

1 ROB BONTA
Attorney General of California
2 CHAR SACHSON
Supervising Deputy Attorney General
3 JUSTIN R. SURBER
Deputy Attorney General
4 State Bar No. 226937
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (858) 899-5512
6 Facsimile: (415) 703-1107
E-mail: Justin.Surber@doj.ca.gov
7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 79/25-5552

13 **ONKO INVESTMENTS, LLC**
14 **DBA STAR SMOG DEPOT**

7651 El Camino Real
Colma, CA 94014

ACCUSATION

15 Automotive Repair Dealer Registration Number ARD 292760
16 Smog Check Station License Number TC 292760

17 **HARUN ONGUN**
18 7651 El Camino Real
Colma, CA 94014

19 Smog Check Inspector License Number EO 150910

20 **JUAN MIGUEL SEBASTIAN MORENO**
21 7651 El Camino Real
22 Colma, CA 94014

23 Smog Check Inspector License Number EO 643702

24 Respondents.
25
26
27
28

PARTIES

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

2. On or about December 4, 2018, the Bureau of Automotive Repair issued Automotive Repair Dealer Registration Number ARD 292760 to ONKO Investments, LLC dba Star Smog Depot (Respondent ONKO). Harun Ongun (Respondent Ongun) is a member of Respondent ONKO. The Automotive Repair Dealer Registration was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2025, unless renewed.

3. On or about December 12, 2018, the Bureau issued Smog Check, Test-Only, Station License Number TC 292760 to Respondent ONKO. 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 December 31, 2025, unless renewed.

4. On or about January 24, 2019, Respondent ONKO's Smog Check Station License was certified as STAR Station. The certification will remain active unless the ARD registration and/or Smog Check station license is revoked, cancelled, licenses become delinquent, or certification is suspended.

5. In 2005, the Bureau issued Advanced Emission Specialist Technician License Number EA 150910 to Respondent Ongun. Respondent Ongun's advanced emission specialist technician license was cancelled on August 15, 2012. Pursuant to California Code of Regulations, title 16, section 3340.28, subdivision (e), the license was renewed, pursuant to Respondent Ongun's election, as Smog Check Inspector License Number EO 150910 and Smog Check Repair Technician License Number EI 150910, effective August 15, 2012. The Smog Check Inspector License will expire on September 30, 2026, unless renewed. The Smog Check Repair Technician License expired on September 30, 2014, and has not been renewed.¹

¹ Effective August 1, 2012, California Code of Regulations, title 16, sections 3340.28, 3340.29, and 3340.30 were amended to implement a restructuring of Bureau licenses from Advanced Emission Specialist Technician (EA) License and Basic Area (EB) Technician License to Smog Check Inspector (EO) License and and/or Smog Check Repair Technician (EI) License.

6. On or about May 30, 2022, the Bureau issued Smog Check Inspector License Number EO 643702 to Juan Miguel Sebastian Moreno (Respondent Moreno). The Smog Check Inspector License was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2026, unless renewed.

JURISDICTION

7. This Accusation is brought before the Director of the Department of Consumer Affairs (Director) for the Bureau, under the authority of the following laws.

8. Section 118, subdivision (b), of the Code provides that the suspension, expiration, surrender, and/or cancellation of a license shall not deprive the Director of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

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

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

11. Section 44072.6 of the Health and Safety Code provides, in pertinent part, that the expiration or suspension of a license by operation of law, or by order or decision of the Director of Consumer Affairs, or a court of law, or the voluntary surrender of the license shall not deprive the Director of jurisdiction to proceed with any investigation of, or action or disciplinary proceedings against the licensee, or to render a decision suspending or revoking the license.

STATUTORY PROVISIONS

12. Section 9884.7 of the Code states:

(a) The director, if the automotive repair dealer cannot show there was a bona fide error, may deny, suspend, revoke, or place on probation the registration of an automotive repair dealer for any of the following acts or omissions related to the conduct of the business of the automotive repair dealer, which are done by the automotive repair dealer or any automotive technician, employee, partner, officer, or

member of the automotive repair dealer:

(1) Making 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.

...

(4) Any other conduct that constitutes fraud.

...

(6) Failure in any material respect to comply with the provisions of this chapter or regulations adopted pursuant to it.

...

