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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. 79/24-22191

13 **DANIEL ALEJANDRO MARTINEZ-**
14 **SALAZAR DBA INLAND EMPIRE SMOG**
15 **CHECK**
16 **13661 Calimesa Blvd. #14**
17 **Yucaipa, CA 92399**

ACCUSATION

18 **Mailing Address:**

19 **PO Box 8626**
20 **Redlands, CA 92375**

21 **Automotive Repair Dealer Registration No.**
22 **ARD 297831**
23 **Smog Check Test Only Station License No.**
24 **TC 297831**

25 **DANIEL ALEXANDRO MARTINEZ-**
26 **SALAZAR**
27 **PO Box 8626**
28 **Redlands, CA 92375**

Smog Check Inspector License No.
EO 643007 Respondents.

PARTIES

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

1 (c) Notwithstanding subdivision (b), the director may suspend, revoke, or place
2 on probation the registration for all places of business operated in this state by an
3 automotive repair dealer upon a finding that the automotive repair dealer has, or is,
4 engaged in a course of repeated and willful violations of this chapter, or regulations
5 adopted pursuant to it.

6

7 (e) For purposes of this section, “fraud” includes, but is not limited to,
8 violations of this chapter involving misrepresentations and all of the following:

9 (1) Any act or omission that is included within the definition of either “actual
10 fraud” or “constructive fraud,” as those terms are defined in Sections 1572 and 1573
11 of the Civil Code.

12 (2) A misrepresentation in any manner, whether intentionally false or due to
13 gross negligence, of a material fact.

14 (3) A promise or representation not made honestly and in good faith.

15 (4) An intentional failure to disclose a material fact.

16 (5) Any act in violation of Section 484 of the Penal Code.

17 14. Health and Safety Code section 44012 provides, in pertinent part, that tests at smog
18 check stations shall be performed in accordance with procedures prescribed by the department.

19 15. Health and Safety Code section 44015, subdivision (b), provides that a certificate of
20 compliance shall be issued if a vehicle meets the requirements of Health and Safety Code section
21 40012.

22 16. Health and Safety Code section 44032 provides that qualified technicians shall
23 perform tests of emissions control devices and systems in accordance with Health and Safety
24 Code section 40012.

25 17. Health and Safety Code section 44072.2 states, in pertinent part:

26 The director may suspend, revoke, or take other disciplinary action against a
27 license as provided in this article if the licensee, or any partner, officer, or director
28 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.

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

2 . . .

3 18. Health and Safety Code section 44072.10 states, in pertinent part:

4 . . .

5 (c) The department shall revoke the license of any smog check technician or
6 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
7 the following:

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

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

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

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

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

16 **REGULATORY PROVISIONS**

17 20. Title 16 of the California Code of Regulations, section 3340.24, subdivision (c),
18 states:

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

21 21. Title 16 of the California Code of Regulations, section 3340.30, subdivision (a), states
22 that a licensed smog technician shall at all times “[i]nspect, test and repair vehicles, as applicable,
23 in accordance with section 44012 of the Health and Safety Code, section 44035 of the Health and
24 Safety Code, and section 3340.42 of this article.”

25 22. Title 16 of the California Code of Regulations, section 3340.35, subdivision (c), states
26 that a licensed smog check station “shall issue a certificate of compliance or noncompliance to the
27 owner or operator of any vehicle that has been inspected in accordance with the procedures
28 specified in section 3340.42 of this article and has all the required emission control

1 equipment and devices installed and functioning correctly.”

2 23. Title 16 of the California Code of Regulations, section 3340.41 states, in pertinent
3 part:

4

5 (b) No person shall enter any access or qualification number other than as
6 authorized by the Bureau into the EIS or OIS, nor in any way tamper with the EIS or
OIS.

7 (c) No person shall enter any vehicle identification information or emission
8 control system identification data for any vehicle other than the one being tested into
the EIS or OIS. Nor shall any person enter into the EIS or OIS any false information
9 about the vehicle being tested

10 24. Title 16 of the California Code of Regulations, section 3340.42, sets forth specific
11 emissions test methods and procedures which apply to all vehicles inspected in the State of
12 California.

13 **COST RECOVERY**

14 25. Code section 125.3 provides, in pertinent part, that the Bureau may request the
15 administrative law judge to direct a licensee found to have committed a violation or violations of
16 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
17 enforcement of the case, with failure of the licensee to comply subjecting the license to not being
18 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
19 included in a stipulated settlement.

20 **CALIFORNIA’S SMOG CHECK PROGRAM**

21 26. California’s Smog Check Program requires most vehicles in the State to undergo a
22 smog check inspection every two years or when the vehicle’s title is transferred.

23 27. A smog check inspection in certain Enhanced areas of the State is an Acceleration
24 Simulation Mode (ASM) test performed using an Emission Inspection System (EIS), also known
25 as a BAR 97. This is a computer based five-gas analyzer that measures Hydrocarbons (HC),
26 Carbon Monoxide (CO), Oxides of Nitrogen (NOx), Carbon Dioxide (CO²) and Oxygen (O²).
27 The first part of the test is a loaded mode test of the vehicle’s tailpipe emissions on a
28 dynamometer. The vehicle’s drive wheels are placed on rollers, and the vehicle

1 is driven to simulate driving conditions while the emissions are sampled by the EIS.

