ROB BONTA
Attorney General of California
ARMANDO ZAMBRANO
Supervising Deputy Attorney General
MARISSA N. HAMILTON
Deputy Attorney General
State Bar No. 322489
300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 269-6701
Facsimile: (916) 731-2126
E-mail: Marissa.Hamilton@doj.ca.gov
Attorneys for Complainant

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

In the Matter of the Accusation Against**:** **FRANCISCO JAVIER GONZALES, OWNER, DBA ALAMEDA SMOG CHECK** **7219 S Alameda St Ste E** **Los Angeles, CA 90001** **Automotive Repair Dealer Registration No. ARD 305249** **Smog Check, Test-and-Repair Station License No. RC 305249,** **and** **FRANCISCO JAVIER GONZALEZ** **24815 Eucalyptus Ave** **Moreno Valley, CA 92553** **Smog Check Inspector License No. EO 634180** **Smog Check Repair Technician License No. EI 634180** Respondents.	Case No. 79/26-4671 **ACCUSATION**

///

///

PARTIES

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

Automotive Repair Dealer Registration

2. On or about March 14, 2023, the Bureau issued Automotive Repair Dealer Registration Number ARD 305249 to Francisco Javier Gonzales, dba Alameda Smog Check (Respondent Alameda Smog Check). The Automotive Repair Dealer Registration was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2027, unless renewed.

Smog Check, Test-and-Repair, Station License

3. On or about March 15, 2024, the Bureau of Automotive Repair issued Smog Check, Test-and-Repair, Station License Number RC 305249 to Respondent Alameda Smog Check. The Smog Check, Test-and-Repair, Station License was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2027, unless renewed.

STAR Station Certification

4. Respondent Alameda Smog Check is also certified as a STAR Station. The certification was issued on or about March 20, 2024, and will remain active unless the Automotive Repair Dealer Registration and/or Smog Check, Test-and-Repair, Station License is revoked, cancelled, becomes delinquent, or the certification is suspended.

Smog Check Inspector and Repair Technician Licenses

5. On or about December 26, 2013, the Bureau issued Smog Check Inspector License Number EO 634180 to Francisco Javier Gonzalez (Respondent Gonzalez). The Smog Check Inspector License was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2027, unless renewed.

6. On or about December 26, 2013, the Bureau issued Smog Check Repair Technician License Number EI 634180 to Respondent Gonzalez. The Smog Check Repair Technician License expired on December 31, 2017, and has not been renewed.

///

JURISDICTION

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

8. Section 118, subdivision (b), of the Code provides that suspension, expiration, surrender, or cancellation of a license shall not deprive the Director of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

9. Section 9884.7 of the Code provides that the Director may revoke an automotive repair dealer registration.

10. Section 9884.13 of the Code provides, in pertinent part, that the expiration of a valid registration shall not deprive the Director of jurisdiction to proceed with a disciplinary proceeding against an automotive repair dealer or to render a decision temporarily or permanently invalidating (suspending or revoking) a registration.

11. Section 9884.22, subdivision (a), of the Code provides:

> (a) Notwithstanding any other provision of law, the director may revoke, suspend, or deny at any time any registration required by this article on any of the grounds for disciplinary action provided in this article. The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the director shall have all the powers granted therein.

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

13. Section 44072.6 of the Health and Safety Code provides:

> The expiration or suspension of a license by operation of law or by order or decision of the director or a court of law, or the voluntary surrender of a license by a licensee shall not deprive the director of jurisdiction to proceed with any investigation of, or action or disciplinary proceedings against, the licensee, or to render a decision suspending or revoking the license.

///

///

STATUTORY PROVISIONS

14. Section 9884.7 of the Code provides, in pertinent part:

(a) The director, if the automotive repair dealer cannot show there was a bona fide error, may deny, suspend, revoke, or place on probation the registration of an automotive repair dealer for any of the following acts or omissions related to the conduct of the business of the automotive repair dealer, which are done by the automotive repair dealer or any automotive technician, employee, partner, officer, or member of the automotive repair dealer:

(1) Making 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.

. . .

(4) Any other conduct that constitutes fraud.

. . .

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

15. Section 9884.8 of the Code provides:

All work done by an automotive repair dealer, including all warranty work, shall be recorded on an invoice and shall describe all service work done and parts supplied. Service work and parts shall be listed separately on the invoice, which shall also state separately the subtotal prices for service work and for parts, not including sales tax, and shall state separately the sales tax, if any, applicable to each. If any used, rebuilt, or reconditioned parts are supplied, the invoice shall clearly state that fact. If a part of a component system is composed of new and used, rebuilt or reconditioned parts, that invoice shall clearly state that fact. The invoice shall include a statement indicating whether any crash parts are original equipment manufacturer crash parts or nonoriginal equipment manufacturer aftermarket crash parts. One copy of the invoice shall be given to the customer and one copy shall be retained by the automotive repair dealer.

16. Section 9884.9 of the Code provides, in pertinent part:

(a) The automotive repair dealer shall give to the customer a written estimated price for labor and parts necessary for a specific job, except as provided in subdivision (e). No work shall be done and no charges shall accrue before authorization to proceed is obtained from the customer. No charge shall be made for work done or parts supplied in excess of the estimated price, or the posted price specified in subdivision (e), without the oral or written consent of the customer that shall be obtained at some time after it is determined that the estimated or posted price is insufficient and before the work not estimated or posted is done or the parts not estimated or posted are supplied. Written consent or authorization for an increase in the original estimated or posted price may be provided by electronic mail or facsimile transmission from the customer. The bureau may specify in regulation the procedures to be followed by an automotive repair dealer if an authorization or consent for an increase in the original estimated price is provided by electronic mail or facsimile transmission. If that consent is oral, the dealer shall make a notation on the work

order of the date, time, name of person authorizing the additional repairs, and telephone number called, if any, together with a specification of the additional parts and labor and the total additional cost, and shall do either of the following . . .

