

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

In the Matter of the Accusation Against:

**CALIFORNIA SMOG SHOP & AUTO CARE**  
982 East Thompson Boulevard  
Ventura, CA 93001  
**SANTIAGO R. LOPEZ, Owner**

Case No. 79/09-75

Automotive Repair Dealer Registration  
No. ARD 227660  
Smog Check Station License No. RC 227660

**SANTIAGO R. LOPEZ**  
3121 South M Street  
Oxnard, CA 93003

Advanced Emission Specialist Technician  
License No. EA 139273

Respondent.

DECISION

The attached Stipulated Revocation of Licenses and Registration, and Order is hereby accepted and adopted as the Decision of the Director of the Department of Consumer Affairs in the above-entitled matter.

This Decision shall become effective on 4/26/10.

DATED: March 22, 2010

  
DOREATHEA JOHNSON  
Deputy Director, Legal Affairs  
Department of Consumer Affairs

1 EDMUND G. BROWN JR.  
Attorney General of California  
2 KAREN B. CHAPPELLE  
Supervising Deputy Attorney General  
3 RENE JUDKIEWICZ  
Deputy Attorney General  
4 State Bar No. 141773  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-2537  
6 Facsimile: (213) 897-2804  
*Attorneys for Complainant*

7  
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. 79/09-75

13 **CALIFORNIA SMOG SHOP & AUTO**  
14 **CARE; SANTIAGO R. LOPEZ,**  
15 **OWNER/TECHNICIAN**  
16 **3121 South "M" Street**  
17 **Oxnard, CA 93033**  
18 **Automotive Repair Dealer No. ARD227660**  
19 **Smog Check Station No. RC227660**  
20 **Smog Check Technician No. EA139273**

**STIPULATED REVOCATION OF**  
**LICENSES AND REGISTRATION, AND**  
**ORDER**

Respondent.

21 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this  
22 proceeding that the following matters are true:

23 PARTIES

24 1. Sherry Mehl (Complainant) is the Chief of the Bureau of Automotive Repair. She  
25 brought this action solely in her official capacity and is represented in this matter by Edmund G.  
26 Brown Jr., Attorney General of the State of California, by Rene Judkiewicz, Deputy Attorney  
27 General.

28 2. Santiago R. Lopez, owner of California Smog Shop & Auto Care and smog check  
technician (Respondent), is representing himself in this proceeding and has chosen not to exercise  
his right to be represented by counsel.



1 court review of an adverse decision; and all other rights accorded by the California  
2 Administrative Procedure Act and other applicable laws.

3 9. Respondent voluntarily, knowingly, and intelligently waives and gives up each and  
4 every right set forth above.

5 CULPABILITY

6 10. Respondent admits the truth of each and every charge and allegation in Accusation  
7 No. 79/09-75, agrees that cause exists for discipline and agrees to revocation of the following  
8 three items, with the Bureau of Automotive Repair's formal acceptance: (1) Automotive Repair  
9 Dealer Registration, No. ARD 227660, which was recently expired; (2) Smog Check Station  
10 License, No. RC 227660, which was also recently expired; and (3) Advanced Emission Specialist  
11 Technician License, No. EA 139273.

12 11. Respondent understands that by signing this stipulation, he enables the Director to  
13 issue her order accepting the revocation of his Automotive Repair Dealer registration and his  
14 Smog Check Station and Advanced Emission Specialist Technician licenses without further  
15 process.

16 CONTINGENCY

17 12. This stipulation shall be subject to approval by the Director of Consumer Affairs or  
18 her designee. Respondent understands and agrees that counsel for Complainant and the staff of  
19 the Bureau of Automotive Repair may communicate directly with the Director and staff of the  
20 Department of Consumer Affairs regarding this stipulation and revocation, without notice to or  
21 participation by Respondent. By signing the stipulation, Respondent understands and agrees that  
22 he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Director  
23 considers and acts upon it. If the Director fails to adopt this stipulation as the Decision and  
24 Order, the Stipulated Revocation and Disciplinary Order shall be of no force or effect, except for  
25 this paragraph, it shall be inadmissible in any legal action between the parties, and the Director  
26 shall not be disqualified from further action by having considered this matter.

