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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. 79/25-19537

13 **SMOG TECH PROS**
SHAHNAWAZ KHAN, OWNER
10751 Folsom Blvd. #B
Rancho Cordova, CA 95670

ACCUSATION

14 **Automotive Repair Dealer Registration No.**
15 **ARD 272701**
16 **Smog Check, Test Only, Station License No.**
TC 272701,

17 **SHAHNAWAZ KHAN**
1018 Brandywine Drive
Lodi, CA 95240

18 **Smog Check Inspector License No.**
19 **EO 635506,**

20 **FILEMON RODRIGUEZ**
3050 32nd Ave
Sacramento, CA 95824

21 **Smog Check Inspector License No.**
22 **EO 129784,**
23 **Smog Check Repair Technician License No.**
24 **EI 129784,**

1 **Smog Check Inspector License- Respondent Khan**

2 4. On or about May 10, 2013, the Bureau issued Smog Check Inspector License Number
3 EO 635506 to Respondent Khan. The Smog Check Inspector License was in full force and effect
4 at all times relevant to the charges brought herein and will expire on August 31, 2027, unless
5 renewed.

6 **Smog Check Inspector License- Respondent Rodriguez**

7 5. On or about October 29, 2012, the Bureau issued Smog Check Inspector License
8 Number EO 129784 to Filemon Rodriguez (Respondent Rodriguez). The Smog Check Inspector
9 License was in full force and effect at all times relevant to the charges brought herein and will
10 expire on November 30, 2026, unless renewed.

11 **Smog Check Inspector License- Respondent Rodriguez**

12 6. On or about October 29, 2012, the Bureau issued Smog Check Repair Technician
13 License Number EI 129784 to Respondent Rodriguez. The Smog Check Repair Technician
14 License expired on November 30, 2020, and has not been renewed.

15 **Smog Check Inspector License- Respondent Hartnett**

16 7. On or about January 20, 2017, the Bureau issued Smog Check Inspector License
17 Number EO 144350 to John Carl Hartnett (Respondent Hartnett). The Smog Check Inspector
18 License was in full force and effect at all times relevant to the charges brought herein and will
19 expire on April 30, 2027, unless renewed.

20 **Smog Check Repair Technician License- Respondent Hartnett**

21 8. On or about January 9, 2017, the Bureau issued Smog Check Repair Technician
22 License Number EI 144350 to Respondent Hartnett. The Smog Check Repair Technician License
23 was in full force and effect at all times relevant to the charges brought herein and expired on
24 April 30, 2025, and has not been renewed.

25 **Smog Check Inspector License- Respondent Lam**

26 9. On or about June 12, 2014, the Bureau issued Smog Check Inspector License
27 Number EO 636985 to Tam Lam (Respondent Lam). The Smog Check Inspector License was in
28 full force and effect at all times relevant to the charges brought herein and will expire on February

1 29, 2028, unless renewed.

2 **JURISDICTION**

3 10. This Accusation is brought before the Bureau under the authority of the following
4 laws. All section references are to the Business and Professions Code (Code) unless otherwise
5 indicated.

6 11. Code section 477 provides, in pertinent part, that Board includes bureau, commission,
7 committee, department, division, examining committee, program, and agency. License includes
8 certificate, registration or other means to engage in a business or profession regulated by the code.

9 12. Code section 9884.7 provides that the Director may revoke any automotive repair
10 dealer registration.

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

15 14. Health and Safety Code (Health & Saf. Code) section 44002 provides, in pertinent
16 part, that the Director has all the powers and authority granted under the Automotive Repair Act
17 for enforcing the Motor Vehicle Inspection Program.

18 15. Health & Saf. Code section 44072.6 provides, in pertinent part, that the expiration or
19 suspension of a license by operation of law, or by order or decision of the Director of Consumer
20 Affairs, or a court of law, or the voluntary surrender of the license shall not deprive the Director
21 of jurisdiction to proceed with any investigation of, or action or disciplinary proceedings against
22 the licensee, or to render a decision suspending or revoking the license.

23 16. Health & Saf. Code section 44072.8 states:

24 When a license has been revoked or suspended following a hearing under this
25 article, any additional license issued under this chapter in the name of the licensee
may be likewise revoked or suspended by the director.

26 ///

27 ///

28 ///

1 (f) A visual or functional check is made of emission control devices specified
2 by the department, including the catalytic converter in those instances in which the
3 department determines it to be necessary to meet the findings of Section 44001. The
4 visual or functional check shall be performed in accordance with procedures
5 prescribed by the department.

6 20. Health & Saf. Code section 44015 states, in pertinent part:

7 ...

