

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

In the Matter of the Accusation and Petition to
Revoke Probation Against:

**GOLDEN STATE SMOG & REPAIR
IRVIN J. YANEZ, AKA
IRVIN JESUS YANEZ, OWNER
870 Von Geldern Way
Yuba City, CA 95991
Automotive Repair Dealer Registration No.
ARD 269328
Smog Check Station License No. RC 269328**

Mailing Address:

**GOLDEN STATE SMOG & REPAIR,
IRVIN J. YANEZ, AKA
IRVIN JESUS YANEZ, OWNER
1488 Knights Row
Yuba City, CA 95991**

and

**IRVIN JESUS YANEZ, AKA
IRVIN J. YANEZ
1628 South Pointe Drive
Yuba City, CA 95991
Smog Check Inspector (EO) License No.
631690
Smog Check Repair Technician (EI) License
No. 631690 (formerly Advanced
Emission Specialist Technician License
No. EA 631690)**

Respondents.

Case No. 79/15-79

OAH No. 2015010173

DECISION

The attached Stipulated Revocation of Licenses and Order is hereby accepted and adopted as the Decision of the Director of the Department of Consumer Affairs in the above-entitled matter, except that the following typographical error is corrected as follows:

Page 1, case caption, line 23: "Yuba City, C 95991" is corrected to "Yuba City, CA 95991".

This Decision shall become effective February 18, 2016.

DATED: January 23, 2016 
TAMARA COLSON
Assistant General Counsel
Department of Consumer Affairs

1 KAMALA D. HARRIS
Attorney General of California
2 KENT D. HARRIS
Supervising Deputy Attorney General
3 LESLIE A. BURGERMYER
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7 *Attorneys for Complainant*

 ORIGINAL

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 and Petition to
Revoke Probation Against:

Case No. 79/15-79

13 **GOLDEN STATE SMOG & REPAIR**
14 **IRVIN J. YANEZ, AKA**
IRVIN JESUS YANEZ, OWNER
15 870 Von Geldern Way
Yuba City, CA 95991
16 **Automotive Repair Dealer Registration No.**
ARD 269328
Smog Check Station License No. RC 269328

OAH No. 2015010173

**STIPULATED REVOCATION OF
LICENSES AND ORDER**

17 Mailing Address:

18 **GOLDEN STATE SMOG & REPAIR,**
19 **IRVIN J. YANEZ, AKA**
IRVIN JESUS YANEZ, OWNER
20 1488 Knights Row
Yuba City, CA 95991

21 and

22 **IRVIN JESUS YANEZ, AKA**
IRVIN J. YANEZ
23 1628 South Pointe Drive
Yuba City, C 95991
24 **Smog Check Inspector (EO) License**
No. 631690
25 **Smog Check Repair Technician (EI) License**
No. 631690
26 **(formerly Advanced Emission Specialist**
Technician License No. EA 631690)

27 Respondents.
28

1 631690 and Smog Check Repair Technician (EI) License No. 631690.¹ The Smog Check
2 Inspector (EO) License and Smog Check Repair Technician (EI) License were in full force and
3 effect at all times relevant to the charges brought herein and will expire on December 31, 2015,
4 unless renewed.

5 **Prior Disciplinary Action**

6 6. In a disciplinary action entitled *In the Matter of the Accusation Against Go Go Smog*
7 *& Auto Glass . . . and Irvin Jesus Yanez, Advanced Emission Specialist Technician License No.*
8 *EA 631690*, Case No. 79/12-171, the Director adopted a Stipulated Settlement and Disciplinary
9 Order, effective December 20, 2012, revoking Respondent's Advanced Emission Specialist
10 Technician License. However, the revocation was stayed and Respondent's Advanced Emission
11 Technician License (which has been renewed as Respondent's Smog Check Inspector (EO)
12 License No. 631690 and Smog Check Repair Technician (EI) License No. 631690) were placed
13 on probation for three (3) years with certain terms and conditions.