2 28. In Basic areas of the State, or depending on a vehicle's configuration, a similar test
3 called a Two Speed Idle test is performed, but instead of applying a load to the vehicle's drive
4 wheels with a dynamometer, the EIS measures the emissions of HC, CO, O², and CO² at idle as
5 well as 2500 revolutions per minute (rpm).

6 29. In the visual portion of a smog check, the technician inspects the emission control
7 components to verify that the required emission control devices are present and properly
8 connected.

9 30. An On-Board Diagnostics (OBD II) functional test is also performed on most 1996 to
10 1999 model year vehicles. The EIS retrieves information through the Diagnostic Link Connector
11 (DLC) from the vehicle's on-board computer about its ability to communicate, the status of the
12 I/M readiness monitors and the MIL light command. The I/M readiness monitors tell whether or
13 not the OBD II system has run a sufficient number of self-tests on the vehicle's emission and
14 engine control systems. A failure of one or more of the OBD II functional criteria, depending on
15 model year, will result in the vehicle failing its smog check inspection. In addition to reporting
16 the outcome of the OBD II functional test, the smog check inspection results also show
17 Diagnostic Trouble Codes (DTC) if there are any in the vehicle's on-board computer memory.

18 31. The inspector enters the results of the visual and functional inspections into the EIS.
19 The EIS unit makes the determination whether or not the vehicle passes the inspection based on
20 the results of the tailpipe, visual, and functional tests.

21 32. The EIS is connected by internet connection to Bureau's Vehicle Information
22 Database (VID). If the vehicle passes the visual, functional and tailpipe tests, it passes the overall
23 inspection. A Certificate of Compliance is issued and transmitted electronically to the VID.
24 Additionally, all data gathered during a smog check inspection, regardless of the type of
25 inspection, is transmitted to and retained in the VID.

26 33. Beginning March 9, 2015, California's Smog Check Program was updated to require
27 the use of an On-Board Diagnostic Inspection System (BAR-OIS). BAR-OIS is the smog check
28 equipment required in all areas of the State when inspecting most model-year 2000 and newer

1 gasoline and hybrid vehicles. The system consists of a certified Data Acquisition Device (OIS
2 DAD), computer, bar code scanner, and printer. The DAD is an OBD scan tool that, when
3 requested by the BAR-OIS software, retrieves OBD data from the vehicle. All OBD data that the
4 vehicle indicates it supports is requested by the BAR-OIS software and will be retrieved. The
5 DAD connects between the BAR-OIS computer and the vehicle's DLC. The bar code scanner is
6 used to input inspector information, the vehicle identification number (VIN), and Department of
7 Motor Vehicles renewal information. The printer provides a Vehicle Inspection Report (VIR)
8 containing inspection results for motorists and a Smog Check Certificate of Compliance number
9 for passing vehicles.

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

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

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

28

1 showed a pattern of vehicles being certified with engine operating parameters that did not
2 correspond to normal engine operation, confirming the vehicles receiving smog certifications
3 were not tested during the OBD II functional test, which constitutes clean plugging.

4 **Fraudulent Inspection Number One: 2005 Porsche Boxster S**

5 42. OIS Test Data for Inland Empire Smog Check indicated that on August 16, 2024, a
6 2005 Porsche Boxster S, no plate, VIN WP0CB29875U730886 (2005 Boxster), was tested and
7 issued smog certificate # IZ927953C, under Respondent Martinez-Salazar's Smog Check
8 Inspector License.

9 43. The Dynamic OBD Data and Dynamic Data Charts for the 2005 Boxster showed that
10 between time stamp 125 and 17061 engine speed was steady at approximately 650 RPM. During
11 that time the throttle was fixed at 12.5-percent opening, MAF was fixed at 3.13 gps, and the
12 ignition timing advance for #1 cylinder was fixed at 4.5 degrees BTDC. After time stamp 17061
13 the engine speed accelerated to approximately 1500 RPM. From the time the engine RPM
14 increased off idle to the higher RPMs, the throttle was fixed at the same 12.5-percent opening,
15 MAF was fixed at the same 3.13 gps, and the ignition timing advance for #1 cylinder was also
16 still fixed at the same 4.5 degrees BTDC.

17 44. During the entire period the dynamic data was collected, the only parameter that
18 changed was engine RPM. The throttle position, MAF, and ignition timing advance readings
19 remained unchanged even though the engine speed had increased. These readings were not
20 characteristic or expected for normal engine operation. The discrepancies in the OIS Test Data
21 confirmed that the OIS DAD was not connected to the 2005 Boxster during the certification
22 process as required, thereby confirming this was a fraudulent inspection by way of clean
23 plugging.

24 **Previous Failing Tests: 2005 Boxster**

25 45. According to Bureau records the 2005 Boxster had previously failed two tests.

