

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

In the Matter of the Accusation Against:

**OXNARD SMOG TEST ONLY, INC. dba  
OXNARD SMOG TEST ONLY CENTER;  
FIDEL LOPEZ, President**  
3434 S. Saviers Rd, Unit B  
Oxnard, CA 93033

Case No. 79/13-50

Automotive Repair Dealer Registration  
No. ARD 233855  
Smog Check, Test Only, Station License No.  
TC 233855

and

**FIDEL LOPEZ**  
3592 Almond Drive  
Oxnard, CA 93030

Advanced Emission Specialist Technician  
License No. EA 143295  
Smog Check Inspector License No. EO 143295

Respondents.

**DECISION**

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

This Decision shall become effective OCT 09 2013.

DATED: September 17, 2013

  
\_\_\_\_\_  
DONALD CHANG  
Assistant Chief Counsel  
Department of Consumer Affairs

1 KAMALA D. HARRIS  
Attorney General of California  
2 GREGORY J. SALUTE  
Supervising Deputy Attorney General  
3 HEATHER HUA  
Deputy Attorney General  
4 State Bar No. 223418  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-2574  
6 Facsimile: (213) 897-2804  
*Attorneys for Complainant*  
7

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

10  
11 In the Matter of the Accusation Against:

Case No. 79/13-50

12 **OXNARD SMOG TEST ONLY, INC. dba**  
13 **OXNARD SMOG TEST ONLY CENTER;**  
14 **FIDEL LOPEZ, President**  
3434 S. Saviers Rd, Unit B  
Oxnard, CA 93033

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

15 **Automotive Repair Dealer Registration No.**  
**ARD 233855**  
16 **Smog Check, Test Only, Station License No.**  
**TC 233855**

17  
18 And

19 **FIDEL LOPEZ**  
3592 Almond Drive  
Oxnard, CA 93030

20  
21 **Advanced Emission Specialist Technician**  
**License No. EA 143295**

22 **Smog Check Inspector License No. EO**  
**143295**  
23

24 Respondents.

25  
26 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
27 entitled proceedings that the following matters are true:  
28

1 **PARTIES**

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

6 2. Respondent Oxnard Smog Test Only, Inc. dba Oxnard Smog Test Only Center; Fidel  
7 Lopez as President (Respondent) is represented in this proceeding by attorney Emmanuel F. Fobi,  
8 Esq., whose address is: 309 South A Street, Oxnard, CA 93030.

9 **Automotive Repair Dealer Registration**

10 3. On or about June 28, 2004, the Bureau of Automotive Repair issued Automotive  
11 Repair Dealer Registration Number ARD 233855 ("registration") to Oxnard Smog Test Only  
12 Inc., Fidel Lopez - President, doing business as Oxnard Smog Test Only Center ("Respondent").  
13 The registration was in full force and effect at all times relevant to the charges brought herein and  
14 will expire on May 31, 2014, unless renewed.

15 **Smog Check Test Only Station License**

16 4. On or about July 7, 2004, the Bureau of Automotive Repair issued Smog Check, Test  
17 Only, Station License Number TC 233855 ("station license") to Respondent. The station license  
18 was in full force and effect at all times relevant to the charges brought herein and will expire on  
19 May 31, 2014, unless renewed.

20 **Advanced Emission Specialist Technician License**

21 5. On a date uncertain in 2001, the Bureau issued Advanced Emission Specialist  
22 Technician License Number EA 143295 ("technician license") to Respondent. The technician  
23 license was in full force and effect at all times relevant to the charges brought herein and expired  
24 on April 30, 2013. Upon timely renewal, the license was redesignated as Licensed Smog Check  
25 Inspector No. EO 143295<sup>1</sup> and will expire on April 30, 2015.

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

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**JURISDICTION**

6. Accusation No. 79/13-50 was filed before the Director of Consumer Affairs (Director), for the Bureau of Automotive Repair (Bureau), and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on March 6, 2013. Respondent timely filed its Notice of Defense contesting the Accusation.

7. A copy of Accusation No. 79/13-50 is attached as exhibit A and incorporated herein by reference.

**ADVISEMENT AND WAIVERS**

8. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 79/13-50. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

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

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

**CULPABILITY**

11. Respondent admits the truth of each and every charge and allegation in Accusation No. 79/13-50.

12. Respondent agrees that its Automotive Repair Dealer Registration, Smog Check Test Only Station License, Advanced Emission Specialist Technician License, and Smog Check

1 Inspector are subject to discipline and they agree to be bound by the Director's probationary terms  
2 as set forth in the Disciplinary Order below.

