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

11  
12 In the Matter of the Accusation Against:

Case No. 79/16-146

13 **DAMARIS LLAMAS, Owner, dba ALL**  
**SMOG EL CAMINO**  
14 **1414 El Camino**  
**Redwood City, CA 94063**  
15 **P. O. Box 327**  
**Alviso, CA 95002**

**A C C U S A T I O N**

16 **Automotive Repair Dealer Registration No.**  
17 **ARD 279774**

18 **Smog Check, Test Only, Station License No.**  
19 **TC 279774**

20 Respondent.

21  
22 Complainant alleges:

23 **PARTIES**

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

26 2. On or about April 1, 2015, the Bureau of Automotive Repair issued Automotive  
27 Repair Dealer Registration Number ARD 279774 to Damaris Llamas, owner, dba All Smog El  
28 Camino ("Respondent"). The Automotive Repair Dealer Registration was in full force and effect

1 at all times relevant to the charges brought in this Accusation and will expire on April 30, 2017,  
2 unless renewed.

3 3. On or about May 26, 2015, the Bureau of Automotive Repair issued Smog Check,  
4 Test Only Station License Number TC 279774 to Damaris Llamas, owner, dba All Smog El  
5 Camino ("Respondent"). The Smog Check, Test Only Station License was in full force and  
6 effect at all times relevant to the charges brought in this Accusation and will expire on April 30,  
7 2017, unless renewed.

### 8 JURISDICTION

9 4. This Accusation is brought before the Director of the Department of Consumer  
10 Affairs (Director) for the Bureau of Automotive Repair, under the authority of the following laws.

11 5. Business and Professions Code ("Code") section 118, subdivision (b), provides that  
12 the expiration of a license shall not deprive the Director of jurisdiction to proceed with a  
13 disciplinary action during the period within which the license may be renewed, restored, reissued  
14 or reinstated.

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

19 7. Code section 9889.1 provides, in pertinent part, that the Director may suspend or  
20 revoke any license issued under Articles 5 and 6 (commencing with section 9887.1) of the  
21 Automotive Repair Act.

22 8. Code section 9889.7 provides, in pertinent part, that the expiration or suspension of a  
23 license by operation of law by order or decision of the Director or a court of law, or the voluntary  
24 surrender of a license shall not deprive the director of jurisdiction to proceed with any  
25 disciplinary proceedings.

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



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

2           13. Section 44032 of the Health and Safety Code states:

3           "No person shall perform, for compensation, tests or repairs of emission control devices or  
4 systems of motor vehicles required by this chapter unless the person performing the test or repair  
5 is a qualified smog check technician and the test or repair is performed at a licensed smog check  
6 station. Qualified technicians shall perform tests of emission control devices and systems in  
7 accordance with Section 44012."

8           14. Section 44012 of the Health and Safety Code states, in pertinent part:

9           "The test at the smog check stations shall be performed in accordance with procedures  
10 prescribed by the department, pursuant to Section 44013, shall require, at a minimum, loaded  
11 mode dynamometer testing in enhanced areas, and two-speed testing in all other program areas,  
12 and shall ensure all of the following:

13           . . . .

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

18           15. California Code of Regulations, title 16, section 3340.42, states, in pertinent part:

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

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

23           . . .

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

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



1 hybrid vehicles, and most 1998 and new diesel vehicles. The BAR-OIS consists of a BAR-  
2 certified Data Acquisition Device (“DAD”), computer, bar code scanner, and printer. The DAD  
3 serves as an on-board diagnostic (“OBD”) scan tool. The DAD is an interface box that connects  
4 the computer containing the BAR-OIS software to the diagnostic link connector (“DLC”) of the  
5 vehicle being inspected. When requested by the BAR-OIS software, the DAD retrieves data from  
6 the vehicle’s on-board computer system (“OBD II”).

7 19. The information obtained by the BAR-OIS software during a smog inspection is  
8 organized in a detailed inspection report for each vehicle inspected and is known as a BAR-OIS  
9 Test Detail. The BAR-OIS Test Detail contains information segregated into eight different  
10 blocks titled as follows: Station, Vehicle, Test Status, Visual Details, Functional Details, OBDII  
11 Details, OBDII Readiness Monitor Status, and OBDII DTC Details. For the purposes of  
12 Cummings’ investigation of Respondent, he focused on information in the “Vehicle” and “OBDII  
13 Details” blocks because they contain a unique combination of information for the vehicle being  
14 inspected and “like vehicles” inspected. Like vehicles are vehicles of the same manufacturer,  
15 model, and model year that were inspected on the BAR-OIS. The unique combination of  
16 information analyzed by Rodriguez includes the eVIN (“Electronic Vehicle Identification  
17 Number”), PID (“Parameter Identification”) count, and communication protocol. Rodriguez  
18 compared the eVIN, communication protocol, and PID count for a vehicle that was certified to  
19 like vehicles.

