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

In the Matter of the Accusation Against:

AUTOLIFE ACQUISITION CORP.,
dba TUNE UP MASTERS
LEE I. RICHMAN, President
7720 Rosemead Blvd.
Pico Rivera, CA 90660

Mailing Address:
1120 Sycamore Ave., Ste. 2B
Vista, CA 92081

Automotive Repair Dealer Registration
No. ARD 245236
Smog Check Station License No. RC 245236

SERGIO SOLIS
1033 S. Garfield Avenue, #C
Alhambra, CA 91801-4711

Advanced Emission Specialist Technician
License No. EA 018810

and

FRANCISCO M. MORENO
10460 Agate Avenue
Mentone, CA 92359

Advanced Emission Specialist Technician
License No. EA 039568

Respondents.

Case No. 79/09-34

OAH No. L-2009090074

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 only as to respondent Autolife Acquisition Corp., dba Tune Up Masters, Lee I. Richman, President, Automotive Repair Dealer Registration Nos. ARD 245236, ARD 245197, ARD 245210, ARD 245232, ARD 245200, ARD 245205, ARD 245208, ARD 245241, ARD 245242, ARD 245233, ARD 245215, ARD 245221, ARD 245222, ARD 245224, ARD 245243, ARD 245204, ARD 245217, ARD 245223, and ARD 245235; and Smog Check Station License Nos. RC 245236, RC 245232, RC 245241, RC 245242, RC 245223, RC 245224, RC 245200, RC 245217, RC 245226, RC 245233, RC 245235, RC 245238, and RC 245243.

This Decision shall become effective 7/18/11.

DATED: June 13, 2011

DOREATHEA JOHNSON
Deputy Director, Legal Affairs
Department of Consumer Affairs

EDMUND G. BROWN JR.
Attorney General of California
GREGORY J. SALUTE
Supervising Deputy Attorney General
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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: **AUTOLIFE ACQUISITION CORP., dba TUNEUP MASTERS** **LEE I. RICHMAN, PRESIDENT** **7720 Rosemead Blvd.** **Pico Rivera, CA 90660** **Mailing Address:** **1120 Sycamore Ave., Ste 2B** **Vista, CA 92081** **Automotive Repair Dealer Registration No. ARD 245236** **Smog Check Station License No. RC 245236** Respondent.	Case No. 79/09-34 OAH No. L-2009090074 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

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

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 Edmund G. Brown Jr., Attorney General of the State of California, by Alvaro Mejia, Deputy Attorney General.

2. Respondent Autolife Acquisition Corp., dba Tuneup Masters; Lee I. Richman, President ("Respondent") is representing itself in this proceeding and has chosen not to exercise its right to be represented by counsel.

3. On or about May 11, 2006, the Bureau of Automotive Repair issued Automotive Repair Dealer Registration No. ARD 245236 to Autolife Acquisition Corp., dba Tuneup Masters; Lee I. Richman. The Automotive Repair Dealer Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 79/09-34. The registration expired on May 31, 2008 and has not been renewed.

4. On or about May 19, 2006, the Bureau of Automotive Repair issued Smog Check Station License No. RC 245236 to Autolife Acquisition Corp., dba Tuneup Masters; Lee I. Richman. The Smog Check Station License was in full force and effect at all times relevant to the charges brought in Accusation No. 79/09-34. The License expired on May 31, 2008 and has not been renewed.

JURISDICTION

5. Accusation No. 79/09-34 was filed before the Director of Consumer Affairs ("Director"), for the Bureau of Automotive Repair ("Bureau"), and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on April 29, 2010. Respondent timely filed its Notice of Defense contesting the Accusation. A copy of Accusation No. 79/09-34 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, and understands the charges and allegations in Accusation No. 79/09-34. Respondent has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary Order.

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7. Respondent is fully aware of its 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 its own expense; the right to confront and cross-examine the witnesses against them; the right to present evidence and to testify on its 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.

