

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

In the Matter of the Petition For Interim
Suspension Order Against:

Case No. 79/12-19

SMOG FOR LESS TEST ONLY;
SERGIO S. GONZALEZ, Owner
Automotive Repair Dealer Registration
No. ARD 250583
Smog Test Only Station License
No. TC 250583 -
Advanced Emission Specialist Technician
License No. EA 134185 -

OAH No. 2011080988

INTERIM SUSPENSION ORDER

and

IVAN MEJIA
Advanced Emission Specialist Technician
License No. EA 631910 -

and

ADRIAN ALEJANDRO CALVILLO
Advanced Emission Specialist Technician
License No. EA 631908 -

and

PEDRO GONZALEZ aka
PEDRO GONZALEZ LLAMAS
Advanced Emission Specialist Technician
License No. EA 632840 -

Respondents.

INTERIM SUSPENSION ORDER

The Petition of Sherry Mehl for an Interim Suspension Order against Respondents was heard on September 16, 2011, at Los Angeles, by David B. Rosenman, Administrative Law Judge (ALJ), Office of Administrative Hearings. Complainant was represented by Kevin J. Rigley, Deputy Attorney General. Respondent Sergio S. Gonzalez was present; Respondent Pedro Gonzalez was present; Respondent Ivan Mejia was present; Respondent Adrian A. Calvillo was present and was represented by Ronald Carpol, Attorney-at-Law.

The Petition and supporting documents and evidence was received, and argument heard from the parties. The ALJ hereby makes the following factual findings, legal conclusions, and order.

FACTUAL FINDINGS

1. Petitioner Sherry Mehl brought the Petition for Interim Suspension Order (Petition) in her official capacity as Chief of the Bureau of Automotive Repair (Bureau), Department of Consumer Affairs, State of California.
2. Respondent Sergio S. Gonzalez does business in Van Nuys as Smog For Less Test Only. He holds a license to operate Smog For Less Test Only, license number TC 250583. He also holds an Automobile Repair Dealer Registration (ARD), number ARD 250583. Under the name Sergio Salvador Gonzalez, he holds a third license, that of an Advanced Emission Specialist Technician, license number EA 134185. These licenses were issued to him by the Bureau.
3. Respondent Ivan Mejia holds a license issued to him by the Bureau as an Advanced Emission Specialist Technician, license number EA 631910.
4. Respondent Adrian Alejandro Calvillo holds a license issued to him by the Bureau as an Advanced Emission Specialist Technician, license number EA 631908.
5. Respondent Pedro Gonzalez holds a license issued to him by the Bureau as an Advanced Emission Specialist Technician, license number EA 632840.
6. On May 7, 2011, Respondent Mejia and Respondent Calvillo conducted smog checks of vehicles at Respondent S. Gonzalez's place of business in Van Nuys. They were assisted in moving some of the vehicles and in performing some of the smog checks by Respondent P. Gonzalez. During that day, they were under surveillance by investigators employed by the Bureau. Respondent Mejia and Respondent Calvillo, assisted by Respondent P. Gonzalez, issued six smog check certificates on that date that were false and fraudulent, in that they did not actually test the six vehicles for which smog certificates issued. Instead, they utilized the illegal technique of "clean piping," by entering information about the car that would be issued a certificate that it passed the inspection into the

computer-based smog testing system, and then sampling and testing the exhaust emitted from a different vehicle.

7. For example, from 5:08 to 5:37 p.m. on May 7, 2011, in four instances, Respondents Mejia, Calvillo and P. Gonzalez sampled the exhaust emissions from a 2002 Mercury Mountaineer and then caused four false smog certificates to be issued, based on those exhaust samples, to vehicles that were not actually present at the facility, as follows:

Certificate number OC782014C, issued to a 2003 Nissan Sentra;
Certificate number OC782015C, issued to a 1997 Dodge Avenger;
Certificate number OC782016C, issued to a 1997 Ford Pickup;
Certificate number OC782017C, issued to a 2001 Lexus is300.

8. On May 22, 2011, Respondent Mejia conducted smog checks of vehicles at Respondent S. Gonzalez's place of business in Van Nuys. During that day, he was under surveillance by investigators employed by the Bureau. Respondent Mejia issued nine smog check certificates on that date that were false and fraudulent, in that they did not actually test the nine vehicles for which smog certificates issued. Instead, he utilized the illegal technique of "clean piping."

