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

12 In the Matter of the Accusation Against:

Case No. 79/25-5032

13 **NORMA CRUZ DBA EL CAPULIN SMOG**
14 **10700 Atlantic Avenue**
15 **Lynwood, CA 90262**

ACCUSATION

16 **Mailing Address:**
17 **8811 Compton Avenue**
18 **Los Angeles, CA 90001**
19 **Automotive Repair Dealer Registration No.**
20 **ARD 303694**
21 **Smog Check Test Only Station License No.**
22 **TC 303694**

23 **NORMA CRUZ**
24 **10000 Imperial Hwy B210**
25 **Downey, CA 90242**
26 **Smog Check Inspector License No.**
27 **EO 644903**

28 **EZEQUIEL M. VALENCIA-DURAN**
6845 Bothwell Road
Reseda, CA 91335
Smog Check Inspector License No.
EO 643368

YULIANA NAYELY BARRERA MUNOZ
6514 Cottage Street, Apt. B
Huntington Park, CA 90255
Smog Check Inspector License No.
EO 643814

Respondents.

PARTIES

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

2. On or about September 7, 2022, Bureau of Automotive Repair issued Automotive Repair Dealer Registration Number ARD 303694 to Norma Cruz, doing business as El Capulin Smog (Respondent Cruz). The Automotive Repair Dealer Registration was in full force and effect at all times relevant to the charges brought herein and will expire on September 30, 2025, unless renewed.

3. On or about February 27, 2023, Bureau of Automotive Repair issued Smog Check, Test-Only, Station License Number TC 303694 to Respondent Cruz. The Smog Check, Test-Only, Station License was in full force and effect at all times relevant to the charges brought herein and will expire on September 30, 2025, unless renewed.

4. On or about March 21, 2024, Bureau of Automotive Repair issued Smog Check Inspector License Number EO 644903 to Respondent Cruz. The Smog Check Inspector License was in full force and effect at all times relevant to the charges brought herein and will expire on July 31, 2026, unless renewed.

5. On or about October 28, 2021, Bureau of Automotive Repair issued Smog Check Inspector License Number EO 643368 to Ezequiel M. Valencia-Duran (Respondent Valencia-Duran). The Smog Check Inspector License was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2026, unless renewed.

6. On or about August 1, 2022, Bureau of Automotive Repair issued Smog Check Inspector License Number EO 643814 to Yuliana Nayely Barrera Munoz (Respondent Munoz). The Smog Check Inspector License was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2026, unless renewed.

JURISDICTION

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

1 following laws. All section references are to the Business and Professions Code (Code) unless
2 otherwise indicated.

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

7 9. Code section 9884.7 provides that the Director may revoke an automotive repair
8 dealer registration.

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

13 11. Health and Safety Code section 44002 provides, in pertinent part, that the Director
14 has all the powers and authority granted under the Automotive Repair Act for enforcing the
15 Motor Vehicle Inspection Program.

16 12. Health and Safety Code section 44072.6 provides, in pertinent part, that the expiration
17 or suspension of a license by operation of law, or by order or decision of the Director of
18 Consumer Affairs, or a court of law, or the voluntary surrender of the license shall not deprive the
19 Director of jurisdiction to proceed with disciplinary action.

20 **STATUTORY PROVISIONS**

21 13. Code section 477 provides, in pertinent part, that "Board" includes "bureau,"
22 "commission," "committee," "department," "division," "examining committee," "program," and
23 "agency." "License" includes certificate, registration or other means to engage in a business or
24 profession regulated by the Bus. & Prof. Code.

25 14. Code section 9884.7 states, in pertinent part:

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

member of the automotive repair dealer:

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

....

(4) Any other conduct that constitutes fraud.

....

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

....

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

....

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

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

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

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

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

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

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

16. Health and Safety Code section 44015, subdivision (b), provides that a certificate of compliance shall be issued if a vehicle meets the requirements of Health and Safety Code section 40012.

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1 17. Health and Safety Code section 44032 provides that qualified technicians shall
2 perform tests of emissions control devices and systems in accordance with Health and Safety
3 Code section 40012.

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

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

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

9 ...

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

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

13 ...

14 19. Health and Safety Code section 44072.10 states, in pertinent part:

15 (a) Notwithstanding Sections 44072 and 44072.4, the director, or the director's
16 designee, pending a hearing conducted pursuant to subdivision (e), may temporarily
suspend any smog check station or technician's license issued under this chapter, for
17 a period not to exceed 60 days, if the department determines that the licensee's
conduct would endanger the public health, safety, or welfare before the matter could
18 be heard pursuant to subdivision (e), based upon reasonable evidence of any of the
following:

19 ...

20 (4) A pattern or regular practice of violating this chapter or any regulation,
21 standard, or procedure of the department implementing this chapter.

22 ...

23 (c) The department shall revoke the license of any smog check technician or
24 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:

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

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

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

28 (4) Intentional or willful violation of this chapter or any regulation, standard, or

1 procedure of the department implementing this chapter

2 20. Health and Safety Code section 44072.8 states that when a license has been revoked
3 or suspended following a hearing under this article, any additional license issued under this
4 chapter in the name of the licensee may be likewise revoked or suspended by the director.

5 **REGULATORY PROVISIONS**

6 21. Title 16 of the California Code of Regulations, section 3340.24, subdivision (c),
7 states:

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

10 22. Title 16 of the California Code of Regulations, section 3340.30, subdivision (a), states
11 that a licensed smog technician shall at all times “[i]nspect, test and repair vehicles, as applicable,
12 in accordance with section 44012 of the Health and Safety Code, section 44035 of the Health and
13 Safety Code, and section 3340.42 of this article.”

