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

11  
12 In the Matter of the Accusation Against:

Case No. 77/16-07

13 **GOLDEN STATE SMOG, INC.**  
14 **DANIEL AGUSTIN DELATORRE, PRESIDENT**  
**DBA GOLDEN STATE SMOG, INC.**

**A C C U S A T I O N**

15 **27860 Del Rio Road #C**  
**Temecula, CA 92590-2618**

16  
17 **Automotive Repair Dealer Registration No. ARD**  
**214593**

18 **Smog Check Station License No. RC 214593**

19 **Lamp Station License No. LS 214593**

20 **Brake Station License No. BS 214593**

21 **and**

22 **DANIEL AGUSTIN DELATORRE**

23 **27860 Del Rio Road #C**  
**Temecula, CA 92590-2618**

24 **Brake Adjuster License No. BA 631486**

25 **Lamp Adjuster License No. LA 631486**

26 **Smog Check Inspector License No. EO 31910**

27 **Smog Check Repair Technician License No. EI**

28 **31910 (formerly Advanced Emission Specialist**  
**Technician License No. EA 31910)**

Respondents.

1 Complainant alleges:

2 **PARTIES/LICENSE INFORMATION**

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

5 **Golden State Smog Inc.; Daniel Agustin Delatorre, President**

6 2. On or about February 2, 2001, the Bureau of Automotive Repair issued Automotive  
7 Repair Dealer Registration Number ARD 214593 to Golden State Smog, Inc, Daniel Agustin  
8 Delatorre, President, dba Golden State Smog, Inc. The Automotive Repair Dealer Registration  
9 was in full force and effect at all times relevant to the charges brought herein and will expire on  
10 January 31, 2016, unless renewed.

11 3. On or about February 7, 2001, the Bureau of Automotive Repair issued Smog Check  
12 Station License Number RC 214593 to Golden State Smog, Inc, Daniel Agustin Delatorre,  
13 President, dba Golden State Smog, Inc. The Smog Check Station License was in full force and  
14 effect at all times relevant to the charges brought herein and will expire on January 31, 2016,  
15 unless renewed.

16 4. On or about February 18, 2004, the Bureau of Automotive Repair issued Lamp  
17 Station License Number LS 214593 to Golden State Smog, Inc, Daniel Agustin Delatorre,  
18 President, dba Golden State Smog, Inc., Daniel Agustin Delatorre, President, dba Golden State  
19 Smog, Inc. The Lamp Station License was in full force and effect at all times relevant to the  
20 charges brought herein and will expire on January 31, 2016, unless renewed.

21 5. On or about February 18, 2004, the Bureau of Automotive Repair issued Brake  
22 Station License Number BS 214593 to Golden State Smog Inc. The Brake Station License was in  
23 full force and effect at all times relevant to the charges brought herein and will expire on January  
24 31, 2016, unless renewed.

25 **Daniel Agustin Delatorre**

26 6. On or about November 9, 2009, the Bureau of Automotive Repair issued Brake  
27 Adjuster License Number BA 631486 to Daniel Agustin Delatorre (Delatorre). The Brake  
28

1 Adjuster License was in full force and effect at all times relevant to the charges brought herein  
2 and will expire on November 30, 2017, unless renewed.

3 7. On or about December 9, 2009, the Bureau of Automotive Repair issued Lamp  
4 Adjuster License Number LA 631486 to Daniel Agustin Delatorre (Delatorre). The Lamp  
5 Adjuster License was in full force and effect at all times relevant to the charges brought herein  
6 and will expire on November 30, 2017, unless renewed.

7 8. In 1996, the Bureau of Automotive Repair issued Advanced Emission Specialist  
8 Technician License No. EA 31910 to Delatorre and was due to expire on November 30, 2012, but  
9 was cancelled on October 22, 2012. Under California Code of Regulations, title 16, section  
10 3340.28, subdivision (e), the license was renewed, under Delatorre's election, as Smog Check  
11 Inspector License No. EO 31910 and Smog Check Repair Technician License No. EI 31910,  
12 effective October 22, 2012. The Smog Check Inspector License and Smog Check Repair  
13 Technician License (collectively technician licenses) were in full force and effect at all times  
14 relevant to the charges brought herein and will expire on November 30, 2016, unless renewed.<sup>1</sup>

### 15 JURISDICTION

16 9. This Accusation is brought before the Director of the Department of Consumer  
17 Affairs (Director) for the Bureau of Automotive Repair, under the authority of the following laws.  
18 All section references are to the Business and Professions Code unless otherwise indicated.

19 10. Section 118, subdivision (b), of the Code provides that the suspension, expiration,  
20 surrender, or cancellation of a license shall not deprive the Director of jurisdiction to proceed  
21 with a disciplinary action during the period within which the license may be renewed, restored,  
22 reissued or reinstated.

23 11. Section 9884.20 of the Code states:

24 All accusations against automotive repair dealers shall be filed within three  
25 years after the performance of the act or omission alleged as the ground for  
disciplinary action, except that with respect to an accusation alleging fraud or

26 <sup>1</sup> 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 and/or Smog Check Repair Technician (EI) license.

