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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. 79/24-21863

13 **SONNY ARIEL RAMIREZ FERRER**
14 **DBA CALI AUTOMOTIVE;**
69 South Capitol Ave. Unit A
San Jose, CA 95127

ACCUSATION

15 **Mailing Address:**
16 **5866 Chesbro Ave.**
San Jose, CA 95123

17 **Automotive Repair Dealer Registration**
18 **No. ARD 302886**
Smog Check, Test-and-Repair, Station License
19 **No. RC 302886**

20 **SONNY ARIEL RAMIREZ FERRER**
21 **2865 Homestead Road Apt. 16**
Santa Clara, CA 95051

22 **Smog Check Inspector License No. EO 643426**
Smog Check Repair Technician License No. EI 643426

23 Respondent.

24
25 **PARTIES**

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

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

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

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

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

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

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

11 13. Section 9889.22 of the Code states:

12 The willful making of any false statement or entry with regard to a material
13 matter in any oath, affidavit, certificate of compliance or noncompliance, or
14 application form which is required by this chapter or Chapter 5 (commencing with
15 Section 44000) of Part 5 of Division 26 of the Health and Safety Code constitutes
16 perjury and is punishable as provided in the Penal Code.

17 14. Section 44012 of the Health and Safety Code states, in pertinent part:

18 The test at the smog check stations shall be performed in accordance with
19 procedures prescribed by the department and may require loaded mode dynamometer
20 testing in enhanced areas, two-speed idle testing, testing utilizing a vehicle's onboard
21 diagnostic system, or other appropriate test procedures as determined by the
22 department in consultation with the state board. The department shall implement
23 testing using onboard diagnostic systems, in lieu of loaded mode dynamometer or
24 two-speed idle testing, on model year 2000 and newer vehicles only, beginning no
25 earlier than January 1, 2013, and on model-year 1996-99, inclusive, vehicles only,
26 beginning no earlier than January 1, 2025. However, the department, in consultation
27 with the state board, may prescribe alternative test procedures that include loaded
28 mode dynamometer or two-speed idle testing for vehicles with onboard diagnostic
29 systems that the department and the state board determine exhibit operational
30 problems. The department shall ensure, as appropriate to the test method, the
31 following

32 ...

33 15. Section 44032 of the Health and Safety Code states:

34 No person shall perform, for compensation, tests or repairs of emission control
35 devices or systems of motor vehicles required by this chapter unless the person
36 performing the test or repair is a qualified smog check technician and the test or
37 repair is performed at a licensed smog check station. Qualified smog check
38 technicians shall perform tests of emission control devices and systems in accordance
39 with Section 44012.

40 ///

1 16. Section 44059 of the Health and Safety Code states:

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

7 17. Section 44072.2 of the Health and Safety Code states:

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

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

14 . . .

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

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

19 . . .

20 (h) Violates or attempts to violate the provisions of this chapter relating to the
21 particular activity for which he or she is licensed.

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

23 . . .

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

28 (1) Clean piping, clean plugging, clean glassing, clean tanking, or any other
fraudulent inspection practice, as defined by the department.

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

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

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

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REGULATORY PROVISIONS

19. California Code of Regulations, title 16, section 3340.1, states, in pertinent part:

...

“Clean plugging” means using a substitute vehicle’s OBD system, or another source, to generate data readings or diagnostic information in order to cause the OIS to issue a certificate of compliance for the test vehicle.

20. California Code of Regulations, title 16, section 3340.24, states, in pertinent part:

(a) Any disciplinary or reinstatement proceeding under this article involving licensed stations, licensed technicians, or fleet owners licensed pursuant to section 44020 of the Health and Safety Code shall be conducted in accordance with chapter 5 (commencing with section 11500) of division 3, Title 2 of the Government Code.

...

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

...

21. California Code of Regulations, title 16, section 3340.30, states, in pertinent part:

A licensed smog check inspector and/or repair technician shall comply with the following requirements at all times while licensed:

(a) Inspect, test and repair vehicles, as applicable, in accordance with section 44012 of the Health and Safety Code, section 44035 of the Health and Safety Code, and section 3340.42 of this article.

...

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

...

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

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

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

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1 23. California Code of Regulations, title 16, section 3340.41, states, in pertinent part:

2 ...

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

7 ...

