

**BEFORE THE DIRECTOR OF THE  
DEPARTMENT OF CONSUMER AFFAIRS  
BUREAU OF AUTOMOTIVE REPAIR**

**STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**JOSE ALVAREZ, dba ALVAREZ TEST ONLY**

13419 Lambert Road

Whittier, CA 90605

Automotive Repair Dealer Registration No. ARD 268026

Smog Check Test Only Station License No. TC 268026

**JOSE G. ALVAREZ**

13419 Lambert Road

Whittier, CA 90605

Smog Check Inspector License No. EO 150079

Smog Check Repair Technician License No. EI 150079

and

**MARCO ANTONIO ALVAREZ**

11217 Arroyo Drive

Whittier, CA 90602

Smog Check Inspector License No. EO 639543

Respondents.

Case No. 79/17-16585

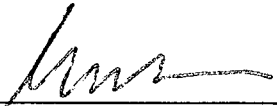
OAH No. 2019060793

**DECISION**

The attached Stipulated Settlement and Disciplinary Order as to Respondent MARCO ALVAREZ only is hereby accepted and adopted by the Director of the Department of Consumer Affairs as the Decision in the above-entitled matter.

This Decision shall become effective on February 11, 2020.

DATED: Dec. 20, 2019

  
\_\_\_\_\_  
GRACE ARUPO RODRIGUEZ  
Assistant Deputy Director  
Legal Affairs Division  
Department of Consumer Affairs

1 XAVIER BECERRA  
Attorney General of California  
2 ARMANDO ZAMBRANO  
Supervising Deputy Attorney General  
3 ELYSE M. DAVIDSON  
Deputy Attorney General  
4 State Bar No. 285842  
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*Attorneys for Complainant*  
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 Accusation Against:

13 **JOSE ALVAREZ, DBA ALVAREZ TEST**  
14 **ONLY**

15 13419 Lambert Road  
Whittier, CA 90605

16 **Automotive Repair Dealer Registration No.**  
**ARD268026**  
17 **Smog Check Test Only Station License No.**  
**TC268026**

18 **JOSE G. ALVAREZ**  
19 13419 Lambert Road  
Whittier, CA 90602

20 **Smog Check Inspector License No.**  
**EO150079**  
21 **Smog Check Repair Technician License No.**  
22 **EI150079**

23 **and**

24 **MARCO ANTONIO ALVAREZ**  
25 11217 Arroyo Drive  
Whittier, CA 90602

26 **Smog Check Inspector License No.**  
**EO639543**

27 Respondents.  
28

Case No. 79/17-16585

OAH No. 2019060793

**STIPULATED SETTLEMENT AND**  
**DISCIPLINARY ORDER**

**AS TO MARCO ALVAREZ: EO639543**  
**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  
5 (“Bureau”). He brought this action solely in his official capacity and is represented in this matter  
6 by Xavier Becerra, Attorney General of the State of California, by Elyse M. Davidson, Deputy  
7 Attorney General.

8 2. Respondent Marco Antonio Alvarez (“Respondent”) is represented in this proceeding  
9 by attorney Belal I. Rahman, whose address is: Rahman & Associates, 328 N. State St., Hemet,  
10 CA 92543.

11 **A. Jose Alvarez, dba Alvarez Test Only: Automotive Repair Dealer Registration**  
12 **Number ARD268026**

13 3. On February 22, 2012, the Bureau issued Automotive Repair Dealer Registration  
14 number ARD268026 to Jose Alvarez, doing business as Alvarez Test Only (“Alvarez Test Only”  
15 or “Respondent Jose Alvarez”). Said registration was in full force and effect at all times relevant  
16 to the charges brought herein and will expire on February 28, 2020, unless renewed.

17 Notwithstanding the expiration of the aforementioned license, the Bureau retains  
18 jurisdiction in this matter pursuant to Business and Professions Code section 9884.13.

19 **B. Jose Alvarez, dba Alvarez Test Only: Smog Check Test Only Station License**  
20 **Number TC268026**

21 4. On March 15, 2012, the Bureau issued Smog Check Test Only Station License  
22 number TC268026 to Respondent Jose Alvarez. Said license was in full force and effect at all  
23 times relevant to the charges brought herein and will expire on February 28, 2020, unless  
24 renewed.

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1 ADVISEMENT AND WAIVERS

2 10. Respondent has carefully read, fully discussed with counsel, and understands the  
3 charges and allegations in Accusation No. 79/17-16585. Respondent has also carefully read, fully  
4 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary  
5 Order.

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

12 12. Respondent voluntarily, knowingly, and intelligently waives and gives up each and  
13 every right set forth above.

14 CULPABILITY

15 13. Respondent admits the truth of each and every charge and allegation in Accusation  
16 No. 79/17-16585.

17 14. Respondent agrees that his Smog Check Inspector License is subject to discipline and  
18 he agrees to be bound by the Director's probationary terms as set forth in the Disciplinary Order  
19 below.

20 CONTINGENCY

21 15. This stipulation shall be subject to approval by the Director of Consumer Affairs or  
22 the Director's designee. Respondent understands and agrees that counsel for Complainant and the  
23 staff of the Bureau of Automotive Repair may communicate directly with the Director and staff of  
24 the Department of Consumer Affairs regarding this stipulation and settlement, without notice to  
25 or participation by Respondent or his counsel. By signing the stipulation, Respondent  
26 understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation  
27 prior to the time the Director considers and acts upon it. If the Director fails to adopt this  
28 stipulation as the Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of

1 no force or effect, except for this paragraph, it shall be inadmissible in any legal action between  
2 the parties, and the Director shall not be disqualified from further action by having considered  
3 this matter.

4 16. The parties understand and agree that Portable Document Format (PDF) and facsimile  
5 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile  
6 signatures thereto, shall have the same force and effect as the originals.

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

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

16 **DISCIPLINARY ORDER**

17 IT IS HEREBY ORDERED that Smog Check Inspector License No. EO 639543 issued to  
18 Respondent Marco Antonio Alvarez is revoked. However, the revocation is stayed and  
19 Respondent is placed on probation for five (5) years on the following terms and conditions.

20 1. **Obey All Laws.** During the period of probation, Respondent shall comply with all  
21 federal and state statutes, regulations and rules governing all BAR registrations and licenses held  
22 by Respondent.

23 2. **Quarterly Reporting.** During the period of probation, Respondent shall report either  
24 by personal appearance or in writing as determined by BAR on a schedule set by BAR, but no  
25 more frequently than once each calendar quarter, on the methods used and success achieved in  
26 maintaining compliance with the terms and conditions of probation.

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1           3.     **Report Financial Interests.** Respondent shall, within 30 days of the effective date  
2 of the decision and within 30 days from the date of any request by BAR during the period of  
3 probation, report any financial interest which any Respondent or any partners, officers, or owners  
4 of any Respondent facility may have in any other business required to be registered pursuant to  
5 Section 9884.6 of the Business and Professions Code.

6           4.     **Access to Examine Vehicles and Records.** Respondent shall provide BAR  
7 representatives unrestricted access to examine all vehicles (including parts) undergoing service,  
8 inspection, or repairs, up to and including the point of completion. Respondent shall also provide  
9 BAR representatives unrestricted access to all records pursuant to BAR laws and regulations.

10          5.     **Tolling of Probation.** If, during probation, Respondent leaves the jurisdiction of  
11 California to reside or do business elsewhere or otherwise ceases to do business in the jurisdiction  
12 of California, Respondent shall notify BAR in writing within 10 days of the dates of departure  
13 and return, and of the dates of cessation and resumption of business in California. All provisions  
14 of probation other than cost reimbursement requirements, restitution requirements, training  
15 requirements, and that Respondent obey all laws, shall be held in abeyance during any period of  
16 time of 30 days or more in which Respondent is not residing or engaging in business within the  
17 jurisdiction of California. All provisions of probation shall recommence on the effective date of  
18 resumption of business in California. Any period of time of 30 days or more in which Respondent  
19 is not residing or engaging in business within the jurisdiction of California shall not apply to the  
20 reduction of this probationary period or to any period of actual suspension not previously  
21 completed. Tolling is not available if business or work relevant to the probationary license or  
22 registration is conducted or performed during the tolling period.

23          6.     **Violation of Probation.** If Respondent violates or fails to comply with the terms and  
24 conditions of probation in any respect, the Director, after giving notice and opportunity to be  
25 heard may set aside the stay order and carry out the disciplinary order provided in the decision.  
26 Once Respondent is served notice of BAR's intent to set aside the stay, the Director shall maintain  
27 jurisdiction, and the period of probation shall be extended until final resolution of the matter.

