

**BEFORE THE DIRECTOR OF THE
DEPARTMENT OF CONSUMER AFFAIRS
BUREAU OF AUTOMOTIVE REPAIR
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

JAMIE ALONSO PEREZ dba SONORA SMOG CHECK 2

1952 W. Highland Ave.

San Bernardino, CA 92407

Mailing Address:

1003 N. Teakwood Ave.

Rialto, CA 92376

Automotive Repair Dealer Registration No. ARD 278899

Smog Check Test Only Station License No. TC 278899

Smog Check Inspector License No. EO 637098

Respondents.

Case No. 79/25-10109

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OAH No. 2025120649

DECISION

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

This Decision shall be effective on June 19, 2026.

IT IS SO ORDERED May 12, 2026.

Original signature on file
GRACE ARUPO RODRIGUEZ
Assistant Deputy Director
Legal Affairs Division
Department of Consumer Affairs

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

In the Matter of the Accusation Against:

**JAIME ALONSO PEREZ doing business as SONORA SMOG
CHECK 2, Automotive Repair Dealer Registration No. ARD
278899 Smog Check Test Only Station License No. TC 278899**

Smog Check Inspector License No. EO 637098

Respondent

Agency Case No. 79/25-10109

OAH No. 2025120649

PROPOSED DECISION

Thomas Lucero, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter by videoconference on February 20, 2026.

Jason Liu, Deputy Attorney General, represented complainant, Patrick Dorais, Chief, Bureau of Automotive Repair (Bureau or BAR), Department of Consumer Affairs (Department). Frank Brucculeri, Attorney at Law, represented respondent Jaime Alonso Perez doing business as Sonora Smog Check 2.

This matter is governed by the Automotive Repair Act (Repair Act), codified in Business and Professions Code sections 9880 through 9889.68, the Motor Vehicle Inspection Program (Inspection Program or Smog Check Program), codified in Health and Safety Code sections 44000 through 44127, and implementing regulations. Each regulation cited below is a section of title 16 of the California Code of Regulations

Documents and testimony were received in evidence. The record closed and the matter was submitted for decision on February 20, 2026.

STATEMENT OF THE CASE

The Bureau found that data transmitted from respondent's smog station to the Vehicle Identification Database (VID) was anomalous. Because such data cannot be generated by a vehicle's engine, the Bureau concluded respondent was clean plugging, transmitting data from a defeat device, a machine meant to mimic a vehicle's engine performance, but that did so imperfectly at respondent's smog station. The Bureau contends that in late 2024 and early 2025 respondent clean plugged 10 vehicles, fraudulently certifying them compliant with the Smog Check Program. Respondent denies clean plugging, contending the anomalous test results do not prove he was clean plugging or rule out other possibilities, such as that customers installed in their vehicles undisclosed defeat devices undetectable by respondent.

FINDINGS OF FACT

1. The Bureau served the Accusation on October 14, 2025. Respondent timely requested a hearing in his Notice of Defense dated November 6, 2025.

Licensure

2. Respondent became registered with the Bureau as an Automotive Repair Dealer (ARD), registration number ARD 278899, on January 2, 2015. The registration is scheduled to expire on January 31, 2027.

3. The Bureau issued respondent a Smog Check, Test Only, Station license number TC 278899 (TC License) on February 6, 2015. The TC license is scheduled to expire on January 31, 2027.

4. The Bureau certified respondent's smog check station, whose fictitious business name is Sonora Smog Check 2, as a Star Station on April 20, 2015. The certification will remain active unless the ARD registration or the TC license is revoked or cancelled or the licenses become delinquent or certification is suspended.

5. The Bureau issued respondent Smog Check Inspector license number EO 637098 on July 14, 2014. The EO license is scheduled to expire on October 31, 2026.

Air Quality Standards

6. Decades ago, the Legislature found and declared in Health and Safety Code section 43000, subdivisions (a), (b), and (c), that because motor vehicles generate air pollutants, a state agency such as the Bureau must, to protect the public, establish uniform standards that, if complied with, will control and eliminate those pollutants.

7. Both state and federal law control emissions and combat air pollution: Health and Safety Code section 44000 states that the state's Smog Check Program should "meet or exceed the air quality standards established by the amendments enacted to the federal Clean Air Act in 1990 . . . , to enhance and improve the existing

vehicle inspection and maintenance network, and to periodically monitor the performance of the network against stated objectives.”

