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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. 79/15-131

13 **CHATO SMOG;**
14 **ROBERT SAUCEDO, JR., Owner**
9223 Alondra Blvd., Suite I
15 Bellflower, CA 90706

A C C U S A T I O N

(Smog Check)

16 Mailing Address
17 5175 Duncan Way
18 South Gate, CA 90280

19 **Automotive Repair Dealer Registration**
20 **No. ARD 273877, Smog Check, Test Only,**
21 **Station License No. TC 273877,**

22 **and**

23 **MARIO FERNANDEZ**
10746 Weigand Ave.
24 Los Angeles, CA 90059

25 **Smog Check Inspector License No. EO 636223**

26 Respondents.

27 Complainant alleges:

28 **PARTIES**

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

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

7 (d) The Legislature hereby finds and declares that the application of this
8 section has been made unclear by the holding in *Petropoulos v. Department of Real*
9 *Estate* (2006) 142 Cal.App.4th 554, and that the holding in that case has placed a
10 significant number of statutes and regulations in question, resulting in potential
11 harm to the consumers of California from licensees who have been convicted of
12 crimes. Therefore, the Legislature finds and declares that this section establishes an
13 independent basis for a board to impose discipline upon a licensee, and that the
14 amendments to this section made by Chapter 33 of the Statutes of 2008 do not
15 constitute a change to, but rather are declaratory of, existing law.

16 15. Bus. & Prof. Code section 493 states:

17 Notwithstanding any other provision of law, in a proceeding conducted by a
18 board within the department pursuant to law to deny an application for a license or
19 to suspend or revoke a license or otherwise take disciplinary action against a person
20 who holds a license, upon the ground that the applicant or the licensee has been
21 convicted of a crime substantially related to the qualifications, functions, and duties
22 of the licensee in question, the record of conviction of the crime shall be conclusive
23 evidence of the fact that the conviction occurred, but only of that fact, and the board
24 may inquire into the circumstances surrounding the commission of the crime in
25 order to fix the degree of discipline or to determine if the conviction is substantially
26 related to the qualifications, functions, and duties of the licensee in question.

27 As used in this section, "license" includes "certificate," "permit,"
28 "authority," and "registration."

15. Bus. & Prof. Code section 9884.7 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.

....

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

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

7 (c) Notwithstanding subdivision (b), the director may suspend, revoke or
8 place on probation the registration for all places of business operated in this state by
9 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.

10 17. Health & Saf. Code section 44072.2 states, in pertinent part:

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

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

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

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

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20 (f) Aids or abets unlicensed persons to evade the provisions of this
21 chapter . . .

22 18. Health & Saf. Code section 44072.10 states, in pertinent part:

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24 (c) The department shall revoke the license of any smog check technician or
25 station licensee who fraudulently certifies vehicles or participates in the fraudulent
26 inspection of vehicles. A fraudulent inspection includes, but is not limited to, all of
the following:

27 (1) Clean piping, as defined by the department.

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

3 19. Health & Saf. Code section 44072.8 states that when a license has been revoked or
4 suspended following a hearing under this article, any additional license issued under this chapter
5 in the name of the licensee may be likewise revoked or suspended by the director.

6 20. California Code of Regulations, title 16 (CCR), section 3340.1 states, in pertinent
7 part:

8 "Clean piping," for the purposes of Health and Safety Code section
9 44072.10(c)(1), means the use of a substitute exhaust emissions sample in place of
10 the actual test vehicle's exhaust in order to cause the EIS to issue a certificate of
11 compliance for the test vehicle . . .

12 **COST RECOVERY**

13 21. Bus. & Prof. Code section 125.3 provides, in pertinent part, that a Board may request
14 the administrative law judge to direct a licentiate found to have committed a violation or
15 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
16 and enforcement of the case.

