

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

In the Matter of the Accusation Against:

**HALO HOT ROD; FLORIDALMA
MORALES, OWNER**

Automotive Repair Dealer Registration No.
ARD 243400

Smog Check Test Only Station License
No. TC 243400

DAVID CAMACHO

Smog Check Inspector License No.
EO 134615

Smog Check Repair Technician License
No. EI 134615

**MANUEL ALEJANDRO MOLINA
MORALES**

Smog Check Inspector License No.
EO632837

Smog Check Repair Technician License
No. EI 632837

Case No. 79/14-137

OAH No. 2014080732

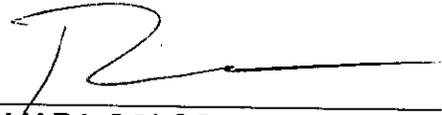
Respondents.

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.

This Decision shall become effective September 25, 2015.

DATED August 21, 2015


TAMARA COLSON
Assistant General Counsel
Department of Consumer Affairs

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PROPOSED DECISION

This matter came on regularly for hearing on February 2, and 3, 2015, and May 15, 2015, at Los Angeles, California, before Eileen Cohn, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), State of California.

Patrick Dorais, Chief, Bureau of Automotive Repair (complainant) was represented by Deputy Attorney General Thomas L. Rinaldi who was accompanied by Robert Martin, Program Representative III of the BAR.

Halo Hot Rod (Halo) and Floridalma Morales (Ms. Morales), David Camacho (Mr. Camacho) and Manuel Alejandro Molina Morales (Mr. Molina), (collectively, respondents),

were present and represented by William Ferreira, Attorney at Law. Ms. Morales and Mr. Camacho were assisted by a Spanish-language interpreter throughout the hearing.

Evidence was presented by way of testimony and documents. By stipulation of the parties, the record remained open until May 29, 2015, for submission of written closing arguments, which were timely received, at which time the record closed and the matter was submitted for decision.¹

FACTUAL FINDINGS

The Administrative Law Judge finds the following facts:

Parties and Licenses Subject to Discipline

1. The Accusation was brought by complainant Patrick Dorais in his official capacity as Chief of the Bureau of Automotive Repair (BAR), Department of Consumer Affairs.

2. Automotive Repair Dealer Registration issued to Ms. Morales. On August 14, 2006, the Director of Consumer Affairs (Director) issued Automotive Repair Dealer Registration Number ARD 243400 (registration) to Ms. Morales, doing business as the sole owner of Halo. Respondent's registration was in full force and effect at all times relevant to the findings herein and expires on January 31, 2016.

3. Smog Check Test Only Station License and STAR Station certification issued to Halo. On September 14, 2006, the Director issued Smog Check Test Only Station License Number TC 243400 (station license) to Ms. Morales doing business as Halo. Halo's station license was in full force and effect at all times relevant to the findings herein and expires on January 31, 2016. Halo is also certified as a STAR Station. The certification was issued on April 17, 2013, and will remain active unless Halo's Automotive Repair Dealer and Smog Check Test Only licenses are revoked or cancelled, or otherwise invalidated.

4. Smog Check Inspector and Smog Check Repair Technician Licenses issued to Mr. Camacho. In 1998, the Director issued Advanced Emission Specialist Technician License Number EA 134615(emission specialist license) to Mr. Camacho. On August 14, 2012, based upon a change in the law² Mr. Camacho's technician license was converted to

¹ Complainant's and respondents' written closing arguments were included as part of the record as Exhibit 24 and Exhibit D, respectively.

² Effective August 1, 2012, California Code of Regulations (Regulations), title 16, sections 3340.28, 3340.29, and 3340.30 were amended to implement a license restructuring from the Advanced Emission Specialist Technician license and Basic Technician license to Smog Check Inspector license (EO) and/or Smog Check Repair Technician License (EI).

Smog Check Inspector License Number EO134615 (inspector license) and Smog Check Repair Technician License Number EI134615 (technician license). Mr. Camacho's inspector and technician licenses were in full force and effect at all times relevant to the findings herein and will expire on August 31, 2016. Mr. Camacho is the spouse of Ms. Morales. Mr. Camacho has no record of discipline.

5. Smog Check Inspector and Smog Check Repair Technician Licenses issued to Mr. Molina. On February 7, 2011, the Director issued the emission specialist license number EA 632837 to Mr. Molina. On January 10, 2013, Mr. Molina's emission specialist license was converted to inspector license number EO632837, and on March 20, 2013 his emission specialist license was also converted to technician license number EI632837. Mr. Molina's inspector and technician licenses were in full force and effect at all times relevant to the findings herein and will expire on December 31, 2016. Mr. Molino is the son of Ms. Morales. Mr. Molina has no record of discipline.

6. Smog check inspections are required to be performed only by licensed technicians such as Mr. Camacho and Mr. Molina, and the license numbers of technicians are included in each inspection report. Only licensed technicians are authorized to access the computer-based system described in Factual Finding 9 below, by using their personal access code assigned to them by the BAR. Mr. Camacho and Mr. Molina maintained that they were the only ones using their license numbers and no one else conducted the smog checks of the ten vehicles described in the Factual Finding 7. Based upon the license numbers registered with each inspection report, Mr. Camacho performed four illegal inspections, numbers 2-5, below, and Mr. Molina performed six inspections, numbers 1, and 6-10, below. For each of the illegal inspections performed by Mr. Camacho and Mr. Molina, a vehicle inspection report (VIR) was issued certifying the vehicle passed the smog test, as more fully described in Factual Finding 9.

Illegal Smog Checks

7. The illegal smog checks at the facility are summarized below.

Clean Gas Car No.	Test Date and Time (military time)	Vehicle	Certificate of Compliance No.	Technician
1	6/01/2013 1202 hours	1978 Chevrolet G20 Van (1978 Chevrolet)	XV194760C	Mr. Molina
2	06/01/2013 1437 hours	1989 Toyota Pickup	XV194766C	Mr. Camacho

3	6/01/2013 1507 hours	1994 Honda Accord	XV194768C	Mr. Camacho
4	6/01/2013 1521 hours	1993 Nissan Altima	XV194769C	Mr. Camacho
5	6/01/2013 1555 hours	1993 Chevrolet C-1500 Pickup (1993 Chevrolet Pickup)	XV194771C	Mr. Camacho
6	6/03/2013 1114 hours	1983 Toyota Corolla	XV194772C	Mr. Molina
7	6/03/2013 1137 hours	1993 Ford Explorer	XV194773C	Mr. Molina
8	6/03/2013 1223 hours	2003 Mitsubishi Lancer	XV194774C	Mr. Molina
9	6/03/2013 1504 hours	1986 Ford F-150 Pickup (1986 Ford Pickup)	XV194777C	Mr. Molina
10	6/03/2013 1534 hours	1988 Honda Civic CRX (1988 Honda CRX)	XV194778C	Mr. Molina

Smog Inspection System and Clean Gassing

8. 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.³ California's smog check program requires most motorists to submit their vehicles for inspection every two years at the time they renew their registration and whenever a vehicle title is transferred. Southern California, where respondents' operate, is an enhanced area, meaning it does not meet federal or state air quality standards for ozone levels. Inspections in enhanced areas consist of a three-part test, a visual inspection of the

³ See Health & Saf. Code (Health Code) §§ 44000, 44000.5, & 44001.

vehicle's emission control components, a functional test, which includes the ignition timing, and other parts of the vehicle that effect the emissions, and the emissions sample test. This dispute concerns the emissions sample test. Based upon the credible expert testimony of Garrett Torgerson (Mr. Torgerson), Senior Air Quality Engineer at the BAR, as more fully described below, the emissions sample test is measured against permissible emissions levels (cut-points) established by state and federal law.

9. After 1997, the BAR required smog checks to be performed with a computerized Emissions Inspection System (EIS), also referred to as BAR-97. At the smog inspection site, the emissions test uses a dynamometer, a treadmill-like device where the car is placed, and an analyzer, a cabinet containing the EIS, which is connected to the car by a probe placed in the tailpipe of the vehicle being tested. The EIS also accepts entries from licensed technicians regarding their visual and functional inspections, and information specific to the vehicle. At the smog inspection site, the analyzer collects data about the vehicle's emissions from the samples collected, measures specified gases against the regulatory cut points, and transmits the data from a modem connected to a dedicated phone. The data is transmitted to the BAR's Vehicle Information Database (VID) where it can be accessed by BAR personnel. The VID contains a complete summary of the dates and times of the smog tests, the vehicles tested, the emissions readings, the technician performing the test, and the electronic certificate of compliance, if issued. Smog test results are transmitted from the BAR directly to the Department of Motor Vehicles. At the site the EIS also produces a VIR after each test, as it did for the vehicles in Factual Finding 7, which serves as a printed copy of the test results which shows the certificate of compliance number if the vehicle passed the smog test. If the phone line is not working the data will not be transmitted and will be lost, but the data, once transmitted is transmitted exactly as it was collected, without alteration. There was no evidence that the data collected and stored in the VID where it was retrieved was altered in any way by software or computer transmission problems.

