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

12 In the Matter of the Accusation Against:

Case No. 79/16-53

13 **BOSS SMOG CHECK;**
14 **ELEAZAR NAVARRO - OWNER**
10926 Vanowen Street #C
15 North Hollywood, CA 91606

ACCUSATION
SMOG CHECK

16 Automotive Repair Dealer Registration No.
ARD 278667
17 Smog Check Test Only Station License No. TC
278667

18 and

19 **JOSE CRUZ LOPEZ**
8504 Firestone Blvd., #157
20 Downey, CA 90241

21 Smog Check Inspector License No. EO 146239
22 Smog Check Repair License No. EI 146239

23 and

24 **JOSE MAGNO ROQUE**
9362 Moonbeam Avenue #9
25 Panorama City, CA 91402

26 Smog Check Inspector License No. EO 633270

27 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 ("Bureau"), Department of Consumer Affairs.

5 **Automotive Repair Dealer Registration**

6 2. On or about December 4, 2014, the Bureau issued Automotive Repair Dealer
7 Registration No. ARD 278667 to Respondent Eleazar Navarro, Owner, doing business as Boss
8 Smog Check (Respondent Boss Smog Check). The registration was in full force and effect at all
9 times relevant to the charges brought herein and will expire on December 31, 2016, unless
10 renewed.

11 **Smog Check Station**

12 3. On or about January 7, 2015, the Bureau issued Smog Check Test Only Station
13 License No. TC 278667 to Respondent Boss Smog Check. The Smog Check Test Only Station
14 license was in full force and effect at all times relevant to the charges brought herein and will
15 expire on December 31, 2016, unless renewed.

16 **Technician Licenses**

17 4. Respondent Jose Cruz Lopez (Respondent Lopez) was issued Advanced Emission
18 Specialist Technician License Number EA 146239 (technician license), and was due to expire and
19 was cancelled on October 31, 2013. Pursuant to California Code of Regulations, title 16, section
20 3340.28, subdivision (e), said license was renewed pursuant to Respondent Lopez's election as
21 Smog Check Inspector License No. EO 146239 and Smog Check Repair License No. EI 146239,
22 effective October 31, 2013. The Smog Check Inspector License and Smog Check Repair License
23 will expire on October 31, 2017, unless renewed.

24 5. Respondent Jose Magno Roque (Respondent Roque) was issued Advanced Emission
25 Specialist Technician License Number EA 633270 (technician license), and was due to expire and
26 was cancelled on September 30, 2013. Pursuant to California Code of Regulations, title 16,
27 section 3340.28, subdivision (e), said license was renewed pursuant to Respondent Roque's
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1 election as Smog Check Inspector License No. EO 633270. The Smog Check Inspector License
2 will expire on September 30, 2017, unless renewed.

3 JURISDICTION

4 This Accusation is brought before the Director of Consumer Affairs (Director) for the
5 Bureau of Automotive Repair.

6 6. Section 9884.7 of the Business and Professions Code ("Code") provides that the
7 Director may revoke an automotive repair dealer registration.

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

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

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

19 10. Section 44072.8 of the Health and Safety Code states:

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

23 STATUTORY PROVISIONS

24 11. Section 9884.7 of the Code states, in pertinent part:

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

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

6 (4) Any other conduct that constitutes fraud.

7 (6) Failure in any material respect to comply with the provisions of this chapter [the
8 Automotive Repair Act (Business and Professions Code section 9880, et seq.)] or regulations
9 adopted pursuant to it.

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

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

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

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

24 (a) Violates any section of this chapter [the Motor Vehicle Inspection Program (Health
25 and Safety Code section 44000, et seq.)] and the regulations adopted pursuant to it, which related
26 to the licensed activities.

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

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

1 13. Health and Safety Code section 44072.10 states, in pertinent part:

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3 (c) The department shall revoke the license of any smog check technician
4 or station licensee who fraudulently certifies vehicles or participates in the fraudulent
5 inspection of vehicles. A fraudulent inspection includes, but is not limited to, all of
6 the following:

7 (1) Clean piping, as defined by the department.

