

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

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

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  
Certified Training Instructor No. CI 134185

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.

Case No.: 79/12-19

OAH No.: 2011100365

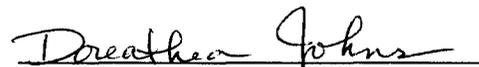
## DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby accepted and adopted by the Director of Consumer Affairs as the Decision in the above-entitled matter, except that, pursuant to Government Code section 11517(c)(2)(C), the typographical errors in the Proposed Decision are corrected as follows:

1. Page 4, paragraph 14, 4<sup>th</sup> line, the word “new” before the word “newly” is deleted.
2. Page 7, paragraph 7, line 3, the word “registration” is corrected to read “license.”
3. Page 7, the paragraph numbers 1 through 7 under main paragraph 7, is corrected to read “a through h.”

This Decision shall become effective 4/17/12.

DATED: March 12, 2012

  
DOREATHEA JOHNSON  
Deputy Director, Legal Affairs  
Department of Consumer Affairs

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Case No. 79/12-19

OAH No. 2011100365

## PROPOSED DECISION

This matter was heard by on January 11-12, 2012, in Los Angeles, by Chris Ruiz, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH).

Complainant was represented by Kevin J. Rigley, Deputy Attorney General.

Respondent Sergio S. Gonzalez (S. Gonzalez) was present, individually, and as owner of Smog For Less Test Only (Smog For), and was represented by Robert Moest, Esq.

Respondent Pedro Gonzalez (P. Gonzalez) was present and was represented by Oscar B. Valencia, Esq.

Respondent Ivan Mejia (Mejia) was present and represented himself.

Respondent Adrian A. Calvillo (Calvillo) was present and was represented by Ronald Carpol, Esq.

Evidence was received and the argument was heard. The ALJ hereby makes the following factual findings, legal conclusions, and order.

### FACTUAL FINDINGS

1. Petitioner Sherry Mehl brought the First Amended Accusation in her official capacity as Chief of the Bureau of Automotive Repair (Bureau), Department of Consumer Affairs, State of California. The instant matter was preceded by OAH case number 2011080988, which resulted in ALJ Rosenman issuing an Interim Suspension Order (Order) on September 19, 2011. That Order suspended all the below listed licenses until an Accusation was filed and a decision was issued in the instant matter. The Order is hereby incorporated by reference as if fully set forth herein.

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 also is licensed as an Advanced Emission Specialist Technician, license number EA 134185, and he is a Certified Training Instructor, certificate number CI 134185. These licenses and certification were issued to Respondent S. Gonzalez 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.

6A. All parties stipulated that the factual allegations alleged in the First Amended Accusation, paragraphs 1 – 19, and 33, were true and were deemed established. Those stipulated facts are hereby incorporated by reference as if fully set forth herein.

6B. 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 which 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. On May 7, 2011, seven smog certificates that involved clean piping were issued from Smog For. 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 p.m. 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 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. Respondent S. Gonzalez immediately reported the illegal smog checks to a Bureau investigator.

13. Respondent Mejia and Respondent Calvillo were directly involved in the illegal "clean piping" of multiple vehicles over an extended period of time.

14. Respondent P. Gonzalez contended that he was newly licensed as a smog technician and that he merely did what Respondents Mejia and Calvillo told him to do. He was not an employee of Smog For and he was not being paid. Respondent was at Smog For to learn how to perform smog inspections. While Respondent P. Gonzalez was newly licensed when the illegal occurred, he knew, or should have known, that he was performing illegal acts. Respondent P. Gonzalez did establish that he does not have the knowledge required to perform smog inspections. It was established that to be licensed as a smog technician, Respondent P. Gonzalez only needed to pass a written test, and he did not have to physically perform an inspection in order to receive his license. Thus, it was established that Respondent P. Gonzalez was learning how to actually perform smog inspections during his three months at Smog For. While Respondent P. Gonzalez was almost immediately placed in a difficult situation having only obtained his license three months prior, he was licensed and he made a choice to follow the instructions of Respondents Mejia and Calvillo. Respondent was not involved in all of the clean piping cases, but he was involved in clean piping multiple vehicles. Thus, his conduct was not an isolated incident. One of the most basic concepts in doing a smog check is to place the probe into the tailpipe of the car being tested. The videotape showed Respondent P. Gonzalez backing the "clean" vehicle up to the car being tested. He then took the probe from the car being tested and placed it in the car he had just parked near the vehicle being tested. There is no plausible reason why a technician would remove the probe from the vehicle being tested and then place the probe into another

vehicle's tailpipe. Respondent P. Gonzalez admitted that he had been taught to not put the probe into any other vehicle than the one being tested during the classes he took to obtain his license. Respondent S. Gonzalez taught those classes.

