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7

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

12 In the Matter of the Accusation Against:

Case No. 79/18-12149

13 **TERESA GOMEZ,**
14 **dba SIERRA MADRE TEST ONLY**
18689 Valley Blvd.
Bloomington, CA 92316

A C C U S A T I O N

15 Mailing Address:
16 201 W. Vonkoevering Ave.
Rialto, CA 92376

17 **Automotive Repair Dealer Registration No.**
18 **ARD 285983**
19 **Smog Check, Test Only, Station License No.**
TC 285983,

20 **and**

21 **REYES MORENO**
3820 Vermont Street
22 San Bernardino, CA 92407

23 **Smog Check Inspector License No. EO**
24 **640378**

25 Respondents.

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1 **PARTIES**

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

4 2. On or about February 7, 2017, the Bureau of Automotive Repair issued Automotive
5 Repair Dealer Registration Number ARD 285983 to Teresa Gomez, dba Sierra Madre Test Only
6 (“Respondent Sierra Madre Test Only”). The Automotive Repair Dealer Registration was in full
7 force and effect at all times relevant to the charges brought herein and will expire on February 29,
8 2020, unless renewed.

9 3. On or about February 16, 2017, the Bureau of Automotive Repair issued Smog
10 Check, Test Only, Station License Number TC 285983 to Respondent Sierra Madre Test Only.
11 The Smog Check, Test Only, Station License was in full force and effect at all times relevant to
12 the charges brought herein and will expire on February 29, 2020, unless renewed.

13 4. On or about June 29, 2017, the Bureau of Automotive Repair issued Smog Check
14 Inspector License Number EO 640378 to Reyes Moreno (“Respondent Moreno”). The Smog
15 Check Inspector License was in full force and effect at all times relevant to the charges brought
16 herein. The license expired on July 31, 2019, and has not been renewed.

17 5. On or about April 21, 2017, the Bureau of Automotive Repair certified Respondent
18 Sierra Madre Test Only as a STAR station. The STAR certification remains active unless the
19 Automotive Repair Dealer registration and/or Smog Check, Test Only, Station License is
20 revoked, cancelled, licenses become delinquent or certification is invalidated.

21 **JURISDICTION**

22 6. This Accusation is brought before the Director of the Department of Consumer
23 Affairs (Director) for the Bureau of Automotive Repair, under the authority of the following laws.

24 **STATUTORY PROVISIONS**

25 7. Section¹ 118, subdivision (b), of the Code provides that the
26 suspension/expiration/surrender/cancellation of a license shall not deprive the

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28 ¹ All section references are to the Business and Professions Code, unless otherwise indicated.

1 Board/Registrar/Director of jurisdiction to proceed with a disciplinary action during the
2 period within which the license may be renewed, restored, reissued or reinstated.

3 8. Section 477 of the Code provides, in pertinent part, that “Board” includes “bureau,”
4 “commission,” “committee,” “department,” “division,” “examining committee,” “program,” and
5 “agency.” “License” includes certificate, registration or other means to engage in a business or
6 profession regulated by the Code.

7 9. Section 9884.7 of the Code states:

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

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

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

20 (3) Failing or refusing to give to a customer a copy of any document requiring
21 his or her signature, as soon as the customer signs the document.

22 (4) Any other conduct which constitutes fraud.

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

26 10. Section 9884.8 of the Code states:

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

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1 11. Section **9884.9, subdivision (a)** of the Code states:

2 (a) The automotive repair dealer shall give to the customer a written estimated
3 price for labor and parts necessary for a specific job, except as provided in
4 subdivision (e). No work shall be done and no charges shall accrue before
5 authorization to proceed is obtained from the customer. No charge shall be made for
6 work done or parts supplied in excess of the estimated price, or the posted price
7 specified in subdivision (e), without the oral or written consent of the customer that
8 shall be obtained at some time after it is determined that the estimated or posted price
9 is insufficient and before the work not estimated or posted is done or the parts not
10 estimated or posted are supplied. Written consent or authorization for an increase in
11 the original estimated or posted price may be provided by electronic mail or facsimile
12 transmission from the customer. The bureau may specify in regulation the procedures
13 to be followed by an automotive repair dealer if an authorization or consent for an
14 increase in the original estimated price is provided by electronic mail or facsimile
15 transmission. If that consent is oral, the dealer shall make a notation on the work
16 order of the date, time, name of person authorizing the additional repairs, and
17 telephone number called, if any, together with a specification of the additional parts
18 and labor and the total additional cost, and shall do either of the following:

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

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

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

_____	(signature or initials)"

19
20 Nothing in this section shall be construed as requiring an automotive repair dealer to
21 give a written estimated price if the dealer does not agree to perform the requested
22 repair.

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

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1 13. Section **9889.22** of the Code states:

2 The willful making of any false statement or entry with regard to a material matter in
3 any oath, affidavit, certificate of compliance or noncompliance, or application form
4 which is required by this chapter or Chapter 5 (commencing with Section 44000) of
5 Part 5 of Division 26 of the Health and Safety Code constitutes perjury and is
6 punishable as provided in the Penal Code.

7 14. Section **17200** of the Code states:

8 As used in this chapter, unfair competition shall mean and include any unlawful,
9 unfair or fraudulent business act or practice and unfair, deceptive, untrue or
10 misleading advertising and any act prohibited by Chapter 1 (commencing with
11 Section 17500) of Part 3 of Division 7 of the Business and Professions Code.

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

15 16. Health and Safety Code section **44012** states, in pertinent part:

16 The test at the smog check stations shall be performed in accordance with
17 procedures prescribed by the department and may require loaded mode
18 dynamometer testing in enhanced areas, two-speed idle testing, testing utilizing a
19 vehicle's onboard diagnostic system, or other appropriate test procedures as
20 determined by the department in consultation with the state board. The department
21 shall implement testing using onboard diagnostic systems, in lieu of loaded mode
22 dynamometer or two-speed idle testing, on model year 2000 and newer vehicles
23 only, beginning no earlier than January 1, 2013. However, the department, in
24 consultation with the state board, may prescribe alternative test procedures that
25 include loaded mode dynamometer or two-speed idle testing for vehicles with
26 onboard diagnostic systems that the department and the state board determine
27 exhibit operational problems. The department shall ensure, as appropriate to the test
28 method, the following:

 (a) Emission control systems required by state and federal law are reducing
 excess emissions in accordance with the standards adopted pursuant to subdivisions
 (a) and (c) of Section 44013.

 (f) A visual or functional check is made of emission control devices specified
 by the department, including the catalytic converter in those instances in which the
 department determines it to be necessary to meet the findings of Section 44001.
 The visual or functional check shall be performed in accordance with procedures
 prescribed by the department.

