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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. **79/24-19478**

13 **LEONARDO ISMAEL RAMOS d.b.a.**  
14 **MISSION SMOG CHECK**  
15 **3720 Rubidoux Blvd**  
16 **Jurupa Valley, CA 92509**

OAH No.

**ACCUSATION**

17 **Automotive Repair Dealer Registration**  
18 **Number ARD 294173; Smog Check Station**  
19 **License Number TC 294173**

20 **-and-**

21 **ZEFERINO PERALTA Jr.**  
22 **615 E Belmont St Apt A**  
23 **Ontario, CA 91761**

24 **Smog Check Inspector License Number EO**  
25 **643740**

26 **-and-**

27 **JOSE TRINIDAD TORRES**  
28 **519 East Park St**  
**Ontario, CA 91761**

**Smog Check Inspector License Number EO**  
**643764**

**-and-**



7. On or about July 8, 2022, Bureau of Automotive Repair issued Smog Check Inspector License Number EO 643764 to Jose Trinidad Torres (Respondent Torres). The Smog Check Inspector license was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2026, unless renewed.

## JURISDICTION

8. This Accusation is brought before the Director of the Department of Consumer Affairs (“Director”) for the Bureau, under the authority of the following laws.

9. Section 9884.7 of the Business and Professions Code<sup>1</sup> provides that the Director may revoke an ARD registration.

10. Section 9884.13 of the Code provides, in pertinent part, that the expiration of a valid registration shall not deprive the director or chief of jurisdiction to proceed with a disciplinary proceeding against an automotive repair dealer or to render a decision invalidating a registration temporarily or permanently.

11. Section 44002 of the Health and Safety Code provides, in pertinent part, that the Director has all the powers and authority granted under the Automotive Repair Act for enforcing the Motor Vehicle Inspection Program.

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

## **STATUTORY PROVISIONS**

13. Section 9884.7 of the Code states:

(a) The director, where the automotive repair dealer cannot show there was a bona fide error, may deny, suspend, revoke, or place on probation the registration of an automotive repair dealer for any of the following acts or omissions related to the conduct of the business of the automotive repair dealer, which are done by the automotive repair dealer or any automotive technician, employee, partner, officer, or member of the automotive repair dealer.

<sup>1</sup> All statutory references herein shall be to the Business and Professions Code unless specifically stated otherwise.

1 (1) Making or authorizing in any manner or by any means whatever any  
2 statement written or oral which is untrue or misleading, and which is known, or which  
3 by the exercise of reasonable care should be known, to be untrue or misleading.

4 ...

5 (4) Any other conduct which constitutes fraud.

6 ...

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

9 14. Section 44072.2 of the Health and Safety Code states:

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 ...

22 15. 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  
25 station license who fraudulently certifies vehicles or participates in the fraudulent  
26 inspection of vehicles. A fraudulent inspection includes, but is not limited to, all of  
27 the following:

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

...

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

...”

1 **REGULATORY PROVISIONS**

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

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

5 17. California Code of Regulations, title 16, section 3340.30, states:

6 A smog check technician shall comply with the following requirements at all  
times while licensed.

7 (a) A licensed technician shall inspect, test and repair vehicles in accordance  
8 with section 44012 of the Health and Safety Code, section 44035 of the Health and  
Safety Code, and section 3340.42 of this article.

9 . . .

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

11 . . . .

12 (c) A licensed station shall issue a certificate of compliance or noncompliance  
13 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  
14 emission control equipment and devices installed and functioning correctly. . . .

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

17 **COST RECOVERY**

18 20. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
19 administrative law judge to direct a licentiate found to have committed a violation or violations of  
20 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
21 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being  
22 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be  
23 included in a stipulated settlement.

24 **VID DATA REVIEW**

25 21. Beginning March 9, 2015, California's Smog Check Program was updated to require  
26 the use of an On-Board Diagnostic Inspection System ("OIS"). OIS is the Smog Check  
27 equipment required in all areas of the State when inspecting most model-year 2000 and newer  
28 gasoline and hybrid vehicles and most 1998 and newer diesel vehicles. The system consists of a

1 certified Data Acquisition Device (“DAD”), computer, bar code scanner, and printer. The DAD  
2 is an On-Board Diagnostic (“OBD”) scan tool that, when requested by the California OIS  
3 software, retrieves OBD data from the vehicle. All OBD data that the vehicle indicates it  
4 supports is requested by the California OIS software and will be retrieved. The DAD connects  
5 between the OIS computer and the vehicle’s DLC. The California OIS software requires a  
6 continuous Internet connection when performing a Smog Check inspection and the OIS software  
7 communicates with BAR’s central database through the Internet connection. The bar code  
8 scanner is used to input technician information, the vehicles identification number (“VIN”), and  
9 DMV renewal information. The printer provides a Vehicle Inspection Report (“VIR”) containing  
10 inspection results for motorists and a Smog Check Certificate of Compliance number for passing  
11 vehicles.

12 22. Data retrieved and recorded during an OIS smog check includes; the eVIN, which is  
13 the digitally stored VIN programmed into the vehicle’s Powertrain Control Module (“PCM”); the  
14 communication protocol, which is the manufacturer/vehicle specific language the PCM uses to  
15 relay information; and the number of Parameter Identifications (“PIDs”), which is the number of  
16 specific data values each PCM uses related to emissions controls.