28     ///

1           7.     **Maintain Valid License.** Respondent shall, at all times while on probation, maintain  
2 a current and active registration and/or license(s) with BAR, including any period during which  
3 suspension or probation is tolled. If Respondent's registration or license is expired at the time the  
4 decision becomes effective, the registration or license must be renewed by Respondent within 30  
5 days of that date. If Respondent's registration or license expires during a term of probation, by  
6 operation of law or otherwise, then upon renewal Respondent's registration or license shall be  
7 subject to any and all terms and conditions of probation not previously satisfied. Failure to  
8 maintain a current and active registration and/or license during the period of probation shall also  
9 constitute a violation of probation.

10           8.     **Cost Recovery.** Respondent Marco Antonio Alvarez understands and agrees that he  
11 and Respondent Jose Alvarez shall jointly and severally reimburse the Bureau of Automotive  
12 Repair \$7,116.84 for the reasonable costs of the investigation and enforcement of case No. 79/17-  
13 16585. Respondent shall make such payment as follows: Forty-seven (47) monthly installments  
14 of \$148.26 and one final payment of \$148.15. Payments to begin in the month of the effective  
15 date of the decision. Payment in full to be completed no later than twelve months prior to  
16 probation terminating. Respondent shall make payment by check or money order payable to the  
17 Bureau of Automotive Repair and shall indicate on the check or money order that it is for cost  
18 recovery payment for case No. 79/17-16585. Any order for payment of cost recovery shall remain  
19 in effect whether or not probation is tolled. Probation shall not terminate until full cost recovery  
20 payment has been made. BAR reserves the right to pursue any other lawful measures in collecting  
21 on the costs ordered and past due, in addition to taking action based upon the violation of  
22 probation.

23           9.     **Completion of Probation.** Upon successful completion of probation, Respondent's  
24 affected registration and/or license will be fully restored or issued without restriction, if  
25 Respondent meets all current requirements for registration or licensure and has paid all  
26 outstanding fees, monetary penalties, or cost recovery owed to BAR.

27           10.    **License Surrender.** Following the effective date of a decision that orders a stay of  
28 invalidation or revocation, if Respondent ceases business operations or is otherwise unable to

1 satisfy the terms and conditions of probation, Respondent may request that the stay be vacated.  
2 Such request shall be made in writing to BAR. The Director and the BAR Chief reserve the right  
3 to evaluate the Respondent's request and to exercise discretion whether to grant the request or  
4 take any other action deemed appropriate or reasonable under the circumstances. Upon formal  
5 granting of the request, the Director will vacate the stay order and carry out the disciplinary order  
6 provided in the decision. Respondent may not petition the Director for reinstatement of the  
7 surrendered registration and/or license, or apply for a new registration or license under the  
8 jurisdiction of BAR at any time before the date of the originally scheduled completion of  
9 probation. If Respondent applies to BAR for a registration or license at any time after that date,  
10 Respondent must meet all current requirements for registration or licensure and pay all  
11 outstanding fees or cost recovery owed to BAR and left outstanding at the time of surrender.

12 **ACCEPTANCE**


13 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
14 discussed it with my attorney, Belal I. Rahman. I understand the stipulation and the effect it will  
15 have on my Smog Check Inspector License. I enter into this Stipulated Settlement and  
16 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the  
17 Decision and Order of the Director of Consumer Affairs.

18  
19 DATED: 10-2-19

  
20 MARCO ANTONIO ALVAREZ  
Respondent

21 I have read and fully discussed with Respondent Marco Antonio Alvarez the terms and  
22 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.  
23 I approve its form and content.

24 DATED: 10/1/19

  
25 BELAL I. RAHMAN  
Attorney for Respondent

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**ENDORSEMENT**

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

DATED: 10/23/2019

Respectfully submitted,  
XAVIER BECERRA  
Attorney General of California  
ARMANDO ZAMBRANO  
Supervising Deputy Attorney General

  
ELYSE M. DAVIDSON  
Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Accusation No. 79/17-16585**

1 XAVIER BECERRA  
Attorney General of California  
2 ARMANDO ZAMBRANO  
Supervising Deputy Attorney General  
3 ELYSE M. DAVIDSON  
Deputy Attorney General  
4 State Bar No. 285842  
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5 Los Angeles, CA 90013  
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*Attorneys for Complainant*  
7

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11 In the Matter of the Accusation Against:

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12 **JOSE ALVAREZ, DBA ALVAREZ TEST**  
13 **ONLY**

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

13 13419 Lambert Road  
14 Whittier, CA 90605

15 **Automotive Repair Dealer Registration No.**  
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16 **Smog Check Test Only Station License No.**  
**TC268026**

17 **JOSE G. ALVAREZ**  
18 13419 Lambert Road  
Whittier, CA 90602

19 **Smog Check Inspector License No. EO150079**  
20 **Smog Check Repair Technician License No.**  
**EI150079**

21 **and**

22 **MARCO ANTONIO ALVAREZ**  
23 11217 Arroyo Drive  
Whittier, CA 90602

24 **Smog Check Inspector License No. EO639543**

25 Respondents.  
26

27 Complainant alleges:

28 ///

1 PARTIES

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

4 **A. Jose Alvarez, dba Alvarez Test Only: Automotive Repair Dealer Registration**  
5 **Number ARD268026**

6 2. On February 22, 2012, the Bureau issued Automotive Repair Dealer Registration  
7 number ARD268026 to Jose Alvarez, doing business as Alvarez Test Only (Alvarez Test Only or  
8 Respondent Jose Alvarez). Said registration was in full force and effect at all times relevant to the  
9 charges brought herein and will expire on February 28, 2019, unless renewed.

10 Notwithstanding the expiration of the aforementioned license, the Bureau retains  
11 jurisdiction in this matter pursuant to Business and Professions Code section 9884.13.

12 **B. Jose Alvarez, dba Alvarez Test Only: Smog Check Test Only Station License**  
13 **Number TC268026**

14 3. On March 15, 2012, the Bureau issued Smog Check Test Only Station License  
15 number TC268026 to Respondent Jose Alvarez. Said license was in full force and effect at all  
16 times relevant to the charges brought herein and will expire on February 28, 2019, unless  
17 renewed.

18 **C. STAR Station**

19 4. On February 12, 2013, the Bureau certified Alvarez Test Only as a STAR Station.  
20 The certification has no expiration date and will remain active unless the Automotive Repair  
21 Dealer registration and/or Smog Check Test Only Station license is revoked, canceled, or  
22 becomes delinquent.

23 **D. Jose G. Alvarez: Smog Check Inspector License Number EO150079; Smog Check**  
24 **Repair Technician License Number EI150079<sup>1</sup>**

25  
26 \_\_\_\_\_  
27 <sup>1</sup> Effective August 1, 2012, California Code of Regulation, title 16, sections 3340.28,  
28 Technician (EA/EB) license types to Smog Check Inspector (EO) license and Smog Check Repair  
Technician (EI) license.



1 Consumer Affairs, or a court of law, or the voluntary surrender of the license shall not deprive the  
2 Director of jurisdiction to proceed with disciplinary action.

3 STATUTES

4 12. Business and Professions Code section 9884.7 states, in pertinent part:

5 (a) The director, where the automotive repair dealer cannot show there was a  
6 bona fide error, may refuse to validate, or may invalidate temporarily or permanently,  
7 the registration of an automotive repair dealer for any of the following acts or

8 omissions related to the conduct of the business of the automotive repair dealer,  
9 which are done by the automotive repair dealer or any automotive technician,  
10 employee, partner, officer, or member of the automotive repair dealer.

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

14 . . . .

15 (4) Any other conduct that constitutes fraud.

16 . . . .

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

19 . . . .

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

25 13. Business and Professions Code section 9889.22 states, in pertinent part:

26 The willful making of any false statement or entry with regard to a material  
27 matter in any oath, affidavit, certificate of compliance or noncompliance, or  
28 application form which is required by this chapter or Chapter 5 (commencing with  
Section 44000) of Part 5 of Division 26 of the Health and Safety Code constitutes  
perjury and is punishable as provided in the Penal Code.

14 14. Business and Professions Code section 17200 states, in pertinent part:

15 As used in this chapter, unfair competition shall mean and include any  
16 unlawful, unfair or fraudulent business act or practice and unfair, deceptive, untrue  
17 or misleading advertising and any act prohibited by Chapter 1 (commencing with  
18 Section 17500) of Part 3 of Division 7 of the Business and Professions Code.