20 20. Cummings identified nine vehicles certified by Respondents All Smog El Camino  
21 and Mark Thomas Espinoza’s inspection either differed from the OIS data the vehicles  
22 transmitted during other inspections, or the data was inconsistent with the OIS data transmitted by  
23 “like vehicles” inspected or both.

24 21. Cummings identified two vehicles certified by Respondents All Smog El Camino and  
25 Matthew Robert Cortez’ inspection either differed from the OIS data the vehicles transmitted  
26 during other inspections, or the data was inconsistent with the OIS data transmitted by “like  
27 vehicles” inspected or both.

28

1           22. Cummings' review of the BAR-OIS data for the vehicles certified by Respondents  
2 All Smog El Camino, Mark Thomas Espinoza, and Matthew Robert Cortez during the above-  
3 referenced time period revealed a pattern of fraudulent smog inspections that resulted in the  
4 issuance of fraudulent certificates of compliance. There were eleven instances in which  
5 Respondents Mark Thomas Espinoza and Matthew Robert Cortez certified vehicles that were not  
6 connected to the DAD when they were certified. Respondent Mark Thomas Espinoza therefore  
7 clean plugged nine vehicles and Matthew Robert Cortez clean plugged two vehicles, resulting in  
8 Respondent All Smog El Camino issuing eleven fraudulent Certificate of Compliance between  
9 August 20, 2015 and November 17, 2015. The details of each instance of clean plugging is as  
10 follows:

11           **23. Clean Plug Number 1:**

12           a. Cummings review of the OIS Test Data contained in the BAR's VID indicates that on  
13 August 20, 2015, Respondent Mark Thomas Espinoza inspected a 2002 Acura 3.2 TL Type-S,  
14 VIN # 19UUA56832A013039, and All Smog El Camino issued smog Certificate of Compliance  
15 #YT851429C. The OIS Test Details for the Acura shows eVIN #KM8JN72D55U075612, the  
16 communication protocol is listed as KWPF8FEF, and the PID count was 21. Comparative OIS  
17 Test data shows that similar 2002 Acura 3.2 TL Type-S vehicles report no eVIN, have an  
18 expected communication protocol of I914, and an expected PID count of 16.

19           b. The discrepancies in the OIS Test Data establishes the OIS DAD was not connected  
20 to the 2002 Acura 3.2 TL Type S being certified, resulting in the issuance of a fraudulent smog  
21 Certificate of Compliance.

22           **24. Clean Plug Number 2:**

23           a. Cummings review of the OIS Test Data contained in the BAR's VID indicates that on  
24 August 20, 2015, Respondent Mark Thomas Espinoza inspected a 2000 Ford Ranger VIN  
25 #1FTYR14V6YPB28525, and All Smog El Camino issued smog Certificate of Compliance  
26 #YT851432C. The OIS Test Details for the Acura shows eVIN #JTLKE50E581024212, the  
27 communication protocol is listed as ICAN11bt500, and the PID count was 39. Comparative OIS  
28

1 Test data shows that similar 2000 Ford Rangers report no eVIN, have an expected communication  
2 protocol of JPWM, and an expected PID count of 19.

3 b. The discrepancies in the OIS Test Data establishes the OIS DAD was not connected  
4 to the 2000 Ford Ranger being certified, resulting in the issuance of a fraudulent smog Certificate  
5 of Compliance.

6 **25. Clean Plug Number 3:**

7 a. Cummings review of the OIS Test Data contained in the BAR's VID indicates that on  
8 August 25, 2015, Respondent Mark Thomas Espinoza inspected a 2000 Chevrolet Express  
9 G1500, VIN # 1GCFG15M1Y1118409, and All Smog El Camino issued smog Certificate of  
10 Compliance #YT851533C. The OIS Test Details for the Chevrolet Express shows no eVIN  
11 reported, the communication protocol is listed as I9140808, and the PID count was 17.

12 Comparative OIS Test data shows that similar 2000 Chevrolet Express G1500 vehicles report no  
13 eVIN, have an expected communication protocol of JVPW, and an expected PID count of 21.

14 b. The discrepancies in the OIS Test Data establishes the OIS DAD was not connected  
15 to the 2000 Chevrolet Express G1500 being certified, resulting in the issuance of a fraudulent  
16 smog Certificate of Compliance.