14 **JURISDICTION**

15 7. Accusation and Petition to Revoke Probation No. 79/15-79 was filed before the
16 Director, for the Bureau, and is currently pending against Respondent. The Accusation and
17 Petition to Revoke Probation and all other statutorily required documents were properly served on
18 Respondent on December 3, 2014. Respondent timely filed his Notice of Defense contesting the
19 Accusation and Petition to Revoke Probation. A true and correct copy of Accusation and Petition
20 to Revoke Probation No. 79/15-79 is attached hereto, marked as Exhibit A, and incorporated by
21 reference.

22 **ADVISEMENT AND WAIVERS**

23 8. Respondents Golden State and Yanez have carefully read, fully discussed with
24 counsel, and understands the charges and allegations in Accusation and Petition to Revoke
25 Probation No. 79/15-79. Respondents Golden State and Yanez also have carefully read, fully
26

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

1 discussed with counsel, and understand the effects of this Stipulated Revocation of Licenses and
2 Order.

3 9. Respondents Golden State and Yanez are fully aware of their respective legal rights
4 in this matter, including the right to a hearing on the charges and allegations in the Accusation
5 and Petition to Revoke Probation; the right to be represented by counsel, at their own expense; the
6 right to confront and cross-examine the witnesses against him; the right to present evidence and to
7 testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of
8 witnesses and the production of documents; the right to reconsideration and court review of an
9 adverse decision; and all other rights accorded by the California Administrative Procedure Act
10 and other applicable laws.

11 10. Respondents Golden State and Yanez voluntarily, knowingly, and intelligently
12 waives and gives up each and every right set forth above.

13 CULPABILITY

14 **Respondent Golden State**

15 11. Respondent Golden State admits the truth of each and every charge and allegation in
16 Accusation and Petition to Revoke Probation No. 79/15-79, agrees that cause exists for discipline,
17 and hereby agrees to revocation of Automotive Repair Dealer Registration No. ARD 269328 and
18 Smog Check Station License No. RC 269328, and to be bound by the Director's Disciplinary
19 Order set forth below.

20 12. Respondent Golden State understands that by signing this stipulation, it enables the
21 Director to issue his order accepting the revocation of its Automotive Repair Dealer Registration
22 No. ARD 269328 and Smog Check Station License No. RC 269328 without further process.

23 **Respondent Yanez**

24 13. Respondent Yanez admits the truth of each and every charge and allegation in
25 Accusation and Petition to Revoke Probation No. 79/15-79, agrees that cause exists for discipline,
26 and hereby agrees to revocation of Smog Check Inspector (EO) License No. 631690 and Smog
27 Check Repair Technician (EI) License No. 631690, and to be bound by the Director's
28 Disciplinary Order set forth below.

1 ORDER

2 **IT IS HEREBY ORDERED** that Automotive Repair Dealer Registration No. ARD
3 269328 and Smog Check Station License No. RC 269328 issued to Respondent Golden State
4 Smog & Repair, Irvin Jesus Yanez, Owner, also known as Irvin J. Yanez, (collectively referred to
5 herein as "Respondent Golden State"), and Smog Check Inspector (EO) License No. 631690 and
6 Smog Check Repair Technician (EI) License No. 631690 issued to Irvin Jesus Yanez, also known
7 as Irvin J. Yanez, ("Respondent Yanez"), are REVOKED, and accepted by the Director of the
8 Department of Consumer Affairs ("Director").

9 1. The revocation of the Automotive Repair Dealer Registration and Smog Check
10 Station License issued to Respondent Golden State, and the Smog Check Inspector (EO) License
11 and Smog Check Repair Technician (EI) License issued to Respondent Yanez, and the acceptance
12 of the revoked registration and licenses by the Director shall constitute the imposition of
13 discipline against Respondents Golden State and Yanez. This stipulation constitutes a record of
14 the discipline and shall become a part of Respondent Golden State's and Respondent Yanez's
15 respective license histories with the Bureau of Automotive Repair ("Bureau").

