

1 XAVIER BECERRA
Attorney General of California
2 SHAWN P. COOK
Supervising Deputy Attorney General
3 ELAINE YAN
Deputy Attorney General
4 State Bar No. 277961
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 269-6683
6 Facsimile: (916) 731-2126
E-mail: Elaine.Yan@doj.ca.gov
7 *Attorneys for Complainant*

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

12
13 In the Matter of the Accusation Against:

Case No. 79/19-8087

14 **CANDE DIAZ – PRESIDENT,**
15 **RISE TO SUCCESS, INC., dba**
PRO STOP TEST ONLY
16 708 W. Mill St., #J
San Bernardino, CA 92410

ACCUSATION

17 Automotive Repair Dealer Registration
No. ARD 265779
18 Smog Check, Test Only, Station License
No. TC 265779

19 9253 Archibald Avenue
20 Rancho Cucamonga, CA 91730

21 Automotive Repair Dealer Registration No.
ARD 277850
22 Smog Check, Test Only, Station License No.
TC 277850

23
24 **ALBERTO MEDINA**
18908 Arabian Ct.
25 Bloomington, CA 92376

26 Smog Check Inspector No. EO 638274,
27
28

1 **MAGALY MONTALVO**
2 7363 Oleander Ave.
3 Fontana, CA 92336

4 Smog Check Inspector No. EO 637604

5 and

6 **REUBIN DEAN VOGT**
7 9878 Alder Ave., #C
8 Bloomington, CA 92316

9 9833 Niagara Avenue
10 Fontana, CA 92335

11 Smog Check Inspector No. EO 638430,

12 Respondents.

13 **PARTIES**

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

16 **Rise to Success, Inc. dba Pro Stop Test Only (265779)**

17 2. On or about July 7, 2011, the Bureau of Automotive Repair (Bureau) issued
18 Automotive Repair Dealer Registration Number ARD 265779 to Cande Diaz –
19 President/Secretary/Treasurer, Rise to Success, Inc. dba Pro Stop Test Only (Respondent Pro
20 Stop). The Automotive Repair Dealer Registration was in full force and effect at all times
21 relevant to the charges brought herein and will expire on July 31, 2020, unless renewed.

22 3. On or about October 13, 2011, the Bureau issued Smog Check, Test Only, Station
23 License Number TC 265779 to Respondent Pro Stop. The Smog Check, Test Only, Station
24 License will expire on July 31, 2020, unless renewed.

25 4. On or about June 28, 2013, the Bureau issued STAR Certification to Respondent Pro
26 Stop (TC 265779). The STAR Certification will remain active unless the ARD and/or Smog
27 Check Station license is revoked, canceled, licenses become delinquent, or certification is
28 invalidated.

///

///

1 **Rise to Success, Inc. dba Pro Stop Test Only (277850)**

2 5. On or about September 11, 2014, the Bureau issued Automotive Repair Dealer
3 Registration Number ARD 277850 to Respondent Pro Stop. The Automotive Repair Dealer
4 Registration was in full force and effect at all times relevant to the charges brought herein and
5 will expire on September 30, 2020, unless renewed.

6 6. On or about September 29, 2014, the Bureau issued Smog Check, Test Only, Station
7 License Number TC 277850 to Respondent Pro Stop. The Smog Check, Test Only, Station
8 License will expire on September 30, 2020, unless renewed.

9 7. On or about January 20, 2015, the Bureau issued STAR Certification to Respondent
10 Pro Stop (TC 277850). The STAR Certification will remain active unless the ARD and/or Smog
11 Check Station license is revoked, canceled, licenses become delinquent, or certification is
12 invalidated.

13 **Alberto Medina**

14 8. On or about June 26, 2015, the Bureau issued Smog Check Inspector License Number
15 EO 638274 to Alberto Medina (Respondent Medina). The Smog Check Inspector License was in
16 full force and effect at all times relevant to the charges brought herein, expired on May 31, 2019,
17 and has not been renewed.

18 **Magaly Montalvo**

19 9. On or about December 4, 2014, the Bureau issued Smog Check Inspector License
20 Number EO 637604 to Magaly Montalvo (Respondent Montalvo). The Smog Check Inspector
21 License was in full force and effect at all times relevant to the charges brought herein and will
22 expire on February 28, 2021, unless renewed.

23 **Reubin Dean Vogt**

24 10. On or about August 3, 2015, the Bureau issued Smog Check Inspector License
25 Number EO 638430 to Reubin Dean Vogt (Respondent Vogt). The Smog Check Inspector
26 License was in full force and effect at all times relevant to the charges brought herein and will
27 expire on May 31, 2021, unless renewed.

28 ///

JURISDICTION

1
2 11. This Accusation is brought before the Director of the Department of Consumer
3 Affairs (“Director”) for the Bureau of Automotive Repair, under the authority of the following
4 laws.

5 12. Business and Professions Code section 118, subsection (b) provides that
6 suspension, expiration, surrender, or cancellation of a license shall not deprive the Director of
7 jurisdiction to proceed with a disciplinary action during the period within which the license may
8 be renewed, restored, reissued or reinstated.

9 13. Business and Professions Code section 9884.13 of the Code provides, in pertinent
10 part, that the expiration of a valid registration shall not deprive the Director or chief of
11 jurisdiction to proceed with a disciplinary proceeding against an automotive repair dealer or to
12 render a decision invalidating a registration temporarily or permanently.

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

16 15. Section 44072.6 of the Health and Safety Code provides, in pertinent part, that the
17 expiration or suspension of a license by operation of law, or by order or decision of the Director
18 of Consumer Affairs, or a court of law, or the voluntary surrender of the license shall not deprive
19 the Director of jurisdiction to proceed with any investigation of, or action or disciplinary
20 proceedings against the licensee, or to render a decision suspending or revoking the license.

21 16. Section 44072.8 of the Health and Safety Code states:

22 When a license has been revoked or suspended following a hearing
23 under this article, any additional license issued under this chapter in
24 the name of the licensee may be likewise revoked or suspended by
25 the director.

25 ///

26 ///

27 ///

28 ///

STATUTORY PROVISIONS

17. Section 477 of the Business and Professions Code 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 Business and Professions Code.

18. Business and Professions Code section 9884.7 states, in pertinent part:

(a) The director, where the automotive repair dealer cannot show there was a bona fide error, may refuse to validate, or may invalidate temporarily or permanently, 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 that constitutes fraud.

....

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

....

(c) Notwithstanding subsection (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.

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

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

1 violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the
2 investigation and enforcement of the case, with failure of the licentiate to comply subjecting the
3 license to not being renewed or reinstated. If a case settles, recovery of investigation and
4 enforcement costs may be included in a stipulated settlement.

