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

12 In the Matter of the Accusation Against:

Case No. 79/26-427

13 **MASTER SMOG**
ALEJO MENDOZA JR., OWNER
2591 N Blackstone
14 Fresno, CA 93703

ACCUSATION

15 **Automotive Repair Dealer Registration No. ARD**
304300
16 **Smog Check Test Only Station License No. TC**
304300

17 **ALEJO MENDOZA JR.**
2591 N Blackstone
18 Fresno, CA 93703

19 **Smog Check Inspector License No. EO 142575**

20 Respondents.
21

22 **PARTIES**

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

25 **Automotive Repair Dealer Registration**

26 2. On or about November 17, 2022, the Bureau issued Automotive Repair Dealer
27 Registration Number ARD 304300 to Master Smog (Respondent Master Smog) with Alejo
28 Mendoza Jr. (Respondent Mendoza) as owner. The Automotive Repair Dealer Registration was

1 in full force and effect at all times relevant to the charges brought herein and will expire on
2 November 30, 2026, unless renewed.

3 **Smog Check, Test Only, Station License**

4 3. On or about November 28, 2022, the Bureau issued Smog Check Test Only Station
5 License Number TC 304300 to Respondent Master Smog. The Smog Check Test Only Station
6 License was in full force and effect at all times relevant to the charges brought herein and will
7 expire on November 30, 2026, unless renewed.

8 4. On or about January 13, 2023, Respondent's facility was certified by the Bureau of
9 Automotive Repair as a STAR station. The certification will remain active unless the ARD
10 registration and/or Smog Check Test Only License is revoked, cancelled, licenses become
11 delinquent, or certification is suspended.

12 **Smog Check Inspector License- Respondent Mendoza**

13 5. On or about June 27, 2014, the Bureau issued Smog Check Inspector License Number
14 EO 142575 to Respondent Mendoza. The Smog Check Inspector License was in full force and
15 effect at all times relevant to the charges brought herein and will expire on June 30, 2026, unless
16 renewed.

17 **JURISDICTION**

18 6. This Accusation is brought before the Bureau under the authority of the following
19 laws. All section references are to the Business and Professions Code (Code) unless otherwise
20 indicated.

21 7. Code section 22 provides, in pertinent part, that Board includes bureau, commission,
22 committee, department, division, examining committee, program, and agency. Under Code
23 section 23.7, "license" includes certificate, registration or other means to engage in a business or
24 profession regulated by the code.

25 8. Code section 9884.7 provides that the Director may revoke any automotive repair
26 dealer registration.

27 9. Code section 9884.13 provides, in pertinent part, that the expiration of a valid
28 registration shall not deprive the director or chief of jurisdiction to proceed with a disciplinary

proceeding against an automotive repair dealer or to render a decision invalidating a registration temporarily or permanently.

10. Health and Safety Code (Health & Saf. Code) section 44002 provides, in pertinent part, that the Director has all the powers and authority granted under the Automotive Repair Act for enforcing the Motor Vehicle Inspection Program.

11. Health & Saf. Code section 44072.6 provides, in pertinent part, that the expiration or suspension of a license by operation of law, or by order or decision of the Director of Consumer Affairs, or a court of law, or the voluntary surrender of the license shall not deprive the Director of jurisdiction to proceed with any investigation of, or action or disciplinary proceedings against the licensee, or to render a decision suspending or revoking the license.

12. Health & Saf. Code section 44072.8 states:

When a license has been revoked or suspended following a hearing under this article, any additional license issued under this chapter in the name of the licensee may be likewise revoked or suspended by the director.

STATUTORY PROVISIONS

13. Code section 9884.7 states, in pertinent part:

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

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

...

(4) Any other conduct that constitutes fraud.

...

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

...

(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.

1 14. Code section 9889.22 states:

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

7 15. Health & Saf. Code section 44012 states, in pertinent part:

8 The test at the smog check stations shall be performed in accordance with
9 procedures prescribed by the department, pursuant to Section 44013, shall require, at
10 a minimum, loaded mode dynamometer testing in enhanced areas, and two-speed
11 testing in all other program areas, and shall ensure all of the following:

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

15 ...

