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

In the Matter of the Accusation Against:

HALL COMMERCIAL VEHICLE SERVICE, INC. dba
HALL COMMERCIAL VEHICLE SERVICE HARVEY LOUIS HALL, PRESIDENT JOHN TOKASH, RME

1121 East 21st Street Bakersfield, CA 93305

Auto Repair Dealer Registration No. ARD 220875 Smog Check Station License No. RC 220875

and

EMILIO DURAN

1001 Olson Way Arvin, CA 93203

Smog Check Inspector License No. EO 635868

Respondents.

Case No. 79/16-153

OAH No. 2017030074

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby accepted and adopted as the Decision of the Director of the Department of Consumer Affairs in the above-entitled matter, only as to respondent HALL COMMERCIAL VEHICLE SERVICE, INC. DBA HALL COMMERCIAL VEHICLE SERVICE.

This Decision shall become effective Fazerusy 1, 2018

DATED: 12 15/17

GRACE ARUPO RODRIGUEZ

Assistant Deputy Director Legal Affairs Division

Department of Consumer Affairs

1	XAVIER BECERRA					
2	Attorney General of California THOMAS L. RINALDI					
3	Supervising Deputy Attorney General HEATHER VO					
4	Deputy Attorney General State Bar No. 223418					
	300 So. Spring Street, Suite 1702					
5	Los Angeles, CA 90013 Telephone: (213) 897-2574					
6	Facsîmile: (213) 897-2804 Attorneys for Complainant					
7		TILL				
8	BEFORE THE DEPARTMENT OF CONSUMER AFFAIRS					
. 9	FOR THE BUREAU OF AUTOMOTIVE REPAIR STATE OF CALIFORNIA					
10						
11	In the Matter of the Accusation Against:	Case No. 79/16-153				
12	HALL COMMERCIAL VEHICLE SERVICE,					
	INC. dba	OAH No. 2017030074				
13	HALL COMMERCIAL VEHICLE SERVICE HARVEY LOUIS HALL, PRESIDENT	STIPULATED SETTLEMENT AND DISCIPLINARY ORDER AS TO HALL				
14	JOHN TOKASH, RME 1121 East 21st Street	COMMERCIAL VEHICLE SERVICE, INC. dba HALL COMMERCIAL				
15	Bakersfield, CA 93305	VEHICLE SERVICE ONLY				
16	Auto Repair Dealer Registration No. ARD 220875 Smog Check Station License No. RC 220875	(Auto Repair Dealer Registration No. ARD				
17		220875; Smog Check Station License No. RC				
18	And	220875)				
19	EMILIO DURAN 1001 Olson Way					
20	Arvin, CA 93203					
21	Smog Check Inspector License No. EO 635868					
ļ	Respondents.					
22						
23		٠,				
24	IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-					
25	entitled proceedings that the following matters are true:					
26	<u>PARTIES</u>					
27	1. Patrick Dorais (Complainant) is the Chief of the Bureau of Automotive Repair					
28	(Bureau). He brought this action solely in his official capacity and is represented in this matter by					
J	1	:				

STIPULATED SETTLEMENT AS TO HALL COMMERCIAL VEHICLE SERVICE - ONLY (Case No.: 79/16-153)

Xavier Becerra, Attorney General of the State of California, by Heather Vo, Deputy Attorney General.

2. Hall Commercial Vehicle Service, Inc. dba Hall Commercial Vehicle Service; Harvey Louis Hall, President (Respondent) is represented in this proceeding by attorney Alex Polishuk, whose address is 1900 Avenue of the Stars, 7th Floor, Los Angeles, California 90067-4308.

Automotive Repair Dealer Registration No. ARD 220875

3. On or about March 27, 2002, the Bureau of Automotive Repair issued Automotive Repair Dealer Registration Number ARD 220875 to Hall Commercial Vehicle Service, Inc. dba Hall Commercial Vehicle Service, Harvey Louis Hall, President and John Tokash, Responsible Managing Employee. The Automotive Repair Dealer Registration was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2018, unless renewed.

