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

In the Matter of the Accusation Against: **TAILPIPES SMOG TEST CENTERS** 9292 Greenback Lane Orangevale, California 95662 **LOUIS KONYECSNI, Partner** **JEFFREY R. STOWERS, Partner** Automotive Repair Dealer Registration No. AL 208142 Smog Check Test Only Station License No. TL 208142 and **ROLAND DALTON STAHL** 7676 Roberts Drive Citrus Heights, California 95610 Advanced Emission Specialist Technician License No. EA 143014 Respondents.	)	Case No. 79/08-29

DECISION

The attached Stipulated Settlement and Disciplinary Order (Relating to Tailpipes Smog Test Centers Only) 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 Tailpipes smog Test Centers, Louis Konyecsni and Jeffrey R. Stowers, Partners, Automotive Repair Dealer Registration No. AL 208142 and Smog Check Test Only Station License No. TL 208142.

COPY

The suspension of Smog Check Test Only Station License No. TL 208142 shall commence on the effective date of this Decision.

This Decision shall become effective 6/25/08.

DATED: May 19, 2008

P. J. Harris

PATRICIA HARRIS
Deputy Director, Bureau Relations
Department of Consumer Affairs

ORIGINAL

EDMUND G. BROWN JR., Attorney General
of the State of California
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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: **TAILPIPES SMOG TEST CENTERS** 9292 Greenback Lane Orangevale, California 95662 **LOUIS KONYECSNI, PARTNER** **JEFFREY R. STOWERS,PARTNER** Automotive Repair Dealer Registration No. AL 208142 Smog Check Test Only Station License No. TL208142 **ROLAND DALTON STAHL** 7676 Roberts Drive Citrus Heights, California 95610 Advanced Emissions Specialist Technician License No. EA 143014 Respondents.	Case No. 79/08-29 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER** **(RELATING TO TAILPIPES SMOG TEST CENTERS ONLY)**

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, Department of Consumer Affairs. 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 Patrick M. Kenady, Deputy Attorney General.

2. Respondent Tailpipes Smog Test Center; Louis Konyecsni, Partner; Jeffrey R. Stowers, Partner, is represented in this proceeding by attorney James M. Mattesich, whose address is GREENBERG TRAURIG, LLP,1201 K Street, Suite 1100 , SACRAMENTO, Ca., 95814-3938.

3. On or about December 9, 1999, the Department of Consumer Affairs issued Automotive Repair Dealer Registration No. AL 208142 to Tailpipes Smog Test Center; Louis Konyecsni & Jeffrey R. Stowers, Owners.

4. On or about November 30, 1999, the Department of Consumer Affairs issued Smog Check Test Only Station License No. TL208142 to Tailpipes Smog Test Center; Louis Konyecsni & Jeffrey R. Stowers, Owners.

JURISDICTION

5. Accusation No. 79/08-29 was filed before the DIRECTOR OF CONSUMER AFFAIRS (Director), and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on December 11, 2007. Respondent timely filed its Notice of Defense contesting the Accusation. A copy of Accusation No. 79/08-29 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 79/08-29. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

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 understands and agrees that the charges and allegations in Accusation No. 79/08-29, if proven at a hearing, constitute cause for imposing discipline upon its Automotive Repair Dealer Registration as well as for its Smog Check Test Only Station License.

10. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation, and that Respondent hereby gives up its right to contest those charges.

11. Respondent agrees that its Automotive Repair Dealer Registration and Smog Check Test Only Station License are subject to discipline and they agree to be bound by the Director's imposition of discipline as set forth in the Disciplinary Order below.

RESERVATION

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

CONTINGENCY

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 Stipulation shall be subject to approval by the DIRECTOR OF CONSUMER AFFAIRS (Director). Respondent understands and agrees that counsel for Complainant and the staff at the Bureau of Automotive Repair may communicate directly with the Director regarding this Stipulation and Settlement without notice to or participation by Respondent. By signing this 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 its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, It shall be inadmissable in any legal action between the parties, and the Director shall not be disqualified from further action by having considered this matter.

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 No. AL 208141, and Smog Check Test Only Station License No. TL208142 issued to Respondent Tailpipes Smog Test Centers; Louis Konyecsni, Partner; Jeffrey R. Stowers, Partner are revoked (invalidated). However, the revocation is stayed and Respondent's license and registration are placed on probation for three (3) years on the following terms and conditions.