3 **CONTINGENCY**

4 13. This stipulation shall be subject to approval by the Director of Consumer Affairs or  
5 the Director's designee. Respondent understands and agrees that counsel for Complainant and the  
6 staff of the Bureau of Automotive Repair may communicate directly with the Director and staff of  
7 the Department of Consumer Affairs regarding this stipulation and settlement, without notice to  
8 or participation by Respondent or its counsel. By signing the stipulation, Respondent understands  
9 and agrees that they may not withdraw its agreement or seek to rescind the stipulation prior to the  
10 time the Director considers and acts upon it. If the Director fails to adopt this stipulation as the  
11 Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or  
12 effect, except for this paragraph, it shall be inadmissible in any legal action between the parties,  
13 and the Director shall not be disqualified from further action by having considered this matter.

14 14. The parties understand and agree that facsimile copies of this Stipulated Settlement  
15 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and  
16 effect as the originals.

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

23 16. In consideration of the foregoing admissions and stipulations, the parties agree that  
24 the Director may, without further notice or formal proceeding, issue and enter the following  
25 Disciplinary Order:

26 **DISCIPLINARY ORDER**

27 IT IS HEREBY ORDERED that Automotive Repair Dealer Registration No. ARD 233855;  
28 Smog Check, Test Only, Station License No. TC 233855; Advanced Emission Specialist

1 Technician License Number EA 143295; and Smog Check Inspector License EO 143295 issued  
2 to Respondent Oxnard Smog Test Only, Inc. dba Oxnard Smog Test Only Center; Fidel Lopez, as  
3 President (Respondent) is revoked. However, the revocation is stayed and Respondent is placed  
4 on probation for three (3) years on the following terms and conditions.

5 1. **Actual Suspension.** Automotive Repair Dealer Registration No. ARD 233855;  
6 Smog Check, Test Only, Station License No. TC 233855; and Advanced Emission Specialist  
7 Technician License No. EA 143295; and Smog Check Inspector License EO 143295 is suspended  
8 for fifteen (15) consecutive days to begin on the effective date of the decision.

9 2. **Obey All Laws.** Comply with all statutes, regulations and rules governing  
10 automotive inspections, estimates and repairs.

11 3. **Post Sign.** Post a prominent sign, provided by the Bureau, indicating the beginning  
12 and ending dates of the suspension and indicating the reason for the suspension. The sign shall be  
13 conspicuously displayed in a location open to and frequented by customers and shall remain  
14 posted during the entire period of actual suspension.

15 4. **Reporting.** Respondent or Respondent's authorized representative must report in  
16 person or in writing as prescribed by the Bureau of Automotive Repair, on a schedule set by the  
17 Bureau, but no more frequently than each quarter, on the methods used and success achieved in  
18 maintaining compliance with the terms and conditions of probation.

19 5. **Report Financial Interest.** Within 30 days of the effective date of this action, report  
20 any financial interest which any partners, officers, or owners of the Respondent facility may have  
21 in any other business required to be registered pursuant to Section 9884.6 of the Business and  
22 Professions Code.

23 6. **Random Inspections.** Provide Bureau representatives unrestricted access to inspect  
24 all vehicles (including parts) undergoing repairs, up to and including the point of completion.

25 7. **Jurisdiction.** If an accusation is filed against Respondent during the term of  
26 probation, the Director of Consumer Affairs shall have continuing jurisdiction over this matter  
27 until the final decision on the accusation, and the period of probation shall be extended until such  
28 decision.

1           8.    **Violation of Probation.** Should the Director of Consumer Affairs determine that  
2 Respondent has failed to comply with the terms and conditions of probation, the Department may,  
3 after giving notice and opportunity to be heard suspend or revoke the license.

4           9.    **False and Misleading Advertising.** If the accusation involves false and misleading  
5 advertising, during the period of probation, Respondent shall submit any proposed advertising  
6 copy, whether revised or new, to the Bureau at least thirty (30) days prior to its use.

