

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

In the Matter of the Accusation Against:

**SUNNYSLOPE AUTO SALES AND SMOG
SHOP, ALVIN WILKIEWICZ, OWNER**
9595 Mission Blvd.
Riverside, CA 92509

Automotive Repair Dealer Registration No.
ARD 260353
Smog Check Test Only Station License
Number TC 260353

FELIX EZEQUIEL RODRIGUEZ
9595 Mission Blvd.
Riverside, CA 92509

Advanced Emission Specialist Technician
License No. EA 145496 (to be
redesignated upon renewal as EO 145496
and/or EI 145496)

Respondents.

Case No. 79/14-48

OAH No. 2013110819

DECISION

The attached Stipulated Revocation of License and Order as to Respondent Felix Ezequiel Rodriguez 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 Felix Ezequiel Rodriguez, Advanced Emission Specialist Technician License No. EA 145496 (to be redesignated upon renewal as EO 145496 and/or EI 145496)

This Decision shall become effective

July 31, 2014

DATED: July 14, 2014


DONALD CHANG
Assistant Chief Counsel
Department of Consumer Affairs

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Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
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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:

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23 **Riverside, CA 92509**

24 **Advanced Emission Specialist Technician**
25 **License No. EA 145496 (to be redesignated**
26 **upon renewal as EO 145496 and/or EI**
27 **145496)**

28 Respondents.

Case No. 79/14-48

OAH No. 2013110819

STIPULATED REVOCATION

OF LICENSE AND ORDER AS TO

RESPONDENT FELIX EZEQUIEL

RODRIGUEZ

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

24 PARTIES

25 1. Patrick Dorais (Complainant) is the Chief of the Bureau of Automotive Repair
26 (Bureau). He brought this action solely in his official capacity and is represented in this matter by
27 Kamala D. Harris, Attorney General of the State of California, by G. Michael German, Deputy
28 Attorney General.

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

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

6 **ORDER**

7 IT IS HEREBY ORDERED that Advanced Emission Specialist Technician License
8 Number EA 145496 (smog technician license) issued to Respondent Felix Ezequiel Rodriguez is
9 revoked.

10 1. The revocation of Respondent's smog technician license shall constitute the
11 imposition of discipline against Respondent. This stipulation constitutes a record of the discipline
12 and shall become a part of Respondent's license history with the Bureau.

13 2. Respondent shall lose all rights and privileges as a licensed smog technician in
14 California as of the effective date of the Director's Decision and Order.

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

17 4. Respondent shall not apply for issuance of an Automotive Repair Dealer Registration,
18 or Smog Check Test Only Station license, Smog Check Inspector (EO) license and/or Smog
19 Check Repair Technician (EI) license for a period of one year. If Respondent ever applies for
20 registration as an Automotive Repair Dealer, or Smog Check Test Only Station license, or Smog
21 Check Inspector (EO) license and/or Smog Check Repair Technician (EI) license, or petitions for
22 reinstatement in the State of California, the Bureau shall treat it as a new application for licensure.
23 Respondent must comply with all the laws, regulations and procedures for licensure in effect at
24 the time the application or petition is filed, and all of the charges and allegations contained in
25 Accusation No. 79/14-48 shall be deemed to be true, correct and admitted by Respondent when
26 the Director determines whether to grant or deny the application or petition.

27 6. Respondent shall pay the agency its costs of investigation and enforcement in the
28 amount of \$12,000.00 prior to issuance of any new or reinstated registration or license.

1 7. If Respondent should ever apply or reapply for a new registration or license, or
2 petition for reinstatement of a registration or license, all of the charges and allegations contained
3 in Accusation No. 79/14-48 shall be deemed to be true, correct, and admitted by Respondent for
4 the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict
5 licensure.

6 ACCEPTANCE

7 I have carefully read the above Stipulated Revocation of License and Order and fully
8 understand the stipulation and the effect it will have on my Advanced Emission Specialist
9 Technician license, Smog Check Inspector (EO) license, and/or Smog Check Repair Technician
10 (EI) license. I enter into this Stipulated Revocation of License and Order voluntarily, knowingly,
11 and intelligently, and agree to be bound by the Decision and Order of the Director of Consumer
12 Affairs.

