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8  
9 **BEFORE THE**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
10 **FOR THE BUREAU OF AUTOMOTIVE REPAIR**  
11 **STATE OF CALIFORNIA**  
12

13 In the Matter of the Accusation Against:

Case No. 79/23-12498

14 **DENNIS FRANAS CALLAHAN, DBA**  
15 **DENNIS SMOG**  
16 **3154 E. Olympic Blvd, Unit #B**  
17 **Los Angeles, CA 90023**

**ACCUSATION**

18 **Automotive Repair Dealer Registration No.**  
19 **ARD 296264**  
20 **Smog Check, Test Only Station License No.**  
21 **TC 296264,**

22 **and**

23 **MANUEL LAZCANO, JR.**  
24 **3578 Carlin Ave**  
25 **Lynwood, CA 90262**

26 **Smog Check Inspector License No. EO**  
27 **641493**

28 Respondents.

**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 December 20, 2019, the Bureau of Automotive Repair issued Automotive Repair Dealer Registration Number ARD 296264 to Dennis Franas Callahan, dba Dennis Smog (Respondent Dennis Smog). The Automotive Repair Dealer Registration was in full force and effect at all times relevant to the charges brought herein and expired on December 31, 2023, and has not been renewed.

3. On or about March 17, 2020, the Bureau of Automotive Repair issued Smog Check, Test Only Station License Number TC 296264 to Respondent Dennis Smog. The Smog Check, Test Only Station License was in full force and effect at all times relevant to the charges brought herein and expired on December 31, 2023, and has not been renewed.

4. On or about August 28, 2020, the Bureau issued STAR Station Certification to Respondent Dennis Smog. The STAR Station Certification will remain active unless Respondent Dennis Smog's Automotive Repair Dealer Registration and/or Smog Check Test Only Station License is revoked, cancelled, or these license(s) becomes delinquent or if the certification is invalidated.

5. On or about October 25, 2018, the Bureau of Automotive Repair issued Smog Check Inspector License Number EO 641493 to Manuel Lazcano, Jr. (Respondent Lazcano). The Smog Check Inspector License was in full force and effect at all times relevant to the charges brought herein and expired on March 18, 2024, and has not been renewed.

### **JURISDICTION**

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

7. Section 9884.7 of the Code provides that the Director may revoke an automotive repair dealer registration.

8. Section 9884.13 of the Code 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.

9. Health and Safety 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.

10. Health and Safety 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**

11. Section 9884.7 of the Code provides, 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.

• • •

12. Section 9889.22 of the Code provides:

The willful making of any false statement or entry with regard to a material matter in any oath, affidavit, certificate of compliance or noncompliance, or application form which is required by this chapter or Chapter 5 (commencing with Section 44000) of Part 5 of Division 26 of the Health and Safety Code constitutes perjury and is punishable as provided in the Penal Code.

13. Health and Safety Code section 44012 provides:

The test at the smog check stations shall be performed in accordance with procedures prescribed by the department and may require loaded mode dynamometer testing in enhanced areas, two-speed idle testing, testing utilizing a vehicle's onboard diagnostic system, or other appropriate test procedures as determined by the department in consultation with the state board. The department shall implement

1 testing using onboard diagnostic systems, in lieu of loaded mode dynamometer or  
2 two-speed idle testing, on model year 2000 and newer vehicles only, beginning no  
3 earlier than January 1, 2013, and on model-year 1996-99, inclusive, vehicles only,  
4 beginning no earlier than January 1, 2025. However, the department, in consultation  
5 with the state board, may prescribe alternative test procedures that include loaded  
6 mode dynamometer or two-speed idle testing for vehicles with onboard diagnostic  
7 systems that the department and the state board determine exhibit operational  
8 problems. The department shall ensure, as appropriate to the test method, the  
9 following:

10 (a) Emission control systems required by state and federal law are reducing  
11 excess emissions in accordance with the standards adopted pursuant to subdivisions  
12 (a) and (c) of Section 44013.

13 (b) Motor vehicles are preconditioned to ensure representative and stabilized  
14 operation of the vehicle's emission control system.

15 (c) For other than diesel-powered vehicles, the vehicle's exhaust emissions of  
16 hydrocarbons, carbon monoxide, carbon dioxide, and oxides of nitrogen in an idle  
17 mode or loaded mode are tested in accordance with procedures prescribed by the  
18 department. In determining how loaded mode and evaporative emissions testing shall  
19 be conducted, the department shall ensure that the emission reduction targets for the  
20 enhanced program are met.

