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

In the Matter of the Accusation Against**:** **BUEN ABAD MAURICIO, aka MAURICIO BUEN ABAD, Owner dba DOLLARS SMOG AND REPAIR** **231 Beyer Way #A** **Chula Vista, CA 91911** **Automotive Repair Dealer Registration Number ARD 307657, Smog Check, Test-and-Repair, Station License Number RC 307657** **<u>Mailing Address:</u>** **869 Dorothy St** **Chula Vista, CA 91911** **-and-** **JACOB E. GIVENS** **4575 Dakota Dr Apt #1** **San Diego, CA 92117** **Smog Check Inspector License Number EO 642879** Respondents.	Case No. **79/25-16557** OAH No. **FIRST AMENDED ACCUSATION**

PARTIES

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

2. On or about December 4, 2023, the Bureau of Automotive Repair issued Automotive Repair Dealer Registration Number ARD 307657 to Buen Abad Mauricio, aka Mauricio Buen Abad, Owner, dba Dollars Smog and Repair (Respondent Dollars Smog and Repair). The Automotive Repair Dealer Registration was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2026, unless renewed.

3. On or about January 17, 2024, the Bureau of Automotive Repair issued Smog Check, Test-and-Repair, station Number RC 307657 to Buen Abad Mauricio, aka Mauricio Buen Abad, Owner, dba Dollars Smog and Repair. 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 December 31, 2026, unless renewed.

4. Respondent is also certified as a STAR Station. The certification was issued on April 17, 2024, and will remain active unless the ARD registration and/or Smog Check Station license is revoked, canceled, licenses become delinquent, or the certification is suspended.

5. On or about February 1, 2021, the Bureau of Automotive Repair issued Smog Check Inspector License Number EO 642879 to Jacob E. Givens (Respondent Givens). The Smog Check Inspector license was in full force and effect at all times relevant to the charges brought herein and will expire on August 31, 2028, unless renewed.

JURISDICTION

6. This First Amended Accusation is brought before the Director of the Department of Consumer Affairs ("Director") for the Bureau, under the authority of the following laws.

7. Section 9884.7 of the Business and Professions Code[1] provides that the Director may revoke an ARD registration.

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[1] All statutory references herein shall be to the Business and Professions Code unless specifically stated otherwise.

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

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

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

STATUTORY PROVISIONS

11. Section 9884.7 of the Code states:

> (a) The director, where 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.
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> . . .
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> (4) Any other conduct which constitutes fraud.
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> . . .
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> (6) Failure in any material respect to comply with the provisions of this chapter or regulations adopted pursuant to it.

12. Section 44072.2 of the Health and Safety Code states:

> 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 [the Motor Vehicle Inspection Program (Health and Saf. Code, ' 44000, et seq.)] 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.

. . .

13. Section 44072.10 of the Health and Safety Code states, in pertinent part:

. . .

(c) The department shall revoke the license of any smog check technician or station license 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 plugging, 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

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

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.

15. California Code of Regulations, title 16, section 3340.30, states:

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

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

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

. . . .

(c) A licensed station shall issue a certificate of compliance or noncompliance

> to the owner or operator of any vehicle that has been inspected in accordance with the procedures specified in section 3340.42 of this article and has all the required emission control equipment and devices installed and functioning correctly. . . .

17. 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.

COST RECOVERY

18. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate 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 licentiate to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

VID DATA REVIEW

19. 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 DLC. The California OIS software requires a continuous Internet connection when performing a Smog Check inspection and the OIS software communicates with BAR's central database through the Internet connection. The bar code scanner is used to input technician information, the vehicles identification number ("VIN"), and 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.

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20. 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.

21. During an OIS inspection, engine operating parameters are retrieved from the vehicle's OBD II system and recorded to the VID. 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:

- Engine speed in revolutions per minute (RPM)
- 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.
- Manifold absolute pressure as measured by a manifold air pressure sensor (MAP) connected to an intake manifold source, measured in kilo pascals (kpa). Typical readings for a normally aspirated vehicle as follows: 0 kpa being absolute vacuum, 25kpa to 45kpa at idle, 101 kpa at full throttle, same as atmospheric pressure at sea level.
- 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).[2]
- Ignition timing is set by the vehicle PCM based on engine speed and load, and is measured in degrees Before Top Dead Center (BTDC).

