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9 **BEFORE THE**  
**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. *79/16-88*

13 **ANTHONY DELGADO, OWNER, DOING**  
14 **BUSINESS AS DIRECT SMOG**  
15 **1112 South State Street #6**  
**San Jacinto, CA 92583**

**ACCUSATION**  
*Smog Check*

16 **Automotive Repair Dealer Registration No.**  
**ARD 273288**  
17 **Smog Check Station License No. RC 273288,**

18 **ANTHONY DELGADO**  
19 **828 Zephyr Circle**  
**Hemet, CA 92543**

20 **Smog Check Inspector License No. EO**  
**637977,**

21 **and**

22 **OSMANY OZZY DEL SOL**  
23 **2657 Banyan Tree Lane**  
24 **Hemet, CA 92545**

25 **Smog Check Inspector License No. EO**  
**40095**  
26 **Smog Check Repair Technician License No.**  
**EI 40095 (formerly Advanced Emission**  
27 **Specialist Technician License No. EA 40095)**

28 Respondents.

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 June 7, 2013, the Bureau of Automotive Repair issued Automotive  
6 Repair Dealer Registration Number ARD 273288 to Anthony Delgado, Owner, doing business as  
7 Direct Smog (Direct Smog). The Automotive Repair Dealer Registration was in full force and  
8 effect at all times relevant to the charges brought herein and will expire on June 30, 2016, unless  
9 renewed.

10 3. On or about July 10, 2013, the Bureau of Automotive Repair issued Smog Check  
11 Station License Number RC 273288 to Direct Smog. The Smog Check Station License was in  
12 full force and effect at all times relevant to the charges brought herein and will expire on June 30,  
13 2016, unless renewed.

14 4. On or about March 23, 2015, the Bureau of Automotive Repair issued Smog Check  
15 Inspector License Number EO 637977 to Anthony Delgado (Delgado). The Smog Check  
16 Inspector License was in full force and effect at all times relevant to the charges brought herein  
17 and will expire on July 31, 2017, unless renewed.

18 5. In 1997, the Bureau issued Advanced Emission Specialist (EA) Technician License  
19 No. EA 40095 to Osmany Ozzy Del Sol (Del Sol). It expired on September 30, 2013, and was  
20 cancelled on October 6, 2014. Under California Code of Regulations, title 16, section 3340.28,  
21 subdivision (e), the license was renewed, under Del Sol's election, as Smog Check Inspector  
22 License No. EO 40095 and Smog Check Repair Technician License No. EI 40095, effective  
23 November 12, 2014. The Smog Check Inspector License and Smog Check Repair Technician  
24 License (collectively technician licenses) were in full force and effect at all times relevant to the  
25 charges brought herein. They expired on September 30, 2015, and have not been renewed.<sup>1</sup>

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





1 'bureau,' 'commission,' 'committee,' 'department,' 'division,' 'examining committee,' 'program,' and  
2 'agency.'

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

7 18. Section 23.7 of the Code states:

8 "Unless otherwise expressly provided, license means license, certificate, registration, or  
9 other means to engage in a business or profession regulated by this code or referred to in Section  
10 1000 or 3600."

11 19. Section 9884.7 of the Code states:

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

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

20 "...

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

22 "...

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

25 "...

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

3 20. Section 44072.2 of the Health and Safety Code states:

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

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

10 "...

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

12 "..."

13 21. Section 44072.10 of the Health and Safety Code states:

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

20 "(1) Fraud.

21 "(2) Tampering.

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

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

26 "...



1 **CLEAN PLUGGING**

2 24. At all times alleged in this Accusation, Delgado and Del Sol were acting in the course  
3 and within the scope of a technician, employee, partner, officer, or member of Direct Smog.

4 25. The OBD II communication protocol describes the specified communication  
5 “language” used by the OBD II system electronic control unit to communicate to scan tools and  
6 other devices such as the On-Board Diagnostic Inspection System. The communication protocol is  
7 programmed into the OBD II system electronic control unit during manufacture and does not  
8 change.

9 26. Parameter Identifications are data points reported by the OBD II system electronic  
10 control unit to the scan tool or On-Board Diagnostic Inspection System (OIS). Examples of  
11 Parameter Identification are engine speed (rpm), vehicle speed, engine temperature, and other  
12 input and output values utilized by the OBD II system electronic control unit. The Parameter  
13 Identifications count is the number of data points reported by the OBD II system electronic  
14 control unit, is programmed during manufacture, and does not change.

