

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

In the Matter of the Accusation Against/Petition to  
Revoke Probation Against:

**STOP N GO SMOG**  
**JOSE LUIS CERVANTES, Partner**  
**GABRIELA CERVANTES, Partner**  
22425 Alessandro Blvd., Bldg. 101A  
Moreno Valley, CA 92553  
Automotive Repair Dealer Registration No.  
ARD 243001  
Smog Check Test Only Station License No.  
TC 243001

Affiliated Automotive Repair Dealer Registration  
No. ARD 240107  
Smog Check Test Only Station License No.  
TC 240107

and

**JOSE LUIS CERVANTES**  
22425 Alessandro Blvd., Bldg. 101A  
Moreno Valley, CA 92553

Advanced Emissions Specialist License  
No. EA 150601

Respondents.

Case No. 79/12-43

OAH No. 2011100979

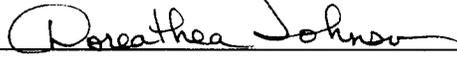
**DECISION**

The attached Stipulated Settlement and Disciplinary Order is hereby accepted and adopted as the Decision of the Director of the Department of Consumer Affairs in the above-entitled matter.

This Decision shall become effective \_\_\_\_\_

9/25/12

DATED: September 4, 2012

  
DOREATHEA JOHNSON  
Deputy Director, Legal Affairs  
Department of Consumer Affairs

1 KAMALA D. HARRIS  
Attorney General of California  
2 LINDA K. SCHNEIDER  
Supervising Deputy Attorney General  
3 KAREN L. GORDON  
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8  
9 **BEFORE THE**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
10 **FOR THE BUREAU OF AUTOMOTIVE REPAIR**  
**STATE OF CALIFORNIA**

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12 In the Matter of the Accusation/Petition to  
Revoke Probation Against:

13 **STOP N GO SMOG**  
14 **JOSE LUIS CERVANTES, Partner**  
15 **GABRIELA CERVANTES, Partner**  
22425 Alessandro Blvd., Bldg. 101A  
16 Moreno Valley, CA 92553  
Automotive Repair Dealer Registration No.  
ARD 243001  
17 Smog Check Test only Station License No.  
TC 243001

18 **Affiliated Automotive Repair Dealer**  
19 **Registration No. ARD 240107**  
20 **Smog Check Test only Station License No.**  
**TC 240107**

21 **And**

22 **JOSE LUIS CERVANTES**  
23 **22425 Alessandro Blvd., Bldg. 101A**  
Moreno Valley, CA 92553  
24 **Advanced Emissions Specialist License No.**  
**EA 150601**

25  
26 Respondents.  
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Case No. 79/12-43

OAH No. 2011100979

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

1 In the interest of a prompt and speedy settlement of this matter, consistent with the public  
2 interest and the responsibilities of the Director of Consumer Affairs and the Bureau of  
3 Automotive Repair the parties hereby agree to the following Stipulated Settlement and  
4 Disciplinary Order which will be submitted to the Director for his approval and adoption as the  
5 final disposition of the Accusation/Petition to Revoke Probation.

6 **PARTIES**

7 1. John Wallauch (Complainant) is the Chief of the Bureau of Automotive Repair. This  
8 action was brought by Sherry Mehl, solely in her official capacity, when she was Chief.  
9 Complainant is represented in this matter by Kamala D. Harris, Attorney General of the State of  
10 California, by Karen L. Gordon, Deputy Attorney General.

11 2. Stop N Go Smog; Jose Luis Cervantes, Partner; and Gabriela Cervantes, Partner  
12 (Respondents) are representing themselves in this proceeding and have chosen not to exercise  
13 their right to be represented by counsel.

14 3. On or about January 24, 2006, the Bureau issued Automotive Repair Dealer  
15 Registration Number ARD 243001 to Stop N Go Smog (Respondent) with Jose Luis Cervantes  
16 and Gabriela Cervantes as Partners. The registration was in effect at all times relevant to the  
17 charges brought in Accusation/Petition to Revoke Probation No. 79/12-43 and will expire on  
18 December 31, 2012, unless renewed.

19 4. On or about January 26, 2006, the Bureau issued Smog Check Test Only Station  
20 License Number TC 243001 to Stop N Go Smog (Respondent) with Jose Luis Cervantes and  
21 Gabriela Cervantes as Partners. The station license was in effect at all times relevant to the  
22 charges brought herein and will expire on December 31, 2012, unless renewed.

23 5. On or about July 12, 2005, the Bureau issued Automotive Repair Dealer Registration  
24 Number ARD 240107 to Stop N Go Smog (Respondent) with Jose Luis Cervantes and Gabriela  
25 Cervantes as Partners. The registration was in effect at all times relevant to the charges brought  
26 in Accusation/Petition to Revoke Probation No. 79/12-43 and will expire on June 30, 2012,  
27 unless renewed.

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1 documents; the right to reconsideration and court review of an adverse decision; and all other  
2 rights accorded by the California Administrative Procedure Act and other applicable laws.

3 11. Respondents voluntarily, knowingly, and intelligently waive and give up each and  
4 every right set forth above.

5 **CULPABILITY**

6 12. Respondents admit the truth of each and every charge and allegation in  
7 Accusation/Petition to Revoke Probation No. 79/12-43.

8 13. Respondents agree that their Automotive Repair Dealer Registration, Smog Check  
9 Station License, and Smog Technician License are subject to discipline and they agree to be  
10 bound by the Director's probationary terms as set forth in the Disciplinary Order below.

11 **CONTINGENCY**

12 14. This stipulation shall be subject to approval by the Director of Consumer Affairs or  
13 his designee. Respondents understand and agree that counsel for Complainant and the staff of the  
14 Bureau of Automotive Repair may communicate directly with the Director and staff of the  
15 Department of Consumer Affairs regarding this stipulation and settlement, without notice to or  
16 participation by Respondents. By signing the stipulation, Respondents understand and agree that  
17 they may not withdraw their agreement or seek to rescind the stipulation prior to the time the  
18 Director considers and acts upon it. If the Director fails to adopt this stipulation as the Decision  
19 and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except  
20 for this paragraph, it shall be inadmissible in any legal action between the parties, and the  
21 Director shall not be disqualified from further action by having considered this matter.

22 15. The parties understand and agree that facsimile copies of this Stipulated Settlement  
23 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and  
24 effect as the originals.

25 16. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an  
26 integrated writing representing the complete, final, and exclusive embodiment of their agreement.  
27 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,  
28 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary

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 17. 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 Disciplinary Order:

6 **DISCIPLINARY ORDER**

7 IT IS HEREBY ORDERED that Automotive Repair Dealer Registration No. ARD 243001  
8 and Smog Check Station License No. TC 243001 are revoked outright.

9 IT IS HEREBY FURTHER ORDERED that Automotive Repair Dealer Registration No.  
10 ARD 240107 and Smog Check Station License No. TC 240107 are revoked, which revocations of  
11 Automotive Repair Dealer Registration No. ARD 240107 and Smog Check Station License No.  
12 TC 240107 are stayed and are placed on probation for three (3) years on the following terms and  
13 conditions.

14 1. **Obey All Laws.** Comply with all statutes, regulations and rules governing  
15 automotive inspections, estimates and repairs.

16 2. **Reporting.** Respondent or Respondent's authorized representative must report in  
17 person or in writing as prescribed by the Bureau of Automotive Repair, on a schedule set by the  
18 Bureau, but no more frequently than each quarter, on the methods used and success achieved in  
19 maintaining compliance with the terms and conditions of probation.

20 3. **Report Financial Interest.** Within 30 days of the effective date of this action, report  
21 any financial interest which any partners, officers, or owners of the Respondent facility may have  
22 in any other business required to be registered pursuant to Section 9884.6 of the Business and  
23 Professions Code.

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

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1           5.     **Jurisdiction.** If an accusation is filed against Respondent during the term of  
2 probation, the Director of Consumer Affairs shall have continuing jurisdiction over this matter  
3 until the final decision on the accusation, and the period of probation shall be extended until such  
4 decision.

