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

12 In the Matter of the Accusation Against:

Case No. 79/24-14130

13 **JOSE MANUEL ARRIAGA CABRERA**
14 **dba MI CASITA SMOG CHECK**
11061 Whitford Ave
Riverside, CA 92505

ACCUSATION

15 **Automotive Repair Dealer No. ARD 303589**
16 **Smog Check, Test-Only License No.**
TC303589,

17 **JOSE MANUEL ARRIAGA CABRERA**
18 **8518 Trey Ave**
Riverside, CA 92503

19 **Smog Check Inspector License No. EO**
20 **644037,**

21 **and**

22 **JAVIER IGNACIO MENDEZ**
23 **6210 Crest Ave**
Riverside, CA 92503

24 **Smog Check Inspector License No. EO**
25 **644213**

26 Respondents.
27
28

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, Department of Consumer Affairs.

4 2. On or about August 25, 2022, Bureau of Automotive Repair issued Automotive
5 Repair Dealer Number ARD 303589 to Mi Casita Smog Check (Respondent Mi Casita Smog
6 Check or Respondents). The Automotive Repair Dealer was in full force and effect at all times
7 relevant to the charges brought herein and will expire on August 31, 2025, unless renewed.

8 3. On or about January 13, 2023, Bureau of Automotive Repair issued Smog Check,
9 Test-Only License Number TC303589 to Respondent Mi Casita Smog Check. The Smog Check,
10 Test-Only License was in full force and effect at all times relevant to the charges brought herein
11 and will expire on January 22, 2025, unless renewed.

12 4. On or about November 21, 2022, Bureau of Automotive Repair issued Smog Check
13 Inspector License Number EO 644037 to Jose Manuel Arriaga Cabrera (Respondent Cabrera or
14 Respondents). The Smog Check Inspector License was in full force and effect at all times
15 relevant to the charges brought herein and will expire on April 30, 2025, unless renewed.

16 5. On or about March 13, 2023, Bureau of Automotive Repair issued Smog Check
17 Inspector License Number EO 644213 to Javier Ignacio Mendez¹ (Respondent Mendez or
18 Respondents). The Smog Check Inspector License was in full force and effect at all times
19 relevant to the charges brought herein and will expire on December 31, 2024, unless renewed.

20 **JURISDICTION**

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

23 7. Section 9884.7 of the Business and Professions Code² provides that the Director may
24 revoke an ARD registration.

25
26 ¹ At all times alleged herein, Respondent Javier Ignacio Mendez was acting as an
27 employee of Respondent Mi Casita Smog Check and committed the acts alleged herein in the
course and scope of his employment at Respondent Mi Casita Smog Check.

28 ² All statutory references herein shall be to the Business and Professions Code unless
specifically stated otherwise.

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

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

8 10. Section 44072.6 of the Health and Safety Code provides, in pertinent part, that the
9 expiration or suspension of a license by operation of law, or by order or decision of the Director
10 of Consumer Affairs, or a court of law, or the voluntary surrender of the license shall not deprive
11 the Director of jurisdiction to proceed with disciplinary action.

12 **STATUTORY PROVISIONS**

13 11. Section 9884.7 of the Code states:

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

20 (1) Making or authorizing in any manner or by any means whatever any
21 statement written or oral which is untrue or misleading, and which is known, or which
22 by the exercise of reasonable care should be known, to be untrue or misleading.

23 ...

24 (4) Any other conduct which constitutes fraud.

25 ...

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

28 12. Section 44072.2 of the Health and Safety Code states:

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

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

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

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

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

6 . . .

7 (c) The department shall revoke the license of any smog check technician or
8 station license who fraudulently certifies vehicles or participates in the fraudulent
9 inspection of vehicles. A fraudulent inspection includes, but is not limited to, all of
10 the following:

11 (1) Clean piping, as defined by the department. . . .

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

14 **REGULATORY PROVISIONS**

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

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

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

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

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

25 16. California Code of Regulations, title 16, section 3340.35, states, in pertinent part:

26

27 (c) A licensed station shall issue a certificate of compliance or noncompliance
28 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
emission control equipment and devices installed and functioning correctly. . . .

17. 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.

26 **COST RECOVERY**

27 18. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
28 administrative law judge to direct a licensee found to have committed a violation or violations of

1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
2 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
3 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
4 included in a stipulated settlement.

