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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. 79/25-2295

13 **REBECA FLORES, dba BECKY'S SMOG**
14 **CHECK TEST ONLY**

3945 N. Sierra Way
San Bernardino, CA 92405

ACCUSATION

15 **Automotive Repair Dealer Registration No.**
16 **ARD 305889**
17 **Smog Check, Test Only, Station License No.**
18 **TC 305889**

19 **and**

20 **FRANCISCO JAVIER RODRIGUEZ**
457 W. 41st Street
San Bernardino, CA 92407

21 **Smog Check Inspector No. EO 644306**

22 Respondents.

23 **PARTIES**

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

26 2. On or about May 24, 2023, the Bureau of Automotive Repair issued Automotive
27 Repair Dealer Registration Number ARD 305889 to Rebeca Flores, dba Becky's Smog Check
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1 (Respondent Flores). The Automotive Repair Dealer Registration was in full force and effect at
2 all times relevant to the charges brought herein and will expire on May 31, 2026, unless renewed.

3 3. On or about June 16, 2023, the Bureau of Automotive Repair issued Smog Check,
4 Test-Only, Station License Number TC 305889 to Respondent Flores. The Smog Check, Test-
5 Only, Station License was in full force and effect at all times relevant to the charges brought
6 herein and will expire on May 31, 2026, unless renewed.

7 4. On or about July 25, 2024, Respondent Flores' facility was certified by the Bureau of
8 Automotive Repair as a STAR station. The certification was suspended on March 6, 2025.

9 5. On or about April 28, 2023, the Bureau of Automotive Repair issued Smog Check
10 Inspector License Number EO 644306 to Francisco Javier Rodriguez (Respondent Rodriguez).
11 The Smog Check Inspector License was in full force and effect at all times relevant to the charges
12 brought herein and will expire on November 30, 2026, unless renewed.

13 **JURISDICTION**

14 6. Business and Professions Code ("BPC") section 9884.13 provides, in pertinent part,
15 that the expiration of a valid registration shall not deprive the Director of jurisdiction to proceed
16 with a disciplinary proceeding against an automotive repair dealer or to render a decision
17 temporarily or permanently invalidating (suspending or revoking) a registration.

18 7. Health and Safety Code ("HSC") section 44002 provides, in pertinent part, that the
19 Director has all the powers and authority granted under the Automotive Repair Act for enforcing
20 the Motor Vehicle Inspection Program.

21 8. Section 44072.6 of the HSC provides, in pertinent part, that the expiration or
22 suspension of a license by operation of law, or by order or decision of the Director of Consumer
23 Affairs, or a court of law, or the voluntary surrender of the license shall not deprive the Director
24 of jurisdiction to proceed with disciplinary action.

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STATUTORY PROVISIONS

9. Section 9884.7 of the BPC states, in pertinent part:

“(a) The director, where the automotive repair dealer cannot show there was a bona fide error, may refuse to validate, or may invalidate temporarily or permanently, the registration of an automotive repair dealer for any of the following acts or omissions related to the conduct of the business of the automotive repair dealer, which are done by the automotive repair dealer or any automotive technician, employee, partner, officer, or member of the automotive repair dealer.

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

(4) Any other conduct which constitutes fraud.

....

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

....

10. Section 9889.3 of the BPC states, in pertinent part:

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

...

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

11. Section 44012 of the HSC provides, in pertinent part, that tests at smog check stations shall be performed in accordance with procedures prescribed by the department.

12. Section 44015, subdivision (b), of the HSC provides that a certificate of compliance shall be issued if a vehicle meets the requirements of HSC section 40012.

13. Section 44032 of the HSC states, in pertinent part, that: (1) no person may perform tests or repairs of emission control devices or systems of motor vehicles required by the Motor Vehicle Inspection Program unless the person performing the test or repair is a licensed qualified

1 smog check technician; and (2) all tests must be conducted in accordance with section 44012 (i.e.
2 Motor Vehicle Inspection Program Requirements).

3 14. Section 44059 of the HSC provides:

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

8 15. Section 44072.2 of the HSC states, in pertinent part:

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

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

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

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

18 16. Section 44072.8 of the HSC states that when a license has been revoked or suspended
19 following a hearing under this article, any additional license issued under this chapter in the name
20 of the licensee may be likewise revoked or suspended by the director.

