BEFORE THE DIRECTOR OF THE

DEPARTMENT OF CONSUMER AFFAIRS

BUREAU OF AUTOMOTIVE REPAIR

STATE OF CALIFORNIA

In the Matter of the First Amended Accusation Against:

BUEN ABAD MAURICIO aka MAURICIO BUEN ABAD, OWNER dba DOLLARS SMOG AND REPAIR

231 Beyer Way, #A

Chula Vista, CA 91911

Mailing Address:

869 Dorothy St.

Chula Vista, CA 91911

Automotive Repair Dealer Registration No. ARD 307657

Smog Check Station License No. RC 307657

and

JACOB E. GIVENS

4575 Dakota Dr., Apt. #1

San Diego, CA 92117

Smog Check Inspector License No. EO 642879

Respondents.

Case No. 79/25-16557

OAH No. 2026020699

DECISION

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

This Decision shall be effective on NOVEMBER 9, 2026.

IT IS SO ORDERED October 6, 2026.

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

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

In the Matter of the First Amended Accusation Against:

BUEN ABAD MAURICIO, aka MAURICIO BUEN ABAD, Owner,

dba DOLLARS SMOG AND REPAIR,

(Automotive Repair Dealer Registration Number ARD

307657)

(Smog Check, Test-And-Repair, Station License Number RC

307657)

and

JACOB E. GIVENS,

(Smog Check Inspector License Number EO 642879)

Respondents.

Agency Case No. 79/25-16557

OAH No. 2026020699

PROPOSED DECISION

Michelle C. Hollimon, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on August 18 and 19, 2026.

Diane Von Der Ahe, Deputy Attorney General, Department of Justice, State of California, represented complainant, Patrick Dorais, Chief of the Bureau of Automotive Repair (BAR), Department of Consumer Affairs.

Frank C. Brucculeri, Esq., Frank Brucculeri Law Corporation, represented respondents Buen Abad Mauricio, aka Mauricio Buen Abad, Owner, dba Dollars Smog and Repair[1] (Dollars Smog and Repair), and Jacob E. Givens (Givens), who were present throughout the hearing.

Oral and documentary evidence was received. The record was closed, and the matter was submitted for decision on August 19, 2026.[2]

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[1] Respondent Dollars Smog and Repair as referenced in this proposed decision refers to respondent Buen Abad Mauricio, aka Mauricio Buen Abad, Owner, and Dollars Smog and Repair. Buen Abad Mauricio, aka Mauricio Buen Abad, is also referred to in this decision as Respondent Mauricio.

[2] The record was held open until the end of day on August 19, 2026, to allow complainant to upload to Case Center a First Amended Accusation. The amendments to the accusation were stated on the record and respondent had no objection. Complainant timely uploaded to Case Center the First Amended Accusation (Exhibit

MOTIONS IN LIMINE

Respondents filed two motions in limine the first day of hearing.[3] Complainant provided oral argument in opposition to the motions at the start of the hearing. The following rulings were made at the hearing regarding each of these motions in limine:

Respondents' Motion in Limine Number One

Respondents' motion in limine number one sought to exclude all evidence and testimony arising from the September 23, 2025, undercover operation on the grounds that the BAR obtained the evidence in violation of California law by fabricating a fictitious Department of Motor Vehicles (DMV) registration document with fictitious information. As such, the evidence is inadmissible as the product of the BAR's own unlawful act and as contrary to the public policy of the State of California, the BAR's percipient witnesses cannot be examined regarding the operation without exposing

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38). Complainant also uploaded to Case Center a letter, dated August 19, 2026, advising of three additional modifications made to the First Amended Accusation. The August 19, 2026, letter stated the additional modifications were made to accurately reflect the current status of respondents' licenses, noting the changes are consistent with the certified license histories for respondents that were admitted into evidence. Government Code section 11507 allows an agency to file an amended accusation at any time before the matter is submitted for decision. Complainant's August 19, 2026, letter explains the additional amendments to the First Amended Accusation that were not put on the record and as such, is marked as Exhibit 39 and admitted into evidence.

[3] The motions were received by OAH on August 17, 2026, at 8:50 p.m.

themselves to criminal liability, and the BAR's failure to produce the registration documents that respondents requested in discovery entitles respondents to preclusion of the evidence and to an adverse inference.

In opposition to this motion, complainant argued that the DMV registration document was not retained by the BAR, as it was not relevant nor probative, but just a "prop" used by the BAR during its undercover operation. The DMV registration is "so inconsequential" that neither the BAR nor respondent Dollars Smog and Repair retained a copy of it. The DMV registration document was not required for the smog check performed. Further, undercover operations are allowed under the Business and Professions Code, and the BAR did not act unlawfully in its undercover operation in this matter.

After consideration of all the arguments provided, respondents' motion in limine was denied without prejudice. Both parties were permitted to make any objections to exhibits or witnesses during the hearing.

Respondents' Motion in Limine Number Two

Respondents' motion in limine number two sought to exclude from evidence the Vehicle Information Database ("VID") and On-Board Inspection System ("OIS") data for lack of authentication, foundation, and reliability; or, in the alternative, for an order that such data, being unauthenticated third-party hearsay, not by itself be used to support any finding against respondents.

In opposition to this motion, complainant argued that it would be inappropriate to exclude the evidence at issue by motion in limine on the grounds argued by respondents.

After consideration of all the arguments provided, respondents' motion in limine was denied without prejudice. Both parties were permitted to make any objections to exhibits or witnesses during the hearing.

FACTUAL FINDINGS

Jurisdictional Matters

1. On February 1, 2021, the BAR issued Smog Check Inspector (EO) License Number EO 642879 to respondent Givens. The EO license was in full force and effect at all times relevant to the allegations in this matter and will expire on August 31, 2028, unless renewed.

2. On December 4, 2023, the BAR issued Automotive Repair Dealer (ARD) Registration Number ARD 307657 to respondent Dollars Smog and Repair. The ARD registration was in full force and effect at all times relevant to the allegations in this matter and will expire on December 31, 2026, unless renewed.

3. On January 17, 2024, the BAR issued Smog Check, Test-and-Repair, Station (RC) License Number RC 307657 to respondent Dollars Smog and Repair. The RC license was in full force and effect at all times relevant to the allegations in this matter and will expire on December 31, 2026, unless renewed.

4. On August 19, 2026, complainant signed the accusation in this matter alleging eight causes for discipline, with five causes directed at respondent Dollars Smog and Repair and three causes directed at respondent Givens.

5. The two causes for discipline directed to respondent Dollars Smog and Repair's ARD registration are as follows:

(Cause No. 1) Untrue and misleading statements in violation of Business and Professions Code section 9884.7, subdivision (a)(1), between May 4, 2024, and September 23, 2025, for certifying eight vehicles as having passed smog check inspections when, in fact, respondent Dollars Smog and Repair's employees inspected the vehicles utilizing the "clean plugging" method and issued fraudulent certificates of compliance for each of the eight vehicles without having actually tested or inspected those eight vehicles.

(Cause No. 2) Fraud in violation of Business and Professions Code section 9884.7, subdivision (a)(4), between May 4, 2024, and September 23, 2205, for certifying eight vehicles as having passed smog check inspection when, in fact, respondent Dollars Smog and Repair's employees inspected the vehicles utilizing the "clean plugging" method and issued fraudulent certificates of compliance for each of the eight vehicles without performing bona fide inspections of the emissions control devices and systems on those eight vehicles.

