

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

In the Matter of the Accusation Against:

DIXON SHELL LUBE & TUNE
JOHN ABEL BRANCO, Owner
2800 West A Street
Dixon, California 95620

Automotive Repair Dealer Registration
No. ARD 193908
Smog Check Station License No. RC 193908

and

BRENDIN LEE BUSSART
2902 Cascade Lane
Fairfield, CA 94533-6511

Advanced Emission Specialist Technician
License No. EA 148345

Respondents.

Case No. 79/10-67

DECISION

The attached Stipulated Settlement 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.

This Decision shall become effective on 10-11-10.

DATED: September 7, 2010



DORÉATHEA JOHNSON
Deputy Director, Legal Affairs
Department of Consumer Affairs

1 EDMUND G. BROWN JR.
Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 ASPASIA A. PAPAVALASSILOU
Deputy Attorney General
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Attorneys for Complainant

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9 **BEFORE THE**
DEPARTMENT OF CONSUMER AFFAIRS
10 **FOR THE BUREAU OF AUTOMOTIVE REPAIR**
STATE OF CALIFORNIA
11

12 In the Matter of the Accusation Against:

Case No. 79/10-67

13 **DIXON SHELL LUBE & TUNE,**
2800 West A Street
14 **Dixon, California 95620**
JOHN ABEL BRANCO, OWNER

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

(SMOG CHECK)

15 **Automotive Repair Dealer Registration**
16 **No. ARD 193908**
17 **Smog Check Station License No. RC 193908,**

18 **and**

19 **BRENDIN LEE BUSSART**
2902 Cascade Lane
20 **Fairfield, CA 94533-6511**

21 **Advanced Emission Specialist Technician**
License No. EA 148345

22 Respondents.
23

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

26 PARTIES

27 1. Sherry Mehl (Complainant) is the Chief of the Bureau of Automotive Repair. She
28 brought this action solely in her official capacity and is represented in this matter by Edmund G.

1 Brown Jr., Attorney General of the State of California, by Aspasia A. Papavassiliou, Deputy
2 Attorney General.

3 2. Respondent John Abel Branco, Owner of Dixon Shell Lube & Tune, is represented in
4 this proceeding by attorney Guy D. Borges, who can be reached at McNamara, Ney, Beatty,
5 Slattery, Borges & Brothers LLP, 639 Kentucky Street, First Floor, Fairfield, CA 94533-5530,
6 telephone number (707) 427-3998.

7 3. Respondent Brendin Lee Bussart is representing himself in this proceeding and has
8 chosen not to exercise his right to be represented by counsel.

9 4. On or about April 3, 1997, the Bureau of Automotive Repair issued Automotive
10 Repair Dealer Registration No. ARD 193908 to John Abel Branco, Owner of Dixon Shell Lube &
11 Tune (Respondent Branco). The registration was in full force and effect at all times relevant to
12 the charges brought in Accusation No. 79/10-67 and will expire on April 30, 2011, unless
13 renewed.

14 5. On or about May 9, 1997, the Bureau of Automotive Repair issued Smog Check
15 Station License No. RC 193908 to John Abel Branco, Owner of Dixon Shell Lube & Tune
16 (Respondent Branco). The station license was in full force and effect at all times relevant to the
17 charges brought in Accusation No. 79/10-67 and will expire on April 30, 2011, unless renewed.

18 6. In 2003, the Bureau of Automotive Repair issued Advanced Emission Specialist
19 Technician License Number EA 148345 to Brendin Lee Bussart (Respondent Bussart). The
20 technician license number was in full force and effect at all times relevant to the charges brought
21 in Accusation No. 79/10-67 and will expire on September 30, 2011, unless renewed.

22 JURISDICTION

23 7. Accusation No. 79/10-67 was filed before the Director of Consumer Affairs
24 (Director), for the Bureau of Automotive Repair (Bureau), and is currently pending against
25 Respondents. The Accusation and all other statutorily required documents were properly served
26 on Respondents on April 29, 2010. Each Respondent timely filed a Notice of Defense contesting
27 the Accusation. A copy of Accusation No. 79/10-67 is attached as "Exhibit A" and incorporated
28 herein by reference.

1 professional licensing agency is involved, and shall not be admissible in any other criminal or
2 civil proceeding.

