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

12
13 In the Matter of the Accusation Against:

Case No. 79/21-5352

14 **JESSE JUNIOR ESPINOZA DBA**
15 **JUNIORS TEST ONLY**
16 **8323 Long Beach Blvd.**
17 **South Gate, CA 90280**

ACCUSATION

18 **Automotive Repair Dealer Registration No.**
19 **ARD 258121**
20 **Smog Check Station License No. TC 258121,**

21 **and**

22 **JESSE JUNIOR ESPINOZA**
23 **8323 Long Beach Blvd.**
24 **South Gate, CA 90280**

25 **Mailing Address:**
26 **14408 S. Butler Ave**
27 **Compton, CA 90221**

28 **Smog Check Inspector License No. EO**
151078
Smog Check Repair Technician License No.
EI 151078

Respondent.

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 2. On or about May 14, 2009, the Bureau of Automotive Repair issued Automotive
5 Repair Dealer Registration Number ARD 258121 to Jesse Junior Espinoza dba Juniors Test Only
6 (Respondent). The Automotive Repair Dealer Registration was in full force and effect at all
7 times relevant to the charges brought herein and will expire on April 30, 2022, unless renewed.

8 3. On or about May 20, 2009, the Bureau of Automotive Repair issued Smog Check,
9 Test Only Station License Number TC 258121 to Jesse Junior Espinoza dba Juniors Test Only
10 (Respondent). The Smog Check, Test Only Station License was in full force and effect at all
11 times relevant to the charges brought herein and will expire on April 30, 2022, unless renewed.

12 4. On or about July 18, 2013, the Bureau of Automotive Repair issued Smog Check
13 Inspector License Number EO 151078 to Jesse Junior Espinoza (Respondent Espinoza). The
14 Smog Check Inspector License was in full force and effect at all times relevant to the charges
15 brought herein and will expire on August 31, 2023, unless renewed.

16 5. On or about July 18, 2013, the Bureau of Automotive Repair issued Smog Check
17 Repair Technician License Number EI 151078 to Jesse Junior Espinoza (Respondent). The Smog
18 Check Repair Technician License was in full force and effect at all times relevant to the charges
19 brought herein and will expire on August 31, 2023, unless renewed.

20 **JURISDICTION**

21 6. This Accusation is brought before the Director of the Department of Consumer
22 Affairs (Director) for the Bureau of Automotive Repair (Bureau), under the authority of the
23 following laws. All section references are to the Business and Professions Code unless otherwise
24 indicated.

25 7. Section 9884.7 of the Code provides that the Director may revoke an automotive
26 repair dealer registration.

27 8. Section 9884.13 of the Code provides, in pertinent part, that the expiration of a valid
28 registration shall not deprive the Director of jurisdiction to proceed with a disciplinary proceeding

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

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

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

10 **STATUTORY PROVISIONS**

11 11. Section 477 of the Code provides, in pertinent part, that “Board” includes “bureau,”
12 “commission,” “committee,” “department,” “division,” “examining committee,” “program,” and
13 “agency.” “License” includes certificate, registration or other means to engage in a business or
14 profession regulated by the Code.

15 12. Section 9884.7 of the Code states:

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

22

23 (5) Conduct constituting gross negligence.

24 13. Section 44012 of the Health and Safety Code states:

25 “The test at the smog check stations shall be performed in accordance with
26 procedures prescribed by the department, pursuant to Section 44013, shall require, at
27 a minimum, loaded mode dynamometer testing in enhanced areas, and two-speed
28 testing in all other program areas, and shall ensure all of the following:

“(a) Emission control systems required by state and federal law are reducing
excess emissions in accordance with the standards adopted pursuant to subdivisions
(a) and (c) of Section 44013.

“(b) Motor vehicles are preconditioned to ensure representative and stabilized
operation of the vehicle’s emission control system.

1 “(c) For other than diesel-powered vehicles, the vehicle’s exhaust emissions of
2 hydrocarbons, carbon monoxide, carbon dioxide, and oxides of nitrogen in an idle
3 mode or loaded mode are tested in accordance with procedures prescribed by the
4 department. In determining how loaded mode and evaporative emissions testing
5 shall be conducted, the department shall ensure that the emission reduction targets for
6 the enhanced program are met.

7 “(d) For other than diesel-powered vehicles, the vehicle’s fuel evaporative
8 system and crankcase ventilation system are tested to reduce any nonexhaust sources
9 of volatile organic compound emissions, in accordance with procedures prescribed by
10 the department.

11 “(e) For diesel-powered vehicles, if the department determines that the
12 inclusion of those vehicles is technologically and economically feasible, a visual
13 inspection is made of emission control devices and the vehicle’s exhaust emissions in
14 an idle mode or loaded mode are tested in accordance with procedures prescribed by
15 the department. The test may include testing of emissions of any or all of the
16 pollutants specified in subdivision (c) and, upon the adoption of applicable standards,
17 measurement of emissions of smoke or particulates, or both.

