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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. 79/26-7216

13 **RAFAEL RAMON RAMIREZ-OWNER**
14 **DBA EL REY SMOG CHECK**
15 **3790 S Western Avenue Unit #C**
16 **Los Angeles, CA 90018**
17 **Automotive Repair Dealer Registration No.**
18 **ARD 286413**
19 **Smog Check, Test-Only, Station License No.**
20 **TC 286413**

ACCUSATION

21 **KALEB NAEEM VALENZUELA**
22 **136 N Bushnell Avenue**
23 **Alhambra, CA 91801**
24 **Smog Check Inspector License No. EO**
25 **643877**

26 **JORGE LUIS COLLAZO**
27 **1316 Venice Blvd # 1**
28 **Venice, CA 90291**
Smog Check Inspector License No. EO
634808
Smog Check Repair Technician License
Number EI 634808

MANUEL RODRIGUEZ
5016 5th Avenue
Los Angeles, CA 90063
Smog Check Inspector License No. EO
644942
Smog Check Repair Technician License
Number EI 644942

Kaleb Naeem Valenzuela

Smog Check Inspector License

5. On or about September 1, 2022, the Bureau issued Smog Check Inspector License Number EO 643877 to Kaleb Naeem Valenzuela (“Respondent Valenzuela”). The Smog Check Inspector License was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2027, unless renewed.

Jorge Luis Collazo

Smog Check Inspector License/Smog Check Repair Technician License

6. On or about April 8, 2014, Respondent Collazo was issued Smog Check Inspector License Number EO 634808 and was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2027, unless renewed. On or about April 8, 2014, Respondent Collazo was issued Smog Check Repair Technician License Number EI 634808 and expired on March 31, 2016, and has not been renewed.

Manuel Rodriguez

Smog Check Inspector License/Smog Check Repair Technician License

7. On or about April 15, 2024, the Bureau issued Smog Check Inspector License Number EO 644942 to Manuel Rodriguez (“Respondent Rodriguez”). The Smog Check Inspector License was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2027, unless renewed. On or about September 6, 2024, the Bureau issued Smog Check Repair Technician License Number EI 644942 to Respondent Rodriguez. The Smog Check Repair Technician License was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2026, unless renewed.

Andras Joe Toth

Smog Check Inspector License

8. On or about December 30, 2013, Respondent Toth was issued Smog Check Inspector License No. EO 140972 and was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2027, unless renewed.

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1 **Victor Daniel Gallegos**

2 **Smog Check Inspector License**

3 9. On or about February 12, 2024, the Bureau issued Smog Check Inspector License
4 Number EO 644828 to Victor Daniel Gallegos (“Respondent Gallegos”). The Smog Check
5 Inspector License was in full force and effect at all times relevant to the charges brought herein
6 and will expire on September 30, 2027, unless renewed.

7 **JURISDICTION**

8 10. Business and Professions Code (“Code”) section 9884.7 provides that the Director
9 may revoke an automotive repair dealer registration.

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

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

17 13. Section 44072.6 of the Health and Safety Code provides, in pertinent part, that the
18 expiration or suspension of a license by operation of law, or by order or decision of the Director
19 of Consumer Affairs, or a court of law, or the voluntary surrender of the license shall not deprive
20 the Director of jurisdiction to proceed with any investigation of, or action or disciplinary
21 proceedings against the licensee, or to render a decision suspending or revoking the license.

22 **STATUTORY PROVISIONS**

23 14. Section 9884.7 of the Code states:

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

1 which by the exercise of reasonable care should be known, to be untrue or
misleading.

2

3 (4) Any other conduct that constitutes fraud.

4

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

7

8 (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
9 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
10 adopted pursuant to it.

11 15. Section 44012 of the Health and Safety Code states:

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

19 (a) Emission control systems required by state and federal law are reducing
20 excess emissions in accordance with the standards adopted pursuant to subdivisions
(a) and (c) of Section 44013.

21 (b) Motor vehicles are preconditioned to ensure representative and stabilized
22 operation of the vehicle's emission control system.

23 (c) For other than diesel-powered vehicles, the vehicle's exhaust emissions of
hydrocarbons, carbon monoxide, carbon dioxide, and oxides of nitrogen in an idle
24 mode or loaded mode are tested in accordance with procedures prescribed by the
department. In determining how loaded mode and evaporative emissions testing shall
25 be conducted, the department shall ensure that the emission reduction targets for the
enhanced program are met.

26 (d) For other than diesel-powered vehicles, the vehicle's fuel evaporative
27 system and crankcase ventilation system are tested to reduce any nonexhaust sources
of volatile organic compound emissions, in accordance with procedures prescribed by
28 the department.

1 (e) For diesel-powered vehicles, a visual inspection is made of emission
2 control devices and the vehicle's exhaust emissions are tested in accordance with
3 procedures prescribed by the department, that may include, but are not limited to,
4 onboard diagnostic testing. The test may include testing of emissions of any or all of
the pollutants specified in subdivision (c) and, upon the adoption of applicable
standards, measurement of emissions of smoke or particulates, or both.

5 (f) A visual or functional check is made of emission control devices specified
6 by the department, including the catalytic converter in those instances in which the
7 department determines it to be necessary to meet the findings of [Section 44001](#). The
visual or functional check shall be performed in accordance with procedures
prescribed by the department.

8 (g) A determination as to whether the motor vehicle complies with the
9 emission standards for that vehicle's class and model-year as prescribed by the
department.

10 (h) An analysis of pass and fail rates of vehicles subject to an onboard
11 diagnostic test and a tailpipe test to assess whether any vehicles passing their onboard
diagnostic test have, or would have, failed a tailpipe test, and whether any vehicles
failing their onboard diagnostic test have or would have passed a tailpipe test.

12 (i) The test procedures may authorize smog check stations to refuse the testing
13 of a vehicle that would be unsafe to test, or that cannot physically be inspected, as
14 specified by the department by regulation. The refusal to test a vehicle for those
reasons shall not excuse or exempt the vehicle from compliance with all applicable
requirements of this chapter.

15 16. Section 44015 of the Health and Safety Code states:

16

17 (b) If a vehicle meets the requirements of Section 44012, a smog check station
18 licensed to issue certificates shall issue a certificate of compliance or a certificate of
noncompliance.

19 17. Section 44032 of the Health and Safety Code states:

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

24 18. Section 44059 of the Health and Safety Code states:

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

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19. Section 44072.2 of the Health and Safety Code states:

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

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

....

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

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

20. Section 44072.8 of the Health and Safety Code states:

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.

21. Section 44072.10 of the Health and Safety Code, subdivision (c) states:

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

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

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

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

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

REGULATORY PROVISIONS

22. California Code of Regulations, title 16, section 3340.24, states:

....

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

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1 23. California Code of Regulations, title 16, section 3340.30, states:

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

4 (a) Inspect, test and repair vehicles, as applicable, in accordance with section
5 44012 of the Health and Safety Code, section 44035 of the Health and
6 Safety Code, and section 3340.42 of this article..