8 (h) No licensed station shall have in the approved testing area at any time any
9 electronic device or software capable of simulating the OBD data stream from a
10 vehicle or manipulating OBD VIN, calibration identification, calibration verification
11 number, MIL-status, readiness, or diagnostic trouble codes collected from a vehicle
12 during a Smog Check Inspection.

13 ...

14 24. California Code of Regulations, title 16, section 3340.42, states, in pertinent part:

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

17 ...

18 (3) An OBD-focused test, shall be the test method used to inspect gasoline-
19 powered vehicles 2000 model-year and newer, and diesel-powered vehicles 1998
20 model-year and newer. The OBD test failure criteria are specified in section
21 3340.42.2.

22 (b) In addition to subsection (a), all vehicles subject to the smog check program
23 shall receive the following:

24 (1) A visual inspection of emission control components and systems to verify
25 the vehicle's emission control systems are properly installed.

26 (2) A functional inspection of emission control systems as specified in the
27 Smog Check Manual, referenced by section 3340.45, which may include an OBD
28 test, to verify their proper operation.

29 25. California Code of Regulations, title 16, section 3340.45, states:

30 All Smog Check inspections shall be performed in accordance with
31 requirements and procedures prescribed in the Smog Check Manual, dated January
32 2021, which is hereby incorporated by reference.

33 26. California Code of Regulations, title 16, section 3373, states:

34 No automotive repair dealer or individual in charge shall, in filling out an
35 estimate, invoice, or work order, or record required to be maintained by section
36 3340.15(e) of this chapter, withhold therefrom or insert therein any statement or
37 information which will cause any such document to be false or misleading, or where
38 the tendency or effect thereby would be to mislead or deceive customers, prospective
customers, or the public.

1 **COST RECOVERY**

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

8 **SMOG CHECK PROGRAM**

9 28. California's Smog Check Program identifies motor vehicles with excess emissions so
10 that they can be properly repaired or retired. The program has greatly reduced air pollution and
11 helped improve the health of many Californians.

12 29. California's Smog Check Program requires the owners of most motor vehicles in
13 California to take and pass a smog check inspection and receive a Certificate of Compliance
14 every two years when renewing their registration and when the vehicle's title is transferred.
15 These inspections are performed by Smog Check Inspectors at Smog Check Stations, both of
16 which are licensed by the Bureau.

17 30. The smog check inspection in certain Enhanced areas of the state is an Acceleration
18 Simulation Mode (ASM) test performed using an Emission Inspection System (EIS), also known
19 as a BAR 97. This is a computer-based five-gas analyzer that measures Hydrocarbons, Carbon
20 Monoxide, Oxides of Nitrogen, Carbon Dioxide, and Oxygen. The inspection involves a test of
21 the vehicle's tailpipe emissions on a dynamometer. In Basic areas of the state, or depending on a
22 vehicle's configuration (all-wheel drive, traction control issue), a similar test called a Two Speed
23 Idle (TSI) test is performed, but instead of applying a load to the vehicle's drive wheels with a
24 dynamometer, the EIS measures emissions at idle as well as 2500 revolutions per minute (RPM).

25 31. The inspector also performs visual and functional tests on the vehicle as outlined in
26 the Smog Check Manual. The visual inspection of the emission control components verifies the
27 required emission control devices are present and properly connected. Functional tests are also
28 performed which, depending on the vehicle, may include checking ignition timing, malfunction

1 indicator light (MIL), exhaust gas recirculation (EGR) system, a low-pressure test of the
2 evaporative emissions controls (LPFET), a visible smoke test, and a pressure test of the gas cap.

3 32. The Bureau implemented a statewide change requiring the use of the On-Board
4 Diagnostic Inspection System (BAR-OIS) instead of the EIS for the smog testing of 2000 model
5 year and newer gas-powered vehicles and 1998 and newer diesel-powered vehicles.

6 33. The newer BAR-OIS smog inspection uses a Data Acquisition Device (DAD), a
7 computer, a bar code scanner, and printer. The DAD is a scan tool that retrieves data from a
8 vehicle's On-Board Diagnostic-generation II (OBD II) computer. The DAD connects the BAR-
9 OIS computer to the vehicle's diagnostic link connector (DLC) to retrieve data from the vehicle.
10 The bar code scanner is used to input technician information, the vehicle identification number
11 (VIN), and DMV renewal information. The printer is used to print Vehicle Inspection Reports.