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

CULPABILITY

9. Respondent admits the truth of each and every charge and allegation in Accusation No. 79/09-34.

10. Respondent agrees that its Automotive Repair Dealer Registrations and Smog Check Station Licenses are subject to discipline and agrees to be bound by the Director's imposition of discipline as set forth in the Disciplinary Order below.

RESERVATION

11. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Director of Consumer Affairs, Bureau of Automotive Repair, or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

CONTINGENCY

12. This stipulation shall be subject to approval by the Director of Consumer Affairs or his designee. Respondent 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. By signing the stipulation, Respondent understands and agrees that they may not withdraw its 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 Settlement 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.

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

14. This Stipulated Settlement 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 Settlement 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.

15. 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 Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Automotive Repair Dealer Registration Nos. ARD245236, ARD245197, ARD245210, ARD245232, ARD245200, ARD245205, ARD245208, ARD245241, ARD245242, ARD245233, ARD245215, ARD245221, ARD245222, ARD245224, ARD245243, ARD245204, ARD245217, ARD245223, and ARD245235 issued to Respondent Autolife Acquisition Corp., dba Tuneup Masters; Lee I. Richman are revoked.

IT IS FURTHER ORDERED that Smog Check Station Licesnes Nos. RC245236, RC245232, RC245241, RC245242, RC245223, RC245224, RC245200, RC245217, RC245226, RC245233, RC245235, RC245238, and RC245243 issued to Respondent Autolife Acquisition Corp., dba Tuneup Masters; Lee I. Richman are revoked.

1. Respondent Autolife Acquisition Corp., dba Tuneup Masters; Lee I. Richman, President, shall lose all rights and privileges as an Automotive Repair Dealer in California as of the effective date of the Director's Decision and Order.

2. Respondent Autolife Acquisition Corp., dba Tuneup Masters; Lee I. Richman, President, shall lose all rights and privileges as a Smog Check Station Licensee in California as of the effective date of the Director's Decision and Order.

3. Respondent Autolife Acquisition Corp., dba Tuneup Masters; Lee I. Richman, President, shall cause to be delivered to the Bureau both its wall license certificates, and if ones were issued, pocket licenses on or before the effective date of the Decision and Order.

4. Respondent Autolife Acquisition Corp., dba Tuneup Masters; Lee I. Richman, President, shall pay the Bureau its costs of investigation and enforcement in the amount of $22,520.58 at the time of the filing of an application for a new or reinstated license or registration.

ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on the Automotive Repair Dealer Registrations and Smog Check Station Licenses. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Director of Consumer Affairs.

DATED: 12/4/200

AUTOLIFE ACQUISITION CORP.,
dba TUNEUP MASTERS
PATRICK MOORE, CHAIRMAN
Respondent

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ENDORSEMENT

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

Dated: 3/20/2011

Respectfully Submitted,

EDMUND G. BROWN JR.
Attorney General of California
GREGORY J. SALUTE
Supervising Deputy Attorney General

ALVARO MEJIA
Deputy Attorney General
Attorneys for Complainant

DOJ Matter ID: LA2008900152

Exhibit A

Accusation No. 79/09-34

EDMUND G. BROWN JR., Attorney General
of the State of California
GREGORY J. SALUTE
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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: AUTOLIFE ACQUISITION CORP., dba TUNEUP MASTERS LEE RICHMAN, PRESIDENT 7720 Rosemead Blvd. Pico Rivera, CA 90660 Mailing Address: 1120 Sycamore Avenue, Suite #2B Vista, CA 92081 Automotive Repair Dealer Reg. No. ARD 245236 Smog Check Station License No. RC 245236, SERGIO SOLIS 1033 S. Garfield Avenue, #C Alhambra, CA 91801-4711 Advanced Emission Specialist Technician License No. EA 018810, and FRANCISCO M. MORENO 10460 Agate Avenue Mentone, CA 92359 Advanced Emission Specialist Technician License No. EA 039568 Respondents.	Case No. 79/09-34 **A C C U S A T I O N** 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.

