

**BEFORE THE DIRECTOR OF THE
DEPARTMENT OF CONSUMER AFFAIRS
BUREAU OF AUTOMOTIVE REPAIR
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

COASTSIDE AUTO REPAIR, INC. RAFAEL MARTINEZ, PRESIDENT

505 Linda Mar Blvd.

Pacifica, CA 94044

Mailing Address:

P.O. Box 225

Pacifica, CA 94044

Automotive Repair Dealer Registration No. ARD 289340

Smog Check Station License No. RC 289340

RAFAEL MARTINEZ

824 Crespi Drive

Pacifica, CA 94044

Smog Check Inspector License No. EO 144646

Smog Check Repair Technician License No. EI 144646

Respondents.

Case No. 79/22-19082

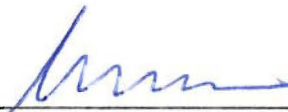
OAH No. 2024120155

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby accepted and adopted by the Director of the Department of Consumer Affairs as the Decision in the above-entitled matter.

This Decision shall be effective on August 26, 2025.

IT IS SO ORDERED July 14, 2025.



GRACE ARUPO RODRIGUEZ
Assistant Deputy Director
Legal Affairs Division
Department of Consumer Affairs

**BEFORE THE
DEPARTMENT OF CONSUMER AFFAIRS
FOR THE BUREAU OF AUTOMOTIVE REPAIR
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**COASTSIDE AUTO REPAIR, INC., RAFAEL
MARTINEZ, PRESIDENT,**

Automotive Repair Dealer Registration No. ARD 289340

Smog Check Station License No. RC 289340;

and

RAFAEL MARTINEZ,

Smog Check Inspector License No. EO 144646

Smog Check Repair Technician License No. EI 144646,

Respondents.

Agency Case No. 79/22-19082

OAH No. 2024120155

PROPOSED DECISION

Administrative Law Judge Carl D. Corbin, State of California, Office of Administrative Hearings, heard this matter on June 18, 2025, by videoconference.

Deputy Attorney General Amber N. Wipfler represented complainant Patrick Dorais, Chief of the Bureau of Automotive Repair, Department of Consumer Affairs.

Attorney William D. Ferreira represented respondents Coastsides Auto Repair, Inc., and Rafael Martinez, who was not present.

The record closed and the matter was submitted for decision on June 18, 2025.

FACTUAL FINDINGS

Jurisdictional Matters

1. On January 12, 2018, the Bureau of Automotive Repair (Bureau or BAR) issued Automotive Repair Dealer Registration number ARD 289340 to respondent Coastsides Auto Repair, Inc. (Coastsides), a corporation. On February 1, 2018, the Bureau issued Smog Check Station License number RC 289340 to respondent Coastsides. On March 30, 2018, the Bureau certified respondent Coastsides as a STAR station, and this certification was suspended on February 14, 2023. The registration and license were in full force and effect at all times relevant to the accusation and will expire on January 31, 2026, unless renewed. Respondent Rafael Martinez is the President of respondent Coastsides.

2. On October 22, 2012, the Bureau issued Smog Check Inspector License number EO 144646 and Smog Check Repair Technician License number EI 144646 to

respondent Martinez.¹ The licenses were in full force and effect at all times relevant to the accusation and will expire on November 30, 2026, unless renewed.

3. On February 22, 2024, complainant Patrick Dorais issued the accusation in his official capacity as the Chief of the Bureau. Complainant alleges, as amended orally at hearing, that over the period of May 28, 2021, through November 23, 2022, respondent Martinez, through the illegal practice of "clean plugging," issued 12 fraudulent smog check certificates of compliance as an employee of respondent Coastside, and these alleged facts constitute cause to discipline respondent Coastside's registration and license and respondent Martinez's licenses.

