

1 ROB BONTA  
Attorney General of California  
2 ARMANDO ZAMBRANO  
Supervising Deputy Attorney General  
3 JENNIFER M. CASEY  
Deputy Attorney General  
4 State Bar No. 236200  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 269-6204  
6 E-mail: Jennifer.Casey@doj.ca.gov  
*Attorneys for Complainant*  
7

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:

13 **EL TOPO SMOG CHECK, OSCAR**  
14 **ALVARADO-VASQUEZ, OWNER**  
15 **38426 12<sup>TH</sup> STREET EAST**  
16 **PALMDALE, CA 93550**

17 **Automotive Repair Dealer Registration No.**  
18 **ARD 310365**

19 **Smog Check, Test-Only, Station License No.**  
20 **TC 310365**

21 **and**

22 **OSCAR SOTO**  
23 **P.O. BOX 9792**  
24 **NORTH HOLLYWOOD, CA 91609**

25 **Smog Check Inspector License No. EO**  
26 **641525**

27 Respondents.

Case No. 79/25-13125

OAH No.

**ACCUSATION**

28 **PARTIES**

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

///

2. On or about October 3, 2024, the Bureau of Automotive Repair issued Automotive Repair Dealer Registration Number ARD 310365 to Oscar Alvarado-Vasquez, dba El Topo Smog Check (Respondent). The Automotive Repair Dealer Registration was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2026, unless renewed.

3. On or about November 8, 2024, the Bureau of Automotive Repair issued Smog Check, Test-Only, Station License Number TC 310365 to Oscar Alvarado-Vasquez, dba El Topo Smog Check (Respondent). The Smog Check, Test-Only, Station License was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2026, unless renewed.

4. On or about January 22, 2025, the Bureau of Automotive Repair issued STAR Station Certification to Respondent El Topo Smog Check. The STAR Station Certified was in full force and effect at all times relevant to the charges brought herein and will remain active unless the ARD and/or Smog Check Station licenses are revoked, cancelled, become delinquent or certification is suspended.

5. On or about November 9, 2018, the Bureau of Automotive Repair issued Smog Check Inspector License Number EO 641525 to Oscar Soto (Respondent). The Smog Check Inspector License was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2027, unless renewed.

## 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 9884.7 of the Code provides that the Director may revoke an automotive repair dealer registration.

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

9. Health and Safety Code section 44002 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. Health and Safety Code section 44072.6 provides, in pertinent part, that the expiration or suspension of a license by operation of law, or the voluntary surrender of the license shall not deprive the Director of jurisdiction to proceed with disciplinary action.

## STATUTORY PROVISIONS

11. Section 9884.7 of the Code states:

(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.

12. Section 9884.11 of the Code states:

Each automotive repair dealer shall maintain any records that are required by regulations adopted to carry out this chapter. Those records shall be open for reasonable inspection by the chief or other law enforcement officials. All of those records shall be maintained for at least three years.

13. Section 9889.22 of the Code states:

The willful making of any false statement or entry with regard to a material matter in any oath, affidavit, certificate of compliance or noncompliance, or application form which is required by this chapter or Chapter 5 (commencing with Section 44000) of Part 5 of Division 26 of the Health and Safety Code constitutes perjury and is punishable as provided in the Penal Code.

///

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

2  
34  
5

6

8

10

11

13

14

15

16  
17  
18

19

21  
22

23

24

25

26

27

28

18. Section 44012 of the Health and Safety Code states:

The test at the smog check stations shall be performed in accordance with procedures prescribed by the department and may require loaded mode dynamometer testing in enhanced areas, two-speed idle testing, testing utilizing a vehicle's onboard diagnostic system, or other appropriate test procedures as determined by the department in consultation with the state board. The department shall implement testing using onboard diagnostic systems, in lieu of loaded mode dynamometer or two-speed idle testing, on model year 2000 and newer vehicles only, beginning no earlier than January 1, 2013, and on model-year 1996-1999, inclusive, vehicles only, beginning January 1, 2025. However, the department, in consultation with the state board, may prescribe alternative test procedures that include loaded mode dynamometer or two-speed idle testing for vehicles with onboard diagnostic systems that the department and the state board determine exhibit operational problems. The department shall ensure, as appropriate to the test method, the following:

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

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

(c) For other than diesel-powered vehicles, the vehicle's exhaust emissions of hydrocarbons, carbon monoxide, carbon dioxide, and oxides of nitrogen in an idle mode or loaded mode are tested in accordance with procedures prescribed by the department. In determining how loaded mode and evaporative emissions testing shall be conducted, the department shall ensure that the emission reduction targets for the enhanced program are met.