(c) Notwithstanding subdivision (b), the director may suspend, revoke, or place on probation the registration for all places of business operated in this state by an automotive repair dealer upon a finding that the automotive repair dealer has, or is, engaged in a course of repeated and willful violations of this chapter, or regulations adopted pursuant to it.

...

(e) For purposes of this section, "fraud" includes, but is not limited to, violations of this chapter involving misrepresentations and all of the following:

(1) Any act or omission that is included within the definition of either "actual fraud" or "constructive fraud," as those terms are defined in Sections 1572 and 1573 of the Civil Code.

(2) A misrepresentation in any manner, whether intentionally false or due to gross negligence, of a material fact.

(3) A promise or representation not made honestly and in good faith.

(4) An intentional failure to disclose a material fact.

(5) Any act in violation of Section 484 of the Penal Code.

13. Section 44012 of the Health and Safety Code states:

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

...

14. Section 44032 of the Health and Safety Code states:

No person shall perform, for compensation, tests or repairs of emission control devices or systems of motor vehicles required by this chapter unless the person

performing the test or repair is a qualified smog check technician and the test or repair is performed at a licensed smog check station. Qualified technicians shall perform tests of emission control devices and systems in accordance with Section 44012.

15. Section 44072.2 of the Health and Safety Code states:

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

(a) Violates any section of this chapter [the Motor Vehicle Inspection Program (Health and Saf. Code, “ 44000, et seq.)] and the regulations adopted pursuant to it, which related to the licensed activities.

...

(c) Violates any of the regulations adopted by the director pursuant to this chapter.

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

...

(h) Violates or attempts to violate the provisions of this chapter relating to the particular activity for which he or she is licensed.

16. Section 44072.8 of the Health and Safety Code states:

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

17. Section 44072.10, of the Health and Safety Code states, in pertinent part:

...

(c) 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) Clean piping, clean plugging, clean glassing, clean tanking, or any other fraudulent inspection practice, as defined by the department.

(2) Tampering with a vehicle emission control system or test analyzer system.

(3) Tampering with a vehicle in a manner that would cause the vehicle to falsely pass or falsely fail an inspection.

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

...

1
2 **REGULATORY PROVISIONS**

3 18. California Code of Regulations, title 16, section 3340.1, states:

4 ...

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

7 ...

8 19. California Code of Regulations, title 16, section 3340.24, states:

9 (a) Any disciplinary or reinstatement proceeding under this article involving
10 licensed stations, licensed technicians, or fleet owners licensed pursuant to section
11 44020 of the Health and Safety Code shall be conducted in accordance with chapter 5
(commencing with section 11500) of division 3, Title 2 of the Government Code.

12 ...

13 (c) The bureau may suspend or revoke the license of or pursue other legal
14 action against a licensee, if the licensee falsely or fraudulently issues or obtains a
certificate of compliance or a certificate of noncompliance.

15 ...

16 20. California Code of Regulations, title 16, section 3340.30, states:

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

19 (a) A licensed technician shall inspect, test and repair vehicles in accordance
20 with section 44012 of the Health and Safety Code, section 44035 of the Health and
Safety Code, and section 3340.42 of this article.

...

21 21. California Code of Regulations, title 16, section 3340.41, states:

22 ...

23 (c) No person shall enter any vehicle identification information or emission
24 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
25 information about the vehicle being tested.

26 ...

27 (h) No licensed station shall have in the approved testing area at any time
any electronic device or software capable of simulating the OBD data stream from a
28 vehicle or manipulating OBD VIN, calibration identification, calibration verification
number, MIL-status, readiness, or diagnostic trouble codes collected from a vehicle

during a Smog Check Inspection.

...

22. California Code of Regulations, title 16, section 3340.42, states:

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

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

...

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

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

(1) A visual inspection of emission control components and systems to verify the vehicle's emission control systems are properly installed.

(2) A functional inspection of emission control systems as specified in the Smog Check Manual, referenced by section 3340.45, which may include an OBD test, to verify their proper operation.

23. California Code of Regulations, title 16, section 3340.45, states:

All Smog Check inspections shall be performed in accordance with requirements and procedures prescribed in the Smog Check Manual, dated January 2021, which is hereby incorporated by reference.

COST RECOVERY

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

///

///

1 **SMOG PROGRAM AND CLEAN PLUGGING ALLEGATIONS**

2 25. California's Smog Check Program requires the owners of most motor vehicles in
3 California to take and pass a Smog Check inspection and receive a Certificate of Compliance
4 every two years when renewing their registration and also when the vehicle's title is transferred.
5 These inspections are performed by Smog Check Inspectors at Smog Check Stations, both of
6 which are licensed by BAR.