14 23. Title 16 of the California Code of Regulations, section 3340.35, subdivision (c), states
15 that a licensed smog check station “shall issue a certificate of compliance or noncompliance to the
16 owner or operator of any vehicle that has been inspected in accordance with the procedures
17 specified in section 3340.42 of this article and has all the required emission control equipment
18 and devices installed and functioning correctly.”

19 24. Title 16 of the California Code of Regulations, section 3340.41 states, in pertinent
20 part:

21

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

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

27 ///

28 ///

1 25. Title 16 of the California Code of Regulations, section 3340.42, sets forth specific
2 emissions test methods and procedures which apply to all vehicles inspected in the State of
3 California.

4 **COST RECOVERY**

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

11 **CALIFORNIA'S SMOG CHECK PROGRAM**

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

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

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

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

28 ///

1 31. An On-Board Diagnostics (OBD II) functional test is also performed on most 1996 to
2 1999 model year vehicles. The EIS retrieves information through the Diagnostic Link Connector
3 (DLC) from the vehicle's on-board computer about its ability to communicate, the status of the
4 I/M readiness monitors and the MIL light command. The I/M readiness monitors tell whether or
5 not the OBD II system has run a sufficient number of self-tests on the vehicle's emission and
6 engine control systems. A failure of one or more of the OBD II functional criteria, depending on
7 model year, will result in the vehicle failing its smog check inspection. In addition to reporting
8 the outcome of the OBD II functional test, the smog check inspection results also show
9 Diagnostic Trouble Codes (DTC) if there are any in the vehicle's on-board computer memory.

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

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

18 34. Beginning March 9, 2015, California's Smog Check Program was updated to require
19 the use of an On-Board Diagnostic Inspection System (BAR-OIS). BAR-OIS is the smog check
20 equipment required in all areas of the State when inspecting most model-year 2000 and newer
21 gasoline and hybrid vehicles. The system consists of a certified Data Acquisition Device (DAD),
22 computer, bar code scanner, and printer. The DAD is an OBD scan tool that, when requested by
23 the BAR-OIS software, retrieves OBD data from the vehicle. All OBD data that the vehicle
24 indicates it supports is requested by the BAR-OIS software and will be retrieved. The DAD
25 connects between the BAR-OIS computer and the vehicle's DLC. The bar code scanner is used to
26 input inspector information, the vehicle identification number (VIN), and Department of Motor
27 Vehicles renewal information. The printer provides a Vehicle Inspection Report (VIR) containing
28

1 inspection results for motorists and a Smog Check Certificate of Compliance number for passing
2 vehicles.

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

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

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

21 37. During normal engine operation at idle, engine speed is relatively steady around its
22 target idle speed. With the engine idling, the TPS is steady and at or near zero percent. The MAP
23 and/or MAF readings are also steady. For the engine speed to increase, the throttle would have to
24 be opened in order to increase airflow through the engine. The engine's management systems
25 supply fuel and spark timing appropriate to any changes in throttle position and engine speed.

26 38. An increase in throttle, measured by the TPS, which increases engine RPM, would
27 result in a corresponding increase in MAF as well as a change in MAP. Any movement in the
28

1 throttle from the idle position will result in an increase of airflow through the engine with
2 corresponding increases RPM and MAF along with changes in MAP.

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

9 40. Beginning May 1, 2023, Smog Check Inspectors must use a biometric palm scanner
10 instead of a password login for the BAR On-Board Diagnostics Inspection System (BAR-OIS).

11 41. The Bureau is aware of methods some Smog Check stations and Smog Check
12 inspectors use to fraudulently issue smog certificates to vehicles that will not pass a Smog Check
13 test on their own, or in some instances, are not even present during the time the test is performed.
14 These methods are known as “clean piping”, “clean plugging”, and “clean gassing”. “Clean
15 plugging” is a method by which another vehicle’s properly functioning OBD II system, or another
16 source such as defeat devices, are used to generate passing data readings or diagnostic
17 information for the purpose of fraudulently issuing smog certificates to vehicles that are not in
18 smog compliance and or not present for testing.

19 **FACTUAL ALLEGATIONS**

20 **Site Inspections**

21 42. On or about February 17, 2023, a Bureau Representative conducted an initial station
22 inspection at El Capulin Smog. The Bureau Representative advised station owner, Respondent
23 Cruz that no false information about the vehicle being tested will be entered in the analyzer, and
24 tests and inspections shall be conducted in accordance with the Bureau’s Smog Check Manual.
25 The Bureau’s Representative informed Respondent Cruz that compliance with the Automotive
26 Repair Act is mandatory. Respondent Cruz signed the Station Inspection Report.

27 43. On or about February 24, 2023, a Bureau Representative conducted a follow-up initial
28 station inspection at El Capulin Smog. The Bureau Representative advised Respondent Cruz that

1 no false information about the vehicle being tested will be entered in the analyzer, and tests and
2 inspections shall be conducted in accordance with the Bureau's Smog Check Manual. The Bureau
3 Representative informed Respondent Cruz that compliance with the Automotive Repair Act is
4 mandatory. Respondent Cruz signed the Station Inspection Report.

5 44. On October 24, 2023, a Bureau Representative conducted a station inspection at El
6 Capulin Smog for a disconnected DAD. The Bureau Representative advised station owner,
7 Respondent Cruz that Smog Check inspections shall be performed according to regulations and
8 the Smog Check Manual. The Bureau Representative informed Respondent Cruz that compliance
9 with the Automotive Repair Act is mandatory. Respondent Cruz signed the Station Inspection
10 Report.