16 2. Respondent Golden State shall lose all rights and privileges as an Automotive Repair
17 Dealer and Smog Check Station in California as of the effective date of the Director's Decision
18 and Order.

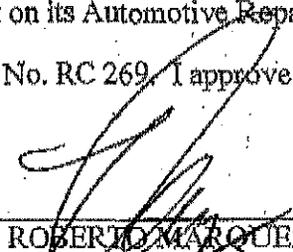
19 3. Respondent Yanez shall lose all rights and privileges as a Smog Check Inspector
20 (EO) and Smog Check Repair Technician (EI) in California as of the effective date of the
21 Director's Decision and Order.

22 4. On or before the effective date of the Decision and Order: Respondent Golden State
23 shall cause to be delivered to the Bureau its pocket licenses for Automotive Repair Dealer
24 Registration No. ARD 269328 and Smog Check Station License No. RC 269328 issued to
25 Respondent Golden State; and, Respondent Yanez shall cause to be delivered to the Bureau his
26 Smog Check Inspector (EO) License No. 631690 and Smog Check Repair Technician (EI)
27 License No. 631690 issued to Respondent Yanez; and for each Respondent, if issued, their
28 respective wall certificates.

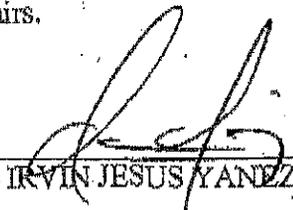
1 License No. RC 269328. I enter into this Stipulated Revocation of Licenses and Order
 2 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the
 3 Director of the Department of Consumer Affairs.

4
 5 DATED: 9/8/15 
 6 GOLDEN STATE SMOG & REPAIR
 7 By and Through IRVIN JESUS YANEZ, OWNER
 8 Respondent

9 I have read and fully discussed with Respondent Golden State Smog & Auto and Irvin
 10 Jesus Yanez, Owner, the terms and conditions and other matters contained in this Stipulated
 11 Revocation of Licenses and Order and its effect on its Automotive Repair Dealer Registration No.
 12 ARD 269328 and Smog Check Station License No. RC 269. I approve its form and content.

13 DATED: 9-8-2015 
 14 ROBERTO MARQUEZ
 15 Attorney for Respondent GOLDEN STATE
 16 SMOG & AUTO, IRVIN JESUS YANEZ,
 17 OWNER

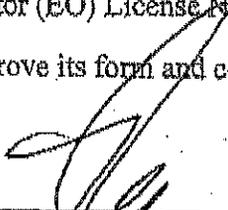
18 I have carefully read the above Stipulated Revocation of Licenses and Order and have fully
 19 discussed it with my attorney, Roberto Marquez. I understand the stipulation and the effect it will
 20 have on my Smog Check Inspector (EO) License No. 631690 and Smog Check Repair Technician
 21 (EI) License No. 631690. I enter into this Stipulated Revocation of Licenses and Order
 22 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the
 23 Director of the Department of Consumer Affairs.

24 DATED: 9/8/15 
 25 IRVIN JESUS YANEZ, Respondent

26 I have read and fully discussed with Respondent Irvin Jesus Yanez, the terms and
 27 conditions and other matters contained in this Stipulated Revocation of License and Order and its
 28

1 effect on Respondent Yanez's Smog Check Inspector (EO) License No. 631690 and Smog Check
2 Repair Technician (EI) License No. 631690. I approve its form and content.

3
4 DATED: 9-8-2015


ROBERTO MARQUEZ
Attorney for Respondent IRVIN JESUS YANEZ,
TECHNICIAN

5
6
7
8
9 **ENDORSEMENT**

10 The foregoing Stipulated Revocation of Licenses and Order is hereby respectfully
11 submitted for consideration by the Director of Consumer Affairs.

