

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

**In the Matter of the Accusation Against:**

**GEORGE JAY DAVIS, d.b.a. SMOG PRO PLUS,**

**Automotive Repair Dealer Registration No. ARD 289043**

**Smog Check Test-Only License No. TC 289043**

**and**

**GEORGE JAY DAVIS**

**Smog Check Inspector License No. EO 634951**

**Respondent.**

**Agency Case No. 79/24-17991**

**OAH No. 2025071043**

**PROPOSED DECISION**

Administrative Law Judge Traci C. Belmore, Office of Administrative Hearings, State of California, heard this matter on January 22, and February 6, 2026, by videoconference.

Deputy Attorney General Michael M. Karimi represented complainant Patrick Dorais, Chief of the Bureau of Automotive Repair, Department of Consumer Affairs.

Respondent George Jay Davis represented himself.

The record was closed, and the matter was submitted for decision on February 6, 2026.

## **FACTUAL FINDINGS**

### **License and Disciplinary History**

1. On December 1, 2017, the Bureau of Automotive Repair (bureau) issued Automotive Repair Dealer Registration No. ARD 289043 to respondent George Jay Davis, doing business as Smog Pro Plus. The registration will expire on December 31, 2026, unless renewed.

2. On December 22, 2017, the bureau issued Smog Check Test-Only License No. TC 289043 to respondent doing business as Smog Pro Plus. The license will expire on December 31, 2026, unless renewed.

3. On May 28, 2014, the bureau issued Smog Check Inspector License No. EO 634951 to respondent. The license will expire on May 31, 2026, unless renewed.

4. On March 20, 2025, complainant in his official capacity issued an accusation against respondents. The accusation sought to revoke or suspend respondents' licenses for conduct constituting fraud, making untrue and/or misleading statements; failing to comply with the inspection program; failure to comply with the regulations regarding the smog inspection program, and dishonesty.

5. In a Decision and Order effective March 11, 2020, respondent's smog check inspector license was revoked for failing to comply with the inspection program, failing to comply with the regulations regarding the inspection program, and issuing fraudulent certificates of compliance. The revocation was stayed, and respondent's license was placed on probation for two years with various terms and conditions. During the hearing on that accusation, respondent testified that he did not use a simulator or manipulate the smog testing process. Respondent stated that he may have left his license and access code unsecured and intimated that other personnel at the shop used his license to issue fraudulent compliance certificates.

6. Respondent timely filed a notice of defense, and this hearing ensued.

### **Smog Inspection Program**

7. Beginning in March 2015, smog check inspections of most vehicles in California are performed pursuant to the BAR-OIS (Bureau of Automotive Repair On-Board Diagnostic Inspection System) protocol. Instructions for performing inspections are included in the bureau's Smog Check Manual. Beginning in May 2023, a biometric palm scanner was required for use in smog testing. Smog technicians initially had their palm scanned at a BAR field office. Smog technicians are required to scan their palm before and after each OIS functional test conducted of a vehicle. As part of a BAR-OIS inspection, the on-board diagnostic system of the vehicle being tested is connected to the bureau's database by means of a data acquisition device (DAD).

8. All vehicles manufactured after 2005, and many manufactured earlier, have an electronic vehicle identification number (eVIN), which is identical to the vehicle identification number physically present on the vehicle. If the vehicle has an eVIN stored in its computer, the eVIN is transmitted during the OIS inspection.

Vehicles also transmit a communication protocol during the OIS inspection, which is the “language” used by the vehicle’s computer. The protocol is programmed during the manufacturing process and does not change. Vehicles of the same make, model, and year will all use the same protocol. A PID (parameter identification) count is also transmitted during an OIS inspection. The PID count is the number of data points reported by the vehicle’s computer. Each make, model, and year of vehicle will have an expected PID count (or range of PID counts.) When performing a smog inspection, the technician is required to confirm that the VIN input into the OIS system is correct and matches the vehicle being tested.

9. Clean plugging is the illegal practice of substituting one vehicle for another or using a device instead of the vehicle being inspected during the on-board diagnostic portion of a smog inspection. It can be detected when the data transmitted by the vehicle does not match what is expected to be transmitted for that year, make, and model of vehicle.