17. Section 9884.11 of the Code provides:

Each automotive repair dealer shall maintain any records that are required by regulations adopted to carry out this chapter. Those records shall be open for reasonable inspection by the chief or other law enforcement officials. All of those records shall be maintained for at least three years.

18. Section 9889.22 of the Code 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 5 (commencing with Section 44000) of Part 5 of Division 26 of the Health and Safety Code constitutes perjury and is punishable as provided in the Penal Code.

19. Health and Safety Code section 44012 provides:

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

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

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

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

(d) For other than diesel-powered vehicles, the vehicle's fuel evaporative system and crankcase ventilation system are tested to reduce any nonexhaust sources 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.

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

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

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

(1) A vehicle that has been tampered with.

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

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

. . .

///

21. 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.

22. 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.

23. 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.
>
> . . .
>
> (g) Fails to make and keep records showing his or her transactions as a licensee, or fails to have those records available for inspection by the director or his or her duly authorized representative for a period of not less than three years after completion of any transaction to which the records refer, or refuses to comply with a written request of the director to make the records available for inspection.
>
> (h) Violates or attempts to violate the provisions of this chapter relating to the particular activity for which he or she is licensed.

24. 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.

///

///

25. 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

26. California Code of Regulations, title 16, section 3340.15, subdivision (e), states:

(e) The station shall make, keep secure, and have available for inspection on request of the Bureau, or its representative, legible records showing the station's transactions as a licensee for a period of not less than three years after completion of any transaction to which the records refer. All records shall be open for reasonable inspection and/or reproduction by the Bureau or its representative. Station records required to be maintained shall include copies of:

(1) All certificates of compliance and certificates of noncompliance in stock and/or issued,

(2) Repair orders relating to the inspection and repair activities, and

(3) Vehicle inspection reports generated either manually or by the emissions inspection system.

The above listed station records shall be maintained in such a manner that the records for each transaction are kept together, so as to facilitate access to those records by the Bureau or its representative. In this regard, the second copy of an issued certificate shall be attached to the final invoice record.

27. 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.

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

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

(a) Inspect, 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.

. . .

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

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

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

> (c) 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 or OIS. Nor shall any person enter into the EIS or OIS any false information about the vehicle being tested.

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

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

> 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.

33. California Code of Regulations, title 16, section 3356 provides, in pertinent part:

> (a) All invoices for service and repair work performed, and parts supplied, as provided for in Section 9884.8 of the Business and Professions Code, shall comply with this section.
>
> . . .
>
> (c) The invoice shall separately list, describe and identify all of the following:
>
> (1) All services and repairs performed, including any diagnosis or warranty repairs, and the prices for each.
>
> (2) Each part supplied, in such a manner that the customer can understand what was purchased, and the price for each described part. The description of each part shall state whether the part was new, used, reconditioned, rebuilt, an OEM crash part, or a non-OEM aftermarket crash part. Part kits containing several components may be listed as a single part on the invoice and identified by brand name and corresponding part number or similar designation.
>
> (3) The subtotal price for all service and repair work performed.
>
> (4) The subtotal price for all parts supplied, not including sales tax.
>
> (5) The applicable sales tax, if any.

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

. . .

34. 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.

COST RECOVERY

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

FACTUAL ALLEGATIONS

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

Inspection Report (VIR) containing inspection results for motorists and a Smog Check Certificate of Compliance number for passing vehicles.

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

38. During an OIS inspection, engine operating parameters are retrieved from the vehicle's OBD system and recorded to the Bureau's Vehicle Information Database (VID), which is maintained by a state contractor. This is accomplished during the functional portion of the OIS Smog Check inspection by plugging the DAD into the vehicle's DLC when prompted by the OIS analyzer screen prompt. Some of the parameters recorded are:

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

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

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

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

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

39. During normal engine operation at idle, engine speed is relatively steady around its target idle speed. With the engine idling, the TPS is steady and at or near 0%. The MAP and/or MAF readings are also steady. In order for the engine speed to increase, the throttle would have to be opened in order to increase airflow through the engine. The engine's management systems

supply fuel and spark timing appropriate to any changes in throttle position and engine speed. An increase in throttle, measured by the TPS, which increases engine RPM, would result in corresponding increases in MAF, as well as a change in MAP. Stated another way, any movement in the throttle from the idle position will result in an increase of airflow through the engine with corresponding increases RPM and MAF along with changes in MAP.

40. During an OIS Smog Check inspection, along with other visual and functional inspections, there is an OBD II query portion of the inspection. The OBD II query is performed with the engine idling and, when requested by the OIS analyzer, an elevated or increased engine speed. The increase in engine speed is achieved by the inspector stepping on the throttle pedal or manually opening the throttle, resulting in a corresponding increase in engine RPMs by allowing an increase in airflow into the engine.

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

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

43. The smog check technician must sign the VIR under penalty of perjury to indicate that the inspection was done within Bureau guidelines. Smog Check Stations are required by law to maintain a copy of the VIR along with a copy of the repair invoice for three years. The

consumer's VIR serves as a receipt and proof that the VID was updated and a Certificate of Compliance was issued. Licensed Smog Check Technicians are the only persons authorized by the Bureau to perform official inspections. They are issued a personal access code and a license, which are used to gain access to the OIS to perform smog check inspections. Unauthorized use of another technician's access code or license is prohibited.

44. The Bureau has become aware of methods some Smog Check stations and Smog Check inspectors use to fraudulently issue smog certificates to vehicles that will not pass a Smog Check test on their own, or in some instances, are not even present during the time the test is performed. One method is known as "clean plugging." "Clean plugging" is a method by which another vehicle's properly functioning OBD system, or another source such as defeat devices, are used to generate passing data readings or diagnostic information for the purpose of fraudulently issuing smog certificates to vehicles that are not in smog compliance and or not present for testing. Defeat devices attempt to simulate engine operation during a Smog Check inspection by transmitting OBD data to the VID which has been modified or replaced entirely for the purportedly inspected vehicle during the functional portion of the OIS inspection. The use of a defeat device during a Smog Check inspection is clean plugging and is strictly prohibited.

