

**BEFORE THE DIRECTOR OF THE
DEPARTMENT OF CONSUMER AFFAIRS
BUREAU OF AUTOMOTIVE REPAIR
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No.: 79/1711338

HOLLON ENTERPRISES, INC.
STEPHEN MARK HOLLON, Pres.
dba WEST VALLEY SMOG
4394 E. Los Angeles Ave.
Simi Valley, CA 93063

OAH No.: 2018100411

Automotive Repair Dealer Registration No.:
ARD 270607
Smog Check Station License No.: TC 270607

and

BRANDON MICHAEL FIEGE
225 Simi Village Dr. Unit 940242
Simi Valley, CA 93094

2272 Dogwood Street (Mailing)
Simi Valley, CA 93065

Smog Check Inspector License No.: EO 636972

and

JOSSUE R. MARTINEZ
1845 Oneill Place
Oxnard, CA 93033

Smog Check Inspector License No.: EO 631548
Smog Check Repair Technician License No.:
EI631548

Respondents.


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DECISION

The attached Stipulated Settlement and Disciplinary Order AS TO RESPONDENT JOSSUE R. MARTINEZ ONLY is hereby accepted and adopted by the Director of the Department of Consumer Affairs as the Decision in the above-entitled matter.

This Decision shall become effective June 18, 2019.

DATED: May 9, 2019



GRACE ARUPO RODRIGUEZ
Assistant Deputy Director
Legal Affairs Division
Department of Consumer Affairs

1 XAVIER BECERRA
Attorney General of California
2 THOMAS L. RINALDI
Supervising Deputy Attorney General
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7

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

11 In the Matter of the Accusation Against:

12 **HOLLON ENTERPRISES, INC.**
13 **(STEPHEN MARK HOLLON –**
14 **PRESIDENT)**

15 **DBA WEST VALLEY SMOG**
4394 E. Los Angeles Ave.
16 Simi Valley, CA 93063

17 Automotive Repair Dealer Registration No.
ARD 270607
18 Smog Check, Test Only, Station License No.
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21 Mailing Address:
2272 Dogwood Street
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23 Smog Check Inspector License No. EO 636972
24 and

25 **JOSSUE R. MARTINEZ**
1845 Oneill Place
26 Oxnard, CA 93033

27 Smog Check Inspector License No. EO 631548
28 Smog Check Repair Technician License No.
EI 631548

Respondents.

Case No. 79/17-11338

OAH No. 2018100411

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER AS TO
RESPONDENT JOSSUE R. MARTINEZ

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
entitled proceedings that the following matters are true:

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1 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary
2 Order.

3 7. Respondent is fully aware of his legal rights in this matter, including the right to a
4 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine
5 the witnesses against him; the right to present evidence and to testify on his own behalf; the right
6 to the issuance of subpoenas to compel the attendance of witnesses and the production of
7 documents; the right to reconsideration and court review of an adverse decision; and all other rights
8 accorded by the California Administrative Procedure Act and other applicable laws.

9 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
10 every right set forth above.

11 **CULPABILITY**

12 9. Respondent admits the truth of each and every charge and allegation in Accusation
13 No. 79/17-11338.

14 10. Respondent agrees that his Smog Check Inspector License and Smog Check Repair
15 Technician License are subject to discipline and agrees to be bound by the Director's probationary
16 terms as set forth in the Disciplinary Order below.

17 **CONTINGENCY**

18 11. This stipulation shall be subject to approval by the Director or the Director's designee.
19 Respondent understands and agrees that counsel for Complainant and the staff of the Bureau of
20 Automotive Repair may communicate directly with the Director and staff of the Department of
21 Consumer Affairs regarding this stipulation and settlement, without notice to or participation by
22 Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he
23 may not withdraw his agreement or seek to rescind the stipulation prior to the time the Director
24 considers and acts upon it. If the Director fails to adopt this stipulation as the Decision and Order,
25 the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this
26 paragraph, it shall be inadmissible in any legal action between the parties, and the Director shall
27 not be disqualified from further action by having considered this matter.

12. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

14. In consideration of the foregoing admissions and stipulations, the parties agree that the Director may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Smog Check Inspector License Number EO 631548 and Smog Check Repair Technician License Number EI 631548 issued, to Respondent Jossue R. Martinez, are revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

1. **Obey All Laws.** During the period of probation, Respondent shall comply with all federal and state statutes, regulations and rules governing all Bureau registrations and licenses held by Respondent.

2. **Quarterly Reporting.** During the period of probation, Respondent shall report either by personal appearance or in writing as determined by Bureau on a schedule set by the Bureau, but no more frequently than once each calendar quarter, on the methods used and success achieved in maintaining compliance with the terms and conditions of probation.

3. **Report Financial Interests.** Respondent shall, within 30 days of the effective date of the decision and within 30 days from the date of any request by the Bureau during the period of probation, report any financial interest which any Respondent or any partners, officers, or owners of any Respondent facility may have in any other business required to be registered pursuant to

1 Section 9884.6 of the Business and Professions Code.

2 4. **Access to Examine Vehicles and Records.** Respondent shall provide Bureau
3 representatives unrestricted access to examine all vehicles (including parts) undergoing service,
4 inspection, or repairs, up to and including the point of completion. Respondent shall also provide
5 Bureau representatives unrestricted access to all records pursuant to Bureau laws and regulations.