21 17. Section 44072.10, subdivision (c), of the HSC provides in pertinent part that “[t]he
22 department shall revoke the license of any smog check technician or station licensee who fraudulently
23 certifies vehicles or participates in the fraudulent inspection of vehicles.”

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1 **REGULATORY PROVISIONS**

2 18. California Code of Regulations (“CCR”), title 16, section 3340.24, subdivision (c),
3 states:

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

7 19. California Code of Regulations (“CCR”), title 16, section 3340.30, subdivision (a),
8 states in pertinent part:

9 “A licensed smog check inspector and/or repair technician shall comply with the following
10 requirements at all times while licensed:

11 “(a) Inspect, test and repair vehicles, as applicable, in accordance with section 44012 of the
12 Health and Safety Code, section 44035 of the Health and Safety Code, and section 3340.42 of this
13 article.

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

20 21. CCR, title 16, section 3340.41, subdivision (b), provides: “No person shall enter into
21 the emissions inspection system any access or qualification number other than as authorized by
22 the bureau, nor in any way tamper with the emissions inspection system.”

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

25 **COST RECOVERY**

26 23. Section 125.3, subdivision (a), of the BPC provides, in pertinent part, that a Board
27 “may request the administrative law judge to direct a licentiate found to have committed

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1 violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the
2 investigation and enforcement of the case.”

3 **SUMMARY OF ON-BOARD DIAGNOSTIC SYSTEM (OIS) INSPECTIONS**

4 24. Beginning March 9, 2015, California’s Smog Check Program was updated to require
5 the use of an On-Board Diagnostic Inspection System (OIS). OIS is the Smog Check equipment
6 required in all areas of the State when inspecting most model-year 2000 and newer gasoline and
7 hybrid vehicles and most 1998 and newer diesel vehicles. The system consists of a certified Data
8 Acquisition Device (DAD), computer, bar code scanner, and printer. The DAD is an On Board
9 Diagnostic (OBD) scan tool that, when requested by the California OIS software, retrieves OBD
10 data from the vehicle. All OBD data that the vehicle indicates it supports is requested by the
11 California OIS software and will be retrieved.

12 25. The DAD connects between the OIS computer and the vehicle’s Diagnostic Link
13 Connector (DLC) located in the vehicle’s passenger compartment, which allows for the retrieval
14 of information from the vehicle’s on-board computer system. The California OIS software
15 requires a continuous Internet connection when performing a Smog Check inspection and the OIS
16 software communicates with BAR’s central database through the Internet connection. The bar
17 code scanner is used to input technician information, the vehicle’s identification number (VIN),
18 and DMV renewal information. The printer provides a Vehicle Inspection Report (VIR)
19 containing inspection results for motorists and a Smog Check Certificate of Compliance number
20 for passing vehicles.

21 26. Data retrieved and recorded during an OIS smog check includes; the eVIN, which is
22 the digitally stored VIN programmed by the manufacturer into the vehicle’s Powertrain Control
23 Module (PCM); the communication protocol, which is the manufacturer/vehicle specific language
24 the PCM uses to Relay or communicate information. The communication protocol is
25 programmed into the vehicle’s on-board computer during manufacture and does not change.

26 27. Other data retrieved and recorded during an OIS smog check includes the number of
27 Parameter Identifications (PIDs), which refers to the number of specific data values that the
28 vehicle’s PCM uses related to emissions controls. The specific data values associated with a

1 vehicle's PIDs are also retrieved and recorded during an OIS smog check inspection. That data
2 include things such as the vehicle's engine speed, throttle position, manifold absolute pressure,
3 the engine's mass air flow, and ignition timing advance readings throughout an inspection.

4 Accordingly, the following types of data are recorded during an OIS smog check inspection:

- 5 • Engine speed in revolutions per minute (RPM)
- 6 • Throttle position as measured by a throttle position sensor (TPS) mounted onto the
7 throttle shaft. Measured in a percentage of opening from 0% at idle and near or up
8 to 100% at full throttle. In internal combustion vehicles, TPS increases as RPM
9 increases.
- 10 • Manifold absolute pressure as measured by a manifold air pressure sensor (MAP)
11 connected to an intake manifold source, measured in kilo pascals (kpa). Typical
12 readings for a normally aspirated vehicle as follows: 0 kpa being absolute vacuum,
13 25kpa to 45kpa at idle, 101 kpa at full throttle, same as atmospheric pressure at sea
14 level. In internal combustion vehicles, MAP decreases as RPM increases.
- 15 • Mass air flow as measured by a mass air flow sensor (MAF) mounted in the engine's
16 air intake tract. Measured in grams per second (gps). In internal combustion
17 vehicles, MAF increases as RPM increases.
- 18 • Ignition timing is set by the vehicle PCM based on engine speed and load and is
19 measured in degrees Before Top Dead Center (BTDC). In internal combustion
20 vehicles, ignition timing will advance as RPM increases.

