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

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In the Matter of the Accusation Against:

Case No. 79/16-80

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EL CAMINO #1
703 S. Euclid Avenue
Ontario, CA 91762

OAH No. 2016031089

14

CARLOS RONDERO SEGURA, OWNER

DEFAULT DECISION AND ORDER

15

Automotive Repair Dealer Registration No.
ARD 276745
Smog Check Test Only Station License No.
TC 276745

[Gov. Code, §11520]

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17

18

and

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HECTOR DAVID CARVALLO
310 N. Poplar Avenue
Montebello, CA 90640

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Smog Check Inspector License No. EO 636679

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Respondents.

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FINDINGS OF FACT

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1. On or about May 3, 2016, Complainant Patrick Dorais, in his official capacity as the Chief of the Bureau of Automotive Repair, Department of Consumer Affairs, filed Accusation No. 79/16-80 against El Camino #1, Carlos Rondero Segura, Owner, and Hector David Carvallo (Respondents) before the Director of Consumer Affairs. (Accusation attached as Exhibit A.)

(EL CAMINO #1, CARLOS RONDERO SEGURA and HECTOR DAVID CARVALLO)
DEFAULT DECISION & ORDER Case No. 79/16-80

1 Automotive Repair Dealer Registration ARD No. 276745

2 2. On or about May 29, 2014, the Bureau of Automotive Repair (Bureau) issued
3 Automotive Repair Dealer Registration No. ARD 276745 (ARD registration) to Carlos Rondero
4 Segura doing business as El Camino # 1 (Respondent El Camino #1). On April 18, 2016, the
5 registration was suspended by the Interim Suspension Order of Administrative Law Judge Erlinda
6 G. Shrenger, Office of Administrative Hearings, pursuant to Business and Professions Code
7 section 494. The registration will expire on May 31, 2017, unless renewed.

8 Smog Check, Test Only, Station License No. TC 276745

9 3. On or about June 12, 2014, the Bureau issued Smog Check, Test Only, Station
10 License No. TC 276745 (smog check station license) to Respondent El Camino # 1. Bureau)
11 issued Automotive Repair Dealer Registration No. ARD 276745 (ARD registration) to Carlos
12 Rondero Segura doing business as El Camino # 1 (Respondent El Camino #1). On April 18,
13 2016, the license was suspended by the Interim Suspension Order of Administrative Law Judge
14 Erlinda G. Shrenger, Office of Administrative Hearings, pursuant to Business and Professions
15 Code section 494. The license will expire on May 31, 2017, unless renewed.

16 STAR Certification

17 4. On or about July 30, 2014, the Bureau verified El Camino #1 as a STAR Station. The
18 certification will remain active unless ARD 276745 and/or TC 276745 is revoked, canceled,
19 becomes delinquent, or the certification is invalidated.

20 Smog Check Inspector License No. EO 636679

21 5. On March 26, 2014, the Director issued Smog Check Inspector License No. EO
22 636679 (smog check inspector license) to Hector David Carvallo (Respondent Carvallo). On
23 April 18, 2016, the license was suspended by the Interim Suspension Order of Administrative
24 Law Judge Erlinda G. Shrenger, Office of Administrative Hearings, pursuant to Business and
25 Professions Code section 494. The license will expire on November 30, 2017, unless renewed.

26 6. On or about May 3, 2016, Respondents were served by Certified and First Class Mail
27 copies of the Accusation No. 79/16-80, Statement to Respondent, Notice of Defense, Request for
28 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at

1 Respondents' addresses of record which, pursuant to Business and Professions Code section 136,
2 are required to be reported and maintained with the Bureau. Respondents' addresses of record
3 were and are:

4 Carlos Rondero Segura
5 El Camino #1
6 703 S. Euclid Avenue
7 Ontario, CA 91762

8 Hector David Carvallo
9 703 S. Euclid Avenue
10 Ontario, CA 91762

11 Hector David Carvallo
12 310 N. Poplar Avenue
13 Montebello, CA 90640.

14 7. Service of the Accusation was effective as a matter of law under the provisions of
15 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
16 124.

