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

12 In the Matter of the Accusation Against:

Case No. 79/18-4143

13 **EARTH STATION**  
14 **MIKE PAUL ROMANI, OWNER**  
7601 Greenback Lane  
Citrus Heights, CA 95610  
15 **Automotive Repair Dealer Registration**  
No. ARD 264421  
16 **Smog Check Station License No. RC264421**

**ACCUSATION**

17 **MIKE PAUL ROMANI**  
7601 Greenback Lane  
Citrus Heights, CA 95610  
18 **Smog Check Inspector License No. EO 142238**  
**Smog Check Repair Technician License**  
19 **No. EI 142238**

20 **BRIAN D. DUPRAS**  
4800 Minnesota Ave.  
21 Fair Oaks, CA 95628  
**Smog Check Inspector License No. EO 309111**  
22 **Smog Check Repair Technician License**  
23 **No. EI 309111,**

24 **TONIA RENELL ROA**  
4520 Hackberry Lane  
Carmichael, CA 95608  
25 **Smog Check Inspector License No. EO 639903**

26 Respondents.

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1 Patrick Dorais (“Complainant”) alleges:

2 **PARTIES**

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

5 **Automotive Repair Dealer Registration**

6 2. On or about March 22, 2011, the Bureau issued Automotive Repair Dealer  
7 Registration Number ARD 264421 to Mike Paul Romani (“Respondent Romani”) as owner of  
8 Earth Station. The Automotive Repair Dealer Registration was in full force and effect at all times  
9 relevant to the charges brought herein and will expire on March 31, 2019, unless renewed.

10 **Smog Check Station License**

11 3. On or about March 29, 2011, the Bureau issued Smog Check Station License  
12 Number RC 264421 to Respondent Romani. The Smog Check Station License was in full force  
13 and effect at all times relevant to the charges brought herein and will expire on March 31, 2019,  
14 unless renewed.

15 **Smog Check Inspector/Smog Check Repair Technician Licenses**

16 4. On a date unknown in 2002, Advanced Emission Specialist Technician License  
17 Number EA 142238 was issued to Respondent Romani. Respondent Romani’s Advanced  
18 Emission Specialist Technician License expired on July 31, 2012, and was cancelled on August 2,  
19 2012. Effective August 2, 2012, the license was renewed as Smog Check Inspector License  
20 Number EO 142238 and Smog Check Repair Technician License No. EI 142238. The Smog  
21 Check Inspector and Smog Check Repair Technician licenses were in full force and effect at all  
22 times relevant to the charges brought herein and will expire on July 31, 2020, unless renewed.

23 5. On a date unknown in 1996, Advanced Emission Specialist Technician License  
24 Number EA 309111 was issued to Brian D. Dupras (“Respondent Dupras”). Respondent  
25 Dupras’s Advanced Emission Specialist Technician License was due to expire on August 31,  
26 2012, and was cancelled on August 23, 2012. Effective August 23, 2012, the license was  
27 renewed as Smog Check Inspector License Number EO 309111 and Smog Check Repair  
28 Technician License No. EI 309111. The Smog Check Inspector and Smog Check Repair

1 Technician licenses were in full force and effect at all times relevant to the charges brought herein  
2 and will expire on August 31, 2020, unless renewed.

3 6. On or about January 11, 2017, the Bureau issued Smog Check Inspector License  
4 Number EO 639903 to Tonia Renell Roa ("Respondent Roa"). The Smog Check Inspector  
5 License was in full force and effect at all times relevant to the charges brought herein and will  
6 expire on September 30, 2020, unless renewed.

7 **JURISDICTION**

8 7. This Accusation is brought before the Bureau under the authority of the following  
9 laws.

10 8. Business and Professions Code ("Code") section 9884.7 provides that the Director  
11 may revoke an automotive repair dealer registration.

12 9. Code section 9884.13 provides, in pertinent part, that the expiration of a valid  
13 registration shall not deprive the Director of jurisdiction to proceed with a disciplinary proceeding  
14 against an automotive repair dealer or to render a decision temporarily or permanently  
15 invalidating (suspending or revoking) a registration.

