

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

In the Matter of the Accusation Against:

CARLA MARIA ESPINOLA, dba YEYO'S AUTOMOTIVE

607 W. 9th Street

San Bernardino, CA 92410

Automotive Repair Dealer Registration No. ARD 301290

Smog Check Test Only Station License No. TC 301290

and

VALERIA J. ESPINOLA

13231 Claremont Avenue

Victorville, CA 62392

Smog Check Inspector License No. EO 640673

Respondents.

Case No. 79/23-20855

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OAH No. 2024110597

DECISION

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

This Decision shall be effective on June 26, 2025.

IT IS SO ORDERED May 19, 2025.

Original signature on file
GRACE ARUPO RODRIGUEZ
Assistant Deputy Director
Legal Affairs Division
Department of Consumer Affairs

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

In the Matter of the Accusation Against:

**CARLA MARIA ESPINOLA, doing business as YEYO'S
AUTOMOTIVE,**

**Automotive Repair Dealer Registration No. ARD 301290,
Smog Check, Test and Repair, Station License No. RC 301290,**

VALERIA J. ESPINOLA,

Smog Check Inspector License No. EO 640673,

Respondents.

Agency Case No. 79/23-20855

OAH No. 2024110597

PROPOSED DECISION

Thomas Lucero, Administrative Law Judge, Office of Administrative Hearings,
State of California, heard this matter by videoconference on March 26, 2025.

Marissa Hamilton, Deputy Attorney General, represented complainant, Patrick Dorais, Chief, Bureau of Automotive Repair (Bureau or BAR), Department of Consumer Affairs (Department). Respondent Carla Maria Espinola, doing business as Yeyo's Automotive, and respondent Valeria J. Espinola were represented by William D. Ferreira, Attorney at Law.

This matter is governed by the Automotive Repair Act (Repair Act), codified in Business and Professions Code section 9880 through 9889.68, the Motor Vehicle Inspection Program (Inspection Program or Smog Check Program), codified in Health and Safety Code sections 44000 through 44127, and implementing regulations. Each regulation cited below is a section of title 16 of the California Code of Regulations.

Testimony and documents were received in evidence. The record closed and the matter was submitted for decision on March 26, 2025.

STATEMENT OF THE CASE

Respondents' smog shop was randomly selected for inspection of data generated during smog testing, data transmitted automatically via the internet to the statewide Vehicle Information Database (VID). The Bureau contends that with data transmitted in 2022 and 2023 respondents committed fraud by representing the data to be, though it was not actually from, the engines of 10 vehicles. Respondents contend that, unbeknownst to them, customers fitted their vehicles with hidden devices that generated the data the Bureau considers anomalous. Respondents have also modified their practices to ensure they transmit only legitimate smog test data.

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FINDINGS OF FACT

1. Complainant served the Accusation on August 16, 2024. Respondents timely requested a hearing in their Notice of Defense dated September 2, 2024.

Licensure

2. On December 9, 2021, the Bureau issued Automotive Repair Dealer (ARD) registration number ARD 301290 to respondent Carla Maria Espinola (Respondent Owner). On February 17, 2022, the Bureau issued Respondent Owner Smog Check, Test-and-Repair, Station license number RC 301290 (RC license). Both renewable, the registration and license expire on December 31, 2025.

3. On October 23, 2017, the Bureau issued Smog Check Inspector license number EO 640673 (EO license) to respondent Valeria J. Espinola (Respondent Inspector). The EO license is renewable, but expires on September 30, 2025.

Air Quality Standards

4. Health and Safety Code section 43000, subdivision (a) and (b), declares that vehicles' emissions are a major cause of air pollution and "the control and elimination of those air pollutants is of prime importance for the protection and preservation of the public health and well-being."

5. Laws and regulations, both state and federal, restrict air pollution. Under Health and Safety Code section 44000, the Smog Check Program is designed "to meet or exceed the air quality standards established by the amendments enacted to the federal Clean Air Act in 1990 . . . , to enhance and improve the existing vehicle

inspection and maintenance network, and to periodically monitor the performance of the network against stated objectives.”