6 24. California Code of Regulations, title 16, section 3340.35 states:

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

10 25. California Code of Regulations, title 16, section 3340.41 states:

11

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

15 26. California Code of Regulations, title 16, section 3340.42, states:

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

18 (a) All vehicles subject to a smog check inspection, shall receive one of the
19 following test methods:

20 (1) A loaded-mode test shall be the test method used to inspect 1976 - 1999
21 model-year vehicle, except diesel-powered, registered in the enhanced program areas
22 of the state. The loaded-mode test shall measure hydrocarbon, carbon monoxide,
23 carbon dioxide and oxides of nitrogen emissions, as contained in the bureau's
24 specifications referenced in subsection (a) of Section 3340.17 of this article. The
25 loaded-mode test shall use Acceleration Simulation Mode (ASM) test equipment,
26 including a chassis dynamometer, certified by the bureau.

23 On and after March 31, 2010, exhaust emissions from a vehicle subject to this
24 inspection shall be measured and compared to the emissions standards shown in the
25 Vehicle Look-up Table (VLT) Row Specific Emissions Standards (Cutpoints) Table,
26 dated March 2010, which is hereby incorporated by reference. If the emissions
27 standards for a specific vehicle are not included in this table then the exhaust
28 emissions shall be compared to the emissions standards set forth in TABLE I or
TABLE II, as applicable. A vehicle passes the loaded-mode test if all of its measured
emissions are less than or equal to the applicable emission standards specified in the
applicable table.

(2) A two-speed idle mode test shall be the test method used to inspect 1976 -

1999 model-year vehicles, except diesel-powered, registered in all program areas of the state, except in those areas of the state where the enhanced program has been implemented. The two-speed idle mode test shall measure hydrocarbon, carbon monoxide and carbon dioxide emissions at high RPM and again at idle RPM, as contained in the bureau's specifications referenced in subsection (a) of Section 3340.17 of this article. Exhaust emissions from a vehicle subject to this inspection shall be measured and compared to the emission standards set forth in this section and as shown in TABLE III. A vehicle passes the two-speed idle mode test if all of its measured emissions are less than or equal to the applicable emissions standards specified in Table III.

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

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

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

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

(c) The bureau may require any combination of the inspection methods in sections (a) and (b) under any of the following circumstances:

(1) Vehicles that the department randomly selects pursuant to Health and Safety Code section 44014.7 as a means of identifying potential operational problems with vehicle OBD systems.

(2) Vehicles identified by the bureau as being operationally or physically incompatible with inspection equipment.

(3) Vehicles with OBD systems that have demonstrated operational problems.

(d) Pursuant to section 39032.5 of the Health and Safety Code, gross polluter standards are as follows:

(1) A gross polluter means a vehicle with excess hydrocarbon, carbon monoxide, or oxides of nitrogen emissions pursuant to the gross polluter emissions standards included in the tables described in subsection (a), as applicable.

(2) Vehicles with emission levels exceeding the emission standards for gross polluters during an initial inspection will be considered gross polluters and the provisions pertaining to gross polluting vehicles will apply, including, but not limited to, sections 44014.5, 44015, and 44081 of the Health and Safety Code.

(3) A gross polluting vehicle shall not be passed or issued a certificate of compliance until the vehicle's emissions are reduced to or below the applicable emissions standards for the vehicle included in the tables described in subsection (a), as applicable. However, the provisions described in section 44017 of the Health and Safety Code may apply.

(4) This subsection applies in all program areas statewide to vehicles requiring inspection pursuant to sections 44005 and 44011 of the Health and Safety Code.

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

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

COST RECOVERY

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

FACTUAL ALLEGATIONS

29. During the course of a Bureau Representative's regular duties, the Bureau Representative accessed the Vehicle Information Database ("VID") and reviewed Smog Check data transmitted from Respondent El Rey from January 11, 2024, through December 2, 2024. Additionally, the Bureau Representative accessed the VID to produce copies of Smog Check Vehicle Inspection Reports ("VIR"), OIS Test Details, and Certificate Sales relating to the vehicles mentioned in the investigative report.

30. During an OIS inspection, engine operating parameters are retrieved from the vehicle's On-Board Diagnostics ("OBD II") system and recorded to the VID. This is accomplished during the functional portion of the OIS Smog Check inspection by plugging the Data Acquisition Device ("DAD") into the vehicle's Diagnostic Link Connector ("DLC") when prompted by the OIS analyzer screen prompt. Some of the parameters recorded are:

- Engine speed in revolutions per minute ("RPM").
- The throttle position is measured by a throttle position sensor ("TPS") mounted onto the throttle shaft. It is measured in a percentage of opening from 0% at idle and near or up to 100% at full throttle.

- Manifold absolute pressure as measured by a manifold air pressure sensor (“MAP”) connected to an intake manifold source, measured in kilo pascals (“kpa”). Typical readings for a normally aspirated vehicle undergoing Smog Check inspection are as follows: 25 kPa to 45 kPa at idle, with a subsequent decrease as the RPM is raised.
- Mass airflow as measured by a mass air flow sensor (“MAF”) mounted in the engine’s air intake tract and measured in grams per second (“gps”).

31. During normal engine operation at idle, the engine speed is relatively steady around its target idle speed. With the engine idling, the TPS is constant and at or near 0%. The MAP and/or MAF readings are also steady. In order for the engine speed to increase, the throttle would have to be opened to increase airflow through the engine. The engine’s management systems supply fuel and spark timing appropriate to any changes in throttle position and engine speed. An increase in throttle, measured by the TPS, which increases engine RPM, would result in a corresponding increase in MAF as well as a decrease in MAP.

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

33. The increase in engine speed is performed by the smog inspector by stepping on the throttle pedal or manually opening the throttle, resulting in a corresponding increase in engine RPMs by allowing an increase in airflow into the engine. The Bureau Representative conducted a detailed review of the VID data for the Smog Check inspections performed at Respondent El Rey’s facility. The review showed a pattern of vehicles being certified with engine operating parameters not corresponding to normal engine operation, confirming that the vehicles that received smog certificates were not tested during the OBD II functional test, which constituted clean plugging¹. The Bureau Representative’s comprehensive review into the Smog Check activities at Respondent El Rey Smog’s facility confirmed that eleven (11) Smog Check Certificates of Compliance were fraudulently issued to vehicles.

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¹ Clean Plugging” refers to the use of another vehicle’s properly functioning On Board Diagnostic, generation II, (OBD II) system, or another source, to generate passing diagnostic 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.

Fraudulent Inspection No. 1-2000 Ford Mustang GT

34. A Bureau Representative reviewed the OIS Test Data for Respondent El Rey Smog. The review showed that on or about January 11, 2024, a 2000 Ford Mustang GT was tested, and Certificate of Compliance Number IX968733C was issued by Respondent El Rey under Respondent Collazo's Smog Check Inspector License.

35. The OBD Data ("Dynamic") and Dynamic Data Charts for the 2000 Ford Mustang GT showed that between timestamps 367 and 24275, the engine RPM was steady at around 1050 RPM. During this time, the data showed the throttle was fixed at 18 % opening, and the MAF was fixed at 2.87 gps. After timestamp 24275, the data showed the engine RPM was increased and then held steady at around 1690 RPM. During the elevated engine RPM, the data showed the throttle fluctuating between 12.9 % and 17.3 % opening, and the MAF ultimately dropped from 4.76 gps to 2.81 gps, then rose to 3.09 gps.

36. The throttle position and MAF readings produced during the elevated engine RPMs are not possible for normal engine operation. The throttle position and MAF readings were expected to be stable at idle and at the elevated engine RPMs, not drop and rise unexpectedly or drop to values lower than idle readings. The discrepancies in the OIS Test Data proved that the DAD was not connected as required to the 2000 Ford Mustang GT being certified, which caused the issuance of a fraudulent Smog Certificate of Compliance via the clean plugging method.

