

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

In the Matter of the Accusation Against:

**HECTOR'S SMOG CHECK, INC. DBA
HECTOR'S SMOG CHECK**
1260 N. Fitzgerald Ave., Unit 100
Rialto, CA 92376

MARIA IRENE TRUJILLO, PRESIDENT
Automotive Repair Dealer Registration
No. ARD 258271
Smog Check Test Only Station License
No. TC 258271

JOAQUIN ERNESTO MEZA-DIVENI
20655 Perry Street
Perris, CA 92570
Advanced Emission Specialist Technician License
No. EA 149609

and

**HECTOR'S SMOG CHECK, INC., DBA
HECTOR'S SMOG CHECK**
939 W. State St. Unit E
Ontario, CA 91762

MARIA IRENE TRUJILLO, PRESIDENT
Automotive Repair Dealer Registration
No. ARD 260289
Smog Check Test Only Station License
No. TC 260289

SALVADOR OLMOS
3541 Andover Street
Corona, CA 92879
Advanced Emission Specialist Technician License
No. EA 137432

Respondents.

Case No. 79/11-91

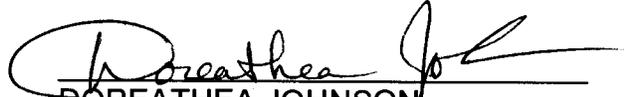
OAH No. L-2011080275

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 6/11/12.

DATED: May 4, 2012



DORÉATHEA JOHNSON
Deputy Director, Legal Affairs
Department of Consumer Affairs

1 KAMALA D. HARRIS
Attorney General of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 KEVIN J. RIGLEY
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Attorneys for Complainant
7

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

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17 **JOAQUIN ERNESTO MEZA-DIVENI**
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18 Advanced Emission Specialist Technician License
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19

20 AND

21 **HECTOR'S SMOG CHECK, INC., DBA**
22 **HECTOR'S SMOG CHECK**
939 W. State St. Unit E
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23 **MARIA IRENE TRUJILLO, PRESIDENT**
Automotive Repair Dealer Registration No. ARD 260289
Smog Check Test Only Station License No. TC 260289
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25 **SALVADOR OLMOS**
3541 Andover Street
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26 Advanced Emission Specialist Technician License
No. EA 137432
27

28 Respondents.

Case No. 79/11-91

OAH No. L-2011080275

**STIPULATED
SETTLEMENT AND
DISCIPLINARY ORDER**

1 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
2 entitled proceedings that the following matters are true:

3 PARTIES

4 1. John Wallauch (Complainant) is the Chief of the Bureau of Automotive Repair. He
5 brought this action solely in his official capacity and is represented in this matter by Kamala D.
6 Harris, Attorney General of the State of California, by Kevin J. Rigley, Deputy Attorney General.

7 2. Hector's Smog Check, Inc. DBA Hector's Smog Check; Maria Irene Trujillo,
8 President; (Respondent Hector's Smog); Joaquin Ernesto Meza-Diveni (Respondent Meza-
9 Diveni), and Salvador Olmos (Respondent Olmos) are represented in this proceeding by attorney
10 Miles Clark, III, Esq., whose address is: Clark Law Offices, Inc., 6800 Indiana Avenue, Suite
11 295, Riverside, CA 92506.

12 **Automotive Repair Dealer Registration (Rialto Shop)**

13 3. On or about June 1, 2009, the Bureau issued Automotive Repair Dealer Registration
14 Number ARD 258271 (ARD registration) to Respondent Hector's Smog. The registration was in
15 full force and effect at all times relevant to the charges brought herein and will expire on May 31,
16 2012, unless renewed.

17 **Smog Check Test Only Station License (Rialto Shop)**

18 4. On or about June 16, 2009, the Bureau issued Smog Check, Test Only, Station
19 License Number TC 258271 (station license) to Respondent Hector's Smog. The station license
20 was in full force and effect at all times relevant to the charges brought herein and will expire on
21 May 31, 2012, unless renewed.

