

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

In the Matter of the Accusation Against:

Case No.: 79/17-5846

CIRO RODRIGUEZ FLORES, Owner
dba CIRO SMOG CHECK
1535 S. Oxnard Blvd, Unit B
Oxnard, CA 93030

Automotive Repair Dealer Registration No.:
ARD 216836
Smog Check Test Only Station License No.: TC
216836

and

CIRO RODRIGUEZ FLORES
1535 S. Oxnard Blvd, Unit B
Oxnard, CA 93030

Smog Check Inspector License No.: EO 312195
Smog Check Repair Technician License No.: EI
312195

Respondents.

DECISION

The attached Stipulated Settlement and Disciplinary Order 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 become effective July 17, 2018.

DATED: June 1, 2018



GRACE ARUPO RODRIGUEZ
Assistant Deputy Director
Legal Affairs Division
Department of Consumer Affairs

1 XAVIER BECERRA
Attorney General of California
2 LINDA L. SUN
Supervising Deputy Attorney General
3 STEPHEN D. SVETICH
Deputy Attorney General
4 State Bar No. 272370
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 269-6306
6 Facsimile: (213) 897-2804
E-mail: Stephen.Svetich@doj.ca.gov
7 *Attorneys for Complainant*

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. 79/17-5846

13 **CIRO RODRIGUEZ FLORES, OWNER,**
14 **DOING BUSINESS AS CIRO SMOG**
15 **CHECK**

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

16 1535 S. Oxnard Blvd, Unit B
17 Oxnard, CA 93030

18 Automotive Repair Dealer Registration No.
19 ARD 216836
20 Smog Check, Test Only, Station License No.
21 TC 216836,

22 **and**

23 **CIRO RODRIGUEZ FLORES**
24 1535 S. Oxnard Blvd, Unit B
25 Oxnard, CA 93030

26 Smog Check Inspector License No. EO 312195
27 Smog Check Repair Technician License No. EI
28 312195
(formerly EA 312195)

Respondents.

29 In the interest of a prompt and speedy settlement of this matter, consistent with the public
30 interest and the responsibilities of the Director of Consumer Affairs (the "Director") and the
31 Bureau of Automotive Repair (the "Bureau"), the parties hereby agree to the following Stipulated

1 Settlement and Disciplinary Order which will be submitted to the Director for the Director's
2 approval and adoption as the final disposition of the Accusation with respect to Ciro Rodriguez
3 Flores, Owner, doing business as Ciro Smog Check ("Respondent Ciro Smog Check") and
4 Respondent Ciro Rodriguez Flores ("Respondent Flores").¹

5 PARTIES

6 1. Patrick Dorais ("Complainant") is the Chief of the Bureau of Automotive Repair
7 (Bureau). He brought this action solely in his official capacity and is represented in this matter by
8 Xavier Becerra, Attorney General of the State of California, by Stephen D. Svetich, Deputy
9 Attorney General.

10 2. Respondents are representing themselves in this proceeding and have chosen not to
11 exercise their right to be represented by counsel.

12 3. On or about January 1, 2001, the Bureau issued Automotive Repair Dealer ("ARD")
13 Registration No. ARD 216836 to Respondent Ciro Smog Check. The ARD Registration was in
14 full force and effect at all times relevant to the charges brought herein and will expire on June 30,
15 2018, unless renewed.

16 4. On or about August 1, 2001, the Bureau issued Smog Check Test Only Station
17 License No. TC 216836 to Respondent Ciro Smog Check. The Smog Check Test Only Station
18 License was in full force and effect at all times relevant to the charges brought herein and will
19 expire on June 30, 2018, unless renewed.

20 5. Respondent Ciro Smog Check is also certified as a STAR Station. The certification
21 was issued on January 16, 2013, and will remain active unless the ARD registration and/or Smog
22 Check Station license is revoked, canceled, licenses become delinquent or certification is
23 invalidated.