Automotive Repair Dealer Registration No. AC 245236

2. On or about May 11, 2006, the Director of Consumer Affairs ("Director") issued Automotive Repair Dealer Registration Number AC 245236 to Autolife Acquisition Corp. ("Respondent Autolife"), doing business as Tuneup Masters, with Lee Richman as president. Respondent's automotive repair dealer registration expired on May 31, 2008.

Smog Check Station License No. RC 245236

3. On or about May 19, 2006, the Director issued Smog Check Station License Number RC 245236 to Respondent Autolife. Respondent's smog check station license expired on May 31, 2008.

Advanced Emission Specialist Technician License No. EA 018810

4. In or about 1996, the Director issued Advanced Emission Specialist Technician License Number EA 018810 to Sergio Solis ("Respondent Solis" or "Solis"). Respondent's advanced emission specialist technician license will expire on January 31, 2009, unless renewed.

Advanced Emission Specialist Technician License No. EA 039568

5. In or about 1996, the Director issued Advanced Emission Specialist Technician License Number EA 039568 to Francisco M. Moreno ("Respondent Moreno" or "Moreno"). Respondent's advanced emission specialist technician license will expire on June 30, 2010, unless renewed.

JURISDICTION

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

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7. 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 invalidating a registration temporarily or permanently.

8. 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.

9. 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.

STATUTORY PROVISIONS

10. 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 refuse to validate, or may invalidate temporarily or permanently, the registration of an automotive repair dealer for any of the following acts or omissions related to the conduct of the business of the automotive repair dealer, which are done by the automotive repair dealer or any automotive technician, employee, partner, officer, or member of the automotive repair dealer.
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> (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 which constitutes fraud.
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> (6) Failure in any material respect to comply with the provisions of this chapter or regulations adopted pursuant to it.
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> (7) Any willful departure from or disregard of accepted trade standards for good and workmanlike repair in any material respect, which is prejudicial to another without consent of the owner or his or her duly authorized representative.
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(c) Notwithstanding subdivision (b), the director may refuse to validate, or may invalidate temporarily or permanently, the registration for all places of business operated in this state by an automotive repair dealer upon a finding that the automotive repair dealer has, or is, engaged in a course of repeated and willful violations of this chapter, or regulations adopted pursuant to it.

11. Bus. & Prof. Code section 9884.8 states, in pertinent part, that "[a]ll work done by an automotive repair dealer, including all warranty work, shall be recorded on an invoice and shall describe all service work done and parts supplied . . ."

12. Bus. & Prof. Code section 9884.9, subdivision (a), states, in pertinent part:

The automotive repair dealer shall give to the customer a written estimated price for labor and parts necessary for a specific job. No work shall be done and no charges shall accrue before authorization to proceed is obtained from the customer. No charge shall be made for work done or parts supplied in excess of the estimated price without the oral or written consent of the customer that shall be obtained at some time after it is determined that the estimated price is insufficient and before the work not estimated is done or the parts not estimated are supplied. Written consent or authorization for an increase in the original estimated price may be provided by electronic mail or facsimile transmission from the customer. The bureau may specify in regulation the procedures to be followed by an automotive repair dealer when an authorization or consent for an increase in the original estimated price is provided by electronic mail or facsimile transmission. If that consent is oral, the dealer shall make a notation on the work order of the date, time, name of person authorizing the additional repairs and telephone number called, if any, together with a specification of the additional parts and labor and the total additional cost . . .

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

14. 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:

(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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(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 . . .

15. 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

16. 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.

UNDERCOVER OPERATION #1: 1992 CHEVROLET S10 PICKUP

17. On November 6, 2007, Bureau Representative Arnulfo Santana ("Santana"), acting in an undercover capacity and using the alias "Louie Hernandez", took the Bureau's 1992 Chevrolet S10 pickup to Respondent Autolife's facility and requested a smog inspection. A defective coolant temperature sensor ("CTS") had been installed in the Bureau-documented vehicle, causing the vehicle to fail an emissions test as a gross polluter. Respondent Solis told Santana that the smog inspection cost $55. Santana asked Solis to check the vehicle before conducting the official smog inspection. Solis stated that he would perform a "pre-test" inspection for $46.75 and that Santana would have to pay for both the pre-test and the official smog inspection once the vehicle passed. Santana signed and received a copy of a written estimate, then left the facility.

