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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. 79/26-5731

13 **CHULIS SMOG CHECK, DESEREE**
14 **MARIBEL CHALACAN, AKA DESEREE**
15 **MARIBEL CHALACAN FLORES,**
16 **OWNER**
17 **1525 South Tippecanoe Ave**
18 **San Bernardino, CA 92408**

ACCUSATION

19 **Mailing Address:**
20 **1243 Darlene Ct.**
21 **Redlands, CA 92374**

22 **Automotive Repair Dealer Registration No.**
23 **ARD 301458**
24 **Smog Check, Test-Only, Station License No.**
25 **TC 301458**

26 **and**

27 **DESEREE MARIBEL CHALACAN**
28 **FLORES**
1243 Darlene Ct.
Redlands, CA 92374

Smog Check Inspector License No. EO
643526

Respondents.

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 January 10, 2022, the Bureau issued Automotive Repair Dealer
5 Registration Number ARD 301458 to Deseree Maribel Chalacan, dba Chulis Smog Check
6 (Respondent Chulis Smog Check). The Automotive Repair Dealer Registration was in full force
7 and effect at all times relevant to the charges brought herein and will expire on January 31, 2027,
8 unless renewed.

9 3. On or about January 13, 2022, the Bureau issued Smog Check, Test-Only, Station
10 License Number TC 301458 to Respondent Chulis Smog Check. The Smog Check, Test-Only,
11 Station License was in full force and effect at all times relevant to the charges brought herein and
12 will expire on January 31, 2027, unless renewed.

13 4. On or about April 21, 2022, the Bureau issued STAR Station Certification to
14 Respondent Chulis Smog Check. The STAR Station Certification was suspended on September
15 6, 2024.

16 5. On or about February 7, 2022, the Bureau issued Smog Check Inspector License
17 Number EO 643526 to Deseree Maribel Chalacan Flores (Respondent Chalacan Flores). The
18 Smog Check Inspector License was in full force and effect at all times relevant to the charges
19 brought herein and will expire on May 31, 2026, unless renewed.

20 **JURISDICTION**

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

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

25 8. Section 9884.13 of the Code provides, in pertinent part, that the expiration of a valid
26 registration shall not deprive the Director of jurisdiction to proceed with a disciplinary proceeding
27 against an automotive repair dealer or to render a decision temporarily or permanently
28 invalidating (suspending or revoking) a registration.

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.

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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 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.

17. 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.

...

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

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

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

2 **REGULATORY PROVISIONS**

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

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

6 20. California Code of Regulations, title 16, section 3340.30 provides, in pertinent part:

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

9 (a) Inspect, test and repair vehicles, as applicable, in accordance with section
10 44012 of the Health and Safety Code, section 44035 of the Health and Safety Code,
and section 3340.42 of this article.

11 . . .

12 21. California Code of Regulations, title 16, section 3340.35 provides, subdivision (c),
13 provides, in pertinent part:

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

17 22. California Code of Regulations, title 16, section 3340.41 provides, in pertinent part:

18 . . .

19 (c) No person shall enter any vehicle identification information or emission
20 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
21 about the vehicle being tested.

22 . . .

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

26 . . .

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

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

2 No automotive repair dealer or individual in charge shall, in filling out an
3 estimate, invoice, or work order, or record required to be maintained by section
4 3340.15(e) of this chapter, withhold therefrom or insert therein any statement or
5 information which will cause any such document to be false or misleading, or where
6 the tendency or effect thereby would be to mislead or deceive customers, prospective
7 customers, or the public.

