

1 ROB BONTA
Attorney General of California
2 THOMAS L. RINALDI
Supervising Deputy Attorney General
3 M. TRAVIS PEERY
Deputy Attorney General
4 State Bar No. 261887
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 269-6309
6 Facsimile: (916) 731-2126
E-mail: Travis.Peery@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. 79/24-13998

13 **MENA SAM MEKAIL DBA K & M SMOG**
14 **CHECK**
15 **534 S Mountain Ave K**
16 **Ontario, CA 91762**

ACCUSATION

17 **Mailing Address:**
18 **26456 Mare Ln**
19 **Moreno Valley, CA 92555**

20 **Automotive Repair Dealer Registration No.**
21 **ARD 264919**
22 **Smog Check Test Only Station License No.**
23 **TC 264919**

24 **SAM FAHEEM MEKAIL**
25 **26456 Mare Lane**
26 **Moreno Valley, CA 92555**

27 **Smog Check Inspector License No.**
28 **EO 154753**

NORMAN MIGUEL MEJIA AVILA
1877 Triste Ct
Riverside, CA 92501

Smog Check Inspector License No.
EO 641445

CARLOS DIAZ-SALDANA
11433 Magnolia Ave, Apt 120
Riverside, CA 92505

Smog Check Inspector License No
EO 643393

and

VALENTIN V VALENCIA
920 Orange St
Colton, CA 92324

Smog Check Inspector License No
EO 635186

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.

2. On or about May 4, 2011, the Bureau issued Automotive Repair Dealer Registration Number ARD 264919 to Mena Sam Mekail dba K & M Smog Check (Respondent M. S. Mekail). The Automotive Repair Dealer Registration was in full force and effect at all times relevant to the charges brought herein and was due to expire on May 31, 2025, however, was cancelled on September 16, 2024.

3. On or about May 25, 2011, the Bureau issued Smog Check Test Only Station License Number TC 264919 to Respondent M.S. Mekail. The Smog Check Test Only Station License was in full force and effect at all times relevant to the charges brought herein and was due to expire on May 31, 2025, however, was cancelled on September 16, 2024.

4. On or about February 8, 2021, the Bureau certified K & M Smog Check as a STAR Station. The STAR Station Certification was terminated on September 16, 2024.

5. In or about 2007, the Bureau issued Advanced Emission Specialist Technician License Number EA 154753 to Sam Faheem Mekail (Respondent S. F. Mekail). The Advanced Emission Specialist Technician License was due to expire on November 30, 2013, however, was cancelled on November 26, 2013 and renewed, pursuant to Respondent S. F. Mekail's election, as Smog Check Inspector License No. EO 154753, effective November 26, 2013. The Smog Check

Inspector license was in full force and effect at all times relevant to the charges brought herein and will expire on November 30, 2025, unless renewed.¹

6. On or about October 8, 2018, the Bureau issued Smog Check Inspector License Number EO 641445 to Norman Miguel Mejia Avila (Respondent Avila). The Smog Check Inspector License was in full force and effect at all times relevant to the charges brought herein and will expire on April 30, 2026, unless renewed.

7. On or about November 15, 2021, the Bureau issued Smog Check Inspector License Number EO 643393 to Carlos Diaz-Saldana (Respondent Diaz-Saldana). The Smog Check Inspector License was in full force and effect at all times relevant to the charges brought herein and will expire on July 31, 2025, unless renewed.

8. On or about February 4, 2013, the Bureau issued Smog Check Inspector License Number EO 635186 to Valentin V Valencia (Respondent Valencia). The Smog Check Inspector License was in full force and effect at all times relevant to the charges brought herein and will expire on September 30, 2026, unless renewed.

JURISDICTION

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

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

11. Bus. & Prof. Code section 9884.7 provides that the Director may revoke an automotive repair dealer registration.

12. Bus. & Prof. Code section 9884.13 provides, in pertinent part, that the expiration of a valid registration shall not deprive the Director of jurisdiction to proceed with a disciplinary

¹ Effective August 1, 2012, California Code of Regulations, title 16, sections 3340.28, 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.

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

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

14. Health & Saf. Code section 44072.6 provides, in pertinent part, that the expiration or suspension of a license by operation of law, or by order or decision of the Director of Consumer Affairs, or a court of law, or the voluntary surrender of the license shall not deprive the Director of jurisdiction to proceed with disciplinary action.

STATUTORY PROVISIONS

15. Bus. & Prof. Code section 9884.7 states, in pertinent part:

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

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

....

(4) Any other conduct that constitutes fraud.

....

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

....

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

....

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

1 (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 16. Bus. & Prof. Code section 477 provides, in pertinent part, that “Board” includes
10 “bureau,” “commission,” “committee,” “department,” “division,” “examining committee,”
11 “program,” and “agency.” “License” includes certificate, registration or other means to engage in
12 a business or profession regulated by the Bus. & Prof. Code.

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

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

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

21 20. Health & Saf. 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 . . .

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

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

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

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

36. Beginning March 9, 2015, California's Smog Check Program was updated to require the use of an On-Board Diagnostic Inspection System (BAR-OIS). BAR-OIS is the smog check equipment required in all areas of the State when inspecting most model-year 2000 and newer gasoline and hybrid vehicles. The system consists of a certified Data Acquisition Device (DAD), computer, bar code scanner, and printer. The DAD is an OBD scan tool that, when requested by the BAR-OIS software, retrieves OBD data from the vehicle. All OBD data that the vehicle indicates it supports is requested by the BAR-OIS software and will be retrieved. The DAD 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)
3 containing inspection results for motorists and a Smog Check Certificate of Compliance number
4 for passing vehicles.