16 10. Code section 477 provides, in pertinent part, that "Board" includes "bureau,"  
17 "commission," "committee," "department," "division," "examining committee," "program," and  
18 "agency." "License" includes certificate, registration or other means to engage in a business or  
19 profession regulated by the Code.

20 11. Health & Safety Code section 44002 provides, in pertinent part, that the Director has  
21 all the powers and authority granted under the Automotive Repair Act for enforcing the Motor  
22 Vehicle Inspection Program.

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

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1 exhibit operational problems. The department shall ensure, as appropriate to the test  
2 method, the following:

3 Emission control systems required by state and federal law are reducing excess  
4 emissions in accordance with the standards adopted pursuant to subdivisions (a) and (c) of  
5 Section 44013.

6 17. Health & Safety Code section 44015(b) states, "If a vehicle meets the requirements of  
7 Section 44012, a smog check station licensed to issue certificates shall issue a certificate of  
8 compliance or a certificate of noncompliance."

9 18. Health & Safety Code section 44072.10(c) states, in pertinent part:

10 The department shall revoke the license of any smog check technician or  
11 station licensee who fraudulently certifies vehicles or participates in the fraudulent  
12 inspection of vehicles. A fraudulent inspection includes, but is not limited to, all of  
13 the following:

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

16 19. Health & Safety Code section 44024.5(a), states:

17 The department shall compile and maintain statistical and emissions profiles  
18 and data from motor vehicles that are subject to the motor vehicle inspection  
19 program. The department may use data from any source, including remote sensing  
20 data, in use data, and other motor vehicle inspection program data, to develop and  
21 confirm the validity of the profiles, to evaluate the program, and to assess the  
22 performance of smog check stations. The department shall undertake these  
23 requirements directly or seek a qualified vendor for these services.

24 20. Health & Safety Code section 44037 states, in pertinent part:

25 (a) The department shall compile and maintain records, using the sampling  
26 methodology necessary to ensure their scientific validity and reliability, of tests and  
27 repairs performed by qualified smog check technicians at licensed smog check  
28 stations pursuant to this chapter on all of the following information:

(1) The motor vehicle identification information and the test data collected at  
the station.

(5) Data received and compiled through the use of the centralized computer  
database and computer network to be established pursuant to Section 44037.1, and  
any other information determined to be essential by the department for program  
enhancement to achieve greater efficiency, consumer protection, cost-effectiveness,  
convenience, or emission reductions . . .

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1 COST RECOVERY

2 24. Code section 125.3 provides, in pertinent part, that a Board may request the  
3 administrative law judge to direct a licentiate found to have committed a violation or violations of  
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
5 enforcement of the case.

6 UPDATED SMOG CHECK PROGRAM - ON BOARD DIAGNOSTIC SYSTEM

7 25. On March 9, 2015, California's Smog Check Program was updated to keep pace with  
8 ever-advancing technology. The program update requires the use of an On-Board Diagnostic  
9 Inspection System (BAR-OIS). BAR-OIS is the smog check equipment required in all areas of  
10 the State when inspecting most model-year 2000 and newer gasoline and hybrid vehicles and  
11 most 1998 and newer diesel vehicles instead of the BAR-97 emission inspection system (EIS)  
12 used for most model year 1999 and older gasoline and hybrid vehicles and 1997 and older diesel  
13 vehicles. The BAR-OIS system consists of a certified Data Acquisition Device (DAD),  
14 computer, bar code scanner, and printer.