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9 (4) Intentional or willful violation of this chapter or any regulation,
10 standard, or procedure of the department implementing this chapter . . .

11 **REGULATORY PROVISIONS**

12 14. California Code of Regulations, title 16, section 3340.24, subdivision (c), states:

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

16 15. California Code of Regulations, title 16, section 3340.28(e), states that “[u]pon
17 renewal of an unexpired Basic Area Technician license or an Advanced Emission Specialist
18 Technician license issued prior to the effective date of this regulation, the licensee may apply to
19 renew as a Smog Check Inspector, Smog Check Repair Technician, or both.”

20 16. California Code of Regulations, title 16, section 3340.30, subdivision (a), states that a
21 licensed smog technician shall at all times “[i]nspect, test and repair vehicles, as applicable, in
22 accordance with section 44012 of the Health & Safety Code, section 44035 of the Health &
23 Safety Code, and section 3340.42 of this article.”

24 17. California Code of Regulations, title 16, section 3340.35, subdivision (c), states that a
25 licensed smog check station “shall issue a certificate of compliance or noncompliance to the
26 owner or operator of any vehicle that has been inspected in accordance with the procedures
27 specified in section 3340.42 of this article and has all the required emission control equipment
28 and devices installed and functioning correctly.”

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

1 **COST RECOVERY**

2 19. Section 125.3 of the Code 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 **VID DATA REVIEW**

7 20. Beginning March 9, 2015, California's Smog Check Program was updated requiring
8 the use of an On-Board Diagnostic Inspection System (OIS). OIS is the Smog Check equipment
9 required in all areas of the State when inspecting most model-year 2000 and newer gasoline and
10 hybrid vehicles and most 1998 and newer diesel vehicles. The system consists of a certified Data
11 Acquisition Device (DAD), computer, bar code scanner, and printer. The DAD is an On Board
12 Diagnostic (OBD) scan tool that, when requested by the California OIS software, retrieves OBD
13 data from the vehicle. All OBD data that the vehicle indicates it supports is requested by the
14 California OIS software and will be retrieved. The DAD connects between the OIS computer and
15 the vehicle's DLC. The California OIS software requires a continuous Internet connection when
16 performing a Smog Check inspection and the OIS software communicates with BAR's central
17 database through the Internet connection. The bar code scanner is used to input technician
18 information, the vehicles identification number (VIN), and DMV renewal information. The
19 printer provides a Vehicle Inspection Report (VIR) containing inspection results for motorists and
20 a Smog Check Certificate of Compliance number for passing vehicles.

21 21. Data retrieved and recorded during an OIS smog check includes; the eVIN, which is
22 the digitally stored VIN programmed into the vehicle's Powertrain Control Module (PCM); the
23 communication protocol, which is the manufacturer/vehicle specific language the PCM uses to
24 relay information; and the number of Parameter Identifications (PIDs), which is the number of
25 specific data values each PCM uses related to emissions controls.

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1 22. If the vehicle passes the visual, functional and tailpipe tests, it passes the overall
2 inspection and a Certificate of Compliance is issued and transmitted electronically to the Vehicle
3 Information Database (VID.) These Certificates of Compliance are purchased in blocks of fifty
4 (50) through the EIS or OIS from the VID, using a pre-arranged electronic bank account debit
5 system or by check, via mail, from Bureau Headquarters in Sacramento. Each Certificate of
6 Compliance has a unique control number so that it can be tracked to determine which Smog
7 Check Station purchased the Certificate of Compliance and to which vehicle it was issued.

