

**BEFORE THE DIRECTOR OF THE
DEPARTMENT OF CONSUMER AFFAIRS
BUREAU OF AUTOMOTIVE REPAIR
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

ERIK A. SANCHEZ, dba EXOTIC SMOG

1500 Crafton Ave., 132

Mentone, CA 92359

Automotive Repair Dealer Registration No. ARD 302939

Smog Check Test Only Station License No. TC 302939

DANIEL TIRADO

12064 Olivedale Dr.

Fontana, CA 92337

Smog Check Inspector License No. EO 643355

and

BRANDON FRANCISCO MOBASSER

34732 Woods Pl.

Beaumont, CA 92223

Smog Check Inspector License No. EO 644392

Respondents.

Case No. 79/24-11142

OAH No. 2025040979

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby accepted and adopted by the Director of the Department of Consumer Affairs as the Decision in the above-entitled matter.

This Decision shall be effective on January 29, 2026.

IT IS SO ORDERED December 23, 2025.

Original signature on file
GRACE ARUPO RODRIGUEZ
Assistant Deputy Director
Legal Affairs Division
Department of Consumer Affairs

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And

BRANDON FRANCISCO MOBASSER,

Smog Check Inspector License No. EO 644392,

Respondents.

Agency No. 79/24-11142

OAH No. 2025040979

PROPOSED DECISION

Sandy Yu, Administrative Law Judge (ALJ), Office of Administrative Hearings, State of California, heard this matter by videoconference on October 13, 2025.

Christina Thomas, Esq., represented complainant Patrick Dorais, Chief of the Bureau of Automotive Repair (Bureau), Department of Consumer Affairs.

Frank C. Brucculeri, Esq., represented respondents Erik A. Sanchez, doing business as Exotic Smog (Exotic Smog), and Daniel Tirado (Tirado).

There was no appearance by or on behalf of respondent Brandon Francisco Mobasser (Mobasser).

The ALJ received testimony and documentary evidence. The record was held open for complainant to submit additional documents by October 20, 2025, and for respondents to submit written objections or response, if any, by October 27, 2025. On October 13, 2025, complainant filed the following two documents: (1) on-board diagnostic inspection system (OIS) test details for a 2002 Ford F150 SVT, marked for identification as Exhibit 14; and (2) OIS test details for a 2007 Honda Accord EX, marked for identification as Exhibit 17. Respondents did not file any response. Exhibits 14 and 17 were admitted as hearsay evidence pursuant to Government Code section 11513, subdivision (d). The record closed and the matter was submitted for decision on October 27, 2025.

SUMMARY

Complainant requests that the Bureau take disciplinary action against the following licenses in connection with the improper issuance of smog certificates of compliance: (1) Exotic Smog's Automotive Repair Dealer (ARD) Registration and Smog

Check Test Only Station License; (2) Tirado's Smog Check Inspector license; and (3) any additional license under the Motor Vehicle Inspection Program in the name of Sanchez or Tirado. Complainant established cause to discipline respondents' registration and licenses because respondents violated the Motor Vehicle Inspection Program. Unbeknownst to Sanchez, Tirado issued false certificates of compliance, did not properly conduct smog inspections, and entered false data in the Bureau's emission inspection systems. Therefore, revocation of Tirado's license(s) is warranted, and an order placing Exotic Smog's registration and license and any additional license of Sanchez on probation for five years is justified.

FACTUAL FINDINGS

Jurisdictional Matters

1. On October 20, 2021, the Bureau issued Smog Check Inspector License Number EO 643355 to Tirado. The Smog Check Inspector License Number will expire on June 30, 2027, unless renewed.

2. On July 6, 2022, the Bureau issued ARD Registration Number ARD 302939 to Exotic Smog. The ARD Registration will expire on July 31, 2026, unless renewed.

3. On October 5, 2022, the Bureau issued Smog Check Test Only Station License Number TC 302939 to Exotic Smog. The Smog Check Test Only Station License will expire on July 31, 2026, unless renewed.

4. On June 14, 2023, the Bureau issued Smog Check Inspector License Number EO 644392 to Mobasser. The Smog Check Inspector License was set to expire on August 31, 2027.

5. On February 21, 2025, complainant filed an Accusation in his official capacity against Exotic Smog, Tirado, and Mobasser. On March 21, 2025, Sanchez, dba Exotic Smog, and Tirado filed Notices of Defense, requesting a hearing.