 17. Health and Safety Code Section **44015** states, in pertinent part:

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

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18. Health and Safety Code Section **44032** states, in pertinent part:

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

19. Health and Safety Code Section **44059** states:

The willful making of any false statement or entry with regard to a material matter in any oath, affidavit, certificate of compliance or noncompliance, or application form which is required by this chapter or Chapter 20.3 (commencing with Section 9880) of Division 3 of the Business and Professions Code, constitutes perjury and is punishable as provided in the Penal Code.

20. Health and Safety Code section **44072.2** 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 Safety 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.

....

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

21. Health and Safety Code section **44072.6** 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.

22. Health and Safety Code section **44072.8** states:

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

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1 **REGULATORY PROVISIONS**

2 23. California Code of Regulations, title 16, section **3340.30**, states:

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

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

8 24. California Code of Regulations, title 16, section **3340.35, subdivision (c)**, states:

9

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

15 (1) Customers shall be charged the same price for certificates as that paid by
16 the licensed station; and

17 (2) Sales tax shall not be assessed on the price of certificates.

18 25. California Code of Regulations, title 16, section **3340.41, subdivision (c)**, states:

19

20 (c) No person shall enter into the BAR-97 Emissions Inspection System or the
21 OBD Inspection System any vehicle identification information or emission control
22 system identification data for any vehicle other than the one being tested. Nor shall
23 any person knowingly enter into the BAR-97 Emissions Inspection System or the
24 OBD Inspection System any false information about the vehicle being tested.

25 26. California Code of Regulations, title 16, section **3340.42**, states:

26 Smog check inspection methods are prescribed in the Smog Check Manual,
27 referenced by section 3340.45.

28 (a) All vehicles subject to a smog check inspection, shall receive one of the
following test methods:

(1) A loaded-mode test shall be the test method used to inspect 1976 - 1999
model-year vehicle, except diesel-powered, registered in the enhanced program areas
of the state. The loaded-mode test shall measure hydrocarbon, carbon monoxide,
carbon dioxide and oxides of nitrogen emissions, as contained in the bureau's
specifications referenced in subsection (a) of Section 3340.17 of this article. The
loaded-mode test shall use Acceleration Simulation Mode (ASM) test equipment,
including a chassis dynamometer, certified by the bureau.

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1 On and after March 31, 2010, exhaust emissions from a vehicle subject to this
2 inspection shall be measured and compared to the emissions standards shown in the
3 Vehicle Look-up Table (VLT) Row Specific Emissions Standards (Cutpoints) Table,
4 dated March 2010, which is hereby incorporated by reference. If the emissions
5 standards for a specific vehicle are not included in this table then the exhaust
6 emissions shall be compared to the emissions standards set forth in TABLE I or
7 TABLE II, as applicable. A vehicle passes the loaded-mode test if all of its measured
8 emissions are less than or equal to the applicable emission standards specified in the
9 applicable table.

10 (2) A two-speed idle mode test shall be the test method used to inspect 1976 -
11 1999 model-year vehicles, except diesel-powered, registered in all program areas of
12 the state, except in those areas of the state where the enhanced program has been
13 implemented. The two-speed idle mode test shall measure hydrocarbon, carbon
14 monoxide and carbon dioxide emissions at high RPM and again at idle RPM, as
15 contained in the bureau's specifications referenced in subsection (a) of Section
16 3340.17 of this article. Exhaust emissions from a vehicle subject to this inspection
17 shall be measured and compared to the emission standards set forth in this section
18 and as shown in Table III. A vehicle passes the two-speed idle mode test if all of its
19 measured emissions are less than or equal to the applicable emissions standards
20 specified in Table III.

21 (3) An OBD-focused test, shall be the test method used to inspect gasoline-
22 powered vehicles 2000 model-year and newer, and diesel-powered vehicles 1998
23 model-year and newer. The OBD test failure criteria are specified in section
24 3340.42.2.

25 (b) In addition to subsection (a), all vehicles subject to the smog check program
26 shall receive the following:

27 (1) A visual inspection of emission control components and systems to verify
28 the vehicle's emission control systems are properly installed.

(2) A functional inspection of emission control systems as specified in the Smog
Check Manual, referenced by section 3340.45, which may include an OBD test, to
verify their proper operation.

(c) The bureau may require any combination of the inspection methods in
sections (a) and (b) under any of the following circumstances:

(1) Vehicles that the department randomly selects pursuant to Health and Safety
Code section 44014.7 as a means of identifying potential operational problems with
vehicle OBD systems.

(2) Vehicles identified by the bureau as being operationally or physically
incompatible with inspection equipment.

(3) Vehicles with OBD systems that have demonstrated operational problems.

(d) Pursuant to section 39032.5 of the Health and Safety Code, gross polluter
standards are as follows:

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1 (1) A gross polluter means a vehicle with excess hydrocarbon, carbon
2 monoxide, or oxides of nitrogen emissions pursuant to the gross polluter emissions
standards included in the tables described in subsection (a), as applicable.

3 (2) Vehicles with emission levels exceeding the emission standards for gross
4 polluters during an initial inspection will be considered gross polluters and the
5 provisions pertaining to gross polluting vehicles will apply, including, but not limited
to, sections 44014.5, 44015, and 44081 of the Health and Safety Code.

6 (3) A gross polluting vehicle shall not be passed or issued a certificate of
7 compliance until the vehicle's emissions are reduced to or below the applicable
8 emissions standards for the vehicle included in the tables described in subsection (a),
as applicable. However, the provisions described in section 44017 of the Health and
Safety Code may apply.

9 (4) This subsection applies in all program areas statewide to vehicles requiring
inspection pursuant to sections 44005 and 44011 of the Health and Safety Code.

10 27. California Code of Regulations, title 16, section **3340.45**, states:

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

13 (1) Smog Check Inspection Procedures Manual, dated August 2009, which is
14 hereby incorporated by reference. This manual shall be in effect until subparagraph
15 (2) is implemented.

16 (2) Smog Check Manual, dated 2013, which is hereby incorporated by
17 reference. This manual shall become effective on or after January 1, 2013.”

18 28. California Code of Regulations, title 16, section **3353, subdivision (a)**, states:
19 An estimate shall be provided to and authorized by the customer before any work
20 commences. The estimate shall meet the requirements of Business and Professions
21 Code section 9884.9 as well as the following:

22 (a) Estimate for Parts and Labor. Every automotive repair dealer shall give to
23 each customer an estimate containing the estimated price for parts and labor for a
24 specific job prior to obtaining authorization. Each part listed in the estimate shall be
25 new unless specifically identified as a used, rebuilt, or reconditioned part.