8 (b) If a vehicle meets the requirements of Section 44012, a smog check station
9 licensed to issue certificates shall issue a certificate of compliance or a certificate of
10 noncompliance.

11 21. Health & Saf. Code section 44032 states:

12 No person shall perform, for compensation, tests or repairs of emission control
13 devices or systems of motor vehicles required by this chapter unless the person
14 performing the test or repair is a qualified smog check technician and the test or
15 repair is performed at a licensed smog check station. Qualified technicians shall
16 perform tests of emission control devices and systems in accordance with Section
17 44012.

18 22. Health & Saf. Code section 44059 states:

19 The willful making of any false statement or entry with regard to a material
20 matter in any oath, affidavit, certificate of compliance or noncompliance, or
21 application form which is required by this chapter or Chapter 20.3 (commencing with
22 Section 9880) of Division 3 of the Business and Professions Code, constitutes perjury
23 and is punishable as provided in the Penal Code.

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

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

28 (a) Violates any section of this chapter [the Motor Vehicle Inspection
Program (Health and Safety 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....

24. Health & Saf. Code section 44072.10 states, in pertinent part:

...

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

1 station license who fraudulently certifies vehicles or participates in the fraudulent
2 inspection of vehicles. A fraudulent inspection includes, but is not limited to, all of
the following:

3 ...

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

5 **REGULATORY PROVISIONS**

6 25. California Code of Regulations, title 16 (CCR), section 3340.30, states, in pertinent
7 part:

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

10 (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
11 Safety Code, and section 3340.42 of this article.

12 26. CCR section 3340.35, states, in pertinent part:

13 ...

14 (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
15 procedures specified in section 3340.42 of this article and has all the required
emission control equipment and devices installed and functioning correctly. The
16 following conditions shall apply:

17 ...

18 27. CCR section 3340.41, states, in pertinent part:

19 ...

20 (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
21 the EIS or OIS. Nor shall any person enter into the EIS or OIS any false information
about the vehicle being tested.

22 28. CCR section 3340.42, states:

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

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

26 (1) A loaded-mode test shall be the test method used to inspect 1976 - 1999
27 model-year vehicle, except diesel-powered, registered in the enhanced program areas
of the state. The loaded-mode test shall measure hydrocarbon, carbon monoxide,
28 carbon dioxide and oxides of nitrogen emissions, as contained in the bureau's
specifications referenced in subsection (a) of Section 3340.17 of this article. The

1 loaded-mode test shall use Acceleration Simulation Mode (ASM) test equipment,
2 including a chassis dynamometer, certified by the bureau.

3 On and after March 31, 2010, exhaust emissions from a vehicle subject to this
4 inspection shall be measured and compared to the emissions standards shown in the
5 Vehicle Look-up Table (VLT) Row Specific Emissions Standards (Cutpoints) Table,
6 dated March 2010, which is hereby incorporated by reference. If the emissions
7 standards for a specific vehicle are not included in this table then the exhaust
8 emissions shall be compared to the emissions standards set forth in TABLE I or
9 TABLE II, as applicable. A vehicle passes the loaded-mode test if all of its measured
10 emissions are less than or equal to the applicable emission standards specified in the
11 applicable table.

12 (2) A two-speed idle mode test shall be the test method used to inspect 1976 -
13 1999 model-year vehicles, except diesel-powered, registered in all program areas of
14 the state, except in those areas of the state where the enhanced program has been
15 implemented. The two-speed idle mode test shall measure hydrocarbon, carbon
16 monoxide and carbon dioxide emissions at high RPM and again at idle RPM, as
17 contained in the bureau's specifications referenced in subsection (a) of Section
18 3340.17 of this article. Exhaust emissions from a vehicle subject to this inspection
19 shall be measured and compared to the emission standards set forth in this section and
20 as shown in TABLE III. A vehicle passes the two-speed idle mode test if all of its
21 measured emissions are less than or equal to the applicable emissions standards
22 specified in Table III.

23 (3) An OBD-focused test, shall be the test method used to inspect gasoline-
24 powered vehicles 2000 model-year and newer, and diesel-powered vehicles 1998
25 model-year and newer. The OBD test failure criteria are specified in section
26 3340.42.2.

27 (b) In addition to subsection (a), all vehicles subject to the smog check program
28 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 (1) A gross polluter means a vehicle with excess hydrocarbon, carbon
2 monoxide, or oxides of nitrogen emissions pursuant to the gross polluter emissions
standards included in the tables described in subsection (a), as applicable.

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

6 (3) A gross polluting vehicle shall not be passed or issued a certificate of
7 compliance until the vehicle's emissions are reduced to or below the applicable
8 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.

