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

12 In the Matter of the Accusation Against:

Case No. **79/17-4409**

13 **EMMANUEL D. LOPEZ-OWNER DBA**
14 **LOPEZ TEST ONLY**

15 **130 Cooper Rd.**
16 **Oxnard, CA 93030**

17 **Mailing Address**

18 **4892 Burson Way**
19 **Oxnard, CA 93036**

20 **Automotive Repair Dealer Registration No.**
21 **ARD 268741**

22 **Smog Check, Test Only, Station License No.**
23 **TC 268741**

24 **EMMANUEL D. LOPEZ**

25 **P.O. Box 21021**

26 **Oxnard, CA 93034**

27 **Smog Check Inspector License No. EO**
28 **632503**

Smog Check Repair Technician License
Number EI 632503 (formerly Advanced
Emission Specialist Technician License No.
EA 632503)

and

ARMANDO SANTOYO

1010 Teakwood St.

Oxnard, CA 93033

Smog Check Inspector License No. EO
631921

Smog Check Repair Technician License
Number EI 631921 (formerly Advanced
Emission Specialist Technician License No.

A C C U S A T I O N

EA 631921)

Respondents.

Complainant alleges:

PARTIES

1. Patrick Dorais (“Complainant”) brings this Accusation solely in his official capacity as the Chief of the Bureau of Automotive Repair (“Bureau”), Department of Consumer Affairs.

Emmanuel D. Lopez-Owner dba Lopez Test Only

Automotive Repair Dealer Registration

2. On or about April 13, 2012, the Bureau issued Automotive Repair Dealer Registration Number ARD 268741 (“registration”) to Emmanuel D. Lopez-Owner dba Lopez Test Only (“Respondent Test Only”). The Automotive Repair Dealer Registration was in full force and effect at all times relevant to the charges brought herein and will expire on April 30, 2018, unless renewed.

Smog Check, Test Only, Station License

3. On or about April 27, 2012, the Bureau issued Smog Check, Test Only, Station License Number TC 268741 (“station license”) to Respondent Test Only. The Smog Check, Test Only, Station License was in full force and effect at all times relevant to the charges brought herein and will expire on April 30, 2018, unless renewed.

STAR Station Certification

4. On or about February 7, 2017, the Bureau certified Lopez Test Only as a STAR Station. The certification will remain active unless ARD 268741 and/or TC 268741 is revoked, canceled, become delinquent, or the certification is invalidated.

Emmanuel D. Lopez

Technician License/Inspector License

(formerly Advanced Emission Specialist Technician License Number EA 632503)

5. On or about September 16, 2010, the Bureau issued Advanced Emission Specialist Technician License Number EA 632503 to Emmanuel D. Lopez (“Respondent Lopez”).

Respondent Lopez’s Advanced Emission Specialist Technician License was due to expire on

1 October 31, 2012, however, was cancelled on October 15, 2012. Pursuant to California Code of
2 Regulations, title 16, section 3340.28, subdivision (e)¹, the license was renewed, pursuant to
3 Respondent Lopez's election, as Smog Check Inspector License Number EO 632503 ("inspector
4 license") and Smog Check Repair Technician License Number EI 632503 ("repair technician
5 license"), effective October 15, 2012. Respondent Lopez's inspector license was in full force and
6 effect at all times relevant to the charges brought herein and will expire on October 31, 2018,
7 unless renewed. Respondent Lopez's repair technician license expired on October 31, 2014, and
8 has not been renewed.

9 **Armando Santoyo**

10 **Technician License/Inspector License**

11 **(formerly Advanced Emission Specialist Technician License Number EA 631921)**

12 6. On or about April 1, 2010, the Bureau issued Advanced Emission Specialist
13 Technician License Number EA 631921 to Armando Santoyo ("Respondent Santoyo").
14 Respondent Santoyo's Advanced Emission Specialist Technician License was due to expire on
15 August 31, 2012, however, was cancelled on August 9, 2012. Pursuant to California Code of
16 Regulations, title 16, section 3340.28, subdivision (e), the license was renewed, pursuant to
17 Santoyo's election, as Smog Check Inspector License Number EO 631921 ("inspector license")
18 and Smog Check Repair Technician License Number EI 631921 ("repair technician license"),
19 effective August 9, 2012. Santoyo's inspector license and repair technician license were in full
20 force and effect at all times relevant to the charges brought herein and will expire on August 31,
21 2018, unless renewed.

