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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. 79/25-19088

13 **VALERIA JUDITH ESPINOLA – MEMBER,**
14 **YEYOS LLC, DBA TOMATEROS SMOG**
15 **CHECK**

ACCUSATION

24564 Redlands Blvd
Loma Linda, CA 92354

16 Automotive Repair Dealer Registration No. ARD
305140
17 Smog Check Test Only Station License No. TC
305140

18 and

19 **CARLOS ALFREDO GONZALEZ**

20 27096 Villa Ave
Highland, CA 92346

21 Smog Check Inspector License No.
22 EO 142664

23 Respondents.

24
25 **PARTIES**

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

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1 **Automotive Repair Dealer Registration**

2 2. On or about February 28, 2023, the Bureau issued Automotive Repair Dealer
3 Registration Number ARD 305140 (ARD registration) to Valeria Judith Espinola - Member,
4 Yeyos LLC, dba Tomateros Smog Check (Respondent Tomateros Smog Check). The ARD
5 registration was in full force and effect at all times relevant to the charges brought herein, and
6 will expire on February 28, 2027, unless renewed.

7 **Smog Check Station**

8 3. On or about March 27, 2023, the Bureau issued Smog Check, Test-Only, Station
9 License Number TC 305140 (station license) to Respondent Tomateros Smog Check. The station
10 license was in full force and effect at all times relevant to the charges brought herein, and will
11 expire on February 28, 2027, unless renewed.

12 **STAR Certification**

13 4. On or about January 29, 2025, the Bureau issued STAR Station Certification to
14 Respondent Tomateros Smog Check. The STAR Station Certification was suspended by the
15 Bureau on August 26, 2025, reinstated on January 20, 2026, but then suspended again on May 21,
16 2026.

17 **Smog Check Inspector License**

18 5. On or about March 31, 2013, the Bureau issued Smog Check Inspector License
19 Number EO 142664 (technician license) to Respondent Gonzalez. The technician license was in
20 full force and effect at all times relevant to the charges brought herein, and will expire on March
21 31, 2027, unless renewed.

22 **JURISDICTION**

23 7. This Accusation is brought before the Director of the Department of Consumer
24 Affairs (Director) for the Bureau of Automotive Repair, under the authority of the following laws.

25 8. Business and Professions Code (Code) section 9884.7 provides that the Director may
26 revoke an automotive repair dealer registration.

27 9. Section 9884.13 of the Code provides, in pertinent part, that the expiration of a valid
28 registration shall not deprive the Director of jurisdiction to proceed with a disciplinary proceeding

1 against an automotive repair dealer or to render a decision temporarily or permanently
2 invalidating (suspending or revoking) a registration.

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

6 11. Health and Safety Code section 44072.6 provides, in pertinent part, that the
7 expiration or suspension of a license by operation of law, or by order or decision of the Director
8 of Consumer Affairs, or a court of law, or the voluntary surrender of the license shall not deprive
9 the Director of jurisdiction to proceed with disciplinary action.

10 **STATUTORY PROVISIONS**

11 12. Section 9884.7 of the Code states, in pertinent part:

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

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

20 . . .

21 (4) Any other conduct that constitutes fraud.

22 . . .

23 (6) Failure in any material respect to comply with the provisions of this chapter [the
24 Automotive Repair Act (Business and Professions Code section 9880, et seq.)] or regulations
25 adopted pursuant to it.

26 . . .

27 (b) Except as provided for in subdivision (c), if an automotive repair dealer operates more
28 than one place of business in this state, the director pursuant to subdivision (a) shall only suspend,

1 revoke, or place on probation the registration of the specific place of business which has violated
2 any of the provisions of this chapter. This violation, or action by the director, shall not affect in
3 any manner the right of the automotive repair dealer to operate his or her other places of business.

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

8 13. Section 44012 of the Health and Safety Code states:

9 The test at the smog check stations shall be performed in accordance with procedures
10 prescribed by the department and may require loaded mode dynamometer testing in enhanced
11 areas, two-speed idle testing, testing utilizing a vehicle's onboard diagnostic system, or other
12 appropriate test procedures as determined by the department in consultation with the state board.
13 The department shall implement testing using onboard diagnostic systems, in lieu of loaded mode
14 dynamometer or two-speed idle testing, on model year 2000 and newer vehicles only, beginning
15 no earlier than January 1, 2013, and on model-year 1996–99, inclusive, vehicles only, beginning
16 no earlier than January 1, 2025. However, the department, in consultation with the state board,
17 may prescribe alternative test procedures that include loaded mode dynamometer or two-speed
18 idle testing for vehicles with onboard diagnostic systems that the department and the state board
19 determine exhibit operational problems. The department shall ensure, as appropriate to the test
20 method, the following:

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

24 (b) Motor vehicles are preconditioned to ensure representative and stabilized operation of
25 the vehicle's emission control system.