17 **26. Clean Plug Number 4:**

18 a. Cummings review of the OIS Test Data contained in the BAR's VID indicates that on  
19 September 3, 2015, Respondent Mark Thomas Espinoza inspected a 2005 Chrysler PT Cruiser  
20 GT, VIN # 3C3AY75S65T701219, and All Smog El Camino issued smog Certificate of  
21 Compliance #PW110024C. The OIS Test Details for the 2005 Chrysler PT Cruiser GT shows  
22 eVIN #JN8AZ08T55W318214, the communication protocol is listed as I9140808, and the PID  
23 count was 22. Comparative OIS Test data shows that similar 2005 Chrysler PT Cruiser GT  
24 vehicles report the correct eVIN, have an expected communication protocol of JVPW, and an  
25 expected PID count of 18/3.

26 b. The discrepancies in the OIS Test Data establishes the OIS DAD was not connected  
27 to the 2005 Chrysler PT Cruiser GT being certified, resulting in the issuance of a fraudulent smog  
28 Certificate of Compliance.

1           **27. Clean Plug Number 5:**

2           a. Cummings review of the OIS Test Data contained in the BAR's VID indicates that on  
3 September 10, 2015, Respondent Mark Thomas Espinoza inspected a 2008 BMW 328I SULEV,  
4 VIN # WBAVC53518FZ88459 , and All Smog El Camino issued smog Certificate of  
5 Compliance #PW354814C. The OIS Test Details for the 2008 BMW 328I SULEV shows no  
6 eVIN reported, the communication protocol is listed as I9140808, and the PID count was 17.  
7 Comparative OIS Test data shows that similar 2008 BMW 328I SULEV vehicles report the  
8 correct eVIN, have an expected communication protocol of ICAN11bt5, and an expected PID  
9 count of 46/11.

10          b. The discrepancies in the OIS Test Data establishes the OIS DAD was not connected  
11 to the 2008 BMW 328I SULEV being certified, resulting in the issuance of a fraudulent smog  
12 Certificate of Compliance.

13           **28. Clean Plug Number 6:**

14          a. Cummings review of the OIS Test Data contained in the BAR's VID indicates that on  
15 September 17, 2015, Respondent Mark Thomas Espinoza inspected a 2005 Audi A4 1.8T  
16 Quattro/SPEC EDIT, VIN # WAULC68E95A116853 , and All Smog El Camino issued smog  
17 Certificate of Compliance #PW471419C. The OIS Test Details for the 2005 Audi A4 1.8T  
18 Quattro/SPEC EDIT shows the cVIN listed as YS3EF58Z213014589, the communication  
19 protocol is listed as I9140808, and the PID count was 17. Comparative OIS Test data shows that  
20 similar 2005 Audi A4 1.8T Quattro/SPEC EDIT vehicles report the correct eVIN, have an  
21 expected communication protocol of KWPS, and an expected PID count of 18/1.

22          b. The discrepancies in the OIS Test Data establishes the OIS DAD was not connected  
23 to the 2005 Audi A4 1.8T Quattro/SPEC EDIT being certified, resulting in the issuance of a  
24 fraudulent smog Certificate of Compliance.

25           **29. Clean Plug Number 7:**

26          a. Cummings review of the OIS Test Data contained in the BAR's VID indicates that on  
27 September 18, 2015, Respondent Mark Thomas Espinoza inspected a 2002 Chevrolet Tahoe  
28 C1500, VIN # 1GNEC13V82R147604, and All Smog El Camino issued smog Certificate of

1 Compliance #PW471427C. The OIS Test Details for the 2002 Chevrolet Tahoe C1500 vehicle  
2 shows the eVIN listed as JTLKE50E581024212, the communication protocol is listed as  
3 ICAN11bt500, and the PID count was 39. Comparative OIS Test data shows that similar 2002  
4 Chevrolet Tahoe C1500 vehicles report the correct eVIN, have an expected communication  
5 protocol of JVPW, and an expected PID count of 22.

6 b. The discrepancies in the OIS Test Data establishes the OIS DAD was not connected  
7 to the 2002 Chevrolet Tahoe C1500 being certified, resulting in the issuance of a fraudulent smog  
8 Certificate of Compliance.

9 c. On September 8, 2015, the same 2002 Chevrolet Tahoe C1500 failed a smog  
10 inspection at 76 Smog Test. During the inspection, the correct eVIN, communication protocol  
11 and PID count was displayed.

12 d. On September 9, 2015, the same 2002 Chevrolet Tahoe C1500 failed a smog  
13 inspection at Middlefield Smog Check. During the inspection, the correct eVIN, communication  
14 protocol and PID count was displayed.