26 46. Respondent Martinez-Salazar performed the most recent failing test at Inland Empire
27 Smog Check on August 12, 2024. The 2005 Boxster failed the test for incomplete OBDII
28 readiness monitors. The Dynamic PID OBDII data showed the expected change in the throttle,

1 MAF, and ignition timing advance parameters as characteristic or expected for normal engine
2 operation.

3 47. The earlier failing test was performed at another station on May 7, 2024. The 2005
4 Boxster failed the test for incomplete OBDII readiness monitors. No dynamic OBDII PID data
5 was collected during the test.

6 **Fraudulent Inspection Number Two: 2003 Toyota Tacoma Xtracab**

7 48. OIS Test Data for Inland Empire Smog Check indicated that on September 13, 2024,
8 a 2003 Toyota Tacoma Xtracab, CA license 69070R3, VIN 5TEVL52N23Z154801 (2003
9 Tacoma), was tested and issued smog certificate # UC592934C, under Respondent Martinez-
10 Salazar's Smog Check Inspector License.

11 49. The Dynamic OBD Data and Dynamic Data Charts for the 2003 Tacoma showed that
12 between time stamp 151 and 18295 engine speed was steady at approximately 700 RPM. During
13 that time the throttle was fixed at 11.8-percent opening, MAF was fixed at .57 gps, and the
14 ignition timing advance for #1 cylinder was fixed at 5 degrees BTDC. After time stamp 18295 the
15 engine speed accelerated to approximately 1675 RPM. From the time the engine RPM increased
16 off idle to the higher RPMs, the throttle was fixed at the same 11.8-percent opening, MAF was
17 fixed at the same .57 gps, and the ignition timing advance for #1 cylinder was also still fixed at
18 the same 5 degrees BTDC.

19 50. During the entire period the dynamic data was collected, the only parameter that
20 changed was engine RPM. The throttle position, MAF, and ignition timing advance readings
21 remained unchanged even though the engine speed had increased. These readings were not
22 characteristic or expected for normal engine operation. The discrepancies in the OIS Test Data
23 confirmed that the OIS DAD was not connected to the 2003 Tacoma during the certification
24 process as required, thereby confirming this was a fraudulent inspection by way of clean
25 plugging.

26 **Previous Failing Test: 2003 Tacoma**

27 51. Bureau records indicate that a prior failing test was performed on the 2003 Tacoma at
28 another station on September 5, 2024. The 2003 Tacoma failed the test for incomplete OBDII

1 readiness monitors. The Dynamic PID OBDII data showed the expected change in the throttle,
2 MAF, and ignition timing advance parameters as characteristic or expected for normal engine
3 operation.

4 **Fraudulent Inspection Number Three: 2003 Ford F-150**

5 52. OIS Test Data for Inland Empire Smog Check indicated that on September 13, 2024,
6 a 2003 Ford F-150, CA license 53480A3, VIN 1FTRF17WX3NA86043 (2003 F150), was tested
7 and issued smog certificate # UC592937C, under Respondent Martinez-Salazar's Smog Check
8 Inspector License.

9 53. The Dynamic OBD Data and Dynamic Data Charts for the 2003 F150 showed that
10 between time stamp 21 and 17796 engine speed was steady at approximately 650 RPM. During
11 that time the throttle was fixed at 19.2-percent opening, MAF was fixed at .11 gps, and the
12 ignition timing advance for #1 cylinder was fixed at 0 degrees BTDC. After time stamp 17796 the
13 engine speed accelerated to approximately 1800 RPM. From the time the engine RPM increased
14 off idle to the higher RPMs, the throttle was fixed at the same 19.2-percent opening, MAF is
15 fixed at the same .11 gps, and the ignition timing advance for #1 cylinder was also still fixed at
16 the same 0 degrees BTDC.

17 54. During the entire period the dynamic data was collected, the only parameter that
18 changed was engine RPM. The throttle position, MAF, and ignition timing advance readings
19 remained unchanged even though the engine speed had increased. These readings were not
20 characteristic or expected for normal engine operation. The discrepancies in the OIS Test Data
21 confirmed that the OIS DAD was not connected to the 2003 F150 during the certification process
22 as required, thereby confirming this was a fraudulent inspection by way of clean plugging.

23 **Previous Failing Test: 2003 F150**

24 55. Bureau records indicate that a prior failing test was performed on the 2003 F150 at
25 another station on August 12, 2024. The 2003 F150 failed the test for incomplete OBDII
26 readiness monitors. The vehicle also had a pending OBDII DTC P0708. The Dynamic PID
27 OBDII data showed the expected change in the throttle, MAF, and ignition timing advance
28 parameters as characteristic or expected for normal engine operation.

1 **Fraudulent Inspection Number Four: 2002 Mitsubishi Lancer OZ Rally**

2 56. OIS Test Data for Inland Empire Smog Check indicated that on September 19, 2024,
3 a 2002 Mitsubishi Lancer OZ Rally, no plate, VIN JA3AJ86E02U064262 (2002 Lancer), was
4 tested and issued smog certificate # UE205464C, under Respondent Martinez-Salazar’s Smog
5 Check Technician License.

