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

12 **LOS AMIGOS SMOG CHECK; MARK**  
13 **YOUSIF - OWNER**  
8580 8th Street, Ste. A  
Rancho Cucamonga, CA 91730

Case No. 79/16-53

14 Automotive Repair Dealer Registration No.  
ARD 278943  
15 Smog Check Test Only Station License No.  
TC 278943

**ACCUSATION**  
**SMOG CHECK**

16 and

17  
18 **MARK YOUSIF**  
21578 Winding Road  
Moreno Valley, CA 92557

19  
20 Smog Check Inspector License No. EO 632145  
Smog Check Repair License No. EI 632145

21 and

22 **DANIEL STEPHEN RAY**  
12173 Lorez Drive  
Moreno Valley, CA 92557

23  
24 Smog Check Inspector License No. EO 637540

25  
26 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 (“Bureau”), Department of Consumer Affairs.

5 **Automotive Repair Dealer Registration**

6 2. On or about January 8, 2015, the Bureau issued Automotive Repair Dealer  
7 Registration No. ARD 278943 (registration) to Los Amigos Smog Check; Mark Yousif – Owner  
8 (Respondent Los Amigos Smog). The registration was in full force and effect at all times  
9 relevant to the charges brought herein and will expire on January 31, 2017, unless renewed.

10 **Smog Check Station**

11 3. On or about January 21, 2015, the Bureau issued Smog Check Test Only Station  
12 License No. TC 278943 (station license) to Respondent Los Amigos Smog. The station license  
13 was in full force and effect at all times relevant to the charges brought herein and will expire on  
14 January 31, 2017, unless renewed.

15 **Smog Check Inspector and Smog Check Repair Technician Licenses – Mark Yousif**

16 4. On June 7, 2010, the Director issued Advanced Emission Specialist Technician  
17 License Number EA 632145 (technician license) to Mark Yousif (Respondent Yousif). The  
18 technician license, was due to expire on July 31, 2012, however, it was cancelled on July 24,  
19 2012. Pursuant to California Code of Regulations, title 16, section 3340.28, subdivision (e)<sup>1</sup>, said  
20 license was renewed pursuant to Mark Yousif's election as Smog Check Inspector License No.  
21 EO 632145 and Smog Check Repair License No. EI 632145, effective July 24, 2012. The Smog  
22 Check Inspector (EO) License will expire on July 31, 2016, unless renewed. The Smog Check  
23 Repair (EI) License expired on July 31, 2014, and was not renewed.

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





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

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

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

6 12. Health and Safety Code section 44072.10 states, in pertinent part:

7 . . . .

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

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

12 . . . .

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

15 **REGULATORY PROVISIONS**

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

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

20 14. California Code of Regulations, title 16, section 3340.28(e), states that “[u]pon  
21 renewal of an unexpired Basic Area Technician license or an Advanced Emission Specialist  
22 Technician license issued prior to the effective date of this regulation, the licensee may apply to  
23 renew as a Smog Check Inspector, Smog Check Repair Technician, or both.”

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

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1           20. Data retrieved and recorded during an OIS smog check includes; the eVIN, which is  
2 the digitally stored VIN programmed into the vehicle's Powertrain Control Module (PCM); the  
3 communication protocol, which is the manufacturer/vehicle specific language the PCM uses to  
4 relay information; and the number of Parameter Identifications (PIDs), which is the number of  
5 specific data values each PCM uses related to emissions controls.

6           21. If the vehicle passes the visual, functional and tailpipe tests, it passes the overall  
7 inspection and a Certificate of Compliance is issued and transmitted electronically to the Vehicle  
8 Information Database (VID.) These Certificates of Compliance are purchased in blocks of fifty  
9 (50) through the EIS or OIS from the VID, using a pre-arranged electronic bank account debit  
10 system or by check, via mail, from Bureau Headquarters in Sacramento. Each Certificate of  
11 Compliance has a unique control number so that it can be tracked to determine which Smog  
12 Check Station purchased the Certificate of Compliance and to which vehicle it was issued.

