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

12 In the Matter of the Accusation Against:

Case No. 79/24-17476

13 **JESUS A. OJEDA, DBA SMOG BUSTERS**  
14 **FONTANA**  
8060 Mango Ave.  
Fontana, CA 92336

**ACCUSATION**

15 **Automotive Repair Dealer Registration No.**  
16 **ARD 304994**  
**Smog Check Test Only Station License No.**  
17 **TC 304994**

18 **JESUS ALBERTO OJEDA**  
34878 County Line Rd.  
Yucaipa, CA 92399  
19 **Smog Check Inspector License No.**  
20 **EO 642867**

21 Respondent.

22 **PARTIES**

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

25 2. On or about February 9, 2023, the bureau issued Automotive Repair Dealer  
26 Registration number ARD 304994 to Jesus A. Ojeda, doing business as Smog Busters Fontana  
27 (respondent Ojeda or Smog Busters Fontana). The Automotive Repair Dealer Registration was in  
28 full force and effect at all times relevant to the charges brought herein and will expire on February

1 28, 2026, unless renewed.

2 3. On or about March 22, 2023, respondent Smog Busters Fontana was issued Smog  
3 Check Test Only Station License number TC 304994. The Smog Check Test Only Station  
4 License was in full force and effect at all times relevant to the charges brought herein and will  
5 expire on February 28, 2026, unless renewed.

6 4. On or about July 18, 2023, the bureau certified respondent Smog Busters Fontana as a  
7 STAR Station. The STAR Station Certification will remain active unless the Automotive Repair  
8 Dealer Registration or Smog Check Test Only Station License is revoked, cancelled, becomes  
9 delinquent, or the certification is suspended.

10 5. On or about January 27, 2021, the bureau issued Smog Check Inspector License  
11 number EO 642867 to Jesus Alberto Ojeda (respondent Ojeda). The Smog Check Inspector  
12 License was in full force and effect at all times relevant to the charges brought herein and will  
13 expire on June 30, 2027, unless renewed.

#### 14 **JURISDICTION**

15 6. This Accusation is brought before the Director of the Department of Consumer  
16 Affairs (Director) for the Bureau of Automotive Repair, under the authority of the following laws.

17 7. Business and Professions Code (Bus. & Prof. Code) section 118, subdivision (b),  
18 provides that suspension, expiration, surrender, or cancellation of a license shall not deprive the  
19 Director of jurisdiction to proceed with a disciplinary action during the period within which the  
20 license may be renewed, restored, reissued or reinstated.

21 8. Bus. & Prof. Code section 9884.7 provides that the Director may revoke an  
22 automotive repair dealer registration.

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

27 10. Health and Safety Code (Health & Saf. Code) section 44002 provides, in pertinent  
28 part, that the Director has all the powers and authority granted under the Automotive Repair Act

1 for enforcing the Motor Vehicle Inspection Program.

2 11. Health & Saf. Code section 44072.6 provides, in pertinent part, that the expiration or  
3 suspension of a license by operation of law, or by order or decision of the Director of Consumer  
4 Affairs, or a court of law, or the voluntary surrender of the license shall not deprive the Director  
5 of jurisdiction to proceed with disciplinary action.

6 **STATUTORY PROVISIONS**

7 12. Bus. & Prof. Code section 9884.7 states, in pertinent part:

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

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

17 . . . .

18 (4) Any other conduct that constitutes fraud.

19 . . . .

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

22 . . . .

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

28 . . . .

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

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

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

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

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

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

3 13. Bus. & Prof. Code section 477 provides, in pertinent part, that “Board” includes  
4 “bureau,” “commission,” “committee,” “department,” “division,” “examining committee,”  
5 “program,” and “agency.” “License” includes certificate, registration or other means to engage in  
6 a business or profession regulated by the Bus. & Prof. Code.

7 14. Health & Saf. Code section 44012 provides, in pertinent part, that tests at smog check  
8 stations shall be performed in accordance with procedures prescribed by the department.

9 15. Health & Saf. Code section 44015, subdivision (b), provides that a certificate of  
10 compliance shall be issued if a vehicle meets the requirements of Health & Saf. Code section  
11 40012.