Fraudulent Inspection No. 2-2002 Toyota Tacoma Xtracab Prerunner

37. A Bureau Representative reviewed the OIS Test Data for Respondent El Rey Smog. The review showed that on or about March 2, 2024, a 2002 Toyota Tacoma Xtracab Prerunner was tested, and Certificate of Compliance Number IZ336357C was issued by Respondent El Rey under Respondent Collazo's Smog Check Inspector License.

38. The OBD Data ("Dynamic") and Dynamic Data Charts for the 2002 Toyota Tacoma Xtracab Prerunner showed that between timestamps 871 and 32362, the engine RPM was steady at around 775 RPM. During this time, the data showed that the throttle was fixed at 10.2 % opening and the MAF was fixed at 3.89 gps. After timestamp 32362, the data showed the engine RPM was increased and then held steady at around 1410 RPM. During the elevated engine RPM,

1 the data showed that the throttle rose from 8.6 % opening to 10.6 % opening and the MAF rose
2 from 3.31 gps to 3.47 gps.

3 39. The throttle position and MAF readings produced during the elevated engine RPMs
4 were not possible for normal engine operation. The throttle position and MAF readings were
5 expected to be stable at idle and at the elevated engine RPMs, not drop and rise unexpectedly or
6 drop to values lower than idle readings. The discrepancies in the OIS Test Data proved that the
7 DAD was not connected as required to the 2002 Toyota Tacoma Xtracab Prerunner being
8 certified, which caused the issuance of a fraudulent Smog Certificate of Compliance via the clean
9 plugging method.

10 **Fraudulent Inspection No. 3-2004 Ford F350 SRW Super Duty**

11 40. A Bureau Representative reviewed the OIS Test Data for Respondent El Rey Smog.
12 The review showed that on or about March 13, 2024, a 2004 Ford F350 SRW Super Duty was
13 tested, and Certificate of Compliance Number IZ336379C was issued by Respondent El Rey
14 under Respondent Collazo's Smog Check Inspector License.

15 41. The OBD Data ("Dynamic") and Dynamic Data Charts for the 2004 Ford F350 SRW
16 Super Duty showed that between timestamps 336 and 24983, the engine RPM was steady at
17 around 650 RPM. During this time, the data showed that the throttle was fixed at 20.4 % opening
18 and the MAF was fixed at 4.36 gps. After timestamp 24983, the data showed the engine RPM
19 was increased and then held steady at around 1625 RPM. During the elevated engine RPM, the
20 data showed that the throttle dropped from 23.1 % opening to 19.6 % opening and then ultimately
21 rose back to 23.1 %, and the MAF ultimately dropped from 4.62 gps to 3.05 gps.

22 42. The throttle position and MAF readings produced during the elevated engine RPMs
23 were not possible for normal engine operation. The throttle position and MAF readings were
24 expected to be stable at idle and at the elevated engine RPMs, not drop and rise unexpectedly or
25 drop to values lower than idle readings. The discrepancies in the OIS Test Data proved that the
26 DAD was not connected as required to the 2004 Ford F350 SRW Super Duty being certified,
27 which caused the issuance of a fraudulent Smog Certificate of Compliance via the clean plugging
28 method.

1 **Fraudulent Inspection No. 4-2001 GMC Yukon XL C2500**

2 43. A Bureau Representative reviewed the OIS Test Data for Respondent El Rey Smog.
3 The review showed that on or about May 9, 2024, a 2001 GMC Yukon XL C2500 was tested, and
4 Certificate of Compliance Number TU484847C was issued by Respondent El Rey under
5 Respondent Valenzuela's Smog Check Inspector License.

6 44. The OBD Data ("Dynamic") and Dynamic Data Charts for the 2001 GMC Yukon XL
7 C2500 showed that between timestamps 368 and 25838, the engine RPM was steady at around
8 750 RPM. During this time, the data showed that the throttle was fixed at 3.9 % opening, the
9 MAF was fixed at 4.96 gps, and the MAP was fixed at 38 kPa. After timestamp 25838, the data
10 showed the engine RPM was increased and then held steady at around 1450 RPM. During the
11 elevated engine RPM, the data showed the throttle fluctuating between 1.6 % opening and 3.9 %
12 opening, the MAF fluctuated between 3.16 gps and 4.76 gps, and the MAP fluctuated between 32
13 kPa and 46 kPa.

14 45. The throttle position, MAF, and MAP readings produced during the elevated engine
15 RPMs were not possible for normal engine operation. The throttle position and MAF readings
16 were expected to be stable at idle and at the elevated engine RPMs, not drop and rise
17 unexpectedly or drop to values lower than idle readings. Additionally, the MAP readings were
18 expected to decrease, not increase to values higher than idle readings. The discrepancies in the
19 OIS Test Data proved that the DAD was not connected as required to the 2001 GMC Yukon XL
20 C2500 being certified, which caused the issuance of a fraudulent Smog Certificate of Compliance
21 via the clean plugging method.

22 **Fraudulent Inspection No. 5-2006 Nissan Sentra 1.8**

23 46. A Bureau Representative reviewed the OIS Test Data for Respondent El Rey Smog.
24 The review showed that on or about May 12, 2024, a 2006 Nissan Sentra 1.8 was tested, and
25 Certificate of Compliance Number TW992115C was issued by Respondent El Rey under
26 Respondent Valenzuela's Smog Check Inspector License.

27 47. The OBD Data ("Dynamic") and Dynamic Data Charts for the 2006 Nissan Sentra
28 1.8 showed that between timestamps 985 and 23964, the engine RPM was steady at around 790

1 RPM. During this time, the data showed the throttle was fixed at 5.1 % opening, and the MAF
2 was fixed at 5.03 gps. After timestamp 23964, the data showed the engine RPM was increased
3 and held steady at around 1650 RPM. During the elevated engine RPM, the data showed the
4 throttle dropped from 1.6 % to 0.8 % opening, and the MAF rose from 3.13 gps to 4.32 gps.

5 48. The throttle position and MAF readings produced during the elevated engine RPMs
6 were not possible for normal engine operation. The throttle position and MAF readings were
7 expected to be stable at idle and at the elevated engine RPMs, not drop and rise unexpectedly or
8 drop to values lower than idle readings. The discrepancies in the OIS Test Data proved that the
9 DAD was not connected as required to the 2006 Nissan Sentra 1.8 being certified, which caused
10 the issuance of a fraudulent Smog Certificate of Compliance via the clean plugging method.

11 **Fraudulent Inspection No. 6-2002 Toyota Camry LE**

12 49. A Bureau Representative reviewed the OIS Test Data for Respondent El Rey Smog.
13 The review showed that on or about May 16, 2024, a 2002 Toyota Camry LE was tested, and
14 Certificate of Compliance Number TW992128C was issued by Respondent El Rey under
15 Respondent Valenzuela's Smog Check Inspector License.

16 50. The OBD Data ("Dynamic") and Dynamic Data Charts for the 2002 Toyota Camry
17 LE showed that between timestamps 912 and 24440, the engine RPM was steady at around 850
18 RPM. During this time, the data showed that the throttle was fixed at 15.3 % opening and the
19 MAF stayed fixed at 3.75 gps. After timestamp 24440, the engine RPM was increased and then
20 held steady at around 1750 RPM. During this time, the data showed that the throttle rose from
21 14.1 % to 15.3 % opening and the MAF rose from 3.28 gps to 4.82 gps.

