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

12 In the Matter of the Accusation Against:

Case No. 79/25-5839

13 **KEVIN GABRIEL PATINO,**
14 **DBA LA SIERRA SMOG CHECK**
4161 Riverview Drive, #B
Riverside, CA 92509

ACCUSATION

15 **Automotive Repair Dealer Registration No.**
16 **ARD 311020**
Smog Check Test Only Station License No.
TC 311020

17 **KEVIN GABRIEL PATINO**
3700 Avalon Street, Unit B19
18 Jurupa Valley, CA 92509

19 **Smog Check Inspector License No.**
20 **EO 645061**

21 Respondent.

22 **PARTIES**

23
24 1. Patrick Dorais (complainant) brings this Accusation solely in his official capacity as
25 the Chief of the Bureau of Automotive Repair (bureau), Department of Consumer Affairs.

26 2. On or about December 10, 2024, the bureau issued Automotive Repair Dealer
27 Registration number ARD 311020 to Kevin Gabriel Patino, doing business as La Sierra Smog
28 Check (respondent or La Sierra Smog Check). The Automotive Repair Dealer Registration was in

1 full force and effect at all times relevant to the charges brought herein and will expire on
2 December 31, 2025, unless renewed.

3 3. On or about January 29, 2025, respondent La Sierra Smog Check was issued Smog
4 Check Test Only Station License number TC 311020. The Smog Check Test Only Station
5 License was in full force and effect at all times relevant to the charges brought herein and will
6 expire on December 31, 2025, unless renewed.

7 4. On or about June 21, 2024, the bureau issued Smog Check Inspector License number
8 EO 645061 to respondent. The Smog Check Inspector License was in full force and effect at all
9 times relevant to the charges brought herein and will expire on September 30, 2026, unless
10 renewed.

11 **JURISDICTION**

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

14 6. Business and Professions Code section 118, subdivision (b), provides that suspension,
15 expiration, surrender, or cancellation of a license shall not deprive the director of jurisdiction to
16 proceed with a disciplinary action during the period within which the license may be renewed,
17 restored, reissued or reinstated.

18 7. Business and Professions Code section 9884.7 provides that the director may revoke
19 an automotive repair dealer registration.

20 8. Business and Professions Code section 9884.13 provides, in pertinent part, that the
21 expiration of a valid registration shall not deprive the director of jurisdiction to proceed with a
22 disciplinary proceeding against an automotive repair dealer or to render a decision temporarily or
23 permanently invalidating (suspending or revoking) a registration.

24 9. Health and Safety Code section 44002 provides, in pertinent part, that the director has
25 all the powers and authority granted under the Automotive Repair Act for enforcing the Motor
26 Vehicle Inspection Program.

27 10. Health and Safety Code section 44072.6 provides, in pertinent part, that the expiration
28 or suspension of a license by operation of law, or by order or decision of the director of Consumer

Affairs, or a court of law, or the voluntary surrender of the license shall not deprive the director of jurisdiction to proceed with disciplinary action.

STATUTORY PROVISIONS

11. Business and Professions Code section 9884.7 states, in pertinent part:

(a) The director, if the automotive repair dealer cannot show there was a bona fide error, may deny, suspend, revoke, or place on probation the registration of an automotive repair dealer for any of the following acts or omissions related to the conduct of the business of the automotive repair dealer, which are done by the automotive repair dealer or any automotive technician, employee, partner, officer, or member of the automotive repair dealer:

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

....

(4) Any other conduct that constitutes fraud.

....

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

....

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

....

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

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

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

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

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

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

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1 12. Business and Professions Code section 477 provides, in pertinent part, that “board”
2 includes “bureau,” “commission,” “committee,” “department,” “division,” “examining
3 committee,” “program,” and “agency.” “License” includes certificate, registration or other means
4 to engage in a business or profession regulated by the Business and Professions Code.

5 13. Health and Safety Code section 44012 provides, in pertinent part, that tests at smog
6 check stations shall be performed in accordance with procedures prescribed by the department.

7 14. Health and Safety Code section 44015, subdivision (b), provides that a certificate of
8 compliance shall be issued if a vehicle meets the requirements of Health and Safety Code section
9 44012.

10 15. Health and Safety Code section 44032 provides that qualified technicians shall
11 perform tests of emissions control devices and systems in accordance with Health and Safety
12 Code section 44012.

13 16. Health and Safety Code section 44072.2 states, in pertinent part:

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

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

18 ...

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

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

22 17. Health and Safety Code section 44072.10 states, in pertinent part:

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

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

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

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

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

18. Health and Safety Code section 44072.8 states that when a license has been revoked or suspended following a hearing under this article, any additional license issued under this chapter in the name of the licensee may be likewise revoked or suspended by the director.

REGULATORY PROVISIONS

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

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

20. CCR, title 16, section 3340.30, subdivision (a), states that a licensed smog technician shall at all times “[i]nspect, 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.”

21. CCR, title 16, section 3340.35, subdivision (c), states that a licensed smog check 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.”

