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

In the Matter of the First Amended Accusation Against:

MARIA C. MAGAÑA, DBA MIGUELS SMOG CHECK

Automotive Repair Dealer Registration No. ARD 286259

Smog Check, Test-Only, Station License No. TC 286259

and

LORENZO A. RAMIREZ-HUERTA

Smog Check Inspector License No. EO 632640

Respondents.

Agency Case No. 79/25-4903

OAH No. 2026020877

PROPOSED DECISION

Cindy F. Forman, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter by videoconference on June 15, 2026.

Deputy Attorney General Matthew A. King represented complainant Patrick Dorais, Chief of the Bureau of Automotive Repair (Bureau or BAR), Department of Consumer Affairs (Department).

Respondent Maria C. Magaña, doing business as Miguels Smog Check, represented herself.

Respondent Lorenzo A. Ramirez-Huerta did not appear at the hearing. (Respondent Ramirez-Huerta and Respondent Magaña are collectively referred to as Respondents.)

Evidence was received, the record closed, and the matter was submitted for decision at the close of the hearing.

During the hearing, the Administrative Law Judge granted complainant's motion to amend the Accusation by interlineation as follows: the references to "2000 Hyundai Tiburon GT" found in paragraphs 64, 65, and 66 on page A432 (page 15 of the Accusation) at lines 1, 3, 6, and 16 are amended to state "2004 Hyundai Tiburon GT." On June 15, 2026, complainant filed a First Amended Accusation, which reflected the changes made by interlineation at the hearing. (Exhibit 49). Exhibit 49 and Exhibit 50, which is the Proof of Service for the First Amended Accusation, are admitted for jurisdiction purposes only.

SUMMARY

Complainant proved by a preponderance of the evidence that between April 10, 2024, and July 3, 2024, Miguels Smog Check, through its employee Respondent Ramirez-Huerta, conducted 11 smog check inspections using clean plugging.

Respondent Magaña did not work at the station, and she was unaware of Respondent Ramirez-Huerta's misconduct. Respondent Magaña offered no evidence to mitigate her failure to supervise Respondent Ramirez-Huerta and failed to demonstrate how she would ensure that Miguels Smog Check would perform lawful smog check inspections in the future. She expressed no knowledge about smog inspections or the California smog check program. Accordingly, revocation of Respondent Magaña's automotive repair dealer (ARD) registration and smog-check, test-only, station license is necessary to protect the public. Respondent Magaña shall be ordered to pay her share of costs, albeit on a reduced scale, because the profits from Miguels Smog Check are her only source of income.

FACTUAL FINDINGS

Jurisdiction and Pleadings

1. On March 14, 2017, the Bureau issued ARD Registration number 286529 to Respondent Magaña, doing business as Miguels Smog Check. This registration was in effect at all times relevant to the Accusation and was recently renewed.

2. On June 5, 2017, the Bureau issued Smog Check, Test Only, Station License (station license) Number TC 286259 to Miguels Smog Check. This license was in effect at all times relevant to the Accusation and was recently renewed.

3. On June 18, 2017, the Bureau issued a STAR certification to Miguels Smog Check.

4. On March 7, 2013, the Bureau issued Smog Check Inspector License Number EO 632640 to Respondent Ramirez-Huerta. This license was in effect at all

times relevant to the Accusation and is scheduled to expire on March 31, 2027. At the time of the events in question, Respondent Ramirez-Huerta was a full-time employee of Miguels Smog Check.

5. On August 25, 2025, complainant, acting in his official capacity, signed the Accusation, alleging violations of the Business and Professions Code, the Health and Safety Code, and associated regulations based on Respondents' unlawful smog check inspection of 11 vehicles. The Accusation was served on Respondents on September 25, 2025.

6. On October 7, 2025, Respondent Magaña filed a Notice of Defense on behalf of Miguels Smog Check. Respondent Ramirez-Huerta filed a Notice of Defense, through counsel, on October 8, 2025.

7. Complainant served a Notice of Hearing on Respondent Magaña and the attorneys for Respondent Ramirez-Huerta on February 23, 2026, by certified mail and first-class mail, stating the time, date, and location of the hearing. Respondent Ramirez-Huerta failed to appear at the hearing. He was found to be in default, and his case was remanded to the Bureau. Consequently, this Proposed Decision shall not address the seventh, eighth, and ninth causes of discipline in the Accusation, which are exclusively directed to Respondent Ramirez-Huerta.