13
14 DATED: 6.27.2014


15 FELIX EZEQUIEL RODRIGUEZ
16 Respondent

17 ENDORSEMENT

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

20
21 DATED: June 27, 2014

KAMALA D. HARRIS
Attorney General of California
LINDA K. SCHNEIDER
Supervising Deputy Attorney General


24 G. MICHAEL GERMAN
25 Deputy Attorney General
26 Attorneys for Complainant

27 SD2013805013
28

Exhibit A

Accusation No. 79/14-48

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2 LINDA K. SCHNEIDER
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Attorneys for Complainant

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9 **DEPARTMENT OF CONSUMER AFFAIRS**
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16 **Riverside, CA 92509**

ACCUSATION

(SMOG CHECK)

17 **Automotive Repair Dealer Registration No.**
18 **ARD 260353**
19 **Smog Check Test Only Station License**
20 **Number TC 260353**

21 **FELIX EZEQUIEL RODRIGUEZ**
22 **9595 Mission Blvd.**
23 **Riverside, CA 92509**

24 **Advanced Emission Specialist Technician**
25 **License No. EA 145496 (to be redesignated**
26 **upon renewal as EO 145496 and/or EI**
27 **145496),**

28 Respondents.

Complainant alleges:

PARTIES

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

1 proceeding against an automotive repair dealer or to render a decision invalidating a registration
2 temporarily or permanently.”

3 7. Health and Safety (H&S) Code section 44002 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 8. H&S Code section 44072.6 provides, in pertinent part, that the expiration or
7 suspension of a license by operation of law, or by order or decision of the Director, or a court of
8 law, or the voluntary surrender of the license shall not deprive the Director of jurisdiction to
9 proceed with disciplinary action.

10 9. California Code of Regulations, title 16, section 3340.28, subdivision (e), states that
11 “[u]pon renewal of an unexpired Basic Area Technician license or an Advanced Emission
12 Specialist Technician license issued prior to the effective date of this regulation, the licensee may
13 apply to renew as a Smog Check Inspector, Smog Check Repair Technician, or both.

14 STATUTORY PROVISIONS

15 10. Code section 22, subdivision (a), states:

16 “Board” as used in any provision of this Code, refers to the board in which
17 the administration of the provision is vested, and unless otherwise expressly
18 provided, shall include “bureau,” “commission,” “committee,” “department,”
19 “division,” “examining committee,” “program,” and “agency.”

20 11. Code section 477, subdivision (b), states, in pertinent part, that a “license” includes
21 “registration” and “certificate.”

22 14. Code section 9884.7 states, in pertinent part:

23 (a) The director, where the automotive repair dealer cannot show there was a
24 bona fide error, may deny, suspend, revoke or place on probation the registration of
25 an automotive repair dealer for any of the following acts or omissions related to the
26 conduct of the business of the automotive repair dealer, which are done by the
27 automotive repair dealer or any automotive technician, employee, partner, officer, or
28 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.

.....

1 (4) Any other conduct that constitutes fraud.

2

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

5

6 15. H&S Code section 44012 states:

7 The test at the smog check stations shall be performed in accordance with
8 procedures prescribed by the department and may require loaded mode dynamometer
9 testing in enhanced areas, two-speed idle testing, testing utilizing a vehicle's onboard
10 diagnostic system, or other appropriate test procedures as determined by the
11 department in consultation with the state board. The department shall implement
12 testing using onboard diagnostic systems, in lieu of loaded mode dynamometer or
13 two-speed idle testing, on model year 2000 and newer vehicles only, beginning no
14 earlier than January 1, 2013. However, the department, in consultation with the state
15 board, may prescribe alternative test procedures that include loaded mode
16 dynamometer or two-speed idle testing for vehicles with onboard diagnostic systems
17 that the department and the state board determine exhibit operational problems. The
18 department shall ensure, as appropriate to the test method, the following:

19 (a) Emission control systems required by state and federal law are reducing
20 excess emissions in accordance with the standards adopted pursuant to subdivisions
21 (a) and (c) of Section 44013.

