

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

In the Matter of the Accusation Against:

**RAMON P. CHAVEZ**  
**PRESIDENT/SECRETARY/TREASURER;**  
**RC VEHICLE REGISTRATION AND**  
**LIEN SALE SVCS INC., DOING**  
**BUSINESS AS R & C SMOG CENTER**  
83095 Indio Blvd., Unit 3  
Indio, CA 92201

Automotive Repair Dealer Registration No.  
ARD 257807

Smog Check Test Only Station License No.  
TC 257807

**RAMON CHAVEZ,**  
**PRESIDENT/SECRETARY/TREASURER;**  
**RC VEHICLE REGISTRATION AND LIEN**  
**SALE SVCS INC.,**  
**DOING BUSINESS AS RC AUTOMOTIVE**  
83066 Hwy 111  
Indio, CA 92201

PO Box 10450  
Indio, CA 92202

Automotive Repair Dealer Registration No.  
ARD 269793

Smog Check Test Only Station License No.  
TC 269793

**RAMON CHAVEZ**  
PO Box 10450  
Indio, CA 92202

Smog Check Inspector License No. EO  
632309 and Smog Check Repair  
Technician License No. EI 632309  
(formerly Advanced Emission Specialist  
Technician License No. EA 632309)

Case No. 79/16-06

OAH No. 2015100750

**CESAR E. CASTRO**  
30697 Jessica Loop  
Thousand Palms, CA 92276

Smog Check Inspector License No. EO  
143631 (formerly Advanced Emission  
Specialist Technician License No. EA  
143631),

Respondents.

**DECISION**

The attached Stipulated Settlement and Disciplinary Order is hereby accepted and adopted as the Decision of the Director of the Department of Consumer Affairs in the above-entitled matter, only as to respondent Ramon P. Chavez, Automotive Repair Dealer Registration No. ARD 257807, Smog Check Test Only Station License No. TC 257807, Automotive Repair Dealer Registration No. ARD 269793, Smog Check Test Only Station License No. TC 269793, Smog Check Inspector License No. EO 632309, and Smog Check Repair Technician License No. EI 632309 (formerly Advanced Emission Specialist Technician License No. EA 632309); except that the following typographical error is corrected as follows:

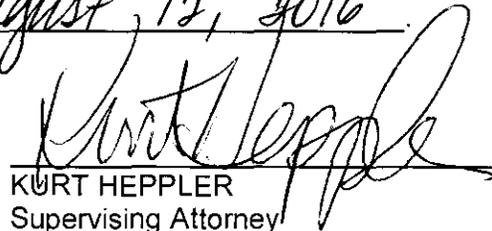
1. Page 3, lines 8 and 12: The expiration date of "March 31, 2016" is corrected to "March 31, 2017".

This Decision shall become effective

August 12, 2016

DATED:

8/13/2016

  
KURT HEPPLER  
Supervising Attorney  
Division of Legal Affairs  
Department of Consumer Affairs

1 KAMALA D. HARRIS  
Attorney General of California  
2 GREGORY J. SALUTE  
Supervising Deputy Attorney General  
3 ADRIAN R. CONTRERAS  
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8 *Attorneys for Complainant*

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

13 In the Matter of the Accusation Against:  
14 **RAMON P. CHAVEZ,**  
15 **PRESIDENT/SECRETARY/TREASURER;**  
16 **RC VEHICLE REGISTRATION AND**  
17 **LIEN SALE SVCS INC.,**  
18 **DOING BUSINESS AS R & C SMOG**  
19 **CENTER**  
20 **83095 Indio Blvd., Unit 3**  
21 **Indio, CA 92201**

22 **Automotive Repair Dealer Registration No.**  
23 **ARD 257807**

24 **Smog Check Test Only Station License No.**  
25 **TC 257807**

26 **RAMON CHAVEZ,**  
27 **PRESIDENT/SECRETARY/TREASURER;**  
28 **RC VEHICLE REGISTRATION AND**  
**LIEN SALE SVCS INC.,**  
**DOING BUSINESS AS RC AUTOMOTIVE**  
**83066 Hwy 111**  
**Indio, CA 92201**

**PO Box 10450**  
**Indio, CA 92202**

**Automotive Repair Dealer Registration No.**  
**ARD 269793**

**Smog Check Test Only Station License No.**

Case No. 79/16-06

OAH No. 2015100750

**STIPULATED SETTLEMENT AND**  
**DISCIPLINARY ORDER RE: ARD/TC**  
**257807 & 269793 & EO/EI 632309**

1 TC 269793

2 RAMON CHAVEZ  
3 PO Box 10450  
4 Indio, CA 92202

5 Smog Check Inspector License No. EO  
6 632309 and Smog Check Repair Technician  
7 License No. EI 632309 (formerly Advanced  
8 Emission Specialist Technician License No.  
9 EA 632309)