21 **EXPLANATION OF CLEAN PIPING AND CLEAN PLUGGING**

22 28. BAR has become aware of methods that some Smog Check stations and Smog Check
23 inspectors use to fraudulently issue smog certificates to vehicles that will not pass a Smog Check
24 test, or in some instances, are not even present during the time that the test is performed. One
25 such method, which is known as "clean piping", involves using the emission sample of a known
26 clean vehicle or other source to substitute for the emissions of a vehicle that will not pass a BAR
27 97 tailpipe inspection or is not present at the time of the BAR 97 inspection.

1 29. Another common method of fraudulent inspection, known as “clean plugging”,
2 involves using another vehicle’s properly functioning OBD II system, or another source such as a
3 defeat device/simulator, to generate passing data readings or diagnostic information for the
4 purpose of fraudulently issuing smog certificates to vehicles that are not in smog compliance
5 and/or are not present for testing.

6 30. Defeat devices attempt to simulate engine operation during a Smog Check inspection
7 by transmitting OBD II data to the VID that has been modified or replaced entirely for the
8 purportedly inspected vehicle during the functional portion of the OIS inspection. The use of a
9 defeat device/simulator during a Smog Check inspection constitutes clean plugging and is strictly
10 prohibited. As described in more detail below, BAR is able to utilize the data retrieved and
11 recorded during an OIS smog check to identify inspections in which a defeat device/simulator
12 was used.

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

22 32. Clean plugging is apparent in cases where the data recorded during an OIS smog
23 check shows that the engine speed as measured in RPM increases during the test but the throttle
24 position remains unchanged, the mass air flow rate is unchanged, the manifold absolute pressure
25 is unchanged, and the ignition timing advance readings are unchanged. Because engine speed as
26 measured in RPM cannot increase without changes in throttle position, MAF, MAP and ignition
27 timing advance readings, test data in such cases demonstrates that a defeat device was used to
28 simulate engine speed (RPM) readings for a vehicle that was not actually tested.

RESPONDENTS' FRAUDULENT SMOG INSPECTIONS

33. A Bureau program representative analyzed specific OIS Test Data for inspections performed at Respondent Flores' station between May 25, 2024 and October 25, 2024. The investigation revealed that the data related to certain vehicles certified at Respondent Flores' station by Respondent Rodriguez contained a pattern of unmistakable discrepancies between the information transmitted during the inspections and the recognized and scientifically established characteristics of internal combustion engine operation.

34. Specifically, the Bureau program representative identified 10 instances in which the throttle position, ignition timing advance, MAP and/or MAF¹ readings all remained unchanged when the vehicle's engine RPM was increased off idle to higher RPMs. Such conditions could not have occurred if the DAD had been connected to the vehicles that were purportedly being tested instead of a defeat device that simulated engine RPM.

35. These documented discrepancies confirm that, in performing the inspections at issue, Respondents engaged in the illegal activity of clean plugging in order to issue fraudulent certificates of compliance for the vehicles. The following chart ("Table 1") illustrates the documented clean plugging activities by Respondents during the period reviewed.

Table 1

Test Date	Vehicle Certified & License No./VIN	Certificate No.	Test Details
May 25, 2024	2001 Toyota Camry CE VIN # JT2BG22K710567637	TW661306C	Inspection performed by Respondent Rodriguez. Throttle position, MAP, and ignition timing advance readings unchanged when engine RPM was increased from 700 to 1975.

¹ Not all vehicle manufacturers include both MAP and MAF parameters. As a result, many vehicles will have either MAP or MAF parameters rather than both.

