

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

In the Matter of the First Amended Accusation Against:

ONE STOP TEST ONLY; MARIA I. SANCHEZ

630 W. Rialto Ave, #B8
Rialto, CA 92376

Automotive Repair Dealer Registration No.
ARD 266963
Smog Check, Test Only, Station License
No. TC 266963

and

BRIAN WILLIAM AYALA-SICILLIANO

5506 Norman Way
Riverside, CA 92504

Smog Check Inspector License No. EO 634046;
Smog Check Repair Technician License
No. EI 634046 (formerly Advanced
Emission Specialist Technician License
No. EA 634046)

and

JAVIER ALEJANDRO AYALA-SICILIANO

5506 Norman Way
Riverside, CA 92504

Smog Check Inspector License No. EO 633774;
Smog Check Repair Technician
License No. EI 633774 (formerly
Advanced Emission Specialist
Technician License No. EA 633774)

Respondents.

Case No. 79/14-108

OAH No. 2015040288

DECISION

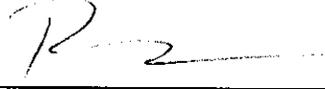
The attached Stipulated Settlement and Disciplinary Order as to Respondent One Stop Test Only; Maria I. Sanchez Only is hereby accepted and adopted as the Decision of the Director of the Department of Consumer Affairs in the above-entitled matter, only as to Respondent One Stop Test Only, Maria I. Sanchez, Automotive Repair Dealer Registration No.

ARD 266963, Smog Check, Test Only, and Station License No. TC 266963, except that the following typographical error is corrected as follows:

Page 1, case caption, line 24: License number "EI 633744" is corrected to "EI 633774".

This Decision shall become effective April 21, 2016.

DATED: March 31, 2016



TAMARA COLSON
Assistant General Counsel
Department of Consumer Affairs

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA L. SUN
Supervising Deputy Attorney General
3 KEVIN J. RIGLEY
Deputy Attorney General
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Attorneys for Complainant
7

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

11 In the Matter of the First Amended Accusation Against:

Case No. 79/14-108

12 **ONE STOP TEST ONLY; MARIA I. SANCHEZ**
630 W. Rialto Ave, #B8
13 Rialto, CA 92376

OAH No. 2015040288

14 Automotive Repair Dealer Registration No. ARD 266963
Smog Check, Test Only, Station License No. TC 266963

**STIPULATED SETTLEMENT
AND DISCIPLINARY ORDER
AS TO RESPONDENT ONE
STOP TEST ONLY; MARIA I.
SANCHEZ ONLY**

15 and

16 **BRIAN WILLIAM AYALA-SICILLIANO**
5506 Norman Way
17 Riverside, CA 92504

18 Smog Check Inspector License No. EO 634046; Smog
19 Check Repair Technician License No. EI 634046
(formerly Advanced Emission Specialist Technician
20 License No. EA 634046)

21 and

22 **JAVIER ALEJANDRO AYALA-SICILIANO**
5506 Norman Way
23 Riverside, CA 92504

24 Smog Check Inspector License No. EO 633774; Smog
25 Check Repair Technician License No. EI 633744
(formerly Advanced Emission Specialist Technician
26 License No. EA 633774)

27 Respondents
28

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

3 PARTIES

4 1. Patrick Dorais (Complainant) is the Chief of the Bureau of Automotive Repair. He
5 brought this action solely in his official capacity and is represented in this matter by Kamala D.
6 Harris, Attorney General of the State of California, by Kevin J. Rigley, Deputy Attorney General.

7 2. Respondent One Stop Test Only; Maria I. Sanchez (Respondent One Stop) is
8 represented in this proceeding by attorney William Dean Ferreira, Esq., whose address is: 582
9 Market Street, Suite 1608, San Francisco, CA 94104

10 **Automotive Repair Dealer Registration**

11 3. On or about October 26, 2011, the Bureau of Automotive Repair issued Automotive
12 Repair Dealer Registration Number ARD 266963 (registration) to One Stop Test Only; Maria I.
13 Sanchez (Respondent One Stop). The registration was in full force and effect at all times relevant
14 to the charges brought herein and will expire on October 31, 2015, unless renewed.

15 **Smog Check Test Only Station License**

16 4. On or about November 9, 2011, the Bureau of Automotive Repair issued Smog
17 Check, Test Only, Station License Number TC 266963 (station license) to Respondent One Stop.
18 The station license was in full force and effect at all times relevant to the charges brought herein
19 and will expire on October 31, 2015, unless renewed.