15 27. The Vehicle Identification Number that is physically present on all vehicles is also  
16 required to be programmed into the vehicle’s On-Board Diagnostics – Generation II (OBD II) on  
17 2005 and newer vehicles, and on many occasions was programmed into the OBD II system  
18 electronic control unit in earlier model-years. The Bureau captures this electronically programmed  
19 Vehicle Identification Number, also known as the “eVIN,” during a smog check inspection and it  
20 must match the physical Vehicle Identification Number on the vehicle.

21 28. During a Bureau representative’s review of Respondents’ certified test results in the  
22 Vehicle Information Database for inspections purportedly performed on the OIS between April  
23 and September 2015, 15 vehicles identified below had information stored in the Vehicle  
24 Identification Database that did not apply to those vehicles. The Vehicle Information Database  
25 showed that Respondents inspected these vehicles using the method known as “clean plugging.”<sup>2</sup>  
26 This resulted in the issuance of fraudulent certificates of compliance thusly:

27 <sup>2</sup> To “clean plug” a vehicle, the technician uses another vehicle’s properly functioning On  
28 Board Diagnostic, generation II, (OBD II) system, or another source, to generate passing  
(continued...)

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a. Clean Plug 1

OIS test data reflects that on April 11, 2015, between 1342 and 1346 hours, a 2000 Ford F250 Super Duty, California license # 6Z234481, Vehicle Identification Number # 1FTNF20L3YEB80857, was tested and smog certificate # PQ723459C was issued under licensed Smog Inspector # EO 637977, Anthony Delgado. The OIS Test Details for the 2000 Ford F250 Super Duty shows eVIN 1FTNF20L3YEB80857, a communication protocol of I9140808, and a Parameter Identification count of 11. Comparative OIS test data for 2000 Ford F250 Super Duty vehicles show they do not report the eVIN, had the same expected communication protocol JPWM, and showed a Parameter Identification count of 19. The eVIN does not match the physical Vehicle Identification Number. Vehicle Identification Numbers are required to have 17 characters that do not include the letters I, O, or Q. The incorrect Vehicle Identification Number had to be input to the Data Acquisition Device (DAD) from a source other than the vehicle's OBD II system electronic control unit. The discrepancies in the OIS test data substantiate the Data Acquisition Device was not connected to the 2000 Ford F250 Super Duty being certified, resulting in the issuance of a fraudulent Smog Certificate of Compliance.

b. Clean Plug 2

OIS test data reflects that on April 12, 2015, between 0859 and 0907 hours, a 2001 Infinity I30, California license # 4UDS974, was tested and smog certificate # PQ723461C was issued under licensed Smog Inspector # EO 040095, Osmany Ozzy Del Sol. The OIS Test Details for the 2001 Infinity I30 shows eVIN # JNKCA31A91T039011, a communication protocol of I9140808, and a Parameter Identification count of 11. Comparative OIS test data for 2001 Infinity I30 vehicles show they do not report the eVIN, had the same expected communication protocol (I914), and showed a Parameter Identification count of 22. The test data transmitted to the VID from Direct Smog for this vehicle reported an eVIN. The discrepancies in the OIS test data

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(...continued)  
diagnostic readings for the purpose of issuing fraudulent smog certificates of compliance to vehicles that are not in smog compliance or not present during the certified test.

1 substantiate the Data Acquisition Device was not connected to the 2001 Infinity I30 being  
2 certified, resulting in the issuance of a fraudulent Smog Certificate of Compliance.

3 c. Clean Plug 3

4 OIS test data reflects that on April 27, 2015, between 1122 and 1144 hours, a 2004 Nissan  
5 Armada, California license # 6BTZ582, Vehicle Identification Number # 5N1AA08A94N744229,  
6 was tested and smog certificate # PQ723498C was issued under licensed Smog Inspector # EO  
7 040095, Osmany Ozzie Del Sol. The OIS Test Details for the 2004 Nissan Armada shows eVIN#  
8 1NXBR32EX5Z504821, a communication protocol of I9140808, and a Parameter Identification  
9 count of 11. Comparative OIS test data for 2004 Nissan Armada vehicles show they do not report  
10 the eVIN, had the same expected communication protocol (I914), and showed a Parameter  
11 Identification count of 22. The test data transmitted to the VID from Direct Smog for this vehicle  
12 reported an eVIN consistent with a 2005 Toyota. The discrepancies in the OIS test data  
13 substantiate the Data Acquisition Device was not connected to the 2004 Nissan Armada being  
14 certified, resulting in the issuance of a fraudulent Smog Certificate of Compliance.

