

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

In the Matter of the Accusation Against:

KEVIN GABRIEL PATINO, dba LA SIERRA SMOG CHECK

4161 Riverview Drive #B

Riverside, CA 92509

Automotive Repair Dealer Registration No. ARD 311020

Smog Check Test Only Station License No. TC 311020

KEVIN GABRIEL PATINO

3700 Avalon Street, Unit B19

Jurupa Valley, CA 92509

Smog Check Inspector License No. EO 645061

Respondents.

Case No. 79/25-5839

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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 November 13, 2026.

IT IS SO ORDERED October 6, 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:

KEVIN GABRIEL PATINO, DBA LA SIERRA SMOG CHECK

Automotive Repair Dealer Registration No. ARD 311020,

Smog Check, Test-Only, Station License No. TC 311020,

and

KEVIN GABRIEL PATINO

Smog Check Inspector License No. EO 645061,

Respondents.

Case No. 79/25-5839

OAH No. 2026010388

PROPOSED DECISION

Glynda B. Gomez, Administrative Law Judge (ALJ), Office of Administrative Hearings, State of California, heard this matter by videoconference on September 2, 2026.

Matthew A. King, Deputy Attorney General, represented complainant Patrick Dorais, Chief of the Bureau of Automotive Repair (Bureau), Department of Consumer Affairs (Department).

Attorney Stephen Allen represented respondent Kevin Gabriel Patino individually (Respondent or Respondent Patino) and doing business as La Sierra Smog (La Sierra or Respondent La Sierra), collectively (Respondents).

Oral and documentary evidence was received, the record was closed, and the matter was submitted for decision on September 2, 2026.

SUMMARY

The Bureau reviewed data collected during smog inspections conducted by Respondents. That data revealed that 10 vehicles inspected between February 6, 2025 and April 1, 2025 showed unusual data patterns consistent with “clean plugging,” a method of fraudulently passing vehicles during a smog inspection.

Complainant proved by a preponderance of the evidence that Respondents conducted 10 smog inspections using clean plugging. Given the scope and magnitude of this fraud, revocation of all Bureau licenses issued to Respondents is warranted. Respondents are ordered to pay \$2,500 towards the Bureau’s costs of investigation and prosecution.

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FACTUAL FINDINGS

Background and Procedural History

1. On December 10, 2024, the Bureau issued ARD Registration number 311020 to Respondent La Sierra. This registration was in effect at all times relevant to the Accusation.

2. On January 29, 2025, the Bureau issued Smog Check, Test-Only, Station License number TC 311020, to Respondent La Sierra. This license was in effect at all times relevant to the Accusation.

3. On November 20, 2023, the Bureau issued Smog Check Inspector License number EO 645061 to Respondent Patino. This license was in effect at all times relevant to the Accusation.

4. On September 30, 2025, Complainant, acting in his official capacity, signed the Accusation, alleging violations of the Business and Professions Code, the Health and Safety Code, and associated regulations based on Respondents' unlawful smog check inspection of 10 vehicles between February and April 2025.

5. On December 11, 2025, Respondent Patino, through counsel, filed a Notice of Defense on behalf of himself and Respondent La Sierra.

California's Smog Check Program

6. California's smog check program is designed to improve air quality and to protect public health by reducing vehicle emissions. The smog check program requires owners to submit their vehicles to smog inspections and obtain certificates of compliance. A smog check inspection determines whether required emission control

devices and systems are installed and functioning properly, and detects and reduces tampering and emission control failures. Licensed smog check inspectors and technicians at licensed smog check stations conduct these mandated smog check inspections and are the only persons authorized by the Bureau to perform official inspections.

7. A smog check inspection consists of a three-part test. Under the older system of smog check inspections, the emission sample test analyzes tailpipe emissions obtained while the vehicle's engine is running. The visual inspection requires a smog test inspector to verify the presence of required emission control systems and components. The functional test requires an inspector to physically test certain emission system components.

8. Since March 2015, the smog check inspection has been updated to exempt most vehicles built after 1999 from the emission sample portion of the smog inspection. However, the updated test requires the inspector to use an On-Board Diagnostic Inspection System (BAR-OIS or OIS) and conduct an On-Board Diagnostics Generation Two (OBDII) functional test. The BAR-OIS consists of a bar code scanner, computer, printer, and a scan tool known as a Data Acquisition Device (DAD).

