

1 ROB BONTA
Attorney General of California
2 SHAWN P. COOK
Supervising Deputy Attorney General
3 MATTHEW A. KING
Deputy Attorney General
4 State Bar No. 265691
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 269-6303
6 Facsimile: (916) 731-2126
E-mail: Matthew.King@doj.ca.gov
7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 79/25-4903

13 **MARIA C. MAGANA, DBA MIGUELS**
14 **SMOG CHECK**

ACCUSATION

15 Station Address:

16 171415 Catalpa St. Unit B
17 Hesperia, CA 92345

18 Mailing Address:

19 15100 Tacony Rd
20 Apple Valley, CA 92307

21 **Automotive Repair Dealer Registration No.**
22 **ARD 286259**

23 **Smog Check Test Only Station License No.**
24 **TC 286259**

25 And

26 **LORENZO A. RAMIREZ-HUERTA**

27 10433 Navajo Rd
28 Apple Valley, CA 92308

Smog Check Inspector License No.
EO 632640

Respondents.

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.

1 2. On or about March 14, 2017, the bureau issued Automotive Repair Dealer
2 Registration number ARD 286529 to Maria C. Magana, doing business as Miguels Smog Check
3 (respondent Magana or Miguels Smog Check). The Automotive Repair Dealer Registration was
4 in full force and effect at all times relevant to the charges brought herein and will expire on
5 March 31, 2026, unless renewed.

6 3. On or about June 5, 2017, the bureau issued Smog Check Test Only Station License
7 number TC 286259 to respondent Miguels Smog Check. The Smog Check Test Only Station
8 License was in full force and effect at all times relevant to the charges brought herein and will
9 expire on March 31, 2026, unless renewed.

10 4. On or about June 18, 2017, the bureau certified respondent Miguels Smog Check as a
11 STAR Station. The STAR Station Certification will remain active unless the Automotive Repair
12 Dealer Registration or Smog Check Test Only Station License is revoked, cancelled, becomes
13 delinquent, or the certification is suspended.

14 5. On or about March 7, 2013, the bureau issued Smog Check Inspector License number
15 EO 632640 to respondent Ramirez-Huerta. The Smog Check Inspector License was in full force
16 and effect at all times relevant to the charges brought herein and will expire on March 31, 2027,
17 unless renewed.

JURISDICTION

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

20 7. Business and Professions Code section 118, subdivision (b), provides that suspension,
21 expiration, surrender, or cancellation of a license shall not deprive the director of jurisdiction to
22 proceed with a disciplinary action during the period within which the license may be renewed,
23 restored, reissued or reinstated.

24 8. Business and Professions Code section 9884.7 provides that the director may revoke
25 an automotive repair dealer registration.

26 9. Business and Professions Code section 9884.13 provides, in pertinent part, that the
27 expiration of a valid registration shall not deprive the director of jurisdiction to proceed with a
28

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

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

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

10 STATUTORY PROVISIONS

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

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

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

21

22 (4) Any other conduct that constitutes fraud.

23

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

26

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

. . . .

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

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

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

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

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

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

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

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

15 15. Health and Safety Code section 44015, subdivision (b), provides that a certificate of
16 compliance shall be issued if a vehicle meets the requirements of Health and Safety Code section
17 40012.

18 16. Health and Safety Code section 44032 provides that qualified technicians shall
19 perform tests of emissions control devices and systems in accordance with Health and Safety
20 Code section 40012.

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

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

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

28 ...

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

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

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

(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, 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....

19. Health and Safety Code section 44072.8 states that 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

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

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

21. CCR, title 16, section 3340.30, subdivision (a), states that a licensed smog technician shall at all times “[i]nspect, test and repair vehicles, as applicable, 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.”

22. CCR, title 16, section 3340.35, subdivision (c), states that a licensed smog check 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.”

