

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

In the Matter of the Accusation Against:

**GO GO SMOG & AUTO GLASS**  
260 Garden Highway, Suite E  
Yuba City, CA 95991  
GUSTAVO GONZALEZ, OWNER  
Automotive Repair Dealer Registration  
No. ARD 261602

Smog Check Station License  
No. RC 261602

and

**IRVIN JESUS YANEZ**  
1628 South Pointe Drive  
Yuba City, CA 95991

Advanced Emission Specialist Technician  
License No. EA 631690

Respondents.

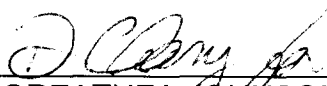
Case No. 79/12-171

**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.

This Decision shall become effective 12/26/12.

DATED: NOV 26 2012

  
DOREATHEA JOHNSON  
Deputy Director, Legal Affairs  
Department of Consumer Affairs

1 KAMALA D. HARRIS  
Attorney General of California  
2 JANICE K. LACHMAN  
Supervising Deputy Attorney General  
3 LESLIE A. BURGERMYER  
Deputy Attorney General  
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7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 79/12-171

12 **GO GO SMOG & AUTO GLASS**  
260 Garden Highway, Suite E  
13 Yuba City, CA 95991  
14 **GUSTAVO GONZALEZ, OWNER**  
Automotive Repair Dealer Registration No.  
ARD 261602  
15 Smog Check Station License No. RC 261602

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

16 and

17 **IRVIN JESUS YANEZ**  
1628 South Pointe Drive  
18 Yuba City, CA 95991  
Advanced Emission Specialist Technician  
19 License No. EA 631690

20 Respondents.

21  
22 **IT IS HEREBY STIPULATED AND AGREED** by and between the parties to the above-  
23 entitled proceedings that the following matters are true:

24 **PARTIES**

25 1. John Wallauch ("Complainant") is the Chief of the Bureau of Automotive Repair  
26 ("Bureau"), Department of Consumer Affairs. He brought this action solely in his official  
27 capacity and is represented in this matter by Kamala D. Harris, Attorney General of the State of  
28 California, by Leslie A. Burgermyer, Deputy Attorney General.

2. Respondent Gustavo Gonzalez, doing business as Go Go Smog & Auto Glass ("Respondent Go Go") is representing himself in this proceeding and has chosen not to exercise his right to be represented by counsel.

3. Respondent Irvin Jesus Yanez ("Respondent Yanez") is representing himself in this proceeding and has chosen not to exercise his right to be represented by counsel.

#### **Automotive Repair Dealer Registration**

4. On or about April 15, 2010, the Bureau issued Automotive Repair Dealer Registration Number ARD26102 ("registration") to Respondent Go Go. The registration will expire on March 31, 2013, unless renewed.

#### **Smog Check Station License**

5. On or about April 19, 2010, the Bureau issued Smog Check Station License Number RC261602 ("station license") to Respondent Go Go. The station license will expire on March 31, 2013, unless renewed.

#### **Advanced Emission Specialist Technician License**

6. On or about January 25, 2010, the Bureau issued Advanced Emission Specialist Technician License Number EA631690 ("technician license") to Respondent Yanez. The technician license was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2013, unless renewed.

#### **JURISDICTION**

7. Accusation No. 79/12-171 was filed before the Director of Consumer Affairs ("Director"), for the Bureau and is currently pending against Respondents. The Accusation and all other statutorily required documents were properly served on Respondent on July 9, 2012. Respondents timely filed their respective Notices of Defense contesting the Accusation.

8. A true and correct copy of Accusation No. 79/12-171 is attached hereto, marked Exhibit A, and incorporated herein by reference.

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1 licensing agency is involved, and shall not be admissible in any other criminal or civil  
2 proceeding.

### 3 CONTINGENCY

4 16. This stipulation shall be subject to approval by the Director of Consumer Affairs or  
5 his designee. Respondent Go Go Smog and Respondent Yanez, individually, understand and  
6 agree that counsel for Complainant and the staff of the Bureau may communicate directly with  
7 the Director and staff of the Department of Consumer Affairs regarding this stipulation and  
8 settlement, without notice to or participation by Respondents. By signing the stipulation,  
9 Respondent Go Go Smog and Respondent Yanez, individually, understand and agree that he may  
10 not withdraw his agreement or seek to rescind the stipulation prior to the time the Director  
11 considers and acts upon it. If the Director fails to adopt this stipulation as the Decision and  
12 Order, then the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except  
13 for this paragraph, it shall be inadmissible in any legal action between the parties, and the  
14 Director shall not be disqualified from further action by having considered this matter.

