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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. 79/25-3146

13 **JANY V. PETROSIAN**
DBA SUNRISE SMOG
14 3501 Sunrise Boulevard, Suite #8
Rancho Cordova, CA 95742
15
16 **Automotive Repair Dealer Registration No.**
ARD 240390
Smog Check, Test-and-Repair, Station
17 **License No. RC 240390**
Smog Check, Test-Only, Station License No.
18 **TC 240390,**

ACCUSATION

19 and

20 **JANY V. PETROSIAN**
3328 Verdeca Way
21 Rancho Cordova, CA 95670
22 **Smog Check Repair Technician License No.**
EI 152083
23 **Smog Check Inspector License No. EO**
152083

24 Respondents.
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1 **PARTIES**

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

4 **Automotive Repair Dealer Registration**

5 2. On or about September 12, 2005, the Bureau issued Automotive Repair Dealer
6 Registration Number ARD 240390 (ARD registration) to Jany V. Petrosian (Respondent) doing
7 business as Sunrise Smog. The registration was in full force and effect at all times relevant to the
8 charges brought herein and will expire on June 30, 2026, unless renewed.

9 **Smog Check, Test-and-Repair, Station License**

10 3. On or about June 16, 2016, the Bureau issued Smog Check, Test-and-Repair, Station
11 License Number RC 240390 (RC station license) to Respondent doing business as Sunrise Smog.
12 The RC station license was in full force and effect at all times relevant to the charges brought
13 herein and will expire on June 30, 2026, unless renewed.

14 **Smog Check, Test-Only, Station License**

15 4. On or about August 1, 2007, the Bureau issued Smog Check, Test-Only, Station
16 License Number TC 240390 (TC station license) to Respondent doing business as Sunrise Smog.
17 The test-only station license was due to expire on June 30, 2016, however, was cancelled on June
18 5, 2015.

19 **Lamp Station License**

20 5. On or about January 12, 2018, the Bureau issued Lamp Station License Number LS
21 240390 (LS station license) to Respondent doing business as Sunrise Smog. The lamp station
22 license was due to expire on June 30, 2025, however, was cancelled on September 27, 2024.

23 **Brake Station License**

24 6. On or about January 12, 2018, the Bureau issued Brake Station License Number BS
25 240390 (BS station license) to Respondent doing business as Sunrise Smog. The brake station
26 license was due to expire on June 30, 2025, however, was cancelled on September 27, 2024.

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1 **Smog Check Repair Technician/Smog Check Inspector Licenses**

2 7. In 2006, the Bureau issued Advanced Emission Specialist Technician License
3 Number EA 152083 (EA license) to Respondent. It was set to expire on July 31, 2012, but was
4 cancelled on July 24, 2012. Pursuant to California Code of Regulations, title 16 (CCR), section
5 3340.28, subdivision (e), the license was renewed, pursuant to Respondent’s election, as Smog
6 Check Repair Technician License EI 152083 (technician license) and Smog Check Inspector
7 License EO 152083 (inspector license), effective July 24, 2012. The Smog Check Repair
8 Technician and Smog Check Inspector Licenses were in full force and effect at all times relevant
9 to the charges brought herein and will expire on July 31, 2026.

10 **Brake Adjuster License**

11 8. On or about January 9, 2017, the Bureau issued Brake Adjuster License Number BA
12 152083 (BA adjuster license), Class C, to Respondent. The brake adjuster license expired on July
13 31, 2020, and was cancelled on June 4, 2023.

14 **Lamp Adjuster License**

15 9. On or about December 1, 2017, the Bureau issued Lamp Adjuster License Number
16 LA 152083 (LA adjuster license), Class A, to Respondent. The lamp adjuster license expired on
17 July 31, 2021, and was cancelled on September 5, 2021.

18 **PRIOR DISCIPLINE**

19 10. Effective December 30, 2011, in a disciplinary action titled, *In the Matter of the*
20 *Accusation Against: Sunrise Smog, Jany V. Petrosian, Owner and Jany V. Petrosian*, Case
21 Number 79/12-10, the Bureau revoked Respondent’s ARD registration number ARD 240390, TC
22 station license number TC 240390 and EA license number EA 152083. However, the revocations
23 were immediately stayed and the ARD registration, TC station license and EA license were
24 placed on probation for one year with terms and conditions. The discipline was based on
25 Respondent violating Business and Professions Code sections 9884.7, subdivision (a)(1)
26 (misleading statements); 9884.7, subdivision (a)(3) (failure to provide a copy of a signed
27 document); 9884.7, subdivision (a)(4) (fraud); 9884.7, subdivision (a)(6) (failure to provide a
28 written estimate prior to repairs); Health & Safety Code sections 44072.2, subdivision (a)

1 (violation of Motor Vehicle Inspection Program); 44072.2, subdivision (c) (violations of
2 regulations pursuant to the Motor Vehicle Inspection Program); and 44072.2, subdivision (d)
3 (dishonesty, fraud, or deceit) by issuing a certificate of compliance to a Bureau vehicle with a
4 missing positive crankcase ventilation system.

5 **JURISDICTION**

6 11. This Accusation is brought before the Director of the Department of Consumer
7 Affairs (Director) for the Bureau under the authority of the following laws. All section references
8 ae to the Business and Professions Code (Code) unless otherwise indicated.

9 12. Code section 22 states:

10 “Board” as used in any provisions of this code, refers to the board in which the
11 administration of the provision is vested, and unless otherwise expressly provided,
12 shall include “bureau,” “commission,” “committee,” “department,” “division,”
13 “examining committee,” “program,” and “agency.”

14 13. Code section 477 provides, in pertinent part, that Board includes bureau, commission,
15 committee, department, division, examining committee, program, and agency. License includes
16 certificate, registration or other means to engage in a business or profession regulated by the
17 Code.

18 14. Code section 118, subdivision (b) states:

19 The suspension, expiration, or forfeiture by operation of law of a license issued
20 by a board in the department, or its suspension, forfeiture, or cancellation by order of
21 the board or by order of a court of law, or its surrender without the written consent of
22 the board, shall not, during any period in which it may be renewed, restored, reissued,
23 or reinstated, deprive the board of its authority to institute or continue a disciplinary
24 proceeding against the licensee upon any ground provided by law or to enter an order
25 suspending or revoking the license or otherwise taking disciplinary action against the
26 licensee on any such ground.

27 15. Code section 9884.7 provides that the Director may revoke an automotive repair
28 dealer registration.

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

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

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

23. Code section 9884.8 states:

All work done by an automotive repair dealer, including all warranty work, shall be recorded on an invoice and shall describe all service work done and parts supplied. Service work and parts shall be listed separately on the invoice, which shall also state separately the subtotal prices for service work and for parts, not including sales tax, and shall state separately the sales tax, if any, applicable to each. If any used, rebuilt, or reconditioned parts are supplied, the invoice shall clearly state that fact. If a part of a component system is composed of new and used, rebuilt or reconditioned parts, that invoice shall clearly state that fact. The invoice shall include a statement indicating whether any crash parts are original equipment manufacturer crash parts or nonoriginal equipment manufacturer aftermarket crash parts. One copy of the invoice shall be given to the customer and one copy shall be retained by the automotive repair dealer.

