

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

In the Matter of the Accusation Against:

**DAVID RENE SANCHEZ and EDER  
PLASENCIA (aka EDER DE JESUS  
PLASENCIA), PARTNERS, dba SMOG  
TEST CENTER;**  
250 S. Towne Ave.  
Pomona, CA 91766

Automotive Repair Dealer Registration No.  
ARD 276231  
Smog Check, Test Only, Station License No.  
TC 276231,

and

**EDER DE JESUS PLASENCIA**  
1665 Burma Ct.  
Pomona, CA 91766

Smog Check Inspector License No. EO  
632822  
Smog Check Repair Technician License  
No. EI 632822 (formerly Advanced Emission  
Specialist Technician EA 632822)

Respondents.

Case No. 79/16-86

OAH No. 2016050631

**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

August 25, 2016

DATED: July 20, 2016

Kurt Heppner  
KURT HEPPLER  
Supervising Attorney  
Division of Legal Affairs  
Department of Consumer Affairs

1 KAMALA D. HARRIS  
Attorney General of California  
2 ARMANDO ZAMBRANO  
Supervising Deputy Attorney General  
3 WILLIAM D. GARDNER  
Deputy Attorney General  
4 State Bar No. 244817  
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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 **250 S. Towne Ave.**  
18 **Pomona, CA 91766**

19 **Automotive Repair Dealer Registration No.**  
20 **ARD 276231**  
21 **Smog Check, Test Only, Station License No.**  
22 **TC 276231,**

23 **and**

24 **EDER DE JESUS PLASENCIA**  
25 **1665 Burma Ct.**  
26 **Pomona, CA 91766**

27 **Smog Check Inspector License No. EO**  
28 **632822**  
29 **Smog Check Repair Technician License No.**  
30 **EI 632822 (formerly Advanced Emission**  
31 **Specialist Technician EA 632822)**

32 Respondents.

Case No. 79/16-86

OAH No. 2016050631

**STIPULATED SETTLEMENT AND**  
**DISCIPLINARY ORDER**

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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. Patrick Dorais (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 William D. Gardner, Deputy Attorney  
7 General.

8 2. Respondent David Rene Sanchez and Eder Plasencia (aka Eder de Jesus Plasencia),  
9 partners, dba Smog Test Center, and Respondent Eder de Jesus Plascencia are representing  
10 themselves in this proceeding and have chosen not to exercise their right to be represented by  
11 counsel.

12 1. On or about April 14, 2014, the Bureau of Automotive Repair issued Automotive  
13 Repair Dealer Registration Number ARD 276231 to David Rene Sanchez and Eder Plasencia (aka  
14 Eder de Jesus Plasencia), partners, dba Smog Test Center. The Automotive Repair Dealer  
15 Registration was in full force and effect at all times relevant to the charges brought herein and  
16 will expire on April 30, 2017, unless renewed.

17 2. On or about April 21, 2014, the Bureau of Automotive Repair issued Smog Check,  
18 Test Only, Station License Number TC 276231 to David Rene Sanchez and Eder Plasencia (aka  
19 Eder de Jesus Plasencia), partners, dba Smog Test Center (hereinafter, "Respondent Smog Test  
20 Center"). The Smog Check, Test Only, Station License was in full force and effect at all times  
21 relevant to the charges brought herein and will expire on April 30, 2017, unless renewed.

22 3. On January 31, 2011, the Bureau of Automotive Repair issued Advanced Emission  
23 Specialist Technician License EA 632822 to Eder de Jesus Plasencia (hereinafter, "Respondent  
24 Plasencia"). Pursuant to California Code of Regulations, title 16, section 3340.28, subdivision  
25 (e), upon Respondent's election, said license was renewed as Smog Check Inspector License EO  
26 632822 and Smog Check Repair Technician License No. EI 632822, effective January 18, 2013.  
27 The licenses were in full force and effect at all times relevant to the charges brought herein and  
28 will expire on January 31, 2017, unless renewed.



9. Respondent Plascencia understands and agrees that the charges and allegations in Accusation No. 79/16-86, if proven at a hearing, constitute cause for imposing discipline upon Smog Check Inspector License EO 632822 and Smog Check Repair Technician License No. EI 632822.

10. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondents agree that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation, and that Respondents hereby gives up their right to contest those charges.

11. Respondent Smog Test Center agrees that Automotive Repair Dealer Registration No. 276231 and Smog Check, Test Only, Station License Number TC 276231 are subject to discipline and Respondent agrees to be bound by the Director's probationary terms as set forth in the Disciplinary Order below.

12. Respondent Plascencia agrees that Smog Check Inspector License EO 632822 and Smog Check Repair Technician License No. EI 632822 are subject to discipline and Respondent agrees to be bound by the Director's probationary terms as set forth in the Disciplinary Order below.

## CONTINGENCY

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

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14. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

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

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

## DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Automotive Repair Dealer Registration No. 276231 and Smog Check, Test Only, Station License Number TC 27623, issued to David Rene Sanchez and Eder Plasencia (aka Eder de Jesus Plasencia), partners, dba Smog Test Center, are revoked. However, the revocations are stayed and Respondent is placed on probation for three (3) years under the terms and conditions set forth below.

IT IS HEREBY FURTHER ORDERED that Smog Check Inspector License EO 632822 and Smog Check Repair Technician License No. EI 632822, issued to Eder de Jesus Plasencia, are revoked. However, the revocations are is stayed and Respondent is placed on probation for three (3) years under the terms and conditions set forth below.

1. **Actual Suspension.** The following licenses and/or registrations are suspended for a period of fifteen (15) consecutive days, beginning on the effective date of the Decision and Order: Automotive Repair Dealer Registration No. ARD 276231; Smog Check, Test Only, Station License Number TC TC276231; Smog Check Inspector License EO 632822; and Smog Check Repair Technician License No. EI 632822. During the period of suspension, Respondents shall not offer

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2 or perform any services for which any of the above-referenced licenses and/or registrations are  
3 required.

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

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

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

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

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

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

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

27 9. **Cost Recovery.** Payment to the Bureau the amount of \$2,400.00 as reasonable  
28 reimbursement for the costs related to the investigation and enforcement of this matter.


Respondent shall make such payment in twenty-four (24) equal monthly installments with final payment due no later than twelve (12) months prior to the termination of probation. Failure to complete payment of cost recovery within this time frame shall constitute a violation of probation which may subject Respondent's automotive repair dealer registration, smog check station license and/or smog inspector licenses to outright revocation; however, the Director or the Director's Bureau of Automotive Repair designee may elect to continue probation until such time as reimbursement of the entire cost recovery amount has been made to the Bureau.

ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Automotive Repair Dealer Registration, and Smog Check, Test Only, Station 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.

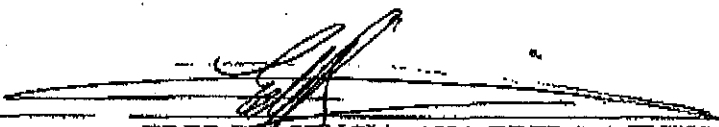
DATED:

6/13/16

  
DAVID RENE SANCHEZ  
Respondent

DATED:

6.13.16

  
EDER PLASENCIA, AKA EDER DE JESUS  
PLASENCIA  
Respondent

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ENDORSEMENT

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

Dated:

6/13/16

Respectfully submitted,

KAMALA D. HARRIS  
Attorney General of California  
ARMANDO ZAMBRANO  
Supervising Deputy Attorney General

  
WILLIAM D. GARDNER  
Deputy Attorney General  
*Attorneys for Complainant*

LA2015604259  
Stipulation.rtf

**Exhibit A**

**Accusation No. 79/16-86**

1 KAMALA D. HARRIS  
Attorney General of California  
2 ARMANDO ZAMBRANO  
Supervising Deputy Attorney General  
3 WILLIAM D. GARDNER  
Deputy Attorney General  
4 State Bar No. 244817  
300 So. Spring Street, Suite 1702  
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6 Facsimile: (213) 897-2804  
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16 **TEST CENTER;**  
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18 **Pomona, CA 91766**

ACCUSATION

*Smog check*

19 **Automotive Repair Dealer Registration No.**  
20 **ARD 276231**  
21 **Smog Check, Test Only, Station License No.**  
22 **TC 276231,**

23 and

24 **EDER DE JESUS PLASENCIA**  
25 **1665 Burma Ct.**  
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27 **Smog Check Inspector License No. EO**  
28 **632822**  
**Smog Check Repair Technician License No.**  
**EI 632822 (formerly Advanced Emission**  
**Specialist Technician EA 632822)**

Respondents.

