

1 KAMALA D. HARRIS  
Attorney General of California  
2 GREGORY J. SALUTE  
Supervising Deputy Attorney General  
3 KEVIN J. RIGLEY  
Deputy Attorney General  
4 State Bar No. 131800  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 620-2558  
6 Facsimile: (213) 897-2804  
*Attorneys for Complainant*

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

10 In the Matter of the First Amended Accusation Against:

Case No. 79/12-19

11 **SMOG FOR LESS TEST ONLY**  
12 **7300 Van Nuys Blvd, #4**  
**Van Nuys, CA 91405**  
13 **SERGIO GONZALEZ, AKA**  
**SERGIO SALVADOR GONZALEZ, OWNER**  
14 **Automotive Repair Dealer Registration No. ARD 250583**  
**Smog Check Test Only Station License No. TC 250583,**  
**Certified Training Instructor No. CI 134185**

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

**SMOG CHECK**

15 **SERGIO SALVADOR GONZALEZ, AKA**  
16 **SERGIO GONZALEZ**  
**7840 Agnes Avenue**  
17 **North Hollywood, CA 91605**  
**Advanced Emission Specialist Technician License No.**  
18 **EA 134185,**

19 **IVAN MEJIA**  
20 **7300 Van Nuys Blvd, #4**  
**Los Angeles, CA 91405**  
21 **Advanced Emission Specialist Technician License No.**  
**EA 631910**

22 **ADRIAN ALEJANDRO CALVILLO**  
23 **7300 Van Nuys Blvd, #4**  
**Van Nuys, CA 91405**  
24 **Advanced Emission Specialist Technician License No.**  
**EA 631908,**

25 **PEDRO GONZALEZ**  
26 **38242 Gunton Drive**  
**Palmdale, CA 93550**  
27 **Advanced Emission Specialist Technician License No.**  
**EA 632840**

28 Respondents.

1 Complainant alleges:

2 **PARTIES**

3 1. Sherry Mehl ("Complainant") brings this Accusation solely in her official capacity as  
4 the Chief of the Bureau of Automotive Repair ("Bureau"), Department of Consumer Affairs.

5 **Automotive Repair Dealer Registration**

6 2. On a date uncertain in 2007, the Bureau issued Automotive Repair Dealer  
7 Registration Number ARD 250583 ("registration") to Sergio Gonzalez, also known as Sergio  
8 Salvador Gonzalez ("Respondent Smog For Less"), doing business as Smog For Less Test Only.  
9 The registration was in full force and effect at all times relevant to the charges brought herein and  
10 will expire on May 31, 2012, unless renewed.

11 **Smog Check Test Only Station License**

12 3. On or about May 16, 2007, the Bureau issued Smog Check Test Only Station License  
13 Number TC 250583 ("station license") to Respondent Smog For Less. The station license was in  
14 full force and effect at all times relevant to the charges brought herein and will expire on May 31,  
15 2012, unless renewed.

16 **Advanced Emission Specialist Technician License**

17 4. On a date uncertain in 1997, the Bureau issued Advanced Emission Specialist  
18 Technician License Number EA 134185 ("technician license") to Sergio Salvador Gonzalez  
19 ("Respondent Sergio Gonzalez"). The technician license was in full force and effect at all times  
20 relevant to the charges brought herein and will expire on April 30, 2013, unless renewed.

21 **Certified Training Instructor**

22 5. In or around the year 2003, the Bureau issued Certified Training Instructor No. CI  
23 134185 ("training instructor certification") to Sergio Salvador Gonzalez ("Respondent Sergio  
24 Gonzalez"). The training instructor certification was in full force and effect at all times relevant  
25 to the charges brought herein and will expire on January 31, 2012, unless renewed.

26 ///

27 ///

28 ///

1           **Advanced Emission Specialist Technician License**

2           6.     On or about March 26, 2010, the Bureau issued Advanced Emission Specialist  
3 Technician License Number EA 631910 ("technician license") to Ivan Mejia ("Respondent  
4 Mejia"). The technician license was in full force and effect at all times relevant to the charges  
5 brought herein and will expire on May 31, 2012, unless renewed.