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

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

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

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

11 COST RECOVERY

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

16 CALIFORNIA'S SMOG CHECK PROGRAM

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

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

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

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

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

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

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

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

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

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

9 35. Some of the parameters recorded are:

10 a. *RPM*: Engine speed in revolutions per minute (RPM);

11 b. *TPS*: Throttle position as measured by a throttle position sensor (TPS) mounted onto
12 the throttle shaft, measured in a percentage of opening from 0% at idle and near or up to 100% at
13 full throttle;

14 c. *MAP*: Manifold absolute pressure as measured by a manifold air pressure sensor
15 (MAP) connected to an intake manifold source, measured in kilo pascals (kpa), with typical
16 readings for a normally aspirated vehicle being as follows: 0 kpa being absolute vacuum, 25 to 45
17 kpa at idle, 101 kpa at full throttle, same as atmospheric pressure at sea level;

18 d. *MAF*: Mass air flow as measured by a mass air flow sensor (MAF) mounted in the
19 engine's air intake tract, measured in grams per second (gps); and

20 e. *BTDC*: Ignition timing, which is set by the vehicle PCM based on engine speed and
21 load, measured in degrees Before Top Dead Center (BTDC).

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

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

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

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

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

21 FACTUAL ALLEGATIONS

22 39. On or about April 2, 2025 a bureau representative conducted a detailed review of the
23 VID data for Smog Check inspections performed at Miguels Smog Check, which showed a
24 pattern of vehicles being certified with engine operating parameters that did not correspond to
25 normal engine operation, confirming the vehicles receiving smog certifications were not tested
26 during the OBD II functional test, which constitutes clean plugging. The bureau's review of the
27 smog check activities at Miguels Smog Check confirmed 11 Smog Check Certificates of
28 Compliance were fraudulently issued by Miguels Smog Check to vehicles that were inspected by

1 respondent.

2 **Fraudulent Inspection Number 1 — 2001 Honda Civic LX**

3 40. OIS Test Data for Miguels Smog Check indicates that on or about April 10, 2024, a
4 2001 Honda Civic LX, California license number 7LXV217 was tested and Smog Certificate of
5 Compliance number TU767989C was issued under respondent Ramirez-Huerta's Smog Check
6 Inspector License.

7 41. The Dynamic PID charts and data for the 2001 Honda Civic LX shows that between
8 time stamp 836 and 27479, the engine RPM is steady at around 710 RPM. During this time, the
9 data shows that the throttle is fixed at 9.4% opening and the MAP is fixed at 28kPa. After time
10 stamp 27479, the engine RPM is increased then held steady at around 1730 RPM. During the
11 steady elevated engine RPM, the data shows that the throttle continues to stay fixed at 9.4%
12 opening and the MAP continues to stay fixed at 28kPa.

13 42. The steady idle and steady elevated engine RPM data along with the associated fixed
14 throttle position and subsequent fixed MAP readings that never changed during the entire period
15 the dynamic data was collected, are not characteristic or expected for normal engine operation.
16 The discrepancies in the OIS Test Data prove the OIS Data Acquisition Device (DAD) was not
17 connected to the 2001 Honda Civic LX being certified, causing the issuance of a fraudulent Smog
18 Certificate of Compliance.

19 **Fraudulent Inspection Number 2 — 2002 Acura RSX TYPE-S**

20 43. OIS Test Data for Miguels Smog Check indicates that on or about on April 10, 2024,
21 a 2002 Acura RSX TYPE-S, California license number 6CIV724 (2002 Acura RSX TYPE-S)
22 was tested and smog certificate # TU767992C was issued under Lorenzo A Ramirez-Huerta's
23 Smog Check Inspector License.

24 44. The Dynamic PID charts and data for the 2002 Acura RSX TYPE-S shows that
25 between time stamp 843 and 19713, the engine RPM is steady at around 900 RPM. During this
26 time, the data shows that the throttle is fixed at 3.9% opening and the MAP is fixed at 26kPa.
27 After time stamp 19713, the engine RPM is increased then held steady at around 1720 RPM.
28 During the steady elevated engine RPM, the data shows that the throttle continues to stay fixed at

1 3.9% opening and the MAP continues to stay fixed at 26kPa.

