

1 KAMALA D. HARRIS
Attorney General of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 ADRIAN R. CONTRERAS
Deputy Attorney General
4 State Bar No. 267200
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2634
7 Facsimile: (619) 645-2061
E-mail: Adrian.Contreras@doj.ca.gov
8 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:
13 **JOY ALINA RICHARDS, OWNER;**
14 **DOING BUSINESS AS 7 TO 7 SMOG**
15 **725 W. Rialto C**
16 **Rialto, CA 92376**

15 **25119 Jerry Lane**
16 **Hemet, CA 92544**

17 **Automotive Repair Dealer Registration No.**
18 **ARD 274912**

18 **Smog Check Station License No. RC 274912**

19 **Lamp Station License No. LS 274912**

20 **Brake Station License No. BS 274912,**

21 **RITCHEY SEGURA**
22 **725 W. Rialto Ave., Ste. C**
23 **Rialto, CA 92376**

23 **Smog Check Inspector License No. EO**
24 **636410**

24 **Lamp Adjuster License No. LA 636410**

25 **Brake Adjuster License No. BA 636410,**

26 Respondents.
27

Case No. 79/16-14
ACCUSATION
smog check

1 Complainant alleges:

2 **PARTIES**

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

5 2. On or about November 27, 2013, the Bureau of Automotive Repair issued
6 Automotive Repair Dealer Registration Number ARD 274912 to Joy Alina Richards, Owner,
7 doing business as 7 to 7 Smog (collectively 7 to 7 Smog-Rialto). The Automotive Repair Dealer
8 Registration was in full force and effect at all times relevant to the charges brought herein and will
9 expire on November 30, 2015, unless renewed.

10 3. On or about January 15, 2014, the Bureau of Automotive Repair issued Smog Check
11 Station License Number RC 274912 to 7 to 7 Smog-Rialto. The Smog Check Station License was
12 in full force and effect at all times relevant to the charges brought herein and will expire on
13 November 30, 2015, unless renewed.

14 4. On or about January 15, 2014, the Bureau of Automotive Repair issued Lamp Station
15 License No. LS 274912 to 7 to 7 Smog-Rialto. The Lamp Station License was in full force and
16 effect at all times relevant to the charges brought herein and will expire on November 30, 2015,
17 unless renewed.

18 5. On or about January 15, 2014, the Bureau of Automotive Repair issued Brake Station
19 License No. BS 274912 to 7 to 7 Smog-Rialto. The Brake Station License was in full force and
20 effect at all times relevant to the charges brought herein and will expire on November 30, 2015,
21 unless renewed.

22 6. On or about January 6, 2014, the Bureau of Automotive Repair issued Smog Check
23 Inspector No. EO 636410 to Ritchey Segura (Segura). The Smog Check Inspector was in full
24 force and effect at all times relevant to the charges brought herein and will expire on March 31,
25 2016, unless renewed.

26 7. On or about June 23, 2014, the Bureau of Automotive Repair issued Lamp Adjuster
27 License No. LA 636410 to Segura. The Lamp Adjuster License was in full force and effect at all
28 times relevant to the charges brought herein and will expire on March 31, 2018, unless renewed.

1 14. Section 9889.5 of the Code states:

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

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

5 “(b) Suspending the license.

6 “(c) Revoking the license.”

7 15. Section 9889.7 of the Code states:

8 “The expiration or suspension of a license by operation of law or by order or decision of the
9 director or a court of law, or the voluntary surrender of a license by a licensee shall not deprive the
10 director of jurisdiction to proceed with any investigation of or action or disciplinary proceedings
11 against such licensee, or to render a decision suspending or revoking such license.”

12 16. Section 9889.8 of the Code states:

13 “All accusations against licensees shall be filed within three years after the act or omission
14 alleged as the ground for disciplinary action, except that with respect to an accusation alleging a
15 violation of subdivision (d) of Section 9889.3, the accusation may be filed within two years after
16 the discovery by the bureau of the alleged facts constituting the fraud or misrepresentation
17 prohibited by that section.”

18 17. Section 44002 of the Health and Safety Code provides, in pertinent part, that the
19 Director has all the powers and authority granted under the Automotive Repair Act for enforcing
20 the Motor Vehicle Inspection Program.

21 18. Section 44072.4 of the Health and Safety Code states:

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

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

25 “(b) Suspending the license.

