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BEFORE THE
DEPARTMENT OF CONSUMER AFFAIRS
FOR THE BUREAU OF AUTOMOTIVE REPAIR
STATE OF CALIFORNIA

In the Matter of the Accusation Against**:** **FRANCISCO LOPEZ** **DBA STAR SMOG CHECK ONLY** 1199 South 1st St. San Jose, CA 95110 **Automotive Repair Dealer Registration No. ARD 304796** **Smog Check Test Only Station License No. TC 304796,** **and** **MIGUEL ANGEL ESQUIVEL-RENTERIA** 410 N White Rd., Apt 5202 San Jose, CA 95127 **Smog Check Inspector License No. EO 631868** Respondents.	Case No. 79/25-3324 **ACCUSATION**

PARTIES

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

2. On or about January 23, 2023, the Bureau issued Automotive Repair Dealer Registration Number ARD 304796 to Francisco Lopez (Respondent Lopez) dba Star Smog Check

Only. The Automotive Repair Dealer Registration was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2027, unless renewed.

3. On or about August 14, 2023, the Bureau issued Smog Check Test Only Station License Number TC 304796 to (Respondent Lopez). The Smog Check Test Only Station License was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2027, unless renewed. On or about August 1, 2024, the Smog Check Station License was certified as a STAR station. This certification will remain active unless the automotive repair dealer registration or smog check station license is revoked, cancelled, becomes delinquent, or the certification is suspended.

4. On or about March 15, 2010, the Bureau issued Advanced Emission Specialist Technician Number EA 631868 to Miguel Angel Esquivel-Renteria (Respondent Esquivel-Renteria). The Advanced Emission Specialist Technician License was cancelled on November 26, 2013. Pursuant to California Code of Regulations, title 16, section 3340.28, subdivision (e), the license was renewed, pursuant to Respondent's election, as Smog Check Inspector License Number EO 631868, effective November 26, 2013. The Smog Check Inspector license was in full force and effect at all times relevant to the charges brought herein and will expire on November 30, 2027, unless renewed.

JURISDICTION

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

6. Section 118, subdivision (b), of the Business and Professions Code (Code) provides that the suspension/expiration/surrender/cancellation of a license shall not deprive the Board/Registrar/Director of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

7. Section 9884.13 of the Code provides, in pertinent part, that the expiration of a valid registration shall not deprive the director or chief of jurisdiction to proceed with a disciplinary proceeding against an automotive repair dealer or to render a decision invalidating a registration temporarily or permanently.

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

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

STATUTORY PROVISIONS

10. Section 9884.7 of the Code states:

> (a) The director, if the automotive repair dealer cannot show there was a bona fide error, may deny, suspend, revoke, or place on probation 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.
>
> . . .
>
> (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) Any act or omission that is included within the definition of either "actual fraud" or "constructive fraud," as those terms are defined in Sections 1572 and 1573

of the Civil Code.

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

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

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

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

11. Section 44012 of the Health and Safety Code states:

The test at the smog check stations shall be performed in accordance with procedures prescribed by the department, pursuant to Section 44013, shall require, at a minimum, loaded mode dynamometer testing in enhanced areas, and two-speed testing in all other program areas, and shall ensure all of the following:

(a) Emission control systems required by state and federal law are reducing excess emissions in accordance with the standards adopted pursuant to subdivisions (a) and (c) of Section 44013.

(b) Motor vehicles are preconditioned to ensure representative and stabilized operation of the vehicle's emission control system.

(c) For other than diesel-powered vehicles, the vehicle's exhaust emissions of hydrocarbons, carbon monoxide, carbon dioxide, and oxides of nitrogen in an idle mode or loaded mode are tested in accordance with procedures prescribed by the department. In determining how loaded mode and evaporative emissions testing shall be conducted, the department shall ensure that the emission reduction targets for the enhanced program are met.

(d) For other than diesel-powered vehicles, the vehicle's fuel evaporative system and crankcase ventilation system are tested to reduce any nonexhaust sources of volatile organic compound emissions, in accordance with procedures prescribed by the department.

(e) For diesel-powered vehicles, if the department determines that the inclusion of those vehicles is technologically and economically feasible, a visual inspection is made of emission control devices and the vehicle's exhaust emissions in an idle mode or loaded mode are tested in accordance with procedures prescribed by the department. The test may include testing of emissions of any or all of the pollutants specified in subdivision (c) and, upon the adoption of applicable standards, measurement of emissions of smoke or particulates, or both.

(f) A visual or functional check is made of emission control devices specified by the department, including the catalytic converter in those instances in which the department determines it to be necessary to meet the findings of Section 44001. The visual or functional check shall be performed in accordance with procedures prescribed by the department.

(g) A determination as to whether the motor vehicle complies with the emission standards for that vehicle's class and model-year as prescribed by the department.