9. To perform the OBDII functional test, the bar code scanner is used to input the technician information including a palm scan, the vehicle identification number (VIN), and Department of Motor Vehicles (DMV) renewal information into the BAR-OIS computer. The inspector then connects a scan tool, the DAD, to the vehicle's Diagnostic Link Connector (DLC), a plug found inside the vehicle's passenger cabin. Through a continuous internet connection, the DAD forms a link between the BAR-OIS computer and the vehicle's DLC. When requested by the BAR-OIS, the DAD retrieves OBDII data from the vehicle.

10. Data retrieved and recorded during a BAR-OIS smog check includes Parameter Identifications (PIDs): data points reported by the vehicle's on-board computer to the BAR-OIS. Some of these PID data points include:

Engine speed in revolutions per minute (RPM);

Throttle position (TPS) as measured by a throttle position sensor 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 undergoing smog check inspection are as follows: 0 kPa being absolute vacuum, 25 kPa to 45 kPa at idle, 101 KPa at full throttle,

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 (grams/sec).

Ignition Timing which is set by the vehicle powertrain control module (PCM) based on engine speed and load, measured in degrees Before Top Dead Center (BTDC).

11. If a vehicle passes the visual and functional test, it passes the overall smog inspection. At the conclusion of an inspection, the printer of the BAR-OIS produces a Vehicle Inspection Report (VIR) that contains inspection results. The smog check inspector must sign the VIR to indicate that the inspection was performed within Bureau regulations. A certificate of compliance, with a unique control number, is

issued and transmitted electronically to the Vehicle Information Database (VID) maintained by the Bureau, and to the Department of Motor Vehicles (DMV).

12. The VID contains the dates and times of all smog check inspections, the identity of the vehicles tested (license plates and VINs), emissions readings, all data gathered during a smog check inspection, the identity of the technicians performing the testing, and the identifying numbers on the electronic certificate of compliance issued after a successful inspection. The VID information is "read-only" and may not be edited. The VID receives smog check results immediately after inspection. The VID transmits an electronic certificate of compliance to the DMV for the DMV's use in the vehicle registration process. Bureau employees can access the VID to review test data related to smog check inspections performed at any smog check station, and the Bureau can search for, retrieve, and print a test record for every vehicle that has been tested.

13. Some smog check stations and smog check inspectors use various methods to fraudulently issue smog certificates to vehicles that will not pass a smog check test on their own, or in some instances, are not even present when the test is performed. One method is "clean plugging," which involves using another vehicle's properly functioning emissions system, or a defeat device/simulator, to generate false passing data and fraudulently issue smog certificates to vehicles that are non-compliant or not actually tested. Defeat devices simulate engine operation during a smog check inspection by transmitting to the vehicle database emissions data that has been modified or entirely substituted for the data of the vehicle purportedly being inspected.

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Respondents' 10 Smog Check Inspections At Issue

14. Respondent Patino performed smog check inspections on the following 10 vehicles while working at La Sierra: (1) 2004 Toyota Corolla CE; (2) 2003 Honda Civic DX; (3) 2002 Mercedes-Benz ML320; (4) 2002 Ford Mustang GT; (5) 2001 Chevrolet Tahoe C1500; (6) 2005 GMC New Sierra C3500; (7) 2006 Suzuki XL7 Plus; (8) 2002 Ford Econoline E350 Super Duty Cutaway Van; (9) 2006 Chevrolet Silverado C1500 and (10) 2004 Toyota Corolla CE. (Exhs. 7-28.) For all 10 inspections, the OIS software reported passing results. Based on those results, Respondent Patino authorized the issuance of a certificate of compliance for each vehicle and signed each corresponding VIR under penalty of perjury. By signing the reports, Respondent Patino certified that he properly inspected the 10 vehicles and that the certificates issued were valid. (Exhs. 7-28, 31.)

Bureau's Investigation of La Sierra

15. Bureau Program Specialist Hector Barraza testified at the hearing. Barraza has worked for the Bureau for over ten years, and has worked in the automotive industry generally for many years. He holds Automotive Service Excellence (ASE) certification in Electrical Systems, Engine Performance and Advanced Engine Performance as well as smog inspector and smog repair technician licenses.