22. 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

[2] Not all vehicles include both MAP and MAF parameters. Many vehicles will have either MAP or MAF parameters separately.

MAF readings are also steady. For the engine speed to increase, the throttle would have to be opened 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/or MAF along with changes in MAP.

23. 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, and an elevated or increased engine speed.

24. 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 Vehicle Information Database ("VID"). These Certificates of Compliance are purchased in blocks of fifty (50) through the EIS or OIS from the VID, using a pre-arranged electronic bank account debit system or by check, via mail, from Bureau Headquarters in Sacramento. 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.

25. The VID contains registration data from Department of Motor Vehicles ("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 EIS or OIS, depending on the test type, also prints a Vehicle Inspection Report ("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.

26. 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 EIS and OIS to perform smog check inspections. Unauthorized use of another technician's access code or license is prohibited.

27. Respondents have engaged in numerous acts or omissions constituting violations of the Automotive Repair Act (Business and Professions Code section 9880 *et seq*.) and Motor Vehicle Inspection Program (Health and Safety Code section 44000 *et seq*.) through their practice of "clean plugging."[3] Respondent's employees' OIS Test Data available on the State database indicates that Respondents are involved in fraudulent smog inspection activities. A Bureau representative initiated an investigation based on information transmitted to the VID for smog check inspections performed by Respondent's employees. The investigation revealed that the data related to certain vehicles certified by Respondent's employees contained a pattern of unmistakable discrepancies between the information transmitted during the inspections and documented information known about the vehicles at issue. Specifically, the representative compared the data received from the certified vehicles to data from vehicles of the same year, make, and model and determined that the data from at least seven (7) of the certified vehicles were fraudulently tested by Respondent's employees during the smog inspection using the "clean plugging" method as follows:

Clean Plug #1

28. Bureau Program Representative Barraza reviewed the OIS Test Data for Dollars Smog and Repair. The review shows that on May 4, 2024, a 2003 Toyota Corolla CE VIN #

[3] "Clean plugging" refers to the use of another vehicle's properly functioning On Board Diagnostic, generation II, (OBD II) system, or another source, to generate passing diagnostic readings for the purpose of issuing fraudulent smog Certificates of Compliance to vehicles that are not in smog compliance and/or not present for testing.

1NXBR32E53Z007169, CA License # 9GHB450 was tested and smog certificate # TW537775C was issued by Dollars Smog and Repair under Jacob E Givens', Smog Check Inspector License #EO 642879.

29. The Dynamic PID chart for the 2003 Toyota Corolla CE shows that between time stamp 869 and 19815, the engine RPM is steady at around 775 RPM. During this time, the data shows that the throttle drops from 8.2% to 7.8% opening, while the MAF rises from 1.4gps to 1.97gps. After time stamp 19815, the data shows the engine RPM is increased and held elevated at no less than 1301 RPM. During the elevated engine RPM, the data shows the throttle rises from 6.3% to 6.7% opening, and the MAF rises from 0.38gps to 1.88gps.

30. The steady idle and 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 during the elevated engine RPM. During the improbable readings, the throttle and MAF had an inverse correlation during the steady idle and had data points during the elevated engine RPM which were lower than data points at idle. The throttle and MAF data points during the elevated engine RPM 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 2003 Toyota Corolla CE being certified, causing the issuance of a fraudulent Smog Check Certificate of Compliance.

