

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

In the Matter of the Accusation Against:

**RUBY MEDINA, DBA
LEO'S SMOG CHECK ONLY**
3553 N. Perris Blvd., #A1
Perris, CA 92571

Automotive Repair Dealer Reg. No. ARD 269983
Smog Check Test Only Station License No.
TC 269983,

EMMANUEL SAUCEDO
18355 Courtney Ct.
Bloomington, CA 92316

Advanced Emission Specialist Technician
License No. EA 630019 (to be redesignated
upon renewal as EO 630019 and/or
EI 630019),

Respondents.

Case No. 79/13-95

DECISION

The attached Stipulated Settlement and Disciplinary Order As To Emmanuel Saucedo Only is hereby accepted and adopted as the Decision of the Director of the Department of Consumer Affairs in the above-entitled matter only as to respondent Emmanuel Saucedo, Advanced Emission Specialist Technician License No. EA 630019 (to be redesignated upon renewal as EO 630019 and/or EI 630019).

This Decision shall become effective February 13, 2014.

DATED: JAN 27 2014



DONALD CHANG
Assistant Chief Counsel
Department of Consumer Affairs

1 KAMALA D. HARRIS
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
E-mail: ron.espinoza@doj.ca.gov
8 *Attorneys for Complainant*

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

13 In the Matter of the Accusation Against:
14 **RUBY MEDINA, DBA**
15 **LEO'S SMOG CHECK ONLY**
3553 N. Perris Blvd., #A1
Perris, CA 92571
16 Automotive Repair Dealer Reg. No. ARD 269983
17 Smog Check Test Only Station License No.
TC 269983,
18 **EMMANUEL SAUCEDO**
19 18355 Courtney Ct.
20 Bloomington, CA 92316
21 Advanced Emission Specialist Technician License No.
EA 630019 (to be redesignated upon renewal as
22 EO 630019 and/or EI 630019),
23 Respondents.
24

Case No. 79/13-95

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER AS TO
EMMANUEL SAUCEDO ONLY**

25
26 In the interest of a prompt and speedy settlement of this matter, consistent with the public
27 interest and the responsibilities of the Director of Consumer Affairs and the Bureau of
28 Automotive Repair, the parties hereby agree to the following Stipulated Settlement and

1 Disciplinary Order which will be submitted to the Director for the Director's approval and
2 adoption as the final disposition of the Accusation as to Emmanuel Saucedo only.

3 PARTIES

4 1. John Wallauch brought this action solely in his official capacity as Chief of the
5 Bureau of Automotive Repair. Patrick Dorais (Complainant) is the Acting Chief of the Bureau of
6 Automotive Repair and is represented in this matter by Kamala D. Harris, Attorney General of the
7 State of California, by Ron Espinoza, Deputy Attorney General.

8 2. Emmanuel Saucedo (Respondent) is representing himself in this proceeding and has
9 chosen not to exercise his right to be represented by counsel.

10 3. On or about February 29, 2008, the Bureau of Automotive Repair issued Advanced
11 Emission Specialist Technician License Number EA 630019 to Respondent Emmanuel Saucedo.
12 The technician license was in full force and effect at all times relevant to the charges brought in
13 Accusation No. 79/13-95. Respondent Saucedo's technician license is due to expire on June 30,
14 2014. Upon timely renewal of the technician license, the license would be redesignated as
15 EO 630019 and/or EI 630019.¹

16 JURISDICTION

17 4. Accusation No. 79/13-95 was filed before the Director of Consumer Affairs
18 (Director), for the Bureau of Automotive Repair (Bureau), and is currently pending against
19 Respondent. The Accusation and all other statutorily required documents were properly served
20 on Respondent on June 6, 2013. Respondent timely filed his Notice of Defense contesting the
21 Accusation.

22 5. A copy of Accusation No. 79/13-95 is attached as Exhibit A and incorporated herein
23 by reference.

24 ///

25 ///

26 ¹ Effective August 1, 2012, California Code of Regulations, title 16, sections 3340.28,
27 3340.29 and 3340.30 were amended to implement a license restructure from the Advanced
28 Emission Specialist Technician (EA) license and Basic Area (EB) Technician license, to Smog
Check Inspector (EO) license and/or Smog Check Repair Technician (EI) license.

