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

12 In the Matter of the Accusation Against:

Case No. 79/17-809

13 **RIVERSIDE COUNTY TRAVEL ZONE**
14 **CENTER, INC., DBA ARCO TRAVEL**
15 **ZONE CENTER, INC.; ALI MAZAREI,**
PRESIDENT/SECRETARY/TREASURER

A C C U S A T I O N

16 **23261 Cajalco Expressway**
17 **Perris, CA 92571**

18 **Automotive Repair Dealer Registration No.**
19 **ARD 278066**
Smog Check Station License No. RC 278066,

20 **WALTER DE'VON COLE**
21 **21201 Martin St.**
Perris, CA 92570

22 **Smog Check Inspector License No.**
23 **EO637820**

24 Respondents.

1 Complainant alleges:

2 **PARTIES**

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

5 2. On or about October 2, 2014, the Bureau of Automotive Repair issued Automotive
6 Repair Dealer Registration Number ARD 278066 to Riverside County Travel Zone Center, Inc.,
7 dba Arco Travel Zone Center, Inc.; Ali Mazarei (Respondent Arco Travel Zone Center). The
8 Automotive Repair Dealer Registration was in full force and effect at all times relevant to the
9 charges brought herein and will expire on October 31, 2017, unless renewed.

10 3. On or about February 4, 2015, the Bureau of Automotive Repair issued Smog Check
11 Station License Number RC 278066 to Riverside County Travel Zone Center, Inc., dba Arco
12 Travel Zone Center, Inc.; Ali Mazarei (Respondent Arco Travel Zone Center). The Smog Check
13 Station License was in full force and effect at all times relevant to the charges brought herein and
14 will expire on October 31, 2017, unless renewed.

15 4. On or about February 4, 2015, the Bureau of Automotive Repair issued Smog Check
16 Inspector License No. EO 637820 to Walter De'Von Cole (Respondent Cole). The Smog Check
17 Inspector License was in full force and effect at all times relevant to the charges brought herein
18 and will expire on June 30, 2019, unless renewed.

19 **JURISDICTION**

20 5. This Accusation is brought before the Director of the Department of Consumer
21 Affairs (Director) for the Bureau of Automotive Repair, under the authority of the following laws.
22 All references are to the business code unless otherwise stated.

23 6. Section 477 of the Code provides, in pertinent part, that "Board" includes "bureau,"
24" "License" includes certificate, registration or other means to engage in a business or
25 profession regulated by the Code.

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

4 8. Section 44072.4 of the Health and Safety Code states:

5 The director may take disciplinary action against any licensee after a hearing
6 as provided in this article by any of the following:

7 (a) Imposing probation upon terms and conditions to be set forth by the
8 director.

9 (b) Suspending the license.

10 (c) Revoking the license.

11 9. Section 44072.2 of the Health and Safety Code states:

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

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

18 ...

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

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

25 11. Section 44072.7 of the Health and Safety Code states:

26 All accusations against licensees shall be filed within three years after the act
27 or omission alleged as the ground for disciplinary action, except that with respect
28 to an accusation alleging a violation of subdivision (d) of Section 44072.2, the
accusation may be filed within two years after the discovery by the bureau of the
alleged facts constituting the fraud or misrepresentation prohibited by that section.

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12. Section 44072.8 of the Health and Safety Code 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.

13. Section 44072.10 of the Health and Safety Code states:

(a) Notwithstanding Sections 44072 and 44072.4, the director, or the director's designee, pending a hearing conducted pursuant to subdivision (e), may temporarily suspend any smog check station or technician's license issued under this chapter, for a period not to exceed 60 days, if the department determines that the licensee's conduct would endanger the public health, safety, or welfare before the matter could be heard pursuant to subdivision (e), based upon reasonable evidence of any of the following:

(1) Fraud.

(2) Tampering.

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

(4) A pattern or regular practice of violating this chapter or any regulation, standard, or procedure of the department implementing this chapter.

...

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

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

(2) Tampering with a vehicle emission control system or test analyzer system.

(3) Tampering with a vehicle in a manner that would cause the vehicle to falsely pass or falsely fail an inspection.

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

14. California Code of Regulations, title 16, section 3340.28, subdivision (e), states:

Upon renewal of an unexpired Basic Area Technician license or an Advanced Emission Specialist Technician license issued prior to the effective date of this regulation, the licensee may apply to renew as a Smog Check Inspector, Smog Check Repair Technician, or both.

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15. Section 118, subdivision (b), of the Code provides that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Director of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

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

17. Section 9884.20 of the Code states:

All accusations against automotive repair dealers shall be filed within three years after the performance of the act or omission alleged as the ground for disciplinary action, except that with respect to an accusation alleging fraud or misrepresentation as a ground for disciplinary action, the accusation may be filed within two years after the discovery, by the bureau, of the alleged facts constituting the fraud or misrepresentation.

