

1 ROB BONTA
Attorney General of California
2 ANDREW M. STEINHEIMER
Supervising Deputy Attorney General
3 BRENT O. JEX
Deputy Attorney General
4 State Bar No. 235261
1300 I Street, Suite 125
5 Sacramento, CA 95814
Telephone: (916) 210-7864
6 Facsimile: (916) 327-8643
E-mail: Brent.Jex@doj.ca.gov
7 *Attorneys for Complainant*

8
9 **BEFORE THE**
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. 79/25-12058

13 **A 1 SMOG & REPAIR CNTR**
14 **BRENT MITCHELL FAILOR, Partner**
RALPH WILSON FAILOR, JR. Partner
15 2901 Bechelli Lane
Redding, CA 96002
16 **Automotive Repair Dealer Registration No. ARD**
160144
17 **Smog Check, Test and Repair, Station License No. RC**
160144
18 **Vehicle Safety Systems Station License Number VS**
19 **160144**

ACCUSATION

20 **BRENT MITCHELL FAILOR**
21 2901 Bechelli Lane
Redding, CA 96002
22 **Smog Check Inspector License No. EO 006474**
Smog Check Repair Technician License No. EI 006474
23 **Vehicle Safety Systems Technician No. ST 006474**

24 **ROBERT JOSEPH SEVERE**
25 1727 Whistling Drive
Redding, CA 96003
26 **Smog Check Inspector License No. EO 640270**

1 **JIMMY H. PRESTWOOD JR.**
2 20141 Jill Lane
3 Redding, CA 96003
4 **Smog Check Inspector License No. EO 134822**
5 **Smog Check Repair Technician License No. EI**
6 **134822**

7 **LEE EDWARD RICKEY**
8 513 North Market Street
9 Redding, CA 96003
10 **Smog Check Inspector License No. EO 643373**

11 Respondents.

12 **PARTIES**

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

15 **A 1 Smog & Repair Cntr**

16 2. On or about January 1, 1991, the Bureau issued Automotive Repair Dealer
17 Registration Number ARD 160144 to A 1 Smog & Repair CNTR with Brent Mitchell Failor (B.
18 Failor) and Ralph Wilson Failor Jr. (R. Failor), as Partners (Respondent A 1). The registration
19 was in full force and effect at all times relevant to the charges brought herein and will expire on
20 April 30, 2027, unless renewed.

21 3. On or about September 17, 1991, the Bureau issued Smog Check, Test and Repair,
22 Station License Number RC 160144 to Respondent A 1. The license was in full force and effect
23 at all times relevant to the charges brought herein and will expire on April 30, 2027, unless
24 renewed.

25 4. Respondent A 1 is also certified as a STAR Station. The certification was issued on
26 or about November 1, 2013, and will remain active unless the Automotive Repair Dealer
27 Registration and/or Smog Check, Test Only, Station License is revoked, cancelled, becomes
28 delinquent, or the certification is suspended.

5. On or about June 20, 2024, the Bureau issued Vehicle Safety Systems Station License
Number VS 160144 to Respondent A 1. The license was in full force and effect at all times

1 relevant to the charges brought herein and will expire on April 30, 2027, unless renewed.

2 **Brent Mitchell Failor**

3 6. On or about July 24, 2012, the Bureau issued Smog Check Inspector License Number
4 EO 006474 and Smog Check Repair Technician License Number EI 006474 to Respondent B.
5 Failor. The licenses were in full force and effect at all times relevant to the charges brought
6 herein and will expire on July 31, 2026, unless renewed.

7 7. On or about April 29, 2024, the Bureau issued Vehicle Safety Technician License
8 Number ST 006474 to Respondent B. Failor. The license was in full force and effect at all times
9 relevant to the charges brought herein and will expire on July 31, 2026, unless renewed.

10 **Robert Joseph Severe**

11 8. On or about May 12, 2017, the Bureau issued Smog Check Inspector License Number
12 EO 640270 to Robert Joseph Severe (Respondent Severe). The license was in full force and
13 effect at all times relevant to the charges brought herein and will expire on July 31, 2027, unless
14 renewed.

15 **Jimmy H. Prestwood Jr.**

16 9. On or about April 4, 2014, the Bureau issued Smog Check Inspector License Number
17 EO 134822 and Smog Check Repair Technician License Number EI 134822 to Jimmy H.
18 Prestwood Jr. (Respondent Prestwood). The license expired on March 31, 2026, and has not been
19 renewed.

20 **Lee Edward Rickey**

21 10. On or about November 1, 2021, the Bureau issued Smog Check Inspector License
22 Number EO 643373 to Lee Edward Rickey (Respondent Rickey). The license was in full force
23 and effect at all times relevant to the charges brought herein and will expire on July 31, 2027,
24 unless renewed.

