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

10 In the Matter of the Accusation Against:

Case No. 79/23-6758

11 **LEONEL PENALOZA,**
12 **AKA LEONEL PENALOZA DUARTE,**
13 **DBA GT SMOG CHECK**
22087 Barton Rd.
Grand Terrace, CA 92313
Automotive Repair Dealer Registration No.
14 **ARD 301850**
Smog Check Test Only Station License No.
15 **TC 301850,**

ACCUSATION

16 **LEONEL PENALOZA DUARTE,**
17 **AKA LEONEL PENALOZA**
5578 34th St. #34
Riverside, CA 92509
Smog Check Inspector License No.
18 **EO 644078,**

19 **KARINA ANTUNEZ,**
20 **AKA KARINA DELGADILLO**
11561 Virginia Ave. Apt. 6
Lynwood, CA 90262
Smog Check Inspector License No.
21 **EO 643460,**

22 **KARINA ANTUNEZ,**
23 **AKA KARINA DELGADILLO,**
24 **DBA BLONTE SMOGS**
3366 East Imperial Highway
Lynwood, CA 90262
Smog Check Test Only Station License No.
25 **TC 308822,**

26 Respondents.
27
28

PARTIES

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

4 **Respondent Penaloza**

5 2. On or about February 25, 2022, the bureau issued Automotive Repair Dealer
6 Registration number ARD 301850 to Leonel Penaloza, also known as Leonel Penaloza Duarte,
7 doing business as GT Smog Check (respondent Penaloza or GT Smog Check). The Automotive
8 Repair Dealer Registration was in full force and effect at all times relevant to the charges brought
9 herein and will expire on February 28, 2025, unless renewed.

10 3. On or about March 23, 2022, the bureau issued Smog Check Test Only Station
11 License number TC 301850 to respondent Penaloza. The Smog Check Test Only Station License
12 was in full force and effect at all times relevant to the charges brought herein and will expire on
13 February 28, 2025, unless renewed.

14 4. On or about April 21, 2022, GT Smog Check was certified as a STAR Station. This
15 certification will remain active unless the Automotive Repair Dealer Registration and/or Smog
16 Check Station License is revoked, canceled, becomes delinquent, or the certification is
17 suspended.

18 5. On or about December 27, 2022, the bureau issued Smog Check Inspector License
19 number EO 644078 to Leonel Penaloza Duarte, also known as Leonel Penaloza (respondent
20 Penaloza). The Smog Check Inspector License was in full force and effect at all times relevant to
21 the charges brought herein and will expire on August 31, 2026, unless renewed.

22 **Respondent Antunez**

23 6. On or about December 31, 2021, the bureau issued Smog Check Inspector License
24 number EO 643460 to respondent Karina Antunez, also known as Karina Delgadillo (respondent
25 Antunez). The Smog Check Inspector License was in full force and effect at all times relevant to
26 the charges brought herein and will expire on January 31, 2026, unless renewed.

27 7. On or about June 14, 2024, the bureau issued Smog Check Test Only Station License
28 number TC 308822 to respondent Antunez, doing business as Blonte Smogs (respondent Antunez

1 or Blonte Smogs). The Smog Check Test Only Station License was in full force and effect at all
2 times relevant to the charges brought herein and will expire on April 30, 2025, unless renewed.

3 **JURISDICTION**

4 8. This Accusation is brought before the Director of the Department of Consumer
5 Affairs (director) for the Bureau of Automotive Repair, under the authority of the following laws.

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

10 10. Business and Professions Code section 9884.7 provides that the director may revoke
11 an automotive repair dealer registration.

12 11. Business and Professions Code section 9884.13 provides, in pertinent part, that the
13 expiration of a valid registration shall not deprive the director of jurisdiction to proceed with a
14 disciplinary proceeding against an automotive repair dealer or to render a decision temporarily or
15 permanently invalidating (suspending or revoking) a registration.

16 12. Health and Safety Code section 44002 provides, in pertinent part, that the director has
17 all the powers and authority granted under the Automotive Repair Act for enforcing the Motor
18 Vehicle Inspection Program.

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

23 **STATUTORY PROVISIONS**

24 14. Business and Professions Code section 9884.7 states, in pertinent part:

25 (a) The director, if the automotive repair dealer cannot show there was a bona
26 fide error, may deny, suspend, revoke, or place on probation the registration of an
27 automotive repair dealer for any of the following acts or omissions related to the
28 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.

15. Business and Professions 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 Business and Professions Code.

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

3 17. Health and Safety Code section 44015, subdivision (b), provides that a certificate of
4 compliance shall be issued if a vehicle meets the requirements of Health and Safety Code section
5 44012.

6 18. Health and Safety Code section 44032 provides that qualified technicians shall
7 perform tests of emissions control devices and systems in accordance with Health and Safety
8 Code section 44012.

9 19. Health and Safety Code section 44072.2 states, in pertinent part:

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

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

16 ...

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

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

21 20. Health and Safety Code section 44072.10 states, in pertinent part:

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

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

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

28 (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...

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

REGULATORY PROVISIONS

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

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

23. California Code of Regulations, title 16, section 3340.30, subdivision (a), states that a licensed smog technician shall at all times “[i]nspect, 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.

24. California Code of Regulations, title 16, section 3340.35, subdivision (c), states that a licensed smog check 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.”

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

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

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

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

1 **COST RECOVERY**

2 27. Business and Professions Code section 125.3 provides, in pertinent part, that the
3 bureau may request the administrative law judge to direct a licentiate found to have committed a
4 violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the
5 investigation and enforcement of the case.

6 **CALIFORNIA'S SMOG CHECK PROGRAM**

7 28. California's Smog Check Program requires most vehicles in the State to undergo a
8 smog check inspection every two years or when the vehicle's title is transferred.