(h) The test procedures may authorize smog check stations to refuse the testing of a vehicle that would be unsafe to test, or that cannot physically be inspected, as specified by the department by regulation. The refusal to test a vehicle for those reasons shall not excuse or exempt the vehicle from compliance with all applicable requirements of this chapter.

12. Section 44032 of the Health and Safety Code states:

No person shall perform, for compensation, tests or repairs of emission control devices or systems of motor vehicles required by this chapter unless the person performing the test or repair is a qualified smog check technician and the test or repair is performed at a licensed smog check station. Qualified technicians shall perform tests of emission control devices and systems in accordance with Section 44012.

13. Section 44059 of the Health and Safety Code states:

The willful making of any false statement or entry with regard to a material matter in any oath, affidavit, certificate of compliance or noncompliance, or application form which is required by this chapter or Chapter 20.3 (commencing with Section 9880) of Division 3 of the Business and Professions Code, constitutes perjury and is punishable as provided in the Penal Code.

14. Section 44072.2 of the Health and Safety Code states:

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

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

. . .

(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.

. . .

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

15. Section 44072.10, subdivision (c), of the Health and Safety Code states:

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

(1) Clean piping, clean plugging, clean glassing, clean tanking, or any other

fraudulent inspection practice, as defined by the department.

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

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

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

16. 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.

REGULATORY PROVISIONS

17. California Code of Regulations, title 16, section 3340.1, states:

. . .

"Clean plugging" means using a substitute vehicle's OBD system, or another source, to generate data readings or diagnostic information in order to cause the OIS to issue a certificate of compliance for the test vehicle.

. . .

18. California Code of Regulations, title 16, section 3340.24, states:

(a) Any disciplinary or reinstatement proceeding under this article involving licensed stations, licensed technicians, or fleet owners licensed pursuant to section 44020 of the Health and Safety Code shall be conducted in accordance with chapter 5 (commencing with section 11500) of division 3, Title 2 of the Government Code.

. . .

(c) 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.

. . .

19. California Code of Regulations, title 16, section 3340.30, 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.

. . .

20. California Code of Regulations, title 16, section 3340.35, 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. The following conditions shall apply:

(1) Customers shall be charged the same price for certificates as that paid by the licensed station; and

(2) Sales tax shall not be assessed on the price of certificates.

. . .

21. California Code of Regulations, title 16, section 3340.41, states:

. . .

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

. . .

(h) No licensed station shall have in the approved testing area at any time any electronic device or software capable of simulating the OBD data stream from a vehicle or manipulating OBD VIN, calibration identification, calibration verification number, MIL-status, readiness, or diagnostic trouble codes collected from a vehicle during a Smog Check Inspection

. . .

22. California Code of Regulations, title 16, section 3340.42, states:

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

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

(1) A loaded-mode test shall be the test method used to inspect 1976 - 1999 model-year vehicle, except diesel-powered, registered in the enhanced program areas of the state. The loaded-mode test shall measure hydrocarbon, carbon monoxide, carbon dioxide and oxides of nitrogen emissions, as contained in the bureau's specifications referenced in subsection (a) of Section 3340.17 of this article. The loaded-mode test shall use Acceleration Simulation Mode (ASM) test equipment, including a chassis dynamometer, certified by the bureau.

On and after March 31, 2010, exhaust emissions from a vehicle subject to this inspection shall be measured and compared to the emissions standards shown in the

Vehicle Look-up Table (VLT) Row Specific Emissions Standards (Cutpoints) Table, dated March 2010, which is hereby incorporated by reference. If the emissions standards for a specific vehicle are not included in this table then the exhaust emissions shall be compared to the emissions standards set forth in TABLE I or TABLE II, as applicable. A vehicle passes the loaded-mode test if all of its measured emissions are less than or equal to the applicable emission standards specified in the applicable table.

(2) A two-speed idle mode test shall be the test method used to inspect 1976 - 1999 model-year vehicles, except diesel-powered, registered in all program areas of the state, except in those areas of the state where the enhanced program has been implemented. The two-speed idle mode test shall measure hydrocarbon, carbon monoxide and carbon dioxide emissions at high RPM and again at idle RPM, as contained in the bureau's specifications referenced in subsection (a) of Section 3340.17 of this article. Exhaust emissions from a vehicle subject to this inspection shall be measured and compared to the emission standards set forth in this section and as shown in TABLE III. A vehicle passes the two-speed idle mode test if all of its measured emissions are less than or equal to the applicable emissions standards specified in Table III.

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

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

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

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

(c) The bureau may require any combination of the inspection methods in sections (a) and (b) under any of the following circumstances:

(1) Vehicles that the department randomly selects pursuant to Health and Safety Code section 44014.7 as a means of identifying potential operational problems with vehicle OBD systems.

(2) Vehicles identified by the bureau as being operationally or physically incompatible with inspection equipment.