15. While it was not established that Respondent S. Gonzalez directly participated in the "clean piping" activities, he is responsible for lack of oversight and supervision because these actions took place in his licensed facility. At hearing, he established that he believes his employees should be trusted and that he does not feel obligated to monitor their every act. While his trust in his employees is admirable, it is in direct conflict with his obligations as the owner of a licensed smog inspection business. He also stated that his employees had "all the power" regarding the clean piping incidents. Respondent chose to not properly supervise his employees, and he admitted that he failed to prevent Respondent Mejia from using the Smog For premises on Sundays to perform clean piping after Respondent Mejia's employment terminated on April 1, 2011. (Exhibit 4, subpart 28.) Respondent S. Gonzalez should have discovered the fraudulent activity earlier than June 6, 2011, had he regularly been checking his records and monitoring his 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, which is another way Respondent could have tracked the activity at his business. On May 7 and May 22, 2011, 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 when the certificates were issued. However, Respondent S. Gonzalez established that prior to June 6, 2011, he was not aware of the smog checks being performed at his shop. His testimony at hearing established that he is unwilling to closely monitor his employees, choosing instead to trust them.

16. Under Business and Professions Code section 125.3, the reasonable costs incurred in order to investigate and prosecute this matter were \$21,611.26.

## LEGAL CONCLUSIONS AND DISCUSSION

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, and its related subparts, based on Factual Findings 1 through 6A. Health and Safety Code section contains multiple subparts (e.g. 44072.2). The subparts are fully detailed in the First Amended Accusation which is incorporated by reference as if fully set forth herein.<sup>1</sup> Factual bases for all of the causes for discipline, as stated in the First Amended Accusation, were established. (Factual Findings 6-16.)

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<sup>1</sup> As such, this decision will singularly reference Health and Safety Code section 44072.

2. 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).)

3. Under Business and Professions Code section 9884.7 and Health and Safety Code section 44072, , all 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.

4. 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 6-16. Allowing Respondent Mejia, Respondent Calvillo and Respondent P. Gonzalez to continue to engage in licensed activity would endanger the public health, safety, and welfare.

5. Respondent S. Gonzalez is responsible for the actions of the other Respondents because, under Business and Professions Code section 9884.7, subdivision (1)(a), an automotive repair dealer subjects his registration to discipline for any acts or omissions including those made by his mechanics and employees. Under Health and Safety Code section 44072, Respondent Smog For Less' "Smog Check Test Only Station License" is also subject to discipline for Respondent S. Gonzalez failure to properly supervise his employees. Under Health and Safety Code section 44072, and California Code of Regulations, title 16, section 3340.33.1, Respondent S. Gonzalez's "Advanced Emission Specialist Technician License" and his certification as a "Certified Training Instructor" are also subject to discipline. It would be incongruous to allow Respondent S. Garcia to remain certified as a training instructor in conjunction with his station license and automotive repair dealer registration being revoked. However, it was not established that Respondent S. Gonzalez's individual technician license requires revocation. He was not personally involved in the clean piping. A probationary license will sufficiently protect the public.

### **ORDER**

1. The automotive repair dealer registration issued to Respondent Sergio S. Gonzalez, number ARD 250583, is hereby revoked.

2. The Smog Test Only Station license issued to Respondent Sergio S. Gonzalez, number TC 250583, is hereby revoked.

3. The Certified Training Instructor certificate issued to Respondent Sergio Salvador Gonzalez, number CI 134185, is hereby revoked.

4. The Advanced Emission Specialist Technician license issued to Respondent Ivan Mejia, number EA 631910, is hereby revoked.

5. The Advanced Emission Specialist Technician license issued to Respondent Adrian Alejandro Calvillo, number EA 631908, is hereby revoked.

6. The Advanced Emission Specialist Technician license issued to Respondent Pedro Gonzalez, number EA 632840, is hereby revoked.