Smog Check Inspection Procedures

8. Efforts to ensure air quality depend on a state-fostered industry that came into being once anti-smog laws were in place. The public benefits from cleaner air. Licensees benefit by collecting fees to measure an engine’s functioning as revealed by internal, computerized sensors. To keep these benefits flowing to the public and themselves, licensees must follow detailed engine testing procedures set out in the January 2021 Smog Check Manual, incorporated by reference in Regulation 3340.45.

9. The Smog Check Manual describes different types of smog inspections, also called smog checks or tests, using mainly two types of test equipment, the use of one or the other depending on the year a vehicle was manufactured and whether its fuel is gasoline or diesel. An inspector or technician holding an EO license employs a smog check machine that issues electronic prompts transmitted by inspection systems. One such system is the BAR-97 Emission Inspection System, used on older vehicles and not directly relevant here, but its description, below, in Regulation 3340.1 helps to understand the similar system used by respondent for testing newer vehicle:

“BAR-97 Emissions Inspection System” or “EIS” means tamper-resistant test equipment meeting the requirements of subsection (a) of section 3340.17 of the California Code of Regulations and is certified by the Bureau for use in the Smog Check Program. The EIS collects and measures emissions data, and where applicable On-Board Diagnostics

(OBD) data, then transmits inspection results to the Vehicle Information Database.

10. Regulation 3340.1 describes how modern vehicles facilitate smog testing by being equipped with computers:

"On-Board Diagnostics" or "OBD" means the automotive electronic system that uses onboard computer(s) to monitor emission systems in-use, detects malfunctions of the monitored emission systems, illuminates a malfunction indicator light (MIL) to notify the vehicle operator of detected malfunctions, and stores fault codes identifying the detected malfunctions.

11. To test newer vehicles, an inspector holding an EO license connects the vehicle to and follows prompts from the OBD Inspection System (OIS), defined in Regulation 3340.1:

"OBD Inspection System" or "OIS" consists of an OBD Data Acquisition Device (DAD) working in conjunction with commercial off-the-shelf computer, bar code scanner, data entry device, and printer. The DAD is the inspection equipment that meets the requirements of subsection (b) of section 3340.17 of the California Code of Regulations and is certified by the bureau for use in the Smog Check Program. The DAD facilitates OBD data transfer between the inspected vehicle and the OIS computer. The OIS computer

relays inspection information to and from the DAD to the Vehicle Information Database (VID).

12. Smog technicians rely on smog systems like the BAR-97 or OIS to measure emissions and engine performance. They obtain detailed information on emissions and performance that is transmitted to the VID but is not necessarily accessible to testing technicians themselves.

13. Clean plugging and other terms pertinent here are defined in Regulation 3340.1:

“On-Board Diagnostics II” or “OBD II” means the second generation of On-Board Diagnostics consisting of standardized monitors, vehicle connectors, and data found in most light-duty vehicles sold in California beginning with the 1996 model year.

“Clean plugging” means using a substitute vehicle's OBD system, or another source, to generate data readings or diagnostic information in order to cause the OIS to issue a certificate of compliance for the test vehicle.

Station Inspections and Investigation

14. On July 20, 2022, PR I Daniel Durivage met respondent at his smog station to reset or initialize systems at the station that had stopped operating. Respondent has a condition, perhaps psychological, that prevents him from communicating verbally. During the hearing, respondent testified by texting to a computer application that automatically converted his texts to computer generated

speech. Without the use of this application when he met respondent, PR I Durivage testified he is confident that by gestures and with help from respondent's mother he was able to make himself understood and to understand respondent. PR I Durivage advised respondent he must use his access code to perform smog tests; that no false information about the vehicle being tested should be entered in the OIS; that tests and inspections must be conducted in accordance with the Smog Check Manual, and that compliance with the Repair Act is mandatory.

15. On July 10, 2024, PR I Steve Koch met respondent at his smog station and, like PR I Durivage, was able to understand and make himself understood by respondent, though respondent did not speak. PR I Koch advised respondent that smog station inspections were performed according to the California Code of Regulations, that as a licensed smog inspector respondent must work as directed in the Smog Check Manual, and that compliance with the Automotive Repair Act was required, otherwise disciplinary action could be initiated.

16. On July 15, 2024, PR I Koch again spoke to respondent and inspected his smog station. He reiterated to respondent the points he had made during the July 10, 2024 inspection.