27  
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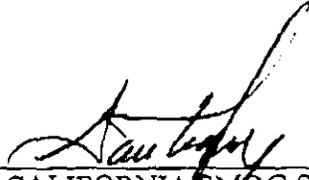
1 charges and allegations contained in Accusation No. 79/09-75 shall be deemed to be true, correct  
2 and admitted by Respondent when the Director determines whether to grant or deny the petition.

3 19. Respondent shall pay the Bureau its costs of investigation and enforcement in the  
4 amount of \$7,500.00 upon issuance of a reinstated license.

5 ACCEPTANCE

6 I have carefully read the Stipulated Revocation of Licenses and Registration, and Order. I  
7 understand the stipulation and the effect it will have on my Automotive Repair Dealer  
8 registration, Smog Check Station license, and Smog Check Technician license. I enter into this  
9 Stipulated Revocation of Licenses and Registration, and Order voluntarily, knowingly, and  
10 intelligently, and agree to be bound by the Decision and Order of the Director of Consumer  
11 Affairs.

12  
13 DATED: 03/02/10

  
14 CALIFORNIA SMOG SHOP & AUTO CARE;  
15 SANTIAGO R. LOPEZ, OWNER/TECHNICIAN  
16 Respondent

17 ENDORSEMENT

18 The foregoing Stipulated Revocation of Licenses and Registration, and Order is hereby  
19 respectfully submitted for consideration by the Director of Consumer Affairs.

20 Dated: June 23, 2009

Respectfully Submitted,

21 EDMUND G. BROWN JR.  
22 Attorney General of California  
23 KAREN B. CHAPPELLE  
24 Supervising Deputy Attorney General

25 RENE JUDKIEWICZ  
26 Deputy Attorney General  
27 *Attorneys for Complainant*

28 LA2008900438  
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7 understand the stipulation and the effect it will have on my Automotive Repair Dealer  
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9 Stipulated Revocation of Licenses and Registration, and Order voluntarily, knowingly, and  
10 intelligently, and agree to be bound by the Decision and Order of the Director of Consumer  
11 Affairs.

12  
13 DATED: \_\_\_\_\_

CALIFORNIA SMOG SHOP & AUTO CARE;  
SANTIAGO R. LOPEZ, OWNER/TECHNICIAN  
Respondent

14  
15  
16 ENDORSEMENT

17 The foregoing Stipulated Revocation of Licenses and Registration, and Order is hereby  
18 respectfully submitted for consideration by the Director of Consumer Affairs.

19 Dated: ~~June 23, 2009~~

20 March 3, 2010  
21 RJ

Respectfully Submitted,

EDMUND G. BROWN JR.  
Attorney General of California  
KAREN B. CHAPPELLE  
Supervising Deputy Attorney General

23   
24 RENE JUDKIEWICZ  
25 Deputy Attorney General  
26 Attorneys for Complainant

27 LA2008900438  
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**Exhibit A**

**Accusation No. 79/09-75**

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 ALFREDO TERRAZAS  
Senior Assistant Attorney General  
3 GREGORY J. SALUTE  
Supervising Deputy Attorney General  
4 300 So. Spring Street, Suite 1702  
Los Angeles, CA 90013  
5 Telephone: (213) 897-2520  
Facsimile: (213) 897-2804  
6 Attorneys for Complainant

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

10 In the Matter of the Accusation Against:

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11 **CALIFORNIA SMOG SHOP &**  
12 **AUTO CARE**  
982 East Thompson Boulevard  
13 Ventura, CA 93001  
**SANTIAGO R. LOPEZ, OWNER**

**ACCUSATION**

14 Automotive Repair Dealer  
15 Registration No. ARD 227660  
Smog Check Station License No. RC 227660

16 **SANTIAGO R. LOPEZ**  
17 3121 South M Street  
Oxnard, CA 93003

18 Advanced Emission Specialist Technician  
19 License No. EA 139273

20 Respondent.

21  
22 Sherry Mehl ("Complainant") alleges:

23 **PARTIES**

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

26 ///

27 ///

28 ///

1                   **Automotive Repair Dealer Registration**

2                   2.       On or about May 30, 2003, the Bureau issued Automotive Repair Dealer  
3 Number ARD 227660 (“registration”) to Santiago R. Lopez (“Respondent”), doing business as  
4 California Smog Shop & Auto Care. The registration will expire on May 31, 2009, unless  
5 renewed.

6                   **Smog Check Station License**

7                   3.       On or about June 3, 2003, the Bureau issued Smog Check Station License  
8 Number RC 227660 to Respondent. The registration will expire on May 31, 2009, unless  
9 renewed.

