

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

In the Matter of the Accusation Against:

**EVERY DAY SMOG;
EDGAR IVAN GODINEZ, OWNER**
Automotive Repair Dealer No. ARD 261653
Smog Check Station License No. RC 261653
Brake Station License No. BS 261653, Class C
Lamp Station License No. LS 261653, Class A

and

EDGAR IVAN GODINEZ
Smog Check Inspector License No. EO 154357
Smog Check Repair Technician License No.
EI 154357
Brake Adjuster License No. BA 154357
Lamp Adjuster License No. LA 154357

and

JOEL MENDEZ ESTRADA
Smog Check Inspector License No. EO 635462
Brake Adjuster License No. BA 635462
Lamp Adjuster License No. LA 635462

Respondents.

Case No. 79/15-5617

OAH No. 2017050298

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby accepted and adopted by the Director of Consumer Affairs as the Decision in the above-entitled matter only as to the following:

1. Automobile Repair Dealer No. ARD 261653, Smog Check Station License No. RC 261653, Brake Station License No. BS 261653, Lamp Station License No. LS 261653 issued to Respondent EVERY DAY SMOG EDGAR IVAN GODINEZ, OWNER;
and

2. Smog Check Inspector License No. EO 154357, Smog Check Repair Technician License No. EI 154357, Brake Adjuster License No. BA 154357, and Lamp Adjuster License No. LA 154357 issued to Respondent EDGAR IVAN GODINEZ.

This Decision shall become effective March 27, 2018.

DATED: Feb. 15, 2018



GRACE ARUPO RODRIGUEZ
Assistant Deputy Director
Legal Affairs Division
Department of Consumer Affairs

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

In the Matter of the Accusation Against:

EVERY DAY SMOG; EDGAR IVAN
GODINEZ, OWNER,

Automotive Repair Dealer No. ARD 261653
Smog Check Station License No. RC 261653
Brake Station License No. BS 261653, Class C
Lamp Station License No. LS 261653, Class A

and

EDGAR IVAN GODINEZ

Smog Check Inspector (EO) License No. 154357
Smog Check Repair Technician (EI) License
No. 154357
Brake Adjuster License No. BA 154357
Lamp Adjuster License No. LA 154357

and

JOEL MENDEZ ESTRADA,

Smog Check Inspector (EO) License No. 635462
Brake Adjuster License No. BA 635462
Lamp Adjuster License No. LA 635462

Respondents.

Case No. 79/15-5617

OAH No. 2017050298

PROPOSED DECISION

This matter was heard before Timothy J. Aspinwall, Administrative Law Judge,
Office of Administrative Hearings, State of California, on June 1 and 2, and October 3 and 4,
2017, in Sacramento, California.

Joshua B. Eisenberg, Deputy Attorney General, represented Patrick Dorais (complainant), Chief of the Bureau of Automotive Repair (Bureau), Department of Consumer Affairs.

Michael B. Levin, Attorney at law, represented respondent Edgar Ivan Godinez (respondent Godinez or Mr. Godinez) and his business Every Day Smog (Every Day).

Evidence was received, and the record was held open until November 20, 2017, for the parties to submit written closing arguments. Complainant's closing argument was timely received and marked for identification as Exhibit 63. Respondent's closing argument was timely received and marked for identification as Exhibit P. Complainant's reply to respondent's closing argument was timely received and marked for identification as Exhibit 64. The record was closed on November 20, 2017, and the matter submitted for decision.

FACTUAL FINDINGS

License Histories

1. On April 20, 2010, the Bureau issued Automotive Repair Dealer Registration No. ARD 261653 to respondent Godinez doing business as Every Day Smog. The registration will expire on April 30, 2018, unless renewed or revoked.
2. On May 10, 2010, the Bureau issued Smog Check Station License No. RC 261653 to respondent Godinez doing business as Every Day Smog. The station license will expire on April 30, 2018, unless renewed or revoked.
3. On November 20, 2014, the Bureau issued Brake Station License No. BS 261653, Class C, to respondent Godinez doing business as Every Day Smog. The station license will expire on April 30, 2018, unless renewed or revoked.
4. On November 13, 2014, the Bureau issued Lamp Station License No. LS 261653, Class A, to respondent Godinez doing business as Every Day Smog. The station license will expire April 30, 2018, unless renewed or revoked.
5. On an unspecified date in 2007, the Bureau issued Advanced Emission Specialist (EA) Technician License No. 154357 to respondent Godinez. The license expired April 30, 2013, and was renewed as Smog Check Inspector (EO) License No. 154357 and Smog Check Repair Technician (EI) License No. 154357 on May 1, 2013. The smog check inspector and smog check repair technician licenses will expire on April 30, 2019, unless renewed or revoked.
6. On May 23, 2011, the Bureau issued Brake Adjuster License No. BA 154357, Class C, to respondent Godinez. The license will expire on April 30, 2019, unless renewed or revoked.

7. On January 26, 2015, the Bureau issued Lamp Adjuster License No. LA 154357, Class A, to respondent Godinez. The license will expire on April 30, 2018, unless renewed or revoked.

8. On April 29, 2013, the Bureau issued Smog Check Inspector (EO) License No. 635462 to respondent Estrada, who signed a Stipulated Revocation of Licenses on May 1, 2017.¹

9. On October 13, 2014, the Bureau issued Brake Adjuster License No. BA 635462, Class A, to respondent Estrada, who signed a Stipulated Revocation of Licenses on May 1, 2017.

10. On or about October 3, 2014, the Bureau issued Lamp Adjuster License No. LA 635462, Class A, to respondent Estrada, who signed a Stipulated Revocation of Licenses on May 1, 2017.

Updated Smog Check Program – On Board Diagnostic System

11. On March 9, 2015, California's Smog Check Program was updated, and now requires the use of an On-Board Diagnostic Inspection (BAR-OIS) when performing smog inspections on most model-year 2000 and newer gasoline and hybrid vehicles and most model-year 1998 and newer diesel vehicles. The BAR-OIS system consists of a certified Data Acquisition Device (DAD), computer, barcode scanner, and printer. The DAD is an On Board Diagnostic (OBD) scan tool that, when requested by the California BAR-OIS software, retrieves OBD data from the vehicle. The DAD connects between the BAR-OIS computer and the vehicle's diagnostic link connector. The bar code scanner is used to input technician information, the vehicle identification number (VIN), and the Department of Motor Vehicle (DMV) renewal information. The VIN that is physically present on all vehicles is required to be programmed into the vehicle's On-Board Diagnostics – Generation II (OBD II) on 2005 and newer vehicles, and has also been programmed into the OBD II computer in many vehicles of earlier model-years.

12. The electronically programmed VIN (eVIN), is captured by the Bureau during a smog check inspection and should match the physical VIN on the vehicle. A printer is used to provide a Vehicle Inspection Report (VIR), which shows the inspection results and the Smog Check Certificate of Compliance Number for passing vehicles. Data retrieved and

¹ Joel Mendez Estrada was employed by Every Day Smog from mid-2014 to March 30, 2017, as a smog check inspector and brake and lamp adjuster. On May 1, 2017, Mr. Estrada signed a Stipulated Revocation of Licenses and did not appear in this matter. Based on the revocation, complainant moved at hearing to strike from the Accusation all Causes for Discipline relating solely to Mr. Estrada, specifically Causes for Discipline 9 through 12, 22 through 25, 34 through 37, 46 through 49, and 58 through 61. The motion to strike was granted, and no findings are made regarding the stricken Causes for Discipline.

recorded during an OIS smog check include the eVIN, the communication protocol, and the number of Parameter Identifications (PID's). The OBD II communication protocol describes the specific manufacturer/vehicle communication "language" used by the OBD II computer to communicate with scan tools and other devices such as the BAR-OIS. PIDs are data points reported by the OBD II computer to the scan tool or BAR-OIS (e.g., engine speed, vehicle speed, engine temperature, etc.). Each make and model of vehicle reports a specific number of PID counts, and does not vary for that make and model of vehicle.

First through Eighth Causes for Discipline – Clean-Plugging²

13. William Nicks, employed by the Bureau as a Program Representative II, reviewed OIS test data for vehicles inspected by Mr. Godinez and Mr. Estrada at Every Day during the period of June 15, 2015, through April 6, 2016. Mr. Nicks' review revealed the issuance of Smog Certificates of Compliance to 11 vehicles that were not connected to the DAD when they were certified, as indicated by the fact that the OIS data transmitted when the 11 vehicles were certified differed from the OIS test data the vehicles transmitted during other BAR-OIS inspections and/or the OIS test data transmitted was not consistent with the OIS test dated transmitted by vehicles of the same make and model when they were tested. The following paragraphs describe the testing of each of the 11 vehicles.

14. 2000 Ford Expedition XLT: BAR-OIS test data showed that on June 25, 2015, Mr. Estrada performed a smog inspection on a 2000 Ford Expedition XLT, and issued a Certificate of Compliance which included a certification under penalty of perjury that the vehicle passed a properly administered smog inspection. The BAR-OIS test details showed that the e-VIN recorded during the inspection did not match the VIN for the Ford Expedition XLT, but instead matched a 2005 Dodge Neon SRT-4 which was smog tested by Mr. Godinez at Every Day on June 25, 2015. In addition, the communication protocol and the PID count recorded during the inspection of the 2005 Dodge Neon SRT-4 were consistent with the communication protocol and PID count recorded during the smog check of the 2000 Ford Expedition XLT. This evidence demonstrates that Mr. Estrada used the 2005 Dodge Neon's properly functioning OBD II system to generate a false Certificate of Compliance for the 2000 Ford Expedition XLT.

15. 2004 Chevrolet C1500 Suburban: BAR-OIS test data showed that on September 9, 2015, Mr. Estrada performed a smog inspection on a 2004 Chevrolet C1500 Suburban, and issued a Certificate of Compliance which included a certification under penalty of perjury that the vehicle passed a properly administered smog inspection. The BAR-OIS test details showed that the e-VIN recorded during the inspection did not match the VIN for the Chevrolet C1500 Suburban, but instead matched a 2004 Chevrolet Silverado that was smog tested at Every Day on September 9, 2015. In addition, the communication

² Clean-plugging is the use of a vehicle's properly functioning OBD II system, or another source, to generate passing diagnostic readings for the purpose of issuing a fraudulent smog certificate of compliance for another vehicle that is not in compliance with the Smog Check Program and/or is not present for testing.

protocol and the PID count recorded during the inspection of the 2004 Chevrolet Silverado were consistent with the communication protocol and PID count recorded during the smog check of the 2004 Chevrolet C1500 Suburban. This evidence demonstrates that Mr. Estrada used the 2004 Chevrolet Silverado's properly functioning OBD II system to generate a false Certificate of Compliance for the 2004 Chevrolet C1500 Suburban.

16. 2007 Honda Civic SI: On September 14, 2015, Mr. Estrada performed a smog inspection of a 2007 Honda Civic SI, and issued a Certificate of Compliance which included a certification under penalty of perjury that the vehicle passed a properly performed smog inspection. The e-VIN was not transmitted to the VID during inspection, and the PID count recorded during the smog check of the 2007 Honda Civic SI was not consistent with the PID count for that make and model. This evidence demonstrates that Mr. Estrada did not connect the DAD to the vehicle during the smog inspection, and that he generated a false Certificate of Compliance.

17. 2004 BMW 545i: On December 17, 2015, Mr. Estrada performed a smog inspection of a 2004 BMW 545i, and issued a Certificate of Compliance which included a certification under penalty of perjury that the vehicle passed a properly performed smog inspection. The e-VIN was not transmitted to the VID during inspection. The Comparative OIS Test Data for 2004 BMW 545i vehicles show that the majority transmit the eVIN during the inspection, and that the PID count recorded during the smog check of the 2004 BMW 545i was not consistent with the PID count for that make and model. This evidence demonstrates that Mr. Estrada did not connect the DAD to the vehicle during the smog inspection, and that he generated a false Certificate of Compliance.

18. 2005 Mitsubishi Lancer Evolution AWD: On January 30, 2016, Mr. Estrada performed a smog inspection of a 2005 Mitsubishi Lancer Evolution AWD, and issued a Certificate of Compliance which included a certification under penalty of perjury that the vehicle passed a properly performed smog inspection. The e-VIN was not transmitted to the VID during inspection, and the PID count recorded during the smog check of the 2005 Mitsubishi Lancer Evolution AWD was not consistent with the PID count for that make and model. This evidence demonstrates that Mr. Estrada did not connect the DAD to the vehicle during the smog inspection, and that he generated a false Certificate of Compliance.

19. 2008 GMC Canyon: BAR-OIS test data showed that on March 4, 2016, Mr. Godinez performed a smog inspection on a 2008 GMC Canyon, and issued a Certificate of Compliance which included a certification under penalty of perjury that the vehicle passed a properly administered smog inspection. The BAR-OIS test details showed that the e-VIN recorded during the inspection did not match the VIN for the 2008 GMC Canyon, but instead matched a 2003 GMC Envoy XL which was smog tested at Every Day on May 23, 2015. In addition, the communication protocol and the PID count recorded during the inspection of the 2003 GMC Envoy XL were consistent with the communication protocol and PID count recorded during the smog check of the 2008 GMC Canyon. This evidence demonstrates that Mr. Godinez used the 2003 GMC Envoy's properly functioning OBD II system to generate a false Certificate of Compliance for the 2008 GMC Canyon.

20. 2008 BMW 335i: BAR-OIS test data showed that on March 8, 2016, Mr. Estrada performed a smog inspection on a 2008 BMW 335i, and issued a Certificate of Compliance which included a certification under penalty of perjury that the vehicle passed a properly administered smog inspection. The BAR-OIS test details showed that the e-VIN recorded during the inspection did not match the VIN for the 2008 BMW 335i, but instead matched a 2008 Nissan Sentra which was smog tested at Every Day on March 8, 2016. In addition, the communication protocol and the PID count recorded during the inspection of the 2008 Nissan Sentra were consistent with the communication protocol and PID count recorded during the smog check of the 2008 BMW 335i. This evidence demonstrates that Mr. Estrada used the 2008 Nissan Sentra's properly functioning OBD II system to generate a false Certificate of Compliance for the 2008 BMW 335i.

21. 2001 Volkswagen Jetta GL: On March 8, 2016, Mr. Estrada performed a smog inspection of a 2001 Volkswagen Jetta GL, and issued a Certificate of Compliance which included a certification under penalty of perjury that the vehicle passed a properly performed smog inspection. The e-VIN was not transmitted to the VID during inspection, and the PID count recorded during the smog check of the 2001 Volkswagen Jetta GL was not consistent with the PID count for that make and model. This evidence demonstrates that Mr. Estrada did not connect the DAD to the vehicle during the smog inspection, and that he generated a false Certificate of Compliance.

22. 2007 Chevrolet Silverado C1500: BAR-OIS test data showed that on April 5, 2016, Mr. Estrada performed a smog inspection on a 2007 Chevrolet Silverado C1500, and issued a Certificate of Compliance which included a certification under penalty of perjury that the vehicle passed a properly administered smog inspection. The BAR-OIS test details showed that the e-VIN recorded during the inspection did not match the VIN for the 2007 Chevrolet Silverado C1500, but instead matched a 2003 Chevrolet Silverado C1500 which was smog tested at Every Day on April 5, 2016. In addition, the communication protocol and the PID count recorded during the inspection of the 2003 Chevrolet Silverado C1500 were consistent with the communication protocol and PID count recorded during the smog check of the 2007 Chevrolet Silverado C1500. This evidence demonstrates that Mr. Estrada used the 2003 Chevrolet Silverado's properly functioning OBD II system to generate a false Certificate of Compliance for the 2007 Chevrolet Silverado C1500.