Smog Check Inspection Procedures

6. Ensuring air quality depends on smog checks, also called smog tests, the detailed procedures licensees must follow in obtaining and transmitting standardized and computerized measurements of the functioning and emissions of a vehicle’s engine. Regulation 3340.45 states: “All Smog Check inspections shall be performed in accordance with requirements and procedures prescribed in the Smog Check Manual, dated January 2021, which is hereby incorporated by reference.” There are procedures for different types of official Smog Check inspections using test equipment of differing types, depending on such things as the year a vehicle was manufactured and whether its fuel is gasoline or diesel. In following the Smog Check Manual’s procedures, licensed Smog Check stations and inspectors, also called technicians, must follow the electronic prompts of a computerized inspection system.

7. Modern vehicles facilitate computerized smog testing by being themselves equipped with computers. As set out in Regulation 3340.1:

“On-Board Diagnostics” or “OBD” means the automotive electronic system that uses onboard computer(s) to monitor emission systems in-use, detects malfunctions of the monitored emission systems, illuminates a malfunction indicator light (MIL) to notify the vehicle operator of detected malfunctions, and stores fault codes identifying the detected malfunctions.

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8. The OBD Inspection System (OIS) pertinent here is defined in Regulation 3340.1:

“OBD Inspection System” or “OIS” consists of an OBD Data Acquisition Device (DAD) working in conjunction with commercial off-the-shelf computer, bar code scanner, data entry device, and printer. The DAD is the inspection equipment that meets the requirements of subsection (b) of section 3340.17 of the California Code of Regulations and is certified by the bureau for use in the Smog Check Program. The DAD facilitates OBD data transfer between the inspected vehicle and the OIS computer. The OIS computer relays inspection information to and from the DAD to the Vehicle Information Database (VID).

9. As respondents testified, smog technicians and stations rely on smog systems like the OIS to measure a tested vehicle’s emissions and engine performance. The OIS transmits more detailed information to the VID than is accessible to the technician or station.

Smog Check Equipment

10. The Smog Check Manual requires use of OIS to inspect most model-year 2000 and newer gasoline and hybrid vehicles and most 1998 and newer diesel vehicles. OIS includes a certified Data Acquisition Device (DAD), computer, bar code scanner, and printer. The DAD, a scan tool that retrieves data from a vehicle’s engine and related components, connects the OIS computer and the vehicle’s Data Link Connector (DLC). To transmit data to the VID, OIS requires a continuous Internet connection

during a Smog Check inspection. The smog check inspector uses the bar code scanner to input: the vehicle identification number (VIN) and information on renewing the vehicle's registration with the Department of Motor Vehicles (DMV). OIS prints inspection results in a Smog Check Vehicle Inspection Report (VIR) and a Certificate of Compliance if a vehicle passes inspection.

Clean Plugging

11. Program Representative 1 (PR 1) Raul Garcia conducted the investigation in this matter. The Bureau has employed him for about five year. His duties include communicating with consumers and automotive, including smog stations, mediating disputes, and inspecting and investigating automotive shops and their work. The Bureau has provided him academic training, including automotive repairs, how to handle evidence and hearsay, and he is familiar with the laws and regulations governing the automotive industry and smog stations in particular. PR 1 Garcia is a licensed smog inspector, held a repair technician license that is no longer active, and has participated in surveillance and undercover work. He has worked in the automotive industry for over 35 years, having owned his own repair shop for approximately 20 years.

12. According to the Bureau's investigation, summarized in PR 1 Garcia's May 22, 2024 Investigation Report, respondents wrongly issued to each of the 10 vehicles at issue (the Ten Vehicles) a Certificate of Compliance, certifying compliance with anti-pollution laws and regulations. The Ten Vehicles, like other modern vehicles, were equipped with monitors and sensors, on-board diagnostics, that identify parameters of the performance of the vehicle's engine. The parameters in this case were gathered electronically by OBD II, defined below. One parameter, the engine's revolutions per minute (RPM's), increased as a result of the acceleration that OIS prompted the smog

inspector to perform. But other parameters measuring performance of the engine of each of the Ten Vehicles were reportedly unchanged. The unchanged data was inconsistent with acceleration. If RPM's increase as the engine accelerates, so too must other parameters increase, such as the volume and pressure of the air the engine is taking in, measured by MAP, intake manifold absolute pressure. The Bureau characterizes such inconsistencies as telltale signs of clean plugging, a species of fraud. OBD II and clean plugging are defined in Regulation 3340.1:

“On-Board Diagnostics II” or “OBD II” means the second generation of On-Board Diagnostics consisting of standardized monitors, vehicle connectors, and data found in most light-duty vehicles sold in California beginning with the 1996 model year.