2 45. The steady idle and steady elevated engine RPM data along with the associated fixed
3 throttle position and subsequent fixed MAP readings that never changed during the entire period
4 the dynamic data was collected, are not characteristic or expected for normal engine operation.
5 The discrepancies in the OIS Test Data prove the OIS Data Acquisition Device (DAD) was not
6 connected to the 2002 Acura RSX TYPE-S being certified, causing the issuance of a fraudulent
7 Smog Certificate of Compliance.

8 **Fraudulent Inspection #3 — 2003 Nissan Frontier King Cab XE**

9 46. OIS Test Data for Miguels Smog Check indicates that on or about May 22, 2024, a
10 2003 Nissan Frontier King Cab XE, California license number 8U37411 (2003 Nissan Frontier
11 King Cab XE) was tested and Smog Certificate of Compliance number TY013978C was issued
12 under respondent Ramirez-Huerta's Smog Check Inspector License.

13 47. The Dynamic PID charts and data for the 2003 Nissan Frontier King Cab XE shows
14 that between time stamp 947 and 20338, the engine RPM is steady at around 900 RPM. During
15 this time, the data shows that the throttle is fixed at 0% opening and the MAF is fixed at 2.46gps.
16 After time stamp 20338, the engine RPM is increased then held steady at around 1750 RPM.
17 During the steady elevated engine RPM, the data shows that the throttle continues to stay fixed at
18 0% opening and the MAF continues to stay fixed at 2.46gps.

19 48. The steady idle and steady elevated engine RPM data along with the associated fixed
20 throttle position and subsequent MAF readings that never changed during the entire period the
21 dynamic data was collected, are not characteristic or expected for normal engine operation. The
22 discrepancies in the OIS Test Data prove the OIS Data Acquisition Device (DAD) was not
23 connected to the 2003 Nissan Frontier King Cab XE being certified, causing the issuance of a
24 fraudulent Smog Certificate of Compliance.

25 **Fraudulent Inspection #4 — 2000 Toyota Tundra Access Cab**

26 49. OIS Test Data for Miguels Smog Check indicates that on or about May 22, 2024, a
27 2000 Toyota Tundra Access Cab, California license number 08553M3 was tested and Smog
28 Certificate of Compliance number TY013980C was issued under Lorenzo A Ramirez-Huerta's

1 Smog Check Inspector License.

2 50. The Dynamic PID charts and data for the 2000 Toyota Tundra Access Cab shows that
3 between time stamp 849 and 21433, the engine RPM is steady at around 670 RPM. During this
4 time, the data shows that the throttle is fixed at 14.9% opening and the MAF is fixed at 4.34gps.
5 After time stamp 21433, the engine RPM is increased then held steady at around 1670 RPM.
6 During the steady elevated engine RPM, the data shows that the throttle continues to stay fixed at
7 14.9% opening and the MAF continues to stay fixed at 4.34gps.

8 51. The steady idle and steady elevated engine RPM data along with the associated fixed
9 throttle position and subsequent fixed MAF readings that never changed during the entire period
10 the dynamic data was collected, are not characteristic or expected for normal engine operation.
11 The discrepancies in the OIS Test Data prove the OIS Data Acquisition Device (DAD) was not
12 connected to the 2000 Toyota Tundra Access Cab being certified, causing the issuance of a
13 fraudulent Smog Certificate of Compliance.

14 **Fraudulent Inspection #5 — 2000 Chevrolet Silverado C1500**

15 52. OIS Test Data for Miguels Smog Check indicates that on or about May 22, 2024, a
16 2000 Chevrolet Silverado C1500, California icense number 6J39439 (2000 Chevrolet Silverado
17 C1500) was tested and Smog Certificate of Compliance number TY013981C was issued under
18 Lorenzo A Ramirez-Huerta's Smog Check Inspector License.