23. 2008 Dodge Caravan SXT: On April 5, 2016, Mr. Estrada performed a smog inspection of a 2008 Dodge Caravan SXT, and issued a Certificate of Compliance which included a certification under penalty of perjury that the vehicle passed a properly performed smog inspection. The e-VIN was not transmitted to the VID during inspection, and the PID count recorded during the smog check of the 2008 Dodge Caravan SXT was not consistent with the PID count for that make and model. This evidence demonstrates that Mr. Estrada did not connect the DAD to the vehicle during the smog inspection, and that he generated a false Certificate of Compliance.

24. 2007 Ford 500 SEL AWD: On April 16, 2016, Mr. Estrada performed a smog inspection of a 2007 Ford 500 SEL AWD, and issued a Certificate of Compliance which included a certification under penalty of perjury that the vehicle passed a properly performed

smog inspection. The e-VIN transmitted during the inspection did not match the 2007 Ford 500 SEL AWD. Also, the PID count recorded during the smog check of the 2007 Ford 500 SEL AWD was not consistent with the PID count for that make and model. This evidence demonstrates that Mr. Estrada did not connect the DAD to the vehicle during the smog inspection, and that he generated a false Certificate of Compliance.

Thirteenth through Twenty-First Causes for Discipline -- Secret Shopper³ Operation, April 2, 2015

25. On April 2, 2015, John Galindo, an undercover operator paid but not employed by the Bureau, took a 2007 Toyota Camry owned by the Bureau to Every Day, met with Mr. Godinez, and requested a smog, brake, and lamp inspection. Mr. Galindo signed a work order under an assumed name. Mr. Godinez did not give Mr. Galindo a copy of the signed work order or a repair estimate before Mr. Estrada commenced work on the Camry.

26. Mr. Galindo watched Mr. Estrada perform the brake and lamp inspections, and observed that Mr. Estrada did not remove the wheels, and that the vehicle was not taken out from Every Day for road-testing during the course of the inspection. At the conclusion of the inspection, Mr. Galindo paid \$120 for the work, and Mr. Godinez gave Mr. Galindo an invoice, vehicle inspection report, brake certificate, and a lamp certificate. The brake certificate, signed by Mr. Estrada, certified under penalty of perjury that the Camry was road tested and required seven feet to stop at 20 miles per hour. There is no evidence that the Camry was road tested during the inspection at Every Day. Mr. Galindo observed that Mr. Godinez did not leave the premises of Every Day during the inspection.

Twenty-Sixth through Thirty-Third Causes for Discipline -- Undercover Operation, November 19, 2015

27. On November 19, 2015, Mr. Galindo took a 2007 Ford Mustang owned by the Bureau to Every Day, met with Mr. Godinez, and requested a smog, brake, and lamp inspection. Mr. Godinez did not provide a repair estimate to Mr. Galindo or have him sign a repair order before Mr. Estrada commenced the inspection of the Mustang.

28. Mr. Galindo watched Mr. Estrada perform the brake and lamp inspections, and observed that Mr. Estrada did not remove the wheels, and that the vehicle was not taken out from Every Day for road-testing during the course of the inspection. At the conclusion of the inspection, Galindo paid \$120 for the work, and Mr. Godinez gave Mr. Galindo an invoice, vehicle inspection report, brake certificate, and a lamp certificate. The brake certificate, signed by Mr. Estrada, certified under penalty of perjury that the Mustang was road tested and required nine feet to stop at 20 miles per hour. There is no evidence that the Mustang

³ A “secret shopper” operation is distinguished from an “undercover” operation because the vehicle used in a secret shopper run is properly functioning and has not been manipulated by the Bureau to make the vehicle defective in a way that would cause it to fail a properly administered test.

was road tested during the inspection at Every Day. Mr. Galindo observed that Mr. Godinez did not leave the premises of Every Day during the inspection.

29. Prior to the inspection, Jeff Vietzke, a Program Representative II employed by the Bureau, modified the 2007 Ford Mustang. He installed right front and left rear brake rotors that did not meet manufacturer's specifications for minimum thickness. He also adjusted the front low beam head lamps out of manufacturer's specifications. He also installed tamper indicators on the wheels and headlamps that would break if the wheels were removed to inspect the brakes or the headlamps were adjusted. On November 20, 2015, Mr. Vietzke reinspected the vehicle. The headlamps had been adjusted to meet specifications, and the tamper indicators were broken. The tamper indicators on the wheels were unbroken, and the brake rotors remained out of specification.

Thirty-Eighth through Forty-Fifth Causes for Discipline – Undercover Operation, December 11, 2015

30. On December 11, 2015, Mr. Galindo took a 2001 Pontiac Firebird owned by the Bureau to Every Day, met with Mr. Godinez, and requested a smog, brake, and lamp inspection. Mr. Godinez did not provide a repair estimate to Mr. Galindo or have him sign a repair order before the inspection of the Firebird commenced.

31. Mr. Galindo watched Mr. Estrada perform the brake and lamp inspections, and observed that Mr. Estrada did not remove the wheels, and that the vehicle was not taken out from Every Day for road-testing during the course of the inspection. At the conclusion of the inspection, Mr. Galindo paid \$60 for the work, and Mr. Godinez gave Mr. Galindo an invoice, vehicle inspection report, brake certificate, and a lamp certificate. The brake certificate, signed by Mr. Estrada, certified under penalty of perjury that the Firebird was road tested and required 12 feet to stop at 20 miles per hour. There is no evidence that the Firebird was road tested during the inspection at Every Day. Mr. Galindo observed that Mr. Godinez did not leave the premises of Every Day during the inspection. The lamp certificate signed by Mr. Estrada certified that the Firebird had been properly inspected.

32. Prior to the inspection, Ramon Jimenez, a Program Representative I employed by the Bureau, adjusted the head lamp so that the passenger side low beam was grossly misaligned, and machined the left front and right rear brake rotors below manufacturer's specifications. Mr. Jimenez also installed tamper indicators on the head lamps and all four wheels which would be broken if the wheels were removed to inspect the brakes or the head lamps were adjusted. Following the inspection at Every Day, Mr. Jimenez inspected the Firebird and found that the headlamps had been adjusted but remained misaligned, and that the tamper indicators on the wheels had not been broken indicating that the brakes had not been inspected.

///

Fiftieth through Fifty-Seventh Causes for Discipline – Undercover Operation, January 8, 2016

33. On January 8, 2016, Mr. Galindo took a 2002 Chevrolet Camaro owned by the Bureau to Every Day, met with Mr. Godinez, and requested a smog, brake, and lamp inspection. Mr. Godinez did not provide a repair estimate to Mr. Galindo or have him sign a repair order before the inspection of the Camaro commenced.

34. Mr. Galindo watched Mr. Estrada perform the brake and lamp inspections, and observed that the vehicle was not taken out from Every Day for road-testing during the course of the inspection. At the conclusion of the inspection, Mr. Godinez gave Mr. Galindo an invoice, vehicle inspection report, brake certificate, and a lamp certificate. The brake certificate, signed by Mr. Estrada, certified under penalty of perjury that the Camaro was road tested and required eight feet to stop at 20 miles per hour. There is no evidence that the Camaro was road tested during the inspection at Every Day. Mr. Galindo observed that Mr. Godinez did not leave the premises of Every Day during the inspection. The lamp certificate signed by Mr. Estrada certified that the Camaro had been properly inspected.

35. Prior to the inspection a Program Representative employed by the Bureau made modifications/adjustments, and re-inspected the vehicle subsequent to the undercover run. The modifications/adjustments and the re-inspection findings are not in evidence.

Respondent Godinez's Evidence and Argument

36. Mr. Godinez argued through counsel that Mr. Estrada was responsible for the clean plugging of 10 of the 11 vehicles, and that Mr. Estrada did some things correctly and missed other things while inspecting the vehicles in the secret shopper and undercover runs. Mr. Godinez also argued that mitigating factors apply, in that during the time of the clean plugging he had chronic back pain and was also obliged to travel with his wife for medical appointments in the Bay Area. Mr. Godinez's assertion that Mr. Estrada is responsible for the clean-plugging is rejected on the basis that the shop owner is responsible for the conduct of employees in the course of his business. (Legal Conclusion 14.) The mitigating factors argued by Mr. Godinez are de minimis when considered against the number and duration of violations established by the evidence. Other arguments advanced by Mr. Godinez have been considered and rejected.

Costs

37. Pursuant to Business and Professions Code section 125.3, complainant has requested costs of investigation and enforcement in the total amount of \$45,155.50. This amount consists of the following:

- (a) Complainant has requested costs for the investigation and enforcement work of the Office of the Attorney General in the total amount of \$10,222.50. In support of its cost request, complainant submitted a signed Certification of

Prosecution Costs accompanied by a computer printout detailing the general tasks performed, the time spent on each task, and the hourly rate charged for the investigation and enforcement work performed by the Deputy Attorney General, Supervising Deputy Attorney General, and a paralegal. (Cal. Code Regs., tit. 1, § 1042, subd. (b)(2).) When all the supporting evidence is reviewed, complainant demonstrated that, given the allegations made in this matter, the costs requested for the investigation and enforcement work performed by the Office of the Attorney General were reasonable.

(b) Complainant has requested additional investigative and other costs in the total amount of \$34,932.90. This amount consists of: (1) 181 hours of time spent by Program Representatives I in the 2015/16 fiscal year at the rate of \$70.30 per hour (\$12,724.30), (2) 279 hours of time spent by Program Representatives II in the 2015/16 fiscal year at the rate of \$75.30 per hour (\$21,008.60); (3) four days of operator fees at \$200 per day (\$800); and (4) miscellaneous expenses (\$400). Pursuant to California Code of Regulations, title 1, section 1042, subdivision (b)(1), in order to receive costs for the services of an agency employee, complainant must submit a declaration describing “the general tasks performed, the time spent on each task and the hourly rate or other compensation for the service.” The information submitted by complainant for the investigative and other costs requested for agency employees does not comply with the requirements of California Code of Regulations, title 1, section 1042, subdivision (b)(1). Consequently, these costs may not be awarded against respondent.

LEGAL CONCLUSIONS

1. Complainant bears the burden of proving, by a preponderance of the evidence, that the charges in the Accusation are true and that the requested discipline against respondent’s station license and automotive repair dealer registration should be imposed. (Evid. Code, § 115; *Imports Performance v. Dept. of Consumer Affairs, Bureau of Automotive Repair* (2011) 201 Cal.App.4th 911, 916-17.)

2. California’s Motor Vehicle Inspection Program (Health & Saf. Code, § 44000, et seq.) is an “enforcement program [intended to be] vigorous and effective and includes monitoring of the performance of the smog check test or repair stations and technicians, as well as the monitoring of vehicle emissions as vehicles are being driven.” (Health & Saf. Code, § 44001, subd. (b)(5)(E).) The Bureau’s chief is responsible for enforcing and administering the Program. (§§ 44001.5, 44002.) Laws and regulations governing the duties and discipline of Program licensees are set forth in Health and Safety Code section 44072 et seq. and California Code of Regulations, title 16, section 3300 et seq.

///

3. Business and Professions Code section 9884.7, subdivision (a), provides:

(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.

[¶] ... [¶]

(3) Failing or refusing to give a customer a copy of any document requiring his or her signature, as soon as the customer signs the document.

[¶] ... [¶]

(4) Any other conduct that constitutes fraud.

[¶] ... [¶]

(6) Failure in any material respect to comply with the provisions of this chapter or regulations adopted pursuant to it.

4. Business and Professions Code section 9884.9, subdivision (a), provides that an automotive repair dealer is required to give the customer a written estimate of price and labor for a specific job, and that no work shall be done and no charges shall accrue before authorization is obtained from the customer.

5. Business and Professions Code section 9889.3, provides the following grounds for suspension, revocation, or other disciplinary action of a licensee:

(a) Violates any section of the Business and Professions Code that relates to his or her licensed activities.

[¶] ... [¶]

(c) Violates any section of the regulations promulgated by the director pursuant to this chapter.

(d) Commits any act involving dishonesty, fraud, or deceit whereby another is injured.

[¶] ... [¶]

(h) Violates or attempts to violate to the provisions of this chapter relating to the particular activity for which he or she is licensed.

6. A licensed brake or lamp adjuster who conducts an inspection or adjustment in a licensed station and determines that the brakes or lamps conform to the requirements of the Vehicle Code, shall, when requested by the driver or owner of the vehicle, issue a certificate of adjustment. (Bus. & Prof. Code, § 9889.16.)

7. All adjustments, inspections, services, and repairs of brake systems and lamp systems necessary for the issuance of a certificate of adjustment must be performed at an "official" station in accordance with current standards. (Cal. Code Regs., tit. 16, § 3305, subd. (a).)

8. A lamp adjustment certificate may be issued when "all of the lamps, lighting equipment, and related electrical systems on the vehicle have been inspected and found to be in compliance with all requirements of the Vehicle Code and Bureau regulations" (Cal. Code Regs., tit. 16, § 3316, subd. (d)(2).)

9. A brake adjustment certificate may be issued when the "entire brake system on any vehicle has been inspected or tested and found to be in compliance with all requirements of the Vehicle Code and Bureau regulations, and the vehicle has been road-tested" (Cal. Code Regs., tit. 16, § 3321, subd. (c).)

10. Smog check stations and smog check technicians are required to conduct tests and inspections in accordance with the Bureau's emissions inspections specifications. (Cal. Code Regs., tit. 16, §§ 3340.30, subd., (a), 3340.42.) A licensed station shall only issue a certificate of compliance to the owner or operator of any vehicle "that has been inspected in accordance with the procedures specified in section 3340.42 of this article and has all the

required emission control equipment and devices installed and functioning correctly." (Cal. Code Regs., tit. 16, § 3340.35, subd. (c).)

11. Emission control tests at smog check stations "shall be performed in accordance with procedures prescribed by the department. . ." (Health & Saf. Code, § 44012.) A smog test station shall not issue certificates of compliance for vehicles that do not meet the testing requirements in accordance with Section 44012." (Health & Saf. Code, § 44015.)

12. Health and Safety Code section 44072.2, provides in relevant part:

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

(a) Violates any section of this chapter 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.

13. Health and Safety Code section 44072.10, subdivision (c), provides the Bureau “shall revoke the license of any smog check technician or station license who fraudulently certifies the vehicles or participates in the fraudulent inspection of vehicles.” A fraudulent inspection includes a willful or intentional violation of any regulation, standard, or procedure of the Department implementing the smog check program. (Health & Saf. Code, § 44072.10, subd. (c)(1).)

14. The owner of a license is obligated to see that the license is not used in violation of the law. If a licensee elects to operate his business through employees he must be responsible to the licensing authority for their conduct, and he is responsible for the acts of his agents or employees done in the course of his business. A licensee may not insulate himself from regulation by electing to function through employees or independent contractors. (*Rob-Mac, Inc. v. Dept. of Motor Vehicles* (1983) 148 Cal.App.3d 793, 797.)

