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7

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

12 In the Matter of the First Amended Accusation
13 Against:

14 **ONE STOP TEST ONLY; MARIA I. SANCHEZ**
15 630 W. Rialto Ave, #B8
16 Rialto, CA 92376

17 Automotive Repair Dealer Registration No. ARD
266963
18 Smog Check, Test Only, Station License No. TC
266963

19 and

20 **BRIAN WILLIAM AYALA-SICILLIANO**
21 5506 Norman Way
22 Riverside, CA 92504

23 Smog Check Inspector License No. EO 634046;
24 Smog Check Repair Technician License No. EI
25 634046 (formerly Advanced Emission Specialist
26 Technician License No. EA 634046)

27 and

28 **JAVIER ALEJANDRO AYALA-SICILIANO**
5506 Norman Way
Riverside, CA 92504

Smog Check Inspector License No. EO 633774;
Smog Check Repair Technician License No. EI
633744 (formerly Advanced Emission Specialist
Technician License No. EA 633774)

Respondents.

Case No. 79/14-108

OAH No. 2015040288

**STIPULATED REVOCATION OF
LICENSES AND ORDER - AS TO
RESPONDENT JAVIER
ALEJANDRO AYALA-SICILIANO
ONLY**

1 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
2 entitled proceedings that the following matters are true:

3 PARTIES

4 1. Patrick Dorais (Complainant) is the Chief of the Bureau of Automotive Repair. He
5 brought this action solely in his official capacity and is represented in this matter by Kamala D.
6 Harris, Attorney General of the State of California, by Kevin J. Rigley, Deputy Attorney General.

7 2. Javier Alejandro Ayala-Siciliano (Respondent Javier Ayala-Siciliano) is represented
8 in this proceeding by attorney William Dean Ferreira, Esq., whose address is 582 Market Street,
9 Suite 1608, San Francisco, CA 94104.

10 **Technician Licenses**

11 3. On or about November 3, 2011, the Director issued Advanced Emission Specialist
12 Technician License Number EA 633774 to Javier Alejandro Ayala-Siciliano (Respondent Javier
13 Ayala-Siciliano). Respondent Javier Ayala-Siciliano's advanced emission specialist technician
14 license was in full force and effect at all times relevant to the charges brought herein and pursuant
15 to California Code of Regulations, title 16, section 3340.28, subdivision (e), the license was
16 renewed, pursuant to Respondent Javier Ayala-Siciliano's election, as Smog Check Inspector
17 License Number EO 633774, and Smog Check Repair Technician License No. EI 633774¹
18 (technician licenses), effective May 16, 2013. Respondent Javier Ayala-Siciliano's technician
19 licenses expired on July 31, 2015, were not renewed, and are now delinquent.

20 JURISDICTION

21 4 First Amended Accusation No. 79/14-108 was filed before the Director of Consumer
22 Affairs (Director), for the Bureau of Automotive Repair (Bureau), and is currently pending
23 against Respondent Javier Ayala-Siciliano. The First Amended Accusation and all other
24 statutorily required documents were properly served on Respondent Javier Ayala-Siciliano on
25 June 30, 2015. Respondent Javier Ayala-Siciliano timely filed his Notice of Defense contesting
26

27 ¹ 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
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 the First Amended Accusation. A copy of First Amended Accusation No. 79/14-108 is attached
2 as Exhibit A and incorporated by reference.

3 ADVISEMENT AND WAIVERS

4 5. Respondent Javier Ayala-Siciliano has carefully read, fully discussed with counsel,
5 and understands the charges and allegations in First Amended Accusation No. 79/14-108.

6 Respondent Javier Ayala-Siciliano also has carefully read, fully discussed with counsel, and
7 understands the effects of this Stipulated Revocation of Licenses and Order.

8 6. Respondent Javier Ayala-Siciliano is fully aware of his legal rights in this matter,
9 including the right to a hearing on the charges and allegations in the First Amended Accusation;
10 the right to be represented by counsel, at his own expense; the right to confront and cross-
11 examine the witnesses against him; the right to present evidence and to testify on his own behalf;
12 the right to the issuance of subpoenas to compel the attendance of witnesses and the production of
13 documents; the right to reconsideration and court review of an adverse decision; and all other
14 rights accorded by the California Administrative Procedure Act and other applicable laws.