15 26. The DAD is an On Board Diagnostic (OBD) scan tool that, when requested by the  
16 California BAR-OIS software, retrieves OBD data from the vehicle. The DAD connects between  
17 the BAR-OIS computer and the vehicle's diagnostic link connector. The bar code scanner is used  
18 to input technician information, the vehicle identification number, and DMV renewal  
19 information. The vehicle identification number (VIN) that is physically present on all vehicles is  
20 required to be programmed into the vehicle's On-Board Diagnostics – Generation II (OBD II) on  
21 2005 and newer vehicles, and on many occasions was programmed into the OBD II computer in  
22 earlier model-years. The electronically programmed VIN, referred to as the "eVIN", is captured  
23 by the Bureau during a smog check inspection and should match the physical VIN on the vehicle.  
24 The printer is used to provide a Vehicle Inspection Report (VIR), which shows the inspection  
25 results and the Smog Check Certificate of Compliance Number for passing vehicles. Data

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1 retrieved and recorded during an OIS smog check includes the eVIN, the communication  
2 protocol,<sup>1</sup> and the number of Parameter Identifications (PID's)<sup>2</sup>.

3 27. As with the BAR-97 EIS, the technician also performs a visual and functional test on  
4 the vehicle. The visual inspection of the emission control components verifies the required  
5 emission control devices are present and properly connected and a functional test is performed of  
6 the malfunction indicator light. The OIS software makes the determination whether or not the  
7 vehicle passes the inspection based on the results of the OBD, visual, and functional tests.

### 8 REVIEW OF OIS TEST DATA

9 28. Bureau Representative I.E. reviewed BAR-OIS test data pertaining to smog check  
10 inspections conducted at Respondent's facility. I.E. found that Respondent performed smog  
11 check inspections on five vehicles identified below using a method known as "clean plugging",<sup>3</sup>  
12 resulting in the issuance of fraudulent certificates of compliance for the vehicles.

#### 13 Vehicle #1

14 29. BAR-OIS test data showed that on April 11, 2017, Respondent Romani performed a  
15 smog check inspection on a 2006 Dodge Durango Limited (Vehicle 1), resulting in the issuance  
16 of Certificate of Compliance No. ZT361315C. The BAR-OIS test details for Vehicle 1 showed  
17 that the eVIN recorded during the inspection did not match the physical VIN for Vehicle 1.

18 30. The Bureau's VID data also showed that on April 11, 2017, a smog inspection was  
19 performed by Respondent Romani on a 2007 Toyota Camry New Generation LE. The eVIN  
20 transmitted to the VID was the same eVIN that was recorded during the April 11, 2017, smog  
21 inspection on Vehicle 1. Further, the communication protocol and PID count reported for the

22 <sup>1</sup> The OBD II communication protocol describes the specific manufacturer/vehicle  
23 communication "language" used by the OBD II computer to communicate to scan tools and other  
24 devices such as the BAR-OIS. The communication protocol is programmed into the OBD II  
25 computer during manufacture and does not change.

26 <sup>2</sup> PID's are data points reported by the OBD II computer to the scan tool or BAR-OIS (for  
27 example, engine speed [rpm], vehicle speed, engine temperature, etc.) The PID count is the  
28 number of data points reported by the OBD II computer and is programmed during manufacture.  
Each make and model vehicle reports a specific number of PID counts.

<sup>3</sup> Clean-plugging is the use of a vehicle's properly functioning OBD II system, or another  
source, to generate passing diagnostic readings for the purpose of issuing a fraudulent smog  
certificate of compliance to another vehicle that is not in compliance with the Smog Check  
Program and/or is not present for testing.

1 April 11, 2017, smog inspection on the 2007 Toyota Camry New Generation LE were the same as  
2 the communication protocol and PID count for the April 11, 2017, smog inspection on Vehicle 1.

3 31. BAR-OIS test data also showed that on January 20, 2017, a smog inspection was  
4 performed on Vehicle 1 by another licensed smog check facility and that the eVIN transmitted  
5 matched the physical VIN of Vehicle 1 and that the communication protocol and PID count were  
6 consistent with expected similar vehicle OIS Test Data for that make and model.

7 32. I.E. concluded that the DAD was not connected to Vehicle 1 during the April 11,  
8 2017, smog check inspection, resulting in the issuance of a fraudulent certificate of compliance  
9 for that vehicle.