First through Eighth Causes for Discipline – Clean-Plugging

15. First Cause for Discipline: By reason of the matters set forth in Factual Findings 13 through 24, cause for discipline exists pursuant to Business and Professions Code section 9884.7, subdivision (a)(1), and Health and Safety Code section 44012, in that Mr. Godinez or persons under his supervision and control conducted smog inspections using clean-plugging methods.

16. Second Cause for Discipline: By reason of the matters set forth in Factual Findings 13 through 24, cause for discipline exists pursuant to Business and Professions Code section 9884.7(a)(4), in that Mr. Godinez or persons under his supervision and control issued fraudulent electronic smog certificates based on smog inspections using clean-plugging methods.

17. Third Cause for Discipline: By reason of the matters set forth in Factual Findings 13 through 24, cause for discipline exists pursuant to Health and Safety Code sections 44012, subdivision (a); 44015; and 44072.2, subdivision (a), in that Mr. Godinez failed to ensure emission control test standards were followed, and that he or persons under his supervision and control issued smog certificates of compliance for vehicles that were not tested according to Bureau standards.

18. Fourth Cause for Discipline: By reason of the matters set forth in Factual Findings 13 through 24, cause for discipline exists pursuant to Health and Safety Code section 44072.2, subdivision (c); and California Code of Regulations, title 16, sections 3340.35, subdivision (c), and 3340.42, in that Mr. Godinez failed to ensure emission control test standards were followed, and that he or persons under his supervision and control issued smog certificates of compliance for vehicles that were not tested according to Bureau standards.

19. Fifth Cause for Discipline: By reason of the matters set forth in Factual Findings 13 through 24, cause for discipline exists pursuant to Health and Safety Code section 44072.2, subdivision (d), in that Mr. Godinez committed dishonest and fraudulent acts whereby another was injured in that he or persons under his supervision and control issued smog certificates without ensuring that vehicles were tested according to Bureau standards.

20. Sixth Cause for Discipline: By reason of the matters set forth in Factual Findings 13 through 24, cause for discipline exists pursuant to Health and Safety Code section 44072.2, subdivision (a), in that Mr. Godinez or persons under his supervision and control failed to ensure that Bureau emission control test standards were followed.

21. Seventh Cause for Discipline: By reason of the matters set forth in Factual Findings 13 through 24, cause for discipline exists pursuant to Health and Safety Code section 44072.2, subdivision (c); and California Code of Regulations, title 16, sections 3340.30, subdivision (a); and 3340.42, in that Mr. Godinez failed to ensure compliance with Bureau standards for vehicle inspections and emission control test standards, and that he or persons under his supervision and control issued smog certificates of compliance for vehicles that were not tested according to Bureau standards.

22. Eighth Cause for Discipline: By reason of the matters set forth in Factual Findings 13 through 24, cause for discipline exists pursuant to Business and Professions Code section 9889.3, subdivision (d), in that Mr. Godinez or persons under his supervision and control committed dishonest and fraudulent acts whereby another was injured by issuing smog certificates without ensuring that vehicles were tested according to Bureau standards.

///

Thirteenth through Twenty-First Causes for Discipline – Secret Shopper Operation, April 2, 2015

23. Thirteenth Cause for Discipline: By reason of the matters set forth in Factual Findings 25 and 26, cause for discipline exists pursuant to Business and Professions Code section 9884.7, subdivision (a)(1), in that Mr. Godinez or persons under his supervision and control made untrue and misleading statements by issuing a brake certificate containing false representations.

24. Fourteenth Cause for Discipline: By reason of the matters set forth in Factual Findings 25 and 26, cause for discipline exists pursuant to Business and Professions Code section 9884.7, subdivision (a)(4), in that Mr. Godinez or persons under his supervision and control obtained payment for inspections and repairs that were not performed.

25. Fifteenth Cause for Discipline: By reason of the matters set forth in Factual Findings 25 and 26, cause for discipline exists pursuant to Business and Professions Code section 9884.7, subdivision (a)(3), in that Mr. Godinez failed to ensure that the vehicle operator was provided with a copy of the repair order as soon as the operator signed the document.

26. Sixteenth Cause for Discipline: By reason of the matters set forth in Factual Findings 25 and 26, cause for discipline exists pursuant to Business and Professions Code section 9884.7, subdivision (a)(6), in that Mr. Godinez or persons under his supervision and control issued a brake certificate without conducting a complete inspection and falsely certifying that the vehicle was in compliance with Bureau standards.

27. Seventeenth Cause for Discipline: By reason of the matters set forth in Factual Findings 25 and 26, cause for discipline exists pursuant to Business and Professions Code section 9884.7, subdivision (a)(6); and California Code of Regulations, title 16, sections 3305, subdivision (a), and 3321, subdivision (c)(2), in that Mr. Godinez or persons under his supervision and control issued a brake certificate without conducting a complete inspection and falsely certifying that the vehicle was in compliance with Bureau standards.

28. Eighteenth Cause for Discipline: By reason of the matters set forth in Factual Findings 25 and 26, cause for discipline exists pursuant to Business and Professions Code section 9889.3, subdivision (d), in that Mr. Godinez or persons under his supervision and control issued a brake certificate without conducting a complete inspection and falsely certifying that the vehicle was in compliance with Bureau standards, thereby causing injury to the people of California by depriving them of the protections afforded by the Motor Vehicle Inspection Program.

29. Nineteenth Cause for Discipline: By reason of the matters set forth in Factual Findings 25 and 26, cause for discipline exists pursuant to Business and Professions Code section 9889.3, subdivisions (a) and (h), in that Mr. Godinez or persons under his supervision

and control issued a brake certificate without conducting a complete inspection and falsely certifying that the vehicle was in compliance with Bureau standards.

30. Twentieth Cause for Discipline: By reason of the matters set forth in Factual Findings 25 and 26, cause for discipline exists pursuant to Business and Professions Code section 9889.3, subdivision (c), in that in that Mr. Godinez or persons under his supervision and control violated applicable regulations by issuing a brake certificate without conducting a complete inspection and falsely certifying that the vehicle was in compliance with Bureau standards.

31. Twenty-First Cause for Discipline: By reason of the matters set forth in Factual Findings 25 and 26, cause for discipline exists pursuant to Health and Safety Code section 44072.2, subdivision (d), in that Mr. Godinez or persons under his supervision and control issued a brake certificate without conducting a complete inspection and falsely certified that the vehicle was in compliance with Bureau standards, constituting an act of dishonesty, fraud or deceit that caused injury to the people of California by depriving them of the protections afforded by the Motor Vehicle Inspection Program.

Twenty-Sixth through Thirty-Third Causes for Discipline – Undercover Operation, November 19, 2015

32. Twenty-Sixth Cause for Discipline: By reason of the matters set forth in Factual Findings 27 through 29, cause for discipline exists pursuant to Business and Professions Code section 9884.7, subdivision (a)(1), in that Mr. Godinez or persons under his supervision and control made untrue and misleading statements by issuing a brake certificate containing false representations.

33. Twenty-Seventh Cause for Discipline: By reason of the matters set forth in Factual Findings 27 through 29, cause for discipline exists pursuant to Business and Professions Code section 9884.7, subdivision (a)(4), in that Mr. Godinez or persons under his supervision and control obtained payment for inspections and repairs that were not performed.

34. Twenty-Eighth Cause for Discipline: By reason of the matters set forth in Factual Findings 27 through 29, cause for discipline exists pursuant to Business and Professions Code sections 9884.7, subdivision (a)(6); 9884.9, subdivision (a); and 9889.16, in that Mr. Godinez or persons under his supervision and control failed to comply with applicable laws and regulations in that he failed to give the vehicle operator a written estimated price, and issued a brake certificate without conducting a complete inspection and falsely certified that the vehicle was in compliance with Bureau standards.

35. Twenty-Ninth Cause for Discipline: By reason of the matters set forth in Factual Findings 27 through 29, cause for discipline exists pursuant to Business and Professions Code section 9884.7, subdivision (a)(6), and California Code of Regulations, title 16, sections 3305, subdivision (a), and 3321, subdivision (c)(2), in that Mr. Godinez or

persons under his supervision and control issued a brake certificate without conducting a complete inspection and falsely certified that the vehicle was in compliance with Bureau standards.

36. Thirtieth Cause for Discipline: By reason of the matters set forth in Factual Findings 27 through 29, cause for discipline exists pursuant to Health and Safety Code section 44072.2, subdivision (d), in that Mr. Godinez or persons under his supervision and control issued a brake certificate without conducting a complete inspection and falsely certifying that the vehicle was in compliance with Bureau standards, constituting an act of dishonesty, fraud or deceit that caused injury to the people of California by depriving them of the protections afforded by the Motor Vehicle Inspection Program.

37. Thirty-First Cause for Discipline: By reason of the matters set forth in Factual Findings 27 through 29, cause for discipline exists pursuant to Business and Professions Code section 9889.3, subdivision (d), in that Mr. Godinez or persons under his supervision and control issued a brake certificate without conducting a complete inspection and falsely certifying that the vehicle was in compliance with Bureau standards, thereby causing injury to the people of California by depriving them of the protections afforded by the Motor Vehicle Inspection Program.

38. Thirty-Second Cause for Discipline: By reason of the matters set forth in Factual Findings 27 through 29, cause for discipline exists pursuant to Business and Professions Code section 9889.3, subdivisions (a) and (h), in that Mr. Godinez or persons under his supervision and control failed to give the vehicle operator a written estimated price, and issued a brake certificate without conducting a complete inspection and falsely certifying that the vehicle was in compliance with Bureau standards.

39. Thirty-Third Cause for Discipline: By reason of the matters set forth in Factual Findings 27 through 29, cause for discipline exists pursuant to Business and Professions Code section 9889.3, subdivision (c), in that Mr. Godinez or persons under his supervision and control violated applicable regulations by issuing a brake certificate without conducting a complete inspection and falsely certifying that the vehicle was in compliance with Bureau standards.

Thirty-Eighth through Forty-Fifth Causes for Discipline – Undercover Operation, December 11, 2015

40. Thirty-Eighth Cause for Discipline: By reason of the matters set forth in Factual Findings 30 through 32, cause for discipline exists pursuant to Business and Professions Code section 9884.7, subdivision (a)(1), in that Mr. Godinez or persons under his supervision and control made untrue and misleading statements by issuing a brake certificate and a lamp certificate containing false representations.

41. Thirty-Ninth Cause for Discipline: By reason of the matters set forth in Factual Findings 30 through 32, cause for discipline exists pursuant to Business and

Professions Code section 9884.7, subdivision (a)(4), in that Mr. Godinez or persons under his supervision and control obtained payment for inspections and repairs that were not performed.

42. Fortieth Cause for Discipline: By reason of the matters set forth in Factual Findings 30 through 32, cause for discipline exists pursuant to Business and Professions Code sections 9884.7, subdivision (a)(6); 9884.9, subdivision (a); and 9889.16, in that Mr. Godinez or persons under his supervision and control failed to comply with applicable laws and regulations in that he failed to give the vehicle operator a written estimated price, and issued a brake certificate without conducting a complete inspection and falsely certified that the vehicle was in compliance with Bureau standards.

43. Forty-First Cause for Discipline: By reason of the matters set forth in Factual Findings 30 through 32, cause for discipline exists pursuant to Business and Professions Code section 9884.7, subdivision (a)(6); and California Code of Regulations, title 16, sections 3305, subdivision (a); 3316, subdivision (d)(2); and 3321, subdivision (c)(2), in that Mr. Godinez or persons under his supervision and control issued a brake certificate and a lamp certificate without conducting a complete inspection and falsely certifying that the vehicle was in compliance with Bureau standards.

44. Forty-Second Cause for Discipline: By reason of the matters set forth in Factual Findings 30 through 32, cause for discipline exists pursuant to Business and Professions Code section 9889.3, subdivision (d), in that Mr. Godinez or persons under his supervision and control issued a brake certificate and a lamp certificate without conducting a complete inspection and falsely certifying that the vehicle was in compliance with Bureau standards, thereby causing injury to the people of California by depriving them of the protections afforded by the Motor Vehicle Inspection Program.

45. Forty-Third Cause for Discipline: By reason of the matters set forth in Factual Findings 30 through 32, cause for discipline exists pursuant to Business and Professions Code section 9889.3, subdivisions (a) and (h), in that Mr. Godinez or persons under his supervision and control failed to give the vehicle operator a written estimated price, and issued a brake certificate and lamp certificate without conducting a complete inspection and falsely certifying that the vehicle was in compliance with Bureau standards.

46. Forty-Fourth Cause for Discipline: By reason of the matters set forth in Factual Findings 30 through 32, cause for discipline exists pursuant to Business and Professions Code section 9889.3, subdivision (c), in that in that Mr. Godinez or persons under his supervision and control violated applicable regulations by issuing a brake certificate and a lamp certificate without conducting a complete inspection and falsely certifying that the vehicle was in compliance with Bureau standards.

47. Forty-Fifth Cause for Discipline: By reason of the matters set forth in Factual Findings 30 through 32, cause for discipline exists pursuant to Health and Safety Code section 44072.2, subdivision (d), in that Mr. Godinez or persons under his supervision and control issued a brake certificate and a lamp certificate without conducting a complete

inspection and falsely certifying that the vehicle was in compliance with Bureau standards, constituting an act of dishonesty, fraud or deceit that caused injury to the people of California by depriving them of the protections afforded by the Motor Vehicle Inspection Program.

Fiftieth through Fifty-Seventh Causes for Discipline – Undercover Operation, January 8, 2016

48. Fiftieth Cause for Discipline: By reason of the matters set forth in Factual Findings 33 through 35, cause for discipline exists pursuant to Business and Professions Code section 9884.7, subdivision (a)(1), in that Mr. Godinez or persons under his supervision and control made untrue and misleading statements by issuing a brake certificate containing false representations.

49. Fifty-First Cause for Discipline: By reason of the matters set forth in Factual Findings 33 through 35, cause for discipline exists pursuant to Business and Professions Code section 9884.7, subdivision (a)(4), in that Mr. Godinez or persons under his supervision and control obtained payment for inspections and repairs that were not performed.

50. Fifty-Second Cause for Discipline: By reason of the matters set forth in Factual Findings 33 through 35, cause for discipline exists pursuant to Business and Professions Code sections 9884.7, subdivision (a)(6); 9884.9, subdivision (a); and 9889.16, in that Mr. Godinez or persons under his supervision and control failed to comply with applicable laws and regulations in that he failed to give the vehicle operator a written estimated price, and issued a brake certificate without conducting a complete inspection and falsely certified that the vehicle was in compliance with Bureau standards.

51. Fifty-Third Cause for Discipline: By reason of the matters set forth in Factual Findings 33 through 35, cause for discipline exists pursuant to Business and Professions Code section 9884.7, subdivision (a)(6); and California Code of Regulations, title 16, sections 3305, subdivision (a), and 3321, subdivision (c)(2), in that Mr. Godinez or persons under his supervision and control issued a brake certificate without conducting a complete inspection and falsely certifying that the vehicle was in compliance with Bureau standards.

52. Fifty-Fourth Cause for Discipline: By reason of the matters set forth in Factual Findings 33 through 35, cause for discipline exists pursuant to Business and Professions Code section 9889.3, subdivision (d), in that Mr. Godinez or persons under his supervision and control issued a brake certificate without conducting a complete inspection and falsely certified that the vehicle was in compliance with Bureau standards, constituting an act of dishonesty, fraud or deceit that caused injury to the people of California by depriving them of the protections afforded by the Motor Vehicle Inspection Program.