5 37. 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. Some of the parameters recorded are:

- 9 • Engine speed in revolutions per minute (RPM)
- 10 • Throttle position as measured by a throttle position sensor (TPS) mounted onto the
11 throttle shaft. Measured in a percentage of opening from 0% at idle and near or up to 100% at full
12 throttle.
- 13 • Manifold absolute pressure as measured by a manifold air pressure sensor (MAP)
14 connected to an intake manifold source, measured in kilo pascals (kpa). Typical readings for a
15 normally aspirated vehicle as follows: 0 kpa being absolute vacuum, 25 to 45 kpa at idle, 101 kpa
16 at full throttle, same as atmospheric pressure at sea level.
- 17 • Mass air flow as measured by a mass air flow sensor (MAF) mounted in the engine's
18 air intake tract. Measured in grams per second (gps).
- 19 • Ignition timing is set by the vehicle PCM based on engine speed and load, and is
20 measured in degrees Before Top Dead Center (BTDC).

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

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

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

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

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

20 **FACTUAL ALLEGATIONS**

21 41. On or about November 25, 2024, a Bureau Representative conducted a detailed
22 review of the VID data for Smog Check inspections performed at K & M Smog Check which
23 showed a pattern of vehicles being certified with engine operating parameters that did not
24 correspond to normal engine operation, confirming the vehicles receiving smog certifications
25 were not tested during the OBD II functional test, which constitutes clean plugging. The
26 Bureau's review of the smog check activities at K & M Smog Check confirmed fifteen (15) Smog
27 Check Certificates of Compliance were fraudulently issued K & M Smog Check to vehicles that
28 were inspected by Respondents S. F. Mekail, Avila, Diaz-Saldana, and Valencia.

Fraudulent Inspection Number 1 – 2004 Nissan Murano SL

42. OIS Test Data for K & M Smog Check indicated that on April 1, 2023, a 2004 Nissan Murano SL, CA License #7SRW499, VIN #JN8AZ08W84W310097, (2004 Murano), was tested and Smog Certificate of Compliance #IT519214C was issued by K & M Smog Check, under Respondent S. F. Mekail's Smog Check Inspector License. The OIS Test Data also show that between time stamps 1573 and 21695 engine speed is steady at approximately 775 RPM. During this time the throttle is fixed at 0% opening, the MAF is fixed at 4.33 gps, and the ignition timing advance for #1 cylinder is fixed at 17 degrees BTDC. After time stamp 21695 the engine speed increases to approximately 1425 RPM. From the time the engine RPM increases off idle to the higher RPMs, the throttle is fixed at the same 0% opening, the MAF is fixed at the same 4.33 gps, and the ignition timing advance for #1 cylinder is fixed at the same 17 degrees BTDC. During the period the dynamic data was collected, the only parameter that changed was engine RPM. The throttle position, MAF, and ignition timing advance readings remained unchanged even though the engine speed was increased. These readings are not characteristic of or expected for normal engine operation. These discrepancies confirm that the OIS DAD was not connected to the 2004 Murano during the certification process as required, thereby confirming this as a fraudulent inspection by way of Clean Plugging.

Fraudulent Inspection Number 2 – 2003 Toyota Corolla CE

43. OIS Test Data for K & M Smog Check indicated that on April 1, 2023, a 2003 Toyota Corolla CE, CA license #7AJN738, VIN #1NXBR32EX3Z118817 (2003 Corolla), was tested and smog certificate #IT519216C was issued by K & M Smog Check, under Respondent S. F. Mekail's Smog Check Inspector License. The OIS Test Data also show that between time stamps 876 and 20435 engine speed is steady at approximately 675 RPM. During this time the throttle is fixed at 13.7% opening, the MAF is fixed at 1.9 gps, and the ignition timing advance for #1 cylinder is fixed at 19 degrees BTDC. After time stamp 20435 the engine speed increases to approximately 1400 RPM. From the time the engine RPM increases off idle to the higher RPMs, the throttle is fixed at the same 13.7% opening, the MAF is fixed at the same 1.9 gps, and the ignition timing advance for #1 cylinder is fixed at the same 19 degrees BTDC. During the period

1 the dynamic data was collected, the only parameter that changed was engine RPM. The throttle
2 position, MAF, and ignition timing advance readings remained unchanged even though the
3 engine speed was increased. These readings are not characteristic of or expected for normal
4 engine operation.. These discrepancies confirm that the OIS DAD was not connected to the 2003
5 Corolla during the certification process as required, thereby confirming this as a fraudulent
6 inspection by way of Clean Plugging.

7 **Fraudulent Inspection Number 3 – 2000 Ford Mustang GT**

8 44. OIS Test Data for K & M Smog Check indicated that on April 8, 2023, a 2000 Ford
9 Mustang GT, VIN #1FAFP45X2YF291327 (2000 Mustang), was tested and smog certificate
10 #TE947053C was issued by K & M Smog Check, under Respondent S. F. Mekail's Smog Check
11 Inspector License. The OIS Test Data also show that between time stamps 428 and 19351 engine
12 speed is steady at approximately 775 RPM. During this time the throttle is fixed at 17.3%
13 opening, the MAF is fixed at 5.28 gps, and the ignition timing advance for #1 cylinder is fixed at
14 17 degrees BTDC. After time stamp 19351 the engine speed increases to approximately 1375
15 RPM. From the time the engine RPM increases off idle to the higher RPMs, the throttle is fixed
16 at the same 17.3% opening, the MAF is fixed at the same 5.28 gps, and the ignition timing
17 advance for #1 cylinder is fixed at the same 17 degrees BTDC. During the period the dynamic
18 data was collected, the only parameter that changed was engine RPM. The throttle position,
19 MAF, and ignition timing advance readings remained unchanged even though the engine speed
20 was increased. These readings are not characteristic of or expected for normal engine operation.
21 These discrepancies confirm that the OIS DAD was not connected to the 2000 Mustang during
22 the certification process as required, thereby confirming this as a fraudulent inspection by way of
23 Clean Plugging.