6           **Advanced Emission Specialist Technician License**

7           7.     On or about March 25, 2010, the Bureau issued Advanced Emission Specialist  
8 Technician License Number EA 631908 ("technician license") to Adrian Alejandro Calvillo  
9 ("Respondent Calvillo"). The technician license was in full force and effect at all times relevant  
10 to the charges brought herein and will expire on August 31, 2012, unless renewed.

11           **Advanced Emission Specialist Technician License**

12           8.     On or about February 9, 2011, the Bureau issued Advanced Emission Specialist  
13 Technician License Number EA 632840 ("technician license") to Pedro Gonzalez ("Respondent  
14 Pedro Gonzalez"). The technician license was in full force and effect at all times relevant to the  
15 charges brought herein and will expire on April 30, 2013, unless renewed.

16                           **STATUTORY PROVISIONS**

17           9.     Section 9884.7 of the Business and Professions Code ("Code") states, in pertinent  
18 part:

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

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

28                   (4) Any other conduct that constitutes fraud.

///

///

///

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

7 (c) Notwithstanding subdivision (b), the director may suspend, revoke, or  
8 place on probation the registration for all places of business operated in this state by  
9 an automotive repair dealer upon a finding that the automotive repair dealer has, or is,  
10 engaged in a course of repeated and willful violations of this chapter, or regulations  
11 adopted pursuant to it.

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

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

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

23 13. Section 44072.2 of the Health and Safety Code states, in pertinent part:

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

27 (a) Violates any section of this chapter [the Motor Vehicle Inspection  
28 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.

14. 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 15. 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 16. Health & Saf. Code section 44072.10 states, in pertinent part:

7 . . . .

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

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

12 . . . .

13 (4) Intentional or willful violation of this chapter or any regulation,  
14 standard, or procedure of the department implementing this chapter . . .

#### 14 **REGULATORY PROVISION**

15 17. California Code of Regulations, title 16, section 3340.33.1 states, in pertinent part:

16 (a) An application for certification may be denied or an instructor may be  
17 decertified for the following reasons:

18 . . . .

19 (4) Suspension or revocation of any bureau-issued license, registration, or  
20 qualification certificate held by the instructor if the grounds for suspension or revocation are  
21 substantially related to the qualifications of the instructor to teach bureau-prescribed courses of  
22 instruction...

23 . . . .

24 (c) Any decertification proceeding under this section shall be conducted in  
25 accordance with Chapter 5 (commencing with Section 11500) of Division 3, Title 2 of the  
26 Government Code.

27 ///

28 ///

1 **COST RECOVERY**

2 18. Code section 125.3 provides, in pertinent part, that a Board may request the  
3 administrative law judge to direct a licentiate found to have committed a violation or violations of  
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
5 enforcement of the case.  
6

7 **SURVEILLANCE OPERATION – MAY 7, 2011**

8 19. On or about May 7, 2011, the Bureau performed a video-taped surveillance at  
9 Respondent Smog For Less' facility. The surveillance operation and information obtained from  
10 the Bureau's Vehicle Information Database ("VID") revealed that between 1546 hours and 1748  
11 hours, Respondent Mejia, Respondent Pedro Gonzalez, and Respondent Calvillo, performed six  
12 (6) smog inspections that resulted in the issuance of electronic certificates of compliance for the  
13 vehicles set forth in Table 1, below. The vehicles were certified as having been tested and  
14 inspected and that the vehicles were in compliance with applicable laws and regulations, as more  
15 particularly set forth in Table 1, below. In fact, the smog inspections were performed using the  
16 clean piping method<sup>1</sup> by using the tail pipe emissions of vehicles other than the vehicles being  
17 certified in order to issue the electronic certificates of compliance.

18 ///

19 ///

20 ///

21  
22  
23  
24  
25  
26 <sup>1</sup> "Clean piping" is sampling the (clean) tailpipe emissions and/or the RPM readings of  
27 another vehicle for the purpose of illegally issuing smog certifications to vehicles that are not in  
28 compliance or are not present in the smog check area during the time of the certification.