11 **March 19, 2025 Investigation**

12 45. On or about March 19, 2025, a Bureau Representative conducted a detailed review of
13 the VID data for Smog Check inspections performed at El Capulin Smog, which showed a pattern
14 of vehicles being certified with engine operating parameters that did not correspond to normal
15 engine operation, confirming that the vehicles receiving smog certifications were not tested
16 during the OBD II functional test, which constitutes clean plugging. The Bureau's Inspector's
17 review of the smog check activities at El Capulin Smog confirmed ten Smog Check Certificates
18 of Compliance were fraudulently issued by El Capulin Smog to vehicles that were inspected by
19 Respondents Valencia-Duran and Munoz.

20 **Clean Plug Number One – 2007 Honda Accord**

21 46. OIS Test Data for El Capulin Smog showed that on February 6, 2025, a 2007 Honda
22 Accord LX, VIN#1HGCM56437A151803, California License #8WKB168 (2007 Honda Accord),
23 was tested and received smog certificate #JD028976C under Respondent Valencia-Duran's Smog
24 Check Inspector license.

25 47. The Dynamic PID charts and data for the 2007 Honda Accord showed that between
26 time stamp 109 and 26843, the engine RPM was steady at around 700 RPM. During that time, the
27 data showed the throttle was varying between 14.1-percent and 18-percent opening, the MAP was
28 varying between 19 kPa and 27 kPa, and the MAF was varying between 0.3 grams/sec and 2.3

grams/sec. Between time stamp 27061 and 43600, the engine RPM increased and then held steady at around 1500 RPM. During that time, the data showed that the throttle was varying between 14.1-percent and 17.6-percent opening, the MAP was varying between 16 kPa and 30 kPa, and the MAF was varying between 0.19 grams/sec and 2.24 grams/sec.

48. The steady idle and steady elevated engine RPMs with the improbable throttle positions, MAP, and MAF readings were not characteristic or expected for normal engine operation. The throttle position, MAP, and MAF readings were expected to be stable at idle and at the elevated engine RPM, not erratic and fluctuating along with a steady engine RPM. These discrepancies in the OIS Test Data prove the OIS DAD was not connected to the 2007 Honda Accord during the certification process as required, thereby confirming a fraudulent inspection by way of clean plugging.

Clean Plug Number Two – 2000 Ford Explorer

49. OIS Test Data for El Capulin Smog showed that on February 13, 2025, a 2000 Ford Explorer Eddie Bauer, VIN#1FMDU84P3YZC11935, California License #6GEB090 (2000 Ford Explorer), was tested and smog certificate #JD028979C was issued by El Capulin Smog, under Respondent Valencia-Duran's Smog Check Inspector license.

50. The Dynamic PID charts and data for the 2000 Ford Explorer showed that between time stamp 26 and 17403, the engine RPM was steady at around 700 RPM. During that time, the data showed the throttle was varying between 19.2-percent and 24.3-percent opening and the MAF was varying between 5.72 grams/sec and 7.53 grams/sec. Between time stamp 17632 and 34228, the engine RPM was increased and then held steady at around 1600 RPM. During this time, the data showed that the throttle was varying between 18.8-percent and 24.3-percent opening and the MAF was varying between 5.34 grams/sec and 7.3 grams/sec.

51. The steady idle and steady elevated engine RPMs with the improbable throttle positions and MAF readings were not characteristic or expected for normal engine operation. The throttle position and MAF readings were expected to be stable at idle and at the elevated engine RPM, not erratic and fluctuating along with a steady engine RPM. The discrepancies in the OIS Test Data confirms that the OIS DAD was not connected to the 2000 Ford Explorer during the

1 certification process as required, thereby confirming a fraudulent inspection by way of Clean
2 Plugging.

3 **Clean Plug Number Three – 2007 Chevrolet Silverado**

4 52. OIS Test Data for El Capulin Smog indicated that on February 20, 2025, a 2007
5 Chevrolet Silverado K1500 Classic, VIN#1GCEK19B17Z110006, California License #15392T3
6 (2007 Chevrolet Silverado), was tested and smog certificate #JD399972C was issued by El
7 Capulin Smog under Respondent Valencia-Duran's Smog Check Inspector license.

8 53. The Dynamic PID charts and data for the 2007 Chevrolet Silverado showed that
9 between time stamp 38 and 17977, the engine RPM was steady at around 650 RPM. During that
10 time, the data showed that the throttle was varying between 12.9-percent and 16.5-percent
11 opening, the MAP was varying between 35 kPa and 46 kPa, and the MAF was varying between
12 5.47 grams/sec and 7.11 grams/sec. Between time stamp 18188 and 35000, the engine RPM
13 increased and then held steady at around 1550 RPM. During that time, the data showed that the
14 throttle was varying between 12.9-percent and 18-percent opening, the MAP was varying
15 between 32 kPa and 45 kPa, and the MAF was varying between 5.43 grams/sec and 7.38
16 grams/sec.

17 54. The steady idle and steady elevated engine RPMs with the improbable throttle
18 positions, MAP, and MAF readings were not characteristic or expected for normal engine
19 operation. The throttle position, MAP, and MAF readings were expected to be stable at idle and at
20 the elevated engine RPM, not erratic and fluctuating along with a steady engine RPM. The
21 discrepancies in the OIS Test Data confirm that the OIS DAD was not connected to the 2007
22 Chevrolet Silverado during the certification process as required, thereby confirming a fraudulent
23 inspection by way of Clean Plugging.

24 **Clean Plug Number Four – 2003 Chevrolet Silverado**

25 55. OIS Test Data for El Capulin Smog showed that on February 25, 2025, a 2003
26 Chevrolet Silverado C2500, VIN#1GBGC24U33Z284145, California License #07648Y1 (2003
27 Chevrolet Silverado), was tested and smog certificate #UK416152C was issued by El Capulin
28 Smog under Respondent Valencia-Duran's Smog Check Inspector license.

