

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

In the Matter of the Accusation Against:

**QUALITY SMOG & AUTO REPAIR,  
JOSE SALINAS ROMERO, Owner**

Automotive Repair Dealer Registration  
No. ARD 255343  
Smog Check Station License No. RC 255343;

and

**JOHN WESLEY CARREIRO,**

Smog Check Inspector No. EO 125541  
*(formerly designated as Advanced Emission  
Specialist Technician License No. EA 125541)*

Brake Adjuster License No. BA 125541  
Lamp Adjuster License No. LA 125541,

Respondents.

Case No. 79/15-17676

OAH No. 2017060465

**DECISION**

The attached Proposed Decision of the Administrative Law Judge is hereby accepted and adopted by the Director of Consumer Affairs as the Decision in the above-entitled matter, except that, pursuant to Government Code section 11517, subdivision (c)(2)(C), technical or other minor changes in the Proposed Decision are made as follows:

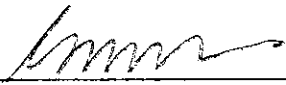
1. Page 12, under Order: "Smog check station license number ARD 255343" is corrected to "Smog check station license number RC 255343."

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The technical or minor changes made above do not affect the factual or legal basis of the Proposed Decision.

This Decision shall become effective March 30, 2018.

DATED: Feb. 8, 2018

  
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GRACE ARUPO RODRIGUEZ  
Assistant Deputy Director  
Legal Affairs Division  
Department of Consumer Affairs

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(formerly designated as Advanced  
Emission Specialist Technician License  
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Brake Adjuster License No. BA 125541  
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**PROPOSED DECISION**

Administrative Law Judge Thomas Heller, State of California, Office of Administrative Hearings, heard this matter in Los Angeles, California on November 6, 2017. It was consolidated for hearing with Citation No. C2015-1033, OAH No. 2017060464. A separate proposed decision is being issued in each case. (Cal. Code Regs., tit. 1, § 1016, subd. (d).)

Terrence M. Mason, Deputy Attorney General, represented complainant Patrick Dorais, Chief, Bureau of Automotive Repair (Bureau), Department of Consumer Affairs (Department).

Respondent Jose Salinas Romero, dba Quality Smog & Auto Repair, represented himself.

Respondent John Wesley Carreiro also represented himself.

The matter was submitted on November 6, 2017.

## SUMMARY

Complainant alleges that 12 smog tests at Quality Smog & Auto Repair between August and October 2015 were fraudulent, and requests that the Director of Consumer Affairs (Director) revoke or suspend the automotive repair dealer registration and smog check station license of Romero, the shop's owner. The tests were reported to the Bureau under Carreiro's smog check inspector license number, and complainant also requests that the Director revoke or suspend that license. Romero and Carreiro assert that someone else performed the tests without their knowledge using Carreiro's smog test login password, which Carreiro kept under a computer keyboard at the shop. Notwithstanding that assertion, a preponderance of the evidence established causes for discipline, justifying revocation of Romero's registration and license, revocation of Carreiro's license, and an award of costs.

## FACTUAL FINDINGS

### *Jurisdictional Facts*

1. On June 27, 2008, the Bureau issued automotive repair dealer registration number ARD 255343 to Romero, doing business as Quality Smog & Auto Repair. On July 25, 2008, the Bureau issued him smog check station license number RC 255353. The registration and license will expire on April 30, 2018, unless renewed.

2. In 1996, the Bureau issued Carreiro advanced emission specialist (EA) technician license number 125541. On August 30, 2013, the Bureau cancelled that license and renewed it as smog check inspector (EO) license number 125541. (See Cal. Code Regs., tit. 16, § 3340.28, subd. (e).) The Bureau also licensed Carreiro as a lamp adjuster (LA 125541) and brake adjuster (BA 125541) in 2003 and 2009, respectively, but those licenses expired on August 31, 2012, and have not been renewed. His smog check inspector license will expire on August 31, 2019, unless renewed.

3. On December 28, 2016, complainant filed an Accusation in his official capacity, alleging that 12 smog tests at Quality Smog & Auto Repair between August and October 2015 were fraudulent, and asserting seven causes for discipline against the business and three against Carreiro. Complainant served the Accusation on Romero and Carreiro on January 10, 2017.

4. Romero and Carreiro submitted notices of defense, dated January 23, 2017.

*Background*

5. Quality Smog & Auto Repair is located at 9519 E. Artesia Boulevard, Bellflower, California. Bureau records list Romero as the shop's sole owner. Carreiro works there, and has been the shop's only smog check inspector since 2013.

*Bureau Investigation*

6. Beginning in late September 2015, Brian Vu, a Bureau Program Representative, reviewed smog test data transmitted electronically from Quality Smog & Auto Repair to the Bureau. He eventually reviewed data for 396 tests performed between August 11 and October 5, 2015. All of the tests were reported under Carreiro's smog check inspector license number using On Board Diagnostic Inspection System (BAR-OIS) test equipment. Since March 9, 2015, most model-year 2000 and newer gasoline vehicles, hybrid vehicles, and model-year 1998 and newer diesel vehicles have required smog testing on BAR-OIS equipment.

7. Among those tests, Vu identified 12 resulting in certificates of compliance for which the reported eVIN – the vehicle identification number programmed into the vehicle's on board electronic control unit – did not match the physical VIN of the vehicle that was reportedly tested. Instead, the eVIN corresponded to a different vehicle. The details of the 12 tests were as follows:

#	Test Date & Time	Vehicle & Physical VIN Reported	eVIN Recorded & Corresponding Vehicle	Smog Certificate
1	8/11/15, 1711-1718	2005 Chevrolet Impala, 2G1WF52E359107743	1GCHC23G93F222973, 2003 Chevy Silverado C2500HD	PU501846C
2	8/14/15, 1455-1459	2006 Volkswagen Jetta, 3VWRF71K66M690919	5TDBA22CX6S055828, 2006 Toyota Sienna	PU854720C
3	8/14/15, 1810-1828	2005 Toyota Corolla, 1NXBR32E55Z427405	5TDBA22CX6S055828, 2006 Toyota Sienna	PU854725C
4	8/18/15, 1702-1706	2006 Mitsubishi Lancer ES, JA3AJ26E46U060329	1GCHC23G93F222973, 2003 Chevy Silverado C2500HD	PU854737C
5	8/31/15, 1618-1625	2005 Ford F150, 1FTPF125X5KF14218	1GCHC23G93F222973, 2003 Chevy Silverado C2500HD	YV003150C

