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

11
12 In the Matter of the Accusation Against:

Case No. 79/116-16114

ACCUSATION

13 **MARTIN HERNANDEZ – OWNER,**
D.B.A. TRI VALLEY CAR CARE
14 1412 Portola Ave.
Livermore, CA 94551
15 Mailing Address:
1739 First St.
16 Livermore, CA 94550
Automotive Repair Dealer
17 **Registration No. ARD 250215**
Smog Check Station License No. RC 250215

18 **MARTIN HERNANDEZ – OWNER,**
D.B.A. TRI VALLEY CAR CARE
19 1737 First St.
Livermore, CA 94550
Automotive Repair Dealer
21 **Registration No. ARD 250216**
Smog Check Station License No. RC 250216

22 **MARTIN HERNANDEZ – OWNER,**
D.B.A. TRI VALLEY CAR CARE
23 4212 First Street
Pleasanton, CA 94566
24 Mailing Address:
1739 First St.
25 Livermore, CA 94550
Automotive Repair Dealer
26 **Registration No. ARD 263831**
27 **Smog Check Station License No. TC 263831**
28

1 **MAGNO RAMON ANGEL**

2 331 Beall Cir.

3 Westley, CA 95387

4 Mailing Address:

5 PO Box 273

6 Westley, CA 95387

7 **Smog Check Inspector License No. EO 635174**

8 **NICK NOEL ANKLAM**

9 474 Humboldt Way

10 Livermore, CA 94551

11 **Smog Check Inspector License No. EO 635425**

12 **Smog Check Repair Technician**

13 **License No. EI 635425**

14 **JONATHAN EZEQUIEL VILLEGAS**

15 849 E. Stanley Blvd. #191

16 Livermore, CA 94550

17 **Smog Check Inspector License No. EO 635766**

18 **CHRISTOPHER MARTIN HERNANDEZ**

19 1737 First St.

20 Livermore, CA 94550

21 Mailing Address:

22 1070 Glenn Canyon

23 Livermore, CA 94551

24 **Smog Check Inspector License No. EO 631794**

25 **Smog Check Repair Technician**

26 **License No. EI 631794**

27 Respondents.

28 Complainant alleges:

PARTIES

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

2. On or about May 18, 2007, the Bureau issued Automotive Repair Dealer Registration Number ARD 250215 to Martin Hernandez – Owner, d.b.a. Tri Valley Car Care (Respondent Owner). On or about February 23, 2015, the Bureau issued Smog Check Station License Number RC 250215 to Respondent Owner. The Automotive Repair Dealer Registration and the Smog Check Station License were in full force and effect at all times relevant to the charges brought herein and will expire on April 30, 2019, unless renewed.

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1 3. In 2007 the Bureau issued Automotive Repair Dealer Registration Number ARD
2 250216 to Respondent Owner. On or about June 10, 2015, the Bureau issued Smog Check
3 Station License Number RC 250216 to Respondent Owner. The Automotive Repair Dealer
4 Registration and the Smog Check Station License were in full force and effect at all times
5 relevant to the charges brought herein and will expire on April 30, 2019, unless renewed.

6 4. On or about January 19, 2011, the Bureau issued Automotive Repair Dealer
7 Registration Number ARD 263831 to Respondent Owner. On or about February 27, 2011, the
8 Bureau issued Smog Check Station License Number TC 263831 to Respondent Owner. The
9 Automotive Repair Dealer Registration and Smog Check Station License were in full force and
10 effect at all times relevant to the charges brought herein and will expire on January 31, 2019,
11 unless renewed.

12 5. On or about January 30, 2013, the Bureau issued Smog Check Inspector License
13 Number EO 635174 to Magno Ramon Angel (Respondent Angel). The Smog Check Inspector
14 License was in full force and effect at all times relevant to the charges brought herein and will
15 expire on December 31, 2018, unless renewed.

16 6. On or about April 19, 2013, the Bureau issued Smog Check Inspector License
17 Number EO 635425 to Nick Noel Anklam (Respondent Anklam). On or about September 20,
18 2016, the Bureau issued Smog Check Repair Technician License Number EI 635425 to
19 Respondent Anklam. Both licenses were in full force and effect at all times relevant to the
20 charges brought herein and will expire on December 31, 2020, unless renewed.

21 7. On or about July 15, 2013, the Bureau issued Smog Check Inspector License Number
22 EO 635766 to Jonathan Ezequiel Villegas (Respondent Villegas). The Smog Check Inspector
23 License was in full force and effect at all times relevant to the charges brought herein and will
24 expire on April 30, 2019, unless renewed.

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8. In February 2010, Advanced Emission Specialist Technician License Number EA 631794 was issued to Christopher Martin Hernandez (Respondent Hernandez), and cancelled on December 30, 2013.¹ Thereafter, the license was renewed pursuant to Respondent's election as Smog Check Inspector License Number EO 631794, effective December 30, 2013, and Smog Check Repair Technician License Number EI 631794, effective October 1, 2014. Both licenses were in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2019, unless renewed.

JURISDICTION

9. This Accusation is brought before the Director of the Department of Consumer Affairs (Director) for the Bureau under the authority of the following laws.

