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

12  
13 In the Matter of the Accusation Against:

Case No. 79/23-7565

14 **RIGOBERTO TAMAYO-PRESIDENT/  
SECRETARY/TREASURER DBA RIGOS  
15 AUTOMOTIVE INC.  
16 1625 Pacific Avenue, #163  
Oxnard, CA 93033  
Automotive Repair Dealer Registration No.  
17 ARD 250682  
Smog Check Station License No. RC 250682**

**ACCUSATION**

18 **and**

19 **RIGOBERTO TAMAYO  
20 1625 Pacific Avenue, #163  
Oxnard, CA 93033  
21 Smog Check Inspector License No. EO  
632502  
22 Smog Check Repair Technician License No.  
EI 632502**

23 Respondents.  
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25 **PARTIES**

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

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1 **Rigoberto Tamayo-President/Secretary/Treasurer dba Rigos Automotive Inc.**

2 **Automotive Repair Dealer Registration**

3 2. In 2007, the Bureau issued Automotive Repair Dealer Registration Number ARD  
4 250682 to Rigoberto Tamayo-President/Secretary/Treasurer dba Rigos Automotive Inc.  
5 (“Respondent Rigos Automotive”). The Automotive Repair Dealer Registration was in full force  
6 and effect at all times relevant to the charges brought herein and will expire on May 31, 2024,  
7 unless renewed.

8 **Smog Check Station License**

9 3. On or about February 7, 2011, the Bureau issued Smog Check Station License  
10 Number RC 250682 to Respondent Rigos Automotive. The Smog Check Station License was in  
11 full force and effect at all times relevant to the charges brought herein and will expire on May 31,  
12 2024, unless renewed.

13 **STAR Station Certification**

14 4. On or about January 2, 2020, the Bureau certified Rigos Automotive Inc. as a STAR  
15 Station. The certification will remain active unless ARD 250682 and/or RC 250682 is revoked,  
16 canceled, becomes delinquent, or the certification is invalidated.

17 **RIGOBERTO TAMAYO**

18 **Smog Check Inspector License/Smog Check Repair Technician License**

19 **(formerly Advanced Emission Specialist Technician License Number EA 632502)**

20 5. On or about September 16, 2010, the Bureau issued Advanced Emission Specialist  
21 Technician License Number EA 632502 to Rigoberto Tamayo (“Respondent Tamayo”).  
22 Respondent Tamayo’s Advanced Emission Specialist Technician License was due to expire on  
23 July 31, 2012, however, was cancelled on July 24, 2012. Pursuant to California Code of  
24 Regulations, title 16, section 3340.28, subdivision (e)<sup>1</sup>, the license was renewed, pursuant to  
25 Respondent Tamayo's election, as Smog Check Inspector License Number EO 632502 and Smog  
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27 <sup>1</sup> Effective August 1, 2012, California Code of Regulations, title 16, sections 3340.28,  
28 3340.29, and 3340.30 were amended to implement a license restructure from the Advanced  
Emission Specialist Technician (EA) license and Basic Area (EB) Technician license to Smog  
Check Inspector (EO) license and/or Smog Check Repair Technician (EI) license.

1 Check Repair Technician License Number EI 632502, effective July 24, 2012. Respondent  
2 Tamayo's Smog Check Inspector License was in full force and effect at all times relevant to the  
3 charges brought herein and will expire on July 31, 2024, unless renewed. Effective July 31, 2022,  
4 the Smog Check Repair Technician License is inactive pending completion of training  
5 requirements.

### 6 **JURISDICTION**

7 6. Business and Professions Code (“Code”) section 9884.7 provides that the Director  
8 may revoke an automotive repair dealer registration.

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

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

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

20 10. Section 44072.8 of the Health and Safety Code states:

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

### 24 **STATUTORY PROVISIONS**

25 11. Section 9884.7 of the Code states:

26 (a) The director, if the automotive repair dealer cannot show there was a bona  
27 fide error, may deny, suspend, revoke, or place on probation the registration of an  
28 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:

....

(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.

12. Section 44014 of the Health and Safety Code states:

(a) Except as otherwise provided in this chapter, the testing and repair portion of the program shall be conducted by smog check stations licensed by the department, and by smog check technicians who have qualified pursuant to this chapter.

13. 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.

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.