5 **VID DATA REVIEW**

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

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

26 21. During an OIS inspection, engine operating parameters are retrieved from the
27 vehicle's OBD II system and recorded to the VID. This is accomplished during the functional
28

1 portion of the OIS Smog Check inspection by plugging the DAD into the vehicle's DLC when
2 prompted by the OIS analyzer screen prompt. Some of the parameters recorded are:

- 3 • Engine speed in revolutions per minute (RPM)
- 4 • Throttle position as measured by a throttle position sensor (TPS) mounted onto
5 the throttle shaft. Measured in a percentage of opening from 0% at idle and near
6 or up to 100% at full throttle.
- 7 • Manifold absolute pressure as measured by a manifold air pressure sensor (MAP)
8 connected to an intake manifold source, measured in kilo pascals (kpa). Typical
9 readings for a normally aspirated vehicle as follows: 0 kpa being absolute vacuum,
10 25kpa to 45kpa at idle, 101 kpa at full throttle, same as atmospheric pressure at
11 sea level.
- 12 • Mass air flow as measured by a mass air flow sensor (MAF) mounted in the
13 engine's air intake tract. Measured in grams per second (gps).³
- 14 • Ignition timing is set by the vehicle PCM based on engine speed and load, and is
15 measured in degrees Before Top Dead Center (BTDC).

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

26 ³ Not all vehicles include both MAP and MAF parameters. Many vehicles will have either
27 MAP or MAF parameters separately.
28

1 23. 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.

5 24. 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 Vehicle
7 Information Database (“VID”). These Certificates of Compliance are purchased in blocks of fifty
8 (50) through the EIS or OIS from the VID, using a pre-arranged electronic bank account debit
9 system or by check, via mail, from Bureau Headquarters in Sacramento. Each Certificate of
10 Compliance has a unique control number so that it can be tracked to determine which Smog
11 Check Station purchased the Certificate of Compliance and to which vehicle it was issued.

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

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

1 which are used to gain access to the EIS and OIS to perform smog check inspections.

2 Unauthorized use of another technician's access code or license is prohibited.

3 27. Respondents have engaged in numerous acts or omissions constituting violations of
4 the Automotive Repair Act (Business and Professions Code section 9880 *et seq.*) and Motor
5 Vehicle Inspection Program (Health and Safety Code section 44000 *et seq.*) through their practice
6 of "clean plugging."⁴ Respondent's OIS Test Data available on the State database indicates that
7 Respondents are involved in fraudulent smog inspection activities. A Bureau representative
8 initiated an investigation based on information transmitted to the VID for smog check inspections
9 performed by Respondents. The investigation revealed that the data related to certain vehicles
10 certified by Respondents contained a pattern of unmistakable discrepancies between the
11 information transmitted during the inspections and documented information known about the
12 vehicles at issue. Specifically, the representative compared the data received from the certified
13 vehicles to data from vehicles of the same year, make, and model and determined that the data
14 from at least ten (10) of the certified vehicles were fraudulently tested by Respondents during the
15 smog inspection using the "clean plugging" method as follows:

16 **Fraudulent Inspection #1 (Cabrera)**

17 28. Bureau representative Steve Koch (Koch) reviewed the OIS Test Data for Mi Casita
18 Smog Check. The review indicates on June 2, 2023, a 2004 Honda Civic LX, (No Plate) VIN
19 2HGES16534H594241 (2004 Civic), was tested and smog certificate # TI376059C was issued
20 under licensed Smog Check Technician #EO644037, Cabrera.

21 29. The Dynamic data and PID Charts for the 2004 Civic shows between time stamp 110
22 and 22300 engine speed is steady at approximately 750 RPM. During this time the throttle is
23 fixed at 9.4% opening, the MAP is fixed at 28 kPa, and the ignition timing advance for #1
24 cylinder is fixed at 8 degrees BTDC. After time stamp 22300 the engine speed increases to
25 approximately 2000 RPM. From the time the engine RPM increases off idle to the higher RPMs,

26 ⁴ "Clean plugging" refers to the use of another vehicle's properly functioning On Board
27 Diagnostic, generation II, (OBD II) system, or another source, to generate passing diagnostic
28 readings for the purpose of issuing fraudulent smog Certificates of Compliance to vehicles that
are not in smog compliance and/or not present for testing.

the throttle is fixed at the same 9.4% opening, the MAP is fixed at the same 28 kPa, and the ignition timing advance for #1 cylinder is fixed at the same 8 degrees BTDC.

