

1 KAMALA D. HARRIS  
Attorney General of California  
2 ANTONETTE B. CINCOTTA  
Supervising Deputy Attorney General  
3 MANUEL ARAMBULA  
Deputy Attorney General  
4 State Bar No. 289718  
600 West Broadway, Suite 1800  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 645-2098  
7 Facsimile: (619) 645-2061  
*Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. *79/16-84*

13 **A. M. SMOG CHECK TEST ONLY,**  
14 **SOCRATES LOPEZ URENA, OWNER**  
380 Orange St.,  
Riverside, CA 92501  
15 P.O. Box 108  
Riverside, CA 92502

ACCUSATION  
*smog check*

16 **Automotive Repair Dealer Registration No.**  
17 **ARD 268319**  
18 **Smog Check Test Only Station License No.**  
**TC 268319**

19 **SOCRATES URENA, AKA SOCRATES**  
20 **LOPEZ URENA**  
20620 Avenida Hacienda  
Riverside, CA 92508

21 **Smog Check Inspector License No. EO**  
22 **148391 (formerly Advanced Emission**  
23 **Specialist Technician License No. EA**  
**148391)**

24 *///*  
25 *///*  
26 *///*  
27 *///*  
28 *///*

1 **ELIZABETH LOPEZ URENA**  
2 **7055 Old 215 Frontage Rd.**  
3 **Moreno Valley, CA 92553**

4 **Smog Check Inspector License No. EO**  
5 **151392**

6 **Smog Check Repair Technician License No.**  
7 **EI 151392 (formerly Advanced Emission**  
8 **Specialist Technician License No. EA**  
9 **151392)**

10 Respondents.

11 Complainant alleges:

12 **PARTIES**

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

15 **A.M. Smog Check Test Only; Socrates Lopez Urena, Owner**

16 2. On or about March 13, 2012, the Bureau of Automotive Repair issued Automotive  
17 Repair Dealer Registration Number ARD 268319 to A. M. Smog Check Test Only, Socrates  
18 Lopez Urena, Owner (Respondent A.M. Smog). The Automotive Repair Dealer Registration was  
19 in full force and effect at all times relevant to the charges brought herein and will expire on  
20 March 31, 2016, unless renewed.

21 3. On or about April 20, 2012, the Bureau of Automotive Repair issued Smog Check  
22 Test Only Station License Number TC 268319 to A. M. Smog Check Test Only, Socrates Lopez  
23 Urena, Owner (Respondent A.M. Smog). The Smog Check Test Only Station License was in full  
24 force and effect at all times relevant to the charges brought herein and will expire on March 31,  
25 2016, unless renewed.

26 **Socrates Lopez Urena**

27 4. In 2004, the Bureau of Automotive Repair issued Advanced Emission Specialist  
28 Technician License No. EA 148391 to Socrates L Urena (Urena) and was due to expire on April  
30, 2014, but was cancelled on April 28, 2014. Under California Code of Regulations, title 16,  
section 3340.28, subdivision (e), the license was renewed, under Urena's election, as Smog

1 Check Inspector License No. EO 148391, effective April 28, 2014. The Smog Check Inspector  
2 License was in full force and effect at all times relevant to the charges brought herein and will  
3 expire on April 30, 2016, unless renewed.<sup>1</sup>

4 **Elizabeth Lopez Urena**

5 5. In 2005, the Bureau of Automotive Repair issued Advanced Emission Specialist  
6 Technician License No. EA 151392 to Elizabeth Lopez Urena (Elizabeth Urena) and was due to  
7 expire on July 31, 2013, but was cancelled on April 12, 2013. Under California Code of  
8 Regulations, title 16, section 3340.28, subdivision (e), the license was renewed, under Elizabeth  
9 Urena's election, as Smog Check Inspector License No. EO 151392, effective April 12, 2013, and  
10 Smog Check Repair Technician License No. EI 151392, effective April 12, 2013. The Smog  
11 Check Inspector License and Smog Check Repair Technician License (collectively technician  
12 licenses) were in full force and effect at all times relevant to the charges brought herein and  
13 expired on July 31, 2015, and have not been renewed.