Smog Check Station License No. RC 220875

4. On or about April 24, 2013, the Bureau of Automotive Repair issued Smog Check Station License Number RC 220875 to Hall Commercial Vehicle Service, Inc. dba Hall Commercial Vehicle Service, Harvey Louis Hall, President and John Tokash, Responsible Managing Employee. The Smog Check Station License was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2018, unless renewed.

Smog Check Inspector License No.EO 635868

5. On or about August 12, 2013, the Bureau of Automotive Repair issued Smog Check Inspector License No. EO 635868 to Emilio Duran. The license was in full force and effect at all times relevant to the charges brought herein and expired on June 30, 2017, and has not been renewed.

JURISDICTION

6. Accusation No. 79/16-153 was filed before the Director, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on August 18, 2016. Respondent timely filed its Notice of Defense contesting the Accusation.

7. A copy of Accusation No. 79/16-153 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

- 8. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 79/16-153. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.
- 9. Respondent is fully aware of its legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against them; the right to present evidence and to testify on its own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.
- 10. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

- 11. Respondent admits the truth of each and every charge and allegation in Accusation No. 79/16-153.
- 12. Respondent agrees that its Automotive Repair Dealer Registration No. ARD 220875 and Smog Check Station License No. RC 220875 are subject to discipline and it agrees to be bound by the Director's probationary terms as set forth in the Disciplinary Order below.

CONTINGENCY

13. This stipulation shall be subject to approval by the Director of Consumer Affairs or the Director's designee. Respondent understands and agrees that counsel for Complainant and the staff of the Bureau of Automotive Repair may communicate directly with the Director and staff of the Department of Consumer Affairs regarding this stipulation and settlement, without notice to or participation by Respondent or its counsel. By signing the stipulation, Respondent understands and agrees that they may not withdraw its agreement or seek to rescind the stipulation prior to the

time the Director considers and acts upon it. If the Director fails to adopt this stipulation as the Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Director shall not be disqualified from further action by having considered this matter.

- 14. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.
- 15. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.
- 16. In consideration of the foregoing admissions and stipulations, the parties agree that the Director may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Automotive Repair Dealer Registration No. ARD 220875 and Smog Check Station License No. RC 220875 issued to Respondent Hall Commercial Vehicle Service, Inc. dba Hall Commercial Vehicle Service; Harvey Louis Hall, President is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5) years on the following terms and conditions.

- 1. **Obey All Laws.** During the period of probation, Respondent shall comply with all federal and state statutes, regulations and rules governing all BAR registrations and licenses held by Respondent.
- 2. **Posting of Sign**. During the period of suspension, Respondent shall prominently post a sign or signs, provided by BAR, indicating the beginning and ending dates of the suspension and indicating the reason for the suspension. The sign or signs shall be conspicuously displayed

 in a location or locations open to and frequented by customers. The location(s) of the sign(s) shall be approved by BAR and shall remain posted during the entire period of actual suspension.

- 3. Quarterly Reporting. During the period of probation, Respondent shall report either by personal appearance or in writing as determined by BAR on a schedule set by BAR, but no more frequently than once each calendar quarter, on the methods used and success achieved in maintaining compliance with the terms and conditions of probation.
- 4. Report Financial Interests. Respondent shall, within 30 days of the effective date of the decision and within 30 days from the date of any request by BAR during the period of probation, report any financial interest which any Respondent or any partners, officers, or owners of any Respondent facility may have in any other business required to be registered pursuant to Section 9884.6 of the Business and Professions Code.
- 5. Access to Examine Vehicles and Records. Respondent shall provide BAR representatives unrestricted access to examine all vehicles (including parts) undergoing service, inspection, or repairs, up to and including the point of completion. Respondent shall also provide BAR representatives unrestricted access to all records pursuant to BAR laws and regulations.
- California to reside or do business elsewhere or otherwise ceases to do business in the jurisdiction of California, Respondent shall notify BAR in writing within 10 days of the dates of departure and return, and of the dates of cessation and resumption of business in California. All provisions of probation other than cost reimbursement requirements, restitution requirements, training requirements, and that Respondent obey all laws, shall be held in abeyance during any period of time of 30 days or more in which Respondent is not residing or engaging in business within the jurisdiction of California. All provisions of probation shall recommence on the effective date of resumption of business in California. Any period of time of 30 days or more in which Respondent is not residing or engaging in business within the jurisdiction of California shall not apply to the reduction of this probationary period or to any period of actual suspension not previously completed. Tolling is not available if business or work relevant to the probationary license or registration is conducted or performed during the tolling period.

