

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

In the Matter of the Accusation and Petition to
Revoke Probation Against:

CIRCLE CITY SMOG AND TEST ONLY
LUIS E. ZAMORA,
aka LUIS ENRIQUE ZAMORA, Owner

Automotive Repair Dealer Registration
No. ARD 242841
Smog Check, Test Only, Station License
No. TC 242841

and

LUIS E. ZAMORA
aka LUIS ENRIQUE ZAMORA

Advanced Emission Specialist Technician
License No. EA 144504

Respondents.

Case No. 79/12-26

OAH No. 2011100934

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby
accepted and adopted by the Director of Consumer Affairs as the Decision in the above-
entitled matter.

This Decision shall become effective 12/7/12.

DATED: October 24, 2012



DORÉATHEA JOHNSON
Deputy Director, Legal Affairs
Department of Consumer Affairs

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

In the Matter of the Accusation and Petition to
Revoke Probation Against:

Case No. 79/12-26

CIRCLE CITY SMOG AND TEST ONLY,
Luis E. Zamora, a.k.a. Luis Enrique Zamora,
Owner,

OAH No. 2011100934

Automotive Repair Dealer Registration
number ARD 242841

Smog Check Test Only Station License
number TC242841,

and

LUIS E. ZAMORA, a.k.a. LUIS ENRIQUE
ZAMORA,

Advanced Emission Specialist Technician
License number EA 144504,

Respondents.

PROPOSED DECISION

This matter came on regularly for hearing before Roy W. Hewitt, Administrative Law Judge, Office of Administrative Hearings, in San Diego, California on August 2, 2012.

Deputy Attorney General Loretta A. West represented complainant.

Luis Zamora (respondent) represented himself and his business, Circle City Smog and Test Only (the station).

Oral and documentary evidence was received and the case was submitted on August 2, 2012.

FACTUAL FINDINGS

1. The accusation and petition to revoke probation was brought by Sherry Mehl (complainant), while acting in her official capacity as the Chief of the Bureau of Automotive Repair (the bureau), Department of Consumer Affairs, State of California.

2. In 2005, the bureau issued Automotive Repair Dealer Registration number ARD 242841 to respondent, doing business as Circle City Smog and Test Only. Effective June 6, 2011, respondent's registration was revoked, the revocation was stayed and respondent was placed on probation for three years under certain terms and conditions. At all times relevant herein, respondent held a probationary registration.

3. On May 10, 2006, the bureau issued Smog Check Test Only Station License number TC 242841 to respondent, doing business as Circle City Smog and Test Only. Effective June 6, 2011, respondent's station license was revoked, the revocation was stayed and respondent was placed on probation for three years under certain terms and conditions. At all times relevant herein, respondent held a probationary Smog Check Test Only Station License.

4. In 2001, the bureau issued Advanced Emission Specialist Technician License number EA 144504 to respondent. Effective June 6, 2011, respondent's license was revoked, the revocation was stayed and respondent was placed on probation for three years under certain terms and conditions. At all times relevant herein, respondent held a probationary license.

Prior Discipline

5. On April 28, 2010, complainant filed an accusation against respondent in Case No. 79/10-74. The accusation alleged that on August 12, 2009, an Advanced Emission Specialist Technician working for respondent at respondent's Woodcrest Smog & Test Only station fraudulently issued electronic Certificate of Compliance No. WB940274C to a bureau undercover operation vehicle by using a "clean piping" method.¹

6. On April 4, 2011, respondent signed a "Stipulated Settlement and Disciplinary Order" wherein, he admitted the truth of each and every allegation contained in accusation number 79/10-74. Consequently, respondent's licenses and registration pertaining to his Woodcrest Automotive Repair Dealer business were revoked, outright. The licenses and registration involved in the instant proceedings were revoked, the revocations were stayed and respondent was placed on probation for three years under certain terms and conditions, including: Term 1—Obey all laws, comply with all statutes, regulations, and rules governing

¹ "Clean piping" consists of 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 with smog check standards, or are not present in the smog check area during the time of the certification.

automotive inspections, estimates, and repairs. Respondent's probation became effective on June 6, 2011.

The July 7, 2011, Undercover Operation

7. On July 7, 2011, approximately one month after respondent's prior discipline became effective, bureau representatives conducted an undercover check at the station, which is located in Corona, California. The undercover operation was run using a 2000 Honda CRV (the vehicle). Bureau representatives prepared the vehicle by ensuring that the data link connector was incapable of communicating with the scan tool from the Emission Inspection System (EIS). The person driving the vehicle (operator) drove the car to the station, met with respondent, and requested a smog inspection. Respondent drove the vehicle into the station's testing area. Several minutes later, respondent informed the operator that the vehicle was "not communicating with the smog machine." Respondent suggested that the problem was most likely being caused by some missing fuses. Respondent accompanied the undercover operative to a business next door, Sound Accent, and purchased some fuses. Respondent installed the fuses in the vehicle; however, the vehicle's sensors were still not communicating with the smog machine. The undercover operative asked respondent if he (the undercover operative) should take the vehicle to the dealer for repairs. Respondent told the undercover operative that if he took the vehicle to the dealer, the dealer would charge him an "eye" for repairs. Respondent then told the undercover operative that for \$180 he (respondent) would provide the undercover operative with a smog certificate. The undercover operative agreed to pay respondent the \$180 and respondent completed the smog inspection and issued electronic Certificate of Compliance No. WV966433 to the operator. The Certificate of Compliance falsely certified that respondent had tested the vehicle and that the vehicle was in compliance with applicable laws and regulations governing smog checks and air quality.