14 **JURISDICTION**

15 6. This Accusation is brought before the Director of the Department of Consumer  
16 Affairs (Director) for the Bureau of Automotive Repair, under the authority of the following laws.  
17 All section references are to the Business and Professions Code unless otherwise indicated.

18 7. Section 118, subdivision (b), of the Code provides that the suspension, expiration,  
19 surrender, or cancellation of a license shall not deprive the Director of jurisdiction to proceed  
20 with a disciplinary action during the period within which the license may be renewed, restored,  
21 reissued or reinstated.

22 8. Section 9884.20 of the Code states:

23 All accusations against automotive repair dealers shall be filed within three years  
24 after the performance of the act or omission alleged as the ground for disciplinary  
25 action, except that with respect to an accusation alleging fraud or  
misrepresentation as a ground for disciplinary action, the accusation may be filed

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

1 within two years after the discovery, by the bureau, of the alleged facts  
2 constituting the fraud or misrepresentation.

3 9. Section 9884.22 of the Code states:

4 (a) Notwithstanding any other provision of law, the director may revoke, suspend,  
5 or deny at any time any registration required by this article on any of the grounds  
6 for disciplinary action provided in this article. The proceedings under this article  
7 shall be conducted in accordance with Chapter 5 (commencing with Section  
8 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the director  
9 shall have all the powers granted therein.

10 . . . .

11 **STATUTORY PROVISIONS**

12 10. Bus. & Prof. Code section 9884.7 states, in pertinent part:

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

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

22 . . . .

23 (3) Failing or refusing to give to a customer a copy of any document  
24 requiring his or her signature, as soon as the customer signs the document.

25 (4) Any other conduct that constitutes fraud.

26 . . . .

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

. . . .

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

11. Bus. & Prof. Code section 9889.3 states, in pertinent part:

The director may suspend, revoke, or take other disciplinary action  
against a license as provided in this article [Article 7 (commencing with section  
9889.1) of the Automotive Repair Act] if the licensee or any partner, officer, or  
director thereof:

1 (a) Violates any section of the Business and Professions Code which  
relates to his or her licensed activities.

2 . . . .

3 (c) Violates any of the regulations promulgated by the director pursuant  
4 to this chapter.

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

6 . . . .

7 (h) Violates or attempts to violate the provisions of this chapter relating  
8 to the particular activity for which he or she is licensed . . . .

9 12. Bus. & Prof. Code section 9889.9 states that “[w]hen any license has been revoked or  
10 suspended following a hearing under the provisions of this article [Article 7 (commencing with  
11 section 9889.1) of the Automotive Repair Act], any additional license issued under Articles 5 and  
12 6 of this chapter in the name of the licensee may be likewise revoked or suspended by the  
13 director.”

14 13. Health & Safety Code section 44012 states, in pertinent part:

15 The test at the smog check stations shall be performed in accordance with  
16 procedures prescribed by the department and may require loaded mode  
17 dynamometer testing in enhanced areas, two-speed idle testing, testing utilizing a  
18 vehicle’s onboard diagnostic system, or other appropriate test procedures as  
19 determined by the department in consultation with the state board. The department  
20 shall implement testing using onboard diagnostic systems, in lieu of loaded mode  
21 dynamometer or two-speed idle testing, on model year 2000 and newer vehicles  
22 only, beginning no earlier than January 1, 2013. However, the department, in  
consultation with the state board, may prescribe alternative test procedures that  
include loaded mode dynamometer or two-speed idle testing for vehicles with  
onboard diagnostic systems that the department and the state board determine  
exhibit operational problems. The department shall ensure, as appropriate to the  
test method, the following:

23 (a) Emission control systems required by state and federal law are reducing excess  
24 emissions in accordance with the standards adopted pursuant to subdivisions (a)  
and (c) of Section 44013.

25 . . . .

