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9 **BEFORE THE**
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. 79/26-4407

13 **CHARLIE CAO dba AIR SMOG**
14 **960 S. King Rd. A**
San Jose, CA 95116

ACCUSATION

15 **Automotive Repair Dealer Registration No.**
ARD 309196
16 **Smog Check Test Only Station License No.**
TC 309196,

17 **and**

18 **CHARLIE CAO**
19 **1253 Thornmill Wy**
San Jose, CA 95121

20 **Smog Check Inspector License No. EO**
21 **638256**

22 Respondents.

23
24 **PARTIES**

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

27 2. On or about June 6, 2024, the Bureau issued Automotive Repair Dealer Registration
28 Number ARD 309196 to Respondent Charlie Cao dba Air Smog (Respondent Air Smog).

Respondent Charlie Cao (Respondent Cao) is the owner of Respondent Air Smog. The Automotive Repair Dealer Registration was in full force and effect at all times relevant to the charges brought in this Accusation and will expire on June 30, 2027, unless renewed.

3. On or about August 23, 2024, the Bureau of Automotive Repair issued Smog Check Test Only Station License Number TC 309196 to Respondent Air Smog. The Smog Check Test Only Station License was in full force and effect at all times relevant to the charges brought in this Accusation and will expire on June 30, 2027, unless renewed.

4. On or about June 22, 2015, the Bureau of Automotive Repair issued Smog Check Inspector License Number EO 638256 to Respondent Cao. The Smog Check Inspector License was in full force and effect at all times relevant to the charges brought in this Accusation and will expire on December 31, 2026, unless renewed.

5. On or about January 23, 2026, the Bureau of Automotive Repair certified Air Smog as a STAR Station. The certification will remain active unless the ARD registration and/or Smog Check Station license is revoked, cancelled, become delinquent, or the certification is suspended.

JURISDICTION

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

7. Section 118, subdivision (b), of the Business and Professions Code (Code) provides that the suspension/expiration/surrender/cancellation of a license shall not deprive the Board/Registrar/Director of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

8. Section 9884.13 of the Code provides, in pertinent part, that the expiration of a valid registration shall not deprive the director or chief of jurisdiction to proceed with a disciplinary proceeding against an automotive repair dealer or to render a decision invalidating a registration temporarily or permanently.

9. Section 44002 of the Health and Safety Code provides, in pertinent part, that the Director has all the powers and authority granted under the Automotive Repair Act for enforcing the Motor Vehicle Inspection Program.

10. Section 44072.6 of the Health and Safety Code provides, in pertinent part, that the expiration or suspension of a license by operation of law, or by order or decision of the Director of Consumer Affairs, or a court of law, or the voluntary surrender of the license shall not deprive the Director of jurisdiction to proceed with any investigation of, or action or disciplinary proceedings against the licensee, or to render a decision suspending or revoking the license.

STATUTORY PROVISIONS

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

(a) The director, if the automotive repair dealer cannot show there was a bona fide error, may deny, suspend, revoke, or place on probation 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 that constitutes fraud.

• • •

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

• • •

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

• • •

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

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

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

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

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

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

3 12. Section 44012 of the Health and Safety Code states, in pertinent part:

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

17 . . .

18 13. Section 44032 of the Health and Safety Code states, in pertinent part:

19 No person shall perform, for compensation, tests or repairs of emission control
20 devices or systems of motor vehicles required by this chapter unless the person
21 performing the test or repair is a qualified smog check technician and the test or
22 repair is performed at a licensed smog check station. Qualified technicians shall
23 perform tests of emission control devices and systems in accordance with Section
24 44012.

25 14. Section 44059 of the Health and Safety Code states:

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

15. Section 44072.2 of the Health and Safety Code states:

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, does any of the following:

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

. . .

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

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

injured.

...

///

(h) Violates or attempts to violate the provisions of this chapter relating to the particular activity for which he or she is licensed.

16. Section 44072.8 of the Health and Safety Code states:

When a license has been revoked or suspended following a hearing under this article, any additional license issued under this chapter in the name of the licensee may be likewise revoked or suspended by the director.

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

...

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

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

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

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

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

...

REGULATORY PROVISIONS

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

...

"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.

...