Prior Inspection

31. On May 2, 2024, just two days prior, a previous Smog Check inspection was performed on the 2003 Toyota Corolla CE VIN # 1NXBR32E53Z007169, CA License # 9GHB450 at a different, unrelated Smog Check station. The Dynamic PID chart for the 2003 Toyota Corolla CE shows that between time stamp 852 and 156405, the engine RPM is steady at around 950 RPM. During this time, the data shows that the throttle is fixed at 11.8% opening and the MAF is stable between 2.42gps and 2.37gps. After time stamp 156405, the data shows the engine RPM is increased and held steady at around 1890 RPM. During the elevated engine RPM, the data shows that the throttle is fixed at 13.7% opening and the MAF is fixed at 4.39gps. 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

32. Barraza reviewed the OIS Test Data for Dollars Smog and Repair. The review shows that on May 6, 2024, a 2004 Toyota Camry LE VIN # 4T1BE32K44U264858, CA License # 5FBC852 was tested and smog certificate # TW537784C was issued by Dollars Smog and Repair under Jacob E Givens', Smog Check Inspector License #EO 642879.

33. The Dynamic PID chart for the 2004 Toyota Camry LE shows that between time stamp 853 and 20570, the engine RPM is steady at around 665 RPM. During this time, the data shows that the throttle is fixed at 16.9% opening and the MAF drops from 4.6gps to 4.11gps. After time stamp 20570, the data shows the engine RPM is increased and held elevated at no less than 1268 RPM. During the elevated engine RPM, the data shows the throttle drops from 14.9% to 13.7% opening, and the MAF drops from 3.47gps to 2.95gps.

34. The steady idle and 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 during the elevated engine RPM. During the improbable readings, the throttle and MAF had data points during the elevated engine RPM which were lower than data points at idle. The throttle and MAF data points during the 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 2004 Toyota Camry LE being certified, causing the issuance of a fraudulent Smog Check Certificate of Compliance.

Clean Plug #3

35. Barraza reviewed the OIS Test Data for Dollars Smog and Repair. The review shows that on May 16, 2024, a 2003 Toyota Camry LE VIN # 4T1BE32K63U745614, CA License # 6KRT016 was tested and smog certificate # TW967104C was issued by Dollars Smog and Repair under Jacob E Givens', Smog Check Inspector License #EO 642879.

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36. The Dynamic PID chart for the 2003 Toyota Camry LE shows that between time stamp 836 and 19600, the engine RPM is steady at around 645 RPM. During this time, the data shows that the throttle drops from 17.6% to 16.9% opening and the MAF drops from 2.15gps to 0.19gps. After time stamp 19600, the data shows the engine RPM is increased and held elevated at no less than 1358 RPM. During the elevated engine RPM, the data shows the throttle rises from 15.3% to 16.5% opening, and the MAF rises from 0.42gps to 0.69gps.

37. The steady idle and 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 during the elevated engine RPM. During the improbable readings, the throttle and MAF had data points during the elevated engine RPM which were lower than data points at idle. The throttle and MAF data points during the elevated engine RPM 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 2003 Toyota Camry LE being certified, causing the issuance of a fraudulent Smog Check Certificate of Compliance.

Clean Plug #4

38. Barraza reviewed the OIS Test Data for Dollars Smog and Repair. The review shows that on May 16, 2024, a 2002 Acura MDX VIN # 2HNYD18252H518567, CA License # 7ECJ895 was tested and smog certificate # TW967107C was issued by Dollars Smog and Repair under Jacob E Givens', Smog Check Inspector License #EO 642879.

39. The Dynamic PID chart for the 2002 Acura MDX shows that between time stamp 856 and 19692, the engine RPM is steady at around 705 RPM. During this time, the data shows that the throttle rises from 7.8% to 11.4% opening and the MAP drops from 30kPa to 27kPa. After time stamp 19692, the data shows the engine RPM is increased and held elevated at no less than 1348 RPM. During the elevated engine RPM, the data shows the throttle rises from 6.3% to 8.6% opening and the MAP rises from 19kPa to 20kPa.