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

- 21 • Engine speed in revolutions per minute (RPM)
- 22 • Throttle position as measured by a throttle position sensor (TPS) mounted onto  
23 the throttle shaft. Measured in a percentage of opening from 0% at idle and near  
24 or up to 100% at full throttle.
- 25 • Manifold absolute pressure as measured by a manifold air pressure sensor (MAP)  
26 connected to an intake manifold source, measured in kilo pascals (kpa). Typical  
27 readings for a normally aspirated vehicle as follows: 0 kpa being absolute vacuum,  
28 25kpa to 45kpa at idle, 101 kpa at full throttle, same as atmospheric pressure at

1 sea level.

- 2 • Mass air flow as measured by a mass air flow sensor (MAF) mounted in the
- 3 engine's air intake tract. Measured in grams per second (gps).<sup>2</sup>
- 4 • Ignition timing is set by the vehicle PCM based on engine speed and load, and is
- 5 measured in degrees Before Top Dead Center (BTDC).

6 24. During normal engine operation at idle, engine speed is relatively steady around its  
7 target idle speed. With the engine idling, the TPS is steady and at or near 0%. The MAP and/or  
8 MAF readings are also steady. For the engine speed to increase, the throttle would have to be  
9 opened to increase airflow through the engine. The engine's management systems supply fuel and  
10 spark timing appropriate to any changes in throttle position and engine speed. An increase in  
11 throttle, measured by the TPS, which increases engine RPM, would result in corresponding  
12 increases in MAF as well as a change in MAP. Stated another way, any movement in the throttle  
13 from the idle position will result in an increase of airflow through the engine with corresponding  
14 increases RPM and/or MAF along with changes in MAP.

15 25. During an OIS Smog Check inspection, along with other visual and functional  
16 inspections, there is an OBD II query portion of the inspection. The OBD II query is performed  
17 with the engine idling and, when requested by the OIS analyzer, and an elevated or increased  
18 engine speed.

19 26. If the vehicle passes the visual, functional and tailpipe tests, it passes the overall  
20 inspection, and a Certificate of Compliance is issued and transmitted electronically to the Vehicle  
21 Information Database ("VID"). These Certificates of Compliance are purchased in blocks of fifty  
22 (50) through the EIS or OIS from the VID, using a pre-arranged electronic bank account debit  
23 system or by check, via mail, from Bureau Headquarters in Sacramento. Each Certificate of  
24 Compliance has a unique control number so that it can be tracked to determine which Smog  
25 Check Station purchased the Certificate of Compliance and to which vehicle it was issued.

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27 <sup>2</sup> Not all vehicles include both MAP and MAF parameters. Many vehicles will have either  
28 MAP or MAF parameters separately.

1           27. The VID contains registration data from Department of Motor Vehicles (“DMV”)  
2 plus emission standards, vehicle smog check inspections, smog check stations and technicians,  
3 and Certificates of Compliance. The VID receives the passing smog check results immediately  
4 following the inspection. During the vehicle registration process, the DMV accesses the VID to  
5 verify that the vehicle has been tested and certified. The Bureau can also access the VID to view  
6 test data on smog check inspections performed at any Smog Check Station, or search for, retrieve,  
7 and print a test record for a particular vehicle which has been tested. The EIS or OIS, depending  
8 on the test type, also prints a Vehicle Inspection Report (“VIR”), which is a physical record of the  
9 test results and shows the Certificate of Compliance number that was issued if the vehicle passed  
10 the smog inspection.

11           28. The smog check technician must sign the VIR under penalty of perjury to indicate  
12 that the inspection was done within Bureau guidelines. Smog Check Stations are required by law  
13 to maintain a copy of the VIR along with a copy of the repair invoice for three years. The  
14 consumer’s VIR serves as a receipt and proof that the VID was updated, and a Certificate of  
15 Compliance was issued. Licensed Smog Check Technicians are the only persons authorized by  
16 the Bureau to perform official inspections. They are issued a personal access code and a license,  
17 which are used to gain access to the EIS and OIS to perform smog check inspections.  
18 Unauthorized use of another technician’s access code or license is prohibited.

19           29. Respondents have engaged in numerous acts or omissions constituting violations of  
20 the Automotive Repair Act (Business and Professions Code section 9880 *et seq.*) and Motor  
21 Vehicle Inspection Program (Health and Safety Code section 44000 *et seq.*) through their practice  
22 of “clean plugging.”<sup>3</sup> Respondent’s employees’ OIS Test Data available on the State database  
23 indicates that Respondents are involved in fraudulent smog inspection activities. A Bureau  
24 representative initiated an investigation based on information transmitted to the VID for smog  
25 check inspections performed by Respondent’s employees. The investigation revealed that the

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26           <sup>3</sup> “Clean plugging” refers to the use of another vehicle’s properly functioning On Board  
27 Diagnostic, generation II, (OBD II) system, or another source, to generate passing diagnostic  
28 readings for the purpose of issuing fraudulent smog Certificates of Compliance to vehicles that  
are not in smog compliance and/or not present for testing.