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

16 30. In Basic areas of the State, or depending on a vehicle's configuration, a similar test
17 called a Two Speed Idle test is performed, but instead of applying a load to the vehicle's drive
18 wheels with a dynamometer, the EIS measures the emissions of HC, CO, O₂, and CO₂ at idle as
19 well as 2,500 revolutions per minute (rpm).

20 31. In the visual portion of a smog check, the technician inspects the emission control
21 components to verify that the required emission control devices are present and properly
22 connected.

23 32. An Onboard Diagnostics (OBD II) functional test is also performed on most 1996 to
24 1999 model year vehicles. The EIS retrieves information through the Diagnostic Link Connector
25 (DLC) from the vehicle's onboard computer about its ability to communicate, the status of the
26 I/M readiness monitors and the MIL light command. The I/M readiness monitors tell whether or
27 not the OBD II system has run a sufficient number of self-tests on the vehicle's emission and
28 engine control systems. A failure of one or more of the OBD II functional criteria, depending on

1 model year, will result in the vehicle failing its smog check inspection. In addition to reporting
2 the outcome of the OBD II functional test, the smog check inspection results also show
3 Diagnostic Trouble Codes (DTC) if there are any in the vehicle's onboard computer memory.

4 33. The inspector enters the results of the visual and functional inspections into the EIS.
5 The EIS unit makes the determination whether or not the vehicle passes the inspection based on
6 the results of the tailpipe, visual and functional tests.

7 34. The EIS is connected by internet connection to bureau's Vehicle Information
8 Database (VID). If the vehicle passes the visual, functional and tailpipe tests, it passes the overall
9 inspection. A Certificate of Compliance is issued and transmitted electronically to the VID.

10 35. Beginning March 9, 2015, California's Smog Check Program was updated to require
11 the use of an Onboard Diagnostic Inspection System (BAR-OIS). BAR-OIS is the smog check
12 equipment required in all areas of the State when inspecting most model-year 2000 and newer
13 gasoline and hybrid vehicles. The system consists of a certified Data Acquisition Device (DAD),
14 computer, barcode scanner, and printer. The DAD is an OBD scan tool that, when requested by
15 the BAR-OIS software, retrieves OBD data from the vehicle. All OBD data that the vehicle
16 indicates it supports is requested by the BAR-OIS software and will be retrieved. The DAD
17 connects between the BAR-OIS computer and the vehicle's DLC. The barcode scanner is used to
18 input inspector information, the vehicle identification number (VIN), and Department of Motor
19 Vehicles renewal information. The printer provides a Vehicle Inspection Report (VIR) containing
20 inspection results for motorists and a Smog Check Certificate of Compliance number for passing
21 vehicles.

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

- 26 a. Engine speed in revolutions per minute (RPM);
- 27 b. Throttle position as measured by a throttle position sensor (TPS) mounted onto the
- 28 throttle shaft. Measured in a percentage of opening from zero percent at idle and near or up to 100

1 percent at full throttle;

2 c. Manifold absolute pressure as measured by a manifold air pressure sensor (MAP)
3 connected to an intake manifold source, measured in kilo pascals (kpa). Typical readings for a
4 normally aspirated vehicle as follows: zero kpa being absolute vacuum, 25 to 45 kpa at idle, 101
5 kpa at full throttle, same as atmospheric pressure at sea level; and,

6 d. Mass air flow as measured by a mass air flow sensor (MAF) mounted in the engine's
7 air intake tract. Measured in grams per second (gps).

8 37. During normal engine operation at idle, engine speed is relatively steady around its
9 target idle speed. With the engine idling, the TPS is steady and at or near zero percent. The MAP
10 and/or MAF readings are also steady. For the engine speed to increase, the throttle would have to
11 be opened in order to increase airflow through the engine. The engine's management systems
12 supply fuel and spark timing appropriate to any changes in throttle position and engine speed. An
13 increase in throttle, measured by the TPS, which increases engine RPM, would result in a
14 corresponding increases in MAF as well as a change in MAP. Any movement in the throttle from
15 the idle position will result in an increase of airflow through the engine with corresponding
16 increases RPM and MAF along with changes in MAP.

17 38. During an OIS Smog Check inspection, along with other visual and functional
18 inspections, there is an OBD II query portion of the inspection. The OBD II query is performed
19 with the engine idling and, when requested by the OIS analyzer, and an elevated or increased
20 engine speed. The increase in engine speed is performed by the inspector by stepping on the
21 throttle pedal or manually opening the throttle resulting in a corresponding increase in engine
22 RPMs by allowing an increase in airflow into the engine.

23 39. The bureau has become aware of methods that some Smog Check stations and Smog
24 Check inspectors use to fraudulently issue smog certificates to vehicles that may not pass a smog
25 check test on their own, or in some instances, are not even present during the time the test is
26 performed. "Clean plugging" is a method by which another vehicle's OBD II system, or another
27 source such as defeat devices, are used to generate passing data readings or diagnostic
28 information for the purpose of fraudulently issuing smog certificates to vehicles that are not in

smog compliance, and or not present for testing. Defeat devices attempt to simulate engine operation during a smog check inspection by transmitting OBD II data to the VID which has been modified or replaced entirely for the purportedly inspected vehicle during the functional portion of the OIS inspection.

FACTUAL ALLEGATIONS

Station Data Review

40. A bureau representative conducted a review of the VID data for Smog Check inspections performed at GT Smog Check which showed a pattern of vehicles being certified with engine operating parameters that did not correspond to normal engine operation, confirming the vehicles receiving smog certifications were not tested during the OBD II functional test, which constitutes clean plugging. The bureau's review of the Smog Check activities at GT Smog confirmed Smog Check Certificates of Compliance were fraudulently issued to vehicles after inspections performed by respondents.