6. On September 25, 2025, the Bureau issued a Stipulated Revocation of License and Order, which revoked Mobasser's Smog Check Inspector License No. E0644392, effective October 31, 2025, and ordered him to pay the Bureau its costs of investigation and enforcement in the amount of \$1,812.72.

7. On October 28, 2025, complainant filed a Notice of Withdrawal of Accusation as to Mobasser only.

Background and Investigation

8. California's Smog Check Program requires the owners of most vehicles to subject their vehicles to and pass a Smog Check inspection and receive a certificate of compliance every two years when renewing their registration and when the vehicle's title is transferred. These inspections are performed by Smog Check inspectors at Smog Check stations, both of which are licensed by the Bureau. The Smog Check Program is intended to reduce air pollution by identifying and requiring the repair of polluting motor vehicles.

9. Beginning March 9, 2015, the Smog Check Program requires the use of an OIS system, which consists of a Bureau-certified Data Acquisition Device (DAD), computer, bar code scanner, and printer. A Smog Check inspector scans a bar code on the vehicle, Department of Motor Vehicles (DMV) registration renewal documents, or both. The bar code identifies the vehicle to be inspected. The inspector then connects the DAD to a port located in the vehicle's passenger compartment.

10. During the inspection, the Bureau receives vehicle information uploaded from the DAD to a Bureau database via an internet connection. The information includes an electronic vehicle identification number (eVIN), a unique number assigned to a vehicle at the time it is manufactured; the communication protocol, which is the specific language the Powertrain Control Module (PCM) uses to relay or communicate information to scan tools or devices such as the OIS; and the number of Parameter Identifications (PIDs), which is the number of specific data values each PCM reports related to emission controls. Like the eVIN, the protocol and PIDs are programmed into the vehicle's on-board computer during manufacture and do not change. Smog Check inspectors must also perform a visual and functional test of each vehicle.

11. If a vehicle passes the Smog Check inspection, the OIS prints a Vehicle Inspection Report (VIR), including a certificate of compliance. The Smog Check inspector must sign the VIR, indicating the inspection was performed within Bureau guidelines. Each inspector has a unique username and password to log into the OIS, identifying who performed a particular inspection.

12. The Bureau maintains the Vehicle Information Database (VID), which contains DMV registration information, Smog Check data, and certificates of compliance. The Bureau monitors the VID for evidence of fraudulent Smog Checks, including those performed via clean plugging. Clean plugging is an illegal practice in which an individual uses another vehicle's properly functioning on-board diagnostic system or another source to generate passing scores or diagnostic information to issue fraudulent smog certificates for non-smog-compliant or untested vehicles.

13. Steve Koch, Program Representative I, performed a detailed review of VID data for Smog Check inspections performed at Exotic Smog. Mr. Koch

documented his findings in a report dated October 14, 2024. Mr. Koch identified the following 10 instances of suspected clean plugging:

INSTANCES OF SUSPECTED CLEAN PLUGGING

Vehicles 1-5

14. On April 4, 2023, Tirado, while working at Exotic Smog, conducted a Smog Check for a 2004 Pontiac GTO, with a vehicle identification number (VIN) ending in 4181. Vehicle 1 passed the inspection, and a smog certificate of compliance was issued.

15. On April 8, 2023, Tirado conducted a Smog Check for a 2004 GMC Savanna RV G1500, with a VIN ending in 5263 (Vehicle 2). Vehicle 2 passed the inspection, and a smog certificate of compliance was issued.

16. On April 14, 2023, Tirado conducted a Smog Check for a 2001 Toyota Sequoia SR5, with a VIN ending in 9828 (Vehicle 3). Vehicle 3 passed the inspection, and a smog certificate of compliance was issued.

17. On April 15, 2023, Tirado conducted a Smog Check for a 2000 Ford Ranger, with a VIN ending in 5909 (Vehicle 4). Vehicle 4 passed the inspection, and a smog certificate of compliance was issued.

18. On April 22, 2023, Tirado conducted a Smog Check for a 2001 Mitsubishi Galant ES, with a VIN ending in 0617 (Vehicle 5). Vehicle 5 passed the inspection, and a smog certificate of compliance was issued.