5 **BACKGROUND: CALIFORNIA SMOG CHECK INSPECTION PROGRAM**

6 30. A smog check inspection of a pre-2000 model year vehicle includes three
7 portions: tailpipe, visual, and functional. A vehicle must pass all three portions to pass the overall
8 inspection and receive a Certificate of Compliance. The Certification of Compliance is then
9 transmitted electronically to the Vehicle Information Database (“VID”) ¹.

10 31. The tailpipe inspection measures levels of hydrocarbons, carbon monoxide,
11 oxides of nitrogen, carbon dioxide, and oxygen emitted by a vehicle.

12 a. Pre-2000 model year vehicles registered in certain Enhanced Areas² must
13 undergo an Acceleration Simulation Mode (ASM) inspection using an Emission Inspection
14 System (EIS), also known as the BAR-97. The BAR-97 is a computer-based, five-gas analyzer
15 that measures hydrocarbons, carbon monoxide, nitrogen oxide, carbon dioxide, and oxygen.
16 During the ASM inspection, a vehicle undergoes a loaded mode test on a dynamometer. The
17 vehicle’s drive wheels are placed on rollers and the vehicle is driven at speeds of 15 and 25 miles
18 per hour to simulate driving conditions while the emissions are sampled by the EIS. Mode 1
19 begins when the vehicle speed stabilizes at 15 miles per hour, and Mode 2 begins when the
20 vehicle speed stabilizes at 25 miles per hour.

21 b. Pre-2000 model year vehicles registered in Basic Areas and vehicles that
22 are incompatible with the ASM inspection must undergo a Two Speed Idle (TSI) inspection.

23 _____
24 ¹ The VID contains data from the DMV, emission standards, smog check inspections, smog check
25 stations and technicians, and Certificates of Compliance. The VID receives passing smog check
26 results immediately following the inspection. During the vehicle registration process, the DMV
27 accesses the VID to verify that the vehicle has been tested and certified. The Bureau can also
28 access the VID to view test data on smog check inspections performed at any smog check station,
or search for, retrieve, and print a test record for a particular vehicle that has been tested.

² Enhanced Areas do not meet federal or state air quality standards for ozone and carbon monoxide.
Vehicles in Enhanced Areas are required to under Biennial Smog Check inspections.

1 Rather than applying a load to the vehicle's drive wheels with a dynamometer, the EIS measures
2 the emissions of hydrocarbons, carbon monoxide, carbon dioxide, and oxygen at two test
3 sequences—2500 revolutions per minute and idle.

4 32. During the visual inspection, the technician must inspect emission control
5 components to verify that they are present and properly connected.

6 33. The functional test, depending on the vehicle, may include checking the ignition
7 timing, malfunction indicator light, and Exhaust Gas Recirculation system, as well as conducting
8 a low-pressure test of the evaporative emissions controls, a visible smoke test, and a pressure test
9 of the fuel cap. An On-Board Diagnostics (OBDII) functional test is also performed on most
10 1996 to 1999 model year vehicles. The OBDII system monitors the vehicle's emission control
11 system performance and includes self-diagnostic and reporting functions. During an OBDII
12 functional test, the technician connects a test cable from EIS to the vehicle's Diagnostic Link
13 Connector. Through the Diagnostic Link Connector, the EIS retrieves information from the
14 vehicle's on-board computer about its ability to communicate, the status of the readiness
15 monitors and the malfunction indicator light command, as well as diagnostic trouble codes. The
16 readiness monitors indicate whether the OBDII system has run a sufficient number of self-tests
17 on the vehicle's emission and engine control systems. A failure of one or more of the OBDII
18 functional criteria, depending on model year of the vehicle, will result in the vehicle failing its
19 smog check inspection. In addition to reporting the outcome of the OBDII functional test, the
20 smog check inspection results also show diagnostic trouble codes if there are any in the vehicle's
21 on-board computer memory.

22 34. The technician must enter the results of the visual and functional inspections into the
23 EIS. The EIS determines whether the vehicle passed the inspection based on the results of the
24 tailpipe, visual, and functional tests. A vehicle must pass all three parts to pass the overall
25 inspection and receive a Certificate of Compliance. The EIS generates a Vehicle Inspection
26 Report (VIR), which includes the test results and the Certificate of Compliance number issued to
27 a passing vehicle. An electronic copy of the VIR is transmitted to the Vehicle Information
28

1 Database (VID). A physical copy is printed, which the technician must sign under penalty of
2 perjury, indicating that the inspection was performed in accordance with Bureau guidelines.

3 CLEAN GASSING

4 35. On or around May 16, 2019, Bureau Representative I.E. and Air Quality Engineer
5 F.D. conducted a detailed review of second-by-second³ data for smog check inspections
6 performed at Respondent Pro Stop and found that they revealed a pattern of readings consistent
7 with clean gassing. Bureau Representative I.E. and Air Quality Engineer F.D. identified the
8 allowable emission levels or “cutpoints” for Mode 1 and Mode 2 of the ASM inspection of a
9 particular vehicle. The cutpoints were then compared to second-by-second data obtained from
10 Respondent Pro Stop. Based on discrepancies in the second-by-second test data, Bureau
11 Representative I.E. and Bureau Air Quality Engineer F.D. determined that fifteen (15) pre-2000
12 model year vehicles received fraudulent Smog Check Certificates of Compliance by way of
13 clean gassing, as set forth in detail below.

14 36. “Clean gassing” is a method by which a surrogate gas is introduced into the
15 Emission Inspection System (EIS) so that it will measure the surrogate gas, or a mixture of the
16 surrogate gas and exhaust emissions, and issue a passing result based on those readings rather
17 than the actual vehicle emissions. Unlike clean piping or clean plugging, where another car is
18 substituted for the failing car, another car is not involved in clean gassing.

19 37. Further review of test data revealed that 12 of the 15 vehicles were tested on two
20 separate dates at Respondent Pro Stop. The tailpipe portion of the inspections for all 12 vehicles
21 were performed using the BAR 97-ASM test at two loaded mode sequences of 15 and 25 miles
22 per hour. All 12 vehicles failed the first inspection for failing at least the tailpipe portion of the
23 inspection. Most vehicles underwent their second inspection at Respondent Pro Stop within days
24 after their failing first inspection. All 12 vehicles passed the tailpipe portion of their second
25 inspections and were issued fraudulent electronic Smog Check Certificates of Compliance. All
26 the inspections are illustrated below in Table 1 below and set forth in further detail below:

27 _____
28 ³ Second-by-second data refers to vehicle emissions and speed data recorded on a second-by-
second basis throughout the smog check ASM tests.

