

1 ROB BONTA
Attorney General of California
2 ERIN M. SUNSERI
Supervising Deputy Attorney General
3 GREGORY J. SALUTE
Supervising Deputy Attorney General
4 State Bar No. 164015
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 738-9431
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

Case No. 79/24-3306

13 **MICHAEL ANGELO PEREZ dba**
14 **RAMONA SMOG CHECK STATION**
15 **861 N Ramona Blvd, Ste A**
16 **San Jacinto, CA 92582**

ACCUSATION

17 **Automotive Repair Dealer Registration**
18 **Number ARD 297938; Smog Check, Test-**
19 **Only, Station License Number TC 297938**

20 **-and-**

21 **MICHAEL ANGELO PEREZ**
22 **211 Elm Wood Ave.**
23 **Hemet, CA 92543**

24 **Smog Check Inspector License Number EO**
25 **639973**

26 **-and-**

27 **JOSE LUIS MUNOZ**
28 **336 Blue Ride Ln.**
San Jacinto, CA 92583

Smog Check Inspector License Number EO
635863

Respondents.

PARTIES

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

2. On or about September 4, 2020, the Bureau of Automotive Repair issued Automotive Repair Dealer Registration Number ARD 297938 to Michael Angelo Perez dba Ramona Smog Check Station (Respondent Ramona Smog Check Station or Respondents). The Automotive Repair Dealer Registration was in full force and effect at all times relevant to the charges brought herein and will expire on September 30, 2024, unless renewed.

3. On or about March 5, 2021, the Bureau of Automotive Repair issued Smog Check, Test-Only, Station License Number TC 297938 to Michael Angelo Perez dba Ramona Smog Check Station. The Smog Check, Test-Only, Station License was in full force and effect at all times relevant to the charges brought herein and will expire on September 30, 2024, unless renewed.

4. Respondent is also certified as a STAR Station. The certification was issued on May 19, 2021, and was suspended on October 11, 2023. The certification was reinstated on July 15, 2024, and will remain active unless the ARD registration and/or Smog Check Station license is revoked, canceled, licenses become delinquent or the certification is invalidated.

5. On or about January 20, 2017, the Bureau of Automotive Repair issued Smog Check Inspector License Number EO 639973 to Michael Angelo Perez (Respondent Perez or Respondents). The Smog Check Inspector License was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2025, unless renewed.

6. On or about August 9, 2013, the Bureau of Automotive Repair issued Smog Check Inspector License Number EO 635863 to Jose Luis Munoz¹ (Respondent Munoz or Respondents). 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.

///

¹ At all times alleged herein, Respondents Michael Angelo Perez and Jose Luis Munoz were acting as employees of Respondent Ramona Smog Check and committed the acts alleged herein in the course and scope of their employment at Respondent Ramona Smog Check.

1 **JURISDICTION**

2 7. This Accusation is brought before the Director of the Department of Consumer
3 Affairs (“Director”) for the Bureau, under the authority of the following laws.

4 8. Section 9884.7 of the Business and Professions Code² provides that the Director may
5 revoke an ARD registration.

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

10 10. Section 44002 of the Health and Safety Code provides, in pertinent part, that the
11 Director has all the powers and authority granted under the Automotive Repair Act for enforcing
12 the Motor Vehicle Inspection Program.

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

17 **STATUTORY PROVISIONS**

18 12. Section 9884.7 of the Code states:

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

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

28 . . .

(4) Any other conduct which constitutes fraud.

. . .

² All statutory references herein shall be to the Business and Professions Code unless specifically stated otherwise.

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

3 13. Section 44072.2 of the Health and Safety Code states:

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

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

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

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

12 14. Section 44072.10 of the Health and Safety Code states, in pertinent part:

13 . . .

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

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

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

19 **REGULATORY PROVISIONS**

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

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

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

24 A smog check technician shall comply with the following requirements at all
times while licensed.

25 (a) A licensed technician shall inspect, test and repair vehicles in accordance
26 with section 44012 of the Health and Safety Code, section 44035 of the Health and
Safety Code, and section 3340.42 of this article. . . .”

27 ///

28 ///

1 17. California Code of Regulations, title 16, section 3340.35, states, in pertinent part:

2

3 (c) A licensed station shall issue a certificate of compliance or noncompliance
4 to the owner or operator of any vehicle that has been inspected in accordance with the
5 procedures specified in section 3340.42 of this article and has all the required
6 emission control equipment and devices installed and functioning correctly. . . .

7 18. California Code of Regulations, title 16, section 3340.42, sets forth specific emissions
8 test methods and procedures which apply to all vehicles inspected in the State of California.

9 **COST RECOVERY**

10 19. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
11 administrative law judge to direct a licentiate found to have committed a violation or violations of
12 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
13 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
14 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
15 included in a stipulated settlement.

