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7

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

11 In the Matter of the Accusation Against:

Case No. 79/16-37

12 **SMOG MASTER,**
13 **FERNANDO SANDOVAL, OWNER**
2566 Mountain View Rd., #3
El Monte, CA 91733
14 Mailing Address:
14220 Francisquito Ave., #309
15 Baldwin Park, CA 91706
Automotive Repair Dealer Registration No.
16 ARD 274033
Smog Check Station License No. TC 274033;

ACCUSATION
(SMOG CHECK)

17 **FERNANDO SANDOVAL**
18 14220 Francisquito Ave., #309
Baldwin Park, CA 91706
19 Smog Check Inspector No. EO 144260
Smog Check Repair Technician No. EI 144260
20 (formerly Advanced Emission Specialist
Technician License No. EA 144260);

21 and

22 **MILAN CAYANTANO VALLES**
23 23629 Decorah Rd.
Diamond Bar, CA 91765
24 Mailing Address:
2134 E. Cortez St.
25 Diamond Bar, CA 91765
Smog Check Inspector No. EO 633268
26 Smog Check Repair Technician No. EI 633268
(formerly Advanced Emission Specialist
27 Technician License No. EA 633268);

28 Respondents.

1 Complainant alleges:

2 **PARTIES**

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

5 2. On or about August 22, 2013, the Bureau of Automotive Repair (“Bureau”) issued
6 Automotive Repair Dealer Registration Number ARD 274033 (“ARD Registration”) to Fernando
7 Sandoval, owner, doing business as Smog Master (“Respondent Smog Master”). The ARD
8 Registration was in full force and effect at all times relevant to the charges brought herein. It
9 expired on August 31, 2015, and has not been renewed.

10 3. On or about September 27, 2013, the Bureau issued Smog Check, Test Only, Station
11 License Number TC 274033 (“Station License”) to Fernando Sandoval, owner, doing business as
12 Smog Master. The Station License was in full force and effect at all times relevant to the charges
13 brought herein. It expired on August 31, 2015, and has not been renewed.

14 4. In 2001, the Bureau issued Advanced Emission Specialist Technician License No. EA
15 144260 to Fernando Sandoval (“Respondent Sandoval”). Respondent Sandoval’s Advanced
16 Emission Specialist Technician License was due to expire on March 31, 2013, however, it was
17 cancelled on March 14, 2013. Pursuant to California Code of Regulations, title 16, section
18 3340.28, subdivision (e), said license was renewed as Smog Check Inspector License No. EO
19 144260 and Smog Check Repair Technician License No. EI 144260 (“Technician Licenses”),
20 effective March 14, 2013.¹ Respondent Sandoval’s Technicians Licenses were in full force and
21 effect at all times relevant to the charges brought herein. They expired on March 31, 2015, and
22 have not been renewed.

23 5. On or about June 17, 2011, the Bureau issued Advanced Emission Specialist
24 Technician License No. EA 633268 to Milan Cayantano Valles (“Respondent Valles”).
25 Respondent Valles’ Advanced Emission Specialist Technician License was due to expire on

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

1 August 31, 2013, however, it was cancelled on July 5, 2013. Pursuant to California Code of
2 Regulations, title 16, section 3340.28, subdivision (e), said license was renewed as Smog Check
3 Inspector License No. EO 633268 and Smog Check Repair Technician License No. EI 633268
4 ("Technician Licenses"), effective July 5, 2013. Respondent Valles' Technicians Licenses were
5 in full force and effect at all times relevant to the charges brought herein. They expired on August
6 31, 2015, and have not been renewed.

7 JURISDICTION

8 6. This Accusation is brought before the Director of Consumer Affairs (Director) for the
9 Bureau of Automotive Repair, under the authority of the following laws.

