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9  
10 **BEFORE THE**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
11 **FOR THE BUREAU OF AUTOMOTIVE REPAIR**  
**STATE OF CALIFORNIA**  
12

13 In the Matter of the Accusation Against:

Case No. 79/21-1781

14 **MATEO SAUCEDA LUQUE, DBA I.V.**  
**SMOG CHECK**  
15 **477 Cesar Chavez Blvd #1-2**  
**Calexico, CA 92231**

**ACCUSATION**

16 **Automotive Repair Dealer Registration No.**  
**ARD 294501**  
17 **Smog Check Station License No. RC 294501**  
18 **Lamp Station License No. LS 294501**  
**Class A**  
19 **Brake Station License No. BS 294501**  
**Class C**

20 **and**

21 **MATEO SAUCEDA LUQUE**  
22 **233 Hernandez Street**  
**Calexico, CA 92231**

23 **Smog Check Inspector License No. EO**  
24 **640171**  
**Smog Check Repair Technician License No.**  
25 **EI 640171**  
**Brake Adjuster License Number BA 640171**  
26 **Class C**  
**Lamp Adjuster License No. LA 640171**  
27 **Class A**

28 Respondent.

**PARTIES**

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

3                   2.     On or about June 4, 2019, the Bureau issued Automotive Repair Dealer Registration  
4 Number ARD 294501 to Mateo Sauced Luque, dba I.V. Smog Check. The Automotive Repair  
5 Dealer Registration was in full force and effect at all times relevant to the charges brought herein  
6 and will expire on June 30, 2022, unless renewed.

7                   3.     On or about June 19, 2019, the Bureau issued Smog Check Station License Number  
8 RC 294501 to Mateo Sauced Luque, dba I.V. Smog Check. The Smog Check Station License  
9 was in full force and effect at all times relevant to the charges brought herein and will expire on  
10 June 30, 2022, unless renewed.

11                  4.     On or about February 28, 2020, the Bureau issued Lamp Station License Number LS  
12 294501 Class A to Mateo Sauced Luque, dba I.V. Smog Check. The Lamp Station License was  
13 in full force and effect at all times relevant to the charges brought herein and will expire on June  
14 30, 2022, unless renewed.

15                  5.     On or about February 28, 2020, the Bureau issued Brake Station License Number BS  
16 294501 Class C to Mateo Sauced Luque, dba I.V. Smog Check. The Brake Station License was  
17 in full force and effect at all times relevant to the charges brought herein and will expire on June  
18 30, 2022, unless renewed.

19                  6.     On or about April 3, 2017, the Bureau issued Smog Check Inspector License Number  
20 EO 640171 to Mateo Sauced Luque. The Smog Check Inspector License was in full force and  
21 effect at all times relevant to the charges brought herein and will expire on November 30, 2022,  
22 unless renewed.

23                  7.     On or about November 15, 2018, the Bureau issued Smog Check Repair Technician  
24 License Number EI 640171 to Mateo Sauced Luque. The Smog Check Repair Technician  
25 License was in full force and effect at all times relevant to the charges brought herein and will  
26 expire on November 30, 2022, unless renewed.

27                  8.     On or about February 25, 2020, the Bureau issued Brake Adjuster License Number  
28

1 BA 640171 Class C to Mateo Sauced Luque. The Brake Adjuster License was in full force and  
2 effect at all times relevant to the charges brought herein and will expire on November 30, 2022,  
3 unless renewed.

4 9. On or about February 26, 2020, the Bureau issued Lamp Adjuster License Number  
5 LA 640171 Class A to Mateo Sauced Luque, dba I.V. Smog Check. The Lamp Adjuster License  
6 was in full force and effect at all times relevant to the charges brought herein and will expire on  
7 November 30, 2023, unless renewed.

### 8 **JURISDICTION**

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

12 11. Section 477 of the Code states:

13 As used in this division:

14 (a) "Board" includes "bureau," "commission," "committee," "department,"  
15 "division," "examining committee," "program," and "agency."

16 (b) "License" includes certificate, registration or other means to engage in a  
business or profession regulated by this code.