17 **VIDEO SURVEILLANCE OPERATIONS OF FEBRUARY 26, 2014**

18 22. On or around February 26, 2014, representatives of the Bureau conducted a video
19 surveillance operation of Respondent Chato Smog's facility. On this same date, Respondent
20 Chato Smog, through the actions of Respondent Robert Saucedo, Jr., as owner, and Respondent
21 Fernandez, performed five (5) smog inspections that resulted in the issuance of five (5) electronic
22 certificates of compliance for the vehicles set forth in Table 1, below, certifying that Respondents
23 Chato Smog and Respondent Fernandez had tested and inspected those vehicles and that the
24 vehicles were in compliance with applicable laws and regulations.

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Table 1 (February 26, 2014)

Test No.	Test Times	Vehicle in EIS Data (License Plate #)	Vehicle Tested (License Plate #)	Certificate Issued
1	1824-1837	1999 Honda Prelude (5FXR207)	Nissan in test bay (Oregon Plate: 557FVE)	YD556020C
2	1844-1859	2007 Chevrolet Aveo (5WZL769)	Nissan in test bay (Oregon Plate: 557FVE)	YD556021C
3	1904-1918	1997 Toyota Avalon (6TZH603)	Nissan in test bay (Oregon Plate: 557FVE)	YD556022C
4	1921-1933	1996 Dodge Caravan (6XGD556)	Nissan in test bay (Oregon Plate: 557FVE)	YD556023C
5	1951-2001	1987 Mazda B-series (5M12506)	Nissan in test bay (Oregon Plate: 557FVE)	YD556024C

23. In fact, on or about February 26, 2014, Respondents performed the smog inspections using the clean piping method by utilizing the tail pipe emissions of vehicles other than the vehicles being certified in order to issue the electronic certificates of compliance. The vehicles certified were not in the test bay at the time of the smog inspections. Specifically, Respondents used the clean piping method to certify and issue certificates of compliance for vehicles and conspired to use Respondent Fernandez's Smog Check Technician confidential access code to complete the clean-piping of the vehicles noted above in Table 1. The surveillance video operation revealed that Respondent Roberto Saucedo, Jr., along with an unidentified person, used Respondent Fernandez's technician license number and confidential access code during the inspection to certify said vehicles.

FIRST CAUSE FOR DISCIPLINE

(Misleading Statements)

24. Respondent Chato Smog has subjected his registration to discipline under Bus. & Prof. Code section 9884.7, subdivision (a)(1), in that on or about February 26, 2014, he made statements which he knew or which by exercise of reasonable care he 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 compliance with applicable laws and regulations when, in fact, the vehicles had been clean piped.

1 **FOURTH CAUSE FOR DISCIPLINE**

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

3 27. Respondent Chato Smog has subjected his station license to discipline under Health
4 & Saf. Code section 44072.2, subdivision (c), in that on or about February 26, 2014, regarding the
5 vehicles set forth in Table 1, above, he violated sections of the California Code of Regulations,
6 title 16, as follows:

7 a. **Section 3340.24, subdivision (c):** Respondent Chato Smog falsely or fraudulently
8 issued electronic certificates of compliance without performing bona fide inspections of the
9 emission control devices and systems on those vehicles as required by Health & Saf. Code section
10 44012.

11 b. **Section 3340.35, subdivision (c):** Respondent Chato Smog issued electronic
12 certificates of compliance even though those vehicles had not been inspected in accordance with
13 section 3340.42 of that Code.

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

16 **FIFTH CAUSE FOR DISCIPLINE**

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

18 28. Respondent Chato Smog subjected his station license to discipline under Health &
19 Saf. Code section 44072.2, subdivision (d), in that on or about February 26, 2014, regarding the
20 vehicles set forth in Table 1, above, he committed acts involving dishonesty, fraud or deceit
21 whereby another was injured by issuing electronic certificates of compliance for those vehicles
22 without performing bona fide inspections of the emission control devices and systems on those
23 vehicles, thereby depriving the People of the State of California of the protection afforded by the
24 Motor Vehicle Inspection Program.

