

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

In the Matter of the Accusation Against:

**VICENTE CANCINO DBA FAST PASS
TEST ONLY**

1452 Long Beach Blvd., Unit C
Long Beach, CA 90813

Automotive Repair Dealer Registration No.

ARD 266539

Smog Check, Test Only, Station License No.

TC 266539

and

VICENTE CANCINO

3333 Fashion Ave.
Long Beach, CA 90810

Smog Check Inspector (EO) License No.

633791

Respondent.

Case No. 79/15-117

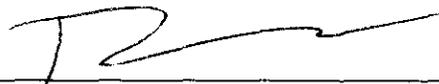
OAH No. 2015061058

DECISION

The attached Stipulated Revocation of Licenses 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 December 22, 2015.

DATED: November 10, 2015



TAMARA COLSON
Assistant General Counsel
Department of Consumer Affairs

1 KAMALA D. HARRIS
Attorney General of California
2 ARMANDO ZAMBRANO
Supervising Deputy Attorney General
3 WILLIAM D. GARDNER
Deputy Attorney General
4 State Bar No. 244817
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2114
6 Facsimile: (213) 897-2804
Attorneys for Complainant
7

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

10
11 In the Matter of the Accusation Against:

Case No. 79/15-117

12 **VICENTE CANCINO DBA FAST PASS**
13 **TEST ONLY**
14 **1452 Long Beach Blvd., Unit C**
Long Beach, CA 90813

OAH No. 2015061058

STIPULATED REVOCATION OF
LICENSES AND ORDER

15 **Automotive Repair Dealer Registration No.**
ARD 266539
16 **Smog Check, Test Only, Station License No.**
TC 266539

17 and

18 **VICENTE CANCINO**
19 **3333 Fashion Ave.**
20 **Long Beach, CA 90810**

21 **Smog Check Inspector (EO) License No.**
633791

22
23 Respondent.

24
25 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
26 entitled proceedings that the following matters are true:

27 PARTIES

28 1. Patrick Dorais ("Complainant") is the Chief of the Bureau of Automotive Repair. He brought this action solely in his official capacity and is represented in this matter by Kamala D.

1 Harris, Attorney General of the State of California, by William D. Gardner, Deputy Attorney
2 General.

3 2. On or about September 9, 2011, the Bureau of Automotive Repair (“Bureau”) issued
4 Automotive Repair Dealer Registration Number ARD 266539 to Vicente Cancino dba Fast Pass
5 Test Only. The Automotive Repair Dealer Registration was in full force and effect at all times
6 relevant to the charges brought herein and will expire on September 30, 2015, unless renewed.
7 The registration is currently suspended pursuant to the Office of Administrative Hearings’ Order
8 of Interim Suspension, effective May 29, 2015.

9 3. On or about September 29, 2011, the Bureau of Automotive Repair issued Smog
10 Check, Test Only, Station License Number TC 266539 to Vicente Cancino dba Fast Pass Test
11 Only. The Smog Check, Test Only, Station License was in full force and effect at all times
12 relevant to the charges brought herein and will expire on September 30, 2015, unless renewed.
13 The license is currently suspended pursuant to the Office of Administrative Hearings’ Order of
14 Interim Suspension, effective May 29, 2015.

15 4. On or about November 10, 2011, the Bureau issued Advanced Emission Specialist
16 Technician License Number EA 633791 to Vicente Cancino. Cancino’s advanced emission
17 specialist technician license was due to expire on December 31, 2013. Pursuant to California
18 Code of Regulations, title 16, section 3340.28, subdivision (e), the license was renewed, pursuant
19 to Cancino’s election, as Smog Check Inspector License Number EO 633791, effective December
20 30, 2013. Respondent's technician license will expire on December 31, 2015, unless renewed.¹
21 The license is currently suspended pursuant to the Office of Administrative Hearings’ Order of
22 Interim Suspension, effective May 29, 2015.

23 JURISDICTION

24 5. Accusation No. 79/15-117 was filed before the Director of Consumer Affairs
25 (Director), for the Bureau of Automotive Repair (Bureau), and is currently pending against

26 _____
27 ¹ Effective August 1, 2012, California Code of Regulations, title 16, section 3340.28, 3340.29 and
28 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 and/or Smog Check Repair Technician (EI) license.

