

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

In the Matter of the Accusation Against:

MAC COPAS, dba SMOG DEPOT

19030 Valley Blvd., Unit C

Bloomington, CA 92316

Mailing Address:

9847 Whitewood Ct.

Fontana, CA 92335

Automotive Repair Dealer Registration No. ARD 304372

Smog Check Test Only Station License No. TC 304372

ROBERTO PEREZ GOMEZ

9829 Feron Blvd.

Rancho Cucamonga, CA 91730

Smog Check Inspector License No. EO 643596

BRANDON ALEXANDER SORIANO

18335 Jakes Way, Apt. 201

Canyon Country, CA 91387

Smog Check Inspector License No. EO 643670

and

BRANDON G. BAZAN

26663 Fleming St.

Highland, CA 92346

Smog Check Inspector License No. EO 643379

Respondents.

Case No. 79/24-21182

OAH No. 2025100821

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 August 28, 2026.

IT IS SO ORDERED July 20, 2026.

Original signature on file
GRACE ARUPO RODRIGUEZ
Assistant Deputy Director
Legal Affairs Division
Department of Consumer Affairs

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ROBERTO PEREZ GOMEZ

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and

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Smog Check Inspector License No. EO 643379,

Respondents.

Agency Case No. 79/24-21182

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PROPOSED DECISION

Cindy F. Forman, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter by videoconference on May 14, 2026.

Deputy Attorney General William Gardner represented complainant Patrick Dorais, Chief of the Bureau of Automotive Repair (Bureau or BAR), Department of Consumer Affairs (Department).

Frank C. Brucculeri, Esq., Frank C. Brucculeri Law Corp., represented respondent Mac Copas (Respondent Copas), both individually and doing business as Smog Depot, and respondent Roberto Perez Gomez (Respondent Gomez). Neither respondent Brandon Alexander Soriano (Respondent Soriano) nor respondent Brandon G. Bazan (Respondent Bazan) appeared at the hearing. (The individual respondents are collectively referred to herein as Respondents.)

Evidence was received, the record closed, and the matter was submitted for decision at the close of the hearing.

SUMMARY

Complainant proved by a preponderance of the evidence that between August 29, 2024, and November 5, 2024, Smog Depot, through its employees, conducted 11 smog check inspections at Smog Depot using clean plugging. Respondent Bazan, who conducted one of the unlawful smog check inspections, and Respondent Soriano, who

conducted five of the unlawful smog check inspections, did not appear at the hearing. The denials by Respondent Copas, Smog Depot's owner, and Respondent Gomez, who conducted five of the unlawful smog check inspections, were not persuasive. Revocation of Respondent Smog Depot's station license and Respondent Perez's smog check inspector license is necessary to protect the public. Because Respondent Copas did not conduct the unlawful inspections and was absent during most of the relevant period due to illness, his automotive repair dealer (ARD) registration will be placed on probation. Respondent Copas and Respondent Perez are also ordered to pay costs.

FACTUAL FINDINGS

Jurisdiction and Pleadings

1. On November 30, 2022, the Bureau issued ARD Registration number 304372 to Respondent Copas, doing business as Smog Depot. This registration was in effect at all times relevant to the Accusation and is scheduled to expire on November 30, 2026.

2. On December 29, 2022, the Bureau issued Smog Check, Test Only, Station License Number TC 304372 to Smog Depot. This license was in effect at all times relevant to the Accusation and is scheduled to expire on November 30, 2026.

3. On March 29, 2023, the Bureau issued a STAR certification to Smog Depot. The Bureau suspended the STAR certification on May 21, 2025.

4. On March 25, 2022, the Bureau issued Smog Check Inspector License Number EO 643596 to Respondent Gomez. This license was in effect at all times relevant to the Accusation and is scheduled to expire on August 31, 2027. At the time

of the events in question, Respondent Gomez was a full-time employee of Smog Depot.

5. On November 8, 2021, the Bureau issued Smog Check Inspector License EO 643379 to Respondent Bazan. The license expired on January 31, 2026. At the time of the events in question, Respondent Bazan was a part-time employee of Smog Depot.

6. Complainant offered no licensing information regarding Respondent Soriano. Respondent Soriano was a part-time employee of Smog Depot.

7. On August 27, 2025, complainant, acting in his official capacity, filed the Accusation against Respondents, alleging violations of the Business and Professions Code, the Health and Safety Code, and associated regulations based on Respondents' unlawful smog check inspection of 11 vehicles.

8. Respondent Copas filed a Notice of Defense on Respondent Smog Depot's behalf on October 10, 2025; Respondent Gomez filed a Notice of Defense on October 8, 2025; and Respondent Bazan filed a Notice of Defense on November 3, 2025. Respondent Soriano did not file a Notice of Defense, and his Smog Check Inspector license has since been revoked. A Notice of Default was issued against Respondent Bazan, and his case was remanded to the Bureau after he failed to appear at the hearing.

9. The hearing proceeded against Respondent Copas, doing business as Smog Depot, and Respondent Gomez.

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California's Smog Check Program

10. California's smog check program is designed to improve air quality and to protect public health by reducing vehicle emissions. The smog check program requires owners to submit their vehicles to smog inspections and obtain certificates of compliance. A smog check inspection determines whether required emission control devices and systems are installed and functioning properly, and detects and reduces tampering and emission control failures. Licensed smog check technicians at licensed smog check stations conduct these mandated smog check inspections and are the only persons authorized by the Bureau to perform official inspections.