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

21 16. Health & Saf. Code section 44015 states, in pertinent part:

22 ...

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

26 17. Health & Saf. Code section 44032 states:

27 No person shall perform, for compensation, tests or repairs of emission control
28 devices or systems of motor vehicles required by this chapter unless the person
performing the test or repair is a qualified smog check technician and the test or
repair is performed at a licensed smog check station. Qualified technicians shall
perform tests of emission control devices and systems in accordance with Section
44012.

18 18. Health & Saf. Code section 44059 states:

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

24 ///

25 ///

19. Health & Saf. Code section 44072.2 states, in pertinent part:

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

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

...

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

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

20. Health & Saf. Code section 44072.10 states, in pertinent part:

...

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

...

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

REGULATORY PROVISIONS

21. California Code of Regulations, title 16 (CCR), section 3340.30, states, in pertinent part:

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

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

22. CCR section 3340.35, states, in pertinent part:

...

(c) A licensed station shall issue a certificate of compliance or noncompliance 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. The following conditions shall apply:

///

23. CCR section 3340.41, states, in pertinent part:

...

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

24. CCR section 3340.42, states:

Smog check inspection methods are prescribed in the Smog Check Manual, referenced by section 3340.45.

(a) All vehicles subject to a smog check inspection, shall receive one of the following test methods:

(1) A loaded-mode test shall be the test method used to inspect 1976 - 1999 model-year vehicle, except diesel-powered, registered in the enhanced program areas of the state. The loaded-mode test shall measure hydrocarbon, carbon monoxide, carbon dioxide and oxides of nitrogen emissions, as contained in the bureau's specifications referenced in subsection (a) of Section 3340.17 of this article. The loaded-mode test shall use Acceleration Simulation Mode (ASM) test equipment, including a chassis dynamometer, certified by the bureau.

On and after March 31, 2010, exhaust emissions from a vehicle subject to this inspection shall be measured and compared to the emissions standards shown in the Vehicle Look-up Table (VLT) Row Specific Emissions Standards (Cutpoints) Table, dated March 2010, which is hereby incorporated by reference. If the emissions standards for a specific vehicle are not included in this table then the exhaust emissions shall be compared to the emissions standards set forth in TABLE I or TABLE II, as applicable. A vehicle passes the loaded-mode test if all of its measured emissions are less than or equal to the applicable emission standards specified in the applicable table.

(2) A two-speed idle mode test shall be the test method used to inspect 1976 - 1999 model-year vehicles, except diesel-powered, registered in all program areas of the state, except in those areas of the state where the enhanced program has been implemented. The two-speed idle mode test shall measure hydrocarbon, carbon monoxide and carbon dioxide emissions at high RPM and again at idle RPM, as contained in the bureau's specifications referenced in subsection (a) of Section 3340.17 of this article. Exhaust emissions from a vehicle subject to this inspection shall be measured and compared to the emission standards set forth in this section and as shown in TABLE III. A vehicle passes the two-speed idle mode test if all of its measured emissions are less than or equal to the applicable emissions standards specified in Table III.

(3) An OBD-focused test, shall be the test method used to inspect gasoline-powered vehicles 2000 model-year and newer, and diesel-powered vehicles 1998 model-year and newer. The OBD test failure criteria are specified in section 3340.42.2.

(b) In addition to subsection (a), all vehicles subject to the smog check program shall receive the following:

///

1 (1) A visual inspection of emission control components and systems to verify
2 the vehicle's emission control systems are properly installed.

3 (2) A functional inspection of emission control systems as specified in the
4 Smog Check Manual, referenced by section 3340.45, which may include an OBD
5 test, to verify their proper operation.

6 (c) The bureau may require any combination of the inspection methods in
7 sections (a) and (b) under any of the following circumstances:

8 (1) Vehicles that the department randomly selects pursuant to Health and Safety
9 Code section 44014.7 as a means of identifying potential operational problems with
10 vehicle OBD systems.

11 (2) Vehicles identified by the bureau as being operationally or physically
12 incompatible with inspection equipment.

