

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JUSTIN R. SURBER
Deputy Attorney General
4 455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
5 Telephone: (415) 355-5437
Facsimile: (415) 703-5480
6 *Attorneys for Complainant Bureau of Automotive Repair*

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

11 In the Matter of the Accusation Against:

Case Number: 79/16-122

12 **AZTLAN AUTO REPAIR**
13 **15 Davis Ave.**
14 **Freedom, CA 95019**
15 **ENRIQUE RAMIREZ, OWNER**

ACCUSATION

16 **Automotive Repair Dealer Registration No. ARD 269482**
17 **Smog Check Station License No. RC 269482**
18 **Lamp Station License No. LS 269482**
19 **Brake Station License No. BS 269482**

20 **ENRIQUE RAMIREZ-ORTIZ**
21 **15 Davis Ave.**
22 **Freedom, CA 95019**
23 **P.O. Box 3538,**
24 **Freedom, CA 95019**

25 **Smog Check Inspector (EO) License No. 151159**
26 **Smog Check Repair Technician (EI) License No. 151159**
27 **Brake Adjuster License No. LA 151159, Class A**
28 **Lamp Adjuster License No. BA 151159, Class C**

SALVADOR MENDOZA ARTEAGA
129 Live Oak Rd.
Royal Oaks, CA 95076

Smog Check Inspector (EO) License No. 637624

Respondents.

Complainant alleges:

///

///

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, Department of Consumer Affairs.

4 **Automotive Repair Dealer Registration**

5 2. On or about June 21, 2012, the Bureau issued Automotive Repair Dealer Registration
6 Number ARD 269482 (“Registration”) to Enrique Ramirez (“Respondent Ramirez”) doing
7 business as Aztlan Auto Repair. The registration was in full force and effect at all times relevant
8 to the charges brought herein and will expire on June 30, 2017, unless renewed.

9 **Smog Check Test Only Station License**

10 3. On or about July 17, 2012, the Bureau issued Smog Check Station License Number
11 RC 269482 (“smog station license”) to Respondent Ramirez. The smog station license was in full
12 force and effect at all times relevant to the charges brought herein and will expire on June 30,
13 2017, unless renewed.

14 **Lamp Station License**

15 4. On or about October 29, 2014, the Bureau issued Lamp Station License Number LS
16 269482, class A (“lamp station license”) to Respondent Ramirez. The lamp station license was in
17 full force and effect at all times relevant to the charges brought herein and will expire on June 30,
18 2017, unless renewed.

19 **Brake Station License**

20 5. On or about October 29, 2014, the Bureau issued Brake Station License Number BS
21 269482, class C (“brake station license”) to Respondent Ramirez. The brake station license was
22 in full force and effect at all times relevant to the charges brought herein and will expire on June
23 30, 2017, unless renewed.

24 **Smog Check Licenses**

25 6. In or about 2005, the Director issued Advanced Emission Specialist Technician
26 License Number EA 151159 to Enrique Ramirez-Ortiz (Respondent Ramirez)¹. Respondent
27

28 ¹ Respondent Enrique Ramirez-Ortiz is the same person as Enrique Ramirez.

1 Ramirez's advanced emission specialist technician license expired on June 30, 2013 and was
2 cancelled on July 2, 2013. Pursuant to California Code of Regulations, title 16, section 3340.28,
3 subdivision (e), the license was renewed, pursuant to Respondent's election, as Smog Check
4 Inspector License EO 151159 and Smog Check Repair Technician License EI 151159.
5 Respondent Ramirez-Ortiz's Smog Check Inspector License and Smog Check Repair Technician
6 License will expire on June 30, 2017, unless renewed.²

7 7. On or about December 8, 2014, the Director issued Smog Check Inspector License
8 EO 637624 to Salvador Mendoza Arteaga (Respondent Arteaga). Respondent Arteaga's Smog
9 Check Inspector License will expire on March 31, 2017, unless renewed.