(3) Vehicles with OBD systems that have demonstrated operational problems.

(d) Pursuant to section 39032.5 of the Health and Safety Code, gross polluter standards are as follows:

(1) A gross polluter means a vehicle with excess hydrocarbon, carbon monoxide, or oxides of nitrogen emissions pursuant to the gross polluter emissions standards included in the tables described in subsection (a), as applicable.

(2) Vehicles with emission levels exceeding the emission standards for gross polluters during an initial inspection will be considered gross polluters and the

provisions pertaining to gross polluting vehicles will apply, including, but not limited to, sections 44014.5, 44015, and 44081 of the Health and Safety Code.

(3) A gross polluting vehicle shall not be passed or issued a certificate of compliance until the vehicle's emissions are reduced to or below the applicable emissions standards for the vehicle included in the tables described in subsection (a), as applicable. However, the provisions described in section 44017 of the Health and Safety Code may apply.

(4) This subsection applies in all program areas statewide to vehicles requiring inspection pursuant to sections 44005 and 44011 of the Health and Safety Code.

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

All Smog Check inspections shall be performed in accordance with requirements and procedures prescribed in the Smog Check Manual, dated January 2021, which is hereby incorporated by reference.

COST RECOVERY

24. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee 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 licensee to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

SMOG PROGRAM AND FACTUAL ALLEGATIONS

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

26. The Smog Check inspection in certain Enhanced areas of the State is an Acceleration Simulation Mode (ASM) test performed using an Emission Inspection System (EIS), also known as a BAR 97. This is a computer based five-gas analyzer that measures Hydrocarbons, Carbon Monoxide, Oxides of Nitrogen, Carbon Dioxide, and Oxygen. The inspection involves a test of

the vehicle's tailpipe emissions on a dynamometer. In Basic areas of the State, or depending on a vehicle's configuration (all-wheel drive, traction control issue), a similar test called a Two Speed Idle (TSI) test is performed, but instead of applying a load to the vehicle's drive wheels with a dynamometer, the EIS measures the emissions at idle as well as 2500 revolutions per minute (RPM).

27. The inspector also performs visual and functional tests on the vehicle as outlined in the Smog Check Manual. The visual inspection of the emission control components verifies the required emission control devices are present and properly connected. Functional tests are also performed which, depending on the vehicle, may include checking the ignition timing, malfunction indicator light (MIL), Exhaust Gas Recirculation (EGR) system, a low pressure test of the evaporative emissions controls (LPFET), a visible smoke test, and a pressure test of the gas cap.

28. On March 9, 2015, the Bureau implemented a statewide regulatory change requiring the use of the On Board Diagnostic Inspection System (OIS) instead of the EIS for the smog testing of 2000 model year and newer gas powered and 1998 and newer diesel vehicles. Most older vehicles require the ASM or TSI test on the EIS. Gas powered vehicles with a gross vehicle weight rating over 14,000 pounds require an inspection on the EIS.

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

30. Data retrieved and recorded during a OIS smog check includes: the eVIN, which is the digitally stored VIN programmed into the vehicle’s Powertrain Control Module (PCM); the communication protocol, which is the manufacturer/vehicle’s specific "language" the PCM uses to relay information; and the number of Parameter Identifications (PIDs), which is the number of specific data values each PCM uses related to emissions controls.

31. PIDs are data points reported by the vehicle on-board computer to a scan tool or BAR-OIS. Examples of PIDs are engine speed, vehicle speed, engine temperature, and other input and output values utilized by the vehicle's on-board computer.

32. As part of the OIS smog inspections, the technician also performs a visual and functional test on the vehicle being inspected. The visual inspection of the emission control components verifies the required emission control devices are present and properly connected and a functional test is performed of the malfunction indicator light (MIL). The OIS software makes the determination whether or not the vehicle passes the inspection based on the results of the OBD, visual and functional tests. If the vehicle passes the inspection a certificate of compliance is issued. The information from the smog inspection is then transmitted to the Vehicle Information Data (VID).

33. The Bureau can access the VID to view test data on smog check inspections performed at any Smog Check Station, or search for, retrieve, and print a test record for a particular vehicle which has been tested. The VID has an internal clock that is set to Pacific Standard Time and records the time and date for each inspection. If a vehicle passes the Smog Inspection, the vehicle information and test results are electronically transmitted to Department of Motor Vehicles.

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

a. Engine speed in revolutions per minute (RPM),

b. Throttle position as measured by a throttle position sensor (TPS) mounted onto the throttle shaft. The throttle position is measured in a percentage of opening from 0% at idle to up to 100% at full throttle.

c. Manifold absolute pressure as measured by a manifold air pressure sensor (MAP) connected to an intake manifold source, measured in kilo pascals (kpa). Typical readings for a

normally aspirated vehicle are as follows: 0 kpa being absolute vacuum, 25kpa to 45kpa at idle, and 101 kpa at full throttle (atmospheric pressure at sea level).

d. Mass air flow as measured by a mass air flow sensor (MAF) mounted in the engine's air intake tract. Air flow is measured in grams per second (gps).