10. The EIS analyzer measures five gases: Carbon Monoxide (CO), Carbon Dioxide (CO₂), Hydrocarbons (HC) oxides of nitrogen (NO_x) and Oxygen (O₂). Smog tests measure what gasses remain and are emitted into the atmosphere through the tail pipe after gases flow through the combustion process and the catalytic converter. The EIS analyzer measures the gases against the cut points.

11. Complainant's allege respondents falsified the smog check results of ten vehicles through a method known as "clean gassing." During clean gassing, surrogate gases are introduced into the exhaust stream sampled by the EIS during the on-site smog inspection in order to dilute the exhaust of pollution-causing emissions so the results are below the legally-allowed cut points. Unlike, "clean piping" or "clean plugging" where another car is substituted for the failing car, with clean gassing another car is not involved.⁴ Instead, gases

⁴ Clean piping, described in California Code of Regulations, title 16, section 3340.1, is a fraudulent process wherein the technician indicates to the smog check computer that he is testing the tailpipe emissions from Vehicle 1, while the tailpipe probe is actually placed in

are introduced during the smog test directly into the analyzer from two gas canisters (illegal canisters) attached to one regulator, valve and hose manifold through which the foreign gas flows to the analyzer. At particular intervals during the smog test the illegal canisters are turned on by the smog check inspector registered for that inspection, or another individual assisting the registered smog check inspector. The hose manifold of the illegal canisters can be connected to one of the dual hoses or other pathways into the analyzer as more fully described in Factual Finding 21. The gas analyzer then measures the diluted pollutants in the exhaust sample, instead of the actual level of pollutants being emitted from the vehicle through its exhaust system and into the atmosphere. The falsified sample is transmitted to the BAR's VID through the EIS, resulting in the issuance of certificates of compliance to vehicles that would fail or potentially fail if the smog test was properly performed.

12. Mr. Torgerson was charged with the investigation of clean gassing, a relatively recent phenomenon, occurring mainly in Southern California. Mr. Torgerson was uniquely qualified to investigate and examine clean gassing and form an opinion that the passing smog check results of the ten vehicles at issue below were the result of clean gassing. Mr. Torgerson graduated college with a degree in mechanical engineering and also obtained a Masters of Arts in business administration. He had an extensive employment history in the area of air quality-related automotive emissions, having composed the specifications for BAR-97 EIS as an employee at the BAR. Mr. Torgerson had not worked continuously for the BAR, but sometime after developing the BAR-97, he left to work for six-and-a-half years on air quality issues related to automotive emissions for a private firm consulting with numerous states. Mr. Torgerson returned to the BAR at the same position he previously held, Air Quality Engineer II because California had devoted more engineering resources than other states in the area of air quality and as a result could conduct studies and develop programs without relying on private contractors. As a BAR employee, Mr. Torgerson developed the STAR program to provide incentives to station owners and smog check technicians responsible for testing older vehicles, which are more likely to fail. His primary responsibility at the BAR was to conduct data analysis and program evaluations to ensure clean air laws and regulations were properly enforced. Mr. Torgerson qualified as an expert and, based upon his straightforward and direct demeanor at hearing, his clear, simple and thorough responses to questions and explanation of the smog test results, his testimony was given great weight, in determining the appropriate discipline for respondents. Significantly, although there were numerous hypothetical questions posed to Mr. Torgerson about possible alternative scenarios, Mr. Torgerson's responses made it plain that the only explanation for the test results was illegal human intervention by the clean gassing method.

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Vehicle 2. Similarly, in clean plugging, the technician connects the smog check computer to the vehicle on-board computer data plug of Vehicle 2, while indicating to the smog check computer that he is connected to Vehicle 1. In both instances this is done when it is suspected that Vehicle 1 will not pass the test, but Vehicle 2 will.

13. The BAR relied upon computer data to identify suspected clean gassing smog tests, not traditional surveillance methods. Unlike other illegal smog tests, clean gassing, could not be observed by street or video surveillance because the passing readings were not being obtained by substituting vehicles, or from false hoses in tailpipes, which could be easily observed, but by introducing a foreign gas to the analyzer close to the tested vehicle, which could easily be hidden from view.

14. Around 2009-2010, Mr. Torgerson implemented a computer program for the BAR which randomly captured second-by-second emissions testing data from the EIS. Once a pattern of clean gassing was identified from a particular facility it was monitored more closely. Halo was identified early in the program, but the BAR did not start investigating respondents' activities until 2013, and the BAR's Accusation is limited to the ten illegal smog tests below.

15. The BAR has unfettered access to the VID which includes all information collected from its licensees throughout California, including all data transmitted from the EIS (Factual Finding 9). There are seven thousand smog inspection stations throughout the state transmitting data from the EIS. In addition, there are between 7,000 to 10,000 roadside inspections performed by state personnel to evaluate the smog inspection program. Prior to the receipt of the ten disputed smog checks below, Mr. Torgerson, after reviewing thousands of records, had noticed irregularities in the data collected from a small "popcorn" cluster of Southern California smog inspection stations. By checking the readings of the emissions flowing from the analyzer through the EIS at five second intervals, he noticed a simultaneous and deep drop in HC, CO and NOx, a drop that was scientifically impossible. HC and CO2 will move around as the catalytic converter warms up, but generally there was a consistent pattern of emission composition in legitimate Accelerated Simulation Mode (ASM) second-by-second emission readings, not the coordinated and dramatic movement of HC, CO and NOx, presented in the popcorn cluster.

16. Mr. Torgerson had never previously observed the pattern of "sudden inexplicable drops" close to zero in all three pollutants before he encountered them in his review of the popcorn cluster of Southern California smog stations. Mr. Torgerson considered the simultaneous and dramatic drop in gases during the ASM second-by-second emission readings conclusive of illegal activity because it was scientifically impossible to reach the reported ASM emission readings without human intervention. HC, CO and NOx generally do not drop together in legal tests because NOx formation increases for reasons that decrease CO and HC; NOx levels increase where there is too little fuel in relationship to air in the combustion chamber, and CO and HC levels increase for the opposite reason, too much fuel in relationship to air. Further CO2 generally remains stable during legitimate ASM inspection for passing vehicles, but with the disputed smog tests radically moved in coordination with other gases. Mr. Torgerson described the probability of the disputed ASM emission readings occurring without human intervention as statistically akin to a "live unicorn birth."

17. Mr. Torgerson attempted to duplicate the readings he found from the inspections performed by Mr. Molina and Mr. Camacho by conducting his own tests, but he could not duplicate the readings through legitimate smog tests. Mr. Torgerson also contrasted the disputed tests against legal smog tests. He did so by establishing baseline readings from unaltered second-by-second patterns obtained through a random sampling of vehicles selected for roadside emissions tests conducted by state officials. He then compared the patterns from unaltered roadside tests with the second-by-second data obtained from the disputed smog tests. Based upon his review and testing, he concluded that the unorthodox readings could be obtained only by introducing of a foreign gas into the analyzer. As confirmation of his opinion, the pattern of results stopped after Halo's equipment was confiscated.

18. At hearing, Mr. Torgerson convincingly answered respondents' questions concerning the reliability of his scientific method and analysis. Respondents' questioned the reliability of Mr. Torgerson's opinion that the simultaneous and coordinated drop of gas emissions could be accomplished only through illegal human intervention. Mr. Torgerson conceded to one exception during the ASM test where there is a simultaneous reduction in the gases as the catalytic converter warms up and starts working generating heat as the pollutants combust; however, Mr. Torgerson noted that the rise and fall in gases due to the catalytic converter is not as precipitous as the simultaneous emissions fluctuations due to clean gassing and the results from the disputed smog tests cannot be explained by the functioning of the catalytic converter.

19. At hearing, Mr. Torgerson convincingly answered respondents' question about the reliability of the smog results for pre-1996 vehicles due to the presence in vehicles introduced after 1996 of on board diagnostic systems (OBDS). As a rule, older vehicles were more likely to have higher emissions and to be obvious high emitters because they had less effective emissions control systems, and as such, were more likely to fail smog tests, and newer vehicles with self-diagnosis systems were generally cleaner and more likely to pass smog tests. First generation OBD systems, OBD-I, were present in vehicles manufactured in the 1990's before 1996. Newer vehicles with durable OBD-II systems were less likely to fail. However, there was no evidence that the presence or absence of the OBD-I or OBD-II systems was related to the dramatic fluctuations common to the disputed smog tests. The BAR's program is designed to get these high emitting vehicles fixed or off the road so Mr. Torgerson's focus on older vehicles for testing irregularities was rational due to their statistically higher emissions. Older vehicles without the highly regulated OBD-II systems are also required to have functional checks of mechanisms which affect the emissions such as the tailpipe, timing and fuel cap, but Mr. Torgerson credibly explained that smog emissions tests do not assess the cause of the emissions, just whether the emissions measured were within legal cut-points, so the OBD system used is largely irrelevant.