10 CESAR E. CASTRO  
11 30697 Jessica Loop  
12 Thousand Palms, CA 92276

13 Smog Check Inspector License No. EO  
14 143631 (formerly Advanced Emission  
15 Specialist Technician License No. EA  
16 143631),

17 Respondents.

18 In the interest of a prompt and speedy settlement of this matter, consistent with the public  
19 interest and the responsibilities of the Director of Consumer Affairs and the Bureau of  
20 Automotive Repair the parties hereby agree to the following Stipulated Settlement and  
21 Disciplinary Order which will be submitted to the Director for the Director's approval and  
22 adoption as the final disposition of the First Amended Accusation solely with respect to Ramon P.  
23 Chavez. It does not apply to Cesar E. Castro.

24 PARTIES

25 1. Patrick Dorais (Complainant) is the Chief of the Bureau of Automotive Repair. He  
26 brought this action solely in his official capacity and is represented in this matter by Kamala D.  
27 Harris, Attorney General of the State of California, by Adrian R. Contreras, Deputy Attorney  
28 General.

2. Respondents Ramon P. Chavez, President/Secretary/Treasurer; RC Vehicle  
Registration and Lien Sale Svcs Inc., doing business as R & C Smog Center (R & C Smog  
Center); Ramon Chavez, President/Secretary/Treasurer; RC Vehicle Registration and Lien Sale  
Svcs Inc., doing business as RC Automotive (RC Automotive); and Ramon Chavez (Chavez)

1 (collectively Respondents) are represented in this proceeding by attorney Michael B. Levin Esq.,  
2 whose address is: 3727 Camino del Rio South, Suite 200, San Diego, CA 92108.

3 3. On or about April 14, 2009, the Bureau of Automotive Repair issued Automotive  
4 Repair Dealer Registration Number ARD 257807 to Ramon P. Chavez,  
5 President/Secretary/Treasurer; RC Vehicle Registration and Lien Sale Svcs Inc., doing business  
6 as R & C Smog Center (collectively R & C Smog Center). The Automotive Repair Dealer  
7 Registration was in full force and effect at all times relevant to the charges brought herein and  
8 will expire on March 31, 2016, unless renewed.

9 4. On or about April 24, 2009, the Bureau of Automotive Repair issued Smog Check  
10 Test Only Station License Number TC 257807 to R & C Smog Center. The Smog Check Test  
11 Only Station License was in full force and effect at all times relevant to the charges brought  
12 herein and will expire on March 31, 2016, unless renewed.

13 5. On or about July 31, 2012, the Bureau of Automotive Repair issued Automotive  
14 Repair Dealer Registration Number ARD 269793 to Ramon Chavez,  
15 President/Secretary/Treasurer; RC Vehicle Registration and Lien Sale Svcs Inc., doing business  
16 as RC Automotive (collectively RC Automotive). The Automotive Repair Dealer Registration  
17 was in full force and effect at all times relevant to the charges brought herein and will expire on  
18 July 31, 2016, unless renewed.

19 6. On or about October 4, 2012, the Bureau of Automotive Repair issued Smog Check  
20 Test Only Station License Number TC 269793 to RC Automotive. The Smog Check Station  
21 License was in full force and effect at all times relevant to the charges brought herein and will  
22 expire on July 31, 2016, unless renewed.

23 7. On or about July 22, 2010, Advanced Emission Specialist Technician License EA  
24 632309 was issued to Ramon Chavez (Chavez). Upon timely renewal, and Chavez's election, the  
25 license was renewed on October 15, 2012, as Smog Check Repair Technician License EI 632309  
26 and Smog Check Inspector License EO 632309.<sup>1</sup> The Smog Check Repair Technician License

27 <sup>1</sup> Effective August 1, 2012, California Code of Regulations, title 16, sections 3340.28,  
28 3340.29, and 3340.30 were amended to implement a license restructure from the Advanced

(continued...)

1 and Smog Check Inspector License were in full force and effect at all times relevant to the  
2 charges brought herein and will expire on October 31, 2016, unless renewed

3 JURISDICTION

4 8. First Amended Accusation No. 79/16-06 was filed before the Director of Consumer  
5 Affairs (Director), for the Bureau of Automotive Repair (Bureau), and is currently pending  
6 against Respondents. The First Amended Accusation and all other statutorily required documents  
7 were properly served on Respondents on August 26, 2015. Respondents timely contested the  
8 First Amended Accusation.

9 9. A copy of First Amended Accusation No. 79/16-06 is attached as exhibit A and  
10 incorporated herein by reference.