16. Barraza's job duties include reviewing data collected by the Bureau during smog inspections to determine whether that data is consistent with a genuine smog inspection or if there are indicia of clean plugging during those inspections. In April of 2025, Barraza reviewed data collected during La Sierra's smog inspections. According to PR Barraza, the data showed a pattern of vehicles certified by Respondent with engine operating parameters that did not correspond to normal engine operation and which were not tested during the OBD II functional test phase of

the smog inspection. Barraza also performed a site inspection on April 10, 2026, at the premises of Respondent La Sierra and he spoke with Respondent Patino during the inspection.

17. During the inspection, Respondent Patino confirmed that the smog inspection equipment had been functioning properly. Respondent Patino advised Barraza that he was not aware of any reason that the smog equipment would have been functioning abnormally. He also provided Barraza with requested documentation including estimates, invoices and VIRs and was cooperative. Barraza did not see a simulator or defeat device on the premises at the time of the inspection.

18. At the hearing, Barraza explained that during an OIS smog check inspection, the vehicle is monitored and PID data readings are obtained while the engine is idling and after the smog check inspector prompts the driver to increase engine speed to a certain level and maintain that speed for a period of time. To increase engine speed, the vehicle's throttle must be opened to increase airflow through the engine. An increase in throttle position also increases engine speed, as measured in RPMs, and results in a corresponding increase in the MAF and a change in MAP.

19. According to Barraza, clean plugging is apparent when data recorded during an OIS smog check show that engine speed, as measured in RPM, increases during the test while throttle position, MAF and MAP remain unchanged or are lower than expected. Because engine speed, as measured in RPM, cannot increase without corresponding increases in the throttle position, MAF, and MAP, test data in cases that do not reflect such an increase indicate that the inspector used a defeat device to simulate engine speed readings for a vehicle that was not actually tested.

20. Barraza explained that, in reviewing the 10 inspections described in Factual Finding 14, during the entire period the subject vehicle's dynamic data was collected, he determined that even when the vehicles' engine speed increased, as reflected in the increased RPM, in response to directions from the OIS software, the vehicle's throttle position, airflow, and MAP readings did not increase beyond idle values. He explained that a functioning engine cannot increase its RPM without corresponding changes in these parameters because higher RPM requires additional air and fuel, along with adjustments in ignition timing, to sustain combustion.

21. According to Barraza, the VIRs for each of the 10 inspections described in Factual Finding 14 reflect the same pattern of improbable readings that are not characteristic or expected for normal engine operation. The throttle positions and MAF readings should be stable during steady idle and raised when the engine RPM is increased. During the 10 inspections, those data points never increased past the highest data point registered during idle when the RPM was increased and elevated.

22. Barraza opined that Respondents engaged in clean plugging to obtain a passing score for each vehicle. According to Barraza, such readings are consistent with signals generated by a defeat device rather than signals produced by a real engine. Barraza acknowledged that directly observing clean plugging and recovering a defeat device is rare, and no such device was found on the premises of Respondent La Sierra. However, the Bureau commonly investigates clean plugging solely by reviewing data from VIRs. In light of his conclusion that Respondents engaged in clean plugging, Barraza further concluded that Respondents did not perform BAR-approved smog check inspections on the 10 vehicles, that Respondent Patino's credentials were used to input false information into the OIS system for those vehicles, and that fraudulent smog check certificates of compliance were issued to those 10 vehicles.

Respondents' Evidence

23. Respondent Patino did not testify and neither of the Respondents presented any documentary evidence in defense.

Analysis

24. Barraza's credible, un rebutted testimony is given substantial weight. He has years of experience with the Bureau investigating smog-check violations, and he also has extensive experience in the automotive repair industry. Barraza is familiar with OIS data patterns and how defeat devices operate. He explained, in clear and straightforward mechanical terms, how an engine and its sensors normally respond when engine speed increases and explained that the data drawn from the 10 vehicles were inconsistent with normal vehicle operation. Barraza's testimony was technically supported, internally consistent, and un rebutted.

