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

In the Matter of the Accusation Against:  
**A VALLEY SMOG  
ARVIN PANU  
12736 Avenue 416  
Orosi, CA 93647**  
**Automotive Repair Dealer Registration  
No. ARD 254338  
Smog Check Station License No. RC 254338**

Case No. 79/13-83  
OAH No. 2013090840  
**DEFAULT DECISION AND ORDER**  
[Gov. Code, §11520]

Respondents.

FINDINGS OF FACT

1. On or about May 14, 2013, Complainant Patrick Dorais, in his official capacity as the Chief of the Bureau of Automotive Repair ("Bureau"), Department of Consumer Affairs, filed Accusation No. 79/13-83 against Arvin Panu, Owner, doing business as A Valley Smog ("Respondents") before the Director of the Department of Consumer Affairs, ("Director"). (A true and correct copy of Accusation No. 79/13-83 is attached hereto, marked Exhibit A, and incorporated herein by reference.)

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1           2.    On or about April 3, 2008, the Bureau issued Automotive Repair Dealer Registration  
2 No. ARD 254338 to Respondents. The Automotive Repair Dealer Registration was in full force  
3 and effect at all times relevant to the charges brought in Accusation No. 79/13-83 and will expire  
4 on December 31, 2014, unless renewed.

5           3.    On or about June 12, 2008, the Bureau issued Smog Check Station License No. RC  
6 254338 to Respondents. The Smog Check Station License was in full force and effect at all times  
7 relevant to the charges brought in Accusation No. 79/13-83 and will expire on December 31,  
8 2014, unless renewed.

9           4.    On or about August 5, 2013, Respondents were served by Certified and First Class  
10 Mail copies of the Accusation No. 79/13-83, Statement to Respondent, Notice of Defense,  
11 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,  
12 and 11507.7) at Respondent's address of record which, pursuant to Business and Professions  
13 Code section 136, is required to be reported and maintained with the Bureau. Respondent's  
14 address of record was and is: 12736 Avenue 416, Oroshi, CA 93647.

15           5.    Service of the Accusation was effective as a matter of law under the provisions of  
16 Government Code section 11505, subdivision (c) and/or Business & Professions Code section  
17 124.

18           6.    On or about August 15, 2013, Respondents signed and returned a Notice of Defense,  
19 requesting a hearing in this matter. A Notice of Hearing was served by mail at Respondents'  
20 address of record and it informed them that an administrative hearing in this matter was scheduled  
21 for July 29 and 30, 2014. Respondent failed to appear at that hearing.

22           7.    Government Code section 11506 states, in pertinent part:

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

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1 8. California Government Code section 11520 states, in pertinent part:

2 (a) If the respondent either fails to file a notice of defense or to appear at the  
3 hearing, the agency may take action based upon the respondent's express admissions  
4 or upon other evidence and affidavits may be used as evidence without any notice to  
5 respondent.

6 9. Pursuant to its authority under Government Code section 11520, the Director after  
7 having reviewed the proof of service dated August 5, 2013, signed by I. Carrillo of the  
8 Department of Justice, finds Respondents are in default. The Director will take action without  
9 further hearing and, based on Accusation, No. 79/13-83, proof of service and on the Affidavit of  
10 Bureau Representative Jeffrey Moore, finds that the allegations in the Accusation are true.

11 10. Taking official notice of its own internal records, pursuant to Business and  
12 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation  
13 and Enforcement is \$8,313.95 as of July 28, 2014.

14 DETERMINATION OF ISSUES

15 1. Based on the foregoing findings of fact, Respondent Arvin Panu, Owner, doing  
16 business as A Valley Smog, has subjected Automotive Repair Dealer Registration No. ARD  
17 254338 and Smog Check Station License No. RC 254338 to discipline.

18 2. The agency has jurisdiction to adjudicate this case by default.

19 3. The Director of the Department of Consumer Affairs is authorized to revoke  
20 Respondents' Automotive Repair Dealer Registration No. ARD 254338 and Smog Check Station  
21 License No. RC 254338 based upon the violations alleged in the Accusation which are supported  
22 by the evidence contained in the affidavit of Bureau Representative Jeffrey Moore in this case.