12 34. As part of BAR-OIS smog inspections, the technician also performs a visual and
13 functional test on the vehicle being inspected. The visual inspection of the emission control
14 components verifies the required emission control devices are present and properly connected and
15 a functional test is performed of the malfunction indicator light (MIL). The BAR-OIS software
16 makes the determination whether or not the vehicle passes inspection based on the results of the
17 OBD, visual, and functional tests. If the vehicle passes, a Certificate of Compliance is issued.
18 Information from the smog inspection is transmitted to the Vehicle Information Database (VID).

19 35. Data retrieved and recorded during a BAR-OIS smog check includes: the eVIN,
20 which is the digitally stored VIN programmed into the vehicle's Powertrain Control Module
21 (PCM); the communication protocol, which is the manufacturer/vehicle's specific "language" the
22 PCM uses to relay information; and Parameter Identifications (PIDs), which are specific data
23 values each PCM uses related to emission controls.

24 36. PIDs are data points reported by the vehicle on-board computer to a scan tool or
25 BAR-OIS. Examples of PIDs are engine speed, mass air flow, manifold absolute pressure, engine
26 temperature, and other input and output values utilized by the vehicle's on-board computer.

27 37. eVINs may be identified multiple times during the BAR-OIS smog inspection. A
28 vehicle's eVin is identified by the BAR-OIS during both the static portion of the OBD II test and

1 during the dynamic portion of the OBD II test. A vehicle's eVIN will not change between the
2 static and dynamic portion of the OBD II test.

3 38. The Bureau can access the VID to view test data on smog check inspections
4 performed at any Smog Check Station, or search for, retrieve, and print a test record for a
5 particular vehicle which has been tested.

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

10 a. Engine speed in revolutions per minute (RPM),

11 b. Throttle position as measured by a throttle position sensor (TPS) mounted onto the
12 throttle shaft. The throttle position is measured in a percentage of opening from 0% at idle to up
13 to 100% at full throttle.

14 c. Manifold absolute pressure as measured by a manifold air pressure sensor (MAP)
15 connected to an intake manifold source, measured in kilo pascals (kpa). Typical readings for a
16 normally aspirated vehicle are as follows: 0 kpa being absolute vacuum, 25kpa to 45kpa at idle,
17 and 101 kpa at full throttle (atmospheric pressure at sea level).

18 d. Mass air flow as measured by a mass air flow sensor (MAF) mounted in the engine's
19 air intake tract. Air flow is measured in grams per second (gps).

20 40. During normal engine operation at idle, engine speed is relatively steady around its
21 target idle speed. With the engine idling, the TPS is steady and at or near 0%. The MAP and/or
22 MAF readings are also steady. For the engine speed to increase, the throttle would have to be
23 opened to increase airflow through the engine. The engine's management systems supply fuel and
24 spark timing appropriate to any changes in throttle position and engine speed. An increase in
25 throttle, measured by the TPS, which increases engine RPM, would result in a corresponding
26 increase in MAF as well as a change in MAP.

27 ///

28 ///

1 the engine speed is accelerated then held steady at around 1700 RPM. During this time, the
2 throttle is varying between 14.1% and 13.7%. The MAF is varying between 1.12gps and 2.13gps.
3 The steady idle and steady elevated engine speeds with the associated varying throttle positions
4 and subsequent varying MAF and/or MAP readings are not characteristic or expected for normal
5 engine operation.

6 **Clean Plug 2:**

7 48. On or about January 27, 2024, Respondent issued smog certificate # TS133169C to a
8 2003 Chevrolet Astro. Respondent did not perform a legitimate smog inspection on the vehicle.
9 Respondent used an electronic defeat device to cause the OIS and Respondent to issue a
10 fraudulent Certificate of Compliance to this vehicle.

11 49. The OBD Dynamic Data and Dynamic Data Charts for the 2003 Chevrolet Astro
12 show between time stamp 345 and 17717, engine speed is steady at around 600 RPM. During this
13 time, the throttle is varying between 1.2% and 5.5% opening. The MAP is varying between 46kpa
14 and 35kpa. The MAF is varying between 3.28gps and 4.34gps. At time stamp 18077, the engine
15 speed begins to accelerate. Between time stamp 22003 and 35771, the engine speed is accelerated
16 then held steady at around 1900 RPM. During this time, the throttle is varying between 0% and
17 5.5%. The MAP is varying between 38kpa and 43kpa, The MAF is varying between 3.33gps and
18 4.51gps. The steady idle and steady elevated engine speeds with the associated varying throttle
19 positions and subsequent varying MAF and/or MAP readings are not characteristic or expected
20 for normal engine operation.

