

1 XAVIER BECERRA
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 MICHAEL BROWN
Deputy Attorney General
4 State Bar No. 231237
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 269-6308
6 Facsimile: (213) 897-2804
E-mail: MichaelB.Brown@doj.ca.gov
7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 79/18-7150

13 **BENNY MARTINEZ-MEMBER,**
14 **BENNYS SMOG LLC**
15 **DBA BENNYS SMOG**
16 **523 W Rialto Ave #B**
17 **Rialto, CA 92375**
18 **MAILING ADDRESS**
19 **1241 W. Sequoia Ave**
20 **Bloomington, CA 92316**
21 **Automotive Repair Dealer Registration No.**
22 **ARD 282367**
23 **Smog Check Station License No. RC 282367**

A C C U S A T I O N

24 **and**

25 **BENNY MARTINEZ**
26 **1241 W. Sequoia Ave**
27 **Bloomington, CA 92316**
28 **Smog Check Inspector License Number EO**
638920
Check Repair Technician License Number
EI 638920

Respondents.

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1 Complainant alleges:

2 **PARTIES**

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

5 **Benny Martinez-Member, Bennys Smog LLC dba Bennys Smog**

6 **Automotive Repair Dealer Registration**

7 2. On or about December 30, 2015, the Bureau of Automotive Repair issued
8 Automotive Repair Dealer Registration Number ARD 282367 ("registration") to Benny
9 Martinez-Member, Bennys Smog LLC dba Bennys Smog ("Respondent Bennys Smog"). The
10 Automotive Repair Dealer Registration was in full force and effect at all times relevant to the
11 charges brought herein and will expire on December 31, 2018, unless renewed.

12 **Smog Check Station License**

13 3. On or about November 30, 2017, the Bureau issued Smog Check Station License
14 Number RC 282367 to Respondent Bennys Smog. The Smog Check Station License was in full
15 force and effect at all times relevant to the charges brought herein and will expire on December
16 31, 2018, unless renewed.

17 **STAR Station Certification**

18 4. On or about December 14, 2017, the Bureau certified Bennys Smog as a STAR
19 Station. The certification will remain active unless ARD 282367 and/or RC 282367 is revoked,
20 canceled, become delinquent, or the certification is invalidated.

21 **Benny Martinez**

22 **Inspector License/Repair Technician License**

23 5. On or about January 20, 2016, the Bureau issued Smog Check Inspector License
24 Number EO 638920 to Benny Martinez ("Respondent Martinez"). On or about November 20,
25 2017, the Bureau issued Smog Check Repair Technician License Number EI 638920 ("repair
26 technician license") to Respondent Martinez. The inspector license and repair technician license
27 were in full force and effect at all times relevant to the charges brought herein and will expire on
28 April 30, 2020, unless renewed.

1 **JURISDICTION**

2 6. Business and Professions Code ("Code") section 9884.7 provides that the Director
3 may revoke an automotive repair dealer registration.

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

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

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

15 **STATUTORY PROVISIONS**

16 10. Section 9884.7 of the Code states:

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

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

25 . . .

26 "(4) Any other conduct which constitutes fraud.

27 . . .

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

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

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

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

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

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

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

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

9 “(f) A visual or functional check is made of emission control devices specified by the
10 department, including the catalytic converter in those instances in which the department
11 determines it to be necessary to meet the findings of Section 44001. The visual or functional
12 check shall be performed in accordance with procedures prescribed by the department.

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

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

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

23 12. Section 44015 of the Health and Safety Code states:

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

26 13. Section 44059 of the Health and Safety Code states:

27 “The willful making of any false statement or entry with regard to a material matter in any
28 oath, affidavit, certificate of compliance or noncompliance, or application form which is required

1 by this chapter or Chapter 20.3 (commencing with Section 9880) of Division 3 of the Business
2 and Professions Code, constitutes perjury and is punishable as provided in the Penal Code.”

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

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

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

10 . . .

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

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

13 15. Section 44072.8 of the Health and Safety Code states:

14 "When a license has been revoked or suspended following a hearing under this article, any
15 additional license issued under this chapter in the name of the licensee may be likewise revoked
16 or suspended by the director.”

17 **REGULATORY PROVISIONS**

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

19 . . .

