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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. 79/21-6482

13 **OSCAR R. SERRANO DBA BLESSES**
14 **AUTO REPAIR**
15 7025 S. Broadway
Los Angeles, CA 90003

ACCUSATION

16 1140 W. 84th Place
17 Los Angeles, CA 90044

18 Automotive Repair Dealer Registration No.
ARD 225814
19 Smog Check Test Only Station License No.
20 RC 225814

21 **SANTOS TOMAS AMAYA**
22 7025 S. Broadway
Los Angeles, CA 90003

23 Smog Check Inspector License No.
24 EO 634577
25 Smog Check Repair Technician No.
EI 634577

26 Respondents.

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1 **PARTIES**

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

4 2. In 2003, the Bureau of Automotive Repair issued Automotive Repair Dealer
5 Registration Number ARD 225814 to Serrano dba Blesses Auto Repair (Respondent Serrano).
6 The Automotive Repair Dealer Registration was in full force and effect at all times relevant to the
7 charges brought herein and will expire on January 31, 2023, unless renewed.

8 3. On or about March 17, 2003, the Bureau of Automotive Repair issued Smog Check
9 Station License Number RC 225814 to Respondent Serrano. The Smog Check Test and Repair
10 Station License was in full force and effect at all times relevant to the charges brought herein and
11 will expire on January 31, 2023, unless renewed.

12 4. On or about May 23, 2013, Blesses Auto Repair was certified as a STAR Station.
13 This certification will remain unless the Automotive Repair Dealer Registration and/or Smog
14 Check Station License is revoked, canceled, licenses become delinquent or the certification is
15 invalidated.

16 5. On or about August 21, 2014, the Bureau of Automotive Repair issued Smog Check
17 Inspector License Number EO 634577 to Santos Tomas Amaya (Respondent Amaya). The Smog
18 Check Inspector License was in full force and effect at all times relevant to the charges brought
19 herein and will expire on September 30, 2022, unless renewed.

20 6. On or about August 21, 2014, the Bureau of Automotive Repair issued Smog Check
21 Repair Technician License Number EI 634577 to Respondent Amaya. The Smog Check Repair
22 Technician License expired on September 30, 2016, and has not been renewed.

23 **JURISDICTION**

24 7. This Accusation is brought before the Director of the Department of Consumer
25 Affairs (Director) for the Bureau of Automotive Repair, under the authority of the following laws.

26 8. Business and Professions Code (Bus. & Prof. Code) section 9884.7 provides that the
27 Director may revoke an automotive repair dealer registration.

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1 9. Bus. & Prof. Code section 9884.13 provides, in pertinent part, that the expiration of a
2 valid registration shall not deprive the Director of jurisdiction to proceed with a disciplinary
3 proceeding against an automotive repair dealer or to render a decision temporarily or permanently
4 invalidating (suspending or revoking) a registration.

5 10. Health and Safety Code (Health & Saf. Code) section 44002 provides, in pertinent
6 part, that the Director has all the powers and authority granted under the Automotive Repair Act
7 for enforcing the Motor Vehicle Inspection Program.

8 11. Health and Safety Code section 44072.10 states, in pertinent part:

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

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15 (4) Intentional or willful violation of this chapter or any regulation, standard, or
16 procedure of the department implementing this chapter

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

21 **STATUTORY PROVISIONS**

22 13. Bus. & Prof. Code section 9884.7 states, in pertinent part:

23 (a) The director, where the automotive repair dealer cannot show there
24 was a bona fide error, may refuse to validate, or may invalidate temporarily or
25 permanently, the registration of an automotive repair dealer for any of the following
26 acts or omissions related to the conduct of the business of the automotive repair
27 dealer, which are done by the automotive repair dealer or any automotive technician,
28 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.

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(4) Any other conduct that constitutes fraud.

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

....

(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.