22 **JURISDICTION**

23 7. Business and Professions Code ("Code") section 9884.7 provides that the Director
24 may revoke an automotive repair dealer registration.

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26 _____
27 ¹ Effective August 1, 2012, California Code of Regulations, title 16, sections 3340.28,
28 3340.29, and 3340.30 were amended to implement a license restructure from the Advanced
Emission Specialist Technician (EA) license and Basic Area (EB) Technician license to Smog
Check Inspector (EO) license and/or Smog Check Repair Technician (EI) license.

1 12. Section 44012 of the Health and Safety Code states:

2 “The test at the smog check stations shall be performed in accordance with procedures
3 prescribed by the department and may require loaded mode dynamometer testing in enhanced
4 areas, two-speed idle testing, testing utilizing a vehicle's onboard diagnostic system, or other
5 appropriate test procedures as determined by the department in consultation with the state board.
6 The department shall implement testing using onboard diagnostic systems, in lieu of loaded mode
7 dynamometer or two-speed idle testing, on model year 2000 and newer vehicles only, beginning
8 no earlier than January 1, 2013. However, the department, in consultation with the state board,
9 may prescribe alternative test procedures that include loaded mode dynamometer or two-speed
10 idle testing for vehicles with onboard diagnostic systems that the department and the state board
11 determine exhibit operational problems. The department shall ensure, as appropriate to the test
12 method, the following:

13 “(a) Emission control systems required by state and federal law are reducing excess
14 emissions in accordance with the standards adopted pursuant to subdivisions (a) and (c) of
15 Section 44013.

16 “(b) Motor vehicles are preconditioned to ensure representative and stabilized operation of
17 the vehicle's emission control system.

18 “(c) For other than diesel-powered vehicles, the vehicle's exhaust emissions of
19 hydrocarbons, carbon monoxide, carbon dioxide, and oxides of nitrogen in an idle mode or loaded
20 mode are tested in accordance with procedures prescribed by the department. In determining how
21 loaded mode and evaporative emissions testing shall be conducted, the department shall ensure
22 that the emission reduction targets for the enhanced program are met.

23 “(d) For other than diesel-powered vehicles, the vehicle's fuel evaporative system and
24 crankcase ventilation system are tested to reduce any nonexhaust sources of volatile organic
25 compound emissions, in accordance with procedures prescribed by the department.

26 “(e) For diesel-powered vehicles, a visual inspection is made of emission control devices
27 and the vehicle's exhaust emissions are tested in accordance with procedures prescribed by the
28 department, that may include, but are not limited to, onboard diagnostic testing. The test may

1 include testing of emissions of any or all of the pollutants specified in subdivision (c) and, upon
2 the adoption of applicable standards, measurement of emissions of smoke or particulates, or both.

3 “(f) A visual or functional check is made of emission control devices specified by the
4 department, including the catalytic converter in those instances in which the department
5 determines it to be necessary to meet the findings of Section 44001. The visual or functional
6 check shall be performed in accordance with procedures prescribed by the department.

7 “(g) A determination as to whether the motor vehicle complies with the emission standards
8 for that vehicle's class and model-year as prescribed by the department.

9 “(h) An analysis of pass and fail rates of vehicles subject to an onboard diagnostic test and
10 a tailpipe test to assess whether any vehicles passing their onboard diagnostic test have, or would
11 have, failed a tailpipe test, and whether any vehicles failing their onboard diagnostic test have or
12 would have passed a tailpipe test.

13 “(i) The test procedures may authorize smog check stations to refuse the testing of a vehicle
14 that would be unsafe to test, or that cannot physically be inspected, as specified by the department
15 by regulation. The refusal to test a vehicle for those reasons shall not excuse or exempt the
16 vehicle from compliance with all applicable requirements of this chapter.”

