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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:
13 **SMOG BOY TEST ONLY**
14 **ROBERT AYRAPETYAN, OWNER**
3601 Foothill Blvd
La Crescenta, CA 91214
15 **Automotive Repair Dealer Reg. No. ARD 226429**
Smog Check, Test Only, Station License No.
16 **TC 226429,**
17 **ROBERT AYRAPETYAN**
2101 Conchita St.
18 **Glendale, CA 91208**
19
20 **Smog Check Inspector License No. EO 140053,**
Smog Check Repair Technician License No. EI
21 **No. 140053 (redesignated from Advanced**
Emission Specialist Technician License No. EA
22 **140053)**
23 Respondents.

Case No. 79/13-35
FIRST AMENDED ACCUSATION
(Smog Check)

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1 Complainant alleges:

2 **PARTIES/LICENSE INFORMATION**

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

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

7 2. In or about 2003, the Director of Consumer Affairs ("Director") issued Automotive
8 Repair Dealer Registration Number ARD 226429 ("registration") to Robert Ayrapetyan
9 ("Respondent Ayrapetyan"), owner of Smog Boy Test Only. Respondent's registration was in full
10 force and effect at all times relevant to the charges brought herein and will expire on February 28,
11 2014, unless renewed.

12 3. On or about May 5, 2003, the Director issued Smog Check, Test Only, Station
13 License Number TC 226429 ("smog check station license") to Respondent Ayrapetyan.
14 Respondent's smog check station license was in full force and effect at all times relevant to the
15 charges brought herein and will expire on February 28, 2014, unless renewed.

16 **Robert Ayrapetyan**

17 4. In or about 1998, the Director issued Advanced Emission Specialist Technician
18 License Number EA 140053 ("technician license") to Respondent Ayrapetyan. Respondent's
19 technician license was in full force and effect at all times relevant to the charges brought herein.
20 On August 7, 2012, this license, upon renewal, was redesignated to Smog Check Inspector (EO)
21 License No. 140053 and Smog Check Repair Technician (EI) License No. 140053¹ and these
22 licenses will expire on July 31, 2014.

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26 ¹ Effective August 1, 2012, California Code of Regulations, title 16, sections 3340.28,
27 3340.29, and 3340.30 were amended to implement a license restructure from the Advanced
28 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.

1 **JURISDICTION**

2 5. Business and Professions Code section 9884.7 provides that the Director may revoke
3 an automotive repair dealer registration.

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

8 7. Health and Safety Code section 44002 provides, in pertinent part, that the Director
9 has all the powers and authority granted under the Automotive Repair Act for enforcing the
10 Motor Vehicle Inspection Program.

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

16 **STATUTORY PROVISIONS**

17 9. California Code of Regulations, title 16, section 3340.28, subdivision (e), states that
18 “[u]pon renewal of an unexpired Basic Area Technician license or an Advanced Emission
19 Specialist Technician license issued prior to the effective date of the regulation, the licensee may
20 apply to renew as a Smog Check Inspector, Smog Check Repair Technician, or both.”

21 10. Business and Professions Code section 9884.7 states, in pertinent part:

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

28 (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.

.....

1 (4) Any other conduct that constitutes fraud.

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

8 11. Business and Professions Code section 22, subdivision (a), states:

9 “Board” as used in any provision of this Code, refers to the board in
10 which the administration of the provision is vested, and unless otherwise expressly
11 provided, shall include “bureau,” “commission,” “committee,” “department,”
12 “division,” “examining committee,” “program,” and “agency.”

13 12. Business and Professions Code section 477, subdivision (b), states, in pertinent part,
14 that a “license” includes “registration” and “certificate.”

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

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

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

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

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

27 14. Health & Safety Code section 44072.8 states that when a license has been revoked or
28 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.

