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

11
12 In the Matter of the Accusation Against:

Case No. 79/16-4153

13 **GABRIELA ROJAS, OWNER,**
14 **DBA JOHN'S AUTO REGISTRATION**
15 **BRAKE AND LAMP**
12520 Magnolia Ave., Unit A & B
Riverside, CA 92503

A C C U S A T I O N

16 **Automotive Repair Dealer Registration**
17 **No. ARD 276953**
18 **Lamp Station License No. LS 276953,**
Class A
19 **Brake Station License No. BS 276953,**
Class C
20 **Smog Check Station License No. RC 276953**

21 **and**

22 **JOE R. GODOY**
2198 Stoneridge Drive, Apt. 488
Corona, CA 92879

23 **Lamp Adjuster License No. LA 637030,**
24 **Class A**
25 **Brake Adjuster License No. BA 637030,**
Class C
26 **Smog Check Inspector License**
27 **No. EO 637030**

28 **and**

1 **Smog Check Station License No. RC 276953**

2 5. On November 12, 2015, the Bureau issued Smog Check Station License Number RC
3 276953 (smog check station license) to Respondent Rojas. The smog check station license was in
4 full force and effect at all times relevant to the charges brought herein and will expire on June 30,
5 2018, unless renewed.

6 **Lamp Adjuster License No. LA 637030**

7 6. On June 24, 2014, the Bureau issued Lamp Adjuster License Number LA 637030,
8 Class A (lamp adjuster license) to Joe R. Godoy (Respondent Godoy). The lamp adjuster license
9 was in full force and effect at all times relevant to the charges brought herein and expired on
10 November 30, 2017. The lamp adjuster license was canceled on January 7, 2018.

11 **Brake Adjuster License No. BA 637030**

12 7. On June 25, 2014, the Bureau issued Brake Adjuster License Number BA 637030,
13 Class C (brake adjuster license) to Respondent Godoy. The brake adjuster license was in full
14 force and effect at all times relevant to the charges brought herein and expired on November 30,
15 2017, and has not been renewed.

16 **Smog Check Inspector License No. EO 637030**

17 8. On August 14, 2015, the Bureau issued Smog Check Inspector License No. EO
18 637030 (technician license) to Respondent Godoy. The technician license was in full force and
19 effect at all times relevant to the charges brought herein and will expire on November 30, 2019,
20 unless renewed.

21 **Smog Check Inspector License No. EO 632161**
22 **Smog Check Repair Technician License No. EI 632161**

23 9. On June 9, 2010, the Bureau issued Advanced Emission Specialist Technician
24 License No. EA 632161 to Mark Leslie Mejia (Respondent Mejia). The technician license
25 expired on October 31, 2012, and was cancelled on November 15, 2012. Under California Code
26 of Regulations, title 16, section 3340.28, subdivision (e), the license was renewed, under
27 Respondent Mejia's election, as Smog Check Inspector License No. EO 632161 and Smog Check
28

1 Repair Technician License No. EI 632161¹, effective November 15, 2012. The Smog Check
2 Inspector License (technician license) was in full force and effect at all times relevant to the
3 charges brought herein and will expire on October 31, 2018. The Smog Check Repair Technician
4 License expired on October 31, 2014, and has not been renewed.

5 JURISDICTION

6 10. This Accusation is brought before the Director of the Department of Consumer
7 Affairs (Director) for the Bureau of Automotive Repair, under the authority of the following laws.
8 All section references are to the Business and Professions Code (Code) unless otherwise
9 indicated.

10 11. Section 118, subdivision (b), of the Code provides that the suspension, expiration,
11 surrender or cancellation of a license shall not deprive the Director of jurisdiction to proceed with
12 a disciplinary action during the period within which the license may be renewed, restored,
13 reissued or reinstated.

14 12. Section 477 of the Code provides, in pertinent part, that "Board" includes "bureau,"
15 "commission," "committee," "department," "division," "examining committee," "program," and
16 "agency." "License" includes certificate, registration or other means to engage in a business or
17 profession regulated by the Code.

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

22 14. Section 9884.20 of the Code states:

23 All accusations against automotive repair dealers shall be filed within three
24 years after the performance of the act or omission alleged as the ground for
25 disciplinary action, except that with respect to an accusation alleging fraud or
26 misrepresentation as a ground for disciplinary action, the accusation may be filed
within two years after the discovery, by the bureau, of the alleged facts
constituting the fraud or misrepresentation.

27 ¹ Effective August 1, 2012, California Code of Regulations, title 16, sections 3340.28,
28 3340.29, and 3340.30 were amended to implement a license restructure from the Advanced
(cont) Emission 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 15. Section 9884.22 of the Code states, in pertinent part:

2 (a) Notwithstanding any other provision of law, the director may revoke,
3 suspend, or deny at any time any registration required by this article on any of the
4 grounds for disciplinary action provided in this article. The proceedings under this
5 article shall be conducted in accordance with Chapter 5 (commencing with Section
6 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the director
7 shall have all the powers granted therein.

8

9 16. Section 9889.1 of the Code provides, in pertinent part, that the Director may suspend
10 or revoke any license issued under Articles 5 and 6 (commencing with section 9887.1) of the
11 Automotive Repair Act.

12 17. Section 9889.3 of the Code states, in pertinent part:

13 The director may suspend, revoke, or take other disciplinary action against a
14 license as provided in this article [Article 7 (commencing with section 9889.1) of
15 Chapter 20.3 of Division 3 of the Business and Professions Code] if the licensee or
16 any partner, officer, or director thereof:

17 (a) Violates any section of the Business and Professions Code which relates
18 to his or her licensed activities.

19

20 (c) Violates any of the regulations promulgated by the director pursuant to
21 this chapter [the Automotive Repair Act].

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

24

25 (h) Violates or attempts to violate the provisions of this chapter relating to
26 the particular activity for which he or she is licensed.

27

28 18. Section 9889.5 of the Code states:

“The director may take disciplinary action against any licensee after a hearing as provided
in this article by any of the following:

“(a) Imposing probation upon terms and conditions to be set forth by the director.

“(b) Suspending the license.

“(c) Revoking the license.”

19. Section 9889.7 of the Code provides, in pertinent part, that the expiration or
suspension of a license by operation of law or by order or decision of the Director or a court of

1 law, or the voluntary surrender of a license shall not deprive the Director of jurisdiction to
2 proceed with any disciplinary proceedings.

3 20. Section 9889.8 of the Code states:

4 All accusations against licensees shall be filed within three years after the act
5 or omission alleged as the ground for disciplinary action, except that with respect
6 to an accusation alleging a violation of subdivision (d) of Section 9889.3, the
7 accusation may be filed within two years after the discovery by the bureau of the
8 alleged facts constituting the fraud or misrepresentation prohibited by that section.

9 21. Section 9889.9 of the Code states:

10 "When any license has been revoked or suspended following a hearing under the provisions
11 of this article, any additional license issued under Articles 5 and 6 of this chapter in the name of
12 the licensee may be likewise revoked or suspended by the director."

13 22. Section 44002 of the Health and Safety Code (H & S Code) states:

14 The department shall have the sole and exclusive authority within the state
15 for developing and implementing the motor vehicle inspection program in
16 accordance with this chapter.

17 For the purposes of administration and enforcement of this chapter, the
18 department, and the director and officers and employees thereof, shall have all the
19 powers and authority granted under Division 1 (commencing with Section 1) and
20 Division 1.5 (commencing with Section 475) and Chapter 20.3 (commencing with
21 Section 9880) of Division 3 of the Business and Professions Code and under
22 Chapter 33 (commencing with Section 3300) of Title 16 of the California Code of
23 Regulations. Inspections and repairs performed pursuant to this chapter, in
24 addition to meeting the specific requirements imposed by this chapter, shall also
25 comply with all requirements imposed pursuant to Division 1 (commencing with
26 Section 1) and Division 1.5 (commencing with Section 475) and Chapter 20.3
27 (commencing with Section 9880) of Division 3 of the Business and Professions
28 Code and Chapter 33 (commencing with Section 3300) of Title 16 of the
California Code of Regulations.

29 23. Section 44072.4 of the H & S Code states:

30 "The director may take disciplinary action against any licensee after a hearing as provided
31 in this article by any of the following:

32 "(a) Imposing probation upon terms and conditions to be set forth by the director.

33 "(b) Suspending the license.

34 "(c) Revoking the license."