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

21 13. Section 9884.20 of the Code states:

22 All accusations against automotive repair dealers shall be filed within three  
23 years after the performance of the act or omission alleged as the ground for  
disciplinary action, except that with respect to an accusation alleging fraud or  
24 misrepresentation as a ground for disciplinary action, the accusation may be filed  
within two years after the discovery, by the bureau, of the alleged facts constituting  
25 the fraud or misrepresentation.

26 14. Section 9884.22 of the Code states, in pertinent part:

27 Notwithstanding any other provision of law, the director may revoke, suspend,  
or deny at any time any registration required by this article on any of the grounds for  
disciplinary action provided in this article. The proceedings under this article shall be  
28 conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1

of Division 3 of Title 2 of the Government Code, and the director shall have all the powers granted therein.

....

15. Section 9889.1 of the Code states:

Any license issued pursuant to Articles 5 and 6, may be suspended or revoked by the director. The director may refuse to issue a license to any applicant for the reasons set forth in section 9889.2. The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the director shall have all the powers granted therein.

16. Section 9889.7 of the Code provides, in pertinent part, that the expiration or suspension of a license by operation of law or by order or decision of the Director or a court of law, or the voluntary surrender of a license shall not deprive the Director of jurisdiction to proceed with any disciplinary proceedings.

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

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

19. Section 44072.7 of the Health and Safety Code states:

All accusations against licensees shall be filed within three years after the act or omission alleged as the ground for disciplinary action, except that with respect to an accusation alleging a violation of subdivision (d) of Section 44072.2, the accusation may be filed within two years after the discovery by the bureau of the alleged facts constituting the fraud or misrepresentation prohibited by that section.

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

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

### **STATUTORY PROVISIONS**

21. Section 9884.7 of the Code states, in pertinent part:

(a) The director, where the automotive repair dealer cannot show there was a

1 bona fide error, may deny, suspend, revoke, or place on probation the registration of  
2 an automotive repair dealer for any of the following acts or omissions related to the  
3 conduct of the business of the automotive repair dealer, which are done by the  
4 automotive repair dealer or any automotive technician, employee, partner, officer, or  
5 member of the automotive repair dealer.

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

9 ...

10 (3) Failing or refusing to give a customer a copy of any document requiring his  
11 or her signature, as soon as the customer signs the document.

12 (4) Any other conduct which constitutes fraud.

13 ...

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

16 ...

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

22 22. Section 9884.8 of the Code states:

23 All work done by an automotive repair dealer, including all warranty work,  
24 shall be recorded on an invoice and shall describe all service work done and parts  
25 supplied. Service work and parts shall be listed separately on the invoice, which shall  
26 also state separately the subtotal prices for service work and for parts, not including  
27 sales tax, and shall state separately the sales tax, if any, applicable to each. If any  
28 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.

23 23. Section 9884.9 of the Code states, in pertinent part:

24 (a) The automotive repair dealer shall give to the customer a written estimated  
25 price for labor and parts necessary for a specific job. No work shall be done and no  
26 charges shall accrue before authorization to proceed is obtained from the customer....

27 24. Section 44012 of the Health and Safety Code provides, in pertinent part, that the test  
28 at the smog check station shall be performed in accordance with procedures prescribed by the  
department, pursuant to Section 44013.

1           25. Section 44015 of the Health and Safety Code provides, in pertinent part:

2           (a) A licensed smog check station shall not issue a certificate of compliance,  
3 except as authorized by this chapter, to any vehicle that meets the following criteria:

4           (1) A vehicle that has been tampered with.

5           ...

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

8           ....

9           26. Section 44032 of the Health and Safety Code states:

10           No person shall perform, for compensation, tests or repairs of emission control  
11 devices or systems of motor vehicles required by this chapter unless the person  
12 performing the test or repair is a qualified smog check technician and the test or  
13 repair is performed at a licensed smog check station. Qualified technicians shall  
14 perform tests of emission control devices and systems in accordance with Section  
15 44012.

16           27. Section 44072.2 of the Health and Safety Code provides, in pertinent part:

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

20           (a) Violates any section of this chapter and the regulations adopted pursuant to  
21 it, which related to the licensed activities.

22           ...

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

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

27           ...

28           (f) Aids or abets unlicensed persons to evade the provisions of this chapter.