18. At approximately 1130 hours that same day, Santana telephoned the facility and spoke with Solis. Solis told Santana that the vehicle failed the pre-test and needed a diagnosis for an additional $75. Santana authorized the diagnosis. At approximately 1300 hours, Solis called Santana and told him that vehicle needed a new CTS and oxygen sensor. Solis also recommended a fuel injection cleaning. Santana asked Solis if the vehicle needed all of the work to pass the smog inspection. Solis stated that the CTS and oxygen sensor needed replacement for

the vehicle to pass, but the fuel injection cleaning was only recommended. Solis told Santana that it would cost a total of $359.98 plus tax for the repairs, including the fuel injection cleaning, which Santana authorized.

19. On November 7, 2007, Santana returned to the facility and met with Solis. Santana asked Solis who performed the work. Solis stated that he performed the smog inspection and the repairs himself. Santana paid the facility $369.88 and received copies of an invoice and vehicle inspection reports ("VIR") for the pre-test inspection and official smog inspection.

20. On November 28, 2007, Bureau Representative Paul Stump inspected the vehicle and found that the oxygen sensor had been replaced when, in fact, the only repair needed was the replacement of the defective CTS.

FIRST CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

21. Respondent Autolife's automotive repair dealer registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized a statement which it knew or in the exercise of reasonable care should have known to be untrue or misleading. Respondent Autolife's technician, Respondent Solis, represented to Bureau Representative Santana that the Bureau's 1992 Chevrolet S10 pickup needed a new oxygen sensor. In fact, the oxygen sensor was not in need of replacement. Further, the only repair needed on the vehicle was the replacement of the defective CTS.

SECOND CAUSE FOR DISCIPLINE

(Fraud)

22. Respondent Autolife's automotive repair dealer registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(4), in that Respondent committed an act constituting fraud, as follows: Respondent Autolife's technician, Respondent Solis, made a false or misleading representation to Bureau Representative Santana regarding the Bureau's 1992 Chevrolet S10 pickup, as set forth in paragraph 21 above, in order to induce Santana to purchase an unnecessary repair on the vehicle, i.e., the replacement of the oxygen sensor, then sold Santana the unnecessary repair.

THIRD CAUSE FOR DISCIPLINE

(Departure From Trade Standards)

23. Respondent Autolife's automotive repair dealer registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(7), in that Respondent willfully departed from or disregarded accepted trade standards for good and workmanlike repair without the consent of the owner or the owner's duly authorized representative, in a material respect, as follows: Respondent Autolife's technician, Respondent Solis, failed to properly repair the Bureau's 1992 Chevrolet S10 pickup by replacing the oxygen sensor on the vehicle when, in fact, that emission control system component was not in need of replacement.

FOURTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

24. Respondent Autolife'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 section 44016 of that Code by failing to perform the repairs on the Bureau's 1992 Chevrolet S10 pickup in accordance with established specifications and procedures.

FIFTH CAUSE FOR DISCIPLINE

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

25. Respondent Autolife'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 Regulation 3340.41 by failing to follow applicable specifications and procedures when performing the repairs on the Bureau's 1992 Chevrolet S10 pickup.

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SIXTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

26. Respondent Autolife's smog check station license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed a dishonest, fraudulent, or deceitful act whereby another is injured, as follows: Respondent Autolife's technician, Respondent Solis, made a false or misleading representation to Bureau Representative Santana regarding the Bureau's 1992 Chevrolet S10 pickup, as set forth in paragraph 21 above, in order to induce Santana to purchase an unnecessary repair on the vehicle, i.e., the replacement of the oxygen sensor, then sold Santana the unnecessary repair.

SEVENTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

27. Respondent Solis' advanced emission specialist 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 44016 of that Code by failing to perform the repairs on the Bureau's 1992 Chevrolet S10 pickup in accordance with established specifications and procedures.