12 16. Health & Saf. Code section 44032 provides that qualified technicians shall perform  
13 tests of emissions control devices and systems in accordance with Health & Saf. Code section  
14 40012.

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

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

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

20 . . . .

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

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

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

25 . . . .

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

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

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

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

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

6 19. Health & Saf. Code section 44072.8 states that when a license has been revoked or  
7 suspended following a hearing under this article, any additional license issued under this chapter  
8 in the name of the licensee may be likewise revoked or suspended by the director.

9 **REGULATORY PROVISIONS**

10 20. California Code of Regulations (CCR), title 16, section 3340.24, subdivision (c),  
11 states:

12 “The bureau may suspend or revoke the license of or pursue other legal action against a  
13 licensee, if the licensee falsely or fraudulently issues or obtains a certificate of compliance or a  
14 certificate of noncompliance.”

15 21. CCR, title 16, section 3340.30, subdivision (a), states that a licensed smog technician  
16 shall at all times “[i]nspect, test and repair vehicles, as applicable, in accordance with section  
17 44012 of the Health & Saf. Code, section 44035 of the Health & Saf. Code, and section 3340.42  
18 of this article.”

19 22. CCR, title 16, section 3340.35, subdivision (c), states that a licensed smog check  
20 station “shall issue a certificate of compliance or noncompliance to the owner or operator of any  
21 vehicle that has been inspected in accordance with the procedures specified in section 3340.42 of  
22 this article and has all the required emission control equipment and devices installed and  
23 functioning correctly.”

24 23. CCR, title 16, section 3340.41 states, in pertinent part:

25 . . . .

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

28 (c) No person shall enter any vehicle identification information or emission

control system identification data for any vehicle other than the one being tested into the EIS or OIS. Nor shall any person enter into the EIS or OIS any false information about the vehicle being tested . . . .

24. CCR, title 16, section 3340.42, sets forth specific emissions test methods and procedures which apply to all vehicles inspected in the State of California.

### **COST RECOVERY**

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

### **CALIFORNIA'S SMOG CHECK PROGRAM**

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

27. A smog check inspection in certain Enhanced areas of the State is an Acceleration Simulation Mode (ASM) test performed using an Emission Inspection System (EIS), also known as a BAR 97. This is a computer based five-gas analyzer that measures Hydrocarbons (HC), Carbon Monoxide (CO), Oxides of Nitrogen (NO<sub>x</sub>), Carbon Dioxide (CO<sub>2</sub>) and Oxygen (O<sub>2</sub>). The first part of the test is a loaded mode test of the vehicle's tailpipe emissions on a dynamometer. The vehicle's drive wheels are placed on rollers, and the vehicle is driven to simulate driving conditions while the emissions are sampled by the EIS.

28. In Basic areas of the State, or depending on a vehicle's configuration, a similar test called a Two Speed Idle test is performed, but instead of applying a load to the vehicle's drive wheels with a dynamometer, the EIS measures the emissions of HC, CO, O<sub>2</sub>, and CO<sub>2</sub> at idle as well as 2500 revolutions per minute (rpm).

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

30. An On-Board Diagnostics (OBD II) functional test is also performed on most 1996 to 1999 model year vehicles. The EIS retrieves information through the Diagnostic Link Connector

(DLC) from the vehicle's on-board computer about its ability to communicate, the status of the I/M readiness monitors and the MIL light command. The I/M readiness monitors tell whether or not the OBD II system has run a sufficient number of self-tests on the vehicle's emission and engine control systems. A failure of one or more of the OBD II functional criteria, depending on model year, will result in the vehicle failing its smog check inspection. In addition to reporting the outcome of the OBD II functional test, the smog check inspection results also show Diagnostic Trouble Codes (DTC) if there are any in the vehicle's on-board computer memory.