4. Respondents Coastside and Martinez filed notices of defense, and this proceeding followed.

Smog Check Program

5. California's Smog Check Program (Program) requires that owners of most motor vehicles in the State subject their vehicles to and pass a smog check inspection and receive a certificate of compliance every two years when renewing their registration and when the vehicle's title is transferred. The purpose of the Program is to identify and correct vehicles that release excessive tailpipe emissions and pollutants

¹ Respondent Martinez previously held Basic Area Technician License number EB 144646, which was issued to him by the Bureau in 2001, but was cancelled on February 9, 2008. He also previously held Advanced Emission Specialist Technician License number EA 144646, which was issued to him by the Bureau in 2002, but was cancelled on October 22, 2012.

in order to reduce air pollution and vehicle emissions to improve air quality. These inspections are performed by smog check inspectors at smog check stations, both of which are licensed by the Bureau. Smog inspections are conducted in accordance with the Bureau's Smog Check Manual.

6. Beginning in March 2015, smog check inspections of most vehicles in California are performed pursuant to the "BAR-OIS" (OIS) protocol. As part of an OIS inspection, the on-board diagnostic system of the vehicle being tested is connected to the Bureau's vehicle information database (VID) by means of a data acquisition device (DAD). All vehicles manufactured after 2005, and many manufactured earlier, have an electronic vehicle identification number (eVIN), which is identical to the vehicle identification number physically present on the vehicle. If the vehicle has an eVIN stored in its computer, the eVIN is transmitted during the OIS inspection. Vehicles also transmit a communication protocol during the OIS inspection. The protocol is programmed during the manufacturing process and does not change. Vehicles of the same year, make, and model use the same protocol. A parameter identification (PID) count is also transmitted during an OIS inspection. The PID count is the number of data points reported by the vehicle's computer. Each year, make, and model of vehicle will have an expected PID count (or range of expected PID counts). When performing a smog inspection, the technician is required to confirm that the VIN inputted into the OIS system is correct and matches the vehicle being tested.

Clean Plugging

7. Clean plugging is the illegal and fraudulent practice of using another vehicle's on-board diagnostic system, or another device, during the on-board diagnostic portion of a smog inspection. It can be detected when the eVIN, the communication protocol, or PID count transmitted by the vehicle does not match the

data expected for the year, make, and model of the vehicle purportedly being inspected (expected data).

8. Marc Ortega, an experienced Program Representative II for the Bureau, testified at hearing and his testimony was consistent with relevant documents and credible in all respects. He performed a review of OIS data from respondent Coastside. Based on his review of the data, Ortega opined that, over the period of May 28, 2021, through November 23, 2022, 12 instances of clean plugging occurred in which false data was knowingly entered into the OIS system by respondent Martinez at respondent Coastside's facility and resulted in the fraudulent issuance of smog check certificates of compliance. Ortega drafted a report analyzing and documenting the 12 instances based on his review of the OIS data. The data for the 12 vehicles certified had a mixture of different, and/or unexpected eVINs, and also contained a mixture of different communication protocols and/or PID counts.

Ortega explained the specific vehicle that is being inspected is identified through the VIN scanned directly from the vehicle (from multiple locations on the vehicle, including the driver's door and on the dashboard near the windshield), scanned from the associated Department of Motor Vehicles (DMV) registration, or manually entered. He explained the step-by-step process of conducting a smog test includes confirming through visual inspection the correct vehicle is being tested.

CLEAN PLUG #3, MAY 28, 2021²

9. On May 28, 2021, respondent Martinez issued a certificate of compliance to a 2004 Chevrolet Express G3500. The eVIN and PID count were not consistent with expected data. The OIS test data showed that a 2006 Chevrolet Malibu LS was used to generate the false data, and this substitute vehicle was issued a certificate of compliance by respondent Martinez on August 24, 2022. The two vehicles were registered to different owners at two different addresses.

On May 15, 2021, a previous test of the 2004 Chevrolet Express G3500 resulted in an eVIN, communication protocol, and PID count that were expected, although the vehicle failed the smog check inspection on that date.

CLEAN PLUG #4, MAY 28, 2021

10. On May 28, 2021, respondent Martinez issued a certificate of compliance to a 2001 Chevrolet S Truck S10. The eVIN and PID count were not consistent with expected data. The OIS test data showed that the same 2006 Chevrolet Malibu LS set forth in Factual Finding 9 was used to generate the false data. The two vehicles were registered to different owners at two different addresses.

On August 8, 2019, a previous test of the 2001 Chevrolet S Truck S10 resulted in an eVIN, communication protocol, and PID count that were expected.