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

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

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

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

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

///

///

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

19. Section 44015 of the Health and Safety Code states:

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

20. Section 44032 of the Health and Safety Code states:

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

21. Section 44059 of the Health and Safety Code states:

The willful making of any false statement or entry with regard to a material matter in any oath, affidavit, certificate of compliance or noncompliance, or 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.

22. Section 44072.10 of the Health and Safety Code states:

(c) The department shall revoke the license of any smog check technician or station licensee who fraudulently certified 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 gassing, 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 fail an inspection.

### **REGULATORY PROVISIONS**

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

(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.

24. California Code of Regulations, title 16, section 3340.15, provides, in pertinent part:

A smog check station shall meet the following requirements for licensure and shall comply with these requirements at all times while licensed.

...

///

(e) The station shall make, keep secure, and have available for inspection on request of the Bureau, or its representative, legible records showing the station's transactions as a licensee for a period of not less than three years after completion of any transaction to which the records refer. All records shall be open for reasonable inspection and/or reproduction by the Bureau or its representative. Station records required to be maintained shall include copies of:

...

(2) Repair orders relating to the inspection and repair activities, and

(3) Vehicle inspection reports generated either manually or by the emissions inspection system.

The above listed station records shall be maintained in such a manner that the records for each transaction are kept together, so as to facilitate access to those records by the Bureau or its representative. In this regard, the second copy of an issued certificate shall be attached to the final invoice record.

25. California Code of Regulations, title 16, section 3340.30 provides, in pertinent part:

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

(a) Inspect, test and repair vehicles, as applicable 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.

26. California Code of Regulations, title 16, section 3340.35 provides, in pertinent part:

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

27. California Code of Regulations, title 16, section 3340.41 provides, 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.

### **COST RECOVERY**

28. 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

1 enforcement of the case, with failure of the licensee to comply subjecting the license to not being  
2 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be  
3 included in a stipulated settlement.

#### 4 **FACTUAL ALLEGATIONS**

5 29. Beginning March 9, 2015, California's Smog Check Program was updated to require  
6 the use of an On-Board Diagnostic Inspection System (OIS). OIS is the Smog Check equipment  
7 required in all areas of the State when inspecting most model-year 2000 and newer gasoline and  
8 hybrid vehicles and most 1998 and newer diesel vehicles. The system consists of a certified Data  
9 Acquisition Device (DAD), computer, bar code scanner, and printer. The DAD is an On-Board  
10 Diagnostic (OBD) scan tool that, when requested by the California OIS software, retrieves OBD  
11 data from the vehicle. All OBD data that the vehicle indicates it supports is requested by the  
12 California OIS software and will be retrieved. The DAD connects between the OIS computer and  
13 the vehicle's Data Link Connector (DLC). The California OIS software requires a continuous  
14 Internet connection when performing a Smog Check inspection and the OIS software  
15 communicates with Bureau's central database through the Internet connection. The bar code  
16 scanner is used to input technician information, the vehicles identification number (VIN), and  
17 Department of Motor Vehicles (DMV) renewal information. The printer provides a Vehicle  
18 Inspection Report (VIR) containing inspection results for motorists and a Smog Check Certificate  
19 of Compliance number for passing vehicles.

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

25 31. During an OIS inspection, engine operating parameters are retrieved from the  
26 vehicle's OBD II system and recorded to the VID. This is accomplished during the functional  
27 portion of the OIS Smog Check inspection by plugging the DAD into the vehicle's DLC when  
28 prompted by the OIS analyzer screen prompt. Some of the parameters recorded are: (1) engine



1 speed in revolutions per minute (RPM); (2) throttle position as measured by a throttle position  
2 sensor (TPS) mounted onto the throttle shaft, measured in a percentage of opening from 0% at  
3 idle and near or up to 100% at full throttle; (3) manifold absolute pressure as measured by a  
4 manifold absolute pressure sensor (MAP) connected to an intake manifold source, measured in  
5 kilo pascals (kpa). Typical readings for a normally aspirated vehicle are 0 kpa being absolute  
6 vacuum, 25kpa to 45kpa at idle, 101 kpa at full throttle, same as atmospheric pressure at sea  
7 level; and (4) mass air flow as measured by a mass air flow sensor (MAF) mounted in the  
8 engine's air intake tract, measured in grams per second (gps).

