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

12
13 In the Matter of the Accusation Against:

Case No. 79/23-20855

14 **CARLA MARIA ESPINOLA, DBA**
15 **YEYO'S AUTOMOTIVE**
16 **607 W. 9th Street**
17 **San Bernardino, CA 92410**

ACCUSATION

18 **Automotive Repair Dealer Registration No.**
19 **ARD 301290**
20 **Smog Check, Test-and-Repair, Station**
21 **License No. RC 301290,**

22 **and**

23 **VALERIA J. ESPINOLA**
24 **13231 Claremont Avenue**
25 **Victorville, CA 92392**

26 **Smog Check Inspector License No. EO**
27 **640673**

28 Respondents.

PARTIES

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

1 13. Health and Safety Code section 44012 provides:

2 The test at the smog check stations shall be performed in accordance with
3 procedures prescribed by the department and may require loaded mode dynamometer
4 testing in enhanced areas, two-speed idle testing, testing utilizing a vehicle's onboard
5 diagnostic system, or other appropriate test procedures as determined by the department
6 in consultation with the state board. The department shall implement testing using
7 onboard diagnostic systems, in lieu of loaded mode dynamometer or two-speed idle
8 testing, on model year 2000 and newer vehicles only, beginning no earlier than
9 January 1, 2013, and on model-year 1996-99, inclusive, vehicles only, beginning no
10 earlier than January 1, 2025. However, the department, in consultation with the state
11 board, may prescribe alternative test procedures that include loaded mode
12 dynamometer or two-speed idle testing for vehicles with onboard diagnostic systems
13 that the department and the state board determine exhibit operational problems. The
14 department shall ensure, as appropriate to the test method, the following:

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

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

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

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

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

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

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

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

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

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14 14. Health and Safety Code section 44015 provides, in pertinent part:

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

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

18 (2) A vehicle identified pursuant to subparagraph (K) of paragraph (3) of
19 subdivision (b) of Section 44036. A vehicle identified pursuant to subparagraph (K)
20 of paragraph (3) of subdivision (b) of Section 44036 shall be directed to the
21 department to determine whether an inadvertent error can explain the irregularity, or
22 whether the vehicle otherwise meets smog check requirements, allowing the
23 certificate for compliance to be issued, or the vehicle shall be reinspected by a referee
24 or another smog check station.

25 (3) A vehicle that, prior to repairs, has been initially identified by the smog
26 check station as a gross polluter. Certification of a gross polluting vehicle shall be
27 conducted by a designated test-only facility, or a test-and-repair station that is both
28 licensed and certified pursuant to Sections 44014 and 44014.2.

(4) A vehicle described in subdivision (c).

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

...

15. Health and Safety Code section 44032 provides:

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

16. Health and Safety Code section 44059 provides:

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.

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17. Health and Safety Code section 44072.2 states, in pertinent part:

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

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

...

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

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

...

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

18. Health and Safety Code section 44072.8 states that 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.

19. Health and Safety Code section 44072.10 states, in pertinent part:

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

(1) Clean piping, clean plugging, clean glassing, clean tanking, or any other fraudulent inspection practice, as defined by the department.

...

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

...

REGULATORY PROVISIONS

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

(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.

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1 21. California Code of Regulations, title 16, section 3340.30 provides, in pertinent part:

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

4 (a) Inspect, test and repair vehicles, as applicable, in accordance with section
5 44012 of the Health and Safety Code, section 44035 of the Health and Safety Code,
6 and section 3340.42 of this article.

7 ...

8 22. California Code of Regulations, title 16, section 3340.35, subdivision (c), states, in
9 pertinent part:

10 ...

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

15 23. California Code of Regulations, title 16, section 3340.41, subdivision (c), provides:

16 ...

17 (c) No person shall enter any vehicle identification information or emission
18 control system identification data for any vehicle other than the one being tested into
19 the EIS or OIS. Nor shall any person enter into the EIS or OIS any false information
20 about the vehicle being tested.

21 ...

22 24. California Code of Regulations, title 16, section 3340.42, sets forth specific emissions
23 test methods and procedures which apply to all vehicles inspected in the State of California.

24 25. California Code of Regulations, title 16, section 3340.45 provides:

25 All Smog Check inspections shall be performed in accordance with
26 requirements and procedures prescribed in the Smog Check Manual, dated January
27 2021, which is hereby incorporated by reference.

28 26. 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(e) of this chapter, withhold therefrom or insert therein any statement or
information which will cause any such document to be false or misleading, or where
the tendency or effect thereby would be to mislead or deceive customers, prospective
customers, or the public.