10. Section 9884.13 of the Business and Professions Code (Code) provides, in pertinent part, that the expiration of a valid registration shall not deprive the Director or Bureau Chief of jurisdiction to proceed with a disciplinary proceeding against an automotive repair dealer or to render a decision invalidating a registration temporarily or permanently.

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

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

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

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

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

4 ...

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

6 17. Section 44072.10(c) of the Health and Safety Code states:

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

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

10
11 18. California Code of Regulations, title 16, section 3340.24(c) states:

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

14 19. California Code of Regulations, title 16, section 3340.30, states, in pertinent part:

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

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

18 ...

19
20 20. California Code of Regulations, title 16, section 3340.41(c), states:

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

23
24 21. California Code of Regulations, title 16, section 3340.42, states, in pertinent part:

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

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

28 ...

1 (3) An OBD-focused test, shall be the test method used to inspect
2 gasoline-powered vehicles 2000 model-year and newer, and diesel-powered vehicles
3 1998 model-year and newer. The OBD test failure criteria are specified in section
4 3340.42.2.

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

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

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

12 22. California Code of Regulations, title 16, section 3340.45, states:

13 (a) All Smog Check inspections shall be performed in accordance with
14 requirements and procedures prescribed in the following:

15 (1) Smog Check Inspection Procedures Manual, dated August 2009,
16 which is hereby incorporated by reference. This manual shall be in effect until
17 subparagraph (2) is implemented.

18 (2) Smog Check Manual, dated 2013, which is hereby incorporated by
19 reference. This manual shall become effective on or after January 1, 2013.

20 COSTS

21 23. Code section 125.3 provides, in pertinent part, that a Board may request the
22 administrative law judge to direct a licentiate found to have committed a violation or violations of
23 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
24 enforcement of the case.

25 FACTUAL SUMMARY

26 Smog Check Program Background

27 24. California's Smog Check Program requires the owners of most motor vehicles in
28 California to take and pass a Smog Check inspection and receive a Certificate of Compliance
every two years when renewing their registration and also when the vehicle's title is transferred.
These inspections are performed by Smog Check inspectors at Smog Check Stations, both of
which are licensed by the Bureau of Automotive Repair (BAR).

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1 25. The Smog Check inspection in certain Enhanced areas of the State is an Acceleration
2 Simulation Mode (ASM) test performed using an Emission Inspection System (EIS), also known
3 as a BAR 97. This is a computer based five-gas analyzer that measures Hydrocarbons, Carbon
4 Monoxide, Oxides of Nitrogen, Carbon Dioxide, and Oxygen. The inspection involves a test of
5 the vehicle's tailpipe emissions on a dynamometer. In Basic areas of the State, or depending on a
6 vehicle's configuration (e.g., all-wheel drive or traction control), a similar test called a Two Speed
7 Idle (TSI) is performed, but instead of applying a load to the vehicle's drive wheels with a
8 dynamometer, the EIS measures the emissions at idle as well as 2500 RPM.

9 26. The inspector also performs visual and functional tests on the vehicle as outlined in
10 the Smog Check Manual. The visual inspection of the emission control components verifies that
11 the required emission control devices are present and properly connected. Functional tests are
12 also performed which, depending on the vehicle, may include checking the vehicle's various
13 controls and systems (e.g., ignition timing, malfunction indicator light, exhaust gas recirculation
14 system, etc.).

15 The BAR-OIS

16 27. On March 9, 2015, the Bureau implemented a statewide regulatory change requiring
17 the use of the On Board Diagnostic Inspection System (BAR-OIS) instead of the Emission
18 Inspection System (EIS) for the smog testing of 2000 model year and newer gas powered and
19 hybrid vehicles.

20 28. The new BAR-OIS smog inspection utilizes a Data Acquisition Device (DAD), a
21 computer, a bar code scanner, and printer. The DAD is a scan tool that retrieves data from a
22 vehicle's On Board Diagnostic-generation II (OBD II) computer. The DAD connects the BAR-
23 OIS computer to the vehicle's diagnostic link connector (DLC) to retrieve the data from the
24 vehicle. The bar code scanner is used to input technician information, the vehicle identification
25 number (VIN), and DMV renewal information. The printer is used to print Vehicle Inspection
26 Reports.

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1 29. Data retrieved and recorded during an BAR-OIS smog check can include: the eVIN,
2 which is the digitally stored VIN programmed into the vehicle's Powertrain Control Module
3 (PCM); the communication protocol, which is the manufacturer/vehicle's specific "language" that
4 the PCM uses to relay information; and the number of Parameter Identifications (PIDs), which is
5 the number of specific data values that vehicle's PCM provides related to emission controls.²

6 30. As part of BAR-OIS smog inspections, the technician also performs a visual and
7 functional test on the vehicle. The BAR-OIS software makes the determination whether or not the
8 vehicle passes the inspection based on the results of the data and the visual and functional tests.
9 If the vehicle passes the inspection, a certificate of compliance is issued. The information from
10 the smog inspection is then transmitted to the Vehicle Information Data (VID). The technician
11 affirms a statement for each inspection that the inspection performed complied with all applicable
12 laws and regulations.

13 31. The Bureau can access the VID to view test data on smog check inspections
14 performed at any Smog Check station. The Bureau can also search for, retrieve, and print the test
15 record for any particular vehicle which has been tested.