24 6. In 1996, the Bureau issued Advanced Emission Specialist Technician License
25 Number EA 312195 to Respondent Flores. Respondent Flores' Advanced Emission Specialist
26 Technician License was due to expire on July 31, 2012, however, was cancelled on July 24, 2012.

27 ¹ Respondent Ciro Smog Check and Respondent Flores shall be collectively referred to as
28 "Respondents" herein.

1 Pursuant to California Code of Regulations, title 16, section 3340.28, subdivision (e),² the license
2 was renewed, pursuant to Respondent Flores' election, as Smog Check Inspector License Number
3 EO 312195, and Smog Check Repair Technician License Number EI 312195, effective July 24,
4 2012. Respondent Flores' inspector license and repair technician licenses were in full force and
5 effect at all times relevant to the charges brought herein and will expire on July 31, 2018, unless
6 renewed.

7 JURISDICTION

8 7. Accusation No. 79/17-5846 was filed before the Director, and is currently pending
9 against Respondents. The Accusation and all other statutorily required documents were properly
10 served on Respondents on December 18, 2017. Respondents timely filed a Notice of Defense
11 contesting the Accusation.

12 8. A copy of Accusation No. 79/17-5846 is attached as Exhibit A and incorporated
13 herein by reference.

14 ADVISEMENT AND WAIVERS

15 9. Respondents have carefully read, fully discussed with counsel, and understands the
16 charges and allegations in Accusation No. 79/17-5846. Respondents have also carefully read and
17 understand the effects of this Stipulated Settlement and Disciplinary Order.

18 10. Respondents are fully aware of their legal rights in this matter, including the right to a
19 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at
20 their own expense; the right to confront and cross-examine the witnesses against them; the right
21 to present evidence and to testify on their own behalf; the right to the issuance of subpoenas to
22 compel the attendance of witnesses and the production of documents; the right to reconsideration
23 and court review of an adverse decision; and all other rights accorded by the California
24 Administrative Procedure Act and other applicable laws.

25
26 ² Effective August 1, 2012, California Code of Regulations, title 16, sections 3340.28, 3340.29,
27 and 3340.30 were amended to implement a license restructure from the Advanced Emission
28 Specialist Technician ("EA") license and Basic Area ("EB") Technician license to Smog Check
Inspector ("EO") license and/or Smog Check Repair Technician ("EI") license.

1 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
2 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
3 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
4 writing executed by an authorized representative of each of the parties.

5 18. In consideration of the foregoing admissions and stipulations, the parties agree that
6 the Director may, without further notice or formal proceeding, issue and enter the following
7 Disciplinary Order:

8 **DISCIPLINARY ORDER**

9 IT IS HEREBY ORDERED that Automotive Repair Dealer Registration No. ARD 216836
10 issued to Respondent Ciro Rodriguez Flores, Owner, doing business as Ciro Smog Check, is
11 revoked.

12 IT IS HEREBY ORDERED that Smog Check Test Only Station License No. TC 216836
13 issued to Respondent Ciro Rodriguez Flores, Owner, doing business as Ciro Smog Check, is
14 revoked.

15 IT IS HEREBY ORDERED that Smog Check Inspector License No. EO 312195 issued to
16 Respondent Ciro Rodriguez Flores is revoked.

17 IT IS HEREBY ORDERED that Smog Check Repair Technician License Number EI
18 312195 issued to Respondent Ciro Rodriguez Flores is revoked.

19 1. **Cost Recovery.** The parties understand and agree that for purposes of settlement of
20 this matter, the Bureau defers its right to recover its reasonable costs of investigation and
21 enforcement of Accusation No. 79/17-5846 pursuant to Business and Professions Code section
22 125.3 in the amount of \$1,212.50. However, the parties understand and agree that should
23 Respondent Ciro Smog Check or Respondent Flores apply in the future for any registration or
24 license issued by the Bureau, said costs of investigation and enforcement will become due and
25 payable at that time.