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

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

24 34. If the vehicle passes the visual, functional and tailpipe tests, it passes the overall  
25 inspection, and a Certificate of Compliance is issued and transmitted electronically to the VID.  
26 Each Certificate of Compliance has a unique control number so that it can be tracked to determine  
27 which Smog Check Station purchased the Certificate of Compliance and to which vehicle it was  
28 issued.

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

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

18           37. The Bureau has become aware of methods some Smog Check stations and Smog  
19 Check inspectors use to fraudulently issue smog certificates to vehicles that will not pass a Smog  
20 Check test on their own, or in some instances, are not even present during the time the test is  
21 performed. One method is known as "clean plugging." "Clean plugging" is a method by which  
22 another vehicle's properly functioning OBD II system, or another source such as defeat devices,  
23 are used to generate passing data readings or diagnostic information for the purpose of  
24 fraudulently issuing smog certificates to vehicles that are not in smog compliance and or not  
25 present for testing. Defeat devices attempt to simulate engine operation during a Smog Check  
26 inspection by transmitting OBD II data to the VID which has been modified or replaced entirely  
27 for the purportedly inspected vehicle during the functional portion of the OIS inspection. The use  
28 of a defeat device during a Smog Check inspection is clean plugging and is strictly prohibited.

38. A Bureau representative investigated and reviewed OIS test data for the smog check inspection performed at El Topo Smog Check from July 22, 2023 through June 18, 2025. The investigation revealed that data related to certain vehicles certified by Respondents contained a pattern of vehicles being certified with improbable engine operating parameters not corresponding to normal engine operation, confirming the vehicles receiving smog certificates were not tested during the OBD II functional test. This constitutes clean plugging, as follows:

**Clean Plug # 1**

39. On or about January 7, 2025, a 2000 Chevrolet Express G1500, VIN 1GBFG15R2Y1270635, CA license 4PFF792, was tested and smog certificate UG191462C was issued under the license of Smog Check Inspector EO 641525, Respondent Soto.

40. The Dynamic PID charts and data for the 2000 Chevrolet Express G1500 shows that between time stamp 336 and 18530, the engine RPM is steady at around 615 RPM. During this time, the TPS reading is erratic, fluctuating between 0.4% and 3.9%, the MAF is erratic, fluctuating between 3.5 grams/sec and 4.49 grams/sec, and the MAP is erratic, fluctuating between 28 kPa, and 16 kPa. After time stamp 21651, the engine RPM is increased and erratic, fluctuating between 1995 RPM and 1379 RPM. During this time, the data shows the TPS is erratic, rising from 2% to 4.3% then drops to 0.8% opening, the MAP is erratic, fluctuating between 4.97 grams/sec to 2.86 grams/sec., and the MAP is erratic, dropping from 21 kPa to 17 kPa.

41. The TPS and MAF should rise when the RPM is increased. The MAP should descend as the RPM is increased. The TPS, MAF and MAP readings are not characteristic or expected for normal engine operation. The discrepancies in the OIS Test Data prove the OIS Data Acquisition Device (DAD) was not connected to the 2000 Chevrolet Express G1500 being certified, causing issuance of a fraudulent Smog Certificate of Compliance.

**Clean Plug # 2**

42. On or about January 21, 2025, a 2000 Chevrolet Silverado C1500, VIN 1GCEC19T3YZ339309, CA license 89570B1, was tested and smog certificate UG191467C was issued under the license of Smog Check Inspector EO 641525, Respondent Soto.

43. The Dynamic PID charts and data for the 2000 Chevrolet Silverado C1500 shows that between time stamp 352 and 19554, the engine RPM is steady at around 530 RPM. During this time, the TPS reading is erratic, fluctuating between 1.2% and 5.5%, the MAF is erratic, fluctuating between 3.22 grams/sec and 4.25 grams/sec, and the MAP is erratic, fluctuating between 46 kPa, and 32 kPa. After time stamp 22110, the engine RPM is increased and erratic, fluctuating between 2141 RPM and 1466 RPM. During this time, the data shows the TPS is descending from 3.9% to 0.8% opening, the MAF is erratic, fluctuating between 4.49 grams/sec to 2.82 grams/sec., and the MAP is erratic, dropping from 46 kPa to 32 kPa.

44. The TPS and MAF readings should rise when the RPM increases. The readings should be stable at idle and at the higher RPM, not erratic. The MAP should be stable at idle and descend as the RPM is increased. The TPS, MAP, and MAF readings are not characteristic or expected for normal engine operation. The MAP should be stable at idle and descend as the RPM is increased. The discrepancies in the OIS Test Data prove the OIS Data Acquisition Device (DAD) was not connected to the 2000 Chevrolet C1500 being certified, causing the issuance of a fraudulent Smog Certificate of Compliance.

