

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

In the Matter of the First Amended Accusation Against:

**DINUBA SMOG; MARTIN ROJAS, OWNER,**  
Automotive Repair Dealer Registration  
No. ARD 269789  
Smog Check, Test Only, Station License  
No. TC 269789

and

**JOSE ROJAS,**  
Advanced Emission Specialist Technician  
License No. EA 634558 (to be  
redesignated upon renewal as EO 634558  
and/or EI 634558)

Respondents.

Case No. 79/14-94

OAH No. 2014031021

In the Matter of the Accusation Against:

**AUTOMOTIVE CENTER; RUMALDO MIKE  
CARRILLO, OWNER,**  
Automotive Repair Dealer Registration  
No. ARD 179642

and

**SELMA SMOG; PAUL SINGH PANNU,  
OWNER,**  
Automotive Repair Dealer Registration No.  
ARD 222686  
Smog Check, Test Only, Station License No.  
TC 222686

**PAUL SINGH PANNU**  
Smog Check Inspector License No. EO 631488  
Smog Check Repair Technician License No.  
EI 631488 (Formerly Advanced Emission Specialist  
Technician License No. EA 631488)

and

**PAWANPAL SINGH RANDHAWA**  
Smog Check Inspector License No. EO 632778  
Smog Check Repair Technician License No.  
EI 632778 (Formerly Advanced Emission Specialist  
Technician License No. EA 632778)

Respondents.

Case No. 79/15-3

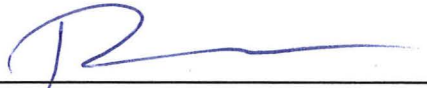
OAH No. 2014080625

**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 November 10, 2015.

DATED: October 5, 2015

  
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TAMARA COLSON  
Assistant General Counsel  
Department of Consumer Affairs

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Respondents.

### PROPOSED DECISION

Administrative Law Judge Coren D. Wong (ALJ), Office of Administrative Hearings, State of California, heard this consolidated matter on June 23, 2015, in Fresno, California.

Jeffrey M. Phillips, Deputy Attorney General, represented complainant Patrick Dorais, Chief of the Bureau of Automotive Repair (Bureau), Department of Consumer Affairs, State of California.

Attorney James M. Makasian of the Law Offices of James M. Makasian represented respondents Martin Rojas, individually and dba Dinuba Smog, Jose Rojas, Paul Singh Pannu, individually and dba Selma Smog, and Pawanpal Singh Randhawa.

Respondent Rumaldo Mike Carrillo, individually and dba Automotive Center, was not represented by an attorney, and did not appear at hearing.

Respondents Martin Rojas, individually and dba Dinuba Smog, Jose Rojas, Paul Singh Pannu, individually and dba Selma Smog, and Pawanpal Singh Randhawa verbally agreed to the terms of a settlement proposed by complainant prior to the commencement of hearing. A written settlement agreement documenting the terms of that settlement will be prepared and signed by the parties. Therefore, this Proposed Decision pertains only to respondent Rumaldo Mike Carrillo, individually and dba Automotive Center, and all future references to "respondent" refer only to him, unless otherwise stated.

Evidence was received, the record was closed, and the matter was submitted for decision on June 23, 2015.

## SUMMARY

Complainant seeks to discipline the automotive repair dealer registration issued to respondent Rumaldo Mike Carrillo dba Automotive Center based on his numerous violations of the Automotive Repair Act (Bus. & Prof. Code, § 9880, et seq.) and regulations adopted pursuant to it. Complainant also seeks to discipline all other automotive repair dealer registrations issued to respondent on the grounds that he has engaged in a course of repeated and willful violations of the laws and regulations pertaining to an automotive repair dealer. Cause exists to discipline each automotive repair dealer registration issued to respondent. No evidence of respondent's continued fitness to act as a registered automotive repair, even on a restricted basis, was introduced. Therefore, Automotive Repair Dealer Registration No. ARD 179642, as well as every other automotive repair dealer registration issued to respondent, should be revoked.

## FACTUAL FINDINGS

### *Jurisdiction*

1. The Bureau issued Automotive Repair Dealer Registration No. ARD 179642 to respondent in 1994. The registration expired August 31, 2014.<sup>1</sup> There is no history of prior discipline of the registration.

2. On July 15, 2014, complainant issued an Accusation seeking to discipline respondent's automotive repair dealer registration based on his misconduct during two undercover operations conducted by Bureau staff, which involved four different vehicles.

3. On May 8, 2015, the ALJ issued a Prehearing Conference Order, providing the address of the location of the hearing in this matter. Complainant subsequently issued a Second Amended Notice of Consolidated Hearing, which also included that address. Both the Prehearing Conference Order and the Second Amended Notice of Consolidated Hearing were served on respondent at the address he provided on his Notice of Defense.

4. Neither respondent nor anyone acting on his or his business's behalf appeared on the date and at the time and location specified for hearing in the Prehearing Conference

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<sup>1</sup> The expiration of an automotive repair dealer registration does not deprive the Bureau of jurisdiction to discipline it. (Bus. & Prof. Code, § 9884.13.)

Order and the Second Amended Notice of Consolidated Hearing. Therefore, this matter proceeded as a default proceeding pursuant to Government Code section 11520.<sup>2</sup>

*The Bureau's First Undercover Operation*

Toyota Camry

5. On August 21, 2013, Jeff Vietzke, a Program Representative II(S), selected a 1989 Toyota Camry bearing California license number 2MRG783 (Camry) from the Bureau's inventory at the Fresno Forensic Documentation Laboratory for documentation for an illuminated "check engine" light and an engine oil change. The vehicle's odometer reading was 45,658 miles when he began documentation.

6. After selecting the Camry from the Bureau's inventory, Mr. Vietzke test drove the vehicle and noted that it performed normally in all aspects of its operation with no problems evident. The "check engine" light did not illuminate during his test drive, and there were no trouble codes stored in the vehicle's on-board computer memory. The vehicle's odometer reading at the conclusion of his road test was 45,664 miles.

7. Mr. Vietzke performed a visual inspection of the Camry's fuel, ignition, and emission control components, and determined that all components were properly installed and in good operable condition. He then installed a defective open-circuit Coolant Temperature Sensor, which caused the "check engine" light to illuminate whenever the engine was running. He checked the vehicle's on-board computer for trouble codes, and found that a hardcode "22" was present. A trouble code "22" indicates an open or short in the Coolant Temperature Sensor signal circuit.

8. Mr. Vietzke again test drove the Camry, and noted that it had no fast idle and exhibited poor drivability when cold. The "check engine" light was illuminated throughout his test drive. The engine began running normally once it neared operating temperature. The odometer reading was 45,669 miles at the conclusion of his test drive.

9. Mr. Vietzke drained the Camry's engine crankcase and filled it with dirty oil that was in need of changing.

10. Mr. Vietzke concluded his documentation of the Camry on August 23, 2013. At that time, the only repair needed to restore proper vehicle operation was the replacement of the defective Coolant Temperature Sensor.

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<sup>2</sup> After the default proceeding had commenced, the ALJ was notified that respondent went to the wrong address for the hearing, where he had been waiting for two and one-half hours. He was subsequently given the correct address for the hearing, but purportedly stated he did not have transportation. To the extent respondent's error in going to the wrong location for hearing was intended to constitute a request for a continuance, the request was denied for a lack of good cause, and the default proceeding continued without him.

11. The Camry remained either in Mr. Vietzke's immediate custody and control or secured in the Bureau's Fresno Forensic Documentation Laboratory during his entire documentation process.

12. Mr. Vietzke released the Camry to Arnold Lee, a Program Representative II employed by the Bureau, on October 15, 2013. The vehicle's odometer reading was 45,669 miles at that time.