26 (c) For other than diesel-powered vehicles, the vehicle's exhaust emissions of
27 hydrocarbons, carbon monoxide, carbon dioxide, and oxides of nitrogen in an idle mode or loaded
28 mode are tested in accordance with procedures prescribed by the department. In determining how

1 loaded mode and evaporative emissions testing shall be conducted, the department shall ensure
2 that the emission reduction targets for the enhanced program are met.

3 (d) For other than diesel-powered vehicles, the vehicle's fuel evaporative system and
4 crankcase ventilation system are tested to reduce any nonexhaust sources of volatile organic
5 compound emissions, in accordance with procedures prescribed by the department.

6 (e) For diesel-powered vehicles, a visual inspection is made of emission control devices and
7 the vehicle's exhaust emissions are tested in accordance with procedures prescribed by the
8 department, that may include, but are not limited to, onboard diagnostic testing. The test may
9 include testing of emissions of any or all of the pollutants specified in subdivision (c) and, upon
10 the adoption of applicable standards, measurement of emissions of smoke or particulates, or both.

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

15 (g) A determination as to whether the motor vehicle complies with the emission standards
16 for that vehicle's class and model-year as prescribed by the department.

17 (h) An analysis of pass and fail rates of vehicles subject to an onboard diagnostic test and a
18 tailpipe test to assess whether any vehicles passing their onboard diagnostic test have, or would
19 have, failed a tailpipe test, and whether any vehicles failing their onboard diagnostic test have or
20 would have passed a tailpipe test.

21 (i) The test procedures may authorize smog check stations to refuse the testing of a vehicle
22 that would be unsafe to test, or that cannot physically be inspected, as specified by the department
23 by regulation. The refusal to test a vehicle for those reasons shall not excuse or exempt the
24 vehicle from compliance with all applicable requirements of this chapter.

25 14. Section 44015 of the Health and Safety Code states:

26 (a) A licensed smog check station shall not issue a certificate of compliance, except as
27 authorized by this chapter, to any vehicle that meets the following criteria:

28 (1) A vehicle that has been tampered with.

1 (2) A vehicle identified pursuant to subparagraph (K) of paragraph (3) of subdivision
2 (b) of Section 44036. A vehicle identified pursuant to subparagraph (K) of paragraph (3) of
3 subdivision (b) of Section 44036 shall be directed to the department to determine whether an
4 inadvertent error can explain the irregularity, or whether the vehicle otherwise meets smog check
5 requirements, allowing the certificate for compliance to be issued, or the vehicle shall be
6 reinspected by a referee or another smog check station.

7 (3) A vehicle that, prior to repairs, has been initially identified by the smog check
8 station as a gross polluter. Certification of a gross polluting vehicle shall be conducted by a
9 designated test-only facility, or a test-and-repair station that is both licensed and certified
10 pursuant to Sections 44014 and 44014.2.

11 (4) A vehicle described in subdivision (c).

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

14 (c) (1) A repair cost waiver shall be issued, upon request of the vehicle owner, by an entity
15 authorized to perform referee functions for a vehicle that has been properly tested but does not
16 meet the applicable emission standards when it is determined that no adjustment or repair can be
17 made that will reduce emissions from the inspected motor vehicle without exceeding the
18 applicable repair cost limit established under Section 44017 and that every defect specified by
19 paragraph (2) of subdivision (a) of Section 43204, and by paragraphs (2) and (3) of subdivision
20 (a) of Section 43205, has been corrected. A repair cost waiver issued pursuant to this paragraph
21 shall be accepted in lieu of a certificate of compliance for the purposes of compliance with
22 Section 4000.3 of the Vehicle Code. No repair cost waiver shall exceed two years' duration. No
23 repair cost waiver shall be issued until the vehicle owner has expended an amount equal to the
24 applicable repair cost limit specified in Section 44017.

25 (2) An economic hardship extension shall be issued, upon request of a qualified low-
26 income motor vehicle owner, by an entity authorized to perform referee functions, for a motor
27 vehicle that has been properly tested but does not meet the applicable emission standards when it
28 is determined that no adjustment or repair can be made that will reduce emissions from the

1 inspected motor vehicle without exceeding the applicable repair cost limit, as established pursuant
2 to Section 44017.1, that every defect specified in paragraph (2) of subdivision (a) of Section
3 43204, and in paragraphs (2) and (3) of subdivision (a) of Section 43205, has been corrected, that
4 the low-income vehicle owner would suffer an economic hardship if the extension is not issued,
5 and that all appropriate emissions-related repairs up to the amount of the applicable repair cost
6 limit in Section 44017.1 have been performed.

7 (d) No repair cost waiver or economic hardship extension shall be issued under any of the
8 following circumstances:

9 (1) If a motor vehicle was issued a repair cost waiver or economic hardship extension
10 in the previous biennial inspection of that vehicle. A repair cost waiver or economic hardship
11 extension may be issued to a motor vehicle owner only once for a particular motor vehicle
12 belonging to that owner. However, a repair cost waiver or economic hardship extension may be
13 issued for a motor vehicle that participated in a previous waiver or extension program prior to
14 January 1, 1998, as determined by the department. For waivers or extensions issued in the
15 program operative on or after January 1, 1998, a waiver or extension may be issued for a motor
16 vehicle only once per owner.