25. The data from all 10 inspection reports show the same pattern. While the RPM increased, other PID data points did not correspondingly increase, which is contrary to what is expected for a gasoline-burning engine. The uncharacteristic data pattern, combined with Barraza's credible testimony, supports the conclusion that a defeat device was used during each of the 10 smog check inspections performed by Respondents. By relying on simulator or defeat device-generated values to complete the smog check inspection and issue certificates of compliance, Respondents engaged in clean plugging.

Costs

26. Complainant requests that Respondents be ordered to reimburse the Bureau for the reasonable costs of investigation and enforcement of this matter. In

support of this request, Complainant submitted: (1) a Certification of Prosecution Costs: Declaration of Matthew A. King, with an attached billing summary, which states that the Attorney General's Office billed the Board for \$7,186.50 in legal fees and costs in this matter (AG Certification); and (2) a Certification of Investigation Costs and a log specifying 34 hours of investigation, with a total cost of \$3,938.22 (Investigation Certification). (Ex. 3.) The total of these amounts is \$11,124.72. The costs are reasonable given the complexity and quality of preparation.

LEGAL CONCLUSIONS

Standard and Burden of Proof

1. Complainant bears the burden of proving the allegations by a preponderance of the evidence. (*Imports Performance v. Dept. of Consumer Affairs, Bureau of Automotive Repair* (2011) 201 Cal.App.4th 911, 916–917.) A preponderance of the evidence means evidence that has more convincing force than that opposed to it. (*People ex rel. Brown v. Tri-Union Seafoods, LLC* (2009) 171 Cal.App.4th 1549, 1567.)

Applicable Law

2. The Bureau administers and enforces California's Smog Check Program on behalf of the Department. (Health & Saf. Code, §§ 44000–44002.) The Bureau is responsible for licensing automotive repair dealers, smog-check stations, and smog-check inspectors (Bus. & Prof. Code, § 9884 et seq.; Health & Saf. Code, § 44030 et seq.), and for ensuring that vehicles are inspected in accordance with statutory and regulatory testing procedures. (Health & Saf. Code, §§ 44012, 44015; Cal. Code Regs., tit. 16 (CCR), §§ 3340.30–3340.42.)

3. The Bureau's mandate includes protecting the public by preventing the improper certification of vehicles that do not meet emissions requirements and by disciplining registrants and licensees who violate the Automotive Repair Act or the Motor Vehicle Inspection Program. (Bus. & Prof. Code, § 9880.3; Health & Saf. Code, § 44072.2.)

4. If an ARD cannot show a bona fide error, the Bureau may suspend, revoke, or place on probation its registration if the dealer or one of its employees or technicians commits any of the following acts or omissions: (1) making any written or oral statement which it knew or should have known was untrue or misleading, (2) any conduct constituting fraud, or (3) failure in any material respect to comply with the Automotive Repair Act or the regulations adopted pursuant to it. (Bus. & Prof. Code, § 9884.7, subds. (a)(1), (a)(4), (a)(6).) Fraud includes a misrepresentation in any manner of a material fact, whether intentionally false or due to gross negligence. (Bus. & Prof. Code, § 9884.7, subd. (e)(2).)

5. If an ARD cannot show a bona fide error, the Bureau may suspend, revoke, or place on probation its registration if the dealer or one of its employees or technicians commits any of the following acts or omissions: (1) making any written or oral statement which it knew or should have known was untrue or misleading, (2) any conduct constituting fraud, or (3) failure in any material respect to comply with the Automotive Repair Act or the regulations adopted pursuant to it. (Bus. & Prof. Code, § 9884.7, subds. (a)(1), (a)(4), (a)(6).) Fraud includes a misrepresentation in any manner, whether intentionally false or due to gross negligence, of a material fact. (Bus. & Prof. Code, § 9884.7, subd. (e)(2).)

6. The Bureau may suspend, revoke, or take other disciplinary action against a station license; a Smog Check Inspector license; or a Smog Repair Technician license

if the licensee violates any law under the Motor Vehicle Inspection Program or the regulations adopted pursuant to it. (Health & Saf. Code, § 44072.2, subds. (a), (c).)