11 ADVISEMENT AND WAIVERS

12 10. Respondents have carefully read, fully discussed with counsel, and understand the  
13 charges and allegations in First Amended Accusation No. 79/16-06. Respondents have also  
14 carefully read, fully discussed with counsel, and understand the effects of this Stipulated  
15 Settlement and Disciplinary Order.

16 11. Respondents are fully aware of their legal rights in this matter, including the right to a  
17 hearing on the charges and allegations in the First Amended Accusation; the right to confront and  
18 cross-examine the witnesses against them; the right to present evidence and to testify on their own  
19 behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the  
20 production of documents; the right to reconsideration and court review of an adverse decision;  
21 and all other rights accorded by the California Administrative Procedure Act and other applicable  
22 laws.

23 12. Respondents voluntarily, knowingly, and intelligently waive and give up each and  
24 every right set forth above.

25 ///

26 \_\_\_\_\_  
27 (...continued)  
28 Emission Specialist Technician (EA) license and Basic Area (EB) Technician license to Smog  
Check Inspector (EO) license and/or Smog Check Repair Technician (EI) license.

1 CULPABILITY

2 13. Respondents admit the truth of each and every charge and allegation in First  
3 Amended Accusation No. 79/16-06.

4 14. Respondents agree that their Automotive Repair Dealer Registrations, Smog Check  
5 Test Only Station Licenses, Smog Check Inspector License, and Smog Check Repair Technician  
6 License are subject to discipline and agree to be bound by the Director's probationary terms as set  
7 forth in the Disciplinary Order below.

8 RESERVATION

9 15. The admissions made by Respondents herein are only for the purposes of this  
10 proceeding, or any other proceedings in which the Director of Consumer Affairs, Bureau of  
11 Automotive Repair, or other professional licensing agency is involved, and shall not be  
12 admissible in any other criminal or civil proceeding.

13 CONTINGENCY

14 16. This stipulation shall be subject to approval by the Director of Consumer Affairs or  
15 the Director's designee. Respondents understand and agree that counsel for Complainant and the  
16 staff of the Bureau of Automotive Repair may communicate directly with the Director and staff of  
17 the Department of Consumer Affairs regarding this stipulation and settlement, without notice to  
18 or participation by Respondents or their counsel. By signing the stipulation, Respondents  
19 understand and agree that they may not withdraw their agreement or seek to rescind the  
20 stipulation prior to the time the Director considers and acts upon it. If the Director fails to adopt  
21 this stipulation as the Decision and Order, the Stipulated Settlement and Disciplinary Order shall  
22 be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action  
23 between the parties, and the Director shall not be disqualified from further action by having  
24 considered this matter.

25 17. The parties understand and agree that Portable Document Format (PDF) and facsimile  
26 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile  
27 signatures thereto, shall have the same force and effect as the originals.  
28



1           3.    **Post Sign.** Post a prominent sign, provided by the Bureau, indicating the beginning  
2 and ending dates of the suspension and indicating the reason for the suspension. The sign shall be  
3 conspicuously displayed in a location open to and frequented by customers and shall remain  
4 posted during the entire period of actual suspension.

5           4.    **Reporting.** Respondents or Respondents' authorized representatives must report in  
6 person or in writing as prescribed by the Bureau of Automotive Repair, on a schedule set by the  
7 Bureau, but no more frequently than each quarter, on the methods used and success achieved in  
8 maintaining compliance with the terms and conditions of probation.

9           5.    **Report Financial Interest.** Within 30 days of the effective date of this action, report  
10 any financial interest which any partners, officers, or owners of the Respondents' facilities may  
11 have in any other business required to be registered pursuant to Section 9884.6 of the Business  
12 and Professions Code.

13           6.    **Random Inspections.** Provide Bureau representatives unrestricted access to inspect  
14 all vehicles (including parts) undergoing repairs, up to and including the point of completion.

15           7.    **Jurisdiction.** If an accusation or petition to revoke probation is filed against  
16 Respondents during the term of probation, the Director of Consumer Affairs shall have  
17 continuing jurisdiction over this matter until the final decision on the accusation or petition to  
18 revoke probation, and the period of probation shall be extended until such decision.

19           8.    **Violation of Probation.** Should the Director of Consumer Affairs determine that  
20 Respondents have failed to comply with the terms and conditions of probation, the Department  
21 may, after giving notice and opportunity to be heard, temporarily or permanently invalidate the  
22 registration and suspend or revoke the licenses.

23           9.    **Restrictions.** During the period of probation, Respondents shall not perform any  
24 form of smog inspection, or emission system diagnosis or repair, until Respondents have  
25 purchased, installed, and maintained the diagnostic and repair equipment prescribed by BAR  
26 necessary to properly perform such work, and BAR has been given 10 days notice of the  
27 availability of the equipment for inspection by a BAR representative.