17 (2) Upon initial registration of all of the following:

18 (A) A direct import motor vehicle.

19 (B) A motor vehicle previously registered outside this state.

20 (C) A dismantled motor vehicle pursuant to Section 11519 of the Vehicle Code.

21 (D) A motor vehicle that has had an engine change.

22 (E) An alternate fuel vehicle.

23 (F) A specially constructed vehicle.

24 (e) Except as provided in subdivision (f), a certificate of compliance or noncompliance shall
25 be valid for 90 days.

26 (f) Excluding any vehicle whose transfer of ownership and registration is described in
27 subdivision (d) of Section 4000.1 of the Vehicle Code, and except as otherwise provided in
28 Sections 4000.1, 24007, 24007.5, and 24007.6 of the Vehicle Code, a licensed motor vehicle

1 dealer shall be responsible for having a smog check inspection performed on, and a certificate of
2 compliance or noncompliance issued for, every motor vehicle offered for retail sale. A certificate
3 issued to a licensed motor vehicle dealer shall be valid for a two-year period, or until the vehicle
4 is sold and registered to a retail buyer, whichever occurs first.

5 (g) A test may be made at any time within 90 days prior to the date otherwise required.

6 15. Section 44072.2 of the Health and Safety Code states, in pertinent part:

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

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

13 . . .

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

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

16 16. Health and Safety Code section 44072.10 states, in pertinent part:

17

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

21 (1) Clean piping, clean plugging, clean glassing, clean tanking, or any other
22 fraudulent inspection practice, as defined by the department.

23

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

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REGULATORY PROVISIONS

17. California Code of Regulations, title 16, section 3340.1 states, in pertinent:

....

"Clean plugging" means using a substitute vehicle's OBD system, or another source, to generate data readings or diagnostic information in order to cause the OIS to issue a certificate of compliance for the test vehicle . . .

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

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

19. California Code of Regulations, title 16, section 3340.28(e), states that "[u]pon renewal of an unexpired Basic Area Technician license or an Advanced Emission Specialist Technician license issued prior to the effective date of this regulation, the licensee may apply to renew as a Smog Check Inspector, Smog Check Repair Technician, or both."

20. California Code of Regulations, title 16, section 3340.30, subdivision (a), states that a licensed smog technician shall at all times "[i]nspect, test and repair vehicles, as applicable, in accordance with section 44012 of the Health & Safety Code, section 44035 of the Health & Safety Code, and section 3340.42 of this article."

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

22. California Code of Regulations, title 16, section 3340.41, subdivision (c), states that "[n]o person shall enter into the emissions inspection system any vehicle identification information or emission control system identification data for any vehicle other than the one being tested. Nor shall any person knowingly enter into the emissions inspection system any false information about the vehicle being tested."

23. California Code of Regulations, 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

24. Section 125.3 of the Code provides, in pertinent part, that a Board may request the administrative law judge to direct a licensee 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.

VID DATA REVIEW

25. Beginning March 9, 2015, California's Smog Check Program was updated requiring the use of an On-Board Diagnostic Inspection System (OIS). 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 and most 1998 and newer diesel vehicles. The system consists of a certified Data Acquisition Device (DAD), computer, bar code scanner, and printer. The DAD is an On Board Diagnostic (OBD) scan tool that, when requested by the California OIS software, retrieves OBD data from the vehicle. All OBD data that the vehicle indicates it supports is requested by the California OIS software and will be retrieved. The DAD connects between the OIS computer and the vehicle's DLC. The California OIS software requires a continuous Internet connection when performing a Smog Check inspection and the OIS software communicates with BAR's central database through the Internet connection. The bar code scanner is used to input technician information, the vehicle's identification number (VIN), and DMV 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.

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

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

28. The VID contains registration data from Department of Motor Vehicles (DMV) plus emission standards, vehicle smog check inspections, smog check stations and technicians, and Certificates of Compliance. The VID receives the passing smog check results immediately following the inspection. During the vehicle registration process, the DMV accesses the VID to verify that the vehicle has been tested and certified. The Bureau can also access the VID to view test data on smog check inspections performed at any Smog Check Station, or search for, retrieve, and print a test record for a particular vehicle which has been tested. The EIS or OIS, depending on the test type, also prints a Vehicle Inspection Report (VIR), which is a physical record of the test results and shows the Certificate of Compliance number that was issued if the vehicle passed the smog inspection.

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

FACTUAL BACKGROUND

30. On or about October 23, 2025, a Bureau representative conducted a routine investigation in which he reviewed OIS Test Data for Respondent Tomateros Smog's facility for

1 dates that included the period of March 17, 2025, through May 12, 2025. For such purposes, the
2 Bureau representative accessed the VID and reviewed Smog Check data transmitted from
3 Respondent Tomateros Smog Check. Additionally, he accessed the VID to produce copies of
4 Respondent Tomateros Smog's Smog Check Vehicle Inspection Reports, OIS Test Details, and
5 Certificate Sales. The data obtained in connection with his investigation revealed anomalies
6 consistent with fraudulent Smog Check activities.