TABLE 1			
No.	First Test Date (Failed)	Second Test Date (Passed)	Vehicle (Year, Make, Model) License No. & VIN No.
1	09/29/2017	10/05/2017	1990 Nissan 300ZX License No. HARD300
	Medina (EO 638274)	Medina (EO 638274)	
2	10/06/2017	10/07/2017	1993 Nissan 300ZX License No. 6LDW950
	Medina (EO 638274)	Medina (EO 638274)	
3	10/28/2017	10/30/2017	1997 Chevrolet G2500 License No. 54598C1
	R.Z. (EO 635269)	Medina (EO 638274)	
4	11/04/2017	11/11/2017	1994 Honda Civic License No. 6TRP027
	Medina (EO 638274)	Medina (EO 638274)	
5	11/16/2017	11/17/2017	1995 Saturn SC License No. 3MTL456
	Medina (EO 638274)	Medina (EO 638274)	
6	11/26/2016	12/02/2017	1998 Honda Civic License No. 6YUY230
	Medina (EO 638274)	Medina (EO 638274)	
7	11/25/2017	12/05/2017	1996 Toyota T100 2WD License No. 7M34121
	R.Z. (EO 635269)	Medina (EO 638274)	
8	11/30/2017	12/11/2017	1998 Toyota Camry License No. 3XSD317
	Medina (EO 638274)	Medina (EO 638274)	
9	12/22/2017	12/26/2017	1999 Toyota Tacoma 2WD No License Number
	Medina (EO 638274)	Medina (EO 638274)	
10	01/29/2018	01/30/2018	1997 Saturn SL License No. 7MDH731
	Medina (EO 638274)	Medina (EO 638274)	
11	-----	01/30/2018	1999 Toyota Tacoma 2WD 5Y42636
	-----	Medina (EO 638274)	
12	-----	01/30/2018	1998 Honda CR-V License No. 7JUG539
	-----	Medina (EO 638274)	
13	02/09/2018	02/16/2018	1998 Mitsubishi Montero License No. 3XVY227
	Medina (EO 638274)	Medina (EO 638274)	
14	01/12/2019	01/19/2019	1999 GMC K1500 Pickup License No. 59279G1
	Montalvo (EO 637604)	Montalvo (EO 637604)	
15	-----	03/08/2019	1993 Ford Mustang License No. 6JSR681
	-----	Vogt (EO 638430)	

1 **a. Vehicle 1: 1990 Nissan 300ZX:** On October 5, 2017 at 11:01:15 a.m., a
2 1990 Nissan 300ZX (CA License #HARD300; VIN JN1RZ24A0LX006522) was inspected under
3 Respondent Medina’s Smog Check Inspector License. The vehicle passed the inspection and
4 Respondent Pro Stop Test Only issued Certificate of Compliance No. HF861580C.

5 Second-by-second data shows the emission readings are inconsistent with a legitimate
6 smog check inspection. Bureau Representative I.E. identified two or more sharp, simultaneous
7 drops and at least one sharp, simultaneous rise in the concentrations of hydrocarbons (HC),
8 carbon monoxide (CO), and/or nitrogen oxides (NO_x):

- 9 • At 31 seconds, during a period of continued steady-state vehicle speed, levels
10 of HC, CO, and NO_x began to drop.
- 11 • At 49 seconds, levels of HC, CO, and NO_x began to simultaneously rise
12 toward prior levels.
- 13 • At 77 seconds, levels of HC, CO, and NO_x began to drop sharply again.

14 Bureau Representative I.E. found that the same vehicle was tested at Pro Stop Test Only on
15 September 29, 2017 at 10:56:44 a.m. under Respondent Medina’s Smog Check Inspector License.
16 This vehicle failed the previous inspection. Second-by-second data from the previous inspection
17 shows that levels of HC, CO, and NO_x exceeded the cutpoints during both loaded mode
18 sequences of the ASM test.

19 **b. Vehicle 2: 1993 Nissan 300ZX:** On October 7, 2017 at 9:31:34 a.m., a 1993
20 Nissan 300ZX (CA License #6LDW950; VIN JN1RZ26H9PX537086) was inspected under
21 Respondent Medina’s Smog Check Inspector License. The vehicle passed the inspection and
22 Respondent Pro Stop Test Only issued Certificate of Compliance No. HF861589C.

23 Second-by-second data shows the emission readings are inconsistent with a legitimate
24 smog check inspection. Bureau Representative I.E. identified two or more sharp, simultaneous
25 drops and at least one sharp, simultaneous rise in the concentrations of hydrocarbons (HC),
26 carbon monoxide (CO), and/or nitrogen oxides (NO_x):

27 ///

28 ///

- At 37 seconds, during a period of continued steady-state vehicle speed, levels of HC, CO, and NO_x began to drop.
- At 51 seconds, levels of HC, CO, and NO_x began to simultaneously rise toward prior levels.
- At 63 seconds, levels of HC, CO, and NO_x began to drop sharply again.

Bureau Representative I.E. found that the same vehicle was tested at Pro Stop Test Only on October 6, 2017 at 1:44:17 p.m. under Respondent Medina's Smog Check Inspector License. This vehicle failed the previous inspection. Second-by-second data from the previous inspection shows that levels of HC, CO, and NO_x exceeded the cutpoints during both loaded mode sequences of the ASM test.

c. Vehicle 3: 1997 Chevrolet G2500: On October 30, 2017 at 4:13:33 p.m., a 1997 Chevrolet G2500 (CA License #54598C1; VIN 1GCFG25W9V1007478) was inspected under Respondent Medina's Smog Check Inspector License. The vehicle passed the inspection and Respondent Pro Stop Test Only issued Certificate of Compliance No. HH711272C.

Second-by-second data shows the emission readings are inconsistent with a legitimate smog check inspection. Bureau Representative I.E. identified two or more sharp, simultaneous drops and at least one sharp, simultaneous rise in the concentrations of hydrocarbons (HC), carbon monoxide (CO), and/or nitrogen oxides (NO_x):

- At 45 seconds, during a period of continued steady-state vehicle speed, levels of HC, CO, and NO_x began to drop.
- At 60 seconds, levels of HC, CO, and NO_x began to simultaneously rise toward prior levels.
- At 86 seconds, levels of HC, CO, and NO_x began to drop sharply again.

Bureau Representative I.E. found that the same vehicle was tested at Pro Stop Test Only on October 28, 2017 at 12:48:53 p.m. under Fidel Zamora's Smog Check Inspector License number EO 635269. This vehicle failed the previous inspection. Second-by-second data from the previous inspection shows that levels of HC, CO, and NO_x exceeded the cutpoints during both loaded mode sequences of the ASM test.