26 29. California Code of Regulations, title 16, section **3356, subdivision (j)**, states:

27 (j) The automotive repair dealer shall give the customer a legible copy of the invoice.

28 30. California Code of Regulations, title 16, section **3373**, states:

“No automotive repair dealer or individual in charge shall, in filling out an estimate,
invoice, or work order, or record required to be maintained by section 3340.15(e) of this chapter,
withhold therefrom or insert therein any statement or information which will cause any such

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1 document to be false or misleading, or where the tendency or effect thereby would be to mislead
2 or deceive customers, prospective customers, or the public.”

3 COST RECOVERY

4 31. Section 125.3 of the Code provides, in pertinent part, that a Board may request the
5 administrative law judge to direct a licentiate found to have committed a violation or violations of
6 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
7 enforcement of the case.

8 FACTUAL ALLEGATIONS: CLEAN GASSING

9 32. Based on a review of confidential Smog Check data, the Bureau initiated an
10 investigation of the Smog Check activities of Sierra Madre Test Only. A Bureau representative
11 conducted a detailed review of second-by-second emissions test data for Smog Check inspections
12 performed at Respondent Sierra Madre Test Only. The review showed a pattern of gas readings
13 consistent with “clean gassing.”²

14 Smog Check Program Background

15 33. California’s Smog Check Program requires the owners of most motor vehicles in the
16 Enhanced and Basic areas of the State subject their vehicles to and pass a Smog Check inspection
17 and receive a Certificate of Compliance every two years when renewing their registration and
18 also when the vehicle’s title is transferred. These inspections are performed by Smog Check
19 inspectors at Smog Check Stations, both of which are licensed by the Bureau. The Smog Check
20 Program is designed and intended to reduce air pollution by identifying and requiring the repair of
21 polluting vehicles.

22 34. The Smog Check inspection in certain Enhanced areas of the State is an Acceleration
23 Simulation Mode (“ASM”) test performed using an Emission Inspection System (“EIS”), also
24 known as BAR 97. This is a computer-based five-gas analyzer that measures hydrocarbons,
25 carbon monoxide, oxides of nitrogen, carbon dioxide, and oxygen. The first part of the test is a

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27 ² “Clean gassing” is a method by which a surrogate gas is introduced into the Emission
28 Inspection System (“EIS”) so that the EIS will measure the surrogate gas, or a mixture of the
surrogate gas and exhaust emissions, and issue a passing result based on those readings rather
than the actual vehicle emissions.

1 loaded mode test of the vehicle's tailpipe emissions on a dynamometer. This puts the vehicle's
2 drive wheels on rollers and the vehicle is driven at speeds of fifteen and twenty-five miles per
3 hour to simulate driving conditions while the emissions are sampled by the EIS.

4 35. In basic areas, or depending on a vehicle's configuration (all-wheel drive, traction
5 control issue), a similar test called a Two Speed Idle (TSI) test is performed, but instead of
6 applying a load to the vehicle's drive wheels with a dynamometer, the EIS measures the
7 emissions of hydrocarbons, carbon monoxide, carbon dioxide, and oxygen at idle as well as 2,500
8 revolutions per minute ("RPM").

9 36. The inspector also performs visual and functional tests on the vehicle as outlined in
10 the Smog Check Manual. The visual inspection of the emission control components verifies the
11 required emission control devices are present and properly connected. Functional tests are also
12 performed which, depending on the vehicle, may include checking the ignition timing,
13 malfunction indicator light ("MIL"), Exhaust Gas Recirculation ("EGR") system, a low pressure
14 test of the evaporative emissions controls ("LPFET"), a visible smoke test, and a pressure test of
15 the gas cap.

16 37. An On-Board Diagnostics ("OBDII") functional test is also performed on most 1996
17 to 1999 model year vehicles. The inspector is required to connect a test cable from the EIS to the
18 Diagnostic Link Connector ("DLC") which is located in the vehicle's passenger compartment.
19 Through the DLC, the EIS retrieves information from the vehicle's on-board computer about its
20 ability to communicate, the status of the I/M readiness monitors and the MIL light command, as
21 well as diagnostic trouble codes ("DTC"). The I/M readiness monitors tell whether the OBDII
22 system has run a sufficient number of self-tests on the vehicle's emission and engine control
23 systems. A failure of one or more of the OBDII functional criteria, depending on model year,
24 will result in the vehicle failing its Smog Check Inspection. In addition to reporting the outcome
25 of the OBDII functional test, the Smog Check inspection results also show DTCs if there are any
26 in the vehicle's on-board computer memory.

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1 38. The inspector enters the results of the visual and functional inspections into the EIS.
2 The EIS unit makes the determination whether the vehicle passes the inspection based on the
3 results of the tailpipe, visual and functional tests.

4 39. The EIS is connected by telephone modem to the Bureau's Vehicle Information
5 Database ("VID"), which is maintained by a state contractor. If the vehicle passes the visual,
6 functional and tailpipe tests, it passes the overall inspection and a Certificate of Compliance is
7 issued and transmitted electronically to the VID. Additionally, all data gathered during a Smog
8 Check inspection, regardless of the type of inspection, is transmitted to and retained in the VID.

9 40. Beginning on March 9, 2015, California's Smog Check Program was updated to keep
10 pace with ever advancing technology. The program update requires the use of an On-Board
11 Diagnostic Inspection System ("BAR-OIS"). The BAR-OIS is the Smog Check equipment
12 required in all areas of the State when inspecting most model-year 2000 and newer gasoline and
13 hybrid vehicles and 1998 and newer diesel vehicles subject to the program. The system consists
14 of a certified Data Acquisition Device ("DAD"), computer, bar code scanner, and printer. The
15 DAD is an On-Board Diagnostic ("OBD") scan tool that, when requested by the California BAR-
16 OIS software, retrieves OBD data from the vehicle. All OBD data that the vehicle indicates it
17 supports is requested by the California BAR-OIS software and will be retrieved. Sensitive data,
18 such as vehicle location ("GPS") and accident-related information (air bag deployment), is not
19 retrieved. The DAD connects between the BAR-OIS computer and the vehicle's DLC. The
20 DAD is the only BAR-certified component of the BAR-OIS. The California BAR-OIS software
21 requires a continuous internet connection when performing a Smog Check inspection. The BAR-
22 OIS uses the California BAR-OIS software to communicate with the CID through the internet
23 connection. The bar code scanner is used to input inspector information, the vehicle
24 identification number ("VIN"), and Department of Motor Vehicles ("DMV") renewal
25 information. The printer provides a Vehicle Inspection Report ("VIR") containing inspection
26 results for motorists and a Smog Check Certificate of Compliance number for passing vehicles.