1. **Actual Suspension.** Smog Check Test Only Station License No. TL 208141 issued to Respondent TAILPIPES SMOG TEST CENTERS; LOUIS KONYECSNI, PARTNER; JEFFREY R. STOWERS, PARTNER is suspended for five(5) days.

2. **Obey All Laws.** Comply with all statutes, regulations and rules governing automotive inspections, estimates and repairs.

3. **Post Sign.** Post a prominent sign, provided by the Bureau, indicating the beginning and ending dates of the suspension and indicating the reason for the suspension. The sign shall be conspicuously displayed in a location open to and frequented by customers and shall remain posted during the entire period of actual suspension.

4. **Reporting.** Respondent or Respondent's authorized representative must report in person or in writing as prescribed by the Bureau of Automotive Repair, on a schedule set by the Bureau, but no more frequently than each quarter, on the methods used and success achieved in maintaining compliance with the terms and conditions of probation.

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5. **Report Financial Interest.** Within 30 days of the effective date of this action, report any financial interest which any partners, officers, or owners of the Respondent facility may have in any other business required to be registered pursuant to Section 9884.6 of the Business and Professions Code.

6. **Random Inspections.** Provide Bureau representatives unrestricted access to inspect all vehicles (including parts) undergoing repairs, up to and including the point of completion.

7. **Jurisdiction.** If an accusation is filed against Respondent during the term of probation, the Director of Consumer Affairs shall have continuing jurisdiction over this matter until the final decision on the accusation, and the period of probation shall be extended until such decision.

8. **Violation of Probation.** Should the Director of Consumer Affairs determine that Respondent has failed to comply with the terms and conditions of probation, the Department may, after giving notice and opportunity to be heard, temporarily or permanently revoke (invalidate) the license and registration.

9. **Cost Recovery.** Payment to the Bureau of the $2,500.00 for recovery shall be received no later than 6 months before probation terminates. Failure to complete payment of cost recovery within this time frame shall constitute a violation of probation which may subject Respondent's license and registration to outright revocation(invalidation); however, the Director or the Director's Bureau of Automotive Repair designee may elect to continue probation until such time as reimbursement of the entire cost recovery amount has been made to the Bureau.

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ACCEPTANCE

We have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with our attorney, James M. Mattesich. We understand the stipulation and the effect it will have on the Automotive Repair Dealer Registration, and Smog Check Test Only Station License. We 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.

DATED: 3-7-8.

TAILPIPES SMOG TEST CENTERS

BY _____

LOUIS KONYECSNI, PARTNER (Respondent)

_____

JEFFREY R. STOWERS, PARTNER (Respondent)

I have read and fully discussed with Respondent Tailpipes Smog Test Center; Louis Konyecsni & Jeffrey R. Stowers, Owners the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 3/2/08.

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JAMES M. MATTESICH
Attorney for Respondent

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ENDORSEMENT

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

DATED: 3/10/08

EDMUND G. BROWN JR., Attorney General
of the State of California

PATRICK M. KENADY
Deputy Attorney General

Attorneys for Complainant

DOJ Matter ID: SA2007100221
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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: **TAILPIPES SMOG TEST CENTERS** 9292 Greenback Lane Orangevale, California 95662 **LOUIS KONYECSNI, PARTNER** **JEFFREY R. STOWERS, PARTNER** Automotive Repair Dealer Registration No. AL 208142 Smog Check Test Only Station License No. TL 208142 **ROLAND DALTON STAHL** 7676 Roberts Drive Citrus Heights, California 95610 Advanced Emission Specialist Technician License No. EA 143014 Respondents.	Case No. 79/08-29 **ACCUSATION** (SMOG CHECK)

Sherry Mehl ("Complainant") alleges:

PARTIES

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

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Automotive Repair Dealer Registration

2. On or about December 9, 1999, the Bureau issued Automotive Repair Dealer Registration Number AL 208142 ("registration") to Tailpipes Smog Test Centers ("Respondent Tailpipes"), with Louis Konyecsni and Jeffry R. Stowers as partners. The registration will expire on November 30, 2007, unless renewed.

Smog Check Test Only Station License

3. On or about November 30, 1999, the Bureau issued Smog Check Test Only Station License Number TL 208142 ("station license") to Respondent Tailpipes. The station license will expire on November 30, 2007, unless renewed.

Advanced Emission Specialist Technician License

4. On or about June 11, 2002, the Bureau issued Advanced Emission Specialist Technician License Number EA 143014 ("technician license") to Roland Dalton Stahl ("Respondent Stahl"). The technician license will expire on November 30, 2008, unless renewed.