16 32. The Bureau has become aware of several methods used by Smog Check stations and
17 Smog Check technicians to issue improper/fraudulent smog certificates of compliance. One
18 method is known as clean plugging. Clean plugging involves using another vehicle's properly
19 functioning OBD II system, or another source, to generate passing diagnostic readings for a
20 vehicle that is not in smog compliance or not even present for testing.

21 Clean Plugging Allegations

22 33. The Bureau initiated an investigation of Respondents. A review of the data revealed
23 that the following vehicles purportedly tested by Respondents at three of Respondent Owner's
24 shops were clean plugged and issued fraudulent certificates of compliance as detailed below.

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26 ///

27 ² For PID count and communication protocol, the "Expected Value" reported on the
28 charts, below, is the value generated by like vehicles.

TRI VALLEY CARE CARE

**1412 PORTOLA AVENUE
LIVERMORE**

Between December 2015 and February 2017, Respondents Owner, Hernandez, Villegas, and Angel clean plugged and issued fraudulent certificates of compliance to the following 11 vehicles at Respondent Owner's Portola Avenue shop in Livermore, California:

CLEAN PLUG #1	2004 HONDA ACCORD EX, VIN 1HGCM725X4A010152 Technician: Respondent Hernandez			
	Cert. # QA872266C	eVIN Number	Protocol	PID Count
	Fraudulent Inspection (12/16/2015)	IHGCP26469A066124 ³	ICAN29bt500	37 19
	Expected Value	Not Reported	I914	20

CLEAN PLUG #2	2010 NISSAN SENTRA/S/SR/SL, VIN 3N1AB6AP1AL679040 Technician: Respondent Villegas			
	Cert. # YZ134479C	eVIN Number	Protocol	PID Count
	Fraudulent Inspection (2/26/2016)	Not Reported	I9140808	18
	Expected Value	3N1AB6AP1AL679040	ICAN11BT5	39

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³ The OIS data also showed that a 2009 Honda Accord LX-P, VIN 1HGCP26469A066124, was certified at Tri Valley Car Care on December 19, 2015, and was the vehicle used to generate the fraudulent Smog Certificate of Compliance for the 2004 Honda Accord EX.

CLEAN PLUG #3	2001 NISSAN MAXIMA GXE/SE/GLE/20ANNIV, VIN JN1CA31A21T317266 Technician: Respondent Angel			
	Cert. # QC639766C	eVIN Number	Protocol	PID Count
	Fraudulent Inspection (6/20/2016)	1FMJK1H52EEF27841 ⁴	ICAN11bt500	43
	Expected Value	Not Reported	I914	22

CLEAN PLUG #4	2007 CHEVROLET AVALANCHE C1500, VIN 3GNEC12077G196337 ⁵ Technician: Respondent Angel			
	Cert. # ZJ106903C	eVIN Number	Protocol	PID Count
	Fraudulent Inspection (8/13/2016)	2GCEC19T311135981 ⁶	JVPW1850	23
	Expected Value	3GNEC12077G196337	ICAN11bt5	44 7

CLEAN PLUG #5	2005 SUBARU IMPREEZA WRX STI, VIN JF1GD70605L511008 Technician: Respondent Angel			
	Cert. # ZJ302906C	eVIN Number	Protocol	PID Count
	Fraudulent Inspection (8/20/2016)	Not Reported	I9140808	21
	Expected Value	JF1GD70605L511008	KWPF	19

⁴ The OIS data also showed that a 2014 Ford Expedition EL XLT/KING RA, VIN 1FMJK1H52EEF27841, was certified at Tri Valley Car Care by Respondent Angel on the same day, and was the vehicle used to generate the fraudulent certificate of compliance for the 2001 Nissan Maxima.

⁵ OIS data showed that the same 2007 Chevrolet Avalanche C1500 failed an OIS smog check inspection at A+ Auto Service Center the same day the fraudulent inspection was performed.

⁶ The OIS data also showed that a 2001 Chevrolet Silverado C1500, VIN 2GCEC19T311135981, was certified at Tri Valley Car Care by Respondent Angel on the same day, and was the vehicle used to generate the fraudulent certificate of compliance for the 2007 Chevrolet Avalanche.

CLEAN	2008 GMC SIERRA C1500, VIN 1GTEC14X78Z112702			
PLUG #6	Technician: Respondent Angel			
	Cert. # ZJ302920C	eVIN Number	Protocol	PID Count
	Fraudulent Inspection (8/22/2016)	Not Reported	I9140808	17
	Expected Value	1GTEC14X78Z112702	ICAN11bt5	43 7

CLEAN	2005 HYUNDAI ELANTRA GLS/GT, VIN KMHDN46D25U069904			
PLUG #7	Technician: Respondent Angel			
	Cert. # ZJ522038C	eVIN Number	Protocol	PID Count
	Fraudulent Inspection (8/31/2016)	1J4RS6GT4BC503904 ⁷	ICAN11bt500	41
	Expected Value	KMHDN46D25U069904	KWPF	15 17 1, 16 1, 17 or 17 1

CLEAN	2006 TOYOTA SCION XB, VIN JTLKT324X64035619			
PLUG #8	Technician: Respondent Angel			
	Cert. # QE143512C	eVIN Number	Protocol	PID Count
	Fraudulent Inspection (9/13/2016)	1J4RS6GT4BC503904 ⁸	ICAN11bt500	41
	Expected Value	JTLKT324X64035619	ICAN11bt5	34

⁷ DMV records show that the vehicle used to generate the fraudulent certificate of compliance for the 2005 Hyundai Elantra was a 2011 Jeep Grand Cherokee Overland, VIN 1J4RS6GT4BC503904, registered to Respondent Angel.