24 **Fraudulent Inspection Number 4 – 2002 Toyota Camry LE**

25 45. OIS Test Data for K & M Smog Check indicated that on April 28, 2023, a 2002
26 Toyota Camry LE, CA license #6LOF583, VIN #4T1BF32K22U028929 (2002 Camry), was
27 tested and smog certificate #TG329067C was issued by K & M Smog Check, under Respondent
28 S. F. Mekail's Smog Check Inspector License. The OIS Test Data also show that between time

1 stamps 945 and 21943 engine speed is steady at approximately 625 RPM. During this time the
2 throttle is fixed at 14.5% opening, the MAF is fixed at 1.67 gps, and the ignition timing advance
3 for #1 cylinder is fixed at 14.5 degrees BTDC. After time stamp 21943 the engine speed
4 increases to approximately 1375 RPM. From the time the engine RPM increases off idle to the
5 higher RPMs, the throttle is fixed at the same 14.5% opening, the MAF is fixed at the same 1.67
6 gps, and the ignition timing advance for #1 cylinder is fixed at the same 14.5 degrees BTDC.
7 During the period the dynamic data was collected, the only parameter that changed was engine
8 RPM. The throttle position, MAF, and ignition timing advance readings remained unchanged
9 even though the engine speed was increased. These readings are not characteristic of or expected
10 for normal engine operation. These discrepancies confirm that the OIS DAD was not connected
11 to the 2002 Camry during the certification process as required, thereby confirming this as a
12 fraudulent inspection by way of Clean Plugging.

13 **Fraudulent Inspection Number 5 – 2003 Lexus IS 300**

14 46. OIS Test Data for K & M Smog Check indicated that on January 27, 2024, a 2003
15 Lexus IS 300, CA license #6SKP420, VIN #JTHBD192630067163 (2003 IS 300), was tested and
16 smog certificate #TS152954C was issued by K & M Smog Check, under Respondent Avila's
17 Smog Check Inspector License. The OIS Test Data also show that between time stamps 872 and
18 21269 engine speed is steady at approximately 775 RPM. During this time the throttle is fixed at
19 12.5% opening, the MAF is fixed at 2.82 gps, and the ignition timing advance for #1 cylinder is
20 fixed at 9 degrees BTDC. After time stamp 21269 the engine speed increases to approximately
21 1775 RPM before decreasing to approximately 1400 RPM. From the time the engine RPM
22 increases off idle to the higher RPMs, the throttle is fixed at the same 12.5% opening, the MAF is
23 fixed at the same 2.82 gps, and the ignition timing advance for #1 cylinder is fixed at the same 9
24 degrees BTDC. During the period the dynamic data was collected, the only parameter that
25 changed was engine RPM. The throttle position, MAF, and ignition timing advance readings
26 remained unchanged even though the engine speed was increased. These readings are not
27 characteristic of or expected for normal engine operation. These discrepancies confirm that the
28

OIS DAD was not connected to the 2003 IS 300 during the certification process as required, thereby confirming this as a fraudulent inspection by way of Clean Plugging.

Fraudulent Inspections Number 6 – 2000 Toyota Camry CE

47. OIS Test Data for K & M Smog Check indicated that on January 28, 2024, a 2000 Toyota Camry CE, VIN #4T1BG22K2YU664475 (2000 Camry), was tested and smog certificate #TS152960C was issued by K & M Smog Check, under Respondent Diaz-Saldana's Smog Check Inspector License. The OIS Test Data also show that between time stamps 898 and 23151 engine speed is steady at approximately 700 RPM. During this time the throttle is fixed at 9% opening, the MAP is fixed at 33 kPa, and the ignition timing advance for #1 cylinder is fixed at 7.5 degrees BTDC. After time stamp 23151 the engine speed increases to approximately 1400 RPM. From the time the engine RPM increases off idle to the higher RPMs, the throttle is fixed at the same 9% opening, the MAP is fixed at the same 33 kPa, and the ignition timing advance for #1 cylinder is fixed at the same 7.5 degrees BTDC. During the period the dynamic data was collected, the only parameter that changed was engine RPM. The throttle position, MAP, and ignition timing advance readings remained unchanged even though the engine speed was increased. These readings are not characteristic of or expected for normal engine operation. These discrepancies confirm that the OIS DAD was not connected to the 2000 Camry during the certification process as required, thereby confirming this as a fraudulent inspection by way of Clean Plugging.

Fraudulent Inspection Number 7 – 2004 Subaru Forester 2.5XT

48. OIS Test Data for K & M Smog Check indicated that on January 28, 2024, a 2004 Subaru Forester 2.5XT, VIN #JF1SG69664G723370 (2004 Forester), was tested and smog certificate #TS152962C was issued by K & M Smog Check, under Respondent Diaz-Saldana's Smog Check Inspector License. The OIS Test Data also show that between time stamps 863 and 20903 engine speed is steady at approximately 775 RPM. During this time the throttle is fixed at 13.3% opening, the MAF is fixed at 3.29 gps, the MAP is fixed at 28 kPa, and the ignition timing advance for #1 cylinder is fixed at 16.5 degrees BTDC. After time stamp 20903 the engine speed increases to approximately 1675 RPM. From the time the engine RPM increases off idle to the higher RPMs, the throttle is fixed at the same 13.3% opening, the MAF is fixed at the same 3.29

1 gps, the MAP is fixed at the same 28 kPa, and the ignition timing advance for #1 cylinder is fixed
2 at the same 16.5 degrees BTDC. During the period the dynamic data was collected, the only
3 parameter that changed was engine RPM. The throttle position, MAF, MAP, and ignition timing
4 advance readings remained unchanged even though the engine speed was increased. These
5 readings are not characteristic of or expected for normal engine operation. These discrepancies
6 confirm that the OIS DAD was not connected to the 2004 Forester during the certification process
7 as required, thereby confirming this as a fraudulent inspection by way of Clean Plugging.