26 (f) A visual or functional check is made of emission control devices specified by  
27 the department, including the catalytic converter in those instances in which the  
department determines it to be necessary to meet the findings of Section 44001.  
28 The visual or functional check shall be performed in accordance with procedures  
prescribed by the department.

1 14. Health & Safety Code section 44013 states, in pertinent part:

2 (a) (1) The department, in cooperation with the state board, shall prescribe  
3 maximum emission standards to be applied in inspecting motor vehicles under this  
4 chapter.

5 (2) In prescribing the standards, the department shall undertake studies and  
6 experiments which are necessary and feasible, evaluate available data, and confer  
7 with automotive engineers.

8 (3) The standards shall be set at a level reasonably achievable for each class and  
9 model of motor vehicle when operating in a reasonably sound mechanical  
10 condition, allowing for the effects of installed motor vehicle pollution control  
11 devices and the motor vehicle's age and total mileage.

12 (4) The standards shall be designed so that motor vehicles failing the test specified  
13 in Section 44012 will be operated, as soon as possible, with a substantial reduction  
14 in emissions, and shall be revised from time to time as experience justifies.

15 ....

16 (c) Notwithstanding any other provision of this chapter, the maximum emission  
17 standards and test procedures prescribed in subdivisions (a) and (b) for a motor  
18 vehicle class and model-year shall not be more stringent than the emission  
19 standards and test procedures under which that motor vehicle's class and model-  
20 year was certified. Emission standards and test procedures prescribed by the  
21 department shall ensure that not more than 5 percent of the vehicles or engines,  
22 which would otherwise meet the requirements of this part, will fail the inspection  
23 and maintenance test for that class of vehicle or engine.

24 15. Health & Safety Code section 44015 states, in pertinent part:

25 ....

26 "(b) If a vehicle meets the requirements of Section 44012, a smog check station licensed to  
27 issue certificates shall issue a certificate of compliance or a certificate of noncompliance."

28 16. Health & Safety Code section 44015, subsection (b), states that "[i]f a vehicle meets  
the requirements of Section 44012, a smog check station licensed to issue certificates shall issue a  
certificate of compliance or a certificate of noncompliance."

17. Health & Safety Code section 44035 states:

No person shall perform, for compensation, tests or repairs of emission control  
devices or systems of motor vehicles required by this chapter unless the person  
performing the test or repair is a qualified smog check technician and the test or  
repair is performed at a licensed smog check station. Qualified technicians shall  
perform tests of emission control devices and systems in accordance with Section  
44012.

1 18. Health & Safety Code section 44072 states:

2 Any license issued under this chapter and the regulations adopted pursuant to it  
3 may be suspended or revoked by the director. The director may refuse to issue a  
4 license to any applicant for the reasons set forth in Section 44072.1. The  
5 proceedings under this article shall be conducted in accordance with Chapter 5  
6 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the  
7 Government Code, and the director shall have all the powers granted therein.

8 19. Health & Safety Code section 44072.2 states in pertinent part :

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

12 (a) Violates any section of this chapter and the regulations adopted pursuant to it,  
13 which related to the licensed activities.

14 ....

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

17 ....

18 20. Health & Safety Code section 44072.10 states in pertinent part :

19 ....

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

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

25 (2) Tampering with a vehicle emission control system  
26 or test analyzer system.

27 (3) Tampering with a vehicle in a manner that would  
28 cause the vehicle to falsely pass or falsely fail an inspection.

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

....

### REGULATIONS

21 21. California Code of Regulations section 3340.30, subsection (a), states:

22 A licensed smog check inspector and/or repair technician shall comply with the  
23 following requirements at all times while licensed:

24 (a) Inspect, test and repair vehicles, as applicable, in accordance with section  
25 44012 of the Health and Safety Code, section 44035 of the Health and Safety  
26 Code, and section 3340.42 of this article.

27 ....