10 **Lamp Adjuster License**

11 8. On or about June 2, 2014, the Director issued Lamp Adjuster License No. (LA)
12 151159, class A, to Respondent Ramirez-Ortiz. The Lamp adjuster license will expire on June
13 30, 2017, unless renewed.

14 **Brake Adjuster License**

15 9. On or about September 19, 2014, the Director issued Brake Adjuster License No.
16 (BA) 151159, Class C, to Respondent Ramirez-Ortiz. The Brake adjuster license will expire on
17 June 30, 2018, unless renewed.

18 **JURISDICTION**

19 10. This Accusation is brought before the Director of the Department of Consumer
20 Affairs (Director) for the Bureau of Automotive Repair, under the authority of the following laws.

21 **STATUTORY AND REGULATORY PROVISIONS**

22 11. Section 9884.7 of the Business and Professions Code ("Code") states, in pertinent
23 part:

24 (a) The director, where the automotive repair dealer cannot show there was a bona fide
25 error, may deny, suspend, revoke, or place on probation the registration of an automotive repair

26 ² Effective August 1, 2012, California Code of Regulations, title 16, section 3340.28,
27 3340.29 and 3340.30 were amended to implement a license restructure from the Advanced
28 Emission Specialist Technician (EA) license and Basic Area (EB) Technician license to Smog
Check Inspector (EO) license and and/or Smog Check Repair Technician (EI) license.

1 dealer for any of the following acts or omissions related to the conduct of the business of the
2 automotive repair dealer, which are done by the automotive repair dealer or any automotive
3 technician, employee, partner, officer, or member of the automotive repair dealer.

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

7 ...

8 (4) Any other conduct that constitutes fraud.

9 ...

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

12 ...

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

17 12. Code section **9884.13** provides, in pertinent part, that the expiration of a valid
18 registration shall not deprive the director or chief of jurisdiction to proceed with a disciplinary
19 proceeding against an automotive repair dealer or to render a decision invalidating a registration
20 temporarily or permanently.

21 13. Section **9889.1** of the Business and Professions Code states:

22 "Any license issued pursuant to Articles 5 and 6, may be suspended or revoked by the
23 director. The director may refuse to issue a license to any applicant for the reasons set forth in
24 Section 9889.2. The proceedings under this article shall be conducted in accordance with Chapter
25 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code,
26 and the director shall have all the powers granted therein."

27 14. Section **9889.3** of the Business and Professions Code states:
28

1 The director may suspend, revoke, or take other disciplinary action against a license as
2 provided in this article if the licensee or any partner, officer, or director thereof:

3 ...

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

5 ...

6 15. Section **9889.7** of the Business and Professions Code states:

7 “The expiration or suspension of a license by operation of law or by order or decision of the
8 director or a court of law, or the voluntary surrender of a license by a licensee shall not deprive
9 the director of jurisdiction to proceed with any investigation of or action or disciplinary
10 proceedings against such licensee, or to render a decision suspending or revoking such license.”

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

14 17. Section **44012** of the Health and Safety Code requires that tests at smog check
15 stations be performed in accordance with procedures prescribed by the department.

16 18. Section **44059** of the Health and Safety Code states, in pertinent part:

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

21 19. Section **44072.2** of the Health and Safety Code states, in pertinent part:

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

25 (a) Violates any section of this chapter and the regulations adopted pursuant to it, which
26 related to the licensed activities.

27 ...

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

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

2 . . .

3 (h) Violates or attempts to violate the provisions of this chapter relating to the particular
4 activity for which he or she is licensed.

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

9 21. Section **44072.8** of the Health and Safety Code states:

10 When a license has been revoked or suspended following a hearing under this article, any
11 additional license issued under this chapter in the name of the licensee may be likewise revoked
12 or suspended by the director.

