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

In the Matter of the Accusation and Petition to Revoke Probation Against: **ARCH'S AUTOMOTIVE, INC.,** **dba ARCH'S AUTOMOTIVE SERVICE** **BRENDAN CLIFTON BROOKS,** **PRESIDENT/TREASURER** **KEVIN MARC MALTESE, SECRETARY** 1355 East Main Street Grass Valley, CA 95945 Automotive Repair Dealer Registration No. ARD 238380 Smog Check Station License No. RC 238380 and **SANDRA MARIE SANDELIUS** Smog Check Inspector License No. EO 153369 Respondents.	Case No. 79/16-14881 OAH No. 2017031238

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby accepted and adopted by the Director of Consumer Affairs as the Decision in the above-entitled matter, except that, pursuant to Government Code section 11517, subdivision (c)(2)(C), technical or other minor changes in the Proposed Decision are made as follows:

1. Page 1, case caption: License number "RC 238830" is corrected to "RC 238380."

The technical or minor change made above does not affect the factual or legal basis of the Proposed Decision.

This Decision shall become effective November 29, 2017.

DATED: 10/23/17

GRACE ARUPO RODRIGUEZ
Assistant Deputy Director
Legal Affairs Division
Department of Consumer Affairs

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PROPOSED DECISION

This matter was heard before Administrative Law Judge Jonathan Lew, Office of Administrative Hearings, State of California, in Sacramento, California, on August 10 and 11, 2017.

Seth A. Curtis, Deputy Attorney General, represented complainant Patrick Dorais, Chief of the Bureau of Automotive Repair (Bureau), Department of Consumer Affairs.

William D. Ferreira, Attorney at Law, represented respondent Arch's Automotive, Inc., doing business as Arch's Automotive Service, Brendan Clifton Brooks, President/Treasurer, and Kevin Marc Maltese, Secretary.[1]

Evidence was received, and oral argument considered. The record remained open pending submission of a cost declaration by complainant, written argument by respondent on the applicability of Government Code section 6803, and any responses thereto. The cost declaration was received on August 17, 2017, and marked and received into evidence as Exhibit 37. No other documents were submitted by the parties. The matter was thereafter submitted for decision on August 21, 2017.

FACTUAL FINDINGS

1. Complainant issued the Accusation and Petition to Revoke Probation against respondent on January 27, 2017. He did so in his official capacity.

2. On March 28, 2005, the Bureau issued Automotive Repair Dealer Registration Number ARD 238380 (registration) to Arch's Automotive, Inc. (respondent), doing business as Arch's Automotive Service, with Brendan Clifton Brooks as president and treasurer, and Kevin Marc Maltese as secretary. Respondent's registration was in effect at all times pertinent to this case, and will expire on March 31, 2018, unless renewed.

3. On April 13, 2005, the Director issued Smog Check Station License Number RC 238380 to respondent. The smog check station license was in effect at all times pertinent to this case, and will expire on March 31, 2018, unless renewed.

4. The Bureau has the responsibility of monitoring the performance of smog check stations and smog check technicians and ensuring that they are properly performing their duties under the smog control laws of the State of California. To monitor compliance with the State's Emissions Inspection Program, commonly referred to as the Smog Check Program, the Bureau conducts undercover operations at various licensed smog check stations.

5. On December 31, 2013, the Bureau placed respondent's registration and smog check station license on probation for three years, effective January 28, 2014, with certain terms and conditions. Condition one of respondent's probation states that respondent shall "[c]omply with all statutes, regulations and rules governing automotive inspections, estimates and repairs."

6. Between February 11, 2014, and May 25, 2016, respondent's secretary, Kevin Marc Maltese, and Sandra Marie Sandelius attended six probation conferences with various Bureau representatives. Ms. Sandelius was employed as one of respondent's smog check

[1] Prior to hearing, this matter settled as to respondent Sandra Marie Sandelius.

inspectors over this period. Mr. Maltese and Ms. Sandelius were advised during each conference that failure to comply with the Automotive Repair Act and other applicable laws and regulations may result in disciplinary action against respondent's registration and smog check station license, and Ms. Sandelius's smog check inspector license. They were also advised that following the conferences the Bureau may send an undercover vehicle into respondent's facility to confirm compliance with the Automotive Repair Act.

7. The California Emissions Inspection Test requires the licensed technician to: (1) visually inspect the vehicle's emission components to ensure that they are present, properly connected, and in good working condition; (2) functionally test or inspect the vehicle's gas cap, the malfunction indicator light (MIL), if equipped, the ignition timing, if adjustable, and, depending on the test required, the exhaust gas recirculation (EGR) system; and (3) conduct a tailpipe emissions test. The vehicle must pass all visual and functional tests, as well as the tailpipe emissions test, before an Emission Inspection Certificate of Compliance (Certificate of Compliance) can be issued by the technician, verifying that the vehicle passed the smog inspection.

Undercover Operation

8. On August 26, 2016, the Bureau sent an undercover vehicle into respondent's facility to confirm compliance with the Automotive Repair Act. The Bureau's undercover operator requested a smog inspection on a 2000 Honda Accord (Honda). According to reference sources, a Three-way Catalytic Converter (TWC) is a required emission control device for this particular vehicle.

9. The Honda had earlier been taken to the Bureau's Documentation Lab, where Bureau program representative Robert T. Brasher modified the vehicle's emission control components in such fashion that it would fail the visual inspection portion of the California Emissions Inspection test. Specifically, Mr. Brasher removed the Original Equipment Manufacturer (OEM) catalytic converter, and installed a catalyst delete exhaust pipe in its place. In addition, Mr. Brasher installed a non-approved add-on adaptor under the downstream oxygen sensor to modify the oxygen sensor operation. Mr. Brasher did this modification so that compliance with the visual inspection portion of the smog check inspection could be confirmed. The add-on adapter caused the MIL to remain off despite the TWC being removed. Available reference sources and the vehicle under hood label all indicated that a TWC is a required emission control device for the Honda.