14. Bus. & Prof. Code section 477 provides, in pertinent part, that “Board” includes “bureau,” “commission,” “committee,” “department,” “division,” “examining committee,” “program,” and “agency.” “License” includes certificate, registration or other means to engage in a business or profession regulated by the Bus. & Prof. Code.

15. Health & Saf. Code section 44012 provides, in pertinent part, that tests at smog check stations shall be performed in accordance with procedures prescribed by the department.

16. Health & Saf. Code section 44015, subdivision (b), provides that a certificate of compliance shall be issued if a vehicle meets the requirements of Health and Safety Code section 40012.

17. Health & Saf. Code section 44072.2 states, in pertinent part:

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

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

....

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

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

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1 18. Health & Saf. Code section 44072.8 states that when a license has been revoked or
2 suspended following a hearing under this article, any additional license issued under this chapter
3 in the name of the licensee may be likewise revoked or suspended by the director.

4 **REGULATORY PROVISIONS**

5 19. California Code of Regulations (CCR), title 16, section 3340.24, subdivision (c),
6 states:

7 “The bureau may suspend or revoke the license of or pursue other legal action against a
8 licensee, if the licensee falsely or fraudulently issues or obtains a certificate of compliance or a
9 certificate of noncompliance.”

10 20. CCR, title 16, section 3340.30, subdivision (a), states that a licensed smog technician
11 shall at all times “[i]nspect, test and repair vehicles, as applicable, in accordance with section
12 44012 of the Health & Saf. Code, section 44035 of the Health & Saf. Code, and section 3340.42
13 of this article.”

14 21. CCR, title 16, section 3340.35, subdivision (c), states that a licensed smog check
15 station “shall issue a certificate of compliance or noncompliance to the owner or operator of any
16 vehicle that has been inspected in accordance with the procedures specified in section 3340.42 of
17 this article and has all the required emission control equipment and devices installed and
18 functioning correctly.”

19 22. CCR, title 16, section 3340.41, subdivision (c), states that “[n]o person shall enter
20 into the emissions inspection system any vehicle identification information or emission control
21 system identification data for any vehicle other than the one being tested. Nor shall any person
22 knowingly enter into the emissions inspection system any false information about the vehicle
23 being tested.”

24 23. CCR, title 16, section 3340.42, sets forth specific emissions test methods and
25 procedures which apply to all vehicles inspected in the State of California.

26 24. CCR, title 16, section 3340.45, states:

27 (a) All Smog Check inspections shall be performed in accordance with
28 requirements and procedures prescribed in the following:

1 (1) Smog Check Manual, dated 2013, which is hereby incorporated by
reference. This manual shall become effective on or after January 1, 2013. This
2 manual shall remain in effect until subparagraph (2) is implemented.

3 (2) Smog Check Manual, dated November 2, 2017, which is hereby
incorporated by reference. This manual shall become effective on August 2, 2018.

4 25. Section 1.1.0 of the Smog Check Inspection Manual states, in pertinent part:

5 “The access code is assigned by BAR and is unique to each technician. Each technician
6 must maintain the security of his or her access code. Disclosure of one’s access code or use of
7 another technician’s access code or license information is prohibited. If the security of your
8 access code has been compromised, or you suspect another person is using your access code, you
9 must contact your local BAR field office immediately to have the access code changed.”

10 26. CCR, title 16, section 3340.1, states, in pertinent part, that “[c]lean piping’ for the
11 purposes of Health and Safety Code Section 44072.10(c)(1), means the use of a substitute exhaust
12 emissions sample in place of the actual test vehicle’s exhaust in order to cause the EIS to issue a
13 certificate of compliance for the test vehicle”.

14 **COST RECOVERY**

15 27. Business and Professions Code section 125.3 provides, in pertinent part, that a Board
16 may request the administrative law judge to direct a licentiate found to have committed a
17 violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the
18 investigation and enforcement of the case.