5           6.     **Violation of Probation.** Should the Director of Consumer Affairs determine that  
6 Respondent has failed to comply with the terms and conditions of probation, the Department may,  
7 after giving notice and opportunity to be heard permanently invalidate Automotive Repair Dealer  
8 Registration No. ARD 240107 and revoke Smog Check Station License No. TC 240107.

9           7.     **False and Misleading Advertising.** If the accusation involves false and misleading  
10 advertising, during the period of probation, Respondent shall submit any proposed advertising  
11 copy, whether revised or new, to the Bureau at least thirty (30) days prior to its use.

12           8.     **Cost Recovery.** Payment to the Bureau of cost recovery in the amount of \$3,773.31  
13 added to the balance of the payments agreed to in the Stipulated Settlement related to Accusation  
14 No. 79/09-54 in the amount of \$12,500.00 for a total of \$16,273.31, all payable in twenty-four  
15 (24) equal monthly installments and due, in full, twelve (12) months before the termination of  
16 probation. Failure to complete payment of cost recovery within this time frame shall constitute a  
17 violation of probation which may subject Respondent's Automotive Repair Dealer Registration  
18 No. ARD 240107 and Smog Check Station License No. TC 240107 to outright revocation;  
19 however, the Director or the Director's Bureau of Automotive Repair designee may elect to  
20 continue probation until such time as reimbursement of the entire cost recovery amount has been  
21 made to the Bureau.

22           IT IS HEREBY FURTHER ORDERED that Advanced Emissions Specialist License No.  
23 EA150601 is revoked. However, the revocation is stayed and Respondent Jose Luis Cervantes is  
24 placed on probation for three (3) years on the following terms and conditions.

25           9.     **Obey All Laws.** Comply with all statutes, regulations and rules governing  
26 automotive inspections, estimates and repairs.

27           10.    **Reporting.** Respondent or Respondent's authorized representative must report in  
28 person or in writing as prescribed by the Bureau of Automotive Repair, on a schedule set by the

1 Bureau, but no more frequently than each quarter, on the methods used and success achieved in  
2 maintaining compliance with the terms and conditions of probation.

3 11. **Report Financial Interest.** Within 30 days of the effective date of this action, report  
4 any financial interest which any partners, officers, or owners of the Respondent facility may have  
5 in any other business required to be registered pursuant to Section 9884.6 of the Business and  
6 Professions Code.

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

9 13. **Jurisdiction.** If an accusation is filed against Respondent during the term of  
10 probation, the Director of Consumer Affairs shall have continuing jurisdiction over this matter  
11 until the final decision on the accusation, and the period of probation shall be extended until such  
12 decision.

13 14. **Violation of Probation.** Should the Director of Consumer Affairs determine that  
14 Respondent has failed to comply with the terms and conditions of probation, the Department may,  
15 after giving notice and opportunity to be heard permanently revoke the license.

16 15. **False and Misleading Advertising.** If the accusation involves false and misleading  
17 advertising, during the period of probation, Respondent shall submit any proposed advertising  
18 copy, whether revised or new, to the Bureau at least thirty (30) days prior to its use.

19 16. **Continuing Education Courses.** During the period of probation, Respondent shall  
20 attend and successfully complete Bureau-certified Level One and Level Two Advanced  
21 Emissions Specialist Courses. Said courses shall be completed and proof of completion  
22 submitted to the Bureau within 180 days of the effective date of this decision and order. If proof  
23 of completion of the courses is not furnished to the Bureau within the 180-day period,  
24 Respondent's Advanced Emissions Specialist License shall be immediately suspended until such  
25 proof is received.

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**ACCEPTANCE**

We have carefully read the Stipulated Settlement and Disciplinary Order. We understand the stipulation and the effect it will have on our Automotive Repair Dealer Registrations, Smog Technician Licenses, and Advanced Emissions Specialist License. We enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Director of Consumer Affairs.

DATED: 7/3/12

*Jose Cervantes*  
JOSE LUIS CERVANTES, Individually and as an authorized agent for STOP N GO SMOG Respondent

DATED: 7/3/12

*Jose Cervantes*  
JOSE LUIS CERVANTES, Individually as Advanced Emissions Specialist License Number EA 150601 Respondent

DATED: 7/3/12

*Gabriela Cervantes*  
GABRIELA CERVANTES, Individually and as an authorized agent for STOP N GO SMOG Respondent

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**ENDORSEMENT**

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

DATED:

*July 6, 2012*

Respectfully submitted,

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

*Silvia Schneider for Karen Gordon*

KAREN L. GORDON  
Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Accusation/Petition to Revoke Probation No. 79/12-43**

1 KAMALA D. HARRIS  
Attorney General of California  
2 JAMES M. LEDAKIS  
Supervising Deputy Attorney General  
3 RON ESPINOZA  
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6 San Diego, CA 92186-5266  
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*Attorneys for Complainant*

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10 **STATE OF CALIFORNIA**

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13 Probation Against:

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**JOSE LUIS CERVANTES, Partner**  
15 **GABRIELA CERVANTES, Partner**  
16 **22425 Alessandro Blvd., Bldg. 101A**  
**Moreno Valley, CA 92553**  
17 **Automotive Repair Dealer Registration No.**  
**ARD 243001**  
18 **Smog Check Test Only Station License No.**  
**TC 243001**

19 Respondents.  
20

Case No. 79/12-43

**ACCUSATION AND PETITION  
TO REVOKE PROBATION**

SMOG CHECK

21 Sherry Mehl ("Complainant") alleges:

22 **PARTIES**

23 1. Complainant brings this Petition to Revoke Probation and Accusation solely in her  
24 official capacity as the Chief of the Bureau of Automotive Repair ("Bureau"), Department of  
25 Consumer Affairs.

26 2. On or about January 24, 2006, the Bureau issued Automotive Repair Dealer  
27 Registration Number ARD 243001 to Stop N Go Smog ("Respondent") with Jose Luis Cervantes  
28

1 and Gabriela Cervantes as Partners. The registration was in effect at all times relevant to the  
2 charges brought herein and will expire on December 31, 2011, unless renewed.

3 3. On or about January 26, 2006, the Bureau issued Smog Check Test Only Station  
4 License Number TC 243001 to Respondent. The station license was in effect at all times relevant  
5 to the charges brought herein and will expire on December 31, 2011, unless renewed.

#### 6 **PRIOR DISCIPLINARY ACTION**

7 4. Pursuant to the Stipulated Settlement and Disciplinary Order in Accusation No.  
8 79/09-54, attached hereto as **Exhibit A** and incorporated herein by reference, effective  
9 August 23, 2010, the Director of Consumer Affairs ("Director") suspended Respondent's  
10 Automotive Repair Dealer Registration No. ARD 243001 and Smog Check Test Only Station  
11 License No. TC 243001 for a period of five (5) days. Further, Respondent's Automotive Repair  
12 Dealer Registration No. ARD 243001 and Smog Check Test Only Station License No. TC  
13 243001 were revoked. However, the revocations were stayed and Respondent was placed on  
14 probation for three (3) years with terms and conditions, including Term 2, set forth below.

15 **Term 2 - Obey All Laws:** Comply with all statutes, regulations, and rules governing  
16 automotive inspections, estimates, and repairs.

#### 17 **STATUTORY PROVISIONS**

18 5. Business and Professions Code ("Code") section 9884.7 states, in pertinent part:

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

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

28 (4) Any other conduct which constitutes fraud.

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

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

6 6. Code section 9884.13 provides, in pertinent part, that the expiration of a valid  
7 registration shall not deprive the Director of jurisdiction to proceed with a disciplinary proceeding  
8 against an automotive repair dealer or to render a decision invalidating a registration temporarily  
9 or permanently.

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

13 8. Section 44072.2 of the Health and Safety Code states, in pertinent part:

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

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

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

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

24 9. Section 44072.6 of the Health and Safety Code provides, in pertinent part, that the  
25 expiration or suspension of a license by operation of law, or by order or decision of the  
26 Director of Consumer Affairs, or a court of law, or the voluntary surrender of the license shall not  
27 deprive the Director of jurisdiction to proceed with disciplinary action.

28 10. Section 44072.8 of the Health and Safety Code states:

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.