6 5. **Tolling of Probation.** If, during probation, Respondent leaves the jurisdiction of
7 California to reside or do business elsewhere or otherwise ceases to do business in the jurisdiction
8 of California, Respondent shall notify the Bureau in writing within 10 days of the dates of
9 departure and return, and of the dates of cessation and resumption of business in California. All
10 provisions of probation other than cost reimbursement requirements, restitution requirements,
11 training requirements, and that Respondent obey all laws, shall be held in abeyance during any
12 period of time of 30 days or more in which Respondent is not residing or engaging in business
13 within the jurisdiction of California. All provisions of probation shall recommence on the effective
14 date of resumption of business in California. Any period of time of 30 days or more in which
15 Respondent is not residing or engaging in business within the jurisdiction of California shall not
16 apply to the reduction of this probationary period or to any period of actual suspension not
17 previously completed. Tolling is not available if business or work relevant to the probationary
18 license or registration is conducted or performed during the tolling period.

19 6. **Violation of Probation.** If Respondent violates or fails to comply with the terms and
20 conditions of probation in any respect, the Director, after giving notice and opportunity to be heard,
21 may set aside the stay order and carry out the disciplinary order provided in the decision. Once
22 Respondent is served notice of the Bureau's intent to set aside the stay, the Director shall maintain
23 jurisdiction, and the period of probation shall be extended until final resolution of the matter.

24 7. **Maintain Valid License.** Respondent shall, at all times while on probation, maintain
25 a current and active registration and/or license(s) with the Bureau, including any period during
26 which suspension or probation is tolled. If either of Respondent's licenses is expired at the time
27 the decision becomes effective, the registration or license must be renewed by Respondent within
28 30 days of that date. If either of Respondent's licenses expires during a term of probation, by

1 operation of law or otherwise, then upon renewal, Respondent's license shall be subject to any and
2 all terms and conditions of probation not previously satisfied. Failure to maintain a current and
3 active registration and/or license during the period of probation shall also constitute a violation of
4 probation.

5 **8. Cost Recovery.** Respondent shall pay the Bureau \$1,581.84 for the reasonable costs
6 of the investigation and enforcement of case No. 79/17-11338 pursuant to a payment plan, if any,
7 as determined by the Bureau. Any agreement for a scheduled payment plan shall require full
8 payment to be completed no later than six (6) months before probation terminates. Respondent
9 shall make payment by check or money order payable to the "Bureau of Automotive Repair" and
10 shall indicate on the check or money order that it is for cost recovery payment for case No. 79/17-
11 11338. Any order for payment of cost recovery shall remain in effect whether or not probation is
12 tolled. Probation shall not terminate until full cost recovery payment has been made. The Bureau
13 reserves the right to pursue any other lawful measures in collecting on the costs ordered and past
14 due, in addition to taking action based upon the violation of probation.

15 **9. Completion of Probation.** Upon successful completion of probation, Respondent's
16 affected licenses will be fully restored or issued without restriction, if Respondent meets all current
17 requirements for registration or licensure and has paid all outstanding fees, monetary penalties, or
18 cost recovery owed to the Bureau.

19 **10. License Surrender.** Following the effective date of a decision that orders a stay of
20 invalidation or revocation, if Respondent ceases business operations or is otherwise unable to
21 satisfy the terms and conditions of probation, Respondent may request that the stay be vacated.
22 Such request shall be made in writing to the Bureau. The Director and the Bureau Chief reserve
23 the right to evaluate Respondent's request and to exercise discretion whether to grant the request
24 or take any other action deemed appropriate or reasonable under the circumstances. Upon formal
25 granting of the request, the Director will vacate the stay order and carry out the disciplinary order
26 provided in the decision. Respondent may not petition the Director for reinstatement of the
27 surrendered registration and/or license, or apply for a new registration or license under the
28 jurisdiction of the Bureau at any time before the date of the originally scheduled completion of

1 probation. If Respondent applies to the Bureau for a registration or license at any time after that
2 date, Respondent must meet all current requirements for registration or licensure and pay all
3 outstanding fees or cost recovery owed to the Bureau and left outstanding at the time of surrender.

4 11. Training Course

5 During the period of probation, Respondent shall attend and successfully complete a Bureau-
6 approved 68 Hour Engine & Emission Diagnostic Training course, applicable to the class of
7 licenses held by Respondent. Respondent shall provide to the Bureau proof of enrollment in the
8 course within 30 days of the effective date of the decision, and proof of successful course
9 completion within 180 days of the effective date of the decision. Failure to provide proof of
10 enrollment and/or successful course completion to the Bureau within the timeframes specified
11 shall constitute a violation of probation, and Respondent shall be prohibited from issuing any
12 certificate of compliance or noncompliance until such proof is received.

13 12. Notification to Employer

14 When performing services that fall within the scope of his license, Respondent shall provide
15 each of his current or future employers a copy of the decision and the underlying Accusation before
16 commencing employment. Notification to Respondent's current employer shall occur no later than
17 the effective date of the decision. Respondent shall submit to the Bureau, upon request, satisfactory
18 evidence of compliance with this term of probation.

19 ACCEPTANCE

20 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
21 discussed it with my attorney, Adam B. Brown, Esq. I understand the stipulations and the effect it
22 will have on my Smog Check Inspector License and Smog Check Repair Technician License. I
23 enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and
24 intelligently, and agree to be bound by this Decision and Order of the Director of Consumer Affairs.

25
26 DATED 04/16/2019

27 Respondent
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1 I have read and fully discussed with Respondent Jossue R. Martinez the terms and conditions
2 and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve
3 its form and content.