10 7. Section 9884.13 of the Business and Professions Code provides, in pertinent part, that
11 "[t]he expiration of a valid registration shall not deprive the director or chief of jurisdiction to
12 proceed with . . . [a] disciplinary proceeding against an automotive repair dealer or to render a
13 decision invalidating a registration temporarily or permanently."
14

15 8. Section 9884.7 of the Bus. & Prof. Code states, in pertinent part:

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

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

22

23 "(4) Any other conduct which constitutes fraud.

24

25 "(6) Failure in any material respect to comply with the provisions of this chapter or
26 regulations adopted pursuant to it."
27
28

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

4 10. Section 44012 of the Health & Saf. Code provides, in pertinent part, that tests at smog
5 check stations shall be performed in accordance with procedures prescribed by the department.

6 11. Section 44015, subdivision (b), of the Health & Saf. Code provides that a certificate
7 of compliance shall be issued if a vehicle meets the requirements of Health & Saf. Code section
8 40012.

9 12. Section 44032 of the Health & Saf. Code provides, in pertinent part, that “[q]ualified
10 technicians shall perform tests of emission control devices and systems in accordance with
11 Section 44012.”

12 13. Section 44059 of the Health & Saf. Code provides:

13 “The willful making of any false statement or entry with regard to a material matter
14 in any oath, affidavit, certificate of compliance or noncompliance, or application form
15 which is required by this chapter or Chapter 20.3 (commencing with Section 9880) of
16 Division 3 of the Business and Professions Code, constitutes perjury and is punishable
17 as provided in the Penal Code.”

18 14. Section 44072.2 of the Health & Saf. Code states, in pertinent part:

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

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

25 “(b) Is convicted of any crime substantially related to the qualifications, functions,
26 or duties of the licenseholder in question.

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

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

 “(f) Aids or abets unlicensed persons to evade the provisions of this chapter.”

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1 **COST RECOVERY**

2 21. Section 125.3, subdivision (a), of the Bus. & Prof. Code provides, in pertinent part,
3 that a Board “may request the administrative law judge to direct a licentiate found to have
4 committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable
5 costs of the investigation and enforcement of the case.”

6 **BUREAU INVESTIGATION**

7 **Surveillance # 1- February 5, 2014**

8 22. Based on a review of confidential Bureau of Automotive Repair (Bureau)
9 information, an investigation of the Smog Check activities of Smog Master was initiated. On
10 February 05, 2014, two Bureau Program Representative (“representatives”) visited Smog Master
11 to survey the location, identify the location of the facility’s Emission Inspection System (or EIS, a
12 computer used to send smog test information to the Bureau’s statewide database), and to
13 determine the Smog Check testing methods used. They video recorded the encounter and
14 observed what appeared to be the same vehicle in the smog test bay for three consecutive
15 inspections.

16 **Surveillance # 2- February 27, 2014**

17 23. On February 27, 2014, the representatives returned to Smog Master and positioned
18 themselves in a location with a view into the facility and the smog check test bay. They also
19 began video recording the test bay and the persons involved with smog check activity. Using the
20 Bureau’s photograph database as a reference, the representatives were able to positively identify
21 Respondent Milan Valles. During the surveillance, the representatives also observed two
22 unknown persons (John Doe #1 and John Doe # 2) aiding and abetting Valles as he engaged in
23 fraudulent smog check activity.

24 a. Commencing about 1023 hours, the representatives observed Valles standing at the
25 EIS and entering data. The only vehicle in the test bay was a Dodge Neon. At approximately
26 1029, as Valles stood at the EIS, John Doe #1 walked to the rear of the Dodge Neon, reached
27 down and picked up the exhaust sample probe from the tailpipe area. Around this same time, the
28

1 test concluded. During this test Valles also failed to engage in any activity consistent with
2 performing a visual or functional inspection of the vehicle.