Prior Station Inspections

45. On or about April 21, 2023, a Bureau representative visited Respondent Alameda Smog Check and met with Respondent Gonzalez. Respondent Gonzalez was advised that Smog Check inspections must be performed by licensed technicians using their own access code, that no false information about the vehicle being tested shall be entered in the analyzer, and that tests and inspections must be performed in accordance with the Automotive Repair Act.

46. On or about March 13, 2024, a Bureau representative visited Respondent Alameda Smog Check and met with Respondent Gonzalez. Respondent Gonzalez was again advised that Smog Check inspections must be performed by licensed technicians using their own access code, that no false information about the vehicle being tested shall be entered in the analyzer, and that tests and inspections must be performed in accordance with the Automotive Repair Act.

///

47. On or about August 26, 2025, a Bureau representative visited Respondent Alameda Smog Check and met with Respondent Gonzalez. Respondent Gonzalez was again advised that Smog Check inspections must be performed by licensed technicians using their own access code, that no false information about the vehicle being tested shall be entered in the analyzer, and that tests and inspections must be performed in accordance with the Automotive Repair Act.

Station Data Review

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

Clean Plug #1

49. On or about February 27, 2024, a 2003 Ford Expedition XLT, VIN No. 1FMRU15W73LB04918, CA License No. 5AHX347, was tested and smog certificate No. IZ226667C was issued under licensed Smog Check Inspector No. EO634180, Respondent Gonzalez.

50. The Dynamic PID chart for the 2003 Ford Expedition XLT shows that between time stamp 344 and 20847, the engine RPM is steady at around 680 RPM. During this time, the data shows that the throttle initially rises from 12.5% to 17.6% opening, before reaching a high of 18% opening then drops to 17.6% opening and ultimately to 14.9% opening. The MAF initially drops from 3.75gps to 3.55gps, then rises to 4.53gps before incrementally dropping to 3.96gps. After time stamp 20847, the data shows the engine RPM is increased and held steady at around 1520 RPM. During the steady elevated engine RPM, the data shows the throttle initially rises from 14.1% to 15.7% opening, before reaching a high of 16.5% opening and ultimately dropping to 15.3% opening and the MAF incrementally drops from 4.53gps to 2.83gps before rising to 5.04gps.

51. The steady idle and steady elevated engine RPM data along with the improbable throttle positions and MAF readings are not characteristic or expected for normal engine operation. The throttle positions and MAF readings are expected to be stable during the steady idle and subsequently raised and stable during the steady elevated engine RPM, not decrease to values less than idle or rise and drop unexpectedly. During the improbable readings, the throttle and MAF had data points during the steady elevated engine RPM which were lower than data points at idle. The throttle data points during the elevated engine RPM never increased past the highest data points at idle. Additionally, during the elevated engine RPM, the throttle and MAF exhibited an anomalous inverse correlation which is inconsistent with normal and expected engine behavior. The discrepancies in the OIS test data prove the Data Acquisition Device (DAD) was not connected as required to the 2003 Ford Expedition XLT being certified, causing the issuance of a fraudulent Smog Check Certificate of Compliance.

52. On or about November 14, 2023, a previous Smog Check inspection was performed on the 2003 Ford Expedition XLT at a different Smog Check station. No certificate was issued for the Smog Check inspection performed on November 14, 2023. The VIR shows the 2003 Ford Expedition XLT failed the Smog Check inspection due to incomplete OBDII monitors. The Dynamic PID chart for the 2003 Ford Expedition XLT shows that between time stamp 438 and 38144, the engine RPM is held steady at around 655 RPM. During this time, the data shows that the throttle is fixed at 18% opening and the MAF is stable between 3.48gps and 3.98gps. After time stamp 38144, the data shows the engine RPM is increased and ultimately held steady at around 1915 RPM. During the steady elevated engine RPM, the data shows that the throttle is stable between 19.6% and 20% opening, and the MAF is stable between 11.18gps and 11.51gps. The steady idle and elevated engine RPM data along with the associated throttle positions and MAF readings are characteristic and expected for normal engine operation.

Clean Plug #2

53. On or about May 1, 2024, a 2001 Chevrolet Astro, VIN No. 1GNDM19W81B132245, CA License No. 5PNM618, was tested and smog certificate No. TW733254C was issued under licensed Smog Check Inspector No. EO634180, Respondent Gonzalez.

54. The Dynamic PID chart for the 2001 Chevrolet Astro shows that between time stamp 356 and 53872, the engine RPM is steady at around 710 RPM. During this time, the data shows that the throttle rises from 3.1% to 5.5% opening then drops to a low of 2.4% opening, the MAF initially rises from 5.8gps to 7.56gps then drops to 6.89gps and ultimately back to 5.8gps, and the MAP rises from 42kPa to 44kPa then drops to 37kPa before rising to 38kPa. After time stamp 53872 the data shows the engine RPM is increased and ultimately held steady at around 1660 RPM. During the steady elevated engine RPM, the data shows the throttle initially rises from 2% to 3.1%opening, then drops to 2.4% opening before rising to 4.3% opening, the MAF initially rises from 5.28gps to 7.28gps before reaching a high of 7.55gps and ultimately dropping to a low of 5.53gps, and the MAP initially rises from 39kPa to 40kPa before reaching a high of 44kPa and subsequently dropping to a low of 32kPa.