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

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

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

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

- Engine speed in revolutions per minute (RPM)
- Throttle position as measured by a throttle position sensor (TPS) mounted onto the throttle shaft. Measured in a percentage of opening from 0% at idle and near or up to 100% at full throttle.
- Manifold absolute pressure as measured by a manifold air pressure sensor (MAP) connected to an intake manifold source, measured in kilo pascals (kpa). Typical readings for a normally aspirated vehicle as follows: 0 kpa being absolute vacuum, 25 to 45 kpa at idle, 101 kpa at full throttle, same as atmospheric pressure at sea level.
- Mass air flow as measured by a mass air flow sensor (MAF) mounted in the engine's air intake tract. Measured in grams per second (gps).
- Ignition timing is set by the vehicle PCM based on engine speed and load, and is measured in degrees Before Top Dead Center (BTDC).

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

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

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

37. The Bureau has become aware of methods that some Smog Check stations and Smog Check inspectors use to fraudulently issue smog certificates to vehicles that may not pass a smog check test on their own, or in some instances, are not even present during the time the test is performed. “Clean plugging” is a method by which another vehicle’s OBD II system, or another source such as defeat devices, are used to generate passing data readings or diagnostic information for the purpose of fraudulently issuing smog certificates to vehicles that are not in smog compliance, and or not present for testing. Defeat devices attempt to simulate engine operation during a smog check inspection by transmitting OBD II data to the VID which has been modified or replaced entirely for the purportedly inspected vehicle during the functional portion of the OIS inspection.

## FACTUAL ALLEGATIONS

38. On or about October 2, 2024 a bureau representative conducted a detailed review of the VID data for Smog Check inspections performed at Smog Busters Fontana, which showed a pattern of vehicles being certified with engine operating parameters that did not correspond to normal engine operation, confirming the vehicles receiving smog certifications were not tested during the OBD II functional test, which constitutes clean plugging. The Bureau's review of the smog check activities at Smog Busters Fontana confirmed ten Smog Check Certificates of Compliance were fraudulently issued by Smog Busters Fontana to vehicles that were inspected by respondent Ojeda.

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**Fraudulent Inspection Number 1—2003 Toyota Corolla CE**

39. OIS Test Data for Smog Busters Fontana indicates that on or about February 9, 2024, a 2003 Toyota Corolla CE (2003 Corolla), California License number 8RLW558, was tested and Smog Certificate of Compliance number TS589001C was issued under respondent Ojeda's Smog Check Inspector License.

40. The Dynamic OBDII PID Chart for the 2003 Corolla shows between time stamp 165 and 18727 engine speed is steady at approximately 700 RPM. During this time the throttle is fixed at 11.4% opening, MAF is fixed at 1.96 gps, and the ignition timing advance for #1 cylinder is fixed at 15 degrees BTDC. After time stamp 18727 the engine speed accelerates to approximately 1750 RPM. From the time the engine RPM increases off idle to the higher RPMs, the throttle is fixed at the same 11.4% opening, MAF is fixed at the same 1.96 gps, and the ignition timing advance for #1 cylinder is also still fixed at the same 15 degrees BTDC.

41. During the entire period the dynamic data was collected, the only parameter that changed was engine RPM. The throttle position, MAF, and ignition timing advance readings remained unchanged even though the engine speed was increased. These readings are not characteristic or expected for normal engine operation. These discrepancies confirm that the OIS DAD was not connected to the 2003 Corolla during the certification process as required, thereby confirming this as a fraudulent inspection by way of clean plugging.

**Fraudulent Inspection Number 2—2002 Tacoma**

42. OIS Test Data for Smog Busters Fontana indicates that on or about February 22, 2024, a 2002 Toyota Tacoma Double Cab Prerunner, California license number 6W35461 (2002 Tacoma), was tested and Smog Certificate of Compliance number TS766939C was issued under respondent Ojeda's Smog Check Inspector License.

43. The Dynamic OBDII PID Chart for the 2002 Tacoma shows between time stamp 165 and 17690 engine speed is steady at approximately 700 RPM. During this time the throttle is fixed at 10.6% opening, MAF is fixed at 3.53 gps, and the ignition timing advance for #1 cylinder is fixed at 15.5 degrees BTDC. After time stamp 17690 the engine speed accelerates to approximately 2250 RPM before decelerating to approximately 1900 RPM. From the time the

1 engine RPM increases off idle to the higher RPMs, the throttle is fixed at the same 10.6%  
2 opening, MAF is fixed at the same 3.53 gps, and the ignition timing advance for #1 cylinder is  
3 also still fixed at the same 15.5 degrees BTDC.

