

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

In the Matter of the Accusation Against:

Case No.: 79/16-20115

**HANNAN. MAHLI, dba MARIO'S #1
SMOG & TEST ONLY**

OAH No.: 2019030170

5510 Van Buren Blvd., Ste. B
Riverside, CA 92503

Automotive Repair Dealer Registration No.:
ARD 277523
Smog Check Station License. No.: TC 277523

and

RAMI MAHLI
4408 N. Lyman Ave.
Covina, CA 91724

Smog Check Inspector License. No.: EO
632398

and

**DANNY PAUL DUY AN, aka, DANNY
PAUL KJELLESVJG**
50300 Ramona Street
Cabazon, CA 92230

Mailing Address:
P.O. Box 103
Cabazon, CA 92230

Smog Check Inspector Lie. No.: EO 636954

and

JUAN LUJS GUZMAN ROMERO
7242 Evans St.
Riverside, CA 92504

Smog Check Inspector License No.: EO
637203


Respondents.

DECISION

The attached Stipulated Settlement and Disciplinary Order AS TO RESPONDENT DANNY PAUL DUYAN ONLY is hereby accepted and adopted by the Director of the Department of Consumer Affairs as the Decision in the above-entitled matter.

This Decision shall become effective at 5:00 p.m. on July 25, 2019.

DATED: June 19, 2019



GRACE ARUPO RODRIGUEZ
Assistant Deputy Director
Legal Affairs Division
Department of Consumer Affairs

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Attorney General of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 AGUSTIN LOPEZ
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8 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

13 **HANNA N. MAHLI, dba MARIO'S #1**
14 **SMOG & TEST ONLY**
15 **5510 Van Buren Blvd., Ste. B**
Riverside, CA 92503
16 **Automotive Repair Dealer Registration**
No. ARD 277523
17 **Smog Test Only Station Lic. No. TC 277523**

18 **RAMI MAHLI**
19 **4408 N. Lyman Ave.**
Covina, CA 91724
Smog Check Inspector Lic. No. EO632398

20 **DANNY PAUL DUYAN, aka, DANNY**
21 **PAUL KJELLESVIG**
22 **50300 Ramona Street**
Cabazon, CA 92230

23 **Mailing Address:**
24 **P.O. Box 103**
Cabazon, CA 92230
Smog Check Inspector Lic. No. EO 636954

25 **JUAN LUIS GUZMAN ROMERO**
26 **7242 Evans St.**
Riverside, CA 92504
27 **Smog Check Inspector Lic. No. EO 637203**

28 Respondents.

Case No. 79/16-20115

OAH Case No. 2019030170

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER AS TO DANNY
PAUL DUYAN'S SMOG CHECK
INSPECTOR LICENSE

1 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
2 entitled proceedings that the following matters are true:

3 **PARTIES**

4 1. Patrick Dorais (Complainant) is the Chief of the Bureau of Automotive Repair
5 (Bureau). He brought this action solely in his official capacity and is represented in this matter by
6 Xavier Becerra, Attorney General of the State of California, by Agustin Lopez, Deputy Attorney
7 General.

8 2. On or about June 4, 2014, the BAR issued Smog Check Inspector License Number
9 EO 636954 to Danny Paul Duyan, aka Danny Paul Kjellesvig (Respondent Duyan). The Smog
10 Check Inspector License was in full force and effect at all times relevant to the charges brought
11 herein and will expire on June 30, 2020, unless renewed.

12 **JURISDICTION**

13 3. Accusation No. 79/16-20115 was filed before the Director, and is currently pending
14 against Respondent. The Accusation and all other statutorily required documents were properly
15 served on Respondent on December 3, 2018. Respondent timely filed his Notice of Defense
16 contesting the Accusation.

17 4. A copy of Accusation No. 79/16-20115 is attached as exhibit A and incorporated
18 herein by reference.

19 **ADVISEMENT AND WAIVERS**

20 5. Respondent has carefully read, and understands the charges and allegations in
21 Accusation No. 79/16-20115. Respondent has also carefully read, and understands the effects of
22 this Stipulated Settlement and Disciplinary Order.

23 6. Respondent is fully aware of his legal rights in this matter, including the right to a
24 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at
25 his own expense; the right to confront and cross-examine the witnesses against his; the right to
26 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel
27 the attendance of witnesses and the production of documents; the right to reconsideration and
28

1 court review of an adverse decision; and all other rights accorded by the California
2 Administrative Procedure Act and other applicable laws.

3 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
4 every right set forth above.

5 **CULPABILITY**

6 8. Respondent understands and agrees that the charges and allegations in Accusation
7 No. 79/16-20115, if proven at a hearing, constitute cause for imposing discipline upon his Smog
8 Check Inspector License.

9 9. For the purpose of resolving the Accusation without the expense and uncertainty of
10 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual
11 basis for the charges in the Accusation, and that Respondent hereby gives up his right to contest
12 those charges.

13 10. Respondent agrees that his Smog Check Inspector License is subject to discipline and
14 he agrees to be bound by the Director's probationary terms as set forth in the Disciplinary Order
15 below.

16 **CONTINGENCY**

17 11. This stipulation shall be subject to approval by the Director of Consumer Affairs or
18 the Director's designee. Respondent understands and agrees that counsel for Complainant and
19 the staff of the Bureau of Automotive Repair may communicate directly with the Director and
20 staff of the Department of Consumer Affairs regarding this stipulation and settlement, without
21 notice to or participation by Respondent. By signing the stipulation, Respondent understands and
22 agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time
23 the Director considers and acts upon it. If the Director fails to adopt this stipulation as the
24 Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or
25 effect, except for this paragraph, it shall be inadmissible in any legal action between the parties,
26 and the Director shall not be disqualified from further action by having considered this matter.

12. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

14. In consideration of the foregoing admissions and stipulations, the parties agree that the Director may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Smog Check Inspector License No. EO 636954, issued to Danny Paul Duyan, aka Danny Paul Kjellesvig, is revoked. However, the revocation is stayed and Respondent is placed on probation for three years on the following terms and conditions.

1. **Obey All Laws.** During the period of probation, Respondent shall comply with all federal and state statutes, regulations and rules governing all BAR registrations and licenses held by Respondent.

2. **Quarterly Reporting.** During the period of probation, Respondent shall report either by personal appearance or in writing as determined by BAR on a schedule set by BAR, but no more frequently than once each calendar quarter, on the methods used and success achieved in maintaining compliance with the terms and conditions of probation.

3. **Report Financial Interests.** Respondent shall, within 30 days of the effective date of the decision and within 30 days from the date of any request by BAR during the period of probation, report any financial interest which any Respondent or any partners, officers, or owners of any Respondent facility may have in any other business required to be registered pursuant to Section 9884.6 of the Business and Professions Code.

1 4. **Access to Examine Vehicles and Records.** Respondent shall provide BAR
2 representatives unrestricted access to examine all vehicles (including parts) undergoing service,
3 inspection, or repairs, up to and including the point of completion. Respondent shall also provide
4 BAR representatives unrestricted access to all records pursuant to BAR laws and regulations.

5 5. **Tolling of Probation.** If, during probation, Respondent leaves the jurisdiction of
6 California to reside or do business elsewhere or otherwise ceases to do business in the jurisdiction
7 of California, Respondent shall notify BAR in writing within 10 days of the dates of departure
8 and return, and of the dates of cessation and resumption of business in California. All provisions
9 of probation other than cost reimbursement requirements, restitution requirements, training
10 requirements, and that Respondent obey all laws, shall be held in abeyance during any period of
11 time of 30 days or more in which Respondent is not residing or engaging in business within the
12 jurisdiction of California. All provisions of probation shall recommence on the effective date of
13 resumption of business in California. Any period of time of 30 days or more in which Respondent
14 is not residing or engaging in business within the jurisdiction of California shall not apply to the
15 reduction of this probationary period or to any period of actual suspension not previously
16 completed. Tolling is not available if business or work relevant to the probationary license or
17 registration is conducted or performed during the tolling period.

18 6. **Violation of Probation.** If Respondent violates or fails to comply with the terms and
19 conditions of probation in any respect, the Director, after giving notice and opportunity to be
20 heard may set aside the stay order and carry out the disciplinary order provided in the decision.
21 Once Respondent is served notice of BAR's intent to set aside the stay, the Director shall maintain
22 jurisdiction, and the period of probation shall be extended until final resolution of the matter.

23 7. **Maintain Valid License.** Respondent shall, at all times while on probation, maintain
24 a current and active registration and/or license(s) with BAR, including any period during which
25 suspension or probation is tolled. If Respondent's registration or license is expired at the time the
26 decision becomes effective, the registration or license must be renewed by Respondent within 30
27 days of that date. If Respondent's registration or license expires during a term of probation, by
28 operation of law or otherwise, then upon renewal Respondent's registration or license shall be

1 subject to any and all terms and conditions of probation not previously satisfied. Failure to
2 maintain a current and active registration and/or license during the period of probation shall also
3 constitute a violation of probation.

4 8. **Completion of Probation.** Upon successful completion of probation, Respondent's
5 affected registration and/or license will be fully restored or issued without restriction, if
6 Respondent meets all current requirements for registration or licensure and has paid all
7 outstanding fees, monetary penalties, or cost recovery owed to BAR.