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1 24. Section 44072.6 of the H & S Code states:

2 The expiration or suspension of a license by operation of law or by order or
3 decision of the director or a court of law, or the voluntary surrender of a license by
4 a licensee shall not deprive the director of jurisdiction to proceed with any
5 investigation of, or action or disciplinary proceedings against, the licensee, or to
6 render a decision suspending or revoking the license.

7 25. Section 44072.7 of the H & S Code states:

8 All accusations against licensees shall be filed within three years after the act
9 or omission alleged as the ground for disciplinary action, except that with respect
10 to an accusation alleging a violation of subdivision (d) of Section 44072.2, the
11 accusation may be filed within two years after the discovery by the bureau of the
12 alleged facts constituting the fraud or misrepresentation prohibited by that section.

13 26. Section 44072.8 of the H & S Code states:

14 "When a license has been revoked or suspended following a hearing under this article, any
15 additional license issued under this chapter in the name of the licensee may be likewise revoked
16 or suspended by the director."

17 27. California Code of Regulations, title 16, (CCR) section 3340.28, subdivision (e),
18 states:

19 "Upon renewal of an unexpired Basic Area Technician license or an Advanced Emission
20 Specialist Technician license issued prior to the effective date of this regulation, the licensee may
21 apply to renew as a Smog Check Inspector, Smog Check Repair Technician, or both."

22 **STATUTORY PROVISIONS**

23 28. Section 9884.7 of the Code states:

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

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

(2) Causing or allowing a customer to sign any work order that does not state
the repairs requested by the customer or the automobile's odometer reading at the
time of repair.

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(4) Any other conduct which constitutes fraud.

....

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

(7) Any willful departure from or disregard of accepted trade standards for good and workmanlike repair in any material respect, which is prejudicial to another without consent of the owner or his or her duly authorized representative.

....

(9) Having repair work done by someone other than the dealer or his or her employees without the knowledge or consent of the customer unless the dealer can demonstrate that the customer could not reasonably have been notified.

....

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

29. Section 9884.8 of the Code states:

All work done by an automotive repair dealer, including all warranty work, shall be recorded on an invoice and shall describe all service work done and parts supplied. Service work and parts shall be listed separately on the invoice, which shall also state separately the subtotal prices for service work and for parts, not including sales tax, and shall state separately the sales tax, if any, applicable to each. If any used, rebuilt, or reconditioned parts are supplied, the invoice shall clearly state that fact. If a part of a component system is composed of new and used, rebuilt or reconditioned parts, that invoice shall clearly state that fact. The invoice shall include a statement indicating whether any crash parts are original equipment manufacturer crash parts or nonoriginal equipment manufacturer aftermarket crash parts. One copy of the invoice shall be given to the customer and one copy shall be retained by the automotive repair dealer.

30. Section 9884.9 of the Code states:

(a) The automotive repair dealer shall give to the customer a written estimated price for labor and parts necessary for a specific job. No work shall be done and no charges shall accrue before authorization to proceed is obtained from the customer. No charge shall be made for work done or parts supplied in excess of the estimated price without the oral or written consent of the customer that shall be obtained at some time after it is determined that the estimated price is insufficient and before the work not estimated is done or the parts not estimated are supplied. Written consent or authorization for an increase in the original estimated price may be provided by electronic mail or facsimile transmission from the customer. The bureau may specify in regulation the procedures to be followed by an automotive repair dealer if an authorization or consent for an increase in the

1 original estimated price is provided by electronic mail or facsimile transmission. If
2 that consent is oral, the dealer shall make a notation on the work order of the date,
3 time, name of person authorizing the additional repairs and telephone number
4 called, if any, together with a specification of the additional parts and labor and the
5 total additional cost, and shall do either of the following:

6 (1) Make a notation on the invoice of the same facts set forth in the notation
7 on the work order.

8 (2) Upon completion of the repairs, obtain the customer's signature or initials
9 to an acknowledgment of notice and consent, if there is an oral consent of the
10 customer to additional repairs, in the following language:

11 "I acknowledge notice and oral approval of an increase in the original
12 estimated price.

13 _____
14 (signature or initials)"

15 Nothing in this section shall be construed as requiring an automotive repair
16 dealer to give a written estimated price if the dealer does not agree to perform the
17 requested repair.

18 (b) The automotive repair dealer shall include with the written estimated
19 price a statement of any automotive repair service that, if required to be done, will
20 be done by someone other than the dealer or his or her employees. No service shall
21 be done by other than the dealer or his or her employees without the consent of the
22 customer, unless the customer cannot reasonably be notified. The dealer shall be
23 responsible, in any case, for any service in the same manner as if the dealer or his
24 or her employees had done the service.

25

26 31. Section 9889.16 of the Code states:

27 Whenever a licensed adjuster in a licensed station upon an inspection or after an
28 adjustment, made in conformity with the instructions of the bureau, determines
that the lamps or the brakes upon any vehicle conform with the requirements of the
Vehicle Code, he shall, when requested by the owner or driver of the vehicle, issue
a certificate of adjustment on a form prescribed by the director, which certificate
shall contain the date of issuance, the make and registration number of the vehicle,
the name of the owner of the vehicle, and the official license of the station.

32. Section 44012 of the H & S Code provides, in pertinent part, that the test at
the smog check station shall be performed in accordance with procedures prescribed by
the department, pursuant to Section 44013.

33. Section 44015 of the H & S Code states, in pertinent part:

(a) A licensed smog check station shall not issue a certificate of
compliance, except as authorized by this chapter, to any vehicle that meets the
following criteria:

(1) A vehicle that has been tampered with.

. . . .

1 (b) If a vehicle meets the requirements of Section 44012, a smog check
2 station licensed to issue certificates shall issue a certificate of compliance or a
3 certificate of noncompliance.

4

5 34. Section 44032 of the H & S Code states:

6 No person shall perform, for compensation, tests or repairs of emission
7 control devices or systems of motor vehicles required by this chapter unless the
8 person performing the test or repair is a qualified smog check technician and the
9 test or repair is performed at a licensed smog check station. Qualified technicians
10 shall perform tests of emission control devices and systems in accordance with
11 Section 44012.

12 35. Section 44072.2 of the H & S Code states, in pertinent part:

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

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

19

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

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

24

25 36. Section 44072.8 of the H & S Code states:

26 "When a license has been revoked or suspended following a hearing under this article, any
27 additional license issued under this chapter in the name of the licensee may be likewise revoked
28 or suspended by the director."

REGULATORY PROVISIONS

37. California Code of Regulations, title 16, (CCR) section 3305, states, in pertinent part:

(a) All adjusting, inspecting, servicing, and repairing of brake systems and
lamp systems for the purpose of issuing any certificate of compliance or
adjustment shall be performed in official stations, by official adjusters, in
accordance with the following, in descending order of precedence, as applicable:

1 (1) Vehicle Manufacturers' current standards, specifications and
recommended procedures, as published in the manufacturers' vehicle service and
2 repair manuals.

3 (2) Current standards, specifications, procedures, directives, manuals,
bulletins and instructions issued by vehicle and equipment or device
4 manufacturers.

5 (3) Standards, specifications and recommended procedures found in current
industry-standard reference manuals and periodicals published by nationally
6 recognized repair information providers.

7 (4) The bureau's Handbook for Brake Adjusters and Stations, May 2015,
which is hereby incorporated by reference.

8 (5) The bureau's Handbook for Lamp Adjusters and Stations, May 2015,
9 which is hereby incorporated by reference.

10

11 (c) The services of an officially licensed adjuster appropriate to each type
and class of station license held shall be available at each official station, except a
12 fleet owner station, not less than 40 hours weekly or not less than half of the hours
the station is open for business weekly, whichever is less. Fleet owner stations are
13 required to provide the services of a licensed adjuster only for certification
procedures.

14 38. CCR section 3316, states, in pertinent part:

15 The operation of official lamp adjusting stations shall be subject to the
16 following provisions:

17

18 (d) Effective April 1, 1999, licensed stations shall purchase certificates of
adjustment from the bureau for a fee of three dollars and fifty cents (\$3.50) each
19 and shall not purchase or otherwise obtain such certificates from any other source.
Full payment is required at the time certificates are ordered. Certificates are not
20 exchangeable following delivery. A licensed station shall not sell or otherwise
transfer unused certificates of adjustment. Issuance of a lamp adjustment
21 certificate shall be in accordance with the following provisions:

22

23 (2) Where all of the lamps, lighting equipment, and related electrical systems
on a vehicle have been inspected and found to be in compliance with all
24 requirements of the Vehicle Code and bureau regulations, the certificate shall
certify that the entire system meets all of those requirements.