7. The Advanced Emission Specialist Technician license issued to Respondent Sergio Salvador Gonzalez, number EA 134185, is hereby revoked; provided, the revocation is stayed and the registration is placed on probation for five years on the following terms and conditions:

1. Respondent shall comply with all statutes, regulations and rules governing automotive inspections, estimates and repairs.

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

3. Within 30 days of the effective date of this action, Respondent shall report any financial interest which any partners, officers, or owners of the respondent facility may have in any other business required to be registered pursuant to Section 9884.6 of the Business and Professions Code.

4. Respondent shall provide Bureau representatives unrestricted access to inspect all vehicles (including parts) undergoing repairs, up to and including the point of completion.

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

6. Should the Director of Consumer Affairs determine that Respondent has failed to comply with the terms and conditions of probation, the Department of Consumer Affairs may, after giving notice and opportunity to be heard, impose the stayed discipline.

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

8. Respondent shall pay to the Bureau the costs associated with its investigation and enforcement, pursuant to Business and Professions Code Section 125.3, in the amount of

\$21, 611.26. Respondent shall be permitted to pay these costs in a payment plan approved by the Bureau with payments to be completed no later than three months prior to the end of the probation period. The filing of bankruptcy by Respondent shall not relieve Respondent of his responsibility to reimburse the Bureau for its investigation and prosecution costs. Failure to make payments in accordance with any formal agreement entered into with the Bureau or pursuant to any Decision by the Bureau shall be considered a violation of probation.

DATED: February 22, 2012.



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CHRIS RUIZ  
Administrative Law Judge  
Office of Administrative Hearings

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Attorney General of California  
2 GREGORY J. SALUTE  
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7 **BEFORE THE**  
8 **DEPARTMENT OF CONSUMER AFFAIRS**  
9 **FOR THE BUREAU OF AUTOMOTIVE REPAIR**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the First Amended Accusation Against:

Case No. 79/12-19

12 **SMOG FOR LESS TEST ONLY**  
7300 Van Nuys Blvd, #4  
Van Nuys, CA 91405  
13 **SERGIO GONZALEZ, AKA**  
**SERGIO SALVADOR GONZALEZ, OWNER**  
Automotive Repair Dealer Registration No. ARD 250583  
14 Smog Check Test Only Station License No. TC 250583,  
Certified Training Instructor No. CI 134185

**FIRST AMENDED  
ACCUSATION**

**SMOG CHECK**

15 **SERGIO SALVADOR GONZALEZ, AKA**  
16 **SERGIO GONZALEZ**  
7840 Agnes Avenue  
17 North Hollywood, CA 91605  
Advanced Emission Specialist Technician License No.  
18 EA 134185,

19 **IVAN MEJIA**  
7300 Van Nuys Blvd, #4  
20 Los Angeles, CA 91405  
Advanced Emission Specialist Technician License No.  
21 EA 631910

22 **ADRIAN ALEJANDRO CALVILLO**  
7300 Van Nuys Blvd, #4  
23 Van Nuys, CA 91405  
Advanced Emission Specialist Technician License No.  
24 EA 631908,

25 **PEDRO GONZALEZ**  
38242 Gunton Drive  
26 Palmdale, CA 93550  
Advanced Emission Specialist Technician License No.  
27 EA 632840

28 Respondents.

1 Complainant alleges:

2 **PARTIES**

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

5 **Automotive Repair Dealer Registration**

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

11 **Smog Check Test Only Station License**

12 3. On or about May 16, 2007, the Bureau issued Smog Check Test Only Station License  
13 Number TC 250583 ("station license") to Respondent Smog For Less. The station license was in  
14 full force and effect at all times relevant to the charges brought herein and will expire on May 31,  
15 2012, unless renewed.

16 **Advanced Emission Specialist Technician License**

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

21 **Certified Training Instructor**

22 5. In or around the year 2003, the Bureau issued Certified Training Instructor No. CI  
23 134185 ("training instructor certification") to Sergio Salvador Gonzalez ("Respondent Sergio  
24 Gonzalez"). The training instructor certification was in full force and effect at all times relevant  
25 to the charges brought herein and will expire on January 31, 2012, unless renewed.

26 ///

27 ///

28 ///



1 (b) Except as provided for in subdivision (c), if an automotive repair  
2 dealer operates more than one place of business in this state, the director pursuant to  
3 subdivision (a) shall only suspend, revoke, or place on probation the registration of  
4 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.

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

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

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

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

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

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

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

28 (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.

