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

12 In the Matter of the Accusation Against:

Case No. 79/16-138

13 **SUPER SMOG**  
14 **PEDRO ANTONIO SALAZAR, OWNER**  
15 **4409 E. Belmont Avenue**  
**Fresno, CA 93702**

**ACCUSATION**  
**(Smog Check)**

16 **Automotive Repair Dealer Reg. No. ARD 238644**  
17 **Smog Check, Test Only, Station License No.**  
18 **TC 238644**

19 and

20 **PEDRO ANTONIO SALAZAR**  
21 **4832 East Pico Avenue**  
22 **Fresno, CA 93726**

23 **Smog Check Inspector License No. EO 145300**  
**(formerly Advanced Emission Specialist**  
**Technician License No. EA 145300)**

Respondent.

24 Complainant alleges:

25 **PARTIES**

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

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1 proceeding against an automotive repair dealer or to render a decision temporarily or permanently  
2 invalidating (suspending or revoking) a registration.

3 8. Health and Safety Code ("Health & Saf. Code") section 44002 provides, in pertinent  
4 part, that the Director has all the powers and authority granted under the Automotive Repair Act  
5 for enforcing the Motor Vehicle Inspection Program.

6 9. Health & Saf. Code section 44072.6 provides, in pertinent part, that the expiration or  
7 suspension of a license by operation of law, or by order or decision of the Director of Consumer  
8 Affairs, or a court of law, or the voluntary surrender of the license shall not deprive the Director  
9 of jurisdiction to proceed with disciplinary action.

10 10. Health & Saf. Code section 44072.8 states that when a license has been revoked or  
11 suspended following a hearing under this article, any additional license issued under this chapter  
12 in the name of the licensee may be likewise revoked or suspended by the director.

13 11. California Code of Regulations, title 16, section 3340.28, subdivision (e), states that  
14 "[u]pon renewal of an unexpired Basic Area Technician license or an Advanced Emission  
15 Specialist Technician license issued prior to the effective date of this regulation, the licensee may  
16 apply to renew as a Smog Check Inspector, Smog Check Repair Technician, or both."

17 **STATUTORY AND REGULATORY PROVISIONS**

18 12. Bus. & Prof. Code section 9884.7 states, in pertinent part:

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

23 (1) Making or authorizing in any manner or by any means whatever any  
24 statement written or oral which is untrue or misleading, and which is known, or which  
25 by the exercise of reasonable care should be known, to be untrue or misleading.

25 . . . .

26 (4) Any other conduct that constitutes fraud.

27 . . . .

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

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(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.

13. Bus. & Prof. Code section 9884.9, subdivision (a), states, in pertinent part:

The automotive repair dealer shall give to the customer a written estimated price for labor and parts necessary for a specific job. No work shall be done and no charges shall accrue before authorization to proceed is obtained from the customer . . .

14. Bus. & Prof. Code section 22, subdivision (a), states:

“Board” as used in any provision of this Code, refers to the board in which the administration of the provision is vested, and unless otherwise expressly provided, shall include “bureau,” “commission,” “committee,” “department,” “division,” “examining committee,” “program,” and “agency.”

15. Bus. & Prof. Code section 477, subdivision (b), states, in pertinent part, that a “license” includes “registration” and “certificate.”

16. Health & Saf. Code section 44072.2 states, in pertinent part:

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

(a) Violates any section of this chapter [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 . . .

17. California Code of Regulations, title 16, section 3340.45 states, in pertinent part:

(a) All Smog Check inspections shall be performed in accordance with requirements and procedures prescribed in the following:

....

(2) Smog Check Manual, dated 2013, which is hereby incorporated by reference. This manual shall become effective on or after January 1, 2013.

1 COST RECOVERY

2 18. Bus. & Prof. Code section 125.3 provides, in pertinent part, that a Board may request  
3 the administrative law judge to direct a licentiate found to have committed a violation or  
4 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
5 and enforcement of the case.