1 Respondent Vicente Cancino, individually and dba Fast Pass Test Only (“Respondent”). The
2 Accusation and all other statutorily required documents were properly served on Respondent on
3 June 19, 2015. Respondent timely filed his Notice of Defense contesting the Accusation. A copy
4 of Accusation No. 79/15-117 is attached as Exhibit A and incorporated by reference.

5 ADVISEMENT AND WAIVERS

6 6. Respondent has carefully read, fully discussed with counsel, and understands the
7 charges and allegations in Accusation No. 79/15-117. Respondent also has carefully read, fully
8 discussed with counsel, and understands the effects of this Stipulated Revocation of Licenses and
9 Order.

10 7. Respondent is fully aware of his legal rights in this matter, including the right to a
11 hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at
12 his own expense; the right to confront and cross-examine the witnesses against him; the right to
13 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel
14 the attendance of witnesses and the production of documents; the right to reconsideration and
15 court review of an adverse decision; and all other rights accorded by the California
16 Administrative Procedure Act and other applicable laws.

17 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
18 every right set forth above.

19 CULPABILITY

20 9. Respondent understands that the charges and allegations in Accusation No. 79/15-
21 117, if proven at a hearing, constitute cause for imposing discipline upon his Automotive Repair
22 Dealer Registration, his Smog Check, Test Only, Station License and STAR Station Certification,
23 and his Smog Check Inspector License.

24 10. For the purpose of resolving the Accusation without the expense and uncertainty of
25 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual
26 basis for the charges in the Accusation and that those charges constitute cause for discipline.
27 Respondent hereby gives up his right to contest that cause for discipline exists based on those
28 charges.

1 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
2 writing executed by an authorized representative of each of the parties.

3 16. In consideration of the foregoing admissions and stipulations, the parties agree that
4 the Director may, without further notice or formal proceeding, issue and enter the following
5 Order:

6 **ORDER**

7 IT IS HEREBY ORDERED that the following licenses and registration are revoked by the
8 Director of Consumer Affairs: (1) Automotive Repair Dealer Registration No. ARD 266539,
9 issued to Vicente Cancino dba Fast Pass Test Only; (2) Smog Check, Test Only, Station License
10 No. TC 266539, issued to Vicente Cancino dba Fast Pass Test Only; and (3) Smog Check
11 Inspector License Number EO 633791, issued to Vicente Cancino.

12 1. The voluntary revocation of Respondent's Automotive Repair Dealer Registration,
13 Smog Check, Test Only, Station License, and Smog Check Inspector License shall constitute the
14 imposition of discipline against Respondent. This stipulation constitutes a record of the discipline
15 and shall become a part of Respondent's license history with the Bureau of Automotive Repair.

16 2. Respondent shall lose all rights and privileges as an Automotive Repair Dealer, a
17 Smog Check, Test Only, Station, and a Smog Check Inspector in California as of the effective
18 date of the Director's Decision and Order.

19 3. Respondent shall cause to be delivered to the Bureau his pocket licenses and, if
20 issued, his wall certificates on or before the effective date of the Decision and Order.

21 4. If Respondent ever files an application for licensure or a petition for reinstatement in
22 the State of California, the Bureau shall treat it as a new application. Respondent must comply
23 with all the laws, regulations and procedures for reinstatement of a revoked license in effect at the
24 time the petition is filed, and all of the charges and allegations contained in Accusation No.
25 79/15-117 shall be deemed to be true, correct and admitted by Respondent when the Director
26 determines whether to grant or deny the application.

27 5. Respondent shall pay the agency its costs of investigation and enforcement in the
28 amount of \$4,897.50 prior to issuance of a new or reinstated license.

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ACCEPTANCE

I have carefully read the above Stipulated Revocation of Licenses and Order and have fully discussed it with my attorney, Michael B. Levin. I understand the stipulation and the effect it will have on my Automotive Repair Dealer Registration, my Smog Check, Test Only, Station License, and my Smog Check Inspector License. I enter into this Stipulated Revocation of Licenses and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Director of Consumer Affairs.