1 **COST RECOVERY**

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

8 **FACTUAL ALLEGATIONS**

9 28. Beginning March 9, 2015, California’s Smog Check Program was updated to require
10 the use of an On-Board Diagnostic Inspection System (OIS). OIS is the Smog Check equipment
11 required in all areas of the State when inspecting most model-year 2000 and newer gasoline and
12 hybrid vehicles and most 1998 and newer diesel vehicles. The system consists of a certified Data
13 Acquisition Device (DAD), computer, bar code scanner, and printer. The DAD is an On Board
14 Diagnostic (OBD) scan tool that, when requested by the California OIS software, retrieves OBD
15 data from the vehicle. All OBD data that the vehicle indicates it supports is requested by the
16 California OIS software and will be retrieved. The DAD connects between the OIS computer and
17 the vehicle’s Data Link Connector (DLC). The California OIS software requires a continuous
18 Internet connection when performing a Smog Check inspection and the OIS software
19 communicates with Bureau’s central database through the Internet connection. The bar code
20 scanner is used to input technician information, the vehicles identification number (VIN), and
21 Department of Motor Vehicles (DMV) renewal information. The printer provides a Vehicle
22 Inspection Report (VIR) containing inspection results for motorists and a Smog Check Certificate
23 of Compliance number for passing vehicles.

24 29. Data retrieved and recorded during an OIS smog check includes; the eVIN, which is
25 the digitally stored VIN programmed into the vehicle’s Powertrain Control Module (PCM); the
26 communication protocol, which is the manufacturer/vehicle specific language the PCM uses to
27 relay information; and the number of Parameter Identifications (PIDs), which is the number of
28 specific data values each PCM uses related to emissions controls.

1 30. During an OIS inspection, engine operating parameters are retrieved from the
2 vehicle's OBD system and recorded to the VID. This is accomplished during the functional
3 portion of the OIS Smog Check inspection by plugging the DAD into the vehicle's DLC when
4 prompted by the OIS analyzer screen prompt. Some of the parameters recorded are:

5 (1) Engine speed in revolutions per minute (RPM).

6 (2) Throttle position as measured by a throttle position sensor (TPS) mounted onto the
7 throttle shaft, measured in a percentage of opening from 0% at idle and near or up to 100%
8 at full throttle

9 (3) Manifold absolute pressure as measured by a manifold absolute pressure sensor
10 (MAP) connected to an intake manifold source, measured in kilo pascals (kpa). Typical
11 readings for a normally aspirated vehicle are: 0 kpa being absolute vacuum, 25kpa to 45kpa
12 at idle, 101 kpa at full throttle, same as atmospheric pressure at sea level.

13 (4) Mass air flow as measured by a mass air flow sensor (MAF) mounted in the engine's
14 air intake tract, measured in grams per second (gps).

15 (5) Ignition timing is set by the vehicle PCM based on engine speed and load and is
16 measured in degrees Before Top Dead Center (BTDC).

17 31. During normal engine operation at idle, engine speed is relatively steady around its
18 target idle speed. With the engine idling, the TPS is steady and at or near 0%. The MAP and/or
19 MAF readings are also steady. In order for the engine speed to increase, the throttle would have
20 to be opened in order to increase airflow through the engine. The engine's management systems
21 supply fuel and spark timing appropriate to any changes in throttle position and engine speed. An
22 increase in throttle, measured by the TPS, which increases engine RPM, would result in
23 corresponding increases in MAF, as well as a change in MAP. Stated another way, any
24 movement in the throttle from the idle position will result in an increase of airflow through the
25 engine with corresponding increases RPM and MAF along with changes in MAP.

26 32. During an OIS Smog Check inspection, along with other visual and functional
27 inspections, there is an OBD II query portion of the inspection. The OBD II query is performed
28 with the engine idling and, when requested by the OIS analyzer, an elevated or increased engine

1 speed. The increase in engine speed is performed by the inspector by stepping on the throttle
2 pedal or manually opening the throttle, resulting in a corresponding increase in engine RPMs by
3 allowing an increase in airflow into the engine.

4 33. If the vehicle passes the visual, functional and tailpipe tests, it passes the overall
5 inspection and a Certificate of Compliance is issued and transmitted electronically to the VID.
6 Each Certificate of Compliance has a unique control number so that it can be tracked to determine
7 which Smog Check Station purchased the Certificate of Compliance and to which vehicle it
8 was issued.

9 34. The VID contains registration data from DMV, plus emission standards, vehicle smog
10 check inspections, smog check stations and technicians, and Certificates of Compliance. The
11 VID receives the passing smog check results immediately following the inspection. During the
12 vehicle registration process, the DMV accesses the VID to verify that the vehicle has been tested
13 and certified. The Bureau can also access the VID to view test data on smog check inspections
14 performed at any Smog Check Station, or search for, retrieve, and print a test record for a
15 particular vehicle which has been tested. The EIS or OIS, depending on the test type, also prints a
16 VIR, which is a physical record of the test results and shows the Certificate of Compliance
17 number that was issued if the vehicle passed the smog inspection.