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

25

26 (f) A visual or functional check is made of emission control devices
27 specified by the department, including the catalytic converter in those instances in
28 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.

....

16. H&S Code section 44015 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.

....

17. H&S Code section 44032 states:

No person shall perform, for compensation, tests or repairs of emission
control devices or systems of motor vehicles required by this chapter unless the
person performing the test or repair is a qualified smog check technician and the test

1 or repair is performed at a licensed smog check station. Qualified technicians shall
2 perform tests of emission control devices and systems in accordance with Section
3 44012.

4 18. H&S Code section 44072.2 states, in pertinent part:

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

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

11

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

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

16

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

18

19 19. H&S Code section 44072.10 states, in pertinent part:

20

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

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

26

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

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

REGULATORY PROVISIONS

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

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

1 22. CCR section 3340.30 states in pertinent part:

2 A licensed smog check inspector and/or repair technician shall comply with
3 the following requirements at all times while licensed:

4 (a) Inspect, test and repair vehicles, as applicable, in accordance with
5 section 44012 of the Health and Safety Code, section 44035 of the Health and Safety
6 Code, and section 3340.42 of this article.

7

8 23. CCR section 3340.35 states in pertinent part:

9

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

15

16 24. CCR section 3340.41 states in pertinent part:

17

18 (c) No person shall enter into the emissions inspection system any vehicle
19 identification information or emission control system identification data for any
20 vehicle other than the one being tested. Nor shall any person knowingly enter into the
21 emissions inspection system any false information about the vehicle being tested.

22

23 25. CCR section 3340.42 states:

24 With the exception of diesel-powered vehicles addressed in subsection (f) of
25 this section, the following emissions test methods and standards apply to all vehicles:

26 (a) A loaded-mode test, except as otherwise specified, shall be the test
27 method used to inspect vehicles registered in the enhanced program areas of the state.
28 The loaded-mode test shall measure hydrocarbon, carbon monoxide, carbon dioxide
and oxides of nitrogen emissions, as contained in the bureau's specifications
referenced in subsection (b) of Section 3340.17 of this article. The loaded-mode test
shall use Acceleration Simulation Mode (ASM) test equipment, including a chassis
dynamometer, certified by the bureau.

On and after March 31, 2010, exhaust emissions from a vehicle subject to
this inspection shall be measured and compared to the emissions standards shown in
the VLT Row Specific Emissions Standards (Cutpoints) Table, dated March 2010,
which is hereby incorporated by reference. If the emissions standards for a specific
vehicle is not included in this table then the exhaust emissions shall be compared to
the emissions standards set forth in TABLE I or TABLE II, as applicable. A vehicle
passes the loaded-mode test if all of its measured emissions are less than or equal to
the applicable emission standards specified in the applicable table.

(b) A two-speed idle mode test, unless a different test is otherwise specified
in this article, shall be the test method used to inspect vehicles registered in all
program areas of the state, except in those areas of the state where the enhanced

1 program has been implemented. The two-speed idle mode test shall measure
2 hydrocarbon, carbon monoxide and carbon dioxide emissions at high RPM and again
3 at idle RPM, as contained in the bureau's specifications referenced in subsection (b)
4 of Section 3340.17 of this article. Exhaust emissions from a vehicle subject to this
5 inspection shall be measured and compared to the emission standards set forth in this
6 section and as shown in TABLE III. A vehicle passes the two-speed idle mode test if
7 all of its measured emissions are less than or equal to the applicable emissions
8 standards specified in Table III.

9
10 (e) In addition to the test methods prescribed in this section, the following
11 tests shall apply to all vehicles, except diesel-powered vehicles, during the Smog
12 Check inspection:

13 (1) A visual inspection of the vehicle's emissions control systems. During
14 the visual inspection, the technician shall verify that the following emission control
15 devices, as applicable, are properly installed on the vehicle:

- 16 (A) air injection systems,
- 17 (B) computer(s) and related sensors and switches,
- 18 (C) crankcase emissions controls, including positive crankcase ventilation,
- 19 (D) exhaust gas after treatment systems, including catalytic converters,
- 20 (E) exhaust gas recirculation (EGR) systems,
- 21 (F) fuel evaporative emission controls,
- 22 (G) fuel metering systems, including carburetors and fuel injection,
- 23 (H) ignition spark controls, and
- 24 (I) any emissions control systems that are not otherwise prompted by the
25 Emissions Inspection System, but listed as a requirement by the vehicle manufacturer.