DATED: 07-06-2015 
VICENTE CANCINO
Respondent

I have read and fully discussed with Respondent Vicente Cancino the terms and conditions and other matters contained in this Stipulated Revocation of Licenses and Order. I approve its form and content.

DATED: 7/6/15 
MICHAEL B. LEVIN
Attorney for Respondent

ENDORSEMENT

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

Dated: Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
ARMANDO ZAMBRANO
Supervising Deputy Attorney General

WILLIAM D. GARDNER
Deputy Attorney General
Attorneys for Complainant

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ACCEPTANCE

I have carefully read the above Stipulated Revocation of Licenses and Order and have fully discussed it with my attorney, Michael B. Levin. I understand the stipulation and the effect it will have on my Automotive Repair Dealer Registration, my Smog Check, Test Only, Station License, and my Smog Check Inspector License. I enter into this Stipulated Revocation of Licenses and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Director of Consumer Affairs.

DATED: _____

VICENTE CANCINO
Respondent

I have read and fully discussed with Respondent Vicente Cancino the terms and conditions and other matters contained in this Stipulated Revocation of Licenses and Order. I approve its form and content.

DATED: _____

MICHAEL B. LEVIN
Attorney for Respondent

ENDORSEMENT

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

Dated: 7/6/15

Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
ARMANDO ZAMBRANO
Supervising Deputy Attorney General


WILLIAM D. GARDNER
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 79/15-117

1 KAMALA D. HARRIS
Attorney General of California
2 ARMANDO ZAMBRANO
Supervising Deputy Attorney General
3 WILLIAM D. GARDNER
Deputy Attorney General
4 State Bar No. 244817
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
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8 **BEFORE THE**
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11 In the Matter of the Accusation Against: Case No. 79/15-117
12
13 **VICENTE CANCINO DBA FAST PASS**
TEST ONLY ACCUSATION
14 1452 Long Beach Blvd., Unit C
Long Beach, CA 90813
15 Automotive Repair Dealer Registration No.
ARD 266539
16 Smog Check, Test Only, Station License No.
TC 266539
17
18 and
19 **VICENTE CANCINO**
3333 Fashion Ave.
20 Long Beach, CA 90810
21 Smog Check Inspector (EO) License No.
633791
22
23 Respondent.

24 Complainant alleges:

25 **PARTIES**

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

28 ///

1 6 of this chapter in the name of the licensee may be likewise revoked or suspended by the
2 director.”

3 12. Section 44012 of the HSC provides, in pertinent part, that tests at smog check stations
4 shall be performed in accordance with procedures prescribed by the department.

5 13. Section 44015, subdivision (b), of the HSC provides that a certificate of compliance
6 shall be issued if a vehicle meets the requirements of HSC section 40012.

7 14. Section 44032 of the HSC states, in pertinent part, that: (1) no person may perform
8 tests or repairs of emission control devices or systems of motor vehicles required by the Motor
9 Vehicle Inspection Program unless the person performing the test or repair is a licensed qualified
10 smog check technician; and (2) all tests must be conducted in accordance with section 44012 (i.e.
11 Motor Vehicle Inspection Program Requirements).

12 15. Section 44059 of the HSC provides:

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

17 16. Section 44072.2 of the HSC states, in pertinent part:

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

21 “(a) Violates any section of this chapter [the Motor Vehicle Inspection Program
22 (Health and Saf. Code, ' 44000, et seq.)] and the regulations adopted pursuant to it, which
23 related to the licensed activities

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

25 “(d) Commits any act involving dishonesty, fraud, or deceit whereby another is
26 injured;

27 “(e) Has misrepresented a material fact in obtaining a license.

28 “(f) Aids or abets unlicensed persons to evade the provisions of this chapter.”

STATION SURVEILLANCE DOCUMENTS "CLEAN PIPING"

24. On or about October 8 and December 11, 2014, Bureau program representatives Nicholas H. Magana and Marc Ortega performed video-taped surveillance of Respondent's smog check station that revealed that Respondent is regularly involved in fraudulently certifying vehicles through the illegal practice of "clean piping."² Specifically, the surveillance operation and information obtained from the Bureau's VID revealed that during those two (2) days of surveillance Respondent issued five (5) fraudulent certificates of compliance to vehicles that were not actually inspected. The Bureau program representatives observed, and the surveillance video confirms, that Respondent used his own 1998 Ford Mustang to fraudulently certify the five (5) vehicles. In each instance, Respondent engaged in the illegal conduct of clean piping by using the tailpipe emissions from his Mustang to certify entirely different vehicles.

