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

12 In the Matter of the Accusation Against:

Case No. **79/24-17991**

13 **GEORGE JAY DAVIS, DBA SMOG PRO**
14 **PLUS**
15 **8788 Cypress Ave.**
Riverside, CA 92503

ACCUSATION

16 **Automotive Repair Dealer Registration No.**
ARD 289043
17 **Smog Check Test-Only Station License No.**
TC 289043,

18 **and**

19 **GEORGE JAY DAVIS**
20 **9004 Baseline Road**
Alta Loma, CA 91701

21 **Smog Check Inspector License No. EO**
22 **634951**

23 Respondent.

24
25 **PARTIES**

26 1. Patrick Dorais (Complainant) brings this Accusation solely in his official capacity as
27 the Chief of the Bureau of Automotive Repair, Department of Consumer Affairs.
28

2. On or about December 1, 2017, Bureau of Automotive Repair issued Automotive Repair Dealer Registration Number ARD 289043 to George Jay Davis, dba Smog Pro Plus (Respondent Smog Pro Plus). The Automotive Repair Dealer Registration was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2025, unless renewed.

3. On or about December 22, 2017, Bureau of Automotive Repair issued Smog Check Test-Only Station License Number TC 289043 to George Jay Davis, dba Smog Pro Plus (Respondent Smog Pro Plus). The Smog Check Test-Only Station License was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2025, unless renewed.

4. Respondent is also certified as a STAR Station. The certification was issued on April 26, 2018, and will remain active unless the ARD registration and/or Smog Check Station license is revoked, canceled, licenses become delinquent, or the certification is invalidated.

5. On or about May 28, 2014, Bureau of Automotive Repair issued Smog Check Inspector License Number EO 634951 to George Jay Davis (Respondent Davis). The Smog Check Inspector License was in full force and effect at all times relevant to the charges brought herein and will expire on May 31, 2026, unless renewed.

JURISDICTION

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

7. Section 9884.7 of the Business and Professions Code¹ provides that the Director may revoke an ARD registration.

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

¹ All statutory references herein shall be to the Business and Professions Code unless specifically stated otherwise.

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

10. Section 44072.6 of the Health and Safety 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 of Consumer Affairs, or a court of law, or the voluntary surrender of the license shall not deprive the Director of jurisdiction to proceed with disciplinary action.

STATUTORY PROVISIONS

11. Section 9884.7 of the Code states:

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

(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.

• • •

(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.

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

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. . . .

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

...

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

(1) Clean piping, as defined by the department. . . .

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

REGULATORY PROVISIONS

14. California Code of Regulations, title 16, section 3340.24, subdivision (c), states:

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.

15. California Code of Regulations, title 16, section 3340.30, states:

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

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

16. California Code of Regulations, title 16, section 3340.35, states, in pertinent part:

....

(c) A licensed station shall issue a certificate of compliance or noncompliance to the owner or operator of any vehicle that has been inspected in accordance with the procedures specified in section 3340.42 of this article and has all the required emission control equipment and devices installed and functioning correctly. . . .

17. California Code of Regulations, title 16, section 3340.42, sets forth specific emissions test methods and procedures which apply to all vehicles inspected in the State of California.

COST RECOVERY

18. Section 125.3 of the Code provides, in pertinent part, that the Board 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

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. The California OIS software requires a
13 continuous Internet connection when performing a Smog Check inspection and the OIS software
14 communicates with BAR's central database through the Internet connection. The bar code
15 scanner is used to input technician information, the vehicles identification number ("VIN"), and
16 DMV renewal information. The printer provides a Vehicle Inspection Report ("VIR") containing
17 inspection results for motorists and a Smog Check Certificate of Compliance number for passing
18 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. During an OIS inspection, engine operating parameters are retrieved from the
25 vehicle's OBD II system and recorded to the VID. This is accomplished during the functional
26 portion of the OIS Smog Check inspection by plugging the DAD into the vehicle's DLC when
27 prompted by the OIS analyzer screen prompt. Some of the parameters recorded are:

- 28 • Engine speed in revolutions per minute (RPM)