22. CCR, title 16, section 3340.41 states, in pertinent part:

(b) No person shall enter any access or qualification number other than as authorized by the bureau into the EIS or OIS, nor in any way tamper with the EIS or OIS.

(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

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

1 **COST RECOVERY**

2 24. Business and Professions Code section 125.3 provides, in pertinent part, that the
3 board may request the administrative law judge to direct a licentiate found to have committed a
4 violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the
5 investigation and enforcement of the case.

6 **CALIFORNIA'S SMOG CHECK PROGRAM**

7 25. California's Smog Check Program requires most vehicles in the State to undergo a
8 smog check inspection every two years or when the vehicle's title is transferred.

9 26. A smog check inspection in certain Enhanced areas of the State is an Acceleration
10 Simulation Mode (ASM) test performed using an Emission Inspection System (EIS), also known
11 as a BAR 97. This is a computer based five-gas analyzer that measures Hydrocarbons (HC),
12 Carbon Monoxide (CO), Oxides of Nitrogen (NOx), Carbon Dioxide (CO²) and Oxygen (O²).
13 The first part of the test is a loaded mode test of the vehicle's tailpipe emissions on a
14 dynamometer. The vehicle's drive wheels are placed on rollers, and the vehicle is driven to
15 simulate driving conditions while the emissions are sampled by the EIS.

16 27. In Basic areas of the State, or depending on a vehicle's configuration, a similar test
17 called a Two Speed Idle test is performed, but instead of applying a load to the vehicle's drive
18 wheels with a dynamometer, the EIS measures the emissions of HC, CO, O², and CO² at idle as
19 well as 2500 revolutions per minute (rpm).

20 28. In the visual portion of a smog check, the technician inspects the emission control
21 components to verify that the required emission control devices are present and properly
22 connected.

23 29. An On-Board Diagnostics (OBD II) functional test is also performed on most 1996 to
24 1999 model year vehicles. The EIS retrieves information through the Diagnostic Link Connector
25 (DLC) from the vehicle's on-board computer about its ability to communicate, the status of the
26 I/M readiness monitors and the MIL light command. The I/M readiness monitors tell whether or
27 not the OBD II system has run a sufficient number of self-tests on the vehicle's emission and
28 engine control systems. A failure of one or more of the OBD II functional criteria, depending on

1 model year, will result in the vehicle failing its smog check inspection. In addition to reporting
2 the outcome of the OBD II functional test, the smog check inspection results also show
3 Diagnostic Trouble Codes (DTC) if there are any in the vehicle's on-board computer memory.

4 30. The inspector enters the results of the visual and functional inspections into the EIS.
5 The EIS unit makes the determination whether or not the vehicle passes the inspection based on
6 the results of the tailpipe, visual and functional tests.

7 31. The EIS is connected by internet connection to bureau's Vehicle Information
8 Database (VID). If the vehicle passes the visual, functional and tailpipe tests, it passes the overall
9 inspection. A Certificate of Compliance is issued and transmitted electronically to the VID.
10 Additionally, all data gathered during a Smog Check inspection, regardless of the type of
11 inspection, is transmitted to and retained in the VID.

12 32. Beginning March 9, 2015, California's Smog Check Program was updated to require
13 the use of an On-Board Diagnostic Inspection System (BAR-OIS). BAR-OIS is the smog check
14 equipment required in all areas of the State when inspecting most model-year 2000 and newer
15 gasoline and hybrid vehicles. The system consists of a certified Data Acquisition Device (DAD),
16 computer, bar code scanner, and printer. The DAD is an OBD scan tool that, when requested by
17 the BAR-OIS software, retrieves OBD data from the vehicle. All OBD data that the vehicle
18 indicates it supports is requested by the BAR-OIS software and will be retrieved. The DAD
19 connects between the BAR-OIS computer and the vehicle's DLC. The bar code scanner is used to
20 input inspector information, the vehicle identification number (VIN), and Department of Motor
21 Vehicles renewal information. The printer provides a Vehicle Inspection Report (VIR) containing
22 inspection results for motorists and a Smog Check Certificate of Compliance number for passing
23 vehicles.

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

28 ///

- 1 34. Some of the parameters recorded are:
- 2 a. *RPM*: Engine speed in revolutions per minute (RPM);
- 3 b. *TPS*: Throttle position as measured by a throttle position sensor (TPS) mounted onto
- 4 the throttle shaft, measured in a percentage of opening from 0% at idle and near or up to 100% at
- 5 full throttle;
- 6 c. *MAP*: Manifold absolute pressure as measured by a manifold air pressure sensor
- 7 (*MAP*) connected to an intake manifold source, measured in kilo pascals (kpa), with typical
- 8 readings for a normally aspirated vehicle being as follows: 0 kpa being absolute vacuum, 25 to 45
- 9 kpa at idle, 101 kpa at full throttle, same as atmospheric pressure at sea level;
- 10 d. *MAF*: Mass air flow as measured by a mass air flow sensor (*MAF*) mounted in the
- 11 engine's air intake tract, measured in grams per second (gps); and
- 12 e. *BTDC*: Ignition timing, which is set by the vehicle PCM based on engine speed and
- 13 load, measured in degrees Before Top Dead Center (BTDC).