29           ...

30           (h) Violates or attempts to violate the provisions of this chapter relating to the  
31 particular activity for which he or she is licensed.

32           28. Section 44072.10 of the Health and Safety Code provides, in pertinent part:

33           ...

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

the following:

- (1) Clean piping, as defined by the department.
- (2) Tampering with a vehicle emission control system or test analyzer system.
- (3) Tampering with a vehicle in a manner that would cause the vehicle to falsely pass or falsely fail an inspection.
- (4) Intentional or willful violation of this chapter or any regulation, standard, or procedure of the department implementing this chapter

29. Section 44059 of the Health and Safety Code 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 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.

### **REGULATORY PROVISIONS**

30. California Code of Regulations, title 16, section 3340.24, states, in pertinent part:

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

31. California Code of Regulations, title 16, section 3340.30, states, in pertinent part:

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

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

32. California Code of Regulations, title 16, section 3340.35, states, in pertinent part:

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

1 33. California Code of Regulations, title 16, section 3340.41, states, in pertinent part:

2 ...

3 (c) No person shall enter into the emissions inspection system any vehicle  
4 identification information or emission control system identification data for any  
5 vehicle other than the one being tested. Nor shall any person knowingly enter into the  
6 emissions inspection system any false information about the vehicle being tested.

7 ....

8 34. California Code of Regulations, title 16, section 3340.42, states:

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

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

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

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

(2) A two-speed idle mode test shall be the test method used to inspect 1976 -  
1999 model-year vehicles, except diesel-powered, registered in all program areas of  
the state, except in those areas of the state where the enhanced program has been  
implemented. The two-speed idle mode test shall measure hydrocarbon, carbon  
monoxide and carbon dioxide emissions at high RPM and again at idle RPM, as  
contained in the bureau's specifications referenced in subsection (a) of Section  
3340.17 of this article. Exhaust emissions from a vehicle subject to this inspection  
shall be measured and compared to the emission standards set forth in this section and  
as shown in TABLE III. A vehicle passes the two-speed idle mode test if all of its  
measured emissions are less than or equal to the applicable emissions standards  
specified in Table III.

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

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



shall receive the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

36. California Code of Regulations, title 16, section 3352, states in pertinent part:

In this article, unless the context otherwise requires:

(a) "Estimate" means a paper or electronic document provided to the customer

1 that contains an estimated price for labor and parts for a specific job and that meets  
2 the requirements of Business and Professions Code Section 9884.9 and California  
3 Code of Regulations Section 3353.

4 (b) "Work order" means a paper or electronic document that contains the  
5 estimate and memorializes the customer's authorization for a specific job. Estimate  
6 for Auto Body or Collision Repairs. Every dealer, when doing auto body or collision  
7 repairs, shall give to each customer a written estimated price for parts and labor for a  
8 specific job.

9 (c) "Invoice" means a paper or electronic document provided to the customer  
10 that meets the invoice requirements of Business and Professions Code Section 9884.8  
11 and California Code of Regulations Section 3356.

12 ...

13 37. California Code of Regulations, title 16, section 3353, states in pertinent part:

14 An estimate shall be provided to and authorized by the customer before any  
15 work commences. The estimate shall meet the requirements of Business and  
16 Professions Code section 9884.9 as well as the following:

17 (a) Estimate for Parts and Labor. Every automotive repair dealer shall give to  
18 each customer an estimate containing the estimated price for parts and labor for a  
19 specific job prior to obtaining authorization. Each part listed in the estimate shall be  
20 new unless specifically identified as a used, rebuilt, or reconditioned part.

21 ...

22 38. California Code of Regulations, title 16, section 3356, states in pertinent part:

23 (a) All invoices for service and repair work performed, and parts supplied, as  
24 provided for in Section 9884.8 of the Business and Professions Code, shall comply  
25 with this section.

26 (b) The invoice shall show the automotive repair dealer's registration number  
27 and the corresponding business name and address as shown in the Bureau's records.

28 (c) 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.

(2) Each part supplied, in such a manner that the customer can understand what  
was purchased, and the price for each described part. The description of each part  
shall state whether the part was new, used, reconditioned, rebuilt, an OEM crash part,  
or a non-OEM aftermarket crash part. Part kits containing several components may be  
listed as a single part on the invoice and identified by brand name and corresponding  
part number or similar designation.