6 STATEWIDE OBD INSPECTION SYSTEM IMPLEMENTATION

7 **Background:**

8 19. On or about January 7, 2015, the Bureau issued a "Notice of Statewide OBD  
9 Inspection System (OIS)<sup>3</sup> Implementation" regarding upcoming changes to the Smog Check  
10 Program. The Bureau stated that beginning March 9, 2015, smog check stations must use an  
11 OBD Inspection System to test the following vehicles:

- 12 • 2000 and newer model-year gasoline powered vehicles (unless over 14,000 lbs. GVWR or  
13 those without OBDII);
- 14 • 1998 and newer diesel powered vehicles; and
- 15 • All hybrid vehicles.

16 The Bureau stated further that the BAR-97 EIS (Emissions Inspection System) must not be used  
17 to inspect the above vehicles, that all STAR certified stations are required to have an OIS, and  
18 that smog check stations will only be allowed to use the 2013 Smog Check Manual. The Notice  
19 was posted on the Bureau's website at [www.smogcheck.ca.gov](http://www.smogcheck.ca.gov).

20 20. That same day (January 7, 2015), the Bureau issued "ET Blast # 38024" (equipment  
21 type: OIS) and "ET Blast # 38025 (equipment type: BAR-97) to all licensed stations, stating that  
22 effective March 9, 2015, an OBD Inspection System (OIS) is required when inspecting the above  
23 vehicles.

24 <sup>3</sup> California's Smog Check Program was updated to keep pace with ever-advancing  
25 technology. The program update requires the use of an On-Board Diagnostic Inspection System  
26 (BAR-OIS). BAR-OIS is the smog check equipment required in all areas of the State when  
27 inspecting most model-year 2000 and newer gasoline and hybrid vehicles and most 1998 and  
28 newer diesel vehicles. The system consists of a certified Data Acquisition Device, computer, bar  
code scanner, and printer.

1           21. On or about February 6, 2015, and March 4, 2015, the Bureau issued "ET Blast #  
2 38464" and "ET Blast # 38684", respectively, regarding the Statewide OIS implementation. The  
3 Bureau again stated that effective March 9, 2015, an OIS is required when inspecting the above  
4 vehicles. The Bureau also stated in ET Blast # 38684 that beginning March 9, 2015, stations and  
5 technicians shall only use the 2013 Smog Check Manual when performing a smog check  
6 inspection.

7           **Bureau's Review of Smog Inspections performed by Respondent:**

8           22. Information from the Bureau's Vehicle Information Database ("VID") indicated that  
9 on or about July 25, 2014, Respondent registered an OIS. The VID also indicated that  
10 Respondent had purchased certificates of compliance for the OIS unit on March 11, 2015, and  
11 June 16, 2015.

12           23. Bureau Representative J. L. reviewed VID data pertaining to smog inspections  
13 conducted at Respondent's facility. The VID data showed that on March 13, 2015, Respondent  
14 performed a smog inspection on a 1999 Dodge Ram 2500 Diesel ("1999 Dodge"), resulting in the  
15 issuance of electronic smog Certificate of Compliance No. YP421513C. The VID data also  
16 showed that on June 17, 2015, Respondent performed a smog inspection on a 1999 Ford F350  
17 Diesel ("1999 Ford"), resulting in the issuance of electronic smog Certificate of Compliance No.  
18 YR885085C. The representative determined that Respondent performed the inspections using a  
19 BAR-97 EIS when, in fact, an OIS test was required on the 1999 Dodge and 1999 Ford, resulting  
20 in the issuance of fraudulent certificates of compliance for the vehicles.