6. The three causes for discipline directed to respondent Dollars Smog and Repair's smog station license are as follows:

(Cause No. 3) Failure to comply with the Motor Vehicle Inspection Program 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 between May 4, 2024, and September 23, 2025, respondent Dollars Smog and Repair failed to comply with Health and Safety Code sections 44012 by failing to properly perform tests of emission control systems on the eight alleged vehicles, and 44015, for issuing certificates of compliance on the eight alleged vehicles without properly performing tests and inspections on them.

(Cause No. 4) Violation of regulations pursuant to the Motor Vehicle Inspection Program pursuant to Health and Safety Code section 44072.2, subdivision (c), in that between May 4, 2024, and September 23, 2025, respondent Dollars Smog and Repair failed to comply with the following sections of Title 16, California Code of Regulations: 3340.35, subdivision (c), for failing to inspect and test the eight subject vehicles in accordance with required procedures; and, 3340.42 for failing to conduct the required smog tests and inspections on the eight subject vehicles in accordance with the BAR specifications.

(Cause No. 5) Dishonesty, fraud or deceit in violation of Health and Safety Code sections 44072.2, subdivision (d), and 44072.10, subdivision (c), in that between May 4, 2024, and September 23, 2025, respondent Dollars Smog and Repair committed dishonest, fraudulent or deceitful acts by issuing certificates of compliance for the eight subject vehicles without performing bona fide inspections of the emissions control devices and systems for those vehicles, thereby depriving the people of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

7. The three causes for discipline directed to respondent Givens's EO license are as follows:

(Cause No. 6) Failure to comply with the Motor Vehicle Inspection Program pursuant to Health and Safety Code section 44072.2, subdivision (a), in that between May 4, 2024, and September 23, 2025, respondent Givens failed to comply with Health and Safety Code section 44012 for failing to properly perform tests of emission control systems on the eight alleged vehicles in accordance with procedures prescribed by the BAR.

(Cause No. 7) Violation of regulations pursuant to the Motor Vehicle Inspection Program pursuant to Health and Safety Code section 44072.2, subdivision (c), in that between May 4, 2024, and September 23, 2025, respondent Givens failed to comply with the following sections of Title 16, California Code of Regulations: 3340.30, subdivision (a), for failing to properly test the eight subject vehicles in accordance with Health and Safety Code section 44012; 3340.41, subdivision (c), for knowingly entering into the emissions inspection system false information for the eight subject vehicles resulting in smog inspections not properly performed; and, 3340.42 for failing to conduct the required smog tests and inspections on the eight subject vehicles in accordance with the BAR specifications.

(Cause No. 8) Dishonesty, fraud or deceit in violation of Health and Safety Code sections 44072.2, subdivision (d), and 44072.10, subdivision (c), in that between May 4, 2024, and September 23, 2025, respondent Givens committed dishonest, fraudulent or deceitful acts by issuing certificates of compliance for eight subject vehicles without performing bona fide inspections of the emissions for those vehicles, thereby depriving the people of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

8. Respondents timely filed a notice of defense, and this hearing followed.

The BAR's Investigation

9. The following factual findings are based on the testimony of BAR employees Hector Barraza, Jonathan Gee, Tom Najjar, and Marc Ortega, and related documentary evidence admitted in this matter.

10. Hector Barraza is currently employed by the BAR as an Automotive Program Specialist, a position he has held for approximately 18 months. He has

worked for the BAR in various positions since 2019. He received training for his current position through the BAR, and has participated in various trainings during his tenure with the BAR. His responsibilities in his position include performing inspections at smog check stations and automotive repair dealers, investigating complaints, field investigations, and writing reports regarding his findings. Prior to his position at the BAR, Mr. Barraza worked at an auto repair dealer for approximately 10 years where he held various positions, including shop assistant, service consultant, and licensed smog check inspection technician and repair technician. Mr. Barraza took training to obtain his license as a smog check inspection technician and repair technician, both of which he currently holds and obtained in 2017. Additionally, Mr. Barraza holds an Automotive Service Excellence (ASE) certification.

11. In 2015, California's smog check program was updated to require use of an On-Board Diagnostic Inspection System (BAR-OIS). BAR-OIS is the smog check equipment required in California when inspecting most model-year 2000 and newer vehicles. In this case, the BAR-OIS testing was used exclusively because all vehicles at issue in this matter are year model 2000 and newer. The BAR-OIS 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 retrieves diagnostic data from the vehicle. The second generation OBD scan tool is the OBDII. The DAD connects between the BAR-OIS computer and the vehicle's on-board computer. Data retrieved and recorded during a BAR-OIS smog check includes the communication protocol and parameter identifications (PIDs). The BAR-OIS system requires continuous internet connection. The BAR-OIS system uses the California BAR-OIS software to communicate with the BAR's VID.

12. During a smog check technician's smog testing of a vehicle, the technician first accesses the BAR-OIS by using their identification badge and a palm scanner that identifies the smog technician performing the smog testing. Thereafter, the technician will enter the vehicle information by using the bar code scanner or by entering the information manually. The technician will enter the odometer information, license plate, and other visual inspection information. During the inspection, the technician will plug in the DAD device to the vehicle. While the DAD device is plugged into the vehicle during the test, the inspector is instructed to follow certain steps, such as raising vehicle revolutions per minute (RPM). Data collected while the DAD device is plugged into the vehicle is transmitted from the vehicle to the BAR VID.

13. Mr. Barraza has access to the BAR's VID and all information transmitted during a smog inspection as stored in the VID. He reviews VID data for anomalies. Mr. Barraza looks for specific data to identify fraudulent smog inspections. The data transmitted to the VID includes engine parameters such as the RPM or engine speed, throttle position, mass air flow (MAF), and manifold absolute pressure (MAP). Mr. Barraza compares the parameters side by side at particular times during the smog inspection. He explained that the RPMs or engine speed and the throttle position and air sensor must be synchronized in a normally operating engine. When one goes up the other follows. When Mr. Barraza sees data that indicates those parameters are out of range for a normally operating engine, he considers that to be a fraudulent inspection. That data could not have been generated by a normally operating engine, but is instead generated by clean plugging. Clean plugging involves using another vehicle, or a device, to transmit false data to the BAR-OIS through the DAD to produce fraudulent clean smog testing results.

14. Jonathan Gee is currently employed by the BAR as an engineer. He has worked for the BAR since 1996 in the engineering division. He is familiar with the BAR's VID, which he described as the BAR's database that contains all smog check data transmitted during smog check inspections throughout the state. Mr. Gee was one of the engineering experts involved in the creation and production of the VID system, including VID data storage and data retrieval. VID related tasks were Mr. Gee's primary engineering duties for approximately six to seven years. The data stored in the VID comes from the vehicles directly, and industry standard encryption is used to ensure data security. If there are transmission problems with data collection, the data is considered "lost" and not used by the BAR. The BAR owns the computer servers, and software on the computers that is stored in multiple data centers in California. The servers are maintained by a third party contractor, but the data is property of the BAR, not manipulated by the third party contractor, and the VID resides physically in a BAR data center. The VID has no external database connection and can only be accessed internally by BAR employees.

UNDERCOVER INVESTIGATION

15. On September 23, 2025, the BAR conducted an undercover investigation at Dollars Smog and Repair using a specially prepared 2008 Toyota Corolla. Tom Najjar prepared the 2008 Toyota Corolla for the undercover operation at Dollars Smog and Repair, and Marc Ortega was the undercover operator of the vehicle. Hector Barraza served as the lead investigator of the undercover operation.