26 “(c) Revoking the license.”

27 19. Section 44072.6 of the Health and Safety Code provides, in pertinent part, that the
28 expiration or suspension of a license by operation of law, or by order or decision of the Director of

1 Consumer Affairs, or a court of law, or the voluntary surrender of the license shall not deprive the
2 Director of jurisdiction to proceed with disciplinary action.

3 20. Section 44072.7 of the Health and Safety Code states:

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

9 21. Section 44072.8 of the Health and Safety Code states:

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

13 22. California Code of Regulations, title 16, section 3340.28, subdivision (e) states that

14 "[u]pon renewal of an unexpired Basic Area Technician license or an Advanced Emission
15 Specialist Technician license issued prior to the effective date of this regulation, the licensee may
16 apply to renew as a Smog Check Inspector, Smog Check Repair Technician, or both."

17 **STATUTORY PROVISIONS**

18 23. Section 22 of the Code states:

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

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

27 24. Section 9884.7 of the Code states:
28

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

6 “(1) Making or authorizing in any manner or by any means whatever any statement written
7 or oral which is untrue or misleading, and which is known, or which by the exercise of reasonable
8 care should be known, to be untrue or misleading.

9 “... .

10 “(4) Any other conduct that constitutes fraud.

11 “... .

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

14 “... .

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

19 25. Section 9884.11 of the Code states:

20 "Each automotive repair dealer shall maintain any records that are required by regulations
21 adopted to carry out this chapter. Those records shall be open for reasonable inspection by the
22 chief or other law enforcement officials. All of those records shall be maintained for at least three
23 years."

24 ///

25 ///

26 26. Section 9889.3 of the Code states:

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

1 “(a) Violates any section of the Business and Professions Code that relates to his or her
2 licensed activities.

3 “ . . .

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

5 “”

6 27. Section 9889.9 of the Code states:

7 “When any license has been revoked or suspended following a hearing under the provisions
8 of this article, any additional license issued under Articles 5 and 6 of this chapter in the name of the
9 licensee may be likewise revoked or suspended by the director.”

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

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

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

17 “ . . .

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

19 “ . . .

20 “(g) Fails to make and keep records showing his or her transactions as a licensee, or fails to
21 have those records available for inspection by the director or his or her duly authorized
22 representative for a period of not less than three years after completion of any transaction to which
23 the records refer, or refuses to comply with a written request of the director to make the records
24 available for inspection.

25 “”

26 29. Section 44072.10 of the Health and Safety Code states:

27 “(a) Notwithstanding Sections 44072 and 44072.4, the director, or the director's designee,
28 pending a hearing conducted pursuant to subdivision (e), may temporarily suspend any smog check

1 station or technician's license issued under this chapter, for a period not to exceed 60 days, if the
2 department determines that the licensee's conduct would endanger the public health, safety, or
3 welfare before the matter could be heard pursuant to subdivision (c), based upon reasonable
4 evidence of any of the following:

5 “(1) Fraud.

6 “(2) Tampering.

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

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

11 “. . .

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

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

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

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

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

21 REGULATORY PROVISIONS

22 30. California Code of Regulations, title 16, section 3340.15, states:

23 "A smog check station shall meet the following requirements for licensure and shall comply
24 with these requirements at all times while licensed.

25 “. . .

26 “(e) The station shall make, keep secure, and have available for inspection on request of the
27 bureau, or its representative, legible records showing the station's transactions as a licensee for a
28 period of not less than three years after completion of any transaction to which the records refer.

1 All records shall be open for reasonable inspection and/or reproduction by the bureau or its
2 representative. Station records required to be maintained shall include copies of:

3 “(1) All certificates of compliance and certificates of noncompliance in stock and/or issued,

4 “(2) Repair orders relating to the inspection and repair activities, and

5 “(3) Vehicle inspection reports generated either manually or by the emissions inspection
6 system.

7 “The above listed station records shall be maintained in such a manner that the records for
8 each transaction are kept together, so as to facilitate access to those records by the bureau or its
9 representative. In this regard, the second copy of an issued certificate shall be attached to the final
10 invoice record.

11 “. . . .”

