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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. **79/24-22230**

13 **JAN DARK MUSA ZAHRA d.b.a.**  
14 **ARLINGTON SMOG TEST ONLY**  
15 **8970 Arlington Ave**  
16 **Riverside, CA 92503**

**ACCUSATION**

17 **Automotive Repair Dealer Registration No.**  
18 **ARD 269583; Smog Check Station License**  
19 **No. TC 269583**

20 **-and-**

21 **MAHMOUD M. KAHIL**  
22 **10601 Diana Ave #418**  
23 **Riverside, CA 92505**

24 **Smog Check Inspector License No. EO**  
25 **141408**

26 Respondents.

27 **PARTIES**

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

2. On or about July 2, 2012, Bureau of Automotive Repair issued Automotive Repair  
Dealer Registration Number ARD 269583 to Jan Dark Musa Zahra dba Arlington Smog Test

1 Only (Respondent Arlington Smog Test Only). The Automotive Repair Dealer Registration was  
2 in full force and effect at all times relevant to the charges brought herein and will expire on July  
3 31, 2025, unless renewed.

4 3. On or about August 7, 2012, Bureau of Automotive Repair issued Smog Check, Test-  
5 Only, Station License Number TC 269583 to Jan Dark Musa Zahra dba Arlington Smog Test  
6 Only. The Smog Check, Test-Only, Station License was in full force and effect at all times  
7 relevant to the charges brought herein and will expire on July 31, 2025, unless renewed.

8 4. Respondent is also certified as a STAR Station. The certification was issued on  
9 January 11, 2013, and will remain active unless the ARD registration and/or Smog Check Station  
10 license is revoked, canceled, licenses become delinquent, or the certification is invalidated.

11 5. On or about December 30, 2013, Bureau of Automotive Repair issued Smog Check  
12 Inspector License Number EO 141408 to Mahmoud M Kahil (Respondent Kahil). The Smog  
13 Check Inspector License was in full force and effect at all times relevant to the charges brought  
14 herein and will expire on December 31, 2025, unless renewed.

### 15 **JURISDICTION**

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

18 7. Section 9884.7 of the Business and Professions Code<sup>1</sup> provides that the Director may  
19 revoke an ARD registration.

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

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

27 \_\_\_\_\_  
28 <sup>1</sup> All statutory references herein shall be to the Business and Professions Code unless  
specifically stated otherwise.

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

## STATUTORY PROVISIONS

11. Section 9884.7 of the Code states:

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

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

• • •

(4) Any other conduct which constitutes fraud.

...

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

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

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

(a) Violates any section of this chapter [the Motor Vehicle Inspection Program (Health and Saf. Code, ' 44000, et seq.)] and the regulations adopted pursuant to it, which related to the licensed activities.

• • •

(c) Violates any of the regulations adopted by the director pursuant to this chapter.

(d) Commits any act involving dishonesty, fraud, or deceit whereby another is injured.

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

...

(c) The department shall revoke the license of any smog check technician or station license who fraudulently certifies vehicles or participates in the fraudulent inspection of vehicles. A fraudulent inspection includes, but is not limited to, all of the following:

(1) Clean piping, as defined by the department.

...

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

...

### **REGULATORY PROVISIONS**

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

The bureau may suspend or revoke the license of or pursue other legal action against a licensee, if the licensee falsely or fraudulently issues or obtains a certificate of compliance or a certificate of noncompliance.

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

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

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

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

....

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

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

### **COST RECOVERY**

18. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and

1 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being  
2 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be  
3 included in a stipulated settlement.