25

26 39. CCR section 3321, states, in pertinent part:

27 The operation of official brake adjusting stations shall be subject to the
28 following provisions:

1
2 (c) Effective April 1, 1999, licensed stations shall purchase certificates of
3 adjustment from the bureau for a fee of three dollars and fifty cents (\$3.50) and
4 shall not purchase or otherwise obtain such certificates from any other source. A
5 licensed station shall not sell or otherwise transfer unused certificates of
6 adjustment. Full payment is required at the time certificates are ordered.
7 Certificates are not exchangeable following delivery. Issuance of a brake
8 adjustment certificate shall be in accordance with the following provisions:

9
10
11 (2) Where the entire brake system on any vehicle has been inspected or
12 tested and found to be in compliance with all requirements of the Vehicle Code
13 and bureau regulations, and the vehicle has been road-tested, the certificate shall
14 certify that the entire system meets all such requirements.

15
16
17 40. CCR section 3340.15, subdivision (h) states:

18 A licensed smog check station shall not sublet inspections or repairs required
19 as part of the Smog Check Program, except for the following:

20 (1) Repairs of a vehicle's exhaust system which are normally performed by
21 muffler shops, provided that the malfunction has been previously diagnosed by the
22 specific smog check station originally authorized by the customer to perform
23 repairs to the vehicle.

24 (2) Repairs of those individual components that have been previously
25 diagnosed as being defective and that have been removed by the specific smog
26 check station originally authorized by the customer to perform repairs to the
27 vehicle.

28 (3) Repairs of diesel-powered vehicles provided the specific smog check
station has obtained authorization from the customer to sublet repairs to the
vehicle.

(4) Repairs to a vehicle's transmission provided the specific smog check
station has obtained authorization from the customer to sublet repairs to the
vehicle.

(5) Corrections to the vehicle's on-board computer systems' software
provided that the malfunction has been previously diagnosed by the specific smog
check station originally authorized by the customer to perform repairs to the
vehicle.

41. CCR section 3340.24, sub-division (c) states:

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

///

1 42. CCR section 3340.30, states, in pertinent part:

2 A smog check technician shall comply with the following requirements at all
3 times while licensed.

4 (a) A licensed technician shall inspect, test and repair vehicles in accordance
5 with section 44012 of the Health and Safety Code, section 44035 of the Health and
6 Safety Code, and section 3340.42 of this article.

7 (b) A licensed technician shall maintain on file with the bureau a correct
8 mailing address pursuant to section 3303.3 of Article 1 of this Chapter.

9

10 43. CCR section 3340.35, provides, in pertinent part, that a licensed station shall issue a
11 certificate of compliance . . . to the owner or operator of any vehicle that has been inspected in
12 accordance with the procedures specified in section 3340.42 of this article and has all the required
13 emission control equipment and devices installed and functioning correctly.

14 44. CCR section 3340.41, sub-division (c) states:

15 "(c) No person shall enter into the emissions inspection system any vehicle identification
16 information or emission control system identification data for any vehicle other than the one
17 being tested. Nor shall any person knowingly enter into the emissions inspection system any false
18 information about the vehicle being tested."

19 45. CCR 3340.42, provides, in pertinent part, that smog check stations and smog check
20 technicians shall conduct tests and inspections in accordance with the Bureau's BAR 97 Emission
21 Inspection System Specifications and/or the On Board Data Inspection System referenced in
22 subsections (a) and (b) of Section 3340.17.

23 46. CCR section 3353, states, in pertinent part:

24 "No work for compensation shall be commenced and no charges shall accrue without
25 specific authorization from the customer in accordance with the following requirements:

26 "(a) Estimate for Parts and Labor. Every dealer shall give to each customer a written
27 estimated price for labor and parts for a specific job.

28 ". . . ."

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1 47. CCR section 3356, states:

2 (a) All invoices for service and repair work performed, and parts supplied, as
3 provided for in Section 9884.8 of the Business and Professions Code, shall comply
4 with the following:

5 (1) The invoice shall show the automotive repair dealer's registration number
6 and the corresponding business name and address as shown in the Bureau's
7 records. If the automotive repair dealer's telephone number is shown, it shall
8 comply with the requirements of subsection (b) of Section 3371 of this chapter.

9 (2) The invoice shall separately list, describe and identify all of the
10 following:

11 (A) All service and repair work performed, including all diagnostic and
12 warranty work, and the price for each described service and repair.

13

14 (C) The subtotal price for all service and repair work performed.

15

16 (E) The applicable sales tax, if any.

17

18 (d) The automotive repair dealer shall give the customer a legible copy of
19 the invoice and shall retain a legible copy as part of the automotive repair dealer's
20 records pursuant to Section 9884.11 of the Business and Professions Code and
21 Section 3358 of this article.

22 48. CCR section 3373, states:

23 No automotive repair dealer or individual in charge shall, in filling out an
24 estimate, invoice, or work order, or record required to be maintained by section
25 3340.15(f) of this chapter, withhold therefrom or insert therein any statement or
26 information which will cause any such document to be false or misleading, or
27 where the tendency or effect thereby would be to mislead or deceive customers,
28 prospective customers, or the public.

COST RECOVERY

49. Section 125.3 of the Code provides, in pertinent part, that the Bureau may request the
administrative law judge to direct a licentiate found to have committed a violation or violations of
the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
included in a stipulated settlement.

FIRST UNDERCOVER RUN – 2007 NISSAN

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2 50. On May 13, 2016, a Bureau undercover operator drove a Bureau-documented 2007
3 Nissan to Respondent Rojas' facility for inspection. The following introduced malfunctions were
4 placed on the vehicle: installation of a right rear brake rotor that was below the manufacturer's
5 minimum thickness specification; installation of two license plate bulbs that did not illuminate;
6 and mis-aimed the left front headlamp. For the vehicle to pass a brake and lamp inspection, it
7 needed the right rear brake rotor replaced; license plate bulbs operational; and the left front
8 headlamp adjusted correctly. The undercover operator drove to Respondent Rojas' facility and
9 spoke with an employee. The undercover operator requested a smog inspection and a brake and
10 lamp inspection. The employee drove the vehicle behind the facility and returned a short time
11 later. The employee gave the undercover operator Certificate of Compliance-Brake Adjustment
12 [REDACTED], for the brake inspection, and Certificate of Compliance-Lamp Adjustment
13 [REDACTED], for the lamp inspection, and asked her for \$60.00. The undercover employee asked
14 the employee if the smog inspection had been performed. He told her it had not and gave the
15 keys to the vehicle to another employee and told him the vehicle needed a smog inspection.
16 Shortly thereafter, the second employee returned with the vehicle and asked the undercover
17 operator for \$140.00. The undercover operator paid the \$140.00. In addition to the brake and
18 lamp certificates, the undercover operator received a Vehicle Inspection Report for the smog
19 inspection. The undercover operator did not receive an estimate or invoice. The smog inspection
20 had not been conducted at Respondent Rojas' smog check station. The inspection had been
21 conducted at a different station down the street from Respondent's facility. Respondent Godoy
22 performed the brake and lamp inspections. The undercover operator then left the facility and
23 transferred custody of the vehicle to a Bureau representative.

24 51. A Bureau representative later reinspected the vehicle. For the brake system, the
25 defective right rear brake rotor was still on the vehicle. It had not been replaced. In light of the
26 condition of the right rear brake rotor, a certificate of adjustment should not have been issued.

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1 52. For the lighting system, the left headlamp had not been adjusted and the license plate
2 bulbs were still inoperative and did not illuminate. In light of the condition of the left front
3 headlamp and the license plate bulbs, a certificate of adjustment should not have been issued.

4 **FIRST CAUSE FOR DISCIPLINE**

5 **(Untrue or Misleading Statements)**

6 53. Complainant re-alleges and incorporates by reference the allegations set forth above
7 in paragraphs 50-52.

8 54. Respondent Rojas' registration is subject to disciplinary action under Code section
9 9884.7, subdivision (a) (1), in that Respondent Rojas made or authorized statements which
10 Respondent Rojas knew or in the exercise of reasonable care should have known to be untrue or
11 misleading. The untrue or misleading statements include the following:

12 a. Respondent Rojas represented that the brake and lamp systems on the vehicle
13 had been inspected and that they were in passable condition, when in fact and in truth they had
14 not been properly inspected.

15 **SECOND CAUSE FOR DISCIPLINE**

16 **(Fraud)**

17 55. Complainant re-alleges and incorporates by reference the allegations set forth above
18 in paragraphs 50-52.

