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

In the Matter of the Accusation Against: **SMOG FOR LESS TEST ONLY** **7300 Van Nuys Blvd, #4** **Van Nuys, CA 91405** **SERGIO GONZALEZ, AKA** **SERGIO SALVADOR GONZALEZ, OWNER** **Automotive Repair Dealer Registration No. ARD 250583** **Smog Check Test Only Station License No. TC 250583,** **SERGIO SALVADOR GONZALEZ, AKA** **SERGIO GONZALEZ** **7840 Agnes Avenue** **North Hollywood, CA 91605** **Advanced Emission Specialist Technician License No. EA 134185,** **IVAN MEJIA** **7300 Van Nuys Blvd, #4** **Los Angeles, CA 91405** **Advanced Emission Specialist Technician License No. EA 631910,** **ADRIAN ALEJANDRO CALVILLO** **7300 Van Nuys Blvd, #4** **Van Nuys, CA 91405** **Advanced Emission Specialist Technician License No. EA 631908,** **PEDRO GONZALEZ** **38242 Gunton Drive** **Palmdale, CA 93550** **Advanced Emission Specialist Technician License No. EA 632840** Respondents.	Case No. 79/12-19 **ACCUSATION** **SMOG CHECK**

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

2. On a date uncertain in 2007, the Bureau issued Automotive Repair Dealer Registration Number ARD 250583 ("registration") to Sergio Gonzalez, also known as Sergio Salvador Gonzalez ("Respondent Smog For Less"), doing business as Smog For Less Test Only. The registration was in full force and effect at all times relevant to the charges brought herein and will expire on May 31, 2012, unless renewed.

Smog Check Test Only Station License

3. On or about May 16, 2007, the Bureau issued Smog Check Test Only Station License Number TC 250583 ("station license") to Respondent Smog For Less. The station license was in full force and effect at all times relevant to the charges brought herein and will expire on May 31, 2012, unless renewed.

Advanced Emission Specialist Technician License

4. On a date uncertain in 1997, the Bureau issued Advanced Emission Specialist Technician License Number EA 134185 ("technician license") to Sergio Salvador Gonzalez ("Respondent Sergio Gonzalez"). The technician license was in full force and effect at all times relevant to the charges brought herein and will expire on April 30, 2013, unless renewed.

Advanced Emission Specialist Technician License

5. On or about March 26, 2010, the Bureau issued Advanced Emission Specialist Technician License Number EA 631910 ("technician license") to Ivan Mejia ("Respondent Mejia"). The technician license was in full force and effect at all times relevant to the charges brought herein and will expire on May 31, 2012, unless renewed.

Advanced Emission Specialist Technician License

6. On or about March 25, 2010, the Bureau issued Advanced Emission Specialist Technician License Number EA 631908 ("technician license") to Adrian Alejandro Calvillo

("Respondent Calvillo"). The technician license was in full force and effect at all times relevant to the charges brought herein and will expire on August 31, 2012, unless renewed.

Advanced Emission Specialist Technician License

7. On or about February 9, 2011, the Bureau issued Advanced Emission Specialist Technician License Number EA 632840 ("technician license") to Pedro Gonzalez ("Respondent Pedro Gonzalez"). The technician license was in full force and effect at all times relevant to the charges brought herein and will expire on April 30, 2013, unless renewed.

STATUTORY PROVISIONS

8. Section 9884.7 of the Business and Professions Code ("Code") states, in pertinent part:

> (a) The director, where the automotive repair dealer cannot show there was a bona fide error, may deny, suspend, revoke, or place on probation the registration of an automotive repair dealer for any of the following acts or omissions related to the conduct of the business of the automotive repair dealer, which are done by the automotive repair dealer or any automotive technician, employee, partner, officer, or member of the automotive repair dealer.
>
> (1) Making or authorizing in any manner or by any means whatever any statement written or oral which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading.
>
> (4) Any other conduct that constitutes fraud.
>
> (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.
>
> (c) Notwithstanding subdivision (b), the director may suspend, revoke, or place on probation the registration for all places of business operated in this state by an automotive repair dealer upon a finding that the automotive repair dealer has, or is, engaged in a course of repeated and willful violations of this chapter, or regulations adopted pursuant to it.

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

10. Code section 477 provides, in pertinent part, that "Board" includes "bureau," "commission," "committee," "department," "division," "examining committee," "program," and "agency." "License" includes certificate, registration or other means to engage in a business or profession regulated by the Code.

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

12. Section 44072.2 of the Health and Safety Code 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.

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

14. 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.

COST RECOVERY

15. 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.

