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

12 In the Matter of the Accusation Against:

Case No. 79/25-20001

13 **LEONARDO A NAVA DBA LEON SMOG**
14 **CHECK**
15 **7452 Lankershim Blvd**
16 **N Hollywood, CA 91605**

ACCUSATION

17 **Automotive Repair Dealer Registration No.**
18 **ARD 298114**
19 **Smog Check Test Only Station License No.**
20 **TC 298114**

21 **and**

22 **ANDRAS JOE TOTH**
23 **1820 N La Brea Ave Unit 3**
24 **Los Angeles, CA 90046**

25 **Smog Check Inspector License No.**
26 **EO 140972**

27 Respondents.

28 **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.

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1 proceeding against an automotive repair dealer or to render a decision temporarily or permanently
2 invalidating (suspending or revoking) a registration.

3 10. Health and Safety Code (Health & Saf. Code) section 44002 provides, in pertinent
4 part, that the Director has all the powers and authority granted under the Automotive Repair Act
5 for enforcing the Motor Vehicle Inspection Program.

6 11. Health & Saf. Code section 44072.6 provides, in pertinent part, that the expiration or
7 suspension of a license by operation of law, or by order or decision of the Director of Consumer
8 Affairs, or a court of law, or the voluntary surrender of the license shall not deprive the Director
9 of jurisdiction to proceed with disciplinary action.

10 **STATUTORY PROVISIONS**

11 12. Bus. & Prof. Code section 9884.7 states, in pertinent part:

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

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

21

22 (4) Any other conduct that constitutes fraud.

23

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

26

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

. . . .

(e) For purposes of this section, "fraud" includes, but is not limited to,
violations of this chapter involving misrepresentations and all of the following:

1 (1) Any act or omission that is included within the definition of either “actual
2 fraud” or “constructive fraud,” as those terms are defined in Sections 1572 and 1573
3 of the Civil Code.

4 (2) A misrepresentation in any manner, whether intentionally false or due to
5 gross negligence, of a material fact.

6 (3) A promise or representation not made honestly and in good faith.

7 (4) An intentional failure to disclose a material fact.

8 (5) Any act in violation of Section 484 of the Penal Code.

9 13. Bus. & Prof. Code section 477 provides, in pertinent part, that “Board” includes
10 “bureau,” “commission,” “committee,” “department,” “division,” “examining committee,”
11 “program,” and “agency.” “License” includes certificate, registration or other means to engage in
12 a business or profession regulated by the Bus. & Prof. Code.

13 14. Health & Saf. Code section 44012 provides, in pertinent part, that tests at smog check
14 stations shall be performed in accordance with procedures prescribed by the department.

15 15. Health & Saf. Code section 44015, subdivision (b), provides that a certificate of
16 compliance shall be issued if a vehicle meets the requirements of Health & Saf. Code section
17 44012.

18 16. Health & Saf. Code section 44032 provides that qualified technicians shall perform
19 tests of emissions control devices and systems in accordance with Health & Saf. Code section
20 44012.

21 17. Health & Saf. Code section 44072.2 states, in pertinent part:

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

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

28

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

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

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1 18. Health & Saf. Code section 44072.10 states, in pertinent part:

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

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

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

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

11 (4) Intentional or willful violation of this chapter or any regulation, standard, or
12 procedure of the department implementing this chapter

13 19. Health & Saf. Code section 44072.8 states that when a license has been revoked or
14 suspended following a hearing under this article, any additional license issued under this chapter
15 in the name of the licensee may be likewise revoked or suspended by the director.

16 **REGULATORY PROVISIONS**

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

19 “The bureau may suspend or revoke the license of or pursue other legal action against a
20 licensee, if the licensee falsely or fraudulently issues or obtains a certificate of compliance or a
21 certificate of noncompliance.”

22 21. CCR, title 16, section 3340.30, subdivision (a), states that a licensed smog technician
23 shall at all times “[i]nspect, test and repair vehicles, as applicable, in accordance with section
24 44012 of the Health & Saf. Code, section 44035 of the Health & Saf. Code, and section 3340.42
25 of this article.”

26 22. CCR, title 16, section 3340.35, subdivision (c), states that a licensed smog check
27 station “shall issue a certificate of compliance or noncompliance to the owner or operator of any
28 vehicle that has been inspected in accordance with the procedures specified in section 3340.42 of
this article and has all the required emission control equipment and devices installed and
functioning correctly.”

1 23. CCR, title 16, section 3340.41 states, in pertinent part:

2

3 (b) No person shall enter any access or qualification number other than as
4 authorized by the Bureau into the EIS or OIS, nor in any way tamper with the EIS or
5 OIS.

6 (c) No person shall enter any vehicle identification information or emission
7 control system identification data for any vehicle other than the one being tested into
8 the EIS or OIS. Nor shall any person enter into the EIS or OIS any false information
9 about the vehicle being tested

10 24. CCR, title 16, section 3340.42, sets forth specific emissions test methods and
11 procedures which apply to all vehicles inspected in the State of California.

12 **COST RECOVERY**

13 25. Bus. & Prof. Code section 125.3 provides, in pertinent part, that a Board may request
14 the administrative law judge to direct a licentiate found to have committed a violation or
15 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
16 and enforcement of the case.