30. During the period the dynamic data was collected, the only parameter that changed was engine RPM. The throttle position, MAP, and ignition timing advance readings remained unchanged even though the engine speed was increased. These 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 2004 Civic being certified, causing the issuance of a fraudulent Smog Certificate of Compliance.

Previous Failing Test: 2004 Civic

31. A previous failing test was performed on the 2004 Civic at another station on May 10, 2023. The 2004 Civic failed the test for an illuminated MIL, stored diagnostic trouble codes P0134 and P0135, and incomplete OBDII readiness monitors. No dynamic data was collected during the inspection.

Fraudulent Inspection #2 (Mendez)

32. Koch reviewed the OIS Test Data for Mi Casita Smog Check. The review indicates on June 2, 2023, a 2004 Dodge Neon SRT-4, (No Plate) VIN 1B3ES66S54D518326 (2004 Neon), was tested and smog certificate # TI376060C was issued under licensed Smog Check Technician #EO644213, Mendez.

33. The Dynamic data and PID Charts for the 2004 Neon shows between time stamp 45 and 24814 engine speed is steady at approximately 750 RPM. During this time the throttle is fixed at 16.1% opening, the MAP is fixed at 33 kPa, and the ignition timing advance for #1 cylinder is fixed at 12 degrees BTDC. After time stamp 24814 the engine speed increases to approximately 1775 RPM. From the time the engine RPM increases off idle to the higher RPMs, the throttle is fixed at the same 16.1% opening, the MAP is fixed at the same 33 kPa, and the ignition timing advance for #1 cylinder is fixed at the same 12 degrees BTDC.

34. During the period the dynamic data was collected, the only parameter that changed was engine RPM. The throttle position, MAP, and ignition timing advance readings remained unchanged even though the engine speed was increased. These readings are not characteristic or

1 expected for normal engine operation. The discrepancies in the OIS Test Data prove the OIS
2 DAD was not connected to the 2004 Neon being certified, causing the issuance of a fraudulent
3 Smog Certificate of Compliance.

4 **Fraudulent Inspection #3 (Cabrera)**

5 35. Koch reviewed the OIS Test Data for Mi Casita Smog Check. The review indicates
6 on June 14, 2023, a 2004 Infiniti G35, (No Plate) VIN JNKCV54E24M813385 (2004 G35), was
7 tested and smog certificate # TI376079C was issued under licensed Smog Check Technician
8 #EO644037, Cabrera.

9 36. The Dynamic data and PID Charts for the 2004 G35 shows between time stamp 182
10 and 22951 engine speed is steady at approximately 675 RPM. During this time the throttle is
11 fixed at 0% opening, the MAF is fixed at 7.72 gps, and the ignition timing advance for #1
12 cylinder is fixed at 15 degrees BTDC. After time stamp 22951 the engine speed increases to
13 approximately 1250 RPM and then increases again to approximately 1650 RPM. From the time
14 the engine RPM increases off idle to the higher RPMs, the throttle is fixed at the same 0%
15 opening, the MAF is fixed at the same 7.72 gps, and the ignition timing advance for #1 cylinder is
16 fixed at the same 15 degrees BTDC.

17 37. During the period the dynamic data was collected, the only parameter that changed
18 was engine RPM. The throttle position, MAF, and ignition timing advance readings remained
19 unchanged even though the engine speed was increased. These readings are not characteristic or
20 expected for normal engine operation. The discrepancies in the OIS Test Data prove the OIS
21 DAD was not connected to the 2004 G35 being certified, causing the issuance of a fraudulent
22 Smog Certificate of Compliance.

23 **Fraudulent Inspection #4 (Cabrera)**

24 38. Koch reviewed the OIS Test Data for Mi Casita Smog Check. The review indicates
25 on September 1, 2023, a 2003 Lexus GS 300, (No Plate) VIN JT8BD69S130190639 (2003 GS
26 300), was tested and smog certificate # IV179995C was issued under licensed Smog Check
27 Technician #EO644037, Cabrera.