- Throttle position as measured by a throttle position sensor (TPS) mounted onto the throttle shaft. Measured in a percentage of opening from 0% at idle and near or up to 100% at full throttle.
- Manifold absolute pressure as measured by a manifold air pressure sensor (MAP) connected to an intake manifold source, measured in kilo pascals (kpa). Typical readings for a normally aspirated vehicle as follows: 0 kpa being absolute vacuum, 25kpa to 45kpa at idle, 101 kpa at full throttle, same as atmospheric pressure at sea level.
- Mass air flow as measured by a mass air flow sensor (MAF) mounted in the engine's air intake tract. Measured in grams per second (gps).²
- Ignition timing is set by the vehicle PCM based on engine speed and load, and is measured in degrees Before Top Dead Center (BTDC).

22. During normal engine operation at idle, engine speed is relatively steady around its target idle speed. With the engine idling, the TPS is steady and at or near 0%. The MAP and/or MAF readings are also steady. For the engine speed to increase, the throttle would have to be opened to increase airflow through the engine. The engine's management systems supply fuel and spark timing appropriate to any changes in throttle position and engine speed. An increase in throttle, measured by the TPS, which increases engine RPM, would result in corresponding increases in MAF as well as a change in MAP. Stated another way, any movement in the throttle from the idle position will result in an increase of airflow through the engine with corresponding increases RPM and/or MAF along with changes in MAP.

23. During an OIS Smog Check inspection, along with other visual and functional inspections, there is an OBD II query portion of the inspection. The OBD II query is performed with the engine idling and, when requested by the OIS analyzer, and an elevated or increased engine speed.

² Not all vehicles include both MAP and MAF parameters. Many vehicles will have either MAP or MAF parameters separately.

1 24. If the vehicle passes the visual, functional and tailpipe tests, it passes the overall
2 inspection, and a Certificate of Compliance is issued and transmitted electronically to the Vehicle
3 Information Database (“VID”). These Certificates of Compliance are purchased in blocks of fifty
4 (50) through the EIS or OIS from the VID, using a pre-arranged electronic bank account debit
5 system or by check, via mail, from Bureau Headquarters in Sacramento. Each Certificate of
6 Compliance has a unique control number so that it can be tracked to determine which Smog
7 Check Station purchased the Certificate of Compliance and to which vehicle it was issued.

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

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

26 27. Respondents have engaged in numerous acts or omissions constituting violations of
27 the Automotive Repair Act (Business and Professions Code section 9880 *et seq.*) and Motor
28 Vehicle Inspection Program (Health and Safety Code section 44000 *et seq.*) through their practice

of “clean plugging.”³ Respondent’s OIS Test Data available on the State database indicates that Respondents are involved in fraudulent smog inspection activities. A Bureau representative initiated an investigation based on information transmitted to the VID for smog check inspections performed by Respondents. The investigation revealed that the data related to certain vehicles certified by Respondents contained a pattern of unmistakable discrepancies between the information transmitted during the inspections and documented information known about the vehicles at issue. Specifically, the representative compared the data received from the certified vehicles to data from vehicles of the same year, make, and model and determined that the data from at least ten (10) of the certified vehicles were fraudulently tested by Respondents during the smog inspection using the “clean plugging” method as follows:

Fraudulent Inspection #1

28. Bureau Program Representative Steve Koch (Koch) reviewed the OIS Test Data for Smog Pro Plus. The review indicates on August 15, 2023, a 2005 Nissan Sentra 1.8, CA license 5PZF137, VIN 3N1CB51D55L589212 (2005 Sentra), was tested and smog certificate # IV367670C was issued under licensed Smog Check Technician #EO634951, Davis.

29. The Dynamic OBDII PID Chart for the 2005 Sentra shows between time stamp 317 and 16902 engine speed is steady at approximately 675 RPM. During this time the throttle is fixed at 3.9% opening, MAF is fixed at 4.11 gps, and the ignition timing advance for #1 cylinder is fixed at 9 degrees BTDC. After time stamp 16902 the engine speed accelerates to approximately 1750 RPM. From the time the engine RPM increases off idle to the higher RPMs, the throttle is fixed at the same 3.9% opening, MAF is fixed at the same 4.11 gps, and the ignition timing advance for #1 cylinder is also still fixed at the same 9 degrees BTDC.

