

1 KAMALA D. HARRIS  
Attorney General of California  
2 JANICE K. LACHMAN  
Supervising Deputy Attorney General  
3 ANAHITA S. CRAWFORD  
Deputy Attorney General  
4 State Bar No. 209545  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 322-8311  
Facsimile: (916) 327-8643  
7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 79/13-52

13 **EZ QUICK SOLUTIONS, INC.,**  
14 **dba VISALIA QUICK SMOG AND REPAIR**  
15 **EZEQUIEL NUNO,**  
16 **PRESIDENT/SECRETARY/TREASURER**  
17 **1832 East Main Street, Unit A**  
18 **Visalia, CA 93292**  
19 **Mailing Address:**  
20 **1530 West Marinette Avenue**  
21 **Exeter, CA 93221**

22 **A C C U S A T I O N**  
23 **(Smog Check)**

24 **Automotive Repair Dealer Reg. No. ARD 229786**  
25 **Smog Check Station License No. RC 229786**

26 **and**

27 **EZEQUIEL NUNO**  
28 **1530 West Marinette Avenue**  
**Exeter, CA 93221**

**Advanced Emission Specialist Technician**  
**License No. EA 633033**

Respondents.

Complainant alleges:

**PARTIES/LICENSE INFORMATION**

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

1                   **EZ Quick Solutions, Inc. dba Visalia Quick Smog and Repair**

2           2.     In or about 2003, the Director of Consumer Affairs ("Director") issued Automotive  
3 Repair Dealer Registration Number ARD 229786 ("registration") to EZ Quick Solutions, Inc.  
4 ("Respondent EZ Quick Solutions"), doing business as Visalia Quick Smog #2, with Ezequiel  
5 Nuno ("Respondent Nuno") as president, secretary, and treasurer. On November 21, 2011,  
6 Respondent EZ Quick Solutions' business name was changed to Visalia Quick Smog and Repair.  
7 Respondent EZ Quick Solutions' registration was in full force and effect at all times relevant to  
8 the charges brought herein and will expire on September 30, 2013, unless renewed.

9           3.     On or about April 4, 2008, the Director issued Smog Check Station License Number  
10 RC 229786 to Respondent EZ Quick Solutions. Respondent's smog check station license was in  
11 full force and effect at all times relevant to the charges brought herein and will expire on  
12 September 30, 2013, unless renewed.

13                   **Ezequiel Nuno**

14           4.     On or about April 22, 2011, the Director issued Advanced Emission Specialist  
15 Technician License Number EA 633033 ("technician license") to Respondent Nuno.  
16 Respondent's technician license was in full force and effect at all times relevant to the charges  
17 brought herein and will expire on April 30, 2013, unless renewed.

18                                   **JURISDICTION**

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

21           6.     Bus. & Prof. Code section 9884.13 provides, in pertinent part, that the expiration of a  
22 valid registration shall not deprive the Director of jurisdiction to proceed with a disciplinary  
23 proceeding against an automotive repair dealer or to render a decision temporarily or permanently  
24 invalidating (suspending or revoking) a registration

25           7.     Health and Safety Code ("Health & Saf. Code") section 44002 provides, in pertinent  
26 part, that the Director has all the powers and authority granted under the Automotive Repair Act  
27 for enforcing the Motor Vehicle Inspection Program.

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1 8. Health & Saf. Code section 44072.6 provides, in pertinent part, that the expiration or  
2 suspension of a license by operation of law, or by order or decision of the Director of Consumer  
3 Affairs, or a court of law, or the voluntary surrender of the license shall not deprive the Director  
4 of jurisdiction to proceed with disciplinary action.

5 **STATUTORY PROVISIONS**

6 9. Bus. & Prof. Code section 9884.7 states, in pertinent part:

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

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

16 . . . .

17 (4) Any other conduct that constitutes fraud.

18 . . . .

19 (6) Failure in any material respect to comply with the provisions of this  
20 chapter or regulations adopted pursuant to it.

21 . . . .

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

27 10. Bus. & Prof. Code section 22, subdivision (a), states:

28 "Board" as used in any provision of this Code, refers to the board in  
which the administration of the provision is vested, and unless otherwise expressly  
provided, shall include "bureau," "commission," "committee," "department,"  
"division," "examining committee," "program," and "agency."

11. Bus. & Prof. Code section 477, subdivision (b), states, in pertinent part, that a  
"license" includes "registration" and "certificate."

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

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

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

8 . . . .

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

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

13 13. Health & Saf. Code section 44072.8 states that when a license has been revoked or  
14 suspended following a hearing under this article, any additional license issued under this chapter  
15 in the name of the licensee may be likewise revoked or suspended by the director.

