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

12 In the Matter of the Accusation Against:

Case No.

79/16-129

13 **PALM SMOG CHECK, JUAN G. RAZO,**  
14 **OWNER**

15 8981 ROSE AVE. UNIT # B  
16 MONTCLAIR, CA 91763  
Automotive Repair Dealer Registration No.  
ARD 279907  
Smog Check, Test Only, Station License No.  
TC 279907

ACCUSATION

Smog Check

17 and

18 **ZAHID AKRAM CHAUDHRY**  
19 24304 FITZ ST.  
MORENO VALLEY, CA 92551  
20 Smog Check Inspector License No. EO 638359

21 Respondents.

22  
23 Complainant alleges:

24 **PARTIES**

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

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1 **Palm Smog Check, Juan G. Razo, Owner**

2 **Automotive Repair Dealer Registration**

3 2. On or about April 14, 2015, the Bureau issued Automotive Repair Dealer Registration  
4 Number ARD 279907 to Palm Smog Check, Juan G. Razo, Owner ("Respondent Smog Check").  
5 The Automotive Repair Dealer Registration expired on April 30, 2016, and has not been  
6 renewed.

7 **Smog Check, Test Only, Station License**

8 3. On or about May 28, 2015, the Bureau issued Smog Check, Test Only, Station  
9 License Number TC 279907 to Respondent Smog Check. The Smog Check, Test Only, Station  
10 License expired on April 30, 2016, and has not been renewed.

11 **STAR Station Certification**

12 4. On or about July 24, 2015, the Bureau certified Palm Smog Check as a STAR Station.  
13 The certification will remain active unless ARD 279907 and/or TC 279907 is revoked, canceled,  
14 become delinquent, or the certification is invalidated.

15 **Zahid Akram Chaudhry**

16 **Smog Check Inspector License**

17 5. On or about July 16, 2016, the Bureau issued Smog Check Inspector License Number  
18 EO 638359 ("Inspector License") to Zahid Akram Chaudhry ("Respondent Chaudhry"). The  
19 Inspector License was in full force and effect at all times relevant to the charges brought herein  
20 and will expire on February 28, 2017, unless renewed.

21 **JURISDICTION**

22 6. Business and Professions Code ("Code") section 9884.7 provides that the Director  
23 may revoke an automotive repair dealer registration.

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

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1 appropriate test procedures as determined by the department in consultation with the state board.  
2 The department shall implement testing using onboard diagnostic systems, in lieu of loaded mode  
3 dynamometer or two-speed idle testing, on model year 2000 and newer vehicles only, beginning  
4 no earlier than January 1, 2013. However, the department, in consultation with the state board,  
5 may prescribe alternative test procedures that include loaded mode dynamometer or two-speed  
6 idle testing for vehicles with onboard diagnostic systems that the department and the state board  
7 determine exhibit operational problems. The department shall ensure, as appropriate to the test  
8 method, the following:

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

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

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

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

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

27       “(f) A visual or functional check is made of emission control devices specified by the  
28 department, including the catalytic converter in those instances in which the department

1 determines it to be necessary to meet the findings of Section 44001. The visual or functional  
2 check shall be performed in accordance with procedures prescribed by the department.

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

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

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

13 12. Section 44015 of the Health and Safety Code states:

14 ...

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

17 13. Section 44059 of the Health and Safety Code states:

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

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

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

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

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

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

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."

**REGULATORY PROVISIONS**

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

...

"(c) The bureau may suspend or revoke the license of or pursue other legal action against a licensee, if the licensee falsely or fraudulently issues or obtains a certificate of compliance or a certificate of noncompliance."

17. California Code of Regulations, title 16, section 3340.30, subdivision (a) states:

"A licensed smog check inspector and/or repair technician shall comply with the following requirements at all times while licensed:

"(a) Inspect, test and repair vehicles, as applicable, in accordance with section 44012 of the Health and Safety Code, section 44035 of the Health and Safety Code, and section 3340.42 of this article."

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

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

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

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

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

3           “(1) A loaded-mode test shall be the test method used to inspect 1976 - 1999 model-year  
4 vehicle, except diesel-powered, registered in the enhanced program areas of the state. The  
5 loaded-mode test shall measure hydrocarbon, carbon monoxide, carbon dioxide and oxides of  
6 nitrogen emissions, as contained in the bureau's specifications referenced in subsection (a) of  
7 Section 3340.17 of this article. The loaded-mode test shall use Acceleration Simulation Mode  
8 (ASM) test equipment, including a chassis dynamometer, certified by the bureau.

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

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

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

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

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

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

8           “(c) The bureau may require any combination of the inspection methods in sections (a) and  
9 (b) under any of the following circumstances:

10           “(1) Vehicles that the department randomly selects pursuant to Health and Safety Code  
11 section 44014.7 as a means of identifying potential operational problems with vehicle OBD  
12 systems.

13           “(2) Vehicles identified by the bureau as being operationally or physically incompatible  
14 with inspection equipment.

15           “(3) Vehicles with OBD systems that have demonstrated operational problems.