(3) The subtotal price for all service and repair work performed.

(4) The subtotal price for all parts supplied, not including sales tax..

(5) The applicable sales tax, if any.

(6) The total cost for all service and repair work, parts supplied and applicable  
sales tax.

1 ...  
2 (e) If additional authorization was obtained per section 3354(a), and the  
3 authorization was made orally or electronically, the automotive repair dealer shall  
4 record the oral or electronic authorization on the invoice.  
5 ...

6  
7 39. California Code of Regulations, title 16, section 3358, states:

8 Pursuant to Section 9884.11 of the Business and Professions Code, each  
9 automotive repair dealer shall maintain, in either written or electronic form, legible  
10 copies of the following records for at least three years:

11 (a) All invoices relating to automotive repair including invoices received from  
12 other sources for parts and/or labor.

13 (b) All estimates pertaining to work performed, including all records created to  
14 obtain the authorization from the customer for the initial estimate.

15 (c) All work orders and/or contracts for repairs, parts and labor, including all  
16 records supplementing the work order and created to obtain additional authorization  
17 from the customer for any additional repairs estimated.

18 (d) All such records shall be open for reasonable inspection and/or  
19 reproduction by the Bureau or other law enforcement officials during normal business  
20 hours.

21 (e) All records as specified in this section associated with an individual  
22 transaction shall have a unique identifier linking the records to that specific  
23 transaction.

### 24 **COST RECOVERY**

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

### 29 **FACTUAL ALLEGATIONS**

30 41. BAR-97 is the computer based Emission Inspection System (EIS) required for most  
31 model-year 2000 and older gasoline vehicles. Licensed Smog Check Inspectors are the only  
32 persons authorized by the Bureau of Automotive Repair (BAR) to perform official inspections.  
33 Vehicle owners are required to subject their vehicles to inspection and a Certificate of  
34 Compliance is issued when a vehicle meets the applicable requirements of the Smog Check

1 Inspection. The Vehicle Inspection Report (VIR) printed at the end of the inspection is a physical  
2 record of the results of the inspection, and is signed by the Smog Check Inspector to affirm that  
3 the inspection was performed in accordance with BAR's requirements.

4 42. The BAR-97 EIS measures the vehicles tailpipe emissions under conditions designed  
5 to simulate vehicle operation. The samples from the tailpipe are analyzed for five gases, i.e.,  
6 hydrocarbon, carbon monoxide, oxides of nitrogen, carbon dioxide, and oxygen. As part of the  
7 inspection, the Smog Check Inspector performs a visual test on the vehicle to verify the presence  
8 and proper connection of required emission control devices, and a functional test. The inspector  
9 enters the results of the visual and functional tests into the EIS. In addition, an On-Board  
10 Diagnostic (OBDII) functional test in which a test cable is connected from the EIS to the vehicle  
11 is performed on most 1996 to 1999 model-year vehicles.

12 43. On December 21, 2020, a BAR representative conducted a smog inspection of a BAR  
13 owned 1997 model-year Ford that was later used in an undercover operation. The vehicle passed  
14 all portions of that inspection. The odometer reading at the time was 94,456.

15 44. On December 22, 2020, the same BAR Representative removed the vehicle's  
16 Evaporative Emission Control System (EVAP) emissions canister and installed a modification to  
17 prevent the vehicle's malfunction indicator light from illuminating. The vehicle's EVAP  
18 emissions canister is one of the required emission controls for the vehicle. The absence of the  
19 EVAP emissions canister, and the presence of the modification installed, would be identified in  
20 any properly conducted visual inspection of the vehicle, and for that reason would result in the  
21 vehicle failing any properly performed smog check inspection. The vehicle remained in this  
22 condition throughout the subsequent undercover operation.

23 45. On February 8, 2021 the BAR Representative confirmed that the vehicle's OBD II  
24 readiness monitors were all completed.