8 9. **License Surrender.** Following the effective date of a decision that orders a stay of
9 invalidation or revocation, if Respondent ceases business operations or is otherwise unable to
10 satisfy the terms and conditions of probation, Respondent may request that the stay be vacated.
11 Such request shall be made in writing to BAR. The Director and the BAR Chief reserve the right
12 to evaluate the Respondent's request and to exercise discretion whether to grant the request or
13 take any other action deemed appropriate or reasonable under the circumstances. Upon formal
14 granting of the request, the Director will vacate the stay order and carry out the disciplinary order
15 provided in the decision. Respondent may not petition the Director for reinstatement of the
16 surrendered registration and/or license, or apply for a new registration or license under the
17 jurisdiction of BAR at any time before the date of the originally scheduled completion of
18 probation. If Respondent applies to BAR for a registration or license at any time after that date,
19 Respondent must meet all current requirements for registration or licensure and pay all
20 outstanding fees or cost recovery owed to BAR and left outstanding at the time of surrender.

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ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Smog Check Inspector License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Director of Consumer Affairs.

DATED: 5/29/15 Danny Duyan
DANNY PAUL DUYAN
Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Director of Consumer Affairs.

Dated:

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
GREGORY J. SALUTE
Supervising Deputy Attorney General

AGUSTIN LOPEZ
Deputy Attorney General
Attorneys for Complainant

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DATED: _____

DANNY PAUL DUYAN
Respondent

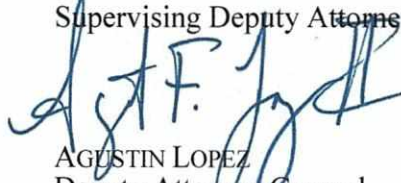
ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Director of Consumer Affairs.

Dated: May 21, 2019

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
GREGORY J. SALUTE
Supervising Deputy Attorney General


AGUSTIN LOPEZ
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 79/16-20115

1 XAVIER BECERRA
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2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 AGUSTIN LOPEZ
Deputy Attorney General
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8 *Attorneys for Complainant*

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No. ARD 277523
17 **Smog Test Only Station Lic. No. TC 277523**

A C C U S A T I O N

18 **RAMI MAHLI**
19 **4408 N. Lyman Ave.**
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Smog Check Inspector Lic. No. EO632398

20 **DANNY PAUL DUYAN, aka, DANNY**
21 **PAUL KJELLESVIG**
22 **50300 Ramona Street**
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24 **Cabazon, CA 92230**
Smog Check Inspector Lic. No. EO 636954

25 **JUAN LUIS GUZMAN ROMERO**
26 **7242 Evans St.**
Riverside, CA 92504
27 **Smog Check Inspector Lic. No. EO 637203**

28 Respondents.

1 Complainant alleges:

2 PARTIES

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

5 2. On or about August 12, 2014, the BAR issued Automotive Repair Dealer Registration
6 (ARD) Number ARD 277523 to Hanna N. Mahli, dba Mario's #1 Smog & Test Only (Respondent
7 Mario's #1). The Automotive Repair Dealer Registration was in full force and effect at all times
8 relevant to the charges brought herein and will expire on August 31, 2019, unless renewed.

9 3. On or about September 8, 2014, the BAR issued Smog Check-Test Only Station
10 License (TC) Number TC 277523 to Respondent Mario's #1. The Smog Check-Test Only Station
11 License was in full force and effect at all times relevant to the charges brought herein and will
12 expire on August 31, 2019, unless renewed.

13 4. On August 16, 2010, the BAR issued Advanced Emission Specialist Technician
14 License (EA) No. 632398 to Rami Mahli (Respondent Mahli). On April 28, 2014, the BAR
15 cancelled Respondent Mahli's EA license, and in accordance with California Code of
16 Regulations, title 16, section 3340.28, subdivision (e), Respondent Mahli's license was renewed
17 pursuant to his election as a Smog Check Inspector, wherein he was issued Smog Check Inspector
18 License (EO) No. 632398. The Smog Check Inspector License was in full force and effect at all
19 times relevant to the charges brought herein and will expire on April 30, 2020, unless renewed.

20 5. On or about August 11, 2014, the BAR issued Smog Check Inspector License
21 Number EO 637203 to Juan Luis Guzman Romero (Respondent Romero). The Smog Check
22 Inspector License was due to expire on August 31, 2018, but was suspended on December 1,
23 2016¹.

24 6. On or about June 4, 2014, the BAR issued Smog Check Inspector License Number
25 EO 636954 to Danny Paul Duyan, aka Danny Paul Kjellesvig (Respondent Duyan). The Smog

26 ¹ On December 1, 2016, the Office of Administrative Hearings issued an order granting
27 the BAR's petition for Interim Suspension Order (ISO) suspending Respondent Romero's EO
28 license in *In the Matter of the Petition for Interim Suspension Order Against Jose Antonio Cardenas, et al.*, OAH No. 2016110557.

1 Check Inspector License was in full force and effect at all times relevant to the charges brought
2 herein and will expire on June 30, 2020, unless renewed.

3 ///

4 JURISDICTION

5 7. This Accusation is brought before the Director of the Department of Consumer
6 Affairs (Director) for the BAR, under the authority of the following laws.

7 8. Business and Professions Code section 477, subdivision (a) provides, in pertinent
8 part, that "Board" includes bureau, program, and agency. Likewise, section 477, subdivision (b)
9 provides in pertinent part that "License" includes certificate, registration or other means to engage
10 in a business or profession regulated by the Code.

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

15 10. Business and Professions Code section 9884.13 states that, "The expiration of a valid
16 registration shall not deprive the Director or chief of jurisdiction to proceed with a disciplinary
17 proceeding against an automotive repair dealer or to render a decision invalidating a registration
18 temporarily or permanently."

19 11. Health and Safety Code section 44072.6 states:

20 The expiration or suspension of a license by operation of
21 law, or by order or decision of the Director, or a court of law, or
22 the voluntary surrender of the license shall not deprive the Director
23 of jurisdiction to proceed with any investigation of, or action or
disciplinary proceedings against the licensee, or to render a
decision suspending or revoking the license.

24 12. Business and Professions Code section 9884.20 states:

25 All accusations against automotive repair dealers shall be
26 filed within three years after the performance of the act or omission
27 alleged as the ground for disciplinary action, except that with
28 respect to an accusation alleging fraud or misrepresentation as a
ground for disciplinary action, the accusation may be filed within

two years after the discovery, by the bureau, of the alleged facts constituting the fraud or misrepresentation.

13. Health and Safety Code section 44072.7 applies to the Motor Vehicle Inspection Program and provides:

All accusations against licensees shall be filed within three years after the act or omission alleged as the ground for disciplinary action, except that with respect to an accusation alleging a violation of subdivision (d) of Section 44072.2, the accusation may be filed within two years after the discovery by the bureau of the alleged facts constituting the fraud or misrepresentation prohibited by that section.

14. Business and Professions Code section 9884.22 subdivision (a) states, "Notwithstanding any other provision of law, the director may revoke, suspend, or deny at any time any registration required by this article on any of the grounds for disciplinary action provided in this article. . . ."

15. Health and Safety Code section 44002 provides that the Director has all the powers and authority granted under the Automotive Repair Act for enforcing the Motor Vehicle Inspection Program.

16. Health and Safety Code section 44072 states:

Any license issued under this chapter and the regulations adopted pursuant to it may be suspended or revoked by the director. . . . The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the director shall have all the powers granted therein.

17. Health and Safety Code section 44072.4 provides in pertinent part that, after a hearing, the Director may impose discipline in the form of probation, license suspension, or license revocation.

18. Health and Safety Code section 44072.8 states that, "When a license has been revoked or suspended following a hearing under this article, any additional license issued under this chapter in the name of the licensee may be likewise revoked or suspended by the director."

19. Health and Safety Code section 44072.10 states:

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

6 ...

7 (2) Tampering with a vehicle emission control system or test
8 analyzer system.

9 (3) Tampering with a vehicle in a manner that would cause
10 the vehicle to falsely pass or falsely fail an inspection.

11 (4) Intentional or willful violation of this chapter or any
12 regulation, standard, or procedure of the department implementing
13 this chapter.

14 (d) Once a license has been revoked for a smog check station
15 or technician under subdivision (a) or (c), the license shall not be
16 reinstated for any reason. . . .

17 20. Health and Safety Code section 44072.11, subdivision (b) states that "Any smog
18 check station or technician's license granted by the department is a privilege and not a vested
19 right, and may be revoked or suspended by the department for any of the reasons specified in
20 Section 44072.1. . . ."

21 STATUTORY PROVISIONS

22 21. Business and Professions Code section 9884.7 of the Code states:

23 (a) The director, where the automotive repair dealer cannot
24 show there was a bona fide error, may deny, suspend, revoke, or
25 place on probation the registration of an automotive repair dealer
26 for any of the following acts or omissions related to the conduct of
27 the business of the automotive repair dealer, which are done by the
28 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.

...

1 (4) Any other conduct which constitutes fraud.

2 ...

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

5 ...

6 (c) Notwithstanding subdivision (b), the director may
7 suspend, revoke, or place on probation the registration for all
8 places of business operated in this state by an automotive repair
9 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.

10 22. Health and Safety Code section 44012 states:

11 The test at the smog check stations shall be performed in
12 accordance with procedures prescribed by the department. . . . The
13 department shall ensure, as appropriate to the test method, the
following:

14 (f) A visual or functional check is made of emission control
15 devices specified by the department. . . . *The visual or functional*
16 *check shall be performed in accordance with procedures*
prescribed by the department. (Italics added.)