8. The First Amended Accusation was served on Respondent Magaña on June 16, 2026. The hearing proceeded against Respondent Magaña, doing business as Miguels Smog Check.

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California's Smog Check Program

9. California's smog check program is designed to improve air quality and to protect public health by reducing vehicle emissions. The smog check program requires owners to submit their vehicles to smog inspections and obtain certificates of compliance. A smog check inspection determines whether required emission control devices and systems are installed and functioning properly, and detects and reduces tampering and emission control failures. Licensed smog check inspectors and technicians at licensed smog check stations conduct these mandated smog check inspections and are the only persons authorized by the Bureau to perform official inspections.

10. A smog-check inspection for model-year 2000 and newer gasoline vehicles is conducted using the Bureau's On-Board Diagnostic Inspection System (OIS), the standardized testing platform required for these inspections. The system consists of a certified Data Acquisition Device (analyzer), a computer, a bar code scanner, and a printer. The analyzer is a scan tool that retrieves certain emission information from the vehicle when requested by the OIS software. It connects the OIS computer to the vehicle's Diagnostic Link Connector inside the vehicle's passenger compartment, allowing access to the vehicle's on-board computer system. The OIS software requires a continuous internet connection during the smog check inspection to communicate with the Bureau's Vehicle Information Database (vehicle database). The bar code scanner is used to input inspector or technician information, the vehicle's identification number, and Department of Motor Vehicles (DMV) renewal data. The printer provides a Vehicle Inspection Report for the motorist and a Smog Check Certificate of Compliance for vehicles that pass the smog check inspection.

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11. Data retrieved, captured, and recorded during a BAR smog check inspection includes the electronic vehicle identification number; the communication protocol, which is the specific "language" the vehicle's powertrain control module uses to relay or communicate information; and the number of Parameter Identifications (PIDs), which is the number of specific values related to emissions control data. Examples of PIDs include engine speed, throttle position, manifold absolute pressure, and the engine's mass air flow readings throughout the inspection.

12. During certain inspections, the OIS software instructs the inspector or technician to raise the engine speed of the vehicle above idle so that the system may collect dynamic emissions control data (dynamic data). Dynamic data is recorded and transmitted to the vehicle database, but the Bureau does not use the data to determine whether the vehicle passes or fails. An inspector or technician cannot bypass the collection of dynamic data, and the data collection must be complete for the inspection to proceed.

13. After the technician or inspector completes all required checks, the OIS software displays whether the vehicle passed the inspection. If the vehicle passes the inspection, the inspector or technician may issue a Certificate of Compliance. To finalize the inspection, the inspector or technician authorizes the certificate and signs the Vehicle Inspection Report under penalty of perjury, certifying that the inspection was performed on the vehicle presented and in accordance with Smog Check Program requirements.

14. Some smog check stations and smog check inspectors use various methods to fraudulently issue smog certificates to vehicles that will not pass a smog check test on their own, or in some instances, are not even present when the test is performed. One method is "clean plugging," which involves using another vehicle's

properly functioning emissions system, or a defeat device/simulator, to generate false passing data and fraudulently issue smog certificates to vehicles that are non-compliant or not actually tested. Defeat devices simulate engine operation during a smog check inspection by transmitting to the vehicle database emissions data that has been modified or entirely substituted for the data of the vehicle purportedly being inspected.

Previous Bureau Inspections

15. On September 17, 2019, the Bureau conducted a field visit of Miguels Smog Check, and the investigator prepared a written report of his findings. (Exhibit 3.) The purpose of the visit was to inspect the facility's analyzer because the vehicle database indicated the analyzer had transmitted multiple data anomalies. Because of these anomalies, the Bureau disabled the analyzer until a Bureau representative could verify that the equipment complied with Bureau specifications. The Bureau representative tested the analyzer during the field visit and found no issues. The Bureau representative also noted that Miguel's Smog Check had all required equipment, signage, manuals, and guides. During the visit, the Bureau representative spoke with Respondent Ramirez-Huerta, who stated he did not connect any device between the analyzer and the vehicle's Diagnostic Link Connector during smog check inspections. Respondent Magaña was not present during the field visit.