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1 **COST RECOVERY**

2 11. Code section 125.3 provides, in pertinent part, that a Board may request the  
3 administrative law judge to direct a licentiate found to have committed a violation or violations of  
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
5 enforcement of the case.

6 **ACCUSATION**

7 **UNDERCOVER OPERATION - DECEMBER 22, 2010**

8 12. On or about December 22, 2010, a Bureau undercover operator ("operator") drove a  
9 Bureau-documented 2000 Mercury Sable to Respondent's facility and requested a smog  
10 inspection. The vehicle's positive crankcase ventilation ("PCV") system was missing, rendering  
11 the vehicle incapable of passing the visual portion of the smog inspection. Licensed smog  
12 technician Richard Martinez performed the smog inspection on the vehicle and issued electronic  
13 Certificate of Compliance Number WR142702, certifying that he had tested and inspected the  
14 vehicle and that it was in compliance with applicable laws and regulations. In fact, the vehicle  
15 could not have passed the visual portion of the smog inspection because the vehicle's PCV  
16 system was missing.

17 **FIRST CAUSE FOR DISCIPLINE**

18 **(Untrue or Misleading Statements)**

19 13. Respondent's registration is subject to discipline under Code section 9884.7(a)(1), in  
20 that on or about December 22, 2010, it made or authorized statements which it knew or in the  
21 exercise of reasonable care it should have known to be untrue or misleading by issuing electronic  
22 Certificate of Compliance No. WR142702 for the 2000 Mercury Sable, certifying that the vehicle  
23 was in compliance with applicable laws and regulations, when, in fact, the vehicle could not have  
24 passed the visual portion of the smog inspection because the vehicle's PCV system was missing.

25 **SECOND CAUSE FOR DISCIPLINE**

26 **(Fraud)**

27 14. Respondent's registration is subject to discipline under Code section 9884.7(a)(4), in  
28 that on or about December 22, 2010, it committed acts which constitute fraud by issuing

1 electronic Certificate of Compliance No. WR142702 for the 2000 Mercury Sable without  
2 performing a bona fide inspection of the emission control devices and systems on the vehicle,  
3 thereby depriving the People of the State of California of the protection afforded by the Motor  
4 Vehicle Inspection Program.

5 **THIRD CAUSE FOR DISCIPLINE**

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

7 15. Respondent's station license is subject to discipline under Health & Safety Code  
8 section 44072.2(a), in that on or about December 22, 2010, regarding the 2000 Mercury Sable, it  
9 failed to comply with the following sections of that Code:

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

12 b. **Section 44015(b):** Respondent issued electronic Certificate of Compliance No.  
13 WR142702 for the vehicle without properly testing and inspecting the vehicle to determine if it  
14 was in compliance with Health & Safety Code section 44012.

15 c. **Section 44059:** Respondent willfully made false entries for electronic Certificate of  
16 Compliance No. WR142702 by certifying that the vehicle had been inspected as required when,  
17 in fact, it had not.

18 **FOURTH CAUSE FOR DISCIPLINE**

19 **(Failure to Comply with Regulations)**

20 16. Respondent's station license is subject to discipline under Health & Safety Code  
21 section 44072.2(c), in that on or about December 22, 2010, regarding the 2000 Mercury Sable, it  
22 failed to comply with provisions of California Code of Regulations, title 16, as follows:

23 a. **Section 3340.24(c):** Respondent falsely or fraudulently issued electronic Certificate  
24 of Compliance No. WR142702 for the vehicle, when the vehicle could not pass the visual portion  
25 of the smog inspection because the vehicle's PCV system was missing.

26 b. **Section 3340.35(c):** Respondent issued electronic Certificate of Compliance No.  
27 WR142702 for the vehicle even though the vehicle had not been inspected in accordance with  
28 section 3340.42.

1 c. **Section 3340.42:** Respondent failed to conduct the required smog tests on the vehicle  
2 in accordance with the Bureau's specifications.

3 **FIFTH CAUSE FOR DISCIPLINE**

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

5 17. Respondent's station license is subject to discipline under Health & Safety Code  
6 section 44072.2(d), in that on or about December 22, 2010, it committed dishonest, fraudulent or  
7 deceitful acts whereby another is injured by issuing electronic Certificate of Compliance No.  
8 WR142702 for the 2000 Mercury Sable without performing a bona fide inspection of the  
9 emission control devices and systems on the vehicle, thereby depriving the People of the State of  
10 California of the protection afforded by the Motor Vehicle Inspection Program.

11 **PETITION TO REVOKE PROBATION**

12 18. The allegations of paragraphs 1 through 17 of the Accusation above are incorporated  
13 herein by reference as though fully set forth and are realleged.

14 19. Grounds exist to revoke the probation and reimpose the order of revocation of  
15 Automotive Repair Dealer Registration No. ARD 243001 and Smog Check Test Only Station  
16 License No. TC 243001, in that Respondent failed to comply with all statutes, regulations, and  
17 rules governing inspections as required by Term 2 of the terms of its probation under the  
18 Stipulated Settlement and Disciplinary Order No. 79/09-54, as set forth above in paragraphs 13  
19 through 17.

20 **OTHER MATTERS**

21 20. Under Code section 9884.7(c), the director may suspend, revoke, or place on  
22 probation the registrations for all places of business operated in this state by Jose Luis Cervantes  
23 and Gabriela Cervantes, upon a finding that it has, or is, engaged in a course of repeated and  
24 willful violation of the laws and regulations pertaining to an automotive repair dealer.

25 21. Under Health and Safety Code section 44072.8, if Smog Check Test Only Station  
26 License Number TC 243001, issued to Jose Luis Cervantes and Gabriela Cervantes, is revoked or  
27 suspended, any additional license issued under this chapter in the name of said licensee may be  
28 likewise revoked or suspended by the director.

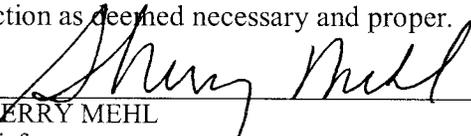
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PRAYER

**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. Vacating the stay and reimposing the order of revocation of Automotive Repair Dealer Registration No. ARD 243001, issued to Stop N Go Smog;
2. Revoking, suspending, or placing on probation any other automotive repair dealer registration issued to Stop N Go Smog;
3. Vacating the stay and reimposing the order of revocation of Smog Check Test Only Station License No. TC 243001, issued to Stop N Go Smog;
4. Revoking or suspending any additional license issued under chapter 5, of the Health and Safety Code in the name of Stop N Go Smog;
5. Ordering Stop N Go Smog to pay the Bureau of Automotive Repair the reasonable costs of the investigation and enforcement of this case, pursuant to Code section 125.3; and,
6. Taking such other and further action as deemed necessary and proper.

DATED: 9/27/11

  
 SHERRY MEHL  
 Chief  
 Bureau of Automotive Repair  
 Department of Consumer Affairs  
 State of California  
 Complainant

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

In the Matter of the Accusation Against:

**STOP N GO SMOG #5  
JOSE LUIS CERVANTES, Partner  
GABRIELA ROMOLAND CERVANTES, Partner  
MARTHA ELENA CERVANTES, Partner  
145 Ramona Express Way, #B4  
Perris, California 92571**

Case No. 79/09-54

OAH No. 2009090231

Mailing Address:  
22425 Alessandro Blvd., #101A  
Moreno Valley, CA 92553

Automotive Repair Dealer Registration  
No. ARD 251017  
Smog Check Test Only Station License  
No. RC 251017

and

**ERIC LOUIS MARTINEZ  
22837 Old Elsinore Road  
Perris, CA 92570  
Advanced Emission Specialist Technician  
License No. EA 153164**

Respondents.

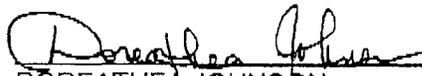
**DECISION**

The attached Stipulated Settlement and Disciplinary Order As To Jose Luis Cervantes, Stop N Go Smog #5, Stop N Go Smog and Stop N Go Smog II is hereby accepted and adopted as the Decision of the Director of the Department of Consumer Affairs in the above-entitled matter.