35. The Bureau has become aware of methods some Smog Check stations and Smog Check inspectors use to issue smog certificates to vehicles that will not pass a Smog Check test on their own, or in some instances, are not even present during the time the test is performed.

36. One method is known as "clean plugging." "Clean plugging" is the act of using one vehicle's properly functioning OBDII system, or another source such as an electronic defeat device, to generate passing data readings or diagnostic information for the purpose of issuing a smog certificate of compliance to a vehicle that is not in smog compliance and/or not being tested. The vehicle being certified is not being tested.

37. Defeat devices attempt to simulate engine operation during a Smog Check inspection by transmitting OBD II data to the VID which has been modified or replaced entirely for the purportedly inspected vehicle during the functional portion of the OIS inspection. The use of a defeat device during a Smog Check inspection is clean plugging and is strictly prohibited.

38. Another method some Smog Check stations and Smog Check inspectors use to issue smog certificates to vehicles that will not pass a Smog Check test on their own, or in some instances, are not even present during the time the test is performed is known as "Clean Piping." "Clean piping" is the act of using the emission sample of a known clean vehicle to substitute for the emissions of a vehicle that will not pass a smog inspection or is not present at the time of the test. The vehicle being certified is not being tested.

Clean Plugging Allegations

39. A Bureau representative performed a detailed review of the VID data for the Smog Check inspections performed at Respondent Lopez's Smog Check Station, Star Smog Check Only. The review showed a pattern of vehicles being certified with engine operating parameters not corresponding to normal engine operation. Those vehicles received smog certificates but were not tested during the OBD II functional test. They were clean plugged.

40. Respondent Esquivel-Renteria personally performed 10 clean plugs at Respondent Lopez's station. Respondent Lopez issued all 10 certificates of compliance. None of the 10 vehicles that were issued a certificate of compliance were legitimately inspected. An electronic defeat device was used to clean plug the vehicles.

Clean Plug 1:

41. On or about February 12, 2025, Respondents issued smog certificate # TM248632C to a 2001 Ford Escape. Respondents did not perform a legitimate smog inspection on the vehicle. Respondents used an electronic defeat device to cause the OIS and Respondents to issue a fraudulent certificate of compliance to this vehicle.

42. The Dynamic OBD Data and Dynamic Data Charts for the 2001 Ford Escape shows between time stamp 117 and 23974 engine speed is steady at around 580 RPM. The throttle is fixed at 16.5% opening The MAF is fixed at 4.54gps. Between time stamp 24214 and 40811 the engine speed is accelerated then held steady at around 1480 RPM. During the steady elevated engine RPM, the throttle is fixed at 16.5% opening. The MAF is fixed at 4.54gps. The steady idle and steady elevated engine speeds with the associated fixed throttle positions and subsequent fixed MAF readings with the same as idle speed parameters are not characteristic or expected for normal engine operation.

Clean Plug 2:

43. On or about February 13, 2025, Respondents issued smog certificate # TM248647C to a 2002 Dodge Ram Van B3500. Respondents did not perform a legitimate smog inspection on the vehicle. Respondents used an electronic defeat device to cause the OIS and Respondents to issue a fraudulent certificate of compliance to this vehicle.

44. The Dynamic OBD Data and Dynamic Data Charts for the 2002 Dodge Ram Van B3500 shows between time stamp 228 and 17697 engine speed is steady at around 600 RPM. During this time the throttle is increasing from 13.7% to 15.7% to 18% opening and then decreases to 17.3%. The MAP is fluctuating 100kpa to 99kpa to 100kpa to 102kpa. At time stamp 18221 the engine speed begins to accelerate. The throttle opening is decreasing, and MAP is increasing. Between time stamp 18605 and 35075 the engine speed is accelerated then held steady

at around 1500 RPM. During this time the throttle is decreasing from 16.3% to 14.5% then increases to 15.3% to then decreases to 12.9% then increases to 16.9%. The MAP is increasing to 110kpa from 100kpa then decreases to 99kpa and then increases and 108kpa. The steady idle and steady elevated engine speeds with the associated varying throttle positions and subsequent varying MAP and/ or MAF readings are not characteristic or expected for normal engine operation.

Clean Plug 3:

45. On or about February 13, 2025, Respondents issued smog certificate # TM248650C to a 2002 Dodge Ram 2500. Respondent Lopez and Respondent Esquivel-Renteria did not perform a legitimate smog inspection on the vehicle. Respondents used an electronic defeat device to cause the OIS and Respondents to issue a fraudulent certificate of compliance to this vehicle.