1	May 25, 2024	2001 Honda Civic SI VIN # 1HGEM22931L027891	TW661307C	Inspection performed by Respondent Rodriguez. Throttle position, MAP, and ignition timing advance readings unchanged when engine RPM was increased from 750 to 1600.
2	September 4, 2024	2001 Honda Accord EX VIN # 1HGCG32731A028005	TW661349C	Inspection performed by Respondent Rodriguez. Throttle position, MAP, and ignition timing advance readings unchanged when engine RPM was increased from 575 to 2475 and then reduced to 1800.
3	September 28, 2024	2004 Nissan Titan XE VIN # 1N6AA07A84N525510	UE315669C	Inspection performed by Respondent Rodriguez. Throttle position, MAF, and ignition timing advance readings unchanged when engine RPM was increased from 575 to 2175 and then reduced to 1550.
4	September 28, 2024	2001 Toyota Tacoma VIN # 5TENL42N81Z800186	UE315670C	Inspection performed by Respondent Rodriguez. Throttle position, MAF, and ignition timing advance readings unchanged when engine RPM was increased from 575 to 2200 and then reduced to 1500.
5	October 11, 2024	2002 Toyota Tacoma Double Cab Prerunner VIN # 5TEGN92N12Z002047	UC793468C	Inspection performed by Respondent Rodriguez. Throttle position, MAF, and ignition timing advance readings unchanged when engine RPM was increased from 650 to 2050 and then reduced to 1750.

1 2 3 4 5	October 15, 2024	2004 Toyota Sienna CE VIN # 5TDZA23C94S180300	UC793479C	Inspection performed by Respondent Rodriguez. Throttle position, MAF, and ignition timing advance readings unchanged when engine RPM was increased from 650 to 1600.
6 7 8 9	October 21, 2024	2000 Honda Accord EX VIN # 1HGCG2259YA003063	UC793499C	Inspection performed by Respondent Rodriguez. Throttle position, MAP, and ignition timing advance readings unchanged when engine RPM was increased from 750 to 1800.
10 11 12 13 14 15	October 22, 2024	2004 Infiniti G35 VIN # JNKCV54E04M804300	UE824152C	Inspection performed by Respondent Rodriguez. Throttle position, MAF, and ignition timing advance readings unchanged when engine RPM was increased from 775 to 1875 and then reduced to 1575.
16 17 18 19 20 21	October 25, 2024	2003 Toyota Corolla Matrix XR VIN # 2T1KR32E13C108386	UE824163C	Inspection performed by Respondent Rodriguez. Throttle position, MAF, and ignition timing advance readings unchanged when engine RPM was increased from 650 to 1750.

FIRST CAUSE FOR DISCIPLINE

(Misleading Statements – Automotive Repair Dealer Registration)

36. Respondent Flores has subjected her Automotive Repair Dealer Registration to discipline under BPC section 9884.7, subdivision (a)(1), in that Respondent made statements which were known to be untrue or misleading or, which by exercise of reasonable care should have been known to be untrue or misleading, by engaging in clean plugging and issuing the electronic smog certificates of compliance for the vehicles set forth in Table 1, above, certifying

1 that those vehicles were in compliance with applicable laws and regulations when, in fact, those
2 vehicles had not been so inspected. Complainant refers to, and by this reference incorporates, the
3 allegations contained in paragraphs 33 through 35, inclusive, as though set forth fully herein.

4 **SECOND CAUSE FOR DISCIPLINE**

5 **(Fraud - Automotive Repair Dealer Registration)**

6 37. Respondent Flores has subjected her Automotive Repair Dealer Registration to
7 discipline under BPC section 9884.7, subdivision (a)(4), in that Respondent committed acts which
8 constitute fraud by issuing electronic smog certificates of compliance for the vehicles set forth in
9 Table 1, above, without performing bona fide inspections of the emission control devices and
10 systems on those vehicles, thereby depriving the People of the State of California of the
11 protection afforded by the Motor Vehicle Inspection Program. Complainant refers to, and by this
12 reference incorporates, the allegations contained in paragraphs 33 through 35, inclusive, as
13 though set forth fully herein.

14 **THIRD CAUSE FOR DISCIPLINE**

15 **(Material Violation of Automotive Repair Act
16 - Automotive Repair Dealer Registration)**

17 38. Respondent Flores has subjected her Automotive Repair Dealer Registration to
18 discipline under BPC section 9884.7, subdivision (a)(6), in that Respondent failed in a “material
19 respect to comply with the provisions of this chapter or regulations adopted pursuant to it” by
20 issuing electronic smog certificates of compliance for the vehicles set forth in Table 1, above,
21 without performing bona fide inspections of the emission control devices and systems on those
22 vehicles, thereby depriving the People of the State of California of the protection afforded by the
23 Motor Vehicle Inspection Program. Complainant refers to, and by this reference incorporates, the
24 allegations contained in paragraphs 33 through 35, inclusive, as though set forth fully herein.

