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9	BEFORE THE DEPARTMENT OF CONSUMER AFFAIRS FOR THE BUREAU OF AUTOMOTIVE REPAIR STATE OF CALIFORNIA		
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11			
12	In the Matter of the Accusation Against:	Case No. <b>79/20-9348</b>	
13	ANGEL ALONSO, A.K.A. ANGEL ALONSO PARRA d.b.a. ANAHEIM		
14	SMOG 1202 E. Lincoln Avenue,	ACCUSATION	
15	Anaheim, CA 92805		
16 17	Automotive Repair Dealer Registration No. ARD 288993; Smog Check, Test Only,		
18	Station License No. TC 288993;		
19	ANGEL ALONSO PARRA 611 W. Victor Avenue, Anaheim, CA. 92801		
20	-and-		
21	511 N. Philadelphia St. Apt. 203,		
22	Anaheim, CA 92805		
23	Smog Check Inspector License No. EO 638929		
24	Respondent.		
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	(ANGEL ALONSO, AKA ANGEL ALONSO PARRA, DBA ANAHEIM SMOG and ANGEL ALONSO		

PARRA) ACCUSATION

# **PARTIES**

- 1. Patrick Dorais (Complainant) brings this Accusation solely in his official capacity as the Chief of the Bureau of Automotive Repair, Department of Consumer Affairs.
- 2. On or about November 20, 2017, the Bureau of Automotive Repair issued Automotive Repair Dealer Registration Number ARD 288993 to Angel Alonso, aka Angel Alonso Parra, dba Anaheim Smog (Respondents). The Automotive Repair Dealer Registration was in full force and effect at all times relevant to the charges brought herein and will expire on November 30, 2021, unless renewed.
- 3. On or about January 9, 2018, the Bureau of Automotive Repair issued Smog Check, Test Only, Station License Number TC 288993 to Angel Alonso, aka Angel Alonso Parra, dba Anaheim Smog (Respondent). The Smog Check, Test Only, Station License was in full force and effect at all times relevant to the charges brought herein and will expire on November 30, 2021, unless renewed.
- 4. On or about September 16, 2020, the Bureau of Automotive Repair certified Angel Alonso, dba Anaheim Smog as a STAR Station. The certification will remain active as long as the Automotive Dealer Repair Registration, and/or Smog Check Station License is revoked, canceled, or the licenses become delinquent or the certification invalidated.
- 5. On or about January 21, 2016, the Bureau of Automotive Repair issued Smog Check Inspector License Number EO 638929 to Angel Alonso Parra (Respondents). The Smog Check Inspector License was in full force and effect at all times relevant to the charges brought herein and will expire on May 31, 2022, unless renewed.

# **JURISDICTION**

- 6. This Accusation is brought before the Director of the Department of Consumer Affairs ("Director") for the Bureau, under the authority of the following laws.
- 7. Section 9884.7 of the Business and Professions Code<sup>1</sup> provides that the Director may revoke an ARD registration.

<sup>&</sup>lt;sup>1</sup> All statutory references herein shall be to the Business and Professions Code unless specifically stated otherwise.