17 **CALIFORNIA'S SMOG CHECK PROGRAM**

18 26. California's Smog Check Program requires most vehicles in the State to undergo a
19 smog check inspection every two years or when the vehicle's title is transferred.

20 27. A smog check inspection in certain Enhanced areas of the State is an Acceleration
21 Simulation Mode (ASM) test performed using an Emission Inspection System (EIS), also known
22 as a BAR 97. This is a computer based five-gas analyzer that measures Hydrocarbons (HC),
23 Carbon Monoxide (CO), Oxides of Nitrogen (NO_x), Carbon Dioxide (CO₂) and Oxygen (O₂).
24 The first part of the test is a loaded mode test of the vehicle's tailpipe emissions on a
25 dynamometer. The vehicle's drive wheels are placed on rollers, and the vehicle is driven to
26 simulate driving conditions while the emissions are sampled by the EIS.

27 28. In Basic areas of the State, or depending on a vehicle's configuration, a similar test
28 called a Two Speed Idle test is performed, but instead of applying a load to the vehicle's drive
wheels with a dynamometer, the EIS measures the emissions of HC, CO, O₂, and CO₂ at idle as
well as 2500 revolutions per minute (rpm).

1 29. In the visual portion of a smog check, the technician inspects the emission control
2 components to verify that the required emission control devices are present and properly
3 connected.

4 30. An On-Board Diagnostics (OBD II) functional test is also performed on most 1996 to
5 1999 model year vehicles. The EIS retrieves information through the Diagnostic Link Connector
6 (DLC) from the vehicle's on-board computer about its ability to communicate, the status of the
7 I/M readiness monitors and the MIL light command. The I/M readiness monitors tell whether or
8 not the OBD II system has run a sufficient number of self-tests on the vehicle's emission and
9 engine control systems. A failure of one or more of the OBD II functional criteria, depending on
10 model year, will result in the vehicle failing its smog check inspection. In addition to reporting
11 the outcome of the OBD II functional test, the smog check inspection results also show
12 Diagnostic Trouble Codes (DTC) if there are any in the vehicle's on-board computer memory.

13 31. The inspector enters the results of the visual and functional inspections into the EIS.
14 The EIS unit makes the determination whether or not the vehicle passes the inspection based on
15 the results of the tailpipe, visual and functional tests.

16 32. The EIS is connected by internet connection to Bureau's Vehicle Information
17 Database (VID). If the vehicle passes the visual, functional and tailpipe tests, it passes the overall
18 inspection. A Certificate of Compliance is issued and transmitted electronically to the VID.
19 Additionally, all data gathered during a Smog Check inspection, regardless of the type of
20 inspection, is transmitted to and retained in the VID.

21 33. Beginning March 9, 2015, California's Smog Check Program was updated to require
22 the use of an On-Board Diagnostic Inspection System (BAR-OIS). BAR-OIS is the smog check
23 equipment required in all areas of the State when inspecting most model-year 2000 and newer
24 gasoline and hybrid vehicles. The system consists of a certified Data Acquisition Device (DAD),
25 computer, bar code scanner, and printer. The DAD is an OBD scan tool that, when requested by
26 the BAR-OIS software, retrieves OBD data from the vehicle. All OBD data that the vehicle
27 indicates it supports is requested by the BAR-OIS software and will be retrieved. The DAD
28 connects between the BAR-OIS computer and the vehicle's DLC. The bar code scanner is used to

1 input inspector information, the vehicle identification number (VIN), and Department of Motor
2 Vehicles renewal information. The printer provides a Vehicle Inspection Report (VIR)
3 containing inspection results for motorists and a Smog Check Certificate of Compliance number
4 for passing vehicles.

5 34. During an OIS inspection, engine operating parameters are retrieved from the
6 vehicle's OBD II system and recorded to the VID. This is accomplished during the functional
7 portion of the OIS Smog Check inspection by plugging the DAD into the vehicle's DLC when
8 prompted by the OIS analyzer screen prompt. Some of the parameters recorded are:

- 9 • Engine speed in revolutions per minute (RPM)
- 10 • Throttle position as measured by a throttle position sensor (TPS) mounted onto the
11 throttle shaft. Measured in a percentage of opening from 0% at idle and near or up to 100% at full
12 throttle.
- 13 • Manifold absolute pressure as measured by a manifold air pressure sensor (MAP)
14 connected to an intake manifold source, measured in kilo pascals (kpa). Typical readings for a
15 normally aspirated vehicle as follows: 0 kpa being absolute vacuum, 25 to 45 kpa at idle, 101 kpa
16 at full throttle, same as atmospheric pressure at sea level.
- 17 • Mass air flow as measured by a mass air flow sensor (MAF) mounted in the engine's
18 air intake tract. Measured in grams per second (gps).
- 19 • Ignition timing is set by the vehicle PCM based on engine speed and load, and is
20 measured in degrees Before Top Dead Center (BTDC).

21 Not all vehicles include both MAP and MAF parameters. Many vehicles will have either
22 MAP or MAF parameters separately.

23 35. During normal engine operation at idle, engine speed is relatively steady around its
24 target idle speed. With the engine idling, the TPS is steady and at or near 0%. The MAP and/or
25 MAF readings are also steady. For the engine speed to increase, the throttle would have to be
26 opened in order to increase airflow through the engine. The engine's management systems
27 supply fuel and spark timing appropriate to any changes in throttle position and engine speed.
28 An increase in throttle, measured by the TPS, which increases engine RPM, would result in a

1 corresponding increase in MAF as well as a change in MAP. Any movement in the throttle from
2 the idle position will result in an increase of airflow through the engine with corresponding
3 increases RPM and MAF along with changes in MAP.