SURVEILLANCE OPERATION – MAY 7, 2011

16. On or about May 7, 2011, the Bureau performed a video-taped surveillance at Respondent Smog For Less' facility. The surveillance operation and information obtained from the Bureau's Vehicle Information Database ("VID") revealed that between 1546 hours and 1748 hours, Respondent Mejia, Respondent Pedro Gonzalez, and Respondent Calvillo, performed six (6) smog inspections that resulted in the issuance of electronic certificates of compliance for the vehicles set forth in Table 1, below. The vehicles were certified as having been tested and inspected and that the vehicles were in compliance with applicable laws and regulations, as more particularly set forth in Table 1, below. In fact, the smog inspections were performed using the clean piping method[1] by using the tail pipe emissions of vehicles other than the vehicles being certified in order to issue the electronic certificates of compliance.

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

Table 1

Date and Test Times	Vehicle Certified	Vehicle Actually Tested	Certificate Issued	Details
1 5/7/2011 1546 hours to 1558 hours	1985 Toyota Pickup, License No. 3C37587	1995 Toyota Previa, License No. 3LUM073 and 1998 Mercedes E320	OC782013C	Respondent Mejia and Respondent Pedro Gonzalez performed the tests using Respondent Mejia's access code.
2 5/7/2011 1657 hours to 1703 hours	2003 Nissan, License No. 5ZLM332		Failed Test No Cert Issued	Respondent Calvillo performed the tests using Respondent Mejia's personal access code.
3 5/7/2011 1708 hours to 1713 hours	2003 Nissan Sentra, License No. 5ZLM332	2002 Mercury Mountaineer, License No. 4WPG204	OC782014C	Respondent Calvillo performed the tests with the assistance of Respondent Pedro Gonzalez, using Respondent Calvillo's access code.
4 5/7/2011 1717 hours to 1721 hours	1997 Dodge Avenger, License No. 5HPW129	2002 Mercury Mountaineer, License No. 4WPG204	OC782015C	Respondent Pedro Gonzalez and Respondent Calvillo performed the tests using Respondent Calvillo's access code.
5 5/7/2011 1724 hours to 1728 hours	1997 Ford F150 Pickup, License No. 7C46055	2002 Mercury Mountaineer, License No. 4WPG204	OC782016C	Respondent Pedro Gonzalez and Respondent Calvillo performed the tests using Respondent Calvillo's access code.
6 5/7/2011 1732 hours to 1737 hours	2001 Lexus IS 300, License No. 4RYZ271	2002 Mercury Mountaineer, License No. 4WPG204	OC782017C	Respondent Pedro Gonzalez and Respondent Calvillo performed the tests using Respondent Mejia's access code.
7 5/7/2011 1740 hours to 1748 hours	1995 Ford Econoline Van License No. 8C86817	2003 Nissan Sentra, License No. 5ZLM332	OC782018C	Respondent Pedro Gonzalez and Respondent Calvillo performed the tests using Respondent Mejia's access code

FIRST CAUSE FOR DISCIPLINE

(Misleading Statements)

17. Respondent Smog For Less has subjected his registration to discipline under Code section 9884.7, subdivision (a)(1), in that on or about May 7, 2011, he made statements which he knew or which by exercise of reasonable care he should have known were untrue or misleading when he issued electronic certificates of compliance for the vehicles set forth in Table 1, above, certifying that those vehicles were in compliance with applicable laws and regulations when, in fact, the vehicles had been clean piped.

SECOND CAUSE FOR DISCIPLINE

(Fraud)

18. Respondent Smog For Less has subjected his registration to discipline under Code section 9884.7, subdivision (a)(4), in that on or about May 7, 2011, he committed acts which constitute fraud by issuing electronic certificates of compliance for the vehicles set forth in Table 1, above, without performing bona fide inspections of the emission control devices and systems on those vehicles, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

THIRD CAUSE FOR DISCIPLINE

(Violation of the Motor Vehicle Inspection Program)

19. Respondent Smog For Less has subjected his station license to discipline under Health and Safety Code section 44072.2, subdivision (a), in that on or about May 7, 2011, regarding the vehicles set forth in Table 1, above, he violated sections of that Code, as follows:

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

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

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

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

FOURTH CAUSE FOR DISCIPLINE

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

20. Respondent Smog For Less has subjected his station license to discipline under Health and Safety Code section 44072.2, subdivision (c), in that on or about May 7, 2011, regarding the vehicles set forth in Table 1, above, he violated sections of the California Code of Regulations, title 16, as follows:

a. **Section 3340.24, subdivision (c)**: Respondent Smog For Less falsely or fraudulently issued electronic certificates of compliance 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 3340.35, subdivision (c)**: Respondent Smog For Less issued electronic certificates of compliance even though those vehicles had not been inspected in accordance with section 3340.42 of that Code.

