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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. 79/25-3073

13 **LEONARDO VELASCO GARCIA DBA**
14 **CHUY SMOG CHECK**
2070 W Slauson Ave
Los Angeles, CA 90047

ACCUSATION

15 **Automotive Repair Dealer Registration No.**
16 **ARD 295165**
Smog Check Test Only Station License No.
17 **TC 295165**

18 **WILLIAM ANTONIO HERNANDEZ**
19 **5018 ½ S Harvard Blvd**
Los Angeles, CA 90026

20 **Smog Check Inspector License No.**
21 **EO 641783**

22 **and**

23 **KEVIN EDGARDO LEZAMA**
24 **817 W 55th St**
Los Angeles, CA 90037

25 **Smog Check Inspector License No**
26 **EO 637795**

Respondents.

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1 **PARTIES**

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

4 2. On or about August 16, 2019, the Bureau issued Automotive Repair Dealer
5 Registration Number ARD 295165 to Leonardo Velasco Garcia dba Chuy Smog Check
6 (Respondent Garcia). The Automotive Repair Dealer Registration was in full force and effect at
7 all times relevant to the charges brought herein and will expire on August 31, 2025, unless
8 renewed.

9 3. On or about October 28, 2019, the Bureau issued Smog Check Test Only Station
10 License Number TC 295165 to Respondent Garcia. The Smog Check Test Only Station License
11 was in full force and effect at all times relevant to the charges brought herein and will expire on
12 August 31, 2025, unless renewed.

13 4. On or about March 13, 2020, the Bureau certified Chuy Smog Check as a STAR
14 station. The certification was suspended on January 29, 2025.

15 5. On or about March 18, 2019, the Bureau issued Smog Check Inspector License
16 Number EO 641783 to William Antonio Hernandez (Respondent Hernandez). The Smog Check
17 Inspector License was in full force and effect at all times relevant to the charges brought herein
18 and will expire on December 31, 2026, unless renewed.

19 6. On or about January 28, 2015, the Bureau issued Smog Check Inspector License
20 Number EO 637795 to Kevin Edgardo Lezama (Respondent Lezama). The Smog Check
21 Inspector License was in full force and effect at all times relevant to the charges brought herein
22 and will expire on November 30, 2026, unless renewed.

23 **JURISDICTION**

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

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

9. Bus. & Prof. Code section 9884.7 provides that the Director may revoke an automotive repair dealer registration.

10. Bus. & Prof. Code section 9884.13 provides, in pertinent part, that the expiration of a valid registration shall not deprive the Director of jurisdiction to proceed with a disciplinary proceeding against an automotive repair dealer or to render a decision temporarily or permanently invalidating (suspending or revoking) a registration.

11. Health and Safety Code (Health & Saf. Code) section 44002 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.

12. Health & Saf. Code section 44072.6 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 disciplinary action.

STATUTORY PROVISIONS

13. Bus. & Prof. Code section 9884.7 states, in pertinent part:

(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.

....

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

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

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

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

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

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

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

17 14. Bus. & Prof. Code section 477 provides, in pertinent part, that “Board” includes
18 “bureau,” “commission,” “committee,” “department,” “division,” “examining committee,”
19 “program,” and “agency.” “License” includes certificate, registration or other means to engage in
20 a business or profession regulated by the Bus. & Prof. Code.

21 15. Health & Saf. Code section 44012 provides, in pertinent part, that tests at smog check
22 stations shall be performed in accordance with procedures prescribed by the department.

23 16. Health & Saf. Code section 44015, subdivision (b), provides that a certificate of
24 compliance shall be issued if a vehicle meets the requirements of Health & Saf. Code section
25 40012.

26 17. Health & Saf. Code section 44032 provides that qualified technicians shall perform
27 tests of emissions control devices and systems in accordance with Health & Saf. Code section
28 40012.

18 18. Health & Saf. Code section 44072.2 states, in pertinent part:

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

22 (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 . . .

19. Health & Saf. Code section 44072.10 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, 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 . . .

20. Health & Saf. Code section 44072.8 states that 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.

REGULATORY PROVISIONS

21. California Code of Regulations (CCR), title 16, section 3340.24, subdivision (c), states:

“The bureau may suspend or revoke the license of or pursue other legal action against a licensee, if the licensee falsely or fraudulently issues or obtains a certificate of compliance or a certificate of noncompliance.”

22. CCR, title 16, section 3340.30, subdivision (a), states that a licensed smog technician shall at all times “[i]nspect, test and repair vehicles, as applicable, in accordance with section 44012 of the Health & Saf. Code, section 44035 of the Health & Saf. Code, and section 3340.42 of this article.”

1 23. CCR, title 16, section 3340.35, subdivision (c), states that a licensed smog check
2 station “shall issue a certificate of compliance or noncompliance to the owner or operator of any
3 vehicle that has been inspected in accordance with the procedures specified in section 3340.42 of
4 this article and has all the required emission control equipment and devices installed and
5 functioning correctly.”