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

18 18. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an  
19 integrated writing representing the complete, final, and exclusive embodiment of their agreement.  
20 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,  
21 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary  
22 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a  
23 writing executed by an authorized representative of each of the parties.

24 19. In consideration of the foregoing admissions and stipulations, the parties agree that  
25 the Director may, without further notice or formal proceeding, issue and enter the following  
26 Disciplinary Order:

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**DISCIPLINARY ORDER**

**IT IS HEREBY ORDERED** that Automotive Repair Dealer Registration Number ARD261602 and Smog Check Station License Number RC261602 issued to Respondent Gustavo Gonzalez, doing business as Go Go Smog & Auto Glass ("Respondent Go Go") are revoked. The revocation of Advanced Emission Specialist Technician License Number EA152083 issued to Respondent Irvin Jesus Yanez ("Respondent Yanez") is revoked. However, the Automotive Repair Dealer Registration Number ARD261602 and Smog Check Station License Number RC261602 and Advanced Emission Specialist Technician License Number EA152083 are stayed, and each is placed on probation for three (3) years, on the following terms and conditions.

**1. Actual Suspension.**

a. Automotive Repair Dealer Registration Number ARD261602 and Smog Check Station License Number RC261602 issued to Respondent Go Go are suspended for fifteen (15) consecutive days from the effective date of the decision.

b. Advanced Emission Specialist Technician License Number EA152083 issued to Respondent Yanez is suspended for fifteen (15) consecutive days from the effective date of the decision.

**2. Obey All Laws.** Respondent Go Go and Respondent Yanez shall comply with all statutes, regulations and rules governing automotive inspections, estimates and repairs.

**3. Post Sign.** Respondent Go Go shall post a prominent sign at Go Go Smog and Respondent Yanez shall post a prominent sign at his place of employment (the signs will be provided by the Bureau) indicating the beginning and ending dates of their respective suspensions and indicating the reasons for the suspension. The signs shall be conspicuously displayed in a location open to and frequented by customers and shall remain posted during the entire period of actual suspension.

**4. Reporting.** Respondent Go Go and Respondent Yanez, or their authorized representative, must report in person or in writing as prescribed by the Bureau, on a schedule set by the Bureau, but no more frequently than each quarter, on the methods used and success achieved in maintaining compliance with the terms and conditions of probation.

1       5.     **Report Financial Interest.** Within thirty (30) days of the effective date of this  
2 action, Respondents shall each report any financial interest which any partners, officers, or  
3 owners of the Respondent Go Go facility may have in any other business required to be registered  
4 pursuant to Section 9884.6 of the Business and Professions Code.

5       6.     **Random Inspections.** Respondents shall provide Bureau representatives unrestricted  
6 access to inspect all vehicles (including parts) undergoing repairs, up to and including the point of  
7 completion.

8       7.     **Jurisdiction.** If an accusation or petition to revoke probation is filed against  
9 Respondent Go Go or Respondent Yanez during the term of probation, then the Director of the  
10 Department of Consumer Affairs shall have continuing jurisdiction over this matter until the final  
11 decision on the accusation or petition to revoke probation, and the period of probation shall be  
12 extended until such decision.

13       8.     **Violation of Probation.** Should the Director determine that Respondent Go Go or  
14 Respondent Yanez has failed to comply with the terms and conditions of probation, then the  
15 Director may, after giving notice and opportunity to be heard, revoke the Automotive Repair  
16 Dealer Registration Number ARD261602 or the Smog Check Station License Number RC  
17 261602, or both, issued to Respondent Go Go, or the Advanced Emission Specialist Technician  
18 License Number EA631690 issued to Respondent Yanez.

