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

12 In the Matter of the Accusation Against:

Case No. 79/16-47

13 **STARR MARIE MACIAS, OWNER, doing**
14 **business as SU CASA SMOG & TEST**
15 **ONLY**
6750 Mission Blvd., Ste. B
Riverside, CA 92509

ACCUSATION
Smog Check

16 Automotive Repair Dealer Registration
ARD 276936
17 Smog Check, Test Only, Station License No.
18 TC 276936

19 **CHRISTOPHER ISLAS**
12961 Rimrock Avenue
20 Chino Hills, CA 91709

21 Smog Check Inspector License No. EO
637180

22
23 Respondents.
24

25 Complainant alleges:

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1 **PARTIES**

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

4 2. On or about June 12, 2014, the Bureau issued Automotive Repair Dealer Registration
5 No. ARD 276936 to Respondent Starr Marie Macias doing business as Su Casa Smog & Test
6 Only (Su Casa Smog & Test Only). The registration was in full force and effect at all times
7 relevant to the charges brought herein. The registration expired on June 30, 2015, and has not
8 been renewed.

9 3. On or about September 16, 2014, the Bureau issued Smog Check, Test Only, Station
10 License No. TC 276936 to Su Casa Smog & Test Only. The license was in full force and effect at
11 all times relevant to the charges brought herein. The license expired on June 30, 2015, and has not
12 been renewed.

13 4. On or about August 4, 2014, the Bureau issued Smog Check Inspector (EO) License
14 No. EO 637180 to Christopher Islas (Islas). The Smog Check Inspector License was in full force
15 and effect at all times relevant to the charges brought herein and will expire on October 31, 2016,
16 unless renewed.¹

17 **JURISDICTION**

18 5. This Accusation is brought before the Director of Consumer Affairs (Director) for the
19 Bureau of Automotive Repair, under the authority of the following laws.

20 6. Section 118, subdivision (b), of the Code provides that the suspension, expiration,
21 surrender, cancellation of a license shall not deprive the Director of jurisdiction to proceed with a
22 disciplinary action during the period within which the license may be renewed, restored, reissued
23 or reinstated.

24 7. Section 9884.13 of the Code provides, in pertinent part, that the expiration of a valid
25 registration shall not deprive the director or chief of jurisdiction to proceed with a disciplinary

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 proceeding against an automotive repair dealer or to render a decision invalidating a registration
2 temporarily or permanently.

3 8. Section 9884.20 of the Code states:

4 “All accusations against automotive repair dealers shall be filed within three years after the
5 performance of the act or omission alleged as the ground for disciplinary action, except that with
6 respect to an accusation alleging fraud or misrepresentation as a ground for disciplinary action,
7 the accusation may be filed within two years after the discovery, by the bureau, of the alleged
8 facts constituting the fraud or misrepresentation.”

9 9. Section 9884.22 of the Code states:

10 “(a) Notwithstanding any other provision of law, the director may revoke, suspend, or deny
11 at any time any registration required by this article on any of the grounds for disciplinary action
12 provided in this article. The proceedings under this article shall be conducted in accordance with
13 Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government
14 Code, and the director shall have all the powers granted therein.

15 “. . .”

16 10. 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 11. Section 44072 of the Health and Safety Code states:

20 “Any license issued under this chapter and the regulations adopted pursuant to it may be
21 suspended or revoked by the director. The director may refuse to issue a license to any applicant
22 for the reasons set forth in Section 44072.1. The proceedings under this article shall be conducted
23 in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2
24 of the Government Code, and the director shall have all the powers granted therein.”

25 12. Section 44072.4 of the Health and Safety Code states:

26 “The director may take disciplinary action against any licensee after a hearing as provided
27 in this article by any of the following:

28 “(a) Imposing probation upon terms and conditions to be set forth by the director.

“(b) Suspending the license.

“(c) Revoking the license.”

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

14. Section 44072.7 of the Health and Safety Code states:

"All accusations against licensees shall be filed within three years after the act or omission alleged as the ground for disciplinary action, except that with respect to an accusation alleging a violation of subdivision (d) of Section 44072.2, the accusation may be filed within two years after the discovery by the bureau of the alleged facts constituting the fraud or misrepresentation prohibited by that section."