“Clean plugging” means using a substitute vehicle's OBD system, or another source, to generate data readings or diagnostic information in order to cause the OIS to issue a certificate of compliance for the test vehicle.

13. Thus for instance, on February 18, 2023, respondents reportedly tested and issued Certificate of Compliance number TE162014C for one of the Ten Vehicles, a 2000 Pontiac Grand Am SE1. This vehicle (Vehicle 1) as set out in paragraphs 38 through 40 of the Accusation, pages A11 through A12, is alleged to be Clean Plug #1. The RPM's of Vehicle 1 while Respondent Inspector reportedly tested it are depicted in a graph, Exhibit 6, page A86, showing that the RPM's at a time-stamped point in about the middle of the graph rise sharply from idle, approximately 600 RPM's, accelerating to approximately 2,500, and then drop to approximately 2,100. The RPM's then remain at that level. Other parameters do not change during the period measured.

14. Accordingly the other parameters of Vehicle 1's engine performance, represented in graphs in Exhibit 6, show a flat line during the measured time period. These unchanged parameters are: (i) the Engine Coolant Temperature in the top graph on page A85; (ii) MAP in the bottom graph on page A85; (iii) the Ignition Timing Advance in the bottom graph on page A86; and (iv) the Absolute Throttle Position in the graph on page A87.

15. A vehicle's engine does not, indeed it can not, operate first at idle, at about 600 RPM's, and then accelerate to 2,000 RPM's or more, with no change in MAP and coolant and the other measurable parameters depicted in the graphs in Exhibit 6. Something else, not the engine of a vehicle, caused all this data to be transmitted to the VID.

16. The other nine of the Ten Vehicles are alleged to be Clean Plug #2 (Vehicle 2) through #10 (Vehicle 10). Like Vehicle 1, the engine of each was accelerated so that one parameter, RPM's, changed. But there was no change in the other parameters. Nonetheless on the following dates, with the following certificates, and with the following graphed parameters, respondents tested and certified compliant with anti-smog laws:

Vehicle 2: February 23, 2023, a 2003 Ford Explorer XLT, California license plate number S115323, Certificate of Compliance number TE162038C; with parameters graphed in Exhibit 7: RPM's, bottom of page A95; and unchanged parameters: Engine Coolant Temperature, top of page A95, Ignition Timing Advance for Cylinder number 1, top of page A96; MAF, bottom of page A96; and Absolute Throttle Position, page A97.

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Vehicle 3: February 21, 2023, a 2003 Toyota Tundra Access Cab Limited (2003 Tundra), California license plate number 7C48839, Certificate of Compliance number TE162030C; with parameters graphed in Exhibit 8: RPM's, bottom of page A103; and unchanged parameters: Engine Coolant Temperature, top of page A103, Ignition Timing Advance for Cylinder number 1, top of page A104, MAF, bottom of page A104, and Absolute Throttle Position, page A105.

Vehicle 4: February 20, 2023, a 2004 Toyota Tacoma Double Cab Prerunner (2004 Tacoma), California license plate number 7N29959, Certificate of Compliance number TE162025C; with parameters graphed in Exhibit 9: RPM's, bottom of page A112; and unchanged parameters: Engine Coolant Temperature, top of page A112, Ignition Timing Advance for Cylinder number 1, top of page A113, MAF, bottom of page A113, and Absolute Throttle Position, page A114.

Vehicle 5: February 20, 2023, a 2004 Toyota Corolla CE (2004 Corolla), California license plate number 5HGW710 Certificate of Compliance number TE162019C; with parameters graphed in Exhibit 10: RPM's, bottom of page A121; and unchanged parameters: Engine Coolant Temperature, top of page A121, Ignition Timing Advance for Cylinder number 1, top of page A122, MAF, bottom of page A122, and Absolute Throttle Position, page A123.