#### 4 **VID DATA REVIEW**

5 19. Beginning March 9, 2015, California's Smog Check Program was updated to require  
6 the use of an On-Board Diagnostic Inspection System ("OIS"). OIS is the Smog Check  
7 equipment required in all areas of the State when inspecting most model-year 2000 and newer  
8 gasoline and hybrid vehicles and most 1998 and newer diesel vehicles. The system consists of a  
9 certified Data Acquisition Device ("DAD"), computer, bar code scanner, and printer. The DAD  
10 is an On Board Diagnostic ("OBD") scan tool that, when requested by the California OIS  
11 software, retrieves OBD data from the vehicle. All OBD data that the vehicle indicates it  
12 supports is requested by the California OIS software and will be retrieved. The DAD connects  
13 between the OIS computer and the vehicle's DLC. The California OIS software requires a  
14 continuous Internet connection when performing a Smog Check inspection and the OIS software  
15 communicates with BAR's central database through the Internet connection. The bar code  
16 scanner is used to input technician information, the vehicles identification number ("VIN"), and  
17 DMV renewal information. The printer provides a Vehicle Inspection Report ("VIR") containing  
18 inspection results for motorists and a Smog Check Certificate of Compliance number for passing  
19 vehicles.

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

25 21. During an OIS inspection, engine operating parameters are retrieved from the  
26 vehicle's OBD II system and recorded to the VID. This is accomplished during the functional  
27 portion of the OIS Smog Check inspection by plugging the DAD into the vehicle's DLC when  
28 prompted by the OIS analyzer screen prompt. Some of the parameters recorded are:

- Engine speed in revolutions per minute (RPM)
- Throttle position as measured by a throttle position sensor (TPS) mounted onto the throttle shaft. Measured in a percentage of opening from 0% at idle and near or up to 100% at full throttle.
- Manifold absolute pressure as measured by a manifold air pressure sensor (MAP) connected to an intake manifold source, measured in kilo pascals (kpa). Typical readings for a normally aspirated vehicle as follows: 0 kpa being absolute vacuum, 25kpa to 45kpa at idle, 101 kpa at full throttle, same as atmospheric pressure at sea level.
- Mass air flow as measured by a mass air flow sensor (MAF) mounted in the engine's air intake tract. Measured in grams per second (gps).<sup>2</sup>
- Ignition timing is set by the vehicle PCM based on engine speed and load, and is measured in degrees Before Top Dead Center (BTDC).

22. During normal engine operation at idle, engine speed is relatively steady around its target idle speed. With the engine idling, the TPS is steady and at or near 0%. The MAP and/or MAF readings are also steady. For the engine speed to increase, the throttle would have to be opened to increase airflow through the engine. The engine's management systems supply fuel and spark timing appropriate to any changes in throttle position and engine speed. An increase in throttle, measured by the TPS, which increases engine RPM, would result in corresponding increases in MAF as well as a change in MAP. Stated another way, any movement in the throttle from the idle position will result in an increase of airflow through the engine with corresponding increases RPM and/or MAF along with changes in MAP.

23. During an OIS Smog Check inspection, along with other visual and functional inspections, there is an OBD II query portion of the inspection. The OBD II query is performed with the engine idling and, when requested by the OIS analyzer, and an elevated or increased engine speed.

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<sup>2</sup> Not all vehicles include both MAP and MAF parameters. Many vehicles will have either MAP or MAF parameters separately.

1           24. If the vehicle passes the visual, functional and tailpipe tests, it passes the overall  
2 inspection, and a Certificate of Compliance is issued and transmitted electronically to the Vehicle  
3 Information Database (“VID”). These Certificates of Compliance are purchased in blocks of fifty  
4 (50) through the EIS or OIS from the VID, using a pre-arranged electronic bank account debit  
5 system or by check, via mail, from Bureau Headquarters in Sacramento. Each Certificate of  
6 Compliance has a unique control number so that it can be tracked to determine which Smog  
7 Check Station purchased the Certificate of Compliance and to which vehicle it was issued.

8           25. The VID contains registration data from Department of Motor Vehicles (“DMV”)  
9 plus emission standards, vehicle smog check inspections, smog check stations and technicians,  
10 and Certificates of Compliance. The VID receives the passing smog check results immediately  
11 following the inspection. During the vehicle registration process, the DMV accesses the VID to  
12 verify that the vehicle has been tested and certified. The Bureau can also access the VID to view  
13 test data on smog check inspections performed at any Smog Check Station, or search for, retrieve,  
14 and print a test record for a particular vehicle which has been tested. The EIS or OIS, depending  
15 on the test type, also prints a Vehicle Inspection Report (“VIR”), which is a physical record of the  
16 test results and shows the Certificate of Compliance number that was issued if the vehicle passed  
17 the smog inspection.