10                   **Advanced Emission Specialist Technician License**

11                   4.       In or around 1998, the Bureau issued Advanced Emission Specialist  
12 Technician Number EA 139273 to Respondent. The technician license will expire on May 31,  
13 2010, unless renewed.

14   **STATUTORY PROVISIONS**

15                   5.       Business and Professions Code (“Code”) section 9884.7 states, in pertinent  
16 part:

17                   (a)       The director, where the automotive repair dealer cannot show there  
18 was a bona fide error, may refuse to validate, or may invalidate temporarily or  
19 permanently, the registration of an automotive repair dealer for any of the  
20 following acts or omissions related to the conduct of the business of the  
21 automotive repair dealer, which are done by the automotive repair dealer or any  
22 automotive technician, employee, partner, officer, or member of the automotive  
23 repair dealer.

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

28                   (4)       Any other conduct which constitutes fraud.

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

                  (7)       Any willful departure from or disregard of accepted trade standards for  
good and workmanlike repair in any material respect, which is prejudicial to another without  
consent of the owner or his or her duly authorized representative.

///

1 [10](b) Except as provided for in subdivision (c), if an automotive  
2 repair dealer operates more than one place of business in this state, the director  
3 pursuant to subdivision (a) shall only invalidate temporarily or permanently the  
4 registration of the specific place of business which has violated any of the  
5 provisions of this chapter. This violation, or action by the director, shall not affect  
6 in any manner the right of the automotive repair dealer to operate his or her other  
7 places of business.

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

13 6. Code section 9884.8 states, in pertinent part:

14 All work done by an automotive repair dealer, including all warranty  
15 work, shall be recorded on an invoice and shall describe all service work done and  
16 parts supplied. Service work and parts shall be listed separately on the invoice,  
17 which shall also state separately the subtotal prices for service work and for parts,  
18 not including sales tax, and shall state separately the sales tax, if any, applicable to  
19 each. If any used, rebuilt, or reconditioned parts are supplied, the invoice shall  
20 clearly state that fact. If a part of a component system is composed of new and  
21 used, rebuilt or reconditioned parts, that invoice shall clearly state that fact. The  
22 invoice shall include a statement indicating whether any crash parts are original  
23 equipment manufacturer crash parts or nonoriginal equipment manufacturer  
24 aftermarket crash parts. One copy of the invoice shall be given to the customer  
25 and one copy shall be retained by the automotive repair dealer.

26 7. Code section 9884.9 states, in pertinent part:

27 (a) The automotive repair dealer shall give to the customer a written  
28 estimated price for labor and parts necessary for a specific job. No work shall be  
done and no charges shall accrue before authorization to proceed is obtained from  
the customer. No charge shall be made for work done or parts supplied in excess  
of the estimated price without the oral or written consent of the customer that  
shall be obtained at some time after it is determined that the estimated price is  
insufficient and before the work not estimated is done or the parts not estimated  
are supplied. Written consent or authorization for an increase in the original  
estimated price may be provided by electronic mail or facsimile transmission from  
the customer. The bureau may specify in regulation the procedures to be followed  
by an automotive repair dealer if an authorization or consent for an increase in the  
original estimated price is provided by electronic mail or facsimile transmission.  
If that consent is oral, the dealer shall make a notation on the work order of the  
date, time, name of person authorizing the additional repairs, and telephone  
number called, if any, together with a specification of the additional parts and  
labor and the total additional cost, and shall do either of the following:

(1) Make a notation on the invoice of the same facts set forth in the  
notation on the work order.

(2) Upon completion of the repairs, obtain the customer's signature or  
initials to an acknowledgment of notice and consent, if there is an oral consent of  
the customer to additional repairs, in the following language:

1 "I acknowledge notice and oral approval of an increase in the original  
2 estimated price.

3 \_\_\_\_\_  
(signature or initials)"

4 Nothing in this section shall be construed as requiring an automotive  
5 repair dealer to give a written estimated price if the dealer does not agree to  
6 perform the requested repair.

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

11 9. Health and Safety Code section 44002 provides, in pertinent part, that the  
12 Director has all the powers and authority granted under the Automotive Repair Act for enforcing  
13 the Motor Vehicle Inspection Program.