### **Clean Plug # 3**

45. On or about March 12, 2025, a 2000 Chevrolet Express G2500, VIN 1GCFG25W2Y1158618, CA license 52420C1, was tested and smog certificate UK559873C was issued under the license of Smog Check Inspector EO 641525, Respondent Soto.

46. The Dynamic PID charts and data for the 2000 Chevrolet Express G2500 shows that between time stamp 361 and 42875, the engine RPM is steady at around 725 RPM. During this time, the TPS reading is fixed at 0.4% opening, the MAP is fixed at 59 kPa, and the MAF is fixed at 2.42 grams/sec. After time stamp 45963, the engine RPM is increased and then held steady at around 2000 RPM. During this time the TPS descends from 2% to 0%, the MAP descends from 57 kPa to 53 kPa, then rises to 57 kPa. The MAF descends from 2.44 grams/sec to 0.16 grams/sec.

47. The TPS and MAF readings should rise when the RPM increases. The MAP should descend steadily as the RPM is increased. The readings should be stable at idle and at the higher

1 RPM not erratic. The TPS, MAP, and MAF readings are not characteristic or expected for normal  
2 engine operation. The MAP should be stable at idle and descend as the RPM is increased. The  
3 discrepancies in the OIS Test Data prove the OIS Data Acquisition Device was not connected to  
4 the 2000 Chevrolet Express G2500, causing the issuance of a fraudulent Smog Certificate of  
5 Compliance.

6 **Clean Plug # 4**

7 48. On or about March 13, 2025, a 2001 GMC Yukon XL C1500, VIN  
8 3GKEC16TX1G215231, CA license 8GQE650, was tested and smog certificate UK559879C was  
9 issued the license of Smog Check Inspector EO 641525, Respondent Soto.

10 49. The Dynamic PID charts and data for the 2001 GMC Yukon XL C1500 shows that  
11 between time stamp 371 and 19009, the engine RPM is steady at around 525 RPM. During this  
12 time the TPS descends from 10.2% to 7.5%, the MAF descends from 4.54 grams/sec to 4.13  
13 grams/sec. then rises to 5.07 grams/sec. and the MAP is erratic, fluctuating between 45 kPa and  
14 32 kPa. After time stamp 20559, the RPM is increased and is fluctuating between 1554 RPM and  
15 2217 RPM. During this time, the data shows that the TPS descends from 10.2% to 6.3%, the  
16 MAF is erratic fluctuating between 5.01 grams/sec to 3.91 grams/sec, and the MAP is erratic,  
17 fluctuating between 45 kPa and 34 kPa.

18 50. The TPS and MAF reading should increase when the RPM is increased. The MAP  
19 reading should descend when the RPM is increased. The readings should be stable at idle and at  
20 the higher RPM, not erratic. The TPS, MAP, and MAF readings are not characteristic or expected  
21 for normal engine operation. The discrepancies in the OIS Test Data prove the OIS Data  
22 Acquisition Device was not connected to the 2001 GMC Yukon XL C1500 being certified,  
23 causing the issuance of a fraudulent Smog Certificate of Compliance.

24 **Clean Plug # 5**

25 51. On or about March 13, 2025, a 2002 Ford Econoline E250, VIN  
26 1FTNS24L52HA07157, CA license 6U19681, was tested and smog certificate UK559892C was  
27 issued the license of Smog Check Inspector EO 641525, Respondent Soto.

1           52. The Dynamic PID charts and data for the 2002 Ford Econoline E250 shows that  
2 between time stamp 30788 and 59489, the engine RPM is steady at around 750 RPM. During this  
3 time the TPS is fixed at 23.5% opening, and the MAF is fixed at 5.92 grams/sec. After time stamp  
4 59867 the engine RPM is steady at around 1630 RPM. During this time, the TPS reading is still  
5 fixed at 23.5% opening, and the MAF still fixed at 5.92 grams/sec.

6           53. The TPS and MAF readings should increase as the RPM is increased. The readings  
7 should be stable at idle and at the higher RPM. The readings are not characteristic or expected for  
8 normal engine operation. The discrepancies in the OIS Test Data prove the OIS Data Acquisition  
9 Device was not connected to the 2002 Ford Econoline E250 being certified, causing the issuance  
10 of a fraudulent Smog Certificate of Compliance.

11           **Clean Plug # 6**

12           54. On or about March 20, 2025, a 2004 Ford Econoline E350 Super Duty Van, VIN  
13 1FTSS34L84HB39244, CA license 00959S2, was tested and smog certificate JD772170C was  
14 issued the license of Smog Check Inspector EO 641525, Respondent Soto.