20 JURISDICTION

21 5. First Amended Accusation No. 79/14-108 (First Amended Accusation) was filed
22 before the Director of Consumer Affairs (Director), for the Bureau of Automotive Repair
23 (Bureau), and is currently pending against Respondent One Stop. The First Amended Accusation
24 and all other statutorily required documents were properly served on Respondent One Stop on
25 June 30, 2015. Respondent One Stop timely filed her Notice of Defense contesting the First
26 Amended Accusation.

27 6. A copy of the First Amended Accusation is attached as exhibit A and incorporated
28 herein by reference.

1 Complainant and the staff of the Bureau of Automotive Repair may communicate directly with
2 the Director and staff of the Department of Consumer Affairs regarding this stipulation and
3 settlement, without notice to or participation by Respondent One Stop or her counsel. By signing
4 the stipulation, Respondent One Stop understands and agrees that she may not withdraw her
5 agreement or seek to rescind the stipulation prior to the time the Director considers and acts upon
6 it. If the Director fails to adopt this stipulation as the Decision and Order, the Stipulated
7 Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall
8 be inadmissible in any legal action between the parties, and the Director shall not be disqualified
9 from further action by having considered this matter.

10 14. The parties understand and agree that Portable Document Format (PDF) and facsimile
11 copies of this Stipulated Settlement and Disciplinary Order, including Portable Document Format
12 (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

13 15. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
14 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
15 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
16 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
17 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
18 writing executed by an authorized representative of each of the parties.

19 16. In consideration of the foregoing admissions and stipulations, the parties agree that
20 the Director may, without further notice or formal proceeding, issue and enter the following
21 Disciplinary Order:

22 **DISCIPLINARY ORDER**

23 IT IS HEREBY ORDERED that Automotive Repair Dealer Registration Number ARD
24 266963 (registration) and Smog Check, Test Only, Station License Number TC 266963 (station
25 license) issued to One Stop Test Only; Maria I. Sanchez (Respondent One Stop) are revoked.
26 However, the revocations are stayed and Respondent One Stop's registration and station license
27 are placed on probation for three (3) years on the following terms and conditions:

28 ///

1 1. **Actual Suspension.** Respondent One Stop's registration and station license are
2 suspended for fifteen (15) consecutive days, beginning on the effective date of the Decision and
3 Order.

4 2. **Obey All Laws.** Comply with all statutes, regulations and rules governing
5 automotive inspections, estimates and repairs.

6 3. **Post Sign.** Post a prominent sign, provided by the Bureau, indicating the beginning
7 and ending dates of the suspension and indicating the reason for the suspension. The sign shall be
8 conspicuously displayed in a location open to and frequented by customers and shall remain
9 posted during the entire period of actual suspension.

10 4. **Reporting.** Respondent One Stop or Respondent One Stop's authorized
11 representative must report in person or in writing as prescribed by the Bureau of Automotive
12 Repair, on a schedule set by the Bureau, but no more frequently than each quarter, on the methods
13 used and success achieved in maintaining compliance with the terms and conditions of probation.

14 5. **Report Financial Interest.** Within 30 days of the effective date of this action, report
15 any financial interest which any partners, officers, or owners of the Respondent One Stop's
16 facility may have in any other business required to be registered pursuant to Section 9884.6 of the
17 Business and Professions Code.

18 6. **Random Inspections.** Provide Bureau representatives unrestricted access to inspect
19 all vehicles (including parts) undergoing repairs, up to and including the point of completion.

20 7. **Jurisdiction.** If an Accusation is filed against Respondent One Stop during the term
21 of probation, the Director of Consumer Affairs shall have continuing jurisdiction over this matter
22 until the final decision on the Accusation, and the period of probation shall be extended until such
23 decision.

24 8. **Violation of Probation.** Should the Director of Consumer Affairs determine that
25 Respondent One Stop has failed to comply with the terms and conditions of probation, the
26 Department may, after giving notice and opportunity to be heard temporarily or permanently
27 invalidate Respondent One Stop's registration and/or revoke her station license.

28 ///

1 9. Restrictions. During the period of probation, Respondent One Stop shall not perform
2 any form of smog inspection, or emission system diagnosis or repair, until Respondent One Stop
3 has purchased, installed, and maintained the diagnostic and repair equipment prescribed by BAR
4 necessary to properly perform such work, and BAR has been given 10 days notice of the
5 availability of the equipment for inspection by a BAR representative.