19. California Code of Regulations, title 16, section 3340.24, states, in pertinent part:

(a) Any disciplinary or reinstatement proceeding under this article involving licensed stations, licensed technicians, or fleet owners licensed pursuant to section 44020 of the Health and Safety Code shall be conducted in accordance with chapter 5

(commencing with section 11500) of division 3, Title 2 of the Government Code.

...

(c) 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.

...

20. California Code of Regulations, title 16, section 3340.30, states, in pertinent part:

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

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

21. California Code of Regulations, title 16, section 3340.41, states, in pertinent part:

...

(c) No person shall enter any vehicle identification information or emission control system identification data for any vehicle other than the one being tested into the EIS or OIS. Nor shall any person enter into the EIS or OIS any false information about the vehicle being tested.

...

(h) No licensed station shall have in the approved testing area at any time any electronic device or software capable of simulating the OBD data stream from a vehicle or manipulating OBD VIN, calibration identification, calibration verification number, MIL-status, readiness, or diagnostic trouble codes collected from a vehicle during a Smog Check Inspection.

...

22. California Code of Regulations, title 16, section 3340.42, states, in pertinent part:

Smog check inspection methods are prescribed in the Smog Check Manual, referenced by section 3340.45.

(a) All vehicles subject to a smog check inspection, shall receive one of the following test methods:

...

(3) An OBD-focused test, shall be the test method used to inspect gasoline-powered vehicles 2000 model-year and newer, and diesel-powered vehicles 1998 model-year and newer. The OBD test failure criteria are specified in section 3340.42.2.

(b) In addition to subsection (a), all vehicles subject to the smog check program shall receive the following:

(1) A visual inspection of emission control components and systems to verify the vehicle's emission control systems are properly installed.

(2) A functional inspection of emission control systems as specified in the Smog Check Manual, referenced by section 3340.45, which may include an OBD test, to verify their proper operation.

23. California Code of Regulations, title 16, section 3340.45, states:

All Smog Check inspections shall be performed in accordance with requirements and procedures prescribed in the Smog Check Manual, dated January 2021, which is hereby incorporated by reference.

COST RECOVERY

24. Section 125.3 of the Code provides, in pertinent part, that the 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, with failure of the licensee to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

SMOG PROGRAM AND CLEAN PLUGGING ALLEGATIONS

25. California's Smog Check Program requires the owners of most motor vehicles in California to take and pass a Smog Check inspection and receive a Certificate of Compliance every two years when renewing their registration and also when the vehicle's title is transferred. These inspections are performed by Smog Check inspectors at Smog Check Stations, both of which are licensed by BAR.

26. The Smog Check inspection in certain enhanced areas of the state is an Acceleration Simulation Mode (ASM) test performed using an Emission Inspection System (EIS), also known as a BAR 97. This is a computer-based five-gas analyzer that measures hydrocarbons, carbon monoxide, oxides of nitrogen, carbon dioxide, and oxygen. The inspection involves a test of the vehicle's tailpipe emissions on a dynamometer. In basic areas of the state, or depending on a vehicle's configuration (all-wheel drive, traction control issue), a similar test called a Two Speed

1 Idle (TSI) test is performed, but instead of applying a load to the vehicle's drive wheels with a
2 dynamometer, the EIS measures the emissions at idle as well as 2500 revolutions per minute
3 (RPM).

4 27. The inspector also performs visual and functional tests on the vehicle as outlined in
5 the Smog Check Manual. The visual inspection of the emission control components verifies the
6 required emission control devices are present and properly connected. Functional tests are also
7 performed which, depending on the vehicle, may include checking the ignition timing,
8 malfunction indicator light (MIL), Exhaust Gas Recirculation (EGR) system, a low-pressure test
9 of the evaporative emissions controls (LPFET), a visible smoke test, and a pressure test of the gas
10 cap.

11 28. On March 9, 2015, BAR implemented a statewide regulatory change requiring the use
12 of the On-Board Diagnostic Inspection System (BAR-OIS) instead of the EIS for the smog testing
13 of 2000 model year and newer gas powered and 1998 and newer diesel vehicles. Most older
14 vehicles require the ASM or TSI test on the EIS. Gas powered vehicles with a gross vehicle
15 weight rating over 14,000 pounds require an inspection on the EIS.