15 7. Respondent Javier Ayala-Siciliano voluntarily, knowingly, and intelligently waives
16 and gives up each and every right set forth above.

17 CULPABILITY

18 8. Respondent Javier Ayala-Siciliano admits the truth of each and every charge and
19 allegation in First Amended Accusation No. 79/14-108, agrees that cause exists for discipline and
20 hereby agrees to the revocation of his technician licenses by the Bureau.

21 9. Respondent Javier Ayala-Siciliano understands that by signing this stipulation he
22 enables the Director to issue an order revoking Respondent Javier Ayala-Siciliano's technician
23 licenses without further process.

24 CONTINGENCY

25 10. This stipulation shall be subject to approval by the Director or the Director's designee.
26 Respondent Javier Ayala-Siciliano understands and agrees that counsel for Complainant and the
27 staff of the Bureau of Automotive Repair may communicate directly with the Director and staff
28 regarding this stipulation and revocation of licenses, without notice to or participation by

1 Respondent Javier Ayala-Siciliano or his counsel. By signing the stipulation, Respondent Javier
2 Ayala-Siciliano understands and agrees that he may not withdraw his agreement or seek to
3 rescind the stipulation prior to the time the Director considers and acts upon it. If the Director
4 fails to adopt this stipulation as the Decision and Order, the Stipulated Revocation of Licenses
5 and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be
6 inadmissible in any legal action between the parties, and the Director shall not be disqualified
7 from further action by having considered this matter.

8 11. The parties understand and agree that Portable Document Format (PDF) and facsimile
9 copies of this Stipulated Revocation of Licenses and Order, including Portable Document Format
10 (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

11 12. This Stipulated Revocation of Licenses and Order is intended by the parties to be an
12 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
13 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
14 negotiations, and commitments (written or oral). This Stipulated Revocation of Licenses and
15 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
16 writing executed by an authorized representative of each of the parties.

17 13. In consideration of the foregoing admissions and stipulations, the parties agree that
18 the Director may, without further notice or formal proceeding, issue and enter the following
19 Order:

20 **ORDER**

21 IT IS HEREBY ORDERED that Smog Check Inspector License Number EO 633774, and
22 Smog Check Repair Technician License No. EI 633774 (technician licenses) issued to Javier
23 Alejandro Ayala-Siciliano (Respondent Javier Ayala-Siciliano) are revoked by the Director of
24 Consumer Affairs.

25 1. The revocation of Respondent Javier Ayala-Siciliano's technician licenses by the
26 Bureau shall constitute the imposition of discipline against Respondent Javier Ayala-Siciliano.
27 This stipulation constitutes a record of the discipline and shall become a part of Respondent
28 Javier Ayala-Siciliano's license history with the Bureau of Automotive Repair

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I have read and fully discussed with Respondent Brian Ayala-Siciliano the terms and conditions and other matters contained in this Stipulated Revocation of Licenses and Order. I approve its form and content.

DATED: 12/19/15


WILLIAM DEAN FERREIRA, ESQ.
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Director of Consumer Affairs.

Dated: 10/20/15

Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
LINDA L. SUN
Supervising Deputy Attorney General


KEVIN J. RIELEY
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

First Amended Accusation No. 79/14-108

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Attorneys for Complainant

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

In the Matter of the First Amended Accusation Against:

Case No. *79/14-108*

ONE STOP TEST ONLY; MARIA I. SANCHEZ
630 W. Rialto Ave, #B8
Rialto, CA 92376

**FIRST AMENDED
ACCUSATION**

Automotive Repair Dealer Registration No. ARD 266963
Smog Check, Test Only, Station License No. TC 266963

and

BRIAN WILLIAM AYALA-SICILLIANO
5506 Norman Way
Riverside, CA 92504

Smog Check Inspector License No. EO 634046; Smog Check
Repair Technician License No. EI 634046 (formerly Advanced
Emission Specialist Technician License No. EA 634046)

and

JAVIER ALEJANDRO AYALA-SICILIANO
5506 Norman Way
Riverside, CA 92504

Smog Check Inspector License No. EO 633774; Smog Check
Repair Technician License No. EI 633744 (formerly Advanced
Emission Specialist Technician License No. EA 633774)

Respondents.