28    ///



**Exhibit A**

**First Amended Accusation No. 79/16-06**

1 KAMALA D. HARRIS  
Attorney General of California  
2 GREGORY J. SALUTE  
Supervising Deputy Attorney General  
3 ADRIAN R. CONTRERAS  
Deputy Attorney General  
4 State Bar No. 267200  
600 West Broadway, Suite 1800  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 645-2634  
7 Facsimile: (619) 645-2061  
E-mail: Adrian.Contreras@doj.ca.gov  
8 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:  
13 **RAMON P. CHAVEZ,**  
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14 **RC VEHICLE REGISTRATION AND**  
**LIEN SALE SVCS INC.,**  
15 **DOING BUSINESS AS R & C SMOG**  
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16 **83095 Indio Blvd., Unit 3**  
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**ARD 257807**  
18 **Smog Check Test Only Station License No.**  
19 **TC 257807**

20 **RAMON CHAVEZ,**  
21 **PRESIDENT/SECRETARY/TREASURER;**  
**RC VEHICLE REGISTRATION AND**  
22 **LIEN SALE SVCS INC.,**  
**DOING BUSINESS AS RC AUTOMOTIVE**  
23 **83066 Hwy 111**  
**Indio, CA 92201**

24 **PO Box 10450**  
25 **Indio, CA 92202**

26 **Automotive Repair Dealer Registration No.**  
27 **ARD 269793**  
**Smog Check Test Only Station License No.**  
28 **TC 269793**

Case No. 79/16-06

**F I R S T A M E N D E D**  
**A C C U S A T I O N**  
(SMOG CHECK)

1 **RAMON CHAVEZ**  
2 **PO Box 10450**  
3 **Indio, CA 92202**  
4 **Smog Check Inspector License No. EO**  
5 **632309 and Smog Check Repair Technician**  
6 **License No. EI 632309 (formerly Advanced**  
7 **Emission Specialist Technician License No.**  
8 **EA 632309)**

9 **CESAR E. CASTRO**  
10 **30697 Jessica Loop**  
11 **Thousand Palms, CA 92276**  
12 **Smog Check Inspector License No. EO**  
13 **143631 (formerly Advanced Emission**  
14 **Specialist Technician License No. EA**  
15 **143631),**

16 Respondents.

17 Complainant alleges:

18 **PARTIES**

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

21 2. On or about April 14, 2009, the Bureau of Automotive Repair issued Automotive  
22 Repair Dealer Registration Number ARD 257807 to Ramon P. Chavez,  
23 President/Secretary/Treasurer; RC Vehicle Registration and Lien Sale Svcs Inc., doing business as  
24 R & C Smog Center (collectively R & C Smog Center). The Automotive Repair Dealer  
25 Registration was in full force and effect at all times relevant to the charges brought herein and will  
26 expire on March 31, 2016, unless renewed.

27 3. On or about April 24, 2009, the Bureau of Automotive Repair issued Smog Check  
28 Test Only Station License Number TC 257807 to R & C Smog Center. The Smog Check Test  
Only Station License was in full force and effect at all times relevant to the charges brought herein  
and will expire on March 31, 2016, unless renewed.

4. On or about July 31, 2012, the Bureau of Automotive Repair issued Automotive  
Repair Dealer Registration Number ARD 269793 to Ramon Chavez,

1 President/Secretary/Treasurer; RC Vehicle Registration and Lien Sale Svcs Inc., doing business as  
2 RC Automotive (collectively RC Automotive). The Automotive Repair Dealer Registration was in  
3 full force and effect at all times relevant to the charges brought herein and will expire on July 31,  
4 2016, unless renewed.

5 5. On or about October 4, 2012, the Bureau of Automotive Repair issued Smog Check  
6 Test Only Station License Number TC 269793 to RC Automotive. The Smog Check Station  
7 License was in full force and effect at all times relevant to the charges brought herein and will  
8 expire on July 31, 2016, unless renewed.

9 6. On or about July 22, 2010, Advanced Emission Specialist Technician License EA  
10 632309 was issued to Ramon Chavez (Chavez). Upon timely renewal, and Chavez's election, the  
11 license was renewed on October 15, 2012, as Smog Check Repair Technician License EI 632309  
12 and Smog Check Inspector License EO 632309.<sup>1</sup> The Smog Check Repair Technician License  
13 and Smog Check Inspector License were in full force and effect at all times relevant to the charges  
14 brought herein and will expire on October 31, 2016, unless renewed.

15 7. In 2001, Advanced Emission Specialist Technician License EA 143631 was issued to  
16 Cesar E. Castro (Castro). Upon timely renewal, and Castro's election, the license was renewed on  
17 November 30, 2012, as Smog Check Inspector License EO 143631. The Smog Check Inspector  
18 License was in full force and effect at all times relevant to the charges brought herein and will  
19 expire on December 31, 2016, unless renewed.