EIGHTH CAUSE FOR DISCIPLINE

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

28. Respondent Solis' advanced emission specialist technician license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to comply with Regulation 3340.41 by failing to follow applicable specifications and procedures when diagnosing the cause of the emissions failure and performing the repairs on the Bureau's 1992 Chevrolet S10 pickup .

NINTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

29. Respondent Solis' advanced emission specialist technician license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in

that Respondent committed a dishonest, fraudulent, or deceitful act whereby another is injured, as follows: Respondent made a false or misleading representation to Bureau Representative Santana regarding the Bureau's 1992 Chevrolet S10 pickup, as set forth in paragraph 21 above, in order to induce Santana to purchase an unnecessary repair on the vehicle, i.e., the replacement of the oxygen sensor, then sold Santana the unnecessary repair.

UNDERCOVER OPERATION #2: 1997 PONTIAC GRAND AM

30. On November 27, 2007, Bureau Representative Louie Aguilar ("Aguilar"), acting in an undercover capacity and using the alias "Louis Cavazos", took the Bureau's 1997 Pontiac Grand Am to Respondent Autolife's facility and requested a smog inspection. A defective #1 spark plug was installed in the Bureau-documented vehicle, causing the engine to misfire at all times, resulting in the setting of a diagnostic trouble code, and causing the malfunction indicator light to illuminate at all times, and the vehicle to fail an emissions test as a gross polluter. In addition, the #4 spark plug wire was not within manufacturer's specifications and needed replacement. Aguilar advised Respondent Moreno that the vehicle was shaking a lot and the "check engine" light was flashing. Moreno told Aguilar that he had to check the problem before testing the vehicle and that it would cost $75 for the diagnosis. Aguilar signed and received a written estimate for the diagnosis, then left the facility.

31. At approximately 1120 hours that same day, Aguilar received a telephone call from Respondent Autolife's manager, Dionicio Carrada ("Carrada"). Carrada told Aguilar that the vehicle needed a new ignition coil, positive crankcase ventilation (PCV) valve, fuel filter, and fuel injection system cleaning service, for a total of $346.59. Aguilar asked Carrada if all of these items were needed for the vehicle to pass the smog test. Carrada assured Aguilar that all of the work was required for the vehicle to pass the smog check inspection. Aguilar authorized the repairs.

32. At approximately 1445 hours, Moreno called Aguilar and informed him that the vehicle was ready. Moreno also stated that he was unable to perform the smog check inspection because the vehicle must be driven on the freeway and company policy prohibited employees from driving on the freeway.

33. At approximately 1500 hours, Aguilar returned to the facility and paid $334 for the repairs. Aguilar requested and obtained the old parts and received copies of Work Order # 945809H and Invoice # 945809H.

34. On December 12, 2007, Bureau Representative Joe A. Ruiz ("Ruiz") inspected the vehicle using the work order and invoice for comparison. Ruiz found that the #1 spark plug was replaced and the trouble code was cleared; however, those repairs were not recorded on the invoice. Ruiz also found that the facility failed to replace the defective #4 spark plug wire, performed unnecessary repairs, installed an ignition coil that was not within manufacturer's specifications, and failed to repair the vehicle as invoiced.

TENTH CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

35. Respondent Autolife's automotive repair dealer 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 it knew or in the exercise of reasonable care should have known to be untrue or misleading, as follows:

a. Respondent's manager, Carrada, represented to Bureau Representative Aguilar that the Bureau's 1997 Pontiac Grand Am needed a new ignition coil, PCV valve, fuel filter, and fuel injection system cleaning service, and that all of the work was required for the vehicle to pass the smog check inspection. In fact, the ignition coil, PCV valve, and fuel filter were in good condition, functioning properly, and not in need of replacement, and the vehicle was not in need of a fuel injection system cleaning service. Further, the only repairs needed on the vehicle were the replacement of the defective #1 spark plug and #4 spark plug wire and the clearing of the diagnostic trouble code.

b. Respondent represented on Work Order # 945809H and Invoice # 945809H that a fuel injection system service or cleaning was performed on the Bureau's 1997 Pontiac Grand Am when, in fact, that service or repair was not performed or needed on the vehicle.