17 13. Section 44015 of the Health and Safety Code states:

18 ...

19 “(b) If a vehicle meets the requirements of Section 44012, a smog check station licensed to
20 issue certificates shall issue a certificate of compliance or a certificate of noncompliance.”

21 14. Section 44059 of the Health and Safety Code states:

22 “The willful making of any false statement or entry with regard to a material matter in any
23 oath, affidavit, certificate of compliance or noncompliance, or application form which is required
24 by this chapter or Chapter 20.3 (commencing with Section 9880) of Division 3 of the Business
25 and Professions Code, constitutes perjury and is punishable as provided in the Penal Code.”

26 15. Section 44072.2 of the Health and Safety Code states:

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

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

7 ...

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

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

10 16. Section 44072.8 of the Health and Safety Code states:

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

14 **REGULATORY PROVISIONS**

15 17. California Code of Regulations, title 16, section 3340.24, subdivision (c) states:

16 ...

17 "(c) The bureau may suspend or revoke the license of or pursue other legal action against a
18 licensee, if the licensee falsely or fraudulently issues or obtains a certificate of compliance or a
19 certificate of noncompliance."

20 18. California Code of Regulations, title 16, section 3340.30, subdivision (a) states:

21 "A licensed smog check inspector and/or repair technician shall comply with the following
22 requirements at all times while licensed:

23 "(a) Inspect, test and repair vehicles, as applicable, in accordance with section 44012 of the
24 Health and Safety Code, section 44035 of the Health and Safety Code, and section 3340.42 of this
25 article."

26 19. California Code of Regulations, title 16, section 3340.35, subdivision (c) states:

27 "A licensed station shall issue a certificate of compliance or noncompliance to the owner or
28 operator of any vehicle that has been inspected in accordance with the procedures specified in

1 section 3340.42 of this article and has all the required emission control equipment and devices
2 installed and functioning correctly.”

3 20. California Code of Regulations, title 16, section 3340.42, states:

4 “Smog check inspection methods are prescribed in the Smog Check Manual, referenced by
5 section 3340.45.

6 “(a) All vehicles subject to a smog check inspection, shall receive one of the following test
7 methods:

8 “(1) A loaded-mode test shall be the test method used to inspect 1976 - 1999 model-year
9 vehicle, except diesel-powered, registered in the enhanced program areas of the state. The
10 loaded-mode test shall measure hydrocarbon, carbon monoxide, carbon dioxide and oxides of
11 nitrogen emissions, as contained in the bureau's specifications referenced in subsection (a) of
12 Section 3340.17 of this article. The loaded-mode test shall use Acceleration Simulation Mode
13 (ASM) test equipment, including a chassis dynamometer, certified by the bureau.

14 “On and after March 31, 2010, exhaust emissions from a vehicle subject to this inspection
15 shall be measured and compared to the emissions standards shown in the Vehicle Look-up Table
16 (VLT) Row Specific Emissions Standards (Cutpoints) Table, dated March 2010, which is hereby
17 incorporated by reference. If the emissions standards for a specific vehicle are not included in
18 this table then the exhaust emissions shall be compared to the emissions standards set forth in
19 TABLE I or TABLE II, as applicable. A vehicle passes the loaded-mode test if all of its
20 measured emissions are less than or equal to the applicable emission standards specified in the
21 applicable table.

22 “(2) A two-speed idle mode test shall be the test method used to inspect 1976 - 1999
23 model-year vehicles, except diesel-powered, registered in all program areas of the state, except in
24 those areas of the state where the enhanced program has been implemented. The two-speed idle
25 mode test shall measure hydrocarbon, carbon monoxide and carbon dioxide emissions at high
26 RPM and again at idle RPM, as contained in the bureau's specifications referenced in subsection
27 (a) of Section 3340.17 of this article. Exhaust emissions from a vehicle subject to this inspection
28 shall be measured and compared to the emission standards set forth in this section and as shown

1 in TABLE III. A vehicle passes the two-speed idle mode test if all of its measured emissions are
2 less than or equal to the applicable emissions standards specified in Table III.

