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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. 79/24-11142

ACCUSATION

13 **ERIK A. SANCHEZ, DBA EXOTIC SMOG**
14 **1500 Crafton Ave., 132**
Mentone, CA 92359

15 **Automotive Repair Dealer Registration No.**
16 **ARD 302939**
Smog Check, Test Only, Station License No.
17 **TC 302939,**

18 **DANIEL TIRADO**
19 **12064 Olivedale Dr.**
20 **Fontana, CA 92337**

21 **Smog Check Inspector License No. EO**
22 **643355**

23 **and**

24 **BRANDON FRANCISCO MOBASSER**
25 **34732 Woods Pl.**
26 **Beaumont, CA 92223**

27 **Smog Check Inspector License No. EO**
28 **644392,**

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.

2. On or about July 6, 2022, Bureau of Automotive Repair issued Automotive Repair Dealer Registration Number ARD 302939 to Erik A. Sanchez, dba Exotic Smog (respondent Exotic Smog). The Automotive Repair Dealer Registration was in full force and effect at all times relevant to the charges brought herein and will expire on July 31, 2025, unless renewed.

3. On or about September 26, 2022, Bureau of Automotive Repair issued Smog Check, Test Only, Station License Number TC 302939 to respondent Exotic Smog. The Smog Check, Test Only, Station License was in full force and effect at all times relevant to the charges brought herein and will expire on July 31, 2025, unless renewed.

4. On or about October 20, 2021, Bureau of Automotive Repair issued Smog Check Inspector License Number EO 643355 to Daniel Tirado (respondent Tirado). The Smog Check Inspector License was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2025, unless renewed.

5. On or about June 14, 2023, Bureau of Automotive Repair issued Smog Check Inspector License Number EO 644392 to Brandon Francisco Mobasser (respondent Mobasser). The Smog Check Inspector License was in full force and effect at all times relevant to the charges brought herein and will expire on August 31, 2025, unless renewed.

JURISDICTION

6. This Accusation is brought before the Director of the Department of Consumer Affairs (Director) for the Bureau of Automotive Repair, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

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

8. Code section 9884.7 provides that the Director may revoke an automotive repair dealer registration.

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

10. Health and Safety Code (Health & Saf. Code) section 44002 provides, in pertinent part, that the Director has all the powers and authority granted under the Automotive Repair Act for enforcing the Motor Vehicle Inspection Program.

11. Health & Saf. Code section 44072.6 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

12. Code section 9884.7 states, in pertinent part:

(a) The director, if 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 that constitutes fraud.

• • • •

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

• • • •

(c) Notwithstanding subdivision (b), the director may suspend, revoke, or place on probation the registration for all places of business operated in this state by an automotive repair dealer upon a finding that the automotive repair dealer has, or is,

engaged in a course of repeated and willful violations of this chapter, or regulations adopted pursuant to it.

....

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

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

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

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

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

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

13. Bus. & Prof. Code section 477 provides, in pertinent part, that “Board” includes “bureau,” “commission,” “committee,” “department,” “division,” “examining committee,” “program,” and “agency.” “License” includes certificate, registration or other means to engage in a business or profession regulated by the Bus. & Prof. Code.

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

15. Health & Saf. Code section 44015, subdivision (b), provides that a certificate of compliance shall be issued if a vehicle meets the requirements of Health & Saf. Code section 44012.

16. Health & Saf. Code section 44032 provides that qualified technicians shall perform tests of emissions control devices and systems in accordance with Health & Saf. Code section 44012.

17. Health & Saf. Code section 44072.2 states, in pertinent part:

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.

....

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

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

4 18. Health & Saf. Code section 44072.10 states, in pertinent part:

5

6 (c) The department shall revoke the license of any smog check technician or
station licensee who fraudulently certifies vehicles or participates in the fraudulent
7 inspection of vehicles. A fraudulent inspection includes, but is not limited to, all of
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 & Saf. Code section 44072.8 states that when a license has been revoked or
14 suspended following a hearing under this article, any additional license issued under this chapter
15 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 against a
20 licensee, if the licensee falsely or fraudulently issues or obtains a certificate of compliance or a
21 certificate of noncompliance.”

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

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

1 specified in section 3340.42 of this article and has all the required emission control equipment
2 and devices installed and functioning correctly.”