11. A smog-check inspection for model-year 2000 and newer gasoline vehicles is conducted using the Bureau's On-Board Diagnostic Inspection System (OIS), the standardized testing platform required for these inspections. The system consists of a certified Data Acquisition Device (DAD), a computer, a bar code scanner, and a printer. The DAD is a scan tool that retrieves certain emission information from the vehicle when requested by the OIS software. It connects the OIS computer to the vehicle's Diagnostic Link Connector inside the vehicle's passenger compartment, allowing access to the vehicle's on-board computer system. The OIS software requires a continuous internet connection during the smog check inspection to communicate with the Bureau's Vehicle Information Database (VID). The bar code scanner is used to input technician information, the vehicle's identification number, and Department of Motor Vehicles (DMV) renewal data. The printer provides a Vehicle Inspection Report for the motorist and a Smog Check Certificate of Compliance for vehicles that pass the smog check inspection.

12. Data retrieved, captured, and recorded during a BAR smog check inspection includes the electronic vehicle identification number; the communication

protocol, which is the specific "language" the vehicle's powertrain control module uses to relay or communicate information; and the number of Parameter Identifications (PIDs), which is the number of specific values related to emissions control data. Examples of PIDs include engine speed, throttle position, manifold absolute pressure, and the engine's mass air flow readings throughout the inspection.

13. During certain inspections, the OIS software instructs the technician to raise the engine speed of the vehicle above idle so that the system may collect dynamic emissions control data (dynamic data). Dynamic data is recorded and transmitted to the VID, but is not used to determine whether the vehicle passes or fails. A technician cannot bypass the collection of dynamic data, and data collection must be complete for the inspection to proceed.

14. After the technician completes all required checks, the OIS software displays whether the vehicle passed the inspection. If the vehicle passes the inspection, the technician may issue a Certificate of Compliance. To finalize the inspection, the technician authorizes the certificate and signs the Vehicle Inspection Report under penalty of perjury, certifying that the inspection was performed on the vehicle presented and in accordance with Smog Check Program requirements.

15. BAR has become aware of methods some smog check stations and smog check inspectors use to fraudulently issue smog certificates to vehicles that will not pass a smog check test on their own, or in some instances, are not even present when the test is performed. One method is "clean plugging," which involves using another vehicle's properly functioning emissions system, or a defeat device/simulator, to generate false passing data and fraudulently issue smog certificates to vehicles that are non-compliant or not actually tested. Defeat devices simulate engine operation during a smog check inspection by transmitting emissions data to the VID that has

been modified or entirely substituted for the data of the vehicle purportedly being inspected.

Respondents' 11 Smog Check Inspections At Issue

16. Respondent Gomez performed smog check inspections on five vehicles for Smog Depot. These inspections were conducted on the following vehicles and dates: a 2004 Nissan Frontier King Cab XE on August 29, 2024; a 2004 Honda Accord EX on August 31, 2024; a 2001 Infiniti QX4 on August 31, 2024; a 2000 Nissan Pathfinder LE on September 3, 2024; and a 2004 Audi S4 on September 13, 2024. For each of the five inspections, the OIS software prompted Respondent Gomez to collect dynamic emissions data, and he completed that step as part of his inspection.

17. For all five inspections, the OIS software reported passing results. Based on those results, Respondent Gomez authorized the issuance of a Certificate of Compliance and signed each corresponding Vehicle Inspection Report under penalty of perjury. By signing the reports, Respondent Gomez certified that he had performed proper inspections and that the certificates issued were valid.

18. Respondent Bazan performed a smog check inspection for Smog Depot on September 23, 2024, on a 2000 Honda Accord LX. The OIS software prompted Respondent Bazan to collect dynamic emissions data, and he completed that step as part of his inspection. The OIS software reported passing results, and Respondent Bazan authorized the issuance of a Certificate of Compliance and signed the corresponding Vehicle Inspection Report under penalty of perjury. By signing the report, Respondent Bazan certified that he had performed proper inspections and that the certificates issued were valid.

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19. Respondent Soriano performed smog check inspections on five vehicles for Smog Depot. These inspections were conducted on the following vehicles and dates: 2004 Honda S2000 on October 18, 2024; 2000 Chevrolet Silverado C1500 on October 22, 2024; 2002 Chevrolet Z28 on October 30, 2024; 2005 Nissan Titan XE on October 31, 2024; and 2003 Chevrolet Tahoe on November 5, 2024. For each of the five inspections, the OIS software prompted Respondent Soriano to collect dynamic emissions data, and he completed that step as part of his inspection.

20. For all five inspections, the OIS software reported passing results. Based on those results, Respondent Soriano authorized the issuance of a Certificate of Compliance and signed each corresponding Vehicle Inspection Report under penalty of perjury. By signing the reports, Respondent Soriano certified that he had performed proper inspections and that the certificates issued were valid.

Bureau's Investigation

21. Bureau Program Representative Steve Koch testified at the hearing. Mr. Koch has worked for the Bureau for 26 years. For about 24 of those years, he has investigated smog check inspections. Before joining the Bureau, he worked as an automotive mechanic for about 10 years. He holds an associate degree in automotive technology and has held both smog-inspector and repair-technician licenses since 1996.

22. As part of his regular duties, Mr. Koch reviews smog check data sent by stations to the VID. In 2024, he reviewed data from inspections performed at Smog Depot. The data displayed unusual dynamic data patterns, i.e., engine speed increased while other essential sensor readings remained unchanged. As such, he opened a formal investigation.

23. At hearing, Mr. Koch explained that during an OIS smog check inspection, the vehicle is monitored and PID data readings are obtained while the engine is idling and also when the smog check inspector is prompted to increase the engine speed to a certain level and then maintain that speed for a period of time. For the engine speed to increase, the throttle must be opened to increase air flow through the engine. An increase in the throttle position also increases the engine speed as measured in revolutions per minute (RPM) and results in a corresponding increase in the mass air flow rate, as well as a change in manifold absolute pressure and changes in ignition timing.