9 (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.

10 29. CCR section 3373, states:

11 No automotive repair dealer or individual in charge shall, in filling out an
12 estimate, invoice, or work order, or record required to be maintained by section
13 3340.15(f) of this chapter, withhold therefrom or insert therein any statement or
14 information which will cause any such document to be false or misleading, or where
the tendency or effect thereby would be to mislead or deceive customers, prospective
customers, or the public.

15 **COST RECOVERY**

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

22 **UPDATED SMOG CHECK PROGRAM – ON BOARD DIAGNOSTIC SYSTEM**

23 31. On or about March 9, 2015, California's Smog Check Program was updated to keep
24 pace with ever-advancing technology. The program update requires the use of an On-Board
25 Diagnostic Inspection System (BAR-OIS). BAR-OIS is the smog check equipment required in all
26 areas of the State when inspecting most model-year 2000 and newer gasoline and hybrid vehicles
27 and most 1998 and newer diesel vehicles. The system consists of a certified Data Acquisition
28 Device (DAD), computer, bar code scanner, and printer.

1 performed a smog check inspection on a 2008 Ford Ranger (Vehicle 1), resulting in the issuance
2 of Certificate of Compliance No. UE888828C. The OIS test details for Vehicle 1 showed that the
3 eVIN had not been reported. The PID count recorded during the inspection on Vehicle 1 was not
4 consistent with the PID count for the make and model of this vehicle by other smog check
5 stations. J.B. concluded that the DAD had not been connected to Vehicle 1 during the smog check
6 inspection performed by Respondent Rodriguez, resulting in a fraudulent smog check certificate
7 of compliance for Vehicle 1.

8 35. J.B. utilized the Bureau's database and found that Vehicle 1 had been previously
9 tested at other smog check facilities. The BAR-OIS data from those inspections showed that the
10 eVIN had been transmitted as expected, and the communication protocol and PID count had been
11 consistent with the make and model of Vehicle 1.

12 **Vehicle 2**

13 36. BAR-OIS test data showed that on December 30, 2024, Respondent Hartnett
14 performed a smog check inspection on a 2015 Dodge Challenger SXT (Vehicle 2), resulting in
15 the issuance of Certificate of Compliance No. UI306136C. The OIS test details for Vehicle 2
16 showed that the eVIN had not been reported. The PID count recorded during the inspection on
17 Vehicle 2 was not consistent with the PID count for the make and model of this vehicle by other
18 smog check stations. J.B. concluded that the DAD had not been connected to Vehicle 2 during
19 the smog check inspection performed by Respondent Hartnett, resulting in a fraudulent smog
20 check certificate of compliance for Vehicle 2.

21 37. J.B. utilized the Bureau's database and found that Vehicle 2 had been previously
22 tested at other smog check facilities. The BAR-OIS data from those inspections showed that the
23 eVIN had been transmitted as expected, and the communication protocol and PID count had been
24 consistent with the make and model of Vehicle 2.

25 **Vehicle 3**

26 38. BAR-OIS test data showed that on March 13, 2025, Respondent Rodriguez
27 performed a smog check inspection on a 2017 Ford Explorer XLT (Vehicle 3), resulting in the
28 issuance of Certificate of Compliance No. UK813089C. The OIS test details for Vehicle 3

1 showed that the eVIN had not been reported. The PID count recorded during the inspection on
2 Vehicle 3 was not consistent with the PID count for the make and model of this vehicle by other
3 smog check stations. J.B. concluded that the DAD had not been connected to Vehicle 3 during
4 the smog check inspection performed by Respondent Rodriguez, resulting in a fraudulent smog
5 check certificate of compliance for Vehicle 3.

6 39. J.B. utilized the Bureau's database and found that Vehicle 3 had been previously
7 tested at other smog check facilities. The BAR-OIS data from those inspections showed that the
8 eVIN had been transmitted as expected, and the communication protocol and PID count had been
9 consistent with the make and model of Vehicle 3.

10 **Vehicle 4**

11 40. BAR-OIS test data showed that on July 3, 2025, Respondent Rodriguez performed a
12 smog check inspection on a 2017 Dodge Charger R/T (Vehicle 4), resulting in the issuance of
13 Certificate of Compliance No. JF159265C. The OIS test details for Vehicle 4 showed that the
14 eVIN had not been reported. J.B. concluded that the DAD had not been connected to Vehicle 4
15 during the smog check inspection performed by Respondent Rodriguez, resulting in a fraudulent
16 smog check certificate of compliance for Vehicle 4.