4
5 DATED: 4/16/19



6 ADAM B. BROWN, ESQ.

7 *Attorney for Respondent Jossue R. Martinez*

8 MELISSA MAY FOR ADAM BROWN

9 **ENDORSEMENT**

10 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted
11 for consideration by the Director of Consumer Affairs.

12
13 DATED: April 16, 2019

Respectfully submitted,

14 XAVIER BECERRA

Attorney General of California

15 THOMAS L. RINALDI

Supervising Deputy Attorney General



16 VIVIAN CHO

17 Deputy Attorney General

18 *Attorneys for Complainant*

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20
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Exhibit A

Accusation No. 79/17-11338

1 XAVIER BECERRA
Attorney General of California
2 THOMAS L. RINALDI
Supervising Deputy Attorney General
3 VIVIAN CHO
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6 Facsimile: (213) 897-2804
E-mail: Vivian.Cho@doj.ca.gov
7 *Attorneys for Complainant*

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10 **FOR THE BUREAU OF AUTOMOTIVE REPAIR**
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ACCUSATION

18 Automotive Repair Dealer Registration No.
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19 Smog Check, Test Only, Station License No.
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20 **BRANDON MICHAEL FIEGE**
225 Simi Village Dr. Unit 940242
21 Simi Valley, CA 93094

22 Mailing Address:
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26 **JOSSUE R. MARTINEZ**
1845 Oneill Place
27 Oxnard, CA 93033

28 Smog Check Inspector License No. EO 631548
Smog Check Repair Technician License No.
EI 631548

Respondents.

1 Complainant alleges:

2 **PARTIES**

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

5 **Respondent West Valley Smog**

6 2. On or about October 19, 2012, the Bureau of Automotive Repair ("Bureau") issued
7 Automotive Repair Dealer Registration Number ARD 270607 to Hollon Enterprises, Inc. dba West
8 Valley Smog. Stephen Mark Hollon is the President of Hollon Enterprises, Inc. Stephen Mark
9 Hollon and Hollon Enterprises, Inc. dba West Valley Smog are collectively referred to herein as
10 "West Valley Smog." The Automotive Repair Dealer Registration was in full force and effect at
11 all times relevant to the charges brought herein and will expire on October 31, 2018, unless
12 renewed.

13 3. On or about October 25, 2012, the Bureau issued Smog Check, Test Only, Station
14 License Number TC 270607 to West Valley Smog. The Smog Check, Test Only, Station License
15 was in full force and effect at all times relevant to the charges brought herein and will expire on
16 October 31, 2018, unless renewed.

17 4. On or about September 13, 2013, the Bureau certified Respondent West Valley Smog
18 as a STAR station. That certification was in full force and effect at all times relevant to the charges
19 brought herein and will remain active unless the Automotive Repair Dealer Registration and/or
20 Smog Check Station License issued to Respondent West Valley Smog is revoked, canceled, or the
21 licenses become delinquent or certification is invalidated.

22 **Respondent Brandon Michael Fiege**

23 5. On or about June 9, 2014, the Bureau issued Smog Check Inspector License Number
24 EO 636972 to Brandon Michael Fiege (Respondent Fiege). The Smog Check Inspector License
25 was in full force and effect at all times relevant to the charges brought herein, expired on February
26 28, 2018, and has not been renewed.

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28 ///

1 **Respondent Jossue R. Martinez**

2 6. On or about October 27, 2011, the Bureau issued Advanced Emission Specialist
3 Technician License No. EA 631548 to Jossue R. Martinez (Respondent Martinez). Advanced
4 Emission Specialist Technician License Number EA 631548 was cancelled on November 21,
5 2013. Pursuant to California Code of Regulations, title 16 section 3340.28, subdivision (e),
6 Advanced Emission Specialist Technician License Number EA 631548 was renewed, pursuant to
7 Respondent Torres' election, as Smog Check Inspector License No. EO 631548 and Smog Check
8 Repair Technician License No. EI 631548, effective November 21, 2013. The Smog Check
9 Inspector License and Smog Check Repair Technician License were in full force and effect at all
10 times relevant to the charges brought herein and will expire on November 30, 2019, unless
11 renewed.

12 **JURISDICTION**

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

15 8. Business and Professions Code section 9884.7 provides that the Director may revoke
16 an Automotive Repair Dealer Registration.

17 9. Business and Professions Code section 9884.13 of the Code provides, in pertinent part,
18 that the expiration of a valid registration shall not deprive the Director or chief of jurisdiction to
19 proceed with a disciplinary proceeding against an automotive repair dealer or to render a decision
20 invalidating a registration temporarily or permanently.

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

24 11. Section 44072.6 of the Health and Safety Code provides, in pertinent part, that the
25 expiration or suspension of a license by operation of law, or by order or decision of the Director
26 of Consumer Affairs, or a court of law, or the voluntary surrender of the license shall not deprive
27 the Director of jurisdiction to proceed with any investigation of, or action or disciplinary
28 proceedings against the licensee, or to render a decision suspending or revoking the license.

12. Section 44072.8 of the Health and Safety Code states:

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

STATUTORY PROVISIONS

13. Section 477 of the Business and Professions Code provides, in pertinent part, that "Board" includes "bureau," "commission," "committee," "department," "division," "examining committee," "program," and "agency." "License" includes certificate, registration or other means to engage in a business or profession regulated by the Business and Professions Code.

