

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

In the Matter of the First Amended Accusation
Against:

DINUBA SMOG
MARTIN ROJAS, OWNER
1818 East El Monte Way, Suite C
Dinuba, CA 93618

Automotive Repair Dealer Reg. No. ARD
269789
Smog Check, Test Only, Station License
No. TC 269789

and

JOSE ROJAS
38668 Monson Drive
Dinuba, CA 93618

Smog Check Inspector License No. EO
634558
Smog Check Repair Technician License
No. EI 634558 (formerly Advanced
Emission Specialist Technician License No.
634558)

Respondents.

Case No. 79/14-94

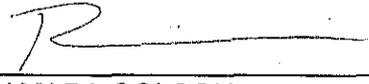
OAH No. 2014031021

DECISION

The attached Stipulated Revocation of License and Order is hereby accepted and adopted as the Decision of the Director of the Department of Consumer Affairs in the above-entitled matter.

This Decision shall become effective June 24, 2016.

DATED: May 30, 2016



TAMARA COLSON
Assistant General Counsel
Department of Consumer Affairs

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Attorney General of California
2 JANICE K. LACHMAN
Supervising Deputy Attorney General
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8

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

12 In the Matter of the First Amended Accusation
Against:

Case No. 79/14-94

13 **DINUBA SMOG**
14 **MARTIN ROJAS, OWNER**
1818 East El Monte Way, Suite C
15 Dinuba, CA 93618

OAH No. 2014031021

**STIPULATED REVOCATION OF
LICENSE AND ORDER**

16 Automotive Repair Dealer Reg. No. ARD
269789
17 Smog Check, Test Only, Station License No.
TC 269789
18

19 and

20 **JOSE ROJAS**
38668 Monson Drive
Dinuba, CA 93618
21

22 Smog Check Inspector License No. EO
634558
23 Smog Check Repair Technician License
No. EI 634558 (formerly Advanced Emission
24 Specialist Technician License No. EA
634558)

25 Respondents.
26

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

PARTIES

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2 1. Patrick Dorais (Complainant) is the Chief of the Bureau of Automotive Repair. He
3 brought this action solely in his official capacity and is represented in this matter by Kamala D.
4 Harris, Attorney General of the State of California, by Jeffrey M. Phillips, Deputy Attorney
5 General.

6 2. Respondents Dinuba Smog, Martin Rojas, Owner and Jose Rojas are represented by
7 Attorney James Makasian of Fresno, California.

8 **Dinuba Smog; Martin Rojas, Owner**

9 3. On or about July 31, 2012, the Director of Consumer Affairs ("Director") issued
10 Automotive Repair Dealer Registration Number ARD 269789 ("registration") to Martin Rojas
11 ("Respondent Martin Rojas"), owner of Dinuba Smog. Respondent's registration was in full
12 force and effect at all times relevant to the charges brought herein, expired on July 31, 2015, and
13 has been cancelled.

14 4. On or about August 22, 2012, the Director issued Smog Check, Test Only, Station
15 License Number TC 269789 ("smog check station license") to Respondent Martin Rojas.
16 Respondent's smog check station license was in full force and effect at all times relevant to the
17 charges brought herein, expired on July 31, 2015, and has been cancelled.

18 **Jose Rojas**

19 5. On or about July 27, 2012, the Director issued Advanced Emission Specialist
20 Technician License Number EA 634558 ("smog technician license") to Jose Rojas ("Respondent
21 Jose Rojas"). Respondent's smog technician license was due to expire on August 31, 2014.
22 Pursuant to California Code of Regulations, title 16, section 3340.28, subdivision (e), the license
23 was renewed, pursuant to Respondent's election, as Smog Check Inspector License No. EO
24 634558 and Smog Check Repair Technician License No. EI 634558 ("smog technician licenses"),
25 effective July 18, 2014. Respondent's smog technician licenses will expire on August 31, 2016,
26 unless renewed.¹

27 ¹ Effective August 1, 2012, California Code of Regulations, title 16, sections 3340.28,
28 3340.29, and 3340.30 were amended to implement a license restructure from the Advanced
Emission Specialist Technician (EA) license and Basic Area (EB) Technician license to Smog

(continued...)