7. The Bureau may suspend, revoke, or take other disciplinary action against a Smog Check Inspector if the licensee commits any act involving dishonesty, fraud, or deceit whereby another is injured. (Health & Saf. Code, § 44072.2, subd. (d).)

8. The Bureau must revoke the license of any Smog Check technician or station licensee who fraudulently certifies vehicles or participates in fraudulent vehicle inspections. (Health & Saf. Code, § 44072.10, subd. (c).)

Discipline Against Respondent La Sierra

FIRST CAUSE FOR DISCIPLINE (UNTRUE OR MISLEADING STATEMENTS)

9. Complainant proved by a preponderance of the evidence that Respondent La Sierra's ARD registration is subject to discipline under Business and Professions Code section 9884.7, subdivision (a)(1), because Respondents made statements which they knew, or in the exercise of reasonable care, should have known were untrue or misleading by reason of factual findings 6-25 above, by certifying that ten vehicles were in compliance with applicable laws and regulations when, in fact, those vehicles had not been properly inspected.

SECOND CAUSE FOR DISCIPLINE (FRAUD)

10. Complainant proved by a preponderance of the evidence that Respondent La Sierra's ARD registration is subject to discipline under Business and Professions Code section 9884.7, subdivision (a)(4), for acts constituting fraud when Respondents issued smog certificates of compliance for 10 vehicles without

performing bona fide inspections of the vehicles' emission control devices and systems by reason of factual findings 6-25 above.

THIRD CAUSE FOR DISCIPLINE (MATERIAL VIOLATION OF THE AUTOMOTIVE REPAIR ACT)

11. Complainant proved by a preponderance of the evidence that Respondent La Sierra's ARD registration is subject to discipline under Business and Professions Code section 9884.7, subdivision (a)(6). Respondents materially violated the Automotive Repair Act by issuing electronic smog certificates of compliance for 10 vehicles without performing bona fide inspections of the vehicles' emission control devices and systems as set forth in factual findings 6-25 above.

FOURTH CAUSE FOR DISCIPLINE (VIOLATIONS OF THE MOTOR VEHICLE INSPECTION PROGRAM)

12. Complainant proved by a preponderance of the evidence that Respondent La Sierra's Check, Test-Only, Station License is subject to discipline under Health and Safety Code section 44072.2, subdivision (a), for the following violations of the Health and Safety Code: (1) section 44012, by failing to ensure that the emission control tests were performed on 10 vehicles in accordance with procedures prescribed by the Department; and (2) section 44015, subdivision (b), by issuing electronic smog certificates of compliance for 10 vehicles without ensuring that the vehicles were properly tested and inspected to determine whether they complied with Health and Safety Code section 44012.

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**FIFTH CAUSE FOR DISCIPLINE (FAILURE TO COMPLY WITH REGULATIONS
PURSUANT TO THE MOTOR VEHICLE INSPECTION PROGRAM)**

13. Complainant proved by a preponderance of the evidence that Respondent La Sierra's Smog Check, Test-Only, Station License is subject to discipline under Health and Safety Code section 44072.2, subdivision (c), based on the following regulatory violations: (1) California Code of Regulations, title 16 (CCR), section 3340.24, subdivision (c), by falsely or fraudulently issuing electronic smog certificates of compliance for 10 vehicles; (2) CCR, section 3340.30, subdivision (a), by failing to inspect, test and repair vehicles in accordance with the Health and Safety Code and CCR, section 3340.42; (3) CCR section 3340.35, subdivision (c), by issuing electronic smog certificates of compliance for 10 vehicles even though the vehicles had not been inspected in accordance with CCR section 3340.42; and (4) CCR, section 3340.42, by failing to ensure that the required smog tests were conducted on 10 vehicles in accordance with the Bureau's specifications.

SIXTH CAUSE FOR DISCIPLINE (DISHONESTY, FRAUD, OR DECEIT)

14. Complainant proved by a preponderance of the evidence that Respondent La Sierra's Smog Check, Test-Only, Station License is subject to discipline under Health and Safety Code section 44072.2, subdivision (d), in conjunction with section 44072.10, subdivision (c), because Respondent La Sierra clean plugged 10 vehicles, thereby committing dishonest, fraudulent, or deceitful acts by issuing electronic smog certificates of compliance for the 10 vehicles without performing bona fide inspections of the vehicles' emission control devices and systems.