- 7. Violation of Probation. If Respondent violates or fails to comply with the terms and conditions of probation in any respect, the Director, after giving notice and opportunity to be heard may set aside the stay order and carry out the disciplinary order provided in the decision. Once Respondent is served notice of BAR's intent to set aside the stay, the Director shall maintain jurisdiction, and the period of probation shall be extended until final resolution of the matter.
- 8. Maintain Valid License. Respondent shall, at all times while on probation, maintain a current and active registration and/or license(s) with BAR, including any period during which suspension or probation is tolled. If Respondent's registration or license is expired at the time the decision becomes effective, the registration or license must be renewed by Respondent within 30 days of that date. If Respondent's registration or license expires during a term of probation, by operation of law or otherwise, then upon renewal Respondent's registration or license shall be subject to any and all terms and conditions of probation not previously satisfied. Failure to maintain a current and active registration and/or license during the period of probation shall also constitute a violation of probation.
- 9. Cost Recovery. Respondent shall pay the Bureau of Automotive Repair \$11,190.40 for the reasonable costs of the investigation and enforcement of case No. 79/16-153. Respondent shall be permitted to pay these costs in a payment plan approved by the BAR. Any agreement for a scheduled payment plan shall require full payment to be completed no later than six (6) months before probation terminates. Respondent shall make payment by check or money order payable to the Bureau of Automotive Repair and shall indicate on the check or money order that it is for cost recovery payment for case No. 79/16-153. Any order for payment of cost recovery shall remain in effect whether or not probation is tolled. Probation shall not terminate until full cost recovery payment has been made. BAR reserves the right to pursue any other lawful measures in collecting on the costs ordered and past due, in addition to taking action based upon the violation of probation.
- 10. Completion of Probation. Upon successful completion of probation, Respondent's affected registration and/or license will be fully restored or issued without restriction, if

8

9 10

11

12

13

14

15

16 17

18

19

20

21

22

23

24

25

26

27

28

Respondent meets all current requirements for registration or licensure and has paid all outstanding fees, monetary penalties, or cost recovery owed to BAR.

- 11. License Surrender. Following the effective date of a decision that orders a stay of invalidation or revocation, if Respondent ceases business operations or is otherwise unable to satisfy the terms and conditions of probation, Respondent may request that the stay be vacated. Such request shall be made in writing to BAR. The Director and the BAR Chief reserve the right to evaluate the Respondent's request and to exercise discretion whether to grant the request or take any other action deemed appropriate or reasonable under the circumstances. Upon formal granting of the request, the Director will vacate the stay order and carry out the disciplinary order provided in the decision. Respondent may not petition the Director for reinstatement of the surrendered registration and/or license, or apply for a new registration or license under the jurisdiction of BAR at any time before the date of the originally scheduled completion of probation. If Respondent applies to BAR for a registration or license at any time after that date, Respondent must meet all current requirements for registration or licensure and pay all outstanding fees or cost recovery owed to BAR and left outstanding at the time of surrender.
- Actual Suspension. Automotive Repair Dealer Registration No. ARD 220875 and Smog Check Station License No. RC 220875 issued to Respondent are suspended for 30 consecutive days beginning on the effective date of the Decision and Order.

