# BEFORE THE DIRECTOR DEPARTMENT OF CONSUMER AFFAIRS BUREAU OF AUTOMOTIVE REPAIR STATE OF CALIFORNIA

In the Matter of the Accusation Against:

STRESSLESS SMOG, RON J. BRYMER, OWNER 3927 Marysville Blvd Sacramento, CA 95838

<u>Mailing Address:</u> P.O. Box 509 Rio Linda, California 95673 Automotive Repair Dealer No. ARD 217052 Smog Check Station No. RC 217052

#### RON J. BRYMER

P.O. Box 509
Rio Linda, California 95673
Smog Check Inspector License No. EO 144259
Smog Check Repair Technician License No. EI 144259 (formerly Advanced Emission Specialist Technician License No. EA 144259)

Respondents.

#### DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby accepted and adopted as the Decision of the Director of the Department of Consumer Affairs in the above-entitled matter.

This Decision shall become effective

20,2014 tuen

DATED: \_\_\_\_\_\_\_ July 30, 2014\_\_\_\_\_

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DONALD CHANG Assistant Chief Counsel Department of Consumer Affairs

Case No. 79/14-89

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12	In the Matter of the Accusation Against:	Case No. 79/14-89
13	STRESSLESS SMOG,	STIPULATED SETTLEMENT AND
14	RON J. BRYMER, OWNER 3927 Marysville Blvd	DISCIPLINARY ORDER
15	Sacramento, CA 95838	
16	Mailing Address: P.O. Box 509	
17	Rio Linda, California 95673 Automotive Repair Dealer No. ARD 217052	
18	Smog Check Station No. RC 217052	
19	RON J. BRYMER P.O. Box 509	
20	Rio Linda, California 95673 Smog Check Inspector License No.	
21	EO 144259 Smog Check Repair Technician License No.	
22	EI 144259 (formerly Advanced Emission Specialist Technician License No. EA	
23	144259)	
24	Respondents.	
25	IT IS HEREBY STIPULATED AND AGE	REED by and between the parties to the above-
26	entitled proceedings that the following matters a	
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#### PARTIES

 Patrick Dorais ("Complainant") is the Chief of the Bureau of Automotive Repair. He brought this action solely in his official capacity and is represented in this matter by Kamala D. Harris, Attorney General of the State of California, by Elena L. Almanzo, Deputy Attorney General.

Respondent Stressless Smog, Ron J. Brymer, Owner ("Respondent") is representing
himself in this proceeding and has chosen not to exercise his right to be represented by counsel.

3. On or about August 20, 2001, the Bureau of Automotive Repair issued Automotive
Repair Dealer No. ARD 217052 to Stressless Smog, Ron J. Brymer, Owner (Respondent). The
Automotive Repair Dealer was in full force and effect at all times relevant to the charges brought
in Accusation No.79/14-89 and will expire on July 31, 2014, unless renewed.

4. On or about August 31, 2001, the Bureau of Automotive Repair issued Smog Check
 Station No. RC 217052 to Stressless Smog, Ron J. Brymer, Owner (Respondent). The Smog
 Check Station was in full force and effect at all times relevant to the charges brought in

15 Accusation No. 79/14-89 and will expire on July 31, 2014, unless renewed.

5. On or about January 1, 2001, the Bureau of Automotive Repair issued Smog Check
 Technician License No. EA 144259 to Ron J. Brymer, (Respondent Brymer). The Smog Check
 Technician was in full force and effect at all times relevant to the charges brought in Accusation
 No. 79/14-89 and pursuant to California Code of Regulations, Title 16, Section 3340.28,
 Respondent renewed Smog Check Technician License No. EA 144259 as Smog Check Inspector
 License EO 144259 and Smog Check Repair Technician License No. EI 144259 and are in full

22 force and effect and expire on January 31, 2016, unless renewed.<sup>1</sup>

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#### JURISDICTION

6. Accusation No. 79/14-89 was filed before the Director of Consumer Affairs

25 (Director), for the Bureau of Automotive Repair (Bureau), and is currently pending against

<sup>1</sup> Effective August 1, 2012, California Code of Regulations, Title 16, Sections 3340.28,
 <sup>3340.29</sup> and 3340.30 were amended to implement a license restructure from the Advance Emission Specialist Technician (EA) license and Basic Are (EB) Technician license to Smog Check Inspector (EO) license and / or Smog Check Repair Technician (EI) license.