15 d. Clean Plug 4

16 OIS test data reflects that on April 27, 2015, between 1843 and 1856 hours, a 2007 Dodge  
17 Nitro SLT, California license # 5WLZ555, was tested and smog certificate # PQ723499C was  
18 issued under licensed Smog Inspector # EO 040095, Osmany Ozzy Del Sol. The OIS Test Details  
19 for the 2007 Dodge Nitro SLT shows eVIN # 1NXBR32EX5Z504821, a communication protocol  
20 of I9140808, and a Parameter Identification count of 11. Comparative OIS test data for 2007  
21 Dodge Nitro SLT vehicles show they do report the eVIN, have the same expected communication  
22 protocol (ICAN11bt5), and show a Parameter Identification count of 43. The test data transmitted  
23 to the VID from Direct Smog for this vehicle reported an eVIN consistent with a 2005 Toyota  
24 Corolla. The discrepancies in the OIS test data substantiate the Data Acquisition Device was not  
25 connected to the 2007 Dodge Nitro SLT being certified, resulting in the issuance of a fraudulent  
26 Smog Certificate of Compliance.

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1 e. Clean Plug 5

2 OIS test data reflects that on May 11, 2015, between 1510 and 1514 hours, a 2002  
3 Chevrolet K1500 Suburban, California license # 6STK123, Vehicle Identification Number #  
4 3GNFK16T92G231349, was tested and smog certificate # YR272296C was issued under licensed  
5 Smog Inspector # EO 040095, Osmany Ozzie Del Sol. The OIS Test Details for the 2002  
6 Chevrolet K1500 Suburban shows eVIN # 3G2FK16T92G231349, a communication protocol of  
7 I9140808, and a Parameter Identification count of 11. Comparative OIS test data for 2002  
8 Chevrolet K1500 Suburban vehicles show they do report the eVIN, had the same expected  
9 communication protocol (JVPW), and showed a Parameter Identification count of 22. The test  
10 data transmitted to the VID from Direct Smog for this vehicle reported an eVIN that has the  
11 number 2 in the third position from the left. The number 2 in the third position of the Vehicle  
12 Identification Number is inconsistent with like vehicles. The third position of the Vehicle  
13 Identification Number designates the make of the vehicle. The number 2 in the third position is  
14 inconsistent with a Chevrolet light duty truck. The discrepancies in the OIS test data substantiate  
15 the Data Acquisition Device was not connected to the 2002 Chevrolet K1500 Suburban being  
16 certified, resulting in the issuance of a fraudulent Smog Certificate of Compliance.

17 f. Clean Plug 6

18 OIS test data reflects that on May 21, 2015, between 1849 and 1859 hours, a 2011 Porsche  
19 911 Turbo/Turbo S, Vehicle Identification Number # WP0AD2A93BS766703, was tested and  
20 smog certificate # YR488287C was issued under licensed Smog Inspector # EO 040095, Osmany  
21 Ozy Del Sol. The OIS Test Details for the 2011 Porsche 911 Turbo/Turbo S shows eVIN #  
22 WP0AD2A93BS766703, a communication protocol of I9140808, and a Parameter Identification  
23 count of 11. Comparative OIS test data for 2011 Porsche 911 Turbo/Turbo S vehicles show they  
24 do report the eVIN, had the same expected communication protocol (ICANI1bt5), and showed a  
25 Parameter Identification count of 6/47. The discrepancies in the OIS test data substantiate the  
26 Data Acquisition Device was not connected to the 2011 Porsche 911 Turbo/Turbo S being  
27 certified, resulting in the issuance of a fraudulent Smog Certificate of Compliance.