4 44. During the entire period the dynamic data was collected, the only parameter that  
5 changed was engine RPM. The throttle position, MAF, and ignition timing advance readings  
6 remained unchanged even though the engine speed was increased. These readings are not  
7 characteristic or expected for normal engine operation. These discrepancies confirm that the OIS  
8 DAD was not connected to the 2002 Tacoma during the certification process as required, thereby  
9 confirming this as a fraudulent inspection by way of clean plugging.

### 10 **Fraudulent Inspection #3—2000 Mercedes-Benz**

11 45. OIS Test Data for Smog Busters Fontana indicates that on or about February 24,  
12 2024, a 2000 Mercedes-Benz E 320, California License number 4MWL177 (2000 Mercedes-  
13 Benz) was tested and Smog Certificate of Compliance number IZ181009C was issued under  
14 respondent Ojeda's Smog Check Inspector License.

15 46. The Dynamic OBDII PID Chart for the 2000 Mercedes-Benz shows between time  
16 stamp 247 and 17540 engine speed is steady at approximately 700 RPM. During this time the  
17 throttle is fixed at 3.9% opening, MAF is fixed at 2.22 gps, MAP is fixed at 28 kPa, and the  
18 ignition timing advance for #1 cylinder is fixed at -17.5 degrees BTDC. After time stamp 17540  
19 the engine speed accelerates to approximately 2400 RPM before decelerating to approximately  
20 1650 RPM. From the time the engine RPM increases off idle to the higher RPMs, the throttle is  
21 fixed at the same 3.9% opening, MAF is fixed at the same 2.22 gps, MAP is fixed at the same 28  
22 kPa, and the ignition timing advance for #1 cylinder is also still fixed at the same -17.5 degrees  
23 BTDC.

24 47. During the entire period the dynamic data was collected, the only parameter that  
25 changed was engine RPM. The throttle position, MAF, MAP, and ignition timing advance  
26 readings remained unchanged even though the engine speed was increased. These readings are not  
27 characteristic or expected for normal engine operation. These discrepancies confirm that the OIS  
28 DAD was not connected to the 2000 Mercedes-Benz during the certification process as required,  
thereby confirming this as a fraudulent inspection by way of clean plugging.

**Fraudulent Inspection #4—2001 Toyota Echo**

48. OIS Test Data for Smog Busters Fontana indicates that on or about February 24, 2024, a 2001 Toyota Echo, California License number 8PCG502 (2001 Echo) was tested and Smog Certificate of Compliance number IZ181016C was issued under respondent Ojeda's Smog Check Inspector License.

49. The Dynamic OBDII PID Chart for the 2001 Echo shows between time stamp 1884 and 19525 engine speed is steady at approximately 700 RPM. During this time the throttle is fixed at 11.4% opening, MAF is fixed at 2.34 gps, and the ignition timing advance for #1 cylinder is fixed at 7 degrees BTDC. After time stamp 19525 the engine speed accelerates to approximately 2050 RPM before decelerating to approximately 1750 RPM. From the time the engine RPM increases off idle to the higher RPMs, the throttle is fixed at the same 11.4% opening, MAF is fixed at the same 2.34 gps, and the ignition timing advance for #1 cylinder is also still fixed at the same 7 degrees BTDC.

50. During the entire period the dynamic data was collected, the only parameter that changed was engine RPM. The throttle position, MAF, and ignition timing advance readings remained unchanged even though the engine speed was increased. These readings are not characteristic or expected for normal engine operation. These discrepancies confirm that the OIS DAD was not connected to the 2001 Echo during the certification process as required, thereby confirming this as a fraudulent inspection by way of clean plugging.

**Fraudulent Inspection #5—2005 Toyota Corolla CE**

51. OIS Test Data for Smog Busters Fontana indicates that on or about February 27, 2024, a 2005 Toyota Corolla CE, California License number 8ZKB365 (2005 Corolla), was tested and Smog Certificate of Compliance number IZ181035C was issued under respondent Ojeda's Smog Check Inspector License.