15. Section 44072.8 of the Health and Safety Code states:

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

STATUTORY PROVISIONS

16. Section 22 of the Code states:

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

"(b) Whenever the regulatory program of a board that is subject to review by the Joint Committee on Boards, Commissions, and Consumer Protection, as provided for in Division 1.2 (commencing with Section 473), is taken over by the department, that program shall be designated as a 'bureau.'"

17. Section 23.7 of the Code states:

1 "Unless otherwise expressly provided, 'license' means license, certificate, registration, or
2 other means to engage in a business or profession regulated by this code or referred to in Section
3 1000 or 3600."

4 18. Section 9884.7 of the Code states:

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

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

13 "...

14 "(4) Any other conduct that constitutes fraud.

15 "...

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

20 19. Section 44012 of the Health and Safety Code states:

21 "The test at the smog check stations shall be performed in accordance with procedures
22 prescribed by the department and may require loaded mode dynamometer testing in enhanced
23 areas, two-speed idle testing, testing utilizing a vehicle's onboard diagnostic system, or other
24 appropriate test procedures as determined by the department in consultation with the state board.
25 The department shall implement testing using onboard diagnostic systems, in lieu of loaded mode
26 dynamometer or two-speed idle testing, on model year 2000 and newer vehicles only, beginning
27 no earlier than January 1, 2013. However, the department, in consultation with the state board,
28 may prescribe alternative test procedures that include loaded mode dynamometer or two-speed

1 idle testing for vehicles with onboard diagnostic systems that the department and the state board
2 determine exhibit operational problems. The department shall ensure, as appropriate to the test
3 method, the following:

4 “(a) Emission control systems required by state and federal law are reducing excess
5 emissions in accordance with the standards adopted pursuant to subdivisions (a) and (c) of
6 Section 44013.

7 “(b) Motor vehicles are preconditioned to ensure representative and stabilized operation of
8 the vehicle's emission control system.

9 “(c) For other than diesel-powered vehicles, the vehicle's exhaust emissions of
10 hydrocarbons, carbon monoxide, carbon dioxide, and oxides of nitrogen in an idle mode or loaded
11 mode are tested in accordance with procedures prescribed by the department. In determining how
12 loaded mode and evaporative emissions testing shall be conducted, the department shall ensure
13 that the emission reduction targets for the enhanced program are met.

14 “(d) For other than diesel-powered vehicles, the vehicle's fuel evaporative system and
15 crankcase ventilation system are tested to reduce any nonexhaust sources of volatile organic
16 compound emissions, in accordance with procedures prescribed by the department.

17 “(e) For diesel-powered vehicles, a visual inspection is made of emission control devices
18 and the vehicle's exhaust emissions are tested in accordance with procedures prescribed by the
19 department, that may include, but are not limited to, onboard diagnostic testing. The test may
20 include testing of emissions of any or all of the pollutants specified in subdivision (c) and, upon
21 the adoption of applicable standards, measurement of emissions of smoke or particulates, or both.

22 “(f) A visual or functional check is made of emission control devices specified by the
23 department, including the catalytic converter in those instances in which the department
24 determines it to be necessary to meet the findings of Section 44001. The visual or functional
25 check shall be performed in accordance with procedures prescribed by the department.

26 “(g) A determination as to whether the motor vehicle complies with the emission standards
27 for that vehicle's class and model-year as prescribed by the department.

1 “(h) An analysis of pass and fail rates of vehicles subject to an onboard diagnostic test and a
2 tailpipe test to assess whether any vehicles passing their onboard diagnostic test have, or would
3 have, failed a tailpipe test, and whether any vehicles failing their onboard diagnostic test have or
4 would have passed a tailpipe test.

5 “(i) The test procedures may authorize smog check stations to refuse the testing of a vehicle
6 that would be unsafe to test, or that cannot physically be inspected, as specified by the department
7 by regulation. The refusal to test a vehicle for those reasons shall not excuse or exempt the
8 vehicle from compliance with all applicable requirements of this chapter.”

9 20. Section 44015 of the Health and Safety Code states:

10 “(a) A licensed smog check station shall not issue a certificate of compliance, except as
11 authorized by this chapter, to any vehicle that meets the following criteria:

12 “(1) A vehicle that has been tampered with.