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1 Complainant alleges:

2 PARTIES

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

5 2. On or about April 14, 2014, the Bureau of Automotive Repair issued Automotive  
6 Repair Dealer Registration Number ARD 276231 to David Rene Sanchez and Eder Plasencia (aka  
7 Eder de Jesus Plasencia), partners, dba Smog Test Center. The Automotive Repair Dealer  
8 Registration was in full force and effect at all times relevant to the charges brought herein and  
9 will expire on April 30, 2016, unless renewed.

10 3. On or about April 21, 2014, the Bureau of Automotive Repair issued Smog Check,  
11 Test Only, Station License Number TC 276231 to David Rene Sanchez and Eder Plasencia (aka  
12 Eder de Jesus Plasencia), partners, dba Smog Test Center (hereinafter, "Respondent Smog Test  
13 Center"). The Smog Check, Test Only, Station License was in full force and effect at all times  
14 relevant to the charges brought herein and will expire on April 30, 2016, unless renewed.

15 4. On January 31, 2011, the Bureau of Automotive Repair issued Advanced Emission  
16 Specialist Technician License EA 632822 to Eder de Jesus Plasencia (hereinafter, "Respondent  
17 Plasencia"). Pursuant to California Code of Regulations, title 16, section 3340.28, subdivision  
18 (e), upon Respondent's election, said license was renewed as Smog Check Inspector License EO  
19 632822 and Smog Check Repair Technician License No. EI 632822, effective January 18, 2013.  
20 The licenses were in full force and effect at all times relevant to the charges brought herein and  
21 will expire on January 31, 2017, unless renewed.

22 JURISDICTION

23 5. Business and Professions Code ("BPC") section 9884.13 provides, in pertinent part,  
24 that the expiration of a valid registration shall not deprive the Director of jurisdiction to proceed  
25 with a disciplinary proceeding against an automotive repair dealer or to render a decision  
26 temporarily or permanently invalidating (suspending or revoking) a registration.

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1        11. Section 9884.9, subdivision (a), of the BPC mandates that an "automotive repair  
2 dealer shall give to the customer a written estimated price for labor and parts necessary for a  
3 specific job."

4        12. Section 9889.9 of the BPC states that "[w]hen any license has been revoked or  
5 suspended following a hearing under the provisions of this article [Article 7 (commencing with  
6 section 9889.1) of the Automotive Repair Act], any additional license issued under Articles 5 and  
7 6 of this chapter in the name of the licensee may be likewise revoked or suspended by the  
8 director."

9        13. Section 44012 of the HSC provides, in pertinent part, that tests at smog check stations  
10 shall be performed in accordance with procedures prescribed by the department.

11        14. Section 44015, subdivision (b), of the HSC provides that a certificate of compliance  
12 shall be issued if a vehicle meets the requirements of HSC section 44012.

13        15. Section 44032 of the HSC states, in pertinent part, that: (1) no person may perform  
14 tests or repairs of emission control devices or systems of motor vehicles required by the Motor  
15 Vehicle Inspection Program unless the person performing the test or repair is a licensed qualified  
16 smog check technician; and (2) all tests must be conducted in accordance with section 44012 (i.e.  
17 Motor Vehicle Inspection Program Requirements).

18        16. Section 44072.2 of the HSC states, in pertinent part:

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

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

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

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

28                "(e) Has misrepresented a material fact in obtaining a license.

17. Section 44072.8 of the HSC states that 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.

## REGULATORY PROVISIONS

18. California Code of Regulations (“CCR”), title 16, section 3340.24, subdivision (c), states:

"The bureau may suspend or revoke the license of or pursue other legal action against a licensee, if the licensee falsely or fraudulently issues or obtains a certificate of compliance or a certificate of noncompliance."