25 46. On February 9, 2021, the vehicle was transported by truck to Calexico, California. A  
26 different BAR representative drove the vehicle to Respondent's business location, and acting  
27 under an assumed name, requested a smog inspection for the vehicle. Respondent was present at  
28 the time, and had at least two individuals working with him. The undercover BAR representative

1 was not given a written estimate for the smog inspection. The vehicle's odometer reading at the  
2 time of arrival at Respondent's business location was 94,459.

3 47. After the smog check inspection began, one of the individuals working at the station  
4 with Respondent told the undercover BAR representative that there was a problem, but that he  
5 would see if he could "help." This individual told the BAR representative that the carbon  
6 monoxide from the vehicle was, "high at 99" and that he would, "adjust monitors and make a few  
7 adjustments to lower" it. During at least a portion of this exchange, the undercover BAR  
8 representative was standing near the driver's side door of the vehicle, and Respondent was  
9 standing near the front of the vehicle. The undercover BAR representative was given a work  
10 order for \$250 that he completed and returned to authorize the recommended "adjustments." The  
11 undercover BAR representative did not receive back a copy of the signed work order or an  
12 invoice. However, he did pay the \$250 for the work authorized.

13 48. The smog check inspection was completed and the undercover BAR representative  
14 was given a signed VIR. The VIR recorded that Respondent had completed the inspection and  
15 passed the test. The undercover BAR representative then drove the vehicle from Respondent's  
16 business location. The vehicle was ultimately transported by truck back to a BAR facility.

17 49. The vehicle was re-inspected on February 10, 2021 by the original BAR  
18 representative. The odometer reading was 94,461 at the time. On February 10, 2021, the vehicle  
19 failed the visual inspection due to the missing EVAP emissions canister, and additionally failed  
20 the functional check due to incomplete OBD self-tests not run to completion. This vehicle could  
21 not have passed a properly performed California Smog Check Inspection. With respect to the  
22 vehicle's emissions, no adjustments or repairs were necessary as had been claimed during the  
23 inspection performed by Respondent.

24 **FIRST CAUSE FOR DISCIPLINE**

25 **(Untrue or Misleading Statement)**

26 50. Complainant re-alleges and incorporates by reference the allegations set forth in the  
27 foregoing paragraphs.

28 ///

51. Respondent's ARD Registration is subject to disciplinary action under section 9884.7, subdivision (a)(1), in that Respondent made or authorized statements which Respondent knew or in exercise of reasonable care should have known to be untrue or misleading.

52. Respondent certified that the 1997 model-year Ford described above had passed inspection and was in compliance with all applicable laws and regulations when Respondent had actual or constructive knowledge that the vehicle had not appropriately demonstrated compliance with all applicable laws and regulations as certified. Respondent further collected a fee for repairs purportedly to address the vehicle's emissions exceeding passing limits when Respondent had actual or constructive knowledge that no such condition existed.

## **SECOND CAUSE FOR DISCIPLINE**

**(Fraud)**

53. Complainant re-alleges and incorporates by reference the allegations set forth in the foregoing paragraphs.

54. Respondent's ARD Registration is subject to disciplinary action under section 9884.7, subdivision (a)(4), in that Respondent committed acts which constitute fraud by issuing an electronic certificate of compliance for the 1997 Ford vehicle without performing a bona fide inspection of the emission control devices and systems on the vehicle, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

### THIRD CAUSE FOR DISCIPLINE

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

55. Complainant re-alleges and incorporates by reference the allegations set forth in the foregoing paragraphs.

56. Respondent's ARD Registration is subject to disciplinary action under section 9884.7, subdivision (a)(6), in that Respondent failed in a "material respect to comply with the provisions of this chapter or regulations adopted pursuant to it" when Respondent caused a Certificate of Compliance to be issued for the 1997 model-year Ford described above without performing a bona fide inspection of the emission control devices and systems on that vehicle.

1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Violate Estimate and Work Order Requirements)**

3 57. Complainant re-alleges and incorporates by reference the allegations set forth in the  
4 foregoing paragraphs.

5 58. Respondent's Automotive Repair Dealer Registration is subject to disciplinary action  
6 under Code sections 9884.7, subdivision (a)(6), and 9884.9, subdivision (a), and under section  
7 3353 of Title 16 of the California Code Regulations, in that Respondent failed to properly provide  
8 the undercover BAR Representative a written estimate for the smog check inspection.