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DISCIPLINE AGAINST RESPONDENT PATINO

SEVENTH CAUSE FOR DISCIPLINE (VIOLATIONS OF THE MOTOR VEHICLE INSPECTION PROGRAM)

15. Complainant proved by a preponderance of the evidence that Respondent Patino's Check Inspector license is subject to discipline under Health and Safety Code section 44072.2, subdivision (a), because Respondent Patino, in performing smog inspections of the 10 subject vehicles, violated the following sections of the Health and Safety Code: (1) section 44032, by failing to perform tests of the emission control devices and systems on the 10 vehicles in accordance with Health and Safety Code section 44012; and (2) section 44015, subdivision (b), by issuing electronic smog certificates of compliance for 10 vehicles without ensuring that the vehicles were properly tested and inspected to determine whether they complied with Health and Safety Code section 44012.

EIGHTH CAUSE FOR DISCIPLINE (FAILURE TO COMPLY WITH REGULATIONS PURSUANT TO THE MOTOR VEHICLE INSPECTION PROGRAM)

16. Complainant proved by a preponderance of the evidence that Respondent Patino's Smog Check Inspector license is subject to discipline under Health and Safety Code section 44072.2, subdivision (c), based on the following regulatory violations: (1) CCR, section 3340.24, subdivision (c), by issuing false or fraudulent electronic smog certificates of compliance for 10 vehicles; (2) CCR, section 3340.30, subdivision (a), by failing to inspect and test the 10 vehicles in accordance with Health and Safety Code sections 44012 and 44035 and CCR, section 3340.42; (3) CCR, section 3340.41, subdivision (c), by knowingly entering false information into the emissions inspection system for 10 vehicles; and (4) CCR,

section 3340.42, by failing to ensure that the required smog tests were conducted on 10 vehicles in accordance with the Bureau's specifications.

NINTH CAUSE FOR DISCIPLINE (DISHONESTY, FRAUD OR DECEIT)

17. Complainant proved by a preponderance of the evidence that Respondent Patino's Smog Check Inspector license is subject to discipline under Health and Safety Code sections 44072.2, subdivision (d), and 44072.10, subdivision (c). Respondent clean plugged 10 vehicles, and by doing so, committed acts involving dishonesty, fraud, or deceit by issuing electronic smog certificates of compliance for the 10 vehicles without performing bona fide inspections of the vehicles' emission control devices and systems. Respondent's conduct deprived the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

Level of Discipline

18. The Bureau's Guidelines for Disciplinary Orders and Terms of Probation, revised June 2021 (Guidelines) recommend the level of discipline for violations of the Business and Professions Code and Health and Safety Code, including Business and Professions Code section 9884.7, subdivisions (a)(1), (a)(4), and (a)(6), and Health and Safety Code section 44072.2, subdivisions (a), (c), and (d). The recommended minimum discipline for violations of these statutes is two, three, or five years of probation. The recommended maximum penalty is revocation. For violations of Health and Safety Code section 44072.10, subdivision (c), revocation is required by statute.

19. The Guidelines set forth aggravating and mitigating factors to consider in determining the level of discipline imposed on licensees. The mitigating factors applicable here are that Respondents have no history of disciplinary action and that

there is no evidence of consumer loss or damage to a consumer's property. Of the fifteen aggravating factors in the Guidelines, only two apply here: evidence of conduct that constitutes fraud or gross negligence and evidence that the unlawful act was of a pattern of practice.

20. Considering the Guidelines, revocation of Respondent La Sierra's ARD registration is warranted. The evidence showed that Respondent La Sierra engaged in a consistent pattern of unlawful practices for months. Under these circumstances, revocation of respondent La Sierra's ARD registration is appropriate to protect the public.

21. Health and Safety Code section 44072.10, subdivision (c), requires the Bureau to revoke respondent La Sierra's Smog Check, Test-Only, Station license and Respondent Patino's Smog Check Inspector license. Because revocation is mandated by statute, the mitigation factors identified above are not pertinent to Respondent La Sierra's Smog Check, Test-Only, Station license. Regarding Respondent Patino's Smog Check Inspector license, the evidence showed that Respondent Patino clean plugged 10 vehicles, and he did not offer any credible explanation for the unusual results of his inspections. Accordingly, revocation of Respondent Patino's Smog Check Inspector license is warranted, considering the seriousness of his violations and to ensure public safety.