### **REGULATORY PROVISIONS**

15. California Code of Regulations, title 16, section 3340.15, states:

A smog check station shall meet the following requirements for licensure and shall comply with these requirements at all times while licensed.

....

(b) A licensed inspector and/or repair technician shall be present during all hours the station is open for the business. Testing and/or repairing of vehicles pursuant to the

1 Smog Check Program shall be performed by a licensed inspector and/or repair  
2 technician, consistent with their license classification.

3 16. California Code of Regulations, title 16, section 3340.23, states:

4 A smog check station shall cease performing the functions for which it has  
5 been licensed when it no longer has in its employ an inspector or repair technician,  
6 licensed for the appropriate category of vehicle being tested or repaired, or when its  
7 license has expired or has been surrendered, suspended, or revoked. Such station  
8 must dispose of materials related to its formerly licensed activity according to these  
9 provisions:

10 (a) Loss of Services of Licensed Inspector or Repair Technician. A licensed  
11 station that no longer has in its employ a smog check inspector or repair technician,  
12 licensed for the appropriate category of vehicle being tested or repaired, shall  
13 immediately remove or cover the smog check station sign in accordance with  
14 subsection (b) of this section. If the station does not have in its employ, within 60  
15 days, a smog check inspector or repair technician, licensed for the appropriate  
16 category of vehicle being tested or repaired, the station shall surrender its station  
17 license to the bureau and shall return to the bureau all unused certificates of  
18 compliance and noncompliance.

19 17. California Code of Regulations, title 16, section 3340.30, states:

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

22 . . . .

23 (d) Upon expiration of the inspector and/or repair technician license  
24 immediately cease to inspect, test, or repair failed vehicles, as applicable.

### 25 **COST RECOVERY**

26 18. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
27 administrative law judge to direct a licensee found to have committed a violation or violations of  
28 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.

### 29 **FACTUAL ALLEGATIONS**

30 19. On or about February 2, 2023, a Bureau Representative made a field visit to  
31 Respondent Rigos Automotive's facility and met with Respondent Tamayo. Respondent Tamayo  
32 confirmed the station did not have a currently licensed Smog Check Repair Technician employed  
33 at Respondent Rigos Automotive's facility. The Bureau Representative informed Respondent

1 Tamayo of the requirement of California Code of Regulations, title 16 (“CCR”), section 3340.15,  
2 subdivision (b) and CCR, section 3340.23.

3 20. On or about May 10, 2023, the Bureau Representative performed a follow-up  
4 inspection. Respondent Tamayo confirmed that after sixty (60) days the station still does not  
5 have a currently licensed Smog Check Repair Technician employed at the station as required by  
6 CCR, section 3340.15, subdivision (b). After a discussion with Respondent Tamayo, he declined  
7 to surrender the Smog Check Station License as required by CCR, section 3340.23, subdivision  
8 (a).

9 21. The Bureau Representative reviewed the Vehicle Information Database (“VID”) for  
10 the time period of February 2, 2023 through May 10, 2023 for repair information entered by  
11 Respondent Rigos Automotive. The VID query is limited to 93 days or less, so the VID query  
12 results showed the time period of February 6, 2023 through May 10, 2023. The Bureau  
13 Representative found Respondent Tamayo had entered Smog Check repair information for thirty-  
14 one (31) vehicles, eight (8) of which had failed a Smog Check Inspection before the repairs were  
15 performed.

16 22. The Bureau Representative requested the invoices and Vehicle Inspection Reports  
17 from Respondent Rigos Automotive which the Bureau Representative later received. The Bureau  
18 Representative also reviewed the VID for the vehicle test history for each of the eight (8)  
19 vehicles.

20 a. **Vehicle No. 1-1994 Nissan Pickup (Repair Date February 10, 2023)**

- 21 • On or about December 28, 2022 and January 3, 2023, the 1994 Nissan  
22 Pickup, VIN No. 1N6SD16S7RC342095, with California License No.  
23 4X51151, failed a Smog Check inspection.
- 24 • On or about February 10, 2023, the same 1994 Nissan Pickup had Smog  
25 Check repairs performed at Respondent’s facility and received a Smog  
26 Check Certificate of Compliance.