10 **Vehicle #2**

11 33. BAR-OIS test data showed that on May 30, 2017, Respondent Roa performed a smog  
12 check inspection on a 2000 Toyota Tacoma Xtra Cab (Vehicle 2), resulting in the issuance of  
13 Certificate of Compliance No. ZV900007C. The BAR-OIS test details for Vehicle 2 showed that  
14 the eVIN was not recorded. I.E. reviewed the Comparative OIS Test Data for 2000 Toyota  
15 Tacoma Xtra Cab vehicles and found that the communication protocol and PID count recorded  
16 during the smog check inspection on Vehicle 2 were not consistent with the communication  
17 protocol and PID count for that make and model.

18 34. BAR-OIS test data also showed that on May 18, 2015, a smog inspection was  
19 performed on Vehicle 2 by Respondent Dupras, and that the eVIN was not transmitted, and the  
20 communication protocol and PID count were consistent with expected similar vehicle OIS Test  
21 Data for that make and model.

22 35. I.E. concluded that the DAD was not connected to Vehicle 2 during the May 30,  
23 2017, smog check inspection, resulting in the issuance of a fraudulent certificate of compliance  
24 for that vehicle.

25 **Vehicle #3**

26 36. BAR-OIS test data showed that on June 23, 2017, Respondent Roa performed a smog  
27 check inspection on a 2004 Honda Civic DX VP (Vehicle 3), resulting in the issuance of  
28 Certificate of Compliance No. ZX676728C. The BAR-OIS test details for Vehicle 3 showed that

1 the eVIN recorded during the inspection did not match the physical VIN for Vehicle 3. I.E.  
2 reviewed the Comparative OIS Test Data for 2004 Honda Civic DX VP vehicles and found that  
3 the communication protocol and PID count recorded during the smog check inspection on  
4 Vehicle 3 were not consistent with the communication protocol and PID count for that make and  
5 model.

6 37. BAR-OIS test data also showed that on June 9, 2015, a smog inspection was  
7 performed on Vehicle 3 by Respondent Dupras and that the eVIN transmitted matched the  
8 physical VIN of Vehicle 3, and that the communication protocol and PID count were consistent  
9 with expected similar vehicle OIS Test Data for that make and model.

10 38. I.E. concluded that the DAD was not connected to Vehicle 3 during the June 23,  
11 2017, smog check inspection, resulting in the issuance of a fraudulent certificate of compliance  
12 for that vehicle.

13 **Vehicle #4**

14 39. BAR-OIS test data showed that on August 4, 2017, Respondent Roa performed a  
15 smog check inspection on a 2002 Toyota Tacoma Xtracab Prerunner (Vehicle 4), resulting in the  
16 issuance of Certificate of Compliance No. HD168438C. The BAR-OIS test details for Vehicle 4  
17 showed that an incorrect eVIN was recorded. I.E. reviewed the Comparative OIS Test Data for  
18 2002 Toyota Tacoma Xtracab Prerunner vehicles and found that the PID count recorded during  
19 the smog check inspection on Vehicle 4 was not consistent with the PID count for that make and  
20 model.

21 40. The Bureau's VID data also showed that on August 4, 2017, a smog inspection was  
22 performed by Respondent Roa on a 2007 Nissan Frontier King Cab XE. The eVIN transmitted to  
23 the VID was the same eVIN that was recorded during the August 4, 2017, smog inspection on  
24 Vehicle 4. Further, the communication protocol and PID count as transmitted to the VID were  
25 the same communication protocol and PID count that were transmitted in connection with the  
26 smog inspection of Vehicle 4. While the communication protocol and PID count as transmitted  
27 were consistent with those expected for a 2007 Nissan Frontier King Cab XE, they were not  
28 consistent with the communication protocol and PID count as would be expected for the make

1 and model of Vehicle 4.

2 41. BAR-OIS test data also showed that on August 10, 2015, a smog inspection was  
3 performed on Vehicle 4 by another facility and that the eVIN was not transmitted and that the  
4 communication protocol and PID count were consistent with expected similar vehicle OIS Test  
5 Data for that make and model.