19 56. Respondent Rojas' registration is subject to disciplinary action under Code section
20 9884.7, subdivision (a) (4), in that Respondent Rojas committed acts which constitute fraud. The
21 fraud includes the following:

22 a. Respondent Rojas misrepresented to the undercover operator that the brake and
23 lamp systems on the vehicle had been inspected and that they were in passable condition, when in
24 fact and in truth they had not been properly inspected. Respondent Rojas knew that in fact and in
25 truth these systems had not been properly inspected; Respondent Rojas intended the undercover
26 operator to rely on these misrepresentations; Respondent Rojas charged for these services and
27 accepted payment.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Failure to Comply with the Code)**

3 57. Complainant re-alleges and incorporates by reference the allegations set forth above
4 in paragraphs 50-52.

5 58. Respondent's registration, lamp station license and brake station license are subject to
6 disciplinary action under Code section 9884.7, subdivision (a) (6), and Code section 9889.3 (a), in
7 that Respondent failed to comply with the following sections of the Code, in the following respect
8 for the Nissan undercover operation:

- 9 a) **Section 9884.7, subdivision (a) (7):** Respondent failed to follow accepted trade
10 standards in that she did not perform her work as invoiced and charged. In
11 addition, she failed to perform her work to meet the minimum standards
12 required.
- 13 b) **Section 9884.8:** Respondent failed to document any work on the undercover
14 vehicle on an invoice.
- 15 c) **Section 9884.9, subdivision (a):** Respondent failed to prepare an itemized
16 estimate for the work performed.

17 **FOURTH CAUSE FOR DISCIPLINE**

18 **(Failure to Comply with Regulations)**

19 59. Complainant re-alleges and incorporates by reference the allegations set forth above
20 in paragraphs 50-52.

21 60. Respondent's registration, lamp station license and brake station license are subject to
22 disciplinary action under section 9884.7, subdivision (a) (6), and Code section 9889.3 (c), in that
23 Respondent failed to comply with the following sections of the California Code of Regulations,
24 title 16, in the following respect for the Nissan undercover operation:

- 25 a) **Section 3305, subdivision (a):** Respondent Rojas failed to properly conduct
26 brake and lamp tests as required by the Bureau.
- 27 b) **Section 3316, subdivision (d)(2):** Respondent Rojas falsely issued a lamp
28 certificate for a vehicle that had not been properly inspected.

- 1 c) **Section 3316, subdivision (c)(2):** Respondent Rojas falsely issued a brake
2 certificate for a vehicle that had not been properly inspected.
- 3 d) **Section 3353:** Respondent failed to obtain specific authorization for the work
4 performed.
- 5 e) **Section 3353, subdivision (a):** Respondent failed to provide an itemized
6 estimate.
- 7 f) **Section 3356, subdivision (d):** Respondent failed to provide an invoice for the
8 work performed.
- 9 g) **Section 3373:** Respondent created a false and misleading record by issuing
10 certificates and charging for work that was not performed.

11 **FIFTH CAUSE FOR DISCIPLINE**

12 **(Failure to Comply with Regulations)**

13 61. Complainant re-alleges and incorporates by reference the allegations set forth above
14 in paragraphs 50-52.

15 62. Respondent Rojas' smog check station license is subject to disciplinary action
16 pursuant to H & S Code section 44072.2, subdivision (c), in that Respondent failed to comply
17 with provisions of California Code of Regulations, title 16, in the following respect for the Nissan
18 undercover operation:

- 19 a) **Section 3340.15, subdivision (h):** Respondent Rojas sublet the smog inspection
20 of the undercover vehicle to another smog shop without the undercover driver's
21 knowledge or permission.

22 **SIXTH CAUSE FOR DISCIPLINE**

23 **(Certificates Issued to Non-Conforming Vehicle)**

24 63. Complainant re-alleges and incorporates by reference the allegations set forth above
25 in paragraphs 50-52.

26 64. Respondent Rojas' lamp station license and brake station license are subject to
27 disciplinary action under Code section 9889.16 and CCR sections 3316, subdivision (d) (2), and
28 3321, subdivision (c) (2), in that upon an inspection or after an adjustment purportedly made in

1 conformity with the instructions of the Bureau, Respondent Rojas issued brake and lamp
2 certificates of adjustment to a vehicle that purportedly conformed with the requirements of the
3 Vehicle Code and Bureau regulations, when in fact and in truth the vehicle did not conform with
4 these requirements.

5 **SEVENTH CAUSE FOR DISCIPLINE**

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

7 65. Complainant re-alleges and incorporates by reference the allegations set forth above
8 in paragraphs 50-52.

9 66. Respondent Rojas' registration is subject to disciplinary action under Code section
10 9884.7, subdivision (a) (4), the lamp station license and brake station license are subject to
11 disciplinary action under Code section 9889.3, subdivisions (a) and (d), in that Respondent Rojas
12 committed dishonest, fraudulent, or deceitful acts whereby another is injured by issuing
13 certificates of adjustment for a vehicle without performing bona fide inspections of them, thereby
14 depriving the People of the State of California of the protection afforded by the Automotive
15 Repair Act.

16 **EIGHTH CAUSE FOR DISCIPLINE**

17 **(Certificates Issued to Non-Conforming Vehicle)**

18 67. Complainant re-alleges and incorporates by reference the allegations set forth above
19 in paragraphs 50-52.

20 68. Respondent Godoy's lamp adjuster license and brake adjuster license are subject to
21 disciplinary action under Code section 9889.16 and CCR sections 3316, subdivision (d) (2) and
22 3321, subdivision (c) (2), in that upon an inspection or after an adjustment purportedly made in
23 conformity with the instructions of the Bureau, he issued brake and lamp certificates of
24 adjustment to a vehicle that purportedly conformed with the requirements of the Vehicle Code
25 and Bureau regulations, when in fact and in truth the vehicle did not conform with these
26 requirements.

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1 **NINTH CAUSE FOR DISCIPLINE**

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

3 69. Complainant re-alleges and incorporates by reference the allegations set forth above
4 in paragraphs 50-52.

5 70. Respondent Godoy's lamp adjuster license and brake adjuster license are subject to
6 disciplinary action under Code section 9889.3, subdivisions (a) and (d), in that he committed
7 dishonest, fraudulent, or deceitful acts whereby another is injured by issuing certificates of
8 adjustments for a vehicle without performing bona fide inspections of the brake and lamp systems
9 on them, thereby depriving the People of the State of California of the protection afforded by the
10 Automotive Repair Act.

11 **SECOND UNDERCOVER RUN – 2006 FORD**

12 71. On December 22, 2016, a Bureau undercover operator drove a Bureau-documented
13 2006 Ford to Respondent Rojas' facility for inspection. The following introduced malfunctions
14 were placed on the vehicle: installation of a right rear brake rotor that was below the
15 manufacturer's minimum thickness specification; installation of two license plate bulbs that were
16 inoperable; and mis-aimed the left front headlamp. For the vehicle to pass a brake and lamp
17 inspection, it needed the right rear brake rotor replaced; license plate bulbs operational; and the
18 left front headlamp adjusted correctly. The undercover operator drove to Respondent Rojas'
19 facility and spoke with Respondent Rojas. The undercover operator requested a brake and lamp
20 inspection. Respondent Rojas quoted him a price of \$80.00. Respondent Rojas drove the vehicle
21 behind the facility. The undercover operator was able to observe Respondent Rojas the entire
22 time she was with the vehicle. There was no-one else present at the facility at the time the vehicle
23 was inspected and no-one else was with the vehicle. Respondent Rojas returned to the office with
24 Brake and Lamp Certificate booklets and filled in the certificates. Respondent Rojas gave the
25 undercover operator Certificate of Compliance-Brake Adjustment [REDACTED], for the brake
26 inspection, and Certificate of Compliance-Lamp Adjustment [REDACTED], for the lamp
27 inspection, and asked him for \$80.00. The undercover operator paid the \$80.00. The undercover
28 operator did not receive an estimate or invoice. Respondent Godoy's signature and license

1 numbers were on the brake and lamp certificates. The undercover operator then left the facility
2 and transferred custody of the vehicle to a Bureau representative.

3 72. A Bureau representative later reinspected the vehicle. For the brake system, the
4 defective right rear brake rotor was still on the vehicle. It had not been replaced. In light of the
5 condition of the right rear brake rotor, a certificate of adjustment should not have been issued.

6 73. For the lighting system, the left headlamp had not been adjusted and the license plate
7 bulbs were still inoperative and did not illuminate. In light of the condition of the left front
8 headlamp and the license plate bulbs, a certificate of adjustment should not have been issued.