14. Business and Professions Code section 9884.7 states, in pertinent part:

(a) The director, where the automotive repair dealer cannot show there was a bona fide error, may refuse to validate, or may invalidate temporarily or permanently, the registration of an automotive repair dealer for any of the following acts or omissions related to the conduct of the business of the automotive repair dealer, which are done by the automotive repair dealer or any automotive technician, employee, partner, officer, or member of the automotive repair dealer.

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

....

(4) Any other conduct that constitutes fraud.

....

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

....

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

1 15. Section 44012 of the Health and Safety Code provides, in pertinent part, that tests at
2 smog check stations shall be performed in accordance with procedures prescribed by the
3 department.

4 16. Section 44015, subdivision (b), of the Health and Safety Code provides that a
5 certificate of compliance shall be issued if a vehicle meets the requirements of Health and Safety
6 Code section 40012.

7 17. Health and Safety Code section 44072.2 states, in pertinent part:

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

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

13

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

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

17 18. Health and Safety Code section 44072.10 states, in pertinent part:

18

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

22 (1) Clean piping, as defined by the department

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

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

26 (4) Intentional or willful violation of this chapter or any
27 regulation, standard, or procedure of the department
28 implementing this chapter

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REGULATORY PROVISIONS

19. California Code of Regulations, title 16, section 3340.24, subdivision (c), states:

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 certificate of compliance or a certificate of noncompliance.

20. California Code of Regulations, title 16, section 3340.30, subdivision (a), states:

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

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

21. California Code of Regulations, title 16, section 3340.35, subdivision (c), states:

....

(c) A licensed station shall issue a certificate of compliance or noncompliance to the owner or operator of any vehicle that has been inspected in accordance with the procedures specified in section 3340.42 of this article and has all the required emission control equipment and devices installed and functioning correctly. . . .

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

. . . [n]o person shall enter into the emissions inspection system any vehicle identification information or emission control system identification data for 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. California Code of Regulations, title 16, section 3340.42, sets forth specific emissions test methods and procedures which apply to all vehicles inspected in the State of California.

COST RECOVERY

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

1 being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may
2 be included in a stipulated settlement.

3 VID DATA REVIEW

4 25. Beginning March 9, 2015, California's Smog Check Program was updated to require
5 the use of an On-Board Diagnostic Inspection System ("BAR-OIS") during smog checks. OIS is
6 the Smog Check equipment required in all areas of the State when inspecting most model-year
7 2000 and newer gasoline and hybrid vehicles and most 1998 and newer diesel vehicles. The
8 system consists of a certified Data Acquisition Device (DAD), computer, bar code scanner, and
9 printer. The DAD is an On Board Diagnostic scan tool that, when requested by the California
10 BAR-OIS software, retrieves data from the vehicle. Data retrieved and recorded during an OIS
11 smog check includes:

- 12 • eVIN, which is the digitally stored VIN programmed into the vehicle's Powertrain
13 Control Module ("PCM").
- 14 • Communication Protocol, which is the manufacturer/vehicle specific language the
15 PCM uses to relay information; and
- 16 • Number of Parameter Identifications ("PIDs"), which is the number of specific data
17 points reported by the vehicle's on-board computer. PIDs are programmed during manufacture and
18 are related to emissions controls. Examples of PIDs are engine speed, vehicle speed, engine
19 temperature, and other input and output values utilized by the vehicle's on-board computer.

20 26. On or around July 17, 2017, Bureau representative Marc Ortega initiated an
21 investigation in which he reviewed OIS test data for West Valley Smog. The OIS Bureau Test
22 Data lists differences in Vehicle Identification Numbers (VIN) for vehicles that have received
23 smog inspections, in addition to communication protocol (the language used to communicate) and
24 Parameter ID (PID) differences with vehicles that have been certified correctly that are the same
25 make and model vehicles. Representative Ortega's investigation revealed that the data related to
26 certain vehicles certified by West Valley Smog contained discrepancies between the information
27 transmitted during the inspections and documented information known about the subject vehicles.
28 Specifically, representative Ortega compared the data received from the certified vehicles to data

from vehicles of the same year, make, and model and determined that the data from all three certified vehicles contained the following discrepancies: (1) they were certified with either a different or missing eVIN; (2) they transmitted incorrect PID counts; and (3) they transmitted incorrect communication protocols. These documented discrepancies confirm that the vehicles receiving smog certificates from West Valley Smog were fraudulently tested during the smog inspection using the "clean plugging" method.¹ Table 1 illustrates the documented clean plugging activities of Respondents between October 20, 2016 and July 6, 2017.

Table 1						
	Test Date	Vehicle & License No.	Inspector	Certificate No.	Fraudulent Passing Inspection Data	Expected OBDII Value
1	10/20/16	2010 Jeep Liberty Sport 7CSR824	Respondent Fiege EO 636972	QG270325C	eVIN: 1J4NT1FA3BD236733 Comm. Protocol: ICAN11bt5 PID Count: 36/15	eVIN: 1J4PP2GK1AW102008 Comm. Protocol: ICAN11bt5 PID Count: 43
2	7/1/17	2002 Ford F350 Super Duty 8T99187	Respondent Martinez EO 631548	ZX986802C	eVIN: 1GCHG39U551114082 Comm. Protocol: JVPW PID Count: 22	eVIN: not expected Comm. Protocol: JPWM PID Count: 19 or 20 or 21
3	7/6/17	2007 Honda Accord EX AFINECR	Respondent Martinez EO 631548	ZZ052720C	eVIN: 3FA6P0H71ER185406 Comm. Protocol: ICAN11bt5 PID Count: 38	eVIN: 1HGCM72787A011256 Comm. Protocol: I914 PID Count: 21

Clean Plugged Vehicle No. 1 – October 20, 2016 – 2010 Jeep Liberty Sport

27. On October 20, 2016, Respondent Fiege and Respondent West Valley Smog performed a smog check inspection of and certified a 2010 Jeep Liberty Sport (VIN No.