12 31. California Code of Regulations, title 16, section 3356, states:

13 “(a) All invoices for service and repair work performed, and parts supplied, as provided for
14 in Section 9884.8 of the Business and Professions Code, shall comply with the following:

15 “(1) The invoice shall show the automotive repair dealer's registration number and the
16 corresponding business name and address as shown in the Bureau's records. If the automotive
17 repair dealer's telephone number is shown, it shall comply with the requirements of subsection (b)
18 of Section 3371 of this chapter.

19 “(2) The invoice shall separately list, describe and identify all of the following:

20 “(A) All service and repair work performed, including all diagnostic and warranty work, and
21 the price for each described service and repair.

22 “(B) Each part supplied, in such a manner that the customer can understand what was
23 purchased, and the price for each described part. The description of each part shall state whether
24 the part was new, used, reconditioned, rebuilt, or an OEM crash part, or a non-OEM aftermarket
25 crash part.

26 “(C) The subtotal price for all service and repair work performed.

27 “(D) The subtotal price for all parts supplied, not including sales tax.

28 “(E) The applicable sales tax, if any.

1 “(b) If a customer is to be charged for a part, that part shall be specifically listed as an item in
2 the invoice, as provided in subparagraph (B) of paragraph (2) of subsection (a) above. If that-item
3 is not listed in the invoice, it shall not be regarded as a part, and a separate charge may not be
4 made for it.

5 “(c) Separate billing in an invoice for items generically noted as shop supplies, miscellaneous
6 parts, or the like, is prohibited.

7 “(d) The automotive repair dealer shall give the customer a legible copy of the invoice and
8 shall retain a legible copy as part of the automotive repair dealer's records pursuant to Section
9 9884.11 of the Business and Professions Code and Section 3358 of this article.”

10 32. California Code of Regulations, title 16, section 3358, states:

11 "Each automotive repair dealer shall maintain legible copies of the following records for not
12 less than three years:

13 “(a) All invoices relating to automotive repair including invoices received from other sources
14 for parts and/or labor.

15 “(b) All written estimates pertaining to work performed.

16 “(c) All work orders and/or contracts for repairs, parts and labor. All such records shall be
17 open for reasonable inspection and/or reproduction by the bureau or other law enforcement
18 officials during normal business hours.”

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

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

1 **COSTS**

2 34. Section 125.3 of the Code provides, in pertinent part, that the Bureau may request the
3 administrative law judge to direct a licentiate found to have committed a violation or violations of
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
5 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
6 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
7 included in a stipulated settlement.

8 **FACTS**

9 35. At all times alleged in this Accusation, James Gilbert Richards (Richards), Segura, and
10 Joy Alina Richards were acting in the course and within the scope of a technician, employee,
11 partner, officer, owner, or member of 7 to 7 Smog-Rialto.

12 36. In January 2015, the Bureau initiated an investigation of 7 to 7 Smog-Rialto's smog
13 check station based on a review of information from the Bureau's Vehicle Information Database to
14 determine if 7 to 7 Smog-Rialto or their employees had engaged in fraudulent smog check
15 inspections.

16 37. During a Bureau representative's review of 7 to 7 Smog-Rialto's certified test results
17 in the Vehicle Information Database for inspections purportedly performed between November 1,
18 2014, and February 5, 2015, 10 vehicles identified below had Diagnostic Trouble Codes stored in
19 the Powertrain Control Module that did not apply to those vehicles for the On Board Diagnostics,
20 generation II (OBD II) test.¹ The Vehicle Information Database showed that 7 to 7 Smog-Rialto

21 ¹ The OBD II is a functional test and is performed on most 1996 and newer vehicles. The
22 technician is required to connect a test cable from the BAR-97 analyzer to a diagnostic link
23 connector, which is located in the vehicle's passenger compartment. Through the diagnostic link
24 connector, the BAR-97 analyzer retrieves information from the vehicle's on-board computer about
25 the status of the readiness indicators, trouble codes, and the malfunction indicator light. The
26 readiness indicators tell whether or not the OBD II system has run its self-tests on the vehicle's
27 emission and engine control systems to completion. If a readiness monitor is not set, it means that
28 particular system has not been tested. A trouble code results when the vehicle fails one of these
self-tests and identifies the system and/or component which failed. If the trouble code is
persistent, the on-board computer will command the malfunction indicator light to turn on. The
vehicle will fail the OBD II functional test if more than the allowable number of readiness monitors
have not been set, a trouble code has been set, or the malfunction indicator light has been
commanded on. It will also fail if the on-board computer will not communicate with the BAR 97
through the diagnostic link connector. If the vehicle fails any of the applicable visual or functional
(continued...)

