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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 and Petition to  
Revoke Probation Against:

Case No.

79/14-119

13 **GO GO SMOG & AUTO GLASS**  
14 **GUSTAVO GONZALEZ, OWNER**  
260 Garden Highway, Suite E  
Yuba City, CA 95991

**ACCUSATION AND PETITION TO  
REVOKE PROBATION**

15 **Automotive Repair Dealer Registration**  
16 **No. ARD261602**  
17 **Smog Check Station No. RC261602**

Respondent.

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19  
20 Patrick Dorais ("Complainant") alleges:

21 **PARTIES**

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

25 **Automotive Repair Dealer Registration**

26 2. On or about April 15, 2010, the Bureau issued Automotive Repair Dealer Registration  
27 Number ARD 261602 ("registration") to Gustavo Gonzalez ("Respondent"), doing business as  
28 Go Go Smog & Auto Glass. The registration will expire on March 31, 2015, unless renewed.



1 engaged in a course of repeated and willful violations of this chapter, or regulations  
2 adopted pursuant to it.

3 6. Code section 118, subdivision (b) states:

4 The suspension, expiration, or forfeiture by operation of law of a license issued  
5 by a board in the department, or its suspension, forfeiture, or cancellation by order of  
6 the board or by order of a court of law, or its surrender without the written consent of  
7 the board, shall not, during any period in which it may be renewed, restored, reissued,  
8 or reinstated, deprive the board of its authority to institute or continue a disciplinary  
9 proceeding against the licensee upon any ground provided by law or to enter an order  
10 suspending or revoking the license or otherwise taking disciplinary action against the  
11 licensee on any such ground.

12 7. Code section 9884.13 provides, in pertinent part, that the expiration of a valid  
13 registration shall not deprive the director or chief of jurisdiction to proceed with a disciplinary  
14 proceeding against an automotive repair dealer or to render a decision invalidating a registration  
15 temporarily or permanently.

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

20 9. Code section 9884.9, subdivision (a), provides that: "The automotive repair dealer  
21 shall give to the customer a written estimated price for labor and parts necessary for a specific  
22 job. No work shall be done and no charges shall accrue before authorization to proceed is  
23 obtained from the customer. . . ."

24 10. Health and Safety Code section 44002 provides, in pertinent part, that the Director  
25 has all the powers and authority granted under the Automotive Repair Act for enforcing the  
26 Motor Vehicle Inspection Program.

27 11. Health and Safety Code section 44072.2 states, in pertinent part:

28 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.

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

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

5 12. Health and Safety Code section 44072.6 provides, in pertinent part, that the expiration  
6 or suspension of a license by operation of law, or by order or decision of the Director  
7 of Consumer Affairs, or a court of law, or the voluntary surrender of the license shall not deprive  
8 the Director of jurisdiction to proceed with disciplinary action.

9 13. Health and Safety Code section 44072.8 states:

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

#### 13 COST RECOVERY

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

#### 18 UNDERCOVER OPERATION

19 15. On or about January 3, 2014, a Bureau undercover operator (the "operator") took the  
20 Bureau's 2007 Jeep to Respondent's facility, Go Go Smog & Auto Glass, and requested a smog  
21 inspection. The operator did not receive a written estimate before Respondent performed work on  
22 the vehicle. Respondent allegedly performed the smog inspection. The operator paid \$50 and  
23 received a copy of the invoice No. [REDACTED] and a Vehicle Inspection Report.

24 16. The Bureau obtained information from the vehicle information database showing that  
25 Respondent performed a smog inspection on the 2007 Jeep on January 3, 2014, resulting in the  
26 issuance of electronic smog Certificate of Compliance No. [REDACTED]

27 17. The Bureau determined that the certificate of compliance was fraudulently issued  
28 because an aftermarket performance device, which had not been approved for emission controlled  
vehicles in the State of California, had been installed on the vehicle. That device precluded the  
vehicle from passing a lawful smog inspection. The device could be detected visually.

1 **FIRST CAUSE FOR DISCIPLINE**

2 (Untrue or Misleading Statements)

3 18. Respondent's registration is subject to discipline pursuant to Code section 9884.7,  
4 subdivision (a)(1), in that Respondent made or authorized statements which he knew or in the  
5 exercise of reasonable care should have known to be untrue or misleading. Specifically,  
6 Respondent certified under penalty of perjury that the Bureau's 2007 Jeep had passed a smog  
7 inspection and was in compliance with applicable laws and regulations. In fact, an unapproved  
8 aftermarket device was installed on the vehicle, which precluded the vehicle from passing the  
9 inspection required by Health & Safety Code section 44012.

10 **SECOND CAUSE FOR DISCIPLINE**

11 (Fraud)

12 19. Respondent's registration is subject to discipline pursuant to Code section 9884.7,  
13 subdivision (a)(4), in that Respondent committed an act that constitutes fraud by issuing an  
14 electronic smog certificate of compliance for the Bureau's 2007 Jeep without ensuring that a bona  
15 fide inspection was performed of the emission control devices and systems on the vehicle, thereby  
16 depriving the people of the State of California of the protection afforded by the Motor Vehicle  
17 Inspection Program.