Costs

8. The reasonable costs of the investigation and enforcement of this case total \$14,528.93.

LEGAL CONCLUSIONS

1. Cause for discipline exists pursuant to Business and Professions Code section 9884.7, subdivision (a)(1), because, as set forth in Finding 7, respondent made statements which he knew were untrue and misleading when he issued the electronic Certificate of Compliance for the vehicle, thus certifying that the vehicle was in compliance with applicable laws and regulations when, in truth and in fact, respondent generated the Certificate without even testing the vehicle.

2. Cause for discipline exists pursuant to Business and Professions Code section 9884.7, subdivision (a)(4), because, as set forth in Finding 7, respondent fraudulently issued

the electronic Certificate of Compliance for the vehicle 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.

3. Cause for discipline exists pursuant to Health and Safety Code section 44072.2, subdivision (a), because respondent's conduct, as set forth in Finding 7, violated the following Health and Safety Code provisions:

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

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

c. Section 44015, subdivision (b): Respondent issued an electronic Certificate of Compliance without properly testing and inspecting the vehicle to determine if it was in compliance with Health and Safety Code section 44012;

d. Section 44059: Respondent willfully made false entries in order to generate the Certificate of Compliance by certifying that the vehicle had been inspected as required when, in fact, it had not.

4. Cause for discipline exists pursuant to Health and Safety Code section 44072.2, subdivision (c), because respondent's conduct, as set forth in Finding 7, violated the following sections of California Code of Regulations, title 16:

a. Section 3340.24, subdivision (c): Respondent falsely or fraudulently issued a Certificate of Compliance 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 3340.24, subdivision (c): Respondent issued a Certificate of Compliance in violation of section 3340.2;

c. Section 3340.2: Respondent failed to conduct the required smog tests and inspections on the vehicle in accordance with the bureau's specifications.

5. Cause for discipline exists pursuant to Health and Safety Code section 44072.2, subdivision (d), because respondent committed acts involving dishonesty, fraud and deceit by issuing a certificate of compliance to a vehicle 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.

6. Cause exists for revocation of respondent's probation in Case/Accusation number 79/10-74 because respondent violated Term 1 of that probation by failing to obey all laws, and comply with all statutes, regulations, and rules governing automotive inspections, estimates, and repairs.

7. Respondent's acts were egregious and occurred only about one month after he was granted probation in Case/Accusation number 79/10-74. Respondent can not be trusted and it would be against the public health, safety and welfare to allow him to be licensed in any capacity.

8. The reasonable costs of the investigation and enforcement of this case, recoverable by the bureau pursuant to Business and Professions Code section 125.3, total \$14,528.93.

ORDERS

WHEREFORE, THE FOLLOWING ORDERS are hereby made:

1. The stay of the revocation of respondent's licenses and registrations in Case number 79/10-74 is vacated and the order of revocation is imposed.
2. All of respondent's bureau issued licenses and registrations (issued under Chapter 5 of the Health and Safety Code) are revoked.
3. Respondent shall reimburse the bureau \$14,528.93 as cost recovery.

Dated: October 3, 2012


ROY W. HEWITT
Administrative Law Judge
Office of Administrative Hearings

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

11
12 In the Matter of the Accusation and Petition to
Revoke Probation Against:

13 **CIRCLE CITY SMOG AND TEST ONLY,**
14 **110 Washburn Circle, Unit B**
Corona, CA 92882
15 **LUIS E. ZAMORA, AKA**
LUIS ENRIQUE ZAMORA, OWNER
16 **Automotive Repair Dealer Registration No.**
ARD 242841
17 **Smog Check Test Only Station License No.**
TC 242841,

18 **and**

19 **LUIS ENRIQUE ZAMORA, AKA**
20 **LUIS E. ZAMORA**
3010 Fillmore Street,
21 **Riverside, C 92505**
Advanced Emission Specialist Technician
22 **License No. EA 144504**

23 Respondents.

Case No. **79/12-26**

**ACCUSATION AND PETITION TO
REVOKE PROBATION**

SMOG CHECK

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25 Complainant alleges:

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1 PARTIES

2 1. Sherry Mehl ("Complainant") brings this Accusation and Petition to Revoke
3 Probation solely in her official capacity as the Chief of the Bureau of Automotive Repair
4 ("Bureau"), Department of Consumer Affairs.

5 **Automotive Repair Dealer Registration**

6 2. On a date uncertain in 2005, the Bureau issued Automotive Repair Dealer
7 Registration Number ARD 242841 ("registration") to Luis E. Zamora, also known as Luis
8 Enrique Zamora ("Respondent"), doing business as Circle City Smog and Test Only. The
9 registration was in full force and effect at all times relevant to the charges brought herein and will
10 expire on December 31, 2011, unless renewed.

11 **Smog Check Test Only Station License**

12 3. On or about May 10, 2006, the Bureau issued Smog Check Test Only Station License
13 Number TC 242841 ("station license") to Respondent. The station license was in full force and
14 effect at all times relevant to the charges brought herein and will expire on December 31, 2011,
15 unless renewed.