6 42. I.E. concluded that the DAD was not connected to Vehicle 4 during the August 4,  
7 2017, smog check inspection, resulting in the issuance of a fraudulent certificate of compliance  
8 for that vehicle.

9 **Vehicle #5**

10 43. BAR-OIS test data showed that on January 2, 2018, Respondent Dupras performed a  
11 smog check inspection on a 2007 Toyota Corolla CE (Vehicle 5), resulting in the issuance of  
12 Certificate of Compliance No. HL483933C. The BAR-OIS test details for Vehicle 5 showed that  
13 the eVIN was not recorded during the inspection. I.E. reviewed the Comparative OIS Test Data  
14 for 2007 Toyota Corolla CE vehicles and found that they transmit the correct eVIN, and that the  
15 PID count and communication protocol recorded during the smog check inspection on Vehicle 5  
16 were not consistent with the PID count and communication protocol for that make and model.

17 44. BAR-OIS test data also showed that on December 8, 2017, a smog inspection was  
18 performed on Vehicle 5 by Respondent Dupras and that the eVIN was transmitted and the  
19 communication protocol and PID count recorded during the inspection was consistent with the  
20 communication protocol and PID count for that make and model.

21 45. I.E. concluded that the DAD was not connected to Vehicle 5 during the January 2,  
22 2018, smog check inspection, resulting in the issuance of a fraudulent certificate of compliance  
23 for that vehicle.

24 **FIRST CAUSE FOR DISCIPLINE**

25 (Untrue or Misleading Statements)

26 46. Respondent Romani's registration is subject to discipline pursuant to Code  
27 section 9884.7(a)(1), in that Respondent Romani made or authorized statements which  
28 Respondent Romani knew or in the exercise of reasonable care should have known to be untrue

1 or misleading. Specifically, Respondent Romani certified that Vehicles 1 through 5, identified in  
2 paragraphs 29 through 45 above, passed inspection and were in compliance with applicable laws  
3 and regulations. In fact, Respondent Romani conducted, or caused to be conducted, smog check  
4 inspections on the vehicles using clean-plugging methods, in that Respondent substituted  
5 different vehicles during the inspections in order to issue smog certificates of compliance for the  
6 vehicles, and did not test or inspect the vehicles as required by Health & Safety Code section  
7 44012.

8 **SECOND CAUSE FOR DISCIPLINE**

9 (Fraud)

10 47. Respondent Romani's registration is subject to discipline pursuant to Code  
11 section 9884.7(a)(4), in that Respondent Romani committed acts that constitute fraud by issuing  
12 electronic smog certificates of compliance for Vehicles 1 through 5, identified in paragraphs 29  
13 through 45 above, without ensuring that bona fide inspections were performed of the emission  
14 control devices and systems on the vehicles, thereby depriving the People of the State of  
15 California of the protection afforded by the Motor Vehicle Inspection Program.

16 **THIRD CAUSE FOR DISCIPLINE**

17 (Violations of Motor Vehicle Inspection Program)

18 48. Respondent Romani's smog check station license is subject to discipline pursuant to  
19 Health & Safety Code section 44072.2(a), in that regarding Vehicles 1 through 5, identified in  
20 paragraphs 29 through 45 above, Respondent Romani failed to comply with that Code, as  
21 follows:

22 a. **Section 44012(a)**: Respondent Romani failed to ensure that the emission control tests  
23 were performed on the vehicles in accordance with procedures prescribed by the department.

24 b. **Section 44015**: Respondent Romani issued electronic smog certificates of  
25 compliance for the vehicles without ensuring that the vehicles were properly tested and inspected  
26 to determine if they were in compliance with Health & Safety Code section 44012.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 (Failure to Comply with Regulations)

3 49. Respondent Romani's smog check station license is subject to discipline pursuant to  
4 Health & Safety Code section 44072.2(c), in that Respondent Romani failed to comply with  
5 Regulations, as follows:

6 a. **Section 3340.35(c)**: Respondent Romani issued electronic smog certificates of  
7 compliance for Vehicles 1 through 5, identified in paragraphs 29 through 45 above, even though  
8 the vehicles had not been inspected in accordance with CCR section 3340.42.