The suspension of Automotive Repair Dealer Registration No. ARD 243001, Smog Check, Test Only, Station License No. TC 243001, Automotive Repair Dealer Registration No. ARD 240107, Smog Check, Test Only, Station License No. TC 240107, and Advanced Emission Specialist Technician License No. EA 150601 shall commence on the effective date of this Decision.

This Decision shall become effective on 8/23/10

DATED: July 20, 2010

  
DORÉATHEA JOHNSON  
Deputy Director, Legal Affairs  
Department of Consumer Affairs

1 EDMUND G. BROWN JR.  
 Attorney General of California  
 2 JAMES M. LEDAKIS  
 Supervising Deputy Attorney General  
 3 RON ESPINOZA  
 Deputy Attorney General  
 4 State Bar No. 176908  
 110 West "A" Street, Suite 1100  
 5 San Diego, CA 92101  
 P.O. Box 85266  
 6 San Diego, CA 92186-5266  
 Telephone: (619) 645-2100  
 7 Facsimile: (619) 645-2061  
*Attorneys for Complainant*

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

11  
 12 In the Matter of the Accusation Against:

Case No. 79/09-54

13 STOP N GO SMOG #5  
 JOSE LUIS CERVANTES, PARTNER  
 14 GABRIELA ROMOLAND CERVANTES, PARTNER  
 MARTHA ELENA CERVANTES, PARTNER  
 15 145 Ramona Express Way, #B4  
 Perris, California 92571

OAH No. 2009090231

**STIPULATED SETTLEMENT  
 AND DISCIPLINARY ORDER AS  
 TO JOSE LUIS CERVANTES,  
 STOP N GO SMOG #5, STOP N  
 GO SMOG AND STOP N GO  
 SMOG II**

16 Mailing Address:  
 17 22425 Alessandro Blvd., #101A  
 Moreno Valley, CA 92553

18 Automotive Repair Dealer Reg. No. ARD 251017  
 19 Smog Check Test Only Station License No. TC 251017

20 and

21 ERIC LOUIS MARTINEZ  
 22 22837 Old Elsinore Road  
 Perris, CA 92570

23 Advanced Emission Specialist Technician License No.  
 24 EA 153164

Respondents.

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 26  
 27 ///

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1 In the interest of a prompt and speedy settlement of this matter, consistent with the public  
2 interest and the responsibilities of the Director of the Department of Consumer Affairs (Director)  
3 and the Bureau of Automotive Repair (Bureau), the parties hereby agree to the following  
4 Stipulated Settlement and Disciplinary Order which will be submitted to the Director for his  
5 approval and adoption as the final disposition of the Accusation.

6 PARTIES

7 1. Sherry Mehl (Complainant) is the Chief of the Bureau of Automotive Repair. She  
8 brought this action solely in her official capacity and is represented in this matter by Edmund G.  
9 Brown Jr., Attorney General of the State of California, by Ron Espinoza, Deputy Attorney  
10 General.

11 2. Respondent Stop N Go Smog #5, Jose Luis Cervantes, Gabriela Cervantes, and  
12 Martha Elena Cervantes are represented in this proceeding by attorney Michael B. Levin, whose  
13 address is 3727 Camino Del Rio South, Suite 200, San Diego, CA 92108.

14 **Stop N Go Smog #5**

15 3. On or about June 13, 2007, the Bureau issued Automotive Repair Dealer Registration  
16 Number ARD 251017 to Respondent Stop N Go Smog #5, with Jose Luis Cervantes, Gabriela  
17 Cervantes, and Martha Elena Cervantes as partners. On or about August 13, 2007, the Bureau  
18 issued Smog Check, Test Only, Station License Number TC 251017 to Respondent Stop N Go  
19 Smog #5. Respondent's Automotive Repair Dealer Registration and Smog Check, Test Only,  
20 Station License was in full force and effect at all times relevant to the charges brought in  
21 Accusation No. 79/09-54 and expired on or about June 30, 2009.

22 **Advanced Emission Specialist Technician License No. EA 150601**

23 4. On or about January 1, 2004, the Bureau issued Advanced Emission Specialist  
24 Technician License Number EA 150601 to Jose Luis Cervantes. The advanced emission  
25 specialist technician license was in full force and effect at all times relevant to the charges  
26 brought in Accusation No. 79/09-54 and will expire on October 31, 2010, unless renewed.

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**Stop N Go Smog**

1  
2 4. On or about January 24, 2006, the Bureau issued Automotive Repair Dealer  
3 Registration Number ARD 243001 to Stop N Go Smog, with Jose Luis Cervantes and Gabriela  
4 Cervantes as partners. On or about January 26, 2006, the Bureau issued Smog Check, Test Only,  
5 Station License Number TC 243001 to Stop N Go Smog. The Automotive Repair Dealer  
6 Registration and Smog Check, Test Only, Station License was in full force and effect at all times  
7 relevant to the charges brought in Accusation No. 79/09-54 and will expire on December 31,  
8 2010, unless renewed.

**Stop N Go Smog II**

9  
10 5. On or about July 12, 2005, the Bureau issued Automotive Repair Dealer Registration  
11 Number ARD 240107 to Stop N Go Smog II, with Jose Luis Cervantes and Gabriela Cervantes as  
12 partners. On or about July 15, 2005, the Bureau issued Smog Check, Test Only, Station License  
13 Number TC 240107 to Stop N Go Smog II. The Automotive Repair Dealer Registration and  
14 Smog Check, Test Only, Station License was in full force and effect at all times relevant to the  
15 charges brought in Accusation No. 79/09-54 and will expire on June 30, 2010, unless renewed.

16 6. Jose Luis Cervantes has been and is authorized to enter into this stipulated settlement  
17 on behalf of Stop N Go Smog #5, Stop N Go Smog, and Stop N Go Smog II.

**JURISDICTION**

18  
19 7. Accusation No. 79/09-54 was filed before the Director of the Department of  
20 Consumer Affairs, for the Bureau of Automotive Repair, and is currently pending against  
21 Respondent. The Accusation and all other statutorily required documents were properly served  
22 on Respondent on January 12, 2009. Respondent timely filed its Notice of Defense contesting the  
23 Accusation. A copy of Accusation No. 79/09-54 is attached as Exhibit A and incorporated herein  
24 by reference.

**ADVISEMENT AND WAIVERS**

25  
26 8. Jose Luis Cervantes has carefully read, fully discussed with counsel, and understands  
27 the charges and allegations in Accusation No. 79/09-54. Jose Luis Cervantes has also carefully

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1 read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and  
2 Disciplinary Order.

3 9. Respondent is fully aware of its legal rights in this matter, including the right to a  
4 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine  
5 the witnesses against it; the right to present evidence and to testify on its own behalf; the right to  
6 the issuance of subpoenas to compel the attendance of witnesses and the production of  
7 documents; the right to reconsideration and court review of an adverse decision; and all other  
8 rights accorded by the California Administrative Procedure Act and other applicable laws.

9 10. Respondent voluntarily, knowingly, and intelligently waives and gives up each and  
10 every right set forth above.

#### 11 CULPABILITY

12 11. Respondent admits the truth of each and every charge and allegation in Accusation  
13 No. 79/09-54.

14 12. Jose Luis Cervantes agrees that the Automotive Repair Dealer Registrations and  
15 Smog Check, Test Only, Station Licenses for Stop N Go Smog #5, Stop N Go Smog, and Stop N  
16 Go Smog II, as well as his advanced emission specialist technician license, are all subject to  
17 discipline, and he agrees to be bound by the Director's imposition of discipline as set forth in the  
18 Disciplinary Order below.

#### 19 RESERVATION

20 13. The admissions made by Respondent herein are only for the purposes of this  
21 proceeding, or any other proceedings in which the Director, Bureau of Automotive Repair, or  
22 other professional licensing agency is involved, and shall not be admissible in any other criminal  
23 or civil proceeding.