13 22. California Code of Regulations, title 16, section **3340.24**, states:

14 “. . .(c) The bureau may suspend or revoke the license of or pursue other legal action
15 against a licensee, if the licensee falsely or fraudulently issues or obtains a certificate of
16 compliance or a certificate of noncompliance. . .”

17 23. California Code of Regulations, title 16, section **3340.30**, states, in pertinent part:

18 A licensed smog check inspector and/or repair technician shall comply with the following
19 requirements at all times while licensed:

20 (a) Inspect, test and repair vehicles, as applicable, in accordance with section 44012 of the
21 Health and Safety Code, section 44035 of the Health and Safety Code, and section 3340.42 of this
22 article.

23 . . .

24 24. California Code of Regulations, title 16, section **3340.41(c)**, states:

25 “No person shall enter into the emissions inspection system any vehicle identification
26 information or emission control system identification data for any vehicle other than the one
27 being tested. Nor shall any person knowingly enter into the emissions inspection system any false
28 information about the vehicle being tested.”

1 30. As part of the BAR-OIS smog inspections, the technician also performs a visual and
2 functional test on the vehicle being inspected. The visual inspection of the emission control
3 components verifies the required emission control devices are present and properly connected and
4 a functional test is performed of the malfunction indicator light (MIL). The BAR-OIS software
5 makes the determination whether or not the vehicle passes the inspection based on the results of
6 the OBD, visual and functional tests. If the vehicle passes the inspection a certificate of
7 compliance is issued. The information from the smog inspection is then transmitted to the
8 Vehicle Information Data (VID).

9 31. The Bureau can access the VID to view test data on smog check inspections
10 performed at any Smog Check Station, or search for, retrieve, and print a test record for a
11 particular vehicle which has been tested.

12 32. The Bureau has become aware of several methods used by Smog Check stations and
13 Smog Check technicians to issue improper/fraudulent smog certificates of compliance. One
14 method is known as clean plugging. Clean plugging involves using another vehicle's properly
15 functioning OBD II system, or another source, to generate passing diagnostic readings for the
16 purpose of issuing fraudulent smog Certificates of Compliance to vehicles that are not in smog
17 compliance and/or are not present for testing.

18 33. On or about May 7, 2015, the Bureau initiated an investigation of Respondent
19 Ramirez's shop Aztlan Auto Repair. Beginning on or about July 11, 2015 and continuing until
20 about December 16, 2015, Respondents³ were found to have performed 14 fraudulent smog
21 inspections using clean-plugging methods. Clean-plugging is the practice of testing one OBD II
22 system (a system that would pass the smog inspection), for the purpose of fraudulently issuing a
23 smog certificate of compliance to another vehicle that would not pass the smog inspection and/or
24 is not present for testing. The vehicle receiving the certificate of compliance is not actually tested
25 during the smog inspection.

26
27
28 ³ Respondent Arteaga performed the smog tests on behalf of Respondent Ramirez.

1 34. A Bureau representative reviewed data for vehicles inspected by Respondent Arteaga
 2 and certified by Respondent Ramirez. The data revealed that the 14 vehicles that were
 3 purportedly tested by Respondents were not and could not have been connected to the DAD when
 4 they were being certified because the OBD-II data purportedly transmitted by those vehicles
 5 could not have been transmitted by those vehicles.

6 35. The PIDs Counts for the 14 vehicles purportedly being tested did not match the
 7 expected PIDs counts for those vehicles. The eVINs were either not present or incorrect on all of
 8 the 14 vehicles and the communication protocols were not what they should have been.