Clean Plug Number 1—2001 Toyota Camry CE (Respondent Antunez)

41. OIS Test data for GT Smog indicated that on March 28, 2023, a 2001 Toyota Camry CE, California license number 4RRH878, was tested and Smog Certificate of Compliance number TE930213C was issued by GT Smog under respondent Antunez's Smog Check Inspector License.

42. The Dynamic data and PID Charts for the 2001 Camry show between time stamp 190 and 20149 engine speed is steady at approximately 700 RPM. During this time the throttle is fixed at 11% opening, the MAP is fixed at 28kPa, and the ignition timing advance for #1 cylinder is fixed at 6.5 degrees BTDC. After time stamp 20149 the engine speed increases to approximately 2000 RPM at time stamp 28172 before decreasing to approximately 1625 RPM at time stamp 35822 and slightly increasing to approximately 1825 RPM at time stamp 37494. From the time the engine RPM increases off idle to the higher RPMs, the throttle is fixed at the same 11% opening, the MAP is fixed at the same 28 kPa, and the ignition timing advance for #1 cylinder is fixed at the same 6.5 degrees BTDC.

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43. The steady idle and steady elevated engine speeds with the associated fixed throttle positions and subsequent fixed MAP readings as set forth in the underlying OIS Test Data for the inspection of the 2001 Toyota Camry CE are not characteristic and therefore not expected for normal engine operation. These discrepancies confirm that the OIS DAD was not connected to the 2001 Toyota Camry CE during the certification process as required, thereby rendering this a fraudulent inspection by way of clean plugging.

Clean Plug Number 2—2000 Ford F150 (Respondent Antunez)

44. OIS Test data for GT Smog indicated that on April 6, 2023, a 2000 Ford F150, California license number 6E27780, was tested and Smog Certificate of Compliance number TG216305C was issued by GT Smog under respondent Antunez's Smog Check Inspector License.

45. The Dynamic data and PID Charts for the 2000 F150 show between time stamp 52 and 17103 engine speed is steady at approximately 750 RPM. During this time the throttle is fixed at 20% opening, the MAF is fixed at 7.64 gps, and the ignition timing advance for #1 cylinder is fixed at 19.5 degrees BTDC. After time stamp 17103 the engine speed increases to approximately 2000 RPM at time stamp 25501 before decreasing to approximately 1800 RPM at time stamp 27084 and increasing back to approximately 2000 RPM at time stamp 32312. From the time the engine RPM increases off idle to the higher RPMs, the throttle is fixed at the same 20% opening, the MAF is fixed at the same 7.64 gps, and the ignition timing advance for #1 cylinder is fixed at the same 19.5 degrees BTDC.

46. The steady idle and steady elevated engine speeds with the associated fixed throttle positions and subsequent fixed MAF readings as set forth in the underlying OIS Test Data for the inspection of the 2000 Ford F150 are not characteristic and therefore not expected for normal engine operation. These discrepancies confirm that the OIS DAD was not connected to the 2000 Ford F150 during the certification process as required, thereby rendering this a fraudulent inspection by way of clean plugging.

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Clean Plug Number 3—2004 Ford F150 SVT Lightning (Respondent Antunez)

47. OIS Test data for GT Smog Check indicated that on April 12, 2023, a 2004 Ford F150 SVT Lightning, California license number 86148E1 was tested and Smog Check Certificate of Compliance number TG216343C was issued by GT Smog Check under respondent Antunez's Smog Check Inspector License.

48. The Dynamic data and PID Charts for the 2004 F150 Lightning show between time stamp 642 and 18481 engine speed is steady at approximately 800 RPM. During this time the throttle is fixed at 19.6% opening, the MAF is fixed at 4.09 gps, and the ignition timing advance for #1 cylinder is fixed at 22 degrees BTDC. After time stamp 18481 the engine speed increases to approximately 2150 RPM at time stamp 25339 before decreasing to approximately 1933 RPM at time stamp 27968 and increasing back to approximately 2125 RPM at time stamp 29556, before decreasing to approximately 1750 RPM at time stamp 35422. From the time the engine RPM increases off idle to the higher fluctuating RPMs, the throttle is fixed at the same 19.6% opening, the MAF is fixed at the same 4.09 gps, and the ignition timing advance for #1 cylinder is fixed at the same 22 degrees BTDC.

49. The steady idle and steady elevated engine speeds with the associated fixed throttle positions and subsequent fixed MAF readings as set forth in the underlying OIS test data for the inspection of the 2004 Ford F150 SVT Lightning are not characteristic and therefore not expected for normal engine operation. These discrepancies confirm that the OIS DAD was not connected to the 2004 Ford F150 SVT Lightning during the certification process as required, thereby rendering this a fraudulent inspection by way of clean plugging.

Clean Plug Number 4—2000 Ford F150 (Respondent Antunez)

50. OIS Test data for GT Smog Check indicated that on April 14, 2023, a 2000 Ford F150, California license number 7E75174 was tested and Smog Check Certificate of Compliance number TG483804C was issued by GT Smog Check under respondent Antunez's Smog Check Inspector License.

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1 51. The Dynamic data and PID Charts for the 2000 F150 show between time stamp 62
2 and 18243 engine speed is steady at approximately 800 RPM. During this time the throttle is
3 fixed at 18.8% opening, the MAF is fixed at 5.06 gps, and the ignition timing advance for #1
4 cylinder is fixed at 15 degrees BTDC. After time stamp 18243 the engine speed increases to
5 approximately 2150 RPM at time stamp 23354 before decreasing to approximately 1475 RPM at
6 time stamp 28885 and increasing back to approximately 1800 RPM at time stamp 36875. From
7 the time the engine RPM increases off idle to the higher RPMs, the throttle is fixed at the same
8 18.8% opening, the MAF is fixed at the same 5.06 gps, and the ignition timing advance for #1
9 cylinder is fixed at the same 15 degrees BTDC.