21           **FIRST CAUSE FOR DISCIPLINE**

22           **(Untrue or Misleading Statements)**

23           24. Respondent's registration is subject to disciplinary action pursuant to Bus. & Prof.  
24 Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized statements which  
25 he knew or in the exercise of reasonable care should have known to be untrue or misleading, as  
26 follows: Respondent certified that the 1999 Dodge and 1999 Ford had passed inspection and  
27 were in compliance with applicable laws and regulations. In fact, Respondent conducted the

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1 smog inspections on the 1999 Dodge and 1999 Ford using a BAR-97 EIS when, in fact, an OIS  
2 test was required on the vehicles.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Fraud)**

5 25. Respondent's registration is subject to disciplinary action pursuant to Bus. & Prof.  
6 Code section 9884.7, subdivision (a)(4), in that Respondent committed acts which constitute  
7 fraud by issuing electronic smog certificates of compliance for the 1999 Dodge and 1999 Ford  
8 without performing bona fide inspections of the emission control devices and systems on the  
9 vehicles, thereby depriving the People of the State of California of the protection afforded by the  
10 Motor Vehicle Inspection Program.

11 **THIRD CAUSE FOR DISCIPLINE**

12 **(Violations of the Motor Vehicle Inspection Program)**

13 26. Respondent's smog check station license is subject to disciplinary action pursuant to  
14 Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to comply with  
15 section 44012 of that Code, as follows: Respondent failed to perform the emission control tests  
16 on the 1999 Dodge and 1999 Ford in accordance with procedures prescribed by the department.

17 **FOURTH CAUSE FOR DISCIPLINE**

18 **(Failure to Comply with Regulations Pursuant**  
19 **to the Motor Vehicle Inspection Program)**

20 27. Respondent's smog check station license is subject to disciplinary action pursuant to  
21 Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to comply with  
22 provisions of California Code of Regulations, title 16, as follows:

23 a. **Section 3340.35, subdivision (c)**: Respondent issued electronic smog certificates of  
24 compliance for the 1999 Dodge and 1999 Ford even though the vehicles had not been inspected  
25 in accordance with section 3340.42.

26 b. **Section 3340.45**: Respondent failed to perform the smog inspections on the 1999  
27 Dodge and 1999 Ford using the OBD Inspection System in violation of the Test Requirements in  
28 the 2013 Smog Check Manual.

1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(Dishonesty, Fraud or Deceit)**

3 28. Respondent's smog check station license is subject to disciplinary action pursuant to  
4 Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed dishonest,  
5 fraudulent or deceitful acts whereby another is injured by issuing electronic smog certificates of  
6 compliance for the 1999 Dodge and 1999 Ford without performing bona fide inspections of the  
7 emission control devices and systems on the vehicles, thereby depriving the People of the State of  
8 California of the protection afforded by the Motor Vehicle Inspection Program.

9 **SIXTH CAUSE FOR DISCIPLINE**

10 **(Violations of the Motor Vehicle Inspection Program)**

11 29. Respondent's smog check inspector license is subject to disciplinary action pursuant  
12 to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to comply with  
13 section 44012 of that Code, as follows: Respondent failed to perform the emission control tests  
14 on the 1999 Dodge and 1999 Ford in accordance with procedures prescribed by the department.

15 **SEVENTH CAUSE FOR DISCIPLINE**

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

18 30. Respondent's smog check inspector license is subject to disciplinary action pursuant  
19 to Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to comply with  
20 provisions of California Code of Regulations, title 16, as follows:

21 a. **Section 3340.30, subdivision (a):** Respondent failed to inspect and test the 1999  
22 Dodge and 1999 Ford in accordance with Health & Saf. Code sections 44012 and 44035, and  
23 California Code of Regulations, title 16, section 3340.42.

24 b. **Section 3340.42:** Respondent failed to conduct the required smog tests on the 1999  
25 Dodge and 1999 Ford in accordance with the Bureau's specifications.

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1 **EIGHTH CAUSE FOR DISCIPLINE**

2 **(Dishonesty, Fraud or Deceit)**

3 31. Respondent's smog check inspector license is subject to disciplinary action pursuant  
4 to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed dishonest,  
5 fraudulent or deceitful acts whereby another is injured by issuing electronic smog certificates of  
6 compliance for the 1999 Dodge and 1999 Ford without performing bona fide inspections of the  
7 emission control devices and systems on the vehicles, thereby depriving the People of the State of  
8 California of the protection afforded by the Motor Vehicle Inspection Program.