16 **VID DATA REVIEW**

17 20. Beginning March 9, 2015, California's Smog Check Program was updated to require
18 the use of an On-Board Diagnostic Inspection System ("OIS"). OIS is the Smog Check
19 equipment required in all areas of the State when inspecting most model-year 2000 and newer
20 gasoline and hybrid vehicles and most 1998 and newer diesel vehicles. The system consists of a
21 certified Data Acquisition Device ("DAD"), computer, bar code scanner, and printer. The DAD
22 is an On Board Diagnostic ("OBD") scan tool that, when requested by the California OIS
23 software, retrieves OBD data from the vehicle. All OBD data that the vehicle indicates it
24 supports is requested by the California OIS software and will be retrieved. The DAD connects
25 between the OIS computer and the vehicle's DLC. The California OIS software requires a
26 continuous Internet connection when performing a Smog Check inspection and the OIS software
27 communicates with BAR's central database through the Internet connection. The bar code
28 scanner is used to input technician information, the vehicles identification number ("VIN"), and
DMV renewal information. The printer provides a Vehicle Inspection Report ("VIR") containing

1 inspection results for motorists and a Smog Check Certificate of Compliance number for passing
2 vehicles.

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

- 7 • Engine speed in revolutions per minute (RPM)
- 8 • Throttle position as measured by a throttle position sensor (TPS) mounted onto
9 the throttle shaft. Measured in a percentage of opening from 0% at idle and near
10 or up to 100% at full throttle.
- 11 • Manifold absolute pressure as measured by a manifold air pressure sensor (MAP)
12 connected to an intake manifold source, measured in kilo pascals (kpa). Typical
13 readings for a normally aspirated vehicle as follows: 0 kpa being absolute vacuum,
14 25kpa to 45kpa at idle, 101 kpa at full throttle, same as atmospheric pressure at
15 sea level.
- 16 • Mass air flow as measured by a mass air flow sensor (MAF) mounted in the
17 engine's air intake tract. Measured in grams per second (gps).³
- 18 • Ignition timing is set by the vehicle PCM based on engine speed and load, and is
19 measured in degrees Before Top Dead Center (BTDC).

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

26 ³ Not all vehicles include both MAP and MAF parameters. Many vehicles will have either
27 MAP or MAF parameters separately.
28

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

4 23. 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.

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

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

20 26. The VID contains registration data from Department of Motor Vehicles ("DMV")
21 plus emission standards, vehicle smog check inspections, smog check stations and technicians,
22 and Certificates of Compliance. The VID receives the passing smog check results immediately
23 following the inspection. During the vehicle registration process, the DMV accesses the VID to
24 verify that the vehicle has been tested and certified. The Bureau can also access the VID to view
25 test data on smog check inspections performed at any Smog Check Station, or search for, retrieve,
26 and print a test record for a particular vehicle which has been tested. The EIS or OIS, depending
27 on the test type, also prints a Vehicle Inspection Report ("VIR"), which is a physical record of the
28

1 test results and shows the Certificate of Compliance number that was issued if the vehicle passed
2 the smog inspection.

3 27. The smog check technician must sign the VIR under penalty of perjury to indicate
4 that the inspection was done within Bureau guidelines. Smog Check Stations are required by law
5 to maintain a copy of the VIR along with a copy of the repair invoice for three years. The
6 consumer's VIR serves as a receipt and proof that the VID was updated and a Certificate of
7 Compliance was issued. Licensed Smog Check Technicians are the only persons authorized by
8 the Bureau to perform official inspections. They are issued a personal access code and a license,
9 which are used to gain access to the EIS and OIS to perform smog check inspections.
10 Unauthorized use of another technician's access code or license is prohibited.

11 28. Respondents have engaged in numerous acts or omissions constituting violations of
12 the Automotive Repair Act (Business and Professions Code section 9880 *et seq.*) and Motor
13 Vehicle Inspection Program (Health and Safety Code section 44000 *et seq.*) through their practice
14 of "clean plugging."⁴ Respondent Munoz's OIS Test Data available on the State database
15 indicates that Respondent Munoz is involved in fraudulent smog inspection activities. A Bureau
16 representative initiated an investigation based on information transmitted to the VID for smog
17 check inspections performed by Respondent Munoz. The investigation revealed that the data
18 related to certain vehicles certified by Respondent Munoz contained a pattern of unmistakable
19 discrepancies between the information transmitted during the inspections and documented
20 information known about the vehicles at issue. Specifically, the representative compared the data
21 received from the certified vehicles to data from vehicles of the same year, make, and model and
22 determined that the data from at least ten (10) of the certified vehicles were fraudulently tested by
23 Respondents Perez and Munoz during the smog inspection using the "clean plugging" method as
24 follows:

25 ///

26 ⁴ "Clean plugging" refers to the use of another vehicle's properly functioning On Board
27 Diagnostic, generation II, (OBD II) system, or another source, to generate passing diagnostic
28 readings for the purpose of issuing fraudulent smog Certificates of Compliance to vehicles that
are not in smog compliance and/or not present for testing.