22 51. The throttle position and MAF readings produced during the elevated engine RPMs
23 were not possible for normal engine operation. The throttle position and MAF readings were
24 expected to be stable at idle and at the elevated engine RPMs, not drop and rise unexpectedly or
25 drop to values lower than idle readings. The discrepancies in the OIS Test Data proved that the
26 DAD was not connected as required to the 2002 Toyota Camry LE being certified, which caused
27 the issuance of a fraudulent Smog Certificate of Compliance via the clean plugging method.

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1 **Fraudulent Inspection No. 7-2001 GMC W3500 W35042**

2 52. A Bureau Representative reviewed the OIS Test Data for Respondent El Rey Smog.
3 The review showed that on or about August 30, 2024, a 2001 GMC W3500 W35042 was tested,
4 and Certificate of Compliance Number UA194417C was issued by Respondent El Rey under
5 Respondent Rodriguez's Smog Check Inspector License.

6 53. The OBD Data ("Dynamic") and Dynamic Data Charts for the 2001 GMC W3500
7 W35042 showed that between timestamps 375 and 21898, the engine RPM was steady at around
8 1050 RPM. During this time, the data showed that the throttle was fixed at 11.4 % opening, the
9 MAF was fixed at 4.09 gps and the MAP was fixed at 26 kPa. After timestamp 21898, the data
10 showed the engine RPM was increased and held steady at around 2170 RPM. During the
11 elevated engine RPM, the data showed that the throttle dropped from 7.1 % to 6.3 % opening,
12 then gradually rose to 9.4 % opening, the MAF fluctuated between 3.56 gps and 4.73 gps, and the
13 MAP was fluctuating between 16 kPa and 29 kPa.

14 54. The throttle position, MAF, and MAP readings produced during the elevated engine
15 RPMs were not possible for normal engine operation. The throttle position and MAF readings
16 were expected to be stable at idle and at the elevated engine RPMs, not drop and rise
17 unexpectedly or drop to values lower than idle readings. Additionally, the MAP readings were
18 expected to decrease, not increase to values higher than idle readings. The discrepancies in the
19 OIS Test Data proved that the DAD was not connected as required to the 2001 GMC W3500
20 W35042 being certified, which caused the issuance of a fraudulent Smog Certificate of
21 Compliance via the clean plugging method.

22 **Fraudulent Inspection No. 8-2002 Honda Civic SI**

23 55. A Bureau Representative reviewed the OIS Test Data for Respondent El Rey Smog.
24 The review showed that on or about August 30, 2024, a 2002 Honda Civic SI was tested, and
25 Certificate of Compliance Number UA194423C was issued by Respondent El Rey under
26 Respondent Rodriguez's Smog Check Inspector License.

27 56. The OBD Data ("Dynamic") and Dynamic Data Charts for the 2002 Honda Civic SI
28 showed that between timestamps 877 and 32622, the engine RPM was steady at around 550

1 RPM. During this time, the data showed that the throttle was fixed at 9.4 % opening, and the
2 MAP was fixed at 40 kPa. After timestamp 32622, the engine RPM was increased and then
3 ultimately held steady at around 1690 RPM. During this time, the data showed that the throttle
4 dropped from 7.5 % to 7.1 % opening and the MAP rose from 36 kPa to 45 kPa.

5 57. The throttle position and MAP readings produced during the elevated engine RPMs
6 were not possible for normal engine operation. The throttle position readings were expected to be
7 stable at idle and at the elevated engine RPMs, not drop unexpectedly or drop to values lower
8 than idle readings. Additionally, the MAP readings were expected to decrease, not increase to
9 values higher than idle readings. The discrepancies in the OIS Test Data proved the DAD was
10 not connected as required to the 2002 Honda Civic SI being certified, which caused the issuance
11 of a fraudulent Smog Certificate of Compliance via the clean plugging method.

12 **Fraudulent Inspection No. 9-2002 Chevrolet Avalanche C2500**

13 58. A Bureau Representative reviewed the OIS Test Data for Respondent El Rey Smog.
14 The review showed that on or about September 25, 2024, a 2002 Chevrolet Avalanche C2500 was
15 tested, and Certificate of Compliance Number UE167454C was issued by Respondent El Rey
16 under Respondent Rodriguez's Smog Check Inspector License.

17 59. The OBD Data ("Dynamic") and Dynamic Data Charts for the 2002 Chevrolet
18 Avalanche C2500 showed that between timestamps 363 and 22722, the engine RPM was steady
19 at around 575 RPM. During this time, the data showed that the throttle was fixed at 4.3 %
20 opening, the MAF was fixed at 4.27 gps, and the MAP stayed fixed at 31 kPa. After timestamp
21 22722, the engine RPM was increased and then held steady at around 1670 RPM. During this
22 time, the data showed that the throttle gradually rose from 1.2 % to 5.5 % opening, the MAF rose
23 from 3.77 gps, to 4.91 gps, then dropped to 4.54 gps, and the MAP rose from 22 kPa to 27 kPa,
24 then gradually dropped to 22 kPa.

25 60. The throttle position, MAF, and MAP readings produced during the elevated engine
26 RPMs were not possible for normal engine operation. The throttle position, MAF, and MAP
27 readings were expected to be stable at idle and at the elevated engine RPMs, not drop and rise
28 unexpectedly. Additionally, the throttle position and MAF readings were expected to increase

1 during the elevated engine RPM, not decrease to values lower than idle readings. The
2 discrepancies in the OIS Test Data proved that the DAD was not connected as required to the
3 2002 Chevrolet Avalanche C2500 being certified, which caused the issuance of a fraudulent
4 Smog Certificate of Compliance via the clean plugging method.

5 **Fraudulent Inspection No. 10-2004 Honda Accord LX**

6 61. A Bureau Representative reviewed the OIS Test Data for Respondent El Rey Smog.
7 The review showed that on or about October 9, 2024, a 2004 Honda Accord LX was tested, and
8 Certificate of Compliance Number UE167485C was issued by Respondent El Rey under
9 Respondent Gallegos's Smog Check Inspector License.

10 62. The OBD Data ("Dynamic") and Dynamic Data Charts for the 2004 Honda Accord
11 LX showed that between timestamps 872 and 26527, the engine RPM was steady at around 710
12 RPM. During this time, the data showed that the throttle was at 9.4 % opening, the MAF was
13 fixed at 4.79 gps, and the MAP was fixed at 29 kPa. After timestamp 26527, the engine RPM
14 was increased and then held at no less than 1286 RPM. During this time, the data showed that the
15 throttle continued to stay at 9.4 % opening, the MAF continued to stay fixed at 4.79 gps, and the
16 MAP continued to stay fixed at 29 kPa.

17 63. During the entire period the dynamic data was collected, the only parameter that
18 changed was engine RPM. The throttle position, MAF, and MAP readings remained unchanged
19 even though the engine RPM was increased. These readings were not characteristic or expected
20 for normal engine operation. The discrepancies in the OIS Test Data proved that the DAD was
21 not connected as required to the 2004 Honda Accord LX being certified, which caused the
22 issuance of a fraudulent Smog Certificate of Compliance via the clean plugging method.