8 **Clean Plug Number 8 – 2006 Mitsubishi Lancer Evolution**

9 49. OIS Test Data for K & M Smog Check indicated that on January 28, 2024, a 2006
10 Mitsubishi Lancer Evolution, CA license #8UKN099, VIN #JA3AH86C56U053158 (2006
11 Evolution), was tested and smog certificate #TS152963C was issued by K & M Smog Check,
12 under Respondent Diaz-Saldana's Smog Check Inspector License. The OIS Test Data also show
13 that between time stamps 917 and 21368 engine speed is steady at approximately 825 RPM.
14 During this time the throttle is fixed at 0% opening, the MAF is fixed at 0 gps, the MAP is fixed
15 at 101 kPa, and the ignition timing advance for #1 cylinder is fixed at 61 degrees BTDC. After
16 time stamp 21368 the engine speed decreases to approximately 500 RPM, then increases to
17 approximately 1750 RPM. From the time the engine RPM increases off idle to the higher RPMs,
18 the throttle is fixed at the same 0% opening, the MAF is fixed at the same 0 gps, the MAP is fixed
19 at the same 101 kPa, and the ignition timing advance for #1 cylinder is fixed at the same 61
20 degrees BTDC. During the period the dynamic data was collected, the only parameter that
21 changed was engine RPM. The throttle position, MAF, MAP, and ignition timing advance
22 readings remained unchanged even though the engine speed was increased. These readings are
23 not characteristic of or expected for normal engine operation. These discrepancies confirm that
24 the OIS DAD was not connected to the 2006 Evolution during the certification process as
25 required, thereby confirming this as a fraudulent inspection by way of Clean Plugging.

26 **Clean Plug Number 9 – 2004 Nissan Xterra XE**

27 50. OIS Test Data for K & M Smog Check indicated that on February 28, 2024, a 2004
28 Nissan Xterra XE, VIN #5N1ED28T74C663179 (2004 Xterra), was tested and smog certificate

1 #TS845591C was issued by K & M Smog Check, under Respondent Avila's Smog Check
2 Inspector License. The OIS Test Data also show that between time stamps 998 and 31823 engine
3 speed is steady at approximately 800 RPM. During this time the throttle is fixed at 0% opening,
4 the MAF is fixed at .35 gps, and the ignition timing advance for #1 cylinder is fixed at 63.5
5 degrees BTDC. After time stamp 31823 the engine speed increases to approximately 1475 RPM.
6 From the time the engine RPM increases off idle to the higher RPMs, the throttle is fixed at the
7 same 0% opening, the MAF is fixed at the same .35 gps, and the ignition timing advance for #1
8 cylinder is fixed at the same 63.5 degrees BTDC. During the period the dynamic data was
9 collected, the only parameter that changed was engine RPM. The throttle position, MAF, and
10 ignition timing advance readings remained unchanged even though the engine speed was
11 increased. These readings are not characteristic of or expected for normal engine operation.
12 These discrepancies confirm that the OIS DAD was not connected to the 2004 Xterra during the
13 certification process as required, thereby confirming this as a fraudulent inspection by way of
14 Clean Plugging.

15 **Clean Plug Number 10 – 2003 Toyota Sienna LE**

16 51. OIS Test Data for K & M Smog Check indicated that on February 29, 2024, a 2003
17 Toyota Sienna LE, CA license #5ANH016, VIN #4T3ZF13C83U537863 (2003 Sienna), was
18 tested and smog certificate #TS845598C was issued by K & M Smog Check, under Respondent
19 Avila's Smog Check Inspector License. The OIS Test Data also show that between time stamps
20 906 and 21575 engine speed is steady at approximately 850 RPM. During this time the throttle is
21 fixed at 11% opening, the MAF is fixed at 4.91 gps, and the ignition timing advance for #1
22 cylinder is fixed at 15 degrees BTDC. After time stamp 21575 the engine speed increases to
23 approximately 1550 RPM. From the time the engine RPM increases off idle to the higher RPMs,
24 the throttle is fixed at the same 11% opening, the MAF is fixed at the same 4.91 gps, and the
25 ignition timing advance for #1 cylinder is fixed at the same 15 degrees BTDC. During the period
26 the dynamic data was collected, the only parameter that changed was engine RPM. The throttle
27 position, MAF, and ignition timing advance readings remained unchanged even though the
28 engine speed was increased. These readings are not characteristic of or expected for normal

1 engine operation. These discrepancies confirm that the OIS DAD was not connected to the 2003
2 Sienna during the certification process as required, thereby confirming this as a fraudulent
3 inspection by way of Clean Plugging.

4 **Clean Plug Number 11 – 2001 Lexus LS 430**

5 52. OIS Test Data for K & M Smog Check indicated that on February 29, 2024, a 2001
6 Lexus LS 430, CA license # 7NXG186, VIN # JTHBN30F010044550 (2001 LS 430), was tested
7 and smog certificate # IZ195352C was issued by K & M Smog Check, under Respondent Avila's
8 Smog Check Inspector License. The OIS Test Data also show that between time stamps 908 and
9 22287 engine speed is steady at approximately 725 RPM. During this time the throttle is fixed at
10 12.5% opening, the MAF is fixed at 5.26 gps, and the ignition timing advance for #1 cylinder is
11 fixed at 13.5 degrees BTDC. After time stamp 22287 the engine speed increases to
12 approximately 1425 RPM. From the time the engine RPM increases off idle to the higher RPMs,
13 the throttle is fixed at the same 12.5% opening, the MAF is fixed at the same 5.26 gps, and the
14 ignition timing advance for #1 cylinder is fixed at the same 13.5 degrees BTDC. During the
15 period the dynamic data was collected, the only parameter that changed was engine RPM. The
16 throttle position, MAF, and ignition timing advance readings remained unchanged even though
17 the engine speed was increased. These readings are not characteristic of or expected for normal
18 engine operation. These discrepancies confirm that the OIS DAD was not connected to the 2001
19 LS 430 during the certification process as required, thereby confirming this as a fraudulent
20 inspection by way of Clean Plugging.