7           10. **Continuing Education Courses.** During the period of probation, Respondent shall  
8 attend and successfully complete a Bureau Certified License Inspector Training Course (Level 1)  
9 and a Bureau Certified License Inspector Training Course (Level 2) both within one hundred  
10 eighty (180) days of the effective date of the decision. Said courses shall be completed and proof  
11 of completion submitted to the Bureau within 180 days of the effective date of this decision and  
12 order. If proof of completion of the course is not furnished to the Bureau within the 180-day  
13 period, Respondent's license shall be immediately suspended until such proof is received.

14           11. **Restrictions.** During the period of probation, Respondent shall not perform any form  
15 of smog inspection, or emission system diagnosis or repair, until Respondent has purchased,  
16 installed, and maintained the diagnostic and repair equipment prescribed by BAR necessary to  
17 properly perform such work, and BAR has been given 10 days notice of the availability of the  
18 equipment for inspection by a BAR representative.

19           12. **Cost Recovery.** Respondents shall be jointly and severally responsible to pay the  
20 Bureau the full amount of cost recovery in the amount of five thousand nine hundred forty-four  
21 dollars (\$5,944.00). Payment to the Bureau shall be received in twenty four (24) equal  
22 installments with the final payment due twelve (12) months before the termination of probation.  
23 Failure to complete payment of cost recovery within this time frame shall constitute a violation of  
24 probation which may subject Respondent's license and registration to outright revocation;  
25 however, the Director or the Director's Bureau of Automotive Repair designee may elect to  
26 continue probation until such time as reimbursement of the entire cost recovery amount has been  
27 made to the Bureau.

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Emmanuel F. Fobi, Esq. I understand the stipulation and the effect it will have on my Automotive Repair Dealer Registration; Smog Check, Test Only, Station License; Advanced Emission Specialist Technician; and Smog Check Inspector License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Director of Consumer Affairs.

DATED: \_\_\_\_\_

*Signature page attached.*  
OXNARD SMOG TEST ONLY, INC. dba OXNARD  
SMOG TEST ONLY CENTER;  
FIDEL LOPEZ, President  
Respondent

I have read and fully discussed with Respondent Oxnard Smog Test Only, Inc. dba Oxnard Smog Test Only Center; Fidel Lopez as President the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: \_\_\_\_\_

EMMANUEL F. FOBI, Esq.  
Attorney for Respondent

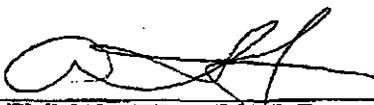
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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Emmanuel F. Fobi, Esq. I understand the stipulation and the effect it will have on my Automotive Repair Dealer Registration; Smog Check, Test Only, Station License; Advanced Emission Specialist Technician; and Smog Check Inspector License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Director of Consumer Affairs.

DATED: 7/31/13   
OXNARD SMOG TEST ONLY, INC. dba OXNARD  
SMOG TEST ONLY CENTER;  
FIDEL LOPEZ, President  
Respondent

I have read and fully discussed with Respondent Oxnard Smog Test Only, Inc. dba Oxnard Smog Test Only Center; Fidel Lopez as President the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 7/28/13   
EMMANUEL F. FOBI, Esq.  
Attorney for Respondent

ENDORSEMENT

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

Dated: *August 5, 2013*

Respectfully submitted,

KAMALA D. HARRIS  
Attorney General of California  
GREGORY J. SALUTE  
Supervising Deputy Attorney General



HEATHER HUA  
Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Accusation No. 79/13-50**

1 KAMALA D. HARRIS  
Attorney General of California  
2 GREGORY J. SALUTE  
Supervising Deputy Attorney General  
3 HEATHER HUA  
Deputy Attorney General  
4 State Bar No. 223418  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-2574  
6 Facsimile: (213) 897-2804  
*Attorneys for Complainant*

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8 **BEFORE THE**  
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9 **FOR THE BUREAU OF AUTOMOTIVE REPAIR**  
**STATE OF CALIFORNIA**

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11 In the Matter of the Accusation Against:

Case No. *79/13-50*

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13 **OXNARD SMOG TEST ONLY CENTER;**  
14 **FIDEL LOPEZ, President**  
3434 S. Saviers Rd, Unit B  
Oxnard, CA 93033

**ACCUSATION**  
*smog check*

15 **Automotive Repair Dealer Registration No.**  
ARD 233855  
16 **Smog Check, Test Only, Station License No.**  
TC 233855