16 **COST RECOVERY**

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

21 **UNDERCOVER OPERATION: 1996 CHEVROLET S10 BLAZER**

22 15. On April 3, 2012, an undercover operator with the Bureau (“operator”) took the  
23 Bureau’s 1996 Chevrolet S10 Blazer to Respondent EZ Quick Solutions’ facility and requested a  
24 smog inspection. The positive crankcase ventilation (“PCV”) system had been removed from the  
25 Bureau-documented vehicle. The operator was not given a written estimate for the inspection.  
26 After the inspection was completed, the operator paid the facility \$50 and received copies of an  
27 invoice and a vehicle inspection report (“VIR”). The VIR indicated that Respondent Nuno had  
28 performed the smog inspection on the vehicle. That same day, electronic smog Certificate of  
Compliance No. [REDACTED] was issued for the vehicle.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Untrue or Misleading Statements)**

3 16. Respondent EZ Quick Solutions' registration is subject to disciplinary action pursuant  
4 to Bus. & Prof. Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized a  
5 statement which it knew or in the exercise of reasonable care should have known to be untrue or  
6 misleading, as follows: Respondent EZ Quick Solutions' technician, Respondent Nuno, certified  
7 under penalty of perjury on the VIR that the Bureau's 1996 Chevrolet S10 Blazer had passed the  
8 inspection and was in compliance with applicable laws and regulations. In fact, the PCV system  
9 had been removed from the vehicle and as such, the vehicle would not pass the inspection  
10 required by Health & Saf. Code section 44012.

11 **SECOND CAUSE FOR DISCIPLINE**

12 **(Fraud)**

13 17. Respondent EZ Quick Solutions' registration is subject to disciplinary action pursuant  
14 to Bus. & Prof. Code section 9884.7, subdivision (a)(4), in that Respondent committed an act that  
15 constitutes fraud by issuing an electronic smog certificate of compliance for the Bureau's 1996  
16 Chevrolet S10 Blazer without ensuring that a bona fide inspection was performed of the emission  
17 control devices and systems on the vehicle, thereby depriving the People of the State of California  
18 of the protection afforded by the Motor Vehicle Inspection Program.

19 **THIRD CAUSE FOR DISCIPLINE**

20 **(Violations of the Bus. & Prof. Code)**

21 18. Respondent EZ Quick Solutions' registration is subject to disciplinary action pursuant  
22 to Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with section  
23 9884.9, subdivision (a), of that Code, as follows: Respondent failed to ensure that the operator  
24 was provided with a written estimate for the smog inspection on the Bureau's 1996 Chevrolet S10  
25 Blazer.

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1 electronic smog certificate of compliance for the Bureau's 1996 Chevrolet S10 Blazer without  
2 ensuring that a bona fide inspection was performed of the emission control devices and systems  
3 on the vehicle, thereby depriving the People of the State of California of the protection afforded  
4 by the Motor Vehicle Inspection Program.

5 **SEVENTH CAUSE FOR DISCIPLINE**

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

7 22. Respondent Nuno's technician license is subject to disciplinary action pursuant to  
8 Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to comply with  
9 section 44012, subdivision (f), of that Code, as follows: Respondent failed to perform the visual  
10 inspection of the emission control components on the Bureau's 1996 Chevrolet S10 Blazer in  
11 accordance with procedures prescribed by the department.

12 **EIGHTH CAUSE FOR DISCIPLINE**

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

15 23. Respondent Nuno's technician license is subject to disciplinary action pursuant to  
16 Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to comply with  
17 provisions of California Code of Regulations, title 16, as follows:

18 a. **Section 3340.30, subdivision (a):** Respondent failed to inspect and test the Bureau's  
19 1996 Chevrolet S10 Blazer in accordance with Health & Saf. Code sections 44012 and 44035,  
20 and California Code of Regulations, title 16, section 3340.42.

21 b. **Section 3340.42:** Respondent failed to conduct the required smog tests on the  
22 Bureau's 1996 Chevrolet S10 Blazer in accordance with the Bureau's specifications.

23 **NINTH CAUSE FOR DISCIPLINE**

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

25 24. Respondent Nuno's technician license is subject to disciplinary action pursuant to  
26 Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed a dishonest,  
27 fraudulent, or deceitful act whereby another is injured by issuing an electronic smog certificate of  
28 compliance for the Bureau's 1996 Chevrolet S10 Blazer without performing a bona fide

1 inspection of the emission control devices and systems on the vehicle, thereby depriving the  
2 People of the State of California of the protection afforded by the Motor Vehicle Inspection  
3 Program.