13 “(2) A vehicle identified pursuant to subparagraph (K) of paragraph (3) of subdivision (b)
14 of Section 44036. A vehicle identified pursuant to subparagraph (K) of paragraph (3) of
15 subdivision (b) of Section 44036 shall be directed to the department to determine whether an
16 inadvertent error can explain the irregularity, or whether the vehicle otherwise meets smog check
17 requirements, allowing the certificate for compliance to be issued, or the vehicle shall be
18 reinspected by a referee or another smog check station.

19 “(3) A vehicle that, prior to repairs, has been initially identified by the smog check station
20 as a gross polluter. Certification of a gross polluting vehicle shall be conducted by a designated
21 test-only facility, or a test-and-repair station that is both licensed and certified pursuant to
22 Sections 44014 and 44014.2.

23 “(4) A vehicle described in subdivision (c).

24 “(b) If a vehicle meets the requirements of Section 44012, a smog check station licensed to
25 issue certificates shall issue a certificate of compliance or a certificate of noncompliance.

26 “(c)(1) A repair cost waiver shall be issued, upon request of the vehicle owner, by an entity
27 authorized to perform referee functions for a vehicle that has been properly tested but does not
28 meet the applicable emission standards when it is determined that no adjustment or repair can be

1 made that will reduce emissions from the inspected motor vehicle without exceeding the
2 applicable repair cost limit established under Section 44017 and that every defect specified by
3 paragraph (2) of subdivision (a) of Section 43204, and by paragraphs (2) and (3) of subdivision
4 (a) of Section 43205, has been corrected. A repair cost waiver issued pursuant to this paragraph
5 shall be accepted in lieu of a certificate of compliance for the purposes of compliance with
6 Section 4000.3 of the Vehicle Code. No repair cost waiver shall exceed two years' duration. No
7 repair cost waiver shall be issued until the vehicle owner has expended an amount equal to the
8 applicable repair cost limit specified in Section 44017.

9 “(2) An economic hardship extension shall be issued, upon request of a qualified low-
10 income motor vehicle owner, by an entity authorized to perform referee functions, for a motor
11 vehicle that has been properly tested but does not meet the applicable emission standards when it
12 is determined that no adjustment or repair can be made that will reduce emissions from the
13 inspected motor vehicle without exceeding the applicable repair cost limit, as established pursuant
14 to Section 44017.1, that every defect specified in paragraph (2) of subdivision (a) of Section
15 43204, and in paragraphs (2) and (3) of subdivision (a) of Section 43205, has been corrected, that
16 the low-income vehicle owner would suffer an economic hardship if the extension is not issued,
17 and that all appropriate emissions-related repairs up to the amount of the applicable repair cost
18 limit in Section 44017.1 have been performed.

19 “(d) No repair cost waiver or economic hardship extension shall be issued under any of the
20 following circumstances:

21 “(1) If a motor vehicle was issued a repair cost waiver or economic hardship extension in
22 the previous biennial inspection of that vehicle. A repair cost waiver or economic hardship
23 extension may be issued to a motor vehicle owner only once for a particular motor vehicle
24 belonging to that owner. However, a repair cost waiver or economic hardship extension may be
25 issued for a motor vehicle that participated in a previous waiver or extension program prior to
26 January 1, 1998, as determined by the department. For waivers or extensions issued in the
27 program operative on or after January 1, 1998, a waiver or extension may be issued for a motor
28 vehicle only once per owner.

1 “(2) Upon initial registration of all of the following:

2 “(A) A direct import motor vehicle.

3 “(B) A motor vehicle previously registered outside this state.

4 “(C) A dismantled motor vehicle pursuant to Section 11519 of the Vehicle Code.

5 “(D) A motor vehicle that has had an engine change.

6 “(E) An alternate fuel vehicle.

7 “(F) A specially constructed vehicle.

8 “(e) Except as provided in subdivision (f), a certificate of compliance or noncompliance
9 shall be valid for 90 days.

10 “(f) Excluding any vehicle whose transfer of ownership and registration is described in
11 subdivision (d) of Section 4000.1 of the Vehicle Code, and except as otherwise provided in
12 Sections 4000.1, 24007, 24007.5, and 24007.6 of the Vehicle Code, a licensed motor vehicle
13 dealer shall be responsible for having a smog check inspection performed on, and a certificate of
14 compliance or noncompliance issued for, every motor vehicle offered for retail sale. A certificate
15 issued to a licensed motor vehicle dealer shall be valid for a two-year period, or until the vehicle
16 is sold and registered to a retail buyer, whichever occurs first.