17 23. Health and Safety Code section 44015, subdivision (b) states, "If a vehicle meets the
18 requirements of Section 44012, a smog check station licensed to issue certificates shall issue a
19 certificate of compliance or a certificate of noncompliance."

20 24. Health and Safety Code section 44032 states, ". . . Qualified technicians shall perform
21 tests of emission control devices and systems in accordance with Section 44012."

22 25. Health and Safety Code section 44059 states:

23 The willful making of any false statement or entry with
24 regard to a material matter in any oath, affidavit, certificate of
25 compliance or noncompliance, or application form which is
26 required by this chapter or Chapter 20.3 (commencing with Section
27 9880) of Division 3 of the Business and Professions Code,
constitutes perjury and is punishable as provided in the Penal
Code.

28 26. Health and Safety Code section 44072.2 states:

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

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

6 ...

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

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

11 ...

12 (h) Violates or attempts to violate the provisions of this
13 chapter relating to the particular activity for which he or she is
licensed.

14 27. Health and Safety Code section 44072.10 states:

15 ...

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

19 ...

20 (4) Intentional or willful violation of this chapter or any
21 regulation, standard, or procedure of the department implementing
22 this chapter.

23 REGULATORY PROVISIONS

24 28. California Code of Regulations, title 16, section 3340.24, states:

25 (a) Any disciplinary . . . proceeding under this article
26 involving licensed stations, licensed technicians, . . . licensed
27 pursuant to section 44020 of the Health and Safety Code shall be
conducted in accordance with chapter 5 (commencing with section
28 11500) of division 3, Title 2 of the Government Code.

...

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

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

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

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

30. California Code of Regulations, title 16, section 3340.35, subdivision (c) states, "A licensed station shall issue a certificate of compliance or noncompliance to the owner or operator of any vehicle that has been inspected in accordance with the procedures specified in section 3340.42 of this article and has all the required emission control equipment and devices installed and functioning correctly."

31. California Code of Regulations, title 16, section 3340.41, states:

...

(b) No person shall enter into the emissions inspection system any access or qualification number other than as authorized by the bureau, nor in any way tamper with the emissions inspection system.

(c) No person shall enter into the emissions inspection system any vehicle identification information or emission control system identification data for any vehicle other than the one being tested. Nor shall any person knowingly enter into the emissions inspection system any false information about the vehicle being tested.

32. California Code of Regulations, title 16, section 3340.42, states:

Smog check inspection methods are prescribed in the Smog Check Manual, referenced by section 3340.45.

(a) All vehicles subject to a smog check inspection, shall receive one of the following test methods:

...

(3) An OBD-focused test, shall be the test method used to inspect gasoline-powered vehicles 2000 model-year and newer, and diesel-powered vehicles 1998 model-year and newer. The OBD test failure criteria are specified in section 3340.42.2.

(b) In addition to subsection (a), all vehicles subject to the smog check program shall receive the following:

(1) A visual inspection of emission control components and systems to verify the vehicle's emission control systems are properly installed.

(2) A functional inspection of emission control systems as specified in the Smog Check Manual, referenced by section 3340.45, which may include an OBD test, to verify their proper operation.

33. California Code of Regulations, title 16, section 3340.42.2 states:

...

(c) Starting on or after January 1, 2013, OBD equipped vehicles shall fail the OBD inspection if any one of the following conditions occurs as applicable to the vehicle:

...

(7) The vehicle's OBD system data is inappropriate for the vehicle being tested;

(8) The vehicle's OBD system data does not match the original equipment manufacturer (OEM) or an Air Resources Board (ARB) exempted OBD software configuration;

34. California Code of Regulations, title 16, section 3373, states:

No automotive repair dealer or individual in charge shall, in filling out an estimate, invoice, or work order, or record required to be maintained by section 3340.15(f) of this chapter, withhold therefrom or insert therein any statement or information which will cause any such document to be false or misleading, or where the tendency or effect thereby would be to mislead or deceive customers, prospective customers, or the public.

COST RECOVERY

35. Section 125.3 of the Code provides, in pertinent part, that a Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

CALIFORNIA'S SMOG CHECK PROGRAM

36. California's Smog Check Program requires the owners of most motor vehicles to pass a Smog Check inspection and receive a Certificate of Compliance every two years when renewing their vehicle registration and also when their vehicle title is transferred. The Smog Check Program is designed and intended to reduce air pollution by identifying and requiring the repair of polluting motor vehicles.

37. On March 9, 2015, California's Smog Check Program was updated to require the use of an On-Board Diagnostic Inspection System (BAR-OIS). Under the updated program, most 2000 model year gasoline and hybrid, as well as 1998 and newer diesel vehicles, are required to have BAR-OIS equipment and are subject to the updated program. The system consists of a certified Data Acquisition Device (DAD)², computer, bar code scanner, and a printer. A Smog Check Inspector must use the BAR-OIS system in addition to performing a visual and functional inspection of the tested vehicle.

38. Smog Check Stations are authorized to perform smog checks and repairs, whereas Smog Check Test Only licensees are stations that are authorized to perform smog check inspections, but not perform repairs. Smog Check inspections begin when inspectors log into the system and scan information into the system about the vehicle tested. Licensed Smog Check Inspectors are the only persons authorized by the BAR to perform official inspections. They are issued a license and a personal access code, which are used to gain access to the system and used

² The DAD is the only BAR-certified component of the BAR-OIS. It is an On-Board Diagnostic (OBD) scan tool that, when requested by the California BAR-OIS software, retrieves OBD data from the vehicle. The DAD connects between the BAR-OIS computer and the tested vehicle's Diagnostic Link Connector (DLC). An inspector will connect the DAD to the DLC, which is in the tested vehicle's passenger compartment.

1 to set up a user name and password within the BAR-OIS to perform smog check inspections.
2 Unauthorized use of another inspector's license, access code, or username and password is
3 prohibited. Accordingly, an inspector will use the bar code scanner to input inspector
4 information, the tested vehicle identification number (VIN), and Department of Motor Vehicles
5 (DMV) renewal information.

6 39. The inspector will attach the DAD to the tested vehicle to obtain the data about the
7 vehicle. All OBD data that the vehicle indicates it supports is requested by the BAR-OIS
8 software and will be retrieved. The BAR-OIS uses the software to communicate with the BAR's
9 Vehicle Information Database (VID)³ through an internet connection and transmit information
10 about the smog check inspection. The type of data that is retrieved, captured, and recorded to the
11 VID during a smog check inspection includes: the electronic vehicle identification number (e-
12 VIN), which is the digitally stored vehicle identification number (VIN)⁴ programmed into the
13 vehicle's Powertrain Control Module (PCM); the communication protocol, which is the specific
14 language the PCM uses to communicate information to the scan tools and other devices, such as
15 the BAR-OIS; and the number of Parameter Identifications (PIDs), which are the number of
16 specific data values each PCM reports related to emissions controls. The BAR uses this
17 information to determine whether the vehicle in question was actually the vehicle tested at the
18 time of the purported smog check inspection.

19 40. The diagnostic information obtained by the BAR-OIS is programmed by the
20 manufacturer of the vehicles and specific to the makes, models, and years being tested. An e-VIN
21 is required to be programmed into a vehicle's PCM on 2005 and newer vehicles, and on many
22 occasions, was programmed into the on-board computers on earlier model year vehicles. A
23 vehicle's communication protocol is programmed into a vehicle's on-board computer during
24

25 ³ The VID contains data regarding DMV registration, emissions standards, vehicle smog
26 check inspections, smog check stations and inspectors, and Certificates of Compliance. The BAR
27 can access the VID to view test data on Smog Check inspections performed at any Smog Check
28 Station. The VID has a clock which records the time and date for each smog check inspection.

⁴ The VIN is distinct from the e-VIN in that the VIN is physically stamped onto the
vehicle.

1 manufacture and does not change⁵. The PID count is the number of data points reported by the
2 vehicle's on-board computer and is programed during manufacture, which are transmitted to the
3 BAR-OIS by the on-board computer. Examples of PIDs are engine speed, vehicle speed, engine
4 temperature, and other input and output values utilized by the vehicle's on-board computer.

5 41. The conclusion of a smog inspection results in a Vehicle Inspection Report (VIR).
6 The BAR-OIS software makes the determination whether or not the vehicle passes the inspection
7 based on the results of the OBD, visual, and functional tests. The printer provides a VIR
8 containing inspection results for motorists and a Smog Check Certificate of Compliance number
9 for passing vehicles. The VIR is a physical record of the test results. The Smog Check inspector
10 must sign the VIR to indicate that the inspection was performed within BAR guidelines.

11 42. The BAR is aware of methods some Smog Check Stations and Smog Check
12 Inspectors use to fraudulently issue Smog Check Certificates to vehicles that would not pass a
13 Smog Check test. One such method is commonly called "Clean plugging." Clean plugging
14 involves the use of another vehicle's properly functioning OBD system, or another source such as
15 a simulator, to substitute for the tested vehicle in order to generate passing data readings or
16 diagnostic information for the purpose of fraudulently issuing Smog Check Certificates to
17 vehicles that are not in smog compliance or not present for testing.

18 CLEAN PLUGGING AT MARIO'S #1 SMOG & TEST ONLY

19 43. Between November 28, 2016, and June 8, 2017, the BAR conducted its investigation
20 into Smog Check inspections performed at Respondent Mario's #1 station. The BAR reviewed
21 the VID for inspections performed during the investigation period, which revealed a pattern of
22 vehicles that Respondents certified with different or missing e-VIN's. The VID data for the
23 vehicles certified by Respondents also contained different communication protocols and PID
24 counts that did not correspond to the vehicles that were being certified.