**Table 1**

<b>Date and Test Times</b>	<b>Vehicle Certified</b>	<b>Vehicle Actually Tested</b>	<b>Certificate Issued</b>	<b>Details</b>
<b>1</b> 5/7/2011 1546 hours to 1558 hours	1985 Toyota Pickup, License No. 3C37587	1995 Toyota Previa, License No. 3LUM073 and 1998 Mercedes E320	OC782013C	Respondent Mejia and Respondent Pedro Gonzalez performed the tests using Respondent Mejia's access code.
<b>2</b> 5/7/2011 1657 hours to 1703 hours	2003 Nissan, License No. 5ZLM332		Failed Test No Cert Issued	Respondent Calvillo performed the tests using Respondent Mejia's personal access code.
<b>3</b> 5/7/2011 1708 hours to 1713 hours	2003 Nissan Sentra, License No. 5ZLM332	2002 Mercury Mountaineer, License No. 4WPG204	OC782014C	Respondent Calvillo performed the tests with the assistance of Respondent Pedro Gonzalez, using Respondent Calvillo's access code.
<b>4</b> 5/7/2011 1717 hours to 1721 hours	1997 Dodge Avenger, License No. 5HPW129	2002 Mercury Mountaineer, License No. 4WPG204	OC782015C	Respondent Pedro Gonzalez and Respondent Calvillo performed the tests using Respondent Calvillo's access code.
<b>5</b> 5/7/2011 1724 hours to 1728 hours	1997 Ford F150 Pickup, License No. 7C46005	2002 Mercury Mountaineer, License No. 4WPG204	OC782016C	Respondent Pedro Gonzalez and Respondent Calvillo performed the tests using Respondent Calvillo's access code.
<b>6</b> 5/7/2011 1732 hours to 1737 hours	2001 Lexus IS 300, License No. 4RYZ271	2002 Mercury Mountaineer, License No. 4WPG204	OC782017C	Respondent Pedro Gonzalez and Respondent Calvillo performed the tests using Respondent Mejia's access code.
<b>7</b> 5/7/2011 1740 hours to 1748 hours	1995 Ford Econoline Van License No. 8C86817	2003 Nissan Sentra, License No. 5ZLM332	OC782018C	Respondent Pedro Gonzalez and Respondent Calvillo performed the tests using Respondent Mejia's access code

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Misleading Statements)**

3 20. Respondent Smog For Less has subjected its registration to discipline under Code  
4 section 9884.7, subdivision (a)(1), in that on or about May 7, 2011, he made statements which he  
5 knew or which by exercise of reasonable care he should have known were untrue or misleading  
6 when he issued electronic certificates of compliance for the vehicles set forth in Table 1, above,  
7 certifying that those vehicles were in compliance with applicable laws and regulations when, in  
8 fact, the vehicles had been clean piped.

9 **SECOND CAUSE FOR DISCIPLINE**

10 **(Fraud)**

11 21. Respondent Smog For Less has subjected its registration to discipline under Code  
12 section 9884.7, subdivision (a)(4), in that on or about May 7, 2011, he committed acts which  
13 constitute fraud by issuing electronic certificates of compliance for the vehicles set forth in Table  
14 1, above, without performing bona fide inspections of the emission control devices and systems  
15 on those vehicles, thereby depriving the People of the State of California of the protection  
16 afforded by the Motor Vehicle Inspection Program.

17 **THIRD CAUSE FOR DISCIPLINE**

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

19 22. Respondent Smog For Less has subjected its station license to discipline under Health  
20 and Safety Code sections 44072.2, subdivision (a), and 44072.10, subdivision (c)(1) and (4), in  
21 that on or about May 7, 2011, regarding the vehicles set forth in Table 1, above, he violated  
22 sections of that Code, as follows:

23 a. **Section 44012, subdivision (a):** Respondent Smog For Less failed to determine that  
24 all emission control devices and systems required by law were installed and functioning correctly  
25 in accordance with test procedures.

26 ///

27 ///

28 ///



1       b.    **Section 44012, subdivision (f):** Respondent Smog For Less failed to perform  
2 emission control tests on those vehicles in accordance with procedures prescribed by the  
3 department.

4       c.    **Section 44015, subdivision (b):** Respondent Smog For Less issued electronic  
5 certificates of compliance without properly testing and inspecting the vehicles to determine if  
6 they were in compliance with section 44012 of that Code.