9 **TENTH CAUSE FOR DISCIPLINE**

10 **(Untrue or Misleading Statements)**

11 74. Complainant re-alleges and incorporates by reference the allegations set forth above
12 in paragraphs 71-73.

13 75. Respondent Rojas' registration is subject to disciplinary action under Code section
14 9884.7, subdivision (a) (1), in that Respondent Rojas made or authorized statements which
15 Respondent Rojas knew or in the exercise of reasonable care should have known to be untrue or
16 misleading. The untrue or misleading statements include the following:

17 a. Respondent Rojas represented that the brake and lamp systems on the vehicle
18 had been inspected and that they were in passable condition, when in fact and in truth they had
19 not been properly inspected.

20 **ELEVENTH CAUSE FOR DISCIPLINE**

21 **(Fraud)**

22 76. Complainant re-alleges and incorporates by reference the allegations set forth above
23 in paragraphs 71-73.

24 77. Respondent Rojas' registration is subject to disciplinary action under Code section
25 9884.7, subdivision (a) (4), in that Respondent Rojas committed acts which constitute fraud. The
26 fraud includes the following:

27 a. Respondent Rojas misrepresented to the undercover operator that the brake and
28 lamp systems on the vehicle had been inspected and that they were in passable condition, when in

1 fact and in truth they had not been properly inspected. Respondent Rojas knew that in fact and in
2 truth these systems had not been properly inspected; Respondent Rojas intended the undercover
3 operator to rely on these misrepresentations; Respondent Rojas charged for these services and
4 accepted payment.

5 **TWELFTH CAUSE FOR DISCIPLINE**

6 **(Failure to Comply with the Code)**

7 78. Complainant re-alleges and incorporates by reference the allegations set forth above
8 in paragraphs 71-73.

9 79. Respondent Rojas' registration, lamp station license and brake station license are
10 subject to disciplinary action under Code section 9884.7, subdivision (a) (6), and Code section
11 9889.3 (a), in that Respondent Rojas failed to comply with the following sections of the Code, in
12 the following respect for the Ford undercover operation:

- 13 a) **Section 9884.7, subdivision (a) (7):** Respondent Rojas failed to follow
14 accepted trade standards in that she did not perform her work as invoiced and
15 charged. In addition, she failed to perform her work to meet the minimum
16 standards required.
- 17 b) **Section 9884.8:** Respondent Rojas failed to document any work on the
18 undercover vehicle on an invoice.
- 19 c) **Section 9884.9, subdivision (a):** Respondent Rojas failed to prepare an
20 itemized estimate for the work performed.

21 **THIRTEENTH CAUSE FOR DISCIPLINE**

22 **(Failure to Comply with Regulations)**

23 80. Complainant re-alleges and incorporates by reference the allegations set forth above
24 in paragraphs 71-73.

25 81. Respondent Rojas' registration, lamp station license and brake station license are
26 subject to disciplinary action under section 9884.7, subdivision (a) (6), and Code section 9889.3
27 (c), in that Respondent Rojas failed to comply with the following sections of the California Code
28 of Regulations, title 16, in the following respect for the Ford undercover operation:

- 1 a) **Section 3305, subdivision (a):** Respondent Rojas failed to properly conduct
- 2 brake and lamp tests as required by the Bureau.
- 3 b) **Section 3316, subdivision (d)(2):** Respondent Rojas falsely issued a lamp
- 4 certificate for a vehicle that had not been properly inspected.
- 5 c) **Section 3316, subdivision (c)(2):** Respondent Rojas falsely issued a brake
- 6 certificate for a vehicle that had not been properly inspected.
- 7 d) **Section 3353:** Respondent Rojas failed to obtain specific authorization for the
- 8 work performed.
- 9 e) **Section 3353, subdivision (a):** Respondent Rojas failed to provide an itemized
- 10 estimate.
- 11 f) **Section 3356, subdivision (d):** Respondent Rojas failed to provide an invoice
- 12 for the work performed.
- 13 g) **Section 3373:** Respondent Rojas created a false and misleading record by
- 14 issuing certificates and charging for work that was not performed.

15 **FOURTEENTH CAUSE FOR DISCIPLINE**

16 **(Certificates Issued to Non-Conforming Vehicle)**

17 82. Complainant re-alleges and incorporates by reference the allegations set forth above
18 in paragraphs 71-73.

19 83. Respondent Rojas' lamp station license and brake station license are subject to
20 disciplinary action under Code section 9889.16 and CCR sections 3316, subdivision (d) (2), and
21 3321, subdivision (c) (2), in that upon an inspection or after an adjustment purportedly made in
22 conformity with the instructions of the Bureau, Respondent Rojas issued brake and lamp
23 certificates of adjustment to a vehicle that purportedly conformed with the requirements of the
24 Vehicle Code and Bureau regulations, when in fact and in truth the vehicle did not conform with
25 these requirements.

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1 **FIFTEENTH CAUSE FOR DISCIPLINE**

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

3 84. Complainant re-alleges and incorporates by reference the allegations set forth above
4 in paragraphs 71-73.

5 85. Respondent Rojas' registration is subject to disciplinary action under Code section
6 9884.7, subdivision (a) (4), the lamp station license and brake station license are subject to
7 disciplinary action under Code section 9889.3, subdivisions (a) and (d), in that Respondent Rojas
8 committed dishonest, fraudulent, or deceitful acts whereby another is injured by issuing
9 certificates of adjustment for a vehicle without performing bona fide inspections of them, thereby
10 depriving the People of the State of California of the protection afforded by the Automotive
11 Repair Act.

12 **SIXTEENTH CAUSE FOR DISCIPLINE**

13 **(Certificates Issued to Non-Conforming Vehicle)**

14 86. Complainant re-alleges and incorporates by reference the allegations set forth above
15 in paragraphs 71-73.

16 87. Respondent Godoy's lamp adjuster license and brake adjuster license are subject to
17 disciplinary action under Code section 9889.16 and CCR sections 3316, subdivision (d) (2) and
18 3321, subdivision (c) (2), in that upon an inspection or after an adjustment purportedly made in
19 conformity with the instructions of the Bureau, he issued brake and lamp certificates of
20 adjustment to a vehicle that purportedly conformed with the requirements of the Vehicle Code
21 and Bureau regulations, when in fact and in truth the vehicle did not conform with these
22 requirements.

23 **SEVENTEENTH CAUSE FOR DISCIPLINE**

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

25 88. Complainant re-alleges and incorporates by reference the allegations set forth above
26 in paragraphs 71-73.

27 89. Respondent Godoy's lamp adjuster license and brake adjuster license are subject to
28 disciplinary action under Code section 9889.3, subdivisions (a) and (d), in that he committed

1 dishonest, fraudulent, or deceitful acts whereby another is injured by issuing certificates of
2 adjustments for a vehicle without performing bona fide inspections of the brake and lamp systems
3 on them, thereby depriving the People of the State of California of the protection afforded by the
4 Automotive Repair Act.

5 CLEAN PLUGGING

6 90. The Bureau initiated an investigation of Respondent's smog check station based on a
7 review of information from the Bureau's Vehicle Information Database (VID) to determine if
8 Respondent Rojas or her employees had engaged in any fraudulent smog check inspections.

9 91. During a Bureau representative's review of Respondent's certified test results in the
10 VID for inspections purportedly performed on the Smog Check On-Board Diagnostic Inspection
11 System (OIS)² in May 2017 and June 2017, Respondent Rojas and smog check technician
12 Respondent Mejia inspected ten vehicles, identified below, and issued Certificates of Compliance
13 by using the method known as "Clean Plugging".³ This resulted in the issuance of fraudulent
14 Certificates of Compliance for each of the ten vehicles.

15 92. The VIN that is physically present on all vehicles is also required to be programmed
16 into the vehicle's OBD-OIS on 2005 and newer vehicles, and on many occasions was
17 programmed into the OBD II system electronic control unit in earlier model-years. This
18 electronically programmed Vehicle Identification Number, also known as the "eVIN," is captured
19

20 ² The On-Board Diagnostic Inspection System (OIS) is a Smog Check testing system to
21 certify 2000 model year vehicles and newer. The OIS consists of a BAR certified Data
22 Acquisition Device (DAD) and other equipment including a computer, bar code scanner, and
23 printer. The OIS uses the California BAR-OIS software to communicate with the BAR's central
24 database through an Internet connection. The bar code scanner is used to input technician,
25 Vehicle Identification Number (VIN), and DMV renewal information. The printer provides a
26 Vehicle Inspection Report containing inspection results for motorists and a Smog Check
27 Certificate of Compliance number for passing vehicles. The Inspector is required to connect the
28 Data Acquisition Device to the vehicle to be certified. The Data Acquisition Device is an On
Board Diagnostic scan tool that, when requested by the California BAR-OIS software, retrieves
On Board Diagnostic data from the vehicle. The Data Acquisition Device connects to the
vehicle's on-board computer through the vehicle's diagnostic link connector (DLC). The Data
Acquisition Device is the only BAR-certified component of the OIS.