3 b. Approximately ten minutes later, the representatives again observed Valles
4 entering data into the EIS. He sat in the driver's seat and operated the Dodge Neon, then exited it
5 and returned to the EIS. John Doe #2 walked toward the rear of the Dodge Neon with the exhaust
6 sample probe in his hand, reached down and placed the exhaust sample probe in the tailpipe area
7 of the Dodge Neon. Valles returned to the driver's seat and John Doe #1 entered data into the
8 EIS. Valles exited the vehicle and stood next to John Doe #1 as John Doe #1 continued to enter
9 data. Valles then walked toward the rear of the Dodge Neon and observed as John Doe #2
10 reached down and picked up the exhaust sample probe from the tail pipe area of the Dodge Neon.
11 At 1046 hours, the test concluded and John Doe #2 drove the Dodge Neon out of the test bay.

12 c. After the surveillance on February 27, 2014 concluded, one of the
13 representatives transferred the video recording to a digital video disk (DVD). He also printed a
14 test data summary for Respondent Smog Master during the surveillance period from the Bureau's
15 Vehicle Information Database (VID) and compared it to the surveillance video. The video
16 recording confirmed that Respondents Valles and Smog Master, along with John Doe #1 and John
17 Doe #2, conspired to fraudulently test two (2) vehicles resulting in the issuance of one (1)
18 fraudulent smog Certificate of Compliance, using the Dodge Neon, and the "Clean Piping"
19 method for vehicles that were not present at the time of each respective test.²

20 d. VID data showed the first purported smog check inspection was allegedly of a
21 1986 Toyota Pickup which resulted in a failure of the visual and functional portions of the test, so
22 it therefore did not receive a Certificate of Compliance.

23 e. The VID data showed that the second purported smog check inspection resulted in
24 the issuance of a fraudulent Certificate of Compliance by Respondent Valles to a 2003 Kia
25 Spectra, which was not present during the test. The surveillance video also showed that Valles
26

27 ² "Clean piping" is sampling the (clean) tailpipe emissions and/or the RPM readings of another vehicle for
28 the purpose of illegally issuing smog certifications to vehicles that are not in compliance or are not present in the
smog check area during the time of the certification.

1 knowingly and willfully allowed an unqualified individual to use his Smog Check Inspector
2 number and personal access code to enter data into the EIS and Vehicle Information Database
3 (VID) while performing the fraudulent smog check.

4 **Surveillance # 3- March 11, 2014**

5 24. On March 11, 2014, the Bureau representatives continued their video undercover
6 surveillance of the smog check activities at Respondent Smog Master. Shortly after they arrived,
7 they observed the Dodge Neon in the test bay. DMV records show the Dodge Neon is registered
8 to Fernando Sandoval, owner of Smog Master. It remained in the test bay while Valles performed
9 the three smog check inspections, this time assisted by two other unknown individuals, John Doe
10 #3 and John Doe #4. As they had done previously, after the surveillance on March 11, 2014
11 concluded, one of the representatives transferred the video recording to a DVD and printed a test
12 data summary for the surveillance period from the Bureau's Vehicle Information Database (VID)
13 and compared it to the surveillance video.

14 a. The data showed that between 0745 and 0805 hours, Respondents Smog Master
15 and Valles issued a certificate of compliance to a 1986 Ford Mustang that was not in the test bay
16 at the time of certification. The Dodge Neon was tested in place of the Ford Mustang.

17 b. The data showed that between 0811 and 0819 hours, Respondents Smog Master
18 and Valles, issued a smog certificate of compliance to a 2000 Ford Ranger that was not in the test
19 bay at the time of certification. The Dodge Neon was tested in place of the Ranger.

20 c. The data showed that between 0822 and 0831 hours, Respondents Smog Master
21 and Valles issued a smog certificate of compliance to a 1991 Chevrolet S-10 truck that was not in
22 the test bay at the time of certification. The Dodge Neon was tested in place of the Chevrolet S-10
23 truck.

24 d. During the surveillance on March 11, 2014, the Bureau representatives observed
25 Respondent Valles enter information at the EIS for all three fraudulent inspections. They
26 observed Valles allowing John Doe #3 to enter information at the EIS during two of the tests.
27 During two of the tests they also observed Valles place the exhaust sample probe in the area of
28 the Neon's tail pipe.