17 And

18 **FIDEL LOPEZ**  
19 **3592 Almond Drive**  
20 **Oxnard, CA 93030**

21 **Advanced Emission Specialist Technician**  
License No. EA 143295

22 Respondents.

23

24 Complainant alleges:

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**PARTIES**

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



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

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

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

11 8. Section 9884.9 of the Code states, in pertinent part:

12 (a) The automotive repair dealer shall give to the customer a written estimated price  
13 for labor and parts necessary for a specific job. No work shall be done and no charges shall  
14 accrue before authorization to proceed is obtained from the customer. No charge shall be  
15 made for work done or parts supplied in excess of the estimated price without the oral or  
16 written consent of the customer that shall be obtained at some time after it is determined  
17 that the estimated price is insufficient and before the work not estimated is done or the parts  
18 not estimated are supplied. Written consent or authorization for an increase in the original  
19 estimated price may be provided by electronic mail or facsimile transmission from the  
20 customer. The bureau may specify in regulation the procedures to be followed by an  
21 automotive repair dealer if an authorization or consent for an increase in the original  
22 estimated price is provided by electronic mail or facsimile transmission. If that consent is  
23 oral, the dealer shall make a notation on the work order of the date, time, name of person  
24 authorizing the additional repairs and telephone number called, if any, together with a  
specification of the additional parts and labor and the total additional cost, and shall do  
either of the following:

(1) Make a notation on the invoice of the same facts set forth in the notation on the  
work order.

(2) Upon completion of the repairs, obtain the customer's signature or initials to an  
acknowledgment of notice and consent, if there is an oral consent of the customer to  
additional repairs, in the following language:  
"I acknowledge notice and oral approval of an increase in the original estimated price.

(signature or initials)"

Nothing in this section shall be construed as requiring an automotive repair dealer to give a  
written estimated price if the dealer does not agree to perform the requested repair.

25 9. Section 9884.13 of the Code provides, in pertinent part, that the expiration of a valid  
26 registration shall not deprive the director or chief of jurisdiction to proceed with a disciplinary  
27

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

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

6 11. Section 44072.2 of the Health and Safety Code states, in pertinent part:

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

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

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

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

17 12. Section 44072.6 of the Health and Safety Code provides, in pertinent part, that the  
18 expiration or suspension of a license by operation of law, or by order or decision of the Director  
19 of Consumer Affairs, or a court of law, or the voluntary surrender of the license shall not deprive  
20 the Director of jurisdiction to proceed with any investigation of, or action or disciplinary  
21 proceedings against the licensee, or to render a decision suspending or revoking the license.

22 13. Section 44072.8 of the Health and Safety Code states:

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

26 14. Section 118, subdivision (b) of the Code states:

27 "(b) The suspension, expiration, or forfeiture by operation of law of a license issued by a  
28 board in the department, or its suspension, forfeiture, or cancellation by order of the board or by  
order of a court of law, or its surrender without the written consent of the board, shall not, during  
any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its  
authority to institute or continue a disciplinary proceeding against the licensee upon any ground

1 provided by law or to enter an order suspending or revoking the license or otherwise taking  
2 disciplinary action against the licensee on any such ground.

3 15. Section 22 of the Code states:

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

8 "(b) Whenever the regulatory program of a board that is subject to review by the Joint  
9 Committee on Boards, Commissions, and Consumer Protection, as provided for in Division 1.2  
10 (commencing with Section 473), is taken over by the department, that program shall be  
11 designated as a 'bureau.'"

12 16. Section 477, subdivision (b) of the Code states:

13 As used in this division:

14 "(b) 'License' includes certificate, registration or other means to engage in a  
15 business or profession regulated by this code."

16 **COST RECOVERY**

17 17. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
18 administrative law judge to direct a licensee found to have committed a violation or violations of  
19 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
20 enforcement of the case, with failure of the licensee to comply subjecting the license to not being  
21 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be  
22 included in a stipulated settlement.

23 **UNDERCOVER OPERATION – July 25, 2012**

24 18. On or about July 25, 2012, a Bureau undercover operator ("operator") drove a Bureau  
25 documented 1999 Chevrolet Malibu to Oxnard Smog Test Only Center and requested a smog  
26 inspection. The Positive Crankcase Ventilation ("PCV") components had been removed, causing  
27 the vehicle to be incapable of passing a smog inspection. The operator was not provided with a  
28 written estimate and did not sign a work order prior to the smog inspection. Respondent's smog

1 check technician performed the smog inspection and issued electronic Certificate of Compliance  
2 No [REDACTED], certifying that he had tested and inspected the vehicle and that it was in  
3 compliance with applicable laws and regulations when, in fact, the vehicle could not have passed  
4 the visual portion of the smog inspection due to the fact that the PCV components had been  
5 removed from the vehicle. The operator paid Respondent \$50, and was provided with a copy of  
6 Invoice No. [REDACTED] and a Vehicle Inspection Report.