6	9/8/15, 0934-0942	2009 Nissan Cube, JN8AZ28R29T115501	5FNRL38668B045384 2008 Honda Odyssey	PW092889C
7	9/8/15, 1652-1700	2009 Dodge Challenger, 2B3LJ54T09H502979	1GCHC23G93F222973, 2003 Chevy Silverado C2500HD	PW092896C
8	9/15/15, 1456-1516	2007 Honda Civic EX, 2HGFG11857H570776	1GCHC23G93F222973, 2003 Chevy Silverado C2500HD	PW341933C
9	9/17/15, 1547-1608	2008 Suzuki Forenza, KL5JD56ZX8K934801	JTHBF5C27C5171383 2012 Lexus IS250	PW341943C
10	9/18/15, 1702-1724	2006 Dodge Charger, 2B3KA43R96H475594	1GCHC23G93F222973, 2003 Chevy Silverado C2500HD	PW627560C
11	9/28/15, 1249-1301	2005 Nissan Murano, JN8AZ08W35W439267	5FNRL38668B045384 2008 Honda Odyssey	PW839467C
12	10/5/15, 1657-1721	2004 Ford Mustang, 1FAFP40694F148318	1GCHC23G93F222973, 2003 Chevy Silverado C2500HD	PY025280C

8. Data from seven of the 12 tests included the same eVIN (1GCHC23G93F222973), which corresponded to a 2003 Chevrolet Silverado 2500HD. Department of Motor Vehicles data indicated that vehicle was registered under the name of Arnulfo Grimaldo Gonzalez at the same address as Quality Smog & Auto Repair. In addition, other Bureau data showed that three of the 12 vehicles reportedly tested (# 4, 8, and 10) had failed recent smog tests in which the vehicle's physical VIN matched the eVIN. Two of those other recent tests (for vehicles # 4 and 8) were reported by Quality Smog & Auto Repair.

9. Vu determined that the data from the 12 tests evidenced "clean plugging," i.e., using another vehicle's properly functioning on board diagnostic system, or another source, to generate passing readings for vehicles that were not in compliance with smog requirements and/or not present for testing. He prepared a report recommending disciplinary action, which led to the Accusation.

### *Hearing Testimony*

10. Vu testified for complainant about the data for the 12 tests. In response, Romero acknowledged there was "illegal action" at his shop, but denied personal wrongdoing or that Carreiro was responsible. He testified that Jensi Mejia, who lived at the shop, took advantage of Carreiro's drinking problem and was responsible for the 12 tests. According to Romero, he met Mejia at church and invited him to sleep at the shop beginning in early 2015 because Mejia was in a "bad situation." Mejia lived there for a year or year and a half until May 2016, when business neighbors informed Romero that "something was wrong." Romero also testified that Mejia did not work for him, but bought and installed tires

at the shop for a while. Apart from removing Mejia from the premises, Romero did not identify any new procedures or practices he has implemented to address what occurred.

11. Carreiro emphatically denied performing illegal smog tests, and asserted that someone else performed the 12 tests using his BAR-OIS system password and the bar code on his inspector badge. He testified he had seen photocopies of his badge at the shop, and also that he wrote down his BAR-OIS login password and kept it under the smog test computer keyboard due to his poor memory. He acknowledged fault for doing so, but denied any role in or knowledge of the illegal tests. He also testified he is an alcoholic and was "gone a lot" from the shop, including a two-month period he spent at an alcohol treatment facility in Mexico, and during multiple hospital visits. Despite that treatment, he still drinks alcohol, and has other health issues.

12. The Bureau disputed Carreiro's testimony that someone else used his login password and bar code. Paul Grimmie, another Bureau Program Representative, testified that the BAR-OIS login procedure involves the bar code on an inspector's badge, a login password, and an access code, apparently referring to the access code assigned by the Bureau to each inspector. (See Smog Check Manual, p. 3 (2013).) However, Grimmie's testimony did not make clear whether each BAR-OIS smog test requires entry of both a login password and a separate access code.

#### *Discussion of Evidence*

13. Carreiro's testimony, while not determinative, was persuasive enough to require more evidence from complainant that Carreiro performed or participated in the tests. The use of his license number for them suggests he did, but he denied involvement and described leaving his login password under the smog check computer keyboard, giving others the opportunity to perform the tests. The Bureau's test data alone did not disprove his denial, and complainant presented no other evidence disproving it. But Carreiro and Romero also presented little evidence to support the denial, relying only on their own testimony. With such limited evidence, it cannot be determined whether Carreiro performed or participated in the tests.

14. At the same time, Romero's and Carreiro's assertion that Mejia performed the tests was unaccompanied by any supporting evidence. Nothing in Romero's or Carreiro's testimony suggested they saw Mejia perform them, and they presented no testimony from Mejia or anyone who did, and no other evidence linking him to the tests. Furthermore, all but one of the tests occurred during the shop's normal business hours of 8:30 a.m. to 6 p.m., not at night when Mejia was apparently left alone. Therefore, the evidence also did not establish that Mejia performed the tests.

15. Given the above, the evidence was insufficient to establish who performed or participated in the tests. However, it did establish that someone engaged in clean plugging at Quality Smog & Auto Repair, using Carreiro's smog check inspector credentials. Whether

that person was Carreiro or someone else, disciplinary action is warranted as described more fully below.

#### *Citation History*

16. The Bureau has previously cited Quality Smog & Auto Repair as follows:

a. On July 14, 2010, the Bureau issued citation number C2011-0049 for \$1,000, for issuing a certificate of compliance to a Bureau undercover vehicle with a missing air suction valve and failing to perform the required functional fuel cap and fuel evaporative control tests. The Bureau received payment on August 30, 2010.

b. On March 1, 2012, the Bureau issued citation number C2012-1050 for \$1,500, for issuing a certificate of compliance to a Bureau undercover vehicle with a missing fuel evaporative canister. The Bureau received payment on April 25, 2012.

c. On October 23, 2013, the Bureau issued citation number C2014-0250 for \$2,500, for issuing a certificate of compliance to a Bureau undercover vehicle with a missing Exhaust Gas Recirculation assembly. The Bureau received payment on December 23, 2013.

d. On June 11, 2015, the Bureau issued citation number C2015-1033 for \$2,500, for issuing a certificate of compliance to a vehicle using the BAR-97 Emissions Inspection System (BAR-97 EIS), when a BAR-OIS smog test was instead required. Romero appealed the citation, and the hearing of that appeal was consolidated with the hearing of this case.