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

FIFTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

21. Respondent Smog For Less subjected his station license to discipline under Health and Safety Code section 44072.2, subdivision (d), in that on or about May 7, 2011, regarding the vehicles set forth in Table 1, above, he committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing electronic certificates of compliance for those vehicles without performing bona fide inspections of the emission control devices and system on those

vehicles, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

SIXTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

22. Respondent Mejia has subjected his technician license to discipline under Health and Safety Code section 44072.2, subdivision (a), in that on or about May 7, 2011, regarding Vehicles 1, 2, 6, and 7, set forth in Table 1, above, he violated sections of that Code, as follows:

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

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

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

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

SEVENTH CAUSE FOR DISCIPLINE

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

23. Respondent Mejia has subjected his technician license to discipline under Health and Safety Code section 44072.2, subdivision (c), in that on or about May 7, 2011, regarding Vehicles 1, 2, 6, and 7, set forth in Table 1, above, he violated sections of the California Code of Regulations, title 16, as follows:

a. **Section 3340.24, subdivision (c)**: Respondent Mejia falsely or fraudulently issued electronic certificates of compliance 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, subdivision (a)**: Respondent Mejia failed to inspect and test those vehicles in accordance with Health and Safety Code section 44012.

c. **Section 3340.41, subdivision (b)**: Respondent Mejia allowed another person to use his personal access code in order to perform tests and inspections on Vehicles 2, 6, and 7, set forth in Table 1, above.

d. **Section 3340.41, subdivision (c)**: Respondent Mejia entered false information into the Emission Inspection System ("EIS") for the electronic certificates of compliance by entering vehicle emission control information for vehicles other than the vehicles being certified.

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

EIGHTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

24. Respondent Mejia has subjected his technician license to discipline under Health and Safety Code section 44072.2, subdivision (d), in that on or about May 7, 2011, he committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing electronic certificates of compliance for Vehicles 1, 2, 6, and 7, set forth in Table 1, above, without performing bona fide inspections of the emission control devices and systems on those vehicles, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

NINTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

25. Respondent Calvillo has subjected his technician license to discipline under Health and Safety Code section 44072.2, subdivision (a), in that on or about May 7, 2011, regarding Vehicles 2, 3, 4, 5, 6 and 7, set forth in Table 1, above, he violated sections of that Code, as follows:

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

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

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

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

TENTH CAUSE FOR DISCIPLINE

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

26. Respondent Calvillo has subjected his technician license to discipline under Health and Safety Code section 44072.2, subdivision (c), in that on or about May 7, 2011, regarding Vehicles 2, 3, 4, 5, 6, and 7, set forth in Table 1, above, he violated sections of the California Code of Regulations, title 16, as follows:

a. **Section 3340.24, subdivision (c)**: Respondent Calvillo falsely or fraudulently issued electronic certificates of compliance 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, subdivision (a)**: Respondent Calvillo failed to inspect and test those vehicles in accordance with Health and Safety Code section 44012.

c. **Section 3340.41, subdivision (c)**: Respondent Calvillo entered false information into the EIS for the electronic certificates of compliance by entering vehicle emission control information for vehicles other than the vehicles being certified.

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

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ELEVENTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

27. Respondent Calvillo has subjected his technician license to discipline under Health and Safety Code section 44072.2, subdivision (d), in that on or about May 7, 2011, he committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing electronic certificates of compliance for Vehicles 2, 3, 4, 5, 6, and 7, set forth in Table 1, above, without performing bona fide inspections of the emission control devices and systems on those vehicles, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

TWELFTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

28. Respondent Gonzalez has subjected his technician license to discipline under Health and Safety Code section 44072.2, subdivision (a), in that on or about May 7, 2011, regarding vehicles 1, 3, 4, 5, 6, and 7, set forth in Table 1, above, he violated sections of that Code, as follows:

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

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

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

THIRTEENTH CAUSE FOR DISCIPLINE

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

29. Respondent Gonzalez has subjected his technician license to discipline under Health and Safety Code section 44072.2, subdivision (c), in that on or about May 7, 2011, regarding the

vehicles set forth in Table 1, above, he violated sections of the California Code of Regulations, title 16, as follows:

a. **Section 3340.30, subdivision (a)**: Respondent Gonzalez failed to inspect and test those vehicles in accordance with Health and Safety Code section 44012.