1 39. The Dynamic data and PID Charts for the 2003 GS 300 shows between time stamp
2 135 and 22858 engine speed is steady at approximately 775 RPM. During this time the throttle is
3 fixed at 13.7% opening, the MAF is fixed at 4.34 gps, and the ignition timing advance for #1
4 cylinder is fixed at 12.5 degrees BTDC. After time stamp 22858 the engine speed increases to
5 approximately 2475 RPM and then decelerates to approximately 1900 RPM. From the time the
6 engine RPM increases off idle to the higher RPMs, the throttle is fixed at the same 13.7%
7 opening, the MAF is fixed at the same 4.34 gps, and the ignition timing advance for #1 cylinder is
8 fixed at the same 12.5 degrees BTDC.

9 40. During the period the dynamic data was collected, the only parameter that changed
10 was engine RPM. The throttle position, MAF, and ignition timing advance readings remained
11 unchanged even though the engine speed was increased. These readings are not characteristic or
12 expected for normal engine operation. The discrepancies in the OIS Test Data prove the OIS
13 DAD was not connected to the 2003 GS 300 being certified, causing the issuance of a fraudulent
14 Smog Certificate of Compliance.

15 **Fraudulent Inspection #5 (Cabrera)**

16 41. Koch reviewed the OIS Test Data for Mi Casita Smog Check. The review indicates
17 on October 4, 2023, a 2004 GMC Yukon XL K1500, CA license 7LSS495, VIN
18 1GKFK16ZX4J256778 (2004 Yukon XL), was tested and smog certificate # TM905847C was
19 issued under licensed Smog Check Technician #EO644037, Cabrera.

20 42. The Dynamic data and PID Charts for the 2004 Yukon XL shows between time stamp
21 31 and 20480 engine speed is steady at approximately 550 RPM. During this time the throttle is
22 fixed at 9% opening, the MAF is fixed at 4.87 gps, the MAP is fixed at 34 kPa, and the ignition
23 timing advance for #1 cylinder is fixed at 16.5 degrees BTDC. After time stamp 20480 the engine
24 speed increases to approximately 1800 RPM. From the time the engine RPM increases off idle to
25 the higher RPMs, the throttle is fixed at the same 9% opening, the MAF is fixed at the same 4.87
26 gps, the MAP is fixed at the same 34 kPa, and the ignition timing advance for #1 cylinder is fixed
27 at the same 16.5 degrees BTDC.

43. During the period the dynamic data was collected, the only parameter that changed was engine RPM. The throttle position, MAF, MAP, and ignition timing advance readings remained unchanged even though the engine speed was increased. These 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 2004 Yukon XL being certified, causing the issuance of a fraudulent Smog Certificate of Compliance.

Fraudulent Inspection #6 (Cabrera)

44. Koch reviewed the OIS Test Data for Mi Casita Smog Check. The review indicates on December 5, 2023, a 2002 Chevrolet Avalanche C1500, (no plate), VIN 3GNEC13T52G116289 (2002 Avalanche), was tested and smog certificate # TO950494C was issued under licensed Smog Check Technician #EO644037, Cabrera.

45. The Dynamic data and PID Charts for the 2002 Avalanche shows between time stamp 32 and 20565 engine speed is steady at approximately 650 RPM. During this time the throttle is fixed at 15.7% opening, the MAF is fixed at 0 gps, the MAP is fixed at 101 kPa, and the ignition timing advance for #1 cylinder is fixed at 0 degrees BTDC. After time stamp 20565 the engine speed increases to approximately 1450 RPM until time stamp 35922, then increases again to approximately 1700 RPM. From the time the engine RPM increases off idle to the higher RPMs, the throttle is fixed at the same 15.7% opening, the MAF is fixed at the same 0 gps, the MAP is fixed at the same 101 kPa, and the ignition timing advance for #1 cylinder is fixed at the same 0 degrees BTDC.

46. During the period the dynamic data was collected, the only parameter that changed was engine RPM. The throttle position, MAF, MAP, and ignition timing advance readings remained unchanged even though the engine speed was increased. These 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 2002 Avalanche being certified, causing the issuance of a fraudulent Smog Certificate of Compliance.

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1 **Previous Failing Test: 2002 Avalanche**

2 47. A previous failing test was performed on the 2002 Avalanche at another station on
3 November 22, 2023, in the city of Bakersfield, CA. The 2002 Avalanche failed the test for
4 incomplete OBDII readiness monitors. The Dynamic OBDII PID data shows the expected change
5 in the throttle, MAF, MAP and ignition timing advance parameters as characteristic or expected
6 for normal engine operation.