30. During the entire period the dynamic data was collected, the only parameter that changed was engine RPM. The throttle position, MAF, and ignition timing advance readings remained unchanged even though the engine speed was increased. These readings are not

³ “Clean plugging” refers to the use of another vehicle’s properly functioning On Board Diagnostic, generation II, (OBD II) system, or another source, to generate passing diagnostic readings for the purpose of issuing fraudulent smog Certificates of Compliance to vehicles that are not in smog compliance and/or not present for testing.

characteristic or expected for normal engine operation. The discrepancies in the OIS Test Data prove the Data Acquisition Device was not connected to the 2005 Sentra being certified, causing the issuance of a fraudulent Smog Check Certificate of Compliance.

Fraudulent Inspection #2

31. Koch reviewed the OIS Test Data for Smog Pro Plus. The review indicates on September 1, 2023, a 2005 Honda Accord LX, CA license 6AIJ589, VIN 1HGCM66375A041668 (2005 Accord), was tested and smog certificate # TM478098C was issued under licensed Smog Check Technician #EO634951, Davis.

32. The Dynamic OBDII PID Chart for the 2005 Accord shows between time stamp 249 and 17032 engine speed is steady at approximately 650 RPM. During this time the throttle is fixed at 15.7% opening, MAP is fixed at 40 kPa, and the ignition timing advance for #1 cylinder is fixed at 10 degrees BTDC. After time stamp 17032 the engine speed accelerates to approximately 1700 RPM. From the time the engine RPM increases off idle to the higher RPMs, the throttle is fixed at the same 15.7% opening, MAP is fixed at the same 40 kPa, and the ignition timing advance for #1 cylinder is also still fixed at the same 10 degrees BTDC.

33. During the entire period the dynamic data was collected, the only parameter that changed was engine RPM. The throttle position, MAP, and ignition timing advance readings remained unchanged even though the engine speed was increased. These readings are not characteristic or expected for normal engine operation. The discrepancies in the OIS Test Data prove the Data Acquisition Device was not connected to the 2005 Accord being certified, causing the issuance of a fraudulent Smog Check Certificate of Compliance.

Fraudulent Inspection #3

34. Koch reviewed the OIS Test Data for Smog Pro Plus. The review indicates on September 29, 2023, a 2005 Honda Civic EX, CA license 8CGS559, VIN 2HGES25745H622414 (2005 Civic), was tested and smog certificate # TO171589C was issued under licensed Smog Check Technician #EO634951, Davis.

35. The Dynamic OBDII PID Chart for the 2005 Civic shows between time stamp 248 and 17021 engine speed is steady at approximately 700 RPM. During this time the throttle is

1 fixed at 9% opening, MAP is fixed at 35 kPa, and the ignition timing advance for #1 cylinder is
2 fixed at 7 degrees BTDC. After time stamp 17021 the engine speed accelerates to approximately
3 1750 RPM. From the time the engine RPM increases off idle to the higher RPMs, the throttle is
4 fixed at the same 9% opening, MAP is fixed at the same 35 kPa, and the ignition timing advance
5 for #1 cylinder is also still fixed at the same 7 degrees BTDC.

6 36. During the entire period the dynamic data was collected, the only parameter that
7 changed was engine RPM. The throttle position, MAP, and ignition timing advance readings
8 remained unchanged even though the engine speed was increased. These readings are not
9 characteristic or expected for normal engine operation. The discrepancies in the OIS Test Data
10 prove the Data Acquisition Device was not connected to the 2005 Civic being certified, causing
11 the issuance of a fraudulent Smog Check Certificate of Compliance.

12 **Fraudulent Inspection #4**

13 37. Koch reviewed the OIS Test Data for Smog Pro Plus. The review indicates on
14 October 9, 2023, a 2004 Toyota Tacoma, CA license 7R03636, VIN 5TENL42N84Z383589
15 (2004 Tacoma), was tested and smog certificate # IV923808C was issued under licensed Smog
16 Check Technician #EO634951, Davis.