14 Not all vehicles include both *MAP* and *MAF* parameters. Many vehicles have either *MAP*

15 or *MAF* parameters separately.

16 35. During normal engine operation at idle, engine speed is relatively steady around its

17 target idle speed. With the engine idling, the *TPS* is steady and at or near 0%. The *MAP* and/or

18 *MAF* readings are also steady. For the engine speed to increase, the throttle would have to be

19 opened in order to increase airflow through the engine. The engine's management systems supply

20 fuel and spark timing appropriate to any changes in throttle position and engine speed.

21 An increase in throttle, measured by the *TPS*, which increases engine *RPM*, would result in a

22 corresponding increase in *MAF* as well as a change in *MAP*. Any movement in the throttle from

23 the idle position will result in an increase of airflow through the engine with corresponding

24 increases *RPM* and *MAF* along with changes in *MAP*.

25 36. During an OIS Smog Check inspection, along with other visual and functional

26 inspections, there is an OBD II query portion of the inspection. The OBD II query is performed

27 with the engine idling and, when requested by the OIS analyzer, and an elevated or increased

28 engine speed. The increase in engine speed is performed by the inspector by stepping on the

1 throttle pedal or manually opening the throttle resulting in a corresponding increase in engine
2 RPMs by allowing an increase in airflow into the engine.

3 37. The bureau has become aware of methods that some Smog Check stations and Smog
4 Check inspectors use to fraudulently issue smog certificates to vehicles that may not pass a smog
5 check test on their own, or in some instances, are not even present during the time the test is
6 performed. “Clean plugging” is a method by which another vehicle’s OBD II system, or another
7 source such as defeat devices, are used to generate passing data readings or diagnostic
8 information for the purpose of fraudulently issuing smog certificates to vehicles that are not in
9 smog compliance, and or not present for testing. Defeat devices attempt to simulate engine
10 operation during a smog check inspection by transmitting OBD II data to the VID which has been
11 modified or replaced entirely for the purportedly inspected vehicle during the functional portion
12 of the OIS inspection.

13 **FACTUAL ALLEGATIONS**

14 38. On or about April 18, 2025, a bureau representative conducted a detailed review of
15 the VID data for Smog Check inspections performed at La Sierra Smog Check, which showed a
16 pattern of vehicles being certified with engine operating parameters that did not correspond to
17 normal engine operation, confirming the vehicles receiving smog certifications were not tested
18 during the OBD II functional test, which constitutes clean plugging. The bureau’s review of the
19 smog check activities at La Sierra Smog Check confirmed ten Smog Check Certificates of
20 Compliance were fraudulently issued by La Sierra Smog Check to vehicles that were inspected by
21 respondent.

22 **Fraudulent Inspection Number 1 — 2004 Toyota Corolla CE**

23 39. OIS Test Data for La Sierra Smog Check indicates that on or about on February 6,
24 2025, a 2004 Toyota Corolla CE, California License number 5CJF729 (2004 Toyota Corolla CE),
25 was tested and Smog Certificate of Compliance number JD045704C was issued under
26 respondent’s Smog Check Inspector License.

27 40. The Dynamic PID chart for the 2004 Toyota Corolla CE shows that between time
28 stamp 157 and 18572, the engine RPM is steady at around 860 RPM. During this time, the data

1 shows that the throttle is fluctuating between 6.7% and 11.8% opening and the MAF is
2 fluctuating between 0.46gps and 2.39gps. After time stamp 18572, the data shows the engine
3 RPM is increased and stays elevated at no less than 2128 RPM. During the elevated engine RPM,
4 the data shows that the throttle is fluctuating between 6.7% and 11.4% opening and the MAF is
5 fluctuating between 0.2gps and 2.5gps.

6 41. The steady idle and elevated engine RPM data along with the improbable throttle
7 positions and MAF readings are not characteristic or expected for normal engine operation. The
8 throttle positions and MAF readings are expected to be stable during the steady idle and
9 subsequently raised during the elevated engine RPM. During the improbable readings, the throttle
10 and MAF had data points during the elevated engine RPM which were lower than data points at
11 idle. The throttle data points during the elevated engine RPM never increased past the highest
12 data point at idle. The discrepancies in the OIS test data prove the Data Acquisition Device
13 (DAD) was not connected as required to the 2004 Toyota Corolla CE being certified, causing the
14 issuance of a fraudulent Smog Check Certificate of Compliance.

15 **Fraudulent Inspection Number 2 — 2003 Honda Civic DX**

16 42. OIS Test Data for La Sierra Smog Check indicates that on or about February 7, 2025,
17 a 2003 Honda Civic DX, California License number 9JEV017 (2003 Honda Civic DX), was
18 tested and Smog Certificate of Compliance number JD045709C was issued under respondent's
19 Smog Check Inspector License.