COST RECOVERY

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

1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Fraud)**

3 19. Respondent Ayrapetyan's registration is subject to disciplinary action pursuant to
4 Business and Professions Code section 9884.7, subdivision (a)(4), in that Respondent committed
5 an act that constitutes fraud by issuing an electronic smog certificate of compliance for the
6 Bureau's 2001 Honda Prelude without ensuring that a bona fide inspection was performed of the
7 emission control devices and systems on the vehicle, thereby depriving the People of the State of
8 California of the protection afforded by the Motor Vehicle Inspection Program.

9 **THIRD CAUSE FOR DISCIPLINE**

10 **(Violations of the Motor Vehicle Inspection Program)**

11 20. Respondent Ayrapetyan's smog check station license is subject to disciplinary action
12 pursuant to Health & Safety Code section 44072.2, subdivision (a), in that Respondent failed to
13 comply with the following sections of that Code:

14 a. **Section 44012, subdivision (f):** Respondent failed to ensure that the visual
15 inspection of the emission control components on the Bureau's 2001 Honda Prelude was
16 performed in accordance with procedures prescribed by the department.

17 b. **Section 44015:** Respondent issued an electronic smog certificate of compliance for
18 the Bureau's 2001 Honda Prelude without ensuring that the vehicle was properly tested and
19 inspected to determine if it was in compliance with Health & Safety Code section 44012.

20 **FOURTH CAUSE FOR DISCIPLINE**

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

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

25 a. **Section 3340.35, subdivision (c):** Respondent issued an electronic smog certificate
26 of compliance for the Bureau's 2001 Honda Prelude even though the vehicle had not been
27 inspected in accordance with section 3340.42.

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1 b. On or about January 29, 2010, the Bureau issued Citation No. C2010-0764 against
2 Respondent, in his capacity as owner of Smog Boy Test Only, for violations of Health & Safety
3 Code section 44012, subdivision (f) (failure to perform a visual/functional check of emission
4 control devices according to procedures prescribed by the department); and Regulation 3340.35,
5 subdivision (c) (issuing a certificate of compliance to a vehicle that was improperly tested). On
6 or about January 6, 2010, Respondent had issued a certificate of compliance to a Bureau
7 undercover vehicle with a missing AIR System. The Bureau assessed civil penalties totaling
8 \$500 against Respondent for the violations. Respondent paid the fine on March 22, 2010.

9 c. On or about September 15, 2011, the Bureau issued Citation No. C2012-0228 against
10 Respondent, in his capacity as owner of Smog Boy Test Only, for violating Health & Safety Code
11 section 44012, subdivision (f) (failure to determine that emission control devices and systems
12 required by State and Federal law are installed and functioning correctly in accordance with test
13 procedures). On or about August 4, 2011, Respondent had issued a certificate of compliance to a
14 Bureau undercover vehicle with the ignition timing adjusted beyond specifications. The Bureau
15 assessed a civil penalty of \$1,500 against Respondent for the violation. Respondent paid the fine
16 on February 6, 2012.

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

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

11 f. On or about September 15, 2011, the Bureau issued Citation No. M2012-0229 against
12 Respondent's technician license for violating Health & Safety Code section 44032 (qualified
13 technicians shall perform tests of emission control systems and devices in accordance with Health
14 & Safety Code section 44012). On or about August 4, 2011, Respondent had issued a certificate
15 of compliance to a Bureau undercover vehicle with the ignition timing adjusted beyond
16 specifications. Respondent was directed to complete a 16 hour training course and to submit
17 proof of completion to the Bureau within 30 days from receipt of the citation. Respondent
18 completed the training on February 28, 2012.

19 **OTHER MATTERS**

20 24. Pursuant to Business and Professions Code section 9884.7, subdivision (c), the
21 Director may suspend, revoke or place on probation the registration for all places of business
22 operated in this state by Respondent Robert Ayrapetyan, owner of Smog Boy Test Only, upon a
23 finding that Respondent has, or is, engaged in a course of repeated and willful violations of the
24 laws and regulations pertaining to an automotive repair dealer.

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