Vehicle 6: February 14, 2023, a 2005 Lexus ES 330, (2005 ES 330), California license plate number 5NFN093, Certificate of Compliance number IT026892C; with parameters graphed in Exhibit 11: RPM's, bottom of page A129; and unchanged parameters: Engine Coolant Temperature, top of page A129, Ignition Timing Advance for Cylinder number 1, top of page A130, MAF, bottom of page A130, and Absolute Throttle Position, page A131.

Vehicle 7: February 1, 2023, a 2005 Mercedes-Benz C230K Sport Sedan (2005 Benz), California license plate number 7MSD876, Certificate of Compliance number TC717793C; with parameters graphed in Exhibit 12: RPM's, top of page A139; and unchanged parameters: Engine Coolant Temperature, top of page A138, MAP, bottom of page A138, Ignition Timing Advance for Cylinder number 1, bottom of page A139, MAF, top of page A140, and Absolute Throttle Position, bottom of page A140.

Vehicle 8: January 17, 2023, a 2005 Lexus RX 330(2005 RX 330), California license plate number 8SHB561 Certificate of Compliance number TC230989C; with parameters graphed in Exhibit 13: RPM's, bottom of page A146; and unchanged parameters: Engine Coolant Temperature, top of page A146, Ignition Timing Advance for Cylinder number 1, top of page A147, MAF, bottom of page A147, and Absolute Throttle Position, page A148.

Vehicle 9: January 7, 2023, a 2002 Chevrolet Silverado K1500(2002 Silverado), California license plate number 83869H3, Certificate of Compliance number TC230955C; with parameters graphed in Exhibit 14: RPM's, top of page A155; and unchanged parameters: Engine Coolant Temperature, top of page A154, MAP, bottom of page A154, Ignition Timing Advance for Cylinder number 1, bottom of page A155, MAF, page A156.

Vehicle 10: December 30, 2022, a 2000 Ford F150 (2000 F150), California license plate number 93728Z1, Certificate of Compliance number TA961796C; with parameters graphed in Exhibit 15: RPM's, bottom of page A163; and unchanged parameters: Engine Coolant Temperature, top of page A163, Ignition Timing Advance for Cylinder number 1, top of page A164, MAF, bottom of page A164, and Absolute Throttle Position, page A165.

17. PR 1 Garcia testified convincingly that a device that simulates a vehicle's data, a defeat device or simulator, was responsible for the anomalous data sent to the VID during Respondent Inspector's smog tests of the Ten Vehicles. He also stated that defeat devices are several inches long, broad, and high, large enough that they cannot be hidden inconspicuously in a vehicle. A technician who conducts a valid smog test must perform a visual inspection, inspecting the engine compartment and other parts of a vehicle. The technician could not but notice such a device.

Respondents' Testimony

18. When first licensed, Respondent Inspector worked at a smog shop operated by her brother, who encouraged her to follow the same career path he was on. In 2021 she began working instead at the smog shop operated by her sister, Respondent Owner. Her sister was not often at the shop. There have been several other workers. Respondent Inspector managed much of their work, both repairs and smog tests. Since the Accusation was served, Respondent Owner is more often on site and she also had cameras installed so that just about any part of the shop may be monitored, especially work and activity during a smog test.

19. Respondents have performed smog tests often at the request of dealerships, including used vehicle dealers. Sometimes the dealerships have their salespeople deliver the vehicles, at other times a towing company may make deliveries, as respondents are aware from frequent dealings with salespeople and towing companies. For instance, Rockstar Towing delivered Vehicle 6 to respondents, as recorded on respondents' invoice number 12593, Exhibit A, page B18. Respondents believe that L7 Motors, a nearby dealership, or its related towing company, requested smog testing of four of the Ten Vehicles, and that altogether at least six of the Ten Vehicles were smog tested at the request of a dealership or towing company.

20. Dealerships have financial motivation to sell off inventory quickly. Under Vehicle Code section 4000.1, a vehicle in inventory must pass a smog test so that the dealer is able to provide a buyer with a Certificate of Compliance as part of documentation required by the DMV upon a change of ownership. Under Health and Safety Code section 44015, subdivision (e), such a certificate is valid for 90 days. Respondents believe that to make certain that a vehicle, regardless of condition, may be sold, a dealer will conceal a device within the vehicle. The device can then transmit data that deceives the OIS into issuing a Certificate of Compliance not based on actual engine parameters. Dealerships thus have more certainty that they will meet the 90-day deadline of the Health and Safety Code and avoid the time and expense of more than one smog test.