1 56. The Dynamic PID charts and data for the 2003 Chevrolet Silverado showed that
2 between time stamp 31 and 17496, the engine RPM was steady at around 750 RPM. During this
3 time, the data showed that the throttle was varying between 13.3-percent and 16.9-percent
4 opening, the MAP was varying between 97 kPa and 109 kPa, and the MAF was varying between
5 0.27 grams/sec and 2.54 grams/sec. Between time stamp 17732 and 34165, the engine RPM was
6 increased to around 1500 RPM, briefly accelerated to 1631 RPM, then held at around 1525 RPM.
7 During that time, the data showed that the throttle was varying between 12.5-percent and 16.9-
8 percent opening, the MAP was varying between 96 kPa and 106 kPa, and the MAF was varying
9 between 0.59 grams/sec and 2.29 grams/sec.

10 57. The steady idle and steady elevated engine RPMs with the improbable throttle
11 positions, MAP, and MAF readings were not characteristic or expected for normal engine
12 operation. The throttle position, MAP, and MAF readings were expected to be stable at idle and at
13 the elevated engine RPM, not erratic and fluctuating along with a steady engine RPM. The
14 discrepancies in the OIS Test Data confirm that the OIS DAD was not connected to the 2003
15 Chevrolet Silverado during the certification process as required, thereby confirming a fraudulent
16 inspection by way of Clean Plugging.

17 **Clean Plug Number Five – 2005 Toyota RAV4**

18 58. OIS Test Data for El Capulin Smog showed that on February 27, 2025, a 2005 Toyota
19 RAV4, VIN #JTEGD20V950069735, California License #7RUC815 (2005 Toyota RAV4), was
20 tested and smog certificate #UK416166C was issued by El Capulin Smog under Respondent
21 Valencia- Duran's Smog Check Inspector license.

22 59. The Dynamic PID charts and data for the 2005 Toyota RAV4 showed that between
23 time stamp 140 and 16601, the engine RPM was steady at around 600 RPM. During that time, the
24 data showed the throttle was varying between 12.5-percent and 17.6-percent opening and the
25 MAF was varying between 0.6 grams/sec and 2.46 grams/sec. Between time stamp 16849 and
26 33396, the RPM was increased to around 1450 RPM and then held around 1550 RPM. During
27 that time, the data showed that the throttle was varying between 13.7-percent and 16.9-percent
28 and the MAF was varying between 0.29 grams/sec and 2.51 grams/sec.

60. The steady idle and steady elevated engine RPMs with the improbable throttle positions and MAF readings were not characteristic or expected for normal engine operation. The throttle position and MAF readings were expected to be stable at idle and at the elevated engine RPM, not erratic and fluctuating along with a steady engine RPM. The discrepancies in the OIS Test Data confirm that the OIS DAD was not connected to the 2005 Toyota RAV4 during the certification process as required, thereby confirming a fraudulent inspection by way of Clean Plugging.

61. On December 6, 2023, a previous Smog Check inspection was performed on the 2005 Toyota RAV4 at a different, unrelated Smog Check station.

62. The Dynamic PID charts and data for the 2005 Toyota RAV4 showed that between time stamp 872 and 20816, the engine RPM was steady at around 660 RPM. During that time, the data showed that the throttle was steady at 18.8-percent opening and the MAF was steady between 2.43 grams/sec and 2.5 grams/sec. Between time stamp 21673 and 46048, the engine RPM was increased then held around 1650 RPM. During that time, the data showed the throttle was increased to 20.4-percent and the MAF increased to between 5.43 grams/sec and 5.51 grams/sec.

63. The steady idle and steady elevated engine RPM data along with the associated steady throttle positions and steady MAF readings were characteristic and expected for normal engine operation.

Clean Plug Number Six – 2001 Mazda Protégé DX

64. OIS Test Data for El Capulin Smog. The review shows that on February 28, 2025, a 2001 Mazda Protégé DX, VIN#JM1BJ222710464145, California License 9JMS869 was tested and smog certificate #UK416172C was issued by El Capulin Smog under Respondent Valencia-Duran's Smog Check Inspector license.

65. The Dynamic PID charts and data for the 2001 Mazda Protégé DX showed that between time stamp 114 and 25218, the engine RPM was steady at around 525 RPM. During that time, the data showed that the throttle was varying between 0.8-percent and 5.5-percent opening and the MAF was varying between 0.51 grams/sec and 2.53 grams/sec. Between time stamp

1 25454 and 42074, the RPM increased and then held steady at around 1600 RPM. During that
2 time, the data showed that the throttle was varying between zero-percent opening and 5.5-percent
3 opening and the MAF was varying between 0.48 grams/sec and 2.53 grams/sec.

4 66. The steady idle and steady elevated engine RPMs with the improbable throttle
5 positions and MAF readings were not characteristic or expected for normal engine operation. The
6 throttle position and MAF readings were expected to be stable at idle and at the elevated engine
7 RPM, not erratic and fluctuating along with a steady engine RPM. The discrepancies in the OIS
8 Test Data confirm that the OIS Data DAD was not connected to the 2001 Mazda Protégé DX
9 during the certification process as required, thereby confirming a fraudulent inspection by way of
10 Clean Plugging.

11 **Clean Plug Number Seven – 2005 Chevrolet Suburban**

12 67. OIS Test Data for El Capulin Smog showed that on March 1, 2025, a 2005 Chevrolet
13 Suburban C1500, VIN #3GNEC16Z15G290588, California License #5RZF260 (2005 Chevrolet
14 Suburban), was tested and smog certificate #UK416175C was issued by El Capulin Smog under
15 Respondent Valencia-Duran's Smog Check Inspector license.