15           55. The Dynamic PID charts and data for the 2004 Ford Econoline E350 Super Duty Van  
16 shows that between time stamp 344 and 19300, the engine RPM is steady at around 600 RPM.  
17 During this time the TPS fluctuates between 24.3% to 20%, and the MAF fluctuates between 4.95  
18 grams/sec. to 2.83 grams/sec. After time stamp 20396, the RPM is increased and is erratic  
19 between 1545 RPM and 1950 RPM. During this time, the TPS fluctuates between 23.5% to  
20 19.2%. The MAF is erratic first descending from 5.02 grams/sec to 2.83 grams/sec.

21           56. The TPS and MAF readings are expected to be stable at idle and at the higher RPM.  
22 The TPS reading at the higher RPM should not be below the initial readings at idle. The MAF  
23 readings at higher RPM should be above the initial readings at idle. The TPS and MAF readings  
24 are not characteristic or expected for normal engine operation. The discrepancies in the OIS Test  
25 Data prove the OIS Data Acquisition Device was not connected to the 2004 Ford Econoline E350  
26 Super Duty Van being certified, causing the issuance of a fraudulent Smog Certificate of  
27 Compliance.

28           **Clean Plug # 7**

1           57. On or about March 27, 2025, a 2004 Dodge Ram 1500 ST, VIN  
2 1D7HA18N04S704933, CA license 79643C1, was tested and smog certificate JD772181C was  
3 issued the license of Smog Check Inspector EO 641525, Respondent Soto.

4           58. The Dynamic PID charts and data for the 2004 Dodge Ram 1500 ST shows that  
5 between time stamp 350 and 21295, the engine RPM is steady at around 625 RPM. During this  
6 time the TPS is erratic, fluctuating between 13.3% and 17.6% and the MAP rises from 17 kPa to  
7 28 kPa. After time stamp 22774, the RPM is increased and is erratic, fluctuating between 1904  
8 and 1447 RPM. During this time the TPS fluctuates between 13.7% to 17.6%. The MAP reading  
9 is erratic, fluctuating between 17 kPa and 28 kPa.

10          59. The TPS readings should rise when the RPM increases. The readings should be stable  
11 at idle and at the higher RPM, not erratic. The TPS and MAP readings are not characteristic or  
12 expected for normal engine operation. The discrepancies in the OIS Test Data prove the OIS Data  
13 Acquisition Device was not connected to the 2004 Dodge Ram 1500 ST being certified, causing  
14 the issuance of a fraudulent Smog Certificate of Compliance.

15           **Clean Plug # 8**

16          60. On or about April 11, 2025, a 2002 Chevrolet Tahoe K1500, VIN  
17 1GNEK13T82J147179, CA license 9HJP308, was tested and smog certificate JD772192C was  
18 issued the license of Smog Check Inspector EO 641525, Respondent Soto.

19          61. The Dynamic PID charts and data for the 2002 Chevrolet Tahoe K1500 shows that  
20 between time stamp 342 and 19484, the engine RPM is steady at around 550 RPM. During this  
21 time the TPS reading is 2% to 2.4%, the MAF fluctuates between 3.76 grams/sec to 4.22  
22 grams/sec, the MAP descends from 37 kPa to 32 kPa, then rises again to 33 kPa. After time stamp  
23 22754, the RPM is increased and held around 1800 RPM. During this time the TPS fluctuates  
24 from 0.4% to 1.2%. The MAF is rises from 3.71 grams/sec. to 4.45 grams/sec, then descends to  
25 3.37 grams/sec. The MAP rises from 44 kPa to 46 kPa, then descends to 39 kPa.

26          62. The TPS and MAF readings should rise when the RPM increases. The readings  
27 should be stable at idle and at the higher RPM, not erratic. The TPS, MAF and MAP readings are  
28 not characteristic or expected for normal engine operation. The discrepancies in the OIS Test

1 Data prove the OIS Data Acquisition Device was not connected to the 2002 Chevrolet Tahoe  
2 K1500 being certified, causing the issuance of a fraudulent Smog Certificate of Compliance.

3 ///

4 **Clean Plug # 9**

5 63. On or about April 24, 2025, a 2003 Chevrolet Silverado C2500 Heavy Duty, VIN  
6 1GCHC24U23E242864, CA license 93637J3, was tested and smog certificate JD772195C was  
7 issued the license of Smog Check Inspector EO 641525, Respondent Soto.