17 38. The Dynamic OBDII PID Chart for the 2004 Tacoma shows between time stamp 289
18 and 2812 engine speed is steady at approximately 1000 RPM before decreasing to approximately
19 775 RPM until time stamp 18304. During this time the throttle is fixed at 9.4% opening, MAF is
20 fixed at 5.06 gps, and the ignition timing advance for #1 cylinder is fixed at 10 degrees BTDC.
21 After time stamp 18304 the engine speed accelerates to approximately 1725 RPM. From the time
22 the engine RPM increases off idle to the higher RPMs, the throttle is fixed at the same 9.4%
23 opening, MAF is fixed at the same 5.06 gps, and the ignition timing advance for #1 cylinder is
24 also still fixed at the same 10 degrees BTDC.

25 39. During the entire period the dynamic data was collected, the only parameter that
26 changed was engine RPM. The throttle position, MAF, and ignition timing advance readings
27 remained unchanged even though the engine speed was increased. These readings are not
28 characteristic or expected for normal engine operation. The discrepancies in the OIS Test Data

1 prove the Data Acquisition Device was not connected to the 2004 Tacoma being certified,
2 causing the issuance of a fraudulent Smog Check Certificate of Compliance.

3 **Previous Failing Test: 2004 Tacoma**

4 40. A previous failing test was performed on the 2004 Tacoma at another station on
5 August 5, 2023. The 2004 Tacoma failed the test for incomplete OBDII readiness monitors. The
6 vehicle also had a pending OBDII DTC P0136. The Dynamic OBDII PID data collected during
7 the test shows the expected change in the throttle, MAF, and ignition timing advance parameters
8 as characteristic or expected for normal engine operation.

9 **Fraudulent Inspection #5**

10 41. Koch reviewed the OIS Test Data for Smog Pro Plus. The review indicates on
11 December 9, 2023, a 2006 Honda Odyssey EXL, CA license 6YUG674, VIN
12 5FNRL38766B056830 (2006 Odyssey), was tested and smog certificate # IX663159C was issued
13 under licensed Smog Check Technician #EO634951, Davis.

14 42. The Dynamic OBDII PID Chart for the 2006 Odyssey shows between time stamp 268
15 and 18581 engine speed is steady at approximately 650 RPM. During this time the throttle is
16 fixed at 15.7% opening, MAP is fixed at 26 kPa, and the ignition timing advance for #1 cylinder
17 is fixed at 8.5 degrees BTDC. After time stamp 18581 the engine speed accelerates to
18 approximately 1750 RPM. From the time the engine RPM increases off idle to the higher RPMs,
19 the throttle is fixed at the same 15.7% opening, MAP is fixed at the same 26 kPa, and the ignition
20 timing advance for #1 cylinder is also still fixed at the same 8.5 degrees BTDC.

21 43. During the entire period the dynamic data was collected, the only parameter that
22 changed was engine RPM. The throttle position, MAP, and ignition timing advance readings
23 remained unchanged even though the engine speed was increased. These readings are not
24 characteristic or expected for normal engine operation. The discrepancies in the OIS Test Data
25 prove the Data Acquisition Device was not connected to the 2006 Odyssey being certified,
26 causing the issuance of a fraudulent Smog Check Certificate of Compliance.

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1 **Previous Failing Test: 2006 Odyssey**

2 44. A previous failing test was performed by Licensed Inspector Davis on the 2006
3 Odyssey at Smog Pro Plus on December 2, 2023. The 2006 Odyssey failed the test for an
4 illuminated MIL and confirmed OBDII DTC P2646. The Dynamic OBDII PID data collected
5 during the test shows the expected change in the throttle, MAP, and ignition timing advance
6 parameters as characteristic or expected for normal engine operation.

7 **Fraudulent Inspection #6**

8 45. Koch reviewed the OIS Test Data for Smog Pro Plus. The review indicates on
9 February 3, 2024, a 2000 GMC New Sierra C1500, CA license 6F18506, VIN
10 2GTEC19T6Y1251041 (2000 New Sierra), was tested and smog certificate # TS279176C was
11 issued under licensed Smog Check Technician #EO634951, Davis.