1 and their smog check technicians inspected these vehicles using a method known as “clean
2 plugging.”² This resulted in the issuance of the following fraudulent certificates of compliance:

3 a. Clean Plug 1 – Chevrolet Silverado 2500 Diesel

4 The BAR97 Test Detail from the Vehicle Information Database shows that on December
5 23, 2014, from 1819 hours to 1824 hours, 7 to 7 Smog-Rialto and Richards performed a smog
6 check inspection on a 2003 Chevrolet Silverado 2500 Diesel, VIN #1GCHC23153F114779
7 (hereafter “Silverado Diesel”). The Silverado Diesel was issued Certificate of Compliance
8 #YN069671C. The BAR97 Test Detail shows that Diagnostic Trouble Code P1564 was stored in
9 the Powertrain Control Module memory of the Silverado Diesel during the time of certification.
10 However, Diagnostic Trouble Code P1564 does not apply to the Silverado Diesel.

11 b. Clean Plug 2 – Toyota Camry Solara

12 The BAR97 Test Detail from the Vehicle Information Database shows that on January 10,
13 2015, from 1717 hours to 1754 hours, 7 to 7 Smog-Rialto and Richards performed a smog check
14 inspection on a 2004 Toyota Camry Solara, VIN #4T1ICE38P34U842729 (hereafter “Camry
15 Solara”). The Camry Solara was issued Certificate of Compliance #YN399009C. The BAR97
16 Test Detail shows that Diagnostic Trouble Code P1564 was stored in the Powertrain Control
17 Module memory of the Camry Solara during the time of certification. However, Diagnostic
18 Trouble Code P1564 does not apply to the Camry Solara.

19 c. Clean Plug 3 – Nissan Altima

20
21 _____
22 (...continued)
23 tests, it will fail the overall inspection.

24 ² Clean plugging is the use of the OBD II readiness monitor status and stored code status
25 of a passing vehicle for the purpose of illegally issuing a smog certificate to another vehicle that is
26 not in compliance due to the noncompliant vehicle’s failure to complete the minimum number of
27 self tests, known as monitors, or due to the presence of a stored code that indicates an emission
28 control system or component failure. Clean plugging occurs during the inspection of a vehicle that
has an OBD II system. To “clean plug” a vehicle, the smog technician enters information into the
Emissions Inspection System for the vehicle the technician wishes to certify and then plugs the
OBD II system connection from the Emissions Inspection System into another vehicle that has a
properly functioning OBD II system, rather than plugging the connection into the vehicle that was
originally identified for testing.

1 The BAR97 Test Detail from the Vehicle Information Database shows that on January 21,
2 2015, from 1024 hours to 1031 hours, 7 to 7 Smog-Rialto and Segura performed a smog check
3 inspection on a 2006 Nissan Altima, VIN #1N4AL11D36N360321 (hereafter "Nissan Altima").
4 The Nissan Altima was issued Certificate of Compliance #YN399034C. The BAR97 Test Detail
5 shows that Diagnostic Trouble Code P1740 was stored in the Powertrain Control Module memory
6 of the Nissan Altima during the time of certification. However, Diagnostic Trouble Code P1740
7 does not apply to the Nissan Altima.

8 d. Clean Plug 4 – Chevrolet S10 Pickup

9 The BAR97 Test Detail from the Vehicle Information Database shows that on January 21,
10 2015, from 1049 hours to 1059 hours, 7 to 7 Smog-Rialto and Segura performed a smog check
11 inspection on a 1996 Chevrolet S10 pickup, VIN #1GCCS1948T8161740 (hereafter "Chevrolet
12 S10 Pickup"). The Chevrolet S10 Pickup was issued Certificate of Compliance #YN399035C.
13 The BAR97 Test Detail shows that Diagnostic Trouble Code P1740 was stored in the Powertrain
14 Control Module memory of the Chevrolet S10 Pickup during the time of certification. However,
15 Diagnostic Trouble Code P1740 does not apply to the Chevrolet S10 Pickup.