1 -	Respondents. The Accusation and all other statutorily required documents were properly served
2	on Respondents on April 25, 2014. Respondents timely filed their Notice of Defense contesting
3	the Accusation.
4	7. A copy of Accusation No. 79/14-89 is attached as exhibit A and incorporated herein
5	by reference.
6	
7	ADVISEMENT AND WAIVERS
8	8. Respondents have carefully read, and understand the charges and allegations in
9	Accusation No. 79/14-89. Respondents have also carefully read, and understand the effects of
10	this Stipulated Settlement and Disciplinary Order.
11	9. Respondents are fully aware of their legal rights in this matter, including the right to a
12	hearing on the charges and allegations in the Accusation; the right to be represented by counsel at
13	their own expense; the right to confront and cross-examine the witnesses against them; the right
14	to present evidence and to testify on their own behalf; the right to the issuance of subpoenas to
15	compel the attendance of witnesses and the production of documents; the right to reconsideration
16	and court review of an adverse decision; and all other rights accorded by the California
17	Administrative Procedure Act and other applicable laws.
18	10. Respondents voluntarily, knowingly, and intelligently waive and give up each and
19	every right set forth above.
20	CULPABILITY
21	11. Respondent admits the truth of each and every charge and allegation in Accusation
22	No. 79/14-89.
23	12. Respondents agree that their Automotive Repair Dealer Registration, Smog Check
24	Station license, Smog Check Inspector, and Smog Check Repair licenses are subject to discipline
25	and they agrees to be bound by the Director's imposition of discipline as set forth in the
26	Disciplinary Order below.
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	STIPULATED SETTLEMENT (79/14-89)

#### **CONTINGENCY**

13. This stipulation shall be subject to approval by the Director of Consumer Affairs or the Director's designee. Respondents understand and agree that counsel for Complainant and the staff of the Bureau of Automotive Repair may communicate directly with the Director and staff of the Department of Consumer Affairs regarding this stipulation and settlement, without notice to or participation by Respondent. By signing the stipulation, Respondents understands and agrees that they may not withdraw their agreement or seek to rescind the stipulation prior to the time the Director considers and acts upon it. If the Director fails to adopt this stipulation as the Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Director shall not be disqualified from further action by having considered this matter.

12 14. The parties understand and agree that Portable Document Format (PDF) and facsimile
13 copies of this Stipulated Settlement and Disciplinary Order, including Portable Document Format
14 (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

15 15. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
integrated writing representing the complete, final, and exclusive embodiment of their agreement.
It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
writing executed by an authorized representative of each of the parties.

16. The Bureau agrees that they will waive seeking costs concurrent with the revocation
and further agrees that the costs in the amount of \$6,341.09 shall be payable upon an application
for registration, application for licensure, or petition to reinstate respondents' registration or
license.

17. In consideration of the foregoing admissions and stipulations, the parties agree that
the Director may, without further notice or formal proceeding, issue and enter the following
Disciplinary Order:

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	DISCIPLINA DV ODDED
1	DISCIPLINARY ORDER
2	IT IS HEREBY ORDERED that Automotive Repair Dealer No. ARD 217052, Smog Check
3	Station No. RC 217052, issued to Respondents Stressless Smog, Ron J. Brymer, Owner
4	(Respondents) are revoked.
5	IT IS FURTHER ORDERED that Smog Check Inspector License No. EO 144259 and
6	Smog Check Repair License No. EI 144259 issued to Ron J. Brymer, (Respondent Brymer) are
7	revoked.
8	IT IS FURTHER ORDERED that the costs in the amount of \$6,341.09 shall be payable
9	upon an application for registration, application for licensure, or petition to reinstate respondents'
10	registration or licenses.
· 11	ACCEPTANCE
12	I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the
13	stipulation and the effect it will have on my Automotive Repair Dealer, and Smog Check Station,
14	Smog Check Inspector, and Smog Check Repair licenses. I enter into this Stipulated Settlement
15	and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
16	Decision and Order of the Director of Consumer Affairs.
17	DATED: 7-2-1
18	STRESSIESS SMOG, RON J. BRYMER, OWNER/TECHNICIAN
19	Respondent
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	STIPULATED SETTLEMENT (79/14-89)

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1		ORSEMENT
2		d Disciplinary Order is hereby respectfully
3	submitted for consideration by the Director o	f Consumer Affairs
4	Dated: My 10,2014	Respectfully submitted,
5	Juci	Kamala D. Harris
6		Attorney General of California KENT D. HARRIS
7		Supervising Deputy Attorney General
8		Co Pala
9		ELENA L. ALMANZO
10	-	Deputy Attorney General Attorneys for Complainant
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		STIPULATED SETTLEMENT (79/14-8