17. The Bureau has cited Carreiro on two prior occasions, as follows:

a. On October 23, 2013, the Bureau issued him citation number M2014-0251 for the same violation described in citation number C2014-0250 against Quality Smog & Auto Repair. The citation directed Carreiro to take an eight-hour training course, which he did.

b. On June 11, 2015, the Bureau issued him citation number M2015-1040 for same violation described in citation number C2015-1033 against Quality Smog & Auto Repair. The citation ordered him to cease and desist from using the BAR-97 EIS test when a BAR-OIS test was required, but did not impose a fine. Carreiro initially appealed the citation, but later withdrew the appeal.

#### *Costs*

18. Complainant presented a certification stating that the Department of Justice has billed the Bureau \$7,120 concerning the case, and was expected to bill another \$255 for further case preparation. Romero testified he would need a payment plan to pay that amount.



## LEGAL CONCLUSIONS

### *Legal Standards*

1. The Director may suspend, revoke, or impose probation on an automotive repair dealer registration for certain acts or omissions related to the conduct of the repair dealer's business, including: "(1) Making or authorizing in any manner or by any means whatever any statement written or oral which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading. [¶] . . . [¶] (4) Any other conduct that constitutes fraud. [¶] . . . [¶] (6) Failure in any material respect to comply with the provisions of this chapter [i.e., the Automotive Repair Act, Business and Professions Code section 9880 et seq.] or regulations adopted pursuant to it. . . ." (Bus. & Prof. Code, § 9884.7, subd. (a).) Such acts or omissions may be "done by the automotive repair dealer or any automotive technician, employee, partner, officer, or member of the automotive repair dealer." (*Ibid.*) The Director may take such disciplinary action "where the automotive repair dealer cannot show there was a bona fide error . . . ." (*Ibid.*)

2. Similarly, the Director may suspend, revoke, or take other disciplinary action against a smog check station license or smog check inspector license "if the licensee, or any partner, officer, or director thereof, does any of the following: [¶] (a) Violates any section of this chapter [i.e., the Motor Vehicle Inspection Program, Health and Safety Code section 44000 et seq.] and the regulations adopted pursuant to it, which related to the licensed activities. [¶] . . . [¶] (c) Violates any of the regulations adopted by the [D]irector pursuant to this chapter. [¶] (d) Commits any act involving dishonesty, fraud, or deceit whereby another is injured. . . ." (Health & Saf. Code, § 44072.2.)

3. An automotive repair dealer registration is a nonprofessional license, because it does not have extensive educational, training, or testing requirements similar to a professional license. (See *Imports Performance v. Dept. of Consumer Affairs, Bureau of Automotive Repair* (2011) 201 Cal.App.4th 911, 916-917 (*Imports Performance*); *Mann v. Dept. of Motor Vehicles* (1999) 76 Cal.App.4th 312, 319; *San Benito Foods v. Veneman* (1996) 50 Cal.App.4th 1889, 1894.) To the contrary, an automotive repair dealer registration "shall" be issued to any person who simply applies for it and pays a fee. (Bus. & Prof. Code, § 9884.2.) To impose discipline on such a nonprofessional license, complainant must prove cause for discipline by a preponderance of the evidence (*Imports Performance, supra*, 201 Cal.App.4th at pp. 916-917), which means "'evidence that has more convincing force than that opposed to it.' [Citation.]" (*People ex rel. Brown v. Tri- Union Seafoods, LLC* (2009) 171 Cal.App.4th 1549, 1567.)

4. Smog check station and inspector licenses also do not have extensive educational, training, or testing requirements, and are therefore also nonprofessional licenses. (*Imports Performance, supra*, 201 Cal.App.4th at pp. 916-917.) An automotive repair dealer may become licensed as a smog test station simply by submitting an application, paying a fee, and passing a Bureau inspection. (Cal. Code Regs., tit. 16, § 3340.10.) Although an

applicant for a smog check inspector license must complete certain course work (Cal. Code Regs., tit. 16, § 3340.28, subd. (b)) and pass an examination (Cal. Code Regs., tit. 16, § 3340.29), “such requirements are not similar to the ‘extensive educational, training and testing requirements’ necessary to obtain a professional license.” [Citation.]” (*Imports Performance, supra*, 201 Cal.App.4th at p. 916.) Therefore, to impose discipline on a smog check station or inspector license, complainant’s burden of proof is also proof by a preponderance of the evidence. (*Imports Performance, supra*, 201 Cal.App.4th at pp. 916-917.)

### Analysis

#### CAUSES FOR DISCIPLINE AGAINST QUALITY SMOG & AUTO REPAIR

5. The preponderance of the evidence established that the 12 smog tests at issue involved clean plugging, and were performed at Quality Smog & Auto Repair. (Factual Finding 15.) Clean plugging is fraudulent activity that generates passing readings for vehicles that are not in compliance with smog requirements and/or not present for testing. (Factual Finding 9.) While Romero denied personal responsibility for the fraud, his automotive repair dealer registration and smog check station license are nonetheless subject to discipline for it. As the Bureau’s licensee, he is responsible for ensuring that his business operates lawfully, and “[a] licensee may not insulate himself from regulations by electing to function through employees or independent contractors. [Citations.]” (*Eisenberg v. Myers* (1983) 148 Cal.App.3d 814, 824; see also *California Assn. of Health Facilities v. Dept. of Health Services* (1997) 16 Cal.4th 284, 296 [“[A] licensee will be held liable for the acts of its agents . . . .”]; *Ford Dealers Assn. v. Dept. of Motor Vehicles* (1982) 32 Cal.3d 347, 360 [“The courts have repeatedly held that licensees are responsible for the acts of their employees.”].) Furthermore, his assertion that non-employee Mejia performed the fraudulent tests lacked evidentiary support. (Factual Finding 14.) Moreover, even if Mejia did perform the tests, employee Carreiro’s failure to maintain the security of his login password allowed Mejia to do so. (See Factual Finding 11.)