10. On August 26, 2016, Shawn Hunter, a Bureau program representative, retrieved the Honda from the Bureau's secured storage, and then released the vehicle to an undercover operator. Mr. Hunter instructed the undercover operator to take the Honda to respondent's facility and request a smog inspection. The operator signed and received a copy of a written estimate for the inspection. After the inspection was completed, the operator paid the facility $65 and received copies of an invoice and a Vehicle Inspection Report (VIR). The VIR indicated that Ms. Sandelius had performed the smog inspection on

the Honda. That same day, electronic smog Certificate of Compliance No. [redacted] was issued for the Honda.

11. On August 26, 2016, Mr. Hunter secured the vehicle at the Bureau's Rancho Cordova facility.

12. On August 31, 2016, Mr. Brasher performed a re-inspection of the Honda and found that the catalyst delete pipe and non-approved add-on adaptor installed under the downstream oxygen sensor were still installed on the vehicle. He determined that the tamper indicator that he had previously installed on the catalyst delete pipe was still intact, indicating that the catalyst delete pipe had not been removed since he had released the vehicle on August 26, 2016. Finally, Mr. Brasher performed an OIS Smog Check inspection and found the vehicle to fail the visual portion of the inspection due to the missing catalytic converter, the modified downstream oxygen sensor, and the non-approved add-on adaptor installed under the downstream oxygen sensor.

The catalyst delete pipe approximates the size and width of an exhaust pipe. The Honda's OEM catalytic converter is much larger and is shaped differently than a catalyst delete pipe. In most cases, the OEM catalytic converter is covered by a metal heat shield plate. The catalyst delete pipe was exposed on the Honda, with no heat shield in place. A trained smog check inspector would be expected to know the difference between a catalytic converter and a catalyst delete pipe.

Prior Disciplinary Action

13. On March 2, 2009, the Bureau issued Citation No. C09-1015 against respondent for violations of Health and Safety Code section 44012, subdivision (f) (failure to perform a visual/functional check of emission control devices according to procedures prescribed by the department); and California Code of Regulations, title 16, section 3340.35, subdivision (c) (issuing a certificate of compliance to a vehicle that was improperly tested). Respondent had issued a certificate of compliance to a Bureau undercover vehicle with a missing positive crankcase ventilation (PCV) system. The Bureau assessed civil penalties totaling $500 against respondent for the violations. Respondent paid the fine on March 25, 2009.

14. On May 6, 2009, the Bureau issued Citation No. C09-1279 against respondent for violations of Health and Safety Code section 44012, subdivision (f) (failure to perform a visual/functional check of emission control devices according to procedures prescribed by the department); and California Code of Regulations, title 16, section 3340.35, subdivision (c) (issuing a certificate of compliance to a vehicle that was improperly tested). Respondent had issued a certificate of compliance to a Bureau undercover vehicle with a missing fuel evaporative storage system canister. The Bureau assessed civil penalties totaling $1,000 against respondent for the violations. Respondent paid the fine on May 28, 2009.

15. On December 31, 2013, in a disciplinary action entitled "In the Matter of the Accusation Against: Arch's Automotive, Inc., dba Arch's Automotive Service," Case Number 79/12-79, the Director issued a Decision and Order effective January 28, 2014, in which respondent's registration and smog check inspector license were revoked. However, the revocations were stayed and respondent's registration and smog check station license were placed on probation for three years with certain terms and conditions.[2]

Respondent's Evidence

16. Respondent has been serving Nevada County for over 70 years, its auto repair business having started in 1941. It has been in the same family for three generations. Brendan Brooks and Kevin Maltese have been co-owners of respondent since February 2005. Mr. Brooks' father, Wallace Brooks, and before that his grandfather, previously owned and operated the business. The facility has a 10-bay main shop building where vehicle maintenance/service and repairs are performed. It has a separate two-bay smog shop building where all smog check inspections are performed. Automotive repairs and smog check inspections contribute equally to respondent's business revenue.

17. Kevin Maltese testified at hearing. He has worked at respondent's facility since 1982, and has held vehicle technician and smog inspector licenses since 1997. He works full time at the facility and, along with Mr. Brooks, oversees all automotive and smog shop activities.

Mr. Maltese agreed that the Honda should never have passed the smog inspection on August 26, 2016. He agreed and expected that a competent smog check inspector would know the difference between the OEM catalytic converter and the catalyst delete pipe used in the undercover run in this case. Although Mr. Maltese is qualified to perform smog check inspections himself, he chooses not to do this work and to focus instead on overseeing shop operations.

18. Mr. Maltese terminated Ms. Sandelius from employment immediately following notice of the failed undercover vehicle inspection. Ms. Sandelius further stipulated to the revocation of her license. Ms. Sandelius had worked for respondent since November

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[2] The January 28, 2014 Decision was pursuant to a Stipulated Settlement and Disciplinary Order between the parties, by which respondent agreed that the charges and allegations in the First Amended Accusation (Case No. 79/12-79), if proven at a hearing, constituted cause for imposing discipline. Respondent further agreed that it gave up rights to contest those charges. Disciplinary action was based upon two undercover operations, both performed on July 13, 2011, with one smog inspection performed by Ms. Sandelius. All required emission control devices and systems on the Bureau-documented vehicles were present, properly connected, and in good working condition. The Bureau determined that respondent improperly failed the visual inspection (PCV and fuel evaporative systems) on one vehicle, and improperly failed the functional check (ignition timing) on the second vehicle.

6, 2007. Mr. Maltese believed she had been a competent employee who had done an excellent job for respondent over the years. He was unaware of any complaints about her work while the facility was on probation, and had insisted that she attend all the probation meetings he had with Bureau representatives.

Mr. Maltese understood that being on probation meant there was no room for error, and that another violation would mean that his livelihood was gone. He reminded Ms. Sandelius of her obligation to perform all work and procedures correctly, and told her that if she made one mistake "we would be in court." Mr. Maltese remained confident in her abilities up until her termination, largely because of her long history and experience with respondent.

19. Ms. Sandelius testified at hearing. She appeared very frail and weak. She acknowledged having a number of health problems including pneumonia, shortness of breath, liver and kidney problems. Near the time of her termination she was advised by her physician that her health problems were caused by her alcohol consumption, and that she was experiencing withdrawal symptoms. She confirmed that respondent emphasized to her that she needed to perform her work correctly, and that respondent had taken a number of steps following the initial accusation to improve the quality of work performed at the facility. Regarding the undercover Honda, she averred that she did perform the visual inspection, and that she would have expected the check engine light to be on if the catalytic converter had been removed.