13. Mr. Lee turned over possession of the Camry to an undercover operative with instructions to drive the vehicle to respondent's facility and request an oil change and diagnosis of the illuminated "check engine" light. He also instructed the operative to later request a smog inspection of the vehicle.

14. On October 15, 2013, the undercover operative drove the Camry to respondent's facility and requested an oil change and diagnosis of the illuminated "check engine" light. Respondent agreed to perform those services, and the operative left the vehicle with him. The operative was not provided a written repair estimate.

15. Later that morning, respondent called the operative and told him that the "check engine" light was illuminated because the computer was not communicating with the vehicle. Respondent further advised that the necessary repair required him to purchase a Zener Diode from Radio Shack. The operative authorized the repair, and also requested that respondent have a smog inspection performed on the vehicle.

16. The undercover operative called respondent the following day to inquire about the status of the repairs to the Camry. Respondent told him that the smog inspection had been performed and the vehicle passed, but the vehicle was still not running correctly. He explained that the vehicle ran rough when it was cold, so he wanted to check the fuel filter. Respondent agreed to call when the vehicle was ready to be picked up.

17. The undercover operative went to respondent's facility on October 18, 2013, to check on the status of the repairs to the Camry. Respondent told him that he had purchased a used coolant temperature sensor and coolant control box from a wrecking yard, and wanted to keep the vehicle longer to make sure it was operating correctly.

18. The undercover operative agreed to respondent keeping the Camry. He also asked respondent if he could recommend someone who could perform a smog inspection on a car that was currently in another state. Respondent advised that he could have the smog inspection performed for \$350, and the operative said he would return in a couple of days.

19. On October 21, 2013, the undercover operative went to respondent's facility to pick up the Camry. He paid respondent a total of \$414.49 and received a copy of the repair estimate, the final invoice, and the Vehicle Inspection Report for the smog inspection. The invoice indicates that the vehicle's fuel filter and mass airflow sensor had been replaced. No other parts were identified as having been replaced, and no other services were identified as

having been performed. He then drove the vehicle to the Bureau's Fresno Forensic Documentation Laboratory, where he returned the vehicle to Mr. Lee. Mr. Lee, in turn, gave custody of the vehicle to Mr. Vietzke.

20. Mr. Vietzke secured the Camry in the Bureau's Fresno Forensic Documentation Laboratory after receiving custody from Mr. Lee. The following day, he inspected the vehicle and discovered that the fuel filter and mass airflow sensor had been replaced, even though there was nothing wrong with either part when Mr. Vietzke originally released custody of the vehicle to Mr. Lee. And while the Coolant Temperature Sensor had been replaced, the replacement part was in poor condition, was coming apart at its assembly joint, and was installed without the required gasket, all of which constituted material departures from accepted trade standards for good and workmanlike repairs.

### Honda Civic

21. On October 11, 2013, Darrell Warkentin, a Program Representative I employed by the Bureau, selected a 1994 Honda Civic, California license number 4BJJ991 (Honda), from the Bureau's inventory at the Fresno Forensic Documentation Laboratory for documentation. He performed an Acceleration Simulation Mode (ASM) smog inspection and a Two-Speed Idle (TSI) smog inspection, and the vehicle failed both inspections as a gross polluting vehicle and for the following illegal modifications: unapproved exhaust header, missing catalytic converter, Nitrous Oxide system installed, unapproved and modified cold air intake tube, adjustable timing gears, adjustable fuel pressure regulator, unapproved intake manifold, open PCV system, and missing wires and vacuum lines to various sensors.

22. On October 14, 2013, Mr. Warkentin secured the Honda in the Bureau's Fresno Forensic Documentation Laboratory.

23. The Honda was either in Mr. Warkentin's immediate custody and control or secured in the Bureau's Fresno Forensic Documentation Laboratory at all times between October 14 and 31, 2013. The vehicle was not in a condition that it would pass a smog inspection for the reasons identified above, and its odometer reading remained 73,169 miles during that entire time.

24. The undercover operative gave respondent the registration renewal form for the Honda at the same time he picked up and paid for the repairs to the Camry on October 21, 2013. Respondent agreed to have the smog inspection of the Honda completed within a couple of days.

25. The undercover operative called respondent on October 23, 2013, to inquire about the status of the smog inspection of the Honda. Respondent told him that the person performing the smog inspection needed a copy of the vehicle's registration, and the undercover operative provided that document the following day.



26. On October 30, 2013, the undercover operative contacted respondent about the status of the smog inspection. Respondent told him that the inspection had been performed, the vehicle had passed, and all necessary documentation had been forwarded to the Department of Motor Vehicles. Respondent also stated that the cost of the inspection was \$400, rather than the \$350 originally quoted. The undercover operative made arrangements to come to respondent's facility to pay for the smog inspection on a later date.

27. The undercover operative went to respondent's facility to pay for the smog inspection the following day. Respondent was not there, so the operative paid the \$400 to respondent's employee, Rodrigo Mares, and received a copy of the Vehicle Inspection Report showing that the Honda had passed the smog inspection. The operative was not given a copy of the invoice.

28. Information from the Bureau's Vehicle Information Database (VID) revealed that a smog inspection was performed on the Honda at Dinuba Smog by Advanced Emission Specialist Technician Jose Rojas on October 29, 2013. The vehicle passed the inspection, and Mr. Rojas caused Certificate No. XZ718184C to be submitted to the Department of Motor Vehicles electronically. He also issued a Vehicle Inspection Report containing the results of the inspection.

29. The Vehicle Inspection Report issued by Mr. Rojas contains a box entitled "Overall Test Results." In that box, the Report, in relevant part, states, "Congratulations! Your vehicle passed the enhanced Smog Check inspection, which helps California reach its daily goal of removing an extra 100 tons of smog-forming emissions from the air. Thank you for keeping your vehicle well-maintained." The box also includes the Certificate Number assigned to the vehicle and states that the vehicle's "Smog Check certificate has been electronically transmitted to the DMV."

The Report also contains a section entitled "ASM Emission Test Results." The results indicate that the Honda passed the ASM Emission Test when the engine was operated at both 15 miles per hour and 25 miles per hour.

30. Since Jose Rojas issued a Vehicle Inspection Report and smog certificate confirming he performed a smog inspection of the Honda, including sampling the vehicle's tailpipe emissions, on October 29, 2013, but the vehicle remained either in Mr. Warkentin's immediate custody or control or secured in the Bureau's Documentation Laboratory from October 24 through 31, 2013, the only logical conclusion that can be culled from such evidence is that Mr. Rojas performed the smog inspection through "clean piping."<sup>3</sup> Furthermore, respondent and Mr. Rojas conspired with one another to issue a fraudulent smog certificate for the Honda.

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<sup>3</sup> "Clean piping" is a process by which a smog technician can fraudulently issue a certificate of compliance to a vehicle not presented for inspection by sampling the exhaust emissions from another vehicle but reporting them as being for the former.

*The Bureau's Second Undercover Operation*

Ford Mustang.

31. On November 4, 2013, Mr. Vietzke selected a 2007 Ford Mustang, California license number 6YUU592 (Mustang), from the Bureau's inventory at its Fresno Forensic Documentation Laboratory.

32. Mr. Vietzke disconnected the wiring to the Mustang's Engine Coolant Sensor (ECS), as well as the wiring to the Exhaust Gas Recirculation (EGR) system module. He then performed a smog inspection, and the vehicle failed due to the disconnected wiring to the EGR system and the ECS and an illuminated Malfunction Indicator Light (MIL). He secured the vehicle in the Bureau's Fresno Forensic Documentation Laboratory.

33. The Mustang was either in Mr. Vietzke's immediate custody and control or secured in the Bureau's Fresno Forensic Documentation Laboratory at all times between November 5 and 13, 2013. The vehicle was not in a condition that it would pass a smog inspection for the reasons identified above, and its odometer reading remained 155,213 miles during that entire time.