1 Complainant alleges:

2 **PARTIES**

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

6 **Automotive Repair Dealer Registration**

7 2. On or about October 26, 2011, the Bureau of Automotive Repair issued Automotive
8 Repair Dealer Registration Number ARD 266963 (registration) to One Stop Test Only, Maria I.
9 Sanchez (Respondent One Stop). The registration was in full force and effect at all times relevant
10 to the charges brought herein and will expire on October 31, 2015, unless renewed.

11 **Smog Check Test Only Station License**

12 3. On or about November 9, 2011, the Bureau of Automotive Repair issued Smog
13 Check, Test Only, Station License Number TC 266963 (station license) to Respondent One Stop.
14 The station license was in full force and effect at all times relevant to the charges brought herein
15 and will expire on October 31, 2015, unless renewed.

16 **Technician Licenses**

17 4. On or about February 14, 2012, the Director issued Advanced Emission specialist
18 Technician License EA 634046 to Brian Ayala-Sicilliano. (Respondent Brian Ayala-Sicilliano).
19 Respondent Brian Ayala-Sicilliano's advanced emission specialist license was in full force and
20 effect at all times relevant to the charges brought herein and pursuant to California Code of
21 Regulations, title 16, section 3340.28, subdivision (e), the license was renewed, pursuant to
22 Respondent Brian Ayala-Sicilliano's election, as Smog Check Inspector License Number EO
23 633774, and Smog Check repair Technician License No. EI 633774¹ (technician licenses),
24 effective May 29, 2014. Respondent Brian Ayala-Sicilliano's technician licenses will expire on
25 July 31, 2016, unless renewed.

26 ¹ 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 surrender of a license shall not deprive the Director of jurisdiction to proceed with any disciplinary
2 proceedings.

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

6 STATUTORY PROVISIONS

7 12. Code section 490 states, in pertinent part:

8 "(a) In addition to any other action that a board is permitted to take
9 against a licensee, a board may suspend or revoke a license on the ground that the
10 licensee has been convicted of a crime, if the crime is substantially related to the
11 qualifications, functions, or duties of the business or profession for which the license
12 was issued.

13 "(b) Notwithstanding any other provision of law, a board may exercise
14 any authority to discipline a licensee for conviction of a crime that is independent of
15 the authority granted under subdivision (a) only if the crime is substantially related to
16 the qualifications, functions, or duties of the business or profession for which the
17 licensee's license was issued.

18 "(c) A conviction within the meaning of this section means a plea or
19 verdict of guilty or a conviction following a plea of nolo contendere. An action that a
20 board is permitted to take following the establishment of a conviction may be taken
21 when the time for appeal has elapsed, or the judgment of conviction has been affirmed
22 on appeal, or when an order granting probation is made suspending the imposition of
23 sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code."

24 13. Code section 493 states:

25 "Notwithstanding any other provision of law, in a proceeding conducted by a board within
26 the department pursuant to law to deny an application for a license or to suspend or revoke a
27 license or otherwise take disciplinary action against a person who holds a license, upon the
28 ground that the applicant or the licensee has been convicted of a crime substantially related to the
29 qualifications, functions, and duties of the licensee in question, the record of conviction of the
30 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,
31 and the board may inquire into the circumstances surrounding the commission of the crime in
32 order to fix the degree of discipline or to determine if the conviction is substantially related to the
33 qualifications, functions, and duties of the licensee in question. "As used in this section, 'license'
34 includes 'certificate,' 'permit,' 'authority,' and 'registration.'"

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14. Section 9884.7 of the Code states, in pertinent part:

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

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

...

(4) Any other conduct that constitutes fraud.

...

