

1 ROB BONTA  
Attorney General of California  
2 ERIN M. SUNSERI  
Supervising Deputy Attorney General  
3 GREGORY J. SALUTE  
Supervising Deputy Attorney General  
4 State Bar No. 164015  
600 West Broadway, Suite 1800  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 738-9431  
7 Facsimile: (916) 732-7920  
E-mail: Gregory.Salute@doj.ca.gov  
8 *Attorneys for Complainant*

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

14 In the Matter of the Accusation Against:

Case No. **79/25-14556**

15 **ANGEL JIMENEZ d.b.a. ONLY SMOG**  
16 **TEST ONLY CENTER**  
17 **140 W. Walnut Ave #B10**  
18 **Perris, CA 92571**

**ACCUSATION**

19 **Mailing Address:**  
20 **688 Primrose Place**  
21 **Perris, CA 92571**

22 **Automotive Repair Dealer Registration No.**  
23 **ARD 304676**  
24 **Smog Check, Test-Only, Station License No.**  
25 **TC 304676,**

26 **-and-**

27 **ANGEL JIMENEZ**  
28 **688 Primrose Pl**  
**Perris, CA 92571**

**Smog Check Inspector License No. EO**  
**639929**

**-and-**

1 **JOSE MARQUEZ SANA**  
2 **876 Santana Ct**  
3 **Perris, CA 92571**

4 **Mailing Address:**  
5 **19241 Marmalade Ct**  
6 **Riverside, CA 92508**

7 **Smog Check Inspector License No. EO**  
8 **638263**

9 Respondents.

10 **PARTIES**

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

13 2. On or about January 5, 2023, Bureau of Automotive Repair issued Automotive Repair  
14 Dealer Registration Number ARD 304676 to Angel Jimenez dba Only Smog Test Only Center  
15 (Respondent Only Smog). The Automotive Repair Dealer Registration was in full force and  
16 effect at all times relevant to the charges brought herein and will expire on January 31, 2026,  
17 unless renewed.

18 3. On or about February 9, 2023, Bureau of Automotive Repair issued Smog Check,  
19 Test-Only, Station License Number TC 304676 to Angel Jimenez dba Only Smog Test Only  
20 Center. The Smog Check, Test-Only, Station License was in full force and effect at all times  
21 relevant to the charges brought herein and will expire on January 31, 2026, unless renewed.

22 4. Respondent is also certified as a STAR Station. The certification was issued on  
23 October 5, 2023, and will remain active unless the ARD registration and/or Smog Check Station  
24 license is revoked, canceled, licenses become delinquent, or the certification is invalidated.

25 5. On or about January 11, 2017, Bureau of Automotive Repair issued Smog Check  
26 Inspector License Number EO 639929 to Angel Jimenez (Respondent Jimenez). The Smog  
27 Check Inspector License was in full force and effect at all times relevant to the charges brought  
28 herein and will expire on March 31, 2027, unless renewed.

///



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

4 ...

5 (4) Any other conduct which constitutes fraud.

6 ...

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

9 13. Section 44072.2 of the Health and Safety Code states:

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

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

16 ...

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

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

21 ...

22 14. Section 44072.10 of the Health and Safety Code states, in pertinent part:

23 ...

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

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

...

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

...”

///

///

1 **REGULATORY PROVISIONS**

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

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

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

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

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

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

10 . . .

11 (c) A licensed station shall issue a certificate of compliance or noncompliance  
12 to the owner or operator of any vehicle that has been inspected in accordance with the  
13 procedures specified in section 3340.42 of this article and has all the required  
emission control equipment and devices installed and functioning correctly. . . .

14 18. California Code of Regulations, title 16, section 3340.42, sets forth specific emissions  
15 test methods and procedures which apply to all vehicles inspected in the State of California.

16 **COST RECOVERY**

17 19. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
18 administrative law judge to direct a licentiate found to have committed a violation or violations of  
19 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
20 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being  
21 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be  
22 included in a stipulated settlement.

