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

12 In the Matter of the Accusation Against:

Case No. **79/24-19709**

13 **BRANDON A SORIANO, D.B.A. CHACO**
14 **SMOG CHECK**
10090 Arlington Ave Unit A
15 **Riverside, CA 92503**

ACCUSATION

16 **Automotive Repair Dealer Registration No.**
ARD 306412
17 **Smog Check Test-Only Station License No.**
TC 306412,

18 **-and-**

19 **BRANDON ALEXANDER SORIANO**
20 **18335 Jakes Way Apt 201**
Canyon Country, CA 91387

21 **Smog Check Inspector License No. EO**
22 **643670**

23 Respondents.
24

25
26 **PARTIES**

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

1 13. Section 44072.10 of the Health and Safety Code states, in pertinent part:

2 . . .

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

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

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

10 **REGULATORY PROVISIONS**

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

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

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

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

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

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

22

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

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

COST RECOVERY

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

1 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
2 included in a stipulated settlement.

3 **VID DATA REVIEW**

4 19. 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
6 equipment required in all areas of the State when inspecting most model-year 2000 and newer
7 gasoline and hybrid vehicles and most 1998 and newer diesel vehicles. The system consists of a
8 certified Data Acquisition Device ("DAD"), computer, bar code scanner, and printer. The DAD
9 is an On Board Diagnostic ("OBD") scan tool that, when requested by the California OIS
10 software, retrieves OBD data from the vehicle. All OBD data that the vehicle indicates it
11 supports is requested by the California OIS software and will be retrieved. The DAD connects
12 between the OIS computer and the vehicle's DLC. The California OIS software requires a
13 continuous Internet connection when performing a Smog Check inspection and the OIS software
14 communicates with BAR's central database through the Internet connection. The bar code
15 scanner is used to input technician information, the vehicles identification number ("VIN"), and
16 DMV renewal information. The printer provides a Vehicle Inspection Report ("VIR") containing
17 inspection results for motorists and a Smog Check Certificate of Compliance number for passing
18 vehicles.

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

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

- 28 • Engine speed in revolutions per minute (RPM)

1 • Throttle position as measured by a throttle position sensor (TPS) mounted onto
2 the throttle shaft. Measured in a percentage of opening from 0% at idle and near
3 or up to 100% at full throttle.

4 • Manifold absolute pressure as measured by a manifold air pressure sensor (MAP)
5 connected to an intake manifold source, measured in kilo pascals (kpa). Typical
6 readings for a normally aspirated vehicle as follows: 0 kpa being absolute vacuum,
7 25kpa to 45kpa at idle, 101 kpa at full throttle, same as atmospheric pressure at
8 sea level.

9 • Mass air flow as measured by a mass air flow sensor (MAF) mounted in the
10 engine's air intake tract. Measured in grams per second (gps).²

11 • Ignition timing is set by the vehicle PCM based on engine speed and load, and is
12 measured in degrees Before Top Dead Center (BTDC).

13 22. 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 23. During an OIS Smog Check inspection, along with other visual and functional
23 inspections, there is an OBD II query portion of the inspection. The OBD II query is performed
24 with the engine idling and, when requested by the OIS analyzer, and an elevated or increased
25 engine speed.

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

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

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

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

26 27. Respondents have engaged in numerous acts or omissions constituting violations of
27 the Automotive Repair Act (Business and Professions Code section 9880 *et seq.*) and Motor
28 Vehicle Inspection Program (Health and Safety Code section 44000 *et seq.*) through their practice

1 of “clean plugging.”³ Respondent’s OIS Test Data available on the State database indicates that
2 Respondents are involved in fraudulent smog inspection activities. A Bureau representative
3 initiated an investigation based on information transmitted to the VID for smog check inspections
4 performed by Respondents. The investigation revealed that the data related to certain vehicles
5 certified by Respondents contained a pattern of unmistakable discrepancies between the
6 information transmitted during the inspections and documented information known about the
7 vehicles at issue. Specifically, the representative compared the data received from the certified
8 vehicles to data from vehicles of the same year, make, and model and determined that the data
9 from at least ten (10) of the certified vehicles were fraudulently tested by Respondents during the
10 smog inspection using the “clean plugging” method as follows:

11 **Fraudulent Inspection #1**

12 28. Bureau Program Representative Steve Koch (Koch) reviewed the OIS Test Data for
13 Chaco Smog Check. The review indicates on August 12, 2024, a 2005 Honda Pilot, CA license
14 5NSR571, VIN 5FNYF18695B034995 (2005 Pilot), was tested and smog check certificate #
15 UC265925C was issued under licensed Smog Check Technician #EO643670, Soriano.