9. For example, from 2:30 to 5:39 p.m. on May 22, 2011, in six instances, Respondent Mejia sampled the exhaust emissions from a 2005 Toyota Camry and then caused six false smog certificates to be issued, based on those exhaust samples, to vehicles that were not actually present at the facility, as follows:

Certificate number OC886192C, issued to a 2005 Ford Explorer;
Certificate number OC886193C, issued to a 2000 Buick Lesabre;
Certificate number OC886194C, issued to a 2000 Chevy Astro;
Certificate number OC886195C, issued to a 1999 Nissan Quest;
Certificate number OC886196C, issued to a 2000 Ford Explorer;
Certificate number OC886197C, issued to a 2001 Chrysler Sebring.

10. On both days the false smog certificates and related information were transmitted to a vehicle data base. The Department of Motor Vehicles (DMV) accesses that data base to establish that a car has passed a smog check before a car's registration is renewed. It is reasonably inferred that the owners of the automobiles for which false certificates issued were able to renew the registration of their vehicles, and that the DMV relied on the false information in the data base in renewing the vehicle registrations.

11. California's smog check program is designed to improve air quality and to protect the public health by reducing vehicle emissions. It is also designed to comply with federal law, the Clean Air Act. (See Health & Saf. Code, §§ 44000, 44000.5, & 44001.)

12. Respondent S. Gonzalez submitted evidence (Exhibit A) that he regularly reviews vehicle test data and documents to reconcile activity at the facility and that on Monday, June 6, 2011, he determined that unauthorized smog checks had been performed on Sunday, June 5, 2011. According to Exhibit A, Respondent S. Gonzalez stated to a Bureau Investigator that Respondent Mejia no longer worked for Smog For Less Test Only as of April 2011. It was also established that Respondent P. Gonzalez and Calvillo no longer work for Smog For Less Test Only

13. Allowing Respondent S. Gonzalez, Respondent Mejia, Respondent Calvillo and Respondent P. Gonzalez to continue to engage in licensed activity would endanger the public health, safety, and welfare. Even though there were no allegations relating to actions taken directly by Respondent S. Gonzalez, he is responsible for lack of oversight and supervision such that these actions took place in his licensed facility.

LEGAL CONCLUSIONS

1. Jurisdiction to proceed in this matter exists under Business and Professions Code sections 494 and 9884.7, and Health and Safety Code section 44072.2, based on Factual Findings 1 through 5.

2. Under Business and Professions Code section 9884.7 and Health and Safety Code section 44072.2, the licenses and registrations issued to Respondents can be suspended temporarily based upon evidence that establishes that they have made untrue statements, have violated the Motor Vehicle Inspection Program, or committed any act of dishonesty, fraud or deceit whereby another is injured. Health and Safety Code section 44072.10, subdivision (c), specifically permits license discipline of a technician or smog check station for fraudulent inspections by clean piping.

3. Respondents Mejia, Calvillo and P. Gonzalez have violated Health and Safety Code section 44072.2, subdivisions (a), (c) and (d), and Business and Professions Code section 9884.7, subdivisions (a)(1) and (a)(4), by clean piping vehicles, and by issuing false and fraudulent smog certificates, based on Factual Findings 6 through 10.

4. Respondent S. Gonzalez is responsible for the actions of the other Respondents because, under Business and Professions Code section 9884.7, subdivision (1)(2), an automotive repair dealer subjects his registration to discipline for any acts or omissions including those made by his mechanics and employees. Further, under California Code of Regulations, title 16, section 3340.35, a licensed smog check station must purchase from the Bureau the certificates of compliance for vehicles that pass inspection, and may pass that cost through to the vehicle owner. The evidence establishes that Respondent S. Gonzalez was able to discover questionable smog check activities occurring later than the ones that occurred in May 2011, which is commendable. However, he did not use the same diligence to uncover the activities that occurred on May 7 and May 22, 2011. On these days, certificates of compliance that he had paid for were issued to car owners. One would expect

a licensee such as Respondent S. Gonzalez to be particularly aware when he had purchased these certificates and the certificates got issued, yet he claims he was not aware of the smog checks being performed. Under the totality of the evidence, Respondent S. Gonzalez should not be allowed to remain licensed or registered by the Bureau in any capacity until a full hearing on an accusation that may be issued after this Order is issued. Similarly, the actions of Respondents Mejia, Calvillo and P. Gonzalez raise questions of their understanding of the obligations of a technician and the risk that they may not properly administer smog checks.