9 b. **Section 3340.42**: Respondent Romani failed to ensure that the required smog tests  
10 were conducted on Vehicles 1 through 5, identified in paragraphs 29 through 45 above, in  
11 accordance with the Bureau's specifications.

12 **FIFTH CAUSE FOR DISCIPLINE**

13 (Dishonesty, Fraud or Deceit)

14 50. Respondent Romani's smog check station license is subject to discipline pursuant to  
15 Health & Safety Code section 44072.2(d), in that Respondent Romani committed dishonest,  
16 fraudulent, or deceitful acts whereby another was injured by issuing electronic smog certificates  
17 of compliance for Vehicles 1 through 5, identified in paragraphs 29 through 45 above, without  
18 ensuring that a bona fide inspection was performed of the emission control devices and systems  
19 on the vehicles, thereby depriving the people of the State of California of the protection afforded  
20 by the Motor Vehicle Inspection Program.

21 **SIXTH CAUSE FOR DISCIPLINE**

22 (Violations of Motor Vehicle Inspection Program)

23 51. Respondent Romani's inspector and smog check repair technician licenses are subject  
24 to discipline pursuant to Health & Safety Code section 44072.2(a), in that Respondent Romani  
25 violated section 44012 of that Code. Specifically, Respondent Romani failed to perform the  
26 emission control tests on Vehicle 1, identified in paragraphs 29 through 32 above, in accordance  
27 with procedures prescribed by the department.

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1 **SEVENTH CAUSE FOR DISCIPLINE**

2 (Failure to Comply with Regulations)

3 52. Respondent Romani's inspector and smog check repair technician licenses are subject  
4 to discipline pursuant to Health & Safety Code section 44072.2(c), in that regarding Vehicle 1,  
5 identified in paragraphs 29 through 32 above, he failed to comply with provisions of Regulations,  
6 as follows:

7 a. **Section 3340.30(a)**: Respondent Romani failed to inspect and test Vehicle 1 in  
8 accordance with Health & Safety Code sections 44012 and 44035, and CCR section 3340.42.

9 b. **Section 3340.42**: Respondent Romani failed to conduct the required smog tests on  
10 Vehicle 1 in accordance with the Bureau's specifications.

11 **EIGHTH CAUSE FOR DISCIPLINE**

12 (Dishonesty, Fraud, or Deceit)

13 53. Respondent Romani's smog check inspector and smog check repair technician  
14 licenses are subject to discipline pursuant to Health & Safety Code section 44072.2(d), in that he  
15 committed dishonest, fraudulent, or deceitful acts whereby another was injured by using false  
16 information for electronic smog certificates of compliance issued for Vehicle 1, identified in  
17 paragraphs 29 through 32 above, thereby failing to performing bona fide inspections of the  
18 emission control devices and systems on the vehicles and depriving the people of the State of  
19 California of the protection afforded by the Motor Vehicle Inspection Program.

20 **NINTH CAUSE FOR DISCIPLINE**

21 (Violations of Motor Vehicle Inspection Program)

22 54. Respondent Roa's smog check inspector license is subject to discipline pursuant to  
23 Health & Safety Code section 44072.2(a), in that Respondent Roa violated section 44012 of that  
24 Code. Specifically, Respondent Roa failed to perform the emission control tests on Vehicles 2  
25 through 4, identified in paragraphs 33 through 42 above, in accord with procedures prescribed by  
26 the department.

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1 **TENTH CAUSE FOR DISCIPLINE**

2 (Failure to Comply with Regulations)

3 55. Respondent Roa’s smog check inspector license is subject to discipline pursuant to  
4 Health & Safety Code section 44072.2(c), in that regarding Vehicles 2 through 4, identified in  
5 paragraphs 33 through 42 above, Respondent Roa failed to comply with provisions of  
6 Regulations, as follows:

7 a. **Section 3340.30(a)**: Respondent Roa failed to inspect and test Vehicles 2 through 4  
8 in accordance with Health & Safety Code sections 44012 and 44035, and CCR section 3340.42.