///

///

 $/\!/\!/$

III///

///

/// ///

///

1	Kamala D. Harris						
2	Attorney General of California THOMAS L. RINALDI						
3	Supervising Deputy Attorney General HEATHER VO						
4	Deputy Attorney General State Bar No. 223418						
5	300 So. Spring Street, Suite 1702 Los Angeles, CA 90013						
6	Telephone: (213) 897-2574 Facsimile: (213) 897-2804						
7	Attorneys for Complainant						
8	BEFORE THE						
9	DEPARTMENT OF CONSUMER AFFAIRS FOR THE BUREAU OF AUTOMOTIVE REPAIR						
10	STATE OF CALIFORNIA						
11							
12	In the Matter of the Accusation Against: Case No. 79/16-153						
13	HALL COMMERCIAL VEHICLE SERVICE, INC. dba						
14	HALL COMMERCIAL VEHICLE SERVICE ACCUSATION						
15	JOHN TOKASH, RME 1121 East 21st Street						
16	Bakersfield, CA 93305						
17	Auto Repair Dealer Registration No. ARD 220875 Smog Check Station License No. RC 220875						
18	And						
19	EMILIO DURAN						
20	1001 Olson Way Arvin, CA 93203						
21	Smog Check Inspector License No. EO 635868	ŀ					
22							
23	Respondents						
24	Complainant alleges:						
25	PARTIES						
26	·						
27	the state of the s						
28	e Chief of the Bureau of Automotive Repair, Department of Consumer Affairs.						
	1						

(HALL COMMERCIAL VEHICLE SERVICE, INC.) ACCUSATION

[5

Automotive Repair Dealer Registration No. ARD 220875

2. On or about March 27, 2002, the Bureau of Automotive Repair issued Automotive Repair Dealer Registration Number ARD 220875 to Hall Commercial Vehicle Service, Inc. dba Hall Commercial Vehicle Service, Harvey Louis Hall, President and John Tokash, Responsible Managing Employee (Respondent Hall, Inc.). The Automotive Repair Dealer Registration was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2017, unless renewed.

Smog Check Station License No. RC 220875

3. On or about April 24, 2013, the Bureau of Automotive Repair issued Smog Check Station License Number RC 220875 to Respondent Hall, Inc. The Smog Check Station License was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2017, unless renewed.

Smog Check Inspector License No.EO 635868

4. On or about August 12, 2013, the Bureau of Automotive Repair Issued Smog Check Inspector License No. EO 635868 to Emilio Duran (Respondent Duran). The License was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2017, unless renewed.

JURISDICTION

- 5. This Accusation is brought before the Director of the Department of Consumer Affairs (Director) for the Bureau of Automotive Repair, under the authority of the following laws.
- 6. Business and Professions Code (B&P Code) Section 9884.7 provides that the Director may revoke an automotive repair dealer registration.
- 7. B&P 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 temporarily or permanently invalidating (suspending or revoking) a registration.

- 8. Section 44002 of the Health and Safety Code (H&S Code) provides, in pertinent part, that the Director has all the powers and authority granted under the Automotive Repair Act for enforcing the Motor Vehicle Inspection Program.
- 9. H&S Code Section 44072.6 provides, in pertinent part, that the expiration or suspension of a license by operation of law, or by order or decision of the Director of Consumer Affairs, or a court of law, or the voluntary surrender of the license shall not deprive the Director of jurisdiction to proceed with disciplinary action.
- 10. H&S Code Section 44072.8 states that when a license has been revoked or suspended following a hearing under this article, any additional license issued under this chapter in the name of the licensee may be likewise revoked or suspended by the Director.

STATUTORY PROVISIONS

- 11. B&P Code Section 9884.7 states, in pertinent part:
- "(a) The director, where the automotive repair dealer cannot show there was a bona fide error, may deny, suspend, revoke, or place on probation the registration of an automotive repair dealer for any of the following acts or omissions related to the conduct of the business of the automotive repair dealer, which are done by the automotive repair dealer or any automotive technician, employee, partner, officer, or member of the automotive repair dealer.
- (1) Making or authorizing in any manner or by any means whatever any statement written or oral which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading.
- (c) 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."
- B&P Code Section 22 states:
- "(a) 'Board' as used in any provisions 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.'