⁸ DMV records show that the vehicle used to generate the fraudulent certificate of compliance for the 2006 Toyota Scion XB was a 2011 Jeep Grand Cherokee Overland, VIN 1J4RS6GT4BC503904, registered to Respondent Angel.

CLEAN	2005 CHEVROLET CORVETTE, VIN 1G1YY24U055104978 ⁹			
PLUG #9	Technician: Respondent Angel			
	Cert. # QG578670C	eVIN Number	Protocol	PID Count
	Fraudulent Inspection (10/29/2016)	Not Reported	JVPW1850	22
	Expected Value	1G1YY24U055104978	ICAN11bt5	43, 43 7, or 43 7 15.

CLEAN	2000 TOYOTA RAV4, VIN JT3GP10V6Y7066779			
PLUG #10	Technician: Respondent Angel			
	Cert. # ZJ994074C	eVIN Number	Protocol	PID Count
	Fraudulent Inspection (11/12/2016)	1J4RS6GT4BC503904 ¹⁰	ICAN11bt500	41
	Expected Value	Not Reported	I914	16 or 17

CLEAN	2002 CHEVROLET SUBURBAN C1500, VIN 1GNEC16T22J110380			
PLUG #11	Technician: Respondent Angel			
	Cert. # ZP275312C	eVIN Number	Protocol	PID Count
	Fraudulent Inspection (2/4/2017)	1HGCP3F85BA018421 ¹¹	ICAN29bt500	44
	Expected Value	1GNEC16T22J110380	JVPW	21, 22 or 23

⁹ OIS data showed that the same 2005 Chevrolet Corvette failed an OIS smog check inspection at Hi Tech Automotive on October 18, 2016.

¹⁰ DMV records show that the vehicle used to generate the fraudulent certificate of compliance for the 2000 Toyota RAV4 was a 2011 Jeep Grand Cherokee Overland, VIN 1J4RS6GT4BC503904, registered to Respondent Angel.

¹¹ The OIS data also showed that a 2011 Honda Accord EX-L, VIN 1HGCP3F85BA018421, was certified at Tri Valley Car Care by Respondent Angel on the same day, and was the vehicle used to generate the fraudulent certificate of compliance for the 2002 Chevy Suburban.

TRI VALLEY CARE CARE

**1737 FIRST STREET
LIVERMORE**

Between March and September 2016, Respondent Owner and Respondent Angel clean plugged and issued fraudulent certificates of compliance to the following 4 vehicles at Respondent Owner's 1737 First Street shop in Livermore, California:

CLEAN PLUG #1	2005 VOLKSWAGEN NEW JETTA 2.5, VIN 3VWRG71K05M632879			
	Technician: Respondent Angel			
	Cert. # YZ802490C	eVIN Number	Protocol	PID Count
	Fraudulent Inspection (3/17/2016)	1J4RS6GT4BC503904 ¹²	ICAN11bt500	41
	Expected Value	3VWRG71K05M632879	KWPS	19 12, 20, or 20 12

CLEAN PLUG #2	2006 CHRYSLER 300 TOURING, VIN 2C3KA53G96H324715			
	Technician: Respondent Angel			
	Cert. # ZB668164C	eVIN Number	Protocol	PID Count
	Fraudulent Inspection (4/9/2016)	1HGCP3F84AA020109 ¹³	ICAN29bt500	44
	Expected Value	2C3KA53G96H324715	ICAN11bt5	43 6 or 43 8

¹² DMV records show that the vehicle used to generate the fraudulent certificate of compliance for the 2005 Volkswagen New Jetta was a 2011 Jeep Grand Cherokee Overland, VIN 1J4RS6GT4BC503904, registered to Respondent Angel.

¹³ The OIS data also showed that a 2010 Honda Accord EX-L, VIN 1HGCP3F84AA020109, was certified at Tri Valley Car Care by Respondent Angel on the same day, and was the vehicle used to generate the fraudulent certificate of compliance for the 2006 Chrysler 30 Touring.

CLEAN	2007 CHEVROLET SILVERADO K2500HD, VIN 1GCHK23D37F107574			
PLUG #3	Technician: Respondent Angel			
	Cert. #ZF954157C	eVIN Number	Protocol	PID Count
	Fraudulent Inspection (7/11/2016)	IGCHK23255F938599	JVPW1850	12 2
	Expected Value	1GCHK23D37F107574	ICAN11bt5	28 9 3

CLEAN	2002 TOYOTA CAMRY LE/XLE/SE, VIN 4T1BF30K02U001747			
PLUG #4	Technician: Respondent Angel			
	Cert. #QE362099C	eVIN Number	Protocol	PID Count
	Fraudulent Inspection (9/22/2016)	IN4AL11D05C201332 ¹⁴	19140808	18
	Expected Value	Not Reported	1914	21 or 22

TRI VALLEY CARE CARE

**4212 FIRST STREET
LIVERMORE**

Between June 2015 and February 2017, Respondents Owner, Angel, Anklam, and Villegas clean plugged and issued fraudulent certificates of compliance to the following 10 vehicles at Respondent Owner's 4212 First Street shop in Livermore, California:

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¹⁴ The OIS data also showed that a 2005 Nissan Altima S/SL, VIN 1N4AL11D05C201332 was certified at Tri Valley Car Care on September 15, 2016, and was the vehicle used to generate the fraudulent certificate of compliance for the 2002 Toyota Camry.