21 (d) For other than diesel-powered vehicles, the vehicle's fuel evaporative  
22 system and crankcase ventilation system are tested to reduce any nonexhaust sources  
23 of volatile organic compound emissions, in accordance with procedures prescribed by  
24 the department.

25 (e) For diesel-powered vehicles, a visual inspection is made of emission control  
26 devices and the vehicle's exhaust emissions are tested in accordance with procedures  
27 prescribed by the department, that may include, but are not limited to, onboard  
28 diagnostic testing. The test may include testing of emissions of any or all of the  
pollutants specified in subdivision (c) and, upon the adoption of applicable standards,  
measurement of emissions of smoke or particulates, or both.

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

(g) A determination as to whether the motor vehicle complies with the emission  
standards for that vehicle's class and model-year as prescribed by the department.

(h) An analysis of pass and fail rates of vehicles subject to an onboard  
diagnostic test and a tailpipe test to assess whether any vehicles passing their onboard  
diagnostic test have, or would have, failed a tailpipe test, and whether any vehicles  
failing their onboard diagnostic test have or would have passed a tailpipe test.

(i) The test procedures may authorize smog check stations to refuse the testing  
of a vehicle that would be unsafe to test, or that cannot physically be inspected, as  
specified by the department by regulation. The refusal to test a vehicle for those  
reasons shall not excuse or exempt the vehicle from compliance with all applicable  
requirements of this chapter.

14. Health and Safety Code section 44015, subdivision (b), provides:

(b) If a vehicle meets the requirements of Section 44012, a smog check station licensed to issue certificates shall issue a certificate of compliance or a certificate of noncompliance.

15. Health and Safety Code section 44032 provides:

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 smog check technicians shall perform tests of emission control devices and systems in accordance with Section 44012.

16. Health and Safety Code section 44035, subdivision (b), provides:

(b) The department or its representatives, including quality assurance inspectors, shall be provided access to licensed stations for the purpose of examining property, station equipment, repair orders, emissions equipment maintenance records, and any emission inspection items, as defined by the department.

17. Health and Safety Code section 44059 provides:

The willful making of any false statement or entry with regard to a material matter in any oath, affidavit, certificate of compliance or noncompliance, or application form which is required by this chapter or Chapter 20.3 (commencing with Section 9880) of Division 3 of the Business and Professions Code, constitutes perjury and is punishable as provided in the Penal Code.

18. Health and Safety Code section 44072.2 provides, in pertinent part:

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 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 and Safety Code section 44072.10, subdivision (c), provides:

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

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

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

5 **REGULATORY PROVISIONS**

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

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

9 21. California Code of Regulations, title 16, section 3340.30 provides, in pertinent part:

10 A licensed smog check inspector and/or repair technician shall comply with the  
11 following requirements at all times while licensed:

12 (a) Inspect, test and repair vehicles, as applicable, in accordance with section  
44012 of the Health and Safety Code, section 44035 of the Health and Safety Code,  
13 and section 3340.42 of this article.

14 . . .

15 22. California Code of Regulations, title 16, section 3340.35 provides, subdivision (c),  
16 provides, in pertinent part:

17 (c) A licensed station shall issue a certificate of compliance or noncompliance  
18 to the owner or operator of any vehicle that has been inspected in accordance with the  
procedures specified in section 3340.42 of this article and has all the required  
19 emission control equipment and devices installed and functioning correctly. . .

20 23. California Code of Regulations, title 16, section 3340.41 provides, in pertinent part:

21 . . .

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

24 . . .

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

28 . . .

24. California Code of Regulations, title 16, section 3340.42, sets forth specific emissions test methods and procedures which apply to all vehicles inspected in the State of California.

25. California Code of Regulations, title 16, section 3373, provides:

No automotive repair dealer or individual in charge shall, in filling out an estimate, invoice, or work order, or record required to be maintained by section 3340.15(e) of this chapter, withhold therefrom or insert therein any statement or information which will cause any such document to be false or misleading, or where the tendency or effect thereby would be to mislead or deceive customers, prospective customers, or the public.

## COST RECOVERY

26. 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.

## FACTUAL ALLEGATIONS

27. 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 Data Link Connector (DLC). The California OIS software requires a continuous Internet connection when performing a Smog Check inspection and the OIS software communicates with Bureau's central database through the Internet connection. The bar code scanner is used to input technician information, the vehicles identification number (VIN), and Department of Motor Vehicles (DMV) renewal information. The printer provides a Vehicle

1 Inspection Report (VIR) containing inspection results for motorists and a Smog Check Certificate  
2 of Compliance number for passing vehicles.