24. According to Mr. Koch, clean plugging is apparent in cases where the data recorded during an OIS smog check shows that the engine speed, as measured in RPM, increases during the test, but the throttle position, mass air flow rate, manifold absolute pressure, and ignition timing remain unchanged. Because engine speed, as measured in RPM, cannot increase without corresponding increases in the throttle position, mass air flow rate, manifold absolute pressure, and ignition time advances, test data in such cases show that a defeat device was used to simulate engine speed readings for a vehicle that was not actually tested.

25. In reviewing the 11 inspections described in Factual Findings 16 through 20, Mr. Koch noted that during the entire period the subject vehicle's dynamic data was collected, the only parameter that changed was the engine's RPM. Thus, even though the vehicle's engine speed increased, as reflected in the increased RPM, in response to directions from the OIS software, the vehicle's throttle position, air flow (mass-air flow sensor), manifold absolute pressure (where applicable), and ignition timing readings remained fixed at idle values. He explained that a functioning engine cannot increase its RPM without corresponding changes in these parameters because

higher RPM requires additional air and fuel, along with adjustments in ignition timing, to sustain combustion.

26. The inspection reports for each of the 11 inspections described in Factual Findings 16 through 20 reflect this pattern: idle-level readings for each vehicle's throttle position, air flow, manifold absolute pressure (when applicable), and ignition timing throughout the test, despite an acceleration of engine speed and corresponding increase in RPMs. (Exhibits 9, pp. A95–A97; 10, pp. A107–109; 11, pp. A117–A119; 12, pp. 131–A133; 13, pp. A144–A146; 14, pp. A157–A159; 15, pp. A169–A171; 16, pp. A182–A184; 17, pp. A194–A196; 18, pp. A207–A209; 19, pp. A219–A221.)

27. Based on the uniform data pattern and his experience, particularly his familiarity with defeat devices, Mr. Koch concluded that Respondents did not perform BAR-approved smog check inspections on the 11 vehicles. He opined that Respondents engaged in clean plugging to obtain a passing score for each vehicle. He asserted that the unchanged readings of the throttle position, ignition timing advance, manifold absolute pressure, and air flow when the vehicle's engine RPM was increased from idle could not have occurred if the DAD had been connected to the vehicle purportedly tested. Mr. Koch further asserted that such readings are consistent with signals generated by a defeat device rather than signals produced by a real engine.

28. Mr. Koch asserted that defeat devices cost thousands of dollars. According to Mr. Koch, defeat devices are not available to ordinary consumers and are used almost exclusively by smog technicians. Mr. Koch explained that defeat devices may disable certain readiness monitors but do not disable essential sensors, i.e., ignition timing, throttle position, or mass air flow, because doing so would render the vehicle inoperable. In more than two decades of investigations, he has never encountered a consumer-owned or concealed simulator; the simulators he observed

were in technicians' possession. Mr. Koch concluded it is implausible that 11 unrelated consumer vehicles would seek smog tests at Smog Depot already equipped with concealed defeat devices capable of producing the uniform data patterns observed.

Testimony by Respondent Copas

29. Before owning Smog Depot, Respondent Copas worked as a licensed security guard for three years. He was forced to leave his security guard job for medical reasons. He purchased Smog Depot from the previous owner. Since acquiring Smog Depot, Respondent Copas has never been disciplined by the Bureau.

30. At the time of the events described in the Accusation, Respondent Copas was in and out of the hospital and on dialysis. Respondent testified he was not aware of the details of his employees' conduct during this time. Because of his medical condition, he was only at Smog Depot once a week for a couple of hours. Respondent Copas continues to receive dialysis treatment four days a week for approximately five hours a day, and is awaiting a kidney transplant.

31. Respondent Copas does not perform smog check inspections. He hired Respondent Perez to serve as Smog Depot's manager, and Respondent Perez was responsible for ensuring the business operated properly and for supervising the other employees during Respondent Copas's absences. Respondent Copas has known Respondent Perez for four years and considers him to be a good friend.

32. At hearing, Respondent Copas explained the steps he took to ensure his employees complied with BAR procedures. During pre-employment interviews, Respondent Copas informs prospective employees that cameras are installed throughout the Smog Depot facility to monitor their conduct. He also informs them

that he will report any unlawful activity committed while working at Smog Depot to the appropriate authorities.

33. Since receiving the Accusation, Respondent Copas has changed his business practices to ensure his employees' smog check inspections are lawful. He expanded his monitoring system by adding more cameras to the four he already had installed in different areas of Smog Depot. He also installed a system that allowed him to view the camera footage remotely; previously, Respondent Copas could view camera footage only when he was physically present at Smog Depot. Respondent Copas has also increased the number of his regular visits to Smog Depot.

34. At hearing, Respondent Copas could not explain the discrepant results of the 11 smog check inspections at Smog Depot. He stated that he did not know what clean plugging was until he received the Accusation. Respondent Copas also denied ever possessing, or knowing whether his employees ever possessed, a clean plugging device. He also denied having any knowledge that the Bureau had revoked the license of Smog Depot's previous owner for issuing false smog check certificates based on clean plugging, or that Respondent Soriano's smog check inspector license had been revoked for clean plugging at another smog station.

Testimony by Respondent Gomez

35. Respondent Gomez lives with his girlfriend and his two-year-old son. Before obtaining his Smog Check Inspector license, he delivered medical equipment and then worked as a medical assistant for three years. Respondent Gomez became a technician because he loved cars. He has a Master Automotive Training Certificate and has worked as a full-time smog check inspector for four years.