6. Therefore, there is cause for the Director to revoke or suspend Quality Smog & Auto Repair’s automotive repair dealer registration for the following reasons:

a. First Cause for Discipline – making misleading statements by issuing certificates of compliance for the 12 vehicles, when in fact those vehicles had not been properly inspected. (Bus. & Prof. Code, § 9884.7, subd. (a)(1).)

b. Second Cause for Discipline – committing fraudulent acts by issuing the certificates of compliance based on clean plugging tests. (Bus. & Prof. Code, § 9884.7, subd. (a)(4).)

c. Third Cause for Discipline – materially violating the Automotive Repair Act and regulations adopted under it by engaging in fraudulent clean plugging. (Bus. & Prof. Code, § 9884.7, subd. (a)(4) and (6); Cal. Code Regs., tit. 16, §§ 3340.42, 3340.45.)

d. Fourth Cause of Discipline – disseminating false and misleading information about the 12 vehicles into the Bureau’s smog check database. (Bus. & Prof. Code, § 17500; see also Bus. & Prof. Code, § 9884.7, subd. (a)(1).)

7. In addition, there is cause for the Director to revoke or suspend Quality Smog & Auto Repair’s smog check station license for the following reasons:

a. Fifth Cause for Discipline – violation of the Motor Vehicle Inspection Program. The violations were failing to ensure that the emission control tests complied with Department procedures (Health & Saf. Code, § 44012); issuing certificates of compliance with without properly testing and inspecting the vehicles (Health & Saf. Code, § 44015, subd. (b)); and the willful false certifications that the vehicles had been inspected as required and passed. (Health & Saf. Code, § 44059.)

b. Sixth Cause for Discipline – violation of regulations adopted under the Motor Vehicle Inspection Program. The violations were issuing false and fraudulent certificates of compliance (Cal. Code Regs., tit. 16, § 3340.24, subd. (c)); issuing certificates of compliance for vehicles that had not been properly inspected (Cal. Code Regs., tit. 16, §3340.35, subd. (c)); and failure to conduct the smog tests and inspections in accordance with the Bureau’s specifications and Smog Check Manual (Cal. Code Regs., tit. 16, §§ 3340.42, 3340.45).

c. Seventh Cause for Discipline – dishonesty, fraud, and deceit whereby another is injured. (Heath & Saf. Code, § 44072.2, subd (d).) The fraudulent inspections injured others by contributing to air pollution in the state, which is detrimental to the health, safety, welfare, and sense of well being of the people of California. (Health & Saf. Code, §§ 39000, 39003.)

#### CAUSES FOR DISCIPLINE AGAINST CARREIRO

8. The three causes for discipline against Carreiro are largely based on allegations that he performed the tests himself. But the evidence did not establish whether he did (Factual Finding 13), and complainant therefore did not meet his burden of proving those allegations. However, the eighth cause for discipline also includes an allegation that Carreiro “failed to ensure that the emission control tests were performed . . . in accordance with procedures prescribed by the [D]epartment,” in violation of Health and Section Code section 44012. (Accusation, p. 13.) The allegation that Carreiro “failed to ensure” the tests complied with Department procedures does not require proof that Carreiro himself performed them.

9. Complainant established this allegation by a preponderance of the evidence, because even if Carreiro did not perform the fraudulent tests himself, his failure to protect his login password from misuse allowed them to occur. By his own account, he kept his login password written down under the smog check computer keyboard, where others could find and use it to perform tests under his smog check inspector license. (Factual Finding 11.)

10. Therefore, there is cause for the Director to revoke or suspend Carreiro's smog check inspector license for violating section 44012 of the Motor Vehicle Inspection Program. (Health & Saf. Code, § 44072.2, subd. (a)).

#### *Level of Discipline*

11. "The [D]epartment shall revoke the license of any smog check technician or station licensee who fraudulently certifies vehicles or participates in the fraudulent inspection of vehicles." (Health & Saf. Code, § 44072.10, subd. (c).) For a station licensee, the Bureau's Guidelines for Disciplinary Orders and Terms of Probation (rev. March 2016) (Guidelines) also recommend revocation of any applicable automotive repair dealer registration for such fraud. (Guidelines, p. 8 [recommending "Invalidation/Revocation of applicable registration/license" for "Fraudulent certification/inspection of vehicle"].) The primary purpose of administrative license proceedings is to protect the public, and the object of discipline is not to punish the licensee. (*Fahmy v. Medical Board of California* (1995) 38 Cal.App.4th 810, 817; see also *Pirouzian v. Superior Court* (2016) 1 Cal.App.5th 438, 448-450; *Imports Performance, supra*, 201 Cal.App.4th at p. 919.)

12. Here, there were 12 fraudulent smog tests at Quality Smog & Auto Repair, resulting in 12 fraudulent certificates of compliance. The violations were serious and reflective of dishonesty, and the shop's prior history of citations for improper smog tests is an aggravating factor. (Guidelines, p. 1.) Romero's assertion that non-employee Mejia performed the fraudulent tests lacked evidentiary support (Factual Finding 14), and even if Mejia did, employee Carreiro's failure to maintain the security of his login password allowed that to happen. Romero also presented no evidence of any changed practices or procedures (Factual Finding 10), giving the Bureau no assurances that his shop will operate lawfully in the future. Carreiro remains the shop's sole smog check inspector, and Romero did not describe any additional supervision or monitoring of the shop's smog test operations. Therefore, the proper level of discipline is revocation of Quality Smog & Auto Repair's automotive repair dealer registration and smog check station license, not suspension or a period of probation.

13. As to Carreiro, the Guidelines recommend revocation, stayed, with five years' probation for a violation of Health and Safety Code section 44012, which the evidence established. (Guidelines, p. 6.) But Carreiro's violation resulted in fraudulent certificates of compliance for 12 vehicles, making it particularly serious. Even if he did not perform the tests himself as he asserted, his conduct allowed those fraudulent tests to occur. In addition, he has two prior citations for improper smog tests (Factual Finding 17), and that citation history is an aggravating factor, just as it is for Quality Smog & Auto Repair. (Guidelines, p. 1.) He also expressed no evidence of a change in attitude or business practices, and no other evidence of rehabilitation. Given these considerations, the Bureau has no evidence that similar fraudulent activity will not reoccur. Therefore, revocation of Carreiro's smog check inspector license is also warranted to protect the public. A stayed revocation with a period of probation would be insufficient to do so.

### *Costs*

14. Complainant also requests an award of investigative and enforcement costs. “Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before any board within the [Department] . . . , upon request of the entity bringing the proceeding, the administrative law judge may direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.” (Bus. & Prof. Code, § 125.3, subd. (a).)