9 **FIFTH CAUSE FOR DISCIPLINE**

10 **(Violate Invoice Requirements)**

11 59. Complainant re-alleges and incorporates by reference the allegations set forth in the  
12 foregoing paragraphs.

13 60. Respondent's Automotive Repair Dealer Registration is subject to disciplinary action  
14 under Code sections 9884.7, subdivision (a)(3), and 9884.8, and under section 3340.41.3 of Title  
15 16 of the California Code Regulations, in that Respondent failed to properly provide the  
16 undercover BAR Representative a separate copy of the invoice for the \$250 charge described  
17 above.

18 **SIXTH CAUSE FOR DISCIPLINE**

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

20 61. Complainant re-alleges and incorporates by reference the allegations set forth in the  
21 foregoing paragraphs.

22 62. Respondent's Smog Check Station License is subject to disciplinary action under  
23 Health and Safety Code sections 44072.2, subdivision (a), and 44072.10, subdivisions (a) and (c),  
24 in that Respondent failed to comply with the following sections of that Code:

25 a. **Section 44012:** failed to perform the tests of the emission control systems and  
26 devices on the vehicles listed in the paragraphs above, in accordance with procedures prescribed  
27 by the Department.

28 ///

1           b.     **Section 44015, subd. (a) and (b)**: issued Certificates of Compliance for the vehicle  
2 identified in the paragraphs above without properly testing and inspecting it to determine if it  
3 were in compliance with Health and Safety code section 44012.

4           c.     **Section 44035**: failed to meet or maintain the standards prescribed for qualification,  
5 equipment, performance, or conduct by failing to properly perform a smog inspection on the  
6 vehicle identified in the paragraphs above.

#### 7                                   **SEVENTH CAUSE FOR DISCIPLINE**

##### 8       **(Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection Program)**

9           63.    Complainant re-alleges and incorporates by reference the allegations set forth in the  
10 foregoing paragraphs.

11           64.    Respondent's Smog Check Station License is subject to disciplinary action under  
12 Health and Safety Code sections 44072.2, subdivision (a), and 44072.10, subdivisions (a) and (c),  
13 in that Respondent failed to comply with the following sections of Title 16 of the California Code  
14 of Regulations:

15           a.     **Section 3340.24, subdivision (c)**: caused a false or fraudulent Certificate of  
16 Compliance to be issued for the vehicle identified in the paragraphs above.

17           b.     **Section 3340.35, subdivision (c)**: failed to inspect and test the vehicle identified in  
18 the paragraphs above in accordance with the procedures specified in section 3340.42 of the  
19 Regulations and failed to ensure that the vehicle had all the required emission control equipment  
20 and devices installed and functioning correctly.

21           c.     **Section 3340.42**: failed to conduct the required smog test on the vehicle listed in the  
22 paragraphs above in accordance with the Bureau's specifications.

23           d.     **Section 3340.45**: failed to conduct the required smog test on the vehicle identified in  
24 the paragraphs above in accordance with the applicable Smog Check Manual.

#### 25                                   **EIGHTH CAUSE FOR DISCIPLINE**

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

27           65.    Complainant re-alleges and incorporates by reference the allegations set forth in the  
28 foregoing paragraphs.



66. Respondent's Smog Check Station License is subject to disciplinary action under Code Section 9884.7, subdivision (a)(4) and Health and Safety Code sections 44072.2, subdivision (d), and 44072.10, subdivisions (a) and (c), in that Respondent engaged in conduct constituting fraud, and committed dishonest, fraudulent, or deceitful acts injuring another, by fraudulently certifying or participating in the fraudulent inspection of the vehicle identified in the paragraphs above, causing a fraudulent Certificate of Compliance to be issued, and by collecting a fee for repairs purportedly to address the vehicle's emissions exceeding passing limits when Respondent had actual or constructive knowledge that no such condition existed.