24. Code section 9884.11 states:

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

25. Code section 9889.22 states:

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

26. Health & Saf. Code section 44012, states, in pertinent part:

The test at the smog check stations shall be performed in accordance with procedures prescribed by the department and may require loaded mode dynamometer 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 department in consultation with the state board. The department shall implement testing using onboard diagnostic systems, in lieu of loaded mode dynamometer or two-speed idle testing, on model year 2000 and newer vehicles only, beginning no earlier than January 1, 2013. However, the department, in consultation with the state board, may prescribe alternative test procedures that include loaded mode

1 dynamometer or two-speed idle testing for vehicles with onboard diagnostic systems
2 that the department and the state board determine exhibit operational problems. The
department shall ensure, as appropriate to the test method, the following:

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

5 . . .

6 (f) A visual or functional check is made of emission control devices specified
7 by the department, including the catalytic converter in those instances in which the
findings of Section 44001. The visual or functional check shall be performed in
8 accordance with the procedures as prescribed by the department. . . .

9 27. Health & Saf. Code section 44015, subdivision (b), provides that a certificate of
10 compliance shall be issued if a vehicle meets the requirements of the Health & Saf. Code section
11 44012.

12 28. Health & Saf. Code section 44024.5, subdivision (a) states:

13 The department shall compile and maintain statistical and emissions profiles
14 and data from motor vehicles that are subject to the motor vehicle inspection
program. The department may use data from any source, including remote sensing
15 data, in use data, and other motor vehicle inspection program data, to develop and
confirm the validity of the profiles, to evaluate the program, and to assess the
16 performance of smog check stations. The department shall undertake these
requirements directly or seek a qualified vendor for these services.

17 29. Health & Saf. Code section 44032 provides that qualified technicians shall perform
18 tests of emissions control devices and systems in accordance with Health & Saf. Code section
19 44012.

20 30. Health & Saf. Code section 44037 states, in pertinent part:

21 (a) The department shall compile and maintain records, using the sampling
22 methodology necessary to ensure their scientific validity and reliability, of tests and
repairs performed by qualified smog check technicians at licensed smog check
23 stations pursuant to this chapter on all of the following information:

24 (1) The motor vehicle identification information and the test data collected at
the station.

25 . . .

26 (5) Data received and compiled through the use of the centralized computer
27 database and computer network to be established pursuant to Section 44037.1, and
any other information determined to be essential by the department for program
28 enhancement to achieve greater efficiency, consumer protection, cost-effectiveness,
convenience, or emission reductions. . . .

1 31. Health & Saf. Code section 44037.1 states, in pertinent part:

2 (a) On or before January 1, 1995, the department shall design and establish the
3 equipment necessary to operate a centralized computer data base and computer
4 network that is readily accessible by all licensed smog check technicians on a real
5 time basis.

6 (b) The centralized computer data base and network shall be designed with all
7 of the following capabilities:

8 ...

9 (2) To provide smog check technicians and the department with information as
10 to the date and result of prior smog check tests performed on each vehicle to
11 discourage vehicle owners from shopping for certificates of compliance and to permit
12 the department to identify smog check stations for further investigation as potential
13 violators of this chapter.

14 (3) To provide the department with data on the failure rates and repair
15 effectiveness for vehicles of each make and model year on a statewide basis, and by
16 smog check station and technician, to facilitate identification of smog check stations
17 and technicians as potential violators of this chapter.

18 ...

19 (8) To be compatible with the department's recordkeeping and compilation
20 requirements established by Section 44037.

21 ...

22 (c) After January 1, 1995, each smog check station shall transmit vehicle data
23 emission test results to the department's centralized data base. Each smog check
24 station shall also transmit vehicle data and emission measurements made before and
25 after repair. The department shall establish, by regulation, the form, manner, and
26 frequency of the data transmittals.

27 32. Health & Saf. Code section 44059 states:

28 The willful making of any false statement or entry with regard to a material
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
Section 9880) of Division 3 of the Business and Professions Code, constitutes perjury
and is punishable as provided in the Penal Code.

33. Health & Saf. Code section 44072.2 states, in pertinent part:

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.

...

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

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

5 34. Health & Safety Code section 44072.10, states, in pertinent part:

6 . . .

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

11 . . .

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

14 **REGULATORY PROVISIONS**

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

18 36. CCR, section 3340.30 states, in pertinent part:

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

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

24 37. CCR, section 3340.35, subdivision (c) states:

25 A licensed station shall issue a certificate of compliance or noncompliance to
26 the owner or operator of any vehicle that has been inspected in accordance with the
27 procedures specified in section 3340.42 of this article and has all the required
28 emission control equipment and devices installed and functioning correctly. . . .

38. CCR, section 3340.41, subdivision (c) states:

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

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39. CCR, section 3340.41.3 states:

The invoice for service, adjustments or repairs performed as part of the smog check program shall describe all service work done and parts supplied to reduce emissions, in the manner prescribed by section 9884.8 of the Business and Professions Code.

A general description, such as "low-emissions tune up," "scope and adjust," "reduce emissions," or the like is insufficient to satisfy the requirements of section 9884.8 of the Business and Professions Code.

40. CCR, section 3340.42, states:

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

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

...

(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.

....

41. CCR, section 3356, subdivision (c) states, in pertinent part:

The invoice shall separately list, describe and identify all of the following:

(1) All services and repairs performed, including any diagnosis or warranty repairs, and the prices for each.

....

42. CCR, section 3371, states, in pertinent part:

No automotive repair dealer shall publish, utter, or make or cause to be published, uttered, or made any false or misleading statement or advertisement which is known to be false or misleading, or which by the exercise of reasonable care should be known to be false or misleading. . . .

43. CCR 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(e) 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

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1 the tendency or effect thereby would be to mislead or deceive customers, prospective
2 customers, or the public.

3 **COST RECOVERY**

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

8 **SMOG CHECK PROGRAM**

9 45. California's Smog Check Program requires the owners of most motor vehicles in the
10 enhanced and basic areas of the state to obtain and pass a Smog Check inspection every two years
11 or when the vehicle title is transferred. Smog Check Certificates of Compliance are issued to
12 vehicles that have passed a Smog Check Inspection. These inspections are performed by Licensed
13 Smog Check Stations/Inspectors. The Bureau of Automotive Repair (BAR) administers the Smog
14 Check Program. The Smog Check Program's purpose is to reduce air pollution by identifying and
15 requiring the repair of polluting motor vehicles.

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

22 47. The DAD is an On-Board Diagnostic (OBD) scan tool that, when requested by the
23 California BAR-OIS software, retrieves On-Board Diagnostic II (OBD II) data from the vehicle.
24 The DAD connects between the BAR-OIS computer and the vehicle's diagnostic link connector.
25 The DAD is the only BAR-certified component of the BAR-OIS. The BAR-OIS software
26 requires a continuous internet connection when performing a Smog Check inspection. The BAR-
27 OIS uses its software to communicate with the VID through the internet connection. The bar
28 code scanner is used to input technician information, the vehicle identification number (VIN), and

1 the Department of Motor Vehicle renewal information. The printer is used to provide a vehicle
2 inspection report (VIR), which shows the inspection results and the Smog Check Certificate of
3 Compliance number for passing vehicles. The VIN that is physically present on all vehicles is
4 required to be programmed into the vehicle's Powertrain Control Module (PCM) beginning in
5 2005. Some were programed into the PCMs and on-board computers on earlier year model
6 vehicles. The electronically programmed VIN is referred to as the "eVIN", and is captured by the
7 Bureau during a smog check inspection and should match the physical VIN on the vehicle. Data
8 retrieved, captured, and recorded to the VID during an OIS smog check inspection includes the
9 eVIN, the communication protocol¹, and the Parameter Identifications (PID)².