25 **JURISDICTION**

26 11. This Accusation is brought before the Director of the Department of Consumer
27 Affairs (Director) for the Bureau, under the authority of the following laws. All section
28 references are to the Business and Professions Code (Code) unless otherwise indicated.

1 regulations adopted pursuant to it.

2 (b) Except as provided for in subdivision (c), if an automotive repair dealer
3 operates more than one place of business in this state, the director pursuant to
4 subdivision (a) shall only suspend, revoke, or place on probation the registration of
5 the specific place of business which has violated any of the provisions of this chapter.
6 This violation, or action by the director, shall not affect in any manner the right of the
7 automotive repair dealer to operate his or her other places of business.

8 (c) Notwithstanding subdivision (b), the director may suspend, revoke, or
9 place on probation, the registration for all places of business operated in this state by
10 an automotive repair dealer upon a finding that the automotive repair dealer has, or is,
11 engaged in a course of repeated and willful violations of this chapter, or regulations
12 adopted pursuant to it.

13 18. Code section 9884.11 states:

14 Each automotive repair dealer shall maintain any records that are required by
15 regulations adopted to carry out this chapter. Those records shall be open for
16 reasonable inspection by the chief or other law enforcement officials. All of those
17 records shall be maintained for at least three years.

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

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

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

25 . . .

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

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

REGULATORY PROVISIONS

20. California Code of Regulations, title 16 (CCR), section 3340.17, subdivision (c),
states, "Vehicle data and test results from the OBD Inspection System (OIS) shall be transmitted
to the bureau's centralized database."

21. CCR section 3340.24, subdivision (c), states, "The bureau may suspend or revoke the
license of or pursue other legal action against a licensee, if the licensee falsely or fraudulently
issues or obtains a certificate of compliance or a certificate of noncompliance."

1 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
2 included in a stipulated settlement.

3 **REVIEW OF OIS TEST DATA FOR A 1 SMOG & REPAIR CNTR**

4 **Background**

5 27. On March 9, 2015, California’s Smog Check Program was updated to keep pace with
6 ever-advancing technology. The program update requires the use of an On-Board Diagnostic
7 Inspection System (BAR-OIS). BAR-OIS is the smog check equipment required in all areas of
8 the State when inspecting most model-year 2000 and newer gasoline and hybrid vehicles and
9 most 1998 and newer diesel vehicles. The system consists of a certified Data Acquisition Device
10 (DAD), computer, bar code scanner, and printer.

11 28. The DAD is an On Board Diagnostic (OBD) scan tool that, when requested by the
12 California BAR-OIS software, retrieves OBD data from the vehicle. The DAD connects between
13 the BAR-OIS computer and the vehicle’s diagnostic link connector. The bar code scanner is used
14 to input technician information, the vehicle identification number, and DMV renewal
15 information. The vehicle identification number (VIN) that is physically present on all vehicles is
16 required to be programmed into the vehicle’s On-Board Diagnostics – Generation II (OBD II) on
17 2005 and newer vehicles, and on many occasions was programmed into the OBD II computer in
18 earlier model-years. The electronically programmed VIN is referred to as the “eVIN”, is captured
19 by the Bureau during a smog check inspection, and must match the physical VIN on the vehicle.
20 The printer is used to provide a Vehicle Inspection Report (VIR), which shows the inspection
21 results and the Smog Check Certificate of Compliance Number for passing vehicles. Data
22 retrieved and recorded during an OIS smog check includes the eVIN, the communication
23 protocol¹, and the number of Parameter Identifications (PID’s)².

24 ¹ The OBD II communication protocol describes the specified communication “language”
25 used by the OBD II computer to communicate to scan tools and other devices such as the BAR-
26 OIS. The communication protocol is programmed into the OBD II computer during manufacture
and does not change.

27 ² PID’s are data points reported by the OBD II computer to the scan tool or BAR-OIS (for
28 example, engine speed (rpm), vehicle speed, engine temperature, etc.) The PID count is the
number of data points reported by the OBD II computer, is programmed during manufacture.

FACTUAL ALLEGATIONS

29. Bureau Representative D.W. reviewed OIS test data pertaining to smog inspections conducted at Respondent A 1's smog check facility. D.W. found that Respondent A 1 performed smog inspections on 7 vehicles identified below (vehicles 1-7) using a method known as "clean plugging",³ resulting in the issuance of fraudulent certificates of compliance for the vehicles.