46. The Dynamic OBD Data and Dynamic Data Charts for the 2002 Dodge Ram 2500 shows between time stamp 393 and 20636 engine speed are steady at around 700 RPM. During this time the throttle is decreasing from 18% and 17.3% opening. The MAP is increasing from 34kpa to 45kpa then decreases to 36kpa to 35kpa. At time stamp 21072 the engine speed begins to accelerate, and throttle increases slightly from 17.5% to 18% and MAP is steady at 35kpa. Between time stamp 21419 and 37078 the engine speed is accelerated then held steady at around 1750 RPM. During this time the throttle is steady at 18% then decreases to 14.1% then increases to 16.1% opening. The MAP is steady at 35kpa then increases to 40kpa. The steady idle and steady elevated engine speeds with the associated varying throttle positions and subsequent varying MAP and/ or MAF readings are not characteristic or expected for normal engine operation.

Clean Plug 4:

47. On or about February 13, 2025, Respondents issued smog certificate # JD360503C to a 2004 Chevrolet Silverado 1500. Respondents did not perform a legitimate smog inspection on the vehicle. Respondents used an electronic defeat device to cause the OIS and Respondents to issue a fraudulent certificate of compliance to this vehicle.

48. The Dynamic OBD Data and Dynamic Data Charts for the 2004 Chevrolet Silverado C1500 shows between time stamp 136 and 18795 engine speed are steady at around 675 RPM. During this time the throttle is steady at 12.2% then decreased to 11.4% opening. The MAP is steady at 51kpa then increases to 59kpa and starts decreasing to 57kpa. The MAF is steady at 9.71gps then increases to 9.85gps and then decreases to 7.9gps then starts to increase to 8.0gps. At time stamp 19071 the engine speed begins to accelerate. The throttle opening remains steady at 11.4%, the MAP decreases to 55kpa, and the MAF increases from 8gps to 8.25gps. Between time stamp 19549 and 35028 the engine speed is accelerated then held steady at around 1750 RPM. During this time the throttle is steady at 11.4% then increases to 11.8% then decrease to 6.3% then increases to 9.4% then decreases to 8.2% then increases to 11% then decreases to 7.1% then increases to 7.8%. The MAP is fluctuating between 48kpa and 61kpa, with readings at 55kpa, 59kpa, 58kpa, 59kpa, 54kpa, 50kpa, 48kpa and 61kpa. The MAF starts at 8.25gps and increases to 9.42gps then decreases to 8gps then increases 9.31gps then decreases to 9.14gps then decreases to 8.05gps then increases to 8.84gps then decreases to 7.87gps. The steady idle and steady elevated engine speeds with the associated varying throttle positions and subsequent varying MAP and/ or MAF readings are not characteristic or expected for normal engine operation.

Clean Plug 5:

49. On or about February 15, 2025, Respondents issued smog certificate # JD360508C to a 2002 Ford F350. Respondents did not perform a legitimate smog inspection on the vehicle. Respondents used an electronic defeat device to cause the OIS and Respondents to issue a fraudulent certificate of compliance to this vehicle.

50. The Dynamic OBD Data and Dynamic Data Charts for the 2002 Ford F350 shows between time stamp 150 and 17232 engine speed is steady at around 725 RPM. The throttle is fixed at 18% opening The MAF is fixed at 6.47gps. Between time stamp 17431 and 33209 the engine speed is accelerated then held steady at around 1450 RPM. During the steady elevated engine RPM, the throttle is fixed at 18% opening. The MAF is fixed at 6.47gps. The steady idle and steady elevated engine speeds with the associated fixed throttle positions and subsequent

fixed MAP readings with the same as idle speed parameters are not characteristic or expected for normal engine operation.

Clean Plug 6:

51. On or about February 15, 2025, Respondents issued smog certificate # JD360517C to a 2002 Hyundai Elantra. Respondents did not perform a legitimate smog inspection on the vehicle. Respondents used an electronic defeat device to cause the OIS and Respondents to issue a fraudulent certificate of compliance to this vehicle.

52. The Dynamic OBD Data and Dynamic Data Charts for 2002 Hyundai Elantra shows between time stamp 196 and 28748 engine speed fluctuates between 0 and 840 RPM. The throttle is fixed at 5.9% opening The MAP is fixed at 27kpa, between time stamp 29022 and 46327 the engine speed is accelerated then held steady at around 1450 RPM. During the steady elevated engine RPM, the throttle is fixed at 5.9% opening. The MAP is fixed at 27kpa. The steady idle and steady elevated engine speeds with the associated fixed throttle positions and subsequent fixed MAP readings with the same as idle speed parameters are not characteristic or expected for normal engine operation.

Clean Plug 7:

53. On or about February 20, 2025, Respondents issued smog certificate # JD438942C to a 2002 Ford F150. Respondents did not perform a legitimate smog inspection on the vehicle. Respondents used an electronic defeat device to cause the OIS and Respondents to issue a fraudulent certificate of compliance to this vehicle.