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

5

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

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

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

16 **COST RECOVERY**

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

21 **CALIFORNIA’S SMOG CHECK PROGRAM**

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

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

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

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

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

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

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

25 33. Beginning March 9, 2015, California's Smog Check Program was updated to require
26 the use of an On-Board Diagnostic Inspection System (BAR-OIS). BAR-OIS is the smog check
27 equipment required in all areas of the State when inspecting most model-year 2000 and newer
28 gasoline and hybrid vehicles. The system consists of a certified Data Acquisition Device (DAD),

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

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

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

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

27 35. During normal engine operation at idle, engine speed is relatively steady around its
28 target idle speed. With the engine idling, the TPS is steady and at or near zero percent. The MAP

1 and/or MAF readings are also steady. For the engine speed to increase, the throttle would have to
2 be opened in order to increase airflow through the engine. The engine's management systems
3 supply fuel and spark timing appropriate to any changes in throttle position and engine speed.
4 An increase in throttle, measured by the TPS, which increases engine RPM, would result in a
5 corresponding increase in MAF as well as a change in MAP. Any movement in the throttle from
6 the idle position will result in an increase of airflow through the engine with corresponding
7 increases RPM and MAF along with changes in MAP.

8 36. During an OIS Smog Check inspection, along with other visual and functional
9 inspections, there is an OBD II query portion of the inspection. The OBD II query is performed
10 with the engine idling and, when requested by the OIS analyzer, and an elevated or increased
11 engine speed. The increase in engine speed is performed by the inspector by stepping on the
12 throttle pedal or manually opening the throttle resulting in a corresponding increase in engine
13 RPMs by allowing an increase in airflow into the engine.

14 37. The Bureau has become aware of methods that some Smog Check stations and Smog
15 Check inspectors use to fraudulently issue smog certificates to vehicles that may not pass a smog
16 check test on their own, or in some instances, are not even present during the time the test is
17 performed. "Clean plugging" is a method by which another vehicle's OBD II system, or another
18 source such as defeat devices, are used to generate passing data readings or diagnostic
19 information for the purpose of fraudulently issuing smog certificates to vehicles that are not in
20 smog compliance, and or not present for testing. Defeat devices attempt to simulate engine
21 operation during a smog check inspection by transmitting OBD II data to the VID which has been
22 modified or replaced entirely for the purportedly inspected vehicle during the functional portion
23 of the OIS inspection.

24 **FACTUAL ALLEGATIONS**

25 **June 26, 2024 Investigation**

26 38. Beginning or about June 26, 2024, a Bureau Representative, S.K., conducted a
27 detailed review of the VID data for Smog Check inspections performed at Exotic Smog that
28 showed a pattern of vehicles being certified with engine operating parameters that did not

1 correspond to normal engine operation, confirming the vehicles receiving smog certifications
2 were not tested during the OBD II functional test, which constituted clean plugging. S.K.'s
3 review of the Smog Check activities at Exotic Smog confirmed that respondent Exotic Smog
4 fraudulently issued ten Smog Check Certificates of Compliance to vehicles that were inspected by
5 respondents Tirado and Mobasser.

6 39. At all times alleged herein, each and every respondent was acting in the course and
7 within the scope of a technician, employee, partner, officer, owner, or member of Exotic Smog.

8 **Clean Plug Number One – 2004 Pontiac GTO**

9 40. OIS Test Data for Exotic Smog indicated on April 4, 2023, a 2004 Pontiac GTO,
10 California license 5GDU533, VIN 6G2VX12G64L214181 (2004 GTO), passed an OIS
11 inspection and Exotic Smog issued Certificate of Compliance # TG021213C under the license of
12 respondent Tirado, EO 643355. The OIS Test Data showed that between time stamp 377 and
13 18402 engine speed was steady at approximately 775 RPM. During this time the throttle was
14 fixed at zero-percent opening, MAF was fixed at 9.95 gps, MAP is fixed at 51 kPa, and the
15 ignition timing advance for #1 cylinder was fixed at 9 degrees BTDC. After time stamp 18402 the
16 engine speed accelerated to approximately 1650 RPM. From the time the engine RPM increased
17 off idle to the higher RPMs, the throttle was fixed at the same zero-percent opening, the MAF
18 was fixed at the same 9.95 gps, MAP was fixed at the same 51 kPa and the ignition timing
19 advance for #1 cylinder is fixed at the same 9 degrees BTDC. During the entire period the
20 dynamic data was collected, the only parameter that changed was engine RPM. The throttle
21 position, MAF, MAP and ignition timing advance readings remained unchanged even though the
22 engine speed increased. These readings were not characteristic or expected for normal engine
23 operation. These discrepancies in the OIS Test Data show that the OIS DAD was not connected to
24 the 2004 GTO being certified, causing the issuance of a fraudulent Certificate of Compliance by
25 way of clean plugging.