1 misrepresentation as a ground for disciplinary action, the accusation may be filed  
2 within two years after the discovery, by the bureau, of the alleged facts  
3 constituting the fraud or misrepresentation.

4 12. Section 9884.22 of the Code states:

5 (a) Notwithstanding any other provision of law, the director may revoke, suspend, or deny  
6 at any time any registration required by this article on any of the grounds for disciplinary action  
7 provided in this article. The proceedings under this article shall be conducted in accordance with  
8 Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government  
9 Code, and the director shall have all the powers granted therein.

10 .....

11 13. Section 9884.7 of the Code states:

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

22 .....

23 (3) Failing or refusing to give to a customer a copy of any document  
24 requiring his or her signature, as soon as the customer signs the document.

25 (4) Any other conduct which constitutes fraud.

26 .....

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

.....

(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.

14. Section 9884.9, subsection (a), of the Code states:

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.  
No charge shall be made for work done or parts supplied in excess of the estimated  
price without the oral or written consent of the customer that shall be obtained at  
some time after it is determined that the estimated price is insufficient and before  
the work not estimated is done or the parts not estimated are supplied. Written

1 consent or authorization for an increase in the original estimated price may be  
2 provided by electronic mail or facsimile transmission from the customer. The  
3 bureau may specify in regulation the procedures to be followed by an automotive  
4 repair dealer if an authorization or consent for an increase in the original estimated  
5 price is provided by electronic mail or facsimile transmission. If that consent is  
6 oral, the dealer shall make a notation on the work order of the date, time, name of  
7 person authorizing the additional repairs, and telephone number called, if any,  
8 together with a specification of the additional parts and labor and the total  
9 additional cost, and shall do either of the following:

10 (1) Make a notation on the invoice of the same facts set forth in the  
11 notation on the work order.

12 (2) Upon completion of the repairs, obtain the customer's signature or  
13 initials to an acknowledgment of notice and consent, if there is an oral consent of  
14 the customer to additional repairs, in the following language:

15 "I acknowledge notice and oral approval of an increase  
16 in the original estimated price.

17 (signature or initials)

18 ....

19 15. Section 9889.1 of the Code provides, in pertinent part, that the Director may suspend  
20 or revoke any license issued under Articles 5 and 6 (commencing with section 9887.1) of the  
21 Automotive Repair Act.

22 16. Section 9889.3 of the Code states:

23 The director may suspend, revoke, or take other disciplinary action against  
24 a license as provided in this article if the licensee or any partner, officer, or  
25 director thereof:

26 (a) Violates any section of the Business and Professions Code that relates  
27 to his or her licensed activities.

28 ....

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

....

(h) Violates or attempts to violate the provisions of this chapter relating to  
the particular activity for which he or she is licensed.

....

17. Section 9889.5 of the Code states:

"The director may take disciplinary action against any licensee after a hearing as provided  
in this article by any of the following:

(a) Imposing probation upon terms and conditions to be set forth by the director.

(b) Suspending the license.

(c) Revoking the license."

1 18. Section 9889.7 of the Code states:

2 The expiration or suspension of a license by operation of law or by order or  
3 decision of the director or a court of law, or the voluntary surrender of a license by  
4 a licensee shall not deprive the director of jurisdiction to proceed with any  
5 investigation of or action or disciplinary proceedings against such licensee, or to  
6 render a decision suspending or revoking such license.

7 19. Section 9889.8 of the Code states:

8 All accusations against licensees shall be filed within three years after the  
9 act or omission alleged as the ground for disciplinary action, except that with  
10 respect to an accusation alleging a violation of subdivision (d) of Section 9889.3,  
11 the accusation may be filed within two years after the discovery by the bureau of  
12 the alleged facts constituting the fraud or misrepresentation prohibited by that  
13 section.

14 20. Section 9889.16 of the Code states:

15 Whenever a licensed adjuster in a licensed station upon an inspection or  
16 after an adjustment, made in conformity with the instructions of the bureau,  
17 determines that the lamps or the brakes upon any vehicle conform with the  
18 requirements of the Vehicle Code, he shall, when requested by the owner or driver  
19 of the vehicle, issue a certificate of adjustment on a form prescribed by the  
20 director, which certificate shall contain the date of issuance, the make and  
21 registration number of the vehicle, the name of the owner of the vehicle, and the  
22 official license of the station.

23 21. Section 44002 of the Health and Safety Code states:

24 The department shall have the sole and exclusive authority within the state  
25 for developing and implementing the motor vehicle inspection program in  
26 accordance with this chapter.