55. The steady idle and steady elevated engine RPM data along with the improbable throttle positions, MAF and MAP readings are not characteristic or expected for normal engine operation. The throttle positions and MAF readings are expected to be stable during the steady idle and subsequently raised and stable during the steady elevated engine RPM, not decrease to values less than idle or rise and drop unexpectedly. Additionally, during the steady elevated engine RPM, the MAP is expected to decrease relative to idle. During the improbable readings, the throttle and MAF had data points during the steady elevated engine RPM which were lower than data points at idle and which never increased past the highest data points at idle. Also, during the elevated engine RPM, the throttle and MAF exhibited an anomalous inverse correlation, and the MAP displayed an observable increase, all which are inconsistent with normal and expected engine behavior. The discrepancies in the OIS test data prove the Data Acquisition Device (DAD) was not connected as required to the 2001 Chevrolet Astro being certified, causing the issuance of a fraudulent Smog Check Certificate of Compliance.

56. On or about January 16, 2023, a previous Smog Check inspection was performed on the 2001 Chevrolet Astro at a different Smog Check station. The Dynamic PID chart for the 2001 Chevrolet Astro shows that between time stamp 465 and 17539, the engine RPM is held steady at around 650 RPM. During this time, the data shows that the throttle is fixed at 0% opening, the

MAF is stable between 6.07gps and 6.1gps and the MAP is stable between 38kPa and 39kPa. After time stamp 17539, the data shows the engine RPM is increased and ultimately held steady at around 1600 RPM. During the steady elevated engine RPM, the data shows that the throttle is stable between 4.3% and 4.7% opening, the MAF is stable between 13.36gps and 13.44gps and the MAP is fixed at 31kPa. The steady idle and elevated engine RPM data along with the associated throttle positions, MAF and MAP readings are characteristic and expected for normal engine operation.

Clean Plug #3

57. On or about August 23, 2024, a 2004 Ford Econoline E150 Van, VIN No. 1FTRE14L04HA50276, CA License No. 94198A2, was tested and smog certificate No. IZ909926C was issued under licensed Smog Check Inspector No. EO634180, Respondent Gonzalez.

58. The Dynamic PID chart for the 2004 Ford Econoline E150 Van shows that between time stamp 337 and 17960, the engine RPM is steady at around 835 RPM. During this time, the data shows that the throttle is fluctuating between 19.2 % and 23.5 % opening and the MAF is fluctuating between 5.52gps and 7.56gps. After time stamp 17960 the data shows the engine RPM is increased and ultimately held steady at around 1460 RPM. During the steady elevated engine RPM, the data shows the throttle initially drops from 23.1% to 19.2% opening then incrementally rises to a high of 21.6% opening and the MAF initially drops from 5.75gps to 5.31gps, then rises to 5.96gps before reaching a high of 7.4gps and ultimately dropping to 6.56gps.

59. The steady idle and steady elevated engine RPM data along with the improbable throttle positions and MAF readings are not characteristic or expected for normal engine operation. The throttle positions and MAF readings are expected to be stable during the steady idle and subsequently raised and stable during the steady elevated engine RPM, not decrease to values less than idle or rise and drop unexpectedly. During the improbable readings, the throttle and MAF had data points during the steady elevated engine RPM which were lower than data points at idle and which never increased past the highest data points at idle. Additionally, during the elevated engine RPM, the throttle and MAF exhibited an anomalous inverse correlation which is inconsistent with normal and expected engine behavior. The discrepancies in the OIS test data

prove the Data Acquisition Device (DAD) was not connected as required to the 2004 Ford Econoline E150 Van being certified, causing the issuance of a fraudulent Smog Check Certificate of Compliance.

60. On or about August 21, 2024, just two days prior, a Smog Check inspection was performed on the 2004 Ford Econoline E150 Van at Respondent Alameda Smog Check under licensed Smog Check Inspector No. EO634180, Respondent Gonzalez. No certificate was issued for the Smog Check inspection performed on August 21, 2024. The VIR shows the 2004 Ford Econoline E150 Van failed the OBD Bulb Check and OBDII functional portion of the inspection and had a Service Fault Code. The Dynamic PID chart for the 2004 Ford Econoline E150 Van shows that between time stamp 343 and 37658, the engine RPM is held steady at around 630 RPM. During this time, the data shows that the throttle is fixed at 20.4% opening and the MAF is stable between 6.2gps and 6.81gps. After time stamp 37658, the data shows the engine RPM is increased, reaches a high of 1997 RPM and ultimately held steady at around 1765 RPM. During the elevated engine RPM, the data shows that the throttle is fixed at 23.5% opening and the MAF is stable between 17.05gps and 17.44gps. The steady idle and elevated engine RPM data along with the associated throttle positions and MAF readings are characteristic and expected for normal engine operation.

Clean Plug #4

61. On or about September 21, 2024, a 2002 Toyota Camry LE, VIN No. JTDBE32K220110819, CA License No. 8NXD224, was tested and smog certificate No. UC957691C was issued under licensed Smog Check Inspector No. EO634180, Respondent Gonzalez.

62. The Dynamic PID chart for the 2002 Toyota Camry LE shows that between time stamp 872 and 22466, the engine RPM is steady at around 740 RPM. During this time, the data shows that the throttle rises from 16.1% to 17.3% opening and the MAF rises from 2.81gps to 3.84gps. After time stamp 22466 the data shows the engine RPM is increased and ultimately held steady at around 1570 RPM. During the steady elevated engine RPM, the data shows the throttle drops from 18% to 17.6% opening and the MAF drops from 3.38gps to 3.21gps.

63. The steady idle and steady elevated engine RPM data along with the improbable throttle positions and MAF readings are not characteristic or expected for normal engine operation. The throttle positions and MAF readings are expected to be stable during the steady idle and subsequently raised and stable during the steady elevated engine RPM, not decrease to values less than idle or rise and drop unexpectedly. During the improbable readings, the MAF had data points during the steady elevated engine RPM which were lower than data points at idle and which never increased past the highest data point at idle. The discrepancies in the OIS test data prove the Data Acquisition Device (DAD) was not connected as required to the 2002 Toyota Camry LE being certified, causing the issuance of a fraudulent Smog Check Certificate of Compliance.