27 41. As with the EIS, inspectors also perform a visual and functional test on the vehicle.
28 The visual inspection of the emission control components verifies the required emission control

1 devices are present and properly connected, and a functional test is performed of the MIL. The
2 BAR-OIS software makes the determination whether the vehicle passes the inspection based on
3 the results of the OBD, visual and functional tests.

4 42. The EIS or BAR-OIS, depending on the test type, prints a VIR, which is a physical
5 record of the test results and shows the Certificate of Compliance number that was issued if the
6 vehicle passed the Smog Check inspection. The Smog Check inspector must sign the VIR to
7 indicate that the inspection was performed within Bureau guidelines. Licensed Smog Check
8 inspectors are the only persons authorized by the Bureau to perform official inspections. They
9 are issued a license and a personal access code which are used to gain access to the EIS and used
10 to set up a username and password within the BAR-OIS to perform Smog Check inspections.
11 Unauthorized use of another inspector's license, access code, or username and password is
12 prohibited.

13 43. The VID contains registration data from DMV plus emission standards, vehicle Smog
14 Check inspections, smog check stations and inspectors, and Certificates of Compliance. The VID
15 has an internal clock that is set to Pacific Standard Time and records the time and date for each
16 inspection. Each Certificate of Compliance has a unique control number so that it can be tracked
17 to determine which Smog Check Station purchased the Certificate of Compliance and to which
18 vehicle it was issued. The VID receives the Smog Check results immediately following the
19 inspection. The Bureau can access the VID to view test data on Smog Check inspections
20 performed at any Smog Check Station, or search for, retrieve, and print a test record for a
21 particular vehicle which has been tested. If a vehicle passes the Smog Inspection, the vehicle
22 information and test results are electronically transmitted to DMV.

23 Bureau Investigation of Respondent Sierra Madre Test Only

24 44. The Bureau's review of the Smog Check activities at Respondent Sierra Madre Test
25 Only confirmed eleven (11) Smog Check Certificates of Compliance were fraudulently issued
26 using the clean gassing method, as follows:

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1 a. Clean Gas Vehicle No. 1

2 BAR 97 Test Data from the VID indicates that on March 20, 2018 at 11:04:51 am, a 1985
3 Oldsmobile Ninety-Eight Regency, VIN 1G3CW6935F1328903, California license number
4 2BOU145, was tested and smog certificate number HP990849C was issued under licensed Smog
5 Check Technician, license number EO640378, issued to Respondent Moreno. The Bureau's
6 review included an analysis of the second-by-second pollutant concentrations measured during
7 the exhaust gas measurement portion of the Smog Check inspection.

8 The Bureau's analysis of the second-by-second data from the subject test identified two or
9 more sharp, simultaneous drops and at least one sharp, simultaneous rise in the concentrations of
10 nitrogen oxides, carbon monoxide, and/or hydrocarbons. In particular, the Bureau investigator
11 noted that all three pollutants began to drop at or about second 60, which was during a period of
12 steady state vehicle speed and began to rise toward prior levels at or about second 73. A second
13 drop occurred at or about second 95. This pattern is highly irregular and unexpected in a normal
14 Smog Check.

15 b. Clean Gas Vehicle No. 2

16 BAR 97 Test Data from the VID indicates that on March 21, 2018 at 12:19:30 pm, a 1998
17 Toyota Rav4, VIN JT3GP10V5W7028621, California license number 4AUL380, was tested and
18 smog certificate number HR143856C, was issued under licensed Smog Check Technician, license
19 number EO640378, issued to Respondent Moreno. The Bureau's review included an analysis of
20 the second-by-second pollutant concentrations measured during the exhaust gas measurement
21 portion of the Smog Check inspection.

22 The Bureau's analysis of the second-by-second data from the subject test identified two or
23 more sharp, simultaneous drops and at least one sharp, simultaneous rise in the concentrations of
24 nitrogen oxides, carbon monoxide, and/or hydrocarbons. In particular, the Bureau investigator
25 noted that all three pollutants began to drop at or about second 40, which was during a period of
26 steady state vehicle speed and began to rise toward prior levels at or about second 49. A second
27 drop occurred at or about second 79. This pattern is highly irregular and unexpected in a normal
28 Smog Check.

1 c. Clean Gas Vehicle No. 3

2 BAR 97 Test Data from the VID indicates that on March 28, 2018, at 3:09:11 pm, a 1994
3 Honda Accord, VIN 1HGCD7232RA041966, California license number 4WMM376, was tested
4 and smog certificate number HR143888C was issued under licensed Smog Check Technician,
5 license number EO640378, issued to Respondent Moreno. The Bureau's review included an
6 analysis of the second-by-second pollutant concentrations measured during the exhaust gas
7 measurement portion of the Smog Check inspection.

8 The Bureau's analysis of the second-by-second data from the subject test identified two or
9 more sharp, simultaneous drops and at least one sharp, simultaneous rise in the concentrations of
10 nitrogen oxides, carbon monoxide, and/or hydrocarbons. In particular, the Bureau investigator
11 noted that all three pollutants began to drop at or about second 33, which was during a period of
12 steady state vehicle speed and began to rise toward prior levels at or about second 45. A second
13 drop occurred at or about second 74. This pattern is highly irregular and unexpected in a normal
14 Smog Check.

15 d. Clean Gas Vehicle No. 4

16 BAR 97 Test Data from the VID indicates that on April 13, 2018, at 3:01:13 pm, a 1996
17 Honda Civic, VIN 1HGEJ814XTL041744, California license number 7DWB512, was tested and
18 smog certificate number HR457847C was issued under licensed Smog Check Technician, license
19 number EO640378, issued to Respondent Moreno. The Bureau's review included an analysis of
20 the second-by-second pollutant concentrations measured during the exhaust gas measurement
21 portion of the Smog Check inspection.

22 The Bureau's analysis of the second-by-second data from the subject test identified two or
23 more sharp, simultaneous drops and at least one sharp, simultaneous rise in the concentrations of
24 nitrogen oxides, carbon monoxide, and/or hydrocarbons. In particular, the Bureau investigator
25 noted that all three pollutants began to drop at or about second 40, which was during a period of
26 steady state vehicle speed and began to rise toward prior levels at or about second 54. A second
27 drop occurred at or about second 83. This pattern is highly irregular and unexpected in a normal
28 Smog Check.

1 e. Clean Gas Vehicle No. 5

2 BAR 97 Test Data from the VID indicates that on May 2, 2018, at 3:02:29 pm, a 1993
3 Dodge B250 Wagon, VIN 2B4HB25Y4PK519520, California license number 3EIC841, was
4 tested and smog certificate number HR799893C was issued under licensed Smog Check
5 Technician, license number EO640378, issued to Respondent Moreno. The Bureau's review
6 included an analysis of the second-by-second pollutant concentrations measured during the
7 exhaust gas measurement portion of the Smog Check inspection.