7 26. The Smog Check inspection in certain Enhanced areas of the State is an Acceleration
8 Simulation Mode (ASM) test performed using an Emission Inspection System (EIS), also known
9 as a BAR 97. This is a computer based five-gas analyzer that measures Hydrocarbons, Carbon
10 Monoxide, Oxides of Nitrogen, Carbon Dioxide, and Oxygen. The inspection involves a test of
11 the vehicle's tailpipe emissions on a dynamometer. In Basic areas of the State, or depending on a
12 vehicle's configuration (all-wheel drive, traction control issue), a similar test called a Two Speed
13 Idle (TSI) test is performed, but instead of applying a load to the vehicle's drive wheels with a
14 dynamometer, the EIS measures the emissions at idle as well as 2500 revolutions per minute
15 (RPM).

16 27. The inspector also performs visual and functional tests on the vehicle as outlined in
17 the Smog Check Manual. The visual inspection of the emission control components verifies the
18 required emission control devices are present and properly connected. Functional tests are also
19 performed which, depending on the vehicle, may include checking the ignition timing,
20 malfunction indicator light (MIL), Exhaust Gas Recirculation (EGR) system, a low-pressure test
21 of the evaporative emissions controls (LPFET), a visible smoke test, and a pressure test of the gas
22 cap.

23 28. On March 9, 2015, BAR implemented a statewide regulatory change requiring the use
24 of the On-Board Diagnostic Inspection System (BAR-OIS) instead of the EIS for the smog testing
25 of 2000 model year and newer gas powered and 1998 and newer diesel vehicles. Most older
26 vehicles require the ASM or TSI test on the EIS. Gas powered vehicles with a gross vehicle
27 weight rating over 14,000 pounds require an inspection on the EIS.
28

1 29. The newer BAR-OIS smog inspection uses a Data Acquisition Device (DAD), a
2 computer, a bar code scanner, and printer. The DAD is a scan tool that retrieves data from a
3 vehicle's On-Board Diagnostic-generation II (OBD II) computer. The DAD connects the BAR
4 OIS computer to the vehicle's diagnostic link connector (DLC) to retrieve the data from the
5 vehicle. The bar code scanner is used to input technician information, the vehicle identification
6 number (VIN), and DMV renewal information. The printer is used to print Vehicle Inspection
7 Reports.

8 30. Data retrieved and recorded during a BAR-OIS smog check includes: the eVIN,
9 which is the digitally stored VIN programmed into the vehicle's Powertrain Control Module
10 (PCM); the communication protocol, which is the manufacturer/vehicle's specific "language" the
11 PCM uses to relay information; and the number of Parameter Identifications (PIDs), which is the
12 number of specific data values each PCM uses related to emissions controls.

13 31. As part of the BAR-OIS smog inspections, the technician also performs a visual and
14 functional test on the vehicle being inspected. The visual inspection of the emission control
15 components verifies the required emission control devices are present and properly connected and
16 a functional test is performed of the malfunction indicator light (MIL). The BAR-OIS software
17 makes the determination whether or not the vehicle passes the inspection based on the results of
18 the OBD, visual and functional tests. If the vehicle passes the inspection a certificate of
19 compliance is issued. The information from the smog inspection is then transmitted to the
20 Vehicle Information Data (VID).

21 32. BAR can access the VID to view test data on smog check inspections performed at
22 any Smog Check Station, or search for, retrieve, and print a test record for a particular vehicle
23 which has been tested.

24 33. BAR has become aware of methods some Smog Check stations and Smog Check
25 inspectors use to issue smog certificates to vehicles that will not pass a Smog Check test on their
26 own, or in some instances, are not even present during the time the test is performed.

27 34. One method is known as "clean plugging." "Clean plugging" is the act of using one
28 vehicle's properly functioning OBD II system, or another source such as an electronic defeat

device, to generate passing data readings or diagnostic information for the purpose of issuing a smog certificate of compliance to a vehicle that is not in smog compliance and/or not being tested. The vehicle being certified is not the one being tested.