6 10. Cost Recovery. Payment to the Bureau in the amount of \$4,500.00 for its
7 investigation and enforcement costs incurred in connection with this matter, by way of twenty
8 four (24) equal monthly installments, with the full amount of cost recovery to be received no later
9 than twelve (12) months before probation terminates. Failure to complete payment of cost
10 recovery within this time frame shall constitute a violation of probation which may subject
11 Respondent One Stop's registration and/or station license to outright revocation; however, the
12 Director or the Director's Bureau of Automotive Repair designee may elect to continue probation
13 until such time as reimbursement of the entire cost recovery amount has been made to the Bureau.

14
15 ACCEPTANCE

16 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
17 discussed it with my attorney, William Dean Ferreira, Esq. I understand the stipulation and the
18 effect it will have on my registration and station license. I enter into this Stipulated Settlement
19 and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
20 Decision and Order of the Director of Consumer Affairs.

21
22 DATED: 10-20-15

Maria Sanchez
ONE STOP TEST ONLY: MARIA L. GANCHEZ
Respondent

23
24
25 ///

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27 ///

28 ///

1 I have read and fully discussed with Respondent One Stop Test Only; Maria I. Sanchez the
2 terms and conditions and other matters contained in the above Stipulated Settlement and
3 Disciplinary Order. I approve its form and content.

4
5 DATED: 10-20-15


6 William Dean Ferreira, Esq.
7 Attorney for Respondent One Stop Test Only;
8 Maria I. Sanchez

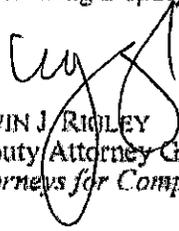
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10 ENDORSEMENT

11 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
12 submitted for consideration by the Director of Consumer Affairs.

13
14 Dated: 10/20/15

Respectfully submitted,

15 KAMALA D. HARRIS
16 Attorney General of California
17 LINDA L. SUN
18 Supervising Deputy Attorney General


19 KEVIN J. RIDLEY
20 Deputy Attorney General
21 Attorneys for Complainant

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Exhibit A

First Amended Accusation No. 79/14-108

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Supervising Deputy Attorney General
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Attorneys for Complainant

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and

BRIAN WILLIAM AYALA-SICILLIANO
5506 Norman Way
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Smog Check Inspector License No. EO 634046; Smog Check
Repair Technician License No. EI 634046 (formerly Advanced
Emission Specialist Technician License No. EA 634046)

and

JAVIER ALEJANDRO AYALA-SICILIANO
5506 Norman Way
Riverside, CA 92504

Smog Check Inspector License No. EO 633774; Smog Check
Repair Technician License No. EI 633744 (formerly Advanced
Emission Specialist Technician License No. EA 633774)

Respondents.

Case No. 79/14-108

FIRST AMENDED
ACCUSATION

1 Complainant alleges:

2 **PARTIES**

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

6 **Automotive Repair Dealer Registration**

7 2. On or about October 26, 2011, the Bureau of Automotive Repair issued Automotive
8 Repair Dealer Registration Number ARD 266963 (registration) to One Stop Test Only, Maria I.
9 Sanchez (Respondent One Stop). The registration was in full force and effect at all times relevant
10 to the charges brought herein and will expire on October 31, 2015, unless renewed.

11 **Smog Check Test Only Station License**

12 3. On or about November 9, 2011, the Bureau of Automotive Repair issued Smog
13 Check, Test Only, Station License Number TC 266963 (station license) to Respondent One Stop.
14 The station license was in full force and effect at all times relevant to the charges brought herein
15 and will expire on October 31, 2015, unless renewed.

16 **Technician Licenses**

17 4. On or about February 14, 2012, the Director issued Advanced Emission specialist
18 Technician License EA 634046 to Brian Ayala-Sicilliano. (Respondent Brian Ayala-Sicilliano).
19 Respondent Brian Ayala-Sicilliano's advanced emission specialist license was in full force and
20 effect at all times relevant to the charges brought herein and pursuant to California Code of
21 Regulations, title 16, section 3340.28, subdivision (e), the license was renewed, pursuant to
22 Respondent Brian Ayala-Sicilliano's election, as Smog Check Inspector License Number EO
23 633774, and Smog Check repair Technician License No. EI 633774¹ (technician licenses),
24 effective May 29, 2014. Respondent Brian Ayala-Sicilliano's technician licenses will expire on
25 July 31, 2016, unless renewed.

26 ¹ Effective August 1, 2012, California Code of Regulations, title 16, sections 3340.28,
27 3340.29, and 3340.30 were amended to implement a license restructure from the Advanced
28 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 surrender of a license shall not deprive the Director of jurisdiction to proceed with any disciplinary
2 proceedings.