# Exhibit A

# Accusation No. 79/14-89

1 2 3 4 5 6 7	KAMALA D. HARRIS Attorney General of California KENT D. HARRIS Supervising Deputy Attorney General ELENA L. ALMANZO Deputy Attorney General State Bar No. 131058 1300 I Street, Suite 125 P.O. Box 944255 Sacramento, CA 94244-2550 Telephone: (916) 322-5524 Facsimile: (916) 327-8643 Attorneys for Complainant	
8		RE THE CONSUMER AFFAIRS
9	FOR THE BUREAU OF	AUTOMOTIVE REPAIR CALIFORNIA
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11	In the Matter of the Accusation Against:	Case No. 79/14-89
12 13 14 15 16 17 18 19 20 21 22 23	STRESSLESS SMOG, RON J. BRYMER, OWNER 3927 Marysville Blvd Sacramento, CA 95838 <u>Mailing Address:</u> P.O. Box 509 Rio Linda, California 95673 Automotive Repair Dealer No. ARD 217052 Smog Check Station No. RC 217052 RON J. BRYMER P.O. Box 509 Rio Linda, California 95673 Smog Check Inspector License No. EO 144259 Smog Check Repair Technician License No. EI 144259 (formerly Advanced Emission Specialist Technician License No. EA 144259) Respondent.	ACCUSATION (SMOG CHECK)
24		
25	Patrick Dorais ("Complainant") alleges:	
26	PAR	TIES
27	1. Complainant brings this Accusation	solely in his official capacity as the Chief of the
28	Bureau of Automotive Repair ("Bureau"), Depar	tment of Consumer Affairs.
		1 Accusation

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1	Ron J. Brymer, Owner of Stressless Smog
2	2. On or about August 20, 2001, the Director of Consumer Affairs ("Director") issued
3	Automotive Repair Dealer Registration Number ARD 217052 to Ron J. Brymer, owner of
4	Stressless Smog ("Respondent").
5	The automotive repair dealer registration was in full force and effect at all times relevant to the
6	charge brought herein and will expire on July 31, 2014, unless renewed.
7	3. On or about August 31, 2001, the Bureau issued Smog Check Station License
8	Number RC 217052 to Respondent. The smog check station license was in full force and effect at
9	all times relevant to the charge brought herein and will expire on July 31, 2014, unless renewed.
10	Ron J. Brymer
11	4. In or around 2001, the Bureau issued Advanced Emission Specialist Technician
12	License Number EA 144259 to Ron J. Brymer. Brymer's advanced emission specialist technician
13	license was due to expire on January 31, 2014. Pursuant to California Code of Regulations, title
14	16, section 3340.28, subdivision (e), the license was renewed, pursuant to Brymer's election, as
15	Smog Inspector License No. EO 144259 and Smog Check Repair Technician License No. EI
16	144259 ("technician licenses"), effective January 7, 2014. Respondent's technician licenses will
17	expire on January 31, 2016, unless renewed. <sup>1</sup>
18	JURISDICTION
19	5. Business and Professions Code ("Code") section 9884.7 provides that the Director
20	may revoke an automotive repair dealer registration.
21	6. Code section 9884.13 states:
22	The expiration of a valid registration shall not deprive the director or chief of jurisdiction to proceed with any investigation or disciplinary proceeding against an
23	automotive repair dealer or to render a decision invalidating a registration
24	temporarily or permanently.
25	<sup>1</sup> Effective August 1, 2012, California Code of Regulations, title 16, sections, 2240, 28
26	<sup>1</sup> Effective August 1, 2012, California Code of Regulations, title 16, sections 3340.28, 3340.29, and 3340.30 were amended to implement a license restructure from the Advanced
27	Emission Specialist Technician (EA) license and Basic Area (EB) Technician license to Smog Check Inspector (EO) license and/or Smog Check Repair Technician (E1) license.
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	2 Accusation

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1	7. Health and Safety Code section 44002 provides, in pertinent part, that the Director
2	has all the powers and authority granted under the Automotive Repair Act for enforcing the
3	Motor Vehicle Inspection Program.
4	8. Health and Safety Code section 44072.6 provides, in pertinent part, that the expiration
5	or suspension of a license by operation of law, or by order or decision of the Director of
6	Consumer Affairs, or a court of law, or the voluntary surrender of the license shall not deprive the
7	Director of jurisdiction to proceed with disciplinary action.
. 8	9. Health and Safety Code section 44072.8 states that, "When a license has been
9	revoked or suspended following a hearing under this article, any additional license issued under
10	this chapter in the name of the licensee may be likewise revoked or suspended by the director."
11	10. California Code of Regulations, title 16, section 3340.28, subdivision (e), states that:
12	"[u]pon renewal of an unexpired Basic Area Technician license or an Advanced Emission Specialist Technician license issued prior to the effective date of this
13	regulation, the license may apply to renew as a Smog Check Inspector, Smog Check
14	STATUTORY AND REGULATORY PROVISIONS
15	11. Code section 9884.7 states, in pertinent part:
16	(a) The director, where the automotive repair dealer cannot show there was a
17	bona fide error, may deny, suspend, revoke, or place on probation the registration of an automotive repair dealer for any of the following acts or omissions related to the
18	conduct of the business of the automotive repair dealer, which are done by the automotive repair dealer or any automotive technician, employee, partner, officer, or
19	member of the automotive repair dealer.
20	(1) Making or authorizing in any manner or by any means whatever any statement written or oral which is untrue or misleading, and which is known, or
21	which by the exercise of reasonable care should be known, to be untrue or misleading.
22	
23	(6) Failure in any material respect to comply with the provisions of this
24	chapter or regulations adopted pursuant to it.
25	(c) Notwithstanding subdivision (b), the director may suspend, revoke, or place on probation the registration for all places of business operated in this state by
26	an automotive repair dealer upon a finding that the automotive repair dealer has, or is, engaged in a course of repeated and willful violations of this chapter, or
27	regulations adopted pursuant to it.
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	3 Accusation

