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

12
13 In the Matter of the Accusation Against:

Case No. 79/22-10780

14 **GUSTAVO ANGEL HERNANDEZ, DBA**
15 MINUTE SMOG HARBOR,

ACCUSATION

15 **520 S Harbor Blvd.**
16 **Fullerton, CA 92832**

17 **Automotive Repair Dealer Registration**
Number ARD 289172, Smog Check Station
18 **License Number TC 289172**

19 **GUSTAVO ANGEL HERNANDEZ,**

20 **520 S. Harbor Blvd.**
21 **Fullerton, CA. 92832**

-and-

22 **995 S. Sutter Creek Rd.**
23 **Anaheim, CA 92804**

24 **Smog Check Inspector License Number**
EO 150671, Smog Check Repair Technician
25 **Number EI 150671**

26 **JAMES F. MEEGAN, II**

27 **520 S. Harbor Blvd.**
28 **Fullerton, CA. 92832**

Respondents.

PARTIES

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

2. On or about December 19, 2017, the Bureau of Automotive Repair issued Automotive Repair Dealer Registration Number ARD 289172 to Gustavo Angel Hernandez, dba 15 Minute Smog Harbor (Respondent Hernandez). The Automotive Repair Dealer Registration was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2022, unless renewed.

3. On or about January 24, 2018, the Bureau of Automotive Repair issued Smog Check Station License Number TC 289172 to Gustavo Angel Hernandez, dba 15 Minute Smog Harbor (Respondent Hernandez). The Smog Check Station License was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2022, unless renewed.

4. Respondent is also certified as a STAR Station. The certification was issued on February 4, 2019, and will remain active unless the ARD registration and/or Smog Check Station license is revoked, canceled, licenses become delinquent or the certification is invalidated.

5. On or about October 15, 2012, the Bureau of Automotive Repair issued Smog Check Inspector License Number EO 150671 to Gustavo Angel Hernandez (Respondent Hernandez). The Smog Check Inspector License was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2024, unless renewed.

6. On or about October 15, 2012, the Bureau of Automotive Repair issued Smog Check Repair Technician Number EI 150671 to Gustavo Angel Hernandez (Respondent Hernandez).

1 The Smog Check Repair Technician was in full force and effect at all times relevant to the
2 charges brought herein. The license expired on October 31, 2022, and has not been renewed.

3 7. On or about January 2, 2014, the Bureau of Automotive Repair issued Smog Check
4 Inspector License Number EO 634409 to James F. Meegan, II (Respondent Meegan). The Smog
5 Check Inspector License was in full force and effect at all times relevant to the charges brought
6 herein and will expire on December 31, 2023, unless renewed.

7 **JURISDICTION**

8 8. This Accusation is brought before the Director of the Department of Consumer
9 Affairs (“Director”) for the Bureau, under the authority of the following laws.

10 9. Section 9884.7 of the Business and Professions Code¹ provides that the Director may
11 revoke an ARD registration.

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

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

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

23 **STATUTORY PROVISIONS**

24 13. Section 9884.7 of the Code states:

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

28 ¹ All statutory references herein shall be to the Business and Professions Code unless
specifically stated otherwise.

1 automotive repair dealer or any automotive technician, employee, partner, officer, or
2 member of the automotive repair dealer.

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

6 . . .

7 (4) Any other conduct which constitutes fraud.

8 . . .

9 (6) Failure in any material respect to comply with the provisions of this chapter
10 or regulations adopted pursuant to it.

11 14. Section 44072.2 of the Health and Safety Code states:

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

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

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

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

22 15. Section 44072.10 of the Health and Safety Code states, in pertinent part:

23 . . .

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

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

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

REGULATORY PROVISIONS

16. California Code of Regulations, 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.

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1 17. California Code of Regulations, title 16, section 3340.30, states:

2 A smog check technician shall comply with the following requirements at all
3 times while licensed.

4 (a) A licensed technician shall inspect, test and repair vehicles in accordance
5 with section 44012 of the Health and Safety Code, section 44035 of the Health and
6 Safety Code, and section 3340.42 of this article. . . .”

7 18. California Code of Regulations, title 16, section 3340.35, states, in pertinent part:

8

9 (c) A licensed station shall issue a certificate of compliance or noncompliance
10 to the owner or operator of any vehicle that has been inspected in accordance with the
11 procedures specified in section 3340.42 of this article and has all the required
12 emission control equipment and devices installed and functioning correctly. . . .