¹ "Clean plugging" refers to the use of another vehicle's properly functioning On Board Diagnostic, generation II, (OBD II) system, or another source, to generate passing diagnostic readings for the purpose of issuing fraudulent smog Certificates of Compliance to vehicles that are not in smog compliance and/or not present for testing.

1 1J4PP2GK1AW102008, CA License No. 7CSR824). Smog Certificate of Compliance No.
2 QG270325C was issued under Respondent Fiege's Smog Check Technician License No.
3 EO636972. The OIS Test Data for the 2010 Jeep Liberty Sport shows that an incorrect eVIN of
4 1J4NT1FA3BD236733 was transmitted and the PID count was transmitted as 36|15. Similar
5 Vehicle OIS Test Data for 2010 Jeep Liberty Sport vehicles show, however, that they transmit the
6 correct eVIN, they have the expected communication protocol of ICAN11bt5, and they transmit a
7 PID count of 43.

8 28. The OIS Test Data shows that a 2011 Jeep Compass Sport (VIN
9 1J4NT1FA3BD236733) was the vehicle used to generate the fraudulent Smog Certificate of
10 Compliance for the 2010 Jeep Liberty Sport. The 2011 Jeep Compass Sport was certified at another
11 licensed Smog Check facility on January 06, 2015. The OIS Test Data transmitted for the 2011
12 Jeep Compass Sport matches the OIS Test Data for the fraudulent inspection of the 2010 Jeep
13 Liberty Sport for the eVIN, communication protocol, and PID count.

14 29. On November 26, 2016, another licensed Smog Check facility performed a Smog
15 Check inspection of the same 2010 Jeep Liberty Sport (VIN No. 1J4PP2GK1AW102008, CA
16 License No. 7CSR824). According to the November 26, 2016 OIS Test Details, the 2010 Jeep
17 Liberty Sport, as expected, transmitted the correct eVIN, had the expected communication protocol
18 of ICAN11bt5, and transmitted a PID count of 43.

19 30. The discrepancies in the OIS Test Data prove the OIS Data Acquisition Device (DAD)
20 was not connected to the 2010 Jeep Liberty Sport being certified, causing the issuance of a
21 fraudulent Smog Certificate of Compliance.

22 **Clean Plugged Vehicle No. 2 – July 1, 2017 – 2002 Ford F350 Super Duty**

23 31. On July 01, 2017, Respondent Martinez and Respondent West Valley Smog performed
24 a smog check inspection of and certified a 2002 Ford F350 Super Duty (VIN No.
25 1FTWW32S32ED14188, CA License No. 8T99187). Smog Certificate of Compliance No.
26 ZX986802C was issued under Respondent Martinez's Smog Check Technician License No.
27 EO631548. The OIS Test Data for the 2002 Ford F350 Super Duty shows that an incorrect eVIN
28 of 1GCHG39U551114082 was transmitted, the communication protocol was transmitted as

1 JVPW, and the PID count was transmitted as 22. Similar Vehicle OIS Test Data for 2002 Ford
2 F350 Super Duty vehicles show, however, that they do not transmit the eVIN, they transmit the
3 expected communication protocol of JPWM, and they transmit a PID count of 19, 20, or 21.

4 32. The OIS Test Data shows that a 2005 Chevrolet Express G3500 (VIN
5 1GCHG39U551114082) was the vehicle used to generate the fraudulent Smog Certificate of
6 Compliance for the 2002 Ford F350 Super Duty. The 2005 Chevrolet Express G3500 was certified
7 at another licensed Smog Check facility on June 08, 2016. The OIS Test Data transmitted for the
8 2005 Chevrolet Express G3500 matches the OIS Test Data for the fraudulent inspection of the
9 2002 Ford F350 Super Duty for the eVIN, communication protocol, and PID count.

10 33. The discrepancies in the OIS Test Data prove the OIS Data Acquisition Device (DAD)
11 was not connected to the 2002 Ford F350 Super Duty being certified, causing the issuance of a
12 fraudulent Smog Certificate of Compliance.

13 **Clean Plugged Vehicle No. 3 – July 6, 2017 – 2007 Honda Accord EX**

14 34. On July 06, 2017, Respondent Martinez and Respondent West Valley Smog performed
15 a smog check inspection of and certified a 2007 Honda Accord EX (VIN No.
16 1HGCM72787A011256, CA License No. AFINECR). Smog Certificate of Compliance No.
17 ZZ052720C was issued under Respondent Martinez's Smog Check Technician License No.
18 EO631548. The OIS Test Data for the 2007 Honda Accord EX shows that an incorrect eVIN of
19 3FA6P0H71ER185406 was transmitted, the communication protocol was transmitted as
20 1CAN11bt5, and the PID count was transmitted as 38. Similar Vehicle OIS Test Data for 2007
21 Honda Accord EX vehicles show, however, that they transmit the correct eVIN, they have the
22 expected communication protocol of I914, and they transmit a PID count of 21.

23 35. DMV registration information shows that VIN No. 3FA6P0H71ER185406
24 corresponds to a 2014 Ford Sedan and not a 2007 Honda Accord EX.