21. Both respondents testified that they did not clean plug any vehicles and would not engage in such wrongdoing, no matter what any customer might request or what financial or other incentives others may follow. Respondents urged that if any incentive influenced their conduct, it was to find and repair vehicles that needed repairs in order to be compliant with anti-smog laws and regulations. Repairs are a part of their business. Repair charges bring Respondent Owner substantial income and are thus financial incentive to follow the law. Respondent Inspector stated that she had never used a defeat device or simulator and had never even seen one. Both respondents depend upon the smog shop for income and wish to continue their careers in the automotive industry.

Costs

22. The Bureau incurred reasonable costs totaling \$9,885.24: \$2,600.49 for investigation and \$7,284.75 for prosecution.

LEGAL CONCLUSIONS

PRINCIPLES OF LAW

1. Complainant bears the burden of proof. The evidentiary standard the Bureau must meet is proof by a preponderance of the evidence. (*Imports Performance v. Dept. of Consumer Affairs, Bur. of Automotive Repair* (2011) 201 Cal.App.4th 911, 916-917.)

Pertinent Laws and Regulations

2. The Director of the Department is authorized under Business and Professions Code section 9884.7 to impose discipline on an ARD registration based on:

Under subdivision (a)(1), "[m]aking or authorizing in any manner or by any means whatever any statement written or oral which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading."

Under subdivision (a)(4), "any . . . conduct that constitutes fraud."

Under subdivision (a)(6), "failure in any material respect to comply with the provisions of this chapter [20.3 of Division 3 of the Business and Professions Code, sections 9880 through 9889.68 (the Repair Act)] or regulations adopted pursuant to it."

Under subdivision (c), "a course of repeated and willful violations of [the Repair Act] or regulations adopted pursuant to it." In such a case, the director may discipline the registration of any business operated by an ARD.

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3. Health and Safety Code section 44072.2, subdivision (a), states that license discipline is appropriate for various statutory violations, including:

Under Health and Safety Code section 44012, if a smog test is not performed in accordance with procedures prescribed by the Department.

Under Health and Safety Code section 44015, subdivision (b), if a certificate of compliance is issued to a vehicle that does not meet the testing requirements of Health and Safety Code section 44012.

Under Health and Safety Code section 44032, if a smog test is performed by a person other than a qualified smog check technician at a licensed smog check station and if the test is not performed in accordance with Section 44012.

Under Health and Safety Code section 44059, "[t]he 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 [the Inspection Program] or [the Repair Act]....." This Code section also provides that its violation constitutes perjury, punishable under the Penal Code.

4. Health and Safety Code section 44072.2, subdivision (c), states that license discipline is appropriate if a licensee "[v]iolates any of the regulations adopted by the director pursuant to [the Inspection Program]". Regulations pertinent here that implement the Inspection Program include:

Regulation 3340.24, subdivision (c), authorizing license discipline "if the licensee falsely or fraudulently issues . . . a certificate of compliance" "

Regulation 3340.30, subdivision (a), requiring a licensee to "[i]nspect, test and repair vehicles, as applicable, 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 [5.5 of Chapter 1 of Division 33 of Title 16 of the Regulations].” Health and Safety Code section 44035, subdivision (a), provides for license discipline for “failure to meet or maintain the standards prescribed for qualification, equipment, performance, or conduct . . . [under] rules and regulations governing” license discipline.

Regulation 3340.35, subdivision (c), requiring that a licensee issue a “certificate of compliance . . . 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.”

Regulation 3340.41, subdivision (c), mandating that: “No person shall enter any vehicle identification information or emission control system identification data for any vehicle other than the one being tested into the EIS..... Nor shall any person enter into the EIS..... any false information about the vehicle being tested.”

Regulation 3340.42, requiring that smog inspections use one of the several test methods the Bureau prescribes and that they are done according to Bureau’s specifications, including, under subdivision (a)(3), “[a]n OBD-focused test, [for] . . . gasoline-powered vehicles 2000 model-year and newer.....”