26 26. CCR section 3373 states:

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

COST RECOVERY

27 27. Code section 125.3 provides, in pertinent part, that a Board may request the
28 administrative law judge to direct a licentiate found to have committed a violation or violations of

1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
2 enforcement of the case.

3 **SURVEILLANCE OPERATIONS: SEPTEMBER 25, 2012; SEPTEMBER 26, 2012;**
4 **SEPTEMBER 28, 2012; SEPTEMBER 29, 2012 & OCTOBER 18, 2012**

5 15. On September 25, 2012, September 26, 2012, September 28, 2012, September 29,
6 2012, and October 18, 2012, a BAR representative performed surveillance operations at
7 Respondent Wilkiewicz's facility, Sunnyslope Auto Sales and Smog Shop (Sunnyslope). On
8 each occasion, the BAR's video recording equipment recorded vehicles entering and exiting the
9 station's testing bay from an unmanned camera for the entire period of time Sunnyslope was open
10 for business, except for the October 18, 2012 surveillance, which was conducted from
11 approximately 1624 hours until approximately 1855 hours. The BAR representative had a clear
12 view of vehicles entering and exiting the testing bay, and could identify makes and models of
13 vehicles present. The surveillance operations and information obtained from the BAR's Vehicle
14 Information Database (VID) revealed that Respondent Rodriguez performed 11 smog inspections
15 that resulted in the issuance of 11 electronic certificates of compliance for the vehicles set forth in
16 the table below, certifying that he had tested and inspected those vehicles and that the vehicles
17 were in compliance with applicable laws and regulations. In fact, Respondent Rodriguez
18 performed the smog inspections on the vehicles set forth in the table below using the clean piping
19 method.

Fraudulent Inspection Number	Test Date and Time	Vehicle Certified	Vehicle Actually Tested	Certificate Issued	Details
1	9/25/2012 1115 hours to 1126 hours	1991 Honda Accord (2XKV053)	Mercedes Benz	XL482098	1991 Honda Accord not seen on video. Mercedes Benz used for test.
2	9/25/2012 1726 hours to 1759 hours	2000 Chevrolet Silverado (6B66686)	Ford Expedition	XL482099	2000 Chevrolet Silverado not seen on video. Ford Expedition used for test.
3	9/25/2012 1806 hours to 1815 hours	2006 Ford Expedition (5XGY592)	Ford Crown Victoria	XL482100	2006 Ford Expedition exited test bay at 1810 hours. Ford Crown Victoria used for test.

1	4	9/26/2012 1504 hours to 1512 hours	1992 Honda Accord (5XKM326)	Nissan Maxima	XL634754	1992 Honda Accord not seen on video. Nissan Maxima used for test.
2	5	9/28/2012 1109 hours to 1118 hours	1996 Ford Windstar (3TGV442)	Nissan Quest	XL634761	1996 Ford Windstar not seen on video. Nissan Quest used for test.
3	6	9/28/2012 1455 hours to 1503 hours	1991 Ford Ranger (4F79302)	Toyota Tacoma	XL634769	1991 Ford Ranger not seen on video. Toyota Tacoma used for test.
4	7	9/28/2012 1655 hours to 1705 hours	2003 GMC Sierra 1500 (816657Y)	Ford Crown Victoria	XL634770	2003 GMC Sierra 1500 not seen on video. Ford Crown Victoria used for test.
5	8	9/28/2012 1710 hours to 1720 hours	1997 Ford Escort (5TVY308)	Ford Taurus	XL634771	1997 Ford Escort not seen on video. Ford Taurus used for test.
6	9	9/29/2012 0951 hours to 1002 hours	1996 Honda Accord (3TDJ167)	Chevrolet Impala	XL634773	1996 Honda Accord exited test bay at 0956 hours. Chevrolet Impala used for test.
7	10	9/29/2012 1222 hours to 1232 hours	1998 Chevrolet C1500 Pickup (6U64805)	Ford Crown Victoria	XL634776	1998 Chevrolet C1500 Pickup not seen on video. Ford Crown Victoria used for test.
8	11	10/18/2012 1809 hours to 1817 hours	1987 Nissan Sentra (3JSC974)	Ford Crown Victoria	XN134339	1987 Nissan Sentra not seen on video. Ford Crown Victoria used for test.