17 8. No documents were returned by the U.S. Postal Service.

18 9. Government Code section 11506(c) states, in pertinent part:

19 (c) The respondent shall be entitled to a hearing on the merits if the respondent
20 files a notice of defense . . . and the notice shall be deemed a specific denial of all
21 parts of the accusation . . . not expressly admitted. Failure to file a notice of defense
22 . . . shall constitute a waiver of respondent's right to a hearing, but the agency in its
23 discretion may nevertheless grant a hearing.

24 10. Respondents failed to file a Notice of Defense within 15 days after service upon them
25 of the Accusation, and therefore waived their right to a hearing on the merits of Accusation No.
26 79/16-80.

27 11. California Government Code section 11520(a) states, in pertinent part:

28 (a) If the respondent either fails to file a notice of defense . . . or to appear at
the hearing, the agency may take action based upon the respondent's express
admissions or upon other evidence and affidavits may be used as evidence without
any notice to respondent

12. Pursuant to its authority under Government Code section 11520, the Director after
having reviewed the proof of service dated May 3, 2016, signed by Cynthia McCune, finds

(EL CAMINO #1, CARLOS RONDERO SEGURA and HECTOR DAVID CARVALLO)
DEFAULT DECISION & ORDER Case No. 79/16-80

1 Respondents are in default. The Director will take action without further hearing and, based on
2 Accusation, No. 79/16-80, proof of service and on the Affidavits of Bureau Representative Al
3 Denno finds that the allegations in Accusation are true.

4 DETERMINATION OF ISSUES

5 1. Based on the foregoing findings of fact, Respondents El Camino #1, Carlos Rondero
6 Segura has subjected his Automotive Repair Dealer Registration No. ARD 276745 and Smog
7 Check, Test Only, Station License No. TC 276745, and Hector David Carvalho has subjected his
8 Smog Check Inspector License No. EO 636679, to discipline.

9 2. The agency has jurisdiction to adjudicate this case by default.

10 3. The Director of Consumer Affairs is authorized to revoke Respondents' Automotive
11 Repair Dealer Registration, Smog Check Test Only, Station License, and Smog Check Inspector
12 License based upon the following violations alleged in the Accusation which are supported by the
13 evidence contained in the affidavit of Bureau Representative Al Denno in this case:

14 August 20, 2015 - Undercover Operation (Oldsmobile and Observed Clean-piping (Honda)

15 a. Bus. & Prof Code section 9884.7(a)(1) – Untrue or Misleading Statements;

16 b. Bus. & Prof Code section 9884.7(a)(4) – Fraud;

17 c. Bus. & Prof Code section 9884.7(a)(6) - Violations of the Automotive Repair Act
18 [Sections 9884.8 and 9884.7(a)(3)];

19 d. Health & Saf. Code section 44072.2(a) – Motor Vehicle Inspection Program
20 [Sections 44012(a), (f), 44015(b), and 44059];

21 e. Health & Saf. Code section 44072.2(c) - Motor Vehicle Inspection Program – Failure
22 to Comply with Regulations [CCR, Title 16, Sections 3340.35(c), 3356(d), and 3373];

23 f. Health & Saf. Code section 44072.2(d) – Dishonesty, Fraud or Deceit;

24 g. Health & Saf. Code section 44072.2(a) – Violations of the Motor Vehicle Inspection
25 Program [Sections 44012, 44012(f), 44059, and 44032];

26 h. Health & Saf. Code section 44072.2(c) – Violations of Regulations Pursuant to the
27 Motor Vehicle Inspection Program [Sections 3340.24(c), 3340.30(a), 3341.41(c) and 3340.42];

28 i. Health & Saf. Code section 44072.2(d) – Dishonesty, Fraud or Deceit;

1 September 1, 2015 - Undercover Operation(Mitsubishi] and Observed Clean-piping [Dodge]

2 j. Bus. & Prof Code section 9884.7(a)(1) – Untrue or Misleading Statements;

3 k. Bus. & Prof Code section 9884.7(a)(4) – Fraud;

