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

In the Matter of the Accusation Against:

**DANIEL MATEOS RICO dba SAN JOSE SMOG
CHECK & AUTO SERVICE
1160 East Santa Clara St., Unit 10
San Jose, CA 95116**

**Mailing Address:
2219 Pacina Drive
San Jose, CA 95116**

**Automotive Repair Dealer Registration No. ARD 294652
Smog Check station license No. RC 294652,**

and

**JOSUE MATEOS MONTOYA
1968 South King Road
San Jose, CA 95122-2230**

**Smog Check inspector No. EO 631761
Smog Check repair technician No. EI 631761**

Respondents.

Case No. 79/24-4512

**DEFAULT DECISION AND
ORDER
(As to Daniel Mateos Rico dba
San Jose Smog Check & Auto
Service Only)**

[Gov. Code, §11520]

FINDINGS OF FACT

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2 1. On or about October 16, 2024, Complainant Patrick Dorais, in his official capacity as
3 the Chief of the Bureau of Automotive Repair (Bureau), Department of Consumer Affairs, filed
4 Accusation No. 79/24-4512 against Daniel Mateos Rico dba San Jose Smog Check & Auto
5 Service and Josue Mateos Montoya before the Director of the Department of Consumer Affairs.¹
6 (Accusation attached as Exhibit A.) This Default applies to Daniel Mateos Rico dba San Jose
7 Smog Check & Auto Service (Respondent), only.

8 2. On or about June 19, 2019, the Bureau issued Automotive Repair Dealer Registration
9 No. ARD 294652 to Respondent. The Automotive Repair Dealer Registration was in full force
10 and effect at all times relevant to the charges brought in Accusation No. 79/24-4512 and will
11 expire on June 30, 2025, unless renewed. On or about July 18, 2019, the Bureau issued Smog
12 Check Station License Number RC 294652 to Respondent. The Smog Check Station License was
13 in full force and effect at all times relevant to the charges brought Accusation No. 79/24-4512 and
14 will expire on June 30, 2025, unless renewed.

15 3. On or about October 18, 2024, Respondent was served by Certified and First Class
16 Mail copies of the Accusation No. 79/24-4512, Statement to Respondent, Notice of Defense,
17 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,
18 and 11507.7) at Respondent's address of record and mailing address of record which, pursuant to
19 Business and Professions Code section 136, are required to be reported and maintained with the
20 Bureau. Respondent's address of record and mailing address of record were and are:

21 1160 East Santa Clara St., Unit 10

22 San Jose, CA 95116

23 Mailing Address:

24 2219 Pacina Drive

25 San Jose, CA 95116.

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27 ¹ Also named as a Respondent in the Accusation is Josue Mateos Montoya. The findings
28 in this document apply to Respondent Daniel Mateos Rico dba San Jose Smog Check & Auto
Service only.

1 4. Service of the Accusation was effective as a matter of law under the provisions of
2 Government Code section 11505(c) and/or Business and Professions Code section 124.

3 5. Government Code section 11506(c) states, in pertinent part:

4 (c) The respondent shall be entitled to a hearing on the merits if the respondent
5 files a notice of defense . . . and the notice shall be deemed a specific denial of all
6 parts of the accusation . . . not expressly admitted. Failure to file a notice of defense
7 . . . shall constitute a waiver of respondent's right to a hearing, but the agency in its
8 discretion may nevertheless grant a hearing.

9 6. The Bureau takes official notice of its records and the fact that Respondent failed to
10 file a Notice of Defense within 15 days after service upon him of the Accusation, and therefore
11 waived his right to a hearing on the merits of Accusation No. 79/24-4512.

12 7. California Government Code section 11520(a) states, in pertinent part:

13 (a) If the respondent either fails to file a notice of defense . . . or to appear at
14 the hearing, the agency may take action based upon the respondent's express
15 admissions or upon other evidence and affidavits may be used as evidence without
16 any notice to respondent

17 8. Pursuant to its authority under Government Code section 11520, the Director after
18 having reviewed the proof of service dated October 18, 2024, signed by Ron Quijada, finds
19 Respondent is in default. The Director will take action without further hearing and, based on the
20 relevant evidence contained in the Default Decision Investigatory Evidence Packet in this matter,
21 finds that the charges and allegations in Accusation No. 79/24/-4512 are separately and severally
22 found to be true and correct by clear and convincing evidence.

23 DETERMINATION OF ISSUES

24 1. Based on the foregoing findings of fact, Respondent Daniel Mateos Rico dba San
25 Jose Smog Check & Auto Service has subjected his Automotive Repair Dealer Registration No.
26 ARD 294652 and Smog Check Station License No. RC 294652 to discipline.