9 36. Respondent Areaga cleaned plugged fourteen (14) vehicles, resulting in the
 10 issuance of 14 fraudulent Smog Check Certificates of Compliance. The Vehicles were clean
 11 plugged as follows:

Clean Plug 1	Cert. # PS916070C	e-VIN #	Protocol	PID Count
	Passing (Clean Plug) Inspection 7/11/15	Not Present	I9140808	17
	Expected OBDII Value ⁴	1G1ZT58F97F117709	ICAN11bt5	38/7
Clean Plug 2	Cert. # YT672658C	e-VIN #	Protocol	PID Count
	Passing (Clean Plug) Inspection 7/28/15	Not Present	I9140808	16
	Expected OBDII Value	1GNFK16337J197687	ICAN11bt5	44/7
Clean Plug 3	Cert. # PU601183C	e-VIN	Protocol	PID Count
	Passing (Clean Plug) Inspection 8/11/15	Not Present	JVPW1850	21
	Expected OBDII Value	JA3AJ26E46U070620	I9140808	17
Clean Plug 4	Cert. # PU880415C	e-VIN	Protocol	PID Count
	Passing (Clean Plug) Inspection 8/17/15	1GCEK19T51E193690	JVWP1850	23
	Expected OBDII Value	1FAFP31NX6W157807	ICAN11bt5	38
Clean Plug 5	Cert. # PW592058C	e-VIN	Protocol	PID Count
	Passing (Clean Plug) Inspection 9/23/15	Not Present	I9140808	17
	Expected OBDII Value	1G6DP577860111520	ICAN11bt5	42/7
Clean	Cert. # PY079871C	e-VIN	Protocol	PID Count

12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
⁴ Expected OBDII value is the value recorded for "like vehicles" inspected.

Plug 6				
	Passing (Clean Plug) Inspection 10/07/15	Not Present	I9140808	21
	Expected OBDII Value	5TDKK4CC7AS312136	ICAN11bt5	46
Clean Plug 7	Cert. # PY079888C	e-VIN	Protocol	PID Count
	Passing (Clean Plug) Inspection 10/12/15	Not Present	I9140808	16
	Expected OBDII Value	1FMPU16515LB12786	ICAN11bt5	44
Clean Plug 8	Cert. # PY356481C	e-VIN	Protocol	PID Count
	Passing (Clean Plug) Inspection 10/21/15	Not Present	I9140808	16
	Expected OBDII Value	1YVHP80D755M25414	ICAN11bt5	42/12
Clean Plug 9	Cert. # PY878333C	e-VIN	Protocol	PID Count
	Passing (Clean Plug) Inspection 11/09/15	Not Present	I9140808	22
	Expected OBDII Value	KL1TD56606B639820	KWPF	36/1

Clean Plug 10	Cert. # QA175267C	e-VIN #	Protocol	PID Count
	Passing (Clean Plug) Inspection 11/17/15	Not Present	I9140808	16
	Expected OBDII Value	2C3KA53G76H279015	ICAN11bt5	43/6
Clean Plug 11	Cert. #QA376552C	e-VIN #	Protocol	PID Count
	Passing (Clean Plug) Inspection 11/24/15	Not Present	I9140808	16
	Expected OBDII Value	1GCEC19097Z587505	ICAN11bt5	44/7
Clean Plug 12	Cert. #QA656958C	e-VIN	Protocol	PID Count
	Passing (Clean Plug) Inspection 12/5/15	Not Present	JPWM1580	16
	Expected OBDII Value	WVWED71K59W140722	ICAN11bt5	39

Clean Plug 13	Cert. #QA847154C	e-VIN	Protocol	PID Count
	Passing (Clean Plug) Inspection 12/16/15	1FMZU67E63UA00951	JPWM1850	23
	Expected OBDII Value	1G11E5SL6EF263052	ICAN11bt5	43/4
Clean Plug 14	Cert. # QA847155C	e-VIN	Protocol	PID Count
	Passing (Clean Plug) Inspection 12/16/15	1FMZU67E63UA00951	JPWM1850	23
	Expected OBDII Value	3N1AB61E48L696813	ICAN11bt5	38

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

FIRST CAUSE FOR DISCIPLINE

(Misleading Statements - Registration)

37. Respondent Ramirez has subjected his registration to discipline under Code section 9884.7, subdivision (a)(1), in that he made statements which he knew or which by exercise of reasonable care he should have known were untrue or misleading, as set forth above in paragraphs 33-36, above. Respondents fraudulently purported to test the 14 vehicles, and certified that the 14 vehicles passed inspection and were in compliance with applicable laws and regulations. In fact, Respondents conducted the inspections on those vehicles using clean-plugging methods. Allowing Respondent to continue to practice would endanger the public.

