

**BEFORE THE DIRECTOR OF THE
DEPARTMENT OF CONSUMER AFFAIRS
BUREAU OF AUTOMOTIVE REPAIR
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

NORMA CRUZ dba EL CAPULIN SMOG

10700 Atlantic Avenue

Lynwood, CA 90262

Mailing Address:

8811 Compton Avenue

Los Angeles, CA 90001

Automotive Repair Dealer Registration No. ARD 303694

Smog Check Test Only Station License No. TC 303694

NORMA CRUZ

10000 Imperial Hwy B210

Downey, CA 90242

Smog Check Inspector License No. EO 644903

EZEQUIEL M. VALENCIA-DURAN

6845 Bothwell Road

Reseda, CA 91335

Smog Check Inspector License No. EO 643368

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YULIANA NAYELY BARRERA MUNOZ

6514 Cottage Street, Apt. B

Huntington Park, CA 90255

Smog Check Inspector License No. EO 643814

Respondents.

Case No. 79/25-5032

OAH No. 2025070777

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby accepted and adopted by the Director of the Department of Consumer Affairs as the Decision in the above-entitled matter.

This Decision shall be effective on April 15, 2026.

IT IS SO ORDERED March 4, 2026.

Signed copy on File

GRACE ARUPO RODRIGUEZ
Assistant Deputy Director
Legal Affairs Division
Department of Consumer Affairs

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

In the Matter of the Accusation against:

NORMA CRUZ DBA EL CAPULIN SMOG,

NORMA CRUZ,

EZEQUIEL M. VALENCIA-DURAN,

And

YULIANA NAYELY BARRERRA MUNOZ,

Respondents.

Agency Case No. 79/25-5032

OAH No. 2025070777

PROPOSED DECISION

Glynda B. Gomez, Administrative Law Judge (ALJ) with the Office of Administrative Hearings (OAH), heard this matter by video conference on January 20 and 21, 2026. A Spanish-language interpreter translated the proceedings.

Blaine A. Noblett, Deputy Attorney General, represented Patrick Dorais (Complainant), Chief of the Bureau of Automotive Repair (Bureau), Department of Consumer Affairs (Department). Sarkis Paroyan, Attorney at law, represented Respondent Norma Cruz individually (Respondent Cruz) and doing business as El Capulin Smog (Respondent Capulin) (collectively Respondents).

Respondents Ezequiel M. Valenica-Duran and Yuliana Nayely Barrera Munoz entered into Stipulated Settlement and Disciplinary Orders which were pending before the Board at the time of the hearing and were not part of the hearing.

Oral and documentary evidence was received, argument heard and the matter was submitted for decision on January 21, 2026.

FACTUAL FINDINGS

Jurisdictional Matters

1. On June 9, 2025, Complainant signed the Accusation. The Accusation and all required notices were served on Respondent. Respondent filed a timely a Notice of Defense, and this matter ensued.

2. On September 7, 2022, the Bureau issued Automotive Repair Dealer Registration Number ARD 303694 (ARD) to Respondent Capulin. The ARD was in effect at all relevant times and will expire on September 30, 2026, unless renewed.

3. On February 27, 2023, the Bureau issued Smog Check, Test Only, Station License Number TC303694 to Respondent Capulin. The license was in effect at all relevant times and will expire on September 30, 2026, unless renewed.

4. On March 21, 2024, the Bureau issued Smog Check Inspector License Number EO 644903 to Respondent Cruz. The license was in effect at all relevant times and will expire on July 31, 2026, unless renewed.

Stipulated Facts

5. Respondents stipulated to the truth of factual allegations 1 through 85 of the Accusation, which are incorporated herein in their entirety as factual findings.

6. In brief, the stipulation and evidence at hearing establish that Respondents' employees, on behalf of Respondent Capulin, issued fraudulent smog inspection certificates of compliance to 10 vehicles between February 4, 2025, and March 15, 2025. A surprise site inspection of Respondent Capulin on March 19, 2025, by Bureau personnel revealed that Respondent Capulin's employees were using a simulator device on a laptop computer to defeat the smog inspection system and issue false certificates of compliance. Respondent Cruz was not present, did not conduct any of the smog inspections and there was no evidence that she was aware of the illegal activity.

Costs

7. The Bureau incurred \$7,794 in charges by the Attorney General for prosecution of this matter and \$3,451.73 in investigation costs for a total of \$11,245.73. The costs of investigation and prosecution are reasonable. Complainant seeks one third of these costs from Respondents (\$3,748.58).