19 15. Business and Professions Code section 17200 states, in pertinent part:

20 It is unlawful for any person, firm, corporation or association, or any employee  
21 thereof with intent directly or indirectly to dispose of real or personal property or to  
22 perform services, professional or otherwise, or anything of any nature whatsoever or

1 to induce the public to enter into any obligation relating thereto, to make or  
2 disseminate or cause to be made or disseminated before the public in this state, or to  
3 make or disseminate or cause to be made or disseminated from this state before the  
4 public in any state, in any newspaper or other publication, or any advertising device,  
5 or by public outcry or proclamation, or in any other manner or means whatever,  
6 including over the Internet, any statement, concerning that real or personal property  
7 or those services, professional or otherwise, or concerning any circumstance or matter  
8 of fact connected with the proposed performance or disposition thereof, which is  
9 untrue or misleading, and which is known, or which by the exercise of reasonable  
10 care should be known, to be untrue or misleading, or for any person, firm, or  
11 corporation to so make or disseminate or cause to be so made or disseminated any  
12 such statement as part of a plan or scheme with the intent not to sell that personal  
13 property or those services, professional or otherwise, so advertised at the price stated  
14 therein, or as so advertised. Any violation of the provisions of this section is a  
15 misdemeanor punishable by imprisonment in the county jail not exceeding six  
16 months, or by a fine not exceeding two thousand five hundred dollars (\$2,500), or by  
17 both that imprisonment and fine.

11 16. Health and Safety Code section 44012 states, in pertinent part:

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

19 . . . .

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

23 17. Health and Safety Code section 44015, subdivision (b), provides that a certificate of  
24 compliance shall be issued if a vehicle meets the requirements of Health and Safety Code section  
25 40012.

26 18. Health and Safety Code section 44032 states, in pertinent part:

27 No person shall perform, for compensation, tests or repairs of emission control  
28 devices or systems of motor vehicles required by this chapter unless the person

1 performing the test or repair is a qualified smog check technician and the test or repair  
2 is performed at a licensed smog check station. Qualified technicians shall perform  
tests of emission control devices and systems in accordance with Section 44012.

3 19. Health and Safety Code section 44059 states, in pertinent part:

4 The willful making of any false statement or entry with regard to a material  
5 matter in any oath, affidavit, certificate of compliance or noncompliance, or  
6 application form which is required by this chapter or Chapter 20.3 (commencing with  
Section 9880) of Division 3 of the Business and Professions Code, constitutes perjury  
and is punishable as provided in the Penal Code.

7 20. Health and Safety Code section 44072.2 states, in pertinent part:

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

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

12 . . . .

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

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

15 21. Health & Safety Code section 44072.10 states, in pertinent part:

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

19 . . . .

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

21 22. Health and Safety Code section 44072.8 states that when a license has been revoked  
22 or suspended following a hearing under this article, any additional license issued under this  
23 chapter in the name of the licensee may be likewise revoked or suspended by the director.

24 **REGULATIONS**

25 23. California Code of Regulations, title 16, section 3340.15, subdivision (h), prohibits a  
26 licensed smog check station from subletting inspections or repairs required as part of the Smog  
27 Check Program.

28 ///

1 24. California Code of Regulations, title 16, section 3340.24, subdivision (c), states:

2 The bureau may suspend or revoke the license of or pursue other legal action  
3 against a licensee, if the licensee falsely or fraudulently issues or obtains a certificate  
4 of compliance or a certificate of noncompliance.

4 25. California Code of Regulations, title 16, section 3340.30, subdivision (a), states that a  
5 licensed smog technician shall at all times:

6 [i]nspect, test and repair vehicles, as applicable, in accordance with section  
7 44012 of the Health & Saf. Code, section 44035 of the Health & Saf. Code, and  
8 section 3340.42 of this article.

8 26. California Code of Regulations, title 16, section 3340.35, subdivision (c), states that a  
9 licensed smog check station:

10 shall issue a certificate of compliance or noncompliance to the owner or  
11 operator of any vehicle that has been inspected in accordance with the procedures  
12 specified in section 3340.42 of this article and has all the required emission control  
13 equipment and devices installed and functioning correctly.

12 27. California Code of Regulations, title 16, section 3340.41, subdivision (c), states that:

13 [n]o person shall enter into the emissions inspection system any vehicle  
14 identification information or emission control system identification data for any  
15 vehicle other than the one being tested. Nor shall any person knowingly enter into  
16 the emissions inspection system any false information about the vehicle being tested.

16 28. California Code of Regulations, title 16, section 3340.42, sets forth specific emissions  
17 test methods and procedures which apply to all vehicles inspected in the State of California.

18 29. California Code of Regulations, title 16, section 3373, states that:

19 No automotive repair dealer or individual in charge shall, in filling out an  
20 estimate, invoice, or work order, or record required to be maintained by section  
21 3340.15(e) of this chapter, withhold therefrom or insert therein any statement or  
22 information which will cause any such document to be false or misleading, or where  
23 the tendency or effect thereby would be to mislead or deceive customers, prospective  
24 customers, or the public.

23 **COST RECOVERY**

24 30. Business and Professions Code section 125.3 provides, in pertinent part, that the  
25 Bureau may request the administrative law judge to direct a licentiate found to have committed a  
26 violation of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
27 and enforcement of the case.

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VID DATA REVIEW

1  
2           31.       On March 9, 2015, the Bureau implemented a policy change requiring the use of  
3 an On-Board Diagnostic Inspection System (OIS) in testing of 2000 model year and newer gas  
4 powered vehicles 14,000 Gross Vehicle Weight Rating (GVW) and under, and 1998 and newer  
5 diesel powered vehicles 14,000 GVW and under. The OIS Bureau Test Data lists differences in  
6 Vehicle Identification Numbers (VIN) for vehicles that have received smog inspections, in  
7 addition to communication protocol (the language used to communicate) and Parameter ID (PID)  
8 differences with vehicles that have been certified correctly that are the same make and model  
9 vehicles.

10           32.       On or about October 10, 2017, Bureau representative Nicholas H. Magana initiated  
11 an investigation in which he reviewed OIS test data for Alvarez Test Only. Representative  
12 Nicholas H. Magana's investigation revealed that the data related to certain vehicles certified by  
13 Alvarez Test Only contained a pattern of unmistakable discrepancies between the information  
14 transmitted during the inspections and documented information known about the subject vehicles.  
15 Specifically, representative Nicholas H. Magana compared the data received from the certified  
16 vehicles to data from vehicles of the same year, make, and model and determined that the data  
17 from four the certified vehicles contained two or more of the following unmistakable  
18 discrepancies: (1) missing eVINs; (2) incorrect vehicle communication protocols; and (3)  
19 incorrect PID counts. These documented discrepancies confirm that the vehicles receiving smog  
20 certificates from Alvarez Test Only were fraudulently tested during the smog inspection using the  
21 clean plugging method. Clean plugging refers to the use of another vehicle's properly functioning  
22 On Board Diagnostic, generation II, (OBD II) system, or another source, to generate passing  
23 diagnostic readings for the purpose of issuing fraudulent smog Certificates of Compliance to  
24 vehicles that are not in smog compliance or were not present for testing.

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33. The following table illustrates the documented clean plugging activities of Respondents from June 13, 2016 through August 14, 2017.

No.	Test Date	Vehicle Certified & VIN/Plate No.	Certificate No.	Technician	OIS Test Data Details
1.	6/13/2016	2002 Honda Civic LX VIN: 2HGES16502H582867 Plate No: 5UXU462	ZF326965C	Respondent Jose G. Alvarez (EO150079)	Comm. Protocol: JVPW (Expected: 1914)  PID Count: 18 3 (Expected: 16 or 17)  eVIN: Incorrect; Reported, but Not Expected
2.	6/13/2016	2002 Acura RSX VIN: JH4DC54812C028816 Plate No: 4XMK062	ZF326966C	Respondent Jose G. Alvarez (EO150079)	Comm. Protocol: JVPW (Expected: 1914)  PID Count: 18 3 Expected: 16 or 17)  eVIN: Incorrect; Reported, but Not Expected
3.	6/15/2017	2007 Honda Accord LX VIN: 1HGCM56457A096514 Plate No: 6AQM674	ZX082727C	Respondent Jose G. Alvarez (EO150079)	Comm. Protocol: ICAN29bt5 (Expected: 1914)  PID Count: 37 20 Expected: 21)  eVIN: Reported, but Does Not Match
4.	8/14/2017	2007 Toyota Camry New Generation LE VIN: 4T1BK46K77U558784 Plate No: 6BLS301	HD402002C	Respondent Marco Antonio Alvarez (EO639543)	Comm. Protocol: ICAN11bt5 (Expected: ICAN11bt5)  PID Count: 39 7 Expected: 46 17)  eVIN: Incorrect; Reported, but Not Expected

1 34. The data analysis conducted on Alvarez Test Only (covering a period from June 13,  
2 2016 through August 14, 2017) shows that Respondents participated in a scheme to perform four  
3 fraudulent Smog Check inspections resulting in the issuance of four fraudulent electronic Smog  
4 Check Certificates of Compliance.