13 (3) Vehicles with OBD systems that have demonstrated operational problems.

14 (d) Pursuant to section 39032.5 of the Health and Safety Code, gross polluter
15 standards are as follows:

16 (1) A gross polluter means a vehicle with excess hydrocarbon, carbon
17 monoxide, or oxides of nitrogen emissions pursuant to the gross polluter emissions
18 standards included in the tables described in subsection (a), as applicable.

19 (2) Vehicles with emission levels exceeding the emission standards for gross
20 polluters during an initial inspection will be considered gross polluters and the
21 provisions pertaining to gross polluting vehicles will apply, including, but not limited
22 to, sections 44014.5, 44015, and 44081 of the Health and Safety Code.

23 (3) A gross polluting vehicle shall not be passed or issued a certificate of
24 compliance until the vehicle's emissions are reduced to or below the applicable
25 emissions standards for the vehicle included in the tables described in subsection (a),
26 as applicable. However, the provisions described in section 44017 of the Health and
27 Safety Code may apply.

28 (4) This subsection applies in all program areas statewide to vehicles requiring
inspection pursuant to sections 44005 and 44011 of the Health and Safety Code.

29 25. CCR section 3373, states:

30 No automotive repair dealer or individual in charge shall, in filling out an
31 estimate, invoice, or work order, or record required to be maintained by section
32 3340.15(f) of this chapter, withhold therefrom or insert therein any statement or
33 information which will cause any such document to be false or misleading, or where
34 the tendency or effect thereby would be to mislead or deceive customers, prospective
35 customers, or the public.

36 **COST RECOVERY**

37 26. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
38 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 licensee 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 **CALIFORNIA'S SMOG CHECK PROGRAM**

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

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

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

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

22 31. An On-Board Diagnostics (OBD II) functional test is also performed on most 1996 to
23 1999 model year vehicles. The EIS retrieves information through the Diagnostic Link Connector
24 (DLC) from the vehicle's on-board computer about its ability to communicate, the status of the
25 I/M readiness monitors and the MIL light command. The I/M readiness monitors tell whether or
26 not the OBD II system has run a sufficient number of self-tests on the vehicle's emission and
27 engine control systems. A failure of one or more of the OBD II functional criteria, depending on
28 model year, will result in the vehicle failing its smog check inspection. In addition to reporting

1 the outcome of the OBD II functional test, the smog check inspection results also show
2 Diagnostic Trouble Codes (DTC) if there are any in the vehicle's on-board computer memory.

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

6 33. The EIS is connected by internet connection to Bureau's Vehicle Information
7 Database (VID). If the vehicle passes the visual, functional and tailpipe tests, it passes the overall
8 inspection. A Certificate of Compliance is issued and transmitted electronically to the VID.

9 34. Beginning March 9, 2015, California's Smog Check Program was updated to require
10 the use of an On-Board Diagnostic Inspection System (BAR-OIS). BAR-OIS is the smog check
11 equipment required in all areas of the State when inspecting most model-year 2000 and newer
12 gasoline and hybrid vehicles. The system consists of a certified Data Acquisition Device (DAD),
13 computer, bar code scanner, and printer. The DAD is an OBD scan tool that, when requested by
14 the BAR-OIS software, retrieves OBD data from the vehicle. All OBD data that the vehicle
15 indicates it supports is requested by the BAR-OIS software and will be retrieved. The DAD
16 connects between the BAR-OIS computer and the vehicle's DLC. The bar code scanner is used to
17 input inspector information, the vehicle identification number (VIN), and Department of Motor
18 Vehicles renewal information. The printer provides a Vehicle Inspection Report (VIR)
19 containing inspection results for motorists and a Smog Check Certificate of Compliance number
20 for passing vehicles. Data retrieved and recorded during an OIS smog check includes the eVIN,
21 the communication protocol¹, and the number of Parameter Identifications (PID)².