26 **Clean Plug Number 2 – 2004 GMC Savanna**

27 41. OIS Test Data for Exotic Smog indicated on April 8, 2023, a 2004 GMC Savanna RV
28 G1500, California license W751294, VIN 1GDFG15T041135263 (2004 Savanna), passed an OIS

1 inspection and Exotic Smog issued Certificate of Compliance # TG021221C under the license of
2 respondent Tirado, EO 643355. The OIS Test Data showed that between time stamp 376 and
3 19796 engine speed was steady at approximately 600 RPM. During this time the throttle was
4 fixed at zero-percent opening, MAF was fixed at 4.71 gps, MAP was fixed at 35 kPa, and the
5 ignition timing advance for #1 cylinder was fixed at 20.5 degrees BTDC. After time stamp 19796
6 the engine speed accelerated to approximately 2100 RPM. From the time the engine RPM
7 increased off idle to the higher RPMs, the throttle was fixed at the same zero-percent opening, the
8 MAF was fixed at the same 4.71 gps, MAP was fixed at the same 35 kPa and the ignition timing
9 advance for #1 cylinder was fixed at the same 20.5 degrees BTDC. During the entire period the
10 dynamic data was collected, the only parameter that changed was engine RPM. The throttle
11 position, MAF, MAP, and ignition timing advance readings remained unchanged even though the
12 engine speed increased. These readings were not characteristic or expected for normal engine
13 operation. The discrepancies in the OIS Test Data show that the OIS DAD was not connected to
14 the 2004 Savanna being certified, causing the issuance of a fraudulent Certificate of Compliance
15 by way of clean plugging.

16 **Clean Plug Number 3 – 2001 Toyota Sequoia**

17 42. OIS Test Data for Exotic Smog indicated on April 14, 2023, a 2001 Toyota Sequoia
18 SR5, California license 6EYH929, VIN 5TDZT34A81S029828 (2001 Sequoia), passed an OIS
19 inspection and Exotic Smog issued Certificate of Compliance # TG021235C under the license of
20 respondent Tirado, EO 643355. The OIS Test Data showed that between time stamp 861 and
21 18599 engine speed was steady at approximately 650 RPM. During this time the throttle was
22 fixed at 14.5-percent opening, MAF was fixed at 4.35 gps, and the ignition timing advance for #1
23 cylinder was fixed at 9 degrees BTDC. After time stamp 18599 the engine speed accelerated to
24 approximately 1850 RPM. From the time the engine RPM increased off idle to the higher RPMs,
25 the throttle was fixed at the same 14.5-percent opening, the MAF was fixed at the same 4.35 gps,
26 and the ignition timing advance for #1 cylinder was fixed at the same 9 degrees BTDC. During
27 the entire period the dynamic data was collected, the only parameter that changed was engine
28 RPM. The throttle position, MAF, and ignition timing advance readings remained unchanged

1 even though the engine speed increased. These readings are not characteristic or expected for
2 normal engine operation. These discrepancies in the OIS Test Data show that the OIS DAD was
3 not connected to the 2001 Sequoia being certified, causing the issuance of a fraudulent Certificate
4 of Compliance by way of clean plugging.

5 **Clean Plug Number 4 – 2000 Ford Ranger**

6 43. OIS Test Data for Exotic Smog indicated on April 15, 2023, a 2000 Ford Ranger,
7 California license W756326, VIN 1FTYR10C3YPB25909 (2000 Ranger), passed an OIS
8 inspection and Exotic Smog issued Certificate of Compliance # TG021237C under the license of
9 respondent Tirado, EO 643355. The Dynamic OBDII PID data for the 2000 Ranger showed
10 between time stamp 391 and 34134 engine speed was steady at approximately 850 RPM. During
11 this time the throttle was fixed at 22-percent opening, MAF was fixed at 4.66 gps, and the
12 ignition timing advance for #1 cylinder was fixed at 10 degrees BTDC. After time stamp 34134
13 the engine speed accelerated to approximately 1800 RPM. From the time the engine RPM
14 increased off idle to the higher RPMs, the throttle was fixed at the same 22-percent opening, the
15 MAF was fixed at the same 4.66 gps, and the ignition timing advance for #1 cylinder was fixed at
16 the same 10 degrees BTDC. During the entire period the dynamic data was collected, the only
17 parameter that changed was engine RPM. The throttle position, MAF, and ignition timing
18 advance readings remained unchanged even though the engine speed was increased. These
19 readings are not characteristic or expected for normal engine operation. The discrepancies in the
20 OIS Test Data prove the OIS DAD was not connected to the 2000 Ranger being certified, causing
21 the issuance of a fraudulent Certificate of Compliance by way of clean plugging.