10 48. Smog Check Inspectors are required to perform visual and functional tests to the
11 vehicle as outlined in the Smog Check Manual. The Smog Check Inspector must conduct a visual
12 inspection of the emission control components/devices to verify they are present and properly
13 connected. The Smog Check Inspector must perform a functional test of the malfunction
14 Indicator Lamp (MIL). The BAR-OIS prompts the Smog Check Inspector to start the vehicle's
15 engine and might ask them to raise the engine RPM. The BAR-OIS software makes the
16 determination whether the vehicle passes the inspection based on the results of the visual,
17 functional, and OBD II tests.

18 49. The EIS or BAR-OIS, dependent upon the test type, prints a VIR, which is a physical
19 record of the test results and shows the Smog Check Certificate of Compliance number that was
20 issued if the vehicle passed the Smog Check Inspection. The Smog Check Inspector must sign the
21 VIR to show that the inspection was performed within BAR guidelines. Licensed Smog Check
22 Inspectors are the only persons authorized by the BAR to perform official Smog Check
23 Inspections. They are issued a license and a personal access code which are used to gain access to

24
25 ¹ The OBD II communication protocol describes the specified communication "language" used by
26 the OBD II computer to relay or communicate information to scan tools and other computers or devices
27 such as the BAR-OIS. The communication protocol is programmed into the vehicle's on-board computer
28 during manufacture and does not change.

² PIDs are data points reported by the vehicle's on-board computer/PCM to a scan tool or BAR-
OIS, such as engine speed, vehicle speed, engine temperature, throttle position, and other input and output
values utilized by the vehicle's on-board computer and is programmed during manufacture. The PID count
is the number of data points each PCM reports related to emissions controls.

1 the EIS and used to set up a username and password within the BAR-OIS to perform Smog Check
2 Inspections. Beginning May 1, 2023, Smog Check inspectors must use a biometric palm scanner
3 instead of a password login for the BAR-OIS.

4 50. The VID contains vehicle registration data from DMV, emission standards, vehicle
5 Smog Check Inspection data, smog check station and inspector information, and Smog Check
6 Certificates of Compliance. The VID has an internal clock that is set to Pacific Standard Time and
7 records the time and date for each inspection. Each Smog Check Certificate of Compliance has a
8 unique control number so that it can be tracked to determine which Smog Check Station
9 purchased it and which vehicle it was issued to. The VID receives the Smog Check Inspection
10 results immediately following the inspection. BAR can access the VID to view test data for Smog
11 Check Inspections performed at any Smog Check Station. BAR can search, retrieve, and print test
12 records for all tested vehicles.

13 51. BAR has identified several means by which fraudulent Smog Check Certificates of
14 Compliance are issued to vehicles that will not pass a Smog Check Inspection or are not present
15 during the Smog Check Inspection. Some of these methods are known as “clean piping,” “clean
16 gassing,” and “clean plugging.” Electronic defeat devices are used to simulate vehicles during the
17 BAR-OIS Smog Check Inspection. These devices mimic vehicle data for the purpose of
18 generating passing data to issue fraudulent Smog Check Certificates of Compliance. This method
19 is known as “clean plugging.” Clean plugging is when another vehicle, an electronic defeat
20 device, and/or computer programming, is used to generate passing data readings to vehicles that
21 will not pass the inspection or are not present for testing.

22 **VEHICLE EMISSION CONTROL INFORMATION FOR BAVARIAN MOTOR WORKS**

23 **(BMW) VEHICLES**

24 52. The BMW X5 XDRIVE35D and 335 D models from 2009 through 2013 are
25 equipped with exhaust system aftertreatment systems. The aftertreatment systems aim to convert
26 harmful pollutants produced by the vehicle’s diesel engine during combustion into less harmful
27 exhaust gases. Inspection and Maintenance (I/M) Readiness Monitors show when the vehicle’s
28 computer has completed self-tests of the emission control systems. BMW released a Technical

1 Service Bulletin (TSB) titled “Individual Driving Cycles for OBD2 Readiness Codes” in April
2 2018. The TSB contains instructions and procedures for drive cycle and readiness monitor
3 completion for the vehicles referenced herein.

4 53. An OBDII “driving cycle” consists of an engine start up, vehicle operation (driving
5 the vehicle up to operating temperature with wheel speed and coasting (off throttle or “overrun”))
6 and engine shut off. The driving cycle must be completed for all monitored systems to be checked
7 and set to “Ready.” Many of the vehicle emission components are monitored, which are
8 described in BMW’s TSB SI 12 14 18, including the following three I/M Readiness Monitors:

9 (1) Non-Methane Hydrocarbon Catalyst (NHMC). NMHC Catalyst Monitoring
10 monitors the efficiency of the oxidation catalyst. The oxidation catalyst converts carbon
11 monoxide into less harmful substances;

12 (2) Particulate Filter Monitor (PM). Checks the functionality of the particulate matter
13 filter. The PM Filter reduces particulate emissions; and,

14 (3) NOx Aftertreatment Monitor. Monitors the NOx reduction system.

15 BMW’s Engine Control Unit is called Digital Diesel Electronics (DDE) and is specifically
16 for diesel engines. According to BMW’s TSB, it takes seven and a half hours of engine operating
17 time to check the diesel particulate filter generation in order to complete the PM Filter Monitor
18 and set the I/M Readiness Monitors to “Ready” or “Y” in the OIS Test Details. The DDE needs
19 to see two successful regenerations to set the readiness to “Ready.” Clearing Diagnostic Trouble
20 Codes (DTC) or programming the DDE will reset all I/M Readiness Monitors to “Not Ready” or
21 “N” which requires a drive cycle(s) to complete.

22 **REVIEW OF BAR’S VEHICLE INFORMATION DATABASE DATA**

23 54. Bureau representative J.B. reviewed BAR’s Vehicle Information Database (VID) data
24 for smog check inspections performed at Respondent’s facility. J.B. found that over a 22 month
25 period, Respondent issued fraudulent smog check certificates of compliance to fifty 2009 through
26 2013 BMW X5 SDRIVE35D (E70) and 335D (E90) vehicles equipped with diesel engines,
27 including the nine vehicles specifically referenced below, using clean plugging methods. In each
28 case, the tested vehicles did not transmit the correct eVIN and their IM Readiness Monitors had

1 been altered. This meant that the OBDII driving cycle(s) of the nine vehicles were not
2 completed after the DTCs were cleared in order for the I/M Readiness Monitors to be “Ready” for
3 inspection, constituting clean-plugging, and resulting in the issuance of fraudulent certificates of
4 compliance for the vehicles. The same eVIN was identified by the BAR-OIS
5 (5UXFF035X9LJ98144) in all fifty (50) fraudulent Smog Check Inspections. A Carfax report was
6 obtained for the eVIN identified by the BAR-OIS. The report shows this vehicle is/was a 2009
7 BMW X5 XDRIVE35D registered in Ontario, Canada.