3 “(3) An OBD-focused test, shall be the test method used to inspect gasoline-powered
4 vehicles 2000 model-year and newer, and diesel-powered vehicles 1998 model-year and newer.
5 The OBD test failure criteria are specified in section 3340.42.2.

6 “(b) In addition to subsection (a), all vehicles subject to the smog check program shall
7 receive the following:

8 “(1) A visual inspection of emission control components and systems to verify the vehicle's
9 emission control systems are properly installed.

10 “(2) A functional inspection of emission control systems as specified in the Smog Check
11 Manual, referenced by section 3340.45, which may include an OBD test, to verify their proper
12 operation.

13 “(c) The bureau may require any combination of the inspection methods in sections (a) and
14 (b) under any of the following circumstances:

15 “(1) Vehicles that the department randomly selects pursuant to Health and Safety Code
16 section 44014.7 as a means of identifying potential operational problems with vehicle OBD
17 systems.

18 “(2) Vehicles identified by the bureau as being operationally or physically incompatible
19 with inspection equipment.

20 “(3) Vehicles with OBD systems that have demonstrated operational problems.

21 “(d) Pursuant to section 39032.5 of the Health and Safety Code, gross polluter standards
22 are as follows:

23 “(1) A gross polluter means a vehicle with excess hydrocarbon, carbon monoxide, or oxides
24 of nitrogen emissions pursuant to the gross polluter emissions standards included in the tables
25 described in subsection (a), as applicable.

26 “(2) Vehicles with emission levels exceeding the emission standards for gross polluters
27 during an initial inspection will be considered gross polluters and the provisions pertaining to

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1 gross polluting vehicles will apply, including, but not limited to, sections 44014.5, 44015, and
2 44081 of the Health and Safety Code.

3 “(3) A gross polluting vehicle shall not be passed or issued a certificate of compliance until
4 the vehicle's emissions are reduced to or below the applicable emissions standards for the vehicle
5 included in the tables described in subsection (a), as applicable. However, the provisions
6 described in section 44017 of the Health and Safety Code may apply.

7 “(4) This subsection applies in all program areas statewide to vehicles requiring inspection
8 pursuant to sections 44005 and 44011 of the Health and Safety Code.”

9 COST RECOVERY

10 21. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
11 administrative law judge to direct a licentiate found to have committed a violation or violations of
12 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
13 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
14 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
15 included in a stipulated settlement.

16 FACTUAL BACKGROUND

17 22. A Bureau Representative conducted a review of Lopez Test Only BAR-OIS smog
18 check inspection records from the Vehicle Identification Database ("VID"). The review showed
19 numerous vehicle that have been certified at Lopez Test Only with missing e-VINs, incorrect
20 vehicle communication protocol and incorrect Parameter Identification² (PID) count. All of the
21 following inspections were performed by Respondent Santoyo. The data from the certified
22 vehicle were compared to the OIS test data of similar vehicles of the same year, make and model
23 that received passing Smog Check inspections and received smog certificates. The data
24 comparison showed multiple discrepancies with eight (8) vehicles that were all certified with
25 missing e-VINs, incorrect vehicle communication protocols³ and incorrect PID count, which

26 ² Parameter Identifications (PIDs) are data points reported by the OBD II computer to the scan tool or BAR
27 OIS.

28 ³ Protocol is simply the language used to communicate with a vehicle's computer(s). Protocol is a
communication interface. This automated determination of the communication interface, or protocol, is built into the

1 confirms the vehicles receiving smog certificates were fraudulently tested during the smog
 2 inspection using the clean plugging method⁴. The following chart illustrates the clean plugging
 3 activities of Respondents Lopez Test Only and Santoyo between October 27, 2016 to March 6,
 4 2017. All of the following inspections were performed by Respondent Santoyo.

