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

11 In the Matter of the Accusation Against:

Case No. 79/13-35

12 **SMOG BOY TEST ONLY**  
13 **ROBERT AYRAPETYAN, OWNER**  
14 **3601 Foothill Blvd**  
**La Crescenta, CA 91214**

**ACCUSATION**

**(Smog Check)**

15 **Automotive Repair Dealer Reg. No. ARD 226429**  
16 **Smog Check, Test Only, Station License No.**  
**TC 226429,**

17 **ROBERT AYRAPETYAN**  
18 **2101 Conchita St.**  
**Glendale, CA 91208**

19 **Advanced Emission Specialist Technician**  
20 **License No. EA 140053,**

21 **and**

22 **ARMEN POGOSIAN**  
23 **6559 Olcott Street**  
**Tujunga, CA 91042-2853**

24 **Advanced Emission Specialist Technician**  
**License No. EA 145746**

25 Respondents.

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1 Complainant alleges:

2 **PARTIES/LICENSE INFORMATION**

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

5 **Smog Boy Test Only; Robert Ayrapetyan, Owner**

6 2. In or about 2003, the Director of Consumer Affairs ("Director") issued Automotive  
7 Repair Dealer Registration Number ARD 226429 ("registration") to Robert Ayrapetyan  
8 ("Respondent Ayrapetyan"), owner of Smog Boy Test Only. Respondent's registration was in full  
9 force and effect at all times relevant to the charges brought herein and will expire on February 28,  
10 2013, unless renewed.

11 3. On or about May 5, 2003, the Director issued Smog Check, Test Only, Station  
12 License Number TC 226429 ("smog check station license") to Respondent Ayrapetyan.  
13 Respondent's smog check station license was in full force and effect at all times relevant to the  
14 charges brought herein and will expire on February 28, 2013, unless renewed.

15 **Robert Ayrapetyan**

16 4. In or about 1998, the Director issued Advanced Emission Specialist Technician  
17 License Number EA 140053 ("technician license") to Respondent Ayrapetyan. Respondent's  
18 technician license expired on July 31, 2012.

19 **Armen Pogolian**

20 5. In or about 2002, the Director issued Advanced Emission Specialist Technician  
21 License Number EA 145746 ("technician license") to Armen Pogolian ("Respondent Pogolian").  
22 Respondent's technician license was in full force and effect at all times relevant to the charges  
23 brought herein and will expire on March 31, 2013, unless renewed.

24 **JURISDICTION**

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

27 7. Bus. & Prof. Code section 9884.13 provides, in pertinent part, that the expiration of a  
28 valid registration shall not deprive the Director of jurisdiction to proceed with a disciplinary

1 proceeding against an automotive repair dealer or to render a decision temporarily or permanently  
2 invalidating (suspending or revoking) a registration

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

6 9. Health & Saf. Code section 44072.6 provides, in pertinent part, that the expiration or  
7 suspension of a license by operation of law, or by order or decision of the Director of Consumer  
8 Affairs, or a court of law, or the voluntary surrender of the license shall not deprive the Director  
9 of jurisdiction to proceed with disciplinary action.

10 **STATUTORY PROVISIONS**

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

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

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

21 . . . .

22 (4) Any other conduct that constitutes fraud.

23 . . . .

24 (c) Notwithstanding subdivision (b), the director may suspend, revoke or  
25 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,  
27 engaged in a course of repeated and willful violations of this chapter, or regulations  
28 adopted pursuant to it.

11. 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."

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1 12. Bus. & Prof. Code section 477, subdivision (b), states, in pertinent part, that a  
2 “license” includes “registration” and “certificate.”

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

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

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

10 . . . .

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

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

15 14. Health & Saf. Code section 44072.8 states that when a license has been revoked or  
16 suspended following a hearing under this article, any additional license issued under this chapter  
17 in the name of the licensee may be likewise revoked or suspended by the director.

#### 18 COST RECOVERY

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

#### 23 UNDERCOVER OPERATION: 2001 HONDA PRELUDE

24 16. On March 5, 2012, an undercover operator with the Bureau (“operator”) took the  
25 Bureau’s 2001 Honda Prelude to Respondent Ayrapctyan's facility and requested a smog  
26 inspection. The fuel evaporation (EVAP) canister had been removed from the Bureau-  
27 documented vehicle. The operator signed and received a copy of a written estimate for the  
28 inspection. After the inspection was completed, the operator paid the facility \$60 and received  
copies of an invoice and a vehicle inspection report (“VIR”). The VIR indicated that Respondent  
Pogosian had performed the smog inspection on the vehicle. That same day, electronic smog  
Certificate of Compliance No. OK752741C was issued for the vehicle.