1 **d. Vehicle 4: 1994 Honda Civic:** On November 11, 2017 at 9:18:34 a.m., a
2 1994 Honda Civic (CA License #6TRP027; VIN 2HGEH2354RH505518) was inspected under
3 Respondent Medina’s Smog Check Inspector License. The vehicle passed the inspection and
4 Respondent Pro Stop Test Only issued Certificate of Compliance No. HJ125556C.

5 Second-by-second data shows the emission readings are inconsistent with a legitimate
6 smog check inspection. Bureau Representative I.E. identified two or more sharp, simultaneous
7 drops and at least one sharp, simultaneous rise in the concentrations of hydrocarbons (HC),
8 carbon monoxide (CO), and/or nitrogen oxides (NO_x):

- 9 • At 39 seconds, during a period of continued steady-state vehicle speed, levels
10 of HC, CO, and NO_x began to drop.
- 11 • At 57 seconds, levels of HC, CO, and NO_x began to simultaneously rise
12 toward prior levels.
- 13 • At 94 seconds, levels of HC, CO, and NO_x began to drop sharply again.

14 Bureau Representative I.E. found that the same vehicle was tested at Pro Stop Test Only on
15 November 4, 2017 at 9:13:19 a.m. under Respondent Medina’s Smog Check Inspector License.
16 This vehicle failed the previous inspection. Second-by-second data from the previous inspection
17 shows that levels of HC, CO, and NO_x exceeded the cutpoints during both loaded mode
18 sequences of the ASM test.

19 **e. Vehicle 5: 1995 Saturn SC:** On November 17, 2017 at 11:27:00 a.m., a
20 1995 Saturn SC (CA License #3MTL456; VIN 1G8ZK5272SZ365636) was inspected under
21 Respondent Medina’s Smog Check Inspector License. The vehicle passed the inspection and
22 Respondent Pro Stop Test Only issued Certificate of Compliance No. HJ125578C.

23 Second-by-second data shows the emission readings are inconsistent with a legitimate
24 smog check inspection. Bureau Representative I.E. identified two or more sharp, simultaneous
25 drops and at least one sharp, simultaneous rise in the concentrations of hydrocarbons (HC),
26 carbon monoxide (CO), and/or nitrogen oxides (NO_x):

27 ///

28 ///

- At 33 seconds, during a period of continued steady-state vehicle speed, levels of HC, CO, and NO_x began to drop.
- At 48 seconds, levels of HC, CO, and NO_x began to simultaneously rise toward prior levels.
- At 80 seconds, levels of HC, CO, and NO_x began to drop sharply again.

Bureau Representative I.E. found that the same vehicle was tested at Pro Stop Test Only on November 16, 2017 at 12:37:31 p.m. under Respondent Medina's Smog Check Inspector License. This vehicle failed the previous inspection. Second-by-second data from the previous inspection shows that levels of HC, CO, and NO_x exceeded the cutpoints during both loaded mode sequences of the ASM test.

f. Vehicle 6: 1998 Honda Civic: On December 2, 2017 at 2:59:56 p.m., a 1998 Honda Civic (CA License #6YUY230; VIN 1HGEJ6220WL010735) was inspected under Respondent Medina's Smog Check Inspector License. The vehicle passed the inspection and Respondent Pro Stop Test Only issued Certificate of Compliance No. HJ686265C.

Second-by-second data shows the emission readings are inconsistent with a legitimate smog check inspection. Bureau Representative I.E. identified two or more sharp, simultaneous drops and at least one sharp, simultaneous rise in the concentrations of hydrocarbons (HC), carbon monoxide (CO), and/or nitrogen oxides (NO_x):

- At 49 seconds, during a period of continued steady-state vehicle speed, levels of HC, CO, and NO_x began to drop.
- At 69 seconds, levels of HC, CO, and NO_x began to simultaneously rise toward prior levels.
- At 99 seconds, levels of HC, CO, and NO_x began to drop sharply again.

Bureau Representative I.E. found that the same vehicle was tested at Pro Stop Test Only on November 26, 2016 at 12:29:41 p.m. under Respondent Medina's Smog Check Inspector License. This vehicle failed the previous inspection. Second-by-second data from the previous inspection shows that levels of HC, CO, and NO_x exceeded the cutpoints during both loaded mode sequences of the ASM test.

1 **g. Vehicle 7: 1996 Toyota T100:** On December 5, 2017 at 1:38:33 p.m., a
2 1996 Toyota T100 (CA License #7M34121; VIN JT4TN14D5T0016894) was inspected under
3 Respondent Medina’s Smog Check Inspector License. The vehicle passed the inspection and
4 Respondent Pro Stop Test Only issued Certificate of Compliance No. HJ686271C.

5 Second-by-second data shows the emission readings are inconsistent with a legitimate
6 smog check inspection. Bureau Representative I.E. identified two or more sharp, simultaneous
7 drops and at least one sharp, simultaneous rise in the concentrations of hydrocarbons (HC),
8 carbon monoxide (CO), and/or nitrogen oxides (NO_x):

- 9 • At 48 seconds, during a period of continued steady-state vehicle speed, levels
10 of HC, CO, and NO_x began to drop.
- 11 • At 76 seconds, levels of HC, CO, and NO_x began to simultaneously rise
12 toward prior levels.

13 Bureau Representative I.E. found that the same vehicle was tested at Pro Stop Test Only on
14 November 25, 2017 at 2:13:56 p.m. under Fidel Zamora’s Smog Check Inspector License number
15 EO 635269. This vehicle failed the previous inspection. Second-by-second data from the
16 previous inspection shows that levels of HC, CO, and NO_x exceeded the cutpoints during both
17 loaded mode sequences of the ASM test.

18 **h. Vehicle 8: 1998 Toyota Camry:** On December 11, 2017 at 9:46:50 a.m., a
19 1998 Toyota Camry (CA License #3XSD317; VIN JT2BG22K3W0125512) was inspected under
20 Respondent Medina’s Smog Check Inspector License. The vehicle passed the inspection and
21 Respondent Pro Stop Test Only issued Certificate of Compliance No. HJ686287C.

22 Second-by-second data shows the emission readings are inconsistent with a legitimate
23 smog check inspection. Bureau Representative I.E. identified two or more sharp, simultaneous
24 drops and at least one sharp, simultaneous rise in the concentrations of hydrocarbons (HC),
25 carbon monoxide (CO), and/or nitrogen oxides (NO_x):

- 26 • At 40 seconds, during a period of continued steady-state vehicle speed, levels
27 of HC, CO, and NO_x began to drop.

- At 59 seconds, levels of HC, CO, and NO_x began to simultaneously rise toward prior levels.
- At 85 seconds, levels of HC, CO, and NO_x began to drop sharply again.