The following chart ("Table 1") illustrates the clean piping activities observed during the Bureau's surveillance of Respondent's smog check station on October 8 and December 11, 2014.

Table 1

Test Date and Time	Vehicle Certified & License No.	Vehicle Actually Tested & License No.	Certificate Issued	Details
10/8/2014 0830 to 0840 hours	1990 Toyota Corolla CA LIC# 2UID943	Respondent's 1998 Ford Mustang in Test Bay at Time of Inspection	YL036392C (Certificate is in series purchased by Respondent)	Vehicle not in test bay at time it was certified. Respondent is present and his license used to fraudulently certify vehicle.
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² "Clean piping" is sampling the (clean) tailpipe emissions and/or the RPM readings of another vehicle for the purpose of illegally issuing smog certifications to vehicles that are not in compliance or are not present in the smog check area during the time of the certification.

1	10/8/2014	1993 GMC Safari	Respondent's 1998 Ford Mustang in Test Bay at Time of Inspection	YL036393C (Certificate is in series purchased by Respondent)	Vehicle not in test bay at time it was certified. Respondent is present and his license used to fraudulently certify vehicle.
2	0844 to	CA LIC# 4HEE854			
3	0852 hours				
4					
5					
6	12/11/2014	1998 Toyota Camry	Respondent's 1998 Ford Mustang in Test Bay at Time of Inspection	YN027850C (Certificate is in series purchased by Respondent)	Vehicle not in test bay at time it was certified. Respondent is present and his license used to fraudulently certify vehicle.
7	1816 to	CA LIC# 3XIF926			
8	1824 hours				
9					
10					
11	12/11/2014	1996 Ford Aerostar	Respondent's 1998 Ford Mustang in Test Bay at Time of Inspection	YN070501C (Certificate is in series purchased by Respondent)	Vehicle not in test bay at time it was certified. Respondent is present and his license used to fraudulently certify vehicle.
12	1831 to	CA LIC# 4ZZK015			
13	1902 hours				
14					
15					
16	12/11/2014	2003 Ford Focus	Respondent's 1998 Ford Mustang in Test Bay at Time of Inspection	YN070502C (Certificate is in series purchased by Respondent)	Vehicle not in test bay at time it was certified. Respondent is present and his license used to fraudulently certify vehicle.
17	1907 to	CA LIC# 5VMK624			
18	1912 hours				
19					
20					

FIRST CAUSE FOR DISCIPLINE

(Misleading Statements)

25. Respondent has subjected his registration to discipline under BPC section 9884.7, subdivision (a)(1), in that he made statements which he knew or which by exercise of reasonable care should have known were untrue or misleading when he issued electronic certificates of compliance for the vehicles set forth in Table 1, above, certifying that those vehicles were in

1 compliance with applicable laws and regulations when, in fact, those vehicles had not been so
2 inspected.

3 **SECOND CAUSE FOR DISCIPLINE**

4 (Fraud)

5 26. Respondent has subjected his registration to discipline under BPC section 9884.7,
6 subdivision (a)(4), in that he committed acts which constitute fraud by issuing electronic
7 certificates of compliance for the vehicles set forth in Tables 1, above, without performing bona
8 fide inspections of the emission control devices and systems on those vehicles, thereby depriving
9 the People of the State of California of the protection afforded by the Motor Vehicle Inspection
10 Program.

11 **THIRD CAUSE FOR DISCIPLINE**

12 (Material Violation of Automotive Repair Act)

13 27. Respondent has subjected his registration to discipline under BPC section 9884.7,
14 subdivision (a)(6), in that he failed in a "material respect to comply with the provisions of this
15 chapter or regulations adopted pursuant to it" when he issued electronic certificates of compliance
16 for the vehicles set forth in Table 1, above, without performing bona fide inspections of the
17 emission control devices and systems on those vehicles, thereby depriving the People of the State
18 of California of the protection afforded by the Motor Vehicle Inspection Program.