14. 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

1 of Consumer Affairs, or a court of law, or the voluntary surrender of the license shall not deprive  
2 the Director of jurisdiction to proceed with disciplinary action.

3 15. Section 44072.8 of the Health and Safety Code states:

4 When a license has been revoked or suspended following a hearing under  
5 this article, any additional license issued under this chapter in the name of the  
6 licensee may be likewise revoked or suspended by the director.

6 16. Health & Saf. Code section 44072.10 states, in pertinent part:

7 . . . .

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

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

12 . . . .

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

14 **REGULATORY PROVISION**

15 17. California Code of Regulations, title 16, section 3340.33.1 states, in pertinent part:

16 (a) An application for certification may be denied or an instructor may be  
17 decertified for the following reasons:

18 . . . .

19 (4) Suspension or revocation of any bureau-issued license, registration, or  
20 qualification certificate held by the instructor if the grounds for suspension or revocation are  
21 substantially related to the qualifications of the instructor to teach bureau-prescribed courses of  
22 instruction...

23 . . . .

24 (c) Any decertification proceeding under this section shall be conducted in  
25 accordance with Chapter 5 (commencing with Section 11500) of Division 3, Title 2 of the  
26 Government Code.

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28 ///

1 COST RECOVERY

2 18. 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

7 SURVEILLANCE OPERATION – MAY 7, 2011

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

18 ///

19 ///

20 ///

21  
22  
23  
24  
25  
26 <sup>1</sup> "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.

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. 7C46005	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

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Misleading Statements)**

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

9 **SECOND CAUSE FOR DISCIPLINE**

10 **(Fraud)**

11 21. Respondent Smog For Less has subjected its registration to discipline under Code  
12 section 9884.7, subdivision (a)(4), in that on or about May 7, 2011, he committed acts which  
13 constitute fraud by issuing electronic certificates of compliance for the vehicles set forth in Table  
14 1, above, without performing bona fide inspections of the emission control devices and systems  
15 on those vehicles, thereby depriving the People of the State of California of the protection  
16 afforded by the Motor Vehicle Inspection Program.

17 **THIRD CAUSE FOR DISCIPLINE**

18 **(Violation of the Motor Vehicle Inspection Program)**

19 22. Respondent Smog For Less has subjected its station license to discipline under Health  
20 and Safety Code sections 44072.2, subdivision (a), and 44072.10, subdivision (c)(1) and (4), in  
21 that on or about May 7, 2011, regarding the vehicles set forth in Table 1, above, he violated  
22 sections of that Code, as follows:

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

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1 emission control devices and system on those vehicles, thereby depriving the People of the State  
2 of California of the protection afforded by the Motor Vehicle Inspection Program.

3 **SIXTH CAUSE FOR DISCIPLINE**

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

5 25. Respondent Mejia has subjected his technician license to discipline under Health and  
6 Safety Code sections 44072.2, subdivision (a), and 44072.10, subdivision (c)(1) and (4), in that  
7 on or about May 7, 2011, regarding Vehicles 1, 2, 6, and 7, set forth in Table 1, above, he  
8 violated sections of that Code, as follows:

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

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

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

17 **SEVENTH CAUSE FOR DISCIPLINE**

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

19 26. Respondent Mejia has subjected his technician license to discipline under Health and  
20 Safety Code sections 44072.2, subdivision (c), and 44072.10, subdivision (c)(1) and (4), in that  
21 on or about May 7, 2011, regarding Vehicles 1, 2, 6, and 7, set forth in Table 1, above, he  
22 violated sections of the California Code of Regulations, title 16, as follows:

23 a. **Section 3340.24, subdivision (c):** Respondent Mejia falsely or fraudulently issued  
24 electronic certificates of compliance without performing bona fide inspections of the emission  
25 control devices and systems on those vehicles as required by Health and Safety Code section  
26 44012.

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

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

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

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

9 **EIGHTH CAUSE FOR DISCIPLINE**

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

11 27. Respondent Mejia has subjected his technician license to discipline under Health and  
12 Safety Code sections 44072.2, subdivision (d), and 44072.10, subdivision (c)(1) and (4), in that  
13 on or about May 7, 2011, he committed acts involving dishonesty, fraud or deceit whereby  
14 another was injured by issuing electronic certificates of compliance for Vehicles 1, 2, 6, and 7, set  
15 forth in Table 1, above, without performing bona fide inspections of the emission control devices  
16 and systems on those vehicles, thereby depriving the People of the State of California of the  
17 protection afforded by the Motor Vehicle Inspection Program.

