

**BEFORE THE DIRECTOR OF THE
DEPARTMENT OF CONSUMER AFFAIRS
BUREAU OF AUTOMOTIVE REPAIR
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

ARLAIN JASSO, dba SMOG DEPT

481 East Laurel Street, Ste B

Colton, CA 92324

Mailing Address:

3825 Crestmore Road, Spc. 485

Riverside, CA 92509

Automotive Repair Dealer Registration No. ARD 310455

Smog Check Test Only Station License No. TC 310455

and

ARLAIN JASSO

3825 Crestmore Road, Spc. 485

Riverside, CA 92509

Smog Check Inspector License No. EO 645202

Respondents.

Case No. 79/25-6698

OAH No. 2025110703

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby accepted and adopted by the Director of the Department of Consumer Affairs as the Decision in the above-entitled matter.

This Decision shall be effective on August 28, 2026.

IT IS SO ORDERED July 20, 2026.

Original signature on file
GRACE ARUPO RODRIGUEZ
Assistant Deputy Director
Legal Affairs Division
Department of Consumer Affairs

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

In the Matter of the Accusation Against:

ARLAIN JASSO, DBA SMOG DEPT

Automotive Repair Dealer Registration No. ARD 310455

Smog Check, Test Only Station License No. TC 310445

and

ARLAIN JASSO

Smog Check Inspector License No. EO 645202

Respondents.

Agency Case No. 79/25-6698

OAH No. 2025110703

PROPOSED DECISION

Administrative Law Judge (ALJ) Chantal M. Sampogna, Office of Administrative Hearings, State of California, heard this matter by videoconference on May 19, 2026.

Deputy Attorney General (DAG) Vivian Cho appeared and represented complainant Patrick Dorais, Chief of the Bureau of Automotive Repair (Bureau), Department of Consumer Affairs (Department).

Frank C. Brucculeri, Attorney at Law, Frank Brucculeri Law Corporation, appeared and represented Arlain Jasso, doing business as Smog Dept (respondent Smog Dept), and individually (respondent Jasso), who was present.

Testimony and documents were received in evidence. The record closed and the matter was submitted for decision on May 19, 2026.

SUMMARY

Complainant requests the registration and licenses issued by the Bureau to respondents Smog Dept and Jasso (collectively, respondents), be revoked or suspended based on their violations of the Automotive Repair Act (Repair Act) (Bus. & Prof. Code, §§ 9880 et seq.) and the Motor Vehicle Inspection Program (Inspection Program) (Health and Saf. Code, §§ 44000 et seq.). (Undesignated statutory references are to the Business and Professions Code.) Complainant established that between November 2024 and April 2025, respondents performed and certified fraudulent smog check inspections on 10 vehicles.

Respondent Jasso denied conducting or having knowledge of any fraudulent smog check inspections. In their defense, respondents asserted, though without merit, that the data presented in support of complainant's allegations was not authenticated and was therefore unreliable. Respondents did not present evidence of rehabilitation.

///

Respondents failed to acknowledge their wrongdoing or establish their remorse or rehabilitation. Further, although respondent Jasso was cooperative with the Bureau during the investigation process, his statements and testimony were inconsistent and incomplete, thereby lacking candor or trustworthiness. Accordingly, protection of the public requires the revocation of respondents' registration and licenses. Respondents are ordered to pay reasonable costs.

FACTUAL FINDINGS

Jurisdiction

1. On October 9, 2024, the Bureau issued Automotive Repair Dealer (ARD) Registration number ARD 310455 to respondent Smog Dept. On November 13, 2024, the Bureau issued Smog Check, Test Only Station (TC) License number TC 310455 to respondent Smog Dept. Respondent Smog Dept's ARD registration and TC license were in full force and effect at all times relevant to the charges brought in the Accusation and are scheduled to expire on October 31, 2026.

2. On January 15, 2026, the Bureau certified respondent Smog Dept as a STAR Station.

3. On September 6, 2024, the Bureau issued Smog Check Inspector License number EO 645202 (EO license) to respondent Jasso.

4. On August 16, 2025, complainant, acting in his official capacity, brought the Accusation against respondents. Respondents timely filed Notices of Defense.

///

Bureau's Data Review of Smog Check Inspections Performed at Respondent Smog Dept by Respondent Jasso

5. On April 17, 2025, Bureau Automotive Program Specialist (APS) David Martin del campo conducted a detailed review of the Bureau's data for smog check inspections performed at respondent Smog Dept by respondent Jasso (data review). APS Martin del campo documented his investigation and findings in the Bureau's June 6, 2025 Investigation Report (investigation report).

6. APS Martin del campo testified to his work experience, knowledge of California's Smog Check Program, and the results of the data review and related interviews and station inspections. APS Martin del campo's testimony was consistent with and corroborated by complainant's additional evidence, including the investigation report, smog check inspection data and reports retrieved from the Bureau's database, and documents provided by respondent Jasso during the investigation.

QUALIFICATIONS OF APS DAVID MARTIN DEL CAMPO

7. APS Martin del campo has comprehensive and extensive work experience in automotive technology and repair, and with smog check inspections and investigations. APS Martin del campo has been employed by the Bureau for over 26 years, and as a Bureau APS for approximately 18 months. He previously worked as a Program Representative (PR) for the Bureau, but the PR position was recently reclassified as an APS. During his employment with the Bureau, APS Martin del campo has investigated smog inspection compliance for approximately eight years.

8. APS Martin del campo has been licensed as a smog check inspector for over 30 years and he has no history of license discipline. He was previously licensed as

a brake and a lamp adjuster. In addition, he has held multiple certifications from the National Institute for Automotive Service Excellence. Before his employment with the Bureau, APS Martin del campo was an automotive technician for 10 years, during which time he conducted smog check inspections, general automotive repair, and brake and lamp inspections and repairs.

CALIFORNIA'S SMOG CHECK PROGRAM

9. California's Smog Check Program is designed and intended to reduce air pollution by identifying and requiring the repair of polluting motor vehicles. Smog check inspections require a visual, functional, and computer-based inspection as outlined in the Smog Check Manual.

10. Effective March 9, 2015, California's Smog Check Program requires the use of an On-Board Diagnostic Inspection System (OIS) when inspecting most model-year 2000 and newer gasoline vehicles. The OIS is comprised of a Data Acquisition Device (DAD), computer, bar code scanner, and printer. Vehicles are equipped with an On-Board Diagnostics (OBDII) system, which contains a vehicle's emission and engine control systems information that is required to be reported to the Bureau's Vehicle Inspection Database (VID).

11. Licensed smog check inspectors are the only individuals authorized by the Bureau to perform official smog check inspections. Smog check inspectors are issued a personal access code (PAC) and a license number, which can be used to gain access to the OIS to perform smog check inspections. Since May 2023, smog check inspectors must use a biometric palm scanner instead of a password login to gain access to the OIS to perform a smog check inspection.