² As set forth in Factual Finding 3, while the original accusation alleged 14 instances of clean plugging, the accusation was orally amended at hearing to allege only 12 instances, which are described in Ortega's report as instances 3 through 14.

CLEAN PLUG #5, JUNE 10, 2021

11. On June 10, 2021, respondent Martinez issued a certificate of compliance to a 2004 Honda Civic LX. The eVIN was not consistent with the expected data. The OIS test data showed that a 2005 Honda Civic DX VP was used to generate the false data, and this substitute vehicle was issued a certificate of compliance by respondent Martinez on June 10, 2021. The two vehicles were registered to different owners at two different addresses.

On September 11, 2017, a previous test of the 2004 Honda Civic LX resulted in an eVIN, communication protocol, and PID count that were expected.

CLEAN PLUG #6, JUNE 14, 2021

12. On June 14, 2021, respondent Martinez issued a certificate of compliance to a 2004 GMC New Sierra K1500. The eVIN, communication protocol, and PID count were not consistent with the expected data. The OIS test data showed that a 2012 Chevrolet Silverado K1500 LT was used to generate the false data, and this substitute vehicle was issued a certificate of compliance by respondent Martinez on June 27, 2021. The two vehicles were registered to different owners at two different addresses.

On February 23, 2018, a previous test of the 2004 GMC New Sierra K1500 resulted in an eVIN, communication protocol, and PID count that were expected.

CLEAN PLUG #7, OCTOBER 8, 2021

13. On October 8, 2021, respondent Martinez issued a certificate of compliance to a 2004 Ford F150 Supercrew. The eVIN and PID count were not consistent with the expected data. The OIS test data showed that a 2006 Ford F150 was used to generate the false data, and this substitute vehicle was issued a certificate

of compliance at a different facility on October 5, 2022. The two vehicles were registered to different owners at two different addresses.

On January 22, 2019, a previous test of the 2004 Ford F150 Supercrew resulted in an eVIN, communication protocol, and PID count that were expected.

CLEAN PLUG #8, NOVEMBER 30, 2021

14. On November 30, 2021, respondent Martinez issued a certificate of compliance to a 2004 Honda Civic LX. The eVIN was not consistent with the expected data. The OIS test data showed that a 2004 Honda Civic EX was used to generate the false data, and this substitute vehicle was issued a certificate of compliance at a different facility on February 11, 2022. The two vehicles were registered to different owners at two different addresses.

On September 11, 2017, a previous test of the 2004 Honda Civic LX resulted in an eVIN, communication protocol, and PID count that were expected.

CLEAN PLUG #9, DECEMBER 17, 2021

15. On December 17, 2021, respondent Martinez issued a certificate of compliance to a 2000 Buick Le Sabre Custom. The eVIN and PID count were not consistent with the expected data. The OIS test data showed that a 2005 Buick Lacrosse CXL was used to generate the false data, and this substitute vehicle was issued a certificate of compliance by respondent Martinez on January 8, 2021. The two vehicles were registered to different owners at two different addresses.

On August 20, 2019, a previous test of the 2005 Buick Le Sabre Custom resulted in an eVIN, communication protocol, and PID count that were expected.

CLEAN PLUG #10, DECEMBER 30, 2021

16. On December 30, 2021, respondent Martinez issued a certificate of compliance to a 2003 Mitsubishi Galant ES. The eVIN, communication protocol, and PID count were not consistent with the expected data. The OIS test data showed that a 2006 Ford F150 was used to generate the false data, and this substitute vehicle was issued a certificate of compliance by respondent Martinez on December 30, 2021. The two vehicles were registered to different owners at two different addresses.

On January 27, 2020, a previous test of the 2003 Mitsubishi Galant ES resulted in an eVIN, communication protocol, and PID count that were expected.

CLEAN PLUG #11, JANUARY 10, 2022

17. On January 10, 2022, respondent Martinez issued a certificate of compliance to a 2012 BMW 528i. The eVIN and PID count were not consistent with the expected data. The OIS test data showed that a 2011 BMW 335i was used to generate the false data, and this substitute vehicle was issued a certificate of compliance by respondent Martinez on July 26, 2021. The substitute vehicle was registered to respondent.