3 11. Section 44002 of the Health and Safety Code provides, in pertinent part, that the
4 Director has all the powers and authority granted under the Automotive Repair Act for enforcing
5 the Motor Vehicle Inspection Program.

6 **STATUTORY PROVISIONS**

7 12. Code section 490 states, in pertinent part:

8 "(a) In addition to any other action that a board is permitted to take
9 against a licensee, a board may suspend or revoke a license on the ground that the
10 licensee has been convicted of a crime, if the crime is substantially related to the
11 qualifications, functions, or duties of the business or profession for which the license
12 was issued.

13 "(b) Notwithstanding any other provision of law, a board may exercise
14 any authority to discipline a licensee for conviction of a crime that is independent of
15 the authority granted under subdivision (a) only if the crime is substantially related to
16 the qualifications, functions, or duties of the business or profession for which the
17 licensee's license was issued.

18 "(c) A conviction within the meaning of this section means a plea or
19 verdict of guilty or a conviction following a plea of nolo contendere. An action that a
20 board is permitted to take following the establishment of a conviction may be taken
21 when the time for appeal has elapsed, or the judgment of conviction has been affirmed
22 on appeal, or when an order granting probation is made suspending the imposition of
23 sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code."

24 13. Code section 493 states:

25 "Notwithstanding any other provision of law, in a proceeding conducted by a board within
26 the department pursuant to law to deny an application for a license or to suspend or revoke a
27 license or otherwise take disciplinary action against a person who holds a license, upon the
28 ground that the applicant or the licensee has been convicted of a crime substantially related to the
29 qualifications, functions, and duties of the licensee in question, the record of conviction of the
30 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,
31 and the board may inquire into the circumstances surrounding the commission of the crime in
32 order to fix the degree of discipline or to determine if the conviction is substantially related to the
33 qualifications, functions, and duties of the licensee in question. "As used in this section, 'license'
34 includes 'certificate,' 'permit,' 'authority,' and 'registration.'"

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14. Section 9884.7 of the Code states, in pertinent part:

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

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

...

(4) Any other conduct that constitutes fraud.

...

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

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

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

15. Section 9884.8 of the Code states:

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

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16. Section 9889.3 of the Code states, in pertinent part:

"The director may suspend, revoke, or take other disciplinary action against a license as provided in this article [Article 7 (commencing with section 9889.1) of Chapter 20.3 of Division 3 of the Business and Professions Code] if the licensee or any partner, officer, or director thereof:

...

"(b) Is convicted of any crime substantially related to the qualifications, functions and duties of the licenseholder in question.

...

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

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

18. Section 44012 of the Health and Safety Code states, in pertinent part:

"The test at the smog check stations shall be performed in accordance with procedures prescribed by the department, pursuant to Section 44013, shall require, at a minimum, loaded mode dynamometer testing in enhanced areas, and two-speed testing in all other program areas, and shall ensure all of the following:

...

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

19. Section 44015 of the Health and Safety Code states, in pertinent part:

...

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

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1 24. California Code of Regulations, title 16, section 3340.35, states, in pertinent part:

2 ...

3 "(c) A licensed station shall issue a certificate of compliance or noncompliance to the
4 owner or operator of any vehicle that has been inspected in accordance with the procedures
5 specified in section 3340.42 of this article and has all the required emission control equipment
6 and devices installed and functioning correctly."

7 25. California Code of Regulations, title 16, section 3340.41, states, in pertinent part:

8 ...

9 "(c) No person shall enter into the emissions inspection system any vehicle identification
10 information or emission control system identification data for any vehicle other than the one being
11 tested. Nor shall any person knowingly enter into the emissions inspection system any false
12 information about the vehicle being tested."

13 26. California Code of Regulations, title 16, section 3373, states:

14 "No automotive repair dealer or individual in charge shall, in filling out an estimate,
15 invoice, or work order, or record required to be maintained by section 3340.15(f) of this chapter,
16 withhold therefrom or insert therein any statement or information which will cause any such
17 document to be false or misleading, or where the tendency or effect thereby would be to mislead
18 or deceive customers, prospective customers, or the public."

