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8  
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:

Case No. 79/14-124

14 **ECHO SMOG**  
15 **DAVID NEIL GARDNER, OWNER**  
16 **1377 South Lilac #104**  
**Bloomington, CA 92316**  
17 **Automotive Repair Dealer Reg. No. ARD 273607**  
18 **Smog Check, Test Only, Station License No.**  
19 **TC 273607**

**A C C U S A T I O N**

**(Smog Check)**

20 **and**

21 **8570 Palmetto Avenue,**  
22 **Fontana, Ca. 92335**

23 **and**

24 **DAVID OMAR SANCHEZ**  
25 **979 North Elmwood Avenue**  
26 **Rialto, CA 92376**  
27 **Smog Check Inspector License No. EO 635746**

28 Respondents.

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1 Complainant alleges:

2 **PARTIES**

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

5 **Echo Smog; David Neil Gardner, Owner**

6 2. On or about July 9, 2013, the Director of Consumer Affairs ("Director") issued  
7 Automotive Repair Dealer Registration Number ARD 273607 ("registration") to David Neil  
8 Gardner ("Respondent"), owner, doing business as Echo Smog. Respondent's registration was in  
9 full force and effect at all times relevant to the charges brought herein and will expire on July 31,  
10 2014, unless renewed.

11 3. On or about July 19, 2013, the Director issued Smog Check, Test Only, Station  
12 License Number TC 273607 ("smog check station license") to Respondent. Respondent's smog  
13 check station license was in full force and effect at all times relevant to the charges brought herein  
14 and will expire on July 31, 2014, unless renewed.

15 **David Omar Sanchez**

16 4. On or about July 11, 2013, the Director issued Smog Check Inspector License  
17 Number EO 635746<sup>1</sup> ("inspector license") to Respondent David Omar Sanchez ("Respondent  
18 Sanchez"). Respondent Sanchez's inspector license was in full force and effect at all times  
19 relevant to the charges brought herein and will expire on May 31, 2015, unless renewed.

20 **JURISDICTION**

21 5. Business and Professions Code ("Bus. & Prof. Code") section 9884.7 provides that  
22 the Director may revoke an automotive repair dealer registration.

23 6. Bus. & Prof. Code section 9884.13 provides, in pertinent part, that the expiration of a  
24 valid registration shall not deprive the Director of jurisdiction to proceed with a disciplinary

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

1 proceeding against an automotive repair dealer or to render a decision temporarily or permanently  
2 invalidating (suspending or revoking) a registration.

3 7. Health and Safety Code ("Health & Saf. Code") section 44002 provides, in pertinent  
4 part, that the Director has all the powers and authority granted under the Automotive Repair Act  
5 for enforcing the Motor Vehicle Inspection Program.

6 8. Health & Saf. Code section 44072.6 provides, in pertinent part, that the expiration or  
7 suspension of a license by operation of law, or by order or decision of the Director of Consumer  
8 Affairs, or a court of law, or the voluntary surrender of the license shall not deprive the Director  
9 of jurisdiction to proceed with disciplinary action.

10 **STATUTORY PROVISIONS**

11 9. Bus. & Prof. Code section 9884.7 states, in pertinent part:

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

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

21 . . . .

22 (4) Any other conduct that constitutes fraud.

23 . . . .

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

10 10. Bus. & Prof. Code section 118, subdivision (b), states:

11 The suspension, expiration, or forfeiture by operation of law of a license  
12 issued by a board in the department, or its suspension, forfeiture, or cancellation by  
13 order of the board or by order of a court of law, or its surrender without the written  
14 consent of the board, shall not, during any period in which it may be renewed,  
15 restored, reissued, or reinstated, deprive the board of its authority to institute or  
16 continue a disciplinary proceeding against the licensee upon any ground provided by  
17 law or to enter an order suspending or revoking the license or otherwise taking

1 disciplinary action against the licensee on any such ground.

2 11. Bus. & Prof. Code section 22, subdivision (a), states:

3 "Board" as used in any provision of this Code, refers to the board in  
4 which the administration of the provision is vested, and unless otherwise expressly  
5 provided, shall include "bureau," "commission," "committee," "department,"  
6 "division," "examining committee," "program," and "agency."

6 12. Bus. & Prof. Code section 477, subdivision (b), states, in pertinent part, that a  
7 "license" includes "registration" and "certificate."

8 13. Health & Saf. Code section 44072.2 states, in pertinent part:

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

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

13 . . . .

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

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

17 14. Health & Saf. Code section 44072.10 states, in pertinent part:

18 . . . .

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

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

23 . . . .