3 28. Data retrieved and recorded during an OIS smog check includes; the eVIN, which is  
4 the digitally stored VIN programmed into the vehicle's Powertrain Control Module (PCM); the  
5 communication protocol, which is the manufacturer/vehicle specific language the PCM uses to  
6 relay information; and the number of Parameter Identifications (PIDs), which is the number of  
7 specific data values each PCM uses related to emissions controls.

8 29. During an OIS inspection, engine operating parameters are retrieved from the  
9 vehicle's OBD II system and recorded to the VID. This is accomplished during the functional  
10 portion of the OIS Smog Check inspection by plugging the DAD into the vehicle's DLC when  
11 prompted by the OIS analyzer screen prompt. Some of the parameters recorded are: (1) engine  
12 speed in revolutions per minute (RPM); (2) throttle position as measured by a throttle position  
13 sensor (TPS) mounted onto the throttle shaft, measured in a percentage of opening from 0% at  
14 idle and near or up to 100% at full throttle; (3) manifold absolute pressure as measured by a  
15 manifold absolute pressure sensor (MAP) connected to an intake manifold source, measured in  
16 kilo pascals (kpa). Typical readings for a normally aspirated vehicle are 0 kpa being absolute  
17 vacuum, 25kpa to 45kpa at idle, 101 kpa at full throttle, same as atmospheric pressure at sea  
18 level; and (4) mass air flow as measured by a mass air flow sensor (MAF) mounted in the  
19 engine's air intake tract, measured in grams per second (gps).

20 30. During normal engine operation at idle, engine speed is relatively steady around its  
21 target idle speed. With the engine idling, the TPS is steady and at or near 0%. The MAP and/or  
22 MAF readings are also steady. In order for the engine speed to increase, the throttle would have  
23 to be opened in order to increase airflow through the engine. The engine's management systems  
24 supply fuel and spark timing appropriate to any changes in throttle position and engine speed. An  
25 increase in throttle, measured by the TPS, which increases engine RPM, would result in  
26 corresponding increases in MAF, as well as a change in MAP. Stated another way, any  
27 movement in the throttle from the idle position will result in an increase of airflow through the  
28 engine with corresponding increases RPM and MAF along with changes in MAP.



1           31. During an OIS Smog Check inspection, along with other visual and functional  
2 inspections, there is an OBD II query portion of the inspection. The OBD II query is performed  
3 with the engine idling and, when requested by the OIS analyzer, and an elevated or increased  
4 engine speed. The increase in engine speed is performed by the inspector by stepping on the  
5 throttle pedal or manually opening the throttle, resulting in a corresponding increase in engine  
6 RPMs by allowing an increase in airflow into the engine.

7           32. If the vehicle passes the visual, functional and tailpipe tests, it passes the overall  
8 inspection and a Certificate of Compliance is issued and transmitted electronically to the VID.  
9 Each Certificate of Compliance has a unique control number so that it can be tracked to determine  
10 which Smog Check Station purchased the Certificate of Compliance and to which vehicle it was  
11 issued.

12           33. The VID contains registration data from DMV, plus emission standards, vehicle smog  
13 check inspections, smog check stations and technicians, and Certificates of Compliance. The  
14 VID receives the passing smog check results immediately following the inspection. During the  
15 vehicle registration process, the DMV accesses the VID to verify that the vehicle has been tested  
16 and certified. The Bureau can also access the VID to view test data on smog check inspections  
17 performed at any Smog Check Station, or search for, retrieve, and print a test record for a  
18 particular vehicle which has been tested. The EIS or OIS, depending on the test type, also prints a  
19 VIR, which is a physical record of the test results and shows the Certificate of Compliance  
20 number that was issued if the vehicle passed the smog inspection.

21           34. The smog check technician must sign the VIR under penalty of perjury to indicate  
22 that the inspection was done within Bureau guidelines. Smog Check Stations are required by law  
23 to maintain a copy of the VIR along with a copy of the repair invoice for three years. The  
24 consumer's VIR serves as a receipt and proof that the VID was updated and a Certificate of  
25 Compliance was issued. Licensed Smog Check Technicians are the only persons authorized by  
26 the Bureau to perform official inspections. They are issued a personal access code and a license,  
27 which are used to gain access to the EIS and OIS to perform smog check inspections.  
28 Unauthorized use of another technician's access code or license is prohibited.