52. The Dynamic OBDII PID Chart for the 2005 Corolla shows between time stamp 152 and 21844 engine speed is steady at approximately 725 RPM. During this time the throttle is fixed at 16.1% opening, MAF is fixed at 2.2 gps, and the ignition timing advance for #1 cylinder is fixed at 15 degrees BTDC. After time stamp 21844 the engine speed accelerates to

1 approximately 2050 RPM before decelerating to approximately 1875 RPM. From the time the  
2 engine RPM increases off idle to the higher RPMs, the throttle is fixed at the same 16.1%  
3 opening, MAF is fixed at the same 2.2 gps, and the ignition timing advance for #1 cylinder is also  
4 still fixed at the same 15 degrees BTDC.

5 53. During the entire period the dynamic data was collected, the only parameter that  
6 changed was engine RPM. The throttle position, MAF, and ignition timing advance readings  
7 remained unchanged even though the engine speed was increased. These readings are not  
8 characteristic or expected for normal engine operation. These discrepancies confirm that the OIS  
9 DAD was not connected to the 2005 Corolla during the certification process as required, thereby  
10 confirming this as a fraudulent inspection by way of clean plugging.

#### 11 **Fraudulent Inspection #6—2002 Mitsubishi Galant ES**

12 54. OIS Test Data for Smog Busters Fontana indicates that on or about February 28,  
13 2024, a 2002 Mitsubishi Galant ES, California License number 7SGK061 (2002 Galant), was  
14 tested and Smog Certificate of Compliance number IZ181048C was issued under respondent  
15 Ojeda's Smog Check Inspector License.

16 55. The Dynamic OBDII PID Chart for the 2002 Galant shows between time stamp 203  
17 and 18241 engine speed is steady at approximately 725 RPM. During this time the throttle is  
18 fixed at 0% opening, MAF is fixed at 2.57 gps, and the ignition timing advance for #1 cylinder is  
19 fixed at 8 degrees BTDC. After time stamp 18241 the engine speed accelerates to approximately  
20 2050 RPM before decelerating to approximately 1900 RPM. From the time the engine RPM  
21 increases off idle to the higher RPMs, the throttle is fixed at the same 0% opening, MAF is fixed  
22 at the same 2.57 gps, and the ignition timing advance for #1 cylinder is also still fixed at the same  
23 8 degrees BTDC.

24 56. During the entire period the dynamic data was collected, the only parameter that  
25 changed was engine RPM. The throttle position, MAF, and ignition timing advance readings  
26 remained unchanged even though the engine speed was increased. These readings are not  
27 characteristic or expected for normal engine operation. These discrepancies confirm that the OIS  
28 DAD was not connected to the 2002 Galant during the certification process as required, thereby

1 confirming this as a fraudulent inspection by way of clean plugging.

2 **Fraudulent Inspection #7—2002 Toyota Camry LE**

3 57. OIS Test Data for Smog Busters Fontana indicates that on or about April 1, 2024, a  
4 2002 Toyota Camry LE, California License number 9HTM516 (2002 Camry) was tested and  
5 Smog Certificate of Compliance number TU747082C was issued under respondent Ojeda's Smog  
6 Check Inspector License.

7 58. The Dynamic OBDII PID Chart for the 2002 Camry shows between time stamp 151  
8 and 19983 engine speed is steady at approximately 975 RPM. During this time the throttle is  
9 fixed at 15.7% opening, MAF is fixed at 2.37 gps, and the ignition timing advance for #1 cylinder  
10 is fixed at 15 degrees BTDC. After time stamp 19983 the engine speed accelerates to  
11 approximately 1500 RPM. From the time the engine RPM increases off idle to the higher RPMs,  
12 the throttle is fixed at the same 15.7% opening, MAF is fixed at the same 2.37 gps, and the  
13 ignition timing advance for #1 cylinder is also still fixed at the same 15 degrees BTDC.