17. The inspections of respondent's smog station and other matters noted by Bureau personnel in their dealings with respondent are summarized in an October 24, 2024 Investigative Report (October 2024 Report), Exhibit 7.

Expert Testimony

18. The Bureau has employed Program Representative III (PR III) David Martin del campo for over 26 years. He has experience of approximately eight years in inspecting smog stations to verify compliance with the Smog Check Program. He has

some four years' experience in inspecting licensees' automobile repair work, including repairs of brake and lamp systems. He has been a licensed smog inspector for over 35 years and has held multiple ASE's, certifications from the National Institute for Automotive Service Excellence.

19. PR III Martin del campo explained in detail how licensees test vehicles. He noted that each licensee with an EO license, such as respondent, has a unique identification number from the Bureau that the licensee must keep secret. To access the OIS and keep its output secure, and to show that it is uniquely from a licensee, the licensee must input the unique identification number and use a biometric scan of the inspector's palm.

Data on Normal Engine Performance and Abnormal Data

20. The Bureau and PR III Martin del campo concluded that respondent clean plugged Vehicle 1 through Vehicle 10 listed below (collectively the Ten Vehicles) based on data transmitted to the VID from respondent's smog station under his EO license, dynamic data that measured parameters of engine performance ostensibly from each of the Ten Vehicles. The data types listed below are dynamic because they change as changes occur in a vehicle's engine.

RPM: The engine's speed is measured in revolutions per minute (RPM). The revolutions are the number of rotations taken by the vehicle's crankshaft per minute.

TPS: An engine's throttle position is measured by a throttle position sensor (TPS) mounted onto the throttle shaft. Measured in a percentage of opening from at or near 0% at idle and near or up to 100% at full throttle.

MAP: Manifold absolute pressure is measured by a manifold air pressure (MAP) sensor connected to an intake manifold source. The air pressure is measured in kilopascals (kPa). Typical readings for a normally aspirated vehicle are, starting from 0 kPa, absolute vacuum, then going up 25 kPa to 45 kPa at idle, and 100 kPa at full throttle, the same as atmospheric pressure at sea level.

MAF: Mass air flow (MAF) is measured in grams per second by a sensor in the engine's air intake tract.

21. The case against respondent is based primarily on parameters such as those described above. In his testimony and his June 18, 2025 Investigation Report, Exhibit 7, page A93, PR III Martin del campo explained how the parameters are used:

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 in RPM and/or MAF along with changes in MAP.

The engine parameters for each of the Ten Vehicles listed below did not change according to this description. There was, among other things, in each case, a mismatch between RPM and other parameters: though RPM increased, there were no matching increases in other parameters, or there were mismatched and erratic changes in the other parameters.

22. VEHICLE 1: a 2001 Ford F150, California license plate number 65236T3, VIN 1FTZX17281NA05113, that respondent tested on December 2, 2024 and issued Certificate of Compliance number UG682460C. Dynamic data for each of the Ten Vehicles is illustrated in charts, a chart for each engine parameter described above, showing if a parameter, such as RPM, changes over the time of respondent's smog test and, if so, how. The chart for Vehicle 1 shows that between time stamp 327 and 20965, RPM are steady at around 800, the throttle is fixed at 18.8% opening and the MAF is fixed at 4.06 grams per second. After time stamp 20965, RPM increase and then hold steady at around 1600 RPM, but the throttle continues to stay fixed at the same 18.8% opening and the MAF continues to stay fixed at the same 4.06 grams per second. Throughout the test, the only parameter that changed was RPM. Throttle and MAF did not change even when RPM increased. The data is not characteristic or expected for normal engine operation. Based on the anomalous data, PR III Martin del campo concluded that Vehicle 1's DAD was not connected as required to Vehicle 1 and a fraudulent Certificate of Compliance was issued.

23. VEHICLE 2: a 2001 Ford F150, California license plate number 8Z54646, VIN 1FTZX17281KC10223, that respondent tested on December 7, 2024, and issued Certificate of Compliance number UG968618C. As was true of Vehicle 1, RPM increase during respondent's test, but there is no change in the other engine parameters, they

are all flat on the chart of Vehicle 2's dynamic data. Such static data is incompatible with increased RPM. The data could not be from a functioning vehicle engine.