6 24. CCR, title 16, section 3340.41 states, in pertinent part:

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

10 (c) No person shall enter any vehicle identification information or emission
11 control system identification data for any vehicle other than the one being tested into
the EIS or OIS. Nor shall any person enter into the EIS or OIS any false information
12 about the vehicle being tested

13 25. CCR, title 16, section 3340.42, sets forth specific emissions test methods and
14 procedures which apply to all vehicles inspected in the State of California.

15 **COST RECOVERY**

16 26. Bus. & Prof. Code section 125.3 provides, in pertinent part, that a Board may request
17 the administrative law judge to direct a licentiate found to have committed a violation or
18 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
19 and enforcement of the case.

20 **CALIFORNIA’S SMOG CHECK PROGRAM**

21 27. California’s Smog Check Program requires most vehicles in the State to undergo a
22 smog check inspection every two years or when the vehicle’s title is transferred.

23 28. A smog check inspection in certain Enhanced areas of the State is an Acceleration
24 Simulation Mode (ASM) test performed using an Emission Inspection System (EIS), also known
25 as a BAR 97. This is a computer based five-gas analyzer that measures Hydrocarbons (HC),
26 Carbon Monoxide (CO), Oxides of Nitrogen (NOx), Carbon Dioxide (CO²) and Oxygen (O²).
27 The first part of the test is a loaded mode test of the vehicle’s tailpipe emissions on a
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dynamometer. The vehicle's drive wheels are placed on rollers, and the vehicle is driven to simulate driving conditions while the emissions are sampled by the EIS.

29. In Basic areas of the State, or depending on a vehicle's configuration, a similar test called a Two Speed Idle test is performed, but instead of applying a load to the vehicle's drive wheels with a dynamometer, the EIS measures the emissions of HC, CO, O₂, and CO₂ at idle as well as 2500 revolutions per minute (rpm).

30. In the visual portion of a smog check, the technician inspects the emission control components to verify that the required emission control devices are present and properly connected.

31. An On-Board Diagnostics (OBD II) functional test is also performed on most 1996 to 1999 model year vehicles. The EIS retrieves information through the Diagnostic Link Connector (DLC) from the vehicle's on-board computer about its ability to communicate, the status of the I/M readiness monitors and the MIL light command. The I/M readiness monitors tell whether or not the OBD II system has run a sufficient number of self-tests on the vehicle's emission and engine control systems. A failure of one or more of the OBD II functional criteria, depending on model year, will result in the vehicle failing its smog check inspection. In addition to reporting the outcome of the OBD II functional test, the smog check inspection results also show Diagnostic Trouble Codes (DTC) if there are any in the vehicle's on-board computer memory.

32. The inspector enters the results of the visual and functional inspections into the EIS. The EIS unit makes the determination whether or not the vehicle passes the inspection based on the results of the tailpipe, visual and functional tests.

33. The EIS is connected by internet connection to Bureau's Vehicle Information Database (VID). If the vehicle passes the visual, functional and tailpipe tests, it passes the overall inspection. A Certificate of Compliance is issued and transmitted electronically to the VID. Additionally, all data gathered during a Smog Check inspection, regardless of the type of inspection, is transmitted to and retained in the VID.

34. Beginning March 9, 2015, California's Smog Check Program was updated to require the use of an On-Board Diagnostic Inspection System (BAR-OIS). BAR-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. The system consists of a certified Data Acquisition Device (DAD), computer, bar code scanner, and printer. The DAD is an OBD scan tool that, when requested by the BAR-OIS software, retrieves OBD data from the vehicle. All OBD data that the vehicle indicates it supports is requested by the BAR-OIS software and will be retrieved. The DAD connects between the BAR-OIS computer and the vehicle's DLC. The bar code scanner is used to input inspector information, the vehicle identification number (VIN), and Department of Motor Vehicles 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.

35. During an OIS inspection, engine operating parameters are retrieved from the vehicle's OBD II system and recorded to the VID. This is accomplished during the functional portion of the OIS Smog Check inspection by plugging the DAD into the vehicle's DLC when prompted by the OIS analyzer screen prompt. Some of the parameters recorded are:

- Engine speed in revolutions per minute (RPM)
- Throttle position as measured by a throttle position sensor (TPS) mounted onto the throttle shaft. Measured in a percentage of opening from 0% at idle and near or up to 100% at full throttle.
- Manifold absolute pressure as measured by a manifold air pressure sensor (MAP) connected to an intake manifold source, measured in kilo pascals (kpa). Typical readings for a normally aspirated vehicle as follows: 0 kpa being absolute vacuum, 25 to 45 kpa at idle, 101 kpa at full throttle, same as atmospheric pressure at sea level.
- Mass air flow as measured by a mass air flow sensor (MAF) mounted in the engine's air intake tract. Measured in grams per second (gps).
- Ignition timing is set by the vehicle PCM based on engine speed and load, and is measured in degrees Before Top Dead Center (BTDC).