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1 g. Clean Plug 7

2 OIS test data reflects that on May 28, 2015, between 1811 and 1824 hours, a 2012 Cadillac  
3 Escalade Platinum, Vehicle Identification Number # 1GYS4DEF0CR107450, was tested and  
4 smog certificate # YR752807C was issued under licensed Smog Inspector # EO 040095, Osmany  
5 Ozzy Del Sol. The OIS Test Details for the 2012 Cadillac Escalade Platinum shows eVIN #  
6 1GSY4DEF0CR107450, a communication protocol of I9140808, and a Parameter Identification  
7 count of 11. Comparative OIS test data for 2012 Cadillac Escalade Platinum vehicles show they  
8 do report the eVIN, had the same expected communication protocol (ICAN11bt5), and showed a  
9 Parameter Identification count of 8/7/45. The discrepancies in the OIS test data substantiate the  
10 Data Acquisition Device was not connected to the 2012 Cadillac Escalade Platinum being  
11 certified, resulting in the issuance of a fraudulent Smog Certificate of Compliance.

12 h. Clean Plug 8

13 OIS test data reflects that on June 5, 2015, between 1122 and 1130 hours, a 2007 Chevrolet  
14 Avalanche C1500, California license # 8K07487, Vehicle Identification Number #  
15 3GNEC12097G169723, was tested and smog certificate # YR752823C was issued under licensed  
16 Smog Inspector # EO 040095, Osmany Ozzy Del Sol. The OIS Test Details for the 2007  
17 Chevrolet Avalanche C1500 shows eVIN # WDBUF70J64A466192, a communication protocol  
18 of ICAN11bt500, and a Parameter Identification count of 11. Comparative OIS test data for 2007  
19 Chevrolet Avalanche C1500 vehicles show they do report the eVIN, had the same expected  
20 communication protocol (ICAN11bt5), and showed a Parameter Identification count of 7/44. The  
21 discrepancies in the OIS test data substantiate the Data Acquisition Device was not connected to  
22 the 2007 Chevrolet Avalanche C1500 being certified, resulting in the issuance of a fraudulent  
23 Smog Certificate of Compliance.

24 i. Clean Plug 9

25 OIS test data reflects that on June 18, 2015, between 1233 and 1237 hours, a 2001  
26 Chevrolet C1500 Suburban, Vehicle Identification Number # 3GNEC16T51G158357, was tested  
27 and smog certificate # YT139562C was issued under licensed Smog Inspector # EO 637977,  
28 Anthony Delgado. The OIS Test Details for the 2001 Chevrolet C1500 Suburban shows eVIN #

1 3GNEC15T51G158357, a communication protocol of I9140808, and a Parameter Identification  
2 count of 11. Comparative OIS test data for 2001 Chevrolet C1500 Suburban vehicles show they  
3 do report the eVIN, had the same expected communication protocol (JVPW), and showed a  
4 Parameter Identification count of 22. The discrepancies in the OIS test data substantiate the Data  
5 Acquisition Device was not connected to the 2001 Chevrolet C1500 Suburban being certified,  
6 resulting in the issuance of a fraudulent Smog Certificate of Compliance.

7 j. Clean Plug 10

8 OIS test data reflects that on June 23, 2015, between 1048 and 1055 hours, a 2007 Ford  
9 Mustang GT, California license # 7AMU232, Vehicle Identification Number #  
10 1ZVHT85H775234654, was tested and smog certificate # YT139572C was issued under licensed  
11 Smog Inspector # EO 637977, Anthony Delgado. The OIS Test Details for the 2007 Ford  
12 Mustang GT shows eVIN # 1FTRW12WX8KB81105, a communication protocol of I9140808,  
13 and a Parameter Identification count of 11. Comparative OIS test data for 2007 Ford Mustang GT  
14 vehicles show they do report the eVIN, had the same expected communication protocol  
15 (ICAN11bt5), and showed a Parameter Identification count of 44. The discrepancies in the OIS  
16 test data substantiate the Data Acquisition Device was not connected to the 2007 Ford Mustang  
17 GT being certified, resulting in the issuance of a fraudulent Smog Certificate of Compliance.

18 k. Clean Plug 11

19 OIS test data reflects that on July 25, 2015, between 1056 and 1101 hours, a 2005 Ford  
20 F150, California license # 47848L1 Vehicle Identification Number # 1FTPW12515KE70285, was  
21 tested and smog certificate # YT427350C was issued under licensed Smog Inspector # EO  
22 040095, Osmany Ozzy Del Sol. The OIS Test Details for the 2005 Ford F150 shows eVIN #  
23 1FTKW12515KE70285, a communication protocol of I9140808, and a Parameter Identification  
24 count of 11. Comparative OIS test data for 2005 Ford F150 vehicles show they do report the  
25 eVIN, had the same expected communication protocol (ICAN11bt5), and showed a Parameter  
26 Identification count of 44. The discrepancies in the OIS test data substantiate the Data Acquisition  
27 Device was not connected to the 2005 Ford F150 being certified, resulting in the issuance of a  
28 fraudulent Smog Certificate of Compliance.