10 52. The steady idle and steady elevated engine speeds with the associated fixed throttle
11 positions and subsequent fixed MAF readings as set forth in the underlying OIS test data for the
12 inspection of the 2000 Ford F150 are not characteristic and therefore not expected for normal
13 engine operation. These discrepancies confirm that the OIS DAD was not connected to the 2000
14 Ford F150 during the certification process as required, thereby rendering this a fraudulent
15 inspection by way of clean plugging.

16 **Investigation: Surveillance Operation**

17 53. On or about April 17, 2023, bureau representatives conducted a surveillance
18 operation at GT Smog Check. During the surveillance operation, respondent Penaloza certified a
19 2005 Honda Accord (described in paragraphs 54–55 below) using respondent Antunez’s Smog
20 Check Inspector License.

21 **Clean Plug Number 5—2005 Honda Accord LX (Respondent Penaloza)**

22 54. OIS Test data for GT Smog Check indicated that on April 17, 2023, a 2005 Honda
23 Accord LX was tested and Smog Check Certificate of Compliance number TG483823C was
24 issued by GT Smog Check under respondent Antunez's Smog Check Inspector License.

25 55. During the time the 2005 Honda Accord LX was certified, it was not present at the
26 station. No vehicles were present in the test bay. Respondent Antunez was not present at the
27 station during the test.

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Post-Surveillance VID Data Review

56. Following the bureau's surveillance of GT Smog Check, a bureau representative reviewed the post-surveillance VID data for Smog Check inspections performed at GT Smog Check. This review uncovered a pattern of vehicles being certified with engine operating parameters that did not correspond to normal engine operation, confirming the vehicles receiving smog certifications were not tested during the OBD II functional test, which constitutes clean plugging. The bureau's post-surveillance review of the Smog Check activities at GT Smog confirmed Smog Check Certificates of Compliance were fraudulently issued to vehicles after inspections performed by respondents.

Clean Plug Number 6—2002 Honda Civic (Respondent Penaloza)

57. OIS Test data for GT Smog Check indicated that on May 16, 2023, a 2002 Honda Civic, California license number 8RDD650 was tested and Smog Check Certificate of Compliance number TG934254C was issued by GT Smog Check under respondent Penaloza's Smog Check Inspector License.

58. The Dynamic data and PID Charts for the 2002 Civic show between time stamp 160 and 17433 engine speed is steady at approximately 750 RPM. During this time the throttle is fixed at 9.4% opening, the MAP is fixed at 27 kPa, and the ignition timing advance for #1 cylinder is fixed at 8 degrees BTDC. After time stamp 17433 the engine speed increases to approximately 1975 RPM at time stamp 25065 before slightly decreasing and increasing to approximately 2180 RPM at time stamp 30772. From the time the engine RPM increases off idle to the higher RPMs, the throttle is fixed at the same 9.4% opening, the MAP is fixed at the same 27 kPa, and the ignition timing advance for #1 cylinder is fixed at the same 8 degrees BTDC.

59. The steady idle and steady elevated engine speeds with the associated fixed throttle positions and subsequent fixed MAP readings as set forth in the underlying OIS test data for the inspection of the 2002 Honda Civic are not characteristic and therefore not expected for normal engine operation. These discrepancies confirm that the OIS DAD was not connected to the 2002 Honda Civic during the certification process as required, thereby rendering this a fraudulent inspection by way of clean plugging.

Clean Plug Number 7—2006 Infiniti G35 (Respondent Penalzoa)

60. OIS Test data for GT Smog Check indicated that on May 26, 2023, a 2006 Infiniti G35, California license number 8JIJ924 was tested and Smog Check Certificate of Compliance number TI228107C was issued by GT Smog Check under respondent Penalzoa's Smog Check Inspector License.

61. The Dynamic data and PID Charts for the 2006 G35 show between time stamp 199 and 18661 engine speed is steady at approximately 650 RPM. During this time the throttle is fixed at 0.4% opening, the MAF is fixed at 3.1 gps, and the ignition timing advance for #1 cylinder is fixed at 16 degrees BTDC. After time stamp 18661 the engine speed increases to approximately 2375 RPM at time stamp 25027 before slightly decreasing and increasing to approximately 2000 RPM at time stamp 31341. The engine speed then decreases to approximately 1600 RPM at time stamp 35136. From the time the engine RPM increases off idle to the higher RPMs, the throttle is fixed at the same 0.4% opening, the MAF is fixed at the same 3.1 gps, and the ignition timing advance for #1 cylinder is fixed at the same 16 degrees BTDC.

62. The steady idle and steady elevated engine speeds with the associated fixed throttle positions and subsequent fixed MAF readings as set forth in the underlying OIS test data for the inspection of the 2006 Infiniti G35 are not characteristic and therefore not expected for normal engine operation. These discrepancies confirm that the OIS DAD was not connected to the 2006 Infiniti G35 during the certification process as required, thereby rendering this a fraudulent inspection by way of clean plugging.

Clean Plug Number 8—2005 Honda Accord LX (Respondent Penalzoa)

63. OIS Test data for GT Smog Check indicated that on May 30, 2023, a 2005 Honda Accord LX, California license number 5NLV595 was tested and Smog Check Certificate of Compliance number TI228124C was issued by GT Smog Check under respondent Penalzoa's Smog Check Inspector License.