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

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

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

15. Section 9884.8 of the Code states:

"All work done by an automotive repair dealer, including all warranty work, shall be recorded on an invoice and shall describe all service work done and parts supplied. Service work and parts shall be listed separately on the invoice, which shall also state separately the subtotal prices for service work and for parts, not including sales tax, and shall state separately the sales tax, if any, applicable to each. If any used, rebuilt, or reconditioned parts are supplied, the invoice shall clearly state that fact. If a part of a component system is composed of new and used, rebuilt or reconditioned parts, that invoice shall clearly state that fact. The invoice shall include a statement indicating whether any crash parts are original equipment manufacturer crash parts or nonoriginal equipment manufacturer aftermarket crash parts. One copy of the invoice shall be given to the customer and one copy shall be retained by the automotive repair dealer."

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16. Section 9889.3 of the Code 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 Chapter 20.3 of Division 3 of the Business and Professions Code] if the licensee or any partner, officer, or director thereof:

...

"(b) Is convicted of any crime substantially related to the qualifications, functions and duties of the licenseholder in question.

...

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

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

18. Section 44012 of the Health and Safety Code states, in pertinent part:

"The test at the smog check stations shall be performed in accordance with procedures prescribed by the department, pursuant to Section 44013, shall require, at a minimum, loaded mode dynamometer testing in enhanced areas, and two-speed testing in all other program areas, and shall ensure all of the following:

...

"(f) A visual or functional check is made of emission control devices specified by 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. The visual or functional check shall be performed in accordance with procedures prescribed by the department."

19. Section 44015 of the Health and Safety Code states, in pertinent part:

...

"(b) If 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."

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1 #B8, Rialto, California, after being instructed to ask for "Javier" and informing him (Javier) that
2 he had been referred to Respondent One Stop by a friend to do a smog test on the Chevrolet.
3 Immediately prior to this, Bureau representatives had purposely prepared the Chevrolet to fail the
4 tail pipe emissions test portion of a smog check inspection by intentionally disabling the EGR
5 system and modifying the oxygen sensor circuit. Before a smog inspection was conducted, the
6 operator gave Respondent Javier Ayala-Siciliano an incomplete registration notice that had been
7 issued by the DMV on the Chevrolet, at which point Respondent Javier Ayala-Siciliano asked the
8 operator "This is to get it to pass?" To which the operator responded, "Yes." The operator then
9 handed the keys to the Chevrolet to Respondent Brian Ayala-Siciliano, who drove the Chevrolet
10 into the testing bay. Respondent Javier Ayala-Siciliano informed the operator the inspection
11 would cost \$160.00. Respondent Brian Ayala-Siciliano performed the actual smog inspection,
12 while Respondent Javier Ayala-Siciliano engaged in all other aspects of the business transaction
13 regarding the subject smog inspection. Though the Chevrolet should have failed the smog
14 inspection, it passed and electronic Certificate of Compliance [REDACTED] was issued by
15 Respondent One Stop for that vehicle. The operator paid \$160.00 in cash to Respondent Javier
16 Ayala-Siciliano for the smog test and was given a copy of the Vehicle Inspection Report, but was
17 never provided with any actual invoice or receipt.

18 29. On the following day, April 11, 2013, a Bureau representative performed a Smog
19 Check inspection on the Chevrolet. The vehicle failed and exceeded the limits of oxides of
20 nitrogen at 15 mph and 25 mph as a gross polluter. Thereafter, on April 16, 2013, a Bureau
21 representative inspected and photographed the EGR valve tamper seal and oxygen sensor circuit
22 tamper seal on the Chevrolet and verified the tamper seals were intact, demonstrating the defects
23 had not been corrected. That same Bureau representative also received and reviewed a copy of
24 the VIR for the inspection performed on the Chevrolet by Respondent One Stop and concluded
25 that the emissions readings recorded on the VIR do not represent the emissions of the Chevrolet
26 and that the Chevrolet was not tested according to Bureau requirements. The Bureau
27 representative also noted the VIR reflected that a functional test of the evaporative emissions
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1 system had been performed on the Chevrolet truck, which test was not appropriate for that
2 vehicle.