23 **Fraudulent Inspection No. 11-2000 Dodge Ram Van B3500**

24 64. A Bureau Representative reviewed the OIS Test Data for Respondent El Rey Smog.
25 The review showed that on or about December 2, 2024, a 2000 Dodge Ram Van B3500 was
26 tested, and Certificate of Compliance Number UG807412C was issued by Respondent El Rey
27 under Respondent Toth's Smog Check Inspector License.

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65. The OBD Data (“Dynamic”) and Dynamic Data Charts for the 2000 Dodge Ram Van B3500 showed that between timestamps 1029 and 63218, the engine RPM was steady at around 600 RPM. During this time, the data showed that the throttle was fixed at 11.8 % opening, and the MAP was fixed at 39 kPa. After timestamp 63218, the engine RPM was increased and then held at around 1750 RPM. During this time, the data showed that the throttle rose from 9 % opening to 11.8 % opening and the MAP dropped from 46 kPa to 43 kPa.

66. The throttle position and MAP readings produced during the elevated engine RPMs were not possible for normal engine operation. The throttle position readings were expected to be stable at idle and at the elevated engine RPMs, not drop and rise unexpectedly or drop to values lower than idle readings. Additionally, the MAP readings were expected to decrease, not increase to values higher than idle readings. The discrepancies in the OIS Test Data proved that the DAD was not connected as required to the 2000 Dodge Ram Van B3500 being certified, which caused the issuance of a fraudulent Smog Certificate of Compliance via the clean plugging method.

FIRST CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

67. Respondent El Rey Smog’s Automotive Repair Registration is subject to discipline pursuant to Code section 9884.7, subdivision (a)(1) and California Code of Regulations, title 16, section 3373, in that between January 11, 2024, through December 2, 2024, Respondent El Rey Smog made or authorized statements which he knew or in the exercise of reasonable care should have known to be untrue or misleading, as follows: Respondent El Rey Smog certified that vehicles 1 through 11, set forth above, had passed inspection and were in compliance with applicable laws and regulations. Respondent El Rey Smog conducted inspections on the vehicles using the clean plugging method by substituting or using different vehicles or another source during the OBD II functional tests to issue smog check certificates of compliance for the eleven (11) vehicles and did not test or inspect the eleven (11) vehicles as required by Health and Safety Code section 44012. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 29 through 66, as though fully set forth.

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1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Fraud)**

3 68. Respondent El Rey Smog's Automotive Repair Registration is subject to discipline
4 pursuant to Code section 9884.7, subdivision (a)(4), in that between January 11, 2024, through
5 December 2, 2024, Respondent El Rey Smog committed acts that constitute fraud by issuing
6 electronic smog check certificates of compliance for vehicles 1 through 11, set forth above,
7 without performing bona fide inspections of the emission control devices and systems on those
8 vehicles, thereby depriving the People of the State of California of the protection afforded by the
9 Motor Vehicle Inspection Program. Complainant refers to, and by this reference incorporates, the
10 allegations set forth above in paragraphs 29 through 66, as though fully set forth.

11 **THIRD CAUSE FOR DISCIPLINE**

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

13 69. Respondent El Rey Smog's Automotive Repair Registration is subject to disciplinary
14 action under Code section 9884.7, subdivision (a)(6), in that between January 11, 2024, through
15 December 2, 2024, regarding vehicles 1 through 11, set forth above, Respondent El Rey Smog
16 failed in a material respect to comply with the provisions of this chapter or regulations adopted
17 pursuant to it by issuing electronic smog check certificates of compliance for the eleven (11)
18 vehicles without performing bona fide inspections of the emissions control devices and systems
19 on those vehicles, thereby depriving the People of the State of California of the protection
20 afforded by the Motor Vehicle Inspection Program. Complainant refers to, and by this reference
21 incorporates, the allegations set forth above in paragraphs 29 through 66, as though fully set forth.

22 **FOURTH CAUSE FOR DISCIPLINE**

23 **(Failure to Comply with the Motor Vehicle Inspection Program)**

24 70. Respondent El Rey Smog's Smog Check, Test-Only Station License is subject to
25 discipline pursuant to Health and Safety Code section 44072.2, subdivision (a), in that between
26 January 11, 2024, through December 2, 2024, regarding vehicles 1 through 11, set forth above,
27 Respondent El Rey Smog failed to comply with the following sections of that Code:

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1 a. **Section 44012:** Respondent El Rey Smog failed to ensure that the emission control tests
2 were performed on vehicles 1 through 11, in accordance with procedures prescribed by the
3 department.

4 b. **Section 44015, subdivision (b):** Respondent El Rey Smog issued electronic smog
5 check certificates of compliance for vehicles 1 through 11, without ensuring that the vehicles
6 were properly tested and inspected to determine if they were in compliance with Health and
7 Safety Code section 44012.

8 c. **Section 44059:** Respondent El Rey Smog willfully made false entries for the electronic
9 smog check certificates of compliance by certifying that those vehicles had been inspected as
10 required when, in fact, they had not.

11 Complainant refers to, and by this reference incorporates, the allegations set forth above in
12 paragraphs 29 through 66, as though fully set forth.

13 **FIFTH CAUSE FOR DISCIPLINE**

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

16 71. Respondent El Rey Smog's Smog Check, Test-Only Station License is subject to
17 discipline pursuant to Health and Safety Code section 44072.2, subdivision (c), in that between
18 January 11, 2024, through December 2, 2024, regarding vehicles 1 through 11, set forth above,
19 Respondent El Rey Smog failed to comply with provisions of California Code of Regulations,
20 title 16, as follows:

21 a. **Section 3340.24, subdivision (c):** Respondent El Rey Smog falsely or fraudulently
22 issued electronic smog check certificates of compliance for those vehicles without performing
23 bona fide inspections of the emission control devices and systems on the vehicles as required by
24 Health and Safety Code section 44012.

25 b. **Section 3340.35, subdivision (c):** Respondent El Rey Smog issued electronic smog
26 check certificates of compliance even though those vehicles had not been inspected in accordance
27 with section 3340.42 of that Code.

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1 c. **Section 3340.41, subdivision (c):** Respondent El Rey Smog knowingly entered false
2 information into the On-Board Diagnostic inspection system for the eleven (11) vehicles
3 identified above.

4 d. **Section 3340.42:** Respondent El Rey Smog failed to conduct the required smog check
5 tests and inspections on those vehicles in accordance with the Bureau's specifications.

6 Complainant refers to, and by this reference incorporates, the allegations set forth above in
7 paragraphs 29 through 66, as though fully set forth.

8 **SIXTH CAUSE FOR DISCIPLINE**

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

10 72. Respondent El Rey Smog's Smog Check, Test-Only Station License is subject to
11 discipline pursuant to Health and Safety Code sections 44072.2, subdivision (d) in conjunction
12 with 44072.10, subdivision (c), in that between January 11, 2024, through December 2, 2024,
13 regarding vehicles 1 through 11, set forth above, Respondent El Rey Smog committed acts
14 involving dishonesty, fraud or deceit whereby another was injured by issuing electronic smog
15 check certificates of compliance for those vehicles without performing bona fide inspections of
16 the emission control devices and systems on the vehicles, thereby depriving the People of the
17 State of California of the protection afforded by the Motor Vehicle Inspection Program.
18 Complainant refers to, and by this reference incorporates, the allegations set forth above in
19 paragraphs 29 through 66, as though fully set forth.