19       9.     **Continuing Education Courses.** During the period of probation, Respondent Yanez,  
20 at his own expense, shall attend and successfully complete a BAR Certified 68 Hour Technician  
21 Training Course in diagnosis and repair of emission systems failures and engine performance,  
22 applicable to the class of license held by Respondent Yanez. Said course shall be completed and  
23 proof of completion submitted to the Bureau within sixty (60) days of the effective date of this  
24 decision and order. If proof of completion of the course is not furnished to the Bureau within the  
25 sixty (60) day period, then Respondent Yanez's Advanced Emission Specialist License Number  
26 EA631690 shall be immediately suspended until such proof is received.

27       10.    **Cost Recovery.** Respondent Go Go shall pay cost recovery to he Bureau for its  
28 investigation and enforcement costs in this matter in the amount of \$8,646.95. Payment to the

Bureau shall be paid in twenty-four (24) equal monthly installments and the full amount of cost recovery shall be received no later than twelve (12) months before probation terminates. Failure to complete payment of cost recovery within this time frame shall constitute a violation of probation which may subject Respondent Go Go's Automotive Repair Dealer Registration Number ARD261602 and Smog Check Station License Number RC261602 to outright revocation. However, the Director or his/her designee at the Bureau may elect to continue probation until such time as reimbursement of the entire cost recovery amount has been made to the Bureau.

### ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Automotive Repair Dealer Registration License Number ARD261602 and Smog Check Station License Number RC261602. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Director of Consumer Affairs.

DATED: 9-19-2012

GUSTAVO GONZALEZ, OWNER, GO GO SMOG &  
AUTO GLASS  
Respondent

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Advanced Emission Specialist Technician License Number EA631690. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Director of Consumer Affairs.

DATED: \_\_\_\_\_

IRVIN JESUS YANEZ  
Respondent



1 the Bureau shall be paid in twenty-four (24) equal monthly installments and the full amount of  
2 cost recovery shall be received no later than twelve (12) months before probation terminates.  
3 Failure to complete payment of cost recovery within this time frame shall constitute a violation of  
4 probation which may subject Respondent Go Go's Automotive Repair Dealer Registration  
5 Number ARD261602 and Smog Check Station License Number RC261602 to outright  
6 revocation. However, the Director or his/her designee at the Bureau may elect to continue  
7 probation until such time as reimbursement of the entire cost recovery amount has been made to  
8 the Bureau.

9 ACCEPTANCE

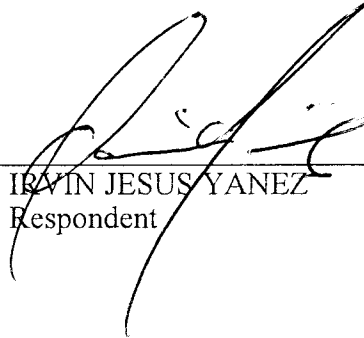
10 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the  
11 stipulation and the effect it will have on my Automotive Repair Dealer Registration License  
12 Number ARD261602 and Smog Check Station License Number RC261602. I enter into this  
13 Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree  
14 to be bound by the Decision and Order of the Director of Consumer Affairs.

15  
16 DATED: \_\_\_\_\_

17 GUSTAVO GONZALEZ, OWNER, GO GO SMOG &  
18 AUTO GLASS  
Respondent

19 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the  
20 stipulation and the effect it will have on my Advanced Emission Specialist Technician License  
21 Number EA631690. I enter into this Stipulated Settlement and Disciplinary Order voluntarily,  
22 knowingly, and intelligently, and agree to be bound by the Decision and Order of the Director of  
23 Consumer Affairs.

24  
25 DATED: 9/12/12

26   
27 IRVIN JESUS YANEZ  
28 Respondent

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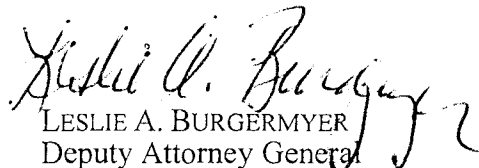
**ENDORSEMENT**

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Director of Consumer Affairs.