13           22. The VID contains registration data from Department of Motor Vehicles (DMV) plus  
14 emission standards, vehicle smog check inspections, smog check stations and technicians, and  
15 Certificates of Compliance. The VID receives the passing smog check results immediately  
16 following the inspection. During the vehicle registration process, the DMV accesses the VID to  
17 verify that the vehicle has been tested and certified. The Bureau can also access the VID to view  
18 test data on smog check inspections performed at any Smog Check Station, or search for, retrieve,  
19 and print a test record for a particular vehicle which has been tested. The EIS or OIS, depending  
20 on the test type, also prints a Vehicle Inspection Report (VIR), which is a physical record of the  
21 test results and shows the Certificate of Compliance number that was issued if the vehicle passed  
22 the smog inspection.

23           23. The smog check technician must sign the VIR under penalty of perjury to indicate  
24 that the inspection was done within Bureau guidelines. Smog Check Stations are required by law  
25 to maintain a copy of the VIR along with a copy of the repair invoice for three years. The  
26 consumer's VIR serves as a receipt and proof that the VID was updated and a Certificate of  
27 Compliance was issued. Licensed Smog Check Technicians are the only persons authorized by  
28 the Bureau to perform official inspections. They are issued a personal access code and a license,

1 which are used to gain access to the EIS and OIS to perform smog check inspections.

2 Unauthorized use of another technician's access code or license is prohibited. (Exhibit 4)

3 24. Respondents have engaged in numerous acts or omissions constituting violations of  
4 the Automotive Repair Act (Business and Professions Code section 9880 et. seq.) and Motor  
5 Vehicle Inspection Program (Health and Safety Code section 44000 et. Seq.) through their  
6 commission of multiple instances of "clean plugging."<sup>2</sup> The facts and circumstances surrounding  
7 Respondents' clean plugging activities is summarized as follows: Between May and October of  
8 2015, a Bureau representative conducted an investigation in which he reviewed OIS Test Data for  
9 Respondent Los Amigos Smog for the period February 2, 2015, through October 7, 2015. The  
10 data obtained in connection with this investigation revealed anomalies consistent with fraudulent  
11 Smog Check activities. A further in- depth analysis of this OIS data revealed that there were a  
12 total of twelve (12) vehicles of various years, makes, and models that were issued fraudulent  
13 Certificates of Compliance using the clean plugging method. These twelve (12) fraudulently  
14 certified vehicles did not transmit an eVIN, the expected communication Protocol, and PID Count  
15 transmitted was incorrect. The following chart illustrates the documented clean plugging  
16 activities of Respondent Yousif and Respondent Ray between March 10, 2015 and October 5,  
17 2015.

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26 <sup>2</sup> Clean plugging refers to the use of another vehicle's properly functioning On Board  
27 Diagnostic, generation II, (OBD II) system, or another source, to generate passing diagnostic  
28 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.

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Test Date and Time*	Vehicle Certified & License No. or VIN No.	Certificate No.	Details and Technician License No. Involved
03/10/2015 1735-1740 hours	2005 BMW 645 CI 7AJP739	PQ151913C	Test data does not support this vehicle. Technician: EO 632145
03/30/2015 1746-1752 hours	2006 Chevrolet Equinox LS 2CN DL13F066204842	PQ545506C	Test data does not support this vehicle. Technician: EO 632145
04/01/2015 1500-1506 hours	2007 Cadillac CTS 6LVN855	PQ545514C	Test data does not support this vehicle. Technician: EO 632145
04/05/2015 1247-1252 hours	2005 Chrysler 300 Touring 5TFD453	PQ545533C	Test data does not support this vehicle. Technician: EO 632145
04/15/2015 1715-1721 hours	2005 Dodge Durango ST 5MFF464	PQ699894C	Test data does not support this vehicle. Technician: EO 632145
04/17/2015 1527-1532 hours	2007 Mini Cooper 7BPB236	YR100602C	Test data does not support this vehicle. Technician: EO 632145
04/20/2015 1308-1315 hours	2008 Mitsubishi Lancer ES 7EAT415	YR100621C	Test data does not support this vehicle. Technician: EO 632145
04/25/2015 1454-1500 hours	2007 Jeep Grand Cherokee SRT-8 6RVS901	YR100648C	Test data does not support this vehicle. Technician: EO 637540
09/30/2015 1650-1654 hours	2007 Chevrolet Trailblazer SS 5ZMN156	PW790142C	Test data does not support this vehicle. Technician: EO 637540