STATUTORY PROVISIONS

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

> (a) The director, where the automotive repair dealer cannot show there was a bona fide error, may refuse to validate, or may invalidate temporarily or permanently, the registration of an automotive repair dealer for any of the following acts or omissions related to the conduct of the business of the automotive repair dealer, which are done by the automotive repair dealer or any automotive technician, employee, partner, officer, or member of the automotive repair dealer.
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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.
>
> (4) Any other conduct which constitutes fraud.
>
> (6) Failure in any material respect to comply with the provisions of this chapter [the Automotive Repair Act (Bus. & Prof. Code, § 9880, et seq.)] or regulations adopted pursuant to it.
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> (b) Except as provided for in subdivision (c), if an automotive repair dealer operates more than one place of business in this state, the director pursuant

to subdivision (a) shall only refuse to validate, or shall only invalidate temporarily or permanently the registration of the specific place of business which has violated any of the provisions of this chapter. This violation, or action by the director, shall not affect in any manner the right of the automotive repair dealer to operate his or her other places of business.

(c) Notwithstanding subdivision (b), the director may 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.

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

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

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

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

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

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

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

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

10. Section 44072.6 of the Health and Safety Code provides, in pertinent part, that the expiration or suspension of a license by operation of law, or by order or decision of the

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Director of Consumer Affairs, or a court of law, or the voluntary surrender of the license shall not deprive the Director of jurisdiction to proceed with disciplinary action.

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

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

COST RECOVERY

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

ILLEGAL CERTIFICATION NO. 1 - 1999 CHEVROLET CAMARO

13. On or about September 13, 2006, the Bureau contacted Michael Nichols ("consumer") regarding a complaint he filed with the Bureau. The investigation revealed that on April 6, 2006, the consumer purchased a 1999 Chevrolet Camaro, VIN No. 2G1FP32G4X2134819, from Amin's Auto Sales. Unknown to the consumer was the fact that the vehicle was not in compliance with applicable laws and regulations at the time of purchase. After a few months, the consumer contacted Amin's and informed them that he had not received any registration paperwork regarding the vehicle. Approximately four weeks later, the consumer received the vehicle registration.

14. On or about August 14, 2006, after being told by an acquaintance that the vehicle may not be smog compliant, the consumer took the vehicle to Smog Busters for a smog inspection. The vehicle failed the smog inspection.

15. On September 13, 2006, the Bureau began researching the history of the vehicle and found that on July 15, 2006, Certificate of Compliance No. HA363237 was issued to the vehicle by Respondent Stahl, an employee of Respondent Tailpipes. The consumer never

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took the vehicle to Respondent Tailpipes for a smog inspection. The vehicle was certified by Respondent Stahl using cleaning piping methods[1].

16. On October 10, 2006, the consumer met with a Bureau representative at State Referee Station No. 799171. The Bureau photographed the vehicle and a visual inspection was performed by the referee. The inspection revealed that the vehicle was equipped with a non-compliant catalytic converter, mass air flow sensor, throttle position sensor, oxygen sensor, headers, and throttle body. The referee also noted that these modifications or tampers to the emission control systems were in plain sight.

FIRST CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

17. Respondent Tailpipe's registration is subject to discipline under Code section 9884.7, subdivision (a)(1), in that on or about July 15, 2006, it made statements which it knew or which by exercise of reasonable care it should have known were untrue or misleading by issuing electronic Certificate of Compliance No. HA363237 for the 1999 Camaro, certifying that it was in compliance with applicable laws and regulations when, in fact, the vehicle had been clean piped.

SECOND CAUSE FOR DISCIPLINE

(Fraud)

18. Respondent Tailpipe's registration is subject to discipline under Code section 9884.7, subdivision (a)(4), in that on or about July 15, 2006, it committed acts which constitute fraud by issuing electronic Certificate of Compliance No. HA363237 for the 1999 Camaro without performing a bona fide inspection of the emission control devices and systems on the vehicle, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

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

THIRD CAUSE FOR DISCIPLINE

(Violation of the Motor Vehicle Inspection Program)

19. Respondent Tailpipe's station license is subject to discipline under Health and Safety Code section 44072.2, subdivision (a), in that on or about July 15, 2006, regarding the 1999 Camaro, it violated sections of that Code, as follows:

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

b. **Section 44015, subdivision (b):** Respondent Tailpipes issued electronic Certificate of Compliance No. HA363237 for the vehicle without properly testing and inspecting the vehicle to determine if it was in compliance with Code section 44012.

c. **Section 44059:** Respondent Tailpipes willfully made false entries for electronic Certificate of Compliance No. HA363237 by certifying that the vehicle had been inspected as required when, in fact, it had not.