19 **COST RECOVERY**

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

26 **UNDERCOVER OPERATION 1 – APRIL 10, 2013**

27 28. On April 10, 2013 a Bureau undercover operator (operator) drove a Bureau-
28 documented 1995 Chevrolet (Chevrolet) to Respondent One Stop, located at 630 W. Rialto Ave,

1 #B8, Rialto, California, after being instructed to ask for "Javier" and informing him (Javier) that
2 he had been referred to Respondent One Stop by a friend to do a smog test on the Chevrolet.
3 Immediately prior to this, Bureau representatives had purposely prepared the Chevrolet to fail the
4 tail pipe emissions test portion of a smog check inspection by intentionally disabling the EGR
5 system and modifying the oxygen sensor circuit. Before a smog inspection was conducted, the
6 operator gave Respondent Javier Ayala-Siciliano an incomplete registration notice that had been
7 issued by the DMV on the Chevrolet, at which point Respondent Javier Ayala-Siciliano asked the
8 operator "This is to get it to pass?" To which the operator responded, "Yes." The operator then
9 handed the keys to the Chevrolet to Respondent Brian Ayala-Siciliano, who drove the Chevrolet
10 into the testing bay. Respondent Javier Ayala-Siciliano informed the operator the inspection
11 would cost \$160.00. Respondent Brian Ayala-Siciliano performed the actual smog inspection,
12 while Respondent Javier Ayala-Siciliano engaged in all other aspects of the business transaction
13 regarding the subject smog inspection. Though the Chevrolet should have failed the smog
14 inspection, it passed and electronic Certificate of Compliance [REDACTED] was issued by
15 Respondent One Stop for that vehicle. The operator paid \$160.00 in cash to Respondent Javier
16 Ayala-Siciliano for the smog test and was given a copy of the Vehicle Inspection Report, but was
17 never provided with any actual invoice or receipt.

18 29. On the following day, April 11, 2013, a Bureau representative performed a Smog
19 Check inspection on the Chevrolet. The vehicle failed and exceeded the limits of oxides of
20 nitrogen at 15 mph and 25 mph as a gross polluter. Thereafter, on April 16, 2013, a Bureau
21 representative inspected and photographed the EGR valve tamper seal and oxygen sensor circuit
22 tamper seal on the Chevrolet and verified the tamper seals were intact, demonstrating the defects
23 had not been corrected. That same Bureau representative also received and reviewed a copy of
24 the VIR for the inspection performed on the Chevrolet by Respondent One Stop and concluded
25 that the emissions readings recorded on the VIR do not represent the emissions of the Chevrolet
26 and that the Chevrolet was not tested according to Bureau requirements. The Bureau
27 representative also noted the VIR reflected that a functional test of the evaporative emissions

28 ///

1 system had been performed on the Chevrolet truck, which test was not appropriate for that
2 vehicle.

3 **FIRST CAUSE FOR DISCIPLINE**

4 (Conviction of a Substantially Related Crime)

5 30. Respondent Brian Ayala-Sicilliano's smog check technician licenses are subject to
6 discipline pursuant to Code sections 490 and 493, in that Respondent Brian Ayala-Sicilliano was
7 convicted of a crime substantially related to the qualifications, functions or duties of a smog check
8 technician. On or about April 21, 2015, Respondent Brian Ayala-Sicilliano was convicted of one
9 felony count of violating Penal Code section 115, subdivision (a), [knowingly procuring or
10 offering a false or forged instrument to be filed, registered or recorded in a public office] in the
11 criminal proceeding entitled *The People of the State of California vs. Brian William Ayala-*
12 *Sicilliano* (Super. Ct. San Bernardino County, 2015, Case No. FWV1403377). In regard to the
13 circumstances surrounding the conviction, Complainant refers to, and by this reference
14 incorporates, the allegations set forth in paragraphs 28, 29, 43 and 44 herein, as though set forth
15 fully.

16 **SECOND CAUSE FOR DISCIPLINE**

17 (Acts Constituting Dishonesty, Fraud or Deceit)

18 31. Respondent Brian Ayala-Sicilliano's smog check technician licenses are subject to
19 discipline pursuant to Code section 9889.3, subdivision (b), and Health and Safety Code section
20 44072.1, subdivision (d), in that Respondent Brian Ayala-Sicilliano committed acts involving
21 dishonesty, fraud or deceit, with the intent to substantially benefit himself, or substantially injure
22 another. Complainant refers to, and by this reference incorporates, the allegations set forth in
23 paragraphs 28, 29, 43 and 44 herein, as though set forth fully.