6 57. The Dynamic OBD Data and Dynamic Data Charts for the 2002 Lancer showed that
7 between time stamp 124 and 17091 engine speed was steady at approximately 750 RPM. During
8 that time the throttle was fixed at 0-percent opening, MAF was fixed at 1.87 gps, and the ignition
9 timing advance for #1 cylinder was fixed at 6 degrees BTDC. After time stamp 17091 the engine
10 speed accelerated to approximately 1800 RPM. From the time the engine RPM increased off idle
11 to the higher RPMs, the throttle was fixed at the same 0-percent opening, MAF was fixed at the
12 same 1.87 gps, and the ignition timing advance for #1 cylinder was also still fixed at the same 6
13 degrees BTDC.

14 58. During the entire period the dynamic data was collected, the only parameter that
15 changed was engine RPM. The throttle position, MAF, and ignition timing advance readings
16 remained unchanged even though the engine speed had increased. These readings were not
17 characteristic or expected for normal engine operation. The discrepancies in the OIS Test Data
18 confirmed that the OIS DAD was not connected to the 2002 Lancer during the certification
19 process as required, thereby confirming this was a fraudulent inspection by way of clean
20 plugging.

21 **Previous Failing Test: 2002 Lancer**

22 59. Bureau records indicate that a prior failing test was performed on the 2002 Lancer at
23 another station on June 19, 2024. The 2002 Lancer failed the test for Visual: tampered crankcase
24 emission controls, tampered vacuum lines to sensors/switches, tampered other emission related
25 components/systems, and illuminated MIL, and confirmed OBDII DTCs P0171, P0335, P0340,
26 and P0401. The Dynamic PID OBDII data showed the expected change in the throttle, MAF, and
27 ignition timing advance parameters as characteristic or expected for normal engine operation.

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1 **Fraudulent Inspection Number Five: 2006 Honda Accord LX**

2 60. OIS Test Data for Inland Empire Smog Check indicated that on September 27, 2024,
3 a 2006 Honda Accord LX, CA license 8TNX287, VIN JHMCM56406C002815 (2006 Accord),
4 was tested and issued smog certificate # UE205497C, under Respondent Martinez-Salazar’s
5 Smog Check Technician License.

6 61. The Dynamic OBD Data and Dynamic Data Charts for the 2006 Accord showed that
7 between time stamp 133 and 18329 engine speed was steady at approximately 750 RPM. During
8 that time the throttle was fixed at 14.5-percent opening, MAF was fixed at 2.52 gps, MAP was
9 fixed at 33 kPa, and the ignition timing advance for #1 cylinder was fixed at 7.5 degrees BTDC.
10 After time stamp 18329 the engine speed accelerated to approximately 1550 RPM before
11 fluctuating between approximately 1250 RPM and 1600 RPM. From the time the engine RPM
12 increased off idle to the higher RPMs, the throttle was fixed at the same 14.5-percent opening,
13 MAF was fixed at the same 2.52 gps, MAP was fixed at the same 33 kPa, and the ignition timing
14 advance for #1 cylinder was also still fixed at the same 7.5 degrees BTDC.

15 62. During the entire period the dynamic data was collected, the only parameter that
16 changed was engine RPM. The throttle position, MAF, MAP, and ignition timing advance
17 readings remained unchanged even though the engine speed had increased. These readings were
18 not characteristic or expected for normal engine operation. The discrepancies in the OIS Test
19 Data confirmed that the OIS DAD was not connected to the 2006 Accord during the certification
20 process as required, thereby confirming this was a fraudulent inspection by way of clean
21 plugging.

22 **Previous Failing Tests: 2006 Accord**

23 63. According to Bureau records, the 2006 Accord had previously failed two tests.

24 64. Respondent Martinez-Salazar performed the most recent previous failing test at
25 Inland Empire Smog Check on September 14, 2024. The 2006 Accord failed the test for an
26 illuminated MIL, and confirmed OBDII DTCs P0171, P0420, and P1009. The Dynamic PID
27 OBDII data showed the expected change in the throttle, MAF, MAP, and ignition timing advance
28 parameters as characteristic or expected for normal engine operation.

1 65. The earlier failing test was performed at another station on August 29, 2024. The
2 2006 Accord failed the test for Visual: tampered catalyst, tampered computers, sensors, switches,
3 and wiring, and confirmed OBDII DTCs P0171, P0420, and P1009. No dynamic OBDII PID data
4 collected during the test.

5 **Fraudulent Inspection Number Six: 2002 Lexus IS 300**

6 66. OIS Test Data for Inland Empire Smog Check indicated that on October 1, 2024, a
7 2002 Lexus IS 300, no plate, VIN JTHBD192920063526 (2002 IS 300), was tested and issued
8 smog certificate # JB254106C, under Respondent Martinez-Salazar's Smog Check Technician
9 License.