3 CONTINGENCY

4 15. This stipulation shall be subject to approval by the Director's designee. Respondents
5 understand and agree that counsel for Complainant and the staff of the Bureau may communicate
6 directly with the Director and staff of the Department of Consumer Affairs regarding this
7 stipulation and settlement, without notice to or participation by Respondents. By signing the
8 stipulation, Respondents understand and agree that they may not withdraw their agreement or
9 seek to rescind the stipulation prior to the time the Director considers and acts upon it. If the
10 Director fails to adopt this stipulation as the Decision and Order, the Stipulated Settlement and
11 Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible
12 in any legal action between the parties, and the Director shall not be disqualified from further
13 action by having considered this matter.

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

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

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

26 DISCIPLINARY ORDER

27 IT IS HEREBY ORDERED that Automotive Repair Dealer Registration No. ARD 193908,
28 issued to Respondent John Abel Branco, Owner of Dixon Shell Lube & Tube, is invalidated; that

1 Smog Check Station License No. RC 193908, issued to Respondent John Abel Branco, Owner of
2 Dixon Shell Lube & Tune, is revoked; and that Advanced Emission Specialist Technician License
3 No. EA 148345, issued to Respondent Brendin Lee Bussart, is revoked.

4 IT IS ALSO ORDERED that Respondents Branco and Bussart be jointly and severally
5 liable for the Bureau's investigative and enforcement costs in the amount of \$12,000. The costs
6 are due upon a respondent's application for a new license or registration, or petition for
7 reinstatement. A petition for reinstatement shall be treated as an application for a new license or
8 registration, and the applicant must meet all requirements for the license or registration at the time
9 of the application.

10 ACCEPTANCE

11 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the
12 stipulation and the effect it will have on my Automotive Repair Dealer Registration and Smog
13 Check Station License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily,
14 knowingly, and intelligently, and agree to be bound by the Director of Consumer Affairs'
15 Decision and Order.

16 DATED: 9/4/10

John Abel Branco
JOHN ABEL BRANCO, OWNER
DIXON SHELL LUBE & TUNE
Respondent

19 I have read and fully discussed with John Abel Branco, Owner of Dixon Shell Lube &
20 Tune, the terms and conditions and other matters contained in the above Stipulated Settlement
21 and Disciplinary Order. I approve its form and content.

22 DATED: 9/4/10

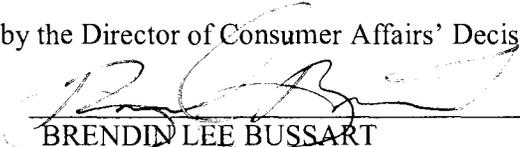
Guy D. Borges
GUY D. BORGES,
Attorney for Respondent John Abel Branco,
Owner of Dixon Shell Lube & Tune

25 ACCEPTANCE

26 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the
27 stipulation and the effect it will have on my Advanced Emission Specialist Technician License. I
28

1 enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and
2 intelligently, and agree to be bound by the Director of Consumer Affairs' Decision and Order.

3 DATED: 8-4-10


BRENDIN LEE BUSSART
Respondent

5 ENDORSEMENT

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

8 Dated: 8/13/2010

Respectfully Submitted,

9 EDMUND G. BROWN JR.
10 Attorney General of California
11 DIANN SOKOLOFF
12 Supervising Deputy Attorney General


13 ASPASIA A. PAPAVALASSILIOU
14 Deputy Attorney General
15 *Attorneys for Complainant*

Exhibit A

Accusation No. 79/10-67

1 EDMUND G. BROWN JR.
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2 DIANN SOKOLOV
Supervising Deputy Attorney General
3 ASPASIA PAPA VASSILIOU
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7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:
12 **DIXON SHELL LUBE & TUNE**
13 **2800 West A Street**
14 **Dixon, California 95620**
JOHN ABEL BRANCO, OWNER
15 **Automotive Repair Dealer Registration**
16 **No. ARD 193908**
Smog Check Station License No. RC 193908
17 **and**
18 **BRENDIN LEE BUSSART**
19 **161 Catalpa Lane**
Vacaville, California 95687
20 **Advanced Emission Specialist Technician**
21 **License No. EA 148345**
22 Respondents.

