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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:  
13 **RAVAL'S AUTO REPAIR; ELENO G.**  
14 **RAVAL, MEMBER OF LEGAL ZOOM**  
15 **140 A South Linden Avenue**  
**South San Francisco, CA 94080**  
16 **Automotive Repair Dealer Registration No.**  
**ARD 262573**  
17 **Smog Check Station License No. RC 262573**  
18 **FLOYD IGNACIO ADRIANO**  
19 **34 Marhly Avenue**  
**Daly City, CA 94015**  
20 **Smog Check Inspector License No. EO**  
21 **147048**  
22 **Smog Check Repair Technician License No.**  
**EI 147048**  
23 Respondents.

Case No. **79/14-95**

**ACCUSATION**

**SMOG CHECK**

24  
25 Complainant alleges:

26 PARTIES

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

1           **Automotive Repair Dealer Registration**

2           2.     On or about July 15, 2010, the Bureau of Automotive Repair issued Automotive  
3 Repair Dealer Registration Number ARD 262573 to Eleno G. Raval, Member of Legal Zoom,  
4 doing business as Raval's Auto Repair (Respondent Raval's). This ARD registration was in full  
5 force and effect at all times relevant to the charges brought in this Accusation and expires on May  
6 31, 2014, unless renewed.

7           **Smog Check Test Only Station License**

8           3.     On or about March 29, 2011, the Bureau of Automotive Repair issued Smog Check  
9 Station License Number RC 262573 to Eleno G. Raval, Member of Legal Zoom, doing business  
10 as Raval's Auto Repair. This Smog Check Station license was in full force and effect at all times  
11 relevant to the charges brought in this Accusation and expires on May 31, 2014, unless renewed.

12           **Advanced Emission Specialist Technician License**

13           4.     In 2003, the Bureau of Automotive Repair issued Advanced Emission Specialist (EA)  
14 Technician License Number EA 147048 to Floyd Ignacio Adriano. The Advanced Emission  
15 Specialist Technician License was in full force and effect at all times relevant to the charges  
16 brought in this Accusation. Respondent's advanced emission specialist technician license was due  
17 to expire on July 31, 2013. Pursuant to California Code of Regulations, title 16, section 3340.28,  
18 subdivision (e), the license was renewed, pursuant to Respondent's election, as Smog Check  
19 Inspector License Number EO 147048 and Smog Check Repair Technician License Number EI  
20 147048 (technician licenses).<sup>1</sup> Respondent's technician licenses expire on July 31, 2015, unless  
21 renewed.

22   **JURISDICTION**

23           5.     Business and Professions Code (Bus. & Prof. Code) section 9884.7 provides that the  
24 Director may revoke an automotive repair dealer registration.

25  
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/or Smog Check Repair Technician (EI) license.



1 10. Business and Professions Code section 22 states:

2 "Board" as used in any provision of this Code, refers to the board in which the  
3 administration of the provision is vested, and unless otherwise expressly provided,  
4 shall include "bureau," "commission," "committee," "department," "division,"  
5 "examining committee," "program," and "agency."

6 11. Code section 477, subdivision (b), states, in relevant part, that a "license" includes  
7 "registration" and "certificate."

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

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

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

15 . . . .

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

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

20 . . .

21 (f) Aids or abets unlicensed persons to evade the provisions of this  
22 chapter . . .

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

26 14. Health & Saf. Code section 44014, subdivision (a), states:

27 "Except as otherwise provided in this chapter, the testing and repair portion of the program  
28 shall be conducted by smog check stations licensed by the department, and by smog check  
29 technicians who have qualified pursuant to this chapter."

30 15. Health & Saf. Code section 44032 states, in relevant part, that "[n]o person shall  
31 perform, for compensation, tests or repairs of emission control devices or systems of motor  
32

1 vehicles required by this chapter unless the person performing the test or repair is a qualified  
2 smog check technician . . . "

3 16. California Code of Regulations, title 16, section (Regulation) 3340.41, subdivision  
4 (b), states that "[n]o person shall enter into the emissions inspection system any access or  
5 qualification number other than as authorized by the bureau, nor in any way tamper with the  
6 emissions inspection system."