16. On October 21, 2019, the Bureau conducted another field visit of Miguels Smog Check, and the investigator prepared a written report of his findings. (Exhibit 4.) The purpose of the visit was to inspect the station's analyzer, which the Bureau was again forced to disable after it had transmitted multiple data anomalies. During the visit, the Bureau representative again spoke with Respondent Ramirez-Huerta, who blamed the anomalies on internet issues. The Bureau representative again confirmed

the analyzer worked properly and Miguels Smog Check had the proper equipment, signage, manuals, and guides. According to the report, Respondent Ramirez-Huerta reiterated to the Bureau representative that he does not connect any device between the analyzer and the vehicle's Diagnostic Link Connector when performing smog check inspections. Respondent Magaña was not present during this field visit.

Respondents' 11 Smog Check Inspections At Issue

17. Respondent Ramirez-Huerta performed smog check inspections on the following 11 vehicles while working at Miguels Smog Check: a 2001 Honda Civic LX on April 10, 2024; a 2002 Acura RSX Type-S on April 10, 2024; a 2003 Nissan Frontier King Cab XE on May 22, 2024; a 2000 Toyota Tundra Access Cab on May 22, 2024; a 2000 Chevrolet Silverado on May 22, 2024; a 2000 Chevrolet Suburban on June 7, 2024; a 2002 Lexus GS 300 on June 7, 2024; a 2000 Toyota Sienna CE on June 20, 2024; a 2004 Hyundai Tiburon GT on June 27, 2024; a 2004 Nissan Armada SE on July 3, 2024; and a 2004 Lexus IS 300 on July 3, 2024. For each of the 11 inspections, the OIS software prompted Respondent Ramirez-Huerta to collect certain dynamic emissions data, and that step was completed as part of his inspection.

18. For all 11 inspections, the OIS software reported passing results. Based on those results, Respondent Ramirez-Huerta authorized the issuance of a Certificate of Compliance for each vehicle and signed each corresponding Vehicle Inspection Report under penalty of perjury. By signing the reports, Respondent Ramirez-Huerta certified that he had performed proper inspections on the 11 vehicles and that the certificates issued were valid.

19. On March 24, 2025, the Bureau conducted a third field visit of Miguels Smog Check, and the investigator prepared a written report of his findings. (Exhibit

23.) The purpose of the visit was to collect some of the station's records. Respondent Magaña was not present during the field visit. The facility manager, Miguel Magaña, and Smog Check inspector Juan Sanchez were present. Mr. Magaña reported Respondent Ramirez-Huerta stopped working for Miguel's Smog Check in September or October 2024. Mr. Magaña explained he had terminated Respondent Ramirez-Huerta for directing customers to another test station. Mr. Magaña also told the investigator that Respondent Ramirez-Huerta worked at Miguels Smog Check by himself without supervision. Mr. Magaña reported Miguels Smog Check has intermittent internet issues and he had to replace the analyzer at least three times, most recently in May 2024.

Bureau's Investigation

20. Bureau Program Representative III Hector Barraza testified at the hearing. Mr. Barraza has worked for the Bureau for seven years. Before joining the Bureau, he worked as an automotive mechanic for about 10 years. He holds an associate degree in automotive technology and has held both smog-inspector and repair-technician licenses since 2017. Mr. Barraza has also earned several Auto Service Excellence certificates, including certificates in brakes, engine performance, advanced engine performance, and general maintenance.

21. As part of his regular duties, Mr. Barraza reviews smog check data sent by stations to the vehicle database. In 2024, he reviewed data from inspections performed at Miguels Smog Check. The data displayed unusual dynamic data patterns, i.e., engine speed increased while other essential sensor readings remained unchanged. As such, he opened a formal investigation.

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22. At hearing, Mr. Barraza explained that during an OIS Smog Check inspection, the vehicle is monitored and PID data readings are obtained while the engine is idling and also after the smog check inspector is prompted to increase the engine speed to a certain level and then maintain that speed for a period of time. For the engine speed to increase, the vehicle's throttle must be opened to increase airflow through the engine. An increase in throttle position also increases engine speed, as measured in revolutions per minute (RPM), and results in a corresponding increase in the mass airflow rate and a change in manifold absolute pressure.