1 MATTERS IN AGGRAVATION

2 26. To determine the degree of discipline, if any, to be imposed on Respondents,  
3 Complainant alleges as follows:

4 **Respondent Ayrapetyan**

5 a. On or about February 14, 2008, the Bureau issued Citation No. C08-0681 against  
6 Respondent, in his capacity as owner of Smog Boy Test Only, for violations of Health & Saf.  
7 Code section 44012, subdivision (f) (failure to determine that emission control devices and  
8 systems required by State and Federal law are installed and functioning correctly in accordance  
9 with test procedures); and California Code of Regulations, title 16, section ("Regulation")  
10 3340.35, subdivision (c) (issuing a certificate of compliance to a vehicle that was improperly  
11 tested). On or about February 6, 2008, Respondent had issued a certificate of compliance to a  
12 Bureau undercover vehicle with the ignition timing adjusted beyond specifications. The Bureau  
13 assessed civil penalties totaling \$500 against Respondent for the violations. Respondent paid the  
14 fine on April 10, 2008.

15 b. On or about January 29, 2010, the Bureau issued Citation No. C2010-0764 against  
16 Respondent, in his capacity as owner of Smog Boy Test Only, for violations of Health & Saf.  
17 Code section 44012, subdivision (f) (failure to perform a visual/functional check of emission  
18 control devices according to procedures prescribed by the department); and Regulation 3340.35,  
19 subdivision (c) (issuing a certificate of compliance to a vehicle that was improperly tested). On  
20 or about January 6, 2010, Respondent had issued a certificate of compliance to a Bureau  
21 undercover vehicle with a missing AIR System. The Bureau assessed civil penalties totaling  
22 \$500 against Respondent for the violations. Respondent paid the fine on March 22, 2010.

23 c. On or about September 15, 2011, the Bureau issued Citation No. C2012-0228 against  
24 Respondent, in his capacity as owner of Smog Boy Test Only, for violating Health & Saf. Code  
25 section 44012, subdivision (f) (failure to determine that emission control devices and systems  
26 required by State and Federal law are installed and functioning correctly in accordance with test  
27 procedures). On or about August 4, 2011, Respondent had issued a certificate of compliance to a  
28 Bureau undercover vehicle with the ignition timing adjusted beyond specifications. The Bureau

1 assessed a civil penalty of \$1,500 against Respondent for the violation. Respondent paid the fine  
2 on February 6, 2012.

3 d. On or about February 14, 2008, the Bureau issued Citation No. M08-0682 against  
4 Respondent's technician license for violations of Health & Saf. Code section 44032 (qualified  
5 technicians shall perform tests of emission control systems and devices in accordance with Health  
6 & Saf. Code section 44012); and Regulation 3340.30, subdivision (a) (qualified technicians shall  
7 inspect, test and repair vehicles in accordance with Health & Saf. Code sections 44012 and 44035  
8 and Regulation 3340.42). On or about February 6, 2008, Respondent had issued a certificate of  
9 compliance to a Bureau undercover vehicle with the ignition timing adjusted beyond  
10 specifications. Respondent was directed to complete an 8 hour training course and to submit  
11 proof of completion to the Bureau within 30 days from receipt of the citation. Respondent  
12 completed the training on April 8, 2008.

13 c. On or about January 29, 2010, the Bureau issued Citation No. M2010-0765 against  
14 Respondent's technician license for violations of Health & Saf. Code section 44032 (qualified  
15 technicians shall perform tests of emission control systems and devices in accordance with Health  
16 & Saf. Code section 44012); and Regulation 3340.30, subdivision (a) (qualified technicians shall  
17 inspect, test and repair vehicles in accordance with Health & Saf. Code sections 44012 and 44035  
18 and Regulation 3340.42). On or about January 6, 2010, Respondent had issued a certificate of  
19 compliance to a Bureau undercover vehicle with a missing AIR System. Respondent was  
20 directed to complete an 8 hour training course and to submit proof of completion to the Bureau  
21 within 30 days from receipt of the citation. Respondent completed the training on March 16,  
22 2010.

23 f. On or about September 15, 2011, the Bureau issued Citation No. M2012-0229 against  
24 Respondent's technician license for violating Health & Saf. Code section 44032 (qualified  
25 technicians shall perform tests of emission control systems and devices in accordance with Health  
26 & Saf. Code section 44012). On or about August 4, 2011, Respondent had issued a certificate of  
27 compliance to a Bureau undercover vehicle with the ignition timing adjusted beyond  
28 specifications. Respondent was directed to complete a 16 hour training course and to submit

1 proof of completion to the Bureau within 30 days from receipt of the citation. Respondent  
2 completed the training on February 28, 2012.