18. Section 9884.22 of the Code states:

(a) Notwithstanding any other provision of law, the director may revoke, suspend, or deny at any time any registration required by this article on any of the grounds for disciplinary action provided in this article. The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the director shall have all the powers granted therein. . . .

STATUTORY PROVISIONS

19. Section 22 of the Code states:

(a) 'Board' as used in any provisions of this Code, refers to the board in which the administration of the provision is vested, and unless otherwise expressly provided, shall include 'bureau,' 'commission,' 'committee,' 'department,' 'division,' 'examining committee,' 'program,' and 'agency.'

(b) Whenever the regulatory program of a board that is subject to review by the Joint Committee on Boards, Commissions, and Consumer Protection, as provided for in Division 1.2 (commencing with Section 473), is taken over by the department, that program shall be designated as a 'bureau.'

20. Section 23.7 of the Code states:

“Unless otherwise expressly provided, license means license, certificate, registration, or other means to engage in a business or profession regulated by this code or referred to in Section 1000 or 3600.”

III

1 21. Section 9884.7 of the Code states:

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

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

11 ...

12 (4) Any other conduct that constitutes fraud.

13 ...

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

16 ...

17 (c) Notwithstanding subdivision (b), the director may suspend, revoke, or place on
18 probation the registration for all places of business operated in this state by an
19 automotive repair dealer upon a finding that the automotive repair dealer has, or is,
20 engaged in a course of repeated and willful violations of this chapter, or regulations
21 adopted pursuant to it.

22 22. Section 44012 of the Health and Safety Code states:

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

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

1 (b) Motor vehicles are preconditioned to ensure representative and stabilized
2 operation of the vehicle's emission control system.

3 (c) For other than diesel-powered vehicles, the vehicle's exhaust emissions
4 of hydrocarbons, carbon monoxide, carbon dioxide, and oxides of nitrogen in an
5 idle mode or loaded mode are tested in accordance with procedures prescribed by
6 the department. In determining how loaded mode and evaporative emissions
7 testing shall be conducted, the department shall ensure that the emission reduction
8 targets for the enhanced program are met.

9 (d) For other than diesel-powered vehicles, the vehicle's fuel evaporative
10 system and crankcase ventilation system are tested to reduce any nonexhaust
11 sources of volatile organic compound emissions, in accordance with procedures
12 prescribed by the department.

13 (e) For diesel-powered vehicles, a visual inspection is made of emission
14 control devices and the vehicle's exhaust emissions are tested in accordance with
15 procedures prescribed by the department, that may include, but are not limited to,
16 onboard diagnostic testing. The test may include testing of emissions of any or all
17 of the pollutants specified in subdivision (c) and, upon the adoption of applicable
18 standards, measurement of emissions of smoke or particulates, or both.

19 (f) A visual or functional check is made of emission control devices
20 specified by the department, including the catalytic converter in those instances in
21 which the department determines it to be necessary to meet the findings of Section
22 44001. The visual or functional check shall be performed in accordance with
23 procedures prescribed by the department.

24 (g) A determination as to whether the motor vehicle complies with the
25 emission standards for that vehicle's class and model-year as prescribed by the
26 department.

27 (h) An analysis of pass and fail rates of vehicles subject to an onboard
28 diagnostic test and a tailpipe test to assess whether any vehicles passing their
onboard diagnostic test have, or would have, failed a tailpipe test, and whether any
vehicles failing their onboard diagnostic test have or would have passed a tailpipe
test.

(i) The test procedures may authorize smog check stations to refuse the
testing of a vehicle that would be unsafe to test, or that cannot physically be
inspected, as specified by the department by regulation. The refusal to test a
vehicle for those reasons shall not excuse or exempt the vehicle from compliance
with all applicable requirements of this chapter.

23. Section 44015 of the Health and Safety Code states:

(a) A licensed smog check station shall not issue a certificate of compliance,
except as authorized by this chapter, to any vehicle that meets the following
criteria:

1 (1) A vehicle that has been tampered with.

2

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

6 24. Section 44059 of the Health and Safety Code states:

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

12 REGULATORY PROVISIONS

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

14

15 (c) The bureau may suspend or revoke the license of or pursue other legal
16 action against a licensee, if the licensee falsely or fraudulently issues or obtains a
17 certificate of compliance or a certificate of noncompliance.

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

19 A licensed smog check inspector and/or repair technician shall comply with
20 the following requirements at all times while licensed:

21 (a) Inspect, test and repair vehicles, as applicable, in accordance with section
22 44012 of the Health and Safety Code, section 44035 of the Health and Safety
23 Code, and section 3340.42 of this article.