3 **FIRST CAUSE FOR DISCIPLINE**

4 (Conviction of a Substantially Related Crime)

5 30. Respondent Brian Ayala-Sicilliano's smog check technician licenses are subject to
6 discipline pursuant to Code sections 490 and 493, in that Respondent Brian Ayala-Sicilliano was
7 convicted of a crime substantially related to the qualifications, functions or duties of a smog check
8 technician. On or about April 21, 2015, Respondent Brian Ayala-Sicilliano was convicted of one
9 felony count of violating Penal Code section 115, subdivision (a), [knowingly procuring or
10 offering a false or forged instrument to be filed, registered or recorded in a public office] in the
11 criminal proceeding entitled *The People of the State of California vs. Brian William Ayala-*
12 *Sicilliano* (Super. Ct. San Bernardino County, 2015, Case No. FWV1403377). In regard to the
13 circumstances surrounding the conviction, Complainant refers to, and by this reference
14 incorporates, the allegations set forth in paragraphs 28, 29, 43 and 44 herein, as though set forth
15 fully.

16 **SECOND CAUSE FOR DISCIPLINE**

17 (Acts Constituting Dishonesty, Fraud or Deceit)

18 31. Respondent Brian Ayala-Sicilliano's smog check technician licenses are subject to
19 discipline pursuant to Code section 9889.3, subdivision (b), and Health and Safety Code section
20 44072.1, subdivision (d), in that Respondent Brian Ayala-Sicilliano committed acts involving
21 dishonesty, fraud or deceit, with the intent to substantially benefit himself, or substantially injure
22 another. Complainant refers to, and by this reference incorporates, the allegations set forth in
23 paragraphs 28, 29, 43 and 44 herein, as though set forth fully.

24 **THIRD CAUSE FOR DISCIPLINE**

25 (Conviction of a Substantially Related Crime)

26 32. Respondent Javier Ayala-Siciliano's smog check technician licenses are subject to
27 discipline pursuant to Code sections 490 and 493, in that Respondent Javier Ayala-Siciliano was
28 convicted of a crime substantially related to the qualifications, functions or duties of a smog check

1 technician. On or about April 21, 2015, Respondent Javier Ayala-Siciliano was convicted of one
2 felony count of violating Penal Code section 115, subdivision (a), [knowingly procuring or
3 offering a false or forged instrument to be filed, registered or recorded in a public office] in the
4 criminal proceeding entitled *The People of the State of California vs. Javier Alejandro Ayala-*
5 *Siciliano* (Super. Ct. San Bernardino County, 2015, Case No. FWV1403377). In regard to the
6 circumstances surrounding the conviction, Complainant refers to, and by this reference
7 incorporates, the allegations set forth in paragraphs 28, 29, 43 and 44 herein, as though set forth
8 fully.

9 **FOURTH CAUSE FOR DISCIPLINE**

10 **(Acts Constituting Dishonesty, Fraud or Deceit)**

11 33. Respondent Javier Ayala-Siciliano's smog check technician licenses are subject to
12 discipline pursuant to Code section 9889.3, subdivision (b), and Health and Safety Code section
13 44072.1, subdivision (d), in that Respondent Javier Ayala-Siciliano committed acts involving
14 dishonesty, fraud or deceit, with the intent to substantially benefit himself, or substantially injure
15 another. Complainant refers to, and by this reference incorporates, the allegations set forth in
16 paragraphs 28, 29, 43 and 44 herein, as though set forth fully.

17 **FIFTH CAUSE FOR DISCIPLINE**

18 **(Untrue or Misleading Statements)**

19 34. Respondent One Stop has subjected its registration to discipline under Code section
20 9884.7, subdivision (a)(1), in that on or about April 10, 2013, it made statements which it knew or
21 which by exercise of reasonable care it should have known were untrue or misleading when it
22 issued an electronic certificate of compliance for the vehicle set forth in paragraphs 28 and 29
23 above, certifying that such vehicle was in compliance with applicable laws and regulations when,
24 in fact, the vehicle was not in compliance at such time.