64. On or about September 20, 2024, just one day prior, a Smog Check inspection was performed on the 2002 Toyota Camry LE at Respondent Alameda Smog Check under licensed Smog Check Inspector No. EO634180, Respondent Gonzalez. No certificate was issued for the Smog Check inspection performed on September 20, 2024. The Vehicle Inspection Report shows the 2002 Toyota Camry failed due to tampered "Vacuum Lines to Sensors/Switches" and incomplete OBDII monitors. The Dynamic PID chart for the 2002 Toyota Camry LE shows that between time stamp 830 and 33119, the engine RPM is held steady at around 675 RPM. During this time, the data shows that the throttle drops from 15.3% to 14.5% opening and the MAF drops from 2.79gps to 2.31gps. After time stamp 33119, the data shows the engine RPM is increased and ultimately held steady at around 1640 RPM. During the steady elevated engine RPM, the data shows that the throttle is fixed at 17.3% opening and the MAF is stable between 5.54gps and 5.59gps. The steady idle and steady elevated engine RPM data along with the associated throttle positions and MAF readings are characteristic and expected for normal engine operation.

Clean Plug #5

65. On or about October 11, 2024, a 2001 Toyota Sienna CE, VIN No. 4T3ZF19C71U340753, CA License No. 8CJC646, was tested and smog certificate No. JB397979C was issued under licensed Smog Check Inspector No. EO634180, Respondent Gonzalez.

66. The Dynamic PID chart for the 2001 Toyota Sienna CE shows that between time stamp 838 and 22400, the engine RPM is steady at around 760 RPM. During this time, the data shows that the throttle drops from 9.8% to 8.2% opening and the MAF drops from 4.46gps to 4.04gps. After time stamp 22400 the data shows the engine RPM is increased and ultimately held steady at around 1540 RPM. During the steady elevated engine RPM, the data shows the throttle rises from 6.7% to 9.4% opening and the MAF rises from 2.84gps to 3.25gps.

67. The steady idle and steady elevated engine RPM data along with the improbable throttle positions and MAF readings are not characteristic or expected for normal engine operation. The throttle positions and MAF readings are expected to be stable during the steady idle and subsequently raised and stable during the steady elevated engine RPM, not decrease to values less than idle or rise and drop unexpectedly. During the improbable readings, the throttle and MAF had data points during the steady elevated engine RPM which were lower than data points at idle and which never increased past the highest data points at idle. The discrepancies in the OIS test data prove the Data Acquisition Device (DAD) was not connected as required to the 2001 Toyota Sienna CE being certified, causing the issuance of a fraudulent Smog Check Certificate of Compliance.

Clean Plug #6

68. On or about October 12, 2024, a 2002 Chevrolet Silverado C1500, VIN No. 1GCEC14X92Z301388, CA License No. 33043H3, was tested and smog certificate No. JB397982C was issued under licensed Smog Check Inspector No. EO634180, Respondent Gonzalez.

69. The Dynamic PID chart for the 2002 Chevrolet Silverado C1500 shows that between time stamp 366 and 20272, the engine RPM is steady at around 745 RPM. During this time, the data shows that the throttle initially drops from 5.1% to 3.1% opening, before reaching a low of 0.4% opening then rising back to 3.1% opening, the MAF is fluctuating between 6.83gps and 7.41gps and the MAP is fluctuating between 34kPa and 43kPa. After time stamp 20272 the data shows the engine RPM is increased and ultimately held steady at around 1420 RPM. During the steady elevated engine RPM, the data shows the throttle initially rises from 2.4% to 4.3% opening

then drops to 3.9% opening followed by a drop to 0.4% opening, the MAF initially drops from 5.95gps to 5.71gps, then rises to 5.94gps before reaching a high of 6.79gps, and the MAP drops from 37kPa to 35kPa, then rises to 41kPa before dropping back to 37kPa.

70. The steady idle and steady elevated engine RPM data along with the improbable throttle positions, MAF and MAP readings are not characteristic or expected for normal engine operation. The throttle positions and MAF readings are expected to be stable during the steady idle and subsequently raised and stable during the steady elevated engine RPM, not decrease to values less than idle or rise and drop unexpectedly. Additionally, during the steady elevated engine RPM, the MAP is expected to decrease relative to idle. During the improbable readings, the throttle and MAF had data points during the steady elevated engine RPM which were lower than data points at idle and which never increased past the highest data points at idle. Also, during the elevated engine RPM, the throttle and MAF exhibited an anomalous inverse correlation, and the MAP displayed an observable increase, all which are inconsistent with normal and expected engine behavior. The discrepancies in the OIS test data prove the Data Acquisition Device (DAD) was not connected as required to the 2002 Chevrolet Silverado C1500 being certified, causing the issuance of a fraudulent Smog Check Certificate of Compliance.

Clean Plug #7

71. On or about November 4, 2024, a 2000 Lincoln Town Car Executive, VIN No. 1LNHM81W1YY778776, CA License No. 7FAD456, was tested and smog certificate No. UG063215C was issued under licensed Smog Check Inspector No. EO634180, Respondent Gonzalez.

72. The Dynamic PID chart for the 2000 Lincoln Town Car Executive shows that between time stamp 333 and 20671, the engine RPM is steady at around 770 RPM. During this time, the data shows that the throttle rises from 22% to a high of 23.9% opening then drops to 18.8% opening before rising to 20% opening and the MAF is fluctuating between 7.96gps and 10.04gps. After time stamp 20671 the data shows the engine RPM is increased and ultimately held steady at around 1655 RPM. During the steady elevated engine RPM, the data shows the throttle drops from 21.6% to 20% opening then rises to 20.8% before dropping to 18.8% opening

and the MAF initially drops from 9.97gps to 9.46gps, then drops 8.62gps before rising to 9.72gps and ultimately dropping to 8.06gps.