23. According to Mr. Barraza, clean plugging is apparent in cases where the data recorded during an OIS smog check shows that the engine speed, as measured in RPM, increases during the test but the throttle position, mass airflow rate, and manifold absolute pressure remain unchanged. Because engine speed, as measured in RPM, cannot increase without corresponding increases in the throttle position, mass airflow rate, and manifold absolute pressure, test data in cases that do not reflect such an increase indicate that the inspector used a defeat device to simulate engine speed readings for a vehicle that was not actually tested.

24. In reviewing the 11 inspections described in Factual Findings 17 and 18, Mr. Barraza noted that during the entire period the subject vehicle's dynamic data was collected, the only parameter that changed was the engine's RPM. Thus, even though the vehicle's engine speed increased, as reflected in the increased RPM, in response to directions from the OIS software, the vehicle's throttle position, airflow (mass airflow sensor), and manifold absolute pressure (where applicable) readings remained fixed at idle values. He explained that a functioning engine cannot increase its RPM without corresponding changes in these parameters because higher RPM requires additional air and fuel, along with adjustments in ignition timing, to sustain combustion.

25. According to Mr. Barraza, the inspection reports for each of the 11 inspections described in Factual Finding 17 reflect this pattern: idle-level readings for each vehicle's throttle position, air flow, and manifold absolute pressure (when applicable) throughout the test, despite an acceleration of engine speed and corresponding increase in RPMs. (Exhibit 5, pp. A12–A14; Exhibit 7, pp. A31–A33; Exhibit 8, pp. A41–A43; Exhibit 9, pp. 51–A53; Exhibit 11, pp. A75–A77; Exhibit 12, pp. A89–A91; Exhibit 14, pp. A112–A114; Exhibit 16, pp. A131–A133; Exhibit 18, pp. A149–A151; Exhibit 20, pp. A172–A174; Exhibit 21, pp. A181–A183.)

26. Based on the uniform data pattern and his experience, Mr. Barraza concluded that Respondents did not perform BAR-approved smog check inspections on the 11 vehicles. He opined that Respondents engaged in clean plugging to obtain a passing score for each vehicle. He asserted that the unchanged readings of the throttle position, ignition timing advance, manifold absolute pressure, and airflow when the vehicle's engine RPM was increased from idle could not have occurred if the analyzer had been connected to the vehicle purportedly tested. Mr. Barraza further asserted that such readings are consistent with signals generated by a defeat device rather than signals produced by a real engine.

27. Mr. Barraza also noted that Respondent Ramirez-Huerta had conducted smog check tests of five of the vehicles identified in the Accusation (2001 Honda Civic LX, 2000 Toyota Tundra Access Cab, 2000 Chevrolet Suburban, 2002 Lexus GS 300, and 2004 Hyundai Tiburon GT) between one and three days before issuing them fraudulent Certificates of Compliance. The overall test results for the earlier smog check inspections for the five vehicles were either "Fail" or "Not Ready." (Exhibit 6, p. A16; Exhibit 10, p. A54; Exhibit 13, p. A92; Exhibit 15, p. A115; Exhibit 19, p. A152.) However, the details of those earlier inspections show that the dynamic data for each of these

five vehicles changed when the engine's RPM was increased from idle, unlike the dynamic data associated with the passed inspections. (Exhibit 6, p. A22–A24; Exhibit 10, p. A62–A64; Exhibit 13, p. A103–A105; Exhibit 15, p. A122–A124; Exhibit 19, p. A161–A163.) According to Mr. Barraza, the earlier dynamic data readings were characteristic or expected for normal engine operation. Thus, the change from normal to discrepant dynamic data findings in the later inspections further supported the Bureau's assertion that Respondent Ramirez-Huerta used a defeat device to clean plug the 11 subject vehicles to obtain a passing test result.

28. Mr. Barraza's testimony was technically supported, internally consistent, and unrebutted. The uniform data pattern resulting from Respondent Ramirez-Huerta's 11 inspections, together with Mr. Barraza's credible testimony, supports the conclusion that a defeat device was used during each of the 11 smog-check inspections. By relying on simulator-generated values to complete the smog check inspection and issue Certificates of Compliance, Miguels Smog Check and Respondent Ramirez-Huerta engaged in clean plugging.