54. The Dynamic OBD Data and Dynamic Data Charts for the 2002 Ford F150 shows between time stamp 120 and 17073 engine speed is steady at around 700 RPM. During this time the throttle is 24.3% open and then decreases to 19.6% then increases to 23.9% then decreases to 20% then increases to 22.4% then drops to 20% then increase to 21.6% then decrease again to 20% opening. The MAF is at 6.38gps then increases to 7.03gps then decreases to 6.97gps then increases to 7.57gps then decreases to 6.7gps then to 5.59gps then increases to 6.01gps then decreases to 5.99gps then increases to 6.7gps. At time stamp 17321 the engine speed begins to accelerate. The throttle opening decreases and the MAF increases to 6.92gps. Between time

stamp 19480 and 33766 the engine speed is accelerated then held steady at around 1750 RPM. During this time the throttle is decreasing to 19.6% then increases to 21.6% then decreases to 19.6% then increases 20.8% to 22% then decreases to 21.6% then to 18.8% then increases to 19.2% then 22% opening. The MAF is 6.92gps decreasing to 5.79gps to 5.41gps then increases to 6.66gps then decreases to 5.96gps then increases to 7.54gps then decreases 5.8gps to 5.77gps then increases to 6.23. The steady idle and steady elevated engine speeds with the associated varying throttle positions and subsequent varying MAP and/ or MAF readings are not characteristic or expected for normal engine operation.

Clean Plug 8:

55. On or about February 20, 2025, Respondents issued smog certificate # JD438943C to a 2006 Nissan Murano. Respondents did not perform a legitimate smog inspection on the vehicle. Respondents used an electronic defeat device to cause the OIS and Respondents to issue a fraudulent certificate of compliance to this vehicle.

56. The Dynamic OBD Data and Dynamic Data Charts for the 2006 Nissan Murano shows between time stamp 356 and 33736 engine speed is steady at around 750 RPM. During this time the throttle is increasing from 2.4% to 3.9% then decreases to1.6% then increases to 3.9% then starts to decrease slightly to 3% opening. The MAF decreases from 4.93gps to 3.38gps then increases to 3.62gps then decreases to 2.84gps then increases to 4.53gps then decreases slightly. At time stamp 34127 the engine speed begins to accelerate, the throttle opening decreases slightly and MAF decreases slightly. Between time stamp 34504 and 50486 the engine speed is accelerated then held steady at around 1650 RPM. During this time the throttle decreases from 2.4% to 1.6% then increase to 4.3% then decreases to 2% then increases to 5.5%. The MAF is decreasing from 4.27gps to 4.05gps then decreases again to 2.73gps then increases to 3.18gps then decreases to 3.17gps. The steady idle and steady elevated engine speeds with the associated varying throttle positions and subsequent varying MAP and/ or MAF readings are not characteristic or expected for normal engine operation.

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Clean Plug 9:

57. On or about February 20, 2025, Respondents issued smog certificate # JD438947C to a 2000 Honda Odyssey. Respondents did not perform a legitimate smog inspection on the vehicle. Respondents used an electronic defeat device to cause the OIS and Respondents to issue a fraudulent certificate of compliance to this vehicle.

58. The Dynamic OBD Data and Dynamic Data Charts for the 2000 Honda Odyssey shows between time stamp 228 and 32309 engine speed is steady at around 700 RPM. During this time the throttle is decreasing from 10.6% to 8.6%, then increases to 10.2% then decreases to 9% then increases to 10.6% to 11.8% opening and remains steady until time stamp 36214. The MAP is increasing from 18kpa to 23kpa then starts to decrease to 22kpa to 20kpa to 16kpa then increases to 24kpa. At time stamp 32614 the engine speed begins to accelerate, the throttle opening remained steady. Between time stamp 34272 and 49063 the engine speed is accelerated then held steady at around 1850 RPM. During this time the throttle is at 11.8% then decreases to 7.8% then increases to 10.2% then decreases to 9.4% then increases to 9.8% opening. The MAP is increasing to 29kpa then decreases to 24kpa then increases to 29kpa then decreases to 18kpa then increases to 30kpa then decreases to 20kpa then increases to 23kpa. The steady idle and steady elevated engine speeds with the associated varying throttle positions and subsequent varying MAP and/ or MAF readings are not characteristic or expected for normal engine operation. The

Clean Plug 10:

59. On or about February 22, 2025, Respondent Lopez and Respondent Esquivel-Renteria issued smog certificate # JD567591C to a 2001 BMW 325 IT. Respondent Lopez and Respondent Esquivel-Renteria did not perform a legitimate smog inspection on the vehicle. Respondents used an electronic defeat device to cause the OIS and Respondents to issue a fraudulent certificate of compliance to this vehicle.