22 **Advanced Emission Specialist Technician License (Rialto Shop)**

23 5. On a date uncertain in 2004, the Bureau issued Advanced Emission Specialist
24 Technician License Number EA 149609 (technician license) to Respondent Meza-Diveni. The
25 technician license was in full force and effect at all times relevant to the charges brought herein
26 and will expire on January 31, 2013, unless renewed.

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1 5. Respondents shall cause to be delivered to the Bureau their pocket licenses and, if one
2 was issued, their wall certificates on or before the effective date of the Decision and Order.

3 6. If any Respondent should ever file an application for licensure or a petition for
4 reinstatement in the State of California, the Bureau shall treat it as an application for new license.
5 Respondents must comply with all the laws, regulations and procedures for reinstatement of a
6 revoked license in effect at the time the application or petition is filed, and all of the charges and
7 allegations contained in Accusation No. 77/11-91 shall be deemed to be true, correct and admitted
8 by such Respondent when the Director determines whether to grant or deny any such application
9 or petition.

10 7. Each Respondent shall be jointly and severally liable for the Bureau's costs of
11 investigation and enforcement in the amount of \$8,000.00, and shall pay any and all such costs
12 that remain unpaid at such time prior to issuance of a new or reinstated license.

13 **IT IS HEREBY FURTHER ORDERED** that Automotive Repair Dealer Registration
14 Nos. ARD 258271 and 260289 issued to Respondent Hector's Smog are both revoked. However,
15 the revocations are stayed and Respondent Hector's Smog's ARD registrations are placed on
16 probation for three (3) years on the following terms and conditions.

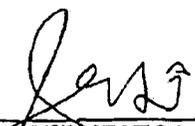
17 1. **Obey All Laws.** Comply with all statutes, regulations and rules governing
18 automotive inspections, estimates and repairs.

19 2. **Reporting.** Respondent Hector's Smog or its authorized representative must report
20 in person or in writing as prescribed by the Bureau of Automotive Repair, on a schedule set by
21 the Bureau, but no more frequently than each quarter, on the methods used and success achieved
22 in maintaining compliance with the terms and conditions of probation.

23 3. **Report Financial Interest.** Within 30 days of the effective date of this action, report
24 any financial interest which any partners, officers, or owners of the Respondent Hector's Smog's
25 facilities may have in any other business required to be registered pursuant to Section 9884.6 of
26 the Business and Professions Code.

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

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DATED: 3/30/12 
JOAQUIN ERNESTO MEZA-DIVENI
Respondent

DATED: 3/30/12 
SALVADOR OLMOS
Respondent

I have read and fully discussed with Respondent Hector's Smog Check, Inc.; Maria Irene Trujillo, President; Respondent Joaquin Ernesto Meza-Diveni, and Respondent Salvador Olmos the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 3-30-12 
Miles Clark, III, 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: Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
GREGORY J. SALUTE
Supervising Deputy Attorney General

KEVIN J. RIGLEY
Deputy Attorney General
Attorneys for Complainant

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DATED: _____
JOAQUIN ERNESTO MEZA-DIVENI
Respondent

DATED: _____
SALVADOR OLMOS
Respondent

I have read and fully discussed with Respondent Hector's Smog Check, Inc.; Maria Irene Trujillo, President; Respondent Joaquin Ernesto Meza-Diveni, and Respondent Salvador Olmos the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: _____
Miles Clark, III, 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: 4/9/12

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


KEVIN J. RIGLEY
Deputy Attorney General
Attorneys for Complainant

Exhibit A

Accusation No. 79/11-91

1 KAMALA D. HARRIS
Attorney General of California
2 ALFREDO TERRAZAS
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3 GREGORY J. SALUTE
Supervising Deputy Attorney General
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300 So. Spring Street, Suite 1702
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6 Facsimile: (213) 897-2804
Attorneys for Complainant

7
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13 Rialto, CA 92376
MARIA IRENE TRUJILLO, PRESIDENT
14 **Automotive Repair Dealer Registration No. ARD 258271**
Smog Check Test Only Station License No. TC 258271