#### 24 CONTINGENCY

25 14. This stipulation shall be subject to approval by the Director or his designee. Jose Luis  
26 Cervantes understands and agrees that counsel for Complainant and the staff of the Bureau of  
27 Automotive Repair may communicate directly with the Director and staff of the Department of  
28 Consumer Affairs regarding this stipulation and settlement, without notice to or participation by

1 Jose Luis Cervantes, Respondent or their counsel. By signing the stipulation, Jose Luis Cervantes  
2 understands and agrees that he may not withdraw this agreement or seek to rescind the stipulation  
3 prior to the time the Director considers and acts upon it. If the Director fails to adopt this  
4 stipulation as the Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of  
5 no force or effect, except for this paragraph, it shall be inadmissible in any legal action between  
6 the parties, and the Director shall not be disqualified from further action by having considered  
7 this matter.

8 15. The parties understand and agree that facsimile copies of this Stipulated Settlement  
9 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and  
10 effect as the originals.

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

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

20 **DISCIPLINARY ORDER**

21 **IT IS HEREBY ORDERED** that Automotive Repair Dealer Registration Number ARD  
22 251017 and Smog Check, Test Only, Station License Number TC 251017 issued to Respondent  
23 Stop N Go Smog #5 are revoked.

24 **IT IS HEREBY FURTHER ORDERED** that the Automotive Repair Dealer Registrations  
25 and Smog Check, Test Only, Station Licenses for Stop N Go Smog (Reg. No. ARD 243001 and  
26 License No. TC 243001), Stop N Go Smog II (Reg. No. ARD 240107 and License No. TC  
27 240107), and Jose Luis Cervantes' advanced emission specialist technician license (License No.

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1 EA 150601) are all revoked. However, the revocations are all stayed, and the registrations and  
2 licenses are placed on probation for three (3) years on the following terms and conditions.

3 1. **Actual Suspensions.** The Automotive Repair Dealer Registration (Reg. No. ARD  
4 243001) and Smog Check, Test Only, Station License (License No. TC 243001) issued to Stop N  
5 Go Smog are suspended for 5 days.

6 The Automotive Repair Dealer Registration (Reg. No. ARD 240107) and Smog  
7 Check, Test Only, Station License (License No. TC 240107) issued to Stop N Go Smog II are  
8 suspended for 5 days.

9 The advanced emission specialist technician license (License No. EA 150601) issued  
10 to Jose Luis Cervantes is suspended for 5 days.

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

13 3. **Post Sign.** Post a prominent sign, provided by the Bureau, indicating the beginning  
14 and ending dates of the suspensions and indicating the reason(s) for the suspensions. The sign  
15 shall be conspicuously displayed in a location open to and frequented by customers and shall  
16 remain posted during the entire period of actual suspension.

17 4. **Reporting.** Jose Luis Cervantes or Jose Luis Cervantes' authorized representative  
18 must report in person or in writing as prescribed by the Bureau of Automotive Repair, on a  
19 schedule set by the Bureau, but no more frequently than each quarter, on the methods used and  
20 success achieved in maintaining compliance with the terms and conditions of probation.

21 5. **Report Financial Interest.** Within 30 days of the effective date of this action, report  
22 any financial interest which any partners, officers, or owners of Stop N Go Smog and Stop N Go  
23 Smog II may have in any other business required to be registered pursuant to Section 9884.6 of  
24 the Business and Professions Code.

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

27 7. **Jurisdiction.** If an accusation or petition to revoke probation is filed against Jose  
28 Luis Cervantes, Stop N Go Smog, or Stop N Go Smog II during the term of probation, the

1 Director shall have continuing jurisdiction over this matter until the final decision on the  
2 accusation or petition, and the period of probation shall be extended until such decision.

3 8. **Violation of Probation.** Should the Director of the Department of Consumer Affairs  
4 determine that Jose Luis Cervantes, Stop N Go Smog, or Stop N Go Smog II has failed to comply  
5 with the terms and conditions of probation, the Department may, after giving notice and  
6 opportunity to be heard, temporarily or permanently invalidate their registrations or suspend or  
7 revoke their licenses.

8 9. **Restrictions.** During the period of probation, Stop N Go Smog and Stop N Go Smog  
9 II shall not perform any form of smog inspection, or emission system diagnosis or repair, until  
10 they have purchased, installed, and maintained the diagnostic and repair equipment prescribed by  
11 BAR necessary to properly perform such work, and BAR has been given 10 days notice of the  
12 availability of the equipment for inspection by a BAR representative.

13 10. **Cost Recovery.** Jose Luis Cervantes shall pay to the Bureau a portion of its costs of  
14 investigation and enforcement of this matter in the amount of \$12,500, paid as follows: Jose Luis  
15 Cervantes shall make minimum monthly payments to the Bureau of \$416.66 per month,  
16 beginning the month of the effective date of the Director's Decision and Order. Payment in full  
17 to the Bureau of the \$12,500 shall be received no later than 6 months before probation terminates.  
18 All payments shall be in the form of a certified check, cashier's check or money order, payable to  
19 the Bureau of Automotive Repair and shall be mailed or delivered to the Bureau of Automotive  
20 Repair, 10240 Systems Parkway, Sacramento, California, 95827, Attention: Enforcement  
21 Planning & Oversight. Failure to complete payment of cost recovery within this time frame shall  
22 constitute a violation of probation which may subject the registrations and licenses of Jose Luis  
23 Cervantes, Stop N Go Smog, and Stop N Go Smog II to outright revocation; however, the  
24 Director or the Director's Bureau of Automotive Repair designee may elect to continue probation  
25 until such time as reimbursement of the entire cost recovery amount has been made to the Bureau.

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MICHAEL LEVIN

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MICHAEL LEVIN

PAGE 10/10

FEB-01-2010 MON 10:18 AM DEPT OF JUSTICE ATTYGEN

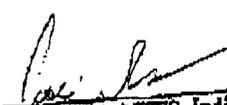
FAX NO. 6198452012

P. 10

ACCEPTANCE

1 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
 2 discussed it with my attorney, Michael B. Levin. I understand the stipulation and the effect it will  
 3 have on my advanced emission specialist technician license, and the Automotive Repair Dealer  
 4 Registrations and the Smog Check, Test Only, Station Licenses of Stop N Go Smog # 5, Stop N  
 5 Go Smog, and Stop N Go Smog II. I enter into this Stipulated Settlement and Disciplinary Order  
 6 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the  
 7 Director of Consumer Affairs.  
 8

DATED: 2/1/10

  
 JOSE LUIS CERVANTES, Individually and on behalf  
 of Stop N Go Smog #5, Stop N Go Smog and Stop N  
 Go Smog II

13 I have read and fully discussed with Jose Luis Cervantes the terms and conditions and other  
 14 matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form  
 15 and content.  
 16

DATED: \_\_\_\_\_

Michael B. Levin  
 Attorney for Stop N Go Smog #5, Jose Luis Cervantes,  
 Gabriela Romoleon Cervantes, and Martha Elena  
 Cervantes

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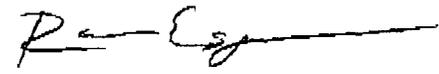
ENDORSEMENT

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

Dated: 2/1/10

Respectfully Submitted,

EDMUND G. BROWN JR.  
Attorney General of California  
JAMES M. LEDAKIS  
Supervising Deputy Attorney General



RON ESPINOZA  
Deputy Attorney General  
*Attorneys for Complainant*

SD2008802793

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 ALFREDO TERRAZAS  
Senior Assistant Attorney General  
3 LINDA K. SCHNEIDER, State Bar No. 101336  
Supervising Deputy Attorney General  
4 110 West "A" Street, Suite 1100  
San Diego, CA 92101  
5  
6 P.O. Box 85266  
San Diego, CA 92186-5266  
Telephone: (619) 645-3037  
7 Facsimile: (619) 645-2061  
8 Attorneys for Complainant

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

13 In the Matter of the Accusation Against:

Case No. 79/09-54

14 STOP N GO SMOG #5  
JOSE LUIS CERVANTES, PARTNER  
15 GABRIELA ROMOLAND CERVANTES, PARTNER  
MARTHA ELENA CERVANTES, PARTNER  
16 145 Ramona Express Way, #B4  
Perris, California 92571

**ACCUSATION**

**SMOG CHECK**

17 Mailing Address:

18 22425 Alessandro Blvd., #101A  
Moreno Valley, CA 92553

19 Automotive Repair Dealer Reg. No. ARD 251017  
20 Smog Check, Test Only, Station License  
No. TC 251017

21 and

22 ERIC LOUIS MARTINEZ  
23 22837 Old Elsinore Road  
Perris, CA 92570

24 Advanced Emission Specialist Technician License  
25 No. EA 153164

26 Respondents.

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Complainant alleges:

PARTIES

1. Sherry Mehl ("Complainant") brings this Accusation solely in her official capacity as the Chief of the Bureau of Automotive Repair ("Bureau"), Department of Consumer Affairs.