5 **TABLE 1**

6 Test No.	Test Date	Vehicle Certified & License No. or VIN. No.	Certificate No.	Technician License No.	OIS Test Data Details
7 1.	10/27/2016	2005 Saab 9-3 Linear 6JFM255	QG485959C	EO 631921 (Respondent Santoyo)	Comm. Protocol: I914 (expected ICAN11bt5) PID Count: 16 (expected 37/1) VIN No.: Not Transmitted (Expected e-VIN-YS3FB49S551 015345)
16 2.	10/27/2016	2005 Toyota Tacoma X-Runner Accesscab 30306K1	QG485962C	EO 631921 (Respondent Santoyo)	Comm. Protocol: I914 (expected ICAN11bt5) PID Count: 16 (expected 44 or 46) VIN No.: Not Transmitted (Expected e-VIN-5TETU22N55 Z140168)

26 Data Acquisition Device (DAD) unit. This automatic function identifies five (5) protocols used by vehicles manufactured and sold in the United States that are subject to the Smog Check program.

27 ⁴ Clean Plugging” refers to the use of another vehicle’s properly functioning On Board Diagnostic, generation II, (OBD II) system, or another source, to generate passing diagnostic readings for the purpose of issuing fraudulent smog Certificates of Compliance to vehicles that are not in smog compliance and/or not present for testing.
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1	3.	10/28/2016	2011 Hyundai Sonata GLS 5NPEB4AC3BH035072	QG485966C	EO 631921 (Respondent Santoyo)	Comm. Protocol: I914 (expected ICAN11bt5) PID Count: 16 (expected 43 or 43/4) VIN No.: Not Transmitted (Expected e-VIN- 5NPEB4AC3B H035072)
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9	4.	11/10/2016	2007 Dodge Magnum SXT 5ZTR471	QG485998C	EO 631921 (Respondent Santoyo)	Comm. Protocol: JVPW (expected ICAN11bt5) PID Count: 21 (expected 43/6 or 43/12) VIN No.: Not Transmitted (Expected e-VIN- 2D4FV47V27 H838124)
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18	5.	01/10/2017	2001 Ford Mustang 7NNB708	ZN290418C	EO 631921 (Respondent Santoyo)	Comm. Protocol: JVPW (expected JPWM) PID Count: 22 (expected 21) VIN No.: Not Transmitted (Expected e-VIN- 1FAFP40461F 175194)
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1	6.	02/3/2017	2012 Mazda 3 I 6XSP690	ZN970783C	EO 631921 (Respondent Santoyo)	Comm. Protocol: I914 (expected ICAN11bt5) PID Count: 17 (expected 45/17 or 45/18) VIN No.: Not Transmitted (Expected e-VIN- JM1BL1W88 C1695622)
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10	7.	02/24/2017	2003 Cadillac CTS 6ZDY783	ZP868658C	EO 631921 (Respondent Santoyo)	Comm. Protocol: I914 (expected KWPF) PID Count: 16 (expected 21/1 or 22 or 22/1) VIN No.: Not Transmitted (Expected e-VIN- 1G6DM57N93 0135344)
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19	8.	03/06/2017	2008 Volkswagen Jetta SE 6TNZ781	ZR077157C	EO 631921 (Respondent Santoyo)	Comm. Protocol: I914 (expected ICAN11bt5) PID Count: 17 (expected 40 or 40/14 or 41 or 41/14 or 41/14/15 or 41/15) VIN No.: Not Transmitted (Expected e-VIN- 3VWRZ71KX 8M165193)
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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Untrue or Misleading Statements)**

3 23. Respondent Test Only's registration is subject to discipline pursuant to Code section
4 9884.7, subdivision (a)(1), in that between October 27, 2016, through March 6, 2017, Respondent
5 Test Only made or authorized statements which he knew or in the exercise of reasonable care
6 should have known to be untrue or misleading, as follows: Respondent Test Only certified that
7 vehicles 1 through 8, set forth above in Table 1, had passed inspection and were in compliance
8 with applicable laws and regulations. In fact, Respondent Test Only conducted the inspections on
9 the vehicles using the clean plugging method by substituting or using different vehicles or another
10 source during the OBD II functional tests in order to issue smog certificates of compliance for the
11 eight (8) vehicles, and did not test or inspect the eight (8) vehicles as required by Health and
12 Safety Code section 44012.

