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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. 79/21-13046

13 **ALFREDO GARCIA, DBA 1 STOP SMOG**
14 **CHECK**
15 **3318 Venice Blvd., Los Angeles, CA 90019**

ACCUSATION

16 **Automotive Repair Dealer Registration No.**
17 **ARD 295100**
18 **Smog Check, Test Only, Station License No.**
19 **TC 295100**

20 **And**

21 **JOSEPH TOMMY DIAZ III**
22 **4427 W. 135th St. Apt. #4, Hawthorne, CA**
23 **90250**

24 **Smog Check Inspector License No. EO**
25 **641322**

26 Respondents.

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1 **PARTIES**

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

4 2. On or about August 9, 2019, the Bureau of Automotive Repair issued Automotive
5 Repair Dealer Registration Number ARD 295100 to Alfredo Garcia dba 1 Stop Smog Check
6 (Respondent 1 Stop Smog Check). The Automotive Repair Dealer Registration was in full force
7 and effect at all times relevant to the charges brought herein and will expire on August 31, 2022,
8 unless renewed.

9 3. On or about October 7, 2019, the Bureau of Automotive Repair issued Smog Check,
10 Test Only, Station License Number TC 295100 to Respondent 1 Stop Smog Check. The Smog
11 Check, Test Only, Station License was in full force and effect at all times relevant to the charges
12 brought herein and will expire on August 31, 2022, unless renewed.

13 4. On or about August 16, 2018, the Bureau of Automotive Repair issued Smog Check
14 Inspector License Number EO 641322 to Joseph Tommy Diaz III (Respondent Diaz). The Smog
15 Check Inspector License was in full force and effect at all times relevant to the charges brought
16 herein and will expire on August 31, 2022, unless renewed.

17 **JURISDICTION**

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

20 6. Section 118, subdivision (b), of the Code provides that the suspension, expiration,
21 surrender, cancellation of a license shall not deprive the Director of jurisdiction to proceed with a
22 disciplinary action during the period within which the license may be renewed, restored, reissued
23 or reinstated.

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

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1 testing using onboard diagnostic systems, in lieu of loaded mode dynamometer or
2 two-speed idle testing, on model year 2000 and newer vehicles only, beginning no
3 earlier than January 1, 2013. However, the department, in consultation with the state
4 board, may prescribe alternative test procedures that include loaded mode
5 dynamometer or two-speed idle testing for vehicles with onboard diagnostic systems
6 that the department and the state board determine exhibit operational problems. The
7 department shall ensure, as appropriate to the test method, the following:

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

11 (b) Motor vehicles are preconditioned to ensure representative and stabilized
12 operation of the vehicle's emission control system.

13 (c) For other than diesel-powered vehicles, the vehicle's exhaust emissions of
14 hydrocarbons, carbon monoxide, carbon dioxide, and oxides of nitrogen in an idle
15 mode or loaded mode are tested in accordance with procedures prescribed by the
16 department. In determining how loaded mode and evaporative emissions testing shall
17 be conducted, the department shall ensure that the emission reduction targets for the
18 enhanced program are met.

19 (d) For other than diesel-powered vehicles, the vehicle's fuel evaporative
20 system and crankcase ventilation system are tested to reduce any nonexhaust sources
21 of volatile organic compound emissions, in accordance with procedures prescribed by
22 the department.

23 (e) For diesel-powered vehicles, a visual inspection is made of emission control
24 devices and the vehicle's exhaust emissions are tested in accordance with procedures
25 prescribed by the department, that may include, but are not limited to, onboard
26 diagnostic testing. The test may include testing of emissions of any or all of the
27 pollutants specified in subdivision (c) and, upon the adoption of applicable standards,
28 measurement of emissions of smoke or particulates, or both.

(f) A visual or functional check is made of emission control devices specified
by the department, including the catalytic converter in those instances in which the
department determines it to be necessary to meet the findings of Section 44001. The
visual or functional check shall be performed in accordance with procedures
prescribed by the department.