23 The violations are as follows:

24 a. Respondents violated Business and Professions Code ("Code") section 9884.7,  
25 subdivision (a), in that they made untrue or misleading statements by issuing an electronic  
26 certificate of compliance on May 22, 2012, when the vehicle could not have passed the visual  
27 portion of the smog inspection because its positive crankcase ventilation ("PCV") system was  
28 missing;

1           b. Respondents violated Code section 9884.7, subdivision (a)(4), in that they  
2 committed acts constituting fraud by issuing an electronic certificate of compliance on May 22,  
3 2012, on a vehicle without performing a bona fide inspection of the emission control devices and  
4 systems on it, depriving the people of this State the protections afforded by the Motor Vehicle  
5 Inspection Program;

6           c. Respondents violated Health and Safety Code sections 44072.2, subdivisions  
7 (a) and (f), and 44015, subdivision (b), in that on May 22, 2012, they failed to perform emission  
8 control tests on the vehicle in accordance with the department's procedures and issuing an  
9 electronic certificate of compliance for the vehicle without properly testing and inspecting it for  
10 compliance with Health and Safety Code section 44012;

11           d. Respondents violated Health and Safety Code sections 44072.2, subdivision (c),  
12 and California Code of Regulations, title 16, sections 3340.35, subdivision (c), and 3340.42, in  
13 that on May 22, 2012, they issued an electronic certificate of compliance for the vehicle even  
14 though it had not been inspected and failed to conduct the required smog tests on it in accordance  
15 with the Bureau's specifications;

16           e. Respondents violated Health and Safety Code section 44072.2, subdivision (d),  
17 on May 22, 2012, by committing dishonest, fraudulent or deceitful acts, injuring another, by  
18 issuing an electronic certificate of compliance on a vehicle without performing a bona fide  
19 inspection of the emissions control devices and systems on it, thereby depriving the people of this  
20 State the protections afforded by the Motor Vehicle Inspection Program; and

21           f. Respondents violated Health and Safety Code section 44072.2, subdivision (a),  
22 in that on July 11, 2012, Respondents allowed an unlicensed smog check technician to perform a  
23 smog test and inspection on a vehicle, in violation of Health and Safety Code section 44014,  
24 subdivision (a);

25           g. In aggravation, on July 27, 2010, the Bureau issued Citation No. C2011-0078  
26 against Respondents for violations of Health and Safety Code section 44012, subdivision (f), and  
27 California Code of Regulations, title 16, 3340.35, subdivision (c), and imposed the civil penalties  
28

1 of \$1,500.00 for their violations. Respondents complied with the Citation on September 27,  
2 2010;

3 h. In aggravation, on December 29, 2010, the Bureau issued Citation No. C2011-  
4 0741 against Respondents for violations of Health and Safety Code section 44012, subdivision  
5 (f), and California Code of Regulations, title 16, 3340.35, subdivision (c), and imposed the civil  
6 penalties of \$1,500.00 for their violations. Respondents complied with the Citation on April 2,  
7 2012; and

8 i. In aggravation, on January 11, 2012, the Bureau issued Citation No. C2012-  
9 0702 against Respondents for violations of Health and Safety Code section 44012, subdivision  
10 (f), and California Code of Regulations, title 16, 3340.35, subdivision (c), and imposed the civil  
11 penalties of \$1,500.00 for their violations. Respondents complied with the Citation on March 2,  
12 2012.

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# Exhibit A

Accusation No. 97/13-83

1 KAMALA D. HARRIS  
Attorney General of California  
2 KENT D. HARRIS  
Supervising Deputy Attorney General  
3 LESLIE A. BURGERMYER  
Deputy Attorney General  
4 State Bar No. 117576  
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Sacramento, CA 94244-2550  
6 Telephone: (916) 324-5337  
Facsimile: (916) 327-8643  
7 *Attorneys for Complainant*

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 **A VALLEY SMOG**  
14 **ARVIN PANU, Owner**  
12736 Ave. 416  
15 **Orosi, CA 93647**

16 **Automotive Repair Dealer Registration No.**  
**ARD 254338**  
17 **Smog Check Station License No. RC 254338**

18 Respondent.

Case No. 79/13-83

**ACCUSATION**

(SMOG CHECK)

19  
20 John Wallauch ("Complainant") alleges:

21 **PARTIES**

22 1. Complainant brings this Accusation solely in his official capacity as the Chief of the  
23 Bureau of Automotive Repair ("Bureau"), Department of Consumer Affairs.