///

12. Once logged in to the OIS, a smog check inspector uses the bar code scanner to communicate the vehicle's identification number (VIN) and DMV renewal information to the VID. To retrieve a vehicle's emission and engine control systems information, the smog check inspector uses the vehicle's Diagnostic Link Connector (DLC) (a cable), to connect the DAD (the OIS acquisition device) to the vehicle's OBDII system. The vehicle's emission and engine control systems information retrieved and captured from a vehicle's OBDII system and recorded to the VID during an OIS smog check inspection includes the vehicle's eVIN (digitally stored Vehicle Identification Number programmed into the vehicle's Powertrain Control Module (PCM)), communication protocol, and its engine operating parameters (PIDs) count. Some of the PIDs captured during a smog check inspection include the following:

- Engine speed, measured in revolutions per minute (RPM);
- Throttle position as measured by a throttle position sensor (TPS) mounted onto the throttle shaft, measured in a percentage of opening from 0 percent at idle and near or up to 100 percent at full throttle.
- Manifold absolute pressure as measured by a manifold air pressure sensor (MAP) connected to an intake manifold source, measured in kilo pascals (kpa). Typical readings for a normally aspirated vehicle are 0 kpa at absolute vacuum, 25 to 45 kpa at idle, and 101 kpa at full throttle (the same as atmospheric pressure at sea level).
- Mass air flow as measured by a mass air flow sensor (MAF) mounted in the engine's air intake tract, measured in grams per second (gps).
- Ignition timing, measured by when the spark plug is ignited in relation to the position of the engine's moving pistons, in degrees before top dead

center (BTDC). The ignition timing will constantly change based on engine operating conditions such as RPM, engine load, and throttle position.

13. After the smog check inspection is complete, the OIS printer provides a Vehicle Inspection Report (VIR). A smog check inspector must sign the VIR under penalty of perjury to affirm the inspection was completed as required by the Bureau's guidelines. An unsigned VIR is transmitted to the VID. If the vehicle passes the visual, functional, and OIS tests, it passes the overall inspection and a Smog Certificate of Compliance is issued and transmitted electronically to the Bureau's VID. Each smog Certificate of Compliance has a unique control number so that it can be tracked to determine which smog check station purchased the Smog Certificate of Compliance and to which vehicle it was issued.

CLEAN PLUGGING

14. The Inspection Program and Repair Act prohibit fraudulent smog inspection and certification. Clean plugging is one form of fraudulent smog inspection whereby (1) the smog check inspector uses another vehicle's properly functioning OBDII or another source, such as a defeat device, to transmit passing diagnostic readings through the smog check station's OIS to the Bureau's VID; and then (2) the smog check inspector and smog test station issue a fraudulent Smog Certificate of Compliance to the vehicle allegedly tested, though the vehicle was not in Smog compliance or was not connected to the smog station's OIS for testing.

15. APS Martin del campo explained how clean plugging can be detected by reviewing the inspected vehicle's emission and engine control systems information retrieved and captured from a vehicle's OBDII system and recorded to the VID during

an OIS smog check inspection. First, he explained how a vehicle operates generally and during a smog check inspection:

During normal engine operation at idle, engine speed is relatively steady around its target idle speed. With the engine idling, the TPS is steady and at or near zero percent; the MAP and MAF readings also remain steady. For the engine speed to increase, the throttle must be opened to increase airflow through the engine. The engine's management systems supply fuel and spark timing appropriate to any changes in throttle position and engine speed. An increase in throttle, measured by the TPS, which increases engine RPM, would result in a corresponding increase in MAF as well as a change in MAP. Any movement in the throttle from the idle position will result in an increase of airflow through the engine with corresponding increases in RPM and MAF along with changes in MAP.

During an OIS Smog Check inspection . . . there is an OBD II query portion of the inspection. The OBD II query is performed with the engine idling and, when requested by the OIS analyzer, and [s/c] an elevated or increased engine speed. The increase in engine speed is performed by the inspector by stepping on the throttle pedal or manually opening the throttle resulting in a corresponding increase in engine RPMs by allowing an increase in airflow into the engine.

(Exh. 5, p. A98.)

16. APS Martin del campo then explained that the vehicle's emission and engine control systems information reported to the VID from the vehicle, or other source, connected to the DAD directly represents the vehicle's or other source's parameters at the points in time of the inspection. The measurement of each PID is captured at multiple intervals for the duration of the smog check inspection and is recorded and reported in a Dynamic Data Chart and PID Chart. If the vehicle's emission and engine control systems information communicated to the VID does not correspond to normal engine operation, or if it reflects engine operation that is inapposite to how an engine operates, the smog check inspection has been completed through clean plugging.

17. Regarding the emission and engine control systems information reported to the VID, APS Martin del campo acknowledged that to the best of his knowledge this information is stored by a third party, not by the Bureau, but he does not know the name of the third party or under what terms the data is stored. He also explained that during a smog check inspection, the VID does not independently capture what vehicle or other source is connected to the station's OIS; rather, the vehicle information, or purported vehicle information during clean plugging, is reported by the smog check inspector at the beginning of the smog check inspection.

18. Finally, APS Martin del campo testified to his knowledge of defeat devices. He explained that a defeat device must be turned on to function, and the price of a defeat device ranges from \$600 to \$3,500. Based on his review of the invoices in this matter, respondent Smog Dept charged \$40 per smog check inspection and APS Martin del campo had no evidence respondents received monetary compensation for the clean plugging of the 10 vehicles. However, based on his

professional experience, it is significantly difficult for a layperson to obtain a defeat device, it is not economically advantageous to obtain a defeat device for the purpose of a single smog check inspection, and, in his opinion, it is statistically improbable that the individual owners of the 10 vehicles each obtained their own defeat device and installed it in their respective vehicles for the smog check inspections at issue in this matter.

RESPONDENTS' VIOLATIONS

19. During his review of the Bureau's data for respondents' smog check inspections, APS Martin del campo found the vehicle emission and engine control systems information data showed a pattern of vehicles being certified with PIDs that did not correspond to normal engine operation. The Bureau's review of the smog check activities at respondent Smog Dept confirmed that between November 2024 and April 2025 respondents fraudulently issued Smog Certificates of Compliance to 10 vehicles after inspections. APS Martin del campo did not personally observe respondents clean plug any of the ten vehicles.

20. APS Martin del campo's review of respondent Smog Dept's purchase of Certificates of Compliance confirmed each of the ten Smog Certificates of Compliance issued to Vehicles 1 through 10 (collectively, the 10 vehicles) were purchased by and delivered to the Smog Dept Test Only OIS platform using an Automated Clearing House payment method. Respondent Smog Dept's Certificate Sales between November 13 and December 13, 2024, show respondent Smog Dept purchased certificates UG363601 through UG363650, UG841601 through UG841650, and UI180551 through UI180600. (Exh. 21.)

///

21. The following summaries of the reported OIS test data for the 10 vehicles show for many of the PIDs collected, including the throttle position, MAP, and MAF readings, the data remained unchanged even though the engine RPM was increased. These readings are not characteristic or expected for normal engine operation. Rather, the discrepancies in the OIS test data demonstrate that for each of the 10 vehicles respondent Jasso did not use the respective vehicles' DLCs to connect each vehicle's OBDII system to respondent Smog Dept's DAD during the respective smog check inspections. Accordingly, respondent Smog Dept issued fraudulent Smog Certificates of Compliance to the 10 vehicles under respondent Jasso's EO license.

Vehicle Number 1 – 2002 Toyota Camry LE

22. On November 26, 2024, respondent Jasso conducted a smog check inspection of a 2002 Toyota Camry LE, VIN 4T1BE32K52U596210 (Vehicle 1). Vehicle 1 had no license plate. Respondent Smog Dept issued Smog Certificate of Compliance number UG363634C to Vehicle 1 under respondent Jasso's EO license.