(g) A determination as to whether the motor vehicle complies with the
emission standards for that vehicle's class and model-year as prescribed by the
department.

(h) An analysis of pass and fail rates of vehicles subject to an onboard
diagnostic test and a tailpipe test to assess whether any vehicles passing their onboard
diagnostic test have, or would have, failed a tailpipe test, and whether any vehicles
failing their onboard diagnostic test have or would have passed a tailpipe test.

(i) The test procedures may authorize smog check stations to refuse the testing
of a vehicle that would be unsafe to test, or that cannot physically be inspected, as
specified by the department by regulation. The refusal to test a vehicle for those
reasons shall not excuse or exempt the vehicle from compliance with all applicable
requirements of this chapter.

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1 13. Section 44015 of the Health and Safety Code states:

2 (a) A licensed smog check station shall not issue a certificate of compliance,
3 except as authorized by this chapter, to any vehicle that meets the following criteria:

4 (1) A vehicle that has been tampered with.

5 (2) A vehicle that, prior to repairs, has been initially identified by the smog
6 check station as a gross polluter. Certification of a gross polluting vehicle shall be
7 conducted by a designated test-only facility, or a test-and-repair station that is both
8 licensed and certified pursuant to Sections 44014 and 44014.2 and is participating in
9 the pilot program pursuant to subparagraph (B) of paragraph (2) of subdivision (g) of
10 Section 44014.5.

11 (3) A vehicle described in subdivision (c).

12 (b) If a vehicle meets the requirements of Section 44012, a smog check station
13 licensed to issue certificates shall issue a certificate of compliance or a certificate of
14 noncompliance.

15 (c)(1) A repair cost waiver shall be issued, upon request of the vehicle owner,
16 by an entity authorized to perform referee functions for a vehicle that has been
17 properly tested but does not meet the applicable emission standards when it is
18 determined that no adjustment or repair can be made that will reduce emissions from
19 the inspected motor vehicle without exceeding the applicable repair cost limit
20 established under Section 44017 and that every defect specified by paragraph (2) of
21 subdivision (a) of Section 43204, and by paragraphs (2) and (3) of subdivision (a) of
22 Section 43205, has been corrected. A repair cost waiver issued pursuant to this
23 paragraph shall be accepted in lieu of a certificate of compliance for the purposes of
24 compliance with Section 4000.3 of the Vehicle Code. No repair cost waiver shall
25 exceed two years' duration. No repair cost waiver shall be issued until the vehicle
26 owner has expended an amount equal to the applicable repair cost limit specified in
27 Section 44017.

28 (2) An economic hardship extension shall be issued, upon request of a
qualified low-income motor vehicle owner, by an entity authorized to perform referee
functions, for a motor vehicle that has been properly tested but does not meet the
applicable emission standards when it is determined that no adjustment or repair can
be made that will reduce emissions from the inspected motor vehicle without
exceeding the applicable repair cost limit, as established pursuant to Section 44017.1,
that every defect specified in paragraph (2) of subdivision (a) of Section 43204, and
in paragraphs (2) and (3) of subdivision (a) of Section 43205, has been corrected, that
the low-income vehicle owner would suffer an economic hardship if the extension is
not issued, and that all appropriate emissions-related repairs up to the amount of the
applicable repair cost limit in Section 44017.1 have been performed.

(d) No repair cost waiver or economic hardship extension shall be issued under
any of the following circumstances:

(1) If a motor vehicle was issued a repair cost waiver or economic hardship
extension in the previous biennial inspection of that vehicle. A repair cost waiver or
economic hardship extension may be issued to a motor vehicle owner only once for a
particular motor vehicle belonging to that owner. However, a repair cost waiver or
economic hardship extension may be issued for a motor vehicle that participated in a
previous waiver or extension program prior to January 1, 1998, as determined by the

1 department. For waivers or extensions issued in the program operative on or after
2 January 1, 1998, a waiver or extension may be issued for a motor vehicle only once
3 per owner.