**UNDERCOVER OPERATION: 1992 MITSUBISHI PASSENGER CAR**

1  
2       27. On September 26, 2014, at 2:42 p.m., a Bureau operator drove a Bureau-documented  
3 1992 Mitsubishi passenger car to AM Smog and requested a smog inspection. The following  
4 malfunctions were present in the vehicle: the vehicle's three-way catalytic converter was missing,  
5 the Multi-Port Injection fuel system was modified with a non-Original Equipment Manufacturer  
6 (OEM) adjustable fuel pressure regulator, the Positive Crankcase Valve (PVC) breather tube was  
7 missing, and the non-OEM open element crankcase breather filter and intake port plug had been  
8 installed in place of the breather tube. A vehicle in this condition will fail a properly performed  
9 smog check vehicle inspection.

10       28. The undercover operator requested a smog inspection from Alberto Urena (Beto  
11 Urena), an employee of AM Smog. After initially speaking to the undercover operator, Beto  
12 Urena went to another part of the AM Smog building and spoke to Respondent Socrates Urena.  
13 Respondent Socrates Urena then walked over to the Bureau documented 1992 Mitsubishi  
14 passenger car and drove it to the rear of the building and into the smog testing bay. Beto Urena  
15 then approached the undercover operator and asked the operator to pay him \$200.00 in cash. The  
16 operator paid Beto Urena the \$200.00, but was not provided with a receipt.

17       29. The undercover operator observed Respondent Socrates Urena drive the Bureau  
18 documented 1992 Mitsubishi passenger car into the testing bay, but did not observe the actual  
19 smog inspection, although he did hear the vehicle being operated on a dynamometer. Respondent  
20 Socrates Urena then approached the undercover operator after the smog inspection had been  
21 performed and informed the operator that the Bureau documented 1992 Mitsubishi passenger car  
22 had passed the smog inspection. Respondent Socrates Urena handed the undercover operator a  
23 work order and asked him to sign it, but did not provide the operator a copy of this work order.  
24 Respondent Socrates Urena then handed the undercover operator the Vehicle Inspection Report  
25 (VIR) for the Bureau documented 1992 Mitsubishi passenger car.

26 ///

27 ///

28 ///

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Untrue or Misleading Statements)**

3 30. Complainant re-alleges and incorporates by reference the allegations set forth above  
4 in paragraphs 27 through 29.

5 31. Respondent AM Smog's Registration is subject to disciplinary action under section  
6 9884.7, subdivision (a)(1), in that Respondent AM Smog made or authorized statements which  
7 Respondent AM Smog knew, or in the exercise of reasonable care, should have known to be  
8 untrue or misleading as follows: Respondent AM Smog's employee certified that the Bureau's  
9 documented 1992 Mitsubishi passenger car was properly inspected and passed its smog  
10 inspection, when in fact and in truth, Respondent AM Smog knew this vehicle was not properly  
11 inspected.

12 **SECOND CAUSE FOR DISCIPLINE**

13 **(Failure to Provide a Copy of a Signed Document to a Customer)**

14 32. Complainant re-alleges and incorporates by reference the allegations set forth above  
15 in paragraphs 27 through 29.

16 33. Respondent AM Smog's Registration is subject to disciplinary action under Code  
17 section 9884.7, subdivision (a)(3), in that Respondent AM Smog failed to provide a customer a  
18 copy of a document requiring his or her signature, as soon as the customer signs the document, as  
19 described in paragraphs 27 through 29.

20 **THIRD CAUSE FOR DISCIPLINE**

21 **(Dishonesty, Fraud, Deceit)**

22 34. Complainant re-alleges and incorporates by reference the allegations set forth above  
23 in paragraphs 27 through 29.

24 35. Respondent AM Smog's Registration is subject to disciplinary action under Code  
25 section 9884.7, subdivision (a)(4), and Respondent AM Smog's Station License is subject to  
26 disciplinary action under Health and Safety Code section 44072.10, subdivision (c), in that  
27 Respondent AM Smog committed dishonest, fraudulent, or deceitful acts whereby another is  
28 injured by issuing a smog certificate of compliance for the vehicle described in paragraphs 27

1 through 29 without performing bona fide inspections of the emission control devices and systems  
2 on them, thereby depriving the People of the State of California of the protection afforded by the  
3 Motor Vehicle Inspection Program.