8 **COST RECOVERY**

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

15 **FACTUAL ALLEGATIONS**

16 26. Beginning March 9, 2015, California's Smog Check Program was updated to require
17 the use of an On-Board Diagnostic Inspection System (OIS). OIS is the Smog Check equipment
18 required in all areas of the State when inspecting most model-year 2000 and newer gasoline and
19 hybrid vehicles and most 1998 and newer diesel vehicles. The system consists of a certified Data
20 Acquisition Device (DAD), computer, bar code scanner, and printer. The DAD is an On-Board
21 Diagnostic (OBD) scan tool that, when requested by the California OIS software, retrieves OBD
22 data from the vehicle. All OBD data that the vehicle indicates it supports is requested by the
23 California OIS software and will be retrieved. The DAD connects between the OIS computer and
24 the vehicle's Data Link Connector (DLC). The California OIS software requires a continuous
25 Internet connection when performing a Smog Check inspection and the OIS software
26 communicates with Bureau's central database through the Internet connection. The bar code
27 scanner is used to input technician information, the vehicles identification number (VIN), and
28 Department of Motor Vehicles (DMV) renewal information. The printer provides a Vehicle
Inspection Report (VIR) containing inspection results for motorists and a Smog Check Certificate
of Compliance number for passing vehicles.

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

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

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

27 30. During an OIS Smog Check inspection, along with other visual and functional
28 inspections, there is an OBD II query portion of the inspection. The OBD II query is performed

1 with the engine idling and, when requested by the OIS analyzer, and an elevated or increased
2 engine speed. The increase in engine speed is performed by the inspector by stepping on the
3 throttle pedal or manually opening the throttle, resulting in a corresponding increase in engine
4 RPMs by allowing an increase in airflow into the engine.

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

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

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

27 34. The Bureau has become aware of methods some Smog Check stations and Smog
28 Check inspectors use to fraudulently issue smog certificates to vehicles that will not pass a Smog

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

10 35. A Bureau representative investigated and reviewed OIS test data for the smog check
11 inspections performed at Chulis Smog Check from April 2024 through August 2024. The
12 investigation revealed that data related to certain vehicles certified by Respondents contained a
13 pattern of vehicles being certified with improbable engine operating parameters not
14 corresponding to normal engine operation, confirming the vehicles receiving smog certificates
15 were not tested during the OBD II functional test. This constitutes clean plugging, as follows:

16 **Clean Plug # 1**

17 36. On or about April 3, 2024, a 2000 Toyota MR2 Spyder, VIN JTDFR3203Y0011438,
18 CA license 9HQS062, was tested and smog certificate TU756413C was issued by Respondent
19 Chulis Smog Check under the license of Smog Check Inspector EO 643526, Respondent
20 Chalacan Flores.

21 37. The OBD Data (Dynamic) and Dynamic Data Charts for the 2000 Toyota MR2
22 Spyder shows that between time stamp 965 and 23667, the engine RPM is steady at around 700
23 RPM. During this time, the data shows that the throttle is fixed at 12.2% opening and the MAF is
24 fixed at 1.59 gps. After time stamp 23667, the data shows the engine RPM is increased and then
25 held at no less than 1710 RPM. During the elevated engine RPM, the data shows that the throttle
26 drops from 11.8% to 7.8% opening and the MAF drops from 2.44 gps to 0.39 gps.

27 38. The throttle position and MAF readings produced during the elevated engine RPMs
28 are not possible for normal engine operation. The throttle position and MAF readings are

1 expected to be stable at idle and at the elevated engine RPMs, not drop unexpectedly to values
2 lower than idle readings. The discrepancies in the OIS Test Data prove the Data Acquisition
3 Device was not connected as required to the 2000 Toyota MR2 Spyder being certified, resulting
4 in the issuance of a fraudulent Smog Check Certificate of Compliance via the clean plugging
5 method.

6 **Clean Plug # 2**

7 39. On or about April 20, 2024, a 2002 Ford Mustang, VIN 1FAFP40412F123022, CA
8 License 9CDR761, was tested and smog certificate TU756443C was issued by Respondent Chulis
9 Smog Check under the license of Smog Check Inspector EO 643526, Respondent Chalacan
10 Flores

11 40. The OBD Data (Dynamic) and Dynamic Data Charts for the 2002 Ford Mustang
12 shows that between time stamp 389 and 21621, the engine RPM is steady at around 700 RPM.
13 During this time, the data shows that the throttle is fixed at 17.6% opening and the MAF is fixed
14 at 3.48 gps. After time stamp 21621, the data shows the engine RPM is increased and then held
15 steady at around 2050 RPM. During the elevated engine RPM, the data shows that the throttle
16 ultimately rises from 15.7% opening to 16.5% opening and then drops to 12.9 % opening and the
17 MAF gradually drops from 5.07 gps to 3.25 gps, then rises to 3.41 gps.