18           26. The smog check technician must sign the VIR under penalty of perjury to indicate  
19 that the inspection was done within Bureau guidelines. Smog Check Stations are required by law  
20 to maintain a copy of the VIR along with a copy of the repair invoice for three years. The  
21 consumer’s VIR serves as a receipt and proof that the VID was updated, and a Certificate of  
22 Compliance was issued. Licensed Smog Check Technicians are the only persons authorized by  
23 the Bureau to perform official inspections. They are issued a personal access code and a license,  
24 which are used to gain access to the EIS and OIS to perform smog check inspections.  
25 Unauthorized use of another technician’s access code or license is prohibited.

26           27. Respondents have engaged in numerous acts or omissions constituting violations of  
27 the Automotive Repair Act (Business and Professions Code section 9880 *et seq.*) and Motor  
28 Vehicle Inspection Program (Health and Safety Code section 44000 *et seq.*) through their practice

of “clean plugging.”<sup>3</sup> Respondent’s OIS Test Data available on the State database indicates that Respondents are involved in fraudulent smog inspection activities. A Bureau representative initiated an investigation based on information transmitted to the VID for smog check inspections performed by Respondents. The investigation revealed that the data related to certain vehicles certified by Respondents contained a pattern of unmistakable discrepancies between the information transmitted during the inspections and documented information known about the vehicles at issue. Specifically, the representative compared the data received from the certified vehicles to data from vehicles of the same year, make, and model and determined that the data from at least ten (10) of the certified vehicles were fraudulently tested by Respondents during the smog inspection using the “clean plugging” method as follows:

**Fraudulent Inspection #1:**

28. Bureau representative Steve Koch (Koch) reviewed VID data for Arlington Smog Test Only. The review indicates on March 10, 2023, a 2000 Toyota Celica GT, CA license 8ZDU786, VIN JTDDR32TXY0018453 (2000 Celica), was tested and Smog Check certificate # TE380353C was issued under licensed Smog Check technician #EO141408, Kahil

29. The dynamic data and PID charts for the 2000 Celica shows, between time stamps 165 and 18010, engine speed is steady at approximately 775 RPM. During this time, the TPS is fixed at a 90.6% opening, the MAF is fixed at 3.92 gps, and the spark timing for #1 cylinder is fixed at 23.5 degrees BTDC. After time stamp 18010, the engine speed accelerates to approximately 1700 RPM. From the time the engine RPM increases off idle to the higher RPMs, the TPS is fixed at the same 90.6% opening, the MAF is fixed at the same 3.92 gps, and the spark timing for #1 cylinder is also still fixed at the same 23.5 degrees BTDC.

30. During the entire period the dynamic data was collected, the only parameter that changed was engine RPM. The TPS, MAF, and spark timing readings remained unchanged even though the engine speed was increased. These readings are not characteristic or expected for

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

normal engine operation. The discrepancies in the dynamic data prove the DAD was not connected to the 2000 Celica being certified, causing the issuance of a fraudulent Smog Check certificate of compliance.

**Fraudulent Inspection #2:**

31. Koch reviewed VID data for Arlington Smog Test Only. The review indicates on April 21, 2023, a 2005 Toyota Camry, CA license 8PMK028, VIN 4T1BE32K15U556386 (2005 Camry), was tested and Smog Check certificate # IT643056C was issued under licensed Smog Check technician #EO141408, Kahil.

32. The dynamic data and PID charts for the 2005 Camry shows, between time stamp 170 and 17430, engine speed is steady at approximately 675 RPM. During this time, the TPS is fixed at a 19.2% opening, the MAF is fixed at 3.87 gps, and the spark timing for #1 cylinder is fixed at 10 degrees BTDC. After time stamp 17430, the engine speed accelerates to approximately 1700 RPM. From the time the engine RPM increases off idle to the higher RPMs, the TPS is fixed at the same 19.2% opening, the MAF is fixed at the same 3.87 gps, and the spark timing for #1 cylinder is also still fixed at the same 10 degrees BTDC.