On December 30, 2019, a previous test of the 2012 BMW 528i resulted in an eVIN, communication protocol, and PID count that were expected.

CLEAN PLUG #12, OCTOBER 7, 2022,

18. On October 7, 2022, respondent Martinez issued a certificate of compliance to a 2002 Chevrolet Malibu. The eVIN was not consistent with the expected data.

On July 25, 2022, a previous test of the 2002 Chevrolet Malibu resulted in an eVIN, communication protocol, and PID count that were expected, although the vehicle failed the smog check inspection on that date.

CLEAN PLUG #13, NOVEMBER 11, 2022

19. On November 11, 2022, respondent Martinez issued a certificate of compliance to a 2008 Toyota Camry CE. The eVIN was not consistent with the expected data. The OIS test data showed that a 2009 Toyota Camry Base was used to generate the false data, and this substitute vehicle was issued a certificate of compliance at a different facility on December 8, 2021. The two vehicles were registered to different owners at two different addresses.

On February 10, 2021, a previous test of the 2008 Toyota Camry CE resulted in an eVIN, communication protocol, and PID count that were expected.

CLEAN PLUG #14, NOVEMBER 23, 2022

20. On November 23, 2022, respondent Martinez issued a certificate of compliance to a 2004 Ford F150. The eVIN and PID count were not consistent with the expected data. The OIS test data showed that a 2007 Ford F150 Supercrew was used to generate the false data, and this substitute vehicle was issued a certificate of compliance by respondent Martinez on February 4, 2022. The two vehicles were registered to different owners at two different addresses.

On November 5, 2020, a previous test of the 2004 Ford F150 resulted in an eVIN, communication protocol, and PID count that were expected.

Discipline Considerations

21. On February 14, 2005, respondent Martinez was issued citation number M2005-251 for violating Health and Safety Code section 44032 (correctly perform tests of emission control systems), which included an order to complete an eight-hour training course and submit proof of completion to the Bureau. A citation service conference was held on March 15, 2005; the ordered training was completed on March 26, 2005; and the citation is now final. The facts and circumstances underlying the citation were that on January 19, 2005, while working at a different facility than respondent Coastsides, respondent Martinez issued a certificate of compliance to a Bureau undercover vehicle documented to fail a properly performed inspection.

Respondents' Evidence and Contentions

22. Respondents called no witnesses to testify and did not submit any documentary evidence in their defense.

23. Respondent Coastsides argues that Business and Professions Code section 9880.1, subdivision (a) defines an Automotive Repair Dealer as one that engages in the "business of repairing or diagnosing malfunctions of motor vehicles" or "collecting compensation for automotive repair services," and contends that complainant has not alleged in the accusation violations that fall within this definition; therefore, there is not a basis for discipline against respondent Coastsides's Automotive Repair Dealer Registration. Respondent Coastsides's argument on this issue is not persuasive and is not supported by the statutory framework of the Automotive Repair Act (Act) (Bus. & Prof. Code, § 9880 et seq.) as respondent Coastsides violated multiple regulations under the Act as discussed further under Legal Conclusion 4.

24. Respondents contend that there was no fraud and no intentional pattern or practice underlying the clean plugging instances, but rather the instances were only acts of negligence. On that basis, respondents accept that revocation of respondent Coastsides Smog Check Station License and respondent Martinez's license may be appropriate, but request that Coastsides Automotive Repair Dealer Registration not be revoked and instead impose a period of probation with conditions sufficient to protect the public.

Ultimate Factual Findings

25. In each of the 12 smog inspections identified by complainant, the vehicle purportedly tested was not the vehicle actually connected to the Bureau's VID by a DAD. (Factual Findings 9-20.) The issuance of the 12 false certificates of compliance, over a period of approximately 18 months, was fraudulent. Intentional fraud was shown by the number of false certificates and respondent's use of his personal vehicle as a substitute vehicle. The 12 certificates issued contained untrue or misleading statements. With the exercise of reasonable care and supervision, respondents Coastsides and Martinez should have known the vehicles purportedly being tested were not the vehicles actually connected to the Bureau's VID. The issuance of 12 false certificates was not a bona fide error and caused injury to the people of California in the form of reduced protection by the smog test program and potentially increased harmful emissions.