17 41. J.B. utilized the Bureau's database and found that Vehicle 4 had been previously
18 tested at other smog check facilities. The BAR-OIS data from those inspections showed that the
19 eVIN had been transmitted as expected, and the communication protocol and PID count had been
20 consistent with the make and model of Vehicle 4.

21 **Vehicle 5**

22 42. BAR-OIS test data showed that on August 8, 2025, Respondent Khan performed a
23 smog check inspection on a 2011 Honda CR-V SE (Vehicle 5), resulting in the issuance of
24 Certificate of Compliance No. JF779306C. The OIS test details for Vehicle 5 showed that the
25 eVIN had not been reported. The PID count recorded during the inspection on Vehicle 5 was not
26 consistent with the PID count for the make and model of this vehicle by other smog check
27 stations. J.B. concluded that the DAD had not been connected to Vehicle 5 during the smog
28 check inspection performed by Respondent Khan, resulting in a fraudulent smog check certificate

1 of compliance for Vehicle 5.

2 43. J.B. utilized the Bureau's database and found that Vehicle 5 had been previously
3 tested at other smog check facilities. The BAR-OIS data from those inspections showed that the
4 eVIN had been transmitted as expected, and the communication protocol and PID count had been
5 consistent with the make and model of Vehicle 5.

6 **Vehicle 6**

7 44. BAR-OIS test data showed that on November 10, 2025, Respondent Khan performed
8 a smog check inspection on a 2015 Honda CR-V LX (Vehicle 6), resulting in the issuance of
9 Certificate of Compliance No. UW554023C. The OIS test details for Vehicle 6 showed that the
10 eVIN had not been reported. J.B. concluded that the DAD had not been connected to Vehicle 6
11 during the smog check inspection performed by Respondent Khan, resulting in a fraudulent smog
12 check certificate of compliance for Vehicle 6.

13 45. J.B. utilized the Bureau's database and found that Vehicle 6 had been previously
14 tested at other smog check facilities. The BAR-OIS data from those inspections showed that the
15 eVIN had been transmitted as expected, and the communication protocol and PID count had been
16 consistent with the make and model of Vehicle 6.

17 **Vehicle 7**

18 46. BAR-OIS test data showed that on November 18, 2025, Respondent Lam performed a
19 smog check inspection on a 2015 Nissan Murano S (Vehicle 7), resulting in the issuance of
20 Certificate of Compliance No. UW624993C. The OIS test details for Vehicle 7 showed that the
21 eVIN had not been reported. J.B. concluded that the DAD had not been connected to Vehicle 7
22 during the smog check inspection performed by Respondent Lam, resulting in a fraudulent smog
23 check certificate of compliance for Vehicle 7.

24 47. J.B. utilized the Bureau's database and found that Vehicle 7 had been previously
25 tested at other smog check facilities. The BAR-OIS data from those inspections showed that the
26 eVIN had been transmitted as expected, and the communication protocol and PID count had been
27 consistent with the make and model of Vehicle 7.

28 ///

1 **Vehicle 8**

2 48. BAR-OIS test data showed that on December 26, 2025, Respondent Khan performed
3 a smog check inspection on a 2013 Toyota Venza LE (Vehicle 8), resulting in the issuance of
4 Certificate of Compliance No. UW955171C. The OIS test details for Vehicle 8 showed that the
5 eVIN had not been reported. The PID count recorded during the inspection on Vehicle 8 was not
6 consistent with the PID count for the make and model of this vehicle by other smog check
7 stations. J.B. concluded that the DAD had not been connected to Vehicle 8 during the smog check
8 inspection performed by Respondent Khan, resulting in a fraudulent smog check certificate of
9 compliance for Vehicle 8.

10 49. J.B. utilized the Bureau’s database and found that Vehicle 8 had been previously
11 tested at other smog check facilities. The BAR-OIS data from those inspections showed that the
12 eVIN had been transmitted as expected, and the communication protocol and PID count had been
13 consistent with the make and model of Vehicle 8.

14 **Vehicle 9**

15 50. BAR-OIS test data showed that on December 29, 2025, Respondent Lam performed a
16 smog check inspection on a 2012 Toyota Camry Hybrid (Vehicle 9), resulting in the issuance of
17 Certificate of Compliance No. UW955173C. The OIS test details for Vehicle 9 showed that the
18 eVIN had not been reported. J.B. concluded that the DAD had not been connected to Vehicle 9
19 during the smog check inspection performed by Respondent Lam, resulting in a fraudulent smog
20 check certificate of compliance for Vehicle 9.