20 43. The Dynamic PID chart for the 2003 Honda Civic DX shows that between time stamp
21 111 and 18648, the engine RPM is steady at around 730 RPM. During this time, the data shows
22 that the throttle is fluctuating between 6.7% and 11.4% opening and the MAP is fluctuating
23 between 20kPa and 25kPa. After time stamp 18648, the data shows the engine RPM is increased
24 and stays elevated at no less than 1900 RPM. During the elevated engine RPM, the data shows
25 the throttle is varying between 7.1% and 11.8% opening, and the MAP is between 20kPa and
26 28kPa.

27 44. The steady idle and elevated engine RPM data along with the improbable throttle
28 positions and fluctuating MAP readings are not characteristic or expected for normal engine

operation. The throttle positions and MAP readings are expected to be stable during the steady idle. Subsequently, the throttle is expected to rise during the elevated engine RPM. During the improbable readings, the throttle had data points during the elevated engine RPM which were lower than data points at idle. The discrepancies in the OIS test data prove the Data Acquisition Device (DAD) was not connected as required to the 2003 Honda Civic DX being certified, causing the issuance of a fraudulent Smog Check Certificate of Compliance.

Fraudulent Inspection #3 — 2002 Mercedes-Benz ML 320

45. OIS Test Data for La Sierra Smog Check indicates that on or about February 8, 2025, a 2002 Mercedes-Benz ML 320, California License number 6VLC440 (2002 Mercedes-Benz ML 320), was tested and Smog Certificate of Compliance number JD045713C was issued under respondent's Smog Check Inspector License.

46. The Dynamic PID chart for the 2002 Mercedes-Benz ML 320 shows that between time stamp 161 and 17867, the engine RPM is steady at around 690 RPM. During this time, the data shows that the throttle is fluctuating between 0% and 3.5% opening, the MAF is fluctuating between 3.07gps and 4.15gps, and the MAP is fluctuating between 33kPa and 46kPa. After time stamp 17867, the data shows the engine RPM is increased and stays elevated at no less than 1788 RPM. During the elevated engine RPM, the data shows the throttle is fluctuating between 0.4% and 4.3% opening, the MAF is fluctuating between 2.97gps and 5.08gps, and the MAP is fluctuating between 33kPa and 45kPa.

47. The steady idle and elevated engine RPM data along with the improbable throttle positions, MAF readings and fluctuating MAP readings are not characteristic or expected for normal engine operation. The throttle positions, MAF and MAP readings are expected to be stable during the steady idle. Subsequently, the throttle and MAF are expected to rise during the elevated engine RPM. During the improbable readings, the throttle and MAF had data points during the elevated engine RPM which were lower than data points at idle. The discrepancies in the OIS test data prove the Data Acquisition Device (DAD) was not connected as required to the 2002 Mercedes-Benz ML 320 being certified, causing the issuance of a fraudulent Smog Check Certificate of Compliance.

1 **Fraudulent Inspection #4 — 2002 Ford Mustang GT**

2 48. OIS Test Data for La Sierra Smog Check indicates that on or about February 17,
3 2025, a 2002 Ford Mustang GT, California License number 9MFZ525 (2002 Ford Mustang GT),
4 was tested and Smog Certificate of Compliance number JD045725C was issued under
5 respondent's Smog Check Inspector License.

6 49. The Dynamic PID chart for the 2002 Ford Mustang GT shows that between time
7 stamp 55 and 18311, the engine RPM is steady at around 850 RPM. During this time, the data
8 shows that the throttle is fluctuating between 18.8% and 23.9% opening and the MAF is
9 fluctuating between 5.48gps and 7.54gps. After time stamp 18311, the data shows the engine
10 RPM is increased and stays elevated at no less than 1758 RPM. During the elevated engine RPM,
11 the data shows the throttle is fluctuating between 18.8% and 24.3% opening and the MAF is
12 fluctuating between 5.59gps and 7.59gps.

13 50. The steady idle and elevated engine RPM data along with the improbable throttle
14 positions and MAF readings are not characteristic or expected for normal engine operation. The
15 throttle positions and MAF readings are expected to be stable during the steady idle and
16 subsequently raised during the elevated engine RPM. During the improbable readings, the throttle
17 and MAF had data points during the elevated engine RPM which were lower than data points at
18 idle. The discrepancies in the OIS test data prove the Data Acquisition Device (DAD) was not
19 connected as required to the 2002 Ford Mustang GT being certified, causing the issuance of a
20 fraudulent Smog Check Certificate of Compliance.

21 **Fraudulent Inspection #5 — 2001 Chevrolet Tahoe C1500**

22 51. OIS Test Data for La Sierra Smog Check indicates that on or about March 8, 2025, a
23 2001 Chevrolet Tahoe C1500, VIN ending in 12508 (2001 Chevrolet Tahoe C1500), was tested
24 and Smog Certificate of Compliance number UK596175C was issued under respondent's Smog
25 Check Inspector License.