19 53. The Dynamic PID charts and data for the 2000 Chevrolet Silverado C1500 shows that
20 between time stamp 343 and 25367, the engine RPM is steady at around 620 RPM. During this
21 time, the data shows that the throttle is fixed at 0.4% opening, the MAP is fixed at 37kPa, and the
22 MAF is fixed at 6.1gps. After time stamp 25735, the engine RPM is increased then held steady at
23 around 1650 RPM. During the steady elevated engine RPM, the data shows that the throttle
24 continues to stay fixed at 0.4% opening, the MAP continues to stay fixed at 37kPa, and the MAF
25 continues to stay fixed at 6.1gps.

26 54. The steady idle and steady elevated engine RPM data along with the associated fixed
27 throttle position and subsequent fixed MAP and MAF readings that never changed during the
28 entire period the dynamic data was collected, are not characteristic or expected for normal engine

1 operation. The discrepancies in the OIS Test Data prove the OIS Data Acquisition Device (DAD)
2 was not connected to the 2000 Chevrolet Silverado C1500 being certified, causing the issuance of
3 a fraudulent Smog Certificate of Compliance.

4 **Fraudulent Inspection #6 — 2000 Chevrolet Suburban K1500**

5 55. OIS Test Data for Miguels Smog Check indicates that on or about on June 7, 2024, a
6 2000 Chevrolet Suburban K1500, California license number 6AIG684 (2000 Chevrolet Suburban
7 K1500) was tested and Smog Certificate of Compliance number TY854501C was issued under
8 respondent Ramirez-Huerta's Smog Check Inspector License.

9 56. The Dynamic PID charts and data for the 2000 Chevrolet Suburban K1500 shows that
10 between time stamp 359 and 32842, the engine RPM is steady at around 550 RPM. During this
11 time, the data shows that the throttle is fixed at 0% opening, the MAP is fixed at 31kPa, and the
12 MAF is fixed at 4.67gps. After time stamp 32842, the engine RPM is increased then held steady
13 at around 1650 RPM. During the steady elevated engine RPM, the data shows that the throttle
14 continues to stay fixed at 0% opening, the MAP continues to stay fixed at 31kPa, and the MAF
15 continues to stay fixed at 4.67gps.

16 57. The steady idle and steady elevated engine RPM data along with the associated fixed
17 throttle position and subsequent fixed MAP and MAF readings that never changed during the
18 entire period the dynamic data was collected, are not characteristic or expected for normal engine
19 operation. The discrepancies in the OIS Test Data prove the OIS Data Acquisition Device (DAD)
20 was not connected to the 2000 Chevrolet Suburban K1500 being certified, causing the issuance of
21 a fraudulent Smog Certificate of Compliance.

22 **Fraudulent Inspection #7 — 2002 Lexus GS 300**

23 58. OIS Test Data for Miguels Smog Check indicates that on or about June 7, 2024, a
24 2002 Lexus GS 300, California license number 7PRR342 was tested and Smog Certificate of
25 Compliance number TY854502C was issued under respondent Ramirez-Huerta's Smog Check
26 Inspector License.

27 59. The Dynamic PID charts and data for the 2002 Lexus GS 300 shows that between
28 time stamp 841 and 19680, the engine RPM is steady at around 760 RPM. During this time, the

1 data shows that the throttle is fixed at 14.9% opening and the MAF is fixed at 0.42gps. After time
2 stamp 19680, the engine RPM is increased then held steady at around 1620 RPM. During the
3 steady elevated engine RPM, the data shows that the throttle continues to stay fixed at 14.9%
4 opening and the MAF continues to stay fixed at 0.42gps.

5 60. The steady idle and steady elevated engine RPM data along with the associated fixed
6 throttle position and subsequent fixed MAF readings that never changed during the entire period
7 the dynamic data was collected, are not characteristic or expected for normal engine operation.
8 The discrepancies in the OIS Test Data prove the OIS Data Acquisition Device (DAD) was not
9 connected to the 2002 Lexus GS 300 being certified, causing the issuance of a fraudulent Smog
10 Certificate of Compliance.