1 data related to certain vehicles certified by Respondent's employees contained a pattern of  
2 unmistakable discrepancies between the information transmitted during the inspections and  
3 documented information known about the vehicles at issue. Specifically, the representative  
4 compared the data received from the certified vehicles to data from vehicles of the same year,  
5 make, and model and determined that the data from at least ten (10) of the certified vehicles were  
6 fraudulently tested by Respondent's employees during the smog inspection using the "clean  
7 plugging" method as follows:

8 **Fraudulent Inspection #1 (Peralta)**

9 30. Bureau Program Representative Steve Koch (Koch) reviewed the OIS Test Data for  
10 Mission Smog Check. The review indicates on January 21, 2023, a 2003 Volkswagen Jetta GLI,  
11 CA license 6VLH847, VIN 3VWVH69M23M092718 (2003 Jetta), was tested and smog  
12 certificate # TC610482C was issued under licensed Smog Check Technician #EO643740, Peralta.

13 31. The Dynamic OBD Data and Dynamic Data Charts for the 2003 Jetta shows between  
14 time stamp 121 and 22951 engine speed is steady at approximately 650 RPM. During this time  
15 the throttle is fixed at 5.1% opening, the MAF is fixed at 0 gps, and the ignition timing advance  
16 for #1 cylinder is fixed at 0 degrees BTDC. After time stamp 22951 the engine speed increases to  
17 approximately 2300 RPM before decreasing to approximately 2000 RPM. From the time the  
18 engine RPM increases off idle to the higher RPMs, the throttle is fixed at the same 5.1% opening,  
19 the MAF is fixed at the same 0 gps, and the ignition timing advance for #1 cylinder is fixed at the  
20 same 0 degrees BTDC.

21 32. During the period the dynamic data was collected, the only parameter that changed  
22 was engine RPM. The throttle position, MAF, and ignition timing advance readings remained  
23 unchanged even though the engine speed was increased. These readings are not characteristic or  
24 expected for normal engine operation. The discrepancies in the OIS Test Data prove the OIS  
25 DAD was not connected to the 2003 Jetta being certified, causing the issuance of a fraudulent  
26 Smog Certificate of Compliance.

27 **Previous Failing Tests: 2003 Jetta**

33. Two previous failing tests were performed on the 2003 Jetta. The most recent failing test was performed by Peralta at Mission Smog Check on January 14, 2023. The 2003 Jetta failed the test for incomplete OBDII readiness monitors. The Dynamic PID OBDII data shows the expected change in the throttle, MAF, and ignition timing advance parameters as characteristic or expected for normal engine operation.

34. The earlier failing test was performed at another station on January 11, 2023. The 2003 Jetta failed the test for an illuminated MIL and confirmed DTCs P0420 and P2181. No Dynamic OBDII PID data was collected during the test.

### **Fraudulent Inspection #2 (Peralta)**

35. Koch reviewed the OIS Test Data for Mission Smog Check. The review indicates on February 18, 2023, a 2000 Chevrolet Venture, CA license 4KAS439, VIN 1GNDX03E2YD228260 (2000 Venture), was tested and smog certificate # TE245960C was issued under licensed Smog Check Technician #EO643740, Peralta.

36. The Dynamic OBD Data and Dynamic Data Charts for the 2000 Venture shows between time stamp 45 and 19743 engine speed is steady at approximately 625 RPM. During this time the throttle is fixed at .4% opening, the MAF is fixed at 4.12 gps, the MAP is fixed at 36 kPa, and the ignition timing advance for #1 cylinder is fixed at 19.5 degrees BTDC. After time stamp 19743 the engine speed increases to approximately 2100 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 4.12 gps, the MAP is fixed at the same 36 kPa, and the ignition timing advance for #1 cylinder is fixed at the same 19.5 degrees BTDC.

37. During the period the dynamic data was collected, the only parameter that changed was engine RPM. The throttle position, MAF, MAP, and ignition timing advance readings remained unchanged even though the engine speed was increased. These readings are not characteristic or expected for normal engine operation. The discrepancies in the OIS Test Data prove the OIS DAD was not connected to the 2000 Venture being certified, causing the issuance of a fraudulent Smog Certificate of Compliance.

### **Previous Failing Tests: 2000 Venture**

38. Two previous failing tests were performed on the 2000 Venture. The most recent failing test was performed by Peralta at Mission Smog Check on February 16, 2023. The 2000 Venture failed the test for incomplete OBDII readiness monitors. The Dynamic PID OBDII data shows the expected change in the throttle, MAF, MAP, and ignition timing advance parameters as characteristic or expected for normal engine operation.

39. The earlier failing test was performed at another station on February 9, 2023. The 2000 Venture failed the test for visual: missing catalytic converter, and "other emission related components/systems", an illuminated MIL and confirmed DTCs P0341 and P0420. No Dynamic OBDII PID data was collected during the test.

### **Fraudulent Inspection #3 (Peralta)**

40. Koch reviewed the OIS Test Data for Mission Smog Check. The review indicates on February 21, 2023, a 2000 Toyota Sienna LE, CA license 4HGR205, VIN 4T3ZF13C8YU189361 (2000 Sienna), was tested and smog certificate # TE245993C was issued under licensed Smog Check Technician #EO643740, Peralta.

41. The Dynamic OBD Data and Dynamic Data Charts for the 2000 Sienna shows between time stamp 289 and 21329 engine speed is steady at approximately 800 RPM. During this time the throttle is fixed at 11% opening, the MAF is fixed at 2.92 gps, and the ignition timing advance for #1 cylinder is fixed at 19.5 degrees BTDC. After time stamp 21329 the engine speed increases to approximately 2100 RPM. From the time the engine RPM increases off idle to the higher RPMs, the throttle is fixed at the same 11% opening, the MAF is fixed at the same 2.92 gps, and the ignition timing advance for #1 cylinder is fixed at the same 19.5 degrees BTDC.