SECOND CAUSE FOR DISCIPLINE

(Fraud - Registration)

38. Respondent Ramirez has subjected his registration to discipline under Code section 9884.7, subdivision (a)(4), in that he committed acts which constitute fraud, as set forth above in paragraphs 33-36, above. Allowing Respondent to continue to practice would endanger the public.

THIRD CAUSE FOR DISCIPLINE

(Violation of the Motor Vehicle Inspection Program – Smog Station License)

39. Respondent Ramirez has subjected his station license to discipline under Health and Safety Code section 44072.2, subdivisions (a) and (c), in that he violated sections of that Code and applicable regulations, as set forth above in paragraphs 33-36, as follows:

a. **Section 44012:** Respondent Ramirez failed to ensure that the emission control tests were performed on those vehicles in accordance with procedures prescribed by the department.

b. **Section 3340.24, subdivision (c):** Respondent Ramirez falsely or fraudulently issued electronic certificates of compliance for those vehicles without performing bona fide inspections of the emission control devices and systems on the vehicles as required by Health and Safety Code section 44012.

1 c. **Section 3340.35, subdivision (c):** Respondent Ramirez issued electronic certificates
2 of compliance even though those vehicles had not been inspected in accordance with section
3 3340.42.

4 d. **Section 3340.41, subdivision (c):** Respondent Ramirez entered false information
5 into an inspections system about the vehicle being tested.

6 e. **Section 3340.42:** Respondent Ramirez failed to conduct the required smog tests and
7 inspections on those vehicles in accordance with the Bureau's specifications.

8 f. **Section 3340.45:** Respondent Ramirez failed to conduct the required smog tests and
9 inspections on those vehicles in accordance with the Bureau's smog check procedures manuals.

10 **FOURTH CAUSE FOR DISCIPLINE**

11 **(Dishonesty, Fraud or Deceit – Smog Station License)**

12 40. Respondent Ramirez subjected his station license to suspension/discipline under
13 Health and Safety Code section 44072.2, subdivision (d), in that he committed acts involving
14 dishonesty, fraud or deceit, whereby another was injured by issuing electronic certificates of
15 compliance for vehicles without performing bona fide inspections of the emission control devices
16 and systems on the vehicles, thereby depriving the People of the State of California of the
17 protection afforded by the Motor Vehicle Inspection Program, as set forth above in paragraphs
18 33-36, above.

19 **FIFTH CAUSE FOR DISCIPLINE**

20 **(Violation of the Motor Vehicle Inspection Program – Smog Check Licenses)**

21 41. Respondent Ramirez has subjected his Smog Check Inspector License and Smog
22 Check Repair Technician Licenses to discipline under Health and Safety Code section 44072.2,
23 subdivisions (a) and (c), in that he violated sections of that Code and applicable regulations, as set
24 forth above in paragraphs 33-36, as follows:

25 a. **Section 44012:** Respondent Ramirez failed to ensure that the emission control tests
26 were performed on those vehicles in accordance with procedures prescribed by the department.

27 b. **Section 3340.24, subdivision (c):** Respondent Ramirez falsely or fraudulently issued
28 electronic certificates of compliance for those vehicles without performing bona fide inspections

1 of the emission control devices and systems on the vehicles as required by Health and Safety
2 Code section 44012.

3 c. **Section 3340.35, subdivision (c):** Respondent Ramirez issued electronic certificates
4 of compliance even though those vehicles had not been inspected in accordance with section
5 3340.42.