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JURISDICTION

6. The First Amended Accusation No. 79/14-94 was filed before the Director of Consumer Affairs (Director), for the Bureau of Automotive Repair (Bureau), and is currently pending against Respondents. The First Amended Accusation and all other statutorily required documents were properly served on Respondents on July 11, 2014. Respondent timely filed his Notice of Defense contesting the First Amended Accusation. A copy of First Amended Accusation No. 79/14-94 is attached as Exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

7. Respondents have carefully read, fully discussed with counsel, and understands the charges and allegations in First Amended Accusation No. 79/14-94. Respondents also have carefully read, fully discussed with counsel, and understand the effect of this Stipulated Revocation of License and Order.

8. Respondents are fully aware of their legal rights in this matter, including the right to a hearing on the charges and allegations in the First Amended Accusation; the right to be represented by counsel, at their own expense; the right to confront and cross-examine witnesses against them; the right to present evidence and to testify on their own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

9. Respondents voluntarily, knowingly, and intelligently waive and gives up each and every right set forth above.

CULPABILITY

10. Each Respondent admits the truth of each and every charge and allegation in First Amended Accusation No. 79/14-94, agrees that cause exists for discipline and hereby agrees to the revocation of their respective Automotive Repair Dealer Registration No. ARD 269789, Smog Check, Test Only, Station License No. TC 269789, Smog Check Inspector License No. EO

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(...continued)
Check Inspector (EO) license and/or Smog Check Repair Technician (EI) license.

1 634558, and Smog Check Repair Technician License No. EI 634558.

2 11. Respondents understand that by signing this stipulation they enable the Director to
3 issue an order accepting the revocation of their respective licenses and registration without
4 further process.

5 RESERVATION

6 12. The admissions made by Respondents herein are only for the purposes of this
7 proceeding, or any other proceedings in which the Director of Consumer Affairs, Bureau of
8 Automotive Repair or other professional licensing agency is involved, and shall not be admissible
9 in any other criminal or civil proceeding.

10 CONTINGENCY

11 13. This stipulation shall be subject to approval by the Director or the Director's designee.
12 Respondents understand and agree that counsel for Complainant and the staff of the Bureau of
13 Automotive Repair may communicate directly with the Director and staff regarding this
14 stipulation and revocation, without notice to or participation by Respondent or his counsel. By
15 signing the stipulation, Respondents understand and agrees that they may not withdraw this
16 agreement or seek to rescind the stipulation prior to the time the Director considers and acts upon
17 it. If the Director fails to adopt this stipulation as the Decision and Order, the Stipulated
18 Revocation of License and Order shall be of no force or effect, except for this paragraph, it shall
19 be inadmissible in any legal action between the parties, and the Director shall not be disqualified
20 from further action by having considered this matter.

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

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

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

6 **ORDER**

7 IT IS HEREBY ORDERED that Automotive Repair Dealer Registration No. ARD 269789,
8 Smog Check, Test Only, Station License No. TC 269789 issued to Respondent Dinuba Smog;
9 Martin Rojas, Owner, and Smog Check Inspector License No. EO 634558, and Smog Check
10 Repair Technician License No. EI 634558 issued to Jose Rojas are revoked.

11 1. The revocation of Respondents' Automotive Repair Dealer Registration, Smog
12 Check, Test Only, Station License, Smog Check Inspector License, and Smog Check Repair
13 Technician License and the acceptance of the revoked licenses and registration by the Bureau
14 shall constitute the imposition of discipline against each Respondent. This stipulation constitutes
15 a record of the discipline and shall become a part of each Respondent's license history with the
16 Bureau of Automotive Repair.

17 2. Respondents shall lose all rights and privileges as a Automotive Repair Dealer, Smog
18 Check Test Only Station, Smog Check Inspector and Smog Check Repair Technician in
19 California as of the effective date of the Director's Decision and Order.

20 3. Respondents shall cause to be delivered to the Bureau their pocket license and, if one
21 was issued, every wall certificate on or before the effective date of the Decision and Order.

22 4. If any Respondent ever files an application for licensure or a petition for
23 reinstatement of a revoked license in the State of California, the Bureau shall treat it as an
24 application for a new license. Each Respondent must comply with all the laws, regulations and
25 procedures for a new license in effect at the time the application is filed, and all of the charges,
26 and allegations contained in First Amended Accusation No. 79/14-94 shall be deemed to be true,
27 correct and admitted by each Respondent when the Director determines whether to grant or deny
28 the application.

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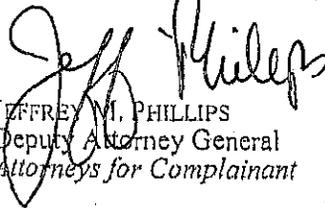
ENDORSEMENT

The foregoing Stipulated Revocation of License and Order is hereby respectfully submitted for consideration by the Director of Consumer Affairs.