4 (2) Upon initial registration of all of the following:

5 (A) A direct import motor vehicle.

6 (B) A motor vehicle previously registered outside this state.

7 (C) A dismantled motor vehicle pursuant to Section 11519 of the Vehicle Code.

8 (D) A motor vehicle that has had an engine change.

9 (E) An alternate fuel vehicle.

10 (F) A specially constructed vehicle.

11 (e) Except as provided in subdivision (f), a certificate of compliance or
12 noncompliance shall be valid for 90 days.

13 (f) Except as provided in Sections 4000.1, 24007, 24007.5, and 24007.6 of the
14 Vehicle Code, a licensed motor vehicle dealer shall be responsible for having a smog
15 check inspection performed on, and a certificate of compliance or noncompliance
16 issued for, every motor vehicle offered for retail sale. A certificate issued to a
17 licensed motor vehicle dealer shall be valid for a two-year period, or until the vehicle
18 is sold and registered to a retail buyer, whichever occurs first.

19 (g) A test may be made at any time within 90 days prior to the date otherwise
20 required.

21 14. Section 44059 of the Health and Safety Code states:

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

27 15. Section 44072.10 of the Health and Safety Code subdivision (c) states:

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

(1) Clean piping, as defined by the department

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

(3) Tampering with a vehicle in a matter that would cause the vehicle to
falsely pass or falsely fail an inspection

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

1 16. Section 44072.2 of the Health and Safety Code states, in pertinent part:

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

4 (a) Violates any section of this chapter [the Motor Vehicle Inspection Program
5 (Health and Safety Code, section 44000, et seq.)] and the regulations adopted
pursuant to it, which related to the licensed activities.¹

6 . . .

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

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

10 **REGULATORY PROVISIONS**

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

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

14 (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
15 Safety Code, and section 3340.42 of this article.

16 (b) A licensed technician shall maintain on file with the bureau a correct
mailing address pursuant to section 3303.3 of Article 1 of this Chapter.

17 (c) A licensed technician shall notify the bureau in writing within two weeks of
18 any change of employment.

19 (d) A licensed technician whose license has expired shall immediately cease to
inspect, test, or repair failed vehicles.

20 18. California Code of Regulations, title 16, section 3340.35, states:

21 (a) A licensed station shall purchase certificates of compliance and
22 noncompliance from the bureau or an authorized agent of the bureau only, and under
the following terms and conditions:

23 (1) A certificate of compliance or noncompliance shall be purchased by a
24 licensed station for a fee determined pursuant to section 3340.35.1 of these
regulations; and

25 (2) Full payment is required at the time the certificates are ordered.

26 (b) A licensed station shall not sell or otherwise transfer unused certificates to
27 another licensed station, to a new owner of the business, or to any person other than a

28 ¹ "Clean Piping," for the purposes of Health and Safety Code section 44072.10(c)(1), means the use of a sample of
the exhaust emissions of one vehicle in order to cause the EIS to issue a certificate of compliance for another vehicle.

1 customer whose vehicle has been inspected in accordance with the procedures
specified in section 3340.42 of this article.

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

5 (1) Customers shall be charged the same price for certificates as that paid by
6 the licensed station; and

7 (2) Sales tax shall not be assessed on the price of certificates.

8 (d) No person shall sell, issue, cause or permit to be issued any certificate
9 purported to be a valid certificate of compliance or noncompliance unless duly
licensed to do so.

10 (e) A repair cost waiver or an economic hardship extension shall be the same
fee as a certificate of compliance or noncompliance.

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

12 (a) A licensed station shall give a copy of the test report printed from the
13 emissions inspection system to the customer. The report shall be attached to the
customer's invoice.

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

16 (c) No person shall enter into the emissions inspection system any vehicle
17 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
18 emissions inspection system any false information about the vehicle being tested.