7 31. A further in-depth analysis of this OIS data revealed that there were a total of eight
8 (8) vehicles of various years, makes, and models that were issued fraudulent Certificates of
9 Compliance by Respondent Tomateros Smog Check using the clean plugging method.

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

- 14 • Engine speed in revolutions per minute (RPM)
- 15 • Throttle position as measured by a throttle position sensor (TPS) mounted onto the
16 throttle shaft. Measured in a percentage of opening from at or near 0% at idle and near or up to
17 100% at full throttle.
- 18 • Manifold absolute pressure as measured by a manifold air pressure sensor (MAP)
19 connected to an intake manifold source, measured in kilo pascals (kPa). Typical readings for a
20 normally aspirated vehicle are as follows: 25 kPa to 45 kPa at idle, with a subsequent decrease as
21 the rpm is raised.
- 22 • Mass air flow as measured by a mass air flow sensor (MAF) mounted in the engine's
23 air intake tract. Measured in grams per second (gps).

24 33. During normal engine operation at idle, engine speed is relatively steady around its
25 target idle speed. With the engine idling, the TPS is steady and at or near 0%. The MAP and/or
26 MAF readings are also steady. In order for the engine speed to increase, the throttle would have
27 to be opened in order to increase airflow through the engine. The engine's management systems
28 supply fuel and spark timing appropriate to any changes in throttle position and engine speed. An

1 increase in throttle, measured by the TPS, which increases engine RPM, would result in a
2 corresponding increase in MAF as well as a decrease in MAP.

3 34. During an OIS Smog Check inspection, along with other visual and functional
4 inspections, there is an OBD II query portion of the inspection. The OBD II query is performed
5 with the engine idling and, when requested by the OIS analyzer, and an elevated or increased
6 engine speed.

7 35. The increase in engine speed is performed by the inspector by stepping on the throttle
8 pedal or manually opening the throttle resulting in a corresponding increase in engine RPMs by
9 allowing an increase in airflow into the engine. The Bureau representative conducted a detailed
10 review of the VID data for the Smog Check inspections performed at Tomateros Smog Check.
11 The review showed a pattern of vehicles being certified with engine operating parameters not
12 corresponding to normal engine operation, confirming the vehicles receiving smog certificates
13 were not tested during the OBD II functional test, which constitutes clean plugging. The Bureau
14 representative's comprehensive review into the Smog Check activities at Tomateros Smog Check
15 confirmed that eight (8) Smog Check Certificates of Compliance were fraudulently issued to
16 vehicles, as follows.

17 **Clean Plug #1**

18 36. The Bureau representative's review determined that on March 17, 2025, a 2003
19 Toyota Sequoia Limited was tested by Respondent Gonzalez and smog certificate # JD598510C
20 was issued by Respondent Tomateros Smog Check.

21 37. The OBD Data (Dynamic) and Dynamic Data Charts for the 2003 Toyota Sequoia
22 Limited shows that between time stamp 257 and 17974, the engine RPM is steady at around 725
23 RPM. During this time, the data shows that the throttle is fixed at 16.5 % opening and the MAF is
24 fixed at 4.82 gps. After timestamp 17974, the data shows the engine RPM is increased and then
25 held above at no less than 1378 RPM. During the elevated engine RPM, the data shows that the
26 throttle gradually rises from 12.9 % to 18 % opening, then drops to 16.9 % opening and the MAF
27 is fluctuating between 3.25 gps and 4.99 gps.

28 ///

38. The steady idle and elevated engine RPMs along with the improbable throttle positions and MAF readings are not characteristic or expected for normal engine operation. The throttle position and MAF readings are expected to be stable at idle and at the elevated engine RPM, not drop or rise unexpectedly and/or fluctuate. Additionally, with the elevated engine RPM, the throttle position and the MAF readings are expected to increase, not decrease to values lower than idle readings. The discrepancies in the OIS Test Data proves that the Data Acquisition Device was not connected as required to the 2003 Toyota Sequoia Limited being certified, causing the issuance of a fraudulent Smog Check Certificate of Compliance.

Clean Plug #2

39. The Bureau representative's review determined that on March 27, 2025, a 2001 Toyota Tundra Access Cab was tested by Respondent Gonzalez and smog certificate # JD598522C was issued by Respondent Tomateros Smog Check.

40. The OBD Data (Dynamic) and Dynamic Data Charts for the 2001 Toyota Tundra Access Cab shows that between time stamp 260 and 17214, the engine RPM is steady at around 675 RPM. During this time, the data shows that the throttle is fixed at 15.7 % opening and the MAF is fixed at 6.71 gps. After timestamp 17214, the data shows the engine RPM is increased and then held at no less than 1806 RPM. During the elevated engine RPM, the data shows that the throttle ultimately drops from 17.6 % opening to 13.3 % opening and then rises to 16.1 % opening and the MAF is fluctuating between 6.47 gps and 7.3 gps.