19. CCR, title 16, section 3340.35, subdivision (c), states that a licensed smog check station "shall issue a certificate of compliance or noncompliance to the owner or operator of any vehicle that has been inspected in accordance with the procedures specified in section 3340.42 of this article and has all the required emission control equipment and devices installed and functioning correctly."

20. CCR, title 16, section 3340.41, subdivision (c), states:

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

21. CCR, title 16, section 3340.42, sets forth specific emissions test methods and procedures which apply to all vehicles inspected in the State of California

22. CCR, title 16, section 3353, states, in pertinent part:

"No work for compensation shall be commenced and no charges shall accrue without specific authorization from the customer in accordance with the following requirements:

(a) Estimate for Parts and Labor. Every dealer shall give to each customer a written estimated price for parts and labor for a specific job."

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1 **COST RECOVERY**

2 23. Section 125.3, subdivision (a), of the BPC provides, in pertinent part, that a Board  
3 "may request the administrative law judge to direct a licensee found to have committed a  
4 violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the  
5 investigation and enforcement of the case."

6 **SUMMARY OF LOW PRESSURE FUEL EVAPORATIVE TEST (LPFET)**

7 24. State law requires that smog inspections on vehicles of model year 1995 and older  
8 include a Low Pressure Fuel Evaporative Test ("LPFET"). The test is designed to ensure that the  
9 vehicle's fuel evaporative system is not leaking impermissible amounts of gas fumes into the  
10 atmosphere. To perform a LPFET, the inspector must install an adapter and hose to the vehicle's  
11 fuel fill pipe in order to pressurize the fuel compartment with nitrogen. The LPFET test  
12 equipment then measures the pressurized fuel compartment to determine whether there are any  
13 impermissible leaks. Once the LPFET is performed, the inspector manually enters the test results  
14 into the Bureau's Emission Inspection System ("EIS"), also known as BAR 97. If a vehicle is  
15 unable to pass the LPFET, it fails the functional portion of the smog inspection, causing an  
16 overall failure of the smog inspection and preventing the issuance of a certificate compliance.

17 **UNDERCOVER VEHICLE #1**

18 25. On April 8, 2015, a Bureau program representative working in one of the Bureau's  
19 Forensic Documentation Laboratories inspected and documented the condition of the emissions  
20 control systems on a 1991 Jeep used by the Bureau for undercover operations. After documenting  
21 that the emissions control systems were properly functioning such that the vehicle would pass a  
22 California smog inspection, the program representative replaced the vehicle's fuel tank vent hose  
23 with a defective hose that was unable to maintain proper fuel evaporative pressure. As a result of  
24 this introduced defect, the vehicle was no longer able to pass the LPFET, meaning that it would  
25 fail the functional portion of a smog inspection and be unable to obtain a certificate of  
26 compliance.

27 26. On May 16, 2015, an undercover Bureau program representative took the  
28 documented 1991 Jeep to Respondent Smog Test Center's station to obtain a smog inspection.



1 Respondent Plasencia agreed to perform the inspection and asked the undercover program  
2 representative to sign a work order. The program representative signed the work order but was  
3 not provided with a copy of it. The program representative witnessed Respondent Plasencia  
4 perform the smog inspection and observed that at no time during the inspection did Respondent  
5 Plasencia connect the LPFET test equipment to the vehicle. Nonetheless, Respondent Plasencia  
6 manually entered passing test results for the LPFET into the BAR 97 and, ultimately, issued a  
7 certificate of compliance for the vehicle. Thereafter, the Bureau program representative who  
8 originally documented the 1991 Jeep re-inspected the vehicle and further confirmed that  
9 Respondents had issued the certificate of compliance in violation of state law.

#### 10 UNDERCOVER VEHICLE #2

11 27. On June 25, 2015, a Bureau program representative working in one of the Bureau's  
12 Forensic Documentation Laboratories inspected and documented the condition of the emissions  
13 control systems on a 1990 Toyota used by the Bureau for undercover operations. After  
14 documenting that the emissions control systems were properly functioning such that the vehicle  
15 would pass a California smog inspection, the program representative replaced the vehicle's fuel  
16 tank vent hose with a defective hose that was unable to maintain proper fuel evaporative pressure.  
17 As a result of this introduced defect, the vehicle was no longer able to pass the LPFET, meaning  
18 that it would fail the functional portion of a smog inspection and be unable to obtain a certificate  
19 of compliance.