19 (d) The specifications and procedures required by Section 44016 of the Health
and Safety Code shall be the vehicle manufacturer's recommended procedures for
20 emission problem diagnosis and repair or the emission diagnosis and repair
procedures found in industry-standard reference manuals and periodicals published
21 by nationally recognized repair information providers. Smog check stations and smog
check technicians shall, at a minimum, follow the applicable specifications and
22 procedures when diagnosing defects or performing repairs for vehicles that fail a
smog check test.

23 (e) A smog check station shall not perform an initial test, except for an official
24 pre-test, on or issue a certificate of compliance to any vehicle that has been directed
to a test-only station for its biennial smog check pursuant to Sections 44010.5 or
44014.7 of the Health and Safety Code, unless the station is licensed as a test-only
25 station pursuant to subdivision (b) of Section 44014 of the Health and Safety Code.
The reinspection and certification of a test-only directed vehicle that has failed an
26 initial test at a test-only station and has undergone subsequent repairs to correct the
cause of the failure, may be performed by a test-only station, or by a test-and- repair
27 station that performs those repairs and that is also certified as a Gold Shield station
pursuant to Section 44014.2 of the Health and Safety Code and Article 10
28 (commencing with section 3392.1) of this chapter.

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

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

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

6 (1) A loaded-mode test shall be the test method used to inspect 1976 - 1999
7 model-year vehicle, except diesel-powered, registered in the enhanced program areas
8 of the state. The loaded-mode test shall measure hydrocarbon, carbon monoxide,
9 carbon dioxide and oxides of nitrogen emissions, as contained in the bureau's
10 specifications referenced in subsection (a) of Section 3340.17 of this article. The
11 loaded-mode test shall use Acceleration Simulation Mode (ASM) test equipment,
12 including a chassis dynamometer, certified by the bureau.

13 On and after March 31, 2010, exhaust emissions from a vehicle subject to this
14 inspection shall be measured and compared to the emissions standards shown in the
15 Vehicle Look-up Table (VLT) Row Specific Emissions Standards (Cutpoints) Table,
16 dated March 2010, which is hereby incorporated by reference. If the emissions
17 standards for a specific vehicle are not included in this table then the exhaust
18 emissions shall be compared to the emissions standards set forth in TABLE I or
19 TABLE II, as applicable. A vehicle passes the loaded-mode test if all of its measured
20 emissions are less than or equal to the applicable emission standards specified in the
21 applicable table.

22 (2) A two-speed idle mode test shall be the test method used to inspect 1976 -
23 1999 model-year vehicles, except diesel-powered, registered in all program areas of
24 the state, except in those areas of the state where the enhanced program has been
25 implemented. The two-speed idle mode test shall measure hydrocarbon, carbon
26 monoxide and carbon dioxide emissions at high RPM and again at idle RPM, as
27 contained in the bureau's specifications referenced in subsection (a) of Section
28 3340.17 of this article. Exhaust emissions from a vehicle subject to this inspection
shall be measured and compared to the emission standards set forth in this section and
as shown in TABLE III. A vehicle passes the two-speed idle mode test if all of its
measured emissions are less than or equal to the applicable emissions standards
specified in Table III.

(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.

(c) The bureau may require any combination of the inspection methods in
sections (a) and (b) under any of the following circumstances:

1 (1) Vehicles that the department randomly selects pursuant to Health and Safety
2 Code section 44014.7 as a means of identifying potential operational problems with
3 vehicle OBD systems.

4 (2) Vehicles identified by the bureau as being operationally or physically
5 incompatible with inspection equipment.

6 (3) Vehicles with OBD systems that have demonstrated operational problems.

7 (d) Pursuant to section 39032.5 of the Health and Safety Code, gross polluter
8 standards are as follows:

9 (1) A gross polluter means a vehicle with excess hydrocarbon, carbon
10 monoxide, or oxides of nitrogen emissions pursuant to the gross polluter emissions
11 standards included in the tables described in subsection (a), as applicable.