20. Other than noting that Ms. Sandelius performed inspections more slowly over time, neither Mr. Maltese nor Mr. Brooks suspected that she had medical or alcohol issues that impaired her ability to perform vehicle inspections. Where she encountered physical difficulties, such as with motorhomes, or where there was a need to physically jack up a truck, it was expected that someone other than Ms. Sandelius would perform the smog check inspections.

21. Mr. Maltese and Mr. Brooks pointed to the following matters in mitigation and/or rehabilitation that they believe should give the Bureau confidence that respondent, looking ahead, will be fully compliant with all laws and regulations governing smog inspections:

a. Ms. Sandelius was terminated and will never perform another vehicle inspection again.

b. Respondent's current smog check inspector, Hayden Fleming, is one whose ability as an inspector should give rise to confidence that no further violations will occur. Mr. Fleming has worked for respondent since October 2016, and has no history of disciplinary action with the Bureau. He completed a three-month training program through Universal Technical Institute, Sacramento. At hearing, Mr. Fleming indicated that he was aware of respondent's disciplinary history and the emphasis that is now placed on doing

his job right. He performs vehicle inspections as if "every car is a BAR car" and during each inspection conforms to respondent's checklist of items subject to visual, functional and other inspection. He understands that he is not to perform any inspection where he lacks knowledge/experience, and that he is required in those cases to consult other technicians and/or available reference materials.

c. All technicians have been instructed to treat each inspection like it was a Bureau test car. A sign was prominently placed on a shop monitor stating: "EVERY CAR IS A BAR CAR. IF YOU DON'T KNOW HOW TO TEST A VEHICLE, DO NOT TEST THAT VEHICLE."

d. Checklists were created requiring technicians to double check the vehicle's requirements during the visual and functional portion of the inspection. A checklist is also printed on the vehicle invoice, and the technician is required to handwrite whether the vehicle passed each particular inspection item. All invoices are subsequently reviewed at the end of the day by Mr. Brooks, and he confirms that technicians have signed off on each smog checklist item.

e. A camera system was installed in the smog testing bays to monitor smog tests and audit inspections.

f. Respondent maintains a drug and alcohol policy that promotes a workplace free of drugs and alcohol and prohibits employees from using or being under the influence of alcohol while performing work.

g. Mr. Maltese attended every probation conference on behalf of respondent, and insisted that Ms. Sandelius also attend, in an attempt to work in concert with the Bureau to ensure compliance. Respondent is open to all Bureau suggestions for improvement in the performance of its vehicle smog check inspections. The Bureau performed a random inspection of the facility in 2014 or 2015 as a part of respondent's probation. The Bureau found respondent to be in full compliance at that time.

Discussion

22. The evidence established that respondent's smog check technician, Ms. Sandelius, certified that she performed a visual inspection of the Honda's emission control components (catalytic converter) and issued an electronic smog certificate of compliance. In fact, the existing catalytic converter had been removed and a catalyst delete pipe was installed in its place. As such, the Honda would not pass the visual inspection in accordance with the procedures prescribed by the Bureau. (Health & Saf. Code, § 44012, subd. (f).) Complainant now seeks revocation of respondent's ARD registration and smog check station license. In seeking revocation complainant points to respondent's disciplinary history that

includes two citations on March 2 and May 6, 2009, and the Decision and Order effective January 28, 2014, by which respondent's ARD registration and smog check station license were placed on probation for three years.[3] These involved four separate Bureau undercover runs, three of which involved Ms. Sandelius.

This case involved the Bureau's fifth undercover run. Five failed undercover runs certainly warrant consideration of serious discipline, including license revocation. What stands out in this case, however, is that Ms. Sandelius is gone. Her license has been revoked. She will never perform another smog inspection for respondent or any other smog station again. She was involved in four of the five failed Bureau undercover operations.

23. Respondent might be faulted for failing to terminate Ms. Sandelius earlier. Mr. Maltese and Mr. Brooks knew her as a longtime employee of nearly nine years. They were aware that she had slowed physically, but largely viewed her past errors as having been committed in good faith. They were unaware of her alcohol and related health issues until the most recent undercover run. Most telling, Mr. Maltese repeatedly cautioned her about doing her job correctly and the consequences to all if she failed to do so. He insisted that she attend Bureau probation conferences with him. At each probation conference the parties engaged in discussion of methods by which they planned to achieve and maintain compliance with the terms and conditions of probation. Mr. Maltese and Ms. Sandelius were advised by the Bureau and therefore understood that undercover vehicles might again be used to confirm compliance. They were further given to understand that any failure to comply with the Automotive Repair Act and applicable regulations could result in revocation of their registration and licenses. Obviously, the confidence and faith that Mr. Maltese and Mr. Brooks had in Ms. Sandelius was not well placed.

24. Mr. Maltese and Mr. Brooks believe they are now much better positioned to avoid past problems and mistakes. With Ms. Sandelius gone, they are confident in the abilities of, and approach taken in conducting smog inspections by Mr. Fleming. Mr. Fleming impressed at hearing as one who takes his responsibilities seriously. He has worked for nearly a year with the clear understanding that his employer is on probation and that any error he commits would result in business closure. He understands that he is not to perform any inspection where he lacks the requisite knowledge/experience, and that he is required in those cases to consult other technicians and/or available reference materials. Mr. Maltese

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[3] Complainant noted that respondent could also have been cited in March 2015. During a probation conference held on October 14, 2015, Mr. Maltese was advised that the Bureau had implemented a statewide regulatory change requiring the use of the On Board Diagnostic System (OBDS) instead of the Emission Inspection System (EIS). Yet respondent had used the EIS to certify a 1998 Dodge Diesel on March 17, 2015, and a 2000 Dodge Ram 3500 on March 24, 2015. There was nothing improper about the way the EIS was used on these occasions. Respondent was in the process of transitioning from EIS to OBDS at that time. Because no citation was issued, this was not considered as part of respondent's disciplinary history.

and Mr. Brooks had also undertaken to locate other smog technicians, even paying for their training. They opted not to work for respondent.