Test Date and Time*	Vehicle Certified & License No. or VIN No.	Certificate No.	Details and Technician License No. Involved
10/03/2015 1137-1141 hours	2007 Dodge Charger SE/SXT DP985CV	PY044108C	Test data does not support this vehicle. Technician: EO 637540
10/04/2015 0946-0950 hours	2005 Nissan Murano SE 5PWY313	PY044113C	Test data does not support this vehicle. Technician: EO 637540
10/05/2015 1026-1032 hours	2008 Chevrolet Aveo LS 6BAN875	PY044117C	Test data does not support this vehicle. Technician: EO 637540

\* Test times are in military time.

25. The data analysis conducted on Respondent Los Amigos Smog between March 10, 2015, and October 5, 2015, shows that Respondents participated in a scheme to perform at least twelve (12) fraudulent Smog Check inspections resulting in the issuance of twelve (12) fraudulent electronic Smog Check Certificates of Compliance.

**FIRST CAUSE FOR DISCIPLINE**

**(Untrue or Misleading Statements)**

26. Respondent Los Amigos Smog's registration is subject to discipline pursuant to Code section 9884.7(a)(1), in that from March 10, 2015 through October 5, 2015, Respondent Los Amigos 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 Los Amigos Smog certified that the vehicles set forth above in Table 1, had passed inspection and were in compliance with applicable laws and regulations. In fact, Respondent Los Amigos Smog conducted the inspections on those vehicles using 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.

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1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Fraud)**

3 27. Respondent Los Amigos Smog's registration is subject to discipline pursuant to Code  
4 section 9884.7(a)(4), in that from March 10, 2015 through October 5, 2015, Respondent  
5 Los Amigos Smog committed acts which constitute fraud by issuing electronic certificates of  
6 compliance for the vehicles set forth above in Table 1, without performing bona fide inspections  
7 of the emission control devices and systems on those vehicles, thereby depriving the People of the  
8 State of California of the protection afforded by the Motor Vehicle Inspection Program.

9 **THIRD CAUSE FOR DISCIPLINE**

10 **(Failure to Comply with the Motor Vehicle Inspection Program)**

11 28. Respondent Los Amigos Smog's station license is subject to discipline pursuant to  
12 Health and Safety Code section 44072.2(a), in that from March 10, 2015 through October 5,  
13 2015, regarding the vehicles set forth above in Table 1, Respondent Los Amigos Smog failed to  
14 comply with the following sections of that Code:

15 a. Section 44012: Respondent Los Amigos Smog failed to ensure that the emission control  
16 tests were performed on the vehicles, in accordance with procedures prescribed by the  
17 department.

18 b. Section 44015: Respondent Los Amigos Smog issued electronic certificates of  
19 compliance for the vehicles, without ensuring that the vehicles were properly tested and inspected  
20 to determine if they were in compliance with Health and Safety Code section 44012.

21 **FOURTH CAUSE FOR DISCIPLINE**

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

24 29. Respondent Los Amigos Smog's station license is subject to discipline pursuant to  
25 Health and Safety Code section 44072.2(c), in that from March 10, 2015 through October 5,  
26 2015, regarding the vehicles set forth above in Table 1, Respondent Los Amigos Smog failed to  
27 comply with provisions of California Code of Regulations, title 16, as follows:  
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1 a. Section 3340.35(c): Respondent Los Amigos Smog issued electronic certificates of  
2 compliance even though those vehicles had not been inspected in accordance with section  
3 3340.42 of that Code.