Vehicle 1:

30. The OIS test data showed that on January 30, 2023, Respondent Severe performed a smog inspection on a 2003 Toyota Avalon XL (Vehicle 1), resulting in the issuance of electronic Smog Certificate of Compliance No. 1R860910C. The OIS test details for Vehicle 1 showed that the eVIN was recorded during the inspection on the vehicle. D.W. reviewed the Comparative OIS Test Data for 2003 Toyota Avalon XL vehicles and found that the eVIN is not transmitted during an inspection, and the communication protocol and PID count recorded during the inspection of Vehicle 1 were not consistent with the communication protocol and PID count for that make and model vehicle. D.W. concluded that the DAD was not connected to Vehicle 1 during the smog inspection, resulting in the issuance of a fraudulent smog certificate of compliance for the vehicle.

31. In addition, the OIS test data showed that on or about March 22, 2025, Vehicle 1 was inspected at another facility. During that inspection, the eVIN was not reported and the expected protocol and PID counts were reported.

32. Further, the OIS test data showed that on or about August 5, 2024, a 2007 Toyota Highlander Hybrid was tested at another smog check facility and the eVIN transmitted to the VID was the same eVIN that was recorded during the smog inspection on Vehicle 1. The communication protocol and PID count recorded during the inspection of the 2007 Toyota Highlander Hybrid were consistent with the communication protocol and PID count recorded during the inspection of Vehicle 1. D.W. concluded that Respondent Severe used the 2007

³ Clean-plugging is the use of a vehicle's properly functioning OBD II system, or another source, to generate passing diagnostic readings for the purpose of issuing a fraudulent smog certificate of compliance to another vehicle that is not in compliance with the Smog Check Program and/or is not present for testing.

1 Toyota Highlander Hybrid's properly functioning OBD II system during the smog inspection on
2 Vehicle 1, resulting in the issuance of a fraudulent smog certificate of compliance for the vehicle.

3 **Vehicle 2:**

4 33. The OIS test data showed that on February 6, 2023, Respondent Severe performed a
5 smog inspection on a 2008 Volvo XC90 3.2 (Vehicle 2), resulting in the issuance of electronic
6 Smog Certificate of Compliance No. IT101807C. The OIS test details for Vehicle 2 showed that
7 the eVIN recorded during the inspection did not match the physical VIN on the vehicle. D.W.
8 reviewed the Comparative OIS Test Data for 2008 Volvo XC90 3.2 vehicles and found that the
9 correct eVIN is transmitted during an inspection. D.W. also found that the communication
10 protocol and PID count recorded during the inspection on Vehicle 2 were not consistent with the
11 communication protocol and PID count for that make and model vehicle. D.W. concluded that
12 the DAD was not connected to Vehicle 2 during the smog inspection, resulting in the issuance of
13 a fraudulent smog certificate of compliance for the vehicle.

14 34. In addition, the OIS test data showed that on or about July 13, 2021, Vehicle 2 was
15 inspected at Respondent's facility. During that inspection, the correct eVIN was reported and the
16 expected protocol and PID counts were reported.

17 35. Further, the OIS test data showed that on or about August 6, 2025, a 2017 Volvo S60
18 was tested at Respondent's facility. The eVIN transmitted to the VID was the same eVIN that
19 was recorded during the smog inspection on Vehicle 2, and the communication protocol and PID
20 count recorded during the inspection of the 2017 Volvo S60 were consistent with the
21 communication protocol and PID count recorded during the inspection of Vehicle 2. D.W.
22 concluded that Respondent Severe used the 2017 Volvo S60's properly functioning OBD II
23 system during the smog inspection of Vehicle 2, resulting in the issuance of a fraudulent smog
24 certification of compliance for the vehicle⁴.

25 **Vehicle 3:**

26 36. The OIS test data showed that on March 22, 2023, Respondent Severe performed a
27 smog inspection on a 2006 Ford F350 SRW Super Duty (Vehicle 3), resulting in the issuance of

28 ⁴ The 2008 Volvo XC90 and the 2017 Volvo S60 are owned by the same person.

1 electronic Smog Certificate of Compliance No. TE680597C. The OIS test details for Vehicle 3
2 showed that the eVIN was not reported. D.W. reviewed the Comparative OIS Test Data for 2006
3 Ford F350 SRW Super Duty vehicles and found that the eVIN is reported during an inspection.
4 D.W. also found that the protocol and PID count recorded during the inspection on Vehicle 3 was
5 not consistent with the protocol and PID count for that make and model vehicle. D.W. concluded
6 that the DAD was not connected to Vehicle 3 during the smog inspection, resulting in the
7 issuance of a fraudulent smog certificate of compliance for the vehicle.

8 37. In addition, the OIS test data showed that on or about May 4, 2021, Vehicle 3 was
9 inspected. During that inspection, the eVIN was reported and the expected protocol and PID
10 counts were reported.