7                                   **FOURTH CAUSE FOR DISCIPLINE**

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

9       23.   Respondent Smog For Less has subjected its station license to discipline under Health  
10 and Safety Code sections 44072.2, subdivision (c), and 44072.10, subdivision (c)(1) and (4), in  
11 that on or about May 7, 2011, regarding the vehicles set forth in Table 1, above, he violated  
12 sections of the California Code of Regulations, title 16, as follows:

13       a.    **Section 3340.24, subdivision (c):** Respondent Smog For Less falsely or fraudulently  
14 issued electronic certificates of compliance without performing bona fide inspections of the  
15 emission control devices and systems on those vehicles as required by Health and Safety Code  
16 section 44012.

17       b.    **Section 3340.35, subdivision (c):** Respondent Smog For Less issued electronic  
18 certificates of compliance even though those vehicles had not been inspected in accordance with  
19 section 3340.42 of that Code.

20       c.    **Section 3340.42:** Respondent Smog For Less failed to conduct the required smog  
21 tests and inspections on those vehicles in accordance with the Bureau's specifications.

22                                   **FIFTH CAUSE FOR DISCIPLINE**

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

24       24.   Respondent Smog For Less subjected its station license to discipline under Health and  
25 Safety Code sections 44072.2, subdivision (d), and 44072.10, subdivision (c)(1) and (4), in that  
26 on or about May 7, 2011, regarding the vehicles set forth in Table 1, above, he committed acts  
27 involving dishonesty, fraud or deceit whereby another was injured by issuing electronic  
28 certificates of compliance for those vehicles without performing bona fide inspections of the

1 emission control devices and system on those vehicles, thereby depriving the People of the State  
2 of California of the protection afforded by the Motor Vehicle Inspection Program.

3 **SIXTH CAUSE FOR DISCIPLINE**

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

5 25. Respondent Mejia has subjected his technician license to discipline under Health and  
6 Safety Code sections 44072.2, subdivision (a), and 44072.10, subdivision (c)(1) and (4), in that  
7 on or about May 7, 2011, regarding Vehicles 1, 2, 6, and 7, set forth in Table 1, above, he  
8 violated sections of that Code, as follows:

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

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

14 c. **Section 44032:** Respondent Mejia failed to perform tests of the emission control  
15 devices and systems on those vehicles in accordance with section 44012 of that Code, in that  
16 those vehicles had been clean piped.

17 **SEVENTH CAUSE FOR DISCIPLINE**

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

19 26. Respondent Mejia has subjected his technician license to discipline under Health and  
20 Safety Code sections 44072.2, subdivision (c), and 44072.10, subdivision (c)(1) and (4), in that  
21 on or about May 7, 2011, regarding Vehicles 1, 2, 6, and 7, set forth in Table 1, above, he  
22 violated sections of the California Code of Regulations, title 16, as follows:

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

27 b. **Section 3340.30, subdivision (a):** Respondent Mejia failed to inspect and test those  
28 vehicles in accordance with Health and Safety Code section 44012.

1 c. **Section 3340.41, subdivision (b):** Respondent Mejia allowed another person to use  
2 his personal access code in order to perform tests and inspections on Vehicles 2, 6, and 7, set  
3 forth in Table 1, above.

4 d. **Section 3340.41, subdivision (c):** Respondent Mejia entered false information into  
5 the Emission Inspection System ("EIS") for the electronic certificates of compliance by entering  
6 vehicle emission control information for vehicles other than the vehicles being certified.

7 e. **Section 3340.42:** Respondent Mejia failed to conduct the required smog tests and  
8 inspections on those vehicles in accordance with the Bureau's specifications.

9 **EIGHTH CAUSE FOR DISCIPLINE**

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

11 27. Respondent Mejia has subjected his technician license to discipline under Health and  
12 Safety Code sections 44072.2, subdivision (d), and 44072.10, subdivision (c)(1) and (4), in that  
13 on or about May 7, 2011, he committed acts involving dishonesty, fraud or deceit whereby  
14 another was injured by issuing electronic certificates of compliance for Vehicles 1, 2, 6, and 7, set  
15 forth in Table 1, above, without performing bona fide inspections of the emission control devices  
16 and systems on those vehicles, thereby depriving the People of the State of California of the  
17 protection afforded by the Motor Vehicle Inspection Program.