25
26
27 ⁵ The protocols reflected here reflect the protocols in their basic form. Protocols can be
28 recorded in basic characters or in expanded form that include additional characters. The basic
form is always contained in the expanded form (i.e. I914 is the basic form of I9140808).

1 44. The BAR reviewed specific data regarding the vehicles inspected by Respondents.
2 The BAR reviewed VIN for the vehicles inspected, Smog Check Certificate numbers issued, e-
3 VIN for the vehicles inspected, communication protocols, PID counts, and data for similar
4 vehicles tested statewide for comparison to the vehicles tested by Respondents.

5 45. Clean plugging was evident because the OIS data Respondents' transmitted to the
6 VID was not consistent with what would be expected for the year, make, and model for the
7 vehicles tested. Respondents certified the vehicles in question by transmitting data that contained
8 discrepancies when compared with similar vehicles of the same year, make, and model relating to
9 the e-VIN, communication protocol, and PID count. Additionally, in multiple instances, vehicles
10 that Respondents had tested had either been previously tested by Respondents or other licensed
11 facilities, and in those other Smog Check inspections, the OIS data that was transmitted was
12 consistent with what could be expected for the vehicle year, make, and model.

13 46. The BAR's investigation confirmed that Respondents fraudulently issued at least
14 twenty vehicles Smog Check Certificates of Compliance using the clean plugging method to
15 circumvent the California Smog Check Program and the laws implementing the Program.

16 **Clean Plug No. 1**

17 47. On May 14, 2015, Respondent Romero performed a Smog Check inspection on a
18 2005 Chevrolet Silverado C1500, California Lic. No. 8C67641. The VIR that was issued
19 identified the station as Respondent Mario's #1 (TC277523), the inspector as Respondent Romero
20 (EO637203), indicated that the overall test result was that the vehicle passed the inspection, and
21 that Smog Check Certificate No. YR487907C was issued to this vehicle. The OIS test data for
22 this vehicle showed that the e-VIN was missing, the communication protocol was I914, and the
23 PID count was 11.

24 48. When tested, other similar 2005 Chevrolet Silverado C1500 vehicles transmit the
25 correct e-VIN for the specific vehicle tested, the communication protocol JVPW, and a PID count
26 of 22.

27 49. The discrepancies between the May 14, 2015, Smog Check inspection and the data
28 reported by similar vehicles when tested prove that the OIS DAD was not connected to the 2005

1 Chevrolet Silverado C1500, California Lic. No. 8C67641 when it was certified on May 14, 2015.
2 As a result, Respondents Mario's #1 and Romero issued a fraudulent Smog Check Certificate.

3 **Clean Plug No. 2**

4 50. On May 28, 2015, Respondent Romero performed a Smog Check inspection on a
5 2005 Chevrolet Express G1500, California Lic. No. 7T45878. The VIR that was issued identified
6 the station as Respondent Mario's #1 (TC277523), the inspector as Respondent Romero
7 (EO637203), indicated that the overall test result was that the vehicle passed the inspection, and
8 that Smog Check Certificate No. PS380475C was issued to this vehicle. The OIS test data for
9 this vehicle showed that the e-VIN was missing, the communication protocol was I914, and the
10 PID count was 11.

11 51. When tested, other similar 2005 Chevrolet Express G1500 vehicles transmit the
12 correct e-VIN for the specific vehicle tested, the communication protocol JVPW, and a PID count
13 of 22.

14 52. The discrepancies between the May 28, 2015, Smog Check inspection and the data
15 reported by similar vehicles when tested prove that the OIS DAD was not connected to the 2005
16 Chevrolet Express G1500, California Lic. No. 7T45878 when it was certified on May 28, 2015.
17 As a result, Respondents Mario's #1 and Romero issued a fraudulent Smog Check Certificate.

18 **Clean Plug No. 3**

19 53. On June 5, 2015, Respondent Romero performed a Smog Check inspection on a 2007
20 BMW 335I, California Lic. No. 6ZAE762. The VIR that was issued identified the station as
21 Respondent Mario's #1 (TC277523), the inspector as Respondent Romero (EO637203), indicated
22 that the overall test result was that the vehicle passed the inspection, and that Smog Check
23 Certificate No. YR860564C was issued to this vehicle. The OIS test data for this vehicle showed
24 that the e-VIN was missing, the communication protocol was I914, and the PID count was 10.

25 54. When tested, other similar 2007 BMW 335I vehicles transmit the correct e-VIN for
26 the specific vehicle tested; the communication protocol KWPF; and a PID count of 22, 22|10, or
27 23|1.

1 55. The discrepancies between the June 5, 2015, Smog Check inspection and the data
2 reported by similar vehicles when tested prove that the OIS DAD was not connected to the 2007
3 BMW 335I, California Lic. No. 6ZAE762 when it was certified on June 5, 2015. As a result,
4 Respondents Mario's #1 and Romero issued a fraudulent Smog Check Certificate.

5 **Clean Plug No. 4**

6 56. On June 5, 2015, Respondent Romero performed a Smog Check inspection on a 2005
7 Volkswagen New Jetta 2.5 PKG 2, VIN 3VWDG71K25M622736.⁶ The VIR that was issued
8 identified the station as Respondent Mario's #1 (TC277523), the inspector as Respondent Romero
9 (EO637203), indicated that the overall test result was that the vehicle passed the inspection, and
10 that Smog Check Certificate No. YR860566C was issued to this vehicle. The OIS test data for
11 this vehicle showed that the e-VIN was missing, the communication protocol was I914, and the
12 PID count was 11.

13 57. When tested, other similar 2005 Volkswagen New Jetta 2.5 PKG 2 vehicles transmit
14 the correct e-VIN for the specific vehicle tested; the communication protocol KWPS; and a PID
15 count of 19|8, 20, or 20|12.

16 58. The discrepancies between the June 5, 2015, Smog Check inspection and the data
17 reported by similar vehicles when tested prove that the OIS DAD was not connected to the 2005
18 Volkswagen New Jetta 2.5 PKG 2, VIN 3VWDG71K25M622736 when it was certified on June
19 5, 2015. As a result, Respondents Mario's #1 and Romero issued a fraudulent Smog Check
20 Certificate.

21 **Clean Plug No. 5**

22 59. On July 14, 2015, Respondent Duyan performed a Smog Check inspection on a 2005
23 Dodge Neon SXT, California Lic. No. 6UIT736. The VIR that was issued identified the station as
24 Respondent Mario's #1 (TC277523), the inspector as Respondent Duyan, aka. Kjellesvig
25 (EO636954), indicated that the overall test result was that the vehicle passed the inspection, and
26 that Smog Check Certificate No. PS916746C was issued to this vehicle. The OIS test data for

27 ⁶The VIR for this Smog Check inspection does not reflect that a California license plate
28 number had been assigned to this vehicle. Accordingly, it is identified by its VIN.

1 this vehicle showed that the e-VIN was missing, the communication protocol was I914, and the
2 PID count was 8.

3 60. This vehicle was previously tested on April 24, 2015. The VID showed that the April
4 24th test transmitted the correct e-VIN, communication protocol JVPW, and a PID count of 18.
5 This data is consistent with expected data transmitted by similar vehicles.

6 61. Accordingly, when tested, other similar 2005 Dodge Neon SXT vehicles transmit the
7 correct e-VIN for the specific vehicle tested; the communication protocol JVPW; and a PID count
8 of 17, 18, or 18|3.

9 62. The discrepancies between the July 14, 2015, and April 24, 2015, Smog Check
10 inspection as well as the data reported by similar vehicles when tested prove that the OIS DAD
11 was not connected to the 2005 Dodge Neon SXT, California Lic. No. 6UIT736 when it was
12 certified on July 14, 2015. As a result, Respondents Mario's #1 and Duyan issued a fraudulent
13 Smog Check Certificate.

14 **Clean Plug No. 6**

15 63. On September 12, 2015, Respondent Duyan performed a Smog Check inspection on a
16 2007 Cadillac Escalade ESV, VIN 1GYFK66847R324086.⁷ The VIR that was issued identified
17 the station as Respondent Mario's #1 (TC277523), the inspector as Respondent Duyan, aka.
18 Kjellesvig (EO636954), indicated that the overall test result was that the vehicle passed the
19 inspection, and that Smog Check Certificate No. PW284778C was issued to this vehicle. The
20 OIS test data for this vehicle showed that the e-VIN was missing, the communication protocol
21 was I914, and the PID count was 1.

22 64. When tested, other similar 2007 Cadillac Escalade ESV vehicles transmit the correct
23 e-VIN for the specific vehicle tested; the communication protocol ICAN11bt5; and a PID count of
24 43|7, or 43|7|8.

25 65. The discrepancies between the September 12, 2015, Smog Check inspection and the
26 data reported by similar vehicles when tested prove that the OIS DAD was not connected to the

27 ⁷The VIR for this Smog Check inspection does not reflect that a California license plate
28 number had been assigned to this vehicle. Accordingly, it is identified by its VIN.

1 2007 Cadillac Escalade ESV, VIN 1GYFK66847R324086 when it was certified on September 12,
2 2015. As a result, Respondents Mario's #1 and Duyan issued a fraudulent Smog Check
3 Certificate.