10 67. The Dynamic OBD Data and Dynamic Data Charts for the 2002 IS 300 showed that
11 between time stamp 146 and 20838 engine speed was steady at approximately 700 RPM. During
12 that time the throttle was fixed at 12.9-percent opening, MAF was fixed at 3.06 gps, and the
13 ignition timing advance for #1 cylinder was fixed at 11.5 degrees BTDC. After time stamp 20838
14 the engine speed accelerated to approximately 1500 RPM. From the time the engine RPM
15 increased off idle to the higher RPMs, the throttle was fixed at the same 12.9-percent opening,
16 MAF was fixed at the same 3.06 gps, and the ignition timing advance for #1 cylinder was also
17 still fixed at the same 11.5 degrees BTDC.

18 68. During the entire period the dynamic data was collected, the only parameter that
19 changed was engine RPM. The throttle position, MAF, and ignition timing advance readings
20 remained unchanged even though the engine speed had increased. These readings were not
21 characteristic or expected for normal engine operation. The discrepancies in the OIS Test Data
22 confirmed that the OIS DAD was not connected to the 2002 IS 300 during the certification
23 process as required, thereby confirming this was a fraudulent inspection by way of clean
24 plugging.

25 **Previous Failing Test: 2002 IS 300**

26 69. Bureau records indicate that a prior failing test was performed on the 2002 IS 300 at
27 another station on September 13, 2024. The 2002 IS 300 failed the test for incomplete OBDII
28 readiness monitors The Dynamic PID OBDII data showed the expected change in the throttle,

1 MAF, and ignition timing advance parameters as characteristic or expected for normal engine
2 operation.

3 **Fraudulent Inspection Number Seven: 2003 Toyota Sienna LE**

4 70. OIS Test Data for Inland Empire Smog Check indicated that on October 4, 2024, a
5 2003 Toyota Sienna LE, CA license 4ZSB283, VIN 4T3ZF13C43U530960 (2003 Sienna), was
6 tested and issued smog certificate # JB254116C, under Respondent Martinez-Salazar's Smog
7 Check Technician License.

8 71. The Dynamic OBD Data and Dynamic Data Charts for the 2003 Sienna showed that
9 between time stamp 143 and 18635 engine speed was steady at approximately 750 RPM. During
10 that time the throttle was fixed at 11-percent opening, MAF was fixed at 5.33 gps, and the
11 ignition timing advance for #1 cylinder was fixed at 9 degrees BTDC. After time stamp 18635 the
12 engine speed accelerated to approximately 1625 RPM. From the time the engine RPM increased
13 off idle to the higher RPMs, the throttle was fixed at the same 11-percent opening, MAF was
14 fixed at the same 5.33 gps, and the ignition timing advance for #1 cylinder was also still fixed at
15 the same 9 degrees BTDC.

16 72. During the entire period the dynamic data was collected, the only parameter that
17 changed was engine RPM. The throttle position, MAF, and ignition timing advance readings
18 remained unchanged even though the engine speed had increased. These readings were not
19 characteristic or expected for normal engine operation. The discrepancies in the OIS Test Data
20 confirmed that the OIS DAD was not connected to the 2003 Sienna during the certification
21 process as required, thereby confirming this was a fraudulent inspection by way of clean
22 plugging.

23 **Previous Failing Test: 2003 Sienna**

24 73. Bureau records indicate that a prior a failing test was performed on the 2003 Sienna at
25 another station on October 2, 2023. The 2003 Sienna failed the test for incomplete OBDII
26 readiness monitors. The vehicle also had pending OBDII DTCs P0442 and P0456. No dynamic
27 data was collected during the inspection.

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1 **Fraudulent Inspection Number Eight: 2004 Toyota Tundra**

2 74. OIS Test Data for Inland Empire Smog Check indicated that on November 8, 2024, a
3 2004 Toyota Tundra, no plate, VIN 5TBJN32104S439708 (2004 Tundra), was tested and issued
4 smog certificate # UG031630C, under Respondent Martinez-Salazar’s Smog Check Technician
5 License.

6 75. The Dynamic OBD Data and Dynamic Data Charts for the 2004 Tundra showed that
7 between time stamp 134 and 20537 engine speed was steady at approximately 850 RPM. During
8 that time the throttle was fixed at 14.5-percent opening, MAF was fixed at .42 gps, and the
9 ignition timing advance for #1 cylinder was fixed at 0 degrees BTDC. After time stamp 20537 the
10 engine speed accelerated to approximately 1850 RPM. From the time the engine RPM increased
11 off idle to the higher RPMs, the throttle was fixed at the same 14.5-percent opening, MAF was
12 fixed at the same .42 gps, and the ignition timing advance for #1 cylinder was also still fixed at
13 the same 0 degrees BTDC.

14 76. During the entire period the dynamic data was collected, the only parameter that
15 changed was engine RPM. The throttle position, MAF, and ignition timing advance readings
16 remained unchanged even though the engine speed had increased. These readings were not
17 characteristic or expected for normal engine operation. The discrepancies in the OIS Test Data
18 confirmed that the OIS DAD was not connected to the 2004 Tundra during the certification
19 process as required, thereby confirming this was a fraudulent inspection by way of clean
20 plugging.