16 e. Clean Plug 5 – Honda Pilot

17 The BAR97 Test Detail from the Vehicle Information Database shows that on January 22,
18 2015, from 1458 hours to 1502 hours, 7 to 7 Smog-Rialto and Richards performed a smog check
19 inspection on a 2005 Honda Pilot, VIN #2HKYF18485H537451 (hereafter "Honda Pilot"). The
20 Honda Pilot was issued Certificate of Compliance #YN399037C. The BAR97 Test Detail shows
21 that Diagnostic Trouble Code P1740 was stored in the Powertrain Control Module memory of the
22 Honda Pilot during the time of certification. However, Diagnostic Trouble Code P1740 does not
23 apply to the Honda Pilot.

24 ///

25 ///

26 f. Clean Plug 6 – Toyota Camry

27 The BAR97 Test Detail from the Vehicle Information Database shows that on January 22,
28 2015, from 1709 hours to 1718 hours, 7 to 7 Smog-Rialto and Segura performed a smog check

1 inspection on a 2002 Toyota Camry, VIN #JTDBF30K020010749 (hereafter "Toyota Camry").
2 The Toyota Camry was issued Certificate of Compliance #YN399039C. The BAR97 Test Detail
3 shows that Diagnostic Trouble Code P1740 was stored in the Powertrain Control Module memory
4 of the Toyota Camry during the time of certification. However, Diagnostic Trouble Code P1740
5 does not apply to the Toyota Camry.

6 g. Clean Plug 7 – Lexus IS300

7 The BAR97 Test Detail from the Vehicle Information Database shows that on January 22,
8 2015, from 1821 hours to 1827 hours, 7 to 7 Smog-Rialto and Segura performed a smog check
9 inspection on a 2002 Lexus IS300, VIN #JTHBD192120048440 (hereafter "Lexus IS300"). The
10 Lexus IS300 was issued Certificate of Compliance #YN399040C. The BAR97 Test Detail shows
11 that Diagnostic Trouble Code P1740 was stored in the Powertrain Control Module memory of the
12 Lexus IS300 during the time of certification. However, Diagnostic Trouble Code P1740 does not
13 apply to the Lexus IS300.

14 h. Clean Plug 8 – GMC C1500 Yukon

15 The BAR97 Test Detail from the Vehicle Information Database shows that on February 4,
16 2015, from 1828 hours to 1836 hours, 7 to 7 Smog-Rialto and Segura performed a smog check
17 inspection on a 2003 GMC C1500 Yukon, VIN #1GKEC13V83J196704 (hereafter "GMC C1500
18 Yukon"). The GMC C1500 Yukon was issued Certificate of Compliance #YN695283C. The
19 BAR97 Test Detail shows that Diagnostic Trouble Code P1740 was stored in the Powertrain
20 Control Module memory of the GMC C1500 Yukon during the time of certification. However,
21 Diagnostic Trouble Code P1740 does not apply to the GMC C1500 Yukon.

22 i. Clean Plug 9 – Toyota Corolla

23 The BAR97 Test Detail from the Vehicle Information Database shows that on February 5,
24 2015, from 1413 hours to 1426 hours, 7 to 7 Smog-Rialto and Segura performed a smog check
25 inspection on a 2002 Toyota Corolla, VIN #1NXBR12E02Z632386 (hereafter "Toyota Corolla").
26 The Toyota Corolla was issued Certificate of Compliance #YN695285C. The BAR97 Test Detail
27 shows that Diagnostic Trouble Code P1740 was stored in the Powertrain Control Module memory
28

1 of the Toyota Corolla during the time of certification. However, Diagnostic Trouble Code P1740
2 does not apply to the Toyota Corolla.

3 j. Clean Plug 10 – Infinity G35

4 The BAR97 Test Detail from the Vehicle Information Database shows that on February 5,
5 2015, from 1815 hours to 1832 hours, 7 to 7 Smog-Rialto and Segura performed a smog check
6 inspection on a 2005 Infinity G35, VIN #JNKCV54E35M407004 (hereafter “Infinity G35”). The
7 Infinity G35 was issued Certificate of Compliance #YN695287C. The BAR97 Test Detail shows
8 that Diagnostic Trouble Code P1740 was stored in the Powertrain Control Module memory of the
9 Infinity G35 during the time of certification. However, Diagnostic Trouble Code P1740 does not
10 apply to the Infinity G35.