DATED: 9/12/12

Respectfully submitted,

KAMALA D. HARRIS  
Attorney General of California  
JANICE K. LACHMAN  
Supervising Deputy Attorney General

  
LESLIE A. BURGERMYER  
Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Accusation No. 79/12-171**

1 KAMALA D. HARRIS  
Attorney General of California  
2 ARTHUR D. TAGGART  
Supervising Deputy Attorney General  
3 LESLIE A. BURGERMYER  
Deputy Attorney General  
4 State Bar No. 117576  
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5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 324-5337  
Facsimile: (916) 327-8643  
7 *Attorneys for Complainant*

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14 **Yuba City, CA 95991**  
**GUSTAVO GONZALEZ, OWNER**  
Automotive Repair Dealer Registration No.  
15 **ARD 261602**  
Smog Check Station License No. RC 261602,

**A C C U S A T I O N**

**SMOG CHECK**

16 and

17 **IRVIN JESUS YANEZ**  
1628 South Pointe Drive  
18 **Yuba City, CA 95991**  
Advanced Emission Specialist Technician  
19 **License No. EA 631690**

20 Respondents.

21  
22 Complainant alleges:

23 **PARTIES**

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

26 **Automotive Repair Dealer Registration**

27 2. On or about April 15, 2010, the Bureau issued Automotive Repair Dealer Registration  
28 Number ARD 261602 ("registration") to Gustavo Gonzalez ("Respondent Go Go"), doing

1 business as Go Go Smog & Auto Glass. The registration will expire on March 31, 2013, unless  
2 renewed.

### 3 **Smog Check Station License**

4 3. On or about April 19, 2010, the Bureau issued Smog Check Station License Number  
5 RC 261602 ("station license") to Respondent Go Go. The station license will expire on March  
6 31, 2013, unless renewed.

### 7 **Advanced Emission Specialist Technician License**

8 4. On or about January 25, 2010, the Bureau issued Advanced Emission Specialist  
9 Technician License Number EA 631690 ("technician license") to Irvin Jesus Yanez ("Respondent  
10 Yanez"). The technician license was in full force and effect at all times relevant to the charges  
11 brought herein and will expire on December 31, 2013, unless renewed.

## 12 **STATUTORY PROVISIONS**

13 5. Section 9884.7 of the Business and Professions Code ("Code") states, in pertinent  
14 part:

15 (a) The director, where the automotive repair dealer cannot show there  
16 was a bona fide error, may deny, suspend, revoke, or place on probation the  
17 registration of an automotive repair dealer for any of the following acts or omissions  
18 related to the conduct of the business of the automotive repair dealer, which are done  
19 by the automotive repair dealer or any automotive technician, employee, partner,  
20 officer, or member of the automotive repair dealer.

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

24 (4) Any other conduct that constitutes fraud.

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

(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.

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1           6.     Code section 118, subdivision (b) states:

2                     The suspension, expiration, or forfeiture by operation of law of a license  
3                     issued by a board in the department, or its suspension, forfeiture, or cancellation by  
4                     order of the board or by order of a court of law, or its surrender without the written  
5                     consent of the board, shall not, during any period in which it may be renewed,  
6                     restored, reissued, or reinstated, deprive the board of its authority to institute or  
7                     continue a disciplinary proceeding against the licensee upon any ground provided by  
8                     law or to enter an order suspending or revoking the license or otherwise taking  
9                     disciplinary action against the licensee on any such ground.

10           7.     Code section 9884.13 provides, in pertinent part, that the expiration of a valid  
11                     registration shall not deprive the director or chief of jurisdiction to proceed with a disciplinary  
12                     proceeding against an automotive repair dealer or to render a decision invalidating a registration  
13                     temporarily or permanently.

14           8.     Code section 477 provides, in pertinent part, that "Board" includes "bureau,"  
15                     "commission," "committee," "department," "division," "examining committee," "program," and  
16                     "agency." "License" includes certificate, registration or other means to engage in a business or  
17                     profession regulated by the Code.

18           9.     Section 44002 of the Health and Safety Code provides, in pertinent part, that the  
19                     Director has all the powers and authority granted under the Automotive Repair Act for enforcing  
20                     the Motor Vehicle Inspection Program.

21           10.    Section 44072.2 of the Health and Safety Code states, in pertinent part:

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

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

28                     (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.