FIRST CAUSE FOR DISCIPLINE

(Misleading Statements – 11 Counts)

16. Respondent Wilkiewicz's ARD registration is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(1), in that Respondent made statements which he knew or in the exercise of reasonable care should have known to be untrue or misleading, as follows:

a. Respondent's station certified that the vehicles identified in Table 1 above, had passed inspection and were in compliance with applicable laws and regulations. In fact, the inspections of those vehicles were preformed using clean-piping methods using different vehicles in order to issue 11 certificates of compliance for the vehicles, and the vehicles certified to have been tested and inspected were not tested or inspected as required by H&S Code section 44012.

1 caused those certificates to be false or misleading, with the tendency or effect to mislead or
2 deceive customers, prospective customers, or the public.

3 **FOURTH CAUSE FOR DISCIPLINE**

4 **(Violations of the Motor Vehicle Inspection Program – 11 Counts)**

5 19. Respondent Wilkiewicz's station license is subject to disciplinary action pursuant to
6 H&S Code section 44072.2, subdivision (a), in that Respondent failed to comply with the
7 following sections of that Code:

8 a. **Section 44012:** Respondent failed to ensure that the emission control tests performed
9 on the 11 vehicles identified in Table 1 above, were done in accordance with procedures
10 prescribed by the department.

11 b. **Section 44012, subdivision (f):** Respondent failed to ensure that the 11 vehicles
12 identified in Table 1 above, were tested and inspected in accordance with the procedures
13 prescribed by the department.

14 c. **Section 44015, subdivision (b):** Respondent issued electronic certificates of
15 compliance for the 11 vehicles identified in Table 1 above, without properly testing and
16 inspecting the vehicles to determine if they were in compliance with section 44012 of that Code.

17 d. **Section 44032:** Respondent failed to perform tests of the emission control devices
18 and systems on the 11 vehicles identified in Table 1 above, in accordance with H&S Code section
19 44012.

20 **FIFTH CAUSE FOR DISCIPLINE**

21 **(Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection Program –**
22 **11 Counts)**

23 20. Respondent Wilkiewicz's station license is subject to disciplinary action pursuant to
24 H&S Code section 44072.2, subdivision (c), in that Respondent failed to comply with the
25 following sections of the CCR:

26 a. **Section 3340.30, subdivision (a):** Respondent issued electronic certificates of
27 compliance for the 11 vehicles identified in Table 1 above, even though those vehicles had not
28

1 a. **Section 44012:** Respondent failed to perform emission control tests on the 11
2 vehicles identified in Table 1 above, in accordance with procedures prescribed by the department.

3 b. **Section 44012, subdivision (f):** Respondent failed to test and inspect the 11 vehicles
4 identified in Table 1 above, in accordance with the procedures prescribed by the department.

5 c. **Section 44015, subdivision (b):** Respondent issued electronic certificates of
6 compliance for the 11 vehicles identified in Table 1 above, without properly testing and
7 inspecting the vehicles to determine if they were in compliance with section 44012 of that Code.

8 d. **Section 44032:** Respondent failed to perform tests of the emission control devices
9 and systems on the 11 vehicles identified in Table 1 above, in accordance with H&S Code section
10 44012.

11 **EIGHTH CAUSE FOR DISCIPLINE**

12 **(Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection Program –** 13 **11 Counts)**

14 23. Respondent Rodriguez's technician license is subject to disciplinary action pursuant
15 to H&S Code section 44072.2, subdivision (c), in that Respondent failed to comply with the
16 following sections of the CCR:

17 a. **Section 3340.30, subdivision (a):** Respondent issued electronic certificates of
18 compliance for the 11 vehicles identified in Table 1 above, even though those vehicles had not
19 been inspected in accordance with H&S Code sections 44012 and 44035, and CCR section
20 3340.42.