21 **Previous Failing Test: 2004 Tundra**

22 77. Bureau records indicated that a prior failing test was performed on the 2004 Tundra at
23 another station on October 22, 2024. The 2004 Tundra failed the test for an illuminated MIL,
24 incomplete OBDII readiness monitors, and confirmed OBDII DTCs P0171 and P0300. The
25 Dynamic PID OBDII data showed the expected change in the throttle, MAF, and ignition timing
26 advance parameters as characteristic or expected for normal engine operation.

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1 **Fraudulent Inspection Number Nine: 2000 Nissan Maxima GLE**

2 78. OIS Test Data for Inland Empire Smog Check indicated that on December 12, 2024, a
3 2000 Nissan Maxima GLE, no plate, VIN JN1CA31A4YT021367 (2000 Maxima), was tested
4 and issued smog certificate # UG766047C, under Respondent Martinez-Salazar’s Smog Check
5 Technician License.

6 79. The Dynamic OBD Data and Dynamic Data Charts for the 2000 Maxima showed that
7 between time stamp 188 and 18988 engine speed was steady at approximately 750 RPM. During
8 that time the throttle was fixed at 0-percent opening, MAF was fixed at 3.07 gps, and the ignition
9 timing advance for #1 cylinder was fixed at 15 degrees BTDC. After time stamp 18988 the engine
10 speed accelerated to approximately 1400 RPM. From the time the engine RPM increased off idle
11 to the higher RPMs, the throttle was fixed at the same 0-percent opening, MAF was fixed at the
12 same 3.07 gps, and the ignition timing advance for #1 cylinder was also still fixed at the same 15
13 degrees BTDC.

14 80. During the entire period the dynamic data was collected, the only parameter that
15 changed was engine RPM. The throttle position, MAF, and ignition timing advance readings
16 remained unchanged even though the engine speed had increased. These readings were not
17 characteristic or expected for normal engine operation. The discrepancies in the OIS Test Data
18 confirmed that the OIS DAD was not connected to the 2000 Maxima during the certification
19 process as required, thereby confirming this was a fraudulent inspection by way of clean
20 plugging.

21 **Previous Failing Tests: 2000 Maxima**

22 81. According to Bureau records the 2000 Maxima had previously failed two tests.

23 82. The most recent failing test was performed at another station on November 25, 2024.
24 The 2000 Maxima failed the test for incomplete OBDII readiness monitors. The Dynamic PID
25 OBDII data showed the expected change in the throttle, MAF, and ignition timing advance
26 parameters as characteristic or expected for normal engine operation.

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1 83. The earlier failing test was performed at another station on April 14, 2024. The 2000
2 Maxima failed the test for incomplete OBDII readiness monitors. No dynamic OBDII PID data
3 was collected during the test.

4 **Fraudulent Inspection Number Ten: 2000 Ford Expedition XLT**

5 84. OIS Test Data for Inland Empire Smog Check indicated that on December 13, 2024, a
6 2000 Ford Expedition XLT, no plate, VIN 1FMRU156XYLA34774 (2000 Expedition), was
7 tested and issued smog certificate # UI172404C, under Respondent Martinez-Salazar's Smog
8 Check Technician License.

9 85. The Dynamic OBD Data and Dynamic Data Charts for the 2000 Expedition showed
10 that between time stamp 21 and 16456 engine speed was steady at approximately 700 RPM.
11 During that time the throttle was fixed at 19.2-percent opening, MAF was fixed at 5.54 gps, and
12 the ignition timing advance for #1 cylinder was fixed at 15 degrees BTDC. After time stamp
13 16456 the engine speed accelerated to approximately 1600 RPM. From the time the engine RPM
14 increased off idle to the higher RPMs, the throttle was fixed at the same 19.2-percent opening,
15 MAF was fixed at the same 5.54 gps, and the ignition timing advance for #1 cylinder was also
16 still fixed at the same 15 degrees BTDC.

17 86. During the entire period the dynamic data was collected, the only parameter that
18 changed was engine RPM. The throttle position, MAF, and ignition timing advance readings
19 remained unchanged even though the engine speed had increased. These readings were not
20 characteristic or expected for normal engine operation. The discrepancies in the OIS Test Data
21 confirmed that the OIS DAD was not connected to the 2000 Expedition during the certification
22 process as required, thereby confirming this was a fraudulent inspection by way of clean
23 plugging.

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1 **Respondent Inland Empire Smog Check**

2 **FIRST CAUSE FOR DISCIPLINE**

3 **(Untrue or Misleading Statements)**

4 87. Respondent Inland Empire Smog Check’s Automotive Repair Dealer Registration is
5 subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(1), in that
6 Respondent made statements which were known to be untrue or misleading or, which by exercise
7 of reasonable care should have been known to be untrue or misleading, by issuing electronic
8 smog certificates of compliance for the ten vehicles set forth in paragraphs 42-44; 48-50; 52-54;
9 56-58; 60-62; 66-68; 70-72; 74-76; 78-80; and 84-86, above, certifying that those vehicles were
10 in compliance with applicable laws and regulations when, in fact, those vehicles had not been so
11 inspected. Complainant refers to, and by this reference incorporates, the allegations contained in
12 paragraphs 41 through 86, above, as though set forth fully herein.