4 36. During an OIS Smog Check inspection, along with other visual and functional
5 inspections, there is an OBD II query portion of the inspection. The OBD II query is performed
6 with the engine idling and, when requested by the OIS analyzer, and an elevated or increased
7 engine speed. The increase in engine speed is performed by the inspector by stepping on the
8 throttle pedal or manually opening the throttle resulting in a corresponding increase in engine
9 RPMs by allowing an increase in airflow into the engine.

10 37. The Bureau has become aware of methods that some Smog Check stations and Smog
11 Check inspectors use to fraudulently issue smog certificates to vehicles that may not pass a smog
12 check test on their own, or in some instances, are not even present during the time the test is
13 performed. "Clean plugging" is a method by which another vehicle's OBD II system, or another
14 source such as defeat devices, are used to generate passing data readings or diagnostic
15 information for the purpose of fraudulently issuing smog certificates to vehicles that are not in
16 smog compliance, and or not present for testing. Defeat devices attempt to simulate engine
17 operation during a smog check inspection by transmitting OBD II data to the VID which has been
18 modified or replaced entirely for the purportedly inspected vehicle during the functional portion
19 of the OIS inspection.

20 **FACTUAL ALLEGATIONS**

21 ***Citation, Proactive Conference, and Station Inspections***

22 38. On or about October 12, 2010, the Bureau issued Citation # M2011-0437 to
23 Respondent Toth for violating Health and Safety Code section 44032 and CCR, title 16, section
24 3340.40, subdivision (a), by issuing a certificate of compliance to a Bureau undercover vehicle
25 with a missing positive crankcase ventilation system on September 13, 2010. The citation
26 required Respondent Toth to complete an 8-hour training course. The required training was
27 completed on November 1, 2010, and the citation become final on November 12, 2010.

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1 39. On or about October 16, 2019, a Bureau representative held a proactive conference
2 with Respondent Toth at the Bureau’s Valencia field office. During the conference, Respondent
3 Toth was advised, among other things, that he must follow all laws and regulations pertaining to
4 the Automotive Repair Act, that no false information about the vehicle being tested may be
5 entered into the analyzer, and that tests and inspections must be performed in accordance with the
6 Bureau’s Smog Check Manual. In addition, CCR, title 16, section 3340.41, subdivision (c), was
7 discussed with Respondent Toth, who was also provided with educational material and made
8 aware of the seriousness of the Bureau’s warnings.

9 40. On or about September 6, 2022, a Bureau representative visited Leon Smog Check to
10 address a lock out of the station’s OIS due to the transmission of anomalous data to the VID. The
11 Bureau representative met with Respondents Nava and Toth and advised both to follow all laws
12 and regulations, and to perform complete and accurate Smog Check inspections in accordance
13 with all laws and regulations, Smog Check program requirements, and screen prompts.

14 41. On or about September 29, 2022, a Bureau representative visited Leon Smog Check
15 and again met with Responds Nava and Toth. Respondent Nava was advised, among other
16 things, that all station inspections must be performed in accordance with CCR, title 16, section
17 3340.16 and the Smog Check Manual, and that compliance with the Automotive Repair Act is
18 mandatory.

19 42. On or about June 12, 2022, a Bureau representative visited Leon Smog Check and
20 met with Respondent Nava. Respondent Nava was advised that all Smog Check inspections must
21 be performed in accordance with CCR, title 16, section 3340.16 and the Smog Check Manual,
22 and that compliance with the Automotive Repair Act is mandatory.

23 ***Investigation***

24 43. On or about November 7, 2025, a Bureau Representative conducted a detailed review
25 of the VID data for Smog Check inspections performed at Leon Smog Check which showed a
26 pattern of vehicles being certified with engine operating parameters that did not correspond to
27 normal engine operation, confirming the vehicles receiving smog certifications were not tested
28 during the OBD II functional test, which constitutes clean plugging. The Bureau’s review of the

1 smog check activities at Leon Smog Check confirmed ten (10) Smog Check Certificates of
2 Compliance were fraudulently issued by Leon Smog Check to vehicles that were inspected by
3 Respondent Toth.

4 **Fraudulent Inspection Number 1 – 2000 Chevrolet Silverado C1500**

5 44. OIS Test Data for Leon Smog Check indicated that on December 12, 2023, a 2000
6 Chevrolet Silverado C1500, CA license #36864E1, VIN #1GCEC14W4YZ239026 (2000
7 Silverado C1500), was tested and Smog Certificate of Compliance #IX948852C was issued by
8 Leon Smog Check, under Respondent Toth's Smog Check Inspector License. The OIS Test Data
9 also show that between time stamps 45 and 23776, the engine RPM is steady at around 645 RPM.
10 During this time, the data show that the throttle initially drops from 1.2% to 0.4% opening, then
11 rises back to 1.2% opening before rising to 3.9% opening, the MAF is fluctuating erratically
12 between 0.33gps and 2.37gps, and the MAP is fluctuating erratically between 96kPa and 110kPa.
13 After time stamp 23776, the data show the engine RPM is increased and held steady at around
14 1890 RPM. During the steady elevated engine RPM, the data show the throttle initially rises
15 from 1.2% to 4.3% opening, then drops to 0% opening before rising to 0.4% opening, the MAF
16 initially dropped from 1.91gps to 1.82gps, then continued to decline steadily until reaching a low
17 of 0.36gps, before rising to 0.46gps, and the MAP is fluctuating erratically between 96kPa and
18 109kPa.