ACCUSATION
SMOG CHECK

15 **JOAQUIN ERNESTO MEZA-DIVENI**
16 20655 Perry Street
Perris, CA 92570
17 **Advanced Emission Specialist Technician License**
No. EA 149609

18 **AND**

19
20 **HECTOR'S SMOG CHECK, INC., DBA**
HECTOR'S SMOG CHECK
939 W. State St. Unit E
21 Ontario, CA 91762
MARIA IRENE TRUJILLO, PRESIDENT
22 **Automotive Repair Dealer Registration No. ARD 260289**
Smog Check Test Only Station License No. TC 260289

23
24 **SALVADOR OLMOS**
3541 Andover Street
Corona, CA 92879
25 **Advanced Emission Specialist Technician License**
No. EA 137432

26
27 Respondents.
28

1 Complainant alleges:

2 PARTIES

3 1. Sherry Mehl (Complainant) brings this Accusation solely in her official capacity as
4 the Chief of the Bureau of Automotive Repair ("Bureau"), Department of Consumer Affairs.

5 **Automotive Repair Dealer Registration (Rialto Shop)**

6 2. On or about June 1, 2009, the Bureau issued Automotive Repair Dealer Registration
7 Number ARD 258271 ("registration") to Hector's Smog Check, Inc., ("Respondent No. 1"), doing
8 business as Hector's Smog Check with Maria Irene Trujillo as President. The registration was in
9 full force and effect at all times relevant to the charges brought herein and will expire on May 31,
10 2012, unless renewed.

11 **Smog Check Test Only Station License (Rialto Shop)**

12 3. On or about June 16, 2009, the Bureau issued Smog Check Test Only Station License
13 Number TC 258271 ("station license") to Respondent Hector's. The station license was in full
14 force and effect at all times relevant to the charges brought herein and will expire on May 31,
15 2012, unless renewed.

16 **Advanced Emission Specialist Technician License (Rialto Shop)**

17 4. On a date uncertain in 2004, the Bureau issued Advanced Emission Specialist
18 Technician License Number EA 149609 ("technician license") to Joaquin Ernesto Meza-Diveni
19 ("Respondent Meza-Diveni"). The technician license was in full force and effect at all times
20 relevant to the charges brought herein and will expire on January 31, 2013, unless renewed.

21 **Automotive Repair Dealer Registration (Ontario Shop)**

22 5. On or about December 22, 2009, the Bureau issued Automotive Repair Dealer
23 Registration Number ARD 260289 ("registration") to Hector's Smog Check, Inc., ("Respondent
24 No. 2"), doing business as Hector's Smog Check with Maria Irene Trujillo as President. The
25 registration was in full force and effect at all times relevant to the charges brought herein and will
26 expire on May 31, 2012, unless renewed.

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

5 10. Code section 477 provides, in pertinent part, that "Board" includes "bureau,"
6 "commission," "committee," "department," "division," "examining committee," "program," and
7 "agency." "License" includes certificate, registration or other means to engage in a business or
8 profession regulated by the Code.

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

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

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

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

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

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

23 13. Section 44072.6 of the Health and Safety Code provides, in pertinent part, that the
24 expiration or suspension of a license by operation of law, or by order or decision of the Director
25 of Consumer Affairs, or a court of law, or the voluntary surrender of the license shall not deprive
26 the Director of jurisdiction to proceed with disciplinary action.

27 14. Section 44072.8 of the Health and Safety Code states:

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

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1 COST RECOVERY

2 15. Code section 125.3 provides, in pertinent part, that a Board may request the
3 administrative law judge to direct a licentiate found to have committed a violation or violations of
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
5 enforcement of the case.

6 RESPONDENT NO. 1 - RIALTO SHOP

7 FACTUAL BACKGROUND

8 16. On or about April 13, 2010, the Bureau conducted a detailed review of the Vehicle
9 Information Database ("VID") for all smog inspections performed at Respondent No. 1's facility
10 located in Rialto, California, for the period September 1, 2009, through April 13, 2010. The VID
11 showed a pattern of various diagnostic trouble codes stored in the memory of the power train
12 control module ("PCM") on the twenty-three vehicles set forth in Table 1, below. Vehicles 1
13 through 23 were all certified with the various pending codes stored in the PCM memory while the
14 original equipment manufacturer ("OEM") service information shows these vehicles do not
15 support the pending codes stored in the PCM memory. The vehicles receiving smog certificates
16 were not tested during the OBD II functional test¹ and another vehicle was used, constituting
17 clean plugging. All of the following vehicles were inspected and certified by Respondent Meza-
18 Diveni.