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

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

11 14. 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 15. 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**

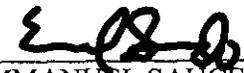
21 **IT IS HEREBY ORDERED** that Advanced Emission Specialist Technician License No.
22 EA630019 issued to Respondent Emmanuel Saucedo is revoked.

23 **IT IS HEREBY FURTHER ORDERED** that the Bureau's costs of investigation and
24 enforcement of this matter in the amount of \$12,537.09 are waived as to Respondent Emmanuel
25 Saucedo unless and until Respondent Saucedo ever applies for licensure or petitions for
26 reinstatement for any license or registration from the Bureau of Automotive Repair, in which case
27 he shall pay these costs to the Bureau in full at the time when such application or petition is made.
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Advanced Emission Specialist Technician License. I 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: 11/12/13 
EMMANUEL SAUCEDO
Respondent

ENDORSEMENT

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

Dated: 1/2/14

Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
JAMES M. LEDAKIS
Supervising Deputy Attorney General

RON ESPINOZA
Deputy Attorney General
Attorneys for Complainant

SD2013805095
11110503.doc

Exhibit A

Accusation No. 79/13-95

1 KAMALA D. HARRIS
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
10 **BEFORE THE
DEPARTMENT OF CONSUMER AFFAIRS
FOR THE BUREAU OF AUTOMOTIVE REPAIR
STATE OF CALIFORNIA**
11

12 In the Matter of the Accusation Against:
13 **RUBY MEDINA, DBA**
LEO'S SMOG CHECK ONLY
14 3553 N. Perris Blvd., #A1
Perris, CA 92571
15 Automotive Repair Dealer Reg. No. ARD 269983
16 Smog Check Test Only Station License No. TC 269983,
17 **EMMANUEL SAUCEDO**
18 18355 Courtney Ct.
Bloomington, CA 92316
19 Advanced Emission Specialist Technician License No.
20 EA 630019 (to be redesignated upon renewal as
EO 630019 and/or EI 630019),

Case No. **79/13-95**
ACCUSATION
(Smog Check)

21 Respondents.
22

23 Complainant alleges:

24 **PARTIES**

25 1. John Wallauch ("Complainant") brings this Accusation solely in his official capacity
26 as the Chief of the Bureau of Automotive Repair ("Bureau"), Department of Consumer Affairs,
27 State of California.

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

12. Bus. & Prof. Code section 9884.22 states, in pertinent part:

(a) Notwithstanding any other provision of law, the director may revoke, suspend, or deny at any time any registration required by this article on any of the grounds for disciplinary action provided in this article. The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the director shall have all the powers granted therein...

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

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

- (a) Violates any section of this chapter [the Motor Vehicle Inspection Program (Health and Saf. Code § 44000, et seq.)) and the regulations adopted pursuant to it, which related to the licensed activities.
-
- (c) Violates any of the regulations adopted by the director pursuant to this chapter.
- (d) Commits any act involving dishonesty, fraud, or deceit whereby another is injured...

COST RECOVERY

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

UNDERCOVER SURVEILLANCE ON NOVEMBER 5, 2012

15. On or about November 5, 2012, the Bureau performed an undercover surveillance operation at Leo's Smog Check Only. The surveillance operation and information obtained from the Bureau's Vehicle Information Database ("VID") revealed that between 1453 hours and 1704 hours, Respondent Saucedo performed five smog inspections that resulted in the issuance of electronic certificates of compliance for the vehicles number 1 through 5 in Table 1, below, certifying that he had tested and inspected those vehicles and that those vehicles were in compliance with applicable laws and regulations. In fact, Respondent Saucedo unlawfully

1 performed the smog inspections using the clean piping method.² Respondent Saucedo unlawfully
2 used the tail pipe emissions of a 1997 Toyota Tacoma Pickup in order to issue the electronic
3 certificates of compliance to vehicles number 1 through 4 in Table 1, below, and a 2000 Mazda
4 626 in order to issue an electronic certificate of compliance to vehicle number 5 in Table 1,
5 below.