20 **SEVENTH CAUSE FOR DISCIPLINE**

21 **(Violations of the Motor Vehicle Inspection Program – Respondent Collazo)**

22 73. Respondent Collazo's Smog Check Inspector License and Smog Check Repair
23 Technician License are subject to disciplinary action under Health and Safety Code section
24 44072.2, subdivision (a), in that between January 11, 2024, through March 13, 2024, regarding
25 vehicles 1 through 3, set forth above, Respondent Collazo violated the following Health and
26 Safety Code sections:

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a. **Section 44012, subdivision (a):** Respondent Collazo failed to determine that all emission control devices and systems required by law were installed and functioning correctly on the vehicles identified above in accordance with test procedures prescribed by the Bureau.

b. **Section 44012, subdivision (f):** Respondent Collazo failed to perform emission control tests on the vehicles identified above in accordance with procedures prescribed by the Bureau.

c. **Section 44032:** Respondent Collazo failed to perform tests of the emission control devices and systems on the vehicles identified above in accordance with section 44012 of the Health and Safety Code, in that the vehicles had been clean plugged.

d. **Section 44059:** Respondent Collazo willfully made false entries for the electronic smog check certificates of compliance by certifying that the vehicles identified above had been inspected as required when, in fact, they had not.

Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 29 through 42, as though fully set forth.

EIGHTH CAUSE FOR DISCIPLINE

(Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection Program – Respondent Collazo)

74. Respondent Collazo's Smog Check Inspector License and Smog Check Repair Technician License are subject to discipline pursuant to Health and Safety Code section 44072.2, subdivision (c), in that between January 11, 2024, through March 13, 2024, regarding vehicles 1 through 3, set forth above, Respondent Collazo failed to comply with provisions of California Code of Regulations, title 16, as follows:

a. **Section 3340.24, subdivision (c)**: Respondent Collazo falsely or fraudulently issued electronic smog check certificates of compliance without performing bona fide inspections of the emission control devices and systems on those vehicles as required by Health and Safety Code section 44012.

b. **Section 3340.30 subdivision (a)**: Respondent Collazo failed to inspect and test those vehicles in accordance with Health and Safety Code sections 44012.

1 c. **Section 3340.41, subdivision (c):** Respondent Collazo knowingly entered false
2 information into the On-Board Diagnostic inspection system for the three (3) vehicles identified
3 above.

4 d. **Section 3340.42:** Respondent Collazo failed to conduct the required smog check tests
5 and inspections on those vehicles in accordance with the Bureau's specifications.

6 Complainant refers to, and by this reference incorporates, the allegations set forth above in
7 paragraphs 29 through 42, as though fully set forth.

8 **NINTH CAUSE FOR DISCIPLINE**

9 **(Dishonesty, Fraud, or Deceit – Respondent Collazo)**

10 75. Respondent Collazo's Smog Check Inspector License and Smog Check Repair
11 Technician License are subject to disciplinary action under Health and Safety Code section
12 44072.2, subdivision (d), in conjunction with Health and Safety Code section 44072.10,
13 subdivision (c), in that between January 11, 2024, through March 13, 2024, regarding vehicles 1
14 through 3, set forth above, Respondent Collazo committed acts involving dishonesty, fraud, or
15 deceit when he issued electronic smog check certificates of compliance for the vehicles without
16 performing bona fide inspections of the emission control devices and systems on those vehicles,
17 thereby depriving the People of the State of California of the protection afforded by the Motor
18 Vehicle Inspection Program. Complainant refers to, and by this reference incorporates, the
19 allegations set forth above in paragraphs 29 through 42, as though fully set forth.

20 **TENTH CAUSE FOR DISCIPLINE**

21 **(Violations of the Motor Vehicle Inspection Program – Respondent Valenzuela)**

22 76. Respondent Valenzuela's Smog Check Inspector License is subject to disciplinary
23 action under Health and Safety Code section 44072.2, subdivision (a), in that between May 9,
24 2024, through May 16, 2024, regarding vehicles 4 through 6, set forth above, Respondent
25 Valenzuela violated the following Health and Safety Code sections:

26 a. **Section 44012, subdivision (a):** Respondent Valenzuela failed to determine that all
27 emission control devices and systems required by law were installed and functioning correctly on
28 the vehicles identified above in accordance with test procedures prescribed by the Bureau.

b. **Section 44012, subdivision (f):** Respondent Valenzuela failed to perform emission control tests on the vehicles identified above in accordance with procedures prescribed by the Bureau.

c. **Section 44032:** Respondent Valenzuela failed to perform tests of the emission control devices and systems on the vehicles identified above in accordance with section 44012 of the Health and Safety Code, in that the vehicles had been clean plugged.

d. **Section 44059:** Respondent Valenzuela willfully made false entries for the electronic smog check certificates of compliance by certifying that the vehicles identified above had been inspected as required when, in fact, they had not.

Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 29 through 33 and 43 through 51, as though fully set forth.

ELEVENTH CAUSE FOR DISCIPLINE

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

77. Respondent Valenzuela's Smog Check Inspector License is subject to discipline pursuant to Health and Safety Code section 44072.2, subdivision (c), in that between May 9, 2024, through May 16, 2024, regarding vehicles 4 through 6, set forth above, he failed to comply with provisions of California Code of Regulations, title 16, as follows:

a. **Section 3340.24, subdivision (c)**: Respondent Valenzuela falsely or fraudulently issued electronic smog certificates of compliance without performing bona fide inspections of the emission control devices and systems on those vehicles as required by Health and Safety Code section 44012.

b. **Section 3340.30 subdivision (a)**: Respondent Valenzuela failed to inspect and test those vehicles in accordance with Health and Safety Code sections 44012.

c. **Section 3340.41, subdivision (c):** Respondent Valenzuela knowingly entered false information into the On-Board Diagnostic inspection system for the three (3) vehicles identified above.

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

3 Complainant refers to, and by this reference incorporates, the allegations set forth above in
4 paragraphs 29 through 33 and 43 through 51, as though fully set forth.

5 **TWELFTH CAUSE FOR DISCIPLINE**

6 **(Dishonesty, Fraud, or Deceit – Respondent Valenzuela)**

7 78. Respondent Valenzuela's Smog Check Inspector License is subject to disciplinary
8 action under Health and Safety Code section 44072.2, subdivision (d), in conjunction with Health
9 and Safety Code section 44072.10, subdivision (c), in that between May 9, 2024, through May 16,
10 2024, regarding vehicles 4 through 6, set forth above, Respondent Valenzuela committed acts
11 involving dishonesty, fraud, or deceit when he issued electronic smog certificates of compliance
12 for the vehicles without performing bona fide inspections of the emission control devices and
13 systems on those vehicles, thereby depriving the People of the State of California of the
14 protection afforded by the Motor Vehicle Inspection Program. Complainant refers to, and by this
15 reference incorporates, the allegations set forth above in paragraphs 29 through 33 and 43 through
16 51, as though fully set forth.