Acura Integra.

34. On November 5, 2013, Mr. Warkentin selected a 2000 Acura Integra, California License number 4MVE296 (Integra), from the Bureau's inventory at its Fresno Forensic Documentation Laboratory.

35. Mr. Warkentin removed and plugged the Integra's intake manifold vacuum supply hose that connects to the Positive Crankcase Ventilation (PCV) valve. He installed a fresh air filter on the PCV valve to allow the engine pressures to vent into the atmosphere. This constituted an unapproved emissions modification. He then performed a smog inspection of the Integra, and it failed due to the modified PCV system. He secured the vehicle in the Bureau's Fresno Forensic Documentation Laboratory.

36. The Integra was either in Mr. Warkentin's immediate custody and control or secured in the Bureau's Fresno Forensic Documentation Laboratory at all times between November 6 and 12, 2013. The vehicle was not in a condition that it would pass a smog inspection due to the modified PCV system, and its odometer reading remained 40,008 miles during that entire time.

37. The undercover operator went to respondent's facility on November 6, 2013, to have smog inspections performed on the Mustang and Integra even though he did not have either vehicle with him. Respondent was not there, so the operative provided the Department of Motor Vehicle registration cards and registration renewal notices for both vehicles to Mr. Mares. Mr. Mares agreed to contact the operative when the smog inspections had been completed.

38. Respondent called the undercover operative on November 8, 2013, and told him the smog inspections for both the Mustang and Integra had been completed. He also stated that each inspection would cost \$400. The operative agreed to pay that amount and made arrangements to provide payment in a couple of days.

39. The undercover operative met with respondent at his facility on November 12, 2013, paid respondent \$800, and received a copy of the Vehicle Inspection Reports for the Mustang and Integra. He did not receive an invoice for either vehicle.

40. Information from the Bureau's VID revealed that a smog inspection was performed on the Mustang at Selma Smog on November 8, 2013, by Smog Check Inspector Pawanpal Singh Randhawa. After performing the inspection, Mr. Randhawa caused Certificate No. [REDACTED] to be transmitted to the Department of Motor Vehicles electronically. He also issued a Vehicle Inspection Report containing the results of the inspection.

41. The Vehicle Inspection Report contains a box entitled "Overall Test Results." In that box, the Report, in relevant part, states, "Congratulations! Your vehicle passed the enhanced Smog Check inspection, which helps California reach its daily goal of removing an extra 100 tons of smog-forming emissions from the air. Thank you for keeping your vehicle well-maintained." The box also includes the Certificate Number assigned to the Mustang and states that the vehicle's "Smog Check certificate has been electronically transmitted to the DMV."

Near the bottom of the Report is an area entitled "Smog Check Station Information." The Report identifies Mr. Randhawa as the technician who performed the smog inspection. Mr. Randhawa signed the Report under a certification that states:

I certify under penalty of perjury under the laws of the State of California, that I performed the inspection in accordance with all bureau requirements, and that the information listed on the vehicle inspection report is true and correct.

42. Since Mr. Randhawa issued a Vehicle Inspection Report and smog certificate confirming he performed a smog inspection of the Mustang, including sampling the vehicle's tailpipe emissions; on November 8, 2013, but the vehicle remained either in Mr. Vietzke's immediate custody or control or secured in the Bureau's Documentation Laboratory from November 5 through 13, 2013, the only logical conclusion that can be culled from such evidence is that Mr. Randhawa performed the smog inspection through "clean piping." Furthermore, respondent and Mr. Randhawa conspired with one another to issue a fraudulent smog certificate for the Mustang.

43. Information from the Bureau's VID revealed that a smog inspection was performed on the Integra at Selma Smog on November 8, 2013, by Smog Check Inspector Pawanpal Singh Randhawa. After performing the inspection, Mr. Randhawa caused

Certificate No. [REDACTED] to be transmitted to the Department of Motor Vehicles electronically. He also issued a Vehicle Inspection Report containing the results of the inspection.

44. The Vehicle Inspection Report contains a box entitled "Overall Test Results." In that box, the Report, in relevant part, states, "Congratulations! Your vehicle passed the enhanced Smog Check inspection, which helps California reach its daily goal of removing an extra 100 tons of smog-forming emissions from the air. Thank you for keeping your vehicle well-maintained." The box also includes the Certificate Number assigned to the Integra and states that the vehicle's "Smog Check certificate has been electronically transmitted to the DMV."

Near the bottom of the Report is an area entitled "Smog Check Station Information." The Report identifies Mr. Randhawa as the technician who performed the smog inspection. Mr. Randhawa signed the Report under a certification that states:

I certify under penalty of perjury under the laws of the State of California, that I performed the inspection in accordance with all bureau requirements, and that the information listed on the vehicle inspection report is true and correct.

45. Since Mr. Randhawa issued a Vehicle Inspection Report and smog certificate confirming he performed a smog inspection of the Integra, including sampling the vehicle's tailpipe emissions, on November 8, 2013, but the vehicle remained either in Mr. Warkentin's immediate custody or control or secured in the Bureau's Documentation Laboratory from November 6 through 12, 2013, the only logical conclusion that can be culled from such evidence is that Mr. Randhawa performed the smog inspection through "clean piping." Furthermore, respondent and Mr. Randhawa conspired with one another to issue a fraudulent smog certificate for the Honda.

#### *Evidence of Respondent's Continued Fitness for Registration*

46. No evidence of respondent's continued fitness for registration was introduced at hearing.

#### *Summary*

47. The evidence discussed above establishes that respondent engaged in a series of fraudulent transactions by performing repairs on a vehicle that were not necessary, charging for those repairs, and conspiring with someone to issue smog certificates for vehicles that were never presented for a proper smog inspection. He also failed to: 1) provide the undercover operative a repair estimate before performing any repairs on the Camry; 2) identify all repairs performed and parts supplied on the repair invoice; and 3) repair the Camry in a manner consistent with accepted trade standards for good and workmanlike repairs. Cause exists to discipline his automotive repair dealer registration for

the reasons discussed in the Legal Conclusions below. Respondent did not appear at hearing, and no evidence of his continued fitness for registration was introduced on his behalf. Therefore, his registration should be revoked.

*Costs of Investigation and Enforcement.*

48. Pursuant to Business and Professions Code section 125.3, complainant has requested costs of investigation and enforcement in the total amount of \$25,681.18. This amount consists of costs incurred directly by the Bureau (\$21,911.59), as well as costs incurred by the Office of the Attorney General and billed to the Bureau (\$3,769.59). At hearing, complainant introduced, without objection, a Certification of Investigative and Other Costs in support of the costs incurred directly by the Bureau. The Certification is divided into two categories – Investigator Costs and Undercover Vehicle Operator & Evidence Costs. The first category is further divided into subcategories for Program Representative I and Program Representative II, but provides no information about the general tasks performed or the amount of time spent on each particular task. (Cal. Code Regs., tit. 1, § 1042, subd. (b)(1) [cost declarations must include or attach sufficient information to “describe the general tasks performed, the time spent on each task and the method of calculating the cost.”]). The second category is divided into subcategories for Undercover Run No. 1, Undercover Run No. 2, and Undercover Run No. 3, but provides no information about the general tasks performed or the amount of time spent on each particular task. (*Ibid.*)

49. Complainant also introduced, without objection, a Certification of Prosecution Costs: Declaration of Jeffrey M. Phillips, which request costs in the amount of \$3,769.59. Attached to the Certification is a printout of a Matter Time Activity by Professional Type, which describes tasks performed by the Office of the Attorney General in the total amount of \$13,707.50. Mr. Phillips explained in his declaration that that sum is the total amount of costs incurred by his office for the entire consolidated matter and may be itemized as follows: 1) \$4,082.50 incurred working on Case No. 79/15-3 prior to consolidation; 2) \$4,440 incurred working on Case No. 79/14-94 prior to consolidation; and 3) \$5,185 incurred working on both matters after consolidation. He proposed that the pre-consolidation costs incurred in Case No. 79/15-3 be divided equally amongst respondent and Paul Singh Pannu individually and dba Selma Smog. He further proposed that the post-consolidation costs be divided equally amongst respondent, Paul Singh Pannu individually and dba Selma Smog, and Martin Rojas individually and dba Dinuba Smog. The sum of respondent’s pro rata share of costs as proposed by Mr. Phillips is \$3,769.59.