25. The following chart illustrates the fraudulent smog check inspections that occurred during the surveillances of February 27 and March 11, 2014:

#	Date and Test time	Vehicle data entered into EIS and license #	Actual Vehicle Tested	Certificate issued	Details
1	02/27/2014, 1023 hours to 1029 hours	1986 Toyota Pickup California license 5K96028	1997 Dodge Neon unable to observe plate ³	Vehicle failed functional and visual test	The Neon was in the test bay at the time of the Smog Check.
2	02/27/2014, 1040 hours to 1046 hours	2003 Kia Spectra, California license 6VCD129	1997 Dodge Neon unable to observe plate [†]	YD603776C	The Neon was tested in place of the Spectra. The Spectra was not in the test bay at the time of certification.
3	03/11/2014, 0745 hours to 0805 hours	1986 Ford Mustang California license 4VSX963	1997 Dodge Neon unable to observe plate [†]	PE635157C	The Neon was tested in place of the Mustang. The Mustang was not in the test bay at the time of certification.
4	03/11/2014 0811 hours to 0819 hours	2000 Ford Ranger, California license 8E24855	1997 Dodge Neon unable to observe plate [†]	PE635158C	The Neon was tested in place of the Ranger. The Ranger was not in the test bay at the time of certification.
5	03/11/2014, 0822 hours to 0831 hours	1991 Chevrolet S-10 Pickup, California license 6Y39732	1997 Dodge Neon unable to observe plate [†]	PE635159C	The Neon was tested in place of the S-10. The S-10 was not in the test bay at the time of certification.

Certificate Purchase and Fraudulent Inspection # 6 (March 14, 2014)

26. On March 13, 2014, in response to a recurring, and misleading, advertisement found on the Craigslist website which stated in part, "SMOG CHECK Pass Pass Pass!! Do you need help to pass smog? I can help you! Ask for Moe," a Bureau Representative sent a text message to the number listed. The representative, acting undercover, had previously obtained a fraudulent Smog Check Certificate of Compliance from Moe. Moe told the representative the price would be \$225 and instructed him to meet him at a fitness facility parking lot, which the representative did. The representative gave Moe the registration renewal document for a Honda Accord (license

³ Later identified as California license # 3TSY012, DMV records show the Dodge Neon is registered to Fernando Sandoval, owner of Smog Master.

1 [REDACTED] and \$220.00 and told Moe he would get the remaining \$5.00 when the representative
2 received the smog certificate. At the time the vehicle was secured in custody at a secured
3 location owned by the Bureau. Moe asked for the vehicle mileage and if the vehicle had an
4 automatic or manual transmission and said he would have the Smog Check done the next day.

5 a. Bureau data shows that on March 14, 2014, between 1048 and 1057 hours, Smog
6 Master and Milan Valles issued a smog certificate of compliance to the Honda Accord (license
7 [REDACTED]) although the vehicle was not at Smog Master at the time of the purported test, but
8 rather in Bureau custody at a secured location.

9 **Certificate Purchase and Fraudulent Inspection # 7 (March 21, 2014)**

10 27. On March 19, 2014, the Bureau representative again made contact with Moe to
11 obtaining another smog check certificate of compliance. He provided Moe with the registration
12 and vehicle information for a different year Honda Accord (license [REDACTED]), \$230.00, and a
13 vehicle odometer reading of 79,643 miles. This vehicle was also secured in custody at a secured
14 location owned by the Bureau.

15 a. Bureau data shows that on March 21, 2014, between 1013 and 1021 hours, Smog
16 Master and Milan Valles issued a smog check certificate of compliance to the Honda Accord
17 (license [REDACTED]) with an odometer reading of 79,643; however, the vehicle was not at Smog
18 Master at the time of the purported test, but rather at the Bureau's secured location.