Not all vehicles include both MAP and MAF parameters. Many vehicles will have either MAP or MAF parameters separately.

1 36. During normal engine operation at idle, engine speed is relatively steady around its
2 target idle speed. With the engine idling, the TPS is steady and at or near 0%. The MAP and/or
3 MAF readings are also steady. For the engine speed to increase, the throttle would have to be
4 opened in order to increase airflow through the engine. The engine's management systems
5 supply fuel and spark timing appropriate to any changes in throttle position and engine speed.
6 An increase in throttle, measured by the TPS, which increases engine RPM, would result in a
7 corresponding increase in MAF as well as a change in MAP. Any movement in the throttle from
8 the idle position will result in an increase of airflow through the engine with corresponding
9 increases RPM and MAF along with changes in MAP.

10 37. During an OIS Smog Check inspection, along with other visual and functional
11 inspections, there is an OBD II query portion of the inspection. The OBD II query is performed
12 with the engine idling and, when requested by the OIS analyzer, and an elevated or increased
13 engine speed. The increase in engine speed is performed by the inspector by stepping on the
14 throttle pedal or manually opening the throttle resulting in a corresponding increase in engine
15 RPMs by allowing an increase in airflow into the engine.

16 38. The Bureau has become aware of methods that some Smog Check stations and Smog
17 Check inspectors use to fraudulently issue smog certificates to vehicles that may not pass a smog
18 check test on their own, or in some instances, are not even present during the time the test is
19 performed. "Clean plugging" is a method by which another vehicle's OBD II system, or another
20 source such as defeat devices, are used to generate passing data readings or diagnostic
21 information for the purpose of fraudulently issuing smog certificates to vehicles that are not in
22 smog compliance, and or not present for testing. Defeat devices attempt to simulate engine
23 operation during a smog check inspection by transmitting OBD II data to the VID which has been
24 modified or replaced entirely for the purportedly inspected vehicle during the functional portion
25 of the OIS inspection.

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FACTUAL ALLEGATIONS

39. On or about February 18, 2025, a Bureau Representative conducted a detailed review of the VID data for Smog Check inspections performed at Chuy Smog Check which showed a pattern of vehicles being certified with engine operating parameters that did not correspond to normal engine operation, confirming the vehicles receiving smog certifications were not tested during the OBD II functional test, which constitutes clean plugging. The Bureau's review of the smog check activities at Chuy Smog Check confirmed ten (10) Smog Check Certificates of Compliance were fraudulently issued by Chuy Smog Check to vehicles that were inspected by Respondents Hernandez and Lezama.

Fraudulent Inspection Number 1 – 2002 Acura RSX Type-S

40. OIS Test Data for Chuy Smog Check indicated that on July 28, 2023, a 2002 Acura RSX Type-S, VIN #JH4DC53022C008246 (2002 RSX Type-S), was tested and Smog Certificate of Compliance #TK733642C was issued by Chuy Smog Check, under Respondent Hernandez's Smog Check Inspector License. The OIS Test Data also show that between time stamps 851 and 34355, the engine RPM is steady at around 750 RPM. During this time, the data show that the throttle is fixed at 9.4% opening and the MAP is fixed at 100kpa. Between time stamp 35233 and 38806, the engine RPM is increased then held steady at around 1700 RPM. During the steady elevated engine RPM, the data show that the throttle continues to stay fixed at 9.4% opening and the MAP continues to stay fixed at 100kpa. The steady idle and steady elevated engine RPMs along with the associated fixed throttle position and fixed MAP readings are not characteristic or expected for normal engine operation. These discrepancies confirm that the OIS DAD was not connected to the 2002 RSX Type-S during the certification process as required, thereby confirming this as a fraudulent inspection by way of Clean Plugging.

Fraudulent Inspection Number 2 – 2005 Nissan Altima SE

41. OIS Test Data for Chuy Smog Check indicated that on September 16, 2023, a 2005 Nissan Altima SE, CA license #5TPT198, VIN #1N4BL11D15C376290 (2005 Altima SE), was tested and smog certificate #TM889945C was issued by Chuy Smog Check, under Respondent Hernandez's Smog Check Inspector License. The OIS Test Data also show that between time

1 stamps 983 and 22987, the engine RPM is steady at around 700 RPM. During this time, the data
2 show that the throttle is fixed at 1.6% opening and the MAF is fixed at 0.9gps. Between time
3 stamp 23983 and 31017, the engine RPM is increased then held steady at around 1480 RPM.
4 During the steady elevated engine RPM, the data show that the throttle continues to stay fixed at
5 1.6% opening and the MAF continues to stay fixed at 0.9gps. The steady idle and steady elevated
6 engine RPMs along with the associated fixed throttle position and fixed MAF readings are not
7 characteristic or expected for normal engine operation. These discrepancies confirm that the OIS
8 DAD was not connected to the 2005 Altima SE during the certification process as required,
9 thereby confirming this as a fraudulent inspection by way of Clean Plugging.