21 **Clean Plug 3:**

22 50. On or about January 27, 2024, Respondent issued smog certificate #TS133180C to a
23 2002 Toyota RAV4. Respondent did not perform a legitimate smog inspection on the vehicle.
24 Respondent used an electronic defeat device to cause the OIS and Respondent to issue a
25 fraudulent Certificate of Compliance to this vehicle.

26 51. The OBD Dynamic Data and Dynamic Data Charts for the 2002 Toyota RAV4 show
27 between time stamp 866 and 19749, engine speed is steady at around 700 RPM. During this time,
28 the throttle is steady at 17.6% opening. The MAF is varying between .95gps and 1.81gps. At time

1 stamp 20618, the engine speed begins to accelerate. Between time stamp 21491 and 37779, the
2 engine speed is accelerated then held steady at around 1900 RPM. During this time, the throttle is
3 varying between 17.3% and 18%. The MAF is varying between 1.07gps and 1.33gps. The steady
4 idle and steady elevated engine speeds with the associated varying throttle positions and
5 subsequent varying MAF and/or MAP readings are not characteristic or expected for normal
6 engine operation.

7 **Clean Plug 4:**

8 52. On or about February 3, 2024, Respondent issued smog certificate # TS133191C to a
9 2000 Chevrolet Silverado C1500. Respondent did not perform a legitimate smog inspection on
10 the vehicle. Respondent used an electronic defeat device to cause the OIS and Respondent to
11 issue a fraudulent Certificate of Compliance to this vehicle.

12 53. The OBD Dynamic Data and Dynamic Data Charts for the 2000 Chevrolet Silverado
13 C1500 show between time stamp 330 and 17628, engine speed is steady at around 675 RPM.
14 During this time, the throttle is varying between 2.7% and 3.9% opening. The MAP is varying
15 between 109kpa and 96kpa, The MAF is varying between 2.2gps and 1.06gps. At time stamp
16 17987, the engine speed begins to accelerate. Between time stamp 19817 and 34727, the engine
17 speed is accelerated then held steady at around 1750 RPM. During this time, the throttle is
18 varying between .4% and 3.5%. The MAP is varying between 100kpa and 103kpa. The MAF is
19 varying between .23gps and 1.76gps. The steady idle and steady elevated engine speeds with the
20 associated varying throttle positions and subsequent varying MAP and/or MAF readings are not
21 characteristic or expected for normal engine operation.

22 **Clean Plug 5:**

23 54. On or about February 3, 2024, Respondent issued smog certificate # TS133195C to a
24 2000 Honda Odyssey EX. Respondent did not perform a legitimate smog inspection on the
25 vehicle. Respondent used an electronic defeat device to cause the OIS and Respondent to issue a
26 fraudulent Certificate of Compliance to this vehicle.

27 55. The OBD Dynamic Data and Dynamic Data Charts for the 2000 Honda Odyssey EX
28 show between time stamp 856 and 19706, engine speed is steady at around 600 RPM. During this

1 time, the throttle is varying between 10.6% and 6.7% opening. The MAP is varying between
2 21kpa and 18kpa. At time stamp 19706, the engine speed begins to accelerate. Between time
3 stamp 24029 and 37758, the engine speed is accelerated then held steady at around 1900 RPM.
4 During this time, the throttle is varying between 7.1% and 9.4%. The MAP is varying between
5 16kpa and 23kpa. The steady idle and steady elevated engine speeds with the associated varying
6 throttle positions and subsequent varying MAF and/or MAP readings are not characteristic or
7 expected for normal engine operation.

8 **Clean Plug 6:**

9 56. On or about February 3, 2024, Respondent issued smog certificate # TS430301C to a
10 2001 Honda Civic LX. Respondent did not perform a legitimate smog inspection on the vehicle.
11 Respondent used an electronic defeat device to cause the OIS and Respondent to issue a
12 fraudulent Certificate of Compliance to this vehicle.