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36. Before working for Respondent Copas, Respondent Gomez worked for the previous owner of Smog Depot. Although the Bureau revoked the smog check licenses associated with that facility, Respondent Gomez was not accused of wrongdoing, and he has never been cited or disciplined by the Bureau. He has passed his BAR update courses. Respondent Gomez stated he takes pride in being a good person and performing honest work.

37. Respondent Gomez works six days a week at Smog Depot. In addition to his management duties, Respondent Gomez conducts between three and 15 smog check inspections each day at Smog Depot. Respondent Copas pays him a salary, and Respondent Gomez does not receive a bonus if the vehicle he inspects passes or fails a smog inspection. At hearing, Respondent Gomez stated he performs his smog inspections in accordance with the BAR manual and tests every vehicle the same way. Respondent Gomez asserted that Respondent Copas made clear that he would be terminated if he did not comply with BAR procedures. Respondent Gomez observed Respondent Soriano and Respondent Bazan perform smog check inspections, but he never noticed them doing anything wrong.

38. Respondent Gomez denied using any defeat device or attaching the DAD to another vehicle while conducting smog inspections. He also denied offering any customer the opportunity to clean plug their vehicle. Respondent Gomez asserted he was unaware of clean plugging until he received the Accusation. After internet research, he learned that a customer could install a defeat device in their vehicle unbeknownst to the inspector. He believes this may explain Smog Depot's aberrant readings. Respondent asserted that nothing in the BAR manual provides any information about how to detect a defeat device.

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Analysis

39. Mr. Koch's testimony is credible and entitled to substantial weight. He has 26 years of experience with the Bureau, including more than two decades investigating smog-check violations. He therefore has extensive familiarity with OIS data patterns and the operation of defeat devices. He also explained, in clear and straightforward mechanical terms, how an engine and its sensors normally respond when engine speed increases: the engine must draw in more air, add more fuel, and adjust ignition timing, and those changes appear in the sensor data. Mr. Koch's testimony was technically supported, internally consistent, and unrebutted.

40. The denials by Respondent Copas and Respondent Gomez were unpersuasive. Their professed ignorance of clean plugging was not credible, considering the former owner of Smog Depot and Respondent Gomez's former employer, as well as a former Smog Depot employee, had their licenses revoked for unlawful smog check practices. Their only explanation for the aberrant results, i.e., that all 11 vehicles arrived with pre-installed defeat devices capable of producing identical flatlined sensor data, is inherently improbable. Defeat devices cost thousands of dollars, and in more than 20 years of investigations, Mr. Koch has never encountered a hidden, consumer-installed defeat device. It is therefore unlikely that 11 unrelated vehicle owners independently obtained and installed such equipment in a period less than a year for a single smog inspection.

41. The dynamic data from all 11 inspection reports show the same pattern. The RPM increased, but throttle position, mass air flow, manifold pressure (when applicable), and ignition timing values remained at idle. A functioning engine cannot raise RPM without changes in those values. Respondent Copas and Respondent Gomez offered no evidence of any condition that could produce such readings. The

uniform data pattern, together with Mr. Koch's credible testimony, supports the conclusion that a defeat device was used during each of the 11 smog-check inspections. By relying on simulator-generated values to complete the smog check inspection and issue Certificates of Compliance, Smog Depot and Respondent Gomez engaged in clean plugging.

Prosecution and Investigative Costs

42. The Bureau seeks reimbursement of \$9,044.25 in enforcement costs and \$3,191.88 in investigation costs. Of the enforcement costs, the Department of Justice billed \$8,778 for attorney time and \$266.25 for paralegal time. The investigation costs consist of \$540.40 incurred by Program Representative II Raymond Gottenbos and \$2,651.48 incurred by Mr. Koch. The total amount of costs requested is \$12,236.13.

43. Respondent Copas supports himself, and his income is limited to his earnings from the operation of Smog Depot. His medical condition has made it difficult to find other sources of income.

44. Respondent Gomez is the sole financial provider for his girlfriend and child.

LEGAL CONCLUSIONS

1. The Bureau administers and enforces California's Smog Check Program on behalf of the Department. (Health & Saf. Code, §§ 44000–44002.) The Bureau is responsible for licensing automotive repair dealers, smog-check stations, and smog-check inspectors (Bus. & Prof. Code, § 9884 et seq.; Health & Saf. Code, § 44030 et seq.), and for ensuring that vehicles are inspected in accordance with statutory and

regulatory testing procedures. (Health & Saf. Code, §§ 44012, 44015; Cal. Code Regs., tit. 16 (CCR), §§ 3340.30–3340.42.)

2. The Bureau’s mandate includes protecting the public by preventing the improper certification of vehicles that do not meet emissions requirements and by disciplining registrants and licensees who violate the Automotive Repair Act or the Motor Vehicle Inspection Program. (Bus. & Prof. Code, § 9880.3; Health & Saf. Code, § 44072.2.)

Burden of Proof and Evidence

3. Complainant bears the burden of proving the allegations by a preponderance of the evidence. (*Imports Performance v. Dept. of Consumer Affairs, Bureau 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.)

Applicable Law

4. If an ARD cannot show a bona fide error, the Bureau may suspend, revoke, or place on probation its registration if the dealer or one of its employees or technicians commits any of the following acts or omissions: (1) making any written or oral statement which it knew or should have known was untrue or misleading, (2) any conduct constituting fraud, or (3) failure in any material respect to comply with the provisions of the Automotive Repair Act or the regulations adopted pursuant to it. (Bus. & Prof. Code, § 9884.7, subds. (a)(1), (a)(4), (a)(6).) Fraud includes a misrepresentation in any manner, whether intentionally false or due to gross negligence, of a material fact. (Bus. & Prof. Code, § 9884.7, subd. (e)(2).)

