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

13
14 In the Matter of the Accusation Against:

Case No. 79/19-7888

15 **JOSE LINO ZAMORA,**
16 **DBA RIVERVIEW SMOG CHECK**
4060 Riverview Drive
Riverside, CA 92509

ACCUSATION

17 Automotive Repair Dealer Registration No.
ARD 288861
18 Smog Check Test Only Station License No. TC
288861,

19 and

20 **JOSE LINO ZAMORA**
21 1064 Ardmore St.
Riverside, CA 92507

22 Smog Check Inspector License No. EO
23 640779,

24 Respondent.

25
26 **PARTIES**

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

1 2. On November 1, 2017, the Bureau issued Automotive Repair Dealer Registration
2 Number ARD 288861 to Jose Lino Zamora, dba Riverview Smog Check (Respondent). The
3 Automotive Repair Dealer Registration was in full force and effect at all times relevant to the
4 charges brought herein and will expire on November 30, 2019, unless renewed.

5 3. On November 16, 2017, the Bureau issued Smog Check Test Only Station License
6 Number TC 288861 to Jose Lino Zamora, dba Riverview Smog Check (Respondent). The Smog
7 Check Test Only Station License was in full force and effect at all times relevant to the charges
8 brought herein and will expire on November 30, 2019, unless renewed.

9 4. On December 11, 2017, the Bureau issued Smog Check Inspector License Number
10 EO 640779 to Jose Lino Zamora (Respondent). The Smog Check Inspector License was in full
11 force and effect at all times relevant to the charges brought herein and will expire on September
12 30, 2021, unless renewed.

JURISDICTION

13
14 5. This Accusation is brought before the Director of the Department of Consumer
15 Affairs (Director) for the Bureau, under the authority of the following laws.

16 6. Business and Professions Code (Code) section 118, subdivision (b), provides that the
17 suspension, expiration, or cancellation of a license shall not deprive the Director of jurisdiction to
18 proceed with a disciplinary action during the period within which the license may be renewed,
19 restored, reissued or reinstated.

20 7. Pursuant to code section 477, Code section references to the term “board” include the
21 Bureau, and references to the term “license” includes Automobile Repair Dealer Registrations.

22 8. Code section 9884.13 provides that the expiration of a valid registration shall not
23 deprive the Director of jurisdiction to proceed with a disciplinary proceeding against an
24 automotive repair dealer or to render a decision invalidating a registration temporarily or
25 permanently.

26 9. Code section 9884.22 provides that the Director may revoke or suspend a registration
27 on any grounds for disciplinary action provided in the article, and proceedings shall be conducted
28 in accordance with the Administrative Procedure Act.

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(4) Any other conduct which constitutes fraud.

....

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

....

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

16. Health and Safety Code section 44012 states:

The test at the smog check stations shall be performed in accordance with procedures prescribed by the department, pursuant to Section 44013, shall require, at a minimum, loaded mode dynamometer testing in enhanced areas, and two-speed testing in all other program areas, and shall ensure all of the following:

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

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

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

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

(e) For diesel-powered vehicles, if the department determines that the inclusion of those vehicles is technologically and economically feasible, a visual inspection is made of emission control devices and the vehicle's exhaust emissions in an idle mode or loaded mode are tested in accordance with procedures prescribed by the department. The test may include testing of emissions of any or

1 all of the pollutants specified in subdivision (c) and, upon the adoption of
2 applicable standards, measurement of emissions of smoke or particulates, or both.

3 (f) A visual or functional check is made of emission control devices
4 specified by the department, including the catalytic converter in those instances in
5 which the department determines it to be necessary to meet the findings of Section
6 44001. The visual or functional check shall be performed in accordance with
7 procedures prescribed by the department.

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

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

16 17. Health and Safety Code section 44015, subdivision (b), states:

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

20 18. Health and Safety Code section 44032 states:

21 No person shall perform, for compensation, tests or repairs of emission
22 control devices or systems of motor vehicles required by this chapter unless the
23 person performing the test or repair is a qualified smog check technician and the
24 test or repair is performed at a licensed smog check station. Qualified technicians
25 shall perform tests of emission control devices and systems in accordance with
26 Section 44012.

27 19. Health and Safety Code section 44035 states:

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

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

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20. Health and Safety Code section 44059 states:

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

21. Health and Safety Code section 44072.2 states:

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

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

....

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

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

....

(h) Violates or attempts to violate the provisions of this chapter relating to the particular activity for which he or she is licensed."