1           35. The Bureau has become aware of methods some Smog Check stations and Smog  
2 Check inspectors use to fraudulently issue smog certificates to vehicles that will not pass a Smog  
3 Check test on their own, or in some instances, are not even present during the time the test is  
4 performed. One method is known as “clean plugging.” “Clean plugging” is a method by which  
5 another vehicle’s properly functioning OBD II system, or another source such as defeat devices,  
6 are used to generate passing data readings or diagnostic information for the purpose of  
7 fraudulently issuing smog certificates to vehicles that are not in smog compliance and or not  
8 present for testing. Defeat devices attempt to simulate engine operation during a Smog Check  
9 inspection by transmitting OBD II data to the VID which has been modified or replaced entirely  
10 for the purportedly inspected vehicle during the functional portion of the OIS inspection. The use  
11 of a defeat device during a Smog Check inspection is clean plugging and is strictly prohibited.

12           36. Between March 2023 and May 2023, a Bureau representative investigated and  
13 reviewed OIS test data for the smog check inspections performed at Respondent Dennis Smog.  
14 The investigation revealed that data related to certain vehicles certified by Respondents contained  
15 a pattern of unmistakable discrepancies between the information transmitted during the  
16 inspections and known similar data for the vehicles being tested. Specifically, the Bureau  
17 representative observed a pattern of vehicles being certified with engine operating parameters not  
18 corresponding to normal engine operation, confirming the vehicles receiving smog certificates  
19 were not tested during the OBD II functional test, which constitutes clean plugging, as follows:

20           **Clean Plug # 1**

21           37. On or about March 11, 2023, a 2002 BMW 325 I, VIN #WBAEV33442KL71612,  
22 CA License #4WPE871 (2002 325 I), was tested and smog certificate #TE438505C was issued by  
23 Respondent Dennis Smog under the license of Smog Check Inspector #EO 641493, Respondent  
24 Lazcano.

25           38. The Dynamic PID Chart for the 2002 325 I shows between time stamp 517 and  
26 21821, engine speed is steady at around 665 RPM. During this time, the throttle is fixed at 0%  
27 opening, and the MAF is fixed at 3.43gps. At time stamp 22417, the engine speed begins to  
28 accelerate. Between time stamp 42847 and 57003, the engine speed is held steady at around 1580

1 RPM. During the steady elevated engine RPM, the throttle is fixed at 0% opening, and the MAF  
2 is fixed at 3.43gps.

3 39. The steady idle and steady elevated engine speeds with the associated fixed throttle  
4 positions and fixed MAF readings with the same as idle speed parameters are not characteristic or  
5 expected for normal engine operation. The discrepancies in the OIS Test Data prove the OIS  
6 DAD was not connected to the 2002 325 I being certified, causing the issuance of a fraudulent  
7 Smog Certificate of Compliance.

8 **Clean Plug # 2**

9 40. On or about March 31, 2023, a 2001 Toyota Tacoma, VIN #5TENL42N61Z801028,  
10 CA Licence #42802H1 (2001 Tacoma), was tested and smog certificate #TE873744C was issued  
11 by Respondent Dennis Smog under the license of Smog Check Inspector #EO 641493,  
12 Respondent Lazcano.

13 41. The Dynamic PID Chart for the 2001 Tacoma shows between time stamp 257 and  
14 17928, engine speed is steady at around 940 RPM. During this time, the throttle is fixed at 10.6%  
15 opening, and the MAF is varying between 6.17gps and 6.35gps. At time stamp 18421, the engine  
16 speed begins to accelerate. Between time stamp 21319 and 34897, the engine speed is  
17 accelerated then held steady at around 1350 RPM. During the steady elevated engine RPM, the  
18 throttle is fixed at 10.6% opening, and the MAF is varying between 6.2gps and 6.28gps.

19 42. The steady idle and steady elevated engine speeds with the associated fixed throttle  
20 positions and minutely varying MAF readings with the same as idle speed parameters are not  
21 characteristic or expected for normal engine operation. The discrepancies in the OIS Test Data  
22 prove the OIS DAD was not connected to the 2001 Tacoma being certified, causing the issuance  
23 of a fraudulent Smog Certificate of Compliance.

24 **Clean Plug # 3**

25 43. On or about April 11, 2023, a 2002 Subaru Impreza WRX, VIN#JF1GG296X2G817361,  
26 CA License #7RRY717 (2002 Impreza), was tested and smog certificate #TG314276C was issued  
27 by Respondent Dennis Smog under the license of Smog Check Inspector #EO 641493,  
28 Respondent Lazcano.

1           44. The Dynamic PID Charts for the 2002 Impreza shows between time stamp 188 and  
2 17990, engine speed is steady at around 850 RPM. During this time, the throttle is varying  
3 between 0.8% and 5.5% opening, the MAP is varying between 33kpa and 45kpa, and the MAF is  
4 varying between 3.67gps and 4.96gps. Between time stamp 18587 and 44105, the engine speed is  
5 accelerated then held steady at around 2075 RPM. During this time, the throttle is fixed at 2.7%,  
6 less than the maximum idle value, the MAP is varying between 33kpa and 35kpa, within the same  
7 values as idle, and the MAF is varying between 7.95gps and 8.29gps.