13 57. The OBD Dynamic Data and Dynamic Data Charts for the 2001 Honda Civic LX
14 show between time stamp 880 and 17990, engine speed is steady at around 725 RPM. During this
15 time, the throttle is varying between 11.4% and 9.8% opening. The MAP is varying between
16 20kpa and 26kpa. At time stamp 19679, the engine speed begins to accelerate. Between time
17 stamp 20548 and 37599, the engine speed is accelerated then held steady at around 1900 RPM.
18 During this time, the throttle is varying between 9.4% and 6.7%. The MAP is varying between
19 28kpa and 29kpa. The steady idle and steady elevated engine speeds with the associated varying
20 throttle positions and subsequent varying MAF and/or MAP are not characteristic or expected for
21 normal engine operation.

22 **Clean Plug 7:**

23 58. On or about February 4, 2024, Respondent issued smog certificate # TS430331C to a
24 2000 Toyota Avalon XL. Respondent did not perform a legitimate smog inspection on the
25 vehicle. Respondent used an electronic defeat device to cause the OIS and Respondent to issue a
26 fraudulent Certificate of Compliance to this vehicle.

27 59. The OBD Dynamic Data and Dynamic Data Charts for the 2000 Toyota Avalon XL
28 show between time stamp 841 and 20708, engine speed is steady at around 675 RPM. During this

1 time, the throttle is varying between 11.8% and 6.3% opening. The MAF is varying between
2 4.18gps and 4.98gps. At time stamp 21572, the engine speed begins to accelerate. Between time
3 stamp 22451 and 39622, the engine speed is accelerated then held steady at around 1900 RPM.
4 During this time, the throttle is varying between 7.1% and 6.7%. The MAF is varying between
5 2.74gps and 5gps. The steady idle and steady elevated engine speeds with the associated varying
6 throttle positions and subsequent varying MAF and/or MAP readings are not characteristic or
7 expected for normal engine operation.

8 **Clean Plug 8:**

9 60. On or about February 24, 2024, Respondent issued smog certificate # TS898661C to
10 a 2000 Chevrolet Silverado C1500. Respondent did not perform a legitimate smog inspection on
11 the vehicle. Respondent used an electronic defeat device to cause the OIS and Respondent to
12 issue a fraudulent Certificate of Compliance to this vehicle.

13 61. The OBD Dynamic Data and Dynamic Data Charts for the 2000 Chevrolet Silverado
14 C1500 show between time stamp 329 and 17242, engine speed is steady at around 575 RPM.
15 During this time, the throttle is varying between 5.5% and .08% opening. The MAP is varying
16 between 43kpa and 32kpa. The MAF is varying between 7.18gps and 5.39gps. At time stamp
17 17609, the engine speed begins to accelerate. Between time stamp 23350 and 36430, the engine
18 speed is accelerated then held steady at around 1750 RPM. During this time, the throttle is
19 varying between .08% and 3.5%. The MAP is varying between 39kpa and 32kpa. The MAF is
20 varying between 7.36gps and 5.65gps. The steady idle and steady elevated engine speeds with
21 the associated varying throttle positions and subsequent varying MAF and/or MAP readings are
22 not characteristic or expected for normal engine operation.

23 **Clean Plug 9:**

24 62. On or about February 24, 2024, Respondent issued smog certificate # TS898664C to
25 a 2001 Toyota Camry CE. Respondent did not perform a legitimate smog inspection on the
26 vehicle. Respondent used an electronic defeat device to cause the OIS and Respondent to issue a
27 fraudulent Certificate of Compliance to this vehicle.

28 ///

1 63. The OBD Dynamic Data and Dynamic Data Charts for the 2001 Toyota Camry CE
2 show between time stamp 845 and 19682, engine speed is steady at around 675 RPM. During this
3 time, the throttle is varying between 17.6% and 16.1% opening. The MAP is varying between
4 35kpa and 34kpa. At time stamp 20549, the engine speed begins to accelerate. Between time
5 stamp 23149 and 38545, the engine speed is accelerated then held steady at around 1750 RPM.
6 During this time, the throttle is varying between 17.6% and 14.9%. The MAP is varying between
7 36kpa and 45kpa. The steady idle and steady elevated engine speeds with the associated varying
8 throttle positions and subsequent varying MAF and/or MAP readings are not characteristic or
9 expected for normal engine operation.

10 **Clean Plug 10:**

11 64. On or about February 24, 2024, Respondent issued smog certificate # TS898670C to
12 a 2001 Honda Accord LX. Respondent did not perform a legitimate smog inspection on the
13 vehicle. Respondent used an electronic defeat device to cause the OIS and Respondent to issue a
14 fraudulent Certificate of Compliance to this vehicle.