5. Permitting Respondent S. Gonzalez, Respondent Mejia, Respondent Calvillo and Respondent P. Gonzalez to continue in their licensed activity, in light of their dishonest use of their licenses, and their fraudulent conduct, and legal responsibilities, would endanger the public health, safety, and welfare, based on Factual Findings 6 through 13. As a matter of law, control and elimination of air pollutants is necessary to protect the public health and well being, and to protect property and vegetation. (Health & Saf. Code, § 43000, subd. (b).) Even without the declaration of Dr. Weller, filed in support of the Petition, it should be self-evident that reduction of vehicle emissions is important to the public health and welfare. Furthermore, the issuance of fraudulent documents by a licensee, which become part of a public record, and are relied upon by public agencies, is also pernicious to the public welfare.

6. Based on the events of May 7 and May 22, 2011, and the other evidence presented, there is a risk that conduct that violates the law may occur in the future unless the licenses and registration of Respondent S. Gonzalez, Respondent Mejia, Respondent Calvillo and Respondent P. Gonzalez are suspended temporarily, under Business and Professions Code section 494. Based on all the foregoing, cause has been established to issue an interim suspension order, suspending the licenses and registration of Respondent S. Gonzalez, Respondent Mejia, Respondent Calvillo and Respondent P. Gonzalez.

7. It is expected that the Bureau will comply with Business and Professions Code section 494 and file an accusation against Respondents within 15 after this Interim Suspension Order is issued. Upon request of any Respondent, a hearing on that accusation must take place within 30 days. The other provisions of Business and Professions Code section 494 will also apply.

ORDER

1. The ARD issued to Respondent Sergio S. Gonzalez, number ARD 250583, is hereby suspended pursuant to Business and Professions Code section 494.

2. The Smog Test Only Station license issued to Respondent Sergio S. Gonzalez, number TC 250583, is hereby suspended pursuant to Business and Professions Code section 494.

3. The Advanced Emission Specialist Technician license issued to Respondent Sergio Salvador Gonzalez, number EA 154185, is hereby suspended pursuant to Business and Professions Code section 494.

4. The Advanced Emission Specialist Technician license issued to Respondent Ivan Mejia, number EA 631910, is hereby suspended pursuant to Business and Professions Code section 494.

5. The Advanced Emission Specialist Technician license issued to Respondent Adrian Alejandro Calvillo, number EA 631908, is hereby suspended pursuant to Business and Professions Code section 494.

6. The Advanced Emission Specialist Technician license issued to Respondent Pedro Gonzalez, number EA 632840, is hereby suspended pursuant to Business and Professions Code section 494.

DATED: September 19, 2011.



DAVID B. ROSENMAN
Administrative Law Judge
Office of Administrative Hearings

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

11 In the Matter of the Petition for Interim Suspension
12 Order Against:

Case No. 79/12-19

OAH No.

13 **SERGIO S. GONZALEZ AKA**
14 **SERGIO SALVADOR GONZALEZ - OWNER**
15 **DBA SMOG FOR LESS TEST ONLY**
7300 Van Nuys Blvd. #4
Van Nuys, CA 91405

**PETITION FOR INTERIM
SUSPENSION ORDER**

(Filed concurrently with Memorandum of
Points and Authorities in Support of
Interim Suspension Order)

16 Automobile Repair Dealer Registration
17 No. ARD 250583
18 Smog Check Test Only Station License
19 No. TC 250583
Advanced Emission Specialist Technician License
20 No. EA 134185

Hearing Date: September 16, 2011

Hearing Time: 1:30 p.m.

Place: Office of Administrative Hearings
320 West Fourth Street, Suite 630
Los Angeles, CA 90013