24 **Automotive Repair Dealer Registration**

25 2. On or about April 3, 2008, the Bureau issued Automotive Repair Dealer Registration  
26 Number ARD 254338 to Arvin Panu ("Respondent"), doing business as A Valley Smog. The  
27 registration was in full force and effect at all times relevant to the charges brought herein and will  
28 expire on December 31, 2013, unless renewed.



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

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

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

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

\_\_\_\_\_  
(signature or initials)

Nothing in this section shall be construed as requiring an automotive repair dealer to  
give a written estimated price if the dealer does not agree to perform the requested repair.

6. Section 44002 of the Health and Safety Code provides, in pertinent part, that the  
Director has all the powers and authority granted under the Automotive Repair Act for enforcing  
the Motor Vehicle Inspection Program.

7. Section 44072.2 of the Health and Safety Code 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.

8. Section 44072.6 of the Health and Safety Code provides, in pertinent part, that the  
expiration or suspension of a license by operation of law, or by order or decision of the Director

1 of Consumer Affairs, or a court of law, or the voluntary surrender of the license shall not deprive  
2 the Director of jurisdiction to proceed with disciplinary action.

3 9. Section 44072.8 of the Health and Safety Code states:

4 "When a license has been revoked or suspended following a hearing under this article, any  
5 additional license issued under this chapter in the name of the licensee may be likewise revoked  
6 or suspended by the director."

7 **COST RECOVERY**

8 10. Code section 125.3 provides, in pertinent part, that a Board may request the  
9 administrative law judge to direct a licensee found to have committed a violation or violations of  
10 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
11 enforcement of the case.

12 **UNDERCOVER OPERATION - MAY 22, 2012**

13 11. On or about May 22, 2012, a Bureau undercover operator ("operator") drove a 2000  
14 Chrysler to Respondent's facility and requested a smog inspection. As part of the Bureau's  
15 documentation of the vehicle, the vehicle's positive crankcase ventilation ("PCV") system was  
16 missing, rendering the vehicle incapable of passing the visual portion of the smog inspection.  
17 Simran Panu, a licensed technician, performed the smog inspection on the vehicle and issued  
18 electronic Certificate of Compliance Number [REDACTED] certifying that he had tested and  
19 inspected the vehicle and that it was in compliance with applicable laws and regulations. In fact,  
20 the vehicle could not have passed the visual portion of the smog inspection because the vehicle's  
21 PCV system was missing.

22 **FIRST CAUSE FOR DISCIPLINE**

23 **(Untrue or Misleading Statements)**

24 12. Respondent's registration is subject to discipline under Code section 9884.7(a)(1), in  
25 that on or about May 22, 2012, he made or authorized statements which he knew or in the  
26 exercise of reasonable care he should have known to be untrue or misleading by issuing electronic  
27 Certificate of Compliance No. [REDACTED] for the 2000 Chrysler, certifying that the vehicle was in  
28

1 compliance with applicable laws and regulations, when, in fact, the vehicle could not have passed  
2 the visual portion of the smog inspection because the vehicle's PCV system was missing.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Fraud)**

5 13. Respondent's registration is subject to discipline under Code section 9884.7(a)(4), in  
6 that on or about May 22, 2012, he committed acts which constitute fraud by issuing electronic  
7 Certificate of Compliance No. [REDACTED] for the 2000 Chrysler without performing a bona fide  
8 inspection of the emission control devices and systems on the vehicle, thereby depriving the  
9 People of the State of California of the protection afforded by the Motor Vehicle Inspection  
10 Program.

