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

In the Matter of the Accusation Against:

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

DATED: June 1, 2018

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

Case No.: 79/17-5846

1	XAVIER BECERRA	
2	Attorney General of California LINDA L. SUN	
3	Supervising Deputy Attorney General STEPHEN D. SVETICH	· · · · ·
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7	E-mail: Stephen.Svetich@doj.ca.gov Attorneys for Complainant	
8		RETHE
9	FOR THE BUREAU OF	CONSUMER AFFAIRS AUTOMOTIVE REPAIR
10	SIAIL OF C	CALIFORNIA
11	In the Matter of the Accuration Acciust.	C N- 70/17 5046
12	In the Matter of the Accusation Against:	Case No. 79/17-5846
13	CIRO RODRIGUEZ FLORES, OWNER, DOING BUSINESS AS CIRO SMOG CHECK	STIPULATED SETTLEMENT AND
14	1535 S. Oxnard Blvd, Unit B Oxnard, CA 93030	DISCIPLINARY ORDER
15	Automotive Repair Dealer Registration No.	
16	ARD 216836 Smog Check, Test Only, Station License No.	
17	TC 216836,	
18	and	
19	CIRO RODRIGUEZ FLORES 1535 S. Oxnard Blvd, Unit B	
20	Oxnard, CA 93030	
21	Smog Check Inspector License No. EO 312195 Smog Check Repair Technician License No. EI	
22	312195 (formerly EA 312195)	
23	Respondents.	
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26		ement of this matter, consistent with the public
27	interest and the responsibilities of the Director of	
28		e parties hereby agree to the following Stipulated
		1 STIPULATED SETTLEMENT (79/17-5846)

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

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PARTIES

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

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

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

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

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

In 1996, the Bureau issued Advanced Emission Specialist Technician License
 Number EA 312195 to Respondent Flores. Respondent Flores' Advanced Emission Specialist
 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 "Respondents" herein.
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Pursuant to California Code of Regulations, title 16, section 3340.28, subdivision (e),² the license
 was renewed, pursuant to Respondent Flores' election, as Smog Check Inspector License Number
 EO 312195, and Smog Check Repair Technician License Number EI 312195, effective July 24,
 2012. Respondent Flores' inspector license and repair technician licenses were in full force and
 effect at all times relevant to the charges brought herein and will expire on July 31, 2018, unless
 renewed.

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 <u>Exhibit A</u> and incorporated
13 herein by reference.

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ADVISEMENT AND WAIVERS

9. Respondents have carefully read, fully discussed with counsel, and understands the
charges and allegations in Accusation No. 79/17-5846. Respondents have also carefully read and
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.

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²⁶ ² Effective August 1, 2012, California Code of Regulations, title 16, sections 3340.28, 3340.29, and 3340.30 were amended to implement a license restructure from the Advanced Emission
²⁷ ³ Specialist Technician ("EA") license and Basic Area ("EB") Technician license to Smog Check Inspector ("EO") license and/or Smog Check Repair Technician ("EI") license.

11. Respondents voluntarily, knowingly, and intelligently waive and give up each and every right set forth above.

CULPABILITY

12. Respondents admit the truth of each and every charge and allegation in AccusationNo. 79/17-5846.

13. Respondent Flores agrees that his Automotive Repair Dealer Registration and Smog
 Check Test Only Station License are subject to discipline, and Respondent Flores agrees to be
 bound by the Director's imposition of discipline as set forth in the Disciplinary Order below.

9 14. Respondent Flores agrees that his Smog Check Inspector License and Smog Check
10 Repair Technician License are subject to discipline, and he agrees to be bound by the Director's
11 imposition of discipline as set forth in the Disciplinary Order below.

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CONTINGENCY

15. This stipulation shall be subject to approval by the Director of Consumer Affairs or 13 the Director's designee. Respondents understand and agree that counsel for Complainant and the 14 staff of the Bureau of Automotive Repair may communicate directly with the Director and staff of 15 the Department of Consumer Affairs regarding this stipulation and settlement, without notice to 16 or participation by Respondents or their counsel. By signing the stipulation, Respondents 17 understand and agree that they may not withdraw their agreement or seek to rescind the 18 stipulation prior to the time the Director considers and acts upon it. If the Director fails to adopt 19 this stipulation as the Decision and Order, the Stipulated Settlement and Disciplinary Order shall 20be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action 21 between the parties, and the Director shall not be disqualified from further action by having 22 considered this matter. 23

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16. The parties understand and agree that Portable Document Format ("PDF") and facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

27 17. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
28 integrated writing representing the complete, final, and exclusive embodiment of their agreement.