16 29. The Dynamic OBD Data and Dynamic Data Charts for the 2005 Pilot shows between
17 time stamp 251 and 18693 engine speed is steady at approximately 750 RPM. During this time
18 the throttle is fixed at 14.9% opening, MAP is fixed at 27 kPa, and the ignition timing advance for
19 #1 cylinder is fixed at 11 degrees BTDC. After time stamp 18693 the engine speed accelerates to
20 approximately 1400 RPM. From the time the engine RPM increases off idle to the higher RPMs,
21 the throttle is fixed at the same 14.9% opening, MAP is fixed at the same 27 kPa, and the ignition
22 timing advance for #1 cylinder is also still fixed at the same 11 degrees BTDC.

23 30. During the entire period the dynamic data was collected, the only parameter that
24 changed was engine RPM. The throttle position, MAP, and ignition timing advance readings
25 remained unchanged even though the engine speed was increased. These readings are not

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

1 characteristic or expected for normal engine operation. The discrepancies in the OIS Test Data
2 prove the Data Acquisition Device was not connected to the 2005 Pilot being certified, causing
3 the issuance of a fraudulent Smog Check Certificate of Compliance.

4 **Fraudulent Inspection #2**

5 31. Koch reviewed the OIS Test Data for Chaco Smog Check. The review indicates on
6 September 16, 2024, a 2004 Subaru Forester 2.5XS, CA license 5FJG854, VIN
7 JF1SG65674H741523 (2004 Forrester), was tested and smog check certificate # UC964931C was
8 issued under licensed Smog Check Technician #EO643670, Soriano.

9 32. The Dynamic OBD Data and Dynamic Data Charts for the 2004 Forester shows
10 between time stamp 185 and 21191 engine speed is steady at approximately 725 RPM. During
11 this time the throttle is fixed at 9.8% opening, MAF is fixed at 3.51 gps, MAP is fixed at 35 kPa,
12 and the ignition timing advance for #1 cylinder is fixed at 13 degrees BTDC. After time stamp
13 21191 the engine speed accelerates to approximately 1350 RPM. From the time the engine RPM
14 increases off idle to the higher RPMs, the throttle is fixed at the same 9.8% opening, MAF is
15 fixed at the same 3.51 gps, MAP is fixed at the same 35 kPa, and the ignition timing advance for
16 #1 cylinder is also still fixed at the same 13 degrees BTDC.

17 33. During the entire period the dynamic data was collected, the only parameter that
18 changed was engine RPM. The throttle position, MAF, MAP, and ignition timing advance
19 readings remained unchanged even though the engine speed was increased. These readings are
20 not characteristic or expected for normal engine operation. The discrepancies in the OIS Test
21 Data prove the Data Acquisition Device was not connected to the 2004 Forester being certified,
22 causing the issuance of a fraudulent Smog Check Certificate of Compliance.

23 **Fraudulent Inspection #3**

24 34. Koch reviewed the OIS Test Data for Chaco Smog Check. The review indicates on
25 September 26, 2024, a 2002 Chevrolet Silverado C1500, no plate, VIN 1GCEC14T12Z154996
26 (2002 Silverado), was tested and smog check certificate # JB214853C was issued under licensed
27 Smog Check Technician #EO643670, Soriano.

28 ///

1 35. The Dynamic OBD Data and Dynamic Data Charts for the 2002 Silverado shows
2 between time stamp 34 and 20204 engine speed is steady at approximately 700 RPM. During this
3 time the throttle is fixed at 0% opening, MAF is fixed at 2.91 gps, MAP is fixed at 33 kPa, and
4 the ignition timing advance for #1 cylinder is fixed at 17 degrees BTDC. After time stamp 20204
5 the engine speed decelerates to approximately 375 RPM, before accelerating to approximately
6 1625 RPM. From the time the engine RPM increases off idle to the higher RPMs, the throttle is
7 fixed at the same 0% opening, MAF is fixed at the same 2.91 gps, MAP is fixed at the same 33
8 kPa, and the ignition timing advance for #1 cylinder is also still fixed at the same 17 degrees
9 BTDC.