4 **Clean Plug No. 7**

5 66. On September 17, 2015, Respondent Duyan performed a Smog Check inspection on a
6 2007 Chevrolet Tahoe, California Lic. No. 6BMA259. The VIR that was issued identified the
7 station as Respondent Mario's #1 (TC277523), the inspector as Respondent Duyan, aka.
8 Kjellesvig (EO636954), indicated that the overall test result was that the vehicle passed the
9 inspection, and that Smog Check Certificate No. PW284780C was issued to this vehicle. The
10 OIS test data for this vehicle showed that the e-VIN was missing, the communication protocol
11 was I914, and the PID count was 1.

12 67. This vehicle was previously tested on September 5, 2015. The VID showed that the
13 September 5th test transmitted the correct e-VIN, communication protocol ICAN11bt5, and a PID
14 count of 44. This data is consistent with expected data transmitted by similar vehicles.

15 68. Accordingly, when tested, other similar 2007 Chevrolet Tahoe vehicles transmit the
16 correct e-VIN for the specific vehicle tested; the communication protocol ICAN11bt5; and a PID
17 count of 44|7.

18 69. The discrepancies between the September 5, 2015, and September 17, 2015, Smog
19 Check inspection as well as the data reported by similar vehicles when tested prove that the OIS
20 DAD was not connected to the 2007 Chevrolet Tahoe, California Lic. No. 6BMA259 when it was
21 certified on September 17, 2015. As a result, Respondents Mario's #1 and Duyan issued a
22 fraudulent Smog Check Certificate.

23 **Clean Plug No. 8**

24 70. On September 18, 2015, Respondent Duyan performed a Smog Check inspection on a
25 2008 Honda FIT, California Lic. No. 6RSN565. The VIR that was issued identified the station as
26 Respondent Mario's #1 (TC277523), the inspector as Respondent Duyan, aka. Kjellesvig
27 (EO636954), indicated that the overall test result was that the vehicle passed the inspection, and
28 that Smog Check Certificate No. PW284792C was issued to this vehicle. The OIS test data for

1 this vehicle showed that the e-VIN was missing, the communication protocol was I914, and the
2 PID count was 1.

3 71. When tested, other similar 2008 Honda FIT vehicles transmit the correct e-VIN for
4 the specific vehicle tested; the communication protocol ICAN29bt5; and a PID count of 38.

5 72. The discrepancies between the September 18, 2015, Smog Check inspection and the
6 data reported by similar vehicles when tested prove that the OIS DAD was not connected to the
7 2008 Honda FIT, California Lic. No. 6RSN565 when it was certified on September 18, 2015. As
8 a result, Respondents Mario's #1 and Duyan issued a fraudulent Smog Check Certificate.

9 **Clean Plug No. 9**

10 73. On September 19, 2015, Respondent Duyan performed a Smog Check inspection on a
11 2007 Nissan Versa S/SL, California Lic. No. 5VWP871. The VIR that was issued identified the
12 station as Respondent Mario's #1 (TC277523), the inspector as Respondent Duyan, aka.
13 Kjellesvig (EO636954), indicated that the overall test result was that the vehicle passed the
14 inspection, and that Smog Check Certificate No. PW284793C was issued to this vehicle. The
15 OIS test data for this vehicle showed that the e-VIN was missing, the communication protocol
16 was I914, and the PID count was 1.

17 74. When tested, other similar 2007 Nissan Versa S/SL vehicles transmit the correct e-
18 VIN for the specific vehicle tested; the communication protocol I914; and a PID count of 18 or
19 19|5.

20 75. The discrepancies between the September 19, 2015, Smog Check inspection and the
21 data reported by similar vehicles when tested prove that the OIS DAD was not connected to the
22 2007 Nissan Versa S/SL, California Lic. No. 5VWP871 when it was certified on September 19,
23 2015. As a result, Respondents Mario's #1 and Duyan issued a fraudulent Smog Check
24 Certificate.

25 **Clean Plug No. 10**

26 76. On December 24, 2015, Respondent Duyan performed a Smog Check inspection on a
27 2005 BMW 525i, California Lic. No. 5LBT467. The VIR that was issued identified the station as
28 Respondent Mario's #1 (TC277523), the inspector as Respondent Duyan, aka. Kjellesvig

1 (EO636954), indicated that the overall test result was that the vehicle passed the inspection, and
2 that Smog Check Certificate No. QA845328C was issued to this vehicle. The OIS test data for
3 this vehicle showed that the e-VIN was missing, the communication protocol was 1914, and the
4 PID count was 1.

5 77. When tested, other similar 2005 BMW 525I vehicles transmit the correct e-VIN for
6 the specific vehicle tested; the communication protocol KWPF; and a PID count of 12, 12|18, 22,
7 or 22|7.

8 78. The discrepancies between the December 24, 2015, Smog Check inspection and the
9 data reported by similar vehicles when tested prove that the OIS DAD was not connected to the
10 2005 BMW 525I, California Lic. No. 5LBT467 when it was certified on December 24, 2015. As
11 a result, Respondents Mario's #1 and Duyan issued a fraudulent Smog Check Certificate.

12 **Clean Plug No. 11**

13 79. On January 18, 2016, Respondent Duyan performed a Smog Check inspection on a
14 2003 Chevrolet Silverado C1500, California Lic. No. 7Y91879. The VIR that was issued
15 identified the station as Respondent Mario's #1 (TC277523), the inspector as Respondent Duyan,
16 aka. Kjellesvig (EO636954), indicated that the overall test result was that the vehicle passed the
17 inspection, and that Smog Check Certificate No. YV942951C was issued to this vehicle. The OIS
18 test data for this vehicle showed that the e-VIN was missing, the communication protocol was
19 1914, and the PID count was 1.

20 80. When tested, other similar 2003 Chevrolet Silverado C1500 vehicles transmit the
21 correct e-VIN for the specific vehicle tested; the communication protocol JVPW; and a PID count
22 of 22.

23 81. The discrepancies between the January 18, 2016, Smog Check inspection and the data
24 reported by similar vehicles when tested prove that the OIS DAD was not connected to the 2003
25 Chevrolet Silverado C1500, California Lic. No. 7Y91879 when it was certified on January 18,
26 2016. As a result, Respondents Mario's #1 and Duyan issued a fraudulent Smog Check
27 Certificate.

28 ///

Clean Plug 12

82. On January 30, 2016, Respondent Duyan performed a Smog Check inspection on a 2000 Ford F-150, California Lic. No. 6D47194. The VIR that was issued identified the station as Respondent Mario's #1 (TC277523), the inspector as Respondent Duyan, aka. Kjellesvig (EO636954), indicated that the overall test result was that the vehicle passed the inspection, and that Smog Check Certificate No. YV942992C was issued to this vehicle. The OIS test data for this vehicle showed that the e-VIN was missing, the communication protocol was I914, and the PID count was 1.

83. This vehicle was previously tested on January 25, 2016. The VID showed that the January 25th test transmitted the correct e-VIN, communication protocol JPWM, and a PID count of 20. This data is consistent with expected data transmitted by similar vehicles.

84. Accordingly, when tested, other similar 2000 Ford F-150 vehicles transmit the correct e-VIN for the specific vehicle tested; the communication protocol JPWM; and a PID count of 20.

85. The discrepancies between the January 25, 2016, and January 30, 2016, Smog Check inspection as well as the data reported by similar vehicles when tested prove that the OIS DAD was not connected to the 2000 Ford F-150, California Lic. No. 6D47194 when it was certified on January 30, 2016. As a result, Respondents Mario's #1 and Duyan issued a fraudulent Smog Check Certificate.

Clean Plug No. 13

86. On February 29, 2016, Respondent Duyan performed a Smog Check inspection on a 2002 Ford F-150, California Lic. No. DP682CL. The VIR that was issued identified the station as Respondent Mario's #1 (TC277523), the inspector as Respondent Duyan, aka. Kjellesvig (EO636954), indicated that the overall test result was that the vehicle passed the inspection, and that Smog Check Certificate No. YZ041728C was issued to this vehicle. The OIS test data for this vehicle showed that the e-VIN was missing, the communication protocol was I914, and the PID count was 1.

87. When tested, other similar 2002 Ford F-150 vehicles transmit the correct e-VIN for the specific vehicle tested; the communication protocol JPWM; and a PID count of 22.

1 88. The discrepancies between the February 29, 2016, Smog Check inspection and the
2 data reported by similar vehicles when tested prove that the OIS DAD was not connected to the
3 2002 Ford F-150, California Lic. No. DP682CL when it was certified on February 29, 2016. As a
4 result, Respondents Mario's #1 and Duyan issued a fraudulent Smog Check Certificate.

5 **Clean Plug No. 14**

6 89. On May 14, 2016, Respondent Duyan performed a Smog Check inspection on a 2005
7 Mercedes-Benz C230K, California Lic. No. 5LPD196. The VIR that was issued identified the
8 station as Respondent Mario's #1 (TC277523), the inspector as Respondent Duyan, aka.
9 Kjellesvig (EO636954), indicated that the overall test result was that the vehicle passed the
10 inspection, and that Smog Check Certificate No. ZD457677C was issued to this vehicle. The OIS
11 test data for this vehicle showed that the e-VIN was missing, the communication protocol was
12 I914, and the PID count was 2.

13 90. When tested, other similar 2002 Ford F-150 vehicles transmit the correct e-VIN for
14 the specific vehicle tested; the communication protocol KWPF; and a PID count of 17 or 20.

15 91. The discrepancies between the May 14, 2016, Smog Check inspection and the data
16 reported by similar vehicles when tested prove that the OIS DAD was not connected to the 2005
17 Mercedes-Benz C230K, California Lic. No. 5LPD196 when it was certified on May 14, 2016. As
18 a result, Respondents Mario's #1 and Duyan issued a fraudulent Smog Check Certificate.