5 35. Additionally, for vehicle numbers 1 and 2 on the chart above, OIS Test Data shows  
6 that the 2005 Dodge Neon SXT was previously certified under Respondent Jose G. Alvarez on  
7 June 7, 2016. The OIS Test Data transmitted for the 2005 Dodge Neon SXT matches the OIS Test  
8 Data for the fraudulent inspection of the 2002 Honda Civic LX for the eVIN, protocol, and PID  
9 count.

10 36. Additionally, for vehicle number 3 on the chart above, OIS Test Data shows that the  
11 2007 Honda Accord LX was previously tested under Respondent Jose G. Alvarez on July 17,  
12 2015, and transmitted the correct OIS Test Data for the eVIN, protocol, and PID count.

13 37. Additionally, for vehicle number 4 on the chart above, a previous test was performed  
14 at another licensed smog check station on February 13, 2015, and transmitted the correct OIS Test  
15 Data for the eVIN, protocol, and PID count.

16 38. Additionally, for vehicle number 4 on the chart above, OIS Test Data shows that a  
17 2010 Chevrolet Impala was used to generate the fraudulent Smog Certificate of Compliance of  
18 the 2007 Toyota Camry New Generation LE. The 2010 Chevrolet Impala was previously certified  
19 under Respondent Jose G. Alvarez on September 5, 2017. The OIS Test Data transmitted for the  
20 2010 Chevrolet Impala matches the OIS Test Data for the fraudulent inspection of the 2007  
21 Toyota Camry New Generation LE for the eVIN, protocol, and PID count.

22 **AS TO ALVAREZ TEST ONLY, RESPONDENT JOSE ALVAREZ:**

23 **AUTOMOTIVE REPAIR DEALER REGISTRATION NO. ARD268026**

24 **FIRST CAUSE FOR DISCIPLINE**

25 **(Untrue or Misleading Statements)**

26 39. Respondent Jose Alvarez's Automotive Repair Dealer Registration is subject to  
27 disciplinary action pursuant to Business and Professions Code section 9884.7, subdivision (a)(1),  
28 in that Respondent Jose Alvarez made or authorized statements which Respondent Jose Alvarez

1 knew or in the exercise of reasonable care should have known to be untrue or misleading.

2 40. Respondent Jose Alvarez certified that the four vehicles identified in paragraph 33  
3 above, had passed inspection and were in compliance with applicable laws and regulations. In  
4 fact, Respondent Jose Alvarez conducted the inspections of the four vehicles identified in  
5 paragraph 33 above, using clean-plugging methods in that he substituted or used a different  
6 vehicle(s), or another source, during the OBD II functional tests in order to issue smog certificates  
7 of compliance for the vehicles. Respondent Jose Alvarez did not test or inspect any of the four  
8 vehicles as required by Health and Safety Code section 44012. Complainant realleges paragraphs  
9 31 through 38.

10 **SECOND CAUSE FOR DISCIPLINE**

11 **(Fraud)**

12 41. Respondent Jose Alvarez's Automotive Repair Dealer Registration is subject to  
13 disciplinary action pursuant to Business and Professions Code section 9884.7, subdivision (a)(4),  
14 in that Respondent Jose Alvarez committed acts that constitute fraud by issuing electronic smog  
15 certificates of compliance for the four vehicles identified in paragraph 33 above, without  
16 performing bona fide inspections of the emission control devices and systems on the vehicles,  
17 thereby depriving the People of the State of California of the protection afforded by the Motor  
18 Vehicle Inspection Program. Complainant realleges paragraphs 31 through 38.

19 **THIRD CAUSE FOR DISCIPLINE**

20 **(Material Violation of Automotive Repair Act)**

21 42. Respondent Jose Alvarez's Automotive Repair Dealer Registration is subject to  
22 disciplinary action pursuant to Business and Professions Code section 9884.7, subdivision (a)(6),  
23 in that Respondent Jose Alvarez failed in a material respect to comply with the provisions of this  
24 chapter or regulations adopted pursuant to it when he issued electronic certificates of compliance  
25 for the four vehicles identified in paragraph 33 above, without performing bona fide inspections  
26 of the emission control devices and systems on those vehicles, thereby depriving the People of the  
27 State of California of the protection afforded by the Motor Vehicle Inspection Program.

28 Complainant realleges paragraphs 31 through 38.

1 AS TO ALVAREZ TEST ONLY, RESPONDENT JOSE ALVAREZ:

2 SMOG CHECK TEST ONLY STATION LICENSE NO. TC268026

3 **FOURTH CAUSE FOR DISCIPLINE**

4 (Violations of the Motor Vehicle Inspection Program)

5 43. Respondent Jose Alvarez's Smog Check Test Only Station License is subject to  
6 disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (a), in that  
7 Respondent Jose Alvarez failed to comply with the following sections of that Code:

8 a. **Section 44012:** Respondent Jose Alvarez failed to ensure that the emission control  
9 tests were performed on the four vehicles identified in paragraph 33 above, in accordance with  
10 procedures prescribed by the department.

11 b. **Section 44015:** Respondent Jose Alvarez issued electronic smog certificates of  
12 compliance for the four vehicles identified in paragraph 33 above, without ensuring that the  
13 vehicles were properly tested and inspected to determine if they were in compliance with Health  
14 and Safety Code section 44012.

15 c. **Section 44059:** Respondent Jose Alvarez willfully made false entries for the  
16 electronic certificates of compliance by certifying that the four vehicles identified in paragraph 33  
17 above had been inspected as required when, in fact, they had not.

18 Complainant realleges paragraphs 31 through 38.

19 **FIFTH CAUSE FOR DISCIPLINE**

20 (Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection Program)

21 44. Respondent Jose Alvarez's Smog Check Test Only Station License is subject to  
22 disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (c), in that  
23 Respondent Jose Alvarez failed to comply with provisions of California Code of Regulations, title  
24 16, as follows:

25 a. **Section 3340.24, subdivision (c):** Respondent Jose Alvarez falsely or fraudulently  
26 issued electronic smog certificates of compliance for the four vehicles identified in paragraph 33  
27 above.

28 ///



1 provisions of Health and Safety Code, as follows:

2 a. **Section 44012:** Respondent Jose G. Alvarez failed to ensure that the emission control  
3 tests were performed on three of the four vehicles identified in paragraph 33 above, in accordance  
4 with procedures prescribed by the department.

5 b. **Section 44032:** Respondent Jose G. Alvarez failed to perform emission control  
6 devices and systems for three of the four vehicles identified in paragraph 33 above in accordance  
7 with Health and Safety Code section 44012.

8 c. **Section 44059:** Respondent Jose G. Alvarez willfully made false entries for the  
9 electronic certificates of compliance by certifying that three of the four vehicles identified in  
10 paragraph 33 above had been inspected as required when, in fact, they had not.

11 Complainant realleges paragraphs 31 through 38.

12 **EIGHTH CAUSE FOR DISCIPLINE**

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

14 47. Respondent Jose G. Alvarez's Smog Check Inspector License and Smog Check  
15 Repair Technician License are subject to disciplinary action pursuant to Health and Safety Code  
16 section 44072.2, subdivision (c), in that Respondent Jose G. Alvarez failed to comply with  
17 provisions of California Code of Regulations, title 16, as follows:

18 a. **Section 3340.30, subdivision (a):** Respondent Jose G. Alvarez failed to inspect and  
19 test three of the four vehicles identified in paragraph 33 above, in accordance with Health and  
20 Safety Code sections 44012 and 44035, and California Code of Regulations, title 16, section  
21 3340.42.

22 b. **Section 3340.41, subdivision (c):** Respondent Jose G. Alvarez knowingly entered  
23 false information into the emissions inspection system for three of the four vehicles identified in  
24 paragraph 33 above.

25 Complainant realleges paragraphs 31 through 38.

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1 **NINTH CAUSE FOR DISCIPLINE**

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

3 48. Respondent Jose G. Alvarez's Smog Check Inspector License and Smog Check  
4 Repair Technician License are subject to disciplinary action pursuant to Health and Safety Code  
5 section 44072.2, subdivision (d), in that Respondent Jose G. Alvarez committed dishonest,  
6 fraudulent, or deceitful acts whereby another was injured by issuing electronic smog certificates  
7 of compliance for three of the four vehicles identified in in paragraph 33 above, without  
8 performing bona fide inspections of the emission control devices and systems on the vehicles,  
9 thereby depriving the People of the State of California of the protection afforded by the Motor  
10 Vehicle Inspection Program. Complainant realleges paragraphs 31 through 38.