8 23. The VID contains registration data from Department of Motor Vehicles (DMV) plus
9 emission standards, vehicle smog check inspections, smog check stations and technicians, and
10 Certificates of Compliance. The VID receives the passing smog check results immediately
11 following the inspection. During the vehicle registration process, the DMV accesses the VID to
12 verify that the vehicle has been tested and certified. The Bureau can also access the VID to view
13 test data on smog check inspections performed at any Smog Check Station, or search for, retrieve,
14 and print a test record for a particular vehicle which has been tested. The EIS or OIS, depending
15 on the test type, also prints a Vehicle Inspection Report (VIR), which is a physical record of the
16 test results and shows the Certificate of Compliance number that was issued if the vehicle passed
17 the smog inspection.

18 24. The smog check technician must sign the VIR under penalty of perjury to indicate
19 that the inspection was done within Bureau guidelines. Smog Check Stations are required by law
20 to maintain a copy of the VIR along with a copy of the repair invoice for three years. The
21 consumer's VIR serves as a receipt and proof that the VID was updated and a Certificate of
22 Compliance was issued. Licensed Smog Check Technicians are the only persons authorized by
23 the Bureau to perform official inspections. They are issued a personal access code and a license,
24 which are used to gain access to the EIS and OIS to perform smog check inspections.
25 Unauthorized use of another technician's access code or license is prohibited.

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1 25. Respondents have engaged in numerous acts or omissions constituting violations of
 2 the Automotive Repair Act (Business and Professions Code section 9880 et. seq.) and Motor
 3 Vehicle Inspection Program (Health and Safety Code section 44000 et. Seq.) through their
 4 commission of multiple instances of “clean plugging.”¹ The facts and circumstances surrounding
 5 Respondents’ clean plugging activities are summarized as follows: In November of 2015, a
 6 Bureau representative conducted an investigation in which he reviewed OIS Test Data for Boss
 7 Smog for the period of September 22, 2015 through November 14, 2015. The data obtained in
 8 connection with this investigation revealed anomalies consistent with fraudulent Smog Check
 9 activities. A further in- depth analysis of this OIS data revealed that there were a total of twenty-
 10 two (22) vehicles of various years, makes, and models that were issued fraudulent Certificates of
 11 Compliance using the clean plugging method. These twenty-two (22) fraudulently certified
 12 vehicles did not transmit an eVIN, the expected communication Protocol, and PID Count
 13 transmitted was incorrect. The following chart (Table 1) illustrates the documented clean
 14 plugging activities of Respondent Lopez and Respondent Roque between September 22, 2015
 15 through November 14, 2015.

Test Date and Time*	Vehicle Certified & License No. or VIN No.	Certificate No.	Details and Technician License No. Involved
09/22/2015 1256 hours	2005 DODGE 1D4HD48D55F501351	PW508500C	Test data does not support this vehicle. eVIN was missing from data and there were discrepancies in communication protocol and PID count Technician: EO 633270
09/23/2015 1253 hours	2005 FORD 1FTRF12W75KC00902	PW759156C	Test data does not support this vehicle. eVIN was missing from

26 ¹ Clean plugging refers to the use of another vehicle’s properly functioning On Board
 27 Diagnostic, generation II, (OBD II) system, or another source, to generate passing diagnostic
 28 readings for the purpose of issuing fraudulent smog Certificates of Compliance to vehicles that are not in smog compliance and/or not present for testing.

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Test Date and Time*	Vehicle Certified & License No. or VIN No.	Certificate No.	Details and Technician License No. Involved
			<p>data and there were discrepancies in communication protocol and PID count</p> <p>Technician: EO 633270</p>
<p>09/26/2015 1047 hours</p>	<p>2007 DODGE WD8PE745875222818</p>	<p>PW759175C</p>	<p>Test data does not support this vehicle.</p> <p>eVIN was missing from data and there were discrepancies in communication protocol and PID count</p> <p>Technician: EO 633270</p>
<p>09/26/2015 1113 hours</p>	<p>2009 BMW 6JPH562</p>	<p>PW759177C</p>	<p>Test data does not support this vehicle.</p> <p>eVIN was missing from data and there were discrepancies in communication protocol and PID count</p> <p>Technician: EO 633270</p>
<p>09/28/2015 1302 hours</p>	<p>2008 KIA 6NTJ899</p>	<p>PW759185C</p>	<p>Test data does not support this vehicle.</p> <p>eVIN was missing from data and there were discrepancies in communication protocol and PID count</p> <p>Technician: EO 633270</p>
<p>11/3/15 1421 hours</p>	<p>2007 DODGE 2B3KA43G77H864220</p>	<p>PY887618C</p>	<p>Test data does not support this vehicle.</p> <p>eVIN was missing from data and there were discrepancies in communication protocol and PID count</p> <p>Technician: EO 146239</p>