8 The Bureau's analysis of the second-by-second data from the subject test identified two or
9 more sharp, simultaneous drops and at least one sharp, simultaneous rise in the concentrations of
10 nitrogen oxides, carbon monoxide, and/or hydrocarbons. In particular, the Bureau investigator
11 noted that all three pollutants began to drop at or about second 33, which was during a period of
12 steady state vehicle speed and began to rise toward prior levels at or about second 45. A second
13 drop occurred at or about second 70. This pattern is highly irregular and unexpected in a normal
14 Smog Check.

15 f. Clean Gas Vehicle No. 6

16 BAR 97 Test Data from the VID indicates that on May 18, 2018, at 12:44:14 pm, a 1991
17 Toyota Camry, VIN 4T1SV21E7MU300435, California license number 6YFG673, was tested
18 and smog certificate number HT462431C was issued under licensed Smog Check Technician,
19 license number EO640378, issued to Respondent Moreno. The Bureau's review included an
20 analysis of the second-by-second pollutant concentrations measured during the exhaust gas
21 measurement portion of the Smog Check inspection.

22 The Bureau's analysis of the second-by-second data from the subject test identified two or
23 more sharp, simultaneous drops and at least one sharp, simultaneous rise in the concentrations of
24 nitrogen oxides, carbon monoxide, and/or hydrocarbons. In particular, the Bureau investigator
25 noted that all three pollutants began to drop at or about second 33, which was during a period of
26 steady state vehicle speed and began to rise toward prior levels at or about second 44. A second
27 drop occurred at or about second 96. This pattern is highly irregular and unexpected in a normal
28 Smog Check.

1 g. Clean Gas Vehicle No. 7

2 BAR 97 Test Data from the VID indicates that on May 19, 2018, at 2:02:45 pm, a 1994
3 Chevrolet C1500 Blazer, VIN 1GNEK18K5RJ372282, California license number 7TIX490, was
4 tested and smog certificate number HT462435C was issued under licensed Smog Check
5 Technician, license number EO640378, issued to Respondent Moreno. The Bureau's review
6 included an analysis of the second-by-second pollutant concentrations measured during the
7 exhaust gas measurement portion of the Smog Check inspection.

8 The Bureau's analysis of the second-by-second data from the subject test identified two or
9 more sharp, simultaneous drops and at least one sharp, simultaneous rise in the concentrations of
10 nitrogen oxides, carbon monoxide, and/or hydrocarbons. In particular, the Bureau investigator
11 noted that all three pollutants began to drop at or about second 30, which was during a period of
12 steady state vehicle speed and began to rise toward prior levels at or about second 43. A second
13 drop occurred at or about second 69. This pattern is highly irregular and unexpected in a normal
14 Smog Check.

15 h. Clean Gas Vehicle No. 8

16 BAR 97 Test Data from the VID indicates that on May 23, 2018, at 11:16:03 am, a 1999
17 Nissan Altima, VIN 1N4DL01D0XC205035, California license number 7TDV619, was tested
18 and smog certificate number HT462445C was issued under licensed Smog Check Technician,
19 license number EO640378, issued to Respondent Moreno. The Bureau's review included an
20 analysis of the second-by-second pollutant concentrations measured during the exhaust gas
21 measurement portion of the Smog Check inspection.

22 The Bureau's analysis of the second-by-second data from the subject test identified two or
23 more sharp, simultaneous drops and at least one sharp, simultaneous rise in the concentrations of
24 nitrogen oxides, carbon monoxide, and/or hydrocarbons. In particular, the Bureau investigator
25 noted that all three pollutants began to drop at or about second 37, which was during a period of
26 steady state vehicle speed and began to rise toward prior levels at or about second 52. A second
27 drop occurred at or about second 79. This pattern is highly irregular and unexpected in a normal
28 Smog Check.

1 i. Clean Gas Vehicle No. 9

2 BAR 97 Test Data from the VID indicates that on September 6, 2018, at 2:42:47 pm, a
3 1994 Ford Mustang Convertible, VIN 1FALP444XRF143700, California license number
4 6DVZ105, was tested and smog certificate number QO139109C was issued under licensed Smog
5 Check Technician, license number EO640378, issued to Respondent Moreno. The Bureau's
6 review included an analysis of the second-by-second pollutant concentrations measured during
7 the exhaust gas measurement portion of the Smog Check inspection.

8 The Bureau's analysis of the second-by-second data from the subject test identified two or
9 more sharp, simultaneous drops and at least one sharp, simultaneous rise in the concentrations of
10 nitrogen oxides, carbon monoxide, and/or hydrocarbons. In particular, the Bureau investigator
11 noted that all three pollutants began to drop at or about second 50, which was during a period of
12 steady state vehicle speed and began to rise toward prior levels at or about second 67. A second
13 drop occurred at or about second 97. This pattern is highly irregular and unexpected in a normal
14 Smog Check.

15 j. Clean Gas Vehicle No. 10

16 BAR 97 Test Data from the VID indicates that on January 25, 2019, at 11:18:45 am, a
17 1989 Toyota Pickup, VIN JT4RN81P2K0006453, California license number 112HUIJ, was tested
18 and smog certificate number HZ864540C was issued under licensed Smog Check Technician,
19 license number EO640378, issued to Respondent Moreno. The Bureau's review included an
20 analysis of the second-by-second pollutant concentrations measured during the exhaust gas
21 measurement portion of the Smog Check inspection.

22 The Bureau's analysis of the second-by-second data from the subject test identified two or
23 more sharp, simultaneous drops and at least one sharp, simultaneous rise in the concentrations of
24 nitrogen oxides, carbon monoxide, and/or hydrocarbons. In particular, the Bureau investigator
25 noted that all three pollutants began to drop at or about second 34, which was during a period of
26 steady state vehicle speed and began to rise toward prior levels at or about second 57. A second
27 drop occurred at or about second 107. This pattern is highly irregular and unexpected in a normal
28 Smog Check.

1 k. Clean Gas Vehicle No. 11

2 BAR 97 Test Data from the VID indicates that on March 19, 2019, at 12:24:52 pm, a 1983
3 Chevrolet El Camino, VIN 1GTCW80A7DR501455, California license number 2H92472, was
4 tested and smog certificate number ID529333C was issued under licensed Smog Check
5 Technician, license number EO640378, issued to Respondent Moreno. The Bureau's review
6 included an analysis of the second-by-second pollutant concentrations measured during the
7 exhaust gas measurement portion of the Smog Check inspection.