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

25 15. Health & Saf. Code section 44072.8 states that when a license has been revoked or  
26 suspended following a hearing under this article, any additional license issued under this chapter  
27 in the name of the licensee may be likewise revoked or suspended by the director.

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1 **REGULATORY PROVISIONS**

2 16. California Code of Regulations (“CCR”), title 16, section 3340.24, subdivision (c),  
3 states: “[T]he bureau may suspend or revoke the license of or pursue other legal action against a  
4 licensee, if the licensee falsely or fraudulently issues or obtains a certificate of compliance or a  
5 certificate of noncompliance.”

6 17. CCR, title 16, section 3340.30, subdivision (a), states that a licensed smog technician  
7 shall at all times “[i]nspect, test and repair vehicles, as applicable, in accordance with section  
8 44012 of the Health and Safety Code, section 44035 of the Health and Safety Code, and section  
9 3340.42 of this article.”

10 18. CCR, title 16, section 3340.35, subdivision (c), states that a licensed smog check  
11 station “shall issue a certificate of compliance or noncompliance to the owner or operator of any  
12 vehicle that has been inspected in accordance with the procedures specified in section 3340.42 of  
13 this article and has all the required emission control equipment and devices installed and  
14 functioning correctly.”

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

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

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

26 **COST RECOVERY**

27 22. Bus. & Prof. Code section 125.3 provides, in pertinent part, that a Board may request  
28 the administrative law judge to direct a licentiate found to have committed a violation or

1 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
2 and enforcement of the case.

3 **VIDEO SURVEILLANCE OPERATION OF DECEMBER 19, 2013**

4 23. On or about December 19, 2013, representatives of the Bureau conducted a video  
5 surveillance operation of Respondent's smog check facility. The surveillance operation and the  
6 information from the Bureau's vehicle identification database ("VID") revealed that Respondent  
7 Sanchez issued electronic smog certificates of compliance, certifying that he had tested and  
8 inspected the vehicles identified in Table 1 and that the vehicles were in compliance with  
9 applicable laws and regulations. In fact, Respondent Sanchez conducted the inspections using the  
10 clean piping method<sup>2</sup>, resulting in the issuance of the following fraudulent certificates of  
11 compliance for the vehicles:

12 **TABLE 1**

13

| 14 <b>Time of Inspection</b> | <b>Vehicle Certified &amp; License No.</b>       | <b>Vehicle Actually Tested</b>                   | <b>Certificate No.</b> |
|------------------------------|--|--|------------------------|
| 15 1. 0855-0914 <sup>3</sup> | 1991 Toyota Pickup<br>(VIN#JT4VN13D4M5044667)    | 1998 Honda Accord<br>(VIN#1HGCG554XWA0022<br>01) | YB446909C              |
| 16 2. 1134-1207              | 1980 Toyota Pickup<br>(VIN#RN37019759)           | 1998 Honda Accord<br>(VIN#1HGCG554XWA0022<br>01) | YB446911C              |
| 17 3. 1238-1254              | 1984 Chevrolet Camaro<br>(VIN#1G1AP87H9EL131159) | 1998 Honda Accord<br>(VIN#1HGCG554XWA0022<br>01) | None                   |
| 18 4. 1422-1450              | 2002 GMC Envoy<br>(VIN#1GKDT13S522226686)        | 1998 Honda Accord<br>(VIN#1HGCG554XWA0022<br>01) | None                   |
| 19 5. 1509-1535              | 1999 BMW 7-Series<br>(VIN#WBAGG8339XDN74157)     | 1998 Honda Accord<br>(VIN#1HGCG554XWA0022<br>01) | YB446915C              |

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26 <sup>2</sup> Pursuant to California Code of Regulations, title 16, section 3340.1, "clean piping"  
27 means the use of a substitute exhaust emissions sample in place of the actual test vehicle's  
28 exhaust in order to cause the EIS to issue a certificate of compliance for the test vehicle.

<sup>3</sup> All times noted are military times.

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Untrue or Misleading Statements)**

3 24. Respondent's registration is subject to disciplinary action pursuant to Bus. & Prof.  
4 Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized statements which  
5 he knew or in the exercise of reasonable care should have known to be untrue or misleading, as  
6 follows: Respondent's employee certified that the vehicles identified in Table 1 above, had  
7 passed inspection and were in compliance with applicable laws and regulations. In fact,  
8 Respondent's employee used clean piping methods in order to issue certificates for the vehicles  
9 and did not test or inspect the vehicles as required by Health & Saf. Code section 44012.