64. The Dynamic data and PID Charts for the 2005 Accord show between time stamp 153 and 19770 engine speed is steady at approximately 625 RPM. During this time the throttle is fixed at 13.7% opening, the MAF is fixed at 3.4 gps, MAP is fixed at 22 kPa, and the ignition

1 timing advance for #1 cylinder is fixed at 26.5 degrees BTDC. After time stamp 19770 the engine
2 speed increases to approximately 2100 RPM at time stamp 24458 before fluctuating between
3 approximately 2200 RPM and 1700 RPM. From the time the engine RPM increases off idle to the
4 higher RPMs, the throttle is fixed at the same 13.7% opening, the MAF is fixed at the same 3.4
5 gps, MAP is fixed at the same 22 kPa, and the ignition timing advance for #1 cylinder is fixed at
6 the same 26.5 degrees BTDC.

7 65. However, the steady idle and steady elevated engine speeds with the associated fixed
8 throttle positions and subsequent fixed MAP and MAF readings as set forth in the underlying OIS
9 test data for the inspection of the 2005 Honda Accord LX are not characteristic and therefore not
10 expected for normal engine operation. These discrepancies confirm that the OIS DAD was not
11 connected to the 2005 Honda Accord LX during the certification process as required, thereby
12 rendering this a fraudulent inspection by way of clean plugging.

13 **Clean Plug Number 9—2004 Toyota Camry LE (Respondent Penaloza)**

14 66. OIS Test data for GT Smog Check indicated that on June 2, 2023, a 2004 Toyota
15 Camry LE, California license number 5EXW409 was tested and Smog Check Certificate of
16 Compliance number TI228148C was issued by GT Smog Check under respondent Penaloza's
17 Smog Check Inspector License.

18 67. The Dynamic data and PID Charts for the 2004 Camry show between time stamp 142
19 and 17481 engine speed is steady at approximately 675 RPM. During this time the throttle is
20 fixed at 14.5% opening, the MAF is fixed at 2.56 gps, and the ignition timing advance for #1
21 cylinder is fixed at 11.5 degrees BTDC. After time stamp 17481 the engine speed increases to
22 approximately 2050 RPM at time stamp 27055 before fluctuating between approximately 1825
23 RPM and 2125 RPM. From the time the engine RPM increases off idle to the higher RPMs, the
24 throttle is fixed at the same 14.5% opening, the MAF is fixed at the same 2.56 gps, and the
25 ignition timing advance for #1 cylinder is fixed at the same 11.5 degrees BTDC.

26 68. The steady idle and steady elevated engine speeds with the associated fixed throttle
27 positions and subsequent fixed MAF readings as set forth in the underlying OIS test data for the
28 inspection of the 2004 Toyota Camry LE are not characteristic and therefore not expected for

1 normal engine operation. These discrepancies confirm that the OIS DAD was not connected to
2 the 2004 Toyota Camry LE during the certification process as required, thereby rendering this a
3 fraudulent inspection by way of clean plugging.

4 **Clean Plug Number 10—2005 Nissan Titan XE (Respondent Penalzoa)**

5 69. OIS Test data for GT Smog Check indicated that on June 7, 2023, a 2005 Nissan
6 Titan XE, California license number 7V80276 was tested and Smog Check Certificate of
7 Compliance number TI481075C was issued by GT Smog Check under respondent Penalzoa's
8 Smog Check Inspector License.

9 70. The Dynamic data and PID Charts for the 2005 Titan show between time stamp 202
10 and 16899 engine speed is steady at approximately 650 RPM. During this time the throttle is
11 fixed at 2.4% opening, the MAF is fixed at 5.04 gps, and the ignition timing advance for #1
12 cylinder is fixed at 15 degrees BTDC. After time stamp 16899 the engine speed increases to
13 approximately 2100 RPM at time stamp 20693 before fluctuating between approximately 1650
14 RPM and 2200 RPM. From the time the engine RPM increases off idle to the higher RPMs, the
15 throttle is fixed at the same 2.4% opening, the MAF is fixed at the same 5.04 gps, and the ignition
16 timing advance for #1 cylinder is fixed at the same 15 degrees BTDC.

17 71. The steady idle and steady elevated engine speeds with the associated fixed throttle
18 positions and subsequent fixed MAF readings as set forth in the underlying OIS test data for the
19 inspection of the 2005 Nissan Titan XE are not characteristic and therefore not expected for
20 normal engine operation. These discrepancies confirm that the OIS DAD was not connected to
21 the 2005 Nissan Titan XE during the certification process as required, thereby rendering this a
22 fraudulent inspection by way of clean plugging.

23 **Clean Plug Number 11—2006 Mitsubishi Lancer ES (Respondent Penalzoa)**

24 72. OIS Test data for GT Smog Check indicated that on September 13, 2023, a 2006
25 Mitsubishi Lancer ES, California license number 5VMC583 was tested and Smog Check
26 Certificate of Compliance number TO140351C was issued by GT Smog Check under respondent
27 Penalzoa's Smog Check Inspector License.

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73. The Dynamic data and PID Charts for the 2006 Lancer shows between time stamp 117 and 16994 engine speed is steady at approximately 700 RPM. During this time the throttle is fixed at 0.4% opening, the MAF is fixed at 2.07 gps, the MAP is fixed at 28 kPa, and the ignition timing advance for #1 cylinder is fixed at 8 degrees BTDC. After time stamp 16994 the engine speed increases to approximately 1900 RPM at time stamp 21383 before fluctuating between approximately 1600 RPM and 2000 RPM. From the time the engine RPM increases off idle to the higher RPMs, the throttle is fixed at the same .4% opening, the MAF is fixed at the same 2.07 gps, the MAP is fixed at the same 28 kPa, and the ignition timing advance for #1 cylinder is fixed at the same 8 degrees BTDC.

74. The steady idle and steady elevated engine speeds with the associated fixed throttle positions and subsequent fixed MAF readings as set forth in the underlying OIS test data for the inspection of the 2006 Mitsubishi Lancer ES are not characteristic and therefore not expected for normal engine operation. These discrepancies confirm that the OIS DAD was not connected to the 2006 Mitsubishi Lancer ES during the certification process as required, thereby rendering this a fraudulent inspection by way of clean plugging.