10 **Fraudulent Inspection Number 3 – 2000 Jeep Wrangler / TJ SE**

11 42. OIS Test Data for Chuy Smog Check indicated that on October 13, 2023, a 2000
12 Jeep Wrangler / TJ SE, VIN #1J4FA29P8YP705130 (2000 Wrangler / TJ SE), was tested and
13 smog certificate #IX046820C was issued by Chuy Smog Check, under Respondent Hernandez's
14 Smog Check Inspector License. The OIS Test Data also show that between time stamps 956 and
15 31776, the engine RPM is steady at around 875 RPM. During this time, the data show that the
16 throttle is fixed at 0.0% opening and the MAF is fixed at 4.49gps. Between time stamp 32768
17 and 36752, the engine RPM is increased then held steady at around 1640 RPM. During the
18 steady elevated engine RPM, the data show that the throttle continues to stay fixed at 0.0%
19 opening and the MAF continues to stay fixed at 4.49gps. The steady idle and steady elevated
20 engine RPMs along with the associated fixed throttle position and fixed MAF readings are not
21 characteristic or expected for normal engine operation. These discrepancies confirm that the OIS
22 DAD was not connected to the 2000 Wrangler / TJ SE during the certification process as
23 required, thereby confirming this as a fraudulent inspection by way of Clean Plugging.

24 **Fraudulent Inspection Number 4 – 2001 Nissan Maxima GXE**

25 43. OIS Test Data for Chuy Smog Check indicated that on October 14, 2023, a 2001
26 Nissan Maxima GXE, CA license #7JJP824, VIN #JN1CA31DX1T818528 (2001 Maxima GXE),
27 was tested and smog certificate #IX046827C was issued by Chuy Smog Check, under
28 Respondent Hernandez's Smog Check Inspector License. The OIS Test Data also show that

1 between time stamps 964 and 26756 engine speed is steady at around 650 RPM. During this
2 time, the data show that the throttle is fixed at 0.0% opening and the MAF is fixed at 3.96gps.
3 Between time stamp 27764 and 32709, the engine RPM is increased and held steady at around
4 1500 RPM. During the steady elevated engine RPM, the data show that the throttle continues to
5 stay fixed at 0.0% opening and the MAF continues to stay fixed at 3.96gps. The steady idle and
6 steady elevated engine RPMs along with the associated fixed throttle position and fixed MAF
7 readings are not characteristic or expected for normal engine operation. These discrepancies
8 confirm that the OIS DAD was not connected to the 2001 Maxima GXE during the certification
9 process as required, thereby confirming this as a fraudulent inspection by way of Clean Plugging.

10 **Fraudulent Inspection Number 5 – 2007 BMW 335I**

11 44. OIS Test Data for Chuy Smog Check indicated that on November 14, 2023, a 2007
12 BMW 335I, CA license #7ELG758, VIN #WBAVB73587PA86062 (2007 335I), was tested and
13 smog certificate #TO838623C was issued by Chuy Smog Check, under Respondent Hernandez's
14 Smog Check Inspector License. The OIS Test Data also show that between time stamps 827 and
15 27763, the engine RPM is steady at around 835 RPM. During this time, the data show that the
16 throttle is fixed at 17.3% opening and the MAP is fixed at 99kpa. Between time stamp 28623 and
17 45976, the engine RPM is increased and held steady at around 1725 RPM. During the steady
18 elevated engine RPM, the data show that the throttle continues to stay fixed at 17.3% opening and
19 the MAP continues to stay fixed at 99kpa. The steady idle and steady elevated engine RPMs
20 along with the associated fixed throttle position and fixed MAP readings are not characteristic or
21 expected for normal engine operation. These discrepancies confirm that the OIS DAD was not
22 connected to the 2007 335I during the certification process as required, thereby confirming this as
23 a fraudulent inspection by way of Clean Plugging.