1           l.     Clean Plug 12

2           OIS test data reflects that on August 11, 2015, between 1701 and 1705 hours, a 2000  
3 Mercedes-Benz ML320, California license # 7CRS455, Vehicle Identification Number #  
4 4JGAB54E1YA202834, was tested and smog certificate # YT767629C was issued under licensed  
5 Smog Inspector # EO 637977, Anthony Delgado. The OIS Test Details for the 2000 Mercedes-  
6 Benz ML320 shows eVIN# 2G2WP522251156753, a communication protocol of I9140808, and a  
7 Parameter Identification count of 11. Comparative OIS test data for 2000 Mercedes-Benz ML320  
8 vehicles show they do not report the eVIN, had the same expected communication protocol  
9 (I914), and showed a Parameter Identification count of 21. The discrepancies in the OIS test data  
10 substantiate the Data Acquisition Device was not connected to the 2000 Mercedes-Benz ML320  
11 being certified, resulting in the issuance of a fraudulent Smog Certificate of Compliance.

12           m.    Clean Plug 13

13           OIS test data reflects that on August 15, 2015, between 1117 and 1121 hours, a 2002 Ford  
14 E350 Super Duty, California license # 8V41220 Vehicle Identification Number #  
15 1FDWE35L72HA96631, was tested and smog certificate # YT767634C was issued under  
16 licensed Smog Inspector # EO 637977, Anthony Delgado. The OIS Test Details for the 2002 Ford  
17 E350 shows eVIN# 1GCHC23U12F237648, a communication protocol of I9140808, and a  
18 Parameter Identification count of 11. Comparative OIS test data for 2002 Ford E350 Super Duty  
19 vehicles show they do report the eVIN, had the same expected communication protocol (JPWM),  
20 and showed a Parameter Identification count of 18 to 21. The discrepancies in the OIS test data  
21 substantiate the Data Acquisition Device was not connected to the 2002 Ford E350 Super Duty  
22 being certified, resulting in the issuance of a fraudulent Smog Certificate of Compliance.

23           n.    Clean Plug 14

24           OIS test data reflects that on September 4, 2015, between 1151 and 1158 hours, a 2009  
25 Chrysler Sebring Touring/Limited, California license # 6GAG007, Vehicle Identification Number  
26 # 1C3LC56B19N539743, was tested and smog certificate # PW018678C was issued under  
27 licensed Smog Inspector # EO637977, Anthony Delgado. The OIS Test Details for the 2009  
28 Chrysler Sebring Touring/Limited shows eVIN# 1C3CL56B19N539743, a communication

1 protocol of I9140808, and a Parameter Identification count of 11. Comparative OIS test data for  
2 2009 Chrysler Sebring Touring/Limited vehicles show they do report the eVIN, had the same  
3 expected communication protocol (ICAN11bt5), and showed a Parameter Identification count of  
4 10/37. The discrepancies in the OIS test data substantiate the Data Acquisition Device was not  
5 connected to the 2009 Chrysler Sebring Touring/Limited being certified, resulting in the issuance  
6 of a fraudulent Smog Certificate of Compliance.

7 o. Clean Plug 15

8 OIS test data reflects that on September 9, 2015 between 1722 and 1731 hours, a 2007  
9 GMC Savana G3500, California license # 8Y91594, was tested and smog certificate #  
10 PW018689C was issued under licensed Smog Inspector # EO637977, Anthony Delgado. The OIS  
11 Test Details for the 2007 GMC Savana G3500 shows eVIN# JF1GD29632G508159, a  
12 communication protocol of I9140808, and a Parameter Identification count of 11. Comparative  
13 OIS test data for 2007 GMC Savana G3500 vehicles show they do report the eVIN, had the same  
14 expected communication protocol (JVPW), and showed a Parameter Identification count of 22.  
15 The discrepancies in the OIS test data substantiate the Data Acquisition Device was not connected  
16 to the 2007 GMC Savana G3500 being certified, resulting in the issuance of a fraudulent Smog  
17 Certificate of Compliance.