³ To "clean plug" a vehicle, the technician uses 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 or not present during the certified test.

1 by the Bureau during a Smog Check, and should match the physical Vehicle Identification
2 Number on the vehicle.

3 93. The OBD II communication protocol describes the specified communication
4 “language” used by the OBD II system electronic control unit to communicate to scan tools and
5 other devices such as the OBD-OIS. The communication protocol is programmed into the OBD II
6 system electronic control unit during manufacture and does not change.

7 94. Parameter Identifications (PIDs) are data points reported by the OBD II system
8 electronic control unit (ECU) to the scan tool or On-Board Diagnostic Inspection System.
9 Examples of PIDs are engine speed (rpm), vehicle speed, engine temperature, and other input and
10 output values utilized by the OBD II system electronic control unit. The PIDs count is the number
11 of data points reported by the OBD II system ECU, and is programmed during manufacture.

12 95. The ten vehicles that are identified below had information stored in the VID which
13 did not apply to those vehicles. The ten fraudulent Certificates of Compliance were issued as
14 follows:

15 a. **Clean Plug # 1**

16 OIS Test Detail indicates that on May 23, 2017, between 12:24 and 12:46 hours, a 2005
17 Dodge Ram, VIN “3D7KS28C45G857881”, California license plate # 8B72379, passed an OIS
18 inspection. Certificate of Compliance # ZV335487C was issued under Respondent Rojas’ smog
19 check station license, and certified under Respondent Mejia’s technician license. The Test Detail
20 shows eVIN “3D7KS28C45G857881” was stored in the memory during this OIS inspection as
21 well as a PID count of “2”. The Communication Protocol of “I914” was also in the memory
22 during this OIS inspection.

23 The eVIN in the OIS Test Detail matched the actual VIN of the vehicle. Comparative OIS
24 Test Data for 2005 Dodge Ram vehicles reports the communication protocol is “JVPW” and has a
25 PID count of “17”.

26 The PID value and the Communication Protocol should match between the above
27 mentioned OIS Test, and the comparative OIS test data. The discrepancies in the OIS Test Data
28

1 prove that the OIS Data Acquisition Device (DAD) was not connected to the 2005 Dodge Ram
2 being certified, causing the issuance of illegal smog Certificate of Compliance.

3 The Vehicle Information Database reflects that on April 27, 2015, between 04:05 and 04:19
4 hours, a prior OIS test was performed at another station on this same 2005 Dodge Ram and the
5 vehicle passed that inspection. The eVIN was reported as "3D7KS28C45G857881", the certified
6 PID count was "17", and the Communication Protocol was "JVPW", consistent with the expected
7 OIS Test Data and Similar Vehicle OIS Test Data.

8 b. **Clean Plug # 2**

9 OIS Test Detail indicates that on May 31, 2017, between 12:54 and 1:09 hours, a 2009
10 Nissan 370Z, VIN "JN1AZ44E49M402460", California license plate # R2ZEE2, passed an OIS
11 inspection. Certificate of Compliance # ZV736585C was issued under Respondent Rojas' smog
12 check station license, and certified under Respondent Mejia's technician license. The Test Detail
13 shows eVIN "JN1AZ44E49M402460" was stored in the memory during this OIS inspection as
14 well as a PID count of "6". The Communication Protocol of "I914" was also in the memory
15 during this OIS inspection.

16 The eVIN in the OIS Test Detail matched the actual VIN of the vehicle. Comparative OIS
17 Test Data for 2009 Nissan 370Z vehicles reports the communication protocol is "ICAN11bt5"
18 and has a PID count of "43".

19 The PID value and the Communication Protocol should match between the above
20 mentioned OIS Test, and the comparative OIS test data. The discrepancies in the OIS Test Data
21 prove that the OIS Data Acquisition Device (DAD) was not connected to the 2009 Nissan 370Z
22 being certified, causing the issuance of illegal smog Certificate of Compliance.

23 The Vehicle Information Database reflects that on May 7, 2015, between 04:55 and 05:00
24 hours, a prior OIS test was performed at another station on this same 2009 Nissan 370Z and the
25 vehicle passed that inspection. The eVIN was reported as "JN1AZ44E49M402460", the certified
26 PID count was "43", and the Communication Protocol was "ICAN11bt5", consistent with the
27 expected OIS Test Data and Similar Vehicle OIS Test Data.

28 ///

1 c. **Clean Plug # 3**

2 OIS Test Detail indicates that on June 2, 2017, between 12:22 and 12:41 hours, a 2007
3 Toyota Corolla, VIN "1NXBR32E77Z910817", California license plate # 5YXK689, passed an
4 OIS inspection. Certificate of Compliance # ZV736597C was issued under Respondent Rojas'
5 smog check station license, and certified under Respondent Mejia's technician license. The Test
6 Detail shows eVIN "1NXBR32E77Z910817" was stored in the memory during this OIS
7 inspection as well as a PID count of "6". The Communication Protocol of "ICAN11bt5" was also
8 in the memory during this OIS inspection.

9 The eVIN in the OIS Test Detail matched the actual VIN of the vehicle. Comparative OIS
10 Test Data for 2007 Toyota Corolla vehicles reports the communication protocol is "I914" and has
11 a PID count of "18".

12 The PID value and the Communication Protocol should match between the above
13 mentioned OIS Test, and the comparative OIS test data. The discrepancies in the OIS Test Data
14 prove that the OIS Data Acquisition Device (DAD) was not connected to the 2007 Toyota Corolla
15 being certified, causing the issuance of illegal smog Certificate of Compliance.

16 The Vehicle Information Database reflects that on March 26, 2015, between 12:19 and
17 12:22 hours, a prior OIS test was performed at another station on this same 2007 Toyota Corolla
18 and the vehicle passed that inspection. The eVIN was reported as "1NXBR32E77Z910817", the
19 certified PID count was "18", and the Communication Protocol was "I914", consistent with the
20 expected OIS Test Data and Similar Vehicle OIS Test Data.

21 d. **Clean Plug # 4**

22 OIS Test Detail indicates that on June 2, 2017, between 1:10 and 1:22 hours, a 2009 Honda
23 Accord, VIN "1HGCP26409A188235", California license plate # None, passed an OIS
24 inspection. Certificate of Compliance # ZV736599C was issued under Respondent Rojas' smog
25 check station license, and certified under Respondent Mejia's technician license. The Test Detail
26 shows eVIN "1HGCP26409A188235" was stored in the memory during this OIS inspection as
27 well as a PID count of "6". The Communication Protocol of "I914" was also in the memory
28 during this OIS inspection.

1 The eVIN in the OIS Test Detail matched the actual VIN of the vehicle. Comparative OIS
2 Test Data for 2009 Honda Accord vehicles reports the communication protocol is "ICAN29bt5"
3 and has a PID count of "37/19".

4 The PID value and the Communication Protocol should match between the above
5 mentioned OIS Test, and the comparative OIS test data. The discrepancies in the OIS Test Data
6 prove that the OIS Data Acquisition Device (DAD) was not connected to the 2009 Honda Accord
7 being certified, causing the issuance of illegal smog Certificate of Compliance.

8 e. **Clean Plug # 5**

9 OIS Test Detail indicates that on June 5, 2017, between 11:33 and 11:44 hours, a 2004
10 Chevrolet Impala, VIN "2G1WF52E449270044", California license plate # 6HSJ535, passed an
11 OIS inspection. Certificate of Compliance # ZV987775C was issued under Respondent Rojas'
12 smog check station license, and certified under Respondent Mejia's technician license. The Test
13 Detail shows eVIN "2G1WF52E449270044" was stored in the memory during this OIS
14 inspection as well as a PID count of "2". The Communication Protocol of "I914" was also in the
15 memory during this OIS inspection.

16 The eVIN in the OIS Test Detail matched the actual VIN of the vehicle. Comparative OIS
17 Test Data for 2004 Chevrolet Impala vehicles reports the communication protocol is "JVPW" and
18 has a PID count of "19".