          11.    Section 44072.6 of the Health and Safety Code provides, in pertinent part, that the  
                   expiration or suspension of a license by operation of law, or by order or decision of the Director

///

1 of Consumer Affairs, or a court of law, or the voluntary surrender of the license shall not deprive  
2 the Director of jurisdiction to proceed with disciplinary action.

3 12. Section 44072.8 of the Health and Safety Code states:

4 When a license has been revoked or suspended following a hearing under  
5 this article, any additional license issued under this chapter in the name of the  
6 licensee may be likewise revoked or suspended by the director.

#### 6 **COST RECOVERY**

7 13. Code section 125.3 provides, in pertinent part, that a Board may request the  
8 administrative law judge to direct a licensee found to have committed a violation or violations of  
9 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
10 enforcement of the case.

#### 11 **UNDERCOVER OPERATION – DECEMBER 21, 2011**

12 14. On or about December 21, 2011, a Bureau undercover operator drove a Bureau-  
13 documented 2006 Chevrolet Silverado to Respondent Go Go's facility and requested a smog  
14 inspection. The vehicle could not pass the visual portion of a smog inspection because the  
15 vehicle's exhaust gas recirculation ("EGR") system was missing. Respondent Yanez performed  
16 the smog inspection and issued electronic Certificate of Compliance No. OI740274C for that  
17 vehicle. The operator paid \$50 for the smog inspection and received a copy of Invoice No.  
18 002691 and the Vehicle Inspection Report ("VIR").

#### 19 **FIRST CAUSE FOR DISCIPLINE**

##### 20 **(Misleading Statements)**

21 15. Respondent Go Go has subjected his registration to discipline under Code section  
22 9884.7, subdivision (a)(1), in that on or about December 21, 2011, he made statements which he  
23 knew or which by exercise of reasonable care he should have known were untrue or misleading  
24 when he issued electronic Certificate of Compliance No. OI740274C for the 2006 Chevrolet  
25 Silverado, certifying that the vehicle was in compliance with applicable laws and regulations  
26 when, in fact, the vehicle's EGR system was missing.

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1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Fraud)**

3 16. Respondent Go Go has subjected his registration to discipline under Code section  
4 9884.7, subdivision (a)(4), in that on or about December 21, 2011, he committed acts which  
5 constitute fraud by issuing electronic Certificate of Compliance No. OI740274C for the 2006  
6 Chevrolet Silverado, without performing a bona fide inspection of the emission control devices  
7 and systems on that vehicle, thereby depriving the People of the State of California of the  
8 protection afforded by the Motor Vehicle Inspection Program.

9 **THIRD CAUSE FOR DISCIPLINE**

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

11 17. Respondent Go Go has subjected his station license to discipline under Health and  
12 Safety Code section 44072.2, subdivision (a), in that on or about December 21, 2011, regarding  
13 the 2006 Chevrolet Silverado, he violated sections of that Code, as follows:

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

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

19 c. **Section 44015, subdivision (b):** Respondent Go Go issued electronic Certificate of  
20 Compliance No. OI740274C without properly testing and inspecting the vehicle to determine if it  
21 was in compliance with section 44012 of that Code.

22 **FOURTH CAUSE FOR DISCIPLINE**

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

24 18. Respondent Go Go has subjected his station license to discipline under Health and  
25 Safety Code section 44072.2, subdivision (c), in that on or about December 21, 2011, regarding  
26 the 2006 Chevrolet Silverado, he violated sections of the California Code of Regulations, title 16,  
27 as follows:

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1 a. **Section 3340.35, subdivision (c):** Respondent Go Go issued electronic Certificate of  
2 Compliance No. OI740274C even though that vehicle had not been inspected in accordance with  
3 section 3340.42 of that Code.

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

6 **FIFTH CAUSE FOR DISCIPLINE**

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

8 19. Respondent Go Go has subjected his station license to discipline under Health and  
9 Safety Code section 44072.2, subdivision (d), in that on or about December 21, 2011, regarding  
10 the 2006 Chevrolet Silverado, he committed acts involving dishonesty, fraud or deceit whereby  
11 another was injured by issuing electronic Certificate of Compliance No. OI740247C for that  
12 vehicle without performing a bona fide inspection of the emission control devices and systems on  
13 the vehicle, thereby depriving the People of the State of California of the protection afforded by  
14 the Motor Vehicle Inspection Program.