26 2. The revocation of Respondent Ciro Smog Check's Automotive Repair Dealer
27 Registration and Smog Check Test Only Station License, and the acceptance of the revoked
28 licenses by the Bureau, shall constitute the imposition of discipline against the Respondent Ciro

1 Smog Check. This stipulation constitutes a record of the discipline and shall become part of
2 Respondent Ciro Smog Check's license history with the Bureau of Automotive Repair.

3 3. Respondent Ciro Smog Check shall lose all rights and privileges of an Automotive
4 Repair Dealer Registration and a Smog Check Test Only Station License in California as of the
5 effective date of the Director's Decision and Order.

6 4. The revocation of Respondent Flores' Smog Check Inspector and Smog Check
7 Repair Technician Licenses, and the acceptance of the revoked licenses by the Bureau, shall
8 constitute the imposition of discipline against the Respondent Flores. This stipulation constitutes
9 a record of the discipline and shall become part of Respondent Flores' license history with the
10 Bureau of Automotive Repair.

11 5. Respondent Flores shall lose all rights and privileges of a Smog Check Inspector in
12 California as of the effective date of the Director's Decision and Order.

13 6. Respondent Flores shall lose all rights and privileges of a Smog Check Repair
14 Technician in California as of the effective date of the Director's Decision and Order.

15 7. Respondents shall cause to be delivered their pocket licenses and, if one was issued,
16 their wall certificates on or before the effective date of the Decision and Order.

17 8. Respondents may apply for licensure or petition for reinstatement one year after the
18 effective date of the Director's Decision and Order.

19 9. If any one of the Respondents ever applies for licensure or petitions for reinstatement
20 in the State of California, the Bureau shall treat it as a new application for licensure. Respondents
21 must comply with all the laws, regulations and procedures for licensure in effect at the time the
22 application or petition is filed, and all of the charges and allegations contained in Accusation No.
23 79/17-5846 shall be deemed to be true, correct, and admitted by Respondents when the Director
24 determines whether to grant or deny the application or petition.

25 ACCEPTANCE

26 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the
27 stipulation and the effect it will have on my Automotive Repair Dealer Registration, and Smog
28 Check Test Only Station License, Smog Check Inspector License, and Smog Check Repair

1 Technician License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily,
2 knowingly, and intelligently, and agree to be bound by the Decision and Order of the Director of
3 Consumer Affairs.

4
5
6 DATED: 03/05/18



CIRO RODRIGUEZ FLORES, OWNER, DOING
BUSINESS AS CIRO SMOG CHECK,
Respondent

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8
9 DATED: 03/05/2018



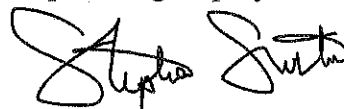
CIRO RODRIGUEZ FLORES
Respondent

10
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13 **ENDORSEMENT**

14 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
15 submitted for consideration by the Director of Consumer Affairs
Dated: April 26, 2018

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
LINDA L. SUN
Supervising Deputy Attorney General



STEPHEN D. SVETICH
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 79/17-5846

1 XAVIER BECERRA
Attorney General of California
2 LINDA L. SUN
Supervising Deputy Attorney General
3 STEPHEN D. SVETICH
Deputy Attorney General
4 State Bar No. 272370
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 269-6306
6 Facsimile: (213) 897-2804
E-mail: Stephen.Svetich@doj.ca.gov
7 Attorneys for Complainant

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. 79/17-5846

13 **CIRO RODRIGUEZ FLORES, OWNER,**
14 **DOING BUSINESS AS CIRO SMOG**
15 **CHECK**

ACCUSATION

16 1535 S. Oxnard Blvd, Unit B
17 Oxnard, CA 93030

18 Automotive Repair Dealer Registration No.
19 ARD 216836
20 Smog Check, Test Only, Station License No.
21 TC 216836,

22 **and**

23 **CIRO RODRIGUEZ FLORES**
24 1535 S. Oxnard Blvd, Unit B
25 Oxnard, CA 93030

26 Smog Check Inspector License No. EO 312195
27 Smog Check Repair Technician License No. EI
28 312195
(formerly EA 312195)

Respondents.