7 **Fraudulent Inspection #7 (Mendez)**

8 48. Koch reviewed the OIS Test Data for Mi Casita Smog Check. The review indicates
9 on January 25, 2024, a 2002 Chevrolet Silverado C3500, CA license 8Z16558, VIN
10 1GBJC34U92F110284 (2002 Silverado), was tested and smog certificate # TQ110598C was
11 issued under licensed Smog Check Technician #EO644213, Mendez.

12 49. The Dynamic data and PID Charts for the 2002 Silverado shows between time stamp
13 34 and 21351 engine speed is steady at approximately 875 RPM. During this time the throttle is
14 fixed at 0% opening, the MAF is fixed at 0 gps, the MAP is fixed at 101 kPa, and the ignition
15 timing advance for #1 cylinder is fixed at 0 degrees BTDC. After time stamp 21351 the engine
16 speed increases to approximately 1550 RPM. From the time the engine RPM increases off idle to
17 the higher RPMs, the throttle is fixed at the same 0% opening, the MAF is fixed at the same 0
18 gps, the MAP is fixed at the same 101 kPa, and the ignition timing advance for #1 cylinder is
19 fixed at the same 0 degrees BTDC.

20 50. During the period the dynamic data was collected, the only parameter that changed
21 was engine RPM. The throttle position, MAF, MAP, and ignition timing advance readings
22 remained unchanged even though the engine speed was increased. These readings are not
23 characteristic or expected for normal engine operation. The discrepancies in the OIS Test Data
24 prove the OIS DAD was not connected to the 2002 Silverado being certified, causing the issuance
25 of a fraudulent Smog Certificate of Compliance.

26 **Fraudulent Inspection #8 (Mendez)**

27 51. Koch reviewed the OIS Test Data for Mi Casita Smog Check. The review indicates
28 on March 12, 2024, a 2001 Volkswagen Jetta Wolfsburg, (no plate), VIN

1 3VWPD29M91M191613 (2001 Jetta), was tested and smog certificate # TU017016C was issued
2 under licensed Smog Check Technician #EO644213, Mendez.

3 52. The Dynamic data and PID Charts for the 2001 Jetta shows between time stamp 110
4 and 46719 engine speed is steady at approximately 825 RPM. During this time the throttle is
5 fixed at 4.7% opening, the MAF is fixed at 0 gps, and the ignition timing advance for #1 cylinder
6 is fixed at 0 degrees BTDC. After time stamp 46719 the engine speed increases to approximately
7 1200 RPM and then increases again to approximately 1600 RPM. From the time the engine RPM
8 increases off idle to the higher RPMs, the throttle is fixed at the same 4.7% opening, the MAF is
9 fixed at the same 0 gps, and the ignition timing advance for #1 cylinder is fixed at the same 0
10 degrees BTDC.

11 53. During the period the dynamic data was collected, the only parameter that changed
12 was engine RPM. The throttle position, MAF, and ignition timing advance readings remained
13 unchanged even though the engine speed was increased. These readings are not characteristic or
14 expected for normal engine operation. The discrepancies in the OIS Test Data prove the OIS
15 DAD was not connected to the 2001 Jetta being certified, causing the issuance of a fraudulent
16 Smog Certificate of Compliance.

17 **Fraudulent Inspection #9 (Mendez)**

18 54. Koch reviewed the OIS Test Data for Mi Casita Smog Check. The review indicates
19 on March 13, 2024, a 2003 Toyota Corolla CE, (no plate), VIN 1NXBR32E73Z152553 (2003
20 Corolla), was tested and smog certificate # TU017020C was issued under licensed Smog Check
21 Technician #EO644213, Mendez.

22 55. The Dynamic data and PID Charts for the 2003 Corolla shows between time stamp
23 123 and 23630 engine speed is steady at approximately 750 RPM. During this time the throttle is
24 fixed at 13.3% opening, the MAF is fixed at .4 gps, and the ignition timing advance for #1
25 cylinder is fixed at 5 degrees BTDC. After time stamp 23630 the engine speed increases to
26 approximately 1200 RPM and then increases again to approximately 1575 RPM. From the time
27 the engine RPM increases off idle to the higher RPMs, the throttle is fixed at the same 13.3%
28

opening, the MAF is fixed at the same .4 gps, and the ignition timing advance for #1 cylinder is fixed at the same 5 degrees BTDC.