Bureau Representative I.E. found that the same vehicle was tested at Pro Stop Test Only on November 30, 2017 at 12:43:44 p.m. under Respondent Medina's Smog Check Inspector License. This vehicle failed the previous inspection. Second-by-second data from the previous inspection shows that levels of HC, CO, and NO_x exceeded the cutpoints during both loaded mode sequences of the ASM test.

i. Vehicle 9: 1999 Toyota Tacoma: On December 26, 2017 at 12:00:09 p.m., a 1999 Toyota Tacoma (VIN 4TASN92NXXZ522661) was inspected under Respondent Medina's Smog Check Inspector License. The vehicle passed the inspection and Respondent Pro Stop Test Only issued Certificate of Compliance No. HL121526C.

Second-by-second data shows the emission readings are inconsistent with a legitimate smog check inspection. Bureau Representative I.E. identified two or more sharp, simultaneous drops and at least one sharp, simultaneous rise in the concentrations of hydrocarbons (HC), carbon monoxide (CO), and/or nitrogen oxides (NO_x):

- At 36 seconds, during a period of continued steady-state vehicle speed, levels of HC, CO, and NO_x began to drop.
- At 56 seconds, levels of HC, CO, and NO_x began to simultaneously rise toward prior levels.
- At 88 seconds, levels of HC, CO, and NO_x began to drop sharply again.

Bureau Representative I.E. found that the same vehicle was tested at Pro Stop Test Only on December 22, 2017 at 11:47:17 a.m. under Respondent Medina's Smog Check Inspector License. This vehicle failed the previous inspection. Second-by-second data from the previous inspection shows that levels of HC, CO, and NO_x exceeded the cutpoints during both loaded mode sequences of the ASM test.

j. Vehicle 10: 1997 Saturn SL: On January 30, 2018 at 2:20:24 p.m., a 1997 Saturn SL (CA License #7MDH731; VIN 1G8ZH5289VZ250253) was inspected under

1 Respondent Medina's Smog Check Inspector License. The vehicle passed the inspection and
2 Respondent Pro Stop Test Only issued Certificate of Compliance No. HN207032C.

3 Second-by-second data shows the emission readings are inconsistent with a legitimate
4 smog check inspection. Bureau Representative I.E. identified two or more sharp, simultaneous
5 drops and at least one sharp, simultaneous rise in the concentrations of hydrocarbons (HC),
6 carbon monoxide (CO), and/or nitrogen oxides (NO_x):

- 7 • At 41 seconds, during a period of continued steady-state vehicle speed, levels
8 of HC, CO, and NO_x began to drop.
- 9 • At 54 seconds, levels of HC, CO, and NO_x began to simultaneously rise
10 toward prior levels.
- 11 • At 86 seconds, levels of HC, CO, and NO_x began to drop sharply again.

12 Bureau Representative I.E. found that the same vehicle was tested at Pro Stop Test Only on
13 January 29, 2018, at 4:43:06 p.m. under Respondent Medina's Smog Check Inspector License.
14 This vehicle failed the previous inspection. Second-by-second data from the previous inspection
15 shows that levels of HC, CO, and NO_x exceeded the cutpoints during both loaded mode
16 sequences of the ASM test.

17 **k. Vehicle 11: 1999 Toyota Tacoma:** On January 30, 2018 at 4:50:39 p.m., a
18 1999 Toyota Tacoma (CA License #5Y42636; VIN 4TAVL52N8XZ465808) was inspected under
19 Respondent Medina's Smog Check Inspector License. The vehicle passed the inspection and
20 Respondent Pro Stop Test Only issued Certificate of Compliance No. HN207033C.

21 Second-by-second data shows the emission readings are inconsistent with a legitimate
22 smog check inspection. Bureau Representative I.E. identified two or more sharp, simultaneous
23 drops and at least one sharp, simultaneous rise in the concentrations of hydrocarbons (HC),
24 carbon monoxide (CO), and/or nitrogen oxides (NO_x):

25 ///

26 ///

27 ///

28 ///

- At 37 seconds, during a period of continued steady-state vehicle speed, levels of HC, CO, and NO_x began to drop.
- At 50 seconds, levels of HC, CO, and NO_x began to simultaneously rise toward prior levels.
- At 79 seconds, levels of HC, CO, and NO_x began to drop sharply again.

l. Vehicle 12: 1998 Honda CR-V: On January 30, 2018 at 5:15:32 p.m., a 1998 Honda CR-V (CA License #7JUG539; VIN JHLRD2841WC016605) was inspected under Respondent Medina’s Smog Check Inspector License. The vehicle passed the inspection and Respondent Pro Stop Test Only issued Certificate of Compliance No. HN207034C.

Second-by-second data shows the emission readings are inconsistent with a legitimate smog check inspection. Bureau Representative I.E. identified two or more sharp, simultaneous drops and at least one sharp, simultaneous rise in the concentrations of hydrocarbons (HC), carbon monoxide (CO), and/or nitrogen oxides (NO_x):

- At 41 seconds, during a period of continued steady-state vehicle speed, levels of HC, CO, and NO_x began to drop.
- At 47 seconds, levels of HC, CO, and NO_x began to simultaneously rise toward prior levels.
- At 51 seconds, levels of HC, CO, and NO_x began to drop sharply again.

m. Vehicle 13: 1998 Mitsubishi Montero: On February 16, 2018 at 9:23:00 a.m., a 1998 Mitsubishi Montero (CA License #3XVY227; VIN JA4LS31P6WP013561) was inspected under Respondent Medina’s Smog Check Inspector License. The vehicle passed the inspection and Respondent Pro Stop Test Only issued Certificate of Compliance No. HN687237C.

Second-by-second data shows the emission readings are inconsistent with a legitimate smog check inspection. Bureau Representative I.E. identified two or more sharp, simultaneous drops and at least one sharp, simultaneous rise in the concentrations of hydrocarbons (HC), carbon monoxide (CO), and/or nitrogen oxides (NO_x):

///

///

- At 38 seconds, during a period of continued steady-state vehicle speed, levels of HC, CO, and NO_x began to drop.
- At 57 seconds, levels of HC, CO, and NO_x began to simultaneously rise toward prior levels.
- At 105 seconds, levels of HC, CO, and NO_x began to drop sharply again.

Bureau Representative I.E. found that the same vehicle was tested at Pro Stop Test Only on February 9, 2018 at 5:36:26 p.m. under Respondent Medina's Smog Check Inspector License. This vehicle failed the previous inspection. Second-by-second data from the previous inspection shows that levels of HC, CO, and NO_x exceeded the cutpoints during both loaded mode sequences of the ASM test.

n. Vehicle 14: 1999 GMC K1500: On January 19, 2019 at 11:20:21 a.m., a 1999 GMC K1500 (CA License #59279G1; VIN 1GTEC14W5XZ500985) was inspected under Respondent Montalvo's Smog Check Inspector License. The vehicle passed the inspection and Respondent Pro Stop Test Only issued Certificate of Compliance No. HZ644792C.