18 **NINTH CAUSE FOR DISCIPLINE**

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

20 28. Respondent Calvillo has subjected his technician license to discipline under Health  
21 and Safety Code sections 44072.2, subdivision (a), and 44072.10, subdivision (c)(1) and (4), in  
22 that on or about May 7, 2011, regarding Vehicles 2, 3, 4, 5, 6 and 7, set forth in Table 1, above,  
23 he violated sections of that Code, as follows:

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

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

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

4 **TENTH CAUSE FOR DISCIPLINE**

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

6 29. Respondent Calvillo has subjected his technician license to discipline under Health  
7 and Safety Code sections 44072.2, subdivision (c), and 44072.10, subdivision (c)(1) and (4), in  
8 that on or about May 7, 2011, regarding Vehicles 2, 3, 4, 5, 6, and 7, set forth in Table 1, above,  
9 he violated sections of the California Code of Regulations, title 16, as follows:

10 a. **Section 3340.24, subdivision (c):** Respondent Calvillo falsely or fraudulently issued  
11 electronic certificates of compliance without performing bona fide inspections of the emission  
12 control devices and systems on those vehicles as required by Health and Safety Code section  
13 44012.

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

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

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

21 **ELEVENTH CAUSE FOR DISCIPLINE**

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

23 30. Respondent Calvillo has subjected his technician license to discipline under Health  
24 and Safety Code sections 44072.2, subdivision (d), and 44072.10, subdivision (c)(1) and (4), in  
25 that on or about May 7, 2011, he committed acts involving dishonesty, fraud or deceit whereby  
26 another was injured by issuing electronic certificates of compliance for Vehicles 2, 3, 4, 5, 6, and  
27 7, set forth in Table 1, above, without performing bona fide inspections of the emission control  
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1 devices and systems on those vehicles, thereby depriving the People of the State of California of  
2 the protection afforded by the Motor Vehicle Inspection Program.

3 **TWELFTH CAUSE FOR DISCIPLINE**

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

5 31. Respondent Pedro Gonzalez has subjected his technician license to discipline under  
6 Health and Safety Code sections 44072.2, subdivision (a), and 44072.10, subdivision (c)(1) and  
7 (4), in that on or about May 7, 2011, regarding vehicles 1, 3, 4, 5, 6, and 7, set forth in Table 1,  
8 above, he violated sections of that Code, as follows:

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

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

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

18 **THIRTEENTH CAUSE FOR DISCIPLINE**

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

20 32. Respondent Pedro Gonzalez has subjected his technician license to discipline under  
21 Health and Safety Code sections 44072.2, subdivision (c), and 44072.10, subdivision (c)(1) and  
22 (4), in that on or about May 7, 2011, regarding the vehicles set forth in Table 1, above, he  
23 violated sections of the California Code of Regulations, title 16, as follows:

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

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

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**SURVEILLANCE OPERATION – MAY 22, 2011**

33. 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**

<b>Date and Test Times</b>	<b>Vehicle Certified</b>	<b>Vehicle Actually Tested</b>	<b>Certificate Issued</b>	<b>Details</b>
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.

1	5	2000 Buick LeSabre, No License Plate	2005 Toyota Camry License No. 5PFZ507	OC886193C	Respondent Mejia performed the smog inspection.
2	5/22/2011				
3	1440 hours to 1450 hours				
4	6	2000 Chevrolet Astro, No License Plate	2005 Toyota Camry License No. 5PFZ507	OC886194C	Respondent Mejia performed the smog inspection
5	5/22/2011				
6	1455 hours to 1505 hours				
7	7	1999 Nissan Quest, No License Plate	2005 Toyota Camry License No. 5PFZ507	OC886195C	Respondent Mejia performed the smog inspection
8	5/22/2011				
9	1509 hours to 1515 hours				
10	8	2000 Ford Explorer, License No. 4MED064	2005 Toyota Camry License No. 5PFZ507	OC886196C	Respondent Mejia performed the smog inspection
11	5/22/2011				
12	1521 hours to 1528 hours				
13	9	2001 Chrysler Sebring, No License Plate	2005 Toyota Camry License No. 5PFZ507	OC886197C	Respondent Mejia performed the smog inspection
14	5/22/2011				
15	1532 hours to 1539 hours				

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17 **FOURTEENTH CAUSE FOR DISCIPLINE**

18 **(Misleading Statements)**

19 34. Respondent Smog For Less has subjected its registration to discipline under Code  
20 section 9884.7, subdivision (a)(1), in that on or about May 22, 2011, he made statements which  
21 he knew or which by exercise of reasonable care he should have known were untrue or  
22 misleading when he issued electronic certificates of compliance for the vehicles set forth in Table  
23 2, above, certifying that those vehicles were in compliance with applicable laws and regulations  
24 when, in fact, the vehicles had been clean piped.