12 DATED: 9-9-2015

Respectfully submitted,

13 KAMALA D. HARRIS
14 Attorney General of California
15 KENT D. HARRIS
16 Supervising Deputy Attorney General


17 LESLIE A. BURGERMYER
18 Deputy Attorney General
19 Attorneys for Complainant

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Exhibit A

Accusation and Petition to Revoke Probation No. 79/15-79

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2 KENT D. HARRIS
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7 *Attorneys for Complainant*

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 and Petition to
Revoke Probation Against:

Case No. 79/15-79

13 **ACCUSATION AND PETITION TO**
14 **REVOKE PROBATION**

13 **GOLDEN STATE SMOG & REPAIR**
14 **IRVIN J. YANEZ, AKA**
15 **IRVIN JESUS YANEZ, OWNER**
870 Von Geldern Way
16 Yuba City, CA 95991
Automotive Repair Dealer Registration No.
ARD 269328
17 **Smog Check Station License No. RC 269328**

18 Mailing Address:

18 **GOLDEN STATE SMOG & REPAIR,**
19 **IRVIN J. YANEZ, AKA**
20 **IRVIN JESUS YANEZ, OWNER**
1488 Knights Row
Yuba City, CA 95991

21 and

22 **IRVIN JESUS YANEZ, AKA**
23 **IRVIN J. YANEZ**
1628 South Pointe Drive
Yuba City, C 95991
24 **Smog Check Inspector (EO) License**
No. 631690
25 **Smog Check Repair Technician (EI) License**
No. 631690
26 **(formerly Advanced Emission Specialist**
Technician License No. EA 631690)

27 Respondents.
28

1 Patrick Dorais ("Complainant") alleges:

2 **PARTIES**

3 1. Complainant brings this Accusation and Petition to Revoke Probation solely in his
4 official capacity as the Chief of the Bureau of Automotive Repair ("Bureau"), Department of
5 Consumer Affairs.

6 **Automotive Repair Dealer Registration**

7 2. On or about June 5, 2012, the Director of Consumer Affairs ("Director") issued
8 Automotive Repair Dealer Registration Number ARD 269328 ("registration") to Irvin J. Yanez,
9 also known as Irvin Jesus Yanez ("Respondent"), doing business as Golden State Smog & Repair.
10 The automotive repair dealer registration was in full force and effect at all times relevant to the
11 charges brought herein and will expire on June 30, 2015, unless renewed.

12 **Smog Check Station License**

13 3. On or about November 8, 2012, the Director issued Smog Check Station License
14 Number RC 269328 ("station license") to Respondent. The smog check station license was in full
15 force and effect at all times relevant to the charges brought herein and will expire on June 30,
16 2015, unless renewed.

17 **Smog Check Inspector/Smog Check Repair Technician Licenses**

18 4. On January 25, 2010, the Director issued Advanced Emission Specialist (EA)
19 Technician License Number 631690 to Respondent. Pursuant to California Code of Regulations,
20 title 16 ("Regulations"), section 3340.28, subdivision (e), and effective December 10, 2013,
21 Respondent elected to renew the license as Smog Check Inspector (EO) License No. 631690 and
22 Smog Check Repair Technician (EI) License No. 631690.¹ The Smog Check Inspector (EO)
23 License No. 631690 and Smog Check Repair Technician (EI) License No. 631690 were in full
24

25 ¹ 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 force and effect at all times relevant to the charges brought herein and will expire on
2 December 31, 2015, unless renewed.

3 **Prior Disciplinary Action**

4 5. In a disciplinary action entitled *In the Matter of the Accusation Against Go Go Smog*
5 *& Auto Glass. . . and Irvin Jesus Yanez, Advanced Emission Specialist Technician License No.*
6 *EA 631690*, Case No. 79/12-171, the Director adopted a Stipulated Settlement and Disciplinary
7 Order, effective December 20, 2012, revoking Respondent's Advanced Emission Specialist
8 Technician License. However, the revocation was stayed and Respondent's Advanced Emission
9 Technician License (which has been renewed as Respondent's Smog Check Inspector (EO)
10 License No. 631690 and Smog Check Repair Technician (EI) License No. 631690) was placed on
11 probation for three (3) years with certain terms and conditions.