24. VEHICLE 3: a 2004 Chevrolet Colorado, California license plate number 7P70209, VIN 1GCDT136948197126, that respondent tested on December 7, 2024, and issued Certificate of Compliance number UG968622C. The dynamic data from Vehicle 3 during respondent's test shows the same anomalous pattern as that in Vehicle 2's data. Vehicle 3's RPM increase, but other parameters do not change.

25. VEHICLE 4: a 2003 Ford Explorer Sport Trac, California license plate number 43628L1, VIN 1FMZU77E33UC32431, that respondent tested on December 7, 2024, and issued Certificate of Compliance number UG968623C. Like Vehicles 1, 2, and 3, Vehicle 4 generated anomalous data during respondent's test. RPM increase, but no other parameters do.

26. VEHICLE 5: a 2002 Ford Expedition XLT, California license plate number 6NWR868, VIN 1FMEU15W62LA38004, that respondent tested on December 7, 2024, and issued Certificate of Compliance number UG968638C. Vehicle 5's dynamic data during respondent's test is anomalous, showing the identical pattern shown by Vehicles 1 through 4. Vehicle 5 had been tested before, on November 19, 2022, at a smog station, Swift Smog Service, in Riverside, California, by a smog inspector who held license number EO 639928. The November 19, 2022 OBD data sent to the VID showed the expected changes in engine performance, including that as the throttle increased, MAF increased proportionately. There were no erratic changes and no mismatches between one parameter and another, as in the data respondent generated. The data showed normal engine operation. The vehicle passed this earlier test and Certificate of Compliance number TA242161C issued.

27. VEHICLE 6: a 2003 Cadillac Escalade Luxury, California license plate number 4ZNJ256, VIN 1GYEK63N23R116384, that respondent tested on March 18, 2025, and issued Certificate of Compliance number JD745005C. Dynamic data from Vehicle 6 during respondent's test is as anomalous as that of Vehicles 1 through 5, but with a difference. RPM start low, but then increase and hold steady. The other parameters do not follow the pattern of the RPM. They are erratic, changing seemingly at random, at some times low on the chart, at other times up, and in any case out of sync with RPM. The data could not be from a functioning vehicle engine.

28. VEHICLE 7: a 2000 Chevrolet GMT-400 C2500, California license plate number 6J94542, VIN 1GCGC24R2YR186190, that respondent tested on March 19, 2025, and issued Certificate of Compliance number JD745013C. The dynamic data of Vehicle 7 during respondent's test is similar to that of Vehicle 6. RPM increase and hold steady, but the other parameters are erratic and out of sync with RPM, and could not be from a functioning vehicle engine.

29. VEHICLE 8: a 2003 Chevrolet Silverado C2500 Heavy Duty, California license plate number 09515Z1, VIN 1GCHC23U83F162030, that respondent tested on March 19, 2025, and issued Certificate of Compliance number JD745014C. Like the dynamic data of Vehicles 6 and 7, that of Vehicle 8 is anomalous, as RPM increase and hold steady, but the other parameters are charted moving up or down erratically, out of sync with RPM. A vehicle engine did not generate such anomalies.

30. VEHICLE 9: a 2003 GMC Yukon, California license plate number 5CQF479, VIN 1GKEC13V43R215752, that respondent tested on March 19, 2025, and issued Certificate of Compliance number JD745016C. Vehicle 9's chart of dynamic data shows several anomalies that no vehicle engine generated. For instance, RPM increase while MAF, instead of increasing proportionately, actually decreases, moving down on the

chart. Vehicle 9 had been tested before, on July 5, 2023, at a smog station, Cherry Smog Test Only, in Fontana, California, by a smog inspector who held license number EO 640610. The July 5, 2023 OBD data sent to the VID showed the expected changes in engine performance, with matching increases as throttle, MAP, and MAF increased. Erratic changes were absent, as were mismatches between one parameter and another, unlike the data later generated at respondent's smog station. The readings were consistent with normal engine operation. The vehicle passed this earlier smog test and Certificate of Compliance number TK275431C issued.

31. VEHICLE 10: a 2007 GMC Savana Cutaway G3500, California license plate number 44297C1, VIN 1GDHG31U671902024, that respondent tested on March 20, 2025, and issued Certificate of Compliance number JD745018C. Vehicle 10's dynamic data is anomalous and erratic, not such as a vehicle engine could generate. MAF starts low on its chart, increases before RPM increase, stays more or less flat and steady for a time, but then moves down again though RPM have increased.