It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
 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:

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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.

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

IT IS HEREBY ORDERED that Smog Check Inspector License No. EO 312195 issued to
 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.

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

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

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

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

136. Respondent Flores shall lose all rights and privileges of a Smog Check Repair14Technician 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.

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

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ACCEPTANCE

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

Technician License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, 1 knowingly, and intelligently, and agree to be bound by the Decision and Order of the Director of 2 Consumer Affairs. 3 4 5 Com Ilm_ R DATED: 6 03/05/18 CIRO RODRIGUEZ FLORES, OWNER, DOING 7 BUSINESS AS CIRO SMOG CHECK, Respondent 8 Cim Ihm_ R 9 DATED: 03/05/2018 10 CIRO RODRIGUEZ FLORES Respondent 11 12 ENDORSEMENT 13 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully 14 submitted for consideration by the Director of Consumer Affairs 15 Dated: April 26, 2018 Respectfully submitted, 16 XAVIER BECERRA Attorney General of California 17 LINDA Ľ. SUN Supervising Deputy Attorney General 18 19 20 STEPHEN D. SVETICH Deputy Attorney General 21 Attorneys for Complainant 22 LA2017507154 23 52806831.doc 24 25 26 27 28 7

Exhibit A

Accusation No. 79/17-5846

l			I
1	XAVIER BECERRA Attorney General of California		
2	LINDA L. SUN Supervising Deputy Attorney General		
3	Supervising Deputy Attorney General STEPHEN D. SVETICH		
4	Deputy Attorney General State Bar No. 272370		
5	300 So. Spring Street, Suite 1702 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	BEFOR		
9	DEPARTMENT OF CO FOR THE BUREAU OF A	ONSUMER AFFAIRS	
10	STATE OF CA		
11	In the Matter of the Accusation Against:	Case No. 79/17-5846	
12		Case 110, 79/17-3040	
13	CIRO RODRIGUEZ FLORES, OWNER, DOING BUSINESS AS CIRO SMOG		
14	CHECK 1535 S. Oxnard Blyd, Unit B	ACCUSATION	
15	Oxnard, CA 93030		
	Automotive Repair Dealer Registration No.		
16	ARD 216836 Smog Check, Test Only, Station License No.	•	
17	TC 216836,		
18	and		
19	CIRO RODRIGUEZ FLORES		
20	1535 S. Oxnard Blvd, Unit B	·	
	Oxnard, CA 93030		
21	Smog Check Inspector License No. EO 312195 Smog Check Repair Technician License No. EI		
22	312195		1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1
23	(formerly EA 312195)		
24	Respondents.		
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	(CIRO RODRIGUEZ FLORES, OWNER, DBA CI	RO SMOG CHECK and CIRO RODGR	
•			ACCUSATION

Complainant alleges:

PARTIES

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

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Automotive Repair Dealer Registration

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

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Smog Check Station License

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

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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.

Inspector License

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

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

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	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 Code ³ 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
, <u>.</u>	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.
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·	23	
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	26	² Effective August 1, 2012, California Code of Regulations, title 16, sections 3340.28, 3340.29, and 3340.30 were amended to implement a license restructure from the Advanced Emission
	27	Specialist Technician ("EA") license and Basic Area ("EB") Technician license to Smog Check Inspector ("EO") license and/or Smog Check Repair Technician ("EI") license.
	28	³ All statutory references herein shall be to the Business and Professions Code unless specifically stated otherwise.
		3 (CIRO RODRIGUEZ FLORES, OWNER, DBA CIRO SMOG CHECK and CIRO RODGRIGUEZ FLORES)
		(CIRO RODRIGUEZ FLORES, OWNER, DBA CIRO SMOG CHECK and CIRO RODGRIGUEZ FLORES) ACCUSATION

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STATUTORY PROVISIONS

11. Section 9884.7 of the Code states:

"(a) The director, where 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.

8 "(1) Making or authorizing in any manner or by any means whatever any statement written 9 or oral which is untrue or misleading, and which is known, or which by the exercise of reasonable 10 care should be known, to be untrue or misleading....