8 Vehicle 1

9 55. The OIS test data showed that on March 22, 2023, Respondent performed a smog
10 check inspection on a 2010 BMW X5 XDRIVE35D (Vehicle 1), resulting in the issuance of
11 electronic Smog Certificate of Compliance Number TE748663C. The OIS test details for
12 Vehicle 1 showed that the eVIN recorded during the inspection was 5UXFF035X9LJ98144,
13 which was incorrect. Also, the OBDII Readiness Monitor Details for Vehicle 1 showed that the
14 NOx Aftertreatment Monitor was not supported, the Distance Traveled Since DTCs Cleared was
15 0 kilometers (km) and the Warmup Count was 0.

16 56. J.B. reviewed Similar Vehicle OIS Test Data for 2010 BMW X5 XDRIVE35D
17 vehicles which showed that they transmit the correct eVIN.

18 57. The OIS test data showed that on September 30, 2021, a previous Smog Check
19 Inspection was performed at another smog check station on Vehicle 1, and it did not pass
20 inspection due to illuminated MIL, multiple stored DTCs, and the OBDII Readiness Monitors
21 “Not Ready.” The eVIN reported during the September 30, 2021, inspection was recorded
22 correctly and the NOx Aftertreatment Monitor was supported.

23 58. J.B. found that on March 22, 2023, at Respondent’s facility, the eVIN transmitted to
24 the VID for Vehicle 1 in the OIS test data belonged to a 2009 BMW X5 registered in Ontario,
25 Canada. J.B. also found that when Respondent entered Vehicle 1 into the BAR-OIS on March
26 22, 2023, it did not return the expected eVIN or OBDII Readiness Monitors. Clearing DTCs or
27 programming the DDE will reset all I/M Readiness Monitors to “Not Ready” or “N” which
28 requires a drive cycle(s) to complete. The OBDII Readiness Monitors require a driving cycle

1 before they can complete, and 0 km and 0 Warmup Counts were reported. J.P. concluded that
2 Respondent issued a fraudulent certificate of compliance for Vehicle 1 using clean-plugging
3 methods.

4 Vehicle 2

5 59. The OIS tests data showed that on March 28, 2023, Respondent performed a smog
6 check inspection on a 2011 BMW X5 XDRIVE35D (Vehicle 2), resulting in the issuance of
7 electronic Smog Certificate of Compliance Number TE968802C. The OIS test details for Vehicle
8 2 showed that the eVIN recorded during the inspection was incorrect. The OBDII Readiness
9 Monitor Details for Vehicle 2 showed that the NMHC Catalyst Monitor, NOx Aftertreatment
10 Monitor, and the PM Filter Monitor were not supported. Also, the Distance Traveled Since DTCs
11 Cleared was 4 km and the Warmup Count was 0.

12 60. J.B. reviewed Similar Vehicle OIS Test Data for 2011 BMW X5 XDRIVE35D
13 vehicles which showed that they transmit the correct eVIN.

14 61. The OIS test data showed that on October 29, 2022, a previous Smog Check
15 Inspection was performed at another smog check station on Vehicle 2, and did not pass the
16 inspection due to modified software. However, J.B. found that the eVIN reported during the
17 October 29, 2022, inspection was reported correctly and the NMHC Catalyst Monitor, NOx
18 Aftertreatment Monitor and the PM Filter Monitor were supported.

19 62. J.B. found that on March 28, 2023, the eVIN transmitted to the VID for Vehicle 2 in
20 the OIS test data belonged to a 2009 BMW X5 registered in Ontario, Canada. J.B. also found that
21 when Respondent entered Vehicle 2 into the BAR-OIS on March 28, 2023, it did not return the
22 expected eVIN or OBDII Readiness Monitors. Clearing DTCs or programming the DDE will
23 reset all I/M Readiness Monitors to “Not Ready” or “N” which requires a drive cycle(s) to
24 complete. The OBDII Readiness Monitors require a driving cycle before they can complete, and
25 4 km and 0 Warmup Counts were reported. J.P. concluded that Respondent issued a fraudulent
26 certificate of compliance for Vehicle 2 using clean-plugging methods.

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1 Vehicle 3

2 63. The OIS tests data showed that on February 12, 2024, at 8:11 p.m., Respondent
3 performed a smog check inspection on a 2011 BMW X5 XDRIVE35D (Vehicle 3), resulting in
4 the issuance of electronic Smog Certificate of Compliance Number TS526437C. The OIS test
5 details for Vehicle 3 showed that the eVIN recorded during the inspection was incorrect. The
6 OBDII Readiness Monitor Details for Vehicle 3 showed that the NMHC Catalyst Monitor, NOx
7 Aftertreatment Monitor, and the PM Filter Monitor were not supported. Also, the Distance
8 Traveled Since DTCs Cleared was 0 km and the Warmup Count was 0.

9 64. J.B. reviewed Similar Vehicle OIS Test Data for 2011 BMW X5 XDRIVE35D
10 vehicles which showed that they transmit the correct eVIN.

11 65. The OIS test data showed that on February 12, 2024, at 7:05 p.m. (approximately one
12 hour before the fraudulent test), a previous Smog Check Inspection was performed by
13 Respondent on Vehicle 3, and it did not pass the inspection due to modified software. However,
14 J.B. found that the eVIN reported during the 7:05 p.m. inspection was recorded correctly; the
15 OBDII Readiness Monitor Details show that the NMHC Catalyst Monitor, NOx Aftertreatment
16 Monitor and the PM Filter Monitor were supported; the Distance Traveled Since DTCs Cleared
17 was 0 km; and the Warmup Count was 1.

18 66. J.B. found that on February 12, 2024, at 8:11 p.m., the eVIN transmitted to the VID
19 for Vehicle 3 in the OIS test data belonged to a 2009 BMW X5 registered in Ontario, Canada.
20 J.B. also found that when Respondent entered Vehicle 3 into the BAR-OIS on February 12, 2024
21 at 8:11 p.m., it did not return the expected eVIN or OBDII Readiness Monitors. Clearing DTCs
22 or programming the DDE will reset all I/M Readiness Monitors to “Not Ready” or “N” which
23 requires a drive cycle(s) to complete. The OBDII Readiness Monitors require a driving cycle
24 before they can complete and the Distance Traveled Since Codes Cleared was 0 km and the
25 Warmup Counts was 0. J.P. concluded that Respondent issued a fraudulent certificate of
26 compliance for Vehicle 3 using clean-plugging methods.

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1 Vehicle 4

2 67. The OIS tests data showed that on March 20, 2024, Respondent performed a smog
3 check inspection on a 2011 BMW 335 D (Vehicle 4), resulting in the issuance of electronic Smog
4 Certificate of Compliance Number TU429217C. The OIS test details for Vehicle 4 showed that
5 the eVIN recorded during the inspection was incorrect. The OBDII Readiness Monitor Details
6 for Vehicle 4 showed that the NMHC Catalyst Monitor, NOx Aftertreatment Monitor, and the
7 PM Filter Monitor were not supported. Also, the Distance Traveled Since DTCs Cleared was 0
8 km and the Warmup Count was 0.