22 **Clean Plug Number 5 – 2001 Mitsubishi Galant**

23 44. OIS Test Data for Exotic Smog indicated on April 22, 2023, a 2001 Mitsubishi Galant
24 ES, CA license 7YIM635, VIN 4A3AA46G41E100617 (2001 Galant), passed an OIS inspection
25 and Exotic Smog issued Certificate of Compliance # IT738851C under the license of respondent
26 Tirado, EO 643355. The OIS Test Data showed that between time stamp 896 and 63003 engine
27 speed was steady at approximately 850 RPM. During this time the throttle was fixed at zero-
28 percent opening, MAF was fixed at 3.41 gps, and the ignition timing advance for #1 cylinder was

1 fixed at 13 degrees BTDC. After time stamp 63003 the engine speed accelerated to approximately
2 1750 RPM. From the time the engine RPM increased off idle to the higher RPMs, the throttle is
3 fixed at the same zero-percent opening, the MAF is fixed at the same 3.41 gps, and the ignition
4 timing advance for #1 cylinder is fixed at the same 13 degrees BTDC. During the entire period
5 the dynamic data was collected, the only parameter that changed was engine RPM. The throttle
6 position, MAF, and ignition timing advance readings remained unchanged even though the
7 engine speed increased. These readings are not characteristic or expected for normal engine
8 operation. The discrepancies in the OIS Test Data show that the OIS DAD was not connected to
9 the 2001 Galant being certified, causing the issuance of a fraudulent Certificate of Compliance by
10 way of clean plugging.

11 **Clean Plug Number 6 – 2004 Toyota Camry**

12 45. OIS Test Data for Exotic Smog indicated on July 17, 2023, a 2004 Toyota Camry LE,
13 CA license 5FYA165, VIN 4T1BE32K84U845845 (2004 Camry), passed an OIS inspection and
14 Exotic Smog issued Certificate of Compliance # TK736201C under the license of respondent
15 Mobasser, EO 644392. The OIS Test Data showed that between time stamp 140 and 24219
16 engine speed was steady at approximately 700 RPM. During this time the throttle was fixed at
17 14.5-percent opening, MAF was fixed at 2.36 gps, and the ignition timing advance for #1 cylinder
18 was fixed at 10.5 degrees BTDC. After time stamp 24219 the engine speed accelerated to
19 approximately 1750 RPM. From the time the engine RPM increased off idle to the higher RPMs,
20 the throttle was fixed at the same 14.5-percent opening, the MAF was fixed at the same 2.36 gps,
21 and the ignition timing advance for #1 cylinder was fixed at the same 10.5 degrees BTDC. During
22 the entire period the dynamic data was collected, the only parameter that changed was engine
23 RPM. The throttle position, MAF, and ignition timing advance readings remained unchanged
24 even though the engine speed increased. These readings are not characteristic or expected for
25 normal engine operation. The discrepancies in the OIS Test Data show that the OIS DAD was not
26 connected to the 2004 Camry being certified, causing the issuance of a fraudulent Certificate of
27 Compliance by way of clean plugging.

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Clean Plug Number 7 – 2005 Toyota Corolla

46. The OIS Test Data for Exotic Smog indicated that on July 26, 2023, a 2005 Toyota Corolla CE, CA license 9AQR185, VIN 1NXBR32E35Z515563 (2005 Corolla), passed an OIS inspection and Exotic Smog issued Certificate of Compliance # TK736207C under the license of respondent Mobasser, EO 644392. The OIS Test Data showed that between time stamp 181 and 20230 engine speed was steady at approximately 725 RPM. During this time the throttle was fixed at 15.7-percent opening, MAF was fixed at 1.84 gps, and the ignition timing advance for #1 cylinder was fixed at 11.5 degrees BTDC. After time stamp 20230 the engine speed accelerated to approximately 1650 RPM. From the time the engine RPM increased off idle to the higher RPMs, the throttle was fixed at the same 15.7-percent opening, the MAF was fixed at the same 1.84 gps, and the ignition timing advance for #1 cylinder was fixed at the same 11.5 degrees BTDC. During the entire 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 increased. These readings are not characteristic or expected for normal engine operation. The discrepancies in the OIS Test Data show that the OIS DAD was not connected to the 2005 Corolla being certified, causing the issuance of a fraudulent Certificate of Compliance by way of clean plugging.

47. Furthermore, on June 7, 2023, another station performed a failing test on the 2005 Corolla. The 2005 Corolla failed the inspection for incomplete OBD II readiness monitors. No Dynamic OBD II PID was collected during the test performed at the other station.