23 **VID DATA REVIEW**

24 20. Beginning March 9, 2015, California’s Smog Check Program was updated to require  
25 the use of an On-Board Diagnostic Inspection System (“OIS”). OIS is the Smog Check  
26 equipment required in all areas of the State when inspecting most model-year 2000 and newer  
27 gasoline and hybrid vehicles and most 1998 and newer diesel vehicles. The system consists of a  
28 certified Data Acquisition Device (“DAD”), computer, bar code scanner, and printer. The DAD

1 is an On Board Diagnostic (“OBD”) scan tool that, when requested by the California OIS  
2 software, retrieves OBD data from the vehicle. All OBD data that the vehicle indicates it  
3 supports is requested by the California OIS software and will be retrieved. The DAD connects  
4 between the OIS computer and the vehicle’s DLC. The California OIS software requires a  
5 continuous Internet connection when performing a Smog Check inspection and the OIS software  
6 communicates with BAR’s central database through the Internet connection. The bar code  
7 scanner is used to input technician information, the vehicles identification number (“VIN”), and  
8 DMV renewal information. The printer provides a Vehicle Inspection Report (“VIR”) containing  
9 inspection results for motorists and a Smog Check Certificate of Compliance number for passing  
10 vehicles.

11 21. Data retrieved and recorded during an OIS smog check includes; the eVIN, which is  
12 the digitally stored VIN programmed into the vehicle’s Powertrain Control Module (“PCM”); the  
13 communication protocol, which is the manufacturer/vehicle specific language the PCM uses to  
14 relay information; and the number of Parameter Identifications (“PIDs”), which is the number of  
15 specific data values each PCM uses related to emissions controls.

16 22. During an OIS inspection, engine operating parameters are retrieved from the  
17 vehicle’s OBD II system and recorded to the VID. This is accomplished during the functional  
18 portion of the OIS Smog Check inspection by plugging the DAD into the vehicle’s DLC when  
19 prompted by the OIS analyzer screen prompt. Some of the parameters recorded are:

- 20 • Engine speed in revolutions per minute (RPM)
- 21 • Throttle position as measured by a throttle position sensor (TPS) mounted onto  
22 the throttle shaft. Measured in a percentage of opening from 0% at idle and near  
23 or up to 100% at full throttle.
- 24 • Manifold absolute pressure as measured by a manifold air pressure sensor (MAP)  
25 connected to an intake manifold source, measured in kilo pascals (kpa). Typical  
26 readings for a normally aspirated vehicle as follows: 0 kpa being absolute vacuum,  
27 25kpa to 45kpa at idle, 101 kpa at full throttle, same as atmospheric pressure at  
28 sea level.

- 1 • Mass air flow as measured by a mass air flow sensor (MAF) mounted in the
- 2 engine's air intake tract. Measured in grams per second (gps).<sup>2</sup>
- 3 • Ignition timing is set by the vehicle PCM based on engine speed and load, and is
- 4 measured in degrees Before Top Dead Center (BTDC).

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

14 24. During an OIS Smog Check inspection, along with other visual and functional  
15 inspections, there is an OBD II query portion of the inspection. The OBD II query is performed  
16 with the engine idling and, when requested by the OIS analyzer, and an elevated or increased  
17 engine speed.

18 25. If the vehicle passes the visual, functional and tailpipe tests, it passes the overall  
19 inspection, and a Certificate of Compliance is issued and transmitted electronically to the Vehicle  
20 Information Database ("VID"). These Certificates of Compliance are purchased in blocks of fifty  
21 (50) through the EIS or OIS from the VID, using a pre-arranged electronic bank account debit  
22 system or by check, via mail, from Bureau Headquarters in Sacramento. Each Certificate of  
23 Compliance has a unique control number so that it can be tracked to determine which Smog  
24 Check Station purchased the Certificate of Compliance and to which vehicle it was issued.

25 26. The VID contains registration data from Department of Motor Vehicles ("DMV")  
26 plus emission standards, vehicle smog check inspections, smog check stations and technicians,

---

27 <sup>2</sup> Not all vehicles include both MAP and MAF parameters. Many vehicles will have either  
28 MAP or MAF parameters separately.