25 **SIXTH CAUSE FOR DISCIPLINE**

26 **(Fraud)**

27 35. Respondent One Stop has subjected its registration to discipline under Code section
28 9884.7, subdivision (a)(4), in that on or about April 10, 2013, it committed acts which constitute

1 fraud by issuing an electronic certificate of compliance for the vehicle set forth in paragraphs 28
2 and 29 above, without performing bona fide inspections of the emission control devices and
3 systems on that vehicle, thereby depriving the People of the State of California of the protection
4 afforded by the Motor Vehicle Inspection Program.

5 **SEVENTH CAUSE FOR DISCIPLINE**

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

7 36. Respondent One Stop has subjected its station license to discipline under Health and
8 Safety Code section 44072.2, subdivision (a), in that on or about April 10, 2013, regarding the
9 vehicle set forth in paragraphs 28 and 29, above, it violated sections of that Code, as follows:

10 a. Section 44012, subdivision (f): Respondent One Stop failed to perform emission
11 control tests on that vehicle in accordance with procedures prescribed by the department.

12 b. Section 44015, subdivision (b): Respondent One Stop issued an electronic
13 certificate of compliance without properly testing and inspecting the vehicle to determine if it was
14 in compliance with section 44012 of that Code.

15 **EIGHTH CAUSE FOR DISCIPLINE**

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

17 37. Respondent One Stop has subjected its station license to discipline under Health and
18 Safety Code section 44072.2, subdivision (c), in that on or about April 10, 2013, regarding the
19 vehicle set forth in paragraphs 28 and 29 above, it violated sections of the California Code of
20 Regulations, title 16, as follows:

21 a. Section 3340.35, subdivision (c): Respondent One Stop issued an electronic
22 certificate of compliance even though that vehicle had not been inspected in accordance with
23 section 3340.42 of that Code.

24 b. Section 3340.42: Respondent One Stop failed to conduct the required smog tests and
25 inspections on that vehicle in accordance with the Bureau's specifications.

26 c. Section 3373: Respondent One Stop generated false or misleading records on that
27 vehicle in accordance with the Bureau's specifications.

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1 **NINTH CAUSE FOR DISCIPLINE**

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

3 38. Respondent One Stop subjected its station license to discipline under Health and
4 Safety Code section 44072.2, subdivision (d), in that on or about April 10, 2013, regarding the
5 vehicle set forth in paragraphs 28 and 29 above, it committed acts involving dishonesty, fraud or
6 deceit whereby another was injured by issuing an electronic certificate of compliance for that
7 vehicle without performing bona fide inspections of the emission control devices and systems on
8 that vehicle, thereby depriving the People of the State of California of the protection afforded by
9 the Motor Vehicle Inspection Program.

10 **TENTH CAUSE FOR DISCIPLINE**

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

12 39. Respondent Brian Ayala-Sicilliano has subjected his technician license to discipline
13 under Health and Safety Code section 44072.2, subdivision (a), in that on or about April 10, 2013,
14 regarding the vehicle set forth in paragraphs 28 and 29 above, he violated sections of that Code,
15 as follows:

16 b. Section 44012, subdivision (f): Respondent Brian Ayala-Sicilliano failed to perform
17 emission control tests on the vehicle in accordance with procedures prescribed by the department.

18 d. Section 44032: Respondent Brian Ayala-Sicilliano failed to perform tests of the
19 emission control devices and systems on the vehicle in accordance with section 44012 of that
20 Code.

21 **ELEVENTH CAUSE FOR DISCIPLINE**

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

23 40. Respondent Brian Ayala-Sicilliano has subjected his technician license to discipline
24 under Health and Safety Code section 44072.2, subdivision (c), in that on or about April 10, 2013,
25 regarding the vehicle set forth in paragraphs 28 and 29, above, he violated sections of the
26 California Code of Regulations, title 16, as follows:

27 a. Section 3340.30, subdivision (a): Respondent Brian Ayala-Sicilliano failed to
28 inspect and test the vehicle in accordance with Health and Safety Code section 44012.