9 68. J.B. reviewed Similar Vehicle OIS Test Data for 2011 BMW 335 D vehicles which
10 showed that they transmit the correct eVIN.

11 69. The OIS test data showed that on March 16, 2024, a previous Smog Check Inspection
12 was performed at another smog check station on Vehicle 4, and it did not pass the inspection due
13 to modified software. However, J.B. found that the eVIN reported during March 16, 2024,
14 inspection was recorded correctly and the OBDII Readiness Monitor Details show the NMHC
15 Catalyst Monitor, NOx Aftertreatment Monitor and the PM Filter Monitor were supported.

16 70. The OIS test data showed that on July 15, 2023, a previous Smog Check Inspection
17 was performed at another smog check station on Vehicle 4, and it did not pass the inspection due
18 to modified software. However, J.B. found that the eVIN reported during July 15, 2023,
19 inspection was recorded correctly. The OBDII Readiness Monitor Details show the NMHC
20 Catalyst Monitor, NOx Aftertreatment Monitor, and the PM Filter Monitor were supported.

21 71. J.B. found that on March 20, 2024, the eVIN transmitted to the VID for Vehicle 4 in
22 the OIS test data belonged to a 2009 BMW X5 registered in Ontario, Canada. J.B. also found that
23 when Respondent entered Vehicle 4 into the BAR-OIS on March 20, 2024, it did not return the
24 expected eVIN or OBDII Readiness Monitors. Both previous Smog Check Inspections failed due
25 to modified software and reported the correct eVIN and OBDII Readiness Monitors. Clearing
26 DTCs or programming the DDE will reset all I/M Readiness Monitors to “Not Ready” or “N”
27 which requires a drive cycle(s) to complete. The OBDII Readiness Monitors require a driving
28 cycle before they can complete, and 0 km and 0 warmup counts were reported. J.P. concluded

1 Respondent issued a fraudulent Smog Check Certificate of Compliance for Vehicle 4 using clean-
2 plugging methods.

3 Vehicle 5

4 72. The OIS tests data showed that on September 24, 2024, at 3:25 p.m., Respondent
5 performed a smog check inspection on a 2009 BMW X5 XDRIVE35D (Vehicle 5), resulting in
6 the issuance of electronic Smog Certificate of Compliance Number UE295523C. The OIS test
7 details for Vehicle 5 showed that the eVIN recorded during the inspection was incorrect. The
8 OBDII Readiness Monitor Details for Vehicle 5 showed that the NMHC Catalyst Monitor, NOx
9 Aftertreatment Monitor, and the PM Filter Monitor were not supported. Also, the Distance
10 Traveled Since DTCs Cleared was 0 km and the Warmup Count was 0.

11 73. J.B. reviewed Similar Vehicle OIS Test Data for 2009 BMW X5 XDRIVE35D
12 vehicles which showed that they transmit the correct eVIN.

13 74. The OIS test data showed that on September 24, 2024, at 1:04 p.m. (approximately
14 two hours before the fraudulent test), a previous Smog Check Inspection was performed by
15 Respondent on Vehicle 5, and it did not pass the inspection due to OBDII Readiness Monitors
16 “Not Ready”. However, J.B. found that the eVIN reported during 1:04 p.m. inspection was
17 recorded correctly and the OBDII Readiness Monitor Details show the NMHC Catalyst Monitor,
18 NOx Aftertreatment Monitor and the PM Filter Monitor were supported.

19 75. J.B. found that on September 24, 2024, at 3:25 p.m., the eVIN transmitted to the VID
20 for Vehicle 5 in the OIS test data belonged to a 2009 BMW X5 registered in Ontario, Canada.
21 J.B. also found that when Respondent entered Vehicle 5 into the BAR-OIS on September 24,
22 2024, at 3:25 p.m., it did not return the expected eVIN or OBDII Readiness Monitors. Clearing
23 DTCs or programming the DDE will reset all I/M Readiness Monitors to “Not Ready” or “N”
24 which requires a drive cycle(s) to complete. The OBDII Readiness Monitors require a driving
25 cycle before they can complete, and 0 km and 0 warmup counts were reported. J.P. concluded
26 that Respondent issued a fraudulent certificate of compliance for Vehicle 5 using clean-plugging
27 methods.

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1 Vehicle 6

2 76. The OIS tests data showed that on October 1, 2024, Respondent performed a smog
3 check inspection on a 2012 BMW X5 XDRIVE35D (Vehicle 6), resulting in the issuance of
4 electronic Smog Certificate of Compliance Number JB207972C. The OIS test details for Vehicle
5 6 showed that the eVIN recorded during the inspection was incorrect. The OBDII Readiness
6 Monitor Details for Vehicle 6 showed that the NMHC Catalyst Monitor, NOx Aftertreatment
7 Monitor, and the PM Filter Monitor were not supported. Also, the Distance Traveled Since DTCs
8 Cleared was 0 km and the Warmup Count was 1.

9 77. J.B. reviewed Similar Vehicle OIS Test Data for 2012 BMW X5 XDRIVE35D
10 vehicles which showed that they transmit the correct eVIN.

11 78. The OIS test data showed that on September 8, 2023, a previous Smog Check
12 Inspection was performed at another smog check station on Vehicle 6, and it did not pass the
13 inspection due to the OBDII Readiness Monitors “Not Ready.” However, J.B. found that the
14 eVIN reported during the September 8, 2023, inspection was recorded correctly and the OBDII
15 Readiness Monitor Details show the NMHC Catalyst Monitor, NOx Aftertreatment Monitor and
16 the PM Filter Monitor were supported.

17 79. J.B. found that on October 1, 2024, the eVIN transmitted to the VID for Vehicle 6 in
18 the OIS test data belonged to a 2009 BMW X5 registered in Ontario, Canada. J.B. also found that
19 when Respondent entered Vehicle 6 into the BAR-OIS on October 1, 2024, it did not return the
20 expected eVIN or OBDII Readiness Monitors. Clearing DTCs or programming the DDE will
21 reset all I/M Readiness Monitors to “Not Ready” or “N” which requires a drive cycle(s) to
22 complete. The OBDII Readiness Monitors require a driving cycle before they can complete, and 0
23 km and 1 warmup count were reported. J.P. concluded that Respondent issued a fraudulent
24 certificate of compliance for Vehicle 6 using clean-plugging methods.

25 Vehicle 7

26 80. The OIS tests data showed that on November 5, 2024, Respondent performed a smog
27 check inspection on a 2011 BMW 335 D (Vehicle 7), resulting in the issuance of electronic Smog
28 Certificate of Compliance Number UG056594C. The OIS test details for Vehicle 7 showed that

1 the eVIN recorded during the inspection was incorrect. The OBDII Readiness Monitor Details
2 for Vehicle 7 showed that the NMHC Catalyst Monitor, NOx Aftertreatment Monitor, and the
3 PM Filter Monitor were not supported. Also, the Distance Traveled Since DTCs Cleared was 0
4 km and the Warmup Count was 1.

5 81. J.B. reviewed Similar Vehicle OIS Test Data for 2011 BMW 335 D vehicles which
6 showed that they transmit the correct eVIN.