8 64. The Dynamic PID charts and data for the 2003 Chevrolet Silverado C2500 Heavy  
9 Duty shows that between time stamp 383 and 21940, the engine RPM is steady at around 575  
10 RPM. During this time the TPS descends from 11.8% to 9.8%, the MAP rises from 36 kPa to 43  
11 kPa, and the MAF rises from 5.29 grams/sec to 6.77 grams/sec. After time stamp 23577, the RPM  
12 is increased and erratic, fluctuating from 2154 RPM to 1456 RPM. During this time the TPS  
13 fluctuates between 11% and 6.3%, the MAP descends from 40 kPa to 35 kPa, then rises 45 kPa,  
14 and the MAF fluctuates between 7.13 grams/sec. to 6.56 grams/sec.

15 65. The TPS and MAF readings are expected to rise as the RPM is increased. The MAP  
16 readings should descend as the RPM is increased. The readings should be stable at idle and at the  
17 higher RPM, not erratic. The erratic TPS, MAP, and MAF readings are improbable and not  
18 characteristic or expected for normal engine operation. The discrepancies in the OIS Test Data  
19 prove the OIS Data Acquisition Device (DAD) was not connected to the 2003 Chevrolet  
20 Silverado C2500 Heavy Duty being certified, causing the issuance of a fraudulent Smog  
21 Certificate of Compliance.

22 **Clean Plug # 10**

23 66. On or about June 12, 2025, a 2000 Chevrolet Silverado C1500, VIN  
24 2GCEC19V9Y1334836, CA license 6H46327, was tested and smog certificate UQ575957C was  
25 issued the license of Smog Check Inspector EO 641525, Respondent Soto.

26 67. The Dynamic PID charts and data for the 2000 Chevrolet Silverado C1500 shows that  
27 between time stamp 339 and 18938, the engine RPM is steady at around 580 RPM. During this  
28 time, the TPS rises from 3.1% to 5.5% then descends to 5.1%, the MAP rises from 98 to 105 kPa



1 then descends to 102 kPa, and the MAF rises from .47 grams/sec to 2.13 grams/sec. then descends  
2 to 1.02 gram/sec. After time stamp 21337, the RPM is increased then held steady at around 2040  
3 RPM. During this time the TPS fluctuates between 0% and 4.7%, the MAP descends from 104  
4 kPa to 97 kPa, then rises again to 105 kPa. The MAF fluctuates between 0.86 gram/sec. to 2.34  
5 grams/sec.

6 68. The TPS and MAF readings should rise when the RPM increases. The readings  
7 should be stable at idle and at the higher RPM, not erratic. The MAP should stable at idle and at  
8 higher RPM. The TPS, MAP, and MAF readings are not characteristic or expected for normal  
9 engine operation. The discrepancies in the OIS Test Data prove the OIS Data Acquisition Device  
10 was not connected to the 2000 Chevrolet Silverado C1500 being certified, causing the issuance of  
11 a fraudulent Smog Certificate of Compliance.

#### 12 **FIRST CAUSE FOR DISCIPLINE**

##### 13 **(Untrue or Misleading Statements – Respondent El Topo Smog Check)**

14 69. Respondent is subject to disciplinary action under Code section 9884.7, subdivision  
15 (a)(1), in that, with respect to the vehicles identified above, Respondent El Topo Smog Check  
16 made or authorized statements which they knew, or in the exercise of reasonable care should have  
17 known to be untrue or misleading, as follows: Respondent El Topo Smog Check certified that  
18 these vehicles had passed inspection and were in compliance with applicable laws and  
19 regulations, when in fact, Respondent El Topo Smog Check conducted the inspections on the  
20 vehicles using the clean plugging method in order to issue smog certificates of compliance for the  
21 vehicles. Complainant refers to, and by this reference incorporates, the allegations set forth in  
22 paragraphs 29-68 as though fully set forth herein.

#### 23 **SECOND CAUSE FOR DISCIPLINE**

##### 24 **(Fraud – Respondent El Topo Smog Check )**

25 70. Respondent is subject to disciplinary action under Code section 9884.7(a)(4), in that,  
26 with respect to the vehicles identified above, Respondent El Topo Smog Check committed acts  
27 which constitute fraud by issuing electronic smog certificates of compliance for these vehicles  
28 without performing bona fide inspections of the emissions control devices and systems on those

1 vehicles, thereby depriving the People of the State of California of the protection afforded by the  
2 Motor Vehicle Inspection Program. Complainant refers to, and by this reference incorporates, the  
3 allegations set forth above in paragraphs 29-68, as though fully set forth herein.