FIRST CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

(Automotive Repair Dealer Registration—Respondent Penalosa)

75. Respondent Penalzoza's Automotive Repair Dealer Registration is subject to disciplinary action pursuant to Business and Professions Code section 9884.7, subdivision (a)(1), in that he made statements which were known to be untrue or misleading or, which by exercise of reasonable care should have been known to be untrue or misleading, by issuing electronic smog certificates of compliance to the eleven vehicles set forth in paragraphs 40-74, certifying that those vehicles were in compliance with applicable laws and regulations when, in fact, those vehicles had not been so inspected. Complainant realleges paragraphs 40-74.

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1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Fraud)**

3 **(Automotive Repair Dealer Registration—Respondent Penaloza)**

4 76. Respondent Penaloza's Automotive Repair Dealer Registration is subject to
5 disciplinary action pursuant to Business and Professions Code section 9884.7, subdivision (a)(4),
6 in that he committed acts that constitute fraud by issuing electronic certificates of compliance to
7 the eleven vehicles set forth in paragraphs 40–74, without performing bone 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 realleges paragraphs 40–74.

11 **THIRD CAUSE FOR DISCIPLINE**

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

13 **(Automotive Repair Dealer Registration—Respondent Penaloza)**

14 77. Respondent Penaloza's Automotive Repair Dealer Registration is subject to
15 disciplinary action pursuant to Business and Professions Code section 9884.7, subdivision (a)(6),
16 in that he failed in a material respect to comply with the provisions of this chapter or regulations
17 adopted pursuant to it when he issued electronic certificates of compliance to the eleven vehicles
18 set forth in paragraphs 40–74 without performing bona fide inspections of the emission control
19 devices and systems on those vehicles, thereby depriving the People of the State of California of
20 the protection afforded by the Motor Vehicle Inspection Program. Complainant realleges
21 paragraphs 40–74.

22 **FOURTH CAUSE FOR DISCIPLINE**

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

24 **(Automotive Repair Dealer Registration—Respondent Penaloza)**

25 78. Respondent Penaloza's Smog Check Test Only Station License is subject to
26 disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (a), in that he
27 failed to comply with the following sections of that Code:

- 28 a. **Section 44012:** Respondent Penaloza failed to ensure that the emission control tests

1 were performed on the eleven vehicles set forth in paragraphs 40–74, in accordance with
2 procedures prescribed by the department.

3 b. **Section 44015, subdivision (b):** Respondent Penaloza issued electronic smog
4 certificates of compliance to the eleven vehicles set forth in paragraphs 40–74 without properly
5 testing and inspecting those vehicles to determine if they were in compliance with Health and
6 Safety Code section 44012.

7 Complainant realleges paragraphs 40–74.

8 **FIFTH CAUSE FOR DISCIPLINE**

9 **(Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection Program)** 10 **(Smog Check Test Only Station License—Respondent Penaloza)**

11 79. Respondent Penaloza’s Smog Check Test Only Station License is subject to
12 disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (c), in that he
13 failed to comply with provisions of California Code of Regulations, title 16, as follows:

14 a. **Section 3340.24, subdivision (c):** Respondent Penaloza falsely or fraudulently issued
15 electronic smog certificates of compliance to the eleven vehicles set forth in paragraphs 40–74.

16 b. **Section 3340.30, subdivision (a):** Respondent Penaloza failed to inspect and test the
17 eleven vehicles set forth in paragraphs 40–74, in accordance with Health and Safety Code
18 sections 44012 and 44035, and California Code of Regulations, title 16, section 3340.42.

19 c. **Section 3340.35, subdivision (c):** Respondent Penaloza issued electronic smog
20 certificates of compliance to the eleven vehicles set forth in paragraphs 40–74, even though those
21 vehicles had not been inspected in accordance with section 3340.42.

22 d. **Section 3340.41, subdivision (c):** Respondent Penaloza knowingly entered false
23 information into the emissions inspection system to the eleven vehicles set forth in paragraphs
24 40–74.

25 e. **Section 3340.42:** Respondent Penaloza failed to ensure that the smog inspections
26 conducted the eleven vehicles set forth in paragraphs 40–74, were done in accordance with the
27 bureau’s specifications.

28 Complainant realleges paragraphs 40–74.

1 **SIXTH CAUSE FOR DISCIPLINE**

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

3 **(Smog Check Test Only Station License—Respondent Penaloza)**

4 80. Respondent Penaloza's Smog Check Test Only Station License is subject to
5 disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (d), in
6 conjunction with Health and Safety Code section 44072.10, subdivision (c), in that he committed
7 dishonest, fraudulent, or deceitful acts whereby another was injured by issuing electronic smog
8 certificates of compliance to the eleven vehicles set forth in paragraphs 40–74 without performing
9 bona fide inspections of the emission control devices and systems on those vehicles, thereby
10 depriving the People of the State of California of the protection afforded by the Motor Vehicle
11 Inspection Program. Complainant realleges paragraphs 40–74.

12 **SEVENTH CAUSE FOR DISCIPLINE**

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

14 **(Smog Check Station Test Only Station License—Respondent Penaloza)**

15 81. Respondent Penaloza's Smog Check Test Only Station License is subject to
16 disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (a), in that he
17 failed to comply with the following sections of that code:

18 a. **Section 44032**: Respondent Penaloza failed to perform tests of emission control
19 devices and systems of the eleven vehicles set forth in paragraphs 40–74 in accordance with
20 Health and Safety Code section 44012.

21 b. **Section 44015, subdivision (b)**: Respondent Penaloza caused electronic smog
22 certificates of compliance to be issued to the eleven vehicles set forth in paragraphs 40–74
23 without ensuring that they were properly tested and inspected to determine if they were in
24 compliance with Health and Safety Code section 44012.