11 **AS TO RESPONDENT MARCO ANTONIO ALVAREZ:**

12 **SMOG CHECK INSPECTOR LICENSE NO. EO 639543**

13 **TENTH CAUSE FOR DISCIPLINE**

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

15 49. Respondent Marco Antonio Alvarez's Smog Check Inspector License is subject to  
16 disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (a), in that  
17 Respondent Marco Antonio Alvarez failed to comply with provisions of Health and Safety Code,  
18 as follows:

19 a. **Section 44012:** Respondent Marco Antonio Alvarez failed to ensure that the emission  
20 control tests were performed on one of the four vehicles identified in paragraph 33 above, in  
21 accordance with procedures prescribed by the department.

22 b. **Section 44032:** Respondent Marco Antonio Alvarez failed to perform emission  
23 control devices and systems on one of the four vehicles identified in paragraph 33 above, in  
24 accordance with Health and Safety Code section 44012 .

25 c. **Section 44059:** Respondent Marco Antonio Alvarez willfully made false entries for  
26 the electronic certificates of compliance by certifying that one of the four vehicles identified in  
27 paragraph 33 above had been inspected as required when, in fact, they had not.

28 Complainant realleges paragraphs 31 through 38.

1 ELEVENTH CAUSE FOR DISCIPLINE

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

3 50. Respondent Marco Antonio Alvarez 's Smog Check Inspector License is subject to  
4 disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (c), in that  
5 Respondent Marco Antonio Alvarez failed to comply with provisions of California Code of  
6 Regulations, title 16, as follows:

7 a. **Section 3340.30, subdivision (a):** Respondent Marco Antonio Alvarez failed to  
8 inspect and test one of the four vehicles identified in paragraph 33 above, in accordance with  
9 Health and Safety Code sections 44012 and 44035, and California Code of Regulations, title 16,  
10 section 3340.42.

11 b. **Section 3340.41, subdivision (c):** Respondent Marco Antonio Alvarez knowingly  
12 entered false information into the emissions inspection system for one of the four vehicles  
13 identified in paragraph 33 above.

14 Complainant realleges paragraphs 31 through 38.

15 TWELFTH CAUSE FOR DISCIPLINE

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

17 51. Respondent Marco Antonio Alvarez 's Smog Check Inspector License is subject to  
18 disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (d), in that  
19 Respondent Marco Antonio Alvarez committed dishonest, fraudulent, or deceitful acts whereby  
20 another was injured by issuing an electronic smog certificate of compliance for one of the four  
21 vehicles identified in in paragraph 33 above, without performing bona fide inspections of the  
22 emission control devices and systems on the vehicles, thereby depriving the People of the State of  
23 California of the protection afforded by the Motor Vehicle Inspection Program. Complainant  
24 realleges paragraphs 31 through 38.

25 DISCIPLINARY CONSIDERATIONS

26 52. On August 28, 2015, the Bureau issued Respondent Jose Alvarez doing business as  
27 Alvarez Test Only, Administrative Citation No. C2015-2039, for violation of Health and Safety  
28 Code section 44012, and section 3340 of the California Code of Regulations, in that Respondent

1 Jose Alvarez unlawfully Smog Check inspected and certified a vehicle using BAR-97 when the  
2 OIS test was required. A Citation Service Conference was held on September 8, 2015. The  
3 Decision became effective on October 8, 2015.

4 53. On August 28, 2015, the Bureau issued Respondent Jose G. Alvarez, Administrative  
5 Citation No. M2015-2040, for violation of Health and Safety Code section 44032, in that  
6 Respondent Jose G. Alvarez unlawfully Smog Check inspected and certified a vehicle using  
7 BAR-97 when the OIS test was required. A Citation Service Conference was held on September  
8 8, 2015. The Decision became effective on November 26, 2015.

9 **OTHER MATTERS**

10 54. Pursuant to Business and Professions Code section 9884.7, subdivision (c), the  
11 Director may suspend, revoke, or place on probation the registration for all places of business  
12 operated in this state by Respondent Jose Alvarez, upon a finding that Respondent Jose Alvarez  
13 has, or is, engaged in a course of repeated and willful violations of the laws and regulations  
14 pertaining to an automotive repair dealer.

15 55. Pursuant to Health and Safety Code section 44072.8, if Smog Check Test Only  
16 Station License No. TC268026, issued to Respondent Jose Alvarez, is revoked or suspended, any  
17 additional license issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code  
18 in the name of said licensee may be likewise revoked or suspended by the director.

19 56. Pursuant to Health and Safety Code section 44072.8, if Smog Check Inspector  
20 License No. EO150079 and/or Smog Check Repair Technician License No. EI150079, issued to  
21 Respondent Jose G. Alvarez, is revoked or suspended, any additional license issued under  
22 Chapter 5 of Part 5 of Division 26 of the Health and Safety Code in the name of said licensee may  
23 be likewise revoked or suspended by the director.

24 57. Pursuant to Health and Safety Code section 44072.8, if Smog Check Inspector  
25 License No. EO639543, issued to Respondent Marco Antonio Alvarez, is revoked or suspended,  
26 any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety  
27 Code in the name of said licensee may be likewise revoked or suspended by the director.

28 ///

1 PRAYER

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

4 1. Revoking or suspending Automotive Repair Dealer Registration No. ARD268026,  
5 issued to Jose Alvarez, doing business as Alvarez Test Only;

6 2. Revoking or suspending any other automotive repair dealer registration issued to Jose  
7 Alvarez;

8 3. Revoking or suspending Smog Check Test Only Station License No. TC268026,  
9 issued to Jose Alvarez, doing business as Alvarez Test Only;

10 4. Revoking or suspending Smog Check Inspector License No. EO150079, issued to  
11 Jose G. Alvarez;

12 5. Revoking or suspending Smog Check Repair Technician License No. EI150079,  
13 issued to Jose G. Alvarez;

14 6. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of  
15 Division 26 of the Health and Safety Code in the name of Jose G. Alvarez;

16 7. Revoking or suspending Smog Check Inspector License No. EO639543, issued to  
17 Marco Antonio Alvarez;

18 8. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of  
19 Division 26 of the Health and Safety Code in the name of Marco Antonio Alvarez;

20 9. Ordering Jose Alvarez, doing business as Alvarez Test Only, Jose G. Alvarez, and  
21 Marco Antonio Alvarez to pay the Director of Consumer Affairs the reasonable costs of the  
22 investigation and enforcement of this case, pursuant to Business and Professions Code section  
23 125.3; and,

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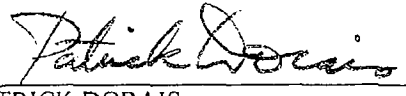
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10. Taking such other and further action as deemed necessary and proper.

DATED: August 10, 2018



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

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**Exhibit A**

**Accusation No. 79/17-16585**

1 XAVIER BECERRA  
Attorney General of California  
2 ARMANDO ZAMBRANO  
Supervising Deputy Attorney General  
3 ELYSE M. DAVIDSON  
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*Attorneys for Complainant*  
7

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

11 In the Matter of the Accusation Against:

Case No. 79/17-16585

12 **JOSE ALVAREZ, DBA ALVAREZ TEST**  
13 **ONLY**

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

13 13419 Lambert Road  
Whittier, CA 90605

14 **Automotive Repair Dealer Registration No.**  
15 **ARD268026**  
16 **Smog Check Test Only Station License No.**  
**TC268026**

17 **JOSE G. ALVAREZ**  
18 13419 Lambert Road  
Whittier, CA 90602

19 **Smog Check Inspector License No. EO150079**  
20 **Smog Check Repair Technician License No.**  
**EI150079**

21 **and**

22 **MARCO ANTONIO ALVAREZ**  
23 11217 Arroyo Drive  
Whittier, CA 90602

24 **Smog Check Inspector License No. EO639543**

25 Respondents.  
26

27 Complainant alleges:

28 ///

1 PARTIES

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

4 **A. Jose Alvarez, dba Alvarez Test Only: Automotive Repair Dealer Registration**  
5 **Number ARD268026**

6 2. On February 22, 2012, the Bureau issued Automotive Repair Dealer Registration  
7 number ARD268026 to Jose Alvarez, doing business as Alvarez Test Only (Alvarez Test Only or  
8 Respondent Jose Alvarez). Said registration was in full force and effect at all times relevant to the  
9 charges brought herein and will expire on February 28, 2019, unless renewed.

10 Notwithstanding the expiration of the aforementioned license, the Bureau retains  
11 jurisdiction in this matter pursuant to Business and Professions Code section 9884.13.

12 **B. Jose Alvarez, dba Alvarez Test Only: Smog Check Test Only Station License**  
13 **Number TC268026**

14 3. On March 15, 2012, the Bureau issued Smog Check Test Only Station License  
15 number TC268026 to Respondent Jose Alvarez. Said license was in full force and effect at all  
16 times relevant to the charges brought herein and will expire on February 28, 2019, unless  
17 renewed.