9 b. **Section 3340.42**: Respondent Roa failed to conduct the required smog tests on  
10 Vehicles 2 through 4 in accordance with the Bureau’s specifications.

11 **ELEVENTH CAUSE FOR DISCIPLINE**

12 (Dishonesty, Fraud, or Deceit)

13 56. Respondent Roa’s smog check inspector license is subject to discipline pursuant to  
14 Health & Safety Code section 44072.2(d), in that she committed dishonest, fraudulent, or  
15 deceitful acts whereby another was injured by using false information for electronic smog  
16 certificates of compliance issued for Vehicles 2 through 4, identified in paragraphs 33 through 42  
17 above, thereby failing to performing bona fide inspections of the emission control devices and  
18 systems on the vehicles and depriving the people of the State of California of the protection  
19 afforded by the Motor Vehicle Inspection Program.

20 **TWELFTH CAUSE FOR DISCIPLINE**

21 (Violations of Motor Vehicle Inspection Program)

22 57. Respondent Dupras’s smog check inspector and smog check repair technician  
23 licenses are subject to discipline pursuant to Health & Safety Code section 44072.2(a), in that  
24 Respondent Dupras violated section 44012 of that Code. Specifically, Respondent Dupras failed  
25 to perform the emission control tests on Vehicle 5, identified in paragraph 43 through 45 above,  
26 in accordance with procedures prescribed by the department.

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1 **THIRTEENTH CAUSE FOR DISCIPLINE**

2 (Failure to Comply with Regulations)

3 58. Respondent Dupras's smog check inspector and smog check repair technician  
4 licenses are subject to discipline pursuant to Health & Safety Code section 44072.2(c), in that  
5 regarding Vehicle 5, identified in paragraph 43 through 45 above, he failed to comply with  
6 provisions of Regulations, as follows:

7 a. **Section 3340.30(a)**: Respondent Dupras failed to inspect and test Vehicle 5 in  
8 accordance with Health & Safety Code sections 44012 and 44035, and CCR section 3340.42.

9 b. **Section 3340.42**: Respondent Dupras failed to conduct the required smog tests on  
10 Vehicle 5 accordance with the Bureau's specifications.

11 **FOURTEENTH CAUSE FOR DISCIPLINE**

12 (Dishonesty, Fraud, or Deceit)

13 59. Respondent Dupras's smog check inspector and smog check repair technician  
14 licenses are subject to discipline pursuant to Health & Safety Code section 44072.2(d), in that he  
15 committed dishonest, fraudulent, or deceitful acts whereby another was injured by using false  
16 information for electronic smog certificates of compliance issued for Vehicle 5, identified in  
17 paragraph 43 through 45 above, thereby failing to perform bona fide inspections of the emission  
18 control devices and systems on the vehicles and depriving the people of the State of California of  
19 the protection afforded by the Motor Vehicle Inspection Program.

20 **MATTERS IN AGGRAVATION**

21 60. To determine the degree of discipline, if any, to be imposed, Complainant alleges as  
22 follows:

23 61. On or about January 23, 2014, the Bureau issued Citation No. C2014-0483 against  
24 Respondent Romani for violating Health & Safety Code section 44012 (failure to follow smog  
25 check procedures prescribed by the Department of Consumer Affairs). On or about December 20,  
26 2013, Respondent Romani issued a certificate of compliance for a Bureau undercover vehicle  
27 with a defective, disconnected, and modified, evaporative emissions (EVAP) system. Respondent  
28 complied with the citation on or about March 27, 2014.






1           9.    Revoking or suspending any additional license issued under Chapter 5 of Part 5 of  
2 Division 26 of the Health & Safety Code in the name of Tonia Renell Roa;

3           10.   Ordering Respondents, and each of them, to pay the Bureau of Automotive Repair the  
4 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
5 Professions Code section 125.3; and,

6           11.   Taking such other and further action as deemed necessary and proper.

7  
8 DATED: August 30, 2018

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

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