1 at the station, the operator went into the office and spoke with Respondent Javier Ayala-Siciliano,
2 whom the operator recognized from the previous undercover operation. The operator then
3 proceeded to inform Respondent Javier Ayala-Siciliano that he had brought his son's friend's
4 Acura to the station for a smog test. Respondent Javier Ayala-Siciliano then inspected the Acura
5 and informed the operator that the smog test would cost \$200 because of the "nitrous" and "other
6 stuff" on the engine. The operator paid Respondent Javier Ayala-Siciliano \$200 after the Acura
7 was tested by Respondent Brian Ayala-Siciliano. The Acura passed the smog inspection and
8 Certificate of Compliance [REDACTED] was issued by Respondent One Stop and given to the
9 operator, along with a passing Vehicle Inspection Report (VIR). However, the operator was
10 never provided with any actual invoice or receipt.

11 44. Thereafter, on April 24, 2013, a Bureau representative performed a Smog Check
12 inspection on the Acura. The Acura failed the inspection because of modified PCV components,
13 an illuminated MIL, exhaust header pipe, missing catalytic converter, missing secondary heated
14 oxygen sensor, adjustable fuel pressure regulator and adjustable camshaft timing gears. The
15 Acura also failed the inspection due to "Gross Polluter" levels of tailpipe emissions.

16 **FOURTEENTH CAUSE FOR DISCIPLINE**

17 **(Untrue or Misleading Statements)**

18 45. Respondent One Stop has subjected its registration to discipline under Code section
19 9884.7, subdivision (a)(1), in that on or about April 23, 2013, it made statements which it knew or
20 which by exercise of reasonable care it should have known were untrue or misleading when it
21 issued an electronic certificate of compliance for the vehicle set forth in paragraphs 43 and 44
22 above, certifying that such vehicle was in compliance with applicable laws and regulations when,
23 in fact, the vehicle was not in compliance at such time.

24 **FIFTEENTH CAUSE FOR DISCIPLINE**

25 **(Fraud)**

26 46. Respondent One Stop has subjected its registration to discipline under Code section
27 9884.7, subdivision (a)(4), in that on or about April 23, 2013, it committed acts which constitute
28 fraud by issuing an electronic certificate of compliance for the vehicle set forth in paragraphs 43

1 and 44 above, without performing bona fide inspections of the emission control devices and
2 systems on that vehicle, thereby depriving the People of the State of California of the protection
3 afforded by the Motor Vehicle Inspection Program.

4 **SIXTEENTH CAUSE FOR DISCIPLINE**

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

6 47. Respondent One Stop has subjected its station license to discipline under Health and
7 Safety Code section 44072.2, subdivision (a), in that on or about April 23, 2013, regarding the
8 vehicle set forth in paragraphs 43 and 44, above, it violated sections of that Code, as follows:

9 a. Section 44012, subdivision (f): Respondent One Stop failed to perform emission
10 control tests on that vehicle in accordance with procedures prescribed by the department.

11 b. Section 44015, subdivision (b): Respondent One Stop issued an electronic
12 certificate of compliance without properly testing and inspecting the vehicle to determine if it was
13 in compliance with section 44012 of that Code.

14 **SEVENTEENTH CAUSE FOR DISCIPLINE**

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

16 48. Respondent One Stop has subjected its station license to discipline under Health and
17 Safety Code section 44072.2, subdivision (c), in that on or about April 23, 2013, regarding the
18 vehicle set forth in paragraphs 43 and 44 above, it violated sections of the California Code of
19 Regulations, title 16, as follows:

20 a. Section 3340.35, subdivision (c): Respondent One Stop issued an electronic
21 certificate of compliance even though that vehicle had not been inspected in accordance with
22 section 3340.42 of that Code.

23 b. Section 3340.42: Respondent One Stop failed to conduct the required smog tests and
24 inspections on that vehicle in accordance with the Bureau's specifications.

25 c. Section 3373: Respondent One Stop generated false or misleading records on that
26 vehicle in accordance with the Bureau's specifications.

