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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:

Case No. 79/12-51

13 **ACCURATE SMOG TEST ONLY;**
14 **EDMOND EYSSAKHANIAN, Owner**
15 **4969 Van Nuys Blvd., B**
16 **Sherman Oaks, Ca 91403**
17 **Automotive Repair Dealer Registration No.**
18 **ARD 248004**
19 **Smog Check Test Only Station License**
20 **No.TC 248004**

A C C U S A T I O N

17 **and**

18 **EDMOND EYSSAKHANIAN**
19 **852 Highland Avenue**
20 **Duarte, Ca 91010**
21 **Advanced Emission Specialist Technician**
22 **License No. 140949**

21 Respondents.

23 Complainant alleges:

24 **PARTIES**

25 1. Sherry Mehl (Complainant) brings this Accusation solely in her official capacity as
26 the Chief of the Bureau of Automotive Repair, Department of Consumer Affairs.

27 2. In or around the year 2006, the Bureau of Automotive Repair issued Automotive
28 Repair Dealer Registration Number ARD 248004 to Accurate Smog Test Only; Edmond

1 Eyssakhanian (Respondent). The Automotive Repair Dealer Registration was in full force and
2 effect at all times relevant to the charges brought herein and will expire on October 31, 2012,
3 unless renewed.

4 3. In or around the year 2006, the Bureau of Automotive Repair issued Smog Check,
5 Test Only, Station License Number TC 248004 to Accurate Smog Test Only; Edmond
6 Eyssakhanian (Respondent). The Smog Check, Test Only, Station License was in full force and
7 effect at all times relevant to the charges brought herein and will expire on October 31, 2012,
8 unless renewed.

9 4. In or around the year 1999, the Bureau issued Advanced Emission Specialist
10 Technician License Number EA 140949 to Edmond Eyssakhanian ("Respondent Eyssakhanian").
11 The technician license was in full force and effect at all times relevant to the charges brought
12 herein and will expire on April 30, 2012, unless renewed.

13 JURISDICTION

14 5. This Accusation is brought before the Director of Consumer Affairs (Director) for the
15 Bureau of Automotive Repair, under the authority of the following laws.

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

18 7. Bus. & Prof. Code section 9884.13 provides, in pertinent part, that the expiration of a
19 valid registration shall not deprive the Director of jurisdiction to proceed with a disciplinary
20 proceeding against an automotive repair dealer or to render a decision invalidating a registration
21 temporarily or permanently.

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

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

STATUTORY PROVISIONS

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

(a) The director, where the automotive repair dealer cannot show there was a bona fide error, may refuse to validate, or may invalidate temporarily or permanently, the registration of an automotive repair dealer for any of the following acts or omissions related to the conduct of the business of the automotive repair dealer, which are done by the automotive repair dealer or any automotive technician, employee, partner, officer, or member of the automotive repair dealer.

(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.

....

(4) Any other conduct which constitutes fraud.

....

(c) Notwithstanding subdivision (b), the director may refuse to validate, or may invalidate temporarily or permanently, 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.

11. Bus. & Prof. Code section 477 provides, in pertinent part, that "Board" includes "bureau," "commission," "committee," "department," "division," "examining committee," "program," and "agency." "License" includes certificate, registration or other means to engage in a business or profession regulated by the Bus. & Prof. Code.

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

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

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

....

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

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

1 13. Health & Saf. Code section 44072.10 states, in pertinent part:

2

3 (c) The department shall revoke the license of any smog check technician
4 or station licensee who fraudulently certifies vehicles or participates in the fraudulent
5 inspection of vehicles. A fraudulent inspection includes, but is not limited to, all of
6 the following:

7 (1) Clean piping, as defined by the department . . .

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

11 **COST RECOVERY**

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

16 **VIDEO SURVEILLANCE OPERATION OF JULY 24, 2011**

17 16. On or about July 24, 2011, the BAR performed a video-taped surveillance at
18 Respondent Accurate Smog's facility. The surveillance operation and information obtained from
19 the BAR's Vehicle Information Database ("VID")¹ revealed that between 1213 hours and 1511
20 hours, Respondent Eyssakhanian performed six (6) smog inspections that resulted in the issuance
21 of four (4) electronic certificates of compliance for the vehicles set forth in Table 1, below,
22 certifying that they had tested and inspected those vehicles and that the vehicles were in
23 compliance with applicable laws and regulations. In fact, Respondent Eyssakhanian performed
24 the smog inspections using the clean piping method by utilizing the tail pipe emissions of vehicles
25 other than the vehicles being certified in order to issue the electronic certificates of compliance.
26 The vehicles certified were not in the test bay at the time of the smog inspections.

27 ¹ The VID information reveals a variety of information concerning each test conducted at
28 Accurate Smog, including the advanced emission specialist technician license number of the
technician who conducted the test, date of the test, start and end times of the test, etc.