## 20 JURISDICTION

21 8. This Accusation is brought before the Director of Consumer Affairs (Director) for the  
22 Bureau of Automotive Repair, under the authority of the following laws. All references are to the  
23 Business and Professions Code unless otherwise stated.

24 9. Section 118, subdivision (b), of the Code provides that the suspension, expiration,  
25 surrender, or cancellation of a license shall not deprive the Director of jurisdiction to proceed with

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/or Smog Check Repair Technician (EI) license.

1 a disciplinary action during the period within which the license may be renewed, restored, reissued  
2 or reinstated.

3 10. Section 9884.13 of the Code 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 11. Section 9884.20 of the Code states:

8 "All accusations against automotive repair dealers shall be filed within three years after the  
9 performance of the act or omission alleged as the ground for disciplinary action, except that with  
10 respect to an accusation alleging fraud or misrepresentation as a ground for disciplinary action, the  
11 accusation may be filed within two years after the discovery, by the bureau, of the alleged facts  
12 constituting the fraud or misrepresentation."

13 12. Section 9884.22 of the Code states:

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

19 "..."

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

23 14. Section 44072.4 of the Health and Safety Code states:

24 "The director may take disciplinary action against any licensee after a hearing as provided in  
25 this article by any of the following:

26 "(a) Imposing probation upon terms and conditions to be set forth by the director.

27 "(b) Suspending the license.

28 "(c) Revoking the license."



1           20. Section 9884.7 of the Code states:

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

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

10           ". . .

11           "(4) Any other conduct that constitutes fraud.

12           ". . .

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

15           ". . .

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

20           21. Section 44072.2 of the Health and Safety Code states:

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

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

27           ". . .

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

1 ". . ."

2 22. Section 44072.10 of the Health and Safety Code states:

3 "(a) Notwithstanding Sections 44072 and 44072.4, the director, or the director's designee,  
4 pending a hearing conducted pursuant to subdivision (e), may temporarily suspend any smog check  
5 station or technician's license issued under this chapter, for a period not to exceed 60 days, if the  
6 department determines that the licensee's conduct would endanger the public health, safety, or  
7 welfare before the matter could be heard pursuant to subdivision (e), based upon reasonable  
8 evidence of any of the following:

9 "(1) Fraud.

10 "(2) Tampering.

11 "(3) Intentional or willful violation of this chapter or any regulation, standard, or procedure  
12 of the department implementing this chapter.

13 "(4) A pattern or regular practice of violating this chapter or any regulation, standard, or  
14 procedure of the department implementing this chapter.

15 ". . .

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

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

20 "(2) Tampering with a vehicle emission control system or test analyzer system.

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

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

### 25 REGULATORY PROVISIONS

26 23. California Code of Regulations, title 16, section 3395.4, states:

27 "In reaching a decision on a disciplinary action under the Administrative Procedure Act  
28 (Government Code Section 11400 et seq.), including formal hearings conducted by the Office of

1 Administrative Hearing, the Bureau of Automotive Repair shall consider the disciplinary guidelines  
2 entitled 'Guidelines for Disciplinary Penalties and Terms of Probation' [May, 1997] which are  
3 hereby incorporated by reference. The 'Guidelines for Disciplinary Penalties and Terms of  
4 Probation' are advisory. Deviation from these guidelines and orders, including the standard terms  
5 of probation, is appropriate where the Bureau of Automotive Repair in its sole discretion  
6 determines that the facts of the particular case warrant such deviation -for example: the presence  
7 of mitigating factors; the age of the case; evidentiary problems."

#### 8 COSTS

9 24. Section 125.3 of the Code provides, in pertinent part, that the Bureau may request the  
10 administrative law judge to direct a licentiate found to have committed a violation or violations of  
11 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
12 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being  
13 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be  
14 included in a stipulated settlement.

#### 15 CLEAN PLUGGING

16 25. At all times alleged in this Accusation, Chavez and Castro were acting in the course  
17 and within the scope of a technician, employee, partner, officer, owner, or member of R & C Smog  
18 Center and RC Automotive. At all times alleged in this Accusation, Ramon P. Chavez was acting  
19 in the course and within the scope of a technician, employee, partner, officer, owner, or member of  
20 R & C Smog Center and RC Automotive.

21 26. In October 2014, the Bureau initiated an investigation of R & C Smog Center's smog  
22 check station based on a review of information from the Bureau's Vehicle Information Database to  
23 determine if R & C Smog Center or their employees had engaged in fraudulent smog check  
24 inspections.