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

15 **COST RECOVERY**

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

22 **VID DATA REVIEW**

23 21. Beginning March 9, 2015, California’s Smog Check Program was updated to require
24 the use of an On-Board Diagnostic Inspection System (“OIS”). OIS is the Smog Check
25 equipment required in all areas of the State when inspecting most model-year 2000 and newer
26 gasoline and hybrid vehicles and most 1998 and newer diesel vehicles. The system consists of a
27 certified Data Acquisition Device (“DAD”), computer, bar code scanner, and printer. The DAD
28 is an On Board Diagnostic (“OBD”) scan tool that, when requested by the California OIS
software, retrieves OBD data from the vehicle. All OBD data that the vehicle indicates it
supports is requested by the California OIS software and will be retrieved. The DAD connects
between the OIS computer and the vehicle’s DLC₅. The California OIS software requires a

1 continuous Internet connection when performing a Smog Check inspection and the OIS software
2 communicates with BAR's central database through the Internet connection. The bar code
3 scanner is used to input technician information, the vehicles identification number ("VIN"), and
4 DMV renewal information. The printer provides a Vehicle Inspection Report ("VIR") containing
5 inspection results for motorists and a Smog Check Certificate of Compliance number for passing
6 vehicles.

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

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

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

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

9 26. Respondents have engaged in numerous acts or omissions constituting violations of
10 the Automotive Repair Act (Business and Professions Code section 9880 *et seq.*) and Motor
11 Vehicle Inspection Program (Health and Safety Code section 44000 *et seq.*) through their practice
12 of "clean plugging."² Respondent Hernandez's and Meegan's OIS Test Data available on the
13 State database indicates that Respondents Hernandez and Meegan are involved in fraudulent
14 smog inspection activities. A Bureau representative initiated an investigation based on
15 information transmitted to the VID for smog check inspections performed by Respondent
16 Hernandez and Respondent Meegan. The investigation revealed that the data related to certain
17 vehicles certified by Respondent Hernandez and/or Respondent Meegan contained a pattern of
18 unmistakable discrepancies between the information transmitted during the inspections and
19 documented information known about the vehicles at issue. Specifically, the representative
20 compared the data received from the certified vehicles to data from vehicles of the same year,
21 make, and model and determined that the data from at least eight (8) of the certified vehicles
22 contained two or more of the following unmistakable discrepancies: (1) incorrect eVINs; (2)
23 incorrect vehicle communication protocols; and (3) incorrect PID counts. These documented
24 discrepancies confirm that the vehicles receiving smog certificates from Respondents Hernandez
25 and Meegan were fraudulently tested during the smog inspection using the "clean plugging"

26 ² "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.

method. The following chart (“Table 1”) illustrates the documented clean plugging activities of Respondents between January 21, 2020, and May 26, 2022.

TABLE 1

| | <i>Vehicle Year</i> | <i>Vehicle Make</i> | <i>Vehicle Model</i> | <i>License or VIN #</i> | <i>eVIN Transmitted</i> | <i>Reported Protocol</i> | <i>Expected Protocol</i> | <i>Reported PIDs</i> | <i>Expected PIDs</i> | <i>Certificate Issued</i> | <i>Smog Check Inspector</i> |
|----|---------------------|---------------------|------------------------|-------------------------|-------------------------------|--------------------------|--------------------------|----------------------|----------------------|---------------------------|------------------------------------|
| 1. | 2001 | Mercedes-Benz | E 320 | 4UAH136 | Not Reported None Expected | I914 | KWPF | 21 | 22, or 24 | RE225332C | Gustavo Angel Hernandez, EO 150671 |
| 2. | 2001 | Dodge | Grand Caravan Sport | 6SUT581 | Not Reported None Expected | I914 | JVPW | 15/3 | 17/3 | RQ425837C | Gustavo Angel Hernandez, EO 150671 |
| 3. | 2002 | Dodge | Caravan SE | 4UVD156 | Not Reported None Expected | I914 | JVPW | 15/3 | 17/3 or 18/3 | RS343678C | James F Meegan, EO 634409 |
| 4. | 2001 | Chrysler | Town & Country Limited | 4P0W065 | Not Reported None Expected | I914 | JVPW | 15/3 | 17/3 | RW560497C | Gustavo Angel Hernandez, EO 150671 |
| 5. | 2001 | Chrysler | Town & Country Limited | 4PYL600 | Not Reported None Expected | I914 | JVPW | 15/3 | 17/3 | SA412964C | James F. Meegan, EO 634409 |
| 6. | 2001 | Chrysler | Town & Country Limited | 4TRT750 | Not Reported None Expected | I914 | JVPW | 15/3 | 17/3 | IL536870C | Gustavo Angel Hernandez, EO 150671 |
| 7. | 2001 | Dodge | Grand Caravan Sport | 7WJK031 | Not Reported None Expected | I914 | JVPW | 15/3 | 17/3 | IN892311C | Gustavo Angel Hernandez, EO 150671 |
| 8. | 2001 | Chrysler | Town & Country LX | 7TTV842 | Not Reported None Expected | I914 | JVPW | 15/3 | 17/3 | SQ949739C | Gustavo Angel Hernandez, EO 150671 |