12 **STATUTORY AND REGULATORY PROVISIONS**

13 6. Section 9884.7 of the Business and Professions Code ("Code") states, in pertinent
14 part:

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

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

20 . . .
21 (4) Any other conduct that constitutes fraud.

21 . . .
22 (6) Failure in any material respect to comply with the provisions of this chapter
23 or regulations adopted pursuant to it.

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

27 (c) Notwithstanding subdivision (b), the director may suspend, revoke, or place
28 on probation the registration for all places of business operated in this state by an

1 automotive repair dealer upon a finding that the automotive repair dealer has, or is,
2 engaged in a course of repeated and willful violations of this chapter, or regulations
3 adopted pursuant to it.

4 7. Code section 118, subdivision (b), states:

5 The suspension, expiration, or forfeiture by operation of law of a license issued
6 by a board in the department, or its suspension, forfeiture, or cancellation by order of
7 the board or by order of a court of law, or its surrender without the written consent of
8 the board, shall not, during any period in which it may be renewed, restored, reissued,
9 or reinstated, deprive the board of its authority to institute or continue a disciplinary
10 proceeding against the licensee upon any ground provided by law or to enter an order
11 suspending or revoking the license or otherwise taking disciplinary action against the
12 licensee on any such ground.

13 8. Code section 9884.13 provides, in pertinent part, that the expiration of a valid
14 registration shall not deprive the director or chief of jurisdiction to proceed with a disciplinary
15 proceeding against an automotive repair dealer or to render a decision invalidating a registration
16 temporarily or permanently.

17 9. Code section 477 provides, in pertinent part, that "Board" includes "bureau,"
18 "commission," "committee," "department," "division," "examining committee," "program," and
19 "agency." "License" includes certificate, registration or other means to engage in a business or
20 profession regulated by the Code.

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

24 11. Health & Safety Code section 44072.2 states, in pertinent part:

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

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

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

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

1 set forth in Table 1, below, certifying that he had tested and inspected those vehicles and that the
 2 vehicles were in compliance with applicable laws and regulations. In fact, Respondent performed
 3 the smog inspections using the clean piping method² by using the tail pipe emissions of vehicles
 4 other than the vehicles being certified in order to issue the electronic certificates of compliance.
 5 The vehicles certified were not in the test bay at the time of the smog inspections.

6 **Table 1**

Date and Test Times	Vehicle Certified	Vehicle Actually Tested	Certificate Issued	Details
1. 4/10/2014 1316 hours to 1323 hours	2001 Honda Civic license number 4VLC045	Gold Convertible and Black Ford Mustang	PG291257C	Respondent performed the smog inspection.
2. 4/10/2014 1455 hours to 1505 hours	1988 Ford F-150 Pickup license number 3P18135	Burgundy Chevrolet Suburban	PG291259C	Respondent performed the smog inspection.
3. 4/10/2014 1527 hours to 1534 hours	2002 Chevrolet Corvette license number 5CWL641	White Chevrolet Camaro & Black Ford Mustang	PG291260C	Respondent performed the smog inspection.
4. 4/10/2014 1726 hours to 1734 hours	2007 Toyota Corolla license number 6MSV944	Beige Chevrolet Tahoe	PG291262C	Respondent performed the smog inspection.

20 **FIRST CAUSE FOR DISCIPLINE**

21 **(Untrue or Misleading Statements)**

22 18. Respondent's registration is subject to disciplinary action under Code section 9884.7,
 23 subdivision (a)(1), in that on or about April 10, 2014, Respondent made or authorized statements
 24 which he knew or in the exercise of reasonable care should have known to be untrue or

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

1 misleading. Specifically, Respondent issued Certificates of Compliance, certifying that vehicles
2 were in compliance with applicable laws and regulations when, in fact, those vehicles had been
3 clean-piped, as set forth in paragraph 17, above, incorporated herein by reference.