Case No. 79/10-67

ACCUSATION
SMOG CHECK

23 Complainant alleges:

24 **PARTIES**

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

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28 ///

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

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

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

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

17 9. Section 44072.2 of the Health and Safety Code states:

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

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

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

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

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

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

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

5 **COST RECOVERY**

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

10 **SURVEILLANCE OPERATION – JUNE 23, 2009**

11 13. On or about June 23, 2009, the Bureau performed a video-taped surveillance at
12 Respondent Dixon's facility. The surveillance operation and information obtained from the
13 Bureau's Vehicle Information Database ("VID") revealed that between 1050 hours and 1101
14 hours, Respondent Bussart performed one (1) smog inspection that resulted in the issuance of
15 electronic Certificate of Compliance No. NK820764C for a 1989 Mazda 323, certifying that he
16 had tested and inspected that vehicle and that the vehicle was in compliance with applicable laws
17 and regulations; however, Respondent Bussart failed to perform a functional fuel cap test on that
18 vehicle.

19 **FIRST CAUSE FOR DISCIPLINE**

20 **(Misleading Statements)**

21 14. Respondent Dixon has subjected his registration to discipline under Code section
22 9884.7, subdivision (a)(1), in that on or about June 23, 2009, he made statements which he knew
23 or which by exercise of reasonable care he should have known were untrue or misleading when
24 he issued electronic Certificate of Compliance No. NK820764C for the 1989 Mazda 323,
25 certifying that the vehicle was in compliance with applicable laws and regulations when, in fact,
26 the required functional fuel cap test had not been performed on that vehicle.

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28 ///

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

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

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

8 d. **Section 44059:** Respondent Bussart willfully made false entries for the electronic
9 Certificate of Compliance No. NK820764C, certifying that the vehicle had been inspected as
10 required when, in fact, it had not.

11 **SEVENTH CAUSE FOR DISCIPLINE**

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

13 20. Respondent Bussart has subjected his technician license to discipline under Health
14 and Safety Code section 44072.2, subdivision (c), in that on or about June 23, 2009, regarding the
15 1989 Mazda 323, he violated sections of the California Code of Regulations, title 16, as follows:

16 a. **Section 3340.24, subdivision (c):** Respondent Bussart falsely or fraudulently issued
17 electronic Certificate of Compliance No. NK820764C without performing a bona fide inspection
18 of the emission control devices and systems on that vehicle as required by Health and Safety
19 Code section 44012.

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

22 c. **Section 3340.41, subdivision (c):** Respondent Bussart entered false information into
23 the Emission Inspection System ("EIS") for electronic Certificate of Compliance No.
24 NK820764C by entering "Pass" for the fuel cap leak down tests when, in fact, he failed to
25 perform the functional fuel cap test.

26 d. **Section 3340.42:** Respondent Bussart failed to conduct the required smog tests and
27 inspections on that vehicle in accordance with the Bureau's specifications.
28

1 **EIGHTH CAUSE FOR DISCIPLINE**

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

3 21. Respondent Bussart has subjected his technician license to discipline under Health
4 and Safety Code section 44072.2, subdivision (d), in that on or about June 23, 2009, he
5 committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing
6 electronic Certificate of Compliance No. NK820764C for the 1989 Mazda 323 without
7 performing a bona fide inspection of the emission control devices and systems on that vehicle,
8 thereby depriving the People of the State of California of the protection afforded by the Motor
9 Vehicle Inspection Program.

10 **SURVEILLANCE OPERATION – JUNE 24, 2009**

11 22. On or about June 24, 2009, the Bureau performed a second surveillance at
12 Respondent Dixon's facility. The surveillance operation and information obtained from the
13 Bureau's VID revealed that between 0948 hours and 1059 hours, Respondent Bussart performed
14 two (2) smog inspections that resulted in the issuance of electronic certificates of compliance for
15 the vehicles set forth in Table 1 below, certifying that he had tested and inspected those vehicles
16 and that the vehicles were in compliance with applicable laws and regulations. In fact,
17 Respondent Bussart performed the smog inspections using the clean piping method by using the
18 tail pipe emissions of vehicles other than the vehicles being certified in order to issue the
19 electronic certificates of compliance. The vehicles certified were not in the test bay at the time of
20 the smog inspections.