40. The steady idle and elevated engine RPM data along with the improbable throttle positions are not characteristic or expected for normal engine operation. The throttle position

readings are expected to be stable during the steady idle and subsequently raised during the elevated engine RPM. During the improbable readings, the throttle had data points during the 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 point at idle. The discrepancies in the OIS test data prove the Data Acquisition Device (DAD) was not connected as required to the 2002 Acura MDX being certified, causing the issuance of a fraudulent Smog Check Certificate of Compliance.

Clean Plug #5

41. Barraza reviewed the OIS Test Data for Dollars Smog and Repair. The review shows that on May 27, 2024, a 2002 Mazda Protege 5 VIN # JM1BJ246921532764, CA License # 4VNV623 was tested and smog certificate # TY175845C was issued by Dollars Smog and Repair under Jacob E Givens', Smog Check Inspector License #EO 642879.

42. The Dynamic PID chart for the 2002 Mazda Protege 5 shows that between time stamp 836 and 19604, the engine RPM is steady at around 700 RPM. During this time, the data shows that the throttle rises from 6.3% to 10.2% opening and the MAF rises from 0.39gps to 0.74gps. After time stamp 19604, the data shows the engine RPM is increased and held elevated at no less than 1217 RPM. During the elevated engine RPM, the data shows the throttle rises from 6.7% to 7.8% opening and the MAF rises from 1.34gps to 2.46gps.

43. The steady idle and 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 during the elevated engine RPM. During the improbable readings, the throttle had data points during the 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 point at idle. The discrepancies in the OIS test data prove the Data Acquisition Device (DAD) was not connected as required to the 2002 Mazda Protege 5 being certified, causing the issuance of a fraudulent Smog Check Certificate of Compliance.

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Clean Plug #6

44. Barraza reviewed the OIS Test Data for Dollars Smog and Repair. The review shows that on May 28, 2024, a 2002 Toyota Tacoma Double Cab PreRunner VIN # 5TEGN92N82Z891817, CA License # 54601K3 was tested and smog certificate # TY355054C was issued by Dollars Smog and Repair under Jacob E Givens', Smog Check Inspector License #EO 642879.

45. The Dynamic PID chart for the 2002 Toyota Tacoma Double Cab PreRunner shows that between time stamp 823 and 22297, the engine RPM is steady at around 750 RPM. During this time, the data shows that the throttle drops from 11.8% to 10.2% opening and the MAF drops from 3.97gps to 2.74gps. After time stamp 22297, the data shows the engine RPM is increased and held elevated at no less than 1288 RPM. During the elevated engine RPM, the data shows the throttle drops from 10.6% to 6.7% opening and the MAF rises from 4.54gps to 4.83gps.

46. The steady idle and 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 during the elevated engine RPM. During the improbable readings, the throttle had data points during the 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 point at idle.

47. During the elevated engine RPM, the throttle and MAF had an improbable inverse correlation. The discrepancies in the OIS test data prove the Data Acquisition Device (DAD) was not connected as required to the 2002 Toyota Tacoma Double Cab PreRunner being certified, causing the issuance of a fraudulent Smog Check Certificate of Compliance.

Prior Inspection

48. On April 23, 2022, a previous Smog Check inspection was performed on the 2002 Toyota Tacoma Double Cab PreRunner VIN # 5TEGN92N82Z891817, License # "N" at a different, unrelated Smog Check station. The Dynamic PID chart for the 2002 Toyota Tacoma Double Cab PreRunner shows that between time stamp 855 and 34797, the engine RPM is steady

at around 700 RPM. During this time, the data shows that the throttle is fixed at 10.6% opening and the MAF is stable between 3.75gps and 3.73gps. After time stamp 34797, the data shows the engine RPM is increased, then decreased and ultimately increased and held steady at around 2080 RPM. During the elevated engine RPM, the data shows that the throttle is fixed at 13.3% opening and the MAF is stable between 10.1gps and 10.26gps. 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 #7

49. Barraza reviewed the OIS Test Data for Dollars Smog and Repair. The review shows that on May 30, 2024, a 2005 Toyota Sienna CE VIN # 5TDZA23C15S295801, CA License # 8YUT673 was tested and smog certificate # TY355084C was issued by Dollars Smog and Repair under Jacob E Givens', Smog Check Inspector License #EO 642879.