11 **Fraudulent Inspection #8 — 2000 Toyota Sienna CE**

12 61. OIS Test Data for Miguels Smog Check indicates that on or about June 20, 2024, a
13 2000 Toyota Sienna CE, California license number 7NAV000 (2000 Toyota Sienna CE) was
14 tested and Smog Certificate of Compliance number TY854548C was issued under respondent
15 Ramirez-Huerta's Smog Check Inspector License.

16 62. The Dynamic PID charts and data for the 2000 Toyota Sienna CE shows that between
17 time stamp 843 and 26732, the engine RPM is steady at around 710 RPM. During this time, the
18 data shows that the throttle is fixed at 11% opening and the MAF is fixed at 2.63gps. After time
19 stamp 26732, the engine RPM is increased then held steady at around 1390 RPM. During the
20 steady elevated engine RPM, the data shows that the throttle continues to stay fixed at 11%
21 opening and the MAF continues to stay fixed at 2.63gps.

22 63. The steady idle and steady elevated engine RPM data along with the associated fixed
23 throttle position and subsequent fixed MAF readings that never changed during the entire period
24 the dynamic data was collected, are not characteristic or expected for normal engine operation.
25 The discrepancies in the OIS Test Data prove the OIS Data Acquisition Device (DAD) was not
26 connected to the 2000 Toyota Sienna CE being certified, causing the issuance of a fraudulent
27 Smog Certificate of Compliance.

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1 **Fraudulent Inspection #9 — 2000 Hyundai Tiburon GT**

2 64. OIS Test Data for Miguels Smog Check indicates that on or about June 27, 2024, a
3 2000 Hyundai Tiburon GT, California license number 5JBM696 (2000 Hyundai Tiburon GT) was
4 tested and Smog Certificate of Compliance number IZ675669C was issued under respondent
5 Ramirez-Huerta's Smog Check Inspector License.

6 65. The Dynamic PID charts and data for the 2000 Hyundai Tiburon GT shows that
7 between time stamp 835 and 21060, the engine RPM is steady at around 840 RPM. During this
8 time, the data shows that the throttle is fixed at 14.5% opening and the MAF is fixed at 0gps.
9 After time stamp 21060, the engine RPM is increased then held steady at around 1770 RPM.
10 During the steady elevated engine RPM, the data shows that the throttle continues to stay fixed at
11 14.5% opening and the MAF continues to stay fixed at 0gps.

12 66. The steady idle and steady elevated engine RPM data along with the associated fixed
13 throttle position and subsequent fixed MAF readings that never changed during the entire period
14 the dynamic data was collected, are not characteristic or expected for normal engine operation.
15 The discrepancies in the OIS Test Data prove the OIS Data Acquisition Device (DAD) was not
16 connected to the 2000 Hyundai Tiburon GT being certified, causing the issuance of a fraudulent
17 Smog Certificate of Compliance.

18 **Fraudulent Inspection #10 — 2004 Nissan Armada SE**

19 67. OIS Test Data for Miguels Smog Check indicates that on or about July 3, 2024, a
20 2004 Nissan Armada SE, California license number 7EWU545 (2004 Nissan Armada SE) was
21 tested and Smog Certificate of Compliance number IZ675684C was issued under respondent
22 Ramirez-Huerta's Smog Check Inspector License.

23 68. The Dynamic PID charts and data for the 2004 Nissan Armada SE shows that
24 between time stamp 949 and 21271, the engine RPM is steady at around 760 RPM. During this
25 time, the data shows that the throttle is fixed at 0% opening and the MAF is fixed at 1.39gps.
26 After time stamp 21271, the engine RPM is increased then held steady at around 1740 RPM.
27 During the steady elevated engine RPM, the data shows that the throttle continues to stay fixed at
28 0% opening and the MAF continues to stay fixed at 1.39gps.

1 69. The steady idle and steady elevated engine RPM data along with the associated fixed
2 throttle position and subsequent fixed MAF readings that never changed during the entire period
3 the dynamic data was collected, are not characteristic or expected for normal engine operation.
4 The discrepancies in the OIS Test Data prove the OIS Data Acquisition Device (DAD) was not
5 connected to the 2004 Nissan Armada SE being certified, causing the issuance of a fraudulent
6 Smog Certificate of Compliance.