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

23 17. California Code of Regulations, title 16, section 3340.30, subdivision (a) states:

24 “A licensed smog check inspector and/or repair technician shall comply with the following
25 requirements at all times while licensed:

26 “(a) Inspect, test and repair vehicles, as applicable, in accordance with section 44012 of the
27 Health and Safety Code, section 44035 of the Health and Safety Code, and section 3340.42 of this
28 article.”

1 18. California Code of Regulations, title 16, section 3340.35, subdivision (c) states:

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

6 19. California Code of Regulations, title 16, section 3340.42, states:

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

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

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

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

25 "(2) A two-speed idle mode test shall be the test method used to inspect 1976 - 1999 model-
26 year vehicles, except diesel-powered, registered in all program areas of the state, except in those
27 areas of the state where the enhanced program has been implemented. The two-speed idle mode
28 test shall measure hydrocarbon, carbon monoxide and carbon dioxide emissions at high RPM and

1 again at idle RPM, as contained in the bureau's specifications referenced in subsection (a) of
2 Section 3340.17 of this article. Exhaust emissions from a vehicle subject to this inspection shall
3 be measured and compared to the emission standards set forth in this section and as shown in
4 TABLE III. A vehicle passes the two-speed idle mode test if all of its measured emissions are
5 less than or equal to the applicable emissions standards specified in Table III.

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

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

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

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

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

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

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

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

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

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

1 “(2) Vehicles with emission levels exceeding the emission standards for gross polluters
2 during an initial inspection will be considered gross polluters and the provisions pertaining to
3 gross polluting vehicles will apply, including, but not limited to, sections 44014.5, 44015, and
4 44081 of the Health and Safety Code.

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

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

11 **COST RECOVERY**

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

18 **FACTUAL BACKGROUND**

19 21. A Bureau Representative conducted a review of Bennys Smog BAR-OIS smog check
20 inspection records from the Vehicle Identification Database ("VID"). The review showed four
21 (4) vehicles that have been certified at Bennys Smog with unexpected vehicle communication
22 protocol and unexpected Parameter Identification¹ (PID) count. All of the following inspections
23 were performed by Respondents Martinez. The data from the certified vehicles were compared to
24 the OIS test data of similar vehicles of the same year, make and model that received passing
25 Smog Check inspections and received smog certificates. The data comparison showed multiple
26 discrepancies with four (4) vehicles that were all certified with unexpected vehicle

27 ¹ Parameter Identifications (PIDs) are data points reported by the OBD II computer to the scan tool or BAR
28 OIS.

communication protocols² and unexpected PID counts, which confirms the vehicles receiving smog certificates were fraudulently tested during the smog inspection using the clean plugging method³. The following chart illustrates the clean plugging activities of Respondents Bennys Smog and Martinez between February 14, 2017 to February 24, 2018.

TABLE 1

Test No.	Test Date	Vehicle Certified & License No.	Certificate No.	Technician License No.	OIS Test Data Details
1.	02/14/2017	2004 Dodge Stratus SE 5RPP532	ZP485511C	EO 638920 (Respondent Martinez)	Comm. Protocol: I914 (expected: JVPW) PID Count: 20 (expected: 18/3) e-VIN No.: Not Reported (Expected: e-VIN-1B3EL36XX4 N315093)
2.	10/05/2017	2003 Honda Odyssey EXL 5CNP391	HF955078C	EO 638920 (Respondent Martinez)	Comm. Protocol: ICAN29bt5 (expected: I914) PID Count: 37/19 (expected: 16) e-VIN No.: 1HGCP26819 A084940 (Expected: e-VIN-Not Expected)

² Protocol is simply the language used to communicate with a vehicle's computer(s). Protocol is a communication interface. This automated determination of the communication interface, or protocol, is built into the Data Acquisition Device (DAD) unit. This automatic function identifies five (5) protocols used by vehicles manufactured and sold in the United States that are subject to the Smog Check program.

³ 'Clean Plugging' refers to the use of another vehicle's properly functioning On Board Diagnostic, generation II, (OBD II) system, or another source, to generate passing diagnostic readings for the purpose of issuing fraudulent smog Certificates of Compliance to vehicles that are not in smog compliance and/or not present for testing.

