

1 KAMALA D. HARRIS
Attorney General of California
2 KENT D. HARRIS
Supervising Deputy Attorney General
3 ELENA L. ALMANZO
Deputy Attorney General
4 State Bar No. 131058
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 322-5524
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 79/14-89

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

ACCUSATION

(SMOG CHECK)

15 Mailing Address:

16 P.O. Box 509
Rio Linda, California 95673
17 **Automotive Repair Dealer No. ARD 217052**
Smog Check Station No. RC 217052

18 **RON J. BRYMER**
P.O. Box 509
Rio Linda, California 95673
19 **Smog Check Inspector License No.**
EO 144259
20 **Smog Check Repair Technician License No.**
EI 144259 (formerly Advanced Emission
21 **Specialist Technician License No. EA**
144259)

22 Respondent.

23
24 Patrick Dorais ("Complainant") alleges:

25 **PARTIES**

26 1. Complainant brings this Accusation solely in his official capacity as the Chief of the
27 Bureau of Automotive Repair ("Bureau"), Department of Consumer Affairs.
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12. Code section 9884.9, subdivision (a), provides that:

The automotive repair dealer shall give to the customer a written estimated price for 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. . . .”

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

15. Health & Safety 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 Safety Code § 44000, et seq.)] and the regulations adopted pursuant to it, which related to the licensed activities.
- (c) Violates any of the regulations adopted by the director pursuant to this chapter.
- (d) Commits any act involving dishonesty, fraud, or deceit whereby another is injured.

16. Health & Safety 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 . . .

17. Health & Safety 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.

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

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. **Section 44012, subdivision (a):** 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. **Section 44015:** 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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FIFTH CAUSE FOR DISCIPLINE

(Motor Vehicle Inspection Program - Regulation Violations)

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

a. **Section 3340.35, subdivision (c)**: Respondent issued an electronic smog certificate of compliance for the Bureau's 1985 Chevrolet 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 1985 Chevrolet in accordance with the Bureau's specifications.

SIXTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

27. Respondent's smog check station license is subject to disciplinary action pursuant to Health & Safety 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 1985 Chevrolet 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.

SEVENTH CAUSE FOR DISCIPLINE

(Motor Vehicle Inspection Program - Code Violations)

28. Respondent's technician license is subject to discipline pursuant to Health and Safety Code section 44072.2, subdivision (a), in that on or about June 12, 2013, regarding the Bureau's 1985 Chevrolet, Respondent violated sections of that Code as follows:

a. **Section 44012, subdivision (f)**: Respondent failed to perform on the vehicle a visual and/or functional check of the emission control devices in accordance with required procedures.

b. **Section 44032**: Respondent failed to perform tests of the emission control devices 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. **Section 3340.30, subdivision (a)**: Respondent failed to inspect and test the vehicle in
9 accordance with Health and Safety Code section 44012.

10 b. **Section 3341.41, subdivision (c)**: Respondent knowingly entered false information
11 into the emission inspection system.

12 c. **Section 3340.42**: 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 **UNDERCOVER OPERATION #2**

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.

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 9884.7,
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 with
12 provisions of that Code, as follows:

13 a. **Section 44012, subdivision (a):** Respondent failed to ensure that the emission
14 control tests were performed on the Bureau's 2007 Jeep in accordance with procedures prescribed
15 by the department.

16 c. **Section 44015:** Respondent issued an electronic smog certificate of compliance for
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 to
22 Health & Safety Code section 44072.2, subdivision (c), in that Respondent failed to comply with
23 provisions of California Code of Regulations, title 16, as follows:

24 a. **Section 3340.35, subdivision (c):** Respondent issued an electronic smog certificate
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. **Section 3340.42:** 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.

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. **Section 44012, subdivision (f)**: 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. **Section 44032**: 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. **Section 3340.30, subdivision (a)**: Respondent failed to inspect and test the vehicle in
28 accordance with Health and Safety Code section 44012.

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

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

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

19 **Stressless Smog**

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

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

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

13 h. On or about February 3, 2012, the Bureau issued Citation No. C2012-0809 against
14 Respondent for violation of Health & Safety Code section 44012, subdivision (f). On January 30,
15 2012, Respondent issued a certificate of compliance to a Bureau undercover vehicle with a
16 missing thermostatic air cleaner. The Bureau assessed civil penalties totaling \$1,500 against
17 Respondent for the violations, and Respondent paid the fine on April 11, 2012.

18 **OTHER MATTERS**

19 44. Pursuant to Code section 9884.7, subdivision (c), the Director may suspend, revoke or
20 place on probation the registration for all places of business operated in this state by Respondent
21 Ron J. Brymer, owner of Stressless Smog, upon a finding that said Respondent has, or is, engaged
22 in a course of repeated and willful violations of the laws and regulations pertaining to an
23 automotive repair dealer.

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

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1 46. Under Health and Safety Code section 44072.8, if Respondent Brymer's Smog Check
2 Inspector License No. EO 144259, and Smog Check Repair Technician License No. EI 144259 (
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 suspended.

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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 (formerly Advanced 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
20 DATED: January 24, 2014

Patrick Dorais
21 PATRICK DORAIS
22 Chief
23 Bureau of Automotive Repair
24 Department of Consumer Affairs
25 State of California
26 *Complainant*

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