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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:  
12 **RD SMOG & AUTO REPAIR INC. DBA**  
13 **RD SMOG TEST ONLY CENTER**  
14 **1989 West Washington Blvd.**  
15 **Los Angeles, CA 90018**  
16 **CENIA A. HERNANDEZ aka CENIA A.**  
17 **HERNANDEZ PAZ, PRESIDENT**  
18 **Automotive Repair Dealer Registration**  
19 **No. ARD 247291**  
20 **Smog Check Test Only Station License**  
21 **No. TC 247291**  
22 **and**  
23 **ESTEBAN MIGUEL TORRES**  
24 **2111 N. Fredric St.**  
25 **Burbank, CA 91504**  
26 **Smog Check Inspector License No. EO**  
27 **633498**  
28 Respondents.

Case No. **79/14-41**

**A C C U S A T I O N**  
**S M O G C H E C K**

Complainant alleges:

**PARTIES**

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

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1           **Automotive Repair Dealer Registration**

2           2.    On or about November 6, 2006, the Bureau issued Automotive Repair Dealer  
3 Registration Number ARD 247291 (“registration”) to Cenia A. Hernandez Paz (“Respondent or  
4 Respondent RD”), as President of RD Smog & Auto Repair Inc. doing business as RD Smog Test  
5 Only Center. The registration was in full force and effect at all times relevant to the charges  
6 brought herein and will expire on September 30, 2014, unless renewed.

7           **Smog Check Test Only Station License**

8           3.    On or about January 30, 2009, the Bureau issued Smog Check Test Only Station  
9 License Number TC 247291 (“station license”) to Respondent. The station license was in full  
10 force and effect at all times relevant to the charges brought herein and will expire on September  
11 30, 2014, unless renewed.

12           **Advanced Emission Specialist Technician License**

13           4.    On or about August 11, 2011, the Bureau issued Smog Check Inspector License  
14 Number EO 633498 (“inspector license”) (previously EA 633498) to Esteban Miguel Torres  
15 (“Respondent Torres”) <sup>1</sup>. The inspector license was in full force and effect at all times relevant to  
16 the charges brought herein and will expire on June 30, 2015, unless renewed.

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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 this article and has all the required emission control equipment and devices installed and  
2 functioning correctly.”

3 15. CCR, title 16, section 3340.41, subdivision (c), provides: “No person shall enter into  
4 the emissions inspection system any vehicle identification information or emission control system  
5 identification data for any vehicle other than the one being tested. Nor shall any person  
6 knowingly enter into the emissions inspection system any false information about the vehicle  
7 being tested.”

8 16. CCR, title 16, section 3340.42, sets forth specific emissions test methods and  
9 procedures which apply to all vehicles inspected in the State of California.

10 17. CCR, title 16, section 3340.28, subdivision (e), states that “[u]pon renewal of an  
11 unexpired Basic Area Technician license or an Advanced Emission Specialist Technician license  
12 issued prior to the effective date of this regulation, the licensee may apply to renew as a Smog  
13 Check Inspector, Smog Check Repair Technician, or both.”

#### 14 COST RECOVERY

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

#### 19 UNDERCOVER OPERATIONS-MARCH 23, 2012,

#### 20 APRIL 18, 2012, AND MAY 10, 2012

21 19. On or about March 23, 2012, April 18, 2012, and May 10, 2012, the Bureau  
22 performed undercover operations at Respondent RD’s facility based on information it received  
23 that an advertisement was placed on “Craigs List” advertising that cars can be made to pass a  
24 smog inspection, even if the cars had previously failed a smog inspection. The undercover  
25 operations and information obtained from the Bureau’s Vehicle Information Database (“VID”)  
26 revealed that Respondent Torres performed three (3) smog inspections, which resulted in the  
27 issuance of electronic certificates of compliance for the vehicles set forth in Table 1, below,  
28 certifying that he had tested and inspected those vehicles and that the vehicles were in compliance

1 with applicable laws and regulations. In fact, Respondent Torres performed the smog inspections  
2 using the clean piping method<sup>2</sup> by using the tail pipe emissions of vehicles other than the vehicles  
3 being certified in order to issue the electronic certificates of compliance. The vehicles certified  
4 were not in the test bay at the time of the smog inspections.