35. On or about March 28, 2025, the BAR initiated an investigation of Respondent ONKO's smog check station Star Smog Depot. The investigation revealed Ongun performed two smog inspections at Star Smog Depot using clean-plugging methods. The investigation revealed Respondent Moreno performed eight smog inspections at Star Smog Depot using clean-plugging methods. Respondent ONKO issued 10 certificates of compliance to the clean plugged vehicles.

36. A Bureau representative reviewed data for the clean-plugged vehicles inspected by Respondents. The data revealed that the ten vehicles that were purportedly tested by Respondents were not and could not have been connected to the DAD when they were being certified because the OBD-II data purportedly transmitted by those vehicles could not have been transmitted by those vehicles.

37. Respondents clean plugged and issued certificates of compliance to the following vehicles:

a) Clean Plug# 1 - 2008 Mercedes-Benz C 300 (Tested by Respondent Moreno)

Certificate # SU737625C	eVIN	Protocol	PID Count
Fraudulent Passing Inspection (August 06, 2022)	Not reported	ICAN11bt5	22 6
Previous Inspection of the 2008 Mercedes-Benz C 300	WDDGF54X38F032845	ICAN11bt5	45 12
Expected OBD II Value	WDDGF54X38F032845	ICAN11bt5	45, 45 12 or 47 12

b) Clean Plug #2 – 2012 Dodge Grand Caravan R/T (Tested by Respondent Moreno)

Certificate # SW424191C	eVIN	Protocol	PID Count
Fraudulent Passing Inspection (August 31, 2022)	1C4RDHAG4JC473731	ICAN11bt5	47 12
Subsequent Inspection of the 2012 Dodge Grand Caravan R/T	2C4RDGEG7CR268404	ICAN11bt5	42
Expected OBD II Value	2C4RDGEG7CR268404	ICAN11bt5	42

c) Clean Plug #3—2010 Toyota Prius (Tested by Respondent Moreno)

Certificate # TG030167C	eVIN	Protocol	PID Count
Fraudulent Passing Inspection (March 31, 2023)	Not reported	ICAN11bt5	39 26
Previous Inspection of the 2010 Toyota Prius	JTDKN3DUXA0118728	ICAN11bt5	39 24
Expected OBD II Value	JTDKN3DUXA0118728	ICAN11bt5	37 24 or 39 24

d) Clean Plug #4—2012 Isuzu NPR (Tested by Respondent Ongun)

Certificate # TI297908C	eVIN	Protocol	PID Count
Fraudulent Passing Inspection (May 27, 2022)	Not reported	KWPS	37 19 9 2 6
Subsequent Inspection of the 2012 Isuzu NPR	JALB4T170C7W00165	ICAN11bt5	46 2 25
Expected OBD II Value	JALB4T170C7W00165	ICAN11bt5	46 2 25

e) Clean Plug #5—2015 Isuzu NPR (Tested by Respondent Moreno)

Certificate # IV588670C	eVIN	Protocol	PID Count
Fraudulent Passing Inspection (September 20, 2023)	Not reported	KWPS	48 2 22 8 2 6
Previous Inspection of the 2015 Isuzu NPR	JALB4T176F7W00238	ICAN11bt5	48 2 22
Expected OBD II Value	JALB4T176F7W00238	ICAN11bt5	48 2 22

f) Clean Plug #6—2002 2005 Acura TL (Tested by Respondent Moreno)

Certificate # TQ429642C	eVIN	Protocol	PID Count
Fraudulent Passing Inspection (December 28, 2023)	WDAPF4CC2E5918551	ICAN11bt5	54 12 16
Donor Vehicle Used 2014 Mercedes Benz Sprinter 3500 (December 28, 2023)	WDAPF4CC2E5918551	ICAN11bt5	54 12 16
Expected OBD II Value	19UUA66225A066840	I914	24

///

///

///

g) Clean Plug #7—2014 Toyota Venza (Tested by Respondent Moreno)

Certificate # TQ865197C	eVIN	Protocol	PID Count
Fraudulent Passing Inspection (January 13, 2024)	Not reported	ICAN11bt5	20 9
Previous Inspection of the 2014 Toyota Venza	4T3ZK3BB6EU067142	ICAN11bt5	49 19
Expected OBD II Value	4T3ZK3BB6EU067142	ICAN11bt5	49 17 or 49 19

h) Clean Plug #8— 2015 Isuzu NPR (Tested by Respondent Ongun)