18 **NINTH CAUSE FOR DISCIPLINE**

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

20 28. Respondent Calvillo has subjected his technician license to discipline under Health  
21 and Safety Code sections 44072.2, subdivision (a), and 44072.10, subdivision (c)(1) and (4), in  
22 that on or about May 7, 2011, regarding Vehicles 2, 3, 4, 5, 6 and 7, set forth in Table 1, above,  
23 he violated sections of that Code, as follows:

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

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

1 c. **Section 44032:** Respondent Calvillo failed to perform tests of the emission control  
2 devices and systems on those vehicles in accordance with section 44012 of that Code, in that  
3 those vehicles had been clean piped.

4 **TENTH CAUSE FOR DISCIPLINE**

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

6 29. Respondent Calvillo has subjected his technician license to discipline under Health  
7 and Safety Code sections 44072.2, subdivision (c), and 44072.10, subdivision (c)(1) and (4), in  
8 that on or about May 7, 2011, regarding Vehicles 2, 3, 4, 5, 6, and 7, set forth in Table 1, above,  
9 he violated sections of the California Code of Regulations, title 16, as follows:

10 a. **Section 3340.24, subdivision (c):** Respondent Calvillo falsely or fraudulently issued  
11 electronic certificates of compliance without performing bona fide inspections of the emission  
12 control devices and systems on those vehicles as required by Health and Safety Code section  
13 44012.

14 b. **Section 3340.30, subdivision (a):** Respondent Calvillo failed to inspect and test  
15 those vehicles in accordance with Health and Safety Code section 44012.

16 c. **Section 3340.41, subdivision (c):** Respondent Calvillo entered false information into  
17 the EIS for the electronic certificates of compliance by entering vehicle emission control  
18 information for vehicles other than the vehicles being certified.

19 e. **Section 3340.42:** Respondent Calvillo failed to conduct the required smog tests and  
20 inspections on those vehicles in accordance with the Bureau's specifications.

21 **ELEVENTH CAUSE FOR DISCIPLINE**

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

23 30. Respondent Calvillo has subjected his technician license to discipline under Health  
24 and Safety Code sections 44072.2, subdivision (d), and 44072.10, subdivision (c)(1) and (4), in  
25 that on or about May 7, 2011, he committed acts involving dishonesty, fraud or deceit whereby  
26 another was injured by issuing electronic certificates of compliance for Vehicles 2, 3, 4, 5, 6, and  
27 7, set forth in Table 1, above, without performing bona fide inspections of the emission control  
28

1 devices and systems on those vehicles, thereby depriving the People of the State of California of  
2 the protection afforded by the Motor Vehicle Inspection Program.

3 **TWELFTH CAUSE FOR DISCIPLINE**

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

5 31. Respondent Pedro Gonzalez has subjected his technician license to discipline under  
6 Health and Safety Code sections 44072.2, subdivision (a), and 44072.10, subdivision (c)(1) and  
7 (4), in that on or about May 7, 2011, regarding vehicles 1, 3, 4, 5, 6, and 7, set forth in Table 1,  
8 above, he violated sections of that Code, as follows:

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

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

15 c. **Section 44032:** Respondent Pedro Gonzalez failed to perform tests of the emission  
16 control devices and systems on those vehicles in accordance with section 44012 of that Code, in  
17 that those vehicles had been clean piped.

18 **THIRTEENTH CAUSE FOR DISCIPLINE**

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

20 32. Respondent Pedro Gonzalez has subjected his technician license to discipline under  
21 Health and Safety Code sections 44072.2, subdivision (c), and 44072.10, subdivision (c)(1) and  
22 (4), in that on or about May 7, 2011, regarding the vehicles set forth in Table 1, above, he  
23 violated sections of the California Code of Regulations, title 16, as follows:

24 a. **Section 3340.30, subdivision (a):** Respondent Pedro Gonzalez failed to inspect and  
25 test those vehicles in accordance with Health and Safety Code section 44012.

26 b. **Section 3340.42:** Respondent Pedro Gonzalez failed to conduct the required smog  
27 tests and inspections on those vehicles in accordance with the Bureau's specifications.