Fraudulent Inspection #1: (Perez)

29. Bureau Program representative Steve Koch (Koch) reviewed the OIS Test Data for Ramona Smog Check Station. The review indicates on December 29, 2022, a 2003 Honda Accord EX, CA license 8ETV095, VIN 1HGCM66873A036320 (2003 Accord), was tested and smog certificate # TC020674C was issued under licensed Smog Check Technician #EO639973, Perez.

30. The Dynamic PID Chart for the 2003 Accord shows between time stamp 863 and 19788 engine speed is steady at approximately 725 RPM. During this time the throttle is fixed at 13.7% opening, the MAP is fixed at 26 kPa, and the ignition timing advance for #1 cylinder is fixed at 9 degrees BTDC. After time stamp 19788 the engine speed accelerates to approximately 2200 RPM, decelerates to approximately 1375 RPM, then accelerates to approximately 2100 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 MAP is fixed at the same 26 kPa, and the ignition timing advance for #1 cylinder is also still fixed at the same 9 degrees BTDC.

31. During the entire 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 or expected for normal engine operation. The discrepancies in the OIS Test Data prove the OIS Data Acquisition Device (DAD) was not connected to the 2003 Accord being certified, causing the issuance of a fraudulent Smog Check Certificate of Compliance.

Fraudulent Inspection #2: (Perez)

32. Koch reviewed the OIS Test Data for Ramona Smog Check Station. The review indicates on January 13, 2023, a 2004 Dodge Dakota SLT, CA license 7H96107, VIN 1D7GL42N64S561325 (2004 Dakota), was tested and smog certificate # TC363916C was issued under licensed Smog Check Technician #EO639973, Perez.

33. The Dynamic PID Chart for the 2004 Dakota shows between time stamp 363 and 18330 engine speed is steady at approximately 700 RPM. During this time the throttle is fixed at 14.5% opening, the MAP is fixed at 96 kPa, and the ignition timing advance for #1 cylinder is fixed at -64 degrees BTDC. After time stamp 18330 the engine speed decelerates to 0 RPM,

1 accelerates to approximately 1900 RPM, then decelerates to approximately 1500 RPM. From the
2 time the engine RPM increases off idle to the higher RPMs, the throttle is fixed at the same
3 14.5% opening, the MAP is fixed at the same 96 kPa, and the ignition timing advance for #1
4 cylinder is also still fixed at the same -64 degrees BTDC.

5 34. During the entire period the dynamic data was collected, the only parameter that
6 changed was engine RPM. The throttle position, MAP, and ignition timing advance readings
7 remained unchanged even though the engine speed was increased. These readings are not
8 characteristic or expected for normal engine operation. The discrepancies in the OIS Test Data
9 prove the DAD was not connected to the 2004 Dakota being certified, causing the issuance of a
10 fraudulent Smog Check Certificate of Compliance.

11 **Fraudulent Inspection #3: (Munoz)**

12 35. Koch reviewed the OIS Test Data for Ramona Smog Check Station. The review
13 indicates on January 13, 2023, a 2003 Chevrolet Tahoe C1500, CA license 5DXC711, VIN
14 1GNEC13T43J332358 (2003 Tahoe), was tested and smog certificate # TC363917C was issued
15 under licensed Smog Check Technician #EO635863, Munoz.

16 36. The Dynamic PID Chart for the 2003 Tahoe shows between time stamp 350 and
17 30180 engine speed is steady at approximately 650 RPM. During this time the throttle is fixed
18 at 7.1% opening, the MAP is fixed at 33 kPa, and the ignition timing advance for #1 cylinder is
19 fixed at 17 degrees BTDC. After time stamp 30180 the engine speed accelerates to approximately
20 2400 RPM, then decelerates to approximately 1750 RPM, before accelerating to approximately
21 1950 RPM. From the time the engine RPM increases off idle to the higher RPMs, the throttle is
22 fixed at the same 7.1% opening, the MAP is fixed at the same 33 kPa, and the ignition timing
23 advance for #1 cylinder is also still fixed at the same 17 degrees BTDC.

24 37. During the entire period the dynamic data was collected, the only parameter that
25 changed was engine RPM. The throttle position, MAP, and ignition timing advance readings
26 remained unchanged even though the engine speed was increased. These readings are not
27 characteristic or expected for normal engine operation. The discrepancies in the OIS Test Data
28

1 prove the DAD was not connected to the 2003 Tahoe being certified, causing the issuance of a
2 fraudulent Smog Check Certificate of Compliance.