24 **THIRD CAUSE FOR DISCIPLINE**

25 (Conviction of a Substantially Related Crime)

26 32. Respondent Javier Ayala-Sicilliano's smog check technician licenses are subject to
27 discipline pursuant to Code sections 490 and 493, in that Respondent Javier Ayala-Sicilliano was
28 convicted of a crime substantially related to the qualifications, functions or duties of a smog check

1 technician. On or about April 21, 2015, Respondent Javier Ayala-Siciliano was convicted of one
2 felony count of violating Penal Code section 115, subdivision (a), [knowingly procuring or
3 offering a false or forged instrument to be filed, registered or recorded in a public office] in the
4 criminal proceeding entitled *The People of the State of California vs. Javier Alejandro Ayula-*
5 *Siciliano* (Super. Ct. San Bernardino County, 2015, Case No. FWV1403377). In regard to the
6 circumstances surrounding the conviction, Complainant refers to, and by this reference
7 incorporates, the allegations set forth in paragraphs 28, 29, 43 and 44 herein, as though set forth
8 fully.

9 **FOURTH CAUSE FOR DISCIPLINE**

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

11 33. Respondent Javier Ayala-Siciliano's smog check technician licenses are subject to
12 discipline pursuant to Code section 9889.3, subdivision (b), and Health and Safety Code section
13 44072.1, subdivision (d), in that Respondent Javier Ayala-Siciliano committed acts involving
14 dishonesty, fraud or deceit, with the intent to substantially benefit himself, or substantially injure
15 another. Complainant refers to, and by this reference incorporates, the allegations set forth in
16 paragraphs 28, 29, 43 and 44 herein, as though set forth fully.

17 **FIFTH CAUSE FOR DISCIPLINE**

18 **(Untrue or Misleading Statements)**

19 34. Respondent One Stop has subjected its registration to discipline under Code section
20 9884.7, subdivision (a)(1), in that on or about April 10, 2013, it made statements which it knew or
21 which by exercise of reasonable care it should have known were untrue or misleading when it
22 issued an electronic certificate of compliance for the vehicle set forth in paragraphs 28 and 29
23 above, certifying that such vehicle was in compliance with applicable laws and regulations when,
24 in fact, the vehicle was not in compliance at such time.

25 **SIXTH CAUSE FOR DISCIPLINE**

26 **(Fraud)**

27 35. Respondent One Stop has subjected its registration to discipline under Code section
28 9884.7, subdivision (a)(4), in that on or about April 10, 2013, it committed acts which constitute

1 fraud by issuing an electronic certificate of compliance for the vehicle set forth in paragraphs 28
2 and 29 above, without performing bona fide inspections of the emission control devices and
3 systems on that vehicle, thereby depriving the People of the State of California of the protection
4 afforded by the Motor Vehicle Inspection Program.

5 **SEVENTH CAUSE FOR DISCIPLINE**

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

7 36. Respondent One Stop has subjected its station license to discipline under Health and
8 Safety Code section 44072.2, subdivision (a), in that on or about April 10, 2013, regarding the
9 vehicle set forth in paragraphs 28 and 29, above, it violated sections of that Code, as follows:

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

12 b. **Section 44015, subdivision (b):** Respondent One Stop issued an electronic
13 certificate of compliance without properly testing and inspecting the vehicle to determine if it was
14 in compliance with section 44012 of that Code.

15 **EIGHTH CAUSE FOR DISCIPLINE**

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

17 37. Respondent One Stop has subjected its station license to discipline under Health and
18 Safety Code section 44072.2, subdivision (c), in that on or about April 10, 2013, regarding the
19 vehicle set forth in paragraphs 28 and 29 above, it violated sections of the California Code of
20 Regulations, title 16, as follows:

21 a. **Section 3340.35, subdivision (c):** Respondent One Stop issued an electronic
22 certificate of compliance even though that vehicle had not been inspected in accordance with
23 section 3340.42 of that Code.

24 b. **Section 3340.42:** Respondent One Stop failed to conduct the required smog tests and
25 inspections on that vehicle in accordance with the Bureau's specifications.

26 c. **Section 3373:** Respondent One Stop generated false or misleading records on that
27 vehicle in accordance with the Bureau's specifications.

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1 **NINTH CAUSE FOR DISCIPLINE**

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

3 38. Respondent One Stop subjected its station license to discipline under Health and
4 Safety Code section 44072.2, subdivision (d), in that on or about April 10, 2013, regarding the
5 vehicle set forth in paragraphs 28 and 29 above, it committed acts involving dishonesty, fraud or
6 deceit whereby another was injured by issuing an electronic certificate of compliance for that
7 vehicle without performing bona fide inspections of the emission control devices and systems on
8 that vehicle, thereby depriving the People of the State of California of the protection afforded by
9 the Motor Vehicle Inspection Program.