5. The Bureau may suspend, revoke, or take other disciplinary action against a Smog Check, Test Only Station license or a Smog Check Inspector license if the licensee violates any law under the Motor Vehicle Inspection Program or the regulations adopted pursuant to it. (Health & Saf. Code, § 44072.2, subds. (a), (c).)

6. The Bureau may suspend, revoke, or take other disciplinary action against a Smog Check Inspector if the licensee commits any act involving dishonesty, fraud, or deceit whereby another is injured. (Health & Saf. Code, § 44072.2, subd. (d).)

7. The Bureau must revoke the license of any Smog Check technician or station licensee who fraudulently certifies vehicles or participates in the fraudulent inspection of vehicles. (Health & Saf. Code, § 44072.10, subd. (c).)

Liability for Employee Conduct

8. Respondent Copas, as owner of Smog Depot, is liable for the acts of his employees, including Respondent Gomez, Respondent Soriano, and Respondent Bazan. As explained in *Rob-Mac, Inc. v. Dept. of Motor Vehicles* (1983) 148 Cal.App.3d 793, 797:

[t]he owner of a license is obligated to see that the license is not used in violation of the law. (*Ford Dealers Assn. v. Department of Motor Vehicles* (1982) 32 Cal.3d 347, 360). "If a licensee elects to operate his business through employees, he must be responsible to the licensing authority for their conduct in the exercise of his license and he is responsible for the acts of his agents or employees done in the course of his business in the operation of the

license." (*Arenstein v. California State Bd. of Pharmacy*
(1968) 265 Cal.App.2d 179, 192.)

9. Thus, Respondent Copas, and his business Smog Depot, had a duty to ensure that his employees complied with the laws and regulations governing the licensed business. Additionally, Respondent Copas, and his business Smog Depot, are responsible for any violations committed by his employees while working at Smog Depot, regardless of whether he authorized their actions or had actual knowledge of them. (*Arenstein v. California State Bd. of Pharmacy* (1968) 265 Cal.App.2d 179, 192–193.) Consequently, the Bureau may discipline the ARD registration and station license of Smog Depot for the violations of its employees while conducting smog inspections.

Discipline Against Smog Depot's ARD Registration

FIRST CAUSE FOR DISCIPLINE (UNTRUE OR MISLEADING STATEMENTS)

10. Complainant seeks to discipline Smog Depot's ARD registration pursuant to Business and Professions Code section 9884.7, subdivision (a)(1), for making or authorizing statements it knew or should have known were untrue or misleading.

11. Smog Depot's ARD registration is subject to discipline under Business and Professions Code section 9884.7, subdivision (a)(1), because Smog Depot made or statements which it knew, or in the exercise of reasonable care, should have known were untrue or misleading. Between August 29, 2024, and November 5, 2024, Smog Depot, through employees Respondent Gomez, Respondent Soriano, and Respondent Banzan, issued smog certificates of compliance for 11 vehicles that were not tested or inspected in compliance with applicable laws and regulations.

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SECOND CAUSE FOR DISCIPLINE (FRAUD)

12. Complainant seeks to discipline Smog Depot's ARD registration pursuant to Business and Professions Code section 9884.7, subdivision (a)(4), for acts constituting fraud.

13. Smog Depot's ARD registration is subject to discipline under Business and Professions Code section 9884.7, subdivision (a)(4). Between August 29, 2024, and November 5, 2024, Smog Depot, through employees Respondent Gomez, Respondent Soriano, and Respondent Banzan, committed fraud by issuing smog certificates of compliance for 11 vehicles without performing bona fide inspections of the vehicles' emission control devices and systems, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

THIRD CAUSE FOR DISCIPLINE (MATERIAL VIOLATION OF AUTOMOTIVE REPAIR ACT)

14. Complainant seeks to discipline Smog Depot's ARD registration pursuant to Business and Professions Code section 9884.7, subdivision (a)(6), for committing material violations of the Automotive Repair Act.

15. Smog Depot's ARD registration is subject to discipline under Business and Professions Code section 9884.7, subdivision (a)(6). Between August 29, 2024, and November 5, 2024, Smog Depot, through employees Respondent Gomez, Respondent Soriano, and Respondent Banzan, materially violated the Automotive Repair Act by issuing electronic smog certificates of compliance for 11 vehicles without performing bona fide inspections of the vehicles' emission control devices and systems, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

Discipline Against Smog Depot's Smog Check, Test Only, Station License

FOURTH CAUSE FOR DISCIPLINE (VIOLATION OF MOTOR VEHICLE INSPECTION PROGRAM)

16. Complainant seeks to discipline Smog Depot's Smog Check, Test Only, Station License, pursuant to Health and Safety Code section 44072.2, subdivision (a), for violating certain provisions of the Motor Vehicle Inspection Program.

17. Smog Depot's Smog Check, Test Only, Station License is subject to discipline pursuant to Health and Safety Code section 44072.2, subdivision (a), for the following statutory violations: (a) section 44012, by failing to ensure that the emission control tests were performed on 11 vehicles in accordance with procedures prescribed by the Department; and (b) section 44015, by issuing electronic smog certificates of compliance for 11 vehicles without ensuring that the vehicles were properly tested and inspected to determine if they complied with Health and Safety Code section 4401.