12 46. The Dynamic OBDII PID Chart for the 2000 New Sierra shows between time stamp
13 242 and 17596 engine speed is steady at approximately 750 RPM. During this time the throttle is
14 fixed at 0% opening, MAF is fixed at 6 gps, MAP is fixed at 34 kPa, and the ignition timing
15 advance for #1 cylinder is fixed at 17 degrees BTDC. After time stamp 17596 the engine speed
16 accelerates to approximately 1700 RPM. From the time the engine RPM increases off idle to the
17 higher RPMs, the throttle is fixed at the same 0% opening, MAF is fixed at the same 6 gps, MAP
18 is fixed at the same 34 kPa, and the ignition timing advance for #1 cylinder is also still fixed at
19 the same 17 degrees BTDC.

20 47. During the entire period the dynamic data was collected, the only parameter that
21 changed was engine RPM. The throttle position, MAF, MAP, and ignition timing advance
22 readings remained unchanged even though the engine speed was increased. These readings are
23 not characteristic or expected for normal engine operation. The discrepancies in the OIS Test
24 Data prove the Data Acquisition Device was not connected to the 2000 New Sierra being
25 certified, causing the issuance of a fraudulent Smog Check Certificate of Compliance.

26 **Previous Failing Test: 2000 New Sierra**

27 48. A previous failing test was performed by Licensed Inspector Davis on the 2000 New
28 Sierra at Smog Pro Plus on January 31, 2024. The 2000 New Sierra failed the test for incomplete

OBDII readiness monitors. The Dynamic OBDII PID data collected during the test shows the expected change in the throttle, MAF, MAP, and ignition timing advance parameters as characteristic or expected for normal engine operation.

Fraudulent Inspection #7

49. Koch reviewed the OIS Test Data for Smog Pro Plus. The review indicates on February 9, 2024, a 2004 Chevrolet Silverado C1500, CA license 24482E3, VIN 1GCEC14V24Z180818 (2004 Silverado), was tested and smog certificate # TS279193C was issued under licensed Smog Check Technician #EO634951, Davis.

50. The Dynamic OBDII PID Chart for the 2004 Silverado shows between time stamp 227 and 16917 engine speed is steady at approximately 600 RPM. During this time the throttle is fixed at 10.2% opening, MAF is fixed at 5.43 gps, MAP is fixed at 37 kPa, and the ignition timing advance for #1 cylinder is fixed at 19 degrees BTDC. After time stamp 16917 the engine speed accelerates to approximately 1750 RPM. From the time the engine RPM increases off idle to the higher RPMs, the throttle is fixed at the same 10.2% opening, MAF is fixed at the same 5.43 gps, MAP is fixed at the same 37 kPa, and the ignition timing advance for #1 cylinder is also still fixed at the same 19 degrees BTDC.

51. During the entire period the dynamic data was collected, the only parameter that changed was engine RPM. The throttle position, MAF, MAP, and ignition timing advance readings remained unchanged even though the engine speed was increased. These readings are not characteristic or expected for normal engine operation. The discrepancies in the OIS Test Data prove the Data Acquisition Device was not connected to the 2004 Silverado being certified, causing the issuance of a fraudulent Smog Check Certificate of Compliance.

Fraudulent Inspection #8

52. Koch reviewed the OIS Test Data for Smog Pro Plus. The review indicates on February 10, 2024, a 2000 Chevrolet Silverado C1500, CA license 49180H3, VIN 2GCEC19T3Y1289021 (2000 Silverado), was tested and smog certificate # TS279198C was issued under licensed Smog Check Technician #EO634951, Davis.

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53. The Dynamic OBDII PID Chart for the 2000 Silverado shows between time stamp 230 and 17207 engine speed is steady at approximately 650 RPM. During this time the throttle is fixed at 0% opening, MAF is fixed at 4.79 gps, MAP is fixed at 35 kPa, and the ignition timing advance for #1 cylinder is fixed at 16 degrees BTDC. After time stamp 17207 the engine speed accelerates to approximately 1800 RPM. From the time the engine RPM increases off idle to the higher RPMs, the throttle is fixed at the same 0% opening, MAF is fixed at the same 4.79 gps, MAP is fixed at the same 35 kPa, and the ignition timing advance for #1 cylinder is also still fixed at the same 16 degrees BTDC.