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Test Date and Time*	Vehicle Certified & License No. or VIN No.	Certificate No.	Details and Technician License No. Involved
11/3/2015 1431 hours	2006 FORD 6STH995	PY887619C	Test data does not support this vehicle. eVIN was missing from data and there were discrepancies in communication protocol and PID count Technician: EO146239
11/3/2015 1442 hours	2008 DODGE 2B3KA43H48H134968	PY887620C	Test data does not support this vehicle. eVIN was missing from data and there were discrepancies in communication protocol and PID count Technician: EO146239
11/3/2015 1510 hours	2007 SATURN 6KMD044	PY887621C	Test data does not support this vehicle. eVIN was missing from data and there were discrepancies in communication protocol and PID count Technician: EO146239
11/3/2015 1524 hours	2008 FORD 6SVH101	PY887622C	Test data does not support this vehicle. eVIN was missing from data and there were discrepancies in communication protocol and PID count Technician: EO146239
11/4/2015 1236 hours	2005 FORD 6UJL064	PY887629C	Test data does not support this vehicle. eVIN was missing from data and there were discrepancies in communication protocol

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Test Date and Time*	Vehicle Certified & License No. or VIN No.	Certificate No.	Details and Technician License No. Involved and PID count
			Technician: EO146239
11/4/2015 1456 hours	2006 LAND ROVER 6PCV703	PY887632C	Test data does not support this vehicle. eVIN was missing from data and there were discrepancies in communication protocol and PID count Technician: EO146239
11/5/2015 1113 hours	2005 FORD 20759M1	PY887641C	Test data does not support this vehicle. eVIN was missing from data and there were discrepancies in communication protocol and PID count Technician: EO146239
11/6/2015 1008 hours	2008 DODGE 8A40317	PY887646C	Test data does not support this vehicle. eVIN was missing from data and there were discrepancies in communication protocol and PID count Technician: EO146239
11/6/2015 1602 hours	2006 HONDA 7BJN694	QA063204C	Test data does not support this vehicle. eVIN was missing from data and there were discrepancies in communication protocol and PID count Technician: EO146239

Test Date and Time*	Vehicle Certified & License No. or VIN No.	Certificate No.	Details and Technician License No. Involved
11/7/2015 1331 hours	2008 JEEP 1J4GA59108L627581	QA063212C	Test data does not support this vehicle. eVIN was missing from data and there were discrepancies in communication protocol and PID count Technician: EO146239
11/9/2015 1715 hours	2005 GMC 1GKES16S756109739	QA063220C	Test data does not support this vehicle. eVIN was missing from data and there were discrepancies in communication protocol and PID count Technician: EO146239
11/9/2015 1750 hours	2007 TOYOTA 7DDH715	QA063222C	Test data does not support this vehicle. eVIN was missing from data and there were discrepancies in communication protocol and PID count Technician: EO633270
11/10/2015 1335 hours	2005 MINI 5KLC194	QA063225C	Test data does not support this vehicle. eVIN was missing from data and there were discrepancies in communication protocol and PID count Technician: EO633270
11/11/2015 1248 hours	2005 FORD 5KBG216	QA063236C	Test data does not support this vehicle. eVIN was missing from data and there were discrepancies in communication protocol

Test Date and Time*	Vehicle Certified & License No. or VIN No.	Certificate No.	Details and Technician License No. Involved and PID count
			Technician: EO633270
11/14/2015 1123 hours	2007 CADILLAC 5XXS677	QA257760C	Test data does not support this vehicle. eVIN was missing from data and there were discrepancies in communication protocol and PID count Technician: EO633270
11/14/2015 1237 hours	2007 TOYOTA JTKDE167270153074	QA257764C	Test data does not support this vehicle. eVIN was missing from data and there were discrepancies in communication protocol and PID count Technician: EO633270

* Test times are in military time.