FOURTH CAUSE FOR DISCIPLINE

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

20. Respondent Tailpipe's station license is subject to discipline under Health and Safety Code section 44072.2, subdivision (c), in that on or about July 15, 2006, regarding the 1999 Camaro, it violated sections of the California Code of Regulations, title 16, as follows:

a. **Section 3340.24, subdivision (c):** Respondent Tailpipes falsely or fraudulently issued electronic Certificate of Compliance No. HA363237 for the vehicle without performing a bona fide inspection of the emission control devices and systems on the vehicle as required by Health and Safety Code section 44012.

b. **Section 3340.35, subdivision (c):** Respondent Tailpipes issued electronic Certificate of Compliance No. HA363237 for the vehicle even though the vehicle had not been inspected in accordance with section 3340.42 of that Code.

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

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FIFTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

21. Respondent Tailpipe's station license is subject to discipline under Health and Safety Code section 44072.2, subdivision (d), in that on or about July 15, 2006, it committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing electronic Certificate of Compliance No. HA363237 for the vehicle when, in fact, the vehicle had not been properly tested and inspected, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

SIXTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

22. Respondent Stahl's technician license is subject to discipline under Health and Safety Code section 44072.2, subdivision (a), in that on or about July 15, 2006, regarding the 1999 Camaro, he violated sections of that Code, as follows:

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

b. **Section 44032:** Respondent Stahl failed to perform tests of the emission control devices and systems on the vehicle in accordance with section 44012 of that Code, in that the vehicle had been clean piped.

c. **Section 44059:** Respondent Stahl entered false information into the Emission Inspection System ("EIS") unit by entering vehicle identification information or emission control information for a vehicle other than the one being tested.

SEVENTH CAUSE FOR DISCIPLINE

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

23. Respondent Stahl's technician license is subject to discipline under Health and Safety Code section 44072.2, subdivision (c), in that on or about July 15, 2006, regarding the 1999 Camaro, it violated sections of the California Code of Regulations, title 16, as follows:

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

b. **Section 3340.41, subdivision (c):** Respondent Stahl entered false information into the EIS unit by entering vehicle identification information or emission control information for a vehicle other than the one being tested.

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

EIGHTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

24. Respondent Stahl's technician license is subject to discipline under Health and Safety Code section 44072.2, subdivision (d), in that on or about July 15, 2006, regarding the 1999 Camaro, it committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing electronic Certificate of Compliance No. HA363237 for the 1999 Camaro when, in fact, the vehicle had not been properly tested and inspected, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

ILLEGAL CERTIFICATION NO. 2 - 1998 ACURA INTEGRA

25. On or about April 15, 2006, at the request of Amin's Auto Sales, Respondent Stahl issued electronic Certificate of Compliance No. GD155645 to a 1998 Acura Integra, VIN No. JH4DC2381WS006438. Respondent Stahl issued the certificate at Respondent Tailpipes facility without properly testing and inspecting the vehicle, using clean piping methods in order to issue the certificate of compliance.

NINTH CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

26. Respondent Tailpipe's registration is subject to discipline under Code section 9884.7, subdivision (a)(1), in that on or about April 15, 2006, it made statements which it knew or which by exercise of reasonable care it should have known were untrue or misleading by issuing electronic Certificate of Compliance No. GD155645 for the 1998 Acura Integra,

certifying that it was in compliance with applicable laws and regulations when, in fact, the vehicle had been clean piped.

TENTH CAUSE FOR DISCIPLINE

(Fraud)

27. Respondent Tailpipe's registration is subject to discipline under Code section 9884.7, subdivision (a)(4), in that on or about April 15, 2006, it committed acts which constitute fraud by issuing electronic Certificate of Compliance No. GD155645 for the 1998 Acura Integra without performing a bona fide inspection of the emission control devices and systems on the vehicle, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

ELEVENTH CAUSE FOR DISCIPLINE

(Violation of the Motor Vehicle Inspection Program)

28. Respondent Tailpipe's station license is subject to discipline under Health and Safety Code section 44072.2, subdivision (a), in that on or about April 15, 2006, regarding the 1998 Acura Integra, it violated sections of that Code, as follows:

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

b. **Section 44015, subdivision (b):** Respondent Tailpipes issued electronic Certificate of Compliance No. GD155645 for the vehicle without properly testing and inspecting the vehicle to determine if it was in compliance with Code section 44012.

c. **Section 44059:** Respondent Tailpipes willfully made false entries for electronic Certificate of Compliance No. GD155645 by certifying that the vehicle had been inspected as required when, in fact, it had not.