Regulation 3340.45, stating that “All Smog Check inspections shall be performed in accordance with requirements and procedures prescribed in the Smog Check Manual, dated January 2021, which is hereby incorporated by reference.”

Regulation 3373, providing:

No automotive repair dealer or individual in charge shall, in filling out.....[a] record required to be maintained by section 3340.15(e) [including Certificates of Compliance

under the Inspection Program] . . . insert therein any statement or information which will cause any such document to be false or misleading

5. Health and Safety Code section 44072.2 provides in 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.

6. Health and Safety Code section 44072.8, similarly to Business and Professions Code section 9884.7, subdivision (c), provides that if license discipline is imposed following an administrative hearing “any additional license issued . . . in the name of the licensee may be likewise revoked or suspended by the director.”

7. Health and Safety Code section 44072.10, subdivision (c), provides:

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) [C]lean plugging . . . 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.

Costs

8. Business and Professions Code section 125.3 states that in administrative proceedings an agency such as the Bureau may recover reasonable costs for investigation and prosecution.

ANALYSIS

9. As the court stated in *Kearl v. Board of Medical Quality Assurance* (1986) 189 Cal.App.3d. 1040, 1052, the testimony of "one credible witness may constitute substantial evidence." In this case the credible testimony was that of PR 1 Garcia, who testified in convincing detail that only a defeat device explains the data on the changing RPM's of each of the Ten Vehicles, graphed as level and then spiking to a higher level, in contrast to the other engine parameters, all graphed as flat and unchanging.

10. Respondent's contention that defeat devices hidden in vehicles by dealerships were responsible for the parameters of engine performance of the Ten Vehicles was not convincing. Defeat devices are of a size such that Respondent Inspector would have noticed them during a smog test. They are not so small that they could be effectively hidden. Respondents' belief that dealerships might have hidden the devices in the Ten Vehicles is speculative and not adequately supported by the general observation that a vehicle dealer has financial incentive to ensure a vehicle for sale passes a smog check inspection.

11. Respondents' anti-fraud measures, such as monitoring cameras, do not negate the facts indicating that defeat devices or simulators were allowed to transmit data to the VID as if from each of the Ten Vehicles.

First Cause for Discipline

12. Cause exists to discipline Respondent Owner's ARD registration under Business and Professions Code section 9884.7, subdivision (a)(1). The certificates of compliance respondent issued to the Ten Vehicles constituted statements that she knew, or by exercise of reasonable care she should have known, to be untrue or misleading. By issuing the certificates, Respondent Owner effectively stated that the vehicles were smog tested, whereas they were not. Rather, a device, not the vehicle purportedly tested, generated the anomalous data transmitted to the VID.

Second Cause for Discipline

13. Cause exists to discipline Respondent Owner's ARD registration under Business and Professions Code section 9884.7, subdivision (a)(4). Respondent's conduct in issuing Certificates of Compliance to the Ten Vehicles constituted fraud. By

issuing the certificates, respondent falsely represented that the vehicles were smog tested, but they were not.

Third Cause For Discipline

14. Cause exists to discipline Respondent Owner's ARD registration under Business and Professions Code section 9884.7, subdivision (a)(6). Respondent failed in a material respect to comply with the provisions of the Repair Act or regulations adopted pursuant to it. Under Regulation 3340.45, adopted pursuant to the Repair Act, smog tests must be performed according to the Smog Check Manual. Respondent did not test the Ten Vehicles using required procedures under the Smog Check Manual.

Fourth Cause for Discipline

15. Cause exists to discipline Respondent Owner's RC License under Health and Safety Code section 44072.2, subdivision (a), in that respondent failed to comply with Health and Safety Code section 44012. Respondent Owner failed to ensure that a smog test was performed on each of the Ten Vehicles and instead allowed a device, not the vehicle purportedly tested, to be used in an attempt to make it seem that each of the Ten Vehicles was smog tested.

16. Cause exists to discipline Respondent Owner's RC License under Health and Safety Code section 44072.2, subdivision (a), in that respondent failed to comply with Health and Safety Code section 44015, subdivision (b). Respondent Owner did not smog test any of the Ten Vehicles according to procedures required under Health and Safety Code section 44012.