3.	11/28/2017	2003 Nissan Frontier King Cab XE 7H50452	HJ301698C	EO 638920 (Respondent Martinez)	Comm. Protocol: ICAN11bt5 (expected: I914) PID Count: 128 (expected: 18) e-VIN No.: 1A1JC5444R7 252367 (Expected: e-VIN- Not Expected)
4.	02/24/2018	2005 Lincoln Navigator 5NQM773	HP121747C	EO 638920 (Respondent Martinez)	Comm. Protocol: KWPF (expected: ICAN11bt5) PID Count:20 (expected: 44 or 44/16) e-VIN No.: KNDUP13275 6619277 (Expected: e-VIN- 5LMFU275X5 LJ23959)

FIRST CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

22. Respondent Bennys Smog's registration is subject to discipline pursuant to Code section 9884.7, subdivision (a)(1), in that between February 14, 2017, through February 24, 2018, Respondent Bennys Smog made or authorized statements which he knew or in the exercise of reasonable care should have known to be untrue or misleading, as follows: Respondent Bennys Smog certified that vehicles 1 through 4, set forth above in Table 1, had passed inspection and were in compliance with applicable laws and regulations. In fact, Respondent Bennys Smog conducted the inspections on the vehicles using the clean plugging method by substituting or

1 using different vehicles or another source during the OBD II functional tests in order to issue
2 smog certificates of compliance for the 4 vehicles, and did not test or inspect the 4 vehicles as
3 required by Health and Safety Code section 44012.

4 **SECOND CAUSE FOR DISCIPLINE**

5 **(Fraud)**

6 23. Respondent Bennys Smog's registration is subject to discipline pursuant to Code
7 section 9884.7, subdivision (a)(4), in that between February 14, 2017, through February 24, 2018,
8 Respondent Bennys Smog committed acts which constitute fraud by issuing electronic smog
9 certificates of compliance for vehicles 1 through 4, set forth above in Table 1, without performing
10 bona fide inspections of the emission control devices and systems on those vehicles, thereby
11 depriving the People of the State of California of the protection afforded by the Motor Vehicle
12 Inspection Program.

13 **THIRD CAUSE FOR DISCIPLINE**

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

15 24. Respondent Bennys Smog's registration and smog check station license are subject to
16 discipline pursuant to Code section, subdivision 9884.7(a)(6) and Health and Safety Code section
17 44072.2, subdivision (a), in that between February 14, 2017, through February 24, 2018,
18 regarding vehicles 1 through 4, set forth above in Table 1, Respondent Bennys Smog failed to
19 comply with the following sections of that Code:

20 a. **Section 44012:** Respondent Bennys Smog failed to ensure that the emission control
21 tests were performed on vehicles 1 through 4, in accordance with procedures prescribed by the
22 department.

23 b. **Section 44015:** Respondent Bennys Smog issued electronic smog certificates of
24 compliance for vehicles 1 through 4, without ensuring that the vehicles were properly tested and
25 inspected to determine if they were in compliance with Health and Safety Code section 44012.

26 c. **Section 44059:** Respondent Bennys Smog willfully made false entries for the electronic
27 smog certificates of compliance by certifying that those vehicles had been inspected as required
28 when, in fact, they had not.

1 **FOURTH CAUSE FOR DISCIPLINE**

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

4 25. Respondent Bennys Smog's smog check station license is subject to discipline
5 pursuant to Health and Safety Code section 44072.2, subdivision (c), in that between February 14,
6 2017, through February 24, 2018, regarding vehicles 1 through 4, set forth above in Table 1,
7 Respondent Bennys Smog failed to comply with provisions of California Code of Regulations,
8 title 16, as follows:

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

13 b. **Section 3340.35, subdivision (c):** Respondent Bennys Smog issued electronic smog
14 certificates of compliance even though those vehicles had not been inspected in accordance with
15 section 3340.42 of that Code.

16 c. **Section 3340.42:** Respondent Bennys Smog failed to conduct the required smog tests
17 and inspections on those vehicles in accordance with the Bureau's specifications.

18 **FIFTH CAUSE FOR DISCIPLINE**

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

20 26. Respondent Bennys Smog's smog check station license is subject to discipline
21 pursuant to Health and Safety Code section 44072.2, subdivision (d), in that between February
22 14, 2017, through February 24, 2018, regarding vehicles 1 through 4, set forth above in Table 1,
23 Respondent Bennys Smog committed acts involving dishonesty, fraud or deceit whereby another
24 was injured by issuing electronic smog certificates of compliance for those vehicles without
25 performing bona fide inspections of the emission control devices and systems on the vehicles,
26 thereby depriving the People of the State of California of the protection afforded by the Motor
27 Vehicle Inspection Program.