22. Health and Safety Code section 44072.10 states:

(a) Notwithstanding Sections 44072 and 44072.4, the director, or the director's designee, pending a hearing conducted pursuant to subdivision (e), may temporarily suspend any smog check station or technician's license issued under this chapter, for a period not to exceed 60 days, if the department determines that the licensee's conduct would endanger the public health, safety, or welfare before the matter could be heard pursuant to subdivision (e), based upon reasonable evidence of any of the following:

(1) Fraud.

...

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

1 (4) A pattern or regular practice of violating this chapter or any regulation,
2 standard, or procedure of the department implementing this chapter.

3

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

8 . . .

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

11 **REGULATORY PROVISIONS**

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

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

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

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

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

22 (b) A licensed technician shall maintain on file with the bureau a correct
23 mailing address pursuant to section 3303.3 of Article 1 of this Chapter.

24 (c) A licensed technician shall notify the bureau in writing within two weeks
25 of any change of employment.

26 (d) A licensed technician whose license has expired shall immediately cease
27 to inspect, test, or repair failed vehicles.

28 25. California Code of Regulations, title 16, section 3340.35(c), states:

(c) 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. The following conditions shall apply:

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

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

4 26. California Code of Regulations, title 16, section 3340.41, subdivision (c) states:
5

6 No person shall enter into the emissions inspection system any vehicle
7 identification information or emission control system identification data for any
8 vehicle other than the one being tested. Nor shall any person knowingly enter into
9 the emissions inspection system any false information about the vehicle being
10 tested.

11 27. California Code of Regulations, title 16, section 3340.42, states:
12

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

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

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

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

(2) A two-speed idle mode test shall be the test method used to inspect 1976
- 1999 model-year vehicles, except diesel-powered, registered in all program areas
of the state, except in those areas of the state where the enhanced program has
been implemented. The two-speed idle mode test shall measure hydrocarbon,
carbon monoxide and carbon dioxide emissions at high RPM and again at idle
RPM, as contained in the bureau's specifications referenced in subsection (a) of
Section 3340.17 of this article. Exhaust emissions from a vehicle subject to this

1 inspection shall be measured and compared to the emission standards set forth in
2 this section and as shown in TABLE III. A vehicle passes the two-speed idle
3 mode test if all of its measured emissions are less than or equal to the applicable
4 emissions standards specified in Table III.

5 (3) An OBD-focused test, shall be the test method used to inspect gasoline-
6 powered vehicles 2000 model-year and newer, and diesel-powered vehicles 1998
7 model-year and newer. The OBD test failure criteria are specified in section
8 3340.42.2.

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

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

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

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

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

21 (2) Vehicles identified by the bureau as being operationally or physically
22 incompatible with inspection equipment.

23 (3) Vehicles with OBD systems that have demonstrated operational
24 problems.

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

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

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

(3) A gross polluting vehicle shall not be passed or issued a certificate of
compliance until the vehicle's emissions are reduced to or below the applicable
emissions standards for the vehicle included in the tables described in subsection

1 (a), as applicable. However, the provisions described in section 44017 of the
2 Health and Safety Code may apply.

3 (4) This subsection applies in all program areas statewide to vehicles
4 requiring inspection pursuant to sections 44005 and 44011 of the Health and
5 Safety Code.

6 28. California Code of Regulations, title 16, section 3373, states:

7 No automotive repair dealer or individual in charge shall, in filling out an
8 estimate, invoice, or work order, or record required to be maintained by section
9 3340.15(f) of this chapter, withhold therefrom or insert therein any statement or
10 information which will cause any such document to be false or misleading, or
11 where the tendency or effect thereby would be to mislead or deceive customers,
12 prospective customers, or the public.

13 **COST RECOVERY**

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

20 **FACTUAL ALLEGATIONS**

21 30. California's Smog Check Program requires the owners of most motor vehicles in the
22 State to periodically pass a smog check inspection and receive a certificate of compliance. These
23 inspections are performed by smog check inspectors at smog check stations, both of which are
24 licensed by the Bureau of Automotive Repair. The Smog Check Program is designed and
25 intended to reduce air pollution by identifying and requiring the repair of polluting vehicles.

