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

12 In the Matter of the Accusation Against:

Case No. **79/24-16055**

13 **NORMAN MIGUEL MEJIA AVILA dba**
14 **CLEAN AIR SMOG**
15 **23910 Alessandro Blvd Suite B**
Moreno Valley, CA 92553

ACCUSATION

16 **Automotive Repair Dealer No. ARD 288638**
17 **Smog Check, Test-Only License No. TC**
288638,

18 **NORMAN MIGUEL MEJIA AVILA**
19 **1877 Triste Ct**
Riverside, CA 92501

20 **Smog Check Inspector License No. EO**
21 **641445,**

22 Respondent.
23

24 **PARTIES**

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

27 2. On or about October 2, 2017, Bureau of Automotive Repair issued Automotive
28 Repair Dealer Number ARD 288638 to Norman Miguel Mejia Avila; dba Clean Air Smog

1 (Respondent). The Automotive Repair Dealer was in full force and effect at all times relevant to
2 the charges brought herein and will expire on October 31, 2025, unless renewed.

3 3. On or about October 19, 2017, Bureau of Automotive Repair issued Smog Check,
4 Test-Only License Number TC 288638 to Norman Miguel Mejia Avila; dba Clean Air Smog
5 (Respondent). The Smog Check, Test-Only License was in full force and effect at all times
6 relevant to the charges brought herein and will expire on October 31, 2025, unless renewed.

7 4. Respondent is also certified as a STAR Station. The certification was issued on
8 January 30, 2018, and will remain active unless the ARD registration and/or Smog Check Station
9 license is revoked, canceled, licenses become delinquent, or the certification is invalidated.

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

14 **JURISDICTION**

15 6. This Accusation is brought before the Director of the Department of Consumer
16 Affairs (“Director”) for the Bureau, under the authority of the following laws.

17 7. Section 9884.7 of the Business and Professions Code¹ provides that the Director may
18 revoke an ARD registration.

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

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

26
27
28 ¹ All statutory references herein shall be to the Business and Professions Code unless
specifically stated otherwise.

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

STATUTORY PROVISIONS

11. Section 9884.7 of the Code states:

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

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

• • •

(4) Any other conduct which constitutes fraud.

• • •

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

12. Section 44072.2 of the Health and Safety Code states:

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

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

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

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

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

...

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

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

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

REGULATORY PROVISIONS

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

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.

15. 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. . . .”

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

....

(c) 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. . . .

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

COST RECOVERY

18. Section 125.3 of the Code provides, in pertinent part, that the 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, with failure of the licensee to comply subjecting the license to not being

renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

VID DATA REVIEW

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

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

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

- Engine speed in revolutions per minute (RPM)

- Throttle position as measured by a throttle position sensor (TPS) mounted onto the throttle shaft. Measured in a percentage of opening from 0% at idle and near or up to 100% at full throttle.
- Manifold absolute pressure as measured by a manifold air pressure sensor (MAP) connected to an intake manifold source, measured in kilo pascals (kpa). Typical readings for a normally aspirated vehicle as follows: 0 kpa being absolute vacuum, 25kpa to 45kpa at idle, 101 kpa at full throttle, same as atmospheric pressure at sea level.
- Mass air flow as measured by a mass air flow sensor (MAF) mounted in the engine's air intake tract. Measured in grams per second (gps).²
- Ignition timing is set by the vehicle PCM based on engine speed and load, and is measured in degrees Before Top Dead Center (BTDC).

22. During normal engine operation at idle, engine speed is relatively steady around its target idle speed. With the engine idling, the TPS is steady and at or near 0%. The MAP and/or MAF readings are also steady. For the engine speed to increase, the throttle would have to be opened to increase airflow through the engine. The engine's management systems supply fuel and spark timing appropriate to any changes in throttle position and engine speed. An increase in throttle, measured by the TPS, which increases engine RPM, would result in corresponding increases in MAF as well as a change in MAP. Stated another way, any movement in the throttle from the idle position will result in an increase of airflow through the engine with corresponding increases RPM and/or MAF along with changes in MAP.

23. During an OIS Smog Check inspection, along with other visual and functional inspections, there is an OBD II query portion of the inspection. The OBD II query is performed with the engine idling and, when requested by the OIS analyzer, and an elevated or increased engine speed.