24 27. California Code of Regulations, title 16, section 3340.35 provides, in pertinent part,
25 that a licensed station shall issue a certificate of compliance . . . to the owner or operator of any
26 vehicle that has been inspected in accordance with the procedures specified in section 3340.42 of
27 this article and has all the required emission control equipment and devices installed and
28 functioning correctly.

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1 28. California Code of Regulations, title 16, section 3340.41 states, in part:

2

3 (b) No person shall enter into the emissions inspection system any access or
4 qualification number other than as authorized by the bureau, nor in any way
5 tamper with the emissions inspection system.

6 (c) No person shall enter into the emissions inspection system any vehicle
7 identification information or emission control system identification data for any
8 vehicle other than the one being tested. Nor shall any person knowingly enter into
9 the emissions inspection system any false information about the vehicle being
10 tested.

11

12 29. California Code of Regulations, title 16, section 3340.42 provides, in part, that smog
13 check stations and smog check technicians shall conduct tests and inspections in accordance with
14 the Bureau's BAR 97 Emission Inspection System Specifications and/or the On Board Data
15 Inspection System referenced in subsections (a) and (b) of Section 3340.17.

16 30. California Code of Regulations, title 16, section 3340.42.2 states:

17 (c) Starting on or after January 1, 2013, OBD equipped vehicles shall fail
18 the OBD inspection if any one of the following conditions occurs as applicable to the
19 vehicle:

20 ...

21 (7) The vehicle's OBD system data is inappropriate for the vehicle being
22 tested;

23 (8) The vehicle's OBD system data does not match the original equipment
24 manufacturer (OEM) or an Air Resources Board (ARB) exempted OBD software
25 configuration....

26 COSTS

27 31. Section 125.3 of the Code provides, in pertinent part, that the Bureau may request the
28 administrative law judge to direct a licentiate found to have committed a violation or violations of
29 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
30 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
31 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
32 included in a stipulated settlement.

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CLEAN PLUGGING

32. At all times alleged in this Accusation, Respondent Cole was acting in the course and within the scope of a technician, employee, partner, officer, or member of Respondent Arco Travel Zone Center.

33. The On-Board Diagnostics – Generation II (OBD II) communication protocol describes the specified communication “language” used by the OBD II system electronic control unit to communicate to scan tools and other devices such as the On-Board Diagnostic Inspection System (OIS). The communication protocol is programmed into the OBD II system electronic control unit during manufacture and does not change.

34. Parameter Identifications (PID) are data points reported by the OBD II system electronic control unit to the scan tool or OIS. Examples of PIDs are engine speed (rpm), vehicle speed, engine temperature, and other input and output values utilized by the OBD II system electronic control unit. The PID count is the number of data points reported by the OBD II system electronic control unit and is programmed during manufacture.

35. The Vehicle Identification Number (VIN) that is physically present on all vehicles is also required to be programmed into the vehicle’s OBD II on 2005 and newer vehicles, and on many occasions was programmed into the OBD II system electronic control unit in earlier model-years. This electronically programmed VIN, also known as the “eVIN,” is captured by BAR during a Smog Check, and should match the physical VIN on the vehicle.

36. During a Bureau representative’s review of Respondents’ certified test results in the Vehicle Information Database (VID) for inspections purportedly performed on the OIS between June 2016 and February 2017, fifteen (15) vehicles identified below had deviations in one or more of the following: eVIN, incorrect vehicle communication protocol, and/or incorrect PID count. This indicates that the vehicles receiving smog certificates were fraudulently tested during the smog check inspection by a method known as Clean Plugging.¹ A detailed explanation of each fraudulent smog check is as follows:

¹ To “clean plug” a vehicle, the technician uses another vehicle’s properly functioning OBD II system, or another source, to generate passing diagnostic readings for the purpose of

1 **37. Clean Plug No. 1:**

2 On June 8, 2016, between 1:57 p.m. and 2:02 p.m., a 2008 Chevrolet Aveo LT was
3 inspected. A Certificate of Compliance was issued by Respondent Arco Travel Zone Center
4 using license EO 637820, belonging to Smog Check Inspector Cole. OIS Test Details showed
5 there was no eVIN reported, the protocol reported I914, and the PID count was 17. Comparative
6 OIS Test Data for Four Hundred Twenty (420)², 2008 Chevrolet Aveo LT vehicles shows that
7 95.7% report the eVIN, have a communication protocol of ICAN11bt5, and report a PID count of
8 38, 38/7 or 38/7/18/2. The discrepancies in the OIS Test Data prove that Arco Travel Zone
9 Center's OIS Data Acquisition Device (DAD) was not connected to the 2008 Chevrolet Aveo LT
10 being certified, resulting in the issuance of a fraudulent Certificate of Compliance.