CLEAN	2009 HONDA CIVIC LX, VIN 19XFA16559E038201			
PLUG #1	Technician: Respondent Anklam			
	Cert. # PS676188C	eVIN Number	Protocol	PID Count
	Fraudulent Inspection (6/22/2015)	5FNRL38628B056799	ICAN29bt500	44 19
	Expected Value	19XFA16559E038201	ICAN29bt5	39 19

CLEAN	2005 TOYOTA PRIUS, VIN JTDKB20U253107770			
PLUG #2	Technician: Respondent Anklam			
	Cert. # YT960506C	eVIN Number	Protocol	PID Count
	Fraudulent Inspection (8/20/2015)	JTEEW41A582025765	ICAN11bt500	45 21
	Expected Value	JTDKB20U253107770	ICAN11bt5	37 21, 37 21 17 or 37 21 5

CLEAN	2001 FORD ESCAPE XLT, VIN 1FMCU04181KF53873			
PLUG #3	Technician: Respondent Anklam			
	Cert. # PY670783C	eVIN Number	Protocol	PID Count
	Fraudulent Inspection (10/30/2015)	1FMCU9DG4AKA03725	ICAN11bt500	45
	Expected Value	1FMCU04181KF53873	JPWM	20 or 23

CLEAN	2005 TOYOTA HIGHLANDER, VIN JTEGD21A750122475			
PLUG #4	Technician: Respondent Villegas			
	Cert. #ZB810057C	eVIN Number	Protocol	PID Count
	Fraudulent Inspection (4/14/2016)	5TDZA22C86S501571	I914808	21
	Expected Value	JTEGD21A750122475	I914	17 or 20

CLEAN	2000 CHEVROLET S10, VIN 1GCCS1443Y8163152 ¹⁵			
PLUG #5	Technician: Respondent Angel			
	Cert. # QE595912C	eVIN Number	Protocol	PID Count
	Fraudulent Inspection (9/26/2016)	IJ4RS6GT4BC503904 ¹⁶	ICAN11bt500	41
	Expected Value	Not Reported	JVPW	16 or 17

CLEAN	2010 TOYOTA VENZA, VIN 4T3ZK3BB3AU027451			
PLUG #6	Technician: Respondent Villegas			
	Cert. # QE595913C	eVIN Number	Protocol	PID Count
	Fraudulent Inspection (9/27/2016)	Not Reported	I9140808	20
	Expected Value	4T3ZK3BB3AU027451	ICAN11bt5	47 17

CLEAN	2006 NISSAN 350Z ROADSTER, VIN JN1AZ36A36M454016			
PLUG #7	Technician: Respondent Angel			
	Cert. # ZN513581C	eVIN Number	Protocol	PID Count
	Fraudulent Inspection (1/16/2017)	1J4RS6GT4BC503904 ¹⁷	ICAN11bt50	41
	Expected Value	JN1AZ36A36M454016	I914	22

¹⁵ OIS data showed that the same 2000 Chevrolet S10 failed an OIS smog check inspection at Buls Auto Service & Smog the same day the fraudulent inspection was performed.

¹⁶ DMV records show that the vehicle used to generate the fraudulent certificate of compliance for the 2000 Chevrolet S10 was a 2011 Jeep Grand Cherokee Overland, VIN 1J4RS6GT4BC503904, registered to Respondent Angel.

¹⁷ DMV records show that the vehicle used to generate the fraudulent certificate of compliance for the 2006 Nissan 350Z Roadster was a 2011 Jeep Grand Cherokee Overland, VIN 1J4RS6GT4BC503904, registered to Respondent Angel.

CLEAN	2000 HONDA CIVIC BASE, VIN 2HGEJ6615YH506664			
PLUG #8	Technician: Respondent Angel			
	Cert. # ZN513582C	eVIN Number	Protocol	PID Count
	Fraudulent Inspection (1/16/2017)	1J4RS6GT4BC503904 ¹⁸	ICAN11bt500	41
	Expected Value	Not Reported	I914	16

CLEAN	2007 CHEVROLET COBALT LT, VIN 1G1AL55F977307117			
PLUG #9	Technician: Respondent Angel			
	Cert. # ZP087950C	eVIN Number	Protocol	PID Count
	Fraudulent Inspection (2/3/2017)	1HGCM56795A101513 ¹⁹	I9140808	21
	Expected Value	1G1AL55F977307117	ICAN11bt5	38, 38 7, 39, or 39 7

CLEAN	2001 CHEVROLET SILVERADO C1500, VIN IGCEC19V11Z204174			
PLUG #10	Technician: Respondent Angel			
	Cert. # ZP773238C	eVIN Number	Protocol	PID Count
	Fraudulent Inspection (2/24/2017)	5UXFA93525LE83002 ²⁰	KWPF8FEF	21 7
	Expected Value	IGCEC19V11Z204174	JVPW	22 or 23

¹⁸ DMV records show that the vehicle used to generate the fraudulent certificate of compliance for the 2007 Chevrolet Cobalt was a 2011 Jeep Grand Cherokee Overland, VIN 1J4RS6GT4BC503904, registered to Respondent Angel.