17 **THIRTEENTH CAUSE FOR DISCIPLINE**

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

19 79. Respondent Rodriguez's Smog Check Inspector License and Smog Check Repair
20 Technician License are subject to disciplinary action under Health and Safety Code section
21 44072.2, subdivision (a), in that between August 30, 2024, through September 25, 2024,
22 regarding vehicles 7 through 9, set forth above, Respondent Rodriguez violated the following
23 Health and Safety Code sections:

24 a. **Section 44012, subdivision (a)**: Respondent Rodriguez failed to determine that all
25 emission control devices and systems required by law were installed and functioned correctly on
26 the vehicles identified above in accordance with test procedures prescribed by the Bureau.

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b. **Section 44012, subdivision (f):** Respondent Rodriguez failed to perform emission control tests on the vehicles identified above in accordance with procedures prescribed by the Bureau.

c. **Section 44032:** Respondent Rodriguez failed to perform tests of the emission control devices and systems on the vehicles identified above in accordance with section 44012 of the Health and Safety Code, in that the vehicles had been clean plugged.

d. **Section 44059:** Respondent Rodriguez willfully made false entries for the electronic smog check certificates of compliance by certifying that the vehicles identified above had been inspected as required when, in fact, they had not.

Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 29 through 33 and 52 through 60, as though fully set forth.

FOURTEENTH CAUSE FOR DISCIPLINE

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

80. Respondent Rodriguez's Smog Check Inspector License and Smog Check Repair Technician License are subject to discipline pursuant to Health and Safety Code section 44072.2, subdivision (c), in that between August 30, 2024, through September 25, 2024, regarding vehicles 7 through 9, set forth above, he failed to comply with provisions of California Code of Regulations, title 16, as follows:

a. **Section 3340.24, subdivision (c)**: Respondent Rodriguez falsely or fraudulently issued electronic smog certificates of compliance without performing bona fide inspections of the emission control devices and systems on those vehicles as required by Health and Safety Code section 44012.

b. **Section 3340.30 subdivision (a)**: Respondent Rodriguez failed to inspect and test those vehicles in accordance with Health and Safety Code sections 44012.

c. **Section 3340.41, subdivision (c):** Respondent Rodriguez knowingly entered false information into the On-Board Diagnostic inspection system for the three (3) vehicles identified above.

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

3 Complainant refers to, and by this reference incorporates, the allegations set forth above in
4 paragraphs 29 through 33 and 52 through 60, as though fully set forth.

5 **FIFTEENTH CAUSE FOR DISCIPLINE**

6 **(Dishonesty, Fraud, or Deceit – Respondent Rodriguez)**

7 81. Respondent Rodriguez's Smog Check Inspector License and Smog Check Repair
8 Technician License are subject to disciplinary action under Health and Safety Code section
9 44072.2, subdivision (d), in conjunction with Health and Safety Code section 44072.10,
10 subdivision (c), in that between August 30, 2024, through September 25, 2024, regarding vehicles
11 7 through 9, set forth above, Respondent Rodriguez committed acts involving dishonesty, fraud,
12 or deceit when he issued electronic smog certificates of compliance for the vehicles without
13 performing bona fide inspections of the emission control devices and systems on those vehicles,
14 thereby depriving the People of the State of California of the protection afforded by the Motor
15 Vehicle Inspection Program. Complainant refers to, and by this reference incorporates, the
16 allegations set forth above in paragraphs 29 through 33 and 52 through 60, as though fully set
17 forth.

18 **SIXTEENTH CAUSE FOR DISCIPLINE**

19 **(Violations of the Motor Vehicle Inspection Program – Respondent Gallegos)**

20 82. Respondent Gallegos' Smog Check Inspector License is subject to disciplinary action
21 under Health and Safety Code section 44072.2, subdivision (a), in that on or about October 9,
22 2024, regarding vehicle 10, set forth above, Respondent Gallegos violated the following Health
23 and Safety Code sections:

24 a. **Section 44012, subdivision (a)**: Respondent Gallegos failed to determine that all
25 emission control devices and systems required by law were installed and functioning correctly on
26 the vehicle identified above in accordance with test procedures prescribed by the Bureau.

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b. **Section 44012, subdivision (f):** Respondent Gallegos failed to perform emission control tests on the vehicle identified above in accordance with procedures prescribed by the Bureau.

c. **Section 44032:** Respondent Gallegos failed to perform tests of the emission control devices and systems on the vehicle identified above in accordance with section 44012 of the Health and Safety Code, in that the vehicles had been clean plugged.

d. **Section 44059:** Respondent Gallegos willfully made false entries for the electronic smog check certificate of compliance by certifying that the vehicle identified above had been inspected as required when, in fact, it had not.

Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 29 through 33 and 61 through 63, as though fully set forth.

SEVENTEENTH CAUSE FOR DISCIPLINE

(Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection Program – Respondent Gallegos)

83. Respondent Gallegos' Smog Check Inspector License is subject to discipline pursuant to Health and Safety Code section 44072.2, subdivision (c), in that on or about October 9, 2024, regarding vehicle 10, set forth above, he failed to comply with provisions of California Code of Regulations, title 16, as follows:

a. **Section 3340.24, subdivision (c)**: Respondent Gallegos falsely or fraudulently issued an electronic smog certificate of compliance without performing bona fide inspections of the emission control devices and systems on the vehicle as required by Health and Safety Code section 44012.

b. **Section 3340.30 subdivision (a)**: Respondent Gallegos failed to inspect and test the vehicle in accordance with Health and Safety Code sections 44012.

c. **Section 3340.41, subdivision (c):** Respondent Gallegos knowingly entered false information into the On-Board Diagnostic inspection system for one (1) vehicle identified above.

d. **Section 3340.42**: Respondent Gallegos failed to conduct the required smog tests and inspections on the vehicle in accordance with the Bureau's specifications.

1 Complainant refers to, and by this reference incorporates, the allegations set forth above in
2 29 through 33 and 61 through 63, as though fully set forth.

3 **EIGHTEENTH CAUSE FOR DISCIPLINE**

4 **(Dishonesty, Fraud, or Deceit – Respondent Gallegos)**

5 84. Respondent Gallegos' Smog Check Inspector License is subject to disciplinary action
6 under Health and Safety Code section 44072.2, subdivision (d), in conjunction with Health and
7 Safety Code section 44072.10, subdivision (c), in that on or about October 9, 2024, regarding
8 vehicle 10, set forth above, Respondent Gallegos committed acts involving dishonesty, fraud, or
9 deceit when he issued an electronic smog certificate of compliance for the vehicle without
10 performing bona fide inspections of the emission control devices and systems on the vehicle,
11 thereby depriving the People of the State of California of the protection afforded by the Motor
12 Vehicle Inspection Program. Complainant refers to, and by this reference incorporates, the
13 allegations set forth above in 29 through 33 and 61 through 63, as though fully set forth.

14 **NINETEENTH CAUSE FOR DISCIPLINE**

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

16 85. Respondent Toth's Smog Check Inspector License is subject to disciplinary action
17 under Health and Safety Code section 44072.2, subdivision (a), in that on or about December 2,
18 2024, regarding vehicle 11, set forth above, Respondent Toth violated the following Health and
19 Safety Code sections:

20 a. **Section 44012, subdivision (a):** Respondent Toth failed to determine that all
21 emission control devices and systems required by law were installed and functioning correctly on
22 the vehicle identified above in accordance with test procedures prescribed by the Bureau.

23 b. **Section 44012, subdivision (f):** Respondent Toth failed to perform emission control
24 tests on the vehicle identified above in accordance with procedures prescribed by the Bureau.