14 59. During the entire period the dynamic data was collected, the only parameter that  
15 changed was engine RPM. The throttle position, MAF, and ignition timing advance readings  
16 remained unchanged even though the engine speed was increased. These readings are not  
17 characteristic or expected for normal engine operation. These discrepancies confirm that the OIS  
18 DAD was not connected to the 2002 Camry during the certification process as required, thereby  
19 confirming this as a fraudulent inspection by way of clean plugging.

20 **Fraudulent Inspection #8—2000 Chevrolet Tahoe C1500**

21 60. OIS Test Data for Smog Busters Fontana indicates that on or about April 2, 2024, a  
22 2000 Chevrolet Tahoe C1500, California License number 6LDL773 (2000 Tahoe) was tested and  
23 Smog Certificate of Compliance number TU747085C was issued under respondent Ojeda's Smog  
24 Check Inspector License.

25 61. The Dynamic OBDII PID Chart for the 2000 Tahoe shows between time stamp 53  
26 and 67481 engine speed is steady at approximately 675 RPM. During this time the throttle is  
27 fixed at 0% opening, MAF is fixed at 6.21 gps, MAP is fixed at 34 kPa, and the ignition timing  
28 advance for #1 cylinder is fixed at 23 degrees BTDC. After time stamp 67481 the engine speed

1 accelerates to approximately 1775 RPM before decelerating to approximately 1650 RPM. From  
2 the time the engine RPM increases off idle to the higher RPMs, the throttle is fixed at the same  
3 0% opening, MAF is fixed at the same 6.21 gps, MAP is fixed at the same 34 kPa, and the  
4 ignition timing advance for #1 cylinder is also still fixed at the same 23 degrees BTDC.

5 62. During the entire period the dynamic data was collected, the only parameter that  
6 changed was engine RPM. The throttle position, MAF, MAP, and ignition timing advance  
7 readings remained unchanged even though the engine speed was increased. These readings are  
8 not characteristic or expected for normal engine operation. These discrepancies confirm that the  
9 OIS DAD was not connected to the 2000 Tahoe during the certification process as required,  
10 thereby confirming this as a fraudulent inspection by way of clean plugging.

#### 11 **Fraudulent Inspection #9—2002 GMC Yukon XL C1500**

12 63. OIS Test Data for Smog Busters Fontana indicates that on or about April 6, 2024, a  
13 2002 GMC Yukon XL C1500, California License number 4VGB808 (2002 Yukon) was tested  
14 and Smog Certificate of Compliance number TU902430C was issued under licensed respondent  
15 Ojeda's Smog Check Inspector License.

16 64. The Dynamic OBDII PID Chart for the 2002 Yukon shows between time stamp 42  
17 and 21678 engine speed is steady at approximately 700 RPM. During this time the throttle is  
18 fixed at 3.9% opening, MAF is fixed at 4.54 gps, MAP is fixed at 36 kPa, and the ignition timing  
19 advance for #1 cylinder is fixed at 21.5 degrees BTDC. After time stamp 21678 the engine speed  
20 accelerates to approximately 1400 RPM. From the time the engine RPM increases off idle to the  
21 higher RPMs, the throttle is fixed at the same 3.9% opening, MAF is fixed at the same 4.54 gps,  
22 MAP is fixed at the same 36 kPa, and the ignition timing advance for #1 cylinder is also still  
23 fixed at the same 21.5 degrees BTDC.

24 65. During the entire period the dynamic data was collected, the only parameter that  
25 changed was engine RPM. The throttle position, MAF, MAP, and ignition timing advance  
26 readings remained unchanged even though the engine speed was increased. These readings are  
27 not characteristic or expected for normal engine operation. These discrepancies confirm that the  
28 OIS DAD was not connected to the 2002 Yukon during the certification process as required,

1 thereby confirming this as a fraudulent inspection by way of clean plugging.

2 **Fraudulent Inspection #10—2000 Honda Civic EX**

3 66. OIS Test Data for Smog Busters Fontana indicates that on or about April 11, 2024, a  
4 2000 Honda Civic EX, California License number 5UDV744 (2000 Civic) was tested and Smog  
5 Certificate of Compliance number TW111862C was issued under respondent Ojeda's Smog  
6 Check Inspector License.