27 28	in the name of the licensee may be likewise revoked or suspended by the director.
27	suspended following a nearing under tins article, any additional neerise issued under tins chapter
26	suspended following a hearing under this article, any additional license issued under this chapter
25	17. Health & Safety Code section 44072.8 states that when a license has been revoked or
24	(4) Intentional or willful violation of this chapter or any regulation, standard, or procedure of the department implementing this chapter
23	the following:
22	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
21	(c) The department shall revoke the license of any smog check technician or
20	injured. 16. Health & Safety Code section 44072.10 states, in pertinent part:
19	(d) Commits any act involving dishonesty, fraud, or deceit whereby another is
18	(c) Violates any of the regulations adopted by the director pursuant to this chapter.
16 17	(Health and Safety Code § 44000, et seq.)] and the regulations adopted pursuant to it, which related to the licensed activities.
15	(a) Violates any section of this chapter [the Motor Vehicle Inspection Program (Health and Safety Code § 44000, at seq.)] and the regulations adopted pursuant to it
14	license as provided in this article if the licensee, or any partner, officer, or director thereof, does any of the following:
13	The director may suspend, revoke, or take other disciplinary action against a
12	profession regulated by the Code. 15. Health & Safety Code section 44072.2 states, in pertinent part:
11	"agency." "License" includes certificate, registration or other means to engage in a business or
10	"commission," "committee," "department," "division," "examining committee," "program," and
9	14. Code section 477 provides, in pertinent part, that "Board" includes "bureau,"
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6 7	administration of the provision is vested, and unless otherwise expressly provided, shall include "bureau," "commission," "committee," "department," "division," "examining committee," "program," and "agency."
5	"Board," as used in any provision of this code, refers to the board in which the
4	13. Code section 22, subdivision (a), states:
3	labor and parts necessary for a specific job. No work shall be done and no charges shall accrue before authorization to proceed is obtained from the customer"
1	12. Code section 9884.9, subdivision (a), provides that: The automotive repair dealer shall give to the customer a written estimated price for
1	12. Code section 9884.9, subdivision (a), provides that:

1	COST RECOVERY
2	18. Code section 125.3 provides, in pertinent part, that a Board may request the
3	administrative law judge to direct a licentiate found to have committed a violation or violations of
4	the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
5	enforcement of the case.
6	UNDERCOVER OPERATION #1
7	19. On or about June 12, 2013, a Bureau undercover operator (the "operator") took the
8	Bureau's 1985 Chevrolet to Respondent's facility, Stressless Smog, and requested a smog
9	inspection. The operator signed but did not receive a copy of the written estimate before
10	Respondent performed work on the vehicle. Respondent allegedly performed the smog
11	inspection. The operator paid \$60 and received a copy of the invoice and a Vehicle Inspection
12	Report.
13	20. The Bureau obtained information from the vehicle information database showing that
14	Respondent performed a smog inspection on the 1985 Chevrolet on June 12, 2013, between 10:56
15	and 11:09 hours, resulting in the issuance of electronic smog Certificate of Compliance No.
16	
17	21. The Bureau determined that the certificate of compliance was fraudulently issued in
18	that the vehicle was precluded from passing a lawful smog inspection because the air injection
19	reactor ("AIR") pump was rendered inoperative and the AIR belt was improperly installed on the
20	vehicle in a manner that could be visually detected.
21	FIRST CAUSE FOR DISCIPLINE
22	(Untrue or Misleading Statements)
23	22. Respondent's registration is subject to discipline pursuant to Code section 9884.7,
24	subdivision (a)(1), in that Respondent made or authorized statements which he knew or in the
25	exercise of reasonable care should have known to be untrue or misleading. Specifically,
26	Respondent certified under penalty of perjury that the Bureau's 1985 Chevrolet had passed a
27	smog inspection and was in compliance with applicable laws and regulations. In fact, the AIR
28	system had been rendered inoperable and the vehicle would not pass the inspection required by
	5 Accusation