33. During the entire period the dynamic data was collected, the only parameter that changed was engine RPM. The TPS, MAF, and spark timing readings remained unchanged even though the engine speed was increased. These readings are not characteristic or expected for normal engine operation. The discrepancies in the dynamic data prove the DAD was not connected to the 2005 Camry being certified, causing the issuance of a fraudulent Smog Check certificate of compliance.

**Fraudulent Inspection #3:**

34. Koch reviewed the VID data for Arlington Smog Test Only. The review indicates on April 22, 2023, a 2006 Nissan Frontier Crew Cab LE, CA license 8B04740, VIN 1N6AD07UX6C427157 (2006 Frontier), was tested and Smog Check certificate # IT643063C was issued under licensed Smog Check technician #EO141408, Kahil.

35. The dynamic data and PID charts for the 2006 Frontier shows, between time stamp 605 and 17986, engine speed is steady at approximately 750 RPM. During this time, the TPS is

1 fixed at a 4.7% opening, the MAF is fixed at 3.67 gps, and the spark timing for #1 cylinder is  
2 fixed at 15 degrees BTDC. After time stamp 17986, the engine speed accelerates to  
3 approximately 1900 RPM. From the time the engine RPM increases off idle to the higher RPMs,  
4 the TPS is fixed at the same 4.7% opening, the MAF is fixed at the same 3.67 gps, and the spark  
5 timing for #1 cylinder is also still fixed at the same 15 degrees BTDC.

6 36. During the entire period the dynamic data was collected, the only parameter that  
7 changed was engine RPM. The TPS, MAF, and spark timing readings remained unchanged even  
8 though the engine speed was increased. These readings are not characteristic or expected for  
9 normal engine operation. The discrepancies in the dynamic data prove the DAD was not  
10 connected to the 2006 Frontier being certified, causing the issuance of a fraudulent Smog Check  
11 certificate of compliance.

12 **Fraudulent Inspection #4:**

13 37. Koch reviewed the VID data for Arlington Smog Test Only. The review indicates on  
14 April 25, 2023, a 2002 Honda Accord LX, CA license 4VWM591, VIN 3HGCG66572G701679  
15 (2002 Accord), was tested and Smog Check certificate # IT643080C was issued under licensed  
16 Smog Check Technician #EO141408, Kahil.

17 38. The dynamic data and PID charts for the 2002 Accord shows, between time stamp  
18 130 and 16070, engine speed is steady at approximately 775 RPM. During this time, the TPS is  
19 fixed at a 9.4% opening, the MAP is fixed at 30 kPa, and the spark timing for #1 cylinder is fixed  
20 at 10.5 degrees BTDC. After time stamp 16070, the engine speed accelerates to approximately  
21 1800 RPM. From the time the engine RPM increases off idle to the higher RPMs, the TPS is  
22 fixed at the same 9.4% opening, the MAP is fixed at the same 30 kPa and the spark timing for #1  
23 cylinder is also still fixed at the same 10.5 degrees BTDC.

24 39. During the entire period the dynamic data was collected, the only parameter that  
25 changed was engine RPM. The TPS, MAP, and spark timing readings remained unchanged even  
26 though the engine speed was increased. These readings are not characteristic or expected for  
27 normal engine operation. The discrepancies in the dynamic data prove the DAD was not  
28

connected to the 2002 Accord being certified, causing the issuance of a fraudulent Smog Check certificate of compliance.

**Fraudulent Inspection #5:**

40. Koch reviewed the VID data for Arlington Smog Test Only. The review indicates on July 14, 2023, a 2001 Toyota 4Runner SR5, CA license 4TQJ131, VIN JT3GN86R910212230 (2001 4Runner), was tested and Smog Check certificate # TK562418C was issued under licensed Smog Check Technician #EO141408, Kahil.