7 **Fraudulent Inspection #11 — 2000 Lexus IS 300**

8 70. OIS Test Data for Miguels Smog Check indicates that on or about July 3, 2024, a
9 2004 Lexus IS 300, California license number 6KKE954 (2004 Lexus IS 300) was tested and
10 Smog Certificate of Compliance number IZ675685C was issued under respondent Ramirez-
11 Huerta's Smog Check Inspector License.

12 71. The Dynamic PID charts and data for the 2004 Lexus IS 300 shows that between time
13 stamp 835 and 20616, the engine RPM is steady at around 710 RPM. During this time, the data
14 shows that the throttle is fixed at 15.7% opening and the MAF is fixed at 5.48gps. After time
15 stamp 20616, the engine RPM is increased then held steady at around 1630 RPM. During the
16 steady elevated engine RPM, the data shows that the throttle continues to stay fixed at 15.7%
17 opening and the MAF continues to stay fixed at 5.48gps.

18 72. The steady idle and steady elevated engine RPM data along with the associated fixed
19 throttle position and subsequent fixed MAF readings that never changed during the entire period
20 the dynamic data was collected, are not characteristic or expected for normal engine operation.
21 The discrepancies in the OIS Test Data prove the OIS Data Acquisition Device (DAD) was not
22 connected to the 2004 Lexus IS 300 being certified, causing the issuance of a fraudulent Smog
23 Certificate of Compliance.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Untrue of Misleading Statements — Respondent Magana)**

3 73. Respondent Magana's Automotive Repair Dealer Registration is subject to
4 disciplinary action pursuant to Business and Professions Code section 9884.7, subdivision (a)(1),
5 in that she made statements which were known to be untrue or misleading or, which by exercise
6 of reasonable care should have been known to be untrue or misleading, by issuing electronic
7 smog certificates of compliance for the 11 vehicles set forth in paragraphs 39-72, certifying that
8 those vehicles were in compliance with applicable laws and regulations when, in fact, those
9 vehicles had not been so inspected. Complainant realleges paragraphs 39-72.

10 **SECOND CAUSE FOR DISCIPLINE**

11 **(Fraud — Respondent Magana)**

12 74. Respondent Magana's Automotive Repair Dealer Registration is subject to
13 disciplinary action pursuant to Business and Professions Code section 9884.7, subdivision (a)(4),
14 in that she committed acts that constitute fraud by issuing electronic certificates of compliance to
15 the 11 vehicles set forth in paragraphs 39-72 without performing bone fide inspections of the
16 emission control devices and systems on those vehicles, thereby depriving the People of the State
17 of California of the protection afforded by the Motor Vehicle Inspection Program. Complainant
18 realleges paragraphs 39-72.

19 **THIRD CAUSE FOR DISCIPLINE**

20 **(Material Violation of Automotive Repair Act — Respondent Magana)**

21 75. Respondent Magana's Automotive Repair Dealer Registration is subject to
22 disciplinary action pursuant to Business and Professions Code section 9884.7, subdivision (a)(6),
23 in that she failed in a material respect to comply with the provisions of this chapter or regulations
24 adopted pursuant to it when he issued electronic certificates of compliance for the 11 vehicles set
25 forth in paragraphs 39-72 without performing bona fide inspections of the emission control
26 devices and systems on those vehicles, thereby depriving the People of the State of California of
27 the protection afforded by the Motor Vehicle Inspection Program. Complainant realleges
28 paragraphs 39-72.

1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Violations of the Motor Vehicle Inspection Program — Respondent Magana)**

3 76. Respondent Magana’s Smog Check Test Only Station License is subject to
4 disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (a), in that he
5 failed to comply with the following sections of that Code:

6 a. **Section 44012:** Respondent Magana failed to ensure that the emission control tests
7 were performed on the 11 vehicles set forth in paragraphs 39–72 in accordance with procedures
8 prescribed by the department.