Certificate # TU862084C	eVIN	Protocol	PID Count
Fraudulent Passing Inspection (April 3, 2024)	Not reported	KWPS	40 16 8 2 6
Previous Inspection of the 2015 Isuzu NPR	JALB4T175F7W00232	ICAN11bt5	48 2 22
Expected OBD II Value	JALB4T175F7W00232	ICAN11bt5	48 2 22

i) Clean Plug #9—2015 Isuzu NPR (Tested by Respondent Moreno)

Certificate # TU830184C	eVIN	Protocol	PID Count
Fraudulent Passing Inspection (April 4, 2024)	Not reported	KWPS	40 16 8 2 6
Previous Inspection of the 2015 Isuzu NPR	JALB4T174F7W00237	ICAN11bt5	48 2 22
Expected OBD II Value	JALB4T174F7W00237	ICAN11bt5	48 2 22

j) Clean Plug #10— 2013 Honda Accord LX (Tested by Respondent Moreno)

Certificate # TU980008C	eVIN	Protocol	PID Count
Fraudulent Passing Inspection (April 5, 2024)	Not reported	ICAN29bt5	18
Previous Inspection of the 2013 Honda Accord LX	1HGCR2F33DA061795	ICAN29bt5	39
Expected OBD II Value	1HGCR2F33DA061795	ICAN29bt5	39

///

///

///

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Untrue or Misleading Statements - Registration)**

3 38. Respondent ONKO has subjected its Automotive Repair Dealer Registration to
4 discipline under Code section 9884.7, subdivision (a)(1), in that Respondent ONKO made
5 statements which it knew or which by exercise of reasonable care should have known were untrue
6 or misleading, as set forth above in the Smog Program and Clean Plugging Allegations.
7 Respondent ONKO purported to test vehicles, and certified that the vehicles passed inspection
8 and were in compliance with applicable laws and regulations. In fact, Respondent conducted the
9 inspections on those vehicles using clean-plugging methods.

10 **SECOND CAUSE FOR DISCIPLINE**

11 **(Fraud - Registration)**

12 39. Respondent ONKO has subjected its Automotive Repair Dealer Registration to
13 discipline under Code section 9884.7, subdivision (a)(4), in that it committed acts which
14 constitute fraud, as set forth above in the Smog Program and Clean Plugging Allegations.

15 **THIRD CAUSE FOR DISCIPLINE**

16 **(False or Misleading Records-Registration)**

17 40. Respondent has ONKO subjected its Automotive Repair Dealer Registration to
18 discipline under Code section 9884.7, subdivision (a)(6), in that it violated California Code of
19 Regulations, title 16, section 3373, by creating and issuing false or misleading certificates of
20 compliance and vehicle inspection reports for the 10 vehicles that were clean plugged as set forth
21 above in the Smog Program and Clean Plugging Allegations. The certificates and inspection
22 reports indicated the vehicles were tested in accordance with all Bureau requirements and the
23 vehicles were qualified to receive certificates of compliance. This was false as the vehicles were
24 clean plugged.

25 **FOURTH CAUSE FOR DISCIPLINE**

26 **(Dishonesty, Fraud or Deceit – Smog Station License)**

27 41. Respondent ONKO has subjected its Smog Check Station License to discipline under
28 Health and Safety Code sections 44072.10 and/or 44072.2, subdivision (d), in that it committed

1 acts involving dishonesty, fraud or deceit, whereby another was injured by issuing electronic
2 certificates of compliance for vehicles without performing bona fide inspections of the emission
3 control devices and systems on the vehicles, thereby depriving the People of the State of
4 California of the protection afforded by the Motor Vehicle Inspection Program. Respondent
5 ONKO participated in clean-plugging as set forth above in the Smog Program and Clean
6 Plugging Allegations above.

7 **FIFTH CAUSE FOR DISCIPLINE**

8 **(Violation of the Motor Vehicle Inspection Program- Smog Station License)**

9 42. Respondent ONKO has subjected its Smog Check Station License to discipline under
10 Health and Safety Code sections 44072.10 and/or 44072.2, subdivisions (a) and (c), in that it
11 violated sections of that Code and applicable regulations, through conduct described in the Smog
12 Program and Clean Plugging Allegations, as follows:

13 a. **Section 44012:** Respondent failed to ensure that smog inspections were performed
14 on vehicles in accordance with procedures prescribed by the department.