7 17. Regulation 3340.45 states:

8 All vehicle emission tests, visual inspections of the emissions control systems,  
9 functional inspections of the emissions control systems, liquid fuel leak inspections,  
10 and visible smoke tests shall be conducted at licensed smog check stations by licensed  
11 smog check technicians. The inspections shall be performed in accordance with the  
12 Emissions Inspection System test prompts and the inspection requirements and  
13 procedures prescribed in the Bureau's Smog Check Inspection Procedures Manual,  
14 dated August 2009, which is hereby incorporated by reference.

15 18. Section 1.1.0 of the Bureau's Smog Check Inspection Procedures Manual states, in  
16 relevant part:

17 The individual technician license number and access code together  
18 provide access into the Emissions Inspection System (EIS) Smog Check inspection  
19 mode . . .

20 The access code is assigned by BAR and is unique to each technician.  
21 Each technician must maintain the security of his or her access code. Disclosure of  
22 one's access code or use of another technician's access code or license information is  
23 prohibited. If the security of your access code has been compromised, or you suspect  
24 another person is using your access code, you must contact your local BAR field  
25 office immediately to have the access code changed.

#### 26 COST RECOVERY

27 19. Bus. & Prof. Code section 125.3 provides, in relevant part, that a Board may request  
28 the administrative law judge to direct a licentiate found to have committed a violation or  
violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
and enforcement of the case.

#### 29 FACTUAL BACKGROUND

30 20. The Bureau of Automotive Repair (BAR) received information that Respondent  
Raval's Auto Repair (Raval's) was doing unlicensed smog tests in April 2013. On or about April  
8, 2013, a representative from the BAR travelled to Raval's to observe the shop. At that time, the

1 investigator observed the owner of the shop, Eleno Raval (Raval) perform two smog tests—on a  
2 GMC truck and a Dodge Caravan. Raval was not a licensed Smog Check Technician and was  
3 using the smog check technician license of Floyd Adriano (Adriano) to perform the smog test.  
4 Adriano was not present during the smog tests.

5 21. At the BAR's request, Respondent Adriano came to the South San Francisco BAR  
6 office for a meeting. Respondent Adriano stated that he had not performed any smog check  
7 inspections at Raval's since September 2011. Subsequently, two BAR representatives went to  
8 Raval's and spoke with Eleno Raval. Raval admitted to the BAR representatives that he  
9 performed smog inspections using Adriano's smog license while Adriano was not at the shop.  
10 From January 1, 2013 to April 9, 2013, Raval performed 437 smog check inspections which  
11 resulted in the issuance of 348 Certificates of Compliance while he was not licensed. Raval  
12 admitted to the BAR representatives that he forged Adriano's signature on 437 Vehicle Inspection  
13 Reports (VIR) dated on or after January 1, 2013. Raval further revealed that he requested and  
14 received Adriano's access code when Raval's obtained its smog machine. Raval explained that,  
15 in return for Adriano's access code, he allowed Adriano to use his shop to repair and smog his  
16 personal cars. According to Raval, Adriano taught him how to sign Adriano's name on the VIR.

17 **FIRST CAUSE FOR DISCIPLINE**

18 **(Untrue or Misleading Statements)**

19 22. Respondent Raval's registration is subject to disciplinary action pursuant to Bus. &  
20 Prof. Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized a statement  
21 which he knew or in the exercise of reasonable care should have known to be untrue or  
22 misleading, as follows: Respondent's owner, Eleno Raval, an unlicensed technician, certified that  
23 Respondent Adriano—a licensed technician—had performed the smog inspections on the 437  
24 motor vehicles between January 1, 2013 and April 9, 2013. In fact, Raval accessed the EIS using  
25 Adriano's confidential access code, with Adriano's knowledge and permission, and conducted the  
26 smog inspection on the vehicle.

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1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Fraud)**

3 23. Respondent Raval's has subjected its registration to disciplinary action under Bus. &  
4 Prof. Code section 9884.7, subdivision (a)(4), in that Respondent's owner, Eleno Raval, an  
5 unlicensed technician, committed fraud when he certified that Respondent Adriano—a licensed  
6 technician—had performed the smog inspection on 437 motor vehicles, and issued 348  
7 Certificates of Compliance, between January 1, 2013, and April 9, 2013. In fact, Raval accessed  
8 the EIS<sup>2</sup> using Adriano's confidential access code, with Adriano's knowledge and permission, and  
9 conducted the smog inspections on the vehicles. Raval forged the signature of Respondent  
10 Adriano on the 348 Certificates of Compliance. By conducting smog inspections without a  
11 license, and forging the signature of a licensed technician on certificates of compliance, Raval's  
12 deprived the People of the State of California of the protection afforded by the Motor Vehicle  
13 Inspection Program.