The other matters set forth in Finding 21 were also considered. Systems such as video cameras, signs and checklists are all in place to insure accountability. In particular, the checklists are required to be signed off by smog inspectors for each required component to be inspected, and these are typically reviewed the same day by Mr. Brooks. Mr. Maltese and Mr. Brooks are experienced auto shop hands who maintain a regular presence and engage in direct oversight of respondent's auto repair and smog check operations. They have accepted responsibility for the past actions of their employees, and have put measures in place to reduce the chance of recurrence of violations. They both impress as automotive professionals who take pride in the operations of their business which has been serving Nevada County for over 70 years. With Ms. Sandelius now gone, the threat to public health and safety has greatly diminished.

The above matters have all been considered in determining that it would not be contrary to the public interest for respondent to continue automotive repair and smog inspection activities at its Grass Valley facility on a probationary basis.

Costs

25. The Bureau submitted a certified copy of the actual costs of investigation of this matter. The Bureau incurred a total of $948.92 in investigative costs. Similarly, the attorney general certified his prosecution costs of $6,550 for legal services, including case management, client communication, trial preparation, and paralegal work. The total amount of costs of investigation and prosecution of this matter is $7,498.92. Such are not unreasonable.

LEGAL CONCLUSIONS

Burden of Proof

1. The Bureau bears the burden of proof, by clear and convincing evidence, that the facts alleged in its Accusation and Petition to Revoke Probation are true and that the requested discipline against respondents' licenses and registrations be imposed.

Statutes and Regulations

2. The Legislature has declared that California's Motor Vehicle Inspection Program (Program), Health and Safety Code section 44000 et seq., requires an "enforcement program which is vigorous and effective and includes monitoring of the performance of the smog check test or repair stations and technicians, as well as the monitoring of vehicle emissions as vehicles are being driven." (Health & Saf. Code, § 44001, subd. (b)(5)(E).) The Director of Consumer Affairs (director) has all of the powers and authority granted

under the Automotive Repair Act for enforcing the Program; the Program is enforced and administered by the chief of the Bureau of Automotive Repairs. (Health & Saf. Code, §§ 44001.5, 44002.)

3. Business and Professions Code section 9884.7 provides that, where the automotive repair dealer cannot show there was a bona fide error, the director may temporarily or permanently invalidate the registration of an automotive repair dealer for any of the following acts or omissions related to the conduct of the business of the automotive repair dealer, which are done by the automotive repair dealer or any automotive technician, employee, partner, officer, or member of the automotive repair dealer:

> (1) Making or authorizing in any manner or by any means whatever any statement written or oral which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading.
>
> [¶] . . . [¶]
>
> (4) Any other conduct which constitutes fraud.

4. A smog check technician shall inspect, test and repair vehicles, as applicable, in accordance with Health and Safety Code sections 44012 and 44035, and California Code of Regulations, title 16, section 3340.42. (Cal. Code Regs., tit. 16, § 3340.30, subd. (a).) A smog check station's license or a qualified smog check technician's qualification may be suspended or revoked by the department, after a hearing, for failure to meet or maintain the standards prescribed for qualification, equipment, performance, or conduct. (Health & Saf. Code, § 44035, subd. (a).)

5. Smog check technicians are required to conduct a visual inspection of the vehicle's emissions control systems. During the visual inspection, the technician shall verify that emission control devices, including but not limited to: crankcase emissions controls, including positive crankcase ventilation; and fuel evaporative emission controls, are properly installed on the vehicle. (Cal. Code Regs., tit. 16, § 3340.42, subd. (e).)

6. A licensed smog check station shall not issue a certificate of compliance "to any vehicle that has been tampered with." (Health & Saf. Code, § 44015, subd. (a)(1).) A licensed station shall issue a certificate of compliance or noncompliance to the owner or operator of any vehicle that has been inspected in accordance with the procedures specified in section 3340.42 of this article and "has all the required emission control equipment and devices installed and functioning correctly. . ." (Cal. Code Regs., tit. 16, § 3340.35, subd. (c).)

7. Fraud/ Dishonesty. The director may suspend, revoke, or take other disciplinary action against a license if the licensee violates any statute relating to the Motor Vehicle Inspection Program or its regulations which relate to the licensed activities; or if the

licensee "commits any act involving dishonesty, fraud, or deceit whereby another is injured." (Health & Saf. Code, § 44072.2, subd. (a), (c) & (d).) The Bureau may suspend or revoke the license of or pursue other legal action against a licensee, if the licensee falsely or fraudulently issues or obtains a certificate of compliance or a certificate of noncompliance. (Cal. Code Regs., tit. 16, § 3340.24, subd. (c).)

Causes for Discipline

8. Cause for discipline exists pursuant to Business and Professions Code section 9884.7, subdivision (a)(1), by reason of the matters set forth in Findings 8 through 12. Respondent made or authorized a statement which it knew or in the exercise of reasonable care should have known to be untrue or misleading.

9. No cause for discipline exists pursuant to Business and Professions Code section 9884.7, subdivision (a)(4). Fraud is never presumed and the burden of proving it rests on complainant. (Code Civ. Proc. § 1963; *Dorn v. Lichenin* (1951) 105 Cal.App.2d 796, 801.) There was no evidence that Ms. Sandelius knew of the modification of the undercover vehicle and intentionally and knowingly passed the vehicle despite the defect.

10. Cause for discipline exists pursuant to Health and Safety Code section 44072.2, subdivision (a), by reason of the matters set forth in Findings 8 through 12. Respondent failed to comply with provisions of the Motor Vehicle Inspection Program. (Health & Saf. Code, §§ 44012, subd. (f), 44015.)

11. Cause for discipline exists pursuant to Health and Safety Code section 44072.2, subdivision (c), by reason of the matters set forth in Findings 8 through 12. Respondent failed to comply with provisions of California Code of Regulations, title 16. (Cal. Code Regs., tit. 16, §§ 3340.35, subd. (c), 3340.42.)

