

1 KAMALA D. HARRIS
Attorney General of California
2 THOMAS L. RINALDI
Supervising Deputy Attorney General
3 CRISTINA FELIX
Deputy Attorney General
4 State Bar No. 195663
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2455
6 Facsimile: (213) 897-2804
Attorneys for Complainant

7
8 **BEFORE THE**
DEPARTMENT OF CONSUMER AFFAIRS
9 **FOR THE BUREAU OF AUTOMOTIVE REPAIR**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Petition to Revoke
12 Probation Against

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

15 **Automotive Repair Dealer Reg. No. ARD**
226429
16 **Smog Check, Station License No.**
RC 226429
17 **STAR Certified**

18 Respondent.

Case No. 79/16-01

PETITION TO REVOKE PROBATION

(SMOG CHECK)

19
20 Complainant alleges:

21 **PARTIES**

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

25 2. On or about March 28, 2003, the Bureau of Automotive Repair issued Automotive
26 Repair Dealer Registration Number ARD 226429 to Robert Ayrapetyan, Owner dba Smog Boy
27 (Respondent). The Automotive Repair Dealer Registration was in effect at all times relevant to
28 the charges brought herein and will expire on February 29, 2016, unless renewed.

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

4 ...

5 (6) Failure in any material respect to comply with the provisions of this chapter or
6 regulations adopted pursuant to it.

7 ...”

8 8. Section 44012 of the Health and Safety Code states:

9 "The test at the smog check stations shall be performed in accordance with procedures
10 prescribed by the department, pursuant to Section 44013, shall require, at a minimum, loaded
11 mode dynamometer testing in enhanced areas, and two-speed testing in all other program areas,
12 and shall ensure all of the following:

13 (a) Emission control systems required by state and federal law are reducing excess
14 emissions in accordance with the standards adopted pursuant to subdivisions (a) and (c) of
15 Section 44013.

16 (b) Motor vehicles are preconditioned to ensure representative and stabilized operation of
17 the vehicle's emission control system.

18 (c) For other than diesel-powered vehicles, the vehicle's exhaust emissions of
19 hydrocarbons, carbon monoxide, carbon dioxide, and oxides of nitrogen in an idle mode or loaded
20 mode are tested in accordance with procedures prescribed by the department. In determining
21 how loaded mode and evaporative emissions testing shall be conducted, the department shall
22 ensure that the emission reduction targets for the enhanced program are met.

23 (d) For other than diesel-powered vehicles, the vehicle's fuel evaporative system and
24 crankcase ventilation system are tested to reduce any nonexhaust sources of volatile organic
25 compound emissions, in accordance with procedures prescribed by the department.

26 (e) For diesel-powered vehicles, if the department determines that the inclusion of those
27 vehicles is technologically and economically feasible, a visual inspection is made of emission
28 control devices and the vehicle's exhaust emissions in an idle mode or loaded mode are tested in

1 accordance with procedures prescribed by the department. The test may include testing of
2 emissions of any or all of the pollutants specified in subdivision (c) and, upon the adoption of
3 applicable standards, measurement of emissions of smoke or particulates, or both.

4 (f) A visual or functional check is made of emission control devices specified by the
5 department, including the catalytic converter in those instances in which the department
6 determines it to be necessary to meet the findings of Section 44001. The visual or functional
7 check shall be performed in accordance with procedures prescribed by the department.

8 (g) A determination as to whether the motor vehicle complies with the emission standards
9 for that vehicle's class and model-year as prescribed by the department.

10 (h) The test procedures may authorize smog check stations to refuse the testing of a vehicle
11 that would be unsafe to test, or that cannot physically be inspected, as specified by the department
12 by regulation. The refusal to test a vehicle for those reasons shall not excuse or exempt the
13 vehicle from compliance with all applicable requirements of this chapter."

14 9. Section 44014 of the Health and Safety Code states:

15 "(a) Except as otherwise provided in this chapter, the testing and repair portion of the
16 program shall be conducted by smog check stations licensed by the department, and by smog
17 check technicians who have qualified pursuant to this chapter.

18 (b)(1) A smog check station may be licensed by the department as a smog check test-only
19 station and, when so licensed, need not comply with the requirement for onsite availability of
20 current service and adjustment procedures specified in paragraph (3) of subdivision (b) of Section
21 44030. A smog check technician employed by a smog check test-only station shall be qualified
22 in accordance with this section.

23 (2) The department may authorize the placement of referees in qualified test-only stations
24 to provide referee services as a matter of convenience to the public. The department shall supply
25 those referees directly or through a contractor. A referee shall have no ownership interest in the
26 facility at which the referee is located. Referees shall be solely responsible for issuing repair cost
27 waivers, certificates of compliance or noncompliance, and hardship extensions, in accordance
28

1 with regulations adopted by the department, and for issuing exhaust system certificates of
2 compliance in accordance with section 27150.2 of the Vehicle Code.

3 The department may adopt regulations to establish qualification standards and any special
4 administrative, operational, and licensure standards that the department determines to be
5 necessary for test-only stations that perform referee services.