21 51. J.B. utilized the Bureau’s database and found that Vehicle 9 had been previously
22 tested at other smog check facilities. The BAR-OIS data from those inspections showed that the
23 eVIN had been transmitted as expected, and the communication protocol and PID count had been
24 consistent with the make and model of Vehicle 9.

25 **Vehicle 10**

26 52. BAR-OIS test data showed that on January 12, 2026, Respondent Khan performed a
27 smog check inspection on a 2016 Chevrolet Silverado K1500 LT (Vehicle 10), resulting in the
28 issuance of Certificate of Compliance No. UY938640C. The OIS test details for Vehicle 10

1 showed that the eVIN had not been reported. J.B. concluded that the DAD had not been
2 connected to Vehicle 10 during the smog check inspection performed by Respondent Khan,
3 resulting in a fraudulent smog check certificate of compliance for Vehicle 10.

4 53. J.B. utilized the Bureau's database and found that Vehicle 10 had been previously
5 tested at other smog check facilities. The BAR-OIS data from those inspections showed that the
6 eVIN had been transmitted as expected, and the communication protocol and PID count had been
7 consistent with the make and model of Vehicle 10.

8 **FIRST CAUSE FOR DISCIPLINE**

9 **(Untrue or Misleading Statements - Respondent Tech Pros)**

10 54. Respondent Tech Pros' registration is subject to disciplinary action pursuant to Code
11 section 9884.7, subdivision (a)(1), in conjunction with Code section 9889.22, in that Respondent
12 Tech Pros made or authorized statements which Respondent Tech Pros knew or in the exercise of
13 reasonable care should have known to be untrue or misleading. Specifically, Respondent Tech
14 Pros certified that Vehicles 1 through 10, identified in paragraphs 34 through 53, above, passed
15 inspection and were in compliance with applicable laws and regulations when, in fact, those
16 vehicles had not been properly inspected.

17 **SECOND CAUSE FOR DISCIPLINE**

18 **(Fraud - Respondent Tech Pros)**

19 55. Respondent Tech Pros' registration is subject to disciplinary action pursuant to Code
20 section 9884.7, subdivision (a)(4), in that Respondent Tech Pros' committed acts that constituted
21 fraud by issuing electronic smog certificates of compliance for Vehicles 1 through 10, identified
22 in paragraphs 34 through 53, above, without ensuring that bona fide inspections were performed
23 of the emission control devices and systems on the vehicles, thereby depriving the People of the
24 State of California of the protection afforded by the Motor Vehicle Inspection Program.

25 **THIRD CAUSE FOR DISCIPLINE**

26 **(Material Violation of Automotive Repair Act - Respondent Tech Pros)**

27 56. Respondent Tech Pros' registration is subject to disciplinary action pursuant Code
28 section 9884.7, subdivision (a)(6), in that Respondent Tech Pros failed in a material respect to

1 comply with the provisions of the chapter or regulations adopted pursuant to it when Respondent
2 Tech Pros issued electronic certificates of compliance for Vehicles 1 through 10, identified in
3 paragraphs 34 through 53, above, without performing bona fide inspections of the emission
4 control devices and systems on those vehicles, thereby depriving the People of the State of
5 California of the protection afforded by the Motor Vehicle Inspection Program.

6 **FOURTH CAUSE FOR DISCIPLINE**

7 **(Violations of Regulations Pursuant to the Motor Vehicle Inspection Program -**
8 **Respondent Tech Pros)**

9 57. Respondent Tech Pros' smog check, test only, station license is subject to discipline
10 pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that with regards to Vehicles
11 1 through 10, identified in paragraphs 34 through 53, above, Respondent Tech Pros failed to
12 comply with the following sections of the CCR's:

13 a. **Section 3340.35, subdivision (c)**: Respondent Tech Pros failed to inspect and
14 test Vehicles 1 through 10 in accordance with the procedures specified in section 3340.42 of the
15 CCR and failed to ensure that the vehicles had all the required emission control equipment and
16 devices installed and functioning correctly.

17 b. **Section 3373**: Respondent Tech Pros made or authorized documents which it
18 knew or which by exercise of reasonable care should have known to be untrue or misleading,
19 when Respondent issued fraudulent smog certificates of compliance for Vehicles 1 through 10.

20 **FIFTH CAUSE FOR DISCIPLINE**

21 **(Violations of the Motor Vehicle Inspection Program - Respondent Tech Pros)**

22 58. Respondent Tech Pros' smog check, test only, station license is subject to disciplinary
23 action pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that with regards to
24 Vehicles 1 through 10, identified in paragraphs 34 through 53, above, Respondent Tech Pros
25 failed to comply with the Health & Saf. Code, as follows:

26 a. **Health & Saf. Code, section 44012**: Respondent Tech Pros failed to ensure
27 that the emission control tests were performed on the vehicles in accordance with procedures
28 prescribed by the department.