56. During the period the dynamic data was collected, the only parameter that changed was engine RPM. The throttle position, MAF, and ignition timing advance readings remained unchanged even though the engine speed was increased. These 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 2003 Corolla being certified, causing the issuance of a fraudulent Smog Certificate of Compliance.

Fraudulent Inspection #10 (Mendez)

57. Koch reviewed the OIS Test Data for Mi Casita Smog Check. The review indicates on March 13, 2024, a 2005 Chevrolet Silverado K1500, (no plate), VIN 1GCEK14T55Z109065 (2005 Silverado), was tested and smog certificate # TU017022C was issued under licensed Smog Check Technician #EO644213, Mendez.

58. The Dynamic data and PID Charts for the 2005 Silverado shows between time stamp 35 and 20849 engine speed is steady at approximately 875 RPM. During this time the throttle is fixed at 19.6% opening, the MAF is fixed at 0 gps, the MAP is fixed at 101 kPa, and the ignition timing advance for #1 cylinder is fixed at 0 degrees BTDC. After time stamp 20849 the engine speed increases to approximately 1600 RPM. From the time the engine RPM increases off idle to the higher RPMs, the throttle is fixed at the same 19.6% opening, the MAF is fixed at the same 0 gps, the MAP is fixed at the same 101 kPa, and the ignition timing advance for #1 cylinder is fixed at the same 0 degrees BTDC.

59. During the period the dynamic data was collected, the only parameter that changed was engine RPM. The throttle position, MAF, MAP, and ignition timing advance readings remained unchanged even though the engine speed was increased. These 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 2005 Silverado being certified, causing the issuance of a fraudulent Smog Certificate of Compliance.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Untrue or Misleading Statements - Respondent Mi Casita Smog Check)**

3 60. Respondent Mi Casita Smog Check's registration is subject to disciplinary action
4 pursuant to section 9884.7, subdivision (a)(1), in that Respondents made or authorized statements
5 which they knew or in the exercise of reasonable care should have known to be untrue or
6 misleading, as follows: Respondents certified that the vehicles set forth above in paragraphs 28-
7 59, had passed inspection and were in compliance with applicable laws and regulations. In fact,
8 Respondents conducted the inspections on those vehicles using the clean plugging method in
9 order to issue smog certificates of compliance, and did not test or insect the vehicles as required
10 by Health and Safety Code section 44012.

11 **SECOND CAUSE FOR DISCIPLINE**

12 **(Fraud - Respondent Mi Casita Smog Check)**

13 61. Respondent Mi Casita Smog Check's registration is subject to disciplinary action
14 pursuant to section 9884.7, subdivision (a)(4), in that Respondent Mi Casita Smog Check's
15 employees committed acts which constitute fraud by issuing electronic certificates of compliance
16 for the vehicles set forth above in paragraphs 28-59, without performing bona fide inspections of
17 the emission control devices and systems on those vehicles, thereby depriving the People of the
18 State of California of the protection afforded by the Motor Vehicle Inspection Program.

19 **THIRD CAUSE FOR DISCIPLINE**

20 **(Failure to Comply with the Motor Vehicle Inspection Program –**
21 **Respondent Mi Casita Smog Check)**

22 62. Respondent Mi Casita Smog Check's smog station license is subject to disciplinary
23 action pursuant to Health and Safety Code section 44072.2, subdivision (a), in conjunction with
24 Health and Safety Code section 44072.10 subdivision (c), in that regarding the vehicles set forth
25 above in paragraphs 28-59, Respondents failed to comply with the following sections of the
26 Health and Safety Code:

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1 (a) **Section 44012**: Respondent Mi Casita Smog Check's employees failed to ensure that
2 the emission control tests were performed on the vehicles, in accordance with procedures
3 prescribed by the department.

4 (b) **Section 44015**: Respondent Mi Casita Smog Check's employees issued electronic
5 certificates of compliance for the vehicles, without ensuring that the vehicles were properly tested
6 and inspected to determine if they were in compliance with Health and Safety Code section
7 44012.