10 **SECOND CAUSE FOR DISCIPLINE**

11 **(Fraud)**

12 25. Respondent's registration is subject to disciplinary action pursuant to Bus. & Prof.  
13 Code section 9884.7, subdivision (a)(4), in that Respondent's employee committed acts that  
14 constitute fraud by issuing electronic smog certificates of compliance for the vehicles identified in  
15 Table 1 above, without performing bona fide inspections of the emission control devices and  
16 systems on the vehicles, thereby depriving the People of the State of California of the protection  
17 afforded by the Motor Vehicle Inspection Program.

18 **THIRD CAUSE FOR DISCIPLINE**

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

20 26. Respondent's smog check station license is subject to disciplinary action pursuant to  
21 Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to comply with  
22 provisions of that Code, as follows:

23 a. **Section 44012:** Respondent's employee failed to perform the emission control tests  
24 on the vehicles identified in Table 1 above, in accordance with procedures prescribed by the  
25 department.

26 b. **Section 44015:** Respondent issued electronic smog certificates of compliance for the  
27 vehicles identified in Table 1 above, without properly testing and inspecting the vehicles to  
28 determine if they were in compliance with Health & Saf. Code section 44012.

1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Failure to Comply with Regulations Pursuant**  
3 **to the Motor Vehicle Inspection Program)**

4 27. Respondent's smog check station license is subject to disciplinary action pursuant to  
5 Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to comply with  
6 provisions of California Code of Regulations, title 16, as follows:

7 a. **Section 3340.35, subdivision (c)**: Respondent's employee issued electronic smog  
8 certificates of compliance for the vehicles identified in Table 1 above, even though those vehicles  
9 had not been inspected in accordance with section 3340.42.

10 b. **Section 3340.41, subdivision (c)**: Respondent's employee entered false information  
11 into the EIS unit by entering vehicle identification information or emission control system  
12 identification data for vehicles other than the ones being tested.

13 c. **Section 3340.42**: Respondent failed to conduct the required smog tests on the  
14 vehicles identified in Table 1 above, in accordance with the Bureau's specifications.

15 **FIFTH CAUSE FOR DISCIPLINE**

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

17 28. Respondent's smog check station license is subject to disciplinary action pursuant to  
18 Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed dishonest,  
19 fraudulent or deceitful acts whereby another is injured by issuing electronic smog certificates of  
20 compliance for the vehicles identified in Table 1 above, without performing bona fide inspections  
21 of the emission control devices and systems on the 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 29. Respondent Sanchez's inspector license is subject to disciplinary action pursuant to  
26 Health & Saf. Code section 44072.2, subdivision (a), in that Respondent Sanchez failed to  
27 comply with section 44012 of that Code in a material respect, as follows: Respondent Sanchez  
28

1 failed to perform the emission control tests on the vehicles identified in Table 1 above, in  
2 accordance with procedures prescribed by the department.

3 **SEVENTH CAUSE FOR DISCIPLINE**  
4 **(Failure to Comply with Regulations Pursuant**  
5 **to the Motor Vehicle Inspection Program)**

6 30. Respondent Sanchez's inspector license is subject to disciplinary action pursuant to  
7 Health & Saf. Code section 44072.2, subdivision (c), in that Respondent Sanchez failed to  
8 comply with provisions of California Code of Regulations, title 16, as follows:

9 a. **Section 3340.30, subdivision (a)**: Respondent Sanchez failed to inspect and test the  
10 vehicles identified in Table 1 above, in accordance with Health & Saf. Code sections 44012 and  
11 44035, and California Code of Regulations, title 16, section 3340.42.

12 b. **Section 3340.41, subdivision (c)**: Respondent Sanchez entered false information  
13 into the EIS by entering vehicle identification information or emission control system  
14 identification data for vehicles other than the ones being tested.

15 c. **Section 3340.42**: Respondent Sanchez failed to conduct the required smog tests on  
16 the vehicles identified in Table 1 above, in accordance with the Bureau's specifications.

17 **EIGHTH CAUSE FOR DISCIPLINE**

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

19 31. Respondent Sanchez's inspector license is subject to disciplinary action pursuant to  
20 Health & Saf. Code section 44072.2, subdivision (d), in that Respondent Sanchez committed  
21 dishonest, fraudulent or deceitful acts whereby another is injured by issuing electronic smog  
22 certificates of compliance for the vehicles identified in Table 1 above, without performing bona  
23 fide inspections of the emission control devices and systems on the vehicles, thereby depriving  
24 the People of the State of California of the protection afforded by the Motor Vehicle Inspection  
25 Program.