"(4) Any other conduct which constitutes fraud....

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

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12. Section 44072.2 of the Health and Safety Code states:

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

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

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

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

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24 25 13. Section 44072.10 of the Health and Safety Code states, in pertinent part:....

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

(CIRO RODRIGUEZ FLORES, OWNER, DBA CIRO SMOG CHECK and CIRO RODGRIGUEZ FLORES) ACCUSATION

1	"(1) Clean piping, as defined by the department	
2	"(4) Intentional or willful violation of this chapter or any regulation, standard, or	
3	procedure of the department implementing this chapter"	
4	REGULATORY PROVISIONS	
5	14. California Code of Regulations, title 16, section 3340.24, subdivision (c), states:	
6	"The bureau may suspend or revoke the license of or pursue other legal action against a	
7	licensee, if the licensee falsely or fraudulently issues or obtains a certificate of compliance or a	
8	certificate of noncompliance."	
9	15. California Code of Regulations, title 16, section 3340.30, states:	
10	"A smog check technician shall comply with the following requirements at all times while	
11	licensed.	
12	"(a) A licensed technician shall inspect, test and repair vehicles in accordance with section	
13	44012 of the Health and Safety Code, section 44035 of the Health and Safety Code, and section	
14	3340.42 of this article"	
15	16. California Code of Regulations, title 16, section 3340.35, states, in pertinent part:	
16	66 • • • •	
17	"(c) A licensed station shall issue a certificate of compliance or noncompliance to the	
18	owner or operator of any vehicle that has been inspected in accordance with the procedures	
19	specified in section 3340.42 of this article and has all the required emission control equipment	
20	and devices installed and functioning correctly"	
21	17. California Code of Regulations, title 16, section 3340.42, sets forth specific emissions	
22	test methods and procedures which apply to all vehicles inspected in the State of California.	
23	COST RECOVERY	
24	18. Section 125.3 of the Code provides, in pertinent part, that the Board may request the	
25	administrative law judge to direct a licentiate found to have committed a violation or violations of	
26	the licensing act to pay a sum not to exceed the reasonable costs of the investigation and	
27	enforcement of the case, with failure of the licentiate to comply subjecting the license to not being	
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	5 (CIRO RODRIGUEZ FLORES, OWNER, DBA CIRO SMOG CHECK and CIRO RODGRIGUEZ FLORES)	-
	(CING RODAROULE FLORES, OWNER, DDA CIRO SMOG CHECK and CIRO RODGRIGUEZ FLORES) ACCUSATION	

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

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VID DATA REVIEW

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

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

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

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

The smog check technician must sign the VIR under penalty of perjury to indicate 23.13 that the inspection was done within Bureau guidelines. Smog Check Stations are required by law 14 to maintain a copy of the VIR along with a copy of the repair invoice for three years. The 15 consumer's VIR serves as a receipt and proof that the VID was updated and a Certificate of 16 Compliance was issued. Licensed Smog Check Technicians are the only persons authorized by 17 the Bureau to perform official inspections. They are issued a personal access code and a license, 18 which are used to gain access to the EIS and OIS to perform smog check inspections. 19 Unauthorized use of another technician's access code or license is prohibited. 20

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

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⁴ "Clean plugging" refers to the use of another vehicle's properly functioning On Board 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.