26. The data analysis conducted on Boss Smog Check between September 22, 2015 through November, 14, 2015, shows that Respondents participated in a scheme to perform at least twenty-two (22) fraudulent Smog Check inspections resulting in the issuance of twenty-two (22) fraudulent electronic Smog Check Certificates of Compliance.

FIRST CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements- Respondent Boss Smog Check)

27. Respondent Boss Smog Check's registration is subject to discipline pursuant to Code section 9884.7, subdivision (a)(1), in that from September 22, 2015 through November, 14, 2015, Respondent Boss Smog Check made or authorized statements which it knew or in the exercise of reasonable care should have known to be untrue or misleading, as follows: Respondent Boss Smog Check certified that the vehicles set forth above in Table 1, had passed inspection and were in compliance with applicable laws and regulations. In fact, Respondent Boss Smog Check

1 conducted the inspections on those vehicles using the clean plugging method in order to issue
2 smog certificates of compliance, and did not test or inspect the vehicles as required by Health and
3 Safety Code section 44012.

4 **SECOND CAUSE FOR DISCIPLINE**

5 **(Fraud- Respondent Boss Smog Check)**

6 28. Respondent Boss Smog Check's registration is subject to discipline pursuant to Code
7 section 9884.7, subdivision (a)(4), in that from September 22, 2015 through November, 14, 2015,
8 Respondent Boss Smog Check committed acts which constitute fraud by issuing electronic
9 certificates of compliance for the vehicles set forth above in Table 1, without performing bona
10 fide inspections of the emission control devices and systems on those vehicles, thereby depriving
11 the People of the State of California of the protection afforded by the Motor Vehicle Inspection
12 Program.

13 **THIRD CAUSE FOR DISCIPLINE**

14 **(Failure to Comply with the Motor Vehicle Inspection**

15 **Program- Respondent Boss Smog Check)**

16 29. Respondent Boss Smog Check's station license is subject to discipline pursuant to
17 Health and Safety Code section 44072.2, subdivision (a), in that from September 22, 2015
18 through November, 14, 2015, regarding the vehicles set forth above in Table 1, Respondent Boss
19 Smog Check failed to comply with the following sections of that Code:

20 a. Section 44012: Respondent Boss Smog Check failed to ensure that the emission
21 control tests were performed on the vehicles, in accordance with procedures prescribed by the
22 department.

23 b. Section 44015: Respondent Boss Smog Check issued electronic certificates of
24 compliance for the vehicles, without ensuring that the vehicles were properly tested and inspected
25 to determine if they were in compliance with Health and Safety Code section 44012.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection**
3 **Program- Respondent Boss Smog Check)**

4 30. Respondent Boss Smog Check's station license is subject to discipline pursuant to
5 Health and Safety Code section 44072.2, subdivision (c), in that from September 22, 2015
6 through November, 14, 2015 regarding the vehicles set forth above in Table 1, Respondent Boss
7 Smog Check failed to comply with provisions of California Code of Regulations, title 16, as
8 follows:

9 a. Section 3340.35, subdivision (c): Respondent Boss Smog Check issued electronic
10 certificates of compliance even though those vehicles had not been inspected in accordance with
11 section 3340.42 of that Code.

12 b. Section 3340.42: Respondent Boss Smog Check failed to conduct the required smog
13 tests and inspections on those vehicles in accordance with the Bureau's specifications.