18 **C. STAR Station**

19 4. On February 12, 2013, the Bureau certified Alvarez Test Only as a STAR Station.  
20 The certification has no expiration date and will remain active unless the Automotive Repair  
21 Dealer registration and/or Smog Check Test Only Station license is revoked, canceled, or  
22 becomes delinquent.

23 **D. Jose G. Alvarez: Smog Check Inspector License Number EO150079; Smog Check**  
24 **Repair Technician License Number EI150079<sup>1</sup>**

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



1 Consumer Affairs, or a court of law, or the voluntary surrender of the license shall not deprive the  
2 Director of jurisdiction to proceed with disciplinary action.

3 STATUTES

4 12. Business and Professions Code section 9884.7 states, in pertinent part:

5 (a) The director, where the automotive repair dealer cannot show there was a  
6 bona fide error, may refuse to validate, or may invalidate temporarily or permanently,  
the registration of an automotive repair dealer for any of the following acts or

7 omissions related to the conduct of the business of the automotive repair dealer,  
8 which are done by the automotive repair dealer or any automotive technician,  
employee, partner, officer, or member of the automotive repair dealer.

9 (1) Making or authorizing in any manner or by any means whatever any  
10 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.

11 . . . .

12 (4) Any other conduct that constitutes fraud.

13 . . . .

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

16 . . . .

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

22 13. Business and Professions Code section 9889.22 states, in pertinent part:

23 The willful making of any false statement or entry with regard to a material  
24 matter in any oath, affidavit, certificate of compliance or noncompliance, or  
25 application form which is required by this chapter or Chapter 5 (commencing with  
Section 44000) of Part 5 of Division 26 of the Health and Safety Code constitutes  
perjury and is punishable as provided in the Penal Code.

26 14. Business and Professions Code section 17200 states, in pertinent part:

27 As used in this chapter, unfair competition shall mean and include any  
28 unlawful, unfair or fraudulent business act or practice and unfair, deceptive, untrue  
or misleading advertising and any act prohibited by Chapter 1 (commencing with  
Section 17500) of Part 3 of Division 7 of the Business and Professions Code.

15. Business and Professions Code section 17200 states, in pertinent part:

It is unlawful for any person, firm, corporation or association, or any employee  
thereof with intent directly or indirectly to dispose of real or personal property or to  
perform services, professional or otherwise, or anything of any nature whatsoever or

1 to induce the public to enter into any obligation relating thereto, to make or  
2 disseminate or cause to be made or disseminated before the public in this state, or to  
3 make or disseminate or cause to be made or disseminated from this state before the  
4 public in any state, in any newspaper or other publication, or any advertising device,  
5 or by public outcry or proclamation, or in any other manner or means whatever,  
6 including over the Internet, any statement, concerning that real or personal property  
7 or those services, professional or otherwise, or concerning any circumstance or matter  
8 of fact connected with the proposed performance or disposition thereof, which is  
9 untrue or misleading, and which is known, or which by the exercise of reasonable  
10 care should be known, to be untrue or misleading, or for any person, firm, or  
11 corporation to so make or disseminate or cause to be so made or disseminated any  
12 such statement as part of a plan or scheme with the intent not to sell that personal  
13 property or those services, professional or otherwise, so advertised at the price stated  
14 therein, or as so advertised. Any violation of the provisions of this section is a  
15 misdemeanor punishable by imprisonment in the county jail not exceeding six  
16 months, or by a fine not exceeding two thousand five hundred dollars (\$2,500), or by  
17 both that imprisonment and fine.

11 16. Health and Safety Code section 44012 states, in pertinent part:

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

19 . . . .

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

23 17. Health and Safety Code section 44015, subdivision (b), provides that a certificate of  
24 compliance shall be issued if a vehicle meets the requirements of Health and Safety Code section  
25 44012.

26 18. Health and Safety Code section 44032 states, in pertinent part:

27 No person shall perform, for compensation, tests or repairs of emission control  
28 devices or systems of motor vehicles required by this chapter unless the person

1 performing the test or repair is a qualified smog check technician and the test or repair  
2 is performed at a licensed smog check station. Qualified technicians shall perform  
tests of emission control devices and systems in accordance with Section 44012.

3 19. Health and Safety Code section 44059 states, in pertinent part:

4 The willful making of any false statement or entry with regard to a material  
5 matter in any oath, affidavit, certificate of compliance or noncompliance, or  
6 application form which is required by this chapter or Chapter 20.3 (commencing with  
Section 9880) of Division 3 of the Business and Professions Code, constitutes perjury  
and is punishable as provided in the Penal Code.

7 20. Health and Safety Code section 44072.2 states, in pertinent part:

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

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

12 . . . .

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

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

15 21. Health & Safety Code section 44072.10 states, in pertinent part:

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

19 . . . .

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

21 22. Health and Safety Code section 44072.8 states that when a license has been revoked  
22 or suspended following a hearing under this article, any additional license issued under this  
23 chapter in the name of the licensee may be likewise revoked or suspended by the director.

24 **REGULATIONS**

25 23. California Code of Regulations, title 16, section 3340.15, subdivision (h), prohibits a  
26 licensed smog check station from subletting inspections or repairs required as part of the Smog  
27 Check Program.

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1 24. California Code of Regulations, title 16, section 3340.24, subdivision (c), states:

2 The bureau may suspend or revoke the license of or pursue other legal action  
3 against a licensee, if the licensee falsely or fraudulently issues or obtains a certificate  
4 of compliance or a certificate of noncompliance.

4 25. California Code of Regulations, title 16, section 3340.30, subdivision (a), states that a  
5 licensed smog technician shall at all times:

6 [i]nspect, test and repair vehicles, as applicable, in accordance with section  
7 44012 of the Health & Saf. Code, section 44035 of the Health & Saf. Code, and  
8 section 3340.42 of this article.

8 26. California Code of Regulations, title 16, section 3340.35, subdivision (c), states that a  
9 licensed smog check station:

10 shall issue a certificate of compliance or noncompliance to the owner or  
11 operator of any vehicle that has been inspected in accordance with the procedures  
12 specified in section 3340.42 of this article and has all the required emission control  
13 equipment and devices installed and functioning correctly.

12 27. California Code of Regulations, title 16, section 3340.41, subdivision (c), states that:

13 [n]o person shall enter into the emissions inspection system any vehicle  
14 identification information or emission control system identification data for any  
15 vehicle other than the one being tested. Nor shall any person knowingly enter into  
16 the emissions inspection system any false information about the vehicle being tested.

16 28. California Code of Regulations, title 16, section 3340.42, sets forth specific emissions  
17 test methods and procedures which apply to all vehicles inspected in the State of California.

18 29. California Code of Regulations, title 16, section 3373, states that:

19 No automotive repair dealer or individual in charge shall, in filling out an  
20 estimate, invoice, or work order, or record required to be maintained by section  
21 3340.15(e) of this chapter, withhold therefrom or insert therein any statement or  
22 information which will cause any such document to be false or misleading, or where  
23 the tendency or effect thereby would be to mislead or deceive customers, prospective  
24 customers, or the public.

23 **COST RECOVERY**

24 30. Business and Professions Code section 125.3 provides, in pertinent part, that the  
25 Bureau may request the administrative law judge to direct a licentiate found to have committed a  
26 violation of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
27 and enforcement of the case.

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VID DATA REVIEW

1  
2           31.       On March 9, 2015, the Bureau implemented a policy change requiring the use of  
3 an On-Board Diagnostic Inspection System (OIS) in testing of 2000 model year and newer gas  
4 powered vehicles 14,000 Gross Vehicle Weight Rating (GVW) and under, and 1998 and newer  
5 diesel powered vehicles 14,000 GVW and under. The OIS Bureau Test Data lists differences in  
6 Vehicle Identification Numbers (VIN) for vehicles that have received smog inspections, in  
7 addition to communication protocol (the language used to communicate) and Parameter ID (PID)  
8 differences with vehicles that have been certified correctly that are the same make and model  
9 vehicles.