4 **FOURTH CAUSE FOR DISCIPLINE**

5 **(Dishonesty, Fraud, Deceit)**

6 36. Complainant re-alleges and incorporates by reference the allegations set forth above  
7 in paragraphs 27 through 29.

8 37. Respondent AM Smog's Registration is subject to disciplinary action under Code  
9 section 9884.7, subdivision (a)(4), and Respondent AM Smog's Station License is subject to  
10 disciplinary action under Health and Safety Code section 44072.2, subdivision (d), in that  
11 Respondent AM Smog committed dishonest, fraudulent, or deceitful acts whereby another is  
12 injured by issuing a smog certificate of compliance for the vehicle described in paragraphs 27  
13 through 29 without performing bona fide inspections of the emission control devices and systems  
14 on them, thereby depriving the People of the State of California of the protection afforded by the  
15 Motor Vehicle Inspection Program.

16 **FIFTH CAUSE FOR DISCIPLINE**

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

18 38. Complainant re-alleges and incorporates by reference the allegations set forth above  
19 in paragraphs 27 through 29.

20 39. Respondent AM Smog's Station License is subject to disciplinary action under Health  
21 & Safety Code section 44072.2, subdivision (a), in that Respondent AM Smog failed to comply  
22 with the following sections of the Health & Safety Code:

23 a. **Section 44012:** Respondent AM Smog failed to perform a smog check  
24 inspection in accordance with the procedures prescribed by the department, pursuant to 44013 of  
25 the Health & Safety Code.

26 b. **Section 44012, subdivision (f):** Respondent AM Smog failed to perform a  
27 visual or functional test in accordance with the procedures prescribed by the department, pursuant  
28 to Section 44013 of the Health & Safety Code.

1 c. **Section 44015, subsection (b):** Respondent AM Smog issued a Certificate of  
2 Compliance without inspecting the Bureau's documented 1992 Mitsubishi passenger car in  
3 accordance with Section 44012 of the Health & Safety Code.

4 **SIXTH CAUSE FOR DISCIPLINE**

5 **(Violation of Regulations)**

6 40. Complainant re-alleges and incorporates by reference the allegations set forth above  
7 in paragraphs 27 through 29.

8 41. Respondent AM Smog's registration is subject to disciplinary action under Code  
9 section 9884.7, subdivision (a)(6), in that AM Smog violated the following regulations  
10 promulgated by the Director:

11 a. **Code of Regulations, title 16, section 3340.42:** Respondent AM Smog failed  
12 to conduct the required smog tests and inspections on the vehicle in accordance with the Bureau's  
13 specifications.

14 b. **Code of Regulations, title 16, section 3340.35, subsection (c):** Respondent  
15 AM Smog issued a certificate of compliance to a vehicle that was improperly tested.

16 **SEVENTH CAUSE FOR DISCIPLINE**

17 **(Dishonesty, Fraud, Deceit)**

18 42. Complainant re-alleges and incorporates by reference the allegations set forth above  
19 in paragraphs 27 through 29.

20 43. Respondent Socrates Urena's Smog Check Inspector license is subject to disciplinary  
21 action under Health and Safety Code sections 44072.10, subdivision (c), and 44072.2, subdivision  
22 (d), in that Respondent Socrates Urena committed dishonest, fraudulent, or deceitful acts whereby  
23 another is injured by issuing a smog inspection certificate to the vehicle described in paragraphs  
24 27 through 29 without performing a bona fide inspection of the emission control devices and  
25 systems on the vehicle, thereby depriving the People of the State of California of the protection  
26 afforded by the Motor Vehicle Inspection Program.

27 ///

28 ///

1 **EIGHTH CAUSE FOR DISCIPLINE**

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

3 44. Complainant re-alleges and incorporates by reference the allegations set forth above  
4 in paragraphs 27 through 29.