11 38. Further, the OIS test data showed that on or about April 17, 2025, Vehicle 3 was
12 inspected at Respondent's facility. During that inspection, the eVIN was reported and the
13 expected protocol and PID counts were reported. D.W. concluded that the DAD was not
14 connected to the 2006 Ford F350 SRW Super Duty during the smog inspection of Vehicle 3,
15 resulting in the issuance of a fraudulent smog certification of compliance for the vehicle.

16 **Vehicle 4:**

17 39. The OIS test data showed that on October 17, 2023, Respondent Prestwood
18 performed a smog inspection on a 2006 Buick Lacrosse CXL (Vehicle 4), resulting in the
19 issuance of electronic Smog Certificate of Compliance No. IX273538C. The OIS test details for
20 Vehicle 4 showed that the eVIN was not reported. D.W. reviewed the Comparative OIS Test
21 Data for 2006 Buick Lacrosse CXL vehicles and found that the eVIN is reported during an
22 inspection. D.W. also found that the protocol and PID count recorded during the inspection on
23 Vehicle 4 was not consistent with the protocol and PID count for that make and model vehicle.
24 D.W. concluded that the DAD was not connected to Vehicle 4 during the smog inspection,
25 resulting in the issuance of a fraudulent smog certificate of compliance for the vehicle.

26 40. In addition, the OIS test data showed that on or about October 5, 2021, Vehicle 4 was
27 inspected at Respondent's facility. During that inspection, the eVIN was reported and the
28 expected protocol and PID counts were reported. D.W. concluded that the DAD was not

1 connected to the 2006 Buick Lacrosse CXL during the smog inspection of Vehicle 4, resulting in
2 the issuance of a fraudulent smog certification of compliance for the vehicle.

3 **Vehicle 5:**

4 41. The OIS test data showed that on November 25, 2023, Respondent Rickey performed
5 a smog inspection on a 2012 Honda Civic LX (Vehicle 5), resulting in the issuance of electronic
6 Smog Certificate of Compliance No. IX461474C. The OIS test details for Vehicle 5 showed that
7 the eVIN recorded during the inspection did not match the physical VIN on the vehicle. D.W.
8 reviewed the Comparative OIS Test Data for 2012 Honda Civic LX vehicles and found that the
9 correct eVIN is reported during an inspection. D.W. also found that the protocol and PID count
10 recorded during the inspection on Vehicle 5 was not consistent with the protocol and PID count
11 for that make and model vehicle. D.W. concluded that the DAD was not connected to Vehicle 5
12 during the smog inspection, resulting in the issuance of a fraudulent smog certificate of
13 compliance for the vehicle.

14 42. In addition, the OIS test data showed that on or about January 28, 2022, Vehicle 5
15 was inspected. During that inspection, the correct eVIN was reported and the expected
16 communication protocol and PID counts were reported.

17 43. Further, the OIS test data showed that on or about January 31, 2024, a 2013 Honda
18 Pilot EXL was tested at Respondent's facility. The eVIN transmitted to the VID was the same
19 eVIN that was recorded during the smog inspection on Vehicle 5, and the communication
20 protocol and PID count recorded during the inspection of the 2013 Honda Pilot EXL were
21 consistent with the communication protocol and PID count recorded during the inspection of
22 Vehicle 5. D.W. concluded that Respondent Rickey used the 2013 Honda Pilot EXL's properly
23 functioning OBD II system during the smog inspection of Vehicle 5, resulting in the issuance of a
24 fraudulent smog certification of compliance for the vehicle⁵.

25 **Vehicle 6:**

26 44. The OIS test data showed that on September 13, 2024, Respondent Rickey performed
27

28 ⁵ The 2012 Honda Civic LX and the 2013 Honda Pilot EXL are owned by the same person.

1 a smog inspection on a 2014 Ford F150 (Vehicle 6), resulting in the issuance of electronic Smog
2 Certificate of Compliance No. UE009225C. The OIS test details for Vehicle 6 showed that the
3 eVIN recorded during the inspection did not match the physical VIN on the vehicle. D.W.
4 reviewed the Comparative OIS Test Data for 2014 Ford F150 vehicles and found that the correct
5 eVIN is reported during an inspection. D.W. concluded that the DAD was not connected to
6 Vehicle 6 during the smog inspection, resulting in the issuance of a fraudulent smog certificate of
7 compliance for the vehicle.

8 45. In addition, the OIS test data showed that on or about July 28, 2022, Vehicle 6 was
9 inspected. During that inspection, the correct eVIN was reported and the expected protocol and
10 PID counts were reported.