11 **38. Clean Plug No. 2:**

12 On June 24, 2016, between 11:31 a.m. and 11:35 a.m., a 2006 Chevrolet Equinox LT was
13 inspected. A Certificate of Compliance was issued by Respondent Arco Travel Zone Center
14 using license EO 637820, belonging to Smog Check Inspector Cole. OIS Test Details showed
15 there was no eVIN reported, the protocol reported JVPW, and the PID count was 16/3.
16 Comparative OIS Test Data for Seven Hundred Forty-Eight (748), 2006 Chevrolet Equinox LT
17 vehicles shows that 98.3% report the eVIN, have a communication protocol of ICAN11bt5, and
18 report a PID count of 40/7. The discrepancies in the OIS Test Data prove that Respondent Arco
19 Travel Zone Center's OIS DAD was not connected to the 2006 Chevrolet Equinox LT being
20 certified, resulting in the issuance of a fraudulent Certificate of Compliance.

21 **39. Clean Plug No. 3:**

22 On July 9, 2016, between 10:30 a.m. and 10:33 a.m., a 2005 Chevrolet Silverado C1500
23 was inspected. A Certificate of Compliance was issued by Respondent Arco Travel Zone Center
24 using license EO 637820, belonging to Smog Check Inspector Cole. OIS Test Details showed
25 there was no eVIN reported, the protocol reported I914, and the PID count was 16. Comparative

26 _____
27 issuing fraudulent smog certificates of compliance to vehicles that are not in smog compliance or
not present during the certified test.

28 ² This number is based on the most recent available total number of similar vehicles tested
statewide, or up to one thousand (1000).

1 OIS Test Data for One Thousand (1000), 2005 Chevrolet Silverado C1500 vehicles shows that
2 98% report the eVIN, have a communication protocol of JVPW, and report a PID count of 22 or
3 23. The discrepancies in the OIS Test Data prove that Respondent Arco Travel Zone Center's
4 OIS DAD was not connected to the 2005 Chevrolet Silverado C1500 being certified, resulting in
5 the issuance of a fraudulent Certificate of Compliance.

6 **40. Clean Plug No. 4:**

7 On August 6, 2016, between 12:44 p.m. and 12:49 p.m., a 2004 GMC Envoy was
8 inspected. A Certificate of Compliance was issued by Respondent Arco Travel Zone Center
9 using license EO 637820, belonging to Smog Check Inspector Cole. OIS Test Details showed
10 there was no eVIN reported, the protocol reported I914, and the PID count was 18. Comparative
11 OIS Test Data for Eight Hundred Thirty (830), 2004 GMC Envoy vehicles shows that 99% report
12 the eVIN, have a communication protocol of JVPW, and report a PID count of 19. The
13 discrepancies in the OIS Test Data prove that Respondent Arco Travel Zone Center's OIS DAD
14 was not connected to the 2004 GMC Envoy being certified, resulting in the issuance of a
15 fraudulent Certificate of Compliance.

16 **41. Clean Plug No. 5:**

17 August 6, 2016, between 12:51 p.m. and 12:58 p.m., a 2007 Toyota Yaris was inspected. A
18 Certificate of Compliance was issued by Respondent Arco Travel Zone Center using license EO
19 637820, belonging to Smog Check Inspector Cole. OIS Test Details showed there was no eVIN
20 reported, the protocol reported I914, and the PID count was 18. Comparative OIS Test Data for
21 One Thousand (1000), 2007 Toyota Yaris vehicles shows that 99.4% report the eVIN, have a
22 communication protocol of ICAN11bt5, and report a PID count of 39. The discrepancies in the
23 OIS Test Data prove that Respondent Arco Travel Zone Center's OIS DAD was not connected to
24 the 2007 Toyota Yaris being certified, resulting in the issuance of a fraudulent Certificate of
25 Compliance.

26 **42. Clean Plug No. 6:**

27 On August 22, 2016, between 5:40 p.m. and 5:47 p.m., a 2002 Chevrolet C1500 Suburban
28 was inspected. A Certificate of Compliance was issued by Respondent Arco Travel Zone Center

1 using license EO 637820, belonging to Smog Check Inspector Cole. OIS Test Details showed
2 there was no eVIN reported, the protocol reported I914, and the PID count was 20/6.
3 Comparative OIS Test Data for One Thousand (1000), 2002 Chevrolet C1500 Suburban vehicles
4 shows that 97% report the eVIN, have a communication protocol of JVPW and report a PID
5 count of 22. The discrepancies in the OIS Test Data prove that Respondent Arco Travel Zone
6 Center's OIS DAD was not connected to the 2002 Chevrolet C1500 Suburban being certified,
7 resulting in the issuance of a fraudulent Certificate of Compliance.