12 (2) Vehicles with emission levels exceeding the emission standards for gross
13 polluters during an initial inspection will be considered gross polluters and the
14 provisions pertaining to gross polluting vehicles will apply, including, but not limited
15 to, sections 44014.5, 44015, and 44081 of the Health and Safety Code.

16 (3) A gross polluting vehicle shall not be passed or issued a certificate of
17 compliance until the vehicle's emissions are reduced to or below the applicable
18 emissions standards for the vehicle included in the tables described in subsection (a),
19 as applicable. However, the provisions described in section 44017 of the Health and
20 Safety Code may apply.

21 (4) This subsection applies in all program areas statewide to vehicles requiring
22 inspection pursuant to sections 44005 and 44011 of the Health and Safety Code.

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

24 No automotive repair dealer or individual in charge shall, in filling out an
25 estimate, invoice, or work order, or record required to be maintained by section
26 3340.15(f) of this chapter, withhold therefrom or insert therein any statement or
27 information which will cause any such document to be false or misleading, or where
28 the tendency or effect thereby would be to mislead or deceive customers, prospective
customers, or the public.

COST RECOVERY

22 22. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
23 administrative law judge to direct a licensee found to have committed a violation or violations of
24 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
25 enforcement of the case, with failure of the licensee to comply subjecting the license to not being
26 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
27 included in a stipulated settlement.

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FACTUAL ALLEGATIONS

23. On or about October 5, 2021, bureau representatives conducted video surveillance of Respondent Diaz performing Smog Check inspections throughout the day at Respondent 1 Stop Smog Check. Bureau data shows that the license of Respondent Diaz was used to perform BAR97 inspections without the vehicles being present at Respondent 1 Stop Smog Check. Eight (8) of these vehicles were fraudulently issued Smog Check Certificates of Compliance by Respondent 1 Stop Smog Check via the clean piping method. The following Table 1 illustrates the clean piping activities of Respondents 1 Stop Smog Check and Diaz on October 5, 2021:

TABLE 1

	Test Time	Vehicle Certified	Vehicle Actually Tested	Certificate	Details
1	1331-1347 Hours	1993 BMW 3-Series VIN# WBACA5314PFG07540, license# 8BLB718	Nissan Sedan	IN253797C	1993 BMW 3-Series VIN# WBACA5314PFG07540, license# 8BLB718 was not in the test bay during the time it was certified.
2	1351-1407 Hours	1989 Toyota Pickup VIN# JT4VN93DXK0002108, license# 8W79302	Nissan Sedan	IN253798C	1989 Toyota Pickup VIN# JT4VN93DXK0002108, license# 8W79302 was not in the test bay during the time it was certified.
3	1409-1421 Hours	1999 Chevrolet K2500 Suburban VIN# 3GNGK26J0XG242403, license# 4HDJ587	Nissan Sedan	IN253799C	1999 Chevrolet K2500 Suburban VIN# 3GNGK26J0XG242403, license# 4HDJ587 was not in the test bay during the time it was certified.
4	1424-1438 Hours	1999 BMW 3-Series VIN# WBAAM5336XFR01227, license# 5CHN072	Nissan Sedan	IN253800C	1999 BMW 3-Series VIN# WBAAM5336XFR01227, license# 5CHN072 was not in the test bay during the time it was certified.
5	1618-1632 Hours	1982 Toyota Tercel VIN# JT2AL21E8C3388396, license# 3TSD992	Nissan Sedan	SI111302C	1982 Toyota Tercel VIN# JT2AL21E8C3388396, license# 3TSD992 was not in the test bay during the time it was certified.