27 2. The agency has jurisdiction to adjudicate this case by default.

28 3. The Director of the Department of Consumer Affairs is authorized to revoke
Respondent's Automotive Repair Dealer Registration and Smog Check Station License based
upon the following violations alleged in the Accusation which are supported by the evidence
contained in the Default Decision Investigatory Evidence Packet in this case:

1 a. Respondent subjected his Automotive Repair Dealer Registration to discipline under
2 Business and Professions Code section 9884.7, subdivision (a)(1), in that Respondent made
3 statements which he knew or which by exercise of reasonable care should have known were
4 untrue or misleading when he purported to test vehicles, and certified that the vehicles
5 passed inspection and were in compliance with applicable laws and regulations, when in
6 fact, Respondent conducted the inspections on those vehicles using clean plugging methods.

7 b. Respondent subjected his Automotive Repair Dealer Registration to discipline under
8 Business and Professions Code section 9884.7, subdivision (a)(4), in that Respondent
9 committed acts which constitute fraud.

10 c. Respondent subjected his Automotive Repair Dealer Registration to discipline under
11 Code section 9884.7, subdivision (a)(6), in that he violated California Code of Regulations,
12 title 16, sections 3373 and/or 3371, by creating and issuing false or misleading certificates
13 of compliance and vehicle inspection reports for the eight vehicles that were clean plugged.

14 d. Respondent subjected his Smog Check Station License to discipline under Health and
15 Safety Code sections 44072.10 and/or 44072.2, subdivision (d), in that he committed acts
16 involving dishonesty, fraud or deceit, whereby another was injured by issuing electronic
17 certificates of compliance for vehicles without performing bona fide inspections of the
18 emission control devices and systems on the vehicles, thereby depriving the People of the
19 State of California the protection afforded by the Motor Vehicle Inspection Program.

20 e. Respondent subjected his Smog Check Station License to discipline under Health and
21 Safety Code sections 44072.10 and/or 44072.2, subdivisions (a) and (c), in that he violated
22 sections of that Code and/or applicable regulations as follows:

23 i. Health and Safety Code Section 44012: Respondent failed to ensure that smog
24 inspections were performed on vehicles in accordance with procedures prescribed by
25 the department.

26 ii. Health and Safety Code Section 44059: Respondent willfully made false
27 statements in issuing the Smog Certificates of compliance and on the Vehicle
28 Inspection Reports.

1 iii. Code of Regulations, title 16, Section 3340.24, subdivision (c): Respondent
2 falsely or fraudulently issued electronic certificates of compliance to certain vehicles
3 without performing bona fide inspections of the emission control devices and systems
4 on those vehicles.

5 iv. Code of Regulations, title 16, Section 3340.30, subdivision (a): Respondent
6 failed to inspect the vehicles in accordance with Health and Safety Code section
7 44012 and California Code of Regulations title 16, section 3340.42.

8 v. Code of Regulations, title 16, Section 3340.41, subdivision (c): Respondent
9 Rico entered false information about vehicles being tested into OIS.

10 vi. Code of Regulations, title 16, Section 3340.41, subdivision (h): Respondent
11 Rico had electronic devices and/or software capable of simulating the OBD data
12 stream from a vehicle and/or manipulating OBD VIN, calibration identification,
13 calibration verification number, MIL status, readiness, or diagnostic trouble codes
14 collected from a vehicle during a Smog Check Inspection in the approved testing area
15 of the station.

16 vii. Code of Regulations, title 16, Section 3340.42: Respondent Rico failed to
17 conduct the required smog tests and inspections on certain vehicles in accordance
18 with the Bureau's specifications.

19 viii. Code of Regulations, title 16, Section 3340.45: Respondent Rico violated the
20 procedures contained in the Smog Check Manual by entering vehicle identification
21 information for a vehicle that was not being tested.

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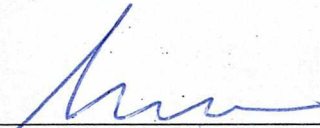
ORDER

IT IS SO ORDERED that Automotive Repair Dealer Registration No. ARD 294652, and Smog Check Station License No. RC 294652, issued to Respondent Daniel Mateos Rico dba San Jose Smog Check & Auto Service, are revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The motion should be sent to the Bureau of Automotive Repair, ATTN: Patrick Lutfi, 10949 North Mather Boulevard Rancho Cordova, CA 95670. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on June 16, 2025.

It is so ORDERED May 20, 2025



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

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DOJ Matter ID:SF2024401470

Attachment:
Exhibit A: Accusation