19 45. The steady idle and steady elevated engine RPM data along with the improbable
20 throttle positions, MAF, and MAP readings are not characteristic or expected for normal engine
21 operation. The throttle positions and MAF readings are expected to be stable during the steady
22 idle and subsequently raised and stable during the steady elevated engine RPM, not decrease to
23 values less than idle or drop and rise unexpectedly. During the improbable readings, the throttle
24 and MAF had data points during the elevated engine RPM which were lower than data points at
25 idle. The MAF data points during the elevated engine RPM never increased past the highest data
26 point at idle. These discrepancies confirm that the OIS DAD was not connected to the 2000
27 Silverado C1500 during the certification process as required, thereby confirming this as a
28 fraudulent inspection by way of Clean Plugging.

1 **Fraudulent Inspection Number 2 – 2002 BMW 325 I**

2 46. OIS Test Data for Leon Smog Check indicated that on December 16, 2023, a 2002
3 BMW 325 I, CA license #8SSH957, VIN #WBAET374X2NH00105 (2002 325 I), was tested and
4 smog certificate #IX948864C was issued by Leon Smog Check, under Respondent Toth’s Smog
5 Check Inspector License. The OIS Test Data also show that between time stamps 218 and 25447,
6 the engine RPM is steady at around 810 RPM. During this time, the data show that the throttle is
7 at 0% opening and the MAF is fixed at 4.2gps. After time stamp 25447, the data show the engine
8 RPM is increased and held steady at around 1675 RPM. During the steady elevated engine RPM,
9 the data show the throttle is fluctuating between 0% and 4.7% opening and the MAF is
10 fluctuating between 3.47gps and 4.34gps.

11 47. The steady idle and steady elevated engine RPM data along with the improbable
12 throttle positions and MAF readings are not characteristic or expected for normal engine
13 operation. The throttle positions and MAF readings are expected to be stable during the steady
14 idle and subsequently raised and stable during the steady elevated engine RPM, not decrease to
15 values less than idle or drop and rise unexpectedly. During the improbable readings, the throttle
16 and MAF had data points during the elevated engine RPM which were equal to or lower than data
17 points at idle. During the elevated engine RPM, the throttle and MAF exhibited an anomalous
18 inverse correlation, contrary to expected behavior. These discrepancies confirm that the OIS
19 DAD was not connected to the 2002 325 I during the certification process as required, thereby
20 confirming this as a fraudulent inspection by way of Clean Plugging.

21 **Fraudulent Inspection Number 3 – 2007 Honda Accord EX**

22 48. OIS Test Data for Leon Smog Check indicated that on December 19, 2023, a 2007
23 Honda Accord EX, CA license #7HIT917, VIN #1HGCM72617A003930 (2007 Accord EX), was
24 tested and smog certificate #IX948877C was issued by Leon Smog Check, under Respondent
25 Toth’s Smog Check Inspector License. The OIS Test Data also show that between time stamps
26 186 and 23280, the engine RPM is steady at around 690 RPM. During this time, the data show
27 that the throttle is fluctuating erratically between 13.7% and 17.3% opening, the MAF initially
28 rises from 4.52gps to 4.68gps, then continues to increase to 4.91gps before ultimately dropping to

1 2.78gps and the MAP is fluctuating between 17kPa and 29kPa. After time stamp 23280, the data
2 show the engine RPM is increased and held steady at around 1635 RPM. During the steady
3 elevated engine RPM, the data show the throttle is fluctuating erratically between 12.5% and
4 15.3% opening, the MAF is fluctuating erratically between 3.43gps and 4.72gps and the MAP
5 initially drops from 29kPa to 21kPa, then continues to drop to 19kPa before ultimately rising to
6 25kPa.

7 49. The steady idle and steady elevated engine RPM data along with the improbable
8 throttle positions, MAF, and MAP readings are not characteristic or expected for normal engine
9 operation. The throttle positions and MAF readings are expected to be stable during the steady
10 idle and subsequently raised and stable during the steady elevated engine RPM, not decrease to
11 values less than idle or drop and rise unexpectedly. During the improbable readings, the throttle
12 and MAF had data points during the elevated engine RPM which were lower than data points at
13 idle. The throttle and MAF data points during the elevated engine RPM never increased past the
14 highest data point at idle. These discrepancies confirm that the OIS DAD was not connected to
15 the 2007 Honda Accord EX during the certification process as required, thereby confirming this
16 as a fraudulent inspection by way of Clean Plugging.