**Automotive Repair Dealer Registration No. ARD 251017**

2. On or about June 13, 2007, the Director of Consumer Affairs ("Director") issued Automotive Repair Dealer Registration Number ARD 251017 to Stop N Go Smog #5 ("Respondent Stop N Go Smog #5"), with Jose Luis Cervantes, Gabriela Romoland Cervantes, and Martha Elena Cervantes as partners. Respondent's automotive repair dealer registration was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2009, unless renewed.

**Smog Check, Test Only, Station License No. TC 251017**

3. On or about August 13, 2007, the Director issued Smog Check, Test Only, Station License Number TC 251017 to Respondent Stop N Go Smog #5. Respondent's smog check station license was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2009, unless renewed.

**Advanced Emission Specialist Technician License No. EA 153164**

4. In or about 2006, the Director issued Advanced Emission Specialist Technician License Number EA 153164 to Eric Louis Martinez ("Respondent Martinez"). Respondent's advanced emission specialist technician license was in full force and effect at all times relevant to the charges brought herein and will expire on May 31, 2010, unless renewed.

JURISDICTION

5. Business and Professions Code ("Bus. & Prof. Code") section 9884.7 provides that the Director may invalidate an automotive repair dealer registration.

6. Bus. & Prof. Code section 9884.13 provides, in pertinent part, that the expiration of a valid registration shall not deprive the Director of jurisdiction to proceed with a

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1 VIDEO SURVEILLANCE OPERATION OF FEBRUARY 22, 2008

2 15. On February 22, 2008, representatives of the Bureau conducted a  
3 videotaped surveillance operation of Respondent Stop N Go Smog #5's smog check facility. The  
4 surveillance video and information obtained from the Bureau's Vehicle Information Database  
5 ("VID") revealed that Respondent Martinez issued electronic smog certificates of compliance on  
6 behalf of Respondent Stop N Go Smog #5, certifying that he had tested and inspected the  
7 vehicles identified below and that the vehicles were in compliance with applicable laws and  
8 regulations. In fact, Respondent Martinez conducted the inspections using clean piping<sup>1</sup>  
9 methods, resulting in the issuance of fraudulent certificates of compliance for the vehicles.

10

Time of Smog Inspection	Vehicle Certified & License # or VIN	Certificate of Compliance No.	Vehicle Actually Tested
11 1. 1534-1555	1993 BMW 5-Series; License # 3RVB669	VN693830C	Chrysler minivan
12 2. 1604-1614	2001 Dodge Dakota pickup; VIN #1 B7HL2AX71S327082	VN693831C	Chrysler minivan

13  
14

15 FIRST CAUSE FOR DISCIPLINE

16 (Untrue or Misleading Statements)

17 16. Respondent Stop N Go Smog #5's automotive repair dealer registration is  
18 subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(1), in  
19 that Respondent made or authorized statements which it knew or in the exercise of reasonable  
20 care should have known to be untrue or misleading, as follows: Respondent Smog N Go Smog  
21 #5's technician, Respondent Martinez, certified that vehicles 1 and 2, identified in paragraph 15  
22 above, had passed inspection and were in compliance with applicable laws and regulations. In  
23 fact, Respondent Martinez used clean piping methods in order to issue certificates for the  
24 vehicles and did not test or inspect the vehicles as required by Health & Saf. Code section 44012.

25 ///

26 \_\_\_\_\_  
27 1. Pursuant to California Code of Regulations, title 16, section 3340.1, subdivision (t), "clean piping"  
28 means the use of a sample of the exhaust emissions of one vehicle in order to cause the EIS to issue a certificate of compliance for another vehicle.



1 Respondent failed to comply with provisions of California Code of Regulations, title 16, as  
2 follows:

- 3 a. Section 3340.24, subdivision (c): Respondent Stop N Go Smog #5  
4 falsely or fraudulently issued electronic smog certificates of compliance  
5 for vehicles 1 and 2, identified in paragraph 15 above.
- 6 b. Section 3340.35, subdivision (c): Respondent Stop N Go Smog #5  
7 issued electronic smog certificates of compliance for vehicles 1 and 2,  
8 identified in paragraph 15 above, even though the vehicles had not been  
9 inspected in accordance with section 3340.42.
- 10 c. Section 3340.41, subdivision (c): Respondent Stop N Go Smog #5's  
11 technician, Respondent Martinez, entered false information into the  
12 Emission Inspection System ("EIS") by entering vehicle identification  
13 information or emission control system identification data for vehicles  
14 other than the ones being tested.
- 15 d. Section 3340.42: Respondent Stop N Go Smog #5 failed to conduct the  
16 required smog tests on vehicles 1 and 2, identified in paragraph 15 above,  
17 in accordance with the Bureau's specifications.

18 FIFTH CAUSE FOR DISCIPLINE

19 (Dishonesty, Fraud or Deceit)

20 20. Respondent Stop N Go Smog #5's smog check station license is subject to  
21 disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that  
22 Respondent committed dishonest, fraudulent, or deceitful acts whereby another is injured by  
23 issuing electronic smog certificates of compliance for vehicles 1 and 2, identified in paragraph 15  
24 above, without performing bona fide inspections of the emission control devices and systems on  
25 the vehicles, thereby depriving the People of the State of California of the protection afforded by  
26 the Motor Vehicle Inspection Program.

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control system identification data for vehicles other than the ones being tested.

d. Section 3340.42: Respondent failed to conduct the required smog tests on vehicles 1 and 2, identified in paragraph 15 above, in accordance with the Bureau's specifications.

**EIGHTH CAUSE FOR DISCIPLINE**

**(Dishonesty, Fraud or Deceit)**

23. Respondent Martinez's advanced emission specialist technician license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed dishonest, fraudulent, or deceitful acts whereby another is injured by issuing electronic smog certificates of compliance for vehicles 1 and 2, identified in paragraph 15 above, without performing bona fide inspections of the emission control devices and systems on the vehicles, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

**VIDEO SURVEILLANCE OPERATION OF MARCH 13, 2008**

24. On March 13, 2008, a representative of the Bureau conducted a videotaped surveillance operation of Respondent Stop N Go Smog #5's smog check facility. The surveillance video and information obtained from the Bureau's VID revealed that Respondent Martinez issued electronic smog certificates of compliance on behalf of Respondent Stop N Go Smog #5, certifying that he had tested and inspected the vehicles identified below and that the vehicles were in compliance with applicable laws and regulations. In fact, Respondent Martinez conducted the inspections using clean piping methods, resulting in the issuance of fraudulent certificates of compliance for the vehicles.

Time of Smog Inspection	Vehicle Certified & License # or VIN	Certificate of Compliance No.	Vehicle Actually Tested
3. 1028-1033	1999 Ford F150 pickup; License # 5Z79722	VP016863C	Toyota 4Runner
4. 1043-1051	2002 Mazda Protege; VIN # JM1BJ245821526204	VP016864C	Toyota 4Runner

1 NINTH CAUSE FOR DISCIPLINE

2 (Untrue or Misleading Statements)

3 25. Respondent Stop N Go Smog #5's automotive repair dealer registration is  
4 subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(1), in  
5 that Respondent made or authorized statements which it knew or in the exercise of reasonable  
6 care should have known to be untrue or misleading, as follows: Respondent Stop N Go Smog  
7 #5's technician, Respondent Martinez, certified that vehicles 3 and 4, identified in paragraph 24  
8 above, had passed inspection and were in compliance with applicable laws and regulations. In  
9 fact, Respondent used clean-piping methods in order to issue certificates for the vehicles and did  
10 not test or inspect the vehicles as required by Health & Saf. Code section 44012.