## **Clean Plugging**

10. Steve Koch is a Program Representative I (PR) for the bureau. PR Koch has been employed by the bureau for 25 years. He has held smog check inspector and repair technician licenses since 1996. PR Koch is also an Automotive Service Excellence (ASE) certified master technician.

11. PR Koch explained that some of the parameters recorded when the DAD is plugged into a vehicle are engine speed in revolutions per minute (rpm), throttle position measured by a throttle position sensor (TPS), manifold absolute pressure measured by a manifold air pressure sensor (MAP) measured by kilo pascals (kpa), and mass air flow measured by a mass air flow sensor (MAF) measured in grams per

second (gps). A normal engine would transmit to the DAD a relatively steady engine speed. While idling, the TPS would remain steady at or near zero percent. The MAP, and/or MAF readings would also remain steady. An increase in throttle, which increases the engine rpm, would also result in increases in the readings from MAF and a change in the readings for MAP.

12. PR Koch performed a review of data of smog inspections performed by respondent. PR Koch reviewed the following vehicle inspections performed by respondent:

- 2005 Nissan Sentra – On August 15, 2023, respondent issued a smog certificate to this vehicle. The data accumulated during the test showed that while the vehicle was idling, the engine speed was steady at 675 rpm, the throttle was fixed at 3.9 percent opening, and MAF was fixed at 4.11 gps. The engine speed was then increased to approximately 1,750 rpm. The MAF and throttle opening did not change.
- 2005 Honda Accord – On September 1, 2023, respondent issued a smog certificate to this vehicle. The data accumulated during the test showed that while the vehicle was idling, the engine speed was steady at 650 rpm, the throttle was fixed at 15.7 percent opening, and the MAP was fixed at 40 kpa. The engine speed was then increased to approximately 1,700 rpm. The MAP and throttle opening did not change.
- 2005 Honda Civic – On September 29, 2023, respondent issued a smog certificate to this vehicle. The data accumulated during the test showed that while the vehicle was idling, the engine speed was steady at 700 rpm, the throttle was fixed at 9.0 percent opening, and the MAP was fixed at 35 kpa.

The engine speed was then increased to approximately 1,750 rpm. The MAP and throttle opening did not change.

- 2004 Toyota Tacoma – On October 9, 2023, respondent issued a smog certificate to this vehicle. The data accumulated during the test showed that while the vehicle was idling, the engine speed was steady at 1,000 rpm then decreased to 775 rpm, the throttle was fixed at 9.4 percent opening, and MAF was fixed at 5.06 gps. The engine speed then increased to approximately 1,725 rpm. The MAF and throttle opening did not change. This vehicle failed a prior test at a different station on August 5, 2023. During the prior failed test, the throttle opening and MAF changed in conjunction with the increase in engine speed.
- 2006 Honda Odyssey – On December 9, 2023, respondent issued a smog certificate to this vehicle. The data accumulated during the test showed that while the vehicle was idling, the engine speed was steady at 650 rpm, the throttle was fixed at 5.7 percent opening, and the MAP was fixed at 26 kpa. The engine speed was then increased to approximately 1,750 rpm. The MAP and throttle opening did not change. This vehicle failed a prior inspection by respondent on December 2, 2023. During the prior failed test, the throttle opening and MAP changed in conjunction with the increase in engine speed.
- 2000 GMC New Sierra – On February 3, 2024, respondent issued a smog certificate to this vehicle. The data accumulated during the test showed that while the vehicle was idling, the engine speed was steady at 750 rpm, the throttle was fixed at 0.0 percent opening, MAP was fixed at 34 kpa, and MAF was fixed at 6 gps. The engine speed then increased to approximately 1,700 rpm. The MAF, MAP, and throttle opening did not change. This vehicle failed

a prior inspection by respondent on January 31, 2024. During the prior failed test, the throttle opening, MAP, and MAF changed in conjunction with the increase in engine speed.