18 41. The throttle position and MAF readings produced during the elevated engine RPMs
19 are not possible for normal engine operation. The throttle position and MAF readings are
20 expected to be stable at idle and at the elevated engine RPMs, not drop unexpectedly to values
21 lower than idle readings. The discrepancies in the OIS Test Data prove the Data Acquisition
22 Device was not connected as required to the 2002 Ford Mustang being certified, resulting in the
23 issuance of a fraudulent Smog Check Certificate of Compliance via the clean plugging method.

24 **Clean Plug # 3**

25 42. On or about May 2, 2024, a 2003 Ford F250 Super Duty, VIN
26 1FTNF20L83EA23169, CA License 7B17932, was tested and smog certificate TW557867C was
27 issued by Respondent Chulis Smog Check under the license of Smog Check Inspector EO
28 643526, Respondent Chalacan Flores.

1 43. The OBD Data (Dynamic) and Dynamic Data Charts for the 2003 Ford F250 Super
2 Duty shows that between time stamp 400 and 20890, the engine RPM is steady at around 650
3 RPM. During this time, the data shows that the throttle is fixed at 18.4% opening and the MAF
4 stays fixed at 4.37 gps. After time stamp 20890, the data shows the engine RPM is increased and
5 then held at no less than 2012 RPM. During the elevated engine RPM, the data shows that the
6 throttle gradually drops from 15.7% opening to 12.5% opening and the MAF fluctuates between
7 3.39 gps and 4.6 gps.

8 44. The throttle position and MAF readings produced during the elevated engine RPMs
9 are not possible for normal engine operation. The throttle position and MAF readings are
10 expected to be stable at idle and at the elevated engine RPMs, not fluctuate and/or drop
11 unexpectedly to values lower than idle readings. The discrepancies in the OIS Test Data prove
12 the Data Acquisition Device was not connected as required to the 2003 Ford F250 Super Duty
13 being certified, resulting in the issuance of a fraudulent Smog Check Certificate of Compliance
14 via the clean plugging method.

15 **Clean Plug # 4**

16 45. On or about May 23, 2024, a 2001 Lexus GS 300, VIN JT8BD69SX10126421, CA
17 License 6FZE785, was tested and smog certificate TY337907C was issued by Respondent Chulis
18 Smog Check under the license of Smog Check Inspector EO 643526, Respondent Chalacan
19 Flores.

20 46. The OBD Data (Dynamic) and Dynamic Data Charts for the 2001 Lexus GS 300
21 shows that between time stamp 991 and 29760, the engine RPM is steady at around 775 RPM.
22 During this time, the data shows that the throttle is at 14.1% opening and the MAF is fixed at 3.57
23 gps. After time stamp 29760, the data shows the engine RPM is increased and then held at
24 around 1950 RPM. During the elevated engine RPM, the data shows that the throttle is at 12.5%
25 opening and the MAF drops from 3.29 gps to 2.73 gps.

26 47. The throttle position and MAF readings produced during the elevated engine RPMs
27 are not possible for normal engine operation. The throttle position and MAF readings are
28 expected to be stable at idle and at the elevated engine RPMs, not drop unexpectedly to values

1 lower than idle readings. The discrepancies in the OIS Test Data prove the Data Acquisition
2 Device was not connected as required to the 2001 Lexus GS 300 being certified, resulting in the
3 issuance of a fraudulent Smog Check Certificate of Compliance via the clean plugging method.