42. During the period the dynamic data was collected, the only parameter that changed was engine RPM. The throttle position, MAF, and ignition timing advance readings remained unchanged even though the engine speed was increased. These readings are not characteristic or expected for normal engine operation. The discrepancies in the OIS Test Data prove the OIS DAD was not connected to the 2000 Sienna being certified, causing the issuance of a fraudulent Smog Certificate of Compliance.

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1           **Previous Failing Tests: 2000 Sienna**

2           43. Three previous failing tests were performed on the 2000 Sienna. The most recent  
3 failing test was performed by Peralta at Mission Smog Check on February 10, 2023. The 2000  
4 Sienna failed the test for incomplete OBDII readiness monitors. The Dynamic OBDII data shows  
5 the expected change in the throttle, MAF, and ignition timing advance parameters as  
6 characteristic or expected for normal engine operation.

7           44. An earlier failing test was performed at another station on November 8, 2022. The  
8 2000 Sienna failed the test for visual: tampered catalytic converter, an illuminated MIL with  
9 confirmed DTC P0171, and incomplete OBD2 readiness monitors. The Dynamic OBDII data  
10 shows the expected change in the throttle, MAF, and ignition timing advance parameters as  
11 characteristic or expected for normal engine operation.

12           45. Another failing test was performed at another station on October 22, 2022. The 2000  
13 Sienna failed the test for visual: tampered catalytic converter and other emission related  
14 components/systems, an illuminated MIL with confirmed DTC P0171, and incomplete OBD2  
15 readiness monitors. No Dynamic OBDII data was collected during the test.

16           **Fraudulent Inspection #4 (Peralta)**

17           46. Koch reviewed the OIS Test Data for Mission Smog Check. The review indicates on  
18 April 29, 2023, a 2003 Pontiac Bonneville SE, CA license 5BUE982, VIN  
19 1G2HX52K034198834 (2003 Bonneville), was tested and smog certificate # IT824987C was  
20 issued under licensed Smog Check Technician #EO643740, Peralta.

21           47. The Dynamic OBD Data and Dynamic Data Charts for the 2003 Bonneville shows  
22 between time stamp 41 and 18269 engine speed is steady at approximately 800 RPM. During this  
23 time the throttle is fixed at 0% opening, the MAF varies between 4.07 gps and 7.96 gps, the MAP  
24 is fixed at 29 kPa, and the ignition timing advance for #1 cylinder is fixed at 22.5 degrees BTDC.  
25 After time stamp 18269 the engine speed fluctuates as it increases to approximately 2550 RPM.  
26 From the time the engine RPM increases off idle to the higher RPMs, the throttle is fixed at the  
27 same 0% opening, the MAF increases to 13.44 gps, the MAP is fixed at the same 29 kPa, and the  
28 ignition timing advance for #1 cylinder is fixed at the same 22.5 degrees BTDC.

48. During the period the dynamic data was collected, the only parameter that changed was engine RPM and MAF. The throttle position, MAP, and ignition timing advance readings remained unchanged even though the engine speed was increased. These readings are not characteristic or expected for normal engine operation. The discrepancies in the OIS Test Data prove the OIS DAD was not connected to the 2003 Bonneville being certified, causing the issuance of a fraudulent Smog Certificate of Compliance.

**Fraudulent Inspection #5 (Peralta)**

49. Koch reviewed the OIS Test Data for Mission Smog Check. The review indicates on July 1, 2023, a 2005 Volkswagen New Jetta 2.5, CA license 5NEW757, VIN 3VWRG71K55M647622 (2005 New Jetta), was tested and smog certificate # TK203243C was issued under licensed Smog Check Technician #EO643740, Peralta.

50. The Dynamic OBD Data and Dynamic Data Charts for the 2005 New Jetta shows between time stamp 245 and 24239 engine speed is steady at approximately 700 RPM. During this time the throttle is fixed at 14.5% opening, the MAF is slightly varying, the MAP is fixed at 27 kPa, and the ignition timing advance for #1 cylinder is fixed at 29 degrees BTDC. After time stamp 24239 the engine increases to approximately 2175 RPM. From the time the engine RPM increases off idle to the higher RPMs, the throttle is fixed at the same 14.5% opening, the MAF increases to 6.09 gps, the MAP is fixed at the same 27 kPa, and the ignition timing advance for #1 cylinder is fixed at the same 29 degrees BTDC.

51. During the period the dynamic data was collected, the only parameter that changed was engine RPM and MAF. The throttle position, MAP, and ignition timing advance readings remained unchanged even though the engine speed was increased. These readings are not characteristic or expected for normal engine operation. The discrepancies in the OIS Test Data prove the OIS DAD was not connected to the 2005 New Jetta being certified, causing the issuance of a fraudulent Smog Certificate of Compliance.

**Fraudulent Inspection #6 (Torres)**

52. Koch reviewed the OIS Test Data for Mission Smog Check. The review indicates on April 13, 2024, a 2006 Subaru Impreza WRX STI, CA license 8FXL896, VIN

1 JF1GD70636L518309 (2006 Impreza), was tested and smog certificate # TW174075C was issued  
2 under licensed Smog Check Technician #EO643764, Torres.