1 Complainant alleges:

2 **PARTIES**

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

6 ***Automotive Repair Dealer Registration***

7 2. On or about January 1, 2001, the Bureau issued Automotive Repair Dealer (“ARD”)
8 Registration No. ARD 216836 to Ciro Rodriguez Flores, Owner, doing business as Ciro Smog
9 Check (“Respondent Ciro Smog Check”). The ARD Registration was in full force and effect at
10 all times relevant to the charges brought herein and will expire on June 30, 2018, unless renewed.

11 ***Smog Check Station License***

12 3. On or about August 1, 2001, the Bureau issued Smog Check Test Only Station
13 License No. TC 216836 to Respondent Ciro Smog Check. The Smog Check Test Only Station
14 License was in full force and effect at all times relevant to the charges brought herein and will
15 expire on June 30, 2018, unless renewed.

16 ***STAR Certification***

17 4. Respondent Ciro Smog Check is also certified as a STAR Station. The certification
18 was issued on January 16, 2013, and will remain active unless the ARD registration and/or Smog
19 Check Station license is revoked, canceled, licenses become delinquent or certification is
20 invalidated.

21 ***Inspector License***

22 5. In 1996, the Bureau issued Advanced Emission Specialist Technician License
23 Number EA 312195 to Respondent Ciro Rodriguez Flores (“Respondent Flores”).¹ Respondent
24 Flores’ Advanced Emission Specialist Technician License was due to expire on July 31, 2012,
25 however, was cancelled on July 24, 2012. Pursuant to California Code of Regulations, title 16,
26

27 ¹ Respondent Ciro Smog Check and Respondent Flores shall be collectively referred to as
28 “Respondents” herein.

1 section 3340.28, subdivision (e),² the license was renewed, pursuant to Respondent Flores'
2 election, as Smog Check Inspector License Number EO 312195, and Smog Check Repair
3 Technician License Number EI 312195, effective July 24, 2012. Respondent Flores' inspector
4 license and repair technician licenses were in full force and effect at all times relevant to the
5 charges brought herein and will expire on July 31, 2018, unless renewed.

6 **JURISDICTION**

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

9 7. Section 9884.7 of the Business and Professions Code³ provides that the Director may
10 revoke an ARD registration.

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

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

18 10. Health and Safety Code section 44072.6 provides, in pertinent part, that the expiration
19 or suspension of a license by operation of law, or by order or decision of the Director of
20 Consumer Affairs, or a court of law, or the voluntary surrender of the license shall not deprive the
21 Director of jurisdiction to proceed with disciplinary action.

22 \\\

23 \\\

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25
26 ² Effective August 1, 2012, California Code of Regulations, title 16, sections 3340.28, 3340.29,
27 and 3340.30 were amended to implement a license restructure from the Advanced Emission
28 Specialist Technician ("EA") license and Basic Area ("EB") Technician license to Smog Check
Inspector ("EO") license and/or Smog Check Repair Technician ("EI") license.

³ All statutory references herein shall be to the Business and Professions Code unless specifically
stated otherwise.

1 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
2 included in a stipulated settlement.

3 VID DATA REVIEW

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

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

24 21. If the vehicle passes the visual, functional and tailpipe tests, it passes the overall
25 inspection and a Certificate of Compliance is issued and transmitted electronically to the Vehicle
26 Information Database ("VID"). These Certificates of Compliance are purchased in blocks of fifty
27 (50) through the EIS or OIS from the VID, using a pre-arranged electronic bank account debit
28 system or by check, via mail, from Bureau Headquarters in Sacramento. Each Certificate of

1 Compliance has a unique control number so that it can be tracked to determine which Smog
2 Check Station purchased the Certificate of Compliance and to which vehicle it was issued.