16 **Advanced Emission Specialist Technician License**

17 4. On a date uncertain in 2001, the Bureau issued Advanced Emission Specialist
18 Technician License Number EA 144504 ("technician license") Respondent. The technician
19 license was in full force and effect at all times relevant to the charges brought herein and will
20 expire on August 31, 2011, unless renewed.

21 PRIOR DISCIPLINARY ACTION

22 5. Pursuant to the Decision and Order in the Stipulated Settlement and Disciplinary
23 Order As To Respondent Luis Enrique Zamora, Accusation No. 79/10-74, attached hereto as
24 **Exhibit "A"** and incorporated herein by reference, effective June 6, 2011, the Director of
25 Consumer Affairs ("Director") revoked Respondent's Automotive Repair Dealer Registration No.
26 ARD 238340 (**Woodcrest Smog & Test Only**) and Smog Check Test Only Station License No.
27 TC 238340 (**Woodcrest Smog & Test Only**) outright. Further, pursuant to the same Decision
28 and Order, Respondent's Automotive Repair Dealer Registration No. ARD 259565 (**All**

1 **Specialist Auto Repair**), Automotive Repair Dealer Registration No. 242841 (**Circle City Smog**
2 **and Test Only**), Smog Check Test Only Station License No. TC 242841 (**Circle City Smog and**
3 **Test Only**), and Respondent's Advanced Emission Specialist Technician License No. EA 144504
4 were also revoked; however, these revocations were stayed, and Respondent was placed on
5 probation for three (3) years with terms, including Term 1, set forth as follows:

6 **Term 1 - Obey all Laws:** Comply with all statutes, regulations, and rules governing
7 automotive inspections, estimates, and repairs.

8 STATUTORY PROVISIONS

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

11 (a) The director, where the automotive repair dealer cannot show there
12 was a bona fide error, may refuse to validate, or may invalidate temporarily or
13 permanently, the registration of an automotive repair dealer for any of the following
14 acts or omissions related to the conduct of the business of the automotive repair
15 dealer, which are done by the automotive repair dealer or any automotive technician,
16 employee, partner, officer, or member of the automotive repair dealer.

17 (1) Making or authorizing in any manner or by any means whatever any
18 statement written or oral which is untrue or misleading, and which is known, or which
19 by the exercise of reasonable care should be known, to be untrue or misleading.

20 (4) Any other conduct which constitutes fraud.

21 (b) Except as provided for in subdivision (c), if an automotive repair
22 dealer operates more than one place of business in this state, the director pursuant to
23 subdivision (a) shall only refuse to validate, or shall only invalidate temporarily or
24 permanently the registration of the specific place of business which has violated any
25 of the provisions of this chapter. This violation, or action by the director, shall not
26 affect in any manner the right of the automotive repair dealer to operate his or her
27 other places of business.

28 (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.

7. 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.

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ACCUSATION

UNDERCOVER OPERATION JULY 7, 2011

14. On or about July 7, 2011, a Bureau undercover operator ("operator") drove a Bureau-documented 2000 Honda CRV to Respondent's facility for a smog inspection. The vehicle could not pass the OBD II functional test because the data link connector could not communicate with the scan tool from the Emission Inspection System ("EIS"). The operator met with Respondent and requested a smog inspection. Respondent drove the vehicle into the test bay. Several minutes later, Respondent informed the operator that the vehicle was not communicating with the smog machine. Respondent indicated he thought the problem might be some missing fuses. Respondent and the operator went next door to a shop called Sound Accent and purchased some fuses. Respondent installed the fuses; however, the vehicle still could not communicate with the smog machine. The operator asked Respondent if he should take the vehicle to the dealer for repairs. Respondent told the operator it would cost an "eye" for those types of repairs. Respondent then told the operator that for \$180 he would give the operator a smog certificate. The operator authorized the transaction. Respondent completed the smog inspection and issued electronic Certificate of Compliance No. WV966433, certifying that he had tested and inspected that vehicle and that the vehicle was in compliance with applicable laws and regulations. The vehicle was not tested during the OBD II functional test and an external device and/or another vehicle was used, constituting clean plugging.¹

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¹ The On Board Diagnostics (OBD II) functional test is an automated function of the BAR-97 analyzer. During the OBD II functional test, the technician is required to connect an interface cable from the BAR-97 analyzer to a Diagnostic Link Connector (DLC) which is located inside the vehicle. Through the DLC, the BAR-97 analyzer automatically retrieves information from the vehicle's on-board computer about the status of the readiness indicators, trouble codes, and the MIL (malfunction indicator light). If the vehicle fails the OBD II functional test, it will fail the overall inspection.

Clean plugging is the use of the OBD II readiness monitor status and stored fault code (trouble code) status of a passing vehicle for the purpose of illegally issuing a smog certificate to another vehicle that is not in compliance due to a failure to complete the minimum number of self tests, known as monitors, or due to the presence of a stored fault code that indicates an emission control system or component failure.

1 c. **Section 44015, subdivision (b):** Respondent issued electronic Certificate of
2 Compliance No. WV966433 without properly testing and inspecting that vehicle to determine if it
3 was in compliance with section 44012 of that Code.

4 d. **Section 44059:** Respondent willfully made false entries for electronic Certificate of
5 Compliance No. WV966433 by certifying that the vehicle had been inspected as required when,
6 in fact, it had not.