1.3

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

COST RECOVERY

14. B&F Code Section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case, with fallure of the licentiate to comply subjecting the license to not being renewed or reinstated.

UNDERCOVER OPERATIONS #1:2005 HYUNDAI SONATA FACTUAL BACKGROUND

15. From August 2015 through October 2015, the Bureau conducted a detailed review of the Vehicle Information Database ("VID") for all smog inspections performed at Respondent Hall Inc.'s facility for that time period. The VID showed a pattern of different vehicles being certified with the same eVIN (VIN number identified by the OIS). The data for the vehicle certified also contains a different Communication Protocol and different PID amounts. The discrepancies in the OIS test data for the eVIN, the Communication Protocol, and the PID count, confirm that the Data Acquisition Device (DAD) was not connected to the subject vehicles when they were being certified, resulting in the issuance of fraudulent Smog Certificates of Compliance. Accordingly, the vehicles receiving smog certificates were not actually tested during the OBD II¹ functional test and instead, another vehicle(s) was used, constituting clean plugging².

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.

² 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 purposes 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 (continued...)

According to the VID data, all of the following inspections were performed by Respondent Duran,

-				
Ŧ	Δ	RI	. H'.	1

الت	A A A COLLEGE A				
4 5	Date	Certificate Issued to Vehicle	Likely Vehicle actually connected to the OIS	Certificate	VID indicates OIS Operated By
6	8/7/2015	2005 Hyundai Sonata GL., . VIN	2007 Chevrolet Silverado 1500, VIN	PU253213C	Emilio Duran
7		KMHWF25H45A102028 CA License Number 5FPG485	2GCEC13C571726640		
8	8/11/2015	2003 Dodge RAM 3500 Quad ST/SLT, VIN	2007 Chevrolet Express Cutaway G3500 Van, VIN	PU253214C	Emilio Duran
10		3D7LU38663G798733 CA Lloense Number 8M57242	1GBJG316671254079		NAME OF THE PROPERTY OF THE PR
11	8/13/2015	2003 Chevrolet Avalanche C1500, VIN 3GNEC13T83G178870	2007 Chevrolet Silverado 1500, VIN 20CEC13C571726640	PU253215C	Emilio Duran
12		CA Lloense Number 7L10363	·		
13	8/28/2015	2005 Honda Pilot EXL., VIN	2005 Volvo S40 T5 FWD, VIN	PU253220C	Emilio Duran
14	0.60.6001.4	2HKYF18515H573491 CA License Number 7DAZ792	YV1M9682552103473	PU253225C	Paulita Financia
15 16	9/3/2015	2011 Chrysler Town and Country Touring ED, VIN 2A4RR5DGXBR664617 No License Number	2006 Chrysler Town and Country, VIN 1A4GP45R06B620668	K 0 20 3 2 2 5 C	Emilio Duran
17 18	9/9/2015	2004 Kla Amanti, VIN KNALD124245031862 No License Number	2007 Chevrolet Silverado 1500, VIN 2GCEC13C571726640	PU253226C	Emilio Duran
19 20	9/10/2015	2006 Chevrolet Ayeo LT, VIN KL1TG56686B604689 CA	2007 Chevrolet Silverado 1500, VIN 20CEC13C571726640	PU253228C	Emilio Duran
		License Number 6UFB306	•	age remains a constructive and the first the second of the	
21	10/8/2015	2007 Ford Crown Victoria LX/Sport, VIN	2007 Chevrolet Silverado 1500, VIN	PW520203C	Emilio Duran
23		2FAFP74W37X124794 CA License Number 5 VOR073	2GCEC13C571726640		
24	10/19/2015	2008 Pontlac G5, VIN IG2AL18F787179333 CA License Number 6NKX822	2007 Chevrolet Sliverado 1500, VIN 2GCEC13C571726640	PW520208C	Emilio Duran
25		,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,			

(...continued)
test, known as monitors, or due to the presence of a stored fault code that indicates an emission control system or component failure.