25 36. The discrepancies in the OIS Test Data prove the OIS Data Acquisition Device (DAD)
26 was not connected to the 2007 Honda Accord EX being certified, causing the issuance of a
27 fraudulent Smog Certificate of Compliance.

37. The data analysis conducted on West Valley Smog between October 20, 2016 and July 6, 2017 shows that Respondents participated in a scheme to perform at least three fraudulent Smog Check inspections resulting in the issuance of three electronic Smog Check Certificates of Compliance.

FIRST CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements –

Automotive Repair Dealer Registration – Respondent West Valley Smog)

38. Respondent West Valley Smog's Automotive Repair Dealer Registration is subject to disciplinary action pursuant to Business and Professions Code section 9884.7, subdivision (a)(1), in that between October 20, 2016 and July 6, 2017, Respondent West Valley Smog made or authorized statements which it knew or in the exercise of reasonable care should have known to be untrue or misleading, as follows: Respondent West Valley Smog certified that the vehicles set forth above in Table 1 had passed smog check inspections and were in compliance with applicable laws and regulations. In fact, Respondent West Valley Smog used the clean plugging method in order to issue smog certificates of compliance and did not test or inspect the vehicles as required by Health and Safety Code section 44012. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 25 through 37, inclusive, as though set forth fully herein.

SECOND CAUSE FOR DISCIPLINE

(Fraud - Automotive Repair Dealer Registration – Respondent West Valley Smog)

39. Respondent West Valley Smog's Automotive Repair Dealer Registration is subject to disciplinary action pursuant to Business and Professions Code section 9884.7, subdivision (a)(4), in that between October 20, 2016 and July 6, 2017, Respondent West Valley Smog committed acts which constitute fraud by issuing electronic certificates of compliance for the vehicles set forth above in Table 1 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

1 incorporates, the allegations set forth above in paragraphs 25 through 37, inclusive, as though set
2 forth fully herein.

3 **THIRD CAUSE FOR DISCIPLINE**

4 **(Material Violation of Automotive Repair Act -**

5 **Automotive Repair Dealer Registration – Respondent West Valley Smog)**

6 40. Respondent West Valley Smog's Automotive Repair Dealer Registration is subject to
7 disciplinary action pursuant to Business and Professions Code section 9884.7, subdivision (a)(6),
8 in that between October 20, 2016 and July 6, 2017, Respondent West Valley Smog failed in a
9 material respect to comply with the provisions of this chapter or regulations adopted pursuant to it
10 when he issued electronic certificates of compliance for the vehicles identified in Table 1 above
11 without performing bona fide inspections of their emission control devices and systems, thereby
12 depriving the People of the State of California of the protection afforded by the Motor Vehicle
13 Inspection Program. Complainant refers to, and by this reference incorporates, the allegations
14 contained in paragraphs 25 through 37, above, as though set forth fully herein.

15 **FOURTH CAUSE FOR DISCIPLINE**

16 **(Violations of the Motor Vehicle Inspection Program -**

17 **Smog Check Test Station License – Respondent West Valley Smog)**

18 41. Respondent West Valley Smog's Smog Check Test Only Station License is subject to
19 disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (a), in that
20 between October 20, 2016 and July 6, 2017, regarding the vehicles set forth above in Table 1,
21 Respondent West Valley Smog failed to comply with the following sections of the Health and
22 Safety Code:

23 a. **Section 44012:** Respondent West Valley Smog failed to ensure that the
24 emission control tests were performed on the vehicles in accordance with procedures prescribed
25 by the department; and

26 b. **Section 44015:** Respondent West Valley Smog issued electronic certificates of
27 compliance for the vehicles, without ensuring that the vehicles were properly tested and inspected
28 to determine if they were in compliance with Health and Safety Code section 44012.

1 Complainant refers to, and by this reference incorporates, the allegations set forth above in
2 paragraphs 25 through 37, inclusive, as though set forth fully herein.

3 **FIFTH CAUSE FOR DISCIPLINE**

4 **(Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection Program -**
5 **Smog Check Test Station License – Respondent West Valley Smog)**

6 42. Respondent West Valley Smog's Smog Check Test Only Station License is subject to
7 disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (c), in that
8 between October 20, 2016 and July 6, 2017, regarding the vehicles set forth above in Table 1,
9 Respondent West Valley Smog failed to comply with the following provisions of California Code
10 of Regulations, title 16, as follows:

11 a. **Section 3340.24, subdivision (c):** Respondent West Valley Smog falsely or
12 fraudulently issued electronic smog certificates of compliance for the vehicles identified in Table
13 1 above;

14 b. **Section 3340.35, subdivision (c):** Respondent West Valley Smog issued
15 electronic smog certificates of compliance for the vehicles identified in Table 1 above, even though
16 the vehicles had not been inspected in accordance with section 3340.42;

17 c. **Section 3340.41, subdivision (c):** Respondent West Valley Smog knowingly
18 entered false information into the emissions inspection system for the vehicles identified in Table
19 1 above; and

20 d. **Section 3340.42:** Respondent West Valley Smog failed to ensure that the
21 required smog tests were conducted on the vehicles identified in Table 1 above, in accordance with
22 the Bureau's specifications.

23 Complainant refers to, and by this reference incorporates, the allegations set forth above in
24 paragraphs 25 through 37, inclusive, as though set forth fully herein.