73. The steady idle and steady elevated engine RPM data along with the improbable throttle positions and MAF readings are not characteristic or expected for normal engine operation. The throttle positions and MAF readings are expected to be stable during the steady idle and subsequently raised and stable during the steady elevated engine RPM, not decrease to values less than idle or rise and drop unexpectedly. During the improbable readings, the throttle and MAF had data points during the steady elevated engine RPM which were lower than data points at idle and which never increased past the highest data points at idle. The discrepancies in the OIS test data prove the Data Acquisition Device (DAD) was not connected as required to the 2000 Lincoln Town Car Executive being certified, causing the issuance of a fraudulent Smog Check Certificate of Compliance.

Clean Plug #8

74. On or about November 4, 2024, a 2006 Nissan Titan XE, VIN No. 1N6AA07A66N533494, CA License No. 38026Z2, was tested and smog certificate No. UG063221C was issued under licensed Smog Check Inspector No. EO634180, Respondent Gonzalez.

75. The Dynamic PID chart for the 2006 Nissan Titan XE shows that between time stamp 974 and 24315, the engine RPM is steady at around 800 RPM. During this time, the data shows that the throttle rises from 3.1% to 3.9% opening and the MAF rises from 6.6gps to 6.98gps. After time stamp 24315 the data shows the engine RPM is increased and ultimately held steady at around 1590 RPM. During the steady elevated engine RPM, the data shows the throttle rises from 1.6% to 5.1% opening and the MAF rises from 6.13gps to 6.24gps.

76. The steady idle and steady elevated engine RPM data along with the improbable throttle positions and MAF readings are not characteristic or expected for normal engine operation. The throttle positions and MAF readings are expected to be stable during the steady idle and subsequently raised and stable during the steady elevated engine RPM, not decrease to values less than idle or rise and drop unexpectedly. During the improbable readings, the throttle

and MAF had data points during the steady elevated engine RPM which were lower than data points at idle. The MAF data points during the steady elevated engine RPM never increased past the data points at idle. The discrepancies in the OIS test data prove the Data Acquisition Device (DAD) was not connected as required to the 2006 Nissan Titan XE being certified, causing the issuance of a fraudulent Smog Check Certificate of Compliance.

Clean Plug #9

77. On or about November 9, 2024, a 2005 Toyota Corolla CE, VIN No. 1NXBR32E15Z553700, CA License No. "N" was tested and smog certificate No. UG063238C was issued under licensed Smog Check Inspector No. EO634180, Respondent Gonzalez.

78. The Dynamic PID chart for the 2005 Toyota Corolla CE shows that between time stamp 866 and 25064, the engine RPM is steady at around 885 RPM. During this time, the data shows that the throttle drops from 14.9% to 13.7% opening and the MAF rises from 0.98gps to 2.48gps. After time stamp 25064 the data shows the engine RPM is increased and ultimately held steady at around 1420 RPM. During the steady elevated engine RPM, the data shows the throttle rises from 14.1% to 15.3% opening and the MAF drops from 2.53gps to 0.57gps.

79. The steady idle and steady elevated engine RPM data along with the improbable throttle positions and MAF readings are not characteristic or expected for normal engine operation. The throttle positions and MAF readings are expected to be stable during the steady idle and subsequently raised and stable during the steady elevated engine RPM, not decrease to values less than idle or rise and drop unexpectedly. During the improbable readings, the throttle and MAF had data points during the steady elevated engine RPM which were lower than data points at idle. Additionally, the throttle and MAF exhibited an anomalous inverse correlation, at idle and during the steady elevated engine RPM, which is inconsistent with normal and expected engine behavior. The discrepancies in the OIS test data prove the Data Acquisition Device (DAD) was not connected as required to the 2005 Toyota Corolla CE being certified, causing the issuance of a fraudulent Smog Check Certificate of Compliance.

///

///

Clean Plug #10

80. On or about November 18, 2024, a 2000 Chevrolet Silverado C1500, VIN No. 2GCEC19V0Y1107809, CA License No. MAX1948 was tested and smog certificate No. UG335827C was issued under licensed Smog Check Inspector No. EO634180, Respondent Gonzalez.

81. The Dynamic PID chart for the 2000 Chevrolet Silverado C1500 shows that between time stamp 362 and 21823, the engine RPM is steady at around 755 RPM. During this time, the data shows that the throttle Initially rises from 2% to 2.4% opening before reaching a high of 3.5% opening, the MAF initially drops from 3.26gps to 2.9gps, then increases to 4.18gps before reaching a high of 4.7gps, and the MAP increases from 40kPa to 42kPa, then increases to a high of 45kPa before dropping to 41kPa. After time stamp 21823 the data shows the engine RPM is increased and ultimately held steady at around 1995 RPM. During the steady elevated engine RPM, the data shows the throttle decreases from 1.6% to 0.8% opening, the MAF incrementally decreases from 4.65gps to 3.14gps, and the MAP is fluctuating between 36kPa and 45kPa.

82. The steady idle and steady elevated engine RPM data along with the improbable throttle positions, MAF and MAP readings are not characteristic or expected for normal engine operation. The throttle positions and MAF readings are expected to be stable during the steady idle and subsequently raised and stable during the steady elevated engine RPM, not decrease to values less than idle or rise and drop unexpectedly. Additionally, during the steady elevated engine RPM, the MAP is expected to decrease relative to idle. During the improbable readings, the throttle and MAF had data points during the steady elevated engine RPM which were lower than data points at idle and which never increased past the highest data points at idle. Also, during the steady elevated engine RPM, the MAP displayed an observable increase and repeated fluctuations all which are inconsistent with normal and expected engine behavior. The discrepancies in the OIS test data prove the Data Acquisition Device (DAD) was not connected as required to the 2000 Chevrolet Silverado C1500 being certified, causing the issuance of a fraudulent Smog Check Certificate of Compliance.