41. The dynamic data and PID charts for the 2001 4Runner shows, between time stamp 147 and 19125, engine speed is steady at approximately 675 RPM. During this time, the TPS is fixed at a 14.9% opening, the MAF is fixed at 2.7 gps, and the spark timing for #1 cylinder is fixed at 11.5 degrees BTDC. After time stamp 19125, the engine speed accelerates to approximately 1800 RPM. From the time the engine RPM increases off idle to the higher RPMs, the TPS is fixed at the same 14.9% opening, the MAF is fixed at the same 2.7 gps, and the spark timing for #1 cylinder is also still fixed at the same 11.5 degrees BTDC.

42. During the entire period the dynamic data was collected, the only parameter that changed was engine RPM. The TPS, MAF, and spark timing readings remained unchanged even though the engine speed was increased. These readings are not characteristic or expected for normal engine operation. The discrepancies in the dynamic data prove the DAD was not connected to the 2001 4Runner being certified, causing the issuance of a fraudulent Smog Check certificate of compliance.

**Fraudulent Inspection #6:**

43. Koch reviewed the VID data for Arlington Smog Test Only. The review indicates on August 2, 2023, a 2005 Nissan Sentra 1.8, CA license 7DDJ094, VIN 3N1CB51D95L568265 (2005 Sentra), was tested and Smog Check certificate # TM153161C was issued under licensed Smog Check Technician #EO141408, Kahil.

44. The dynamic data and PID charts for the 2005 Sentra shows, between time stamp 184 and 17811, engine speed is steady at approximately 700 RPM. During this time, the TPS is fixed at 3.9% opening, the MAF is fixed at 3.92 gps, and the spark timing for #1 cylinder is fixed at 18

degrees BTDC. After time stamp 17811, the engine speed accelerates to approximately 1825 RPM. From the time the engine RPM increases off idle to the higher RPMs, the TPS is fixed at the same 3.9% opening, the MAF is fixed at the same 3.92 gps, and the spark timing for #1 cylinder is also still fixed at the same 18 degrees BTDC.

45. During the entire period the dynamic data was collected, the only parameter that changed was engine RPM. The TPS, MAF, and spark timing readings remained unchanged even though the engine speed was increased. These readings are not characteristic or expected for normal engine operation. The discrepancies in the dynamic data prove the DAD was not connected to the 2005 Sentra being certified, causing the issuance of a fraudulent Smog Check certificate of compliance.

**Fraudulent Inspection #7:**

46. Koch reviewed the VID data for Arlington Smog Test Only. The review indicates on September 20, 2023, a 2000 Toyota Sienna LE, CA license 4MPH295, VIN 4T3ZF13C1YU306200 (2000 Sienna), was tested and Smog Check certificate # TO108835C was issued under licensed Smog Check technician #EO141408, Kahil.

47. The dynamic data and PID charts for the 2000 Sienna shows, between time stamp 157 and 16695, engine speed is steady at approximately 675 RPM. During this time, the TPS is fixed at a 11.4% opening, the MAF is fixed at 4.05 gps, and the spark timing for #1 cylinder is fixed at 14.5 degrees BTDC. After time stamp 16695, the engine speed accelerates to approximately 1750 RPM. From the time the engine RPM increases off idle to the higher RPMs, the TPS is fixed at the same 11.4% opening, the MAF is fixed at the same 4.05 gps, and the spark timing for #1 cylinder is also still fixed at the same 14.5 degrees BTDC.

48. During the entire period the dynamic data was collected, the only parameter that changed was engine RPM. The TPS, MAF, and spark timing readings remained unchanged even though the engine speed was increased. These readings are not characteristic or expected for normal engine operation. The discrepancies in the dynamic data prove the DAD was not connected to the 2000 Sienna being certified, causing the issuance of a fraudulent Smog Check certificate of compliance.

**Fraudulent Inspection #8:**

49. Koch reviewed the VID data for Arlington Smog Test Only. The review indicates on September 23, 2023, a 2001 Nissan Frontier Crew Cab XE, CA license 6S89342, VIN 1N6ED27T31C399683 (2001 Frontier), was tested and Smog Check certificate # IV672362C was issued under licensed Smog Check Technician #EO141408, Kahil.