20 28. On June 30, 2015, an undercover Bureau program representative took the  
21 documented 1990 Toyota to Respondent Smog Test Center's station to obtain a smog inspection.  
22 Respondent Plasencia agreed to perform the inspection and asked the undercover program  
23 representative to sign a work order. The program representative signed the work order but was  
24 not provided with a copy of it. During the inspection, the program representative observed that  
25 when the LPFET test equipment was connected to the vehicle it "beeped" and a red light was  
26 illuminated on the control panel. The program representative then witnessed Respondent  
27 Plasencia disconnect the LPFET hose from the vehicle and connect it to a "test port" on the  
28 LPFET itself. The program representative then observed another "beep" and saw that now a

1 green light was illuminated on LPFET control panel. Respondent Plasencia manually entered  
2 passing test results for the LPFET into the BAR 97 and, ultimately, issued a certificate of  
3 compliance for the vehicle. Thereafter, the Bureau program representative who originally  
4 documented the 1990 Toyota re-inspected the vehicle and further confirmed that Respondents had  
5 issued the certificate of compliance in violation of state law.

6 **FIRST CAUSE FOR DISCIPLINE**

7 **(Misleading Statements)**

8 29. The Automotive Repair Dealer Registration of Respondent Smog Test Center is  
9 subject to discipline under BPC section 9884.7, subdivision (a)(1), in that Respondent made  
10 statements that were known, or which by exercise of reasonable care should have been known, to  
11 be untrue or misleading in that Respondent issued electronic certificates of compliance for the  
12 Bureau's 1991 Jeep and 1990 Toyota, certifying that those vehicles were in compliance with  
13 applicable laws and regulations when, in fact, those vehicles had not been so inspected.  
14 Complainant refers to, and by this reference incorporates, the allegations set forth above in  
15 paragraphs 24 through 28, inclusive, as though fully set forth herein.

16 **SECOND CAUSE FOR DISCIPLINE**

17 **(Fraud)**

18 30. The Automotive Repair Dealer Registration of Respondent Smog Test Center is  
19 subject to discipline under BPC section 9884.7, subdivision (a)(4), in that Respondent committed  
20 acts which constitute fraud by issuing electronic certificates of compliance for the Bureau's 1991  
21 Jeep and 1990 Toyota, without performing bona fide inspections of the emission control devices  
22 and systems on those vehicles, thereby depriving the People of the State of California of the  
23 protection afforded by the Motor Vehicle Inspection Program. Complainant refers to, and by this  
24 reference incorporates, the allegations set forth above in paragraphs 24 through 28, inclusive, as  
25 though fully set forth herein.

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

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

6                                   **SIXTH CAUSE FOR DISCIPLINE**

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

8       34.   The station license of Respondent Smog Test Center is subject discipline under HSC  
9 section 44072.2, subdivision (d), in that, with respect to the Bureau's 1991 Jeep and 1990 Toyota,  
10 Respondent committed acts involving dishonesty, fraud or deceit whereby another was injured by  
11 issuing electronic certificates of compliance for those vehicles without performing bona fide  
12 inspections of the emission control devices and systems on those vehicles, thereby depriving the  
13 People of the State of California of the protection afforded by the Motor Vehicle Inspection  
14 Program. Complainant refers to, and by this reference incorporates, the allegations set forth  
15 above in paragraphs 24 through 28, inclusive, as though fully set forth herein.

16                                   **SEVENTH CAUSE FOR DISCIPLINE**

17                                   **(Failure to Give Customer Copy of Signed Document)**

18       35.   The Automotive Repair Dealer Registration license of Respondent Smog Test  
19 Center is subject discipline pursuant to Code section 9884.7, subdivision (a)(3), in that  
20 Respondent failed to give to a customer a copy of a document requiring the customer's signature  
21 as soon as the customer signed the document. Complainant refers to, and by this reference  
22 incorporates, the allegations contained in paragraphs 26 and 28, inclusive, as though set forth fully  
23 herein.