1 a. **CCR, section 3340.30, subdivision (a)**: Respondent Khan failed to inspect
2 and test Vehicles 5, 6, 8, and 10 in accordance with Health & Saf. Code section 44012 and CCR
3 section 3340.42.

4 b. **CCR, section 3340.41, subdivision (c)**: Respondent Khan entered false
5 information into the OIS by entering vehicle identification information for a vehicle other than the
6 one being tested.

7 **NINTH CAUSE FOR DISCIPLINE**

8 **(Dishonesty, Fraud or Deceit - Respondent Khan)**

9 62. Respondent Khan's smog check inspector license is subject to disciplinary action
10 pursuant to Health & Saf. Code section 44072.2, subdivision (d), in conjunction with Health &
11 Saf. Code section 44072.10, subdivision (c), in that Respondent Khan committed dishonest,
12 fraudulent, or deceitful acts whereby another was injured by issuing electronic smog certificates
13 of compliance for Vehicles 5, 6, 8, and 10, identified in paragraphs 42-45, 48-49, and 52-53
14 above, without performing bona fide inspections of the emission control devices and systems on
15 those vehicles, thereby depriving the People of the State of California of the protection afforded
16 by the Motor Vehicle Inspection Program.

17 **TENTH CAUSE FOR DISCIPLINE**

18 **(Violations of the Motor Vehicle Inspection Program - Respondent Rodriguez)**

19 63. Respondent Rodriguez's smog check inspector license is subject to disciplinary action
20 pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent Rodriguez
21 violated section 44032 of that Code. Specifically, Respondent Rodriguez failed to perform the
22 emission control tests on Vehicles 1, 3, and 4, identified in paragraphs 34-35, and 38-41, above,
23 in accordance with procedures prescribed by the department.

24 **ELEVENTH CAUSE FOR DISCIPLINE**

25 **(Failure to Comply with Regulations - Respondent Rodriguez)**

26 64. Respondent Rodriguez's smog check inspector license is subject to discipline
27 pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that regarding Vehicles 1, 3,
28 and 4, identified in paragraphs 34-35, and 38-41, above, Respondent Rodriguez failed to comply

1 with provisions of the CCR, as follows:

2 a. **CCR, section 3340.30, subdivision (a)**: Respondent Rodriguez failed to
3 inspect and test Vehicles 1, 3, and 4 in accordance with Health & Saf. Code section 44012 and
4 CCR section 3340.42.

5 b. **CCR, section 3340.41, subdivision (c)**: Respondent Rodriguez entered false
6 information into the OIS by entering vehicle identification information for a vehicle other than the
7 one being tested.

8 **TWELFTH CAUSE FOR DISCIPLINE**

9 **(Dishonesty, Fraud or Deceit - Respondent Rodriguez)**

10 65. Respondent Rodriguez's smog check inspector license is subject to disciplinary action
11 pursuant to Health & Saf. Code section 44072.2, subdivision (d), in conjunction with Health &
12 Saf. Code section 44072.10, subdivision (c), in that Respondent Rodriguez committed dishonest,
13 fraudulent, or deceitful acts whereby another was injured by issuing electronic smog certificates
14 of compliance for Vehicles 1, 3, and 4, identified in paragraphs 34-35, and 38-41, above, without
15 performing bona fide inspections of the emission control devices and systems on those vehicles,
16 thereby depriving the People of the State of California of the protection afforded by the Motor
17 Vehicle Inspection Program.

18 **THIRTEENTH CAUSE FOR DISCIPLINE**

19 **(Violations of the Motor Vehicle Inspection Program - Respondent Hartnett)**

20 66. Respondent Hartnett's smog check inspector license and smog check repair license
21 are subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (a),
22 in that Respondent Hartnett violated section 44032 of that Code. Specifically, Respondent
23 Hartnett failed to perform the emission control tests on Vehicle 2, identified in paragraphs 36-37,
24 above, in accordance with procedures prescribed by the department.

25 **FOURTEENTH CAUSE FOR DISCIPLINE**

26 **(Failure to Comply with Regulations - Respondent Hartnett)**

27 67. Respondent Hartnett's smog check inspector license and smog check repair license
28 are subject to discipline pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that

1 regarding Vehicle 2, identified in paragraphs 36-37, above, Respondent Hartnett failed to comply
2 with provisions of the CCR, as follows:

3 a. **CCR, section 3340.30, subdivision (a)**: Respondent Hartnett failed to inspect
4 and test Vehicle 2 in accordance with Health & Saf. Code section 44012 and CCR section
5 3340.42.