7 **FIRST CAUSE FOR DISCIPLINE**

8 **(Untrue or Misleading Statements)**

9 19. Respondent's registration is subject to discipline under Business & Professions Code  
10 section 9884.7, subdivision (a)(1), in that on or about July 25, 2012, he made statements which he  
11 knew or which by exercise of reasonable care should have known to be untrue or misleading by  
12 issuing electronic Certificate of Compliance No. [REDACTED] for the 1999 Chevrolet Malibu,  
13 certifying that the vehicle was in compliance with applicable laws and regulations when, in fact, it  
14 could not have passed the visual portion of the smog inspection due to the fact that the PCV  
15 components had been removed from the vehicle.

16 **SECOND CAUSE FOR DISCIPLINE**

17 **(Fraud)**

18 20. Respondent's registration is subject to discipline under Business & Professions Code  
19 section 9884.7, subdivision (a)(4), in that on or about July 25, 2012, he committed acts  
20 constituting fraud by issuing electronic Certificate of Compliance No. [REDACTED] for the 1999  
21 Chevrolet Malibu without performing a bona fide inspection of the emission control devices and  
22 systems on the vehicle, thereby depriving the People of the State of California of the protection  
23 afforded by the Motor Vehicle Inspection Program.

24 **THIRD CAUSE FOR DISCIPLINE**

25 **(Failure to Comply with Code)**

26 21. Respondent has subjected his registration to discipline pursuant to Bus & Prof Code  
27 section 9884.7, subdivision (a)(6), in that on or about July 25, 2012, Respondent failed to comply  
28 with the following section of that code:

1 a. Section 9884.9, subdivision (a): Respondent failed to provide the operator with a  
2 written estimated price for parts and labor for a specific job.

3 **FOURTH CAUSE FOR DISCIPLINE**

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

5 22. Respondent's station license is subject to discipline pursuant to Health & Safety Code  
6 section 44072.2, subdivision (a), in that on or about July 25, 2012, regarding the 1999 Chevrolet  
7 Malibu, he failed to comply with the following sections of that Code:

8 a. Section 44012, subdivision (a): Respondent failed to determine that all emission  
9 control devices and systems required by law were installed and functioning correctly in  
10 accordance with test procedures.

11 b. Section 44012, subdivision (f): Respondent failed to perform emission control  
12 inspections on the vehicle in accordance with procedures prescribed by the department.

13 c. Section 44015, subdivision (b): Respondent issued electronic Certificate of  
14 Compliance No. [REDACTED] for the vehicle without properly inspecting the vehicle to determine  
15 if it was in compliance with Health & Safety Code section 44012.

16 **FIFTH CAUSE FOR DISCIPLINE**

17 **(Failure to Comply with Regulations)**

18 23. Respondent's station license is subject to discipline pursuant to Health & Safety Code  
19 section 44072.2, subdivision (c), in that on or about July 25, 2012, regarding the 1999 Chevrolet  
20 Malibu, he failed to comply with provisions of California Code of Regulations, title 16, as  
21 follows:

22 a. Section 3340.35, subdivision (c): Respondent issued electronic Certificate of  
23 Compliance No. [REDACTED] for the vehicle even though the vehicle had not been inspected in  
24 accordance with section 3340.42.

25 b. Section 3340.41, subdivision (c): Respondent entered false information into the  
26 Emissions Inspection System unit by entering "Pass" for the visual portion of the inspection  
27 when, in fact, the PCV components had been removed from the vehicle.

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1 c. **Section 3340.42:** Respondent failed to perform an emission control inspection on the  
2 vehicle in accordance with procedures prescribed by the department.

3 **SIXTH CAUSE FOR DISCIPLINE**

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

5 24. Respondent's station license is subject to discipline pursuant to Health & Safety Code  
6 section 44072.2, subdivision (d), in that on or about July 25, 2012, regarding the 1999 Chevrolet  
7 Malibu, he committed dishonest, fraudulent or deceitful acts whereby another is injured by  
8 issuing electronic Certificate of Compliance No. [REDACTED] for the vehicle without performing a  
9 bona fide inspection of the emission control devices and systems on the vehicle, thereby  
10 depriving the People of the State of California of the protection afforded by the Motor Vehicle  
11 Inspection Program.