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1 **FOURTH CAUSE FOR DISCIPLINE**
2 **(Violation of the Motor Vehicle Inspection Program**
3 **- Smog Check Station License)**

4 39. Respondent Flores has subjected her Smog Check Test Only License to discipline
5 under HSC section 44072.2, subdivision (a), in that, with respect to the vehicles set forth in Table
6 1, above, Respondents violated the following sections of the HSC:

7 **a. Section 44012:** Respondent failed to ensure that the emission control tests were
8 performed on those vehicles in accordance with procedures prescribed by the department.

9 **b. Section 44015, subdivision (b):** Respondent issued electronic smog certificates of
10 compliance without properly testing and inspecting the vehicles set forth in Table 1 to determine
11 if they were in compliance with section 44012 of the HSC.

12 **FIFTH CAUSE FOR DISCIPLINE**

13 **(Violations of Regulations Pursuant to the Motor Vehicle Inspection Program**
14 **- Smog Check Station License)**

15 40. Respondent Flores has subjected her Smog Check Test Only License to discipline
16 under HSC section 44072.2, subdivision (c), in that, with respect to the vehicles set forth in Table
17 1, above, Respondent violated the following sections of title 16 of the CCR:

18 **a. Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued
19 electronic smog certificates of compliance to the vehicles set forth in Table 1 without performing
20 bona fide inspections of the emission control devices and systems on those vehicles as required
21 by HSC section 44012.

22 **b. Section 3340.35, subdivision (c):** Respondent issued electronic smog certificates of
23 compliance to the vehicles set forth in Table 1 even though those vehicles had not been inspected
24 in accordance with section 3340.42 of the HSC.

25 **c. Section 3340.42:** Respondent failed to conduct the required smog tests and
26 inspections on the vehicles set forth in Table 1 in accordance with the Bureau's specifications.

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1 **SIXTH CAUSE FOR DISCIPLINE**

2 **(Dishonesty, Fraud and/or Deceit - Smog Check Station License)**

3 41. Respondent Flores has subjected her Smog Check Test Only License to discipline
4 under HSC section 44072.2, subdivision (d), and HSC section 44072.10, subdivision (c), in that,
5 with respect to the vehicles set forth in Table 1, above, Respondent committed acts involving
6 dishonesty, fraud, or deceit whereby another was injured by issuing electronic smog certificates
7 of compliance for those vehicles without performing bona fide inspections and functional testing
8 of the emission control devices and systems on those vehicles, thereby depriving the People of the
9 State of California of the protection afforded by the Motor Vehicle Inspection Program.
10 Complainant refers to, and by this reference incorporates, the allegations contained in paragraphs
11 33 through 35, inclusive, as though set forth fully herein.

12 **SEVENTH CAUSE FOR DISCIPLINE**

13 **(Violation of the Motor Vehicle Inspection Program –**
14 **Smog Check Inspector License)**

15 42. Respondent Rodriguez has subjected his Smog Check Inspector License to discipline
16 under HSC section 44072.2, subdivision (a), in that, with respect to the vehicles set forth in Table
17 1, above, Respondent violated the following sections of the HSC:

18 a. **Section 44012:** Respondent failed to ensure that the onboard diagnostic system tests
19 were performed on those vehicles in accordance with procedures prescribed by the department.

20 b. **Section 44015, subdivision (b):** Respondent issued electronic smog certificates of
21 compliance to the vehicles set forth in Table 1 without properly testing and inspecting the
22 vehicles to determine if they were in compliance with section 44012 of the HSC.

23 c. **Section 44032:** Respondent failed to perform tests of the onboard diagnostic systems
24 on those vehicles in accordance with section 44012 of the HSC.

25 d. **Section 44059:** Respondent willfully made false entries for the electronic smog
26 certificates of compliance by certifying that the vehicles set forth in Table 1 had been inspected as
27 required when, in fact, they had not.