18 35. The smog check technician must sign the VIR under penalty of perjury to indicate
19 that the inspection was done within Bureau guidelines. Smog Check Stations are required by law
20 to maintain a copy of the VIR along with a copy of the repair invoice for three years. The
21 consumer's VIR serves as a receipt and proof that the VID was updated and a Certificate of
22 Compliance was issued. Licensed Smog Check Technicians are the only persons authorized by
23 the Bureau to perform official inspections. They are issued a personal access code and a license,
24 which are used to gain access to the EIS and OIS to perform smog check inspections.
25 Unauthorized use of another technician's access code or license is prohibited.

26 36. The Bureau has become aware of methods some Smog Check stations and Smog
27 Check inspectors use to fraudulently issue smog certificates to vehicles that will not pass a Smog
28 Check test on their own, or in some instances, are not even present during the time the test is

1 performed. One method is known as “clean plugging.” “Clean plugging” is a method by which
2 another vehicle’s properly functioning OBD system, or another source such as defeat devices, are
3 used to generate passing data readings or diagnostic information for the purpose of fraudulently
4 issuing smog certificates to vehicles that are not in smog compliance and or not present for
5 testing. Defeat devices attempt to simulate engine operation during a Smog Check inspection by
6 transmitting OBD data to the VID which has been modified or replaced entirely for the
7 purportedly inspected vehicle during the functional portion of the OIS inspection. The use of a
8 defeat device during a Smog Check inspection is clean plugging and is strictly prohibited.

9 37. A Bureau representative initiated an investigation, in which he reviewed OIS test data
10 for the smog check inspections performed at Respondent Yeyo’s Automotive. The investigation
11 revealed that data related to certain vehicles certified by Respondents contained a pattern of
12 unmistakable discrepancies between the information transmitted during the inspections and
13 known similar data for the vehicles being tested. Specifically, the Bureau representative observed
14 a pattern of vehicles being certified with engine operating parameters not corresponding to
15 normal engine operation, confirming the vehicles receiving smog certificates were not tested
16 during the OBD functional test, which constitutes clean plugging, as follows:

17 **Clean Plug #1**

18 38. On or about February 18, 2023, a 2000 Pontiac Grand Am SE1, CA License
19 #U863866 (2000 Grand Am) was tested and smog certificate #TE162014C was issued by
20 Respondent Yeyo’s Automotive under the license of Smog Check Inspector #EO640673,
21 Respondent Espinola.

22 39. The Dynamic data and PID Charts for the 2000 Grand Am shows between time
23 stamp 418ms and 29733ms, engine speed is steady at approximately 600 RPM. During
24 this time, the throttle is fixed at 0.4% opening, the MAP is fixed at 39kPa, and the ignition
25 timing advance for the #1 cylinder is fixed at 13.5 degrees BTDC. After time stamp 29733ms,
26 the engine speed increases to approximately 2600 RPM at time stamp 38849ms, before
27 decreasing to approximately 2100 RPM. From the time the engine RPM increases off idle to the
28 higher RPMs, the throttle is fixed at the same 0.4% opening, the MAP is fixed at the same

1 39kPa, and the ignition timing advance for the #1 cylinder is fixed at the same 13.5 degrees
2 BTDC.

3 40. During the period the dynamic data was collected, the only parameter that changed
4 was the engine RPM. The throttle position, MAP, and ignition timing advance readings remained
5 unchanged even though the engine speed was increased. These readings are not characteristic or
6 expected for normal engine operation. The discrepancies in the OIS Test Data prove the OIS
7 Data Acquisition Device (DAD) was not connected to the 2000 Grand Am being certified,
8 causing the issuance of a fraudulent Smog Check certificate of compliance.

9 **Clean Plug #2**

10 41. On or about February 23, 2023, a 2003 Ford Explorer XLT, CA license #S115323
11 (2003 Explorer) was tested and smog certificate #TE162038C was issued by Respondent Yeyo's
12 Automotive under licensed Smog Check Technician #EO640673, Respondent Espinola.

13 42. The Dynamic data and PID Charts for the 2003 Explorer shows between time stamp
14 407ms and 20922ms, engine speed is steady at approximately 700 RPM. During this time, the
15 throttle is fixed at 19.2% opening, the MAF is fixed at 0.25 gps, and the ignition timing advance
16 for the #1 cylinder is fixed at 0 degrees BTDC. After time stamp 20922ms, the engine speed
17 increases to approximately 2049 RPM at time stamp 22445ms before decreasing to approximately
18 1196 RPM at time stamp 22967ms, and increasing back to approximately 1533 RPM at time
19 stamp 23488ms, then decreasing to 1367 at time stamp 25084ms, then again increasing to 1893
20 RPM at time stamp 26593ms. From the time the engine RPM increases off idle to the higher
21 RPMs, the throttle is fixed at the same 19.2% opening, the MAF is fixed at the same 0.25 gps, and
22 the ignition timing advance for the #1 cylinder is fixed at the same 0 degrees BTDC.