20. At hearing, Mr. Torgerson convincingly answered respondents' inquiries about the reliability of the smog test results based upon the impact of Exhaust Gas Recirculation (EGR) on the pollution emissions system. The proper functioning of the EGR system and the ignition timing system help to control and reduce the emissions of NOx. Respondents

also questioned the impact of other factors such as the ambient temperature outside the vehicle, and whether the vehicle was waiting and cold before the test. Respondents also maintained that the calibration of the analyzer or “bench drift” could account for the failing margins. Again, Mr. Torgerson convincingly referred to the overall pattern of coordinated and sudden drops in gases emissions which could not be explained by mechanical defects or variations in temperature, or bench drift.

21. Mr. Torgerson described his confidence in his conclusions by comparing his scientific method to the laws of gravity; he had not tested gravity everywhere in the planet but he was confident that the laws of gravity applied universally. Without direct observation Mr. Torgerson could not testify with certainty how the illegal canister gas was introduced into the analyzer during the disputed smog tests below, but based upon his expertise and understanding of the mechanics of the analyzer, he convincingly described how illegal canister gas could have been introduced into the analyzer through a variety of alternative means, such as inserting the illegal canister hose into one of the dual exhaust hoses that are connected to the analyzer or by removing a “t” hose from the analyzer and inserting the illegal canister hose, or inserting the illegal canister hose at the point of the filter bolt located at the bottom of the analyzer. Despite his inability to duplicate the exact circumstances of each disputed smog test, Mr. Torgerson was certain that clean gassing occurred based upon his statistical analysis of statewide readings, his simulation of smog tests, and his review of second-by-second readings of the illegal smog checks in Factual Finding 7.

22. On the basis of the second-by-second readings, illegal canister gas was introduced at the time the vehicle was likely to fail; longer ASM inspections generally signal possible failure. At that point, the second-by second readings show a precipitous and coordinated drop in gases, followed by a similarly sharp rise.

23. At hearing, based on their expertise as smog technicians, Messrs. Camacho and Molina attempted to show the improbability of clean gassing based upon how difficult it was for a smog test technician to obtain the necessary information during the test to know that a vehicle was going to fail and would have the physical dexterity to introduce the gas alone while sitting in the vehicle on the dynamometer. At a minimum two people were required for clean gassing. Without evidence of a pretest or previously failed tests, respondents maintained they would be randomly clean gassing vehicles. In his testimony Mr. Camacho demonstrated his knowledge of the mechanics of the illegal canisters. Although there was no evidence as to the precise steps taken by Mr. Camacho or Mr. Molina to introduce the illegal canister gas to the analyzer during the illegal smog checks associated with their license, there was substantial evidence that illegal canister gas was introduced, and based upon their identification as the smog technicians in the EIS, there was substantial evidence that Mr. Camacho and Mr. Molina did so, if not alone, with the assistance of someone else.

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24. In each of these smog tests, there was substantial evidence of coordinated declines in gases during second-by-second readings resulting in passing smog tests. The EIS looks for the presence of CO₂ to include in its algorithm; where CO₂ is completely absent the EIS terminates the test. In each of the disputed smog tests, CO₂ continued to be present after it was diluted by foreign gas, and as such, the algorithm was “tricked” and the test was completed. Mr. Torgerson capably testified that the emission cut points would have been exceeded for each suspected vehicle, if not for the introduction of illegal canister gas. His conclusions remained unchanged after he applied the dilution correction factor to each smog test to account for variations in the exhaust stream due to the introduction of ambient air unrelated to the emissions. According to Mr. Torgerson applying the dilution correction factor raised the gas emissions levels. Mr. Torgerson described most of the disputed tests as definite or clear fails. In one case, number 9, the Ford Pickup, CO was so high that it was unnecessary to also check the cut points for the gas emissions because it clearly failed due to the CO levels. Only one test was characterized as a probable fail, number five, the 1993 Chevrolet Pickup because the gas emissions were very close to the cut-points without the dilution correction factor, but failing with the dilution correction factor. Another smog test, number eight, the 2003 Mitsubishi Lancer, would have failed the first part of the smog test due to the high NO_x in the first mode, and even though it would pass the second mode, it would fail because it failed the first mode.

25. In addition to environmental consequences, Mr. Torgerson considered clean gassing a serious consumer protection problem. A bogus VIR and certificate of compliance provided during change of ownership inspections essentially certified that the vehicle was in working order. Once the unsuspecting purchaser discovered the fraud at or before its next legal inspection, the purchaser would have to choose between repairing the vehicle, which could exceed its value especially if it was old, and retiring the vehicle.

BAR's Site Investigation of Halo and Interviews with Mr. Camacho and Mr. Molina

26. Mario Salas (Mr. Salas), of the BAR's enforcement division initiated the investigation of respondents after Mr. Torgerson delivered second-by-second data sent to the VID from smog check inspections performed at Halo for the period of May 8, 2013 through May 10, 2013, which revealed a pattern of clean gassing.

27. On May 13, 2015, Mr. Salas visited Halo with the BAR's Gas Audit Team to verify the accuracy of the EIS analyzer and to determine whether Halo's equipment was compliant. The true purpose of Mr. Salas's visit was to make sure there were no equipment malfunctions that could alter smog check results and better explain the pattern of clean gassing. Mr. Salas has extensive experience in conducting and inspecting smog checks, understood the data collected from the VID, and the laws and regulations governing the BAR, and there was no dispute as to his qualifications. Mr. Salas spoke with Mr. Molina and did not interview anyone else. Mr. Molina fully cooperated with Mr. Salas's inspection. He knew Mr. Salas was a BAR investigator, did not question Mr. Salas's presence or ask him to leave. Mr. Salas found certain equipment deficiencies, including an inoperative sensor fan, three missing gas cap adapters, and a missing probe tip for the dual exhaust sample hole.

The EIS was locked so that smog checks could not be performed, but was unlocked the same day after Halo reported the equipment was in working order.

28. After Mr. Salas completed his May 13, 2015 inspection of Halo, Mr. Torgerson conducted a second detailed review of Halo's second-by-second data sent to the VID for the period of June 1, 2013, through June 3, 2014. The Halo data showed a clean gassing pattern from the above-described ten vehicles at the time of certification.

29. On June 6, 2013, Mr. Salas entered Halo accompanied by another BAR enforcement representative, Oliver James (Mr. James), an investigator assigned to assist Mr. Salas, who had spent decades as a licensed smog check technician, had a teaching credential in vocational education and has taught auto repair, and had training in interview techniques for law enforcement personnel. As is customary for BAR enforcement personnel, Mr. Salas and Mr. James wore plain work clothes, slacks and shirts, and did not dress or carry weapons like uniformed police officers. Mr. Molina was present when they arrived and Mr. Camacho arrived shortly thereafter. Mr. Molina and Mr. Camacho did not object to Messrs. Salas's and James's presence at Halo. Mr. James shook hands with Mr. Camacho. Mr. Camacho and Mr. Molina knew that Messrs. Salas and James were BAR personnel. Mr. Camacho was provided with at least one if not both business cards.

30. Mr. Salas went with Mr. Molina over to the area near the analyzer and Mr. Salas interviewed Mr. Molina about Halo's business practices in general, and Mr. Molina's license obligations, in particular. Mr. Salas did not prevent Mr. Molina from leaving the premises, either physically or verbally, and Mr. Molina never asked Mr. Salas to leave. During their discussion, Mr. Salas confirmed with Mr. Molina his practice of using his smog check technician number for all smog tests performed under his license number. Mr. Molina also confirmed Mr. Camacho as the only other technician working at Halo with the authority to conduct smog checks. Mr. Salas collected about 30 VIRs issued between June 1, 2013, and June 3, 2013. He found many VIR's without signature and asked Mr. Molina to sign the VIR's for the vehicles he tested, which he did. Mr. Salas prepared a Station Inspection Report (SIR) confirming this portion of his interview with Mr. Molina.

31. Mr. Salas also discussed with Mr. Molina law enforcement activity technician responsibility and laws and regulations governing smog checks. He informed Mr. Molina of the BAR's investigation and its findings of illegality at Halo, particularly the gas fluctuations which were inconsistent with properly running internal combustion engines. Mr. Salas discussed clean piping, clean plugging and finally clean gassing. Mr. Molina did not show confusion or surprise when Mr. Salas mentioned clean gassing. Mr. Salas did not threaten Mr. Molina, Mr. Flores or Mr. Camacho with arrest, but he was clear and assertive about the criminal and administrative consequences of illegal smog checks, and encouraged his cooperation. Mr. Molina acknowledged his understanding of the potential criminal and administrative consequences of his actions, and expressed his

interest in cooperating with the BAR's investigation. Mr. Molina was particularly concerned about criminal prosecution.