21 **Clean Plug Number 12 – 2003 Jaguar S-Type**

22 53. OIS Test Data for K & M Smog Check indicated that on March 10, 2024, a 2003
23 Jaguar S-Type, VIN # SAJEA01T33FM81909 (2003 S-Type), was tested and smog certificate #
24 IZ375218C was issued by K & M Smog Check, under Respondent Avila's Smog Check Inspector
25 License. The OIS Test Data also show that between time stamps 858 and 56183 engine speed is
26 steady at approximately 725 RPM. During this time the throttle is at 14.9% opening, the MAF is
27 fixed at 6.03 gps, the MAP is fixed at 60 kPa, and the ignition timing advance for #1 cylinder is
28 fixed at 13.5 degrees BTDC. After time stamp 56183 the engine speed increases to

1 approximately 2200 RPM before decreasing to approximately 1700 RPM. From the time the
2 engine RPM increases off idle to the higher RPMs, the throttle position increases as expected, the
3 MAF is fixed at the same 6.03 gps, the MAP is fixed at the same 60 kPa, and the ignition timing
4 advance for #1 cylinder is fixed at the same 13.5 degrees BTDC. During the period the dynamic
5 data was collected, the only parameter that changed was engine RPM and throttle position. The
6 MAF, MAP, and ignition timing advance readings remained unchanged even though the engine
7 speed was increased. These readings are not characteristic of or expected for normal engine
8 operation. These discrepancies confirm that the OIS DAD was not connected to the 2003 S-Type
9 during the certification process as required, thereby confirming this as a fraudulent inspection by
10 way of Clean Plugging.

11 **Clean Plug Number 13 – 2000 GMC Yukon**

12 54. OIS Test Data for K & M Smog Check indicated that on September 13, 2024, a 2000
13 GMC Yukon, CA license # 5DHN749, VIN # 1GKEC13V0YJ180293 (2000 Yukon), was tested
14 and smog certificate # UC029511C was issued by K & M Smog Check, under Respondent
15 Valencia's Smog Check Inspector License. The OIS Test Data also show that between time
16 stamps 412 and 25125 engine speed is steady at approximately 600 RPM. During this time the
17 throttle is fixed at 0% opening, the MAF is fixed at 5.05 gps, the MAP is fixed at 37 kPa, and the
18 ignition timing advance for #1 cylinder is fixed at 19.5 degrees BTDC. After time stamp 25125
19 the engine speed increases to approximately 1375 RPM. From the time the engine RPM
20 increases off idle to the higher RPMs, the throttle is fixed at the same 0% opening, the MAF is
21 fixed at the same 5.05 gps, the MAP is fixed at the same 37 kPa, and the ignition timing advance
22 for #1 cylinder is fixed at the same 19.5 degrees BTDC. During the period the dynamic data was
23 collected, the only parameter that changed was engine RPM. The throttle position, MAF, MAP,
24 and ignition timing advance readings remained unchanged even though the engine speed was
25 increased. These readings are not characteristic of or expected for normal engine operation.
26 These discrepancies confirm that the OIS DAD was not connected to the 2000 Yukon during the
27 certification process as required, thereby confirming this as a fraudulent inspection by way of
28 Clean Plugging.

Clean Plug Number 14 – 2002 Chevrolet Tahoe C1500

55. OIS Test Data for K & M Smog Check indicated that on September 16, 2024, a 2002 Chevrolet Tahoe C1500, CA license # 9EMN364, VIN # 1GNEC13V02R151565 (2002 Tahoe), was tested and smog certificate # UC029515C was issued by K & M Smog Check, under Respondent Valencia's Smog Check Inspector License. The OIS Test Data also show that between time stamps 404 and 20705 engine speed is steady at approximately 550 RPM. During this time the throttle is fixed at 4.3% opening, the MAF is fixed at 4.83 gps, the MAP is fixed at 32 kPa, and the ignition timing advance for #1 cylinder is fixed at 20.5 degrees BTDC. After time stamp 20705 the engine speed increases to approximately 1500 RPM. From the time the engine RPM increases off idle to the higher RPMs, the throttle is fixed at the same 4.3% opening, the MAF is fixed at the same 4.83 gps, the MAP is fixed at the same 32 kPa, and the ignition timing advance for #1 cylinder is fixed at the same 20.5 degrees BTDC. During the period the dynamic data was collected, the only parameter that changed was engine RPM. The throttle position, MAF, MAP, and ignition timing advance readings remained unchanged even though the engine speed was increased. These readings are not characteristic of or expected for normal engine operation. These discrepancies confirm that the OIS DAD was not connected to the 2002 Tahoe during the certification process as required, thereby confirming this as a fraudulent inspection by way of Clean Plugging.

Clean Plug Number 15 – 2004 GMC Savana

56. OIS Test Data for K & M Smog Check indicated that on September 16, 2024, a 2004 GMC Savana, CA license # 7P50877, VIN # 1GTHG39U141169319 (2004 Savana), was tested and smog certificate # UC029516C was issued by K & M Smog Check, under Respondent Valencia's Smog Check Inspector License. The OIS Test Data also show that between time stamps 378 and 19256 engine speed is steady at approximately 575 RPM. During this time the throttle is fixed at 0% opening, the MAF is fixed at 6.48 gps, and the MAP is fixed at 39 kPa, and the ignition timing advance for #1 cylinder slightly drops from 23 degrees to 21 degrees BTDC. After time stamp 19256 the engine speed increases to approximately 1325 RPM. From the time the engine RPM increases off idle to the higher RPMs, the throttle is fixed at the same 0%

opening, the MAF is fixed at the same 6.48 gps, the MAP is fixed at the same 39 kPa, and the ignition timing increases as expected. During the period the dynamic data was collected, the only parameter that changed was engine RPM and ignition timing. The throttle position, MAF, and MAP readings remained unchanged even though the engine speed was increased. These readings are not characteristic or expected for normal engine operation. These readings are not characteristic of or expected for normal engine operation. These discrepancies confirm that the OIS DAD was not connected to the 2004 Savana during the certification process as required, thereby confirming this as a fraudulent inspection by way of Clean Plugging.

Respondent M. S. Mekail

FIRST CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

57. Respondent M. S Mekail's Automotive Repair Dealer Registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(1), in that he made statements which were known to be untrue or misleading or, which by exercise of reasonable care should have been known to be untrue or misleading, by issuing electronic smog certificates of compliance for the fifteen (15) vehicles set forth in paragraphs 42-56 above, certifying that those vehicles were in compliance with applicable laws and regulations when, in fact, those vehicles had not been so inspected. Complainant refers to, and by this reference incorporates, the allegations contained in paragraphs 41 through 56, above, as though set forth fully herein.