Testimony by Respondent Magaña

29. Respondent Magaña is 62 years old. In 2017, she acquired Miguels Smog Check from Miguel Magaña, her husband, after the Bureau revoked Mr. Magaña's ARD registration as well as his smog station, smog check inspector, and smog check technician license for issuing false Certificates of Compliance after clean piping two vehicles. (Exhibit 42.) Mr. Magaña then became the manager of Miguels Smog Check.

30. Respondent Magaña demonstrated ignorance regarding the operations of Miguels Smog Check. She has little knowledge of the vehicle smog inspection business or the operations of Miguels Smog Check. Until her husband became ill,

Respondent Magaña completely relied on her husband and the other employees of Miguels Smog Check to conduct lawful smog inspections. Because Mr. Magaña can no longer work because of his medical condition, Respondent Magaña relies solely on her employees to generate income.

31. Respondent Magaña visits Miguels Smog Check once or twice a week. Miguels Smog Check does not have security cameras, and Respondent Magaña does not monitor her employees. She hired Respondent Ramirez-Huerta in 2019. She never observed, reviewed, or supervised Respondent Ramirez-Huerta's work because she trusted him. Although she was aware of the Bureau's field visits, Respondent Ramirez-Huerta told her he would take care of the Bureau's concerns, and she did not follow up to confirm he had done so. Respondent Magaña had no explanation for the aberrant results of the 11 smog inspections performed by Respondent Ramirez-Huerta during the April 10, 2024 to July 3, 2024 period.

32. Respondent Magaña stated she intended to close Miguels Smog Check. Currently, only one inspector works part-time at the station, and business is slow. Respondent Magaña acknowledged she found that the station is "getting hard" for her to run.

Prosecution and Investigative Costs

33. The Bureau seeks reimbursement of $4,476.75 in enforcement costs (Exhibit 46) and $4,227.80 in investigation costs (Exhibit 45). Of the enforcement costs, the Department of Justice billed $4,104 for attorney time and $372.75 for paralegal time. Mr. Barraza's investigation costs were incurred reviewing the evidence, interviewing parties, and writing his report. The total amount of costs requested is $8,704.55.

34. Respondent Magaña has no savings or sources of income other than Miguels Smog Check. Over the last year, she earned approximately $2,000 a month from the station. Her husband is unwell and can no longer work. She lives with her son and pays approximately $1,000 per month. She also owns a car and has car insurance.

LEGAL CONCLUSIONS

1. The Bureau administers and enforces California's Smog Check Program on behalf of the Department. (Health & Saf. Code, §§ 44000–44002.) The Bureau is responsible for licensing automotive repair dealers, smog-check stations, and smog-check inspectors (Bus. & Prof. Code, § 9884 et seq.; Health & Saf. Code, § 44030 et seq.), and for ensuring that vehicles are inspected in accordance with statutory and regulatory testing procedures. (Health & Saf. Code, §§ 44012, 44015; Cal. Code Regs., tit. 16 (CCR), §§ 3340.30–3340.42.)

2. The Bureau's mandate includes protecting the public by preventing the improper certification of vehicles that do not meet emissions requirements and by disciplining registrants and licensees who violate the Automotive Repair Act or the Motor Vehicle Inspection Program. (Bus. & Prof. Code, § 9880.3; Health & Saf. Code, § 44072.2.)

Burden of Proof and Evidence

3. Complainant bears the burden of proving the allegations by a preponderance of the evidence. (*Imports Performance v. Dept. of Consumer Affairs, Bureau of Automotive Repair* (2011) 201 Cal.App.4th 911, 916–917.) A preponderance of the evidence means evidence that has more convincing force than that opposed to it. (*People ex rel. Brown v. Tri-Union Seafoods, LLC* (2009) 171 Cal.App.4th 1549, 1567.)

Applicable Law

4. If an ARD cannot show a bona fide error, the Bureau may suspend, revoke, or place on probation its registration if the dealer or one of its employees or technicians commits any of the following acts or omissions: (1) making any written or oral statement which it knew or should have known was untrue or misleading, (2) any conduct constituting fraud, or (3) failure in any material respect to comply with the provisions of the Automotive Repair Act or the regulations adopted pursuant to it. (Bus. & Prof. Code, § 9884.7, subds. (a)(1), (a)(4), (a)(6).) Fraud includes a misrepresentation in any manner, whether intentionally false or due to gross negligence, of a material fact. (Bus. & Prof. Code, § 9884.7, subd. (e)(2).)