19 **FIRST CAUSE FOR DISCIPLINE**

20 **(Misleading Statements)**

21 28. Smog Master has subjected its ARD Registration to discipline under Bus. & Prof.
22 Code section 9884.7, subdivision (a)(1), in that on or about February 27, and March 11, 14, and
23 21, 2014, it made statements which it knew or which by exercise of reasonable care should have
24 known were untrue or misleading when it issued electronic certificates of compliance for certain
25 vehicles, certifying that those vehicles were in compliance with applicable laws and regulations
26 when, in fact, those vehicles had not been inspected. Complainant refers to, and by this reference
27 incorporates, the allegations set forth above in paragraphs 22 through 27, inclusive, as though set
28 forth fully herein.

1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Fraud)**

3 29. Smog Master has subjected its ARD Registration to discipline under Bus. & Prof.
4 Code section 9884.7, subdivision (a)(4), in that on or about February 27, and March 11, 14, and
5 21, 2014, it committed acts which constitute fraud by issuing electronic certificates of compliance
6 for certain vehicles without performing bona fide inspections of the emission control devices and
7 systems on those vehicles, thereby depriving the People of the State of California of the
8 protection afforded by the Motor Vehicle Inspection Program. Complainant refers to, and by this
9 reference incorporates, the allegations set forth above in paragraphs 22 through 27, inclusive, as
10 though set forth fully herein.

11 **THIRD CAUSE FOR DISCIPLINE**

12 **(Material Violation of Automotive Repair Act)**

13 30. Smog Master has subjected its ARD Registration to discipline under Bus. & Prof.
14 Code section 9884.7, subdivision (a)(6), in that on or about February 27, and March 11, 14, and
15 21, 2014, it failed in a “material respect to comply with the provisions of this chapter or
16 regulations adopted pursuant to it” when he issued electronic certificates of compliance for
17 certain vehicles without performing bona fide inspections of the emission control devices and
18 systems on those vehicles, thereby depriving the People of the State of California of the
19 protection afforded by the Motor Vehicle Inspection Program. Complainant refers to, and by this
20 reference incorporates, the allegations set forth above in paragraphs 22 through 27, inclusive, as
21 though set forth fully herein.

22 **FOURTH CAUSE FOR DISCIPLINE**

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

24 31. Smog Master has subjected its Station License to discipline under Health & Saf. Code
25 section 44072.2, subdivision (a), in that on or about February 27, and March 11, 14, and 21, 2014,
26 Respondent violated the following sections of the Health & Saf. Code with respect to the
27 inspection of certain vehicles:
28

1 a. **Section 44012:** Respondent failed to ensure that the emission control tests were
2 performed on those vehicles in accordance with procedures prescribed by the department.

3 b. **Section 44015, subdivision (b):** Respondent issued electronic certificates of
4 compliance without properly testing and inspecting the vehicles to determine if they were in
5 compliance with section 44012 of the Health & Saf. Code.

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

9 Complainant refers to, and by this reference incorporates, the allegations set forth above in
10 paragraphs 22 through 27, inclusive, as though set forth fully herein.

11 **FIFTH CAUSE FOR DISCIPLINE**

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

13 32. Smog Master has subjected its Station License to discipline under Health & Saf. Code
14 section 44072.2, subdivision (c), in that on or about February 27, and March 11, 14, and 21, 2014,
15 Respondent violated the following sections of title 16 of the CCR with respect to the inspection of
16 certain vehicles:

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

20 b. **Section 3340.35, subdivision (c):** Respondent issued electronic certificates of
21 compliance even though those vehicles had not been inspected in accordance with section
22 3340.42 of the Health & Saf. Code.

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

25 Complainant refers to, and by this reference incorporates, the allegations set forth above in
26 paragraphs 22 through 27, as though set forth fully herein.

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1 **SIXTH CAUSE FOR DISCIPLINE**

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

3 33. Smog Master has subjected its Station License to discipline under Health & Saf. Code
4 section 44072.2, subdivision (d), in that on or about February 27, and March 11, 14, and 21, 2014,
5 Respondent committed acts involving dishonesty, fraud or deceit whereby another was injured by
6 issuing electronic certificates of compliance for certain vehicles without performing bona fide
7 inspections of the emission control devices and systems on those vehicles, thereby depriving the
8 People of the State of California of the protection afforded by the Motor Vehicle Inspection
9 Program. Complainant refers to, and by this reference incorporates, the allegations set forth
10 above in paragraphs 23 and 24, inclusive, as though set forth fully herein.