4 **Clean Plug # 5**

5 48. On or about May 29, 2024, a 2003 Toyota Camry LE, VIN JTDBE32K530239719,
6 CA License 5EBT107, was tested and smog certificate TY337916C was issued by Respondent
7 Chulis Smog Check under the license of Smog Check Inspector EO 643526, Respondent
8 Chalacan Flores.

9 49. The OBD Data (Dynamic) and Dynamic Data Charts for the 2003 Toyota Camry LE
10 shows that between time stamp 1110 and 28907, the engine RPM is steady at around 675 RPM.
11 During this time, the data shows that the throttle is fixed at 12.2% opening and the MAF is fixed
12 at 2.1 gps. After time stamp 28907, the data shows the engine RPM is increased and held at no
13 less than 1768 RPM. During the elevated engine RPM, the data shows that the throttle is at 11.4%
14 opening and the MAF drops from 2.45 gps to 1.06 gps.

15 50. The throttle position and MAF readings produced during the elevated engine RPMs
16 are not possible for normal engine operation. The throttle position and MAF readings are
17 expected to be stable at idle and at the elevated engine RPMs, not drop unexpectedly to values
18 lower than idle readings. The discrepancies in the OIS Test Data prove the Data Acquisition
19 Device was not connected as required to the 2003 Toyota Camry LE being certified, resulting in
20 the issuance of a fraudulent Smog Check Certificate of Compliance via the clean plugging
21 method.

22 **Clean Plug # 6**

23 51. On or about June 20, 2024, a 2000 Toyota MR2 Spyder, VIN JTDFR3207Y0017680,
24 CA License 4WGB479, was tested and smog certificate IZ695052C was issued by Respondent
25 Chulis Smog Check under the license of Smog Check Inspector EO 643526, Respondent
26 Chalacan Flores.

27 52. The OBD Data (Dynamic) and Dynamic Data Charts for the 2000 Toyota MR2
28 Spyder shows that between time stamp 1025 and 23677, the engine RPM is steady at around 675

1 RPM. During this time, the data shows that the throttle is fixed at 11% opening and the MAF
2 stays fixed at 2.04 gps. After time stamp 23677, the engine RPM is increased and then held at no
3 less than 1716 RPM. During this time, the data shows that the throttle drops from 10.2% to 9.8%
4 opening and the MAF drops from 1.71 gps to 0.57 gps.

5 53. The throttle position and MAF readings produced during the elevated engine RPMs
6 are not possible for normal engine operation. The throttle position and MAF readings are
7 expected to be stable at idle and at the elevated engine RPMs, not drop unexpectedly to values
8 lower than idle readings. The discrepancies in the OIS Test Data prove the Data Acquisition
9 Device was not connected as required to the 2000 Toyota MR2 Spyder being certified, resulting
10 in the issuance of a fraudulent Smog Check Certificate of Compliance via the clean plugging
11 method.

12 **Clean Plug # 7**

13 54. On or about on June 25, 2024, a 2004 Toyota Sienna XLE, VIN
14 5TDZA22CX4S137036, CA License 7EGR363, was tested and smog certificate IZ695058C was
15 issued by Respondent Chulis Smog Check under the license of Smog Check Inspector EO
16 643526, Respondent Chalacan Flores.

17 55. The OBD Data (Dynamic) and Dynamic Data Charts for the 2004 Toyota Sienna
18 XLE shows that between time stamp 987 and 25116, the engine RPM is steady at around 600
19 RPM. During this time, the data shows that the throttle is fixed at 18% opening and the MAF is
20 fixed at 4.95 gps. After time stamp 25116, the data shows the engine RPM is increased and then
21 held at no less than 1617 RPM. During the elevated engine RPM, the data shows that the throttle
22 is fixed at 13.3% opening and the MAF rises from 3.39 gps to 4.13 gps.