6 b. **CCR, section 3340.41, subdivision (c)**: Respondent Hartnett entered false
7 information into the OIS by entering vehicle identification information for a vehicle other than the
8 one being tested.

9 **FIFTEENTH CAUSE FOR DISCIPLINE**

10 **(Dishonesty, Fraud or Deceit - Respondent Hartnett)**

11 68. Respondent Hartnett's smog check inspector license and smog check repair license
12 are subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (d),
13 in conjunction with Health & Saf. Code section 44072.10, subdivision (c), in that Respondent
14 Hartnett committed dishonest, fraudulent, or deceitful acts whereby another was injured by
15 issuing electronic smog certificates of compliance for Vehicle 2, identified in paragraphs 36-37,
16 above, without performing bona fide inspections of the emission control devices and systems on
17 those vehicles, thereby depriving the People of the State of California of the protection afforded
18 by the Motor Vehicle Inspection Program.

19 **SIXTEENTH CAUSE FOR DISCIPLINE**

20 **(Violations of the Motor Vehicle Inspection Program - Respondent Lam)**

21 69. Respondent Lam's smog check inspector license is subject to disciplinary action
22 pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent Lam violated
23 section 44032 of that Code. Specifically, Respondent Lam failed to perform the emission control
24 tests on Vehicles 7 and 9, identified in paragraphs 46-47 and 50-51, above, in accordance with
25 procedures prescribed by the department.

26 **SEVENTEENTH CAUSE FOR DISCIPLINE**

27 **(Failure to Comply with Regulations - Respondent Lam)**

28 70. Respondent Lam's smog check inspector license is subject to discipline pursuant to

1 Health & Saf. Code section 44072.2, subdivision (c), in that regarding Vehicles 7 and 9,
2 identified in paragraphs 46-47 and 50-51, above, Respondent Lam failed to comply with
3 provisions of the CCR, as follows:

4 a. **CCR, section 3340.30, subdivision (a)**: Respondent Lam failed to inspect and
5 test Vehicles 7 and 9 in accordance with Health & Saf. Code section 44012 and CCR section
6 3340.42.

7 b. **CCR, section 3340.41, subdivision (c)**: Respondent Lam entered false
8 information into the OIS by entering vehicle identification information for a vehicle other than the
9 one being tested.

10 **EIGHTEENTH CAUSE FOR DISCIPLINE**

11 **(Dishonesty, Fraud or Deceit - Respondent Lam)**

12 71. Respondent Lam’s smog check inspector license is subject to disciplinary action
13 pursuant to Health & Saf. Code section 44072.2, subdivision (d), in conjunction with Health &
14 Saf. Code section 44072.10, subdivision (c), in that Respondent Lam committed dishonest,
15 fraudulent, or deceitful acts whereby another was injured by issuing electronic smog certificates
16 of compliance for Vehicles 7 and 9, identified in paragraphs 46-47 and 50-51, above, without
17 performing bona fide inspections of the emission control devices and systems on those vehicles,
18 thereby depriving the People of the State of California of the protection afforded by the Motor
19 Vehicle Inspection Program.

20 **MATTERS IN AGGRAVATION**

21 72. To determine the degree of discipline, if any, to be imposed, Complainant alleges as
22 follows:

23 **Respondent Tech Pros**

24 73. On or about July 30, 2019, in a disciplinary action entitled “*In the Matter of the*
25 *Accusation Against: Smog Tech Pros, Shahnawaz Khan, Owner; Kevin Humberto Cruz*”, Case
26 No. 79/18-2714, the Director of the Department of Consumer Affairs issued a Decision revoking
27 Respondent Tech Pros’ Automotive Repair Dealer Registration No. ARD 272701, and Smog
28 Check Test Only Station License No. TC 272701. However, the revocations were stayed, and

1 Respondent Smog Tech Pros' licenses were placed on probation for a period of five (5) years
2 with certain terms and conditions. The Decision was based on numerous violations, including:
3 Code section 9884.7, subdivision (a)(1) (untrue and misleading statements in certifying that 10
4 vehicles passed inspection and were in compliance with applicable laws and regulations, when
5 the inspections were conducted using the clean plugging method), Code section 9884.7,
6 subdivision (a)(4) (fraudulent conduct in issuing smog certificates of compliance for 10 vehicles
7 without ensuring that bona fide inspections were performed of the emission control devices and
8 systems on the vehicles), Health & Saf. Code section 44072.2, subdivision (a) (failed to ensure
9 that emissions control tests were performed on 10 vehicles, and issued smog certificates without
10 ensuring that they were properly tested and inspected), Health & Saf. Code section 44072.2,
11 subdivision (c) (issued smog certificates for 10 vehicles even though they had not been inspected
12 in accordance with the CCR), and Health & Saf. Code section 44072.2, subdivision (d)
13 (dishonest, fraudulent, or deceitful acts).