50. The Dynamic PID chart for the 2005 Toyota Sienna CE shows that between time stamp 854 and 20603, the engine RPM is steady at around 655 RPM. During this time, the data shows that the throttle rises from 14.9% to 16.9% opening and the MAF drops from 4.45gps to 4.1gps. After time stamp 20603, the data shows the engine RPM is increased and held elevated at no less than 1255 RPM. During the elevated engine RPM, the data shows the throttle rises from 14.9% to 18% opening and the MAF drops from 3.86gps to 2.81gps.

51. The steady idle and 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 during the elevated engine RPM. During the improbable readings, the throttle and MAF had data points during the elevated engine RPM which were lower than data points at idle. The MAF data points during the elevated engine RPM never increased past the highest data points at idle. During the steady idle and elevated engine RPM, the throttle and MAF had an improbable inverse correlation. The discrepancies in the OIS test data prove the Data Acquisition Device (DAD) was not connected as required to the 2005 Toyota Sienna CE being certified, causing the issuance of a fraudulent Smog Check Certificate of Compliance.

UNDERCOVER OPERATION

52. On or about September 23, 2025, the Bureau conducted an undercover vehicle operation at Dollars Smog and Repair. The Bureau's vehicle, a 2008 Toyota (Toyota), was documented by Bureau Representative Najjar (Bureau Representative Najjar). Bureau Representative Najjar determined the required emissions controls for the vehicle. Bureau Representative Najjar removed the vehicle's Original Equipment Manufacturer (OEM) catalytic converter as an assembly. As an introduced malfunction, Bureau Representative Najjar damaged, marked, and photographed an aftermarket catalytic converter assembly, and installed it onto the Toyota. Additionally, Bureau Representative Najjar installed tamper indicators to detect removal of components. Bureau Representative Najjar then road tested the Toyota and found the vehicle's Malfunction Indicator Lamp (MIL) illuminated during the test drive. Bureau Representative Najjar scanned the Toyota using the Bureau's scan tool and determined Diagnostic Trouble Code (DTC) "P0420 Catalyst System Efficiency Below Threshold Bank 1" was stored in the Toyota's Powertrain Control Module (PCM) in the "Current", "History", and "Pending" codes menus.

53. The modifications performed by Bureau Representative Najjar caused the Toyota to fail the functional portion of the Smog Check inspection due to DTC "P0420 – Catalyst System Efficiency Below Threshold Bank 1" and On-Board Diagnostic (OBD) "Bulb Check".

54. On September 23, 2025, Bureau Representative Najjar transported the Toyota by truck to a prearranged location in the City of Chula Vista, California and released custody of the Toyota to Barraza.

55. Barraza then met with Bureau Automotive Program Specialist/Undercover Operator Ortega (Ortega) at the pre-arranged location in the City of Chula Vista, California. At approximately, 1120 hours, Barraza released custody of the Toyota to Ortega. Barraza instructed Ortega to drive to Dollars Smog and Repair located at 231 Beyer Way #A Chula Vista, CA 91911 and request a Smog Check inspection. Barraza provided Ortega with a Department of Motor Vehicles (DMV) Notice of Incomplete Renewal for the Toyota along with a fictitious name of Marcos Garcia, a fictitious address and other fictitious information. Barraza informed Ortega that the MIL would be illuminated on the Toyota.

56. At approximately 1124 hours, Ortega departed from the location. At approximately 1129 hours, Ortega arrived at Dollars Smog and Repair. Upon arrival, Ortega was greeted by an older individual wearing a mechanic shirt and a black back support who identified himself as Mike. Mike asked Ortega if he needed any help[4]. Ortega responded by telling Mike that he had brought his son's vehicle to Dollars Smog and Repair the year prior, and that he needed him to help him out. Mike went into the Smog Check testing bay, grabbed a scan tool and asked Ortega if the check engine light was on. Ortega responded by saying, yes. Mike then connected the scan tool to the Toyota and showed Ortega the scan tool screen which displayed a P0420 code.