Mr. Phillips’s proposal is reasonable since an automotive repair dealer registration is required in order to hold a smog check station license and the parties amongst whom the costs are shared are automotive repair dealers. (Cal. Code Regs., tit. 16, § 3340.10.) Therefore, the costs the Bureau incurred for work performed by the Office of the Attorney General in the amount of \$3,769.59 are reasonable in light of the issues involved in this matter as discussed in Legal Conclusion 10 below. None of the costs incurred directly by the Bureau are reasonable for the reasons discussed in Legal Conclusion 10 below.

## LEGAL CONCLUSIONS

### *Applicable Standard/Burden of Proof*

1. Complainant has the burden of proving the allegations in the Accusation by a preponderance of the evidence. (*Imports Performance v. Department of Consumer Affairs, Bureau of Automotive Repair* (2011) 201 Cal. App. 4th 911, 916-917.) Evidence that is deemed to preponderate must amount to “substantial evidence.” (*Weiser v. Board of Retirement* (1984) 152 Cal. App. 3d 775, 783.) And to be “substantial,” evidence must be reasonable in nature, credible, and of solid value. (*In re Teed’s Estate* (1952) 112 Cal.App. 2d 638, 644.)

### *Cause for Discipline.*

2. Absent a showing of a bona fide error by the automotive repair dealer, an automotive repair dealer registration may be disciplined if the automotive repair dealer or any automotive technician, employee, partner, officer, or member of the automotive repair dealer has engaged in “any other conduct that constitutes fraud.” (Bus. & Prof. Code, § 9884.7, subd. (a)(4).) Respondent conspired with Jose Rojas to issue a fraudulent smog certificate for the Honda, even though the vehicle was never presented for smog inspection, by using clean piping methods. Therefore, cause exists to discipline Automotive Repair Dealer Registration No. ARD 179642 pursuant to Business and Professions Code, section 9884.7, subdivision (a)(4).

3. Absent a showing of a bona fide error by the automotive repair dealer, an automotive repair dealer registration may be disciplined if the automotive repair dealer or any automotive technician, employee, partner, officer, or member of the automotive repair dealer has engaged in “any willful departure from or disregard of accepted trade standards for good and workmanlike repair in any material respect, which is prejudicial to another without consent of the owner or his or her duly authorized representative.” (Bus. & Prof. Code, § 9884.7, subd. (a)(7).) Respondent willfully departed from or disregarded accepted trade standards for good and workmanlike repair without the consent of the owner or the owner’s duly authorized representative when he installed a used coolant temperature sensor on the Camry that was in poor condition and failed to use a gasket. Furthermore, he replaced the fuel filter and mass airflow sensor on the Camry, even though both parts or components were in good operable condition and were not in need of servicing or replacement. Therefore, cause exists to discipline Automotive Repair Dealer Registration No. ARD 179642 pursuant to Business and Professions Code, section 9884.7, subdivision (a)(7).

4. Absent a showing of a bona fide error by the automotive repair dealer, an automotive repair dealer registration may be disciplined if the automotive repair dealer or any automotive technician, employee, partner, officer, or member of the automotive repair dealer has failed “in any material respect to comply with the provisions of this chapter or regulations adopted pursuant to it.” (Bus. & Prof. Code, § 9884.7, subd. (a)(6).) Respondent failed to provide the undercover operative with a written estimate before diagnosing the

illuminated check engine light on the Camry as required by Business and Professions Code, section 9884.9, subdivision (a). Therefore, cause exists to discipline Automotive Repair Dealer Registration No. ARD 179642 pursuant to Business and Professions Code, section 9884.7, subdivision (a)(6), as that statute relates to Business and Professions Code, section 9884.7, subdivision (a)(9).

5. Respondent failed to list all work performed on the Camry on the invoice provided to the undercover operative as required by California Code of Regulations, title 16, section 3356, subdivision (a)(2)(A). Furthermore, he failed to identify each part he supplied for the Camry on that invoice as required by California Code of Regulations, title 16, section 3356, subdivision (a)(2)(B). Specifically, he failed to list the installation of the used coolant temperature sensor. Therefore, cause exists to discipline Automotive Repair Dealer Registration No. ARD 179642 pursuant to Business and Professions Code, section 9884.7, subdivision (a)(6), as that statute relates to California Code of Regulations, title 16, section 3356, subdivisions (a)(2)(A) and (B).

6. Respondent conspired with Pawanpal Singh Randhawa to issue fraudulent smog certificates for the Mustang and Integra, even though neither vehicle was presented for smog inspection, by using clean piping methods. Therefore, cause exists to discipline Automotive Repair Dealer Registration No. ARD 179642 pursuant to Business and Professions Code, section 9884.7, subdivision (a)(4).

7. Business and Professions Code section 9884.7, subdivision (c), provides:

Notwithstanding subdivision (b), the director may suspend, revoke, or place on probation 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.

As discussed in Legal Conclusions 2 through 6, respondent “has ... engaged in a course of repeated and willful violations” of the Automotive Repair Act and regulations adopted pursuant to it. Therefore, cause exists pursuant to Business and Professions Code section 9884.7, subdivision (c), to discipline “the registration for all places of business operated in this state” by respondent.

### *Conclusion*

8. Cause exists to discipline Automotive Repair Dealer Registration No. ARD 179642 for the reasons discussed in Legal Conclusions 2 through 6, individually and collectively. Cause also exists to discipline the registration for all places of business operated in this state by respondent for the reasons discussed in Legal Conclusion 7. There is no evidence of respondent’s continued fitness to act as a registered automotive repair dealer as explained in Factual Findings 46 and 47. Therefore, Automotive Repair Dealer

Registration No. ARD 179642 and “the registration for all places of business operated in this state” by respondent should be revoked.

### *Cost Recovery*

9. Business and Professions Code section 125.3, subdivision (a), states:

Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before any board within the department or before the Osteopathic Medical Board, upon request of the entity bringing the proceeding, the administrative law judge may 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.

California Code of Regulations, title 1, section 1042, subdivision (b), states the following about cost recovery:

Except as otherwise provided by law, proof of costs at the Hearing may be made by Declarations that contain specific and sufficient facts to support findings regarding actual costs incurred and the reasonableness of the costs, which shall be presented as follows:

(1) For services provided by a regular agency employee, the Declaration may be executed by the agency or its designee and shall describe the general tasks performed, the time spent on each task and the method of calculating the cost. For other costs, the bill, invoice or similar supporting document shall be attached to the Declaration.

(2) For services provided by persons who are not agency employees, the Declaration shall be executed by the person providing the service and describe the general tasks performed, the time spent on each task and the hourly rate or other compensation for the service. In lieu of this Declaration, the agency may attach to its Declaration copies of the time and billing records submitted by the service provider.