32. Mr. Molina admitted to clean gassing by inserting welding gas into the exhaust sample stream. Mr. Molina informed Mr. Salas that Mr. Camacho also performed clean gassing at Halo. Mr. Salas prepared an SIR confirming Mr. Molina's admissions which stated as follows:

I discussed clean gassing with Molina [.] [H]e admitted to entering welding gas to the sample stream. He is willing to cooperate with this [i]nvestigation and understands the implications both criminal and administrative. Molina also states the practi[c]e was performed (clean gassing) by both technicians David Camacho and himself.

At the bottom of the page before Mr. Molina's signature Mr. Salas added the following statement:

I read and agree to the above statement and its accuracy and sign under penalty of perjury.

Mr. Molina executed the SIR. (Exhibit 6.)

33. At the time Mr. Salas interviewed Mr. Molina near the analyzer, Mr. James asked Mr. Camacho to find a place for them to speak. Mr. Molina gestured toward Halo's office which was about 15 feet away from where they greeted each other, and Mr. James followed after Mr. Molina. Halo's office was very small; the door opened to the left edge of the desk and to the right of the door opening was the desk well and chair. Mr. Camacho sat at his desk chair and Mr. James sat at a chair close to the left edge of the desk. . Mr. Camacho was initially very guarded with Mr. James. Mr. James spoke with Mr. Camacho in Spanish. After identifying Mr. Camacho's accent as Puerto Rican, borrowing from his law enforcement interview techniques, to gain his confidence, Mr. James informed Mr. Camacho that many of his family members were also of Puerto Rican descent.

34. Mr. James showed Mr. Camacho the graphs prepared by Mr. Torgerson containing emissions readings of the disputed vehicles and asked him to explain the results because the numbers did not make sense. Mr. Camacho first feigned ignorance, but shifted uneasily in his chair after Mr. James asked him if he was doing anything to manipulate or trick the analyzer. Mr. James told Mr. Camacho that he believed Mr. Camacho was manipulating the analyzer. Mr. James did not threaten Mr. Camacho, Mr. Molina or Ms. Morales with immediate arrest if Mr. Camacho did not cooperate. Mr. James strongly recommended that Mr. Camacho be honest because Mr. James needed to report back and explain what was done.

35. Mr. Camacho admitted to Mr. James he was clean gassing and supplied Mr. James with a receipt from Victor Welding Supply Company where he purchased the illegal

canisters and/or the foreign gas. Mr. James asked him about the device used to introduce the foreign gas and Mr. Camacho told him he obtained it from an individual, and he had it locked away. Mr. James asked Mr. Camacho for the device and Mr. Camacho agreed to supply it to him if he would back his car into the facility so that Mr. Camacho could load the device into his car and leave immediately. This was the first time Mr. Camacho asked Mr. James to leave. Mr. Camacho refused to sign anything.

36. Mr. Camacho's office door was unlocked, and at some point during their meeting Ms. Morales opened the office door to drop off her purse. Mr. James pushed at the door so that she could not completely open it and both Mr. James and Mr. Camacho told Ms. Morales not to come in so that they could finish their conversation. Ms. Morales opened the door ajar and handed Mr. Camacho her wallet from her position at the door, and then walked over to Mr. Molina, who was still speaking with Mr. Salas. When Ms. Morales approached Mr. Molina while he was speaking with Mr. Salas to ask her why she was not allowed in the office, he also told her to stay away so that he could finish his discussion with Mr. Salas.

37. Mr. Camacho was mainly concerned with criminal prosecution. Consistent with Mr. Salas's warning to Mr. Molina, Mr. James delivered a strong warning to Mr. Camacho about the administrative and criminal consequences of respondents' conduct. Mr. Camacho maintained that Mr. James promised as a fellow Puerto Rican that Mr. James would make sure no harm would come to him or his family if he cooperated. Mr. James did not promise him anything, but encouraged his cooperation. However, after June 6, 2013, Mr. Camacho, by his own admission at hearing, met with Mr. Martin of the BAR and the District Attorney's office, provided the District Attorney with receipts for the illegal gas and the name of the salesman or fabricator of the illegal gas canisters, and secured immunity from criminal prosecution. There was no evidence that respondents were ever criminally prosecuted for clean gassing.

38. Mr. James left Halo's office and told Mr. Salas they needed to leave immediately. As instructed by Mr. Camacho they backed Mr. Salas's vehicle onto the premises and Mr. Camacho appeared with the Samsonite luggage, tapped the trunk two times, and when it opened Mr. Camacho placed the luggage in their trunk at which time Messrs. Salas and James left Halo.

39. The next day Mr. Camacho came to the BAR's offices to retrieve the VIRs and the Victor Welding receipt. He confronted Mr. Salas in the parking lot and Mr. Salas advised Mr. Camacho that he would meet him in the waiting room with his documents after he copied them. Mr. Camacho left with his documents, but refused to sign an SIR with any admissions.

40. Upon inspection, the device consisted of two canisters. One canister containing nitrogen was empty. The other canister contained a combination of 25 percent CO2 and 75 percent Argon gas and it is unknown how much of the contents was depleted before it was submitted to the BAR. There was a common regulator, valve and hose manifold attached to the two canisters which resulted in a blended mixture of illegal

gases. The inspection was performed by an independent company and there was no evidence that the illegal canisters were modified prior to the inspection.

41. Despite their admissions on June 6, 2013, Mr. Camacho and Mr. Molina claimed they never used the illegal canisters and that their admissions were coerced, but untrue. Mr. Camacho claimed he was also coerced into purchasing the illegal canisters by three gang members who appeared at his lot about three weeks after Mr. Salas's first inspection, which would have been just about the time of Mr. Torgerson's second-by-second data readings. Mr. Camacho said he paid \$250 for the canisters although he was asked to pay \$500. He knew one of the gang members who sold him the canisters because, before Halo, he had worked with him at another local smog check station. The gang member told Mr. Camacho he had to purchase them because everyone else was using them. Mr. Camacho claimed to recognize and understand the gang culture because Halo was in a neighborhood populated by gangs. He understood his purchase of the illegal canisters to be akin to protection money. Mr. Camacho maintained that he could not get the illegal canisters to work and placed them out-of-sight behind the garbage containers. He said the gang members came back for the rest of their money, but Mr. Camacho refused to pay. He did not call the BAR because he feared reprisals from gang members. At some point Mr. Camacho also informed the gang members that the illegal canisters did not work and a vehicle was placed in manual mode to demonstrate when to turn on the valve of the illegal canisters and what number needed to be reached at the valve for it to work properly and transmit the correct amount of illegal gas to the analyzer. Mr. Camacho also claimed he never told Mr. Molina about the illegal canisters but gave him the canisters to use as welding gas. Mr. Camacho's statements were not credible. The timing of his purported delivery was too close to Mr. Salas's and Mr. James's second inspection, and was not consistent with Mr. Torgerson's testimony that similar clean gassing readings were observed at the time the "popcorn" cluster was first observed, in or around 2009, and his earlier reading of clean gassing at Halo (Factual Findings 14-16.) Contradicting Mr. Camacho, Mr. Molina claimed he first saw the illegal canisters when Mr. Camacho placed them in Messrs. Salas and James's car.

42. The evidence did not disclose any coercion on the part of any BAR personnel.

43. Mr. Camacho's and Mr. Molina's testimony was given less weight against the more credible testimony of Mr. Salas and Mr. James, despite certain gaps of memory in Mr. James's testimony, and Mr. Torgerson. Mr. Camacho and Mr. Molina's narratives conflicted with their stated experiences as smog check technicians in an admittedly tough neighborhood highly populated with gang members. Mr. Camacho knew his neighborhood was "not Beverly Hills," understood the criminal element attendant to the gang population and recognized that the illegal canisters were part of a gang-related criminal enterprise. Mr. Molina also understood that many of his customers were gang members. Their sophistication about the gang population and Mr. Camacho's claim he was coerced into buying the illegal canisters fit squarely into a pattern of illegal smog checks consistent with respondents' desire to appease their gang member neighbors and

customers. From his demeanor at hearing and his extensive testimony about the purported circumstances surrounding his purchase of the illegal canisters, it was clear that Mr. Camacho made a calculated-- not coerced--decision to cooperate with the BAR and law enforcement. Mr. Camacho's calculation proved successful; he cooperated with the District Attorney and there is no evidence that respondents were criminally prosecuted. Mr. Molina's insistence that he was coerced into a false admission was also not credible based on the more persuasive testimony of Mr. Salas. Through his training as a licensed smog technician Mr. Molina understood the criminal consequences of his actions and chose to cooperate with the BAR. His insistence that he first saw the illegal canisters when they were placed in the trunk of Mr. Salas's and Mr. James's car, conflicted with Mr. Camacho's representation that he gave the gas to Mr. Molina for welding. Respondents' earlier out-of-court statements did not reference some of the claims Mr. Camacho made at hearing. For example, at hearing Mr. Camacho added details to Mr. James conduct, such as Mr. James's removal of his shirt to show he was not wearing a wire, which was not included in his earlier declaration, and demonstrated Mr. Camacho's ability to fabricate events.⁵ Mr. Molina, an otherwise hard-working individual, supporting his wife and children, and who worked in the family-owned muffler repair shop next to the smog check station, did not convincingly display his honest belief in his innocence. Mr. Molina's claim that Mr. Salas prevented him from leaving, was inconsistent with his trial testimony and the more persuasive testimony of Mr. Salas.