15 **30. Clean Plug Number 8**

16 a. Cummings review of the OIS Test Data contained in the BAR's VID indicates that on  
17 September 18, 2015, Respondent Mark Thomas Espinoza inspected a 2001 Mercedes-Benz E320,  
18 VIN # WDBJF65JX1B212514, and All Smog El Camino issued smog Certificate of Compliance  
19 #PW471428C. The OIS Test Details for the 2001 Mercedes-Benz E320 vehicle shows the eVIN  
20 listed as JTLKE50E581024212, the communication protocol is listed as ICAN11bt500, and the  
21 PID count was 39. Comparative OIS Test data shows that similar 2001 Mercedes-Benz E320  
22 vehicles report no eVIN, have an expected communication protocol of KWPF and an expected  
23 PID count of 22.

24 b. The discrepancies in the OIS Test Data establishes the OIS DAD was not connected  
25 to the 2001 Mercedes-Benz E320 being certified, resulting in the issuance of a fraudulent smog  
26 Certificate of Compliance.

1 c. The reported eVIN for this inspection was identical to the eVIN reported for the  
2 inspection performed on the 2000 Ford Ranger (Clean Plug Number 2) and the 2002 Chevrolet  
3 Tahoe (Clean Plug Number 7), as described above.

4 **31. Clean Plug Number 9**

5 a. Cummings review of the OIS Test Data contained in the BAR's VID indicates that on  
6 September 24, 2015, Respondent Mark Thomas Espinoza inspected a 2000 BMW M5, VIN  
7 #WBSDE9347YB294984, and All Smog El Camino and issued smog Certificate of Compliance  
8 #PW676283C. The OIS Test Details for the 2000 BMW M5 vehicle shows the eVIN listed as  
9 1G4HP52KX34137496, the communication protocol is listed as JVPW1850, and the PID count  
10 was 19. Comparative OIS Test data shows that similar 2000 BMW M5 vehicles report the correct  
11 eVIN, have an expected communication protocol of I914 and an expected PID count of 23.

12 b. The discrepancies in the OIS Test Data establishes the OIS DAD was not connected  
13 to the 2000 BMW M-5 being certified, resulting in the issuance of a fraudulent smog Certificate  
14 of Compliance.

15 **32. Clean Plug Number 10**

16 a. Cummings review of the OIS Test Data contained in the BAR's VID indicates that on  
17 October 26, 2015, Respondent Matthew Robert Cortez inspected a 2004 Chrysler PT Cruiser GT,  
18 VIN #3C8FY78G64T351161 and All Smog El Camino issued smog Certificate of Compliance  
19 #PY520798C. The OIS Test Details for the 2004 Chrysler PT Cruiser GT vehicle shows the  
20 eVIN as #JTLKT324664121588, the communication protocol is listed as ICAN11bt500, and the  
21 PID count was 34. Comparative OIS Test data shows that similar 2004 Chrysler PT Cruiser GT's  
22 report the correct eVIN, have an expected communication protocol of JVPW and an expected PID  
23 count of 18/3.

24 b. The discrepancies in the OIS Test Data establishes the OIS DAD was not connected  
25 to the 2004 Chrysler PT Cruiser GT being certified, resulting in the issuance of a fraudulent smog  
26 Certificate of Compliance.

27 c. On March 28 and August 17, 2015, the same 2004 Chrysler Pt Cruiser GT failed two  
28 smog inspections at Alan Smog. During the inspection, the correct eVIN was reported.

1 However, the communication protocol was reported as JVPW1850 and the expected PID count  
2 was reported as 18.

3 **33. Clean Plug Number 11**

4 a. Cummings review of the OIS Test Data contained in the BAR's VID indicates that on  
5 November 7, 2015, Respondent Matthew Cortez inspected a 2001 Nissan Pathfinder VIN  
6 JN8DR07Y61W530110 and All Smog El Camino issued smog Certificate of Compliance  
7 #QA079158C. The OIS Test Details for the 2001 Nissan Pathfinder vehicle shows the eVIN as  
8 #JTLKE50E581024212, the communication protocol is listed as ICAN11bt500, and the PID  
9 count was 39. Comparative OIS Test data shows that similar 2001 Nissan Pathfinder's report no  
10 cVIN, have an expected communication protocol of I914 and an expected PID count of 22.

11 b. The discrepancies in the OIS Test Data establishes the OIS DAD was not connected  
12 to the 2001 Nissan Pathfinder being certified, resulting in the issuance of a fraudulent smog  
13 Certificate of Compliance.