25 27. During a Bureau representative's review of R & C Smog Center's certified test results  
26 in the Vehicle Information Database for inspections purportedly performed on the OIS system<sup>2</sup>

27 <sup>2</sup> The BAR On-Board Inspection System (OIS) is a new Smog Check testing system to  
28 certify 2000 model year vehicles and newer. The OIS consists of a BAR certified Data Acquisition  
(continued...)

1 between September and November 2014, eight vehicles identified below had eVIN numbers<sup>3</sup>  
2 stored in the Vehicle Identification Database that did not apply to those vehicles. The Vehicle  
3 Information Database showed that R & C Smog Center and their smog check technicians  
4 inspected these vehicles using a method known as “clean plugging.”<sup>4</sup> This resulted in the issuance  
5 of fraudulent certificates of compliance for the vehicles as follows:

6 a. Clean Plug I –Dodge Ram 1500

7 The OIS Test Detail from the Vehicle Information Database shows that on September 24,  
8 2014, from 0818 hours to 0825 hours, R & C Smog Center and Castro performed a smog check  
9 inspection on a 2001 Dodge Ram 1500, VIN #3B7HC13YX1M565047 (hereafter “2001 Ram”).  
10 The 2001 Ram was issued Certificate of Compliance #PK739277C. The OIS Test Detail shows  
11 that eVINnumber 1ZVFT80N775203697 was transmitted and recorded on the Vehicle  
12 Information Database. In truth and in fact, eVIN number 1ZVFT80N775203697 is for a 2007  
13 Ford Mustang (hereafter “the 2007 Mustang”). The 2007 Ford Mustang was used to clean plug  
14 the 2002 Ram.

15 \_\_\_\_\_  
16 (...continued)

17 Device (DAD) and other equipment including a computer, bar code scanner, and printer. The OIS  
18 uses the California BAR-OIS software to communicate with the BAR's central database through  
19 an Internet connection. The bar code scanner is used to input technician, Vehicle Identification  
20 Number (VIN), and DMV renewal information. The printer provides a Vehicle Inspection Report  
21 containing inspection results for motorists and a Smog Check Certificate of Compliance number  
22 for passing vehicles. The Inspector is required to connect the Data Acquisition Device to the  
23 vehicle to be certified. The Data Acquisition Device is an On Board Diagnostic scan tool that,  
24 when requested by the California BAR-OIS software, retrieves On Board Diagnostic data from the  
25 vehicle. The Data Acquisition Device connects to the vehicle's on-board computer through the  
26 vehicle's diagnostic link connector (DLC). The Data Acquisition Device is the only BAR-certified  
27 component of the OIS.

28 <sup>3</sup> An eVIN number is a Vehicle Identification Number that is programmed into the vehicle's  
OBD II system memory by the manufacturer and broadcast on the system serial data line. The  
eVIN is programmed into the vehicle's Powertrain Control Module memory and transmitted over  
the serial data line. The serial data is accessible through the Data Link Connector. The BAR On-  
Board Inspection System (OIS) test equipment connects to the Data Link Connector and accesses  
the vehicle serial data to determine if the vehicle is within applicable emission system standards.

<sup>4</sup> “Clean plugging” involves using another vehicle's properly functioning On-Board  
Diagnostic, generation II, (OBD II) system to generate passing diagnostic readings for the purpose  
of fraudulently issuing smog Certificates of Compliance to vehicles that are not in compliance with  
California emission standards and/or not present for testing while entering data into the EIS or OIS  
and transmitting data to the Vehicle Information Database.

1           b.     Clean Plug 2 – Toyota Tacoma

2           The OIS Test Detail from the Vehicle Information Database shows that on September 25,  
3 2014, from 1458 hours to 1506 hours, R & C Smog Center and Castro performed a smog check  
4 inspection on a 2002 Toyota Tacoma, VIN #5TEGM92N52Z889915 (hereafter “2002 Tacoma”).

5           The 2002 Tacoma was issued Certificate of Compliance #PK739294C. The OIS Test Detail  
6 shows that eVIN number 1ZVFT80N775203697 was transmitted and recorded on the Vehicle  
7 Information Database. In truth and in fact, eVIN number 1ZVFT80N775203697 is for the 2007  
8 Mustang. The 2007 Ford Mustang was used to clean plug the 2002 Tacoma.

9           c.     Clean Plug 3 – Ford Mustang

10          The OIS Test Detail from the Vehicle Information Database shows that on October 20,  
11 2014, from 1500 hours to 1507 hours, R & C Smog Center and Castro performed a smog check  
12 inspection on a 2006 Ford Mustang GT VIN # 1ZVFT82H665146060 (hereafter “2006  
13 Mustang”). The 2006 Mustang was issued Certificate of Compliance #YL206484C. The OIS  
14 Test Detail shows that eVIN number 1ZVFT80N775203697 was transmitted and recorded on the  
15 Vehicle Information Database. In truth and in fact, eVIN number 1ZVFT80N775203697 is the  
16 2007 Mustang. The 2007 Mustang was used to clean plug the 2006 Mustang.