12 **PRIOR CITATIONS**

13 25. To determine the degree of discipline, if any, to be imposed on Respondent,  
14 Complaint alleges the following:

15 a. On or about October 6, 2010, the Bureau issued Citation No. C2011-0402 against  
16 Respondent for violating Health and Safety Code section 44012(f) (failure to perform a  
17 visual/functional check of emission control devices according to procedures prescribed by the  
18 department), and California Code of Regulations, title 16, section 3340.35(c) (issuing a certificate  
19 of compliance to a vehicle that was improperly tested), for issuing a certificate of compliance to a  
20 Bureau undercover vehicle that was not in compliance with Health & Safety Code section 44012.  
21 The Bureau assessed civil penalties totaling \$1000.00 against Respondent for the violations.  
22 Respondent complied with this citation on November 8, 2010.

23 b. On or about February 28, 2011, the Bureau issued Citation No. C2011-0989 against  
24 Respondent for violating Health and Safety Code section 44012(f) (failure to determine that  
25 emission control devices and systems required by State and Federal law are installed and  
26 functioning correctly in accordance with test procedures), and California Code of Regulations,  
27 title 16, section 3340.35(c) (issuing a certificate of compliance to a vehicle that was improperly  
28 tested), for issuing a certificate of compliance to a Bureau undercover vehicle that was not in

1 compliance with Health & Safety Code section 44012. The Bureau assessed civil penalties  
2 totaling \$1,500.00 against Respondent for the violations. Respondent complied with this citation  
3 on May 16, 2011.

4 c. On or about May 14, 2012, the Bureau issued Citation No. C2012-1555 against  
5 Respondent for violating Health and Safety Code section 44012(f) (failure to perform a  
6 visual/functional check of emission control devices according to procedures prescribed by the  
7 department), for issuing a certificate of compliance to a Bureau undercover vehicle that was not  
8 in compliance with Health & Safety Code section 44012. The Bureau assessed civil penalties  
9 totaling \$1,500.00 against Respondent for the violations. Respondent complied with this citation  
10 on June 29, 2012.

11 **OTHER MATTERS**

12 26. Pursuant to Code section 9884.7, subdivision (c), the director may suspend, revoke,  
13 or place on probation the registrations for all places of business operated in this state by Oxnard  
14 Smog Test Only Inc., Fidel Lopez - President, upon a finding that Respondent has, or is, engaged  
15 in a course of repeated and willful violations of the laws and regulations pertaining to an  
16 automotive repair dealer.

17 27. Pursuant to Health and Safety Code section 44072.8, if Smog Check Test Only  
18 Station License Number TC 233855, issued to Oxnard Smog Test Only Inc., Fidel Lopez -  
19 President, doing business as Oxnard Smog Test Only Center, is revoked or suspended, any  
20 additional license issued under this chapter in the name of said licensees may be likewise revoked  
21 or suspended by the director.

22 **PRAYER**

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

25 1. Revoking, suspending, or placing on probation Automotive Repair Dealer  
26 Registration No. ARD 233855, issued to Oxnard Smog Test Only Inc., Fidel Lopez - President,  
27 doing business as Oxnard Smog Test Only Center;

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2. Revoking, suspending, or placing on probation any other automotive repair dealer registration issued to Oxnard Smog Test Only Inc., Fidel Lopez - President;

3. Revoking or suspending Smog Check Test Only Station License Number TC 233855, issued to Oxnard Smog Test Only Inc., Fidel Lopez - President, doing business as Oxnard Smog Test Only Center;

4. Revoking or suspending any additional license issued under Chapter 5 of the Health and Safety Code in the name of Oxnard Smog Test Only Inc., Fidel Lopez - President, including, but not limited to Advanced Emission Specialist License Number EA 143295;

5. Ordering Oxnard Smog Test Only Inc., Fidel Lopez - President to pay the Director of Consumer Affairs the reasonable costs of the investigation and enforcement of this case, pursuant to Code section 125.3.

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

DATED: February 15, 2013

  
JOHN WALLAUCH  
Chief  
Bureau of Automotive Repair  
Department of Consumer Affairs  
State of California  
Complainant

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