In *Zuckerman v. Board of Chiropractic Examiners* (2002) 29 Cal.4th 32, the California Supreme Court set forth factors to be considered in determining the reasonableness of the costs sought pursuant to statutory provisions like Business and Professions Code section 125.3. These factors include: 1) the licentiate’s success in getting the charges dismissed or reduced; 2) the licentiate’s subjective good faith belief in the merits



of his or her position; 3) whether the licentiate raised a colorable challenge to the proposed discipline; 4) the licentiate's financial ability to pay; and 5) whether the scope of the investigation was appropriate in light of the alleged misconduct. (*Id.*, at p. 45.)

10. The declaration signed by Mr. Phillips constitutes prima facie evidence of the reasonableness of the costs incurred by his office and billed to the Bureau in the amount of \$3,769.59. (Bus. & Prof., § 125.3, subd. (c).) Respondent failed to rebut such evidence. There is insufficient evidence, however, to support a finding about the reasonableness of the remaining \$21,911.59 incurred directly by the Bureau for the reasons discussed in Factual Finding 48. Therefore, after considering the relevant evidence and the pertinent *Zuckerman* factors, costs in the amount of \$3,769.59 are reasonable and are awarded as set forth in the Order below.

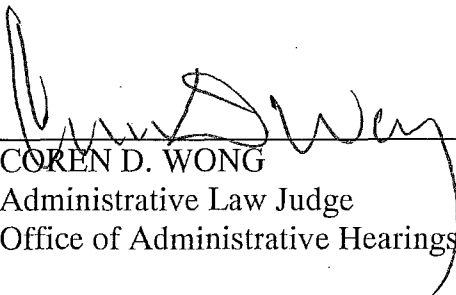
### ORDER

1. Automotive Repair Dealer Registration No. ARD 179642 issued to respondent Rumaldo Mike Carrillo dba Automotive Center is REVOKED.

2. All other automotive repair dealer registrations issued to respondent are REVOKED.

3. Respondent shall reimburse the Bureau the sum of \$3,769.59 for costs incurred while prosecuting this matter within 30 days of the effective date of the decision. Respondent may pay these costs, according to a payment plan approved by the Bureau, or its designee.

DATED: July 10, 2015

  
COREN D. WONG  
Administrative Law Judge  
Office of Administrative Hearings

1 KAMALA D. HARRIS  
Attorney General of California  
2 JANICE K. LACHMAN  
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7 *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. 79/15-3

13 **AUTOMOTIVE CENTER**  
14 **RUMALDO MIKE CARRILLO, OWNER**  
1818 East El Monte Way, Unit #1  
Dinuba, CA 93618-9317

**ACCUSATION**

15 **Automotive Repair Dealer Reg. No. ARD 179642,**

**(Smog Check)**

16 **SELMA SMOG**  
17 **PAUL SINGH PANNU, OWNER**  
2373 West Front Street  
Selma, CA 93662

18 **Automotive Repair Dealer Reg. No. ARD 222686**  
19 **Smog Check, Test Only, Station License No. TC 222686,**

20 **PAUL SINGH PANNU**  
21 **8652 East Nebraska**  
Selma, CA 93662

22 **2205 First Street**  
23 **Selma, CA 93662**

24 **Smog Check Inspector License No. EO 631488 and**  
25 **Smog Check Repair Technician License No. EI 631488**  
**(formerly Advanced Emission Specialist Technician**  
**License No. EA 631488)**

26 **and**

27 //

28 //

1 PAWANPAL SINGH RANDHAWA  
2 5906 N. La Ventana  
3 Fresno, CA 93723

3 Smog Check Inspector License No. EO 632778  
4 Smog Check Repair Technician License  
5 No. EI 632778 (formerly Advanced Emission Specialist  
6 Technician License No. EA 632778)

Respondents.

7 Complainant alleges:

8 **PARTIES**

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

11 **Automotive Center; Rumaldo Mike Carrillo, Owner**

12 2. On or about 1994, the Director of Consumer Affairs ("Director") issued Automotive  
13 Repair Dealer Registration Number ARD 179642 ("registration") to Rumaldo Mike Carrillo  
14 ("Respondent Carrillo"), owner of Automotive Center. Respondent's registration was in full  
15 force and effect at all times relevant to the charges brought herein and will expire on August 31,  
16 2014, unless renewed.

17 **Selma Smog; Paul Singh Pannu, Owner**

18 3. On or about February 25, 2010, the Director issued Automotive Repair Dealer  
19 Registration Number ARD 222686 ("registration") to Paul Singh Pannu ("Respondent Pannu"),  
20 owner of Selma Smog. Respondent's registration was in full force and effect at all times relevant  
21 to the charges brought herein and will expire on February 28, 2015, unless renewed.

22 4. On or about March 4, 2010, the Director issued Smog Check, Test Only, Station  
23 License Number TC 222686 ("smog check station license") to Respondent Pannu. Respondent's  
24 smog check station license was in full force and effect at all times relevant to the charges brought  
25 herein and will expire on February 28, 2015, unless renewed.

26 **Paul Singh Pannu**

27 5. On or about November 9, 2009, the Director issued Advanced Emission Specialist  
28 Technician License Number EA 631488 to Paul Singh Pannu (Respondent Pannu). Pannu's

1 advanced emission specialist technician license was due to expire on March 31, 2014. Pursuant to  
2 California Code of Regulations, title 16, section 3340.28, subdivision (e), the license was  
3 renewed, pursuant to Pannu's election, as Smog Check Inspector License Number EO 631488  
4 and Smog Check Repair Technician License Number EI 631488 ("smog technician licenses"),  
5 effective March 27, 2014. Respondent's smog technician licenses will expire on March 31, 2016,  
6 unless renewed.<sup>1</sup>

7 **Pawanpal Singh Randhawa**

8 6. On or about December 27, 2010, the Director issued Advanced Emission Specialist  
9 Technician License Number EA 632778 to Pawanpal Singh Randhawa ("Respondent  
10 Randhawa"). Respondent's advanced emission specialist technician license was due to expire on  
11 September 30, 2012. Pursuant to California Code of Regulations, title 16, section 3340.28,  
12 subdivision (e), the license was renewed, pursuant to Respondent's election, as Smog Check  
13 Inspector License No. EO 632778 and Smog Check Repair Technician License No. EI 632778  
14 ("smog technician licenses"), effective August 15, 2012. Respondent's smog technician licenses  
15 will expire on September 30, 2014, unless renewed.

16 **JURISDICTION**

17 7. Business and Professions Code ("Bus. & Prof. Code") section 9884.7 provides that  
18 the Director may revoke an automotive repair dealer registration.

19 8. Bus. & Prof. Code section 9884.13 provides, in pertinent part, that the expiration of a  
20 valid registration shall not deprive the Director of jurisdiction to proceed with a disciplinary  
21 proceeding against an automotive repair dealer or to render a decision temporarily or permanently  
22 invalidating (suspending or revoking) a registration.

23 9. Health and Safety Code ("Health & Saf. Code") section 44002 provides, in pertinent  
24 part, that the Director has all the powers and authority granted under the Automotive Repair Act  
25 for enforcing the Motor Vehicle Inspection Program.

26 <sup>1</sup> Effective August 1, 2012, California Code of Regulations, title 16, sections 3340.28,  
27 3340.29, and 3340.30 were amended to implement a license restructure from the Advanced  
28 Emission Specialist Technician (EA) license and Basic Area (EB) Technician license to Smog  
Check Inspector (EO) license and/or Smog Check Repair Technician (EI) license.



engaged in a course of repeated and willful violations of this chapter, or regulations adopted pursuant to it.

14. Bus. & Prof. Code section 22, subdivision (a), states:

“Board” as used in any provision of this Code, refers to the board in which the administration of the provision is vested, and unless otherwise expressly provided, shall include “bureau,” “commission,” “committee,” “department,” “division,” “examining committee,” “program,” and “agency.”

15. Bus. & Prof. Code section 477, subdivision (b), states, in pertinent part, that a “license” includes “registration” and “certificate.”