### NINTH CAUSE FOR DISCIPLINE

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

67. Complainant re-alleges and incorporates by reference the allegations set forth in the foregoing paragraphs.

68. Respondent's Lamp Station and Brake Station Licenses are subject to disciplinary action pursuant to Code section 9889.3, subdivision (d), in that Respondent committed dishonest, fraudulent, or deceitful acts injuring another, by fraudulently certifying or participating in the fraudulent inspection of the vehicle identified in the paragraphs above, causing a fraudulent Certificate of Compliance to be issued, and by collecting a fee for repairs purportedly to address the vehicle's emissions exceeding passing limits when Respondent had actual or constructive knowledge that no such condition existed.

### TENTH CAUSE FOR DISCIPLINE

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

69. Complainant re-alleges and incorporates by reference the allegations set forth in the foregoing paragraphs.

70. Respondent's Smog Check Inspector and Smog Check Repair Technician Licenses are subject to disciplinary action under Health and Safety Code sections 44072.2, subdivision (a), and 44072.10, subdivisions (a) and (c), in that Respondent failed to comply with the following sections of that Code:

///

1           a.     **Section 44012:** failed to perform the tests of the emission control systems and  
2 devices on the vehicle identified in the paragraphs above in accordance with procedures  
3 prescribed by the Department.

4           b.     **Section 44015, subd. (a) and (b):** issued Certificates of Compliance for the vehicle  
5 identified in the paragraphs above without properly testing and inspecting it to determine if it was  
6 in compliance with Health and Safety code section 44012.

7           c.     **Section 44032:** failed to test emission control devices and systems for the vehicle  
8 identified in the paragraphs above in accordance with Health and Safety code section 44012.

9           d.     **Section 44035:** failed to meet or maintain the standards prescribed for qualification,  
10 equipment, performance, or conduct by failing to properly perform a smog inspection on the  
11 vehicle identified in the paragraphs above.

#### 12                                   **ELEVENTH CAUSE FOR DISCIPLINE**

##### 13       **(Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection Program)**

14           71.    Complainant re-alleges and incorporates by reference the allegations set forth in the  
15 foregoing paragraphs.

16           72.    Respondent's Smog Check Inspector and Smog Check Repair Technician Licenses  
17 are subject to disciplinary action under Health and Safety Code sections 44072.2, subdivision (a),  
18 and 44072.10, subdivisions (a) and (c), in that Respondent failed to comply with the following  
19 sections of Title 16 of the California Code of Regulations:

20           a.     **Section 3340.41, subdivision (c):** knowingly entered into the Emissions Inspection  
21 System false information concerning the vehicle identified in the paragraphs above, or  
22 information for a vehicle other than the one being tested for the vehicle identified in the  
23 paragraphs above.

24           b.     **Section 3340.42:** failed to conduct the required smog tests on the vehicle identified  
25 in the paragraphs above in accordance with the Bureau's specifications.

26           c.     **Section 3340.45:** failed to conduct the required smog tests on the vehicle identified  
27 in the paragraphs above in accordance with the applicable Smog Check Manual

28       ///

1 **TWELFTH CAUSE FOR DISCIPLINE**

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

3 73. Complainant re-alleges and incorporates by reference the allegations set forth in the  
4 foregoing paragraphs.

5 74. Respondent's Smog Check Inspector and Smog Check Repair Technician Licenses  
6 are subject to disciplinary action under Health and Safety Code sections 44072.2, subdivision (d),  
7 and 44072.10, subdivisions (a) and (c), in that Respondent committed dishonest, fraudulent, or  
8 deceitful acts injuring another by fraudulently certifying or participating in the fraudulent  
9 inspection of the vehicle identified in the paragraphs above, causing a fraudulent Certificate of  
10 Compliance to be issued, and by collecting a fee for repairs purportedly to address the vehicle's  
11 emissions exceeding passing limits when Respondent had actual or constructive knowledge that  
12 no such condition existed.

13 **THIRTEENTH CAUSE FOR DISCIPLINE**

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

15 75. Complainant re-alleges and incorporates by reference the allegations set forth in the  
16 foregoing paragraphs.

17 76. Respondent's Lamp Adjuster and Brake Adjuster Licenses are subject to disciplinary  
18 action pursuant to Code section 9889.3, subdivision (d), in that Respondent committed dishonest,  
19 fraudulent, or deceitful acts injuring another, by fraudulently certifying or participating in the  
20 fraudulent inspection of the vehicle identified in the paragraphs above, causing a fraudulent  
21 Certificate of Compliance to be issued, and by collecting a fee for repairs purportedly to address  
22 the vehicle's emissions exceeding passing limits when Respondent had actual or constructive  
23 knowledge that no such condition existed.