12. Cause for discipline exists pursuant to Health and Safety Code section 44072.2, subdivision (d), by reason of the matters set forth in Findings 8 through 12. Respondent committed a dishonest or deceitful act by issuing a smog certificate of compliance without ensuring that a bona fide inspection was performed of the emission control devices and systems.

13. Cause to revoke respondent's probation exists by reason of the matters set forth in Findings 5 through 12. Conditions one and six of respondent's probation provide that the Director may suspend or revoke respondent's registration and license should respondent fail to comply with all statutes, regulations and rules governing automotive inspections, estimates and repairs.

Costs

14. Pursuant to Business and Professions Code section 125.3, a licensee found to have violated a licensing act may be ordered to pay the reasonable costs of investigation and

enforcement of a case. In *Zuckerman v. Board of Chiropractic Examiners* (2002) 29 Cal.4th 32, the California Supreme Court set forth factors to be considered in determining the reasonableness of the costs sought pursuant to statutory provisions like Business and Professions Code section 125.3. These factors include whether the licensee has been successful at hearing in getting charges dismissed or reduced, the licensee's subjective good faith belief in the merits of his or her position, whether the licensee has raised a colorable challenge to the proposed discipline, the financial ability of the licensee to pay, and whether the scope of the investigation was appropriate in light of the alleged misconduct.

15. As set forth in Finding 25, complainant seeks $7,498.92 for the costs of investigation and enforcement in this matter. These costs are not unreasonable when all the factors set forth in *Zuckerman* are considered. Respondent may make periodic payments on said amount in a schedule to be determined by the Bureau.

Appropriate Discipline

16. As set forth in the Factual Findings, respondent and its president, Brendan Clifton Brooks, and secretary, Kevin Marc Maltese, operating as Arch's Automotive Service, were issued multiple citations by the Bureau dating back to March 2, 2009. Respondent was placed on probation for three years commencing January 28, 2014. The undercover run in this case occurred on August 26, 2016, while respondent was still on probation.

Respondent was put on notice that the Bureau would be conducting further inspections to ensure compliance. However, respondent, through one of its employees, Ms. Sandelius, continued to violate applicable statutes and regulations by conducting improper visual inspections of vehicles. The matters set forth in Findings 22 through 24 have been considered. Respondent terminated Ms. Sandelius from its employ. She had performed four of the five improper inspections of Bureau undercover vehicles. Her license was revoked and her departure from respondent's employ significantly abates any future threat to public health, safety and welfare.

17. Respondent has undertaken serious and effective measures to rectify past compliance issues. They have a competent smog check inspector in Mr. Fleming. Mr. Maltese and Mr. Brooks impressed at hearing as experienced and professional auto shop hands who maintain a regular presence and engage in direct oversight of respondent's auto repair and smog check operations. They accepted full responsibility for the past actions of their employees. They put measures in place to increase accountability and to reduce the chance of recurrence of violations. They take pride in the operations of an automotive business that has been serving Nevada County for over 70 years. Under all of the facts and circumstances, it would not be contrary to the public interest to permit respondent to retain its auto repair dealer registration and smog check station license, subject to probationary terms and conditions. Probation should be for three years.

ORDER

1. Smog Check Station License No. RC 238380, issued to Arch's Automotive, Inc., is revoked pursuant to Legal Conclusions 8, and 10 through 13.

2. Automotive Repair Dealer Registration No. ARD 238380, issued to Arch's Automotive, Inc., is invalidated/revoked pursuant to Legal Conclusions 8, and 10 through 13.

3. However, the revocations of Smog Check Station License No. RC 238380 and Automotive Repair Dealer Registration No. ARD 238380 are both stayed, and respondent is placed on probation for three (3) years, subject to the following terms and conditions:

a. Obey All Laws. During the period of probation, respondent shall comply with all federal and state statutes, regulations and rules governing all Bureau registrations and licenses held by respondent.

b. Quarterly Reporting. During the period of probation, respondent shall report either by personal appearance or in writing as determined by the Bureau on a schedule set by Bureau, but no more frequently than once each calendar quarter, on the methods used and success achieved in maintaining compliance with the terms and conditions of probation.

c. Report Financial Interests. Respondent shall, within 30 days of the effective date of the decision and within 30 days from the date of any request by the Bureau during the period of probation, report any financial interest which any respondent or any partners, officers, or owners of any respondent facility may have in any other business required to be registered pursuant to section 9884.6 of the Business and Professions Code.

d. Access to Examine Vehicles and Records. Respondent shall provide Bureau representatives unrestricted access to examine all vehicles (including parts) undergoing service, inspection, or repairs, up to and including the point of completion. Respondent shall also provide Bureau representatives unrestricted access to all records pursuant to Bureau laws and regulations.

e. Tolling of Probation. If, during probation, respondent leaves the jurisdiction of California to reside or do business elsewhere or otherwise ceases to do business in the jurisdiction of California, respondent shall notify the Bureau in writing within 10 days of the dates of departure and return, and of the dates of cessation and resumption of business in California.

All provisions of probation other than cost reimbursement requirements, restitution requirements, training requirements, and that respondent obey all laws, shall be held in abeyance during any period of time of 30 days or more in which respondent is not residing or engaging in business

within the jurisdiction of California. All provisions of probation shall recommence on the effective date of resumption of business in California. Any period of time of 30 days or more in which respondent is not residing or engaging in business within the jurisdiction of California shall not apply to the reduction of this probationary period or to any period of actual suspension not previously completed. Tolling is not available if business or work relevant to the probationary license or registration is conducted or performed during the tolling period.

f. Violation of Probation. If respondent violates or fails to comply with the terms and conditions of probation in any respect, the Director, after giving notice and opportunity to be heard may set aside the stay order and carry out the disciplinary order provided in the decision. Once respondent is served notice of the Bureau's intent to set aside the stay, the Director shall maintain jurisdiction, and the period of probation shall be extended until final resolution of the matter.

g. Maintain Valid License. Respondent shall, at all times while on probation, maintain a current and active registration and/or license(s) with the Bureau, including any period during which suspension or probation is tolled. If respondent's registration or license is expired at the time the decision becomes effective, the registration or license must be renewed by respondent within 30 days of that date. If respondent's registration or license expires during a term of probation, by operation of law or otherwise, then upon renewal respondent's registration or license shall be subject to any and all terms and conditions of probation not previously satisfied. Failure to maintain a current and active registration and/or license during the period of probation shall also constitute a violation of probation.