23 43. During the period the dynamic data was collected, the only parameter that changed
24 was the engine RPM. The throttle position, MAF, and ignition timing advance readings remained
25 unchanged even though the engine speed had varied. These readings are not characteristic or
26 expected for normal engine operation. The discrepancies in the OIS Test Data prove the OIS
27 DAD was not connected to the 2003 Ford Explorer XLT being certified, causing the issuance of a
28 fraudulent Smog Check certificate of compliance.

1 **Clean Plug #3**

2 44. On or about February 21, 2023, a 2003 Toyota Tundra Access Cab Limited, CA
3 license #7C48839 (2003 Tundra) was tested and smog certificate #TE162030C was issued by
4 Respondent Yeyo's Automotive under licensed Smog Check Technician #EO640673,
5 Respondent Espinola.

6 45. The Dynamic data and PID Charts for the 2003 Tundra shows between time stamp
7 1036ms and 25870ms, engine speed is steady at approximately 600 RPM. During this time, the
8 throttle is fixed at 17.6% opening, the MAF is fixed at 0.26 gps, and the ignition timing advance
9 for the #1 cylinder is fixed at 5 degrees BTDC. After time stamp 25870ms, the engine speed
10 increases to approximately 2851 RPM at time stamp 26981ms before decreasing to approximately
11 1300 RPM at time stamp 28117ms, and increasing back to approximately 1800 RPM at time
12 stamp 36093ms. From the time the engine RPM increases off idle to the higher RPMs, the
13 throttle is fixed at the same 17.6% opening, the MAF is fixed at the same 0.26 gps, and the
14 ignition timing advance for the #1 cylinder is fixed at the same 5 degrees BTDC.

15 46. During the period the dynamic data was collected, the only parameter that changed
16 was the engine RPM. The throttle position, MAF, and ignition timing advance readings remained
17 unchanged even though the engine speed had varied. These readings are not characteristic or
18 expected for normal engine operation. The discrepancies in the OIS Test Data prove the OIS
19 DAD was not connected to the 2003 Tundra being certified, causing the issuance of a fraudulent
20 Smog Check certificate of compliance.

21 **Clean Plug #4**

22 47. On or about February 20, 2023, a 2004 Toyota Tacoma Double Cab Prerunner, CA
23 license #7N29959 (2004 Tacoma) was tested and smog certificate #TE162025C was issued by
24 Respondent Yeyo's Automotive under licensed Smog Check Technician #EO640673,
25 Respondent Espinola.

26 48. The Dynamic data and PID Charts for the 2004 Tacoma shows between time stamp
27 971ms and 29110ms, engine speed is steady at approximately 700 RPM. During this time, the
28 throttle is fixed at 15.7% opening, the MAF is fixed at 0.59 gps, and the ignition timing advance

1 for the #1 cylinder is fixed at 5 degrees BTDC. After time stamp 29110ms, the engine speed
2 increases to approximately 2230 RPM at time stamp 30226k ms before decreasing to
3 approximately 1680 RPM at time stamp 31368ms, and stabilizing at approximately 1680 RPM at
4 time stamp 31368ms. From the time the engine RPM increases off idle to the higher RPMs, the
5 throttle is fixed at the same 15.7% opening, the MAF is fixed at the same 0.59 gps, and the
6 ignition timing advance for the #1 cylinder is fixed at the same 5 degrees BTDC.

7 49. During the period the dynamic data was collected, the only parameter that changed
8 was the engine RPM. The throttle position, MAF, and ignition timing advance readings remained
9 unchanged even though the engine speed was increased. These readings are not characteristic or
10 expected for normal engine operation. The discrepancies in the OIS Test Data prove the OIS
11 DAD was not connected to the 2004 Tacoma being certified, causing the issuance of a fraudulent
12 Smog Check certificate of compliance.

13 **Clean Plug #5**

14 50. On or about February 20, 2023, a 2004 Toyota Corolla CE, CA license #5HGW710
15 (2004 Corolla) was tested and smog certificate #TE162019C was issued by Respondent Yeyo's
16 Automotive under licensed Smog Check Technician #EO640673, Respondent Espinola.