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22 ¹ The On Board Diagnostics (OBD II) functional test is an automated function of the BAR-97
23 analyzer. During the OBD II functional test, the technician is required to connect an interface cable from
24 the BAR-97 analyzer to a Diagnostic Link Connector (DLC) which is located inside the vehicle. Through
25 the DLC, the BAR-97 analyzer automatically retrieves information from the vehicle's on-board computer
about the status of the readiness indicators, trouble codes, and the MIL (malfunction indicator light). If the
vehicle fails the OBD II functional test, it will fail the overall inspection.

26 Clean plugging is the use of the OBD II readiness monitor status and stored fault code (trouble
27 code) status of a passing vehicle for the purpose of illegally issuing a smog certificate to another vehicle
28 that is not in compliance due to a failure to complete the minimum number of self tests, known as
monitors, or due to the presence of a stored fault code that indicates an emission control system or
component failure.

TABLE 1

Date & Time of Inspection	Vehicle Certified & License No.	Certificate No.
1. 2/1/2010 1616 - 1623 hours	1998 Cadillac DeVille, Vin No. 1G6KD54Y2WU791792	WH109230C
2. 1/14/2010 1559 - 1607 hours	1997 Dodge Ram 1500 License No. 6F68022	WF857550C
3. 1/14/2010 1514 - 1524 hours	2002 Honda Civic, License No. 5YPK170	WF857547C
4. 10/19/2009 1720 - 1728 hours	2001 Chevrolet C1500 Silverado, License No. 7N74582	WD828974C
5. 10/19/2009 0917 - 0924 hours	2001 Honda CRV, License No. 4WCF395	WD828963C
6. 10/15/2009 1712 - 1719 hours	2001 Chevrolet C3500, License No. 8D32892	WD763327C
7. 10/15/2009 1604 - 1612 hours	2003 Chevrolet Impala, License No. 5ZDN913	WD763325C
8. 10/15/2009 1546 - 1552 hours	1996 Nissan Maxima, License No. 5WTG951	WD763324C
9. 10/9/2009 1623 - 1632 hours	1996 Nissan 240SX, License No. 5FXA331	WD702220C
10. 10/9/2009 1608 - 1617 hours	2002 Mercury Sable, Vin No. 1MEHM50U42G624576	WD702219C
11. 10/1/2009 0856 - 0905 hours	1997 Ford Mustang, License No. 4TWC041	WD573241C
12. 09/29/2009 1531 - 1541 hours	2000 Toyota Tacoma, License No. 8P61542	WD573224C
13. 09/25/2009 1719 - 1727 hours	1996 Nissan Quest, License No. 4NUS873	WD510975C
14. 9/25/2009 1658 - 1714 hours	1999 GMC C1500, License No. 4HQA483	WD510974C
15. 9/25/2009 1505 - 1514 hours	2002 Chrysler Sebring, License No. 6BUL750	WD510970C
16. 9/24/2009 1613 - 1619 hours	1997 Ford Explorer, License No. 5EVX404	WD510960C
17. 9/24/2009 1548 - 1556 hours	2002 Dodge Ram 1500, License No. 6U48363	WD510958C
18. 9/23/2009 1718 - 1727 hours	1999 Dodge Ram 1500, License No. 8N54570	WD510954C
19. 9/22/2009 0831 - 0846 hours	1999 Ford Contour, Vin No. 1FAFP6637XK146684	WD451130C
20. 9/17/2009 1252 - 1300 hours	2000 Cadillac DeVille, License No. 4KAU714	WD380536C
21. 9/10/2009 1716 - 1723 hours	2001 Toyota Sienna, License No. 4NHL743	WD313819C
22. 9/10/2009 1643 - 1651 hours	1999 Ford Explorer, License No. 4HDD757	WD313817C
23. 9/3/2009 1605 - 1621 hours	1998 Nissan 280SX, License No. 4CRG068	WD226570C

1 devices and systems on the vehicles, thereby depriving the People of the State of California of the
2 protection afforded by the Motor Vehicle Inspection Program.