9 **UNDERCOVER OPERATION #1: 2001 CHEVROLET**

10 32. On August 27, 2015, an undercover operator with the Bureau ("operator") took the  
11 Bureau's 2001 Chevrolet to Respondent's facility and requested a smog inspection. The catalytic  
12 converter was removed from the Bureau-documented vehicle and the position of the rear  
13 (downstream) oxygen sensor was modified. The operator signed and received a copy of a work  
14 order/estimate for the inspection. After the inspection was completed, the operator paid the  
15 facility \$48 in cash and received copies of an invoice and a vehicle inspection report ("VIR").  
16 The VIR indicated that Respondent performed the smog inspection on the vehicle. That same  
17 day, electronic smog Certificate of Compliance [REDACTED] was issued for the vehicle.

18 33. On September 10, 2015, the Bureau inspected the vehicle and found that the catalytic  
19 converter was still missing and the position of the rear oxygen sensor was still modified.

20 **NINTH CAUSE FOR DISCIPLINE**

21 **(Untrue or Misleading Statements)**

22 34. Respondent's registration is subject to disciplinary action pursuant to Bus. & Prof.  
23 Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized a statement which  
24 he knew or in the exercise of reasonable care should have known to be untrue or misleading, as  
25 follows: Respondent certified under penalty of perjury on the VIR that the Bureau's 2001  
26 Chevrolet had passed the inspection and was in compliance with applicable laws and regulations.  
27 In fact, the catalytic converter was missing and the position of the rear oxygen sensor was

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1 modified. As such, the vehicle would not pass the inspection required by Health & Saf. Code  
2 section 44012.

3 **TENTH CAUSE FOR DISCIPLINE**

4 **(Fraud)**

5 35. Respondent's registration is subject to disciplinary action pursuant to Bus. & Prof.  
6 Code section 9884.7, subdivision (a)(4), in that Respondent committed an act that constitutes  
7 fraud by issuing an electronic smog certificate of compliance for the Bureau's 2001 Chevrolet  
8 without performing a bona fide inspection of the emission control devices and systems on the  
9 vehicle, thereby depriving the People of the State of California of the protection afforded by the  
10 Motor Vehicle Inspection Program.

11 **ELEVENTH CAUSE FOR DISCIPLINE**

12 **(Violations of the Motor Vehicle Inspection Program)**

13 36. Respondent's smog check station license is subject to disciplinary action pursuant to  
14 Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to comply with the  
15 following sections of that Code:

16 a. **Section 44012, subdivision (f)**: Respondent failed to perform the visual inspection  
17 of the emission control components on the Bureau's 2001 Chevrolet in accordance with  
18 procedures prescribed by the department.

19 b. **Section 44015**: Respondent issued an electronic smog certificate of compliance for  
20 the Bureau's 2001 Chevrolet without properly testing and inspecting the vehicle to determine if it  
21 was in compliance with Health & Saf. Code section 44012.

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1 **TWELFTH CAUSE FOR DISCIPLINE**

2 **(Failure to Comply with Regulations Pursuant**  
3 **to the Motor Vehicle Inspection Program)**

4 37. Respondent's smog check station license is subject to disciplinary action pursuant to  
5 Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to comply with  
6 provisions of California Code of Regulations, title 16, as follows:

7 a. **Section 3340.35, subdivision (c):** Respondent issued an electronic smog certificate  
8 of compliance for the Bureau's 2001 Chevrolet even though the vehicle had not been inspected in  
9 accordance with section 3340.42.

10 b. **Section 3340.42:** Respondent failed to conduct the required smog tests on the  
11 Bureau's 2001 Chevrolet in accordance with the Bureau's specifications.

12 **THIRTEENTH CAUSE FOR DISCIPLINE**

13 **(Dishonesty, Fraud or Deceit)**

14 38. Respondent's smog check station license is subject to disciplinary action pursuant to  
15 Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed a dishonest,  
16 fraudulent, or deceitful act whereby another is injured by issuing an electronic smog certificate of  
17 compliance for the Bureau's 2001 Chevrolet without performing a bona fide inspection of the  
18 emission control devices and systems on the vehicle, thereby depriving the People of the State of  
19 California of the protection afforded by the Motor Vehicle Inspection Program.