### 4 **THIRD CAUSE FOR DISCIPLINE**

#### 5 **(Material Violation of Automotive Repair Act – Respondent El Topo Smog Check)**

6 71. Respondent is subject to disciplinary action under Code section 9884.7(a)(6), in that,  
7 with respect to the vehicles identified above, Respondent El Topo Smog Check failed in a  
8 material respect to comply with the provisions of this chapter or regulations adopted pursuant to it  
9 by issuing electronic smog certificates of compliance for these vehicles without performing bona  
10 fide inspections of the emissions control devices and systems on those vehicles, thereby depriving  
11 the People of the State of California of the protection afforded by the Motor Vehicle Inspection  
12 Program. Complainant refers to, and by this reference incorporates, the allegations set forth above  
13 in paragraphs 29-68, as though fully set forth herein.

### 14 **FOURTH CAUSE FOR DISCIPLINE**

#### 15 **(Violations of the Motor Vehicle Inspection Program – Respondent El Topo Smog Check)**

16 72. Respondent is subject to disciplinary action under Health and Safety Code section  
17 4407.2.2 (a), in that, with respect to the vehicles identified above, Respondent El Topo Smog  
18 Check failed to comply with the following sections of the Health and Safety Code:

19 a. **Section 44012:** Respondent El Topo Smog Check failed to ensure that the emission  
20 control tests were performed on the vehicles in accordance with the procedures prescribed by the  
21 Bureau.

22 b. **Section 44015(b):** Respondent El Topo Smog Check issued electronic smog  
23 certificates of compliance for the vehicles without ensuring that the vehicles were properly tested  
24 and inspected to determine if they were in compliance with Health and Safety Code section  
25 44012.

26 c. **Section 44059:** Respondent El Topo Smog Check willfully made false entries for  
27 electronic smog certificates of compliance for vehicles by certifying that the vehicles had been  
28 inspected as required when, in fact, they had not.

d. Complainant refers to, and by this reference incorporates the allegations set forth above in paragraphs 29-68, as though fully set forth herein.

///

#### **FIFTH CAUSE FOR DISCIPLINE**

##### **(Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection Program – Respondent El Topo Smog Check)**

73. Respondent is subject to disciplinary action under Code section 44072.2(c), in that, with respect to the vehicles identified above, respondent El Topo Smog Check failed to comply with provisions of the California Code of Regulations, Title 16, as follows:

a. **Section 3340.24(c)**: Respondent El Topo Smog Check issued false or fraudulent certificates of compliance for the vehicles.

b. **Section 3340.35(c)**: Respondent El Topo Smog Check issued electronic smog certificates of compliance for the vehicles even though the vehicles had not been inspected in accordance with section 3340.42 of the California Code of Regulations, Title 16.

c. **Section 3340.41(c)**: Respondent El Topo Smog Check knowingly entered false information into the emissions inspection system for the vehicles.

d. **Section 3340.42**: Respondent El Topo Smog Check failed to ensure that the required smog tests were conducted on the vehicles in accordance with the Bureau's specifications.

e. **Section 3373**: Respondent El Topo Smog Check withheld or inserted statements or information in an estimate, invoice, work order, or record required to be maintained by California Code of Regulations, Title 16, section 3340.15(e), which caused the document to be false or misleading for the vehicles.

Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 29-68, as though fully set forth herein.

#### **SIXTH CAUSE FOR DISCIPLINE**

##### **(Dishonesty, Fraud, or Deceit – Respondent El Topo Smog Check)**

74. Respondent is subject to disciplinary action under Code section Health and Safety Code section 44072.2(d), in conjunction with Health and Safety Code section 44072.2(c), in that,

1 with respect to the vehicles identified above, Respondent El Topo Smog Check committed  
2 dishonest, fraudulent, or deceitful acts whereby another was injured by issuing electronic smog  
3 certificates of compliance for the vehicles without performing bona fide inspections of the  
4 emission control devices and systems on those vehicles, thereby depriving the People of the State  
5 of California of the protection afforded by the Motor Vehicle Inspection Program. Complainant  
6 refers to, and by this reference incorporates, the allegations set forth above in paragraphs 29-68,  
7 as though fully set forth herein.

#### 8 **SEVENTH CAUSE FOR DISCIPLINE**

##### 9 **(Violations of the Motor Vehicle Inspection Program – Respondent Soto)**

10 75. Respondent is subject to disciplinary action under Health and Safety Code section  
11 44072.2(a), in that, with respect to the vehicles identified above, Respondent Soto violated the  
12 following Health and Safety Code sections:

13 a. **Section 44012(a):** Respondent Soto failed to determine that all emission control  
14 devices and systems required by law were installed and functioning correctly on the vehicles in  
15 accordance with test procedures prescribed by the Bureau.

