
9. 01/28/2010 13:53 – 14:00	2001 Ford Expedition; License No. 6CBB760	WH049613C
10. 01/29/2010 09:58 – 10:03	2001 Ford Taurus; License No. 6GLR650	WH049620C
11. 01/29/2010 13:08 – 13:13	2001 Nissan Sentra; License No. 4PTE831	WH049626C
12. 01/29/2010 14:29 – 14:37	1998 Honda Accord; VIN #1HGCG3252WA008012	WH049628C
13. 01/29/2010 15:06 – 15:25	1999 Nissan Maxima; VIN #JN1CA21D6XT820120	WH049629C

FIRST CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

26. Respondent Cesar Trujillo's registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized statements which he knew or in the exercise of reasonable care should have known to be untrue or misleading, as follows: Respondent Cesar Trujillo's smog check technician, Respondent Hector Trujillo, certified that vehicles 1 through 13, identified in paragraph 25 above, had passed inspection and were in compliance with applicable laws and regulations. In fact, Respondent Hector Trujillo conducted the inspections on the vehicles using clean-plugging methods in that he substituted or used a different vehicle(s) during the OBD II functional tests in order to issue smog certificates of compliance for the vehicles, and did not test or inspect the vehicles as required by Health & Saf. Code section 44012.

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SECOND CAUSE FOR DISCIPLINE

(Fraud)

27. Respondent Cesar Trujillo's registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(4), in that Respondent committed acts that constitute fraud by issuing electronic smog certificates of compliance for vehicles 1 through 13, identified in paragraph 25 above, without performing bona fide inspections of the emission control devices and systems on the vehicles, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

THIRD CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

28. Respondent Cesar Trujillo's smog check station license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to comply with the following sections of that Code:

a. **Section 44012:** Respondent failed to ensure that the emission control tests were performed on vehicles 1 through 13, identified in paragraph 25 above, in accordance with procedures prescribed by the department.

b. **Section 44015:** Respondent issued electronic smog certificates of compliance for vehicles 1 through 13, identified in paragraph 25 above, without ensuring that the vehicles were properly tested and inspected to determine if they were in compliance with Health & Saf. Code section 44012.

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FOURTH CAUSE FOR DISCIPLINE

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

29. Respondent Cesar Trujillo's smog check station license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to comply with provisions of California Code of Regulations, title 16, as follows:

a. **Section 3340.24, subdivision (c)**: Respondent falsely or fraudulently issued electronic smog certificates of compliance for vehicles 1 through 13, identified in paragraph 25 above.

b. **Section 3340.35, subdivision (c)**: Respondent issued electronic smog certificates of compliance for vehicles 1 through 13, identified in paragraph 25 above, even though the vehicles had not been inspected in accordance with section 3340.42.

c. **Section 3340.42**: Respondent failed to ensure that the required smog tests were conducted on vehicles 1 through 13, identified in paragraph 25 above, in accordance with the Bureau's specifications.

FIFTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

30. Respondent Cesar Trujillo's smog check station license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed dishonest, fraudulent or deceitful acts whereby another is injured by issuing electronic smog certificates of compliance for vehicles 1 through 13, identified in paragraph 25 above, without performing bona fide inspections of the emission control devices and systems on the vehicles, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

SIXTH CAUSE FOR DISCIPLINE

(Fraud)

31. Respondent Cesar Trujillo's brake and lamp station licenses are subject to disciplinary action pursuant to Bus. & Prof. Code section 9889.3, subdivision (d), in that

Respondent committed dishonest, fraudulent or deceitful acts whereby another is injured, as set forth in paragraphs 27 and 30 above.

SEVENTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

32. Respondent Hector Trujillo's technician license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to comply with section 44012 of that Code in a material respect, as follows: Respondent failed to perform the emission control tests on vehicles 1 through 13, identified in paragraph 25 above, in accordance with procedures prescribed by the department.

EIGHTH CAUSE FOR DISCIPLINE

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

33. Respondent Hector Trujillo's technician license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to comply with provisions of California Code of Regulations, title 16, as follows:

a. **Section 3340.24, subdivision (c)**: Respondent falsely or fraudulently issued electronic smog certificates of compliance for vehicles 1 through 13, identified in paragraph 25 above.

b. **Section 3340.30, subdivision (a)**: Respondent failed to inspect and test vehicles 1 through 13, identified in paragraph 25 above, in accordance with Health & Saf. Code sections 44012 and 44035, and California Code of Regulations, title 16, section 3340.42.

c. **Section 3340.42**: Respondent failed to conduct the required smog tests on vehicles 1 through 13, identified in paragraph 25 above, in accordance with the Bureau's specifications.

NINTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

34. Respondent Hector Trujillo's technician license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed dishonest, fraudulent, or deceitful acts whereby another is injured by issuing electronic smog

certificates of compliance for vehicles 1 through 13, identified in paragraph 25 above, without performing bona fide inspections of the emission control devices and systems on the vehicles, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

TENTH CAUSE FOR DISCIPLINE

(Fraud)

35. Respondent Hector Trujillo's brake and lamp adjuster licenses are subject to disciplinary action pursuant to Bus. & Prof. Code section 9889.3, subdivision (d), in that Respondent committed dishonest, fraudulent or deceitful acts whereby another is injured, as set forth in paragraph 34 above.

OTHER MATTERS

36. Pursuant to Bus. & Prof. Code section 9884.7, subdivision (c), the Director may suspend, revoke, or place on probation the registration for all places of business operated in this state by Respondent Cesar Trujillo, owner of H & R Smog Check & Auto Repair, upon a finding that Respondent has, or is, engaged in a course of repeated and willful violations of the laws and regulations pertaining to an automotive repair dealer.

37. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Station License Number RC 207580, issued to Cesar Trujillo, owner of H & R Smog Check & Auto Repair, 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.

38. Pursuant to Bus. & Prof. Code section 9889.9, if Official Lamp Station License Number LS 207580, issued to Cesar Trujillo, owner of H & R Smog Check & Auto Repair, is revoked or suspended, any additional license issued under Articles 5 and 6 of Chapter 20.3 of the Bus. & Prof. Code in the name of said licensee may be likewise revoked or suspended by the Director.

39. Pursuant to Bus. & Prof. Code section 9889.9, if Official Brake Station License Number BS 207580, issued to Cesar Trujillo, owner of H & R Smog Check & Auto Repair, is revoked or suspended, any additional license issued under Articles 5 and 6 of Chapter 20.3 of the

Bus. & Prof. Code in the name of said licensee may be likewise revoked or suspended by the Director.

40. Pursuant to Health & Saf. Code section 44072.8, if Advanced Emission Specialist Technician License Number EA 151444, issued to Hector Alan Trujillo, 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.

41. Pursuant to Bus. & Prof. Code section 9889.9, if Brake Adjuster License Number BA 151444, issued to Hector Alan Trujillo, is revoked or suspended, any additional license issued under Articles 5 and 6 of Chapter 20.3 of the Bus. & Prof. Code in the name of said licensee may be likewise revoked or suspended by the Director.

42. Pursuant to Bus. & Prof. Code section 9889.9, if Lamp Adjuster License Number LA 151444, issued to Hector Alan Trujillo, is revoked or suspended, any additional license issued under Articles 5 and 6 of Chapter 20.3 of the Bus. & Prof. Code 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 or suspending Automotive Repair Dealer Registration Number ARD 207580, issued to Cesar Trujillo, owner of H & R Smog Check & Auto Repair;

2. Revoking or suspending any other automotive repair dealer registration issued to Cesar Trujillo;

3. Revoking or suspending Smog Check Station License Number RC 207580, issued to Cesar Trujillo, owner of H & R Smog Check & Auto Repair;

4. Revoking or suspending any additional license issued under Chapter 5 of the Health and Safety Code in the name of Cesar Trujillo;

5. Revoking or suspending Official Lamp Station License Number LS 207580, issued to Cesar Trujillo, owner of H & R Smog Check & Auto Repair;

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6. Revoking or suspending Official Brake Station License Number BS 207580, issued to Cesar Trujillo, owner of H & R Smog Check & Auto Repair;

7. Revoking or suspending any additional license issued under Articles 5 and 6 of Chapter 20.3 of the Business and Professions Code in the name of Cesar Trujillo;

8. Revoking or suspending Advanced Emission Specialist Technician License Number EA 151444, issued to Hector Alan Trujillo;

9. Revoking or suspending any additional license issued under Chapter 5 of the Health and Safety Code in the name of Hector Alan Trujillo;

10. Revoking or suspending Brake Adjuster License Number BA 151444, issued to Hector Alan Trujillo;

11. Revoking or suspending Lamp Adjuster License Number LA 151444, issued to Hector Alan Trujillo;

12. Revoking or suspending any additional license issued under Articles 5 and 6 of Chapter 20.3 of the Business and Professions Code in the name of Hector Alan Trujillo;

13. Ordering Cesar Trujillo, owner of H & R Smog Check & Auto Repair, and Hector Alan Trujillo to pay the Director of Consumer Affairs the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED: 9/13/10

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

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