17 “(g) A test may be made at any time within 90 days prior to the date otherwise required.”

18 21. Section 44035 of the Health and Safety Code states:

19 “(a) A smog check station's license or a qualified smog check technician's qualification may
20 be suspended or revoked by the department, after a hearing, for failure to meet or maintain the
21 standards prescribed for qualification, equipment, performance, or conduct. The department shall
22 adopt rules and regulations governing the suspension, revocation, and reinstatement of licenses
23 and qualifications and the conduct of the hearings.

24 “(b) The department or its representatives, including quality assurance inspectors, shall be
25 provided access to licensed stations for the purpose of examining property, station equipment,
26 repair orders, emissions equipment maintenance records, and any emission inspection items, as
27 defined by the department.”

28 22. Section 44072.2 of the Health and Safety Code states:

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

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

7 "...

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

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

10 "..."

11 23. Section 44072.10 of the Health and Safety Code states:

12 "...

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

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

17 "(2) Tampering with a vehicle emission control system or test analyzer system.

18 "(3) Tampering with a vehicle in a manner that would cause the vehicle to falsely pass or
19 falsely fail an inspection.

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

22 REGULATORY PROVISIONS

23 24. California Code of Regulations, title 16, section 3340.1. states:

24 "...

25 "'Clean piping,' for the purposes of Health and Safety Code section 44072.10(c)(1), means
26 the use of a substitute exhaust emissions sample in place of the actual test vehicle's exhaust in
27 order to cause the EIS to issue a certificate of compliance for the test vehicle.

28 "..."

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

5 26. California Code of Regulations, title 16, section 3340.35, subdivision (c) states:

6 “ . . .

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

11 “(1) Customers shall be charged the same price for certificates as that paid by the licensed
12 station; and

13 “(2) Sales tax shall not be assessed on the price of certificates.

14 “ . . . ”

15 27. California Code of Regulations, title 16, section 3340.41, subdivision (c) states:

16 “ . . .

17 “(c) No person shall enter into the emissions inspection system any vehicle identification
18 information or emission control system identification data for any vehicle other than the one
19 being tested. Nor shall any person knowingly enter into the emissions inspection system any false
20 information about the vehicle being tested.

21 “ . . . ”

22 28. California Code of Regulations, title 16, section 3340.42 states:

23 “Smog check inspection methods are prescribed in the Smog Check Manual, referenced by
24 section 3340.45.

25 “(a) All vehicles subject to a smog check inspection, shall receive one of the following test
26 methods:

27 “(1) A loaded-mode test shall be the test method used to inspect 1976 - 1999 model-year
28 vehicle, except diesel-powered, registered in the enhanced program areas of the state. The loaded-

1 mode test shall measure hydrocarbon, carbon monoxide, carbon dioxide and oxides of nitrogen
2 emissions, as contained in the bureau's specifications referenced in subsection (a) of Section
3 3340.17 of this article. The loaded-mode test shall use Acceleration Simulation Mode (ASM) test
4 equipment, including a chassis dynamometer, certified by the bureau.

5 “On and after March 31, 2010, exhaust emissions from a vehicle subject to this inspection
6 shall be measured and compared to the emissions standards shown in the Vehicle Look-up Table
7 (VLT) Row Specific Emissions Standards (Cutpoints) Table, dated March 2010, which is hereby
8 incorporated by reference. If the emissions standards for a specific vehicle are not included in this
9 table then the exhaust emissions shall be compared to the emissions standards set forth in TABLE
10 I or TABLE II, as applicable. A vehicle passes the loaded-mode test if all of its measured
11 emissions are less than or equal to the applicable emission standards specified in the applicable
12 table.

13 “(2) A two-speed idle mode test shall be the test method used to inspect 1976 - 1999 model-
14 year vehicles, except diesel-powered, registered in all program areas of the state, except in those
15 areas of the state where the enhanced program has been implemented. The two-speed idle mode
16 test shall measure hydrocarbon, carbon monoxide and carbon dioxide emissions at high RPM and
17 again at idle RPM, as contained in the bureau's specifications referenced in subsection (a) of
18 Section 3340.17 of this article. Exhaust emissions from a vehicle subject to this inspection shall
19 be measured and compared to the emission standards set forth in this section and as shown in
20 TABLE III. A vehicle passes the two-speed idle mode test if all of its measured emissions are less
21 than or equal to the applicable emissions standards specified in Table III.