3 **Fraudulent Inspection #4: (Perez)**

4 38. Koch reviewed the OIS Test Data for Ramona Smog Check Station. The review
5 indicates on January 13, 2023, a 2004 Cadillac Commercial Chassis, no plate, VIN
6 1GEEH00Y74U500473 (2004 Cadillac), was tested and smog certificate # TC363918C was
7 issued under licensed Smog Check Technician #EO639973, Perez.

8 39. The Dynamic PID Chart for the 2004 Cadillac shows between time stamp 351 and
9 18106 engine speed is steady at approximately 800 RPM. During this time the throttle is fixed at
10 0% opening, the MAF is fixed at 9.06 gps, and the ignition timing advance for #1 cylinder is
11 fixed at 9.5 degrees BTDC. After time stamp 18106 the engine speed accelerates to
12 approximately 2050 RPM, decelerates to approximately 1300 RPM, then accelerates to
13 approximately 2350 RPM. From the time the engine RPM increases off idle to the higher RPMs,
14 the throttle is fixed at the same 0% opening, the MAF is fixed at the same 9.06 gps, and the
15 ignition timing advance for #1 cylinder is also still fixed at the same 9.5 degrees BTDC.

16 40. During the entire period the dynamic data was collected, the only parameter that
17 changed was engine RPM. The throttle position, MAF, and ignition timing advance readings
18 remained unchanged even though the engine speed was increased. These readings are not
19 characteristic or expected for normal engine operation. The discrepancies in the OIS Test Data
20 prove the DAD was not connected to the 2004 Cadillac being certified, causing the issuance of a
21 fraudulent Smog Check Certificate of Compliance.

22 **Fraudulent Inspection #5: (Perez)**

23 41. Koch reviewed the OIS Test Data for Ramona Smog Check Station. The review
24 indicates on January 24, 2023, a 2001 Toyota Tacoma Xtracab S-Runner, CA license 7T99255,
25 VIN 5TEVN52N71Z734133 (2001 Tacoma), was tested and smog certificate # TC825205C
26 was issued under licensed Smog Check Technician #EO639973, Perez.

27 42. The Dynamic PID Chart for the 2001 Tacoma shows between time stamp 849 and
28 21540 engine speed is steady at approximately 900 RPM. During this time the throttle is fixed

1 at 9% opening, the MAF is fixed at 4.85 gps, and the ignition timing advance for #1 cylinder is
2 fixed at 13 degrees BTDC. After time stamp 21540 the engine speed accelerates to approximately
3 1650 RPM, decelerates to approximately 1350 RPM, then accelerates to approximately 2050
4 RPM. From the time the engine RPM increases off idle to the higher RPMs, the throttle is fixed at
5 the same 9% opening, the MAF is fixed at the same 4.85 gps, and the ignition timing advance for
6 #1 cylinder is also still fixed at the same 13 degrees BTDC.

7 43. During the entire period the dynamic data was collected, the only parameter that
8 changed was engine RPM. The throttle position, MAF, and ignition timing advance readings
9 remained unchanged even though the engine speed was increased. These readings are not
10 characteristic or expected for normal engine operation. The discrepancies in the OIS Test Data
11 prove the DAD was not connected to the 2001 Tacoma being certified, causing the issuance of a
12 fraudulent Smog Check Certificate of Compliance.

13 **Previous Failing Tests: 2001 Tacoma**

14 44. Three (3) previous failing tests were performed on the 2001 Tacoma at other stations.
15 The most recent test was performed on January 9, 2023. The 2001 Tacoma failed the inspection
16 for incomplete OBDII readiness monitors. The dynamic data was collected during the inspection
17 had the expected change in ignition timing, MAF, and throttle position. The next test was
18 performed on August 4, 2022. The 2001 Tacoma failed the inspection for a tampered catalyst. No
19 dynamic data was collected during the inspection. The oldest test was performed on January 21,
20 2022. The 2001 Tacoma failed the inspection for incomplete OBDII readiness monitors. No
21 dynamic data was collected during the inspection.

22 **Fraudulent Inspection #6: (Perez)**

23 45. Koch reviewed the OIS Test Data for Ramona Smog Check Station. The review
24 indicates on January 24, 2023, a 2006 Honda Ridgeline RTS, no plate, VIN HJYK16466H525996
25 (2006 Ridgeline), was tested and smog certificate # TC825207C was issued under licensed Smog
26 Check Technician #EO639973, Perez.

27 46. The Dynamic PID Chart for the 2006 Ridgeline shows between time stamp 874 and
28 57169 engine speed is steady at approximately 725 RPM. During this time the throttle is fixed

1 at 16.1% opening, the MAP is fixed at 35 kPa, and the ignition timing advance for #1 cylinder is
2 fixed at 6 degrees BTDC. After time stamp 57169 the engine speed accelerates to approximately
3 1650 RPM, decelerates to approximately 1175 RPM, then accelerates to approximately 2275
4 RPM, then decelerates to approximately 1775 RPM, then accelerates to approximately 2925
5 RPM. From the time the engine RPM increases off idle to the higher RPMs, the throttle is fixed at
6 the same 16.1% opening, the MAP is fixed at the same 35 kPa, and the ignition timing advance
7 for #1 cylinder is also still fixed at the same 6 degrees BTDC.