17 51. The Dynamic data and PID Charts for the 2004 Corolla shows between time stamp
18 1156ms and 28688ms, engine speed is steady at approximately 680 RPM. During this time, the
19 throttle is fixed at 10.2% opening, the MAF is fixed at 0.43 gps, and the ignition timing advance
20 for the #1 cylinder is fixed at 5 degrees BTDC. After time stamp 28688ms, the engine speed
21 increases to approximately 1630 RPM at time stamp 32074ms. The RPM stabilizes until time
22 stamp 36367ms before increasing to approximately 2085 RPM at time stamp 38397ms, then
23 stabilizing at approximately 2080 RPM at time stamp 40471ms. From the time the engine RPM
24 increases off idle to the higher RPMs, the throttle is fixed at the same 10.2% opening, the MAF is
25 fixed at the same 0.43 gps, and the ignition timing advance for the #1 cylinder is fixed at the same
26 5 degrees BTDC.

27 52. During the period the dynamic data was collected, the only parameter that changed
28 was the engine RPM. The throttle position, MAF, and ignition timing advance readings remained

1 unchanged even though the engine RPM varied. These readings are not characteristic or expected
2 for normal engine operation. The discrepancies in the OIS Test Data prove the OIS DAD was not
3 connected to the 2004 Corolla being certified, causing the issuance of a fraudulent Smog Check
4 certificate of compliance.

5 **Clean Plug #6**

6 53. On or about February 14, 2023, a 2005 Lexus ES 330, CA license # 5NFN093 (2005
7 ES 330) was tested and smog certificate #IT026892C was issued by Respondent Yeyo's
8 Automotive under licensed Smog Check Technician #EO640673, Respondent Espinola.

9 54. The Dynamic data and PID Charts for the 2005 ES 330 shows between time stamp
10 1004ms and 26605ms, engine speed is steady at approximately 700 RPM. During this time, the
11 throttle is fixed at 16.1% opening, the MAF is fixed at 3.32 gps, and the ignition timing advance
12 for the #1 cylinder is fixed at 12.5 degrees BTDC. After time stamp 26605ms, the engine speed
13 increases to approximately 2558 RPM at time stamp 27725ms. At time stamp 28869k ms, the
14 RPM decreases to approximately 2262 RPM, then stabilizes at approximately 2270 RPM at time
15 stamp 28869ms. From the time the engine RPM increases off idle to the higher RPMs, the
16 throttle is fixed at the same 16.1% opening, the MAF is fixed at the same 3.32 gps, and the
17 ignition timing advance for the #1 cylinder is fixed at the same 12.5 degrees BTDC.

18 55. During the period the dynamic data was collected, the only parameter that changed
19 was the engine RPM. The throttle position, MAF, and ignition timing advance readings remained
20 unchanged even though the engine speed was increased. These readings are not characteristic or
21 expected for normal engine operation. The discrepancies in the OIS Test Data prove the OIS
22 DAD was not connected to the 2005 ES 330 being certified, causing the issuance of a fraudulent
23 Smog Check certificate of compliance.

24 **Clean Plug #7**

25 56. On or about February 1, 2023, a 2005 Mercedes-Benz C230K Sport Sedan, CA
26 license #7MSD876 (2005 Benz) was tested and smog certificate #TC717793C was issued by
27 Respondent Yeyo's Automotive under licensed Smog Check Technician #EO640673,
28 Respondent Espinola.

1 57. The Dynamic data and PID Charts for the 2005 Benz shows between time stamp
2 967ms and 24828ms, engine speed is steady at approximately 750 RPM. During this time, the
3 throttle is fixed at 18.8% opening, the MAF is fixed at 0 gps, and the ignition timing advance for
4 the #1 cylinder is fixed at 22.5 degrees BTDC. After time stamp 24828ms, the engine speed
5 increases to approximately 2140 RPM at time stamp 25919ms before decreasing to approximately
6 1950 RPM at time stamp 26988ms and stabilizing at that RPM. From the time the engine RPM
7 increases off idle to the higher RPMs, the throttle is fixed at the same 18.8% opening, the MAF is
8 fixed at the same 0 gps, and the ignition timing advance for the #1 cylinder is fixed at the same
9 22.5 degrees BTDC.

10 58. During the period the dynamic data was collected, the only parameter that changed
11 was the engine RPM. The throttle position, MAF, and ignition timing advance readings remained
12 unchanged even though the engine speed was increased. These readings are not characteristic or
13 expected for normal engine operation. The discrepancies in the OIS Test Data prove the OIS
14 DAD was not connected to the 2005 Benz being certified, causing the issuance of a fraudulent
15 Smog Check certificate of compliance.

16 **Clean Plug #8**

17 59. On or about January 17, 2023, a 2005 Lexus RX 330, CA license #8SHB561 (2005
18 RX 330) was tested and smog certificate #TC230989C was issued by Respondent Yeyo's
19 Automotive under licensed Smog Check Technician #EO640673, Respondent Espinola.