25 Complainant realleges paragraphs 40–74.

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1 **EIGHTH CAUSE FOR DISCIPLINE**

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

3 **(Smog Check Inspector License—Respondent Penaloza)**

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

7 a. **Section 44032:** Respondent Penaloza failed to perform tests of emission control
8 devices and systems of the seven vehicles set forth in paragraphs 53–74 in accordance with
9 Health and Safety Code section 44012.

10 b. **Section 44015, subdivision (b):** Respondent Penaloza caused electronic smog
11 certificates of compliance to be issued to the seven vehicles set forth in paragraphs 53–74 without
12 ensuring that they were properly tested and inspected to determine if they were in compliance
13 with Health and Safety Code section 44012.

14 Complainant realleges paragraphs 53–74.

15 **NINTH CAUSE FOR DISCIPLINE**

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

17 **(Smog Check Inspector License—Respondent Penaloza)**

18 83. Respondent Penaloza's Smog Check Inspector License is subject to disciplinary
19 action pursuant to Health and Safety Code section 44072.2, subdivision (c), in that he failed to
20 comply with provisions of California Code of Regulations, title 16, as follows:

21 a. **Section 3340.24, subdivision (c):** Respondent Penaloza falsely or fraudulently issued
22 electronic smog certificates of compliance to the seven vehicles set forth in paragraphs 53–74.

23 b. **Section 3340.30, subdivision (a):** Respondent Penaloza failed to inspect and test the
24 seven vehicles set forth in paragraphs 53–74 in accordance with Health and Safety Code sections
25 44012 and 44035, and California Code of Regulations, title 16, section 3340.42.

26 c. **Section 3340.41, subdivision (c):** Respondent Penaloza knowingly entered false
27 information into the emissions inspection system for the seven vehicles set forth in paragraphs
28 53–74.

1 d. **Section 3340.42:** Respondent Penaloza failed to ensure that the smog inspections
2 conducted on the seven vehicles set forth in paragraphs 53–74 were done in accordance with the
3 bureau’s specifications.

4 Complainant realleges paragraphs 53–74.

5 **TENTH CAUSE FOR DISCIPLINE**

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

7 **(Smog Check Inspector License—Respondent Penaloza)**

8 84. Respondent Penaloza’s Smog Check Inspector License is subject to disciplinary
9 action pursuant to Health and Safety Code section 44072.2, subdivision (d), in conjunction with
10 Health and Safety Code section 44072.10, subdivision (c), in that he committed dishonest,
11 fraudulent, or deceitful acts whereby another was injured by issuing electronic smog certificates
12 of compliance to the seven vehicles set forth in paragraphs 53–74 without performing bona fide
13 inspections of the emission control devices and systems on those vehicles, thereby depriving the
14 People of the State of California of the protection afforded by the Motor Vehicle Inspection
15 Program. Complainant realleges paragraphs 53–74.

16 **ELEVENTH CAUSE FOR DISCIPLINE**

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

18 **(Smog Check Test Only Station License—Respondent Antunez)**

19 85. Respondent Antunez’s Smog Check Test Only Station License is subject to
20 disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (c), in that,
21 while acting as a Smog Check Inspector at GT Smog Check, respondent Antunez failed to
22 comply with provisions of California Code of Regulations, title 16, as follows:

23 a. **Section 3340.24, subdivision (c):** Respondent Antunez falsely or fraudulently issued
24 electronic smog certificates of compliance at GT Smog Check to the four vehicles set forth in
25 paragraphs 40–52.

26 b. **Section 3340.30, subdivision (a):** Respondent Antunez failed to inspect and test at
27 GT Smog Check the four vehicles set forth in paragraphs 40–52, in accordance with Health and
28 Safety Code sections 44012 and 44035, and California Code of Regulations, title 16, section

3340.42.

c. **Section 3340.35, subdivision (c)**: Respondent Antunez issued electronic smog certificates of compliance at GT Smog Check to the four vehicles set forth in paragraphs 40–52, even though those vehicles had not been inspected in accordance with section 3340.42.

d. **Section 3340.41, subdivision (c)**: Respondent Antunez knowingly entered false information into the emissions inspection system at GT Smog Check for the four vehicles set forth in paragraphs 40–52.

e. **Section 3340.42**: Respondent Antunez failed to ensure that the smog inspections conducted at GT Smog Check on the four vehicles set forth in paragraphs 40–52 were done in accordance with the bureau’s specifications.

Complainant realleges paragraphs 40–52.

TWELFTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

(Smog Check Test Only Station License—Respondent Antunez)

86. Respondent Antunez’s Smog Check Test Only Station License is subject to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (d), in conjunction with Health and Safety Code section 44072.10, subdivision (c), in that, while acting as a Smog Check Inspector at GT Smog Check, respondent Antunez committed dishonest, fraudulent, or deceitful acts whereby another was injured by issuing electronic smog certificates of compliance at GT Smog Check to the four vehicles set forth in paragraphs 40–52 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 realleges paragraphs 40–52.

THIRTEENTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

(Smog Check Test Only Station License—Respondent Antunez)

87. Respondent Antunez’s Smog Check Inspector License is subject to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (a), in that respondent Antunez

1 failed to comply with the following sections of that code:

2 a. **Section 44032**: Respondent Antunez, while acting as a Smog Check Inspector at GT
3 Smog Check, failed to perform tests of emission control devices and systems of the four vehicles
4 set forth in paragraphs 40–52 in accordance with Health and Safety Code section 44012.

5 b. **Section 44015, subdivision (b)**: Respondent Antunez, while acting as a Smog Check
6 Inspector at GT Smog Check, caused electronic smog certificates of compliance to be issued to
7 the four vehicles set forth in paragraphs 40–52 without ensuring that they were properly tested
8 and inspected to determine if they were in compliance with Health and Safety Code section
9 44012.