16. On September 11, 2025, Mr. Najjar began documenting the emission controls of the 2008 Toyota Corolla for purposes of a smog check inspection. Mr. Najjar is currently employed as a field investigator for the BAR; he previously worked in the BAR's documentation lab as a forensic representative for approximately nine

years. Mr. Najjar worked into the automotive industry prior to working at the BAR, has been a licensed smog inspector since 2005, and an ASE mechanic since approximately 2016.

17. The reference sources Mr. Najjar used during the documentation process were the vehicle's under-hood Vehicle Emission Control Information (VECI) label, the Smog Check Manual, the 2025 Motor Emission Control Systems Application, the 2025 Mitchell 1 Emission Control Application Guide, and the California Air Resources Board (CARB) Executive Order D-193-133. Mr. Najjar determined a "three-way catalytic converter" (TWC) is a required emission control device for the 2008 Toyota Corolla.

18. Mr. Najjar photographed the 2008 Toyota Corolla's Original Equipment Manufacturer (OEM) catalytic converter assembly. On September 16, 2025, Mr. Najjar performed a smog check inspection on the 2008 Toyota Corolla; it passed all portions of the inspection and Mr. Najjar signed a Smog Check Vehicle Inspection Report (VIR) indicated passing results for the 2008 Toyota Corolla.

19. Mr. Najjar then removed the OEM catalytic converter assembly and installed an aftermarket catalytic converter assembly approved under CARB Executive Order D-193-133. Mr. Najjar also installed tamper indicators on the secondary oxygen sensor and the damaged catalytic converter to detect removal of movement of the parts. He photographed the aftermarket catalytic converter assembly and the tamper indicators on September 16, 2025, prior to the smog inspection at Dollars Smog and Repair on September 23, 2025. On September 24, 2025, Mr. Najjar photographed the intact tamper indicators; the aftermarket catalytic converter assembly remained installed as well.

20. On September 16, 2025, Mr. Najjar road tested the 2008 Toyota Corolla. The malfunction indicator light (MIL) illuminated during the road test. Mr. Najjar used the BAR's scan tool once back at the documentation lab and determined the Diagnostic Trouble Code (DTC) "P0420 Catalyst System Efficiency Below Threshold Bank 1" (P0420) was stored in the vehicle's Powertrain Control Module (PCM) in the current, pending and history code menus. He then performed a smog inspection on the 2008 Toyota Corolla, and the vehicle failed the inspection due to DTC P0420" and Onboard Diagnostic (OBD) "Bulb Check." Mr. Najjar signed a VIR dated September 16, 2025, indicating that the vehicle failed inspection, the overall test result of "fail," and the reasons for failure. Mr. Najjar then secured the vehicle in the BAR's documentation lab.

21. On September 23, 2025, Mr. Najjar transported the 2008 Toyota Corolla by truck from the BAR's documentation lab to Mr. Barraza in Chula Vista. The vehicle's MIL remained illuminated.

22. On September 23, 2025, Mr. Ortega met Mr. Barraza at a pre-arranged location in Chula Vista. Mr. Ortega is an automotive program supervisor with the BAR and has worked for the BAR since 2005. Mr. Najjar worked in the automotive industry prior to working at the BAR, has been a licensed smog inspector since 1986, and is an ASE certified mechanic.

23. Mr. Barraza provided Mr. Ortega a DMV renewal notice with the assumed owner name Marcos Garcia. Mr. Barraza informed Mr. Ortega that the MIL would be illuminated. Mr. Barraza instructed Mr. Ortega to drive to Dollars Smog and Repair and request a smog inspection. Mr. Ortega left his location at approximately 11:24 a.m.

24. Mr. Ortega drove the 2008 Toyota Corolla to Dollars Smog and Repair., arriving at 11:29 a.m. The MIL was illuminated during his drive and upon arrival. An individual who identified himself as "Mike" asked Mr. Ortega if he needed help and Mr. Ortega stated he "needed him to help him out." Mike connected a scan tool to the 2008 Toyota Corolla and showed Mr. Ortega the DTC P0420. Mike told Mr. Ortega that the code was due to a bad catalytic converter and would cost about $1,600. Mr. Ortega asked what could be done to get the vehicle to pass the smog inspection, and Mike said they could take care of it for $500. Mr. Ortega provided Mike the DMV renewal notice, and Mike cleared the DTC P0420 and showed Mr. Ortega the MIL was no longer illuminated. Mike then spoke to respondent Givens, gave respondent Givens the DMV notice, and told respondent Givens "treat him like you would treat me, this is a friend of mine."

25. Mr. Ortega remained at Dollars Smog and Repair and had a clear view of 2008 Toyota Corolla at all times during the smog inspection. Respondent Givens connected a long OBDII cable to the 2008 Toyota Corolla, started the engine and went into the office. Minutes later, he came out of the office, unplugged the ODBII cable, and hung it up on a wall. Another unidentified individual (JD) came out of the office, grabbed the OBDII cable, plugged it into the 2008 Toyota Corolla, started the engine, and walked away. During this time, Mr. Ortega observed a long cable coming out of the office, which was in the 2008 Toyota Corolla cabin. JD sat in the 2008 Toyota Corolla driver's seat, raised and maintained the vehicle's RPMs, and then turned the engine off. JD then unplugged the cable and hung it up near the office door. JD told Mr. Ortega he was done and it would be $500. JD told Mr. Ortega to pay him, which Mr. Ortega did, in cash, and JD put the money in his pocket. JD then asked Mr. Ortega to sign a smog check estimate in the amount of $45, which Mr. Ortega signed using his assumed name. Mr. Ortega testified that this document is the authorization for the

smog check inspection, which should have occurred before any inspection of the vehicle. The estimate does not reflect the price of $500 that was actually paid for the inspection.

26. Respondent Givens then signed and gave JD a VIR, and JD gave Mr. Ortega the VIR and the DMV renewal notice Mr. Ortega had previously provided. Mr. Ortega testified that he witnessed respondent Givens sign the VIR. Mr. Ortega did not receive an invoice or receipt of payment. Mr. Ortega left Dollars Smog and Repair at approximately 1:21 p.m.

27. Mr. Ortega returned to the pre-arranged location meeting point at approximately 1:31 p.m., following the smog inspection. The MIL was not illuminated during the approximate one mile drive back to the meeting point. Mr. Ortega provided Mr. Barraza with the DMV renewal notice and the VIR from Dollars Smog and Repair. The VIR indicates the smog inspection was performed at approximately 1:11 p.m. on September 23, 2025, at Dollars Smog and Repair, that respondent Givens was the smog inspector who performed the inspection, that respondent Givens performed the inspection in accordance with all BAR requirements, and that the 2008 Toyota Corolla passed all portions of the smog inspection, including the visual inspection.

28. Mr. Barraza showed Mr. Ortega photographs of two smog inspectors that could have performed the smog inspection at Dollars Smog and Repair. Mr. Ortega recognized and identified respondent Givens from his photograph. Mr. Ortega had never met respondent Givens before the undercover smog inspection.

29. Mr. Ortega testified on cross-examination that he did not know if the 2008 Toyota Corolla was registered in California, and that only registered vehicles in California are subject to smog testing. Mr. Ortega is not familiar with how the DMV

registration form he provided to Mike at Dollars Smog and Repair was created, does not know if any of the information on the renewal notice was true, and he had nothing to do with the creation of the renewal document.