FIFTH CAUSE FOR DISCIPLINE (FAILURE TO COMPLY WITH REGULATIONS PURSUANT TO THE MOTOR VEHICLE INSPECTION PROGRAM)

18. Complainant seeks to discipline Smog Depot's Smog Check, Test Only, Station License, pursuant to Health and Safety Code section 44072.2, subdivision (c), for violating certain regulations of the Motor Vehicle Inspection Program.

19. Smog Depot's Smog Check, Test Only, Station License is subject to discipline pursuant to Health and Safety Code section 44072.2, subdivision (a), based on the following regulatory violations: (a) CCR section 3340.24, subdivision (c), by falsely or fraudulently issued electronic smog certificates of compliance for 11 vehicles;

(b) CCR section 3340.35, subdivision (c), by issuing electronic smog certificates of compliance for 11 vehicles even though the vehicles had not been inspected in accordance with CCR section 3340.42; and (c) CCR section 3340.42, by failing to ensure that the required smog tests were conducted on 11 vehicles in accordance with the Bureau's specifications.

SIXTH CAUSE FOR DISCIPLINE (DISHONESTY, FRAUD, AND/OR DECEIT):

20. Complainant seeks to discipline Smog Depot's Smog Check, Test Only, Station License, pursuant to Health and Safety Code section 44072.2, subdivision (d), and 44072.10, subdivision (c), because Smog Depot committed dishonest, fraudulent, or deceitful acts in connection with issuing fraudulent smog certificates of compliance.

21. Smog Depot's Smog Check, Test Only, Station License is subject to discipline pursuant to Health and Safety Code section 44072.2, subdivision (d), in conjunction 44072.10, subdivision (c), because Smog Depot clean plugged 11 vehicles and therefore committed dishonest, fraudulent, or deceitful acts by issuing electronic smog certificates of compliance for the 11 vehicles without performing bona fide inspections of the vehicles' emission control devices and systems. Respondent Smog Depot's actions deprived the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

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Discipline Against Respondent Gomez's Smog Check Inspector License

SEVENTH CAUSE FOR DISCIPLINE (VIOLATION OF MOTOR VEHICLE INSPECTION PROGRAM)

22. Complainant seeks to discipline Respondent Gomez's Smog Check Inspector license pursuant to Health and Safety Code section 44072.2, subdivision (a), for violating certain provisions of the Motor Vehicle Inspection Program.

23. Respondent Gomez's Smog Check Inspector license is subject to discipline under Health and Safety Code section 44072.2, subdivision (a), because Respondent Gomez, in performing smog inspections of five vehicles, violated (a) section 44012, by failing to ensure that the emissions control tests were performed on those vehicles in accordance with Department procedures; (b) section 44015, subdivision (b), by issuing electronic smog certificates of compliance without properly testing and inspecting the vehicles to determine if they complied with section 44012; (c) section 44032, by failing to perform tests of the vehicles' emissions systems in accordance with section 44012; and (d) section 44059, by willfully making false entries for electronic smog certificates of compliance by certifying that the vehicles had been inspected as required when, in fact they had not.

EIGHTH CAUSE FOR DISCIPLINE (VIOLATIONS OF REGULATIONS PURSUANT TO THE MOTOR VEHICLE INSPECTION PROGRAM)

24. Complainant seeks to discipline Respondent Gomez's Smog Check Inspector license pursuant to Health and Safety Code section 44072.2, subdivision (c), for violating certain regulations adopted under the Motor Vehicle Inspection Program.

25. Respondent Gomez's Smog Check Inspector license is subject to discipline under Health and Safety Code section 44072.2, subdivision (c), because Respondent Gomez, in performing smog inspections of five vehicles, violated (a) CCR section 3340.24, subdivision (c), by falsely or fraudulently issuing electronic smog certificates of compliance without performing bona fide inspections of the vehicles' emission control devices and systems as required by Health and Safety Code section 44012; (b) CCR section 3340.30, subdivision (a), by failing to inspect and test the vehicles in accordance with Health and Safety Code section 44012; (c) CCR section 3340.35, subdivision (c), by issuing electronic smog certificates of compliance to the vehicles even though the vehicles had not been inspected in accordance with Health and Safety Code section 3340.42; (d) CCR section 3340.41, subdivision (c), by knowingly entering false information into the OIS about the five vehicle inspections; and (e) CCR section 3340.42, by failing to conduct the required smog tests and inspections on the vehicles in accordance with the Bureau's specifications.

NINTH CAUSE FOR DISCIPLINE (DISHONESTY, FRAUD, OR DECEIT)

26. Complainant seeks to discipline Respondent Gomez's Smog Check Inspector license pursuant to Health and Safety Code sections 44072.2, subdivision (d), and 44072.10, subdivision (c), because Respondent Gomez committed dishonest, fraudulent, or deceitful acts in connection with issuing fraudulent smog certificates of compliance.

27. Respondent Gomez's Smog Check Inspector license is subject to discipline under Health and Safety Code sections 44072.2, subdivision (d), and 44072.10, subdivision (c). Respondent Gomez clean plugged five vehicles and, by doing so, committed acts involving dishonesty, fraud, or deceit by issuing electronic smog certificates of compliance for the five vehicles without performing bona fide

inspections of the vehicles' emission control devices and systems. Respondent Gomez's conduct deprived the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

Level of Discipline

28. The Bureau's Guidelines for Disciplinary Orders and Terms of Probation, revised June 2021 (Guidelines) recommend the level of discipline for violations of the Business and Professions Code and Health and Safety Code, including Business and Professions Code section 9884.7, subdivisions (a)(1) and (a)(4); Business and Professions Code section 9989.3, subdivision (b); and Health and Safety Code section 44072.2, subdivisions (a), (c), and (d). The recommended minimum discipline for violations of these statutes is two, three, or five years of probation. The recommended maximum penalty for the violations is revocation. For violations of Health and Safety Code section 44072.10, subdivision (c), revocation is required by statute.