15. Complainant requests \$7,375 in investigation and enforcement costs, and presented a certification of those costs, which is prima facie evidence that the costs are reasonable. (Factual Finding 18; see Bus. & Prof. Code, § 125.3, subds. (a), (c).) Romero and Carreiro presented no evidence to the contrary. They also did not obtain a reduction in the severity of the discipline imposed, or present evidence of their financial inability to pay the costs, other than Romero’s assertion that he would need a payment plan. While complainant did not prove all of its disciplinary allegations against Carreiro, there was no evidence that distinct and separable efforts were made in connection with the unproven allegations. Therefore, a pro rata reduction of costs for Carreiro is unwarranted (*Imports Performance, supra*, 201 Cal.App.4th at p. 921), and both he and Romero will be ordered to pay them. (See *Zuckerman v. State Board of Chiropractic Examiners* (2002) 29 Cal.4th 32, 45.)

### *Other Matters*

16. “[T]he [D]irector may suspend, revoke, or place on probation the registration for all places of business operated in this state by an automotive repair dealer upon a finding that the automotive repair dealer has, or is, engaged in a course of repeated and willful violations of this chapter, or regulations adopted pursuant to it.” (Bus. & Prof. Code, § 9884.7, subd. (c).) Complainant requests a statewide order against Romero under this provision, but presented no evidence that he has any other Bureau registration for another place of business. Therefore, the request is denied.

17. “When a license has been revoked or suspended following a hearing under this article, any additional license issued under this chapter [i.e., the Motor Vehicle Inspection Program] in the name of the licensee may be likewise revoked or suspended by the director.” (Health & Saf. Code, § 44072.8.) Complainant also requests relief under this provision, but presented no evidence that Romero or Carreiro has any additional license under the Motor Vehicle Inspection Program, apart from the licenses being revoked. Carreiro used to be licensed as a brake adjuster and a lamp adjuster, but those licenses were issued under the Automotive Repair Act, not under the Motor Vehicle Inspection Program. (See Bus. & Prof. Code, § 9888.2.) Therefore, complainant’s request for relief under Health and Safety Code section 44072.8 is denied.

ORDER

Automotive repair dealer registration number ARD 255343, issued to respondent Jose Salinas Romero, doing business as Quality Smog & Auto Repair, is revoked.

Smog check station license number ARD 255343, issued to respondent Jose Salinas Romero, doing business as Quality Smog & Auto Repair, is revoked.

Smog check inspector (EO) license number 125541, issued to respondent John Wesley Carreiro, is revoked.

Respondents Jose Salinas Romero, doing business as Quality Smog & Auto Repair, and John Wesley Carreiro shall pay to the Bureau its costs of investigation and enforcement in the amount of \$7,375, within 30 days of the effective date of this decision, or on such other terms as may be approved by the Bureau.

DATED: December 5, 2017

DocuSigned by:

*Thomas Heller*

THOMAS HELLER

Administrative Law Judge

Office of Administrative Hearings

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

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12 **QUALITY SMOG & AUTO REPAIR,**  
13 **JOSE SALINAS ROMERO, Owner**  
14 9519 Artesia Blvd.  
Bellflower, CA 90706

**A C C U S A T I O N**

(SMOG CHECK)

15 Automotive Repair Dealer Registration No.  
ARD 255343  
16 Smog Check Station License No. RC 255343;

17 and

18 **JOHN WESLEY CARREIRO**  
19 9519 Artesia Blvd.  
Bellflower, CA 90706

20 Smog Check Inspector No. EO 125541  
(formerly designated as Advanced Emission  
Specialist Technician License No. EA 125541)  
21 Brake Adjuster License No. BA 125541  
22 Lamp Adjuster License No. LA 125541,

Respondents.

23  
24 Complainant alleges:

25 **PARTIES**

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

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1           **Quality Smog & Auto Repair**

2           2.     On or about June 27, 2008, the Bureau of Automotive Repair (Bureau) issued  
3 Automotive Repair Dealer Registration No. ARD 255343 (Registration) to Jose Salinas Romero,  
4 owner, doing business as Quality Smog & Auto Repair (Respondent Quality Smog). The ARD  
5 Registration was in full force and effect at all times relevant to the charges brought herein. It will  
6 expire on April 30, 2017, unless renewed.

7           3.     On or about July 25, 2008, the Bureau issued Smog Check Station License No. RC  
8 255343 (station license) to Jose Salinas Romero, owner, doing business as Quality Smog & Auto  
9 Repair. The Station License was in full force and effect at all times relevant to the charges  
10 brought herein. It will expire on April 30, 2017, unless renewed.

11           **John Wesley Carreiro**

12           4.     In or about 1996, the Bureau issued Advanced Emission Specialist Technician  
13 License No. EA 125541 to John Wesley Carreiro (Respondent Carreiro). Respondent's  
14 Advanced Emission Specialist Technician License was due to expire on August 31, 2013,  
15 however, it was cancelled on August 30, 2013. Pursuant to California Code of Regulations, title  
16 16, section 3340.28, subdivision (e), said license was renewed pursuant to Respondent Carreiro's  
17 election as Smog Check Inspector License No. EO 125541, effective August 30, 2013.<sup>1</sup> The  
18 license was in full force and effect at all times relevant to charges brought herein. The license will  
19 expire on August 31, 2017, unless renewed.

20           5.     On or about March 30, 2009, the Bureau issued Brake Adjuster License No. BA  
21 125541, Class A, to Respondent Carreiro. The license was in full force and effect at all times  
22 relevant to charges brought herein. The license expired on August 31, 2012, and has not been  
23 renewed.

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<sup>1</sup> Effective August 1, 2012, California Code of Regulations, title 16, sections 3340.28, 3340.29, and 3340.30  
27 were amended to implement a license restructure from the Advanced Emission Specialist Technician (EA) license  
28 and Basic Area (EB) Technician license to Smog Check Inspector (EO) license and/or Smog Check Repair  
Technician (EI) license.





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

4           12. Section 44012 of the Health & Saf. Code provides, in pertinent part, that tests at smog  
5 check stations shall be performed in accordance with procedures prescribed by the department.

6           13. Section 44015, subdivision (b), of the Health & Saf. Code provides that a certificate  
7 of compliance shall be issued if a vehicle meets the requirements of Health & Saf. Code section  
8 40012.