16. Health & Saf. Code section 44072.2 states, in pertinent part:

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

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

....

(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 . . .

17. Health & Saf. Code section 44072.10 states, in pertinent part:

....

(c) The department shall revoke the license of any smog check technician or station licensee who fraudulently certifies vehicles or participates in the fraudulent inspection of vehicles. A fraudulent inspection includes, but is not limited to, all of the following:

(1) Clean piping, as defined by the department . . .

18. California Code of Regulations, title 16, section 3340 states, in pertinent part, that “[c]lean piping’ for the purposes of Health and Safety Code section 44072.10(c)(1), means the use of a substitute exhaust emissions sample in place of the actual test vehicle’s exhaust in order to cause the EIS to issue a certificate of compliance for the test vehicle”.

//

//

1 COST RECOVERY

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

6 UNDERCOVER OPERATION #1: 1989 TOYOTA & 1994 HONDA

7 20. The Bureau received a consumer complaint, indicating that the consumer had paid  
8 Respondent Carrillo \$300 for the issuance of a smog check certificate for their vehicle and that  
9 the vehicle was disassembled at the time it was allegedly smog tested. The Automotive Center is  
10 not a licensed smog check station and Carrillo is not a licensed smog check technician.

11 21. On or about October 15, 2013, a representative of the Bureau, acting in an undercover  
12 capacity (“operator”), took the Bureau’s 1989 Toyota (“Toyota”) to Carrillo’s facility. A  
13 defective coolant temperature sensor had been installed in the Bureau-documented vehicle,  
14 causing the “check engine” light to illuminate on the dashboard. The operator met with Carrillo  
15 and requested an oil change on the Toyota as well as a diagnosis of the check engine light.  
16 Carrillo told the operator that he would contact him once he determined what was causing the  
17 check engine light to illuminate. The operator left the facility.

18 22. At approximately 1134 hours that same day, Carrillo called the operator and told him  
19 that the computer was not communicating with the vehicle, which was a common problem with  
20 that model Toyota. Carrillo told the operator that he would purchase a Zener Diode from Radio  
21 Shack and that it would cost \$120 to install it in the vehicle. The operator authorized the work,  
22 then asked Carrillo if he could have the Toyota “smogged” (smog tested) following the repair.  
23 Carrillo told the operator that he could smog the vehicle for an additional \$49 and that the Toyota  
24 would be ready the next day.

25 23. On October 16, 2013, the operator called Carrillo to check on the status of the Toyota.  
26 Carrillo told the operator that the Toyota passed the smog inspection, but still was not operating  
27 properly. Carrillo stated that the Toyota ran rough when it was cold and that he wanted to check  
28 the fuel filter to see if it was plugged.

1           24. Information from the Bureau's vehicle information database ("VID") showed that on  
2 October 16, 2013, between 1202 and 1216 hours, Jose Rojas ("Jose"), a smog check technician  
3 employed by Martin Rojas ("Martin"), the owner of Dinuba Smog, located at 1818 East El Monte  
4 Way, Suite C, in Dinuba, performed a smog inspection on the Toyota, on behalf of Martin,  
5 resulting in the issuance of electronic smog Certificate of Compliance No. [REDACTED]

6           25. On October 18, 2013, the operator returned to Carrillo's facility. Carrillo told the  
7 operator that he went to the wrecking yard and located a used coolant temperature sensor and  
8 coolant control box for the Toyota. The operator asked Carrillo if he knew someone who could  
9 smog a vehicle for him that was located out of state. The operator explained that his son's Honda  
10 was modified, that his son went to school in Nevada, and that the registration was expired.  
11 Carrillo told the operator that he could have the vehicle smogged for \$350.

12           26. On October 21, 2013, the operator went to the facility to pick up the Toyota and paid  
13 Carrillo \$414.49 in cash for the repairs. Carrillo gave the operator copies of an estimate, invoice,  
14 and vehicle inspection report. The operator provided Carrillo with the registration renewal form  
15 for the Bureau's 1994 Honda ("Honda"). Carrillo told the operator that he would have the smog  
16 check done in a couple of days. The operator left the facility.

17           27. On October 22, 2013, the Bureau inspected the Toyota using the invoice for  
18 comparison. The Bureau found that Carrillo installed a used coolant temperature sensor on the  
19 vehicle that was in poor condition, failed to record the repair on the invoice, and performed  
20 additional repairs that were not necessary on the vehicle.

21           28. On October 23, 2013, the operator called Carrillo and asked him if the smog for the  
22 Honda was ready. Carrillo told the operator that "his guy" wanted the registration for the Honda.

23           29. On October 24, 2013, the operator went to the facility and gave Carrillo the  
24 registration as requested.

25           30. On and between October 25 and October 29, 2013, the operator called Carrillo  
26 several times to check on the status of the vehicle, but Carrillo did not answer the phone.

27           31. The Bureau's VID data showed that on October 29, 2013, between 1350 and 1404  
28 hours, Jose performed a smog inspection on the Honda, on behalf of Martin, resulting in the



1 issuance of electronic smog Certificate of Compliance No. [REDACTED]. The VID data also  
2 showed that the vehicle information, including the odometer reading, engine size, etc., was  
3 entered into the Emissions Inspection System ("EIS") by scanning the registration.

4 32. On October 30, 2013, the operator called Carrillo. Carrillo told the operator that the  
5 smog for the Honda was completed and that the price for the smog had increased to \$400.  
6 Carrillo stated that "his smog guy" called a friend who had the same model Honda that he could  
7 use as a substitute to perform the test. Carrillo told the operator that all of the necessary forms for  
8 the smog check had already been submitted electronically to the DMV. The operator stated that  
9 he would be arriving at the facility in approximately one hour. Carrillo told the operator that he  
10 had to attend a meeting, but would leave the documents with his employee, Rodrigo, and that the  
11 operator could pay Rodrigo the \$400.

12 33. On October 31, 2013, the operator went to the facility and met with Rodrigo.  
13 Rodrigo gave the operator the registration and renewal notice for the Honda and a vehicle  
14 inspection report. The operator paid Rodrigo \$400 in cash, then left the facility.

#### 15 FIRST CAUSE FOR DISCIPLINE

#### 16 (Fraud)

17 34. Respondent Carrillo's registration is subject to disciplinary action pursuant to Bus. &  
18 Prof. Code section 9884.7, subdivision (a)(4), in that Respondent committed acts constituting  
19 fraud, as follows: Respondent Carrillo conspired with agents, employees, and/or representatives  
20 of Dinuba Smog, including, but not limited to, Martin Rojas and Jose Rojas,<sup>2</sup> to have a fraudulent  
21 smog inspection performed on the Bureau's 1994 Honda using clean piping methods, resulting in  
22 the issuance of a fraudulent electronic smog certificate of compliance for the vehicle.  
23 Consequently, a bona fide inspection was not conducted of the emission control devices and  
24 systems on the vehicle, thereby depriving the People of the State of California of the protection  
25 afforded by the Motor Vehicle Inspection Program.

26 \_\_\_\_\_  
27 <sup>2</sup> Martin Rojas, the owner of Dinuba Smog, and Jose Rojas have been charged in a  
28 separate Accusation with violations of the Automotive Repair Act and the Motor Vehicle  
Inspection Program relating to the undercover operation.

1 issuance of electronic smog Certificate of Compliance No. [REDACTED]. The VID data also  
2 showed that the vehicle information, including the odometer reading, engine size, etc., was  
3 entered into the Emissions Inspection System ("EIS") by scanning the registration.