14 **FIFTH CAUSE FOR DISCIPLINE**

15 **(Dishonesty, Fraud or Deceit- Respondent Boss Smog Check)**

16 31. Respondent Boss Smog Check's station license is subject to discipline pursuant to
17 Health and Safety Code section 44072.2, subdivision (d), in that from September 22, 2015
18 through November, 14, 2015, regarding the vehicles set forth above in Table 1, Respondent Boss
19 Smog Check committed acts involving dishonesty, fraud or deceit whereby another was injured
20 by issuing electronic certificates of compliance for those vehicles without performing bona fide
21 inspections of the emission control devices and systems on the vehicles, thereby depriving the
22 People of the State of California of the protection afforded by the Motor Vehicle Inspection
23 Program.

24 **SIXTH CAUSE FOR DISCIPLINE**

25 **(Violations of the Motor Vehicle Inspection Program- Respondent Lopez)**

26 32. Respondent Lopez's technician licenses are subject to discipline pursuant to Health
27 and Safety Code section 44072.2, subdivision (a), in that from September 22, 2015 through
28 November, 14, 2015, regarding the vehicles set forth above in Table 1 attributable to his

1 technician license, he failed to comply with section 44012 of that Code in a material respect, as
2 follows: Respondent Lopez failed to perform the emission control tests on those vehicles in
3 accordance with procedures prescribed by the department.

4 **SEVENTH CAUSE FOR DISCIPLINE**

5 **(Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection**
6 **Program- Respondent Lopez)**

7 33. Respondent Lopez's technician licenses are subject to discipline pursuant to Health
8 and Safety Code section 44072.2, subdivision (c), in that from September 22, 2015 through
9 November, 14, 2015, regarding the vehicles set forth above in Table 1 attributable to his
10 technician license, he failed to comply with provisions of California Code of Regulations, title 16,
11 as follows:

12 a. Section 3340.30, subdivision (a): Respondent Lopez failed to inspect and test those
13 vehicles in accordance with Health and Safety Code sections 44012.

14 b. Section 3340.42: Respondent Lopez failed to conduct the required smog tests and
15 inspections on those vehicles in accordance with the Bureau's specifications.

16 **EIGHTH CAUSE FOR DISCIPLINE**

17 **(Dishonesty, Fraud or Deceit-Respondent Lopez)**

18 34. Respondent Lopez's technician licenses are subject to discipline pursuant to Health
19 and Safety Code section 44072.2, subdivision (d), in that from September 22, 2015 through
20 November, 14, 2015, regarding the vehicles set forth above in Table 1 attributable to his
21 technician license, he committed acts involving dishonesty, fraud or deceit whereby another was
22 injured by issuing electronic certificates of compliance without performing bona fide inspections
23 of the emission control devices and systems on those vehicles, thereby depriving the People of the
24 State of California of the protection afforded by the Motor Vehicle Inspection Program.

25 **NINTH CAUSE FOR DISCIPLINE**

26 **(Violations of the Motor Vehicle Inspection Program- Respondent Roque)**

27 35. Respondent Roque's technician licenses are subject to discipline pursuant to Health
28 and Safety Code section 44072.2, subdivision (a), in that from September 22, 2015 through

1 November, 14, 2015, regarding the vehicles set forth above in Table 1 attributable to his
2 technician license, he failed to comply with section 44012 of that Code in a material respect, as
3 follows: Respondent Roque failed to perform the emission control tests on those vehicles in
4 accordance with procedures prescribed by the department.

5 **TENTH CAUSE FOR DISCIPLINE**

6 **(Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection**
7 **Program- Respondent Roque)**

8 36. Respondent Roque's technician licenses are subject to discipline pursuant to Health
9 and Safety Code section 44072.2, subdivision (c), in that from September 22, 2015 through
10 November, 14, 2015, regarding the vehicles set forth above in Table 1 attributable to his
11 technician license, he failed to comply with provisions of California Code of Regulations, title 16,
12 as follows:

13 a. Section 3340.30, subdivision (a): Respondent Roque failed to inspect and test those
14 vehicles in accordance with Health and Safety Code sections 44012.

15 b. Section 3340.42: Respondent Roque failed to conduct the required smog tests and
16 inspections on those vehicles in accordance with the Bureau's specifications.