3 53. The Dynamic OBD Data and Dynamic Data Charts for the 2006 Impreza shows  
4 between time stamp 113 and 25966 engine speed is steady at approximately 750 RPM. During  
5 this time the throttle is fixed at 15.3% opening, the MAF is fixed at 2.59 gps, the MAP is fixed at  
6 32 kPa, and the ignition timing advance for #1 cylinder varies between 10.5 and 15 degrees  
7 BTDC. After time stamp 25966 the engine increases to approximately 2675 RPM, decreases to  
8 approximately 1600 RPM, and then increases to approximately 2400 RPM. From the time the  
9 engine RPM increases off idle to the higher RPMs, the throttle is fixed at the same 15.3%  
10 opening, the MAF is fixed at the same 2.59 gps, the MAP is fixed at the same 32 kPa, and the  
11 ignition timing advance for #1 cylinder varies between 33 and 42 degrees BTDC.

12 54. During the period the dynamic data was collected, the only parameter that changed  
13 was engine RPM and ignition timing. The throttle position, MAF, and MAP remained unchanged  
14 even though the engine speed was increased. These readings are not characteristic or expected for  
15 normal engine operation. The discrepancies in the OIS Test Data prove the OIS DAD was not  
16 connected to the 2006 Impreza being certified, causing the issuance of a fraudulent Smog  
17 Certificate of Compliance.

#### 18 **Fraudulent Inspection #7 (Torres)**

19 55. Koch reviewed the OIS Test Data for Mission Smog Check. The review indicates on  
20 April 26, 2024, a 2004 Mercedes Benz CLK 500, CA license 5FKT650, VIN  
21 WDBTJ75J54F085701 (2004 CLK 500), was tested and smog certificate # TW529087C was  
22 issued under licensed Smog Check Technician #EO643764, Torres.

23 56. The Dynamic OBD Data and Dynamic Data Charts for the 2004 CLK 500 shows  
24 between time stamp 127 and 32198 engine speed is steady at approximately 625 RPM. During  
25 this time the throttle is fixed at 2.7% opening, the MAF is fixed at 5.02 gps, the MAP is fixed at  
26 30 kPa, and the ignition timing advance for #1 cylinder is fixed at -13 degrees BTDC. After time  
27 stamp 32198 the engine speed increases to approximately 2000 RPM. From the time the engine  
28 RPM increases off idle to the higher RPMs, the throttle is fixed at the same 2.7% opening, the

MAF is fixed at the same 5.02 gps, the MAP is fixed at the same 30 kPa, and the ignition timing advance for #1 cylinder is fixed at the same -13 degrees BTDC.

57. During the period the dynamic data was collected, the only parameter that changed was engine RPM. The throttle position, MAF, MAP, and ignition timing advance readings remained unchanged even though the engine speed was increased. These readings are not characteristic or expected for normal engine operation. The discrepancies in the OIS Test Data prove the OIS DAD was not connected to the 2004 CLK 500 being certified, causing the issuance of a fraudulent Smog Certificate of Compliance.

#### **Fraudulent Inspection #8 (Torres)**

58. Koch reviewed the OIS Test Data for Mission Smog Check. The review indicates on May 21, 2024, a 2005 Lincoln Aviator, CA license 7VVH486, VIN 5LMEU88H25ZJ19277 (2005 Aviator), was tested and smog certificate # TY258797C was issued under licensed Smog Check Technician #EO643764, Torres.

59. The Dynamic OBD Data and Dynamic Data Charts for the 2005 Aviator shows between time stamp 31 and 19668 engine speed is steady at approximately 625 RPM. During this time the throttle is fixed at 17.6% opening, the MAF varies between 3.74 gps and 6.8 gps, the MAP is fixed at 32 kPa, and the ignition timing advance for #1 cylinder is fixed at 2.5 degrees BTDC. After time stamp 19668 the engine speed increases to approximately 2475 RPM, then decreases to approximately 1700 RPM. From the time the engine RPM increases off idle to the higher RPMs, the throttle is fixed at the same 17.6% opening, the MAF varies between 7.53 gps and 10.26 gps, the MAP is fixed at the same 32 kPa, and the ignition timing advance for #1 cylinder is fixed at the same 2.5 degrees BTDC.

60. During the period the dynamic data was collected, the only parameter that changed was engine RPM and MAF. The throttle position, MAP, and ignition timing advance readings remained unchanged even though the engine speed was increased. These readings are not characteristic or expected for normal engine operation. The discrepancies in the OIS Test Data prove the OIS DAD was not connected to the 2005 Aviator being certified, causing the issuance of a fraudulent Smog Certificate of Compliance.

**Fraudulent Inspection #9 (Cardenas)**

61. Koch reviewed the OIS Test Data for Mission Smog Check. The review indicates on June 2, 2024, a 2005 Subaru Impreza WRX STI, CA license 7ANC090, VIN JF1GD70675L523205 (2005 Impreza), was tested and smog certificate # TY675525C was issued under licensed Smog Check Technician #EO644278, Cardenas.