27 For the purposes of administration and enforcement of this chapter, the  
28 department, and the director and officers and employees thereof, shall have all the  
powers and authority granted under Division 1 (commencing with Section 1) and  
Division 1.5 (commencing with Section 475) and Chapter 20.3 (commencing with  
Section 9880) of Division 3 of the Business and Professions Code and under  
Chapter 33 (commencing with Section 3300) of Title 16 of the California Code of  
Regulations. Inspections and repairs performed pursuant to this chapter, in  
addition to meeting the specific requirements imposed by this chapter, shall also  
comply with all requirements imposed pursuant to Division 1 (commencing with  
Section 1) and Division 1.5 (commencing with Section 475) and Chapter 20.3  
(commencing with Section 9880) of Division 3 of the Business and Professions  
Code and Chapter 33 (commencing with Section 3300) of Title 16 of the  
California Code of Regulations.

22. Section 44072.4 of the Health and Safety Code states:

“The director may take disciplinary action against any licensee after a hearing as provided  
in this article by any of the following:

(a) Imposing probation upon terms and conditions to be set forth by the director.

1 (b) Suspending the license.

2 (c) Revoking the license.”

3 23. Section 44072.6 of the Health and Safety Code states:

4 The expiration or suspension of a license by operation of law or by order or  
5 decision of the director or a court of law, or the voluntary surrender of a license by  
6 a licensee shall not deprive the director of jurisdiction to proceed with any  
7 investigation of, or action or disciplinary proceedings against, the licensee, or to  
8 render a decision suspending or revoking the license.

9 24. Section 44072.7 of the Health and Safety Code states:

10 All accusations against licensees shall be filed within three years after the  
11 act or omission alleged as the ground for disciplinary action, except that with  
12 respect to an accusation alleging a violation of subdivision (d) of Section 44072.2,  
13 the accusation may be filed within two years after the discovery by the bureau of  
14 the alleged facts constituting the fraud or misrepresentation prohibited by that  
15 section.

16 25. Section 44072.8 of the Health and Safety Code states:

17 “When a license has been revoked or suspended following a hearing under this article, any  
18 additional license issued under this chapter in the name of the licensee may be likewise revoked  
19 or suspended by the director.”

### 20 STATUTORY PROVISIONS

21 26. California Code of Regulations, title 16, section 3305, states:

22 (a) All adjusting, inspecting, servicing, and repairing of brake systems and  
23 lamp systems for the purpose of issuing any certificate of compliance or  
24 adjustment shall be performed in official stations, by official adjusters, in  
25 accordance with the following, in descending order of precedence, as applicable:

26 (1) Vehicle Manufacturers’ current standards, specifications and  
27 recommended procedures, as published in the manufacturers’ vehicle service and  
28 repair manuals.

(2) Current standards, specifications, procedures, directives, manuals,  
bulletins and instructions issued by vehicle and equipment or device  
manufacturers.

(3) Standards, specifications and recommended procedures found in current  
industry-standard reference manuals and periodicals published by nationally  
recognized

repair information providers.

(4) The bureau’s Handbook for Brake Adjusters and Stations, February  
2003, which is hereby incorporated by reference.

(5) The bureau’s Handbook for Lamp Adjusters and Stations, February  
2003, which is hereby incorporated by reference.

(b) The specific activities for which an official station is licensed shall be  
performed only in an area of the station that has been approved by the bureau.

1 Other work may be performed in the approved area, as desired. The work area  
2 shall be within a building and shall be large enough to accommodate the motor  
3 vehicle being serviced. The bureau may make an exception to the preceding  
4 requirement by approving a work area adjacent to a building for purposes of  
5 inspecting and adjusting equipment and devices on buses, trucks, truck tractors,  
6 trailers, and semitrailers. The work area shall be kept clean and orderly.

7 (c) The services of an officially licensed adjuster appropriate to each type  
8 and class of station license held shall be available at each official station, except a  
9 fleet owner station, not less than 40 hours weekly or not less than half of the hours  
10 the station is open for business weekly, whichever is less. Fleet owner stations are  
11 required to provide the services of a licensed adjuster only for certification  
12 procedures.

13 27. California Code of Regulations, title 16, section 3316, subdivision (d)(2), states:

14 The operation of official lamp adjusting stations shall be subject to the  
15 following provisions:

16 ....  
17 (d) Effective April 1, 1999, licensed stations shall purchase certificates of  
18 adjustment from the bureau for a fee of three dollars and fifty cents (\$3.50) each  
19 and shall not purchase or otherwise obtain such certificates from any other source.  
20 Full payment is required at the time certificates are ordered. Certificates are not  
21 exchangeable following delivery. A licensed station shall not sell or otherwise  
22 transfer unused certificates of adjustment. Issuance of a lamp adjustment  
23 certificate shall be in accordance with the following provisions:

24 ....  
25 (2) Where all of the lamps, lighting equipment, and related electrical  
26 systems on a vehicle have been inspected and found to be in compliance with all  
27 requirements of the Vehicle Code and bureau regulations, the certificate shall  
28 certify that the entire system meets all of those requirements.