50. The dynamic data PID charts for the 2001 Frontier shows, between time stamp 230 and 18445, engine speed is steady at approximately 800 RPM. During this time, the TPS is fixed at 2% opening, the MAF is fixed at 22.34 gps, and the spark timing for #1 cylinder is fixed at 27 degrees BTDC. After time stamp 18445, the engine speed accelerates to approximately 1775 RPM. From the time the engine RPM increases off idle to the higher RPMs, the TPS is fixed at the same 2% opening, the MAF is fixed at the same 22.34 gps, and the spark timing for #1 cylinder is also still fixed at the same 27 degrees BTDC.

51. During the entire period the dynamic data was collected, the only parameter that changed was engine RPM. The TPS, MAF, and spark timing readings remained unchanged even though the engine speed was increased. These readings are not characteristic or expected for normal engine operation. The discrepancies in the dynamic data prove the DAD was not connected to the 2001 Frontier being certified, causing the issuance of a fraudulent Smog Check certificate of compliance.

**Fraudulent Inspection #9:**

52. Koch reviewed the VID data for Arlington Smog Test Only. The review indicates on October 14, 2023, a 2005 Nissan Xterra Off Road, CA license 7BYY203, VIN 5N1AN08U35C610294 (2005 Xterra), was tested and Smog Check certificate # IX078999C was issued under licensed Smog Check Technician #EO141408, Kahil.

53. The dynamic data and PID charts for the 2005 Xterra shows, between time stamp 179 and 18819, engine speed is steady at approximately 700 RPM. During this time, the TPS is fixed at 3.9% opening, the MAF is fixed at 1.18 gps, and the spark timing for #1 cylinder is fixed at 63.5 degrees BTDC. After time stamp 18819, the engine speed accelerates to approximately 1700 RPM. From the time the engine RPM increases off idle to the higher RPMs, the TPS is fixed at

1 the same 3.9% opening, the MAF is fixed at the same 1.18 gps, and the spark timing for #1  
2 cylinder is also still fixed at the same 63.5 degrees BTDC.

3 54. During the entire period the dynamic data was collected, the only parameter that  
4 changed was engine RPM. The TPS, MAF, and spark timing readings remained unchanged even  
5 though the engine speed was increased. These readings are not characteristic or expected for  
6 normal engine operation. The discrepancies in the dynamic data prove the DAD was not  
7 connected to the 2005 Xterra being certified, causing the issuance of a fraudulent Smog Check  
8 certificate of compliance.

9 **Fraudulent Inspection #10:**

10 55. Koch reviewed the VID data for Arlington Smog Test Only. The review indicates on  
11 November 16, 2023, a 2005 Chevrolet Trailblazer LS, CA license 7CZP419, VIN  
12 1GNDT13S752177837 (2005 Trailblazer), was tested and Smog Check certificate # TO789950C  
13 was issued under licensed Smog Check Technician #EO141408, Kahil.

14 56. The dynamic data and PID charts for the 2005 Trailblazer shows, between time stamp  
15 39 and 17464, engine speed is steady at approximately 575 RPM. During this time, the TPS is  
16 fixed at 27.5% opening, the MAP is fixed at 31 kPa, and the spark timing for #1 cylinder is fixed  
17 at 14.5 degrees BTDC. After time stamp 17464, the engine speed accelerates to approximately  
18 1875 RPM. From the time the engine RPM increases off idle to the higher RPMs, the TPS is  
19 fixed at the same 27.5% opening, the MAP is fixed at the same 31 kPa, and the spark timing for  
20 #1 cylinder is also still fixed at the same 14.5 degrees BTDC.

21 57. During the entire period the dynamic data was collected, the only parameter that  
22 changed was engine RPM. The TPS, MAP, and spark timing readings remained unchanged even  
23 though the engine speed was increased. These readings are not characteristic or expected for  
24 normal engine operation. The discrepancies in the dynamic data prove the DAD was not  
25 connected to the 2005 Trailblazer being certified, causing the issuance of a fraudulent Smog  
26 Check certificate of compliance.