9 b. **Section 44015, subdivision (b):** Respondent issued electronic smog certificates of
10 compliance to the 11 vehicles set forth in paragraphs 39–72 without properly testing and
11 inspecting those vehicles to determine if they were in compliance with Health and Safety Code
12 section 44012.

13 Complainant realleges paragraphs 39–72.

14 **FIFTH CAUSE FOR DISCIPLINE**

15 **(Failure to Comply with Regulations Pursuant**

16 **to the Motor Vehicle Inspection Program — Respondent Magana)**

17 77. Respondent Magana’s Smog Check Test Only Station License is subject to
18 disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (c), in that
19 she failed to comply with provisions of California Code of Regulations, title 16, as follows:

20 a. **Section 3340.24, subdivision (c):** Respondent Magana falsely or fraudulently issued
21 electronic smog certificates of compliance for the 11 vehicles identified in paragraphs 39–72.

22 b. **Section 3340.30, subdivision (a):** Respondent Magana failed to inspect and test the
23 11 vehicles identified in paragraphs 39–72 in accordance with Health and Safety Code sections
24 44012 and 44035, and California Code of Regulations, title 16, section 3340.42.

25 c. **Section 3340.35, subdivision (c):** Respondent Magana issued electronic smog
26 certificates of compliance 11 vehicles identified in paragraphs 39–72 even though those vehicles
27 had not been inspected in accordance with section 3340.42.

28 d. **Section 3340.42:** Respondent Magana failed to ensure that the smog inspections

1 conducted on the 11 vehicles identified in paragraphs 39–72 were done in accordance with the
2 Bureau’s specifications.

3 Complainant realleges paragraphs 39–72.

4 **SIXTH CAUSE FOR DISCIPLINE**

5 **(Dishonesty, Fraud or Deceit — Respondent Magana)**

6 78. Respondent Magana’s Smog Check Test Only Station License is subject to
7 disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (d), in
8 conjunction with Health and Safety Code section 44072.10, subdivision (c), in that he committed
9 dishonest, fraudulent, or deceitful acts whereby another was injured by issuing electronic smog
10 certificates of compliance for the 11 vehicles described in paragraphs 39–72 without performing
11 bona fide inspections of the emission control devices and systems on those vehicles, thereby
12 depriving the People of the State of California of the protection afforded by the Motor Vehicle
13 Inspection Program. Complainant realleges paragraphs 39–72.

14 **SEVENTH CAUSE FOR DISCIPLINE**

15 **(Violations of the Motor Vehicle Inspection Program — Respondent Ramirez-Huerta)**

16 79. Respondent Ramirez-Huerta’s Smog Check Inspector License is subject to
17 disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (a), in that he
18 failed to comply with the following sections of that code:

19 a. **Section 44032:** Respondent Ramirez-Huerta failed to perform tests of emission
20 control devices and systems of the 11 vehicles identified in paragraphs 39–72 in accordance with
21 Health and Safety Code section 44012.

22 b. **Section 44015, subdivision (b):** Respondent Ramirez-Huerta caused electronic smog
23 certificates of compliance to be issued for the 11 vehicles identified in paragraphs 39–72 without
24 ensuring that they were properly tested and inspected to determine if they were in compliance
25 with Health and Safety Code section 44012.

26 Complainant realleges paragraphs 39–72.

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1 **EIGHTH CAUSE FOR DISCIPLINE**

2 **(Failure to Comply with Regulations Pursuant**

3 **to the Motor Vehicle Inspection Program — Respondent Ramirez-Huerta)**

4 80. Respondent Ramirez-Huerta's Smog Check Inspector License is subject to
5 disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (c), in that he
6 failed to comply with provisions of California Code of Regulations, title 16, as follows:

7 a. **Section 3340.24, subdivision (c)**: Respondent Ramirez-Huerta falsely or fraudulently
8 issued electronic smog certificates of compliance for the 11 vehicles identified in paragraphs 39–
9 72.