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1                   **b. Vehicle No. 2-1998 GMC C2500 Pickup (Repair Date February 21, 2023)**

- 2                   •     On or about October 4, 2019, the 1998 GMC C2500 Pickup, VIN No.  
3                                   1GTGC29R3WE551831, with previous California License No. 8T34149,  
4                                   failed a Smog Check inspection. There was no further testing of the  
5                                   vehicle until the visit to Respondent’s facility in or about February of  
6                                   2023.
- 7                   •     On or about February 21, 2023, the same 1998 GMC C2500 Pickup, with  
8                                   new California License No. 16959W2, had Smog Check repairs  
9                                   performed at Respondent’s facility and received a Smog Check Certificate  
10                                  of Compliance.

11                   **c. Vehicle No. 3-1995 Ford F350 Pickup (Repair date March 3, 2023)**

- 12                   •     On or about March 3, 2023, the 1995 Ford F350 Pickup, VIN No.  
13                                   1FDKF37G5SNB15075, with California License No. 8V86957 failed a  
14                                   Smog Check inspection.
- 15                   •     On or about March 3, 2023, the same 1995 Ford F350 Pickup had Smog  
16                                   Check repairs performed at Respondent’s facility and received a Smog  
17                                   Check Certificate of Compliance.

18                   **d. Vehicle No. 4-1992 Chevrolet Corvette (Repair Date March 15, 2023)**

- 19                   •     On or about March 15, 2023, the 1992 Chevrolet Corvette, VIN No.  
20                                   1G1YY33PXN5104441, California License No. 3AFD093, failed multiple  
21                                   Smog Check inspections.
- 22                   •     On or about March 15, 2023, the same 1992 Chevrolet Corvette had Smog  
23                                   Check repairs performed at Respondent’s facility and received a Smog  
24                                   Check Certificate of Compliance.

25                   **e. Vehicle No. 5-1992 Nissan Pickup (Repair Date March 28, 2023)**

- 26                   •     On or about March 27 and 28, 2023, the 1992 Nissan Pickup, VIN No.  
27                                   1N6SD16S4NC302616, with California License No. 4M14000, failed  
28                                   Smog Check inspections.

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- On or about March 28, 2023, the same 1992 Nissan Pickup had Smog Check repairs performed at Respondent’s facility and received a Smog Check Certificate of Compliance.

**f. Vehicle No. 6-2012 Dodge Durango (Repair date March 30, 2023)**

- On or about March 27, 2023, the 2012 Dodge Durango, VIN No. 1C4RDHDG1CC247306, with California License No. 7SWK769, failed a Smog Check inspection.
- On or about March 30, 2023, the same 2012 Dodge Durango had Smog Check repairs performed at Respondent’s facility and received a Smog Check Certificate of Compliance.

**g. Vehicle No. 7-1998 Plymouth Voyager (Repair Date April 10, 2023)**

- On or about April 8, 2023, the 1998 Plymouth Voyager, VIN No. 1P4GP44R1WB725321, with California License No. 4ALV509, failed a Smog Check inspection.
- On or about April 10, 2023, the same 1998 Plymouth Voyager had Smog Check repairs performed at Respondent’s facility and received a Smog Check Certificate of Compliance.

**h. Vehicle No. 8-1997 Chevrolet G2500 (Repair Date 4/12/2023)**

- On or about March 28, 2023, the 1997 Chevrolet G2500, VIN No. 1GCFG25R5V1014292, with California License No. 5L23583, failed a Smog Check inspection.
- On or about April 12, 2023, the same 1997 Chevrolet G2500 had Smog Check repairs performed at Respondent’s facility and received a Smog Check Certificate of Compliance.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Violation of the Code)**

3 23. Respondent Rigos Automotive’s Automotive Repair Dealer Registration is  
4 subject to discipline pursuant to Code section 9884.7, subdivision (a)(6), in that between February  
5 2, 2023, through May 10, 2023, regarding vehicles 1 through 8, set forth above, Respondent  
6 Rigos Automotive failed to comply with the provisions of the Automotive Repair Act by  
7 performing Smog Check repairs to failed vehicles without a currently licensed Smog Check  
8 Repair Technician employed.

9 Complainant incorporates by reference paragraphs 19-22, above, as though fully stated  
10 herein.

11 **SECOND CAUSE FOR DISCIPLINE**

12 **(Violation of Regulations)**

13 24. Respondent Rigos Automotive’s Smog Check Station License is subject to discipline  
14 pursuant to Health and Safety Code section 44072.2, subdivision (c), in that between February 2,  
15 2023, through May 10, 2023, regarding vehicles 1 through 8, set forth above, Respondent failed  
16 to comply with provisions of California Code of Regulations, title 16, as follows:

17 a. **Section 3340.15, subdivision (b):** Respondent Rigos Automotive performed Smog  
18 Check repairs to eight (8) failed vehicles. Respondent Tamayo’s Smog Check Repair Technician  
19 License was expired during the time frame shown above.