23. The Dynamic Data Charts for Vehicle 1 show that between time stamp 134 and 17150, the engine RPM was steady at approximately 680 RPM, the throttle was fixed at 14.5 percent opening, and the MAF was fixed at 2.07 gps. After time stamp 17150, the engine RPM was increased and then held above 1753 RPM. From the time the engine RPM increased from off idle to the higher RPMs, the throttle continued to stay fixed at the same 14.5 percent opening and the MAF continued to stay fixed at the same 2.07 gps. During the entire period the dynamic data was collected, the only parameter that changed was engine RPM. The throttle position and MAF readings remained unchanged even though the engine RPM was increased.

///

Vehicle Number 2 – 2005 GMC New Sierra C1500

24. On December 4, 2024, respondent Jasso conducted a smog check inspection of a 2005 GMC New Sierra C1500, VIN 2GTEC13TX51185923 (Vehicle 2). Vehicle 2 had no license plate. Respondent Smog Dept issued Vehicle 2 Smog Certificate of Compliance number UG841615C under respondent Jasso's EO license.

25. The Dynamic Data Charts for Vehicle 2 show that between time stamp 33 and 17148, the engine RPM was steady at approximately 575 RPM, the throttle was fixed at 13.3 percent opening, the MAP was fixed at 36 kPa, and the MAF was fixed at 5.39 gps. After time stamp 17148, the engine RPM was increased and then held above 1836 RPM. From the time the engine RPM increased from off idle to the higher RPMs, the throttle continued to stay fixed at the same 13.3 percent opening, the MAP stayed fixed at 36 kPa, and the MAF stayed fixed at .39 gps. During the entire period the dynamic data was collected, the only parameter that changed was engine RPM. The throttle position, MAP, and MAF readings remained unchanged even though the engine RPM was increased.

Vehicle Number 3 – 2002 Chevrolet Silverado C2500 Heavy Duty

26. On December 7, 2024, respondent Jasso conducted a smog check inspection of a 2002 Chevrolet Silverado C2500 Heavy Duty, California license plate number 6W86551 and VIN 1GBHC24U12E199752. Respondent Smog Dept issued Vehicle 3 Smog Certificate of Compliance number UG841629C under respondent Jasso's EO license.

27. The Dynamic Data Charts for Vehicle 3 show that between time stamp 34 and 17368, the engine RPM was steady at approximately 585 RPM, the throttle was

fixed at zero percent opening, the MAP was fixed at 34 kPa, and the MAF was fixed at 6.24 gps. After time stamp 17368, the engine RPM was increased and then held above 1702 RPM. From the time the engine RPM was increased from off idle to the higher RPMs, the throttle continued to stay fixed at the same zero percent opening, the MAP stayed fixed at the 34 kPa, and the MAF stayed fixed at 6.24 gps. During the entire period the dynamic data was collected, the only parameter that changed was engine RPM. The throttle position, MAP, and MAF readings remained unchanged even though the engine RPM was increased.

28. On August 29, 2022, a previous smog check inspection was performed on Vehicle 3 (Vehicle 3 2022 inspection) and Smog Certificate of Compliance number SW270194C was issued. The dynamic data collected during the Vehicle 3 2022 inspection shows the expected change in throttle, MAP, and MAF, consistent with normal engine operation.

Vehicle Number 4 – 2002 Ford Expedition Eddie Bauer

29. On December 7, 2024, respondent Jasso conducted a smog check inspection of a 2002 Ford Expedition Eddie Bauer, California license plate number 8JSZ301 and VIN 1FMPU18L02LA41801. Respondent Smog Dept issued Vehicle 4 Smog Certificate of Compliance number UG841630C under respondent Jasso's EO license.

30. The Dynamic Data Charts for Vehicle 4 show that between time stamp 18 and 16717, the engine RPM was steady at approximately 780 RPM, the throttle was fixed at 19.6 percent opening and the MAF was fixed at 4.31 gps. After time stamp 16717, the engine RPM was increased and then held above 1774. From the time the engine RPM was increased from off idle to the higher RPMs, the throttle continued to

stay fixed at 19.6 percent opening and the MAF stayed fixed at 4.31 gps. During the entire period the dynamic data was collected, the only parameter that changed was engine RPM. The throttle position and MAF readings remained unchanged even though the engine RPM was increased.

31. On November 30, 2023, a previous Smog Check inspection was performed on Vehicle 4 (Vehicle 4 2023 inspection), and Smog Certificate of Compliance number IX625102 was issued. The dynamic data collected during the Vehicle 4 2023 inspection shows the expected change in throttle and MAF, consistent with normal engine operation.

Vehicle Number 5 – 2004 Toyota Tacoma Prerunner

32. On December 11, 2024, respondent Jasso conducted a smog check inspection of a 2004 Toyota Tacoma Prerunner, California license plate number 67495W3 and VIN 5TENM92N54Z323943 (Vehicle 5). Respondent Smog Dept issued Vehicle 5 Smog Certificate of Compliance number UG841647C under respondent Jasso's EO license.

33. The Dynamic Data Charts for Vehicle 5 show that between time stamp 132 and 16558, the engine RPM was steady at approximately 785 RPM. During this time, the throttle was fixed at 10.2 percent opening and the MAF was fixed at 4.17 gps. After time stamp 16558, the engine RPM was increased and then held above 1719. From the time the engine RPM increased from off idle to the higher RPMs, the data shows that the throttle continued to stay fixed at 10.2 percent opening and the MAF stayed fixed at 4.17 gps. During the entire period the dynamic data was collected, the only parameter that changed was engine RPM. The throttle position and MAF readings remained unchanged even though the engine RPM was increased.

34. On February 23, 2024, a previous Smog Check inspection was performed on Vehicle 5 (Vehicle 5 2024 inspection), and Smog Certificate of Compliance number IX656882C was issued. The dynamic data collected during the Vehicle 5 2024 inspection shows the expected change in throttle and MAF, consistent with normal engine operation.

Vehicle Number 6 – 2001 Toyota Tacoma Xtracab

35. On December 11, 2024, respondent Jasso conducted a smog check inspection of a 2001 Toyota Tacoma Xtracab, California license plate number 39494S2 and VIN 5TEVL52N31Z804801 (Vehicle 6). Respondent Smog Dept issued Vehicle 6 Smog Certificate of Compliance number UG841649C under respondent Jasso's EO license.

36. The Dynamic Data Charts for Vehicle 6 show that between time stamp 284 and 16731, the engine RPM was steady at around 695 RPM, the throttle was fixed at 10.2 percent opening, and the MAF was fixed at 4.76 gps. After time stamp 16731, the engine RPM was increased and then held above 1934 RPM. From the time the engine RPM increased from off idle to the higher RPMs, the throttle continued to stay fixed at 10.2 percent opening and the MAF stayed fixed at 4.76 gps. During the entire period the dynamic data was collected, the only parameter that changed was engine RPM. The throttle position and MAF readings remained unchanged even though the engine RPM was increased.