² Not all vehicles include both MAP and MAF parameters. Many vehicles will have either MAP or MAF parameters separately.

1 24. If the vehicle passes the visual, functional and tailpipe tests, it passes the overall
2 inspection, and a Certificate of Compliance is issued and transmitted electronically to the Vehicle
3 Information Database (“VID”). These Certificates of Compliance are purchased in blocks of fifty
4 (50) through the EIS or OIS from the VID, using a pre-arranged electronic bank account debit
5 system or by check, via mail, from Bureau Headquarters in Sacramento. Each Certificate of
6 Compliance has a unique control number so that it can be tracked to determine which Smog
7 Check Station purchased the Certificate of Compliance and to which vehicle it was issued.

8 25. The VID contains registration data from Department of Motor Vehicles (“DMV”)
9 plus emission standards, vehicle smog check inspections, smog check stations and technicians,
10 and Certificates of Compliance. The VID receives the passing smog check results immediately
11 following the inspection. During the vehicle registration process, the DMV accesses the VID to
12 verify that the vehicle has been tested and certified. The Bureau can also access the VID to view
13 test data on smog check inspections performed at any Smog Check Station, or search for, retrieve,
14 and print a test record for a particular vehicle which has been tested. The EIS or OIS, depending
15 on the test type, also prints a Vehicle Inspection Report (“VIR”), which is a physical record of the
16 test results and shows the Certificate of Compliance number that was issued if the vehicle passed
17 the smog inspection.

18 26. The smog check technician must sign the VIR under penalty of perjury to indicate
19 that the inspection was done within Bureau guidelines. Smog Check Stations are required by law
20 to maintain a copy of the VIR along with a copy of the repair invoice for three years. The
21 consumer’s VIR serves as a receipt and proof that the VID was updated, and a Certificate of
22 Compliance was issued. Licensed Smog Check Technicians are the only persons authorized by
23 the Bureau to perform official inspections. They are issued a personal access code and a license,
24 which are used to gain access to the EIS and OIS to perform smog check inspections.
25 Unauthorized use of another technician’s access code or license is prohibited.

26 27. Respondents have engaged in numerous acts or omissions constituting violations of
27 the Automotive Repair Act (Business and Professions Code section 9880 *et seq.*) and Motor
28 Vehicle Inspection Program (Health and Safety Code section 44000 *et seq.*) through their practice

of “clean plugging.”³ Respondent’s OIS Test Data available on the State database indicates that Respondents are involved in fraudulent smog inspection activities. A Bureau representative initiated an investigation based on information transmitted to the VID for smog check inspections performed by Respondents. The investigation revealed that the data related to certain vehicles certified by Respondents contained a pattern of unmistakable discrepancies between the information transmitted during the inspections and documented information known about the vehicles at issue. Specifically, the representative compared the data received from the certified vehicles to data from vehicles of the same year, make, and model and determined that the data from at least ten (10) of the certified vehicles were fraudulently tested by Respondents during the smog inspection using the “clean plugging” method as follows:

Fraudulent Inspection #1

28. Bureau program representative Steve Koch (Koch) reviewed the OIS Test Data for Clean Air Smog. The review indicates on December 14, 2023, a 2003 Mercedes Benz S 500, CA license 7UUK329, VIN WDBNG75J03A346302 (2003 S500), was tested and smog certificate # IX965323C was issued under licensed Smog Check Technician #EO641445, Mejia Avila.

29. The Dynamic data and PID Charts for the 2003 S500 shows between time stamp 983 and 29973 engine speed is steady at approximately 550 RPM. During this time the throttle is fixed at 2% opening, the MAF is fixed at 3.05 gps, the MAP is fixed at 30 kPa and the ignition timing advance for #1 cylinder is fixed at -12 degrees BTDC. After time stamp 29973 the engine speed increases to approximately 1500 RPM. From the time the engine RPM increases off idle to the higher RPMs, the throttle is fixed at the same 2% opening, the MAF is fixed at the same 3.05 gps, the MAP is fixed at the same 30 kPa, and the ignition timing advance for #1 cylinder is fixed at the same -12 degrees BTDC.