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1           **Previous Failing Test: 2005 Trailblazer**

2           58. A previous failing test was performed by licensed inspector Kahil on the 2005  
3 Trailblazer at Arlington Smog Test Only on November 11, 2023. The 2005 Trailblazer failed the  
4 test for an incomplete OBD readiness monitor. The vehicle also had a pending DTC P0014. No  
5 Dynamic OBDII PID data was collected during the test.

6                           **FIRST CAUSE FOR DISCIPLINE**

7                   **(Untrue or Misleading Statements - Respondent Arlington Smog Test Only)**

8           59. Respondent Arlington Smog Test Only's registration is subject to disciplinary action  
9 pursuant to section 9884.7, subdivision (a)(1), in that Respondents made or authorized statements  
10 which they knew or in the exercise of reasonable care should have known to be untrue or  
11 misleading, as follows: Respondents certified that the vehicles set forth above in paragraphs 28-  
12 58, had passed inspection and were in compliance with applicable laws and regulations. In fact,  
13 Respondents conducted the inspections on those vehicles using the clean plugging method in  
14 order to issue smog certificates of compliance, and did not test or inspect the vehicles as required  
15 by Health and Safety Code section 44012.

16                           **SECOND CAUSE FOR DISCIPLINE**

17                   **(Fraud - Respondent Arlington Smog Test Only)**

18           60. Respondent Arlington Smog Test Only's registration is subject to disciplinary action  
19 pursuant to section 9884.7, subdivision (a)(4), in that Respondent Arlington Smog Test Only's  
20 employees committed acts which constitute fraud by issuing electronic certificates of compliance  
21 for the vehicles set forth above in paragraphs 28-58, without performing bona fide inspections of  
22 the emission control devices and systems on those vehicles, thereby depriving the People of the  
23 State of California of the protection afforded by the Motor Vehicle Inspection Program.

24                           **THIRD CAUSE FOR DISCIPLINE**

25                   **(Failure to Comply with the Motor Vehicle Inspection Program –**  
26                   **Respondent Arlington Smog Test Only)**

27           61. Respondent Arlington Smog Test Only's smog station license is subject to  
28 disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (a), in

1 conjunction with Health and Safety Code section 44072.10 subdivision (c), in that regarding the  
2 vehicles set forth above in paragraphs 28-58, Respondents failed to comply with the following  
3 sections of the Health and Safety Code:

4 (a) **Section 44012**: Respondent Arlington Smog Test Only's employees failed to ensure  
5 that the emission control tests were performed on the vehicles, in accordance with procedures  
6 prescribed by the department.

7 (b) **Section 44015**: Respondent Arlington Smog Test Only's employees issued electronic  
8 certificates of compliance for the vehicles, without ensuring that the vehicles were properly tested  
9 and inspected to determine if they were in compliance with Health and Safety Code section  
10 44012.

#### 11 **FOURTH CAUSE FOR DISCIPLINE**

##### 12 **(Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection Program -** 13 **Respondent Arlington Smog Test Only)**

14 62. Respondent Arlington Smog Test Only's smog station license is subject to  
15 disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (c), in that  
16 regarding the vehicles set forth above in paragraphs 28-58, Respondents failed to comply with the  
17 following provisions of the California Code of Regulations, Title 16, as follows:

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

21 (b) **Section 3340.42**: Respondent Arlington Smog Test Only's employees failed to  
22 conduct the required smog tests and inspections on those vehicles in accordance with the  
23 Bureau's specifications.

#### 24 **FIFTH CAUSE FOR DISCIPLINE**

##### 25 **(Dishonesty, Fraud or Deceit - Respondent Arlington Smog Test Only)**

26 63. Respondent Arlington Smog Test Only's smog station license is subject to  
27 disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (d), in  
28 conjunction with Health and Safety Code section 44072.10 subdivision (c), in that regarding the

1 vehicles set forth above in paragraphs 28-58, Respondents employees committed acts involving  
2 dishonesty, fraud or deceit whereby another was injured by issuing electronic certificates of  
3 compliance for those vehicles without performing bona fide inspections of the emission control  
4 devices and systems on the vehicles, thereby depriving the People of the State of California of the  
5 protection afforded by the Motor Vehicle Inspection Program.