3 **SIXTH CAUSE FOR DISCIPLINE**

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

5 22. Respondent Meza-Diveni has subjected his technician license to discipline under
6 Health and Safety Code section 44072.2, subdivision (a), in that on or about September 3, 2009,
7 through February 1, 2010, regarding vehicles 1 through 23, identified in Table 1, above,
8 Respondent Meza-Diveni failed to comply with section 44012 of that Code in a material respect,
9 as follows: Respondent Meza-Diveni failed to perform the emission control tests on vehicles 1
10 through 23 in accordance with procedures prescribed by the department.

11 **SEVENTH CAUSE FOR DISCIPLINE**

12 **(Violations of Regulations Pursuant to the Motor Vehicle Inspection Program)**

13 23. Respondent Meza-Diveni has subjected his technician license to discipline under
14 Health and Safety Code section 44072.2, subdivision (c), in that on or about September 3, 2009,
15 through February 1, 2010, regarding vehicles 1 through 23, identified in Table 1, above, he
16 violated sections of the California Code of Regulations, title 16, as follows:

17 a. Section 3340.24, subdivision (c): Respondent Meza-Diveni falsely or fraudulently
18 issued electronic certificates of compliance without performing bona fide inspections of the
19 emission control devices and systems on those vehicles as required by Health and Safety Code
20 section 44012.

21 b. Section 3340.30, subdivision (a): Respondent Meza-Diveni failed to inspect and test
22 those vehicles in accordance with Health and Safety Code section 44012.

23 c. Section 3340.42: Respondent Meza-Diveni failed to conduct the required smog tests
24 and inspections on those vehicles in accordance with the Bureau's specifications.

25 **EIGHTH CAUSE FOR DISCIPLINE**

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

27 24. Respondent Meza-Diveni has subjected his technician license to discipline under
28 Health and Safety Code section 44072.2, subdivision (d), in that on or about September 3, 2009,

1 through February 1, 2010, regarding vehicles 1 through 23, identified in Table 1, above, he
 2 committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing
 3 electronic certificates of compliance without performing bona fide inspections of the emission
 4 control devices and systems on those vehicles, thereby depriving the People of the State of
 5 California of the protection afforded by the Motor Vehicle Inspection Program.

6 **RESPONDENT NO. 2 – ONTARIO SHOP**

7 **FACTUAL BACKGROUND**

8 25. On or about April 20, 2010, the Bureau conducted a detailed review of the VID for all
 9 smog inspections performed at Respondent No. 2's facility located in Ontario, California, for the
 10 period January 15, 2010, through April 20, 2010. The VID showed a pattern of various
 11 diagnostic trouble codes stored in memory of the PCM on the six vehicles set forth in Table 2,
 12 below. Vehicles 1 through 6 were all certified with the various pending codes stored in the PCM
 13 memory while the OEM service information shows these vehicles do not support the pending
 14 codes stored in the PCM memory. The vehicles receiving smog certificates were not tested
 15 during the OBD II functional test and another vehicle was used, constituting clean plugging. All
 16 of the following vehicles were inspected by Respondent Olmos.