29 28. California Code of Regulations, title 16, section 3321, subdivision (c)(2), states:

30 The operation of official brake adjusting stations shall be subject to the  
31 following provisions:

32 ....  
33 (c) Effective April 1, 1999, licensed stations shall purchase certificates of  
34 adjustment from the bureau for a fee of three dollars and fifty cents (\$3.50) and  
35 shall not purchase or otherwise obtain such certificates from any other source. A  
36 licensed station shall not sell or otherwise transfer unused certificates of  
37 adjustment. Full payment is required at the time certificates are ordered.  
38 Certificates are not exchangeable following delivery. Issuance of a brake  
39 adjustment certificate shall be in accordance with the following provisions:

40 ....  
41 (2) Where the entire brake system on any vehicle has been inspected or  
42 tested and found to be in compliance with all requirements of the Vehicle Code  
43 and bureau regulations, and the vehicle has been road-tested, the certificate shall  
44 certify that the entire system meets all such requirements.

45 ....  
46 29. California Code of Regulations, title 16, section 3353, subsection (a), states:

1 “No work for compensation shall be commenced and no charges shall accrue without  
2 specific authorization from the customer in accordance with the following requirements:

3 (a) Estimate for Parts and Labor. Every dealer shall give to each customer a written  
4 estimated price for parts and labor for a specific job.”

5 ....

6 30. California Code of Regulations, title 16, section 3371, states:

7 No dealer shall publish, utter, or make or cause to be published, uttered, or  
8 made any false or misleading statement or advertisement which is known to be  
9 false or misleading, or which by the exercise of reasonable care should be known  
10 to be false or misleading. Advertisements and advertising signs shall clearly show  
11 the following:

12 ....

13 31. California Code of Regulations, title 16, section 3373, states:

14 No automotive repair dealer or individual in charge shall, in filling out an  
15 estimate, invoice, or work order, or record required to be maintained by section  
16 3340.15(f) of this chapter, withhold therefrom or insert therein any statement or  
17 information which will cause any such document to be false or misleading, or  
18 where the tendency or effect thereby would be to mislead or deceive customers,  
19 prospective customers, or the public.

### 20 COST RECOVERY

21 32. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
22 administrative law judge to direct a licentiate found to have committed a violation or violations of  
23 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
24 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being  
25 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be  
26 included in a stipulated settlement.

### 27 **FIRST UNDERCOVER RUN – 2002 HONDA**

28 33. On May 9, 2014, a Bureau undercover operator drove a Bureau-documented 2002  
Honda to the Golden State Smog Inc.’s (Golden State) facility for an inspection. The undercover  
operator drove to the facility and spoke with an unidentified Golden State employee. The  
following introduced malfunctions were placed on the vehicle: the left front brake rotor and left  
rear brake rotor were measured and found to be under the minimum thickness; the vehicle’s  
lighting system had an open circuit created in the ground wire of the right high beam and the high

1 mount break light; and the license plate lamps had a faulty marked bulb installed in the license  
2 plate housing which made the lights inoperable. Tamper seals were installed on the vehicle's  
3 wheel and tire assemblies in order to detect their removal. For the vehicle to pass a brake and  
4 lamp inspection, it needed the left front and rear brake rotors replaced; the vehicle's lighting  
5 system repaired; and the bulb in the license plate housing replaced.

6 34. The undercover operator requested a smog inspection and a brake and lamp  
7 inspection. The undercover operator did not sign a work order or receive a written estimate before  
8 the work began. After the inspections were completed, the undercover operator paid the Golden  
9 State employee \$145.00. The Golden State employee then gave the undercover operator a copy of  
10 invoice [REDACTED], a Vehicle Inspection Report, a copy of Certificate of Adjustment [REDACTED],  
11 for the brake inspection, and Certificate of Adjustment [REDACTED] for the lamp inspection. The  
12 undercover operator then left the facility and transferred custody of the vehicle to a Bureau  
13 representative.

14 35. On May 20, 2014, the Bureau-documented 2002 Honda was re-inspected and the  
15 following was found: 1) the tamper seals on the vehicle's wheel and tire assemblies were still  
16 present and not broken; 2) both left rotors were found to have the inspector's identification marks  
17 and were below the manufacturer's minimum thickness specifications; 3) the vehicle's high  
18 mount stop light was inoperative; and 4) the vehicle's right high-beam was inoperative. Based on  
19 these findings, the inspector concluded that the vehicle should not have passed inspection and  
20 been issued brake and lamp certificates.

21 **FIRST CAUSE FOR DISCIPLINE**

22 **(Violation of Estimate Requirements)**

23 36. Complainant re-alleges and incorporates by reference the allegations set forth above  
24 in paragraphs 33 through 35.

25 37. Golden State's Registration is subject to disciplinary action under Code section  
26 9884.9, subsection (a), and California Code of Regulations, title 16, section 3353, subdivision (a),  
27 in that Golden State failed to obtain specific authorization from the undercover operator and  
28 failed to give a written estimate of labor and parts before beginning the inspections.

1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Fraud)**

3 38. Complainant re-alleges and incorporates by reference the allegations set forth above  
4 in paragraphs 33 through 35.