11 TENTH CAUSE FOR DISCIPLINE

12 (Fraud)

13 26. Respondent Stop N Go Smog #5's automotive repair dealer registration is  
14 subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(4), in  
15 that Respondent committed acts which constitute fraud by issuing electronic smog certificates of  
16 compliance for vehicles 3 and 4, identified in paragraph 24 above, without performing bona fide  
17 inspections of the emission control devices and systems on the vehicles, thereby depriving the  
18 People of the State of California of the protection afforded by the Motor Vehicle Inspection  
19 Program.

20 ELEVENTH CAUSE FOR DISCIPLINE

21 (Violations of the Motor Vehicle Inspection Program)

22 27. Respondent Stop N Go Smog #5's smog check station license is subject to  
23 disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that  
24 Respondent failed to comply with provisions of that Code, as follows:

- 25 a. Section 44012: Respondent Stop N Go Smog #5 failed to perform  
26 emission control tests on vehicles 3 and 4, identified in paragraph 24  
27 above, in accordance with procedures prescribed by the department.

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b. Section 44015: Respondent Stop N Go Smog #5 issued electronic smog certificates of compliance for vehicles 3 and 4, identified in paragraph 24 above, without properly testing and inspecting the vehicles to determine if they were in compliance with Health & Saf. Code section 44012.

**TWELFTH CAUSE FOR DISCIPLINE**

**(Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection Program)**

28. Respondent Stop N Go Smog #5's smog check station license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to comply with provisions of California Code of Regulations, title 16, as follows:

- a. Section 3340.24, subdivision (c): Respondent Stop N Go Smog #5 falsely or fraudulently issued electronic smog certificates of compliance for vehicles 3 and 4, identified in paragraph 24 above.
- b. Section 3340.35, subdivision (c): Respondent Stop N Go Smog #5 issued electronic smog certificates of compliance for vehicles 3 and 4, identified in paragraph 24 above, even though those vehicles had not been inspected in accordance with section 3340.42.
- c. Section 3340.41, subdivision (c): Respondent Stop N Go Smog #5's technician, Respondent Martinez, entered false information into the EIS by entering vehicle identification information or emission control system identification data for vehicles other than the ones being tested.
- d. Section 3340.42: Respondent Stop N Go Smog #5 failed to conduct the required smog tests on vehicles 3 and 4, identified in paragraph 24 above, in accordance with the Bureau's specifications.

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1 THIRTEENTH CAUSE FOR DISCIPLINE

2 (Dishonesty, Fraud or Deceit)

3 29. Respondent Stop N Go Smog #5's smog check station license is subject to  
4 disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that  
5 Respondent committed dishonest, fraudulent, or deceitful acts whereby another is injured by  
6 issuing electronic smog certificates of compliance for vehicles 3 and 4, identified in paragraph 24  
7 above, without performing bona fide inspections of the emission control devices and systems on  
8 the vehicles, thereby depriving the People of the State of California of the protection afforded by  
9 the Motor Vehicle Inspection Program.

10 FOURTEENTH CAUSE FOR DISCIPLINE

11 (Violations of the Motor Vehicle Inspection Program)

12 30. Respondent Martinez's advanced emission specialist technician license is  
13 subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (a), in  
14 that Respondent failed to comply with provisions of that Code, as follows:

- 15 a. Section 44012: Respondent failed to perform emission control tests on  
16 vehicles 3 and 4, identified in paragraph 24 above, in accordance with  
17 procedures prescribed by the department.
- 18 b. Section 44059: Respondent willfully made false entries in the EIS,  
19 resulting in the issuance of fraudulent certificates of compliance for  
20 vehicles 3 and 4, identified in paragraph 24 above.

21 FIFTEENTH CAUSE FOR DISCIPLINE

22 (Failure to Comply with Regulations Pursuant  
23 to the Motor Vehicle Inspection Program)

24 31. Respondent Martinez's advanced emission specialist technician license is  
25 subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (c), in

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1 that Respondent failed to comply with provisions of California Code of Regulations, title 16, as  
2 follows:

- 3 a. Section 3340.24, subdivision (c): Respondent falsely or fraudulently  
4 issued electronic smog certificates of compliance for vehicles 3 and 4,  
5 identified in paragraph 24 above.
- 6 b. Section 3340.30, subdivision (a): Respondent failed to inspect and test  
7 vehicles 3 and 4, identified in paragraph 24 above, in accordance with  
8 Health & Saf. Code sections 44012 and 44035, and California Code of  
9 Regulations, title 16, section 3340.42.
- 10 c. Section 3340.41, subdivision (c): Respondent entered false information  
11 into the EIS by entering vehicle identification information or emission  
12 control system identification data for vehicles other than the ones being  
13 tested.
- 14 d. Section 3340.42: Respondent failed to conduct the required smog tests on  
15 vehicles 3 and 4, identified in paragraph 24 above, in accordance with  
16 the Bureau's specifications.

17 **SIXTEENTH CAUSE FOR DISCIPLINE**

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

19 32. Respondent Martinez's advanced emission specialist technician license is  
20 subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in  
21 that Respondent committed dishonest, fraudulent, or deceitful acts whereby another is injured by  
22 issuing electronic smog certificates of compliance for vehicles 3 and 4, identified in paragraph 24  
23 above, without performing bona fide inspections of the emission control devices and systems on  
24 the vehicles, thereby depriving the People of the State of California of the protection afforded by  
25 the Motor Vehicle Inspection Program.

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

4 **NINETEENTH CAUSE FOR DISCIPLINE**

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

6 36. Respondent Stop N Go Smog #5's smog check station license is subject to  
7 disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that  
8 Respondent failed to comply with provisions of that Code, as follows:

9 a. **Section 44012:** Respondent Stop N Go Smog #5 failed to perform  
10 emission control tests on the 2004 Chrysler PT Cruiser, identified in  
11 paragraph 33 above, in accordance with procedures prescribed by the  
12 department.

13 b. **Section 44015:** Respondent Stop N Go Smog #5 issued an electronic  
14 smog certificate of compliance for the 2004 Chrysler PT Cruiser,  
15 identified in paragraph 33 above, without properly testing and inspecting  
16 the vehicle to determine if it was in compliance with Health & Saf. Code  
17 section 44012.

18 **TWENTIETH CAUSE FOR DISCIPLINE**

19 **(Failure to Comply with Regulations Pursuant  
20 to the Motor Vehicle Inspection Program)**

21 37. Respondent Stop N Go Smog #5's smog check station license is subject to  
22 disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that  
23 Respondent failed to comply with provisions of California Code of Regulations, title 16, as  
24 follows:

25 a. **Section 3340.24, subdivision (c):** Respondent Stop N Go Smog #5  
26 falsely or fraudulently issued an electronic smog certificate of compliance  
27 for the 2004 Chrysler PT Cruiser, identified in paragraph 33 above.

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- b. Section 3340.35, subdivision (c): Respondent Stop N Go Smog #5 issued an electronic smog certificate of compliance for the 2004 Chrysler PT Cruiser, identified in paragraph 33 above, even though the vehicle had not been inspected in accordance with section 3340.42.
- c. Section 3340.41, subdivision (c): Respondent Stop N Go Smog #5's technician, Respondent Martinez, entered false information into the EIS by entering vehicle identification information or emission control system identification data for a vehicle other than the one being tested.
- d. Section 3340.42: Respondent Stop N Go Smog #5 failed to conduct the required smog tests on the 2004 Chrysler PT Cruiser, identified in paragraph 33 above, in accordance with the Bureau's specifications.

**TWENTY-FIRST CAUSE FOR DISCIPLINE**

**(Dishonesty, Fraud or Deceit)**

38. Respondent Stop N Go Smog #5's smog check station license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed a dishonest, fraudulent, or deceitful act whereby another is injured by issuing an electronic smog certificate of compliance for the 2004 Chrysler PT Cruiser, identified in paragraph 33 above, without performing a bona fide inspection 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.

**TWENTY-SECOND CAUSE FOR DISCIPLINE**

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

39. Respondent Martinez's advanced emission specialist technician license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to comply with provisions of that Code, as follows:

- a. Section 44012: Respondent failed to perform emission control tests on the 2004 Chrysler PT Cruiser, identified in paragraph 33 above, in accordance with procedures prescribed by the department.