1	Health & Safety Code section 44012.
2	SECOND CAUSE FOR DISCIPLINE
3	(Fraud)
4	23. Respondent's registration is subject to discipline pursuant to Code section 9884.7,
5	subdivision (a)(4), in that Respondent committed an act that constitutes fraud by issuing an
6	electronic smog certificate of compliance for the Bureau's 1985 Chevrolet without ensuring that a
7	bona fide inspection was performed of the emission control devices and systems on the vehicle,
8	thereby depriving the people of the State of California of the protection afforded by the Motor
9	Vehicle Inspection Program.
10	THIRD CAUSE FOR DISCIPLINE
11	(Failure to Provide a Written Estimate)
12	24. Respondent's registration is subject to discipline pursuant to Code section 9884.7,
13	subdivision (a)(6), in that Respondent failed to comply with Code section 9884.9, subdivision (a),
14	in a material respect. Specifically, Respondent failed to provide the operator with a written
15	estimate before performing the smog inspection on the Bureau's 1985 Chevrolet, as set forth in
16	paragraph 19, above.
17	FOURTH CAUSE FOR DISCIPLINE
18	(Motor Vehicle Inspection Program – Code Violations)
19	25. Respondent's smog check station license is subject to disciplinary action pursuant to
20	Health & Safety Code section 44072.2, subdivision (a), in that Respondent failed to comply with
21	provisions of that Code, as follows:
22	a. <u>Section 44012, subdivision (a)</u> : Respondent failed to ensure that the emission
23	control tests were performed on the Bureau's 1985 Chevrolet in accordance with procedures
24	prescribed by the department.
25	b. <u>Section 44015</u> : Respondent issued an electronic smog certificate of compliance for
26	the Bureau's 1985 Chevrolet without ensuring that the vehicle was properly tested and inspected
27	to determine if it was in compliance with Health & Safety Code section 44012.
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	6 Accusation

$1 \parallel$	FIFTH CAUSE FOR DISCIPLINE
2	(Motor Vehicle Inspection Program - Regulation Violations)
3	26. Respondent's smog check station license is subject to disciplinary action pursuant to
4	Health & Safety Code section 44072.2, subdivision (c), in that Respondent failed to comply with
5	provisions of California Code of Regulations, title 16, as follows:
6	a. <u>Section 3340.35, subdivision (c)</u> : Respondent issued an electronic smog certificate
7	of compliance for the Bureau's 1985 Chevrolet even though the vehicle had not been inspected
8	accordance with section 3340.42.
9.	b. <u>Section 3340.42</u> : Respondent failed to ensure that the required smog tests were
10	conducted on the Bureau's 1985 Chevrolet in accordance with the Bureau's specifications.
11	SIXTH CAUSE FOR DISCIPLINE
12	(Dishonesty, Fraud or Deceit)
13	27. Respondent's smog check station license is subject to disciplinary action pursuant t
14	Health & Safety Code section 44072.2, subdivision (d), in that Respondent committed a
15	dishonest, fraudulent or deceitful act whereby another is injured by issuing an electronic smog
16	certificate of compliance for the Bureau's 1985 Chevrolet without ensuring that a bona fide
17	inspection was performed of the emission control devices and systems on the vehicle, thereby
18	depriving the people of the State of California of the protection afforded by the Motor Vehicle
19	Inspection Program.
20	SEVENTH CAUSE FOR DISCIPLINE
21	(Motor Vehicle Inspection Program - Code Violations)
22	28. Respondent's technician license is subject to discipline pursuant to Health and Safe
23	Code section 44072.2, subdivision (a), in that on or about June 12, 2013, regarding the Bureau
24	1985 Chevrolet, Respondent violated sections of that Code as follows:
25	a. <u>Section 44012, subdivision (f)</u> : Respondent failed to perform on the vehicle a visu
26	and/or functional check of the emission control devices in accordance with required procedures
27	b. <u>Section 44032</u> : Respondent failed to perform tests of the emission control devices
28	and systems on the vehicle in accordance with Code section 44012, in that the vehicle's AIR

1	system had been rendered inoperable.
2	EIGHTH CAUSE FOR DISCIPLINE
3	(Motor Vehicle Inspection Program - Regulation Violations)
4	29. Respondent's technician licenses are subject to discipline pursuant to Health and
5	Safety Code section 44072.2, subdivision (c), in that on or about June 12, 2013, regarding the
6	Bureau's 1985 Chevrolet, Respondent failed to comply with provisions of California Code of
7	Regulations, title 16, as follows:
8	a. <u>Section 3340.30, subdivision (a)</u> : Respondent failed to inspect and test the vehicle in
9	accordance with Health and Safety Code section 44012.
10	b. <u>Section 3341.41, subdivision (c)</u> : Respondent knowingly entered false information
11	into the emission inspection system.
12	c. <u>Section 3340.42</u> : Respondent failed to conduct the required smog tests on the vehicle
13	in accordance with the Bureau's specifications.
14	NINTH CAUSE FOR DISCIPLINE
15	(Dishonesty, Fraud, or Deceit)
16	30. Respondent's technician licenses are subject to discipline pursuant to Health and
17	Safety Code section 44072.2, subdivision (d), in that on or about June 12, 2013, Respondent
18	committed a dishonest, fraudulent, or deceitful act whereby another is injured by issuing an
19	electronic smog certificate of compliance for the Bureau's 1985 Chevrolet without performing a
20	bona fide inspection of the emission control devices and systems on the vehicle, thereby
21	depriving the people of the State of California of the protection afforded by the Motor Vehicle
22	Inspection Program.
23	<b>UNDERCOVER OPERATION #2</b>
24	31. On or about July 26, 2013, a Bureau undercover operator (the "operator") took the
25	Bureau's 2007 Jeep to Respondent's facility, Stressless Smog, and requested a smog inspection.
26	The operator did not sign or receive a written estimate before Respondent performed work on the
27	vehicle. Respondent allegedly performed the smog inspection. The operator paid \$60 and
28	received a copy of the invoice and a Vehicle Inspection Report.
	8 Accusation