Vehicle Number 7 – 2002 Chevrolet Tahoe C1500

37. On December 12, 2024, respondent Jasso conducted a smog check inspection of a 2002 Chevrolet Tahoe C1500, California license plate number 4XUJ522 and VIN 1GNEC13V42R300527 (Vehicle 7). Respondent Smog Dept issued Vehicle 7

Smog Certificate of Compliance number UG841650C under respondent Jasso's Smog EO license.

38. The Dynamic Data Charts for Vehicle 7 show that between time stamp 35 and 17080, the engine RPM was steady at approximately 535 RPM, the throttle was fixed at zero percent opening, the MAP was fixed at 37 kPa, and the MAF was fixed at 4.71 gps. After time stamp 17080, the engine RPM was increased and then held above 1842 RPM. From the time the engine RPM increased from off idle to the higher RPMs, the throttle continued to stay fixed at zero percent opening, the MAP stayed fixed at 37 kPa, and the MAF stayed fixed at 4.71 gps. During the entire period the dynamic data was collected, the only parameter that changed was engine RPM. The throttle position, MAP, and MAF readings remained unchanged even though the engine RPM was increased.

Vehicle Number 8 – 2002 Toyota Tacoma Double Cab Prerunner

39. On December 13, 2024, respondent Jasso conducted a smog check inspection of a 2002 Toyota Tacoma Double Cab Prerunner, California license plate number 6V20854 and VIN 5TEGN92N72Z013814 (Vehicle 8). Respondent Smog Dept issued Vehicle 8 Smog Certificate of Compliance number UI180557C under respondent Jasso's EO license.

40. The Dynamic Data Charts for Vehicle 8 show that between time stamp 136 and 17016, the engine RPM was steady at around 780 RPM, the throttle was fixed at 9.8 percent opening and the MAF was fixed at 5.62 gps. After time stamp 17016, the engine RPM was increased and then held above 1892 RPM. From the time the engine RPM increased from off idle to the higher RPMs, the throttle continued to stay fixed at

9.8 percent opening and the MAF stayed fixed at 5.62 gps. During the entire period the dynamic data was collected, the only parameter that changed was engine RPM. The throttle position and MAF readings remained unchanged even though the engine RPM was increased.

Vehicle Number 9 – 2004 Toyota Sienna XLE

41. On March 31, 2025, respondent Jasso conducted a smog check inspection of a 2004 Toyota Sienna XLE, VIN 5TDZA22C74S128472 (Vehicle 9). Vehicle 9 had no license plate. Respondent Smog Dept issued Vehicle 9 Smog Certificate of Compliance number UM157054C under respondent Jasso's EO license.

42. The Dynamic PID Charts for Vehicle 9 show that between time stamp 264 and 16790, the engine RPM was steady at approximately 600 RPM, while the throttle was fluctuating erratically between 12.5 percent and 17.3 percent opening and the MAF was fluctuating between 2.93 and 5.05gps. After time stamp 16790, the engine RPM was increased and then held above 1653 RPM. During this time, the data shows that the throttle fluctuated erratically between 12.5 and 16.5 percent and the MAF varied between 2.82 and 4.03 gps. The steady idle and elevated engine RPMs along with the improbable throttle positions and MAF readings are not characteristic or expected for normal engine operation. The throttle positions and MAF readings are expected to be stable at idle and increase with the elevated engine RPM, not dropping and rising unexpectedly.

43. On August 25, 2023, a previous Smog Check inspection was performed on Vehicle 9 (Vehicle 9 2023 inspection), and Smog Certificate of Compliance number TM484099C was issued. The dynamic data collected during the test shows the expected change in throttle and MAF, consistent with normal engine operation.

Vehicle Number 10 – 2000 Toyota Sienna LE

44. On April 7, 2025, respondent Jasso conducted a smog inspection of a 2000 Toyota Sienna LE, VIN 4T3ZF13C1YU268502 (Vehicle 10). Vehicle 10 had no license plate. Respondent Smog Dept issued Vehicle 10 Smog Certificate of Compliance number UM157089C under respondent Jasso's EO license.

45. The Dynamic PID Charts for Vehicle 10 show that between time stamp 137 and 16623, the engine RPM was steady at approximately 675 RPM, while the throttle fluctuated erratically between 6.7 and 10.6 percent opening and the MAF fluctuated erratically between 3.26 and 4.87gps. After time stamp 16623, the engine RPM was increased and then held elevated at no less than 1697 RPM. During this time, the throttle fluctuated erratically between 6.7 and 10.2 percent and the MAF fluctuated erratically between 3.53 and 4.45 gps. The steady idle and elevated engine RPMs along with the improbable throttle positions and MAF readings are not characteristic or expected for normal engine operation. The throttle positions and MAF readings are expected to be stable at idle and increase with the elevated engine RPM, not dropping and rising unexpectedly.

STATION VISITS AND DOCUMENT REVIEW

46. Between November 2024 and April 2025, the Bureau conducted three station visits at respondent Smog Dept. On November 13, 2024, Bureau representative Daniel Durivage conducted an initial station inspection which respondent Smog Dept passed. The purpose of the initial visit was to inspect the station before it began operation. Bureau representative Durivage reviewed with respondent Jasso all smog inspection requirements including that all smog Check inspections must be conducted in accordance with the Bureau's Smog Check Manual, by licensed technicians, and no

false information about the vehicle being tested may be entered in the station's OIS (smog check inspection admonition). In the Station Inspection Report, Bureau representative Durivage provided a detailed account of his discussion with respondent Jasso regarding smog inspection requirements and he found respondent Jasso demonstrated competence in the use of the smog check inspection equipment and information required to perform a smog check inspection. (Exh. 6, p. A113.)

47. APS Martin del campo conducted station visits on April 23 (first visit) and 28 (second visit), 2025. During the first visit APS Martin del campo requested all estimates, invoices, VIRs, and related documents for the Vehicles 1 through 8 (Vehicles 9 and 10 had not yet been identified as in violation), and inquired about respondent Jasso's smog check inspection process.

48. Respondent Jasso described his smog check inspection process. Respondent Jasso explained that he is the only individual at respondent Smog Dept who performs smog check inspections, and that when conducting the OBDII functional portion of the smog check inspection, he verifies the DAD is correctly connected to the DLC, and he inspects the DLC to ensure no other device is connected to the DLC and that the DLC has not been tampered with. APS Martin del campo found respondent Jasso's smog check inspection process as described complied with the Smog Check Manual requirements. Respondent Jasso denied performing the act of clean plugging to issue a fraudulent Smog Certificate of Compliance to a vehicle and denied using a defeat device. At the conclusion of the first visit, APS Martin del campo provided respondent Jasso with the smog check inspection admonition.

49. During APS Martin del campo's second visit, he reviewed the estimates, invoices, and the VIRs respondent Jasso provided for Vehicles 1 through 8. Respondent Jasso confirmed he performed the smog check inspections for Vehicles 1

through 8 and explained he signed the VIRs provided to customers but not the VIRs he retained in respondent Smog Dept's records. At the conclusion of the second visit, APS Martin del campo again provided respondent Jasso with the smog check inspection admonition, and added that respondent Jasso must sign the station VIRs, as well as the customers' VIRs.

50. During his testimony, APS Martin del campo acknowledged he did not conduct a full station inspection on either visit, e.g., he did not search the premises for a defeat device. Rather the purpose of his visits were to interview respondent Jasso and to receive related documents for review. APS Martin del campo also acknowledged he did not personally inspect any of the 10 vehicles and did not contact any of the 10 vehicles' respective owners.