1 and Certificates of Compliance. The VID receives the passing smog check results immediately  
2 following the inspection. During the vehicle registration process, the DMV accesses the VID to  
3 verify that the vehicle has been tested and certified. The Bureau can also access the VID to view  
4 test data on smog check inspections performed at any Smog Check Station, or search for, retrieve,  
5 and print a test record for a particular vehicle which has been tested. The EIS or OIS, depending  
6 on the test type, also prints a Vehicle Inspection Report (“VIR”), which is a physical record of the  
7 test results and shows the Certificate of Compliance number that was issued if the vehicle passed  
8 the smog inspection.

9 27. The smog check technician must sign the VIR under penalty of perjury to indicate  
10 that the inspection was done within Bureau guidelines. Smog Check Stations are required by law  
11 to maintain a copy of the VIR along with a copy of the repair invoice for three years. The  
12 consumer’s VIR serves as a receipt and proof that the VID was updated, and a Certificate of  
13 Compliance was issued. Licensed Smog Check Technicians are the only persons authorized by  
14 the Bureau to perform official inspections. They are issued a personal access code and a license,  
15 which are used to gain access to the EIS and OIS to perform smog check inspections.  
16 Unauthorized use of another technician’s access code or license is prohibited.

17 28. Respondents have engaged in numerous acts or omissions constituting violations of  
18 the Automotive Repair Act (Business and Professions Code section 9880 *et seq.*) and Motor  
19 Vehicle Inspection Program (Health and Safety Code section 44000 *et seq.*) through their practice  
20 of “clean plugging.”<sup>3</sup> Respondent’s OIS Test Data available on the State database indicates that  
21 Respondents are involved in fraudulent smog inspection activities. A Bureau representative  
22 initiated an investigation based on information transmitted to the VID for smog check inspections  
23 performed by Respondents. The investigation revealed that the data related to certain vehicles  
24 certified by Respondents contained a pattern of unmistakable discrepancies between the  
25 information transmitted during the inspections and documented information known about the

26 <sup>3</sup> “Clean plugging” refers to the use of another vehicle’s properly functioning On Board  
27 Diagnostic, generation II, (OBD II) system, or another source, to generate passing diagnostic  
28 readings for the purpose of issuing fraudulent smog Certificates of Compliance to vehicles that  
are not in smog compliance and/or not present for testing.

1 vehicles at issue. Specifically, the representative compared the data received from the certified  
2 vehicles to data from vehicles of the same year, make, and model and determined that the data  
3 from at least seven (7) of the certified vehicles were fraudulently tested by Respondents during  
4 the smog inspection using the “clean plugging” method as follows:

5 **Clean Plug # 1: 2003 Toyota Tacoma Double Cab-Jimenez**

6 29. Bureau Program Representative David Martin Del Campo (Del Campo) reviewed the  
7 OIS Test Data for Only Smog Test Only Center. The review shows that on April 25, 2024, a 2003  
8 Toyota Tacoma Double Cab, CA license 80696R2, VIN 5TEHN72N33Z222428 was tested and  
9 smog certificate # TW512607C was issued under licensed Smog Check Inspector # EO 639929,  
10 Angel Jimenez.

11 30. The Dynamic Data Charts for the 2003 Toyota Tacoma Double Cab shows that  
12 between time stamp 833 and 22238, the engine RPM is steady at around 760 RPM. During this  
13 time, the data shows that the throttle is fixed at 14.5% opening and the MAF is fixed at 3.67 gps.  
14 After time stamp 22238, the engine RPM is increased and then held steady at around 1450 RPM.  
15 From the time the engine RPM increases from off idle to the higher RPMs, the data shows that  
16 the throttle continues to stay fixed at the same 14.5% opening and the MAF continues to stay  
17 fixed at the same 3.67 gps.

18 31. During the entire period the dynamic data was collected, the only parameter that  
19 changed was engine RPM. The throttle position and MAF readings remained unchanged even  
20 though the engine RPM was increased. These readings are not characteristic or expected for  
21 normal engine operation. The discrepancies in the OIS Test Data prove the Data Acquisition  
22 Device was not connected as required to the 2003 Toyota Tacoma Double Cab being certified,  
23 causing the issuance of a fraudulent Smog Check Certificate of Compliance.