Respondent's Evidence

8. Respondent Cruz gave credible testimony on her own behalf and took responsibility for the illegal acts committed by her employees. She understands that

she needs to spend more time at Respondent Capulin and to supervise the smog check inspectors. Around the time of the illegal smog inspections, Respondent Cruz was struggling with some health problems, was hospitalized and less available to oversee the smog operations at Respondent Capulin. Respondent trusted the people she hired and believed that their licenses would ensure their competence. She was surprised to learn that a simulator and/or other unlawful methods had been used by Yuliana Naylely Barrera Munoz and Ezequiel M. Valencia-Duran in fraudulent smog inspections. Respondent Cruz believed Ms. Munoz's denials of wrongdoing until Respondents' lawyer showed her evidence produced in this administrative matter. Once she was convinced of Munoz's wrongdoing, she terminated her employment. Mr. Valencia-Duran had been terminated earlier. Respondent Cruz was cooperative with the Bureau.

9. Respondent Cruz has worked full time as a Community Representative at the King/Drew Magnet High School since 2015. Prior to that, from 2006 to 2015, she worked part-time in the same capacity. Respondent Cruz's supervisor, Maricela Campos, has known her for more than 20 years. She provided a declaration (Ex. A.) and testimony in support of Respondent Cruz. She described Respondent Cruz's dedication, hard work and excellent work ethic. According to Ms. Campos, Respondent Cruz often works on weekends and evenings to accommodate the needs of parents and the community of the King/Drew Magnet High School. Ms. Campos described Respondent Cruz as "very much adored and appreciated by the entire community for her care and treatment of others." (Ex. A.)

10. Currently, Respondent Cruz is only able to be present at Respondent Capulin during evenings and weekends because of her commitment to her full-time employment. Respondent Cruz would like to keep Respondent Capulin open and

operating with new staff. The funds she receives from the smog station operation are an essential part of her family budget. She has researched installation of cameras and hiring a manager to operate Respondent Capulin when she is not available. She also plans to spend more time at Respondent Capulin. According to Respondent Cruz, she has been learning the smog check business and taken coursework to improve her knowledge. (Ex. B.) She acknowledged that she did not have much experience with automobiles and found the process of obtaining her smog check inspector license difficult. She failed the licensing test several times, but persevered and eventually obtained her license. She feels that she was tricked by some dishonest employees and hopes for a second chance. She is willing to undertake whatever actions and education the Bureau believes necessary to continue operating.

LEGAL CONCLUSION

1. In an action seeking to impose discipline against the holder of a Bureau-issued registration and license, the burden of proof is on Complainant to establish the charging allegations by a preponderance of the evidence. (*Imports Performance v. Dept. of Consumer Affairs, Bur. of Automotive Repair* (2011) 201 Cal.App.4th 911, 916-917.) A preponderance of the evidence means evidence that has more convincing force than that opposed to it. (*People ex rel. Brown v. Tri-Union Seafoods, LLC* (2009) 171 Cal.App.4th 1549, 1567.)

2. The Bureau may discipline a registration for any of the following acts or omissions related to the conduct of the automotive repair dealer's business, whether done by the dealer or any employee, partner, or officer:

(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 which constitutes fraud;

[¶] . . . [¶]

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

(Bus. & Prof. Code (Code), § 9884.7, subd. (a).)

3. The Bureau “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.” (Code, § 9884.7, subd. (c).) If the Bureau disciplines any license it has issued under Code sections 9889.1 through 9889.10, it may also discipline any other licenses it has issued to the licensee. (Code, § 9889.9.)

4. The Bureau may discipline a smog check station license pursuant to Health and Safety Code section 44072.2, subdivision (a), for violating any section of the Motor Vehicle Inspection Program (Health & Saf. Code, § 44000, et seq.), Health and Safety Code section 44072.2, subdivision (c), for violating any of the regulations

adopted pursuant to the Motor Vehicle Inspection Program, and Health and Safety Code section 44072.2, subdivision (d), for committing any act of dishonesty, fraud, or deceit. If a smog check station license or smog check inspector license is revoked or suspended, any additional licenses issued to the licensee under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code may be revoked or suspended.

5. Health and Safety Code section 44012, subdivision (a), requires a smog check station to determine that all required emission control devices and systems are installed and properly functioning. Health and Safety Code section 44012, subdivision (f), requires a smog check station to perform a visual inspection of the emission control devices. Health and Safety Code section 44015, subdivision (b), requires a smog check station to issue certificates of compliance only after conducting a proper inspection.