27. The above table of Respondents’ smog check activities between January 21, 2020, and May 26, 2022, shows that Respondents participated in a scheme to perform at least eight (8) fraudulent Smog Check inspections resulting in the issuance of eight (8) fraudulent electronic Smog Check Certificates of Compliance.

FIRST CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements - Respondent Hernandez)

28. Respondent Hernandez’s registration is subject to disciplinary action pursuant to section 9884.7, subdivision (a)(1), in that between January 21, 2020, and May 26, 2022, Respondent Hernandez made or authorized statements which he knew or in the exercise of reasonable care should have known to be untrue or misleading, as follows: Respondent Hernandez 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 Hernandez conducted the

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

4 **SECOND CAUSE FOR DISCIPLINE**

5 **(Fraud - Respondent Hernandez)**

6 29. Respondent Hernandez's registration is subject to disciplinary action pursuant to
7 section 9884.7, subdivision (a)(4), in that between January 21, 2020, and May 26, 2022,
8 Respondent Hernandez committed acts which constitute fraud by issuing electronic certificates of
9 compliance for the vehicles set forth above in Table 1, without performing bona fide inspections
10 of the emission control devices and systems on those vehicles, thereby depriving the People of the
11 State of California of the protection afforded by the Motor Vehicle Inspection Program.

12 **THIRD CAUSE FOR DISCIPLINE**

13 **(Failure to Comply with the Motor Vehicle Inspection Program –**
14 **Respondent Hernandez)**

15 30. Respondent Hernandez's smog station license is subject to disciplinary action
16 pursuant to Health and Safety Code section 44072.2, subdivision (a), in conjunction with Health
17 and Safety Code section 44072.10 subdivision (c), in that between January 21, 2020, and May 26,
18 2022, regarding the vehicles set forth above in Table 1, Respondent Hernandez failed to comply
19 with the following sections of the Health and Safety Code:

20 (a) **Section 44012**: Respondent Hernandez failed to ensure that the emission control tests
21 were performed on the vehicles, in accordance with procedures prescribed by the department.

22 (b) **Section 44015**: Respondent Hernandez issued electronic certificates of compliance
23 for the vehicles, without ensuring that the vehicles were properly tested and inspected to
24 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 Program -**
3 **Respondent Hernandez)**

4 31. Respondent Hernandez's smog station license is subject to disciplinary action
5 pursuant to Health and Safety Code section 44072.2, subdivision (c), in that between January 21,
6 2020, and May 26, 2022, regarding the vehicles set forth above in Table 1, Respondent
7 Hernandez failed to comply with the following provisions of the California Code of Regulations,
8 Title 16, as follows:

9 (a) **Section 3340.35, subdivision (c)**: Respondent Hernandez issued electronic
10 certificates of compliance even though those vehicles had not been inspected in accordance with
11 section 3340.42, Title 16, of the California Code of Regulations.

12 (b) **Section 3340.42**: Respondent Hernandez failed to conduct the required smog tests
13 and inspections on those vehicles in accordance with the Bureau's specifications.