24 **Clean Plug # 2: 2003 Honda Civic LX-Jimenez**

25 32. Del Campo reviewed the OIS Test Data for Only Smog Test Only Center. The review  
26 shows that on April 25, 2024, a 2003 Honda Civic LX, CA license 5BHC244, VIN  
27 2HGES16593H520952 was tested and smog certificate # TW512617C was issued under licensed  
28 Smog Check Inspector # EO 639929, Angel Jimenez.

1           33. The Dynamic Data Charts for the 2003 Honda Civic LX shows that between time  
2 stamp 868 and 21982, the engine RPM is steady at around 675 RPM. During this time, the data  
3 shows that the throttle is fixed at 9.0% opening and the MAP is fixed at 35 kPa. After time stamp  
4 21982, the engine RPM is increased and then held steady at around 1550 RPM. From the time the  
5 engine RPM increases from off idle to the higher RPMs, the data shows that the throttle continues  
6 to stay fixed at the same 9.0% opening and the MAP continues to stay fixed at the same 35 kPa.

7           34. During the entire period the dynamic data was collected, the only parameter that  
8 changed was engine RPM. The throttle position and MAP readings remained unchanged even  
9 though the engine RPM was increased. These readings are not characteristic or expected for  
10 normal engine operation. The discrepancies in the OIS Test Data prove the Data Acquisition  
11 Device was not connected as required to the 2003 Honda Civic LX being certified, causing the  
12 issuance of a fraudulent Smog Check Certificate of Compliance.

13           **Clean Plug # 3: 2000 Toyota Echo-Sana**

14           35. Del Campo reviewed the OIS Test Data for Only Smog Test Only Center. The review  
15 shows that on April 26, 2024, a 2000 Toyota Echo, CA license 5LIH889, VIN  
16 JTDBT1230Y0050888 was tested and smog certificate # TW512624C was issued under licensed  
17 Smog Check Inspector # EO 638263, Jose Marquez Sana.

18           36. The Dynamic Data Charts for the 2000 Toyota Echo shows that between time stamp  
19 850 and 21202, the engine RPM is steady at around 750 RPM. During this time, the data shows  
20 that the throttle is fixed at 11.0% opening and the MAF is fixed at 1.73 gps. After time stamp  
21 21202, the engine RPM is increased and then held steady at around 1500 RPM. From the time the  
22 engine RPM increases from off idle to the higher RPMs, the data shows that the throttle continues  
23 to stay fixed at the same 11.0% opening and the MAF continues to stay fixed at the same 1.73  
24 gps.

25           37. During the entire period the dynamic data was collected, the only parameter that  
26 changed was engine RPM. The throttle position and MAF readings remained unchanged even  
27 though the engine RPM was increased. These readings are not characteristic or expected for  
28 normal engine operation. The discrepancies in the OIS Test Data prove the Data Acquisition

1 Device was not connected as required to the 2000 Toyota Echo being certified, causing the  
2 issuance of a fraudulent Smog Check Certificate of Compliance.

3 **Clean Plug # 4: 2005 Hyundai Santa Fe GLS-Sana**

4 38. Del Campo reviewed the OIS Test Data for Only Smog Test Only Center. The review  
5 shows that on April 27, 2024, a 2005 Hyundai Santa Fe GLS, CA license 9BTG595, VIN  
6 KM8SC13D65U921610 was tested and smog certificate # TW512640C was issued under  
7 licensed Smog Check Inspector # EO 638263, Jose Marquez Sana.

8 39. The Dynamic Data Charts for the 2005 Hyundai Santa Fe GLS shows that between  
9 time stamp 97810 and 135710, the engine RPM is steady at around 800 RPM. During this time,  
10 the data shows that the throttle is at 5.1% opening and the MAF is at 1.87 gps. After time stamp  
11 135710, the engine RPM is increased and then held above 1344 RPM. From the time the engine  
12 RPM increases from off idle to the higher RPMs, the data shows that the throttle drops from 5.5%  
13 to 4.7% opening and the MAF rises from 0.36 gps to 2.4 gps.