8 47. During the entire period the dynamic data was collected, the only parameter that
9 changed was engine RPM. The throttle position, MAP, and ignition timing advance readings
10 remained unchanged even though the engine speed was increased. These readings are not
11 characteristic or expected for normal engine operation. The discrepancies in the OIS Test Data
12 prove the DAD was not connected to the 2006 Ridgeline being certified, causing the issuance of a
13 fraudulent Smog Check Certificate of Compliance.

14 **Previous Failing Test: 2006 Ridgeline**

15 48. A failing test was performed on the 2006 Ridgeline at another station on November 3,
16 2022. The 2006 Ridgeline failed the inspection for an incomplete OBDII readiness monitor. No
17 dynamic data was collected during the inspection.

18 **Fraudulent Inspection #7: (Perez)**

19 49. Koch reviewed the OIS Test Data for Ramona Smog Check Station. The review
20 indicates on January 31, 2023, a 2004 Ford Expedition XLT, CA license 7YOA920, VIN
21 1FMRU15W24LA70596 (2004 Expedition), was tested and smog certificate # TC825229C was
22 issued under licensed Smog Check Technician #EO639973, Perez.

23 50. The Dynamic PID Chart for the 2004 Expedition shows between time stamp 352 and
24 22349 engine speed is steady at approximately 675 RPM. During this time the throttle is fixed at
25 20% opening, the MAF is fixed at 0.6 gps, and the ignition timing advance for #1 cylinder is
26 fixed at 10 degrees BTDC. After time stamp 22349 the engine speed accelerates to approximately
27 1650 RPM, decelerates to approximately 1400 RPM, then accelerates to approximately 1600
28 RPM, From the time the engine RPM increases off idle to the higher RPMs, the throttle is fixed at

the same 20% opening, the MAF is fixed at the same 0.6 gps, and the ignition timing advance for #1 cylinder is also still fixed at the same 10 degrees BTDC.

51. During the entire 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 or expected for normal engine operation. The discrepancies in the OIS Test Data prove the DAD was not connected to the 2004 Expedition being certified, causing the issuance of a fraudulent Smog Check Certificate of Compliance.

Fraudulent Inspection #8: (Munoz)

52. Koch reviewed the OIS Test Data for Ramona Smog Check Station. The review indicates on February 16, 2023, a 2004 Toyota Camry LE, CA license 5VJY445, VIN 4T1BE32K44U921898 (2004 Camry), was tested and smog certificate # TC903775C was issued under licensed Smog Check Technician #EO635863, Munoz.

53. The Dynamic PID Chart for the 2004 Camry shows between time stamp 853 and 24193 engine speed is steady at approximately 800 RPM. During this time the throttle is fixed at 15.7% opening, the MAF is fixed at 0.45 gps, and the ignition timing advance for #1 cylinder is fixed at 5 degrees BTDC. After time stamp 24193 the engine speed erratically accelerates to approximately 1700 RPM, decelerates to approximately 1330 RPM, then accelerates to approximately 2132 RPM, then decelerates to approximately 1500 RPM, then accelerates to approximately 1850 RPM. From the time the engine RPM increases off idle to the higher RPMs, the throttle is fixed at the same 15.7% opening, the MAF is fixed at the same 0.45 gps, and the ignition timing advance for #1 cylinder is also still fixed at the same 5 degrees BTDC.

54. During the entire 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 or expected for normal engine operation. The discrepancies in the OIS Test Data prove the DAD was not connected to the 2004 Camry being certified, causing the issuance of a fraudulent Smog Check Certificate of Compliance.

Fraudulent Inspection #9: (Munoz)

55. Koch reviewed the OIS Test Data for Ramona Smog Check Station. The review indicates on February 24, 2023, a 2004 Honda Accord LX, CA license 8UWS975, VIN 1HGCM563X4A068727 (2004 Accord LX), was tested and smog certificate # TC903797C was issued under licensed Smog Check Technician #EO635863, Munoz.

56. The Dynamic PID Chart for the 2004 Accord LX shows between time stamp 850 and 25932 engine speed is steady at approximately 800 RPM. During this time the throttle is fixed at 9.8% opening, the MAP is fixed at 24 kPa, the MAF is fixed at 2.84 gps, and the ignition timing advance for #1 cylinder is fixed at 7.5 degrees BTDC. After time stamp 25932 the engine speed erratically accelerates to approximately 3150 RPM, decelerates to approximately 2700 RPM, then accelerates to approximately 4000 RPM, then decelerates to approximately 1900 RPM. From the time the engine RPM increases off idle to the higher RPMs, the throttle is fixed at the same 9.8% opening, the MAP is fixed at 24 kPa, the MAF is fixed at the same 2.84 gps, and the ignition timing advance for #1 cylinder is also still fixed at the same 7.5 degrees BTDC.