8           45. The steady idle with the associated varying throttle positions and subsequent varying  
9 MAP and MAF readings are not characteristic or expected for normal engine operation. The  
10 steady elevated engine speeds and fixed throttle position with the associated varying MAP and  
11 MAF readings are not characteristic or expected for normal engine operation. The discrepancies  
12 in the OIS Test Data prove the OIS DAD was not connected to the 2002 Impreza being certified,  
13 causing the issuance of a fraudulent Smog Certificate of Compliance.

14           **Clean Plug # 4**

15           46. On or about April 13, 2023, a 2000 Ford Econoline E250 Van, VIN  
16 #1FTNE2422YHB61364, CA License #71255P2 (2000 E250), was tested and smog certificate  
17 #TG314292C was issued by Respondent Dennis Smog under the license of Smog Check  
18 Inspector #EO 641493, Respondent Lazcano.

19           47. The Dynamic PID Charts for the 2000 E250 shows between time stamp 15 and  
20 35111, engine speed is unstable between 0 RPM and at around 1041 RPM. During this time, the  
21 throttle is varying between 18.4% and 23.1% opening, and the MAF is varying between 5.32gps  
22 and 9.66gps. Between time stamp 35441 and 53871, the engine speed is accelerated then held  
23 steady at around 1675 RPM. During this time, the throttle is varying between 19.22% and 24.3%,  
24 and the MAF is varying between 5.89 and 7.3gps, less than idle.

25           48. The unstable idle with the associated large throttle opening percentage and varying  
26 throttle positions and subsequent varying MAF readings are not characteristic or expected for  
27 normal engine operation. The steady elevated engine speeds and varying throttle position with  
28 the associated low and varying MAF readings are not characteristic or expected for normal engine

operation. The discrepancies in the OIS Test Data prove the OIS DAD was not connected to the 2000 E250 being certified, causing the issuance of a fraudulent Smog Certificate of Compliance.

**Clean Plug # 5**

49. On or about May 31, 2023, a 2004 Honda Accord LX, VIN #JHMCM56304C031025, CA License #7BDD960 (2004 Accord), was tested and smog certificate #TI270277C was issued by Respondent Dennis Smog under the license of Smog Check Inspector #EO 641493, Respondent Lazcano.

50. The Dynamic PID Charts for the 2004 Accord shows between time stamp 216 and 45358, engine speed is steady at around 800 RPM. During this time, the throttle is varying between 7.1% and 11.4% opening, the MAP is varying between 19kpa and 28kpa, and the MAF is varying between 2.81gps and 3gps. Between time stamp 45644 and 62423, the engine speed is accelerated then held steady at around 1775 RPM. During this time, the throttle is varying between 6.7% and 11.4%, less than the low idle percentage number and the same as the high idle percentage number, the MAP is varying between 19kpa and 29kpa, and the MAF is varying between 3.28gps and 5.03gps.

51. The steady idle and steady elevated engine speeds with the associated varying throttle positions and subsequent varying MAP and MAF readings are not characteristic or expected for normal engine operation. The discrepancies in the OIS Test Data prove the OIS Data Acquisition Device (DAD) was not connected to the 2004 Accord being certified, causing the issuance of a fraudulent Smog Certificate of Compliance.

**Attempted Station Audit**

52. On or about June 15, 2023, Bureau representatives conducted video surveillance and an attempted station audit of Respondent Dennis Smog. At or around 1155 hours, the Bureau representatives noted Respondent Dennis Smog began an OIS inspection on a 2000 Chevrolet Suburban K2500, CA license #8EJW419 (2000 Suburban), under the license of Smog Check Inspector Respondent Lazcano. The Bureau representatives observed a Suburban-like vehicle in the inspection bay. At or around 1205 hours, while the inspection time for the 2000 Suburban was still on-going, the Bureau representatives entered the inspection bay, and observed the OIS

1 analyzer in front of the 2000 Suburban on a cart. The OIS analyzer's Data Link Connector  
2 (DLC) cable was not plugged into the 2000 Suburban, but instead passed through a window and  
3 into a room. The Bureau representatives entered the room and observed Respondent Lazcano in  
4 front of a laptop computer. The computer monitor screen displayed software known as "Makina"  
5 or "I AM A SIMULATOR" software, which is known software to be used during fraudulent  
6 smog check inspections. When the Bureau representative questioned Respondent Lazcano about  
7 what he was doing, he was combative and pushed past the Bureau representative while he exited  
8 the inspection bay. Respondent Lazcano restricted the Bureau representatives' access in the  
9 inspection area, which prevented them from gathering additional evidence.