Respondents' Evidence

51. Respondent Jasso testified regarding his work experience generally, his experience and conduct as a Bureau registrant and licensee, and his professed understanding of the required smog check inspection process. Respondent Jasso's testimony regarding smog check inspections was inconsistent with previous statements and admissions he made to Bureau representative Durivage and APS Martin del campo, and generally presented as incomplete and an unreliable representation of his actual knowledge. Similarly, respondent Jasso provided incomplete and inconsistent testimony regarding the operations of respondent Smog Dept and his financial ability to pay costs to the Bureau. Accordingly, minimal weight or credit is given to respondent Jasso's testimony.

52. Respondent Jasso argued three points in his defense. First, he claimed the individual owners of the 10 vehicles could have installed defeat devices into their

respective vehicles before the smog check inspections. Second, he claimed the Bureau solely relies on the VID data in support of its allegations against respondents, but the data has not been authenticated and no foundation was laid for its accuracy. Third, respondents assert respondent Jasso cooperated with the Bureau during its investigation and there is allegedly no direct evidence, such as an eyewitness observation or discovering a defeat device at respondent Smog Dept, in support of complainant's allegations.

EMPLOYMENT HISTORY

53. Respondent Jasso is approximately 28 years old. Before obtaining his ARD registration and TC and EO licenses, he worked for his father for a few years in the contracting business; he has also worked for his mother's house cleaning business. Respondent enrolled in a Bureau course to obtain his EO license. He did not pass the first time, and had to retake the course. His current work as a Bureau registrant and licensee are his sole source of income.

54. Regarding the frequency of smog check inspections conducted by respondents and his presence at Smog Dept, respondent Jasso testified he is present at respondent Smog Dept six days per week, eight hours per day. He further testified he has a steady stream of smog check inspections, testing approximately 50 to 60 vehicles per month; he further estimated respondents have conducted approximately 400 smog check inspections since opening. However, 50 to 60 smog check inspections per month, and 400 smog check inspections over 18 months (when open six days per week) averages approximately one to two smog check inspections per day, an amount inconsistent with a steady stream of smog check inspections.

///

SMOG CHECK INSPECTIONS OF THE 10 VEHICLES

55. Respondent Jasso professed he takes the smog admonition seriously and has not committed clean plugging or otherwise violated the California Smog Check Program. Respondent Jasso affirmed he performed the smog check inspections on the 10 vehicles. He further asserted he followed the required smog check inspection requirements and did not connect any of the 10 vehicles to another source during the smog check inspections. Finally, respondent Jasso testified he most often charges between \$40 to \$50 per smog check inspection; he further asserted he did not receive other payment for the smog check inspections of the 10 vehicles than the \$40 shown on the invoices for Vehicles 1 through 8 (Exh. 22), and that he was paid the same amount for each of the smog check inspections for Vehicles 9 and 10.

56. Respondent Jasso explained there are security cameras inside respondent Smog Depot but he did not review the camera footage to see if the recordings might support his defense. He also did not contact any of the vehicle owners to support his assertion that they, individually, had installed defeat devices into their vehicles, unbeknownst to respondent Jasso, before he performed the respective smog check inspections.

57. During his testimony, DAG Cho asked respondent Jasso to explain the smog check inspection process, from beginning to end, including the visual, functional, and OIS emission control portions of a smog check inspection. Respondent Jasso did not provide a meaningful, complete, or accurate answer, in contrast to the accurate responses he had previously provided to Bureau Representative Durivage and APS Martin del campo during the three station inspections (see Exh. 6, pp. A113 & A115). Rather, respondent Jasso repeatedly provided incomplete and cursory explanations of the smog check inspection process: he explained that first, a customer walks in and he

gives them an invoice; if the customer accepts the offered price, the customer pulls the vehicle into the bay; respondent Jasso checks the paper to ensure the VINs match and he ensures there are “no leaks” and everything is “working properly and how it should work”; then he ensures nothing is connected to the vehicle’s DLC and the vehicle has not been tampered with; he then connects the DLC to the DAD and proceeds with the smog check inspection as directed by the OIS.

58. After repeated questioning, respondent Jasso did not provide additional detail or information about the smog check inspection process, providing nearly no description of the visual or functional portions of the smog check inspection process, and the same minimal information about the OIS emission control portions of the inspection. Overall, respondent Jasso’s testimony regarding the smog inspection process demonstrated either a lack of candor regarding his knowledge of the smog inspection process, or a lack of knowledge of the smog inspection process. Either way, respondent Jasso’s testimony presents as either untruthful, or incapable of testifying to the proper performance of a smog check inspection.

FINANCIAL ABILITY TO PAY COSTS – EARNINGS AND EXPENSES

59. Respondent Jasso did not provide clear or consistent testimony about the operations and earnings of respondent Smog Dept or of his financial ability to pay complainant’s costs. Respondent Jasso initially asserted he earns, through the operation of respondent Smog Dept and his EO license, approximately \$1,200 to \$1,500 in net income per month which he pays himself directly from Smog Dept profits. Respondent Jasso explained his household has no other income.

60. Upon further inquiry, respondent Jasso asserted his total monthly net income is approximately \$2,500. He explained he is married and has two young

children. Although initially testifying he is the only income earner in his family, he later testified his wife is also employed at a non-profit legal resource organization. In consideration of his wife's earnings, respondent Jasso estimated they have a household monthly net income of approximately \$2,500 per month.

61. Respondent Jasso also asserted his household income covers the family's personal expenses. However, he also testified his household expenses include his rent of \$2,000, vehicle costs of \$520 per month, and his family's phone expenses of \$120 per month, thereby already exceeding a net income of \$2,500. Respondent Jasso asserted utilities are included in the rent and his wife's car is paid for, however respondent Jasso could not testify to additional monthly expenses, such as gas, food, or health care.

CHALLENGES TO THE AUTHENTICITY OF THE VID DATA

62. Regarding respondents' authenticity challenge to the VID Data, it must first be noted respondents did not object to the introduction of the related evidence, i.e., the VIRs and OIS Test Details (Exh. 7-20), but rather made commentary that it had not been authenticated. Nonetheless, pursuant to Evidence Code sections 1400, 1271, and 1552, addressing authentication, admissible writings, and printed representation of computer generated information, the VID Data was authenticated and respondents failed to present evidence that the computer information was inaccurate or unreliable.

63. Although respondents did not raise a hearsay objection in name, they asserted the VID Data as produced by complainant was not reliable, suggesting, without support, that an unnamed third party vendor potentially altered or corrupted the data. However, the VID Data was a printed representation of computer information which, as attested to by APS Martin del campo, is an accurate representation of the

computer information it purports to represent. Further, the VID Data was collected immediately at the time of the respective smog check inspection, in the regular course of business. Furthermore, APS Martin del campo testified to its identity and mode of its preparation, and established the sources of the information and method and time of preparation were such to indicate its trustworthiness.

64. Accordingly, the VID Data constitutes an admissible writing under Evidence Code section 1271, withstanding any hearsay exclusions, and, pursuant to Evidence Code section 1552, is presumed to be an accurate representation of the computer information or computer program that it purports to represent. Finally, the VID Data, as presented in Exhibits 7 through 20, was properly authenticated as required by Evidence Code section 1400.