23 56. The throttle position and MAF readings produced during the elevated engine RPMs
24 are not possible for normal engine operation. The throttle position and MAF readings are
25 expected to be stable at idle and at the elevated engine RPMs, not drop unexpectedly to values
26 lower than idle readings. The discrepancies in the OIS Test Data prove the Data Acquisition
27 Device was not connected as required to the 2004 Toyota Sienna XLE being certified, resulting in
28

1 the issuance of a fraudulent Smog Check Certificate of Compliance via the clean plugging
2 method.

3 **Clean Plug # 8**

4 57. On or about July 13, 2024, a 2001 Toyota Celica GT, VIN JTDDR32T910107677,
5 CA License 4TLE087, was tested and smog certificate IZ695082C was issued by Respondent
6 Chulis Smog Check under the license of Smog Check Inspector EO 643526, Respondent
7 Chalacan Flores.

8 58. The OBD Data (Dynamic) and Dynamic Data Charts for the 2001 Toyota Celica GT
9 shows that between time stamp 1017 and 23920, the engine RPM is steady at around 675 RPM.
10 During this time, the data shows that the throttle is fixed at 11.4% opening and the MAF is fixed
11 at 1.9 gps. After time stamp 23920, the engine RPM is increased and then held at no less than
12 1602 RPM. During this time, the data shows that the throttle drops from 11.8% to 9.4% opening
13 and the MAF drops from 2.21 gps to 0.33 gps.

14 59. The throttle position and MAF readings produced during the elevated engine RPMs
15 are not possible for normal engine operation. The throttle position and MAF readings are
16 expected to be stable at idle and at the elevated engine RPMs, not drop unexpectedly to values
17 lower than idle readings. The discrepancies in the OIS Test Data prove the Data Acquisition
18 Device was not connected as required to the 2001 Toyota Celica GT being certified, resulting in
19 the issuance of a fraudulent Smog Check Certificate of Compliance via the clean plugging
20 method.

21 **Clean Plug # 9**

22 60. On or about August 12, 2024, a 2002 Lexus IS 300, VIN JTHBD192120063617, CA
23 License 4ZBP837, was tested and smog certificate UA935782C was issued by Respondent Chulis
24 Smog Check under licensed Smog Check Inspector EO 643526, Respondent Chalacan Flores.

25 61. The OBD Data (Dynamic) and Dynamic Data Charts for the 2002 Lexus IS 300
26 shows that between time stamp 956 and 24004, the engine RPM is steady at around 675 RPM.
27 During this time, the data shows that the throttle is fixed at 15.3% opening and the MAF is fixed
28 at 4.14 gps. After time stamp 24004, the engine RPM is increased and then held at no less than

1 1698 RPM. During this time, the data shows that the throttle drops from 17.3% to 13.3% opening
2 and the MAF drops from 3.84 gps to 3.66 gps.

3 62. The throttle position and MAF readings produced during the elevated engine RPMs
4 are not possible for normal engine operation. The throttle position and MAF readings are
5 expected to be stable at idle and at the elevated engine RPMs, not drop unexpectedly to values
6 lower than idle readings. The discrepancies in the OIS Test Data prove the Data Acquisition
7 Device was not connected as required to the 2002 Lexus IS 300 being certified, resulting in the
8 issuance of a fraudulent Smog Check Certificate of Compliance via the clean plugging method.

9 **Clean Plug # 10**

10 63. On or about August 22, 2024, a 2001 Toyota Corolla CE, VIN
11 1NXBR12E71Z418106, CA License 4NDD825 was tested and smog certificate JB068806C was
12 issued by Respondent Chulis Smog Check under the license of Smog Check Inspector EO
13 643526, Respondent Chalacan Flores.

14 64. The OBD Data (Dynamic) and Dynamic Data Charts for the 2001 Toyota Corolla CE
15 shows that between time stamp 993 and 25843, the engine RPM is steady at around 700 RPM.
16 During this time, the data shows that the throttle is fixed at 9.4% opening and the MAF is fixed at
17 1.65 gps. After time stamp 25843, the engine RPM is increased and then held at no less than
18 1744 RPM. During this time, the data shows that the throttle rises from 7.1% to 9.8% opening
19 and the MAF drops from 1.09 gps to 0.28 gps.