- 2004 Chevrolet Silverado – On February 9, 2024, respondent issued a smog certificate to this vehicle. The data accumulated during the test showed that while the vehicle was idling, the engine speed was steady at 600 rpm, the throttle was fixed at 10.2 percent opening, and MAF was fixed at 5.43 gps. The engine speed then increased to approximately 1,750 rpm. The MAF and throttle opening did not change.
- 2000 Chevrolet Silverado – On February 10, 2024, respondent issued a smog certificate to this vehicle. The data accumulated during the test showed that while the vehicle was idling, the engine speed was steady at 650 rpm, the throttle was fixed at 0.0 percent opening, MAP was fixed at 35 kpa, and MAF was fixed at 4.79 gps. The engine speed then increased to approximately 1,800 rpm. The MAF, MAP, and throttle opening did not change.
- 2003 Toyota Corolla – On February 12, 2024, respondent issued a smog certificate to this vehicle. The data accumulated during the test showed that while the vehicle was idling, the engine speed was steady at 625 rpm, the throttle was fixed at 11.8 percent opening, and MAF was fixed at 4.53 gps. The engine speed then increased to approximately 1,700 rpm. The MAF and throttle opening did not change. This vehicle failed a prior inspection by respondent on February 9, 2024. During the prior failed inspection, the throttle opening and MAF changed in conjunction with the increase in engine speed.

- 2001 Toyota Sienna – On February 19, 2024, respondent issued a smog certificate to this vehicle. The data accumulated during the test showed that while the vehicle was idling, the engine speed was steady at 675 rpm, the throttle was fixed at 10.2 percent opening, and MAF was fixed at 6.46 gps. The engine speed then increased to approximately 1,700 rpm. The MAF and throttle opening did not change.

13. While reviewing the data provided to the bureau regarding respondent's smog inspections, PR Koch stated that he found multiple vehicles that showed abnormal data. He identified 10 specific instances where the data suggested a cheating device was used to fraudulently pass the vehicles by "clean plugging" them because no movement was recorded in the key engine data points despite increases in the vehicles' rpm.

### **Respondent's Evidence**

14. Respondent testified that he has been conducting smog inspections for 13 years and he had done nothing wrong. He did not allow anyone else to use his login credentials. Respondent stated that he has no knowledge regarding simulators.

### **Costs**

15. In connection with the investigation and enforcement of this accusation, complainant requests an award of costs in the total amount of \$6,293.11. These costs reflect \$3,515.25 in enforcement costs, and \$2,777.86 in investigative costs. These requests are supported by declarations that comply with the requirements of California Code of Regulations, title 1, section 1042. These costs are reasonable.

## LEGAL CONCLUSIONS

1. The burden of proof in this proceeding is on complainant, and the standard of proof is a preponderance of the evidence. (*Imports Performance v. Dept. of Consumer Affairs, Bureau of Automotive Repair* (2011) 201 Cal.App.4th 911.)

2. Business and Professions Code<sup>1</sup> section 9884.7, subdivision (a)(1), authorizes the director to suspend, revoke, or take other disciplinary action against the registration of an automotive repair dealer for making a written or oral statement which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading, unless the automotive repair dealer can show there was a bona fide error. Respondent issued 10 smog certificates for vehicles that were clean plugged. Cause exists to impose discipline upon respondent's licenses pursuant to this section.

3. Section 9884.7, subdivision (a)(4), authorizes the director to suspend, revoke, or take other disciplinary action against the registration of an automotive repair dealer for engaging in conduct that constitutes fraud. Respondent issued 10 smog certificates for vehicles that were clean plugged. Cause exists to impose discipline upon respondent's licenses pursuant to this section.

4. Health and Safety Code sections 44702.2, subdivisions (a) and (c), authorize the bureau to discipline the license of a smog check inspector if the licensee violates the statutes and regulations governing the licensed activities. The 10 clean

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<sup>1</sup> All subsequent statutory references are to the Business and Professions Code, unless otherwise noted.

plugging incidents violated several statutes and regulations including: failing to ensure that the emission control tests were performed in accordance with prescribed procedures (Health & Saf. Code, § 44012), issuing a smog certificate without meeting the requirements of Health and Safety Code section 44012 (Health & Saf. Code, § 44015, subd. (b)), entering false information into the OIS, (Cal. Code Regs., tit. 16, § 3340.41, subd. (c)), and failing to conduct the required smog tests and inspections on those vehicles in accordance with the Smog Check Manual (Cal. Code Regs., tit. 16, §§ 3340.42, 3340.30, subd. (a), & 3340.35, subd. (c)). Respondent issued 10 smog certificates for vehicles that were clean plugged. Cause exists to impose discipline upon respondent's licenses pursuant to this section.