26 **VIDEO SURVEILLANCE OPERATION OF JANUARY 7, 2014**

27 32. On or about January 7, 2014, representatives of the Bureau conducted a video  
28 surveillance operation of Respondent's smog check facility. The surveillance operation and the

1 information from the Bureau's VID revealed that Respondent Sanchez issued electronic smog  
 2 certificates of compliance, certifying that he had tested and inspected the vehicles identified in  
 3 Table 2 and that the vehicles were in compliance with applicable laws and regulations. In fact,  
 4 Respondent Sanchez conducted the inspections using the clean piping method, resulting in the  
 5 issuance of the following fraudulent certificates of compliance for the vehicles:

6 **TABLE 2**

| 7 <b>Time of Inspection</b> | <b>Vehicle Certified &amp; License No.</b>        | <b>Vehicle Actually Tested</b>               | <b>Certificate No.</b> |
|-----------------------------|---|--|------------------------|
| 8 1. 0822-0834              | 2003 KIA Rio<br>(VIN#KNADC125836278327)           | 1998 Honda Accord<br>(VIN#1HGCG554XWA002201) | YB687718C              |
| 10 2. 0838-0851             | 2002 BMW 745LI<br>(VIN#WBAGN63492DR07324)         | 1998 Honda Accord<br>(VIN#1HGCG554XWA002201) | YB687719C              |
| 12 3. 0856-0920             | 1997 BMW 5 Series<br>(VIN#WBADD6323VBW25541)      | 1998 Honda Accord<br>(VIN#1HGCG554XWA002201) | YB687720C              |
| 14 4. 1014-1039             | 1990 Nissan 240SX<br>(VIN#JN1HS36P5LW132940)      | 1998 Honda Accord<br>(VIN#1HGCG554XWA002201) | YB687722C              |
| 16 5. 1207-1222             | 2000 Mitsubishi Mirage<br>(VIN#JA3AY11A9YU062235) | 1998 Honda Accord<br>(VIN#1HGCG554XWA002201) | YB687726C              |

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 21 **NINTH CAUSE FOR DISCIPLINE**

22 **(Untrue or Misleading Statements)**

23 33. Respondent's registration is subject to disciplinary action pursuant to Bus. & Prof.  
 24 Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized statements which  
 25 he knew or in the exercise of reasonable care should have known to be untrue or misleading, as  
 26 follows: Respondent's employee certified that the vehicles identified in Table 2 above, had  
 27 passed inspection and were in compliance with applicable laws and regulations. In fact,

1 Respondent's employee used the clean piping method in order to issue certificates for the vehicles  
2 and did not test or inspect the vehicles as required by Health & Saf. Code section 44012.

3 **TENTH CAUSE FOR DISCIPLINE**

4 **(Fraud)**

5 34. Respondent's registration is subject to disciplinary action pursuant to Bus. & Prof.  
6 Code section 9884.7, subdivision (a)(4), in that Respondent's employee committed acts that  
7 constitute fraud by issuing electronic smog certificates of compliance for the vehicles identified in  
8 Table 2 above, without performing bona fide inspections of the emission control devices and  
9 systems on the vehicles, thereby depriving the People of the State of California of the protection  
10 afforded by the Motor Vehicle Inspection Program.

11 **ELEVENTH CAUSE FOR DISCIPLINE**

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

13 35. Respondent's smog check station license is subject to disciplinary action pursuant to  
14 Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to comply with  
15 provisions of that Code, as follows:

16 a. **Section 44012:** Respondent's employee failed to perform the emission control tests  
17 on the vehicles identified in Table 2 above, in accordance with procedures prescribed by the  
18 department.

19 b. **Section 44015:** Respondent's employee issued electronic smog certificates of  
20 compliance for the vehicles identified in Table 2 above, without properly testing and inspecting  
21 the vehicles to determine if they were in compliance with Health & Saf. Code section 44012.

22 **TWELFTH CAUSE FOR DISCIPLINE**

23 **(Failure to Comply with Regulations Pursuant**  
24 **to the Motor Vehicle Inspection Program)**

25 36. Respondent's smog check station license is subject to disciplinary action pursuant to  
26 Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to comply with  
27 provisions of California Code of Regulations, title 16, as follows:

1 a. **Section 3340.35, subdivision (c)**: Respondent's employee issued electronic smog  
2 certificates of compliance for the vehicles identified in Table 2 above, even though those vehicles  
3 had not been inspected in accordance with section 3340.42.

4 b. **Section 3340.41, subdivision (c)**: Respondent's employee entered false information  
5 into the EIS unit by entering vehicle identification information or emission control system  
6 identification data for vehicles other than the ones being tested.

7 c. **Section 3340.42**: Respondent failed to conduct the required smog tests on the  
8 vehicles identified in Table 2 above, in accordance with the Bureau's specifications.