21 **Table 1**

22

Date and Test Times	Vehicle Certified	Vehicle Actually Tested	Certificate Issued
6/24/2009 0948 hours to 1000 hours	2003 Ford F250 Super Duty truck	Chrysler Sebring convertible	NK820770C
6/24/2009 1053 hours to 1059 hours	2000 Chevrolet Venture	Chrysler Sebring convertible	NK820771C

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24
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1 NINTH CAUSE FOR DISCIPLINE

2 (Misleading Statements)

3 23. Respondent Dixon has subjected his registration to discipline under Code section
4 9884.7, subdivision (a)(1), in that on or about June 24, 2009, he made statements which he knew
5 or which by exercise of reasonable care he should have known were untrue or misleading when
6 he issued electronic certificates of compliance for the vehicles set forth in Table 1, above,
7 certifying that those vehicles were in compliance with applicable laws and regulations when, in
8 fact, the vehicles had been clean piped.

9 TENTH CAUSE FOR DISCIPLINE

10 (Fraud)

11 24. Respondent Dixon has subjected his registration to discipline under Code section
12 9884.7, subdivision (a)(4), in that on or about June 24, 2009, he committed acts which constitute
13 fraud by issuing electronic certificates of compliance for the vehicles set forth in Table 1, above,
14 without performing bona fide inspections of the emission control devices and systems on those
15 vehicles, thereby depriving the People of the State of California of the protection afforded by the
16 Motor Vehicle Inspection Program.

17 ELEVENTH CAUSE FOR DISCIPLINE

18 (Violation of the Motor Vehicle Inspection Program)

19 25. Respondent Dixon has subjected his station license to discipline under Health and
20 Safety Code section 44072.2, subdivision (a), in that on or about June 24, 2009, regarding the
21 vehicles set forth in Table 1, above, he violated sections of that Code, as follows:

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

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

27 ///

28 ///

1 c. **Section 44015, subdivision (b):** Respondent Dixon issued electronic certificates of
2 compliance without properly testing and inspecting those vehicles to determine if they were in
3 compliance with section 44012 of that Code.

4 d. **Section 44059:** Respondent Dixon willfully made false entries for electronic
5 certificates of compliance, certifying that those vehicles had been inspected as required when, in
6 fact, they had not.

7 **TWELFTH CAUSE FOR DISCIPLINE**

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

9 26. Respondent Dixon has subjected his station license to discipline under Health and
10 Safety Code section 44072.2, subdivision (c), in that on or about June 24, 2009, regarding the
11 vehicles set forth in Table 1, above, he violated sections of the California Code of Regulations,
12 title 16, as follows:

13 a. **Section 3340.24, subdivision (c):** Respondent Dixon falsely or fraudulently issued
14 electronic certificates of compliance without performing bona fide inspections of the emission
15 control devices and systems on those vehicles as required by Health and Safety Code section
16 44012.

17 b. **Section 3340.35, subdivision (c):** Respondent Dixon issued electronic certificates of
18 compliance even though the vehicles had not been inspected in accordance with section 3340.42
19 of that Code.

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

22 **THIRTEENTH CAUSE FOR DISCIPLINE**

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

24 27. Respondent Dixon has subjected his station license to discipline under Health and
25 Safety Code section 44072.2, subdivision (d), in that on or about June 24, 2009, regarding the
26 vehicles set forth in Table 1, above, he committed acts involving dishonesty, fraud or deceit
27 whereby another was injured by issuing electronic certificates of compliance without performing
28 bona fide inspections of the emission control devices and system on those vehicles, thereby

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

3 **FOURTEENTH CAUSE FOR DISCIPLINE**

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

5 28. Respondent Bussart has subjected his technician license to discipline under Health
6 and Safety Code section 44072.2, subdivision (a), in that on or about June 24, 2009, regarding the
7 vehicles set forth in Table 1, above, he violated sections of that Code, as follows:

8 a. **Section 44012, subdivision (a):** Respondent Bussart 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 Bussart failed to perform emission
12 control tests on those vehicles in accordance with procedures prescribed by the department.

13 c. **Section 44032:** Respondent Bussart failed to perform tests of the emission control
14 devices and systems on those vehicles in accordance with section 44012 of that Code, in that the
15 vehicles had been clean piped.

16 d. **Section 44059:** Respondent Bussart willfully made false entries for the electronic
17 certificates of compliance, certifying that those vehicles had been inspected as required when, in
18 fact, they had not.