8 The Bureau's analysis of the second-by-second data from the subject test identified two or
9 more sharp, simultaneous drops and at least one sharp, simultaneous rise in the concentrations of
10 nitrogen oxides, carbon monoxide, and/or hydrocarbons. In particular, the Bureau investigator
11 noted that all three pollutants began to drop at or about second 70, which was during a period of
12 steady state vehicle speed and began to rise toward prior levels at or about second 94. A second
13 drop occurred at or about second 130. This pattern is highly irregular and unexpected in a normal
14 Smog Check.

15 45. The Bureau's analysis determined that there is no plausible explanation other than
16 clean gassing that can explain the highly irregular gas profiles of the fifteen subject passing Smog
17 Check tests by Respondents Moreno and Sierra Madre Test Only.

18 **FACTUAL ALLEGATIONS: UNDERCOVER OPERATION 1**

19 **(September 7, 2018)**

20 46. In August of 2018, a 1996 Lexus (1996 Lexus) vehicle was heavily modified by the
21 Bureau and documented in order to fail the visual portion of a smog check. Three (3) catalytic
22 converters were removed from the 1996 Lexus and instead three (3) catalytic converter housings
23 that had the internal catalyst substrates removed were installed. Additionally, a sensor's operation
24 was modified by having two (2) non-approved add-on spacers between the secondary Heated
25 Oxygen (HO₂) sensor and where the sensor actually mount. The vehicle was prepared and
26 documented to represent an operational vehicle, which in this condition would not, nor should
27 not, pass a properly performed visual or the tailpipe emissions portions of the smog check
28 inspection.

1 47. On or about August 29, 2018, an investigator from the Bureau drove the modified
2 1996 Lexus to Respondent Sierra Madre Test Only. When the Bureau investigator arrived at
3 Respondent Sierra Madre Test Only, an unidentified male greeted him. After a brief discussion,
4 the unidentified male instructed the Bureau investigator to pull the vehicle into the testing bay
5 area. At this point, Respondent Moreno arrived at Respondent Sierra Madre Test Only. The
6 unidentified male provided the Bureau investigator with a clipboard and instructions to fill in the
7 highlighted areas. While the Bureau investigator was filling out the paperwork, he observed
8 Respondent Moreno enter the modified 1996 Lexus and proceed to perform the Smog Check
9 inspection. After the Bureau investigator filled out the paperwork, he signed and returned it.

10 48. After the Smog Check inspection was completed, the unidentified male approached
11 the Bureau investigator and informed him that the 1996 Lexus had failed as a Gross Polluter.
12 During this conversation, the unidentified male informed the Bureau investigator that Respondent
13 Sierra Madre Test Only could take care of it and that “it would cost \$180.00 to get it to pass.”
14 They agreed to having the vehicle return on a later date.

15 49. On or about September 7, 2018, the Bureau investigator returned to Respondent
16 Sierra Madre Test Only and parked the 1996 Lexus in front of the smog testing bay area. He met
17 with both Respondent Moreno and the same unidentified male from the previous encounter. The
18 Bureau investigator observed the unidentified male insert the Smog Check inspection machine’s
19 emissions probe into the 1996 Lexus’ tailpipe and then walk into the testing bay area. He further
20 observed Respondent Moreno continue with the Smog Check inspection by operating the 1996
21 Lexus on the dynamometer, stop the 1996 Lexus, and then drive it off to park it just outside the
22 front of the smog testing bay area. Respondent Moreno requested that the Bureau investigator
23 complete and sign a form that included a complete name, address, telephone number and date.
24 The Bureau investigator then observed Respondent Moreno retrieve and sign the Vehicle
25 Inspection Report (“VIR”). Respondent Moreno stated that the test was going to cost \$200. The
26 Bureau investigator paid Respondent the \$200 in cash. Respondent gave the Bureau investigator
27 the DMV document and VIR. Respondent Moreno also gave the Bureau investigator two
28 business cards and instructed him to bring one card back with the next vehicle for a discount.

1 then entered the vehicle and proceeded to position the vehicle onto the smog check inspection
2 machine's dynamometer. Respondent Moreno exited the vehicle and asked for registration
3 information for the vehicle. The Bureau investigator handed him the DMV document and
4 Respondent Moreno requested that the Bureau investigator complete the highlighted areas and
5 sign the form. The Bureau investigator did not receive a copy of the document that he had
6 signed. The Bureau investigator observed that Respondent Moreno was the only individual at
7 Respondent Sierra Madre Test Only performing the Smog Check inspection to the 1996 Pontiac.
8 The Bureau investigator also observed Respondent Moreno sign the VIR. Respondent Moreno
9 handed the Bureau investigator the VIR, DMV document, and returned the business card.

10 54. Re-inspection of the 1996 Pontiac revealed that vehicle was still not in a condition to
11 pass a properly performed California Smog Check inspection. The 1996 Pontiac failed the
12 overall test by failing the visual portion of the test as well as the tailpipe emissions due to the
13 vehicle still exceeding the Gross Polluter limits. Additionally, the previously installed
14 modifications and tamper indicators were still in place and intact.

15 55. The VID revealed that the 1996 Pontiac was certified at Respondent Sierra Madre
16 Test Only (TC285983), and Respondent Moreno (EO640378) performed the Smog Check
17 inspection for the 1996 Pontiac on October 25, 2018 at 1258 hours. The 1996 Pontiac was issued
18 Certificate of Compliance No. HV730570C.

19 **CAUSES FOR DISCIPLINE AS TO RESPONDENT SIERRA MADRE TEST ONLY'S**
20 **AUTOMOTIVE REPAIR DEALER REGISTRATION**

21 **FIRST CAUSE FOR DISCIPLINE**

22 **(Untrue or Misleading Statements)**

23 56. Respondent Sierra Madre Test Only's Automotive Repair Dealer Registration is
24 subject to discipline pursuant to Code section 9884.7, subdivision (a)(1), in conjunction with
25 section 9889.22, in that on or about March 20, 2018 through March 19, 2019, Respondent
26 Moreno used clean gassing and made or authorized statements which Respondent Moreno knew
27 or in the exercise of reasonable care should have known to be untrue or misleading. Complainant

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1 refers to, and by this reference incorporates, the information contained in paragraphs 32 through
2 45, inclusive, as though set forth fully.

3 57. Respondent Sierra Madre Test Only's Automotive Repair Dealer Registration is
4 subject to discipline pursuant to Code section 9884.7, subdivision (a)(1) in that on or about
5 September 7, 2018, and October 25, 2018, Respondent Sierra Madre Test Only made statements
6 which it knew or which by exercise of reasonable care should have known to be untrue or
7 misleading. Specifically, Respondent Sierra Madre Test Only issued certificates of compliance
8 that the 1996 Lexus and 1996 Pontiac had passed inspection and were in compliance with
9 applicable laws and regulations when they were not. Complainant refers to, and by this reference
10 incorporates, the information contained in paragraphs 46 through 55, inclusive, as though set
11 forth fully.