19. During the period of dynamic data was collected for Vehicles 1 through 5, the only parameter that changed was engine RPM. The throttle position, MAF, MAP,

and ignition timing advance readings remained unchanged even though the engine speed increased. These readings were not characteristic or expected for normal engine operation. These discrepancies in the OIS Test Data established that it is more likely than not that the OIS DAD was not connected to these five vehicles when they were being certified, and Tirado and Exotic Smog issued fraudulent certificates of compliance by way of clean plugging for Vehicles 1 through 5.

Vehicles 6-10

20. On July 17, 2023, Mobasser, while working at Exotic Smog, conducted a Smog Check for a 2004 Toyota Camry LE, with a VIN ending in 5845 (Vehicle 6). Vehicle 6 passed the inspection, and a smog certificate of compliance was issued.

21. On July 26, 2023, Mobasser conducted a Smog Check for a 2005 Toyota Corolla CE, with a VIN ending in 5563 (Vehicle 7). Vehicle 7 passed the inspection, and a smog certificate of compliance was issued.

22. On July 31, 2023, Mobasser conducted a Smog Check for a 2002 Ford F150 SVT, with a VIN ending in 5387 (Vehicle 8). Vehicle 8 passed the inspection, and a smog certificate of compliance was issued.

23. On August 1, 2023, Mobasser conducted a Smog Check for a 2007 Honda Accord EX, with a VIN ending in 9588 (Vehicle 9). Vehicle 9 passed the inspection, and a smog certificate of compliance was issued.

24. On November 8, 2023, Mobasser conducted a Smog Check for a 2002 Toyota 4Runner SR5, with a VIN ending in 7323 (Vehicle 10). Vehicle 10 passed the inspection, and a smog certificate of compliance was issued.

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25. Like Vehicles 1 through 5, during the period of dynamic data was collected for Vehicles 6 through 10, the only parameter that changed was engine RPM. Such readings were not characteristic or expected for normal engine operation. These discrepancies in the OIS Test Data established that it is more likely than not that the OIS DAD was not connected to these five vehicles when they were being certified, and Mobasser and Exotic Smog issued fraudulent certificates of compliance by way of clean plugging for Vehicles 6 through 10.

Hearing

COMPLAINANT'S CASE

Steve Koch

26. Koch credibly testified at the hearing about his investigation findings concerning Vehicles 1 through 10. His hearing testimony established that he followed the Bureau's protocols during the investigation, and that the Smog Checks on the vehicle were likely fraudulent. Koch explained that the non-changing data values for the 10 vehicles are what is seen when a simulator device is used. The possibility of equipment malfunctions or unauthorized logins were highly unlikely, and there was no alternative explanation for the test results at issue other than clean plugging.

Respondents' Case

Erik A. Sanchez

27. Sanchez is 33 years old. He has been a licensed barber for over 10 years. Sanchez is also a licensed Smog Check Inspector. He has no prior disciplinary actions with the Bureau or with the Board of Barbering and Cosmetology.

28. Sanchez testified that in 2022, he opened Exotic Smog as a side business. He stated that he hired Tirado and Mobasser as smog technicians. Sanchez testified that because he worked full-time as a barber, he would visit Exotic Smog once a week. He explained that during his weekly visits, he did not see any fraudulent activities at Exotic Smog.

29. Sanchez testified that after the Bureau informed him of the allegations of clean plugging, he spoke with Tirado and Mobasser, who denied intentionally clean plugging any vehicle. Sanchez denied having any knowledge of any fraudulent activities at Exotic Smog. Sanchez also testified that to prevent any future wrongdoing, he installed cameras at Exotic Smog that allow him to monitor activities there remotely.

Daniel Tirado

30. Tirado chose not to testify and did not present any evidence.

Analysis

31. The evidence established that unbeknownst to Sanchez, Tirado, and Mobasser issued false certificates of compliance, did not properly conduct smog inspections, and entered false data in the Bureau's emission inspection systems for Vehicles 1 through 5 and Vehicles 6 through 10, respectively. Koch credibly testified that there was no alternative explanation for the test results at issue other than clean plugging. Respondents did not offer any evidence to dispute Koch's findings.

Costs

32. The Bureau seeks reimbursement of \$6,821.25 in enforcement costs and \$2,933.88 in investigation costs. Of the enforcement costs, 28.75 hours totaling

\$6,555.00 were incurred by attorneys, and 1.25 hours totaling \$266.25 were incurred by paralegals. The investigation costs are based upon 28.5 hours incurred by Koch and Raymond Gottenbos, the Bureau's Program Representative II. The total of these costs is \$9,755.13.