17 **Fraudulent Inspection Number 4 – 2003 Chevrolet Express G1500**

18 50. OIS Test Data for Leon Smog Check indicated that on December 27, 2023, a 2003
19 Chevrolet Express G1500, VIN #1GCFG15T831150967 (2003 Express G1500), was tested and
20 smog certificate #IX948897C was issued by Leon Smog Check, under Respondent Toth's Smog
21 Check Inspector License. The OIS Test Data also show that between time stamps 43 and 37657,
22 the engine RPM is steady at around 725 RPM. During this time, the data show that the throttle is
23 fluctuating erratically between 1.2% and 4.7% opening, the MAF initially drops from 5.05gps to
24 3.9gps, then incrementally increases to 5.07gps before dropping to 4.97gps, and the MAP rises
25 from 35kPa to 42kPa, then drops to 40kPa before dropping to 34kPa. After time stamp 37657,
26 the data show the engine RPM is increased and held steady at around 1495 RPM. During the
27 steady elevated engine RPM, the data show the throttle is fluctuating erratically between 0.4%

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1 and 5.5% opening, the MAF is fluctuating erratically between 2.88gps and 4.92gps, and the MAP
2 is fluctuating erratically between 33kPa and 46kPa.

3 51. The steady idle and steady elevated engine RPM data along with the improbable
4 throttle positions, MAF, and MAP readings are not characteristic or expected for normal engine
5 operation. The throttle positions and MAF readings are expected to be stable during the steady
6 idle and subsequently raised and stable during the steady elevated engine RPM, not decrease to
7 values less than idle or drop and rise unexpectedly. During the improbable readings, the throttle
8 and MAF had data points during the elevated engine RPM which were lower than data points at
9 idle. The MAF data points during the elevated engine RPM never increased past the highest data
10 point at idle. These discrepancies confirm that the OIS DAD was not connected to the 2003
11 Express G1500 during the certification process as required, thereby confirming this as a
12 fraudulent inspection by way of Clean Plugging.

13 **Fraudulent Inspection Number 5 – 2007 Honda Accord LX**

14 52. OIS Test Data for Leon Smog Check indicated that on December 27, 2023, a 2007
15 Honda Accord LX, CA license #6LZE403, VIN #JHMC56477C026076 (2007 Accord LX),
16 was tested and smog certificate #TQ444601C was issued by Leon Smog Check, under
17 Respondent Toth's Smog Check Inspector License. The OIS Test Data also show that between
18 time stamps 180 and 18999, the engine RPM is steady at around 710 RPM. During this time, the
19 data show that the throttle is fixed at 12.9% opening, the MAF is fixed at 2.32gps, and the MAP
20 is fixed at 26kPa. After time stamp 18999, the data show the engine RPM is increased and held
21 steady at around 2175 RPM. During the steady elevated engine RPM, the data show the throttle
22 is fluctuating erratically between 14.1% and 16.1% opening, the MAF is fluctuating erratically
23 between 0.4gps and 1.97gps, and the MAP is fluctuating erratically between 18kPa and 29kPa.

24 53. The steady idle and steady elevated engine RPM data along with the improbable
25 throttle positions, MAF, and MAP readings are not characteristic or expected for normal engine
26 operation. The throttle positions and MAF readings are expected to be stable during the steady
27 idle and subsequently raised and stable during the steady elevated engine RPM, not decrease to
28 values less than idle or drop and rise unexpectedly. During the improbable readings, the MAF

1 had data points during the elevated engine RPM which were lower than data points at idle. The
2 MAF data points during the elevated engine RPM never increased past the highest data point at
3 idle. During the elevated engine RPM, the throttle and MAF exhibited an anomalous inverse
4 correlation, contrary to expected behavior. These discrepancies confirm that the OIS DAD was
5 not connected to the 2007 Accord LX during the certification process as required, thereby
6 confirming this as a fraudulent inspection by way of Clean Plugging.

7 **Fraudulent Inspection Number 6 – 2002 Subaru Legacy Outback AWP**

8 54. OIS Test Data for Leon Smog Check indicated that on January 20, 2024, a 2002
9 Subaru Legacy Outback AWP, CA license #8PJS255, VIN #4S3BH675227655888 (2002 Legacy
10 Outback AWP), was tested and smog certificate #TS068515C was issued by Leon Smog Check,
11 under Respondent Toth's Smog Check Inspector License. The OIS Test Data also show that
12 between time stamps 203 and 18137, the engine RPM is steady at around 750 RPM. During this
13 time, the data show that the throttle is fixed at 0% opening, the MAF is fixed at 2.5gps, and the
14 MAP is fixed at 27kPa. After time stamp 18137, the data show the engine RPM is increased and
15 held steady at around 2125 RPM. During the steady elevated engine RPM, the data show the
16 throttle is fluctuating erratically between 0.8% and 4.7% opening, the MAF rises from 0.98gps to
17 2.44gps before ultimately dropping to 0.31gps, and the MAP is fluctuating erratically between
18 18kPa and 29kPa.

19 55. The steady idle and steady elevated engine RPM data along with the improbable
20 throttle positions, MAF, and MAP readings are not characteristic or expected for normal engine
21 operation. The throttle positions and MAF readings are expected to be stable during the steady
22 idle and subsequently raised and stable during the steady elevated engine RPM, not decrease to
23 values less than idle or drop and rise unexpectedly. During the improbable readings, the MAF
24 had data points during the elevated engine RPM which were lower than data points at idle. The
25 MAF data points during the elevated engine RPM never increased past the highest data point at
26 idle. During the elevated engine RPM, the throttle and MAF exhibited an anomalous inverse
27 correlation, contrary to expected behavior. These discrepancies confirm that the OIS DAD was
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1 not connected to the 2002 Legacy Outback AWP during the certification process as required,
2 thereby confirming this as a fraudulent inspection by way of Clean Plugging.