30. During the period the dynamic data was collected, the only parameter that changed was engine RPM. The throttle position, MAF, MAP and ignition timing advance readings

³ “Clean plugging” refers to the use of another vehicle’s properly functioning On Board Diagnostic, generation II, (OBD II) system, or another source, to generate passing diagnostic readings for the purpose of issuing fraudulent smog Certificates of Compliance to vehicles that are not in smog compliance and/or not present for testing.

1 remained unchanged even though the engine speed was increased. These readings are not
2 characteristic or expected for normal engine operation. The discrepancies in the OIS Test Data
3 prove the DAD was not connected to the 2003 S500 being certified, causing the issuance of a
4 fraudulent Smog Certificate of Compliance.

5 **Previous Failing Test: 2003 S500**

6 31. A previous failing test was performed on the 2003 S500 at another station on March
7 3, 2023. The 2003 S500 failed the test for incomplete OBDII readiness monitors. The Dynamic
8 OBDII PID data collected during the test shows the expected change in the throttle, MAF, MAP,
9 and ignition timing advance parameters as characteristic or expected for normal engine operation.

10 **Fraudulent Inspection #2**

11 32. Koch reviewed the OIS Test Data for Clean Air Smog. The review indicates on
12 January 10, 2024, a 2001 Chevrolet Silverado C1500, no plate, VIN 1GCEC19T01Z138053
13 (2001 Silverado), was tested and smog certificate # TQ233767C was issued under licensed Smog
14 Check Technician #EO641445, Mejia Avila.

15 33. The Dynamic data and PID Charts for the 2001 Silverado shows between time stamp
16 433 and 25238 engine speed is steady at approximately 525 RPM. During this time the throttle is
17 fixed at 0% opening, the MAF is fixed at 4.59 gps, the MAP is fixed at 33 kPa and the ignition
18 timing advance for #1 cylinder is fixed at 18.5 degrees BTDC. After time stamp 25238 the engine
19 speed increases to approximately 1625 RPM. From the time the engine RPM increases off idle to
20 the higher RPMs, the throttle is fixed at the same 0% opening, the MAF is fixed at the same 4.59
21 gps, the MAP is fixed at the same 33 kPa, and the ignition timing advance for #1 cylinder is fixed
22 at the same 18.5 degrees BTDC.

23 34. During the period the dynamic data was collected, the only parameter that changed
24 was engine RPM. The throttle position, MAF, MAP and ignition timing advance readings
25 remained unchanged even though the engine speed was increased. These readings are not
26 characteristic or expected for normal engine operation. The discrepancies in the OIS Test Data
27 prove the DAD was not connected to the 2001 Silverado being certified, causing the issuance of a
28 fraudulent Smog Certificate of Compliance.

Fraudulent Inspection #3

35. Koch reviewed the OIS Test Data for Clean Air Smog. The review indicates on January 18, 2024, a 2000 Honda Civic DX, CA license 5URW969, VIN 2HGEJ6340YH104923 (2000 Civic), was tested and smog certificate # TS000724C was issued under licensed Smog Check Technician #EO641445, Mejia Avila.

36. The Dynamic data and PID Charts for the 2000 Civic shows between time stamp 846 and 21438 engine speed is steady at approximately 700 RPM. During this time the throttle is fixed at 9% opening, the MAP is fixed at 27 kPa and the ignition timing advance for #1 cylinder is fixed at 15.5 degrees BTDC. After time stamp 21438 the engine speed increases to approximately 1375 RPM. From the time the engine RPM increases off idle to the higher RPMs, the throttle is fixed at the same 9% opening, the MAP is fixed at the same 27 kPa, and the ignition timing advance for #1 cylinder is fixed at the same 15.5 degrees BTDC.

37. During the period the dynamic data was collected, the only parameter that changed was engine RPM. The throttle position, MAP and ignition timing advance readings remained unchanged even though the engine speed was increased. These readings are not characteristic or expected for normal engine operation. The discrepancies in the OIS Test Data prove the DAD was not connected to the 2000 Civic being certified, causing the issuance of a fraudulent Smog Certificate of Compliance.

Fraudulent Inspection #4

38. Koch reviewed the OIS Test Data for Clean Air Smog. The review indicates on January 19, 2024, a 2002 Mitsubishi Lancer ES, CA license 4VJV004, VIN JA3AJ26E12U047144 (2002 Lancer), was tested and smog certificate # TS000740C was issued under licensed Smog Check Technician #EO641445, Mejia Avila.