19 **FIFTEENTH CAUSE FOR DISCIPLINE**

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

21 29. Respondent Bussart has subjected his technician license to discipline under Health
22 and Safety Code section 44072.2, subdivision (c), in that on or about June 24, 2009, regarding the
23 vehicles set forth in Table 1, above, he violated sections of the California Code of Regulations,
24 title 16, as follows:

25 a. **Section 3340.24, subdivision (c):** Respondent Bussart falsely or fraudulently issued
26 the electronic certificates of compliance without performing bona fide inspections of the emission
27 control devices and systems on those vehicles as required by Health and Safety Code section
28 44012.

1 or which by exercise of reasonable care he should have known were untrue or misleading when
2 he issued electronic Certificate of Compliance No. NK820772C for the 2003 Toyota Matrix,
3 certifying that the vehicle was in compliance with applicable laws and regulations when, in fact,
4 the required functional fuel cap test had not been performed on that vehicle.

5 **EIGHTEENTH CAUSE FOR DISCIPLINE**

6 **(Fraud)**

7 33. Respondent Dixon has subjected his registration to discipline under Code section
8 9884.7, subdivision (a)(4), in that on or about June 25, 2009, he committed acts which constitute
9 fraud by issuing electronic Certificate of Compliance No. NK820772C for the 2003 Toyota
10 Matrix without performing a bona fide inspection of the emission control devices and systems on
11 that vehicle, thereby depriving the People of the State of California of the protection afforded by
12 the Motor Vehicle Inspection Program.

13 **NINETEENTH CAUSE FOR DISCIPLINE**

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

15 34. Respondent Dixon has subjected his station license to discipline under Health and
16 Safety Code section 44072.2, subdivision (a), in that on or about June 25, 2009, regarding the
17 2003 Toyota Matrix, he violated sections of that Code, as follows:

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

23 c. **Section 44015, subdivision (b):** Respondent Dixon issued electronic Certificate of
24 Compliance No. NK820772C without properly testing and inspecting that vehicle to determine if
25 it was in compliance with section 44012 of that Code.

26 d. **Section 44059:** Respondent Dixon willfully made false entries for electronic
27 Certificate of Compliance No. NK820772C, certifying that the vehicle had been inspected as
28 required when, in fact, it had not.

1 TWENTIETH CAUSE FOR DISCIPLINE

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

3 35. Respondent Dixon has subjected his station license to discipline under Health and
4 Safety Code section 44072.2, subdivision (c), in that on or about June 25, 2009, regarding the
5 2003 Toyota Matrix, he violated sections of the California Code of Regulations, title 16, as
6 follows:

7 a. **Section 3340.24, subdivision (c):** Respondent Dixon falsely or fraudulently issued
8 electronic Certificate of Compliance No. NK820772C without performing a bona fide inspection
9 of the emission control devices and systems on that vehicle as required by Health and Safety
10 Code section 44012.

11 b. **Section 3340.35, subdivision (c):** Respondent Dixon issued electronic Certificate of
12 Compliance No. NK820772C even though that vehicle had not been inspected in accordance with
13 section 3340.42 of that Code.

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

16 TWENTY-FIRST CAUSE FOR DISCIPLINE

17 (Dishonesty, Fraud or Deceit)

18 36. Respondent Dixon has subjected his station license to discipline under Health and
19 Safety Code section 44072.2, subdivision (d), in that on or about June 25, 2009, regarding the
20 2003 Toyota Matrix, he committed acts involving dishonesty, fraud or deceit whereby another
21 was injured by issuing electronic Certificate of Compliance No. NK820772C without performing
22 a bona fide inspection of the emission control devices and systems on that vehicle, thereby
23 depriving the People of the State of California of the protection afforded by the Motor Vehicle
24 Inspection Program.

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1 c. **Section 3340.41, subdivision (c):** Respondent Bussart entered false information into
2 the EIS for electronic Certificate of Compliance No. NK820772C by entering "Pass" for the fuel
3 cap leak down tests when, in fact, he failed to perform the functional fuel cap test.