17 **ELEVENTH CAUSE FOR DISCIPLINE**

18 **(Dishonesty, Fraud or Deceit- Respondent Roque)**

19 37. Respondent Roque's technician licenses are subject to discipline pursuant to Health
20 and Safety Code section 44072.2, subdivision (d), in that from September 22, 2015 through
21 November, 14, 2015, regarding the vehicles set forth above in Table 1 attributable to his
22 technician license, he committed acts involving dishonesty, fraud or deceit whereby another was
23 injured by issuing electronic certificates of compliance without performing bona fide inspections
24 of the emission control devices and systems on those vehicles, thereby depriving the People of the
25 State of California of the protection afforded by the Motor Vehicle Inspection Program.

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2 **OTHER MATTERS**

3 38. Under Code section 9884.7, subdivision (c), the director may invalidate temporarily
4 or permanently or refuse to validate, the registrations for all places of business operated in this
5 state by Eleazar Navarro, Owner, doing business as Boss Smog Check, upon a finding that he has,
6 or is, engaged in a course of repeated and willful violations of the laws and regulations pertaining
7 to an automotive repair dealer.

8 39. Under Health and Safety Code section 44072.8, if Smog Check Station License
9 Number TC 278667, issued to Eleazar Navarro, Owner, doing business as Boss Smog Check, is
10 revoked or suspended, any additional license issued under this chapter in the name of said
11 licensee may be likewise revoked or suspended by the director.

12 40. Under Health and Safety Code section 44072.8, if Smog Check Inspector License
13 Number EO 146239 and Smog Check Repair Technician License Number EI 146239 issued to
14 Jose Cruz Lopez is revoked or suspended, any additional license issued under this chapter in the
15 name of said licensee may be likewise revoked or suspended by the director.

16 41. Under Health and Safety Code section 44072.8, if Smog Check Inspector License No.
17 EO 633270 to Jose Magno Roque is revoked or suspended, any additional license issued under
18 this chapter in the name of said licensee may be likewise revoked or suspended by the director.

19 **PRAYER**

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

22 1. Revoking, suspending, or placing on probation, Automotive Repair Dealer
23 Registration Number ARD 278667, issued to Eleazar Navarro, Owner, doing business as Boss
24 Smog Check;

25 2. Revoking, suspending, or placing on probation any other automotive repair dealer
26 registration issued to Eleazar Navarro, Owner, doing business as Boss Smog Check;

27 3. Revoking or suspending Smog Check Station License Number TC 278667, issued to
28 Eleazar Navarro, Owner, doing business as Boss Smog Check;

- 1 4. Revoking or suspending any additional license issued under Chapter 5 of the Health
- 2 and Safety Code in the name of Eleazar Navarro, Owner, doing business as Boss Smog Check;
- 3 5. Revoking or suspending Smog Check Inspector License Number EO 146239 and
- 4 Smog Check Repair Technician License Number EI 146239 issued to Jose Cruz Lopez;
- 5 6. Revoking or suspending any additional license issued under Chapter 5 of the Health
- 6 and Safety Code in the name of Jose Cruz Lopez;
- 7 7. Revoking or suspending Smog Check Inspector License Number EO 633270 issued
- 8 to Jose Magno Roque;
- 9 8. Revoking or suspending any additional license issued under Chapter 5 of the Health
- 10 and Safety Code in the name of Jose Magno Roque;
- 11 9. Ordering Eleazar Navarro, Jose Cruz Lopez and Jose Magno Roque to pay the Bureau
- 12 of Automotive Repair the reasonable costs of the investigation and enforcement of this case,
- 13 pursuant to Business and Professions Code section 125.3; and,
- 14 10. Taking such other and further action as deemed necessary and proper.

15
16 DATED: June 20, 2016 
17 PATRICK DORAIS
18 Chief
19 Bureau of Automotive Repair
20 Department of Consumer Affairs
21 State of California
22 *Complainant*

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