21 and

22 **IVAN MEJIA**
23 7300 Van Nuys Blvd. #4
24 Van Nuys, CA 91405

25
26 Advanced Emission Specialist Technician License
No. EA 631910
27
28

1 **ADRIAN ALEJANDRO CALVILLO**

2 7300 Van Nuys Blvd. #4
3 Van Nuys, CA 91340

4 Other Address:

5 11920 Phillippi Ave.
6 San Fernando, CA 91340

7 Advanced Emission Specialist Technician License
8 No. EA 631908

9 and

10
11 **PEDRO GONZALEZ AKA**
12 **PEDRO GONZALEZ LLAMAS**

13 38242 Gunton Dr.
14 Palmdale, CA 93550

15 Advanced Emission Specialist Technician License
16 No. EA 632840

17 Respondents.

18
19 **INTRODUCTION**

20 Petitioner Sherry Mehl (Petitioner), Bureau Chief of the Bureau of Automotive Repair
21 (Bureau), Department of Consumer Affairs (Board), State of California, hereby petitions for an
22 Interim Suspension Order pursuant to Business and Professions Code section 494 against Sergio
23 S. Gonzalez AKA Sergio Salvador Gonzales (Respondent Sergio Gonzalez), as owner of and
24 doing business as Smog For Less Test Only (Respondent Smog For Less), Automotive Repair
25 Dealer Registration No. ARD 250583, Smog Check Test Only Station License No. TC 250583,
26 and Advanced Emission Specialist Technician License No. EA 134185; and Ivan Mejia
27 (Respondent Mejia), Advanced Emission Specialist Technician License No. EA 631910; Adrian
28 Alejandro Calvillo (Respondent Calvillo), Advanced Emission Specialist Technician License No.

1 EA 631908; and Pedro Gonzalez AKA Pedro Gonzalez Llamas (Respondent Pedro Gonzalez),
2 Advanced Emission Specialist Technician License No. EA 632840. This Petition is based upon
3 this petition for interim suspension order, the concurrently filed memorandum of points and
4 authorities, supporting declarations and exhibits, all documents on file in this matter, as well as
5 any oral argument made at the hearing.

6 **PARTIES**

7 1. Petitioner is duly appointed and serving as the Bureau Chief of the Bureau, and
8 files this Petition in her official capacity.

9 2. In or around the year 2007, the Bureau issued ARD Registration No. ARD 250583
10 (ARD registration) to Respondent Sergio Gonzalez. On or about May 16, 2007, the Bureau
11 issued Smog Check Test Only Station License No. TC 250583 (station license) to Respondent
12 Sergio Gonzalez. The ARD registration and station license were in full force and effect at all
13 times relevant to the charges brought herein and will expire on May 31, 2012, unless renewed.
14 (Ex. 1)

15 3. In or around the year 1997, the Bureau issued Advanced Emission Specialist
16 Technician License No. EA 134185 (technician license) to Respondent Sergio Gonzalez. The
17 technician license was in full force and effect at all times relevant to the charges brought herein
18 and will expire on April 30, 2013, unless renewed. (Ex. 2)

19 4. On or about March 26, 2010, the Bureau issued Advanced Emission Specialist
20 Technician License No. EA 631910 (technician license) to Respondent Mejia. The technician
21 license was in full force and effect at all times relevant to the charges brought herein and will
22 expire on May 31, 2012, unless renewed. (Ex. 3)

23 5. On or about March 25, 2010, the Bureau issued Advanced Emission Specialist
24 Technician License No. EA 631908 (technician license) to Respondent Calvillo. The technician
25 license was in full force and effect at all times relevant to the charges brought herein and will
26 expire on August 31, 2012, unless renewed. (Ex. 4)

27 6. On or about February 9, 2011, the Bureau issued Advanced Emission Specialist
28 Technician License No. EA 632840 (technician license) to Respondent Pedro Gonzalez. The

1 technician license was in full force and effect at all times relevant to the charges brought herein
2 and will expire on April 30, 2013, unless renewed. (Ex. 5)

3 JURISDICTION

4 7. Business and Professions Code section 494 provides, in pertinent part as follows:

5 (a) A board or administrative law judge sitting alone...may, upon petition, issue
6 an interim order suspending any licentiate....The petition shall include affidavits that
7 demonstrate, to the satisfaction of the board, both of the following:

8 (1) The licentiate has engaged in acts or omissions constituting a violation of
9 this code or has been convicted of a crime substantially related to the licensed
10 activity.

11 (2) Permitting the licentiate to continue to engage in the licensed activity, or
12 permitting the licentiate to continue in the licensed activity without restrictions,
13 would endanger the public health, safety, or welfare.

14 8. Business and Professions Code section 9884.7 states, in pertinent part:

15 (a) The director, where the automotive repair dealer cannot show there was a
16 bona fide error, may refuse to validate, or may invalidate temporarily or permanently,
17 the registration of an automotive repair dealer for any of the following acts or
18 omissions related to the conduct of the business of the automotive repair dealer,
19 which are done by the automotive repair dealer or any automotive technician,
20 employee, partner, officer, or member of the automotive repair dealer.

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

24 ...
25 (4) Any other conduct which constitutes fraud.

26 9. Health and Safety Code section 44072.2 states, in pertinent part:

27 The director may suspend, revoke, or take other disciplinary action against a license
28 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.