6. California Code of Regulations, title 16 (Regulations), section 3340.24, subdivision (c), provides that the Bureau may discipline a licensee, if the licensee falsely or fraudulently issues or obtains a Certificate of Compliance.

7. Regulations, section 3340.30, subdivision (a), provides that a licensed technician shall inspect vehicles in accordance with Health and Safety Code section 44012.

8. Regulations, section 3340.35 provides that a licensed station shall issue a Certificate of Compliance only when the vehicle has been inspected in accordance with proper procedures and the required emission control equipment is installed and functioning.

9. Regulations, section 3340.41, subdivision (c), provides that "no person shall enter into the emissions inspection system any vehicle identification information

or emission control information or emission control identification data for any vehicle other than the one being tested. Nor shall any person knowingly enter into the emissions inspection system any false information about the vehicle being tested.”

10. Regulations, section 3371, provides that:

No dealer shall publish, utter, or make or cause to be published, uttered, or made any false or misleading statement or advertisement which is known to be false or misleading, or which by the exercise of reasonable care should be known to be false or misleading.

11. A. Code section 125.3 provides in pertinent part that the Bureau may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

B. In evaluating a request for costs, the administrative law judge must consider whether Complainant’s investigation was “disproportionately large” compared to the violation, and whether the licensee: (1) committed some misconduct but “used the hearing process to obtain dismissal of other charges or a reduction in the severity of the discipline imposed”; (2) had a “subjective good faith belief in the merits of his or her position”; (3) raised a “colorable challenge” to the proposed discipline; and (4) “will be financially able to make later payments.” (*Zuckerman v. State Bd. of Chiropractic Examiners* (2002) 29 Cal.4th 32, 45 [quoting *California Teachers Assn. v. State of California* (1999) 20 Cal.4th 327, 342, 345].)

C. The reasonable costs of prosecution and investigation were \$11,245.73. Complainant seeks one third of these costs (\$3,748.58) from Respondents

as their apportioned share. The *Zuckerman* factors were considered. No basis for further reduction of the costs was found.

12. First Cause for Discipline: Respondent Capulin's ARD is subject to discipline pursuant to Code section 9884.7, subdivision (a)(1), because Respondent Capulin made statements which were known to be untrue or misleading or, which by the exercise of reasonable care should have been known to be untrue or misleading, when issuing smog certificates because Respondent Capulin, through its employees, certified that the 10 vehicles passed inspection and were in compliance with applicable laws and regulations when, in fact, they had not.

13. Second Cause for Discipline: Respondent Capulin's ARD and Smog Check, Test Only, Station license are subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(4), in that Respondent Capulin committed acts that constitute fraud by issuing electronic smog Certificates of Compliance for 10 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.

14. Third Cause for Discipline: Respondent Capulin's ARD is subject to disciplinary action pursuant to Code section 9884.7, subdivision (a)(6), because Respondent Capulin failed in a material respect to comply with the provisions of the Automotive Repair Act and Regulations adopted pursuant to it when Respondent Capulin issued 10 electronic Certificates of Compliance for 10 vehicles without performing a bona fide inspection 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.

15. Fourth Cause for Discipline: Respondent Capulin's Smog Check, Test Only, Station license is subject to disciplinary action pursuant to Health and Safety Code sections 44072.10, subdivision (c), and 44072.2, subdivision (a), because Respondent Capulin violated the following sections of the Health and Safety Code:

A. Section 44012: Respondent Capulin failed to ensure that the emission control tests were performed on 10 vehicles in accordance with the procedures prescribed by the Bureau.

B. Section 44015: Respondent Capulin issued 10 electronic smog Certificates of Compliance for vehicles without ensuring that the vehicles were properly tested and inspected and compliant with Health and Safety Code section 44012.

16. Fifth Cause for Discipline: Respondent Capulin's Smog Check Test Station license is subject to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (c), because Respondent Capulin violated provisions of the Regulations as follows:

A. Regulations, section 3340.24, subdivision (c): Respondent Capulin issued false electronic Certificates of Compliance for 10 vehicles.

B. Regulations, section 3340.30, subdivision (c): Respondent Capulin, failed to inspect and test 10 vehicles as required by law in accordance with Health and Safety Code sections 44012 and 44035 and Regulations, section 3340.42.