19 The PID value and the Communication Protocol should match between the above
20 mentioned OIS Test, and the comparative OIS test data. The discrepancies in the OIS Test Data
21 prove that the OIS Data Acquisition Device (DAD) was not connected to the 2004 Chevrolet
22 Impala being certified, causing the issuance of illegal smog Certificate of Compliance.

23 The Vehicle Information Database reflects that on October 31, 2014, between 09:26 and
24 09:32 hours, a prior OIS test was performed at another station on this same 2004 Chevrolet
25 Impala and the vehicle passed that inspection. The eVIN was reported as
26 "2G1WF52E449270044", the certified PID count was "19", and the Communication Protocol
27 was "JVPW", consistent with the expected OIS Test Data and Similar Vehicle OIS Test Data.

28 ///

1 f. **Clean Plug # 6**

2 OIS Test Detail indicates that on June 7, 2017, between 09:13 and 09:24 hours, a 2000
3 Lincoln Navigator, VIN "5LMEU27A3YLJ21144", California license plate # 5UIM906, passed
4 an OIS inspection. Certificate of Compliance # ZV987786C was issued under Respondent Rojas'
5 smog check station license, and certified under Respondent Mejia's technician license. The Test
6 Detail shows eVIN "5LMEU27A3YLJ21144" was stored in the memory during this OIS
7 inspection as well as a PID count of "2". The Communication Protocol of "I914" was also in the
8 memory during this OIS inspection.

9 The eVIN in the OIS Test Detail matched the actual VIN of the vehicle. Comparative OIS
10 Test Data for 2000 Lincoln Navigator vehicles reports the communication protocol is "JPWM"
11 and has a PID count of "20".

12 The PID value and the Communication Protocol should match between the above
13 mentioned OIS Test, and the comparative OIS test data. The discrepancies in the OIS Test Data
14 prove that the OIS Data Acquisition Device (DAD) was not connected to the 2000 Lincoln
15 Navigator being certified, causing the issuance of illegal smog Certificate of Compliance.

16 The Vehicle Information Database reflects that on June 3, 2015, between 06:26 and 06:32
17 hours, a prior OIS test was performed at another station on this same 2000 Lincoln Navigator and
18 the vehicle passed that inspection. The eVIN was reported as "5LMEU27A3YLJ21144", the
19 certified PID count was "20", and the Communication Protocol was "JPWM", consistent with the
20 expected OIS Test Data and Similar Vehicle OIS Test Data.

21 g. **Clean Plug # 7**

22 OIS Test Detail indicates that on June 7, 2017, between 10:35 and 10:54 hours, a 2003
23 Chevrolet S10, VIN "1GCCS19H938266645", California license plate # 7U98497, passed an OIS
24 inspection. Certificate of Compliance # ZV987789C was issued under Respondent Rojas' smog
25 check station license, and certified under Respondent Mejia's technician license. The Test Detail
26 shows eVIN "1GCCS19H938266645" was stored in the memory during this OIS inspection as
27 well as a PID count of "2". The Communication Protocol of "I914" was also in the memory
28 during this OIS inspection.

1 The eVIN in the OIS Test Detail matched the actual VIN of the vehicle. Comparative OIS
2 Test Data for 2003 Chevrolet S10 vehicles reports the communication protocol is "JVPW" and
3 has a PID count of "16 or 17".

4 The PID value and the Communication Protocol should match between the above
5 mentioned OIS Test, and the comparative OIS test data. The discrepancies in the OIS Test Data
6 prove that the OIS Data Acquisition Device (DAD) was not connected to the 2003 Chevrolet S10
7 being certified, causing the issuance of illegal smog Certificate of Compliance.

8 The Vehicle Information Database reflects that on January 23, 2015, between 03:58 and
9 04:07 hours, a prior OIS test was performed at another station on this same 2003 Chevrolet S10
10 and the vehicle passed that inspection. The eVIN was reported as "1GCCS19H938266645", the
11 certified PID count was "16", and the Communication Protocol was "JVPW", consistent with the
12 expected OIS Test Data and Similar Vehicle OIS Test Data.

13 h. **Clean Plug # 8**

14 OIS Test Detail indicates that on June 8, 2017, between 10:27 and 10:38 hours, a 2006
15 BMW 525i, VIN "WBANE53586CK81044", California license plate # 6HLU507, passed an OIS
16 inspection. Certificate of Compliance # ZV987796C was issued under Respondent Rojas' smog
17 check station license, and certified under Respondent Mejia's technician license. The Test Detail
18 shows eVIN "WBANE53586CK81044" was stored in the memory during this OIS inspection as
19 well as a PID count of "6". The Communication Protocol of "I914" was also in the memory
20 during this OIS inspection.

21 The eVIN in the OIS Test Detail matched the actual VIN of the vehicle. Comparative OIS
22 Test Data for 2006 BMW 525i vehicles reports the communication protocol is "KWPF" and has a
23 PID count of "21/1 or 21/7".

24 The PID value and the Communication Protocol should match between the above
25 mentioned OIS Test, and the comparative OIS test data. The discrepancies in the OIS Test Data
26 prove that the OIS Data Acquisition Device (DAD) was not connected to the 2006 BMW 525i
27 being certified, causing the issuance of illegal smog Certificate of Compliance.

28

1 The Vehicle Information Database reflects that on June 1, 2015, between 11:00 and 11:04
2 hours, a prior OIS test was performed at another station on this same 2006 BMW 525i and the
3 vehicle passed that inspection. The eVIN was reported as "WBANE53586CK81044", the
4 certified PID count was "21/7", and the Communication Protocol was "KWPF", consistent with
5 the expected OIS Test Data and Similar Vehicle OIS Test Data.

6 i. **Clean Plug # 9**

7 OIS Test Detail indicates that on June 9, 2017, between 12:43 and 12:53 hours, a 2007
8 Hyundai Santa Fe, VIN "5NMSH13E77H090255", California license plate # 4QGS008, passed
9 an OIS inspection. Certificate of Compliance # ZX215060C was issued under Respondent Rojas'
10 smog check station license, and certified under Respondent Mejia's technician license. The Test
11 Detail shows eVIN "5NMSH13E77H090255" was stored in the memory during this OIS
12 inspection as well as a PID count of "6". The Communication Protocol of "I914" was also in the
13 memory during this OIS inspection.

14 The eVIN in the OIS Test Detail matched the actual VIN of the vehicle. Comparative OIS
15 Test Data for 2007 Hyundai Santa Fe vehicles reports the communication protocol is "KWPF"
16 and has a PID count of "42".

17 The PID value and the Communication Protocol should match between the above
18 mentioned OIS Test, and the comparative OIS test data. The discrepancies in the OIS Test Data
19 prove that the OIS Data Acquisition Device (DAD) was not connected to the 2007 Hyundai Santa
20 Fe being certified, causing the issuance of illegal smog Certificate of Compliance.

21 j. **Clean Plug # 10**

22 OIS Test Detail indicates that on June 13, 2017, between 09:40 and 09:58 hours, a 2009
23 Nissan Rogue, VIN "JN8AS58T39W042171", California license plate # None, passed an OIS
24 inspection. Certificate of Compliance # ZX215085C was issued under Respondent Rojas' smog
25 check station license, and certified under Respondent Mejia's technician license. The Test Detail
26 shows eVIN "JN8AS58T39W042171" was stored in the memory during this OIS inspection as
27 well as a PID count of "6". The Communication Protocol of "I914" was also in the memory
28 during this OIS inspection.

1 The eVIN in the OIS Test Detail matched the actual VIN of the vehicle. Comparative OIS
 2 Test Data for 2009 Nissan Rogue vehicles reports the communication protocol is "ICAN11bt5"
 3 and has a PID count of "38 or 39".

4 The PID value and the Communication Protocol should match between the above
 5 mentioned OIS Test, and the comparative OIS test data. The discrepancies in the OIS Test Data
 6 prove that the OIS Data Acquisition Device (DAD) was not connected to the 2009 Nissan Rogue
 7 being certified, causing the issuance of illegal smog Certificate of Compliance.

8 The Vehicle Information Database reflects that on October 9, 2015, between 01:53 and
 9 01:56 hours, a prior OIS test was performed at another station on this same 2009 Nissan Rogue
 10 and the vehicle passed that inspection. The eVIN was reported as "JN8AS58T39W042171", the
 11 certified PID count was "39", and the Communication Protocol was "ICAN11bt5", consistent
 12 with the expected OIS Test Data and Similar Vehicle OIS Test Data.

13 96. The following table summarizes the fraudulent Certificates of Compliance issued by
 14 Respondent Rojas and Respondent Mejia by clean plugging. For all ten vehicles the eVIN
 15 matched the actual VIN for each vehicle. For each of the ten vehicles Respondent Mejia's
 16 technician license was used to certify the vehicle.