24 **Fraudulent Inspections Number 6 – 2004 Nissan Armada SE**

25 45. OIS Test Data for Chuy Smog Check indicated that on November 15, 2023, a 2004
26 Nissan Armada SE, CA license #5HKA588, VIN #5N1AA08A44N724955 (2004 Armada SE),
27 was tested and smog certificate #TO838632C was issued by Chuy Smog Check, under
28 Respondent Hernandez's Smog Check Inspector License. The OIS Test Data also show that

1 between time stamps 968 and 22759, the engine RPM is steady at around 680 RPM. During this
2 time, the data show that the throttle is fixed at 0.4% opening and the MAF is fixed at 5.28gps.
3 Between time stamp 23746 and 25716, the engine RPM is increased then held steady at around
4 1850 RPM. During the steady elevated engine RPM, the data show that the throttle continues to
5 stay fixed at 0.4% opening and the MAF continues to stay fixed at 5.28gps. The steady idle and
6 steady elevated engine RPMs along with the associated fixed throttle position and fixed MAF
7 readings are not characteristic or expected for normal engine operation. These discrepancies
8 confirm that the OIS DAD was not connected to the 2004 Armada SE during the certification
9 process as required, thereby confirming this as a fraudulent inspection by way of Clean Plugging.

10 **Fraudulent Inspection Number 7 – 2002 Subaru Impreza WRX**

11 46. OIS Test Data for Chuy Smog Check indicated that on December 6, 2023, a 2002
12 Subaru Impreza WRX, CA license #5NQK408, VIN #JF1GD29672G516670 (2002 Impreza
13 WRX), was tested and smog certificate #IX656141C was issued by Chuy Smog Check, under
14 Respondent Hernandez's Smog Check Inspector License. The OIS Test Data also show that
15 between time stamps 949 and 25001, the engine RPM is steady at around 900 RPM. During this
16 time, the data show that the throttle is at 0.0% opening, the MAF is at 2.76gps, and the MAP is
17 fixed at 32kpa. Between time stamp 26004 and 29029, the data show that the engine RPM is
18 increased then held steady at around 2075 RPM. During the steady elevated engine RPM, the
19 data shows that the throttle continues to stay fixed at 0.0% opening, the MAF continues to stay
20 fixed at 2.76gps, and the MAP continues to stay fixed at 32kpa. The steady idle and steady
21 elevated engine RPMs along with the associated fixed throttle position, and fixed MAF and MAP
22 readings are not characteristic or expected for normal engine operation. These discrepancies
23 confirm that the OIS DAD was not connected to the 2002 Impreza WRX during the certification
24 process as required, thereby confirming this as a fraudulent inspection by way of Clean Plugging.

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Clean Plug Number 8 – 2002 Ford F150

47. OIS Test Data for Chuy Smog Check indicated that on August 24, 2024, a 2002 Ford F150, CA license #7A48988, VIN #1FTRF17252NC09520 (2002 F150), was tested and smog certificate #JB024672C was issued by Chuy Smog Check, under Respondent Lezama's Smog Check Inspector License. The OIS Test Data also show that between time stamps 350 and 28825, the engine RPM is steady at around 850 RPM. During this time, the data show that the throttle is fixed at 18.4% opening and the MAF makes four drops from 5.8gps to 4.06gps. After time stamp 28825, the engine RPM is increased and then held at around 2480 RPM. During this elevated engine RPM, the data show that the throttle increases from 23.9% opening to 24.7% opening, drops to 23.1% opening, then increases to 23.5% opening. The MAF increases from 12.25gps to 17.85gps, drops to 14.47gps, increases to 16.89gps, drops to 14.2gps, drops to 10.19gps, increases up to 13.73gps, drops to 11.61gps, then increases to 13.57gps. The steady idle and steady elevated engine RPMs along with the associated varying throttle positions and fluctuating MAF readings are not characteristic or expected for normal engine operation. The throttle position and MAF readings are expected to be stable at idle and at the elevated engine RPM. These discrepancies confirm that the OIS DAD was not connected to the 2002 Ford F150 during the certification process as required, thereby confirming this as a fraudulent inspection by way of Clean Plugging.

Clean Plug Number 9 – 2004 BMW 325I

48. OIS Test Data for Chuy Smog Check indicated that on October 16, 2024, a 2004 BMW 325I, CA license #5JIT423, VIN #WBAET37444NJ44132 (2004 325I), was tested and smog certificate #UE593789C was issued by Chuy Smog Check, under Respondent Hernandez's Smog Check Inspector License. The OIS Test Data also show that between time stamps 858 and 21246, the engine RPM is steady at around 800 RPM. During this time, the data show that the throttle is fixed at 9.8% opening and the MAF is fixed at 0.0gps. Between time stamp 22143 and 27506, the engine RPM is increased then held steady at around 1525 RPM. During the steady elevated engine RPM, the data show that the throttle continues to stay fixed at 9.8% opening and the MAF continues to stay fixed at 0.0gps. The steady idle and steady elevated engine RPMs

1 along with the associated fixed throttle position and fixed MAF readings are not characteristic or
2 expected for normal engine operation. These discrepancies confirm that the OIS DAD was not
3 connected to the 2004 325I during the certification process as required, thereby confirming this as
4 a fraudulent inspection by way of Clean Plugging.