6 (c) A smog check station may also be licensed as a repair-only station, and if so licensed,
7 may perform repairs to reduce excessive emissions on vehicles which have failed the smog check
8 test. Repair procedures and equipment requirements shall be established by the department.
9 Technicians employed by a smog check repair-only station shall be qualified in accordance with
10 this section.

11 (d) Smog check technicians are qualified to test and repair only those classes and categories
12 of vehicles for which they have passed a qualification test administered by the department. The
13 department shall provide for smog check technicians to be qualified for different categories of
14 motor vehicle inspection based on vehicle classification and model-year.

15 (e) The consumer protection-oriented quality assurance portion of the program may be
16 conducted by one or more private entities pursuant to contracts with the department."

17 **REGULATORY PROVISIONS**

18 10. California Code of Regulations, title 16, section 3340.35, states:

19 "...

20 (c) A licensed station shall issue a certificate of compliance or noncompliance to the owner
21 or operator of any vehicle that has been inspected in accordance with the procedures specified in
22 section 3340.42 of this article and has all the required emission control equipment and devices
23 installed and functioning correctly. The following conditions shall apply:

24 (1) Customers shall be charged the same price for certificates as that paid by the licensed
25 station; and

26 (2) Sales tax shall not be assessed on the price of certificates.

27 "..."

28 ///

1 11. California Code of Regulations, title 16, section 3340.45, states:

2 “(a) All Smog Check inspections shall be performed in accordance with requirements and
3 procedures prescribed in the following:

4 (1) Smog Check Inspection Procedures Manual, dated August 2009, which is hereby
5 incorporated by reference. This manual shall be in effect until subparagraph (2) is implemented.

6 (2) Smog Check Manual, dated 2013, which is hereby incorporated by reference. This
7 manual shall become effective on or after January 1, 2013.”

8 **FIRST CAUSE TO REVOKE PROBATION**

9 **(Failure to Obey All Laws)**

10 12. At all times after the effective date of Respondent’s probation, Condition 2 stated:

11 **“2. Obey All Laws.** Comply with all statutes, regulations and rules governing automotive
12 inspections, estimates and repairs.”

13 13. Respondent’s probation is subject to revocation because it failed to comply with
14 Probation Condition 2. The facts and circumstances regarding this violation are as follows:
15 The Bureau held Probation Conferences with Respondent on April 15, 2014 and March 4, 2015 to
16 discuss the methods by which it planned to achieve and maintain compliance with the terms and
17 conditions of probation. On March 9, 2015, the Bureau implemented a statewide regulatory
18 change requiring the use of the On Board Diagnostic Inspection System (OIS) in testing of 2000
19 model year and newer gas powered vehicles 14,000 Gross Vehicle Weight Rating (GVWR) and
20 under, and 1998 and newer diesel powered vehicles 14,000 GVWR and under. On May 14,
21 2015, the Bureau reviewed the BAR Station Test Data Summary Report for Respondent for tests
22 performed on May 13, 2015, and the review indicated that between 1202 hours and 1223 hours a
23 2002 Ford F-150, license No. 8J63511, was tested and Certificate No. PS227064C was issued
24 under Smog Check Station License No. RC226429. Certificate No. PS227064C was delivered to
25 Emissions Inspection System (EIS) ID No. ES314922, under the control of Respondent.
26 Respondent failed to comply with the terms and conditions set forth in the Stipulated Settlement
27 and Order by performing an improper inspection and issuing a Certificate of Compliance to a
28 vehicle using the BAR-97 EIS when the vehicle required inspection using the BAR-OIS.

1 assessed civil penalties totaling \$500 against Respondent for the violations. Respondent paid the
2 fine on March 22, 2010.

3 c. On or about September 15, 2011, the Bureau issued Citation No. C2012-0228 against
4 Respondent for violating Health & Safety Code section 44012, subdivision (f) (failure to
5 determine that emission control devices and systems required by State and Federal law are
6 installed and functioning correctly in accordance with test procedures). On or about August 4,
7 2011, Respondent had issued a certificate of compliance to a Bureau undercover vehicle with the
8 ignition timing adjusted beyond specifications. The Bureau assessed a civil penalty of \$1,500
9 against Respondent for the violation. Respondent paid the fine on February 6, 2012.

10 **PRAYER**

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

- 13 1. Revoking the probation that was granted by the Bureau of Automotive Repair in Case
14 No. 79/13-35 and imposing the disciplinary order that was stayed thereby revoking Automotive
15 Repair Dealer Registration No. ARD 226429 issued to Robert Ayrapetyan, owner, dba Smog Boy;
- 16 2. Revoking or suspending Smog Check Station License No. RC 226429, issued to
17 Robert Ayrapetyan, owner, dba Smog Boy;
- 18 3. Revoking or suspending STAR the Certification issued to Smog Boy, with Robert
19 Ayrapetyan, owner, dba Smog Boy;
- 20 4. Taking such other and further action as deemed necessary and proper.

21
22 DATED: July 2, 2015



23 PATRICK DORAIS
24 Chief
25 Bureau of Automotive Repair
26 Department of Consumer Affairs
27 State of California
28 *Complainant*

LA2015501130
51818706_2.doc