TWELFTH CAUSE FOR DISCIPLINE

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

29. Respondent Tailpipe's station license is subject to discipline under Health and Safety Code section 44072.2, subdivision (c), in that on or about April 15, 2006, regarding

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the 1998 Acura Integra, it violated sections of the California Code of Regulations, title 16, as follows:

a. **Section 3340.24, subdivision (c):** Respondent Tailpipes falsely or fraudulently issued electronic Certificate of Compliance No. GD155645 for the vehicle without performing a bona fide inspection of the emission control devices and systems on the vehicle as required by Health and Safety Code section 44012.

b. **Section 3340.35, subdivision (c):** Respondent Tailpipes issued electronic Certificate of Compliance No. GD155645 for the vehicle even though the vehicle had not been inspected in accordance with section 3340.42 of that Code.

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

THIRTEENTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

30. Respondent Tailpipe's station license is subject to discipline under Health and Safety Code section 44072.2, subdivision (d), in that on or about April 15, 2006, it committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing electronic Certificate of Compliance No. GD155645 for the 1998 Acura Integra when, in fact, the vehicle had not been properly tested and inspected, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

FOURTEENTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

31. Respondent Stahl's technician license is subject to discipline under Health and Safety Code section 44072.2, subdivision (a), in that on or about April 15, 2006, regarding the 1998 Acura Integra, it violated sections of that Code, as follows:

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

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b. **Section 44032:** Respondent Stahl failed to perform tests of the emission control devices and systems on the vehicle in accordance with section 44012 of that Code, in that the vehicle had been clean piped.

c. **Section 44059:** Respondent Stahl entered false information into the EIS unit by entering vehicle identification information or emission control information for a vehicle other than the one being tested.

FIFTEENTH CAUSE FOR DISCIPLINE

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

32. Respondent Stahl's technician license is subject to discipline under Health and Safety Code section 44072.2, subdivision (c), in that on or about April 15, 2006, regarding the 1998 Acura Integra, it violated sections of the California Code of Regulations, title 16, as follows:

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

b. **Section 3340.41, subdivision (c):** Respondent Stahl entered false information into the EIS unit by entering vehicle identification information or emission control information for a vehicle other than the one being tested.

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

SIXTEENTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

33. Respondent Stahl's technician license is subject to discipline under Health and Safety Code section 44072.2, subdivision (d), in that on or about April 15, 2006, regarding the 1998 Acura Integra, it committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing electronic Certificate of Compliance No. GD155645 for the vehicle when, in fact, the vehicle had not been properly tested and inspected, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

OTHER MATTERS

34. Under Code section 9884.7, subdivision (c), the director may invalidate, temporarily or permanently, or refuse to validate the registrations for all places of business operated in this state by Tailpipes Smog Test Centers upon a finding that it has, or is, engaged in a course of repeated and willful violations of the laws and regulations pertaining to an automotive repair dealer.

35. Under Health and Safety Code section 44072.8, if Smog Check Test Only Station License Number TL 208142, issued to Tailpipes Smog Test Centers, 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.

36. Under Health and Safety Code section 44072.8, if Advanced Emission Specialist Technician License Number EA 143014, issued to Roland Dalton Stahl, 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 invalidate Automotive Repair Dealer Registration Number AL 208142, issued to Tailpipes Smog Test Centers;

2. Temporarily or permanently invaliding any other automotive repair dealer registration issued to Tailpipes Smog Test Centers;

3. Revoking or suspending Smog Check Test Only Station License Number TL 208142, issued to Tailpipes Smog Test Centers;

4. Revoking or suspending any additional license issued under this chapter in the name of Tailpipes;

5. Revoking or suspending Advanced Emission Specialist Technician License Number EA 143014, issued to Roland Dalton Stahl;

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6. Revoking or suspending any additional license issued under this chapter in the name of Roland Dalton Stahl;

7. Ordering Tailpipes Smog Test Centers and Roland Dalton Stahl to pay the Bureau of Automotive Repair the reasonable costs of the investigation and enforcement of this case, pursuant to Code section 125.3; and,

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

DATED: 11-16-07

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

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