17 **TABLE 2**

Date & Time of Inspection	Vehicle Certified & License No.	Certificate No.
1. 1/26/2010 1126 – 1136 hours	1997 Toyota Tacoma, License No. 5L94358	WF922095C
2. 2/8/2010 1628 – 1635 hours	1997 Nissan Maxima, License No. 5TIG110	WH233412C
3. 2/8/2010 1657 – 1711 hours	1997 Nissan Sentra, License No. 5SCF789	WH233413C
4. 2/9/2010 1226 – 1242 hours	1998 Mercury Villager, License No. 4ZOP885	WH233964C
5. 2/27/2010 1221 – 1229 hours	1999 Chevrolet Astro, License No. 4EZN393	WH508437C
6. 3/23/2010 1432 – 1446 hours	1997 Nissan Pickup, License No. 6P38187	WH867292C

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1 NINTH CAUSE FOR DISCIPLINE

2 (Misleading Statements)

3 26. Respondent No. 2 has subjected its registration to discipline under Code section
4 9884.7, subdivision (a)(1), in that on or about January 26, 2010, through March 23, 2010, it made
5 statements which it knew or which by exercise of reasonable care it should have known were
6 untrue or misleading as follows: Respondent No. 2 certified that vehicles 1 through 6, identified
7 in Table 2, above, had passed inspection and were in compliance with applicable laws and
8 regulations. In fact, the inspections were conducted on those vehicles using clean plugging
9 methods by substituting or using different vehicles during the OBD II functional tests in order to
10 issue smog certificates of compliance for the 6 vehicles, and Respondent No. 2 did not test or
11 inspect those vehicles as required by Health and Safety Code section 44012.

12 TENTH CAUSE FOR DISCIPLINE

13 (Fraud)

14 27. Respondent No. 2 has subjected its registration to discipline under Code section
15 9884.7, subdivision (a)(4), in that on or about January 26, 2010, through March 23, 2010, it
16 committed acts which constitute fraud by issuing electronic certificates of compliance for
17 vehicles 1 through 6, identified in Table 2, above, without performing bona fide inspections of the
18 emission control devices and systems on those vehicles, thereby depriving the People of the State
19 of California of the protection afforded by the Motor Vehicle Inspection Program.

20 ELEVENTH CAUSE FOR DISCIPLINE

21 (Violation of the Motor Vehicle Inspection Program)

22 28. Respondent No. 2 has subjected its station license to discipline under Health and
23 Safety Code section 44072.2, subdivision (a), in that on or about January 26, 2010, through
24 March 23, 2010, regarding vehicles 1 through 6, identified in Table 2, above, it violated sections
25 of that Code, as follows:

26 a. Section 44012: Respondent No. 2 failed to ensure that the emission control tests
27 were performed on those vehicles in accordance with procedures prescribed by the department.
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1 devices and system on the vehicles, thereby depriving the People of the State of California of the
2 protection afforded by the Motor Vehicle Inspection Program.

3 **FOURTEENTH CAUSE FOR DISCIPLINE**

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

5 31. Respondent Olmos has subjected his technician license to discipline under Health and
6 Safety Code section 44072.2, subdivision (a), in that on or about January 26, 2010, through
7 March 23, 2010, regarding vehicles 1 through 6, identified in Table 2, above, Respondent Olmos
8 failed to comply with section 44012 of that Code in a material respect, as follows: Respondent
9 Olmos failed to perform the emission control tests on vehicles 1 through 6 in accordance with
10 procedures prescribed by the department.

11 **FIFTEENTH CAUSE FOR DISCIPLINE**

12 **(Violations of Regulations Pursuant to the Motor Vehicle Inspection Program)**

13 32. Respondent Olmos has subjected his technician license to discipline under Health and
14 Safety Code section 44072.2, subdivision (c), in that on or about January 26, 2010, through
15 March 23, 2010, regarding vehicles 1 through 6, identified in Table 2, above, he violated sections
16 of the California Code of Regulations, title 16, as follows:

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

21 b. Section 3340.30, subdivision (a): Respondent Olmos failed to inspect and test those
22 vehicles in accordance with Health and Safety Code section 44012.

23 c. Section 3340.42: Respondent Olmos failed to conduct the required smog tests and
24 inspections on those vehicles in accordance with the Bureau's specifications.