54. During the entire period the dynamic data was collected, the only parameter that changed was engine RPM. The throttle position, MAF, MAP, and ignition timing advance readings remained unchanged even though the engine speed was increased. These readings are not characteristic or expected for normal engine operation. The discrepancies in the OIS Test Data prove the Data Acquisition Device was not connected to the 2000 Silverado being certified, causing the issuance of a fraudulent Smog Check Certificate of Compliance.

Fraudulent Inspection #9

55. Koch reviewed the OIS Test Data for Smog Pro Plus. The review indicates on February 12, 2024, a 2003 Toyota Corolla CE, CA license 5ANJ963, VIN 1NXBR32E83Z125295 (2003 Corolla), was tested and smog certificate # TS601312C was issued under licensed Smog Check Technician #EO634951, Davis.

56. The Dynamic OBDII PID Chart for the 2003 Corolla shows between time stamp 266 and 16634 engine speed is steady at approximately 625 RPM. During this time the throttle is fixed at 11.8% opening, MAF is fixed at 4.53 gps, and the ignition timing advance for #1 cylinder is fixed at 13.5 degrees BTDC. After time stamp 16634 the engine speed accelerates to approximately 1700 RPM. From the time the engine RPM increases off idle to the higher RPMs, the throttle is fixed at the same 11.8% opening, MAF is fixed at the same 4.53 gps, and the ignition timing advance for #1 cylinder is also still fixed at the same 13.5 degrees BTDC.

57. During the entire period the dynamic data was collected, the only parameter that changed was engine RPM. The throttle position, MAF, and ignition timing advance readings

1 remained unchanged even though the engine speed was increased. These readings are not
2 characteristic or expected for normal engine operation. The discrepancies in the OIS Test Data
3 prove the Data Acquisition Device was not connected to the 2003 Corolla being certified, causing
4 the issuance of a fraudulent Smog Check Certificate of Compliance.

5 **Previous Failing Test: 2003 Corolla**

6 58. A previous failing test was performed by Licensed Inspector Davis on the 2003
7 Corolla at Smog Pro Plus on February 9, 2024. The 2003 Corolla failed the test for incomplete
8 OBDII readiness monitors. The vehicle also had pending OBDII DTCs P0171 and P0301. The
9 Dynamic OBDII PID data collected during the test shows the expected change in the throttle,
10 MAF, and ignition timing advance parameters as characteristic or expected for normal engine
11 operation.

12 **Fraudulent Inspection #10**

13 59. Koch reviewed the OIS Test Data for Smog Pro Plus. The review indicates on
14 February 19, 2024, a 2001 Toyota Sienna LE, CA license 4RRY617, VIN 4T3ZF13C31U379879
15 (2001 Sienna), was tested and smog certificate # TS601328C was issued under licensed Smog
16 Check Technician #EO634951, Davis.

17 60. The Dynamic OBDII PID Chart for the 2001 Sienna shows between time stamp 273
18 and 17423 engine speed is steady at approximately 675 RPM. During this time the throttle is
19 fixed at 10.2% opening, MAF is fixed at 6.46 gps, and the ignition timing advance for #1 cylinder
20 is fixed at 17 degrees BTDC. After time stamp 17423 the engine speed accelerates to
21 approximately 1700 RPM. From the time the engine RPM increases off idle to the higher RPMs,
22 the throttle is fixed at the same 10.2% opening, MAF is fixed at the same 6.46 gps, and the
23 ignition timing advance for #1 cylinder is also still fixed at the same 17 degrees BTDC.