1	11. Section 44072.10 of the Health and Safety Code states, in pertinent part:	
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3	(c) The department shall revoke the license of any smog check technician or	
4	station license who fraudulently certifies vehicles or participates in the fraudulent inspection of vehicles. A fraudulent inspection includes, but is not limited to, all of the following:	
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6	••••	
7	(4) Intentional or willful violation of this chapter or any regulation, standard, or procedure of the department implementing this chapter"	
8	REGULATORY PROVISIONS	
9	12. California Code of Regulations, title 16, section 3340.24, subdivision (c), states:	
10	against a licensee, if the licensee falsely or fraudulently issues or obtains a certificate	
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12	13. California Code of Regulations, title 16, section 3340.30, states:	
13	(a) A licensed technician shall inspect, test and repair vehicles in accordance with section 44012 of the Health and Safety Code, section 44035 of the Health and Safety Code, and section 3340.42 of this article"	
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17	14. California Code of Regulations, title 16, section 3340.35, states, in pertinent part:	
18	• • • • • • • • • • • • • • • • • • • •	
19	(c) A licensed station shall issue a certificate of compliance or noncompliance to the owner or operator of any vehicle that has been inspected in accordance with the	
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22	15. California Code of Regulations, title 16, section 3340.42, sets forth specific emissions	
23	test methods and procedures which apply to all vehicles inspected in the State of California.	
24	<u>COST RECOVERY</u>	
25	16. Section 125.3 of the Code provides, in pertinent part, that the Board may request the	
26	administrative law judge to direct a licentiate found to have committed a violation or violations of	
27	the licensing act to pay a sum not to exceed the reasonable costs of the investigation and	
28	enforcement of the case, with failure of the licentiate to comply subjecting the license to not being	
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renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

# VID DATA REVIEW

- 17. Beginning March 9, 2015, California's Smog Check Program was updated to require the use of an On-Board Diagnostic Inspection System ("OIS"). OIS is the Smog Check equipment required in all areas of the State when inspecting most model-year 2000 and newer gasoline and hybrid vehicles and most 1998 and newer diesel vehicles. The system consists of a certified Data Acquisition Device ("DAD"), computer, bar code scanner, and printer. The DAD is an On Board Diagnostic ("OBD") scan tool that, when requested by the California OIS software, retrieves OBD data from the vehicle. All OBD data that the vehicle indicates it supports is requested by the California OIS software and will be retrieved. The DAD connects between the OIS computer and the vehicle's DLC. The California OIS software requires a continuous Internet connection when performing a Smog Check inspection and the OIS software communicates with BAR's central database through the Internet connection. The bar code scanner is used to input technician information, the vehicles identification number ("VIN"), and DMV renewal information. The printer provides a Vehicle Inspection Report ("VIR") containing inspection results for motorists and a Smog Check Certificate of Compliance number for passing vehicles.
- 18. Data retrieved and recorded during an OIS smog check includes; the eVIN, which is the digitally stored VIN programmed into the vehicle's Powertrain Control Module ("PCM"); the communication protocol, which is the manufacturer/vehicle specific language the PCM uses to relay information; and the number of Parameter Identifications ("PIDs"), which is the number of specific data values each PCM uses related to emissions controls.
- 19. If the vehicle passes the visual, functional and tailpipe tests, it passes the overall inspection and a Certificate of Compliance is issued and transmitted electronically to the Vehicle Information Database ("VID"). These Certificates of Compliance are purchased in blocks of fifty (50) through the EIS or OIS from the VID, using a pre-arranged electronic bank account debit system or by check, via mail, from Bureau Headquarters in Sacramento. Each Certificate of

Compliance has a unique control number so that it can be tracked to determine which Smog Check Station purchased the Certificate of Compliance and to which vehicle it was issued.

- 20. The VID contains registration data from Department of Motor Vehicles ("DMV") plus emission standards, vehicle smog check inspections, smog check stations and technicians, and Certificates of Compliance. The VID receives the passing smog check results immediately following the inspection. During the vehicle registration process, the DMV accesses the VID to verify that the vehicle has been tested and certified. The Bureau can also access the VID to view test data on smog check inspections performed at any Smog Check Station, or search for, retrieve, and print a test record for a particular vehicle which has been tested. The EIS or OIS, depending on the test type, also prints a Vehicle Inspection Report ("VIR"), which is a physical record of the test results and shows the Certificate of Compliance number that was issued if the vehicle passed the smog inspection.
- 21. The smog check technician must sign the VIR under penalty of perjury to indicate that the inspection was done within Bureau guidelines. Smog Check Stations are required by law to maintain a copy of the VIR along with a copy of the repair invoice for three years. The consumer's VIR serves as a receipt and proof that the VID was updated and a Certificate of Compliance was issued. Licensed Smog Check Technicians are the only persons authorized by the Bureau to perform official inspections. They are issued a personal access code and a license, which are used to gain access to the EIS and OIS to perform smog check inspections. Unauthorized use of another technician's access code or license is prohibited.
- 22. On or about August 4, 2020, in response to an automatic BAR97 lockout as a result of Respondent Anaheim Smog transmitting improper data during the performance of a Smog Check Inspection, Bureau representatives visited Anaheim Smog. They met with the owner Alonso and a smog technician who was formerly employed at the facility. Bureau representatives reviewed the records of Anaheim Smog provided by Respondent and found the following discrepancies:

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#### 29. **Vehicle #7:**

Anaheim Smog invoice with attached VIR for a 1992 Jeep Wrangler with CA license #7ZYG687 documents a charge for a Smog Check Certificate of Compliance, while the VIR indicates "Overall Test Results FAIL" and a certificate was not issued; a fraudulent act.

#### 30. **Vehicle #8**:

Anaheim Smog invoice with attached VIR for a 1998 Dodge Dakota with CA license #5V43138 documents a charge for a Smog Check Certificate of Compliance, while the VIR indicates "Overall Test Results FAIL" and a certificate was not issued; a fraudulent act.

#### 31. Vehicle #9:

Anaheim Smog invoice with attached VIR for a 2006 Ford F150 with CA license #LYZZETE documents a charge for a Smog Check Certificate of Compliance, while the VIR indicates "Overall Test Result FAIL" and a certificate was not issued; a fraudulent act.

#### 32. **Vehicle #10**:

Anaheim Smog invoice with attached VIR for a 2007 Mercedes-Benz CLK 350 with CA license #6MVC509 documents a charge for a Smog Check Certificate of Compliance, while the VIR indicates "Overall Test Result FAIL" and a certificate was not issued; a fraudulent act.

#### 33. Vehicle #11:

Anaheim Smog invoice with attached VIR for a 2004 Ford Econoline E350 Super Duty Van with CA license #GINEL3 documents a charge for a Smog Check Certificate of Compliance, while the VIR indicates "Overall Test Result NOT READY" and a certificate was not issued; a fraudulent act.

#### 34. Vehicle #12:

Anaheim Smog invoice with attached VIR for a 1999 Ford F150 Super Cab Short with CA license #5Z77437 documents a charge for a Smog Check Certificate of Compliance, while the VIR indicates "Overall Test Results FAIL" and a certificate was not issued; a fraudulent act.

#### 35. Vehicle #13:

Anaheim Smog invoice with attached VIR for a 2005 GMC Yukon XL CI500 with CA license #5LXP136 documents a charge for a Smog Check Certificate of Compliance, while the

VIR indicates "Overall Test Result NOT READY" and a certificate was not issued; a fraudulent act.

#### **36.** Vehicle #14:

Anaheim Smog invoice with attached VIR for a 1999 Toyota Tacoma 2WD with CA license #7E11965 documents a charge for a Smog Check Certificate of Compliance, while the VIR indicates "Overall Test Results Gross Polluter" and a certificate was not issued; a fraudulent act.

#### 37. Vehicle #15:

Anaheim Smog invoice with attached VIR for a 2008 Nissan Altima 2.5 with CA license #7LWU432 documents a charge for a Smog Check Certificate of Compliance, while the VIR indicates "Overall Test Result NOT READY" and a certificate was not issued; a fraudulent act.

#### 38. Vehicle #16:

Anaheim Smog invoice with attached VIR for a 2005 Toyota Camry Solara SE CA license #7WXD891 documents a charge for a Smog Check Certificate of Compliance, while the VIR indicates "Overall Test Result NOT READY" and a certificate was not issued; a fraudulent act.