22 “(3) An OBD-focused test, shall be the test method used to inspect gasoline-powered
23 vehicles 2000 model-year and newer, and diesel-powered vehicles 1998 model-year and newer.
24 The OBD test failure criteria are specified in section 3340.42.2.

25 “(b) In addition to subsection (a), all vehicles subject to the smog check program shall
26 receive the following:

27 “(1) A visual inspection of emission control components and systems to verify the vehicle's
28 emission control systems are properly installed.

“(2) A functional inspection of emission control systems as specified in the Smog Check Manual, referenced by section 3340.45, which may include an OBD test, to verify their proper operation.

“ ”
• • • •

29. California Code of Regulations, title 16, section 3395.4 states:

“In reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code Section 11400 et seq.), including formal hearings conducted by the Office of Administrative Hearing, the Bureau of Automotive Repair shall consider the disciplinary guidelines entitled ‘Guidelines for Disciplinary Penalties and Terms of Probation’ [May, 1997] which are hereby incorporated by reference. The ‘Guidelines for Disciplinary Penalties and Terms of Probation’ are advisory. Deviation from these guidelines and orders, including the standard terms of probation, is appropriate where the Bureau of Automotive Repair in its sole discretion determines that the facts of the particular case warrant such deviation -for example: the presence of mitigating factors; the age of the case; evidentiary problems.”

COSTS

30. Section 125.3 of the Code provides, in pertinent part, that the Bureau may request the administrative law judge to 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, with failure of the licentiate to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

CLEAN PIPING

31. At all times alleged in this Accusation, Islas was acting in the course and within the scope of a technician, employee, partner, officer, or member of Su Casa Smog & Test Only.

32. On January 13, 2015, a Bureau representative conducted video surveillance at Su Casa Smog & Test Only. The Bureau representative used a vehicle that was equipped with a video camera and video recording equipment. Before the surveillance began, the Bureau representative verified that the clock of the video recording equipment was in sync with the

Vehicle Information Database clock. When the recorded stopped for the day, the Bureau representative created several DVDs from the video surveillance. During the surveillance, Islas worked with an unidentified person fraudulently inspecting twenty-four vehicles resulting in the issuance of twenty Smog Certificates of Compliance. The vehicles inspected were certified by using a method known as "clean-piping". Clean-piping is a method used to fraudulently certify vehicles that will not pass a Smog Check test on their own, or in some instances, are not even present during the time the test is performed. To clean pipe, a technician uses one vehicle that will pass the Smog Check emissions test, for a "clean" exhaust sample while entering data into the analyzer for the vehicle to be fraudulently certified.

33. The following chart is a summary of the clean piping performed by Su Casa Smog & Test Only and Islas during the time of the surveillance:

TABLE 1

| TEST* TIMES | VEHICLE IN EIS DATA (License or VIN) | VEHICLE ACTUALLY TESTED | CERT ISSUED | DETAILS |
|------------------------|---|--|------------------------------|--|
| 1713-1718 | 1988 GMC Suburban Lic. (2MKN486) | Acura | YN461747C | 1988 GMC Suburban not Seen in test bay. |
| 1722-1726 | 1987 BMW 3-series Lic. (1STW920) | Acura | YN461748C | 1987 BMW 3- series not seen in test bay. |
| 1730-1734 | 1991 Toyota MR2 Lic. (4BBJ568) | Acura | YN461749C | 1991 Toyota MR2 not seen in test bay. |
| 1739-1744 | 1999 Volkswagen New Beetle Lic. (6TVP859) | Acura | YN461750C | 1999 Volkswagen New Beetle not in test bay. |
| 1747-1752 | 2003 Nissan Altima Lic. (6PCU271) | Acura | YN507251C | 2003 Nissan Altima not seen in test bay. |
| 1755-1800 | 1996 Honda Civic Lic. (4THZ059) | Acura | No Certificate, failed | 1996 Honda Civic not seen in test bay. |
| 1805-1810 | 1997 Nissan Sentra Lic. (3TUZ075) | Acura | YN507252C | 1997 Nissan Sentra not seen in |