21 b. **Section 3340.35, subdivision (c):** Respondent issued electronic certificates of
22 compliance for the 11 vehicles identified in Table 1 above, even though those vehicles had not
23 been inspected in accordance with section 3340.42.

24 c. **Section 3340.41, subdivision (c):** Respondent entered into the EIS information and data
25 for vehicles other than the 11 ones being tested, as detailed in Table 1 above.

26 d. **Section 3340.42:** Respondent issued electronic certificates of compliance for the 11
27 vehicles identified in Table 1 above, even though those vehicles had not been inspected in
28 accordance with BAR specifications.

1 e. **Section 3373:** In issuing electronic certificates of compliance for the 11 vehicles
2 identified in Table 1 above, Respondent entered inaccurate information into the EIS causing those
3 certificates to be false or misleading, with the tendency or effect to mislead or deceive customers,
4 prospective customers, or the public.

5 **NINTH CAUSE FOR DISCIPLINE**

6 **(Dishonesty, Fraud or Deceit – 11 Counts)**

7 24. Respondent Rodriguez's technician license is subject to disciplinary action pursuant
8 to H&S Code section 44072.2, subdivision (d), in that Respondent committed dishonest,
9 fraudulent or deceitful acts whereby another is injured by issuing electronic smog certificates of
10 compliance for the vehicles identified in Table 1 above, without performing bona fide inspections
11 of the emission control devices and systems on the vehicles, thereby depriving the People of the
12 State of California of the protection afforded by the Motor Vehicle Inspection Program.

13 **OTHER MATTERS**

14 24. Pursuant to Code section 9884.7, subdivision (c), the Director may refuse to validate,
15 or may invalidate temporarily or permanently, the registrations for all places of business operated
16 in this state by Alvin Wilkiewicz, upon a finding that he has, or is, engaged in a course of
17 repeated and willful violations of the laws and regulations pertaining to an automotive repair
18 dealer.

19 25. Pursuant to Health & Safety Code section 44072.8, if Smog Check Test Only Station
20 License Number TC 260353, issued to Alvin Wilkiewicz, doing business as Sunnyslope Auto
21 Sales and Smog Shop, is revoked or suspended, any additional license issued under this chapter in
22 the name of said licensee may be likewise revoked or suspended by the director.

23 26. Pursuant to Health & Safety Code section 44072.8, if Advanced Emission Specialist
24 Technician License Number EA 145496 (to be redesignated upon renewal as EO 145496 and/or
25 EI 145496), issued to Felix Ezequiel Rodriguez, is revoked or suspended, any additional license
26 issued under this chapter in the name of said licensee may be likewise revoked or suspended by
27 the director.

28

PRAYER

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

1. Revoking, suspending or placing on probation Automotive Repair Dealer Registration Number ARD 260353, issued to Alvin Wilkiewicz, doing business as Sunnyslope Auto Sales and Smog Shop;

2. Revoking, suspending or placing on probation any other automotive repair dealer registration issued in the name Alvin Wilkiewicz;

3. Revoking or suspending Smog Check Test Only Station License Number TC 260353, issued to Alvin Wilkiewicz, doing business as Sunnyslope Auto Sales and Smog Shop;

4. Revoking or suspending any additional license issued under Chapter 5 of the Health and Safety Code in the name of Alvin Wilkiewicz;

5. Revoking or suspending Advanced Emission Specialist Technician License Number EA 145496 (to be redesignated upon renewal as EO 145496 and/or EI 145496), issued to Felix Ezequiel Rodriguez;

6. Revoking or suspending any additional license issued under Chapter 5 of the Health and Safety Code in the name of Felix Ezequiel Rodriguez;

7. Ordering Alvin Wilkiewicz and Felix Ezequiel Rodriguez 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; and,

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

DATED: November 5, 2013

Patrick Dorais

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

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