8 **43. Clean Plug No. 7:**

9 On August 22, 2016, between 5:49 p.m. and 5:56 p.m., a 2006 Chevrolet Impala LT was
10 inspected. A Certificate of Compliance was issued by Respondent Arco Travel Zone Center
11 using license EO 637820, belonging to Smog Check Inspector Cole. OIS Test Details showed
12 there was no eVIN reported, the protocol reported I914, and the PID count was 20/6.
13 Comparative OIS Test Data for One Thousand (1000), 2006 Chevrolet Impala LT vehicles shows
14 that 97.6% report the eVIN, have a communication protocol of ICAN11bt5 and report a PID
15 count of 38/7. The discrepancies in the OIS Test Data prove that Respondent Arco Travel Zone
16 Center's OIS DAD was not connected to the 2006 Chevrolet Impala LT being certified, resulting
17 in the issuance of a fraudulent Certificate of Compliance.

18 **44. Clean Plug No. 8:**

19 On August 29, 2016, between 2:46 p.m. and 2:49 p.m., a 2002 Chevrolet Silverado C1500
20 was inspected. A Certificate of Compliance was issued by Respondent Arco Travel Zone Center
21 using license EO 637820, belonging to Smog Check Inspector Cole. OIS Test Details showed
22 there was no eVIN reported, the protocol reported JPWM, and the PID count was 20.
23 Comparative OIS Test Data for One Thousand (1000), 2002 Chevrolet Silverado C1500 vehicles
24 shows that 97.9% report the eVIN, have a communication protocol of JVPW and report a PID
25 count of 22. The discrepancies in the OIS Test Data prove that Respondent Arco Travel Zone
26 Center's OIS DAD was not connected to the 2002 Chevrolet Silverado C1500 being certified,
27 resulting in the issuance of a fraudulent Certificate of Compliance.

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1 **45. Clean Plug No. 9:**

2 On October 12, 2016, between 10:14 a.m. and 10:17 a.m., a 2007 Mitsubishi Galant ES was
3 inspected. A Certificate of Compliance was issued by Respondent Arco Travel Zone Center
4 using license EO 637820, belonging to Smog Check Inspector Cole. OIS Test Details showed the
5 eVin was reported as 2HGES15165H601022, the protocol reported I914, and the PID count was
6 17. Comparative OIS Test Data for Three Hundred Seventy-Four (374), 2007 Mitsubishi Galant
7 ES vehicles shows that 98.4% report the eVIN, have a communication protocol of ICAN11bt5
8 and report a PID count of 42. The discrepancies in the OIS Test Data prove that Respondent
9 Arco Travel Zone Center's OIS DAD was not connected to the 2007 Mitsubishi Galant ES being
10 certified, resulting in the issuance of a fraudulent Certificate of Compliance.

11 In addition, the VIN 2HGES15165H601022 belongs to a 2005 Honda Civic DX, license
12 #5RJY246, which was the vehicle used to generate the fraudulent Smog Check Certificate of
13 Compliance for the 2007 Mitsubishi Galant ES. The 2005 Honda Civic DX was certified under
14 license EO 637820, belonging to Smog Check Inspector Cole at Respondent Arco Travel Zone
15 Center on the same date as the fraudulent inspection of the 2007 Mitsubishi Galant ES. The OIS
16 Test Data transmitted for the 2005 Honda Civic DX matches the OIS Test Data for the fraudulent
17 inspection of the 2007 Mitsubishi Galant ES for the eVin, Protocol and PID count.

18 **46. Clean Plug No. 10:**

19 On October 27, 2016, between 9:44 a.m. and 9:48 a.m., a 2008 Dodge Avenger SE was
20 inspected. A Certificate of Compliance was issued by Respondent Arco Travel Zone Center
21 using license EO 637820, belonging to Smog Check Inspector Cole. OIS Test Details showed
22 there was no eVin reported, the protocol reported I914, and the PID count was 16. Comparative
23 OIS Test Data for One Thousand (1000), 2008 Dodge Avenger SE vehicles shows that 93.6%
24 report the eVIN, have a communication protocol of ICAN11bt5 and report a PID count of 36/10
25 or 37/10. The discrepancies in the OIS Test Data prove that Respondent Arco Travel Zone
26 Center's OIS DAD was not connected to the 2008 Dodge Avenger SE being certified, resulting in
27 the issuance of a fraudulent Certificate of Compliance.