14 **OTHER MATTERS**

15 74. Pursuant to Bus. & Prof. Code section 9884.7, subdivision (c), the Director may
16 suspend, revoke, or place on probation the registration for all places of business operated in this
17 state by Respondent Tech Pros, upon a finding that Respondent Tech Pros has, or is, engaged in a
18 course of repeated and willful violations of the laws and regulations pertaining to an automotive
19 repair dealer.

20 75. Pursuant to Health & Saf. Code section 44072.8, if Smog Check, Test Only, Station
21 License Number TC 272701, issued to Respondent Tech Pros, is revoked or suspended, any
22 additional license issued under Chapter 5 of Part 5 of Division 26 of the Health & Saf. Code in
23 the name of said licensee may be likewise revoked or suspended by the Director.

24 76. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Inspector License
25 Number EO 635506, issued to Respondent Khan, is revoked or suspended, any additional license
26 issued under Chapter 5 of Part 5 of Division 26 of the Health & Safety Code in the name of said
27 licensee may be likewise revoked or suspended by the Director.

28 77. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Inspector License

1 Number EO 129784 and Smog Check Repair Technician License Number EI 129784, issued to
2 Respondent Rodriguez, are revoked or suspended, any additional license issued under Chapter 5
3 of Part 5 of Division 26 of the Health & Safety Code in the name of said licensee may be likewise
4 revoked or suspended by the Director.

5 78. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Inspector License
6 Number EO 144350 and Smog Check Repair Technician License Number EI 144350, issued to
7 Respondent Hartnett, are revoked or suspended, any additional license issued under Chapter 5 of
8 Part 5 of Division 26 of the Health & Safety Code in the name of said licensee may be likewise
9 revoked or suspended by the Director.

10 79. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Inspector License
11 Number EO 636985, issued to Respondent Lam, is revoked or suspended, any additional license
12 issued under Chapter 5 of Part 5 of Division 26 of the Health & Safety Code in the name of said
13 licensee may be likewise revoked or suspended by the Director.

14 **PRAYER**

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

18 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
19 272701, issued to Smog Tech Pros with Shahnawaz Khan as Owner;

20 2. Revoking or suspending any other Automotive Dealer Registration issued to
21 Shahnawaz Khan;

22 3. Revoking or suspending Smog Check Test Only Station Number TC 272701, issued
23 to Smog Tech Pros with Shahnawaz Khan as Owner;

24 4. Revoking or suspending Smog Check Inspector License Number EO 635506, issued
25 to Shahnawaz Khan;

26 5. Revoking or suspending any other licenses issued under Chapter 5 of Part 5 of
27 Division 26 of the Health & Saf. Code in the name of Shahnawaz Khan;

28 6. Revoking or suspending Smog Check Inspector License Number EO 129784, issued

1 to Filemon Rodriguez;

2 7. Revoking or suspending Smog Check Repair Technician Number EI 129784, issued
3 to Filemon Rodriguez;

4 8. Revoking or suspending any other licenses issued under Chapter 5 of Part 5 of
5 Division 26 of the Health & Saf. Code in the name of Filemon Rodriguez;

6 9. Revoking or suspending Smog Check Inspector License Number EO 144350, issued
7 to John Carl Hartnett;

8 10. Revoking or suspending Smog Check Repair Technician Number EI 144350, issued
9 to John Carl Hartnett;

10 11. Revoking or suspending any other licenses issued under Chapter 5 of Part 5 of
11 Division 26 of the Health & Saf. Code in the name of John Carl Hartnett;

12 12. Revoking or suspending Smog Check Inspector License Number EO 636985, issued
13 to Tam Lam;

14 13. Revoking or suspending any other licenses issued under Chapter 5 of Part 5 of
15 Division 26 of the Health & Saf. Code in the name of Tam Lam;

16 14. Ordering Smog Tech Pros, Shahnawaz Khan, Filemon Rodriguez, John Hartnett and
17 Tam Lam to pay the Bureau of Automotive Repair the reasonable costs of the investigation and
18 enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

19 15. Taking such other and further action as deemed necessary and proper.
20

21 DATED: As of Digital Signature Date

22 _____
23 PATRICK DORAIS
24 Chief
25 Bureau of Automotive Repair
26 Department of Consumer Affairs
27 State of California
28 *Complainant*

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