Costs

26. The Bureau has incurred \$3,954.32 in investigation costs and \$5,538.75 in enforcement costs, for a total of \$9,493.07, to prosecute this accusation. These costs are supported by certifications that describe the tasks performed, time spent on each

task, and method for calculating the cost, in compliance with the requirements of California Code of Regulations, title 1, section 1042. These costs are found to be reasonable.

LEGAL CONCLUSIONS

1. Complainant bears the burden of proof in this proceeding, and the standard of proof is a preponderance of the evidence. (*Imports Performance v. Dept. of Consumer Affairs, Bureau of Automotive Repair* (2011) 201 Cal.App.4th 911; *Sandarg v. Dental Board of California* (2010) 184 Cal.App.4th 1434, 1441.) If a respondent contends mitigation or rehabilitation, it is their burden to prove those contentions by a preponderance of the evidence. (*Whetstone v. Board of Dental Examiners of Cal.* (1927) 87 Cal.App. 156, 164; Evid. Code, § 115.)

Causes for Discipline

FIRST CAUSE FOR DISCIPLINE: UNTRUE OR MISLEADING STATEMENTS (RESPONDENT COASTSIDE)

2. The Director of the Department of Consumer Affairs (Director) may discipline an automotive repair dealership registration for making or authorizing statements that were untrue or misleading, and which were known, or which by the exercise of reasonable care should have been known, to be untrue or misleading. (Bus. & Prof. Code, § 9884.7, subd. (a)(1).) By untruthfully reporting to the Bureau that 12 vehicles had been properly inspected and by certifying these vehicles were in compliance, respondent Coastsides made untrue or misleading statements, which with the exercise of reasonable care it should have known were untrue, and those statements were not the result of bona fide error. (Factual Finding 25.) Cause exists to

discipline respondent Coastside's automotive repair dealership registration under Business and Professions Code section 9884.7, subdivision (a)(1).

SECOND CAUSE FOR DISCIPLINE: FRAUD (RESPONDENT COASTSIDE)

3. The Director may discipline an automotive repair dealership registration for conduct that constitutes fraud. (Bus. & Prof. Code, § 9884.7, subd. (a)(4).) The issuance of 12 false certificate of compliance by respondent Coastside was fraudulent and not the result of a bona fide error. (Factual Finding 25.) Cause exists to discipline respondent Coastside's automotive repair dealership registration under Business and Professions Code section 9884.7, subdivision (a)(4).

THIRD CAUSE FOR DISCIPLINE: FAILURE TO COMPLY WITH ACT (RESPONDENT COASTSIDE)

4. The Director may discipline an automotive repair dealership registration for failure in any material respect to comply with the provisions of the Act or its adopted regulations. (Bus. & Prof. Code, § 9884.7, subd. (a)(6).) The 12 instances of clean plugging committed at respondent Coastside (Factual Finding 25) violated multiple regulations under the Act, including: California Code of Regulations, title 16, sections 3340.24, subdivision (c) (falsely or fraudulently issues a certificate of compliance); 3340.41, subdivision (c) (entered VIN information into BAR-OIS for vehicle other than the one being tested); 3340.42, subdivision (b) (failure to perform visual and/or functional check of required emission control devices); 3340.45 (failure to conduct inspections in accordance with Smog Check Manual); and 3373 (made false or misleading statements on a smog check vehicle inspection report). Cause exists to discipline respondent Coastside's automotive repair dealership registration under Business and Professions Code section 9884.7, subdivision (a)(6).