14 10. Health and Safety Code section 44072.2 states:

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

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

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

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

25 11. Health and Safety Code section 44072.6 provides, in pertinent part, that  
26 the expiration or suspension of a license by operation of law, or by order or decision of the  
27 Director of Consumer Affairs, or a court of law, or the voluntary surrender of the license shall  
28 not deprive the Director of jurisdiction to proceed with disciplinary action.

12. Health and Safety Code section 44072.8 states that when a license has  
been revoked or suspended following a hearing under this article, any additional license issued  
under this chapter in the name of the licensee may be likewise revoked or suspended by the  
director.









1 (d), by failing to follow manufacturer's recommended procedures to diagnose and repair  
2 emission failures.

3 **UNDERCOVER OPERATION - MARCH 20, 2007**

4 30. On March 20, 2007, a Bureau undercover operator using the alias  
5 Terry Jones ("operator") spoke to an unidentified male at Respondent's facility over the  
6 telephone. The operator informed Respondent that her son's 1999 Honda Civic, California  
7 License Plate No. 4EBU317, had been towed to Respondent's facility because the vehicle started  
8 to run "rough" after the spark plugs were replaced. The only repair necessary was a spark plug  
9 gap adjustment, clearance of a trouble code, and performing drive cycles to complete the self-test  
10 readiness monitors. The operator told Respondent that the vehicle's "check engine" light was  
11 illuminated, and that she wanted the vehicle's rough running condition diagnosed, and a smog  
12 inspection. In a subsequent telephone conversation, Respondent told the operator that he  
13 repaired the damaged spark plug threads and replaced all four spark plugs, which he told her  
14 were incorrect. Respondent informed the operator that the cost was \$200.00 and told her that the  
15 smog check had not yet been performed. The operator gave Respondent a credit card number for  
16 the work performed and for a smog check. The operator was not provided with a written  
17 estimate.

18 31. Respondent performed the smog inspection and issued electronic  
19 Certificate of Compliance No. MQ209426, certifying that he had tested and inspected the vehicle  
20 and that the vehicle was in compliance with applicable laws and regulations. Respondent told  
21 the operator in a later telephone conversation that the vehicle passed the smog inspection and that  
22 her bill was just under \$200. The operator made arrangements with Respondent to pick the  
23 vehicle up after Respondent's facility closed and asked Respondent to leave the paperwork inside  
24 the vehicle. When the operator retrieved the car, she found that Respondent did not leave an  
25 invoice or other paperwork.

26 32. On March 21, 2007, the operator telephoned Respondent and requested  
27 paperwork for the vehicle. Respondent mailed to the operator a Vehicle Inspection Report  
28 ("VIR"), a credit card receipt in the amount of \$200, and Invoice No. 4084, dated March 20,

1 2007, in the amount of \$195.74 ("Invoice No. 4084"), which included the following notations:  
2 "WRONG SPARK PLUGS & TREAD DAMAGED," "R & R SPARK PLUGS," "REVIVE  
3 SPARK PLUGS TREADS," and "CK ENG LT 'on' P0300 = RANDOM MISFIRE."

4 33. On March 27, 2007, the Bureau re-inspected the vehicle, using Invoice No.  
5 4084, Respondent's entries into the Emission Inspection System ("EIS"), and the VIR, and made  
6 the following findings:

- 7 a. The spark plugs had not been replaced.
- 8 b. The spark plug threads did not require repair.
- 9 c. The engine fault code was incorrectly diagnosed.
- 10 d. The ignition timing functional test on the VIR was recorded as "N/A."
- 11 e. "N" had been entered into the EIS for *Repairs Performed Before Test*  
12 after performing repairs.

13 **SIXTH CAUSE FOR DISCIPLINE**

14 **(Untrue or Misleading Statements)**

15 34. Respondent has subjected his registration to discipline under Code section  
16 9884.7, subdivision (a)(1), in that on or about March 20, 2007, Respondent made or authorized  
17 statements which he knew or in the exercise of reasonable care he should have known to be  
18 untrue or misleading by making representations, as follows:

- 19 a. Respondent falsely represented that he replaced incorrect spark plugs  
20 when, in fact, the spark plugs did not require replacement and were not replaced.
- 21 b. Respondent falsely represented that the spark plug threads needed to be  
22 repaired when, in fact, the spark plugs threads did not require repair.
- 23 c. Respondent recorded "N/A" on the VIR for the ignition timing functional  
24 test; however, that test is applicable because the vehicle's engine ignition timing is adjustable.
- 25 d. Respondent entered into the EIS "N" for *Repairs Performed Before Test*  
26 after he performed repairs.
- 27 e. Respondent charged \$200 to the operator's credit card for Invoice No.  
28 4084, which totaled \$195.74.