53. Fifty-Fifth Cause for Discipline: By reason of the matters set forth in Factual Findings 33 through 35, cause for discipline exists pursuant to Business and Professions Code section 9889.3, subdivisions (a) and (h), in that Mr. Godinez or persons under his supervision and control failed to give the vehicle operator a written estimated price, and

issued a brake certificate without conducting a complete inspection and falsely certifying that the vehicle was in compliance with Bureau standards.

54. Fifty-Sixth Cause for Discipline: By reason of the matters set forth in Factual Findings 33 through 35, cause for discipline exists pursuant to Business and Professions Code section 9889.3, subdivision (c), in that Mr. Godinez or persons under his supervision and control violated applicable regulations by issuing a brake certificate without conducting a complete inspection and falsely certifying that the vehicle was in compliance with Bureau standards.

55. Fifty-Seventh Cause for Discipline: By reason of the matters set forth in Factual Findings 33 through 35, cause for discipline exists pursuant to Health and Safety Code section 44072.2, subdivision (d), in that Mr. Godinez or persons under his supervision and control issued a brake certificate without conducting a complete inspection and falsely certified that the vehicle was in compliance with Bureau standards, constituting an act of dishonesty, fraud or deceit that caused injury to the people of California by depriving them of the protections afforded by the Motor Vehicle Inspection Program.

Penalty Determination

56. Over a period of approximately one year (April 2015 to April 2016) Mr. Godinez knowingly violated and allowed his employee Mr. Estrada to repeatedly violate the laws and regulations regarding smog tests, brake inspections, and lamp inspections. By his actions, Mr. Godinez demonstrated a disregard for the integrity of the Motor Vehicle Inspection Program and the protections the program affords. Considering this, revocation of Mr. Godinez's licenses is the discipline most appropriate to protect the public safety.

Costs

57. Pursuant to Business and Professions Code section 125.3, subdivision (a), an administrative law judge may direct a licensee found to have violated the licensing act to "pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case." In *Zuckerman v. Board of Chiropractic Examiners* (2002) 29 Cal.4th 32, the California Supreme Court set forth factors to be considered in determining the reasonableness of the costs sought pursuant to statutory provisions like Business and Professions Code section 125.3. These factors include whether the licensee has been successful at hearing in getting charges dismissed or reduced, the licensee's subjective good faith belief in the merits of his or her position, whether the licensee has raised a colorable challenge to the proposed discipline, the financial ability of the licensee to pay, and whether the scope of the investigation was appropriate in light of the alleged misconduct.

58. As set forth in Factual Finding 37(a), there was sufficient evidence to substantiate that \$10,222.50 in costs charged by the Office of the Attorney General were reasonable in light of the allegations set forth in the Accusation. Respondent was not successful in challenging any of the Causes for Discipline in the Accusation. Also, respondent did not provide any evidence that he is financially unable to pay the costs

requested by the Office of the Attorney General. Based upon all the factors set forth in *Zuckerman*, respondent should be ordered to pay the Bureau \$10,222.50 in costs. Enforcement costs in the amount of \$34,932.90 claimed by the Bureau are not awarded, pursuant to Factual Finding 37(b).

ORDER

1. All of the registrations and licenses issued by the Bureau of Automotive Repair to respondent Edgar Ivan Godinez, owner of Every Day Smog, are hereby REVOKED, including, but not limited to Automotive Repair Dealer Registration Number ARD 261653, Smog Check Station License Number RC 261653, Brake Station License Number BS 261653, Lamp Station License Number LS 261653, Smog Check Inspector License Number 154357, Smog Check Repair Technician License Number 154357, Brake Adjuster License Number BA 154357, and Lamp Adjuster License Number LA 154357.

2. Upon licensure by the Bureau or reinstatement of any of the revoked registrations or licenses, respondent Edgar Ivan Godinez shall pay to the Bureau \$10,222.50 as the reasonable costs of investigation and prosecution of this case. The Bureau may establish a payment schedule for the payment of these costs over any period of probation.

DATED: December 20, 2017

DocuSigned by:

26BAECC0F5FF478
TIMOTHY J. ASPINWALL
Administrative Law Judge
Office of Administrative Hearings

1 XAVIER BECERRA
Attorney General of California
2 KENT D. HARRIS
Supervising Deputy Attorney General
3 JOSHUA B. EISENBERG
Deputy Attorney General
4 State Bar No. 279323
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 327-1466
Facsimile: (916) 327-8643
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. 79/15-5617

12 **EVERY DAY SMOG**
13 **EDGAR IVAN GODINEZ, OWNER**
820 E. Pacheco Blvd
14 Los Banos, CA 93635

A C C U S A T I O N

15 Automobile Repair Dealer No. ARD 261653
Smog Check Station License No. RC 261653
16 Brake Station License No. BS 261653, Class C
Lamp Station License No. LS 261653, Class A

17 **EDGAR IVAN GODINEZ**
18 2100 Constantine Court
Los Banos, CA 93635

19 Smog Check Inspector (EO) License
20 No. 154357
Smog Check Repair Technician (EI) License
21 No. 154357
Brake Adjuster License No. BA 154357
22 Lamp Adjuster License No. LA 154357

23 **JOEL MENDEZ ESTRADA**
24 27514 Fahey Rd.
Gustine, CA 95322

25 Smog Check Inspector (EO) License
No. 635462
26 Brake Adjuster License No. BA 635462
Lamp Adjuster License No. LA 635462
27

28 Respondents.

1 Patrick Dorais ("Complainant") alleges:

2 **PARTIES**

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

5 **Automotive Repair Dealer Registration**

6 2. On or about April 20, 2010, the Bureau issued Automobile Repair Dealer No. ARD
7 261653 to Edgar Ivan Godinez ("Respondent Godinez"), as the owner of Every Day Smog. The
8 Automobile Repair Dealer was in full force and effect at all times relevant to the charges brought
9 herein and will expire on April 30, 2018, unless renewed.

10 **Smog Check, Test Only Station License**

11 3. On or about May 10, 2010, the Bureau issued Smog Check Station License No.
12 RC 261653 to Respondent Godinez. The Smog Check Station License was in full force and
13 effect at all times relevant to the charges brought herein and will expire on April 30, 2018, unless
14 renewed.

15 **Brake Station License**

16 4. On or about November 20, 2014, the Bureau issued Brake Station License No.
17 BS 261653, Class C, to Respondent Godinez. The Brake Station License was in full force and
18 effect at all times relevant to the charges brought herein and will expire on April 30, 2018, unless
19 renewed.

20 **Lamp Station License**

21 5. On or about November 13, 2014, the Bureau issued Lamp Station License No.
22 LS 261653, Class A, to Respondent Godinez. The Lamp Station License was in full force and
23 effect at all times relevant to the charges brought herein and will expire on April 30, 2018, unless
24 renewed.

25 **Smog Technician Licenses – Respondent Godinez**

26 6. On a date unknown in 2007 the Bureau issued Advanced Emission Specialist (EA)
27 Technician License No. 154357 to Respondent Godinez. The license expired on April 30, 2013,
28 and was cancelled on May 1, 2013. Pursuant to California Code of Regulations, title 16 ("CCR"),

1 section 3340.28(e), Respondent Godinez elected to renew the license as Smog Check Inspector
2 (EO) License No. 154357, and Smog Check Repair Technician (EI) License No. 154357,
3 effective May 1, 2013.¹ The Smog Check Inspector (EO) License and Smog Check Repair
4 Technician (EI) Licenses were in full force and effect at all times relevant to the charges brought
5 herein and will expire on April 30, 2019, unless renewed.

6 **Brake Adjuster License – Respondent Godinez**

7 7. On or about May 23, 2011, the Bureau issued Brake Adjuster License No.
8 BA 154357, Class C, to Respondent Godinez. The Brake Adjuster License was in full force and
9 effect at all times relevant to the charges brought herein and will expire on April 30, 2019, unless
10 renewed.

11 **Lamp Adjuster License – Respondent Godinez**

12 8. On or about January 26, 2015, the Bureau issued Lamp Adjuster License No.
13 LA 154357, Class A, to Respondent Godinez. The Lamp Adjuster License was in full force and
14 effect at all times relevant to the charges brought herein and will expire on April 30, 2018, unless
15 renewed.

16 **Smog Technician License – Respondent Estrada**

17 9. On or about April 29, 2013, the Bureau issued Smog Check Inspector (EO) License
18 No. 635462 to Joel Mendez Estrada (“Respondent Estrada”). The Smog Check Inspector (EO)
19 License was in full force and effect at all times relevant to the charges brought herein and will
20 expire on February 28, 2019, unless renewed.

21 **Brake Adjuster License – Respondent Estrada**

22 10. On or about October 13, 2014, the Bureau issued Brake Adjuster License No.
23 BA 635462, Class A, to Respondent Estrada. The Brake Adjuster License was in full force and
24 effect at all times relevant to the charges brought herein and will expire on February 28, 2018,
25 unless renewed.

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

1 **Lamp Adjuster License – Respondent Estrada**

2 11. On or about October 3, 2014, the Bureau issued Lamp Adjuster License No.
3 LA 635462, Class A, to Respondent Estrada. The Lamp Adjuster License was in full force and
4 effect at all times relevant to the charges brought herein and will expire on February 28, 2018.

5 **JURISDICTION**

6 12. This Accusation is brought before the Director of the Department of Consumer
7 Affairs (“Director”) for the Bureau of Automotive Repair, under the authority of the following
8 laws.

9 13. Business and Professions Code (“Code”) section 9884.7 provides that the Director
10 may revoke an automotive repair dealer registration.

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

15 15. Code section 9889.1 provides, in pertinent part, that the Director may suspend or
16 revoke any license issued under Articles 5 and 6 (commencing with section 9887.1) of the
17 Automotive Repair Act.

18 16. Code section 9889.7 provides, in pertinent part, that the expiration or suspension of
19 a license by operation of law or by order or decision of the Director or a court of law, or the
20 voluntary surrender of a license shall not deprive the Director of jurisdiction to proceed with any
21 disciplinary proceedings.

22 17. Code section 118(b), states:

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

27 ///

28 ///

1

2

3

4

5

6

7

8

0

1

2

3

4

1 expiration. Persons whose licenses have expired shall immediately cease the activity
2 requiring a license . . .

3 21. Code section 9888.3 states:

4 No person shall operate an "official" lamp or brake adjusting station unless a
5 license therefor has been issued by the director. No person shall issue, or cause or
6 permit to be issued, any certificate purporting to be an official lamp adjustment
7 certificate unless he or she is a licensed lamp adjuster or an official brake adjustment
8 certificate unless he or she is a licensed brake adjuster.

9 22. Code section 9889.3 states, in pertinent part:

10 The director may suspend, revoke, or take other disciplinary action against a
11 license as provided in this article [Article 7 (commencing with section 9889.1) of the
12 Automotive Repair Act] if the licensee or any partner, officer, or director thereof:

13 (a) Violates any section of the Business and Professions Code which relates to
14 his or her licensed activities.

15 (c) Violates any of the regulations promulgated by the director pursuant to this
16 chapter [the Automotive Repair Act].

17 (d) Commits any act involving dishonesty, fraud, or deceit whereby another is
18 injured.

19 (h) Violates or attempts to violate the provisions of this chapter relating to the
20 particular activity for which he or she is licensed. . .

21 23. Code section 9889.9 states:

22 When any license has been revoked or suspended following a hearing under the
23 provisions of this article, any additional license issued under Articles 5 and 6 of this
24 chapter in the name of the licensee may be likewise revoked or suspended by the
25 director.

26 24. Code section 9889.16 states:

27 Whenever a licensed adjuster in a licensed station upon an inspection or after
28 an adjustment, made in conformity with the instructions of the bureau, determines
that the lamps or the brakes upon any vehicle conform with the requirements of the
Vehicle Code, he shall, when requested by the owner or driver of the vehicle, issue a
certificate of adjustment on a form prescribed by the director, which certificate shall
contain the date of issuance, the make and registration number of the vehicle, the
name of the owner of the vehicle, and the official license of the station.

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

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

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

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

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

9 (c) Violates any of the regulations adopted by the director pursuant to this
10 chapter.

11 (d) Commits any act involving dishonesty, fraud, or deceit whereby another
is injured.

12 28. Health & Saf. Code section 44072.6 provides, in pertinent part, that the expiration or
13 suspension of a license by operation of law, or by order or decision of the Director of Consumer
14 Affairs, or a court of law, or the voluntary surrender of the license shall not deprive the Director
15 of jurisdiction to proceed with disciplinary action.

16 29. Health & Saf. Code section 44072.8 states:

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

19 30. Health & Saf. Code section 44072.10(c) states, in pertinent part:

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

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

24 31. Health & Saf. Code section 44024.5(a), states:

25 The department shall compile and maintain statistical and emissions profiles
26 and data from motor vehicles that are subject to the motor vehicle inspection
program. The department may use data from any source, including remote sensing
27 data, in use data, and other motor vehicle inspection program data, to develop and
confirm the validity of the profiles, to evaluate the program, and to assess the
28 performance of smog check stations. The department shall undertake these
requirements directly or seek a qualified vendor for these services.

1 32. Health & Saf. Code section 44037 states, in pertinent part:

2 (a) The department shall compile and maintain records, using the sampling
3 methodology necessary to ensure their scientific validity and reliability, of tests and
4 repairs performed by qualified smog check technicians at licensed smog check
5 stations pursuant to this chapter on all of the following information:

6 (1) The motor vehicle identification information and the test data collected at
7 the station.

8 (5) Data received and compiled through the use of the centralized computer
9 database and computer network to be established pursuant to Section 44037.1, and
10 any other information determined to be essential by the department for program
11 enhancement to achieve greater efficiency, consumer protection, cost-effectiveness,
12 convenience, or emission reductions . . .

13 33. Health & Saf. Code section 44037.1 states, in pertinent part:

14 (a) On or before January 1, 1995, the department shall design and establish the
15 equipment necessary to operate a centralized computer data base and computer
16 network that is readily accessible by all licensed smog check technicians on a real
17 time basis.

18 (b) The centralized computer data base and network shall be designed with all
19 of the following capabilities:

20 (2) To provide smog check technicians and the department with information as
21 to the date and result of prior smog check tests performed on each vehicle to
22 discourage vehicle owners from shopping for certificates of compliance and to permit
23 the department to identify smog check stations for further investigation as potential
24 violators of this chapter.

25 (3) To provide the department with data on the failure rates and repair
26 effectiveness for vehicles of each make and model year on a statewide basis, and by
27 smog check station and technician, to facilitate identification of smog check stations
28 and technicians as potential violators of this chapter.

(8) To be compatible with the department's recordkeeping and compilation
requirements established by Section 44037.

(c) After January 1, 1995, each smog check station shall transmit vehicle data
emission test results to the department's centralized data base. Each smog check
station shall also transmit vehicle data and emission measurements made before and
after repair . . .

24 34. California Code of Regulations, title 16 ("Regulations"), section 3340.17 states, in
25 pertinent part:

26 (c) Vehicle data and test results from the OBD Inspection System (OIS) shall
27 be transmitted to the bureau's centralized database . . .

28 ///

///

1 **COST RECOVERY**

2 35. 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, with failure of the licentiate to comply subjecting the license to not being
6 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
7 included in a stipulated settlement.