20 **FOURTEENTH CAUSE FOR DISCIPLINE**

21 **(Violations of the Motor Vehicle Inspection Program)**

22 39. Respondent's smog check inspector license is subject to disciplinary action pursuant  
23 to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to comply with  
24 section 44012, subdivision (f), of that Code, as follows: Respondent failed to perform the visual  
25 inspection of the emission control components on the Bureau's 2001 Chevrolet in accordance  
26 with procedures prescribed by the department.

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1 **FIFTEENTH CAUSE FOR DISCIPLINE**

2 **(Failure to Comply with Regulations Pursuant**  
3 **to the Motor Vehicle Inspection Program)**

4 40. Respondent's smog check inspector license is subject to disciplinary action pursuant  
5 to Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to comply with  
6 provisions of California Code of Regulations, title 16, as follows:

7 a. **Section 3340.30, subdivision (a)**: Respondent failed to inspect and test the Bureau's  
8 2001 Chevrolet in accordance with Health & Saf. Code sections 44012 and 44035, and California  
9 Code of Regulations, title 16, section 3340.42.

10 b. **Section 3340.42**: Respondent failed to conduct the required smog tests on the  
11 Bureau's 2001 Chevrolet in accordance with the Bureau's specifications.

12 **SIXTEENTH CAUSE FOR DISCIPLINE**

13 **(Dishonesty, Fraud or Deceit)**

14 41. Respondent's smog check inspector license is subject to disciplinary action pursuant  
15 to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed a  
16 dishonest, fraudulent, or deceitful act whereby another is injured by issuing an electronic smog  
17 certificate of compliance for the Bureau's 2001 Chevrolet without performing a bona fide  
18 inspection of the emission control devices and systems on the vehicle, thereby depriving the  
19 People of the State of California of the protection afforded by the Motor Vehicle Inspection  
20 Program.

21 **UNDERCOVER OPERATION #2: 2001 GMC**

22 42. On October 7, 2015, an undercover operator with the Bureau ("operator") took the  
23 Bureau's 2001 GMC to Respondent's facility and requested a smog inspection. The secondary  
24 air injection (AIR) system components were removed from the Bureau-documented vehicle. The  
25 operator did not sign a work order or receive a written estimate for the inspection. After the  
26 inspection was completed, the operator paid the facility \$48 in cash and received copies of an  
27 invoice and a VIR. The VIR indicated that Respondent performed the smog inspection on the

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1 vehicle. That same day, electronic smog Certificate of Compliance [REDACTED] was issued  
2 for the vehicle.

3 43. On October 16, 2015, the Bureau inspected the vehicle and found that the AIR system  
4 components were still missing.

5 **SEVENTEENTH CAUSE FOR DISCIPLINE**

6 **(Untrue or Misleading Statements)**

7 44. Respondent's registration is subject to disciplinary action pursuant to Bus. & Prof.  
8 Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized a statement which  
9 he knew or in the exercise of reasonable care should have known to be untrue or misleading, as  
10 follows: Respondent certified under penalty of perjury on the VIR that the Bureau's 2001 GMC  
11 had passed the inspection and was in compliance with applicable laws and regulations. In fact,  
12 the AIR system components were missing and as such, the vehicle would not pass the inspection  
13 required by Health & Saf. Code section 44012.

14 **EIGHTEENTH CAUSE FOR DISCIPLINE**

15 **(Fraud)**

16 45. Respondent's registration is subject to disciplinary action pursuant to Bus. & Prof.  
17 Code section 9884.7, subdivision (a)(4), in that Respondent committed an act that constitutes  
18 fraud by issuing an electronic smog certificate of compliance for the Bureau's 2001 GMC without  
19 performing a bona fide inspection of the emission control devices and systems on the vehicle,  
20 thereby depriving the People of the State of California of the protection afforded by the Motor  
21 Vehicle Inspection Program.