26 52. The Dynamic PID chart for the 2001 Chevrolet Tahoe C1500 shows that between
27 time stamp 57 and 19190, the engine RPM is steady at around 550 RPM. During this time, the
28 data shows that the throttle is fluctuating between 1.6% and 5.5% opening, the MAF is

1 fluctuating between 5.67gps and 7.56gps, and the MAP is fluctuating between 32kPa and 46kPa.
2 After time stamp 19190, the data shows the engine RPM is increased and stays elevated at no less
3 than 1750 RPM. During the elevated engine RPM, the data shows the throttle is fluctuating
4 between 0% and 5.5% opening, the MAF is fluctuating between 5.46gps and 7.08gps, and the
5 MAP is fluctuating between 32kPa and 42kPa.

6 53. The steady idle and elevated engine RPM data along with the improbable throttle
7 positions, MAF readings and fluctuating MAP readings are not characteristic or expected for
8 normal engine operation. The throttle positions, MAF and MAP readings are expected to be
9 stable during the steady idle. Subsequently, the throttle and MAF are expected to rise during the
10 elevated engine RPM. During the improbable readings, the throttle and MAF had data points
11 during the elevated engine RPM which were lower than data points at idle. The throttle and MAF
12 data points during the elevated engine RPM never increased past the highest data point at idle.
13 The discrepancies in the OIS test data prove the Data Acquisition Device (DAD) was not
14 connected as required to the 2001 Chevrolet Tahoe C1500 being certified, causing the issuance of
15 a fraudulent Smog Check Certificate of Compliance.

16 **Fraudulent Inspection #6 — 2005 GMC New Sierra C3500**

17 54. OIS Test Data for La Sierra Smog Check indicates that on or about March 13, 2025, a
18 2005 GMC New Sierra C3500, California License number 7U49354 (2005 GMC New Sierra
19 C3500), was tested and Smog Certificate of Compliance number UK596185C was issued under
20 respondent's Smog Check Inspector License.

21 55. The Dynamic PID chart for the 2005 GMC New Sierra C3500 shows that between
22 time stamp 33 and 17811, the engine RPM is steady at around 600 RPM. During this time, the
23 data shows that the throttle is fluctuating between 0.4% and 4.3% opening, the MAF is
24 fluctuating between 5.33gps and 7.51gps, and the MAP is fluctuating between 33kPa and 45kPa.
25 After time stamp 17811, the data shows the engine RPM is increased and stays elevated at no less
26 than 1541 RPM. During the elevated engine RPM, the data shows the throttle is fluctuating
27 between 1.2% and 5.5% opening, the MAF is fluctuating between 5.95gps and 7.14gps, and the
28 MAP is fluctuating between 32kPa and 45kPa.

56. The steady idle and elevated engine RPM data along with the improbable throttle positions, MAF readings and fluctuating MAP readings are not characteristic or expected for normal engine operation. The throttle positions, MAF and MAP readings are expected to be stable during the steady idle. Subsequently, the throttle and MAF are expected to rise during the elevated engine RPM. During the improbable readings, the throttle and MAF had data points during the elevated engine RPM which were lower than data points at idle. The MAF data points during the elevated engine RPM never increased past the highest data point at idle. The discrepancies in the OIS test data prove the Data Acquisition Device (DAD) was not connected as required to the 2005 GMC New Sierra C3500 being certified, causing the issuance of a fraudulent Smog Check Certificate of Compliance.

Fraudulent Inspection #7 — 2002 Suzuki XL7 Plus

57. OIS Test Data for La Sierra Smog Check indicates that on or about March 21, 2025, a 2002 Suzuki XL7 Plus, VIN ending in 25325 (2002 Suzuki XL7 Plus), was tested and Smog Certificate of Compliance number UK614567C was issued under respondent's Smog Check Inspector License.

58. The Dynamic PID chart for the 2002 Suzuki XL7 Plus shows that between time stamp 158 and 17835, the engine RPM is steady at around 730 RPM. During this time, the data shows that the throttle is fluctuating between 12.5% and 17.3% opening, the MAF is fluctuating between 3.15gps and 5.01gps, and the MAP is fluctuating between 17kPa and 29kPa. After time stamp 17835, the data shows the engine RPM is increased and stays elevated at no less than 1500 RPM. During the elevated engine RPM, the data shows the throttle is fluctuating between 12.5% and 16.9% opening, the MAF is fluctuating between 3.27gps and 4.77gps, and the MAP is fluctuating between 16kPa and 25kPa.

59. The steady idle and elevated engine RPM data along with the improbable throttle positions, MAF readings and fluctuating MAP readings are not characteristic or expected for normal engine operation. The throttle positions, MAF and MAP readings are expected to be stable during the steady idle. Subsequently, the throttle and MAF are expected to rise during the elevated engine RPM. During the improbable readings, the throttle and MAF had data points

1 during the elevated engine RPM which were lower than data points at idle. The throttle and MAF
2 data points during the elevated engine RPM never increased past the highest data point at idle.
3 The discrepancies in the OIS test data prove the Data Acquisition Device (DAD) was not
4 connected as required to the 2002 Suzuki XL7 Plus being certified, causing the issuance of a
5 fraudulent Smog Check Certificate of Compliance.