15 65. The OBD Dynamic Data and Dynamic Data Charts for the 2001 Honda Accord LX
16 show between time stamp 834 and 26597, engine speed is steady at around 650 RPM. During this
17 time, the throttle is varying between 9% and 7.8% opening. The MAP is varying between 36kpa
18 and 33kpa. At time stamp 27455, the engine speed begins to accelerate. Between time stamp
19 28306 and 44593, the engine speed is accelerated then held steady at around 1650 RPM. During
20 this time, the throttle is varying between 7.5% and 8.2%. The MAP is varying between 43kpa and
21 38kpa. The steady idle and steady elevated engine speeds with the associated varying throttle
22 positions and subsequent varying MAF and/or MAP readings are not characteristic or expected
23 for normal engine operation.

24 **Dynamic Mismatch VIN**

25 66. For 48 of the clean-plugged vehicles, the eVIN transmitted during the dynamic
26 portion of the OBD II inspection did not match the vehicle that was being certified (VIN/Static
27 eVIN). This means that the vehicle purportedly certified was not connected to the DAD during
28 the dynamic portion of the OBD II inspection and was clean-plugged.

The following charts show the vehicle certified, VINs transmitted, and Certificate number.

Vehicle	DMV VIN / Static eVIN	Dynamic eVIN	Certificate ID #
2008 Mercedes-Benz C300	WDDGF81X78F064347	JTHBL46F685053673	UG320543C
2016 Ford Transit	1FDRS6ZM6GKB11611	JTHBL46F685053673	UG320544C
2008 Nissan Titan XE	1N6BA06E78N315754	JTHBL46F685053673	UG320545C
2014 Nissan Altima	1N4AL3AP4EN352555	JTHBL46F685053673	UG320546C
2010 Honda Accord EX	1HGCP3F74AA014981	5FNRL5H94BB087114	UG320547C
2009 BMW 328i	WBAWV13529P122563	WBAPH5G54BNM73912	UG320548C
2009 Honda Odyssey	5FNRL38979B058950	JHLRE48528C073450	UG717754C
2007 Honda CRV EXL	5J6RE48777L006141	JHLRE48528C073450	UG717756C
2009 Honda Civic LX	19XFA16559E045357	JHLRE48528C073450	UG717757C
2009 Toyota FJ	JTEBU11F79K061977	JTHBL46F685053673	UG717761C

Vehicle	DMV VIN / Static eVIN	Dynamic eVIN	Certificate ID #
2015 Hyundai Accent GLS	KMHCT4AE3FU831513	JTHBL46F685053673	UG717762C
2010 Chevrolet Corvette	1G1YR2DW2A5101024	JTHBL46F685053673	UG717763C
2011 Infiniti G25	JN1DV6AP4BM602626	JTHBL46F685053673	UG717764C
2012 Cadillac CTS	1G6DA5E53C0156623	1GNEC03088R175524	UG717766C
2017 Jeep Wrangler	1C4BJWDG0HL570431	JTHBL46F685053673	UG717772C
2016 Buick Verano	1G4PS5SK1G4156096	1GNEC03088R175524	UG717773C
2014 Chevrolet Silverado C1500	3GCPCREC8EG218526	1GNEC03088R175524	UG717775C
2013 Chevrolet Sonic LTZ	1G1JE5SG8D4165864	1GNEC03088R175524	UG717776C
2011 Chevrolet Camaro LT	2G1FF1ED7B9126013	1GNEC03088R175524	UG717777C
2010 Toyota Camry	4T1BF3EK3AU108122	JTHBL46F685053673	UG717778C

Vehicle	DMV VIN / Static eVIN	Dynamic eVIN	Certificate ID #
2010 Audi Q5	WA1LKAFF0AA026251	JTHBL46F685053673	UG717779C
2015 Hyundai Elantra SE	5NPDH4AEXFH582017	JTHBL46F685053673	UG717780C
2013 Ford Fiesta S	3FADP4AJ7DM156248	JTHBL46F685053673	UG717786C
2015 Mazda CX-9	JM3TB2CV7F0461366	JTHBL46F685053673	UG717788C
2014 Hyundai Accent GLS	KMHCT4AE8EU712550	JTHBL46F685053673	UG717789C
2010 Toyota Rav4	2T3ZF4DV7AW021539	JTHBL46F685053673	UG717790C