10 36. During the entire period the dynamic data was collected, the only parameter that
11 changed was engine RPM. The throttle position, MAF, MAP, and ignition timing advance
12 readings remained unchanged even though the engine speed was increased. These readings are
13 not characteristic or expected for normal engine operation. The discrepancies in the OIS Test
14 Data prove the Data Acquisition Device was not connected to the 2002 Silverado being certified,
15 causing the issuance of a fraudulent Smog Check Certificate of Compliance.

16 **Fraudulent Inspection #4**

17 37. Koch reviewed the OIS Test Data for Chaco Smog Check. The review indicates on
18 September 30, 2024, a 2002 Toyota Camry LE, no plate, VIN 4T1BE32K82U504474 (2002
19 Camry), was tested and smog check certificate # JB214870C was issued under licensed Smog
20 Check Technician #EO643670, Soriano.

21 38. The Dynamic OBD Data and Dynamic Data Charts for the 2002 Camry shows
22 between time stamp 120 and 19950 engine speed is steady at approximately 700 RPM. During
23 this time the throttle is fixed at 16.5% opening, MAF is fixed at .45 gps, and the ignition timing
24 advance for #1 cylinder is fixed at 5 degrees BTDC. After time stamp 19950 the engine speed
25 accelerates to approximately 1475 RPM. From the time the engine RPM increases off idle to the
26 higher RPMs, the throttle is fixed at the same 16.5% opening, MAF is fixed at the same .45 gps,
27 and the ignition timing advance for #1 cylinder is also still fixed at the same 5 degrees BTDC.

28 ///

1 39. During the entire period the dynamic data was collected, the only parameter that
2 changed was engine RPM. The throttle position, MAF, and ignition timing advance readings
3 remained unchanged even though the engine speed was increased. These readings are not
4 characteristic or expected for normal engine operation. The discrepancies in the OIS Test Data
5 prove the Data Acquisition Device was not connected to the 2002 Camry being certified, causing
6 the issuance of a fraudulent Smog Check Certificate of Compliance.

7 **Fraudulent Inspection #5**

8 40. Koch reviewed the OIS Test Data for Chaco Smog Check. The review indicates on
9 October 1, 2024, a 2004 Lexus ES 330, CA License 5CPA623, VIN JTHBA30G245001663
10 (2004 ES330), was tested and smog check certificate # JB214879C was issued under licensed
11 Smog Check Technician #EO643670, Soriano.

12 41. The Dynamic OBD Data and Dynamic Data Charts for the 2004 ES330 shows
13 between time stamp 140 and 20534 engine speed is steady at approximately 750 RPM. During
14 this time the throttle is fixed at 18.4% opening, MAF is fixed at 2.53 gps, and the ignition timing
15 advance for #1 cylinder is fixed at 9.5 degrees BTDC. After time stamp 20534 the engine speed
16 accelerates to approximately 1525 RPM. From the time the engine RPM increases off idle to the
17 higher RPMs, the throttle is fixed at the same 18.4% opening, MAF is fixed at the same 2.53 gps,
18 and the ignition timing advance for #1 cylinder is also still fixed at the same 9.5 degrees BTDC.

19 42. During the entire period the dynamic data was collected, the only parameter that
20 changed was engine RPM. The throttle position, MAF, and ignition timing advance readings
21 remained unchanged even though the engine speed was increased. These readings are not
22 characteristic or expected for normal engine operation. The discrepancies in the OIS Test Data
23 prove the Data Acquisition Device was not connected to the 2004 ES330 being certified, causing
24 the issuance of a fraudulent Smog Check Certificate of Compliance.

25 **Fraudulent Inspection #6**

26 43. Koch reviewed the OIS Test Data for Chaco Smog Check. The review indicates on
27 October 2, 2024, a 2002 Chevrolet Silverado C2500 Heavy Duty, CA license 15907F1, VIN
28

1 1GBHC24UX2E262234 (2002 Silverado HD), was tested and smog check certificate
2 #JB214886C was issued under licensed Smog Check Technician #EO643670, Soriano.