16           “(d) Pursuant to section 39032.5 of the Health and Safety Code, gross polluter standards are  
17 as follows:

18           “(1) A gross polluter means a vehicle with excess hydrocarbon, carbon monoxide, or oxides  
19 of nitrogen emissions pursuant to the gross polluter emissions standards included in the tables  
20 described in subsection (a), as applicable.

21           “(2) Vehicles with emission levels exceeding the emission standards for gross polluters  
22 during an initial inspection will be considered gross polluters and the provisions pertaining to  
23 gross polluting vehicles will apply, including, but not limited to, sections 44014.5, 44015, and  
24 44081 of the Health and Safety Code.

25           “(3) A gross polluting vehicle shall not be passed or issued a certificate of compliance until  
26 the vehicle's emissions are reduced to or below the applicable emissions standards for the vehicle  
27 included in the tables described in subsection (a), as applicable. However, the provisions  
28 described in section 44017 of the Health and Safety Code may apply.



1 Table 1 illustrates the clean plugging activities at Respondent Palm Smog Check between  
 2 November 9, 2015 to December 8, 2015.

3 **TABLE 1**

4 <b>Test Date and Time*</b>	<b>Vehicle Certified &amp; License No.</b>	<b>Certificate No.</b>	<b>Technician License No.</b>	<b>OIS Test Data Details</b>
5 11/9/2015 6 1039-1043 7 hours	2006 Chrysler Town & Country 7FEF508	PY927774C	EO638359 (Respondent Chaudhry)	Comm. Protocol: I9140808 (expected JVPW) PID Count: 2 (expected 18) e-VIN-Missing
8 11/12/2015 9 1123-1129 10 hours	2006 Volkswagen New Beetle Conv. PKG1 5XIU226	PY927785C	EO638359 (Respondent Chaudhry)	Comm. Protocol: I9140808 (expected KWPS) PID Count: 2 (expected 22) e-VIN-Missing
11 11/14/2015 12 1139-1145 13 hours	2005 Kia Sedona EX/LX 5KTC053	PY927794C	EO638359 (Respondent Chaudhry)	Comm. Protocol: I9140808 (expected KWPF) PID Count: 2 (expected 20) e-VIN-Missing
14 11/20/2015 15 1456-1501 16 hours	2006 Chevrolet HHR LT 5UMM448	YV207915C	EO638359 (Respondent Chaudhry)	Comm. Protocol: I9140808 (expected ICAN11bt5) PID Count: 2 (expected 38) e-VIN-Missing
17 11/21/2015 18 1050-1054 19 hours	2006 Chevrolet HHR LT 5WRV559	YV207922C	EO638359 (Respondent Chaudhry)	Comm. Protocol: I9140808 (expected ICAN11bt5) PID Count: 2 (expected 38) e-VIN-Missing

26 (...continued)  
 27 compliance due to a failure to complete the minimum number of self tests, known as monitors, or due to the presence  
 28 of a stored fault code that indicates an emission control system or component failure.

1	11/25/2015	2005 Chrysler 300	YV207939C	EO638359 (Respondent Chaudhry)	Comm. Protocol: I9140808 (expected ICAN11bt5)
2	1044-1050	5SYM961			PID Count: 2 (expected 43)
3	hours				e-VIN-Missing
4					
5	11/25/2015	2005 Pontiac Grand	YV207942C	EO638359 (Respondent Chaudhry)	Comm. Protocol: I9140808 (expected JVPW)
6	1407-1411	Prix			PID Count: 2 (expected 40)
7	hours	6TKM156			e-VIN-Missing
8					
9	11/26/2015	2007 Buick	YV207943C	EO638359 (Respondent Chaudhry)	Comm. Protocol: I9140808 (expected JVPW)
10	1007-1011	Lacrosse			PID Count: 2 (expected 40
11	hours	CXL			OR 41)
12		5VAU288			e-VIN-Missing
13					
14	11/28/2015	2005 Chrysler	YV207947C	EO638359 (Respondent Chaudhry)	Comm. Protocol: I9140808 (expected JVPW)
15	1220-1224	Town &			PID Count: 2 (expected 18)
16	hours	Country LX			e-VIN-Missing
17		6KRY343			
18	11/30/2015	2005 Ford Mustang	YV271503C	EO638359 (Respondent Chaudhry)	Comm. Protocol: I9140808 (expected ICAN11bt5)
19	1557-1601	6XUY031			PID Count: 2 (expected 47)
20	hours				e-VIN-Missing
21					
22	12/3/2015	2007 Chevrolet	YV271520C	EO638359 (Respondent Chaudhry)	Comm. Protocol: I9140808 (expected ICAN11bt5)
23	1317-1322	Tahoe			PID Count: 2 (expected 43)
24	hours	C1500			e-VIN-Missing
25		5WXY062			
26	12/5/2015	2005 Ford Ranger	YV271529C	EO638359 (Respondent Chaudhry)	Comm. Protocol: I9140808 (expected JPWM)
27	1436-1440	49757C1			PID Count: 2 (expected 22)
28	hours				

1					e-VIN-Missing
2	12/8/2015	2005 Dodge Magnum SE	YV271539C	EO638359 (Respondent Chaudhry)	Comm. Protocol: I9140808 (expected ICAN11bt5)
3	1518-1522 hours	6GKK078			PID Count: 2 (expected 43)
4					e-VIN-Missing
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6 \* Test times are in military time.