Table 1

| Date and Test Times | Vehicle in EIS DATA (License or VIN) | Vehicle Actually Tested (License or VIN) | Certificate Issued | Details |
|--|--|--|--------------------|---|
| 3 07/24/2011 1213 hours to 1220 hours | 1997 Mercedes SL320 (no license plate) | 1999 Mercedes CLK430 (4DNM449) | OE805454C | The 1999 Mercedes CLK430 was in the test bay and was used to certify a 1997 Mercedes SL320. |
| 5 07/24/2011 1259 hours to 1304 hours | 2002 Chrysler Sebring (no license plate) | 2001 Ford Explorer (4UBR254) | OE805456C | The 2001 Ford Explorer was used to certify a 2002 Chrysler Sebring. |
| 7 07/24/2011 1335 hours to 1357 hours | 2003 Hummer H2 (no license plate) | 2001 Nissan Pathfinder (4PRX767) | OE805458C | The 2001 Nissan Pathfinder was used to certify a 2003 Hummer H2. |
| 11 07/24/2011 1459 hours to 1502 hours | 2004 Mercedes C230 (no license plate) | 2005 Audi A4 (5RFP428) | OE805461C | The 2005 Audi A4 was used to certify a 2004 Mercedes C230. |
| 12 07/24/2011 1506 hours to 1508 hours | 2004 Volkswagen Passat (no license plate) | 2005 Audi A4 (5RFP428) | None | The 2005 Audi A4 was used to perform an aborted test for a 2004 Volkswagen Passat. |
| 13 07/24/2011 1510 hours to 1511 hours | 2004 Volkswagen Passat (no license plate) | 2005 Audi A4 (5RFP428) | None | The 2005 Audi A4 was used to perform an aborted test for a 2004 Volkswagen Passat. |

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1 **FIRST CAUSE FOR DISCIPLINE**

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

3 17. Respondent's automotive repair dealer registration is subject to disciplinary action
4 pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(1), in that, Respondents made or
5 authorized statements which he knew, or in the exercise of reasonable care should have known, to
6 be untrue or misleading, as follows: Respondent certified that vehicles (3, 5, 7, 11-13), identified
7 in paragraph 16 above, had passed inspection and were in compliance with applicable laws and
8 regulations. In fact, Respondent used clean piping methods in order to issue certificates for each
9 of the vehicles, and did not test or inspect the vehicles as required by Health & Saf. Code section
10 44012.

11 **SECOND CAUSE FOR DISCIPLINE**

12 ***(Fraud)***

13 18. Respondent's automotive repair dealer registration is subject to disciplinary action
14 pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(4), in that, Respondent committed
15 acts which constitute fraud by issuing electronic smog certificates of compliance for vehicles (3,
16 5, 7, 11-13), identified in paragraph 16 above, without performing bona fide inspections of the
17 emission control devices and systems on each of the vehicles, thereby depriving the People of the
18 State of California of the protection afforded by the Motor Vehicle Inspection Program.

19 **THIRD CAUSE FOR DISCIPLINE**

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

21 19. Respondents are subject to disciplinary action pursuant to Health & Saf. Code section
22 44072.2, subdivision (a), in that, Respondents failed to comply with provisions of that Code, as
23 follows:

24 a. **Section 44012:** Respondent's smog check station license and technician license are
25 subject to disciplinary action in that Respondent failed to perform emission control tests on
26 vehicles (3, 5, 7, 11-13), identified in paragraph 16 above, in accordance with procedures
27 prescribed by the department.

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1 **FIFTH CAUSE FOR DISCIPLINE**

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

3 21. Respondent's smog check station license and technician license are subject to
4 disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that,
5 Respondent committed dishonest, fraudulent or deceitful acts whereby another is injured by
6 issuing electronic smog certificates of compliance for vehicles (3, 5, 7, 11-13), identified in
7 paragraph 16 above, without performing bona fide inspections of the emission control devices
8 and systems on each of the vehicles, thereby depriving the People of the State of California of the
9 protection afforded by the Motor Vehicle Inspection Program.

10 **OTHER MATTERS**

11 22. Pursuant to Bus. & Prof. Code section 9884.7, subdivision (c), the Director may
12 refuse to validate, or may invalidate temporarily or permanently, the registrations for all places of
13 business operated in this state by Respondent Eyssakhanian, owner of Accurate Smog Test Only,
14 upon a finding that said Respondent has, or is, engaged in a course of repeated and willful
15 violations of the laws and regulations pertaining to an automotive repair dealer.

16 23. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Test Only Station
17 License Number TC 248004 issued to Respondent Eyssakhanian, owner of Accurate Smog Test
18 Only, is revoked or suspended, any additional license issued under this chapter in the name of
19 said licensee may be likewise revoked or suspended by the Director.

20 24. Pursuant to Health & Saf. Code section 44072.8, if Advanced Emission Specialist
21 Technician License Number EA 140949 issued to Edmond Eyssakhanian, is revoked or
22 suspended, any additional license issued under this chapter in the name of said licensee may be
23 likewise revoked or suspended by the Director.

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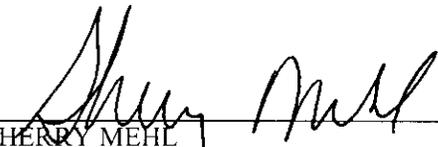
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PRAYER

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

1. Revoking or suspending Automotive Repair Dealer Registration Number ARD 248004, issued to Accurate Smog Test Only; Edmond Eyssakhanian;
2. Revoking or suspending Smog Check, Test Only, Station License Number TC 248004, issued to Accurate Smog Test Only; Edmond Eyssakhanian;
3. Revoking or suspending Advanced Emission Specialist Technician License Number EA 140949, issued to Edmond Eyssakhanian;
3. Ordering Edmond Eyssakhanian 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; and
4. Taking such other and further action as deemed necessary and proper.

DATED: 12-13-11


SHERRY MEHL
Chief
Bureau of Automotive Repair
Department of Consumer Affairs
State of California
Complainant

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