7 82. The OIS test data showed that on May 11, 2020, a previous Smog Check Inspection
8 was performed at another smog check station on Vehicle 7, and it did not pass the inspection due
9 to the OBDII Readiness Monitors “Not Ready.” However, J.B. found that the eVIN reported
10 during the May 11, 2020, inspection was recorded correctly and the OBDII Readiness Monitor
11 Details show the NMHC Catalyst Monitor, NOx Aftertreatment Monitor and the PM Filter
12 Monitor were supported.

13 83. J.B. found that on November 5, 2024, the eVIN transmitted to the VID for Vehicle 7
14 in the OIS test data belonged to a 2009 BMW X5 registered in Ontario, Canada. J.B. also found
15 that when Respondent entered Vehicle 7 into the BAR-OIS on November 5, 2024, it did not
16 return the expected eVIN or OBDII Readiness Monitors. Clearing DTCs or programming the
17 DDE will reset all I/M Readiness Monitors to “Not Ready” or “N” which requires a drive cycle(s)
18 to complete. The OBDII Readiness Monitors require a driving cycle before they can complete,
19 and 0 km and 1 warmup count were reported. J.P. concluded that Respondent issued a fraudulent
20 certificate of compliance for Vehicle 7 using clean-plugging methods.

21 Vehicle 8

22 84. The OIS tests data showed that on November 29, 2024, Respondent performed a
23 smog check inspection on a 2010 BMW 335 D (Vehicle 8), resulting in the issuance of electronic
24 Smog Certificate of Compliance Number UG745743C. The OIS test details for Vehicle 8
25 showed that the eVIN recorded during the inspection was incorrect. The OBDII Readiness
26 Monitor Details for Vehicle 8 showed that the NMHC Catalyst Monitor, NOx Aftertreatment
27 Monitor, and the PM Filter Monitor were not supported. Also, the Distance Traveled Since DTCs
28 Cleared was 0 km and the Warmup Count was 0.

1 85. J.B. reviewed Similar Vehicle OIS Test Data for 2010 BMW 335 D vehicles which
2 showed that they transmit the correct eVIN.

3 86. The OIS test data showed that on October 23, 2024, a previous Smog Check
4 Inspection was performed at another smog check station on Vehicle 8, and it did not pass the
5 inspection due to the OBDII Readiness Monitors “Not Ready,” and illuminated MIL with stored
6 DTCs. However, J.B. found that the eVIN reported during the October 23, 2024, inspection was
7 recorded correctly and the OBDII Readiness Monitor Details show the NMHC Catalyst Monitor,
8 NOx Aftertreatment Monitor and the PM Filter Monitor were supported.

9 87. J.B. found that on November 29, 2024, the eVIN transmitted to the VID for Vehicle 8
10 in the OIS test data belonged to a 2009 BMW X5 registered in Ontario, Canada. J.B. also found
11 that when Respondent entered Vehicle 8 into the BAR-OIS on November 29, 2024, it did not
12 return the expected eVIN or OBDII Readiness Monitors. Clearing DTCs or programming the
13 DDE will reset all I/M Readiness Monitors to “Not Ready” or “N” which requires a drive cycle(s)
14 to complete. The OBDII Readiness Monitors require a driving cycle before they can complete,
15 and 0 km and 0 Warmup Counts were reported. J.P. concluded that Respondent issued a
16 fraudulent certificate of compliance for Vehicle 8 using clean-plugging methods.

17 Vehicle 9

18 88. The OIS tests data showed that on January 17, 2025, at 3:30 p.m., Respondent
19 performed a smog check inspection on a 2011 BMW 335 D (Vehicle 9), resulting in the issuance
20 of electronic Smog Certificate of Compliance Number UI738300C. The OIS test details for
21 Vehicle 9 showed that the eVIN recorded during the inspection was incorrect. The OBDII
22 Readiness Monitor Details for Vehicle 9 showed that the NMHC Catalyst Monitor, NOx
23 Aftertreatment Monitor, and the PM Filter Monitor were not supported. Also, the Distance
24 Traveled Since DTCs Cleared was 14 km and the Warmup Count was 1.

25 89. J.B. reviewed Similar Vehicle OIS Test Data for 2011 BMW 335 D vehicles which
26 showed that they transmit the correct eVIN.

27 90. The OIS test data showed that on January 17, 2025, at 1:20 p.m. (approximately two
28 hours before the fraudulent test), a previous Smog Check Inspection was performed by

1 Respondent on Vehicle 9, and it did not pass the inspection due to a stored communication failure
2 DTC. J.B. found that the eVIN reported during the 1:20 p.m. inspection was not recorded
3 correctly; the OBDII Readiness Monitor Details show the NMHC Catalyst Monitor, NOx
4 Aftertreatment Monitor and the PM Filter Monitor were not supported; the Distance Traveled
5 Since DTCs Cleared was 0 km; and the Warmup Count was 1.

6 91. On or about December 5, 2024, a previous Smog Check Inspection was performed at
7 another smog check station on Vehicle 9, and it did not pass inspection due to an illuminated MIL
8 with a stored DTC. However, J.B. found that the eVIN was reported during the December 5,
9 2024, was reported correctly and the OBDII Readiness Monitor Details show the NMHC Catalyst
10 Monitor, NOx Aftertreatment Monitor and the PM Filter Monitor were supported.

11 92. J.B. found that on January 17, 2025, at 3:30 p.m., the eVIN transmitted to the VID for
12 Vehicle 9 in the OIS test data belonged to a 2009 BMW X5 registered in Ontario, Canada. J.B.
13 also found that when Respondent entered Vehicle 9 into the BAR-OIS on January 17, 2025, it did
14 not return the expected eVIN or OBDII Readiness Monitors. Clearing DTCs or programming the
15 DDE will reset all I/M Readiness Monitors to “Not Ready” or “N” which requires a drive cycle(s)
16 to complete. The OBDII Readiness Monitors require a driving cycle before they can complete,
17 and 14 km and 1 Warmup Counts were reported. J.P. concluded that Respondent issued a
18 fraudulent certificate of compliance for Vehicle 9 using clean-plugging methods.

19 Bureau’s Request for Records

20 93. On or about March 26, 2025, J.B. visited Respondent’s facility, Sunrise Smog, and
21 met with Respondent. J.B. observed many electronic devices, such as control modules, in
22 different states of assembly in Respondent’s facility. J.B. also observed different tools and
23 equipment for testing and repairing electronics. J.B. made written requests for records for eleven
24 vehicles, including Vehicles 1 through 9. Respondent provided J.B. with records for seven of the
25 eleven vehicles. Respondent admitted that he was the only one who performed Smog Check
26 Inspections at his facility. On or about April 2, 2025, J.B. returned to Sunrise Smog and
27 Respondent provided records for two of the four remaining vehicles. Respondent admitted that
28 he could not find records for the remaining two vehicles.

1 inspections were performed of the emission control devices and systems on the vehicles, thereby
2 depriving the People of the State of California of the protections afforded by the Motor Vehicle
3 Inspection Program.

4 **THIRD CAUSE FOR DISCIPLINE**

5 **(Failure to Comply with the Automotive Repair Act– ARD Registration)**

6 97. Respondent’s ARD registration is subject to disciplinary action under Code section
7 9884.7, subdivision (a)(6), in that Respondent failed to materially comply with the Automotive
8 Repair Act (Code section 9880 et seq.). Specifically, Respondent violated Code section 9884.8
9 and CCR, section 3340.41.3 when he failed to describe on the invoices all service work
10 performed for Vehicles 3, 5, and 9, as set forth above in paragraph 94 and incorporated herein by
11 reference.