32. Based on the anomalies above, charted by PR III Martin del campo, he concluded that respondent used a defeat device. It was only such a device, a machine available on the black market that may have many configurations, and not the engine of a vehicle, that could have produced the anomalies.

Respondent's Evidence

33. Respondent denied he had any part in wrongdoing: he smog tested the Ten Vehicles as required by the Bureau and the Smog Check Manual. He had no affirmative evidence. If any of the Ten Vehicles was clean plugged, respondent did not know how. He had no knowledge of any of the anomalies the Bureau discovered, not until he was served with the Accusation. Respondent did not know whether any

customer had installed a defeat device on a vehicle he tested, but he asserted that that was possible. He pointed out that used car dealers have a strong financial motive to have vehicles they wish to sell pass a smog test, otherwise the vehicle continues as part of the dealer's unsold inventory, a financial and logistical burden. He argued that there might be other customers with a motive unknown to him for installing a defeat device in a vehicle, causing him to test a vehicle that generates anomalous data.

34. The Bureau countered respondent's evidence by pointing out that defeat devices are costly and would require work to install and conceal in a vehicle. Less costly and easier would be repairing a vehicle and having it pass legally. Further, Bureau personnel have not encountered defeat devices hidden in a vehicle and used as respondent asserted.

Costs

35. In June 18, 2025 declaration PR III David Martin del campo describes costs incurred by the Bureau for his work in investigating this matter, a total of \$3,706.56. The Certification of Prosecution Costs; Declaration of Jason T. Liu, describes the work of counsel and personnel in his office in prosecuting this matter, a total of \$11,202.75 incurred by the Bureau. These costs, totaling \$14,909.31, are reasonable in light of the number of vehicles and engine variables investigated, the quantity of technical data analyzed and discussed, and the various laws and regulations that had to be taken into account.

36. Respondent presented no evidence to the effect that he might have difficulty paying costs, or that considerations relating to costs, such as those in *Zuckerman v. State Board of Chiropractic Examiners* (2002) 29 Cal.4th 32, should affect the costs the Bureau seeks to recover.

LEGAL CONCLUSIONS

37. Complainant bears the burden of proof. The evidentiary standard the Bureau must meet is proof by a preponderance of the evidence. (*Imports Performance v. Dept. of Consumer Affairs, Bur. of Automotive Repair* (2011) 201 Cal.App.4th 911, 916-917.)

38. The Director of the Department is authorized under Business and Professions Code section 9884.7 to impose discipline on an ARD registration based on:

Under subdivision (a)(1), "[m]aking 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."

Under subdivision (a)(4), "any . . . conduct that constitutes fraud."

Under subdivision (a)(6), "failure in any material respect to comply with the provisions of this chapter [20.3 of Division 3 of the Business and Professions Code, sections 9880 through 9889.68 (the Repair Act)] or regulations adopted pursuant to it."

Under subdivision (c), "a course of repeated and willful violations of [the Repair Act] or regulations adopted pursuant to it." In such a case, the director may discipline the registration of any business operated by an ARD.

39. Health and Safety Code section 44072.2, subdivision (a), states that license discipline is appropriate for various statutory violations, including:

Under Health and Safety Code section 44012, if a smog test is not performed in accordance with procedures prescribed by the Department.

Under Health and Safety Code section 44015, subdivision (b), if a certificate of compliance is issued to a vehicle that does not meet the testing requirements of Health and Safety Code section 44012.

Under Health and Safety Code section 44032, if a smog test is performed by a person other than a qualified smog check technician at a licensed smog check station and if the test is not performed in accordance with Section 44012.

40. Health and Safety Code section 44072.2, subdivision (c), states that license discipline is appropriate if a licensee “[v]iolates any of the regulations adopted by the director pursuant to this chapter [5 of Part 5 of Division 26 of the Health and Safety Code, sections 44000 through 44127 (the Inspection Program)]”. Regulations pertinent here that implement the Inspection Program include:

Regulation 3340.24, subdivision (c), authorizing license discipline “if the licensee falsely or fraudulently issues . . . a certificate of compliance

Regulation 3340.30, subdivision (a), requiring a licensee to “[i]nspect, test and repair vehicles, as applicable, 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 [5.5 of Chapter 1 of Division 33 of Title 16 of the Regulations].” Health and Safety Code section 44035, subdivision (a), provides for license discipline for “failure to meet or maintain the standards prescribed for qualification, equipment, performance, or conduct..... [under] rules and regulations governing” license discipline.