25 c. **Section 44032:** Respondent Toth failed to perform tests of the emission control
26 devices and systems on the vehicle identified above in accordance with section 44012 of the
27 Health and Safety Code, in that the vehicle had been clean plugged.

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d. **Section 44059:** Respondent Toth willfully made false entries for the electronic smog check certificate of compliance by certifying that the vehicle identified above had been inspected as required when, in fact, it had not.

Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 29 through 33 and 64 through 66, as though fully set forth.

TWENTY-SECOND CAUSE FOR DISCIPLINE

(Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection Program – Respondent Toth)

86. Respondent Toth's Smog Check Inspector License is subject to discipline pursuant to Health and Safety Code section 44072.2, subdivision (c), in that on or about December 2, 2024, regarding vehicle 11, set forth above, he failed to comply with provisions of California Code of Regulations, title 16, as follows:

a. **Section 3340.24, subdivision (c)**: Respondent Toth falsely or fraudulently issued an electronic smog certificate of compliance without performing bona fide inspections of the emission control devices and systems on the vehicle as required by Health and Safety Code section 44012.

b. **Section 3340.30 subdivision (a)**: Respondent Toth failed to inspect and test the vehicle in accordance with Health and Safety Code sections 44012.

c. **Section 3340.41, subdivision (c):** Respondent Toth knowingly entered false information into the On-Board Diagnostic inspection system for one (1) vehicle identified above.

d. **Section 3340.42**: Respondent Toth failed to conduct the required smog tests and inspections on the vehicle in accordance with the Bureau's specifications.

Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 29 through 33 and 64 through 66, as though fully set forth.

TWENTY-FIRST CAUSE FOR DISCIPLINE

(Dishonesty, Fraud, or Deceit – Respondent Toth)

87. Respondent Toth's Smog Check Inspector License is subject to disciplinary action under Health and Safety Code section 44072.2, subdivision (d), in conjunction with Health and

1 Safety Code section 44072.10, subdivision (c), in that on or about December 2, 2024, regarding
2 vehicle 11, set forth above, set forth above, Respondent Toth committed acts involving
3 dishonesty, fraud, or deceit when he issued an electronic smog certificate of compliance for the
4 vehicle without performing bona fide inspections of the emission control devices and systems on
5 the vehicle, thereby depriving the People of the State of California of the protection afforded by
6 the Motor Vehicle Inspection Program. Complainant refers to, and by this reference incorporates,
7 the allegations set forth above in paragraphs 29 through 33 and 64 through 66, as though fully set
8 forth.

9 **OTHER MATTERS**

10 88. Pursuant to Code section 9884.7, subdivision (c), the director may suspend, revoke,
11 or place on probation the registrations for all places of business operated in this state by Rafael
12 Ramon Ramirez, upon a finding that said Respondent El Rey Smog has, or is, engaged in a course
13 of repeated and willful violations of the laws and regulations pertaining to an automotive repair
14 dealer.

15 89. Pursuant to Health and Safety Code section 44072.8, if Smog Check, Test-Only
16 Station License No. TC 286413, issued to Rafael Ramon Ramirez-Owner dba El Rey Smog
17 Check, is revoked or suspended, any additional license issued under Chapter 5 of Part 5 of Div 26
18 of the Health and Safety Code in the name of said licensee may be likewise revoked or suspended
19 by the director.

20 90. Pursuant to Health and Safety Code section 44072.8, if Smog Check Inspector
21 License No. EO 643877, issued to Kaleb Naeem Valenzuela, is revoked or suspended, any
22 additional license issued under Chapter 5 of Part 5 of Div 26 of the Health and Safety Code in the
23 name of said licensee may be likewise revoked or suspended by the director.

24 91. Pursuant to Health and Safety Code section 44072.8, if Smog Check Inspector
25 License Number EO 634808 and Smog Check Repair Technician License Number EI 634808,
26 issued to Jorge Luis Collazo, are revoked or suspended, any additional license issued under this
27 Chapter 5 of Part 5 of Div 26 of the Health and Safety Code in the name of said licensee may be
28 likewise revoked or suspended by the director.

92. Pursuant to Health and Safety Code section 44072.8, if Smog Check Inspector License No. EO 644942 and Smog Check Repair Technician License Number EI 644942, issued to Manuel Rodriguez, are revoked or suspended, any additional license issued under Chapter 5 of Part 5 of Div 26 of the Health and Safety Code in the name of said licensee may be likewise revoked or suspended by the director.

93. Pursuant to Health and Safety Code section 44072.8, if Smog Check Inspector License No. EO 644828, issued to Victor Daniel Gallegos, is revoked or suspended, any additional license issued under Chapter 5 of Part 5 of Div 26 of the Health and Safety Code in the name of said licensee may be likewise revoked or suspended by the director.

94. Pursuant to Health and Safety Code section 44072.8, if Smog Check Inspector License Number EO 140972, issued to Andras Joe Toth, is revoked or suspended, any additional license issued under this Chapter 5 of Part 5 of Div 26 of the Health and Safety Code in the name of said licensee may be likewise revoked or suspended by the director.

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 Number ARD 286413, issued to Rafael Ramon Ramirez-Owner dba El Rey Smog Check;

2. Revoking, suspending, or placing on probation any other automotive repair dealer registration issued to Rafael Ramon Ramirez;

3. Revoking or suspending Smog Check, Test-Only, Station License Number TC 286413, issued to Rafael Ramon Ramirez-Owner dba El Rey Smog Check;

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 Rafael Ramon Ramirez;

5. Revoking or suspending Smog Check Inspector License Number EO 643877, issued to Kaleb Naeem Valenzuela;

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1 6. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of
2 Division 26 of the Health and Safety Code in the name of Kaleb Naeem Valenzuela;

3 7. Revoking or suspending Smog Check Inspector License Number EO 634808, issued
4 to Jorge Luis Collazo;

5 8. Revoking or suspending Smog Check Repair Technician License Number EI 634808,
6 issued to Jorge Luis Collazo;

7 9. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of
8 Division 26 of the Health and Safety Code in the name of Jorge Luis Collazo;

9 10. Revoking or suspending Smog Check Inspector License Number EO 644942, issued
10 to Manuel Rodriguez;

11 11. Revoking or suspending Smog Check Repair Technician License Number EI 644942,
12 issued to Manuel Rodriguez;

13 12. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of
14 Division 26 of the Health and Safety Code in the name of Manuel Rodriguez;

15 13. Revoking or suspending Smog Check Inspector License Number EO 644828, issued
16 to Victor Daniel Gallegos;

17 14. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of
18 Division 26 of the Health and Safety Code in the name of Victor Daniel Gallegos;

19 15. Revoking or suspending Smog Check Inspector License Number EO 140972, issued
20 to Andras Joe Toth;

21 16. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of
22 Division 26 of the Health and Safety Code in the name of Andras Joe Toth;

23 17. Ordering Rafael Ramon Ramirez, Kaleb Naeem Valenzuela, Jorge Luis Collazo,
24 Manuel Rodriguez, Victor Daniel Gallegos, and Andras Joe Toth to pay the Bureau of
25 Automotive Repair the reasonable costs of the investigation and enforcement of this case,
26 pursuant to Business and Professions Code section 125.3, and if placed on probation, the costs of
27 probation monitoring;

28 and,

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18. 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

LA2026602052
Accusation.docx