19 **FOURTH CAUSE FOR DISCIPLINE**

20 (Violation of the Motor Vehicle Inspection Program)

21 28. Respondent has subjected his station license to discipline under HSC section 44072.2,
22 subdivision (a), in that, with respect to the vehicles set forth in Table 1, above, Respondent
23 violated the following sections of the HSC:

24 a. **Section 44012:** Respondent failed to ensure that the emission control tests were
25 performed on those vehicles in accordance with procedures prescribed by the department.

26 b. **Section 44015, subdivision (b):** Respondent issued electronic certificates of
27 compliance without properly testing and inspecting the vehicles to determine if they were in
28 compliance with section 44012 of the HSC.

1 c. Section 44059: Respondent willfully made false entries for the electronic certificates
2 of compliance by certifying that those vehicles had been inspected as required when, in fact, they
3 had not.

4 **FIFTH CAUSE FOR DISCIPLINE**

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

6 29. Respondent has subjected his station license to discipline under HSC section 44072.2,
7 subdivision (c), in that, with respect to the vehicles set forth in Table 1, above, Respondent
8 violated the following sections of title 16 of the CCR:

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

12 b. Section 3340.35, subdivision (c): Respondent issued electronic certificates of
13 compliance even though those vehicles had not been inspected in accordance with section
14 3340.42 of the HSC.

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

17 **SIXTH CAUSE FOR DISCIPLINE**

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

19 30. Respondent has subjected his station license to discipline under HSC section 44072.2,
20 subdivision (d), in that, with respect to the vehicles set forth in Table 1, above, Respondent
21 committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing
22 electronic certificates of compliance for those vehicles without performing bona fide inspections
23 of the emission control devices and systems on those vehicles, thereby depriving the People of the
24 State of California of the protection afforded by the Motor Vehicle Inspection Program.

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1 SEVENTH CAUSE FOR DISCIPLINE

2 (Violations of the Motor Vehicle Inspection Program)

3 31. Respondent has subjected his smog check inspector license to discipline under HSC
4 section 44072.2, subdivision (a), in that he violated the following sections of the HSC with
5 respect to the vehicles set forth in Table, 1 above:

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

8 b. **Section 44032:** Respondent failed to perform tests of the emission control devices
9 and systems on those vehicles in accordance with section 44012 of the HSC, in that the vehicles
10 had been clean piped.

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

14 EIGHTH CAUSE FOR DISCIPLINE

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

16 32. Respondent has subjected his smog check inspector license to discipline under HSC
17 section 44072.2, subdivision (c), in that he violated the following sections of the CCR, title 16,
18 with respect to the vehicles set forth in Table 1, above:

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

22 b. **Section 3340.30, subdivision (a):** Respondent failed to inspect and test those
23 vehicles in accordance with HSC section 44012.

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

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

1 NINTH CAUSE FOR DISCIPLINE

2 (Dishonesty, Fraud or Deceit)

3 33. Respondent has subjected his smog check inspector license to discipline under HSC
4 section 44072.2, subdivision (d), in that he committed acts involving dishonesty, fraud or deceit
5 whereby another was injured by issuing electronic certificates of compliance for the vehicles set
6 forth in Table I, above, without performing bona fide inspections of the emission control devices
7 and systems on those vehicles, thereby depriving the People of the State of California of the
8 protection afforded by the Motor Vehicle Inspection Program.

9 PRAYER

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

12 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
13 266539 to Vicente Cancino dba Fast Pass Test Only.

14 2. Revoking or suspending Smog Check, Test Only, Station License Number TC
15 266539 to Vicente Cancino dba Fast Pass Test Only;

16 3. Revoking or suspending Smog Check Inspector License No. EO 633791, issued to
17 Vicente Cancino;

18 4. Revoking or suspending any and all licenses issued under Articles 5 and 6 of the
19 Automotive Repair Act in the name of Vicente Cancino pursuant to section 9889.9 of the
20 Business and Professions Code;

21 5. Revoking or suspending any and all licenses issued under the Motor Vehicle
22 Inspection Program in the name of Vicente Cancino pursuant to section 44072.8 of the Health and
23 Safety Code;

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6. Ordering Vicente Cancino 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;

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

DATED: 6-12-15  for Patrick Dorais

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

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