5. Health and Safety Code section 44072.2, subdivision (d), authorizes the bureau to discipline a smog check inspector license if the licensee engages in fraudulent conduct. Issuing a certificate of compliance as a result of clean plugging is fraud. Respondent committed this act 10 times. Cause exists to impose discipline upon respondent's licenses pursuant to this section.

## **Discussion**

6. Having established cause for discipline against respondent, the issue is what level of discipline to impose. The bureau set forth factors to be considered when determining appropriate discipline in its Guidelines for Disciplinary Orders and Terms of Probation (rev. March 2016) (Guidelines). Pursuant to the Guidelines, aggravating factors to be considered are whether the unlawful act is part of a pattern of practice, prior history of disciplinary action, and whether there is evidence of conduct which constitutes fraud. For violations of Health and Safety Code section 44072.2, subdivisions (a) and (c), the minimum recommended discipline is revocation stayed with a two-year term of probation. For violating Health and Safety Code section

44072.2, subdivision (d), the minimum recommended discipline is revocation stayed with a five-year term of probation. The maximum recommended discipline is revocation.

7. Over a six-month period, respondent clean plugged 10 vehicles. The fraudulent conduct occurred approximately one year after respondent completed probation for similar misconduct. Respondent claimed that he has no knowledge of simulators which contradicts his testimony at his prior hearing where he stated that he did not use a simulator for clean plugging. The misconduct of respondent is significant and was part of a pattern of practice.

8. Respondent provided no mitigating or rehabilitative evidence. Respondent did not accept responsibility for his actions, claiming he had done nothing wrong. Fully acknowledging the wrongfulness of one's actions is an essential step toward rehabilitation. (*Seide v. Committee of Bar Examiners* (1989) 49 Cal.3d 933, 940.) Respondent has not demonstrated a change in attitude, which of the many rehabilitation criteria is "arguably the most important in predicting future conduct." (*Singh v. Davi* (2012) 211 Cal.App.4th 141, 149.)

9. Given the circumstances above, public protection requires the revocation of respondent's licenses and registration.

## **Costs**

10. Business and Professions Code section 125.3 authorizes the bureau to recover its reasonable costs of investigation and enforcement in disciplinary proceedings. As set forth in Factual Finding 15, complainant has reasonably incurred \$6,293.11 in investigation and enforcement costs in connection with this matter.

11. In *Zuckerman v. State Board of Chiropractic Examiners* (2002) 29 Cal.4th 32, 45, the California Supreme Court established standards for determining whether costs should be assessed in the particular circumstances of each case, to ensure that licensees are not deterred from exercising their right to an administrative hearing. Among those standards are whether or not the licensee was successful at hearing in getting the charges reduced or outright dismissed; the licensee's good faith belief in the merits of his or her position; whether the licensee has raised a colorable challenge to the proposed discipline; the financial ability of the licensee to pay; and whether the scope of the investigation was appropriate to the alleged misconduct. Given those standards, there is nothing to support a reduction to the bureau's cost recovery in this case.

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## ORDER

1. Automotive Repair Dealer Registration No. ARD 289043 issued to respondent George Jay Davis, doing business as Smog Pro Plus, is revoked.
2. Smog Check Test-Only License No. TC 289043 issued to respondent George Jay Davis, doing business as Smog Pro Plus, is revoked.
3. Smog Check Inspector License No. EO 634951 issued to respondent George Jay Davis is revoked.
4. Respondent George Jay Davis shall pay the bureau \$6,293.11 for the reasonable costs of investigating and enforcing this case.

DATE: March 3, 2026



TRACI C. BELMORE

Administrative Law Judge

Office of Administrative Hearings