9           14. Section 44032 of the Health & Saf. Code provides, in pertinent part, that “[q]ualified  
10 technicians shall perform tests of emission control devices and systems in accordance with  
11 Section 44012.”

12           15. Section 44059 of the Health & Saf. Code provides:

13           “The willful making of any false statement or entry with regard to a material matter  
14 in any oath, affidavit, certificate of compliance or noncompliance, or application form  
15 which is required by this chapter or Chapter 20.3 (commencing with Section 9880) of  
16 Division 3 of the Business and Professions Code, constitutes perjury and is punishable  
as provided in the Penal Code.”

17           16. Section 44072.2 of the Health & Saf. Code states, in pertinent part:

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

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

23           “(b) Is convicted of any crime substantially related to the qualifications, functions,  
or duties of the licenseholder in question.

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

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

26  
27           17. Section 44072.8 of the Health & Saf. Code states:  
28

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

4 18. Section 44072.10 of the Health & Saf. Code states, in pertinent part:

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

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

9 “(2) Tampering with a vehicle emission control system or test analyzer system.

10 “(3) Tampering with a vehicle in a manner that would cause the vehicle to falsely pass or  
11 falsely fail an inspection.

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

### 13 REGULATORY PROVISIONS

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

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

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

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

28

1 22. CCR, title 16, section 3340.41, subdivision (c), provides: "No person shall enter into  
2 the emissions inspection system any vehicle identification information or emission control system  
3 identification data for any vehicle other than the one being tested. Nor shall any person  
4 knowingly enter into the emissions inspection system any false information about the vehicle  
5 being tested."

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

8 24. CCR, title 16, section 3340.45 provides that all Smog Check inspections shall be  
9 performed in accordance with requirements and procedures prescribed in the Bureau's Smog  
10 Check Manual, which became effective January 1, 2013.

#### 11 COST RECOVERY

12 25. Section 125.3, subdivision (a), of the Bus. & Prof. Code provides, in pertinent part,  
13 that a Board "may request the administrative law judge to direct a licentiate found to have  
14 committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable  
15 costs of the investigation and enforcement of the case."

#### 16 SMOG CHECK PROGRAM BACKGROUND

17 26. Smog Check tests are performed using a BAR97 Emissions Inspection System  
18 ("EIS"). The EIS is a computer-based analyzer that samples a vehicle's exhaust emissions  
19 through an exhaust sample probe that is placed in the tailpipe of the vehicle being inspected. The  
20 EIS accepts entries from the licensed technician per his/her visual and functional inspection of the  
21 vehicle, as well as the information specific to the particular vehicle being tested; such as, model  
22 year, make, model, license plate number, VIN, etc. The licensed technician gains access to the  
23 EIS by using a confidential personal access code assigned by the Bureau. The EIS uses the  
24 information entered by the technician, along with the data from the analyzer, to determine  
25 whether the vehicle passes the test.

26 27. The Smog Check test consists of a three-part inspection; a visual inspection of the  
27 vehicle's emission control components, an exhaust emission sample, and a functional test of  
28 certain emission-related components. If the vehicle passes the test, the EIS issues a Certificate of

1 Compliance number. This certificate number and all test information are automatically  
2 transmitted via modem to the Bureau's Vehicle Information Database ("VID").

3 28. Beginning March 9, 2015, California's Smog Check Program was updated to keep  
4 pace with ever advancing vehicle technology. The program update requires use of an On Board  
5 Diagnostic Inspection System (known as the "BAR-OIS"). BAR-OIS is the Smog Check  
6 equipment required in all areas of the State when inspecting most model-year 2000 and newer  
7 gasoline and hybrid vehicles and most 1998 and newer diesel vehicles. The system consists of a  
8 Data Acquisition Device ("DAD"), and other "off the shelf" equipment, a computer, bar code  
9 scanner, and printer. The "off the shelf" equipment must meet minimum performance  
10 requirements to ensure compatibility with BAR OIS software. The BAR-OIS uses the California  
11 BAR-OIS software to communicate with BAR's central database through the Internet connection.  
12 The California BAR-OIS software requires a continuous internet connection when performing a  
13 Smog Check inspection.

14 29. The DAD is the only BAR-certified component of the BAR-OIS. The DAD connects  
15 between the BAR-OIS computer and the vehicle's DLC. The DAD is an OBD II scan tool that,  
16 when requested by the California BAR-OIS software, retrieves OBD II data from the vehicle. All  
17 supported OBD II data requested by the California BAR-OIS software will be retrieved. Some of  
18 the data retrieved and recorded during a BAR-OIS Smog Check inspection includes the Vehicle  
19 Identification Number ("VIN"), the OBD II communication protocol, and the Parameter  
20 Identification (PID) count.

21 30. The VIN is programmed into the vehicle's OBD II system electronic control unit  
22 ("ECU") on 2005 and newer vehicles, and on many occasions was programmed into the OBD II  
23 system ECU in earlier model-years. This electronically programmed VIN, referred to as the  
24 "eVIN", is captured by BAR during a Smog Check inspection, and under normal circumstances  
25 matches the physical VIN on the vehicle.

26 31. Dishonest Smog Check Stations and Smog Check Inspectors can issue  
27 improper/fraudulent Smog Check Certificates of Compliance by using a method known as "clean  
28 plugging." Clean plugging involves using another vehicle's properly functioning OBD II system,

1 or another source, to generate passing diagnostic readings for the purpose of issuing fraudulent  
2 Certificates of Compliance to vehicles that are not in compliance and/or not present for testing.

### 3 BUREAU INVESTIGATION

4 32. A Bureau Representative reviewed OIS Smog Check inspections records of  
5 Respondent Quality Smog from the Vehicle Information Database (VID). He found that between  
6 August 11, 2015 and October 5, 2015, Quality Smog, under the license and access code of  
7 Respondent John Wesley Carreiro (Smog Check Inspector License No. EO 125541), performed at  
8 least twelve Smog Check inspections where the eVIN did not match the physical VIN of the  
9 vehicles being certified (the eVIN being the vehicle's VIN that was programed into the vehicle's  
10 on board electronic control unit). One particular eVIN (1GCHC23G93F222973) was used to  
11 certify seven different vehicles. According to Department of Motor Vehicle records, this eVIN  
12 corresponded to a 2003 Chevrolet Silverado pickup truck.