14 **FIFTH CAUSE FOR DISCIPLINE**

15 **(Dishonesty, Fraud or Deceit - Respondent Hernandez)**

16 32. Respondent Hernandez's smog station license is subject to disciplinary action
17 pursuant to Health and Safety Code section 44072.2, subdivision (d), in conjunction with Health
18 and Safety Code section 44072.10 subdivision (c), in that between January 21, 2020, and May 26,
19 2022, regarding the vehicles set forth above in Table 1, Respondent Hernandez committed acts
20 involving dishonesty, fraud or deceit whereby another was injured by issuing electronic
21 certificates of compliance for those vehicles without performing bona fide inspections of the
22 emission control devices and systems on the vehicles., thereby depriving the People of the State
23 of California of the protection afforded by the Motor Vehicle Inspection Program.

24 **SIXTH CAUSE FOR DISCIPLINE**

25 **(Violations of the Motor Vehicle Inspection Program – Respondent Hernandez)**

26 33. Respondent Hernandez's smog check inspector and smog check repair technician
27 license are subject to discipline pursuant to Health and Safety Code section 44072.2, subdivision
28 (a), in that between January 21, 2020, and May 26₁₀, 2022, regarding the vehicles set forth above in

Table 1, Respondent Hernandez failed to comply with section 44012 of the Health and Safety Code in a material respect, as follows: Respondent Hernandez failed to perform the emission control tests on those vehicles in accordance with procedures prescribed by the department.

SEVENTH CAUSE FOR DISCIPLINE

(Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection Program – Respondent Hernandez)

34. Respondent Hernandez’s smog check inspector and smog check repair technician license are subject to discipline pursuant to Health and Safety Code section 44072.2, subdivision (c), in that between January 21, 2020, and May 26, 2022, regarding the vehicles set forth above in Table 1, Respondent Hernandez failed to comply with provisions of the California Code of Regulations, title 16, as follows:

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

(b) **Section 3340.41, subdivision (c)**: Respondent Hernandez entered false information into the EIS.

(c) **Section 3340.42**: Respondent Hernandez failed to conduct the required smog tests and inspections on those vehicles in accordance with the Bureau’s specifications.

EIGHTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit - Respondent Hernandez)

35. Respondent Hernandez’s smog check inspector and smog check repair technician license are subject to discipline pursuant to Health and Safety Code section 44072.2, subdivision (d), in conjunction with Health and Safety Code section 44072.10 subdivision (c), in that between January 21, 2020, and May 26, 2022, regarding the vehicles set forth above in Table 1, Respondent Hernandez committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing electronic certificates of compliance for those vehicles without performing bona fide inspections of the emission control devices and systems on the vehicles., thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

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NINTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program – Respondent Meegan)

36. Respondent Meegan’s smog check inspector license is subject to discipline pursuant to Health and Safety Code section 44072.2, subdivision (a), in that between January 21, 2020, and May 26, 2022, regarding the vehicles set forth above in Table 1, Respondent Meegan failed to comply with section 44012 of the Health and Safety Code in a material respect, as follows: Respondent Meegan failed to perform the emission control tests on those vehicles in accordance with procedures prescribed by the department.

TENTH CAUSE FOR DISCIPLINE

(Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection Program – Respondent Meegan)

37. Respondent Meegan’s smog check inspector license is subject to discipline pursuant to Health and Safety Code section 44072.2, subdivision (c), in that between January 21, 2020, and May 26, 2022, regarding the vehicles set forth above in Table 1, Respondent Meegan failed to comply with provisions of the California Code of Regulations, title 16, as follows:

- (a) **Section 3340.30, subdivision (a):** Respondent Meegan failed to inspect and test those vehicles in accordance with Health and Safety Code section 44012.
- (b) **Section 3340.41, subdivision (c):** Respondent Meegan entered false information into the EIS.
- (c) **Section 3340.42:** Respondent Meegan failed to conduct the required smog tests and inspections on those vehicles in accordance with the Bureau’s specifications.

ELEVENTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit - Respondent Meegan)

38. Respondent Meegan’s smog check inspector license is subject to discipline pursuant to Health and Safety Code section 44072.2, subdivision (d), in conjunction with Health and Safety Code section 44072.10 subdivision (c), in that between January 21, 2020, and May 26, 2022, regarding the vehicles set forth above in Table 1, Respondent Meegan committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing electronic

1 certificates of compliance for those vehicles without performing bona fide inspections of the
2 emission control devices and systems on the vehicles, thereby depriving the People of the State of
3 California of the protection afforded by the Motor Vehicle Inspection Program.