5 39. Golden State's registration is subject to disciplinary action pursuant to Code section  
6 9884.7, subdivision (a)(4), Respondent committed acts constituting fraud, as follows:  
7 Respondent obtained payment from the operator for performing the applicable inspections,  
8 adjustments, or repairs of the brake and lighting systems on the Bureau's 2002 Honda as specified  
9 by the Bureau and in accordance with the Vehicle Code. In fact, Respondent failed to perform  
10 the necessary inspections, adjustments, and repairs in compliance with Bureau Regulations or the  
11 Vehicle Code.

12 Golden State misrepresented to the undercover operator that Golden State had inspected the  
13 brake and lamp systems on the vehicle and that they were in passable condition; Golden State  
14 knew that in fact and in truth these systems had not been properly inspected, adjusted, or repaired;  
15 Golden State intended the undercover operator to rely on these misrepresentations; Golden State  
16 charged for these services and accepted payment.

17 **THIRD CAUSE FOR DISCIPLINE**

18 **(Failure to Comply with Auto Repair Provisions)**

19 40. Complainant re-alleges and incorporates by reference the allegations set forth above  
20 in paragraphs 33 through 35.

21 41. Golden State's registration is subject to disciplinary action pursuant to Code section  
22 9884.7, subdivision (a)(6), in that Golden State failed to comply with section 9889.16 of that  
23 Code in the following material respects: Respondent issued Brake Certificate No. [REDACTED]  
24 and Lamp Certificate No. [REDACTED] as to the Bureau's 2002 Honda when the vehicle was not in  
25 compliance with Bureau Regulations or the requirements of the Vehicle Code.

26 ///

27 ///

28 ///

1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Failure to Comply with Regulations)**

3 42. Complainant re-alleges and incorporates by reference the allegations set forth above  
4 in paragraphs 33 through 35.

5 43. Golden State's brake and lamp station licenses are subject to disciplinary action  
6 pursuant to Code section 9889.3, subdivision (c), in that Golden State failed to comply with the  
7 provisions of California Code of Regulations, title 16, sections 3305, subdivision (a), 3316,  
8 subdivision (d)(2), 3321, subdivision (c)(2), and 3356, subdivisions (a)(2)(A) and (a)(2)(B).

9 **FIFTH CAUSE FOR DISCIPLINE**

10 **(Violation of Regulations)**

11 44. Complainant re-alleges and incorporates by reference the allegations set forth above  
12 in paragraphs 33 through 35.

13 45. Golden State's registration is subject to disciplinary action under Code section  
14 9884.7, subdivision (a)(6), and Golden State's brake and lamp station licenses are subject to  
15 discipline under Code section 9889.3, subdivision (c), in that Golden State violated the following  
16 regulations promulgated by the Director:

17 a. **Code of Regulations, title 16, section 3305, subdivision (a)(1)**: failure to  
18 inspect a brake system and lamp system for the purpose of issuing any certificate of compliance  
19 or adjustment in accordance with the Vehicle Manufacturers' current standards, specifications and  
20 recommended procedures, as published in the manufacturers' vehicle service and repair manuals.

21 b. **Section 3316, subdivision (d)(2)**: Respondent issued Lamp Certificate No.  
22 [REDACTED] as to the Bureau's 2002 Honda car when all of the lamps, lighting equipment, or  
23 related electrical systems on the vehicle were not in compliance with Bureau regulations.

24 c. **Section 3321, subdivision (c)(2)**: Respondent issued Brake Certificate No.  
25 [REDACTED] as to the Bureau's 2002 Honda when the brake system on the vehicle had not been  
26 completely tested or inspected.

27 ///

28 ///

1 **SIXTH CAUSE FOR DISCIPLINE**

2 **(Dishonesty, Fraud, or Deceit)**

3 46. Complainant re-alleges and incorporates by reference the allegations set forth above  
4 in paragraphs 33 through 35.

5 47. Golden State's brake and lamp station licenses are subject to disciplinary action  
6 pursuant to Code section 9889.3, subdivision (d), in that Respondent committed acts involving  
7 dishonesty, fraud, or deceit whereby another was injured.

8 **SEVENTH CAUSE FOR DISCIPLINE**

9 **(Certificate Issued to Nonconforming Vehicle)**

10 48. Complainant re-alleges and incorporates by reference the allegations set forth above  
11 in paragraphs 33 through 35.

12 49. Golden State's lamp and brake station licenses are subject to disciplinary action under  
13 Code sections 9889.3, subdivisions (a) and (c), and 9889.16 and Title 16, California Code of  
14 Regulations, sections 3316, subdivision (d)(2), and 3321, subdivision (c)(2), in that upon an  
15 inspection or after an adjustment purportedly made in conformity with the instructions of the  
16 Bureau, Golden State issued a brake and lamp certificate of adjustment to a vehicle that  
17 purportedly conformed with the requirements of the Vehicle Code and Bureau regulations, when  
18 in fact and in truth the vehicle did not conform with these requirements.

19 **EIGHTH CAUSE FOR DISCIPLINE**

20 **(Making Misleading or Untrue Statements)**

21 50. Complainant re-alleges and incorporates by reference the allegations set forth above  
22 in paragraphs 33 through 35.