16 29. The newer BAR-OIS smog inspection uses a Data Acquisition Device (DAD), a
17 computer, a bar code scanner, and printer. The DAD is a scan tool that retrieves data from a
18 vehicle's On-Board Diagnostic-generation II (OBD II) computer. The DAD connects the BAR
19 OIS computer to the vehicle's diagnostic link connector (DLC) to retrieve the data from the
20 vehicle. The bar code scanner is used to input technician information, the vehicle identification
21 number (VIN), and DMV renewal information. The printer is used to print Vehicle Inspection
22 Reports.

23 30. Data retrieved and recorded during a BAR-OIS smog check includes: the eVIN,
24 which is the digitally stored VIN programmed into the vehicle's Powertrain Control Module
25 (PCM); the communication protocol, which is the manufacturer/vehicle's specific "language" the
26 PCM uses to relay information; and the number of Parameter Identifications (PIDs), which is the
27 number of specific data values each PCM uses related to emissions controls.
28

1 31. As part of the BAR-OIS smog inspections, the technician also performs a visual and
2 functional test on the vehicle being inspected. The visual inspection of the emission control
3 components verifies the required emission control devices are present and properly connected and
4 a functional test is performed of the malfunction indicator light (MIL). The BAR-OIS software
5 makes the determination whether the vehicle passes the inspection based on the results of the
6 OBD, visual and functional tests. If the vehicle passes the inspection a certificate of compliance
7 is issued. The information from the smog inspection is then transmitted to the Vehicle
8 Information Data (VID).

9 32. BAR can access the VID to view test data on smog check inspections performed at
10 any Smog Check Station, or search for, retrieve, and print a test record for a particular vehicle
11 which has been tested.

12 33. BAR has become aware of methods some Smog Check stations and Smog Check
13 inspectors use to issue smog certificates to vehicles that will not pass a Smog Check test on their
14 own, or in some instances, are not even present when the test is performed.

15 34. One method is known as "clean plugging." "Clean plugging" is the act of using one
16 vehicle's properly functioning OBD II system, or another source such as an electronic defeat
17 device, to generate passing data readings or diagnostic information for the purpose of issuing a
18 smog certificate of compliance to a vehicle that is not in smog compliance and/or not being
19 tested. The vehicle being certified is not the one being tested.

20 35. On or about March 2, 2026, a BAR investigator accessed the VID and reviewed smog
21 check data transmitted from Air Smog from January 31, 2026, through February 20, 2026. The
22 investigation revealed Respondent Cao performed smog inspections at Respondent Air Smog's
23 smog check station using clean-plugging methods. Respondent Air Smog's smog check station
24 issued ten certificates of compliance to the clean plugged vehicles.

25 **Clean Plug 1:**

26 36. On or about January 31, 2026, Respondents issued smog certificate number
27 UY335946C to a 2013 Nissan Sentra S. Respondents did not perform a legitimate smog
28

1 inspection on the vehicle. Respondents used an electronic defeat device to cause the OIS to issue
2 a fraudulent certificate of compliance to this vehicle.

3 37. The Dynamic PID charts and data for the 2013 Nissan Sentra S show that, between
4 time stamp 2092 and 25058, the engine RPM was steady at around 850 RPM. During this time
5 the data shows the Throttle Position Sensor (TPS) reading fluctuated between 4.3% opening and
6 0% opening, and the Mass Air flow Sensor (MAF) was steady between 1.94 grams/sec and 2.04
7 grams/sec. After time stamp 25419 to 42027, the engine RPM increased and then held steady at
8 around 1650 RPM. During this time, the TPS fluctuated between 2.4% opening and 3.1% opening
9 and the MAF was steady between 1.96 grams/sec and 2.01 grams/sec. The TPS and MAF should
10 rise when the RPM is increased. The readings should be stable at idle and at the higher RPM, not
11 erratic.

12 **Clean Plug 2:**

13 38. On or about February 2, 2026, Respondents issued smog certificate number
14 VA003722C to a 2007 Chevrolet Suburban C1500. Respondents did not perform a legitimate
15 smog inspection on the vehicle. Respondents used an electronic defeat device to cause the OIS to
16 issue a fraudulent certificate of compliance to this vehicle.