5 45. Respondent Socrates Urena's Smog Check Inspector license is subject to disciplinary  
6 action under Health and Safety Code section 44072.2, subdivision (d), in that Respondent  
7 Socrates Urena failed to comply with the following sections of the Code:

8 a. **Section 44012:** Respondent Socrates Urena failed to perform a smog check  
9 inspection in accordance with the procedures prescribed by the department, pursuant to 44013 of  
10 the Health & Safety Code.

11 b. **Section 44012, subdivision (f):** Respondent Socrates Urena failed to perform a  
12 visual or functional test in accordance with the procedures prescribed by the department, pursuant  
13 to Section 44013 of the Health & Safety Code.

14 c. **Section 44032:** Respondent Socrates Urena failed to conduct tests in  
15 accordance with Section 44012 of the Health & Safety Code.

16 **NINTH CAUSE FOR DISCIPLINE**

17 **(Violation of Regulations)**

18 46. Complainant re-alleges and incorporates by reference the allegations set forth above  
19 in paragraphs 27 through 29.

20 47. Respondent Socrates Urena's Smog Check Inspector license is subject to disciplinary  
21 action under Health and Safety Code section 44072.2, subdivision (a), in that Socrates Urena  
22 violated the following regulations promulgated by the Director:

23 a. **Code of Regulations, title 16, section 3340.30, subsection (a):** Respondent  
24 Socrates Urena failed to inspect, test, and repair vehicles in accordance with Health & Safety  
25 Code Section 44012.

26 b. **Code of Regulations, title 16, section 3340.45:** Respondent Socrates Urena  
27 failed to perform an inspection in accordance with the requirements and procedures prescribed in  
28

1 the Smog Check Inspection Procedures Manual dated 2013, which became effective on January 1,  
2 2013.

3 **TENTH CAUSE FOR DISCIPLINE**

4 **(Untrue or Misleading Statements)**

5 48. Complainant re-alleges and incorporates by reference the allegations set forth above  
6 in paragraphs 27 through 29.

7 49. Respondent Socrates Urena's Smog Check Inspector license is subject to disciplinary  
8 action under Health and Safety Code sections 44072.10, subdivision (c), and 44072.2, subdivision  
9 (d), in that Respondent Socrates Urena made or authorized statements which Respondent Socrates  
10 Urena knew or in the exercise of reasonable care should have known to be untrue or misleading  
11 as follows: Respondent Socrates Urena certified that the Bureau's documented 1992 Mitsubishi  
12 passenger car was properly inspected and passed its smog inspection, when in fact and in truth,  
13 Respondent Socrates Urena knew this vehicle was not properly inspected.

14 **UNDERCOVER OPERATION #2: 1992 HONDA PASSENGER CAR**

15 50. On October 2, 2014, at 11:22 a.m., a Bureau operator drove a Bureau-documented  
16 1992 Honda passenger car to AM Smog and requested a smog inspection. The following  
17 introduced malfunctions were placed on the vehicle: an Exhaust Manifold and an Exhaust Pipe  
18 "A" were installed without a Three-Way Catalytic Converter. A vehicle in this condition will fail  
19 a properly performed smog check vehicle inspection.

20 51. The undercover operator requested a smog inspection from Beto Urena. Beto Urena  
21 asked the undercover operator how much he had been charged for the last smog inspection and  
22 the operator replied that it had been \$200.00. Beto Urena then asked for the vehicle's registration  
23 and keys. Beto Urena then asked the undercover operator to walk outside to pay him \$200.00 for  
24 the smog inspection. The undercover operator paid the \$200.00, but was not provided a receipt.  
25 Beto Urena then told the undercover operator that he was going to talk to the technician about the  
26 smog inspection.  
27  
28



1 **TWELFTH CAUSE FOR DISCIPLINE**

2 **(Failure to Provide a Copy of a Signed Document to a Customer)**

3 56. Complainant re-alleges and incorporates by reference the allegations set forth above  
4 in paragraphs 50 through 53.