13 **SECOND CAUSE FOR DISCIPLINE**

14 **(Fraud)**

15 88. Respondent Inland Empire Smog Check’s Automotive Repair Dealer Registration is
16 subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(4), in that
17 Respondent committed acts that constitute fraud by issuing electronic certificates of compliance
18 to the ten vehicles set forth in paragraphs 42-44; 48-50; 52-54; 56-58; 60-62; 66-68; 70-72; 74-
19 76; 78-80; and 84-86, above, without performing bone fide inspections of the emission control
20 devices and systems on those vehicles, thereby depriving the People of the State of California of
21 the protection afforded by the Motor Vehicle Inspection Program. Complainant refers to, and by
22 this reference incorporates, the allegations contained in paragraphs 41 through 86, above, as
23 though set forth fully herein.

24 **THIRD CAUSE FOR DISCIPLINE**

25 **(Material Violation of the Automotive Repair Act)**

26 89. Respondent Inland Empire Smog Check’s Automotive Repair Dealer Registration is
27 subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(6), in that he failed
28 in a material respect to comply with the provisions of this chapter or regulations adopted pursuant

1 to it when he issued electronic certificates of compliance for the ten vehicles set forth in
2 paragraphs 42-44; 48-50; 52-54; 56-58; 60-62; 66-68; 70-72; 74-76; 78-80; and 84-86, above,
3 without performing bona fide inspections of the emission control devices and systems on those
4 vehicles, thereby depriving the People of the State of California of the protection afforded by the
5 Motor Vehicle Inspection Program. Complainant refers to, and by this reference incorporates, the
6 allegations contained in paragraphs 41 through 86, above, as though set forth fully herein.

7 **FOURTH CAUSE FOR DISCIPLINE**

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

9 90. Respondent Inland Empire Smog Check's Smog Check Test Only Station License is
10 subject to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision
11 (a), in that Respondent failed to comply with the following sections of that Code:

12 a. Section 44012: Respondent failed to ensure that the emission control tests were
13 performed on the ten vehicles identified in paragraphs 42-44; 48-50; 52-54; 56-58; 60-62; 66-68;
14 70-72; 74-76; 78-80; and 84-86, above, in accordance with procedures prescribed by the
15 department.

16 b. Section 44015, subdivision (b): Respondent issued electronic smog certificates
17 of compliance to the ten vehicles identified in paragraphs 42-44; 48-50; 52-54; 56-58; 60-62; 66-
18 68; 70-72; 74-76; 78-80; and 84-86, above, without properly testing and inspecting those vehicles
19 to determine if they were in compliance with Health and Safety Code section 44012.

20 Complainant refers to, and by this reference incorporates, the allegations contained in
21 paragraphs 41 through 86, above, as though set forth fully herein.

22 **FIFTH CAUSE FOR DISCIPLINE**

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

24 91. Respondent Inland Empire Smog Check's Smog Check Test Only Station License is
25 subject to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision
26 (c), in that Respondent failed to comply with provisions of California Code of Regulations, title
27 16, as follows:

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1 a. Section 3340.24, subdivision (c): Respondent falsely or fraudulently issued
2 electronic smog certificates of compliance for the ten vehicles identified in paragraphs 42-44; 48-
3 50; 52-54; 56-58; 60-62; 66-68; 70-72; 74-76; 78-80; and 84-86, above.

4 b. Section 3340.30, subdivision (a): Respondent failed to inspect and test the ten
5 vehicles identified in paragraphs 42-44; 48-50; 52-54; 56-58; 60-62; 66-68; 70-72; 74-76; 78-80;
6 and 84-86, above, in accordance with Health and Safety Code sections 44012 and 44035, and
7 California Code of Regulations, title 16, section 3340.42.

8 c. Section 3340.35, subdivision (c): Respondent issued electronic smog
9 certificates of compliance for the ten vehicles identified in paragraphs 42-44; 48-50; 52-54; 56-
10 58; 60-62; 66-68; 70-72; 74-76; 78-80; and 84-86, above, even though those vehicles had not
11 been inspected in accordance with section 3340.42.

12 d. Section 3340.42: Respondent failed to ensure that the smog inspections
13 conducted on the ten vehicles identified in paragraphs 42-44; 48-50; 52-54; 56-58; 60-62; 66-68;
14 70-72; 74-76; 78-80; and 84-86, above, were done in accordance with the Bureau's specifications.

15 Complainant refers to, and by this reference incorporates, the allegations contained in
16 paragraphs 41 through 86, above, as though set forth fully herein.