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

23 “(g) A determination as to whether the motor vehicle complies with the
24 emission standards for that vehicle’s class and model-year as prescribed by the
25 department.

26 “(h) The test procedures may authorize smog check stations to refuse the
27 testing of a vehicle that would be unsafe to test, or that cannot physically be
28 inspected, as specified by the department by regulation. The refusal to test a vehicle
for those reasons shall not excuse or exempt the vehicle from compliance with all
applicable requirements of this chapter.”

14. Section 44014 of the Health and Safety Code states:

(a) Except as otherwise provided in this chapter, the testing and repair portion
of the program shall be conducted by smog check stations licensed by the department,
and by smog check technicians who have qualified pursuant to this chapter.

15. Section 44032 of the Health and Safety Code states:

“No person shall perform, for compensation, tests or repairs of emission control
devices or systems of motor vehicles required by this chapter unless the person
performing the test or repair is a qualified smog check technician and the test or
repair is performed at a licensed smog check station. Qualified technicians shall
perform tests of emission control devices and systems in accordance with Section
44012.”

1 “(1) Smog Check Inspection Procedures Manual, dated August 2009, which is
hereby incorporated by reference. This manual shall be in effect until subparagraph
2 (2) is implemented.

3 “(2) Smog Check Manual, dated 2013, which is hereby incorporated by
reference. This manual shall become effective on or after January 1, 2013.”

4 20. California Code of Regulations, title 16, section 3373, states:

5 No automotive repair dealer or individual in charge shall, in filling out an
6 estimate, invoice, or work order, or record required to be maintained by section
7 3340.15(f) of this chapter, withhold therefrom or insert therein any statement or
information which will cause any such document to be false or misleading, or where
8 the tendency or effect thereby would be to mislead or deceive customers, prospective
customers, or the public.

9 **COST RECOVERY**

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

16 **FACTUAL ALLEGATIONS**

17 22. On or around April 15, 2021, a Bureau representative visited Respondent’s business
18 location, Juniors Test Only station, for a routine gas audit and found an unlicensed individual who
19 identified himself as Jesus Espinoza (aka Javier Espinoza Parra) performing an inspection on a
20 2000 Pontiac Grand Prix using an OIS analyzer.

21 23. At all times during the Bureau representatives’ routine audit, the Station was open for
22 business and conducting an official Smog Check Inspection for compensation without the
23 presence of a licensed inspector. The assigned Smog Check Inspector Jesse Espinoza, EO 151078
24 was not at the station and was not performing the smog check inspection. Respondent’s
25 technician badge was taped to an area adjacent to the OIS analyzer.

26 24. The unlicensed inspector Javier Espinoza Parra (aka Jesus Espinoza) previously held
27 technician license EA 154440, which was revoked for clean piping activity.
28

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Violation of Statute – Gross Negligence- Respondent)**

3 25. Respondent's registration is subject to disciplinary action under Business and
4 Professions Code section 9884.7, subdivision (a)(5), in that on or about April 15, 2021,
5 Respondent failed to supervise employees and allowed a previously revoked technician to
6 perform a Smog Check inspection on a vehicle for compensation. Complainant incorporates by
7 reference paragraphs 22-24, above, as though fully stated herein.

8 **SECOND CAUSE FOR DISCIPLINE**

9 **(Violations of Regulations – Respondent)**

10 26. Respondent's registration is subject to disciplinary action under Business and
11 Professions Code section 9884.7, subdivision (a) (6), in that on or about April 15, 2021,
12 Respondent failed to comply with provisions of California Code of Regulations, title 16, in the
13 following material respects:

- 14 a. **Section 3340.15:** Respondent failed to ensure a licensed inspector be present during
15 all hours a station is open for business and the testing of vehicles.
- 16 b. **Section 3340.45:** Respondent failed to comply with test procedures in accordance
17 with Bureau prescribed procedures as outlined in the Smog Check Inspection Manual
18 as incorporated by reference.
- 19 c. **Section 3373:** Respondent obtained authorization on a work order dated April 15,
20 2021 when the station did not have a licensed smog inspector at the time of
21 inspection.