1 SEVENTH CAUSE FOR DISCIPLINE

2 (Fraud)

3 35. Respondent has subjected his registration to discipline under Code section  
4 9884.7, subdivision (a)(4), in that on or about March 20, 2007, he committed acts which  
5 constitute fraud, as follows:

6 a. Respondent issued electronic Certificate of Compliance No. MQ209426  
7 for the 1999 Honda Civic, without performing a bona fide inspection of the emission control  
8 devices and systems on the vehicle, thereby depriving the People of the State of California of the  
9 protection afforded by the Motor Vehicle Inspection Program.

10 b. Respondent received payment for unnecessary services, repairs or charges,  
11 as more fully set forth in paragraph 33, subparagraphs a through d, above.

12 EIGHTH CAUSE FOR DISCIPLINE

13 (Failure to Comply with Code)

14 36. Respondent has subjected his registration to discipline under Code section  
15 9884.7, subdivision (a)(6), in that on or about March 20, 2007, Respondent failed to comply with  
16 the following Code sections:

17 Section 9884.8:

18 a. Regarding Invoice No. 4084, Respondent failed to record all service work  
19 performed and parts used in the repair of the operator's vehicle.

20 b. Regarding Invoice No. 4084, Respondent failed to document all parts as  
21 new, used, rebuilt or reconditioned.

22 Section 9884.9, subdivision (a):

23 c. Respondent failed to provide the operator with a written estimated price  
24 for parts and labor for a specific job prior to commencement of repairs.

25 d. Respondent failed to document on Invoice No. 4084, the operator's  
26 authorization for additional repairs prior to commencing those repairs.

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28 ///

1 NINTH CAUSE FOR DISCIPLINE

2 **(Failure to Comply with Regulations Pursuant to the Automotive Repair Act)**

3 37. Respondent has subjected his registration to discipline under Code section  
4 9884.7, subdivision (a)(6), in that on or about March 20, 2007, Respondent violated provisions  
5 of that Code, as follows:

6 a. **Regulation 3356, subdivision (a)(1):** Regarding Invoice No. 4084,  
7 Respondent omitted his address and used the name "California Auto Care & Smog Shop Inc.,"  
8 which does not correspond with the Bureau's record of Respondent's business name.

9 b. **Regulation 3340.41, subdivision (d):** Respondent failed to follow  
10 applicable specifications and procedures for diagnosing the vehicle's engine warning light, as  
11 more fully described in paragraph 38, below.

12 TENTH CAUSE FOR DISCIPLINE

13 **(Departure From Accepted Trade Standards - Regulations)**

14 38. Respondent has subjected his registration to discipline under Code section  
15 9884.7, subdivision (a)(7), in that on or about October 30, 2007, Respondent willfully departed  
16 from or disregarded accepted trade standards for good and workmanlike repair as defined by  
17 Regulation section 3340.41, subdivision (d), by failing to follow the applicable specifications and  
18 procedures when diagnosing the 1999 Honda Civic's check engine light.

19 ELEVENTH CAUSE FOR DISCIPLINE

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

21 39. Respondent has subjected his station license to discipline under Health and  
22 Safety Code section 44072.2, subdivision (a), in that on or about March 20, 2007, regarding the  
23 1999 Honda Civic, he violated sections of that Code, as follows:

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

26 b. **Section 44015, subdivision (b):** Respondent issued electronic Certificate  
27 of Compliance No. MQ209426 for the 1999 Honda Civic without properly testing and inspecting  
28 it to determine if the vehicle was in compliance with section 44012 of that Code.

1 c. **Section 44016:** Respondent failed to properly diagnose the 1999 Honda  
2 Civic's check engine light.

3 d. **Section 44059:** Respondent willfully made false entries for electronic  
4 Certificate of Compliance No. MQ209426 for the 1999 Honda Civic by certifying that the  
5 vehicle had been inspected as required when, in fact, it had not.

