

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DIVISION OF MOTOR VEHICLES**

**SAFETY AND EMISSION CONTROL
325 MELROSE STREET
PROVIDENCE, RI 02907**

TO: Rosemary Booth Gallogly

DEPT: Department of Administration

FROM: Dennis Gerstmeyer, Chairman

DEPT: Division of Motor Vehicles

SUBJECT: HEARING BOARD RESULTS

Please be advised of the following matters which were heard before the Board on Wednesday, September 7, 2011. Board members: Dennis Gerstmeyer, Joseph Montero, and Sgt. David Doucet of the Rhode Island State Police.

Also be advised the following people were present during the hearing: Marcy Coleman, Esq., Division of Legal Services, Douglas Staradumsky of Safety & Emission Control, and Jonathan Pellegrino of Safety & Emission Control

MEETING OF SEPTEMBER 7, 2011 AT 12:30PM

**AT THE DIVISION OF MOTOR VEHICLES – 3rd FLOOR,
CONFERENCE ROOM,
600 NEW LONDON AVE., CRANSTON RI 02920**

**1. MVSEC V STA 410 CLA GAS AND SERVICE & CIT 4462
BERNARDO PEREZ
COMPLAINT / SHOW CAUSE HEARING – CASES MVSEC 11-051,
MVSEC 11-053, AND MVSEC 11-054**

Postponed at the request of CLA Gas and Service

**2. MVSEC V STA 397 PONTIAC AVENUE GETTY & CIT 10054 ELIE
ANTOUN
COMPLAINT / SHOW CAUSE HEARING – CASES MVSEC 11-057,
MVSEC 11-060, MVSEC 11-061, MVSEC 11-063, AND MVSEC 11-064**

Postponed at the request of Pontiac Avenue Getty

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**3. MVSEC V STA 113 R & S AUTO BODY AND SERVICE & CIT 7841
FOUAD EL KHAOULI COMPLAINT / SHOW CAUSE HEARING –
CASES MVSEC 11-007, MVSEC 11-008, AND MVSEC 11-059**

Decision: Inspector and Inspection Station admitted to performing fraudulent vehicle inspections on 2/11/2011 and 11/17/2010 by utilizing other vehicles to obtain passing emissions results in violation of R.I.G.L. § 31-38-10(3) and Rule 1.12.1(b) of the Rhode Island Vehicle Emissions Control Regulation No.1. Based on the admission, Inspector and Inspection Station will be suspended for a period of ninety (90) days and will be given credit for time served. Inspector and Inspection Station were also accused of permitting an inspection to be performed on 6/9/2011 by another party using Inspector's license number. Based on the fact that the Inspector provided the name of the individual responsible for that offense, there is no finding on that count.

**4. MVSEC V STA 432 TORO AUTO SALES AND SERVICE & CIT 10303
JEFF ROMANO**

COMPLAINT / SHOW CAUSE HEARING – CASE MVSEC 11-058

Decision: The Board has determined that the Inspector and the Inspection Station are in violation of R.I.G.L. § 31-38-10(1),(3) and (7), Rule 1.12.1(b) of the Rhode Island Vehicle Emissions Control Regulation No.1, have engaged in unconscionable business practices and are unfit to do business as a vehicle inspection station. The Board orders the Inspection Station License and Inspector's license be REVOKED.

**5. MVSEC V STA 589 VALLY AUTO SERVICE INC. & CIT 10060
PATRICIO PINTO**

**COMPLAINT / SHOW CAUSE HEARING – CASES MVSEC 11-041 &
MVSEC 11-042,**

Decision: The Board has determined that the Inspector and Station performed fraudulent vehicle inspections on 3/5/2011 and 3/9/2011 by plugging different cars into the computer to obtain passing electronic vehicle emissions readings. Although the Inspector and Station indicated that the computer may have malfunctioned, the Board found the witness from Systech to be credible in his testimony that in the event of a computer malfunction the system has a hard stop and does not allow any data to be transmitted. The trigger reports for the

two tests at issue clearly show that at the time of the failing test an OBD VIN was obtained by the computer. When both vehicles obtained passing results, the OBD VIN disappeared. Furthermore, in both instances the results showed a protocol mismatch indicating that the computer language used by the vehicle's internal computer changed from the prior test to the passing test. For all these reasons the Board finds both the Inspector and Station are in violation of violation of R.I.G.L. § 31-38-10(3) and Rule 1.12.1(b) of the Rhode Island Vehicle Emissions Control Regulation No. 1. The Inspector and Station were previously suspended for thirty days for committing three violations on 12/15/2010. Based on the previous violations within such a short time and the fact that the Inspector has only been licensed since 2008 and the Station has only been in business since 2009, the Board imposes the maximum penalty for a second offense, a 180 day suspension.

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**6. MVSEC V STA 684 WEST SHORE COLLISION & CIT 9835 STEVEN KAZANJIAN
COMPLAINT / SHOW CAUSE HEARING – CASES MVSEC 11-043 & MVSEC 11-044**

Decision: The Board has determined that the Inspector has performed fraudulent vehicle inspections on 1/15/2011 and 2/9/2010 by utilizing other vehicles to obtain passing emissions results in violation of R.I.G.L. § 31-38-10(3) and Rule 1.12.1(b) of the Rhode Island Vehicle Emissions Control Regulation No.1. The Inspector admitted to utilizing a different vehicle for the test performed on 1/15/2011. As for the 2/9/2011 test, although Inspector did not admit doing this test, the Board finds that a fraudulent test was performed based on the trigger report indicating that there was a protocol mismatch and a readiness monitor mismatch. The fact that the computer language for the vehicle changed with every test indicates that different vehicles were used for the different tests. The Board orders the Inspector's license be suspended for thirty (30) days with credit for time served. As for the Station, the Board issues a warning.

Although the Station is responsible for the acts of its employees, there was no evidence that station management knew of this wrongdoing or condoned it.

**7. MVSEC V STA 588 NARRAGANSETT AUTO REPAIR & CIT 8548
GILBERT MEDEIROS**

COMPLAINT / SHOW CAUSE HEARING – CASE MVSEC 11-065

Decision: Inspector and Inspection Station admitted to performing an improper vehicle inspection on 5/23/2011 by passing a vehicle that had obvious safety violations including rotted floors, rotted rear quarters, parking brake failed to hold and stuck brake cable in violation of R.I.G.L. § 31-38-10(3), (9) and Rule 1.12.1(b) of the Rhode Island Vehicle Emissions Control Regulation No.1. Based on the admission and the fact that the Inspector was previously suspended on 7/22/2009 for the same offense, Inspector will be suspended for a period of sixty (60) days. Based on the fact that the Inspection Station did not have any prior violations and there was no evidence to show that this violation was condoned by the Station, the Board issues a warning to the Station.

Cc: John DiTomasso, Assistant Administrator, DMV

Richard Carlucci, Chief , Safety & Emission Control

Marcy Coleman, Esq., Division of Legal Services, DOA

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