10           32.       On or about October 10, 2017, Bureau representative Nicholas H. Magana initiated  
11 an investigation in which he reviewed OIS test data for Alvarez Test Only. Representative  
12 Nicholas H. Magana's investigation revealed that the data related to certain vehicles certified by  
13 Alvarez Test Only contained a pattern of unmistakable discrepancies between the information  
14 transmitted during the inspections and documented information known about the subject vehicles.  
15 Specifically, representative Nicholas H. Magana compared the data received from the certified  
16 vehicles to data from vehicles of the same year, make, and model and determined that the data  
17 from four the certified vehicles contained two or more of the following unmistakable  
18 discrepancies: (1) missing eVINs; (2) incorrect vehicle communication protocols; and (3)  
19 incorrect PID counts. These documented discrepancies confirm that the vehicles receiving smog  
20 certificates from Alvarez Test Only were fraudulently tested during the smog inspection using the  
21 clean plugging method. Clean plugging refers to the use of another vehicle's properly functioning  
22 On Board Diagnostic, generation II, (OBD II) system, or another source, to generate passing  
23 diagnostic readings for the purpose of issuing fraudulent smog Certificates of Compliance to  
24 vehicles that are not in smog compliance or were not present for testing.

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33. The following table illustrates the documented clean plugging activities of Respondents from June 13, 2016 through August 14, 2017.

No.	Test Date	Vehicle Certified & VIN/Plate No.	Certificate No.	Technician	OIS Test Data Details
1.	6/13/2016	2002 Honda Civic LX VIN: 2HGES16502H582867 Plate No: 5UXU462	ZF326965C	Respondent Jose G. Alvarez (EO150079)	Comm. Protocol: JVPW (Expected: 1914)  PID Count: 18 3 (Expected: 16 or 17)  eVIN: Incorrect; Reported, but Not Expected
2.	6/13/2016	2002 Acura RSX VIN: JH4DC54812C028816 Plate No: 4XMK062	ZF326966C	Respondent Jose G. Alvarez (EO150079)	Comm. Protocol: JVPW (Expected: 1914)  PID Count: 18 3 Expected: 16 or 17)  eVIN: Incorrect; Reported, but Not Expected
3.	6/15/2017	2007 Honda Accord LX VIN: 1HGCM56457A096514 Plate No: 6AQM674	ZX082727C	Respondent Jose G. Alvarez (EO150079)	Comm. Protocol: ICAN29bt5 (Expected: 1914)  PID Count: 37 20 Expected: 21)  eVIN: Reported, but Does Not Match
4.	8/14/2017	2007 Toyota Camry New Generation LE VIN: 4T1BK46K77U558784 Plate No: 6BLS301	HD402002C	Respondent Marco Antonio Alvarez (EO639543)	Comm. Protocol: ICAN11bt5 (Expected: ICAN11bt5)  PID Count: 39 7 Expected: 46 17)  eVIN: Incorrect; Reported, but Not Expected

1 34. The data analysis conducted on Alvarez Test Only (covering a period from June 13,  
2 2016 through August 14, 2017) shows that Respondents participated in a scheme to perform four  
3 fraudulent Smog Check inspections resulting in the issuance of four fraudulent electronic Smog  
4 Check Certificates of Compliance.

5 35. Additionally, for vehicle numbers 1 and 2 on the chart above, OIS Test Data shows  
6 that the 2005 Dodge Neon SXT was previously certified under Respondent Jose G. Alvarez on  
7 June 7, 2016. The OIS Test Data transmitted for the 2005 Dodge Neon SXT matches the OIS Test  
8 Data for the fraudulent inspection of the 2002 Honda Civic LX for the eVIN, protocol, and PID  
9 count.

10 36. Additionally, for vehicle number 3 on the chart above, OIS Test Data shows that the  
11 2007 Honda Accord LX was previously tested under Respondent Jose G. Alvarez on July 17,  
12 2015, and transmitted the correct OIS Test Data for the eVIN, protocol, and PID count.

13 37. Additionally, for vehicle number 4 on the chart above, a previous test was performed  
14 at another licensed smog check station on February 13, 2015, and transmitted the correct OIS Test  
15 Data for the eVIN, protocol, and PID count.

16 38. Additionally, for vehicle number 4 on the chart above, OIS Test Data shows that a  
17 2010 Chevrolet Impala was used to generate the fraudulent Smog Certificate of Compliance of  
18 the 2007 Toyota Camry New Generation LE. The 2010 Chevrolet Impala was previously certified  
19 under Respondent Jose G. Alvarez on September 5, 2017. The OIS Test Data transmitted for the  
20 2010 Chevrolet Impala matches the OIS Test Data for the fraudulent inspection of the 2007  
21 Toyota Camry New Generation LE for the eVIN, protocol, and PID count.

22 **AS TO ALVAREZ TEST ONLY, RESPONDENT JOSE ALVAREZ:**

23 **AUTOMOTIVE REPAIR DEALER REGISTRATION NO. ARD268026**

24 **FIRST CAUSE FOR DISCIPLINE**

25 **(Untrue or Misleading Statements)**

26 39. Respondent Jose Alvarez's Automotive Repair Dealer Registration is subject to  
27 disciplinary action pursuant to Business and Professions Code section 9884.7, subdivision (a)(1),  
28 in that Respondent Jose Alvarez made or authorized statements which Respondent Jose Alvarez

1 knew or in the exercise of reasonable care should have known to be untrue or misleading.

2 40. Respondent Jose Alvarez certified that the four vehicles identified in paragraph 33  
3 above, had passed inspection and were in compliance with applicable laws and regulations. In  
4 fact, Respondent Jose Alvarez conducted the inspections of the four vehicles identified in  
5 paragraph 33 above, using clean-plugging methods in that he substituted or used a different  
6 vehicle(s), or another source, during the OBD II functional tests in order to issue smog certificates  
7 of compliance for the vehicles. Respondent Jose Alvarez did not test or inspect any of the four  
8 vehicles as required by Health and Safety Code section 44012. Complainant realleges paragraphs  
9 31 through 38.

10 **SECOND CAUSE FOR DISCIPLINE**

11 **(Fraud)**

12 41. Respondent Jose Alvarez's Automotive Repair Dealer Registration is subject to  
13 disciplinary action pursuant to Business and Professions Code section 9884.7, subdivision (a)(4),  
14 in that Respondent Jose Alvarez committed acts that constitute fraud by issuing electronic smog  
15 certificates of compliance for the four vehicles identified in paragraph 33 above, without  
16 performing bona fide inspections of the emission control devices and systems on the vehicles,  
17 thereby depriving the People of the State of California of the protection afforded by the Motor  
18 Vehicle Inspection Program. Complainant realleges paragraphs 31 through 38.

19 **THIRD CAUSE FOR DISCIPLINE**

20 **(Material Violation of Automotive Repair Act)**

21 42. Respondent Jose Alvarez's Automotive Repair Dealer Registration is subject to  
22 disciplinary action pursuant to Business and Professions Code section 9884.7, subdivision (a)(6),  
23 in that Respondent Jose Alvarez failed in a material respect to comply with the provisions of this  
24 chapter or regulations adopted pursuant to it when he issued electronic certificates of compliance  
25 for the four vehicles identified in paragraph 33 above, without performing bona fide inspections  
26 of the emission control devices and systems on those vehicles, thereby depriving the People of the  
27 State of California of the protection afforded by the Motor Vehicle Inspection Program.  
28 Complainant realleges paragraphs 31 through 38.

1 AS TO ALVAREZ TEST ONLY, RESPONDENT JOSE ALVAREZ:  
2 SMOG CHECK TEST ONLY STATION LICENSE NO. TC268026

3 **FOURTH CAUSE FOR DISCIPLINE**

4 (Violations of the Motor Vehicle Inspection Program)

5 43. Respondent Jose Alvarez's Smog Check Test Only Station License is subject to  
6 disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (a), in that  
7 Respondent Jose Alvarez failed to comply with the following sections of that Code:

8 a. **Section 44012:** Respondent Jose Alvarez failed to ensure that the emission control  
9 tests were performed on the four vehicles identified in paragraph 33 above, in accordance with  
10 procedures prescribed by the department.

11 b. **Section 44015:** Respondent Jose Alvarez issued electronic smog certificates of  
12 compliance for the four vehicles identified in paragraph 33 above, without ensuring that the  
13 vehicles were properly tested and inspected to determine if they were in compliance with Health  
14 and Safety Code section 44012.

15 c. **Section 44059:** Respondent Jose Alvarez willfully made false entries for the  
16 electronic certificates of compliance by certifying that the four vehicles identified in paragraph 33  
17 above had been inspected as required when, in fact, they had not.

18 Complainant realleges paragraphs 31 through 38.

19 **FIFTH CAUSE FOR DISCIPLINE**

20 (Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection Program)

21 44. Respondent Jose Alvarez's Smog Check Test Only Station License is subject to  
22 disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (c), in that  
23 Respondent Jose Alvarez failed to comply with provisions of California Code of Regulations, title  
24 16, as follows:

25 a. **Section 3340.24, subdivision (c):** Respondent Jose Alvarez falsely or fraudulently  
26 issued electronic smog certificates of compliance for the four vehicles identified in paragraph 33  
27 above.