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ELEVENTH CAUSE FOR DISCIPLINE

(Fraud)

36. Respondent Autolife's automotive repair dealer registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(4), in that Respondent committed acts constituting fraud, as follows:

a. Respondent Autolife's manager, Carrada, made false or misleading representations to Bureau Representative Aguilar regarding the Bureau's 1997 Pontiac Grand Am, as set forth in subparagraph 35 (a) above, in order to induce Aguilar to purchase unnecessary repairs on the vehicle, then sold Aguilar the unnecessary repairs, including the replacement of the ignition coil, PCV valve, and fuel filter, and the fuel injection system cleaning service.

b. Respondent charged and obtained payment from Bureau Representative Aguilar for performing a fuel injection system service or cleaning on the Bureau's 1997 Pontiac Grand Am when, in fact, that service or repair was not performed or needed on the vehicle.

TWELFTH CAUSE FOR DISCIPLINE

(Departure From Trade Standards)

37. Respondent Autolife's automotive repair dealer registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(7), in that Respondent willfully departed from or disregarded accepted trade standards for good and workmanlike repair without the consent of the owner or the owner's duly authorized representative in the following material respects:

a. Respondent installed an ignition coil in the Bureau's 1997 Pontiac Grand Am that was not within manufacturer's specifications in that the ignition coil measured 8.58 k ohms when the manufacturer's specifications are 5.00 to 8.00 k ohms.

b. Respondent failed to replace the defective #4 spark plug wire in the Bureau's 1997 Pontiac Grand Am.

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c. Respondent failed to properly repair the Bureau's 1997 Pontiac Grand Am by replacing the ignition coil, PCV valve, and fuel filter, and performing the fuel injection system cleaning service when, in fact, none of those repairs were needed on the vehicle.

THIRTEENTH CAUSE FOR DISCIPLINE

(Violations of the Bus. & Prof. Code)

38. Respondent Autolife's automotive repair dealer registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with provisions of that Code in the following material respects:

a. **Section 9884.8:** Respondent failed to record on Invoice # 945809H the replacement of the defective #1 spark plug and the clearing of the diagnostic trouble code P0301 in the Bureau's 1997 Pontiac Grand Am.

b. **Section 9884.9, subdivision (a):** Respondent replaced the defective #1 spark plug and cleared the diagnostic trouble code P0301 in the Bureau's 1997 Pontiac Grand Am without Bureau Representative Aguilar's knowledge or authorization.

FOURTEENTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

39. Respondent Autolife'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 section 44016 of that Code by failing to perform the repairs on the Bureau's 1997 Pontiac Grand Am in accordance with established specifications and procedures.

FIFTEENTH CAUSE FOR DISCIPLINE

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

40. Respondent Autolife'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 Regulation 3340.41 by failing to follow applicable specifications and procedures when performing the repairs on the Bureau's 1997 Pontiac Grand Am.

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SIXTEENTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

41. Respondent Autolife'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, as follows:

a. Respondent Autolife's manager, Carrada, made false or misleading representations to Bureau Representative Aguilar regarding the Bureau's 1997 Pontiac Grand Am, as set forth in subparagraph 35 (a) above, in order to induce Aguilar to purchase unnecessary repairs on the vehicle, then sold Aguilar the unnecessary repairs, including the replacement of the ignition coil, PCV valve, and fuel filter, and the fuel injection system cleaning service.

b. Respondent charged and obtained payment from Bureau Representative Aguilar for performing a fuel injection system service or cleaning on the Bureau's 1997 Pontiac Grand Am when, in fact, that service or repair was not performed or needed on the vehicle.