28 ///

## SURVEILLANCE OPERATION – MAY 22, 2011

33. On or about May 22, 2011, the Bureau performed a video-taped surveillance at Respondent Smog For Less' facility. The surveillance operation and information obtained from the Bureau's VID revealed that between 1244 hours and 1539 hours, Respondent Mejia performed nine (9) smog inspections that resulted in the issuance of electronic certificates of compliance for the vehicles set forth in Table 2, below, certifying that he had tested and inspected those vehicles and that the vehicles were in compliance with applicable laws and regulations. In fact, Respondent Mejia performed the smog inspections using the clean piping method by using the tail pipe emissions of vehicles other than the vehicles being certified in order to issue the electronic certificates of compliance. None of the vehicles certified were in the test bay at the time of the smog inspections.

**Table 2**

Date and Test Times	Vehicle Certified	Vehicle Actually Tested	Certificate Issued	Details
1 5/22/2011 1244 hours to 1304 hours	1998 Toyota 4Runner, License No. 6PYN419	1998 Mercedes E320	OC886188C	Respondent Mejia performed the smog inspection.
2 5/22/2011 1312 hours to 1319 hours	1995 Buick LeSabre, License No. 3RJU442	2005 Toyota Camry License No. 5PFZ507	OC886189C	Respondent Mejia performed the smog inspection.
3 5/22/2011 1355 hours to 1414 hours	1994 Ford Taurus, License No. 3KDK813	2005 Toyota Camry License No. 5PFZ507	OC886191C	Respondent Mejia performed the smog inspection.
4 5/22/2011 1430 hours to 1435 hours	2005 Ford Explorer, No License Plate	2005 Toyota Camry License No. 5PFZ507	OC886192C	Prior to this beginning this test, Respondent Mejia aborted a test on this vehicle. Respondent Mejia performed this smog inspection.

1	5	2000 Buick LeSabre, No License Plate	2005 Toyota Camry License No. 5PFZ507	OC886193C	Respondent Mejia performed the smog inspection.
2	5/22/2011				
3	1440 hours to 1450 hours				
4	6	2000 Chevrolet Astro, No License Plate	2005 Toyota Camry License No. 5PFZ507	OC886194C	Respondent Mejia performed the smog inspection
5	5/22/2011				
6	1455 hours to 1505 hours				
7	7	1999 Nissan Quest, No License Plate	2005 Toyota Camry License No. 5PFZ507	OC886195C	Respondent Mejia performed the smog inspection
8	5/22/2011				
9	1509 hours to 1515 hours				
10	8	2000 Ford Explorer, License No. 4MED064	2005 Toyota Camry License No. 5PFZ507	OC886196C	Respondent Mejia performed the smog inspection
11	5/22/2011				
12	1521 hours to 1528 hours				
13	9	2001 Chrysler Sebring, No License Plate	2005 Toyota Camry License No. 5PFZ507	OC886197C	Respondent Mejia performed the smog inspection
14	5/22/2011				
15	1532 hours to 1539 hours				

#### **FOURTEENTH CAUSE FOR DISCIPLINE**

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

34. Respondent Smog For Less has subjected its registration to discipline under Code section 9884.7, subdivision (a)(1), in that on or about May 22, 2011, he made statements which he knew or which by exercise of reasonable care he should have known were untrue or misleading when he issued electronic certificates of compliance for the vehicles set forth in Table 2, above, certifying that those vehicles were in compliance with applicable laws and regulations when, in fact, the vehicles had been clean piped.

///

///

///

1 **FIFTEENTH CAUSE FOR DISCIPLINE**

2 **(Fraud)**

3 35. Respondent Smog For Less has subjected its registration to discipline under Code  
4 section 9884.7, subdivision (a)(4), in that on or about May 22, 2011, he committed acts which  
5 constitute fraud by issuing electronic certificates of compliance for the vehicles set forth in Table  
6 2, above, without performing bona fide inspections of the emission control devices and systems  
7 on those vehicles, thereby depriving the People of the State of California of the protection  
8 afforded by the Motor Vehicle Inspection Program.

9 **SIXTEENTH CAUSE FOR DISCIPLINE**

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

11 36. Respondent Smog For Less has subjected its station license to discipline under Health  
12 and Safety Code sections 44072.2, subdivision (a), and 44072.10, subdivision (c)(1) and (4), in  
13 that on or about May 22, 2011, regarding the vehicles set forth in Table 2, above, he violated  
14 sections of that Code, as follows:

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

18 b. **Section 44012, subdivision (f):** Respondent Smog For Less failed to perform  
19 emission control tests on those vehicles in accordance with procedures prescribed by the  
20 department.