6 **TWELFTH CAUSE FOR DISCIPLINE**

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

8 40. Respondent has subjected his station license to discipline under Health and  
9 Safety Code section 44072.2, subdivision (c), in that on or about March 20, 2007, regarding the  
10 1999 Honda Civic, he violated sections of the Regulations, as follows:

11 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently  
12 issued electronic Certificate of Compliance No. MQ209426 for the 1999 Honda Civic without  
13 performing a bona fide inspection of the emission control devices and systems on the vehicle as  
14 required by Health and Safety Code section 44012.

15 b. **Section 3340.35, subdivision (c):** Respondent issued the electronic  
16 Certificate of Compliance No. MQ209426 for the 1999 Honda Civic, even though the vehicle  
17 had not been inspected in accordance with section 3340.42 of that Code.

18 c. **Section 3340.42:** Respondent failed to conduct the required smog tests  
19 and inspections of the vehicle in accordance with the Bureau's specifications.

20 **THIRTEENTH CAUSE FOR DISCIPLINE**

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

22 41. Respondent has subjected his technician license to discipline under Health  
23 and Safety Code section 44072.2, subdivision (a), in that on or about March 20, 2007, regarding  
24 the 1999 Honda Civic, he violated sections of that Code, as follows:

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

28 ///

1           b.     Section 44016: Respondent failed to properly diagnose the 1999 Honda  
2 Civic's check engine light.

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

5           d.     Section 44059: Respondent entered false information into the EIS for the  
6 electronic certificates of compliance, by certifying that the vehicle had been inspected as required  
7 when, in fact, it had not been.

8                                   **FOURTEENTH CAUSE FOR DISCIPLINE**

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

10           42.     Respondent has subjected his technician license to discipline under Health  
11 and Safety Code section 44072.2, subdivision (c), in that on or about March 20, 2007, regarding  
12 Certificate of Compliance No. MQ209426 for the 1999 Honda Civic, he violated sections of the  
13 Regulations, as follows:

14           a.     Section 3340.30, subdivision (a): Respondent failed to inspect and test  
15 the vehicle in accordance with Health and Safety Code section 44012.

16           b.     Section 3340.41, subdivision (c): Respondent entered false information  
17 into the EIS for an electronic certificate of compliance for the vehicle, in that Respondent entered  
18 "N" for *Repairs performed Before Test*, to indicate that he had not performed repairs before the  
19 test; however, Respondent had performed repairs before performing the test.

20           c.     Section 3340.42: Respondent failed to conduct the required smog tests  
21 and inspections of the vehicle in accordance with the Bureau's specifications.

22                                   **UNDERCOVER OPERATION - OCTOBER 30, 2007**

23           43.     On October 30, 2007, the operator telephoned Respondent and arranged to  
24 have Respondent tow her son's 1995 Chrysler Le Baron, California License Plate No. 3LJA311,  
25 to his facility. The operator told Respondent that she thought the fuel pump was not working.  
26 The only air conditioning repair necessary was the sealing of a leak on the side hose manifold,  
27 the installation of a belt, and evacuation and charge. The operator asked Respondent to perform  
28 a smog check after making repairs. In a subsequent telephone conversation, Respondent

1 informed the operator that he already replaced the fuel pump relay and found that the "check  
2 engine" light warning was the result of a problem with the coolant temperature sensor.  
3 Respondent stated that he would need to replace the belt before he could diagnose the air  
4 conditioning system. Respondent verbally estimated that the smog test and other repairs would  
5 cost \$459.74, including sales tax, and told the operator that the smog test would be performed  
6 last.

7 44. On October 31, 2007, Respondent informed the operator that it would cost  
8 an additional \$275 to repair a crack in the air conditioner receiver; he did not indicate whether  
9 sales tax was included. The operator authorized the repair.

10 45. Respondent performed the smog inspection and issued electronic  
11 Certificate of Compliance No. VL325618, certifying that he had tested and inspected the vehicle  
12 and that the vehicle was in compliance with applicable laws and regulations.

13 46. On or about November 2, 2007, the vehicle and a final Invoice No. 4402  
14 dated October 31, 2007, in the amount of \$778.17 ("Invoice No. 4402"); a VIR; and credit card  
15 receipts totaling \$734.34, were retrieved. Invoice No. 4402 contained a \$110 charge for an "A/C  
16 comp kit," \$165 to "R & R A/C comp to install seal kit," and the notation, "2 N A/C Freon  
17 R134."