Dated: 3/23/16

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
JANICE K. LACHMAN
Supervising Deputy Attorney General


JEFFREY M. PHILLIPS
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

First Amended Accusation No. 79/14-94

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2 JANICE K. LACHMAN
Supervising Deputy Attorney General
3 JEFFREY M. PHILLIPS
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Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

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 First Amended Accusation
Against:

Case No. 79/14-94

13 **DINUBA SMOG**
14 **MARTIN ROJAS, OWNER**
1818 East El Monte Way, Suite C
15 Dinuba, CA 93618

FIRST AMENDED ACCUSATION
(Smog Check)

16 Automotive Repair Dealer Reg. No. ARD 269789
Smog Check, Test Only, Station License No.
17 TC 269789

18 and

19 **JOSE ROJAS**
38668 Monson Drive
20 Dinuba, CA 93618

21 Advanced Emission Specialist Technician
License No. EA 634558 (to be re-designated
22 upon renewal as EO 634558 and/or EI 634558)

23 Respondents.

24 Complainant alleges:

25 **PARTIES**

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

28 ///

1 Consumer Affairs. This First Amended Accusation replaces in its entirety Accusation No. 79/14-
2 94 filed on February 11, 2014.

3 **Dinuba Smog; Martin Rojas, Owner**

4 2. On or about July 31, 2012, the Director of Consumer Affairs ("Director") issued
5 Automotive Repair Dealer Registration Number ARD 269789 ("registration") to Martin Rojas
6 ("Respondent Martin Rojas"), owner of Dinuba Smog. Respondent's registration was in full
7 force and effect at all times relevant to the charges brought herein and will expire on July 31,
8 2015, unless renewed.

9 3. On or about August 22, 2012, the Director issued Smog Check, Test Only, Station
10 License Number TC 269789 ("smog check station license") to Respondent Martin Rojas.
11 Respondent's smog check station license was in full force and effect at all times relevant to the
12 charges brought herein and will expire on July 31, 2015, unless renewed.

13 **Jose Rojas**

14 4. On or about July 27, 2012, the Director issued Advanced Emission Specialist
15 Technician License Number EA 634558 ("smog technician license") to Jose Rojas ("Respondent
16 Jose Rojas"). Respondent's smog technician license is due to expire on August 31, 2014. Upon
17 renewal of the license, the license will be re-designated as EO 634558 and/or EI 634558.¹

18 **JURISDICTION**

19 5. Business and Professions Code ("Bus. & Prof. Code") section 9884.7 provides that
20 the Director may revoke an automotive repair dealer registration.

21 6. Bus. & Prof. Code section 9884.13 provides, in pertinent part, that the expiration of a
22 valid registration shall not deprive the Director of jurisdiction to proceed with a disciplinary
23 proceeding against an automotive repair dealer or to render a decision temporarily or permanently
24 invalidating (suspending or revoking) a registration.

25 ///

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

1 12. Bus. & Prof. Code section 22, subdivision (a), states:

2 "Board" as used in any provision of this Code, refers to the board in
3 which the administration of the provision is vested, and unless otherwise expressly
4 provided, shall include "bureau," "commission," "committee," "department,"
"division," "examining committee," "program," and "agency."

5 13. Bus. & Prof. Code section 477, subdivision (b), states, in pertinent part, that a
6 "license" includes "registration" and "certificate."

7 14. Health & Saf. Code section 44072.2 states, in pertinent part:

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

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

12

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

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

16 15. Health & Saf. Code section 44072.10 states, in pertinent part:

17

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

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

22 COST RECOVERY

23 16. Bus. & Prof. Code section 125.3 provides, in pertinent part, that a Board may request
24 the administrative law judge to direct a licentiate found to have committed a violation or
25 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
26 and enforcement of the case.