SECOND CAUSE FOR DISCIPLINE

(Fraud)

58. Respondent M. S. Mekail's Automotive Repair Dealer Registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(4), in that he committed acts that constitute fraud by issuing electronic certificates of compliance to the fifteen (15) vehicles set forth in paragraphs 42-56, above, without performing bone fide inspections of the emission control devices and systems on those vehicles, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

1 Complainant refers to, and by this reference incorporates, the allegations contained in paragraphs
2 41 through 56, above, as though set forth fully herein.

3 **THIRD CAUSE FOR DISCIPLINE**

4 **(Material Violation of Automotive Repair Act)**

5 59. Respondent M. S. Mekail's Automotive Repair Dealer Registration is subject to
6 disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(6), in that he
7 failed in a material respect to comply with the provisions of this chapter or regulations adopted
8 pursuant to it when he issued electronic certificates of compliance for the fifteen (15) vehicles set
9 forth in paragraphs 42-56, above, without performing bona fide inspections of the emission
10 control devices and systems on those vehicles, thereby depriving the People of the State of
11 California of the protection afforded by the Motor Vehicle Inspection Program. Complainant
12 refers to, and by this reference incorporates, the allegations contained in paragraphs 41 through
13 56, above, as though set forth fully herein.

14 **FOURTH CAUSE FOR DISCIPLINE**

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

16 60. Respondent M. S. Mekail's Smog Check Test Only Station License is subject to
17 disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that he
18 failed to comply with the following sections of that Code:

19 a. **Section 44012:** Respondent failed to ensure that the emission control tests were
20 performed on the fifteen (15) vehicles identified in paragraphs 42-56, above, in accordance with
21 procedures prescribed by the department.

22 b. **Section 44015, subdivision (b):** Respondent issued electronic smog certificates of
23 compliance to the fifteen (15) vehicles identified in paragraphs 42-56, above, without properly
24 testing and inspecting those vehicles to determine if they were in compliance with Health & Saf.
25 Code section 44012.

26 Complainant refers to, and by this reference incorporates, the allegations contained in
27 paragraphs 41 through 56, above, as though set forth fully herein.

28 ///

1 **FIFTH CAUSE FOR DISCIPLINE**

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

4 61. Respondent M. S. Mekail's Smog Check Test Only Station License is subject to
5 disciplinary action pursuant to Health & Saf. 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 falsely or fraudulently issued
8 electronic smog certificates of compliance for the fifteen (15) vehicles identified in paragraphs
9 42-56, above.

10 b. **Section 3340.30, subdivision (a):** Respondent failed to inspect and test the fifteen
11 (15) vehicles identified in paragraphs 42-56, above, in accordance with Health & Saf. Code
12 sections 44012 and 44035, and California Code of Regulations, title 16, section 3340.42.

13 c. **Section 3340.35, subdivision (c):** Respondent issued electronic smog certificates of
14 compliance for the fifteen (15) vehicles identified in paragraphs 42-56, above, even though those
15 vehicles had not been inspected in accordance with section 3340.42.

16 d. **Section 3340.42:** Respondent failed to ensure that the smog inspections conducted
17 on the fifteen (15) vehicles identified in paragraphs 42-56, above, were done in accordance with
18 the Bureau's specifications.

19 Complainant refers to, and by this reference incorporates, the allegations contained in
20 paragraphs 41 through 56, above, as though set forth fully herein.

21 **SIXTH CAUSE FOR DISCIPLINE**

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

23 62. Respondent M. S. Mekail's Smog Check Test Only Station License is subject to
24 disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in
25 conjunction with Health & Saf. Code section 44072.10, subdivision (c), in that he committed
26 dishonest, fraudulent, or deceitful acts whereby another was injured by issuing electronic smog
27 certificates of compliance for the fifteen (15) vehicles described in paragraphs 42-56, above,
28 without performing bona fide inspections of the emission control devices and systems on those

1 vehicles, thereby depriving the People of the State of California of the protection afforded by the
2 Motor Vehicle Inspection Program. Complainant refers to, and by this reference incorporates, the
3 allegations contained in paragraphs 41 through 56, above, as though set forth fully herein.

4 ***Respondent S. F. Mekail***

5 **SEVENTH CAUSE FOR DISCIPLINE**

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

7 63. Respondent S. F. Mekail's Smog Check Inspector License is subject to disciplinary
8 action pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that he failed to
9 comply with the following sections of that code:

10 a. **Section 44032:** Respondent failed to perform tests of emission control devices and
11 systems of the four (4) vehicles identified in paragraphs 42-45, above, in accordance with Health
12 & Saf. Code section 44012.

13 b. **Section 44015, subdivision (b):** Respondent caused electronic smog certificates of
14 compliance to be issued for the four (4) vehicles identified in paragraphs 42-45, above, without
15 ensuring that they were properly tested and inspected to determine if they were in compliance
16 with Health & Saf. Code section 44012.

17 Complainant refers to, and by this reference incorporates, the allegations contained in
18 paragraphs 42 through 45, above, as though set forth fully herein.

19 **EIGHTH CAUSE FOR DISCIPLINE**

20 **(Failure to Comply with Regulations Pursuant**
21 **to the Motor Vehicle Inspection Program)**

22 64. Respondent S. F. Mekail's Smog Check Inspector License is subject to disciplinary
23 action pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that he failed to
24 comply with provisions of California Code of Regulations, title 16, as follows:

25 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued
26 electronic smog certificates of compliance for the four (4) vehicles identified in paragraphs 42-45,
27 above.

28 ///

b. **Section 3340.30, subdivision (a):** Respondent failed to inspect and test the four (4) vehicles identified in paragraphs 42-45, above, in accordance with Health & Saf. Code sections 44012 and 44035, and California Code of Regulations, title 16, section 3340.42.

c. **Section 3340.41, subdivision (c)**: Respondent knowingly entered false information into the emissions inspection system for the four (4) vehicles identified in paragraphs 42-45, above.

d. **Section 3340.42:** Respondent failed to ensure that the smog inspections conducted on the four (4) vehicles identified in paragraphs 42-45, above, were done in accordance with the Bureau's specifications.