57. Mike stated that it was a bad catalytic converter and said it would cost about $1,600.00. Ortega asked Mike what could he do to just get it to pass. Mike responded by saying that they could take care of that, that their guy would have to connect it to a computer to get it done. Mike asked Ortega how much was he charged the last time. Ortega answered "$300.00." Mike then informed Ortega that $300.00 was the old price and stated that they could take care of it for $450.00 to $500.00, but that his vehicle (the Toyota) would be $500.00. Ortega then replied by saying, okay, let's do it. Mike asked Ortega if he had any Smog Check paperwork. Ortega handed Mike the DMV Notice of Incomplete Renewal. Mike proceeded to clear the codes and showed Ortega that the MIL was no longer illuminated on the dash. Subsequently, Mike entered the service bay and addressed an individual who Ortega later recognized to be Smog Check inspector Jacob Givens. Mike handed Jacob Givens the DMV Notice of Incomplete Renewal and told him, "treat him like you would treat me, this is a friend of mine."

58. Shortly thereafter, Jacob Givens walked over to the Toyota carrying a long OBDII (On-Board Diagnostics) cable. Jacob Givens connected the OBDII cable to the Toyota, started the engine and went into the office. Minutes later, Jacob Givens came out of the office, unplugged the OBDII cable and hung it up on a wall in the Smog Check testing bay. A few moments later, a young unidentified Hispanic individual, wearing a black hoodie, black "LA" ballcap and blue

[4] Note: all conversations between Ortega and Dollars Smog Check and Repair representatives were in the Spanish language.

jeans, walked out of the office, went to the Toyota and turned the engine off. After a short period of time, the young unidentified Hispanic individual came out of the office, grabbed a long OBDII cable, plugged it into the Toyota, started the engine and walked away.

59. Subsequently, Jacob Givens walked over to the Toyota with a bar code scanner, scanned the Toyota's door, walked back to the testing bay, then walked back to the Toyota without the bar code scanner, looked at the dash and walked back into the testing bay. During this time, Ortega could see a long cable that was coming out of the office, and which was routed into the Toyota's cabin through the passenger window.

60. Moments later, the young unidentified Hispanic individual walked into the Smog Check testing bay, grabbed a scan tool and walked over to the Toyota. The young unidentified Hispanic individual then sat in the Toyota's driver seat, raised and maintained an elevated engine RPM (revolutions per minute). Shortly thereafter, the young unidentified Hispanic individual exited the Toyota, turned off the engine, unplugged the cable, coiled it up and hung it near the office door. The young unidentified Hispanic individual then approached Ortega and in Spanish stated, you are done, it'll be $500.00. Ortega asked the young unidentified Hispanic individual who does he pay, to which he responded by saying to pay him. Ortega paid the young unidentified Hispanic individual $500.00 cash and watched as he put the money in his pocket. Following that, Jacob Givens came out of the office, walked into the Smog Check testing bay and towards the printer where he grabbed documents. Jacob Givens handed the documents to the young unidentified Hispanic individual who then approached Ortega and asked him to sign a document. Ortega signed the document with the fictitious name "Marcos G."

61. The young unidentified Hispanic individual then handed Ortega a Vehicle Inspection Report (VIR) and the DMV Notice of Incomplete Renewal. Ortega was not provided with an invoice or a receipt for the $500.00 payment.

62. During the time Ortega was at Dollars Smog and Repair, he waited near the Toyota and the Smog Check testing bay. While at the facility, Ortega also observed an older individual wearing a blue mechanic's uniform who he later recognized to be Smog Check inspector Shirwon Saladdi Khourshid (EO/EI 16849) performing Smog Check inspections on other vehicles. Ortega

thanked the young unidentified Hispanic individual and departed the facility at approximately 1321.