14 40. The steady idle and elevated engine RPMs along with the improbable throttle position  
15 and MAF readings are not characteristic or expected for normal engine operation. The throttle  
16 position readings are expected to be stable at idle and increase with the elevated engine RPM, not  
17 drop unexpectedly or drop to a value less than idle. The MAF readings are expected to be stable  
18 at idle and increase with the elevated engine RPM, not drop and rise unexpectedly or drop to a  
19 value less than idle. These readings are not characteristic or expected for normal engine  
20 operation. The discrepancies in the OIS Test Data prove the OIS Data Acquisition Device (DAD)  
21 was not connected as required to the 2005 Hyundai Santa Fe GLS being certified, causing the  
22 issuance of a fraudulent Smog Certificate of Compliance.

23 **Clean Plug # 5: 2006 Honda Accord EX-Sana**

24 41. Del Campo reviewed the OIS Test Data for Only Smog Test Only Center. The review  
25 shows that on April 27, 2024, a 2006 Honda Accord EX, CA license 8HAE769, VIN  
26 1HGCM72636A018444 was tested and smog certificate # TW512644C was issued under licensed  
27 Smog Check Inspector # EO 638263, Jose Marquez Sana.

28 ///

1           42. The Dynamic Data Charts for the 2006 Honda Accord EX shows that between time  
2 stamp 839 and 21093, the engine RPM is steady at around 750 RPM. During this time, the data  
3 shows that the throttle is at 14.9% opening, the MAP is fixed at 35 kPa, and the MAF is fixed at  
4 4.65 gps. After time stamp 21093, the engine RPM is increased and then ultimately held above  
5 1446 RPM. From the time the engine RPM increases from off idle to the higher RPMs, the data  
6 shows that the throttle is at 13.3% opening, the MAP drops from 44 kPa to 35 kPa, and the MAF  
7 rises from 3.43 gps to 4.69 gps.

8           43. The steady idle and steady elevated engine RPMs along with the improbable throttle  
9 position, MAP, and MAF readings are not characteristic or expected for normal engine operation.  
10 The throttle position readings are expected to be stable at idle and increase with the elevated  
11 engine RPM, not drop unexpectedly or drop to a value less than idle. The MAP readings are  
12 expected to be stable at idle and decrease with the elevated engine RPM, not rise and drop  
13 unexpectedly before returning to the idle reading. The MAF readings are expected to be stable at  
14 idle and increase with the elevated engine RPM, not drop and rise unexpectedly or drop to a value  
15 less than idle. These readings are not characteristic or expected for normal engine operation. The  
16 discrepancies in the OIS Test Data prove the OIS Data Acquisition Device (DAD) was not  
17 connected as required to the 2006 Honda Accord EX being certified, causing the issuance of a  
18 fraudulent Smog Certificate of Compliance.

19           **Clean Plug # 6: 2000 Mercedes-Benz SLK 230 Kompressor-Sana**

20           44. Del Campo reviewed the OIS Test Data for Only Smog Test Only Center. The review  
21 shows that on May 11, 2024, a 2000 Mercedes-Benz SLK 230 Kompressor, CA license  
22 7KUZ066, VIN WDBKK47F0YF163548 was tested and smog certificate # TW945625C was  
23 issued under licensed Smog Check Inspector # EO 638263, Jose Marquez Sana.

24           45. The Dynamic Data Charts for the 2000 Mercedes-Benz SLK 230 Kompressor shows  
25 that between time stamp 959 and 26777, the engine RPM is steady at around 800 RPM. During  
26 this time, the data shows that the throttle is at 3.9% opening, the MAP is at 43 kPa, and the MAF  
27 is at 3.49 gps. After time stamp 26777, the engine RPM is increased and then held steady at  
28 around 1330 RPM. From the time the engine RPM increases from off idle to the higher RPMs,

1 the data shows that the throttle continues to stay at the same 3.9% opening, the MAP continues to  
2 stay at the same 43 kPa, and the MAF continues to stay at the same 3.49 gps.