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29. The following table summarizes Respondents' clean plugging activities:

**TABLE 1**

#	Date	Inspector	Station	Veh Year	Make	Model	License	Certificate	Inspection VIN	eVIN transmitted to VID
1	4/11/15	EO637977	RC273288	2000	FORD	F250 Super Duty	6Z23481	PQ723459C	1FTNF20L3 YEB80857	1FTNF20L3 YEB80857
2	4/12/15	EO040095	RC273288	2001	INFINITY	I30	4UDS974	PQ723461C	JNKCA31A9 IT039011	JNKCA31A9 IT039011
3	4/27/15	EO040095	RC273288	2004	NISSAN	ARMADA	6BTZ582	PQ723498C	5N1AA08A9 4N744229	1NXBR32E X5Z504821
4	4/27/15	EO040095	RC273288	2007	DODGE	NITRD SLT	5WLZ555	PQ723499C	ID8GT58K7 7W556288	1NXBR32E X5Z504821
5	5/11/15	EO040095	RC273288	2002	CHEVROLET	K1500 SUBURBAN	6STK123	YR272296C	3GNFK16T9 2G231349	3G2FK16T92 G231349
6	5/21/15	EO040095	RC273288	2011	PORSCHE	911 TURBO/TURBO S	N	YR488287C	WP0AD2A9 3BS766703	WP030AD2 A93BS7667
7	5/28/15	EO040095	RC273288	2012	CADILLAC	ESCALADE PLATINUM	N	YR752807C	1GY54DEF0 CR107450	1GSY4DEF0 CR107450
8	6/5/15	EO040095	RC273288	2007	CHEVROLET	AVALANCE C1500	8K07487	YR752823C	3GNEC1209 7G169723	WDBUF70J6 4A466192
9	6/18/15	EO637977	RC273288	2001	CHEVROLET	C1500 SUBURBAN	N	YT139562C	3GNEC16T5 1G158357	3GNEC15T5 1G158357
10	6/23/15	EO637977	RC273288	2007	FORD	MUSTANG GT	7AMU23 2	YT139572C	1ZVHT85H7 75234654	1FTRW12W X8KB81105
11	7/25/15	EO040095	RC273288	2005	FORD	F150	47848L1	YT427350C	1FTPW1251 5KE70285	1FTKW1251 5KE70285
12	8/11/15	EO637977	RC273288	2000	MERCEDES-BENZ	ML320	7CRS455	YT767629C	4JGAB54E1 YA202834	2G2WP5222 51156753
13	8/15/15	EO637977	RC273288	2002	FORD	E350 SUPER DUTY	8V41220	YT767634C	1FDWE35L7 2HA96651	1GCHC23U1 2F237648
14	9/4/15	EO637977	RC273288	2009	CHRYSLER	SEBRING TOURING/LIMITED	6GAG007	PW018678C	1C3LC56B1 9N539743	1C3CL56B1 9N539743
15	9/9/15	EO637977	RC273288	2007	GMC	SAVANA G3500	8Y91594	PW018689C	1GDHG31U 671902296	JF1GD29632 G508159

**FIRST CAUSE FOR DISCIPLINE**

**(Untrue or Misleading Statement)**

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

31. Direct Smog's Registration is subject to disciplinary action under section 9884.7, subdivision (a)(1), in that Direct Smog made or authorized statements which Direct Smog knew or in the exercise of reasonable care should have known to be untrue or misleading.

32. Direct Smog certified that certified that the vehicle(s) in Table 1 above had passed inspection and were in compliance with all applicable laws and regulations, when in fact and in truth Direct Smog inspected the vehicle(s) using the clean plugging method to issue certificates of compliance.

1 **SECOND CAUSE FOR DISCIPLINE**

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

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

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

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

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

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

17 **THIRD CAUSE FOR DISCIPLINE**

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

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

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

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







1 48. Del Sol's Smog Check Repair Technician License and Smog Check Inspector License  
2 are subject to disciplinary action under Health and Safety Code sections 44072.10, subdivisions  
3 (a) and (c) and 44072.2, subdivision (a) in that Del Sol failed to comply with the following  
4 sections of Title 16, California Code of Regulations:

5 a. Section 3340.35, subdivision (c): failed to inspect and test the vehicle(s) in Table I  
6 in accordance with the procedures specified in section 3340.42 of the Regulations and failed to  
7 ensure that the vehicle(s) had all the required emission control equipment and devices installed  
8 and functioning correctly.