63. At approximately 1331 hours, Ortega arrived at the prearranged location in the City of Chula Vista, California where he met with Barraza again. Ortega released custody of the Toyota and provided Barraza with the VIR he had obtained at Dollars Smog and Repair. Ortega and Barraza initialed the VIR. Barraza provided Ortega with two photographs of Smog Check inspectors that he might have seen at Dollars Smog and Repair. Ortega reviewed the photographs and identified one of the individuals to be Jacob Givens (EO 642879) and the other to be Smog Check Inspector Shirwon Saladdi Khourshid (EO/EI 16849). Ortega and Barraza initialed and dated the photographs.

64. Barraza then released custody of the Toyota to Bureau Representative Najjar. Bureau Representative Najjar then transported the Toyota by truck to the Bureau's Documentation Laboratory where it was secured and later re-inspected by him.

65. Barraza later downloaded the BAR-OIS Test Details from the VID, which confirmed that the Toyota was certified at Dollars Smog and Repair (RC 307657). The records also confirmed that the license of Smog Check Inspector Jacob E Givens (EO 642879) was used to fraudulently certify the Toyota on September 23, 2025, at 1:20:16 PM hours. The Toyota was issued smog certificate # UU374471C.

66. Upon Bureau Representative Najjar's re-inspection of the Toyota, he confirmed that the Toyota was still not in a condition to pass a properly performed Smog Check inspection with the Toyota failing the functional portion of the inspection due to "Catalyst, Oxygen Sensor, and Evaporative System" OBD II Monitors Not Ready. Additionally, Bureau Representative Najjar determined that DTC "P0420 Catalyst System Efficiency Below Threshold Bank 1" was stored in the vehicle's PCM in the "Pending Codes" menu and that his previously installed modifications and tamper indicators were still in place and intact.

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FIRST CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements - Respondent Dollars Smog and Repair)

67. Respondent Dollars Smog and Repair's registration is subject to disciplinary action pursuant to section 9884.7, subdivision (a)(1), in that Respondent's employees 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's employees certified that the vehicles set forth above in paragraphs 28-66, had passed inspection and were in compliance with applicable laws and regulations. In fact, Respondent's employees conducted the inspections on those vehicles using the clean plugging method in order to issue smog certificates of compliance, and did not test or insect the vehicles as required by Health and Safety Code section 44012.

SECOND CAUSE FOR DISCIPLINE

(Fraud - Respondent Dollars Smog and Repair)

68. Respondent Dollars Smog and Repair's registration is subject to disciplinary action pursuant to section 9884.7, subdivision (a)(4), in that Respondent Dollars Smog and Repair's employees committed acts which constitute fraud by issuing electronic certificates of compliance for the vehicles set forth above in paragraphs 28-66, 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.

THIRD CAUSE FOR DISCIPLINE

(Failure to Comply with the Motor Vehicle Inspection Program –

Respondent Dollars Smog and Repair)

69. Respondent Dollars Smog and Repair's smog station license is subject to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (a), in conjunction with Health and Safety Code section 44072.10 subdivision (c), in that regarding the vehicles set forth above in paragraphs 28-66, Respondent Dollars Smog and Repair failed to comply with the following sections of the Health and Safety Code:

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(a) **Section 44012**: Respondent Dollars Smog and Repair's employees failed to ensure that the emission control tests were performed on the vehicles, in accordance with procedures prescribed by the department.

(b) **Section 44015**: Respondent Dollars Smog and Repair's employees issued electronic 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.

FOURTH CAUSE FOR DISCIPLINE

(Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection Program - Respondent Dollars Smog and Repair)

70. Respondent Dollars Smog and Repair's smog station license is subject to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (c), in that regarding the vehicles set forth above in paragraphs 28-66, Respondent's employees failed to comply with the following provisions of the California Code of Regulations, Title 16, as follows:

(a) **Section 3340.35, subdivision (c)**: Respondent Dollars Smog and Repair's employees issued electronic certificates of compliance even though those vehicles had not been inspected in accordance with section 3340.42, Title 16, of the California Code of Regulations.