33. Sanchez and Tirado did not present any evidence of a financial inability to pay costs.

LEGAL CONCLUSIONS

Burden and Standard of Proof

1. Complainant bears the burden of proving by a preponderance of the evidence the allegations against respondents. (*Imports Performance v. Department of Consumer Affairs, Bureau of Automotive Repair* (2011) 201 Cal.App.4th 911, 916-917.) A preponderance of the evidence means evidence that has more convincing force than that opposed to it. (*People ex rel. Brown v. Tri-Union Seafoods, LLC* (2009) 171 Cal.App.4th 1549, 1567.)

Applicable Law

2. The Bureau may suspend, revoke, or take other disciplinary action against a ARD if the ADR or one of its technicians commits any of the following acts or omissions: (1) making any written or oral statement which it knew or should have known was untrue or misleading, (2) any conduct constituting fraud, or (3) failure in any material respect to comply with the provisions of the Automotive Repair Act or the regulations adopted pursuant to it. (Bus. & Prof. Code, § 9884.7, subds. (a)(1), (a)(4), (a)(6).) Fraud includes a misrepresentation in any manner, whether intentionally false

or due to gross negligence, of a material fact. (Bus. & Prof. Code, § 9884.7, subd. (e)(2).)

3. The Bureau may suspend, revoke, or take other disciplinary action against a Smog Check, Test Only Station license; a Smog Check inspector license; or a Smog Repair Technician license if the licensee violates any law under the Motor Vehicle Inspection Program or the regulations adopted pursuant to it. (Health & Saf. Code, § 44072.2, subds. (a), (c).)

4. The Bureau may also suspend, revoke, or take other disciplinary action against a Smog Check inspector or Repair Technician if the licensee commits any act involving dishonesty, fraud, or deceit whereby another is injured. (Health & Saf. Code, § 44072.2, subd. (d).)

5. The Bureau must revoke the license of any Smog Check technician or station licensee who fraudulently certifies vehicles or participates in the fraudulent inspection of vehicles. (Health & Saf. Code, § 44072.10, subd. (c).)

Causes for Discipline

Erik. A Sanchez, dba Exotic Smog

First Cause For Discipline: Untrue or Misleading Statements

6. Complainant seeks to discipline Exotic Smog's ARD registration pursuant to Business and Professions Code section 9884.7, subdivision (a)(1), for making or authorizing statements it knew or should have known were untrue or misleading.

7. Complainant proved by a preponderance of the evidence that Tirado and Mobasser, while working as technicians for Exotic Smog, made statements they knew

or should have known were untrue and misleading when they falsely certified Vehicles 1 through 10 as having passed smog inspections. Exotic Smog is responsible for the misconduct of its technicians, pursuant to the plain language of Business and Professions Code section 9884.7, subdivision (a), and case law. (See *Arenstein v. California State Bd. of Pharmacy* (1968) 265 Cal.App.2d 179 [pharmacy licensee responsible for the illegal acts of its employees]; *Rob-Mac, Inc. v. Department of Motor Vehicles* (1983) 148 Cal.App.3d 793 [licensed automotive dealer subject to discipline for misconduct of salesperson].) Cause therefore exists to discipline Exotic Smog's ARD registration pursuant to Business and Professions Code section 9884.7, subdivision (a)(1).

Second Cause For Discipline: Fraud

8. Complainant seeks to discipline Exotic Smog's ARD registration pursuant to Business and Professions Code section 9884.7, subdivision (a)(4), for committing acts constituting fraud.

9. Complainant proved by a preponderance of the evidence that Tirado and Mobasser, while working as technicians for Exotic Smog, committed fraud by falsely certifying Vehicles 1 through 10 as having passed smog inspections. Cause therefore exists to discipline Exotic Smog's ARD registration pursuant to Business and Professions Code section 9884.7, subdivision (a)(4).

Third Cause For Discipline: Material Violation of the Automotive Repair Act

10. Complainant seeks to discipline Exotic Smog's ARD registration pursuant to Business and Professions Code section 9884.7, subdivision (a)(6), for committing material violations of the Automotive Repair Act.

11. Complainant proved by a preponderance of the evidence that Exotic Smog materially violated the Automotive Repair Act because its technicians, Tirado and Mobasser, violated Business and Professions Code section 9884.7, subdivision (a)(1) by falsely issuing smog certificates of compliance for Vehicles 1 through 10. Cause therefore exists to discipline Exotic Smog's ARD registration pursuant to Business and Professions Code section 9884.7, subdivision (a)(6).