17 39. The Dynamic PID charts and data for the 2007 Chevrolet Suburban C1500 show that
18 between time stamp 2142 and 96320, the engine RPM was steady around 790 RPM. During this
19 time the data shows the TPS reading fluctuated between 15.3% opening and 18% opening, and
20 the MAF was steady between 5.83 grams/sec and 5.91 grams/sec. The MAP fluctuated between
21 36kpa and 41kpa. After time stamp 96742 to 113566, the engine RPM increased and then held
22 steady at around 1550 RPM. During this time, the TPS fluctuated between 14.1% opening and
23 16.1% opening, and the MAF was steady between 5.77 grams/sec and 5.82 grams/sec. The MAP
24 fluctuated between 42kpa and 45kpa. The TPS and MAF readings should rise when the RPM
25 increases. The readings should be stable at idle and at the higher RPM, not erratic.

26 **Clean Plug 3:**

27 40. On or about February 3, 2026, Respondents issued smog certificate number
28 VA003745C to a 2005 Chevrolet Tahoe C1500. Respondents did not perform a legitimate smog

1 inspection on the vehicle. Respondents used an electronic defeat device to cause the OIS to issue
2 a fraudulent certificate of compliance to this vehicle.

3 41. The Dynamic PID charts and data for the 2005 Chevrolet Tahoe C1500 show that
4 between time stamp 360 and 17741, the engine RPM was steady at around 770 RPM. During this
5 time the data shows the TPS rose from 1.2% opening to fixed at 2.7% opening and the MAF
6 fluctuated between 2.89 grams/sec and 4.8 grams/sec. The MAP fluctuated between 19kpa and
7 24kpa. After time stamp 18175, the engine RPM increased then held steady around 1780 RPM.
8 During this time, the TPS varied between 1.2% opening and 2% opening, and the MAF fluctuated
9 between 2.89 grams/sec and 4.69 grams/sec. The MAP fluctuated between 17kpa and 27kpa. The
10 TPS and MAF readings should rise when the RPM increases. The readings should be stable at
11 idle and at the higher RPM, not erratic.

12 **Clean Plug 4:**

13 42. On or about February 4, 2026, Respondents issued smog certificate number
14 VA626907C to a 2006 Toyota Tundra Double Cab SR5. Respondents did not perform a
15 legitimate smog inspection on the vehicle. Respondents used an electronic defeat device to cause
16 the OIS to issue a fraudulent certificate of compliance to this vehicle.

17 43. The Dynamic PID charts and data for the 2006 Toyota Tundra Double Cab SR5 show
18 that between time stamp 2113 and 57490, the engine RPM was steady at around 750 RPM.
19 During this time the data shows the TPS fluctuated between 13.7% opening and 17.3% opening
20 and the MAF was steady between 5.25 grams/sec and 5.13 grams/sec. After time stamp 57927 the
21 RPM increased then held steady at around 1550 RPM. During this time, the TPS fluctuated
22 between 13.3% opening and 18% opening and the MAF was steady between 5.15 grams/sec and
23 5.26 grams/sec. The TPS and MAF reading should increase when the RPM is increased. The
24 readings should be stable at idle and at the higher RPM, not erratic.

25 **Clean Plug 5:**

26 44. On or about February 5, 2026, Respondents issued smog certificate number
27 VA626934C to a 2018 Cadillac XTS Luxury. Respondents did not perform a legitimate smog
28

1 inspection on the vehicle. Respondents used an electronic defeat device to cause the OIS to issue
2 a fraudulent certificate of compliance to this vehicle.

3 45. The Dynamic PID charts and data for the 2018 Cadillac XTS Luxury show that
4 between time stamp 2155 and 24098, the engine RPM was steady at around 780 RPM. During
5 this time the data shows the TPS fluctuated between 13.7% opening and 17.6% opening. The
6 MAF is steady between 2.43 grams/sec and 2.48 grams/sec. The MAP fluctuated between 32kpa
7 and 43kpa. After time stamp 24519 to 41594, the engine RPM increased then held steady at
8 around 1740 RPM. During this time, the TPS fluctuated between 14.5% opening and 12.5%
9 opening, and the MAF was steady at between 2.45 grams/sec 2.53 grams/sec. The MAP
10 fluctuated between 33kpa and 43kpa. The TPS and MAF readings should increase as the RPM is
11 increased. The readings should be stable at idle and at the higher RPM, not erratic.