4 **MATTERS IN AGGRAVATION**

5 25. To determine the degree of discipline, if any, to be imposed on Respondent EZ Quick  
6 Solutions, Complainant alleges as follows:

7 a. On or about June 14, 2010, the Bureau issued Citation No. C2010-1283 against  
8 Respondent for violations of Health & Saf. Code section 44012, subdivision (f) (failure to  
9 determine that emission control devices and systems required by State and Federal law are  
10 installed and functioning correctly in accordance with test procedures); and California Code of  
11 Regulations, title 16, section ("Regulation") 3340.35, subdivision (c) (issuing a certificate of  
12 compliance to a vehicle that was improperly tested). On or about May 25, 2010, Respondent had  
13 issued a certificate of compliance to a Bureau undercover vehicle with the ignition timing  
14 adjusted beyond specifications. The Bureau assessed civil penalties totaling \$1,000 against  
15 Respondent for the violations. Respondent paid the fine on August 6, 2010.

16 b. On or about January 19, 2011, the Bureau issued Citation No. C2011-0819 against  
17 Respondent for violations of Health & Saf. Code section 44012, subdivision (f) (failure to  
18 determine that emission control devices and systems required by State and Federal law are  
19 installed and functioning correctly in accordance with test procedures); and Regulation 3340.35,  
20 subdivision (c) (issuing a certificate of compliance to a vehicle that was improperly tested). On  
21 or about December 15, 2010, Respondent had issued a certificate of compliance to a Bureau  
22 undercover vehicle with a missing Fuel Evaporation Charcoal Canister. The Bureau assessed  
23 civil penalties totaling \$1,500 against Respondent for the violations. Respondent paid the fine on  
24 February 16, 2011.

25 c. On or about October 14, 2011, the Bureau issued Citation No. C2012-0302 against  
26 Respondent for violating Health & Saf. Code section 44012, subdivision (f) (failure to perform a  
27 visual/functional check of emission control devices according to procedures prescribed by the  
28 department). On or about September 8, 2011, Respondent had issued a certificate of compliance

1 to a Bureau undercover vehicle with a missing EGR valve. The Bureau assessed civil penalties  
2 totaling \$1,500 against Respondent for the violations. Respondent paid the fine on November 21,  
3 2011.

4 **OTHER MATTERS**

5 26. Pursuant to Bus. & Prof. Code section 9884.7, subdivision (c), the Director may  
6 suspend, revoke or place on probation the registration for all places of business operated in this  
7 state by Respondent EZ Quick Solutions, Inc., doing business as Visalia Quick Smog and Repair,  
8 upon a finding that Respondent has, or is, engaged in a course of repeated and willful violations  
9 of the laws and regulations pertaining to an automotive repair dealer.

10 27. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Station License  
11 Number RC 229786, issued to Respondent EZ Quick Solutions, Inc., doing business as Visalia  
12 Quick Smog and Repair, is revoked or suspended, any additional license issued under this chapter  
13 in the name of said licensee may be likewise revoked or suspended by the Director.

14 28. Pursuant to Health & Saf. Code section 44072.8, if Advanced Emission Specialist  
15 Technician License Number EA 633033, issued to Ezequiel Nuno, is revoked or suspended, any  
16 additional license issued under this chapter in the name of said licensee may be likewise revoked  
17 or suspended by the Director.

18 **PRAYER**

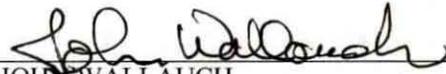
19 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
20 and that following the hearing, the Director of Consumer Affairs issue a decision:

- 21 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD  
22 229786, issued to EZ Quick Solutions, Inc., doing business as Visalia Quick Smog and Repair;
- 23 2. Revoking or suspending any other automotive repair dealer registration issued to EZ  
24 Quick Solutions, Inc.;
- 25 3. Revoking or suspending Smog Check Station License Number RC 229786, issued to  
26 EZ Quick Solutions, Inc., doing business as Visalia Quick Smog and Repair;
- 27 4. Revoking or suspending any additional license issued under Chapter 5 of the Health  
28 and Safety Code in the name of EZ Quick Solutions, Inc.;

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- 5. Revoking or suspending Advanced Emission Specialist Technician License Number EA 633033, issued to Ezequiel Nuno;
- 6. Revoking or suspending any additional license issued under Chapter 5 of the Health and Safety Code in the name of Ezequiel Nuno;
- 7. Ordering EZ Quick Solutions, Inc., doing business as Visalia Quick Smog and Repair, and Ezequiel Nuno to pay the Director of Consumer Affairs the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
- 8. Taking such other and further action as deemed necessary and proper.

DATED: ~~February 20~~, 2013

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

SA2012106478