17 **SIXTH CAUSE FOR DISCIPLINE**

18 **(Dishonesty, Faud, or Deceit)**

19 92. Respondent Inland Empire Smog Check's Smog Check Test Only Station License is
20 subject to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision
21 (d), in conjunction with Health and Safety Code section 44072.10, subdivision (c), in that
22 Respondent committed dishonest, fraudulent, or deceitful acts whereby another was injured by
23 issuing electronic smog certificates of compliance for the ten vehicles described in paragraphs 42-
24 44; 48-50; 52-54; 56-58; 60-62; 66-68; 70-72; 74-76; 78-80; and 84-86, above, without
25 performing bona fide inspections of the emission control devices and systems on those vehicles,
26 thereby depriving the People of the State of California of the protection afforded by the Motor
27 Vehicle Inspection Program. Complainant refers to, and by this reference incorporates, the
28 allegations contained in paragraphs 41 through 86, above, as though set forth fully herein.

1 **Respondent Martinez-Salazar**

2 **SEVENTH CAUSE FOR DISCIPLINE**

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

4 93. Respondent Martinez-Salazar’s Smog Check Inspector License is subject to
5 disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (a), in that he
6 failed to comply with the following sections of that code:

7 a. Section 44032: Respondent failed to perform tests of emission control devices
8 and systems of the ten vehicles identified in paragraphs 42-44; 48-50; 52-54; 56-58; 60-62; 66-
9 68; 70-72; 74-76; 78-80; and 84-86, above, in accordance with Health and Safety Code section
10 44012.

11 b. Section 44015, subdivision (b): Respondent caused electronic smog certificates
12 of compliance to be issued for the ten vehicles identified in paragraphs 42-44; 48-50; 52-54; 56-
13 58; 60-62; 66-68; 70-72; 74-76; 78-80; and 84-86, above, without ensuring that they were
14 properly tested and inspected to determine if they were in compliance with Health and Safety
15 Code section 44012.

16 Complainant refers to, and by this reference incorporates, the allegations contained in
17 paragraphs 41 through 86, above, as though set forth fully herein.

18 **EIGHTH CAUSE FOR DISCIPLINE**

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

20 94. Respondent Martinez-Salazar’s Smog Check Inspector License is subject to
21 disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (c), in that he
22 failed to comply with provisions of California Code of Regulations, title 16, as follows:

23 a. Section 3340.24, subdivision (c): Respondent falsely or fraudulently issued
24 electronic smog certificates of compliance for the ten vehicles identified in paragraphs 42-44; 48-
25 50; 52-54; 56-58; 60-62; 66-68; 70-72; 74-76; 78-80; and 84-86, above.

26 b. Section 3340.30, subdivision (a): Respondent failed to inspect and test the ten
27 vehicles identified in paragraphs 42-44; 48-50; 52-54; 56-58; 60-62; 66-68; 70-72; 74-76; 78-80;
28 and 84-86, in accordance with Health and Safety Code sections 44012 and 44035,

1 and California Code of Regulations, title 16, section 3340.42.

2 c. Section 3340.41, subdivision (c): Respondent knowingly entered false
3 information into the emissions inspection system for the ten vehicles identified in paragraphs 42-
4 44; 48-50; 52-54; 56-58; 60-62; 66-68; 70-72; 74-76; 78-80; and 84-86, above.

5 d. Section 3340.42: Respondent failed to ensure that the smog inspections
6 conducted on the ten vehicles identified in paragraphs 42-44; 48-50; 52-54; 56-58; 60-62; 66-68;
7 70-72; 74-76; 78-80; and 84-86, above, were done in accordance with the Bureau's specifications.

8 Complainant refers to, and by this reference incorporates, the allegations contained in
9 paragraphs 41 through 86, above, as though set forth fully herein.

10 **NINTH CAUSE FOR DISCIPLINE**

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

12 95. Respondent Martinez-Salazar's Smog Check Inspector License is subject to
13 disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (d), in
14 conjunction with Health and Safety Code section 44072.10, subdivision (c), in that he committed
15 dishonest, fraudulent, or deceitful acts whereby another was injured by issuing electronic smog
16 certificates of compliance for the ten vehicles identified in paragraphs 42-44; 48-50; 52-54; 56-
17 58; 60-62; 66-68; 70-72; 74-76; 78-80; and 84-86, above, without performing bona fide
18 inspections of the emission control devices and systems on those vehicles, thereby depriving the
19 People of the State of California of the protection afforded by the Motor Vehicle Inspection
20 Program. Complainant refers to, and by this reference incorporates, the allegations contained in
21 paragraphs 41 through 86, above, as though set forth fully herein.

22 **OTHER MATTERS**

23 96. Pursuant to Business and Professions Code section 9884.7, subdivision (c), the
24 Director of the Department of Consumer Affairs (Director) may suspend, revoke, or place on
25 probation the registration for all places of business operated in this State by Respondent
26 Martinez-Salazar upon a finding that he has, or is, engaged in a course of repeated and willful
27 violations of the laws and regulations related to an Automotive Repair Dealer.

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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

LA2025602784
Accusation 67975136