17          d.     Clean Plug 4 –Dodge Ram 1500 Quad

18          The OIS Test Detail from the Vehicle Information Database shows that on October 28,  
19 2014, from 0904 hours to 0910 hours, R & C Smog Center and Castro performed a smog check  
20 inspection on a 2002 Dodge Ram 1500 Quad, VIN # 1D7HA18N32S641873 (hereafter “2002  
21 Ram”). The 2002 Ram was issued Certificate of Compliance # YL335277C. The OIS Test Detail  
22 shows that eVIN number 2GCEC19VX21112717 was transmitted and recorded on the Vehicle  
23 Information Database. In truth and in fact, eVIN number 2GCEC19VX21112717 is for Castro’s  
24 Silverado. Castro’s Silverado was used to clean plug the 2002 Dodge Ram.

25          e.     Clean Plug 5 – GMC Sierra C1500

26          The OIS Test Detail from the Vehicle Information Database shows that on October 31,  
27 2014, from 1649 hours to 1656 hours, R & C Smog Center and Castro performed a smog check  
28 inspection on a 2004 GMC Sierra C1500, VIN #2GTEC19V741166267 (hereafter “Sierra

1 C1500"). The Sierra C1500 was issued Certificate of Compliance #YL437107C. The OIS Test  
2 Detail shows that eVIN number 2GCEC19VX21112717 was transmitted and recorded on the  
3 Vehicle Information Database. In truth and in fact, eVIN number 2GCEC19VX21112717 is for  
4 Castro's Silverado. Castro's Silverado was used to clean plug the Sierra C1500.

5 f. Clean Plug 6 – Toyota Tacoma

6 The OIS Test Detail from the Vehicle Information Database shows that on November 1,  
7 2014, from 0850 hours to 0857 hours, R & C Smog Center and Castro performed a smog check  
8 inspection on a 2006 Toyota Tacoma, VIN # 5TETX22N06Z154505 (hereafter "2006 Tacoma").

9 The 2006 Tacoma was issued Certificate of Compliance #YL437108C. The OIS Test Detail  
10 shows that eVIN number 2GCEC19VX21112717 was transmitted and recorded on the Vehicle  
11 Information Database. In truth and in fact, eVIN number 2GCEC19VX21112717 is for Castro's  
12 Silverado. Castro's Silverado was used to clean plug the 2006 Tacoma.

13 g. Clean Plug 7 – Buick Century

14 The OIS Test Detail from the Vehicle Information Database shows that on November 1,  
15 2014, from 1250 hours to 1255 hours, R & C Smog Center and Castro performed a smog check  
16 inspection on a 2000 Buick Century VIN # 2G4WS52J7Y1333976 (hereafter "Buick Century").

17 The Buick Century was issued Certificate of Compliance #YL437111C. The OIS Test Detail  
18 shows that eVIN number 2GCEC19VX21112717 was transmitted and recorded on the Vehicle  
19 Information Database. In truth and in fact, eVIN number 2GCEC19VX21112717 is for Castro's  
20 Silverado. Castro's Silverado was used to clean plug the Buick Century.

21 h. Clean Plug 8 – Chevrolet Avalanche

22 The OIS Test Detail from the Vehicle Information Database shows that on November 5,  
23 2014, from 0804 hours to 0813 hours, R & C Smog Center and Castro performed a smog check  
24 inspection on a 2004 Chevrolet Avalanche C1500, VIN #3GNEC12T14G106072 (hereafter  
25 "Chevrolet Avalanche"). The Chevrolet Avalanche was issued Certificate of Compliance  
26 #YL437130C. The OIS Test Detail shows that eVIN number 2GCEC19VX21112717 was  
27 transmitted and recorded on the Vehicle Information Database. In truth and in fact, eVIN number  
28

1 2GCEC19VX21112717 is for Castro's Silverado. Castro's Silverado was used to clean plug the  
2 Chevrolet Avalanche.