24 **OTHER MATTERS**

25 77. Under Code section 9884.7, subdivision (c), the Director may suspend, revoke or  
26 place on probation the Registration for all places of business operated in this State by Respondent  
27 Mateo Saucedo Luque, owner of I.V. Smog Check, upon a finding that Respondent has, or is,  
28 engaged in a course of repeated and willful violations of the laws and regulations pertaining to an

1 automotive repair dealer.

2 78. Under Health & Safety Code section 44072.8, if Respondent's California Smog Test  
3 Station License is revoked or suspended, the Director may likewise revoke or suspend any  
4 additional license issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code  
5 in the name of Respondent.

6 79. Under Health and Safety Code section 44072.8, if any license issued to Respondent is  
7 revoked or suspended, any additional license issued under the Motor Vehicle Inspection Program  
8 in the name of Respondent may be likewise revoked or suspended by the Director.

9 80. Under Code section 9889.9, if a license is revoked or suspended following a hearing  
10 under Article 7 of the Automotive Repair Act, any additional license issued under Articles 5 or 6  
11 of Chapter 20.3 of Division 3 of the Code in the name of Mateo Sauced Luque, including Lamp  
12 Station License Number LS 294501 and Brake Station License Number BS 294501, may be  
13 likewise revoked or suspended.

14 81. Under Code section 9889.9, if a license is revoked or suspended following a hearing  
15 under Article 7 of the Automotive Repair Act, any additional license issued under Articles 5 or 6  
16 of Chapter 20.3 of Division 3 of the Code in the name of Mateo Sauced Luque, including Lamp  
17 Adjuster License Number LA 640171 and Brake Adjuster License Number BA 640171, may be  
18 likewise revoked or suspended.

19 **PRAYER**

20 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
21 and that following the hearing, the Director of the Department of Consumer Affairs issue a  
22 decision:

23 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD  
24 294501, issued to Mateo Sauced Luque, dba I.V. Smog Check;

25 2. Revoking or suspending any additional automotive repair dealer registration issued to  
26 Mateo Sauced Luque;

27 3. Revoking or suspending Smog Check Station License Number RC 294501, issued to  
28 Mateo Sauced Luque, dba I.V. Smog Check;

1           4.     Revoking or suspending Lamp Station License Number LS 294501 Class A, issued to  
2 Mateo Saucedo Luque, dba I.V. Smog Check;

3           5.     Revoking or suspending Brake Station License Number BS 294501 Class C, issued to  
4 Mateo Saucedo Luque, dba I.V. Smog Check;

5           6.     Revoking or suspending Smog Check Inspector License Number EO 640171, issued  
6 to Mateo Saucedo Luque;

7           7.     Revoking or suspending Smog Check Repair Technician License Number EI 640171,  
8 issued to Mateo Saucedo Luque;

9           8.     Revoking, suspending, or placing on probation any additional license issued under  
10 Chapter 5 of Part 5 of Division 26 of the Health and Safety Code to Mateo Saucedo Luque;

11          9.     Revoking or suspending Brake Adjuster License Number BA 640171 Class C, issued  
12 to Mateo Saucedo Luque;

13          10.    Revoking or suspending Lamp Adjuster License Number LA 640171 Class A, issued  
14 to Mateo Saucedo Luque;

15          11.    Revoking, suspending, or placing on probation any additional License issued under  
16 Articles 5 or 6 of Chapter 20.3 of Division 3 of the Code to Mateo Saucedo Luque;

17          12.    Ordering Mateo Saucedo Luque to pay the Bureau of Automotive Repair the  
18 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
19 Professions Code section 125.3; and,

20          13.    Taking such other and further action as deemed necessary and proper.

21  
22  
23 DATED: As of Digital Signature Date

24 PATRICK DORAIS  
25 Chief  
26 Bureau of Automotive Repair  
27 Department of Consumer Affairs  
28 State of California  
*Complainant*

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