17. Cause exists to discipline Respondent Owner's RC License under Health and Safety Code section 44059, in that respondent willfully made false entries for the

electronic Certificates of Compliance for the Ten Vehicles by certifying that they had been inspected as required when, in fact, they had not.

Fifth Cause for Discipline

18. Cause exists to discipline Respondent Owner's RC License under Health and Safety Code section 44072.2, subdivision (c), in that respondent failed to comply with applicable regulations:

Under Regulation 3340.24, subdivision (c), Respondent Owner falsely or fraudulently issued a certificate of compliance for each of the Ten Vehicles by clean plugging each vehicle.

Under Regulation 3340.30, subdivision (a), Respondent Owner failed to inspect or test the Ten Vehicles in compliance with Health and Safety Code sections 44012 and 44035, and Regulation 3340.42. Respondent Owner did not follow the requirement under Health and Safety Code section 44012 to ensure that a smog test was performed on each of the Ten Vehicles. Under Health and Safety Code section 44035, subdivision (a), Respondent Owner failed to meet or maintain the standards prescribed for qualification, equipment, performance, or conduct under the rules and regulations governing license discipline. Respondent Owner did not follow the requirement under Regulation 3340.42 to perform an OBD-focused test on each of the Ten Vehicles.

Under Regulation 3340.35, subdivision (c), respondent issued Certificates of Compliance for the Ten Vehicles even though they were not inspected in compliance with Regulation 3340.42.

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Under Regulation 3340.41, subdivision (c), in clean plugging the Ten Vehicles, Respondent Owner knowingly entered false information about each vehicle into the emissions inspection system.

Under Regulation 3340.42, Respondent Owner failed to ensure that the smog tests of the Ten Vehicles met the Bureau's specifications.

Under Regulation 3373, Respondent Owner inserted into a record required to be maintained by Regulation 3340.15, subdivision (e), the Certificate of Compliance issued to each of the Ten Vehicles, which caused the document to be false or misleading for the vehicles.

Sixth Cause for Discipline

19. Cause exists to discipline Respondent Owner's RC License under Health and Safety Code sections 44072.2, subdivision (d), and 44072.10, subdivision (c), in that respondent committed dishonest, fraudulent, or deceitful acts that caused injury to others by issuing a Certificate of Compliance for each of the Ten Vehicles by means of clean plugging. Respondent Owner did not test the vehicles' smog control devices and systems as required by laws and regulations. Respondent Owner thus subverted the Inspection Program and prevented the opportunity to find whether any of the Ten Vehicles was compliant with anti-smog laws and regulations.

Seventh Cause for Discipline

20. Cause exists to discipline Respondent Inspector's EO License under Health and Safety Code section 44072.2, subdivision (a), in that she failed to comply with certain provisions of the Health and Safety Code:

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Under Health and Safety Code section 44015, subdivision (b), Respondent Inspector caused Certificates of Compliance to be issued for the Ten Vehicles by means of clean plugging, not smog tests in compliance with Health and Safety Code section 44012, neither determining under subdivision (a) of section 44012 that all emission control devices and systems required by law were installed and functioning nor, under subdivision (f), performing smog tests in compliance with the Bureau's mandatory procedures.

Under Health and Safety Code section 44032, the purported smog test of each of the Ten Vehicles that resulted in a Certificate of Compliance issued to each was clean plugging, not a test in accordance with Health and Safety Code section 44012.

Under Health and Safety Code section 44059, Respondent Inspector willfully made false entries in the Certificates of Compliance in certifying that the Ten Vehicles had been inspected as required by the Bureau.

Eighth Cause for Discipline

21. Cause exists to discipline Respondent Inspector's EO License under Health and Safety Code section 44072.2, subdivision (c), in that respondent failed to comply with certain regulations:

Under Regulation 3340.24, subdivision (c), by means of clean plugging, Respondent Inspector falsely or fraudulently caused the issuance of a Certificate of Compliance to each of the Ten Vehicles.

Under Regulation 3340.30, subdivision (a), Respondent Inspector failed to perform a smog test of each of the Ten Vehicles in compliance with Health and Safety Code sections 44012 and 44035, and Regulation 3340.42. As under the Fifth Cause for

Discipline, Respondent Inspector did not follow the requirement under Health and Safety Code section 44012 to ensure that a smog test was performed on each of the Ten Vehicles. Under Health and Safety Code section 44035, subdivision (a), Respondent Inspector failed to meet or maintain the standards prescribed for qualification, equipment, performance, or conduct under the rules and regulations governing license discipline. Respondent Inspector did not follow the requirement under Regulation 3340.42 to perform an OBD-focused test on each of the Ten Vehicles.