12 **Clean Plug 6:**

13 46. On or about February 7, 2026, Respondents issued smog certificate number
14 VA764258C to a 2014 Chevrolet Malibu 2LT. Respondents did not perform a legitimate smog
15 inspection on the vehicle. Respondents used an electronic defeat device to cause the OIS to issue
16 a fraudulent certificate of compliance to this vehicle.

17 47. The Dynamic PID charts and data for the 2014 Chevrolet Malibu 2LT show that
18 between time stamp 2115 and 23741, the engine RPM was steady at around 840 RPM. During
19 this time the data shows the TPS decreased from 22.4% opening to 20% opening. The MAF was
20 steady between 2.37 grams/sec and 2.29 grams/sec. The MAP fluctuated between 19kpa and
21 29kpa. After time stamp 24105 to 41206 the RPM increased and was steady around 1570 RPM.
22 During this time, the data shows that the TPS decreased from 21.2% opening to 18.8% opening.
23 The MAF was steady between 2.25 grams/sec and 2.38 grams/sec. The MAP fluctuated between
24 19kpa and 25kpa. The TPS and MAF readings should increase as the RPM is increased. The
25 readings should be stable at idle and at the higher RPM, not erratic.

26 **Clean Plug 7:**

27 48. On or about February 7, 2026, Respondents issued smog certificate number
28 VA764259C to a 2011 Chevrolet Silverado C2500 Heavy Duty. Respondents did not perform a

1 legitimate smog inspection on the vehicle. Respondents used an electronic defeat device to cause
2 the OIS to issue a fraudulent certificate of compliance to this vehicle.

3 49. The Dynamic PID charts and data for the 2011 Chevrolet Silverado C2500 Heavy
4 Duty show that between time stamp 2118 and 21918, the engine RPM was steady at around 875
5 RPM. During this time the data shows the TPS increased from 18.8% opening to 24.3% opening.
6 The MAF was steady between 5.98 grams/sec and 6.01 grams/sec. The MAP fluctuated between
7 39kpa and 44kpa. After time stamp 22346 to 39220, the RPM increased and was steady around
8 1540 RPM. During this time the TPS dropped to 22% opening then increased to 23.9% opening.
9 The MAF was steady between 5.97 grams/sec and 6 grams/sec. The MAP fluctuated between
10 40kpa and 46kpa. The TPS and MAF readings should increase as the RPM is increased. The
11 readings should be stable at idle and at the higher RPM, not erratic. The TPS and MAF had data
12 points at the higher RPM that were lower than data points at idle.

13 **Clean Plug 8:**

14 50. On or about February 11, 2026, Respondents issued smog certificate number
15 JH889535C to a 2007 Toyota Yaris. Respondents did not perform a legitimate smog inspection
16 on the vehicle. Respondents used an electronic defeat device to cause the OIS to issue a
17 fraudulent certificate of compliance to this vehicle.

18 51. The Dynamic PID charts and data for the 2007 Toyota Yaris show that, between time
19 stamp 2152 and 22278, the engine RPM was steady at around 750 RPM. During this time the data
20 shows the TPS fluctuated between 13.3% opening and 17.3% opening and the MAF is steady
21 between 1.63 grams/sec and 1.73 grams/sec. After time stamp 22683, the RPM increased and
22 held around 1600 RPM. During this time the TPS fluctuated between 12.5% opening and 18%
23 opening and the MAF was steady between 1.63 grams/sec and 1.74 grams/sec. The TPS and
24 MAF readings should increase as the RPM is increased. The readings should be stable at idle and
25 at the higher RPM, not erratic.

26 **Clean Plug 9:**

27 52. On or about February 12, 2026, Respondents issued smog certificate number
28 VA906255C to a 2008 Hyundai Sonata GLS. Respondents did not perform a legitimate smog

1 inspection on the vehicle. Respondents used an electronic defeat device to cause the OIS to issue
2 a fraudulent certificate of compliance to this vehicle.