5 57. Respondent AM Smog's Registration is subject to disciplinary action under Code  
6 section 9884.7, subdivision (a)(3), in that Respondent AM Smog failed to provide a customer a  
7 copy of a document requiring his or her signature, as soon as the customer signs the document, as  
8 described in paragraphs 50 through 53.

9 **THIRTEENTH CAUSE FOR DISCIPLINE**

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

11 58. Complainant re-alleges and incorporates by reference the allegations set forth above  
12 in paragraphs 50 through 53.

13 59. Respondent AM Smog's Registration is subject to disciplinary action under Code  
14 section 9884.7, subdivision (a)(4), and Respondent AM Smog's Station License is subject to  
15 disciplinary action under Health and Safety Code section 44072.10, subdivision (c), in that  
16 Respondent AM Smog committed dishonest, fraudulent, or deceitful acts whereby another is  
17 injured by issuing a smog inspection certificate for the vehicle described in paragraphs 50 through  
18 53 without performing bona fide inspections of the emission control devices and systems on  
19 them, thereby depriving the People of the State of California of the protection afforded by the  
20 Motor Vehicle Inspection Program.

21 **FOURTEENTH CAUSE FOR DISCIPLINE**

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

23 60. Complainant re-alleges and incorporates by reference the allegations set forth above  
24 in paragraphs 50 through 53.

25 61. Respondent AM Smog's Registration is subject to disciplinary action under Code  
26 section 9884.7, subdivision (a)(4), and Respondent AM Smog's Station License is subject to  
27 disciplinary action under Health and Safety Code section 44072.2, subdivision (d), in that  
28 Respondent AM Smog committed dishonest, fraudulent, or deceitful acts whereby another is

1 injured by issuing a smog certificate of compliance for the vehicle described in paragraphs 50  
2 through 53 without performing bona fide inspections of the emission control devices and systems  
3 on them, thereby depriving the People of the State of California of the protection afforded by the  
4 Motor Vehicle Inspection Program.

5 **FIFTEENTH CAUSE FOR DISCIPLINE**

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

7 62. Complainant re-alleges and incorporates by reference the allegations set forth above  
8 in paragraphs 50 through 53.

9 63. Respondent AM Smog's Station License is subject to disciplinary action under Health  
10 & Safety Code section 44072.2, subdivision (a), in that Respondent AM Smog failed to comply  
11 with the following sections of the Health & Safety Code:

12 a. **Section 44012:** Respondent AM Smog failed to perform a smog check  
13 inspection in accordance with the procedures prescribed by the department, pursuant to 44013 of  
14 the Health & Safety Code.

15 b. **Section 44012, subdivision (f):** Respondent AM Smog failed to perform a  
16 visual or functional test in accordance with the procedures prescribed by the department, pursuant  
17 to Section 44013 of the Health & Safety Code.

18 c. **Section 44015, subsection (b):** Respondent AM Smog issued a Certificate of  
19 Compliance without inspecting the Bureau's documented 1992 Honda passenger vehicle in  
20 accordance with Section 44012 of the Health & Safety Code.

21 **SIXTEENTH CAUSE FOR DISCIPLINE**

22 **(Violation of Regulations)**

23 64. Complainant re-alleges and incorporates by reference the allegations set forth above  
24 in paragraphs 50 through 53.

25 65. Respondent AM Smog's registration is subject to disciplinary action under Code  
26 section 9884.7, subdivision (a)(6), in that AM Smog violated the following regulations  
27 promulgated by the Director:  
28

1 a. **Code of Regulations, title 16, section 3340.42**: Respondent AM Smog failed  
2 to conduct the required smog tests and inspections on the vehicle in accordance with the Bureau's  
3 specifications.

4 b. **Code of Regulations, title 16, section 3340.35, subsection (c)**: Respondent  
5 AM Smog issued a certificate of compliance to a vehicle that was improperly tested.