6 **Fraudulent Inspection #8 — 2002 Ford Econoline E350 Super Duty Cutaway Van**

7 60. OIS Test Data for La Sierra Smog Check indicates that on or about March 25, 2025, a
8 2002 Ford Econoline E350 Super Duty Cutaway Van, VIN ending in 08043 (2002 Ford
9 Econoline E350 Super Duty Cutaway Van), was tested and Smog Certificate of Compliance
10 number UK614575C was issued under respondent's Smog Check Inspector License.

11 61. The Dynamic PID chart for the 2002 Ford Econoline E350 Super Duty Cutaway Van
12 shows that between time stamp 37 and 17880, the engine RPM is steady at around 770 RPM.
13 During this time, the data shows that the throttle is fluctuating between 19.2% and 23.9% opening
14 and the MAF is fluctuating between 5.44gps and 7.31gps. After time stamp 17880, the data shows
15 the engine RPM is increased and stays elevated at no less than 1901 RPM. During the elevated
16 engine RPM, the data shows the throttle is fluctuating between 19.6% and 24.3% opening and the
17 MAF is fluctuating between 5.56gps and 6.92gps.

18 62. The steady idle and elevated engine RPM data along with the improbable throttle
19 positions and MAF readings are not characteristic or expected for normal engine operation. The
20 throttle positions and MAF readings are expected to be stable during the steady idle and
21 subsequently raised during the elevated engine RPM. During the improbable readings, the throttle
22 and MAF had data points during the elevated engine RPM which were lower than data points at
23 idle. The MAF data points during the elevated engine RPM never increased past the highest data
24 point at idle. The discrepancies in the OIS test data prove the Data Acquisition Device (DAD)
25 was not connected as required to the 2002 Ford Econoline E350 Super Duty Cutaway Van being
26 certified, causing the issuance of a fraudulent Smog Check Certificate of Compliance.

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Fraudulent Inspection #9 — 2006 Chevrolet Silverado C1500

63. OIS Test Data for La Sierra Smog Check indicates that on or about April 1, 2025, a 2006 Chevrolet Silverado C1500, California License number 80699C3 (2006 Chevrolet Silverado C1500), was tested and Smog Certificate of Compliance number UK614587C was issued under respondent's Smog Check Inspector License.

64. The Dynamic PID chart for the 2006 Chevrolet Silverado C1500 shows that between time stamp 38 and 18460, the engine RPM is steady at around 705 RPM. During this time, the data shows that the throttle is fluctuating between 0.4% and 4.7% opening, the MAF is fluctuating between 2.94gps and 5.01gps, and the MAP is fluctuating between 33kPa and 46kPa. After time stamp 18460, the data shows the engine RPM is increased and stays elevated at no less than 1869 RPM. During the elevated engine RPM, the data shows the throttle is fluctuating between 0% and 5.5% opening, the MAF is fluctuating between 3.32gps and 4.86gps, and the MAP is fluctuating between 33kPa and 43kPa.

65. The steady idle and elevated engine RPM data along with the improbable throttle positions, MAF readings and fluctuating MAP readings are not characteristic or expected for normal engine operation. The throttle positions, MAF and MAP readings are expected to be stable during the steady idle. Subsequently, the throttle and MAF are expected to rise during the elevated engine RPM. During the improbable readings, the throttle and MAF had data points during the elevated engine RPM which were lower than data points at idle. The MAF data points during the elevated engine RPM never increased past the highest data point at idle. The discrepancies in the OIS test data prove the Data Acquisition Device (DAD) was not connected as required to the 2006 Chevrolet Silverado C1500 being certified, causing the issuance of a fraudulent Smog Check Certificate of Compliance.

Fraudulent Inspection #10 — 2004 Toyota Corolla CE

66. OIS Test Data for La Sierra Smog Check indicates that on or about April 1, 2025, a 2004 Toyota Corolla CE, California License number 6YQH422 (2004 Toyota Corolla CE) was tested and Smog Certificate of Compliance number UK614589C was issued under respondent's Smog Check Inspector License.

67. The Dynamic PID chart for the 2004 Toyota Corolla CE shows that between time stamp 240 and 18792, the engine RPM is steady at around 700 RPM. During this time, the data shows that the throttle is fluctuating between 13.7% and 17.6% opening and the MAF is fluctuating between 0.38gps and 2.47gps. After time stamp 18792, the data shows the engine RPM is increased and stays elevated at no less than 1842 RPM. During the elevated engine RPM, the data shows the throttle is fluctuating between 12.5% and 16.9% opening and the MAF is fluctuating between 0.19gps and 2.01gps.

68. The steady idle and elevated engine RPM data 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 during the steady idle and subsequently raised during the elevated engine RPM. During the improbable readings, the throttle and MAF had data points during the elevated engine RPM which were lower than data points at idle. The throttle and MAF data points during the elevated engine RPM never increased past the highest data point at idle. The discrepancies in the OIS test data prove the Data Acquisition Device (DAD) was not connected as required to the 2004 Toyota Corolla being certified, causing the issuance of a fraudulent Smog Check Certificate of Compliance.