3 **Fraudulent Inspection Number 7 – 2005 Honda Accord LX**

4 56. OIS Test Data for Leon Smog Check indicated that on January 22, 2024, a 2005
5 Honda Accord LX, VIN #1HGCM564X5A147373 (2005 Accord LX), was tested and smog
6 certificate #TS068518C was issued by Leon Smog Check, under Respondent Toth's Smog Check
7 Inspector License. The OIS Test Data also show that between time stamps 186 and 18990, the
8 engine RPM is steady at around 660 RPM. During this time, the data show that the throttle is
9 fixed at 9.8% opening, the MAF is fixed at 2.98gps and the MAP is fixed at 28kPa. After time
10 stamp 18990, the data show the engine RPM is increased and held steady at around 1820 RPM.
11 During the steady elevated engine RPM, the data show the throttle is fluctuating erratically
12 between 7.5% and 11.8% opening, the MAF initially drops from 3.89gps to 3.68gps, then
13 continues to drop to 2.91gps before ultimately rising to 4.57gps, and the MAP initially drops from
14 27kPa to 26kPa, then continues to decline to a low of 17kPa before rising back to 27kPa and
15 subsequently rising to 28kPa.

16 57. The steady idle and steady elevated engine RPM data along with the improbable
17 throttle positions, MAF, and MAP readings are not characteristic or expected for normal engine
18 operation. The throttle positions and MAF readings are expected to be stable during the steady
19 idle and subsequently raised and stable during the steady elevated engine RPM, not decrease to
20 values less than idle or drop and rise unexpectedly. During the improbable readings, the throttle
21 and MAF had data points during the elevated engine RPM which were lower than data points at
22 idle. During the elevated engine RPM, the throttle and MAF exhibited an anomalous inverse
23 correlation, contrary to expected behavior. These discrepancies confirm that the OIS DAD was
24 not connected to the 2005 Accord LX during the certification process as required, thereby
25 confirming this as a fraudulent inspection by way of Clean Plugging.

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1 **Clean Plug Number 8 – 2001 Toyota Tundra Access Cab**

2 58. OIS Test Data for Leon Smog Check indicated that on February 2, 2024, a 2001
3 Toyota Tundra Access Cab, CA license #6J68197, VIN #5TBRT34151S130446 (2001 Tundra
4 Access Cab), was tested and smog certificate #TS365916C was issued by Leon Smog Check,
5 under Respondent Toth’s Smog Check Inspector License. The OIS Test Data also show that
6 between time stamps 150 and 47549, the engine RPM is steady at around 660 RPM. During this
7 time, the data show that the throttle is fixed at 16.1% opening and the MAF is fixed at 4.92gps.
8 After time stamp 47549, the data show the engine RPM is increased and held steady at around
9 1650 RPM. During the steady elevated engine RPM, the data show the throttle is fluctuating
10 erratically between 15.3% and 17.3% opening and the MAF incrementally rises from 2.83gps to
11 5.06gps, followed by a decrease to 4.28gps.

12 59. The steady idle and steady elevated engine RPM data along with the improbable
13 throttle positions and MAF readings are not characteristic or expected for normal engine
14 operation. The throttle positions and MAF readings are expected to be stable during the steady
15 idle and subsequently raised and stable during the steady elevated engine RPM, not decrease to
16 values less than idle or drop and rise unexpectedly. During the improbable readings, the throttle
17 and MAF had data points during the elevated engine RPM which were lower than data points at
18 idle. During the elevated engine RPM, the throttle and MAF exhibited an anomalous inverse
19 correlation, contrary to expected behavior. These discrepancies confirm that the OIS DAD was
20 not connected to the 2001 Tundra Access Cab during the certification process as required, thereby
21 confirming this as a fraudulent inspection by way of Clean Plugging.

22 **Clean Plug Number 9 – 2001 Toyota Tundra Access Cab**

23 60. OIS Test Data for Leon Smog Check indicated that on February 9, 2024, a 2001
24 Toyota Tundra Access Cab, VIN #5TBRT34191S154863 (2001 Tundra Access Cab No. 2), was
25 tested and smog certificate #TS365941C was issued by Leon Smog Check, under Respondent
26 Toth’s Smog Check Inspector License. The OIS Test Data also show that between time stamps
27 161 and 19629, the engine RPM is steady at around 755 RPM. During this time, the data show
28 that the throttle is fixed at 16.1% opening and the MAF is fixed at 0.26gps. After time stamp

1 19629, the data show the engine RPM is increased and held steady at around 1650 RPM. During
2 the steady elevated engine RPM, the data show the throttle is fluctuating erratically between
3 12.9% and 18% opening and the MAF is fluctuating erratically between 0.32gps and 2.5gps.

4 61. The steady idle and steady elevated engine RPM data along with the improbable
5 throttle positions and MAF readings are not characteristic or expected for normal engine
6 operation. The throttle positions and MAF readings are expected to be stable during the steady
7 idle and subsequently raised and stable during the steady elevated engine RPM, not decrease to
8 values less than idle or drop and rise unexpectedly. During the improbable readings, the throttle
9 had data points during the elevated engine RPM which were lower than data points at idle.
10 During the elevated engine RPM, the throttle. and MAF exhibited an anomalous inverse
11 correlation, contrary to expected behavior. These discrepancies confirm that the OIS DAD was
12 not connected to the 2001 Tundra Access Cab No. 2 during the certification process as required,
13 thereby confirming this as a fraudulent inspection by way of Clean Plugging.