22 35. During an OIS inspection, engine operating parameters are retrieved from the
23 vehicle's OBD II system and recorded to the VID. This is accomplished during the functional
24 portion of the OIS Smog Check inspection by plugging the DAD into the vehicle's DLC when

26 ¹ The OBD II communication protocol describes the specified communication "language" used by
27 the OBD II computer to communication to scan tools and other devices such as the BAR-OIS. The
28 communication protocol is programmed into the vehicle's on-board computer during manufacture and does
not change.

² PIDs are data points reported by the vehicle's on-board computer to a scan tool or BAR-OIS,
such as engine speed, vehicle speed, engine temperature, etc. The PID count is the number of data points.

1 prompted by the OIS analyzer screen prompt. Some of the parameters recorded are:

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

12 36. During normal engine operation at idle, engine speed is relatively steady around its

13 target idle speed. With the engine idling, the TPS is steady and at or near 0%. The MAP and/or

14 MAF readings are also steady. For the engine speed to increase, the throttle would have to be

15 opened in order to increase airflow through the engine. The engine's management systems

16 supply fuel and spark timing appropriate to any changes in throttle position and engine speed.

17 An increase in throttle, measured by the TPS, which increases engine RPM, would result in a

18 corresponding increases in MAF as well as a change in MAP. Any movement in the throttle from

19 the idle position will result in an increase of airflow through the engine with corresponding

20 increases RPM and MAF along with changes in MAP.

21 37. During an OIS Smog Check inspection, along with other visual and functional

22 inspections, there is an OBD II query portion of the inspection. The OBD II query is performed

23 with the engine idling and, when requested by the OIS analyzer, and an elevated or increased

24 engine speed. The increase in engine speed is performed by the inspector by stepping on the

25 throttle pedal or manually opening the throttle resulting in a corresponding increase in engine

26 RPMs by allowing an increase in airflow into the engine.

27 38. The Bureau has become aware of methods that some Smog Check stations and Smog

28 Check inspectors use to fraudulently issue smog certificates to vehicles that may not pass a smog

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

9 **REVIEW OF OIS TEST DATA**

10 39. During his regular course of duties, Bureau Representative D.W. conducted a detailed
11 review of the VID data for Smog Check inspections performed at Respondent Master Smog’s
12 facility that showed a pattern of vehicles being certified with engine operating parameters that did
13 not correspond to normal engine operation, confirming the vehicles receiving smog certifications
14 had not been tested during the OBD II functional test, which constitutes clean plugging. The
15 Bureau’s review of the Smog Check activities at Respondent Master Smog’s facility confirmed
16 that 10 Smog Check Certificates of Compliance had been fraudulently issued by Respondent
17 Master Smog to vehicles after inspections were performed at Respondent Mendoza.

18 **Vehicle 1**

19 40. BAR-OIS test data showed that on June 13, 2023, Respondent Mendoza performed a
20 smog check inspection on a 2015 Ford F350 Super Duty (Vehicle 1), resulting in the issuance of
21 Certificate of Compliance No. TI619736C. The OIS test details for Vehicle 1 showed that the
22 eVIN had not been reported. The PID count recorded during the inspection on Vehicle 1 was not
23 consistent with the PID count for the make and model of this vehicle by other smog check
24 stations. D.W. concluded that the DAD had not been connected to Vehicle 1 during the smog
25 check inspection performed by Respondent Mendoza, resulting in a fraudulent smog check
26 certificate of compliance for Vehicle 1.

27 41. D.W. utilized the Bureau’s database and found that Vehicle 1 had been subsequently tested
28 at another smog check facility. The BAR-OIS data from those inspections showed that the

eVIN had been transmitted as expected, and the communication protocol and PID count had been consistent with the make and model of Vehicle 1.

Vehicle 2

42. BAR-OIS test data showed that on June 29, 2023, Respondent Mendoza performed a smog check inspection on a 2013 Ford F350 Super Duty (Vehicle 2), resulting in the issuance of Certificate of Compliance No. TK109694C. The OIS test details for Vehicle 2 showed that the eVIN had not been reported. D.W. concluded that the DAD had not been connected to Vehicle 2 during the smog check inspection performed by Respondent Mendoza, resulting in a fraudulent smog check certificate of compliance for Vehicle 2.