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

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

21 24. Respondents have engaged in numerous acts or omissions constituting violations of
22 the Automotive Repair Act (Business and Professions Code section 9880 *et seq.*) and Motor
23 Vehicle Inspection Program (Health and Safety Code section 44000 *et seq.*) through their practice
24 of "clean plugging."⁴ Respondent Ciro Smog Check's OIS Test Data available on the State
25 database indicated that Respondent Ciro Smog Check is involved in fraudulent smog inspection

26 _____
27 ⁴ "Clean plugging" refers to the use of another vehicle's properly functioning On Board
28 Diagnostic, generation II, (OBD II) system, or another source, to generate passing diagnostic
readings for the purpose of issuing fraudulent smog Certificates of Compliance to vehicles that
are not in smog compliance and/or not present for testing.

1 activities. A Bureau representative initiated an investigation based on information transmitted to
2 the VID for smog check inspections performed by Respondent Flores. The investigation revealed
3 that the data related to certain vehicles certified by Respondent Ciro Smog Check contained a
4 pattern of unmistakable discrepancies between the information transmitted during the inspections
5 and documented information known about the vehicles at issue. Specifically, the representative
6 compared the data received from the certified vehicles to data from vehicles of the same year,
7 make, and model and determined that the data from at least four (4) of the certified vehicles
8 contained the following unmistakable discrepancies: (1) incorrect vehicle communication
9 protocols; (2) incorrect PID counts, and 3) incorrect, missing, and/or unexpected eVin numbers.
10 These documented discrepancies confirm that the vehicles receiving smog certificates from
11 Respondent Ciro Smog Check were fraudulently tested during the smog inspection using the
12 "clean plugging" method. The following chart ("Table 1") illustrates the documented clean
13 plugging activities of Respondents between September 28, 2016, and February 10, 2017.

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TABLE 1

| No. | Test Date | Vehicle Certified & License No. | Certificate No. | Techician License No. | OIS Test Data Details |
|-----|-----------|--|-----------------|----------------------------------|--|
| 1 | 9/28/2016 | 2005 Chevrolet Impala LS ⁵ VIN No. 2G1WH52K059309343 CA License Plate No. 6RKL389 | QE593581C | EO 312195 (Respondent Flores) | Comm. Protocol: JVPW (expected: JVPW) PID Count: 21 (expected: 19) eVin 1GNCS 18X85K101899 ⁶ (correct eVin expected) |
| 2 | 10/5/2016 | 2000 Chevrolet Tracker ⁷ Vin No. 2CNBJ13C8Y6940515 CA License Plate No. 6MTD252 | QE832683C | EO 312195 (Respondent Flores) | Comm. Protocol: ICAN11bt5 (expected: I914) PID Count: 45 (expected: 17) eVin 1FTNF20568EB 72687 ⁸ (eVin not expected) |

⁵ This specific 2005 Chevrolet Impala LS bearing the same VIN Number and California License Plate Number underwent a smog check inspection at another facility on April 6, 2017. During that Smog Check Inspection, the Impala transmitted the correct eVIN, the correct communication protocol (JVPW), and the correct PID count (19), consistent with the OIS Test Data and Similar Vehicle OIS Test Data.

⁶ OIS Test Data shows that a 2005 Chevrolet Blazer, bearing VIN No. 1GNCS18X85K101899 and California License Plate No. 6CKF188, was the vehicle used to generate the fraudulent Smog Certificate of Compliance for the 2005 Chevrolet Impala LS. Respondent Flores also certified the 2005 Chevrolet Blazer on the same day, September 28, 2016, as the fraudulent inspection of the 2005 Chevrolet Impala LS. The OIS Test Data transmitted for the 2005 Chevrolet Blazer matches the OIS Test Data for the fraudulent inspection of the 2005 Chevrolet Impala LS for the eVIN, protocol, and PID count.