8 **UPDATED SMOG CHECK PROGRAM - ON BOARD DIAGNOSTIC SYSTEM**

9 36. On March 9, 2015, California's Smog Check Program was updated to keep pace with
10 ever-advancing technology. The program update requires the use of an On-Board Diagnostic
11 Inspection System (BAR-OIS). BAR-OIS is the smog check equipment required in all areas of
12 the State when inspecting most model-year 2000 and newer gasoline and hybrid vehicles and
13 most 1998 and newer diesel vehicles instead of the BAR-97 emission inspection system (EIS)
14 used for most model year 1999 and older gasoline and hybrid vehicles and 1997 and older diesel
15 vehicles. The BAR-OIS system consists of a certified Data Acquisition Device (DAD),
16 computer, bar code scanner, and printer.

17 37. The DAD is an On Board Diagnostic (OBD) scan tool that, when requested by the
18 California BAR-OIS software, retrieves OBD data from the vehicle. The DAD connects between
19 the BAR-OIS computer and the vehicle's diagnostic link connector. The bar code scanner is used
20 to input technician information, the vehicle identification number, and DMV renewal
21 information. The vehicle identification number (VIN) that is physically present on all vehicles is
22 required to be programmed into the vehicle's On-Board Diagnostics – Generation II (OBD II) on
23 2005 and newer vehicles, and on many occasions was programmed into the OBD II computer in
24 earlier model-years. The electronically programmed VIN, referred to as the "eVIN", is captured
25 by the Bureau during a smog check inspection and should match the physical VIN on the vehicle.
26 The printer is used to provide a Vehicle Inspection Report (VIR), which shows the inspection
27 results and the Smog Check Certificate of Compliance Number for passing vehicles. Data

28 ///

1 retrieved and recorded during an OIS smog check includes the eVIN, the communication
2 protocol,² and the number of Parameter Identifications (PID's)³.

3 38. As with the BAR-97 EIS, the technician also performs a visual and functional test on
4 the vehicle. The visual inspection of the emission control components verifies the required
5 emission control devices are present and properly connected and a functional test is performed of
6 the malfunction indicator light. The OIS software makes the determination whether or not the
7 vehicle passes the inspection based on the results of the OBD, visual, and functional tests.

8 CLEAN PLUGGING

9 Review of OIS Test Data

10 39. Bureau Representative "W.N." reviewed BAR-OIS test data pertaining to smog
11 inspections conducted at Respondent's facility. W.N. found that Respondent Godinez and/or
12 Respondent Estrada performed smog inspections on twelve vehicles identified below using a
13 method known as "clean plugging",⁴ resulting in the issuance of fraudulent certificates of
14 compliance for the vehicles.

15 Vehicle #1

16 40. BAR-OIS test data showed that on June 25, 2015, Respondent Estrada performed a
17 smog inspection on a 2000 Ford Expedition XLT (Vehicle 1), resulting in the issuance of
18 Certificate of Compliance No. YT279409C. The BAR-OIS test details for Vehicle 1 showed that
19 the eVIN recorded during the inspection did not match the VIN for Vehicle 1. W.N. reviewed the
20

21 ² The OBD II communication protocol describes the specific manufacturer/vehicle
22 communication "language" used by the OBD II computer to communicate to scan tools and other
23 devices such as the BAR-OIS. The communication protocol is programmed into the OBD II
24 computer during manufacture and does not change.

25 ³ PID's are data points reported by the OBD II computer to the scan tool or BAR-OIS (for
26 example, engine speed (rpm), vehicle speed, engine temperature, etc.) The PID count is the
27 number of data points reported by the OBD II computer, is programmed during manufacture, and
28 does not change. Each make and model vehicle reports a specific number of PID counts; i.e., the
PID count does not vary for that make and model vehicle.

⁴ Clean-plugging is the use of a vehicle's properly functioning OBD II system, or another
source, to generate passing diagnostic readings for the purpose of issuing a fraudulent smog
certificate of compliance to another vehicle that is not in compliance with the Smog Check
Program and/or is not present for testing.

1 Comparative OIS Test Data for 2000 Ford Expedition XLT vehicles and found that the
2 communication protocol and PID count recorded during the smog check on Vehicle 1 were not
3 consistent with the communication protocol and PID count for that make and model. W.N.
4 concluded that the DAD was not connected to Vehicle 1 during the smog inspection.

5 41. The Bureau's VID data showed that on June 25, 2015, a Certificate of Compliance
6 was issued by Respondent's facility for a 2005 Dodge Neon SRT-4. The eVIN transmitted to the
7 VID was the same eVIN that was recorded during the smog inspection on Vehicle 1. Further, the
8 communication protocol and PID count recorded during the inspection on the 2005 Dodge Neon
9 were consistent with the communication protocol and PID count recorded during the inspection
10 on Vehicle 1. W.N. concluded that Respondent Estrada used the 2005 Dodge Neon's properly
11 functioning OBD II system during the smog inspection on Vehicle 1, resulting in the issuance of a
12 fraudulent smog certificate of compliance for that vehicle.

13 **Vehicle #2**

14 42. BAR-OIS test data showed that on September 9, 2015, Respondent Estrada
15 performed a smog inspection on a 2004 Chevrolet C1500 Suburban (Vehicle 2), resulting in the
16 issuance of Certificate of Compliance No. PW250050C. The BAR-OIS test details for Vehicle 2
17 showed that the eVIN recorded during the inspection did not match the VIN for Vehicle 2. W.N.
18 reviewed the Comparative OIS Test Data for 2004 Chevrolet C1500 Suburban vehicles and found
19 that the PID count recorded during the smog check on Vehicle 2 was not consistent with the PID
20 count for that make and model. W.N. concluded that the DAD was not connected to Vehicle 2
21 during the smog inspection.

22 43. The Bureau's VID data showed that on September 10, 2015, a Certificate of
23 Compliance was issued by Respondent's facility for a 2004 Chevrolet Silverado K2500HD. The
24 eVIN transmitted to the VID was the same eVIN that was recorded during the smog inspection on
25 Vehicle 2. Further, the communication protocol and PID count recorded during the inspection on
26 the 2004 Chevrolet Silverado were consistent with the communication protocol and PID count
27 recorded during the inspection on Vehicle 2. W.N. concluded that Respondent Estrada used the
28

1 2004 Chevrolet Silverado's properly functioning OBD II system during the smog inspection on
2 Vehicle 2, resulting in the issuance of a fraudulent smog certificate of compliance for that vehicle.

3 **Vehicle #3**

4 44. BAR-OIS test data showed that on September 14, 2015, Respondent Estrada
5 performed a smog inspection on a 2007 Honda Civic SI (Vehicle 3), resulting in the issuance of
6 Certificate of Compliance No. PW374839C. The BAR-OIS test details for Vehicle 3 showed that
7 the eVIN was not recorded for Vehicle 3. W.N. reviewed the Comparative OIS Test Data for
8 2007 Honda Civic SI vehicles and found that the majority transmitted the eVIN during the
9 inspection. W.N. reviewed the Comparative OIS Test Data for 2007 Honda Civic SI vehicles and
10 found that the PID count recorded during the smog check on Vehicle 3 was not consistent with
11 the PID count for that make and model. W.N. concluded that the DAD was not connected to
12 Vehicle 3 during the smog inspection, resulting in the issuance of a fraudulent smog certificate of
13 compliance.

14 **Vehicle #4**

15 45. BAR-OIS test data showed that on December 17, 2015, Respondent Estrada
16 performed a smog inspection on a 2004 BMW 545i (Vehicle 4), resulting in the issuance of
17 Certificate of Compliance No. YV330349C. The BAR-OIS test details for Vehicle 4 showed that
18 the eVIN was not recorded for Vehicle 4. W.N. reviewed the Comparative OIS Test Data for
19 2004 BMW 545i vehicles and found that the majority transmitted the eVIN during the inspection.
20 W.N. reviewed the Comparative OIS Test Data for 2004 BMW 545i vehicles and found that the
21 communication protocol and PID count recorded during the smog check on Vehicle 4 were not
22 consistent with the communication protocol and PID count for that make and model. W.N.
23 concluded that the DAD was not connected to Vehicle 4 during the smog inspection, resulting in
24 the issuance of a fraudulent smog certificate of compliance.

25 **Vehicle #5**

26 46. BAR-OIS test data showed that on January 30, 2016, Respondent Estrada performed
27 a smog inspection on a 2005 Mitsubishi Lancer Evolution AWD (Vehicle 5), resulting in the
28 issuance of Certificate of Compliance No. YX361451C. The BAR-OIS test details for Vehicle 5

1 showed that the eVIN was not recorded for Vehicle 5. W.N. reviewed the Comparative OIS Test
2 Data for 2005 Mitsubishi Lancer Evolution AWD vehicles and found that the majority
3 transmitted the eVIN during the inspection. W.N. reviewed the Comparative OIS Test Data for
4 2005 Mitsubishi Lancer Evolution AWD vehicles and found that the communication protocol and
5 PID count recorded during the smog check on Vehicle 5 were not consistent with the
6 communication protocol and PID count for that make and model. W.N. concluded that the DAD
7 was not connected to Vehicle 5 during the smog inspection, resulting in the issuance of a
8 fraudulent smog certificate of compliance.

9 **Vehicle #6**

10 47. BAR-OIS test data showed that on March 4, 2016, Respondent Godinez performed a
11 smog inspection on a 2008 GMC Canyon (Vehicle 6), resulting in the issuance of Certificate of
12 Compliance No. YZ499309C. The BAR-OIS test details for Vehicle 6 showed that the eVIN
13 recorded during the inspection did not match the VIN for Vehicle 6. W.N. reviewed the
14 Comparative OIS Test Data for 2008 GMC Canyon vehicles and found that the communication
15 protocol and PID count recorded during the smog check on Vehicle 6 were not consistent with the
16 communication protocol and PID count for that make and model. W.N. concluded that the DAD
17 was not connected to Vehicle 6.

18 48. The Bureau's VID data showed that on May 23, 2015, a Certificate of Compliance
19 was issued by Respondent's facility for a 2003 GMC Envoy XL. The eVIN transmitted to the
20 VID was the same eVIN that was recorded during the smog inspection on Vehicle 6. Further, the
21 communication protocol and PID count recorded during the inspection on the 2003 GMC Envoy
22 XL were consistent with the communication protocol and PID count recorded during the
23 inspection on Vehicle 6. W.N. concluded that Respondent Estrada used the 2003 GMC Envoy
24 XL's properly functioning OBD II system during the smog inspection on Vehicle 6, resulting in
25 the issuance of a fraudulent smog certificate of compliance for that vehicle.

26 **Vehicle #7**

27 49. BAR-OIS test data showed that on March 8, 2016, Respondent Estrada performed a
28 smog inspection on a 2008 BMW 335i (Vehicle 7), resulting in the issuance of Certificate of

1 Compliance No. YZ491964C. The BAR-OIS test details for Vehicle 7 showed that the eVIN
2 recorded during the inspection did not match the VIN for Vehicle 7. W.N. reviewed the
3 Comparative OIS Test Data for 2008 BMW 335i vehicles and found that the PID count recorded
4 during the smog check on Vehicle 7 was not consistent with the PID count for that make and
5 model. W.N. concluded that the DAD was not connected to Vehicle 7 during the smog inspection.

6 50. The Bureau's VID data showed that on March 8, 2016, a Certificate of Compliance
7 was issued by Respondent's facility for a 2008 Nissan Sentra. The eVIN transmitted to the VID
8 was the same eVIN that was recorded during the smog inspection on Vehicle 7. Further, the
9 communication protocol and PID count recorded during the inspection on the 2008 Nissan Sentra
10 were consistent with the communication protocol and PID count recorded during the inspection
11 on Vehicle 7. W.N. concluded that Respondent Estrada used the 2008 Nissan Sentra's properly
12 functioning OBD II system during the smog inspection on Vehicle 7, resulting in the issuance of a
13 fraudulent smog certificate of compliance for that vehicle.

14 **Vehicle #8**

15 51. BAR-OIS test data showed that on March 8, 2016, Respondent Estrada performed a
16 smog inspection on a 2001 Volkswagen Jetta GL (Vehicle 8), resulting in the issuance of
17 Certificate of Compliance No. YZ644705C. W.N. reviewed the Comparative OIS Test Data for
18 2001 Volkswagen Jetta GL vehicles and found that the communication protocol and PID count
19 recorded during the smog check on Vehicle 8 were not consistent with the communication
20 protocol and PID count for that make and model. W.N. concluded that the DAD was not
21 connected to Vehicle 8 during the smog inspection.

22 **Vehicle #9**

23 52. BAR-OIS test data showed that on April 5, 2016, Respondent Estrada performed a
24 smog inspection on a 2007 Chevrolet Silverado C1500 (Vehicle 9), resulting in the issuance of
25 Certificate of Compliance No. ZB053366C. The BAR-OIS test details for Vehicle 9 showed that
26 the eVIN recorded during the inspection did not match the VIN for Vehicle 9. W.N. concluded
27 that the DAD was not connected to Vehicle 9 during the smog inspection, resulting in the
28 issuance of a fraudulent smog certificate of compliance.

1 53. The Bureau's VID data showed that on April 5, 2016, a Certificate of Compliance
2 was issued by Respondent's facility for a 2003 Chevrolet Silverado C1500. The eVIN
3 transmitted to the VID was the same eVIN that was recorded during the smog inspection on
4 Vehicle 9. Further, the communication protocol and PID count recorded during the inspection on
5 that vehicle were consistent with the communication protocol and PID count recorded during the
6 inspection on Vehicle 9. W.N. concluded that Respondent Estrada used a 2003 Chevrolet
7 Silverado C1500 with a properly functioning OBD II system during the smog inspection on
8 Vehicle 9, resulting in the issuance of a fraudulent smog certificate of compliance for that vehicle.

9 **Vehicle #10**

10 54. BAR-OIS test data showed that on April 5, 2016, Respondent Estrada performed a
11 smog inspection on a 2008 Dodge Caravan SXT (Vehicle 10), resulting in the issuance of
12 Certificate of Compliance No. ZB456743C. The BAR-OIS test details for Vehicle 10 showed
13 that the eVIN was not recorded for Vehicle 10. W.N. reviewed the Comparative OIS Test Data
14 for 2008 Dodge Caravan SXT vehicles and found that the majority transmitted the eVIN during
15 the inspection. W.N. reviewed the Comparative OIS Test Data for 2008 Dodge Caravan SXT
16 vehicles and found that the communication protocol and PID count recorded during the smog
17 check on Vehicle 10 were not consistent with the communication protocol and PID count for that
18 make and model. W.N. concluded that the DAD was not connected to Vehicle 10 during the
19 smog inspection.

20 **Vehicle #11**

21 55. BAR-OIS test data showed that on April 6, 2016, Respondent Estrada performed a
22 smog inspection on a 2007 Ford Five Hundred SEL AWD (Vehicle 11), resulting in the issuance
23 of Certificate of Compliance No. ZB592805C. The BAR-OIS test details for Vehicle 11 showed
24 that the eVIN recorded during the inspection did not match the VIN for Vehicle 11. W.N.
25 reviewed the Comparative OIS Test Data for 2007 Ford Five Hundred SEL AWD vehicles and
26 found that the PID count recorded during the smog check on Vehicle 11 was not consistent with
27 the PID count for that make and model. W.N. concluded that the DAD was not connected to
28 Vehicle 11 during the smog inspection.