23 51. Golden State's registration is subject to disciplinary action pursuant to Code section  
24 9884.7, subdivision (a)(1), Respondent made or authorized statements which he knew or in the  
25 exercise of reasonable care should have known to be untrue or misleading, as follows:

26 a. Respondent certified under penalty of perjury on Brake Certificate No. [REDACTED]  
27 that the applicable inspection was performed on the brake system on the Bureau's 2002 Honda  
28 car. In fact, Respondent failed to inspect the brakes on the vehicle.



1 Bureau, he issued a brake and lamp certificate of adjustment to a vehicle that purportedly  
2 conformed with the requirements of the Vehicle Code and Bureau regulations, when in fact and in  
3 truth the vehicle did not conform with these requirements.

4 **ELEVENTH CAUSE FOR DISCIPLINE**

5 **(Dishonesty, Fraud, or Deceit)**

6 56. Complainant re-alleges and incorporates by reference the allegations set forth above  
7 in paragraphs 33 through 35.

8 57. Delatorre's brake adjuster and lamp adjuster licenses are subject to disciplinary action  
9 under Code section 9889.3, subdivisions (a) and (d), in that he committed dishonest, fraudulent,  
10 or deceitful acts whereby another is injured by issuing certificates of adjustments for a vehicle  
11 without performing bona fide inspections of the brake and lamp systems on them, thereby  
12 depriving the People of the State of California of the protection afforded by the Automotive  
13 Repair Act.

14 **TWELFTH CAUSE FOR DISCIPLINE**

15 **(Certificate Issued to Nonconforming Vehicle)**

16 58. Complainant re-alleges and incorporates by reference the allegations set forth above  
17 in paragraphs 33 through 35.

18 59. Delatorre's brake adjuster and lamp adjuster licenses are subject to disciplinary action  
19 under Code sections 9889.3, subsections (a) and (c), 9889.16, and Title 16, California Code of  
20 Regulations, sections 3321, subdivision (c)(2) and 3316, subdivision (d)(2) in that upon an  
21 inspection or after an adjustment purportedly made in conformity with the instructions of the  
22 Bureau, he issued a brake and lamp certificate of adjustment to a vehicle that purportedly  
23 conformed with the requirements of the Vehicle Code and Bureau regulations, when in fact and in  
24 truth the vehicle did not conform with these requirements.

25 **THIRTEENTH CAUSE FOR DISCIPLINE**

26 **(Creating False or Misleading Records)**

27 60. Complainant re-alleges and incorporates by reference the allegations set forth above  
28 in paragraphs 33 through 35.



1 the headlight adjustment screws were still present and not broken; 2) the right front brake rotor  
2 was out of specification; 3) the right rear brake drum was out of specification; and 4) the vehicle's  
3 left front headlight and the right front headlight were out of adjustment. Based on these findings,  
4 the inspector concluded that the vehicle should not have passed inspection and been issued brake  
5 and lamp certificates.

6 **FOURTEENTH CAUSE FOR DISCIPLINE**

7 **(Fraud)**

8 65. Complainant re-alleges and incorporates by reference the allegations set forth above  
9 in paragraphs 62 through 64.

10 66. Golden State's registration is subject to disciplinary action pursuant to Code section  
11 9884.7, subdivision (a)(4), Respondent committed acts constituting fraud, as follows:  
12 Respondent obtained payment from the operator for performing the applicable inspections,  
13 adjustments, or repairs of the brake and lighting systems on the Bureau's 2008 Toyota as  
14 specified by the Bureau and in accordance with the Vehicle Code. In fact, Respondent failed to  
15 perform the necessary inspections, adjustments, and repairs in compliance with Bureau  
16 Regulations or the Vehicle Code.

17 Golden State misrepresented to the undercover operator that Golden State had inspected the  
18 brake and lamp systems on the vehicle and that they were in passable condition; Golden State  
19 knew that in fact and in truth these systems had not been properly inspected, adjusted, or repaired;  
20 Golden State intended the undercover operator to rely on these misrepresentations; Golden State  
21 charged for these services and accepted payment.

22 **FIFTEENTH CAUSE FOR DISCIPLINE**

23 **(Failure to Comply with Auto Repair Provisions)**

24 67. Complainant re-alleges and incorporates by reference the allegations set forth above  
25 in paragraphs 62 through 64.

26 68. Golden State's registration is subject to disciplinary action pursuant to Code section  
27 9884.7, subdivision (a)(6), in that Golden State failed to comply with section 9889.16 of the Code  
28 in the following material respects: Respondent issued Brake Certificate No. [REDACTED] and

1 Lamp Certificate No. [REDACTED] as to the Bureau's 2008 Toyota when the vehicle was not in  
2 compliance with Bureau Regulations or the requirements of the Vehicle Code.

3 **SIXTEENTH CAUSE FOR DISCIPLINE**

4 **(Failure to Comply with Regulations)**

5 69. Complainant re-alleges and incorporates by reference the allegations set forth above  
6 in paragraphs 62 through 64.