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1 VIDEO SURVEILLANCE OPERATION OF AUGUST 6, 2013

2 17. On August 6, 2013, at approximately 0754 hours, a representative of the Bureau
3 commenced a video surveillance operation of Respondent Martin Rojas' smog check facility. At
4 approximately 1500 hours, the representative visited the facility and observed Respondent Jose
5 Rojas ("Jose") on the premises. The surveillance operation was concluded at approximately 1657
6 hours. Later, the representative reviewed the surveillance video and information obtained from
7 the Bureau's vehicle information database ("VID"). The video and VID data revealed that
8 between 1643 and 1654 hours, Jose performed a smog inspection on a 1993 Honda Civic, License
9 No. 5DJH275, resulting in the issuance of electronic smog Certificate of Compliance No.
10 XX295371C. In fact, Jose conducted the inspection using the exhaust emissions of a Dodge
11 Neon, a method known as clean piping², resulting in the issuance of a fraudulent smog certificate
12 of compliance for the 1993 Honda Civic.

13 FIRST CAUSE FOR DISCIPLINE

14 (Untrue or Misleading Statements)

15 18. Respondent Martin Rojas' registration is subject to disciplinary action pursuant to
16 Bus. & Prof. Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized a
17 statement which he knew or in the exercise of reasonable care should have known to be untrue or
18 misleading, as follows: Respondent Martin Rojas' technician, Respondent Jose Rojas, certified
19 that the 1993 Honda Civic had passed inspection and was in compliance with applicable laws and
20 regulations. In fact, Respondent Jose Rojas used clean piping methods in order to issue a
21 certificate for the vehicle and did not test or inspect the vehicle as required by Health & Saf. Code
22 section 44012.

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26 ² California Code of Regulations, title 16, section 3340, states, in pertinent part, that
27 "[c]lean piping' for the purposes of Health and Safety Code section 44072.10(c)(1), means the
28 use of a substitute exhaust emissions sample in place of the actual test vehicle's exhaust in order
to cause the EIS to issue a certificate of compliance for the test vehicle".

1 XX413011C. In fact, Jose conducted the inspection using the exhaust emissions of a Dodge
2 Neon, a method known as clean piping, resulting in the issuance of a fraudulent smog certificate
3 of compliance for the 1996 Acura Integra.

4 **NINTH CAUSE FOR DISCIPLINE**

5 **(Untrue or Misleading Statements)**

6 27. Respondent Martin Rojas' registration is subject to disciplinary action pursuant to
7 Bus. & Prof. Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized a
8 statement which he knew or in the exercise of reasonable care should have known to be untrue or
9 misleading, as follows: Respondent Martin Rojas' technician, Respondent Jose Rojas, certified
10 that the 1996 Acura Integra had passed inspection and was in compliance with applicable laws
11 and regulations. In fact, Respondent Jose Rojas used clean piping methods in order to issue a
12 certificate for the vehicle and did not test or inspect the vehicle as required by Health & Saf. Code
13 section 44012.

14 **TENTH CAUSE FOR DISCIPLINE**

15 **(Fraud)**

16 28. Respondent Martin Rojas' registration is subject to disciplinary action pursuant to
17 Bus. & Prof. Code section 9884.7, subdivision (a)(4), in that Respondent committed an act that
18 constitutes fraud by issuing an electronic smog certificate of compliance for the 1996 Acura
19 Integra without ensuring that a bona fide inspection was performed of the emission control
20 devices and systems on the vehicle, thereby depriving the People of the State of California of the
21 protection afforded by the Motor Vehicle Inspection Program.

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1 c. **Section 3340.42:** Respondent failed to conduct the required smog tests on the 1996
2 Acura Integra in accordance with the Bureau's specifications.

3 **SIXTEENTH CAUSE FOR DISCIPLINE**

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

5 34. Respondent Jose Rojas' smog technician license is subject to disciplinary action
6 pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed a
7 dishonest, fraudulent or deceitful act whereby another is injured by issuing an electronic smog
8 certificate of compliance for the 1996 Acura Integra without performing a bona fide inspection of
9 the emission control devices and systems on the vehicle, thereby depriving the People of the State
10 of California of the protection afforded by the Motor Vehicle Inspection Program.

11 **UNDERCOVER OPERATION: 1989 TOYOTA & 1994 HONDA**

12 35. The Bureau received a consumer complaint, indicating that the consumer had paid
13 Rumaldo Mike Carrillo ("Carrillo"), the owner of Automotive Center, located at 1818 East El
14 Monte Way, Unit #1, Dinuba, \$300 for the issuance of a smog check certificate for their vehicle
15 and that the vehicle was disassembled at the time it was allegedly smog tested. The Automotive
16 Center is not a licensed smog check station and Carrillo is not a licensed smog check technician.