21 c. **Section 44015, subdivision (b):** Respondent Smog For Less issued electronic  
22 certificates of compliance without properly testing and inspecting the vehicles to determine if  
23 they were in compliance with section 44012 of that Code.

24 **SEVENTEENTH CAUSE FOR DISCIPLINE**

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

26 37. Respondent Smog For Less has subjected its station license to discipline under Health  
27 and Safety Code sections 44072.2, subdivision (c), and 44072.10, subdivision (c)(1) and (4), in  
28



1 that on or about May 22, 2011, regarding the vehicles set forth in Table 2, above, he violated  
2 sections of the California Code of Regulations, title 16, as follows:

3 a. **Section 3340.24, subdivision (c):** Respondent Smog For Less falsely or fraudulently  
4 issued electronic certificates of compliance without performing bona fide inspections of the  
5 emission control devices and systems on those vehicles as required by Health and Safety Code  
6 section 44012.

7 b. **Section 3340.35, subdivision (c):** Respondent Smog For Less issued electronic  
8 certificates of compliance even though those vehicles had not been inspected in accordance with  
9 section 3340.42 of that Code.

10 c. **Section 3340.42:** Respondent Smog For Less failed to conduct the required smog  
11 tests and inspections on those vehicles in accordance with the Bureau's specifications.

12 **EIGHTEENTH CAUSE FOR DISCIPLINE**

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

14 38. Respondent Smog For Less subjected its station license to discipline under Health and  
15 Safety Code sections 44072.2, subdivision (d), and 44072.10, subdivision (c)(1) and (4), in that  
16 on or about May 22, 2011, regarding the vehicles set forth in Table 2, above, he committed acts  
17 involving dishonesty, fraud or deceit whereby another was injured by issuing electronic  
18 certificates of compliance for those vehicles without performing bona fide inspections of the  
19 emission control devices and system on those vehicles, thereby depriving the People of the State  
20 of California of the protection afforded by the Motor Vehicle Inspection Program.

21 **NINETEENTH CAUSE FOR DISCIPLINE**

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

23 39. Respondent Mejia has subjected his technician license to discipline under Health and  
24 Safety Code sections 44072.2, subdivision (a), and 44072.10, subdivision (c)(1) and (4), in that  
25 on or about May 22, 2011, regarding the vehicles set forth in Table 2, above, he violated sections  
26 of that Code, as follows:

27 ///

28 ///

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

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

6       c.     **Section 44032:** Respondent Mejia failed to perform tests of the emission control  
7 devices and systems on those vehicles in accordance with section 44012 of that Code, in that  
8 those vehicles had been clean piped.

9                               **TWENTIETH CAUSE FOR DISCIPLINE**

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

11       40.    Respondent Mejia has subjected his technician license to discipline under Health and  
12 Safety Code section 44072.2, subdivision (c), and 44072.10, subdivision (c)(1) and (4), in that on  
13 or about May 22, 2011, regarding the vehicles set forth in Table 2, above, he violated sections of  
14 the California Code of Regulations, title 16, as follows:

15       a.     **Section 3340.24, subdivision (c):** Respondent Mejia falsely or fraudulently issued  
16 electronic certificates of compliance without performing bona fide inspections of the emission  
17 control devices and systems on those vehicles as required by Health and Safety Code section  
18 44012.

19       b.     **Section 3340.30, subdivision (a):** Respondent Mejia failed to inspect and test those  
20 vehicles in accordance with Health and Safety Code section 44012.

21       c.     **Section 3340.41, subdivision (c):** Respondent Mejia entered false information into  
22 the EIS for the electronic certificates of compliance by entering vehicle emission control  
23 information for vehicles other than the vehicles being certified.

24       d.     **Section 3340.42:** Respondent Mejia failed to conduct the required smog tests and  
25 inspections on those vehicles in accordance with the Bureau's specifications.

26     ///

27     ///

28     ///

1                                   **TWENTY-FIRST CAUSE FOR DISCIPLINE**

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

3           41.   Respondent Mejia has subjected his technician license to discipline under Health and  
4   Safety Code sections 44072.2, subdivision (d), and 44072.10, subdivision (c)(1) and (4), in that  
5   on or about May 22, 2011, he committed acts involving dishonesty, fraud or deceit whereby  
6   another was injured by issuing electronic certificates of compliance for the vehicles set forth in  
7   Table 2, above, without performing bona fide inspections of the emission control devices and  
8   systems on those vehicles, thereby depriving the People of the State of California of the  
9   protection afforded by the Motor Vehicle Inspection Program.