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SIXTH CAUSE FOR DISCIPLINE

(Aiding or Abetting Unlicensed Persons)

29. Respondent Chato Smog has subjected his station license to discipline under Health & Saf. Code section 44072.2, subdivision (f), in that on or about February 26, 2014, Respondent Chato Smog aided and abetted Roberto Saucedo, Jr. and an unidentified person, neither identified as licensed smog technicians, to evade the provisions of the Motor Vehicle Inspection Program, as set forth in paragraphs 22 and 23, and Table 1, above.

SEVENTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

30. Respondent Fernandez has subjected his Smog Check Inspector license to discipline under Health & Saf. Code section 44072.2, subdivision (a), in that on or about February 26, 2014, regarding the vehicles set forth in Table 1, he violated sections of that Code, as follows:

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

b. **Section 44012, subdivision (f):** Respondent Fernandez failed to perform emission control tests on those vehicles in accordance with procedures prescribed by the department.

c. **Section 44032:** Respondent Fernandez failed to perform tests of the emission control devices and systems on those vehicles in accordance with section 44012 of that Code, in that those vehicles had been clean piped.

EIGHTH CAUSE FOR DISCIPLINE

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

31. Respondent Fernandez has subjected his Smog Check Inspector license to discipline under Health & Saf. Code section 44072.2, subdivision (c), in that on or about February 26, 2014, regarding the vehicles set forth in Table 1, he violated sections of the California Code of Regulations, title 16, as follows:

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1 a. **Section 3340.24, subdivision (c):** Respondent Fernandez falsely or fraudulently
2 issued electronic certificates of compliance without performing bona fide inspections of the
3 emission control devices and systems on those vehicles as required by Health & Saf. Code section
4 44012.

5 b. **Section 3340.30, subdivision (a):** Respondent Fernandez failed to inspect and test
6 those vehicles in accordance with Health & Saf. Code section 44012.

7 c. **Section 3340.41, subdivision (b):** Respondent Fernandez allowed another person, to
8 wit, Respondent Saucedo and/or an unidentified person, to use his confidential personal access
9 code, which permitted the EIS to be accessed and the clean piping of the vehicles set forth in
10 Table 1, above.

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

13 e. **Section 3340.45:** Respondent Fernandez failed to safeguard his confidential access
14 code and/or allowed another person to use his access code to perform Smog Check inspections,
15 and therefore failed to follow the procedures prescribed in the Bureau's Smog Check Inspection
16 Procedures Manual, dated August 2009, section 1.1.0, which required that each technician must
17 maintain the security of his access code and prohibits the disclosure of one's access code to
18 another.

19 **NINTH CAUSE FOR DISCIPLINE**

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

21 32. Respondent Fernandez has subjected his Smog Check Inspector license to discipline
22 under Health & Saf. Code section 44072.2, subdivision (d), in that on or about February 26, 2014,
23 he committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing
24 electronic certificates of compliance for the vehicles set forth in Table 1, above, without
25 performing bona fide inspections of the emission control devices and systems on those vehicles,
26 thereby depriving the People of the State of California of the protection afforded by the Motor
27 Vehicle Inspection Program.

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1 **TENTH CAUSE FOR DISCIPLINE**

2 **(Aiding or Abetting Unlicensed Persons)**

3 33. Respondent Fernandez has subjected his station license to discipline under Health &
4 Saf. Code section 44072.2, subdivision (f), in that on or about February 26, 2014, Respondent
5 Fernandez aided and abetted Roberto Saucedo, Jr. and an unidentified person, neither identified
6 as licensed smog technicians, to evade the provisions of the Motor Vehicle Inspection Program,
7 as set forth in paragraphs 22 and 23, and Table 1, above.

8 **VIDEO SURVEILLANCE OPERATIONS OF MARCH 19, 2014**

9 34. On or around March 19, 2014, representatives of the Bureau conducted a video
10 surveillance operation of Respondent Chato Smog's facility. On this same date, Respondent
11 Chato Smog, through the actions of Respondent Robert Saucedo, Jr., as owner, and Respondent
12 Fernandez, performed two (2) smog inspections that resulted in the issuance of two (2) electronic
13 certificates of compliance for the vehicles set forth in Table 2, below, certifying that Respondents
14 Chato Smog and Respondent Fernandez had tested and inspected those vehicles and that the
15 vehicles were in compliance with applicable laws and regulations.