5. The Bureau may suspend, revoke, or take other disciplinary action against a station license; a Smog Check Inspector license; or a Smog Repair Technician license if the licensee violates any law under the Motor Vehicle Inspection Program or the regulations adopted pursuant to it. (Health & Saf. Code, § 44072.2, subds. (a), (c).)

6. The Bureau may suspend, revoke, or take other disciplinary action against a Smog Check Inspector if the licensee commits any act involving dishonesty, fraud, or deceit whereby another is injured. (Health & Saf. Code, § 44072.2, subd. (d).)

7. The Bureau must revoke the license of any Smog Check technician or station licensee who fraudulently certifies vehicles or participates in the fraudulent inspection of vehicles. (Health & Saf. Code, § 44072.10, subd. (c).)

Liability for Employee Conduct

8. Respondent Magaña, as the owner of Miguels Smog Check, is responsible for any violations committed by her employees while working at Miguels

Smog Check regardless of whether she authorized their actions or had actual knowledge of them. As the Appellate Court explained in *Rob-Mac, Inc. v. Dept. of Motor Vehicles* (1983) 148 Cal.App.3d 793, 797:

> [t]he owner of a license is obligated to see that the license is not used in violation of the law. (*Ford Dealers Assn. v. Department of Motor Vehicles* (1982) 32 Cal.3d 347, 360). "If a licensee elects to operate his business through employees, he must be responsible to the licensing authority for their conduct in the exercise of his license and he is responsible for the acts of his agents or employees done in the course of his business in the operation of the license." (*Arenstein v. California State Bd. of Pharmacy* (1968) 265 Cal.App.2d 179, 192.)

9. Thus, Respondent Magaña and her business, Miguels Smog Check, had a duty to ensure that her employees complied with the laws and regulations governing California licensed smog check facilities. Consequently, the Bureau may discipline the ARD registration and station license of Miguels Smog Check for violations by its employees conducting smog inspections.

Discipline Against Respondent Magaña's ARD Registration

FIRST CAUSE FOR DISCIPLINE (UNTRUE OR MISLEADING STATEMENTS)

10. Complainant seeks to discipline Respondent Magaña's ARD registration pursuant to Business and Professions Code section 9884.7, subdivision (a)(1), for making or authorizing statements she knew or should have known were untrue or misleading.

11. Respondent Magaña's ARD registration is subject to discipline under Business and Professions Code section 9884.7, subdivision (a)(1), because Respondent Magaña, doing business as Miguels Smog Check, made statements which she knew, or in the exercise of reasonable care, should have known were untrue or misleading. Between April 10, 2024, and July 3, 2024, Miguels Smog Check, through its employee Respondent Huerta-Ramirez, issued smog certificates of compliance for 11 vehicles that were not tested or inspected in compliance with applicable laws and regulations.

SECOND CAUSE FOR DISCIPLINE (FRAUD)

12. Complainant seeks to discipline Respondent Magaña's ARD registration pursuant to Business and Professions Code section 9884.7, subdivision (a)(4), for acts constituting fraud.

13. Respondent Magaña's ARD registration is subject to discipline under Business and Professions Code section 9884.7, subdivision (a)(4). Between April 10, 2024, and July 3, 2024, Respondent Magaña, doing business as Miguels Smog Check, through employee Respondent Huerta-Ramirez, committed fraud by issuing smog certificates of compliance for 11 vehicles without performing bona fide inspections of the vehicles' emission control devices and systems, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

THIRD CAUSE FOR DISCIPLINE (MATERIAL VIOLATION OF AUTOMOTIVE REPAIR ACT)

14. Complainant seeks to discipline Respondent Magaña's ARD registration pursuant to Business and Professions Code section 9884.7, subdivision (a)(6), for committing material violations of the Automotive Repair Act.