16 68. The Dynamic PID charts and data for the 2005 Chevrolet Suburban C1500 showed
17 that between time stamp 32 and 24075, the engine RPM was steady at around 550 RPM. During
18 that time, the data showed that the throttle was varying between 6.3-percent and 11-percent
19 opening, the MAP was varying between 32 kPa and 45 kPa, and the MAF was varying between
20 3.09 grams/sec and 4.82 grams/sec. Between time stamp 24312 and 41535, the engine RPM
21 increased and then held between around 1450 RPM to 1575 RPM. During that time, the data
22 showed that the throttle was varying between 7.5-percent and 11-percent opening, the MAP was
23 varying between 32 kPa and 45 kPa, and the MAF was varying between 2.99 grams/sec and 4.72
24 grams/sec.

25 69. The steady idle and steady elevated engine RPMs with the improbable throttle
26 positions, MAP, and MAF readings were not characteristic or expected for normal engine
27 operation. The throttle position, MAP, and MAF readings were expected to be stable at idle and at
28 the elevated engine RPM, not erratic and fluctuating along with a steady engine RPM. The

discrepancies in the OIS Test Data confirm that the OIS DAD was not connected to the 2005 Chevrolet Suburban during the certification process as required, thereby confirming a fraudulent inspection by way of Clean Plugging.

Clean Plug Number Eight – 2001 Chevrolet Silverado

70. OIS Test Data for El Capulin Smog showed on March 14, 2025, a 2001 Chevrolet Silverado K1500, VIN #1GCEK14T21Z331007, California License #01835V3 (2001 Chevrolet Silverado) was tested and smog certificate #UK657738C was issued by El Capulin Smog under Respondent Munoz's Smog Check Inspector license.

71. The Dynamic PID charts and data for the 2001 Chevrolet Silverado showed that between time stamp 29 and 23184, the engine RPM was steady at around 550 RPM. During that time, the data showed that the throttle was varying between 0.4-percent and 5.1-percent opening, the MAP was varying between 33 kPa and 46 kPa, and the MAF was varying between 2.75 grams/sec and 5.02 grams/sec. Between time stamp 23433 and 40425, the data showed that the RPM increased and then held steady at around 1500 RPM. During that time, the data showed that the throttle was varying between 0.8-percent and 3.9-percent opening, the MAP was varying between 32 kPa and 46 kPa, and the MAF was varying between 2.88 grams/sec and 4.79 grams/sec.

72. The steady idle and steady elevated engine RPMs with the improbable throttle positions, MAP, and MAF readings were not characteristic or expected for normal engine operation. The throttle position, MAP, and MAF readings were expected to be stable at idle and at the elevated engine RPM, not erratic and fluctuating along with a steady engine RPM. The discrepancies in the OIS Test Data confirm that the OIS DAD was not connected to the 2001 Chevrolet Silverado during the certification process as required, thereby confirming a fraudulent inspection by way of Clean Plugging.

Clean Plug Nine – 2004 Chevrolet Astro

73. OIS Test Data for El Capulin Smog showed that on March 15, 2025, a 2004 Chevrolet Astro, VIN #1GNDM19X14B112416, California License #5DHV089 (2004 Chevrolet

1 Astro), was tested and smog certificate #JD667007C was issued by El Capulin Smog under
2 Respondent Munoz's Smog Check Inspector license.

3 74. The Dynamic PID charts and data for the 2004 Chevrolet Astro showed that between
4 time stamp 44 and 16354, the engine RPM was steady at around 600 RPM. During that time, the
5 data showed that the throttle was varying between 1.6-percent and 4.7-percent opening, the MAP
6 was varying between 33 kPa and 46 kPa, and the MAF was varying between 2.91 grams/sec and
7 5.04 grams/sec. Between time stamp 16597 and 32625, the engine RPM increased and then held
8 steady at around 1575 RPM. During that time, the data showed that the throttle was varying
9 between 0.8-percent and 4.7-percent opening, the MAP was varying between 32 kPa and 46 kPa,
10 and the MAF was varying between 3.01 grams/sec and 4.85 grams/sec.

11 75. The steady idle and steady elevated engine RPMs with the improbable throttle
12 positions, MAP, and MAF readings were not characteristic or expected for normal engine
13 operation. The throttle position, MAP, and MAF readings were expected to be stable at idle and at
14 the elevated engine RPM, not erratic and fluctuating along with a steady engine RPM. The
15 discrepancies in the OIS Test Data confirm that the OIS DAD was not connected to the 2004
16 Chevrolet Astro during the certification process, thereby confirming a fraudulent inspection by
17 way of Clean Plugging.

18 **Clean Plug Number Ten – 2004 Ford F250**

19 76. OIS Test Data for El Capulin Smog showed that on March 19, 2025, a 2004 Ford
20 F250 Super Duty, VIN #3FTNX20L84MA00175, California License #7G15607 (2004 Ford
21 F250), was tested and smog certificate #JD667033C was issued by El Capulin Smog under
22 Respondent Munoz's Smog Check Inspector license.

23 77. The Dynamic PID charts and data for the 2004 Ford F250 Super Duty showed that
24 between time stamp 34 and 16397, the engine RPM was steady at around 775 RPM. During that
25 time, the data showed that the throttle was varying between 18.8-percent and 24.3-percent
26 opening and the MAF was varying between 5.52 grams/sec and 7.48 gram/sec. Between time
27 stamp 16739 and 32498, the data showed that the RPM increased and then held steady at around
28

1 1550 RPM. During that time, the data showed that the throttle was varying between 18.8-percent
2 and 23.5-percent opening and the MAF was varying between 5.4 grams/sec and 7.61 grams/sec.

3 78. The steady idle and steady elevated engine RPMs with the improbable throttle
4 positions and MAF readings were not characteristic or expected for normal engine operation. The
5 throttle position and MAF readings were expected to be stable at idle and at the elevated engine
6 RPM, not erratic and fluctuating along with a steady engine RPM. Also, the eVIN recorded in the
7 OIS Test Details was not expected. The discrepancies in the OIS Test Data confirm that the OIS
8 DAD was not connected to the 2004 Ford F250 during the certification process as required,
9 thereby confirming a fraudulent inspection by way of Clean Plugging.