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1 **FIFTEENTH CAUSE FOR DISCIPLINE**

2 **(Fraud)**

3 35. Respondent Smog For Less has subjected its registration to discipline under Code  
4 section 9884.7, subdivision (a)(4), in that on or about May 22, 2011, he committed acts which  
5 constitute fraud by issuing electronic certificates of compliance for the vehicles set forth in Table  
6 2, above, without performing bona fide inspections of the emission control devices and systems  
7 on those vehicles, thereby depriving the People of the State of California of the protection  
8 afforded by the Motor Vehicle Inspection Program.

9 **SIXTEENTH CAUSE FOR DISCIPLINE**

10 **(Violation of the Motor Vehicle Inspection Program)**

11 36. Respondent Smog For Less has subjected its station license to discipline under Health  
12 and Safety Code sections 44072.2, subdivision (a), and 44072.10, subdivision (c)(1) and (4), in  
13 that on or about May 22, 2011, regarding the vehicles set forth in Table 2, above, he violated  
14 sections of that Code, as follows:

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

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

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

24 **SEVENTEENTH CAUSE FOR DISCIPLINE**

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

26 37. Respondent Smog For Less has subjected its station license to discipline under Health  
27 and Safety Code sections 44072.2, subdivision (c), and 44072.10, subdivision (c)(1) and (4), in  
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1 that on or about May 22, 2011, regarding the vehicles set forth in Table 2, above, he violated  
2 sections of the California Code of Regulations, title 16, as follows:

3 a. **Section 3340.24, subdivision (c):** Respondent Smog For Less falsely or fraudulently  
4 issued electronic certificates of compliance without performing bona fide inspections of the  
5 emission control devices and systems on those vehicles as required by Health and Safety Code  
6 section 44012.

7 b. **Section 3340.35, subdivision (c):** Respondent Smog For Less issued electronic  
8 certificates of compliance even though those vehicles had not been inspected in accordance with  
9 section 3340.42 of that Code.

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

12 **EIGHTEENTH CAUSE FOR DISCIPLINE**

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

14 38. Respondent Smog For Less subjected its station license to discipline under Health and  
15 Safety Code sections 44072.2, subdivision (d), and 44072.10, subdivision (c)(1) and (4), in that  
16 on or about May 22, 2011, regarding the vehicles set forth in Table 2, above, he committed acts  
17 involving dishonesty, fraud or deceit whereby another was injured by issuing electronic  
18 certificates of compliance for those vehicles without performing bona fide inspections of the  
19 emission control devices and system on those vehicles, thereby depriving the People of the State  
20 of California of the protection afforded by the Motor Vehicle Inspection Program.

21 **NINETEENTH CAUSE FOR DISCIPLINE**

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

23 39. Respondent Mejia has subjected his technician license to discipline under Health and  
24 Safety Code sections 44072.2, subdivision (a), and 44072.10, subdivision (c)(1) and (4), in that  
25 on or about May 22, 2011, regarding the vehicles set forth in Table 2, above, he violated sections  
26 of that Code, as follows:

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

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

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

9 **TWENTIETH CAUSE FOR DISCIPLINE**

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

11 40. Respondent Mejia has subjected his technician license to discipline under Health and  
12 Safety Code section 44072.2, subdivision (c), and 44072.10, subdivision (c)(1) and (4), in that on  
13 or about May 22, 2011, regarding the vehicles set forth in Table 2, above, he violated sections of  
14 the California Code of Regulations, title 16, as follows:

15 a. **Section 3340.24, subdivision (c):** Respondent Mejia falsely or fraudulently issued  
16 electronic certificates of compliance without performing bona fide inspections of the emission  
17 control devices and systems on those vehicles as required by Health and Safety Code section  
18 44012.

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

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

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

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