12 **FOURTH CAUSE FOR DISCIPLINE**

13 **(Failure to Maintain Records– ARD Registration)**

14 98. Respondent’s ARD registration is subject to disciplinary action under Code section
15 9884.7, subdivision (a)(6), in that regarding Vehicles 1, 2, and 5, Respondent failed to maintain
16 records as required by Code section 9884.11, as set forth above in paragraphs 93 and 94 and
17 incorporated herein by reference.

18 **FIFTH CAUSE FOR DISCIPLINE**

19 **(False Statement or Entry on a Certificate of Compliance– ARD Registration)**

20 99. Respondent’s ARD registration is subject to disciplinary action under Code section
21 9884.7, subdivision (a)(6), in that Respondent made false statements or entries on the Certificates
22 of Compliance issued for vehicles 1 through 9, identified and as set forth above in paragraphs 55
23 through 92, in that Respondent certified that the inspection of the vehicles were in accordance
24 with all bureau requirements and the information listed on the vehicle inspection report was true
25 and accurate. In fact, Respondent used clean plugging methods to generate passing data readings
26 for vehicles 1 through 9, that would not pass the inspection or were not present for testing.

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1 **SIXTH CAUSE FOR DISCIPLINE**

2 **(Violations of the Motor Vehicle Inspection Program – RC and TC Station Licenses)**

3 100. Respondent’s RC and TC station licenses are subject to disciplinary action under
4 Health & Saft. Code sections 44072.2, subdivision (a), and 44072.10, in that regarding Vehicles 1
5 through 9, identified in paragraphs 55 through 92, Respondent failed to comply with provisions of
6 the Code and the Health & Saft. Code, as set forth above in paragraphs 55 through 92, and as
7 follows:

8 a. **Health & Saft. Code Section 44012:** Respondent failed to ensure that the
9 emission control tests were performed on the vehicles in accordance with laws, regulations, and
10 procedures prescribed by the department.

11 b. **Health & Saft. Code Section 44015:** Respondent issued fraudulent electronic
12 smog certificates of compliance for vehicles without ensuring that the vehicles were properly
13 tested and inspected to determine if they were in compliance with Health & Saf. Code section
14 44012.

15 **SEVENTH CAUSE FOR DISCIPLINE**

16 **(Violations of Regulations Pursuant to the Motor Vehicle Program – RC and TC Station**
17 **Licenses)**

18 101. Respondent’s RC and TC station licenses are subject to disciplinary action under
19 Health & Saf. Code sections 44072.2, subdivision (c) and 44072.10, in that regarding Vehicles 1
20 through 9, Respondent failed to comply with provisions of CCR, as set forth above in paragraphs
21 55 through 92, and follows:

22 a. **Section 3340.35, subdivision (c):** Respondent issued electronic smog
23 certificates of compliance for the vehicles even though the vehicles had not been inspected in
24 accordance with CCR section 3340.42.

25 b. **Section 3340.42:** Respondent failed to ensure that the required smog tests were
26 conducted on the vehicles in accordance with the Bureau’s laws, regulations, and specifications.

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1 **EIGHTH CAUSE FOR DISCIPLINE**

2 **(Dishonesty, Fraud or Deceit – RC and TC Station Licenses)**

3 102. Respondent’s RC and TC station licenses are subject to disciplinary action under
4 Health & Saf. Code sections 44072.2, subdivision (d), and 44072.10, subdivision (c), in that
5 Respondent committed dishonest, fraudulent or deceitful acts whereby another was injured by
6 issuing fraudulent electronic smog certificates of compliance for Vehicles 1 through 9, identified
7 in paragraphs 55 through 92. Respondent certified that the inspection of the vehicles were in
8 accordance with all bureau requirements and the information listed on the vehicle inspection
9 report was true and accurate. In fact, clean plugging methods were used to generate passing data
10 readings for vehicles 1 through 9, that would not pass the inspection or were not present for
11 testing. Respondent failed to ensure that a bona fide inspection was performed of the emission
12 control devices and systems on the vehicles, thereby depriving the People of the State of
13 California of the protection afforded by the Motor Vehicle Inspection Program.

14 **NINTH CAUSE FOR DISCIPLINE**

15 **(Violations of the Motor Vehicle Inspection Program – Inspector and Technician Licenses)**

16 103. Respondent’s inspector and technician licenses are subject to disciplinary action
17 under Health & Saf. Code sections 44072.2, subdivision (a) and 44072.10, in that regarding
18 Vehicles 1 through 9, identified in paragraphs 55 through 92, Respondent failed to comply with
19 provisions of the Code and Health & Saft. Code, as set forth above in paragraphs 55 through 92,
20 and as follows:

21 a. **Health & Saft. Code Section 44012:** Respondent failed to ensure that the
22 emission control tests were performed on the vehicles in accordance with laws, regulations, and
23 procedures prescribed by the department.

24 b. **Health & Saft. Code Section 44015:** Respondent issued fraudulent electronic
25 smog certificates of compliance for vehicles without ensuring that the vehicles were properly
26 tested and inspected to determine if they were in compliance with Health & Saf. Code section
27 44012.

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1 **TENTH CAUSE FOR DISCIPLINE**

2 **(Failure to Comply with Regulations – Inspector and Technician Licenses)**

3 104. Respondent’s inspector and technician licenses are subject to disciplinary action
4 under Health & Saf. Code section 40072.2, subdivision (c) and 40072.10, in that regarding
5 Vehicles 1 through 9, Respondent failed to comply with provisions of CCR, as set forth above in
6 paragraphs 55 through 92, and follows:

7 a. **Section 3340.30, subdivision (a)**: Respondent failed to inspect and test the
8 vehicles in accordance with Health & Saf. Code sections 44012 and 44035, and CCR section
9 3340.42.

10 b. **Section 3340.42**: Respondent failed to conduct the required smog test on
11 vehicles in accordance with Bureau’s specifications.

12 **ELEVENTH CAUSE FOR DISCIPLINE**

13 **(Dishonesty, Fraud or Deceit – Inspector and Technician Licenses)**

14 105. Respondent’s inspector and technician licenses are subject to disciplinary action
15 under Health & Saf. Code sections 44072.2, subdivision (d), and 44072.10, in that he committed
16 dishonest, fraudulent, or deceitful acts whereby another was injured by issuing fraudulent
17 electronic smog certificates of compliance for Vehicles 1 through 9, identified in paragraphs 55
18 through 92. Respondent certified that the inspections of the vehicles were in accordance with all
19 bureau requirements and the information listed on the vehicle inspection report was true and
20 accurate. In fact, clean plugging methods were used to generate passing data readings for
21 vehicles 1 through 9, that would not pass the inspection or were not present for testing.
22 Respondent failed to ensure that a bona fide inspection was performed of the emission control
23 devices and systems on the vehicles, thereby depriving the People of the State of California of the
24 protection afforded by the Motor Vehicle Inspection Program.