6	1636-1646 Hours	1998 Oldsmobile Eighty Eight VIN# 1G3HN52KXW4853118, license# 6VDX719	Nissan Sedan	SI111303C	1998 Oldsmobile Eighty Eight VIN# 1G3HN52KXW4853118, license# 6VDX719 was not in the test bay during the time it was certified.
7	1648-1702 Hours	1991 Honda Civic VIN# JHMED3655MS036323, license# 6UDK631	Nissan Sedan	SI111304C	1991 Honda Civic VIN# JHMED3655MS036323, license# 6UDK631 was not in the test bay during the time it was certified.
8	1705-1720 Hours	1997 Toyota Camry VIN# JT2BG22K5V0007606 license# 3TOV760	Nissan Sedan	SI111305C	1997 Toyota Camry VIN# JT2BG22K5V0007606 license# 3TOV760 was not in the test bay during the time it was certified.

FIRST CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

24. Respondent 1 Stop Smog Check's Automotive Repair Dealer Registration is subject to discipline pursuant to Code section 9884.7, subdivision (a)(1), in that on or about October 5, 2021, Respondent 1 Stop Smog Check made or authorized statements which it knew or in the exercise of reasonable care should have known to be untrue or misleading, as follows: Respondent 1 Stop Smog Check certified that vehicles 1 through 8, set forth above in Table 1, had been inspected and were completed consistent with all laws and regulations. In fact, Respondent 1 Stop Smog Check conducted the inspections on the vehicles using the clean piping method by substituting or using different vehicles in order to issue smog certificates of compliance for the eight (8) vehicles, and did not test or inspect the eight (8) vehicles as required by Health and Safety Code section 44012.

SECOND CAUSE FOR DISCIPLINE

(Fraud)

25. Respondent 1 Stop Smog Check's Automotive Repair Dealer Registration is subject to discipline pursuant to Code section 9884.7, subdivision (a)(4), in that on or about October 5, 2021, Respondent 1 Stop Smog Check committed acts which constitute fraud by issuing electronic certificates of compliance for vehicles 1 through 8, set forth above in Table 1, without performing bona fide inspections of the emission control devices and systems on those vehicles,

1 thereby depriving the People of the State of California of the protection afforded by the Motor
2 Vehicle Inspection Program.

3 **THIRD CAUSE FOR DISCIPLINE**

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

5 26. Respondent 1 Stop Smog Check's Smog Check, Test Only, Station License is subject
6 to discipline pursuant to Health and Safety Code section 44072.2, subdivision (a), in that on or
7 about October 5, 2021, regarding vehicles 1 through 8, set forth above in Table 1, Respondent 1
8 Stop Smog Check failed to comply with the following sections of that Code:

9 a. **Section 44012:** Respondent 1 Stop Smog Check failed to ensure that the emission
10 control tests were performed on vehicles 1 through 8, in accordance with procedures prescribed
11 by the department.

12 b. **Section 44015:** Respondent 1 Stop Smog Check issued electronic smog certificates of
13 compliance for eight (8) vehicles, set forth above in Table 1, without ensuring that the vehicles
14 were properly tested and inspected to determine if they were in compliance with Health and
15 Safety Code section 44012.

16 c. **Section 44059:** Respondent 1 Stop Smog Check willfully made false entries for the
17 electronic smog certificates of compliance by certifying that those vehicles had been inspected as
18 required when, in fact, they had not.

19 **FOURTH CAUSE FOR DISCIPLINE**

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

21 27. Respondent 1 Stop Smog Check's Smog Check, Test Only, License is subject to
22 discipline pursuant to Health and Safety Code section 44072.2, subdivision (c), in that on or about
23 October 5, 2021, regarding vehicles 1 through 8, set forth above in Table 1, Respondent 1 Stop
24 Smog Check failed to comply with provisions of California Code of Regulations, title 16, as
25 follows:

26 a. **Section 3340.24, subdivision (c):** Respondent 1 Stop Smog Check falsely or
27 fraudulently issued electronic smog certificates of compliance for those eight (8) vehicles without
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1 performing bona fide inspections of the emission control devices and systems on the vehicles as
2 required by Health and Safety Code section 44012.

3 b. **Section 3340.35, subdivision (c)**: Respondent 1 Stop Smog Check issued electronic
4 smog certificates of compliance even though those eight (8) vehicles had not been inspected in
5 accordance with section 3340.42 of that Code.