29. The Guidelines set forth aggravating factors to consider in determining the level of discipline imposed on licensees. One aggravating factor is pertinent here, i.e., evidence that the unlawful act was a pattern of practice. (Guidelines, p. 2.) Here, Respondent Gomez committed five acts of clean plugging between August 29, 2024, and September 13, 2024, constituting a pattern of practice. Respondent Gomez's refusal to acknowledge wrongdoing heightens the severity of his misconduct.

30. The Guidelines also set forth mitigating factors to consider in determining the level of discipline imposed on licensees. Mitigating factors pertinent to this matter are (1) the absence of prior disciplinary action; (2) evidence of substantial measures to correct business practices to minimize the likelihood of recurrence of the violations; and (3) evidence of a medical condition that temporarily

prevented the individual from exercising supervision and control over employees or others at the time of the violation. (Guidelines, p. 2–3.) Here, neither Respondent Copas nor Respondent Gomez has a history of discipline from the Bureau. Respondent Copas changed his business practices by visiting Respondent Smog Depot more regularly, adding more cameras, and modifying his security system to enable remote monitoring. Respondent Copas was also undergoing significant medical treatment, including regular dialysis, during the period in which the violations occurred, which substantially impaired his ability to supervise employees and remain attentive to their testing practices.

31. Considering the Guidelines, revocation of Respondent Smog Depot's ARD registration is not warranted. The evidence showed Respondent Copas's violations resulted from negligence rather than from intentional misconduct. Respondent Copas did not conduct any of the smog testing performed at Respondent Smog Depot, was undergoing medical treatment during the violation period, and no evidence was offered to show he was aware that his employees had engaged in clean plugging in his absence. Respondent Copas has modified his business practices by adding cameras that can now be accessed remotely and spending more time at Respondent Smog Depot. Placing Respondent Copas on probation for five years will allow the Bureau to monitor his business practices and ensure public safety.

32. Health and Safety Code section 44072.10, subdivision (c), requires the Bureau to revoke Smog Depot's Smog Check, Test Only, Station license and Respondent Gomez's Smog Check Inspector license. Because of the mandatory nature of the statute, the mitigation factors identified above are not pertinent to Smog Depot's Smog Check, Test Only, Station license. Regarding Respondent Gomez's Smog Check Inspector license, the evidence demonstrated that Respondent Gomez clean

plugged five vehicles; he did not offer any credible explanation for the aberrant results of his inspections or evidence of rehabilitation.

Other Matters

33. The Bureau may suspend, revoke, or place on probation the registration for all places of business operated in California by an ARD upon a finding that the ARD has, or is, engaged in a course of repeated and willful violations of the Automotive Repair Act and its accompanying regulations. (Bus. & Prof. Code, § 9884.7, subd. (c).) Complainant proved Respondent Copas, doing business as Smog Depot, engaged in a course of repeated and willful violations of the Automotive Repair Act and its accompanying regulations because its employees clean plugged 11 vehicles. Cause therefore exists to discipline the registration for all places of business operated in California by Respondent Copas pursuant to Business and Professions Code section 9884.7, subdivision (c).

34. Health and Safety Code section 44072.8 allows the Bureau, when revoking or suspending a license issued under the Smog Check statutes, to likewise revoke or suspend any additional Smog Check license held by the same respondent. Accordingly, any other licenses issued to Respondents under the Smog Check statutes may be revoked or disciplined because of the revocation of licenses that are the subject of this proceeding.

Costs

35. Complainant is entitled to recover the reasonable costs of prosecution and investigation of this matter. (Bus. & Prof. Code, § 125.3.) *In Zuckerman v. State Board of Chiropractic Examiners* (2002) 29 Cal.4th 32 (*Zuckerman*), the Supreme Court set forth factors to be considered in determining the reasonableness of the costs

sought. These factors include: 1) the licentiate's success in getting the charges dismissed or the severity of the discipline imposed reduced; 2) the licentiate's subjective good faith belief in the merits of his or her position; 3) whether the licentiate raised a colorable challenge to the proposed discipline; 4) the licentiate's financial ability to pay; and 5) whether the scope of the investigation was appropriate in light of the alleged misconduct. (*Zuckerman, supra*, 29 Cal.4th at p. 45.)

36. Complainant seeks \$9,044.25 in enforcement costs and \$3,191.88 in investigation costs, for a total of \$12,236.13 against the four respondents. The costs are unreasonable under the *Zuckerman* factors. Respondents Copas and Respondent Gomez were unsuccessful in getting charges dismissed and did not present evidence of a good faith belief in the merits of their position. However, Respondent Copas reduced the severity of the proposed discipline of his ARD registration, and both Respondent Copas and Respondent Gomez presented evidence of their inability to pay their share of the requested costs. The Bureau's investigation was reasonable considering the alleged misconduct.

37. Dividing the requested costs among Respondents results in an allocation of \$3,059.03 each. Considering their lack of financial resources and the severity of the order below, it is appropriate to find Respondent Copas as the owner of Smog Depot separately liable for \$2,000, and Respondent Gomez separately liable for \$1,000.

ORDER

As to Respondent Mac Copas DBA Smog Depot's ARD Registration

Automotive Repair Dealer Registration number ARD 304994, issued to respondent Mac Copas, doing business as Smog Depot, is revoked. However, the

revocation is stayed, and Respondent Copas, doing business as Smog Depot, is placed on probation for five years on the terms and conditions set forth below.