57. During the entire period the dynamic data was collected, the only parameter that changed was engine RPM. The throttle position, MAP, MAF, and ignition timing advance readings remained unchanged even though the engine speed was increased. These readings are not characteristic or expected for normal engine operation. The discrepancies in the OIS Test Data prove the DAD was not connected to the 2004 Accord LX being certified, causing the issuance of a fraudulent Smog Check Certificate of Compliance.

Fraudulent Inspection #10: (Munoz)

58. Koch reviewed the OIS Test Data for Ramona Smog Check Station. The review indicates on February 24, 2023, a 2004 Honda Accord EX, CA license 5DZV440, VIN JHMCM56744C018443 (2004 Accord EX), was tested and smog certificate # IT198152C was issued under licensed Smog Check Technician #EO635863, Munoz.

59. The Dynamic PID Chart for the 2004 Accord EX shows between time stamp 858 and 22479 engine speed is steady at approximately 725 RPM. During this time the throttle is fixed at 9.4% opening, the MAP is fixed at 26 kPa, the MAF is fixed at 2.57 gps, and the ignition timing

1 advance for #1 cylinder is fixed at 7.5 degrees BTDC. After time stamp 22479 the engine speed
2 erratically accelerates to approximately 2250 RPM, and decelerates to approximately 1750 RPM,.
3 From the time the engine RPM increases off idle to the higher RPMs, the throttle is fixed at the
4 same 9.4% opening, the MAP is fixed at 26 kPa, the MAF is fixed at the same 2.57 gps, and the
5 ignition timing advance for #1 cylinder is also still fixed at the same 7.5 degrees BTDC.

6 60. During the entire period the dynamic data was collected, the only parameter that
7 changed was engine RPM. The throttle position, MAP, MAF, and ignition timing advance
8 readings remained unchanged even though the engine speed was increased. These readings are
9 not characteristic or expected for normal engine operation. The discrepancies in the OIS Test
10 Data prove the OIS was not connected to the 2004 Accord EX being certified, causing the
11 issuance of a fraudulent Smog Certificate of Compliance.

12 **Previous Failing Test: 2004 Accord EX**

13 61. A failing test was performed on the 2004 Accord EX at another station on December
14 9, 2022. The 2004 Accord EX failed the inspection for an incomplete OBDII readiness monitor.
15 The vehicle showed a pending P0420 (Catalyst) DTC. No dynamic data was collected during the
16 inspection.

17 **FIRST CAUSE FOR DISCIPLINE**

18 **(Untrue or Misleading Statements - Respondent Ramona Smog Check Station)**

19 62. Respondent Ramona Smog Check Station's registration is subject to disciplinary
20 action pursuant to section 9884.7, subdivision (a)(1), in that on and between December 29, 2022,
21 and February 24, 2023, Respondents Perez and Munoz made or authorized statements which he
22 knew or in the exercise of reasonable care should have known to be untrue or misleading, as
23 follows: Respondents Perez and Munoz certified that the vehicles set forth above in paragraphs
24 20-61, had passed inspection and were in compliance with applicable laws and regulations. In
25 fact, Respondents Perez and Munoz conducted the inspections on those vehicles using the clean
26 plugging method in order to issue smog certificates of compliance, and did not test or insect the
27 vehicles as required by Health and Safety Code section 44012.

28 ///

1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Fraud - Respondent Ramona Smog Check Station)**

3 63. Respondent Ramona Smog Check Station's registration is subject to disciplinary
4 action pursuant to section 9884.7, subdivision (a)(4), in that on and between December 29, 2022,
5 and February 24, 2023, Respondent Ramona Smog Check Station's employees Respondents
6 Perez and Munoz committed acts which constitute fraud by issuing electronic certificates of
7 compliance for the vehicles set forth above in paragraphs 20-61, without performing bona fide
8 inspections of the emission control devices and systems on those vehicles, thereby depriving the
9 People of the State of California of the protection afforded by the Motor Vehicle Inspection
10 Program.

11 **THIRD CAUSE FOR DISCIPLINE**

12 **(Failure to Comply with the Motor Vehicle Inspection Program –**
13 **Respondent Ramona Smog Check Station)**

14 64. Respondent Ramona Smog Check Station's smog station license is subject to
15 disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (a), in
16 conjunction with Health and Safety Code section 44072.10 subdivision (c), in that on and
17 between December 29, 2022, and February 24, 2023, regarding the vehicles set forth above in
18 paragraphs 20-61, Respondent Ramona Smog Check Station failed to comply with the following
19 sections of the Health and Safety Code:

20 (a) **Section 44012**: Respondent Ramona Smog Check Station's employees Respondents
21 Perez and Munoz failed to ensure that the emission control tests were performed on the vehicles,
22 in accordance with procedures prescribed by the department.