22 **NINETEENTH CAUSE FOR DISCIPLINE**

23 **(Violations of the Bus. & Prof. Code)**

24 46. Respondent's registration is subject to disciplinary action pursuant to Bus. & Prof.  
25 Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with Section 9884.9,  
26 subdivision (a), of that Code in a material respect, as follows: Respondent failed to provide the  
27 operator with a written estimate for the smog inspection on the Bureau's 2001 GMC.

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1 **TWENTIETH CAUSE FOR DISCIPLINE**

2 **(Violations of the Motor Vehicle Inspection Program)**

3 47. Respondent's smog check station license is subject to disciplinary action pursuant to  
4 Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to comply with the  
5 following sections of that Code:

6 a. **Section 44012, subdivision (f)**: Respondent failed to perform the visual inspection  
7 of the emission control components on the Bureau's 2001 GMC in accordance with procedures  
8 prescribed by the department.

9 b. **Section 44015**: Respondent issued an electronic smog certificate of compliance for  
10 the Bureau's 2001 GMC without properly testing and inspecting the vehicle to determine if it was  
11 in compliance with Health & Saf. Code section 44012.

12 **TWENTY-FIRST CAUSE FOR DISCIPLINE**

13 **(Failure to Comply with Regulations Pursuant**  
14 **to the Motor Vehicle Inspection Program)**

15 48. Respondent's smog check station license is subject to disciplinary action pursuant to  
16 Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to comply with  
17 provisions of California Code of Regulations, title 16, as follows:

18 a. **Section 3340.35, subdivision (c)**: Respondent issued an electronic smog certificate  
19 of compliance for the Bureau's 2001 GMC even though the vehicle had not been inspected in  
20 accordance with section 3340.42.

21 b. **Section 3340.42**: Respondent failed to conduct the required smog tests on the  
22 Bureau's 2001 GMC in accordance with the Bureau's specifications.

23 **TWENTY-SECOND CAUSE FOR DISCIPLINE**

24 **(Dishonesty, Fraud or Deceit)**

25 49. Respondent's smog check station license is subject to disciplinary action pursuant to  
26 Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed a dishonest,  
27 fraudulent, or deceitful act whereby another is injured by issuing an electronic smog certificate of  
28 compliance for the Bureau's 2001 GMC without performing a bona fide inspection of the

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

3 **TWENTY-THIRD CAUSE FOR DISCIPLINE**

4 **(Violations of the Motor Vehicle Inspection Program)**

5 50. Respondent's smog check inspector license is subject to disciplinary action pursuant  
6 to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to comply with  
7 section 44012, subdivision (f), of that Code, as follows: Respondent failed to perform the visual  
8 inspection of the emission control components on the Bureau's 2001 GMC in accordance with  
9 procedures prescribed by the department.

10 **TWENTY-FOURTH CAUSE FOR DISCIPLINE**

11 **(Failure to Comply with Regulations Pursuant**  
12 **to the Motor Vehicle Inspection Program)**

13 51. Respondent's smog check inspector license is subject to disciplinary action pursuant  
14 to Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to comply with  
15 provisions of California Code of Regulations, title 16, as follows:

16 a. **Section 3340.30, subdivision (a)**: Respondent failed to inspect and test the Bureau's  
17 2001 GMC in accordance with Health & Saf. Code sections 44012 and 44035, and California  
18 Code of Regulations, title 16, section 3340.42.

19 b. **Section 3340.42**: Respondent failed to conduct the required smog tests on the  
20 Bureau's 2001 GMC in accordance with the Bureau's specifications.

21 **TWENTY-FIFTH CAUSE FOR DISCIPLINE**

22 **(Dishonesty, Fraud or Deceit)**

23 52. Respondent's smog check inspector license is subject to disciplinary action pursuant  
24 to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed a  
25 dishonest, fraudulent, or deceitful act whereby another is injured by issuing an electronic smog  
26 certificate of compliance for the Bureau's 2001 GMC without performing a bona fide inspection  
27 of the emission control devices and systems on the vehicle, thereby depriving the People of the  
28 State of California of the protection afforded by the Motor Vehicle Inspection Program.