Fourth Cause For Discipline: Violations of the Motor Vehicle Inspection Program

12. Complainant seeks to discipline Exotic Smog's Smog Check Station license pursuant to Health and Safety Code section 44072.2, subdivision (a), for violating provisions of the Motor Vehicle Inspection Program as follows: (1) failing to properly conduct emission control tests (Health & Saf. Code, § 44012); (2) issuing smog certificates of compliance without ensuring the vehicles were properly tested and inspected (Health & Saf. Code, § 44015, subd. (b)); and (3) willfully making false entries for electronic smog certificates of compliance. (Health & Saf. Code, § 44059.)

13. Complainant proved by a preponderance of the evidence that Exotic Smog violated provisions of the Motor Vehicle Inspection Program by falsely certifying Vehicles 1 through 10 as passing smog inspections. Exotic Smog did not properly conduct emission control tests and issued smog certificates of compliance without ensuring the vehicles were properly tested. Cause therefore exists to discipline Exotic Smog's Check Test Only Station License pursuant to Health and Safety Code section 44072.2, subdivision (a).

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Fifth Cause For Discipline: Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection Program

14. Complainant seeks to discipline Exotic Smog's Smog Check Station license pursuant to Health and Safety Code section 44072.2, subdivision (c), for violating regulations adopted under the Motor Vehicle Inspection Program as follows: (1) falsely or fraudulently issuing a smog certificate of compliance (Cal. Code Regs., tit. 16 (CCR), § 3340.24, subd. (c)); (2) failing to inspect and test Vehicles 1 through 10 in accordance with Health and Safety Code sections 44012 and 44035 (CCR, § 3340.30, subd. (a)); (3) issuing smog certificates of compliance without properly inspecting and testing vehicles (CCR, § 3340.35, subd. (c)); (4) entering false vehicle data into the Bureau's emission inspection system (CCR, § 3340.41, subd. (c)); and (5) failing to conduct smog tests and inspections in accordance with the Bureau's specifications (CCR, § 3340.42).

15. Complainant proved by a preponderance of evidence that Exotic Smog violated the above regulations adopted under the Motor Vehicle Inspection Program by falsely certifying Vehicles 1 through 10 as passing smog inspections. Exotic Smog, through its technicians, issued false certificates of compliance, did not properly conduct smog inspections, and entered false data in the Bureau's emission inspection system. Cause therefore exists to discipline Exotic Smog's Check Test Only Station License pursuant to Health and Safety Code section 44072.2, subdivision (c), in conjunction with the regulations described above.

Sixth Cause For Discipline: Dishonesty, Fraud, or Deceit

16. Complainant seeks to discipline Exotic Smog's license pursuant to Health and Safety Code sections 44072.2, subdivision (d), and 44072.10, subdivision (c)

because Exotic Smog committed dishonest, fraudulent, or deceitful acts in connection with the issuance of fraudulent smog certificates of compliance.

17. Complainant proved by a preponderance of evidence that Exotic Smog committed dishonest, fraudulent, and deceitful acts when it issued certificates of smog compliance for Vehicles 1 through 10 without performing proper emission tests. Cause therefore exists to discipline Exotic Smog's Smog Check Test Only Station License pursuant to Health and Safety Code sections 44072.2, subdivision (d), and 44072.10, subdivision (c).

DANIEL TIRADO

Seventh Cause For Discipline: Violations of the Motor Vehicle Inspection Program

18. Complainant seeks to discipline Tirado's Smog Check Inspector License pursuant to Health and Safety Code section 44072.2, subdivision (a) for violating provisions of the Motor Vehicle Inspection Program as follows: (1) failing to properly perform emission control tests on Vehicles 1 through 5 (Health & Saf. Code, § 44032); and (2) issuing certificates of compliance for Vehicles 1 through 5, without ensuring these vehicles were properly tested and inspected. (Health & Saf. Code, § 44015.)

19. Complainant proved by a preponderance of the evidence that Tirado violated provisions of the Motor Vehicle Inspection Program by falsely certifying Vehicles 1 through 5 as passing smog inspections. Tirado did not properly perform emission control tests and issued smog certificates of compliance without ensuring these vehicles were properly tested and inspected. Cause therefore exists to discipline Tirado's Smog Check Inspector License pursuant to Health and Safety Code section 44072.2, subdivision (a).