43. D.W. utilized the Bureau's database and found that Vehicle 2 had been tested at other smog check facilities. The BAR-OIS data from those inspections showed that the eVIN had been transmitted as expected, and the communication protocol and PID count had been consistent with the make and model of Vehicle 2.

Vehicle 3

44. BAR-OIS test data showed that on December 1, 2023, Respondent Mendoza performed a smog check inspection on a 2011 Honda Accord LX-S (Vehicle 3), resulting in the issuance of Certificate of Compliance No. IX601124C.

45. However, the elevated engine speeds with the associated erratic throttle positions and MAF readings that reported data points that were lower than the idle speed data points as set forth in the underlying OIS Test Data for the inspection of Vehicle 3 were not characteristic or expected for normal engine operation. These discrepancies confirmed that the OIS DAD was not connected to Vehicle 3 during the certification process as required, thereby rendering this a fraudulent inspection by way of clean plugging and resulting in a fraudulent smog check certificate of compliance for Vehicle 3.

Vehicle 4

46. BAR-OIS test data showed that on March 6, 2024, Respondent Mendoza performed a smog check inspection on a 2006 Toyota Tacoma (Vehicle 4), resulting in the issuance of Certificate of Compliance No. TS962917C. The OIS test details for Vehicle 4 showed that the

eVIN had not been reported. D.W. concluded that the DAD had not been connected to Vehicle 4 during the smog check inspection performed by Respondent Mendoza, resulting in a fraudulent smog check certificate of compliance for Vehicle 4.

47. D.W. utilized the Bureau's database and found that Vehicle 4 had been previously tested at other smog check facilities. The BAR-OIS data from those inspections showed that the eVIN had been transmitted as expected, and the communication protocol and PID count had been consistent with the make and model of Vehicle 4.

Vehicle 5

48. BAR-OIS test data showed that on March 29, 2024, Respondent Mendoza performed a smog check inspection on a 2019 Chevrolet Suburban C1500 LT(Vehicle 5), resulting in the issuance of Certificate of Compliance No. TU662823C. The OIS test details for Vehicle 5 showed that the eVIN had not been reported. D.W. concluded that the DAD had not been connected to Vehicle 5 during the smog check inspection performed by Respondent Mendoza, resulting in a fraudulent smog check certificate of compliance for Vehicle 5.

49. D.W. utilized the Bureau's database and found that Vehicle 5 had been previously tested at another smog check facility. The BAR-OIS data from that inspection showed that the eVIN had been transmitted as expected, and the communication protocol and PID count had been consistent with the make and model of Vehicle 5.

Vehicle 6

50. BAR-OIS test data showed that on December 2, 2024, Respondent Mendoza performed a smog check inspection on a 2012 Mazda CX-9 (Vehicle 6), resulting in the issuance of Certificate of Compliance No. UG825553C. The OIS test details for Vehicle 6 showed that the eVIN had not been reported. D.W. concluded that the DAD had not been connected to Vehicle 6 during the smog check inspection performed by Respondent Mendoza, resulting in a fraudulent smog check certificate of compliance for Vehicle 6.

51. D.W. utilized the Bureau's database and found that Vehicle 6 had been previously tested at other smog check facilities. The BAR-OIS data from those inspections showed that the eVIN had been transmitted as expected, and the communication protocol and PID count had been

consistent with the make and model of Vehicle 6.

Vehicle 7

52. BAR-OIS test data showed that on January 3, 2025, Respondent Mendoza performed a smog check inspection on a 2013 Toyota Highlander (Vehicle 7), resulting in the issuance of Certificate of Compliance No. UI482504C. The OIS test details for Vehicle 7 showed that the eVIN had not been reported. D.W. concluded that the DAD had not been connected to Vehicle 7 during the smog check inspection performed by Respondent Mendoza, resulting in a fraudulent smog check certificate of compliance for Vehicle 7.

53. D.W. utilized the Bureau's database and found that Vehicle 7 had been previously tested at other smog check facilities. The BAR-OIS data from those inspections showed that the eVIN had been transmitted as expected, and the communication protocol and PID count had been consistent with the make and model of Vehicle 7.