26 31. A smog check inspection of pre-2000 model-year vehicles includes three parts:
27 tailpipe, visual, and functional. Smog check inspectors are required to perform the test in
28 accordance with the Smog Check Program's codes, regulations, and Smog Check Manual.
Inspectors are required to enter the results of the inspection into the Emission Inspection System
(EIS), which determines whether a vehicle passed the inspection based on the results of the

1 tailpipe, visual, and functional tests. A vehicle must pass all three parts to pass the overall
2 inspection and receive a certificate of compliance. If the vehicle passes, the inspector
3 electronically transmits a certification of compliance to the Bureau's vehicle information database.

4 32. The tailpipe portion of the smog inspection is at issue here. The tailpipe portion of
5 a smog check inspection of a pre-2000 model-year vehicle registered in Enhanced Areas requires
6 an Acceleration Simulation Mode (ASM) inspection, which an inspector performs using the EIS.¹
7 The EIS is a computer-based, five-gas analyzer that measures Hydrocarbons, Carbon Monoxide,
8 Nitrogen Oxide, Carbon Dioxide and Oxygen. The ASM inspection entails two loaded mode
9 sequences that test the vehicle's tailpipe emissions on a dynamometer. With the vehicle's drive
10 wheels on rollers, the inspector operates the vehicle at speeds of 15 miles per hour and 25 miles
11 per hour to simulate driving conditions while the EIS samples the vehicle's exhaust emissions.
12 The vehicle emission samples and speed data generated throughout the ASM test are then stored
13 in the vehicle information database.

14 33. Clean-gassing is a method by which a smog check inspector introduces a surrogate
15 gas into the EIS during the tailpipe portion of the smog inspection. As discussed above, during a
16 properly administered tailpipe test the EIS measures the vehicle's exhaust emissions. When an
17 inspector clean gasses a vehicle, the EIS measures the surrogate gas or a mixture of the surrogate
18 gas and the vehicle's exhaust. Introducing a surrogate gas in this manner alters the exhaust the
19 EIS samples and causes it to issue a passing test result based on the fraudulent reading.

20 34. The Bureau can detect clean-gassing through analysis of the second-by-second data
21 collected and stored in the vehicle information database. Throughout the ASM test, the EIS
22 samples and transmits the vehicle emission and speed data on a second-by-second basis. The
23 second-by-second data generated when a station is clean gassing often show a distinctly different
24 pattern from the data generated during legitimate ASM smog check inspections. The second-by-
25 second data generated during clean-gassing exhibit an abrupt drop in the level of hydrocarbons,
26 carbon monoxide, and nitrogen oxides when the inspector introduces the surrogate gas. The levels

27 ¹ A two speed idle inspection is used in some circumstances but the vehicles at issue here
28 were subject to the ASM test.

1 remain low for a short period and then rise when the surrogate gas dissipates. These sharp drops
2 and rises during periods of steady vehicle speed do not occur during legitimate ASM tests.

3 35. A Bureau representative reviewed the test data Respondent transmitted to the Bureau
4 through the EIS and found that the second-by-second data revealed a pattern of fraudulent
5 inspections using the clean-gassing method. The Bureau representative found that with respect to
6 10 separate vehicles, the second-by-second data Respondent transmitted exhibited a highly
7 irregular and unexpected pattern of gas readings consistent with clean-gassing. Specifically, in
8 each case, the data revealed at least one sharp simultaneous drop and at least one sharp simultaneous
9 rise in the concentrations of pollutants during the test.

10 36. Moreover, for each vehicle in question, the representative located results of a prior
11 test of the vehicle and reviewed the second-by-second data generated during that test. In each case,
12 Respondent performed the prior test in which the vehicle failed the tailpipe portion. In each case,
13 the data patterns from the prior test were normal and did not exhibit the simultaneous drops and
14 rise of pollutant concentrations. In each case, Respondent retested the vehicle a few days later and
15 it passed the tailpipe portion of the test. And in each case, during the second test, the vehicle
16 transmitted data patterns indicating Respondent clean gassed the vehicle in order to cause it to pass.
17 A summary of each fraudulent smog check is as follows:

18 a. **Vehicle # 1.** On February 12, 2018, Respondent tested a 1990 Honda Civic that
19 failed the tailpipe portion of the smog inspection because the vehicle's emissions exceeded the
20 "gross polluter" threshold. On February 14, 2018, Respondent re-inspected the vehicle using the
21 clean-gassing method and it passed.

22 b. **Vehicle # 2.** On July 13, 2018, Respondent tested a 1990 Chevrolet C1500 Pickup
23 that failed the tailpipe portion of the smog inspection because the vehicle's emissions exceeded
24 the "gross polluter" threshold. On July 19, 2018, Respondent re-inspected the vehicle using the
25 clean-gassing method and it passed.