19 **FACTUAL ALLEGATIONS**

20 28. On or about April 15, 2021, a Program Representative (PR) from the Bureau
21 conducted a routine audit of Blesses Auto Repair.

22 29. Between 11:50 a.m. and 11:53 a.m., the PR checked the station’s test in progress in
23 the Electronic Transmission Management Information System (ETMIS). It revealed there was a
24 Smog Check Inspection of a 1991 Nissan 300ZX with license plate number 2ZFU859 (Nissan
25 300ZX) in progress.

26 30. When the PR arrived at the station, at approximately 11:55 a.m., he observed a blue
27 1998 Toyota Corolla with license plate number 5RSX958 (Toyota Corolla) in the test bay in place
28 of the Nissan 300ZX.

1 31. A red Low-Pressure Fuel Evaporator Tester (LPFET) hose was connected to the fuel
2 filler neck on the Toyota Corolla. An LPFET is used to determine the integrity of the fuel tank
3 and evaporative system. This test is not required for a Smog Check Inspection performed on a
4 1998 Toyota Corolla.

5 32. At approximately 11:59 a.m., the PR observed Respondent Amaya complete the
6 inspection and drive the Toyota Corolla off the station property. Respondent Amaya returned to
7 the station on foot.

8 33. The station owner, Respondent Serrano was also present at the station during the
9 audit. The PR questioned Respondent Serrano and Respondent Amaya about the Smog Inspection
10 performed on the Toyota Corolla. Respondent Amaya stated, “I’m not going to lie to you. I was
11 testing another car.” Respondent Serrano admitted to the PR that he knew what they were doing
12 was wrong.

13 34. Information from the Bureau’s vehicle information database confirmed that the
14 Respondents employed a method commonly known as clean piping¹ during the smog inspection,
15 resulting in the issuance of a fraudulent certificate of compliance RY668522C for the Nissan
16 300ZX.

17 **FIRST CAUSE FOR DISCIPLINE**

18 **(Untrue or Misleading Statements)**

19 35. Respondent Serrano’s Automotive Repair Dealer Registration is subject to
20 disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(1), in that he
21 made or authorized statements which he knew or in the exercise of reasonable care should have
22 known to be untrue or misleading when he issued an electronic certificate of compliance to the
23 vehicles listed above in paragraph 29, certifying the vehicle as being in compliance with
24 applicable laws and regulations when, in fact, the vehicle had not been properly inspected.
25 Respondent did not inspect the vehicle as required by Health & Saf. Code section 44012.

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27 _____
28 ¹ “Clean piping” refers to the use of the emission sample of a known clean vehicle to
substitute for the emissions of a vehicle that will not pass a smog inspection or is not present at
the time of the test.

1 Complainant refers to, and by this reference incorporates, the allegations contained in paragraph
2 28-34, above, as though set forth fully herein.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Fraud)**

5 36. Respondent Serrano's Automotive Repair Dealer Registration is subject to
6 disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(4), in that he
7 committed acts that constitute fraud by issuing an electronic smog certificate of compliance for
8 the vehicles identified in paragraph 29 above, without performing bona fide inspections of the
9 emission control devices and systems on the vehicles, thereby depriving the People of the State of
10 California of the protection afforded by the Motor Vehicle Inspection Program. Complainant
11 refers to, and by this reference incorporates, the allegations contained in paragraph 28-34, above,
12 as though set forth fully herein.

13 **THIRD CAUSE FOR DISCIPLINE**

14 **(Material Violation of Automotive Repair Act)**

15 37. Respondent Serrano's Automotive Repair Dealer Registration is subject to
16 disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(6), in that he
17 failed in a material respect to comply with the provisions of this chapter or regulations adopted
18 pursuant to it when he issued an electronic certificate of compliance for the vehicle identified in
19 paragraph 29 above, without performing bona fide inspections of the emission control devices
20 and systems on the vehicle, thereby depriving the People of the State of California of the
21 protection afforded by the Motor Vehicle Inspection Program. Complainant refers to, and by this
22 reference incorporates, the allegations contained in paragraphs 28-34, above, as though set forth
23 fully herein.