11 46. Further, the OIS test data showed that on or about November 27, 2024, a 2014 Ford
12 F150 Super Cab was tested at Respondent's facility. The eVIN transmitted to the VID was the
13 same eVIN that was recorded during the smog inspection on Vehicle 6. The communication
14 protocol and PID count recorded during the inspection of the 2014 Ford F150 Super Cab were
15 consistent with the communication protocol and PID count recorded during the inspection of
16 Vehicle 6. D.W. concluded that Respondent Rickey used the 2014 Ford F150 Super Cab's
17 properly functioning OBD II system during the smog inspection of Vehicle 6, resulting in the
18 issuance of a fraudulent smog certification of compliance for the vehicle⁶.

19 **Vehicle 7:**

20 47. The OIS test data showed that on February 25, 2025, Respondent B. Failor performed
21 a smog inspection on a 2005 Jeep Wrangler X (Vehicle 7), resulting in the issuance of electronic
22 Smog Certificate of Compliance No. UK306836C. The OIS test details for Vehicle 7 showed that
23 the eVIN recorded during the inspection did not match the physical VIN on the vehicle. D.W.
24 reviewed the Comparative OIS Test Data for 2005 Jeep Wrangler X vehicles and found that the
25 correct eVIN is reported during an inspection. D.W. also found that the communication protocol
26 and PID count recorded during the inspection on Vehicle 7 was not consistent with the

27 _____
28 ⁶ The 2014 Ford F150 and the 2014 Ford F150 Super Cab are owned by the same
business.

1 communication protocol and PID count for that make and model vehicle. D.W. concluded that
2 the DAD was not connected to Vehicle 7 during the smog inspection, resulting in the issuance of
3 a fraudulent smog certificate of compliance for the vehicle.

4 48. In addition, the OIS test data showed that on or about March 2, 2023, Vehicle 7 was
5 inspected at another facility. During that inspection, the correct eVIN was reported and the
6 expected communication protocol and PID counts were reported.

7 49. Further, the OIS test data showed that on or about March 4, 2025, Vehicle 7 was
8 inspected at another facility. During that inspection, the correct eVIN was reported and the
9 expected communication protocol and PID counts were reported.

10 50. The OIS test data showed that on or about May 7, 2025, a 2017 Toyota Corolla L was
11 tested at Respondent's facility. The eVIN transmitted to the VID was the same eVIN that was
12 recorded during the smog inspection on Vehicle 7, and the communication protocol and PID
13 count recorded during the inspection of the 2017 Toyota Corolla L were consistent with the
14 communication protocol and PID count recorded during the inspection of Vehicle 7. D.W.
15 concluded that Respondent B. Failor used the 2017 Toyota Corolla L's properly functioning OBD
16 II system during the smog inspection of Vehicle 7, resulting in the issuance of a fraudulent smog
17 certification of compliance for the vehicle.

18 51. On or about August 6, 2025, D.W. spoke with Respondent A 1's Service Writer, L.B.,
19 regarding the requested VIR for the 2005 Jeep Wrangler X. L.B. was unable to locate and
20 produce the VIR as requested.

21 **FIRST CAUSE FOR DISCIPLINE**

22 **(Untrue or Misleading Statements)**

23 52. Respondent A 1's registration is subject to disciplinary action pursuant to Code
24 section 9884.7, subdivision (a)(1), in that Respondent A 1 made or authorized statements which
25 he knew or in the exercise of reasonable care should have known to be untrue or misleading, as
26 follows: Respondent certified that Vehicles 1 through 7, identified in paragraphs 30 through 51
27 above, had passed inspection and were in compliance with applicable laws and regulations. In
28 fact, Respondent A 1 conducted the smog inspections on the vehicles using clean-plugging

1 methods in that he substituted or used a different vehicle during the inspections in order to issue
2 smog certificates of compliance for the vehicles, and did not test or inspect the vehicles as
3 required by Health & Safety Code section 44012.

4 **SECOND CAUSE FOR DISCIPLINE**

5 **(Fraud)**

6 53. Respondent A 1's registration is subject to disciplinary action pursuant to Code
7 section 9884.7, subdivision (a)(4), in that Respondent A 1 committed acts which constitute fraud
8 by issuing electronic smog certificates of compliance for Vehicles 1 through 7, identified in
9 paragraphs 30 through 51 above, without performing bona fide inspections of the emission
10 control devices and systems on the vehicles, thereby depriving the People of the State of
11 California of the protection afforded by the Motor Vehicle Inspection Program.

12 **THIRD CAUSE FOR DISCIPLINE**

13 **(Failed to Maintain Records)**

14 54. Respondent A 1's registration is subject to disciplinary action pursuant to Code
15 section 9884.11, and CCR section 3358, in that Respondent failed to maintain and make available
16 for inspection, the records relating to the smog check inspection performed on Vehicle 7,
17 specifically the VIR.