7 67. The Dynamic OBDII PID Chart for the 2000 Civic shows between time stamp 154  
8 and 25590 engine speed is steady at approximately 700 RPM. During this time the throttle is  
9 fixed at 9% opening, MAP is fixed at 45 kPa, and the ignition timing advance for #1 cylinder is  
10 fixed at 9.5 degrees BTDC. After time stamp 25590 the engine speed accelerates to  
11 approximately 1650 RPM. From the time the engine RPM increases off idle to the higher RPMs,  
12 the throttle is fixed at the same 9% opening, MAP is fixed at the same 45 kPa, and the ignition  
13 timing advance for #1 cylinder is also still fixed at the same 9.5 degrees BTDC.

14 68. During the entire period the dynamic data was collected, the only parameter that  
15 changed was engine RPM. The throttle position, MAP, and ignition timing advance readings  
16 remained unchanged even though the engine speed was increased. These readings are not  
17 characteristic or expected for normal engine operation. These discrepancies confirm that the OIS  
18 DAD was not connected to the 2000 Civic during the certification process as required, thereby  
19 confirming this as a fraudulent inspection by way of clean plugging.

20 **FIRST CAUSE FOR DISCIPLINE**

21 **(Untrue or Misleading Statements)**

22 69. Respondent Ojeda's Automotive Repair Dealer Registration is subject to disciplinary  
23 action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(1), in that he made  
24 statements which were known to be untrue or misleading or, which by exercise of reasonable care  
25 should have been known to be untrue or misleading, by issuing electronic smog certificates of  
26 compliance for the ten vehicles set forth in paragraphs 39–68 above, certifying that those vehicles  
27 were in compliance with applicable laws and regulations when, in fact, those vehicles had not  
28 been so inspected. Complainant realleges paragraphs 39–68 above.



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1 compliance to the ten vehicles identified in paragraphs 39–68 above without properly testing and  
2 inspecting those vehicles to determine if they were in compliance with Health & Saf. Code  
3 section 44012.

4 Complainant realleges paragraphs 39–68 above.

5 **FIFTH CAUSE FOR DISCIPLINE**

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

8 73. Respondent Ojeda’s Smog Check Test Only Station License is subject to disciplinary  
9 action pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that he failed to  
10 comply with provisions of California Code of Regulations, title 16, as follows:

11 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued  
12 electronic smog certificates of compliance for the ten vehicles identified in paragraphs 39–68  
13 above.

14 b. **Section 3340.30, subdivision (a):** Respondent failed to inspect and test the ten  
15 vehicles identified in paragraphs 39–68 above in accordance with Health & Saf. Code sections  
16 44012 and 44035, and California Code of Regulations, title 16, section 3340.42.

17 c. **Section 3340.35, subdivision (c):** Respondent issued electronic smog certificates of  
18 compliance ten vehicles identified in paragraphs 39–68 above even though those vehicles had not  
19 been inspected in accordance with section 3340.42.

20 d. **Section 3340.42:** Respondent failed to ensure that the smog inspections conducted on  
21 the ten vehicles identified in paragraphs 39–68 above were done in accordance with the Bureau’s  
22 specifications.

23 Complainant realleges paragraphs 39–68 above.

24 **SIXTH CAUSE FOR DISCIPLINE**

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

26 74. Respondent Ojed’s Smog Check Test Only Station License is subject to disciplinary  
27 action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in conjunction with  
28 Health & Saf. Code section 44072.10, subdivision (c), in that he committed dishonest, fraudulent,

1 or deceitful acts whereby another was injured by issuing electronic smog certificates of  
2 compliance for the ten vehicles described in paragraphs 39–68 above without performing bona  
3 fide inspections of the emission control devices and systems on those vehicles, thereby depriving  
4 the People of the State of California of the protection afforded by the Motor Vehicle Inspection  
5 Program. Complainant realleges paragraphs 39–68 above.

6 **SEVENTH CAUSE FOR DISCIPLINE**

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

8 75. Respondent Ojeda’s Smog Check Inspector License is subject to disciplinary action  
9 pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that he failed to comply with  
10 the following sections of that code:

11 a. **Section 44032:** Respondent failed to perform tests of emission control devices and  
12 systems of the ten vehicles identified in paragraphs 39–68 above in accordance with Health &  
13 Saf. Code section 44012.