41. The steady idle and elevated engine RPMs along with the improbable throttle positions and MAF readings are not characteristic or expected for normal engine operation. The throttle position and MAF readings are expected to be stable at idle and at the elevated engine RPM, not drop or rise unexpectedly and/or fluctuate. Additionally, with the elevated engine RPM, the throttle position and the MAF readings are expected to increase, not decrease to values lower than idle readings. The discrepancies in the OIS Test Data proves that the Data Acquisition Device was not connected as required to the 2001 Toyota Tundra Access Cab being certified, causing the issuance of a fraudulent Smog Check Certificate of Compliance.

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1 **Clean Plug # 3**

2 42. The Bureau representative's review determined that on March 27, 2025, a 2002
3 Honda Civic EX was tested by Respondent Gonzalez and smog certificate # JD598524C was
4 issued by Respondent Tomateros Smog Check.

5 43. The OBD Data (Dynamic) and Dynamic Data Charts for the 2002 Honda Civic EX
6 shows that between time stamp 273 and 16617, the engine RPM is steady at around 710 RPM.
7 During this time, the data shows that the throttle stays fixed at 9.4 % opening and the MAP stays
8 fixed at 26 kPa. After timestamp 16617, the data shows the engine RPM is increased and then
9 held at no less than 1558 RPM. During the elevated engine RPM, the data shows that the throttle
10 is fluctuating between 6.3 % opening and 11 % opening and the MAP gradually drops from 29
11 kPa to 19 kPa then gradually rises to 27 kPa.

12 44. The steady idle and elevated engine RPMs along with the improbable throttle
13 positions and MAP readings are not characteristic or expected for normal engine operation. The
14 throttle position and MAP readings are expected to be stable at idle and at the elevated engine
15 RPM, not drop or rise unexpectedly and/or fluctuate. Additionally, with the elevated engine RPM,
16 the throttle position readings are expected to increase, not decrease to values lower than idle
17 readings. The discrepancies in the OIS Test Data proves that the Data Acquisition Device was
18 not connected as required to the 2002 Honda Civic EX being certified, causing the issuance of a
19 fraudulent Smog Check Certificate of Compliance.

20 **Clean Plug # 4**

21 45. The Bureau representative's review determined that on March 28, 2025, a 2001
22 Nissan Frontier King Cab XE was tested by Respondent Gonzalez and smog certificate #
23 JD598530C was issued by Respondent Tomateros Smog Check.

24 46. The OBD Data (Dynamic) and Dynamic Data Charts for the 2001 Nissan Frontier
25 King Cab XE shows that between timestamp 300 and 18968, the engine RPM is steady at around
26 700 RPM. During this time, the data shows that the throttle is fixed at 0 % opening and the MAF
27 is fixed at 5.1 gps. After timestamp 18968, the data shows the engine RPM is increased and then
28 held at no less than 1552 RPM. During the elevated engine RPM, the data shows that the throttle

1 is fluctuating between 0.4 % opening and 4.3 % opening and the MAF is fluctuating between 2.79
2 gps and 4.92 gps.

3 47. The steady idle and elevated engine RPMs along with the improbable throttle
4 positions and MAF readings are not characteristic or expected for normal engine operation. The
5 throttle position and MAF readings are expected to be stable at idle and at the elevated engine
6 RPM, not fluctuate. Additionally, with the elevated engine RPM, the MAF readings are expected
7 to increase, not decrease to values lower than idle readings. The discrepancies in the OIS Test
8 Data proves that the Data Acquisition Device was not connected as required to the 2001 Nissan
9 Frontier King Cab XE being certified, causing the issuance of a fraudulent Smog Check
10 Certificate of Compliance.

11 **Clean Plug #5**

12 48. The Bureau representative's review determined that on March 31, 2025, a 2007
13 Honda Pilot EXL was tested by Respondent Gonzalez and smog certificate # JD598535C was
14 issued by Respondent Tomateros Smog Check.

15 49. The OBD Data (Dynamic) and Dynamic Data Charts for the 2007 Honda Pilot EXL
16 shows that between time stamp 222 and 17431, the engine RPM is steady at around 650 RPM.
17 During this time, the data shows that the throttle stays fixed at 15.7 % opening and the MAP stays
18 fixed at 34 kpa. After timestamp 17431, the data shows the engine RPM is increased and held at
19 no less than 1365 RPM. During the elevated engine RPM, the data shows that the throttle is
20 fluctuating between 12.9 % to 18 % opening and the MAP is fluctuating between 33 kPa and 45
21 kPa.