Under Regulation 3340.41, subdivision (c), in clean plugging the Ten Vehicles, Respondent Inspector knowingly entered false information into the emissions inspection system regarding each of the Ten Vehicles.

Under Regulation 3340.42, Respondent Inspector failed to ensure that she smog tested the Ten Vehicles in compliance with the Bureau's specifications, clean plugging each vehicle instead.

Eleventh Cause for Discipline

22. The Accusation has no cause for discipline labelled ninth or tenth, skipping from the eighth to an "eleventh" cause for discipline.

23. Cause exists to discipline Respondent Inspector's EO License under Health and Safety Code sections 44072.2, subdivision (d), and 44072.10, subdivision (c), in that, as in the Sixth Cause for Discipline, Respondent Inspector committed dishonest, fraudulent, or deceitful acts that caused injury to others by issuing Certificates of Compliance for the Ten Vehicles by means of clean plugging. Respondent Inspector did not test the vehicles' smog control devices and systems as required by laws and regulations. Respondent Inspector thus subverted the Inspection

Program and prevented the opportunity to find whether any of the Ten Vehicles were compliant with anti-smog laws and regulations.

Other Matters

24. Under Business and Professions Code section 9884.7, subdivision (c), the wrongdoing by Respondent Owner is cause to discipline additional registration for any place of business respondent operates in California, and any licenses respondent may hold under the Inspection Program, as stated under Other Matters in the Accusation, page A23, lines 17 through 21. Respondent engaged in a course of repeated and willful violations of the laws and regulations pertaining to an automotive repair dealer.

25. Under Health and Safety Code section 44072.8, the wrongdoing by Respondent Owner is cause to discipline any additional Smog Check Test-and-Repair Station and Smog Check Test Only Station licenses Respondent Owner may hold under the Inspection Program, as stated under Other Matters in the Accusation, page A23, lines 22 through 26.

26. Under Health and Safety Code section 44072.8, the wrongdoing by Respondent Inspector is cause to discipline any additional Smog Check Inspector license respondent may hold under the Inspection Program, as stated under Other Matters in the Accusation, page A23, line 27, through page A24, line 2.

27. The registration and licenses of each respondent, both Respondent Owner and Respondent Inspector, are all appropriately revoked. The Bureau's paramount responsibility, to protect the public, requires such disciplinary action in this matter.

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Costs

28. An order that respondents reimburse costs is appropriate. They did not present evidence of reasons under *Zuckerman v. State Board of Chiropractic Examiners* (2002) 29 Cal.4th 32, for discounting costs incurred by the Bureau. There was no evidence that they would be unable or would experience undue hardship if ordered to pay the Bureau's costs.

ORDER

1. The Automotive Repair Dealer registration number ARD 301290 that the Bureau of Automotive Repair issued to respondent, Carla Maria Espinola, doing business as Yeyo's Automotive, is revoked.

2. The Smog Check, Test and Repair, Station License No. RC 301290 that the Bureau of Automotive Repair issued to respondent, Carla Maria Espinola, doing business as Yeyo's Automotive, is revoked.

3. The Smog Check Inspector license number EO640673 that the Bureau of Automotive Repair issued to respondent, Valeria J. Espinola is revoked.

4. The ARD registration for all places of business operated in California by respondent Carla Maria Espinola, individually and under any fictitious business name, including Yeyo's Automotive, is revoked.

5. Any additional license issued to respondent Carla Maria Espinola, individually and under any fictitious business name, including as Yeyo's Automotive, under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code, the Motor Vehicle Inspection Program, is revoked.

6. Respondents shall be liable jointly and severally to reimburse the Bureau of Automotive Repair \$9,885.24 within 60 days of this Decision. Respondents may be allowed, at the Bureau's discretion, to pay such costs on an installment basis.

DATE: **04/24/2025**

Thomas Lucero

THOMAS LUCERO

Administrative Law Judge

Office of Administrative Hearings