UNDERCOVER OPERATION #3: 2000 MAZDA PROTEGE

42. On December 11, 2007, an undercover operator with the Bureau, using the alias "Maria Hernandez" (hereinafter "operator"), took the Bureau's 2000 Mazda Protege to Respondent Autolife's facility and requested a smog inspection. An opening was created in the voltage supply circuit to the mass air flow (MAF) sensor on the Bureau-documented vehicle, causing the vehicle to fail a smog inspection due to excessive tailpipe emissions and the malfunction indicator light to illuminate on the dashboard, which initiated a diagnostic trouble code. The operator told Respondent Moreno that the "check engine" light was on and that she wanted to be sure the vehicle would pass the smog inspection. Moreno stated that he would perform a pre-test for $25. The operator signed and received a copy of a written estimate, then left the facility.

43. At approximately 1122 hours that same day, the operator telephoned the facility and spoke with Carrada. Carrada told the operator that the vehicle failed the pre-test and would need a diagnostic test for $75. The operator authorized the smog failure diagnosis.

44. At approximately 1310 hours, the operator called the facility and spoke with Moreno. Moreno told the operator that a sensor needed replacement, the vehicle needed a tune-up, and the fuel injection and throttle body needed cleaning, and that the total cost of the repairs would be $534. The operator authorized the repairs.

45. On December 12, 2007, the operator returned to the facility and met with Carrada. The operator asked Carrada if he performed the repairs and he responded "yes". The operator paid the facility $556.39 and received copies of Work Order # 963663 and Invoice # 963663H.

46. On December 17, 2007, Bureau Representative Hamlet Shamirian ("Shamirian") inspected the vehicle using the invoice for comparison. Shamirian found that the open circuit to the MAF sensor had been repaired and the fault code was cleared; however, those repairs were not recorded on the invoice. Shamirian also found that the facility performed unnecessary repairs and failed to repair the vehicle as invoiced.

SEVENTEENTH CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

47. Respondent Autolife's automotive repair dealer 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 it knew or in the exercise of reasonable care should have known to be untrue or misleading, as follows:

a. Respondent Autolife's technician, Respondent Moreno, represented to the operator that a sensor in the Bureau's 2000 Mazda Protege needed replacement, the vehicle needed a tune-up, and the fuel injection and throttle body needed cleaning. In fact, the only repairs needed on the vehicle were the repair of the open circuit to the MAF sensor and the clearing of the diagnostic trouble code P0102.

b. Respondent represented on Invoice # 963663H that a fuel system cleaning was performed on the Bureau's 2000 Mazda Protege when, in fact, that service or repair was not performed or needed on the vehicle.

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EIGHTEENTH CAUSE FOR DISCIPLINE

(Fraud)

48. Respondent Autolife's automotive repair dealer registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(4), in that Respondent committed acts constituting fraud, as follows:

a. Respondent Autolife's technician, Respondent Moreno, made false or misleading representations to the operator regarding the Bureau's 2000 Mazda Protege, as set forth in subparagraph 47 (a) above, in order to induce the operator to purchase unnecessary repairs on the vehicle, then sold the operator the unnecessary repairs, including the fuel injection system cleaning and the replacement of the spark plugs and MAF sensor.

b. Respondent charged and obtained payment from the operator for performing a fuel injection system cleaning on the Bureau's 2000 Mazda Protege when, in fact, that service or repair was not performed or needed on the vehicle.

NINETEENTH CAUSE FOR DISCIPLINE

(Departure From Trade Standards)

49. Respondent Autolife's automotive repair dealer registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(7), in that Respondent willfully departed from or disregarded accepted trade standards for good and workmanlike repair without the consent of the owner or the owner's duly authorized representative in a material respect, as follows: Respondent failed to properly repair the Bureau's 2000 Mazda Protege by replacing the spark plugs and MAF sensor when, in fact, those parts were not in need of replacement.

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TWENTIETH CAUSE FOR DISCIPLINE

(Violations of the Bus. & Prof. Code)

50. Respondent Autolife's automotive repair dealer registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with provisions of that Code in the following material respects:

a. **Section 9884.8:** Respondent failed to record on Invoice # 963663H the repair of the open circuit to the MAF sensor and the clearing of the diagnostic trouble code P0102 on the Bureau's 2000 Mazda Protege.

b. **Section 9884.9, subdivision (a):** Respondent repaired the open circuit to the MAF sensor on the Bureau's 2000 Mazda Protege and cleared the diagnostic trouble code P0102 without the operator's knowledge or authorization.