16 **Table 2 (March 19, 2014)**

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18 Test No.	Test Times	Vehicle in EIS Data (License Plate #)	Vehicle Tested (License Plate #)	Certificate Issued
19 6	2005-2015	1998 Mitsubishi Montero (4CRR846)	Nissan in test bay (Oregon Plate: 557FVE)	PE896153C
20 7	2021-2029	2003 Chevrolet Venture (5TME678)	Nissan in test bay (Oregon Plate: 557FVE)	PE896154C

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22 35. In fact, on or about March 19, 2014, Respondents performed the smog inspections
23 using the clean piping method by utilizing the tail pipe emissions of vehicles other than the
24 vehicles being certified in order to issue the electronic certificates of compliance. The vehicles
25 certified were not in the test bay at the time of the smog inspections. Specifically, Respondents
26 used the clean piping method to certify and issue certificates of compliance for vehicles and
27 conspired to use Respondent Fernandez's Smog Check Technician confidential access code to
28 complete the clean-piping of the vehicles noted above in Table 2. The surveillance video

1 operation revealed that Respondent Roberto Saucedo, Jr. used Respondent Fernandez's technician
2 license number and confidential access code during the inspection to certify said vehicles.

3 **ELEVENTH CAUSE FOR DISCIPLINE**

4 **(Misleading Statements)**

5 36. Respondent Chato Smog has subjected his registration to discipline under Bus. &
6 Prof. Code section 9884.7, subdivision (a)(1), in that on or about March 19, 2014, he made
7 statements which he knew or which by exercise of reasonable care he should have known were
8 untrue or misleading when he issued electronic certificates of compliance for the vehicles set
9 forth in Table 2, above, certifying that those vehicles were in compliance with applicable laws
10 and regulations when, in fact, the vehicles had been clean piped.

11 **TWELFTH CAUSE FOR DISCIPLINE**

12 **(Fraud)**

13 37. Respondent Chato Smog has subjected his registration to discipline under Bus. &
14 Prof. Code section 9884.7, subdivision (a)(4), in that on or about March 19, 2014, he committed
15 acts which constitute fraud by issuing electronic certificates of compliance for the vehicles set
16 forth in Table 2, above, without performing bona fide inspections of the emission control devices
17 and systems on those vehicles, thereby depriving the People of the State of California of the
18 protection afforded by the Motor Vehicle Inspection Program.

19 **THIRTEENTH CAUSE FOR DISCIPLINE**

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

21 38. Respondent Chato Smog has subjected his station license to discipline under Health
22 & Saf. Code section 44072.2, subdivision (a), in that on or about March 19, 2014, regarding the
23 vehicles set forth in Table 2, above, he violated sections of that Code, as follows:

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

27 b. **Section 44012, subdivision (f):** Respondent Chato Smog failed to perform emission
28 control tests on those vehicles in accordance with procedures prescribed by the department.

1 c. **Section 44014, subdivision (a):** Respondent Chato Smog permitted Respondent
2 Robert Saucedo, Jr. to participate in the clean-piping of the vehicles as stated in paragraphs 34
3 and 35, including Table 2, above.

4 d. **Section 44015, subdivision (b):** Respondent Chato Smog issued electronic
5 certificates of compliance without properly testing and inspecting the vehicles to determine if
6 they were in compliance with section 44012 of that Code.

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

10 **FOURTEENTH CAUSE FOR DISCIPLINE**

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

12 39. Respondent Chato Smog has subjected his station license to discipline under Health
13 & Saf. Code section 44072.2, subdivision (c), in that on or about March 19, 2014, regarding the
14 vehicles set forth in Table 2, above, he violated sections of the California Code of Regulations,
15 title 16, as follows:

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

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

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

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1 **FIFTEENTH CAUSE FOR DISCIPLINE**

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

3 40. Respondent Chato Smog subjected his station license to discipline under Health &
4 Saf. Code section 44072.2, subdivision (d), in that on or about March 19, 2014, regarding the
5 vehicles set forth in Table 2, above, he committed acts involving dishonesty, fraud or deceit
6 whereby another was injured by issuing electronic certificates of compliance for those vehicles
7 without performing bona fide inspections of the emission control devices and systems on those
8 vehicles, thereby depriving the People of the State of California of the protection afforded by the
9 Motor Vehicle Inspection Program.