FIRST CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

69. Respondent's Automotive Repair Dealer Registration is subject to disciplinary action pursuant to Business and Professions Code section 9884.7, subdivision (a)(1), in that he made statements which were known to be untrue or misleading or, which by exercise of reasonable care should have been known to be untrue or misleading, by issuing electronic smog certificates of compliance for the ten vehicles set forth in paragraphs 38–68 certifying that those vehicles were in compliance with applicable laws and regulations when, in fact, those vehicles had not been so inspected. Complainant realleges paragraphs 38–68.

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1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Fraud)**

3 70. Respondent's Automotive Repair Dealer Registration is subject to disciplinary action
4 pursuant to Business and Professions Code section 9884.7, subdivision (a)(4), in that he
5 committed acts that constitute fraud by issuing electronic certificates of compliance to the ten
6 vehicles set forth in paragraphs 38–68 without performing bone fide inspections of the emission
7 control devices and systems on those vehicles, thereby depriving the People of the State of
8 California of the protection afforded by the Motor Vehicle Inspection Program. Complainant
9 realleges paragraphs 38–68.

10 **THIRD CAUSE FOR DISCIPLINE**

11 **(Material Violation of Automotive Repair Act)**

12 71. Respondent's Automotive Repair Dealer Registration is subject to disciplinary action
13 pursuant to Business and Professions Code section 9884.7, subdivision (a)(6), in that he failed in
14 a material respect to comply with the provisions of this chapter or regulations adopted pursuant to
15 it when he issued electronic certificates of compliance for the ten vehicles set forth in paragraphs
16 38–68 without performing bona fide inspections of the emission control devices and systems on
17 those vehicles, thereby depriving the People of the State of California of the protection afforded
18 by the Motor Vehicle Inspection Program. Complainant realleges paragraphs 38–68.

19 **FOURTH CAUSE FOR DISCIPLINE**

20 **(Violations of the Motor Vehicle Inspection Program)**

21 72. Respondent's Smog Check Test Only Station License is subject to disciplinary action
22 pursuant to Health and Safety Code section 44072.2, subdivision (a), in that he failed to comply
23 with the following sections of that Code:

24 a. **Section 44012:** Respondent failed to ensure that the emission control tests were
25 performed on the ten vehicles identified in paragraphs 38–68 in accordance with procedures
26 prescribed by the department.

27 b. **Section 44015, subdivision (b):** Respondent issued electronic smog certificates of
28 compliance to the ten vehicles identified in paragraphs 38–68 without properly testing and

1 inspecting those vehicles to determine if they were in compliance with Health and Safety Code
2 section 44012.

3 Complainant realleges paragraphs 38–68.

4 **FIFTH CAUSE FOR DISCIPLINE**
5 **(Failure to Comply with Regulations Pursuant**
6 **to the Motor Vehicle Inspection Program)**

7 73. Respondent’s Smog Check Test Only Station License is subject to disciplinary action
8 pursuant to Health and Safety Code section 44072.2, subdivision (c), in that he failed to comply
9 with provisions of California Code of Regulations, title 16, as follows:

10 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued
11 electronic smog certificates of compliance for the ten vehicles identified in paragraphs 38–68.

12 b. **Section 3340.30, subdivision (a):** Respondent failed to inspect and test the ten
13 vehicles identified in paragraphs 38–68 in accordance with Health and Safety Code sections
14 44012 and 44035, and California Code of Regulations, title 16, section 3340.42.

15 c. **Section 3340.35, subdivision (c):** Respondent issued electronic smog certificates of
16 compliance for the ten vehicles identified in paragraphs 38–68 even though those vehicles had not
17 been inspected in accordance with section 3340.42.

18 d. **Section 3340.42:** Respondent failed to ensure that the smog inspections conducted on
19 the ten vehicles identified in paragraphs 38–68 were done in accordance with the bureau’s
20 specifications.

21 Complainant realleges paragraphs 38–68.

22 **SIXTH CAUSE FOR DISCIPLINE**
23 **(Dishonesty, Fraud or Deceit)**

24 74. Respondent’s Smog Check Test Only Station License is subject to disciplinary action
25 pursuant to Health and Safety Code section 44072.2, subdivision (d), in conjunction with Health
26 and Safety Code section 44072.10, subdivision (c), in that he committed dishonest, fraudulent, or
27 deceitful acts whereby another was injured by issuing electronic smog certificates of compliance
28 for the ten vehicles described in paragraphs 38–68 without performing bona fide inspections of

1 the emission control devices and systems on those vehicles, thereby depriving the People of the
2 State of California of the protection afforded by the Motor Vehicle Inspection Program.
3 Complainant realleges paragraphs 38–68.