28 ///

1 **47. Clean Plug No. 11:**

2 On November 4, 2016, between 2:17 p.m. and 2:20 p.m., a 2006 Tacoma Double Cab was
3 inspected. A Certificate of Compliance was issued by Respondent Arco Travel Zone Center
4 using license EO 637820, belonging to Smog Check Inspector Cole. OIS Test Details showed
5 there was no eVIN reported, the protocol reported JPWM, and the PID count was 4. Comparative
6 OIS Test Data for One Thousand (1000), 2006 Tacoma Double Cab vehicles shows that 99.7%
7 report the eVIN, have a communication protocol of ICAN11bt5 and report a PID count of 46.
8 The discrepancies in the OIS Test Data prove that Respondent Arco Travel Zone Center's OIS
9 DAD was not connected to the 2006 Tacoma Double Cab being certified, resulting in the issuance
10 of a fraudulent Certificate of Compliance.

11 **48. Clean Plug No. 12:**

12 On January 9, 2017, between 4:46 p.m. and 4:51 p.m., a 2010 Ford F150 Supercrew was
13 inspected. A Certificate of Compliance was issued by Respondent Arco Travel Zone Center
14 using license EO 637820, belonging to Smog Check Inspector Cole. OIS Test Details showed
15 there was no eVIN reported, the protocol reported I914, and the PID count was 16. Comparative
16 OIS Test Data for One Thousand (1000), 2010 Ford F150 Supercrew vehicles shows that 99.5%
17 report the eVIN, have a communication protocol of ICAN11bt5 and report a PID count of 32/13,
18 41/16, 42/16 or 43/16. The discrepancies in the OIS Test Data prove that Respondent Arco
19 Travel Zone Center's OIS DAD was not connected to the 2010 Ford F150 Supercrew being
20 certified, resulting in the issuance of a fraudulent Certificate of Compliance

21 **49. Clean Plug No. 13:**

22 On February 9, 2017, between 10:20 a.m. and 10:22 a.m., a 2006 Chevrolet Corvette was
23 inspected. A Certificate of Compliance was issued by Respondent Arco Travel Zone Center
24 using license EO 637820, belonging to Smog Check Inspector Cole. OIS Test Details showed
25 there was no eVIN reported, the protocol reported I914, and the PID count was 16. Comparative
26 OIS Test Data for One Thousand (1000), 2006 Chevrolet Corvette vehicles shows that 98.8%
27 report the eVIN, have a communication protocol of ICAN11bt5 and report a PID count of 43 or
28 43/7. The discrepancies in the OIS Test Data prove that Respondent Arco Travel Zone Center's

1 OIS DAD was not connected to the 2006 Chevrolet Corvette being certified, resulting in the
2 issuance of a fraudulent Certificate of Compliance.

3 50. **Clean Plug No. 14:**

4 On February 9, 2017, between 10:30 a.m. and 10:36 a.m., a 2008 Chevrolet Uplander
5 Incomplete [VIN # 1GBDV13W38D144515] was inspected. A Certificate of Compliance was
6 issued by Respondent Arco Travel Zone Center using license EO 637820, belonging to Smog
7 Check Inspector Cole. OIS Test Details showed there was no eVin reported, the protocol
8 reported I914, and the PID count was 16. Comparative OIS Test Data for Four Hundred One
9 (401), 2008 Chevrolet Uplander Incomplete vehicles shows that 94.3% report the eVIN, have a
10 communication protocol of ICAN11bt5 and report a PID count of 39/7. The discrepancies in the
11 OIS Test Data prove that Respondent Arco Travel Zone Center's OIS DAD was not connected to
12 the 2008 Chevrolet Uplander Incomplete being certified, resulting in the issuance of a fraudulent
13 Certificate of Compliance.

14 51. **Clean Plug No. 15:**

15 On February 9, 2017, between 2:35 p.m. and 2:39 p.m., a 2008 Chevrolet Uplander
16 Incomplete [VIN#1GBDV13W28D143629] was inspected. A Certificate of Compliance was
17 issued by Respondent Arco Travel Zone Center using license EO 637820, belonging to Smog
18 Check Inspector Cole. OIS Test Details showed there was no eVin reported, the protocol
19 reported I914, and the PID count was 16. Comparative OIS Test Data for Four Hundred One
20 (401), 2008 Chevrolet Uplander Incomplete vehicles shows that 94.3% report the eVIN, have a
21 communication protocol of ICAN11bt5 and report a PID count of 39/7. The discrepancies in the
22 OIS Test Data prove that Respondent Arco Travel Zone Center's OIS DAD was not connected to
23 the 2008 Chevrolet Uplander Incomplete being certified, resulting in the issuance of a fraudulent
24 Certificate of Compliance.

25 **FIRST CAUSE FOR DISCIPLINE**

26 **(Untrue or Misleading Statement)**

27 52. Complainant re-alleges and incorporates by reference the allegations set forth above
28 in the foregoing paragraphs.

1 53. Respondent Arco Travel Zone Center's Registration is subject to disciplinary action
2 under section 9884.7, subdivision (a)(1), in that Respondent Arco Travel Zone Center made or
3 authorized statements which Respondent Arco Travel Zone Center knew or in the exercise of
4 reasonable care should have known to be untrue or misleading.