23 (b) **Section 44015**: Respondent Ramona Smog Check Station's employees Respondents
24 Perez and Munoz issued electronic certificates of compliance for the vehicles, without ensuring
25 that the vehicles were properly tested and inspected to determine if they were in compliance with
26 Health and Safety Code section 44012.

27 ///

28 ///

1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection Program -**
3 **Respondent Ramona Smog Check Station)**

4 65. Respondent Ramona Smog Check Station's smog station license is subject to
5 disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (c), in that on
6 and between December 29, 2022, and February 24, 2023, regarding the vehicles set forth above in
7 paragraphs 20-61, Respondent Munoz failed to comply with the following provisions of the
8 California Code of Regulations, Title 16, as follows:

9 (a) **Section 3340.35, subdivision (c)**: Respondent Ramona Smog Check Station's
10 employees Respondents Perez and Munoz issued electronic certificates of compliance even
11 though those vehicles had not been inspected in accordance with section 3340.42, Title 16, of the
12 California Code of Regulations.

13 (b) **Section 3340.42**: Respondent Ramona Smog Check Station's employees
14 Respondents Perez and Munoz failed to conduct the required smog tests and inspections on those
15 vehicles in accordance with the Bureau's specifications.

16 **FIFTH CAUSE FOR DISCIPLINE**

17 **(Dishonesty, Fraud or Deceit - Respondent Ramona Smog Check Station)**

18 66. Respondent Ramona Smog Check Station's smog station license is subject to
19 disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (d), in
20 conjunction with Health and Safety Code section 44072.10 subdivision (c), in that on and
21 between December 29, 2022, and February 24, 2023, regarding the vehicles set forth above in
22 paragraphs 20-61, Respondent Ramona Smog Check Station's employees Respondents Perez and
23 Munoz committed acts involving dishonesty, fraud or deceit whereby another was injured by
24 issuing electronic certificates of compliance for those vehicles without performing bona fide
25 inspections of the emission control devices and systems on the vehicles, thereby depriving the
26 People of the State of California of the protection afforded by the Motor Vehicle Inspection
27 Program.

28 ///

1 **SIXTH CAUSE FOR DISCIPLINE**

2 **(Violations of the Motor Vehicle Inspection Program – Respondent Perez)**

3 67. Respondent Perez’s smog check inspector license is subject to discipline pursuant to
4 Health and Safety Code section 44072.2, subdivision (a), in that on and between December 29,
5 2022, and February 24, 2023, regarding the vehicles set forth above in paragraphs 20-61,
6 Respondent Perez failed to comply with section 44012 of the Health and Safety Code in a
7 material respect, as follows: Respondent Perez failed to perform the emission control tests on
8 those vehicles in accordance with procedures prescribed by the department.

9 **SEVENTH CAUSE FOR DISCIPLINE**

10 **(Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection Program –**
11 **Respondent Perez)**

12 68. Respondent Perez’s smog check inspector license is subject to discipline pursuant to
13 Health and Safety Code section 44072.2, subdivision (c), in that on and between December 29,
14 2022, and February 24, 2023, regarding the vehicles set forth above in paragraphs 20-61,
15 Respondent Perez failed to comply with provisions of the California Code of Regulations, title
16 16, as follows:

17 (a) **Section 3340.30, subdivision (a)**: Respondent Perez failed to inspect and test those
18 vehicles in accordance with Health and Safety Code section 44012.

19 (b) **Section 3340.41, subdivision (c)**: Respondent Perez entered false information into
20 the EIS.

21 (c) **Section 3340.42**: Respondent Perez failed to conduct the required smog tests and
22 inspections on those vehicles in accordance with the Bureau’s specifications.

23 **EIGHTH CAUSE FOR DISCIPLINE**

24 **(Dishonesty, Fraud or Deceit - Respondent Perez)**

25 69. Respondent Perez’s smog check inspector license is subject to discipline pursuant to
26 Health and Safety Code section 44072.2, subdivision (d), in conjunction with Health and Safety
27 Code section 44072.10 subdivision (c), in that on and between December 29, 2022, and February
28 24, 2023, regarding the vehicles set forth above in paragraphs 20-61, Respondent Perez

1 committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing
2 electronic certificates of compliance for those vehicles without performing bona fide inspections
3 of the emission control devices and systems on the vehicles., thereby depriving the People of the
4 State of California of the protection afforded by the Motor Vehicle Inspection Program.