4 **SECOND CAUSE FOR DISCIPLINE**

5 **(Fraud)**

6 19. Respondent's registration is subject to disciplinary action under Code section 9884.7,
7 subdivision (a)(4), in that on or about April 10, 2014, Respondent committed acts that constitute
8 fraud by issuing Certificates of Compliance for vehicles without performing a bona fide
9 inspection on those vehicles, as set forth in paragraph 17, above, incorporated herein by
10 reference, thereby depriving the People of the State of California of the protection afforded by the
11 Motor Vehicle Inspection Program.

12 **THIRD CAUSE FOR DISCIPLINE**

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

14 20. Respondent's station license is subject to disciplinary action under Health & Safety
15 Code section 44072.2, subdivision (a), in that on or about April 10, 2014, Respondent failed to
16 comply with the provisions of that Code as regards the vehicles set forth in paragraph 17, above,
17 incorporated herein by reference, as follows:

18 a. **Section 44012, subdivision (f):** Respondent failed to ensure that the emission
19 control tests were performed in accordance with the procedures prescribed by the department.

20 b. **Section 44015, subdivision (b):** Respondent issued Certificates of Compliance
21 without properly testing and inspecting the vehicles to determine if they were in compliance with
22 Health & Safety Code section 44012.

23 c. **Section 44059:** Respondent falsely represented on the Certificates of Compliance
24 that the vehicles had been inspected as required when, in fact, they had not.

25 **FOURTH CAUSE FOR DISCIPLINE**

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

27 21. Respondent's station license is subject to disciplinary action under Health & Safety
28 Code section 44072.2, subdivision (c), in that on or about April 10, 2014, Respondent failed to

1 comply with Regulations as regards the vehicles set forth in paragraph 17, above, incorporated
2 herein by reference, as follows:

3 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued
4 Certificates of Compliance for the vehicles without performing a bona fide inspection of the
5 emission control devices and systems on those vehicles as required by Health & Safety Code
6 section 44012.

7 b. **Section 3340.35, subdivision (c):** Respondent issued Certificates of Compliance
8 even though the vehicles had not been inspected in accordance with Regulation section 3340.42.

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

12 d. **Section 3340.42:** Respondent failed to ensure that the required smog tests were
13 conducted in accordance with the Bureau's specifications.

14 **FIFTH CAUSE FOR DISCIPLINE**

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

16 22. Respondent's station license is subject to disciplinary action under Health & Safety
17 Code section 44072.2, subdivision (d), in that on or about April 10, 2014, Respondent committed
18 a dishonest, fraudulent, or deceitful act whereby another is injured by issuing Certificates of
19 Compliance for the vehicles set forth in paragraph 17, above, incorporated herein by reference,
20 when, in fact, those vehicles had not been properly tested and inspected, thereby depriving the
21 People of the State of California of the protection afforded by the Motor Vehicle Inspection
22 Program.

23 **SIXTH CAUSE FOR DISCIPLINE**

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

25 23. Respondent's smog check inspector license is subject to disciplinary action under
26 Health & Safety Code section 44072.2, subdivision (a), in that on or about April 10, 2014,

27 ///

28

1 Respondent failed to comply with section 44012 of that Code as regards the vehicles set forth in
2 paragraph 17, above, incorporated herein by reference, as follows:

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

6 b. **Section 44032:** Respondent failed to perform tests of the emission control devices
7 and systems in accordance with Health & Safety Code section 44012, in that the vehicles had
8 been clean-piped.

9 c. **Section 44059:** Respondent willfully made false entries into the Emission Inspection
10 System ("EIS") for a Certificate of Compliance by entering vehicle identification information or
11 emission control information for a vehicle other than the ones being tested.

12 **SEVENTH CAUSE FOR DISCIPLINE**

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

14 24. Respondent's smog check inspector license is subject to disciplinary action under
15 Health & Safety Code section 44072.2, subdivision (c), in that on or about April 10, 2014,
16 Respondent failed to comply with Regulations as regards the vehicles set forth in paragraph 17,
17 above, incorporated herein by reference, as follows:

18 a. **Section 3340.30, subdivision (a):** Respondent failed to inspect and test the vehicles
19 in accordance with Health & Safety Code section 44012.