7 70. Golden State's brake and lamp station licenses are subject to disciplinary action  
8 pursuant to Code section 9889.3, subdivision (c), in that Golden State failed to comply with the  
9 provisions of California Code of Regulations, title 16, sections 3305, subdivision (a), 3316,  
10 subdivision (d)(2), 3321, subdivision (c)(2), and 3356, subdivisions (a)(2)(A) and (a)(2)(B).

11 **SEVENTEENTH CAUSE FOR DISCIPLINE**

12 **(Dishonesty, Fraud, or Deceit)**

13 71. Complainant re-alleges and incorporates by reference the allegations set forth above  
14 in paragraphs 62 through 64.

15 72. Golden State's brake and lamp station licenses are subject to disciplinary action  
16 pursuant to Code section 9889.3, subdivision (d), in that Respondent committed acts involving  
17 dishonesty, fraud, or deceit whereby another was injured.

18 **EIGHTEENTH CAUSE FOR DISCIPLINE**

19 **(Certificate Issued to Nonconforming Vehicle)**

20 73. Complainant re-alleges and incorporates by reference the allegations set forth above  
21 in paragraphs 62 through 64.

22 74. Golden State's lamp and brake station licenses are subject to disciplinary action under  
23 Code sections 9889.3, subsections (a) and (c), and 9889.16, and title 16, California Code of  
24 Regulations, sections 3316, subdivision (d)(2), and 3321, subdivision (c)(2), in that upon an  
25 inspection or after an adjustment purportedly made in conformity with the instructions of the  
26 Bureau, Golden State issued a brake and lamp certificate of adjustment to a vehicle that  
27 purportedly conformed with the requirements of the Vehicle Code and Bureau regulations, when  
28 in fact and in truth the vehicle did not conform with these requirements.

1 **NINETEENTH CAUSE FOR DISCIPLINE**

2 **(Making Misleading or Untrue Statements)**

3 75. Complainant re-alleges and incorporates by reference the allegations set forth above  
4 in paragraphs 62 through 64.

5 76. Golden State's registration is subject to disciplinary action pursuant to Code section  
6 9884.7, subdivision (a)(1), in that Respondent made or authorized statements which he knew or in  
7 the exercise of reasonable care should have known to be untrue or misleading, as follows:

8 a. Respondent certified under penalty of perjury on Brake Certificate No. [REDACTED]  
9 that the applicable inspection was performed on the brake system on the Bureau's 2008 Toyota.  
10 In fact, Respondent failed to inspect the brakes on the vehicle.

11 b. Respondent certified under penalty of perjury on Brake Certificate No. [REDACTED]  
12 that the right front brake rotor and right rear brake drum on the Bureau's 2008 Toyota were in a  
13 satisfactory condition. In fact, the right front brake rotor had been machined beyond minimum  
14 thickness specification and the right rear brake drum had been machined beyond maximum  
15 diameter specification.

16 c. Respondent certified under penalty of perjury on Brake Certificate No. [REDACTED]  
17 that the Bureau's 2008 Toyota had a stopping distance of 8 feet from a speed of 20 miles per hour  
18 as a result of a road-test. In fact, Respondent never road tested the vehicle.

19 d. Respondent certified under penalty of perjury on Lamp Certificate No. [REDACTED]  
20 that the applicable adjustment had been performed on the lighting system on the Bureau's 2008  
21 Toyota. In fact, the vehicle's left front headlight was improperly adjusted up and the right front  
22 headlight was improperly adjusted down, in the same positions as before the inspection. A  
23 defective light bulb, which was installed in the left rear taillight assembly prior to the inspection,  
24 was changed for a new one, but never reflected on the work order.

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27 **TWENTIETH CAUSE FOR DISCIPLINE**

28 **(Creating False or Misleading Records)**



1 depriving the People of the State of California of the protection afforded by the Automotive  
2 Repair Act.

3 **TWENTY-THIRD CAUSE FOR DISCIPLINE**

4 **(Certificate Issued to Nonconforming Vehicle)**

5 83. Complainant re-alleges and incorporates by reference the allegations set forth above  
6 in paragraphs 62 through 64.

7 84. Delatorre's brake adjuster and lamp adjuster licenses are subject to disciplinary action  
8 under Code sections 9889.3, subsections (a) and (c), and 9889.16, and title 16, California Code of  
9 Regulations, sections 3321, subdivision (c)(2) and 3316, subdivision (d)(2) in that upon an  
10 inspection or after an adjustment purportedly made in conformity with the instructions of the  
11 Bureau, he issued a brake and lamp certificate of adjustment to a vehicle that purportedly  
12 conformed with the requirements of the Vehicle Code and Bureau regulations, when in fact and in  
13 truth the vehicle did not conform with these requirements.

14 **TWENTY-FOURTH CAUSE FOR DISCIPLINE**

15 **(Creating False or Misleading Records)**

16 85. Complainant re-alleges and incorporates by reference the allegations set forth above  
17 in paragraphs 62 through 64.