FIRST CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

16. Respondent Hall Inc.'s registration is subject to discipline pursuant to Code section 9884.7, subdivision (a)(1), in that between August 2015 through October 2015, Respondent Hall, Inc. made or authorized statements which it knew or in the exercise of reasonable care should have known to be untrue or misleading, as follows: Respondent Hall, Inc. certified that vehicles 1 through 9, set forth above in Table 1, had passed inspection and were in compliance with applicable laws and regulations. In fact, Respondent Hall, Inc. conducted the inspections on the vehicles using the clean plugging method by substituting or using different vehicles during the OBD II functional tests in order to issue smog certificates of compliance for the nine vehicles, and did not test or inspect the nine vehicles as required by Health and Safety Code section 44012,

SECOND CAUSE FOR DISCIPLINE

(Fraud)

17. Respondent Hall Inc.'s registration is subject to discipline pursuant to Code section 9884.7, subdivision (a)(4), in that between August 2015 through October 2015, Respondent Hall, Inc. committed acts which constitute fraud by issuing electronic certificates of compliance for vehicles 1 through 9, set forth above in Table 1, 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.

THIRD CAUSE FOR DISCIPLINE

(Failure to Comply with the Motor Vehicle Inspection Program)

- 18. Respondent Hall, Inc.'s station license is subject to discipline pursuant to Health and Safety Code section 44072.2, subdivision (a), in that between August 2015 through October 2015 regarding vehicles 1 through 9, set forth above in Table 1, Respondent failed to comply with the following sections of that Code:
- a. <u>Section 44012:</u> Respondent Hall, Inc. failed to ensure that the emission control tests were performed on vehicles 1 through 9, in accordance with procedures prescribed by the department.

3

4

5

б

7

8

9

10 11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

III

///

1,6 1.7

FIFTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

20. Respondent Hall, Inc. 's station license is subject to discipline pursuant to Health and Safety Code section 44072.2, subdivision (d), in that between August 2015 through October 2015, regarding vehicles 1 through 9, set forth above in Table 1, Respondent Hall Inc. committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing electronic certificates of compliance for those vehicles without performing bona fide inspections of the emission control devices and systems on the vehicles, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

SIXTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

21. Respondent Duran's inspector license is subject to discipline pursuant to Health and Safety Code section 44072.2, subdivision (a), in that between August 2015 through October 2015, regarding vehicles 1 through 9, set forth above in Table 1, he failed to comply with section 44012 of that Code in a material respect, as follows: Respondent Duran failed to perform the emission control tests on those vehicles in accordance with procedures prescribed by the department.

SEVENTH CAUSE FOR DISCIPLINE

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

- 22. Respondent Duran's inspector license is subject to discipline pursuant to Health and Safety Code section 44072.2, subdivision (c), in that between August 2015 through October 2015, regarding vehicles 1 through 9, set forth above in Table 1, he failed to comply with provisions of California Code of Regulations, title 16, as follows:
- a. Section 3340.24, subdivision (c): Respondent Duran falsely or fraudulently issued electronic certificates of compliance without performing bona fide inspections of the emission control devices and systems on those vehicles as required by Health and Safety Code section 44012.

.9

]]]2

- b. Section 3340.30 subdivision (a): Respondent Duran falled to inspect and test those vehicles in accordance with Health and Safety Code sections 44012.
- c. <u>Section 3340.42</u>: Respondent Duran failed to conduct the required smog tests and Inspections on those vehicles in accordance with the Bureau's specifications.

EIGHTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

23. Respondent Duran's inspector license is subject to discipline pursuant to Health and Safety Code section 44072.2, subdivision (d), in that between August 2015 through October 2015, regarding vehicles I through 9, set forth above in Table 1, he committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing electronic certificates of compliance 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.