3 44. The Dynamic OBD Data and Dynamic Data Charts for the 2002 Silverado HD shows
4 between time stamp 37 and 20667 engine speed is steady at approximately 700 RPM. During this
5 time the throttle is fixed at 0.4% opening, MAF is fixed at 6.79 gps, MAP is fixed at 38 kPa, and
6 the ignition timing advance for #1 cylinder is fixed at 15 degrees BTDC. After time stamp 20667
7 the engine speed accelerates to approximately 1525 RPM. From the time the engine RPM
8 increases off idle to the higher RPMs, the throttle is fixed at the same 0.4% opening, MAF is
9 fixed at the same 6.79 gps, MAP is fixed at the same 38 kPa, and the ignition timing advance for
10 #1 cylinder is also still fixed at the same 15 degrees BTDC.

11 45. During the entire period the dynamic data was collected, the only parameter that
12 changed was engine RPM. The throttle position, MAF, MAP, and ignition timing advance
13 readings remained unchanged even though the engine speed was increased. These readings are
14 not characteristic or expected for normal engine operation. The discrepancies in the OIS Test
15 Data prove the Data Acquisition Device was not connected to the 2002 Silverado HD being
16 certified, causing the issuance of a fraudulent Smog Check Certificate of Compliance.

17 **Fraudulent Inspection #7**

18 46. I reviewed the OIS Test Data for Chaco Smog Check. The review indicates on
19 October 7, 2024, a 2006 Chevrolet Aveo LT, CA license 5TWV050, VIN KL1TG66656B595276
20 (2006 Aveo), was tested and smog check certificate # JB214900C was issued under licensed
21 Smog Check Technician #EO643670, Soriano.

22 47. The Dynamic OBD Data and Dynamic Data Charts for the 2006 Aveo shows between
23 time stamp 105 and 20994 engine speed is steady at approximately 750 RPM. During this time
24 the throttle is fixed at 18.4% opening, MAP is fixed at 47 kPa, and the ignition timing advance for
25 #1 cylinder is fixed at 1.5 degrees BTDC. After time stamp 20994 the engine speed accelerates to
26 approximately 1500 RPM. From the time the engine RPM increases off idle to the higher RPMs,
27 the throttle is fixed at the same 18.4% opening, MAP is fixed at the same 47 kPa, and the ignition
28 timing advance for #1 cylinder is also still fixed at the same 1.5 degrees BTDC.

1 48. During the entire period the dynamic data was collected, the only parameter that
2 changed was engine RPM. The throttle position, MAP, and ignition timing advance readings
3 remained unchanged even though the engine speed was increased. These readings are not
4 characteristic or expected for normal engine operation. The discrepancies in the OIS Test Data
5 prove the Data Acquisition Device was not connected to the 2006 Aveo being certified, causing
6 the issuance of a fraudulent Smog Check Certificate of Compliance.

7 **Previous Failing Test: 2006 Aveo**

8 49. A previous failing test was performed on the 2006 Aveo at another station on August
9 22, 2024. The 2006 Aveo failed the test for incomplete OBDII readiness monitors. The Dynamic
10 OBDII ID data collected during the test shows the expected change in the throttle, MAP, and
11 ignition timing advance parameters as characteristic or expected for normal engine operation.

12 **Fraudulent Inspection #8**

13 50. I reviewed the OIS Test Data for Chaco Smog Check. The review indicates on
14 October 8, 2024, a 2002 Nissan Altima SE, CA license 6JEC852, VIN 1N4BL11D22C149136
15 (2002 Altima), was tested and smog check certificate # UE447605C was issued under licensed
16 Smog Check Technician #EO643670, Soriano.

17 51. The Dynamic OBD Data and Dynamic Data Charts for the 2002 Altima shows
18 between time stamp 184 and 24575 engine speed is steady at approximately 850 RPM. During
19 this time the throttle is fixed at 0.4% opening, MAF is fixed at 4.54 gps, and the ignition timing
20 advance for #1 cylinder is fixed at 15 degrees BTDC. After time stamp 24575 the engine speed
21 accelerates to approximately 1750 RPM. From the time the engine RPM increases off idle to the
22 higher RPMs, the throttle is fixed at the same 0.4% opening, MAF is fixed at the same 4.54 gps,
23 and the ignition timing advance for #1 cylinder is also still fixed at the same 15 degrees BTDC.