**FOURTH CAUSE FOR DISCIPLINE: FAILURE TO COMPLY WITH MOTOR VEHICLE
INSPECTION PROGRAM (RESPONDENT COASTSIDE)**

5. The Director is authorized to discipline the smog check station license of a licensee who violates any section of the Motor Vehicle Inspection Program (Health & Saf. Code, § 44000 et seq.) or associated regulations when conducting smog inspections. (Health & Saf. Code, § 44072.2, subds. (a) & (c).) The 12 instances of clean plugging committed at respondent Coastsides (Factual Finding 25) violated numerous statutes and regulations, including: Health and Safety Code section 44012 (failed to completely and appropriately perform emission control tests for a vehicle issued a certificate of compliance); Health and Safety Code section 44012, subdivision (f), and California Code of Regulations, title 16, section 3340.42, subdivision (b); Health and Safety Code section 44059 (willful false statement with regard to a material matter in a certificate of completion); Health and Safety Code section 44072.2, subdivision (d) (commits any act involving dishonesty, fraud, or deceit whereby another is injured); Health and Safety Code section 44072.10, subdivision (c) (fraudulently participates in the inspection and certification of vehicles through clean plugging); California Code of Regulations, title 16, section 3340.24, subdivision (c); California Code of Regulations, title 16, section 3340.41, subdivision (c); California Code of Regulations, title 16, section 3340.45; and California Code of Regulations, title 16, section 3373. Cause exists to discipline respondent Coastsides's smog check station license under Health and Safety Code section 44072.2, subdivisions (a) and (c).

**FIFTH CAUSE FOR DISCIPLINE: FAILURE TO COMPLY WITH MOTOR VEHICLE
INSPECTION PROGRAM (RESPONDENT MARTINEZ)**

6. The Director is authorized to discipline the smog check inspector and smog check repair technician licenses of a licensee who violates any section of the Motor Vehicle Inspection Program or associated regulations when conducting smog inspections. (Health & Saf. Code, §§ 44072.10, 44072.2, subds. (a) & (c).) The 12 instances of clean plugging committed by respondent Martinez at Coastside (Factual Finding 25) violated numerous statutes and regulations, including: Health and Safety Code section 44012; Health and Safety Code section 44012, subdivision (f), and California Code of Regulations, title 16, section 3340.42, subdivision (b); Health and Safety Code section 44059; Health and Safety Code section 44072.2, subdivision (d); Health and Safety Code section 44072.10, subdivision (c); California Code of Regulations, title 16, section 3340.30, subdivision (a) (failure to inspect, test, and repair vehicles in accordance with Health and Safety Code sections 44012 and 44035; and California Code of Regulations, title 16, section 3340.42); California Code of Regulations, title 16, section 3340.41, subdivision (c); and California Code of Regulations, title 16, section 3340.45, subdivision (a). Cause exists to discipline respondent Martinez's smog check inspector and smog check repair technician licenses under Health and Safety Code sections 44072.10 and 44072.2, subdivisions (a) and (c).

Other Matters

7. The Director may suspend, revoke, or place on probation the registration for all places of business operated in this state by a registrant, upon a finding that the registrant has engaged in a course of repeated and willful violations of the laws and regulations pertaining to an automotive repair dealer. (Bus. & Prof. Code, § 9884.7,

subd. (c).) Respondent Coastside has engaged in a course of repeated and willful violations of the laws and regulations pertaining to an automotive repair dealer. (Factual Findings 25, and Legal Conclusions 2-5.)

8. If the Bureau revokes a license, any additional license issued in the name of that licensee under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code may also be revoked. (Health & Saf. Code, § 44072.8.)

Determination of Discipline

9. The purpose of administrative proceedings regarding professional licenses is not to punish the applicant or licensee, but to protect the public. (*Hughes v. Board of Architectural Examiners* (1998) 17 Cal.4th 763, 785-786; *Griffiths v. Superior Court* (2002) 96 Cal.App.4th 757, 768.)

10. The Bureau has set forth factors to be considered in determining appropriate discipline in its Guidelines for Disciplinary Orders and Terms of Probation (rev. June 2021). (Cal. Code Regs., tit. 16, § 3395.4.) The Guidelines provide that factors in aggravation include, but are not limited to, evidence that the unlawful act was of a pattern of practice, evidence of any other conduct which constitutes fraud, and prior history of formal disciplinary action. The Guidelines provide that factors in mitigation include, but are not limited to, absence of prior disciplinary action, evidence that the violation was not part of a pattern or practice, voluntary participation in retraining, voluntary purchase of proper diagnostic equipment and manuals, evidence of no loss to consumers and no damage to consumers' property, and evidence of substantial measures to correct business practices/operations to minimize the likelihood of recurrence.