6 c. **Section 3340.42**: Respondent 1 Stop Smog Check failed to conduct the required smog
7 tests and inspections on those vehicles in accordance with the Bureau's specifications.

8 **FIFTH CAUSE FOR DISCIPLINE**

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

10 28. Respondent 1 Stop Smog Check's Smog Check, Test Only, Station License is subject
11 to discipline pursuant to Health and Safety Code sections 44072.2, subdivision (d) and 44072.10,
12 subdivision (c), in that on or about October 5, 2021, regarding vehicles 1 through 8, set forth
13 above in Table 1, Respondent 1 Stop Smog Check committed acts involving dishonesty, fraud or
14 deceit whereby another was injured by issuing electronic smog certificates of compliance for
15 those eight (8) vehicles without performing bona fide inspections of the emission control devices
16 and systems on the vehicles, thereby depriving the People of the State of California of the
17 protection afforded by the Motor Vehicle Inspection Program.

18 **SIXTH CAUSE FOR DISCIPLINE**

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

20 29. Respondent Diaz's inspector license is subject to discipline pursuant to Health and
21 Safety Code section 44072.2, subdivision (a), in that on or about October 5, 2021, regarding
22 vehicles 1 through 8, set forth above in Table 1, he failed to comply with section 44012 of that
23 Code in a material respect, as follows: Respondent Diaz failed to perform the emission control
24 tests on those vehicles in accordance with procedures prescribed by the department.

25 **SEVENTH CAUSE FOR DISCIPLINE**

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

27 30. Respondent Diaz's inspector license is subject to discipline pursuant to Health and
28 Safety Code section 44072.2, subdivision (c), in that on or about October 5, 2021, regarding

1 vehicles 1 through 8, set forth above in Table 1, he failed to comply with provisions of California
2 Code of Regulations, title 16, as follows:

3 a. **Section 3340.24, subdivision (c)**: Respondent Diaz falsely or fraudulently issued
4 electronic smog certificates of compliance without performing bona fide inspections of the
5 emission control devices and systems on those eight (8) vehicles as required by Health and Safety
6 Code section 44012.

7 b. **Section 3340.30 subdivision (a)**: Respondent Diaz failed to inspect and test those
8 vehicles in accordance with Health and Safety Code sections 44012.

9 c. **Section 3340.42**: Respondent Diaz failed to conduct the required smog tests and
10 inspections on those vehicles in accordance with the Bureau's specifications.

11 **EIGHTH CAUSE FOR DISCIPLINE**

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

13 31. Respondent Diaz's inspector license is subject to discipline pursuant to Health and
14 Safety Code sections 44072.2, subdivision (d) and 44072.10, subdivision (c), in that on or about
15 October 5, 2021, regarding vehicles 1 through 8, set forth above in Table 1, he committed acts
16 involving dishonesty, fraud or deceit whereby another was injured by issuing electronic smog
17 certificates of compliance without performing bona fide inspections of the emission control
18 devices and systems on those eight (8) vehicles, thereby depriving the People of the State of
19 California of the protection afforded by the Motor Vehicle Inspection Program.

20 **OTHER MATTERS**

21 32. Pursuant to Code section 9884.7, subdivision (c), the director may suspend, revoke,
22 or place on probation the registrations for all places of business operated in this state by Alfredo
23 Garcia, upon a finding that he has, or is, engaged in a course of repeated and willful violation of
24 the laws and regulations pertaining to an automotive repair dealer.

25 33. Pursuant to Health and Safety Code section 44072.8, if Smog Check, Test Only,
26 Station License Number TC 295100, issued to Alfredo Garcia, is revoked or suspended, any
27 additional license issued under this Chapter 5 of Part 5 of Division 26 of the Health and Safety
28 Code in the name of said licensee may be likewise revoked or suspended by the director.

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8. Taking such other and further action as deemed necessary and proper.

DATED: As of Digital Signature Date

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

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