Vehicle 8

54. BAR-OIS test data showed that on January 3, 2025, Respondent Mendoza performed a smog check inspection on a 2014 Chevrolet Silverado C2500 Heavy Duty (Vehicle 8), resulting in the issuance of Certificate of Compliance No. UI482505C. The OIS test details for Vehicle 8 showed that the eVIN had not been reported. The PID count recorded during the inspection on Vehicle 8 was not consistent with the PID count for the make and model of this vehicle by other smog check stations. D.W. concluded that the DAD had not been connected to Vehicle 8 during the smog check inspection performed by Respondent Mendoza, resulting in a fraudulent smog check certificate of compliance for Vehicle 8.

55. D.W. utilized the Bureau's database and found that Vehicle 8 had been previously tested at another smog check facility. The BAR-OIS data from that inspection showed that the eVIN had been transmitted as expected, and the communication protocol and PID count had been consistent with the make and model of Vehicle 8.

Vehicle 9

56. BAR-OIS test data showed that on March 15, 2025, Respondent Mendoza performed a smog check inspection on a 2019 BMW 540 (Vehicle 9), resulting in the issuance of Certificate

1 of Compliance No. UK894686C. The OIS test details for Vehicle 9 showed that the eVIN had
2 not been reported. The PID count recorded during the inspection on Vehicle 9 was not consistent
3 with the PID count for the make and model of this vehicle by other smog check stations. D.W.
4 concluded that the DAD had not been connected to Vehicle 9 during the smog check inspection
5 performed by Respondent Mendoza, resulting in a fraudulent smog check certificate of
6 compliance for Vehicle 9.

7 57. D.W. utilized the Bureau's database and found that Vehicle 9 had been previously
8 tested at another smog check facility. The BAR-OIS data from that inspection showed that the
9 eVIN had been transmitted as expected, and the communication protocol and PID count had been
10 consistent with the make and model of Vehicle 9.

11 **Vehicle 10**

12 58. BAR-OIS test data showed that on June 5, 2025, Respondent Mendoza performed a
13 smog check inspection on a 2017 Ford F150 Supercrew (Vehicle 10), resulting in the issuance of
14 Certificate of Compliance No. UQ224334C. The OIS test details for Vehicle 10 showed that the
15 eVIN had not been reported. The PID count recorded during the inspection on Vehicle 10 was
16 not consistent with the PID count for the make and model of this vehicle by other smog check
17 stations. D.W. concluded that the DAD had not been connected to Vehicle 10 during the smog
18 check inspection performed by Respondent Mendoza, resulting in a fraudulent smog check
19 certificate of compliance for Vehicle 10.

20 59. D.W. utilized the Bureau's database and found that Vehicle 10 had been subsequently
21 tested at another smog check facility. The BAR-OIS data from that inspection showed that the
22 eVIN had been transmitted as expected, and the communication protocol and PID count had been
23 consistent with the make and model of Vehicle 10.

24 **FIRST CAUSE FOR DISCIPLINE**

25 **(Untrue or Misleading Statements- Respondent Master Smog)**

26 60. Respondent Master Smog's registration is subject to disciplinary action pursuant to
27 Code section 9884.7, subdivision (a)(1), in conjunction with Code section 9889.22, in that
28 Respondent Master Smog made or authorized statements which Respondent Master Smog knew

1 or in the exercise of reasonable care should have known to be untrue or misleading. Specifically,
2 Respondent Master Smog certified that Vehicles 1 through 10, identified in paragraphs 40
3 through 59, above, passed inspection and were in compliance with applicable laws and
4 regulations when, in fact, those vehicles had not been properly inspected.

5 **SECOND CAUSE FOR DISCIPLINE**

6 **(Fraud- Respondent Master Smog)**

7 61. Respondent Master Smog's registration is subject to disciplinary action pursuant to
8 Code section 9884.7, subdivision (a)(4), in that Respondent Master Smog committed acts that
9 constituted fraud by issuing electronic smog certificates of compliance for Vehicles 1 through 10,
10 identified in paragraphs 40 through 59, above, without ensuring that bona fide inspections were
11 performed of the emission control devices and systems on the vehicles, thereby depriving the
12 People of the State of California of the protection afforded by the Motor Vehicle Inspection
13 Program.