22 50. The steady idle and elevated engine RPMs along with the improbable throttle
23 positions and MAP readings are not characteristic or expected for normal engine operation. The
24 throttle position and MAP readings are expected to be stable at idle and at the elevated engine
25 RPM, not fluctuate. Additionally, with the elevated engine RPM, the throttle position readings
26 are expected to increase, not decrease to values lower than idle readings. Furthermore, the MAP
27 readings are expected to decrease, not increase to values higher than idle readings. The
28 discrepancies in the OIS Test Data proves that the Data Acquisition Device was not connected as

1 required to the 2007 Honda Pilot EXL being certified, causing the issuance of a fraudulent Smog
2 Check Certificate of Compliance.

3 **Clean Plug # 6**

4 51. The Bureau representative's review determined that on May 2, 2025, a 2006 GMC
5 New Sierra C1500 was tested by Respondent Gonzalez and smog certificate # UM749013C was
6 issued by Respondent Tomateros Smog Check.

7 52. The OBD Data (Dynamic) and Dynamic Data Charts for the 2006 GMC New Sierra
8 C1500 shows that between timestamp 226 and 17514, the engine RPM is steady at around 600
9 RPM. During this time, the data shows that the throttle stays fixed at 9.8 % opening, the MAF
10 stays fixed at 4.77 gps and the MAP stays fixed at 36 kPa. After timestamp 17514, the engine
11 RPM is increased and then held at no less than 1582 RPM. During this time, the data shows that
12 the throttle fluctuates between 6.3 % and 9.8 % opening, the MAF is fluctuating between 3.79 gps
13 and 4.85 gps, and the MAP is fluctuating between 33 kPa and 45 kPa.

14 53. The steady idle and elevated engine RPMs along with the improbable throttle
15 positions, MAF and MAP readings are not characteristic or expected for normal engine operation.
16 The throttle position, MAF and MAP readings are expected to be stable at idle and at the elevated
17 engine RPM, not fluctuate. Additionally, with the elevated engine RPM, the throttle position and
18 MAF readings are expected to increase, not decrease to values lower than idle readings.
19 Furthermore, the MAP readings are expected to decrease, not increase to values higher than idle
20 readings. The discrepancies in the OIS Test Data proves that the Data Acquisition Device was
21 not connected as required to the 2006 GMC New Sierra C1500 being certified, causing the
22 issuance of a fraudulent Smog Check Certificate of Compliance.

23 **Clean Plug # 7**

24 54. The Bureau representative's review determined that on May 12, 2025, a 2000 Toyota
25 Camry LE was tested Respondent Gonzalez and smog certificate # UM749036C was issued by
26 Respondent Tomateros Smog Check.

27 55. The OBD Data (Dynamic) and Dynamic Data Charts for the 2000 Toyota Camry LE
28 shows that between timestamp 245 and 18775, the engine RPM is steady at around 700 RPM.

1 During this time, the data shows that the throttle stays fixed at 9.4 % opening and the MAF stays
2 fixed at 3.76 gps. After time-stamp 18775, the data shows the engine RPM is increased and then
3 held at no less than 1495 RPM. During the elevated engine RPM, the data shows that the throttle
4 is fluctuating between 6.7 % and 9.4 % opening and the MAF is fluctuating between 2.88 gps and
5 4.46 gps.

6 56. The steady idle and elevated engine RPMs along with the improbable throttle
7 positions and MAF readings are not characteristic or expected for normal engine operation. The
8 throttle position and MAF readings are expected to be stable at idle and at the elevated engine
9 RPM, not fluctuate. Additionally, with the elevated engine RPM, the throttle position and MAF
10 readings are expected to increase, not decrease to values less than idle readings. The
11 discrepancies in the OIS Test Data proves that the Data Acquisition Device was not connected as
12 required to the 2000 Toyota Camry LE being certified, causing the issuance of a fraudulent Smog
13 Check Certificate of Compliance.

14 **Clean Plug # 8**

15 57. The Bureau representative's review determined that on May 12, 2025, a 2002 Honda
16 CR-V EX was tested by Respondent Gonzalez and smog certificate # UM749034C was issued by
17 Respondent Tomateros Smog Check.

18 58. The OBD Data (Dynamic) and Dynamic Data Charts for the 2002 Honda CR-V EX
19 shows that between time stamp 217 and 16879, the engine RPM is steady at around 750 RPM.
20 During this time, the data shows that the throttle stays fixed at 11.8 % opening and the MAP stays
21 fixed at 29 kPa. After timestamp 16879, the engine RPM is increased and then held at no less
22 than 1723 RPM. During this time, the data shows that the throttle is fluctuating between 6.7 %
23 and 11 % opening and the MAP is fluctuating between 18 kPa and 30 kPa.

24 59. The steady idle and elevated engine RPMs along with the improbable throttle
25 positions and MAP readings are not characteristic or expected for normal engine operation. The
26 throttle position and MAP readings are expected to be stable at idle and at the elevated engine
27 RPM, not fluctuate. Additionally, with the elevated engine RPM, the throttle position readings
28 are expected to increase, not decrease to values lower than idle readings. The discrepancies in the

OIS Test Data proves that the Data Acquisition Device was not connected as required to the 2002 Honda CR-V EX being certified, causing the issuance of a fraudulent Smog Check Certificate of Compliance.