24 **FOURTH CAUSE FOR DISCIPLINE**

25 **(Violations of the Motor Vehicle Inspection Program)**

26 38. Respondent Serrano's Smog Check Test and Repair Station License is subject to
27 disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that he
28 failed to comply with the following sections of that Code:

1 a. **Section 44012:** Respondent failed to ensure that the emission control tests were
2 performed on the vehicle identified in paragraph 29 above, in accordance with procedures
3 prescribed by the department.

4 b. **Section 44015, subdivision (b):** Respondent issued an electronic smog certificate of
5 compliance for the vehicle identified in paragraph 29 above, without ensuring that the vehicle was
6 properly tested and inspected to determine if it was in compliance with Health & Saf. Code
7 section 44012.

8 Complainant refers to, and by this reference incorporates, the allegations contained in
9 paragraph 28-34, above, as though set forth fully herein.

10 **FIFTH CAUSE FOR DISCIPLINE**
11 **(Failure to Comply with Regulations Pursuant**
12 **to the Motor Vehicle Inspection Program)**

13 39. Respondent Serrano's Smog Check Test and Repair Station License is subject to
14 disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that he
15 failed to comply with provisions of California Code of Regulations, title 16, as follows:

16 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued an
17 electronic smog certificate of compliance for the vehicle identified in paragraph 29 above.

18 b. **Section 3340.35, subdivision (c):** Respondent issued an electronic smog certificate
19 of compliance for the vehicle identified in paragraph 29 above, even though the vehicles had not
20 been inspected in accordance with section 3340.42.

21 c. **Section 3340.41, subdivision (c):** Respondent knowingly entered false information
22 into the emissions inspection system for the vehicle identified in paragraph 29 above.

23 d. **Section 3340.42:** Respondent failed to ensure that the required smog test was
24 conducted on the vehicle identified in paragraphs 29 above, in accordance with the Bureau's
25 specifications.

26 Complainant refers to, and by this reference incorporates, the allegations contained in
27 paragraph 28-34, above, as though set forth fully herein.

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1 **SIXTH CAUSE FOR DISCIPLINE**

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

3 40. Respondent Serrano’s Smog Check Test and Repair Station License is subject to
4 disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (d) and
5 44702.10, subdivisions (c)(1) and (c)(4), in that he committed dishonest, fraudulent, or deceitful
6 acts whereby another was injured by issuing an electronic smog certificate of compliance for the
7 vehicle identified in paragraph 29 above, without performing bona fide inspections of the
8 emission control devices and systems on the vehicle, thereby depriving the People of the State of
9 California of the protection afforded by the Motor Vehicle Inspection Program. Complainant
10 refers to, and by this reference incorporates, the allegations contained in paragraph 28-34, above,
11 as though set forth fully herein.

12 **SEVENTH CAUSE FOR DISCIPLINE**

13 **(Violations of the Motor Vehicle Inspection Program)**

14 41. Respondent Amaya’s Smog Check Inspector License is subject to disciplinary action
15 pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that he failed to comply with
16 section 44012 of that Code in a material respect, as follows: Respondent failed to perform the
17 emission control tests on the vehicles identified in paragraph 29 above, in accordance with
18 procedures prescribed by the department. Complainant refers to, and by this reference
19 incorporates, the allegations contained in paragraph 28-34, above, as though set forth fully herein.