19 **Clean Plug No. 15**

20 92. On June 28, 2016, Respondent Mahli performed a Smog Check inspection on a 2001
21 Chevrolet Malibu, California Lic. No. 6VUL952. The VIR that was issued identified the station
22 as Respondent Mario's #1 (TC277523), the inspector as Respondent Mahli (EO632398),
23 indicated that the overall test result was that the vehicle passed the inspection, and that Smog
24 Check Certificate No. QC910301C was issued to this vehicle. The OIS test data for this vehicle
25 showed that the e-VIN was missing, the communication protocol was I914, and the PID count
26 was 2.

93. This vehicle was previously tested on June 27, 2016. The VID showed that the June 27th test transmitted the correct e-VIN, communication protocol JVPW, and a PID count of 19. This data is consistent with expected data transmitted by similar vehicles.

94. Accordingly, when tested, other similar 2001 Chevrolet Malibu vehicles transmit the correct e-VIN for the specific vehicle tested; the communication protocol JVPW; and a PID count of 19.

95. The discrepancies between the June 27, 2016, and June 28, 2016, Smog Check inspection as well as the data reported by similar vehicles when tested prove that the OIS DAD was not connected to the 2001 Chevrolet Malibu, California Lic. No. 6VUL952 when it was certified on June 28, 2016. As a result, Respondents Mario's #1 and Mahli issued a fraudulent Smog Check Certificate.

Clean Plug No. 16

96. On July 11, 2016, Respondent Mahli performed a Smog Check inspection on a 2001 Ford Ranger, California Lic. No. 6T27333. The VIR that was issued identified the station as Respondent Mario's #1 (TC277523), the inspector as Respondent Mahli (EO632398), indicated that the overall test result was that the vehicle passed the inspection, and that Smog Check Certificate No. QC910329C was issued to this vehicle. The OIS test data for this vehicle showed that the e-VIN was missing, the communication protocol was I914, and the PID count was 2.

97. This vehicle was previously tested on March 7, 2016. The VID showed that the March 7th test transmitted the correct e-VIN, communication protocol JPWM, and a PID count of 19. This data is consistent with expected data transmitted by similar vehicles.

98. Accordingly, when tested, other similar 2001 Ford Ranger vehicles transmit the correct e-VIN for the specific vehicle tested; the communication protocol JPWM; and a PID count of 19 or 20.

99. The discrepancies between the March 7, 2016, and July 11, 2016, Smog Check inspections as well as the data reported by similar vehicles when tested prove that the OIS DAD was not connected to the 2001 Ford Ranger, California Lic. No. 6T27333 when it was certified on

1 July 11, 2016. As a result, Respondents Mario's #1 and Mahli issued a fraudulent Smog Check
2 Certificate.

3 **Clean Plug No. 17**

4 100. On September 24, 2016, Respondent Mahli performed a Smog Check inspection on a
5 2000 Saturn SL2, California Lic. No. 5KWN621. The VIR that was issued identified the station
6 as Respondent Mario's #1 (TC277523), the inspector as Respondent Mahli (EO632398),
7 indicated that the overall test result was that the vehicle passed the inspection, and that Smog
8 Check Certificate No. ZJ864785C was issued to this vehicle. The OIS test data for this vehicle
9 showed that the e-VIN was missing, the communication protocol was I914, and the PID count
10 was 9.

11 101. When tested, other similar 2000 Saturn SL2 vehicles transmit the correct e-VIN for
12 the specific vehicle tested; the communication protocol JVPW; and a PID count of 16 or 17.

13 102. The discrepancies between the September 24, 2016, Smog Check inspection and the
14 data reported by similar vehicles when tested prove that the OIS DAD was not connected to the
15 2000 Saturn SL2, California Lic. No. 5KWN621 when it was certified on September 24, 2016.
16 As a result, Respondents Mario's #1 and Mahli issued a fraudulent Smog Check Certificate.

17 **Clean Plug No. 18**

18 103. On October 5, 2016, Respondent Mahli performed a Smog Check inspection on a
19 2000 Chevrolet S10, California Lic. No. 6J52339. The VIR that was issued identified the station
20 as Respondent Mario's #1 (TC277523), the inspector as Respondent Mahli (EO632398),
21 indicated that the overall test result was that the vehicle passed the inspection, and that Smog
22 Check Certificate No. QE651912C was issued to this vehicle. The OIS test data for this vehicle
23 showed that the e-VIN was missing, the communication protocol was I914, and the PID count
24 was 8.

25 104. This vehicle was previously tested on August 14, 2015. The VID showed that the
26 August 14th test transmitted the correct e-VIN, communication protocol JVPW, and a PID count
27 of 17. This data is consistent with expected data transmitted by similar vehicles.

1 105. Accordingly, when tested, other similar 2000 Chevrolet S10 vehicles transmit the
2 correct e-VIN for the specific vehicle tested; the communication protocol JVPW; and a PID count
3 of 17.

4 106. The discrepancies between the August 14, 2015, and October 5, 2016, Smog Check
5 inspections as well as the data reported by similar vehicles when tested prove that the OIS DAD
6 was not connected to the 2000 Chevrolet S10, California Lic. No. 6J52339 when it was certified
7 on October 5, 2016. As a result, Respondents Mario's #1 and Mahli issued a fraudulent Smog
8 Check Certificate.

9 **Clean Plug No. 19**

10 107. On November 30, 2016, Respondent Mahli performed a Smog Check inspection on a
11 2000 GMC Sonoma, California Lic. No. 8D84277. The VIR that was issued identified the station
12 as Respondent Mario's #1 (TC277523), the inspector as Respondent Mahli (EO632398),
13 indicated that the overall test result was that the vehicle passed the inspection, and that Smog
14 Check Certificate No. ZJ916594C was issued to this vehicle. The OIS test data for this vehicle
15 showed that the communication protocol was I914 and the PID count was 8.

16 108. This vehicle was previously tested on November 2, 2016. The VID showed that the
17 November 2nd test transmitted the communication protocol JVPW and a PID count of 16. This
18 data is consistent with expected data transmitted by similar vehicles.

19 109. Accordingly, when tested, other similar 2000 GMC Sonoma vehicles transmit the
20 communication protocol JVPW; and a PID count of 16.

21 110. The discrepancies between the November 2, 2016, and November 30, 2016, Smog
22 Check inspections as well as the data reported by similar vehicles when tested prove that the OIS
23 DAD was not connected to the 2000 GMC Sonoma, California Lic. No. 8D84277 when it was
24 certified on November 30, 2016. As a result, Respondents Mario's #1 and Mahli issued a
25 fraudulent Smog Check Certificate.

26 **Clean Plug No. 20**

27 111. On February 10, 2017, at about 3:50 p.m., Respondent Mahli performed a Smog
28 Check inspection on a 2006 Toyota Corolla CE, California Lic. No. 7TOD916, VIN

1 INXBR32E76Z605364 (Corolla). The VIR that was issued identified the station as Respondent
2 Mario's #1 (TC277523), the inspector as Respondent Mahli (EO632398), indicated that the
3 overall test result was that the vehicle passed the inspection, and that Smog Check Certificate No.
4 ZP250173C was issued to this vehicle. The OIS test data for this vehicle showed that the e-VIN
5 was KL5JD56Z88K935557, the communication protocol was ICAN11bt5, and the PID count was
6 38|1.

7 112. Also on February 10, 2017, at about 4:08, Respondent Mahli performed a Smog
8 Check inspection on a 2008 Suzuki Forenza Base, VIN KL5JD56Z88K935557 (Suzuki). The
9 VIR that was issued identified the station as Respondent Mario's #1 (TC277523), the inspector as
10 Respondent Mahli (EO632398), indicated that the overall test result was that the vehicle passed
11 the inspection, that Respondent Mahli manually entered the VIN KL5JD56Z88K935557, and that
12 Smog Check Certificate No. ZP250174C was issued to the Suzuki. The OIS test data for the
13 Suzuki showed that the e-VIN was KL5JD56Z88K935557, the communication protocol was
14 ICAN11bt5, and the PID count was 38|1.

15 113. When tested, other similar 2006 Toyota Corolla CE vehicles transmit the correct e-
16 VIN for the specific vehicle tested; the communication protocol I914; and a PID count of 18.

17 114. The similarities between the OIS test data proved that the Suzuki was the vehicle used
18 in place of the Corolla to generate Smog Certificate of Compliance No. ZP250173C.
19 Additionally, the discrepancies between the February 10, 2017, Smog Check inspection of the
20 Corolla and the data reported by similar 2006 Toyota Corolla CE vehicles when tested prove that
21 the OIS DAD was not connected to the Corolla when it was certified on February 10, 2017 at 3:50
22 p.m. As a result, Respondents Mario's #1 and Mahli issued a fraudulent Smog Check Certificate.

23 **FIRST CAUSE FOR DISCIPLINE**

24 **(Untrue or Misleading Statements)**

25 115. Complainant re-alleges and incorporates by reference the allegations set forth above
26 in paragraphs 43 to 114.