18 47. On November 15, 2007, the Bureau re-inspected the vehicle, using Invoice  
19 No. 4402, Respondent's entries into the EIS, and the VIR, and made the following findings:

20 a. The A/C system compressor had not been removed and a "seal" or a  
21 "comp" kit had not been installed.

22 b. The engine fault code was incorrectly diagnosed.

23 c. "N" had been entered into the EIS for *Repairs Performed Before Test*  
24 after performing repairs.

25 **FIFTEENTH CAUSE FOR DISCIPLINE**

26 **(Untrue or Misleading Statements)**

27 48. Respondent has subjected his registration to discipline under Code section  
28 9884.7, subdivision (a)(1), in that on or about October 30, 2007, Respondent made or authorized

1 statements which he knew or in the exercise of reasonable care he should have known to be  
2 untrue or misleading by making the following representations:

3 a. Respondent falsely represented to the operator that he installed a "seal" or  
4 "comp" kit to repair the air conditioning system when, in fact, he did not.

5 b. Respondent entered "N" into the EIS for *Repairs Performed Before Test*  
6 after performing repairs.

7 c. Respondent charged \$734.34 to the operator's credit card for Invoice No.  
8 4402, which totaled \$778.17.

9 **SIXTEENTH CAUSE FOR DISCIPLINE**

10 **(Fraud)**

11 49. Respondent has subjected his registration to discipline under Code section  
12 9884.7, subdivision (a)(4), in that on or about October 30, 2007, he committed acts which  
13 constitute fraud, as follows:

14 a. Respondent issued electronic Certificate of Compliance No. VL325618 for  
15 the 1995 Chrysler Le Baron, without performing a bona fide inspection of the emission control  
16 devices and systems on the vehicle, thereby depriving the People of the State of California of the  
17 protection afforded by the Motor Vehicle Inspection Program.

18 b. Respondent received payment for unnecessary services, repairs or charges,  
19 as more fully set forth in paragraph 47, subparagraphs a through b, above.

20 **SEVENTEENTH CAUSE FOR DISCIPLINE**

21 **(Failure to Comply with Code)**

22 50. Respondent has subjected his registration to discipline under Code section  
23 9884.7, subdivision (a)(6), in that on or about October 30, 2007, Respondent failed to comply  
24 with the following Code sections:

25 **Section 9884.8:**

26 a. Regarding Invoice No. 4402, Respondent failed to record all service work  
27 performed and parts used in the repair of the operator's vehicle.

28 ///

1           b.       Regarding Invoice No. 4402, Respondent failed to document all parts as  
2 new, used, rebuilt or reconditioned.

3                   **Section 9884.9, subdivision (a):**

4           c.       Respondent failed to provide the operator with a written estimated price  
5 for parts and labor for a specific job prior to commencement of repairs.

6           d.       Respondent failed to document on Invoice No. 4402, the operator's  
7 authorization for additional repairs prior to commencing those repairs.

8                   **EIGHTEENTH CAUSE FOR DISCIPLINE**

9                   **(Failure to Comply with Regulations Pursuant to the Automotive Repair Act)**

10           51.       Respondent has subjected his registration to discipline under Code section  
11 9884.7, subdivision (a)(6), in that on or about October 30, 2007, Respondent violated provisions  
12 of that Code, as follows:

13           a.       **Regulation 3356, subdivision (a)(1):** Regarding Invoice No. 4402,  
14 Respondent omitted his address and used the name "California Auto Care & Smog Shop Inc.",  
15 which does not correspond with the Bureau's record of Respondent's business name.

16           b.       **Regulation 3366, subdivision (a)(15) and (16):** Respondent failed to  
17 perform required procedures for air conditioning work, as more fully described in paragraph 52,  
18 subparagraphs a and b, below.

19           c.       **Regulation 3340.41, subdivision (d):** Respondent failed to follow  
20 applicable specifications and procedures for diagnosing the vehicle's engine warning light, as  
21 more fully described in paragraph 52, subparagraph c, below.

22                   **NINETEENTH CAUSE FOR DISCIPLINE**

23                   **(Departure From Accepted Trade Standards - Regulations)**

24           52.       Respondent has subjected his registration to discipline under Code section  
25 9884.7, subdivision (a)(7), in that on or about October 30, 2007, Respondent willfully departed  
26 from or disregarded accepted trade standards for good and workmanlike repair, as follows:

27       ///

28       ///

1 a. **Regulation section 3366, subdivision (a)(15)**: Regarding Invoice No.  
2 4402, Respondent failed to meet minimum requirements for air conditioning work by failing to  
3 record the high and low pressure readings.