24                                   **EIGHTH CAUSE FOR DISCIPLINE**

25                                   **(Violation of Automotive Repair Act Provisions and Regulations)**

26       36.   Res The Automotive Repair Dealer Registration license of Respondent Smog Test  
27 Center is subject discipline pursuant to Code section 9884.7, subdivision (a)(6), in that  
28 Respondent failed to comply with the requirement of Code section 9884.9, subdivision (a), and

1 California Code of Regulations, title 16, section 3353, subdivisions (a) and (c). Complainant  
2 refers to, and by this reference incorporates, the allegations contained in paragraphs 25 and 27,  
3 inclusive, as though set forth fully herein.

4 **NINTH CAUSE FOR DISCIPLINE**

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

6 37. Respondent Plasencia has subjected his smog check inspector and smog check repair  
7 technician licenses to discipline under HSC section 44072.2, subdivision (a), in that he violated  
8 the following sections of the HSC with respect to his inspections of the Bureau's 1991 Jeep and  
9 1990 Toyota:

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

12 b. **Section 44032:** Respondent failed to perform tests of the emission control devices  
13 and systems on those vehicles in accordance with section 44012 of the HSC, in that LPFET tests  
14 on the vehicles were not properly performed.

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

18 **TENTH CAUSE FOR DISCIPLINE**

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

20 38. Respondent Plasencia has subjected his smog check inspector and smog check repair  
21 technician licenses to discipline under HSC section 44072.2, subdivision (c), in that he violated  
22 the following sections of the CCR, title 16, with respect to his inspections of the Bureau's 1991  
23 Jeep and 1990 Toyota:

24 a. **Section 3340.24, subdivision (c):** Respondent falsely and/or fraudulently issued  
25 certificates of compliance;

26 b. **Section 3340.30, subdivision (a):** Respondent failed to inspect and test those  
27 vehicles in accordance with HSC section 44012.

28 ///

1 c. Section 3340.41, subdivision (c): Respondent entered false information into the EIS  
2 about the vehicles being tested.

3 d. Section 3340.42: Respondent failed to conduct the required smog tests and  
4 inspections on those vehicles in accordance with the Bureau's specifications.

5 **ELEVENTH CAUSE FOR DISCIPLINE**

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

7 39. Respondent Plasencia has subjected his smog check inspector and smog check  
8 repair technician licenses to discipline under HSC section 44072.2, subdivision (d), in that he  
9 committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing  
10 electronic certificates of compliance for the Bureau's 1991 Jeep and 1990 Toyota without  
11 performing bona fide inspections of the emission control devices and systems on those vehicles,  
12 thereby depriving the People of the State of California of the protection afforded by the Motor  
13 Vehicle Inspection Program. Complainant refers to, and by this reference incorporates, the  
14 allegations set forth above in paragraphs 24 through 28, inclusive, as though fully set forth herein.

15 **PRAYER**

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

18 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD  
19 276231, issued to David Rene Sanchez and Eder Plasencia (aka Eder de Jesus Plasencia),  
20 partners, dba Smog Test Center;

21 2. Revoking or suspending Smog Check, Test Only, Station License Number TC  
22 276231, issued to David Rene Sanchez and Eder Plasencia (aka Eder de Jesus Plasencia),  
23 partners, dba Smog Test Center;

24 3. Revoking or suspending Smog Check Inspector License Number EO 632822, issued  
25 to Eder de Jesus Plasencia

26 4. Revoking or suspending Smog Check Repair Technician License Number EI 632822,  
27 issued to Eder de Jesus Plasencia;

28 ///

1           5.     Ordering David Rene Sanchez and Eder De Jesus Plasencia to pay the Bureau of  
2 Automotive Repair the reasonable costs of the investigation and enforcement of this case,  
3 pursuant to Business and Professions Code section 125.3;

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

6 DATED: 3-11-16

*Patrick Dorais by Doug Balash*  
PATRICK DORAIS  
Chief  
Bureau of Automotive Repair  
Department of Consumer Affairs  
State of California  
Complainant

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