14 **Clean Plug Number 10 – 2006 Toyota Sienna CE**

15 62. OIS Test Data for Leon Smog Check indicated that on March 7, 2024, a 2006 Toyota
16 Sienna CE, VIN #5TDZA23C96S543181 (2006 Sienna CE), was tested and smog certificate
17 #IZ452835C was issued by Leon Smog Check, under Respondent Toth's Smog Check Inspector
18 License. The OIS Test Data also show that between time stamps 185 and 24217, the engine RPM
19 is steady at around 725 RPM. During this time, the data show that the throttle is fixed at 16.1%
20 opening and the MAF drops from 4.76gps to 3.17gps. After time stamp 24217, the data show the
21 engine RPM is increased and held steady at around 1695 RPM. During the steady elevated
22 engine RPM, the data show the throttle is fluctuating erratically between 12.9% and 16.9%
23 opening and the MAF initially drops from 4.87gps to 4.77gps, then continues dropping to a low
24 of 3.55gps before rising to 4.53gps and ultimately reaching 4.81gps.

25 63. The steady idle and steady elevated engine RPM data along with the improbable
26 throttle positions and MAF readings are not characteristic or expected for normal engine
27 operation. The throttle positions and MAF readings are expected to be stable during the steady
28 idle and subsequently raised and stable during the steady elevated engine RPM, not decrease to

1 values less than idle or drop and rise unexpectedly. During the improbable readings, the throttle
2 and MAF had data points during the elevated engine RPM which were lower than data points at
3 idle. These discrepancies confirm that the OIS DAD was not connected to the 2006 Sienna CE
4 during the certification process as required, thereby confirming this as a fraudulent inspection by
5 way of Clean Plugging.

6 ***Respondent Nava***

7 **FIRST CAUSE FOR DISCIPLINE**

8 **(Untrue or Misleading Statements)**

9 64. Respondent Nava's Automotive Repair Dealer Registration is subject to disciplinary
10 action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(1), in that he made
11 statements which were known to be untrue or misleading or, which by exercise of reasonable care
12 should have been known to be untrue or misleading, by issuing electronic smog certificates of
13 compliance for the ten (10) vehicles set forth in paragraphs 44-63 above, certifying that those
14 vehicles were in compliance with applicable laws and regulations when, in fact, those vehicles
15 had not been so inspected. Complainant refers to, and by this reference incorporates, the
16 allegations contained in paragraphs 43-63, above, as though set forth fully herein.

17 **SECOND CAUSE FOR DISCIPLINE**

18 **(Fraud)**

19 65. Respondent Nava's Automotive Repair Dealer Registration is subject to disciplinary
20 action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(4), in that he committed acts
21 that constitute fraud by issuing electronic certificates of compliance to the ten (10) vehicles set
22 forth in paragraphs 44-63, above, without performing bone fide inspections of the emission
23 control devices and systems on those vehicles, thereby depriving the People of the State of
24 California of the protection afforded by the Motor Vehicle Inspection Program. Complainant
25 refers to, and by this reference incorporates, the allegations contained in paragraphs 43-63, above,
26 as though set forth fully herein.

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THIRD CAUSE FOR DISCIPLINE

(Material Violation of Automotive Repair Act)

66. Respondent Nava’s Automotive Repair Dealer Registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(6), in that he failed in a material respect to comply with the provisions of this chapter or regulations adopted pursuant to it when he issued electronic certificates of compliance for the ten (10) vehicles set forth in paragraphs 44-63, above, without performing bona fide inspections of the emission control devices and systems on those vehicles, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program. Complainant refers to, and by this reference incorporates, the allegations contained in paragraphs 43-63, above, as though set forth fully herein.

FOURTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

67. Respondent Nava’s Smog Check Test Only Station License is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that he failed to comply with the following sections of that Code:

a. **Section 44012:** Respondent failed to ensure that the emission control tests were performed on the ten (10) vehicles identified in paragraphs 44-63, above, in accordance with procedures prescribed by the department.

b. **Section 44015, subdivision (b):** Respondent issued electronic smog certificates of compliance to the ten (10) vehicles identified in paragraphs 44-63, above, without properly testing and inspecting those vehicles to determine if they were in compliance with Health & Saf. Code section 44012.

Complainant refers to, and by this reference incorporates, the allegations contained in paragraphs 43-63, above, as though set forth fully herein.

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1 **FIFTH CAUSE FOR DISCIPLINE**

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

4 68. Respondent Nava’s Smog Check Test Only Station License is subject to disciplinary
5 action pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that he failed to
6 comply with provisions of California Code of Regulations, title 16, as follows:

7 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued
8 electronic smog certificates of compliance for the ten (10) vehicles identified in paragraphs 44-
9 63, above.

10 b. **Section 3340.30, subdivision (a):** Respondent failed to inspect and test the ten (10)
11 vehicles identified in paragraphs 44-63, above, in accordance with Health & Saf. Code sections
12 44012 and 44035, and California Code of Regulations, title 16, section 3340.42.