	activities. A Bureau representative initiated an investigation based on information transmitted to
	the VID for smog check inspections performed by Respondent Flores. The investigation revealed
	that the data related to certain vehicles certified by Respondent Ciro Smog Check contained a
	pattern of unmistakable discrepancies between the information transmitted during the inspections
	and documented information known about the vehicles at issue. Specifically, the representative
	compared the data received from the certified vehicles to data from vehicles of the same year,
	make, and model and determined that the data from at least four (4) of the certified vehicles
7 3	contained the following unmistakable discrepancies: (1) incorrect vehicle communication
9	protocols; (2) incorrect PID counts, and 3) incorrect, missing, and/or unexpected eVin numbers.
)	These documented discrepancies confirm that the vehicles receiving smog certificates from
Ĺ	Respondent Ciro Smog Check were fraudulently tested during the smog inspection using the
2	"clean plugging" method. The following chart ("Table 1") illustrates the documented clean
3	plugging activities of Respondents between September 28, 2016, and February 10, 2017.
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1 No. Test Date	Vehicle Certified & License No.	Certificate No.	Techician License No.	OIS Test Data Details
2 3 4 5 1 9/28/2016	2005 Chevrolet Impala LS ⁵ VIN No. 2G1WH52K059309343	QE593581C	EO 312195 (Respondent Flores)	Comm. Protoco JVPW (expected: JVPW) PID Count: 21 (expected: 19)
5	CA License Plate No. 6RKL389			eVin 1GNCS 18X85K101899 (correct eVin expected)
8 2 10/5/2016 0 2 10/5/2016 1 2 3	2000 Chevrolet Tracker ⁷ Vin No. 2CNBJ13C8Y6940515 CA License Plate No. 6MTD252	QE832683C	EO 312195 (Respondent Flores)	Comm. Protoco ICAN11bt5 (expected: I914
 Plate Number under that Smog Check I protocol (JVPW), Vehicle OIS Test I OIS Test Data sh and California Lic Certificate of Com 2005 Chevrolet Bl 2005 Chevrolet In matches the OIS T eVIN, protocol, an This specific 200 Plate Number und Respondent Flores not transmit an eV count (17), consist OIS Test Data sh 1FTNF20568EB7 generate the fraud Respondent Flores 2016, as the fraud for the 2008 Ford 	ows that a 2005 Chevrolet Bleense Plate No. 6CKF188, was pliance for the 2005 Chevrole azer on the same day, Septem pala LS. The OIS Test Data est Data for the fraudulent ins	on at another fac tted the correct), consistent wit azer, bearing VI the vehicle use of Impala LS. R ber 28, 2016, as transmitted for t spection of the 2 the same VIN N on at Responder ing that Smog (nmunication pro- d Similar Vehic uper Duty, bear Plate No. 54742 npliance for the F250 Super Dut chevrolet Tracker OIS Test Data	cility on April 6 eVIN, the correct h the OIS Test N No. 1GNCS d to generate the espondent Flor the fraudulent the 2005 Chevrolet fumber and Cal nt Ciro Smog C Check Inspection to Col (1914), a cle OIS Test Dat ing VIN No. CI, was the veh 2000 Chevrole ty on the same of the OIS Test for the fraudule	5, 2017. During ect communication Data and Similar 18X85K101899 he fraudulent Smo res also certified th inspection of the olet Blazer Impala LS for the ifornia License heck's facility by on, the Tracker did and the correct PII ata. iicle used to at Tracker. day, October 5, st Data transmitte

ł	I		· · ·			· · 1
1						Comm, Protocol: JVPW
2	3	12/28/2016	2001 Chevrolet Silverado C2500HD ⁹	ZN134511C	EO 312195 (Respondent	(expected: JVPW)
3			Vin No. 1GCHC24U41Z258277		Flores)	PID Count: 17 (expected: 22)
4			CA License Plate No. 6R30584			eVin 1GCCS1456YK2
5						$\begin{array}{c} 10000314501102\\ 78940^{10}\\ \text{(correct eVin} \end{array}$
6 7						expected) Comm. Protocol:
8						ICAN11bt5 (expected: ICAN11bt5)
9	4	2/10/2017	2007 GMC Acadia SLT-1 ¹¹	ZP381646C	EO 312195 (Respondent	PID Count: 43 (expected: 43 7)
10 11			Vin No. 1GKER23797J106147		Flores)	eVin
12						5N1AR1NB1AC 611466 ¹²
· 13			:			(correct eVin expected)
14	1	·			·	
15	⁹ This	specific 2001	Chevrolet Silverado C25001	HD bearing the s	same VIN Num	ber and California
16	During	g that Smog Cl	er underwent a smog check i heck Inspection, the Silverac	lo transmitted th	ie correct eVIN	f the correct
17	Data a	nd Similar Ve	ocol (JVPW), and the correct hicle OIS Test Data.			th the OIS Test
18	16CC	S1456YK2789	ows that a 2000 Chevrolet S 940 and California License I	Truck S10, bear Plate No. 93942	ing VIN No. E1, was the vel	licle used to
19	genera	te the fraudule	ent Smog Certificate of Com lent Flores also certified the	pliance for the 2	2001 Chevrolet	Silverado
20	Decem	uber 28, 2016,	as the fraudulent inspection	of the 2001 Che	evrolet Silverad	lo C2500HD. The
21	fraudu	lent inspectior	nitted for the 2000 Chevrole 1 of the 2001 Chevrolet Silve	et S Truck S10 n erado C2500HD	natches the OIS) for the eVIN,	Test Data for the protocol, and PID
22	count.	specific 2007	GMC Acadia SLT-1 bearing	ig the same VIN	Number under	went a smog
23	13, 20	Inspection at 1 17. During the	at Smog Check Inspection, t	k's facility by F he Acadia trans	Respondent Flor mitted the corre	res on February
24	the OI	t Communicat S Test Data ar	ion protocol (ICAN11bt5), and Similar Vehicle OIS Test	and the correct I Data.	PID count (43	7), consistent with
25	¹² OIS 5N1A]	Test Data sho R1NB1AC611	ows that a 2010 Nissan Pathf 1466 and California License	inder S, bearing Plate No. 7FIL9	VIN No. 930, was the ve	hicle used to
26	genera	te the fraudule	ent Smog Certificate of Com lso certified the 2010 Nissar	pliance for the	2007 GMC Aca	idia SLT-1.
27	2017, :	as the fraudule	ent inspection of the 2007 G	MC Acadia SLT	I-1. The OIS T	'est Data
28	inspec	tion of the 200	010 Nissan Pathfinder S ma 07 GMC Acadia SLT-1 for t	he eVIN, protoc	est Data for the col, and PID col	traudulent unt.
				10 .		
			UEZ FLORES, OWNER, DBA C	JIKU SMUG CHE(IN and CIKO RO	DGRIGUEZ FLORES) ACCUSATION