h. Cost Recovery. Respondent shall pay the Bureau of Automotive Repair $7,498.92 for the reasonable costs of the investigation and enforcement of case No. 79/16-14881. Respondent shall make such payment according to a payment schedule promulgated by the Bureau, to be completed no later than six (6) months before probation terminates. Respondent shall make payment by check or money order payable to the Bureau of Automotive Repair and shall indicate on the check or money order that it is for cost recovery payment for case No. 79/16-14881. Any order for payment of cost recovery shall remain in effect whether or not probation is tolled. Probation shall not terminate until full cost recovery payment has been made. The Bureau reserves the right to pursue any other lawful measures in collecting on the costs ordered and past due, in addition to taking action based upon the violation of probation.

i. Completion of Probation. Upon successful completion of probation, respondent's affected registration and license will be fully restored or issued

without restriction, if respondent meets all current requirements for registration or licensure and has paid all outstanding fees, monetary penalties, or cost recovery owed to the Bureau.

j. License Surrender. Following the effective date of a decision that orders a stay of invalidation or revocation, if respondent ceases business operations or is otherwise unable to satisfy the terms and conditions of probation, respondent may request that the stay be vacated. Such request shall be made in writing to the Bureau. The Director and the Bureau Chief reserve the right to evaluate respondent's request and to exercise discretion whether to grant the request or take any other action deemed appropriate or reasonable under the circumstances. Upon formal granting of the request, the Director will vacate the stay order and carry out the disciplinary order provided in the decision.

Respondent may not petition the Director for reinstatement of the surrendered registration and/or license, or apply for a new registration or license under the jurisdiction of the Bureau at any time before the date of the originally scheduled completion of probation. If respondent applies to the Bureau for a registration or license at any time after that date, respondent must meet all current requirements for registration or licensure and pay all outstanding fees or cost recovery owed to the Bureau and left outstanding at the time of surrender.

DATED: August 29, 2017

DocuSigned by:
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JONATHAN LEW
Administrative Law Judge
Office of Administrative Hearings

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BEFORE THE
DEPARTMENT OF CONSUMER AFFAIRS
FOR THE BUREAU OF AUTOMOTIVE REPAIR
STATE OF CALIFORNIA

In the Matter of the Accusation and Petition to Revoke Probation Against: **ARCH'S AUTOMOTIVE, INC.,** **dba ARCH'S AUTOMOTIVE SERVICE** **BRENDAN CLIFTON BROOKS,** **PRESIDENT/TREASURER** **KEVIN MARC MALTESE, SECRETARY** **1355 East Main Street** **Grass Valley, CA 95945** **Automotive Repair Dealer Reg. No. ARD 238380** **Smog Check Station License No. RC 238380** **and** **SANDRA MARIE SANDELIUS** **1229 Sampson Street, #2** **Marysville, CA 95901** **Mailing Address:** **1355 East Main Street** **Grass Valley, CA 95945** **Smog Check Inspector License No. EO 153369** **(formerly Advanced Emission Specialist Technician License No. EA 153369)** Respondents.	Case No. 79/16-14881 **ACCUSATION AND PETITION TO REVOKE PROBATION**

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Complainant alleges:

PARTIES

1. Patrick Dorais ("Complainant") brings this Accusation and Petition to Revoke Probation solely in his official capacity as the Chief of the Bureau of Automotive Repair ("Bureau"), Department of Consumer Affairs.

Arch's Automotive, Inc., dba Arch's Automotive Service

2. On or about March 28, 2005, the Director of Consumer Affairs ("Director") issued Automotive Repair Dealer Registration Number ARD 238380 ("registration") to Arch's Automotive, Inc. ("Respondent Arch's"), doing business as Arch's Automotive Service, with Brendan Clifton Brooks as president and treasurer and Kevin Marc Maltese as secretary. Respondent's registration was in effect at all times relevant to the charges brought herein and will expire on March 31, 2017, unless renewed.

3. On or about April 13, 2005, the Director issued Smog Check Station License Number RC 238380 to Respondent Arch's. The smog check station license was in effect at all times relevant to the charges brought herein and will expire on March 31, 2017, unless renewed.

Sandra Marie Sandelius

4. In or about 2006, the Director issued Advanced Emission Specialist Technician License Number EA 153369 to Sandra Marie Sandelius ("Respondent Sandelius"). Respondent's advanced emission specialist technician license was due to expire on October 31, 2012. Pursuant to Title 16, California Code of Regulations ("CCR"), section 3340.28, subdivision (e), the license was renewed, pursuant to Respondent's election, as Smog Check Inspector License Number EO 153369 effective October 31, 2012.[1] Respondent's smog check inspector license will expire on October 31, 2018, unless renewed.

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[1] Effective August 1, 2012, Title 16, CCR, sections 3340.28, 3340.29, and 3340.30 were amended to implement a license restructure from the Advanced Emission Specialist Technician (EA) license and Basic Area (EB) Technician license to Smog Check Inspector (EO) license and/or Smog Check Repair Technician (EI) license.

Prior Discipline

5. In a disciplinary action entitled "In the Matter of the Accusation Against: Arch's Automotive, Inc., dba Arch's Automotive Service," Case No. 79/12-79, the Director issued a Decision and Order effective January 28, 2014, in which Respondent Arch's registration and smog check station license and Respondent Sandelius' smog check inspector license were revoked. However, the revocations were stayed and Respondent Arch's registration and smog check station license and Respondent Sandelius' smog check inspector license were placed on probation for three (3) years with certain terms and conditions. A copy of that Decision and Order is attached as Exhibit A and is incorporated by reference.

JURISDICTION

6. Business and Professions Code ("Bus. & Prof. Code") section 9884.7 provides that the Director may revoke an automotive repair dealer registration.