10 **TENTH CAUSE FOR DISCIPLINE**

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

12 39. Respondent Brian Ayala-Sicilliano has subjected his technician license to discipline
13 under Health and Safety Code section 44072.2, subdivision (a), in that on or about April 10, 2013,
14 regarding the vehicle set forth in paragraphs 28 and 29 above, he violated sections of that Code,
15 as follows:

16 b. **Section 44012, subdivision (f):** Respondent Brian Ayala-Sicilliano failed to perform
17 emission control tests on the vehicle in accordance with procedures prescribed by the department.

18 d. **Section 44032:** Respondent Brian Ayala-Sicilliano failed to perform tests of the
19 emission control devices and systems on the vehicle in accordance with section 44012 of that
20 Code.

21 **ELEVENTH CAUSE FOR DISCIPLINE**

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

23 40. Respondent Brian Ayala-Sicilliano has subjected his technician license to discipline
24 under Health and Safety Code section 44072.2, subdivision (c), in that on or about April 10, 2013,
25 regarding the vehicle set forth in paragraphs 28 and 29, above, he violated sections of the
26 California Code of Regulations, title 16, as follows:

27 a. **Section 3340.30, subdivision (a):** Respondent Brian Ayala-Sicilliano failed to
28 inspect and test the vehicle in accordance with Health and Safety Code section 44012.

1 at the station, the operator went into the office and spoke with Respondent Javier Ayala-Siciliano,
2 whom the operator recognized from the previous undercover operation. The operator then
3 proceeded to inform Respondent Javier Ayala-Siciliano that he had brought his son's friend's
4 Acura to the station for a smog test. Respondent Javier Ayala-Siciliano then inspected the Acura
5 and informed the operator that the smog test would cost \$200 because of the "nitrous" and "other
6 stuff" on the engine. The operator paid Respondent Javier Ayala-Siciliano \$200 after the Acura
7 was tested by Respondent Brian Ayala-Siciliano. The Acura passed the smog inspection and
8 Certificate of Compliance [REDACTED] was issued by Respondent One Stop and given to the
9 operator, along with a passing Vehicle Inspection Report (VIR). However, the operator was
10 never provided with any actual invoice or receipt.

11 44. Thereafter, on April 24, 2013, a Bureau representative performed a Smog Check
12 inspection on the Acura. The Acura failed the inspection because of modified PCV components,
13 an illuminated MIL, exhaust header pipe, missing catalytic converter, missing secondary heated
14 oxygen sensor, adjustable fuel pressure regulator and adjustable camshaft timing gears. The
15 Acura also failed the inspection due to "Gross Polluter" levels of tailpipe emissions.

16 FOURTEENTH CAUSE FOR DISCIPLINE

17 (Untrue or Misleading Statements)

18 45. Respondent One Stop has subjected its registration to discipline under Code section
19 9884.7, subdivision (a)(1), in that on or about April 23, 2013, it made statements which it knew or
20 which by exercise of reasonable care it should have known were untrue or misleading when it
21 issued an electronic certificate of compliance for the vehicle set forth in paragraphs 43 and 44
22 above, certifying that such vehicle was in compliance with applicable laws and regulations when,
23 in fact, the vehicle was not in compliance at such time.

24 FIFTEENTH CAUSE FOR DISCIPLINE

25 (Fraud)

26 46. Respondent One Stop has subjected its registration to discipline under Code section
27 9884.7, subdivision (a)(4), in that on or about April 23, 2013, it committed acts which constitute
28 fraud by issuing an electronic certificate of compliance for the vehicle set forth in paragraphs 43

1 and 44 above, without performing bona fide inspections of the emission control devices and
2 systems on that vehicle, thereby depriving the People of the State of California of the protection
3 afforded by the Motor Vehicle Inspection Program.

4 **SIXTEENTH CAUSE FOR DISCIPLINE**

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

6 47. Respondent One Stop has subjected its station license to discipline under Health and
7 Safety Code section 44072.2, subdivision (a), in that on or about April 23, 2013, regarding the
8 vehicle set forth in paragraphs 43 and 44, above, it violated sections of that Code, as follows:

9 a. Section 44012, subdivision (f): Respondent One Stop failed to perform emission
10 control tests on that vehicle in accordance with procedures prescribed by the department.

11 b. Section 44015, subdivision (b): Respondent One Stop issued an electronic
12 certificate of compliance without properly testing and inspecting the vehicle to determine if it was
13 in compliance with section 44012 of that Code.

14 **SEVENTEENTH CAUSE FOR DISCIPLINE**

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

16 48. Respondent One Stop has subjected its station license to discipline under Health and
17 Safety Code section 44072.2, subdivision (c), in that on or about April 23, 2013, regarding the
18 vehicle set forth in paragraphs 43 and 44 above, it violated sections of the California Code of
19 Regulations, title 16, as follows:

20 a. Section 3340.35, subdivision (c): Respondent One Stop issued an electronic
21 certificate of compliance even though that vehicle had not been inspected in accordance with
22 section 3340.42 of that Code.