20 b. **Section 3340.41, subdivision (c):** Respondent entered false information into the EIS
21 by entering vehicle identification information or emission control system identification data for a
22 vehicle other than the ones being tested.

23 c. **Section 3340.42:** Respondent failed to ensure that the required smog tests were
24 conducted in accordance with the Bureau's specifications.

25 ///

26 ///

27 ///

28

1 Impala, certifying that the vehicle was in compliance with applicable laws and regulations when,
2 in fact, the vehicle had been clean-piped.

3 **TENTH CAUSE FOR DISCIPLINE**

4 **(Fraud)**

5 28. Respondent's registration is subject to disciplinary action under Code section 9884.7,
6 subdivision (a)(4), in that on or about April 30, 2014, Respondent committed an act that
7 constitutes fraud by issuing a Certificate of Compliance for the 2003 Chevrolet Impala without
8 performing a bona fide inspection on that vehicle, thereby depriving the People of the State of
9 California of the protection afforded by the Motor Vehicle Inspection Program.

10 **ELEVENTH CAUSE FOR DISCIPLINE**

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

12 29. Respondent's station license is subject to disciplinary action under Health & Safety
13 Code section 44072.2, subdivision (a), in that on or about April 30, 2014, Respondent failed to
14 comply with the provisions of that Code as regards the 2003 Chevrolet Impala, as follows:

15 a. **Section 44012, subdivision (f):** Respondent failed to ensure that the emission
16 control tests were performed in accordance with the procedures prescribed by the department.

17 b. **Section 44015, subdivision (b):** Respondent issued a Certificate of Compliance
18 without properly testing and inspecting the vehicle to determine if it was in compliance with
19 Health & Safety Code section 44012.

20 c. **Section 44059:** Respondent falsely represented on the Certificate of Compliance that
21 the vehicle had been inspected as required when, in fact, it had not.

22 **TWELFTH CAUSE FOR DISCIPLINE**

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

24 30. Respondent's station license is subject to disciplinary action under Health & Safety
25 Code section 44072.2, subdivision (c), in that on or about April 30, 2014, Respondent failed to
26 comply with Regulations as regards the 2003 Chevrolet Impala, as follows:

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1 a. Section 3340.24, subdivision (c): Respondent falsely or fraudulently issued a
2 Certificate of Compliance for the vehicle without performing a bona fide inspection of the
3 emission control devices and systems on that vehicle as required by Health & Safety Code section
4 44012.

5 b. Section 3340.35, subdivision (c): Respondent issued a Certificate of Compliance
6 even though the vehicle had not been inspected in accordance with section 3340.42.

7 c. Section 3340.41, subdivision (c): Respondent entered false information into the EIS
8 by entering vehicle identification information or emission control system identification data for a
9 vehicle other than the one being tested.

10 d. Section 3340.42: Respondent failed to ensure that the required smog test was
11 conducted in accordance with the Bureau's specifications.

12 **THIRTEENTH CAUSE FOR DISCIPLINE**

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

14 31. Respondent's station license is subject to disciplinary action under Health & Safety
15 Code section 44072.2, subdivision (d), in that on or about April 30, 2014, Respondent committed
16 a dishonest, fraudulent or deceitful act whereby another is injured by issuing a Certificate of
17 Compliance for the 2003 Chevrolet Impala when, in fact, it had not been properly tested and
18 inspected, thereby depriving the People of the State of California of the protection afforded by the
19 Motor Vehicle Inspection Program.

20 **FOURTEENTH CAUSE FOR DISCIPLINE**

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

22 32. Respondent's smog check inspector license is subject to disciplinary action under
23 Health & Safety Code section 44072.2, subdivision (a), in that on or about April 30, 2014,
24 Respondent failed to comply with section 44012 of that Code as regards the 2003 Chevrolet
25 Impala, as follows:

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

4 b. **Section 44032:** Respondent failed to perform tests of the emission control devices
5 and systems in accordance with Health & Safety Code section 44012, in that the vehicle had been
6 clean-piped.