14 **THIRD CAUSE FOR DISCIPLINE**

15 **(Material Violation of Automotive Repair Act- Respondent Master Smog)**

16 62. Respondent Master Smog's registration is subject to disciplinary action pursuant
17 Code section 9884.7, subdivision (a)(6), in that Respondent Master Smog failed in a material
18 respect to comply with the provisions of the chapter or regulations adopted pursuant to it when
19 Respondent Master Smog issued electronic certificates of compliance for Vehicles 1 through 10,
20 identified in paragraphs 40 through 59, above, without performing bona fide inspections of the
21 emission control devices and systems on those vehicles, thereby depriving the People of the State
22 of California of the protection afforded by the Motor Vehicle Inspection Program.

23 **FOURTH CAUSE FOR DISCIPLINE**

24 **(Violations of Regulations Pursuant to the Motor Vehicle Inspection Program- Respondent**
25 **Master Smog)**

26 63. Respondent Master Smog's smog check, test only, station license is subject to
27 discipline pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that with regards to
28 Vehicles 1 through 10, identified in paragraphs 40 through 59, above, Respondent Master Smog

1 failed to comply with the following sections of the CCR's:

2 a. **Section 3340.35, subdivision (c)**: Respondent Master Smog failed to inspect
3 and test Vehicles 1 through 10 in accordance with the procedures specified in section 3340.42 of
4 the CCR and failed to ensure that the vehicles had all the required emission control equipment
5 and devices installed and functioning correctly.

6 b. **Section 3373**: Respondent Master Smog made or authorized documents which
7 it knew or which by exercise of reasonable care should have known to be untrue or misleading,
8 when Respondent issued fraudulent smog certificates of compliance for Vehicles 1 through 10.

9 **FIFTH CAUSE FOR DISCIPLINE**

10 **(Violations of the Motor Vehicle Inspection Program- Respondent Master Smog)**

11 64. Respondent Master Smog's smog check, test only, station license is subject to
12 disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that with
13 regards to Vehicles 1 through 10, identified in paragraphs 40 through 59, above, Respondent
14 Master Smog failed to comply with the Health & Saf. Code, as follows:

15 a. **Health & Saf. Code, section 44012**: Respondent Master Smog failed to ensure
16 that the emission control tests were performed on the vehicles in accordance with procedures
17 prescribed by the department.

18 b. **Health & Saf. Code, section 44015**: Respondent Master Smog issued
19 electronic smog certificates of compliance for the vehicles without ensuring that the vehicles were
20 properly tested and inspected to determine if they were in compliance with Health & Saf. Code
21 section 44012.

22 **SIXTH CAUSE FOR DISCIPLINE**

23 **(Dishonesty, Fraud or Deceit- Respondent Master Smog)**

24 65. Respondent Master Smog's smog check, test only, station license is subject to
25 disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in
26 conjunction with Health & Saf. Code section 44072.10, subdivision (c), in that Respondent
27 Master Smog committed dishonest, fraudulent, or deceitful acts whereby another was injured by
28 issuing electronic smog certificates of compliance for Vehicles 1 through 10, identified in

1 paragraphs 40 through 59, above, without ensuring that a bona fide inspection had been
2 performed of the emission control devices and systems on the vehicles, thereby depriving the
3 people of the State of California of the protection afforded by the Motor Vehicle Inspection
4 Program.

5 **SEVENTH CAUSE FOR DISCIPLINE**

6 **(Violations of the Motor Vehicle Inspection Program- Respondent Mendoza)**

7 66. Respondent Mendoza's smog check inspector license is subject to disciplinary action
8 pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent Mendoza
9 violated section 44032 of that Code. Specifically, Respondent Mendoza failed to perform the
10 emission control tests on Vehicles 1 through 10, identified in paragraphs 40 through 59, above, in
11 accordance with procedures prescribed by the department.