9 **THIRTEENTH CAUSE FOR DISCIPLINE**

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

11 37. Respondent's smog check station license is subject to disciplinary action pursuant to  
12 Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed dishonest,  
13 fraudulent or deceitful acts whereby another is injured by issuing electronic smog certificates of  
14 compliance for the vehicles identified in Table 2 above, without performing bona fide inspections  
15 of the emission control devices and systems on the vehicles, thereby depriving the People of the  
16 State of California of the protection afforded by the Motor Vehicle Inspection Program.

17 **FOURTEENTH CAUSE FOR DISCIPLINE**

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

19 38. Respondent Sanchez's inspector license is subject to disciplinary action pursuant to  
20 Health & Saf. Code section 44072.2, subdivision (a), in that Respondent Sanchez failed to  
21 comply with section 44012 of that Code in a material respect, as follows: Respondent Sanchez  
22 failed to perform the emission control tests on the vehicles identified in Table 2 above, in  
23 accordance with procedures prescribed by the department.

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1 **FIFTEENTH CAUSE FOR DISCIPLINE**

2 **(Failure to Comply with Regulations Pursuant**  
3 **to the Motor Vehicle Inspection Program)**

4 39. Respondent Sanchez's inspector license is subject to disciplinary action pursuant to  
5 Health & Saf. Code section 44072.2, subdivision (c), in that Respondent Sanchez failed to  
6 comply with provisions of California Code of Regulations, title 16, as follows:

7 a. **Section 3340.30, subdivision (a)**: Respondent Sanchez failed to inspect and test the  
8 vehicles identified in Table 2 above, in accordance with Health & Saf. Code sections 44012 and  
9 44035, and California Code of Regulations, title 16, section 3340.42.

10 b. **Section 3340.41, subdivision (c)**: Respondent Sanchez entered false information  
11 into the EIS by entering vehicle identification information or emission control system  
12 identification data for vehicles other than the ones being tested.

13 c. **Section 3340.42**: Respondent Sanchez failed to conduct the required smog tests on  
14 the vehicles identified in Table 2 above, in accordance with the Bureau's specifications.

15 **SIXTEENTH CAUSE FOR DISCIPLINE**

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

17 40. Respondent Sanchez's inspector license is subject to disciplinary action pursuant to  
18 Health & Saf. Code section 44072.2, subdivision (d), in that Respondent Sanchez committed  
19 dishonest, fraudulent or deceitful acts whereby another is injured by issuing electronic smog  
20 certificates of compliance for the vehicles identified in Table 2 above, without performing bona  
21 fide inspections of the emission control devices and systems on the vehicles, thereby depriving  
22 the People of the State of California of the protection afforded by the Motor Vehicle Inspection  
23 Program.

24 **OTHER MATTERS**

25 41. Pursuant to Bus. & Prof. Code section 9884.7, subdivision (c), the Director may  
26 suspend, revoke or place on probation the registration for all places of business operated in this  
27 state by Respondent David Neil Gardner, owner of Echo Smog, upon a finding that said  
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1 Respondent has, or is, engaged in a course of repeated and willful violations of the laws and  
2 regulations pertaining to an automotive repair dealer.

3 42. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Test Only Station  
4 License Number TC 273607, issued to Respondent David Neil Gardner, owner of Echo Smog, is  
5 revoked or suspended, any additional license issued under this chapter in the name of said  
6 licensee may be likewise revoked or suspended by the Director.

7 43. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Inspector License  
8 Number EO 635746, issued to Respondent David Omar Sanchez, is revoked or suspended, any  
9 additional license issued under this chapter in the name of said licensee may be likewise revoked  
10 or suspended by the Director.

11 **PRAYER**

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

14 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD  
15 273607, issued to David Neil Gardner, owner of Echo Smog;

16 2. Revoking or suspending any other automotive repair dealer registration issued to  
17 David Neil Gardner;

18 3. Revoking or suspending Smog Check, Test Only, Station License Number TC  
19 273607, issued to David Neil Gardner, owner of Echo Smog;

20 4. Revoking or suspending Smog Check Inspector License Number EO 635746, issued  
21 to David Omar Sanchez;

22 5. Revoking or suspending any additional license issued under Chapter 5 of the Health  
23 and Safety Code in the name of David Omar Sanchez;

24 6. Ordering David Neil Gardner, individually, and as owner of Echo Smog, and David  
25 Omar Sanchez to pay the Bureau of Automotive Repair the reasonable costs of the investigation  
26 and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED: April 22, 2014



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

LA2014511511