7 **FOURTH CAUSE FOR DISCIPLINE**

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

9 18. Respondent has subjected his station license to discipline under Health and Safety
10 Code section 44072.2, subdivision (c), in that on or about July 7, 2011, regarding the 2000 Honda
11 CRV, he violated sections of the California Code of Regulations, title 16, as follows:

12 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued
13 electronic Certificate of Compliance No. WV966433 without performing a bona fide inspection
14 of the emission control devices and systems on that vehicle as required by Health and Safety
15 Code section 44012.

16 b. **Section 3340.35, subdivision (c):** Respondent issued electronic Certificate of
17 Compliance No. WV966433 even though that vehicle had not been inspected in accordance with
18 section 3340.42 of that Code.

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

21 **FIFTH CAUSE FOR DISCIPLINE**

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

23 19. Respondent subjected his station license to discipline under Health and Safety Code
24 section 44072.2, subdivision (d), in that on or about July 7, 2011, regarding the 2000 Honda
25 CRV, he committed acts involving dishonesty, fraud or deceit whereby another was injured by
26 issuing electronic Certificate of Compliance No. WV966433 for that vehicle without performing
27 a bona fide inspection of the emission control devices and systems on that vehicle, thereby

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

3 **SIXTH CAUSE FOR DISCIPLINE**

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

5 20. Respondent has subjected his technician license to discipline under Health and Safety
6 Code section 44072.2, subdivision (a), in that on or about July 7, 2011, regarding the 2000 Honda
7 CRV, he violated sections of that Code, as follows:

8 a. **Section 44012, subdivision (a):** Respondent failed to determine that all emission
9 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 failed to perform emission control tests
12 on that vehicle in accordance with procedures prescribed by the department.

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

16 d. **Section 44059:** Respondent willfully made false entries for electronic Certificate of
17 Compliance No. WV966433 by certifying that the vehicle had been inspected as required when,
18 in fact, it had not.

19 **SEVENTH CAUSE FOR DISCIPLINE**

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

21 21. Respondent has subjected his technician license to discipline under Health and Safety
22 Code section 44072.2, subdivision (c), in that on or about July 7, 2011, regarding the 2000 Honda
23 CRV, he violated sections of the California Code of Regulations, title 16, as follows:

24 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued
25 electronic Certificate of Compliance No. WV966433 without performing a bona fide inspection
26 of the emission control devices and systems on that vehicle as required by Health and Safety
27 Code section 44012.

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1 course of repeated and willful violations of the laws and regulations pertaining to an automotive
2 repair dealer, including but not limited to, Automotive Repair Dealer Registration No. ARD
3 259565, issued to Luis Enrique Zamora doing business as All Specialist Auto Repair.

4 25. Under section 44072.8 of the Health and Safety Code, if Smog Check Test Only
5 Station License No. TC 242841, issued to Luis E. Zamora, also known as Luis Enrique Zamora
6 doing business as Circle City Smog and Test Only, is revoked or suspended, any additional
7 license issued under this chapter in the name of said licensee may be likewise revoked or
8 suspended by the director.

9 26. Under section 44072.8 of the Health and Safety Code, if Advanced Emission
10 Specialist Technician License No. EA 144504, issued to Luis Enrique Zamora, also known as
11 Luis E. Zamora, is revoked or suspended, any additional license issued under this chapter in the
12 name of said licensee may be likewise revoked or suspended by the director.

13 **PRAYER**

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

16 1. Vacating the stay and reimposing the order of revocation of Automotive Repair
17 Dealer Registration No. ARD 242841, issued to Luis E. Zamora, also known as Luis Enrique
18 Zamora doing business as Circle City Smog and Test Only;

19 2. Vacating the stay and reimposing the order of revocation of Automotive Repair
20 Dealer Registration No. ARD 259565, issued to Luis Enrique Zamora, also known as Luis E.
21 Zamora, doing business as All Specialist Auto Repair;

22 3. Revoking, suspending, or placing on probation any other automotive repair dealer
23 registration issued in the name of Luis Enrique Zamora, also known as Luis E. Zamora;

24 4. Vacating the stay and reimposing the order of revocation of Smog Check Station
25 License Number TC 242841, issued to Luis E. Zamora, also known as Luis Enrique Zamora
26 doing business as Circle City Smog and Test Only;

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1 5. Vacating the stay and reimposing the order of revocation of Advanced Emission
2 Specialist Technician License Number EA 144504, issued to Luis Enrique Zamora, also known as
3 Luis E. Zamora;

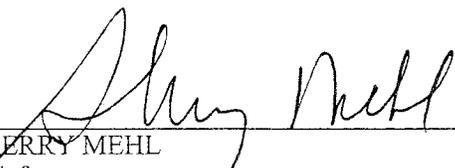
4 6. Revoking or suspending any additional license issued under Chapter 5 of the Health
5 and Safety Code in the name of Luis Enrique Zamora, also known as Luis E. Zamora;

6 7. Ordering Luis E. Zamora, also known as Luis Enrique Zamora to pay the Bureau of
7 Automotive Repair the reasonable costs of the investigation and enforcement of this case,
8 pursuant to Business and Professions Code section 125.3; and,

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

10
11 DATED: _____

9/9/11



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

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

In the Matter of the Accusation Against:

Case No. 79/10-74

**WOODCREST SMOG & TEST ONLY;
LUIS ENRIQUE ZAMORA, OWNER
18451 Van Buren Blvd.,
Riverside, CA 92508
Automotive Repair Dealer Registration No. ARD 238340
Smog Check Test Only Station License No. TC238340**

and

**PETER JAMES DEVANEY
30300 Antelope Road, No. 1216
Menifee, CA 92584
Advanced Emission Specialist Technician License No. EA 140761**

Respondents.