6 **UNDERCOVER SURVEILLANCE ON NOVEMBER 8, 2012**

7 16. On or about November 8, 2012, the Bureau performed a second surveillance
8 operation at Leo's Smog Check Only. The surveillance operation and information obtained from
9 the Bureau's Vehicle Information Database ("VID") revealed that between 1503 hours and 1625
10 hours, Respondent Saucedo performed two (2) illegal smog inspections that resulted in the
11 issuance of electronic certificates of compliance for vehicles number 6 and 7 as set forth in
12 Table 1, below, certifying that he had tested and inspected those vehicles and that the vehicles
13 were in compliance with applicable laws and regulations. In fact, Respondent Saucedo
14 unlawfully performed the smog inspections on vehicles number 6 and 7 set forth in Table 1,
15 below, using the clean piping method. Respondent Saucedo unlawfully used the tail pipe
16 emissions of a 1997 Toyota Tacoma Pickup in order to issue the electronic certificates of
17 compliance.

18 **Table 1**

19

20 Test Dates/ Times	Vehicle Certified	Vehicle Actually Tested	Certificate Issued	Details
21 1. 11/5/2012 1453 to 1503	2004 Toyota Tacoma (7H17324)	1997 Toyota Tacoma (5N33547)	XN543646C	2004 Toyota Tacoma, not present at the facility
22 2. 11/5/2012 1513 to 1521	2004 Nissan Frontier (7M99914)	1997 Toyota Tacoma (5N33547)	XN543647C	2004 Nissan Frontier, not present at the facility

24

25

26 ² "Clean piping" is sampling the (clean) tailpipe emissions and/or the RPM readings of
27 another vehicle for the purpose of illegally issuing smog certifications to vehicles that are not in
28 compliance or are not present in the smog check area during the time of the certification.

1	3. 11/5/2012 1525 to 1533	1989 Nissan Pickup (3X51580)	1997 Toyota Tacoma (5N33547)	XN543648C	1989 Nissan Pickup, not present at the facility
2					
3	4. 11/5/2012 1537 to 1543	1993 Lexus ES300 (6SHS439)	1997 Toyota Tacoma (5N33547)	XN543649C	1993 Lexus ES300, not present at the facility
4					
5	5. 11/5/2012 1655 to 1704	2005 Mitsubishi Lancer (5VIH380)	2000 Mazda 626 (6RJL046)	XN616302C	2005 Mitsubishi Lancer, not present at the facility
6					
7	6. 11/8/2012 1503 to 1513	1993 Toyota Tercel 919809X	1997 Toyota Tacoma (5N33547)	XN616332C	1993 Toyota Tercel, not present at the facility
8					
9	7. 11/8/2012 1617 to 1625	1995 Honda Civic Del Sol (5GNZ468)	1997 Toyota Tacoma (5N33547)	XN616334C	1995 Honda Civic Del Sol, not present at the facility
10					

11 **FIRST CAUSE FOR DISCIPLINE**

12 (Untrue or Misleading Statements)

13 17. Respondent Leo's Smog Check Only ARD registration is subject to disciplinary
 14 action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(1), in that on or about
 15 November 5, 2012, and November 8, 2012, Respondent made or authorized statements which it
 16 knew, or in the exercise of reasonable care should have known, to be untrue or misleading, as
 17 follows: Respondent certified that vehicles 1 through 7, identified in Table 1 above, had passed
 18 inspection and were in compliance with applicable laws and regulations. In fact, the inspections
 19 on the vehicles were unlawfully conducted using the clean piping method.

20 **SECOND CAUSE FOR DISCIPLINE**

21 (Fraud)

22 18. Respondent Leo's Smog Check Only ARD registration is subject to disciplinary
 23 action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(4), in that on or about
 24 November 5, 2012, and November 8, 2012, Respondent committed acts which constitute fraud,
 25 by issuing electronic smog certificates of compliance for vehicles 1 through 7, identified in Table
 26 1 above, without performing bona fide inspections of the emission control devices and systems on
 27 the vehicles, thereby depriving the People of the State of California of the protection afforded by
 28 the Motor Vehicle Inspection Program.

1 c. **Section 3340.42:** Respondent failed to conduct the required smog tests and
2 inspections on vehicles 1 through 7, identified in Table 1 above, in accordance with the Bureau's
3 specifications.