11 The following table summarizes the fraudulent Certificates of Compliance issued by 7 to 7
12 Smog-Rialto, Segura, and Richards by clean plugging:

13 **TABLE 1**

	Time of Certification as Recorded in Vehicle Information Database	Vehicle Certified	Unsupported Diagnostic Trouble Code
17 18 19 20 21	1 December 23, 2014, from 1819 hours to 1824 hours	2003 Chevrolet Silverado 2500 Diesel VIN #1GCHC23153F114779 Certificate of Compliance # YN069671C	P1564
22 23 24 25	2 January 10, 2015, from 1717 hours to 1754 hours	2004 Toyota Camry Solara VIN #4T1CE38P34U842729 Certificate of Compliance # YN399009C	P1564
26 27 28	3 January 21, 2015, from 1024 hours to 1031 hours	2006 Nissan Altima VIN #1N4AL11D36N360321 Certificate of Compliance	P1740

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

		#YN399034C	
4	January 21, 2015, from 1049 hours to 1059 hours	1996 Chevrolet S10 pickup VIN #1GCCS1948T8161740 Certificate of Compliance #YN399035C	P1740
5	January 22, 2015, from 1458 hours to 1502 hours	2005 Honda Pilot VIN #2HKYF18485H537451 Certificate of Compliance # YN399037C	P1740
6	January 22, 2015, from 1709 hours to 1718 hours	2002 Toyota Camry VIN #JTDBF30K020010749 Certificate of Compliance #YN399039C	P1740
7	January 22, 2015, from 1821 hours to 1827 hours	2002 Lexus IS300 VIN #JTHBD192120048440 Certificate of Compliance #YN399040C	P1740
8	February 4, 2015, from 1828 hours to 1836 hours	2003 GMC C1500 Yukon VIN #1GKEC13V83J196704 Certificate of Compliance #YN695283C	P1740
9	February 5, 2015, from 1413 hours to 1426 hours	2002 Toyota Corolla VIN #1NXBR12E02Z632386 Certificate of Compliance #YN695285C	P1740
10	February 5, 2015, from 1815 hours to 1832 hours	2005 Infinity G35 VIN #JNKCV54E35M407004	P1740

1		Certificate of Compliance	
2		#YN695287C	

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Untrue or Misleading Statement)**

5 38. Complainant re-alleges and incorporates by reference the allegations set forth above in
6 paragraphs 35-37.

7 39. 7 to 7 Smog-Rialto's Registration is subject to disciplinary action under section
8 9884.7, subdivision (a)(1), and 7 to 7 Smog-Rialto's Lamp Station License and Brake Station
9 License are subject to discipline under Code section 9889.3, subdivision (a), in that 7 to 7 Smog-
10 Rialto made or authorized statements which 7 to 7 Smog-Rialto knew or in the exercise of
11 reasonable care should have known to be untrue or misleading.

12 40. 7 to 7 Smog-Rialto certified that the vehicle(s) in Table 1 above had passed inspection
13 and were in compliance with all applicable laws and regulations, when in fact and in truth 7 to 7
14 Smog-Rialto inspected the vehicle(s) using the clean plugging method to issue certificates of
15 compliance.

16 **SECOND CAUSE FOR DISCIPLINE**

17 **(Violations of Motor Vehicle Inspection Program)**

18 41. Complainant re-alleges and incorporates by reference the allegations set forth above in
19 paragraphs 35-40.

20 42. 7 to 7 Smog-Rialto's Smog Check Station License is subject to disciplinary action
21 under Health and Safety Code sections 44072.10, subdivisions (a) and (c) and 44072.2,
22 subdivision (a), in that 7 to 7 Smog-Rialto failed to comply with the following sections of that
23 Code:

24 a. **Section 44012**: failed to perform the tests of the emission control systems and devices
25 on the vehicle(s) in Table 1 in accordance with procedures prescribed by the Department.

26 b. **Section 44015**: issued a certificate of compliance for the vehicle(s) in Table 1 without
27 properly testing and inspecting them to determine if they were in compliance with Health & Safety
28 Code section 44012.

1 c. **Section 44035**: failed to meet or maintain the standards prescribed for qualification,
2 equipment, performance, or conduct by failing to properly perform a smog inspection on the
3 vehicle(s) in Table 1 or certifying that such test(s) had been performed, when in fact they were
4 never performed.

5 **THIRD CAUSE FOR DISCIPLINE**

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

7 43. Complainant re-alleges and incorporates by reference the allegations set forth above in
8 paragraphs 35-42.