Clean Plug Number 8 – 2002 Ford F150

48. OIS Test Data for Exotic Smog indicated on July 31, 2023, a 2002 Ford F150 SVT Lightning, no plate, VIN 2FTZF07312CA35387 (2002 Lightning), passed an OIS inspection and Exotic Smog issued Certificate of Compliance # TK736222C under the license of respondent Mobasser, EO 644392. The OIS Test Data showed that between time stamp 22 and 22219 engine speed was steady at approximately 700 RPM. During this time the throttle was fixed at 19.2-percent opening, MAF was fixed at 5.09 gps, and the ignition timing advance for #1 cylinder was fixed at 16 degrees BTDC. After time stamp 22219 the engine speed accelerated to and fluctuated

1 between approximately 2000 and 1400 RPM. From the time the engine RPM increased off idle to
2 the higher RPMs, the throttle was fixed at the same 19.2-percent opening, the MAF was fixed at
3 the same 5.09 gps, and the ignition timing advance for #1 cylinder was fixed at the same 16
4 degrees BTDC. During the entire period the dynamic data was collected, the only parameter that
5 changed was engine RPM. The throttle position, MAF, and ignition timing advance readings
6 remained unchanged even though the engine speed increased. These readings are not
7 characteristic or expected for normal engine operation. The discrepancies in the OIS Test Data
8 showed that the OIS DAD was not connected to the 2002 Lightning being certified, causing the
9 issuance of a fraudulent Certificate of Compliance by way of clean plugging.

10 49. Furthermore, on two prior occasions, the 2002 Lightning failed to pass OIS
11 inspections. Another station performed the most recent failing test on June 24, 2023. The 2002
12 Lightning failed the inspection for incomplete OBD II readiness monitors. No Dynamic OBD II
13 PID was collected during the test. On May 9, 2022, an earlier failing test was performed at
14 another station. The 2002 Lightning failed the inspection for incomplete OBD II readiness
15 monitors. The Dynamic OBD II PID data showed the expected change in throttle, MAF, and
16 ignition timing advance parameters as characteristic or expected with normal engine operation.

17 **Clean Plug Number 9 – 2007 Honda Accord**

18 50. OIS Test Data for Exotic Smog indicated that on August 1, 2023, a 2007 Honda
19 Accord EX, CA license 9BXXB165, VIN 1HGCM56897A109588 (2007 Accord), passed an OIS
20 inspection and Exotic Smog issued Certificate of Compliance # TK736228C under the license of
21 respondent Mobasser, EO 644392. The OIS Test Data showed that between time stamp 175 and
22 19240 engine speed was steady at approximately 800 RPM. During this time the throttle was
23 fixed at 13.3-percent opening, MAF was fixed at 3.5 gps, MAP was fixed at 26 kPa, and the
24 ignition timing advance for #1 cylinder was fixed at 9.5 degrees BTDC. After time stamp 19240
25 the engine speed accelerated to and fluctuated between approximately 2200 and 1600 RPM. From
26 the time the engine RPM increased off idle to the higher RPMs, the throttle was fixed at the same
27 13.3-percent opening, the MAF was fixed at the same 3.5 gps, the MAP was fixed at the same 26
28 kPa and the ignition timing advance for #1 cylinder was fixed at the same 9.5 degrees BTDC.

1 During the entire period the dynamic data was collected, the only parameter that changed was
2 engine RPM. The throttle position, MAF, MAP, and ignition timing advance readings remained
3 unchanged even though the engine speed increased. These readings are not characteristic or
4 expected for normal engine operation. The discrepancies in the OIS Test Data showed that the
5 OIS DAD was not connected to the 2007 Accord being certified, causing the issuance of a
6 fraudulent Certificate of Compliance by way of clean plugging.

7 51. Furthermore, on two prior occasions the 2007 Accord failed OIS inspections. The
8 most recent failing test was performed at a different station on June 28, 2023. The 2007 Accord
9 failed the inspection for a tampered catalyst. No Dynamic OBDII PID data was collected during
10 the test. An earlier failing test was performed at another station on May 5, 2023. The 2007
11 Accord failed the inspection for a tampered catalyst. The Dynamic OBDII PID data showed the
12 expected change in the throttle, MAF, MAP, and ignition timing advance parameters as
13 characteristic or expected for normal engine operation.