#### 39. **Vehicle #17:**

Anaheim Smog invoice with attached VIR for a 2010 Chevrolet Equinox LT with CA license #7EED219 documents a charge for a Smog Check Certificate of Compliance, while the VIR indicates "Overall Test Result NOT READY" and a certificate was not issued; a fraudulent act.

#### 40. Vehicle #18:

Anaheim Smog invoice with attached VIR for a 2006 Infiniti M35 Base with CA license #7UJY916 documents a charge for a Smog Check Certificate of Compliance, while the VIR indicates "Overall Test Result TAMPERED" and a certificate was not issued; a fraudulent act.

#### 41. Vehicle #19:

Anaheim Smog invoice with attached VIR for a 2000 Toyota Camry LE with CA license #4NRR379 documents a charge for a Smog Check Certificate of Compliance, while the VIR indicates "Overall Test Result FAIL" and a certificate was not issued; a fraudulent act.

# 42. **Vehicle #20:**

Anaheim Smog invoice with attached VIR for a 2001 Ford F250 Super Duty with CA license #69732P1 documents a charge for a Smog Check Certificate of Compliance, while the VIR indicates "Overall Test Result FAIL" and a certificate was not issued; a fraudulent act.

#### 43. Vehicle #21:

Anaheim Smog invoice with attached VIR for a 1996 Honda Civic with CA license #3PZV520 documents a charge for a Smog Check Certificate of Compliance, while the VIR indicates "Overall Test Results Fail" and a certificate was not issued; a fraudulent act.

#### 44. Vehicle #22:

Anaheim Smog invoice with attached VIR for a 2001 Toyota Sienna CE with CA license #7EFN888 documents a charge for a Smog Check Certificate of Compliance, while the VIR indicates "Overall Test Result TAMPERED" and a certificate was not issued; a fraudulent act.

#### 45. **Vehicle #23**:

Anaheim Smog invoice with attached VIR for a 2003 Ford Focus SE Comfort with CA license #5CJL682 documents a charge for a Smog Check Certificate of Compliance, while the VIR indicates "Overall Test Result FAIL" and a certificate was not issued; a fraudulent act.

#### 46. Vehicle #24:

Anaheim Smog invoice with attached VIR for a 2000 Ford F150 with CA license #6F50076 documents a charge for a Smog Check Certificate of Compliance, while the VIR indicates "Overall Test Result FAIL" and a certificate was not issued; a fraudulent act.

#### 47. Vehicle #25:

Anaheim Smog invoice with attached VIR for a 2002 Dodge Ram 1500 with CA license #13164C1 documents a charge for a Smog Check Certificate of Compliance, while the VIR indicates "Overall Test Result TAMPERED" and a certificate was not issued; a fraudulent act.

#### 48. Vehicle #26:

Anaheim Smog invoice with attached VIR for a 1996 Mazda Miata with CA license #7KVS701 documents a charge for a Smog Check Certificate of Compliance, while the VIR indicates "Overall Test Results Fail" and a certificate was not issued; a fraudulent act.

#### 49. **Vehicle #27**:

Anaheim Smog invoice with attached VIR for a 1997 Honda Prelude with CA license #5WQM987 documents a charge for a Smog Check Certificate of Compliance, while the VIR indicates "Overall Test Results Tamper" and a certificate was not issued; a fraudulent act.

#### 50. Vehicle #28:

Anaheim Smog invoice with attached VIR for a 1996 Toyota Corolla with CA license #7PRT939 documents a charge for a Smog Check Certificate of Compliance, while the VIR indicates "Overall Test Results Fail" and a certificate was not issued; a fraudulent act.

#### 51. Vehicle #29:

Anaheim Smog invoice with attached VIR for a 2000 Toyota Camry LE with CA license #4YWE325 documents a charge for a Smog Check Certificate of Compliance, while the VIR indicates "Overall Test Result DATA CHECK FAIL" and a certificate was not issued; a fraudulent act.