12 **SECOND CAUSE FOR DISCIPLINE**

13 **(Failure to Provide Customer Copy)**

14 58. Respondent Sierra Madre Test Only's Automotive Repair Dealer Registration is
15 subject to discipline pursuant to Code section 9884.7, subdivision (a)(3), in conjunction with
16 California Code of Regulations section 3356, subdivision (j), in that on or about September 7,
17 2018, and October 25, 2018, Respondent Sierra Madre Test Only failed to provide their customer
18 a copy of any document requiring the customer signature. Complainant refers to, and by this
19 reference incorporates, the information contained in paragraphs 46 through 55, inclusive, as
20 though set forth fully.

21 **THIRD CAUSE FOR DISCIPLINE**

22 **(Dishonesty, Fraud, Deceit)**

23 59. Respondent Sierra Madre Test Only's Automotive Repair Dealer Registration is
24 subject to discipline pursuant to section 9884.7, subdivision (a)(4), in that on or about March 20,
25 2018 through March 19, 2019, Respondent Moreno used clean gassing and committed dishonest,
26 fraudulent, or deceitful acts whereby another was injured by issuing a smog certificate of
27 compliance for the vehicles without performing bona fide inspections of the emission control
28 devised and systems on the vehicles, thereby depriving the People of the State of California of the

1 protection afforded by the Motor Vehicle Inspection Program. Complainant refers to, and by this
2 reference incorporates, the information contained in paragraphs 32 through 45, inclusive, as
3 though set forth fully.

4 60. Respondent Sierra Madre Test Only's Automotive Repair Dealer Registration is
5 subject to discipline pursuant to section 9884.7, subdivision (a)(4), in that on or about September
6 7, 2018, and October 25, 2018, Respondent Sierra Madre Test Only committed acts constituting
7 fraud by issuing certificates of compliance for the 1996 Lexus and 1996 Pontiac without
8 performing bona fide inspections of the emission control devices and systems on the vehicles,
9 thereby depriving the People of the State of California of the protection afforded by the Motor
10 Vehicle Inspection Program. Complainant refers to, and by this reference incorporates, the
11 information contained in paragraphs 46 through 55, inclusive, as though set forth fully.

12 **FOURTH CAUSE FOR DISCIPLINE**

13 **(Failure to Comply with Automotive Repair Act)**

14 61. Respondent Sierra Madre Test Only's Automotive Repair Dealer Registration is
15 subject to disciplinary action pursuant to Business and Professions Code section 9884.7,
16 subdivision (a)(6), in that on or about March 20, 2018 through March 19, 2019, Respondent
17 Moreno used clean gassing and failed in a "material respect to comply with the provisions of this
18 chapter or the regulations adopted pursuant to it" when it issued smog certificates of compliance
19 for the vehicles at issue without performing bona fide inspections of the emission control devices
20 and systems on the vehicles, thereby depriving the People of the State of California of the
21 protection afforded by the Motor Vehicle Inspection Program. Complainant refers to, and by this
22 reference incorporates, the information contained in paragraphs 32 through 45, inclusive, as
23 though set forth fully.

24 62. Respondent Sierra Madre Test Only's Automotive Repair Dealer Registration is
25 subject to disciplinary action pursuant to Business and Professions Code section 9884.7,
26 subdivision (a)(6), in that on or about September 7, 2018, and October 25, 2018, Respondent
27 Sierra Madre Test Only failed in a material respect to comply with the provisions of this chapter
28 or regulations adopted pursuant to it when Respondent Sierra Madre Test Only issued electronic

1 certificates of compliance for the 1996 Lexus and 1996 Pontiac, without performing bona fide
2 inspections of the emission control devices and systems on those vehicles, thereby depriving the
3 People of the State of California of the protection afforded by the Motor Vehicle Inspection
4 Program. Complainant refers to, and by this reference incorporates, the information contained in
5 paragraphs 46 through 55, inclusive, as though set forth fully.

6 **FIFTH CAUSE FOR DISCIPLINE**

7 **(Failure to Comply with Invoice Requirements of the Automotive Repair Act)**

8 63. Respondent Sierra Madre Test Only's Automotive Repair Dealer Registration is
9 subject to disciplinary action pursuant to Business and Professions Code section 9884.8, in
10 conjunction with California Code of Regulation, title 16, section 3356, subdivision (j), in that on
11 or about September 7, 2018, and October 25, 2018, Respondent Sierra Madre Test Only failed to
12 comply with invoice requirements of the Automotive Repair Act. Complainant refers to, and by
13 this reference incorporates, the information contained in paragraphs 46 through 55, inclusive, as
14 though set forth fully.

15 **SIXTH CAUSE FOR DISCIPLINE**

16 **(Failure to Comply with Estimate Requirements of the Automotive Repair Act)**

17 64. Respondent Sierra Madre Test Only's Automotive Repair Dealer Registration is
18 subject to disciplinary action pursuant to Business and Professions Code section 9884.9,
19 subdivision (a), in conjunction with California Code of Regulation, title 16, section 3353,
20 subdivision (a), in that on or about September 7, 2018, and October 25, 2018, Respondent Sierra
21 Madre Test Only failed to comply with estimate requirements of the Automotive Repair Act.
22 Complainant refers to, and by this reference incorporates, the information contained in paragraphs
23 46 through 55, inclusive, as though set forth fully.

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1 CAUSES FOR DISCIPLINE AS TO RESPONDENT SIERRA MADRE TEST ONLY'S
2 SMOG CHECK STATION LICENSE
3 SEVENTH CAUSE FOR DISCIPLINE

4 (Violations of the Motor Vehicle Inspection Program)

5 65. Respondent Sierra Madre Test Only Smog Check Station License is subject to
6 discipline pursuant to Health & Safety Code section 44072.2, subdivision (a), in that on or about
7 September 7, 2018, and October 25, 2018, and on or about March 20, 2018 through March 19,
8 2019, Respondent Sierra Madre Test Only failed to comply with the following sections of the
9 Health & Safety Code:

10 a. **Section 44012:** Respondent Sierra Madre Test Only failed to perform the
11 emission control tests on the 1996 Lexus and 1996 Pontiac and the vehicles Respondent Moreno
12 used for clean gassing in accordance with procedures prescribed by the department.

13 b. **Section 44012(f):** Respondent Sierra Madre Test Only failed to perform the
14 emission control tests on the 1996 Lexus and 1996 Pontiac and the vehicles Respondent Moreno
15 used for clean gassing in accordance with procedures prescribed by the department.