20 b. **Section 3340.23, subdivision (a):** Respondent Rigos Automotive failed to surrender  
21 the station license as required when a sixth (60)-day notice was provided. The station was found  
22 to not have a currently licensed Smog Check Repair Technician employed.

23 c. **Section 3340.30, subdivision (d):** Respondent Rigos Automotive performed Smog  
24 Check repairs to eight (8) failed vehicles. Respondent Tamayo’s Smog Check Repair Technician  
25 License was expired during the time frame shown above.

26 Complainant incorporates by reference paragraphs 19-22, above, as though fully stated  
27 herein.

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1 **THIRD CAUSE FOR DISCIPLINE**

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

3 25. Respondent Rigos Automotive’s Smog Check Station License is subject to discipline  
4 pursuant to Health and Safety Code section 44072.2, subdivision (a), in that between February 2,  
5 2023, through May 10, 2023, regarding vehicles 1 through 8, set forth above, Respondent failed  
6 to comply with the following sections of that Code:

7 a. **Section 44014, subdivision (a):** Respondent Rigos Automotive performed Smog Check  
8 repairs to eight (8) failed vehicles. Respondent Tamayo’s Smog Check Repair Technician  
9 License was expired during the time frame shown above.

10 b. **Section 44032:** Respondent Rigos Automotive performed Smog Check repairs to eight  
11 (8) failed vehicles. Respondent Tamayo’s Smog Check Repair Technician License was expired  
12 during the time frame shown above.

13 Complainant incorporates by reference paragraphs 19-22, above, as though fully stated  
14 herein.

15 **FOURTH CAUSE FOR DISCIPLINE**

16 **(Failure to Comply with Regulations Pursuant to the**  
17 **Motor Vehicle Inspection Program)**

18 26. Respondent Tamayo’s Smog Check Inspector License and Smog Check Repair  
19 Technician License are subject to discipline pursuant to Health and Safety Code section 44072.2,  
20 subdivision (c), in that February 2, 2023, through May 10, 2023, regarding vehicles 1 through 8,  
21 set forth above, Respondent failed to comply with provisions of California Code of Regulations,  
22 title 16, as follows:

23 a. **Section 3340.30, subdivision (d):** Respondent Rigos Automotive performed Smog  
24 Check repairs to eight (8) failed vehicles. Respondent Tamayo’s Smog Check Repair Technician  
25 License was expired during the time frame shown above.

26 Complainant incorporates by reference paragraphs 19-22, above, as though fully stated  
27 herein.

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**OTHER MATTERS**

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

28. Pursuant to Health and Safety Code section 44072.8, if Smog Check Station License Number RC 250682 issued to Rigos Automotive Inc., is revoked or suspended, any additional license issued under Chapter 5 of Part 5 of Div 26 of the Health and Safety Code in the name of said licensee may be likewise revoked or suspended by the director.

29. Pursuant to Health and Safety Code section 44072.8, if Smog Check Inspector License Number EO 632502 and Smog Check Repair Technician License Number EI 632502, issued to Rigoberto Tamayo, is revoked or suspended, any additional license issued under this Chapter 5 of Part 5 of Div 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 250682, issued to Rigos Automotive Inc., Rigoberto Tamayo-President/Secretary/Treasurer;
2. Revoking, suspending or placing on probation any other automotive repair dealer registration issues in the name of Rigoberto Tamayo;
3. Revoking or suspending Smog Check Station License Number RC 250682, issued to Rigos Automotive Inc., Rigoberto Tamayo-President/Secretary/Treasurer;
4. Revoking or suspending Smog Check Inspector License Number EO 632502, issued to Rigoberto Tamayo;
5. Revoking or suspending Smog Check Repair Technician License Number EI 632502, issued to Rigoberto Tamayo;

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6. Revoking or suspending any other license pursuant to Chapter 5 of Part 5 of Div 26 of the Health and Safety Code in the name of Rigos Automotive Inc. and/or Rigoberto Tamayo;

7. Ordering Rigoberto Tamayo 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,

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

DATED: As of Digital Signature Date

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

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