4 32. On October 30, 2013, the operator called Carrillo. Carrillo told the operator that the  
5 smog for the Honda was completed and that the price for the smog had increased to \$400.  
6 Carrillo stated that "his smog guy" called a friend who had the same model Honda that he could  
7 use as a substitute to perform the test. Carrillo told the operator that all of the necessary forms for  
8 the smog check had already been submitted electronically to the DMV. The operator stated that  
9 he would be arriving at the facility in approximately one hour. Carrillo told the operator that he  
10 had to attend a meeting, but would leave the documents with his employee, Rodrigo, and that the  
11 operator could pay Rodrigo the \$400.

12 33. On October 31, 2013, the operator went to the facility and met with Rodrigo.  
13 Rodrigo gave the operator the registration and renewal notice for the Honda and a vehicle  
14 inspection report. The operator paid Rodrigo \$400 in cash, then left the facility.

15 **FIRST CAUSE FOR DISCIPLINE**

16 **(Fraud)**

17 34. Respondent Carrillo's registration is subject to disciplinary action pursuant to Bus. &  
18 Prof. Code section 9884.7, subdivision (a)(4), in that Respondent committed acts constituting  
19 fraud, as follows: Respondent Carrillo conspired with agents, employees, and/or representatives  
20 of Dinuba Smog, including, but not limited to, Martin Rojas and Jose Rojas,<sup>2</sup> to have a fraudulent  
21 smog inspection performed on the Bureau's 1994 Honda using clean piping methods, resulting in  
22 the issuance of a fraudulent electronic smog certificate of compliance for the vehicle.  
23 Consequently, a bona fide inspection was not conducted of the emission control devices and  
24 systems on the vehicle, thereby depriving the People of the State of California of the protection  
25 afforded by the Motor Vehicle Inspection Program.

26 \_\_\_\_\_  
27 <sup>2</sup> Martin Rojas, the owner of Dinuba Smog, and Jose Rojas have been charged in a  
28 separate Accusation with violations of the Automotive Repair Act and the Motor Vehicle  
Inspection Program relating to the undercover operation.

1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Departure from Trade Standards)**

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

7 a. Respondent installed a used coolant temperature sensor on the Bureau's 1989 Toyota  
8 that was in poor condition or defective in that the sensor was coming apart at the assembly joint.  
9 Further, Respondent installed the sensor without a gasket.

10 b. Respondent replaced the fuel filter and mass airflow sensor on the Bureau's 1989  
11 Toyota when, in fact, those parts or components were in good operable condition and were not in  
12 need of servicing or replacement at the time the vehicle was taken to Respondent's facility.  
13 Further, the only repair needed on the vehicle was the replacement of the coolant temperature  
14 sensor.

15 **THIRD CAUSE FOR DISCIPLINE**

16 **(Violations of the Bus. & Prof. Code)**

17 36. Respondent Carrillo's registration is subject to disciplinary action pursuant to Bus. &  
18 Prof. Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with section  
19 9884.9, subdivision (a), of that Code in a material respect, as follows: Respondent failed to  
20 provide the operator with a written estimate before performing the diagnosis of the illuminated  
21 check engine light on the Bureau's 1989 Toyota.

22 **FOURTH CAUSE FOR DISCIPLINE**

23 **(Failure to Comply with Regulations)**

24 37. Respondent Carrillo's registration is subject to disciplinary action pursuant to Bus. &  
25 Prof. Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with California  
26 Code of Regulations, title 16, section 3356, subdivisions (a)(2)(A) and (B) in a material respect,  
27 as follows: Respondent failed to list, describe or identify on the invoice all repairs performed and  
28 ///

1 each part supplied on the Bureau's 1989 Toyota, specifically, the installation of the used coolant  
2 temperature sensor on the vehicle.

3 **UNDERCOVER OPERATION #2: 2007 FORD & 2000 ACURA**

4 38. On November 6, 2013, Bureau Representative J. G., acting in an undercover capacity  
5 ("operator"), went to Carrillo's facility and met with Rodrigo Mares ("Mares"). The operator  
6 gave Mares DMV registration forms and registration renewal notices for the Bureau's 2007 Ford  
7 and 2000 Acura. The operator told Mares that he had written his telephone number on one of the  
8 registration forms, and asked Mares to call him when the "smogs" (smog inspections) were done  
9 on the vehicles. The operator left the facility.

10 39. On November 8, 2013, at approximately 1500 hours, the operator received a call from  
11 an unidentified male. The unidentified male told the operator that Carrillo wanted to know the  
12 model of the vehicles to be "smogged". The operator gave the unidentified male the information  
13 and asked him if the smogs would be done that day. The unidentified male stated that the smogs  
14 would be done "in a little while".

15 40. At approximately 1630 hours, Carrillo called the operator and told him that the smogs  
16 were ready. The operator asked Carrillo about the cost of the smogs. Carrillo told the operator  
17 that the smogs cost \$400 each, for a total of \$800.

18 41. On November 12, 2013, The operator went to the facility and met with Carrillo.  
19 Carrillo gave the operator vehicle inspection reports ("VIR's") for the 2007 Ford and 2000 Acura.  
20 The bottom portions of the VIR's had been torn or cut off. Carrillo also returned the registration  
21 forms and registration renewal notices to the operator. The operator paid Carrillo \$800 in cash  
22 and left the facility.

23 42. Information from the Bureau's vehicle information database ("VID") showed that on  
24 November 8, 2013, between 1515 and 1522 hours, Respondent Randhawa ("Randhawa")  
25 performed a smog inspection on the 2007 Ford, on behalf of Respondent Pannu ("Pannu"), the  
26 owner of Selma Smog, resulting in the issuance of electronic smog Certificate of Compliance No.  
27 [REDACTED] The VID data also showed that between 1527 and 1546 hours on that same day,  
28 Randhawa performed a smog inspection on the 2000 Acura, on behalf of Pannu, resulting in the

1 issuance of electronic smog Certificate of Compliance No [REDACTED]. Both vehicles were in  
2 the custody of the Bureau at the time of the alleged inspections.

3 43. On December 5, 2013, Bureau Representative E. L. made a field visit to Selma Smog  
4 and met with Randhawa. E. L. requested and obtained invoices and VIR's that had been issued  
5 by the facility from November 2, 2013, to November 14, 2013, including VIR's pertaining to the  
6 Bureau's 2007 Ford and 2000 Acura. E. L. showed Randhawa the VIR's. Randhawa stated that  
7 the signatures appearing on the VIR's, including the VIR's for the 2007 Ford and 2000 Acura,  
8 were his and that he was the only smog check technician who performed smog inspections at the  
9 facility from November 2 to November 14, 2013.

10 44. At the conclusion of their investigation, the Bureau determined that Randhawa  
11 fraudulently certified the 2007 Ford and 2000 Acura using clean piping methods.

12 **FIFTH CAUSE FOR DISCIPLINE**

13 **(Fraud)**

14 45. Respondent Carrillo's registration is subject to disciplinary action pursuant to Bus. &  
15 Prof. Code section 9884.7, subdivision (a)(4), in that Respondent committed acts constituting  
16 fraud, as follows: Respondent Carrillo conspired with agents, employees, and/or representatives  
17 of Selma Smog, including, but not limited to, Respondent Randhawa, to have fraudulent smog  
18 inspections performed on the Bureau's 2007 Ford and 2000 Acura using clean piping methods,  
19 resulting in the issuance of fraudulent electronic smog certificates of compliance for the vehicles.  
20 Consequently, bona fide inspections were not conducted of the emission control devices and  
21 systems on the vehicles, thereby depriving the People of the State of California of the protection  
22 afforded by the Motor Vehicle Inspection Program.