18 **FOURTH CAUSE FOR DISCIPLINE**

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

20 55. Respondent A 1's smog check station license is subject to disciplinary action pursuant
21 to Health & Safety Code section 44072.2, subdivision (a), in that Respondent A 1 failed to
22 comply with the following sections of that Code:

23 a. **Section 44012:** Respondent A 1 failed to ensure that the emission control tests
24 on Vehicles 1 through 7, identified in paragraphs 30 through 51 above, were performed in
25 accordance with procedures prescribed by the department.

26 b. **Section 44015:** Respondent A 1 issued electronic smog certificates of
27 compliance for Vehicles 1 through 7, identified in paragraphs 30 through 51 above, without
28 ensuring that they were properly tested and inspected to determine if they were in compliance

1 with Health & Safety Code section 44012.

2 **FIFTH CAUSE FOR DISCIPLINE**
3 **(Failure to Comply with Regulations Pursuant**
4 **to the Motor Vehicle Inspection Program)**

5 56. Respondent A 1's smog check station license is subject to disciplinary action pursuant
6 to Health & Safety Code section 44072.2, subdivision (c), in that Respondent A 1 failed to
7 comply with provisions of Title 16, California Code of Regulations, as follows:

8 a. **Section 3340.35, subdivision (c):** Respondent A 1 issued electronic smog
9 certificates of compliance for Vehicles 1 through 7, identified in paragraphs 30 through 51 above,
10 even though the vehicles had not been inspected in accordance with section 3340.42.

11 b. **Section 3340.42:** Respondent A 1 failed to ensure that the required smog tests
12 were conducted on Vehicles 1 through 7, identified in paragraphs 30 through 51 above, in
13 accordance with the Bureau's specifications.

14 **SIXTH CAUSE FOR DISCIPLINE**

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

16 57. Respondent A 1's smog check station license is subject to disciplinary action pursuant
17 to Health & Safety Code section 44072.2, subdivision (d), in that Respondent A 1 committed
18 dishonest, fraudulent, or deceitful acts whereby another is injured by issuing electronic smog
19 certificates of compliance for Vehicles 1 through 7, identified in paragraphs 30 through 51 above,
20 without performing bona fide inspections of the emission control devices and systems on the
21 vehicles, thereby depriving the People of the State of California of the protection afforded by the
22 Motor Vehicle Inspection Program.

23 **SEVENTH CAUSE FOR DISCIPLINE**

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

25 58. Respondent A 1's vehicle safety systems station license is subject to disciplinary
26 action pursuant to Business and Professions Code sections 9889.1, 9889.3, subdivision (d), and
27 9889.5, in that Respondent A 1 committed dishonest, fraudulent, or deceitful acts whereby
28 another is injured by issuing electronic smog certificates of compliance for Vehicles 1 through 7,

1 identified in paragraphs 30 through 51 above, without performing bona fide inspections of the
2 emission control devices and systems on the vehicles, thereby depriving the People of the State of
3 California of the protection afforded by the Motor Vehicle Inspection Program.

4 **EIGHTH CAUSE FOR DISCIPLINE**

5 **(Failed to Maintain Records)**

6 59. Respondent A 1's vehicle safety systems station license is subject to disciplinary
7 action pursuant to Business and Professions Code sections 9889.1, 9889.3, subdivision (g), and
8 9889.5, in that Respondent A 1 failed to maintain and make available for inspection, the records
9 relating to the smog check inspection performed on Vehicle 7, specifically the VIR.

10 **NINTH CAUSE FOR DISCIPLINE**

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

12 60. Respondent Severe's smog check inspector license is subject to disciplinary action
13 pursuant to Health & Safety Code section 44072.2, subdivision (a), in that he failed to comply
14 with section 44012 of that Code in a material respect, as follows: Respondent Severe failed to
15 perform the emission control tests on Vehicles 1 through 3, identified in paragraphs 30 through 38
16 above, in accordance with procedures prescribed by the department.

17 **TENTH CAUSE FOR DISCIPLINE**

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

20 61. Respondent Severe's smog check inspector license is subject to disciplinary action
21 pursuant to Health & Safety Code section 44072.2, subdivision (c), in that he failed to comply
22 with provisions of Title 16, California Code of Regulations, as follows:

23 a. **Section 3340.30, subdivision (a)**: Respondent Severe failed to inspect and test
24 Vehicles 1 through 3, identified in paragraphs 30 through 38 above, in accordance with Health &
25 Safety Code sections 44012 and 44035, and Title 16, California Code of Regulations, section
26 3340.42.