3 46. During the entire period the dynamic data was collected, the only parameter that  
4 changed was engine RPM. The throttle position, MAP, and MAF readings remained unchanged  
5 even though the engine RPM was increased. These readings are not characteristic or expected for  
6 normal engine operation. The discrepancies in the OIS Test Data prove the Data Acquisition  
7 Device was not connected as required to the 2000 Mercedes-Benz SLK 230 Kompressor being  
8 certified, causing the issuance of a fraudulent Smog Check Certificate of Compliance.

9 **Clean Plug # 7: 2003 Acura RSX Type-S-Jimenez**

10 47. Del Campo reviewed the OIS Test Data for Only Smog Test Only Center. The review  
11 shows that on July 11, 2024, a 2003 Acura RSX Type-S, CA license 7ECF520, VIN  
12 JH4DC53063C020515 was tested and smog certificate # UA204186C was issued under licensed  
13 Smog Check Inspector # EO 639929, Angel Jimenez.

14 48. The Dynamic Data Charts for the 2003 Acura RSX Type-S shows that between time  
15 stamp 865 and 19939, the engine RPM gradually rises from 676 RPM to 1099 RPM before  
16 dropping to 655 RPM. During this time, the data shows that the throttle is fixed at 9.4% opening  
17 and the MAP is fixed at 69 kPa. After time stamp 19939, the engine RPM is increased and then  
18 held steady at around 1650 RPM. From the time the engine RPM increases from off idle to the  
19 higher RPMs, the data shows that the throttle continues to stay fixed at the same 9.4% opening  
20 and the MAP continues to stay fixed at the same 69 kPa.

21 49. During the entire period the dynamic data was collected, the only parameter that  
22 changed was engine RPM. The throttle position and MAP readings remained unchanged even  
23 though the engine RPM was increased. These readings are not characteristic or expected for  
24 normal engine operation. The discrepancies in the OIS Test Data prove the Data Acquisition  
25 Device was not connected as required to the 2003 Acura RSX Type-S being certified, causing the  
26 issuance of a fraudulent Smog Check Certificate of Compliance.

27 ///

28 ///

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Untrue or Misleading Statements - Respondent Only Smog)**

3 50. Respondent Only Smog’s registration is subject to disciplinary action pursuant to  
4 section 9884.7, subdivision (a)(1), in that Respondents made or authorized statements which they  
5 knew or in the exercise of reasonable care should have known to be untrue or misleading, as  
6 follows: Respondents certified that the vehicles set forth above in paragraphs 29-49, had passed  
7 inspection and were in compliance with applicable laws and regulations. In fact, Respondents  
8 conducted the inspections on those vehicles using the clean plugging method in order to issue  
9 smog certificates of compliance, and did not test or inspect the vehicles as required by Health and  
10 Safety Code section 44012.

11 **SECOND CAUSE FOR DISCIPLINE**

12 **(Fraud - Respondent Only Smog)**

13 51. Respondent Only Smog’s registration is subject to disciplinary action pursuant to  
14 section 9884.7, subdivision (a)(4), in that Respondent Only Smog’s employees committed acts  
15 which constitute fraud by issuing electronic certificates of compliance for the vehicles set forth  
16 above in paragraphs 29-49, without performing bona fide inspections of the emission control  
17 devices and systems on those vehicles, thereby depriving the People of the State of California of  
18 the protection afforded by the Motor Vehicle Inspection Program.

19 **THIRD CAUSE FOR DISCIPLINE**

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

22 52. Respondent Only Smog’s smog station license is subject to disciplinary action  
23 pursuant to Health and Safety Code section 44072.2, subdivision (a), in conjunction with Health  
24 and Safety Code section 44072.10 subdivision (c), in that regarding the vehicles set forth above in  
25 paragraphs 29-49, Respondents failed to comply with the following sections of the Health and  
26 Safety Code:

27 ///

28 ///

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

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

7 **FOURTH CAUSE FOR DISCIPLINE**

8 **(Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection Program -**  
9 **Respondent Only Smog)**

10 53. Respondent Only Smog’s smog station license is subject to disciplinary action  
11 pursuant to Health and Safety Code section 44072.2, subdivision (c), in that regarding the  
12 vehicles set forth above in paragraphs 29-49, Respondents failed to comply with the following  
13 provisions of the California Code of Regulations, Title 16, as follows:

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

17 (b) **Section 3340.42**: Respondent Only Smog’s employees failed to conduct the required  
18 smog tests and inspections on those vehicles in accordance with the Bureau’s specifications.