60. The Dynamic OBD Data and Dynamic Data Charts for the 2001 BMW 325 IT shows between time stamp 217 and 21325 engine speed are steady at around 700 RPM. During this time the throttle is increasing from 3.5% to 4.3% then decreases to 2.7% then increases to 3.9% then

decreases to 2.7%. The MAF increases from 4.80gps to 4.88gps then decreases 4.24gps to 3.25gps increases to 3.41gps then decreases to 2.95gps and remained steady. At time stamp 21753 the engine speed begins to accelerate, the throttle opening slightly increases and MAF remains steady. Between time stamp 27688 and 43389 the engine speed is accelerated then held steady at around 1450 RPM. During this time the throttle is increasing to 4.7% then decreases to 0% then increases to 4.3% then decreases to 0.4% then increases to 3.9% then decreases to 0.8%. The MAF is 2.99gps then increases to 3.91gps then decreases to 3.19gps to 2.75gps then increases to 3.74gps to 3.86gps then decreases to 3.74gps. The steady idle and steady elevated engine speeds with the associated varying throttle positions and subsequent varying MAP and/ or MAF readings are not characteristic or expected for normal engine operation.

FIRST CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements - Registration)

61. Respondent Lopez has subjected his Automotive Repair Dealer Registration to discipline under Code section 9884.7, subdivision (a)(1), in that Respondent Lopez made statements which he knew or which by exercise of reasonable care should have known were untrue or misleading, as set forth above in the Smog Program and Clean Plugging Allegations. Respondent Lopez purported to test vehicles, and certified that the vehicles passed inspection and were in compliance with applicable laws and regulations. In fact, Respondent conducted the inspections on those vehicles using clean-plugging methods.

SECOND CAUSE FOR DISCIPLINE

(Fraud - Registration)

62. Respondent Lopez has subjected his Automotive Repair Dealer Registration to discipline under Code section 9884.7, subdivision (a)(4), in that it committed acts which constitute fraud, as set forth above in the Smog Program and Clean Plugging Allegations.

THIRD CAUSE FOR DISCIPLINE

(False or Misleading Records-Registration)

63. Respondent has Lopez subjected his Automotive Repair Dealer Registration to discipline under Code section 9884.7, subdivision (a)(6), in that it violated California Code of

Regulations, title 16, section 3373, by creating and issuing false or misleading certificates of compliance and vehicle inspection reports for the 10 vehicles that were clean plugged as set forth above in the Smog Program and Clean Plugging Allegations. The certificates and inspection reports indicated the vehicles were tested in accordance with all Bureau requirements and the vehicles were qualified to receive certificates of compliance. This was false as the vehicles were clean plugged.

FOURTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit – Smog Station License)

64. Respondent Lopez has subjected his Smog Check Station License to discipline under Health and Safety Code sections 44072.10 and/or 44072.2, subdivision (d), in that it committed acts involving dishonesty, fraud or deceit, whereby another was injured by issuing electronic certificates of compliance for vehicles without performing bona fide inspections of the emission control devices and systems on the vehicles, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program. The circumstances are more fully described in the Smog Program and Clean Plugging Allegations above.

FIFTH CAUSE FOR DISCIPLINE

(Violation of the Motor Vehicle Inspection Program- Smog Station License)

65. Respondent Lopez has subjected his Smog Check Station License to discipline under Health and Safety Code sections 44072.10 and/or 44072.2, subdivisions (a) and (c), in that it violated sections of that Code and applicable regulations, through conduct described in the Smog Program and Clean Plugging Allegations, as follows:

a. **Section 44012**: Respondent failed to ensure that smog inspections were performed on vehicles in accordance with procedures prescribed by the department.

b. **Section 3340.24, subdivision (c)**: Respondent falsely or fraudulently issued electronic certificates of compliance to certain vehicles without performing bona fide inspections of the emission control devices and systems on those vehicles.

c. **Section 3340.41, subdivision (c)**: Respondent entered false information about vehicles being tested into OIS.

d. **Section 3340.41, subdivision (h)**: Respondent had electronic devices or software capable of simulating the OBD data stream from a vehicle or manipulating OBD VIN, calibration identification, calibration verification number, MIL status, readiness, or diagnostic trouble codes collected from a vehicle during a Smog Check Inspection in the approved testing area of the station.

e. **Section 3340.42**: Respondent failed to conduct the required smog tests and inspections on certain vehicles in accordance with the Bureau's specifications.

f. **Section 3340.45** Respondent violated the procedures contained in the Smog Check Manual by entering vehicle identification information for a vehicle that was not being tested.

SIXTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit-Smog Check Inspector License)

66. Respondent Esquivel-Renteria has subjected his Smog Check Inspector License to discipline under Health and Safety Code sections 44072.10 and/or 44072.2, subdivision (d), in that he committed acts involving dishonesty, fraud or deceit, whereby another was injured by issuing electronic certificates of compliance for vehicles without performing bona fide inspections of the emission control devices and systems on the vehicles, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program. Respondent Esquivel-Renteria participated in clean-plugging as set forth above in the Smog Program and Clean Plugging Allegations above.

SEVENTH CAUSE FOR DISCIPLINE

(Violation of the Motor Vehicle Inspection Program- Smog Check License)

67. Respondent Esquivel-Renteria has subjected his Smog Check Inspector License to discipline under Health and Safety Code sections 44072.10 and/or 44072.2, subdivisions (a) and (c), in that he violated sections of that Code and applicable regulations, through conduct described in the Smog Program and Clean Plugging Allegations, as follows:

a. **Section 44012**: Respondent failed to ensure that smog inspections were performed on vehicles in accordance with procedures prescribed by the department.

b. **Section 44032**: Respondent failed to ensure that smog inspections were performed on vehicles in accordance with procedures prescribed in Section 44012.

c. **Section 3340.24, subdivision (c)**: Respondent falsely or fraudulently issued electronic certificates of compliance to certain vehicles without performing bona fide inspections of the emission control devices and systems on those vehicles.

d. **Section 3340.30, subdivision (a)**: Respondent failed to inspect the vehicles in accordance with Health and Safety Code section 44012 and California Code of Regulations, title 16, section 3340.42.

e. **Section 3340.41, subdivision (c)**: Respondent entered false information about vehicles being tested into OIS.

f. **Section 3340.41, subdivision (h)**: Respondent had electronic devices or software capable of simulating the OBD data stream from a vehicle or manipulating OBD VIN, calibration identification, calibration verification number, MIL status, readiness, or diagnostic trouble codes collected from a vehicle during a Smog Check Inspection in the approved testing area of the station.

g. **Section 3340.42**: Respondent failed to conduct the required smog tests and inspections on certain vehicles in accordance with the Bureau's specifications.

h. **Section 3340.45** Respondent violated the procedures contained in the Smog Check Manual by entering vehicle identification information for a vehicle that was not being tested.

i. **Section 44059:** Respondent willfully made false statements in issuing the Smog Certificates of compliance and on the Vehicle Inspection Reports.

DISCIPLINARY CONSIDERATIONS

68. To determine the degree of discipline, if any, to be imposed on Respondent Lopez, Complainant alleges that on or about August 14, 2023, the Bureau Held a Proactive Conference with Respondent Lopez at Star Smog Check Only. Respondent Lopez were advised to follow all

laws and regulations under the Automotive Repair Act and were warned that failure to do so could result in disciplinary action.

69. To determine the degree of discipline, if any, to be imposed on Respondent Esquivel-Renteria, Complainant alleges that on or about September 1, 2022, the Bureau issued Citation No. M2022-958 to Respondent Esquivel-Renteria. The citation is now final. Respondent has failed to take the training course ordered by this citation.

70. To determine the degree of discipline, if any, to be imposed on Respondent Esquivel-Renteria, Complainant alleges that on or about April 21, 2021, the Bureau issued Citation No. M2021-404 to Respondent Esquivel-Renteria. The citation is now final.

71. To determine the degree of discipline, if any, to be imposed on Respondent Esquivel-Renteria, Complainant alleges that on or about April 13, 2012, the Bureau issued Citation No. M2012-1367 to Respondent Esquivel-Renteria. The citation is now final.

OTHER MATTERS

72. Pursuant to 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, upon a finding that Respondent Lopez has, or is, engaged in a course of repeated and willful violations of the laws and regulations pertaining to an automotive repair dealer.

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

74. Pursuant to Health & Safety Code section 44072.8, if Respondent Esquivel-Renteria's Smog Check Inspector license is revoked or suspended, any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code in the name of said licensee may be likewise revoked or suspended by the director.

PRAYER

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

1. Revoking or suspending Automotive Repair Dealer Registration Number ARD 304796, issued to Francisco Lopez dba Star Smog Check Only;

2. Revoking or suspending Smog Check Test Only Station License Number TC 304796, issued to Francisco Lopez dba Star Smog Check Only;

3. Revoking or suspending any additional Automotive Repair Dealer Registration(s) issued to Francisco Lopez;

4. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code to Francisco Lopez;

5. Ordering Francisco Lopez 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;

6. Revoking or suspending Smog Check Inspector License Number EO 631868, issued to Miguel Angel Esquivel-Renteria;

7. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code to Miguel Angel Esquivel-Renteria;

8. Ordering Miguel Angel Esquivel-Renteria 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,

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

DATED: As of Digital Signature Date

Dorais, Patrick@DCA

Digitally signed by Dorais, Patrick@DCA
Date: 2026.03.23 13:17:07 -07'00'

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

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