Regulation 3340.35, subdivision (c), requiring that a licensee issue a “certificate of compliance.....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.”

Regulation 3340.41, subdivision (c), mandating that: "No person shall enter any vehicle identification information or emission control system identification data for any vehicle other than the one being tested into the EIS..... Nor shall any person enter into the EIS any false information about the vehicle being tested."

Regulation 3340.42, requiring that smog inspections use one of the several test methods the Bureau prescribes and that they are done according to Bureau's specifications, including, under subdivision (a)(3), "[a]n OBD-focused test, [for]gasoline-powered vehicles 2000 model-year and newer, and diesel-powered vehicles 1998 model-year and newer."

41. Health and Safety Code section 44072.2, subdivision (d), in conjunction with Health and Safety Code section 44072.10, subdivision (c), provide for disciplinary action if a licensee issues a fraudulent certificate of compliance. Health and Safety Code section 44072.2, subdivision (d), states that license discipline is appropriate if a licensee "commits any act involving dishonesty, fraud, or deceit whereby another is injured." Health and Safety Code section 44072.10, subdivision (c), provides:

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

(1) [C]lean pluggingor any other fraudulent inspection practice, as defined by the department.

42. Health and Safety Code section 44072.8, similarly to Business and Professions Code section 9884.7, subdivision (c), provides that if license discipline is

imposed following an administrative hearing "any additional license issued . . . in the name of the licensee may be likewise revoked or suspended by the director."

43. Regulation 3340.30, subdivision (a), states that a licensed smog technician shall at all times "[i]nspect, test and repair vehicles, as applicable, in accordance with section 44012 of the Health Saf. Code, section 44035 of the Health & Safety Code, and section 3340.42 of this article."

44. Regulation 3340.24, subdivision (c), provides that the Bureau may discipline a license 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."

45. Regulation 3340.35, subdivision (c), states that a licensed smog check 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."

46. Regulation 3340.41 states, in pertinent part:

(b) No person shall enter any access or qualification number other than as authorized by the Bureau into the EIS or OIS, nor in any way tamper with the EIS or OIS.

(c) No person shall enter any vehicle identification information or emission control system identification data for any vehicle other than the one being tested into the EIS

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

47. Subdivision (a)(1) of Regulation 3340.42 provides that certain vehicles, such as those tested in Los Angeles County, with model years 1976 to 1999, are subject to a loaded mode test that measures hydrocarbon (HC), carbon monoxide (CO), carbon dioxide (CO₂) and oxides of nitrogen (NO_x) emissions. The BAR-97 or EIS is used for this test, using Acceleration Simulation Mode (ASM) test equipment, including a chassis dynamometer certified by the Bureau. Tested emissions are compared to statewide test results.

48. Subdivision (a)(3) of Regulation 3340.42 states that gasoline-powered vehicles in model year 2000 and newer must be tested with an OBD-focused test.

Costs

49. Business and Professions Code section 125.3 states that in administrative proceedings an agency such as the Bureau may recover reasonable costs for investigation and prosecution.

ANALYSIS

50. Respondent's only evidence was denying he had any part in wrongdoing. He disclaimed any participation in and any knowledge of clean plugging. He performed regular smog tests according to the Bureau's and the law's requirements, so that if any of the Ten Vehicles was clean plugged, he did not know how. So also he did not have access to and did not know of the anomalous parameters of engine performance the Bureau discovered, learning of alleged clean plugging only upon being served with the Accusation. As noted above, respondent did not know whether

any customer had installed a defeat device on a vehicle he tested, but he argued that that was possible, and that used car dealers in particular are financially motivated to have their vehicles pass smog tests, and might resort to installing defeat devices. He argued that there might be other customers with a motive unknown to him for installing a defeat device in a vehicle.

51. The Bureau urged respondent's use of a defeat device is the only logical conclusion from the evidence. Defeat devices are not just illegal, but costly and troublesome to install and conceal, making it all but certain that no customers and certainly not used car dealers would bother with defeat devices.