OTHER MATTERS

- 24. Pursuant to Code section 9884.7, subdivision (c), the director may suspend, revoke, or place on probation the registrations for all places of business operated in this state by Hall Commercial Vehicle Service, Inc. doing business as Hall Commercial Vehicle Service, upon a finding that it has, or is, engaged in a course of repeated and willful violation of the laws and regulations pertaining to an automotive repair dealer:
- 25. Pursuant to Health and Safety Code section 44072.8, if Smog Check Station License Number RC 220875, issued to Hall Commercial Vehicle Service, Inc. doing business as Hall Commercial Vehicle Service, is revoked or suspended, any additional license issued under this chapter in the name of said licensee may be likewise revoked or suspended by the director.
- 26. Pursuant to Health and Safety Code section 44072.8, if Smog Check Inspector License No. EO 635868 issued to Emilio Duran, is revoked or suspended, any additional license Issued under this chapter in the name of said licensee may be likewise revoked or suspended by the director.

111 -

PRAYER

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

- Revoking or suspending Automotive Repair Dealer Registration Number ARD
 220875, issued to Hall Commercial Vehicle Service, Inc. dba Hall Commercial Vehicle Service,
 Harvey Louis Hall;
- Revoking or suspending Smog Check Station License Number RC 220875, issued to
 Hall Commercial Vehicle Service, Inc. dba Hall Commercial Vehicle Service, Harvey Louis Hall;
- 3. Revoking or suspending Smog Check Inspector License No. EO 635868 issued to Emilio Duran;
- 4. Ordering Hall Commercial Vehicle Service and Emilio Duran 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;
 - 5. Taking such other and further action as deemed necessary and proper.

DATED: Hugust 9, 2016

PATRICK DORAIS

Chief

Bureau of Automotive Repair Department of Consumer Affairs

State of California

Complainant

LA2016500309 52021950 3.doc

27 28

2

3

4

5

б

7

8

9

10

11

12

13

14

15 16

17 18 19

20

21

22

23

24

25

26

DECLARATION OF SERVICE BY CERTIFIED MAIL AND FIRST CLASS MAIL (Separate Mailings)

Case Name: In the Matter of the Accusation Against: Hall Commercial Vehicle Service,

Inc. dba Hall Commercial Vehicle Service, Harvey Louis Hall, Emilio Duran

No.: 79/16-153

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business.

On August 8, 2016, I served the attached STATEMENT TO RESPONDENT,
ACCUSATION, NOTICE OF DEFENSE (2 COPIES). REQUEST FOR DISCOVERY,
GOVERNMENT CODE SECTIONS 11507, 11507.6, 11507.7] by placing a true copy thereof
enclosed in a scaled envelope as certified mall with return receipt requested, and another true
copy of the STATEMENT TO RESPONDENT, ACCUSATION, NOTICE OF DEFENSE
(2 COPIES), REQUEST FOR DISCOVERY, GOVERNMENT CODE SECTIONS 11507,
11507.6, 11507.7 was enclosed in a second scaled envelope as first class mail in the internal mail
collection system at the Office of the Attorney General at 300 South Spring Street, Suite 1702,
Los Angeles, CA 90013, addressed as follows:

Hall Commercial Vehicle Service dba Hall Commercial Vehicle Services, Inc. 1121 East 21st Street Bakersfield, CA 93305 Respondent

Harvey Louis Hall 1121 East 21st Street Bakersfield, CA 93305 Respondent

John Tokash 1121 East 21st Street Bakersfield, CA 93305 Respondent

Emilio Duran 1001 Olson Way Arvin, CA 93203 Respondent

Certified Article Number

9414 7266 9904 2067 9651 29

SENDERS RECORD

Certified Article Number

9434 7266 9904 2067 9653 43

SENDERS RECORD

Certified Article Number

9414 7266 9904 2067 9651 50

SENDERS RECORD

Certified Article Number

9434 7266 9904 2067 9651 36

SENDERS RECORD