9 44. 7 to 7 Smog-Rialto's Smog Check Station License is subject to disciplinary action
10 under Health and Safety Code sections 44072.10, subdivisions (a) and (c) and 44072.2,
11 subdivision (a), in that 7 to 7 Smog-Rialto failed to comply with the following sections of Title 16,
12 California Code of Regulations:

13 a. **Section 3340.35, subdivision (c)**: failed to inspect and test the vehicle(s) in Table 1 in
14 accordance with the procedures specified in section 3340.42 of the Regulations and failed to
15 ensure that the vehicle(s) had all the required emission control equipment and devices installed and
16 functioning correctly.

17 b. **Section 3340.41, subdivision (c)**: knowingly entered into the Emissions Inspection
18 System false information about the vehicle(s) in Table 1, providing result(s) for smog inspection(s)
19 which were not actually performed.

20 c. **Section 3340.42**: failed to conduct the required smog tests on the vehicle(s) in Table 1
21 in accordance with the Bureau's specifications.

22 **FOURTH CAUSE FOR DISCIPLINE**

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

24 45. Complainant re-alleges and incorporates by reference the allegations set forth above in
25 paragraphs 35-44.

26 46. 7 to 7 Smog-Rialto's Registration is subject to disciplinary action under Code section
27 9884.7, subdivision (a)(4), 7 to 7 Smog-Rialto's Smog Check Station License is subject to
28 disciplinary action under Health and Safety Code sections 44072.10, subdivision (a) and (c) and

1 44072.2, subdivision (d), and 7 to 7 Smog-Rialto's Lamp Station License and Brake Station
2 License are subject to disciplinary action under Code section 9889.3, subdivisions (a) and (d), in
3 that 7 to 7 Smog-Rialto committed dishonest, fraudulent, or deceitful acts whereby another is
4 injured by issuing a smog certificate of compliance for the vehicle(s) in Table 1 without performing
5 bona fide inspections of the emission control devices and systems on the vehicle(s), thereby
6 depriving the People of the State of California of the protection afforded by the Motor Vehicle
7 Inspection Program.

8 **FIFTH CAUSE FOR DISCIPLINE**

9 **(Failure to Produce Records)**

10 47. Complainant re-alleges and incorporates by reference the allegations set forth above in
11 paragraphs 35-46.

12 48. 7 to 7 Smog-Rialto's Registration is subject to disciplinary action under Code section
13 9884.7, subdivision (a)(6), in conjunction with Code section 9884.11 and California Code of
14 Regulations, title 16, sections 3356 and 3358; and 7 to 7 Smog-Rialto's Smog Check Station
15 License is subject to disciplinary action under Health and Safety Code sections 44072.2,
16 subdivision (g), for failure to produce records upon the Bureau's request in the following respect:

17 49. On February 3, 2015, a Bureau representative requested 7 to 7 Smog-Rialto to
18 produce all original vehicle inspection reports and invoices for several smog inspections 7 to 7
19 Smog-Rialto performed from October 20, 2014, to January 27, 2015. On February 10, 2015, the
20 Bureau representative returned to 7 to 7 Smog-Rialto to collect the requested records. 7 to 7
21 Smog-Rialto only produced a small portion of the records. For the records regarding clean plugs
22 in Table 1, 7 to 7 Smog-Rialto only produced records for the Nissan Altima (clean plug no. 3) and
23 Honda Pilot (clean plug no 5). On February 19, 2015, 7 to 7 Smog-Rialto told the Bureau
24 representative that 7 to 7 Smog-Rialto would look for the missing records and would contact the
25 Bureau representative when they were found. The Bureau representative never heard back from 7
26 to 7 Smog-Rialto.

27 **SIXTH CAUSE FOR DISCIPLINE**

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

1 50. Complainant re-alleges and incorporates by reference the allegations set forth above in
2 paragraphs 35-49.

3 51. Segura's Smog Check Inspector License are subject to disciplinary action under
4 Health and Safety Code sections 44072.10, subdivisions (a) and (c) and 44072.2, subdivision (a),
5 in that Segura failed to comply with the following sections of that Code:

6 a. **Section 44012**: failed to perform the tests of the emission control systems and devices
7 on the vehicle(s) in Table 1 in accordance with procedures prescribed by the Department.