10 53. At approximately 1209 hours, Respondent Lazcano returned to the station, entered  
11 the office, gathered some items into a closed bag, exited the station with the closed bag, and left  
12 in a white van. At approximately 1212 hours, Lazcano returned to the station again, re-entered  
13 the office with another closed bag, gathered additional items into the closed bag, exited the station  
14 with the closed bag, and left in a black truck. Since Respondent Lazcano did not return to the  
15 station, the Bureau representatives left a Station Inspection Report along with a business card on  
16 the BAR97 analyzer in the inspection bay.

### 17 **FIRST CAUSE FOR DISCIPLINE**

#### 18 **(Untrue or Misleading Statements – Respondent Dennis Smog)**

19 54. Respondent Dennis Smog's Automotive Repair Dealer Registration is subject to  
20 disciplinary action under Code section 9884.7, subdivision (a)(1), in that, with respect to the  
21 vehicles identified above, Respondent Dennis Smog made or authorized statements which they  
22 knew, or in the exercise of reasonable care should have known to be untrue or misleading, as  
23 follows: Respondent Dennis Smog certified that these vehicles had passed inspection and were in  
24 compliance with applicable laws and regulations, when in fact, Respondent Dennis Smog  
25 conducted the inspections on the vehicles using the clean plugging method in order to issue smog  
26 certificates of compliance for the vehicles. Complainant refers to, and by this reference  
27 incorporates, the allegations set forth above in paragraphs 27-53, as though fully set forth herein.

28 ///

1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Fraud – Respondent Dennis Smog)**

3 55. Respondent Dennis Smog's Automotive Repair Dealer Registration is subject to  
4 disciplinary action under Code section 9884.7, subdivision (a)(4), in that, with respect to the  
5 vehicles identified above, Respondent Dennis Smog committed acts which constitute fraud by  
6 issuing electronic smog certificates of compliance for these vehicles without performing bona  
7 fide inspections of the emissions control devices and systems on those vehicles, thereby depriving  
8 the People of the State of California of the protection afforded by the Motor Vehicle Inspection  
9 Program. Complainant refers to, and by this reference incorporates, the allegations set forth  
10 above in paragraphs 27-53, as though fully set forth herein.

11 **THIRD CAUSE FOR DISCIPLINE**

12 **(Material Violation of Automotive Repair Act – Respondent Dennis Smog)**

13 56. Respondent Dennis Smog's Automotive Repair Dealer Registration is subject to  
14 disciplinary action under Code section 9884.7, subdivision (a)(6), in that, with respect to the  
15 vehicles identified above, Respondent Dennis Smog failed in a material respect to comply with  
16 the provisions of this chapter or regulations adopted pursuant to it by issuing electronic smog  
17 certificates of compliance for these vehicles without performing bona fide inspections of the  
18 emissions control devices and systems on those vehicles, thereby depriving the People of the  
19 State of California of the protection afforded by the Motor Vehicle Inspection Program.  
20 Complainant refers to, and by this reference incorporates, the allegations set forth above in  
21 paragraphs 27-53, as though fully set forth herein.

22 **FOURTH CAUSE FOR DISCIPLINE**

23 **(Violations of the Motor Vehicle Inspection Program – Respondent Dennis Smog)**

24 57. Respondent Dennis Smog's Smog Check Test Only Station License is subject to  
25 disciplinary action under Health and Safety Code section 44072.2, subdivision (a), in that, with  
26 respect to the vehicles identified above, Respondent Dennis Smog failed to comply with the  
27 following sections of the Health and Safety Code:

28 ///

1 a. **Section 44012:** Respondent Dennis Smog failed to ensure that the emission control  
2 tests were performed on the vehicles in accordance with procedures prescribed by the Bureau.

3 b. **Section 44015, subdivision (b):** Respondent Dennis Smog issued electronic smog  
4 certificates of compliance for the vehicles without ensuring that the vehicles were properly tested  
5 and inspected to determine if they were in compliance with Health and Safety Code section  
6 44012.

7 c. **Section 44059:** Respondent Dennis Smog willfully made false entries for the  
8 electronic smog certificates of compliance for the vehicles by certifying that the vehicles had  
9 been inspected as required when, in fact, they had not.

10 Complainant refers to, and by this reference incorporates, the allegations set forth above in  
11 paragraphs 27-53, as though fully set forth herein.