4 l. Bus. & Prof Code section 9884.7(a)(6) - Violations of the Automotive Repair Act
5 [Sections 9884.8 and 9884.7(a)(3)];

6 m. Health & Saf. Code section 44072.2(a) – Motor Vehicle Inspection Program
7 [Sections 44012(a), (f), 44015(b), and 44059];

8 n. Health & Saf. Code section 44072.2(c) - Motor Vehicle Inspection Program – Failure
9 to Comply with Regulations [CCR, Title 16, Sections 3340.35(c), 3356(d), and 3373];

10 o. Health & Saf. Code section 44072.2(d) – Dishonesty, Fraud or Deceit;

11 p. Health & Saf. Code section 44072.2(a) -- Violations of the Motor Vehicle Inspection
12 Program [Sections 44012, 44012(f), 44059, and 44032];

13 q. Health & Saf. Code section 44072.2(c) – Violations of Regulations Pursuant to the
14 Motor Vehicle Inspection Program [Sections 3340.24(c), 3340.30(a), 3341.41(c) and 3340.42];

15 r. Hcalth & Saf. Code section 44072.2(d) – Dishonesty, Fraud or Deceit;

16 ORDER

17 *IT IS SO ORDERED* that Automotive Repair Dealer Registration No. ARD 276745 and
18 Smog Check, Test Only, Station License No. TC 276745, heretofore issued to Respondent El
19 Camino #1, Carlos Rondero Segura, and that Smog Check Inspector License No. EO 636679,
20 heretofore issued to Respondent Hector David Carvallo, are revoked.

21 Pursuant to Government Code section 11520, subdivision (c), Respondent(s) may serve a
22 written motion requesting that the Decision be vacated and stating the grounds relied on within
23 seven (7) days after service of the Decision on Respondents. The motion(s) should be sent to the
24 Bureau of Automotive Repair, ATTN: William D. Thomas, 10949 North Mather Blvd., Rancho

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1 Cordova, CA 95670. The agency in its discretion may vacate the Decision and grant a hearing
2 on a showing of good cause, as defined in the statute.

3 This Decision shall become effective on August 25, 2016.

4 It is so ORDERED July 20, 2016

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KURT HEPPLER
Supervising Attorney
Division of Legal Affairs
Department of Consumer Affairs

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

(EL CAMINO #1, CARLOS RONDERO SEGURA and HECTOR DAVID CARVALLO)

1 KAMALA D. HARRIS
Attorney General of California
2 ARMANDO ZAMBRANO
Supervising Deputy Attorney General
3 NANCY A. KAISER
Deputy Attorney General
4 State Bar No. 192083
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-5794
6 Facsimile: (213) 897-2804
Attorneys for Complainant

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. 79/16-80

13 **EL CAMINO #1**
703 S. Euclid Avenue
Ontario, CA 91762
14 **CARLOS RONDERO SEGURA, OWNER**

ACCUSATION

[SMOG CHECK]

15 Automotive Repair Dealer Registration No.
ARD 276745
16 Smog Check Test Only Station License No.
TC 276745

17 and

18 **HECTOR DAVID CARVALLO**
310 N. Poplar Avenue
Montebello, CA 90640

21 Smog Check Inspector License No. EO 636679

22 Respondents.

23
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.

1 18. Health & Saf. Code section 44072.2 states, in pertinent part:

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

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

6

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

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

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

13 20. Health & Saf. Code section 44072.10 states, in pertinent part:

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

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

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

20 **REGULATORY PROVISIONS**

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

22 "The bureau may suspend or revoke the license of or pursue other legal action against a
23 licensee, if the licensee falsely or fraudulently issues or obtains a certificate of compliance or a
24 certificate of noncompliance."

25 22. California Code of Regulations, title 16, section 3340.30, subdivision (a), states that a
26 licensed smog technician shall at all times "[i]nspect, test and repair vehicles, as applicable, in
27 accordance with section 44012 of the Health and Safety Code, section 44035 of the Health and
28 Safety Code, and section 3340.42 of this article."