Second-by-second data shows the emission readings are inconsistent with a legitimate smog check inspection. Bureau Representative I.E. identified two or more sharp, simultaneous drops and at least one sharp, simultaneous rise in the concentrations of hydrocarbons (HC), carbon monoxide (CO), and/or nitrogen oxides (NO_x):

- At 29 seconds, during a period of continued steady-state vehicle speed, levels of HC, CO, and NO_x began to drop.
- At 45 seconds, levels of HC, CO, and NO_x began to simultaneously rise toward prior levels.
- At 57 seconds, levels of HC, CO, and NO_x began to drop sharply again.

Bureau Representative I.E. found that the same vehicle was tested at Pro Stop Test Only on January 12, 2019 at 9:36:09 a.m. under Respondent Montalvo's Smog Check Inspector License. This vehicle failed the previous inspection. Second-by-second data from the previous inspection shows that levels of HC, CO, and NO_x exceeded the cutpoints during both loaded mode sequences of the ASM test.

1 o. **Vehicle 15: 1993 Ford Mustang:** On March 8, 2019 at 3:21:00 p.m., a
2 1993 Ford Mustang (CA License #6JSR681; VIN 1FACP42E6PF105650) was inspected under
3 Respondent Vogt's Smog Check Inspector License. The vehicle passed the inspection and
4 Respondent Pro Stop Test Only issued Certificate of Compliance No. ID261422C.

5 Second-by-second data shows the emission readings are inconsistent with a legitimate
6 smog check inspection. Bureau Representative I.E. identified two or more sharp, simultaneous
7 drops and at least one sharp, simultaneous rise in the concentrations of hydrocarbons (HC),
8 carbon monoxide (CO), and/or nitrogen oxides (NO_x):

- 9 • At 19 seconds, during a period of continued steady-state vehicle speed, levels
10 of HC, CO, and NO_x began to drop.
- 11 • At 27 seconds, levels of HC, CO, and NO_x began to simultaneously rise
12 toward prior levels.
- 13 • At 34 seconds, levels of HC, CO, and NO_x began to drop sharply again.

14 38. The illegal smog inspections set forth above subject Respondents to discipline
15 pursuant to Business and Professions Code section 9884.7, subsections (a)(1) and (a)(4),
16 Business and Professions Code section 9889.3, subsection (a), Health and Safety Code section
17 44072.2, subsections (a), (c), and (d), and Health and Safety Code section 44072.10, subsection
18 (c).

19 **FIRST CAUSE FOR DISCIPLINE**

20 **(Untrue or Misleading Statements)**

21 **(Automotive Repair Dealer Registration - Respondent Pro Stop)**

22 39. Respondent Pro Stop's Automotive Repair Dealer Registration is subject to
23 disciplinary action pursuant to Business and Professions Code section 9884.7, subsection (a)(1),
24 in that between October 5, 2017 and March 8, 2019, Respondent Pro Stop made or authorized
25 statements which she knew or in the exercise of reasonable care should have known to be untrue
26 or misleading, as follows: Respondent Pro Stop certified that the vehicles set forth above in
27 Table 1 had passed inspection and were in compliance with applicable laws and regulations. In
28 fact, Respondent Pro Stop used the clean gassing₂₁ method in order to issue smog certificates of

1 compliance, and did not test or inspect the vehicles as required by Health and Safety Code
2 section 44012. Complainant refers to, and by this reference incorporates, the allegations set forth
3 above in paragraphs 30 through 38, inclusive, as though set forth fully herein.

4 **SECOND CAUSE FOR DISCIPLINE**

5 **(Fraud)**

6 **(Automotive Repair Dealer Registration - Respondent Pro Stop)**

7 40. Respondent Pro Stop's Automotive Repair Dealer Registration is subject to
8 disciplinary action pursuant to Business and Professions Code section 9884.7, subsection (a)(4),
9 in that between October 5, 2017 and March 8, 2019, Respondent Pro Stop committed acts which
10 constitute fraud by issuing electronic certificates of compliance for the vehicles set forth above in
11 Table 1 without performing bona fide inspections of the emission control devices and systems on
12 those vehicles, thereby depriving the People of the State of California of the protection afforded
13 by the Motor Vehicle Inspection Program. Complainant refers to, and by this reference
14 incorporates, the allegations set forth above in paragraphs 30 through 38, inclusive, as though set
15 forth fully herein.

16 **THIRD CAUSE FOR DISCIPLINE**

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

18 **(Automotive Repair Dealer Registration - Respondent Pro Stop)**

19 41. Respondent Pro Stop's Automotive Repair Dealer Registration is subject to
20 disciplinary action pursuant to Business and Professions Code section 9884.7, subsection (a)(6),
21 in that between October 5, 2017 and March 8, 2019, she failed in a material respect to comply
22 with the provisions of this chapter or regulations adopted pursuant to it when she issued
23 electronic certificates of compliance for the vehicles identified in Table 1 above without
24 performing bona fide inspections of the emission control devices and systems on those vehicles,
25 thereby depriving the People of the State of California of the protection afforded by the Motor
26 Vehicle Inspection Program. Complainant refers to, and by this reference incorporates, the
27 allegations set forth above in paragraphs 30 through 38, inclusive, as though set forth fully
28 herein.

1 **FOURTH CAUSE FOR DISCIPLINE**

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

3 **(Smog Check Test Only Station License - Respondent Pro Stop)**

4 42. Respondent Pro Stop's Smog Check Test Only Station License is subject to
5 disciplinary action pursuant to Health and Safety Code section 44072.2, subsection (a), in that
6 between October 5, 2017 and March 8, 2019, regarding the vehicles set forth above in Table 1,
7 Respondent Pro Stop failed to comply with the following sections of the Health and Safety Code:

8 a. **Section 44012:** Respondent Pro Stop failed to ensure that the emission control
9 tests were performed on the vehicles in accordance with procedures prescribed by the
10 department.

11 b. **Section 44015:** Respondent Pro Stop issued electronic smog certificates of
12 compliance for the vehicles identified in Table 1 above without ensuring that the vehicles were
13 properly tested and inspected to determine if they were in compliance with Health and Safety
14 Code section 44012.

15 c. **Section 44072.10, subsection (c)(2) through (c)(4):** Respondent Pro Stop issued
16 electronic smog certificates of compliance for the vehicles identified in Table 1 above by way of
17 tampering with the vehicles' emission control systems or test analyzer systems, causing them to
18 falsely pass the inspection, in intentional and willful violation of this chapter or any regulation,
19 standard, or procedure of the department implementing this chapter.