5 54. Respondent Arco Travel Zone Center certified that the vehicles listed in paragraphs
6 32-51, had passed inspection and were in compliance with all applicable laws and regulations,
7 when in fact and in truth, Respondent Arco Travel Zone Center inspected the vehicles using the
8 clean plugging method to issue fraudulent certificates of compliance.

9 **SECOND CAUSE FOR DISCIPLINE**

10 **(Violation of Motor Vehicle Inspection Program)**

11 55. Complainant re-alleges and incorporates by reference the allegations set forth above
12 in the foregoing paragraphs.

13 56. Respondent Arco Travel Zone Center's Smog Check Station License is subject to
14 disciplinary action under Health and Safety Code sections 44072.10, subdivisions (a) and (c) and
15 44072.2, subdivision (a), in that Arco Travel Zone Center failed to comply with the following
16 sections of that Code:

17 a. **Section 44012**: failed to perform the tests of the emission control systems and
18 devices on the vehicles listed in paragraphs 32-51, in accordance with procedures prescribed by
19 the Department.

20 b. **Section 44015, subd. (a) and (b)**: issued a certificate of compliance for the vehicles
21 listed in paragraphs 32-51, without properly testing and inspecting them to determine if they were
22 in compliance with Health & Safety Code section 44012.

23 c. **Section 44035**: failed to meet or maintain the standards prescribed for qualification,
24 equipment, performance, or conduct by failing to properly perform a smog inspection on the
25 vehicles listed in paragraphs 32-51 or certifying that such tests had been performed, when in fact
26 they were never performed.

27 **THIRD CAUSE FOR DISCIPLINE**

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

1 57. Complainant re-alleges and incorporates by reference the allegations set forth above
2 in the foregoing paragraphs.

3 58. Respondent Arco Travel Zone Center's Smog Check Station License is subject to
4 disciplinary action under Health and Safety Code sections 44072.10, subdivisions (a) and (c) and
5 44072.2, subdivision (a), in that Respondent Arco Travel Zone Center failed to comply with the
6 following sections of Title 16, California Code of Regulations:

7 a. **Section 3340.35, subdivision (c)**: failed to inspect and test the vehicles listed in
8 paragraphs 32-51, in accordance with the procedures specified in section 3340.42 of the
9 Regulations and failed to ensure that the vehicles had all the required emission control equipment
10 and devices installed and functioning correctly.

11 b. **Section 3340.41, subdivision (c)**: knowingly entered into the Emissions Inspection
12 System false information about the vehicles listed in paragraphs 32-51, providing results for smog
13 inspections which were not actually performed.

14 c. **Section 3340.42**: failed to conduct the required smog tests on the vehicles listed in
15 paragraphs 32-51, in accordance with the Bureau's specifications.

16 d. **Section 3340.45**: failed to conduct the required smog tests on the vehicles listed in
17 paragraphs 32-51, in accordance with the Smog Check Manual, dated 2013.

18 **FOURTH CAUSE FOR DISCIPLINE**

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

20 59. Complainant re-alleges and incorporates by reference the allegations set forth above
21 in the foregoing paragraphs.

22 60. Respondent Arco Travel Zone Center's Registration is subject to disciplinary action
23 under Code section 9884.7, subdivision (a)(4) and Respondent Arco Travel Zone Center's Smog
24 Check Station License is subject to disciplinary action under Health and Safety Code sections
25 44072.10, subdivision (a) and (c) and 44072.2, subdivision (d), in that Respondent Arco Travel
26 Zone Center committed dishonest, fraudulent, or deceitful acts whereby another is injured by
27 issuing a smog certificate of compliance for the vehicles listed in paragraphs 32-51 without
28 performing bona fide inspections of the emission control devices and systems on the vehicles,

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

3 **FIFTH CAUSE FOR DISCIPLINE**

4 **(Violation of Motor Vehicle Inspection Program)**

5 61. Complainant re-alleges and incorporates by reference the allegations set forth above
6 in the foregoing paragraphs.

7 62. Respondent Cole's Smog Check Inspector License is subject to disciplinary action
8 under Health and Safety Code sections 44072.10, subdivisions (a) and (c) and 44072.2,
9 subdivision (a), in that Respondent Cole failed to comply with the following sections of that
10 Code:

11 a. **Section 44012**: failed to perform the tests of the emission control systems and
12 devices on the vehicles listed in paragraphs 32-51, in accordance with procedures prescribed by
13 the Department.

14 b. **Section 44015, subd. (a) and (b)**: issued a certificate of compliance for the vehicles
15 listed in paragraphs 32-51, without properly testing and inspecting them to determine if they were
16 in compliance with Health & Safety Code section 44012.