13 33. The Representative found the following twelve fraudulent smog inspections  
14 resulted in the issuance twelve fraudulent Certificates of Compliance by Respondents:

14 #	Date and Test time	Vehicle Allegedly Tested & Physical VIN	eVIN Recorded & Corresponding Vehicle	Smog Certificate Issued	Details
15 1	8/11/15 1711- 1718 hrs.	2005 Chevrolet Impala 2G1WF52E359107743	1GCHC23G93F222973 2003 Chevrolet Silverado pickup	PU501846C	Discrepancies in OIS test data prove OIS Data Acquisition Device was not connected to the Impala.
16 2	8/14/15 1455- 1459	2006 Volkswagen Jetta 3VWRF71K66M690919	5TDBA22CX6S055828 2006 Toyota Sienna van	PU854720C	Discrepancies in OIS test data prove OIS Data Acquisition Device was not connected to the Jetta.
17 3	8/14/15 1810- 1828	2005 Toyota Corolla 1NXBR32E55Z427405	5TDBA22CX6S055828 2006 Toyota Sienna van	PU854725C	Discrepancies in OIS test data prove OIS Data Acquisition Device was not connected to the Corolla.
18 4	8/18/15 1702- 1706	2006 Mitsubishi Lancer JA3AJ26E46U060329	1GCHC23G93F222973 2003 Chevrolet Silverado pickup	PU854737C	Discrepancies in OIS test data prove OIS Data Acquisition Device was not connected to the Lancer. Bureau records also indicate that on 8/16/2015, the same Lancer failed a previous inspection at Quality Smog in which both the physical VIN and the eVIN matched.

5	8/31/15 1618-1625	2005 Ford F150 1FTPF125X5KF14218	1GCHC23G93F222973 2003 Chevrolet Silverado pickup	YV003150C	Discrepancies in OIS test data prove OIS Data Acquisition Device was not connected to the F150.
6	9/8/15 0934-0942	2009 Nissan Cube JN8AZ28R29T115501	5FNRL38668B045384 2008 Honda Odyssey van	PW092889C	Discrepancies in OIS test data prove OIS Data Acquisition Device was not connected to the Cube
7	9/8/15 1652-1700	2009 Dodge Challenger 2B3LJ54T09H502979	1GCHC23G93F222973 2003 Chevrolet Silverado pickup	PW092896C	Discrepancies in OIS test data prove OIS Data Acquisition Device was not connected to the Challenger.
8	9/15/15 1456-1516	2007 Honda Civic EX 2HGFG11857H570776	1GCHC23G93F222973 2003 Chevrolet Silverado pickup	PW341933C	Discrepancies in OIS test data prove OIS Data Acquisition Device was not connected to the Civic. Bureau records also indicate that on 9/10/2015, the same Civic failed a previous inspection at Quality Smog in which both the physical VIN and the eVIN matched.
9	9/17/15 1547-1608	2008 Suzuki Forenza KL5JD56ZX8K934801	JTHBF5C27C5171383 2012 Lexus IS250	PW341943C	Discrepancies in OIS test data prove OIS Data Acquisition Device was not connected to the Forenza.
10	9/18/15 1702-1724	2006 Dodge Charger 2B3KA43R96H475594	1GCHC23G93F222973 2003 Chevrolet Silverado pickup	PW627560C	Discrepancies in OIS test data prove OIS Data Acquisition Device was not connected to the Charger.
11	9/28/15 1249-1301	2005 Nissan Murano JN8AZ08W35W439267	5FNRL38668B045384 2008 Honda Odyssey van	PW839467C	Discrepancies in OIS test data prove OIS Data Acquisition Device was not connected to the Murano.
12	10/5/15 1657-1721	2004 Ford Mustang 1FAFP40694F148318	1GCHC23G93F222973 2003 Chevrolet Silverado pickup	PY025280C	Discrepancies in OIS test data prove OIS Data Acquisition Device was not connected to the Mustang.

34. Each of the fraudulent Certificates of Compliance were issued under Smog Check Inspector License No. EO 125541, issued to Respondent John Wesley Carreiro. The certificates were purchased through and delivered to the OIS at Respondent Quality Smog using an Automated Clearing House (ACH) payment method. The certificates were delivered between 7/31 and 10/5/2015, and were under the exclusive control of Respondent Quality Smog.

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Misleading Statements)**

3 35. Quality Smog has subjected its Registration to discipline pursuant to Bus. & Prof.  
4 Code section 9884.7, subdivision (a)(1), in that between August 11 and October, 2015, it made  
5 statements which it knew or which by exercise of reasonable care should have known were untrue  
6 or misleading when it issued electronic certificates of compliance for certain vehicles, certifying  
7 that those vehicles were in compliance with applicable laws and regulations when, in fact, those  
8 vehicles had not been inspected. Complainant refers to, and by this reference incorporates, the  
9 allegations set forth above in paragraphs 32 through 34, as though set forth fully herein.

10 **SECOND CAUSE FOR DISCIPLINE**

11 **(Fraud)**

12 36. Quality Smog has subjected its Registration to discipline pursuant to Bus. & Prof.  
13 Code section 9884.7, subdivision (a)(4), in that between August 11 and October, 2015, it  
14 committed acts which constitute fraud by issuing electronic certificates of compliance for certain  
15 vehicles without performing bona fide inspections of the emission control devices and systems on  
16 those vehicles, thereby depriving the People of the State of California of the protection afforded  
17 by the Motor Vehicle Inspection Program. Complainant refers to, and by this reference  
18 incorporates, the allegations set forth above in paragraphs 32 through 34, as though set forth fully  
19 herein.

20 **THIRD CAUSE FOR DISCIPLINE**

21 **(Material Violation of Automotive Repair Act)**

22 37. Quality Smog has subjected its Registration to discipline pursuant to Bus. & Prof.  
23 Code section 9884.7, subdivision (a)(6), in that between August 11 and October, 2015, it failed in  
24 a "material respect to comply with the provisions of this chapter or regulations adopted pursuant  
25 to it" when it issued electronic certificates of compliance for certain vehicles without performing  
26 bona fide inspections of the emission control devices and systems on those vehicles, thereby  
27 depriving the People of the State of California of the protection afforded by the Motor Vehicle  
28



1 Inspection Program. Complainant refers to, and by this reference incorporates, the allegations set  
2 forth above in paragraphs 32 through 34, as though set forth fully herein.