¹⁹ The OIS data also showed that a 2005 Honda Accord EX, VIN 1HGCM56795A101513, was certified at Tri Valley Car Care by Respondent Angel on the same day, and was the vehicle used to generate the fraudulent certificate of compliance for the 2007 Chevrolet Cobalt.

²⁰ The OIS data also showed that a 2005 BMW X4 4.8IS, VIN 5UXFA93525LE83002, was certified at Tri Valley Car Care by Respondent Angel on the same day, and was the vehicle used to generate the fraudulent certificate of compliance for the 2001 Chevrolet Silverado.

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Misleading Statements - Registration)**

3 34. Respondent Owner has subjected his registration to discipline under Code section
4 9884.7(a)(1), in that Respondent Owner made statements which he knew or which by the exercise
5 of reasonable care he should have known were untrue or misleading, as set forth above in Factual
6 Summary. Respondent Owner purported to test the 25 vehicles and certified that the 25 vehicles
7 passed inspection and were in compliance with applicable laws and regulations. In fact,
8 Respondent Owner conducted the inspections on those vehicles using clean-plugging methods.

9 **SECOND CAUSE FOR DISCIPLINE**

10 **(Fraud - Registration)**

11 35. Respondent Owner has subjected his registration to discipline under Code section
12 9884.7(a)(4), in that he committed acts which constitute fraud, as set forth above in Factual
13 Summary.

14 **THIRD CAUSE FOR DISCIPLINE**

15 **(Violation of the Motor Vehicle Inspection Program – Station License)**

16 36. Respondent Owner has subjected his station license to discipline under Health and
17 Safety Code section 44072.2(a) and (c), in that he violated sections of the Health and Safety Code
18 and applicable regulations, as set forth above in Factual Summary, as follows:

19 a. **Health and Safety Code Section 44012:** Respondent Owner failed to ensure that the
20 25 emission control tests were performed on the vehicles in accordance with procedures
21 prescribed by the department.

22 b. **California Code of Regulations, title 16, Section 3340.24(c):** Respondent Owner
23 falsely or fraudulently issued electronic certificates of compliance for the 25 vehicles without
24 performing bona fide inspections of the emission control devices and systems on the vehicles as
25 required by Health and Safety Code section 44012.

26 d. **California Code of Regulations, title 16, Section 3340.41(c):** Respondent Owner
27 entered into the emissions inspection system vehicle identification information or emission
28 control system identification data for a vehicle other than the one being tested. Respondent

1 Owner further knowingly entered into the emissions inspection system false information about
2 the vehicles being tested.

3 d. **California Code of Regulations, title 16, Section 3340.42:** Respondent Owner
4 failed to conduct the required smog tests and inspections on the vehicles in accordance with the
5 Bureau's specifications.

6 **FOURTH CAUSE FOR DISCIPLINE**

7 **(Dishonesty, Fraud or Deceit – Station License)**

8 37. Respondent Owner has subjected his station license to discipline under Health and
9 Safety Code section 44072.2(d), in that he committed acts involving dishonesty, fraud, or deceit,
10 whereby another was injured, by issuing electronic certificates of compliance for vehicles without
11 performing bona fide inspections of the emission control devices and systems on the vehicles,
12 thereby depriving the People of the State of California of the protection afforded by the Motor
13 Vehicle Inspection Program. The circumstances are detailed above in the Factual Summary.

14 **FIFTH CAUSE FOR DISCIPLINE**

15 **(Violations of the Motor Vehicle Inspection Program – Respondent Angel's Smog**
16 **Check Inspector License)**

17 38. Respondent Angel has subjected his Smog Check Inspector License to discipline
18 under Health and Safety Code section 44072.2(a) and (c), in that he violated sections of the
19 Health and Safety Code and applicable regulations, as set forth above in Factual Summary, as
20 follows:

21 a. **Health and Safety Code Section 44012:** Respondent Angel failed to ensure that the
22 emission control tests were performed on the vehicles in accordance with procedures prescribed
23 by the department.

24 b. **Health and Safety Code Section 44059:** Respondent Angel willfully made false
25 entries on the electronic certificates of compliance by certifying that the vehicles had been
26 inspected as required when, in fact, they had not.

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1 c. **California Code of Regulations, title 16, Section 3340.30(a):** Respondent Angel
2 failed to inspect and test the vehicles in accordance with Health and Safety Code sections 44012
3 and 44035 and/or California Code of Regulations, title 16, section 3340.42.

4 d. **California Code of Regulations, title 16, Section 3340.41(c):** Respondent Angel
5 entered into the emissions inspection system vehicle identification information or emission
6 control system identification data for a vehicle other than the one being tested, and/or knowingly
7 entered into the emissions inspection system false information about the vehicles being tested.