14 **Clean Plug Number 10 – 2002 Toyota 4Runner**

15 52. The OIS Test Data for Exotic Smog indicated that on November 8, 2023, a 2002
16 Toyota 4Runner SR5, CA license 4WFT343, VIN JT3HN86RX20377323 (2002 4Runner),
17 passed the OIS inspection and Exotic Smog issued Certificate of Compliance # TO638030C
18 under the license of respondent Mobasser, EO 644392. The OIS Test Data showed that between
19 time stamp 139 and 19783 engine speed was steady at approximately 750 RPM. During this time
20 the throttle was fixed at 14.5-percent opening, MAF was fixed at 3.64 gps, and the ignition timing
21 advance for #1 cylinder was fixed at 15 degrees BTDC. After time stamp 19783 the engine speed
22 decelerated to approximately 300 RPM, then accelerated to and fluctuated between approximately
23 1550 and 2200 RPM. From the time the engine RPM increased off idle to the higher RPMs, the
24 throttle was fixed at the same 14.5-percent opening, the MAF was fixed at the same 3.64 gps, and
25 the ignition timing advance for #1 cylinder was fixed at the same 15 degrees BTDC. During the
26 entire period the dynamic data was collected, the only parameter that changed was engine RPM.
27 The throttle position, MAF, and ignition timing advance readings remained unchanged even
28 though the engine speed increased. These readings are not characteristic or expected for normal

1 engine operation. The discrepancies in the OIS Test Data show that the OIS DAD was not
2 connected to the 2002 4Runner being certified, causing the issuance of a fraudulent Certificate of
3 Compliance by way of clean plugging.

4 53. Furthermore, on April 6, 2023, another station performed a failing test on the 2002
5 4Runner. The 2002 4Runner failed the inspection for incomplete OBD II readiness monitors. No
6 Dynamic OBDII PID data was collected during the test

7 **FIRST CAUSE FOR DISCIPLINE**

8 **(Untrue or Misleading Statements)**

9 54. Respondent Exotic Smog's Automotive Repair Dealer Registration is subject to
10 disciplinary action pursuant to Code section 9884.7, subdivision (a)(1), in that respondent Exotic
11 Smog made statements which were known to be untrue or misleading or, which by exercise of
12 reasonable care should have been known to be untrue or misleading, by issuing electronic smog
13 certificates of compliance for the ten vehicles set forth in paragraphs 40 through 53 above,
14 certifying that those vehicles were in compliance with applicable laws and regulations when, in
15 fact, those vehicles had not been so inspected. Complainant refers to, and by this reference
16 incorporates, the allegations contained in paragraphs 38 through 53, above, as though set forth
17 fully herein.

18 **SECOND CAUSE FOR DISCIPLINE**

19 **(Fraud)**

20 55. Respondent Exotic Smog's Automotive Repair Dealer Registration is subject to
21 disciplinary action pursuant to Code section 9884.7, subdivision (a)(4), in that respondent Exotic
22 Smog committed acts that constitute fraud by issuing electronic certificates of compliance to the
23 ten vehicles set forth in paragraphs 40 through 53, above, without performing bone fide
24 inspections of the emission control devices and systems on those vehicles, thereby depriving the
25 People of the State of California of the protection afforded by the Motor Vehicle Inspection
26 Program. Complainant refers to, and by this reference incorporates, the allegations contained in
27 paragraphs 38 through 53, above, as though set forth fully herein.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Material Violation of Automotive Repair Act)**

3 56. Respondent Exotic Smog's Automotive Repair Dealer Registration is subject to
4 disciplinary action pursuant to Code section 9884.7, subdivision (a)(6), in that respondent Exotic
5 Smog failed in a material respect to comply with the provisions of this chapter or regulations
6 adopted pursuant to it when he issued electronic certificates of compliance for the ten vehicles set
7 forth in paragraphs 40 through 53, above, without performing bona fide inspections of the
8 emission control devices and systems on those vehicles, thereby depriving the People of the State
9 of California of the protection afforded by the Motor Vehicle Inspection Program. Complainant
10 refers to, and by this reference incorporates, the allegations contained in paragraphs 38 through
11 53, above, as though set forth fully herein.

12 **FOURTH CAUSE FOR DISCIPLINE**

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

14 57. Respondent Exotic Smog's Smog Check Test Only Station License is subject to
15 disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that
16 respondent Exotic Smog failed to comply with the following sections of that Code:

17 a. **Section 44012:** Respondent Exotic Smog failed to ensure that the emission
18 control tests were performed on the ten vehicles identified in paragraphs 40 through 53, above, in
19 accordance with procedures prescribed by the department.

20 b. **Section 44015, subdivision (b):** Respondent Exotic Smog issued electronic
21 smog certificates of compliance to the ten vehicles identified in paragraphs 40 through 53, above,
22 without properly testing and inspecting those vehicles to determine if they were in compliance
23 with Health & Saf. Code section 44012.