19 **FIFTH CAUSE FOR DISCIPLINE**

20 **(Dishonesty, Fraud or Deceit - Respondent Only Smog)**

21 54. Respondent Only Smog’s smog station license is subject to disciplinary action  
22 pursuant to Health and Safety Code section 44072.2, subdivision (d), in conjunction with Health  
23 and Safety Code section 44072.10 subdivision (c), in that regarding the vehicles set forth above in  
24 paragraphs 29-49, Respondents employees committed acts involving dishonesty, fraud or deceit  
25 whereby another was injured by issuing electronic certificates of compliance for those vehicles  
26 without performing bona fide inspections of the emission control devices and systems on the  
27 vehicles, thereby depriving the People of the State of California of the protection afforded by the  
28 Motor Vehicle Inspection Program.

1 **SIXTH CAUSE FOR DISCIPLINE**

2 **(Violations of the Motor Vehicle Inspection Program – Respondent Jimenez)**

3 55. Respondent Jimenez’s smog check inspector license is subject to discipline pursuant  
4 to Health and Safety Code section 44072.2, subdivision (a), in that regarding the vehicles set forth  
5 above in paragraphs 29-34 and 47-49, Respondent Jimenez failed to comply with section 44012  
6 of the Health and Safety Code in a material respect, as follows: Respondent Jimenez failed to  
7 perform the emission control tests on those vehicles in accordance with procedures prescribed by  
8 the department.

9 **SEVENTH CAUSE FOR DISCIPLINE**

10 **(Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection Program –**  
11 **Respondent Jimenez)**

12 56. Respondent Jimenez’s smog check inspector license is subject to discipline pursuant  
13 to Health and Safety Code section 44072.2, subdivision (c), in that regarding the vehicles set forth  
14 above in paragraphs 29-34 and 47-49, Respondent Jimenez failed to comply with provisions of  
15 the California Code of Regulations, title 16, as follows:

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

18 (b) **Section 3340.41, subdivision (c)**: Respondent Jimenez entered false information into  
19 the OIS.

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

22 **EIGHTH CAUSE FOR DISCIPLINE**

23 **(Dishonesty, Fraud or Deceit - Respondent Jimenez)**

24 57. Respondent Jimenez’s smog check inspector license is subject to discipline pursuant  
25 to Health and Safety Code section 44072.2, subdivision (d), in conjunction with Health and  
26 Safety Code section 44072.10 subdivision (c), in that regarding the vehicles set forth above in  
27 paragraphs 29-34 and 47-49, Respondent Jimenez committed acts involving dishonesty, fraud or  
28 deceit whereby another was injured by issuing electronic certificates of compliance for those

1 vehicles without performing bona fide inspections of the emission control devices and systems on  
2 the vehicles, thereby depriving the People of the State of California of the protection afforded by  
3 the Motor Vehicle Inspection Program.

4 **NINTH CAUSE FOR DISCIPLINE**

5 **(Violations of the Motor Vehicle Inspection Program – Respondent Sana)**

6 58. Respondent Sana’s smog check inspector license is subject to discipline pursuant to  
7 Health and Safety Code section 44072.2, subdivision (a), in that regarding the vehicles set forth  
8 above in paragraphs 35-46, Respondent Sana failed to comply with section 44012 of the Health  
9 and Safety Code in a material respect, as follows: Respondent Sana failed to perform the  
10 emission control tests on those vehicles in accordance with procedures prescribed by the  
11 department.