44. Mr. Camacho's demeanor at trial did not advance respondents' defense. Mr. Camacho's testimony was at times arrogant and at other times vague and rambling e.g., pointing at Mr. Salas when describing the gang members who arrived at his business to sell the illegal canisters, suggesting Mr. James was wearing a protective vest because he saw something like that on television, although there was no evidence Mr. James wore a vest, and suggesting Mr. Torgerson's graphs were fabricated because Halo's analyzer provided data in a different form.

45. Ms. Morales's testimony was given little weight. Ms. Morales had no knowledge of clean gassing and was only tangentially involved in Halo, although the automotive repair dealership and smog check station licenses were held in her name (Factual Findings 2 and 3). Ms. Morales did not work a full day or week at Halo. Ms. Morales purchased office supplies, made sure the licenses were updated, but did little else. Ms. Morales deferred to Mr. Camacho to manage Halo. She did not ask him

⁵ Respondents filed a pre-trial motion to suppress evidence which was included as part of the record as Exhibit A. Complainant's opposition was included as part of the record as Exhibit 22. Mr. Camacho's and Mr. Morales's declarations (Exhibits B and C) were part of their pre-trial motion to suppress evidence (Exhibit A), and as such were admitted as administrative hearsay and given less weight than their courtroom testimony. The declarations were peppered with strong language describing coercive conduct on the part of Mr. Salas and Mr. James, but did not advance respondents' claims of coercion because, like their courtroom testimony, their declarations were not credible.

questions and he did not consult with her, or advise her of problems. Ms. Morales presented as a kind and nurturing wife and mother, with little involvement or understanding of Halo, or the work done by Mr. Camacho, her husband and Mr. Molina, her son. She was a mere figurehead and did not exert any control over Halo and the other respondents.

Costs of Investigation

46. The BAR seeks recovery of its reasonable costs of investigation and prosecution, all contained in Exhibit 3, summarized as follows:

A. William D. Thomas, Program Manager II of the BAR certified the Investigative Costs. Investigative services by BAR personnel, including travel, time, evidence, report writing, and clerical services, with breakdowns by hours and hourly rates by Program Representative I are for fiscal year 2012-2013, 17.25 hours a rate of 73.20 an hour for a total of \$1,262.70; and for fiscal year 2014-2015, 45.75 hours at a rate of 71.26 per hour for a total of \$3,260. The investigator costs for Program Representative II, for fiscal year 2012-2013 are 5.0 hours at a rate of 77.87 an hour, for a total of \$389.00, and for fiscal year 2013-2014, 4.0 hours at a rate of 76.08, for a total of 304.32. The total costs of investigation were \$5,216.52. The billing statement lacked any detail as to the tasks performed and did not identify the personnel.

B. Deputy Attorney General costs: Thomas L. Rinaldi certified prosecution costs through January 29, 2015. A total of 31.75 hours by Deputies Attorney General at hourly fees of \$170, and 1.0 hours of paralegal time at \$120 per hour. The total costs of prosecution were \$5,517.50. Mr. Rinaldi's declaration and the billing statements attached thereto included the minimal level of detail required.

47. Ms. Morales testified that Halo is the sole source of her family's income and that in addition to Mr. Camacho and Mr. Morales, she assisted in the support of a college-aged child. Mr. Molina testified about supporting his wife and children. By revoking respondents' licenses respondents' source of income will end and, as such, it is unclear from the evidence whether they can pay the investigative and prosecution costs.

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LEGAL CONCLUSIONS AND DISCUSSION

Based upon the foregoing factual findings, the Administrative Law Judge makes the following legal conclusions:

*Respondents' Motion to Suppress Evidence is Denied*⁶

1. Respondents claim that the tactics used by Messrs. Salas and James constituted egregious and coercive, warrantless and nonconsensual searches and interrogations in violation of the Fourth and Fifth Amendments of the United States Constitution. Respondents' moved to suppress Mr. Molina's written confession (Exhibit 6), physical evidence of the illegal canisters and Victor Welding receipt (Exhibit 8), and testimony pertaining to Mr. Camacho's verbal admission and Mr. Molina's written admission, and physical evidence (Factual Findings 31-32,35, 37.)

2. Respondents' motion is denied as the more credible testimony of Mr. Salas and Mr. James established that respondents volunteered the physical evidence of the illegal canisters and the Victor Welding receipt, and that their conduct did not rise to the level of egregious and coercive conduct associated with violations of respondents' constitutional rights. The Supreme Court recently confirmed that certain administrative searches are subject to constitutional protections under the Fourth Amendment. (*City of Los Angeles v. Patel (Patel)* (June 22, 2015, No. 13-1175) __U.S.__[2015 WL 2473445]). However, *Patel*, which addressed the wholesale submission of hotel records to the police under a municipal ordinance, did not require suppression of evidence under Fourth Amendment principles where the evidence was volunteered and not searched, as more fully set forth below. Further, *Patel* endorsed a relaxed standard for administrative searches where, as here, certain criteria are met establishing the relationship between the administrative mandate and public protection. (*Patel, supra*, 2015 WL at *10) The BAR's smog check program is designed to improve air quality and to protect the public health by reducing vehicle emissions, which are especially onerous in Southern California, a designated enhanced area (Factual Finding 8.) The BAR program also protects consumers from fraud. (Factual Finding 25.) Licensed smog inspection facilities are highly regulated and numerous laws and regulations mandate that licensees provide access to smog check facilities. (Health Code § 44035, subdivision (b); Business and Professions Code (Business Code) § 9884.11) California Code of Regulations (Regulation) tit. 16, § 3340.15, subd. (g), and Regulation § 3358, subd. (c).)

3. A review of the totality of the circumstances does not warrant suppression of any evidence. The actions of Mr. Salas and Mr. James were not egregious. Here, the BAR had a reasonable suspicion of illegal activity. The BAR conducted a well-planned and systematic investigation before June 6, 2013. The BAR collected data which showed a pattern of smog test results in the Southern California area, including Halo, which could not

⁶ For convenience Respondent's Motion to Suppress Evidence was included in the record as Exhibit A (with declarations, Exhibit B and C) and the BAR's opposition as Exhibit 23.

have been obtained by legal means. (Factual Findings 7, 14-16, 21, 24, 26.) On May 13, 2013, Mr. Salas arrived at Halo, spoke with Mr. Molina, and inspected the EIS (Factual Finding 27). When Mr. Salas arrived with Mr. James on June 6, 2013, he was known by Mr. Molina, and he and Mr. James, dressed in street clothes and unarmed, identified themselves as BAR investigators, and were not accompanied by police (Factual Finding 29). Mr. Camacho chose the location of his meeting with Mr. James and was never prevented from leaving the facility (Factual Findings 33, 35). At no time before Mr. Camacho agreed to supply the illegal canister did anyone at Halo ask Mr. Salas or Mr. James to leave (Factual Findings 35). Mr. James asked for the illegal canisters, but Mr. Camacho volunteered to provide them to him, took charge of the delivery by instructing Mr. James to back up Mr. Salas's car onto the property of Halo and loading the illegal canisters onto Ms. Salas's car (Factual Findings 35-36). Based on the Factual Findings, this action is not similar to *Dyson v. State Personnel Bd.* (1985) 213 Cal.App.3d 71, as respondents' suggest, where the court excluded from administrative proceedings evidence from a previous criminal proceeding where police were present in the underlying administrative investigation of a warrantless search of a private residence.