Complainant refers to, and by this reference incorporates, the allegations contained in paragraphs 42 through 45, above, as though set forth fully herein.

NINTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

65. Respondent S. F. Mekail's Smog Check Inspector License is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in conjunction with Health & Saf. Code section 44072.10, subdivision (c), in that he committed dishonest, fraudulent, or deceitful acts whereby another was injured by issuing electronic smog certificates of compliance for the four (4) vehicles identified in paragraphs 42-45, above, without performing bona fide inspections of the emission control devices and systems on those vehicles, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program. Complainant refers to, and by this reference incorporates, the allegations contained in paragraphs 42 through 45, above, as though set forth fully herein.

Respondent Avila

TENTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

66. Respondent Avila's Smog Check Inspector License is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that he failed to comply with the following sections of that code:

1 a. **Section 44032:** Respondent failed to perform tests of emission control devices and
2 systems of the five (5) vehicles identified in paragraphs 46 and 50-53, above, in accordance with
3 Health & Saf. Code section 44012.

4 b. **Section 44015, subdivision (b):** Respondent caused electronic smog certificates of
5 compliance to be issued for the five (5) vehicles identified in paragraphs 46 and 50-53, above,
6 without ensuring that they were properly tested and inspected to determine if they were in
7 compliance with Health & Saf. Code section 44012.

8 Complainant refers to, and by this reference incorporates, the allegations contained in
9 paragraphs 46 and 50 through 53, above, as though set forth fully herein.

10 **ELEVENTH CAUSE FOR DISCIPLINE**

11 **(Failure to Comply with Regulations Pursuant**
12 **to the Motor Vehicle Inspection Program)**

13 67. Respondent Avila's Smog Check Inspector License is subject to disciplinary action
14 pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that he failed to comply with
15 provisions of California Code of Regulations, title 16, as follows:

16 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued
17 electronic smog certificates of compliance for the five (5) vehicles identified in paragraphs 46 and
18 50-53, above.

19 b. **Section 3340.30, subdivision (a):** Respondent failed to inspect and test the five (5)
20 vehicles identified in paragraphs 46 and 50-53, above, in accordance with Health & Saf. Code
21 sections 44012 and 44035, and California Code of Regulations, title 16, section 3340.42.

22 c. **Section 3340.41, subdivision (c):** Respondent knowingly entered false information
23 into the emissions inspection system for the five (5) vehicles identified in paragraphs 46 and 50-
24 53, above.

25 d. **Section 3340.42:** Respondent failed to ensure that the smog inspections conducted
26 on the five (5) vehicles identified in paragraphs 46 and 50-53, above, were done in accordance
27 with the Bureau's specifications.

28 ///

1 Complainant refers to, and by this reference incorporates, the allegations contained in
2 paragraphs 46 and 50 through 53, above, as though set forth fully herein.

3 **TWELFTH CAUSE FOR DISCIPLINE**

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

5 68. Respondent Avila's Smog Check Inspector License is subject to disciplinary action
6 pursuant to Health & Saf. Code section 44072.2, subdivision (d), in conjunction with Health &
7 Saf. Code section 44072.10, subdivision (c), in that he committed dishonest, fraudulent, or
8 deceitful acts whereby another was injured by issuing electronic smog certificates of compliance
9 for the five (5) vehicles identified in paragraphs 46 and 50-53, above, without performing bona
10 fide inspections of the emission control devices and systems on those vehicles, thereby depriving
11 the People of the State of California of the protection afforded by the Motor Vehicle Inspection
12 Program. Complainant refers to, and by this reference incorporates, the allegations contained in
13 paragraphs 46 and 50 through 53, above, as though set forth fully herein.

14 ***Respondent Diaz-Saldana***

15 **THIRTEENTH CAUSE FOR DISCIPLINE**

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

17 69. Respondent Diaz-Saldana's Smog Check Inspector License is subject to disciplinary
18 action pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that he failed to
19 comply with the following sections of that code:

20 a. **Section 44032:** Respondent failed to perform tests of emission control devices and
21 systems of the three (3) vehicles identified in paragraphs 47-49, above, in accordance with Health
22 & Saf. Code section 44012.

23 b. **Section 44015, subdivision (b):** Respondent caused electronic smog certificates of
24 compliance to be issued for the three (3) vehicles identified in paragraphs 47-49, above, without
25 ensuring that they were properly tested and inspected to determine if they were in compliance
26 with Health & Saf. Code section 44012.

27 Complainant refers to, and by this reference incorporates, the allegations contained in
28 paragraphs 47 through 49, above, as though set forth fully herein.

1 **FOURTEENTH CAUSE FOR DISCIPLINE**

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

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

7 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued
8 electronic smog certificates of compliance for the three (3) vehicles identified in paragraphs 47-
9 49, above.

10 b. **Section 3340.30, subdivision (a):** Respondent failed to inspect and test the three (3)
11 vehicles identified in paragraphs 47-49, above, in accordance with Health & Saf. Code sections
12 44012 and 44035, and California Code of Regulations, title 16, section 3340.42.

13 c. **Section 3340.41, subdivision (c):** Respondent knowingly entered false information
14 into the emissions inspection system for the three (3) vehicles identified in paragraphs 47-49,
15 above.

16 d. **Section 3340.42:** Respondent failed to ensure that the smog inspections conducted
17 on the three (3) vehicles identified in paragraphs 47-49, above, were done in accordance with the
18 Bureau's specifications.

19 Complainant refers to, and by this reference incorporates, the allegations contained in
20 paragraphs 47 through 49, above, as though set forth fully herein.

21 **FIFTEENTH CAUSE FOR DISCIPLINE**

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

23 71. Respondent Diaz-Saldana's Smog Check Inspector License is subject to disciplinary
24 action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in conjunction with
25 Health & Saf. Code section 44072.10, subdivision (c), in that he committed dishonest, fraudulent,
26 or deceitful acts whereby another was injured by issuing electronic smog certificates of
27 compliance for the three (3) vehicles identified in paragraphs 47-49, above, without performing
28 bona fide inspections of the emission control devices and systems on those vehicles, thereby

depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program. Complainant refers to, and by this reference incorporates, the allegations contained in paragraphs 47 through 49, above, as though set forth fully herein.