1	2005 Ford Mustang GT	1ZVHT82HX55109391	JTHBL46F685053673	UG717791C
2	2014 Honda Pilot	5FNYF4H92EB015622	JHLRE48528C073450	UE976899C
3	2009 Mercedes-Benz C 300	WDDGF54X39R048771	JTHBL46F685053673	UG717793C
4	2017 Nissan Pathfinder S	5N1DR2MM6HC630384	JTHBL46F685053673	UG717795C

5	Vehicle	DMV VIN / Static eVIN	Dynamic eVIN	Certificate ID #
6	2015 Ford F150	1FTMF1C81FKD18018	JTHBL46F685053673	UG717800C
7	2010 Buick Enclave CXL	5GALRCED0AJ140482	WBAFR7C50DC821956	UI136401C
8	2016 Ford Fusion SE	3FA6P0T94GR203232	WBAFR7C50DC821956	UI136402C
9	2017 GMC Sierra K1500	3GTU2PEJXHG106274	WBAFR7C50DC821956	UI136403C
10	2010 Toyota Venza	4T3ZA3BB2AU020350	WBAFR7C50DC821956	UI136404C
11	2016 Nissan Altima	1N4AL3AP7GC212899	WBAFR7C50DC821956	UI136405C
12	2014 Toyota Camry SE	4T1BK1FK8EU543416	WBAFR7C50DC821956	UI136406C
13	2008 Nissan Titan XE	1N6AA07F38N308366	JTHBL46F685053673	UI136407C
14	2016 Nissan Sentra S	3N1AB7AP4GY315468	JTHBL46F685053673	UI136415C

15	Vehicle	DMV VIN / Static eVIN	Dynamic eVIN	Certificate ID #
16	2013 Chevrolet Silverado K1500	3GCPKSEA6DG152503	1GNEC03088R175524	UI136416C
17	2014 Chevrolet Sonic LT	1G1JC5SGXE4238241	1GNEC03088R175524	UI136417C
18	2013 Toyota Tundra	5TFHW5F19DX312037	JTHBL46F685053673	UI136418C
19	2016 Toyota Tacoma	3TMEZ5CN2GM004249	JTHBL46F685053673	UI136420C
20	2012 Chevrolet Cruze LT	1G1PF5SC4C7362001	1GNEC03088R175524	UI136426C
21	2016 Toyota Corolla L	5YFBURHE9GP390601	JTHBL46F685053673	UI136428C
22	2016 Honda Accord EX	1HGCR2F78GA076591	5FNRL5H94BB087114	UI069703C
23	2010 Ford F150	1FTEX1EV7AFA06193	JTHBL46F685053673	UI069704C
24	2014 Mazda 6 Grand Touring	JM1GJ1W63E1121071	JTHBL46F685053673	UI069705C

25 67. On or about January 9, 2025, an investigator from the Bureau completed a Quality
26 Assurance Inspection at Respondent's shop. During the inspection, the investigator observed a
27 2008 Lexus LS 460 parked at the shop, with the eVIN # JTHBL46F685053673. The Lexus LS
28 460's eVIN matched the eVIN used in the dynamic portion for 25 of the fraudulent tests.

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Untrue or Misleading Statements – ARD Registration)**

3 68. Respondent has engaged in acts that subject his Automotive Repair Dealer (ARD)
4 Registration to discipline under Code section 9884.7, subdivision (a)(1), in that Respondent made
5 statements which he knew or which by exercise of reasonable care should have known were
6 untrue or misleading, as set forth above in Clean Plugging Allegations. Respondent purported to
7 test vehicles, and certified that the vehicles passed inspection and were in compliance with
8 applicable laws and regulations. In fact, Respondent conducted the inspections on those vehicles
9 using clean-plugging methods.

10 **SECOND CAUSE FOR DISCIPLINE**

11 **(Fraud – ARD Registration)**

12 69. Respondent has engaged in acts that subject his ARD Registration to discipline under
13 Code section 9884.7, subdivision (a)(4), in that he committed acts which constitute fraud, as set
14 forth above in Clean Plugging Allegations.