30. Mr. Barraza testified that vehicle registration is not required to be transmitted as part of a smog inspection, and a smog station does not need to have a vehicle renewal form to perform a smog inspection. Mr. Barraza requested and was provided the DMV renewal notice from the BAR that was presented by Mr. Ortega during the undercover operation. Mr. Barraza testified on cross-examination that he did not know if the 2008 Toyota Corolla was registered in California or if the registration existed in the DMV database. A consumer is not required to provide DMV renewal paperwork to request a smog check, and smog checks without DMV renewal paperwork is "an everyday occurrence."

31. On September 23, 2025, Mr. Najjar obtained custody of the 2008 Toyota Corolla from Mr. Barraza and transported the vehicle by truck back to his documentation lab. On September 24, 2025, he reinspected the vehicle. Mr. Najjar performed a smog inspection on the 2008 Toyota Corolla, and the vehicle failed the inspection due to the catalyst, oxygen sensor, and evaporative system OBD II monitors testing as "not ready." Mr. Najjar signed a VIR indicating these results for the 2008 Toyota Corolla. Mr. Najjar again used the BAR's scan tool and determined the DTC P0420 was in the pending codes menu.

32. Mr. Najjar confirmed the tamper indicators remained in place indicating that the aftermarket catalytic converter assembly was not removed while the vehicle was out of his custody. Mr. Najjar photographed the intact tamper indicators. Mr. Najjar then road tested the vehicle and during the road test, the MIL illuminated. He drove back to the documentation lab and performed a second smog check inspection.

The 2008 Toyota Corolla failed the visual portion of the inspection due to DTC "P0420 Catalyst System Efficiency Below Threshold Bank 1", OBD "Bulb Check" and the catalyst, oxygen sensor, and evaporative system OBD II monitors testing as "not ready." Mr. Najjar signed a VIR indicating failing results for the 2008 Toyota Corolla. Mr. Najjar then used the BAR's scan tool and determined the DTC "P0420 Catalyst System Efficiency Below Threshold Bank 1" was stored in the vehicle's PCM in the current, pending and history code menus.

33. Mr. Najjar testified that the "not ready" overall test result from the first of the two smog inspections he performed on the 2008 Toyota Corolla on September 24, 2025, could be due to the battery of the vehicle being disconnected or the DTC being erased by a scan tool device. Mr. Najjar testified on cross-examination that he was not present during the smog inspection at Dollars Smog and Repair and does not know for certain if the battery of the vehicle was disconnected or the DTC was erased by a scan tool device.

34. Mr. Najjar concluded that the 2008 Toyota Corolla was not in a condition to pass a proper smog inspection when he released custody to Mr. Barraza on September 23, 2025, or when he reinspected the vehicle on September 24, 2025. Respondents should not have certified that the vehicle passed the smog inspection due to the damaged TWC and illuminated MIL. Mr. Najjar testified on cross-examination that he did not review the registration documents for the 2008 Toyota Corolla, does not know who the vehicle is registered to, and does not know if the vehicle is licensed to operate on the road.

35. At all times between when Mr. Najjar began documenting the 2008 Toyota Corolla's condition on September 11, 2025, the undercover operation on September 23, 2025, and his reinspection of the vehicle on September 24, 2025, the

BAR documented the chain of custody of the 2008 Toyota Corolla through vehicle transition logs and other documents of record.

DATA REVIEW

36. Mr. Barraza reviewed the data in the BAR VID for smog inspections conducted at Dollars Smog and Repair and identified seven vehicle smog inspections that received a smog certification using the technique of clean plugging based upon the data he reviewed. All seven inspections were conducted by respondent Givens. Mr. Barraza also reviewed the VIRs issued for each of those seven vehicles showing that respondent Givens passed these seven vehicles and issued a smog check certificate to those vehicles. Mr. Barraza reviewed those VIRs from the BAR VID. Mr. Barraza also went to Dollars Smog and Repair on September 30, 2025, and was able to obtain signed VIRs for six of the seven vehicles.

37. For each of the seven vehicles at issue in his data review, Mr. Barraza testified that the data he obtained from the BAR VID showing the information transmitted during the OBDII portion of the smog test shows data that is not expected for a normally operating engine in a vehicle, and the data provided would not allow for an engine to operate with those PIDs. Mr. Barraza testified that there is no reasonable explanation for the PID results of the seven vehicles.

38. Mr. Barraza testified on cross-examination that he is familiar with the use of defeat devices for passing smog inspection results, he has never seen a defeat device installed in a vehicle by a customer prior to a smog inspection, and that while it is possible for a customer to do so, it is unlikely that seven different customers at seven different times would install defeat devices on seven separate vehicles.

39. Based on his review of the data for the vehicles included in his data review, Mr. Barraza testified and summarized in his report that in the following seven instances Dollars Smog and Repair, through respondent Givens, employed the clean plugging method to issue fraudulent smog certificates of compliance:

Clean Plug Number 1 – 2003 Toyota Corolla CE

40. On May 4, 2024, respondent Givens issued a certificate of compliance to a 2003 Toyota Corolla CE. The VID data shows that the PIDs during the idling portion of the test, when the engine RPMs are steady at 775 RPM, were: throttle position dropped from 8.2 percent to 7.8 percent opening, and the MAF rose from 1.4 grams per second to 1.97 grams per second. By comparison, when the RPMs were increased and held elevated at no less than 1301 RPM, the VID data shows the throttle position rising from 6.3 percent to 6.7 percent opening, and the MAF rising from 0.38 grams per second to 1.88 grams per second. The throttle positions and MAF readings are expected to be stable during the steady idle and rise when the RPMs are increased. In this case, 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.

41. A prior inspection was conducted on the same 2003 Toyota Corolla CE on May 2, 2024, at a different smog check station. The VID data shows that the PIDs during the idling portion of the test, when the engine RPMs are steady at 950 RPM, were: throttle position fixed at 11.8 percent opening, and the MAF stable between 2.42 grams per second to 2.37 grams per second. By comparison, when the RPMs were increased and held elevated at no less than 1890 RPM, the VID data shows the throttle fixed at 13.7 percent opening, and the MAF fixed at 4.39 grams per second. The

throttle positions and MAF readings during steady idle and elevated RPM during this inspection are as expected for normal engine operation.

Clean Plug Number 2 – 2004 Toyota Camry LE

42. On May 6, 2024, respondent Givens issued a certificate of compliance to a 2004 Toyota Camry LE. The VID data shows that the PIDs during the idling portion of the test, when the engine RPMs are steady at 665 RPM, were: throttle position fixed at 16.9 percent opening, and the MAF drops from 4.6 grams per second to 3.9 grams per second. By comparison, when the RPMs were increased and held elevated at no less than 1268 RPM, the VID data shows the throttle position dropping from 14.9 percent to 13.7 percent, and the MAF dropping from 3.47 grams per second to 2.95 grams per second. The throttle positions and MAF readings are expected to be stable during the steady idle and rise when the RPMs are increased. In this case, 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.