D. Based on the observations of Bureau personnel, VID data, and review of the video taped surveillance, it was determined that six (6) illegal smog inspections were performed during the surveillance period, which resulted in the issuance of six (6) illegal smog check certificates (indicated in boldface), as follows:

| Time of Smog Inspection | Vehicle Certified and License Number | Vehicle Actually Tested | Certificate No. |
|--------------------------------|--|---|------------------------|
| 1. 09:09 - 09:17 | 2005 BMW License plate No. 6CND470 | 2005 BMW License plate No. 6CND470 | OC782010C |
| 2. 09:32 - 09:40 | 2005 Mercedes License plate No. 6DWJ856 | 2005 Mercedes License plate No. 6DWJ856 | OC782011C |
| 3. 11:38 - 11:51 | 1993 Suzuki License plate No. 6HYG967 | 1993 Suzuki License plate No. 6HYG967 | OC782012C |
| 4. 15:46 - 15:58 | 1985 Toyota Pick-up License plate No. 3C37587 | 1995 Toyota Previa License plate No. 3LUM073; and 1998 Mercedes E320 | OC782013C |
| 5. 16:57 - 17:03 | 2003 Nissan Sentra License plate No. 5ZLM332 | 2003 Nissan Sentra License plate No. 5ZLM332 | None |
| 6. 17:08 - 17:13 | 2003 Nissan Sentra License plate No. 5ZLM332 | 2002 Mercury Mountaineer License plate No. 4WPG204 | OC782014C |
| 7. 17:17 - 17:21 | 1997 Dodge Avenger License plate No. 5HPW129 | 2002 Mercury Mountaineer License plate No. 4WPG204 | OC782015C |
| 8. 17:24 - 17:28 | 1997 Ford F-150 P/up License plate No. 7C46005 | 2002 Mercury Mountaineer License plate No. 4WPG204 | OC782016C |
| 9. 17:32 - 17:37 | 2001 Lexus is 300 License plate No. RYZ271 | 2002 Mercury Mountaineer License plate No. 4WPG204 | OC782017C |

| | | | |
|-------------------------------------|--|--|-----------|
| 1 2 3 10. 17:40 – 17:48 | 1995 Ford Econoline Van License Plate No. 8C86817 | 2003 Nissan Sentra License Plate No. 5ZLM332 | OC782018C |
|-------------------------------------|--|--|-----------|

4 E. Thereafter, on May 22, 2011, between 11:25 and 16:01 hours, the Bureau conducted
5 another video surveillance of all smog inspections performed at the Respondent Smog For Less
6 facility². During the entire surveillance period, the Bureau representatives were able to view the
7 service area as well as the only test bay used to perform smog inspections during the surveillance
8 period.

9 F. Following the video surveillance, Bureau representatives downloaded test data
10 information from the vehicle information database (VID) for the entire surveillance period. This
11 information provides the Bureau with pertinent information related to each individual smog
12 inspection conducted at the Respondent Smog For Less facility, including the EIS ID number,
13 Advanced Emission Specialist Technician license number of the technician who conducted the
14 test, date of the test, start and end times of the test, vehicle type and vehicles tested identified by
15 vehicle year, vehicle make, test type, license number, vehicle identification number (VIN), test
16 results, and certificate number (if issued).

17 G. The VID data was then compared to the video tapes as well as the personal
18 observations of the Bureau representatives conducting the surveillance. The test data revealed
19 that during the period of surveillance, twelve (12) smog inspections were conducted on eleven
20 (11) different vehicles, and eleven (11) electronic Smog Check Certificate numbers were issued.
21 The test data and the video further revealed that Respondent Mejia performed all of the
22 inspections as the licensed technician during the entire surveillance period.

23 H. Based on the observations of Bureau personnel, VID data, and review of the video
24 taped surveillance, it was determined that nine (9) illegal smog inspections were performed
25 during the surveillance period, which resulted in the issuance of nine (9) illegal smog check
26 certificates (indicated in boldface), as follows:

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28 ² Video surveillance also includes electronic surveillance.