13 c. **Section 3340.35, subdivision (c):** Respondent issued electronic smog certificates of
14 compliance for the ten (10) vehicles identified in paragraphs 44-63, above, even though those
15 vehicles had not been inspected in accordance with section 3340.42.

16 d. **Section 3340.42:** Respondent failed to ensure that the smog inspections conducted
17 on the ten (10) vehicles identified in paragraphs 44-63 above, were done in accordance with the
18 Bureau’s specifications.

19 Complainant refers to, and by this reference incorporates, the allegations contained in
20 paragraphs 43-63, above, as though set forth fully herein.

21 **SIXTH CAUSE FOR DISCIPLINE**

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

23 69. Respondent Nava’s Smog Check Test Only Station License is subject to disciplinary
24 action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in conjunction with
25 Health & Saf. Code section 44072.10, subdivision (c), in that he committed dishonest, fraudulent,
26 or deceitful acts whereby another was injured by issuing electronic smog certificates of
27 compliance for the ten (10) vehicles described in paragraphs 44-63, above, without performing
28 bona fide inspections of the emission control devices and systems on those vehicles, thereby

1 depriving the People of the State of California of the protection afforded by the Motor Vehicle
2 Inspection Program. Complainant refers to, and by this reference incorporates, the allegations
3 contained in paragraphs 43-63, above, as though set forth fully herein.

4 ***Respondent Toth***

5 **SEVENTH CAUSE FOR DISCIPLINE**

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

7 70. Respondent Toth's Smog Check Inspector License is subject to disciplinary action
8 pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that he failed to comply with
9 the following sections of that code:

10 a. **Section 44032**: Respondent failed to perform tests of emission control devices and
11 systems of the ten (10) vehicles identified in paragraphs 44-63, above, in accordance with Health
12 & Saf. Code section 44012.

13 b. **Section 44015, subdivision (b)**: Respondent caused electronic smog certificates of
14 compliance to be issued for the ten (10) vehicles identified in paragraphs 44-63, above, without
15 ensuring that they were properly tested and inspected to determine if they were in compliance
16 with Health & Saf. Code section 44012.

17 Complainant refers to, and by this reference incorporates, the allegations contained in
18 paragraphs 43-63, above, as though set forth fully herein.

19 **EIGHTH CAUSE FOR DISCIPLINE**

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

22 71. Respondent Toth's Smog Check Inspector License is subject to disciplinary action
23 pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that he failed to comply with
24 provisions of California Code of Regulations, title 16, as follows:

25 a. **Section 3340.24, subdivision (c)**: Respondent falsely or fraudulently issued
26 electronic smog certificates of compliance for the ten (10) vehicles identified in paragraphs 44-
27 63, above.

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1 Complainant refers to, and by this reference incorporates, the allegations contained in paragraph
2 38, above, as though set forth fully herein.

3 b. On or about October 16, 2019 and September 6, 2022, Respondent Toth was warned
4 by Bureau representatives to perform complete and accurate Smog Check inspections in
5 accordance with laws and regulations. Complainant refers to, and by this reference incorporates,
6 the allegations contained in paragraphs 39-40, above, as though set forth fully herein.

7 74. To determine the degree of discipline, if any, to be imposed on Respondent Nava,
8 Complainant alleges that on or about September 6, 2022, September 29, 2022, and June 12, 2023,
9 Respondent Nava was warned by Bureau representatives to perform complete and accurate Smog
10 Check inspections in accordance with laws and regulations. Complainant refers to, and by this
11 reference incorporates, the allegations contained in paragraphs 40-42, above, as though set forth
12 fully herein.

13 **OTHER MATTERS**

14 75. Pursuant to Bus. & Prof. Code section 9884.7, subdivision (c), the Director may
15 suspend, revoke, or place on probation the registration for all places of business operated in this
16 state by Respondent Nava, upon a finding that he has, or is, engaged in a course of repeated and
17 willful violations of the laws and regulations pertaining to an automotive repair dealer.

18 76. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Test Only Station
19 License No. TC 298114, issued to Respondent Nava, is revoked or suspended, any additional
20 license issued under Chapter 5 of Part 5 of Division 26 of the Health & Saf. Code in the name of
21 said licensee may be likewise revoked or suspended by the director.

22 77. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Inspector License
23 No. EO 140972, issued to Respondent Toth, is revoked or suspended, any additional license
24 issued under Chapter 5 of Part 5 of Division 26 of the Health & Saf. Code in the name of said
25 licensee may be likewise revoked or suspended by the director.

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PRAYER

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

- 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD 298114, issued to Leonardo A Nava dba Leon Smog Check;
- 2. Revoking or suspending any other automotive repair dealer registration issued to Leonardo A Nava;
- 3. Revoking or suspending Smog Check Test Only Station License Number TC 298114, issued to Leonardo A Nava dba Leon Smog Check;
- 4. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health & Saf. Code in the name of Leonardo A Nava;
- 5. Revoking or suspending Smog Check Inspector License Number EO 140972, issued to Andras Joe Toth;
- 6. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health & Saf. Code in the name of Andras Joe Toth;
- 7. Ordering Leonardo A Nava and Andras Joe Toth 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 and if placed on probation, the costs of probation monitoring; and,
- 8. Taking such other and further action as deemed necessary and proper.

DATED: As of Digital Signature Date

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

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