6 **SIXTH CAUSE FOR DISCIPLINE**

7 **(Violations of the Motor Vehicle Inspection Program – Respondent Kahil)**

8 64. Respondent Kahil's smog check inspector license is subject to discipline pursuant to  
9 Health and Safety Code section 44072.2, subdivision (a), in that regarding the vehicles set forth  
10 above in paragraphs 28-58, Respondent Kahil failed to comply with section 44012 of the Health  
11 and Safety Code in a material respect, as follows: Respondent Kahil failed to perform the  
12 emission control tests on those vehicles in accordance with procedures prescribed by the  
13 department.

14 **SEVENTH CAUSE FOR DISCIPLINE**

15 **(Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection Program –**  
16 **Respondent Kahil)**

17 65. Respondent Kahil's smog check inspector license is subject to discipline pursuant to  
18 Health and Safety Code section 44072.2, subdivision (c), in that regarding the vehicles set forth  
19 above in paragraphs 28-58, Respondent Kahil failed to comply with provisions of the California  
20 Code of Regulations, title 16, as follows:

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

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

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

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1 **EIGHTH CAUSE FOR DISCIPLINE**

2 **(Dishonesty, Fraud or Deceit - Respondent Kahil)**

3 66. Respondent Kahil's smog check inspector license is subject to discipline pursuant to  
4 Health and Safety Code section 44072.2, subdivision (d), in conjunction with Health and Safety  
5 Code section 44072.10 subdivision (c), in that regarding the vehicles set forth above in  
6 paragraphs 28-58, Respondent Kahil committed acts involving dishonesty, fraud or deceit  
7 whereby another was injured by issuing electronic certificates of compliance for those vehicles  
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 **OTHER MATTERS**

12 67. Pursuant to Business & Professions Code section 9884.7, subdivision (c), the Director  
13 may suspend, revoke, or place on probation the registration for all places of business operated in  
14 this State by Respondent Arlington Smog Test Only upon a finding that Respondent Arlington  
15 Smog Test Only has, or is, engaged in a course of repeated and willful violations of the laws and  
16 regulations pertaining to an automotive repair dealer.

17 68. Pursuant to Health & Safety Code section 44072.8, if Smog Check, Test Only Station  
18 License Number TC 269583 issued to Respondent Arlington Smog Test Only is revoked or  
19 suspended following a hearing under this article, any additional license issued under Chapter 5,  
20 Part 5, Division 26 in the name of said licensee may be likewise revoked or suspended by the  
21 Director.

22 69. Pursuant to Health & Safety Code section 44072.8, if Smog Check Inspector License  
23 Number EO 141408, issued to Respondent Kahil, is revoked or suspended following a hearing  
24 under this article, any additional license issued under Chapter 5, Part 5, Division 26 in the name  
25 of said licensee may be likewise revoked or suspended by the Director.

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**PRAYER**

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

1. Revoking or suspending Automotive Repair Dealer Registration Number ARD 269583, issued to Jan Dark Musa Zahra dba Arlington Smog Test Only;
2. Revoking or suspending any other Automotive Repair Dealer Registration issued to Respondent Jan Dark Musa Zahra;
3. Revoking or suspending Smog Check, Test-Only, Station License Number TC 269583, issued to Jan Dark Musa Zahra dba Arlington Smog Test Only;
4. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code in the name of Respondent Jan Dark Musa Zahra;
5. Revoking or suspending Smog Check Inspector License Number EO 141408, issued to Mahmoud M. Kahil;
6. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code in the name of Respondent Mahmoud M. Kahil;
7. Ordering Jan Dark Musa Zahra and Mahmoud M. Kahil to pay the Bureau of Automotive Repair the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3 and if placed on probation, the costs of probation monitoring; and,
8. Taking such other and further action as deemed necessary and proper.

DATED: As of digital signature date

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

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