11 **THIRD CAUSE FOR DISCIPLINE**

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

13 14. Respondent's station license is subject to discipline under Health & Safety Code  
14 section 44072.2(a), in that on or about May 22, 2012, regarding the 2000 Chrysler, he failed to  
15 comply with the following sections of that Code:

16 a. **Section 44012(f):** Respondent failed to perform emission control tests on the vehicle  
17 in accordance with procedures prescribed by the department.

18 b. **Section 44015(b):** Respondent issued electronic Certificate of Compliance No.  
19 [REDACTED] for the vehicle without properly testing and inspecting the vehicle to determine if it  
20 was in compliance with Health & Safety Code section 44012.

21 **FOURTH CAUSE FOR DISCIPLINE**

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

23 15. Respondent's station license is subject to discipline under Health & Safety Code  
24 section 44072.2(c), in that on or about May 22, 2012, regarding the 2000 Chrysler, he failed to  
25 comply with provisions of California Code of Regulations, title 16, as follows:

26 a. **Section 3340.35(c):** Respondent issued electronic Certificate of Compliance No.  
27 [REDACTED] for the vehicle even though the vehicle had not been inspected in accordance with  
28 section 3340.42.



1 installed and functioning correctly in accordance with test procedures), and California Code of  
2 Regulations, title 16, section 3340.35(c) (issuing a certificate of compliance to a vehicle that was  
3 improperly tested). The Bureau assessed civil penalties totaling \$1,500 against Respondent for  
4 the violations. Respondent complied with this citation on September 27, 2010.

5 b. On or about December 29, 2010, the Bureau issued Citation No. C2011-0741 against  
6 Respondent's station license for violations of Health and Safety Code section 44012(f) (failure to  
7 determine that emission control devices and systems required by State and Federal law were  
8 installed and functioning correctly in accordance with test procedures), and California Code of  
9 Regulations, title 16, section 3340.35(c) (issuing a certificate of compliance to a vehicle that was  
10 improperly tested). The Bureau assessed civil penalties totaling \$1,500 against Respondent for  
11 the violations. Respondent complied with this citation on April 2, 2012.

12 c. On or about January 11, 2012, the Bureau issued Citation No. C2012-0702 against  
13 Respondent's station license for violations of Health and Safety Code section 44012(f) (failure to  
14 perform a visual/functional check of emission control devices according to procedures prescribed  
15 by the department), and California Code of Regulations, title 16, section 3340.35(c) (issuing a  
16 certificate of compliance to a vehicle that was improperly tested). The Bureau assessed civil  
17 penalties totaling \$1,500 against Respondent for the violations. Respondent complied with this  
18 citation on March 2, 2012.

19 **OTHER MATTERS**

20 20. Pursuant to Code section 9884.7(c), the director may suspend, revoke, or place on  
21 probation the registrations for all places of business operated in this state by Arvin Panu, upon a  
22 finding that he has, or is, engaged in a course of repeated and willful violation of the laws and  
23 regulations pertaining to an automotive repair dealer.

24 21. Pursuant to Health and Safety Code section 44072.8, if Smog Check Station  
25 License Number RC 254338, issued to Arvin Panu, doing business as A Valley Smog, is revoked  
26 or suspended, any additional license issued under this chapter in the name of said licensees may  
27 be likewise revoked or suspended by the director.

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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, suspending, or placing on probation Automotive Repair Dealer Registration No. ARD 254338, issued to Arvin Panu, doing business as A Valley Smog;
2. Revoking, suspending, or placing on probation any other automotive repair dealer registration issued to Arvin Panu;
3. Revoking or suspending Smog Check Station License Number RC 254338, issued to Arvin Panu, doing business as A Valley Smog;
4. Revoking or suspending any additional license issued under chapter 5, of the Health and Safety Code in the name of Arvin Panu;
5. Ordering Arvin Panu to pay the Director of Consumer Affairs the reasonable costs of the investigation and enforcement of this case, pursuant to Code section 125.3; and,
6. Taking such other and further action as deemed necessary and proper.

DATED: May 14, 2013

  
JOHN WALLAUCH

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

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