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1 **EIGHTH CAUSE FOR DISCIPLINE**

2 **(Violations of Regulations Pursuant to the Motor Vehicle Inspection Program**
3 **- Smog Check Inspector License)**

4 43. Respondent Rodriguez has subjected his Smog Check Inspector License to discipline
5 under HSC section 44072.2, subdivision (c), in that, with respect to the vehicles set forth in Table
6 1, above, Respondent violated the following sections of title 16 of the CCR:

7 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued
8 electronic smog certificates of compliance to the vehicles set forth in Table 1 without performing
9 bona fide inspections and functional testing of the emission control devices and systems on those
10 vehicles as required by HSC section 44012.

11 b. **Section 3340.30, subdivision (a):** Respondent failed to inspect and test those
12 vehicles in accordance with HSC section 44012.

13 c. **Section 3340.35, subdivision (c):** Respondent issued electronic smog certificates of
14 compliance to the vehicles set forth in Table 1 even though those vehicles had not been inspected
15 in accordance with section 3340.42 of the HSC.

16 d. **Section 3340.41, subdivision (c):** Respondent knowingly entered false information
17 into the OIS about the vehicles being tested.

18 e. **Section 3340.42:** Respondent failed to conduct the required smog tests and
19 inspections on those vehicles in accordance with the Bureau's specifications.

20 **NINTH CAUSE FOR DISCIPLINE**

21 **(Dishonesty, Fraud or Deceit - Smog Check Inspector License)**

22 44. Respondent Rodriguez has subjected his Smog Check Inspector License to discipline
23 under HSC section 44072.2, subdivision (d), and HSC section 44072.10, subdivision (c), in that,
24 with respect to the vehicles set forth in Table 1, above, Respondent committed acts involving
25 dishonesty, fraud or deceit whereby another was injured by issuing electronic smog certificates of
26 compliance for those vehicles without performing bona fide inspections and functional testing of
27 the emission control devices and systems on those vehicles, thereby depriving the People of the
28 State of California of the protection afforded by the Motor Vehicle Inspection Program.

1 Complainant refers to, and by this reference incorporates, the allegations contained in paragraphs
2 33 through 35, inclusive, as though set forth fully herein.

3 **OTHER MATTERS**

4 45. Section 9884.7, subdivision (c), of the BPC states that “the director may suspend,
5 revoke, or place on probation the registration for all places of business operated in this state by an
6 automotive repair dealer upon a finding that the automotive repair dealer has, or is, engaged in a
7 course of repeated and willful violations of this chapter, or regulations adopted pursuant to.”

8 46. Section 44072.8 of the HSC states that when a license has been revoked or suspended
9 following a hearing, any additional license issued under the Motor Vehicle Inspection Program
10 (Health & Saf. Code Sec. 44000, et seq.) in the name of the licensee may be likewise revoked or
11 suspended by the director.

12 **PRAYER**

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

16 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
17 305889, issued to Rebeca Flores, dba Becky’s Smog Check;

18 2. Revoking or suspending Smog Check, Test-Only, Station License Number TC
19 305889, issued to Rebeca Flores, dba Becky’s Smog Check;

20 3. Revoking or suspending any and all additional Automotive Repair Dealer
21 Registrations issued in the name of Rebecca Flores, pursuant to section 9884.7, subdivision (c), of
22 the Business and Professions Code;

23 4. Revoking or suspending any and all licenses issued under the Motor Vehicle
24 Inspection Program (Health & Saf. Code Sec. 44000, et seq.) in the name of Rebecca Flores
25 pursuant to section 44072.8 of the Health and Safety Code;

26 5. Revoking or suspending Smog Check Inspector License Number EO 644306, issued
27 to Francisco Javier Rodriguez;

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1 6. Revoking or suspending any and all licenses issued under the Motor Vehicle
2 Inspection Program (Health & Saf. Code Sec. 44000, et seq.) in the name of Francisco Javier
3 Rodriguez pursuant to section 44072.8 of the Health and Safety Code;

4 7. Ordering Rebecca Flores and Francisco Javier Rodriguez to pay the Bureau of
5 Automotive Repair the reasonable costs of the investigation and enforcement of this case,
6 pursuant to Business and Professions Code section 125.3 and if placed on probation, the costs of
7 probation monitoring; and

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

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10 DATED: As of digital signature date

11 PATRICK DORAIS
12 Chief
13 Bureau of Automotive Repair
14 Department of Consumer Affairs
15 State of California
16 *Complainant*

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