10                               **TWENTY-SECOND CAUSE FOR DISCIPLINE**

11                               **(Decertification as Bureau Instructor)**

12           42.   Respondent Sergio Gonzalez has subjected his certification as an instructor certified  
13   by the Bureau to provide retraining to licensed smog technicians and/or training to those seeking  
14   to become licensed technicians to discipline under California Code of Regulations, title 16,  
15   section 3340.33.1, subdivisions (a)(4) and (c), should any of his Bureau-held licenses or his  
16   Bureau-held registration be suspended or revoked as a result of these disciplinary proceedings.

17                               **OTHER MATTERS**

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

22           44.   Under Health and Safety Code section 44072.8, if Smog Check Test Only Station  
23   License Number TC 250583, issued to Sergio S. Gonzalez doing business as Smog For Less Test  
24   Only, is revoked or suspended, any additional license issued under this chapter in the name of  
25   said licensee may be likewise revoked or suspended by the director including, but not limited to  
26   Advanced Emission Specialist Technician License Number EA 134185, issued to Sergio Salvador  
27   Gonzalez.

28   ///

45. Under Health and Safety Code section 44072.8, if Advanced Emission Specialist Technician License Number EA 631910, issued to Ivan Mejia 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.

46. Under Health and Safety Code section 44072.8, if Advanced Emission Specialist Technician License Number EA 631908, issued to Adrian Alejandro Calvillo 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.

47. Under Health and Safety Code section 44072.8, if Advanced Emission Specialist Technician License Number EA 632840, issued to Pedro Gonzalez 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.

## 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:

1. Revoking, suspending, or placing on probation, Automotive Repair Dealer  
Registration Number ARD 250583, issued to Sergio Salvador Gonzalez doing business as Smog  
For Less Test Only;

2. Revoking, suspending, or placing on probation, any other automotive repair dealer registration issued to Sergio Salvador Gonzalez;

3. Revoking or suspending Smog Check Test Only Station License Number TC 250583, issued to Sergio Salvador Gonzalez doing business as Smog For Less Test Only;

4. Revoking or suspending any additional license issued under Chapter 5 of the Health and Safety Code in the name of Sergio Salvador Gonzalez including but not limited to Advanced Emission Specialist Technician License Number EA 134185, issued to Sergio Salvador Gonzalez;

5. Decertifying Sergio Salvador Gonzalez as an instructor certified by the Bureau (Certified Training Instructor No. CI 134185) to provide retraining to licensed smog technicians and/or training to those seeking to become licensed technicians;

1           6.     Revoking or suspending Advanced Emission Specialist Technician License Number  
2 EA 631910, issued to Ivan Mejia;

3           7.     Revoking or suspending any additional license issued under Chapter 5 of the Health  
4 and Safety Code in the name of Ivan Mejia;

5           8.     Revoking or suspending Advanced Emission Specialist Technician License Number  
6 EA 631908, issued to Adrian Alejandro Calvillo;

7           9.     Revoking or suspending any additional license issued under Chapter 5 of the Health  
8 and Safety Code in the name of Adrian Alejandro Calvillo;

9           10.    Revoking or suspending Advanced Emission Specialist Technician License Number  
10 EA 632840, issued to Pedro Gonzalez;

11          11.    Revoking or suspending any additional license issued under Chapter 5 of the Health  
12 and Safety Code in the name of Pedro Gonzalez;

13          12.    Ordering Sergio Salvador Gonzalez, Ivan Mejia, Adrian Alejandro Calvillo, and  
14 Pedro Gonzalez to pay the Bureau of Automotive Repair the reasonable costs of the investigation  
15 and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

16          13.    Taking such other and further action as deemed necessary and proper.  
17  
18

19 DATED: 10/14/11

20 Sherry Mehl by [Signature]  
21 SHERRY MEHL  
22 Chief  
23 Bureau of Automotive Repair  
24 Department of Consumer Affairs  
25 State of California  
26 Complainant

Assist. Chief

27 LA2011601164  
28 10736445.doc