⁷ This specific 2000 Chevrolet Tracker bearing the same VIN Number and California License Plate Number underwent a smog check inspection at Respondent Ciro Smog Check's facility by Respondent Flores on September 29, 2014. During that Smog Check Inspection, the Tracker did not transmit an eVin, transmitted the correct communication protocol (I914), and the correct PID count (17), consistent with the OIS Test Data and Similar Vehicle OIS Test Data.

⁸ OIS Test Data shows that a 2008 Ford F250 Super Duty, bearing VIN No. 1FTNF20568EB72687 and California License Plate No. 54742CI, was the vehicle used to generate the fraudulent Smog Certificate of Compliance for the 2000 Chevrolet Tracker. Respondent Flores also certified the 2008 Ford F250 Super Duty on the same day, October 5, 2016, as the fraudulent inspection of the 2000 Chevrolet Tracker. The OIS Test Data transmitted for the 2008 Ford F250 Super Duty matches the OIS Test Data for the fraudulent inspection of the 2000 Chevrolet Tracker for the eVIN, protocol, and PID count.

| | | | | | | |
|----|---|------------|---|-----------|-------------------------------------|--|
| 1 | 3 | 12/28/2016 | 2001 Chevrolet Silverado C2500HD ⁹ Vin No. 1GCHC24U41Z258277 CA License Plate No. 6R30584 | ZN134511C | EO 312195 (Respondent Flores) | Comm. Protocol: JVPW (expected: JVPW) PID Count: 17 (expected: 22) eVin 1GCCS1456YK2 78940 ¹⁰ (correct eVin expected) |
| 2 | | | | | | |
| 3 | 4 | 2/10/2017 | 2007 GMC Acadia SLT-1 ¹¹ Vin No. 1GKER23797J106147 | ZP381646C | EO 312195 (Respondent Flores) | Comm. Protocol: ICAN11bt5 (expected: ICAN11bt5) PID Count: 43 (expected: 43 7) eVin 5N1AR1NB1AC 611466 ¹² (correct eVin expected) |
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⁹ This specific 2001 Chevrolet Silverado C2500HD bearing the same VIN Number and California License Plate Number underwent a smog check inspection at another facility on July 15, 2016. During that Smog Check Inspection, the Silverado transmitted the correct eVIN, the correct communication protocol (JVPW), and the correct PID count (22), consistent with the OIS Test Data and Similar Vehicle OIS Test Data.

¹⁰ OIS Test Data shows that a 2000 Chevrolet S Truck S10, bearing VIN No. 1GCCS1456YK278940 and California License Plate No. 93942E1, was the vehicle used to generate the fraudulent Smog Certificate of Compliance for the 2001 Chevrolet Silverado C2500HD. Respondent Flores also certified the 2000 Chevrolet S Truck S10 on the same day, December 28, 2016, as the fraudulent inspection of the 2001 Chevrolet Silverado C2500HD. The OIS Test Data transmitted for the 2000 Chevrolet S Truck S10 matches the OIS Test Data for the fraudulent inspection of the 2001 Chevrolet Silverado C2500HD for the eVIN, protocol, and PID count.

¹¹ This specific 2007 GMC Acadia SLT-1 bearing the same VIN Number underwent a smog check inspection at Respondent Ciro Smog Check's facility by Respondent Flores on February 13, 2017. During that Smog Check Inspection, the Acadia transmitted the correct eVIN, the correct Communication protocol (ICAN11bt5), and the correct PID count (43 | 7), consistent with the OIS Test Data and Similar Vehicle OIS Test Data.

¹² OIS Test Data shows that a 2010 Nissan Pathfinder S, bearing VIN No. 5N1AR1NB1AC611466 and California License Plate No. 7FIL930, was the vehicle used to generate the fraudulent Smog Certificate of Compliance for the 2007 GMC Acadia SLT-1. Respondent Flores also certified the 2010 Nissan Pathfinder S on the same day, February 10, 2017, as the fraudulent inspection of the 2007 GMC Acadia SLT-1. The OIS Test Data transmitted for the 2010 Nissan Pathfinder S matches the OIS Test Data for the fraudulent inspection of the 2007 GMC Acadia SLT-1 for the eVIN, protocol, and PID count.