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order as to Respondent Luis Enrique Zamora is hereby adopted by the Director of Consumer Affairs and the Bureau of Automotive Repair as the Decision and Order in the above entitled matter only as to Respondent Luis Enrique Zamora: Smog Technician License No. EA144504; Automotive Repair Dealer Registration No ARD 238340 (dba Woodcrest Smog & Test Only); Smog Test Station License No. TC238340 (dba Woodcrest Smog & Test Only); Automotive Repair Dealer Registration No ARD 2442841 (dba Circle City Smog & Test Only); and, Smog Test Station License No. TC244841 (dba Circle City Smog & Test Only), Automotive Repair Dealer Registration No. ARD 259565 (All Specialist Auto Repair).

This Decision shall become effective on April 29, 2011.

It is so ORDERED April 29, 2011.



DOREATHEA JOHNSON
Deputy Director, Legal Affairs
Department of Consumer Affairs

1 KAMELA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 LORETTA A. WEST
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6 San Diego, CA 92186-5266
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Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

Case No. 79/10-74

13 **WOODCREST SMOG & TEST ONLY;**
14 **LUIS ENRIQUE ZAMORA, OWNER**
15 **18451 Van Buren Blvd.**
16 **Riverside, CA 92508**
17 **Automotive Repair Dealer Registration**
18 **No. ARD 238340**
19 **Smog Check Test Only Station License**
20 **No. TC238340**

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER AS TO
RESPONDENT LUIS ENRIQUE
ZAMORA

21 and

22 **PETER JAMES DEVANEY**
23 **30300 Antelope Road, No. 1216**
24 **Menifee, CA 92584**
25 **Advanced Emission Specialist Technician**
26 **License No. EA 140761**

27 Respondents.

28 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 Kamela D. Harris, Attorney General of the State of California, by Loretta A. West, Deputy Attorney General.

1 2. Luis Enrique Zamora (Respondent Zamora) is representing himself in this proceeding
2 and has chosen not to exercise his right to be represented by counsel.

3 **Advanced Emission Specialist Technician License No. EA 144504**

4 3. On or about January 1, 2001, the Bureau of Automotive Repair issued Advanced
5 Emission Specialist Technician License No. EA 144504 to Respondent Zamora. The Advanced
6 Emission Specialist Technician License was in full force and effect at all times relevant to the
7 charges brought in Accusation No. 79/10-74 and will expire on August 31, 2011, unless renewed.

8 **Automotive Repair Dealer Registration No. ARD 238340**

9 4. On April 22, 2005, the Bureau of Automotive Repair issued Automotive Repair
10 Dealer Registration Number ARD 238340 to Respondent Zamora (Respondent Zamora) doing
11 business as Woodcrest Smog & Test Only (Woodcrest registration). The Woodcrest registration
12 was in full force and effect at all times relevant to the charges brought herein, and will expire on
13 March 31, 2011, unless renewed.

14 **Smog Check, Test Only, Station License No. TC 238340**

15 5. On April 27, 2005, the Bureau of Automotive Repair issued Smog Check, Test Only,
16 Station License Number TC 238340 to Respondent Zamora doing business as Woodcrest Smog &
17 Test Only (Woodcrest station license). The Woodcrest station license was in full force and effect
18 at all times relevant to the charges brought herein and will expire on March 31, 2011, unless
19 renewed.

20 **Automotive Repair Dealer Registration No. ARD 242841**

21 6. On or about January 1, 2005, the Bureau of Automotive Repair issued Automotive
22 Repair Dealer Registration Number ARD 242841 to Respondent Zamora doing business as Circle
23 City Smog & Test Only (Circle City registration). The Circle City registration was in full force
24 and effect at all times relevant to the charges brought herein, and will expire on March 31, 2011,
25 unless renewed.

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1 reconsideration and court review of an adverse decision; and all other rights accorded by the
2 California Administrative Procedure Act and other applicable laws.

3 12. Respondent Zamora voluntarily, knowingly, and intelligently waives and gives up
4 each and every right set forth above.

5 **CULPABILITY**

6 13. Respondent Zamora admits the truth of each and every charge and allegation in
7 Accusation No. 79/10-74.

8 14. Respondent Zamora agrees that his Automotive Repair Dealership Registrations,
9 Smog Station Licenses, and Smog Technician license are subject to discipline and agrees to be
10 bound by the Director's imposition of discipline as set forth in the Disciplinary Order below.

11 **CONTINGENCY**

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

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

26 17. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
27 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
28 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,

1 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
2 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
3 writing executed by an authorized representative of each of the parties.

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

7 **DISCIPLINARY ORDER**

8 **IT IS HEREBY ORDERED** that Automotive Repair Dealer Registration No.
9 ARD 238340 (Woodcrest Automotive Repair Dealer Registration), and Smog Check, Test Only,
10 Station License Number TC 238340 (Woodcrest Smog Station License) issued to Luis Enrique
11 Zamora doing business as Woodcrest Smog & Test Only, are revoked.