27 ///

28 ///

1 a. **Section 3340.30, subdivision (a)**: Respondent B. Failor failed to inspect and
2 test Vehicle 7, identified in paragraphs 47 through 51 above, in accordance with Health & Safety
3 Code sections 44012 and 44035, and Title 16, California Code of Regulations, section 3340.42.

4 b. **Section 3340.42**: Respondent B. Failor failed to conduct the required smog
5 tests on Vehicle 7, identified in paragraphs 47 through 51 above, in accordance with the Bureau's
6 specifications.

7 **TWENTIETH CAUSE FOR DISCIPLINE**

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

9 71. Respondent B. Failor 's smog check inspector and smog check repair technician
10 licenses are subject to disciplinary action pursuant to Health & Safety Code section 44072.2,
11 subdivision (d), in that Respondent B. Failor committed dishonest, fraudulent, or deceitful acts
12 whereby another is injured by issuing electronic smog certificates of compliance for Vehicle 7,
13 identified in paragraphs 47 through 51 above, without performing bona fide inspections of the
14 emission control devices and systems on the vehicles, thereby depriving the People of the State of
15 California of the protection afforded by the Motor Vehicle Inspection Program.

16 **TWENTY-FIRST CAUSE FOR DISCIPLINE**

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

18 72. Respondent B. Failor 's vehicle safety systems technician license is subject to
19 disciplinary action pursuant to Business and Professions Code sections 9889.1, 9889.3,
20 subdivision (d), and 9889.5, in that Respondent B. Failor committed dishonest, fraudulent, or
21 deceitful acts whereby another is injured by issuing electronic smog certificates of compliance for
22 Vehicle 7, identified in paragraphs 47 through 51 above, without performing bona fide
23 inspections of the emission control devices and systems on the vehicles, thereby depriving the
24 People of the State of California of the protection afforded by the Motor Vehicle Inspection
25 Program.

26 ///

27 ///

28 ///

DISCIPLINARY CONSIDERATIONS

73. To determine the degree of discipline, if any, to be imposed, Complainant alleges that on or about December 31, 2021, Respondent A 1 was issued Citation C2021-969 for certifying a Bureau undercover vehicle with a missing or tampered emission control systems.

74. Complainant further alleges that on or about March 15, 2022, the Bureau met with Respondent B.Failor and conducted a Proactive Conference. B.Failor was advised that compliance with all laws and regulations under the Automotive Repair Act is mandatory. Respondent B.Failor was advised this conference was held in an attempt to obtain future voluntary compliance and that he should be aware of the seriousness of the Bureau’s warnings in their efforts to obtain compliance.

75. Complainant further alleges that on or about February 14, 2023, the Bureau met with Zach Failor, Manager, and Respondent Sever and conducted a Proactive Conference. Zach Failor and Respondent Severe were advised that compliance with all laws and regulations under the Automotive Repair Act is mandatory. Zach Failor and Respondent Severe were further advised this conference was held in an attempt to obtain future voluntary compliance and that he should be aware of the seriousness of the Bureau’s warnings in their efforts to obtain compliance. Zach Failor and Respondent Severe were further advised that all Smog Check inspections must be performed by licensed technicians using their own access code, no false information about the vehicle being tested can be entered in the analyzer, and they shall conduct tests and inspections in accordance with the Bureau’s Smog Check Manual.

OTHER MATTERS

76. Pursuant to Business and Professions Code section 9884.7, subdivision (c), the Director may suspend, revoke or place on probation the registration for all places of business operated in this state by Respondent B. Failor and Respondent R. Failor, partners of A 1 Smog & Repair Cntr, upon a finding that Respondents have, or is, engaged in a course of repeated and willful violations of the laws and regulations pertaining to an automotive repair dealer.

77. Pursuant to Health & Safety Code section 44072.8, if Smog Check Station License Number RC 160144, issued to Respondent B. Failor and Respondent R. Failor, partners of A 1

1 Smog & Repair Cntr, is revoked or suspended, any additional license issued under Chapter 5 of
2 Part 5 of Division 26 of the Health & Safety Code in the name of said licensee may be likewise
3 revoked or suspended by the Director.

4 78. Pursuant to Business and Professions Code section 9889.9, if Vehicle Safety Systems
5 Station License Number VS 160144, issued to Brent Mitchell Failor and Ralph Wilson Failor,
6 partners of A 1 Smog & Repair Cntr, is revoked or suspended, any additional license issued under
7 Article 6.5 in the name of Brent Mitchell Failor and/or Ralph Wilson Failor, Jr. may be likewise
8 revoked or suspended by the Director.