24 52. 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. The discrepancies in the OIS Test Data
28

1 prove the Data Acquisition Device was not connected to the 2002 Altima being certified, causing
2 the issuance of a fraudulent Smog Check Certificate of Compliance.

3 **Previous Failing Test: 2002 Altima**

4 53. A previous failing test was performed on the 2002 Altima at another station on
5 September 3, 2024. The 2002 Altima failed the test for an illuminated MIL and stored OBDII
6 DTCs P0430 and P1564. No dynamic OBDII PID data was collected during the test.

7 **Station Inspection November 5, 2024 / Fraudulent Inspection #9**

8 54. On November 5, 2024, Koch performed a vehicle inspection on a 1996 Ford F-250 at
9 TM Motors, located at 10100 Arlington Ave., Riverside, CA. Koch was accompanied by Bureau
10 Program Representative I, Alex Rodriguez. The vehicle inspection was conducted based on a
11 consumer complaint filed against Chaco Smog Check alleging the F-250 he purchased from the
12 dealership had missing emissions components. Chaco Smog Check and Licensed Inspector
13 Soriano certified the vehicle approximately two months prior to the sale. Although TM Motors
14 purchased the vehicle back from the consumer and the consumer no longer needed the Bureau's
15 assistance, Koch found TM Motors had the vehicle listed for sale on their website. Koch's
16 inspection found the F-250 had missing catalytic converters, air injection system, and EGR
17 system.

18 55. After Koch's inspection, he used the Bureau's database to determine that Respondent
19 Chaco Smog Check initiated an inspection on a 2023 Lamborghini Urus (Urus) at 1146 hours.
20 Chaco Smog Check was located directly next to TM Motors. Koch moved his vehicle to the
21 parking area where Chaco Smog Check was located and parked in an area where he was able to
22 monitor the testing bay. From his location, he could see any vehicles entering or exiting the
23 testing bay.

24 56. Using the Bureau's database, Koch verified the test on the Urus completed at 1152
25 hours and the vehicle was issued a Certificate of Compliance. Rodriguez and he immediately
26 entered the station. When he arrived at the facility, he recognized Soriano present in the test bay.
27 A Kia Soul with TM Motors dealer plates was the only vehicle in the testing bay. Koch did not
28 observe the Urus anywhere at the location.

1 57. Koch questioned Soriano about the Urus he just certified. Soriano admitted the
2 vehicle wasn't present at his station but wouldn't give Koch any information about who he did
3 the inspection for. Soriano was holding the VIR for the test on the Urus, which Koch collected for
4 evidence. Soriano didn't have any invoice for the inspection. As Koch was talking to Soriano, he
5 began walking back to a desk at the rear of the station test bay. Koch followed Soriano and
6 observed an open laptop computer. On the screen of the laptop was an OBDII simulator program
7 running, which Koch photographed. Soriano closed the laptop computer. Sitting on the desk next
8 to the laptop was an OBDII simulator partially concealed in a black box. Koch questioned
9 Soriano about the equipment and who the equipment belonged to. Soriano stated the simulator
10 and computer were his.

11 58. Koch later returned to the Riverside Field Office after his station visit. Koch
12 downloaded test data information from the VID for the test performed at Chaco Smog on the
13 2023 Urus. Koch compared the test data summary to my observations. He observed the following
14 discrepancy:

15 **Fraudulent Inspection #9**

16 59. The OIS Test Details shows on November 5, 2024, between 1146 and 1152 hours, a
17 2023 Lamborghini Urus S, no plate, VIN ZPBUB3ZL4PLA14043, was tested and issued
18 Certificate of Compliance #UE911494C under licensed Smog Check Inspector #EO643670,
19 Soriano. During the time the 2023 Urus was certified, it was not present at the station. No
20 dynamic data was recorded during the inspection.

21 **Fraudulent Inspection #10**

22 60. Koch reviewed the OIS Test Data for Chaco Smog Check. The review indicates on
23 November 18, 2024, a 2004 Acura RSX Type-S, CA License 9LEY564, VIN
24 JH4DC53044S011349 (2004 RSX), was tested and smog check certificate # UG390672C was
25 issued under licensed Smog Check Technician #EO643670, Soriano.