25 **SIXTEENTH CAUSE FOR DISCIPLINE**

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

27 33. Respondent Olmos has subjected his technician license to discipline under Health and
28 Safety Code section 44072.2, subdivision (d), in that on or about January 26, 2010, through

1 March 23, 2010, regarding vehicles 1 through 6, identified in Table 2, above, he committed acts
2 involving dishonesty, fraud or deceit whereby another was injured by issuing electronic
3 certificates of compliance without performing bona fide inspections of the emission control
4 devices and systems on those vehicles, thereby depriving the People of the State of California of
5 the protection afforded by the Motor Vehicle Inspection Program.

6 PRIOR CITATIONS

7 34. To determine the degree of penalty, if any, to be imposed upon Respondent Meza-
8 Diveni, Complainant alleges as follows:

9 a. On November 4, 2005, the Bureau issued Citation No. M06-0241 to Respondent
10 Meza-Diveni against his technician license for violations of Health and Safety Code section
11 44032, (qualified technicians shall perform tests of emission control systems and devices in
12 accordance with section 44012 of that Code) and California Code of Regulations, title 16,
13 ("Regulation") section 3340.30, subdivision (a) (qualified technicians shall inspect, test, and
14 repair vehicles in accordance with sections 44012 and 44035 of the Health and Safety Code, and
15 Regulation section 3340.42). Respondent Meza-Diveni issued a certificate of compliance to a
16 Bureau vehicle with the ignition timing adjusted beyond the manufacturer's specifications.
17 Respondent Meza-Diveni was required to attend an 8-hour training course. Respondent Meza
18 Diveni complied with this citation on December 1, 2005.

19 b. On November 4, 2008, the Bureau issued Citation No. M09-0537 to Respondent
20 Meza-Diveni against his technician license for violations of Health and Safety Code section
21 44032, (qualified technicians shall perform tests of emission control systems and devices in
22 accordance with section 44012 of that Code) and California Code of Regulations, title 16,
23 ("Regulation") section 3340.30, subdivision (a) (qualified technicians shall inspect, test, and
24 repair vehicles in accordance with sections 44012 and 44035 of the Health and Safety Code, and
25 Regulation section 3340.42). Respondent Meza-Diveni issued a certificate of compliance to a
26 Bureau vehicle with a missing PCV system. Respondent Meza-Diveni was required to attend an
27 8-hour training course. Respondent Meza-Diveni complied with this citation on December 7,
28 2008.

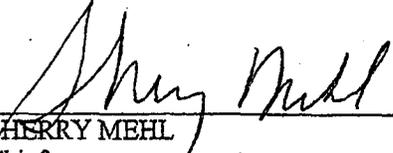
- 1 3. Revoking, suspending, or placing on probation any other automotive repair dealer
- 2 registration issued to Hector's Smog Check, Inc., doing business as Hector's Smog Check;
- 3 4. Revoking or suspending Smog Check Test Only Station License Number TC 258271,
- 4 issued to Hector's Smog Check, Inc., doing business as Hector's Smog Check;
- 5 5. Revoking or suspending Smog Check Test Only Station License Number TC 260289,
- 6 issued to Hector's Smog Check, Inc., doing business as Hector's Smog Check;
- 7 6. Revoking or suspending any additional license issued under Chapter 5 of the Health
- 8 and Safety Code in the name of Hector's Smog Check, Inc., doing business as Hector's Smog
- 9 Check;
- 10 6 Revoking or suspending Advanced Emission Specialist Technician License Number
- 11 EA 149609, issued to Joaquin Ernesto Meza-Diveni;
- 12 7. Revoking or suspending any additional license issued under Chapter 5 of the Health
- 13 and Safety Code in the name of Joaquin Ernesto Meza-Diveni;
- 14 8. Revoking or suspending Advanced Emission Specialist Technician License Number
- 15 EA 137432, issued to Salvador Olmos;
- 16 9. Revoking or suspending any additional license issued under Chapter 5 of the Health
- 17 and Safety Code in the name of Salvador Olmos;
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10. Ordering Hector's Smog Check, Inc., doing business as Hector's Smog Check, Joaquin Ernesto Meza-Diveni, and Salvador Olmos 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; and,

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

DATED: 5/16/11


SHERRY MEHL
Chief
Bureau of Automotive Repair
Department of Consumer Affairs
State of California
Complainant

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