7 c. **Section 44059:** Respondent willfully made false entries into the EIS for a Certificate
8 of Compliance by entering vehicle identification information or emission control information for
9 a vehicle other than the one being tested.

10 **FIFTEENTH CAUSE FOR DISCIPLINE**

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

12 33. Respondent's smog check inspector license is subject to disciplinary action under
13 Health & Safety Code section 44072.2, subdivision (c), in that on or about April 30, 2014,
14 Respondent failed to comply with Regulations as regards the 2003 Chevrolet Impala as follows:

15 a. **Section 3340.30(a):** Respondent failed to inspect and test the vehicle in accordance
16 with Health & Safety Code section 44012.

17 b. **Section 3340.41, subdivision (c):** Respondent entered false information into the EIS
18 by entering vehicle identification information or emission control system identification data for a
19 vehicle other than the one being tested.

20 c. **Section 3340.42:** Respondent failed to ensure that the required smog test was
21 conducted in accordance with the Bureau's specifications.

22 **SIXTEENTH CAUSE FOR DISCIPLINE**

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

24 34. Respondent's technician licenses are subject to disciplinary action under Health &
25 Safety Code section 44072.2, subdivision (d), in that on or about April 30, 2014, Respondent
26 committed a dishonest, fraudulent or deceitful act whereby another is injured by certifying a
27 Certificate of Compliance for the 2003 Chevrolet Impala without performing a bona fide
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1 inspection of the emission control devices and systems on the vehicle, thereby depriving the
2 People of the State of California of the protection afforded by the Motor Vehicle Inspection
3 Program.

4 **PETITION TO REVOKE PROBATION**

5 35. Complainant incorporates by reference as though fully set forth herein the allegations
6 contained in paragraphs 17, 23 through 25, and 32 through 34, and their subparts, above.

7 36. Condition Number 8 of Respondent's probation states, in pertinent part:

8 Should the Director determine that . . . Respondent Yanez has failed to comply
9 with the terms and conditions of probation, then the Director may, after giving notice
10 and opportunity to be heard, revoke the . . . Advanced Emission Specialist Technician
11 License Number EA631690 issued to Respondent Yanez.

12 37. Grounds exist to revoke Respondent's probation and re-impose the order of
13 revocation of his Smog Check Inspector License and Smog Check Repair Technician License
(formerly Advanced Emission Specialist Technician License).

14 **CAUSE TO REVOKE PROBATION**

15 **(Failure to Obey All Laws)**

16 38. Condition 2 of Respondent's probation states, in pertinent part, "[R]espondent Yanez
17 shall comply with all statutes, regulations and rules governing automotive inspections, estimates
18 and repairs."

19 39. Respondent's probation is subject to revocation in that he failed to comply with all
20 statutes, regulations, and rules governing automotive inspections, as set forth above in
21 paragraphs 17, 23 through 25, and 32 through 34, and subparts, above.

22 **OTHER MATTERS**

23 40. Under Code section 9884.7, subdivision (c), the director may invalidate temporarily
24 or permanently or refuse to validate, the registrations for all places of business operated in this
25 state by Irvin J. Yanez, also known as Irvin Jesus Yanez, upon a finding that he has, or is,
26 engaged in a course of repeated and willful violations of the laws and regulations pertaining to an
27 automotive repair dealer.

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1 6. Revoking or suspending any additional license issued under Chapter 5 of the Health
2 and Safety Code in the name of Irvin Jesus Yanez, also known as Irvin J. Yanez;

3 7. Ordering Irvin Jesus Yanez, also known as Irvin J. Yanez to pay the Director of
4 Consumer Affairs the reasonable costs of the investigation and enforcement of this case, pursuant
5 to Business and Professions Code section 125.3; and,

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

7
8 DATED:

November 25, 2014

Patrick Dorais

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

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