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

SURVEILLANCE OPERATION – MAY 22, 2011

30. On or about May 22, 2011, the Bureau performed a video-taped surveillance at Respondent Smog For Less' facility. The surveillance operation and information obtained from the Bureau's VID revealed that between 1244 hours and 1539 hours, Respondent Mejia, performed nine (9) smog inspections that resulted in the issuance of electronic certificates of compliance for the vehicles set forth in Table 2, below, certifying that he had tested and inspected those vehicles and that the vehicles were in compliance with applicable laws and regulations. In fact, Respondent Mejia performed the smog inspections using the clean piping method by using the tail pipe emissions of vehicles other than the vehicles being certified in order to issue the electronic certificates of compliance. None of the vehicles certified were in the test bay at the time of the smog inspections.

Table 2

Date and Test Times	Vehicle Certified	Vehicle Actually Tested	Certificate Issued	Details
1 5/22/2011 1244 hours to 1304 hours	1998 Toyota 4Runner, License No. 6PYN419	1998 Mercedes E320	OC886188C	Respondent Mejia performed the smog inspection.
2 5/22/2011 1312 hours to 1319 hours	1995 Buick LeSabre, License No. 3RJU442	2005 Toyota Camry License No. 5PFZ507	OC886189C	Respondent Mejia performed the smog inspection.

3 5/22/2011 1355 hours to 1414 hours	1994 Ford Taurus, License No. 3KDK813	2005 Toyota Camry License No. 5PFZ507	OC886191C	Respondent Mejia performed the smog inspection.
4 5/22/2011 1430 hours to 1435 hours	2005 Ford Explorer, No License Plate	2005 Toyota Camry License No. 5PFZ507	OC886192C	Prior to this beginning this test, Respondent Mejia aborted a test on this vehicle. Respondent Mejia performed this smog inspection.
5 5/22/2011 1440 hours to 1450 hours	2000 Buick LeSabre, No License Plate	2005 Toyota Camry License No. 5PFZ507	OC886193C	Respondent Mejia performed the smog inspection.
6 5/22/2011 1455 hours to 1505 hours	2000 Chevrolet Astro, No License Plate	2005 Toyota Camry License No. 5PFZ507	OC886194C	Respondent Mejia performed the smog inspection
7 5/22/2011 1509 hours to 1515 hours	1999 Nissan Quest, No License Plate	2005 Toyota Camry License No. 5PFZ507	OC886195C	Respondent Mejia performed the smog inspection
8 5/22/2011 1521 hours to 1528 hours	2000 Ford Explorer, License No. 4MED064	2005 Toyota Camry License No. 5PFZ507	OC886196C	Respondent Mejia performed the smog inspection
9 5/22/2011 1532 hours to 1539 hours	2001 Chrysler Sebring, No License Plate	2005 Toyota Camry License No. 5PFZ507	OC886197C	Respondent Mejia performed the smog inspection

FOURTEENTH CAUSE FOR DISCIPLINE

(Misleading Statements)

31. Respondent Smog For Less has subjected his registration to discipline under Code section 9884.7, subdivision (a)(1), in that on or about May 22, 2011, he made statements which he knew or which by exercise of reasonable care he should have known were untrue or misleading when he issued electronic certificates of compliance for the vehicles set forth in Table

2, above, certifying that those vehicles were in compliance with applicable laws and regulations when, in fact, the vehicles had been clean piped.

FIFTEENTH CAUSE FOR DISCIPLINE

(Fraud)

32. Respondent Smog For Less has subjected his registration to discipline under Code section 9884.7, subdivision (a)(4), in that on or about May 22, 2011, he committed acts which constitute fraud by issuing electronic certificates of compliance for the vehicles set forth in Table 2, above, without performing bona fide inspections of the emission control devices and systems on those vehicles, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

SIXTEENTH CAUSE FOR DISCIPLINE

(Violation of the Motor Vehicle Inspection Program)

33. Respondent Smog For Less has subjected his station license to discipline under Health and Safety Code section 44072.2, subdivision (a), in that on or about May 22, 2011, regarding the vehicles set forth in Table 2, above, he violated sections of that Code, as follows:

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

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

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

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

SEVENTEENTH CAUSE FOR DISCIPLINE

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

34. Respondent Smog For Less has subjected his station license to discipline under Health and Safety Code section 44072.2, subdivision (c), in that on or about May 22, 2011, regarding the vehicles set forth in Table 2, above, he violated sections of the California Code of Regulations, title 16, as follows:

a. **Section 3340.24, subdivision (c)**: Respondent Smog For Less falsely or fraudulently issued electronic certificates of compliance 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 3340.35, subdivision (c)**: Respondent Smog For Less issued electronic certificates of compliance even though those vehicles had not been inspected in accordance with section 3340.42 of that Code.