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| | | | | test bay. |
| 1814-1818 | 1994 Toyota Camry (3GQC975) | Acura | No certificate, failed | 1994 Toyota Camry not seen in test bay. |
| 1840-1845 | 2002 Nissan Altima Lic. (4VYV020) | Acura | YN507253C | 2002 Nissan Altima not seen in test bay. |
| 1853-1858 | 2002 Volkswagen GTI VIN (9BWDE61J124065664) | Acura | YN507254C | 2002 Volkswagen GTI not seen in test bay. |
| 1910-1916 | 1994 Ford Mustang Lic. (3GWD295) | Acura | No certificate, failed | 1994 Ford Mustang not seen in test bay. |
| 1923-1927 | 1998 Dodge Intrepid Lic. (4AAY154) | Acura | No certificate, failed | 1998 Dodge Intrepid not seen in test bay. |
| 1931-1936 | 2007 Honda Civic Lic. (5XSX754) | Acura | YN507255C | 2007 Honda Civic not seen in test bay. |
| 1939-1943 | 2000 Ford Windstar Lic. (6LJB067) | Acura | YN507256C | 2000 Ford Windstar not seen in test bay. |
| 1950-1954 | 1995 Chevrolet Astro Lic. (3KXB796) | Acura | YN507257C | 1995 Chevrolet Astro not seen in test bay. |
| 1957-2002 | 2002 Nissan Frontier Lic. (7B99058) | Acura | YN507258C | 2002 Nissan Frontier not seen in test bay. |
| 2007-2012 | 1996 Pontiac Firebird Lic. (3TTT882) | Acura | YN507259C | 1996 Pontiac Firebird not seen in test bay. |
| 2019-2023 | 2001 Honda Civic Lic. (4YZD433) | Acura | YN507260C | 2001 Honda Civic not seen in test bay. |
| 2027-2031 | 1993 Nissan 300ZX Lic. (5NIR182) | Acura | YN507261C | 1993 Nissan 300ZX not seen in test bay. |
| | | | | |

| | | | | |
|-----------|---|-------|-----------|---|
| 2036-2040 | 1991 Ford Escort Lic. (5W0V011) | Acura | YN507262C | 1991 Ford Escort not seen in test bay. |
| 2044-2048 | 2003 Toyota Camry Lic. (5AXR776) | Acura | YN507263C | 2003 Toyota Camry not seen in test bay. |
| 2100-2112 | 1996 Mercury Grand Marquis Lic. (3PQX818) | Acura | YN507264C | 1996 Mercury Grand Marquis not seen in test bay. |
| 2116-2122 | 2001 Ford Escape Lic. (6PPJ902) | Acura | YN507265C | 2001 Ford Escape not seen in test bay. |
| 2125-2129 | 2006 Nissan Maxima Lic. (5SHS739) | Acura | YN507266C | 2006 Nissan Maxima not seen in test bay. |

*All times are military times.

FIRST CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

34. Complainant re-alleges and incorporates by reference the allegations set forth above in paragraphs 31-33.

35. Respondent Su Casa Smog & Test Only's Registration is subject to disciplinary action under section 9884.7, subdivision (a)(1), in that Respondent Su Casa Smog & Test Only made or authorized statements which Respondent Su Casa Smog & Test Only knew or in the exercise of reasonable care should have known to be untrue or misleading as follows: Respondent Su Casa Smog & Test Only's employee certified that the vehicles described in Table 1 were properly inspected and passed their smog inspections, when in fact and in truth, Respondent Su Casa Smog & Test Only knew these vehicles were not properly inspected.

SECOND CAUSE FOR DISCIPLINE

(Violations of Motor Vehicle Inspection Program)

36. Complainant re-alleges and incorporates by reference the allegations set forth above in paragraphs 31-33.

37. Respondent Su Casa Smog & Test Only's Station License is subject to disciplinary action under Health and Safety Code sections 44072.10, subdivision (c), and 44072.2, subdivision (a), in that Respondent Su Casa Smog & Test Only failed to comply with the following sections of that Code:

a. **Section 44012**: Respondent Su Casa Smog & Test Only failed to perform the tests of the emission control systems and devices on the vehicles described in Table 1 in accordance with procedures prescribed by the Department.

b. **Section 44015**: Respondent Su Casa Smog & Test Only issued certificates of compliance for the vehicles described in Table 1 without properly testing and inspecting them to determine if they were in compliance with Health & Safety Code section 44012.

c. **Section 44035**: Respondent Su Casa Smog & Test Only failed to meet or maintain the standards prescribed for qualification, equipment, performance, or conduct by failing to properly perform smog inspections on the vehicles described in Table 1 or certifying that such tests had been properly performed, when in fact they were not properly performed.