20 **EIGHTH CAUSE FOR DISCIPLINE**

21 **(Failure to Comply with Regulations Pursuant**
22 **to the Motor Vehicle Inspection Program)**

23 42. Respondent Amaya’s Smog Check Inspector License is subject to disciplinary action
24 pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that he failed to comply with
25 provisions of California Code of Regulations, title 16, as follows:

26 a. **Section 3340.24, subdivision (c)**: Respondent falsely or fraudulently issued an
27 electronic smog certificate of compliance for the vehicle identified in paragraph 29 above.
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1 b. **Section 3340.30, subdivision (a)**: Respondent failed to inspect and test the vehicle
2 identified in paragraph 29 above, in accordance with Health & Saf. Code sections 44012 and
3 44035, and California Code of Regulations, title 16, section 3340.42.

4 c. **Section 3340.41, subdivision (c)**: Respondent knowingly entered false information
5 into the emissions inspection system for the vehicle identified in paragraph 29 above.

6 d. **Section 3340.42**: Respondent failed to conduct the required smog tests on the vehicle
7 identified in paragraph 29 above, in accordance with the Bureau’s specifications.

8 Complainant refers to, and by this reference incorporates, the allegations contained in
9 paragraph 28-34, above, as though set forth fully herein.

10 **NINTH CAUSE FOR DISCIPLINE**

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

12 43. Respondent Amaya’s Smog Check Inspector License is subject to disciplinary action
13 pursuant to Health & Saf. Code section 44072.2, subdivision (d) and 44702.10, subdivisions
14 (c)(1) and (c)(4), in that he committed dishonest, fraudulent, or deceitful acts whereby another
15 was injured by issuing an electronic smog certificate of compliance for the vehicle identified in
16 paragraph 29 above, without performing bona fide inspections of the emission control devices
17 and systems on the vehicle, thereby depriving the People of the State of California of the
18 protection afforded by the Motor Vehicle Inspection Program. Complainant refers to, and by this
19 reference incorporates, the allegations contained in paragraph 28-34, above, as though set forth
20 fully herein.

21 **OTHER MATTERS**

22 44. 44. Pursuant to Bus. & Prof. Code section 9884.7, subdivision (c), the Director may
23 suspend, revoke, or place on probation the registration for all places of business operated in this
24 state by Respondent Serrano, upon a finding that he has, or is, engaged in a course of repeated
25 and willful violations of the laws and regulations pertaining to an automotive repair dealer.

26 45. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Test and Repair
27 Station License No. RC 225814, issued to Respondent Serrano., is revoked or suspended, any
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1 additional license issued under Chapter 5 of Part 5 of Division 26 of the Health & Saf. Code in the
2 name of said licensee may be likewise revoked or suspended by the director.

3 46. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Inspector License
4 No. EO 634577, issued to Respondent Amaya, is revoked or suspended, any additional license
5 issued under Chapter 5 of Part 5 of Division 26 of the Health & Saf. Code in the name of said
6 licensee may be likewise revoked or suspended by the director.

7 47. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Repair Technician
8 License No. EI 634577, issued to Respondent Amaya, is revoked or suspended, any additional
9 license issued under Chapter 5 of Part 5 of Division 26 of the Health & Saf. Code in the name of
10 said licensee may be likewise revoked or suspended by the director.

11 **PRAYER**

12 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
13 and that following the hearing, the Director of the Department of Consumer Affairs issue a
14 decision:

15 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
16 225814, issued to Oscar R. Serrano dba Blesses Auto Repair;

17 2. Revoking or suspending any other automotive repair dealer registration issued to
18 Oscar R. Serrano;

19 3. Revoking or suspending Smog Check Station License Number RC 225814, issued to
20 Oscar R. Serrano dba Blesses Auto Repair;

21 4. Revoking or suspending any additional license issued under the Motor Vehicle
22 Inspection Program in the name of Oscar R. Serrano;

23 5. Revoking or suspending Smog Check Inspector License Number EO 634577, issued
24 to Santos Tomas Amaya;

25 6. Revoking or suspending Smog Check Repair Technician License Number EI 634577,
26 issued to Santos Tomas Amaya;

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7. Ordering Oscar R. Serrano and Santos Tomas Amaya 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: As of Digital Signature Date

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

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