24 Complainant refers to, and by this reference incorporates, the allegations contained in
25 paragraphs 38 through 53, above, as though set forth fully herein.

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1 **FIFTH CAUSE FOR DISCIPLINE**

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

3 58. Respondent Exotic Smog's Smog Check Test Only Station License is subject to
4 disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that
5 respondent Exotic Smog failed to comply with provisions of title 16 of the California Code of
6 Regulations as follows:

7 a. **Section 3340.24, subdivision (c):** Respondent Exotic Smog falsely or
8 fraudulently issued electronic smog certificates of compliance for the ten vehicles identified in
9 paragraphs 40 through 53, above.

10 b. **Section 3340.30, subdivision (a):** Respondent Exotic Smog failed to inspect
11 and test the ten vehicles identified in paragraphs 40 through 53, above, in accordance with Health
12 & Saf. Code sections 44012 and 44035, and title 16 of the California Code of Regulations, section
13 3340.42.

14 c. **Section 3340.35, subdivision (c):** Respondent Exotic Smog issued electronic
15 smog certificates of compliance for the ten vehicles identified in paragraphs 40 through 53,
16 above, even though those vehicles had not been inspected in accordance with title 16 of the
17 California Code of Regulations, section 3340.42.

18 d. **Section 3340.41, subdivision (c):** Respondent Exotic Smog knowingly entered
19 false information into the emissions inspection system for the ten vehicles identified in
20 paragraphs 40 through 53, above.

21 e. **Section 3340.42:** Respondent failed to ensure that the smog inspections
22 conducted on the ten vehicles identified in paragraphs 40 through 53, above, were done in
23 accordance with the Bureau's specifications.

24 Complainant refers to, and by this reference incorporates, the allegations contained in
25 paragraphs 38 through 53, above, as though set forth fully herein.

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1 **SIXTH CAUSE FOR DISCIPLINE**

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

3 59. Respondent Exotic Smog's Smog Check Test Only Station License is subject to
4 disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in
5 conjunction with Health & Saf. Code section 44072.10, subdivision (c), in that respondent Exotic
6 Smog committed dishonest, fraudulent, or deceitful acts whereby another was injured by issuing
7 electronic smog certificates of compliance for the ten vehicles described in paragraphs 40 through
8 53, above, without performing bona fide inspections of the emission control devices and systems
9 on those vehicles, thereby depriving the People of the State of California of the protection
10 afforded by the Motor Vehicle Inspection Program. Complainant refers to, and by this reference
11 incorporates, the allegations contained in paragraphs 38 through 53, above, as though set forth
12 fully herein.

13 **SEVENTH CAUSE FOR DISCIPLINE**

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

15 60. Respondent Tirado's Smog Check Inspector License is subject to disciplinary action
16 pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that he failed to comply with
17 the following sections of that code:

18 a. **Section 44032:** Respondent Tirado failed to perform tests of emission control
19 devices and systems of the five vehicles identified in paragraphs 40 through 44, above, in
20 accordance with Health & Saf. Code section 44012.

21 b. **Section 44015, subdivision (b):** Respondent Tirado caused electronic smog
22 certificates of compliance to be issued for the five vehicles identified in paragraphs 40 through
23 44, above, without ensuring that they were properly tested and inspected to determine if they were
24 in compliance with Health & Saf. Code section 44012.

25 Complainant refers to, and by this reference incorporates, the allegations contained in
26 paragraphs 38 through 53, above, as though set forth fully herein.

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1 **EIGHTH CAUSE FOR DISCIPLINE**

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

3 61. Respondent Tirado's Smog Check Inspector License is subject to disciplinary action
4 pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that he failed to comply with
5 provisions of title 16 of the California Code of Regulations as follows:

6 a. **Section 3340.24, subdivision (c):** Respondent Tirado falsely or fraudulently issued
7 electronic smog certificates of compliance for the five vehicles identified in paragraphs 40
8 through 44, above.

9 b. **Section 3340.30, subdivision (a):** Respondent Tirado failed to inspect and test the
10 five vehicles identified in paragraphs 40 through 44, above, in accordance with Health & Saf.
11 Code sections 44012 and 44035, and title 16 of the California Code of Regulations, section
12 3340.42.

13 c. **Section 3340.41, subdivision (c):** Respondent Tirado knowingly entered false
14 information into the emissions inspection system for the five vehicles identified in paragraphs 40
15 through 44, above.

16 d. **Section 3340.42:** Respondent Tirado failed to ensure that the smog inspections
17 conducted on the five vehicles identified in paragraphs 40 through 44, above, were done in
18 accordance with the Bureau's specifications.