1 25. This data of Respondents' smog check activities between September 28, 2016, and
2 February 10, 2017, shows that Respondents participated in a scheme to perform at least four (4)
3 fraudulent Smog Check inspections resulting in the issuance of four (4) fraudulent electronic
4 Smog Check Certificates of Compliance.

5 **FIRST CAUSE FOR DISCIPLINE**

6 **(Untrue or Misleading Statements - Respondent Ciro Smog Check)**

7 26. Respondent Ciro Smog Check's registration is subject to disciplinary action pursuant
8 to section 9884.7, subdivision (a)(1), in that between September 28, 2016, and February 10, 2017,
9 Respondent Ciro Smog Check made or authorized statements which it knew or in the exercise of
10 reasonable care should have known to be untrue or misleading, as follows: Respondent Ciro
11 Smog Check certified that the vehicles set forth above in Table 1, had passed inspection and were
12 in compliance with applicable laws and regulations. In fact, Respondent Ciro Smog Check
13 conducted the inspections on those vehicles using the clean plugging method in order to issue
14 smog certificates of compliance, and did not test or inspect the vehicles as required by Health and
15 Safety Code section 44012.

16 **SECOND CAUSE FOR DISCIPLINE**

17 **(Fraud - Respondent Ciro Smog Check)**

18 27. Respondent Ciro Smog Check's registration is subject to disciplinary action pursuant
19 to section 9884.7, subdivision (a)(4), in that between September 28, 2016, and February 10, 2017,
20 Respondent Ciro Smog Check committed acts which constitute fraud by issuing electronic
21 certificates of compliance for the vehicles set forth above in Table 1, without performing bona
22 fide inspections of the emission control devices and systems on those vehicles, thereby depriving
23 the People of the State of California of the protection afforded by the Motor Vehicle Inspection
24 Program.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Failure to Comply with the Motor Vehicle Inspection Program –**

3 **Respondent Ciro Smog Check)**

4 28. Respondent Ciro Smog Check's station license is subject to disciplinary action
5 pursuant to Health and Safety Code section 44072.2, subdivision (a), in that between September
6 28, 2016, and February 10, 2017, regarding the vehicles set forth above in Table 1, Respondent
7 Ciro Smog Check failed to comply with the following sections of the Health and Safety Code:

8 (a) Section 44012: Respondent Ciro Smog Check failed to ensure that the
9 emission control tests were performed on the vehicles, in accordance with procedures prescribed
10 by the department.

11 (b) Section 44015: Respondent Ciro Smog Check issued electronic certificates of
12 compliance for the vehicles, without ensuring that the vehicles were properly tested and inspected
13 to determine if they were in compliance with Health and Safety Code section 44012.

14 **FOURTH CAUSE FOR DISCIPLINE**

15 **(Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection Program -**

16 **Respondent Ciro Smog Check)**

17 29. Respondent Ciro Smog Check's station license is subject to disciplinary action
18 pursuant to Health and Safety Code section 44072.2, subdivision (c), in that between September
19 28, 2016, and February 10, 2017, regarding the vehicles set forth above in Table 1, Respondent
20 Ciro Smog Check failed to comply with the following provisions of the California Code of
21 Regulations, Title 16, as follows:

22 (a) Section 3340.35, subdivision (c): Respondent Ciro Smog Check issued
23 electronic certificates of compliance even though those vehicles had not been inspected in
24 accordance with section 3340.42, Title 16, of the California Code of Regulations.

25 (b) Section 3340.42: Respondent Ciro Smog Check failed to conduct the required
26 smog tests and inspections on those vehicles in accordance with the Bureau's specifications.