20 65. The throttle position and MAF readings produced during the elevated engine RPMs
21 are not possible for normal engine operation. The throttle position and MAF readings are
22 expected to be stable at idle and at the elevated engine RPMs, not drop unexpectedly to values
23 lower than idle readings. The discrepancies in the OIS Test Data prove the Data Acquisition
24 Device was not connected as required to the 2001 Toyota Corolla CE being certified, resulting in
25 the issuance of a fraudulent Smog Check Certificate of Compliance via the clean plugging
26 method.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Untrue or Misleading Statements – Chulis Smog Check)**

3 66. Respondent Chulis Smog Check’s Automotive Repair Dealer Registration is subject
4 to disciplinary action under Code section 9884.7, subdivision (a)(1), in that, with respect to the
5 vehicles identified above, Respondent Chulis Smog Check made or authorized statements which
6 they knew, or in the exercise of reasonable care should have known to be untrue or misleading, as
7 follows: Respondent Chulis Smog Check certified that these vehicles had passed inspection and
8 were in compliance with applicable laws and regulations, when in fact, Respondent Chulis Smog
9 Check conducted the inspections on the vehicles using the clean plugging method in order to
10 issue smog certificates of compliance for the vehicles. Complainant refers to, and by this
11 reference incorporates, the allegations set forth above in paragraphs 36-65 as though fully set
12 forth herein.

13 **SECOND CAUSE FOR DISCIPLINE**

14 **(Fraud – Respondent Chulis Smog Check)**

15 67. Respondent Chulis Smog Check’s Automotive Repair Dealer Registration is subject
16 to disciplinary action under Code section 9884.7, subdivision (a)(4), in that, with respect to the
17 vehicles identified above, Respondent Chulis Smog Check committed acts which constitute fraud
18 by issuing electronic smog certificates of compliance for these vehicles without performing bona
19 fide inspections of the emissions control devices and systems on those vehicles, thereby depriving
20 the People of the State of California of the protection afforded by the Motor Vehicle Inspection
21 Program. Complainant refers to, and by this reference incorporates, the allegations set forth
22 above in paragraphs 36-65, as though fully set forth herein.

23 **THIRD CAUSE FOR DISCIPLINE**

24 **(Material Violation of Automotive Repair Act – Respondent Chulis Smog Check)**

25 68. Respondent Chulis Smog Check’s Automotive Repair Dealer Registration is subject
26 to disciplinary action under Code section 9884.7, subdivision (a)(6), in that, with respect to the
27 vehicles identified above, Respondent Chulis Smog Check failed in a material respect to comply
28 with the provisions of this chapter or regulations adopted pursuant to it by issuing electronic smog

1 certificates of compliance for these vehicles without performing bona fide inspections of the
2 emissions control devices and systems on those vehicles, thereby depriving the People of the
3 State of California of the protection afforded by the Motor Vehicle Inspection Program.
4 Complainant refers to, and by this reference incorporates, the allegations set forth above in
5 paragraphs 36-65, as though fully set forth herein.

6 **FOURTH CAUSE FOR DISCIPLINE**

7 **(Violations of the Motor Vehicle Inspection Program – Respondent Chulis Smog Check)**

8 69. Respondent Chulis Smog Check’s Smog Check, Test-Only, Station License is subject
9 to disciplinary action under Health and Safety Code section 44072.2, subdivision (a), in that, with
10 respect to the vehicles identified above, Respondent Chulis Smog Check failed to comply with
11 the following sections of the Health and Safety Code:

12 a. **Section 44012:** Respondent Chulis Smog Check failed to ensure that the emission
13 control tests were performed on the vehicles in accordance with procedures prescribed by the
14 Bureau.