9 b. Section 3340.41, subdivision (c): knowingly entered into the Emissions Inspection  
10 System false information about the vehicle(s) in Table I, providing result(s) for smog  
11 inspection(s) which were not actually performed.

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

#### 14 TENTH CAUSE FOR DISCIPLINE

##### 15 (Dishonesty, Fraud, or Deceit)

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

18 50. Del Sol's Smog Check Repair Technician License and Smog Check Inspector License  
19 are subject to disciplinary action under Health and Safety Code sections 44072.10, subdivision (a)  
20 and (c) and 44072.2, subdivision (d), in that Del Sol committed dishonest, fraudulent, or deceitful  
21 acts whereby another is injured by issuing a smog certificate of compliance for the vehicle(s) in  
22 Table I without performing bona fide inspections of the emission control devices and systems on  
23 the vehicle(s), thereby depriving the People of the State of California of the protection afforded by  
24 the Motor Vehicle Inspection Program.

#### 25 OTHER MATTERS

26 51. Under Code section 9884.7, subdivision (c), the Director may suspend, revoke or  
27 place on probation the registration for all places of business operated in this State by Anthony  
28 Delgado, Owner, doing business as Direct Smog upon a finding that Anthony Delgado, Owner,

1 doing business as Direct Smog has, or is, engaged in a course of repeated and willful violations of  
2 the laws and regulations pertaining to an automotive repair dealer.

3 52. Under Health & Safety Code section 44072.8, if Anthony Delgado, Owner, doing  
4 business as Direct Smog's Smog Check Station License is revoked or suspended, the Director  
5 may likewise revoke or suspend any additional license issued under Chapter 5 of the Health and  
6 Safety Code in the name of Anthony Delgado, Owner, doing business as Direct Smog.

7 53. Under Health and Safety Code section 44072.8, if Delgado's license is revoked or  
8 suspended, any additional license issued under the Motor Vehicle Inspection Program in the name  
9 of Delgado may be likewise revoked or suspended by the Director.

10 54. Under Health and Safety Code section 44072.8, if Del Sol's license is revoked or  
11 suspended, any additional license issued under the Motor Vehicle Inspection Program in the name  
12 of Del Sol may be likewise revoked or suspended by the Director.

13 **PRAYER**

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

16 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD  
17 273288, issued to Anthony Delgado, Owner, doing business as Direct Smog;

18 2. Revoking or suspending Smog Check Station License Number RC 273288, issued to  
19 Anthony Delgado, Owner, doing business as Direct Smog;

20 3. Revoking or suspending Smog Check Inspector License Number EO 637977, issued  
21 to Anthony Delgado;

22 4. Revoking or suspending Smog Check Inspector License Number EO 40095, issued to  
23 Osmany Ozzy Del Sol;

24 5. Revoking or suspending Smog Check Repair Technician License Number EI 40095,  
25 issued to Osmany Ozzy Del Sol;

26 6. Revoking or suspending any additional license issued under Chapter 5 of the Health  
27 and Safety Code in the name of Anthony Delgado, Owner, doing business as Direct Smog;

28

- 1           7.    Revoking or suspending the registration for all places of business operated in this
- 2 State in the name of Anthony Delgado, Owner, doing business as Direct Smog;
- 3           8.    Revoking or suspending any additional license issued under Chapter 5 of the Health
- 4 and Safety Code in the name of Anthony Delgado;
- 5           9.    Revoking or suspending any additional license issued under Chapter 5 of the Health
- 6 and Safety Code in the name of Osmany Ozzy Del Sol;
- 7           10.   Ordering Anthony Delgado, Osmany Ozzy Del Sol, and Anthony Delgado, Owner,
- 8 doing business as Direct Smog to pay the Bureau of Automotive Repair the reasonable costs of
- 9 the investigation and enforcement of this case, pursuant to Business and Professions Code section
- 10 125.3; and
- 11          11.   Taking such other and further action as deemed necessary and proper.

12  
13 DATED: 3/16/16

*Patrick Dorais by Doug Balatt*  
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PATRICK DORAIS  
Chief  
Bureau of Automotive Repair  
Department of Consumer Affairs  
State of California  
*Complainant*

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