7. Bus. & Prof. Code section 9884.13 provides, in pertinent part, that the expiration of a valid registration shall not deprive the Director of jurisdiction to proceed with a disciplinary proceeding against an automotive repair dealer or to render a decision temporarily or permanently invalidating (suspending or revoking) a registration

8. Health and Safety Code ("Health & Saf. Code") section 44002 provides, in pertinent part, that the Director has all the powers and authority granted under the Automotive Repair Act for enforcing the Motor Vehicle Inspection Program.

9. Health & Saf. 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.

10. Health & Saf. Code section 44072.8 states that 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.

11. Title 16, CCR, section 3340.28, subdivision (e), states that "[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 regulation, the licensee may apply to renew as a Smog Check Inspector, Smog Check Repair Technician, or both.

STATUTORY PROVISIONS

12. Bus. & Prof. Code section 9884.7 states, in pertinent part:

> (a) The director, where the automotive repair dealer cannot show there was a bona fide error, may deny, suspend, revoke, or place on probation the registration of an automotive repair dealer for any of the following acts or omissions related to the conduct of the business of the automotive repair dealer, which are done by the automotive repair dealer or any automotive technician, employee, partner, officer, or member of the automotive repair dealer.
>
> (1) Making or authorizing in any manner or by any means whatever any statement written or oral which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading.
>
> . . . .
>
> (4) Any other conduct that constitutes fraud.
>
> . . . .
>
> (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 an automotive repair dealer upon a finding that the automotive repair dealer has, or is, engaged in a course of repeated and willful violations of this chapter, or regulations adopted pursuant to it.

13. Bus. & Prof. Code section 22, subdivision (a), states:

> "Board" as used in any provision 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."

14. Bus. & Prof. Code section 477, subdivision (b), states, in pertinent part, that a "license" includes "registration" and "certificate."

15. Health & Saf. Code section 44072.2 states, in pertinent part:

> The director may suspend, revoke, or take other disciplinary action against a license as provided in this article if the licensee, or any partner, officer, or director thereof, does any of the following:
>
> (a) Violates any section of this chapter [the Motor Vehicle Inspection Program (Health and Saf. Code § 44000, et seq.)] and the regulations adopted pursuant to it, which related to the licensed activities.
>
> . . . .

(c) Violates any of the regulations adopted by the director pursuant to this chapter.

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

16. Health & Saf. Code section 44072.10 states, in pertinent part:

. . . .

(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:

. . . .

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

COST RECOVERY

17. Bus. & Prof. Code section 125.3 provides, in pertinent part, that a Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

ACCUSATION

UNDERCOVER OPERATION: 2000 HONDA

18. On and between February 11, 2014 and May 25, 2016, Respondent Arch's secretary, Kevin Marc Maltese ("Maltese"), and Respondent Sandelius ("Sandelius") attended six probation conferences with various Bureau Representatives. Maltese and Sandelius were advised during each conference that failure to comply with the Automotive Repair Act and other applicable laws and regulations may result in disciplinary action against Respondent Arch's registration and smog check station license and Sandelius' smog check inspector license. Maltese and Sandelius were also advised that following the conferences, the Bureau may send an undercover vehicle into Respondent Arch's facility to confirm compliance with the Automotive Repair Act.

19. On or about August 26, 2016, an undercover operator of the Bureau ("operator") took the Bureau's 2000 Honda to Respondent Arch's facility and requested a smog inspection. The existing catalytic converter was removed from the Bureau-documented vehicle, a catalyst delete

exhaust pipe was installed in its place, and a non-approved add-on adapter was installed under the downstream oxygen sensor, causing the vehicle to fail the visual portion of a smog check inspection. The operator signed and received a copy of a written estimate for the inspection. After the inspection was completed, the operator paid the facility $65 and received copies of an invoice and a vehicle inspection report ("VIR"). The VIR indicated that Sandelius had performed the smog inspection on the vehicle. That same day, electronic smog Certificate of Compliance No. [redacted] was issued for the vehicle.

20. On or about September 8, 2016, the Bureau inspected the vehicle and found that the catalytic converter was still missing and the catalyst delete exhaust pipe and the non-approved add-on adapter were still in place.

FIRST CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

21. Respondent Arch's registration is subject to disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized a statement which it knew or in the exercise of reasonable care should have known to be untrue or misleading, as follows: Respondent Arch's smog check technician, Respondent Sandelius, certified under penalty of perjury on the VIR that the Bureau's 2000 Honda had passed the inspection and was in compliance with applicable laws and regulations. In fact, the existing catalytic converter was removed from the vehicle, a catalyst delete exhaust pipe was installed in its place, and a non-approved add-on adapter was installed under the downstream oxygen sensor, as set forth in paragraphs 19 and 20 above. As such, the vehicle would not pass the inspection required by Health & Saf. Code section 44012.

SECOND CAUSE FOR DISCIPLINE

(Fraud)

22. Respondent Arch's registration is subject to disciplinary action pursuant to Bus. & Prof. 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 2000 Honda 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.

THIRD CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

23. Respondent Arch's smog check station license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to comply with the following sections of that Code:

a. **Section 44012, subdivision (f):** Respondent failed to ensure that the visual inspection of the emission control components on the Bureau's 2000 Honda was performed in accordance with procedures prescribed by the department.

b. **Section 44015:** Respondent issued an electronic smog certificate of compliance for the Bureau's 2000 Honda without ensuring that the vehicle was properly tested and inspected to determine if it was in compliance with Health & Saf. Code section 44012.

FOURTH CAUSE FOR DISCIPLINE

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

24. Respondent Arch's smog check station license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to comply with provisions of Title 16, California Code of Regulations, as follows:

a. **Section 3340.35, subdivision (c):** Respondent issued an electronic smog certificate of compliance for the Bureau's 2000 Honda even though the vehicle had not been inspected in accordance with section 3340.42.

b. **Section 3340.42:** Respondent failed to ensure that the required smog tests were conducted on the Bureau's 2000 Honda in accordance with the Bureau's specifications.

FIFTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

25. Respondent Arch's smog check station license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed a

dishonest, fraudulent, or deceitful act whereby another is injured by issuing an electronic smog certificate of compliance for the Bureau's 2000 Honda 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.

SIXTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

26. Respondent Sandelius' smog check inspector license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to comply with section 44012, subdivision (f), of that Code, as follows: Respondent failed to perform the visual inspection of the emission control components on the Bureau's 2000 Honda in accordance with procedures prescribed by the department.