5 **Clean Plug Number 10 – 2005 Honda Accord LX**

6 49. OIS Test Data for Chuy Smog Check indicated that on October 30, 2024, a 2005
7 Honda Accord LX, CA license #7PMF306, VIN #JHMC56435C006758 (2005 Accord LX),
8 was tested and smog certificate #UE983018C was issued by Chuy Smog Check, under
9 Respondent Lezama's Smog Check Inspector License. The OIS Test Data also show that
10 between time stamps 859 and 21114, the engine RPM is steady at around 800 RPM. During this
11 time, the data show that the throttle is at 9.4%, the MAF drops from 4.93gps to 2.76gps, and the
12 MAP increases from 25kpa to 34kpa. After time stamp 21197, the engine RPM is increased then
13 held steady at around 2100 RPM. During the elevated engine RPM, the data show that the
14 throttle is 13.7%, the MAF drops from 8.39gps to 4.24gps, and the MAP increases from 23kpa to
15 25kpa. The steady idle and steady elevated engine RPMs along with the associated throttle
16 positions and improbable MAF and MAP readings are not characteristic or expected for normal
17 engine operation. The MAF and MAP readings are expected to be stable at idle and at the
18 elevated engine RPM. These discrepancies confirm that the OIS DAD was not connected to the
19 2005 Accord LX during the certification process as required, thereby confirming this as a
20 fraudulent inspection by way of Clean Plugging.

21 ***Respondent Garcia***

22 **FIRST CAUSE FOR DISCIPLINE**

23 **(Untrue or Misleading Statements)**

24 50. Respondent Garcia's Automotive Repair Dealer Registration is subject to disciplinary
25 action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(1), in that he made
26 statements which were known to be untrue or misleading or, which by exercise of reasonable care
27 should have been known to be untrue or misleading, by issuing electronic smog certificates of
28 compliance for the ten (10) vehicles set forth in paragraphs 40-49 above, certifying that those

1 vehicles were in compliance with applicable laws and regulations when, in fact, those vehicles
2 had not been so inspected. Complainant refers to, and by this reference incorporates, the
3 allegations contained in paragraphs 39-49, above, as though set forth fully herein.

4 **SECOND CAUSE FOR DISCIPLINE**

5 **(Fraud)**

6 51. Respondent Garcia's Automotive Repair Dealer Registration is subject to disciplinary
7 action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(4), in that he committed acts
8 that constitute fraud by issuing electronic certificates of compliance to the ten (10) vehicles set
9 forth in paragraphs 40-49, above, without performing bone fide inspections of the emission
10 control devices and systems on those vehicles, thereby depriving the People of the State of
11 California of the protection afforded by the Motor Vehicle Inspection Program. Complainant
12 refers to, and by this reference incorporates, the allegations contained in paragraphs 39-49, above,
13 as though set forth fully herein.

14 **THIRD CAUSE FOR DISCIPLINE**

15 **(Material Violation of Automotive Repair Act)**

16 52. Respondent Garcia's Automotive Repair Dealer Registration is subject to disciplinary
17 action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(6), in that he failed in a
18 material respect to comply with the provisions of this chapter or regulations adopted pursuant to it
19 when he issued electronic certificates of compliance for the ten (10) vehicles set forth in
20 paragraphs 40-49, above, without performing bona fide inspections of the emission control
21 devices and systems on those vehicles, thereby depriving the People of the State of California of
22 the protection afforded by the Motor Vehicle Inspection Program. Complainant refers to, and by
23 this reference incorporates, the allegations contained in paragraphs 39-49, above, as though set
24 forth fully herein.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Violations of the Motor Vehicle Inspection Program)**

3 53. Respondent Garcia's Smog Check Test Only Station License is subject to disciplinary
4 action pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that he failed to
5 comply with the following sections of that Code:

6 a. **Section 44012:** Respondent failed to ensure that the emission control tests were
7 performed on the ten (10) vehicles identified in paragraphs 40-49, above, in accordance with
8 procedures prescribed by the department.

9 b. **Section 44015, subdivision (b):** Respondent issued electronic smog certificates of
10 compliance to the ten (10) vehicles identified in paragraphs 40-49, above, without properly
11 testing and inspecting those vehicles to determine if they were in compliance with Health & Saf.
12 Code section 44012.

13 Complainant refers to, and by this reference incorporates, the allegations contained in
14 paragraphs 39-49, above, as though set forth fully herein.

15 **FIFTH CAUSE FOR DISCIPLINE**

16 **(Failure to Comply with Regulations Pursuant**
17 **to the Motor Vehicle Inspection Program)**

18 54. Respondent Garcia's Smog Check Test Only Station License is subject to disciplinary
19 action pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that he failed to
20 comply with provisions of California Code of Regulations, title 16, as follows:

21 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued
22 electronic smog certificates of compliance for the ten (10) vehicles identified in paragraphs 40-
23 49, above.