8 **FOURTH CAUSE FOR DISCIPLINE**

9 **(Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection Program -** 10 **Respondent Mi Casita Smog Check)**

11 63. Respondent Mi Casita Smog Check's smog station license is subject to disciplinary
12 action pursuant to Health and Safety Code section 44072.2, subdivision (c), in that regarding the
13 vehicles set forth above in paragraphs 28-59, Respondents failed to comply with the following
14 provisions of the California Code of Regulations, Title 16, as follows:

15 (a) **Section 3340.35, subdivision (c)**: Respondent Mi Casita Smog Check's employees
16 issued electronic certificates of compliance even though those vehicles had not been inspected in
17 accordance with section 3340.42, Title 16, of the California Code of Regulations.

18 (b) **Section 3340.42**: Respondent Mi Casita Smog Check's employees failed to conduct
19 the required smog tests and inspections on those vehicles in accordance with the Bureau's
20 specifications.

21 **FIFTH CAUSE FOR DISCIPLINE**

22 **(Dishonesty, Fraud or Deceit - Respondent Mi Casita Smog Check)**

23 64. Respondent Mi Casita Smog Check's smog station license is subject to disciplinary
24 action pursuant to Health and Safety Code section 44072.2, subdivision (d), in conjunction with
25 Health and Safety Code section 44072.10 subdivision (c), in that regarding the vehicles set forth
26 above in paragraphs 28-59, Respondents employees committed acts involving dishonesty, fraud
27 or deceit whereby another was injured by issuing electronic certificates of compliance for those
28 vehicles without performing bona fide inspections of the emission control devices and systems on

1 the vehicles, thereby depriving the People of the State of California of the protection afforded by
2 the Motor Vehicle Inspection Program.

3 **SIXTH CAUSE FOR DISCIPLINE**

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

5 65. Respondent Cabrera’s smog check inspector license is subject to discipline pursuant
6 to Health and Safety Code section 44072.2, subdivision (a), in that regarding the vehicles set forth
7 above in paragraphs 28-31 and 35-47, Respondent Cabrera failed to comply with section 44012 of
8 the Health and Safety Code in a material respect, as follows: Respondent Cabrera failed to
9 perform the emission control tests on those vehicles in accordance with procedures prescribed by
10 the department.

11 **SEVENTH CAUSE FOR DISCIPLINE**

12 **(Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection Program –**
13 **Respondent Cabrera)**

14 66. Respondent Cabrera’s smog check inspector license is subject to discipline pursuant
15 to Health and Safety Code section 44072.2, subdivision (c), in that regarding the vehicles set forth
16 above in paragraphs 28-31 and 35-47, Respondent Cabrera failed to comply with provisions of
17 the California Code of Regulations, title 16, as follows:

18 (a) **Section 3340.30, subdivision (a)**: Respondent Cabrera failed to inspect and test
19 those vehicles in accordance with Health and Safety Code section 44012.

20 (b) **Section 3340.41, subdivision (c)**: Respondent Cabrera entered false information into
21 the EIS.

22 (c) **Section 3340.42**: Respondent Cabrera failed to conduct the required smog tests and
23 inspections on those vehicles in accordance with the Bureau’s specifications.

24 **EIGHTH CAUSE FOR DISCIPLINE**

25 **(Dishonesty, Fraud or Deceit - Respondent Cabrera)**

26 67. Respondent Cabrera’s smog check inspector license is subject to discipline pursuant
27 to Health and Safety Code section 44072.2, subdivision (d), in conjunction with Health and
28 Safety Code section 44072.10 subdivision (c), in that regarding the vehicles set forth above in

1 paragraphs 28-31 and 35-47, Respondent Cabrera committed acts involving dishonesty, fraud or
2 deceit whereby another was injured by issuing electronic certificates of compliance for those
3 vehicles without performing bona fide inspections of the emission control devices and systems on
4 the vehicles., thereby depriving the People of the State of California of the protection afforded by
5 the Motor Vehicle Inspection Program.

6 **NINTH CAUSE FOR DISCIPLINE**

7 **(Violations of the Motor Vehicle Inspection Program – Respondent Mendez)**

8 68. Respondent Mendez’s smog check inspector license is subject to discipline pursuant
9 to Health and Safety Code section 44072.2, subdivision (a), in that regarding the vehicles set forth
10 above in paragraphs 32-34 and 48-59, Respondent Mendez failed to comply with section 44012
11 of the Health and Safety Code in a material respect, as follows: Respondent Mendez failed to
12 perform the emission control tests on those vehicles in accordance with procedures prescribed by
13 the department.