1 56. The Bureau's VID data showed that on February 24, 2015, a Certificate of
2 Compliance was issued by Respondent's facility for a 2005 Ford Mustang. The eVIN transmitted
3 to the VID was the same eVIN that was recorded during the smog inspection on Vehicle 11.
4 Further, the communication protocol and PID count recorded during the inspection on the 2005
5 Ford Mustang were consistent with the communication protocol and PID count recorded during
6 the inspection on Vehicle 11. W.N. concluded that Respondent Estrada used the 2005 Ford
7 Mustang's properly functioning OBD II system during the smog inspection on Vehicle 11,
8 resulting in the issuance of a fraudulent smog certificate of compliance for that vehicle.

9 **FIRST CAUSE FOR DISCIPLINE**

10 (Untrue or Misleading Statements)

11 57. Respondent Godinez's registration is subject to discipline pursuant to Code
12 section 9884.7(a)(1), in that he made or authorized statements which he knew or in the exercise of
13 reasonable care should have known to be untrue or misleading. Specifically, Respondent
14 Godinez certified that vehicles 1 through 11, identified in paragraphs 40 through 56, above,
15 passed inspection and were in compliance with applicable laws and regulations. In fact,
16 Respondent Godinez conducted, or caused to be conducted, smog inspections on the vehicles
17 using clean-plugging methods in that he substituted different vehicles during the inspections in
18 order to issue smog certificates of compliance for the vehicles, and did not test or inspect the
19 vehicles as required by Health & Saf. Code section 44012.

20 **SECOND CAUSE FOR DISCIPLINE**

21 (Fraud)

22 58. Respondent Godinez's registration is subject to discipline pursuant to Code
23 section 9884.7(a)(4), in that he committed acts that constitute fraud by issuing electronic smog
24 certificates of compliance for vehicles 1 through 11, identified in paragraphs 40 through 56,
25 above, without ensuring that bona fide inspections were performed of the emission control
26 devices and systems on the vehicles, thereby depriving the People of the State of California of the
27 protection afforded by the Motor Vehicle Inspection Program.

28 ///

1 **THIRD CAUSE FOR DISCIPLINE**

2 (Violations of Motor Vehicle Inspection Program)

3 59. Respondent Godinez's smog check station license is subject to discipline pursuant to
4 Health & Saf. Code section 44072.2(a), in that regarding vehicles 1 through 11, identified in
5 paragraphs 40 through 56 above, he failed to comply with the following sections of that Code, as
6 follows:

7 a. **Section 44012(a)**: Respondent Godinez failed to ensure that the emission control
8 tests were performed on the vehicles in accordance with procedures prescribed by the department.

9 b. **Section 44015**: Respondent Godinez issued electronic smog certificates of
10 compliance for the vehicles without ensuring that the vehicles were properly tested and inspected
11 to determine if it was in compliance with Health & Saf. Code section 44012.

12 **FOURTH CAUSE FOR DISCIPLINE**

13 (Failure to Comply with Regulations)

14 60. Respondent Godinez's smog check station license is subject to discipline pursuant to
15 Health & Saf. Code section 44072.2(c), in that regarding vehicles 1 through 11, identified in
16 paragraphs 40 through 56, above, it failed to comply with Regulations, as follows:

17 a. **Section 3340.35(c)**: Respondent Godinez issued electronic smog certificates of
18 compliance for the vehicles even though the vehicles had not been inspected in accordance with
19 Regulation section 3340.42.

20 b. **Section 3340.42**: Respondent Godinez failed to ensure that the required smog tests
21 were conducted in accordance with the Bureau's specifications.

22 **FIFTH CAUSE FOR DISCIPLINE**

23 (Dishonesty, Fraud or Deceit)

24 61. Respondent Godinez's Smog Check Station, Smog Check Inspector and Smog Check
25 Repair Technician licenses are subject to discipline pursuant to Health & Saf. Code section
26 44072.2(d), in that Respondent Godinez committed dishonest, fraudulent, or deceitful acts
27 whereby another was injured by issuing electronic smog certificates of compliance for vehicles 1
28 through 11, identified in paragraphs 40 through 56 above, without ensuring that a bona fide

1 inspection was performed of the emission control devices and systems on the vehicles, thereby
2 depriving the people of the State of California of the protection afforded by the Motor Vehicle
3 Inspection Program.

4 **SIXTH CAUSE FOR DISCIPLINE**

5 (Violations of Motor Vehicle Inspection Program)

6 62. Respondent Godinez's smog check inspector and smog check repair technician
7 licenses are subject to discipline pursuant to Health & Saf. Code section 44072.2(a), in that he
8 violated sections of that Code. Specifically, Respondent Godinez failed to perform the emission
9 control tests on Vehicle 6, identified in paragraphs 47 and 48 above, in accord with procedures
10 prescribed by the department.

11 **SEVENTH CAUSE FOR DISCIPLINE**

12 (Failure to Comply with Regulations)

13 63. Respondent Godinez's smog check inspector and smog check repair technician
14 licenses are subject to discipline pursuant to Health & Saf. Code section 44072.2(c), in that
15 regarding vehicle 6, identified in paragraphs 47 and 48, above, he failed to comply with
16 provisions of the Regulations, as follows:

17 a. **Section 3340.30(a)**: Respondent Godinez failed to inspect and test Vehicle 6 in
18 accordance with Health & Saf. Code sections 44012 and 44035, and Regulations, section
19 3340.42.

20 b. **Section 3340.42**: Respondent Godinez failed to conduct the required smog tests on
21 vehicle 6 in accordance with the Bureau's specifications.

22 **EIGHTH CAUSE FOR DISCIPLINE**

23 (Dishonesty, Fraud, or Deceit)

24 64. Respondent Godinez's brake and lamp station and brake and lamp adjuster licenses
25 are subject to discipline pursuant to Code section 9889.3(d), in that he committed dishonest,
26 fraudulent, or deceitful acts whereby another was injured, as set forth in paragraphs 40 through 56
27 above.

28 ///

1 **NINTH CAUSE FOR DISCIPLINE**

2 (Violations of Motor Vehicle Inspection Program)

3 65. Respondent Estrada's smog check inspector license is subject to discipline pursuant
4 to Health & Saf. Code section 44072.2(a), in that he violated sections of that Code. Specifically,
5 Respondent Estrada failed to perform the emission control tests on vehicles 1 through 5,
6 identified in paragraphs 40 through 46 above, and vehicles 7 through 11, identified in paragraphs
7 49 through 56, above, in accord with procedures prescribed by the department.

8 **TENTH CAUSE FOR DISCIPLINE**

9 (Failure to Comply with Regulations)

10 66. Respondent Estrada's smog check inspector license is subject to discipline pursuant
11 to Health & Saf. Code section 44072.2(c), in that regarding vehicles 1 through 5, identified in
12 paragraphs 40 through 46, above, and vehicles 7 through 11, identified in paragraphs 49 through
13 56, above, he failed to comply with provisions of the Regulations, as follows:

14 a. **Section 3340.30(a)**: Respondent Estrada failed to inspect and test the vehicles in
15 accordance with Health & Saf. Code sections 44012 and 44035, and Regulations, section
16 3340.42.

17 b. **Section 3340.42**: Respondent Estrada failed to conduct the required smog tests on the
18 vehicles in accordance with the Bureau's specifications.

19 **ELEVENTH CAUSE FOR DISCIPLINE**

20 (Dishonesty, Fraud, or Deceit)

21 67. Respondent Estrada's smog check inspector's license is subject to discipline pursuant
22 to Health & Saf. Code section 44072.2(d), in that he committed dishonest, fraudulent, or deceitful
23 acts whereby another was injured by using false information for electronic smog certificates of
24 compliance issued for vehicles 1 through 5, identified in paragraphs 40 through 46 above, and
25 vehicles 7 through 11, identified in paragraphs 49 through 56, above, thereby failing to
26 performing bona fide inspections of the emission control devices and systems on the vehicles and
27 depriving the people of the State of California of the protection afforded by the Motor Vehicle
28 Inspection Program.

1 **TWELFTH CAUSE FOR DISCIPLINE**

2 (Dishonesty, Fraud, or Deceit)

3 68. Respondent Estrada's brake and lamp adjuster licenses are subject to discipline
4 pursuant to Code section 9889.3(d), in that he committed dishonest, fraudulent, or deceitful acts
5 whereby another was injured, as set forth in paragraphs 40 through 46, and 49 through 56, above.

6 **SECRET SHOPPER OPERATION – APRIL 2, 2015 (2007 TOYOTA)**

7 69. On or about April 2, 2015, a Bureau undercover operator using an alias (the
8 "operator") took the Bureau's 2007 Toyota to Respondent Godinez's facility and asked for a
9 smog check and brake and lamp inspections. Respondent Godinez had the operator sign a repair
10 order. The operator did not receive a copy of the repair order he had signed.

11 70. The operator observed that Respondent Estrada, who performed the brake and lamp
12 inspections, did not remove the wheels and the vehicle never left the facility.

13 71. The operator was given invoice No. 024459 for \$128, which he paid. The operator
14 also received Brake Certificate #BC1969391 and Lamp Certificate #LC1937241, which had
15 Respondent Estrada's signature and adjuster license number on them. The Brake Certificate
16 indicated that 7' were required to stop at 20 mph.

17 **THIRTEENTH CAUSE FOR DISCIPLINE**

18 (Untrue or Misleading Statements)

19 72. Respondent Godinez's registration is subject to discipline pursuant to Code section
20 9884.7(a)(1), in that on or about April 2, 2015, regarding the Bureau's 2007 Toyota, he made or
21 authorized statements which he knew or in the exercise of reasonable care should have known to
22 be untrue or misleading, as follows:

23 a. Respondent Godinez's employee, Respondent Estrada, falsely represented on Brake
24 Certificate No. BC1969391 that the vehicle had been road tested when, in fact, it had not.

25 b. Respondent Godinez issued Brake Certificate No. BC1969391 for the vehicle,
26 certifying that Respondent's employee, Respondent Estrada, inspected the vehicle's brake system.
27 In fact, Respondent Estrada did not properly test or inspect the vehicle.

28 ///

1 **FOURTEENTH CAUSE FOR DISCIPLINE**

2 (Fraud)

3 73. Respondent Godinez's registration is subject to discipline pursuant to Code section
4 9884.7(a)(4), in that on or about April 2, 2015, he committed acts that constitute fraud.
5 Specifically, Respondent obtained payment from the operator for causing the applicable
6 inspections, adjustments, or repairs of the brake and lamp systems to be performed on the
7 Bureau's 2007 Toyota as specified by the Bureau and in accordance with the Vehicle Code when,
8 in fact, it had not been inspected, as set forth in paragraphs 69 through 71, above.

9 **FIFTEENTH CAUSE FOR DISCIPLINE**

10 (Failure to Provide Customer with Copy of Signed Document)

11 74. Respondent Godinez's registration is subject to discipline pursuant to Code section
12 9884.7(a)(3), in that on or about April 2, 2015, Respondent Godinez failed to ensure that the
13 operator was provided with a copy of the repair order as soon as the operator signed the
14 document.

15 **SIXTEENTH CAUSE FOR DISCIPLINE**

16 (Violations of Motor Vehicle Inspection Program)

17 75. Respondent Godinez's registration is subject to discipline pursuant to Code
18 section 9884.7(a)(6), in that regarding the Bureau's 2007 Toyota, he failed to materially comply
19 with provisions of Code section 9889.16. Specifically, on or about April 2, 2015, Respondent
20 Godinez issued Brake Certificate No. BC1969391 to the operator, certifying that the vehicle was
21 in compliance with Bureau Regulations or the requirements of the Vehicle Code. In fact,
22 Respondent Godinez's employee, Respondent Estrada, did not test or inspect the vehicle in a
23 manner that conforms with Bureau Regulations or Vehicle Code requirements.

24 **SEVENTEENTH CAUSE FOR DISCIPLINE**

25 (Violations of Regulations)

26 76. Respondent Godinez's registration is subject to discipline pursuant to Code section
27 9884.7(a)(6), in that on or about April 2, 2015, regarding the Bureau's 2007 Toyota, he failed to
28 comply with Regulations, as follows:

1 a. Section 3305(a): Respondent Godinez failed to ensure that the brake system was
2 inspected by his employee, Respondent Estrada, in accordance with specifications, instructions,
3 and directives issued by the Bureau and vehicle manufacturer.

4 b. Section 3321(c)(2): Respondent Godinez issued Brake Certificate No. BC1969391
5 for the vehicle, certifying that the vehicle's brake system had been properly tested or inspected
6 when, in fact, Respondent Estrada did not properly test or inspect the vehicle, as set forth in
7 paragraphs 69 through 71, above.

8 **EIGHTEENTH CAUSE FOR DISCIPLINE**

9 (Dishonesty, Fraud, or Deceit)

10 77. Respondent Godinez's brake and lamp station and brake and lamp adjuster licenses
11 are subject to discipline pursuant to Code section 9889.3(d), in that Respondent Godinez
12 committed acts involving dishonesty, fraud, or deceit whereby another was injured, as set forth in
13 paragraphs 69 through 71, above.

14 **NINETEENTH CAUSE FOR DISCIPLINE**

15 (Violations of Motor Vehicle Inspection Program)

16 78. Respondent Godinez's brake and lamp station licenses are subject to discipline
17 pursuant to Code section 9889.3(a) and (h), in that regarding the Bureau's 2007 Toyota, he
18 committed acts in violation of the Code relating to his licensed activities, as set forth in
19 paragraphs 75, above.

20 **TWENTIETH CAUSE FOR DISCIPLINE**

21 (Violations of Regulations)

22 79. Respondent Godinez's brake and lamp station licenses are subject to discipline
23 pursuant to Code section 9889.3(c), in that regarding the Bureau's 2007 Toyota, he committed
24 acts in violation of Regulations relating to his licensed activities, as set forth in paragraph 76,
25 subparagraphs a and b, above.

26 ///

27 ///

28 ///

1 **TWENTY-FIRST CAUSE FOR DISCIPLINE**

2 (Dishonesty, Fraud, or Deceit Causing Injury to Another)

3 80. Respondent Godinez's smog check station, smog check inspector, and smog check
4 repair technician licenses are subject to discipline pursuant to Health and Safety Code
5 section 44072.2(d), in that he committed dishonest, fraudulent, or deceitful acts whereby another
6 was injured, as set forth in paragraphs 69 through 71, above.

7 **TWENTY-SECOND CAUSE FOR DISCIPLINE**

8 (Violations of Motor Vehicle Inspection Program)

9 81. Respondent Estrada's brake and lamp adjuster licenses are subject to discipline
10 pursuant to Code section 9889.3(a) and (h), in that he violated the provisions of the Code, as set
11 forth in paragraph 70, above.

12 **TWENTY-THIRD CAUSE FOR DISCIPLINE**

13 (Violations of Regulations)

14 82. Respondent Estrada's brake and lamp adjuster licenses are subject to discipline
15 pursuant to Code section 9889.3(c), in that on or about April 2, 2015, regarding the Bureau's
16 2007 Toyota, he failed to comply with Regulations, as set forth in paragraph 76, subparagraphs a
17 and b, above.

18 **TWENTY-FOURTH CAUSE FOR DISCIPLINE**

19 (Dishonesty, Fraud, or Deceit)

20 83. Respondent Estrada's brake and lamp adjuster licenses are subject to discipline
21 pursuant to Code section 9889.3(d), in that he committed dishonest, fraudulent, or deceitful acts
22 whereby another was injured, as set forth in paragraphs 69 through 71, above.