C. Regulations, section 3340.35, subdivision (c): Respondent Capulin issued electronic smog Certificates of Compliance for ten vehicle when those vehicles had not been inspected in accordance with Health and Safety Code section 3340.42.

D. Regulations, section 3340.42: Respondent Capulin failed to ensure that the required smog tests were conducted on 10 vehicles in accordance with the Bureau's specifications.

17. Sixth Cause for Discipline: Respondent Capulin has subjected its Smog Check, Test Only, Station license to disciplinary action pursuant to Health and Safety Code sections 44072.2, subdivision (d), and 44072.10, subdivision (c), because Respondent Capulin committed dishonest and fraudulent acts whereby others were subject to harm by issuing 10 electronic Certificates of Compliance for 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.

18. Seventh Cause for Discipline: Respondent Cruz's Smog Check Inspector License is not subject to disciplinary action pursuant to Health and Safety Code sections 44072.2, subdivision (a), and 44072.10, subdivision (a)(4) and (c). Although Respondent Capulin has demonstrated a pattern and practice of violating the regulations, standards, and procedures of the Bureau, the evidence did not establish that Respondent Cruz's Smog Check Inspector license was used in any of the misconduct.

19. The Eighth through thirteenth Causes for Discipline are no longer at issue in this proceeding and have been addressed in separate stipulated settlement and disciplinary orders pending before the Bureau.

20. Respondent, a relatively new licensee, with no history of license discipline, failed to supervise employees, resulting in blatant and extensive violations of the law regarding smog check inspections. Respondent Cruz had employment and

health distractions which interfered with her non-delegable supervision responsibilities. There was no evidence that Respondent Cruz undertook any fraudulent inspections in her capacity as a smog inspector. However, her absence and failure to supervise her employees created an environment conducive to illegal conduct. Respondents' demonstrated remorse, cooperation with the Bureau's investigation, efforts toward education and investigation of new ways to conduct business warrant an opportunity to demonstrate that Respondents can safely operate as licensees on a probationary basis. Accordingly, Respondents' ARD and Smog Check Station, Test Only license will be revoked. The revocations will be stayed and five years of probation will be imposed with terms and conditions. This discipline is sufficient to protect the public and give Respondents a last opportunity to demonstrate the ability to safely and lawfully conduct smog inspections.

ORDER

A. Automotive Repair Dealer Registration Number ARD 303694 issued to Respondent Norma Cruz doing business as El Capulin Smog is revoked.

B. Smog Check, Test Only, Station License Number TC 303694, issued to Respondent Norma Cruz doing business as El Capulin Smog is revoked.

D. The revocations are stayed and the Registration and the Smog Check Station, Test Only license are placed on probation for five years on the following terms and conditions. The terms of probation are also extended to any agents, employees, or partners now or anytime in the future affiliated with Respondent Cruz and Respondent Capulin (referred to collectively as Respondents in this Order).

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Terms and Conditions of Probation

1. Obey All Laws: Respondents shall comply with all federal and state statutes, regulations and rules governing all Bureau registrations and licenses held by Respondents.
2. Quarterly Reporting: During the period of probation, Respondents shall report either by personal appearance or in writing as determined by the Bureau on a schedule set by the Bureau, but no more frequently than once each calendar quarter, on the methods used and success achieved in maintaining compliance with the terms and conditions of probation.
3. Report Financial Interests: Respondents shall, within 30 days of the effective date of the decision and within 30 days from the date of any request by the Bureau during the period of probation, report any financial interest which any Respondents or any partners, officers, or owners of any Respondent facility may have in any other business required to be registered pursuant to Section 9884.6 of the Business and Professions Code.
4. Access to Examine Vehicles and Records: Respondents shall provide Bureau representatives unrestricted access to examine all vehicles (including parts) undergoing service, inspection, or repairs, up to and including the point of completion. Respondents shall also provide Bureau representatives unrestricted access to all records pursuant to Bureau laws and regulations.
5. Tolling of Probation: If, during probation, Respondents leave the jurisdiction of California to reside or do business elsewhere or otherwise cease to do business in the jurisdiction of California, they shall notify the Bureau in writing within

10 days of the dates of departure and return, and of the dates of cessation and resumption of business in California.

All provisions of probation other than cost reimbursement requirements, restitution requirements, training requirements, and that Respondents obey all laws, shall be held in abeyance during any period of time of 30 days or more in which Respondents are not residing or engaging in business within the jurisdiction of California. All provisions of probation shall recommence on the effective date of resumption of business in California. Any period of 30 days or more in which Respondents are not residing or engaging in business within the jurisdiction of California shall not apply to the reduction of this probationary period or to any period of actual suspension not previously completed. Tolling is not available if business or work relevant to the probationary license or registration is conducted or performed during the tolling period.