18 86. Delatorre's brake adjuster and lamp adjuster licenses are subject to disciplinary action  
19 under Code section 9889.3, subsections (a) and (c), and title 16, California Code of Regulations,  
20 sections 3373, in that upon the completion of his inspection of an undercover vehicle, Delatorre  
21 issued a false and misleading invoice, Vehicle Inspection Report, Certificate of Adjustment-  
22 Brake Adjustment, and a Certificate of Lamp Adjustment-Lamp Adjustment.

23 **OTHER MATTERS**

24 87. Pursuant to Bus. & Prof. Code section 9884.7, subdivision (c), the Director may  
25 suspend, revoke or place on probation the registration for all places of business operated in this  
26 state by Respondent Daniel Agustin Delatorre, President of Golden State Smog Inc., upon a  
27 finding that Respondent has, or is, engaged in a course of repeated and willful violations of the  
28 laws and regulations pertaining to an automotive repair dealer.

1           88. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Test & Repair  
2 Station License Number RC 214593, issued to Respondent Daniel Agustin Delatorre, President of  
3 Golden State Smog Inc., is revoked or suspended, any additional license issued under Chapter 5  
4 of the Health & Saf. Code in the name of said licensee may be likewise revoked or suspended by  
5 the Director.

6           89. Pursuant to Bus. & Prof. Code section 9889.9, if Lamp Station License Number  
7 LS 214593, issued to Respondent Daniel Agustin Delatorre, President of Golden State Smog Inc.,  
8 is revoked or suspended, any additional license issued under Articles 5 and 6 of Chapter 20.3 of  
9 the Bus. & Prof. Code in the name of said licensee may be likewise revoked or suspended by the  
10 Director.

11           90. Pursuant to Bus. & Prof. Code section 9889.9, if Brake Station License Number  
12 BS 214593, issued to Respondent Daniel Agustin Delatorre, President of Golden State Smog Inc.,  
13 is revoked or suspended, any additional license issued under Articles 5 and 6 of Chapter 20.3 of  
14 the Bus. & Prof. Code in the name of said licensee may be likewise revoked or suspended by the  
15 Director.

16           91. Pursuant to Health & Saf. Code section 44072.8, if Smog Repair Technician License  
17 Number EI 31910 (formerly Advanced Emission Specialist Technician License No. EA 31910),  
18 issued to Respondent Daniel Agustin Delatorre, is revoked or suspended, any additional license  
19 issued under Chapter 5 of the Health & Saf. Code in the name of said licensee may be likewise  
20 revoked or suspended by the Director.

21           92. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Inspector License  
22 Number EO 31910, issued to Respondent Daniel Agustin Delatorre, is revoked or suspended, any  
23 additional license issued under Chapter 5 of the Health & Saf. Code in the name of said licensee  
24 may be likewise revoked or suspended by the Director.

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27           93. Pursuant to Bus. & Prof. Code section 9889.9, if Brake Adjuster License Number  
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1 BA 631486, issued to Respondent Daniel Agustin Delatorre, is revoked or suspended, any  
2 additional license issued under Articles 5 and 6 of Chapter 20.3 of the Bus. & Prof. Code in the  
3 name of said licensee may be likewise revoked or suspended by the Director.

4 94. Pursuant to Bus. & Prof. Code section 9889.9, if Lamp Adjuster License Number  
5 LA 631486, issued to Respondent Daniel Agustin Delatorre, is revoked or suspended, any  
6 additional license issued under Articles 5 and 6 of Chapter 20.3 of the Bus. & Prof. Code in the  
7 name of said licensee may be likewise revoked or suspended by the Director.

#### 8 PRAYER

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

11 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD  
12 214593, issued : issued to Golden State Smog, Inc, Daniel Agustin Delatorre, President, dba  
13 Golden State Smog, Inc.;

14 2. Revoking or suspending Smog Check Station License Number RC 214593, : issued  
15 to Golden State Smog, Inc, Daniel Agustin Delatorre, President, dba Golden State Smog, Inc.;

16 3. Revoking or suspending Lamp Station License Number LS 214593, issued to Golden  
17 State Smog, Inc, Daniel Agustin Delatorre, President, dba Golden State Smog, Inc.;

18 4. Revoking or suspending Brake Station License Number BS 214593, issued to Daniel  
19 Agustin Delatorre, dba Golden State Smog Inc.;

20 5. Revoking or suspending Brake Adjuster License Number BA 631486, issued to  
21 Daniel Agustin Delatorre;

22 6. Revoking or suspending Lamp Adjuster License Number LA 631486, issued to  
23 Daniel Agustin Delatorre;

24 7. Revoking or suspending Smog Check Inspector License No. EO 31910 and Smog  
25 Check Repair Technician License No. EI 31910, issued to Daniel Agustin Delatorre;

26 10. Revoking or suspending any additional license issued under Articles 5 and 6 of  
27 Chapter 20.3 of the Business and Professions Code in the name of Daniel Agustin Delatorre;

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8. Ordering Golden State Smog Inc. and Daniel Agustin Delatorre to pay the Bureau of Automotive Repair the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED: August 17, 2015

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

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