///

Station Inspection Visits

83. On or about March 9, 2026, a Bureau representative visited Respondent Alameda Smog Check and met with Respondent Gonzalez. Respondent Gonzalez confirmed that he does not share his license, BAR Access code or passwords with anyone. The Bureau representative requested records, including estimates, invoices, and VIRs, for each of the ten (10) vehicles identified above.

84. On or about March 13, 2026, a Bureau representative returned to Respondent Alameda Smog Check and met with Respondent Gonzalez. Respondent Gonzalez failed to provide the Bureau representative with copies of the requested records for each of the ten (10) vehicles identified above.

FIRST CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements – Respondent Alameda Smog Check)

85. Respondent Alameda Smog Check's Automotive Repair Dealer Registration is subject to disciplinary action under Code section 9884.7, subdivision (a)(1), in that, with respect to the ten (10) vehicles identified above, Respondent Alameda Smog Check made or authorized statements which they knew, or in the exercise of reasonable care should have known to be untrue or misleading, as follows: Respondent Alameda Smog Check certified that these vehicles had passed inspection and were in compliance with applicable laws and regulations, when in fact, Respondent Alameda Smog Check conducted the inspections on the vehicles using the clean plugging method in order to issue smog certificates of compliance for the vehicles. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 48-84, as though fully set forth herein.

SECOND CAUSE FOR DISCIPLINE

(Fraud – Respondent Alameda Smog Check)

86. Respondent Alameda Smog Check's Automotive Repair Dealer Registration is subject to disciplinary action under Code section 9884.7, subdivision (a)(4), in that, with respect to the ten (10) vehicles identified above, Respondent Alameda Smog Check committed acts which constitute fraud by issuing electronic smog certificates of compliance for these vehicles

without performing bona fide inspections of the emissions control devices and systems on those vehicles, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 48-84, as though fully set forth herein.

THIRD CAUSE FOR DISCIPLINE

(Material Violation of Automotive Repair Act – Respondent Alameda Smog Check)

87. Respondent Alameda Smog Check's Automotive Repair Dealer Registration is subject to disciplinary action under Code section 9884.7, subdivision (a)(6), in that, with respect to the ten (10) vehicles identified above, Respondent Alameda Smog Check failed in a material respect to comply with the provisions of this chapter or regulations adopted pursuant to it by issuing electronic smog certificates of compliance for these vehicles without performing bona fide inspections of the emissions control devices and systems on those vehicles, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 48-84, as though fully set forth herein.

FOURTH CAUSE FOR DISCIPLINE

(Failure to Maintain Records – Respondent Alameda Smog Check)

88. Respondent Alameda Smog Check's Automotive Repair Dealer Registration is subject to disciplinary action under Code sections 9884.8, and 9884.11, in conjunction with California Code of Regulations, title 16, section 3356, subdivision (c)(1), and section 3358, in that, with respect to the ten (10) vehicles identified above, Respondent Alameda Smog Check failed to comply with invoice and records maintenance requirements by failing to produce the records for these vehicles for inspection by the Bureau. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 48-84, as though fully set forth herein.

///

///

///

FIFTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program – Respondent Alameda Smog Check)

89. Respondent Alameda Smog Check's Smog Check, Test-and-Repair, Station License is subject to disciplinary action under Health and Safety Code section 44072.2, subdivision (a), in that, with respect to the ten (10) vehicles identified above, Respondent Alameda Smog Check failed to comply with the following sections of the Health and Safety Code:

a. **Section 44012:** Respondent Alameda Smog Check failed to ensure that the emission control tests were performed on the vehicles in accordance with procedures prescribed by the Bureau.

b. **Section 44015, subdivision (b):** Respondent Alameda Smog Check issued electronic smog certificates of compliance for the vehicles without ensuring that the vehicles were properly tested and inspected to determine if they were in compliance with Health and Safety Code section 44012.

c. **Section 44059:** Respondent Alameda Smog Check willfully made false entries for the electronic smog certificates of compliance for the vehicles by certifying that the vehicles had been inspected as required when, in fact, they had not.

Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 48-84, as though fully set forth herein.

SIXTH CAUSE FOR DISCIPLINE

(Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection Program – Respondent Alameda Smog Check)

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

a. **Section 3340.24, subdivision (c):** Respondent Alameda Smog Check issued false or fraudulent certificates of compliance for the vehicles.

///

b. **Section 3340.35, subdivision (c):** Respondent Alameda Smog Check issued electronic smog certificates of compliance for the vehicles even though the vehicles had not been inspected in accordance with section 3340.42 of the California Code of Regulations, title 16.

c. **Section 3340.41, subdivision (c):** Respondent Alameda Smog Check knowingly entered false information into the on-board diagnostic inspection system for the vehicles.

d. **Section 3340.42:** Respondent Alameda Smog Check failed to ensure that the required smog tests were conducted on the vehicles in accordance with the Bureau's specifications.

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

Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 48-84, as though fully set forth herein.

SEVENTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud, or Deceit – Respondent Alameda Smog Check)

91. Respondent Alameda Smog Check's Smog Check, Test-and-Repair, Station License is subject to disciplinary action under Health and Safety Code section 44072.2, subdivision (d), in conjunction with Health and Safety Code section 44072.10, subdivision (c), in that, with respect to the ten (10) vehicles identified above, Respondent Alameda Smog Check committed dishonest, fraudulent, or deceitful acts whereby another was injured by issuing electronic smog certificates of compliance for the vehicles without performing bona fide inspections of the emission control devices and systems on those vehicles, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 48-84, as though fully set forth herein.

///

///

///

EIGHTH CAUSE FOR DISCIPLINE

(Failure to Produce Records for Bureau Inspection – Respondent Alameda Smog Check)

92. Respondent Alameda Smog Check's Smog Check, Test-and-Repair, Station License is subject to disciplinary action under Health and Safety Code section 44072.2, subdivision (g), in conjunction with California Code of Regulations, title 16, section 3340.15, subdivision (e), in that, with respect to the ten (10) vehicles identified above, Respondent Alameda Smog Check failed to produce the testing records for these vehicles for inspection by the Bureau. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 48-84, as though fully set forth herein.

NINTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program – Respondent Gonzalez)

93. Respondent Gonzalez's Smog Check Inspector License is subject to disciplinary action under Health and Safety Code section 44072.2, subdivision (a), in that, with respect to the ten (10) vehicles identified above, Respondent Gonzalez violated the following Health and Safety Code sections:

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

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

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

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

Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 48-84, as though fully set forth herein.

TENTH CAUSE FOR DISCIPLINE

(Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection Program – Respondent Gonzalez)

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

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

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

c. **Section 3340.41, subdivision (c):** Respondent Gonzalez knowingly entered false information into the on-board diagnostic inspection system for the vehicles.

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

Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 48-84, as though fully set forth herein.

ELEVENTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud, or Deceit – Respondent Gonzalez)

95. Respondent Gonzalez's Smog Check Inspector License is subject to disciplinary action under Health and Safety Code section 44072.2, subdivision (d), in conjunction with Health and Safety Code section 44072.10, subdivision (c), in that, with respect to the ten (10) vehicles identified above, Respondent Gonzalez committed acts involving dishonesty, fraud, or deceit when he issued electronic smog certificates of compliance for the vehicles without performing bona fide inspections of the emission control devices and systems on those vehicles, thereby depriving the People of the State of California of the protection afforded by the Motor

Vehicle Inspection Program. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 48-84, as though fully set forth herein.

TWELFTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program – Respondent Gonzalez)

96. Respondent Gonzalez's Smog Check Repair Technician License is subject to disciplinary action under Health and Safety Code section 44072.2, subdivision (a), in that, with respect to the ten (10) vehicles identified above, Respondent Gonzalez violated the following Health and Safety Code sections:

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

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

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

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

Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 48-84, as though fully set forth herein.

THIRTEENTH CAUSE FOR DISCIPLINE

(Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection Program – Respondent Gonzalez)

97. Respondent Gonzalez's Smog Check Repair Technician License is subject to disciplinary action under Health and Safety Code section 44072.2, subdivision (c), in that, with respect to the ten (10) vehicles identified above, Respondent Gonzalez failed to comply with provisions of the California Code of Regulations, title 16, as follows:

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

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

c. **Section 3340.41, subdivision (c):** Respondent Gonzalez knowingly entered false information into the on-board diagnostic inspection system for the vehicles.

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

Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 48-84, as though fully set forth herein.

FOURTEENTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud, or Deceit – Respondent Gonzalez)

98. Respondent Gonzalez's Smog Check Repair Technician License is subject to disciplinary action under Health and Safety Code section 44072.2, subdivision (d), in conjunction with Health and Safety Code section 44072.10, subdivision (c), in that, with respect to the ten (10) vehicles identified above, Respondent Gonzalez committed acts involving dishonesty, fraud, or deceit when he issued electronic smog certificates of compliance for the vehicles without performing bona fide inspections of the emission control devices and systems on those vehicles, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 48-84, as though fully set forth herein.

DISCIPLINARY CONSIDERATIONS

99. In order to determine the degree of discipline, if any, to be imposed on Respondents, Complainant alleges the following:

100. On or about June 29, 2012, the Bureau issued Respondent Gonzalez Citation No. M2012-1880. On or about July 31, 2012, a Citation Service Conference was held. The Citation became effective on or about March 5, 2014.

101. On or about January 7, 2016, the Bureau issued Respondent Gonzalez Citation No. M2016-45. On or about February 5, 2016, a Citation Service Conference was held. The Citation became effective on or about May 14, 2016.

OTHER MATTERS

102. Pursuant to Business and Professions Code section 9884.7, subdivision (c), the Director may suspend, revoke, or place on probation the registration for all places of business operated in this state by Respondent Alameda Smog Check, upon a finding that it has, or is, engaged in a course of repeated and willful violations of the laws and regulations pertaining to an automotive repair dealer.

103. Pursuant to Health and Safety Code section 44072.8, if Smog Check, Test-and-Repair, Station License No. RC 305249, issued to Respondent Alameda Smog Check, is revoked or suspended, any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code in the name of said licensee may be likewise revoked or suspended by the Director.

104. Pursuant to Health and Safety Code section 44072.8, if Smog Check Inspector License No. EO 634180 and/or Smog Check Repair Technician License No. EI 634180, issued to Respondent Gonzalez, is revoked or suspended, any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code in the name of said licensee may be likewise revoked or suspended by the Director.

PRAYER

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

1. Revoking or suspending Automotive Repair Dealer Registration Number ARD 305249, issued to Francisco Javier Gonzales, dba Alameda Smog Check;

2. Revoking or suspending any other automotive repair dealer registration issued to Francisco Javier Gonzales;

///

3. Revoking or suspending Smog Check, Test-and-Repair, Station License Number RC 305249, issued to Francisco Javier Gonzales, dba Alameda Smog Check;

4. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code in the name of Francisco Javier Gonzales;

5. Revoking or suspending Smog Check Inspector License Number EO 634180, issued to Francisco Javier Gonzalez;

6. Revoking or suspending Smog Check Repair Technician License Number EI 634180, issued to Francisco Javier Gonzalez;

7. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code in the name of Francisco Javier Gonzalez;

8. Ordering Alameda Smog Check and Francisco Javier Gonzalez to pay the Bureau of Automotive Repair the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3 and if placed on probation, the costs of probation monitoring; and

9. Taking such other and further action as deemed necessary and proper.

DATED: As of digital signature date

Dorais, Patrick@DCA

Digitally signed by Dorais, Patrick@DCA
Date: 2026.08.12 14:13:57 -07'00'

PATRICK DORAIS
Chief
Bureau of Automotive Repair
Department of Consumer Affairs
State of California
Complainant

LA2026601831
68601233.docx