12 **FIFTH CAUSE FOR DISCIPLINE**

13 **(Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection**

14 **Program – Respondent Dennis Smog)**

15 58. Respondent Dennis Smog's Smog Check Test Only Station License is subject to  
16 disciplinary action under Health and Safety Code section 44072.2, subdivision (c), in that, with  
17 respect to the vehicles identified above, Respondent Dennis Smog failed to comply with  
18 provisions of the California Code of Regulations, title 16, as follows:

19 a. **Section 3340.24, subdivision (c):** Respondent Dennis Smog issued false or  
20 fraudulent certificates of compliance for the vehicles.

21 b. **Section 3340.35, subdivision (c):** Respondent Dennis Smog issued electronic smog  
22 certificates of compliance for the vehicles even though the vehicles had not been inspected in  
23 accordance with section 3340.42 of the California Code of Regulations, title 16.

24 c. **Section 3340.41, subdivision (c):** Respondent Dennis Smog knowingly entered false  
25 information into the emissions inspection system for the vehicles.

26 d. **Section 3340.42:** Respondent Dennis Smog failed to ensure that the required smog  
27 tests were conducted on the vehicles in accordance with the Bureau's specifications.

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1 e. **Section 3373:** Respondent Dennis Smog withheld or inserted statements or  
2 information in an estimate, invoice, work order, or record required to be maintained by California  
3 Code of Regulations, title 16, section 3340.15, subdivision (e), which caused the document to be  
4 false or misleading for the vehicles.

5 Complainant refers to, and by this reference incorporates, the allegations set forth above in  
6 paragraphs 27-53, as though fully set forth herein.

7 **SIXTH CAUSE FOR DISCIPLINE**

8 **(Dishonesty, Fraud, or Deceit – Respondent Dennis Smog)**

9 59. Respondent Dennis Smog's Smog Check Test Only Station License is subject to  
10 disciplinary action under Health and Safety Code section 44072.2, subdivision (d), in conjunction  
11 with Health and Safety Code section 44072.10, subdivision (c), in that, with respect to the  
12 vehicles identified above, Respondent Dennis Smog committed dishonest, fraudulent, or deceitful  
13 acts whereby another was injured by issuing electronic smog certificates of compliance for the  
14 vehicles without performing bona fide inspections of the emission control devices and systems on  
15 those vehicles, thereby depriving the People of the State of California of the protection afforded  
16 by the Motor Vehicle Inspection Program. Complainant refers to, and by this reference  
17 incorporates, the allegations set forth above in paragraphs 27-53, as though fully set forth herein.

18 **SEVENTH CAUSE FOR DISCIPLINE**

19 **(Unlawful Software or Simulation Device – Respondent Dennis Smog)**

20 60. Respondent Dennis Smog Check Test Only Station License is subject to disciplinary  
21 action under Health and Safety Code section 44072.2, subdivision (c), in conjunction with  
22 California Code of Regulations, title 16, section 3340.41, subdivision (h), in that Respondent  
23 Dennis Smog had an electric device or software capable of simulating the OBD data stream from  
24 a vehicle or manipulating OBD information in the station's testing area. Complainant refers to,  
25 and by this reference incorporates, the allegations set forth above in paragraphs 27-53, as though  
26 fully set forth herein.

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1 **EIGHTH CAUSE FOR DISCIPLINE**

2 **(Failure to Provide Bureau Representatives Access to Station – Respondent Dennis Smog)**

3 61. Respondent Dennis Smog's Smog Check Test Only Station License is subject to  
4 disciplinary action under Health and Safety Code section 44072.2, subdivision (a), in conjunction  
5 with Health and Safety Code section 44035, subdivision (b), in that Respondent Dennis Smog  
6 failed to provide the Bureau representatives access to the station for the purpose of examining  
7 property, station equipment, repair orders, emissions equipment maintenance records, and any  
8 emission inspection items. Complainant refers to, and by this reference incorporates, the  
9 allegations set forth above in paragraphs 27-53, as though fully set forth herein.

10 **NINTH CAUSE FOR DISCIPLINE**

11 **(Violations of the Motor Vehicle Inspection Program – Respondent Lazcano)**

12 62. Respondent Lazcano's Smog Check Inspector License is subject to disciplinary action  
13 under Health and Safety Code section 44072.2, subdivision (a), in that, with respect to the  
14 vehicles identified above, Respondent Lazcano violated the following Health and Safety Code  
15 sections:

16 a. **Section 44012, subdivision (a):** Respondent Lazcano failed to determine that all  
17 emission control devices and systems required by law were installed and functioning correctly on  
18 the vehicles in accordance with test procedures prescribed by the Bureau.