6. Violation of Probation: Respondents shall, at all times while on probation, maintain a current and active registration or licenses with the Bureau, including any period during which suspension or probation is tolled. If Respondents' registration or license is expired at the time the decision becomes effective, the registration or license must be renewed by Respondents within 30 days of that date. If Respondents' registration or license expires during a term of probation, by operation of law or otherwise, then upon renewal Respondents' registration and license shall be subject to any and all terms and conditions of probation not previously satisfied. Failure to maintain a current and active registration or license during the period of probation shall also constitute a violation of probation.

7. Maintain Valid License: Respondents shall, at all times while on probation, maintain a current and active registration or licenses with the Bureau,

including any period during which suspension or probation is tolled. If Respondents' registration or license is expired at the time the decision becomes effective, the registration or license must be renewed by Respondents within 30 days of that date. If Respondents' registration or license expires during a term of probation, by operation of law or otherwise, then upon renewal Respondents' registration or license shall be subject to any and all terms and conditions of probation not previously satisfied. Failure to maintain a current and active registration or license during the period of probation shall also constitute a violation of probation.

8. Supervision Requirements: Respondents shall not delegate supervisory duties, as they relate to the business activities relevant to the probationary registration or license, to another person during the period of probation, unless specifically authorized by the Bureau. Any persons employed by Respondents to carry out business activities shall be directly supervised by Respondent Cruz. In the event that a bona fide medical condition arises during the period of probation, which temporarily prevents Respondent Cruz from exercising direct supervision over employees, notice and medical substantiation of the condition shall be submitted to the Bureau within 10 days of the medical affirmation of the condition.

9. Training Course: During the period of probation, Respondent Cruz shall attend and successfully complete a Bureau-specified and approved training course in the diagnosis or repair of emission systems failures and engine performance applicable to the class of license held by Respondent Cruz. Respondent Cruz shall provide the Bureau proof of enrollment in the course within 30 days of the effective date of the decision, and proof of successful course completion within 180 days of the effective date of the decision. Failure to provide proof of enrollment and/or successful course completion to the Bureau within the timeframes specified shall constitute a

violation of probation, and Respondents shall be prohibited from issuing any Certificate of Compliance or noncompliance until such proof is received.

10. Cost Recovery: Respondents shall pay the Bureau's costs of investigation and enforcement in the amount of \$3,748.58 pursuant to a payment plan approved by Bureau. Any agreement for a scheduled payment plan shall require full payment to be completed no later than six months before probation terminates. Respondents shall make payment by check or money order payable to the Bureau of Automotive Repair and shall indicate on the check or money order that it is for cost recovery payment for case No. 79/25-5032. Any order for payment of cost recovery shall remain in effect whether or not probation is tolled. Probation shall not terminate until full cost recovery payment has been made. The Bureau reserves the right to pursue any other lawful measures in collecting on the costs ordered and past due, in addition to acting based upon the violation of probation.

11. Completion of Probation: Upon successful completion of probation, Respondents' affected registration and licenses will be fully restored or issued without restriction, if Respondents meet all current requirements for registration or licensure and have paid all outstanding fees, monetary penalties, or cost recovery owed to the Bureau.

12. License Surrender: Following the effective date of a decision that orders a stay of invalidation or revocation, if Respondents cease business operations or are otherwise unable to satisfy the terms and conditions of probation, Respondents may request that the stay be vacated. Such request shall be made in writing to Bureau. The Director and the Bureau Chief reserve the right to evaluate the Respondents' requests and to exercise discretion whether to grant the requests or take any other action deemed appropriate or reasonable under the circumstances. Upon formal granting of

the requests, the Director will vacate the stay order and carry out the disciplinary order provided in the decision.

13. Reinstatement: Respondents may not petition the Director for reinstatement of the surrendered registration and license or apply for a new registration or license under the jurisdiction of the Bureau at any time before the date of the originally scheduled completion of probation. If Respondents apply to the Bureau for a registration or license at any time after that date, Respondents must meet all current requirements for registration or licensure and pay all outstanding fees or cost recovery owed to Bureau left outstanding at the time of surrender.

DATE: **02/17/2026**

Signed copy on File

GLYNDA B. GOMEZ

Administrative Law Judge

Office of Administrative Hearings