20 Complainant refers to, and by this reference incorporates, the allegations set forth above
21 in paragraphs 30 through 38, inclusive, as though set forth fully herein.

22 **FIFTH CAUSE FOR DISCIPLINE**

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

24 **(Smog Check Test Only Station License - Respondent Pro Stop)**

25 43. Respondent Pro Stop's Smog Check Test Only Station License is subject to
26 disciplinary action pursuant to Health and Safety Code section 44072.2, subsection (c), in that
27 between October 5, 2017 and March 8, 2019, regarding the vehicles set forth above in Table 1,
28

1 Respondent Pro Stop failed to comply with the following provisions of California Code of
2 Regulations, title 16, as follows:

3 a. **Section 3340.24, subsection (c):** Respondent Pro Stop fraudulently
4 issued electronic smog certificates of compliance for the vehicles identified in Table 1 above.

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

8 c. **Section 3340.41, subsection (c):** Respondent Pro Stop knowingly entered
9 false information into the emissions inspection system for the vehicles identified in Table 1.

10 d. **Section 3340.42:** Respondent Pro Stop failed to ensure that the required
11 smog tests were conducted on the vehicles identified in Table 1 above, in accordance with the
12 Bureau's specifications.

13 e. **Section 3340.45:** Respondent Pro Stop failed to perform smog check
14 inspections on the vehicles in Table 1 as prescribed in the operative Smog Check Manual.

15 Complainant refers to, and by this reference incorporates, the allegations set forth above
16 in paragraphs 30 through 38, inclusive, as though set forth fully herein.

17 **SIXTH CAUSE FOR DISCIPLINE**

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

19 **(Smog Check Test Only Station License - Respondent Pro Stop)**

20 44. Respondent Pro Stop's Smog Check Test Only Station License is subject to
21 disciplinary action pursuant to Health and Safety Code section 44072.2, subsection (d), in that
22 between October 5, 2017 and March 8, 2019, regarding the vehicles set forth above in Table 1,
23 Respondent Pro Stop committed acts involving dishonesty, fraud, or deceit whereby another was
24 injured, by issuing electronic certificates of compliance for those vehicles without performing
25 bona fide inspections of the emission control devices and systems on the vehicles, thereby
26 depriving the People of the State of California of the protection afforded by the Motor Vehicle
27 Inspection Program. Complainant refers to, and by this reference incorporates, the allegations
28 set forth above in paragraphs 30 through 38, inclusive, as though set forth fully herein.

1 **SEVENTH CAUSE FOR DISCIPLINE**

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

3 **(Smog Check Inspector License - Respondent Medina)**

4 45. Respondent Medina’s Smog Check Inspector License is subject to discipline
5 pursuant to Health and Safety Code section 44072.2, subsection (a), in that between October 5,
6 2017 and March 8, 2019, regarding vehicles nos. 1 to 13 set forth above in Table 1, Respondent
7 Medina failed to comply with section 44012 of the Health and Safety Code in a material respect,
8 as follows: Respondent Medina failed to perform the emission control tests on those 13 vehicles
9 in accordance with procedures prescribed by the department. Complainant refers to, and by this
10 reference incorporates, the allegations set forth above in paragraphs 30 through 38, inclusive, as
11 though set forth fully herein.

12 **EIGHTH CAUSE FOR DISCIPLINE**

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

14 **(Smog Check Inspector License - Respondent Medina)**

15 46. Respondent Medina’s Smog Check Inspector License is subject to discipline
16 pursuant to Health and Safety Code section 44072.2, subsection (a), in that between October 5,
17 2017 and March 8, 2019, regarding vehicles nos. 1 through 13 set forth above in Table 1,
18 Respondent Medina failed to comply with Health and Safety Code section 44072.10, subsection
19 (c)(2) through (c)(4). Specifically, Respondent Medina issued electronic smog certificates of
20 compliance for the vehicles identified in Table 1 above, by way of tampering with the vehicles’
21 emission control systems or test analyzer systems, causing them to falsely pass the inspection, in
22 intentional and willful violation of this chapter or any regulation, standard, or procedure of the
23 department implementing this chapter. Complainant refers to, and by this reference incorporates,
24 the allegations set forth above in paragraphs 30 through 38, inclusive, as though set forth fully
25 herein.

26 ///

27 ///

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

NINTH CAUSE FOR DISCIPLINE

**(Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection Program)
(Smog Check Inspector License - Respondent Medina)**

47. Respondent Medina’s Smog Check Inspector License is subject to discipline pursuant to Health and Safety Code section 44072.2, subsection (c), in that between October 5, 2017 and March 8, 2019, regarding vehicles no. 1 to 13 set forth above in Table 1, he failed to comply with provisions of California Code of Regulations, title 16, as follows:

a. **Section 3340.24, subsection (c):** Respondent Medina falsely or fraudulently issued electronic smog certificates of compliance for the vehicles identified in Table 1 above.

b. **Section 3340.30, subsection (a):** Respondent Medina failed to inspect and test the vehicles identified in Table 1 above, in accordance with Health and Safety Code sections 44012 and 44035, and California Code of Regulations, title 16, section 3340.42.

c. **Section 3340.41, subsection (c):** Respondent Medina knowingly entered false information into the emissions inspection system for the vehicles identified in Table 1 above.

d. **Section 3340.42:** Respondent Medina failed to conduct the required smog tests on the vehicles identified in Table 1 above, in accordance with the Bureau’s specifications.

e. **Section 3340.45:** Respondent Medina failed to perform smog check inspections on the vehicles in Table 1 as prescribed in the operative Smog Check Manual.

Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 30 through 38, inclusive, as though set forth fully herein.

TENTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

(Smog Check Inspector License - Respondent Medina)

48. Respondent Medina’s Smog Check Inspector License is subject to disciplinary action pursuant to Health and Safety Code section 44072.2, subsection (d), in that between October 5, 2017 and March 8, 2019, regarding vehicles nos. 1 to 13 set forth above in Table 1,

1 Respondent Medina committed acts involving dishonesty, fraud, or deceit whereby another was
2 injured by issuing electronic certificates of compliance for those vehicles without performing
3 bona fide inspections of the emission control devices and systems on the vehicles, thereby
4 depriving the People of the State of California of the protection afforded by the Motor Vehicle
5 Inspection Program. Complainant refers to, and by this reference incorporates, the allegations set
6 forth above in paragraphs 30 through 38, inclusive, as though set forth fully herein.