5 **NINTH CAUSE FOR DISCIPLINE**

6 **(Violations of the Motor Vehicle Inspection Program – Respondent Munoz)**

7 70. Respondent Munoz’s smog check inspector license is subject to discipline pursuant to
8 Health and Safety Code section 44072.2, subdivision (a), in that on and between December 29,
9 2022, and February 24, 2023, regarding the vehicles set forth above in paragraphs 20-61,
10 Respondent Munoz failed to comply with section 44012 of the Health and Safety Code in a
11 material respect, as follows: Respondent Munoz failed to perform the emission control tests on
12 those vehicles in accordance with procedures prescribed by the department.

13 **TENTH CAUSE FOR DISCIPLINE**

14 **(Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection Program –**
15 **Respondent Munoz)**

16 71. Respondent Munoz’s smog check inspector license is subject to discipline pursuant to
17 Health and Safety Code section 44072.2, subdivision (c), in that on and between December 29,
18 2022, and February 24, 2023, regarding the vehicles set forth above in paragraphs 20-61,
19 Respondent Munoz failed to comply with provisions of the California Code of Regulations, title
20 16, as follows:

21 (a) **Section 3340.30, subdivision (a):** Respondent Munoz failed to inspect and test those
22 vehicles in accordance with Health and Safety Code section 44012.

23 (b) **Section 3340.41, subdivision (c):** Respondent Munoz entered false information into
24 the EIS.

25 (c) **Section 3340.42:** Respondent Munoz failed to conduct the required smog tests and
26 inspections on those vehicles in accordance with the Bureau’s specifications.

27 ///

28 ///

ELEVENTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit - Respondent Munoz)

72. Respondent Munoz's smog check inspector license is subject to discipline pursuant to Health and Safety Code section 44072.2, subdivision (d), in conjunction with Health and Safety Code section 44072.10 subdivision (c), in that on and between December 29, 2022, and February 24, 2023, regarding the vehicles set forth above in paragraphs 20-61, Respondent Munoz committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing electronic certificates of compliance for those vehicles without performing bona fide inspections of the emission control devices and systems on the vehicles., thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

OTHER MATTERS

73. Pursuant to Business & Professions Code section 9884.7, subdivision (c), the Director may suspend, revoke, or place on probation the registration for all places of business operated in this State by Respondent Ramona Smog Check Station upon a finding that Respondent Ramona Smog Check Station has, or is, engaged in a course of repeated and willful violations of the laws and regulations pertaining to an automotive repair dealer.

74. Pursuant to Health & Safety Code section 44072.8, if Smog Check, Test Only Station License Number TC 297938 issued to Respondent Ramona Smog Check Station is revoked or suspended following a hearing under this article, any additional license issued under Chapter 5, Part 5, Division 26 in the name of said licensee may be likewise revoked or suspended by the Director.

75. Pursuant to Health & Safety Code section 44072.8, if Smog Check Inspector License Number EO 639973, issued to Respondent Perez, is revoked or suspended following a hearing under this article, any additional license issued under Chapter 5, Part 5, Division 26 in the name of said licensee may be likewise revoked or suspended by the Director.

76. Pursuant to Health & Safety Code section 44072.8, if Smog Check Inspector License Number EO 635863, issued to Respondent Munoz, is revoked or suspended following a hearing

1 under this article, any additional license issued under Chapter 5, Part 5, Division 26 in the name
2 of said licensee may be likewise revoked or suspended by the Director.

3 **PRAYER**

4 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
5 and that following the hearing, the Director of the Department of Consumer Affairs issue a
6 decision:

7 1. Revoking or suspending Automotive Repair Dealer License Number ARD 297938,
8 issued to Michael Angelo Perez dba Ramona Smog Check Station;

9 2. Revoking or suspending any other Automotive Repair Dealer Registration issued to
10 Respondent Michael Angelo Perez;

11 3. Revoking or suspending Smog Check, Test-Only, Station License Number TC
12 297938, issued to Michael Angelo Perez dba Ramona Smog Check Station;

13 4. Revoking or suspending Smog Check Inspector License Number EO 639973, issued
14 to Michael Angelo Perez;

15 5. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of
16 Division 26 of the Health and Safety Code in the name of Respondent Michael Angelo Perez;

17 6. Revoking or suspending Smog Check Inspector License Number EO 635863, issued
18 to Jose Luis Munoz;

19 7. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of
20 Division 26 of the Health and Safety Code in the name of Respondent Jose Luis Munoz;

21 8. Ordering Michael Angelo Perez and Jose Luis Munoz to pay the Bureau of
22 Automotive Repair the reasonable costs of the investigation and enforcement of this case,
23 pursuant to Business and Professions Code section 125.3; and, if placed on probation, the costs of
24 probation monitoring; and,

25 ///

26 ///

27 ///

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

9. 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

SD2024802173
84591493.docx