10 **SIXTEENTH CAUSE FOR DISCIPLINE**

11 **(Aiding or Abetting Unlicensed Persons)**

12 41. Respondent Chato Smog has subjected his station license to discipline under Health
13 & Saf. Code section 44072.2, subdivision (f), in that on or about March 19, 2014, Respondent
14 Chato Smog aided and abetted Roberto Saucedo, Jr., unlicensed as a smog technician, to evade
15 the provisions of the Motor Vehicle Inspection Program, as set forth in paragraphs 34 and 35, and
16 Table 2, above.

17 **SEVENTEENTH CAUSE FOR DISCIPLINE**

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

19 42. Respondent Fernandez has subjected his Smog Check Inspector license to discipline
20 under Health & Saf. Code section 44072.2, subdivision (a), in that on or about March 19, 2014,
21 regarding the vehicles set forth in Table 2, he violated sections of that Code, as follows:

22 a. **Section 44012, subdivision (a):** Respondent Fernandez failed to determine that all
23 emission control devices and systems required by law were installed and functioning correctly in
24 accordance with test procedures.

25 b. **Section 44012, subdivision (f):** Respondent Fernandez failed to perform emission
26 control tests on those vehicles in accordance with procedures prescribed by the department.

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1 c. **Section 44032:** Respondent Fernandez failed to perform tests of the emission control
2 devices and systems on those vehicles in accordance with section 44012 of that Code, in that
3 those vehicles had been clean piped.

4 **EIGHTEENTH CAUSE FOR DISCIPLINE**

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

6 43. Respondent Fernandez has subjected his Smog Check Inspector license to discipline
7 under Health & Saf. Code section 44072.2, subdivision (c), in that on or about March 19, 2014,
8 regarding the vehicles set forth in Table 2, he violated sections of the California Code of
9 Regulations, title 16, as follows:

10 a. **Section 3340.24, subdivision (c):** Respondent Fernandez falsely or fraudulently
11 issued electronic certificates of compliance without performing bona fide inspections of the
12 emission control devices and systems on those vehicles as required by Health & Saf. Code section
13 44012.

14 b. **Section 3340.30, subdivision (a):** Respondent Fernandez failed to inspect and test
15 those vehicles in accordance with Health & Saf. Code section 44012.

16 c. **Section 3340.41, subdivision (b):** Respondent Fernandez allowed another person, to
17 wit, Respondent Saucedo, Jr., to use his confidential personal access code, which permitted the
18 EIS to be accessed and the clean piping of the vehicles set forth in Table 2, above.

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

21 e. **Section 3340.45:** Respondent Fernandez failed to safeguard his confidential access
22 code and/or allowed another person to use his access code to perform Smog Check inspections,
23 and therefore failed to follow the procedures prescribed in the Bureau's Smog Check Inspection
24 Procedures Manual, dated August 2009, section 1.1.0, which required that each technician must
25 maintain the security of his access code and prohibits the disclosure of one's access code to
26 another.

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1 **NINETEENTH CAUSE FOR DISCIPLINE**

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

3 44. Respondent Fernandez has subjected his Smog Check Inspector license to discipline
4 under Health & Saf. Code section 44072.2, subdivision (d), in that on or about March 19, 2014,
5 he committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing
6 electronic certificates of compliance for the vehicles set forth in Table 2, above, without
7 performing bona fide inspections of the emission control devices and systems on those vehicles,
8 thereby depriving the People of the State of California of the protection afforded by the Motor
9 Vehicle Inspection Program.