23 **TWENTY-FIFTH CAUSE FOR DISCIPLINE**

24 (Dishonesty, Fraud, or Deceit Causing Injury to Another)

25 84. Respondent Estrada's smog check inspector license is subject to discipline pursuant
26 to Health and Safety Code section 44072.2(d), in that he committed dishonest, fraudulent, or
27 deceitful acts whereby another was injured, as set forth in paragraphs 69 through 71, above.

28 ///

1 **UNDERCOVER OPERATION – November 19, 2015 (2007 FORD)**

2 85. On or about November 19, 2015, a Bureau undercover operator using an alias (the
3 “operator”) took a Bureau-documented 2007 Ford to Respondent Godinez’s facility and asked
4 Respondent Godinez to perform a smog, brake, and lamp inspection on the vehicle. Respondent
5 Godinez did not give the operator a written estimate or have him sign a repair order.

6 86. The operator observed that Respondent Estrada, who performed the brake and lamp
7 inspections, did not remove the wheels and the vehicle never left the facility.

8 87. The operator was given invoice No. 031556 for \$120, which he paid. The operator
9 received Brake Certificate #BA2179206, which had Respondent Estrada’s signature and adjuster
10 license number on it. The Brake Certificate indicated that 9’ were required to stop at 20 mph.

11 88. On or about June 20, 2015, a Bureau representative inspected the 2007 Ford, using
12 Respondent Godinez’s invoice No. 031556, and Brake Certificate No. BA2179206 for
13 comparison. The representative concluded that the certificate should not have been issued for the
14 vehicle because the right front and left rear brake rotors did not meet the manufacturer’s
15 minimum thickness tolerance.

16 **TWENTY-SIXTH CAUSE FOR DISCIPLINE**

17 (Untrue or Misleading Statements)

18 89. Respondent Godinez’s registration is subject to discipline pursuant to Code section
19 9884.7(a)(1), in that on or about November 19, 2015, regarding the Bureau’s 2007 Ford, he made
20 or authorized statements which he knew or in the exercise of reasonable care should have known
21 to be untrue or misleading, as follows:

22 a. Respondent Godinez’s employee, Respondent Estrada, falsely represented on Brake
23 Certificate No. BA2179206 that the vehicle had been road tested when, in fact, it had not.

24 b. Respondent Godinez issued Brake Certificate No. BA2179206 to the operator,
25 certifying that the vehicle was in compliance with Bureau Regulations or the requirements of the
26 Vehicle Code. In fact, Respondent Godinez’s employee, Respondent Estrada, did not test or
27 inspect the vehicle in a manner that conforms with Bureau Regulations or requirements.

28 ///

1 **TWENTY-SEVENTH CAUSE FOR DISCIPLINE**

2 (Fraud)

3 90. Respondent Godinez's registration is subject to discipline pursuant to Code section
4 9884.7(a)(4), in that on or about November 19, 2015, he committed acts that constitute fraud.
5 Specifically, Respondent obtained payment from the operator for performing the applicable
6 inspections, adjustments, or repairs of the brake system on the Bureau's 2007 Ford as specified by
7 the Bureau and in accordance with the Vehicle Code when, in fact, it had not, as set forth in
8 paragraphs 85 through 88, above.

9 **TWENTY-EIGHTH CAUSE FOR DISCIPLINE**

10 (Violations of Motor Vehicle Inspection Program)

11 91. Respondent Godinez's registration is subject to discipline pursuant to Code
12 section 9884.7(a)(6), in that on or about November 19, 2015, regarding the Bureau's 2007 Ford,
13 he failed to materially comply with provisions of that Code as follows:

14 a. **Section 9884.9(a)**: Respondent Godinez failed to give the operator a written
15 estimated price.

16 b. **Section 9889.16**: Respondent Godinez issued Brake Certificate No. BA2179206 to
17 the operator, certifying that the vehicle was in compliance with Bureau Regulations or the
18 requirements of the Vehicle Code. In fact, Respondent Godinez's employee, Respondent Estrada,
19 did not test or inspect the vehicle in a manner that conforms with Bureau Regulations or
20 requirements of the Vehicle Code.

21 **TWENTY-NINTH CAUSE FOR DISCIPLINE**

22 (Violations of Regulations)

23 92. Respondent Godinez's registration is subject to discipline pursuant to Code section
24 9884.7(a)(6), in that on or about November 19, 2015, regarding the Bureau's 2007 Ford, he failed
25 to comply with Regulations, as follows:

26 a. **Section 3305(a)**: Respondent Godinez failed to ensure that the brake system was
27 inspected by his employee, Respondent Estrada, in accordance with specifications, instructions,
28 and directives issued by the Bureau and vehicle manufacturer.

b. **Section 3321(c)(2)**: Respondent Godinez issued Brake Certificate No. BA2179206 for the vehicle, certifying that the vehicle's brake system had been properly tested or inspected. In fact, Respondent Estrada had not properly tested or inspected the vehicle, as set forth in paragraphs 85 through 88, above.

THIRTIETH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud, or Deceit Causing Injury to Another)

93. Respondent Godinez's smog check station, smog check inspector, and smog check repair technician licenses are subject to discipline pursuant to Health and Safety Code section 44072.2(d), in that he committed dishonest, fraudulent, or deceitful acts whereby another was injured, as set forth in paragraph 85 through 88, above.

THIRTY-FIRST CAUSE FOR DISCIPLINE

(Dishonesty, Fraud, or Deceit)

94. Respondent Godinez's brake and lamp station and brake and lamp adjuster licenses are subject to discipline pursuant to Code section 9889.3(d), in that Respondent Godinez committed dishonest, fraudulent, or deceitful acts whereby another was injured, as set forth in paragraphs 85 through 88, above.

THIRTY-SECOND CAUSE FOR DISCIPLINE

(Violations of Motor Vehicle Inspection Program)

95. Respondent Godinez's brake and lamp station licenses are subject to discipline pursuant to Code section 9889.3(a) and (h), in that on or about November 19, 2015, regarding the Bureau's 2007 Ford, he committed acts in violation of the Code relating to his licensed activities, as set forth in paragraph 91, subparagraphs a and b, above.

THIRTY-THIRD CAUSE FOR DISCIPLINE

(Violations of Regulations)

96. Respondent Godinez's brake and lamp station licenses are subject to discipline pursuant to Code section 9889.3(c), in that on or about November 19, 2015, regarding the Bureau's 2007 Ford, he committed acts in violation of Regulations relating to his licensed activities, as set forth in paragraph 92, subparagraphs a and b, above.

1 **THIRTY-FOURTH CAUSE FOR DISCIPLINE**

2 (Dishonesty, Fraud, or Deceit)

3 97. Respondent Estrada's brake and lamp adjuster licenses are subject to discipline
4 pursuant to Code section 9889.3(d), in that he committed dishonest, fraudulent, or deceitful acts
5 whereby another was injured, as set forth in paragraphs 85 through 88, above.

6 **THIRTY-FIFTH CAUSE FOR DISCIPLINE**

7 (Violations of Motor Vehicle Inspection Program)

8 98. Respondent Estrada's brake and lamp adjuster licenses are subject to discipline
9 pursuant to Code section 9889.3(a) and (h), in that he violated the provisions of the Code, as set
10 forth in paragraph 91, subparagraphs a and b, above.

11 **THIRTY-SIXTH CAUSE FOR DISCIPLINE**

12 (Violations of Regulations)

13 99. Respondent Estrada's brake and lamp adjuster licenses are subject to discipline
14 pursuant to Code section 9889.3(c), in that on or about November 19, 2015, regarding the
15 Bureau's 2007 Ford, he failed to comply with Regulations, as set forth in paragraph 92,
16 subparagraphs a and b, above.

17 **THIRTY-SEVENTH CAUSE FOR DISCIPLINE**

18 (Dishonesty, Fraud, or Deceit Causing Injury to Another)

19 100. Respondent Estrada's smog check inspector license is subject to discipline pursuant
20 to Health and Safety Code section 44072.2(d), in that he committed dishonest, fraudulent, or
21 deceitful acts whereby another was injured, as set forth in paragraphs 85 through 88, above.

22 **UNDERCOVER OPERATION – December 11, 2015 (2001 PONTIAC)**

23 101. On or about December 11, 2015, a Bureau undercover operator using an alias (the
24 "operator") took a Bureau-documented 2001 Pontiac to Respondent Godinez's facility and asked
25 Respondent Godinez to perform a smog, brake, and lamp inspection on the vehicle. Respondent
26 Godinez did not give the operator a written estimate or have him sign a repair order.

27 102. The operator observed that Respondent Estrada, who performed the brake and lamp
28 inspections, did not remove the wheels and the vehicle never left the facility.

1 103. The operator was given invoice No. 030685 for \$60, which he paid. The operator
2 received Brake Certificate No. BA2179210, and Lamp Certificate No. LA2143310, which had
3 Respondent Estrada's signature and adjuster license number on them. The Brake Certificate
4 indicated that 12' were required to stop at 20 mph.

5 104. On or about December 22, 2015, a Bureau representative inspected the 2001 Pontiac,
6 using Respondent Godinez's invoice No. 030685, Brake Certificate BA2179210, and Lamp
7 Certificate No. LA2143310 for comparison. The representative concluded that the certificates
8 should not have been issued for the vehicle because the passenger side low beam headlamp was
9 not adjusted within manufacturer's specifications and the left front and right rear brake rotors did
10 not meet the manufacturer's minimum thickness tolerance.

11 **THIRTY-EIGHTH CAUSE FOR DISCIPLINE**

12 (Untrue or Misleading Statements)

13 105. Respondent Godinez's registration is subject to discipline pursuant to Code section
14 9884.7(a)(1), in that on or about December 11, 2015, regarding the Bureau's 2001 Pontiac, he
15 made or authorized statements which he knew or in the exercise of reasonable care should have
16 known to be untrue or misleading, as follows:

17 a. Respondent Godinez's employee, Respondent Estrada, falsely represented on Brake
18 Certificate No. BA2179210 that the vehicle had been road tested when, in fact, it had not.

19 b. Respondent Godinez issued Brake Certificate No. BA2179210 for the vehicle,
20 certifying that the vehicle's brake system had been properly tested or inspected when, in fact,
21 Respondent's employee, Respondent Estrada, did not properly test or inspect the vehicle.

22 c. Respondent Godinez issued Lamp Certificate No. LA2143310, certifying that the
23 vehicle's headlights had been inspected, adjusted or repaired when, in fact, Respondent's
24 employee, Respondent Estrada, did not properly adjust one headlamp.

25 **THIRTY-NINTH CAUSE FOR DISCIPLINE**

26 (Fraud)

27 106. Respondent Godinez's registration is subject to discipline pursuant to Code section
28 9884.7(a)(4), in that on or about December 11, 2015, he committed acts that constitute fraud.

1 Specifically, Respondent obtained payment from the operator for causing the applicable
2 inspection, adjustment, or repair of the lamps and brakes to be performed on the Bureau's 2001
3 Pontiac as specified by the Bureau and in accordance with the Vehicle Code when, in fact,
4 Respondent Estrada had not performed such work, as set forth in paragraphs 101 through 104,
5 above.

6 **FORTIETH CAUSE FOR DISCIPLINE**

7 (Violations of Motor Vehicle Inspection Program)

8 107. Respondent Godinez's registration is subject to discipline pursuant to Code
9 section 9884.7(a)(6), in that on or about December 11, 2015, regarding the Bureau's 2001
10 Pontiac, he failed to materially comply with provisions of that Code as follows:

11 a. **Section 9884.9(a)**: Respondent Godinez failed to give the operator a written
12 estimated price.

13 b. **Section 9889.16**: Respondent Godinez issued Lamp Certificate No. LA2143310 and
14 Brake Certificate No. BA2179210 to the operator, certifying that the vehicle was in compliance
15 with Bureau Regulations or the requirements of the Vehicle Code. In fact, Respondent Godinez's
16 employee, Respondent Estrada, did not test or inspect the vehicle in a manner that conforms with
17 Bureau Regulations or requirements.

18 **FORTY-FIRST CAUSE FOR DISCIPLINE**

19 (Violations of Regulations)

20 108. Respondent Godinez's registration is subject to discipline pursuant to Code section
21 9884.7(a)(6), in that on or about December 11, 2015, regarding the Bureau's 2001 Pontiac, he
22 failed to comply with Regulations, as follows:

23 a. **Section 3305(a)**: Respondent Godinez failed to ensure that the lamp and brake
24 systems were inspected by his employee, Respondent Estrada, in accordance with specifications,
25 instructions, and directives issued by the Bureau and vehicle manufacturer.

26 b. **Section 3321(c)(2)**: Respondent Godinez issued Brake Certificate No. BA2179210,
27 certifying that Respondent Estrada had inspected the vehicle's brake system when, in fact, the
28

1 brake system on the vehicle had not been properly tested or inspected, as set forth in paragraphs
2 101 through 104, above.

3 c. **Section 3316(d)(2)**: Respondent Godinez issued Lamp Certificate No. LA2143310,
4 certifying that Respondent Estrada had properly adjusted the headlamps. In fact, the lamps had
5 not been properly adjusted, as set forth in paragraphs 101 through 104, above.

6 **FORTY-SECOND CAUSE FOR DISCIPLINE**

7 (Dishonesty, Fraud, or Deceit)

8 109. Respondent Godinez's brake and lamp station and brake and lamp adjuster licenses
9 are subject to discipline pursuant to Code section 9889.3(d), in that Respondent Godinez
10 committed dishonest, fraudulent, or deceitful acts whereby another was injured, as set forth in
11 paragraphs 101 through 104, above.

12 **FORTY-THIRD CAUSE FOR DISCIPLINE**

13 (Violations of Motor Vehicle Inspection Program)

14 110. Respondent Godinez's brake and lamp station licenses are subject to discipline
15 pursuant to Code section 9889.3(a) and (h), in that on or about December 11, 2015, regarding the
16 Bureau's 2001 Pontiac, he committed acts in violation of the Code relating to his licensed
17 activities, as set forth in paragraph 107, subparagraphs a and b, above.

18 **FORTY-FOURTH CAUSE FOR DISCIPLINE**

19 (Violations of Regulations)

20 111. Respondent Godinez's brake and lamp station licenses are subject to discipline
21 pursuant to Code section 9889.3(c), in that on or about December 11, 2015, regarding the
22 Bureau's 2001 Pontiac, he committed acts in violation of Regulations relating to his licensed
23 activities, as set forth in paragraph 108, subparagraphs a through c, above.

24 **FORTY-FIFTH CAUSE FOR DISCIPLINE**

25 (Dishonesty, Fraud, or Deceit Causing Injury to Another)

26 112. Respondent Godinez's smog check station and smog check inspector and smog check
27 repair technician licenses are subject to discipline pursuant to Health and Safety Code section
28

1 44072.2(d), in that he committed dishonest, fraudulent, or deceitful acts whereby another was
2 injured, as set forth in paragraph 101 through 104, above.

3 **FORTY-SIXTH CAUSE FOR DISCIPLINE**

4 (Dishonesty, Fraud, or Deceit)

5 113. Respondent Estrada's brake and lamp adjuster licenses are subject to discipline
6 pursuant to Code section 9889.3(d), in that he committed dishonest, fraudulent, or deceitful acts
7 whereby another was injured, as set forth in paragraphs 101 through 104, above.