8 e. **California Code of Regulations, title 16, Section 3340.42:** Respondent Angel failed
9 to conduct the required smog tests and inspections on the vehicles in accordance with the
10 Bureau's specifications.

11 **SIXTH CAUSE FOR DISCIPLINE**

12 **(Dishonesty, Fraud or Deceit – Respondent Angel's Smog Check Inspector License)**

13 39. Respondent Angel has subjected his Smog Check Inspector License to discipline
14 under Health and Safety Code section 44072.2(d), in that he committed acts involving dishonesty,
15 fraud, or deceit whereby another was injured, when he willfully made false entries on the
16 electronic certificates of compliance and certified that the vehicles had been inspected as required
17 when, in fact, they had not, depriving the People of the State of California of the protection
18 afforded by the Motor Vehicle Inspection Program. The circumstances are described in more
19 detail above in Factual Summary.

20 **SEVENTH CAUSE FOR DISCIPLINE**

21 **(Violations of the Motor Vehicle Inspection Program – Respondent Anklam Smog**
22 **Check Inspector License)**

23 40. Respondent Anklam has subjected his Smog Check Inspector License and his Smog
24 Check Repair Technician License to discipline under Health and Safety Code section 44072.2(a)
25 and (c), in that he violated sections of the Health and Safety Code and applicable regulations, as
26 set forth above in Factual Summary, as follows:

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a. **Health and Safety Code Section 44012:** Respondent Anklam failed to ensure that the emission control tests were performed on the vehicles in accordance with procedures prescribed by the department.

b. **Health and Safety Code Section 44059:** Respondent Anklam willfully made false entries on the electronic certificates of compliance by certifying that the vehicles had been inspected as required when, in fact, they had not.

c. **California Code of Regulations, title 16, Section 3340.30(a):** Respondent Anklam failed to inspect and test the vehicles in accordance with Health and Safety Code sections 44012 and 44035 and/or California Code of Regulations, title 16, section 3340.42.

d. **California Code of Regulations, title 16, Section 3340.41(c):** Respondent Anklam entered into the emissions inspection system vehicle identification information or emission control system identification data for a vehicle other than the one being tested, and/or knowingly entered into the emissions inspection system false information about the vehicles being tested.

e. **California Code of Regulations, title 16, Section 3340.42:** Respondent Anklam failed to conduct the required smog tests and inspections on the vehicles in accordance with the Bureau's specifications.

EIGHTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit – Respondent Anklam's Smog Check Inspector License)

41. Respondent Anklam has subjected his Smog Check Inspector License and his Smog Check Repair Technician License to discipline under Health and Safety Code section 44072.2(d), in that he committed acts involving dishonesty, fraud, or deceit whereby another was injured, when he willfully made false entries on the electronic certificates of compliance and certified that the vehicles had been inspected as required when, in fact, they had not, depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program. The circumstances are described in more detail above in Factual Summary.

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1 electronic certificates of compliance and certified that the vehicles had been inspected as required
2 when, in fact, they had not, depriving the People of the State of California of the protection
3 afforded by the Motor Vehicle Inspection Program. The circumstances are described in more
4 detail above in Factual Summary.

5 **ELEVENTH CAUSE FOR DISCIPLINE**

6 **(Violations of the Motor Vehicle Inspection Program – Respondent Hernandez Smog**
7 **Check Inspector License)**

8 44. Respondent Hernandez has subjected his Smog Check Inspector License and his
9 Smog Check Repair Technician License to discipline under Health and Safety Code section
10 44072.2(a) and (c), in that he violated sections of the Health and Safety Code and applicable
11 regulations, as set forth above in Factual Summary, as follows:

12 a. **Health and Safety Code Section 44012:** Respondent Hernandez failed to ensure that
13 the emission control tests were performed on the vehicles in accordance with procedures
14 prescribed by the department.

15 b. **Health and Safety Code Section 44059:** Respondent Hernandez willfully made
16 false entries on the electronic certificates of compliance by certifying that the vehicles had been
17 inspected as required when, in fact, they had not.

18 c. **California Code of Regulations, title 16, Section 3340.30(a):** Respondent
19 Hernandez failed to inspect and test the vehicles in accordance with Health and Safety Code
20 sections 44012 and 44035 and/or California Code of Regulations, title 16, section 3340.42.

21 d. **California Code of Regulations, title 16, Section 3340.41(c):** Respondent
22 Hernandez entered into the emissions inspection system vehicle identification information or
23 emission control system identification data for a vehicle other than the one being tested, and/or
24 knowingly entered into the emissions inspection system false information about the vehicles
25 being tested.

26 e. **California Code of Regulations, title 16, Section 3340.42:** Respondent Hernandez
27 failed to conduct the required smog tests and inspections on the vehicles in accordance with the
28 Bureau's specifications.

1 **TWELFTH CAUSE FOR DISCIPLINE**

2 **(Dishonesty, Fraud or Deceit – Respondent Hernandez’s Smog Check Inspector**
3 **License)**

4 45. Respondent Hernandez has subjected his Smog Check Inspector License and his
5 Smog Check Repair Technician License to discipline under Health and Safety Code section
6 44072.2(d), in that he committed acts involving dishonesty, fraud, or deceit whereby another was
7 injured, when he willfully made false entries on the electronic certificates of compliance and
8 certified that the vehicles had been inspected as required when, in fact, they had not, depriving the
9 People of the State of California of the protection afforded by the Motor Vehicle Inspection
10 Program. The circumstances are described in more detail above in Factual Summary.