20 60. The Dynamic data and PID Charts for the 2005 RX 330 shows between time stamp
21 990ms and 24368ms, engine speed is steady at approximately 750 RPM. During this time, the
22 throttle is fixed at 16.9% opening, the MAF is fixed at 3.1 gps, and the ignition timing advance
23 for the #1 cylinder is fixed at 20 degrees BTDC. After time stamp 24368k ms, the engine speed
24 increases to approximately 1709 RPM at time stamp 27660ms before decreasing to
25 approximately 1665 RPM at time stamp 29884ms, and increasing back to approximately 1884
26 RPM at time stamp 31908ms. At time stamp 38130ms, the engine speed increases to 1993 at
27 time stamp 42194ms then decreases to 1972 RPM at time stamp 44213ms. From the time the
28 engine RPM increases off idle to the higher RPM, the throttle is fixed at the same 16.9%

1 opening, the MAF is fixed at the same 3.1 gps, and the ignition timing advance for the #1 cylinder
2 is fixed at the same 20 degrees BTDC.

3 61. During the period the dynamic data was collected, the only parameter that changed
4 was the engine RPM. The throttle position, MAF, and ignition timing advance readings remained
5 unchanged even though the engine speed had varied. These readings are not characteristic or
6 expected for normal engine operation. The discrepancies in the OIS Test Data prove the OIS
7 DAD was not connected to the 2005 RX 330 being certified, causing the issuance of a fraudulent
8 Smog Check certificate of compliance.

9 **Clean Plug #9**

10 62. On or about January 7, 2023, a 2002 Chevrolet Silverado K1500, CA license #83869H3
11 (2002 Silverado) was tested and smog certificate #TC230955C was issued by Respondent Yeyo's
12 Automotive under licensed Smog Check Technician #EO640673, Respondent Espinola.

13 63. The Dynamic data and PID Charts for the 2002 Silverado shows between time stamp
14 401ms and 22372ms, engine speed is steady at approximately 650 RPM. During this time, the
15 throttle is fixed at 0% opening, the MAF is fixed at 0 gps, and the ignition timing advance for the
16 #1 cylinder is fixed at 0 degrees BTDC. After time stamp 22372ms, the engine speed increases to
17 approximately 3191 RPM at time stamp 22895ms before decreasing to approximately 965 RPM at
18 time stamp 23963ms, and then increasing to 2276 RPM at time stamp 24489ms and again
19 decreasing and stabilizing at approximately 2002 RPM at time stamp 24997ms. From the time the
20 engine RPM increases off idle to the higher RPM, the throttle is fixed at the same 0% opening, the
21 MAF is fixed at the same 0 gps, and the ignition timing advance for the #1 cylinder is fixed at the
22 same 0 degrees BTDC.

23 64. During the period the dynamic data was collected, the only parameter that changed
24 was the engine RPM. The throttle position, MAF, and ignition timing advance readings remained
25 unchanged even though the engine speed was increased. These readings are not characteristic for
26 a running engine or expected for normal engine operation. The discrepancies in the OIS Test
27 Data prove the OIS DAD was not connected to the 2002 Silverado being certified, causing the
28 issuance of a fraudulent Smog Check certificate of compliance.

1 reference incorporates, the allegations set forth above in paragraphs 28-67, as though fully set
2 forth herein.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Fraud – Respondent Yeyo’s Automotive)**

5 69. Respondent Yeyo’s Automotive’s Automotive Repair Dealer Registration is subject
6 to disciplinary action under Code section 9884.7, subdivision (a)(4), in that, with respect to the 10
7 vehicles identified above, Respondent Yeyo’s Automotive committed acts which constitute fraud
8 by issuing electronic smog certificates of compliance for these vehicles without performing bona
9 fide inspections of the emissions control devices and systems on those vehicles, thereby depriving
10 the People of the State of California of the protection afforded by the Motor Vehicle Inspection
11 Program. Complainant refers to, and by this reference incorporates, the allegations set forth
12 above in paragraphs 28-67, as though fully set forth herein.

13 **THIRD CAUSE FOR DISCIPLINE**

14 **(Material Violation of Automotive Repair Act – Respondent Yeyo’s Automotive)**

15 70. Respondent Yeyo’s Automotive’s Automotive Repair Dealer Registration is subject
16 to disciplinary action under Code section 9884.7, subdivision (a)(6), in that, with respect to the 10
17 vehicles identified above, Respondent Yeyo’s Automotive failed in a material respect to comply
18 with the provisions of this chapter or regulations adopted pursuant to it by issuing electronic smog
19 certificates of compliance for these vehicles without performing bona fide inspections of the
20 emissions control devices and systems on those vehicles, thereby depriving the People of the
21 State of California of the protection afforded by the Motor Vehicle Inspection Program.
22 Complainant refers to, and by this reference incorporates, the allegations set forth above in
23 paragraphs 28-67, as though fully set forth herein.