1 specific sections and requested that the operator sign it. The operator gave the document to a
2 female worker at the facility. The operator was not given a copy of this document.

3 29. The operator observed Respondent Carvallo perform the inspection and operate the
4 Oldsmobile on the dynamometer. Respondent Carvallo informed the operator that the
5 Oldsmobile failed as a Gross Polluter. Respondent Carvallo stated that he could take care of the
6 smog, that it would cost \$180 to get the smog check, and that the operator would have to return on
7 August 20, 2015 with the vehicle to make it look like the vehicle had been repaired. The operator
8 paid Respondent Carvallo \$180. Respondent Carvallo made notations on the upper right corner of
9 the Vehicle Inspection Report (VIR) and instructed the operator to return on August 20, 2015 with
10 the DMV document stapled to the VIR.

11 **UNDERCOVER OPERATION – AUGUST 20, 2015 (OLDSMOBILE)**

12 30. On or about August 20, 2015, the operator returned to Respondent El Camino #1 with
13 the Oldsmobile and VIR paperwork from August 13, 2015. Respondent Carvallo drove the
14 Oldsmobile into the smog testing bay and positioned it on the dynamometer. The operator was
15 given a document to complete and sign by the female worker at the facility. The operator was not
16 given a copy of the document he signed. The operator observed Respondent Carvallo enter
17 information into the Emission Inspection System (EIS) machine. The female worker at the
18 facility then drove a 2003 Ford Taurus, California license number 4ZLV107, and backed it to park
19 behind the Oldsmobile (rear bumper to rear bumper) in the smog testing bay. The operator
20 observed Respondent Carvallo remove the EIS machine's exhaust emissions probe from a hanger
21 on the building wall and insert the exhaust emissions probe into the tailpipe of the Taurus.
22 Respondent Carvallo then operated the Oldsmobile on the dynamometer. The operator observed
23 Respondent Carvallo remove the EIS machine's exhaust emissions probe from the tail pipe of the
24 Taurus. The female worker drove the Taurus forward to a parking space. The Smog Check
25 inspection was then completed.

26 31. Though the Oldsmobile should have failed the smog inspection due to the
27 modifications to the catalytic converter and number five (5) cylinder spark plug, it passed and an
28 electronic smog certificate of compliance was issued by Respondents El Camino #1 and Carvallo

1 for that vehicle. The operator did not receive an invoice or any type of receipt for the payment for
2 the inspection.

3 32. The operator asked Respondent Carvallo about another smog check for a vehicle
4 belonging to his nephew that would not pass. Respondent Carvallo told the operator that either he
5 or his nephew could bring it in and it would also cost \$180.

6 **OBSERVED CLEAN-PIPING – AUGUST 20, 2015 (HONDA)**

7 33. On or about August 20, 2015, when the operator brought in the Oldsmobile, described
8 in paragraph 27, above, for a smog inspection, the same operator observed Respondent Carvallo
9 clean-pipe a 1994 Honda Accord, California license number 3JZZ067 (“1994 Honda”). While
10 waiting for the Oldsmobile smog inspection to be conducted, the operator observed Respondent
11 Carvallo drive the 1994 Honda into the smog testing bay and enter information into the EIS
12 machine. The operator then observed Respondent El Camino #1’s female worker drive a 2003
13 Ford Taurus, California license number 4ZLV107, and park it behind the 1994 Honda (rear
14 bumper to rear bumper) near the smog testing bay. The operator observed Respondent Carvallo
15 remove the EIS machine’s exhaust emissions probe from a hanger on the wall of the building and
16 insert the exhaust emissions probe into the tailpipe of the Taurus. Respondent Carvallo then
17 operated the 1994 Honda on the dynamometer. The operator observed Respondent Carvallo
18 remove the EIS machine’s exhaust emissions probe from the tailpipe of the Taurus. The female
19 worker then drove the Taurus forward to a parking space. At no time did the operator observe
20 Respondent Carvallo or anyone else insert the EIS machine’s exhaust emissions probe into the
21 tailpipe of the 1994 Honda.