17 36. On or about October 15, 2013, a representative of the Bureau, acting in an undercover
18 capacity ("operator"), took the Bureau's 1989 Toyota ("Toyota") to Carrillo's facility. A
19 defective coolant temperature sensor had been installed in the Bureau-documented vehicle,
20 causing the "check engine" light to illuminate on the dashboard. The operator met with Carrillo
21 and requested an oil change on the Toyota as well as a diagnosis of the check engine light.
22 Carrillo told the operator that he would contact him once he determined what was causing the
23 check engine light to illuminate. The operator left the facility.

24 37. At approximately 1134 hours that same day, Carrillo called the operator and told him
25 that the computer was not communicating with the vehicle, which was a common problem with
26 that model Toyota. Carrillo told the operator that he would purchase a Zener Diode from Radio
27 Shack and that it would cost \$120 to install it in the vehicle. The operator authorized the work,
28 then asked Carrillo if he could have the Toyota "smogged" (smog tested) following the repair.

1 Carrillo told the operator that he could smog the vehicle for an additional \$49 and that the Toyota
2 would be ready the next day.

3 38. On October 16, 2013, the operator called Carrillo to check on the status of the Toyota.
4 Carrillo told the operator that the Toyota passed the smog inspection, but still was not operating
5 properly. Carrillo stated that the Toyota ran rough when it was cold and that he wanted to check
6 the fuel filter to see if it was plugged.

7 39. Information from the Bureau's VID showed that on October 16, 2013, between 1202
8 and 1216 hours, Respondent Jose Rojas ("Jose") performed a smog inspection on the Toyota, on
9 behalf of Respondent Martin Rojas ("Martin"), resulting in the issuance of electronic smog
10 Certificate of Compliance [REDACTED].

11 40. On October 18, 2013, the operator returned to Carrillo's facility. Carrillo told the
12 operator that he went to the wrecking yard and located a used coolant temperature sensor and
13 coolant control box for the Toyota. The operator asked Carrillo if he knew someone who could
14 smog a vehicle for him that was located out of state. The operator explained that his son's Honda
15 was modified, that his son went to school in Nevada, and that the registration was expired.
16 Carrillo told the operator that he could have the vehicle smogged for \$350.

17 41. On October 21, 2013, the operator went to the facility to pick up the Toyota and paid
18 Carrillo \$414.49 in cash for the repairs. Carrillo gave the operator copies of an estimate, invoice,
19 and vehicle inspection report. The operator provided Carrillo with the registration renewal form
20 for the Bureau's 1994 Honda ("Honda"). Carrillo told the operator that he would have the smog
21 check done in a couple of days. The operator left the facility.

22 42. On October 22, 2013, the Bureau inspected the Toyota using the invoice for
23 comparison. The Bureau found that Carrillo installed a used coolant temperature sensor on the
24 vehicle that was in poor condition, failed to record the repair on the invoice, and performed
25 additional repairs that were not necessary on the vehicle.

26 43. On October 23, 2013, the operator called Carrillo and asked him if the smog for the
27 Honda was ready. Carrillo told the operator that "his guy" wanted the registration for the Honda.

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1 44. On October 24, 2013, the operator went to the facility and gave Carrillo the
2 registration as requested.

3 45. On and between October 25 and October 29, 2013, the operator called Carrillo
4 several times to check on the status of the vehicle, but Carrillo did not answer the phone.

5 46. The Bureau's VID data showed that on October 29, 2013, between 1350 and 1404
6 hours, Jose performed a smog inspection on the Honda, on behalf of Martin, resulting in the
7 issuance of electronic smog Certificate of Compliance [REDACTED]. The VID data also
8 showed that the vehicle information, including the odometer reading, engine size, etc., was
9 entered into the EIS by scanning the registration.

10 47. On October 30, 2013, the operator called Carrillo. Carrillo told the operator that the
11 smog for the Honda was completed and that the price for the smog had increased to \$400.
12 Carrillo stated that "his smog guy" called a friend who had the same model Honda that he could
13 use as a substitute to perform the test. Carrillo told the operator that all of the necessary forms for
14 the smog check had already been submitted electronically to the DMV. The operator stated that
15 he would be arriving at the facility in approximately one hour. Carrillo told the operator that he
16 had to attend a meeting, but would leave the documents with his employee, Rodrigo, and that the
17 operator could pay Rodrigo the \$400.³

18 48. On October 31, 2013, the operator went to the facility and met with Rodrigo.
19 Rodrigo gave the operator the registration and renewal notice for the Honda and a vehicle
20 inspection report. The operator paid Rodrigo \$400 in cash, then left the facility.