FIRST CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

60. Respondent Tomateros Smog Check's ARD registration is subject to discipline pursuant to Code section 9884.7(a)(1), in that between March 17, 2025, and May 12, 2025, Respondent Tomateros Smog Check made or authorized statements which they knew or in the exercise of reasonable care should have known to be untrue or misleading, as follows: Respondent Tomateros Smog Check certified that the eight (8) vehicles set forth above had passed inspection and were in compliance with applicable laws and regulations. In fact, Respondent Tomateros Smog Check conducted the inspections on those vehicles using the clean plugging method in order to issue smog certificates of compliance and did not test or inspect the vehicles as required by Health and Safety Code section 44012. Complainant hereby incorporates paragraphs 30-59 above as though set forth fully herein.

SECOND CAUSE FOR DISCIPLINE

(Fraud)

61. Respondent Tomateros Smog Check's ARD registration is subject to discipline pursuant to Code section 9884.7(a)(4), in that between March 17, 2025, and May 12, 2025, Respondent Tomateros Smog Check committed acts which constitute fraud by issuing electronic certificates of compliance regarding the eight (8) vehicles set forth above, without performing bona fide inspections of the emission control devices and systems on those vehicles, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program. Complainant hereby incorporates paragraphs 30-59 above as though set forth fully herein.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Failure to Comply with the Motor Vehicle Inspection Program)**

3 62. Respondent Tomateros Smog Check's station license is subject to discipline pursuant
4 to Health and Safety Code section 44072.2(a), in that between March 17, 2025, and May 12,
5 2025, regarding the eight (8) vehicles set forth above, Respondent Tomateros Smog Check failed
6 to comply with the following sections of that Code:

7 a. Section 44012: Respondent Tomateros Smog Check failed to ensure that the emission
8 control tests were performed on the vehicles, in accordance with procedures prescribed by the
9 department.

10 b. Section 44015: Respondent Tomateros Smog Check issued electronic certificates of
11 compliance for the vehicles, without ensuring that the vehicles were properly tested and inspected
12 to determine if they were in compliance with Health and Safety Code section 44012.

13 Complainant hereby incorporates paragraphs 30-59 above as though set forth fully herein.

14 **FOURTH CAUSE FOR DISCIPLINE**

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

16 63. Respondent Tomateros Smog Check's station license is subject to discipline pursuant
17 to Health and Safety Code section 44072.2(c), in that between March 17, 2025, and May 12,
18 2025, regarding the eight (8) vehicles set forth above, Respondent Tomateros Smog Check failed
19 to comply with provisions of California Code of Regulations, title 16, as follows:

20 a. Section 3340.24, subdivision (c): Respondent Tomateros Smog Check falsely or
21 fraudulently issued electronic smog certificates of compliance for those vehicles.

22 b. Section 3340.35, subdivision (c): Respondent Tomateros Smog Check issued electronic
23 certificates of compliance even though those vehicles had not been inspected in accordance with
24 section 3340.42 of that code.

25 c. Section 3340.41, subdivision (c): Respondent Tomateros Smog Check knowingly
26 entered false information into the on-board diagnostic inspection system for those vehicles.

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1 d. Section 3340.42: Respondent Tomateros Smog Check failed to conduct the required
2 smog tests and inspections on those vehicles in accordance with the Bureau's specifications.

3 Complainant hereby incorporates paragraphs 30-59 above as though set forth fully herein.

4 **FIFTH CAUSE FOR DISCIPLINE**

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

6 64. Respondent Tomateros Smog Check's station license is subject to discipline pursuant
7 to Health and Safety Code section 44072.2(d), in conjunction with Health and Safety Code
8 section 44072.10(c), in that between March 17, 2025, and May 12, 2025, regarding the eight (8)
9 vehicles set forth above, Respondent Tomateros Smog Check committed acts involving
10 dishonesty, fraud or deceit whereby another was injured by issuing electronic certificates of
11 compliance for those vehicles without performing bona fide inspections of the emission control
12 devices and systems on the vehicles, thereby depriving the People of the State of California of the
13 protection afforded by the Motor Vehicle Inspection Program. Complainant hereby incorporates
14 paragraphs 30-59 above as though set forth fully herein.

15 **SIXTH CAUSE FOR DISCIPLINE**

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

17 65. Respondent Gonzalez's technician license is subject to discipline pursuant to Health
18 and Safety Code section 44072.2(a), in that between March 17, 2025, and May 12, 2025,
19 regarding the eight (8) vehicles set forth above attributable to his technician license, he failed to
20 comply with section 44032 of that Code in a material respect, as follows: Respondent Gonzalez
21 failed to perform the emission control tests on those vehicles in accordance with procedures
22 prescribed by the department. Complainant hereby incorporates paragraphs 30-59 above as
23 though set forth fully herein.

