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7

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

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

13 **ALL SMOG TEST ONLY CENTER,**
14 **ANDRE RAFI MARDIAN**
15 **521 East Los Angeles Ave, #G**
16 **Simi Valley, CA 9306**

15 **Mailing Address**
16 **25122-H Steinbeck Avenue**
17 **Stevenson Ranch, CA 91381**
18 **Automotive Repair Dealer Registration No.**
19 **ARD 239246**
20 **Smog Check, Test Only, Station License No.**
21 **TC 239246**

22 Respondents.

Case No. 79/16-04

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

22 FINDINGS OF FACT

23 1. On or about July 15, 2015, Complainant Patrick Dorais, in his official capacity as the
24 Chief of the Bureau of Automotive Repair, Department of Consumer Affairs, filed Petition to
25 Revoke Probation No. 79/16-04 against All Smog Test Only Center, Andre Rafi Mardian
26 (Respondent) before the Director of Consumer Affairs. (Petition to Revoke Probation attached as
27 Exhibit A.)
28

1 2. On or about June 10, 2005, the Bureau of Automotive Repair (Bureau) issued
2 Automotive Repair Dealer Registration No. ARD 239246 to Respondent. The Automotive
3 Repair Dealer Registration expired on May 31, 2013, and has not been renewed.

4 3. On or about June 15, 2005, the Bureau of Automotive Repair issued Smog Check,
5 Test Only, Station License No. TC 239246 to Respondent. The Smog Check Test Only Station
6 License expired on May 31, 2013, and has not been renewed.

7 4. In 2005, the Bureau issued Advanced Emission Specialist Technician License No. EA
8 151225 to Respondent. On or about December 31, 2012 the license was canceled and renewed as
9 Smog Check Inspector License No. EO151225. The Smog Check Inspector License expired on
10 December 31, 2014, and has not been renewed.

11 5. On or about July 31, 2015, Respondent was served by Certified and First Class Mail
12 copies of the Petition to Revoke Probation No. 79/16-04, Statement to Respondent, Notice of
13 Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5,
14 11507.6, and 11507.7) at Respondent's address of record which, pursuant to Business and
15 Professions Code section 136, is required to be reported and maintained with the Bureau.
16 Respondent's address of record was and is:

17 521 East Los Angeles Ave, #G
18 Simi Valley, CA 93065

19 6. Service of the Petition to Revoke Probation was effective as a matter of law under the
20 provisions of Government Code section 11505, subdivision (c) and/or Business & Professions
21 Code section 124.

22 7. On or about August 10, 2015, the aforementioned documents were returned by the
23 U.S. Postal Service marked "No Forwarding Address."

24 8. Government Code section 11506 states, in pertinent part:

25 (c) The respondent shall be entitled to a hearing on the merits if the respondent
26 files a notice of defense, and the notice shall be deemed a specific denial of all parts
27 of the accusation not expressly admitted. Failure to file a notice of defense shall
28 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
may nevertheless grant a hearing.

Exhibit A

Petition to Revoke Probation

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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 Petition to Revoke
Probation Against:

Case No. 79/16-04

OAH Case No. L-2011030993

13 **ALL SMOG TEST ONLY CENTER,**
521 East Los Angeles Ave, #G
14 Simi Valley, CA 93065
ANDRE RAFI MARDIAN, OWNER
15 Automotive Repair Dealer Registration
No. ARD 239246
16 Smog Check, Test Only, Station License
No. TC 239246,

PETITION TO REVOKE PROBATION

17 **and**

18 **ANDRE RAFI MARDIAN**
25122-H Steinbeck Ave
19 Stevenson Ranch, CA 91381
20 Smog Check Inspector License No. EO 151225

21 Respondents.

22
23 Complainant alleges:

24 **PARTIES**

25 I. Patrick Dorais (Complainant) brings this Petition to Revoke Probation solely in his
26 official capacity as the Chief of the Bureau of Automotive Repair (Bureau), Department of
27 Consumer Affairs.

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Violation of Probation

Should the Director of Consumer Affairs determine that Respondent has failed to comply with the terms and conditions of probation, the Department may, after giving notice and opportunity to be heard, permanently revoke Respondent's Automotive Repair Dealer Registration.

8. Grounds exist to revoke Respondent's probation under the authority of Condition 8 of the Decision and Order in that Respondent did not comply with the terms and conditions of his probation, as set forth below.

CAUSE TO REVOKE PROBATION

(Failed to Comply with Cost Recovery)

9. At all times after the effective date of Respondent's probation, Condition 11 stated:

Cost Recovery

Payment to the Bureau of \$5,000.00, shall be made in twenty four (24) equal installments, with the final payment due no later than 12 months before termination of probation. Failure to complete payment of cost recovery within this frame shall constitute a violation of probation which may subject Respondent's license/registration to outright revocation; however, the Director or the Director's Bureau of Automotive Repair designee may elect to continue probation until such time as reimbursement of the entire cost recover amount has been made to the Bureau.

10. Respondent's probation is subject to revocation because he failed to comply with Probation Condition 9, referenced above. The facts and circumstances regarding this violation are as follows:

a. Respondent has failed to pay cost recovery in full no later than August 9, 2014. The balance owed as of May 12, 2015 is \$2, 916.70.

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PRAYER

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

1. Revoking the probation that was granted by the Bureau in Case No. 79/10-84 and imposing the disciplinary order that was stayed thereby revoking Automotive Repair Dealer Registration No. ARD 239246 issued to All Smog Test Only Center, Andre Rafi Mardian;
2. Revoking or suspending Automotive Repair Dealer Registration No. ARD 239246, issued to All Smog Test Only Center, Andre Rafi Mardian;
3. Revoking or suspending Smog Check, Test Only, Station License No. TC 239246, issued to All Smog Test Only Center, Andre Rafi Mardian.
4. Revoking the probation that was granted by the Bureau of Automotive Repair in Case No. 79/10-84 and imposing the disciplinary order that was stayed thereby revoking Smog Check Inspector License No. EO 151225 issued to Andre Rafi Mardian;
5. Revoking or suspending Smog Check Inspector License No. EO 151225, issued to Andre Rafi Mardian;
6. Taking such other and further action as deemed necessary and proper.

DATED: July 15, 2015


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

LA2015501163