10 79. On March 24, 2022, a previous Smog Check inspection was performed on the 2004
11 Ford at a different, unrelated Smog Check station.

12 80. The Dynamic PID charts and data for the 2004 Ford showed that between time stamp
13 117 and 143149, the engine RPM was steady at around 650 RPM. During that time, the data
14 showed that the throttle was steady at 19.2-percent opening and the MAF was steady between
15 6.03 grams/sec and 6.09 grams/sec. Between time stamp 143506 and 159937, the engine RPM
16 increased to between 1850 RPM and 2193 RPM. During that time, the data showed that the
17 throttle was increased and then held between 24.3-percent and 25.1-percent opening and the MAF
18 increased to between 17.05 grams/sec and 19.21 grams/sec. The steady idle and elevated RPM
19 data along with the associated throttle positions and MAF readings were characteristic and
20 expected for normal engine operation.

21 81. Further, on March 24, 2022, the 2004 Ford showed an eVIN of #####,
22 which was a normal and expected value for the year, make, and model.

23 **March 19, 2025 Site Inspection**

24 82. A Bureau Representative conducted a site inspection of El Capulin Smog on March
25 19, 2025. The Bureau Representative remotely monitored the VID for in-process Smog Check
26 inspections at the facility. At 1230 hours, the Bureau Representative observed that the VID had
27 recorded a Smog Check inspection, which was ultimately abandoned, for a 2007 Chrysler Town
28 & Country Limited, VIN #2A4GP64L97R210396, California license #5YXN313 (2007

1 Chrysler). The 2007 Chrysler's vehicle mileage and the results of the visual inspection were
2 entered under Respondent Munoz's Smog Check Inspector license.

3 83. The Bureau Representative approached the facility and observed Respondent Munoz
4 at the OIS analyzer. The Bureau Representative also observed an unknown individual enter the
5 2007 Chrysler and drive away.

6 84. The Bureau Representative requested Respondent Munoz provide him with the
7 workorder for the 2007 Chrysler, but Respondent Munoz told him that she did not create one
8 because she was only checking the vehicle for diagnostic trouble codes and monitor status, which
9 contradicted the information the Bureau Representative had received when remotely monitoring
10 the VID. The Bureau Representative further observed a defeat device system and laptop computer
11 at the workstation. The Bureau Representative questioned Respondent Munoz the purpose of the
12 laptop computer, and she told the Bureau Representative that she did not know.

13 **Certificates of Compliance**

14 85. The Certificates of Compliance for each vehicle fraudulently issued by El Capulin
15 Smog were purchased through and delivered to the OIS platform at El Capulin Smog using an
16 Automated Clearing House (ACH) payment method. The certificates were delivered between
17 February 4, 2025 and March 15, 2025, and were under the exclusive control of El Capulin Smog
18 for issuance by OIS platform CV0019362.

19 **Respondent Cruz**

20 **FIRST CAUSE FOR DISCIPLINE**

21 **(Untrue or Misleading Statements)**

22 86. Respondent Cruz's Automotive Repair Dealer Registration is subject to disciplinary
23 action pursuant to Code section 9884.7, subdivision (a)(1), in that she made statements which
24 were known to be untrue or misleading or, which by exercise of reasonable care should have been
25 known to be untrue or misleading, by issuing electronic smog certificates of compliance for the
26 ten vehicles set forth in paragraphs 46 through 81, above, certifying that those vehicles were in
27 compliance with applicable laws and regulations when, in fact, those vehicles had not been so
28

1 inspected. Complainant refers to, and by this reference incorporates, the allegations contained in
2 paragraphs 42 through 85, above, as though set forth fully herein.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Fraud)**

5 87. Respondent Cruz's Automotive Repair Dealer Registration is subject to disciplinary
6 action pursuant to Code section 9884.7, subdivision (a)(4), in that she committed acts that
7 constitute fraud by issuing electronic certificates of compliance to the ten vehicles set forth in
8 paragraphs 46 through 81, above, without performing bone fide inspections of the emission
9 control devices and systems on those vehicles, thereby depriving the People of the State of
10 California of the protection afforded by the Motor Vehicle Inspection Program. Complainant
11 refers to, and by this reference incorporates, the allegations contained in paragraphs 42 through
12 85, above, as though set forth fully herein.

13 **THIRD CAUSE FOR DISCIPLINE**

14 **(Material Violation of the Automotive Repair Act)**

15 88. Respondent Cruz's Automotive Repair Dealer Registration is subject to disciplinary
16 action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(6), in that she failed in a
17 material respect to comply with the provisions of this chapter or regulations adopted pursuant to it
18 when she issued electronic certificates of compliance for the ten vehicles set forth in paragraphs
19 46 through 81, above, without performing bona fide inspections of the emission control devices
20 and systems on those vehicles, thereby depriving the People of the State of California of the
21 protection afforded by the Motor Vehicle Inspection Program. Complainant refers to, and by this
22 reference incorporates, the allegations contained in paragraphs 42 through 85, above, as though
23 set forth fully herein.

24 **FOURTH CAUSE FOR DISCIPLINE**

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

26 89. Respondent Cruz's Smog Check Test Only Station License is subject to disciplinary
27 action pursuant to Health and Safety Code section 44072.2, subdivision (a), in that she failed to
28 comply with the following sections of that Code:

a. **Section 44012:** Respondent failed to ensure that the emission control tests were performed on the ten vehicles identified in paragraphs 46 through 81, above, in accordance with procedures prescribed by the department.

b. **Section 44015, subdivision (b):** Respondent issued electronic smog certificates of compliance to the ten vehicles identified in paragraphs 46 through 81, above, without properly testing and inspecting those vehicles to determine if they were in compliance with Health and Safety Code section 44012.