15. Respondent Magaña's ARD registration is subject to discipline under Business and Professions Code section 9884.7, subdivision (a)(6). Between April 10, 2024, and July 3, 2024, Respondent Magaña, doing business as Miguels Smog Check, through employee Respondent Huerta-Ramirez, materially violated the Automotive Repair Act by issuing electronic smog certificates of compliance for 11 vehicles without performing bona fide inspections of the vehicles' emission control devices and systems, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

Discipline Against Respondent Magaña's Station License

FOURTH CAUSE FOR DISCIPLINE (VIOLATION OF MOTOR VEHICLE INSPECTION PROGRAM)

16. Complainant seeks to discipline Respondent Magaña's station license, pursuant to Health and Safety Code section 44072.2, subdivision (a), for violating certain provisions of the Motor Vehicle Inspection Program.

17. Respondent Magaña's station license is subject to discipline pursuant to Health and Safety Code section 44072.2, subdivision (a), for the following statutory violations: (a) section 44012, by failing to ensure that the emission control tests were performed on 11 vehicles in accordance with procedures prescribed by the Department; and (b) section 44015, subdivision (b), by issuing electronic smog certificates of compliance for 11 vehicles without ensuring that the vehicles were properly tested and inspected to determine if they complied with Health and Safety Code section 4401.

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FIFTH CAUSE FOR DISCIPLINE (FAILURE TO COMPLY WITH REGULATIONS PURSUANT TO THE MOTOR VEHICLE INSPECTION PROGRAM)

18. Complainant seeks to discipline Respondent Magaña's station license, pursuant to Health and Safety Code section 44072.2, subdivision (c), for violating certain regulations of the Motor Vehicle Inspection Program.

19. Miguels Smog Check's station license is subject to discipline pursuant to Health and Safety Code section 44072.2, subdivision (a), based on the following regulatory violations: (a) CCR section 3340.24, subdivision (c), by falsely or fraudulently issued electronic smog certificates of compliance for 11 vehicles; (b) CCR section 3340.30, subdivision (a), by failing to inspect, test and repair vehicles in accordance with the Health and Safety Code and CCR section 3340.42; (c) CCR section 3340.35, subdivision (c), by issuing electronic smog certificates of compliance for 11 vehicles even though the vehicles had not been inspected in accordance with CCR section 3340.42; and (c) CCR section 3340.42, by failing to ensure that the required smog tests were conducted on 11 vehicles in accordance with the Bureau's specifications.

SIXTH CAUSE FOR DISCIPLINE (DISHONESTY, FRAUD, AND/OR DECEIT):

20. Complainant seeks to discipline Respondent Magaña's station license, pursuant to Health and Safety Code section 44072.2, subdivision (d), and 44072.10, subdivision (c), because Respondent Magaña, doing business as Miguels Smog Check, committed dishonest, fraudulent, or deceitful acts in connection with issuing fraudulent smog certificates of compliance.

21. Respondent Magaña's station license is subject to discipline pursuant to Health and Safety Code section 44072.2, subdivision (d), in conjunction 44072.10,

subdivision (c), because Respondent Magaña, doing business as, Miguels Smog Check clean plugged 11 vehicles and therefore committed dishonest, fraudulent, or deceitful acts by issuing electronic smog certificates of compliance for the 11 vehicles without performing bona fide inspections of the vehicles' emission control devices and systems. Miguels Smog Check's actions deprived the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

Level of Discipline

22. The Bureau's Guidelines for Disciplinary Orders and Terms of Probation, revised June 2021 (Guidelines) recommend the level of discipline for violations of the Business and Professions Code and Health and Safety Code, including Business and Professions Code section 9884.7, subdivisions (a)(1) and (a)(4); Business and Professions Code section 9989.3, subdivision (b); and Health and Safety Code section 44072.2, subdivisions (a), (c), and (d). The recommended minimum discipline for violations of these statutes is two, three, or five years of probation. The recommended maximum penalty for the violations is revocation. For violations of Health and Safety Code section 44072.10, subdivision (c), revocation is required by statute.

23. The Guidelines set forth aggravating and mitigating factors to consider in determining the level of discipline imposed on licensees. Aggravating factors present here are that Miguels Smog Check received at least two Bureau visits regarding aberrant data after Ms. Magaña acquired the station, and Mr. Magaña, the station manager until recently, had his ARD registration and smog-related licenses revoked because of smog check inspection violations. (Exhibit 47, p. A327.) Respondent Magaña did not present any evidence of mitigation.