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1 **SIXTH CAUSE FOR DISCIPLINE**

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

3 27. Respondent Martinez's smog check inspector license and repair technician license are
4 subject to discipline pursuant to Health and Safety Code section 44072.2, subdivision (a), in that
5 between February 14, 2017, through February 24, 2018, regarding vehicles number 1 and 4, set
6 forth above in Table 1, he failed to comply with section 44012 of that Code in a material respect,
7 as follows: Respondent Martinez failed to perform the emission control tests on those vehicles in
8 accordance with procedures prescribed by the department.

9 **SEVENTH CAUSE FOR DISCIPLINE**

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

12 28. Respondent Martinez's smog check inspector license and repair technician license are
13 subject to discipline pursuant to Health and Safety Code section 44072.2, subdivision (c), in that
14 between February 14, 2017, through February 24, 2018, regarding vehicles number 1 and 4, set
15 forth above in Table 1, he failed to comply with provisions of California Code of Regulations,
16 title 16, as follows:

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

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

23 c. **Section 3340.42:** Respondent Martinez failed to conduct the required smog tests and
24 inspections on those vehicles in accordance with the Bureau's specifications.

25 **EIGHTH CAUSE FOR DISCIPLINE**

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

27 29. Respondent Martinez's smog check inspector license and repair technician license are
28 subject to discipline pursuant to Health and Safety Code section 44072.2, subdivision (d), in that

1 between February 14, 2017, through February 24, 2018, regarding vehicles number 1 and 4, set
2 forth above in Table 1, he committed acts involving dishonesty, fraud or deceit whereby another
3 was injured by issuing electronic smog certificates of compliance without performing bona fide
4 inspections of the emission control devices and systems on those vehicles, thereby depriving the
5 People of the State of California of the protection afforded by the Motor Vehicle Inspection
6 Program.

7 **OTHER MATTERS**

8 30. Pursuant to Code section 9884.7, subdivision (c), the director may suspend revoke,
9 or place on probation the registrations for all places of business operated in this state by Benny
10 Martinez-Member, Bennys Smog LLC, upon a finding that he has, or is, engaged in a course of
11 repeated and willful violation of the laws and regulations pertaining to an automotive repair
12 dealer.

13 31. Pursuant to Health and Safety Code section 44072.8, if Smog Check Station
14 License Number RC 282367, issued to by Benny Martinez-Member, Bennys Smog LLC doing
15 business as Bennys Smog, is revoked or suspended, any additional license issued under this
16 Chapter 5 of Part 5 of Div 26 of the Health and Safety Code in the name of said licensee may be
17 likewise revoked or suspended by the director.

18 32. Pursuant to Health and Safety Code section 44072.8, if Smog Check Inspector
19 License No. EO 638920 and Smog Check Repair Technician License Number EI 638920, issued
20 to Benny Martinez, is revoked or suspended, any additional license issued under this Chapter 5 of
21 Part 5 of Div 26 of the Health and Safety Code in the name of said licensee may be likewise
22 revoked or suspended by the director.

23 **PRAYER**

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

26 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
27 282367, issued to Benny Martinez-Member, Bennys Smog LLC doing business as Bennys Smog;

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- 1 2. Revoking, suspending, or placing on probation any other automotive repair dealer
2 registration issued to Benny Martinez;
- 3 3. Revoking or suspending Smog Check Station License Number RC 282367, issued to
4 Benny Martinez-Member, Bennys Smog LLC doing business as Bennys Smog;
- 5 4. Revoking or suspending Smog Check Inspector License Number EO 638920, issued
6 to Benny Martinez;
- 7 5. Revoking or suspending Smog Check Repair Technician License Number EI 638920,
8 issued to Benny Martinez;
- 9 6. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of
10 Division 26 of the Health and Safety Code in the name of Benny Martinez;
- 11 7. Ordering Benny Martinez-Member, Bennys Smog LLC doing business as Bennys
12 Smog and Benny Martinez to pay the Bureau of Automotive Repair the reasonable costs of the
13 investigation and enforcement of this case, pursuant to Business and Professions Code section
14 125.3; and
- 15 8. Taking such other and further action as deemed necessary and proper.

16
17
18 DATED: July 31, 2018


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

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