62. The Dynamic OBD Data and Dynamic Data Charts for the 2005 Impreza shows between time stamp 116 and 20390 engine speed is steady at approximately 750 RPM. During this time the throttle is fixed at 13.3% opening, the MAF is fixed at 2.59 gps, the MAP is fixed at 47 kPa, and the ignition timing advance for #1 cylinder varies between 10.5 and 15 degrees BTDC. After time stamp 20390 the engine increases to approximately 2375 RPM, decreases to approximately 1975 RPM, and then increases to approximately 2200 RPM. From the time the engine RPM increases off idle to the higher RPMs, the throttle is fixed at the same 13.3% opening, the MAF is fixed at the same 2.59 gps, the MAP is fixed at the same 47 kPa, and the ignition timing advance for #1 cylinder increases to 42 degrees BTDC.

63. During the period the dynamic data was collected, the only parameter that changed was engine RPM and ignition timing. The throttle position, MAF, and MAP remained unchanged even though the engine speed was increased. These readings are not characteristic or expected for normal engine operation. The discrepancies in the OIS Test Data prove the OIS DAD was not connected to the 2005 Impreza being certified, causing the issuance of a fraudulent Smog Certificate of Compliance.

**Fraudulent Inspection #10 (Torres)**

64. Koch reviewed the OIS Test Data for Mission Smog Check. The review indicates on June 8, 2024, a 2007 Subaru Impreza 2.5I, CA license 8TUI181, VIN JF1GD61647G504521 (2007 Impreza), was tested and smog certificate # TY873576C was issued under licensed Smog Check Technician #EO643764, Torres.

65. The Dynamic OBD Data and Dynamic Data Charts for the 2007 Impreza shows between time stamp 685 and 28509 engine speed is steady at approximately 750 RPM. During this time the throttle is fixed at 12.5% opening, the MAF is fixed at 2.58 gps, the MAP is fixed at



1 26 kPa, and the ignition timing advance for #1 cylinder varies between 10.5 and 15 degrees  
2 BTDC. After time stamp 28509 the engine increases to approximately 2200 RPM. From the time  
3 the engine RPM increases off idle to the higher RPMs, the throttle is fixed at the same 12.5%  
4 opening, the MAF is fixed at the same 2.58 gps, the MAP is fixed at the same 26 kPa, and the  
5 ignition timing advance for #1 cylinder increases to 42 degrees BTDC.

6 66. During the period the dynamic data was collected, the only parameter that changed  
7 was engine RPM and ignition timing. The throttle position, MAF, and MAP remained unchanged  
8 even though the engine speed was increased. These readings are not characteristic or expected for  
9 normal engine operation. The discrepancies in the OIS Test Data prove the OIS DAD was not  
10 connected to the 2007 Impreza being certified, causing the issuance of a fraudulent Smog  
11 Certificate of Compliance.

#### 12 **FIRST CAUSE FOR DISCIPLINE**

##### 13 **(Untrue or Misleading Statements - Respondent Mission Smog)**

14 67. Respondent Mission Smog's registration is subject to disciplinary action pursuant to  
15 section 9884.7, subdivision (a)(1), in that Respondent's employees made or authorized statements  
16 which they knew or in the exercise of reasonable care should have known to be untrue or  
17 misleading, as follows: Respondent's employees certified that the vehicles set forth above in  
18 paragraphs 30-66, had passed inspection and were in compliance with applicable laws and  
19 regulations. In fact, Respondent's employees conducted the inspections on those vehicles using  
20 the clean plugging method in order to issue smog certificates of compliance, and did not test or  
21 inspect the vehicles as required by Health and Safety Code section 44012.

#### 22 **SECOND CAUSE FOR DISCIPLINE**

##### 23 **(Fraud - Respondent Mission Smog)**

24 68. Respondent Mission Smog's registration is subject to disciplinary action pursuant to  
25 section 9884.7, subdivision (a)(4), in that Respondent Mission Smog's employees committed acts  
26 which constitute fraud by issuing electronic certificates of compliance for the vehicles set forth  
27 above in paragraphs 30-66, without performing bona fide inspections of the emission control  
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1 devices and systems on those vehicles, thereby depriving the People of the State of California of  
2 the protection afforded by the Motor Vehicle Inspection Program.

3 **THIRD CAUSE FOR DISCIPLINE**

4 **(Failure to Comply with the Motor Vehicle Inspection Program –**  
5 **Respondent Mission Smog)**

6 69. Respondent Mission Smog's smog station license is subject to disciplinary action  
7 pursuant to Health and Safety Code section 44072.2, subdivision (a), in conjunction with Health  
8 and Safety Code section 44072.10 subdivision (c), in that regarding the vehicles set forth above in  
9 paragraphs 30-66, Respondent Mission Smog failed to comply with the following sections of the  
10 Health and Safety Code:

11 (a) **Section 44012**: Respondent Mission Smog's employees failed to ensure that the  
12 emission control tests were performed on the vehicles, in accordance with procedures prescribed  
13 by the department.

14 (b) **Section 44015**: Respondent Mission Smog's employees issued electronic certificates  
15 of compliance for the vehicles, without ensuring that the vehicles were properly tested and  
16 inspected to determine if they were in compliance with Health and Safety Code section 44012.