3 **FOURTH CAUSE FOR DISCIPLINE**

4 **(False and/or Misleading Statements)**

5 38. Quality Smog has subjected its Registration to discipline pursuant to Bus. & Prof.  
6 Code section 17500, in that between August 11 and October 5, 2015, it disseminated untrue  
7 and/or misleading information into the state's database that smog check inspections had been  
8 performed on vehicles when, in fact, they had not, and by issuing electronic smog certificates of  
9 compliance to those same vehicles which would not have passed a valid smog inspection.  
10 Complainant refers to, and by this reference incorporates, the allegations set forth above in  
11 paragraphs 32 through 34 above, as though set forth fully herein.

12 **FIFTH CAUSE FOR DISCIPLINE**

13 **(Violation of the Motor Vehicle Inspection Program)**

14 39. Quality Smog has subjected its Station License to discipline under Health & Saf.  
15 Code section 44072.2, subdivision (a), in that between August 11 and October 5, 2015,  
16 Respondent violated the following sections of the Health & Saf. Code with respect to the  
17 inspection of certain vehicles:

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

20 b. **Section 44015, subdivision (b):** Respondent issued electronic certificates of  
21 compliance without properly testing and inspecting the vehicles to determine if they were in  
22 compliance with section 44012 of the Health & Saf. Code.

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

26 Complainant refers to, and by this reference incorporates, the allegations set forth above in  
27 paragraphs 32 through 34, as though set forth fully herein.

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1 SIXTH CAUSE FOR DISCIPLINE

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

3 40. Quality Smog has subjected its Station License to discipline under Health & Saf.  
4 Code section 44072.2, subdivision (c), in that between August 11 and October 5, 2015,  
5 Respondent violated the following sections of title 16 of the CCR with respect to the inspection of  
6 certain vehicles:

7 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued  
8 electronic certificates of compliance without performing bona fide inspections of the emission  
9 control devices and systems on those vehicles as required by Health & Saf. Code section 44012.

10 b. **Section 3340.35, subdivision (c):** Respondent issued electronic certificates of  
11 compliance even though those vehicles had not been inspected in accordance with section  
12 3340.42 of the Health & Saf. Code.

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

15 d. **Section 3340.45:** Respondent failed to perform Smog Check inspections in  
16 accordance with requirements and procedures prescribed in the Bureau's Smog Check Manual.

17 Complainant refers to, and by this reference incorporates, the allegations set forth above in  
18 paragraphs 32 through 34, as though set forth fully herein.

19 SEVENTH CAUSE FOR DISCIPLINE

20 (Dishonesty, Fraud or Deceit)

21 41. Quality Smog has subjected its Station License to discipline under Health & Saf.  
22 Code section 44072.2, subdivision (d), in that between August 11 and October 5, 2015,  
23 Respondent committed acts involving dishonesty, fraud or deceit whereby another was injured by  
24 issuing electronic certificates of compliance for certain vehicles without performing bona fide  
25 inspections of the emission control devices and systems on those vehicles, thereby depriving the  
26 People of the State of California of the protection afforded by the Motor Vehicle Inspection  
27 Program. Complainant refers to, and by this reference incorporates, the allegations set forth  
28 above in paragraphs 32 through 34, as though set forth fully herein.





1 name of said licensees may be likewise revoked or suspended by the director.

2 47. Pursuant to Health & Saf. Code section 44072.8, if Respondent John Wesley  
3 Carreiro's Smog Check Inspector License, currently designated as EO 125541, is revoked or  
4 suspended, any additional license issued under this chapter in the name of said licensee may be  
5 likewise revoked or suspended by the director.

6 **DISCIPLINE CONSIDERATIONS**

7 48. To determine the degree of discipline, if any, to be imposed on Respondent Quality  
8 Smog, Complainant alleges:

9 a. On or about July 14, 2010, in a prior action, the Bureau issued Citation No. C2011-  
10 0049 for \$1,000.00. A Citation Service Conference was held August 3, 2010, and payment was  
11 received August 30, 2010.

12 b. On or about March 1, 2012, in a prior action, the Bureau issued Citation No. C2012-  
13 1050 for \$1,500.00. A Citation Service Conference was held March 20, 2012, and payment was  
14 received April 25, 2012.

15 c. On or about October 23, 2013, in a prior action, the Bureau issued Citation No.  
16 C2014-0250 for \$2,500.00. A Citation Service Conference was held November 20, 2013, and  
17 payment was received December 23, 2013.

18 d. On or about June 11, 2015, in a prior action, the Bureau issued Citation No. C2015-  
19 1033 for \$2,500.00. A Citation Service Conference was held June 23, 2015. A request for  
20 hearing was received by the Bureau July 17, 2015, and the citation is currently under appeal.

21 49. To determine the degree of discipline, if any, to be imposed on Respondent  
22 John Carreiro, Complainant alleges:

23 a. On or about October 23, 2013, in a prior action, the Bureau issued Citation No.  
24 M2014-0251 for an 8 hour training class. A Citation Service Conference was held November 20,  
25 2013, and Respondent completed his training November 25, 2013.

26 b. On or about June 11, 2015, in a prior action, the Bureau issued Citation No. M2015-  
27 1040 for \$2,500.00. A Citation Service Conference was held June 23, 2015. A request for  
28 hearing was received by the Bureau July 13, 2015, and the citation is currently under appeal.

PRAYER

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

1. Revoking or suspending Automotive Repair Dealer Registration No. ARD 255343, issued to Jose Salinas Romero, owner, doing business as Quality Smog & Auto Repair;
2. Revoking or suspending any other automotive repair dealer registration issued to Jose Salinas Romero;
3. Revoking or suspending Smog Check Station License No. RC 255343, issued to Jose Salinas Romero, owner, doing business as Quality Smog & Auto Repair;
4. Revoking or suspending Smog Check Inspector License No. EO 125541, issued to John Wesley Carreiro;
5. Revoking or suspending any additional license issued under Chapter 5 of the Health & Saf. Code in the name of John Wesley Carreiro;
6. Ordering Jose Salinas Romero and John Wesley Carreiro jointly and severally to pay the Bureau of Automotive Repair the reasonable costs of the investigation and enforcement of this case, pursuant to Bus. & Prof. Code section 125.3;
7. Taking such other and further action as deemed necessary and proper.

DATED: 12-20-16

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

(Rev.12/16/16)