7 **FIRST CAUSE FOR DISCIPLINE**

8 **(Untrue or Misleading Statements)**

9 22. Respondent Smog Check's registration is subject to discipline pursuant to Code  
10 section 9884.7, subdivision (a)(1), in that between November 9, 2015 to December 8, 2015,  
11 Respondent Smog Check made or authorized statements which he knew or in the exercise of  
12 reasonable care should have known to be untrue or misleading, as follows: Respondent Smog  
13 Check certified that vehicles 1 through 13, set forth above in Table 1, had passed inspection and  
14 were in compliance with applicable laws and regulations. In fact, Respondent Smog Check  
15 conducted the inspections on the vehicles using the clean plugging method by substituting or  
16 using different vehicles during the OBD II functional tests in order to issue smog certificates of  
17 compliance for the 13 vehicles, and did not test or inspect the 13 vehicles as required by Health  
18 and Safety Code section 44012.

19 **SECOND CAUSE FOR DISCIPLINE**

20 **(Fraud)**

21 23. Respondent Smog Check's registration is subject to discipline pursuant to Code  
22 section 9884.7, subdivision (a)(4), in that between November 9, 2015 to December 8, 2015,  
23 Respondent Smog Check committed acts which constitute fraud by issuing electronic certificates  
24 of compliance for vehicles 1 through 13, set forth above in Table 1, 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.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Failure to Comply with the Motor Vehicle Inspection Program)**

3 24. Respondent Smog Check's station license is subject to discipline pursuant to Health  
4 and Safety Code section 44072.2, subdivision (a), in that between November 9, 2015 to December  
5 8, 2015, regarding vehicles 1 through 13, set forth above in Table 1, Respondent failed to comply  
6 with the following sections of that Code:

7 a. **Section 44012:** Respondent Smog Check failed to ensure that the emission control tests  
8 were performed on vehicles 1 through 13, in accordance with procedures prescribed by the  
9 department.

10 b. **Section 44015:** Respondent Smog Check issued electronic certificates of compliance  
11 for vehicles 1 through 13, without ensuring that the vehicles were properly tested and inspected to  
12 determine if they were in compliance with Health and Safety Code section 44012.

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

16 **FOURTH CAUSE FOR DISCIPLINE**

17 **(Failure to Comply with Regulations Pursuant to the**  
18 **Motor Vehicle Inspection Program)**

19 25. Respondent Smog Check's station license is subject to discipline pursuant to Health  
20 and Safety Code section 44072.2, subdivision (c), in that between November 9, 2015 to December  
21 8, 2015, regarding vehicles 1 through 13, set forth above in Table 1, Respondent failed to comply  
22 with provisions of California Code of Regulations, title 16, as follows:

23 a. **Section 3340.24, subdivision (c):** Respondent Smog Check falsely or fraudulently  
24 issued electronic certificates of compliance for those vehicles without performing bona fide  
25 inspections of the emission control devices and systems on the vehicles as required by Health and  
26 Safety Code section 44012.

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1 8, 2015, regarding vehicles 1 through 13, set forth above in Table 1, he failed to comply with  
2 provisions of California Code of Regulations, title 16, as follows:

3 a. **Section 3340.24, subdivision (c)**: Respondent Chaudhry falsely or fraudulently issued  
4 electronic certificates of compliance without performing bona fide inspections of the emission  
5 control devices and systems on those vehicles as required by Health and Safety Code section  
6 44012.

7 b. **Section 3340.30 subdivision (a)**: Respondent Chaudhry failed to inspect and test those  
8 vehicles in accordance with Health and Safety Code sections 44012.

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

11 **EIGHTH CAUSE FOR DISCIPLINE**

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

13 29. Respondent Chaudhry's Inspector License is subject to discipline pursuant to Health  
14 and Safety Code section 44072.2, subdivision (d), in that between November 9, 2015 to  
15 December 8, 2015, regarding vehicles 1 through 13, set forth above in Table 1, he committed acts  
16 involving dishonesty, fraud or deceit whereby another was injured by issuing electronic  
17 certificates of compliance without performing bona fide inspections of the emission control  
18 devices and systems on those vehicles, thereby depriving the People of the State of California of  
19 the protection afforded by the Motor Vehicle Inspection Program.

20 **OTHER MATTERS**

21 30. Pursuant to Code section 9884.7, subdivision (c), the director may suspend, revoke, or  
22 place on probation the registrations for all places of business operated in this state by Palm Smog  
23 Check, Juan G. Razo, Owner, as, upon a finding that he has, or is, engaged in a course of repeated  
24 and willful violation of the laws and regulations pertaining to an automotive repair dealer.

25 31. Pursuant to Health and Safety Code section 44072.8, if Smog Check Test Only  
26 Station License Number TC 279907, issued to Palm Smog Check, Juan G. Razo, Owner, is  
27 revoked or suspended, any additional license issued under this chapter in the name of said  
28 licensee may be likewise revoked or suspended by the director.