Clean Plug Number 3 – 2003 Toyota Camry LE

43. On May 16, 2024, respondent Givens issued a certificate of compliance to a 2003 Toyota Camry LE. The VID data shows that the PIDs during the idling portion of the test, when the engine RPMs are steady at 645 RPM, were: throttle position dropped from 17.6 percent to 16.9 percent opening, and the MAF dropped from 2.15 grams per second to 0.19 grams per second. By comparison, when the RPMs were increased and held elevated at no less than 1358 RPM, the VID data shows the throttle rising from 15.3 percent to 16.5 percent opening, and the MAF rising from 0.42 grams per second to 0.69 grams per second. The throttle positions and MAF readings are

expected to be stable during the steady idle and rise when the RPMs are increased. In this case, 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.

Clean Plug Number 4 – 2002 Acura MDX

44. On May 16, 2024, respondent Givens issued a certificate of compliance to a 2002 Acura MDX. The VID data shows that the PIDs during the idling portion of the test, when the engine RPMs are steady at 705 RPM, were: throttle position rose from 7.8 percent to 11.4 percent opening. By comparison, when the RPMs were increased and held elevated at no less than 1348 RPM, the VID data shows the throttle rising from 6.3 percent to 8.6 percent opening. The throttle positions are expected to be stable during the steady idle and rise when the RPMs are increased. In this case, 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.

Clean Plug Number 5 – 2002 Mazda Protégé 5

45. On May 27, 2024, respondent Givens issued a certificate of compliance to a 2002 Mazda Protégé 5. The VID data shows that the PIDs during the idling portion of the test, when the engine RPMs are steady at around 700 RPM, were: throttle position rose from 6.3 percent to 10.2 percent opening, and the MAF rose from 0.39 grams per second to 0.74 grams per second. By comparison, when the RPMs were increased and held elevated at no less than 1217 RPM, the VID data shows the throttle rising from 6.7 percent to 7.8 percent opening, and the MAF rises from 0.39 grams per second to 0.74 grams per second. The throttle positions and MAF readings are expected to be stable

during the steady idle and rise when the RPMs are increased. In this case, 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.

Clean Plug Number 6 – 2002 Toyota Tacoma Double Cab PreRunner

46. On May 28, 2024, respondent Givens issued a certificate of compliance to a 2002 Toyota Double Cab PreRunner. The VID data shows that the PIDs during the idling portion of the test, when the engine RPMs are steady at around 750 RPM, were: throttle position dropped from 11.8 percent to 10.2 percent opening, and the MAF dropped from 3.97 grams per second to 2.74 grams per second. By comparison, when the RPMs were increased and held elevated at no less than 1288 RPM, the VID data shows the throttle dropping from 10.6 percent to 6.7 percent opening, and the MAF rising from 4.54 grams per second to 4.83 grams per second. The throttle positions and MAF readings are expected to be stable during the steady idle and rise when the RPMs are increased. In this case, 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 data points during the elevated engine RPM never increased past the highest data points at idle.

47. A prior inspection was conducted on the same 2002 Toyota Double Cab PreRunner CE on April 22, 2022, at a different smog check station. The VID data shows that the PIDs during the idling portion of the test, when the engine RPMs are steady at 700 RPM, were: throttle position fixed at 10.6 percent opening, and the MAF stable between 3.73 grams per second to 3.75 grams per second. By comparison, when the RPMs were increased, then decreased, and again increased and held steady around

2080 RPM, the VID data shows the throttle fixed at 13.3 percent opening, and the MAF stable between 10.1 grams per second and 10.26 grams per second. The throttle positions and MAF readings during steady idle and elevated RPM during this inspection are as expected for normal engine operation.

Clean Plug Number 7 – 2005 Toyota Sienna CE

48. On May 30, 2024, respondent Givens issued a certificate of compliance to a 2005 Toyota Sienna CE. The VID data shows that the PIDs during the idling portion of the test, when the engine RPMs are steady at 655 RPM, were: throttle rose from 14.9 percent to 16.9 percent opening, and the MAF dropped from 4.45 grams per second to 4.1 grams per second. By comparison, when the RPMs were increased and held elevated at no less than 1255 RPM, the VID data shows the throttle rising from 14.9 percent to 18.0 percent opening, and the MAF dropping from 3.86 grams per second to 2.81 grams per second. The throttle positions and MAF readings are expected to be stable during the steady idle and rise when the RPMs are increased. In this case, 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.

STATION VISITS DURING INSPECTION

49. On September 30, 2025, Mr. Barraza visited Dollars Smog and Repair on two separate occasions. Mr. Barraza took photos of the station, which were received in evidence, and wrote station inspection reports regarding the visits.

50. At the first September 30, 2025, station visit, Mr. Barraza spoke with respondent Givens and requested VIRs for specified time periods from Mr. Givens, which were provided. Respondent Givens acknowledged the records were Dollars

Smog and Repair's original records. Respondent Givens described his smog check inspection procedures to Mr. Barraza. Respondent Givens advised that he prints out two copies of the VIR, gives one copy to the customer, and keeps the other for Dollars Smog and Repair's records. Only himself, another smog inspector and the owner have access to the BAR-OIS/smog check testing equipment. Only he has access to his license, access code and passwords. Respondent Givens did not recall the 2008 Toyota Corolla that he inspected as part of the BAR's undercover operation, or the inspection itself. He did not know the VIR for that inspection was unsigned.

51. At the second September 30, 2025, station visit, respondent Givens stated he recognized his signature on six VIRs he was presented, was not sure if he signed the VIRs, and that the signatures looked like his signatures. He did not recall performing any of the inspections. All six vehicles were part of Mr. Barraza's data review for Dollars Smog and Repair.

52. Respondent Mauricio arrived at the station while Mr. Barraza was there for his first September 30, 2025, station visit. Respondent Maurico stated that when he does not work on vehicles, he observes smog check inspections to make sure the "scan tool" is being connected to see if vehicles will pass their smog inspection. Only himself, respondent Givens, and one other smog inspector have access to the smog testing equipment. Respondent Mauricio acknowledged the VIR records were Dollars Smog and Repair's original records.

Cost Recovery

53. Complainant seeks costs related to investigation in this matter in the amount of $5,326.58. In support of these costs, the BAR produced a one-page declaration signed by Hector Barraza on October 16, 2025, to which there was

attached a three page "Case Hours and Costs Spreadsheet" that listed the time he spent between September 17, 2025, and October 16, 2025, performing "Documents/Evidence - Pickup/Deliver/Request/Obtain/Audit" (3.5 hours), "Interview Parties" (3.5 hours), "Review – Codes/Files/Documents/Records" (13.5 hours), "Surveillance/Undercover" (7 hours), and "Report Writing" (16 hours). The total time he spent was 43.5 hours and at the hourly rate of $122.45, amounted to $5,326.58. The evidence of investigative costs complied with California Code of Regulations, title 1, section 1042, subdivision (b)(2), and the $5,326.58 in costs requested were reasonable.

54. Complainant also seeks costs related to the enforcement of this matter in the amount of $10,689.75 for costs incurred by the Attorney General's Office. A declaration certifying the total costs was signed by Deputy Attorney General Diane Von Der Ahe, who prosecuted this disciplinary action. A billing summary was attached to her declaration that described the legal services provided, the dates legal services were performed, who provided the services, the amount of work that was performed on specific dates, and the professionals' hourly rates. The declaration provided a detailed summary for the costs of prosecution by the Department of Justice and incurred by the BAR through August 17, 2026. The certification and attached documents for the costs incurred satisfy the requirements of California Code of Regulations, title 1, section 1042, subdivision (b)(1), with respect to costs incurred through August 17, 2026, in the amount of $10,689.75. These costs are reasonable in both the nature and extent of the work performed.