14 **TENTH CAUSE FOR DISCIPLINE**

15 **(Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection Program –**
16 **Respondent Mendez)**

17 69. Respondent Mendez’s smog check inspector license is subject to discipline pursuant
18 to Health and Safety Code section 44072.2, subdivision (c), in that regarding the vehicles set forth
19 above in paragraphs 32-34 and 48-59, Respondent Mendez failed to comply with provisions of
20 the California Code of Regulations, title 16, as follows:

21 (a) **Section 3340.30, subdivision (a):** Respondent Mendez failed to inspect and test
22 those vehicles in accordance with Health and Safety Code section 44012.

23 (b) **Section 3340.41, subdivision (c):** Respondent Mendez entered false information into
24 the EIS.

25 (c) **Section 3340.42:** Respondent Mendez failed to conduct the required smog tests and
26 inspections on those vehicles in accordance with the Bureau’s specifications.

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ELEVENTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit - Respondent Mendez)

70. Respondent Mendez's smog check inspector license is subject to discipline pursuant to Health and Safety Code section 44072.2, subdivision (d), in conjunction with Health and Safety Code section 44072.10 subdivision (c), in that regarding the vehicles set forth above in paragraphs 32-34 and 48-59, Respondent Mendez committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing electronic certificates of compliance for those vehicles without performing bona fide inspections of the emission control devices and systems on the vehicles., thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

OTHER MATTERS

71. Pursuant to Business & Professions Code section 9884.7, subdivision (c), the Director may suspend, revoke, or place on probation the registration for all places of business operated in this State by Respondent Mi Casita Smog Check upon a finding that Respondent Mi Casita Smog Check has, or is, engaged in a course of repeated and willful violations of the laws and regulations pertaining to an automotive repair dealer.

72. Pursuant to Health & Safety Code section 44072.8, if Smog Check, Test Only Station License Number TC 303589 issued to Respondent Mi Casita Smog Check is revoked or suspended following a hearing under this article, any additional license issued under Chapter 5, Part 5, Division 26 in the name of said licensee may be likewise revoked or suspended by the Director.

73. Pursuant to Health & Safety Code section 44072.8, if Smog Check Inspector License Number EO 644037, issued to Respondent Cabrera, is revoked or suspended following a hearing under this article, any additional license issued under Chapter 5, Part 5, Division 26 in the name of said licensee may be likewise revoked or suspended by the Director.

74. Pursuant to Health & Safety Code section 44072.8, if Smog Check Inspector License Number EO 644213, issued to Respondent Mendez, is revoked or suspended following a hearing

1 under this article, any additional license issued under Chapter 5, Part 5, Division 26 in the name
2 of said licensee may be likewise revoked or suspended by the Director.

3 **PRAYER**

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

7 1. Revoking or suspending Automotive Repair Dealer Number ARD 303589, issued to
8 Jose Manuel Arriaga Cabrera dba Mi Casita Smog Check;

9 2. Revoking or suspending any other Automotive Repair Dealer Registration issued to
10 Respondent Jose Manuel Arriaga Cabrera;

11 3. Revoking or suspending Smog Check, Test-Only License Number TC 303589, issued
12 to Jose Manuel Arriaga Cabrera dba Mi Casita Smog Check;

13 4. Revoking or suspending Smog Check Inspector License Number EO 644037, issued
14 to Jose Manuel Arriaga Cabrera;

15 5. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of
16 Division 26 of the Health and Safety Code in the name of Respondent Jose Manuel Arriaga
17 Cabrera;

18 6. Revoking or suspending Smog Check Inspector License Number EO 644213, issued
19 to Javier Ignacio Mendez;

20 7. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of
21 Division 26 of the Health and Safety Code in the name of Respondent Javier Ignacio Mendez;

22 8. Ordering Jose Manuel Arriaga Cabrera and Javier Ignacio Mendez to pay the Bureau
23 of Automotive Repair the reasonable costs of the investigation and enforcement of this case,
24 pursuant to Business and Professions Code section 125.3 and if placed on probation, the costs of
25 probation monitoring; and,

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9. 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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