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| Time of Smog Inspection | Vehicle Certified and License Number | Vehicle Actually Tested | Certificate No. |
|--------------------------------|--|--|------------------------|
| 1. 12:25 - 12:34 | 2001 Toyota Sequoia License plate No. 4SYK738 | 2001 Toyota Sequoia License plate No. 4SYK738 | OC886187C |
| 2. 12:44 - 13:04 | 1998 Toyota 4Runner License plate No. 6PYN419 | 1998 Mercedes E320 | OC886188C |
| 3. 13:12 - 13:19 | 1995 Buick LeSabre License plate No. 3RJU442 | 2005 Toyota Camry License plate No. 5PFZ507 | OC886189C |
| 4. 13:33 - 13:42 | 1990 GMC Topkick CA Dealer plate No. 67672 (partial) | 1990 GMC Topkick CA Dealer plate No. 67672 (partial) | OC886190C |
| 5. 13:55 - 14:14 | 1994 Ford Taurus License plate No. 5KDK813 | 2005 Toyota Camry License plate No. 5PFZ507 | OC886191C |
| 6. 14:24 - 14:28 | 2005 Ford Explorer No Plate | 2005 Toyota Camry License plate No. 5PFZ507 | Test aborted |
| 7. 14:30 - 14:35 | 2005 Ford Explorer No Plate | 2005 Toyota Camry License plate No. 5PFZ507 | OC886192C |
| 8. 14:40 - 14:50 | 2000 Buick LeSabre No Plate | 2005 Toyota Camry License plate No. 5PFZ507 | OC886193C |
| 9. 14:55 - 15:05 | 2000 Chevy Astro No Plate | 2005 Toyota Camry License plate No. 5PFZ507 | OC886194C |
| 10. 15:09 - 15:15 | 1999 Nissan Quest No Plate | 2005 Toyota Camry License plate No. 5PFZ507 | OC886195C |
| 11. 15:21 - 15:28 | 2000 Ford Explorer No Plate | 2005 Toyota Camry License plate No. 5PFZ507 | OC886196C |
| 12. 15:32 - 15:39 | 2001 Chrysler Sebring No Plate | 2005 Toyota Camry License plate No. 5PFZ507 | OC886197C |

1 11. The illegal smog inspections set forth above subject Respondents to discipline
2 pursuant to Business and Professions Code section 9884.7, subdivisions (a)(1) and (a)(4), and
3 Health and Safety Code section 44072.2, subdivisions (a), (c), and (d).³

4 **CONTINUED PRACTICE BY RESPONDENTS WILL ENDANGER THE PUBLIC**

5 **HEALTH, SAFETY AND WELFARE**

6 12. Respondents are participating in a scheme to fraudulently certify vehicles that have
7 not undergone the necessary testing to ensure that they have met California's strenuous emissions
8 standards.

9 13. Allowing Respondents to continue to operate will endanger the public health, safety
10 and welfare of the citizens of the State of California in that for each fraudulent smog inspection
11 performed by Respondents, another vehicle is placed on the road that disproportionately
12 discharges noxious gasses which pollute the environment and contributes to the destruction of the
13 ozone. Children, the elderly, people with pulmonary and respiratory disorders and the immune-
14 suppressed are particularly susceptible to the health hazards caused by Respondents' conduct.⁴

15 14. The concurrently-filed memorandum of points and authorities, declarations, and other
16 evidence more fully document and establish the foregoing.

17 **PRAYER**

18 **WHEREFORE**, Petitioner prays that an Administrative Law Judge on behalf of the
19 Bureau of Automotive Repair issue an interim order suspending Respondent Sergio Gonzalez's
20 ARD Registration, Smog Check Test Only Station License, and Advanced Emission Specialist
21 Technician License, and the Advanced Emission Specialist Technician Licenses of Respondents
22 Mejia, Calvillo and Pedro Gonzalez pursuant to Business and Professions Code section 494 for
23 violations of the Automotive Repair Act and Motor Vehicle Inspection Program and further,
24

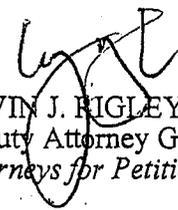
25 ³ Pursuant to Health and Safety Code section 44072.10, subdivision (c), the department
26 shall revoke the license of any smog check technician or station licensee who fraudulently
27 certifies vehicles or participates in the fraudulent inspection of vehicles. A fraudulent inspection
28 includes, but is not limited to, all of the following: (1) Clean piping, as defined by the
Department.

⁴ Official notice may be taken of the fact that vehicle emissions cause irreparable damage
to public health and the environment. (Evidence Code section 452)

1 order any other and further relief deemed necessary to protect the public health, safety, and
2 welfare.

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4 Dated: 8/23/11

Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
GREGORY J. SALUTE
Supervising Deputy Attorney General

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KEVIN J. FIGLEY
Deputy Attorney General
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