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1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(Dishonesty, Fraud or Deceit - Respondent Ciro Smog Check)**

3 30. Respondent Ciro Smog Check's station license is subject to disciplinary action
4 pursuant to Health and Safety Code section 44072.2, subdivision (d), in that between September
5 28, 2016, and February 10, 2017, regarding the vehicles set forth above in Table 1, Respondent
6 Ciro Smog Check committed acts involving dishonesty, fraud or deceit whereby another was
7 injured by issuing electronic certificates of compliance for those vehicles without performing
8 bona fide inspections of the emission control devices and systems on the vehicles, thereby
9 depriving the People of the State of California of the protection afforded by the Motor Vehicle
10 Inspection Program.

11 **SIXTH CAUSE FOR DISCIPLINE**

12 **(Violations of the Motor Vehicle Inspection Program – Respondent Flores)**

13 31. Respondent Flores' technician licenses are subject to discipline pursuant to Health
14 and Safety Code section 44072.2, subdivision (a), in that between September 28, 2016, and
15 February 10, 2017, regarding the vehicles set forth above in Table 1, Respondent Flores failed to
16 comply with section 44012 of the Health and Safety Code in a material respect, as follows:
17 Respondent Flores failed to perform the emission control tests on those vehicles in accordance
18 with produces prescribed by the department.

19 **SEVENTH CAUSE FOR DISCIPLINE**

20 **(Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection Program –**
21 **Respondent Flores)**

22 32. Respondent Flores' technician licenses are subject to discipline pursuant to Health
23 and Safety Code section 44072.2, subdivision (c), in that between September 28, 2016, and
24 February 10, 2017, regarding the vehicles set forth above in Table 1, Respondent Flores failed to
25 comply with provisions of the California Code of Regulations, title 16, as follows:

26 (a) Section 3340.30, subdivision (a): Respondent Flores failed to inspect and test
27 those vehicles in accordance with Health and Safety Code section 44012.

1 (b) Section 3340.42: Respondent Flores failed to conduct the required smog tests
2 and inspections on those vehicles in accordance with the Bureau's specifications.

3 **EIGHTH CAUSE FOR DISCIPLINE**

4 **(Dishonesty, Fraud or Deceit - Respondent Flores)**

5 33. Respondent Flores' technician licenses are subject to discipline pursuant to Health
6 and Safety Code section 44072.2, subdivision (d), in that between September 28, 2016, and
7 February 10, 2017, regarding the vehicles set forth above in Table 1, Respondent Flores
8 committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing
9 electronic certificates of compliance for those vehicles without performing bona fide inspections
10 of the emission control devices and systems on the vehicles, thereby depriving the People of the
11 State of California of the protection afforded by the Motor Vehicle Inspection Program.

12 **OTHER MATTERS**

13 34. Pursuant to Business & Professions Code section 9884.7, subdivision (c), the Director
14 may suspend, revoke, or place on probation the registration for all places of business operated in
15 this State by Ciro Rodriguez Flores upon a finding that Respondent Ciro Smog Check has, or is,
16 engaged in a course of repeated and willful violations of the laws and regulations pertaining to an
17 automotive repair dealer.

18 35. Pursuant to Health & Safety Code section 44072.8, if Smog Check Test Only Station
19 License Number TC 216836 issued to Ciro Rodriguez Flores, doing business as Ciro Smog
20 Check, is revoked or suspended following a hearing under this article, any additional license
21 issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code in the name of said
22 licensee may be likewise revoked or suspended by the Director.

23 36. Pursuant to Health & Safety Code section 44072.8, if Smog Check Inspector License
24 Number EO 312195 or Smog Check Repair Technician License EI 312195 issued to Respondent
25 Ciro Rodriguez Flores is revoked or suspended following a hearing under this article, any
26 additional license issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code
27 in the name of said licensee may be likewise revoked or suspended by the Director.

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7. Ordering Respondent Ciro Rodriguez Flores, doing business as Ciro Smog Check, and Respondent Ciro Rodriguez Flores to pay the Bureau of Automotive Repair the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

8. Taking such other and further action as deemed necessary and proper.

DATED: December 13, 2017 

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

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