27 116. Respondent Mario's #1's Automotive Repair Dealer Registration is subject to
28 disciplinary action pursuant to Business and Professions Code section 9884.7, subdivision (a)(1),

1 in that Respondent Mario's #1 made or authorized statements which it knew or in the exercise of
2 reasonable care should have known to be untrue or misleading, as follows: Respondent Mario's
3 #1 certified the vehicles described above had passed inspection and were in compliance with
4 applicable laws and regulations. In fact, Respondent Mario's #1 conducted the inspections on the
5 vehicles using clean plugging methods in order to issue smog certificates of compliance for the
6 vehicles and did not actually test or inspect the vehicles as required by Health and Safety Code
7 section 44012.

8 **SECOND CAUSE FOR DISCIPLINE**

9 **(Conduct Constituting Fraud)**

10 117. Complainant re-alleges and incorporates by reference the allegations set forth above
11 in paragraphs 43 to 114.

12 118. Respondent Mario's #1's Automotive Repair Dealer Registration is subject to
13 disciplinary action pursuant to Business and Professions Code section 9884.7, subdivision (a)(4),
14 in that Respondent Mario's #1 committed acts that constitute fraud by issuing electronic smog
15 certificates of compliance for the vehicles described above without performing bona fide
16 inspections of the emission control devices and systems on the vehicles, thereby depriving the
17 People of the State of California of the protection afforded by the Motor Vehicle Inspection
18 Program.

19 **THIRD CAUSE FOR DISCIPLINE**

20 **(Violation of Motor Vehicle Inspection Program)**

21 119. Complainant re-alleges and incorporates by reference the allegations set forth above
22 in paragraphs 43 to 114.

23 120. Respondent Mario's #1's Smog Check Test Only Station License is subject to
24 disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (a), in that
25 Respondent Mario's #1 failed to comply with the following sections of the code:

26 a. **Health and Safety Code section 44012, subdivision (a):** Respondent Mario's
27 #1 failed to ensure that all emission control devices and systems required by law for the vehicles
28 identified above, were installed and functioning correctly in accordance with test procedures.

1 b. **Health and Safety Code section 44012, subdivision (f):** Respondent Mario's
2 #1 failed to ensure that the emission control tests were performed on the vehicles identified
3 above, in accordance with procedures prescribed by the department.

4 c. **Health and Safety Code section 44015, subdivision (b):** Respondent Mario's
5 #1 issued electronic smog certificates of compliance for the vehicles identified above, without
6 ensuring that the vehicles were properly tested and inspected to determine if they were in
7 compliance with Health and Safety Code section 44012.

8 d. **Health and Safety Code section 44059:** Respondent Mario's #1 willfully
9 made false entries for electronic certificates of compliance for the vehicles identified above, by
10 certifying that the vehicles had been inspected as required when, in fact, they had not.

11 **FOURTH CAUSE FOR DISCIPLINE**

12 **(Violation of Regulations)**

13 121. Complainant re-alleges and incorporates by reference the allegations set forth above
14 in paragraphs 43 to 114.

15 122. Respondent Mario's #1 Smog Check Test Only Station License is subject to
16 disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (c), in that
17 Respondent Mario's #1 failed to comply with provisions of California Code of Regulations, title
18 16, as follows:

19 a. **Section 3340.24, subdivision (c):** Respondent Mario's #1 falsely or
20 fraudulently issued electronic smog certificates of compliance for the vehicles identified above.

21 b. **Section 3340.35, subdivision (c):** Respondent Mario's #1 issued electronic
22 smog certificates of compliance for the vehicles identified above, even though the vehicles had
23 not been inspected in accordance with California Code of Regulations, title 16, section 3340.42.

24 c. **Section 3340.42:** Respondent Mario's #1 failed to ensure that the required
25 smog tests were conducted on the vehicles identified above, in accordance with the Bureau's
26 specifications.

27 d. **Section 3373:** Respondent Mario's #1 created a false and misleading record by
28 issuing documents that were false and misleading.

1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(Dishonesty, Fraud, Deceit)**

3 123. Complainant re-alleges and incorporates by reference the allegations set forth above
4 in paragraphs 43 to 114.

5 124. Respondent Mario's #1 Smog Check Test Only Station License is subject to
6 disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (d), in that
7 Respondent Mario's #1 committed dishonest, fraudulent or deceitful acts whereby another is
8 injured by issuing electronic smog certificates of compliance for the vehicles identified above,
9 without performing bona fide inspections of the emission control devices and systems on the
10 vehicles, thereby depriving the People of the State of California of the protection afforded by the
11 Motor Vehicle Inspection Program.

12 **SIXTH CAUSE FOR DISCIPLINE**

13 **(Violation of Motor Vehicle Inspection Program)**

14 125. Complainant re-alleges and incorporates by reference the allegations set forth above
15 in paragraphs 47 to 58.

16 126. Respondent Romero's Smog Check Inspector License is subject to disciplinary action
17 pursuant to Health and Safety Code section 44072, subdivision (a), in that Respondent Romero
18 failed to comply with the following sections of the Code:

19 a. **Health and Safety Code section 44012, subdivision (a):** Respondent Romero
20 failed to ensure that all emission control devices and systems required by law for the vehicles he
21 inspected, were installed and functioning correctly in accordance with test procedures.

22 b. **Health and Safety Code section 44012, subdivision (f):** Respondent Romero
23 failed to ensure that the emission control tests were performed on the vehicles he inspected, in
24 accordance with procedures prescribed by the department.

25 c. **Health and Safety Code section 44015, subdivision (b):** Respondent Romero
26 issued electronic smog certificates of compliance for the vehicles he inspected, without ensuring
27 that the vehicles were properly tested and inspected to determine if they were in compliance with
28 Health and Safety Code section 44012.

1 d. **Health and Safety Code section 44059:** Respondent Romero willfully made false
2 entries for electronic certificates of compliance for the vehicles he inspected, by certifying that the
3 vehicles had been inspected as required when, in fact, they had not.

4 **SEVENTH CAUSE FOR DISCIPLINE**

5 **(Failure to Comply with Regulations)**

6 127. Complainant re-alleges and incorporates by reference the allegations set forth above
7 in paragraphs 47 to 58.

8 128. Respondent Romero's Smog Check Inspector License is subject to disciplinary action
9 pursuant to Health and Safety Code section 44072.2, subdivision (c), in that Respondent Romero
10 failed to comply with provisions of California Code of Regulations, title 16, as follows:

11 a. **Section 3340.24, subdivision (c):** Respondent Romero falsely or fraudulently
12 issued electronic smog certificates of compliance for the vehicles he inspected.

13 b. **Section 3340.30, subdivision (a):** Respondent Romero failed to inspect and
14 test the vehicles identified above, in accordance with Health and Safety Code sections 44012 and
15 44035, and California Code of Regulations, title 16, section 3340.42.

16 c. **Section 3340.41, subdivision (c):** Respondent Romero entered into the
17 emissions inspection system vehicle identification information or emission control system
18 identification data for a vehicle other than the one being tested. Alternatively, Respondent
19 Romero knowingly entered into the emissions inspection system false information about the
20 vehicles he inspected.

21 d. **Section 3340.42:** Respondent Romero failed to conduct the required smog tests
22 on vehicles he inspected, in accordance with the Bureau's specifications.

23 **EIGHTH CAUSE FOR DISCIPLINE**

24 **(Dishonesty, Fraud, Deceit)**

25 129. Complainant re-alleges and incorporates by reference the allegations set forth above
26 in paragraphs 47 to 58.

27 130. Respondent Romero's Smog Check Inspector License is subject to disciplinary action
28 pursuant to Health and Safety Code section 44072.2, subdivision (d), in that Respondent Romero

1 committed dishonest, fraudulent, or deceitful acts whereby another is injured by issuing electronic
2 smog certificates of compliance for vehicles he tested, 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 **(Violation of Motor Vehicle Inspection Program)**

7 131. Complainant re-alleges and incorporates by reference the allegations set forth above
8 in paragraphs 59 to 91.

9 132. Respondent Duyan's Smog Check Inspector License is subject to disciplinary action
10 pursuant to Health and Safety Code section 44072, subdivision (a), in that Respondent Duyan
11 failed to comply with the following sections of the Code:

12 a. **Health and Safety Code section 44012, subdivision (a):** Respondent Duyan
13 failed to ensure that all emission control devices and systems required by law for the vehicles he
14 inspected, were installed and functioning correctly in accordance with test procedures.

15 b. **Health and Safety Code section 44012, subdivision (f):** Respondent Duyan
16 failed to ensure that the emission control tests were performed on the vehicles he inspected, in
17 accordance with procedures prescribed by the department.

18 c. **Health and Safety Code section 44015, subdivision (b):** Respondent Duyan
19 issued electronic smog certificates of compliance for the vehicles he inspected, without ensuring
20 that the vehicles were properly tested and inspected to determine if they were in compliance with
21 Health and Safety Code section 44012.

22 d. **Health and Safety Code section 44059:** Respondent Duyan willfully made false
23 entries for electronic certificates of compliance for the vehicles he inspected, by certifying that the
24 vehicles had been inspected as required when, in fact, they had not.

25 **TENTH CAUSE FOR DISCIPLINE**

26 **(Failure to Comply with Regulations)**

27 133. Complainant re-alleges and incorporates by reference the allegations set forth above
28 in paragraphs 59 to 91.

1 134. Respondent Duyan's Smog Check Inspector License is subject to disciplinary action
2 pursuant to Health and Safety Code section 44072.2, subdivision (c), in that Respondent Duyan
3 failed to comply with provisions of California Code of Regulations, title 16, as follows:

4 a. **Section 3340.24, subdivision (c):** Respondent Duyan falsely or fraudulently
5 issued electronic smog certificates of compliance for the vehicles he inspected.