11 **DISCIPLINE CONSIDERATIONS**

12 To determine the degree of discipline, if any, to be imposed, Complainant alleges the
13 following:

14 46. Between approximately April 30, 2009 and February 23, 2016, Tri Valley Car Care
15 was issued six (6) citations for violations of Health and Safety Code section 44012.

16 47. On or about February 23, 2016, Respondent Angel was issued Citation Number
17 M2016-0533 for issuing a Certificate of Compliance to a vehicle using a BAR 97 when the OBD
18 Inspection System was required.

19 48. On or about March 6, 2012, Respondent Hernandez was issued Citation Number
20 M2012-1082 for issuing a Certificate of Compliance to a vehicle with a missing fuel evaporative
21 canister; and on or about June 2, 2015, Respondent Hernandez was issued Citation Number
22 M2015-0660 for issuing a Certificate of Compliance to a vehicle using a BAR 97 when the OBD
23 Inspection System was required.

24 49. On or about February 16, 2016, Respondent Villegas was issued Citation Number
25 M2016-0452 for issuing a Certificate of Compliance to a vehicle using a BAR 97 when the OBD
26 Inspection System was required. The citation matter is pending appeal.

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OTHER MATTERS

50. Pursuant to Code section 9884.7(c), the Director may suspend, revoke, or place on probation the automotive repair dealer registrations for all places of business operated in this state by Respondent Owner upon a finding that Respondent Owner has, or is, engaged in a course of repeated and willful violations of the laws and regulations pertaining to an automotive repair dealer.

51. Pursuant to Health & Safety Code section 44072.8, if Respondent Owner's station license is revoked or suspended, any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code in the name of Respondent Owner may be likewise revoked or suspended by the Director.

52. Pursuant to Health & Safety Code section 44072.8, if Respondent Angel's Smog Check Inspector License is revoked or suspended, any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code in the name of Respondent Angel may be likewise revoked or suspended by the Director.

53. Pursuant to Health & Safety Code section 44072.8, if either Respondent Anklam's Smog Check Inspector License or Smog Check Repair Technician License is revoked or suspended, any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code in the name of Respondent Angel may be likewise revoked or suspended by the Director.

54. Pursuant to Health & Safety Code section 44072.8, if Respondent Villegas's Smog Check Inspector License is revoked or suspended, any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code in the name of Respondent Angel may be likewise revoked or suspended by the Director.

55. Pursuant to Health & Safety Code section 44072.8, if either Respondent Hernandez's Smog Check Inspector License or Smog Check Repair Technician License is revoked or suspended, any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code in the name of Respondent Hernandez may be likewise revoked or suspended by the Director.

PRAYER

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

1. Revoking or suspending Automotive Repair Dealer Registration Numbers ARD 250215, ARD 250216, and ARD 263831, Smog Check Station License No. RC 250215, Smog Check Station License No. RC 250216, and Smog Check Station License No. TC 263831, issued to Martin Hernandez – Owner, d.b.a. Tri Valley Car Care (Respondent Owner), and

2. Revoking or suspending any other automotive repair dealer registration issued to Martin Hernandez;

3. Revoking or suspending any other license issued under Chapter 5, Part 5, Division 26 of the Health and Safety Code in the name of Martin Hernandez;

4. Revoking or suspending Smog Check Inspector License No. EO 635174, issued to Magno Ramon Angel (Respondent Angel);

5. Revoking or suspending any other license issued under Chapter 5, Part 5, Division 26 of the Health and Safety Code in the name of Respondent Angel;

6. Revoking or suspending Smog Check Inspector License No. EO 635425, issued to Nick Noel Anklam (Respondent Anklam);

7. Revoking or suspending Smog Check Technician License No. EI 635425, issued to Respondent Anklam;

8. Revoking or suspending any other license issued under Chapter 5, Part 5, Division 26 of the Health and Safety Code in the name of Respondent Anklam;

9. Revoking or suspending Smog Check Inspector License No. EO 635766, issued to Jonathan Ezequiel Villegas (Respondent Villegas);

10. Revoking or suspending any other license issued under Chapter 5, Part 5, Division 26 of the Health and Safety Code in the name of Respondent Villegas;

11. Revoking or suspending Smog Check Inspector License No. EO 631794, issued to Christopher Martin Hernandez (Respondent Hernandez);

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12. Revoking or suspending Smog Check Repair Technician License No. EI 631794,
issued to Respondent Hernandez;

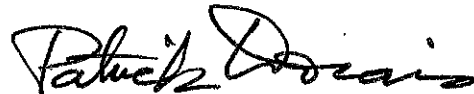
13. Revoking or suspending any other license issued under Chapter 5, Part 5, Division 26
of the Health and Safety Code in the name of Respondent Hernandez;

14. Ordering Respondent Owner, Respondent Angel, Respondent Anklam, Respondent
Villegas, and Respondent Hernandez to pay the Bureau of Automotive Repair the reasonable
costs of the investigation and enforcement of this case, pursuant to Business and Professions
Code section 125.3;

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

DATED:

December 11, 2018



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

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