Costs of Investigation and Enforcement

65. Pursuant to section 125.3, complainant requests the award of the Bureau's costs of investigation and enforcement in the total amount of \$13,493.82. This amount consists of costs incurred directly by Bureau employees (\$6,254.82), as well as costs charged by the Office of the Attorney General and for which the Bureau has been billed (\$7,239).

66. At hearing, complainant introduced the following documents in support of his request for payment of investigation costs: a June 3, 2025, Declaration of APS Martin del campo; and the respective Case Hours and Costs Spreadsheets in which he documented his time worked on this matter. Between April 17 and June 3, 2025, APS Martin del campo performed 54 hours of investigative work at a rate of \$115.83 per hour; the investigative work consisted of case review, report writing, and review of applicable laws.

67. Complainant also introduced a May 13, 2026, Certification of Prosecution Costs: Declaration of Vivian Cho (Declaration), which requests enforcement costs in the amount of \$7,239. Attached to the Declaration is a printout of a Matter Time Activity by Professional Type (time printout), which describes tasks performed by the Office of the Attorney General on this matter through May 13, 2026, and for which the Bureau has been billed. The time printout specifies tasks performed including case management, witness and document preparation, and communication with client and other parties. It is noted that the time printout shows a total sum of \$7,398.75 billed to the Bureau for this matter (Exh. 4, p. A87), \$159.75 more than the \$7,239 of enforcement costs requested in the Declaration. Upon the ALJ's review of the time printout, it appears .75 hours of work performed by paralegal Mariela Garcia-Luna on July 11, 2025, at a rate of \$213 per hour (totaling \$159.75), was not included in the Declaration.

68. Costs of investigation and enforcement in the total amount requested of \$13,493.82 are reasonable in light of the issues involved in this matter.

LEGAL CONCLUSIONS

Authority

1. The Director of the Department of Consumer Affairs (Director) has the authority issued under the Repair Act, including the power to revoke any license issued under the Act. (§ 9889.1.)

2. The Bureau is within the Department, and under the supervision and control of the Director, the Bureau has the duty of enforcing and administering the Repair Act. (§ 9882.) Similarly, the duty of enforcing and administering the Inspection

Program is vested in the Chief of the Bureau who is responsible to the Director.
(Health & Saf. Code, § 44001.5.)

3. The Bureau's highest priority in exercising its licensing, regulatory, and disciplinary functions is protection of the public. (§ 9880.3.)

4. The Clean Air Act (42 U.S.C. §§ 7401 et seq.) provides air quality standards for the nation and requires states to comply with those standards. (42 U.S.C. §§ 7410, 7413.) The California Legislature established uniform procedures for compliance with standards which control or eliminate pollution. (Health and Saf. Code, § 43000, subd. (c).)

5. The Bureau is vested with the duty of enforcing and administering the Clean Air Act. (Health & Saf. Code, §§ 44000, 44001.5, subd. (a).) The Bureau must adopt and implement motor vehicle emission standards, in-use performance standards, and motor vehicle fuel specifications for the control of air contaminants and sources of air pollution. (Health and Saf. Code, § 43013, subd. (a).) As of January 1, 2006, the Bureau has been charged with implementing regulations that achieve the maximum feasible and cost-effective reduction of greenhouse gas emissions. (Health and Saf. Code, § 43018.5, subd. (a).)

6. The Department has the sole and exclusive authority within the state for developing and implementing the Inspection Program. For the purposes of administration and enforcement of the Inspection Program, the Department has all the powers and authority granted under the Inspection Program, the Repair Act, and California Code of Regulations, title 16 (Regulations), commencing with section 3300, and all inspections and repairs performed pursuant to the Inspection Program must

meet the requirements of these statutes and regulations. (Health & Saf. Code, § 44002.)

Burden and Standard of Proof

7. Complainant has the burden of proving the allegations in the Accusation by a preponderance of the evidence. (*Imports Performance v. Department of Consumer Affairs, Bureau of Automotive Repair* (2011) 201 Cal.App.4th 911, 916-917.)

Statutory Law

REPAIR ACT

8. When an ARD cannot show there was a bona fide error, the Director may revoke the ARD's ARD registration if any of the following occur: the dealer or any employee makes or authorizes any statement 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; commits an act that constitutes fraud; or fails in any material respect to comply with the provisions of the Repair Act. (§ 9884.7, subd. (a)(1), (4), & (6).)

9. For purposes of section 9884.7, "fraud" includes, but is not limited to, violations of the Repair Act involving misrepresentations and includes a misrepresentation in any manner, whether intentionally false or due to gross negligence, of a material fact. (§ 9884.7, subd. (e)(2).)

INSPECTION PROGRAM

10. Smog check tests must be performed in accordance with the smog check procedures prescribed by the Department. (Health & Safe. Code, § 44012.) The Department must ensure emission control systems required by state and federal law

are reducing excess emissions, and that all visual and functional tests are performed, in accordance with California Smog Check Program. (*Id.* at subd. (a) & (f).)

11. A smog check station may issue Certificates of Compliance only if a vehicle meets the requirements of the Inspection Program. (Health & Safe. Code, § 44015, subd. (b).)

12. Health and Safety Code, section 44032, prohibits failing to perform a smog inspection in accordance with Health and Safety Code, section 44012.

13. Health and Safety Code, section 44059, prohibits falsifying a material statement in a Smog Certificate of Compliance.

14. Health and Safety Code section 44072.2 provides the Director may revoke a Bureau issued license if the licensee violates any section of the Repair Act or its regulations related to the licensed activities (subd. (a)); violates any regulations adopted by the Director (subd. (c)); or commits any act involving dishonesty, fraud, or deceit whereby another is injured (subd. (d)).

15. Health and Safety Code section 44072.10, subdivision (c)(1), requires the Department to revoke the license of any smog check technician or station licensee who fraudulently certifies vehicles or participates in the fraudulent inspection of vehicles, including clean plugging.

Regulatory Law

16. The Bureau may suspend or revoke a Bureau issued license if the licensee falsely or fraudulently issues a Smog Certificate of Compliance. (Regulations, § 3340.24, subd. (c).)

17. A licensed smog check inspector must inspect, test, and repair vehicles in accordance with Health and Safety Code sections 44012 and 44035, and Regulations, section 3340.42. (Regulations, § 3340.30, subd. (a).)

18. A licensed smog check station must issue a Smog Certificate of Compliance to the owner or operator of any vehicle that has been inspected in accordance with the Inspection Program and the procedures specified in Regulations, section 3340.42, and which has all the required emission control equipment and devices installed and functioning correctly. (Regulations, § 3340.35, subd. (c).)

19. Regulations, section 3340.41, subdivision (c), prohibits all persons from entering any vehicle identification information or emission control system identification data for any vehicle other than the one being tested into the Emission Inspection System (EIS) or OIS, and further prohibits all persons from entering into the EIS or OIS any false information about the vehicle being tested.

20. Smog check inspectors must comply with the Bureau's Smog Check Manual, by conducting the visual and functional inspection, and using the vehicle's OBD system to inspect gasoline-powered vehicles 2000 model-year and newer. (Regulations, § 3340.42.)