Complainant refers to, and by this reference incorporates, the allegations contained in paragraphs 42 through 85, above, as though set forth fully herein.

FIFTH CAUSE FOR DISCIPLINE

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

90. Respondent Cruz's Smog Check Test Only Station License is subject to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (c), in that she failed to comply with provisions of California Code of Regulations, title 16, as follows:

a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued electronic smog certificates of compliance for the ten vehicles identified in paragraphs 46 through 81, above.

b. **Section 3340.30, subdivision (a)**: Respondent failed to inspect and test the ten vehicles identified in paragraphs 46 through 81, above, in accordance with Health & Safety Code sections 44012 and 44035, and California Code of Regulations, title 16, section 3340.42.

c. **Section 3340.35, subdivision (c)**: Respondent issued electronic smog certificates of compliance for the ten vehicles identified in paragraphs 46 through 81, above, even though those vehicles had not been inspected in accordance with section 3340.42.

d. **Section 3340.42:** Respondent failed to ensure that the smog inspections conducted on the ten vehicles identified in paragraphs 46 through 81, above, were done in accordance with the Bureau's specifications.

Complainant refers to, and by this reference incorporates, the allegations contained in paragraphs 42 through 85, above, as though set forth fully herein.

1 **SIXTH CAUSE FOR DISCIPLINE**

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

3 91. Respondent Cruz's Smog Check Test Only Station License is subject to disciplinary
4 action pursuant to Health and Safety Code section 44072.2, subdivision (d), in conjunction with
5 Health and Safety Code section 44072.10, subdivision (c), in that she committed dishonest,
6 fraudulent, or deceitful acts whereby another was injured by issuing electronic smog certificates
7 of compliance for the ten vehicles described in paragraphs 46 through 81, above, without
8 performing bona fide inspections of the emission control devices and systems on those vehicles,
9 thereby depriving the People of the State of California of the protection afforded by the Motor
10 Vehicle Inspection Program. Complainant refers to, and by this reference incorporates, the
11 allegations contained in paragraphs 42 through 85, above, as though set forth fully herein.

12 **SEVENTH CAUSE FOR DISCIPLINE**

13 **(Pattern and Practice of Dishonesty, Fraud, or Deceit)**

14 92. Respondent Cruz's Smog Check Inspector License is subject to disciplinary action
15 pursuant to Health and Safety Code section 44072.2, subdivision (d), in conjunction with Health
16 & Safety Code section 44072.10, subdivisions (a)(4) and (c), in that she has demonstrated a
17 pattern or regular practice of violating the regulations, standards, and procedures of the Bureau,
18 and Respondent Cruz's Smog Check Inspector license is substantially related to the fraudulent
19 activity conducted at El Capulin Smog Check. The Certificates of Compliance for each vehicle
20 fraudulently issued by El Capulin Smog were purchased through and delivered to the OIS
21 platform at El Capulin Smog using an ACH payment method. Complainant refers to, and by this
22 reference incorporates, the allegations contained in paragraphs 42 through 85, above, as though
23 set forth fully herein.

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1 **Respondent Valencia-Duran**

2 **EIGHTH CAUSE FOR DISCIPLINE**

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

4 93. Respondent Valencia-Duran's Smog Check Inspector License is subject to
5 disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (a), in that he
6 failed to comply with the following sections of that code:

7 a. **Section 44032:** Respondent failed to perform tests of emission control devices and
8 systems of the seven vehicles identified in paragraphs 46 through 69, above, in accordance with
9 Health and Safety Code section 44012.

10 b. **Section 44015, subdivision (b):** Respondent caused electronic smog certificates of
11 compliance to be issued for the seven vehicles identified in paragraphs 46 through 69, above,
12 without ensuring that they were properly tested and inspected to determine if they were in
13 compliance with Health & Safety Code section 44012.

14 Complainant refers to, and by this reference incorporates, the allegations contained in
15 paragraphs 42 through 85, above, as though set forth fully herein.

16 **NINTH CAUSE FOR DISCIPLINE**

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

18 94. Respondent Valencia-Duran's Smog Check Inspector License is subject to
19 disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (c), in that he
20 failed to comply with provisions of California Code of Regulations, title 16, as follows:

21 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued
22 electronic smog certificates of compliance for the seven vehicles identified in paragraphs 46
23 through 69, above.

24 b. **Section 3340.30, subdivision (a):** Respondent failed to inspect and test the seven
25 vehicles identified in paragraphs 46 through 69, above, in accordance with Health and Safety
26 Code sections 44012 and 44035, and California Code of Regulations, title 16, section 3340.42.

27 ///

28 ///

1 c. **Section 3340.41, subdivision (c):** Respondent knowingly entered false information
2 into the emissions inspection system for the seven vehicles identified in paragraphs 46 through
3 69, above.

4 d. **Section 3340.42:** Respondent failed to ensure that the smog inspections conducted
5 on the seven vehicles identified in paragraphs 46 through 69, above, were done in accordance
6 with the Bureau's specifications.

7 Complainant refers to, and by this reference incorporates, the allegations contained in
8 paragraphs 42 through 85, above, as though set forth fully herein.

9 **TENTH CAUSE FOR DISCIPLINE**

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

11 95. Respondent Valencia-Duran's Smog Check Inspector License is subject to
12 disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (d), in
13 conjunction with Health and Safety Code section 44072.10, subdivision (c), in that he committed
14 dishonest, fraudulent, or deceitful acts whereby another was injured by issuing electronic smog
15 certificates of compliance for the seven vehicles identified in paragraphs 46 through 69, above,
16 without performing bona fide inspections of the emission control devices and systems on those
17 vehicles, thereby depriving the People of the State of California of the protection afforded by the
18 Motor Vehicle Inspection Program. Complainant refers to, and by this reference incorporates, the
19 allegations contained in paragraphs 42 through 85, above, as though set forth fully herein.