13 **SECOND CAUSE FOR DISCIPLINE**

14 **(Fraud)**

15 24. Respondent Test Only's registration is subject to discipline pursuant to Code section
16 9884.7, subdivision (a)(4), in that between October 27, 2016, through March 6, 2017, Respondent
17 Test Only committed acts which constitute fraud by issuing electronic certificates of compliance
18 for vehicles 1 through 8, set forth above in Table 1, without performing bona fide inspections of
19 the emission control devices and systems on those vehicles, thereby depriving the People of the
20 State of California of the protection afforded by the Motor Vehicle Inspection Program.

21 **THIRD CAUSE FOR DISCIPLINE**

22 **(Failure to Comply with the Motor Vehicle Inspection Program)**

23 25. Respondent Test Only's station license is subject to discipline pursuant to Health and
24 Safety Code section 44072.2, subdivision (a), in that between October 27, 2016, through March 6,
25 2017, regarding vehicles 1 through 8, set forth above in Table 1, Respondent Test Only failed to
26 comply with the following sections of that Code:

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28 ///

1 a. **Section 44012:** Respondent Test Only failed to ensure that the emission control tests
2 were performed on vehicles 1 through 8, in accordance with procedures prescribed by the
3 department.

4 b. **Section 44015:** Respondent Test Only issued electronic certificates of compliance for
5 vehicles 1 through 8, without ensuring that the vehicles were properly tested and inspected to
6 determine if they were in compliance with Health and Safety Code section 44012.

7 c. **Section 44059:** Respondent Test Only willfully made false entries for the electronic
8 certificates of compliance by certifying that those vehicles had been inspected as required when,
9 in fact, they had not.

10 **FOURTH CAUSE FOR DISCIPLINE**

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

13 26. Respondent Test Only's station license is subject to discipline pursuant to Health and
14 Safety Code section 44072.2, subdivision (c), in that between October 27, 2016, through March 6,
15 2017, regarding vehicles 1 through 8, set forth above in Table 1, Respondent Test Only failed to
16 comply with provisions of California Code of Regulations, title 16, as follows:

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

21 b. **Section 3340.35, subdivision (c):** Respondent Test Only issued electronic certificates
22 of compliance even though those vehicles had not been inspected in accordance with section
23 3340.42 of that Code.

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

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1 **FIFTH CAUSE FOR DISCIPLINE**

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

3 27. Respondent Test Only's station license is subject to discipline pursuant to Health and
4 Safety Code section 44072.2, subdivision (d), in that between October 27, 2016, through March
5 6, 2017, regarding vehicles 1 through 8, set forth above in Table 1, Respondent Test Only
6 committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing
7 electronic certificates of compliance for those vehicles without performing bona fide inspections
8 of the emission control devices and systems on the vehicles, thereby depriving the People of the
9 State of California of the protection afforded by the Motor Vehicle Inspection Program.

10 **SIXTH CAUSE FOR DISCIPLINE**

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

12 28. Respondent Santoyo's inspector license and repair technician license are subject to
13 discipline pursuant to Health and Safety Code section 44072.2, subdivision (a), in that between
14 October 27, 2016, through March 6, 2017, regarding vehicles 1 through 8, set forth above in
15 Table 1, he failed to comply with section 44012 of that Code in a material respect, as follows:
16 Respondent Santoyo failed to perform the emission control tests on those vehicles in accordance
17 with procedures prescribed by the department.

18 **SEVENTH CAUSE FOR DISCIPLINE**

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

21 29. Respondent Santoyo's inspector license and repair technician license are subject to
22 discipline pursuant to Health and Safety Code section 44072.2, subdivision (c), in that between
23 October 27, 2016, through March 6, 2017, regarding vehicles 1 through 8, set forth above in
24 Table 1, he failed to comply with provisions of California Code of Regulations, title 16, as
25 follows:

26 a. **Section 3340.24, subdivision (c)**: Respondent Santoyo falsely or fraudulently issued
27 electronic certificates of compliance without performing bona fide inspections of the emission

1 control devices and systems on those vehicles as required by Health and Safety Code section
2 44012.

3 b. **Section 3340.30 subdivision (a)**: Respondent Santoyo failed to inspect and test those
4 vehicles in accordance with Health and Safety Code sections 44012.