Eighth Cause For Discipline: Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection Program

20. Complainant seeks to discipline Tirado's Smog Check Inspector License pursuant to Health and Safety Code section 44072.2, subdivision (c), for violating regulations adopted under the Motor Vehicle Inspection Program as follows: (1) falsely or fraudulently issuing a smog certificate of compliance (CCR, § 3340.24, subd. (c)); (2) failing to inspect and test vehicles in accordance with Health and Safety Code sections 44012 and 44035 and CCR section 3340.42 (CCR, § 3340.30, subd. (a)); (3) entering false vehicle data into the Bureau's emission inspection system (CCR, § 3340.41, subd. (c)); and (4) failing to conduct smog tests and inspections in accordance with the Bureau's specifications. (CCR, § 3340.42.)

21. Complainant proved by a preponderance of evidence that Tirado violated the above regulations adopted under the Motor Vehicle Inspection Program by falsely certifying Vehicles 1 through 5 as passing smog inspections. Tirado issued false certificates of compliance, did not properly conduct smog inspections, and entered false data in the Bureau's emission inspection systems. Cause therefore exists to discipline Tirado's Smog Check Inspector License pursuant to Health and Safety Code section 44072.2, subdivision (c), in conjunction with the regulations described above.

Ninth Cause For Discipline: Dishonesty, Fraud, or Deceit

22. Complainant seeks to discipline Tirado's Smog Check Inspector License pursuant to Health and Safety Code sections 44072.2, subdivision (d), and 44072.10, subdivision (c), because Tirado committed dishonest, fraudulent, or deceitful acts in connection with the issuance of fraudulent smog certificates of compliance.

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23. Complainant proved by a preponderance of evidence that Tirado committed dishonest, fraudulent, and deceitful acts when he issued certificates of smog compliance for Vehicles 1 through 5, without performing proper emission tests. Cause therefore exists to discipline Tirado's Smog Check Inspector License pursuant to Health and Safety Code section 44072.2, subdivision (d), and section 44072.10, subdivision (c).

Disposition

24. The Bureau's Guidelines for Disciplinary Orders and Terms of Probation, revised June 2021 (Guidelines) set forth recommended discipline for various violations of the Business and Professions and Health and Safety Codes, including Business and Professions Code sections 9884.7, subdivisions (a)(1), and (a)(6), and Health and Safety Code section 44072.2, subdivisions (a) and (c). The recommended minimum discipline for violations of these statutes is two or three years of probation. The Guidelines also set forth recommended discipline for various violations of the Bureau's regulations, including CCR sections 3340.30, subdivision (a); 3340.41, subdivision (c); and 3340.42. The recommended minimum discipline for violations of these regulations is five years of probation. The recommended maximum penalty for the statutory and regulatory violations is revocation.

25. The Guidelines outline aggravating factors and mitigating factors to consider when determining the level of discipline to impose in a given case. The aggravating factors include: (1) prior warnings from the Bureau; (2) prior office conference(s) with the Bureau; (3) prior history of citations; (4) prior history of formal disciplinary action; (5) failure to permit the Bureau inspection of records; (6) evidence of abuse of mechanic's lien; (7) evidence of attempts to intimidate consumer; (8) evidence of negligent or willful improper repair work that endangers consumers; (9)

evidence that the unlawful act was a pattern of practice; (10) failure to comply with the Bureau's request for corrective action; (11) currently on probation for improper acts; (12) failure to successfully complete prior probation; (13) failure to pay court judgement to victim; (14) violation of previous court order; and (15) evidence of any other conduct which constitutes fraud or gross negligence. (Guidelines, p. 1-2.) The mitigating factors include: (1) evidence that respondent implemented the Bureau's suggested resolution to a consumer complaint; (2) evidence of restitution to the consumer and/or correct repair of the consumer's vehicle; (3) evidence of voluntary participation in retraining for self or employees; (4) evidence of voluntary purchase of proper diagnostic equipment and manuals; (5) evidence of a medical condition that temporarily prevented respondent from exercising supervision and control over employees or others at the time of the violation; (6) absence of prior disciplinary action; (7) evidence that the violation was not part of a pattern or practice; (8) evidence of no loss to consumer and no damage to consumer's property; (9) evidence of retraining and has initiated steps to minimize recurrence; (10) evidence of resolution of all consumer complaints with a subsequent change in business practice; (11) evidence of substantial measures to correct its business practices and/or business operations so as to minimize the likelihood of recurrence of the violation; and (12) evidence of any other conduct which would constitute a factor in mitigation. (Guidelines, p. 2-3.)