20 **Respondent Munoz**

21 **ELEVENTH CAUSE FOR DISCIPLINE**

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

23 96. Respondent Munoz's Smog Check Inspector License is subject to disciplinary action
24 pursuant to Health and Safety Code section 44072.2, subdivision (a), in that she failed to comply
25 with the following sections of that code:

26 a. **Section 44032:** Respondent failed to perform tests of emission control devices and
27 systems of the three vehicles identified in paragraphs 70 through 81, above, in accordance with
28 Health and Safety Code section 44012.

b. **Section 44015, subdivision (b):** Respondent caused electronic smog certificates of compliance to be issued for the three vehicles identified in paragraphs 70 through 81, above, without ensuring that they were properly tested and inspected to determine if they were in compliance with Health and Safety Code section 44012.

Complainant refers to, and by this reference incorporates, the allegations contained in paragraphs 42 through 85, above, as though set forth fully herein.,

TWELFTH CAUSE FOR DISCIPLINE

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

97. Respondent Munoz's Smog Check Inspector License is subject to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (c), in that she failed to comply with provisions of California Code of Regulations, title 16, as follows:

a. **Section 3340.24, subdivision (c)**: Respondent falsely or fraudulently issued electronic smog certificates of compliance for the three vehicles identified in paragraphs 70 through 81, above.

b. **Section 3340.30, subdivision (a):** Respondent failed to inspect and test the three vehicles identified in paragraphs 70 through 81, above, in accordance with Health and Safety Code sections 44012 and 44035, and California Code of Regulations, title 16, section 3340.42.

c. **Section 3340.41, subdivision (c)**: Respondent knowingly entered false information into the emissions inspection system for the three vehicles identified in paragraphs 70 through 81, above.

d. **Section 3340.42:** Respondent failed to ensure that the smog inspections conducted on the three vehicles identified in paragraphs 70 through 81, above, were done in accordance with the Bureau's specifications.

Complainant refers to, and by this reference incorporates, the allegations contained in paragraphs 42 through 85, above, as though set forth fully herein.

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1 **THIRTEENTH CAUSE FOR DISCIPLINE**

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

3 98. Respondent Munoz's Smog Check Inspector License is subject to disciplinary action
4 pursuant to Health and Safety Code section 44072.2, subdivision (d), in conjunction with Health
5 & Safety Code section 44072.10, subdivision (c), in that she committed dishonest, fraudulent, or
6 deceitful acts whereby another was injured by issuing electronic smog certificates of compliance
7 for the three vehicles identified in paragraphs 70 through 81, above, without performing bona fide
8 inspections of the emission control devices and systems on those vehicles, thereby depriving the
9 People of the State of California of the protection afforded by the Motor Vehicle Inspection
10 Program. Respondent further attempted to use a defeat device system, *i.e.*, conduct a fraudulent
11 inspection by way of Clean Plugging, in connection with the inspection of the 2007 Chrysler
12 identified in paragraphs 82 through 84, above. Complainant refers to, and by this reference
13 incorporates, the allegations contained in paragraphs 42 through 85, above, as though set forth
14 fully herein

15 **OTHER MATTERS**

16 99. Pursuant to Code section 9884.7, subdivision (c), the Director may suspend, revoke,
17 or place on probation the registration for all places of business operated in this state by
18 Respondent Cruz, upon a finding that she has, or is, engaged in a course of repeated and willful
19 violations of the laws and regulations pertaining to an automotive repair dealer.

20 100. Pursuant to Health and Safety Code section 44072.8, if Smog Check Test Only
21 Station License Number TC 303694, issued to Respondent Cruz, is revoked or suspended, any
22 additional license issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code
23 in the name of said licensee may be likewise revoked or suspended by the director.

24 101. Pursuant to Health and Safety Code section 44072.8, if Smog Check Inspector
25 License Number EO 644903, issued to Respondent Cruz is revoked or suspended, any additional
26 license issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code in the name
27 of said licensee may be likewise revoked or suspended by the director.
28

102. Pursuant to Health and Safety Code section 44072.8, if Smog Check Inspector License Number EO 643368, issued to Respondent Valencia-Duran, is revoked or suspended, any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code in the name of said licensee may be likewise revoked or suspended by the director.

103. Pursuant to Health and Safety Code section 44072.8, if Smog Check Inspector License Number EO 643814, issued to Respondent Munoz, is revoked or suspended, any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code in the name of said licensee may be likewise revoked or suspended by the director.

PRA YER

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

1. Revoking or suspending Automotive Repair Dealer Registration Number ARD 303694, issued to Norma Cruz, doing business as El Capulin Smog;

2. Revoking or suspending any other automotive repair dealer registration issued to Norma Cruz;

3. Revoking or suspending Smog Check Test Only Station License Number TC 303694,
issued to Norma Cruz, doing business as El Capulin Smog;

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

5. Revoking or suspending Smog Check Inspector License Number EO 644903, issued to Norma Cruz;

6. Revoking or suspending Smog Check Inspector License Number EO 643368, issued to Ezequiel M. Valencia-Duran;

7. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code in the name of Ezequiel M. Valencia-Duran;

8. Revoking or suspending Smog Check Inspector License Number EO 643814, issued to Yuliana Nayely Barrera Munoz;

9. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code in the name of Yuliana Nayely Barrera Munoz;

10. Ordering Norma Cruz, Ezequiel M. Valencia-Duran, and Yuliana Nayely Barrera Munoz to pay the Bureau of Automotive Repair the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3 and if placed on probation, the costs of probation monitoring; and,

11. 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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