10 Complainant realleges paragraphs 40–52.

11 **FOURTEENTH CAUSE FOR DISCIPLINE**

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

13 **(Smog Check Inspector License—Respondent Antunez)**

14 88. Respondent Antunez’s Smog Check Inspector License is subject to disciplinary action
15 pursuant to Health and Safety Code section 44072.2, subdivision (a), in that he failed to comply
16 with the following sections of that code:

17 a. **Section 44032**: Respondent Antunez failed to perform tests of emission control
18 devices and systems of the four vehicles set forth in paragraphs 40–52 in accordance with Health
19 and Safety Code section 44012.

20 b. **Section 44015, subdivision (b)**: Respondent Penalzoa caused electronic smog
21 certificates of compliance to be issued to the four vehicles set forth in paragraphs 53–74 without
22 ensuring that they were properly tested and inspected to determine if they were in compliance
23 with Health and Safety Code section 44012.

24 Complainant realleges paragraphs 40–52.

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1 **FIFTEENTH CAUSE FOR DISCIPLINE**

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

3 **(Smog Check Inspector License—Respondent Antunez)**

4 89. Respondent Antunez's Smog Check Inspector License is subject to disciplinary action
5 pursuant to Health and Safety Code section 44072.2, subdivision (c), in that respondent Antunez
6 failed to comply with provisions of California Code of Regulations, title 16, as follows:

7 a. **Section 3340.24, subdivision (c):** Respondent Antunez falsely or fraudulently issued
8 electronic smog certificates of compliance to the four vehicles set forth in paragraphs 40–52.

9 b. **Section 3340.30, subdivision (a):** Respondent Antunez failed to inspect and test the
10 four vehicles set forth in paragraphs 40–52 in accordance with Health and Safety Code sections
11 44012 and 44035, and California Code of Regulations, title 16, section 3340.42.

12 c. **Section 3340.41, subdivision (c):** Respondent Antunez knowingly entered false
13 information into the emissions inspection system for the four vehicles set forth in paragraphs 40–
14 52.

15 d. **Section 3340.42:** Respondent Antunez failed to ensure that the smog inspections
16 conducted on the four vehicles set forth in paragraphs 40–52 were done in accordance with the
17 bureau's specifications.

18 Complainant realleges paragraphs 40–52.

19 **SIXTEENTH CAUSE FOR DISCIPLINE**

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

21 **(Smog Check Inspector License—Respondent Antunez)**

22 90. Respondent Antunez's Smog Check Inspector License is subject to disciplinary action
23 pursuant to Health and Safety Code section 44072.2, subdivision (d), in conjunction with Health
24 and Safety Code section 44072.10, subdivision (c), in that respondent Antunez committed
25 dishonest, fraudulent, or deceitful acts whereby another was injured by issuing electronic smog
26 certificates of compliance to the four vehicles set forth in paragraphs 40–52 without performing
27 bona fide inspections of the emission control devices and systems on those vehicles, thereby
28 depriving the People of the State of California of the protection afforded by the Motor Vehicle

1 Inspection Program. Complainant realleges paragraphs 40–52.

2 **OTHER MATTERS**

3 91. Pursuant to Business and Professions Code section 9884.7, subdivision (c), the
4 director may suspend, revoke, or place on probation the registration for all places of business
5 operated in this state by respondent Penaloza, upon a finding that respondent Penaloza has, or is,
6 engaged in a course of repeated and willful violations of the laws and regulations pertaining to an
7 automotive repair dealer.

8 92. Pursuant to Health and Safety Code section 44072.8, if Smog Check Test Only
9 Station License No. TC 301850, issued to respondent Penaloza, is revoked or suspended, any
10 additional license issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code
11 in the name of said licensee may be likewise revoked or suspended by the director.

12 93. Pursuant to Health and Safety Code section 44072.8, if Smog Check Inspector
13 License No. EO 644078, issued to respondent Penaloza, is revoked or suspended, any additional
14 license issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code in the name
15 of said licensee may be likewise revoked or suspended by the director.

16 94. Pursuant to Health and Safety Code section 44072.8, if Smog Check Test Only
17 Station License No. TC 308822, issued to respondent Antunez, is revoked or suspended, any
18 additional license issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code
19 in the name of said licensee may be likewise revoked or suspended by the director.

20 95. Pursuant to Health and Safety Code section 44072.8, if Smog Check Inspector
21 License No. EO 643460, issued to respondent Antunez, is revoked or suspended, any additional
22 license issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code in the name
23 of said licensee may be likewise revoked or suspended by the director.

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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 301850, issued to Leonel Penaloza, also known as Leonel Penaloza Duarte, doing business as GT Smog Check;

2. Revoking or suspending any other automotive repair dealer registration issued to Leonel Penaloza, also known as Leonel Penaloza Duarte;

3. Revoking or suspending Smog Check Test Only Station License number TC 301850, issued to Leonel Penaloza, also known as Leonel Penaloza Duarte, doing business as GT Smog Check;

4. Revoking or suspending Smog Check Inspector License number EO 644078, issued to Leonel Penaloza, also known as Leonel Penaloza Duarte;

5. 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 Leonel Penaloza, also known as Leonel Penaloza Duarte;

6. Revoking or suspending Smog Check Test Only Station License number TC 308822, issued to Karina Antunez, also known as Karina Delgadillo, doing business as Blonte Smogs;

7. Revoking or suspending Smog Check Inspector License number EO 644078, issued to Karina Antunez, also known as Karina Delgadillo;

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 Karina Antunez, also known as Karina Delgadillo;

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9. Ordering Leonel Penaloza, also known as Leonel Penaloza Duarte, and Karina Antunez, also known as Karina Delgadillo, 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,

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