16 b. **Section 44012(f):** Respondent Soto failed to perform emissions control tests on the  
17 vehicles in accordance with procedures prescribed by the Bureau.

18 c. **Section 44032:** Respondent Soto failed to perform tests of the emission control  
19 devices and systems on the vehicles identified above in accordance with section 44012 of the  
20 Health and Safety Code, in that the vehicles had been clean plugged.

21 d. **Section 44059:** Respondent Soto willfully made false entries for the electronic  
22 certificates of compliance by certifying that the vehicles had been inspected as required when, in  
23 fact, they had not.

24 Complainant refers to, and by this reference incorporates, the allegations set forth above in  
25 paragraphs 29-68, as though fully set forth herein.

#### 26 **EIGHTH CAUSE FOR DISCIPLINE**

##### 27 **(Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection Program –** 28 **Respondent Soto )**

76. Respondent is subject to disciplinary action under Health and Safety Code section 44072.2(c), in that, with respect to the vehicles identified above, Respondent Soto failed to comply with provisions of the California Code of Regulations, Title 16, as follows:

a. **Section 3340.24(c):** Respondent Soto issued false or fraudulent electronic smog certificates of compliance for the vehicles.

b. **Section 3340.30(a):** Respondent Soto failed to inspect and test the vehicles in accordance with Health and Safety Code sections 44012 and 44035 and California Code of Regulations, Title 16, section 3340.42.

c. **Section 3340.41(c):** Respondent Soto knowingly entered false information into the on-board diagnostic inspection system for the vehicles.

d. **Section 3340.42:** Respondent Soto failed to ensure that the required smog tests were conducted on the vehicles identified above in accordance with the Bureau's specifications.

Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 29-68, as though fully set forth herein.

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

##### **(Dishonesty, Fraud, or Deceit – Respondent Soto)**

77. Respondent is subject to disciplinary action under Health and Safety Code section 44072.2(d), in conjunction with Health and Safety Code section 44072.10(c), in that with respect to the vehicles identified above, Respondent Soto committed acts involving dishonesty, fraud, or deceit when he issued electronic smog certificates of compliance for the vehicles without performing bona fide inspections of the emission control devices and systems on those vehicles, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program. Complainant refers to, and by this reference incorporates, the allegations set forth in paragraphs 29-68, as though fully set forth herein.

#### **OTHER MATTERS**

78. Pursuant to Business and Professions Code section 9884.7, subdivision (c), the Director may suspend, revoke, or place on probation the registration for all places of business operated in this state by Respondent Alvarado-Vasquez upon a finding that he has, or is, engaged

1 in a course of repeated and willful violations of the laws and regulations pertaining to an  
2 automotive repair dealer.

3 ///

4 79. Pursuant to Health and Safety Code section 44072.8, if Smog Check, Test-Only,  
5 Station License Number TC 310365, issued to Respondent Alvarado-Vasquez, dba El Topo Smog  
6 Check, is revoked or suspended following a hearing under this article, any additional license  
7 issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code in the name of said  
8 licensee may be likewise revoked or suspended by the Director.

9 80. Pursuant to Health and Safety Code section 44072.8, if Smog Check Inspector  
10 License Number EO 641525, issued to Respondent Soto is revoked or suspended following a  
11 hearing under this article, any additional license issued under Chapter 5 of Part 5 of Division 26  
12 of the Health and Safety Code in the name of said licensee may be likewise revoked or suspended  
13 by the Director.

#### 14 **PRAYER**

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

18 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD  
19 310365, issued to Oscar Alvarado-Vasquez, dba El Topo Smog Check;

20 2. Revoking or suspending Smog Check, Test-Only, Station License Number TC  
21 310365, issued to Oscar Alvarado-Vasquez;

22 3. Revoking or suspending any additional Automotive Repair Dealer Registration(s)  
23 issued to Oscar Alvarado-Vasquez;

24 4. Revoking or suspending STAR Station Certification issued to Oscar Alvarado-  
25 Vasquez,;

26 5. Revoking or suspending Smog Check Inspector License Number EO 641525, issued  
27 to Oscar Soto;

6. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code to Oscar Soto;

7. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code to Oscar Alvarado-Vasquez;

8. Ordering Oscar Alvarado-Vasquez and Oscar Soto 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,

9. 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*

LA2025603873