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1 **SIXTH CAUSE FOR DISCIPLINE**

2 **(Dishonesty, Fraud or Deceit –**

3 **Smog Check Test Station License – Respondent West Valley Smog)**

4 43. Respondent West Valley Smog's Smog Check Test Only Station License is subject to
5 disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (d), in that
6 between October 20, 2016 and July 6, 2017, regarding the vehicles set forth above in Table 1,
7 Respondent West Valley Smog committed acts involving dishonesty, fraud or deceit whereby
8 another was injured by issuing electronic certificates of compliance for those vehicles without
9 performing bona fide inspections of their emission control devices and systems, thereby depriving
10 the People of the State of California of the protection afforded by the Motor Vehicle Inspection
11 Program. Complainant refers to, and by this reference incorporates, the allegations set forth above
12 in paragraphs 25 through 37, inclusive, as though set forth fully herein.

13 **SEVENTH CAUSE FOR DISCIPLINE**

14 **(Violations of the Motor Vehicle Inspection Program –**

15 **Smog Check Inspector License – Respondent Fiege)**

16 44. Respondent Fiege's Smog Check Inspector License is subject to discipline pursuant to
17 Health and Safety Code section 44072.2, subdivision (a), in that on October 20, 2016, regarding
18 vehicle no. 1 set forth above in Table 1, Respondent Fiege failed to comply with section 44012 of
19 the Health and Safety Code in a material respect, as follows: Respondent Fiege failed to perform
20 the emission control tests on vehicle no. 1 in accordance with procedures prescribed by the
21 department. Complainant refers to, and by this reference incorporates, the allegations set forth
22 above in paragraphs 25 through 37, inclusive, as though set forth fully herein.

23 **EIGHTH CAUSE FOR DISCIPLINE**

24 **(Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection Program –**

25 **Smog Check Inspector License – Respondent Fiege)**

26 45. Respondent Fiege's Smog Check Inspector License is subject to discipline pursuant to
27 Health and Safety Code section 44072.2, subdivision (c), in that on October 20, 2016, regarding
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1 vehicle no. 1 set forth above in Table 1, Respondent Fiege failed to comply with provisions of
2 California Code of Regulations, title 16, as follows:

3 a. **Section 3340.24, subdivision (c):** Respondent Fiege falsely or fraudulently
4 issued an electronic smog certificate of compliance for vehicle no. 1, identified in Table 1 above;

5 b. **Section 3340.30, subdivision (a):** Respondent Fiege failed to inspect and test
6 vehicle no. 1, identified in Table 1 above, in accordance with Health and Safety Code sections
7 44012 and 44035, and California Code of Regulations, title 16, section 3340.42;

8 c. **Section 3340.41, subdivision (c):** Respondent Fiege knowingly entered false
9 information into the emissions inspection system for vehicle no. 1, identified in Table 1 above;
10 and

11 d. **Section 3340.42:** Respondent Fiege failed to conduct the required smog tests
12 on vehicle no. 1, identified in Table 1 above, in accordance with the Bureau's specifications.

13 Complainant refers to, and by this reference incorporates, the allegations contained in
14 paragraphs 25 through 37, above, as though set forth fully herein.

15 **NINTH CAUSE FOR DISCIPLINE**

16 **(Dishonesty, Fraud or Deceit - Smog Check Inspector License – Respondent Fiege)**

17 46. Respondent Fiege's Smog Check Inspector License is subject to disciplinary action
18 pursuant to Health and Safety Code section 44072.2, subdivision (d), in that on October 20, 2016,
19 Respondent Fiege committed dishonest, fraudulent, or deceitful acts whereby another was injured
20 by the issuance of an electronic smog certificate of compliance for vehicle no. 1, identified in Table
21 1 above, without performing bona fide inspections of their emission control devices and systems,
22 thereby depriving the People of the State of California of the protection afforded by the Motor
23 Vehicle Inspection Program. Complainant refers to, and by this reference incorporates, the
24 allegations contained in paragraphs 25 through 37, above, as though set forth fully herein.

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d. **Section 3340.42:** Respondent Martinez failed to conduct the required smog tests on vehicle nos. 2 and 3, identified in Table 1 above, in accordance with the Bureau's specifications.

Complainant refers to, and by this reference incorporates, the allegations contained in paragraphs 25 through 37, above, as though set forth fully herein.

TWELFTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit —

Smog Check Inspector and Repair Technician Licenses – Respondent Martinez)

49. Respondent Martinez's Smog Check Inspector and Repair Technician Licenses are subject to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (d), in that between July 1, 2016 and July 6, 2017, Respondent Martinez committed dishonest, fraudulent, or deceitful acts whereby another was injured by the issuance of electronic smog certificates of compliance for vehicle nos. 2 and 3, identified in Table 1 above, without performing bona fide inspections of their emission control devices and systems, 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 25 through 37, above, as though set forth fully herein.

OTHER MATTERS

50. Pursuant to Business and Professions Code section 9884.7, subdivision (c), the Director may suspend, revoke, or place on probation the registration for all places of business operated in this state by Respondent West Valley Smog, upon a finding that it 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 and Safety Code section 44072.8, if Smog Check Test Only Station License No. TC 270607, issued to Respondent West Valley Smog, is revoked or suspended following a hearing, any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code in the name of said licensee may be likewise revoked or suspended by the Director.

1 52. Pursuant to Health and Safety Code section 44072.8, if Smog Check Inspector License
2 No. EO 636972, issued to Respondent Fiege, is revoked or suspended following a hearing, any
3 additional license issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code
4 in the name of said licensee may be likewise revoked or suspended by the Director.