32. The Bureau obtained information from the vehicle information database showing that Respondent performed a smog inspection on the 2007 Jeep on July 26, 2013, between 10:08 and 10:17 hours, resulting in the issuance of electronic smog Certificate of Compliance No.

33. The Bureau determined that the certificate of compliance was fraudulently issued
because an aftermarket performance device, which had not been approved for emission controlled
vehicles in the State of California, had been installed on the vehicle. That device precluded the
vehicle from passing a lawful smog inspection. The device could be detected visually. The
Bureau determined that Respondent had not removed the device for the smog inspection.

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#### TENTH CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

34. Respondent's registration is subject to discipline pursuant to Code section 9884.7,
subdivision (a)(1), in that Respondent made or authorized statements which he knew or in the
exercise of reasonable care should have known to be untrue or misleading. Specifically,
Respondent certified under penalty of perjury that the Bureau's 2007 Jeep had passed a smog
inspection and was in compliance with applicable laws and regulations. In fact, Respondent had
not removed an unapproved aftermarket device that was installed on the vehicle, which precluded
the vehicle from passing the inspection required by Health & Safety Code section 44012.

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# **ELEVENTH CAUSE FOR DISCIPLINE**

#### (Fraud)

35. Respondent's registration is subject to discipline pursuant to Code section 9884.7,
subdivision (a)(4), in that Respondent committed an act that constitutes fraud by issuing an
electronic smog certificate of compliance for the Bureau's 2007 Jeep without ensuring that a bona
fide inspection was performed of the emission control devices and systems on the vehicle, thereby
depriving the people of the State of California of the protection afforded by the Motor Vehicle
Inspection Program.

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1	TWELFTH CAUSE FOR DISCIPLINE
2	(Failure to Provide a Written Estimate)
3	36. Respondent's registration is subject to discipline pursuant to Code section 9884.
4	subdivision (a)(6), in that Respondent failed to comply with Code section 9884.9, subdivision (a)
5	in a material respect. Specifically, Respondent failed to provide the operator with a written
6	estimate before performing the smog inspection on the Bureau's 2007 Jeep, as set forth in
7	paragraph 31, above.
8	THIRTEENTH CAUSE FOR DISCIPLINE
9	(Motor Vehicle Inspection Program - Code Violations)
10	37. Respondent's smog check station license is subject to disciplinary action pursuant to
11	Health & Safety Code section 44072.2, subdivision (a), in that Respondent failed to comply wit
12	provisions of that Code, as follows:
. 13	a. <u>Section 44012, subdivision (a)</u> : Respondent failed to ensure that the emission
14	control tests were performed on the Bureau's 2007 Jeep in accordance with procedures prescrib
15	by the department.
16	c. <u>Section 44015</u> : Respondent issued an electronic smog certificate of compliance fo
17	the Bureau's 2007 Jeep without ensuring that the vehicle was properly tested and inspected to
18	determine if it was in compliance with Health & Safety Code section 44012.
19	FOURTEENTH CAUSE FOR DISCIPLINE
20	(Motor Vehicle Inspection Program - Regulation Violations)
21	38. Respondent's smog check station license is subject to disciplinary action pursuant t
22	Health & Safety Code section 44072.2, subdivision (c), in that Respondent failed to comply wi
23	provisions of California Code of Regulations, title 16, as follows:
24	a. <u>Section 3340.35, subdivision (c)</u> : Respondent issued an electronic smog certificat
25	of compliance for the Bureau's 2007 Jeep even though the vehicle had not been inspected in
26	accordance with section 3340.42.
27	b. <u>Section 3340.42</u> : Respondent failed to ensure that the required smog tests were
28	conducted on the Bureau's 2007 Jeep in accordance with the Bureau's specifications.
	10 Accusat