39. The Dynamic data and PID Charts for the 2002 Lancer shows between time stamp 867 and 22296 engine speed is steady at approximately 700 RPM. During this time the throttle is fixed at 0% opening, the MAF is fixed at 1.94 gps, and the ignition timing advance for #1 cylinder is fixed at 7 degrees BTDC. After time stamp 22296 the engine speed increases to approximately 1475 RPM. From the time the engine RPM increases off idle to the higher RPMs,

the throttle is fixed at the same 0% opening, the MAF is fixed at the same 1.94 gps, and the ignition timing advance for #1 cylinder is fixed at the same 7 degrees BTDC.

40. During the period the dynamic data was collected, the only parameter that changed was engine RPM. The throttle position, MAF, and ignition timing advance readings remained unchanged even though the engine speed was increased. These readings are not characteristic or expected for normal engine operation. The discrepancies in the OIS Test Data prove the OIS DAD was not connected to the 2002 Lancer being certified, causing the issuance of a fraudulent Smog Certificate of Compliance.

Previous Failing Test: 2002 Lancer

41. A previous failing test was performed on the 2002 Lancer at another station on January 16, 2024. The 2002 Lancer failed the test for incomplete OBDII readiness monitors. The Dynamic OBDII PID data collected during the test shows the expected change in the throttle, MAF, and ignition timing advance parameters as characteristic or expected for normal engine operation.

Fraudulent Inspection #5

42. Koch reviewed the OIS Test Data for Clean Air Smog. The review indicates on January 21, 2024, a 2000 Chevrolet Silverado C1500, CA license 25114E2, VIN 2GCEC19T3Y1162463 (2000 Silverado), was tested and smog certificate # TS091458C was issued under licensed Smog Check Technician #EO641445, Mejia Avila.

43. The Dynamic data and PID Charts for the 2000 Silverado shows between time stamp 330 and 23060 engine speed is steady at approximately 575 RPM. During this time the throttle is fixed at 0% opening, the MAF is fixed at 4.71 gps, the MAP is fixed at 33 kPa and the ignition timing advance for #1 cylinder is fixed at 17.5 degrees BTDC. After time stamp 23060 the engine speed increases to approximately 1400 RPM. From the time the engine RPM increases off idle to the higher RPMs, the throttle is fixed at the same 0% opening, the MAF is fixed at the same 4.71 gps, the MAP is fixed at the same 33 kPa, and the ignition timing advance for #1 cylinder is fixed at the same 17.5 degrees BTDC.

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44. During the period the dynamic data was collected, the only parameter that changed was engine RPM. The throttle position, MAF, MAP and ignition timing advance readings remained unchanged even though the engine speed was increased. These readings are not characteristic or expected for normal engine operation. The discrepancies in the OIS Test Data prove the OIS DAD was not connected to the 2000 Silverado being certified, causing the issuance of a fraudulent Smog Certificate of Compliance.

Fraudulent Inspection #6

45. Koch reviewed the OIS Test Data for Clean Air Smog. The review indicates on May 24, 2024, a 2006 Acura TSX, CA license 8VYX671, VIN JH4CL96916C038969 (2006 TSX), was tested and smog certificate # TY031579C was issued under licensed Smog Check Technician #EO641445, Mejia Avila.

46. The Dynamic data and PID Charts for the 2006 TSX shows between time stamp 864 and 25302 engine speed is steady at approximately 750 RPM. During this time the throttle is fixed at 9.4% opening, the MAP is fixed at 27 kPa and the ignition timing advance for #1 cylinder is fixed at 7 degrees BTDC. After time stamp 25302 the engine speed increases to approximately 2050 RPM. From the time the engine RPM increases off idle to the higher RPMs, the throttle is fixed at the same 9.4% opening, the MAP is fixed at the same 27 kPa, and the ignition timing advance for #1 cylinder is fixed at the same 7 degrees BTDC.

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

Fraudulent Inspection #7

48. Koch reviewed the OIS Test Data for Clean Air Smog. The review indicates on August 7, 2024, a 2002 Chevrolet Tahoe C1500, CA license 4XMZ170, VIN

1 1GNEC13T82R270186 (2002 Tahoe), was tested and smog certificate # UC149184C was issued
2 under licensed Smog Check Technician #EO641445, Mejia Avila.