21 **SEVENTEENTH CAUSE FOR DISCIPLINE**

22 **(Untrue or Misleading Statements)**

23 49. Respondent Martin Rojas' registration is subject to disciplinary action pursuant to
24 Bus. & Prof. Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized
25 statements which he knew or in the exercise of reasonable care should have known to be untrue or

26 _____
27 ³ A separate Accusation has been filed against Carrillo's registration relating to the
28 undercover operation as well as an undercover operation that was conducted between November
5, 2013, and November 12, 2013 at another smog check facility.

1 misleading, as follows: Respondent Martin Rojas' technician, Respondent Jose Rojas, certified
2 that the Bureau's 1994 Honda had passed inspection and was in compliance with applicable laws
3 and regulations. In fact, Respondent Jose Rojas used clean piping methods in order to issue a
4 certificate for the vehicle and did not test or inspect the vehicle as required by Health & Saf. Code
5 section 44012. Further, certain emission control components on the vehicle were missing,
6 modified, disconnected, and/or unapproved (illegal), and the vehicle's emissions were at gross
7 polluter levels. As such, the vehicle would not pass the inspection required by Health & Saf.
8 Code section 44012.

9 **EIGHTEENTH CAUSE FOR DISCIPLINE**

10 **(Fraud)**

11 50. Respondent Martin Rojas' registration is subject to disciplinary action pursuant to
12 Bus. & Prof. Code section 9884.7, subdivision (a)(4), in that Respondent committed an act that
13 constitutes fraud by issuing an electronic smog certificate of compliance for the Bureau's 1994
14 Honda without ensuring that a bona fide inspection was performed of the emission control
15 devices and systems on the vehicle, thereby depriving the People of the State of California of the
16 protection afforded by the Motor Vehicle Inspection Program.

17 **NINETEENTH CAUSE FOR DISCIPLINE**

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

19 51. Respondent Martin Rojas' smog check station license is subject to disciplinary action
20 pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to
21 comply with provisions of that Code, as follows:

22 a. **Section 44012:** Respondent failed to ensure that the emission control tests were
23 performed on the Bureau's 1994 Honda in accordance with procedures prescribed by the
24 department.

25 b. **Section 44015:** Respondent issued an electronic smog certificate of compliance for
26 the Bureau's 1994 Honda without ensuring that the vehicle was properly tested and inspected to
27 determine if it was in compliance with Health & Saf. Code section 44012.

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1 comply with section 44012 of that Code in a material respect, as follows: Respondent failed to
2 perform the emission control tests on the Bureau's 1994 Honda in accordance with procedures
3 prescribed by the department.

4 **TWENTY-THIRD CAUSE FOR DISCIPLINE**

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

7 55. Respondent Jose Rojas' smog technician license is subject to disciplinary action
8 pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to
9 comply with provisions of California Code of Regulations, title 16, as follows:

10 a. **Section 3340.30, subdivision (a):** Respondent failed to inspect and test the Bureau's
11 1994 Honda in accordance with Health & Saf. Code sections 44012 and 44035, and California
12 Code of Regulations, title 16, section 3340.42.

13 b. **Section 3340.41, subdivision (c):** Respondent entered false information into the EIS
14 by entering vehicle identification information or emission control system identification data for a
15 vehicle other than the one being tested.

16 c. **Section 3340.42:** Respondent failed to conduct the required smog tests on the
17 Bureau's 1994 Honda in accordance with the Bureau's specifications.

18 **TWENTY-FOURTH CAUSE FOR DISCIPLINE**

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

20 56. Respondent Jose Rojas' smog technician license is subject to disciplinary action
21 pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed a
22 dishonest, fraudulent or deceitful act whereby another is injured by issuing an electronic smog
23 certificate of compliance for the Bureau's 1994 Honda without performing a bona fide inspection
24 of the emission control devices and systems on the vehicle, thereby depriving the People of the
25 State of California of the protection afforded by the Motor Vehicle Inspection Program.

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1 6. Revoking or suspending any additional license issued under Chapter 5 of the Health
2 and Safety Code in the name of Jose Rojas;

3 7. Ordering Martin Rojas, owner of Dinuba Smog, and Jose Rojas to pay the Director of
4 Consumer Affairs the reasonable costs of the investigation and enforcement of this case, pursuant
5 to Business and Professions Code section 125.3;

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

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8 DATED:

July 3, 2014



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

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