5 **Table 1**

6

<b>Date and Test Times</b>	<b>Vehicle Certified</b>	<b>Vehicle Actually Tested</b>	<b>Certificate Issued</b>
3/23/2012 11:16 hours to 11:29 hours	1993 Honda Civic, License [REDACTED]	Black Honda Accord	[REDACTED]
4/18/2012 12:40 hours to 12:50 hours	1977 Chevrolet Camaro, License [REDACTED]	Unknown	[REDACTED]
5/10/2012 11:37 hours to 11:54 hours	1995 Honda Civic, License [REDACTED]	Unknown	[REDACTED]

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15 **FIRST CAUSE FOR DISCIPLINE**

16 **(Misleading Statements)**

17 20. Respondent RD has subjected its registration to discipline under Code section 9884.7,  
18 subdivision (a)(1), in that on or about the dates specified in Table 1 above, it made statements  
19 which it knew or which by exercise of reasonable care it should have known were untrue or  
20 misleading when its employee issued electronic certificates of compliance for the vehicles set  
21 forth in Table 1, above, certifying that those vehicles were in compliance with applicable laws  
22 and regulations when, in fact, the vehicles had been clean piped.

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

1 SECOND CAUSE FOR DISCIPLINE

2 (Fraud)

3 21. Respondent RD has subjected its registration to discipline under Code section 9884.7,  
4 subdivision (a)(4), in that on or about the dates listed above in Table 1, it committed acts which  
5 constitute fraud by issuing electronic certificates of compliance for the vehicles set forth in Table  
6 1, above, without performing bona fide inspections of the emission control devices and systems  
7 on those vehicles, thereby depriving the People of the State of California of the protection  
8 afforded by the Motor Vehicle Inspection Program.

9 THIRD CAUSE FOR DISCIPLINE

10 (Violation of the Motor Vehicle Inspection Program)

11 22. Respondent RD has subjected its station license to discipline under Health and Safety  
12 Code section 44072.2, subdivision (a), in that regarding the vehicles set forth in Table 1, above, it  
13 violated sections of that Code, as follows:

14 a. **Section 44012, subdivision (a):** Respondent RD's smog technician failed to  
15 determine that all emission control devices and systems required by law were installed and  
16 functioning correctly in accordance with test procedures.

17 b. **Section 44012, subdivision (f):** Respondent RD's smog technician failed to perform  
18 emission control tests on those vehicles in accordance with procedures prescribed by the  
19 department.

20 c. **Section 44015, subdivision (b):** Respondent RD's smog technician issued electronic  
21 certificates of compliance without properly testing and inspecting the vehicles to determine if  
22 they were in compliance with section 44012 of that Code.

23 d. **Section 44059:** Respondent RD's smog technician willfully made false entries for  
24 the electronic certificates of compliance by certifying that those vehicles had been inspected as  
25 required when, in fact, they had not.

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1 **FOURTH CAUSE FOR DISCIPLINE**

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

3 23. Respondent RD has subjected its station license to discipline under Health and Safety  
4 Code section 44072.2, subdivision (c), in that regarding the vehicles set forth in Table 1, above, it  
5 violated sections of the California Code of Regulations, title 16, as follows:

6 a. **Section 3340.24, subdivision (c):** Respondent RD's smog technician falsely or  
7 fraudulently issued electronic certificates of compliance without performing bona fide inspections  
8 of the emission control devices and systems on those vehicles as required by Health and Safety  
9 Code section 44012.

10 b. **Section 3340.35, subdivision (c):** Respondent RD's smog technician issued  
11 electronic certificates of compliance even though those vehicles had not been inspected in  
12 accordance with section 3340.42 of that Code.

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

15 **FIFTH CAUSE FOR DISCIPLINE**

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

17 24. Respondent RD has subjected its station license to discipline under Health and Safety  
18 Code section 44072.2, subdivision (d), in that regarding the vehicles set forth in Table 1, above, it  
19 committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing  
20 electronic certificates of compliance for those vehicles without performing bona fide inspections  
21 of the emission control devices and system on those vehicles, thereby depriving the People of the  
22 State of California of the protection afforded by the Motor Vehicle Inspection Program.