18 **THIRD CAUSE FOR DISCIPLINE**

19 (Failure to Provide a Written Estimate)

20 20. Respondent's registration is subject to discipline pursuant to Code section 9884.7,  
21 subdivision (a)(6), in that Respondent failed to comply with Code section 9884.9, subdivision (a),  
22 in a material respect. Specifically, Respondent failed to provide the operator with a written  
23 estimate before performing the smog inspection on the Bureau's 2007 Jeep, as set forth in  
24 paragraph 15, above.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 (Motor Vehicle Inspection Program - Code Violations)

3 21. Respondent's smog check station license is subject to disciplinary action pursuant to  
4 Health & Safety Code section 44072.2, subdivision (a), in that Respondent failed to comply with  
5 provisions of that Code, as follows:

6 a. **Section 44012, subdivision (a)**: Respondent failed to ensure that the emission  
7 control tests were performed on the Bureau's 2007 Jeep in accordance with procedures prescribed  
8 by the department.

9 b. **Section 44015**: Respondent issued an electronic smog certificate of compliance for  
10 the Bureau's 2007 Jeep without ensuring that the vehicle was properly tested and inspected to  
11 determine if it was in compliance with Health & Safety Code section 44012.

12 **FIFTH CAUSE FOR DISCIPLINE**

13 (Motor Vehicle Inspection Program - Regulation Violations)

14 22. Respondent's smog check station license is subject to disciplinary action pursuant to  
15 Health & Safety Code section 44072.2, subdivision (c), in that Respondent failed to comply with  
16 provisions of California Code of Regulations, title 16, as follows:

17 a. **Section 3340.35, subdivision (c)**: Respondent issued an electronic smog certificate  
18 of compliance for the Bureau's 2007 Jeep even though the vehicle had not been inspected in  
19 accordance with section 3340.42.

20 b. **Section 3340.42**: Respondent failed to ensure that the required smog tests were  
21 conducted on the Bureau's 2007 Jeep in accordance with the Bureau's specifications.

22 **SIXTH CAUSE FOR DISCIPLINE**

23 (Dishonesty, Fraud or Deceit)

24 23. Respondent's smog check station license is subject to disciplinary action pursuant to  
25 Health & Safety Code section 44072.2, subdivision (d), in that Respondent committed a  
26 dishonest, fraudulent or deceitful act whereby another is injured by issuing an electronic smog  
27 certificate of compliance for the Bureau's 2007 Jeep without ensuring that a bona fide inspection  
28 was performed of the emission control devices and systems on the vehicle, thereby depriving the

1 people of the State of California of the protection afforded by the Motor Vehicle Inspection  
2 Program.

3 **PETITION TO REVOKE PROBATION**

4 24. Complainant incorporates by reference as though fully set forth herein the allegations  
5 contained in paragraphs 1 through 23 above.

6 25. Condition Number 8 of Respondent's probation provides that should the Director  
7 determine that Respondent has failed to comply with the terms and conditions of probation, the  
8 Department may, after giving notice and opportunity to be heard, suspend or revoke the license.

9 26. Grounds exist to revoke Respondent's probation and reimpose the order of revocation  
10 of his Automotive Repair Dealer Registration and Smog Check Station License.

11 **CAUSE TO REVOKE PROBATION**

12 (Failure to Obey All Laws)

13 27. Condition 2 of Respondent's probation states that Respondent, "shall comply with all  
14 statutes, regulations and rules governing automotive inspections, estimates and repairs."

15 28. Respondent's probation is subject to revocation in that he failed to comply with all  
16 statutes, regulations, and rules governing automotive inspections, as set forth above in paragraphs  
17 15 through 23.

18 **OTHER MATTERS**

19 29. Under Code section 9884.7, subdivision (c), the director may invalidate temporarily  
20 or permanently or refuse to validate, the registrations for all places of business operated in this  
21 state by Gustavo Gonzalez, upon a finding that he has, or is, engaged in a course of repeated and  
22 willful violations of the laws and regulations pertaining to an automotive repair dealer.

23 30. Under Health and Safety Code section 44072.8, if Smog Check Station License  
24 Number RC 261602, issued to Gustavo Gonzalez, doing business as Go Go Smog & Auto Glass,  
25 is revoked or suspended, any additional license issued under this chapter in the name of said  
26 licensee may be likewise revoked or suspended by the director.

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1 PRAYER

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

4 1. Revoking or suspending Automotive Repair Dealer Registration Number  
5 ARD 261602, issued to Gustavo Gonzalez, doing business as Go Go Smog & Auto Glass;

6 2. Revoking probation and reimposing the order of revocation of Automotive Repair  
7 Dealer Registration Number ARD 261602, issued to Gustavo Gonzalez, doing business as Go Go  
8 Smog & Auto Glass;

9 3. Revoking or suspending any other automotive repair dealer registration issued to  
10 Gustavo Gonzalez;

11 4. Revoking or suspending Smog Check Station License Number RC 261602, issued to  
12 Gustavo Gonzalez, doing business as Go Go Smog & Auto Glass;

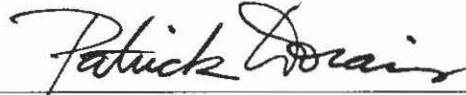
13 5. Revoking probation and reimposing the order of revocation of Smog Check Station  
14 License Number RC 261602, issued to Gustavo Gonzalez, doing business as Go Go Smog &  
15 Auto Glass;

16 6. Revoking or suspending any additional license issued under Chapter 5 of the Health  
17 and Safety Code in the name of Gustavo Gonzalez;

18 7. Ordering Gustavo Gonzalez to pay the Bureau of Automotive Repair the reasonable  
19 costs of the investigation and enforcement of this case, pursuant to Business and Professions  
20 Code section 125.3; and,

21 8. Taking such other and further action as deemed necessary and proper.

22  
23 DATED: April 21, 2014

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

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