4 b. Section 3340.42: Respondent Los Amigos Smog failed to conduct the required smog  
5 tests and inspections on those vehicles in accordance with the Bureau's specifications.

6 **FIFTH CAUSE FOR DISCIPLINE**

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

8 30. Respondent Los Amigos Smog's station license is subject to discipline pursuant to  
9 Health and Safety Code section 44072.2(d), in that from March 10, 2015 through October 5,  
10 2015, regarding the vehicles set forth above in Table 1, Respondent Los Amigos Smog  
11 committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing  
12 electronic certificates of compliance for those vehicles without performing bona fide inspections  
13 of the emission control devices and systems on the vehicles, thereby depriving the People of the  
14 State of California of the protection afforded by the Motor Vehicle Inspection Program.

15 **SIXTH CAUSE FOR DISCIPLINE**

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

17 31. Respondent Yousif's technician licenses are subject to discipline pursuant to Health  
18 and Safety Code section 44072.2(a), in that from March 10, 2015 through October 5, 2015,  
19 regarding the vehicles set forth above in Table 1 attributable to his technician license, he failed to  
20 comply with section 44012 of that Code in a material respect, as follows: Respondent Yousif  
21 failed to perform the emission control tests on those vehicles in accordance with procedures  
22 prescribed by the department.

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1 **SEVENTH CAUSE FOR DISCIPLINE**

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

4 32. Respondent Yousif's technician licenses are subject to discipline pursuant to Health  
5 and Safety Code section 44072.2(c), in that from March 10, 2015 through October 5, 2015,  
6 regarding the vehicles set forth above in Table 1 attributable to his technician license, he failed to  
7 comply with provisions of California Code of Regulations, title 16, as follows:

8 a. Section 3340.30(a): Respondent Yousif failed to inspect and test those vehicles in  
9 accordance with Health and Safety Code sections 44012.

10 b. Section 3340.42: Respondent Yousif failed to conduct the required smog tests and  
11 inspections on those vehicles in accordance with the Bureau's specifications.

12 **EIGHTH CAUSE FOR DISCIPLINE**

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

14 33. Respondent Yousif's technician licenses are subject to discipline pursuant to Health  
15 and Safety Code section 44072.2(d), in that from March 10, 2015 through October 5, 2015,  
16 regarding the vehicles set forth above in Table 1 attributable to his technician license, he  
17 committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing  
18 electronic certificates of compliance without performing bona fide inspections of the emission  
19 control devices and systems on those vehicles, thereby depriving the People of the State of  
20 California of the protection afforded by the Motor Vehicle Inspection Program.

21 **NINTH CAUSE FOR DISCIPLINE**

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

23 34. Respondent Ray's technician licenses are subject to discipline pursuant to Health and  
24 Safety Code section 44072.2(a), in that from March 10, 2015 through October 5, 2015,  
25 regarding the vehicles set forth above in Table 1 attributable to his technician license, he failed to  
26 comply with section 44012 of that Code in a material respect, as follows: Respondent Ray failed  
27 to perform the emission control tests on those vehicles in accordance with procedures prescribed  
28 by the department.

1 **TENTH CAUSE FOR DISCIPLINE**

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

4 35. Respondent Ray's technician licenses are subject to discipline pursuant to Health and  
5 Safety Code section 44072.2(c), in that from March 10, 2015 through October 5, 2015,  
6 regarding the vehicles set forth above in Table 1 attributable to his technician license, he failed to  
7 comply with provisions of California Code of Regulations, title 16, as follows:

8 a. Section 3340.30(a): Respondent Ray failed to inspect and test those vehicles in  
9 accordance with Health and Safety Code sections 44012.

10 b. Section 3340.42: Respondent Ray failed to conduct the required smog tests and  
11 inspections on those vehicles in accordance with the Bureau's specifications.