(b) **Section 3340.42**: Respondent Dollars Smog and Repair's employees failed to conduct the required smog tests and inspections on those vehicles in accordance with the Bureau's specifications.

FIFTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit - Respondent Dollars Smog and Repair)

71. Respondent Dollars Smog and Repair's smog station license is subject to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (d), in conjunction with Health and Safety Code section 44072.10 subdivision (c), in that regarding the vehicles set forth above in paragraphs 28-66, Respondent Dollars Smog and Repair's employee's committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing electronic certificates of compliance for those vehicles without performing bona fide inspections of the

emission control devices and systems on the vehicles, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

SIXTH CAUSE FOR DISCIPLINE

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

72. Respondent Givens's smog check inspector license is subject to discipline pursuant to Health and Safety Code section 44072.2, subdivision (a), in that regarding the vehicles set forth above in paragraphs 28-66, Respondent Givens failed to comply with section 44012 of the Health and Safety Code in a material respect, as follows: Respondent Givens failed to perform the emission control tests on those vehicles in accordance with procedures prescribed by the department.

SEVENTH CAUSE FOR DISCIPLINE

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

73. Respondent Givens's smog check inspector license is subject to discipline pursuant to Health and Safety Code section 44072.2, subdivision (c), in that regarding the vehicles set forth above in paragraphs 28-66, Respondent Givens failed to comply with provisions of the California Code of Regulations, title 16, as follows:

(a) **Section 3340.30, subdivision (a)**: Respondent Givens failed to inspect and test those vehicles in accordance with Health and Safety Code section 44012.

(b) **Section 3340.41, subdivision (c)**: Respondent Givens entered false information into the EIS.

(c) **Section 3340.42**: Respondent Givens failed to conduct the required smog tests and inspections on those vehicles in accordance with the Bureau's specifications.

EIGHTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit - Respondent Givens)

74. Respondent Givens's smog check inspector license is subject to discipline pursuant to Health and Safety Code section 44072.2, subdivision (d), in conjunction with Health and Safety Code section 44072.10 subdivision (c), in that regarding the vehicles set forth above in

paragraphs 28-66, Respondent Givens committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing electronic certificates of compliance for those vehicles without performing bona fide inspections of the emission control devices and systems on the vehicles., thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

OTHER MATTERS

75. Pursuant to Business & 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 Dollars Smog and Repair upon a finding that Respondent Dollars Smog and Repair has, or is, engaged in a course of repeated and willful violations of the laws and regulations pertaining to an automotive repair dealer.

76. Pursuant to Health & Safety Code section 44072.8, if Smog Check, Test and Repair Station License Number RC 307657 issued to Respondent Dollars Smog and Repair is revoked or suspended following a hearing under this article, any additional license issued under Chapter 5, Part 5, Division 26 in the name of said licensee may be likewise revoked or suspended by the Director.

77. Pursuant to Health & Safety Code section 44072.8, if Smog Check Inspector License Number EO 642879, issued to Respondent Givens is revoked or suspended following a hearing under this article, any additional license issued under Chapter 5, Part 5, Division 26 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 307657, issued to Buen Abad Mauricio, aka Mauricio Buen Abad, Owner, dba Dollars Smog and Repair;

2. Revoking or suspending any other Automotive Repair Dealer Registration issued to Respondent Buen Abad Mauricio, aka Mauricio Buen Abad;

3. Revoking or suspending Smog Check, Test-and-Repair, Station License Number RC 307657, issued to Buen Abad Mauricio, aka Mauricio Buen Abad, Owner, dba Dollars Smog and Repair;

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 Respondent Buen Abad Mauricio, aka Mauricio;

5. Revoking or suspending Smog Check Inspector License Number EO 642879, issued to Jacob E. Givens;

6. 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 Respondent Jacob E. Givens;

7. Ordering Buen Abad Mauricio, aka Mauricio Buen Abad, and Jacob E. Givens 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,

8. 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: 2026.08.19 14:47:49 -07'00'

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

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