10 **TWENTIETH CAUSE FOR DISCIPLINE**

11 **(Aiding or Abetting Unlicensed Persons)**

12 45. Respondent Fernandez has subjected his station license to discipline under Health &
13 Saf. Code section 44072.2, subdivision (f), in that on or about March 19, 2014, Respondent
14 Fernandez aided and abetted Roberto Saucedo, Jr., unlicensed as a smog technician, to evade the
15 provisions of the Motor Vehicle Inspection Program, as set forth in paragraphs 34 and 35, and
16 Table 2, above.

17 **TWENTY-FIRST CAUSE FOR DISCIPLINE**

18 **(Criminal Conviction)**

19 46. Respondent Roberto Saucedo, Jr., owner, doing business as Chato Smog, has
20 subjected his Chato Smog ARD Registration and Station License to discipline under Bus. & Prof.
21 Code section 9889.3, subdivision (b), and Health & Saf. Code section 44072.2, subdivision (b), in
22 that on or about September 10, 2014, in the criminal matter entitled *People of the State of*
23 *California v. Robert Saucedo, Jr.* (Super. Ct. Los Angeles, 2014, No. BA427042), Respondent
24 entered a plea of guilty and was convicted of one count of violating Penal Code section 115,
25 subdivision (a) [procuring and offering false or forged instrument], a felony. Respondent Roberto
26 Saucedo, Jr. was sentenced to 3-years formal probation on terms and conditions, including fines
27 and assessments totaling \$2,155.00 and 30 days of Cal Trans. In addition, the Court ordered
28 Respondent Saucedo, Jr. not to, “work, associate or be involved, in any way, with smog

1 inspection, repair or certification of motor vehicles and agrees not to apply or obtain licensing to
2 perform smog inspection and certification.” The circumstances surrounding the conviction are
3 outlined by Respondent’s illegal conduct, as set forth in Tables 1 and 2, and paragraphs 22-23 and
4 paragraphs 34-35, above.

5 **OTHER MATTERS**

6 47. Under Bus. & Prof. Code section 9884.7, subdivision (c), the director may invalidate
7 temporarily or permanently or refuse to validate, the registrations for all places of business
8 operated in this state by Robert Saucedo, Jr., including, but not limited to Chato Smog (ARD
9 273877) upon a finding that he has, or is, engaged in a course of repeated and willful violations of
10 the laws and regulations pertaining to an automotive repair dealer.

11 48. Under Health and Safety Code section 44072.8, if Station License No. TC 273877,
12 issued to Robert Saucedo, Jr. is revoked or suspended, any additional license issued under this
13 chapter in the name of said licensee, including, but not limited to Chato Smog (TC 273877) may
14 be likewise revoked or suspended by the director.

15 49. Under Health and Safety Code section 44072.8, if Respondent Fernandez’s Smog
16 Check Inspector License No. EO 636223 is revoked or suspended, any additional license issued
17 under this chapter in the name of said licensee may be likewise revoked or suspended by the
18 director.

19 **PRAYER**

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

- 22 1. Revoking or suspending Automotive Repair Dealer Registration No. ARD 273877,
23 issued to Chato Smog; Robert Saucedo, Jr., Owner;
- 24 2. Revoking or suspending any other automotive repair dealer registration issued in the
25 name of Robert Saucedo, Jr.;
- 26 3. Revoking or suspending Smog Check, Test Only, Station License No. TC 273877,
27 issued to Chato Smog; Robert Saucedo, Jr., Owner;

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- 1 4. Revoking or suspending any additional license issued under this chapter in the name
2 of Robert Saucedo, Jr.;
- 3 5. Revoking or suspending Smog Check Inspector License No. EO 636223 issued to
4 Mario Fernandez;
- 5 6. Revoking or suspending any additional license issued under this chapter in the name
6 of Mario Fernandez;
- 7 7. Ordering Robert Saucedo, Jr. and Mario Fernandez to pay the Bureau of Automotive
8 Repair the reasonable costs of the investigation and enforcement of this case, pursuant to
9 Business and Professions Code section 125.3; and
- 10 8. Taking such other and further action as deemed necessary and proper.

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12 DATED: June 12, 2015 

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

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28 DOJ Matter ID: LA2014511904
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