24 **FOURTH CAUSE FOR DISCIPLINE**

25 **(Violations of the Motor Vehicle Inspection Program – Respondent Yeyo’s Automotive)**

26 71. Respondent Yeyo’s Automotive’s Smog Check, Test-and-Repair, Station License is
27 subject to disciplinary action under Health and Safety Code section 44072.2, subdivision (a), in

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1 that, with respect to the 10 vehicles identified above, Respondent Yeyo's Automotive failed to
2 comply with the following sections of the Health and Safety Code:

3 a. **Section 44012:** Respondent Yeyo's Automotive failed to ensure that the emission
4 control tests were performed on the vehicles in accordance with procedures prescribed by the
5 Bureau.

6 b. **Section 44015, subdivision (b):** Respondent Yeyo's Automotive issued electronic
7 smog certificates of compliance for the vehicles without ensuring that the vehicles were properly
8 tested and inspected to determine if they were in compliance with Health and Safety Code section
9 44012.

10 c. **Section 44059:** Respondent Yeyo's Automotive willfully made false entries for the
11 electronic smog certificates of compliance for the vehicles by certifying that the vehicles had
12 been inspected as required when, in fact, they had not.

13 Complainant refers to, and by this reference incorporates, the allegations set forth above in
14 paragraphs 28-67, as though fully set forth herein.

15 **FIFTH CAUSE FOR DISCIPLINE**

16 **(Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection**

17 **Program – Respondent Yeyo's Automotive)**

18 72. Respondent Yeyo's Automotive's Smog Check, Test-and-Repair, Station License is
19 subject to disciplinary action under Health and Safety Code section 44072.2, subdivision (c), in
20 that, with respect to the 10 vehicles identified above, Respondent Yeyo's Automotive failed to
21 comply with provisions of the California Code of Regulations, title 16, as follows:

22 a. **Section 3340.24, subdivision (c):** Respondent Yeyo's Automotive issued false or
23 fraudulent certificates of compliance for the vehicles.

24 b. **Section 3340.35, subdivision (c):** Respondent Yeyo's Automotive issued electronic
25 smog certificates of compliance for the vehicles even though the vehicles had not been inspected
26 in accordance with section 3340.42 of the California Code of Regulations, title 16.

27 c. **Section 3340.41, subdivision (c):** Respondent Yeyo's Automotive knowingly
28 entered false information into the emissions inspection system for the vehicles.

1 d. **Section 3340.42:** Respondent Yeyo’s Automotive failed to ensure that the required
2 smog tests were conducted on the vehicles in accordance with the Bureau’s specifications.

3 e. **Section 3373:** Respondent Yeyo’s Automotive withheld or inserted statements or
4 information in an estimate, invoice, work order, or record required to be maintained by California
5 Code of Regulations, title 16, section 3340.15, subdivision (e), which caused the document to be
6 false or misleading for the vehicles.

7 Complainant refers to, and by this reference incorporates, the allegations set forth above in
8 paragraphs 28-67, as though fully set forth herein.

9 **SIXTH CAUSE FOR DISCIPLINE**

10 **(Dishonesty, Fraud, or Deceit – Respondent Yeyo’s Automotive)**

11 73. Respondent Yeyo’s Automotive’s Smog Check, Test-and-Repair, Station License is
12 subject to disciplinary action under Health and Safety Code section 44072.2, subdivision (d), in
13 conjunction with Health and Safety Code section 44072.10, subdivision (c), in that, with respect
14 to the 10 vehicles identified above, Respondent Yeyo’s Automotive committed dishonest,
15 fraudulent, or deceitful acts whereby another was injured by issuing electronic smog certificates
16 of compliance for the vehicles without performing bona fide inspections of the emission control
17 devices and systems on those vehicles, thereby depriving the People of the State of California of
18 the protection afforded by the Motor Vehicle Inspection Program. Complainant refers to, and by
19 this reference incorporates, the allegations set forth above in paragraphs 28-67, as though fully set
20 forth herein.

21 **SEVENTH CAUSE FOR DISCIPLINE**

22 **(Violations of the Motor Vehicle Inspection Program – Respondent Espinola)**

23 74. Respondent Espinola’s Smog Check Inspector License is subject to disciplinary
24 action under Health and Safety Code section 44072.2, subdivision (a), in that, with respect to the
25 10 vehicles identified above, Respondent Espinola violated the following Health and Safety Code
26 sections:

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1 a. **Section 44012, subdivision (a):** Respondent Espinola failed to determine that all
2 emission control devices and systems required by law were installed and functioning correctly on
3 the vehicles in accordance with test procedures prescribed by the Bureau.

4 b. **Section 44012, subdivision (f):** Respondent Espinola failed to perform emission
5 control tests on the vehicles in accordance with procedures prescribed by the Bureau.