3 The following chart summarizes the fraudulent Certificates of Compliance issued by R & C  
4 Smog Center, and Castro by clean plugging:

	Time of Certification as Recorded in Vehicle Information Database	Vehicle Certified	Vehicle for Which eVIN Number Belongs
5			
6			
7			
8	1 September 24, 2014, from	2001 Dodge Ram 1500	2007 Mustang
9	0818 hours to 0825 hours	VIN #3B7HC13YX1M565047	
10		Certificate of Compliance	
11		#PK739277C	
12	2 September 25, 2014, from	2002 Toyota Tacoma	2007 Mustang
13	1458 hours to 1506 hours	VIN #5TEGM92N52Z889915	
14		Certificate of Compliance	
15		#PK739294C	
16	3 October 20, 2014, from	2006 Ford Mustang GT	2007 Mustang
17	1500 hours to 1507 hours,	VIN # 1ZVFT82H665146060	
18		Certificate of Compliance	
19		#YL206484C	
20	4 October 28, 2014, from	2002 Dodge Ram 1500 Quad	Castro's Silverado
21	0904 hours to 0910 hours	VIN # 1D7HA18N32S641873	
22		Certificate of Compliance	
23		#YL335277C	
24	5 October 31, 2014, from	2004 GMC Sierra C1500	Castro's Silverado
25	1649 hours to 1656 hours	VIN #2GTEC19V741166267	
26		Certificate of Compliance	
27		#YL437107C	

1	6	November 1, 2014, from 0850 hours to 0857 hours	2006 Toyota Tacoma VIN # 5TETX22N06Z154505 Certificate of Compliance #YL437108C	Castro's Silverado
2				
3				
4				
5	7	November 1, 2014, from 1250 hours to 1255 hours	2000 Buick Century VIN # 2G4WS52J7Y1333976 Certificate of Compliance #YL437111C	Castro's Silverado
6				
7				
8				
9	8	November 5, 2014, from 0804 hours to 0813 hours	2004 Chevrolet Avalanche C1500 VIN #3GNEC12T14G106072 Certificate of Compliance #YL437130C	Castro's Silverado
10				
11				
12				
13				

14 **FIRST CAUSE FOR DISCIPLINE**

15 **(Untrue or Misleading Statement)**

16 28. Complainant re-alleges and incorporates by reference the allegations set forth above in  
17 paragraphs 25-27.

18 29. R & C Smog Center's Registration is subject to disciplinary action under section  
19 9884.7, subdivision (a)(1), in that R & C Smog Center made or authorized statements which R &  
20 C Smog Center knew or in the exercise of reasonable care should have known to be untrue or  
21 misleading.

22 30. R & C Smog Center certified that R & C Smog Center inspected the vehicle(s)  
23 described in paragraphs 25-27, when in fact the vehicle(s) were not inspected.

24 **SECOND CAUSE FOR DISCIPLINE**

25 **(Violations of Motor Vehicle Inspection Program)**

26 31. Complainant re-alleges and incorporates by reference the allegations set forth above in  
27 paragraphs 25-30.

28









1           2.     Revoking or suspending Smog Check Test Only Station License Number TC 257807  
2 issued to Ramon P. Chavez, President/Secretary/Treasurer; RC Vehicle Registration and Lien Sale  
3 Svcs Inc., doing business as R & C Smog Center;

4           3.     Revoking or suspending any additional license issued under Chapter 5 of the Health  
5 and Safety Code in the name of Ramon P. Chavez, President/Secretary/Treasurer; RC Vehicle  
6 Registration and Lien Sale Svcs Inc., doing business as R & C Smog Center;

7           4.     Revoking or suspending the registration for all places of business operated in this State  
8 in the name of Ramon P. Chavez, President/Secretary/Treasurer; RC Vehicle Registration and Lien  
9 Sale Svcs Inc., doing business as R & C Smog Center, including Ramon Chavez,  
10 President/Secretary/Treasurer; RC Vehicle Registration and Lien Sale Svcs Inc., doing business as  
11 RC Automotive;

12          5.     Revoking or suspending Smog Check Inspector License EO 143631 issued to Cesar  
13 E. Castro;

14          6.     Revoking or suspending any additional license issued under Chapter 5 of the Health  
15 and Safety Code in the name of Cesar E. Castro;

16          7.     Revoking or suspending Smog Check Repair Technician EI 632309 and Smog Check  
17 Inspector License EO 632309 issued to Ramon Chavez;

18          8.     Revoking or suspending any additional license issued under Chapter 5 of the Health  
19 and Safety Code in the name of Ramon Chavez;

20          9.     Ordering Ramon P. Chavez, President/Secretary/Treasurer; RC Vehicle Registration  
21 and Lien Sale Svcs Inc., doing business as R & C Smog Center; Ramon Chavez,  
22 President/Secretary/Treasurer; RC Vehicle Registration and Lien Sale Svcs Inc., doing business as  
23 RC Automotive; Cesar E. Castro; and Ramon Chavez to pay the Bureau of Automotive Repair the  
24 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
25 Professions Code section 125.3; and

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

DATED: 8/24/15

Patrick Dorais by Doug Balatti  
PATRICK DORAIS  
Chief  
Bureau of Automotive Repair  
Department of Consumer Affairs  
State of California  
*Complainant*  
Doug Balatti  
Assist. Chief

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