8 b. **Section 44015**: issued a certificate of compliance for the vehicle(s) in Table 1 without
9 properly testing and inspecting them to determine if they were in compliance with Health & Safety
10 Code section 44012.

11 c. **Section 44035**: failed to meet or maintain the standards prescribed for qualification,
12 equipment, performance, or conduct by failing to properly perform a smog inspection on the
13 vehicle(s) in Table 1 or certifying that such test(s) had been performed, when in fact they were
14 never performed.

15 **SEVENTH CAUSE FOR DISCIPLINE**

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

17 52. Complainant re-alleges and incorporates by reference the allegations set forth above in
18 paragraphs 35-51.

19 53. Segura's Smog Check Inspector License is subject to disciplinary action under Health
20 and Safety Code sections 44072.10, subdivisions (a) and (c) and 44072.2, subdivision (a) in that
21 Segura failed to comply with the following sections of Title 16, California Code of Regulations:

22 a. **Section 3340.35, subdivision (c)**: failed to inspect and test the vehicle(s) in Table 1 in
23 accordance with the procedures specified in section 3340.42 of the Regulations and failed to
24 ensure that the vehicle(s) had all the required emission control equipment and devices installed and
25 functioning correctly.

26 b. **Section 3340.41, subdivision (c)**: knowingly entered into the Emissions Inspection
27 System false information about the vehicle(s) in Table 1, providing result(s) for smog inspection(s)
28 which were not actually performed.

1 c. **Section 3340.42**: failed to conduct the required smog tests on the vehicle(s) in Table 1
2 in accordance with the Bureau's specifications.

3 **EIGHT CAUSE FOR DISCIPLINE**

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

5 54. Complainant re-alleges and incorporates by reference the allegations set forth above in
6 paragraphs 35-53.

7 55. Segura's Smog Check Inspector License is subject to disciplinary action under Health
8 and Safety Code sections 44072.10, subdivision (a) and (c) and 44072.2, subdivision (d), and his
9 Lamp Adjuster License and Brake Adjuster License are subject to disciplinary action under Code
10 section 9889.3, subdivision (d), in that Segura committed dishonest, fraudulent, or deceitful acts
11 whereby another is injured by issuing a smog certificate of compliance for the vehicle(s) in Table 1
12 without performing bona fide inspections of the emission control devices and systems on the
13 vehicle(s), thereby depriving the People of the State of California of the protection afforded by the
14 Motor Vehicle Inspection Program.

15 **OTHER MATTERS**

16 56. Under Code section 9884.7, subdivision (c), the Director may suspend, revoke or
17 place on probation the registration for all places of business operated in this State by 7 to 7 Smog-
18 Rialto upon a finding that 7 to 7 Smog-Rialto has, or is, engaged in a course of repeated and
19 willful violations of the laws and regulations pertaining to an automotive repair dealer.

20 57. Under Code section 9889.9, if a license is revoked or suspended following a hearing
21 under Article 7 of the Automotive Repair Act, any additional license issued under Articles 5 and 6
22 of Chapter 20.3 in the name of 7 to 7 Smog-Rialto may be likewise revoked or suspended.

23 58. Under Health & Safety Code section 44072.8, if 7 to 7 Smog-Rialto's Smog Check
24 Station License is revoked or suspended, the Director may likewise revoke or suspend any
25 additional license issued under Chapter 5 of the Health and Safety Code in the name of 7 to 7
26 Smog-Rialto.

1 10. Revoking or suspending Lamp Adjuster License Number LA 636410, issued to
2 Ritchey Segura;

3 11. Revoking or suspending any additional license issued under Chapter 5 of the Health
4 and Safety Code in the name of Ritchey Segura;

5 12. Revoking or suspending any additional license issued under Articles 5 and 6 of
6 Chapter 20.3 of the Code in the name of Ritchey Segura;

7 13. Ordering Joy Alina Richards, Owner, doing business as 7 to 7 Smog; and Ritchey
8 Segura to pay the Bureau of Automotive Repair the reasonable costs of the investigation and
9 enforcement of this case, pursuant to Business and Professions Code section 125.3; and

10 14. Taking such other and further action as deemed necessary and proper.

11

12

13

14

DATED: August 18, 2015



15

PATRICK DORAIS

16

Chief

17

Bureau of Automotive Repair

Department of Consumer Affairs

State of California

Complainant

18

19

SD2015801374
81109461.doc

20

21

22

23

24

25

26

27

28