3 **Respondent Pogosian:**

4 g. On or about February 28, 2008, the Bureau issued Citation No. M08-0725 against  
5 Respondent, while employed at Lincoln Auto Smog, for violations of Health & Saf. Code section  
6 44032 (qualified technicians shall perform tests of emission control systems and devices in  
7 accordance with Health & Saf. Code section 44012); and Regulation 3340.30, subdivision (a)  
8 (qualified technicians shall inspect, test and repair vehicles in accordance with Health & Saf.  
9 Code sections 44012 and 44035 and Regulation 3340.42). On or about February 15, 2008,  
10 Respondent had issued a certificate of compliance to a Bureau undercover vehicle with a missing  
11 Air Injection System. Respondent was directed to complete a 16 hour training course and to  
12 submit proof of completion to the Bureau within 30 days from receipt of the citation. Respondent  
13 completed the training on March 31, 2008.

14 h. On or about January 27, 2009, the Bureau issued Citation No. M09-0872 against  
15 Respondent, while employed at Lincoln Auto Smog, for violations of Health & Saf. Code section  
16 44032 (qualified technicians shall perform tests of emission control systems and devices in  
17 accordance with Health & Saf. Code section 44012); and Regulation 3340.30, subdivision (a)  
18 (qualified technicians shall inspect, test and repair vehicles in accordance with Health & Saf.  
19 Code sections 44012 and 44035 and Regulation 3340.42). On or about January 15, 2009,  
20 Respondent had issued a certificate of compliance to a Bureau undercover vehicle with a missing  
21 PCV System. Respondent was directed to complete a 16 hour training course and to submit proof  
22 of completion to the Bureau within 30 days from receipt of the citation. Respondent completed  
23 the training on March 23, 2009.

24 i. On or about April 30, 2010, the Bureau issued Citation No. M2010-1141 against  
25 Respondent, while employed at Lincoln Auto Smog, for violations of Health & Saf. Code section  
26 44032 (qualified technicians shall perform tests of emission control systems and devices in  
27 accordance with Health & Saf. Code section 44012); and Regulation 3340.30, subdivision (a)  
28 (qualified technicians shall inspect, test and repair vehicles in accordance with Health & Saf.

1 Code sections 44012 and 44035 and Regulation 3340.42). On or about March 2, 2010,  
2 Respondent had issued a certificate of compliance to a Bureau undercover vehicle with a missing  
3 PCV System. Respondent was directed to complete the Basic Clean Air Car Course. Respondent  
4 appealed the citation on June 7, 2010.

5 **OTHER MATTERS**

6 27. Pursuant to Bus. & Prof. Code section 9884.7, subdivision (c), the Director may  
7 suspend, revoke or place on probation the registration for all places of business operated in this  
8 state by Respondent Robert Ayrapetyan, owner of Smog Boy Test Only, upon a finding that  
9 Respondent has, or is, engaged in a course of repeated and willful violations of the laws and  
10 regulations pertaining to an automotive repair dealer.

11 28. Pursuant to Health & Saf. Code section 44072.8, if Smog Check, Test Only, Station  
12 License Number TC 226429, issued to Respondent Robert Ayrapetyan, owner of Smog Boy Test  
13 Only, is revoked or suspended, any additional license issued under this chapter in the name of  
14 said licensee, including, but not limited to, Advanced Emission Specialist Technician License  
15 Number EA 140053, may be likewise revoked or suspended by the Director.

16 29. Pursuant to Health & Saf. Code section 44072.8, if Advanced Emission Specialist  
17 Technician License Number EA 145746, issued to Armen Pogosian, is revoked or suspended, any  
18 additional license issued under this chapter in the name of said licensee may be likewise revoked  
19 or suspended by the Director.

20 **PRAYER**

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

23 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD  
24 226429, issued to Robert Ayrapetyan, owner of Smog Boy Test Only;

25 2. Revoking or suspending any other automotive repair dealer registration issued to  
26 Robert Ayrapetyan;

27 3. Revoking or suspending Smog Check, Test Only, Station License Number TC  
28 226429, issued to Robert Ayrapetyan, owner of Smog Boy Test Only;

1           4.     Revoking or suspending any additional license issued under Chapter 5 of the Health  
2 and Safety Code in the name of Robert Ayrapetyan, including, but not limited to, Advanced  
3 Emission Specialist Technician License Number EA 140053;

4           5.     Revoking or suspending Advanced Emission Specialist Technician License Number  
5 EA 145746, issued to Armen Pogolian;

6           6.     Revoking or suspending any additional license issued under Chapter 5 of the Health  
7 and Safety Code in the name of Armen Pogolian;

8           7.     Ordering Robert Ayrapetyan, owner of Smog Boy Test Only, and Armen Pogolian to  
9 pay the Director of Consumer Affairs the reasonable costs of the investigation and enforcement of  
10 this case, pursuant to Business and Professions Code section 125.3;

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

12  
13 DATED: Dec 10, 2012



JOHN WALLAUCH

Chief

Bureau of Automotive Repair

Department of Consumer Affairs

State of California

*Complainant*

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