4 b. **Regulation section 3366, subdivision (a)(16)**: Regarding Invoice No.  
5 4402, Respondent failed to meet minimum requirements for air conditioning work by failing to  
6 record the center air distribution temperature.

7 c. **Regulation section 3340.41 subdivision (d)**: Respondent failed to follow  
8 the applicable specifications and procedures when diagnosing the 1995 Chrysler Le Baron's  
9 engine warning light.

10 **TWENTIETH CAUSE FOR DISCIPLINE**

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

12 53. Respondent has subjected his station license to discipline under Health and  
13 Safety Code section 44072.2, subdivision (a), in that on or about October 31, 2007, regarding the  
14 1995 Chrysler Le Baron, he violated sections of that Code, as follows:

15 a. **Section 44012, subdivision (f)**: Respondent failed to perform emission  
16 control tests on the vehicle in accordance with procedures prescribed by the department.

17 b. **Section 44015, subdivision (b)**: Respondent issued electronic Certificate  
18 of Compliance No. VL325618 for the 1995 Chrysler Le Baron without properly testing and  
19 inspecting it to determine if the vehicle was in compliance with section 44012 of that Code.

20 c. **Section 44016**: Respondent failed to properly diagnose the 1995 Chrysler  
21 Le Baron's check engine light.

22 d. **Section 44059**: Respondent willfully made false entries for electronic  
23 Certificate of Compliance No. VL325618 for the 1995 Chrysler Le Baron by certifying that the  
24 vehicle had been inspected as required when, in fact, it had not.

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26 ///

27 ///

28 ///



1 **TWENTY-THIRD CAUSE FOR DISCIPLINE**

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

3 56. Respondent has subjected his technician license to discipline under Health  
4 and Safety Code section 44072.2, subdivision (c), in that on or about October 31, 2007, regarding  
5 Certificate of Compliance No. VL325618 for the 1995 Chrysler Le Baron, he violated sections of  
6 the Regulations, as follows:

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

9 b. **Section 3340.41, subdivision (c):** Respondent entered false information  
10 into the EIS for an electronic certificate of compliance for the vehicle, in that Respondent entered  
11 "N" for *Repairs performed Before Test*, to indicate that he had not performed repairs before the  
12 test; however, Respondent had performed repairs before performing the test.

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

15 **OTHER MATTERS**

16 57. Under Code section 9884.7, subdivision (c), the director may invalidate or  
17 refuse to validate, temporarily or permanently, the registrations for all places of business operated  
18 in this state by Santiago R. Lopez, doing business as California Smog Shop & Auto Care, upon a  
19 finding that he has, or is, engaged in a course of repeated and willful violations of the laws and  
20 regulations pertaining to an automotive repair dealer.

21 58. Pursuant to Health and Safety Code section 44072.8, if Smog Check  
22 License Number RC 227660, issued to Santiago R. Lopez, doing business as California Smog  
23 Shop & Auto Care, is revoked or suspended, any additional license issued under this chapter in  
24 the name of said licensee may be likewise revoked or suspended by the director.

25 59. Under Health and Safety Code section 44072.8, if Advanced Emission  
26 Specialist Technician License Number EA 139273, issued to Santiago R. Lopez, is revoked or  
27 suspended, any additional license issued under this chapter in the name of said licensee may be  
28 likewise revoked or suspended by the director.

PRAYER

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

1. Revoking or suspending Automotive Repair Dealer Number ARD 227660, issued to Santiago R. Lopez, doing business as California Smog Shop & Auto Care;

2. Revoking or suspending Smog Check Station License Number RC 227660, issued to Santiago R. Lopez, doing business as California Smog Shop & Auto Care;

3. Revoking or suspending Advanced Emission Specialist Technician Number EA 139273, issued to Santiago R. Lopez;

4. Ordering Santiago R. Lopez to pay the Bureau of Automotive Repair the reasonable costs of the investigation and enforcement of this case, pursuant to Code section 125.3; and,

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

DATED: 2/9/09

  
\_\_\_\_\_  
SHERRY MEHL  
Chief  
Bureau of Automotive Repair  
Department of Consumer Affairs  
State of California  
Complainant