21. An ARD or other individual in charge is prohibited from completing any record required to be maintained by Regulations section 3340.15, subdivision (e) (including Smog Certificates of Compliance) which will cause any such document to be false or misleading. (Regulations, § 3373.)

///

///

Respondents' Additional Registrations and Licenses

22. The Director may revoke the ARD registration for all places of business operated in this state by an ARD upon a finding that the ARD has, or is, engaged in a course of repeated and willful violations of the Repair Act, or regulations adopted pursuant to it. (§ 9884.7, subd. (c).)

23. When the Director revokes a license under the Inspection Program, the Director may revoke any additional license in the name of the licensee issued under the Program. (Health and Saf. Code, § 44072.8.)

Cause for Discipline

RESPONDENT SMOG DEPT'S ARD REGISTRATION

First Cause for Discipline – Untrue or Misleading Statements

24. Cause exists under section 9884.7, subdivision (a)(1), to discipline respondent Smog Dept's ARD registration. Complainant established by a preponderance of the evidence respondent Smog Dept, under respondent Jasso's EO license, made or authorized written statements that were untrue and which were known, or which by the exercise of reasonable care should have been known, to be untrue. Respondents certified the 10 vehicles had passed California smog check inspections and were in compliance with applicable laws and regulations, though respondents used another vehicle's OBDII system, or another source, to gather data and generate the Smog Certificates of Compliance. Respondent Smog Dept did not present evidence establishing these violations were due to a bona fide error. (Factual Findings 9-45; Legal Conclusion 8.)

Second Cause for Discipline - Fraud

25. Cause exists under section 9884.7, subdivision (a)(4), to discipline respondent Smog Dept's ARD registration. Complainant established by a preponderance of the evidence respondents clean plugged the 10 vehicles. Smog check inspector respondent Jasso, employed as a smog check inspector by his ARD, respondent Smog Dept, fraudulently inspected and certified the 10 vehicles, knowingly sending false information to the Bureau's VID, and respondent Smog Dept issued passing Certificates of Compliance for these vehicles. Respondent Smog Dept did not establish these acts were due to a bona fide error. (Factual Findings 9-45; Legal Conclusion 8.)

Third Cause for Discipline – Material Violation of the Repair Act

26. Cause exists under section 9884.7, subdivision (a)(6), to discipline respondent Smog Dept's ARD registration. Complainant established by a preponderance of the evidence respondent Smog Dept failed in a material respect to comply with the provisions of the Repair Act when respondent Smog Dept issued electronic Certificates of Compliance for Vehicles 1 through 10, 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 Inspection Program. (Factual Findings 9-45; Legal Conclusion 8.)

///

///

///

RESPONDENT SMOG DEPOT'S TC LICENSE

Fourth Cause for Discipline – Violations of the Motor Vehicle Inspection Program

27. Cause exists under Health and Safety Code section 44072.2, subdivision (a), to discipline respondent Smog Depot's TC license. Complainant established by a preponderance of the evidence respondent Smog Depot failed to comply with Health and Safety Code sections 44012 and 44015. Respondent Smog Dept failed to ensure required emission control tests were performed on the 10 vehicles at issue in accordance with Department procedures by issuing passing Smog Certificates of Compliance to the 10 vehicles without first determining if they were in compliance with Health and Safety Code section 44012. (Factual Findings 9-45; Legal Conclusion 10, 11, 14.)

Fifth Cause for Discipline – Failure to Comply with Regulations Pursuant to the Inspection Program

28. Cause exists under Health and Safety Code section 44072.2, subdivision (c), to discipline respondent Smog Dept's TC license. Complainant established by a preponderance of the evidence respondent Smog Dept failed to comply with Regulations, sections 3340.24, subdivision (c), 3340.30, subdivision (a), 3340.35, subdivision (c), 3340.41, subdivision (c), 3340.42, and 3373. Respondent Smog Depot fraudulently issued passing Certificates of Compliance to the 10 vehicles without performing bona fide inspections of the vehicles' emission control devices and systems as required by Health and Safety Code section 44012 and did so even though the 10 vehicles had not been inspected in accordance with Regulations section 3340.42. In so doing, respondent Smog Depot issued Smog Certificates of Compliance to the owner

or operator of 10 vehicles that had not been inspected in accordance with the Inspection Program and the procedures specified in Regulations section 3340.42. (Factual Findings 9-45; Legal Conclusions 14, 16-21.)

Sixth Cause for Discipline – Dishonesty, Fraud, or Deceit

29. Cause exists under Health and Safety Code sections 44072.2, subdivision (d), and 44072.10, subdivision (c)(1), to revoke respondent Smog Depot's TC license. Complainant established by a preponderance of the evidence respondent Smog Depot committed dishonest, fraudulent or deceitful acts whereby another was injured by issuing electronic smog Certificates of Compliance for Vehicles 1 through 10 without performing bona fide inspections of the emission control devices and systems on the vehicles, and instead issuing Smog Certificates of Compliance through the act of clean plugging, thereby depriving the People of the State of California of the protection afforded by the Inspection Program. (Factual Findings 9-45; Legal Conclusions 14 & 15.)

RESPONDENT JASSO'S EO LICENSE

Seventh Cause for Discipline – Violations of the Motor Vehicle Inspection Program

30. Cause exists under Health and Safety Code section 44072.2, subdivision (a), to discipline respondent Jasso's smog check inspector license. Complainant established by a preponderance of the evidence respondent Jasso failed to comply with sections 44012, subdivisions (a) and (f), 44015, subdivision (b), 44032, and 44059 when he failed to determine all emission control devices and systems required by law were installed and functioning correctly on each of the 10 vehicles, as required by

section 44012, and failed to perform the emission control tests on each of the 10 vehicles; and when he willfully made false entries during the smog check inspections for each of the 10 vehicles by certifying they had each been inspected as required by law, although they had not, and then caused electronic Smog Certificates of Compliance to be issued for each of the 10 vehicles without ensuring they had each been inspected as required by law. (Factual Findings 9-45; Legal Conclusions 10-14.)

Eighth Cause for Discipline – Failure to Comply with Regulations Pursuant to the Inspection Program

31. Cause exists under Health and Safety Code section 44072.2, subdivision (c), and Regulations, sections 3340.24, subdivision (c), 3340.30, subdivision (a), 3340.41, subdivision (c), and 3340.42 to discipline respondent Jasso's smog check inspector license. Respondent Jasso fraudulently certified the 10 vehicles had each passed a California Smog Check inspection and were in compliance with applicable laws and regulations. However, respondent Jasso entered into respondent Smog Dept's OIS false information about Vehicles 1 through 10, respectively, and used another vehicle's OBDII system, or another source, to gather data and generate the Smog Certificates of Compliance. Respondent Jasso's actions were not in compliance with the smog check requirements of Health and Safety Code section 44012 and violated the Bureau's smog check specifications. (Factual Findings 9-45; Legal Conclusions 14, 16, 17, 19, & 20.)

Ninth Cause for Discipline – Dishonesty, Fraud, Deceit

32. Cause exists under Health and Safety Code sections 44072.2, subdivision (d), and 44072.10, subdivision (c)(1), to discipline respondent Jasso's EO license. Complainant established by a preponderance of the evidence respondent Jasso fraudulently certified the 10 vehicles and participated in the fraudulent inspections of

the 10 vehicles by clean plugging each of the 10 vehicles. (Factual Findings 9-45; Legal Conclusions 14, 15.)