24 b. **Section 3340.30, subdivision (a):** Respondent failed to inspect and test the ten (10)
25 vehicles identified in paragraphs 40-49, above, in accordance with Health & Saf. Code sections
26 44012 and 44035, and California Code of Regulations, title 16, section 3340.42.

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1 c. **Section 3340.35, subdivision (c):** Respondent issued electronic smog certificates of
2 compliance for the ten (10) vehicles identified in paragraphs 40-49, above, even though those
3 vehicles had not been inspected in accordance with section 3340.42.

4 d. **Section 3340.42:** Respondent failed to ensure that the smog inspections conducted
5 on the ten (10) vehicles identified in paragraphs 40-49 above, were done in accordance with the
6 Bureau's specifications.

7 Complainant refers to, and by this reference incorporates, the allegations contained in
8 paragraphs 39-49, above, as though set forth fully herein.

9 **SIXTH CAUSE FOR DISCIPLINE**

10 **(Dishonesty, Fraud or Deceit)**

11 55. Respondent Garcia's Smog Check Test Only Station License is subject to disciplinary
12 action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in conjunction with
13 Health & Saf. Code section 44072.10, subdivision (c), in that he committed dishonest, fraudulent,
14 or deceitful acts whereby another was injured by issuing electronic smog certificates of
15 compliance for the ten (10) vehicles described in paragraphs 40-49, above, without performing
16 bona fide inspections of the emission control devices and systems on those vehicles, thereby
17 depriving the People of the State of California of the protection afforded by the Motor Vehicle
18 Inspection Program. Complainant refers to, and by this reference incorporates, the allegations
19 contained in paragraphs 39-49, above, as though set forth fully herein.

20 ***Respondent Hernandez***

21 **SEVENTH CAUSE FOR DISCIPLINE**

22 **(Violations of the Motor Vehicle Inspection Program)**

23 56. Respondent Hernandez's Smog Check Inspector License is subject to disciplinary
24 action pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that he failed to
25 comply with the following sections of that code:

26 a. **Section 44032:** Respondent failed to perform tests of emission control devices and
27 systems of the eight (8) vehicles identified in paragraphs 40-46 and 48, above, in accordance with
28 Health & Saf. Code section 44012.

1 b. **Section 44015, subdivision (b):** Respondent caused electronic smog certificates of
2 compliance to be issued for the eight (8) vehicles identified in paragraphs 40-46 and 48, above,
3 without ensuring that they were properly tested and inspected to determine if they were in
4 compliance with Health & Saf. Code section 44012.

5 Complainant refers to, and by this reference incorporates, the allegations contained in
6 paragraphs 40-46 and 48, above, as though set forth fully herein.

7 **EIGHTH CAUSE FOR DISCIPLINE**
8 **(Failure to Comply with Regulations Pursuant**
9 **to the Motor Vehicle Inspection Program)**

10 57. Respondent Hernandez's Smog Check Inspector License is subject to disciplinary
11 action pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that he failed to
12 comply with provisions of California Code of Regulations, title 16, as follows:

13 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued
14 electronic smog certificates of compliance for the eight (8) vehicles identified in paragraphs 40-
15 46 and 48, above.

16 b. **Section 3340.30, subdivision (a):** Respondent failed to inspect and test the eight (8)
17 vehicles identified in paragraphs 40-46 and 48, above, in accordance with Health & Saf. Code
18 sections 44012 and 44035, and California Code of Regulations, title 16, section 3340.42.

19 c. **Section 3340.41, subdivision (c):** Respondent knowingly entered false information
20 into the emissions inspection system for the eight (8) vehicles identified in paragraphs 40-46 and
21 48, above.

22 d. **Section 3340.42:** Respondent failed to ensure that the smog inspections conducted
23 on the eight (8) vehicles identified in paragraphs 40-46 and 48, above, were done in accordance
24 with the Bureau's specifications.

25 Complainant refers to, and by this reference incorporates, the allegations contained in
26 paragraphs 40-46 and 48, above, as though set forth fully herein.

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NINTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

58. Respondent Hernandez’s Smog Check Inspector License is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in conjunction with Health & Saf. Code section 44072.10, subdivision (c), in that he committed dishonest, fraudulent, or deceitful acts whereby another was injured by issuing electronic smog certificates of compliance for the eight (8) vehicles identified in paragraphs 40-46 and 48, above, without performing bona fide inspections of the emission control devices and systems on those vehicles, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program. Complainant refers to, and by this reference incorporates, the allegations contained in paragraphs 40-46 and 48, above, as though set forth fully herein.