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b. Section 44059: Respondent willfully made false entries in the EIS, resulting in the issuance of a fraudulent certificate of compliance for the 2004 Chrysler PT Cruiser, identified in paragraph 33 above.

**TWENTY-THIRD CAUSE FOR DISCIPLINE**  
**(Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection Program)**

40. Respondent Martinez’s advanced emission specialist technician license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to comply with provisions of California Code of Regulations, title 16, as follows:

- a. Section 3340.24, subdivision (c): Respondent falsely or fraudulently issued an electronic smog certificate of compliance for the 2004 Chrysler PT Cruiser, identified in paragraph 33 above.
- b. Section 3340.30, subdivision (a): Respondent failed to inspect and test the 2004 Chrysler PT Cruiser, identified in paragraph 33 above, in accordance with Health & Saf. Code sections 44012 and 44035, and California Code of Regulations, title 16, section 3340.42.
- c. Section 3340.41, subdivision (c): Respondent entered false information into the EIS by entering vehicle identification information or emission control system identification data for a vehicle other than the one being tested.
- d. Section 3340.42: Respondent failed to conduct the required smog tests on the 2004 Chrysler PT Cruiser, identified in paragraph 33 above, in accordance with the Bureau’s specifications.

**TWENTY-FOURTH CAUSE FOR DISCIPLINE**  
**(Dishonesty, Fraud or Deceit)**

41. Respondent Martinez’s advanced emission specialist technician license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in

1 that Respondent committed a dishonest, fraudulent, or deceitful act whereby another is injured by  
2 issuing an electronic smog certificate of compliance for the 2004 Chrysler PT Cruiser, identified  
3 in paragraph 33 above, without performing a bona fide inspection of the emission control devices  
4 and systems on the vehicle, thereby depriving the People of the State of California of the  
5 protection afforded by the Motor Vehicle Inspection Program.

6 **SURVEILLANCE OPERATION OF AUGUST 13, 2008**

7 42. On August 13, 2008, representatives of the Bureau conducted a  
8 surveillance operation of Respondent Stop N Go Smog #5's smog check facility. During the  
9 surveillance, one of the representatives observed a Toyota RAV4 in the testing bay from  
10 approximately 1312 to 1335 hours. The representative determined based on his observations and  
11 a review of information obtained from the Bureau's VID that Respondent Martinez issued  
12 electronic smog Certificate of Compliance # VT114751C on behalf of Respondent Stop N Go  
13 Smog #5, certifying that between 1324 and 1332 hours, he had tested and inspected a 1990  
14 Toyota Camry, License No. 2VBJ633, and that the vehicle was in compliance with applicable  
15 laws and regulations. In fact, Respondent Martinez conducted the inspection using the exhaust  
16 emissions of the Toyota RAV4, a method commonly known as clean piping, resulting in the  
17 issuance of a fraudulent certificate of compliance for the 1990 Toyota Camry.

18 **TWENTY-FIFTH CAUSE FOR DISCIPLINE**

19 **(Untrue or Misleading Statements)**

20 43. Respondent Stop N Go Smog #5's automotive repair dealer registration is  
21 subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(1), in  
22 that Respondent made or authorized a statement which it knew or in the exercise of reasonable  
23 care should have known to be untrue or misleading, as follows: Respondent Stop N Go Smog  
24 #5's technician, Respondent Martinez, certified that the 1990 Toyota Camry, identified in  
25 paragraph 42 above, had passed inspection and was in compliance with applicable laws and  
26 regulations. In fact, Respondent Martinez used clean-piping methods in order to issue a  
27 certificate for the vehicle and did not test or inspect the vehicle as required by Health & Saf.  
28 Code section 44012.

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TWENTY-SIXTH CAUSE FOR DISCIPLINE

(Fraud)

44. Respondent Stop N Go Smog #5's automotive repair dealer registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(4), in that Respondent committed an act which constitutes fraud by issuing an electronic smog certificate of compliance for the 1990 Toyota Camry, identified in paragraph 42 above, without performing a bona fide inspection 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.

TWENTY-SEVENTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

45. Respondent Stop N Go Smog #5's smog check station license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to comply with provisions of that Code, as follows:

- a. Section 44012: Respondent Stop N Go Smog #5 failed to perform emission control tests on the 1990 Toyota Camry, identified in paragraph 42 above, in accordance with procedures prescribed by the department.
- b. Section 44015: Respondent Stop N Go Smog #5 issued an electronic smog certificate of compliance for the 1990 Toyota Camry, identified in paragraph 42 above, without properly testing and inspecting the vehicle to determine if it was in compliance with Health & Saf. Code section 44012.

TWENTY-EIGHTH CAUSE FOR DISCIPLINE

(Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection Program)

46. Respondent Stop N Go Smog #5's smog check station license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that

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1 Respondent failed to comply with provisions of California Code of Regulations, title 16, as  
2 follows:

- 3 a. Section 3340.24, subdivision (c): Respondent Stop N Go Smog #5  
4 falsely or fraudulently issued an electronic smog certificate of compliance  
5 for the 1990 Toyota Camry, identified in paragraph 42 above.
- 6 b. Section 3340.35, subdivision (c): Respondent Stop N Go Smog #5  
7 issued an electronic smog certificate of compliance for the 1990 Toyota  
8 Camry, identified in paragraph 42 above, even though the vehicle had  
9 not been inspected in accordance with section 3340.42.
- 10 c. Section 3340.41, subdivision (c): Respondent Stop N Go Smog #5's  
11 technician, Respondent Martinez, entered false information into the EIS by  
12 entering vehicle identification information or emission control system  
13 identification data for a vehicle other than the one being tested.
- 14 d. Section 3340.42: Respondent Stop N Go Smog #5 failed to conduct the  
15 required smog tests on the 1990 Toyota Camry, identified in paragraph 42  
16 above, in accordance with the Bureau's specifications.

17 TWENTY-NINTH CAUSE FOR DISCIPLINE

18 (Dishonesty, Fraud or Deceit)

19 47. Respondent Stop N Go Smog #5's smog check station license is subject to  
20 disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that  
21 Respondent committed a dishonest, fraudulent, or deceitful act whereby another is injured by  
22 issuing an electronic smog certificate of compliance for the 1990 Toyota Camry, identified in  
23 paragraph 42 above, without performing a bona fide inspection of the emission control devices  
24 and systems on the vehicle, thereby depriving the People of the State of California of the  
25 protection afforded by the Motor Vehicle Inspection Program.

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control system identification data for a vehicle other than the one being tested.

d. Section 3340.42: Respondent failed to conduct the required smog tests on the 1990 Toyota Camry, identified in paragraph 42 above, in accordance with the Bureau's specifications.

**THIRTY-SECOND CAUSE FOR DISCIPLINE**

**(Dishonesty, Fraud or Deceit)**

50. Respondent Martinez's advanced emission specialist technician license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed a dishonest, fraudulent, or deceitful act whereby another is injured by issuing an electronic smog certificate of compliance for the 1990 Toyota Camry, identified in paragraph 42 above, without performing a bona fide inspection 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.

**OTHER MATTERS**

51. Pursuant to Bus. & Prof. Code section 9884.7, subdivision (c), the Director may refuse to validate, or may invalidate temporarily or permanently, the registrations for all places of business operated in this state by Respondent Stop N Go Smog #5 upon a finding that said Respondent has, or is, engaged in a course of repeated and willful violations of the laws and regulations pertaining to an automotive repair dealer.

52. Pursuant to Health & Saf. Code section 44072.8, if Smog Check, Test Only, Station License Number TC 251017, issued to Respondent Stop N Go Smog #5, is revoked or suspended, any additional license issued under this chapter in the name of said licensee may be likewise revoked or suspended by the Director.

53. Pursuant to Health & Saf. Code section 44072.8, if Advanced Emission Specialist Technician License Number EA 153164, issued to Eric Louis Martinez, is revoked or suspended, any additional license issued under this chapter in the name of said licensee may be likewise revoked or suspended by the Director.