15 **SIXTH CAUSE FOR DISCIPLINE**

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

17 20. Respondent Yanez has subjected his technician license to discipline under Health and  
18 Safety Code section 44072.2, subdivision (a), in that on or about December 21, 2011, regarding  
19 the 2006 Chevrolet Silverado, he violated sections of that Code, as follows:

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

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

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

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1 **SEVENTH CAUSE FOR DISCIPLINE**

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

3 21. Respondent Yanez has subjected his technician license to discipline under Health and  
4 Safety Code section 44072.2, subdivision (c), in that on or about December 21, 2011, regarding  
5 the 2006 Chevrolet Silverado, he violated sections of the California Code of Regulations, title 16,  
6 as follows:

7 a. **Section 3340.30, subdivision (a):** Respondent Yanez failed to inspect and test that  
8 vehicle in accordance with Health and Safety Code section 44012.

9 b. **Section 3340.41, subdivision (c):** Respondent Yanez entered false information into  
10 the Emission Inspection System for electronic Certificate of Compliance No. OI740247C by  
11 entering "Pass" for the visual inspection for the EGR system when, in fact, the vehicle could not  
12 pass the visual inspection because the vehicle's EGR system was missing.

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

15 **EIGHTH CAUSE FOR DISCIPLINE**

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

17 22. Respondent Yanez has subjected his technician license to discipline under Health and  
18 Safety Code section 44072.2, subdivision (d), in that on or about December 21, 2011, regarding  
19 the 2006 Chevrolet Silverado, he committed acts involving dishonesty, fraud or deceit whereby  
20 another was injured by issuing electronic Certificate of Compliance No. OI740247C without  
21 performing a bona fide inspection of the emission control devices and systems on that vehicle,  
22 thereby depriving the People of the State of California of the protection afforded by the Motor  
23 Vehicle Inspection Program.

24 **PRIOR CITATIONS**

25 23. To determine the degree of penalty, if any, to be imposed upon Respondents Go Go  
26 and Yanez, Complainant alleges as follows:

27 a. On July 28, 2010, the Bureau issued Citation No. C2011-0104 to Respondent Go Go  
28 against his station license for violations of Health and Safety Code section 44012, subdivision (f)

1 (failure to perform a visual/functional check of emission control devices) and California Code of  
2 Regulations, title 16, ("Regulation"), section 3340.35, subdivision (c) (issuing a certificate of  
3 compliance to a vehicle improperly tested). Respondent Go Go issued a certificate of compliance  
4 to a Bureau vehicle with a missing positive crankcase ventilation system. The Bureau assessed a  
5 civil penalty of \$1,000. Respondent Go Go complied with this citation on September 27, 2010.

6 b. On November 2, 2010, the Bureau issued Citation No. C2011-0550 to Respondent Go  
7 Go against his station license for violations of Health and Safety Code section 44012, subdivision  
8 (f) (failure to perform a visual/functional check of emission control devices) and Regulation,  
9 section 3340.35, subdivision (c) (issuing a certificate of compliance to a vehicle improperly  
10 tested). Respondent Go Go issued a certificate of compliance to a Bureau vehicle equipped with  
11 an unapproved adjustable fuel pressure regulator. The Bureau assessed a civil penalty of \$1,500.  
12 Respondent Go Go complied with this citation on January 7, 2011.

13 c. On May 13, 2011, the Bureau issued Citation No. C2011-1240 to Respondent Go Go  
14 against his station license for violations of Health and Safety Code section 44012, subdivision (f)  
15 (failure to perform a visual/functional check of emission control devices). Respondent Go Go  
16 issued a certificate of compliance to a Bureau vehicle with a non-functional malfunction indicator  
17 lamp. The Bureau assessed a civil penalty of \$1,500. Respondent Go Go appealed this citation  
18 on June 30, 2011. Respondent Go Go paid the citation on January 30, 2012, and withdrew the  
19 appeal on February 2, 2012.