1 MATTERS IN AGGRAVATION

2 53. To determine the degree of discipline, if any, to be imposed on Respondent,  
3 Complainant alleges as follows:

4 a. On or about September 28, 2010, the Bureau issued Citation No. C2011-0345 against  
5 Respondent, in his capacity as owner of Super Smog, for violations of Health & Saf. Code section  
6 44012, subdivision (f) (failure to determine that emission control devices and systems required by  
7 State and Federal law are installed and functioning correctly in accordance with test procedures);  
8 and California Code of Regulations, title 16, section 3340.35, subdivision (c) (issuing a certificate  
9 of compliance to a vehicle that was improperly tested). On or about September 8, 2010,  
10 Respondent issued a certificate of compliance to a Bureau undercover vehicle with a missing fuel  
11 evaporative charcoal canister. The Bureau assessed civil penalties totaling \$1,000 against  
12 Respondent for the violations. Respondent paid the fine on November 9, 2010.

13 b. On or about September 28, 2010, the Bureau issued Citation No. M2011-0346 against  
14 Respondent's advanced emission specialist technician license (now smog check inspector license)  
15 for violations of Health & Saf. Code section 44032 (qualified technicians shall perform tests of  
16 emission control systems and devices in accordance with Health & Saf. Code section 44012); and  
17 California Code of Regulations, title 16, section 3340.30, subdivision (a) (qualified technicians  
18 shall inspect, test and repair vehicles in accordance with Health & Saf. Code sections 44012 and  
19 44035 and California Code of Regulations, title 16, section 3340.42). On or about September 8,  
20 2010, Respondent issued a certificate of compliance to a Bureau undercover vehicle with a  
21 missing fuel evaporative charcoal canister. Respondent was directed to complete an 8 hour  
22 training course and to submit proof of completion to the Bureau within 30 days from receipt of  
23 the citation. Respondent completed the training on November 22, 2010.

24 OTHER MATTERS

25 54. Pursuant to Bus. & Prof. Code section 9884.7, subdivision (c), the Director may  
26 suspend, revoke or place on probation the registration for all places of business operated in this  
27 state by Respondent Pedro Antonio Salazar, doing business as Super Smog, upon a finding that

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1 Respondent has, or is, engaged in a course of repeated and willful violations of the laws and  
2 regulations pertaining to an automotive repair dealer.

3 55. Pursuant to Health & Saf. Code section 44072.8, if Smog Check, Test Only, Station  
4 License Number TC 238644, issued to Respondent Pedro Antonio Salazar, doing business as  
5 Super Smog, is revoked or suspended, any additional license issued under Chapter 5 of the Health  
6 & Saf. Code in the name of said licensee may be likewise revoked or suspended by the Director.

7 56. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Inspector License  
8 Number EO 145300, issued to Pedro Antonio Salazar, is revoked or suspended, any additional  
9 license issued under this chapter in the name of said licensee may be likewise revoked or  
10 suspended by the Director.

11 **PRAYER**

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

14 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD  
15 238644, issued to Pedro Antonio Salazar, doing business as Super Smog;

16 2. Revoking or suspending any other automotive repair dealer registration issued to  
17 Pedro Antonio Salazar;

18 3. Revoking or suspending Smog Check, Test Only, Station License Number TC  
19 238644, issued to Pedro Antonio Salazar, doing business as Super Smog;

20 4. Revoking or suspending Smog Check Inspector License Number EO 145300, issued  
21 to Pedro Antonio Salazar;

22 5. Revoking or suspending any additional license issued under Chapter 5 of the Health  
23 and Safety Code in the name of Pedro Antonio Salazar;

24 6. Ordering Pedro Antonio Salazar, individually, and as owner of Super Smog, to pay  
25 the Director of Consumer Affairs the reasonable costs of the investigation and enforcement of this  
26 case, pursuant to Business and Professions Code section 125.3; and

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

DATED: June 7, 2016



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

SA2016100135