24 61. During the entire period the dynamic data was collected, the only parameter that
25 changed was engine RPM. The throttle position, MAF, and ignition timing advance readings
26 remained unchanged even though the engine speed was increased. These readings are not
27 characteristic or expected for normal engine operation. The discrepancies in the OIS Test Data
28

1 prove the Data Acquisition Device was not connected to the 2001 Sienna being certified, causing
2 the issuance of a fraudulent Smog Check Certificate of Compliance.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Untrue or Misleading Statements - Respondent Smog Pro Plus)**

5 62. Respondent Smog Pro Plus's registration is subject to disciplinary action pursuant to
6 section 9884.7, subdivision (a)(1), in that Respondents made or authorized statements which they
7 knew or in the exercise of reasonable care should have known to be untrue or misleading, as
8 follows: Respondents certified that the vehicles set forth above in paragraphs 28-61, had passed
9 inspection and were in compliance with applicable laws and regulations. In fact, Respondents
10 conducted the inspections on those vehicles using the clean plugging method in order to issue
11 smog certificates of compliance, and did not test or inspect the vehicles as required by Health and
12 Safety Code section 44012.

13 **SECOND CAUSE FOR DISCIPLINE**

14 **(Fraud - Respondent Smog Pro Plus)**

15 63. Respondent Smog Pro Plus's registration is subject to disciplinary action pursuant to
16 section 9884.7, subdivision (a)(4), in that Respondent Smog Pro Plus's employees committed acts
17 which constitute fraud by issuing electronic certificates of compliance for the vehicles set forth
18 above in paragraphs 28-61, without performing bona fide inspections of the emission control
19 devices and systems on those vehicles, thereby depriving the People of the State of California of
20 the protection afforded by the Motor Vehicle Inspection Program.

21 **THIRD CAUSE FOR DISCIPLINE**

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

23 **Respondent Smog Pro Plus)**

24 64. Respondent Smog Pro Plus's smog station license is subject to disciplinary action
25 pursuant to Health and Safety Code section 44072.2, subdivision (a), in conjunction with Health
26 and Safety Code section 44072.10 subdivision (c), in that regarding the vehicles set forth above in
27 paragraphs 28-61, Respondents failed to comply with the following sections of the Health and
28 Safety Code:

1 (a) **Section 44012**: Respondent Smog Pro Plus's employees failed to ensure that the
2 emission control tests were performed on the vehicles, in accordance with procedures prescribed
3 by the department.

4 (b) **Section 44015**: Respondent Smog Pro Plus's employees issued electronic certificates
5 of compliance for the vehicles, without ensuring that the vehicles were properly tested and
6 inspected to determine if they were in compliance with Health and Safety Code section 44012.

7 **FOURTH CAUSE FOR DISCIPLINE**

8 **(Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection Program -** 9 **Respondent Smog Pro Plus)**

10 65. Respondent Smog Pro Plus's smog station license is subject to disciplinary action
11 pursuant to Health and Safety Code section 44072.2, subdivision (c), in that regarding the
12 vehicles set forth above in paragraphs 28-61, Respondents failed to comply with the following
13 provisions of the California Code of Regulations, Title 16, as follows:

14 (a) **Section 3340.35, subdivision (c)**: Respondent Smog Pro Plus's employees issued
15 electronic certificates of compliance even though those vehicles had not been inspected in
16 accordance with section 3340.42, Title 16, of the California Code of Regulations.

17 (b) **Section 3340.42**: Respondent Smog Pro Plus's employees failed to conduct the
18 required smog tests and inspections on those vehicles in accordance with the Bureau's
19 specifications.

20 **FIFTH CAUSE FOR DISCIPLINE**

21 **(Dishonesty, Fraud or Deceit - Respondent Smog Pro Plus)**

22 66. Respondent Smog Pro Plus's smog station license is subject to disciplinary action
23 pursuant to Health and Safety Code section 44072.2, subdivision (d), in conjunction with Health
24 and Safety Code section 44072.10 subdivision (c), in that regarding the vehicles set forth above in
25 paragraphs 28-61, Respondents employees committed acts involving dishonesty, fraud or deceit
26 whereby another was injured by issuing electronic certificates of compliance for those vehicles
27 without performing bona fide inspections of the emission control devices and systems on the
28

1 vehicles, thereby depriving the People of the State of California of the protection afforded by the
2 Motor Vehicle Inspection Program.