20 d. On July 28, 2010, the Bureau issued Citation No. M2011-0105 to Respondent Yanez  
21 against his technician license for violations of Health and Safety Code section 44032, (qualified  
22 technicians shall perform tests of emission control systems and devices in accordance with  
23 section 44012 of that Code) and California Code of Regulations, title 16, ("Regulation") section  
24 3340.30, subdivision (a) (qualified technicians shall inspect, test, and repair vehicles in  
25 accordance with sections 44012 and 44035 of the Health and Safety Code, and Regulation section  
26 3340.42). Respondent Yanez issued a certificate of compliance to a Bureau vehicle with a  
27 missing positive crankcase ventilation system. Respondent Yanez was required to attend an 8-  
28 hour training course. Respondent Yanez complied with this citation on August 14, 2010.

1 e. On November 2, 2010, the Bureau issued Citation No. M2011-0551 to Respondent  
2 Yanez against his technician license for violations of Health and Safety Code section 44032,  
3 (qualified technicians shall perform tests of emission control systems and devices in accordance  
4 with section 44012 of that Code) and California Code of Regulations, title 16, ("Regulation")  
5 section 3340.30, subdivision (a) (qualified technicians shall inspect, test, and repair vehicles in  
6 accordance with sections 44012 and 44035 of the Health and Safety Code, and Regulation section  
7 3340.42). Respondent Yanez issued a certificate of compliance to a Bureau vehicle equipped  
8 with an unapproved adjustable fuel pressure regulator. Respondent Yanez was required to attend  
9 a 16-hour training course. Respondent Yanez complied with this citation on December 14, 2010.

10 f. On May 13, 2011, the Bureau issued Citation No. M2011-1241 to Respondent Yanez  
11 against his technician license for violations of Health and Safety Code section 44032, (qualified  
12 technicians shall perform tests of emission control systems and devices in accordance with  
13 section 44012 of that Code). Respondent Yanez issued a certificate of compliance to a Bureau  
14 vehicle with a non-functional malfunction indicator lamp. Respondent Yanez was required to  
15 attend a 68-hour training course. Respondent Yanez appealed this citation on June 28, 2011;  
16 however, Respondent Yanez withdrew the appeal and completed the training on January 30,  
17 2012.

#### 18 OTHER MATTERS

19 24. Under Code section 9884.7, subdivision (c), the director may invalidate temporarily  
20 or permanently or refuse to validate, the registrations for all places of business operated in this  
21 state by Gustavo Gonzalez, upon a finding that he has, or is, engaged in a course of repeated and  
22 willful violations of the laws and regulations pertaining to an automotive repair dealer.

23 25. Under Health and Safety Code section 44072.8, if Smog Check Station License  
24 Number RC 261602, issued to Gustavo Gonzalez doing business as Go Go Smog & Auto Glass,  
25 is revoked or suspended, any additional license issued under this chapter in the name of said  
26 licensee may be likewise revoked or suspended by the director.

27 26. Under Health and Safety Code section 44072.8, if Advanced Emission Specialist  
28 Technician License Number EA 631690, issued to Irvin Jesus Yanez, is revoked or suspended,

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

3 PRAYER

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

6 1. Revoking, suspending or placing on probation Automotive Repair Dealer Registration  
7 Number ARD 261602, issued to Gustavo Gonzalez doing business as Go Go Smog & Auto  
8 Glass;

9 2. Revoking, suspending or placing on probation any other automotive repair dealer  
10 registration issued to Gustavo Gonzalez;

11 3. Revoking or suspending Smog Check Station License Number RC 261602, issued to  
12 Gustavo Gonzalez doing business as Go Go Smog & Auto Glass;

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

15 5. Revoking or suspending Advanced Emission Specialist Technician License Number  
16 EA 631690, issued to Irvin Jesus Yanez;

17 6. Revoking or suspending any additional license issued under Chapter 5 of the Health  
18 and Safety Code in the name of Irvin Jesus Yanez;

19 7. Ordering Gustavo Gonzalez and Irvin Jesus Yanez to pay the Bureau of Automotive  
20 Repair the reasonable costs of the investigation and enforcement of this case, pursuant to  
21 Business and Professions Code section 125.3; and,

22 8. Taking such other and further action as deemed necessary and proper.  
23

24 DATED: June 21 2012

25   
JOHN WALLAUCH  
26 Chief  
Bureau of Automotive Repair  
27 Department of Consumer Affairs  
State of California  
28 Complainant

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