Probation Terms and Conditions

1. Obey all Laws: During the period of probation, Respondent shall comply with all federal and state statutes, regulations, and rules governing all the Bureau of registrations and licenses held by Respondent.

2. Quarterly Reporting: During the period of probation, Respondent 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: Respondent 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 Respondent or any partners, officers, or owners of any Respondent facility may have in any other business required to be registered pursuant to Business and Professions Code section 9884.6.

4. Access to Examine Vehicles and Records: Respondent shall provide the Bureau representatives unrestricted access to examine all vehicles (including parts), service, inspection, or repairs, up to and including the point of completion. Respondent shall also provide the Bureau representatives unrestricted access to all records pursuant to the Bureau laws and regulations.

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5. Tolling of Probation: If, during probation, Respondent leaves the jurisdiction of California to reside or do business elsewhere or otherwise cease to do business in the jurisdiction of California, Respondent 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 time of 30 days or more in which Respondent is 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: If Respondent violates or fails to comply with the terms and conditions of probation in any respect, the Director, after giving notice and opportunity to be heard, may set aside the stay order and carry out the disciplinary order provided in the decision. Once Respondent is served notice of the Bureau's intent to set aside the stay, the Director shall maintain jurisdiction, and the period of probation shall be extended until final resolution of the matter.

7. Maintain Valid License: Respondent shall, at all times while on probation, maintain a current and active registration and/or license(s) with the Bureau, including any period during which suspension or probation is tolled. If a Respondent's

registration or license is expired at the time the decision becomes effective, the registration or license must be renewed by that respondent within 30 days of that date. If a Respondent's registration or license expires during a term of probation, by operation of law or otherwise, then upon renewal, that Respondent's 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 and/or license during the period of probation shall also constitute a violation of probation.

8. Cost Recovery: Respondent shall pay the Bureau \$2,000 for the reasonable costs of the investigation and enforcement of case number 79/24-21182. The Bureau or its designee may establish a payment plan for cost recovery; however, Respondent shall pay the full amount of cost recovery no later than six months before probation terminates. Respondent 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 number 79/24-21182. 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 taking action based upon the violation of probation.

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

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10. License Surrender: Following the effective date of a decision that orders a stay of invalidation or revocation, if Respondent ceases business operations or is otherwise unable to satisfy the terms and conditions of probation, Respondent may request that the stay be vacated. Such a request shall be made in writing to the Bureau. The Director and the Bureau Chief reserve the right to evaluate a respondent's request and to exercise discretion whether to grant the request or take any other action deemed appropriate or reasonable under the circumstances. Upon formal granting of the request, the Director will vacate the stay order and carry out the disciplinary order provided in the decision.

Respondent may not petition the Director for reinstatement of a surrendered registration and/or 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 a Respondent applies to the Bureau for a registration or license at any time after that date, that Respondent must meet all current requirements for registration or licensure and pay all outstanding fees or cost recovery owed to the Bureau and left outstanding at the time of surrender.

11. Training Course: Within 60 days of the effective date of a decision, Respondent shall attend a Write It Right presentation provided by a Bureau representative at a location, date, and time determined by the Bureau.

Within 180 days of the effective date of a decision, Respondent shall submit to the Bureau satisfactory evidence of completion of a laws and regulations training course that meets the following requirements: (1) The course shall be instructor-led, in a classroom or online setting, and shall include instruction on registrant or licensee compliance with the laws and regulations related to the following areas: (A) Estimate Requirements, (B) Customer Authorization, (C) Invoice Requirements, (D) Accepted

Trade Standards, (E) Sublet Repair, (F) Return of Parts, (G) Advertising Requirements, (H) Guarantees and Warranties, (I) Maintenance of Records; (2) The course shall include an examination to verify the Respondent can apply the laws and regulations in daily automotive repair transactions; (3) The course shall have a minimum of (8) eight hours of dedicated time to instruction and examination, where examination time shall be between thirty (30) minutes to an hour; and (4) The course shall require a minimum score of 70 percent on the examination to provide proof of completion.

If, in the case of a registered automotive repair dealer or licensed Smog Check, or lamp and/or brake station, the registration or license is issued to a partnership, corporation, or a Limited Liability Company, then it shall be the responsibility of the registered automotive repair dealer or licensed Smog Check, or lamp and/or brake station manager, or another person who directly or indirectly controls or conducts the business to complete any required training course specified in the decision.

12. Supervision Requirements: Respondent shall not delegate his supervisory duties, as they relate to the business activities relevant to the probationary registration and/or license, to another person during the period of probation. Any persons employed by Respondent to carry out such business activities shall be directly supervised by Respondent. If a bona fide medical condition arises during the period of probation, which temporarily prevents Respondent from exercising direct supervision over employees, notice and medical substantiation of the condition shall be submitted to the Bureau within ten (10) days of the medical affirmation of the condition.

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As to Mac Copas dba Smog Depot's Smog Check, Test-Only, Station License

Smog Check, Test-Only, Station License number TC 304372, issued to respondent Mac Copas, doing business as Smog Depot, is revoked.

As to Respondent Roberto Perez Gomez's Smog Check Inspector License

Smog Check Inspector License No. EO 643596, issued to respondent Roberto Perez Gomez, is revoked. As a condition precedent to the reinstatement of his license or issuance of any new license, respondent Roberto Perez Gomez shall reimburse the Bureau for its costs of prosecution and investigation in the amount of \$1,000. Said amount shall be paid in full before reinstatement of his license or issuance of any new license, unless otherwise ordered by the Bureau.

DATE: 06/15/2026



CINDY F. FORMAN

Administrative Law Judge

Office of Administrative Hearings