4 **FIFTH CAUSE FOR DISCIPLINE**

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

6 21. Respondent Leo's Smog Check Only station license is subject to disciplinary action
7 pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that on or about November 5,
8 2012, and November 8, 2012, Respondent committed dishonest, fraudulent or deceitful acts
9 whereby another is injured by issuing electronic smog certificates of compliance for vehicles 1
10 through 7, identified in Table 1 above, without performing bona fide inspections of the emission
11 control devices and systems on the vehicles, thereby depriving the People of the State of
12 California of the protection afforded by the Motor Vehicle Inspection Program.

13 **SIXTH CAUSE FOR DISCIPLINE**

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

15 22. Respondent Saucedo's technician license(s) is/are subject to disciplinary action
16 pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that on or about November 5,
17 2012, and November 8, 2012, regarding the vehicles set forth in Table 1 above, he violated
18 sections of that Code, as follows:

19 a. **Section 44012:** Respondent failed to ensure that the emission control tests
20 were performed on the vehicles in accordance with procedures prescribed by the Department.

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

23. Respondent Saucedo's technician license(s) is/are subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that on or about November 5, 2012, and November 8, 2012, he failed to comply with provisions of California Code of Regulations, title 16, as follows:

- a. **Section 3340.24(c)**: Respondent falsely or fraudulently issued electronic smog certificates of compliance for vehicles 1 through 7, identified in Table 1 above, without performing bona fide inspections of the emission control devices and systems on those vehicles as required by Health and Safety Code section 44012.
- b. **Section 3340.30(a)**: Respondent failed to inspect and test vehicles 1 through 7, identified in Table 1 above, in accordance with Health & Saf. Code section 44012.
- c. **Section 3340.42**: Respondent failed to conduct the required smog tests and inspections on vehicles 1 through 7, identified in Table 1 above, in accordance with the Bureau's specifications.

EIGHTH CAUSE FOR DISCIPLINE
(Dishonesty, Fraud or Deceit)

24. Respondent Saucedo's technician license(s) is/are subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that on or about November 5, 2012, and November 8, 2012, he committed dishonest, fraudulent, or deceitful acts whereby another is injured, by issuing electronic smog certificates of compliance for vehicles 1 through 7, identified in Table 1 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.

///
///
///

1 OTHER MATTERS

2 25. Pursuant to Bus. & Prof. Code section 9884.7, subdivision (c), the Director may deny,
3 suspend, revoke, or place on probation the registration for all places of business operated in this
4 state by Ruby Medina, upon a finding that she has, or is, engaged in a course of repeated and
5 willful violations of the laws and regulations pertaining to an automotive repair dealer.

6 26. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Test Only Station
7 License No. TC 269983 issued to Ruby Medina, doing business as Leo's Smog Check Only, is
8 revoked or suspended, any additional license issued under Chapter 5 of the Health and Safety
9 Code (Motor Vehicle Inspection Program) in the name of said licensee may be likewise revoked
10 or suspended by the Director.

11 27. Pursuant to Health and Safety Code section 44072.8, if Respondent Saucedo's
12 technician license(s), currently designated as EA 630019 and as redesignated upon timely renewal
13 as EO 630019 and/or EI 630019, is/are revoked or suspended, any additional license issued under
14 this chapter in the name of said licensee may be likewise revoked or suspended by the Director.

15 PRAAYER

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

18 1. Revoking or suspending Automotive Repair Dealer Registration No. ARD 269983
19 issued to Ruby Medina, doing business as Leo's Smog Check Only;

20 2. Revoking or suspending any other automotive repair dealer registration issued to
21 Ruby Medina;

22 3. Revoking or suspending Smog Check Test Only Station License No. TC 269983
23 issued to Ruby Medina, doing business as Leo's Smog Check Only;

24 4. Revoking or suspending any additional license issued under Chapter 5 of the Health
25 and Safety Code in the name of Ruby Medina;

26 5. Revoking or suspending Emmanuel Saucedo's smog technician license(s), currently
27 designated as EA 630019 and as redesignated upon his timely renewal as EO 630019 and/or EI
28 630019;

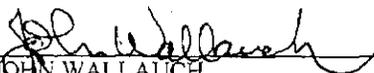
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

7. Ordering Ruby Medina and Emmanuel Saucedo to pay the Director of Consumer Affairs the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED: June 4 2013


JOHN WALLAUCH
Chief
Bureau of Automotive Repair
Department of Consumer Affairs
State of California
Complainant