

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

In the Matter of the Accusation Against:

Case No.: 79/17-5846

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

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

and

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

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

Respondents.

**DECISION**

The attached Stipulated Settlement and Disciplinary Order is hereby accepted and adopted by the Director of the Department of Consumer Affairs as the Decision in the above-entitled matter.

This Decision shall become effective July 17, 2018.

DATED: June 1, 2018

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

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

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

12 In the Matter of the Accusation Against:

Case No. 79/17-5846

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

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

16 Automotive Repair Dealer Registration No.  
ARD 216836  
17 Smog Check, Test Only, Station License No.  
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  
22 Smog Check Repair Technician License No. EI  
312195  
23 (formerly EA 312195)

24 Respondents.

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

25  
26 In the interest of a prompt and speedy settlement of this matter, consistent with the public  
27 interest and the responsibilities of the Director of Consumer Affairs (the "Director") and the  
28 Bureau of Automotive Repair (the "Bureau"), the parties hereby agree to the following Stipulated

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

### 5 PARTIES

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

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

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

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

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

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

---

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

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

### 7 JURISDICTION

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

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

### 14 ADVISEMENT AND WAIVERS

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

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

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



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

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

8 **DISCIPLINARY ORDER**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### 25 ACCEPTANCE

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

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

4  
5  
6 DATED: 03/05/18



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

7  
8  
9 DATED: 03/05/2018



CIRO RODRIGUEZ FLORES  
*Respondent*

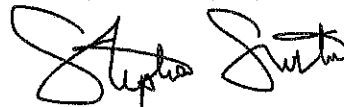
10  
11  
12  
13 **ENDORSEMENT**

14 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully  
15 submitted for consideration by the Director of Consumer Affairs

Dated: April 26, 2018

Respectfully submitted,

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



STEPHEN D. SVETICH  
Deputy Attorney General  
*Attorneys for Complainant*

16  
17  
18  
19  
20  
21  
22  
23 LA2017507154  
52806831.doc



**Exhibit A**

**Accusation No. 79/17-5846**

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

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

12 In the Matter of the Accusation Against:

Case No. 79/17-5846

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

**A C C U S A T I O N**

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

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

22 **and**

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

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

Respondents.

1 Complainant alleges:

2 **PARTIES**

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

6 ***Automotive Repair Dealer Registration***

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

11 ***Smog Check Station License***

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

16 ***STAR Certification***

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

21 ***Inspector License***

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

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

1 section 3340.28, subdivision (e),<sup>2</sup> 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<sup>3</sup> provides that the Director may  
10 revoke an ARD registration.

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

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

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

22 \\\

23 \\\

24  
25  
26 <sup>2</sup> Effective August 1, 2012, California Code of Regulations, title 16, sections 3340.28, 3340.29,  
27 and 3340.30 were amended to implement a license restructure from the Advanced Emission  
28 Specialist Technician ("EA") license and Basic Area ("EB") Technician license to Smog Check  
Inspector ("EO") license and/or Smog Check Repair Technician ("EI") license.

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

1 **STATUTORY PROVISIONS**

2 11. Section 9884.7 of the Code states:

3 “(a) The director, where the automotive repair dealer cannot show there was a bona fide  
4 error, may deny, suspend, revoke, or place on probation the registration of an automotive repair  
5 dealer for any of the following acts or omissions related to the conduct of the business of the  
6 automotive repair dealer, which are done by the automotive repair dealer or any automotive  
7 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. . . .

11 “(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. . . .”

14 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:

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

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

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

23 .”

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

25 “. . . .

26 “(c) The department shall revoke the license of any smog check technician or station  
27 license who fraudulently certifies vehicles or participates in the fraudulent inspection of vehicles.

28 A fraudulent inspection includes, but is not limited to, all of the following:



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

### 3 VID DATA REVIEW

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

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

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

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

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

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

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

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



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

14 \\  
15 \\  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**TABLE 1**

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

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

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

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

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

1	3	12/28/2016	2001 Chevrolet Silverado C2500HD <sup>9</sup> Vin No. 1GCHC24U41Z258277 CA License Plate No. 6R30584	ZN134511C	EO 312195 (Respondent Flores)	Comm. Protocol: JVPW (expected: JVPW) PID Count: 17 (expected: 22) eVin 1GCCS1456YK2 78940 <sup>10</sup> (correct eVin expected)
7	4	2/10/2017	2007 GMC Acadia SLT-1 <sup>11</sup> Vin No. 1GKER23797J106147	ZP381646C	EO 312195 (Respondent Flores)	Comm. Protocol: ICAN11bt5 (expected: ICAN11bt5) PID Count: 43 (expected: 43   7) eVin 5N1AR1NB1AC 611466 <sup>12</sup> (correct eVin expected)

<sup>9</sup> This specific 2001 Chevrolet Silverado C2500HD bearing the same VIN Number and California License Plate Number underwent a smog check inspection at another facility on July 15, 2016. During that Smog Check Inspection, the Silverado transmitted the correct eVIN, the correct communication protocol (JVPW), and the correct PID count (22), consistent with the OIS Test Data and Similar Vehicle OIS Test Data.

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

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

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



1 **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.

27 \\\

28 \\\

1 **FIFTH CAUSE FOR DISCIPLINE**

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

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

11 **SIXTH CAUSE FOR DISCIPLINE**

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

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

19 **SEVENTH CAUSE FOR DISCIPLINE**

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

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

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

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

3 **EIGHTH CAUSE FOR DISCIPLINE**

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

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

12 **OTHER MATTERS**

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

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

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

28 \\\





1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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

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

DATED: December 13, 2017 Patrick Dorais

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

LA2017507154  
52680173.docx