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1	FIFTEENTH CAUSE FOR DISCIPLINE					
2	(Dishonesty, Fraud or Deceit)					
3	39. Respondent's smog check station license is subject to disciplinary action pursuant to					
4	Health & Safety Code section 44072.2, subdivision (d), in that Respondent committed a					
5	dishonest, fraudulent or deceitful act whereby another is injured by issuing an electronic smog					
6	certificate of compliance for the Bureau's 2007 Jeep without ensuring that a bona fide inspection					
7	was performed of the emission control devices and systems on the vehicle, thereby depriving the					
8	people of the State of California of the protection afforded by the Motor Vehicle Inspection					
9	Program.					
10	SIXTEENTH CAUSE FOR DISCIPLINE					
11	(Motor Vehicle Inspection Program – Code Violations)					
12	40. Respondent's technician licenses are subject to discipline pursuant to Health and					
13	Safety Code section 44072.2, subdivision (a), in that on or about July 26, 2013, regarding the					
14	Bureau's 2007 Jeep, Respondent violated sections of that Code as follows:					
15	a. <u>Section 44012, subdivision (f)</u> : Respondent failed to perform on the vehicle a visual					
16	and/or functional check of the emission control devices in accordance with required procedures.					
17	b. <u>Section 44032</u> : Respondent failed to perform tests of the emission control devices					
18	and systems on the vehicle in accordance with Code section 44012, in that Respondent did not					
19	remove an unapproved device that had been introduced that modified the vehicle's emission					
20	control system.					
21	SEVENTEENTH CAUSE FOR DISCIPLINE					
22	(Motor Vehicle Inspection Program - Regulation Violations)					
23	41. Respondent's technician licenses are subject to discipline pursuant to Health and					
24	Safety Code section 44072.2, subdivision (c), in that on or about July 26, 2013, regarding the					
25	Bureau's 2007 Jeep, Respondent failed to comply with provisions of California Code of					
26	Regulations, title 16, as follows:					
27	a. <u>Section 3340.30, subdivision (a)</u> : Respondent failed to inspect and test the vehicle in					
28	accordance with Health and Safety Code section 44012.					
	11 Accusation					

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1	b. <u>Section 3341.41, subdivision (c)</u> : Respondent knowingly entered false information					
2	into the emission inspection system.					
3	c. <u>Section 3340.42</u> : Respondent failed to conduct the required smog tests on the vehicle					
4	in accordance with the Bureau's specifications.					
5	EIGHTEENTH CAUSE FOR DISCIPLINE					
6	(Dishonesty, Fraud, or Deceit)					
7	42. Respondent's technician licenses are subject to discipline pursuant to Health and					
8	Safety Code section 44072.2, subdivision (d), in that on or about July 26, 2013, Respondent					
9	committed a dishonest, fraudulent, or deceitful act whereby another is injured by issuing an					
10	electronic smog certificate of compliance for the Bureau's 2007 Jeep without performing a bona					
11	fide inspection of the emission control devices and systems on the vehicle, thereby depriving the					
12	people of the State of California of the protection afforded by the Motor Vehicle Inspection					
13	Program.					
14	MATTERS IN AGGRAVATION					
15	43. To determine the degree of discipline, if any, to be imposed on Respondent,					
16	Complainant alleges as follows:					
17	Ron J. Brymer					
18	a. On or about August 4, 2006, the Bureau issued Citation No. M07-0035 against					
19	Respondent for violations of Health and Safety Code section 44032 (qualified technicians shall					
20	perform tests of emission control systems and devices in accordance with Health& Safety Code					
21	section 44012), and Regulation 3340.30, subdivision (a) (qualified technicians shall inspect, test,					
22	and repair vehicles in accordance with Health and Safety Code sections 44012 and 44035, and					
23	Regulation 3340.42). On August 2, 2006, Respondent issued a certificate of compliance to a					
24	Bureau undercover vehicle with a missing positive crankcase ventilation system. Respondent was					
25	directed to complete an 8 hour training course and to submit proof of completion to the Bureau					
26	within 30 days from receipt of the citation. Respondent completed the training on August 30,					
27	2006.					
28						

b. On or about June 3, 2009, the Bureau issued Citation No. M09-1381 against
Respondent for violations of Health and Safety Code section 44032 and Regulation 3340.30,
subdivision (a). On May 13, 2009, Respondent issued a certificate of compliance to a Bureau
undercover vehicle with a non-functional exhaust gas recirculation system. Respondent was
directed to complete an 8 hour training course and to submit proof of completion to the Bureau
within 30 days from receipt of the citation. Respondent completed the training on July 28, 2009.

c. On or about July 30, 2009, the Bureau issued Citation No. M2010-0092 against
Respondent for violations of Health and Safety Code section 44032 and Regulation 3340.30,
subdivision (a). On July 21, 2009, Respondent issued a certificate of compliance to a Bureau
undercover vehicle with a missing fuel evaporative storage system. Respondent was directed to
complete a 16 hour training course and to submit proof of completion to the Bureau within 30
days from receipt of the citation. Respondent completed the training on September 17, 2009.

d. On or about February 3, 2012, the Bureau issued Citation No. M2012-0810 against
Respondent Brymer for violating Health and Safety Code section 44032. On January 30, 2012,
Respondent issued a certificate of compliance to a Bureau undercover vehicle with a missing
thermostatic air cleaner. Respondent was directed to complete a 68 hour training course and to
submit proof of completion to the Bureau within 30 days from receipt of the citation. Respondent
completed the training on April 1, 2012.