4 **DISCIPLINE CONSIDERATIONS**

5 39. By way of aggravation, Complainant alleges that on September 9, 2016, the Bureau
6 issued Gustavo Angel Hernandez, d.b.a. Burbank Test Only Smog an administrative Citation with
7 an Order of Abatement, #C2016-1686, for actions in violation of section 44012 of the Health and
8 Safety Code, and section 3340C of the California Code of Regulations, in that Burbank Test Only
9 Smog Check illegally issued a certificate of compliance to a vehicle using the BAR-97 when the
10 OIS test was required. A Citation Service Conference was held on October 6, 2016. The Citation
11 became effective on November 6, 2016.

12 40. By way of aggravation, Complainant alleges that on May 30, 2018, the Bureau issued
13 Gustavo Angel Hernandez, d.b.a. Burbank Test Only Smog an administrative Citation with an
14 Order of Abatement, #C2018-1377, for actions in violation of section 44012 of the Health and
15 Safety Code in that Burbank Test Only Smog Check illegally issued a certificate of compliance to
16 a vehicle that was documented to fail a properly performed Smog Check Inspection. A Citation
17 Service Conference was held on July 10, 2018. An informal appeal request was received on July
18 20, 2018. An informal hearing was held on August 28, 2018, and the citation was affirmed. The
19 citation was reissued on September 7, 2018. The Citation became effective on October 8, 2018.

20 41. By way of aggravation, Complainant alleges that on July 17, 2019, the Bureau issued
21 Gustavo Angel Hernandez, d.b.a. Burbank Test Only Smog Administrative Citation with an
22 Order of Abatement, #C2019-1691, for actions in violation of section 44012 of the Health and
23 Safety Code in that Burbank Test Only Smog Check illegally issued a certificate of compliance to
24 a vehicle that was documented to fail a properly performed Smog Check Inspection. A Citation
25 Service Conference was held on August 20, 2019. The Citation became effective on September
26 21, 2019.

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1 **OTHER MATTERS**

2 42. Pursuant to Business & Professions Code section 9884.7, subdivision (c), the Director
3 may suspend, revoke, or place on probation the registration for all places of business operated in
4 this State by Respondent Hernandez upon a finding that Respondent Hernandez has, or is,
5 engaged in a course of repeated and willful violations of the laws and regulations pertaining to an
6 automotive repair dealer.

7 43. Pursuant to Health & Safety Code section 44072.8, if Smog Check Station License
8 Number TC 289172 and/or Smog Check Inspector License Number EO 150671 or Smog Check
9 Repair License Number EI 150671 issued to Respondent Hernandez, are revoked or suspended
10 following a hearing under this article, any additional license issued under Chapter 5, Part 5,
11 Division 26 in the name of said licensee may be likewise revoked or suspended by the Director.

12 44. Pursuant to Health & Safety Code section 44072.8, if Smog Check Inspector License
13 Number EO 634409 issued to Respondent Meegan is revoked or suspended following a hearing
14 under this article, any additional license issued under Chapter 5, Part 5, Division 26 in the name
15 of said licensee may be likewise revoked or suspended by the Director.

16 **PRAYER**

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

20 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
21 289172, issued to Gustavo Angel Hernandez, dba 15 Minute Smog Harbor;

22 2. Revoking or suspending any other Automotive Repair Dealer Registration issued to
23 Respondent Gustavo Angel Hernandez;

24 3. Revoking or suspending Smog Check Station Number TC 289172, issued to Gustavo
25 Angel Hernandez, dba 15 Minute Smog Harbor;

26 4. Revoking or suspending Smog Check Inspector License Number EO 150671, issued
27 to Gustavo Angel Hernandez;

5. Revoking or suspending Smog Check Repair License Number EI 150671, issued to Gustavo Angel Hernandez;

6. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code in the name of Respondent Gustavo Angel Hernandez;

7. Revoking or suspending Smog Check Inspector License Number EO 634409, issued to James F. Meegan, II;

8. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code in the name of Respondent James F. Meegan, II;

9. Ordering Gustavo Angel Hernandez and James F. Meegan, II 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,

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

DATED: As of Digital Signature Date

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

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