#### 52. Vehicle #30:

Anaheim Smog invoice with attached VIR for a 1997 Toyota Camry with CA license #3THV490 documents a charge for a Smog Check Certificate of Compliance, while the VIR indicates "Overall Test Results Fail" and a certificate was not issued; a fraudulent act.

#### 53. Vehicle #31:

Anaheim Smog invoice with attached VIR for a 1997 Buick LeSabre with CA license #4DJD333 documents a charge for a Smog Check Certificate of Compliance, while the VIR indicates "Overall Test Results Fail" and a certificate was not issued; a fraudulent act.

#### 54. Vehicle #32:

Anaheim Smog invoice with attached VIR for a 1999 Ford Ranger Super Cab with CA license #63905W1 documents a charge for a Smog Check Certificate of Compliance, while the VIR indicates "Overall Test Results Fail" and a certificate was not issued; a fraudulent act.

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Anaheim Smog invoice with attached VIR for a 1993 Toyota Pickup with CA license #96535R1 documents a charge for a Smog Check Certificate of Compliance, while the VIR indicates "Overall Test Results Fail" and a certificate was not issued; a fraudulent act.

Anaheim Smog invoice with attached VIR for a 2007 Honda Civic LX with CA license #7SQJ088 documents a charge for Smog Check Certificate of Compliance, while the VIR indicates "Overall Test Result NOT READY" and a certificate was not issued; a fraudulent act.

Anaheim Smog invoice with attached VIR for a 2003 Audi TT with CA license #8JNL863 documents a charge for a Smog Check Certificate of Compliance, while the VIR indicates "Overall Test Result TAMPERED" and a certificate was not issued; a fraudulent act.

Anaheim Smog invoice with attached VIR for a 2002 Chevrolet Cavalier Base with CA license #4WMV193 documents a charge for a Smog Check Certificate of Compliance, while the VIR indicates "Overall Test Result NOT READY" and a certificate was not issued; a fraudulent act.

# **November 19, 2020 Station Inspection**

59. On November 19, 2020, Bureau representatives visited Anaheim Smog and met with Angel Alonso (Alonso), owner of Anaheim Smog. Alonso admitted to the Bureau representatives that the station's invoices, as referenced in paragraphs 23 through 58 above, accurately reflect the dollar amounts charged by Anaheim Smog and are the same amounts paid by the customers to Anaheim Smog. This includes all Anaheim Smog invoices with attached Vehicle Inspection Reports (VIR) provided by Alonso for the dates June 22, 2020, through July 22, 2020.

#### FIRST CAUSE FOR DISCIPLINE

# (Untrue or Misleading Statements)

60. Respondent's registration is subject to disciplinary action pursuant to section 9884.7, subdivision (a)(1), in that between June 22, 2020, through July 22, 2020, Respondent made or

authorized statements which he knew or in the exercise of reasonable care should have known to be untrue or misleading, as follows: Respondent documented and charged a fee for a Smog Check Certificate that was not issued or received by the customer. The vehicles referenced in paragraphs 23 through 58 above failed the Smog Check Inspection and were not eligible to receive a Smog Check Certificate of Compliance.

# SECOND CAUSE FOR DISCIPLINE

#### (Fraud)

61. Respondent's registration is subject to disciplinary action pursuant to section 9884.7, subdivision (a)(4), in that on and between June 22, 2020, through July 22, 2020, Respondent fraudulently documented and charged a fee for a Smog Check Certificate that was not issued or received by the customer. The vehicles referenced in paragraphs 23 through 58 above failed the Smog Check Inspection and were not eligible to receive a Smog Check Certificate of Compliance.