12 1. The revocation of Respondent Zamora's Woodcrest Automotive Repair Dealer
13 Registration and Woodcrest Station License shall constitute the imposition of discipline against
14 Respondent Zamora. This stipulation constitutes a record of the discipline and shall become a
15 part of Respondent Zamora's license histories with the Bureau.

16 2. Respondent Zamora shall lose all rights and privileges as to Woodcrest Automotive
17 Repair Dealer Registration No ARD 238340 and Woodcrest Station License No. TC 238340 as of
18 the effective date of the Director's Decision and Order.

19 3. Respondent Zamora shall cause to be delivered to the Bureau all of his Woodcrest
20 Smog & Test Only registration, wall license, and pocket license certificates relating to
21 Woodcrest Automotive Repair Dealer Registration No. ARD 238340 and Woodcrest Smog
22 Station License No. TC 238340, on or before the effective date of the Decision and Order.

23 4. Should Respondent Zamora ever apply or reapply for a new license or certification, or
24 petition for reinstatement of a license, all of the charges and allegations contained in Accusation
25 No. 79/10-74 shall be deemed to be true, correct, and admitted by Respondent Zamora for the
26 purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

27 **IT IS FURTHER ORDERED THAT** that Emission Specialist Technician License No.
28 EA 144504 issued to Respondent Zamora, Automotive Repair Dealer Registration Number ARD

1 242841 issued to Respondent Zamora doing business as Circle City Smog & Test Only, Station
2 License Number TC 242841 issued to Respondent Zamora doing business as Circle City Smog &
3 Test Only, and, Automotive Repair Dealer Registration Number ARD 259565 issued to
4 Respondent Zamora doing business as All Specialist Auto Repair are each revoked. However,
5 each revocation is stayed and Respondent Zamora and each license is placed on probation for
6 three (3) years on the following terms and conditions.

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

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

13 3. **Report Financial Interest.** Within 30 days of the effective date of this action, report
14 any financial interest which any partners, officers, or owners of any of Respondent Zamora's
15 facilities may have in any other business required to be registered pursuant to Section 9884.6 of
16 the Business and Professions Code.

17 4. **Random Inspections.** Respondent Zamora or his designee shall provide Bureau
18 representatives unrestricted access to inspect all vehicles (including parts) undergoing repairs, up
19 to and including the point of completion.

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

24 6. **Violation of Probation.** Should the Director of Consumer Affairs determine that
25 Respondent Zamora has failed to comply with the terms and conditions of probation, the
26 Department may, after giving notice and opportunity to be heard, revoke all licenses and
27 registrations issued to Respondent Zamora.

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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: 4-4-11 4/5/11

Respectfully Submitted,

EDMUND G. BROWN JR.
Attorney General of California
LINDA K. SCHNEIDER
Supervising Deputy Attorney General



LORETTA A. WEST
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 79/10-74

1 EDMUND G. BROWN JR.
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2 ALFREDO TERRAZAS
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3 LINDA K. SCHNEIDER
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Attorneys for Complainant

8
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. 79/10-74

13 **WOODCREST SMOG & TEST ONLY;**
14 **18451 Van Buren Blvd.**
Riverside, CA 92508
15 **LUIS ENRIQUE ZAMORA, OWNER**
Automotive Repair Dealer Registration
16 **No. ARD 238340**
Smog Check Test Only Station License
17 **No. TC 238340**

A C C U S A T I O N
S M O G C H E C K

18 and

19 **PETER JAMES DEVANEY**
30300 Antelope Road, No. 1216
20 **Meniffee, CA 92584**
Advanced Emission Specialist Technician
21 **License No. EA 140761**

22 Respondents.

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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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, in pertinent part:

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
29 expiration or suspension of a license by operation of law, or by order or decision of the Director
30 of Consumer Affairs, or a court of law, or the voluntary surrender of the license shall not deprive
31 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 – AUGUST 12, 2009**

11 13. On or about August 12, 2009, the Bureau performed a videotaped surveillance at
12 Respondent Woodcrest's facility. The surveillance operation and information obtained from the
13 Bureau's VID revealed that between 1328 hours and 1334 hours, Respondent Devaney performed
14 one (1) smog inspection that resulted in the issuance of electronic Certificate of Compliance No.
15 WB940274C for a 2004 Nissan 350Z, certifying that he had tested and inspected that vehicle and
16 that the vehicle was in compliance with applicable laws and regulations. In fact, Respondent
17 Devaney performed the smog inspection using the clean piping¹ method by using the tail pipe
18 emissions of a vehicle other than the vehicle being certified in order to issue the electronic
19 certificate of compliance. The vehicle certified was not in the test bay at the time of the smog
20 inspection

21 **FIRST CAUSE FOR DISCIPLINE**

22 **(Misleading Statements)**

23 14. Respondent Woodcrest has subjected his registration to discipline under Code section
24 9884.7, subdivision (a)(1), in that on or about August 12, 2009, he made statements which he
25

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

1 knew or which by exercise of reasonable care he should have known were untrue or misleading
2 when he issued electronic Certificate of Compliance No. WB940274C for the 2004 Nissan 350Z,
3 certifying that the vehicle was in compliance with applicable laws and regulations when, in fact,
4 the vehicle had been clean piped.

