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

10
11 In the Matter of the Accusation Against:

Case No. 79/13-63

12 **FAST SMOG CHECK TEST ONLY;**
13 **MANUEL A. MIRANDAS, Owner**
14 **1140 E. Slauson Avenue, Unit B**
Los Angeles, CA 90011

A C C U S A T I O N

15 **Automotive Repair Dealer Registration No.**
ARD 266095
16 **Smog Check, Test Only, Station License No.**
TC 266095

17 Respondent.

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19 Complainant alleges:

20 **PARTIES**

21 1. John Wallauch (Complainant) brings this Accusation solely in his official capacity as
22 the Chief of the Bureau of Automotive Repair, Department of Consumer Affairs.

23 2. On or about July 29, 2011, the Bureau of Automotive Repair issued Automotive
24 Repair Dealer Registration Number ARD 266095 to Fast Smog Check Test Only; Manuel A.
25 Mirandas, Owner (Respondent). The Automotive Repair Dealer Registration was in full force
26 and effect at all times relevant to the charges brought herein and will expire on July 31, 2013,
27 unless renewed.

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1 two tables below, certifying that they had been tested and inspected and that the vehicles were in
 2 compliance with applicable laws and regulations:

3 **Table 1 (9-7-2012)**

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5 Test Times	Vehicle in EIS Data (License Plate #)	Vehicle Tested (License Plate #)	Certificate Issued
6 1155-1212	1983 BMW 5-Series (3APB132)	1996 Chevrolet Astro Van (4EVV815)	XL305918C
7 1231-1240	1993 Toyota Celica (3DJD274)	1996 Chevrolet Astro Van (4EVV815)	XL305919C
8 1351-1407	2006 Volkswagon New Beetle Vin # 3VWRW31C86M410872	1998 Lincoln Navigator (6GLS432) and 1996 Chevrolet Astro Van (4EVV815)	XL305921C
9 1436-1445	1999 Ford Contour, Vin # 1FAFP66L2XK197185	1996 Chevrolet Astro Van (4EVV815)	XL305922C
10 1517-1528	1993 Mercedes 190E (3SZD264)	1996 Chevrolet Astro Van (4EVV815)	XL305924C

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14 **Table 2 (9-13-2012)**

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16 Test Times	Vehicle in EIS Data (License Plate #)	Vehicle Tested (License Plate #)	Certificate Issued
17 1555-1601	1991 GMC 3500 (8K55855)	1996 Chevrolet Astro Van (4EVV815) and 1998 Lincoln Navigator (6GLS432)	XL416033C
18 1619-1624	1999 BMW 5-Series (6KRM385)	1996 Chevrolet Astro Van (4EVV815) and 1998 Lincoln Navigator (6GLS432)	XL416035C
19 1629-1633	1998 Chevrolet Venture (4AZW393)	1996 Chevrolet Astro Van (4EVV815) and 1998 Lincoln Navigator (6GLS432)	XL416036C
20 1638-1646	1988 Mazda truck (8M82817)	1996 Chevrolet Astro Van (4EVV815) and 1998 Lincoln Navigator (6GLS432)	XL416037C
21 1651-1655	1989 Chevrolet Van (3Y23456)	1996 Chevrolet Astro Van (4EVV815) and 1998 Lincoln Navigator (6GLS432)	XL416038C

1659-1705	2002 Nissan Altima (4UEA556)	1996 Chevrolet Astro Van (4EJV815) and 1998 Lincoln Navigator (6GLS432)	XL416039C
1710-1714	2000 Ford Expedition (5EJY296)	1996 Chevrolet Astro Van (4EJV815) and 1998 Lincoln Navigator (6GLS432)	XL416040C
1720-1724	1991 Toyota Camry (4SDB293)	1996 Chevrolet Astro Van (4EJV815) and 1998 Lincoln Navigator (6GLS432)	XL416041C

13. In fact, Respondent performed the smog inspections using the clean piping method by utilizing the tail pipe emissions of vehicles other than the vehicles being certified in order to issue the electronic certificates of compliance. The vehicles certified were not in the test bay at the time of the smog inspections.

FIRST CAUSE FOR DISCIPLINE

(Misleading Statements)

14. Respondent has subjected his registration to discipline under Code section 9884.7, subdivision (a)(1), in that on or about September 7 and again on September 13, he made statements which he knew or which by exercise of reasonable care he should have known were untrue or misleading when he issued electronic certificates of compliance for the vehicles set forth in Tables 1 and 2, above, certifying that those vehicles were in compliance with applicable laws and regulations when, in fact, the vehicles had been clean piped.

SECOND CAUSE FOR DISCIPLINE

(Fraud)

15. Respondent has subjected his registration to discipline under Code section 9884.7, subdivision (a)(4), in that on or about September 7 and again on September 13, he committed acts which constitute fraud by issuing electronic certificates of compliance for the vehicles set forth in Tables 1 and 2, above, without performing bona fide inspections of the emission control devices and systems on those vehicles, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

1 **THIRD CAUSE FOR DISCIPLINE**

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

3 16. Respondent has subjected his station license to discipline under Health and Safety
4 Code section 44072.2, subdivision (a), in that on or about September 7 and again on September
5 13, regarding the vehicles set forth in Tables 1 and 2, above, he violated sections of that Code, as
6 follows:

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

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

12 c. **Section 44015, subdivision (b):** Respondent issued electronic certificates of
13 compliance without properly testing and inspecting the vehicles to determine if they were in
14 compliance with section 44012 of that Code.

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

18 **FOURTH CAUSE FOR DISCIPLINE**

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

20 17. Respondent has subjected his station license to discipline under Health and Safety
21 Code section 44072.2, subdivision (c), in that on or about September 7 and again on September
22 13, regarding the vehicles set forth in Tables 1 and 2, above, he violated sections of the California
23 Code of Regulations, title 16, as follows:

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

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- 2. Revoking or suspending Smog Check, Test Only, Station License Number TC 266095, issued to Respondent;
- 3. Ordering Respondent to pay the Bureau of Automotive Repair the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
- 4. Taking such other and further action as deemed necessary and proper.

DATED: April 17, 2013 John Wallauch by Doug Balatti
JOHN WALLAUCH
Chief
Bureau of Automotive Repair
Department of Consumer Affairs
State of California
Complainant

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