22 Complainant incorporates Paragraphs 22-24, above, as though fully stated herein.

23 **THIRD CAUSE FOR DISCIPLINE**

24 **(Failure to Comply with the Motor Vehicle Inspection Program - Respondent)**

25 27. Respondent's station license is subject to disciplinary action pursuant to Health and
26 Safety Code section 44072.2, subdivision (a), in that on or about April 15, 2021, Respondent
27 failed to comply with the following sections of the Health and Safety Code:
28

- 1 a. **Section 44012:** Respondent allowed an unlicensed and previously revoked technician
2 to perform a Smog Check inspection on a vehicle for compensation.
- 3 b. **Section 44014(a):** Respondent allowed an unlicensed and previously revoked
4 technician to perform a Smog Check inspection on a vehicle for compensation.
- 5 b. **Section 44072(c):** Respondent allowed an unlicensed and previously revoked
6 technician to perform a Smog Check inspection on a vehicle for compensation.
- 7 b. **Section 44072(f):** Respondent aided and abetted an unlicensed person.
- 8 b. **Section 44072(h):** Respondent violated the provisions of this chapter when he
9 allowed an unlicensed and previously revoked technician to perform a Smog Check
10 inspection on a vehicle for compensation.

11 Complainant incorporates Paragraphs 22-24, above, as though fully stated herein.

12 **FOURTH CAUSE FOR DISCIPLINE**

13 **(Violations of the Motor Vehicle Inspection Program – Respondent Espinoza)**

14 28. Respondent Espinoza's smog check inspection and repair licenses are subject to
15 disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (a), in that on
16 or about April 15, 2021, Respondent Espinoza failed to comply with section 44012 of the Health
17 and Safety Code in a material respect, as follows: Respondent Espinoza provided a previously
18 revoked inspector with access to the OIS Smog Check inspection mode using Respondent
19 Espinoza's badge and access information. Complainant incorporates Paragraphs 22-24, above, as
20 though fully stated herein.

21 **FIFTH CAUSE FOR DISCIPLINE**

22 **(Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection Program –**
23 **Respondent Espinoza)**

24 29. Respondent Espinoza's smog check inspection and repair licenses are subject to
25 disciplinary action pursuant to Health and Safety Code sections 44032 and 44059, in that on or
26 about April 15, 2021, Respondent Espinoza failed to comply with provisions of the California
27 Code of Regulations, title 16, as follows:

28

- 1 a. **Section 3340.30:** Respondent Espinoza failed to comply with Health and Safety
2 Code section 44012 when he provided a previously revoked inspector with access to
3 the OIS Smog Check inspection mode using Respondent Espinoza's badge and
4 access information

5 Complainant incorporates Paragraphs 22-24, above, as though fully stated herein.

6 **DISCIPLINE CONSIDERATIONS**

7 30. To determine the degree of discipline, if any, to be imposed on Respondent,
8 Complainant alleges that on or about August 24, 2016 in a prior action, the Bureau of Automotive
9 Repair issued Citation Number C2016-1610 and ordered Respondent to cease and desist from
10 violating Health and Safety Code 44012. That Citation is now final.

11 31. To determine the degree of discipline, if any, to be imposed on Respondent Espinoza,
12 Complainant alleges that on or about August 24, 2016 in a prior action, the Bureau of Automotive
13 Repair issued Citation Number M2016-1611 and ordered Respondent Espinoza to cease and
14 desist from violating Health and Safety Code 44032. That Citation is now final.

15 32. To determine the degree of discipline, if any, to be imposed on Respondent,
16 Complainant alleges that on or about April 3, 2012 in a prior action, Case No. 79/12-02 the
17 Bureau of Automotive Repair issued a final decision revoking Automotive Repair Dealer
18 Registration No. ARD 258121 and Smog Check, Test Only, Station License NO. TC 258121
19 issued to Respondent. Revocation was stayed and Respondent's license and registrations were
20 each placed on probation for three years subject to terms and conditions.

21 **PRAYER**

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

25 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
26 258121, issued to Jesse Junior Espinoza dba Juniors Test Only;

27 2. Revoking or suspending Smog Check, Test Only Station License Number TC
28 258121, issued to Jesse Junior Espinoza dba Juniors Test Only;

1 3. Revoking or suspending Smog Check Inspector License Number EO 151078, issued
2 to Jesse Junior Espinoza;

3 4. Revoking or suspending Smog Check Repair Technician License Number EI 151078,
4 issued to Jesse Junior Espinoza;

5 5. Revoking or suspending any other Automotive Repair Dealer Registration issued to
6 Jesse Junior Espinoza.

7 6. Revoking or suspending any additional license issued under the Motor Vehicle
8 Inspection Program in the name of Jesse Junior Espinoza.

9 7. Ordering Jesse Junior Espinoza and Jesse Junior Espinoza to pay the Bureau of
10 Automotive Repair the reasonable costs of the investigation and enforcement of this case,
11 pursuant to Business and Professions Code section 125.3; and,

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

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14
15 DATED: As of Digital Signature

Dorais,
Patrick@DCA

Digitally signed by
Dorais, Patrick@DCA
Date: 2022.03.11
18:20:57 -08'00'

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

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