15 **THIRD CAUSE FOR DISCIPLINE**

16 **(False or Misleading Records – ARD Registration)**

17 70. Respondent has engaged in acts that subject his ARD Registration to discipline under
18 Code section 9884.7, subdivision (a)(6), in that he violated California Code of Regulations, title
19 16, section 3373, by creating and issuing false or misleading Certificates of Compliance and
20 Vehicle Inspection Reports for the vehicles that were clean-plugged as set forth above in Clean
21 Plugging Allegations. The certificates and inspection reports indicated the vehicles were tested in
22 accordance with all Bureau requirements and the vehicles were qualified to receive Certificates of
23 Compliance. This was false, because the vehicles were clean-plugged.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Dishonesty, Fraud or Deceit – Smog Licenses)**

3 71. Respondent has engaged in acts that subject his Smog Check Station, Smog Check
4 Inspector, and Smog Check Repair Technician licenses to discipline under Health and Safety
5 Code section 44072.10 and/or 44072.2, subdivision (d), in that he committed acts involving
6 dishonesty, fraud or deceit, whereby another was injured, by issuing electronic Certificates of
7 Compliance for vehicles without performing bona fide inspections of the emission control devices
8 and systems on the vehicles, thereby depriving the People of the State of California of the
9 protection afforded by the Motor Vehicle Inspection Program. Respondent participated in clean
10 plugging as set forth above in Clean Plugging Allegations.

11 **FIFTH CAUSE FOR DISCIPLINE**

12 **(Violation of the Motor Vehicle Inspection Program – Smog Licenses)**

13 72. Respondent has engaged in acts that subject his Smog Check Station, Smog Check
14 Inspector, and Smog Check Repair Technician licenses to discipline under Health and Safety
15 Code section 44072.10 and/or 44072.2, subdivisions (a) and (c), in that he violated sections of
16 that Code and applicable regulations, through conduct described above in Clean Plugging
17 Allegations, as follows:

- 18 a. **Section 44012:** Respondent failed to ensure that smog inspections were performed
19 on vehicles in accordance with procedures prescribed by the department.
- 20 b. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued
21 electronic Certificates of Compliance to certain vehicles without performing bona fide inspections
22 of the emission control devices and systems on those vehicles.
- 23 c. **Section 3340.30, subdivision (a):** Respondent failed to inspect the vehicles in
24 accordance with Health and Safety Code section 44012 and/or California Code of Regulations,
25 title 16, section 3340.42.
- 26 d. **Section 3340.41, subdivision (c):** Respondent entered false information about
27 vehicles being tested into the BAR-OIS.

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1 e. **Section 3340.42:** Respondent failed to conduct the required smog tests and
2 inspections on certain vehicles in accordance with the Bureau's specifications.

3 f. **Section 3340.45** Respondent violated the procedures contained in the Smog Check
4 Manual by entering vehicle identification information for vehicles that were not being tested.

5 g. **Section 44059:** Respondent willfully made false statements in issuing the Smog
6 Certificates of compliance and on the Vehicle Inspection Reports.

7 **OTHER MATTERS**

8 73. Pursuant to Code section 9884.7, subdivision (c), the Director may suspend, revoke,
9 or place on probation the registration for all places of business operated in this state by
10 Respondent, upon a finding that Respondent has, or is, engaged in a course of repeated and
11 willful violations of the laws and regulations pertaining to an automotive repair dealer.

12 74. Pursuant to Health & Safety Code section 44072.8, if any of Respondent's Station,
13 Smog Check Inspector, or Smog Check Repair Technician licenses, is revoked or suspended, any
14 additional license issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code
15 in the name of said licensee may likewise be revoked or suspended by the Director.

16 **PRAYER**

17 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
18 and that following the hearing, the Director issue a decision:

19 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
20 302886, issued to Sonny Ariel Ramirez Ferrer dba Cali Automotive;

21 2. Revoking or suspending Smog Check, Test-and-Repair, Station Number RC 302886,
22 issued to Sonny Ariel Ramirez Ferrer dba Cali Automotive;

23 3. Revoking or suspending Smog Check Inspector License Number EO 643426, issued
24 to Sonny Ariel Ramirez Ferrer;

25 4. Revoking or suspending Smog Check Repair Technician License Number EI 643426,
26 issued to Sonny Ariel Ramirez Ferrer;

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1 5. Ordering Sonny Ariel Ramirez Ferrer to pay the Bureau of Automotive Repair the
2 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
3 Professions Code section 125.3 and if placed on probation, the costs of probation monitoring;

4 6. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of
5 Division 26 of the Health and Safety Code to Sonny Ariel Ramirez Ferrer;

6 7. Revoking or suspending any additional Automotive Repair Dealer Registration(s)
7 issued to Sonny Ariel Ramirez Ferrer;

8 and,

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

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11 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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