22 34. Even though the emissions of the 1994 Honda was not tested, Respondents El
23 Camino #1 and Carvallo issued a Certificate of Compliance for the 1994 Honda.

24 35. In fact, on or about August 20, 2015, Respondents performed the smog inspections of
25 both the Oldsmobile and the 1994 Honda using the clean piping method by utilizing the tail pipe
26 emissions of a vehicle other than the vehicles being certified in order to issue the electronic smog
27 certificates of compliance.¹

28 ¹ “Clean piping” is sampling the (clean) tailpipe emissions and/or the RPM readings of
(continued...)

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Untrue or Misleading Statements)**

3 36. Respondent El Camino #1's registration is subject to disciplinary action pursuant to
4 Bus. & Prof. Code section 9884.7, subdivision (a)(1), in that on or about August 20, 2015,
5 Respondent El Camino #1 made or authorized statements which it knew or which by exercise of
6 reasonable care should have known were untrue or misleading when it issued electronic smog
7 certificates of compliance for the Oldsmobile and the 1994 Honda, certifying that the vehicles
8 were in compliance with applicable laws and regulations. In fact, Respondent Carvallo used clean
9 piping methods in order to issue certificates for the vehicles and did not test or inspect the
10 vehicles, as required by Health & Safety Code section 44012. Furthermore, due to the Bureau's
11 modifications to the Oldsmobile, the Oldsmobile failed the Smog Check Inspection on August 13,
12 2015, and would have failed again on August 20, 2015, for Gross Polluter tailpipe emissions.
13 Complainant refers to, and by this reference incorporates, the allegations set forth above in
14 paragraphs 27 through 35, as though set forth fully herein.

15 **SECOND CAUSE FOR DISCIPLINE**

16 **(Fraud)**

17 37. Respondent El Camino #1's registration is subject to disciplinary action pursuant to
18 Bus. & Prof. Code section 9884.7, subdivision (a)(4), in that on or about August 20, 2015,
19 Respondent El Camino #1 committed an act that constitutes fraud by issuing electronic smog
20 certificates of compliance for the Oldsmobile and the 1994 Honda, without ensuring that a bona
21 fide inspection was performed of the emission control devices and systems on the vehicle, thereby
22 depriving the People of the State of California of the protection afforded by the Motor Vehicle
23 Inspection Program. Complainant refers to, and by this reference incorporates, the allegations set
24 forth above in paragraphs 27 through 35, as though set forth fully herein.

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27 (...continued)

28 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 d. **Section 44059:** Respondent El Camino #1 willfully made false entries for the
2 electronic smog certificates of compliance by certifying that the vehicles had been inspected as
3 required when, in fact, they had not.

4 Complainant refers to, and by this reference incorporates, the allegations set forth above in
5 paragraphs 27 through 35, as though set forth fully herein.

6 **FIFTH CAUSE FOR DISCIPLINE**

7 **(Motor Vehicle Inspection Program - Failure to Comply with Regulations)**

8 40. Respondent El Camino #1's smog check station license is subject to disciplinary
9 action pursuant to Health & Saf. Code section 44072.2(c), in that, on or about August 20, 2015,
10 Respondent El Camino #1 failed to comply with provisions of California Code of Regulations,
11 title 16, as follows:

12 a. **Section 3340.35, subdivision (c):** Respondent El Camino #1 issued an electronic
13 smog certificate of compliance for the Oldsmobile and the 1994 Honda even though the vehicles
14 had not been inspected in accordance with section 3340.42 and did not have all the required
15 emission control equipment and devices installed and functioning correctly.

16 b. **Section 3356, subdivision (d):** Respondent El Camino #1 failed to give the operator
17 of the Oldsmobile a copy of the invoice.

18 c. **Section 3373:** Respondent El Camino #1 issued false and misleading documents by
19 issuing smog certificates of compliance for the Oldsmobile and the 1994 Honda.

20 Complainant refers to, and by this reference incorporates, the allegations set forth above in
21 paragraphs 27 through 35, as though set forth fully herein.