6 c. **Section 44032:** Respondent Espinola failed to perform tests of the emission control
7 devices and systems on the vehicles identified above in accordance with section 44012 of the
8 Health and Safety Code, in that the vehicles had been clean plugged.

9 d. **Section 44059:** Respondent Espinola willfully made false entries for the electronic
10 certificates of compliance by certifying that the vehicles had been inspected as required when, in
11 fact, they had not.

12 Complainant refers to, and by this reference incorporates, the allegations set forth above in
13 paragraphs 28-67, as though fully set forth herein.

14 **EIGHTH CAUSE FOR DISCIPLINE**

15 **(Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection** 16 **Program – Respondent Espinola)**

17 75. Respondent Espinola’s Smog Check Inspector License is subject to disciplinary
18 action under Health and Safety Code section 44072.2, subdivision (c), in that, with respect to the
19 10 vehicles identified above, Respondent Espinola failed to comply with provisions of the
20 California Code of Regulations, title 16, as follows:

21 a. **Section 3340.24, subdivision (c):** Respondent Espinola issued false or fraudulent
22 electronic smog certificates of compliance for the vehicles.

23 b. **Section 3340.30, subdivision (a):** Respondent Espinola failed to inspect and test the
24 vehicles in accordance with Health and Safety Code sections 44012 and 44035 and California
25 Code of Regulations, title 16, section 3340.42.

26 c. **Section 3340.41, subdivision (c):** Respondent Espinola knowingly entered false
27 information into the emissions inspection system for the vehicles.

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1 d. **Section 3340.42:** Respondent Espinola failed to ensure that the required smog tests
2 were conducted on the vehicles identified above in accordance with the Bureau’s specifications.

3 Complainant refers to, and by this reference incorporates, the allegations set forth above in
4 paragraphs 28-67, as though fully set forth herein.

5 **ELEVENTH CAUSE FOR DISCIPLINE**

6 **(Dishonesty, Fraud, or Deceit – Respondent Espinola)**

7 76. Respondent Espinola’s Smog Check Inspector License is subject to disciplinary
8 action under Health and Safety Code section 44072.2, subdivision (d), in conjunction with
9 Health and Safety Code section 44072.10, subdivision (c), in that, with respect to the 10 vehicles
10 identified above, Respondent Espinola committed acts involving dishonesty, fraud, or deceit when
11 she issued electronic smog certificates of compliance for the vehicles without performing bona
12 fide inspections of the emission control devices and systems on those vehicles, thereby depriving
13 the People of the State of California of the protection afforded by the Motor Vehicle Inspection
14 Program. Complainant refers to, and by this reference incorporates, the allegations set forth
15 above in paragraphs 28-67, as though fully set forth herein.

16 **OTHER MATTERS**

17 77. Pursuant to Business and Professions Code section 9884.7, subdivision (c), the
18 Director may suspend, revoke, or place on probation the registration for all places of business
19 operated in this state by Respondent Yeyo’s Automotive, upon a finding that it has, or is, engaged
20 in a course of repeated and willful violations of the laws and regulations pertaining to an
21 automotive repair dealer.

22 78. Pursuant to Health and Safety Code section 44072.8, if Smog Check, Test-and-
23 Repair, Station License No. RC 301290, issued to Respondent Yeyo’s Automotive, is revoked or
24 suspended, any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health
25 and Safety Code in the name of said licensee may be likewise revoked or suspended by the
26 director.

27 79. Pursuant to Health and Safety Code section 44072.8, if Smog Check Inspector
28 License Number EO 640673, issued to Respondent Espinola, is revoked or suspended, any

1 additional license issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code
2 in the name of said licensee may be likewise revoked or suspended by the director.

3 **PRAYER**

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

- 7 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
8 301290, issued to Carla Maria Espinola, dba Yeyo's Automotive;
- 9 2. Revoking or suspending any other automotive repair dealer registration issued to
10 Carla Maria Espinola;
- 11 3. Revoking or suspending Smog Check, Test-and-Repair, Station License Number RC
12 301290, issued to Carla Maria Espinola, dba Yeyo's Automotive;
- 13 4. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of
14 Division 26 of the Health and Safety Code in the name of Carla Maria Espinola;
- 15 5. Revoking or suspending Smog Check Inspector License Number EO 640673, issued
16 to Valeria J. Espinola;
- 17 6. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of
18 Division 26 of the Health and Safety Code in the name of Valeria J. Espinola;
- 19 7. Ordering Carla Maria Espinola and Valeria J. Espinola to pay the Bureau of
20 Automotive Repair the reasonable costs of the investigation and enforcement of this case,
21 pursuant to Business and Professions Code section 125.3; and, if placed on probation, the costs of
22 probation monitoring; and,
- 23 8. Taking such other and further action as deemed necessary and proper.

24 DATED: As of digital signature date

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

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