Respondent Valencia

SIXTEENTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

72. Respondent Valencia's Smog Check Inspector License is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that he failed to comply with the following sections of that code:

a. **Section 44032:** Respondent failed to perform tests of emission control devices and systems of the three (3) vehicles identified in paragraphs 54-56, above, in accordance with Health & Saf. Code section 44012.

b. **Section 44015, subdivision (b):** Respondent caused electronic smog certificates of compliance to be issued for the three (3) vehicles identified in paragraphs 54-56, above, without ensuring that they were properly tested and inspected to determine if they were in compliance with Health & Saf. Code section 44012.

Complainant refers to, and by this reference incorporates, the allegations contained in paragraphs 54 through 56, above, as though set forth fully herein.

SEVENTEENTH CAUSE FOR DISCIPLINE

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

73. Respondent Valencia's Smog Check Inspector License is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that he failed to comply with provisions of California Code of Regulations, title 16, as follows:

a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued electronic smog certificates of compliance for the three (3) vehicles identified in paragraphs 54-56, above.

///

1 b. **Section 3340.30, subdivision (a):** Respondent failed to inspect and test the three (3)
2 vehicles identified in paragraphs 54-56, above, in accordance with Health & Saf. Code sections
3 44012 and 44035, and California Code of Regulations, title 16, section 3340.42.

4 c. **Section 3340.41, subdivision (c):** Respondent knowingly entered false information
5 into the emissions inspection system for the three (3) vehicles identified in paragraphs 54-56,
6 above.

7 d. **Section 3340.42:** Respondent failed to ensure that the smog inspections conducted
8 on the three (3) vehicles identified in paragraphs 54-56, above, were done in accordance with the
9 Bureau's specifications.

10 Complainant refers to, and by this reference incorporates, the allegations contained in
11 paragraphs 54 through 56, above, as though set forth fully herein.

12 **EIGHTEENTH CAUSE FOR DISCIPLINE**

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

14 74. Respondent Valencia's Smog Check Inspector License is subject to disciplinary
15 action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in conjunction with
16 Health & Saf. Code section 44072.10, subdivision (c), in that he committed dishonest, fraudulent,
17 or deceitful acts whereby another was injured by issuing electronic smog certificates of
18 compliance for the three (3) vehicles identified in paragraphs 54-56, above, without performing
19 bona fide inspections of the emission control devices and systems on those vehicles, thereby
20 depriving the People of the State of California of the protection afforded by the Motor Vehicle
21 Inspection Program. Complainant refers to, and by this reference incorporates, the allegations
22 contained in paragraphs 54 through 56, above, as though set forth fully herein.

23 **OTHER MATTERS**

24 75. Pursuant to Bus. & Prof. Code section 9884.7, subdivision (c), the Director may
25 suspend, revoke, or place on probation the registration for all places of business operated in this
26 state by Respondent M. S. Mekail, upon a finding that he has, or is, engaged in a course of
27 repeated and willful violations of the laws and regulations pertaining to an automotive repair
28 dealer.

1 76. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Test Only Station
2 License No. TC 264919, issued to Respondent M. S. Mekail, is revoked or suspended, any
3 additional license issued under Chapter 5 of Part 5 of Division 26 of the Health & Saf. Code in
4 the name of said licensee may be likewise revoked or suspended by the director.

5 77. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Inspector License
6 No. EO 154753, issued to Respondent S. F. Mekail, is revoked or suspended, any additional
7 license issued under Chapter 5 of Part 5 of Division 26 of the Health & Saf. Code in the name of
8 said licensee may be likewise revoked or suspended by the director.

9 78. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Inspector License
10 No. EO 641445, issued to Respondent Avila, is revoked or suspended, any additional license
11 issued under Chapter 5 of Part 5 of Division 26 of the Health & Saf. Code in the name of said
12 licensee may be likewise revoked or suspended by the director.

13 79. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Inspector License
14 No. EO 643393, issued to Respondent Diaz-Saldana, is revoked or suspended, any additional
15 license issued under Chapter 5 of Part 5 of Division 26 of the Health & Saf. Code in the name of
16 said licensee may be likewise revoked or suspended by the director.

17 80. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Inspector License
18 No. EO 635186, issued to Respondent Valencia, is revoked or suspended, any additional license
19 issued under Chapter 5 of Part 5 of Division 26 of the Health & Saf. Code in the name of said
20 licensee may be likewise revoked or suspended by the director.

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

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 264919, issued to Mena Sam Mekail dba K & M Smog;
2. Revoking or suspending any other automotive repair dealer registration issued to Mena Sam Mekail;
3. Revoking or suspending Smog Check Test Only Station License Number TC 264919, issued to Mena Sam Mekail dba K & M Smog;
4. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health & Saf. Code in the name of Mena Sam Mekail
5. Revoking or suspending Smog Check Inspector License Number EO 154753, issued to Sam Faheem Mekail;
6. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health & Saf. Code in the name of Sam Faheem Mekail;
7. Revoking or suspending Smog Check Inspector License Number EO 641445, issued to Norman Miguel Mejia Avila;
8. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health & Saf. Code in the name of Norman Miguel Mejia Avila;
9. Revoking or suspending Smog Check Inspector License Number EO 643393, issued to Carlos Diaz-Saldana;
10. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health & Saf. Code in the name of Carlos Diaz-Saldana;
11. Revoking or suspending Smog Check Inspector License Number EO 635186, issued to Valentin V Valencia;
12. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health & Saf. Code in the name of Valentin V Valencia;

13. Ordering Mena Sam Mekail, Sam Faheem Mekail, Norman Miguel Mejia Avila, Carlos Diaz-Saldana, and Valentin V Valencia to pay the Bureau of Automotive Repair the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3 and if placed on probation, the costs of probation monitoring; and,

14. 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

LA2025600223
67525433.docx