52. The Bureau's case against respondent relies on highly technical facts, the various engine parameters. But while the facts the Bureau presents are technical, requiring expertise to understand, the Bureau's reasoning from those facts is simple and straightforward, because the relationships between the parameters are known and simple. Expertise is required to understand how mass air flow, MAF, matters in the operation of a vehicle's operation. But there is little or no expertise required to conclude that when an acceleration pedal or throttle is pushed to produce more MAF and more RPM in the internal combustion engine of a vehicle, if a parameter like MAF does not increase along with increased RPM, the parameter could not have been generated by the ostensibly tested engine vehicle. It follows that no engine produced the anomalous parameters generated at respondent's smog station and that clean plugging occurred instead.

53. The same sort of reasoning applies to simpler facts of automotive operation. Motorists know that if the throttle or accelerator pedal inside a vehicle is pushed, the vehicle is engineered to go faster, should accelerate as the engine responds to the machinery that connects it to the throttle or pedal. The details of the

engineering that produces this result may be complicated, but they need not be understood in detail. If the engine does not respond or accelerate, then a simple and straightforward conclusion applies: there is something wrong with either the connecting machinery or the engine. There is, similarly, something wrong with the results of the smog tests on the Ten Vehicles.

54. It may be noted here that a trier of fact need not accept or believe expert testimony and may reject expert testimony, even if the testimony is not contradicted, as the court observed in *Foreman & Clark Corp. v. Fallon* (1971) 3 Cal.3d 875, 890. On the other hand, the testimony of "one credible witness may constitute substantial evidence," including the testimony of a single expert witness. (*Kearl v. Bd. of Medical Quality Assurance* (1986) 189 Cal.App.3d 1040, 1052.) In this case, the expert testimony of PR III Martin del campo ought to be accepted and credited. He gave convincing testimony that a defeat device was responsible for the data on throttle positions and RPM, as well as other parameters such as MAF, purportedly produced by the engines of the Ten Vehicles.

55. Implicit in respondent's argument is that proof of wrongdoing is the Bureau's burden entirely. Respondent has indeed no obligation to prove, and need prove nothing, regarding how the anomalous results came to be. But if the Bureau presents facts that tend to prove its allegations, that does affect respondent's position. Respondent may trust that the Bureau's facts are not, for purposes of license discipline, probative enough, so that respondent may stand back and present no countervailing facts. Alternatively respondent may seek to prove facts more convincing than the Bureau's, facts that negate any reason for license discipline. In this case, respondent chose, in effect, the first course, arguing, without affirmative facts of his own regarding the anomalies, that the Bureau did not prove its case.

56. Respondent was moreover not obligated to produce an expert to contradict the Bureau's. But the Bureau's technical explanations, supported by experience and expertise, made respondent's case difficult to accept and his arguments ultimately of no avail. There is no evidence, only supposition on respondent's part, that customers likely installed defeat devices in their vehicles unbeknownst to respondent, making them responsible for the clean plugging that occurred at respondent's smog station. The argument was not enough to counter or make doubtful the Bureau's proof.

Causes for Discipline

57. First Cause for Discipline, Untrue or Misleading Statements: Cause exists to discipline respondent's ARD registration under Business and Professions Code section 9884.7, subdivision (a)(1).

58. Second Cause for Discipline, Fraud: Cause exists to discipline respondent's ARD registration under Business and Professions Code section 9884.7, subdivision (a)(4). Respondent committed acts that constitute fraud by issuing electronic certificates of compliance to the Ten Vehicles, without performing bona fide inspections of the emission control devices and systems on the vehicles. Respondent deprived the public in California of the protections of the Smog Check Program.

59. Third Cause for Discipline, Material Violation of Automotive Repair Act: Cause exists to discipline respondent's ARD registration under Business and Professions Code section 9884.7, subdivision (a)(6). Respondent failed in a material respect to comply with the Repair Act or regulations that implement the Repair Act. Respondent issued electronic Certificates of Compliance for the Ten Vehicles but did not perform bona fide inspections of the emission control devices and systems of any

of the vehicles. Respondent deprived the public in California of the protections of the Smog Check Program.

60. Fourth Cause for Discipline, Violations of the Motor Vehicle Inspection Program: Cause exists to discipline respondent's TC license under Health and Safety Code section 44072.2, subdivision (a). Respondent failed to comply with these sections of the Health and Safety Code:

Section 44012: Respondent failed to perform required emission control tests on each of the Ten Vehicles in accordance with procedures prescribed in the Smog Check Manual.

Section 44015, subdivision (b): Respondent issued smog Certificates of Compliance to the Ten Vehicles without testing whether they were in compliance with Health and Safety Code section 44012.