THIRD CAUSE FOR DISCIPLINE

(Failure to Comply with Regulations Under the Motor Vehicle Inspection Program)

38. Complainant re-alleges and incorporates by reference the allegations set forth above in paragraphs 31-33.

39. Respondent Su Casa Smog & Test Only's Station License is subject to disciplinary action under Health and Safety Code sections 44072.10, subdivision(c) and 44072.2, subdivision (a), in that Respondent Su Casa Smog & Test Only failed to comply with the following sections of California Code of Regulations, title 16:

a. **Section 3340.35, subdivision (c):** Respondent Su Casa Smog & Test Only failed to inspect and test the vehicles described in Table 1 in accordance with the procedures specified in section 3340.42 of the Regulations and failed to ensure that these vehicles had all the required emission control equipment and devices installed and functioning correctly.

1 b. **Section 3340.41, subdivision (c):** Respondent Su Casa Smog & Test Only
2 knowingly entered into the Emissions Inspection System false information about the vehicles
3 described in Table 1, providing results for smog inspections which were not properly performed.

4 c. **Section 3340.42:** Respondent Su Casa Smog & Test Only failed to conduct the
5 required smog tests on the vehicles described in Table 1 in accordance with the Bureau's
6 specifications.

7 **FOURTH CAUSE FOR DISCIPLINE**

8 **(Dishonesty, Fraud, Deceit)**

9 40. Complainant re-alleges and incorporates by reference the allegations set forth above
10 in paragraphs 31-33.

11 41. Respondent Su Casa Smog & Test Only's Registration is subject to disciplinary
12 action under Code section 9884.7, subdivision (a)(4), and Respondent Su Casa Smog & Test
13 Only's Station License is subject to disciplinary action under Health and Safety Code sections
14 44072.10, subdivision (c) and 44072.2, subdivision (d), in that Respondent Su Casa Smog & Test
15 Only committed dishonest, fraudulent, or deceitful acts whereby another is injured by issuing
16 smog inspection certificates for the vehicles described in Table 1 without performing bona fide
17 inspections of the emission control devices and systems on them, thereby depriving the People of
18 the State of California of the protection afforded by the Motor Vehicle Inspection Program.

19 **FIFTH CAUSE FOR DISCIPLINE**

20 **(Clean Piping)**

21 42. Complainant re-alleges and incorporates by reference the allegations set forth above
22 in paragraphs 31-33.

23 43. Respondent Su Casa Smog & Test Only's Station license is subject to disciplinary
24 action for clean piping under Health & Safety Code, § 44072.10, subdivision (c)(1), as defined in
25 California Code of Regulations, title 16, section 3340.1, in that Respondent Su Casa Smog & Test
26 Only used a substitute exhaust emission sample of one vehicle in place of another vehicle's
27 exhaust emission sample in order to cause the Emissions Inspection System to issue certificates of
28 compliance for the inspections described in Table 1.

1 **SIXTH CAUSE FOR DISCIPLINE**

2 **(Violation of Motor Vehicle Inspection Program)**

3 44. Complainant re-alleges and incorporates by reference the allegations set forth above
4 in paragraphs 31-33.

5 45. Respondent Islas's inspector license is subject to disciplinary action under Health and
6 Safety Code sections 44072.10, subdivision (c) and 44072.2, subdivision (a), in that he failed to
7 comply with the following sections of that Code:

8 a. **Section 44012**: Respondent Islas failed to perform the tests of the emission
9 control systems and devices on the vehicles described in Table 1 in accordance with procedures
10 prescribed by the Department.

11 b. **Section 44015**: Respondent Islas issued certificates of compliance for the
12 vehicles described in Table 1 without properly testing and inspecting them to determine if they
13 were in compliance with Health & Safety Code section 44012.

14 c. **Section 44035**: Respondent Islas failed to meet or maintain the standards
15 prescribed for qualification, equipment, performance, or conduct by failing to properly perform
16 smog inspections on the vehicles described in Table 1 or certifying that such tests had been
17 properly performed, when in fact they were not properly performed.