22 **SIXTH CAUSE FOR DISCIPLINE**

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

24 41. Respondent El Camino #1's smog check station license is subject to disciplinary
25 action pursuant to Health & Saf. Code section 44072.2(d), in that Respondent El Camino #1
26 committed a dishonest, fraudulent, or deceitful act whereby another is injured, by issuing
27 electronic smog certificates of compliance for the Oldsmobile and the 1994 Honda without
28 ensuring that bona fide inspections were performed of the emission control devices and systems

1 on the vehicles, thereby depriving the People of the State of California of the protection afforded
2 by the Motor Vehicle Inspection Program. Complainant refers to, and by this reference
3 incorporates, the allegations set forth above in paragraphs 27 through 35, as though set forth fully
4 herein.

5 **SEVENTH CAUSE FOR DISCIPLINE**

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

7 42. Respondent Carvalho's smog check inspector license is subject to disciplinary action
8 pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that on or about August 20,
9 2015, regarding the Oldsmobile and the 1994 Honda, Respondent violated sections of that Code
10 as follows:

11 a. **Section 44012:** Respondent Carvalho failed to perform the emission control tests in
12 accordance with procedures prescribed by the department.

13 b. **Section 44012, subdivision (f):** Respondent Carvalho failed to perform the visual or
14 functional check of the emission control devices specified by the department, including the
15 catalytic converter in those instances in which the department determines it to be necessary to be
16 performed in accordance with procedures prescribed by the department.

17 b. **Section 44059:** Respondent Carvalho willfully issued false certificates of compliance
18 for the vehicles.

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

22 Complainant refers to, and by this reference incorporates, the allegations set forth above in
23 paragraphs 27 through 35, as though set forth fully herein.

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1 facility. The operator did not receive an invoice or any type of receipt for the payment for the
2 inspection. Respondent Carvallo told the operator that his name was "David".

3 47. Though the Mitsubishi should have failed the smog inspection due to its
4 modifications, it passed and an electronic smog certificate of compliance was issued by
5 Respondents El Camino #1 and Carvallo for that vehicle.

6 **OBSERVED CLEAN-PIPING – SEPTEMBER 1, 2015 (DODGE)**

7 48. On or about September 1, 2015, when the operator brought in the Mitsubishi,
8 described in paragraph 45, above for a smog inspection, the same operator observed Respondent
9 Carvallo clean-pipe a 1990 Dodge Van, California license number 6TIH421 ("1990 Dodge Van").

10 While waiting for the Mitsubishi smog inspection to be conducted, the operator observed
11 Respondent Carvallo drive the 1990 Dodge Van into the smog testing bay and enter information
12 into the EIS machine. The operator then observed Respondent Carvallo back the same Taurus as
13 used in the previous inspection and park it behind the 1990 Dodge Van (rear bumper to rear
14 bumper) near the smog testing bay. The operator observed Respondent Carvallo remove the EIS
15 machine's exhaust emissions probe from a hanger on the wall of the building and insert the
16 exhaust emissions probe into the tailpipe of the Taurus. Respondent Carvallo then operated the
17 1990 Dodge Van on the dynamometer. The operator observed Respondent Carvallo remove the
18 EIS machine's exhaust emissions probe from the tailpipe of the Taurus and then drive the Taurus
19 forward to a parking space. At no time did the operator observe Respondent Carvallo or anyone
20 else insert the EIS machine's exhaust emissions probe into the tailpipe of the 1990 Dodge Van.

21 49. Even though the emissions of the 1990 Dodge Van were not tested, Respondents El
22 Camino #1 and Carvallo issued a certificate of compliance for the 1990 Dodge Van.

23 50. In fact, on or about September 1, 2015, Respondents performed the smog inspections
24 of both the Mitsubishi and the 1990 Dodge Van using the clean piping method by utilizing the tail
25 pipe emissions of a vehicle other than the vehicles being certified in order to issue the electronic
26 smog certificates of compliance.