23 **SIXTH CAUSE FOR DISCIPLINE**

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

25 25. Respondent Torres has subjected his inspector license to discipline under Health and  
26 Safety Code section 44072.2, subdivision (a), in that regarding the vehicles set forth in Table 1,  
27 above, he violated sections of that Code, as follows:

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

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

6 c. **Section 44032**: Respondent Torres failed to perform tests of the emission control  
7 devices and systems on those vehicles in accordance with section 44012 of that Code, in that the  
8 vehicle had been clean piped.

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

#### 12 **SEVENTH CAUSE FOR DISCIPLINE**

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

14 26. Respondent Torres has subjected his inspector license to discipline under Health and  
15 Safety Code section 44072.2, subdivision (c), in that, regarding the vehicles set forth in Table 1,  
16 above, he violated sections of the California Code of Regulations, title 16, as follows:

17 a. **Section 3340.24, subdivision (c)**: Respondent Torres 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 and Safety Code section  
20 44012.

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

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

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

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1 **EIGHTH CAUSE FOR DISCIPLINE**

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

3 27. Respondent Torres has subjected his inspector license to discipline under Health and  
4 Safety Code section 44072.2, subdivision (d), in that regarding the vehicles set forth above in  
5 Table 1, he committed acts involving dishonesty, fraud or deceit whereby another was injured by  
6 issuing electronic certificates of compliance for the vehicles set forth in Table 1, above, without  
7 performing bona fide inspections of the emission control devices and systems on those vehicles,  
8 thereby depriving the People of the State of California of the protection afforded by the Motor  
9 Vehicle Inspection Program.

10 **OTHER MATTERS**

11 28. Pursuant to Code section 9884.7, subdivision (c), the Director may refuse to validate,  
12 or may invalidate temporarily or permanently, the registrations for all places of business operated  
13 in this state by Cenia A. Hernandez Paz as President of RD Smog & Auto Repair Inc. doing  
14 business as RD Smog Test Only Center, upon a finding that she has, or is, engaged in a course of  
15 repeated and willful violations of the laws and regulations pertaining to an automotive repair  
16 dealer.

17 29. Pursuant to Health & Safety Code section 44072.8, if Smog Check Test Only Station  
18 License Number TC 247291, issued to Cenia A. Hernandez Paz as President of RD Smog & Auto  
19 Repair Inc. doing business as RD Smog Test Only Center, is revoked or suspended, any  
20 additional license issued under this chapter in the name of said licensee may be likewise revoked  
21 or suspended by the director.

22 30. Pursuant to Health & Safety Code section 44072.8, if Smog License Inspector  
23 License Number EO 633498, (previously EA 633498) issued to Esteban Miguel Torres, is  
24 revoked or suspended, any additional license issued under this chapter in the name of said  
25 licensee may be likewise revoked or suspended by the director.

26 **PRAYER**

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

1           1.     Revoking, suspending, placing on probation, Automotive Repair Dealer Registration  
2 Number ARD 247291, issued to Cenia A. Hernandez Paz as President of RD Smog & Auto  
3 Repair Inc. doing business as RD Smog Test Only Center;

4           2.     Revoking, suspending, or placing on probation any other automotive repair dealer  
5 registration issued to Cenia A. Hernandez Paz;

6           3.     Revoking or suspending Smog Check Test Only Station License Number TC 247291,  
7 issued to Cenia A. Hernandez Paz as President of RD Smog & Auto Repair Inc. doing business as  
8 RD Smog Test Only Center;

9           4.     Revoking or suspending any additional license issued under Chapter 5 of the Health  
10 and Safety Code in the name of Cenia A. Hernandez Paz;

11          5.     Revoking or suspending Smog Check Inspector License Number EO633498, issued  
12 to Esteban Miguel Torres;

13          6.     Revoking or suspending any additional license issued under Chapter 5 of the Health  
14 and Safety Code in the name of Esteban Miguel Torres;

15          7.     Ordering Cenia A. Hernandez Paz and Esteban Miguel Torres to pay the Bureau of  
16 Automotive Repair the reasonable costs of the investigation and enforcement of this case,  
17 pursuant to Business and Professions Code section 125.3; and,

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

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21 DATED: 10/22/13

21 *Pat Dorais by Doug Balatti*  
22 PATRICK DORAIS  
23 Acting Chief  
24 Bureau of Automotive Repair  
25 Department of Consumer Affairs  
26 State of California  
27 Complainant  
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