55. Accordingly, the total costs of investigation and enforcement of this matter is $16,016.33, which is reasonable.

Respondents' Evidence

56. Respondents provided no documentary evidence and elected not to testify on their own behalf. Complainant did not call respondents to testify at the hearing, as was complainant's right, pursuant to Government Code section 11513, subdivision (b).

Closing Arguments

57. Complainant's counsel argued that the BAR had met their burden of proof and respondents' licenses and registration should be revoked. The evidence presented showed an intent to commit, and the commission of, fraud by respondents. As the owner of Dollars Smog and Repair, respondent Mauricio is liable for the misconduct of his employees. Respondent Givens was an employee of Dollars Smog and Repair and issued all eight smog certificates at issue in this matter. Mr. Barraza opined that the inspections performed were not bona fide inspections based on the PID data collected, and there were no innocent explanations for the test results. The undercover investigation corroborated what Mr. Barraza suspected based on his data collection review. The fictitious vehicle registration document presented during the undercover operation is not evidence, not probative, was not retained by the BAR, was merely a prop used as part of the undercover operation, and the BAR is not required to present identifying information about its undercover vehicle fleet. Whether or not the undercover vehicle was required to be registered is irrelevant to the smog testing at issue in this matter. The VID data at issue was computer generated using BAR software and servers, and is the authentic data of the BAR.

58. Respondents' counsel argued that complainant did not meet its burden. With regard to the undercover operation, the BAR created and used a false official

registration document that was never provided to respondent through discovery despite being requested. At a minimum, an adverse inference should be drawn. The BAR manufactured the renewal notice, there was no genuine registration to renew, and respondents could not commit fraud related to a registration renewal that never existed. With regard to the BAR VID data reviewed and relied upon by the BAR, the data is maintained by a third party contractor, was not authenticated, and should be given no weight.

LEGAL CONCLUSIONS

Public Protection

1. "Protection of the public shall be the highest priority for the Bureau of Automotive Repair in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount." (Business and Professions Code section 9880.3.) Administrative proceedings to revoke, suspend, or impose discipline on a licensee are noncriminal and nonpenal; they are not intended to punish the licensee, but to protect the public. (*Sulla v. Bd. of Registered Nursing* (2012) 205 Cal.App.4th 1195, 1206.)

2. Air pollutants from automobiles are "the primary cause of air pollution" in many areas of California, and the control and elimination of air pollutants is necessary to protect public health. (Health and Safety Code section 43000, subdivisions (a), (b).) California's Motor Vehicle Inspection Program was enacted to ensure that California meets or exceeds emission reduction targets. (Health and Safety Code section 44000, et seq.)

Burden and Standard of Proof

3. Complainant bears the burden of proof of establishing that the allegations in the citation are true. (*Martin v. State Personnel Board* (1972) 26 Cal.App.3d 573, 582.)

4. The standard of proof in proceedings to discipline automotive repair dealers, smog check stations, and/or smog check technicians is preponderance of the evidence. (*Imports Performance v. Department of Consumer Affairs, Bureau of Automotive Repair* (2011) 201 Cal.App.4th 911, 916-918.)

5. Preponderance of the evidence means that the evidence on one side outweighs the evidence on the other side, "not necessarily in number of witnesses or quantity, but in its effect on those to whom it is addressed." (*Glage v. Hawes Firearms Co.* (1990) 226 Cal.App.3d 314, 325.) If the evidence is so evenly balanced that one side does not outweigh the other side, the party who had the burden of proof has failed to meet the burden. (*People v. Mabini* (2001) 92 Cal. App. 4th 654, 663.)

Applicable Statutory and Regulatory Authority

6. Business and Professions Code section 9884.7 provides:

> (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.

[¶] . . . [¶]

(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.

[¶] . . . [¶]

(c) Notwithstanding subdivision (b), the director may suspend, revoke, or place on probation the registration for all places of business operated in this state by an automotive repair dealer upon a finding that the automotive repair dealer has, or is, engaged in a course of repeated and willful violations of this chapter, or regulations adopted pursuant to it.

7. Business and Professions Code section 9889.9 provides, "[w]hen any license has been revoked or suspended following a hearing under the provisions of this article, any additional license issued under Articles 5 and 6 of this chapter [Automotive Repair] in the name of the licensee may be likewise revoked or suspended by the director."

8. Health and Safety Code section 44012 requires smock check station tests to "be performed in accordance with procedures prescribed by the department."

9. Health and Safety Code section 44015, subdivision (b), provides "[i]f 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."

10. Health and Safety Code section 44072.2 provides:

> 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. . . .

11. Health and Safety Code section 44072.10, subdivision (c), states, "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.

(2) Tampering with a vehicle emission control system or test analyzer system.

(3) Tampering with a vehicle in a manner that would cause the vehicle to falsely pass or falsely fail an inspection.

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

12. Health and Safety Code section 44072.8 provides:

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.

The chapter referenced in Health and Safety Code section 44072.8 is Chapter 5 of Part 5 of Division 26 of the Health and Safety Code, the Motor Vehicle Inspection Program.

Applicable Regulatory Authority

13. California Code of Regulations title 16, section 3340.24, subdivision (c), provided the bureau authority to "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."

14. California Code of Regulations title 16, section 3340.30, subdivision (a) requires licensed smog check inspectors and repair technicians to "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."

15. California Code of Regulations, title 16, section 3340.35, subdivision (c), provides in 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. . . .

16. California Code of Regulation, 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.

17. California Code of Regulations, title 16, section 3340.42, states:

Smog check inspection methods are prescribed in the Smog Check Manual, referenced by section 3340.45.

(a) All vehicles subject to a smog check inspection, shall receive one of the following test methods:

[¶] . . . [¶]

(3) An OBD-focused test shall be the test method used to inspect gasoline-powered vehicles 2000 model-year and newer, and diesel-powered vehicles 1998 model-year and newer. The OBD test failure criteria are specified in section 3340.42.2.

(b) In addition to subsection (a), all vehicles subject to the smog check program shall receive the following:

(1) A visual inspection of emission control components and systems to verify the vehicle's emission control systems are properly installed.

(2) A functional inspection of emission control systems as specified in the Smog Check Manual, referenced by section 3340.45, which may include an OBD test, to verify their proper operation.

(c) The bureau may require any combination of the inspection methods in sections (a) and (b) under any of the following circumstances:

(1) Vehicles that the department randomly selects pursuant to Health and Safety Code section 44014.7 as a means of identifying potential operational problems with vehicle OBD systems.

(2) Vehicles identified by the bureau as being operationally or physically incompatible with inspection equipment.

(3) Vehicles with OBD systems that have demonstrated operational problems.

(d) Pursuant to section 39032.5 of the Health and Safety Code, gross polluter standards are as follows:

(1) A gross polluter means a vehicle with excess hydrocarbon, carbon monoxide, or oxides of nitrogen emissions pursuant to the gross polluter emissions standards included in the tables described in subsection (a), as applicable.

(2) Vehicles with emission levels exceeding the emission standards for gross polluters during an initial inspection will be considered gross polluters and the provisions pertaining to gross polluting vehicles will apply, including, but not limited to, sections 44014.5, 44015, and 44081 of the Health and Safety Code.

(3) A gross polluting vehicle shall not be passed or issued a certificate of compliance until the vehicle's emissions are reduced to or below the applicable emissions standards for the vehicle included in the tables described in subsection (a), as applicable. However, the provisions described in section 44017 of the Health and Safety Code may apply.