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TENTH CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

51. Respondent El Camino #1's registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(1), in that on or about September 1, 2015, Respondent El Camino #1 made or authorized statements which it knew or which by exercise of reasonable care should have known were untrue or misleading when it issued an electronic smog certificate of compliance for the Mitsubishi and the 1990 Dodge Van, certifying that the vehicles were in compliance with applicable laws and regulations. In fact, Respondent Carvallo used clean piping methods in order to issue certificates for the vehicles and did not test or inspect the vehicles, as required by Health & Safety Code section 44012. Furthermore, due to the Bureau's modifications to the Mitsubishi, the Mitsubishi would have failed. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 45 through 50, as though set forth fully herein.

ELEVENTH CAUSE FOR DISCIPLINE

(Fraud)

52. Respondent El Camino #1's registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(4), in that on or about September 1, 2015, Respondent El Camino #1 committed an act that constitutes fraud by issuing electronic smog certificates of compliance for the Mitsubishi and the 1990 Dodge Van, without ensuring that a bona fide inspection was performed of the emission control devices and systems on the vehicle, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 45 through 50, as though set forth fully herein.

TWELFTH CAUSE FOR DISCIPLINE

(Violations of the Automotive Repair Act)

53. Respondent El Camino #1's registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(6), by violating the sections:

///

1 a. **Bus. & Prof. Code section 9884.8**: On or about September 1, 2015, Respondent El
2 Camino #1 failed to give the operator an invoice or any type of receipt for the payment for the
3 inspection.

4 b. **Bus. & Prof. Code section 9884.7, subdivision (a)(3)**: On or about September 1,
5 2015, Respondent El Camino #1 failed to give the operator a copy of the documents that he
6 signed.

7 Complainant refers to, and by this reference incorporates, the allegations set forth above in
8 paragraphs 45 through 50, as though set forth fully herein.

9 **THIRTEENTH CAUSE FOR DISCIPLINE**

10 **(Motor Vehicle Inspection Program – Code Violations)**

11 54. Respondent El Camino #1's smog check station license is subject to disciplinary
12 action pursuant to Health & Safety Code section 44072.2, subdivision (a), in that on or about
13 September 1, 2015, with regard to the Mitsubishi and the 1990 Dodge Van, Respondent failed to
14 comply with provisions of that Code, as follows:

15 a. **Section 44012, subdivision (a)**: Respondent El Camino #1 failed to determine that
16 all emission control devices and systems required by law were installed and functioning correctly
17 in accordance with test procedures.

18 b. **Section 44012, subdivision (f)**: Respondent El Camino #1 failed to perform on the
19 vehicles a visual and/or functional check of the emission control devices in accordance with
20 required procedures.

21 c. **Section 44015, subdivision (b)**: Respondent El Camino #1 issued electronic smog
22 certificates of compliance without properly testing and inspecting the vehicles to determine if they
23 were in compliance with Health & Saf. Code section 44012.

24 d. **Section 44059**: Respondent El Camino #1 willfully made false entries for the
25 electronic smog certificates of compliance by certifying that the vehicles had been inspected as
26 required when, in fact, they had not.

27 Complainant refers to, and by this reference incorporates, the allegations set forth above in
28 paragraphs 45 through 50, as though set forth fully herein.

1 **SIXTEENTH CAUSE FOR DISCIPLINE**

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

3 57. Respondent Carvallo's smog check inspector license is subject to disciplinary action
4 pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that on or about September 1,
5 2015, regarding the Mitsubishi and the 1990 Dodge Van, Respondent violated sections of that
6 Code as follows:

7 a. **Section 44012:** Respondent Carvallo failed to perform the emission control tests in
8 accordance with procedures prescribed by the department.

9 b. **Section 44012, subdivision (f):** Respondent Carvallo failed to perform the visual or
10 functional check of the emission control devices specified by the department, including the
11 catalytic converter in those instances in which the department determines it to be necessary to be
12 performed in accordance with procedures prescribed by the department.

13 b. **Section 44059:** Respondent Carvallo willfully issued false certificates of compliance
14 for the vehicles.