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24. Considering the Guidelines, revocation of Miguels Smog Check's ARD registration and station license is warranted. Although Respondent Magaña's violations resulted from negligence and not from intentional misconduct, and she did not conduct any of the fraudulent smog testing at issue, Respondent Magaña offered no explanation for her negligence, expressed no knowledge about vehicle smog testing and no interest in retraining, and failed to make any modifications to correct Miguels Smog Check's business practices to minimize the likelihood of recurrence. Additionally, Health and Safety Code section 44072.10, subdivision (c), requires the Bureau to revoke Miguels Smog Check's station license because it violated Health and Safety Code section 44072.10, subdivision (d), by issuing fraudulent Certificates of Compliance.

Other Matters

25. The Bureau may suspend, revoke, or place on probation the registration for all places of business operated in California by an ARD upon a finding that the ARD has, or is, engaged in a course of repeated and willful violations of the Automotive Repair Act and its accompanying regulations. (Bus. & Prof. Code, § 9884.7, subd. (c).) Complainant proved Respondent Magaña, doing business as Miguels Smog Check, engaged in a course of repeated and willful violations of the Automotive Repair Act and its accompanying regulations because a Miguels Smog Check employee clean-plugged 11 vehicles. Cause therefore exists to discipline the registration for all places of business operated in California by Respondent Magaña pursuant to Business and Professions Code section 9884.7, subdivision (c).

26. Health and Safety Code section 44072.8 allows the Bureau, when revoking or suspending a license issued under the Smog Check statutes, to likewise revoke or suspend any additional Smog Check license held by the same respondent.

Accordingly, any other licenses issued to Respondent Magaña under the Smog Check statutes may be revoked or disciplined because of the revocation of her ARD and station license in this proceeding.

Costs

27. Complainant is entitled to recover the reasonable costs of prosecution and investigation of this matter. (Bus. & Prof. Code, § 125.3.) *In Zuckerman v. State Board of Chiropractic Examiners* (2002) 29 Cal.4th 32 (*Zuckerman*), the Supreme Court set forth factors to be considered in determining the reasonableness of the costs sought. These factors include: 1) the licentiate's success in getting the charges dismissed or the severity of the discipline imposed reduced; 2) the licentiate's subjective good faith belief in the merits of his or her position; 3) whether the licentiate raised a colorable challenge to the proposed discipline; 4) the licentiate's financial ability to pay; and 5) whether the scope of the investigation was appropriate in light of the alleged misconduct. (*Zuckerman, supra*, 29 Cal.4th at p. 45.)

28. Complainant seeks $4,476.75 in enforcement costs and $4,227.80 in investigation costs, for a total of $8,704.55, against two respondents. The costs are unreasonable under the *Zuckerman* factors. Although Respondent Magaña was unsuccessful in getting charges dismissed and did not present evidence of a good faith belief in the merits of her position, she presented evidence of her inability to pay her share of the requested costs.

29. Dividing the requested costs among Respondents results in an allocation of $4,352.28 each. Considering Respondent Magana's lack of financial resources and the severity of the order below, it is appropriate to find Respondent Magaña, as the owner of Miguels Smog Check, separately liable for $2,000.

ORDER

1. Automotive Repair Dealer Registration number ARD 304994, issued to respondent Maria C. Magaña, doing business as Miguels Smog Check, is revoked.

2. Any other automotive repair dealer registration issued to respondent Maria C. Magaña, doing business as Miguels Smog Check, is revoked pursuant to Business and Professions Code section 9884.7, subdivision (c).

3. Smog Check, Test-Only, Station License number TC 304372, issued to respondent Maria C. Magaña, doing business as Miguels Smog Check, is revoked.

4. Any additional license used under Chapter 5 of Part 5 of the Health and Safety Code issued to respondent Maria C. Magaña, doing business as Miguels Smog Check, is revoked.

5. Respondent Maria C. Magaña, doing business as Miguels Smog Check, shall reimburse the Bureau for its costs of prosecution and investigation in the amount of $2,000 within 30 days or under a payment plan approved by the Bureau.

DATE:07/13/2026

CINDY F. FORMAN
Administrative Law Judge
Office of Administrative Hearings