4. The totality of the circumstances does not support suppression of confessional evidence obtained in violation of the Fifth Amendment. (*Compare Chou v. Barber* (1960) 279 F.2d 642, 646-47 (unchallenged testimony of seven hours of interrogation followed by sleepless hours and threats of imminent deportation violated the Fifth Amendment) with *Green v. Superior Court* (1985) 40 Cal.3d 126, 133-134 (where coercive environment of a police station interview was insufficient to require Miranda warning without a formal arrest where reasonable persons would have believed they were not in custody and restrained from leaving, even though the door was locked.) Mr. Salas and Mr. James did not invade respondents' business as police officers and hold Mr. Camacho and Mr. Molina hostage until they confessed or threaten them with immediate arrest. Contrary to the testimony of Mr. Camacho and Mr. Molina, they were not taken by force to separate locations and prevented from leaving. Mr. Salas did not pin Mr. Molina to a corner of the station, as respondents' assert. Mr. Salas spoke to Mr. Molina in a location near the analyzer, and at no time was Mr. Molina prevented from leaving (Factual Finding 30). Mr. James did not force or push Mr. Camacho toward his office (Factual Finding 33). Mr. Camacho chose the location of their meeting in the small Halo office, and the door remained unlocked (Factual Findings 33, 36). During their meeting Mr. James may have pushed the door so that Ms. Morales could not fully open it when she arrived unannounced, but Mr. Camacho also told Ms. Morales not to come in, and at no time was Mr. Camacho prevented from leaving the office (Factual Findings 33). Undoubtedly, Mr. Salas and Mr. James were assertive, pointedly reminding Mr. Camacho and Mr. Molina of the illegality of their conduct (Factual Findings 31, 34). Respondents' were principally concerned with criminal prosecution (Factual Findings 31, 37.) Mr. Camacho and Mr. Molina plainly were not unconstitutionally coerced by Mr. Salas and Mr. James (Factual Finding 42) but understood that their actions were subject to criminal prosecution and made reasonable decisions to cooperate with the BAR and the District Attorney, which they did.

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Cause to Suspend or Revoke as to Halo and Morales

5. The burden of proof is preponderance of the evidence. (*See Imports Performance v. Department of Consumer Affairs, BAR of Automotive Repair* (2011) 201 Cal.App.4th 911, 916.) Based on the persuasive testimony and analysis of Mr. Torgerson the BAR met its burden of proof that respondents performed the illegal acts set forth in the Accusation (Factual Findings 1-25). Additionally, the BAR met its burden of proof based upon Mr. Torgerson's analysis and the additional evidence obtained from the inspections performed by Mr. Salas and Mr. James (Factual Findings 1-45).

6. It is settled that the trier of fact may "accept part of the testimony of a witness and reject another part even though the latter contradicts the part accepted." (*Stevens v. Parke Davis & Co.* (1973) 9 Cal.3d 51, 67.) The trier of fact may also "reject part of the testimony of a witness, though not directly contradicted, and combine the accepted portions with bits of testimony or inferences from the testimony of other witnesses thus weaving a cloth of truth out of selected material." (*Id.*, at 67-68, quoting from *Neverov v. Caldwell* (1958) 161 Cal.App.2d 762, 767.) And, the testimony of "one credible witness may constitute substantial evidence," including a single expert witness. (*Kearl v. Board of Medical Quality Assurance*, (1986) 189 Cal.App.3d 1040, 1052. Here, Mr. Torgerson's testimony and documentation provided substantial evidence of respondents' illegal conduct, and was given great weight. Messrs. Salas' and James's testimony were given greater weight than respondents' testimony. Respondents' testimony was often rejected as not credible even where the testimony did not directly conflict with other testimony. (Factual Findings 12, 43-45).

7. The Director of the Department of Consumer Affairs (Director) is authorized to suspend, revoke or otherwise discipline a BAR licensee for all businesses or licenses registered in their name in the state and may pursue licensees regardless of whether the license is active, voluntarily surrendered, or expired. (Business Code § 9884.7, subd. (c), and Health Code §44002, and 44072.8).

8. Cause exists to suspend or revoke the automotive repair dealer registration and smog check station license of respondent Halo and Ms. Morales as owner, for violation of Business Code section 9884.7, subdivision (a)(1) and (a)(4), (First and Second Causes for Discipline), for authorizing untrue or misleading statements and fraud in the form of smog check certificates of compliance for the vehicles identified Factual Finding 7, which passed inspection due to illegal clean gassing methods described in Factual Findings 11. Halo and Ms. Morales, its owner are responsible for the acts of Mr. Camacho and Mr. Molina based on her complete failure to properly manage and supervise Halo, including taking reasonable steps to ensure compliance with the governing smog check laws (Factual Findings 45). Under the doctrine of respondeat superior employers such as Ms. Morales are responsible for the acts of their employees and have a non-delegable duty for their employees' conduct when they act under their license or through their business. (*See Rob-Mac, Inc. v. Department of Motor Vehicles* (1983) 149 Cal.App.3d 793, 799 (citing *Ford Dealers Ass'n v. Department of Motor Vehicles* (1982) 32 Cal.3d 347, 360-361); *Mantzoros v. State Bd. of Equalization*

(1948) 87 Cal.App.3d 140,144-145.) As owner of Halo Ms. Morales elected to defer to her husband, Mr. Camacho, technically Halo's employee, remain uninformed of any problems, and limit her duties to filling supplies and renewing respondents' licenses (Factual Finding 45). As such, respondents Halo and Ms. Morales are responsible for the conduct of Mr. Camacho and Mr. Molina, as set forth in Factual Findings 1-45.

9. Cause exists to suspend or revoke the automotive repair dealer registration and smog check station license of Halo and Ms. Morales as owner pursuant to Health Code section 44072.2, subdivision (a) (Third Cause for Discipline) for violation of Health Code section 44012, subdivision (a) (emission control tests to be in accordance with proper procedures); Health Code section 44012, subdivision (f) (failure to perform emission control tests according to prescribed practices); Health Code section 44015, subdivision (b) (issuance of certificates of compliance without proper testing and inspection of the vehicle); and Health Code section 44059 44059 (for willfully false entries in the computer system resulting in the issuance of fraudulent certificates of compliance). As as set forth in Legal Conclusion 8, respondents Halo and Ms. Morales are responsible for the conduct of Mr. Camacho and Mr. Molina, as set forth in Factual Findings 1-45.

10. Cause exists to suspend or revoke the automotive repair dealer registration and smog check station license of Halo and Ms. Morales as owner for violation of Health Code Code section 44072.2, subdivision (c) (Fourth Cause for Discipline), for violation of regulations adopted by the Director, more specifically Regulation, section 3340.24, subdivision (c) (false or fraudulent issuance of certificates of compliance); Regulation section 3340.35, subdivision (c) (issuance of certificates of compliance even though the vehicles had not been inspected in accordance with Regulation section 3340.42); and Regulation section 3340.42 (Respondent is responsible for the failure to conduct the required smog tests in accordance with the BAR's specifications. As as set forth in Legal Conclusion 8, respondents Halo and Ms. Morales are responsible for the conduct of Mr. Camacho and Mr. Molina, as set forth in Factual Findings 1-45.

11. Cause exists to suspend or revoke the automotive repair dealer registration and smog check station license of Halo and Ms. Morales as owner for violation of Health Code section 44072.2, subdivision (d) (Fifth Cause for Discipline), for committing acts involving dishonesty, fraud or deceit whereby another is injured that is, injury to the people of the State of California by virtue of the failure to properly test the emissions of vehicles, as set forth in Legal Conclusion 8 and Factual Findings 1-45.

Cause to Suspend or Revoke as to Mr. Camacho

12. Cause exists to suspend or revoke the smog check inspector and smog check repair technician licenses of Mr. Camacho pursuant to Health Code) section 44072.2, subdivision (a) (Sixth Cause for Discipline) for violation of Health Code section 44012, subdivision (a) (emission control tests to be in accordance with proper procedures); Health Code section 44012, subdivision (f) (failure to perform emission control tests according to prescribed practices); Health Code section 44032 (failure to perform tests of the emissions

control devices and systems according to section 44012) and Health Code section 44059 (for willfully false entries in the computer system resulting in the issuance of fraudulent certificates of compliance) due to clean gassing as set forth in Legal Conclusions 5-7, and Factual Findings 4, 6-29, 33-38.)

13. Cause exists to suspend or revoke the smog check inspector and smog check repair technician licenses of Mr. Camacho for violation of Health Code section 44072.2, subdivision (c) (Seventh Cause for Discipline), for violation of regulations adopted by the Director, more specifically: Regulation section 3340.24, subdivision (c) (false or fraudulent issuance of certificates of compliance); Regulation section 3340.35, subdivision (c) (issuance of certificates of compliance even though the vehicles had not been inspected in accordance with Regulation section 3340.42); Regulation section 3340.30, subdivision (a) (failure to inspect and test in accordance with Health Code section 44012); and Regulation section 3340.42 (Respondent is responsible for the failure to conduct the required smog tests in accordance with the BAR's specifications), as set forth in Legal Conclusions 5-7 and Factual Findings 4, 6-29, 33-38. Cause does not exist under Regulation section 3340.41, subdivision (c) (entering false information into the EIS for electronic certificates of compliance by entering vehicle emission control information for vehicles other than the vehicles being certified), as respondent used clean gassing to falsify the information on the vehicle that they were testing, not a substitute vehicle.