12 **TENTH CAUSE FOR DISCIPLINE**

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

15 59. Respondent Sana’s smog check inspector license is subject to discipline pursuant to  
16 Health and Safety Code section 44072.2, subdivision (c), in that regarding the vehicles set forth  
17 above in paragraphs 35-46, Respondent Sana failed to comply with provisions of the California  
18 Code of Regulations, title 16, as follows:

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

21 (b) **Section 3340.41, subdivision (c)**: Respondent Sana entered false information into the  
22 OIS.

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

25 **ELEVENTH CAUSE FOR DISCIPLINE**

26 **(Dishonesty, Fraud or Deceit - Respondent Sana)**

27 60. Respondent Sana’s smog check inspector license is subject to discipline pursuant to  
28 Health and Safety Code section 44072.2, subdivision (d), in conjunction with Health and Safety

1 Code section 44072.10 subdivision (c), in that regarding the vehicles set forth above in  
2 paragraphs 35-46, Respondent Sana committed acts involving dishonesty, fraud or deceit  
3 whereby another was injured by issuing electronic certificates of compliance for those vehicles  
4 without performing bona fide inspections of the emission control devices and systems on the  
5 vehicles, thereby depriving the People of the State of California of the protection afforded by the  
6 Motor Vehicle Inspection Program.

7 **OTHER MATTERS**

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

13 62. Pursuant to Health & Safety Code section 44072.8, if Smog Check, Test Only Station  
14 License Number TC 304676 issued to Respondent Only Smog is revoked or suspended following  
15 a hearing under this article, any additional license issued under Chapter 5, Part 5, Division 26 in  
16 the name of said licensee may be likewise revoked or suspended by the Director.

17 63. Pursuant to Health & Safety Code section 44072.8, if Smog Check Inspector License  
18 Number EO 639929, issued to Respondent Jimenez, is revoked or suspended following a hearing  
19 under this article, any additional license issued under Chapter 5, Part 5, Division 26 in the name  
20 of said licensee may be likewise revoked or suspended by the Director.

21 64. Pursuant to Health & Safety Code section 44072.8, if Smog Check Inspector License  
22 Number EO 638263, issued to Respondent Sana, is revoked or suspended following a hearing  
23 under this article, any additional license issued under Chapter 5, Part 5, Division 26 in the name  
24 of said licensee may be likewise revoked or suspended by the Director.

25 **PRAYER**

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

- 1           1.     Revoking or suspending Automotive Repair Dealer Registration Number ARD
- 2 304676, issued to Angel Jimenez dba Only Smog Test Only Center;
- 3           2.     Revoking or suspending any other Automotive Repair Dealer Registration issued to
- 4 Respondent Angel Jimenez;
- 5           3.     Revoking or suspending Smog Check, Test-Only, Station License Number TC
- 6 304676, issued to Angel Jimenez dba Only Smog Test Only Center;
- 7           4.     Revoking or suspending Smog Check Inspector License Number EO 639929, issued
- 8 to Angel Jimenez;
- 9           5.     Revoking or suspending any additional license issued under Chapter 5 of Part 5 of
- 10 Division 26 of the Health and Safety Code in the name of Respondent Angel Jimenez;
- 11           6.     Revoking or suspending Smog Check Inspector License Number EO 638263, issued
- 12 to Jose Marquez Sana;
- 13           7.     Revoking or suspending any additional license issued under Chapter 5 of Part 5 of
- 14 Division 26 of the Health and Safety Code in the name of Respondent Jose Marquez Sana;
- 15           8.     Ordering Angel Jimenez, and Jose Marquez Sana to pay the Bureau of Automotive
- 16 Repair the reasonable costs of the investigation and enforcement of this case, pursuant to
- 17 Business and Professions Code section 125.3 and if placed on probation, the costs of probation
- 18 monitoring; and,
- 19           9.     Taking such other and further action as deemed necessary and proper.

20  
21 DATED: As of Digital Signature Date

\_\_\_\_\_  
22 PATRICK DORAIS  
23 Chief  
24 Bureau of Automotive Repair  
25 Department of Consumer Affairs  
26 State of California  
27 *Complainant*

26 SD2025803007  
27 85335706.docx