Respondent Lezama

TENTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

59. Respondent Lezama’s Smog Check Inspector License is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that he failed to comply with the following sections of that code:

a. **Section 44032:** Respondent failed to perform tests of emission control devices and systems of the two (2) vehicles identified in paragraphs 47 and 49, above, in accordance with Health & Saf. Code section 44012.

b. **Section 44015, subdivision (b):** Respondent caused electronic smog certificates of compliance to be issued for the two (2) vehicles identified in paragraphs 47 and 49, above, without ensuring that they were properly tested and inspected to determine if they were in compliance with Health & Saf. Code section 44012.

Complainant refers to, and by this reference incorporates, the allegations contained in paragraphs 47 and 49, above, as though set forth fully herein.

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1 **ELEVENTH CAUSE FOR DISCIPLINE**

2 **(Failure to Comply with Regulations Pursuant**
3 **to the Motor Vehicle Inspection Program)**

4 60. Respondent Lezama's Smog Check Inspector License is subject to disciplinary action
5 pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that he failed to comply with
6 provisions of California Code of Regulations, title 16, as follows:

7 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued
8 electronic smog certificates of compliance for the two (2) vehicles identified in paragraphs 47 and
9 49, above.

10 b. **Section 3340.30, subdivision (a):** Respondent failed to inspect and test the two (2)
11 vehicles identified in paragraphs 47 and 49, above, in accordance with Health & Saf. Code
12 sections 44012 and 44035, and California Code of Regulations, title 16, section 3340.42.

13 c. **Section 3340.41, subdivision (c):** Respondent knowingly entered false information
14 into the emissions inspection system for the two (2) vehicles identified in paragraphs 47 and 49,
15 above.

16 d. **Section 3340.42:** Respondent failed to ensure that the smog inspections conducted
17 on the two (2) vehicles identified in paragraphs 47 and 49, above, were done in accordance with
18 the Bureau's specifications.

19 Complainant refers to, and by this reference incorporates, the allegations contained in
20 paragraphs 47 and 49, above, as though set forth fully herein.

21 **TWELFTH CAUSE FOR DISCIPLINE**

22 **(Dishonesty, Fraud or Deceit)**

23 61. Respondent Lezama's Smog Check Inspector License is subject to disciplinary action
24 pursuant to Health & Saf. Code section 44072.2, subdivision (d), in conjunction with Health &
25 Saf. Code section 44072.10, subdivision (c), in that he committed dishonest, fraudulent, or
26 deceitful acts whereby another was injured by issuing electronic smog certificates of compliance
27 for the two (2) vehicles identified in paragraphs 47 and 49, above, without performing bona fide
28 inspections of the emission control devices and systems on those vehicles, thereby depriving the

1 People of the State of California of the protection afforded by the Motor Vehicle Inspection
2 Program. Complainant refers to, and by this reference incorporates, the allegations contained in
3 paragraphs 47 and 49, above, as though set forth fully herein.

4 **OTHER MATTERS**

5 62. Pursuant to Bus. & Prof. Code section 9884.7, subdivision (c), the Director may
6 suspend, revoke, or place on probation the registration for all places of business operated in this
7 state by Respondent Garcia, upon a finding that he has, or is, engaged in a course of repeated and
8 willful violations of the laws and regulations pertaining to an automotive repair dealer.

9 63. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Test Only Station
10 License No. TC 295165, issued to Respondent Garcia, is revoked or suspended, any additional
11 license issued under Chapter 5 of Part 5 of Division 26 of the Health & Saf. Code in the name of
12 said licensee may be likewise revoked or suspended by the director.

13 64. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Inspector License
14 No. EO 641783, issued to Respondent Hernandez, is revoked or suspended, any additional license
15 issued under Chapter 5 of Part 5 of Division 26 of the Health & Saf. Code in the name of said
16 licensee may be likewise revoked or suspended by the director.

17 65. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Inspector License
18 No. EO 637795, issued to Respondent Lezama, is revoked or suspended, any additional license
19 issued under Chapter 5 of Part 5 of Division 26 of the Health & Saf. Code in the name of said
20 licensee may be likewise revoked or suspended by the director.

21 **PRAYER**

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

25 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
26 295165, issued to Leonardo Velasco Garcia dba Chuy Smog Check;

27 2. Revoking or suspending any other automotive repair dealer registration issued to
28 Leonardo Velasco Garcia;

3. Revoking or suspending Smog Check Test Only Station License Number TC 295165,
issued to Leonardo Velasco Garcia, dba Chuy Smog Check;

4. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health & Saf. Code in the name of Leonardo Velasco Garcia;

5. Revoking or suspending Smog Check Inspector License Number EO 641783, issued to William Antonio Hernandez;

6. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health & Saf. Code in the name of William Antonio Hernandez;

7. Revoking or suspending Smog Check Inspector License Number EO 637795, issued to Kevin Edgardo Lezama;

8. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health & Saf. Code in the name of Kevin Edgardo Lezama;

9. Ordering William Antonio Hernandez, Kevin Edgardo Lezama, and Leonardo Velasco Garcia 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,

10. 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

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