(4) This subsection applies in all program areas statewide to vehicles requiring inspection pursuant to sections 44005 and 44011 of the Health and Safety Code.

Applicable Case Law Regarding Fraud

18. Administrative disciplinary matters are akin to civil proceedings. (*Fahmy v. Medical Bd. of California* (1995) 38 Cal.App.4th 810, 817.) A cause of action for fraud requires the following elements: (1) a knowingly false representation by the defendant; (2) an intent to deceive or induce reliance; (3) justifiable reliance by the plaintiff; and (4) resulting damages. (*Hasso v. Hapke* (2014) 227 Cal.App.4th 107, 127.)

19. All the elements must be present for fraud to be found. There is no absolute or fixed rule for determining what facts will constitute fraud; whether it is found depends upon the particular facts of the case under inquiry. Fraud may be

proved by direct evidence, or it may be inferred from all of the circumstances in the case. (*Ach v. Finkelstein* (1968) 264 Cal.App.2d 667, 674-675.) In an action regarding a private investigator's license, the Court of Appeal held:

> Fraud embraces multifarious means whereby one person gains an advantage over another and means in effect bad faith, dishonesty or overreaching. . . . It is a generic term which embraces all the multifarious means which human ingenuity can devise and are resorted to by one individual to get an advantage over another. No definite and invariable rule can be laid down as a general proposition defining fraud, as it includes all surprise, trick, cunning, dissembling and unfair ways by which another is cheated.

(*Wayne v. Bureau of Private Investigators and Adjusters, Department of Professional and Vocational Standards* (1962) 201 Cal.App.2d 427, 437-438.)

Cause Exists to Impose Discipline

20. A preponderance of the evidence demonstrated that respondent Dollars Smog and Repair's ARD registration is subject to disciplinary action under Health and Safety Code section 9884.7, subdivision (a)(1), in that respondent Givens, on behalf of respondent Dollars Smog and Repair, made statements that he knew were untrue or misleading when he certified that the eight subject vehicles passed smog inspection when in fact he utilized the clean plugging method to issue fraudulent certificates of compliance for the eight subject vehicles.

21. A preponderance of the evidence demonstrated that respondent Dollars Smog and Repair's ARD registration is subject to disciplinary action under Health and

Safety Code section 9884.7, subdivision (a)(4), in that respondent Givens, on behalf of respondent Dollars Smog and Repair, committed fraud when he certified that the eight subject vehicles passed smog inspection when in fact he utilized the clean plugging method to issue fraudulent certificates of compliance for the eight subject vehicles.

22. A preponderance of the evidence demonstrated that respondent Dollars Smog and Repair's RC license is subject to disciplinary action under Health and Safety Code section 44072.2, subdivision (a), in that respondent Dollars Smog and Repair failed to comply with the following sections of the Health and Safety Code: 44012 for failing to perform tests of the emission control systems for the eight subject vehicles in compliance with procedures prescribed by the BAR; and 44015, subdivisions (a), and (b), for issuing certificates of compliance for the eight subject vehicles without properly testing and inspecting them.

23. A preponderance of the evidence demonstrated that respondent Dollars Smog and Repair's RC license is subject to disciplinary action under Health and Safety Code section 44072.2, subdivision (c), in that respondent Dollars Smog and Repair failed to comply with the following sections of title 16, California Code of Regulations: 3340.35, subdivision (c), in that respondent Dollars Smog and Repair failed to inspect and test the eight subject vehicles in accordance with the procedures specified in section 3340.42 of the regulations; and 334042 in that respondent Dollars Smog and Repair failed to conduct the required smog tests and inspections on those vehicles in accordance with the BAR specifications.

24. A preponderance of the evidence demonstrated that respondent Dollars Smog and Repair's RC license is subject to disciplinary action under Health and Safety Code sections 44072.2, subdivision (d), and 44072.10, subdivision (c), in that respondent Givens, on behalf of respondent Dollars Smog and Repair, committed

dishonest, fraudulent, or deceitful acts whereby another is injured by issuing smog certificates of compliance for the eight subject vehicles without performing bona fide inspections of those vehicles thereby depriving the people of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

25. A preponderance of the evidence demonstrated that respondent Givens's EO license is subject to disciplinary action under Health and Safety Code section 44072.2, subdivision (a), in that respondent Givens failed to comply with Health and Safety Code section 44012 by failing to perform tests of the emission control systems for the eight subject vehicles in compliance with procedures prescribed by the BAR.

26. A preponderance of the evidence demonstrated that respondent Givens's EO license is subject to disciplinary action under Health and Safety Code section 44072.2, subdivision (c), in that respondent Givens failed to comply with the following sections of title 16, California Code of Regulations: 3340.30, subdivision (a), in that respondent Givens failed to inspect and test the eight subject vehicles in accordance with section 44012 of the Health and Safety Code; 3340.41, subdivision (c), in that respondent Givens knowingly entered false information into the EIS for the eight subject vehicles providing results for smog inspections that were not properly performed; and 3340.42 in that respondent Givens failed to conduct the required smog tests and inspection for the eight subject vehicles in accordance with the BAR's specifications.

27. A preponderance of the evidence demonstrated that respondent Givens's EO license is subject to disciplinary action under Health and Safety Code sections 44072.2, subdivision (d), and 44072.10, subdivision (c), in that respondent Givens committed dishonest, fraudulent or deceitful acts whereby another was injured by issuing smog certificates of compliance for the eight subject 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.

Evaluation

28. California Code of Regulations, title 16, section 3395.4, provides that in reaching a decision on a disciplinary action, the BAR must consider the disciplinary guidelines entitled "Guidelines for Disciplinary Orders and Terms of Probation" [Rev. June 2021]. These guidelines provide the recommended sanctions for various violations. The recommended discipline for issuing fraudulent inspections (Health and Safety Code section 44072.10, subdivision (c)) is revocation. Factors in aggravation and mitigation may be considered when fashioning the appropriate measure of discipline.

29. Business and Professions Code section 9884.7, subdivision (c), provides that the registration for all places of business can be disciplined if the ARD license holder has engaged in "repeated and willful violations" of statutes and regulations. Health and Safety Code section 44072.8 provide that when a registration or license has been revoked following a hearing, any additional license issued under the Automotive Repair Act and Motor Vehicle Inspection Program in the name of the licensee may be likewise revoked or suspended by the department's director. Revocation of the additional licenses and registrations is not mandatory.

30. The BAR plays a vital role in safeguarding the public and the environment by mandating that vehicles are thoroughly inspected to ensure that they do not pose safety risks, and that their emissions do not exceed safety standards.

31. Complainant established by a preponderance of the evidence that fraudulent smog inspection activity occurred at Dollars Smog and Repair as

demonstrated by the BAR's undercover investigation. A fraudulent smog certificate was issued by respondent Givens for the vehicle that was the subject of the undercover operation. The undercover operation vehicle had a purposely introduced malfunction that ensured the vehicle could not pass a properly conducted smog check inspection.

32. Complainant further established by a preponderance of the evidence that fraudulent smog inspection activity occurred at Dollars Smog and Repair as demonstrated by the significant differences between the BAR-OIS data reported to the BAR for smog inspections performed by respondent Givens on behalf of respondent Dollars Smog and Repair and what the data would be expected to be for normal engine operation in the seven vehicles that were the subject of data review by Mr. Barraza. The data transmitted for those seven vehicles was uncharacteristic and improbable for normal engine operation demonstrating that fraudulent inspections occurred through the use of the clean plugging method. Mr. Barraza's testimony in this regard was credible and convincing. The use of respondent Given's credentials for the performance of these fraudulent inspections shows he knowingly entered false information into the BAR-OIS for these seven fraudulent inspections.