3 **SIXTH CAUSE FOR DISCIPLINE**

4 **(Violations of the Motor Vehicle Inspection Program – Respondent Davis)**

5 67. Respondent Davis’s smog check inspector license is subject to discipline pursuant to
6 Health and Safety Code section 44072.2, subdivision (a), in that regarding the vehicles set forth
7 above in paragraphs 28-61, Respondent Davis failed to comply with section 44012 of the Health
8 and Safety Code in a material respect, as follows: Respondent Davis failed to perform the
9 emission control tests on those vehicles in accordance with procedures prescribed by the
10 department.

11 **SEVENTH CAUSE FOR DISCIPLINE**

12 **(Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection Program –**
13 **Respondent Davis)**

14 68. Respondent Davis’s smog check inspector license is subject to discipline pursuant to
15 Health and Safety Code section 44072.2, subdivision (c), in that regarding the vehicles set forth
16 above in paragraphs 28-61, Respondent Davis failed to comply with provisions of the California
17 Code of Regulations, title 16, as follows:

18 (a) **Section 3340.30, subdivision (a)**: Respondent Davis failed to inspect and test those
19 vehicles in accordance with Health and Safety Code section 44012.

20 (b) **Section 3340.41, subdivision (c)**: Respondent Davis entered false information into
21 the EIS.

22 (c) **Section 3340.42**: Respondent Davis failed to conduct the required smog tests and
23 inspections on those vehicles in accordance with the Bureau’s specifications.

24 **EIGHTH CAUSE FOR DISCIPLINE**

25 **(Dishonesty, Fraud or Deceit - Respondent Davis)**

26 69. Respondent Davis’s smog check inspector license is subject to discipline pursuant to
27 Health and Safety Code section 44072.2, subdivision (d), in conjunction with Health and Safety
28 Code section 44072.10 subdivision (c), in that regarding the vehicles set forth above in

1 paragraphs 28-61, Respondent Davis committed acts involving dishonesty, fraud or deceit
2 whereby another was injured by issuing electronic certificates of compliance for those vehicles
3 without performing bona fide inspections of the emission control devices and systems on the
4 vehicles., thereby depriving the People of the State of California of the protection afforded by the
5 Motor Vehicle Inspection Program.

6 **DISCIPLINARY CONSIDERATIONS**

7 70. By way of aggravation, Complainant alleges that on March 11, 2020, the Bureau of
8 Automotive Repair adopted a decision in case number 79/17-6911 wherein Respondent Davis's
9 Smog Check Inspector License was revoked, the revocation stayed, and Respondent's license
10 placed on probation for 2 years on various terms and conditions.

11 **OTHER MATTERS**

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

17 72. Pursuant to Health & Safety Code section 44072.8, if Smog Check, Test Only Station
18 License Number TC 289043 issued to Respondent Smog Pro Plus is revoked or suspended
19 following a hearing under this article, any additional license issued under Chapter 5, Part 5,
20 Division 26 in the name of said licensee may be likewise revoked or suspended by the Director.

21 73. Pursuant to Health & Safety Code section 44072.8, if Smog Check Inspector License
22 Number EO 634951, issued to Respondent Davis, is revoked or suspended following a hearing
23 under this article, any additional license issued under Chapter 5, Part 5, Division 26 in the name
24 of said licensee may be likewise revoked or suspended by the Director.

25 **PRAYER**

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

1. Revoking or suspending Automotive Repair Dealer Registration Number ARD 289043, issued to George Jay Davis, dba Smog Pro Plus;
 2. Revoking or suspending any other Automotive Repair Dealer Registration issued to Respondent George Jay Davis;
 3. Revoking or suspending Smog Check Test-Only Station License Number TC 289043, issued to George Jay Davis, dba Smog Pro Plus;
 4. Revoking or suspending Smog Check Inspector License Number EO 634951, issued to George Jay Davis;
 5. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health and Safety Code in the name of Respondent George Jay Davis;
 6. Ordering George Jay Davis 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 if placed on probation, the costs of probation monitoring;
- and,
7. 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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