26. Considering the Bureau's Guidelines, revocation of Tirado's Smog Check Inspector License and any additional license of Tirado is warranted. Tirado engaged in multiple acts of dishonest, fraudulent behavior, and he did not present any evidence in mitigation. As such, the Guidelines' recommended discipline of license revocation is required for public protection.

27. However, outright revocation of Exotic Smog's registration and license and any other license issued to Sanchez is not warranted. Sanchez was unaware to Tirado's and Mobasser's clean plugging, and there are no aggravating factors present in this case as to Exotic Smog. Sanchez has no prior disciplinary history with the Bureau through Exotic Smog or otherwise, and he voluntarily modified Exotic Smog's business practices to avoid future recurrence of the violations. Therefore, placing Exotic Smog's registration and license and any additional license of Sanchez on probation for five years is appropriate, and will allow the Bureau to monitor their business practices and ensure public safety.

Costs

28. An ALJ may direct a licensee found to have violated a licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case. (Bus. & Prof. Code, § 125.3.) In *Zuckerman v. Bd. of Chiropractic Examiners* (2002) 29 Cal.4th 32, the Supreme Court set forth factors to be considered in determining the reasonableness of the costs sought. These factors include: (1) the licentiate's success in getting the charges dismissed or the severity of the discipline imposed reduced; (2) the licentiate's subjective good faith belief in the merits of his or her position; (3) whether the licentiate raised a colorable challenge to the proposed discipline; (4) the licentiate's financial ability to pay; and (5) whether the scope of the investigation was appropriate in light of the alleged misconduct. (*Id.* at p. 45.)

29. In this case, complainant presented certifications of the Bureau's investigation and enforcement costs, which are prima facie evidence that those costs are reasonable. Respondents presented no evidence that they are not. Sanchez succeeded in reducing the severity of the discipline imposed, but the reduction is not

so great as to justify reducing the requested costs. Sanchez's subjective belief in the merits of his position likewise does not justify a reduction.

30. However, the cost certifications concern the Bureau's investigation and enforcement of Exotic Smog and two other respondents. While Business and Professions Code section 125.3 does not require an administrative law judge to award costs on a pro rata basis, it also does not prohibit such an award. (*Imports Performance v. Department of Consumer Affairs, Bureau of Automotive Repair* (2011) 201 Cal.App.4th 911, 920.) Therefore, it is appropriate to order respondents to pay one-third as follows: Sanchez, dba Exotic Smog, for \$3,251.71 and Tirado for \$3,251.71.

ORDER

Erik. A Sanchez, dba Exotic Smog

It is HEREBY ORDERED that Automotive Repair Dealer Registration Number ARD 302939 and Smog Check Test Only Station License Number TC 302939 issued to respondent Erik A. Sanchez, doing business as Exotic Smog, and any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code in the name of respondent Erik A. Sanchez, are revoked. However, the revocations are stayed, and respondent Sanchez is placed on probation for five years on the following terms and conditions.

1. OBEY ALL LAWS: During the period of probation, respondent Sanchez
2. shall comply with all federal and state statutes, regulations and rules governing Bureau registrations and licenses held by respondent Sanchez.
3. QUARTERLY REPORTING: During the period of probation, respondent Sanchez shall report either by personal appearance or in writing as determined by the

Bureau on a schedule set by the Bureau, but no more frequently than once each calendar quarter, on the methods used and success achieved in maintaining compliance with the terms and conditions of probation.

4. REPORT FINANCIAL INTERESTS: Respondent Sanchez shall, within 30 days of the effective date of the decision and within 30 days from the date of any request by the Bureau during the period of probation, report any financial interest which any respondent or any partners, officers, or owners of any respondent facility may have in any other business required to be registered pursuant to Section 9884.6 of the Business and Professions Code.

5. ACCESS TO EXAMINE VEHICLES AND RECORDS: Respondent Sanchez shall provide Bureau representatives unrestricted access to examine all vehicles (including parts) undergoing service, inspection, or repairs, up to and including the point of completion. Respondent Sanchez shall also provide Bureau representatives unrestricted access to all records pursuant to Bureau laws and regulations.