3 49. The Dynamic data and PID Charts for the 2002 Tahoe shows between time stamp 371
4 and 96436 engine speed is steady at approximately 550 RPM. During this time the throttle is
5 fixed at 5.1% opening, the MAF is fixed at 5.29 gps, the MAP is fixed at 33 kPa and the ignition
6 timing advance for #1 cylinder is fixed at 17 degrees BTDC. After time stamp 96436 the engine
7 speed increases to approximately 1775 RPM. From the time the engine RPM increases off idle to
8 the higher RPMs, the throttle is fixed at the same 5.1% opening, the MAF is fixed at the same
9 5.29 gps, the MAP is fixed at the same 33 kPa, and the ignition timing advance for #1 cylinder is
10 fixed at the same 17 degrees BTDC.

11 50. During the period the dynamic data was collected, the only parameter that changed
12 was engine RPM. The throttle position, MAF, MAP and ignition timing advance readings
13 remained unchanged even though the engine speed was increased. These readings are not
14 characteristic or expected for normal engine operation. The discrepancies in the OIS Test Data
15 prove the OIS DAD was not connected to the 2002 Tahoe being certified, causing the issuance of
16 a fraudulent Smog Certificate of Compliance.

17 **Previous Failing Test: 2002 Tahoe**

18 51. A previous failing test was performed on the 2002 Tahoe at another station on April
19 15, 2024. The 2002 Tahoe failed the test for incomplete OBDII readiness monitors. No dynamic
20 data was collected during the test.

21 **Fraudulent Inspection #8**

22 52. Koch reviewed the OIS Test Data for Clean Air Smog. The review indicates on
23 August 9, 2024, a 2002 Lexus IS 300, CA license 8ASD494, VIN JTHBD192420054314 (2002
24 IS300), was tested and smog certificate # IZ760789C was issued under licensed Smog Check
25 Technician #EO641445, Mejia Avila.

26 53. The Dynamic data and PID Charts for the 2002 IS300 shows between time stamp 864
27 and 22535 engine speed is steady at approximately 675 RPM. During this time the throttle is
28 fixed at 14.5% opening, the MAF is fixed at .51 gps, and the ignition timing advance for #1

1 cylinder is fixed at 5 degrees BTDC. After time stamp 22535 the engine speed increases to
2 approximately 2125 RPM before decreasing to approximately 1850 RPM. From the time the
3 engine RPM increases off idle to the higher RPMs, the throttle is fixed at the same 14.5%
4 opening, the MAF is fixed at the same .51 gps, and the ignition timing advance for #1 cylinder is
5 fixed at the same 5 degrees BTDC.

6 54. During the period the dynamic data was collected, the only parameter that changed
7 was engine RPM. The throttle position, MAF, and ignition timing advance readings remained
8 unchanged even though the engine speed was increased. These readings are not characteristic or
9 expected for normal engine operation. The discrepancies in the OIS Test Data prove the OIS
10 DAD was not connected to the 2002 IS300 being certified, causing the issuance of a fraudulent
11 Smog Certificate of Compliance.

12 **Fraudulent Inspection #9**

13 55. Koch reviewed the OIS Test Data for Clean Air Smog. The review indicates on
14 August 9, 2024, a 2001 Toyota Sienna CE, CA license 4TJW038, VIN 4T3ZF19C41U402058
15 (2001 Sienna), was tested and smog certificate # IZ760790C was issued under licensed Smog
16 Check Technician #EO641445, Mejia Avila

17 56. The Dynamic data and PID Charts for the 2001 Sienna shows between time stamp
18 859 and 23161 engine speed is steady at approximately 675 RPM. During this time the throttle is
19 fixed at 11.8% opening, the MAF is fixed at 3.53 gps, and the ignition timing advance for #1
20 cylinder is fixed at 19.5 degrees BTDC. After time stamp 23161 the engine speed increases to
21 approximately 1700 RPM. From the time the engine RPM increases off idle to the higher RPMs,
22 the throttle is fixed at the same 11.8% opening, the MAF is fixed at the same 3.53 gps, and the
23 ignition timing advance for #1 cylinder is fixed at the same 19.5 degrees BTDC.

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

1 was not connected to the 2001 Sienna being certified, causing the issuance of a fraudulent Smog
2 Certificate of Compliance.