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#### Stressless Smog

e. On or about August 4, 2006, the Bureau issued Citation No. C07-0034 against 20 Respondent for violation of Health & Safety Code section 44012, subdivision (f), (failure to 21 perform a visual/functional check of emission control devices according to procedures prescribed 22 by the department) and California Code of Regulations, title 16 ("Regulation"), section 3340.35, 23 subdivision (c), (issuing a certificate of compliance to a vehicle that was improperly tested). 24 August 2, 2006, Respondent issued a certificate of compliance to a Bureau undercover vehicle 25 with a missing positive crankcase ventilation system. The Bureau assessed civil penalties totaling 26 \$500 against Respondent Smog for the violations, and Respondent paid the fine on August 24, 27 2006. 28

f. On or about June 3, 2009, the Bureau issued Citation No. C09-1380 against Respondent for violation of Health & Safety Code section 44012, subdivision (f), and Regulation 3340.35, subdivision (c). On May 13, 2009, Respondent issued a certificate of compliance to a Bureau undercover vehicle with a non-functional exhaust gas recirculation system. The Bureau assessed civil penalties totaling \$500 against Respondent for the violations, and Respondent paid the fine on June 26, 2009.

g. On or about July 30, 2009, the Bureau issued Citation No. C2010-0091 against
Respondent for violation of Health & Safety Code section 44012, subdivision (f), and
Regulation 3340.35, subdivision (c). On July 21, 2009, Respondent issued a certificate of
compliance to a Bureau undercover vehicle with a missing fuel evaporative storage system. The
Bureau assessed civil penalties totaling \$1,000 against Respondent for the violations, and
Respondent paid the fine on September 25, 2009.

h. On or about February 3, 2012, the Bureau issued Citation No. C2012-0809 against
Respondent for violation of Health & Safety Code section 44012, subdivision (f). On January 30,
2012, Respondent issued a certificate of compliance to a Bureau undercover vehicle with a
missing thermostatic air cleaner. The Bureau assessed civil penalties totaling \$1,500 against
Respondent for the violations, and Respondent paid the fine on April 11, 2012.

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#### **OTHER MATTERS**

44. Pursuant to 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
Ron J. Brymer, owner of Stressless Smog, upon a finding that said Respondent has, or is, engaged
in a course of repeated and willful violations of the laws and regulations pertaining to an
automotive repair dealer.

45. Pursuant to Health and Safety Code section 44072.8, if Smog Check Station License
Number RC 217052, issued to Ron J. Brymer, owner of Stressless Smog, is revoked or
suspended, any additional license issued under this chapter in the name of Ron J. Brymer may be
likewise revoked or suspended by the Director.

1	46. Under Health and Safety									
2	Inspector License No. EO 144259, a									
3	formerly Advanced Emission Specialist Technician License No. EA 144259), are revoked or									
4    -	suspended, any additional license issued under this chapter in the name of Respondent Brymer									
5	may likewise be revoked or suspend	led.								
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1	PRAYER					
2	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged					
3	and that following the hearing, the Director of Consumer Affairs issue a decision:					
4	1. Revoking or suspending Automotive Repair Dealer Registration Number					
5	ARD 217052, issued to Ron J. Brymer, as owner of Stressless Smog;					
6	2. Revoking or suspending any other automotive repair dealer registration issued to					
7	Ron J. Brymer;					
8	3. Revoking or suspending Smog Check Station License Number RC 217052 issued to					
9	Ron J. Brymer, as owner of Stressless Smog;					
10	4. Revoking or suspending the Smog Check Inspector License No. EO 144259 and					
11	Smog Check Repair Technician License No. EI 144259 (formerlyAdvanced Emission Specialist					
12	Technician License No. EA 144259), issued to Ron J. Brymer;					
13	5. Revoking or suspending any additional license issued under Chapter 5 of the Health					
14	and Safety Code in the name of Ron J. Brymer;					
15	6. Ordering Ron J. Brymer to pay the Bureau of Automotive Repair the reasonable					
16	costs of the investigation and enforcement of this case, pursuant to Business and Professions					
17	Code section 125.3; and,					
18	7. Taking such other and further action as deemed necessary and proper.					
19	T DIOK.					
20	DATED: January 24, 2014 Patink Worais					
21	Chief					
22	Bureau of Automotive Repair Department of Consumer Affairs					
23	State of California Complainant					
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28						
	16 Accusation					