23 b. Section 3340.42: Respondent One Stop failed to conduct the required smog tests and
24 inspections on that vehicle in accordance with the Bureau's specifications.

25 c. Section 3373: Respondent One Stop generated false or misleading records on that
26 vehicle in accordance with the Bureau's specifications.

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1 **EIGHTEENTH CAUSE FOR DISCIPLINE**

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

3 49. Respondent One Stop subjected its station license to discipline under Health and
4 Safety Code section 44072.2, subdivision (d), in that on or about April 23, 2013, regarding the
5 vehicle set forth in paragraphs 35 and 36 above, it committed acts involving dishonesty, fraud or
6 deceit whereby another was injured by issuing an electronic certificate of compliance for that
7 vehicle without performing bona fide inspections of the emission control devices and systems on
8 that vehicle, thereby depriving the People of the State of California of the protection afforded by
9 the Motor Vehicle Inspection Program.

10 **NINETEENTH CAUSE FOR DISCIPLINE**

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

12 50. Respondent Brian Ayala-Sicilliano has subjected his technician license to discipline
13 under Health and Safety Code section 44072.2, subdivision (a), in that on or about April 23, 2013,
14 regarding the vehicle set forth in paragraphs 35 and 36 above, he violated sections of that Code,
15 as follows:

16 b. Section 44012, subdivision (f): Respondent Brian Ayala-Sicilliano failed to perform
17 emission control tests on the vehicle in accordance with procedures prescribed by the department.

18 d. Section 44032: Respondent Brian Ayala-Sicilliano failed to perform tests of the
19 emission control devices and systems on the vehicle in accordance with section 44012 of that
20 Code.

21 **TWENTIETH CAUSE FOR DISCIPLINE**

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

23 51. Respondent Brian Ayala-Sicilliano has subjected his technician license to discipline
24 under Health and Safety Code section 44072.2, subdivision (c), in that on or about April 23, 2013,
25 regarding the vehicle set forth in paragraphs 35 and 36, above, he violated sections of the
26 California Code of Regulations, title 16, as follows:

27 a. Section 3340.30, subdivision (a): Respondent Brian Ayala-Sicilliano failed to
28 inspect and test the vehicle in accordance with Health and Safety Code section 44012.

1 issued to Brian William Ayala-Sicilliano, is revoked or suspended, any additional license issued
2 under this chapter in the name of said licensee may be likewise revoked or suspended by the
3 director.

4 57. Under Health and Safety Code section 44072.8, if under Health and Safety Code
5 section 44072.8, if Smog Check Inspector License Number EO 633774 and Smog Check Repair
6 Technician License Number EI 633774 (formerly Advanced Emission Specialist Technician
7 License Number EA 633774) issued to Javier Alejandro Ayala-Siciliano, are revoked or
8 suspended, any additional license issued under this chapter in the name of said licensee may be
9 likewise revoked or suspended by the director.

10 **PRAYER**

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

13 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
14 266963, issued to One Stop Test Only; Maria I. Sanchez;

15 2. Revoking, suspending, or placing on probation any other automotive repair dealer
16 registration issued to Maria I. Sanchez;

17 3. Revoking or suspending Smog Check Test Only Station License Number TC 266963,
18 issued to One Stop Test Only; Maria I. Sanchez;

19 4. Revoking or suspending any additional license issued under Chapter 5 of the Health
20 and Safety Code in the name of Maria I. Sanchez, doing business as One Stop Test Only;

21 5. Revoking or suspending Advanced Emission Specialist Technician License No. EA
22 634046 issued to Brian William Ayala-Siciliano;

23 6. Revoking or suspending any additional license issued under Chapter 5 of the Health
24 and Safety Code in the name of Brian William Ayala-Siciliano;

25 7. Revoking or suspending Smog Check Inspector License Number EO 633774 and
26 Smog Check Repair Technician License Number EI 633774 (formerly Advanced Emission
27 Specialist Technician License Number EA 633774) issued to Javier Alejandro Ayala-Siciliano;

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8. Revoking or suspending any additional license issued under Chapter 5 of the Health and Safety Code in the name of Javier Alejandro Ayala-Siciliano;

9. Ordering Maria I. Sanchez, Brian William Ayala-Siciliano, and Javier Alejandro Ayala-Siciliano 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;

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

DATED: June 30, 2015



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

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