.	25.	This data of Respondents' smog check activities between September 28, 2016, and
	February 1	0, 2017, shows that Respondents participated in a scheme to perform at least four (4)
	fraudulent	Smog Check inspections resulting in the issuance of four (4) fraudulent electronic
	Smog Che	ck Certificates of Compliance.
	l	FIRST CAUSE FOR DISCIPLINE
		(Untrue or Misleading Statements - Respondent Ciro Smog Check)
	26,	Respondent Ciro Smog Check's registration is subject to disciplinary action pursuant
.	to section	9884.7, subdivision (a)(1), in that between September 28, 2016, and February 10, 2017,
	Responde	nt Ciro Smog Check made or authorized statements which it knew or in the exercise of
)	reasonable	e care should have known to be untrue or misleading, as follows: Respondent Ciro
-	Smog Che	eck certified that the vehicles set forth above in Table 1, had passed inspection and were
	in complia	ance with applicable laws and regulations. In fact, Respondent Ciro Smog Check
	conducted	the inspections on those vehicles using the clean plugging method in order to issue
	smog cert	ificates of compliance, and did not test or insect the vehicles as required by Health and
	Safety Co	de section 44012.
		SECOND CAUSE FOR DISCIPLINE
		(Fraud - Respondent Ciro Smog Check)
	27.	Respondent Ciro Smog Check's registration is subject to disciplinary action pursuant
	to section	9884.7, subdivision (a)(4), in that between September 28, 2016, and February 10, 2017,
	Responde	nt Ciro Smog Check committed acts which constitute fraud by issuing electronic
	certificate	es of compliance for the vehicles set forth above in Table 1, without performing bona
1	fide inspe	ctions of the emission control devises and systems on those vehicles, thereby depriving
	the Peopl	e of the State of California of the protection afforded by the Motor Vehicle Inspection
1	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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	(CIRO RODRIGUEZ FLORES, OWNER, DBA CIRO SMOG CHECK and CIRO RODGRIGUEZ FLORES) ACCUSATION

ACCUSATION

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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.
28	
	13 (CIRO RODRIGUEZ FLORES, OWNER, DBA CIRO SMOG CHECK and CIRO RODGRIGUEZ FLORES
1	CIRO RODRIGUEZ FLORES, OWNER, DBA CIRO SMOG CHECK and CIRO RODGRIGUEZ FLORES