24 **SEVENTH CAUSE FOR DISCIPLINE**

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

26 66. Respondent Gonzalez's technician license is subject to discipline pursuant to Health
27 and Safety Code section 44072.2(c), in that between March 17, 2025, and May 12, 2025,

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1 regarding the eight (8) vehicles set forth above attributable to his technician license, he failed to
2 comply with provisions of California Code of Regulations, title 16, as follows:

3 a. Section 3340.24, subdivision (c): Respondent Gonzalez falsely or fraudulently issued
4 electronic smog certificates of compliance for those vehicles.

5 b. Section 3340.35, subdivision (c): Respondent Gonzalez issued electronic certificates of
6 compliance even though those vehicles had not been inspected in accordance with section
7 3340.42 of that Code.

8 c. Section 3340.41, subdivision (c): Respondent Gonzalez knowingly entered false
9 information into the on-board diagnostic inspection system for those vehicles.

10 d. Section 3340.42: Respondent Gonzalez failed to conduct the required smog tests and
11 inspections on those vehicles in accordance with the Bureau's specifications.

12 Complainant hereby incorporates paragraphs 30-59 above as though set forth fully herein.

13 **EIGHTH CAUSE FOR DISCIPLINE**

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

15 67. Respondent Gonzalez's technician license is subject to discipline pursuant to Health
16 and Safety Code section 44072.2(d), in conjunction with Health and Safety Code section
17 44072.10(c), in that between March 17, 2025, and May 12, 2025, regarding the eight (8) vehicles
18 set forth above attributable to his technician license, he committed acts involving dishonesty,
19 fraud or deceit whereby another was injured by issuing electronic certificates of compliance
20 without performing bona fide inspections of the emission control devices and systems on those
21 vehicles, thereby depriving the People of the State of California of the protection afforded by the
22 Motor Vehicle Inspection Program. Complainant hereby incorporates paragraphs 30-59 above as
23 though set forth fully herein.

24 **DISCIPLINE CONSIDERATIONS**

25 68. To determine the degree of discipline, if any, to be imposed on Respondent Valeria
26 Judith Espinola - Member, Yeyos LLC, dba Tomateros Smog Check, complainant alleges that on
27 or about June 26, 2025, in a previous matter entitled *In the Accusation Against Carla Maria*
28 *Espinola, dba Yeyo's Automotive and Valeria J. Espinola*, Bureau of Automotive Repair Case

No. 79/23-20855, Respondent Valeria Judith Espinola's Smog Check Inspector's License No. EO 640673 was revoked for engaging in clean plugging. That decision is now final and is incorporated by reference as if fully set forth herein.

OTHER MATTERS

69. Pursuant to Code section 9884.7, subdivision (c), the Bureau may refuse to validate, or may invalidate temporarily or permanently, the registrations for all places of business operated in this state by Valeria Judith Espinola - Member, Yeyos LLC, dba Tomateros Smog Check, upon a finding that she has, or is, engaged in a course of repeated and willful violations of the laws and regulations pertaining to an automotive repair dealer.

70. Pursuant to Health and Safety Code section 44072.8, if Smog Check Station License Number TC 305140, issued to Valeria Judith Espinola - Member, Yeyos LLC, dba Tomateros Smog Check, is revoked or suspended pursuant to a hearing, any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code in the name of said licensee may be likewise revoked or suspended by the director.

71. Pursuant to Health & Safety Code section 44072.8, if Smog Check Inspector License No. EO 142664 issued to Carlos Alfredo Gonzalez is revoked or suspended pursuant to a hearing, any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety 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 305140, issued to Valeria Judith Espinola - Member, Yeyos LLC;
2. Revoking or suspending any other Automotive Repair Dealer Registration issued to Valeria Judith Espinola - Member, Yeyos LLC;
3. Revoking or suspending Smog Check, Test-Only, Station License Number TC 305140, issued to Valeria Judith Espinola - Member, Yeyos LLC;

1 4. Revoking or suspending Smog Check Inspector License Number EO 142664, issued
2 to Carlos Alfredo Gonzalez;

3 5. Revoking or suspending any other license issued pursuant to Chapter 5, Part 5, of
4 Division 26 of the Health and Safety Code in the name of Valeria Judith Espinola - Member,
5 Yeyos LLC;

6 6. Ordering Valeria Judith Espinola - Member, Yeyos LLC, dba Tomateros Smog
7 Check, and Carlos Alfredo Gonzalez to pay the Bureau of Automotive Repair the reasonable
8 costs of the investigation and enforcement of this case, pursuant to Business and Professions
9 Code section 125.3 and if placed on probation, the costs of probation monitoring;

10 and,

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

12
13 DATED: As of digital signature date

Dorais,
Patrick@DCA

Digitally signed by Dorais,
Patrick@DCA
Date: 2026.08.12 15:21:46
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PATRICK DORAIS
Chief
Bureau of Automotive Repair
Department of Consumer Affairs
State of California
Complainant

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