19 Complainant refers to, and by this reference incorporates, the allegations contained in
20 paragraphs 38 through 53, above, as though set forth fully herein.

21 **NINTH CAUSE FOR DISCIPLINE**

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

23 62. Respondent Tirado's Smog Check Inspector License is subject to disciplinary action
24 pursuant to Health & Saf. Code section 44072.2, subdivision (d), in conjunction with Health &
25 Saf. Code section 44072.10, subdivision (c), in that he committed dishonest, fraudulent, or
26 deceitful acts whereby another was injured by issuing electronic smog certificates of compliance
27 for the five vehicles identified in paragraphs 40 through 44, above, without performing bona fide
28 inspections of the emission control devices and systems on those vehicles, thereby depriving the

1 People of the State of California of the protection afforded by the Motor Vehicle Inspection
2 Program. Complainant refers to, and by this reference incorporates, the allegations contained in
3 paragraphs 38 through 53, above, as though set forth fully herein.

4 **TENTH CAUSE FOR DISCIPLINE**

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

6 63. Respondent Mobasser's Smog Check Inspector License is subject to disciplinary
7 action pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that he failed to
8 comply with the following sections of that code:

9 a. **Section 44032:** Respondent Mobasser failed to perform tests of emission control
10 devices and systems of the five vehicles identified in paragraphs 45 through 53, above, in
11 accordance with Health & Saf. Code section 44012.

12 b. **Section 44015, subdivision (b):** Respondent Mobasser caused electronic smog
13 certificates of compliance to be issued for the five vehicles identified in paragraphs 45 through
14 53, above, without ensuring that they were properly tested and inspected to determine if they were
15 in compliance with Health & Saf. Code section 44012.

16 Complainant refers to, and by this reference incorporates, the allegations contained in
17 paragraphs 38 through 53, above, as though set forth fully herein.

18 **ELEVENTH CAUSE FOR DISCIPLINE**

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

20 64. Respondent Mobasser's Smog Check Inspector License is subject to disciplinary
21 action pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that he failed to
22 comply with provisions of title 16 of the California Code of Regulations as follows:

23 a. **Section 3340.24, subdivision (c):** Respondent Mobasser falsely or fraudulently
24 issued electronic smog certificates of compliance for the five vehicles identified in paragraphs 45
25 through 53, above.

26 b. **Section 3340.30, subdivision (a):** Respondent Mobasser failed to inspect and test the
27 five vehicles identified in paragraphs 45 through 53, above, in accordance with Health & Saf.
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Code sections 44012 and 44035, and title 16 of the California Code of Regulations, section 3340.42.

c. **Section 3340.41, subdivision (c):** Respondent Mobasser knowingly entered false information into the emissions inspection system for the five vehicles identified in paragraphs 45 through 53, above.

d. **Section 3340.42:** Respondent Mobasser failed to ensure that the smog inspections conducted on the five vehicles identified in paragraphs 45 through 53, above, were done in accordance with the Bureau's specifications.

Complainant refers to, and by this reference incorporates, the allegations contained in paragraphs 38 through 53, above, as though set forth fully herein.

TWELFTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud, or Deceit)

65. Respondent Mobasser's Smog Check Inspector License is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in conjunction with Health & Saf. Code section 44072.10, subdivision (c), in that he committed dishonest, fraudulent, or deceitful acts whereby another was injured by issuing electronic smog certificates of compliance for the five vehicles identified in paragraphs 45 through 53, above, 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. Complainant refers to, and by this reference incorporates, the allegations contained in paragraphs 38 through 53, above, as though set forth fully herein.,

PRAYER

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

1. Revoking or suspending Automotive Repair Dealer Registration Number ARD 302939, issued to Erik A. Sanchez – Owner dba Exotic Smog;

2. Revoking, suspending, or placing on probation any other automotive repair dealer registration issued to Erik A. Sanchez;

3. Revoking or suspending Smog Check, Test Only, Station License Number TC 302939, issued to Erik A. Sanchez – Owner, dba Exotic Smog;

4. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code in the name of Erik A. Sanchez;

5. Revoking or suspending Smog Check Inspector License Number EO 643355, issued to Daniel Tirado;

6. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code in the name of Daniel Tirado;

7. Revoking or suspending Smog Check Inspector License Number EO 644392, issued to Brandon Francisco Mobasser;

8. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code in the name of Brandon Francisco Mobasser;

9. Ordering Erik A. Sanchez, Daniel Tirado, and Brandon Francisco Mobasser to pay the Bureau of Automotive Repair the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3 and if placed on probation, the costs of probation monitoring; and,

10. 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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