5 53. Pursuant to Health and Safety Code section 44072.8, if Smog Check Inspector License
6 No. EO 631548 and/or Smog Check Repair Technician License Number EI 631548, issued to
7 Respondent Martinez, is revoked or suspended following a hearing, any additional license issued
8 under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code in the name of said licensee
9 may be likewise revoked or suspended by the Director.

10 **DISCIPLINE CONSIDERATIONS**

11 **Respondent West Valley Smog**

12 54. To determine the degree of discipline, if any, to be imposed on Respondent West
13 Valley Smog, Complainant alleges the following prior disciplinary considerations:

14 a. On or about May 29, 2015, in a prior action, the Bureau issued Citation Number
15 C2015-628 to Respondent West Valley Smog for actions in violation of section 44012 of the
16 Health and Safety Code, in that Respondent West Valley Smog unlawfully Smog Check inspected
17 and certified a vehicle using the BAR-97 when the OIS test was required. A Citation Service
18 Conference was held on June 16, 2015. A request for formal appeal was received on September
19 25, 2015. Citation Number C2015-628 was affirmed on or about April 19, 2018.

20 b. On or about August 5, 2016, in a prior action, the Bureau issued Citation Number
21 C2016-1544 to Respondent West Valley Smog for actions in violation of section 44012 of the
22 Health and Safety Code, in that Respondent West Valley Smog unlawfully Smog Check inspected
23 and certified a Bureau vehicle documented to fail a properly performed Smog Check inspection.
24 A Citation Service Conference was held on September 06, 2016. The Decision became effective
25 on November 26, 2016. That Citation is now final and is incorporated by reference as if fully set
26 forth.

27 c. On or about May 2, 2017, in a prior action, the Bureau issued Citation Number
28 C2017-957 to Respondent West Valley Smog for actions in violation of section 44012 of the

1 Health and Safety Code, in that Respondent West Valley Smog unlawfully Smog Check inspected
2 and certified a Bureau vehicle documented to fail a properly performed Smog Check inspection.
3 A Citation Service Conference was held on June 01, 2017. The Decision became effective on July
4 02, 2017. That Citation is now final and is incorporated by reference as if fully set forth.

5 **Respondent Brandon Michael Fiege**

6 55. To determine the degree of discipline, if any, to be imposed on Respondent Brandon
7 Michael Fiege, Complainant alleges the following prior disciplinary considerations:

8 a. On or about August 5, 2016, in a prior action, the Bureau issued Citation Number
9 M2016-1545 to Respondent Fiege for his actions in violation of section 44032 of the Health and
10 Safety Code, in that Respondent Fiege unlawfully Smog Check inspected and certified a Bureau
11 vehicle documented to fail a properly performed Smog Check inspection. A Citation Service
12 Conference was held on September 06, 2016. Respondent Fiege completed the required training
13 on September 29, 2016. That Citation is now final and is incorporated by reference as if fully set
14 forth.

15 b. On or about May 2, 2017, in a prior action, the Bureau issued Citation Number
16 M2017-958 to Respondent Fiege for his actions in violation of section 44032 of the Health and
17 Safety Code, in that Respondent Fiege unlawfully Smog Check inspected and certified a Bureau
18 vehicle documented to fail a properly performed Smog Check inspection. A Citation Service
19 Conference was held on June 01, 2017. The Decision became effective on July 02, 2017. That
20 Citation is now final and is incorporated by reference as if fully set forth.

21 **PRAYER**

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

24 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
25 270607, issued to Respondent Hollon Enterprises, Inc. (of which Stephen Mark Hollon is the
26 president) dba West Valley Smog;

27 2. Revoking or suspending any other automotive repair dealer registration issued to
28 Respondent Hollon Enterprises, Inc. (of which Stephen Mark Hollon is the president);

1 3. Revoking or suspending Smog Check, Test Only, Station License Number TC 270607,
2 issued to Respondent Hollon Enterprises, Inc. (of which Stephen Mark Hollon is the president)
3 dba West Valley Smog;

4 4. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of
5 Division 26 of the Health and Safety Code in the name of Respondent Hollon Enterprises, Inc. (of
6 which Stephen Mark Hollon is the president);

7 5. Revoking or suspending Smog Check Inspector License Number EO 636972, issued
8 to Respondent Brandon Michael Fiege;

9 6. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of
10 Division 26 of the Health and Safety Code in the name of Respondent Brandon Michael Fiege;

11 7. Revoking or suspending Smog Check Inspector License Number EO 631548, issued
12 to Respondent Jossue R. Martinez;

13 8. Revoking or suspending Smog Check Repair Technician License No. EI 631548,
14 issued to Respondent Jossue R. Martinez;

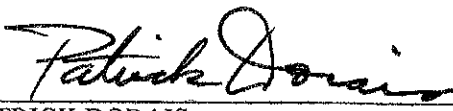
15 9. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of
16 Division 26 of the Health and Safety Code in the name of Respondent Jossue R. Martinez;

17 10. Ordering Respondent Hollon Enterprises, Inc., of which Stephen Mark Hollon is the
18 president, Respondent Brandon Michael Fiege, and Respondent Jossue R. Martinez to pay the
19 Bureau of Automotive Repair the reasonable costs of the investigation and enforcement of this
20 case, pursuant to Business and Professions Code section 125.3; and,

21 11. Taking such other and further action as deemed necessary and proper.
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24 DATED: May 3, 2018

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