Section 3340.42: Respondent Flores failed to conduct the required smog tests 1 (b) and inspections on those vehicles in accordance with the Bureau's specifications. 2 EIGHTH CAUSE FOR DISCIPLINE 3 (Dishonesty, Fraud or Deceit - Respondent Flores) 4 33. Respondent Flores' technician licenses are subject to discipline pursuant to Health 5 and Safety Code section 44072.2, subdivision (d), in that between September 28, 2016, and 6 7 February 10, 2017, regarding the vehicles set forth above in Table 1, Respondent Flores committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing 8 electronic certificates of compliance for those vehicles without performing bona fide inspections 9 of the emission control devices and systems on the vehicles, thereby depriving the People of the 10 State of California of the protection afforded by the Motor Vehicle Inspection Program. 11 **OTHER MATTERS** 12 34. Pursuant to Business & Professions Code section 9884.7, subdivision (c), the Director 13 may suspend, revoke, or place on probation the registration for all places of business operated in 14 this State by Ciro Rodriguez Flores upon a finding that Respondent Ciro Smog Check has, or is, 15 engaged in a course of repeated and willful violations of the laws and regulations pertaining to an 16 automotive repair dealer. 17 35. Pursuant to Health & Safety Code section 44072.8, if Smog Check Test Only Station 18 19 License Number TC 216836 issued to Ciro Rodriguez Flores, doing business as Ciro Smog Check, is revoked or suspended following a hearing under this article, any additional license 20issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code in the name of said 21 licensee may be likewise revoked or suspended by the Director. 22Pursuant to Health & Safety Code section 44072.8, if Smog Check Inspector License 23 36. Number EO 312195 or Smog Check Repair Technician License EI 312195 issued to Respondent 24Ciro Rodriguez Flores is revoked or suspended following a hearing under this article, any 25 additional license issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code 26 in the name of said licensee may be likewise revoked or suspended by the Director. 2728||14

1	DISCIPLINARY CONSIDERATIONS 37. On or about June 25, 2002, the Bureau issued Citation No. C2002-1154 to Respondent Ciro Smog Check for violating Health and Safety Code section 44012, subdivision
	, 37. On or about June 25, 2002, the Bureau issued Citation No. C2002-1154 to
2	
	Respondent Ciro Smog Check for violating Health and Safety Code section 44012, subdivision
3	
4	(f), and California Code of Regulations, title 16, section 3340.35(c). The Bureau assessed a civil
5	penalty of \$500.00. The Bureau received payment in full for the citation on July 18, 2002.
6	38. On or about May 13, 2015, the Bureau issued Citation No. C2015-0506 to
7	Respondent Ciro Smog Check for violating Health and Safety Code section 44012. The Bureau
8	assessed a civil penalty of \$1,000.00. The Bureau received payment in full for the citation on
9	July 6, 2015.
10	39. On or about May 13, 2015, the Bureau issued Citation No. M2015-0507 to
11	Respondent Flores for violating Health and Safety Code section 44032. The citation included an
12	order of abatement. The decision became effective July 19, 2015.
13	PRAYER
14	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
15	and that following the hearing, the Director of Consumer Affairs issue a decision:
16	1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
17	216836, issued to Respondent Ciro Rodriguez Flores, doing business as Ciro Smog Check;
18	2. Revoking or suspending any other Automotive Repair Dealer registration license
19	issued to Respondent Ciro Rodriguez Flores;
20	3. Revoking or suspending Smog Check, Test Only Station License Number TC
21	216836, issued to Respondent Ciro Rodriguez Flores, doing business as Ciro Smog Check;
22	4. Revoking or suspending Smog Check Inspector License No. EO 312195 issued to
23	Respondent Ciro Rodriguez Flores;
24	5. Revoking or suspending Smog Check Repair Technician License No. EI 312195
25	issued to Respondent Ciro Rodriguez Flores;
26	6. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of
27	Division 26 of the Health and Safety Code in the name of Respondent Ciro Rodriguez Flores;
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	(CIRO RODRIGUEZ FLORES, OWNER, DBA CIRO SMOG CHECK and CIRO RODGRIGUEZ FLORES) ACCUSATION

Ordering Respondent Ciro Rodriguez Flores, doing business as Ciro Smog Check, 7. 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, 20 PATRICK DORAIS Chief Bureau of Automotive Repair Department of Consumer Affairs State of California Complainant LA2017507154 52680173.docx (CIRO RODRIGUEZ FLORES, OWNER, DBA CIRO SMOG CHECK and CIRO RODGRIGUEZ FLORES) ACCUSATION