5 **SECOND CAUSE FOR DISCIPLINE**

6 **(Fraud)**

7 15. Respondent Woodcrest has subjected his registration to discipline under Code section
8 9884.7, subdivision (a)(4), in that on or about August 12, 2009, he committed acts which
9 constitute fraud by issuing electronic Certificate of Compliance No. WB940274C for the 2004
10 Nissan 350Z without performing a bona fide inspection of the emission control devices and
11 systems on that vehicle, thereby depriving the People of the State of California of the protection
12 afforded by the Motor Vehicle Inspection Program.

13 **THIRD CAUSE FOR DISCIPLINE**

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

15 16. Respondent Woodcrest has subjected his station license to discipline under Health
16 and Safety Code section 44072.2, subdivision (a), in that on or about August 12, 2009, regarding
17 the 2004 Nissan 350Z, he violated sections of that Code, as follows:

18 a. **Section 44012, subdivision (a):** Respondent Woodcrest 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 Woodcrest 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 Woodcrest issued electronic Certificate
24 of Compliance No. WB940274C without properly testing and inspecting that vehicle to determine
25 if it was in compliance with section 44012 of that Code.

26 d. **Section 44059:** Respondent Woodcrest willfully made false entries for electronic
27 Certificate of Compliance No. WB940274C, certifying that the vehicle had been inspected as
28 required when, in fact, it had not.

1 **FOURTH CAUSE FOR DISCIPLINE**

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

3 17. Respondent Woodcrest has subjected his station license to discipline under Health
4 and Safety Code section 44072.2, subdivision (c), in that on or about August 12, 2009, regarding
5 the 2004 Nissan 350Z, he violated sections of the California Code of Regulations, title 16, as
6 follows:

7 a. **Section 3340.24, subdivision (c):** Respondent Woodcrest falsely or fraudulently
8 issued electronic Certificate of Compliance No. WB940274C without performing a bona fide
9 inspection of the emission control devices and systems on that vehicle as required by Health and
10 Safety Code section 44012.

11 b. **Section 3340.35, subdivision (c):** Respondent Woodcrest issued electronic
12 Certificate of Compliance No. WB940274C even though that vehicle had not been inspected in
13 accordance with section 3340.42 of that Code.

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

16 **FIFTH CAUSE FOR DISCIPLINE**

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

18 18. Respondent Woodcrest has subjected his station license to discipline under Health
19 and Safety Code section 44072.2, subdivision (d), in that on or about August 12, 2009, regarding
20 the 2004 Nissan 350Z, he committed acts involving dishonesty, fraud or deceit whereby another
21 was injured by issuing electronic Certificate of Compliance No. WB940274C without performing
22 a bona fide inspection of the emission control devices and system 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 e. **Section 3340.41, subdivision (c):** Respondent Devaney entered false information
2 into the Emission Inspection System ("EIS") for electronic Certificate of Compliance No.
3 WB940274C by entering vehicle emission control information for a vehicle other than the vehicle
4 being certified.

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

7 **EIGHTH CAUSE FOR DISCIPLINE**

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

9 21. Respondent Devaney has subjected his technician license to discipline under Health
10 and Safety Code section 44072.2, subdivision (d), in that on or about August 12, 2009, regarding
11 the 2004 Nissan 350Z, he committed acts involving dishonesty, fraud or deceit whereby another
12 was injured by issuing electronic Certificate of Compliance No. WB940274C without performing
13 a bona fide inspection of the emission control devices and systems on that vehicle, thereby
14 depriving the People of the State of California of the protection afforded by the Motor Vehicle
15 Inspection Program.

16 **SURVEILLANCE OPERATION – AUGUST 27, 2009**

17 22. On or about August 27, 2009, the Bureau performed a second videotaped surveillance
18 at Respondent Woodcrest's facility. The surveillance operation and information obtained from
19 the Bureau's VID revealed that between 1201 hours and 1215 hours, Respondent performed one
20 (1) smog inspection that resulted in the issuance of electronic Certificate of Compliance No.
21 WD165206C for a 1998 Toyota Tacoma, certifying that he had tested and inspected that vehicle
22 and that the vehicle was in compliance with applicable laws and regulations. In fact, Respondent
23 performed the smog inspection using the clean piping method by using the tail pipe emissions of
24 a vehicle other than the vehicle being certified in order to issue the electronic certificate of
25 compliance. The vehicle certified was not in the test bay at the time of the smog inspection

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1 **NINTH CAUSE FOR DISCIPLINE**

2 **(Misleading Statements)**

3 23. Respondent Woodcrest has subjected his registration to discipline under Code section
4 9884.7, subdivision (a)(1), in that on or about August 27, 2009, he made statements which he
5 knew or which by exercise of reasonable care he should have known were untrue or misleading
6 when he issued electronic Certificate of Compliance No. WD165206C for the 1998 Toyota
7 Tacoma, certifying that the vehicle was in compliance with applicable laws and regulations when,
8 in fact, the vehicle had been clean piped.