7 **ELEVENTH CAUSE FOR DISCIPLINE**

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

9 **(Smog Check Inspector License - Respondent Montalvo)**

10 49. Respondent Montalvo's Smog Check Inspector License is subject to discipline
11 pursuant to Health and Safety Code section 44072.2, subsection (a), in that between October 5,
12 2017 and March 8, 2019, regarding vehicle no. 14 set forth above in Table 1, Respondent
13 Montalvo failed to comply with section 44012 of the Health and Safety Code in a material
14 respect, as follows: Respondent Montalvo failed to perform the emission control test on that
15 vehicle in accordance with procedures prescribed by the department. Complainant refers to, and
16 by this reference incorporates, the allegations set forth above in paragraphs 30 through 38,
17 inclusive, as though set forth fully herein.

18 **TWELFTH CAUSE FOR DISCIPLINE**

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

20 **(Smog Check Inspector License - Respondent Montalvo)**

21 50. Respondent Montalvo's Smog Check Inspector License is subject to discipline
22 pursuant to Health and Safety Code section 44072.2, subsection (a), in that between October 5,
23 2017 and March 8, 2019, regarding vehicle no. 14 set forth above in Table 1, Respondent
24 Montalvo failed to comply with Health and Safety Code section 44072.10, subsection (c)(2)
25 through (c)(4). Specifically, Respondent Montalvo issued an electronic smog certificate of
26 compliance for vehicle no. 14 identified in Table 1 above, by way of tampering with the
27 vehicle's emission control systems or test analyzer systems, causing it to falsely pass the
28 inspection, in intentional and willful violation of this chapter or any regulation, standard, or

1 procedure of the department implementing this chapter. Complainant refers to, and by this
2 reference incorporates, the allegations set forth above in paragraphs 30 through 38, inclusive, as
3 though set forth fully herein.

4 **THIRTEENTH CAUSE FOR DISCIPLINE**

5 **(Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection Program)**
6 **(Smog Check Inspector License - Respondent Montalvo)**

7 51. Respondent Montalvo's Smog Check Inspector License is subject to discipline
8 pursuant to Health and Safety Code section 44072.2, subsection (c), in that between October 5,
9 2017 and March 8, 2019, regarding vehicle no. 14 set forth above in Table 1, he failed to comply
10 with provisions of California Code of Regulations, title 16, as follows:

11 a. **Section 3340.24, subsection (c):** Respondent Montalvo falsely or
12 fraudulently issued an electronic smog certificate of compliance for vehicle no. 14 identified in
13 Table 1 above.

14 b. **Section 3340.30, subsection (a):** Respondent Montalvo failed to inspect
15 and test vehicle no. 14 identified in Table 1 above, in accordance with Health and Safety Code
16 sections 44012 and 44035, and California Code of Regulations, title 16, section 3340.42.

17 c. **Section 3340.41, subsection (c):** Respondent Montalvo knowingly
18 entered false information into the emissions inspection system for vehicle no. 14 identified in
19 Table 1 above.

20 d. **Section 3340.42:** Respondent Montalvo failed to conduct the required
21 smog test on vehicle no. 14 identified in Table 1 above, in accordance with the Bureau's
22 specifications.

23 e. **Section 3340.45:** Respondent Montalvo failed to perform smog check
24 inspection on vehicle no. 14 in Table 1 as prescribed in the operative Smog Check Manual.

25 Complainant refers to, and by this reference incorporates, the allegations set forth above in
26 paragraphs 30 through 38, inclusive, as though set forth fully herein.

27 ///

28 ///

1 **FOURTEENTH CAUSE FOR DISCIPLINE**

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

3 **(Smog Check Inspector License - Respondent Montalvo)**

4 52. Respondent Montalvo’s Smog Check Inspector License is subject to disciplinary
5 action pursuant to Health and Safety Code section 44072.2, subsection (d), in that between
6 October 5, 2017 and March 8, 2019, regarding vehicle no. 14 set forth above in Table 1,
7 Respondent Montalvo committed acts involving dishonesty, fraud, or deceit whereby another
8 was injured by issuing an electronic certificate of compliance for vehicle no. 14 without
9 performing bona fide inspections of the emission control devices and systems on the vehicle,
10 thereby depriving the People of the State of California of the protection afforded by the Motor
11 Vehicle Inspection Program. Complainant refers to, and by this reference incorporates, the
12 allegations set forth above in paragraphs 30 through 38, inclusive, as though set forth fully
13 herein.

14 **FIFTEENTH CAUSE FOR DISCIPLINE**

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

16 **(Smog Check Inspector License - Respondent Vogt)**

17 53. Respondent Vogt’s Smog Check Inspector License is subject to discipline
18 pursuant to Health and Safety Code section 44072.2, subsection (a), in that between October 5,
19 2017 and March 8, 2019, regarding vehicle no. 15 set forth above in Table 1, Respondent Vogt
20 failed to comply with section 44012 of the Health and Safety Code in a material respect, as
21 follows: Respondent Vogt failed to perform the emission control test on that vehicle in
22 accordance with procedures prescribed by the department. Complainant refers to, and by this
23 reference incorporates, the allegations set forth above in paragraphs 30 through 38, inclusive, as
24 though set forth fully herein.

25 ///

26 ///

27 ///

28 ///

1 4. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of
2 Division 26 of the Health and Safety Code in the name of Respondent Pro Stop, including but not
3 limited to Smog Check, Test Only, Station License Number TC 277850;

4 5. Revoking or suspending Smog Check Inspector License Number EO 638274,
5 issued to Respondent Alberto Medina;

6 6. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of
7 Division 26 of the Health and Safety Code in the name of Respondent Alberto Medina;

8 7. Revoking or suspending Smog Check Inspector License Number EO 637604,
9 issued to Respondent Magaly Montalvo;

10 8. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of
11 Division 26 of the Health and Safety Code in the name of Respondent Magaly Montalvo;

12 9. Revoking or suspending Smog Check Inspector License Number EO 638430,
13 issued to Respondent Reubin Dean Vogt;

14 10. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of
15 Division 26 of the Health and Safety Code in the name of Respondent Reubin Dean Vogt;

16 11. Ordering Respondents Cande Diaz – President/Secretary/Treasurer, Rise to
17 Success, Inc. dba Pro Stop Test Only, Alberto Medina, Magaly Montalvo, and Reubin Dean
18 Vogt to pay the Bureau of Automotive Repair the reasonable costs of the investigation and
19 enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

20 12. Taking such other and further action as deemed necessary and proper.

21
22 DATED: February 7, 2020

/S/

PATRICK DORAIS

Chief

Bureau of Automotive Repair

Department of Consumer Affairs

State of California

Complainant

23
24
25
26
27 LA2019503927
54104892.docx