9 79. Pursuant to Health & Safety Code section 44072.8, if Smog Check Inspector License
10 Number EO 006474 and/or Smog Check Repair Technician License Number EI 006474 issued to
11 Respondent B. Failor are revoked or suspended, any additional license issued under Chapter 5 of
12 Part 5 of Division 26 of the Health & Safety Code in the name of said licensee may be likewise
13 revoked or suspended by the Director.

14 80. Pursuant to Business and Professions Code section 9889.9, if Vehicle Safety Systems
15 Technician License Number ST 006474, issued to Brent Mitchell Failor, is revoked or suspended,
16 any additional license issued under Article 6.5 in the name of Brent Mitchell Failor may be
17 likewise revoked or suspended by the Director.

18 81. Pursuant to Health & Safety Code section 44072.8, if Smog Check Inspector License
19 Number EO 640270 issued to Respondent Severe is revoked or suspended, any additional license
20 issued under Chapter 5 of Part 5 of Division 26 of the Health & Safety Code in the name of said
21 licensee may be likewise revoked or suspended by the Director.

22 82. Pursuant to Health & Safety Code section 44072.8, if Smog Check Inspector License
23 Number EO 134822 issued to Respondent Prestwood is revoked or suspended, any additional
24 license issued under Chapter 5 of Part 5 of Division 26 of the Health & Safety Code in the name
25 of said licensee may be likewise revoked or suspended by the Director.

26 83. Pursuant to Health & Safety Code section 44072.8, if Smog Check Inspector License
27 Number EO 643373 issued to Respondent Rickey is revoked or suspended, any additional license
28 issued under Chapter 5 of Part 5 of Division 26 of the Health & Safety Code in the name of said

1 licensee may be likewise revoked or suspended by the Director.

2 **PRAYER**

3 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,
4 and that following the hearing, the Director of Consumer Affairs issue a decision:

5 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
6 160144, issued to Brent Mitchell Failor and Ralph Wilson Failor Jr., partners of A 1 Smog &
7 Repair Cntr;

8 2. Revoking or suspending any other automotive repair dealer registration issued to
9 Brent Mitchell Failor and Ralph Wilson Failor Jr.;

10 3. Revoking or suspending Smog Check Test-and-Repair Station License Number RC
11 160144, issued to Brent Mitchell Failor and Ralph Wilson Failor Jr., partners of A 1 Smog &
12 Repair Cntr;

13 4. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of
14 Division 26 of the Health & Safety Code in the name of Brent Mitchell Failor;

15 5. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of
16 Division 26 of the Health & Safety Code in the name of Ralph Wilson Failor Jr.;

17 6. Revoking or suspending Vehicle Safety Systems Station License Number VS 160144,
18 issued to Brent Mitchell Failor and Ralph Wilson Failor, partners of A 1 Smog & Repair Cntr;

19 7. Revoking or suspending Smog Check Inspector License Number EO 006474, issued
20 to Brent Mitchell Failor;

21 8. Revoking or suspending Smog Check Repair Technician License Number EI 006474,
22 issued to Brent Mitchell Failor;

23 9. Revoking or suspending Vehicle Safety Systems Technician License Number ST
24 006474, issued to Brent Mitchell Failor;

25 10. Revoking or suspending Smog Check Inspector License Number EO 640270, issued
26 to Robert Joseph Severe;

27 11. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of
28 Division 26 of the Health & Safety Code in the name of Robert Joseph Severe;

1 12. Revoking or suspending Smog Check Inspector License Number EO 134822, issued
2 to Jimmy H. Prestwood Jr.;

3 13. Revoking or suspending Smog Check Repair Technician License Number EO
4 134822, issued to Jimmy H. Prestwood Jr.;

5 14. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of
6 Division 26 of the Health & Safety Code in the name of Jimmy H. Prestwood Jr.;

7 15. Revoking or suspending Smog Check Inspector License Number EO 643373, issued
8 to Lee Edward Rickey;

9 16. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of
10 Division 26 of the Health & Safety Code in the name of Lee Edward Rickey;

11 17. Ordering Brent Mitchell Failor and Ralph Wilson Failor Jr., partners of A 1 Smog &
12 Repair Cntr; Robert Joseph Severe, Jimmy H Prestwood Jr., and Lee Edward Rickey to pay the
13 Director of Consumer Affairs the reasonable costs of the investigation and enforcement of this
14 case, pursuant to Business and Professions Code section 125.3; and,

15 18. Taking such other and further action as deemed necessary and proper.

16
17 DATED: As of Digital Signature Date

PATRICK DORAIS
Chief
Bureau of Automotive Repair
Department of Consumer Affairs
State of California
Complainant

18
19
20
21
22
23
24
25
26
27
28