# THIRD CAUSE FOR DISCIPLINE

# (Failure to Comply with the Automotive Repair Act)

62. Respondent's registration is subject to disciplinary action pursuant to section 9884.7, subdivision (a)(6), in that on and between June 22, 2020, through July 22, 2020, Respondent fraudulently documented and charged a fee for a Smog Check Certificate that was not issued or received by the customer. The vehicles referenced in paragraphs 23 through 58 above failed the Smog Check Inspection and were not eligible to receive a Smog Check Certificate of Compliance. Respondent was repeatedly admonished by the Bureau to follow the laws and regulations pertaining to Automotive Repair Dealers and continued to violate those laws despite being admonished.

#### FOURTH CAUSE FOR DISCIPLINE

#### (Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection)

63. Respondent's station license is subject to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (c), in that on and between June 22, 2020, through July

22, 2020, Respondent failed to comply with the following provisions of the California Code of Regulations, Title 16, as follows:

(a) Section 3373: Respondent fraudulently documented and charged a fee for a Smog Check Certificate that was not issued or received by the customer. The vehicles referenced in paragraphs 23 through 58 above failed the Smog Check Inspection and were not eligible to receive a Smog Check Certificate of Compliance.

# FIFTH CAUSE FOR DISCIPLINE

# (Dishonesty, Fraud or Deceit)

64. Respondent's station license is subject to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (d), in that on and between June 22, 2020, through July 22, 2020, Respondent fraudulently documented and charged a fee for a Smog Check Certificate that was not issued or received by the customer. The vehicles referenced in paragraphs 23 through 58 above failed the Smog Check Inspection and were not eligible to receive a Smog Check Certificate of Compliance.

# SIXTH CAUSE FOR DISCIPLINE

# (Dishonesty, Fraud or Deceit)

65. Respondent's smog check inspector license is subject to discipline pursuant to Health and Safety Code section 44072.2, subdivision (d), in that on and between June 22, 2020, through July 22, 2020, Respondent fraudulently documented and charged a fee for a Smog Check Certificate that was not issued or received by the customer. The vehicles referenced in paragraphs 23 through 58 above failed the Smog Check Inspection and were not eligible to receive a Smog Check Certificate of Compliance.

# SEVENTH CAUSE FOR DISCIPLINE

# (Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection)

66. Respondent's smog check inspector license is subject to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (c), in that on and between June 22, 2020, through July 22, 2020, Respondent failed to comply with the following provisions of the California Code of Regulations, Title 16, as follows:

(a) Section 3373: Respondent fraudulently documented and charged a fee for a Smog Check Certificate that was not issued or received by the customer. The vehicles referenced in paragraphs 23 through 58 above failed the Smog Check Inspection and were not eligible to receive a Smog Check Certificate of Compliance.

# **DISCIPLINE CONSIDERATIONS**

67. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that on July 15, 2019, the Bureau issued Angel Alonso d.b.a. Anaheim Smog Administrative Citation #C2019-1684, for his actions in violation of section 44012 of the Health and Safety Code, in that Respondent unlawfully inspected and certified a Bureau vehicle documented to fail a properly performed Smog Check Inspection.

# **OTHER MATTERS**

- 68. Pursuant to Business & Professions Code section 9884.7, subdivision (c), the Director may suspend, revoke, or place on probation the registration for all places of business operated in this State by Respondent Angel Alonso upon a finding that Respondent Angel Alonso has, or is, engaged in a course of repeated and willful violations of the laws and regulations pertaining to an automotive repair dealer.
- 69. Pursuant to Health & Safety Code section 44072.8, if Smog Check, Test Only, Station License Number TC 288993 issued to Respondent is revoked or suspended following a hearing under this article, any additional license issued under Chapter 5, Part 5, Division 26 in the name of said licensee may be likewise revoked or suspended by the Director.
- 70. Pursuant to Health & Safety Code section 44072.8, if Smog Check Inspector License Number EO 638929 issued to Respondent is revoked or suspended following a hearing under this article, any additional license issued under Chapter 5, Part 5, Division 26 in the name of said licensee may be likewise revoked or suspended by the Director.

#### **PRAYER**

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