16 c. **Section 44015:** Respondent Sierra Madre Test Only issued electronic
17 certificates of compliance for the 1996 Lexus and 1996 Pontiac and the vehicles Respondent
18 Moreno used for clean gassing without properly inspecting the vehicles to determine if they were
19 in compliance with Health & Safety Code section 44012.

20 d. **Section 44059:** Respondent Sierra Madre Test Only willfully made false
21 entries in the EIS, resulting in the issuance of fraudulent certificates of compliance for the 1996
22 Lexus and 1996 Pontiac and the vehicles Respondent Moreno used for clean gassing.

23 Complainant refers to, and by this reference incorporates, the information contained in
24 paragraphs 32 through 55, inclusive, as though set forth fully.

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1 **EIGHTH CAUSE FOR DISCIPLINE**

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

3 66. Respondent Sierra Madre Test Only's Smog Check Station License is subject to
4 disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (c), in that on
5 or about September 7, 2018, and October 25, 2018, and on or about March 20, 2018 through
6 March 19, 2019, Respondent Sierra Madre Test Only failed to comply with provisions of
7 California Code of Regulations, title 16, as follows:

8 a. **Section 3340.24, subdivision (c):** Respondent Sierra Madre Test Only falsely
9 or fraudulently issued electronic smog certificates of compliance for the 1996 Lexus and 1996
10 Pontiac and the vehicles Respondent Moreno used for clean gassing.

11 b. **Section 3340.35, subdivision (c):** Respondent Sierra Madre Test Only issued
12 electronic smog certificates of compliance for the 1996 Lexus and 1996 Pontiac and the vehicles
13 Respondent Moreno used for clean gassing, even though the vehicles had not been inspected in
14 accordance with section 3340.42.

15 c. **Section 3340.41, subdivision (c):** Respondent Sierra Madre Test Only
16 knowingly entered false information into the emissions inspection system for the 1996 Lexus and
17 1996 Pontiac and the vehicles Respondent Moreno used for clean gassing.

18 d. **Section 3340.42:** Respondent Sierra Madre Test Only failed to ensure that the
19 required smog tests were conducted on the 1996 Lexus and 1996 Pontiac and the vehicles
20 Respondent Moreno used for clean gassing in accordance with the Bureau's specifications.

21 Complainant refers to, and by this reference incorporates, the information contained in
22 paragraphs 32 through 55, inclusive, as though set forth fully.

23 **NINTH CAUSE FOR DISCIPLINE**

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

25 67. Respondent Sierra Madre Test Only's Smog Check Station License is subject to
26 disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (d), in that on
27 or about March 20, 2018 through March 19, 2019, Respondent Moreno used clean gassing and
28 committed dishonest, fraudulent, or deceitful acts whereby another was injured by issuing a smog

1 certificate of compliance for the vehicles without performing bona fide inspections of the
2 emission control devices and systems on the vehicles, thereby depriving the People of the State of
3 California of the protection afforded by the Motor Vehicle Inspection Program. Complainant
4 refers to, and by this reference incorporates, the information contained in paragraphs 32 through
5 45, inclusive, as though set forth fully.

6 68. Respondent Sierra Madre Test Only's Smog Check Station License is subject to
7 disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (d), in that on
8 or about September 7, 2018, and October 25, 2018, Respondent Sierra Madre Test Only
9 committed dishonest, fraudulent, or deceitful acts whereby another was injured by issuing
10 electronic smog certificates of compliance to the 1996 Lexus and 1996 Pontiac without
11 performing bona fide inspections of the emission control devices and systems on the vehicles,
12 thereby depriving the People of the State of California of the protection afforded by the Motor
13 Vehicle Inspection Program. Complainant refers to, and by this reference incorporates, the
14 information contained in paragraphs 46 through 55, inclusive, as though set forth fully.

15 **CAUSES FOR DISCIPLINE AS TO RESPONDENT MORENO'S**

16 **SMOG CHECK INSPECTOR LICENSE**

17 **TENTH CAUSE FOR DISCIPLINE**

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

19 69. Respondent Moreno Smog Check Inspector License is subject to disciplinary action
20 pursuant to Health and Safety Code section 44072.2, subdivision (a), in that Respondent Moreno
21 failed to comply with provisions of Health and Safety Code, as follows:

22 a. **Section 44012:** Respondent Moreno failed to ensure that the emission control tests
23 were performed on the 1996 Lexus and 1996 Pontiac and the vehicles Respondent Moreno used
24 for clean gassing, in accordance with procedures prescribed by the department.

25 b. **Section 44032:** Respondent Moreno failed to perform emission control tests on the
26 devices and systems for the 1996 Lexus and 1996 Pontiac and the vehicles Respondent Moreno
27 used for clean gassing in accordance with Health and Safety Code section 44012.

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1 **TWELFTH CAUSE FOR DISCIPLINE**

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

3 71. Respondent Moreno’s Smog Check Inspector License is subject to disciplinary action
4 pursuant to Health and Safety Code section 44072.2, subdivision (d), in that on or about March
5 20, 2018 through March 19, 2019, Respondent Moreno used clean gassing and committed
6 dishonest, fraudulent, or deceitful acts whereby another was injured by issuing a smog certificate
7 of compliance for the vehicles without performing bona fide inspections of the emission control
8 devices and systems on the vehicles, thereby depriving the People of the State of California of the
9 protection afforded by the Motor Vehicle Inspection Program. Complainant refers to, and by this
10 reference incorporates, the information contained in paragraphs 32 through 45, inclusive, as
11 though set forth fully.

12 72. Respondent Moreno’s Smog Check Inspector License is subject to disciplinary action
13 pursuant to Health and Safety Code section 44072.2, subdivision (d), in that on or about
14 September 7, 2018, and October 25, 2018, Respondent Moreno committed dishonest, fraudulent,
15 or deceitful acts whereby another was injured by issuing electronic smog certificates of
16 compliance to the 1996 Lexus and 1996 Pontiac without performing bona fide inspections of the
17 emission control devices and systems on the vehicles, thereby depriving the People of the State of
18 California of the protection afforded by the Motor Vehicle Inspection Program. Complainant
19 refers to, and by this reference incorporates, the information contained in paragraphs 46 through
20 55, inclusive, as though set forth fully.

21 **OTHER MATTERS**

22 73. Pursuant to Business and Professions Code section 9884.7, subdivision (c), the
23 Director may suspend, revoke, or place on probation the registration for all places of business
24 operated in this state by Respondent Sierra Madre Test Only, upon a finding that Respondent
25 Sierra Madre Test Only has, or is, engaged in a course of repeated and willful violations of the
26 laws and regulations pertaining to an automotive repair dealer.

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

DATED: January 13, 2020

Signature on File

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

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