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

EIGHTEENTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

35. Respondent Smog For Less subjected his station license to discipline under Health and Safety Code section 44072.2, subdivision (d), in that on or about May 22, 2011, regarding the vehicles set forth in Table 2, above, he committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing electronic certificates of compliance for those vehicles without performing bona fide inspections of the emission control devices and system on those vehicles, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

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NINETEENTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

36. Respondent Mejia has subjected his technician license to discipline under Health and Safety Code section 44072.2, subdivision (a), in that on or about May 22, 2011, regarding the vehicles set forth in Table 2, above, he violated sections of that Code, as follows:

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

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

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

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

TWENTIETH CAUSE FOR DISCIPLINE

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

37. Respondent Mejia has subjected his technician license to discipline under Health and Safety Code section 44072.2, subdivision (c), in that on or about May 22, 2011, regarding the vehicles set forth in Table 2, above, he violated sections of the California Code of Regulations, title 16, as follows:

a. **Section 3340.24, subdivision (c)**: Respondent Mejia falsely or fraudulently issued electronic certificates of compliance 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, subdivision (a)**: Respondent Mejia failed to inspect and test those vehicles in accordance with Health and Safety Code section 44012.

c. **Section 3340.41, subdivision (c)**: Respondent Mejia entered false information into the EIS for the electronic certificates of compliance by entering vehicle emission control information for vehicles other than the vehicles being certified.

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

TWENTY-FIRST CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

38. Respondent Mejia has subjected his technician license to discipline under Health and Safety Code section 44072.2, subdivision (d), in that on or about May 22, 2011, he committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing electronic certificates of compliance for the vehicles set forth in Table 2, above, without performing bona fide inspections of the emission control devices and systems on those vehicles, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

OTHER MATTERS

39. Under Code section 9884.7, subdivision (c), the director may invalidate temporarily or permanently or refuse to validate, the registrations for all places of business operated in this state by Sergio S. Gonzalez, upon a finding that he has, or is, engaged in a course of repeated and willful violations of the laws and regulations pertaining to an automotive repair dealer.

40. Under Health and Safety Code section 44072.8, if Smog Check Test Only Station License Number TC 250583, issued to Sergio S. Gonzalez doing business as Smog For Less Test Only, 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 including, but not limited to Advanced Emission Specialist Technician License Number EA 134185, issued to Sergio Salvador Gonzalez.

41. Under Health and Safety Code section 44072.8, if Advanced Emission Specialist Technician License Number EA 631910, issued to Ivan Mejia 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.

42. Under Health and Safety Code section 44072.8, if Advanced Emission Specialist Technician License Number EA 631908, issued to Adrian Alejandro Calvillo 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.

43. Under Health and Safety Code section 44072.8, if Advanced Emission Specialist Technician License Number EA 632840, issued to Pedro Gonzalez 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.

PRAYER

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

1. Revoking, suspending, or placing on probation, Automotive Repair Dealer Registration Number ARD 250583, issued to Sergio Salvador Gonzalez doing business as Smog For Less Test Only;

2. Revoking, suspending, or placing on probation, any other automotive repair dealer registration issued to Sergio Salvador Gonzalez;

3. Revoking or suspending Smog Check Test Only Station License Number TC 250583, issued to Sergio Salvador Gonzalez doing business as Smog For Less Test Only;

4. Revoking or suspending any additional license issued under Chapter 5 of the Health and Safety Code in the name of Sergio Salvador Gonzalez including but not limited to Advanced Emission Specialist Technician License Number EA 134185, issued to Sergio Salvador Gonzalez;

5. Revoking or suspending Advanced Emission Specialist Technician License Number EA 631910, issued to Ivan Mejia

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

7. Revoking or suspending Advanced Emission Specialist Technician License Number EA 631908, issued to Adrian Alejandro Calvillo

8. Revoking or suspending any additional license issued under Chapter 5 of the Health and Safety Code in the name of Adrian Alejandro Calvillo;

9. Revoking or suspending Advanced Emission Specialist Technician License Number EA 632840, issued to Pedro Gonzalez

10. Revoking or suspending any additional license issued under Chapter 5 of the Health and Safety Code in the name of Pedro Gonzalez;

11. Ordering Sergio Salvador Gonzalez, Ivan Mejia, Adrian Alejandro Calvillo, and Pedro Gonzalez to pay the Bureau of Automotive Repair the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

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

DATED: 8/30/11

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

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