26 61. The Dynamic OBD Data and Dynamic Data Charts for the 2004 RSX shows between
27 time stamp 107 and 16751 engine speed is steady at approximately 800 RPM. During this time
28 the throttle is fixed at 9.8% opening, MAP is fixed at 28 kPa, and the ignition timing advance for

1 #1 cylinder is fixed at 6.5 degrees BTDC. After time stamp 16751 the engine speed accelerates to
2 approximately 2250 RPM. From the time the engine RPM increases off idle to the higher RPMs,
3 the throttle is fixed at the same 9.8% opening, MAP is fixed at the same 28 kPa, and the ignition
4 timing advance for #1 cylinder is also still fixed at the same 6.5 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, MAP, 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. The discrepancies in the OIS Test Data
9 prove the Data Acquisition Device was not connected to the 2004 RSX being certified, causing
10 the issuance of a fraudulent Smog Check Certificate of Compliance.

11 **FIRST CAUSE FOR DISCIPLINE**

12 **(Untrue or Misleading Statements - Respondent Chaco Smog Check)**

13 63. Respondent Chaco Smog Check's registration is subject to disciplinary action
14 pursuant to section 9884.7, subdivision (a)(1), in that Respondents made or authorized statements
15 which they knew or in the exercise of reasonable care should have known to be untrue or
16 misleading, as follows: Respondents certified that the vehicles set forth above in paragraphs 28-
17 62, had passed inspection and were in compliance with applicable laws and regulations. In fact,
18 Respondents conducted the inspections on those vehicles using the clean plugging method in
19 order to issue smog certificates of compliance, and did not test or inspect the vehicles as required
20 by Health and Safety Code section 44012.

21 **SECOND CAUSE FOR DISCIPLINE**

22 **(Fraud - Respondent Chaco Smog Check)**

23 64. Respondent Chaco Smog Check's registration is subject to disciplinary action
24 pursuant to section 9884.7, subdivision (a)(4), in that Respondent Chaco Smog Check's
25 employees committed acts which constitute fraud by issuing electronic certificates of compliance
26 for the vehicles set forth above in paragraphs 28-62, without performing bona fide inspections 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 **THIRD CAUSE FOR DISCIPLINE**

2 **(Failure to Comply with the Motor Vehicle Inspection Program –**
3 **Respondent Chaco Smog Check)**

4 65. Respondent Chaco Smog Check’s smog station license is subject to disciplinary
5 action pursuant to Health and Safety Code section 44072.2, subdivision (a), in conjunction with
6 Health and Safety Code section 44072.10 subdivision (c), in that regarding the vehicles set forth
7 above in paragraphs 28-62, Respondents failed to comply with the following sections of the
8 Health and Safety Code:

9 (a) **Section 44012**: Respondent Chaco Smog Check’s employees failed to ensure that the
10 emission control tests were performed on the vehicles, in accordance with procedures prescribed
11 by the department.

12 (b) **Section 44015**: Respondent Chaco Smog Check’s employees issued electronic
13 certificates of compliance for the vehicles, without ensuring that the vehicles were properly tested
14 and inspected to determine if they were in compliance with Health and Safety Code section
15 44012.

16 **FOURTH CAUSE FOR DISCIPLINE**

17 **(Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection Program -**
18 **Respondent Chaco Smog Check)**

19 66. Respondent Chaco Smog Check’s smog station license is subject to disciplinary
20 action pursuant to Health and Safety Code section 44072.2, subdivision (c), in that regarding the
21 vehicles set forth above in paragraphs 28-62, Respondents failed to comply with the following
22 provisions of the California Code of Regulations, Title 16, as follows:

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

26 (b) **Section 3340.42**: Respondent Chaco Smog Check’s employees failed to conduct the
27 required smog tests and inspections on those vehicles in accordance with the Bureau’s
28 specifications.