RESPONDENT COASTSIDE

11. Over a period of approximately 18 months, there were 12 instances of clean plugging committed at respondent Coastsides, which was a pattern of practice of unlawful acts that constitute fraud. (Factual Finding 25.) While respondent Coastsides does not have a history of disciplinary action, respondent Coastsides provided no evidence of any other factors in mitigation such as voluntary retraining, voluntary purchase of proper diagnostic equipment and manuals, or evidence of substantial measures to correct business practices/operations to minimize the likelihood of recurrence. Upon consideration of the record as a whole, protection of the public demands the outright revocation of respondent Coastsides's automotive repair dealer registration and smog check station license. Moreover, based on respondent Coastsides's conduct, it is appropriate to revoke the automotive repair dealer registration for any other places of business operated by respondent Coastsides and revoke any additional license issued in the name of respondent Coastsides under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code.

RESPONDENT MARTINEZ

12. Respondent Martinez committed 12 instances of clean plugging over a period of approximately 18 months at respondent Coastsides's facility. (Factual Finding 25.) Respondent Martinez even used his own vehicle as a substitute vehicle in one of the instances of clean plugging. (Factual Finding 17.) While he does not have a history of formal disciplinary action against his licenses, he does have a citation related to his issuance of a certificate of compliance to a vehicle that could not pass a properly performed inspection. Respondent Martinez provided no evidence of any other factors of mitigation.

Upon consideration of the record as a whole, protection of the public demands the outright revocation of respondent Martinez's smog check inspector and smog check repair technician licenses. Moreover, based on respondent Martinez's conduct, it is appropriate to revoke any additional license issued in the name of respondent Martinez under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code.

Costs

13. The Bureau is authorized to recover its reasonable costs of investigation and enforcement in disciplinary proceedings (Bus. & Prof. Code, § 125.3.) Complainant has reasonably incurred a total of \$9,493.07 in connection with this matter. (Factual Finding 26.)

14. In *Zuckerman v. Board of Chiropractic Examiners* (2002) 29 Cal.4th 32, 45, the California Supreme Court set forth the standards for determining whether costs should be assessed in the particular circumstances of each case, to ensure that licensees with potentially meritorious claims are not deterred from exercising their right to an administrative hearing. Those standards include whether the licensee has been successful at hearing in getting the charges dismissed or reduced, the licensee's good faith belief in the merits of his or her position, whether the licensee has raised a colorable challenge to the proposed discipline, the financial ability of the licensee to pay, and whether the scope of the investigation was appropriate to the alleged misconduct. As set forth in Factual Finding 3 and Footnote 2, the original accusation in this matter involved alleged 14 alleged instances of clean plugging based on an investigation and at hearing the accusation was orally amended to allege only 12 instances of clean plugging. Therefore, it is appropriate to reduce the costs in this matter by approximately 10 percent to \$8,500.

ORDER

Respondent Coastsides Auto Repair, Inc.

1. Automotive Repair Dealer Registration number ARD 289340, issued to Coastsides Auto Repair, Inc., Rafael Martinez, President, is revoked.
2. Smog Check Station License number RC 289340, issued to Coastsides Auto Repair, Inc., Rafael Martinez, President, is revoked.
3. Any other automotive repair dealer registration issued to Coastsides Auto Repair, Inc., Rafael Martinez, President, is revoked.
4. Any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code in the name of Coastsides Auto Repair, Inc., Rafael Martinez, President, is revoked.
5. Coastsides Auto Repair, Inc., Rafael Martinez, President, shall, jointly and severally with respondent Rafael Martinez, pay the Bureau of Automotive Repair \$8,500 for the reasonable costs of investigation and enforcement of case number 79/22-19082.

Respondent Rafael Martinez

1. Smog Check Inspector License number EO 144646, issued to respondent Rafael Martinez, is revoked.
2. Smog Check Repair Technician License number EI 144646, issued to respondent Rafael Martinez, is revoked.

3. Any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code in the name of respondent Rafael Martinez, President, is revoked.

4. Respondent Rafael Martinez shall, jointly and severally with respondent Coastsides Auto Repair, Inc., Rafael Martinez, President, pay the Bureau of Automotive Repair \$8,500 for the reasonable costs of investigation and enforcement of case number 79/22-19082.

DATE: **06/27/2025**

Carl D. Corbin

CARL D. CORBIN

Administrative Law Judge

Office of Administrative Hearings