6 d. **Section 3340.41, subdivision (c):** Respondent Ramirez entered false information
7 into an inspections system about the vehicle being tested.

8 e. **Section 3340.42:** Respondent Ramirez failed to conduct the required smog tests and
9 inspections on those vehicles in accordance with the Bureau's specifications.

10 f. **Section 3340.45:** Respondent Ramirez failed to conduct the required smog tests and
11 inspections on those vehicles in accordance with the Bureau's smog check procedures manuals.

12 SIXTH CAUSE FOR DISCIPLINE

13 **(Dishonesty, Fraud or Deceit – Smog Check Licenses)**

14 42. Respondent Ramirez subjected his Smog Check Inspector and Smog Check Repair
15 Technician Licenses to discipline under Health and Safety Code section 44072.2, subdivision (d),
16 in that he committed acts involving dishonesty, fraud or deceit, whereby another was injured by
17 issuing electronic certificates of compliance for vehicles without performing bona fide
18 inspections of the emission control devices and systems on the vehicles, thereby depriving the
19 People of the State of California of the protection afforded by the Motor Vehicle Inspection
20 Program, as set forth above in paragraph 33-36.

21 SEVENTH CAUSE FOR DISCIPLINE

22 **(Dishonesty, Fraud or Deceit – Lamp Station License)**

23 43. Respondent Ramirez subjected his Lamp Station license to suspension/discipline
24 under Business and Professions code section 9889.3, subdivision (d), in that he committed acts
25 involving dishonesty, fraud or deceit, whereby another was injured by issuing electronic
26 certificates of compliance for vehicles without performing bona fide inspections of the emission
27 control devices and systems on the vehicles, thereby depriving the People of the State of
28 California of the protection afforded by the Motor Vehicle Inspection Program, as set forth above

1 in paragraphs 33-36, above. Allowing Respondent to continue to practice would endanger the
2 public.

3 **EIGHTH CAUSE FOR DISCIPLINE**

4 **(Dishonesty, Fraud or Deceit – Lamp Station License)**

5 44. Respondent Ramirez subjected his Brake Station license to suspension/discipline
6 under Business and Professions Code section 9889.3, subdivision (d), in that he committed acts
7 involving dishonesty, fraud or deceit, whereby another was injured by issuing electronic
8 certificates of compliance for vehicles without performing bona fide inspections of the emission
9 control devices and systems on the vehicles, thereby depriving the People of the State of
10 California of the protection afforded by the Motor Vehicle Inspection Program, as set forth above
11 in paragraphs 33-36, above. Allowing Respondent to continue to practice would endanger the
12 public.

13 **NINTH CAUSE FOR DISCIPLINE**

14 **(Dishonesty, Fraud or Deceit – Lamp Adjuster License)**

15 45. Respondent Ramirez subjected his Lamp Adjuster license to discipline under
16 Business and Professions Code section 9889.3, subdivision (d), in that he committed acts
17 involving dishonesty, fraud or deceit, whereby another was injured by issuing electronic
18 certificates of compliance for vehicles without performing bona fide inspections of the emission
19 control devices and systems on the vehicles, thereby depriving the People of the State of
20 California of the protection afforded by the Motor Vehicle Inspection Program, as set forth above
21 in paragraphs 33-36, above. Allowing Respondent to continue to practice would endanger the
22 public.

23 **TENTH CAUSE FOR DISCIPLINE**

24 **(Dishonesty, Fraud or Deceit – Brake Adjuster License)**

25 46. Respondent Ramirez subjected his Brake Adjuster license to discipline under
26 Business and Professions Code section 9889.3, subdivision (d), in that he committed acts
27 involving dishonesty, fraud or deceit, whereby another was injured by issuing electronic
28 certificates of compliance for vehicles without performing bona fide inspections of the emission

1 control devices and systems on the vehicles, thereby depriving the People of the State of
2 California of the protection afforded by the Motor Vehicle Inspection Program, as set forth above
3 in paragraphs 33-36, above. Allowing Respondent to continue to practice would endanger the
4 public.