28 ///



1 provisions of Health and Safety Code, as follows:

2 a. **Section 44012:** Respondent Jose G. Alvarez failed to ensure that the emission control  
3 tests were performed on three of the four vehicles identified in paragraph 33 above, in accordance  
4 with procedures prescribed by the department.

5 b. **Section 44032:** Respondent Jose G. Alvarez failed to perform emission control  
6 devices and systems for three of the four vehicles identified in paragraph 33 above in accordance  
7 with Health and Safety Code section 44012.

8 c. **Section 44059:** Respondent Jose G. Alvarez willfully made false entries for the  
9 electronic certificates of compliance by certifying that three of the four vehicles identified in  
10 paragraph 33 above had been inspected as required when, in fact, they had not.

11 Complainant realleges paragraphs 31 through 38.

12 **EIGHTH CAUSE FOR DISCIPLINE**

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

14 47. Respondent Jose G. Alvarez's Smog Check Inspector License and Smog Check  
15 Repair Technician License are subject to disciplinary action pursuant to Health and Safety Code  
16 section 44072.2, subdivision (c), in that Respondent Jose G. Alvarez failed to comply with  
17 provisions of California Code of Regulations, title 16, as follows:

18 a. **Section 3340.30, subdivision (a):** Respondent Jose G. Alvarez failed to inspect and  
19 test three of the four vehicles identified in paragraph 33 above, in accordance with Health and  
20 Safety Code sections 44012 and 44035, and California Code of Regulations, title 16, section  
21 3340.42.

22 b. **Section 3340.41, subdivision (c):** Respondent Jose G. Alvarez knowingly entered  
23 false information into the emissions inspection system for three of the four vehicles identified in  
24 paragraph 33 above.

25 Complainant realleges paragraphs 31 through 38.

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1 **NINTH CAUSE FOR DISCIPLINE**

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

3 48. Respondent Jose G. Alvarez's Smog Check Inspector License and Smog Check  
4 Repair Technician License are subject to disciplinary action pursuant to Health and Safety Code  
5 section 44072.2, subdivision (d), in that Respondent Jose G. Alvarez committed dishonest,  
6 fraudulent, or deceitful acts whereby another was injured by issuing electronic smog certificates  
7 of compliance for three of the four vehicles identified in in paragraph 33 above, without  
8 performing bona fide inspections of the emission control devices and systems on the vehicles,  
9 thereby depriving the People of the State of California of the protection afforded by the Motor  
10 Vehicle Inspection Program. Complainant realleges paragraphs 31 through 38.

11 **AS TO RESPONDENT MARCO ANTONIO ALVAREZ:**

12 **SMOG CHECK INSPECTOR LICENSE NO. EO 639543**

13 **TENTH CAUSE FOR DISCIPLINE**

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

15 49. Respondent Marco Antonio Alvarez's Smog Check Inspector License is subject to  
16 disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (a), in that  
17 Respondent Marco Antonio Alvarez failed to comply with provisions of Health and Safety Code,  
18 as follows:

19 a. **Section 44012:** Respondent Marco Antonio Alvarez failed to ensure that the emission  
20 control tests were performed on one of the four vehicles identified in paragraph 33 above, in  
21 accordance with procedures prescribed by the department.

22 b. **Section 44032:** Respondent Marco Antonio Alvarez failed to perform emission  
23 control devices and systems on one of the four vehicles identified in paragraph 33 above, in  
24 accordance with Health and Safety Code section 44012 .

25 c. **Section 44059:** Respondent Marco Antonio Alvarez willfully made false entries for  
26 the electronic certificates of compliance by certifying that one of the four vehicles identified in  
27 paragraph 33 above had been inspected as required when, in fact, they had not.

28 Complainant realleges paragraphs 31 through 38.

1 ELEVENTH CAUSE FOR DISCIPLINE

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

3 50. Respondent Marco Antonio Alvarez 's Smog Check Inspector License is subject to  
4 disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (c), in that  
5 Respondent Marco Antonio Alvarez failed to comply with provisions of California Code of  
6 Regulations, title 16, as follows:

7 a. **Section 3340.30, subdivision (a):** Respondent Marco Antonio Alvarez failed to  
8 inspect and test one of the four vehicles identified in paragraph 33 above, in accordance with  
9 Health and Safety Code sections 44012 and 44035, and California Code of Regulations, title 16,  
10 section 3340.42.

11 b. **Section 3340.41, subdivision (c):** Respondent Marco Antonio Alvarez knowingly  
12 entered false information into the emissions inspection system for one of the four vehicles  
13 identified in paragraph 33 above.

14 Complainant realleges paragraphs 31 through 38.

15 TWELFTH CAUSE FOR DISCIPLINE

16 (Dishonesty, Fraud or Deceit)

17 51. Respondent Marco Antonio Alvarez 's Smog Check Inspector License is subject to  
18 disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (d), in that  
19 Respondent Marco Antonio Alvarez committed dishonest, fraudulent, or deceitful acts whereby  
20 another was injured by issuing an electronic smog certificate of compliance for one of the four  
21 vehicles identified in in paragraph 33 above, without performing bona fide inspections of the  
22 emission control devices and systems on the vehicles, thereby depriving the People of the State of  
23 California of the protection afforded by the Motor Vehicle Inspection Program. Complainant  
24 realleges paragraphs 31 through 38.

25 DISCIPLINARY CONSIDERATIONS

26 52. On August 28, 2015, the Bureau issued Respondent Jose Alvarez doing business as  
27 Alvarez Test Only, Administrative Citation No. C2015-2039, for violation of Health and Safety  
28 Code section 44012, and section 3340 of the California Code of Regulations, in that Respondent

1 Jose Alvarez unlawfully Smog Check inspected and certified a vehicle using BAR-97 when the  
2 OIS test was required. A Citation Service Conference was held on September 8, 2015. The  
3 Decision became effective on October 8, 2015.

4 53. On August 28, 2015, the Bureau issued Respondent Jose G. Alvarez, Administrative  
5 Citation No. M2015-2040, for violation of Health and Safety Code section 44032, in that  
6 Respondent Jose G. Alvarez unlawfully Smog Check inspected and certified a vehicle using  
7 BAR-97 when the OIS test was required. A Citation Service Conference was held on September  
8 8, 2015. The Decision became effective on November 26, 2015.

9 **OTHER MATTERS**

10 54. Pursuant to Business and Professions Code section 9884.7, subdivision (c), the  
11 Director may suspend, revoke, or place on probation the registration for all places of business  
12 operated in this state by Respondent Jose Alvarez, upon a finding that Respondent Jose Alvarez  
13 has, or is, engaged in a course of repeated and willful violations of the laws and regulations  
14 pertaining to an automotive repair dealer.

15 55. Pursuant to Health and Safety Code section 44072.8, if Smog Check Test Only  
16 Station License No. TC268026, issued to Respondent Jose Alvarez, is revoked or suspended, any  
17 additional license issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code  
18 in the name of said licensee may be likewise revoked or suspended by the director.

19 56. Pursuant to Health and Safety Code section 44072.8, if Smog Check Inspector  
20 License No. EO150079 and/or Smog Check Repair Technician License No. EI150079, issued to  
21 Respondent Jose G. Alvarez, is revoked or suspended, any additional license issued under  
22 Chapter 5 of Part 5 of Division 26 of the Health and Safety Code in the name of said licensee may  
23 be likewise revoked or suspended by the director.

24 57. Pursuant to Health and Safety Code section 44072.8, if Smog Check Inspector  
25 License No. EO639543, issued to Respondent Marco Antonio Alvarez, is revoked or suspended,  
26 any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety  
27 Code in the name of said licensee may be likewise revoked or suspended by the director.

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PRAYER

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

1. Revoking or suspending Automotive Repair Dealer Registration No. ARD268026, issued to Jose Alvarez, doing business as Alvarez Test Only;

2. Revoking or suspending any other automotive repair dealer registration issued to Jose Alvarez;

3. Revoking or suspending Smog Check Test Only Station License No. TC268026, issued to Jose Alvarez, doing business as Alvarez Test Only;

4. Revoking or suspending Smog Check Inspector License No. EO150079, issued to Jose G. Alvarez;

5. Revoking or suspending Smog Check Repair Technician License No. EI150079, issued to Jose G. Alvarez;

6. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code in the name of Jose G. Alvarez;

7. Revoking or suspending Smog Check Inspector License No. EO639543, issued to Marco Antonio Alvarez;

8. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code in the name of Marco Antonio Alvarez;

9. Ordering Jose Alvarez, doing business as Alvarez Test Only, Jose G. Alvarez, and Marco Antonio Alvarez to pay the Director of Consumer Affairs the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

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

DATED: August 10, 2018

*Patrick Dorais*

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

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