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

6 **TWENTY-FOURTH CAUSE FOR DISCIPLINE**

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

8 39. Respondent Bussart has subjected his technician license to discipline under Health
9 and Safety Code section 44072.2, subdivision (d), in that on or about June 25, 2009, he
10 committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing
11 electronic Certificate of Compliance No. NK820772C for the 2003 Toyota Matrix without
12 performing a bona fide inspection of the emission control devices and systems on that vehicle,
13 thereby depriving the People of the State of California of the protection afforded by the Motor
14 Vehicle Inspection Program.

15 **PRIOR CITATIONS**

16 40. To determine the degree of discipline, if any, to be imposed on Respondent,
17 Complainant alleges as follows:

18 a. On or about December 30, 2008, the Bureau issued Citation No. C09-0771 against
19 Respondent Dixon's registration and station licenses for violations of Health & Safety Code
20 section 44012, subdivision (f) (failure to perform a visual/functional check of emission control
21 devices according to procedures prescribed by the department); and, California Code of
22 Regulations, title 16, section ("Regulation") 3340.35, subdivision (c) (issuing a certificate of
23 compliance to a vehicle that was improperly tested), for issuing a certificate of compliance to a
24 Bureau undercover vehicle with a missing pulse air injection reactor. The Bureau assessed civil
25 penalties totaling \$500 against Respondent Dixon for the violations. Respondent Dixon complied
26 with this citation on March 11, 2009.

27 b. On or about December 30, 2008, the Bureau issued Citation No. M09-0773 against
28 Respondent Bussart's technician license for violations of Health & Safety Code section 44032,

1 (failure to perform tests and inspects in accordance with Health & Safety Code section 44012),
2 and California Code of Regulations, title 16, section ("Regulation") 3340.30, subdivision (a)
3 (inspect, test, and repair vehicles in accordance with Health & Safety Code sections 44012,
4 44035, and Regulation 3340.42) for issuing a certificate of compliance to a Bureau undercover
5 vehicle with a missing pulse air injection reactor. Respondent was required to attend an 8-hour
6 training course. Respondent complied with this citation on March 9, 2009.

7 OTHER MATTERS

8 41. Under Code section 9884.7, subdivision (c), the director may invalidate temporarily
9 or permanently or refuse to validate, the registrations for all places of business operated in this
10 state by John Abel Branco doing business as Dixon Shell Lube & Tune, upon a finding that he
11 has, or is, engaged in a course of repeated and willful violations of the laws and regulations
12 pertaining to an automotive repair dealer.

13 42. Under Health and Safety Code section 44072.8, if Smog Check Station License
14 Number RC 193908, issued to John Abel Branco doing business as Dixon Shell Lube & Tune, is
15 revoked or suspended, any additional license issued under this chapter in the name of said
16 licensee may be likewise revoked or suspended by the director.

17 43. Under Health and Safety Code section 44072.8, if Advanced Emission Specialist
18 Technician License Number EA 148345, issued to Brendin Lee Bussart is revoked or suspended,
19 any additional license issued under this chapter in the name of said licensee may be likewise
20 revoked or suspended by the director.

21 PRAYER

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

24 1. Temporarily or permanently invalidating Automotive Repair Dealer Registration
25 Number ARD 193908, issued to John Abel Branco doing business as Dixon Shell Lube & Tune;

26 2. Temporarily or permanently invalidating any other automotive repair dealer
27 registration issued to John Abel Branco;

28

1 3. Revoking or suspending Smog Check Station License Number RC 193908, issued to
2 John Abel Branco doing business as Dixon Shell Lube & Tune;

3 4. Revoking or suspending any additional license issued under Chapter 5 of the Health
4 and Safety Code in the name of John Abel Branco;

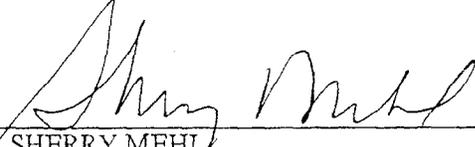
5 5. Revoking or suspending Advanced Emission Specialist Technician License Number
6 EA 148345, issued to Brendin Lee Bussart;

7 6. Revoking or suspending any additional license issued under Chapter 5 of the Health
8 and Safety Code in the name of Brendin Lee Bussart;

9 7. Ordering John Abel Branco and Brendin Lee Bussart to pay the Bureau of
10 Automotive Repair the reasonable costs of the investigation and enforcement of this case,
11 pursuant to Business and Professions Code section 125.3; and,

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

13
14
15 DATED: 4/21/10



SHERRY MEHL

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

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