26 c. **Vehicle # 3.** On August 7, 2018, Respondent inspected a 1995 Honda Civic that
27 failed the tailpipe portion of the smog inspection because the vehicle's emissions exceeded the
28

1 “gross polluter” threshold. On August 13, 2018, Respondent re-inspected the vehicle using the
2 clean-gassing method and it passed.

3 **d. Vehicle # 4.** On August 16, 2018, Respondent inspected a 1993 Toyota Pickup that
4 failed the tailpipe portion of the smog inspection because the vehicle’s emissions exceeded the
5 “gross polluter” threshold. On August 20, 2018, Respondent re-inspected the vehicle using the
6 clean-gassing method and it passed.

7 **e. Vehicle # 5.** On August 16, 2018, Respondent inspected a 1998 Toyota Corolla that
8 failed the tailpipe portion of the smog inspection because the vehicle’s emissions exceeded the
9 “gross polluter” threshold. On August 20, 2018, Respondent re-inspected the vehicle using the
10 clean-gassing method and it passed.

11 **f. Vehicle # 6.** On August 14, 2018, Respondent inspected a 1989 Mercedes Benz
12 300SEL that failed the tailpipe portion of the smog inspection because the vehicle’s emissions
13 exceeded the applicable threshold. On August 21, 2018, Respondent re-inspected the vehicle
14 using the clean-gassing method and it passed

15 **g. Vehicle # 7.** On August 21, 2018, Respondent inspected a 1999 Toyota Corolla that
16 failed the tailpipe portion of the smog inspection because the vehicle’s emissions exceeded the
17 applicable threshold. On August 23, 2018, Respondent re-inspected the vehicle using the clean-
18 gassing method and it passed.

19 **h. Vehicle # 8.** On August 18, 2018, Respondent inspected a 1995 Chevrolet S10
20 Pickup that failed the tailpipe portion of the smog inspection because the vehicle’s emissions
21 exceeded the “gross polluter” threshold. On August 25, 2018, Respondent re-inspected the
22 vehicle using the clean-gassing method and it passed.

23 **i. Vehicle # 9.** On August 30, 2018, Respondent inspected a 1999 Chevrolet Astro that
24 failed the tailpipe portion of the smog inspection because the vehicle’s emissions exceeded the
25 applicable threshold. On September 4, 2018, Respondent re-inspected the vehicle using the
26 clean-gassing method and it passed.

27 **j. Vehicle # 10.** On August 27, 2018, Respondent inspected a 1998 Chevrolet Venture
28 that failed the tailpipe portion of the smog inspection because the vehicle’s emissions exceeded

1 the “gross polluter” threshold. On September 4, 2018, Respondent re-inspected the vehicle using
2 the clean-gassing method and it passed.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Misleading Statements)**

5 37. Complainant re-alleges and incorporates by reference the allegations set forth in the
6 foregoing paragraphs.

7 38. Respondent’s Automotive Repair Dealer Registration is subject to disciplinary action
8 under section 9884.7, subdivision (a)(1), in that Respondent made or authorized statements that
9 Respondent knew or in the exercise of reasonable care should have known to be untrue or
10 misleading, when he certified that the vehicles listed in paragraph 36, subparagraphs a. through j.
11 above had passed inspection and were in compliance with all applicable laws and regulations
12 when, in fact and in truth, Respondent inspected the vehicles using the clean gassing method and
13 issued fraudulent certificates of compliance.

14 **SECOND CAUSE FOR DISCIPLINE**

15 **(Fraud)**

16 39. Complainant re-alleges and incorporates by reference the allegations set forth in the
17 foregoing paragraphs.

18 40. Respondent’s Automotive Repair Dealer Registration is subject to disciplinary action
19 under section 9884.7, subdivision (a)(4), in that Respondent committed fraud by certifying that
20 the vehicles listed in paragraph 36, subparagraphs a. through j. above had passed inspection and
21 were in compliance with all applicable laws and regulations when, in fact and in truth,
22 Respondent inspected the vehicles using the clean gassing method and issued fraudulent
23 certificates of compliance.

24 **THIRD CAUSE FOR DISCIPLINE**

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

26 41. Complainant re-alleges and incorporates by reference the allegations set forth in the
27 foregoing paragraphs.

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1 above, without properly testing and inspecting them to determine if they were in compliance with
2 Health & Safety Code section 44012.