5 c. **Section 3340.42**: Respondent Santoyo failed to conduct the required smog tests and
6 inspections on those vehicles in accordance with the Bureau's specifications.

7 **EIGHTH CAUSE FOR DISCIPLINE**

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

9 30. Respondent Santoyo's inspector license and repair technician license are subject to
10 discipline pursuant to Health and Safety Code section 44072.2, subdivision (d), in that between
11 October 27, 2016, through March 6, 2017, regarding vehicles 1 through 8, set forth above in
12 Table 1, he committed acts involving dishonesty, fraud or deceit whereby another was injured by
13 issuing electronic certificates of compliance without performing bona fide inspections of the
14 emission control devices and systems on those vehicles, thereby depriving the People of the State
15 of California of the protection afforded by the Motor Vehicle Inspection Program.

16 **DISCIPLINE CONSIDERATIONS**

17 31. To determine the degree of discipline, if any, to be imposed on Respondent Test
18 Only, Complainant alleges that Citation C2017-0108 was issued on January 13, 2017 with a
19 Notice of Abatement. Citation Service Conference was held January 25, 2017. That Decision
20 became effective February 26, 2017.

21 32. To determine the degree of discipline, if any, to be imposed on Respondent Santoyo,
22 Complainant alleges that Citation M2017-0109 was issued on January 13, 2017 with a Notice of
23 Abatement. Citation Service Conference was held January 25, 2017. That Decision became
24 effective February 28, 2017.

25 **OTHER MATTERS**

26 33. Pursuant to Code section 9884.7, subdivision (c), the director may suspend revoke,
27 or place on probation the registrations for all places of business operated in this state by
28 Emmanuel D. Lopez-Owner doing business as Lopez Test Only, upon a finding that he has, or is,

1 engaged in a course of repeated and willful violation of the laws and regulations pertaining to an
2 automotive repair dealer.

3 34. Pursuant to Health and Safety Code section 44072.8, if Smog Check, Test Only,
4 Station License Number TC 268741, issued to Emmanuel D. Lopez-Owner doing business as
5 Lopez Test Only, is revoked or suspended, any additional license issued under this Chapter 5 of
6 Part 5 of Div 26 of the Health and Safety Code in the name of said licensee may be likewise
7 revoked or suspended by the director.

8 35. Pursuant to Health and Safety Code section 44072.8, if Smog Check Inspector
9 License No. EO 631921 and Smog Check Repair Technician License Number EI 631921
10 (formerly Advanced Emission Specialist Technician License Number EA 631921), issued to
11 Armando Santoyo, is revoked or suspended, any additional license issued under this Chapter 5 of
12 Part 5 of Div 26 of the Health and Safety Code in the name of said licensee may be likewise
13 revoked or suspended by the director.

14 **PRAAYER**

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

17 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
18 268741, issued to Emmanuel D. Lopez-Owner doing business as Lopez Test Only;

19 2. Revoking, suspending, or placing on probation any other automotive repair dealer
20 registration issued to Emmanuel D. Lopez;

21 3. Revoking or suspending Smog Check, Test Only, Station License Number TC
22 268741, issued to Emmanuel D. Lopez-Owner doing business as Lopez Test Only;

23 4. Revoking or suspending any additional license issued under Chapter 5, Part 5, Div 26
24 of the Health and Safety Code in the name of Emmanuel D. Lopez;

25 5. Revoking or suspending Smog Check Inspector License Number EO 631921, issued
26 to Armando Santoyo;

27 6. Revoking or suspending Smog Check Repair Technician License Number EI 631921,
28 issued to Armando Santoyo;

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7. Revoking or suspending any additional license issued under Chapter 5, Part 5, Div 26 of the Health and Safety Code in the name of Armando Santoyo;

8. Ordering Emmanuel D. Lopez-Owner doing business as Lopez Test Only and Armando Santoyo to pay the Bureau of Automotive Repair the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

9. Taking such other and further action as deemed necessary and proper.

DATED: September 13, 2017 

PATRICK DORAIS
Chief
Bureau of Automotive Repair
Department of Consumer Affairs
State of California
Complainant

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