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MATTERS IN AGGRAVATION

106. To determine the degree of disciplined, if any, to be imposed, Complainant alleges as follows:

Sunrise Smog

107. On January 26, 2010, the Bureau issued Citation Number C2010-0736 to Respondent doing business as Sunrise Smog against ARD registration 240390 and TC station license number 240390 for violations of Health & Saf. Code section 44012, subdivision(f) (failure to perform a visual/functional check of emission control devices) and Regulation 3340.35, subdivision (c) (issuing a certificate of compliance to a vehicle improperly tested). Respondent issued a certificate of compliance to a Bureau vehicle with a non-functional exhaust gas recirculation system. The Bureau assessed a civil penalty of \$500. Respondent complied with the citation on March 17, 2010.

108. On May 4, 2010, the Bureau issued Citation Number C2010-1161 to Respondent doing business as Sunrise Smog against ARD registration number ARD 240390 and TC station license number TC 240390 for violations of Health & Saf. Code section 44012, subdivision (f) (failure to perform a visual/functional check of emission control devices) and Regulation 3340.35, subdivision (c) (issuing a certificate of compliance to a vehicle improperly tested). Respondent issued a certificate of compliance to a Bureau vehicle with a missing PCV system. The Bureau assessed a civil penalty of \$1,500. Respondent complied with the citation on July 16, 2010.

109. On August 16, 2010, the Bureau issued Citation Number C2011-0180 to Respondent doing business as Sunrise Smog against ARD registration number ARD 240390 and TC station license number TC 240390 for violations of Health & Saf. Code section 44012, subdivision (f) (failure to perform a visual/functional check of emission control devices) and Regulation 3340.35, subdivision (c) (issuing a certificate of compliance to a vehicle improperly tested). Respondent issued a certificate of compliance to a Bureau vehicle with a missing PCV system. The Bureau assessed a civil penalty of \$2,500. Respondent complied with the citation on October 26, 2011.

1 110. On February 5, 2014, the Bureau issued Citation Number C2014-0526 to Respondent
2 doing business as Sunrise Smog against ARD registration number ARD 240390 and TC station
3 license number TC 240390 for violations of Health & Saf. Code section 44012, subdivision (f)
4 (failure to perform a visual/functional check of emission control devices). Respondent issued a
5 certificate of compliance to a Bureau vehicle with a defective disconnected and modified,
6 evaporative emissions system. The Bureau assessed a civil penalty of \$3,500. Respondent
7 appealed and the Bureau modified and re-issued the citation for \$1,500. Respondent complied
8 with the citation on June 22, 2016.

9 111. On June 12, 2015, the Bureau issued Citation Number C2015-1129 to Respondent
10 doing business as Sunrise Smog against ARD registration number ARD 240390 and TC station
11 license number TC 240390 for violations of Health & Saf. Code section 44012, subdivision (f)
12 (failure to perform a visual/functional check of emission control devices). Respondent issued a
13 certificate of compliance to a vehicle using the BAR97 when an OIS test was required. The
14 Bureau assessed a civil penalty of \$2,500. Respondent appealed and the Bureau modified and
15 reissued the citation to an order of abatement.

16 112. On January 3, 2017, the Bureau issued Citation Number C2017-0008 to Respondent
17 doing business as Sunrise Smog against ARD registration number ARD 240390 and RC station
18 license number RC 240390 for violations of Health & Saf. Code section 44012, subdivision (f)
19 (failure to perform a visual/functional check of emission control devices). Respondent issued a
20 certificate of compliance to a Bureau vehicle with a missing or modified PCV system. The
21 Bureau assessed a civil penalty of \$3,000. Respondent complied with the citation on November
22 20, 2017.

23 Jany V. Petrosian

24 113. On January 26, 2010, the Bureau issued Citation Number M2010-0737 to Respondent
25 against EA license number 152083 for violations of Health & Saf. Code section 44032, (qualified
26 technicians shall perform tests of emission control systems and devices in accordance with
27 section 44012 of that Code) and Regulation 3340.30, subdivision (a) (qualified technicians shall
28 inspect test, and repair vehicles in accordance with sections 44012 and 44035 of the Health &

1 Saf. Code and Regulation 3340.42). Respondent issued a certificate of compliance to a Bureau
2 vehicle with a nonfunctional exhaust gas recirculation system. Respondent was required to attend
3 an 8-hour training course. Respondent complied with this citation on June 6, 2010.

4 114. On May 4, 2010, the Bureau issued Citation Number M2010-1162 to Respondent
5 against EA license number 152083 for violations of Health & Saf. Code section 44032, (qualified
6 technicians shall perform tests of emission control systems and devices in accordance with
7 section 44012 of that Code) and Regulation 3340 .30, subdivision (a) (qualified technicians shall
8 inspect test, and repair vehicles in accordance with sections 44012 and 4403 5 of the Health &
9 Saf. Code and Regulation 3340.42). Respondent issued a certificate of compliance to a Bureau
10 vehicle with a missing PCV system. Respondent was required to attend a 16-hour training
11 course. Respondent complied with this citation on August 20, 2010.

12 115. On August 16, 2010, the Bureau issued Citation Number M2011-0181 to Respondent
13 against EA license number 152083 for violations of Health & Saf. Code section 44032, (qualified
14 technicians shall perform tests of emission control systems and devices in accordance with section
15 44012 of that Code) and Regulation 3340.30, subdivision (a) (qualified technicians shall inspect.
16 test and repair vehicles in accordance with sections 44012 and 44035 of the Health & Saf. Code
17 and Regulation 3340.42). Respondent issued a certificate of compliance to a Bureau vehicle with
18 a missing PCV system. Respondent was required to attend 68-hour training course. Respondent
19 complied with the citation on October 22, 2011.

20 116. On February 5, 2014, the Bureau issued Citation Number M2014-0527 to Respondent
21 against inspector license number EO 152083 for violations of Health & Saf. Code section 44012,
22 subdivision (f) (failure to perform a visual/functional check of emission control devices).
23 Respondent issued a certificate of compliance to a Bureau vehicle with a defective disconnected
24 and modified, evaporative emissions system. The Bureau assessed a civil penalty of \$1,500,
25 issued an order of abatement and required Respondent to attend a 68-hour training course.
26 Respondent appealed and the Bureau modified and re-issued the citation for \$500, an order of
27 abatement and required Respondent to attend an 8-hour training course. Respondent complied
28 with the citation on March 10, 2016.

PRAYER

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

1. Revoking or suspending ARD registration number ARD 240390, issued to Jany V. Petrosian doing business as Sunrise Smog;

2. Revoking or suspending any other automotive repair dealer registration issued in the name of Jany V. Petrosian;

3. Revoking or suspending RC station license number RC 240390, issued to Jany V. Petrosian doing business as Sunrise Smog;

4. Revoking or suspending TC station license number TC 240390, issued to Jany V. Petrosian doing business as Sunrise Smog;

5. Revoking or suspending inspector license number EO 152083, issued to Jany V. Petrosian;

6. Revoking or suspending technician license Number EI 1520083, issued to Jany V. Petrosian.

7. Revoking or suspending any additional licenses issued under Chapter 5 of Part 5 of Division 26 of the Health & Saf. Code in the name of Jany V. Petrosian;

8. Ordering Respondent to pay the Bureau the reasonable costs of the investigation and enforcement of this case, pursuant to Code section 125.3 and if placed on probation, the costs of probation monitoring; and,

9. 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

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