14 b. **Section 44015, subdivision (b):** Respondent caused electronic smog certificates of  
15 compliance to be issued for the ten vehicles identified in paragraphs 39–68 above without  
16 ensuring that they were properly tested and inspected to determine if they were in compliance  
17 with Health & Saf. Code section 44012.

18 Complainant realleges paragraphs 39–68 above.

19 **EIGHTH CAUSE FOR DISCIPLINE**

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

22 76. Respondent Ojeda’s Smog Check Inspector License is subject to disciplinary action  
23 pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that he failed to comply with  
24 provisions of California Code of Regulations, title 16, as follows:

25 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued  
26 electronic smog certificates of compliance for the ten vehicles identified in paragraphs 39–68  
27 above.

28 b. **Section 3340.30, subdivision (a):** Respondent failed to inspect and test the ten

1 vehicles identified in paragraphs 39–68 above in accordance with Health & Saf. Code sections  
2 44012 and 44035, and California Code of Regulations, title 16, section 3340.42.

3 c. **Section 3340.41, subdivision (c):** Respondent knowingly entered false information  
4 into the emissions inspection system for the ten vehicles identified in paragraphs 39–68 above.

5 d. **Section 3340.42:** Respondent failed to ensure that the smog inspections conducted on  
6 the ten vehicles identified in paragraphs 39–68 above were done in accordance with the bureau’s  
7 specifications.

8 Complainant realleges paragraphs 39–68 above.

### 9 **NINTH CAUSE FOR DISCIPLINE**

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

11 77. Respondent Ojeda’s Smog Check Inspector License is subject to disciplinary action  
12 pursuant to Health & Saf. Code section 44072.2, subdivision (d), in conjunction with Health &  
13 Saf. Code section 44072.10, subdivision (c), in that he committed dishonest, fraudulent, or  
14 deceitful acts whereby another was injured by issuing electronic smog certificates of compliance  
15 for the ten vehicles identified in paragraphs 39–68 above without performing bona fide  
16 inspections of the emission control devices and systems on those vehicles, thereby depriving the  
17 People of the State of California of the protection afforded by the Motor Vehicle Inspection  
18 Program. Complainant realleges paragraphs 39–68 above.

### 19 **OTHER MATTERS**

20 78. Pursuant to Bus. & Prof. Code section 9884.7, subdivision (c), the Director of the  
21 Department of Consumer Affairs (director) may suspend, revoke, or place on probation the  
22 registration for all places of business operated in this state by respondent Ojeda upon a finding  
23 that he has, or is, engaged in a course of repeated and willful violations of the laws and  
24 regulations pertaining to an automotive repair dealer.

25 79. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Test Only Station  
26 License No. TC 304994, issued to respondent Ojeda, is revoked or suspended, any additional  
27 license issued under Chapter 5 of Part 5 of Division 26 of the Health & Saf. Code in the name of  
28 said licensee may be likewise revoked or suspended by the director.

80. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Inspector License No. EO 642867, issued to respondent Ojeda, is revoked or suspended, any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health & Saf. Code in the name of said licensee may be likewise revoked or suspended by the director.

**PRAYER**

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

1. Revoking or suspending Automotive Repair Dealer Registration Number ARD 304994, issued to Jesus A. Ojeda, dba Smog Busters Fontana;
2. Revoking or suspending any other automotive repair dealer registration issued to Jesus A. Ojeda;
3. Revoking or suspending Smog Check Test Only Station License Number TC 304994, issued to Jesus A. Ojeda, dba Smog Busters Fontana;
4. Revoking or suspending Smog Check Inspector License Number EO 642867, issued to Jesus Alberto Ojeda;
5. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health & Saf. Code in the name of Jesus Alberto Ojeda;
6. Ordering Jesus Alberto Ojeda, dba Smog Busters Fontana to pay the Bureau of Automotive Repair the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3 and if placed on probation, the costs of probation monitoring; and,

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7. Taking such other and further action as deemed necessary and proper.

DATED: As of digital signature date

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

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