17 **FOURTH CAUSE FOR DISCIPLINE**

18 **(Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection Program -**  
19 **Respondent Mission Smog)**

20 70. Respondent Mission Smog's smog station license is subject to disciplinary action  
21 pursuant to Health and Safety Code section 44072.2, subdivision (c), in that regarding the  
22 vehicles set forth above in paragraphs 30-66, Respondent's employees failed to comply with the  
23 following provisions of the California Code of Regulations, Title 16, as follows:

24 (a) **Section 3340.35, subdivision (c)**: Respondent Mission Smog's employees issued  
25 electronic certificates of compliance even though those vehicles had not been inspected in  
26 accordance with section 3340.42, Title 16, of the California Code of Regulations.

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1 (b) **Section 3340.42**: Respondent Mission Smog's employees failed to conduct the  
2 required smog tests and inspections on those vehicles in accordance with the Bureau's  
3 specifications.

4 **FIFTH CAUSE FOR DISCIPLINE**

5 **(Dishonesty, Fraud or Deceit - Respondent Mission Smog)**

6 71. Respondent Mission Smog's smog station license is subject to disciplinary action  
7 pursuant to Health and Safety Code section 44072.2, subdivision (d), in conjunction with Health  
8 and Safety Code section 44072.10 subdivision (c), in that regarding the vehicles set forth above in  
9 paragraphs 30-66, Respondent Mission Smog's employee's committed acts involving dishonesty,  
10 fraud or deceit whereby another was injured by issuing electronic certificates of compliance for  
11 those vehicles without performing bona fide inspections of the emission control devices and  
12 systems on the vehicles, thereby depriving the People of the State of California of the protection  
13 afforded by the Motor Vehicle Inspection Program.

14 **SIXTH CAUSE FOR DISCIPLINE**

15 **(Violations of the Motor Vehicle Inspection Program – Respondent Peralta)**

16 72. Respondent Peralta's smog check inspector license is subject to discipline pursuant to  
17 Health and Safety Code section 44072.2, subdivision (a), in that regarding the vehicles set forth  
18 above in paragraphs 30-32, 35-37, 40-42, and 46-51, Respondent Peralta failed to comply with  
19 section 44012 of the Health and Safety Code in a material respect, as follows: Respondent  
20 Peralta failed to perform the emission control tests on those vehicles in accordance with  
21 procedures prescribed by the department.

22 **SEVENTH CAUSE FOR DISCIPLINE**

23 **(Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection Program –**  
24 **Respondent Peralta)**

25 73. Respondent Peralta's smog check inspector license is subject to discipline pursuant to  
26 Health and Safety Code section 44072.2, subdivision (c), in that regarding the vehicles set forth  
27 above in paragraphs 30-32, 35-37, 40-42, and 46-51, Respondent Peralta failed to comply with  
28 provisions of the California Code of Regulations, title 16, as follows:

1 (a) **Section 3340.30, subdivision (a)**: Respondent Peralta failed to inspect and test those  
2 vehicles in accordance with Health and Safety Code section 44012.

3 (b) **Section 3340.41, subdivision (c)**: Respondent Peralta entered false information into  
4 the EIS.

5 (c) **Section 3340.42**: Respondent Peralta failed to conduct the required smog tests and  
6 inspections on those vehicles in accordance with the Bureau's specifications.

7 **EIGHTH CAUSE FOR DISCIPLINE**

8 **(Dishonesty, Fraud or Deceit - Respondent Peralta)**

9 74. Respondent Peralta's smog check inspector license is subject to discipline pursuant to  
10 Health and Safety Code section 44072.2, subdivision (d), in conjunction with Health and Safety  
11 Code section 44072.10 subdivision (c), in that regarding the vehicles set forth above in  
12 paragraphs 30-32, 35-37, 40-42, and 46-51, Respondent Peralta committed acts involving  
13 dishonesty, fraud or deceit whereby another was injured by issuing electronic certificates of  
14 compliance for those vehicles without performing bona fide inspections of the emission control  
15 devices and systems on the vehicles., thereby depriving the People of the State of California of  
16 the protection afforded by the Motor Vehicle Inspection Program.

17 **NINTH CAUSE FOR DISCIPLINE**

18 **(Violations of the Motor Vehicle Inspection Program – Respondent Cardenas)**

19 75. Respondent Cardenas's smog check inspector license is subject to discipline pursuant  
20 to Health and Safety Code section 44072.2, subdivision (a), in that regarding the vehicles set forth  
21 above in paragraphs 61-63, Respondent Cardenas failed to comply with section 44012 of the  
22 Health and Safety Code in a material respect, as follows: Respondent Cardenas failed to perform  
23 the emission control tests on those vehicles in accordance with procedures prescribed by the  
24 department.

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1 **TENTH CAUSE FOR DISCIPLINE**

2 **(Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection Program –**  
3 **Respondent Cardenas)**

4 76. Respondent Cardenas's smog check inspector license is subject to discipline pursuant  
5 to Health and Safety Code section 44072.2, subdivision (c), in that regarding the vehicles set forth  
6 above in paragraphs 61-63, Respondent Cardenas failed to comply with provisions of the  
7 California Code of Regulations, title 16, as follows:

8 (a) **Section 3340.30, subdivision (a)**: Respondent Cardenas failed to inspect and test  
9 those vehicles in accordance with Health and Safety Code section 44012.

10 (b) **Section 3340.41, subdivision (c)**: Respondent Cardenas entered false information  
11 into the EIS.

12 (c) **Section 3340.42**: Respondent Cardenas failed to conduct the required smog tests and  
13 inspections on those vehicles in accordance with the Bureau's specifications.