3 **Fraudulent Inspection #10**

4 58. Koch reviewed the OIS Test Data for Clean Air Smog. The review indicates on
5 August 9, 2024, a 2002 Toyota RAV4, CA license 5UUM611, VIN JTEGH20V420062255 (2002
6 RAV4), was tested and smog certificate # IZ760791C was issued under licensed Smog Check
7 Technician #EO641445, Mejia Avila.

8 59. The Dynamic data and PID Charts for the 2002 RAV4 shows between time stamp
9 850 and 23933 engine speed is steady at approximately 800 RPM. During this time the throttle is
10 fixed at 13.3% opening, the MAF is fixed at .45 gps, and the ignition timing advance for #1
11 cylinder is fixed at 5 degrees BTDC. After time stamp 23933 the engine speed increases to
12 approximately 1750 RPM. From the time the engine RPM increases off idle to the higher RPMs,
13 the throttle is fixed at the same 13.3% opening, the MAF is fixed at the same .45 gps, and the
14 ignition timing advance for #1 cylinder is fixed at the same 5 degrees BTDC.

15 60. During the period the dynamic data was collected, the only parameter that changed
16 was engine RPM. The throttle position, MAF, and ignition timing advance readings remained
17 unchanged even though the engine speed was increased. These readings are not characteristic or
18 expected for normal engine operation. The discrepancies in the OIS Test Data prove the DAD
19 was not connected to the 2002 RAV4 being certified, causing the issuance of a fraudulent Smog
20 Certificate of Compliance.

21 **FIRST CAUSE FOR DISCIPLINE**

22 **(Untrue or Misleading Statements - Respondent Clean Air Smog)**

23 61. Respondent Clean Air Smog's registration is subject to disciplinary action pursuant to
24 section 9884.7, subdivision (a)(1), in that Respondents made or authorized statements which they
25 knew or in the exercise of reasonable care should have known to be untrue or misleading, as
26 follows: Respondents certified that the vehicles set forth above in paragraphs 28-60, had passed
27 inspection and were in compliance with applicable laws and regulations. In fact, Respondents
28 conducted the inspections on those vehicles using the clean plugging method in order to issue

smog certificates of compliance, and did not test or inspect the vehicles as required by Health and Safety Code section 44012.

SECOND CAUSE FOR DISCIPLINE

(Fraud - Respondent Clean Air Smog)

62. Respondent Clean Air Smog's registration is subject to disciplinary action pursuant to section 9884.7, subdivision (a)(4), in that Respondent Clean Air Smog's employees committed acts which constitute fraud by issuing electronic certificates of compliance for the vehicles set forth above in paragraphs 28-60, without performing bona fide inspections of the emission control devices and systems on those vehicles, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

THIRD CAUSE FOR DISCIPLINE

(Failure to Comply with the Motor Vehicle Inspection Program – Respondent Clean Air Smog)

63. Respondent Clean Air Smog's smog station license is subject to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (a), in conjunction with Health and Safety Code section 44072.10 subdivision (c), in that regarding the vehicles set forth above in paragraphs 28-60, Respondents failed to comply with the following sections of the Health and Safety Code:

(a) **Section 44012**: Respondent Clean Air Smog's employees failed to ensure that the emission control tests were performed on the vehicles, in accordance with procedures prescribed by the department.

(b) **Section 44015**: Respondent Clean Air Smog's employees issued electronic certificates of compliance for the vehicles, without ensuring that the vehicles were properly tested and inspected to determine if they were in compliance with Health and Safety Code section 44012.

FOURTH CAUSE FOR DISCIPLINE

(Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection Program - Respondent Clean Air Smog)

64. Respondent Clean Air Smog's smog station license is subject to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (c), in that regarding the vehicles set forth above in paragraphs 28-60, Respondents failed to comply with the following provisions of the California Code of Regulations, Title 16, as follows:

(a) **Section 3340.35, subdivision (c)**: Respondent Clean Air Smog's employees issued electronic certificates of compliance even though those vehicles had not been inspected in accordance with section 3340.42, Title 16, of the California Code of Regulations.

(b) **Section 3340.42**: Respondent Clean Air Smog's employees failed to conduct the required smog tests and inspections on those vehicles in accordance with the Bureau's specifications.

FIFTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit - Respondent Clean Air Smog)

65. Respondent Clean Air Smog's smog station license is subject to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (d), in conjunction with Health and Safety Code section 44072.10 subdivision (c), in that regarding the vehicles set forth above in paragraphs 28-60, Respondents employees committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing electronic certificates of compliance for those vehicles without performing bona fide inspections of the emission control devices and systems on the vehicles, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

SIXTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program – Respondent Avila)

66. Respondent Avila's smog check inspector license is subject to discipline pursuant to Health and Safety Code section 44072.2, subdivision (a), in that regarding the vehicles set forth above in paragraphs 28-60, Respondent Avila failed to comply with section 44012 of the Health and Safety Code in a material respect, as follows: Respondent Avila failed to perform the emission control tests on those vehicles in accordance with procedures prescribed by the department.

1 **SEVENTH CAUSE FOR DISCIPLINE**

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

4 67. Respondent Avila's smog check inspector license is subject to discipline pursuant to
5 Health and Safety Code section 44072.2, subdivision (c), in that regarding the vehicles set forth
6 above in paragraphs 28-60, Respondent Avila failed to comply with provisions of the California
7 Code of Regulations, title 16, as follows:

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

10 (b) **Section 3340.41, subdivision (c)**: Respondent Avila entered false information into
11 the EIS.

12 (c) **Section 3340.42**: Respondent Avila failed to conduct the required smog tests and
13 inspections on those vehicles in accordance with the Bureau's specifications.

14 **EIGHTH CAUSE FOR DISCIPLINE**

15 **(Dishonesty, Fraud or Deceit - Respondent Avila)**

16 68. Respondent Avila's smog check inspector license is subject to discipline pursuant to
17 Health and Safety Code section 44072.2, subdivision (d), in conjunction with Health and Safety
18 Code section 44072.10 subdivision (c), in that regarding the vehicles set forth above in
19 paragraphs 28-60, Respondent Avila committed acts involving dishonesty, fraud or deceit
20 whereby another was injured by issuing electronic certificates of compliance for those vehicles
21 without performing bona fide inspections of the emission control devices and systems on the
22 vehicles., thereby depriving the People of the State of California of the protection afforded by the
23 Motor Vehicle Inspection Program.

24 **OTHER MATTERS**

25 69. Pursuant to Business & Professions Code section 9884.7, subdivision (c), the Director
26 may suspend, revoke, or place on probation the registration for all places of business operated in
27 this State by Respondent Clean Air Smog upon a finding that Respondent Clean Air Smog has, or
28

1 is, engaged in a course of repeated and willful violations of the laws and regulations pertaining to
2 an automotive repair dealer.

3 70. Pursuant to Health & Safety Code section 44072.8, if Smog Check, Test Only Station
4 License Number TC 288638 issued to Respondent Clean Air Smog is revoked or suspended
5 following a hearing under this article, any additional license issued under Chapter 5, Part 5,
6 Division 26 in the name of said licensee may be likewise revoked or suspended by the Director.

7 71. Pursuant to Health & Safety Code section 44072.8, if Smog Check Inspector License
8 Number EO 641445, issued to Respondent Avila, is revoked or suspended following a hearing
9 under this article, any additional license issued under Chapter 5, Part 5, Division 26 in the name
10 of said licensee may be likewise revoked or suspended by the Director.

11 **PRAYER**

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

15 1. Revoking or suspending Automotive Repair Dealer Number ARD 288638, issued to
16 Norman Miguel Mejia Avila; dba Clean Air Smog;

17 2. Revoking or suspending any other Automotive Repair Dealer Registration issued to
18 Respondent Norman Miguel Mejia Avila;

19 3. Revoking or suspending Smog Check, Test-Only License Number TC 288638, issued
20 to Norman Miguel Mejia Avila; dba Clean Air Smog;

21 4. Revoking or suspending Smog Check Inspector Number EO 641445, issued to
22 Norman Miguel Mejia Avila;

23 5. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of
24 Division 26 of the Health and Safety Code in the name of Respondent Norman Miguel Mejia
25 Avila;

26 6. Ordering Norman Miguel Mejia Avila to pay the Bureau of Automotive Repair the
27 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
28

Professions Code section 125.3 and if placed on probation, the costs of probation monitoring;
and,

7. 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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