17 **TABLE 1**

#	Year	Make	Model	Lic # or VIN #	Cert #	Ins PID	Exp PID	Insp Prot	Exp Prot
1	2005	Dodge	Ram	8B72379	ZV335487C	2	17	I914	JVPW
2	2009	Nissan	370Z	R2ZEE2	ZV736585C	6	43	I914	ICAN11bt5
3	2007	Toyota	Corolla	5YXK689	ZV736597C	6	18	ICAN11bt5	I914
4	2009	Honda	Accord	1HGCP264 09A188235	ZV736599C	6	37/19	I914	ICAN29bt5
5	2004	Chevrolet	Impala	6HSJ535	ZV987775C	2	19	I914	JVPW
6	2000	Lincoln	Navigator	5UIM906	ZV987786C	2	20	I914	JPWM
7	2003	Chevrolet	S10	7U98497	ZV987789C	2	16 or 17	I914	JVPW

1	8	2006	BMW	525i	6HLU507	ZV987796C	6	21/1 or 21/7	I914	KWPF
2										
3	9	2007	Hyundai	Santa Fe	4QGS008	ZX215060C	6	42	I914	KWPF
4	10	2009	Nissan	Rogue	JN8AS58T	ZX215085C	6	38 or 39	I914	ICAN11bt5
5					39W042171					

6

7 **EIGHTEENTH CAUSE FOR DISCIPLINE**

8 **(Untrue or Misleading Statements)**

9 97. Complainant re-alleges and incorporates by reference the allegations set forth above
10 in paragraphs 90-96.

11 98. Respondent Rojas' dealer registration is subject to disciplinary action pursuant to
12 Code section 9884.7, subdivision (a)(1), in that Respondent Rojas made or authorized statements
13 which she knew or in the exercise of reasonable care should have known to be untrue or
14 misleading, as follows: Respondent Rojas certified that vehicles 1 through 10, identified in Table
15 1 above, had passed inspection and were in compliance with applicable laws and regulations. In
16 fact, Respondent Rojas conducted the inspections on the vehicles using clean-plugging methods
17 in order to issue smog certificates of compliance for the vehicles, and did not actually test or
18 inspect the vehicles as required by H & S Code section 44012.

19 **NINETEENTH CAUSE FOR DISCIPLINE**

20 **(Fraud)**

21 99. Complainant re-alleges and incorporates by reference the allegations set forth above
22 in paragraphs 90-96.

23 100. Respondent Rojas' dealer registration is subject to disciplinary action pursuant to
24 Code section 9884.7, subdivision (a)(4), in that Respondent Rojas committed acts that constitute
25 fraud by issuing electronic smog certificates of compliance for vehicles 1 through 10, identified in
26 Table 1 above, without performing bona fide inspections of the emission control devices and
27 systems on the vehicles, thereby depriving the People of the State of California of the protection
28 afforded by the Motor Vehicle Inspection Program.

1 **TWENTIETH CAUSE FOR DISCIPLINE**

2 **(Violation of Motor Vehicle Inspection Program)**

3 101. Complainant re-alleges and incorporates by reference the allegations set forth above
4 in paragraphs 90-96.

5 102. Respondent Rojas' smog check station license is subject to disciplinary action
6 pursuant to H & S Code section 44072.2, subdivision (a), in that Respondent Rojas failed to
7 comply with the following sections of that Code:

8 a. **Section 44012, subdivision (a):** Respondent Rojas failed to ensure that all
9 emission control devices and systems required by law for vehicles 1 through 10,
10 identified in Table 1 above, were installed and functioning correctly in accordance
11 with test procedures.

12 b. **Section 44012, subdivision (f):** Respondent Rojas failed to ensure that the
13 emission control tests were performed on vehicles 1 through 10, identified in Table 1
14 above, in accordance with procedures prescribed by the department.

15 c. **Section 44015, subdivision (b):** Respondent Rojas issued electronic smog
16 certificates of compliance for vehicles 1 through 10, identified in Table 1 above,
17 without ensuring that the vehicles were properly tested and inspected to determine if
18 they were in compliance with H & S Code section 44012.

19 d. **Section 44059:** Respondent Rojas willfully made false entries for electronic
20 certificates of compliance for vehicles 1 through 10, identified in Table 1 above, by
21 certifying that the vehicles had been inspected as required when, in fact, they had not.

22 **TWENTY-FIRST CAUSE FOR DISCIPLINE**

23 **(Failure to Comply with Regulations)**

24 103. Complainant re-alleges and incorporates by reference the allegations set forth above
25 in paragraphs 90-96.

26 104. Respondent Rojas' smog check station license is subject to disciplinary action
27 pursuant to H & S Code section 44072.2, subdivision (c), in that Respondent Rojas failed to
28 comply with provisions of California Code of Regulations, title 16, as follows:

1 a. **Section 3340.24, subdivision (c):** Respondent Rojas falsely or fraudulently
2 issued electronic smog certificates of compliance for vehicles 1 through 10, identified
3 in Table 1 above.

4 b. **Section 3340.35, subdivision (c):** Respondent Rojas issued electronic smog
5 certificates of compliance for vehicles 1 through 10, identified in Table 1 above, even
6 though the vehicles had not been inspected in accordance with section 3340.42.

7 c. **Section 3340.42:** Respondent Rojas failed to ensure that the required smog
8 tests were conducted on vehicles 1 through 10, identified in Table 1 above, in
9 accordance with the Bureau's specifications.

10 d. **Section 3373:** Respondent Rojas created a false and misleading record by
11 issuing a document that was false and misleading.

12 **TWENTY-SECOND CAUSE FOR DISCIPLINE**

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

14 105. Complainant re-alleges and incorporates by reference the allegations set forth above
15 in paragraphs 90-96.

16 106. Respondent Rojas' smog check station license is subject to disciplinary action
17 pursuant to H & S Code section 44072.2, subdivision (d), in that Respondent Rojas committed
18 dishonest, fraudulent or deceitful acts whereby another is injured by issuing electronic smog
19 certificates of compliance for vehicles 1 through 10, identified in Table 1 above, without
20 performing bona fide inspections of the emission control devices and systems on the vehicles,
21 thereby depriving the People of the State of California of the protection afforded by the Motor
22 Vehicle Inspection Program.

23 **TWENTY-THIRD CAUSE FOR DISCIPLINE**

24 **(Violation of Motor Vehicle Inspection Program)**

25 107. Complainant re-alleges and incorporates by reference the allegations set forth above
26 in paragraphs 90-96.

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- 1 4. Revoking or suspending Smog Check Station License Number RC 276953, issued to
- 2 Gabriela Rojas, Owner dba John's Auto Registration Brake and Lamp;
- 3 5. Revoking or suspending any other Automotive Repair Dealer Registrations issued in
- 4 the name of Gabriela Rojas;
- 5 6. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of
- 6 Division 26 of the Health and Safety Code in the name of Gabriela Rojas;
- 7 7. Revoking or suspending any additional license issued under Articles 5 and 6 of
- 8 Chapter 20.3 of Division 3 of the Code in the name of Gabriela Rojas;
- 9 8. Revoking or suspending Lamp Adjuster License Number LA 637030, Class A, issued
- 10 to Joe R. Godoy;
- 11 9. Revoking or suspending Brake Adjuster License Number BA 637030, Class C, issued
- 12 to Joe R. Godoy;
- 13 10. Revoking or suspending any additional license issued under Articles 5 and 6 of
- 14 Chapter 20.3 of Division 3 of the Code in the name of Joe R. Godoy;
- 15 11. Revoking or suspending Smog Check Inspector License Number EO 637030, issued
- 16 to Joe R. Godoy;
- 17 12. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of
- 18 Division 26 of the Health and Safety Code in the name of Joe R. Godoy;
- 19 13. Revoking or suspending Smog Check Inspector License No. EO 632161 and Smog
- 20 Check Repair Technician License No. EI 632161, issued to Mark Leslie Mejia;
- 21 14. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of
- 22 Division 26 of the Health and Safety Code in the name of Mark Leslie Mejia;
- 23 15. Ordering Gabriela Rojas, Joe R. Godoy and Mark Leslie Mejia to pay, jointly and
- 24 severally, the Bureau of Automotive Repair, the reasonable costs of the investigation and
- 25 enforcement of this case, pursuant to Business and Professions Code section 125.3; and,
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16. Taking such other and further action as deemed necessary and proper.

DATED: January 25, 2018



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

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