14 **ELEVENTH CAUSE FOR DISCIPLINE**

15 **(Dishonesty, Fraud or Deceit - Respondent Cardenas)**

16 77. Respondent Cardenas's smog check inspector license is subject to discipline pursuant  
17 to Health and Safety Code section 44072.2, subdivision (d), in conjunction with Health and  
18 Safety Code section 44072.10 subdivision (c), in that regarding the vehicles set forth above in  
19 paragraphs 61-63, Respondent Cardenas committed acts involving dishonesty, fraud or deceit  
20 whereby another was injured by issuing electronic certificates of compliance for those vehicles  
21 without performing bona fide inspections of the emission control devices and systems on the  
22 vehicles., thereby depriving the People of the State of California of the protection afforded by the  
23 Motor Vehicle Inspection Program.

24 **TWELFTH CAUSE FOR DISCIPLINE**

25 **(Violations of the Motor Vehicle Inspection Program – Respondent Torres)**

26 78. Respondent Torres's smog check inspector license is subject to discipline pursuant to  
27 Health and Safety Code section 44072.2, subdivision (a), in that regarding the vehicles set forth  
28 above in paragraphs 52-60 and 64-66, Respondent Torres failed to comply with section 44012 of

1 the Health and Safety Code in a material respect, as follows: Respondent Cardenas failed to  
2 perform the emission control tests on those vehicles in accordance with procedures prescribed by  
3 the department.

4 **THIRTEENTH CAUSE FOR DISCIPLINE**

5 **(Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection Program –**  
6 **Respondent Torres)**

7 79. Respondent Torres's smog check inspector license is subject to discipline pursuant to  
8 Health and Safety Code section 44072.2, subdivision (c), in that regarding the vehicles set forth  
9 above in paragraphs 52-60 and 64-66, Respondent Torres failed to comply with provisions of the  
10 California Code of Regulations, title 16, as follows:

11 (a) **Section 3340.30, subdivision (a)**: Respondent Torres failed to inspect and test those  
12 vehicles in accordance with Health and Safety Code section 44012.

13 (b) **Section 3340.41, subdivision (c)**: Respondent Torres entered false information into  
14 the EIS.

15 (c) **Section 3340.42**: Respondent Torres failed to conduct the required smog tests and  
16 inspections on those vehicles in accordance with the Bureau's specifications.

17 **FOURTEENTH CAUSE FOR DISCIPLINE**

18 **(Dishonesty, Fraud or Deceit - Respondent Torres)**

19 80. Respondent Torres's smog check inspector license is subject to discipline pursuant to  
20 Health and Safety Code section 44072.2, subdivision (d), in conjunction with Health and Safety  
21 Code section 44072.10 subdivision (c), in that regarding the vehicles set forth above in  
22 paragraphs 52-60 and 64-66, Respondent Torres committed acts involving dishonesty, fraud or  
23 deceit whereby another was injured by issuing electronic certificates of compliance for those  
24 vehicles without performing bona fide inspections of the emission control devices and systems on  
25 the vehicles., thereby depriving the People of the State of California of the protection afforded by  
26 the Motor Vehicle Inspection Program.

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82. Pursuant to Health & Safety Code section 44072.8, if Smog Check, Test Only Station License Number TC 294173 issued to Respondent Mission Smog is revoked or suspended following a hearing under this article, any additional license issued under Chapter 5, Part 5, Division 26 in the name of said licensee may be likewise revoked or suspended by the Director.

83. Pursuant to Health & Safety Code section 44072.8, if Smog Check Inspector License Number EO 644278 issued to Respondent Cardenas, is revoked or suspended following a hearing under this article, any additional license issued under Chapter 5, Part 5, Division 26 in the name of said licensee may be likewise revoked or suspended by the Director.

84. Pursuant to Health & Safety Code section 44072.8, if Smog Check Inspector License Number EO 643740, issued to Respondent Peralta, is revoked or suspended following a hearing under this article, any additional license issued under Chapter 5, Part 5, Division 26 in the name of said licensee may be likewise revoked or suspended by the Director.

85. Pursuant to Health & Safety Code section 44072.8, if Smog Check Inspector License Number EO 643764, issued to Respondent Torres, is revoked or suspended following a hearing under this article, any additional license issued under Chapter 5, Part 5, Division 26 in the name of said licensee may be likewise revoked or suspended by the Director.

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2. Revoking or suspending any other Automotive Repair Dealer Registration issued to Respondent Leonardo Ramos;

3. Revoking or suspending Smog Check, Test-Only, Station License Number TC 294173, issued to Leonardo Ramos, dba Mission Smog;

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

5. Revoking or suspending Smog Check Inspector License Number EO 643740, issued to Zeferino Peralta Jr.;

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

7. Revoking or suspending Smog Check Inspector License Number EO 644278, issued to Andres Cardenas;

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 Respondent Andres Cardenas;

9. Revoking or suspending Smog Check Inspector License Number EO 643764, issued to Jose Trinidad Torres;

10. 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 Respondent Jose Trinidad Torres;

11. Ordering Leonardo Ismael Ramos, Zeferino Peralta Jr., Andres Cardenas and Jose Trinidad Torres to pay the Bureau of Automotive Repair the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3 and if placed on probation, the costs of probation monitoring; and,

12. 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*