8 **FORTY-SEVENTH CAUSE FOR DISCIPLINE**

9 (Violations of Motor Vehicle Inspection Program)

10 114. Respondent Estrada's brake and lamp adjuster licenses are subject to discipline
11 pursuant to Code section 9889.3(a) and (h), in that he violated the provisions of the Code, as set
12 forth in paragraph 107, subparagraphs a and b, above.

13 **FORTY-EIGHTH CAUSE FOR DISCIPLINE**

14 (Violations of Regulations)

15 115. Respondent Estrada's brake and lamp adjuster licenses are subject to discipline
16 pursuant to Code section 9889.3(c), in that on or about December 11, 2015, regarding the
17 Bureau's 2001 Pontiac, he failed to comply with Regulations, as set forth in paragraph 108,
18 subparagraphs a through c, above.

19 **FORTY-NINTH CAUSE FOR DISCIPLINE**

20 (Dishonesty, Fraud, or Deceit Causing Injury to Another)

21 116. Respondent Estrada's smog check inspector license is subject to discipline pursuant
22 to Health and Safety Code section 44072.2(d), in that he committed dishonest, fraudulent, or
23 deceitful acts whereby another was injured, as set forth in paragraphs 101 through 104, above.

24 **UNDERCOVER OPERATION – January 8, 2016 (2002 Chevrolet)**

25 117. On or about January 8, 2016, a Bureau undercover operator using an alias (the
26 "operator") took a Bureau-documented 2002 Chevrolet to Respondent Godinez's facility and
27 asked Respondent Godinez to perform a smog, brake, and lamp inspection on the vehicle.
28 Respondent Godinez did not give the operator a written estimate or have him sign a repair order.

1 118. The operator observed that Respondent Estrada appeared to perform the brake and
2 lamp inspections; however, the vehicle never left the facility and was not test-driven.

3 119. The operator was given invoice No. 032023 for \$100, which he paid. The operator
4 received Brake Certificate No. BA2179220, and Lamp Certificate No. LA2143320, which had
5 Respondent Estrada's signature and adjuster license number on them. The Brake Certificate
6 indicated that 8' were required to stop at 20 mph.

7 120. On or about January 8, 2016, a Bureau representative inspected the 2002 Chevrolet,
8 using Respondent Godinez's invoice No. 032023, Brake Certificate BA2179220, and Lamp
9 Certificate No. LA2143320 for comparison. The representative concluded that the brake
10 certificate should not have been issued for the vehicle because the right front and left rear disc
11 brake rotors did not meet the manufacturer's minimum thickness tolerance.

12 **FIFTIETH CAUSE FOR DISCIPLINE**

13 (Untrue or Misleading Statements)

14 121. Respondent Godinez's registration is subject to discipline pursuant to Code section
15 9884.7(a)(1), in that on or about January 8, 2016, regarding the Bureau's 2002 Chevrolet, he
16 made or authorized statements which he knew or in the exercise of reasonable care should have
17 known to be untrue or misleading, as follows:

18 a. Respondent Godinez's employee, Respondent Estrada, falsely represented on Brake
19 Certificate No. BA2179220 that the vehicle had been road tested when, in fact, it had not.

20 b. Respondent Godinez issued Brake Certificate No. BA2179220, certifying that his
21 employee, Respondent Estrada, had inspected the vehicle's brake system when, in fact, he had
22 not.

23 **FIFTY-FIRST CAUSE FOR DISCIPLINE**

24 (Fraud)

25 122. Respondent Godinez's registration is subject to discipline pursuant to Code section
26 9884.7(a)(4), in that on or about January 8, 2016, he committed acts that constitute fraud.
27 Specifically, Respondent obtained payment from the operator for performing the applicable
28 inspection, adjustment, or repair of brakes on the Bureau's 2002 Chevrolet as specified by the

1 Bureau and in accordance with the Vehicle Code when, in fact, it had not been performed, as set
2 forth in paragraphs 117 through 120, above.

3 **FIFTY-SECOND CAUSE FOR DISCIPLINE**

4 (Violations of Motor Vehicle Inspection Program)

5 123. Respondent Godinez's registration is subject to discipline pursuant to Code
6 section 9884.7(a)(6), in that on or about January 8, 2016, regarding the Bureau's 2002 Chevrolet,
7 he failed to materially comply with provisions of that Code as follows:

8 a. **Section 9884.9(a)**: Respondent Godinez failed to give the operator a written
9 estimated price.

10 b. **Section 9889.16**: Respondent Godinez issued Brake Certificate No. BA2179220 to
11 the operator, certifying that the vehicle was in compliance with Bureau Regulations or the
12 requirements of the Vehicle Code. In fact, Respondent Godinez's employee, Respondent Estrada,
13 did not test or inspect the vehicle in a manner that conforms with Bureau Regulations or
14 requirements of the Vehicle Code.

15 **FIFTY-THIRD CAUSE FOR DISCIPLINE**

16 (Violations of Regulations)

17 124. Respondent Godinez's registration is subject to discipline pursuant to Code section
18 9884.7(a)(6), in that on or about January 8, 2016, regarding the Bureau's 2002 Chevrolet, he
19 failed to comply with Regulations, as follows:

20 a. **Section 3305(a)**: Respondent Godinez failed to ensure that the brake system was
21 inspected by his employee, Respondent Estrada, in accordance with specifications, instructions,
22 and directives issued by the Bureau and vehicle manufacturer.

23 b. **Section 3321(c)(2)**: Respondent Godinez issued Brake Certificate No. BA2179220
24 for the vehicle certifying that Respondent Estrada had inspected the vehicle's brake system when,
25 in fact, the brake system on the vehicle had not been properly tested or inspected, as set forth in
26 paragraphs 117 through 120, above.

27 ///

28 ///

1 **FIFTY-FOURTH CAUSE FOR DISCIPLINE**

2 (Dishonesty, Fraud, or Deceit)

3 125. Respondent Godinez's brake and lamp station and brake and lamp adjuster licenses
4 are subject to discipline pursuant to Code section 9889.3(d), in that Respondent Godinez
5 committed dishonest, fraudulent, or deceitful acts whereby another was injured, as set forth in
6 paragraphs 121 through 124, above.

7 **FIFTY-FIFTH CAUSE FOR DISCIPLINE**

8 (Violations of Motor Vehicle Inspection Program)

9 126. Respondent Godinez's brake and lamp station licenses are subject to discipline
10 pursuant to Code section 9889.3(a) and (h), in that on or about January 8, 2016, regarding the
11 Bureau's 2002 Chevrolet, he committed acts in violation of the Code relating to his licensed
12 activities, as set forth in paragraph 123, subparagraphs a and b, above.

13 **FIFTY-SIXTH CAUSE FOR DISCIPLINE**

14 (Violations of Regulations)

15 127. Respondent Godinez's brake and lamp station licenses are subject to discipline
16 pursuant to Code section 9889.3(c), in that on or about January 8, 2016, regarding the Bureau's
17 2002 Chevrolet, he committed acts in violation of Regulations relating to his licensed activities,
18 as set forth in paragraph 124, subparagraphs a and b, above.

19 **FIFTY-SEVENTH CAUSE FOR DISCIPLINE**

20 (Dishonesty, Fraud, or Deceit Causing Injury to Another)

21 128. Respondent Godinez's smog check station and smog check inspector and smog check
22 repair technician licenses are is subject to discipline pursuant to Health and Safety Code section
23 44072.2(d), in that he committed dishonest, fraudulent, or deceitful acts whereby another was
24 injured, as set forth in paragraph 117 through 120, above.

25 ///

26 ///

27 ///

28 ///

1 **FIFTY-EIGHTH CAUSE FOR DISCIPLINE**

2 (Dishonesty, Fraud, or Deceit)

3 129. Respondent Estrada's brake and lamp adjuster licenses are subject to discipline
4 pursuant to Code section 9889.3(d), in that he committed dishonest, fraudulent, or deceitful acts
5 whereby another was injured, as set forth in paragraphs 117 through 120, above.

6 **FIFTY-NINTH CAUSE FOR DISCIPLINE**

7 (Violations of Motor Vehicle Inspection Program)

8 130. Respondent Estrada's brake and lamp adjuster licenses are subject to discipline
9 pursuant to Code section 9889.3(a) and (h), in that he violated the provisions of the Code, as set
10 forth in paragraph 123, subparagraphs a and b, above.

11 **SIXTIETH CAUSE FOR DISCIPLINE**

12 (Violations of Regulations)

13 131. Respondent Estrada's brake and lamp adjuster licenses are subject to discipline
14 pursuant to Code section 9889.3(c), in that on or about January 8, 2016, regarding the Bureau's
15 2002 Chevrolet, he failed to comply with Regulations, as set forth in paragraph 124,
16 subparagraphs a and b, above.

17 **SIXTY-FIRST CAUSE FOR DISCIPLINE**

18 (Dishonesty, Fraud, or Deceit Causing Injury to Another)

19 132. Respondent Estrada's smog check inspector license is subject to discipline pursuant
20 to Health and Safety Code section 44072.2(d), in that he committed dishonest, fraudulent, or
21 deceitful acts whereby another was injured, as set forth in paragraphs 117 through 120, above.

22 **OTHER MATTERS**

23 133. Under Code section 9884.7(c), the Director may invalidate temporarily or
24 permanently or refuse to validate, the registrations for all places of business operated in this state
25 by Respondent Edgar Ivan Godinez upon a finding that he has, or is, engaged in a course of
26 repeated and willful violations of the laws and regulations pertaining to an automotive repair
27 dealer.

28 ///

1 134. Under Health & Saf. Code section 44072.8, if Smog Check, Test Only Station license
2 No. RC 261653, issued to Edgar Ivan Godinez, as owner of Every Day Smog, is revoked or
3 suspended, any additional license issued under this chapter in the name of said licensee may be
4 likewise revoked or suspended by the director.

5 135. Under Health & Saf. Code section 44072.8, if Smog Check Inspector (EO) License
6 No. 154357, or Smog Check Repair Technician (EI) License No. 154357, issued to Edgar Ivan
7 Godinez, is revoked or suspended, then any additional license issued under Chapter 5 of the
8 Health & Saf. Code in the name of said licensee may be likewise revoked or suspended by the
9 Director.

10 136. Under Code section 9889.9, if Brake Station License No. BS 261653, Class C, issued
11 to Edgar Ivan Godinez, as owner of Every Day Smog, is revoked or suspended, any additional
12 license issued under Division 3, Chapter 20.3, Articles 5 and 6 of the Code in the name of said
13 licensee may be likewise revoked or suspended by the Director.

14 137. Under Code section 9889.9, if Lamp Station License No. LS 261653, Class A, issued
15 to Edgar Ivan Godinez, as owner of Every Day Smog, is revoked or suspended, any additional
16 license issued under Division 3, Chapter 20.3, Articles 5 and 6 of the Code in the name of said
17 licensee may be likewise revoked or suspended by the Director.

18 138. Under Code section 9889.9, if Brake Adjuster License No. BA 154357, Class C,
19 issued to Edgar Ivan Godinez is revoked or suspended, any additional license issued under
20 Division 3, Chapter 20.3, Articles 5 and 6 of the Code in the name of said licensee may be
21 likewise revoked or suspended by the Director.

22 139. Under Code section 9889.9, if Lamp Adjuster License No. LA 154357, Class A,
23 issued to Edgar Ivan Godinez is revoked or suspended, any additional license issued under
24 Division 3, Chapter 20.3, Articles 5 and 6 of the Code in the name of said licensee may be
25 likewise revoked or suspended by the Director.

26 140. Under Health and Safety Code section 44072.8, if Smog Check Inspector License No.
27 EO 635462, issued to Joel Mendez Estrada is revoked or suspended, any additional license issued
28

1 under Chapter 5 of the Health and Safety Code in the name of said licensee may be likewise
2 revoked or suspended by the Director.

3 141. Under Code section 9889.9, if Brake Adjuster License No. BA 635462, Class A,
4 issued to Joel Mendez Estrada is revoked or suspended, any additional license issued under
5 Division 3, Chapter 20.3, Articles 5 and 6 of the Code in the name of said licensee may be
6 likewise revoked or suspended by the Director.

7 142. Under Code section 9889.9, if Lamp Adjuster License No. LA 635462, Class A,
8 issued to Joel Mendez Estrada is revoked or suspended, any additional license issued under
9 Division 3, Chapter 20.3, Articles 5 and 6 of the Code in the name of said licensee may be
10 likewise revoked or suspended by the Director.

11 **PRAYER**

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

14 1. Revoking or suspending Automotive Repair Dealer Registration No. ARD 261653,
15 issued to Edgar Ivan Godinez, as owner of Every Day Smog;

16 2. Revoking or suspending any other automotive repair dealer registration issued to
17 Edgar Ivan Godinez;

18 3. Revoking or suspending Smog Check, Test Only, Station License No. RC 261653,
19 issued to Edgar Ivan Godinez, as owner of Every Day Smog;

20 4. Revoking or suspending Brake Station License No. No. BS 261653, Class C, issued
21 to Edgar Ivan Godinez, as owner of Every Day Smog;

22 5. Revoking or suspending Smog Check Inspector (EO) License No. 154357 and Smog
23 Check Repair Technician (EI) License No. 154357 (formerly Advanced Emission Specialist
24 Technician EA License No. 154357) issued to Edgar Ivan Godinez;

25 6. Revoking or suspending any additional license issued under Chapter 5 of the Health
26 and Safety Code in the name of Edgar Ivan Godinez;

27 7. Revoking or suspending Lamp Station License No. LS 261653, Class A, issued to
28 Edgar Ivan Godinez, as owner of Every Day Smog;

1 8. Revoking or suspending Brake Adjuster License No. BA 154357 issued to Edgar Ivan
2 Godinez;

3 9. Revoking or suspending Lamp Adjuster License No. LA 154357 issued to Edgar Ivan
4 Godinez;

5 10. Revoking or suspending any additional license issued under Division 3, Chapter 20.3,
6 Articles 5 and 6 of the Business and Professions Code in the name of Edgar Ivan Godinez;

7 11. Revoking or suspending Smog Check Inspector (EO) License No. 635462 issued to
8 Joel Mendez Estrada;

9 12. Revoking or suspending any additional license issued under Chapter 5 of the Health
10 and Safety Code in the name of Joel Mendez Estrada;

11 13. Revoking or suspending Brake Adjuster License No. BA 635462 issued to Joel
12 Mendez Estrada;

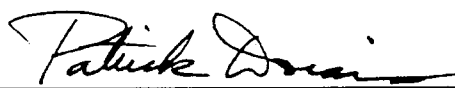
13 14. Revoking or suspending Lamp Adjuster License No. LA 635462 issued to Joel
14 Mendez Estrada;

15 15. Revoking or suspending any additional license issued under Division 3, Chapter 20.3,
16 Articles 5 and 6 of the Business and Professions Code in the name of Joel Mendez Estrada;

17 16. Ordering Edgar Ivan Godinez and Joel Mendez Estrada to pay the Bureau of
18 Automotive Repair the reasonable costs of the investigation and enforcement of this case,
19 pursuant to Business and Professions Code section 125.3; and,

20 17. Taking such other and further action as deemed necessary and proper.

21
22 DATED: April 19, 2017



PATRICK DORAIS

Chief

Bureau of Automotive Repair

Department of Consumer Affairs

State of California

Complainant

26 SA2016104905
27 12533611.doc
28