6 b. **Section 3340.30, subdivision (a):** Respondent Duyan failed to inspect and test
7 the vehicles identified above, in accordance with Health and Safety Code sections 44012 and
8 44035, and California Code of Regulations, title 16, section 3340.42.

9 c. **Section 3340.41, subdivision (c):** Respondent Duyan entered into the
10 emissions inspection system vehicle identification information or emission control system
11 identification data for a vehicle other than the one being tested. Alternatively, Respondent Duyan
12 knowingly entered into the emissions inspection system false information about the vehicles he
13 inspected.

14 d. **Section 3340.42:** Respondent Duyan failed to conduct the required smog tests
15 on vehicles he inspected, in accordance with the Bureau's specifications.

16 **ELEVENTH CAUSE FOR DISCIPLINE**

17 **(Dishonesty, Fraud, Deceit)**

18 135. Complainant re-alleges and incorporates by reference the allegations set forth above
19 in paragraphs 59 to 91.

20 136. Respondent Duyan's Smog Check Inspector License is subject to disciplinary action
21 pursuant to Health and Safety Code section 44072.2, subdivision (d), in that Respondent Duyan
22 committed dishonest, fraudulent, or deceitful acts whereby another is injured by issuing electronic
23 smog certificates of compliance for vehicles he tested, without performing bona fide inspections
24 of the emission control devices and systems on the vehicles, thereby depriving the People of the
25 State of California of the protection afforded by the Motor Vehicle Inspection Program.

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1 **TWELFTH CAUSE FOR DISCIPLINE**

2 **(Violation of Motor Vehicle Inspection Program)**

3 137. Complainant re-alleges and incorporates by reference the allegations set forth above
4 in paragraphs 92 to 114.

5 138. Respondent Mahli's Smog Check Inspector License is subject to disciplinary action
6 pursuant to Health and Safety Code section 44072, subdivision (a), in that Respondent Mahli
7 failed to comply with the following sections of the Code:

8 a. **Health and Safety Code section 44012, subdivision (a):** Respondent Mahli
9 failed to ensure that all emission control devices and systems required by law for the vehicles he
10 inspected, were installed and functioning correctly in accordance with test procedures.

11 b. **Health and Safety Code section 44012, subdivision (f):** Respondent Mahli
12 failed to ensure that the emission control tests were performed on the vehicles he inspected, in
13 accordance with procedures prescribed by the department.

14 c. **Health and Safety Code section 44015, subdivision (b):** Respondent Mahli
15 issued electronic smog certificates of compliance for the vehicles he inspected, without ensuring
16 that the vehicles were properly tested and inspected to determine if they were in compliance with
17 Health and Safety Code section 44012.

18 d. **Health and Safety Code section 44059:** Respondent Mahli willfully made false
19 entries for electronic certificates of compliance for the vehicles he inspected, by certifying that the
20 vehicles had been inspected as required when, in fact, they had not.

21 **THIRTEENTH CAUSE FOR DISCIPLINE**

22 **(Failure to Comply with Regulations)**

23 139. Complainant re-alleges and incorporates by reference the allegations set forth above
24 in paragraphs 92 to 114.

25 140. Respondent Mahli's Smog Check Inspector License is subject to disciplinary action
26 pursuant to Health and Safety Code section 44072.2, subdivision (c), in that Respondent Mahli
27 failed to comply with provisions of California Code of Regulations, title 16, as follows:
28

1 a. **Section 3340.24, subdivision (c):** Respondent Mahli falsely or fraudulently
2 issued electronic smog certificates of compliance for the vehicles he inspected.

3 b. **Section 3340.30, subdivision (a):** Respondent Mahli failed to inspect and test
4 the vehicles identified above, in accordance with Health and Safety Code sections 44012 and
5 44035, and California Code of Regulations, title 16, section 3340.42.

6 c. **Section 3340.41, subdivision (c):** Respondent Mahli entered into the
7 emissions inspection system vehicle identification information or emission control system
8 identification data for a vehicle other than the one being tested. Alternatively, Respondent Mahli
9 knowingly entered into the emissions inspection system false information about the vehicles he
10 inspected.

11 d. **Section 3340.42:** Respondent Mahli failed to conduct the required smog tests
12 on vehicles he inspected, in accordance with the Bureau's specifications.

13 **FOURTEENTH CAUSE FOR DISCIPLINE**

14 **(Dishonesty, Fraud, Deceit)**

15 141. Complainant re-alleges and incorporates by reference the allegations set forth above
16 in paragraphs 92 to 114.

17 142. Respondent Mahli's Smog Check Inspector License is subject to disciplinary action
18 pursuant to Health and Safety Code section 44072.2, subdivision (d), in that Respondent Mahli
19 committed dishonest, fraudulent, or deceitful acts whereby another is injured by issuing electronic
20 smog certificates of compliance for vehicles he tested, without performing bona fide inspections
21 of the emission control devices and systems on the vehicles, thereby depriving the People of the
22 State of California of the protection afforded by the Motor Vehicle Inspection Program.

23 **DISCIPLINARY CONSIDERATIONS**

24 143. To determine the degree of discipline, if any, to be imposed on Respondent Mario's
25 #1, Complainant alleges that on September 29, 2015, the BAR issued Citation No. C2015-2277
26 against Respondent Mario's #1, for his violation of Health and Safety Code section 44012,
27 subdivision (f), in that Respondent Mario's #1 issued a Smog Check Certificate of Compliance to
28 a BAR vehicle with a missing exhaust gas recirculation valve.

1 144. To determine the degree of discipline, if any, to be imposed on Respondent Duyan,
2 Complainant alleges that on September 29, 2015, the BAR issued Citation No. M2015-2278
3 against Respondent Duyan, for his violation of Health and Safety Code section 44032, in that
4 Respondent Duyan issued a Smog Check Certificate of Compliance to a BAR vehicle with a
5 missing exhaust gas recirculation valve.

6 145. To determine the degree of discipline, if any, to be imposed on Respondent Romero,
7 on December 1, 2016, the BAR issued an Interim Suspension Order against Respondent Romero.

8 **OTHER MATTERS**

9 146. Under Code section 9884.7, subdivision (c), the Director may invalidate temporarily
10 or permanently or refuse to validate, the registrations for all places of business operated in this
11 state by an automotive repair dealer upon a finding that the automotive repair dealer has engaged
12 in a course of repeated and willful violations of the laws and regulations pertaining to an
13 automotive repair dealer.

14 147. Pursuant to Health and Safety Code section 44072.8, if Respondent Mario's #1 Smog
15 Check Station License, is revoked or suspended, the Director may likewise revoke or suspend any
16 additional license, issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code,
17 to Respondent Mario's #1.

18 148. Under Health and Safety Code section 44072.8, if Respondent Romero's Smog Check
19 Inspector License is revoked or suspended, any additional license issued under Chapter 5 of Part 5
20 of Division 26 of the Health and Safety Code, in the name of Respondent Romero, may be
21 likewise revoked or suspended by the Director.

22 149. Under Health and Safety Code section 44072.8, if Respondent Duyan's Smog Check
23 Inspector License is revoked or suspended, any additional license issued under Chapter 5 of Part 5
24 of Division 26 of the Health and Safety Code, in the name of Respondent Duyan, may be likewise
25 revoked or suspended by the Director.

26 150. Under Health and Safety Code section 44072.8, if Respondent Mahli's Smog Check
27 Inspector License is revoked or suspended, any additional license issued under Chapter 5 of Part 5
28

1 of Division 26 of the Health and Safety Code, in the name of Respondent Mahli, may be likewise
2 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 Consumer Affairs issue a decision:

6 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
7 277523, issued to Hanna N. Mahli, dba Mario's #1 Smog & Test Only;

8 2. Revoking or suspending any other Automotive Repair Dealer Registration in the
9 name of Hanna N. Mahli;

10 3. Revoking or suspending Smog Check-Test Only Station License Number TC 277523,
11 issued to Hanna N. Mahli, dba Mario's #1 Smog & Test Only;

12 4. Revoking, suspending, or placing on probation any additional license issued under
13 Chapter 5 of Part 5 of Division 26 of the Health and Safety Code in the name of Hanna N. Mahli;

14 5. Revoking or suspending Smog Check Inspector License Number EO 632398, issued
15 to Rami Mahli;

16 6. Revoking, suspending, or placing on probation any additional license issued under
17 Chapter 5 of Part 5 of Division 26 of the Health and Safety Code in the name of Rami Mahli;

18 7. Revoking or suspending Smog Check Inspector License Number EO 637203, issued
19 to Juan Luis Guzman Romero;

20 8. Revoking, suspending, or placing on probation any additional license issued under
21 Chapter 5 of Part 5 of Division 26 of the Health and Safety Code in the name of Juan Luis
22 Guzman Romero;

23 9. Revoking or suspending Smog Check Inspector License Number EO 636954, issued
24 to Danny Paul Duyan, aka Danny Paul Kjellesvig;

25 10. Revoking, suspending, or placing on probation any additional license issued under
26 Chapter 5 of Part 5 of Division 26 of the Health and Safety Code in the name of Danny Paul
27 Duyan, aka Danny Paul Kjellesvig;
28

1 11. Ordering Hanna N. Mahli, Rami Mahli, Juan Luis Guzman Romero and Danny Paul
2 Duyan to pay the Bureau of Automotive Repair the reasonable costs of the investigation and
3 enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

4 12. Taking such other and further action as deemed necessary and proper.

5
6 DATED:

November 30, 2018 

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

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