SEVENTH CAUSE FOR DISCIPLINE

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

27. Respondent Sandelius' smog check inspector license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to comply with provisions of Title 16, California Code of Regulations, as follows:

a. **Section 3340.30, subdivision (a):** Respondent failed to inspect and test the Bureau's 2000 Honda in accordance with Health & Saf. Code sections 44012 and 44035, and Title 16, CCR, section 3340.42.

b. **Section 3340.42:** Respondent failed to conduct the required smog tests on the Bureau's 2000 Honda in accordance with the Bureau's specifications.

EIGHTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

28. Respondent Sandelius' smog check inspector license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed a dishonest, fraudulent, or deceitful act whereby another is injured by issuing an electronic smog

certificate of compliance for the Bureau's 2000 Honda without performing a bona fide inspection 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.

PETITION TO REVOKE PROBATION

29. Complainant incorporates by reference as though fully set forth herein the allegations contained in paragraphs 1 through 28 above.

30. Condition 6 of Respondents Arch's and Sandelius' probation states that should the Director determine that Respondents have failed to comply with the terms and conditions of probation, the Department may, after giving notice and opportunity to be heard, temporarily or permanently suspend or revoke the licensee(s) violating probation.

31. Grounds exist to revoke Respondent Arch's probation, registration, and smog check station license and Respondent Sandelius' probation and smog check inspector license, as follows:

CAUSE TO REVOKE PROBATION

(Failure to Obey all Laws)

32. Condition 1 of Respondents Arch's and Sandelius' probation states that Respondents shall comply with all statutes, regulations and rules governing automotive inspections, estimates and repairs.

33. Respondents Arch's and Sandelius' probation is subject to revocation in that they failed to comply with all statutes, regulations, and rules governing automotive inspections, as set forth in paragraphs 21 through 28 above.

PRIOR CITATIONS

34. To determine the degree of penalty, if any, to be imposed upon Respondents Arch's and Sandelius, Complainant alleges, as follows:

Respondent Arch's

a. On or about March 2, 2009, the Bureau issued Citation No. C09-1015 against Respondent for violations of Health & Saf. Code section 44012, subdivision (f) (failure to perform a visual/functional check of emission control devices according to procedures prescribed

by the department); and Title 16, CCR, section 3340.35, subdivision (c) (issuing a certificate of compliance to a vehicle that was improperly tested). On February 9, 2009, Respondent issued a certificate of compliance to a Bureau undercover vehicle with a missing PCV system. The Bureau assessed civil penalties totaling $500 against Respondent for the violations. Respondent paid the fine on March 25, 2009.

b. On or about May 6, 2009, the Bureau issued Citation No. C09-1279 against Respondent for violations of Health & Saf. Code section 44012, subdivision (f) (failure to perform a visual/functional check of emission control devices according to procedures prescribed by the department); and Title 16, CCR, section 3340.35, subdivision (c) (issuing a certificate of compliance to a vehicle that was improperly tested). On April 23, 2009, Respondent issued a certificate of compliance to a Bureau undercover vehicle with a missing fuel evaporative storage system canister. The Bureau assessed civil penalties totaling $1,000 against Respondent for the violations. Respondent paid the fine on May 28, 2009.

Respondent Sandelius

c. On or about May 6, 2009, the Bureau issued Citation No. M09-1280 against Respondent for violations of Health & Saf. Code section 44032 (qualified technicians shall perform tests of emission control systems and devices in accordance with Health & Saf. Code section 44012); and Title 16, CCR, section 3340.30, subdivision (a) (qualified technicians shall inspect, test and repair vehicles in accordance with Health & Saf. Code sections 44012 and 44035 and Title 16, CCR, section 3340.42). On or about April 23, 2009, Respondent issued a certificate of compliance to a Bureau undercover vehicle with a missing fuel evaporative storage system canister. 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 May 21, 2009.

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OTHER MATTERS

35. Pursuant to Bus. & Prof. 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 Arch's Automotive, Inc., doing business as Arch's Automotive Service, upon a finding that Respondent has, or is, engaged in a course of repeated and willful violations of the laws and regulations pertaining to an automotive repair dealer.

36. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Station License Number RC 238380, issued to Respondent Arch's Automotive, Inc., doing business as Arch's Automotive Service, is revoked or suspended, any additional license issued under this chapter in the name of said licensee may be likewise revoked or suspended by the Director.

37. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Inspector License Number EO 153369, issued to Respondent Sandra Marie Sandelius, is revoked or suspended, any additional license issued under this chapter in the name of said licensee may be likewise revoked or suspended by the Director.

PRAYER

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

1. Revoking or suspending Automotive Repair Dealer Registration Number ARD 238380, issued to Arch's Automotive, Inc., doing business as Arch's Automotive Service;

2. Revoking probation and re-imposing the order of revocation of Automotive Repair Dealer Registration Number ARD 238380, issued to Arch's Automotive, Inc., doing business as Arch's Automotive Service;

3. Revoking or suspending any other automotive repair dealer registration issued to Arch's Automotive, Inc.;

4. Revoking or suspending Smog Check Station License Number RC 238380, issued to Arch's Automotive, Inc., doing business as Arch's Automotive Service;

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5. Revoking probation and re-imposing the order of revocation of Smog Check Station License Number RC 238380, issued to Arch's Automotive, Inc., doing business as Arch's Automotive Service;

6. Revoking or suspending any additional license issued under Chapter 5 of the Health and Safety Code in the name of Arch's Automotive, Inc.;

7. Revoking or suspending Smog Check Inspector License Number EO 153369, issued to Sandra Marie Sandelius;

8. Revoking probation and re-imposing the order of revocation of Smog Check Inspector License Number EO 153369, issued to Sandra Marie Sandelius;

9. Revoking or suspending any additional license issued under Chapter 5 of the Health and Safety Code in the name of Sandra Marie Sandelius;

10. Ordering Arch's Automotive, Inc., doing business as Arch's Automotive Service, and Sandra Marie Sandelius to pay the Director of Consumer Affairs the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

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

DATED: January 27, 2017

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

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