12 **ELEVENTH CAUSE FOR DISCIPLINE**

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

14 36. Respondent Ray's technician licenses are subject to discipline pursuant to Health and  
15 Safety Code section 44072.2(d), in that from March 10, 2015 through October 5, 2015,  
16 regarding the vehicles set forth above in Table 1 attributable to his technician license, he  
17 committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing  
18 electronic certificates of compliance without performing bona fide inspections of the emission  
19 control devices and systems on those vehicles, thereby depriving the People of the State of  
20 California of the protection afforded by the Motor Vehicle Inspection Program.

21 **OTHER MATTERS**

22 37. Under Code section 9884.7, subdivision (c), the director may invalidate temporarily  
23 or permanently or refuse to validate, the registrations for all places of business operated in this  
24 state by Mark Yousif – Owner, doing business as Los Amigos Smog Check, upon a finding that  
25 he has, or is, engaged in a course of repeated and willful violations of the laws and regulations  
26 pertaining to an automotive repair dealer.

27 38. Under Health and Safety Code section 44072.8, if Smog Check Station License  
28 Number TC 278943, issued to Mark Yousif – Owner, doing business as Los Amigos Smog

1 Check, is revoked or suspended, any additional license issued under this chapter in the name of  
2 said licensee may be likewise revoked or suspended by the director.

3 39. Under Health and Safety Code section 44072.8, if Smog Check Inspector License  
4 Number EO 632145 and Smog Check Repair Technician License Number EI 632145 (formerly  
5 Advanced Emission Specialist Technician License Number EA 632145) issued to Mark Yousif is  
6 revoked or suspended, any additional license issued under this chapter in the name of said  
7 licensee may be likewise revoked or suspended by the director.

8 40. Under Health and Safety Code section 44072.8, if Smog Check Inspector License No.  
9 EO 637540 to Daniel Stephen Ray is revoked or suspended, any additional license issued under  
10 this chapter in the name of said licensee may be likewise revoked or suspended by the director.

11 **PRAYER**

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

14 1. Revoking, suspending, or placing on probation, Automotive Repair Dealer  
15 Registration Number ARD 278943, issued to Mark Yousif – Owner, doing business as Los  
16 Amigos Smog Check;

17 2. Revoking, suspending, or placing on probation any other automotive repair dealer  
18 registration issued to Mark Yousif;

19 3. Revoking or suspending Smog Check Station License Number TC 278943, issued to  
20 Mark Yousif – Owner, doing business as Los Amigos Smog Check;

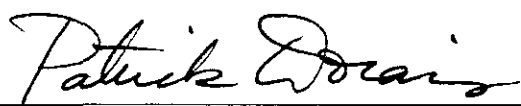
21 4. Revoking or suspending any additional license issued under Chapter 5 of the Health  
22 and Safety Code in the name of Mark Yousif – Owner, doing business as Los Amigos Smog  
23 Check;

24 5. Revoking or suspending Smog Check Inspector License Number EO 632145 and  
25 Smog Check Repair Technician License Number EI 632145 (formerly Advanced Emission  
26 Specialist Technician License Number EA 632145) issued to Mark Yousif;

27 6. Revoking or suspending any additional license issued under Chapter 5 of the Health  
28 and Safety Code in the name of Mark Yousif;

- 1           7.    Revoking or suspending Smog Check Inspector License Number EO 637540 issued
- 2 to Daniel Stephen Ray;
- 3           8.    Revoking or suspending any additional license issued under Chapter 5 of the Health
- 4 and Safety Code in the name of Daniel Stephen Ray;
- 5           9.    Ordering Mark Yousif and Daniel Stephen Ray to pay the Bureau of Automotive
- 6 Repair the reasonable costs of the investigation and enforcement of this case, pursuant to
- 7 Business and Professions Code section 125.3; and,
- 8           10.   Taking such other and further action as deemed necessary and proper.

9  
10 DATED: March 7, 2016

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

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