Assessment of Discipline

DISCIPLINARY GUIDELINES

33. The Bureau's Guidelines for Disciplinary Orders and Terms of Probation (Guidelines) (Rev. June 2021) provide ranges of discipline for listed violations as well as factors in aggravation and in mitigation to consider when determining registration and license discipline. The Guidelines provide revocation as the maximum order for each of respondents' violations. In consideration of lesser discipline, the Guidelines' applicable factors in aggravation include factor (9), evidence the unlawful acts were part of a pattern of practice. (Guidelines, pp. 1-2.) The Guidelines' applicable factor in mitigation include factor (6), that respondents do not have prior disciplinary action. (Guidelines, pp. 2-3.)

34. In favor of lesser discipline is the fact the neither respondent smog Dept or respondent Jasso have prior disciplinary action. However, based on the manner and means by which the 10 fraudulent smog check inspections were conducted, respondents' unlawful acts were part of a pattern or practice. Respondents committed 10 clean plugs within their first six months of functioning as an ARD registrant and TC and EO licensee.

REHABILITATION

35. Rehabilitation is a "state of mind" and the law looks with favor upon rewarding with the opportunity to serve, one who has achieved "reformation and regeneration." (*Pacheco v. State Bar* (1987) 43 Cal.3d 1041, 1058.) Fully acknowledging

the wrongfulness of past actions is an essential step towards rehabilitation (*Seide v. Committee of Bar Examiners* (1989) 49 Cal.3d 933, 940), but mere remorse does not demonstrate rehabilitation. A truer indication of rehabilitation is sustained conduct over an extended period of time. (*In re Menna* (1995) 11 Cal.4th 975, 991; see also *In re Schwartz* (1982) 31 Cal.3d 395, 400-401, citing *In re Conflenti* (1981) 29 Cal.3d 120, 124-125 [where petitioner's criminal acts occurred just two years prior to his discipline hearing, evidence of rehabilitation was insufficient to demonstrate rehabilitation].)

36. Respondent Jasso did not accept the responsibility he holds doing business as respondent Smog Dept, and pursuant to the rule of nondelegable duties of licensees, to ensure his smog check inspectors, in this case himself, comply with all smog check inspection requirements. (See *California Assn. of Health Facilities v. Department of Health Services* (1997) 16 Cal.4th 284; *Ford Dealers Assn v. Department of Motor Vehicles* (1982) 32 Cal.3d 347; *Rob-Mac, Inc. v. DMV* (1983) 148 Cal.App.3d 793.) Respondent Jasso also did not accept responsibility for his own wrongdoing. Rather, respondent Jasso denied any wrongdoing or knowledge of such wrongdoing, and attributed any cause for the clean plugging to alleged and unsubstantiated faulty data, and to respondents' speculation the 10 individual vehicle owners installed defeat devices on each of their own vehicles. (Factual Findings 51-64.)

ASSESSMENT

37. In consideration of the Guidelines and applicable statutes and regulations, including section 9884.7 and Health and Safety Code, section 44072.10, subdivision (c)(1), complainant established by a preponderance of the evidence the protection of the public requires the revocation of respondent Smog Dept's ARD registration number 310445 and TC license number 310445, and respondent Jasso's EO license number 645202. Respondent Jasso did not acknowledge responsibility, or

express remorse for, his violations, and did not demonstrate acts of rehabilitation. In addition, respondent Jasso's testimony was incomplete and inconsistent further failing to establish he understands California Smog Inspection requirements, holds any remorse for his violations, or that he has demonstrated improved behavior or rehabilitation. (Factual Findings 9-64; Legal Conclusions 24-36.)

Additional Registrations and Licenses

38. Cause exists under section 9884.7, subdivision (c), to revoke the ARD registration for all places of business operated in this state by respondent Smog Dept because complainant established by a preponderance of the evidence respondent Smog Dept has engaged in a course of repeated and willful violations of the Act and the regulations adopted pursuant to it.

39. Cause exists under Health and Safety Code, section 44072.8, to revoke any additional licenses issued in the name of respondents Smog Dept and Jasso because respondents' licenses issued under the Program are revoked.

Award of Costs

40. In any order issued in resolution of a disciplinary proceeding, at the request of the Bureau, the Administrative Law Judge may direct the licentiate found to have committed a violation to pay a sum not to exceed the reasonable costs of investigation and enforcement. A certified copy of the actual costs signed by the Bureau or its designated representative is prima facie evidence of reasonable costs of investigation and prosecution of the case. The costs shall include the amount of investigative and enforcement costs up to the date of the hearing, including, but not limited to, charges imposed by the Attorney General. (§ 125.3, subds. (a), (c); see Regulations § 1042, subd. (b).)

41. The Bureau must exercise its discretion to reduce or eliminate cost awards in a manner that will ensure registrants and licentiates with potentially meritorious claims or defenses are not deterred from exercising their right to a hearing, and must not assess the full costs of investigation and prosecution when to do so would unfairly penalize the licensee who has committed some misconduct, but who has used the hearing process to obtain dismissal of other charges or a reduction in the severity of the discipline imposed. (See *Zuckerman v. State Board of Chiropractic Examiners* (2002) 29 Cal.4th 32, 45.) Factors to be considered in determining costs sought pursuant to section 125.3 include: the licentiate's success in getting the charges dismissed or reduced; the licentiate's subjective good faith belief in the merits of his or her position; whether the licentiate raised a colorable challenge to the proposed discipline; the licentiate's financial ability to pay; and whether the scope of the investigation was appropriate in light of the alleged misconduct. (*Id.*)

42. The declarations signed by Ms. Cho and APS Martin del campo constitute prima facie evidence of the reasonableness of the total costs incurred by the Bureau in the amount of \$13,493.82. (§ 125.3, subd. (c).) (Factual Findings 52-55.) Respondents failed to rebut the reasonableness of the costs and were not successful in dismissing or reducing the charges. However, the revocations of their respective registrations and licenses will limit their income and therefore impact their financial ability to pay the costs. Although respondent Jasso's testimony regarding his income was inconsistent, it was sufficient to establish his income is limited. Due to these factors, the total costs are reduced by 40 percent. Respondents will be ordered to pay \$8,096.29 before seeking reinstatement of any registrations or licenses hereby revoked.

///

///

ORDER

1. Automotive Repair Dealer Registration number ARD 310455, and all other ARD registrations, issued to respondent Arlain Jasso, doing business as Smog Dept, is revoked.
2. Smog Check, Test Only, Station License number TC 310455, and all other smog check, test only station licenses, issued to respondent Arlain Jasso, doing business as Smog Dept, are revoked.
3. Smog Check Inspector license number EO 645202, and all other smog check inspector licenses, issued to respondent Arlain Jasso, are revoked.
4. Respondent Arlain Jasso is ordered to pay to the Bureau of Automotive Repair the reasonable costs of investigation and enforcement in the sum of \$8,096.29, before seeking reinstatement of any registrations or licenses hereby revoked.

DATE: 06/17/2026


Chantal Sampogna (Jun 17, 2026 11:17:41 PDT)

CHANTAL M. SAMPOGNA
Administrative Law Judge
Office of Administrative Hearings