15 b. **Section 44015, subdivision (b):** Respondent Chulis Smog Check issued electronic
16 smog certificates of compliance for the vehicles without ensuring that the vehicles were properly
17 tested and inspected to determine if they were in compliance with Health and Safety Code section
18 44012.

19 c. **Section 44059:** Respondent Chulis Smog Check willfully made false entries for the
20 electronic smog certificates of compliance for the vehicles by certifying that the vehicles had
21 been inspected as required when, in fact, they had not.

22 Complainant refers to, and by this reference incorporates, the allegations set forth above in
23 paragraphs 36-65, as though fully set forth herein.

24 **FIFTH CAUSE FOR DISCIPLINE**

25 **(Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection**
26 **Program – Respondent Chulis Smog Check)**

27 70. Respondent Chulis Smog Check’s Smog Check, Test-Only, Station License is subject
28 to disciplinary action under Health and Safety Code section 44072.2, subdivision (c), in that, with

1 respect to the vehicles identified above, Respondent Chulis Smog Check failed to comply with
2 provisions of the California Code of Regulations, title 16, as follows:

3 a. **Section 3340.24, subdivision (c):** Respondent Chulis Smog Check issued false or
4 fraudulent certificates of compliance for the vehicles.

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

8 c. **Section 3340.41, subdivision (c):** Respondent Chulis Smog Check knowingly
9 entered false information into the on-board diagnostics inspection system for the vehicles.

10 d. **Section 3340.42:** Respondent Chulis Smog Check failed to ensure that the
11 required smog tests were conducted on the vehicles in accordance with the Bureau's specifications.

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

16 Complainant refers to, and by this reference incorporates, the allegations set forth above in
17 paragraphs 36-65, as though fully set forth herein.

18 **SIXTH CAUSE FOR DISCIPLINE**

19 **(Dishonesty, Fraud, or Deceit – Respondent Chulis Smog Check)**

20 71. Respondent Chulis Smog Check's Smog Check, Test-Only, Station License is subject
21 to disciplinary action under Health and Safety Code section 44072.2, subdivision (d), in
22 conjunction with Health and Safety Code section 44072.10, subdivision (c), in that, with respect to
23 the vehicles identified above, Respondent Chulis Smog Check committed dishonest, fraudulent, or
24 deceitful acts whereby another was injured by issuing electronic smog certificates of compliance
25 for the vehicles without performing bona fide inspections of the emission control devices and
26 systems on those vehicles, thereby depriving the People of the State of California of the protection
27 afforded by the Motor Vehicle Inspection Program. Complainant refers to, and by
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1 this reference incorporates, the allegations set forth above in paragraphs 36-65, as though fully set
2 forth herein.

3 **SEVENTH CAUSE FOR DISCIPLINE**

4 **(Violations of the Motor Vehicle Inspection Program – Respondent Chalacan Flores)**

5 72. Respondent Chalacan Flores’s Smog Check Inspector License is subject to
6 disciplinary action under Health and Safety Code section 44072.2, subdivision (a), in that, with
7 respect to the vehicles identified above, Respondent Chalacan Flores violated the following
8 Health and Safety Code sections:

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

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

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

17 d. **Section 44059:** Respondent Chalacan Flores willfully made false entries for the
18 electronic certificates of compliance by certifying that the vehicles had been inspected as required
19 when, in fact, they had not.

20 Complainant refers to, and by this reference incorporates, the allegations set forth above in
21 paragraphs 36-65, as though fully set forth herein.

22 **EIGHTH CAUSE FOR DISCIPLINE**

23 **(Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection**
24 **Program – Respondent Chalacan Flores)**

25 73. Respondent Chalacan Flores’s Smog Check Inspector License is subject to
26 disciplinary action under Health and Safety Code section 44072.2, subdivision (c), in that, with
27 respect to the vehicles identified above, Respondent Chalacan Flores failed to comply with
28 provisions of the California Code of Regulations, title 16, as follows:

1 a. **Section 3340.24, subdivision (c):** Respondent Chalacan Flores issued false or
2 fraudulent electronic smog certificates of compliance for the vehicles.