23 **SIXTH CAUSE FOR DISCIPLINE**

24 **(Untrue or Misleading Statements)**

25 46. Respondent Pannu's registration is subject to disciplinary action pursuant to Bus. &  
26 Prof. Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized statements  
27 which he knew or in the exercise of reasonable care should have known to be untrue or  
28 misleading, as follows:

1 a. Respondent Pannu's smog check technician, Respondent Randhawa, certified under  
2 penalty of perjury on the VIR dated November 8, 2013, pertaining to the Bureau's 2007 Ford that  
3 he performed the smog inspection on the vehicle in accordance with all Bureau requirements and  
4 that the vehicle had passed inspection and was in compliance with applicable laws and  
5 regulations. In fact, Randhawa used clean piping methods in order to issue a certificate for the  
6 vehicle and did not test or inspect the vehicle as required by Health & Saf. Code section 44012.  
7 Further, the wiring to the exhaust gas recirculation system was disconnected, the wiring to the  
8 engine coolant sensor was disconnected, and the malfunction indicator light was illuminated. As  
9 such, the vehicle would not pass the inspection required by Health & Saf. Code section 44012.

10 b. Respondent Pannu's smog check technician, Respondent Randhawa, certified under  
11 penalty of perjury on the VIR dated November 8, 2013, pertaining to the Bureau's 2000 Acura  
12 that he performed the smog inspection on the vehicle in accordance with all Bureau requirements  
13 and that the vehicle had passed inspection and was in compliance with applicable laws and  
14 regulations. In fact, Randhawa used clean piping methods in order to issue a certificate for the  
15 vehicle and did not test or inspect the vehicle as required by Health & Saf. Code section 44012.  
16 Further, the positive crankcase ventilation system had been modified and as such, the vehicle  
17 would not pass the inspection required by Health & Saf. Code section 44012.

18 **SEVENTH CAUSE FOR DISCIPLINE**

19 **(Fraud)**

20 47. Respondent Pannu's registration is subject to disciplinary action pursuant to Bus. &  
21 Prof. Code section 9884.7, subdivision (a)(4), in that Respondent committed acts that constitute  
22 fraud by issuing electronic smog certificates of compliance for the Bureau's 2007 Ford and 2000  
23 Acura without ensuring that bona fide inspections were performed of the emission control devices  
24 and systems on the vehicles, thereby depriving the People of the State of California of the  
25 protection afforded by the Motor Vehicle Inspection Program.

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1 **EIGHTH CAUSE FOR DISCIPLINE**

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

3 48. Respondent Pannu's smog check station license is subject to disciplinary action  
4 pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to  
5 comply with provisions of that Code, as follows:

6 a. **Section 44012:** Respondent failed to ensure that the emission control tests were  
7 performed on the Bureau's 2007 Ford and 2000 Acura in accordance with procedures prescribed  
8 by the department.

9 b. **Section 44015:** Respondent issued electronic smog certificates of compliance for the  
10 Bureau's 2007 Ford and 2000 Acura without ensuring that the vehicles were properly tested and  
11 inspected to determine if they were in compliance with Health & Saf. Code section 44012.

12 **NINTH CAUSE FOR DISCIPLINE**

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

15 49. Respondent Pannu's smog check station license is subject to disciplinary action  
16 pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to  
17 comply with provisions of California Code of Regulations, title 16, as follows:

18 a. **Section 3340.35, subdivision (c):** Respondent Pannu issued electronic smog  
19 certificates of compliance for the Bureau's 2007 Ford and 2000 Acura even though the vehicles  
20 had not been inspected in accordance with section 3340.42.

21 b. **Section 3340.41, subdivision (c):** Respondent Pannu authorized or permitted his  
22 smog check technician, Respondent Randhawa, to enter false information into the EIS by entering  
23 vehicle identification information or emission control system identification data for a vehicle(s)  
24 other than the ones being tested.

25 c. **Section 3340.42:** Respondent Pannu failed to ensure that the required smog tests  
26 were conducted on the Bureau's 2007 Ford and 2000 Acura in accordance with the Bureau's  
27 specifications.

28 //

1 **TENTH CAUSE FOR DISCIPLINE**

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

3 50. Respondent Pannu's smog check station license is subject to disciplinary action  
4 pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed  
5 dishonest, fraudulent or deceitful acts whereby another is injured by issuing electronic smog  
6 certificates of compliance for the Bureau's 2007 Ford and 2000 Acura without ensuring that bona  
7 fide inspections were performed of the emission control devices and systems on the vehicles,  
8 thereby depriving the People of the State of California of the protection afforded by the Motor  
9 Vehicle Inspection Program.

10 **ELEVENTH CAUSE FOR DISCIPLINE**

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

12 51. Respondent Randhawa's smog technician licenses are subject to disciplinary action  
13 pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to  
14 comply with section 44012 of that Code in a material respect, as follows: Respondent failed to  
15 perform the emission control tests on the Bureau's 2007 Ford and 2000 Acura in accordance with  
16 procedures prescribed by the department.

17 **TWELFTH CAUSE FOR DISCIPLINE**

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

20 52. Respondent Randhawa's smog technician licenses are subject to disciplinary action  
21 pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to  
22 comply with provisions of California Code of Regulations, title 16, as follows:

23 a. **Section 3340.30, subdivision (a):** Respondent failed to inspect and test the Bureau's  
24 2007 Ford and 2000 Acura in accordance with Health & Saf. Code sections 44012 and 44035,  
25 and California Code of Regulations, title 16, section 3340.42.

26 b. **Section 3340.41, subdivision (c):** Respondent entered false information into the EIS  
27 by entering vehicle identification information or emission control system identification data for a  
28 vehicle(s) other than the ones being tested.



1 c. **Section 3340.42:** Respondent failed to conduct the required smog tests on the  
2 Bureau's 2007 Ford and 2000 Acura in accordance with the Bureau's specifications.

3 **THIRTEENTH CAUSE FOR DISCIPLINE**

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

5 53. Respondent Randhawa's smog technician licenses are subject to disciplinary action  
6 pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed  
7 dishonest, fraudulent or deceitful acts whereby another is injured by issuing electronic smog  
8 certificates of compliance for the Bureau's 2007 Ford and 2000 Acura without performing bona  
9 fide inspections of the emission control devices and systems on the vehicles, thereby depriving  
10 the People of the State of California of the protection afforded by the Motor Vehicle Inspection  
11 Program.

12 **OTHER MATTERS**

13 54. Pursuant to Bus. & Prof. Code section 9884.7, subdivision (c), the Director may  
14 suspend, revoke, or place on probation the registration for all places of business operated in this  
15 state by Respondent Rumaldo Mike Carrillo, owner of Automotive Center, upon a finding that  
16 Respondent has, or is, engaged in a course of repeated and willful violations of the laws and  
17 regulations pertaining to an automotive repair dealer.

18 55. Pursuant to Bus. & Prof. Code section 9884.7, subdivision (c), the Director may  
19 suspend, revoke, or place on probation the registration for all places of business operated in this  
20 state by Respondent Paul Singh Pannu, owner of Selma Smog, upon a finding that Respondent  
21 has, or is, engaged in a course of repeated and willful violations of the laws and regulations  
22 pertaining to an automotive repair dealer.

23 56. Pursuant to Health & Saf. Code section 44072.8, if Smog Check, Test Only, Station  
24 License Number TC 222686, issued to Respondent Paul Singh Pannu, owner of Selma Smog, is  
25 revoked or suspended, any additional license issued under this chapter in the name of said  
26 licensee, including, but not limited to, Pannu's Smog Check Inspector License Number EO  
27 631488 and Smog Check Repair Technician License Number EI 631488, may be likewise  
28 revoked or suspended by the Director.



1 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
2 Professions Code section 125.3;

3 11. Taking such other and further action as deemed necessary and proper.

4  
5 DATED: 7-15-14

PATRICK DORAIS by Doug BAUATI  
PATRICK DORAIS  
Chief Assist. Chief  
Bureau of Automotive Repair  
Department of Consumer Affairs  
State of California  
Complainant

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