10 b. **Section 3340.30, subdivision (a)**: Respondent Ramirez-Huerta failed to inspect and
11 test the 11 vehicles identified in paragraphs 39–72 in accordance with Health and Safety Code
12 sections 44012 and 44035, and California Code of Regulations, title 16, section 3340.42.

13 c. **Section 3340.41, subdivision (c)**: Respondent Ramirez-Huerta knowingly entered
14 false information into the emissions inspection system for the 11 vehicles identified in paragraphs
15 39–72.

16 d. **Section 3340.42**: Respondent Ramirez-Huerta failed to ensure that the smog
17 inspections conducted on the 11 vehicles identified in paragraphs 39–72 were done in accordance
18 with the bureau's specifications.

19 Complainant realleges paragraphs 39–72.

20 **NINTH CAUSE FOR DISCIPLINE**

21 **(Dishonesty, Fraud or Deceit — Respondent Ramirez-Huerta)**

22 81. Respondent Ramirez-Huerta's Smog Check Inspector License is subject to
23 disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (d), in
24 conjunction with Health and Safety Code section 44072.10, subdivision (c), in that he committed
25 dishonest, fraudulent, or deceitful acts whereby another was injured by issuing electronic smog
26 certificates of compliance for the 11 vehicles identified in paragraphs 39–72 without performing
27 bona fide inspections of the emission control devices and systems on those vehicles, thereby
28 depriving the People of the State of California of the protection afforded by the Motor Vehicle

1 Inspection Program. Complainant realleges paragraphs 39–72.

2 **OTHER MATTERS**

3 82. Pursuant to Business and Professions Code section 9884.7, subdivision (c), the
4 director of the Department of Consumer Affairs (director) may suspend, revoke, or place on
5 probation the registration for all places of business operated in this state by respondent Magana
6 upon a finding that he has, or is, engaged in a course of repeated and willful violations of the laws
7 and regulations pertaining to an automotive repair dealer.

8 83. Pursuant to Health and Safety Code section 44072.8, if Smog Check Test Only
9 Station License No. TC 286259, issued to respondent Magana, is revoked or suspended, any
10 additional license issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code
11 in the name of said licensee may be likewise revoked or suspended by the director.

12 84. Pursuant to Health and Safety Code section 44072.8, if Smog Check Inspector
13 License No. EO 632640, issued to respondent Ramirez-Huerta, is revoked or suspended, any
14 additional license issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code
15 in the name of said licensee may be likewise revoked or suspended by the director.

16 **PRAYER**

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

- 20 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
21 286259, issued to Maria C. Magana, doing business as Miguels Smog Check;
- 22 2. Revoking or suspending any other automotive repair dealer registration issued to
23 Maria C. Magana, pursuant to Business and Professions Code section 9884.7, subdivision (c);
- 24 3. Revoking or suspending Smog Check Test Only Station License Number TC 286259,
25 issued to Maria C. Magana, doing business as Miguels Smog Check;
- 26 4. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of
27 Division 26 of the Health and Safety Code in the name Maria C. Magana;
- 28 5. Revoking or suspending Smog Check Inspector License Number EO 632640, issued

1 to Lorenzo A. Ramirez-Huerta;

2 6. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of
3 Division 26 of the Health and Safety Code in the name of Lorenzo A. Ramirez-Huerta;

4 7. Ordering Maria C. Magana, doing business as Miguels Smog Check, and Lorenzo A.
5 Ramirez-Huerta to pay the Bureau of Automotive Repair the reasonable costs of the investigation
6 and enforcement of this case, pursuant to Business and Professions Code section 125.3 and if
7 placed on probation, the costs of probation monitoring; and,

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

9
10 Dorais,
11 Patrick@DCA

Digitally signed by
Dorais, Patrick@DCA
Date: 2025.08.25
14:04:13 -07'00'

12 DATED: As of digital signature date

13 PATRICK DORAIS
14 Chief
15 Bureau of Automotive Repair
16 Department of Consumer Affairs
17 State of California
18 *Complainant*

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