4 **SEVENTH CAUSE FOR DISCIPLINE**

5 **(Violations of the Motor Vehicle Inspection Program)**

6 75. Respondent’s Smog Check Inspector License is subject to disciplinary action
7 pursuant to Health and Safety Code section 44072.2, subdivision (a), in that he failed to comply
8 with the following sections of that code:

9 a. **Section 44032:** Respondent failed to perform tests of emission control devices and
10 systems of the ten vehicles identified in paragraphs 38–68 in accordance with Health and Safety
11 Code section 44012.

12 b. **Section 44015, subdivision (b):** Respondent caused electronic smog certificates of
13 compliance to be issued for the ten vehicles identified in paragraphs 38–68 without ensuring that
14 they were properly tested and inspected to determine if they were in compliance with Health and
15 Safety Code section 44012.

16 Complainant realleges paragraphs 38–68.

17 **EIGHTH CAUSE FOR DISCIPLINE**

18 **(Failure to Comply with Regulations Pursuant**
19 **to the Motor Vehicle Inspection Program)**

20 76. Respondent’s Smog Check Inspector License is subject to disciplinary action
21 pursuant to Health and Safety Code section 44072.2, subdivision (c), in that he failed to comply
22 with provisions of California Code of Regulations, title 16, as follows:

23 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued
24 electronic smog certificates of compliance for the ten vehicles identified in paragraphs 38–68.

25 b. **Section 3340.30, subdivision (a):** Respondent failed to inspect and test the ten
26 vehicles identified in paragraphs 38–68 in accordance with Health and Safety Code sections
27 44012 and 44035, and California Code of Regulations, title 16, section 3340.42.

28 ///

1 c. **Section 3340.41, subdivision (c)**: Respondent knowingly entered false information
2 into the emissions inspection system for the ten vehicles identified in paragraphs 38–68.

3 d. **Section 3340.42**: Respondent failed to ensure that the smog inspections conducted on
4 the ten vehicles identified in paragraphs 38–68 were done in accordance with the bureau’s
5 specifications.

6 Complainant realleges paragraphs 38–68.

7 **NINTH CAUSE FOR DISCIPLINE**

8 **(Dishonesty, Fraud or Deceit)**

9 77. Respondent’s Smog Check Inspector License is subject to disciplinary action
10 pursuant to Health and Safety Code section 44072.2, subdivision (d), in conjunction with Health
11 and Safety Code section 44072.10, subdivision (c), in that he committed dishonest, fraudulent, or
12 deceitful acts whereby another was injured by issuing electronic smog certificates of compliance
13 for the ten vehicles identified in paragraphs 38–68 without performing bona fide inspections of
14 the emission control devices and systems on those vehicles, thereby depriving the People of the
15 State of California of the protection afforded by the Motor Vehicle Inspection Program.
16 Complainant realleges paragraphs 38–68.

17 **OTHER MATTERS**

18 78. Pursuant to Business and Professions Code section 9884.7, subdivision (c), the
19 director of the Department of Consumer Affairs (director) may suspend, revoke, or place on
20 probation the registration for all places of business operated in this state by respondent upon a
21 finding that he has, or is, engaged in a course of repeated and willful violations of the laws and
22 regulations pertaining to an automotive repair dealer.

23 79. Pursuant to Health and Safety Code section 44072.8, if Smog Check Test Only
24 Station License No. TC 311020, issued to respondent, is revoked or suspended, any additional
25 license issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code in the name
26 of said licensee may be likewise revoked or suspended by the director.

27 80. Pursuant to Health and Safety Code section 44072.8, if Smog Check Inspector
28 License No. EO 645061, issued to respondent, is revoked or suspended, any additional license

1 issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code in the name of said
2 licensee may be likewise revoked or suspended by the director.

3 **PRAYER**

4 WHEREFORE, complainant requests that a hearing be held on the matters herein alleged,
5 and that following the hearing, the Director of the Department of Consumer Affairs issue a
6 decision:

- 7 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
8 311020, issued to Kevin Gabriel Patino, doing business as La Sierra Smog Check;
- 9 2. Revoking or suspending any other automotive repair dealer registration issued to
10 Kevin Gabriel Patino, pursuant to Business and Professions Code section 9884.7, subdivision (c);
- 11 3. Revoking or suspending Smog Check Test Only Station License Number TC 311020,
12 issued to Kevin Gabriel Patino, doing business as La Sierra Smog Check;
- 13 4. Revoking or suspending Smog Check Inspector License Number EO 645061, issued
14 to Kevin Gabriel Patino;
- 15 5. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of
16 Division 26 of the Health and Safety Code in the name of Kevin Gabriel Patino;
- 17 6. Ordering Kevin Gabriel Patino, doing business as La Sierra Smog Check, to pay the
18 Bureau of Automotive Repair the reasonable costs of the investigation and enforcement of this
19 case, pursuant to Business and Professions Code section 125.3 and if placed on probation, the
20 costs of probation monitoring; and,
- 21 7. Taking such other and further action as deemed necessary and proper.

22
23
24 DATED: As of digital signature date

Dorais,
Patrick@DCA Digitally signed by
Dorais, Patrick@DCA
Date: 2025.09.30
12:54:03 -07'00'

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

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