TWENTY-FIRST CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

51. Respondent Autolife'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 section 44016 of that Code by failing to perform the repairs on the Bureau's 2000 Mazda Protege in accordance with established specifications and procedures.

TWENTY-SECOND CAUSE FOR DISCIPLINE

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

52. Respondent Autolife'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 Regulation 3340.41 by failing to follow applicable specifications and procedures when performing the repairs on the Bureau's 2000 Mazda Protege.

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TWENTY-THIRD CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

53. Respondent Autolife'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, as follows:

a. Respondent Autolife's technician, Respondent Moreno, made false or misleading representations to the operator regarding the Bureau's 2000 Mazda Protege, as set forth in subparagraph 47 (a) above, in order to induce the operator to purchase unnecessary repairs on the vehicle, then sold the operator the unnecessary repairs, including the fuel injection system cleaning and the replacement of the spark plugs and MAF sensor.

b. Respondent charged and obtained payment from the operator for performing a fuel injection system cleaning on the Bureau's 2000 Mazda Protege when, in fact, that service or repair was not performed or needed on the vehicle.

TWENTY-FOURTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

54. Respondent Moreno's advanced emission specialist technician license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed a dishonest, fraudulent, or deceitful act whereby another is injured, as follows: Respondent made a false or misleading representation to the operator regarding the Bureau's 2000 Mazda Protege, as set forth in subparagraph 47 (a) above, in order to induce the operator to purchase unnecessary repairs on the vehicle, then sold the operator the unnecessary repairs, including the fuel injection system cleaning and the replacement of the spark plugs and MAF sensor.

OTHER MATTERS

55. Pursuant to Bus. & Prof. Code section 9884.7, subdivision (c), the Director may refuse to validate, or may invalidate temporarily or permanently the registrations for all places of business operated in this state by Respondent Autolife Acquisition Corp., doing business as Tuneup Masters, upon a finding that said Respondent has, or is, engaged in a course

of repeated and willful violations of the laws and regulations pertaining to an automotive repair dealer.

56. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Station License Number RC 245236, issued to Respondent Autolife Acquisition Corp., doing business as Tuneup Masters, 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.

57. Pursuant to Health & Saf. Code section 44072.8, if Advanced Emission Specialist Technician License Number EA 018810, issued to Respondent Sergio Solis, 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.

58. Pursuant to Health & Saf. Code section 44072.8, if Advanced Emission Specialist Technician License Number EA 039568, issued to Respondent Francisco M. Moreno, is revoked or suspended, any additional license issued under this chapter in the name of said licensee may be likewise revoked or suspended by the Director.

PRAYER

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

1. Temporarily or permanently invalidating Automotive Repair Dealer Registration Number AC 245236, issued to Autolife Acquisition Corp., doing business as Tuneup Masters;

2. Temporarily or permanently invalidating any other automotive repair dealer registration issued in the name of Autolife Acquisition Corp.;

3. Revoking or suspending Smog Check Station License Number RC 245236, issued to Autolife Acquisition Corp., doing business as Tuneup Masters;

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

5. Revoking or suspending Advanced Emission Specialist Technician License Number EA 018810, issued to Sergio Solis;

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

7. Revoking or suspending Advanced Emission Specialist Technician License Number EA 039568, issued to Francisco M. Moreno;

8. Revoking or suspending any additional license issued under Chapter 5 of the Health and Safety Code in the name of Francisco M. Moreno;

9. Ordering Respondents Autolife Acquisition Corp., doing business as Tuneup Masters, Sergio Solis, and Francisco M. Moreno to pay the Bureau of Automotive Repair the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED: 10-14-08

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

Complainant

03562-110-LA2008900152
phd; 09/15/2008