12 **EIGHTH CAUSE FOR DISCIPLINE**

13 **(Failure to Comply with Regulations- Respondent Mendoza)**

14 67. Respondent Mendoza's smog check inspector license is subject to discipline pursuant
15 to Health & Saf. Code section 44072.2, subdivision (c), in that regarding Vehicles 1 through 10,
16 identified in paragraphs 40 through 59 above, Respondent Mendoza failed to comply with
17 provisions of the CCR, as follows:

18 a. **CCR, section 3340.30, subdivision (a):** Respondent Mendoza failed to inspect
19 and test Vehicles 1 through 10 in accordance with Health & Saf. Code section 44012 and CCR
20 section 3340.42.

21 b. **CCR, section 3340.41, subdivision (c):** Respondent Mendoza entered false
22 information into the OIS by entering vehicle identification information for a vehicle other than
23 the one being tested.

24 **NINTH CAUSE FOR DISCIPLINE**

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

26 68. Respondent Mendoza's smog check inspector license is subject to disciplinary action
27 pursuant to Health & Saf. Code section 44072.2, subdivision (d), in conjunction with Health &
28 Saf. Code section 44072.10, subdivision (c), in that Respondent Mendoza committed dishonest,

1 fraudulent, or deceitful acts whereby another was injured by issuing electronic smog certificates
2 of compliance for Vehicles 1 through 10, identified in paragraphs 40 through 59 above, without
3 performing bona fide inspections of the emission control devices and systems on those vehicles,
4 thereby depriving the People of the State of California of the protection afforded by the Motor
5 Vehicle Inspection Program.

6 **OTHER MATTERS**

7 69. Pursuant to Bus. & Prof. Code section 9884.7, subdivision (c), the Director may
8 suspend, revoke, or place on probation the registration for all places of business operated in this
9 state by Respondent Master Smog, upon a finding that Respondent Master Smog has, or is,
10 engaged in a course of repeated and willful violations of the laws and regulations pertaining to an
11 automotive repair dealer.

12 70. Pursuant to Health & Saf. Code section 44072.8, if Smog Check, Test Only, Station
13 License Number TC 304300, issued to Respondent Master Smog, is revoked or suspended, any
14 additional license issued under Chapter 5 of Part 5 of Division 26 of the Health & Saf. Code in
15 the name of said licensee may be likewise revoked or suspended by the Director.

16 71. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Inspector License
17 Number EO 142575, issued to Respondent Mendoza, is revoked or suspended, any additional
18 license issued under Chapter 5 of Part 5 of Division 26 of the Health & Safety Code in the name
19 of said licensee may be likewise revoked or suspended by the Director.

20 **PRAYER**

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

24 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
25 304300, issued to Master Smog with Alejo Mendoza Jr. as Owner;

26 2. Revoking or suspending any other automotive repair dealer registration issued to
27 Master Smog with Alejo Mendoza Jr. as Owner;

28 ///

1 3. Revoking or suspending Smog Check Test Only Station License Number TC 304300,
2 issued to Master Smog with Alejo Mendoza Jr. as Owner;

3 4. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of
4 Division 26 of the Health & Saf. Code in the name of Master Smog with Alejo Mendoza Jr. as
5 Owner;

6 5. Revoking or suspending Smog Check Inspector License Number EO 142575, issued
7 to Alejo Mendoza Jr.;

8 6. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of
9 Division 26 of the Health and Safety Code in the name of Alejo Mendoza Jr.;

10 7. Ordering Master Smog and Alejo Mendoza Jr. to pay the Bureau of Automotive
11 Repair the reasonable costs of the investigation and enforcement of this case, pursuant to
12 Business and Professions Code section 125.3 and,

13 8. Taking such other and further action as deemed necessary and proper.

14
15 DATED: As of Digital Signature Date__

Dorais,
Patrick@DCA
Digitally signed by
Dorais, Patrick@DCA
Date: 2026.04.21
11:33:15 -07'00'

PATRICK DORAIS
Chief
Bureau of Automotive Repair
Department of Consumer Affairs
State of California
Complainant

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