6 **SEVENTEENTH CAUSE FOR DISCIPLINE**

7 **(Dishonesty, Fraud, Deceit)**

8 66. Complainant re-alleges and incorporates by reference the allegations set forth above  
9 in paragraphs 50 through 53.

10 67. Respondent Elizabeth Urena's Smog Check Inspector license is subject to  
11 disciplinary action under Health and Safety Code sections 44072.10, subdivision (c), and  
12 44072.2, subdivision (d), in that Respondent Elizabeth Urena committed dishonest, fraudulent, or  
13 deceitful acts whereby another is injured by issuing a smog inspection certificate to the vehicle  
14 described in paragraphs 50 through 53 without performing a bona fide inspection of the emission  
15 control devices and systems on the vehicle, thereby depriving the People of the State of California  
16 of the protection afforded by the Motor Vehicle Inspection Program.

17 **EIGHTEENTH CAUSE FOR DISCIPLINE**

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

19 68. Complainant re-alleges and incorporates by reference the allegations set forth above  
20 in paragraphs 50 through 53.

21 69. Respondent Elizabeth Urena's Smog Check Inspector license is subject to  
22 disciplinary action under Health and Safety Code section 44072.2, subdivision (d), in that  
23 Respondent Elizabeth Urena failed to comply with the following sections of the Health & Safety  
24 Code:

25 a. **Section 44012**: Respondent Elizabeth Urena failed to perform a smog check  
26 inspection in accordance with the procedures prescribed by the department, pursuant to 44013 of  
27 the Health & Safety Code.

28



1 documented 1992 Honda passenger car was properly inspected and passed its smog inspection,  
2 when in fact and in truth, Respondent Elizabeth Urena knew this vehicle was not properly  
3 inspected.

4 **TWENTY-FIRST CAUSE FOR DISCIPLINE**

5 **(Untrue or Misleading Statements)**

6 74. Complainant re-alleges and incorporates by reference the allegations set forth above  
7 in paragraphs 50 through 53.

8 75. Respondent Socrates Urena's Smog Check Inspector license is subject to disciplinary  
9 action under Health and Safety Code sections 44072.10, subdivision (c), and 44072.2, subdivision  
10 (d), in that Respondent Socrates Urena made or authorized statements which Respondent Socrates  
11 Urena knew or in the exercise of reasonable care should have known to be untrue or misleading  
12 as follows: Respondent Socrates Urena certified that the Bureau's documented 1992 Honda  
13 passenger vehicle was properly inspected and passed its smog inspection, when in fact and in  
14 truth, Respondent Socrates Urena knew this vehicle was not properly inspected.

15 **PRAYER**

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

- 18 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD  
19 268319, issued to A. M. Smog Check Test Only, Socrates Lopez Urena, Owner;
- 20 2. Revoking or suspending Smog Check Test Only Station License Number TC 268319,  
21 issued to A. M. Smog Check Test Only, Socrates Lopez Urena, Owner;
- 22 3. Revoking or suspending Smog Check Inspector License No. EO 148391, issued to  
23 Socrates Urena;
- 24 4. Revoking or suspending any additional license issued under Articles 5 and 6 of  
25 Chapter 20.3 of the Business and Professions Code in the name of Socrates Urena;
- 26 5. Revoking or suspending Smog Check Inspector License No. EO 151392 and Smog  
27 Check Repair Technician License No. EI 151392, issued to Elizabeth Urena;

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

6. Revoking or suspending any additional license issued under Articles 5 and 6 of Chapter 20.3 of the Business and Professions Code in the name of Elizabeth Urena;

7. Ordering AM Smog, Socrates Urena, and Elizabeth Urena to pay the Bureau of Automotive Repair the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

8. Taking such other and further action as deemed necessary and proper.

DATED: 3-11-16

*Patrick Dorais by [Signature]*  
PATRICK DORAIS  
Chief  
Bureau of Automotive Repair  
Department of Consumer Affairs  
State of California  
*Complainant*  
*Doug Baratta*

SD2015700857  
81255349.docx