3 53. The Dynamic PID charts and data for the 2008 Hyundai Sonata GLS show that
4 between time stamp 2110 and 21841, the engine RPM is steady at around 860 RPM. During this
5 time the data shows the TPS fluctuated between 12.9% opening and 18% opening, and the MAF
6 is steady between 2.51 grams/sec and 2.55 grams/sec. After time stamp 22248, the RPM
7 increased and held around 1860 RPM. During this time the TPS fluctuated between 12.5%
8 opening and 18% opening and the MAF was steady between 2.42 grams/sec and 2.53
9 grams/sec. The TPS and MAF readings are expected to rise as the RPM is increased. The
10 readings should be stable at idle and at the higher RPM, not erratic.

11 **Clean Plug 10:**

12 54. On or about February 20, 2026, Respondents issued smog certificate number
13 VC054854C to a 2013 Ford Explorer Limited. Respondents did not perform a legitimate smog
14 inspection on the vehicle. Respondents used an electronic defeat device to cause the OIS to issue
15 a fraudulent certificate of compliance to this vehicle.

16 55. The Dynamic PID charts and data for the 2013 Ford Explorer Limited show that
17 between time stamp 2128 and 24907 the engine RPM was steady at around 760 RPM. During this
18 time the data shows the TPS fluctuated between 13.7% opening and 18% opening and the MAF
19 was steady between 2.93 grams/sec and 3.02 grams/sec. After time stamp 25348, the RPM
20 increased and held around 1400 RPM. During this time the TPS fluctuated between 13.7%
21 opening and 15.7% opening and the MAF was steady between 2.89 grams/sec at about 2.99
22 grams/sec. The TPS and MAF readings should increase as the RPM is increased. The readings
23 should be stable at idle and at the higher RPM, not erratic.

24 **FIRST CAUSE FOR DISCIPLINE**

25 **(Untrue or Misleading Statements – Registration)**

26 56. Respondent Air Smog has subjected its Automotive Repair Dealer Registration to
27 discipline under Code section 9884.7, subdivision (a)(1), in that Respondent Air Smog made
28 statements which it knew or which by exercise of reasonable care should have known were untrue

1 or misleading, as set forth above in the Smog Program and Clean Plugging Allegations.

2 Respondent Air Smog purported to test vehicles, and certified that the vehicles passed inspection
3 and were in compliance with applicable laws and regulations. In fact, Respondent conducted the
4 inspections on those vehicles using clean-plugging methods.

5 **SECOND CAUSE FOR DISCIPLINE**

6 **(Fraud – Registration)**

7 57. Respondent Air Smog has subjected its Automotive Repair Dealer Registration to
8 discipline under Code section 9884.7, subdivision (a)(4), in that it committed acts which
9 constitute fraud, as set forth above in the Smog Program and Clean Plugging Allegations.

10 **THIRD CAUSE FOR DISCIPLINE**

11 **(False or Misleading Records – Registration)**

12 58. Respondent Air Smog subjected its Automotive Repair Dealer Registration to
13 discipline under Code section 9884.7, subdivision (a)(6), in that it violated California Code of
14 Regulations, title 16, section 3373, by creating and issuing false or misleading certificates of
15 compliance and vehicle inspection reports for the vehicles that were clean plugged as set forth
16 above in the Smog Program and Clean Plugging Allegations. The certificates and inspection
17 reports indicated the vehicles were tested in accordance with all Bureau requirements and the
18 vehicles were qualified to receive certificates of compliance. This was false as the vehicles were
19 clean plugged.

20 **FOURTH CAUSE FOR DISCIPLINE**

21 **(Dishonesty, Fraud or Deceit – Smog Station License)**

22 59. Respondent Air Smog has subjected its Smog Check Station License to discipline
23 under Health and Safety Code sections 44072.10, subdivision (c), and/or 44072.2, subdivision
24 (d), in that it committed acts involving dishonesty, fraud or deceit, whereby another was injured
25 by issuing electronic certificates of compliance for vehicles without performing bona fide
26 inspections of the emission control devices and systems on the vehicles, thereby depriving the
27 People of the State of California of the protection afforded by the Motor Vehicle Inspection
28 Program.