19 b. **Section 44012, subdivision (f):** Respondent Lazcano failed to perform emission  
20 control tests on the vehicles in accordance with procedures prescribed by the Bureau.

21 c. **Section 44032:** Respondent Lazcano failed to perform tests of the emission control  
22 devices and systems on the vehicles identified above in accordance with section 44012 of the  
23 Health and Safety Code, in that the vehicles had been clean plugged.

24 d. **Section 44059:** Respondent Lazcano willfully made false entries for the electronic  
25 certificates of compliance by certifying that the vehicles had been inspected as required when, in  
26 fact, they had not.

27 Complainant refers to, and by this reference incorporates, the allegations set forth above in  
28 paragraphs 27-53, as though fully set forth herein.

1 **TENTH CAUSE FOR DISCIPLINE**

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

4 63. Respondent Lazcano's Smog Check Inspector License is subject to disciplinary action  
5 under Health and Safety Code section 44072.2, subdivision (c), in that, with respect to the  
6 vehicles identified above, Respondent Lazcano failed to comply with provisions of the California  
7 Code of Regulations, title 16, as follows:

8 a. **Section 3340.24, subdivision (c):** Respondent Lazcano issued false or fraudulent  
9 electronic smog certificates of compliance for the vehicles.

10 b. **Section 3340.30, subdivision (a):** Respondent Lazcano failed to inspect and test the  
11 vehicles in accordance with Health and Safety Code sections 44012 and 44035 and California  
12 Code of Regulations, title 16, section 3340.42.

13 c. **Section 3340.41, subdivision (c):** Respondent Lazcano knowingly entered false  
14 information into the emissions inspection system for the vehicles.

15 d. **Section 3340.42:** Respondent Lazcano failed to ensure that the required smog tests  
16 were conducted on the vehicles identified above in accordance with the Bureau's specifications.

17 Complainant refers to, and by this reference incorporates, the allegations set forth above in  
18 paragraphs 27-53, as though fully set forth herein.

19 **ELEVENTH CAUSE FOR DISCIPLINE**

20 **(Dishonesty, Fraud, or Deceit – Respondent Lazcano)**

21 64. Respondent Lazcano's Smog Check Inspector License is subject to disciplinary  
22 action under Health and Safety Code section 44072.2, subdivision (d), in conjunction with  
23 Health and Safety Code section 44072.10, subdivision (c), in that, with respect to the vehicles  
24 identified above, Respondent Lazcano committed acts involving dishonesty, fraud, or deceit  
25 when he issued electronic smog certificates of compliance for the vehicles without performing  
26 bona fide inspections of the emission control devices and systems on those vehicles, thereby  
27 depriving the People of the State of California of the protection afforded by the Motor Vehicle  
28

1 Inspection Program. Complainant refers to, and by this reference incorporates, the allegations  
2 set forth above in paragraphs 27-53, as though fully set forth herein.

3 **OTHER MATTERS**

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

9 66. Pursuant to Health and Safety Code section 44072.8, if Smog Check Test Only  
10 Station License No. TC 296264, issued to Respondent Dennis Franas Callahan, dba Dennis  
11 Smog, is revoked or suspended following a hearing under this article, any additional license  
12 issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code in the name of said  
13 licensee may be likewise revoked or suspended by the Director.

14 67. Pursuant to Health and Safety Code section 44072.8, if Smog Check Inspector  
15 License Number EO 641493, issued to Manuel Lazcano, Jr. is revoked or suspended following a  
16 hearing under this article, any additional license issued under Chapter 5 of Part 5 of Division 26  
17 of the Health and Safety Code in the name of said licensee may be likewise revoked or suspended  
18 by the Director.

19 **PRAYER**

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

23 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD  
24 296264, issued to Dennis Franas Callahan, dba Dennis Smog;

25 2. Revoking or suspending Smog Check, Test Only Station License Number TC  
26 296264, issued to Dennis Franas Callahan, dba Dennis Smog;

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3. Revoking or suspending Smog Check Inspector License Number EO 641493, issued to Manuel Lazcano, Jr.;

4. Revoking or suspending any additional license issued under Chapter 5, Part 5 of Division 26 of the Health and Safety Code in the name of Dennis Franas Callahan;

5. Revoking or suspending any other automotive repair dealer registration issued to  
Dennis Franas Callahan;

6. Revoking or suspending any other smog check license under Chapter 5, Part 5 of Division 26 of the Health and Safety Code in the name of Manuel Lazcano, Jr.;

7. Ordering Dennis Franas Callahan and Manuel Lazcano, Jr. 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,

8. 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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