1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(Dishonesty, Fraud or Deceit - Respondent Chaco Smog Check)**

3 67. Respondent Chaco Smog Check’s smog station license is subject to disciplinary
4 action pursuant to Health and Safety Code section 44072.2, subdivision (d), in conjunction with
5 Health and Safety Code section 44072.10 subdivision (c), in that regarding the vehicles set forth
6 above in paragraphs 28-62, Respondents employees committed acts involving dishonesty, fraud
7 or deceit whereby another was injured by issuing electronic certificates of compliance for those
8 vehicles without performing bona fide inspections of the emission control devices and systems on
9 the vehicles, thereby depriving the People of the State of California of the protection afforded by
10 the Motor Vehicle Inspection Program.

11 **SIXTH CAUSE FOR DISCIPLINE**

12 **(Violations of the Motor Vehicle Inspection Program – Respondent Soriano)**

13 68. Respondent Soriano’s smog check inspector license is subject to discipline pursuant
14 to Health and Safety Code section 44072.2, subdivision (a), in that regarding the vehicles set forth
15 above in paragraphs 28-62, Respondent Soriano failed to comply with section 44012 of the
16 Health and Safety Code in a material respect, as follows: Respondent Soriano failed to perform
17 the emission control tests on those vehicles in accordance with procedures prescribed by the
18 department.

19 **SEVENTH CAUSE FOR DISCIPLINE**

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

22 69. Respondent Soriano’s smog check inspector license is subject to discipline pursuant
23 to Health and Safety Code section 44072.2, subdivision (c), in that regarding the vehicles set forth
24 above in paragraphs 28-62, Respondent Soriano failed to comply with provisions of the
25 California Code of Regulations, title 16, as follows:

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

1 (b) **Section 3340.41, subdivision (c)**: Respondent Soriano entered false information into
2 the OIS.

3 (c) **Section 3340.42**: Respondent Soriano failed to conduct the required smog tests and
4 inspections on those vehicles in accordance with the Bureau's specifications.

5 **EIGHTH CAUSE FOR DISCIPLINE**

6 **(Dishonesty, Fraud or Deceit - Respondent Soriano)**

7 70. Respondent Soriano's smog check inspector license is subject to discipline pursuant
8 to Health and Safety Code section 44072.2, subdivision (d), in conjunction with Health and
9 Safety Code section 44072.10 subdivision (c), in that regarding the vehicles set forth above in
10 paragraphs 28-62, Respondent Soriano committed acts involving dishonesty, fraud or deceit
11 whereby another was injured by issuing electronic certificates of compliance for those vehicles
12 without performing bona fide inspections of the emission control devices and systems on the
13 vehicles., thereby depriving the People of the State of California of the protection afforded by the
14 Motor Vehicle Inspection Program.

15 **OTHER MATTERS**

16 71. Pursuant to Business & Professions Code section 9884.7, subdivision (c), the Director
17 may suspend, revoke, or place on probation the registration for all places of business operated in
18 this State by Respondent Chaco Smog Check upon a finding that Respondent Chaco Smog Check
19 has, or is, engaged in a course of repeated and willful violations of the laws and regulations
20 pertaining to an automotive repair dealer.

21 72. Pursuant to Health & Safety Code section 44072.8, if Smog Check, Test Only Station
22 License Number TC 306412 issued to Respondent Chaco Smog Check is revoked or suspended
23 following a hearing under this article, any additional license issued under Chapter 5, Part 5,
24 Division 26 in the name of said licensee may be likewise revoked or suspended by the Director.

25 73. Pursuant to Health & Safety Code section 44072.8, if Smog Check Inspector License
26 Number EO 643670, issued to Respondent Soriano, is revoked or suspended following a hearing
27 under this article, any additional license issued under Chapter 5, Part 5, Division 26 in the name
28 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 306412, issued to Brandon A Soriano dba Chaco Smog Check;
- 2. Revoking or suspending any other Automotive Repair Dealer Registration issued to Respondent Brandon A. Soriano;
- 3. Revoking or suspending Smog Check, Test-Only, Station License Number TC 306412, issued to Brandon A Soriano dba Chaco Smog Check;
- 4. Revoking or suspending Smog Check Inspector License Number EO 643670, issued to Brandon Alexander Soriano;
- 5. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code in the name of Respondent Brandon Alexander Soriano;
- 6. Ordering Brandon Alexander Soriano 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,
- 7. Taking such other and further action as deemed necessary and proper.

DATED: As of digital signature date

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

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