3 b. **Section 3340.35, subdivision (c)**: Respondent failed to inspect and test the vehicles
4 listed in paragraph 36, subparagraphs a. through j. above, in accordance with the procedures
5 specified in section 3340.42 of the Regulations and failed to ensure that the vehicles had all the
6 required emission control equipment and devices installed and functioning correctly.

7 c. **Section 3340.41, subdivision (c)**: Respondent knowingly entered into the Emissions
8 Inspection System false information about the vehicles listed in paragraph 36, subparagraphs a.
9 through j. above, providing results for smog inspections that were not properly performed.

10 d. **Section 3340.42**: Respondent failed to conduct the required smog tests on the
11 vehicles listed in paragraph 36, subparagraphs a. through j. above, in accordance with the
12 Bureau's specifications.

13 e. **Section 3373**: Respondent withheld and inserted in the certificates of compliance
14 issued for the vehicles listed in paragraph 36, subparagraphs a. through j. above, statements and
15 information that caused the certificates to be false or misleading, or had the tendency or effect to
16 mislead or deceive the public.

17 **FIFTH CAUSE FOR DISCIPLINE**

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

19 45. Complainant re-alleges and incorporates by reference the allegations set forth above
20 in the foregoing paragraphs.

21 46. Respondent's Smog Check Station License is subject to disciplinary action under
22 Health and Safety Code section 44072.2, subdivision (d), and 44072.10, subdivisions (a) and (c),
23 in that Respondent committed dishonest, fraudulent, or deceitful acts whereby another is injured
24 by issuing smog certificates of compliance for the vehicles listed in paragraph 36, subparagraphs
25 a. through j. above, without performing bona fide inspections of the emission control devices and
26 systems on the vehicles, thereby depriving the People of the State of California of the protection
27 afforded by the Motor Vehicle Inspection Program.

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1 **SIXTH CAUSE FOR DISCIPLINE**

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

3 47. Complainant re-alleges and incorporates by reference the allegations set forth above
4 in the foregoing paragraphs.

5 48. Respondent's Smog Check Inspector License is subject to disciplinary action under
6 Health and Safety Code section 44072.2, subdivision (a), and 44072.10, subdivisions (a) and (c),
7 in that Respondent failed to comply with the following sections of that Code:

8 a. **Section 44012**: Respondent failed to perform the tests of the emission control
9 systems and devices on the vehicles listed in paragraph 36, subparagraphs a. through j. above, in
10 accordance with procedures prescribed by the Department.

11 c. **Section 44032**: Respondent Camacho failed to perform tests of the emission control
12 devices and systems on the vehicles listed in paragraph 36, subparagraphs a. through j. above, in
13 accordance with section 44012 of that Code, in that those vehicles had been clean gassed.

14 b. **Section 44059**: Respondent willfully made false statements and entries with regard
15 to material matters when they issued a certificate of compliance for the vehicles listed in
16 paragraph 36, subparagraphs a. through j. above, without properly testing and inspecting them to
17 determine if they were in compliance with Health & Safety Code section 44012.

18 **SEVENTH CAUSE FOR DISCIPLINE**

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

20 49. Complainant re-alleges and incorporates by reference the allegations set forth above
21 in the foregoing paragraphs.

22 50. Respondent's Smog Check Inspector License is subject to disciplinary action under
23 Health and Safety Code section 44072.2, subdivision (c), and 44072.10, subdivisions (a) and (c),
24 in that Respondent failed to comply with the following sections of Title 16, California Code of
25 Regulations:

26 a. **Section 3340.30, subdivision (a)**: Respondent failed to inspect and test the vehicles
27 listed in paragraph 36, subparagraphs a. through j. above, in accordance with sections 44012 and
28 44035 of the Health and Safety Code, and section 3340.42 of the Regulations

- 1 4. Revoking or suspending Smog Check Inspector License Number EO 640779 issued
- 2 to Jose Lino Zamora;
- 3 5. Revoking or suspending any other license issued pursuant to Chapter 5 of Part 5 of
- 4 Division 26 of the Health and Safety Code in the name of Jose Lino Zamora;
- 5 6. Ordering Jose Lino Zamora to pay the Bureau the reasonable costs of the
- 6 investigation and enforcement of this case, pursuant to Business and Professions Code section
- 7 125.3; and
- 8 7. Taking any other action deemed necessary and proper.

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DATED: October 3, 2019

Signature On File

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

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