11 **SEVENTH CAUSE FOR DISCIPLINE**

12 **(Criminal Conviction)**

13 34. Fernando Sandoval, owner, doing business as Smog Master, has subjected his ARD
14 Registration and Station License to discipline under Health & Saf. Code section 44072.2,
15 subdivision (b), in that on or about January 27, 2015, in the criminal matter entitled *People of the*
16 *State of California v. Fernando Sandoval* (Los Angeles County Superior Court Case No.
17 BA431040), Respondent entered a plea of nolo contendere and was convicted of one count of
18 violating Vehicle Code section 4463, subdivision (a)(1) [willfully forge/falsify smog check
19 certificates with fraudulent intent], a felony. Respondent was sentenced to 3-years formal
20 probation on terms and conditions, including 10 days of CalTrans. In addition, the Court ordered
21 Respondent Sandoval “not to participate in any business involving smog certification,” his “smog
22 license [was] ordered revoked,” and his “smog equipment [was] ordered forfeited.” The
23 circumstances surrounding the conviction are outlined by Respondent’s illegal conduct as set
24 forth in paragraphs 22 through 27 above.

25 **EIGHTH CAUSE FOR DISCIPLINE**

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

27 35. Respondent Valles has subjected his technician licenses to discipline under Health &
28 Saf. Code section 44072.2, subdivision (a), in that on or about February 27, and March 11, 14,

1 and 21, 2014, he violated the following sections of the Health & Saf. Code with respect to the
2 inspection of certain vehicles:

3 a. **Section 44012:** Respondent failed to ensure that the emission control tests were
4 performed on those vehicles in accordance with procedures prescribed by the department.

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

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

11 Complainant refers to, and by this reference incorporates, the allegations set forth above in
12 paragraphs 22 through 27, inclusive, as though set forth fully herein.

13 **NINTH CAUSE FOR DISCIPLINE**

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

15 36. Respondent Valles has subjected his technician licenses to discipline under Health &
16 Saf. Code section 44072.2, subdivision (c), in that on or about February 27, and March 11, 14,
17 and 21, 2014, he violated the following sections of the CCR, title 16, with respect to the
18 inspection of certain vehicles:

19 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued
20 electronic certificates of compliance without performing bona fide inspections of the emission
21 control devices and systems on those vehicles as required by Health & Saf. Code section 44012.

22 b. **Section 3340.30, subdivision (a):** Respondent failed to inspect and test those
23 vehicles in accordance with Health & Saf. Code section 44012.

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

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

1 Complainant refers to, and by this reference incorporates, the allegations set forth above in
2 paragraphs 22 through 27, inclusive, as though set forth fully herein.

3 **TENTH CAUSE FOR DISCIPLINE**

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

5 37. Respondent Valles has subjected his technician licenses to discipline under Health &
6 Saf. Code section 44072.2, subdivision (d), in that on or about February 27, and March 11, 14,
7 and 21, 2014, he committed acts involving dishonesty, fraud or deceit whereby another was
8 injured by issuing electronic certificates of compliance for certain vehicles without performing
9 bona fide inspections of the emission control devices and systems on those vehicles, thereby
10 depriving the People of the State of California of the protection afforded by the Motor Vehicle
11 Inspection Program. Complainant refers to, and by this reference incorporates, the allegations set
12 forth above in paragraphs 22 through 27, inclusive, as though set forth fully herein.