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1 EIGHTEENTH CAUSE FOR DISCIPLINE

2 (Dishonesty, Fraud or Deceit)

3 49. Respondent One Stop subjected its station license to discipline under Health and
4 Safety Code section 44072.2, subdivision (d), in that on or about April 23, 2013, regarding the
5 vehicle set forth in paragraphs 35 and 36 above, it committed acts involving dishonesty, fraud or
6 deceit whereby another was injured by issuing an electronic certificate of compliance for that
7 vehicle without performing bona fide inspections of the emission control devices and systems on
8 that vehicle, thereby depriving the People of the State of California of the protection afforded by
9 the Motor Vehicle Inspection Program.

10 NINETEENTH CAUSE FOR DISCIPLINE

11 (Violations of the Motor Vehicle Inspection Program)

12 50. Respondent Brian Ayala-Sicilliano has subjected his technician license to discipline
13 under Health and Safety Code section 44072.2, subdivision (a), in that on or about April 23, 2013,
14 regarding the vehicle set forth in paragraphs 35 and 36 above, he violated sections of that Code,
15 as follows:

16 b. Section 44012, subdivision (f): Respondent Brian Ayala-Sicilliano failed to perform
17 emission control tests on the vehicle in accordance with procedures prescribed by the department.

18 d. Section 44032: Respondent Brian Ayala-Sicilliano failed to perform tests of the
19 emission control devices and systems on the vehicle in accordance with section 44012 of that
20 Code.

21 TWENTIETH CAUSE FOR DISCIPLINE

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

23 51. Respondent Brian Ayala-Sicilliano has subjected his technician license to discipline
24 under Health and Safety Code section 44072.2, subdivision (c), in that on or about April 23, 2013,
25 regarding the vehicle set forth in paragraphs 35 and 36, above, he violated sections of the
26 California Code of Regulations, title 16, as follows:

27 a. Section 3340.30, subdivision (a): Respondent Brian Ayala-Sicilliano failed to
28 inspect and test the vehicle in accordance with Health and Safety Code section 44012.

1 issued to Brian William Ayala-Siciliano, is revoked or suspended, any additional license issued
2 under this chapter in the name of said licensee may be likewise revoked or suspended by the
3 director.

4 57. Under Health and Safety Code section 44072.8, if under Health and Safety Code
5 section 44072.8, if Smog Check Inspector License Number EO 633774 and Smog Check Repair
6 Technician License Number EI 633774 (formerly Advanced Emission Specialist Technician
7 License Number EA 633774) issued to Javier Alejandro Ayala-Siciliano, are revoked or
8 suspended, any additional license issued under this chapter in the name of said licensee may be
9 likewise revoked or suspended by the director.

10 **PRAYER**

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

13 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
14 266963, issued to One Stop Test Only; Maria I. Sanchez;

15 2. Revoking, suspending, or placing on probation any other automotive repair dealer
16 registration issued to Maria I. Sanchez;

17 3. Revoking or suspending Smog Check Test Only Station License Number TC 266963,
18 issued to One Stop Test Only; Maria I. Sanchez;

19 4. Revoking or suspending any additional license issued under Chapter 5 of the Health
20 and Safety Code in the name of Maria I. Sanchez, doing business as One Stop Test Only;

21 5. Revoking or suspending Advanced Emission Specialist Technician License No. EA
22 634046 issued to Brian William Ayala-Siciliano;

23 6. Revoking or suspending any additional license issued under Chapter 5 of the Health
24 and Safety Code in the name of Brian William Ayala-Siciliano;

25 7. Revoking or suspending Smog Check Inspector License Number EO 633774 and
26 Smog Check Repair Technician License Number EI 633774 (formerly Advanced Emission
27 Specialist Technician License Number EA 633774) issued to Javier Alejandro Ayala-Siciliano;

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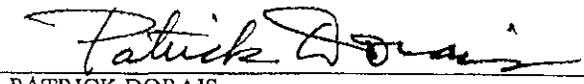
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8. Revoking or suspending any additional license issued under Chapter 5 of the Health and Safety Code in the name of Javier Alejandro Ayala-Siciliano;

9. Ordering Maria I. Sanchez, Brian William Ayala-Siciliano, and Javier Alejandro Ayala-Siciliano 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;

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

DATED: June 30, 2015



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

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