14. Cause exists to suspend or revoke the smog check inspector and smog check repair technician licenses of Mr. Camacho for violation of Health Code section 44072.2, subdivision (d) (Eighth Cause for Discipline), for committing acts involving dishonesty, fraud or deceit whereby another is injured, i.e., the people of the State of California were injured by virtue of the failure to properly test the emissions of vehicles, as set forth in Legal Conclusions 5-7 and Factual Findings 4, 6-29, 33-38.

Cause to Suspend or Revoke as to Mr. Molina

15. Cause exists to suspend or revoke the smog check inspector and smog check repair technician licenses of Mr. Molina pursuant to Health Code section 44072.2, subdivision (a) (Ninth Cause for Discipline) for violation of Health Code section 44012, subdivision (a) (emission control tests to be in accordance with proper procedures); Health Code section 44012, subdivision (f) (failure to perform emission control tests according to prescribed practices); Health Code section 44032 (failure to perform tests of the emissions control devices and systems according to section 44012) and Health Code section 44059 (for willfully false entries in the computer system resulting in the issuance of fraudulent certificates of compliance) due to clean gassing as set forth in Legal Conclusions 5-7, and Factual Findings 5-32.

16. Cause exists to suspend or revoke the smog check inspector and smog check repair technician licenses of Mr. Molina for violation of Health and Safety Code section 44072.2, subdivision (c) (Tenth Cause for Discipline), for violation of regulations adopted by the Director, more specifically: Regulation section 3340.24, subdivision (c) (false or

fraudulent issuance of certificates of compliance); Regulation section 3340.35, subdivision (c) (issuance of certificates of compliance even though the vehicles had not been inspected in accordance with Regulation section 3340.42); Regulation section 3340.30, subdivision (a) (failure to inspect and test in accordance with Health Code section 44012); and Regulation section 3340.42 (Respondent is responsible for the failure to conduct the required smog tests in accordance with the BAR's specifications), as set forth in Legal Conclusions 5-7, and Factual Findings 5-32. Cause does not exist under Regulation section 3340.41, subdivision (c) (entering false information into the EIS for electronic certificates of compliance by entering vehicle emission control information for vehicles other than the vehicles being certified), as respondent used clean gassing to falsify the information on the vehicle that they were testing, not a substitute vehicle.

17. Cause exists to suspend or revoke the smog check inspector and smog check repair technician licenses of Mr. Molina for violation of Health Code section 44072.2, subdivision (d) (Eleventh Cause for Discipline), for committing acts involving dishonesty, fraud or deceit whereby another is injured that is, injury to the people of the State of California by virtue of the failure to properly test the emissions of vehicles, as set forth in Legal Conclusions 5-7, and Factual Findings 5-32.

18. In sum, allowing respondents to continue to engage in licensed activity would endanger the public health, safety and welfare based upon Legal Conclusions 5-17, and Factual Findings 1-45.

Reasonable Costs of Investigation and Prosecution

18. Under Business and Professions Code section 125.3, the BAR may request the administrative law judge to direct licensees found to have committed a violation or violations of the licensing act in question to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case. An estimate may be used when the actual costs are not available. Respondents claim that the BAR's investigative costs (Exhibit 3B) are insufficiently described to support reimbursement under Regulation section 1042 because the investigative costs do not specify the individual or the activity, but the total costs incurred by classification of investigator. Mr. William D. Thomas, Program Manager II of the BAR, certified the expenses from his review of BAR records as of January 27, 2015, but at a minimum, absent confidentiality concerns, the individual and the activity should be at least generally described similar to the Attorney General's billing record. As such, respondents' objection to the investigative fees is sustained.

19. The BAR is entitled to recover its reasonable costs of prosecution of this matter, including fees of the Attorney General, in the sum of \$5,517.50, under the provisions of Business and Professions Code section 125.3 and Regulation section 1042. However, in light of respondents' evident inability to pay, as set forth in Finding 47, in light of the holding in *Zuckerman v. State Board of Chiropractors* (2002) 29 Cal.4th 32, 45, which requires the licensing agency to take into account respondents' ability to pay costs; and in light of the severity of the below order, respondents will not be required to pay all of the

BAR's prosecution costs at this time. In the event respondents, in the future, seek reinstatement of their licenses the BAR may require respondents to pay a portion of the costs incurred herein, in the total amount of \$4500, at such time and in such manner as the BAR, in its discretion, may direct.

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

1. Automotive Repair Dealer Registration Number ARD 243400 and Smog Check Test Only Station License Number TC 243400 issued to Floridama Morales, doing business as the sole owner of Halo Hot Rod, with the STAR Station certification issued to Halo Hot Rod together with all licensing rights appurtenant thereto are revoked;

2. Smog Check Inspector License Number EO134615 and Smog Check Repair Technician License Number EI134615 issued to David Camacho together with all licensing rights appurtenant thereto are revoked;

3. Smog Check Inspector License Number EO632837 and Smog Check Repair Technician License Number EI632837, issued to Manuel Alejandro Molina Morales, together with all licensing rights appurtenant thereto, are revoked.

4. In the event respondents in the future seek reinstatement of their licenses the BAR may require respondents to pay a portion of the costs incurred herein, in the total amount of \$4500 for all respondents, at such time and in such manner as the BAR, in its discretion, may direct.

DATED: June 29, 2015



EILEEN COHN
Administrative Law Judge
Office of Administrative Hearings

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7

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

10
11 In the Matter of the Accusation Against:

Case No. 79/14-137

12 **HALO HOT ROD: FLORIDALMA**
MORALES, OWNER
13 **850 E. Jefferson Blvd**
Los Angeles, Ca 90011
14

ACCUSATION

15 **Automotive Repair Dealer Registration**
No. ARD 243400
16 **Smog Check Test Only Station License**
No. TC 243400

17 **DAVID CAMACHO**
18 **906 E. Newmark Avenue**
Monterey Park, CA 91755

19 **Smog Check Inspector License**
No. EO 134615
20 **Smog Check Repair Technician License**
No. EI 134615
21

22 **MANUEL ALEJANDRO MOLINA**
MORALES
23 **116 S. Marguerita Ave**
Monterey Park, CA 91754

24 **Smog Check Inspector License No. EO**
632837
25 **Smog Check Repair Technician License No.**
EI 632837
26

27 Respondents

28

1 Complainant alleges:

2 **PARTIES**

3 1. Patrick Dorais (Complainant) brings this Accusation solely in his official capacity as
4 the Chief of the Bureau of Automotive Repair, Department of Consumer Affairs.

5 2. On or about August 14, 2006, the Bureau of Automotive Repair issued Automotive
6 Repair Dealer Registration Number ARD 243400 to Halo Hot Rod; Floridalma Morales, Owner
7 (Respondent Halo Hot Rod). The Automotive Repair Dealer Registration will expire on January
8 31, 2015, unless renewed.

9 3. On or about September 14, 2006, the Bureau of Automotive Repair issued Smog
10 Check Test Only Station License Number TC 243400 to Respondent Halo Hot Rod. The Smog
11 Check Test Only Station License will expire on January 31, 2015, unless renewed.

12 4. In 1998, the Bureau of Automotive Repair issued Advanced Emission Specialist
13 Technician License Number EA 134615 to David Camacho (Respondent Camacho). Respondent
14 Camacho's Advanced Emission Specialist Technician License was due to expire on August 31,
15 2012. Pursuant to California Code of Regulations, title 16, section 3340.28, subdivision (c), the
16 license was renewed, pursuant to Respondent Camacho's election, as Smog Check Inspector
17 License Number EO 134615 and Smog Check Repair Technician License Number EI 134615
18 (technician licenses"), effective August 14, 2012. Respondent's technician licenses will expire on
19 August 31, 2014, unless renewed.

20 5. On or around February 7, 2011, the Bureau of Automotive Repair issued Advanced
21 Emission Specialist Technician License Number EA 632837 to Manuel Alejandro Molina Morales
22 (Respondent Morales). Respondent Morales' Advanced Emission Specialist Technician License
23 expired on December 31, 2012. Pursuant to California Code of Regulations, title 16, section
24 3340.28, subdivision (e), the license was renewed, pursuant to Respondent Morales' election, as
25 Smog Check Inspector License Number EO 632837 effective January 10, 2013 and Smog Check
26 Repair Technician License Number EI 632837 (technician licenses"), effective March 20, 2013.
27 Respondent's technician licenses will expire on December 31, 2014, unless renewed.

1 **JURISDICTION**

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

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

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

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

15 **STATUTORY PROVISIONS**

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

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

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

26 (4) Any other conduct that constitutes fraud.

27 (b) Except as provided for in subdivision (c), if an automotive repair
28 dealer operates more than one place of business in this state, the director pursuant to
subdivision (a) shall only suspend, revoke, or place on probation the registration of the
specific place of business which has violated any of the provisions of this chapter. This
violation, or action by the director, shall not affect in any manner the right of the
automotive repair dealer to operate his or her other places of business.