13 **ELEVENTH CAUSE FOR DISCIPLINE**

14 **(Aiding or Abetting Unlicensed Persons)**

15 38. Respondent Valles has subjected his technician licenses to discipline under Health &
16 Saf. Code section 44072.2, subdivision (f), in that on or about February 27, and March 11, 2014,
17 he aided and abetted unlicensed persons in performing California smog inspections which
18 resulted in the issuance of fraudulent Certificates of Compliance. Complainant refers to, and by
19 this reference incorporates, the allegations set forth above in paragraphs 22 through 27, inclusive,
20 as though set forth fully herein.

21 **TWELFTH CAUSE FOR DISCIPLINE**

22 **(Criminal Conviction)**

23 39. Respondent Valles has subjected his technician licenses to discipline under Health &
24 Saf. Code section 44072.2, subdivision (b), in that on or about January 27, 2015, in the criminal
25 matter entitled *People of the State of California v. Milan Cayantano Valles* (Los Angeles County
26 Superior Court Case No. BA431040 (Defendant 4)), Respondent entered a plea of nolo
27 contendere and was convicted of one count of violating Vehicle Code section 4463, subdivision
28 (a)(1) [willfully forge/falsify smog check certificates with fraudulent intent], a felony.

1 Respondent was sentenced to 3-years formal probation on terms and conditions, including 5 days
2 of CalTrans. In addition, the Court ordered Respondent Valles “not to participate in any business
3 involving smog certification,” and his “smog license” [was] ordered revoked.” The circumstances
4 surrounding the conviction are outlined by Respondent’s illegal conduct as set forth in paragraphs
5 22 through 27 above.

6 **OTHER MATTERS**

7 40. Pursuant Bus. & Prof. Code section 9884.7, subdivision (c), the director may suspend,
8 revoke, or place on probation the registrations for all places of business operated in this state by
9 Fernando Sandoval, owner, doing business as Smog Master upon a finding that he has, or is,
10 engaged in a course of repeated and willful violations of the laws and regulations pertaining to an
11 automotive repair dealer.

12 41. Pursuant to Health & Saf. Code section 44072.8, if Smog Check, Test Only, Station
13 License Number TC 274033, issued to Fernando Sandoval, owner, doing business as Smog Master,
14 is revoked or suspended, any additional license issued under this chapter in the name of said
15 licensees may be likewise revoked or suspended by the director.

16 42. Pursuant to Health & Saf. Code section 44072.8, if Respondent Milan Cayantano
17 Valles' Technician Licenses, currently designated as EO 633268 and EI 633268, are revoked or
18 suspended, any additional license issued under this chapter in the name of said licensee may be
19 likewise revoked or suspended by the director.

20 **PRAYER**

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

23 1. Revoking or suspending Automotive Repair Dealer Registration Number
24 ARD 274033, issued to Fernando Sandoval, owner, doing business as Smog Master;

25 2. Revoking or suspending any other automotive repair dealer registration issued to
26 Fernando Sandoval;

27 3. Revoking or suspending Smog Check, Test Only, Station License Number
28 TC 274033, issued to Fernando Sandoval, owner, doing business as Smog Master;

- 1 4. Revoking or suspending Smog Check Inspector License Number EO 144260 and
- 2 Smog Check Repair Technician License No. EI 144260, issued to Fernando Sandoval;
- 3 5. Revoking or suspending any additional license issued under Chapter 5 of the Health
- 4 & Saf. Code in the name of Fernando Sandoval;
- 5 6. Revoking or suspending Smog Check Inspector License Number EO 633268 and
- 6 Smog Check Repair Technician License No. EI 633268, issued to Milan Cayantano Valles;
- 7 7. Revoking or suspending any additional license issued under Chapter 5 of the Health
- 8 & Saf. Code in the name of Milan Cayantano Valles;
- 9 8. Ordering Fernando Sandoval and Milan Cayantano Valles jointly and severally to pay
- 10 the Bureau of Automotive Repair the reasonable costs of the investigation and enforcement of
- 11 this case, pursuant to Bus. & Prof. Code section 125.3;
- 12 9. Taking such other and further action as deemed necessary and proper.

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14 DATED: October 19, 2015 

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

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