17 c. **Section 44035**: failed to meet or maintain the standards prescribed for qualification,
18 equipment, performance, or conduct by failing to properly perform a smog inspection on the
19 vehicles listed in paragraphs 32-51, or certifying that such tests had been performed, when in fact
20 they were never performed.

21 d. **Section 44032**: failed to test emission control devices and systems in accordance
22 with Section 44012 on the vehicles listed in paragraphs 32-51.

23 **SIXTH CAUSE FOR DISCIPLINE**

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

25 63. Complainant re-alleges and incorporates by reference the allegations set forth above
26 in the foregoing paragraphs.

27 64. Respondent Cole's Smog Check Inspector License is subject to disciplinary action
28 under Health and Safety Code sections 44072.10, subdivisions (a) and (c) and 44072.2,

subdivision (a) in that Respondent Cole failed to comply with the following sections of Title 16, California Code of Regulations:

a. **Section 3340.35, subdivision (c)**: failed to inspect and test the vehicles listed in paragraphs 32-51, in accordance with the procedures specified in section 3340.42 of the Regulations and failed to ensure that the vehicles listed in paragraphs 32-51, had all the required emission control equipment and devices installed and functioning correctly.

b. **Section 3340.41, subdivision (c)**: knowingly entered into the Emissions Inspection System false information about the vehicles listed in paragraphs 32-51, providing results for smog inspections which were not actually performed.

c. **Section 3340.42**: failed to conduct the required smog tests on the vehicles listed in paragraphs 32-51, in accordance with the Bureau's specifications.

d. **Section 3340.45**: failed to conduct the required smog tests on the vehicles listed in paragraphs 32-51, in accordance with the Smog Check Manual, dated 2013.

SEVENTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud, or Deceit)

65. Complainant re-alleges and incorporates by reference the allegations set forth above in the foregoing paragraphs.

66. Respondent Cole's Smog Check Inspector License is subject to disciplinary action under Health and Safety Code sections 44072.10, subdivision (a) and (c) and 44072.2, subdivision (d), in that Respondent Cole committed dishonest, fraudulent, or deceitful acts whereby another is injured by issuing a smog certificate of compliance for the vehicles listed in paragraphs 32-51, without performing bona fide inspections of the emission control devices and systems on the vehicles, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

OTHER MATTERS

67. Under Code section 9884.7, subdivision (c), the Director may suspend, revoke or place on probation the registration for all places of business operated in this State by Respondent Arco Travel Zone Center upon a finding that Respondent has, or is, engaged in a course of

1 repeated and willful violations of the laws and regulations pertaining to an automotive repair
2 dealer.

3 68. Under Health & Safety Code section 44072.8, if Respondent Arco Travel Zone
4 Center's Smog Check Station License is revoked or suspended, the Director may likewise revoke
5 or suspend any additional license issued under Chapter 5 of part 5 of Division 26 of the Health
6 and Safety Code in the name of Respondent Arco Travel Zone Center.

7 69. Under Health & Safety Code section 44072.8, if Respondent Cole's Smog Check
8 Inspector License is revoked or suspended, the Director may likewise revoke or suspend any
9 additional license issued under Chapter 5 of part 5 of Division 26 of the Health and Safety Code
10 in the name of Respondent Cole.

11 **PRAYER**

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

14 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
15 278066, issued to Riverside County Travel Zone Center, Inc., dba Arco Travel Zone Center, Inc.;
16 Ali Mazarei;

17 2. Revoking or suspending any other automotive repair dealer registration issued to Ali
18 Mazarei;

19 3. Revoking or suspending Smog Check Station License Number RC 278066, issued to
20 Riverside County Travel Zone Center, Inc., dba Arco Travel Zone Center, Inc.; Ali Mazarei;

21 4. Revoking, suspending or placing on probation any additional license issued under
22 Chapter 5 of Part 5 of Division 26 of the Health and Safety Code in the name of Respondent
23 Riverside County Travel Zone Center, Inc., dba Arco Travel Zone Center, Inc.; Ali Mazarei;

24 5. Revoking, suspending or placing on probation Smog Check Inspector Smog Check
25 Inspector License No. EO 637820 to Walter De'Von Cole;

26 6. Revoking, suspending or placing on probation any additional license issued under
27 Chapter 5 of Part 5 of Division 26 of the Health and Safety Code in the name of Respondent
28 Walter De'Von Cole;

1 7. Ordering Respondent Riverside County Travel Zone Center, Inc., dba Arco Travel
2 Zone Center, Inc., Ali Mazarei and Walter De'Von Cole to pay the Bureau of Automotive Repair
3 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and
4 Professions Code section 125.3; and,

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

6
7 DATED: September 14, 2017 Patrick Dorais

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

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