1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(Violation of the Motor Vehicle Inspection Program- Smog Station License)**

3 60. Respondent Air Smog has subjected its Smog Check Station License to discipline
4 under Health and Safety Code sections 44072.10 and/or 44072.2, subdivisions (a) and (c), in that
5 it violated sections of that Code and applicable regulations, through conduct described in the
6 Smog Program and Clean Plugging Allegations, as follows:

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

9 b. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued
10 electronic certificates of compliance to certain vehicles without performing bona fide inspections
11 of the emission control devices and systems on those vehicles.

12 c. **Section 3340.41, subdivision (c):** Respondent entered false information about
13 vehicles being tested into OIS.

14 d. **Section 3340.42:** Respondent failed to conduct the required smog tests and
15 inspections on certain vehicles in accordance with the Bureau's specifications.

16 e. **Section 3340.45:** Respondent violated the procedures contained in the Smog Check
17 Manual by entering vehicle identification information for a vehicle that was not being tested.

18 **SIXTH CAUSE FOR DISCIPLINE**

19 **(Dishonesty, Fraud or Deceit – Smog Check Inspector License)**

20 61. Respondent Cao has subjected his Smog Check Inspector License to discipline under
21 Health and Safety Code sections 44072.10, subdivision (c), and/or 44072.2, subdivision (d), in
22 that he committed acts involving dishonesty, fraud or deceit, whereby another was injured by
23 issuing electronic certificates of compliance for vehicles without performing bona fide
24 inspections of the emission control devices and systems on the vehicles, thereby depriving the
25 People of the State of California of the protection afforded by the Motor Vehicle Inspection
26 Program. Respondent Cao participated in clean-plugging as set forth above in the Smog Program
27 and Clean Plugging Allegations above.

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1 **SEVENTH CAUSE FOR DISCIPLINE**

2 **(Violation of the Motor Vehicle Inspection Program- Smog Check Licenses)**

3 62. Respondent Cao has subjected his Smog Check Inspector License to discipline under
4 Health and Safety Code sections 44072.10 and/or 44072.2, subdivisions (a) and (c), in that he
5 violated sections of that Code and applicable regulations, through conduct described in the Smog
6 Program and Clean Plugging Allegations, as follows:

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

9 b. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued
10 electronic certificates of compliance to certain vehicles without performing bona fide inspections
11 of the emission control devices and systems on those vehicles.

12 c. **Section 3340.30, subdivision (a):** Respondent failed to inspect the vehicles in
13 accordance with Health and Safety Code section 44012 and California Code of Regulations, title
14 16, section 3340.42.

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

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

19 f. **Section 3340.45** Respondent violated the procedures contained in the Smog Check
20 Manual by entering vehicle identification information for a vehicle that was not being tested.

21 g. **Section 44059:** Respondent willfully made false statements in issuing the Smog
22 Certificates of compliance and on the Vehicle Inspection Reports.

23 **OTHER MATTERS**

24 63. Pursuant to Code section 9884.7, subdivision (c), the Director may suspend, revoke,
25 or place on probation the registration for all places of business operated in this state by
26 Respondent Air Smog, upon a finding that Respondent Air Smog has, or is, engaged in a course
27 of repeated and willful violations of the laws and regulations pertaining to an automotive repair
28 dealer.

64. Pursuant to Health & Safety Code section 44072.8, if Respondent Air Smog's Smog Check Station License is revoked or suspended, 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.

65. Pursuant to Health & Safety Code section 44072.8, if Respondent Cao's Smog Check Inspector License is revoked or suspended, 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 alleged in this Accusation, 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 309196, issued to Charlie Cao dba Air Smog;

2. Revoking or suspending Smog Check Test Only Station License Number TC 309196,
issued to Charlie Cao dba Air Smog;

3. Revoking or suspending any other automotive repair dealer registration issued to Charlie Cao;

4. Revoking or suspending Smog Check Inspector License Number EO 638256, issued to Charlie Cao;

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 Charlie Cao;

6. Ordering Charlie Cao 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.

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DATED: As of Digital Signature Date

Dorais,
Patrick@DCA

Digitally signed by Dorais,
Patrick@DCA
Date: 2026.08.19 12:56:13
-07'00'

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

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