15 b. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued
16 electronic certificates of compliance to certain vehicles without performing bona fide inspections
17 of the emission control devices and systems on those vehicles.

18 c. **Section 3340.41, subdivision (c):** Respondent entered false information about
19 vehicles being tested into OIS.

20 d. **Section 3340.42:** Respondent failed to conduct the required smog tests and
21 inspections on certain vehicles in accordance with the Bureau's specifications.

22 e. **Section 3340.45** Respondent violated the procedures contained in the Smog Check
23 Manual by entering vehicle identification information for a vehicle that was not being tested.

24 **SIXTH CAUSE FOR DISCIPLINE**

25 **(Dishonesty, Fraud or Deceit – Smog Check Inspector License-Moreno)**

26 43. Respondent Moreno has subjected his Smog Check Inspector and License to
27 discipline under Health and Safety Code sections 44072.10 and/or 44072.2, subdivision (d), in
28 that he committed acts involving dishonesty, fraud or deceit, whereby another was injured by

1 issuing electronic certificates of compliance for vehicles without performing bona fide
2 inspections of the emission control devices and systems on the vehicles, thereby depriving the
3 People of the State of California of the protection afforded by the Motor Vehicle Inspection
4 Program. Respondent Moreno participated in clean-plugging as set forth above in the Smog
5 Program and Clean Plugging Allegations above.

6 **SEVENTH CAUSE FOR DISCIPLINE**

7 **(Violation of the Motor Vehicle Inspection Program- Smog Check Inspector License**
8 **Moreno)**

9 44. Respondent Moreno has subjected his Smog Check Inspector License to discipline
10 under Health and Safety Code sections 44072.10 and/or 44072.2, subdivisions (a) and (c), in that
11 he violated sections of that Code and applicable regulations, through conduct described in the
12 Smog Program and Clean Plugging Allegations, as follows:

13 a. **Section 44012:** Respondent failed to ensure that smog inspections were performed
14 on vehicles in accordance with procedures prescribed by the department.

15 b. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued
16 electronic certificates of compliance to certain vehicles without performing bona fide inspections
17 of the emission control devices and systems on those vehicles.

18 c. **Section 3340.30, subdivision (a):** Respondent failed to inspect the vehicles in
19 accordance with Health and Safety Code section 44012 and California Code of Regulations, title
20 16, section 3340.42.

21 d. **Section 3340.41, subdivision (c):** Respondent entered false information about
22 vehicles being tested into OIS.

23 e. **Section 3340.42:** Respondent failed to conduct the required smog tests and
24 inspections on certain vehicles in accordance with the Bureau's specifications.

25 f. **Section 3340.45** Respondent violated the procedures contained in the Smog Check
26 Manual by entering vehicle identification information for a vehicle that was not being tested.

27 g. **Section 44059:** Respondent willfully made false statements in issuing the Smog
28 Certificates of compliance and on the Vehicle Inspection Reports.

1 **EIGHTH CAUSE FOR DISCIPLINE**

2 **(Dishonesty, Fraud or Deceit – Smog Check Inspector - Ongun)**

3 45. Respondent Ongun has subjected his Smog Check Inspector License to discipline
4 under Health and Safety Code sections 44072.10 and/or 44072.2, subdivision (d), in that he
5 committed acts involving dishonesty, fraud or deceit, whereby another was injured by issuing
6 electronic certificates of compliance for vehicles without performing bona fide inspections of the
7 emission control devices and systems on the vehicles, thereby depriving the People of the State of
8 California of the protection afforded by the Motor Vehicle Inspection Program. Respondent
9 Ongun participated in clean-plugging as set forth above in the Smog Program and Clean Plugging
10 Allegations above.

11 **NINETH CAUSE FOR DISCIPLINE**

12 **(Violation of the Motor Vehicle Inspection Program- Smog Check Inspector License-**
13 **Ongun)**

14 46. Respondent Ongun has subjected his Smog Check Inspector License to discipline
15 under Health and Safety Code sections 44072.10 and/or 44072.2, subdivisions (a) and (c), in that
16 he violated sections of that Code and applicable regulations, through conduct described in the
17 Smog Program and Clean Plugging Allegations, as follows:

18 a. **Section 44012:** Respondent failed to ensure that smog inspections were performed
19 on vehicles in accordance with procedures prescribed by the department.

20 b. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued
21 electronic certificates of compliance to certain vehicles without performing bona fide inspections
22 of the emission control devices and systems on those vehicles.