3 b. **Section 3340.30, subdivision (a):** Respondent Chalacan Flores failed to inspect and
4 test the vehicles in accordance with Health and Safety Code sections 44012 and 44035 and
5 California Code of Regulations, title 16, section 3340.42.

6 c. **Section 3340.41, subdivision (c):** Respondent Chalacan Flores knowingly entered
7 false information into the on-board diagnostics inspection system for the vehicles.

8 d. **Section 3340.42:** Respondent Chalacan Flores failed to ensure that the required
9 smog tests were conducted on the vehicles identified above in accordance with the Bureau's
10 specifications.

11 Complainant refers to, and by this reference incorporates, the allegations set forth above in
12 paragraphs 36-65, as though fully set forth herein.

13 **NINTH CAUSE FOR DISCIPLINE**

14 **(Dishonesty, Fraud, or Deceit – Respondent Chalacan Flores)**

15 74. Respondent Chalacan Flores's Smog Check Inspector License is subject to
16 disciplinary action under Health and Safety Code section 44072.2, subdivision (d), in conjunction
17 with Health and Safety Code section 44072.10, subdivision (c), in that, with respect to the
18 vehicles identified above, Respondent Chalacan Flores committed acts involving dishonesty,
19 fraud, or deceit when she issued electronic smog certificates of compliance for the vehicles
20 without performing bona fide inspections of the emission control devices and systems on those
21 vehicles, thereby depriving the People of the State of California of the protection afforded by the
22 Motor Vehicle Inspection Program. Complainant refers to, and by this reference incorporates, the
23 allegations set forth above in paragraphs 36-65, as though fully set forth herein.

24 **OTHER MATTERS**

25 75. Pursuant to Business and Professions Code section 9884.7, subdivision (c), the
26 Director may suspend, revoke, or place on probation the registration for all places of business
27 operated in this state by Respondent Deseree Maribel Chalacan aka Deseree Maribel Chalacan
28 Flores upon a finding that she has, or is, engaged in a course of repeated and willful violations of

1 the laws and regulations pertaining to an automotive repair dealer.

2 76. Pursuant to Health and Safety Code section 44072.8, if Smog Check, Test-Only,
3 Station License Number TC 301458, issued to Respondent Deseree Maribel Chalacan, dba Chulis
4 Smog Check, is revoked or suspended following a hearing under this article, any additional
5 license issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code in the name
6 of said licensee may be likewise revoked or suspended by the Director.

7 77. Pursuant to Health and Safety Code section 44072.8, if Smog Check Inspector
8 License Number EO 643526, issued to Deseree Maribel Chalacan Flores is revoked or suspended
9 following a hearing under this article, any additional license issued under Chapter 5 of Part 5 of
10 Division 26 of the Health and Safety Code in the name of said licensee may be likewise revoked
11 or suspended by the Director.

12 **PRAYER**

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

16 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
17 301458, issued to Deseree Maribel Chalacan, dba Chulis Smog Check;

18 2. Revoking or suspending Smog Check, Test-Only, Station License Number TC
19 301458, issued to Deseree Maribel Chalacan, dba Chulis Smog Check;

20 3. Revoking or suspending Smog Check Inspector License Number EO 643526, issued
21 to Deseree Maribel Chalacan Flores;

22 4. Revoking or suspending any additional license issued under Chapter 5, Part 5 of
23 Division 26 of the Health and Safety Code in the name of Deseree Maribel Chalacan aka Deseree
24 Maribel Chalacan Flores;

25 5. Revoking or suspending any other automotive repair dealer registration issued to
26 Deseree Maribel Chalacan aka Deseree Maribel Chalacan Flores;

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1 6. Ordering Deseree Maribel Chalacan Flores to pay the Bureau of Automotive Repair
2 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and
3 Professions Code section 125.3 and if placed on probation, the costs of probation monitoring;

4 and,

5 7. Taking such other and further action as deemed necessary and proper.

6

7 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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