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

18 Complainant refers to, and by this reference incorporates, the allegations set forth above in
19 paragraphs 45 through 50, as though set forth fully herein.

20 **SEVENTEENTH CAUSE FOR DISCIPLINE**

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

22 58. Respondent Carvallo's smog check inspector license is subject to disciplinary action
23 pursuant to Health & Saf. Code section 44072.2(c), in that on or about September 1, 2015,
24 regarding the Mitsubishi and the 1990 Dodge Van, Respondent failed to comply with provisions
25 of California Code of Regulations, title 16, as follows:

26 a. **Section 3340.24, subdivision (c):** Respondent Carvallo falsely or fraudulently issued
27 electronic smog certificates of compliance without performing bona fide inspections of the
28

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

3 b. **Section 3340.30, subdivision (a)**: Respondent Carvallo failed to inspect and test the
4 vehicles in accordance with Health & Saf. Code section 44012.

5 c. **Section 3341.41, subdivision (c)**: Respondent Carvallo knowingly entered false
6 information into the emission inspection system.

7 d. **Section 3340.42**: Respondent Carvallo failed to conduct the required smog tests on
8 the vehicles in accordance with the Bureau's specifications.

9 Complainant refers to, and by this reference incorporates, the allegations set forth above in
10 paragraphs 45 through 50, as though set forth fully herein.

11 **EIGHTEENTH CAUSE FOR DISCIPLINE**

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

13 59. Respondent Carvallo's smog check inspector license is subject to discipline pursuant
14 to Health & Saf. Code section 44072.2, subdivision (d), in that on or about September 1, 2015,
15 Respondent Carvallo committed dishonest, fraudulent or deceitful acts whereby another is injured
16 by issuing electronic smog certificates of compliance for the Mitsubishi and the 1990 Dodge Van,
17 without performing a bona fide inspection of the emission control devices and systems on the
18 vehicles thereby depriving the People of the State of California of the protection afforded by the
19 Motor Vehicle Inspection Program. Complainant refers to, and by this reference incorporates, the
20 allegations set forth above in paragraphs 45 through 50, as though set forth fully herein.

21 **OTHER MATTERS**

22 60. Under Bus. & Prof. Code section 9884.7, subdivision (c), the Director may suspend,
23 revoke, or place on probation, the registrations for all places of business operated in this state by
24 Carlos Rondero Segura, including, but not limited to El Camino #1 (ARD 276745), upon a
25 finding that he has, or is, engaged in a course of repeated and willful violations of the laws and
26 regulations pertaining to an automotive repair dealer.

27 61. Under Health & Saf. Code section 44072.8, if Station License No. TC 276745, issued
28 to Carlos Rondero Segura is revoked or suspended, any additional license issued under this

1 chapter in the name of said licensee, including, but not limited to El Camino #1 (TC 276745),
2 may be likewise revoked or suspended by the Director.

3 62. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Inspector (EO)
4 License No. 636679, and/or Smog Check Repair Technician (EI) License No. 636679, issued to
5 Hector David Carvalho, is revoked or suspended, any additional license issued under this chapter
6 in the name of said licensee may be likewise revoked or suspended by the Director.

7 **PRAYER**

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

10 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
11 276745, issued to El Camino #1, Carlos Rondero Segura, Owner;

12 2. Revoking or suspending Smog Check, Test Only, Station License Number TC
13 276745, issued to El Camino #1, Carlos Rondero Segura, Owner;

14 3. Revoking or suspending Smog Check Inspector (EO) License No. 636679 issued to
15 Hector David Carvalho;

16 4. Ordering Carlos Rondero Segura and Hector David Carvalho to pay the Bureau of
17 Automotive Repair the reasonable costs of the investigation and enforcement of this case,
18 pursuant to Business and Professions Code section 125.3;

19 5. Taking such other and further action as deemed necessary and proper.
20
21

22
23 DATED: May 3, 2016



24 PATRICK DORAIS
25 Chief
26 Bureau of Automotive Repair
27 Department of Consumer Affairs
28 State of California
Complainant

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