6. TOLLING OF PROBATION: If, during probation, respondent Sanchez leaves the jurisdiction of California to reside or do business elsewhere or otherwise cease to do business in the jurisdiction of California, respondent Sanchez shall notify the Bureau in writing within 10 days of the dates of departure and return, and of the dates of cessation and resumption of business in California.

All provisions of probation other than cost reimbursement requirements, restitution requirements, training requirements, and that respondent Sanchez obey all laws, shall be held in abeyance during any period of time of 30 days or more in which respondent Sanchez is not residing or engaging in business within the jurisdiction of California. All provisions of probation shall recommence on the effective date of

resumption of business in California. Any period of time of 30 days or more in which respondent Sanchez is not residing or engaging in business within the jurisdiction of California shall not apply to the reduction of this probationary period or to any period of actual suspension not previously completed. Tolling is not available if business or work relevant to the probationary license or registration is conducted or performed during the tolling period.

7. VIOLATION OF PROBATION: If respondent Sanchez violates or fails to comply with the terms and conditions of probation in any respect, the Director, after giving notice and opportunity to be heard, may set aside the stay order and carry out the disciplinary order provided in the decision. Once respondent Sanchez is served notice of the Bureau's intent to set aside the stay, the Director shall maintain jurisdiction, and the period of probation shall be extended until final resolution of the matter.

8. MAINTAIN VALID LICENSE: Respondent Sanchez shall, at all times while on probation, maintain a current and active registration and/or license(s) with the Bureau, including any period during which suspension or probation is tolled. If respondent Sanchez's registration or license is expired at the time the decision becomes effective, the registration or license must be renewed by that respondent Sanchez within 30 days of that date. If respondent Sanchez's registration or license expires during a term of probation, by operation of law or otherwise, then upon renewal that respondent Sanchez's registration or license shall be subject to any and all terms and conditions of probation not previously satisfied. Failure to maintain a current and active registration and/or license during the period of probation shall also constitute a violation of probation.

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9. COST RECOVERY: Respondent Sanchez shall pay the Bureau \$3,251.71 for the reasonable costs of the investigation and enforcement of case number 79/24-11142. The Bureau or its designee may establish a payment plan for cost recovery; however, respondent Sanchez shall pay the full amount of cost recovery at least 180 days prior to completion of probation. Respondent Sanchez shall make payment by check or money order payable to the Bureau and shall indicate on the check or money order that it is for cost recovery payment for case number 79/24-11142. Any order for payment of cost recovery shall remain in effect whether or not probation is tolled. Probation shall not terminate until full cost recovery payment has been made. The Bureau reserves the right to pursue any other lawful measures in collecting on the costs ordered and past due, in addition to taking action based upon the violation of probation.

10. COMPLETION OF PROBATION: Upon successful completion of probation, respondent Sanchez's affected registration and/or licenses will be fully restored or issued without restriction, if respondent Sanchez meets all current requirements for registration or licensure and has paid all outstanding fees, monetary penalties, or cost recovery owed to the Bureau.

11. LICENSE SURRENDER: Following the effective date of a decision that orders a stay of invalidation or revocation, if respondent Sanchez ceases business operations or is otherwise unable to satisfy the terms and conditions of probation, respondent Sanchez may request that the stay be vacated. Such request shall be made in writing to the Bureau. The Director and the Bureau Chief reserve the right to evaluate a respondent Sanchez's request and to exercise discretion whether to grant the request or take any other action deemed appropriate or reasonable under the

circumstances. Upon formal granting of the request, the Director will vacate the stay order and carry out the disciplinary order provided in the decision.

Respondent Sanchez may not petition the Director for reinstatement of a surrendered registration and/or license, or apply for a new registration or license under the jurisdiction of the Bureau at any time before the date of the originally scheduled completion of probation. If respondent Sanchez applies to the Bureau for a registration or license at any time after that date, that respondent Sanchez must meet all current requirements for registration or licensure and pay all outstanding fees or cost recovery owed to the Bureau and left outstanding at the time of surrender.

Daniel Tirado

1. It is HEREBY ORDERED that Smog Check Inspector License number EO 643355 issued to respondent Daniel Tirado is revoked.
2. Any additional license issued to respondent Tirado under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code is revoked.
3. Respondent Tirado shall pay the Bureau its costs of investigation and enforcement in the amount of \$3,251.71, prior to issuance of a new or reinstated license.

DATE: 11/21/2025

Sandy Yu

SANDY YU

Administrative Law Judge

Office of Administrative Hearings