(c) Notwithstanding subdivision (b), the director may suspend, revoke, or
place on probation the registration for all places of business operated in this state by an
automotive repair dealer upon a finding that the automotive repair dealer has, or is,

1 engaged in a course of repeated and willful violations of this chapter, or regulations
2 adopted pursuant to it.

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

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

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

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

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

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

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

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

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

16. Section 44072.8 of the Health and Safety Code states:

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

1 Samsonite suit case that contained the equipment. A subsequent inspection of the suit case
2 revealed two gas tanks: one labeled 75% Argon, 25% CO2 and the other Nitrogen.

3 22. At the conclusion of the Bureau's investigation, they determined that Respondents
4 issued at least ten (10) fraudulent smog certificates of compliance via the "clean gassing" method
5 to the vehicles identified in Table No. 1 below, that were not tested in accordance with the
6 Bureau's Inspection and Maintenance Program.¹

7 **Table 1**

8

9 Date and Test Times	10 Vehicle in EIS Data (License Plate #)	11 Technician	12 Certificate Issued
13 6-1-2013 1202-1212	14 1978 Chevrolet G20 Van (5GNG042)	15 EO632837	16 XV194760C
17 6-1-2013 1437-1444	18 1989 Toyota Pickup (6R68273)	19 EO134615	20 XV194766C
21 6-1-2013 1507-1516	22 1994 Honda Accord (5WAA874)	23 EO134615	24 XV194768C
25 6-1-2013 1521-1527	26 1993 Nissan Altima (5BQN892)	27 EO134615	28 XV194769C
6-1-2013 1555-1604	1993 Chevrolet C-1500 Pickup (8Z35674)	EO134615	XV194771C
6-3-2013 1114-1124	1983 Toyota Corolla (1HOH961)	EO632837	XV194772C
6-3-2013 1137-1147	1993 Ford Explorer (5YNU661)	EO632837	XV194773C
6-3-2013 1223-1237	2003 Mitsubishi Lancer (5CGN391)	EO632837	XV194774C
6-3-2013 1504-1522	1986 Ford F-150 Pickup (2XRN241)	EO632837	XV194777C
6-3-2013 1539-1553	1988 Honda Civic CRX (4NUZ570)	EO632837	XV194778C

26 ¹ "Clean Gassing" is a term used by the Bureau to describe a situation where a gas dilution
27 system is used to alter vehicle exhaust samples being introduced into the State of California
28 Emissions Inspection Unit (EIS), thereby causing normally failing vehicles with excessive
emissions to pass the emission portion of the Smog Check test.

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Misleading Statements)**

3 23. Respondent Halo Hot Rod has subjected his registration to discipline under Code
4 section 9884.7, subdivision (a)(1), in that on June 1 and 3, 2013, he made statements which he
5 knew or which by exercise of reasonable care he should have known were untrue or misleading
6 when it 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 gassed.

9 **SECOND CAUSE FOR DISCIPLINE**

10 **(Fraud)**

11 24. Respondent Halo Hot Rod has subjected his registration to discipline under Code
12 section 9884.7, subdivision (a)(4), in that on June 1 and 3, 2013, he committed acts which
13 constitute fraud by issuing electronic certificates of compliance for the vehicles set forth in Table 1
14 above, without performing bona fide inspections of the emission control devices and systems on
15 those vehicles, thereby depriving the People of the State of California of the protection afforded by
16 the Motor Vehicle Inspection Program.

17 **THIRD CAUSE FOR DISCIPLINE**

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

19 25. Respondent Halo Hot Rod has subjected his station license to discipline under Health
20 and Safety Code section 44072.2, subdivision (a), in that on June 1 and 3, 2013, regarding the
21 vehicles set forth in Table 1 above, he violated sections of that Code, as follows:

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

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

1 c. **Section 44015, subdivision (b):** Respondent Halo Hot Rod issued electronic
2 certificates of compliance without properly testing and inspecting the vehicles to determine if they
3 were in compliance with section 44012 of that Code.

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

7 **FOURTH CAUSE FOR DISCIPLINE**

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

9 26. Respondent Halo Hot Rod has subjected his station license to discipline under Health
10 and Safety Code section 44072.2, subdivision (c), in that on June 1 and 3, 2013, regarding the
11 vehicles set forth in Table 1, above, he violated sections of the California Code of Regulations, title
12 16, as follows:

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

17 b. **Section 3340.35, subdivision (c):** Respondent Halo Hot Rod issued electronic
18 certificates of compliance even though those vehicles had not been inspected in accordance with
19 section 3340.42 of that Code.

20 c. **Section 3340.42:** Respondent Halo Hot Rod failed to conduct the required smog tests
21 and inspections on those vehicles in accordance with the Bureau's specifications.

22 **FIFTH CAUSE FOR DISCIPLINE**

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

24 27. Respondent Halo Hot Rod subjected his station license to discipline under Health and
25 Safety Code section 44072.2, subdivision (d), in that on June 1 and 3, 2013, regarding the vehicles
26 set forth in Table 1, above, he committed acts involving dishonesty, fraud or deceit whereby
27 another was injured by issuing electronic certificates of compliance for those vehicles without
28 performing bona fide inspections of the emission control devices and systems on those vehicles,

1 thereby depriving the People of the State of California of the protection afforded by the Motor
2 Vehicle Inspection Program.

3 **SIXTH CAUSE FOR DISCIPLINE**

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

5 28. Respondent Camacho has subjected his technician licenses to discipline under Health
6 and Safety Code section 44072.2, subdivision (a), in that on June 1, 2013, regarding the vehicles
7 set forth in Table 1, he violated sections of that Code, as follows:

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

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

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

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

19 **SEVENTH CAUSE FOR DISCIPLINE**

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

21 29. Respondent Camacho has subjected his technician licenses to discipline under Health
22 and Safety Code section 44072.2, subdivision (c), in that on June 1, 2013, regarding the vehicles
23 set forth in Table 1, he violated sections of the California Code of Regulations, title 16, as follows:

24 a. **Section 3340.24, subdivision (c):** Respondent Camacho falsely or fraudulently issued
25 electronic certificates of compliance without performing bona fide inspections of the emission
26 control devices and systems on those vehicles as required by Health and Safety Code section
27 44012.

28

1 certificates of compliance for the vehicles set forth in Table 1, above, without performing bona fide
2 inspections of the emission control devices and systems on those vehicles, thereby depriving the
3 People of the State of California of the protection afforded by the Motor Vehicle Inspection
4 Program.

5 OTHER MATTERS

6 34. Pursuant to Bus. & Prof. Code section 9884.7, subdivision (c), the Director may
7 suspend, revoke or place on probation the registration for all places of business operated in this
8 state by Floridalma Morales, owner of Halo Hot Rods, upon a finding that he has, or is, engaged in
9 a course of repeated and willful violations of the laws and regulations pertaining to an automotive
10 repair dealer.

11 35. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Test Only Station
12 License Number TC 243400, issued to Floridalma Morales, owner of Halo Hot Rods is revoked or
13 suspended, any additional license issued under this chapter in the name of said licensee may be
14 likewise revoked or suspended by the Director.

15 36. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Inspector License
16 No. EO 134615, or Smog Check Repair Technician License Number EI 134615, all issued to
17 Respondent Camacho is revoked or suspended, any additional license issued under this chapter in
18 the name of said licensee may be likewise revoked or suspended by the Director.

19 37. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Inspector License
20 No. EO 632837, or Smog Check Repair Technician License No. EI 632837, issued to Respondent
21 Morales, is revoked or suspended, any additional license issued under this chapter in the name of
22 said licensee may be likewise revoked or suspended by the Director.

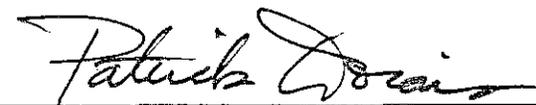
23 PRAYER

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

26 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
27 243400, issued to Respondent Halo Hot Rod.
28

- 1 2. Revoking or suspending Smog Check Test Only Station License Number TC 243400,
2 issued to Respondent Halo Hot Rod;
- 3 3. Revoking or suspending Smog Check Inspector License No. EO 134615, issued to
4 Respondent Camacho;
- 5 4. Revoking or suspending Smog Check Repair Technician License Number EI 134615,
6 issued to Respondent Camacho;
- 7 5. Revoking or suspending Smog Check Inspector License Number EO 632837, issued
8 to Respondent Morales;
- 9 6. Revoking or suspending Smog Check Repair Technician License Number EI 632837,
10 issued to Respondent Morales;
- 11 7. Ordering Respondents Halo Hot Rod, Camacho, and Morales to pay the Bureau of
12 Automotive Repair the reasonable costs of the investigation and enforcement of this case, pursuant
13 to Business and Professions Code section 125.3;
- 14 8. Taking such other and further action as deemed necessary and proper.

15
16 DATED: June 5, 2014



PATRICK DORAIS
Chief
Bureau of Automotive Repair
Department of Consumer Affairs
State of California
Complainant

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