9 **TENTH CAUSE FOR DISCIPLINE**

10 **(Fraud)**

11 24. Respondent Woodcrest has subjected his registration to discipline under Code section
12 9884.7, subdivision (a)(4), in that on or about August 27, 2009, he committed acts which
13 constitute fraud by issuing electronic Certificate of Compliance No. WD165206C for the 1998
14 Toyota Tacoma without performing a bona fide inspection of the emission control devices and
15 systems on that vehicle, thereby depriving the People of the State of California of the protection
16 afforded by the Motor Vehicle Inspection Program.

17 **ELEVENTH CAUSE FOR DISCIPLINE**

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

19 25. Respondent Woodcrest has subjected his station license to discipline under Health
20 and Safety Code section 44072.2, subdivision (a), in that on or about August 27, 2009, regarding
21 the 1998 Toyota Tacoma, he violated sections of that Code, as follows:

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

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1 c. **Section 44015, subdivision (b):** Respondent Woodcrest issued electronic Certificate
2 of Compliance No. WD165206C without properly testing and inspecting that vehicle to determine
3 if it was in compliance with section 44012 of that Code.

4 d. **Section 44059:** Respondent Woodcrest willfully made false entries for electronic
5 Certificate of Compliance No. WD165206C, certifying that the vehicle had been inspected as
6 required when, in fact, it had not.

7 **TWELFTH CAUSE FOR DISCIPLINE**

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

9 26. Respondent Woodcrest has subjected his station license to discipline under Health
10 and Safety Code section 44072.2, subdivision (c), in that on or about August 27, 2009, regarding
11 the 1998 Toyota Tacoma, he violated sections of the California Code of Regulations, title 16, as
12 follows:

13 a. **Section 3340.24, subdivision (c):** Respondent Woodcrest falsely or fraudulently
14 issued electronic Certificate of Compliance No. WD165206C without performing a bona fide
15 inspection of the emission control devices and systems on that vehicle as required by Health and
16 Safety Code section 44012.

17 b. **Section 3340.35, subdivision (c):** Respondent Woodcrest issued electronic
18 Certificate of Compliance No. WD165206C even though that vehicle had not been inspected in
19 accordance with section 3340.42 of that Code.

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

22 **THIRTEENTH CAUSE FOR DISCIPLINE**

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

24 27. Respondent Woodcrest has subjected his station license to discipline under Health
25 and Safety Code section 44072.2, subdivision (d), in that on or about August 27, 2009, regarding
26 the 1998 Toyota Tacoma, he committed acts involving dishonesty, fraud or deceit whereby
27 another was injured by issuing electronic Certificate of Compliance No. WD165206C for that
28 vehicle without performing a bona fide inspection of the emission control devices and system on

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

3 **FOURTEENTH CAUSE FOR DISCIPLINE**

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

5 28. Respondent Devaney has subjected his technician license to discipline under Health
6 and Safety Code section 44072.2, subdivision (a), in that on or about August 27, 2009, regarding
7 the 1998 Toyota Tacoma, he violated sections of that Code, as follows:

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

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

15 d. **Section 44059:** Respondent Devaney willfully made false entries for electronic
16 Certificate of Compliance No. WD165206C, certifying that the vehicle had been inspected as
17 required when, in fact, it had not.

18 **FIFTEENTH CAUSE FOR DISCIPLINE**

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

20 29. Respondent Devaney has subjected his technician license to discipline under Health
21 and Safety Code section 44072.2, subdivision (c), in that on or about August 27, 2009, regarding
22 the 1998 Toyota Tacoma, he violated sections of the California Code of Regulations, title 16, as
23 follows:

24 a. **Section 3340.24, subdivision (c):** Respondent Devaney falsely or fraudulently issued
25 electronic Certificate of Compliance No. WD165206C without performing a bona fide inspection
26 of the emission control devices and systems on that vehicle as required by Health and Safety
27 Code section 44012.

28 ///

1 any additional license issued under this chapter in the name of said licensee may be likewise
2 revoked or suspended by the director.

3 **PRAYER**

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

6 1. Temporarily or permanently invalidating Automotive Repair Dealer Registration
7 Number ARD 238340, issued to Luis Enrique Zamora doing business as Woodcrest Smog & Test
8 Only;

9 2. Temporarily or permanently invalidating any other automotive repair dealer
10 registration issued to Luis Enrique Zamora;

11 3. Revoking or suspending Smog Check Test Only Station License Number TC 238340,
12 issued to Luis Enrique Zamora doing business as Woodcrest Smog & Test Only;

13 4. Revoking or suspending any additional license issued under Chapter 5 of the Health
14 and Safety Code in the name of Luis Enrique Zamora;

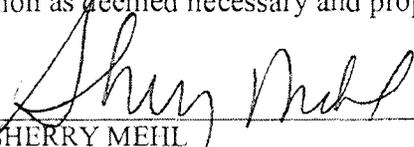
15 5. Revoking or suspending Advanced Emission Specialist Technician License Number
16 EA 140761, issued to Peter James Devaney;

17 6. Revoking or suspending any additional license issued under Chapter 5 of the Health
18 and Safety Code in the name of Peter James Devaney;

19 7. Ordering Luis Enrique Zamora and Peter James Devaney to pay the Bureau of
20 Automotive Repair the reasonable costs of the investigation and enforcement of this case,
21 pursuant to Business and Professions Code section 125.3; and,

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

23 DATED: 4/28/10

24 
25 SHERRY MEHL
26 Chief
27 Bureau of Automotive Repair
28 Department of Consumer Affairs
State of California
Complainant

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