14 c. On August 25 and September 21, 2015, the same 2001 Nissan Pathfinder failed two  
15 smog inspections at Santa Teresa 76. During the inspections, no eVIN was reported, the proper  
16 PID count was reported, and the communication protocol was reported as I9140808.

17 **FIRST CAUSE FOR DISCIPLINE**

18 **(Making or Authorizing Untrue or Misleading Statements)**

19 34. Respondent, All Smog El Camino, Damaris Llamas, owner has subjected its  
20 Automotive Repair Dealer Registration and Smog Check Station License to disciplinary action  
21 pursuant to Business and Professions Code section 9884.7, subdivision (a)(1), in that it issued  
22 eleven fraudulent certificates of compliance and failed to comply with the Automotive Repair Act  
23 as set forth in paragraphs 22-33, above.

24 **SECOND CAUSE FOR DISCIPLINE**

25 **(Fraud)**

26 35. Respondent, All Smog El Camino, Damaris Llamas, owner has subjected its  
27 Automotive Repair Dealer Registration and Smog Check Station License to disciplinary action  
28 pursuant to Business and Professions Code section 9884.7, subdivision (a)(4), in that it issued

1 eleven fraudulent certificates of compliance as set forth in paragraphs 22-33, above.

2 **THIRD CAUSE FOR DISCIPLINE**

3 **(Failure to Comply with the Automotive Repair Act)**

4 36. Respondent, Damaris Llamas, owner, doing business as All Smog El Camino, has  
5 subjected its Automotive Repair Dealer Registration and Smog Check Station License to  
6 disciplinary action pursuant to Business and Professions Code section 9884.7, subdivision (a)(6)  
7 and Health and Safety Code section 44072.2, subdivisions (a) and (c), in that it failed to comply  
8 with the Automotive Repair Act and sections of the Code and applicable regulations as set forth  
9 in paragraphs 22-33, above. The violations are as follows:

10 a. **Health & Safety Code, section 44012, subdivision (f):** Respondent, Damaris  
11 Llamas, owner, doing business as All Smog El Camino, failed to follow test procedures in  
12 accordance with the OIS specifications when it failed to properly conduct the functional portion  
13 of the smog inspection by failing to connect eleven vehicles to the BAR-OIS when they were  
14 being certified.

15 b. **Health & Safety Code, section 44032:** Respondent, Damaris Llamas, owner, doing  
16 business as All Smog El Camino, failed to ensure that the emission control tests were performed  
17 in accordance with the procedures prescribed by the department.

18 c. **Cal. Code Regs., tit. 16, section 3340.30, subdivision (a):** Respondent, Damaris  
19 Llamas, owner, doing business as All Smog El Camino, failed to inspect and test a vehicle in  
20 accordance with Health & Safety Code sections 44012.

21 d. **Cal. Code Regs., tit. 16, section 3340.35, subdivision (c):** Respondent, Damaris  
22 Llamas, owner, doing business as All Smog El Camino, falsely or fraudulently issued certificates  
23 of compliance for eleven vehicles that had not been inspected in accordance with the procedures  
24 specified in Cal. Code Regs., tit. 16, section 3340.42.

25 **FOURTH CAUSE FOR DISCIPLINE**

26 **(Dishonesty, Fraud, Deceit)**

27 37. Respondent, Damaris Llamas, owner, doing business as All Smog El Camino, has  
28 subjected its Automotive Repair Dealer Registration and Smog Check Station License to

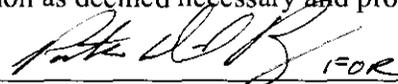
1 disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (d), in that it  
2 committed acts involving dishonesty, fraud or deceit, whereby another was injured, by issuing  
3 eleven fraudulent certificates of compliance as set forth in paragraphs 22-33, above.

4 **PRAYER**

5 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this  
6 Accusation, and that following the hearing, the Director of Consumer Affairs issue a decision:

- 7 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD  
8 279774, issued to Damaris Llamas, owner, dba All Smog El Camino,;
- 9 2. Revoking or suspending Smog Check, Test Only, Station License Number TC  
10 279774, issued to Damaris Llamas, owner, dba All Smog El Camino,;
- 11 3. Ordering Damaris Llamas to pay the Bureau of Automotive Repair the reasonable  
12 costs of the investigation and enforcement of this case, pursuant to Business and Professions  
13 Code section 125.3;
- 14 4. Taking such other and further action as deemed necessary and proper.

15 DATED: 7-12-16

  
16 PATRICK DORAIS  
17 Chief  
18 Bureau of Automotive Repair  
19 Department of Consumer Affairs  
20 State of California  
21 Complainant

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