23 c. **Section 3340.30, subdivision (a):** Respondent failed to inspect the vehicles in
24 accordance with Health and Safety Code section 44012 and California Code of Regulations, title
25 16, section 3340.42.

26 d. **Section 3340.41, subdivision (c):** Respondent entered false information about
27 vehicles being tested into OIS.
28

1 e. **Section 3340.42:** Respondent failed to conduct the required smog tests and
2 inspections on certain vehicles in accordance with the Bureau's specifications.

3 f. **Section 3340.45** Respondent violated the procedures contained in the Smog Check
4 Manual by entering vehicle identification information for a vehicle that was not being tested.

5 g. **Section 44059:** Respondent willfully made false statements in issuing the Smog
6 Certificates of compliance and on the Vehicle Inspection Reports.

7 **OTHER MATTERS**

8 47. Pursuant to Code section 9884.7, subdivision (c), the Director may suspend, revoke,
9 or place on probation the registration for all places of business operated in this state by
10 Respondent ONKO upon a finding that Respondent has, or is, engaged in a course of repeated
11 and willful violations of the laws and regulations pertaining to an automotive repair dealer.

12 48. Pursuant to Health & Safety Code section 44072.8, if Respondent ONKO's Smog
13 Check Station License is revoked or suspended, any additional license issued under Chapter 5 of
14 Part 5 of Division 26 of the Health and Safety Code in the name of said licensee may be likewise
15 revoked or suspended by the director.

16 49. Pursuant to Health & Safety Code section 44072.8, if Respondent Ongun's Smog
17 Check Inspector License is revoked or suspended, any additional license issued under Chapter 5
18 of Part 5 of Division 26 of the Health and Safety Code in the name of said licensee may be
19 likewise revoked or suspended by the director.

20 50. Pursuant to Health & Safety Code section 44072.8, if Respondent Moreno's Smog
21 Check Inspector License is revoked or suspended, any additional license issued under Chapter 5
22 of Part 5 of Division 26 of the Health and Safety Code in the name of said licensee may be
23 likewise revoked or suspended by the director.

24 **DISCIPLINARY CONSIDERATIONS**

25 51. To determine the degree of discipline, if any, to be imposed on Respondent ONKO
26 and Respondent Ongun and, Complainant alleges that on or about April 19, 2019, the Bureau
27 held a ProActive Conference with Respondent Ongun at Star Smog Depot. Respondent ONKO
28

1 and Respondent Ongun were advised to follow all laws and regulations under the Automotive
2 Repair Act and were warned that failure to do so could result in disciplinary action.

3 **PRAYER**

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

7 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
8 292760, issued ONKO Investments, LLC., dba Star Smog Depot;

9 2. Revoking or suspending any additional Automotive Repair Dealer Registration(s)
10 issued to ONKO Investments, LLC;

11 3. Revoking or suspending Smog Check Test Only Station License Number TC 292760,
12 issued ONKO Investments, LLC., dba Star Smog Depot;

13 4. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of
14 Division 26 of the Health and Safety Code to ONKO Investments, LLC;

15 5. Revoking or suspending Smog Check Inspector License Number EO 150910, issued
16 to Harun Ongun;

17 6. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of
18 Division 26 of the Health and Safety Code to Harun Ongun;

19 7. Revoking or suspending Smog Check Inspector License Number EO 643702, issued
20 to Juan Miguel Sebastian Moreno;

21 8. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of
22 Division 26 of the Health and Safety Code to Juan Miguel Sebastian Moreno;

23 9. Ordering ONKO Investments, LLC. to pay the Bureau of Automotive Repair the
24 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
25 Professions Code section 125.3 and if placed on probation, the costs of probation monitoring;

26 10. Ordering Harun Ongun to pay the Bureau of Automotive Repair the reasonable costs
27 of the investigation and enforcement of this case, pursuant to Business and Professions Code
28 section 125.3 and if placed on probation, the costs of probation monitoring;

11. Ordering Juan Miguel Sebastian Moreno to pay the Bureau of Automotive Repair the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3 and if placed on probation, the costs of probation monitoring;

and,

12. Taking such other and further action as deemed necessary and proper.

DATED: As of Digital Signature Date

PATRICK DORAIS
Chief
Bureau of Automotive Repair
Department of Consumer Affairs
State of California
Complainant

SF2025401045
44737771