18 **SEVENTH CAUSE FOR DISCIPLINE**

19 **(Failure to Comply with Regulations Under Motor Vehicle Inspection Program)**

20 46. Complainant re-alleges and incorporates by reference the allegations set forth above
21 in 31-33.

22 47. Respondent Islas's inspector license is subject to disciplinary action under Health and
23 Safety Code sections 44072.10, subdivision (c) and 44072.2, subdivision (a) in that he failed to
24 comply with the following sections of California Code of Regulations, title 16:

25 a. **Section 3340.35, subdivision (c)**: Respondent Islas failed to inspect and test the
26 vehicles described in Table 1 in accordance with the procedures specified in section 3340.42 of
27 the Regulations and failed to ensure that these vehicles had all the required emission control
28 equipment and devices installed and functioning correctly.

b. **Section 3340.41, subdivision (c)**: Respondent Islas knowingly entered into the Emissions Inspection System false information about the vehicles described in Table 1 providing results for smog inspections which were not properly performed.

c. **Section 3340.42**: Respondent Islas failed to conduct the required smog tests on all the vehicles in Table 1 in accordance with the Bureau's specifications.

EIGHTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud, or Deceit)

48. Complainant re-alleges and incorporates by reference the allegations set forth above in paragraphs 31-33.

49. Respondent Islas's inspector license is subject to disciplinary action under Health and Safety Code sections 44072.10, subdivision (c) and 44072.2, subdivision (d), in that he committed dishonest, fraudulent, or deceitful acts whereby another is injured by issuing smog inspection certificates for the vehicles described in Table 1 without performing bona fide inspections of the emission control devices and systems on them, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

NINTH CAUSE FOR DISCIPLINE

(Clean Piping)

50. Complainant re-alleges and incorporates by reference the allegations set forth above in paragraphs 31-33.

51. Respondent Islas's inspector license is subject to disciplinary action under Health & Safety Code, § 44072.10, subdivision (c)(1), as defined in California Code of Regulations, title 16, section 3340.1, in that Respondent Islas used a substitute exhaust emission sample of one vehicle in place of another vehicle's exhaust emission sample in order to cause the Emissions Inspection System to issue certificates of compliance for the inspections described in Table 1.

OTHER MATTERS

52. Under Code section 9884.7, subdivision (c), the Director may suspend, revoke, or place on probation the registration for all places of business operated in this State by Respondent Su Casa Smog & Test Only upon a finding that Respondent Su Casa Smog & Test Only has, or

1 is, engaged in a course of repeated and willful violations of the laws and regulations pertaining to
2 an automotive repair dealer.

3 53. Under Health & Safety Code section 44072.8, if Respondent Su Casa Smog & Test
4 Only's Station License is revoked or suspended, the Director may likewise revoke or suspend any
5 additional license issued under Chapter 5 of the Health and Safety Code in the name of
6 Respondent Su Casa Smog & Test Only.

7 54. Under Health & Safety Code section 44072.8, if Respondent Islas's Smog Check
8 Inspector license is revoked or suspended, the Director may likewise revoke or suspend any
9 additional license issued under Chapter 5 of the Health and Safety Code in the name of
10 Respondent Islas.

11 PRAYER

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

14 1. Revoking or suspending Automotive Repair Dealer Registration No. ARD 276936
15 issued to Respondent Starr Marie Macias doing business as Su Casa Smog & Test Only;

16 2. Revoking or suspending Smog Check, Test Only, Station License No. TC 276936
17 issued to Respondent Starr Marie Macias doing business as Su Casa Smog & Test Only;

18 3. Revoking or suspending Smog Check Inspector License No. EO 637180, issued to
19 Christopher Islas;

20 4. Revoking or suspending any additional license issued under Chapter 5 of the Health
21 and Safety Code in the name of Starr Marie Macias and/or Su Casa Smog & Test Only;

22 5. Revoking or suspending any additional license issued under Chapter 5 of the Health
23 and Safety Code in the name of Christopher Islas;

24 6. Ordering Respondent Starr Marie Macias doing business as Su Casa Smog & Test
25 Only; and Christopher Islas to pay the Bureau of Automotive Repair the reasonable costs of the
26 investigation and enforcement of this case, pursuant to Business and Professions Code section
27 125.3; and

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

DATED: 12-23-15

Patrick Dorais *Chief*

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

Don B. B. B.

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