61. Fifth Cause for Discipline, Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection Program: Cause exists to discipline respondent's TC license under Health and Safety Code section 44072.2, subdivision (a). Respondent failed to comply with these sections of the Health and Safety Code and Regulations:

Section 44072.2, subdivision (c): Respondent failed to comply with Regulation 3340.24, subdivision (c), and instead falsely or fraudulently issued Certificates of Compliance to each of the Ten Vehicles.

Section 3340.30, subdivision (a): Respondent failed to inspect and test the Ten Vehicles as required by Health and Safety Code sections 44012 and 44035, and Regulation 3340.42.

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Section 3340.35, subdivision (c): Respondent issued Certificates of Compliance to each of the Ten Vehicles though he had not tested them as required under Regulation 3340.42.

Section 3340.42: Respondent failed to ensure his smog tests of each of the Ten Vehicles were done as required by the Smog Check Manual.

62. Sixth Cause for Discipline, Dishonesty, Fraud or Deceit by TC Licensee: Cause exists to discipline respondent's TC license under section 44072.2, subdivision (d), in conjunction section 44072.10, subdivision (c), of the Health and Safety Code. Respondent committed dishonest, fraudulent, or deceitful acts by issuing Certificates of Compliance to each of the Ten Vehicles without performing bona fide inspections of the vehicles' emission control devices and systems, injuring and depriving the public in California of the Smog Check Program's protection.

63. Seventh Cause for Discipline, Violations of the Smog Check Program: Cause exists to discipline respondent's EO license under Health and Safety Code section 44072.2, subdivision (a). Respondent failed to comply with these sections of the Health and Safety Code:

Section 44032: Respondent failed to test the emission control devices and systems of each of the Ten Vehicles as required by Health and Safety Code section 44012.

Section 44015, subdivision (b): Respondent caused Certificates of Compliance to be issued for the Ten Vehicles without properly testing them for compliance with Health and Safety Code section 44012.

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64. Eighth Cause for Discipline, Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection Program: Cause exists to discipline respondent's EO license under Health and Safety Code section 44072.2, subdivision (c). Respondent failed to comply with these Regulations:

Regulation 3340.24, subdivision (c): Respondent falsely or fraudulently issued Certificates of Compliance for the Ten Vehicles.

Regulation 3340.30, subdivision (a): Respondent failed to inspect and test the Ten Vehicles as required by Health and Safety Code sections 44012 and 44035, and Regulation 3340.42.

Regulation 3340.41, subdivision (c): For each of the Ten Vehicles, respondent entered into the OIS at his smog station vehicle identification information or emission control system identification data other than from the vehicle being tested. Respondent thus entered false information for each vehicle.

Regulation 3340.42: Respondent failed to ensure that the smog inspection conducted on each of the Ten Vehicles was performed as required by the Smog Check Manual.

65. Ninth Cause for Discipline, Dishonesty, Fraud or Deceit by EO Licensee: Cause exists to discipline respondent's EO license under section 44072.2, subdivision (d), in conjunction section 44072.10, subdivision (c), of the Health and Safety Code. Respondent committed dishonest, fraudulent, or deceitful acts that injured others. By issuing Certificates of Compliance for the Ten Vehicles without testing them as required, he deprived the public of the benefits of the Smog Check Program.

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66. Other Matters: Under Business and Professions Code section 9884.7, subdivision (c), it is appropriate for the director of the Department to discipline the registration of all places of business operated in this state by respondent. Likewise any TC license respondent holds is appropriately disciplined under Health and Safety Code section 44072.8. Also under Health and Safety Code section 44072.8, any EO license held by respondent is appropriately disciplined.

67. For the safety of the public, respondent's ARD registration and licenses are subject to revocation. Respondent is liable for the Bureau's costs, but will not be required to pay them unless and until he is again licensed.

ORDER

1. Registration number ARD 278899 held by respondent Jaime Alonso Perez doing business as Sonora Smog Check 2 is revoked.

2. Respondent's Smog Check, Test Only, Station license number TC 278899 is revoked.

3. Respondent's Smog Check Inspector license number EO 637098 is revoked.

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4. Respondent shall not be liable to pay the Bureau's costs, \$14,909.31, unless and until he is again licensed.

DATE: **03/20/2026**

Thomas Lucero

THOMAS LUCERO

Administrative Law Judge

Office of Administrative Hearings