33. Respondents' argument that the VID data was not properly authenticated is without merit. The VID data at issue is computer generated BAR data. BAR employee Jonathan Gee credibly testified that the BAR owns the program software, computer servers, and the data itself. Mr. Barraza testified as to how he obtained the VID data at issue in this matter. Notably, these proceedings are conducted pursuant to the Administrative Procedure Act (APA); not the Evidence Code. Under the APA, an administrative hearing is not conducted according to "technical rules relating to evidence and witnesses" and any relevant evidence is admitted "if it is the sort of

evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of the evidence over objection in civil actions." (Gov. Code, § 11513, subd. (c).) Complainant sufficiently established that the VID data was not only relevant, but the kind of evidence relied upon in the conduct of serious affairs, and it is therefore admissible. The BAR is not required to provide testimony or other evidence from the third-party contractor that maintains BAR servers to authenticate the BAR computer generated VID data, or any other evidence to further authenticate the VID data.

34. Similarly, respondents' argument regarding the fictitious DMV renewal notice is without merit. The DMV renewal notice was not necessary for the smog inspection that took place at Dollars Smog and Repair during the undercover investigation. Whether there was a genuine registration to renew, whether the vehicle was in fact registered in California, and what information was on the registration are irrelevant to the issue of the fraudulent smog inspection that was performed during the undercover operation.[4]

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[4] It is also noted that respondents did not file any motions relating to discovery violations prior to the proceeding contending that complainant violated Government Code 11507.6, which is the only statute that controls pre-hearing discovery in administrative proceedings. (Gov. Code, § 11507.5.) Respondents similarly did not file any motion to compel pursuant to Government Code section 11507.7 contending that the fictitious DMV renewal should have been provided. Thus, respondents cannot now use the failure to provide the document in discovery as a basis to exclude it.

35. Based on all above, respondent Givens, as an employee of Dollars Smog and Repair, engaged in multiple acts of dishonest, fraudulent behavior, as noted above. Complainant established cause to impose discipline, and the guidelines indicate that revocation is the appropriate discipline. Respondents provided no evidence to show that the alleged acts did not occur, did not provide any evidence to otherwise contradict the evidence presented by complainant, did not provide any rehabilitation evidence, and did not provide any evidence to mitigate culpability. As such, the guidelines recommended discipline of revocation of respondents's registration and licenses are required for public protection.

Recovery of Costs

36. Under Business and Professions Code section 125.3, complainant may request that an administrative law judge "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." "A certified copy of the actual costs, or a good faith estimate of costs where actual costs are not available, signed by the entity bringing the proceeding or its designated representative shall be prima facie evidence of reasonable costs of investigation and prosecution of the case." (Business and Professions Code section 125.3, subd. (c).)

37. Under California Code of Regulations, title 1, section 1042, subsection (b), a cost request must be accompanied by a declaration or certification of costs. For services provided by persons who are not agency employees, the declaration must be executed by the person providing the service and describe the general tasks performed, the time spent on each task, and the hourly rate. In lieu of the declaration, the agency may attach copies of the time and billing records submitted by the service provider.

38. The California Supreme Court, in *Zuckerman v. State Board of Chiropractic Examiners* (2002) 29 Cal. 4th 32, held that a regulation imposing costs for investigation and enforcement under Business and Professions Code section 317.5, which is similar to section 125.3, did not violate due process. However, it was incumbent on the board in that case to exercise discretion to reduce or eliminate cost awards in a manner such that costs imposed did not "deter [licensees] with potentially meritorious claims or defenses from exercising their right to a hearing." (*Ibid.*)

39. *Zuckerman* sets forth five factors to consider in deciding whether to reduce or eliminate costs: whether the licensee used the hearing process to obtain dismissal of other charges or a reduction in the severity of the discipline imposed; whether the licensee had a "subjective" good faith belief in the merits of his or her position; whether the licensee raised a "colorable challenge" to the proposed discipline; whether the licensee had the financial ability to make payments; and whether the scope of the investigation was appropriate in light of the alleged misconduct. (*Zuckerman, supra,* at p. 45.)

40. Applying the *Zuckerman* criteria, leads to the following conclusions: (1) respondents were not successful in getting some of the charges dismissed or reduced; (2) respondents did not testify and therefore did not assert a good faith belief in their position; (3) respondents did not present a colorable challenge to revocation; (4) respondents' financial ability to make payments will be limited based on their inability to work in the smog industry with the revocation of their licenses and registration; and (5) the scope of the investigation was appropriate in light of the alleged misconduct.

41. Respondents shall be responsible to pay costs to the bureau in the amount of $16,016.33. Respondent Givens was responsible for clean plugging all eight vehicles at issue in this matter. Respondent Mauricio is responsible for the actions of

his employees. Accordingly, respondent Givens shall be responsible for approximately one-half the costs of investigation and enforcement, in the amount of $8,008.17, and respondent Mauricio shall be responsible for approximately one-half the costs of investigation and enforcement, in the amount of $8,008.16. However, the payment of costs shall be stayed until such time respondents seek to reinstate their respective licenses or registration or obtain another license or registration from the department. At that time, as a condition precedent to issuance of any license or registration, respondents shall pay the costs they were respectively ordered to pay in full.

ORDER

1. Automotive Repair Dealer Registration No. ARD 307657 issued to respondent Buen Abad Mauricio, aka Mauricio Buen Abad, Owner, dba Dollars Smog and Repair is revoked.

2. Any other Automotive Repair Dealer Registration issued to respondent Buen Abad Mauricio, aka Mauricio Buen Abad, Owner, dba Dollars Smog and Repair, is revoked.

3. Smog Check, Test-And-Repair, Station License No. RC 307657 issued to respondent Buen Abad Mauricio, aka Mauricio Buen Abad, Owner, dba Dollars Smog and Repair, is revoked.

4. 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 Buen Abad, Owner, dba Dollars Smog and Repair, is revoked.

5. Smog Check Inspector License No. EO 642879 issued to Jacob E. Givens is revoked.

6. 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 is revoked.

7. Respondent Jacob E. Givens is ordered to pay costs in the amount of $8,008.17. The payment of costs shall be stayed until such time respondent Givens seeks to reinstate his license or obtain another license or registration from the department. At that time, as a condition precedent to issuance of any license or registration, respondent Givens shall pay the costs in full.

8. Respondent Buen Abad Mauricio, aka Mauricio Buen Abad, Owner, dba Dollars Smog and Repair, is ordered to pay costs in the amount of $8,008.16. The payment of costs shall be stayed until such time as respondent Buen Abad Mauricio, aka Mauricio Buen Abad, Owner, dba Dollars Smog and Repair seeks to reinstate its license or obtain another license or registration from the department. At that time, as a condition precedent to issuance of any license or registration, respondent Buen Abad Mauricio, aka Mauricio Buen Abad, Owner, dba Dollars Smog and Repair shall pay the costs in full.

DATE: September 18, 2026

M. C. Hollimon

M. C. Hollimon (Sep 18, 2026 17:49:40 GMT+1)

MICHELLE CARLISLE HOLLIMON

Administrative Law Judge

Office of Administrative Hearings