5 ///

6 ///

7 ///

8 **ELEVENTH CAUSE FOR DISCIPLINE**

9 **(Violations of the Motor Vehicle Inspection Program – Smog Check Licenses)**

10 47. Respondent Arteaga has subjected his Smog Check Inspector license to discipline
11 under Health and Safety Code section and 44072.2, subdivisions (a) and (c), in that he violated
12 sections of that Code and applicable regulations, as set forth above in paragraphs 33-36, as
13 follows:

14 a. **Section 44012:** Respondent Arteaga failed to ensure that the emission control tests
15 were performed on those vehicles in accordance with procedures prescribed by the department.

16 b. **Section 44059:** Respondent Arteaga willfully made false entries for the electronic
17 certificates of compliance by certifying that those vehicles had been inspected as required when,
18 in fact, they had not.

19 c. **Section 3340.24, subdivision (c):** Respondent Arteaga falsely or fraudulently issued
20 electronic certificates of compliance for those vehicles without performing bona fide inspections
21 of the emission control devices and systems on the vehicles as required by Health and Safety
22 Code section 44012.

23 d. **Section 3340.30, subdivision (a):** Respondent Arteaga failed to inspect and test
24 those vehicles in accordance with Health and Safety Code section 44012 and California code of
25 Regulations title 16, section 3340.42.

26 e. **Section 3340.41, subdivision (c):** Respondent Arteaga entered false information into
27 an inspections system about the vehicle being tested.

28

1 f. **Section 3340.42:** Respondent Arteaga failed to conduct the required smog tests and
2 inspections on those vehicles in accordance with the Bureau's specifications.

3 g. **Section 3340.45:** Respondent Arteaga failed to conduct the required smog tests and
4 inspections on those vehicles in accordance with the Bureau's smog check procedures manuals.

5 **TWELFTH CAUSE FOR DISCIPLINE**

6 **(Dishonesty, Fraud or Deceit – Smog Check Licenses)**

7 48. Respondent Arteaga subjected his Smog Check Inspector License to discipline under
8 Health and Safety Code section 44072.2, subdivision (d), in that he committed acts involving
9 dishonesty, fraud or deceit, whereby another was injured by issuing electronic certificates of
10 compliance for vehicles without performing bona fide inspections of the emission control devices
11 and systems on the vehicles, thereby depriving the People of the State of California of the
12 protection afforded by the Motor Vehicle Inspection Program, as set forth above in paragraphs
13 33-36.

14 **OTHER MATTERS**

15 49. Pursuant to Code section 9884.7, subdivision (c), the Director may suspend, revoke,
16 or place on probation the registration for all places of business operated in this state by
17 Respondent Ramirez, upon a finding that Respondent Ramirez has, or is, engaged in a course of
18 repeated and willful violations of the laws and regulations pertaining to an automotive repair
19 dealer.

20 50. Pursuant to Health & Safety Code section 44072.8, if Respondent Ramirez's Station
21 License is revoked or suspended, any additional license issued under this chapter in the name of
22 said licensee may be likewise revoked or suspended by the director.

23 51. Pursuant to Health & Safety Code section 44072.8, if Respondent Ramirez's Smog
24 Check Inspector License or Smog Check Repair Technician License is revoked or suspended, any
25 additional license issued under this chapter in the name of said licensee may be likewise revoked
26 or suspended by the director.

27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

11. Ordering Enrique Ramirez-Ortiz to pay the Bureau of Automotive Repair the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

12. Ordering Salvador Mendoza Arteaga to pay the Bureau of Automotive Repair the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

///
///
///

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

DATED: 7-1-2016

 *P. Dorais* FDR

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