Other Matters

22. The Bureau may suspend, revoke, or place on probation the registration for all places of business operated in California by an ARD upon a finding that the ARD has, or is, engaged in a course of repeated and willful violations of the Automotive Repair Act and its accompanying regulations. (Bus. & Prof. Code, § 9884.7, subd. (c).)

Complainant proved Respondents engaged in a course of repeated and willful violations of the Automotive Repair Act and its accompanying regulations because Respondents clean plugged 10 vehicles. Cause therefore exists to discipline the registration for all places of business operated in California by Respondents under Business and Professions Code section 9884.7, subdivision (c).

23. Health and Safety Code section 44072.8 allows the Bureau, when revoking or suspending a license issued under the Smog Check statutes, to likewise revoke or suspend any additional Smog Check license held by the same respondent. Accordingly, any other licenses issued to Respondents under the Smog Check statutes may be revoked or disciplined because of the revocation of licenses that are the subject of this proceeding.

Costs

24. California Code of Regulations, title 1, section 1042, sets forth the requirements for an agency to recover its costs in a proceeding under the Administrative Procedure Act. Section 1042 requires that a declaration regarding services provided by a regular agency employee must include "the general tasks performed, the time spent on each task, and the method of calculating the cost." The AG Certification and the Investigation Certification describe the tasks performed, the time billed, and the billing rate by each professional, and thus satisfy the requirements outlined in section 1042.

25. Under Business and Professions Code section 125.3, complainant can recover reasonable costs of investigation and enforcement of this matter. In *Zuckerman v. State Board of Chiropractic Examiners* (2002) 29 Cal.4th 32, the California Supreme Court set forth factors to consider in determining the

reasonableness of costs. These factors include: (1) the licentiate's success in getting the charges dismissed or the severity of the discipline imposed reduced; (2) the licentiate's subjective good-faith belief in the merits of his or her position; (3) whether the licentiate raised a colorable challenge to the proposed discipline; (4) the licentiate's financial ability to pay; and (5) whether the scope of the investigation was appropriate in light of the alleged misconduct. (*Id.* at p. 45.)

26. Complainant requests reimbursement of \$11,124.72 in investigation and enforcement costs. After considering the *Zuckerman* factors, a reduction in costs is warranted. Respondents did not succeed in reducing the severity of the discipline imposed or raise a colorable challenge to the causes for discipline. Respondents did not demonstrate that his actions were undertaken in good faith. The scope of the Bureau's investigation was reasonable considering the alleged misconduct.

27. However, Respondents will experience financial consequences as a result of the revocation of all of their licenses. That hardship, coupled with the severity of the order below, shows that it is appropriate to reduce the requested costs and find Respondents jointly and severally responsible for prosecution and investigation costs in the amount of \$2,500.

ORDER

1. Automotive Repair Dealer Registration number 311020 issued to Respondent Kevin Gabriel Patino, doing business as La Sierra Smog Check, is revoked.

2. Any other automotive repair dealer registration issued to Respondent Kevin Gabriel Patino, is revoked pursuant to Business and Professions Code section 9884.7, subdivision (c).

3. Smog Check, Test-Only, Station License number TC 311020 issued to Respondent Kevin Gabriel Patino, doing business as La Sierra Smog Check, is revoked.

4. Smog Check Inspector License number EO 645061 issued to Respondent Kevin Gabriel Patino is revoked.

5. Any additional license used under Chapter 5 of Part 5 of the Health and Safety Code issued to Respondent Kevin Gabriel Patino, is revoked.

6. Respondent Kevin Gabriel Patino individually and doing business as La Sierra Smog Check shall reimburse the Bureau for its costs of prosecution and investigation in the amounts of \$2,500. Said amount shall be paid in full before the reinstatement of their licenses or issuance of any new licenses unless otherwise ordered by the Bureau.

DATE: 10/01/2026



GLYNDA B. GOMEZ

Administrative Law Judge

Office of Administrative Hearings