14 **THIRD CAUSE FOR DISCIPLINE**

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

16 24. Respondent Raval's has subjected its smog check station license to disciplinary action  
17 under Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to comply  
18 with the following sections of that Code:

19 a. **Section 44012:** Respondent Raval's failed to ensure that the emission control tests  
20 were performed on 437 cars between January 1, 2013 and April 9, 2013 in accordance with  
21 procedures prescribed by the department.

22 b. **Section 44014, subdivision (a):** Respondent Raval's owner, Eleno Raval, conducted  
23 smog inspections on 437 cars, and issued 348 Certificates of Compliance between January 1,  
24 2013 and April 9, 2013, when, in fact, Raval was not licensed as a smog check technician.

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28 <sup>2</sup> The EIS is the computer system used by smog stations to perform smog inspections.

1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Failure to Comply with Motor Vehicle Inspection Program Regulations)**

3 25. Respondent Raval's has subjected its smog check station license to disciplinary action  
4 under Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to comply  
5 with provisions of California Code of Regulations, title 16, as follows:

6 a. **Section 3340.35, subdivision (c)**: Respondent Raval's issued an electronic smog  
7 certificate of compliances for 348 motor vehicles between January 1, 2013 and April 9, 2013,  
8 even though the vehicles had not been inspected in accordance with section 3340.42.

9 b. **Section 3340.41, subdivision (b)**: Respondent Raval's owner accessed the EIS using  
10 Respondent Adriano's technician license and confidential access code and to enter false  
11 information into the unit concerning the identity of the technician performing the smog test on  
12 437 motor vehicles from January 1, 2013 through April 9, 2013.

13 c. **Section 3340.42**: Respondent Raval's failed to ensure that smog tests performed on  
14 437 motor vehicles between January 1, 2013 and April 9, 2013, were conducted in accordance  
15 with the Bureau's specifications.

16 **FIFTH CAUSE FOR DISCIPLINE**

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

18 26. Respondent Raval's has subjected his smog check station license to disciplinary  
19 action under Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed  
20 a dishonest, fraudulent or deceitful act whereby another is injured by conducting 437 smog  
21 inspections and issuing 348 electronic smog certificate of compliances between January 1, 2013  
22 and April 9, 2013, by an unlicensed person. Thus Respondent, through the actions of its owner,  
23 failed to ensure that a bona fide inspection was performed of the emission control devices and  
24 systems on the 437 vehicles, thereby depriving the People of the State of California of the  
25 protection afforded by the Motor Vehicle Inspection Program.

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1 31. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Station License  
2 Number RC 262573, issued to Respondent Eleno Raval, owner of Raval's Auto Repair, is  
3 revoked or suspended, any additional license issued under this chapter in the name of said  
4 licensee may be likewise revoked or suspended by the director.

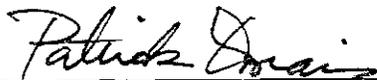
5 32. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Inspector License  
6 Number EO 147048 and Smog Check Repair Technician License Number EI 147048, issued to  
7 Floyd Adriano, are revoked or suspended, any additional license issued under this chapter in the  
8 name of said licensee may be likewise revoked or suspended by the director.

9 **PRAYER**

10 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this  
11 Accusation, and that following the hearing, the Director of Consumer Affairs issue a decision:

- 12 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD  
13 262573, issued to Raval's Auto Repair; Eleno G. Raval, Member of Legal Zoom;
- 14 2. Revoking or suspending Smog Check Station License Number RC 262573, issued to  
15 Raval's Auto Repair; Eleno G. Raval, Member of Legal Zoom;
- 16 3. Revoking or suspending Smog Check Inspector License Number EO 147048 and Smog  
17 Check Repair Technician License Number EI 147048, issued to Floyd Ignacio Adriano;
- 18 4. Ordering Eleno G. Raval and Floyd Adriano to pay the Bureau of Automotive Repair  
19 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
20 Professions Code section 125.3;
- 21 5. Taking such other and further action as deemed necessary and proper.

22 DATED: February 13, 2011

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

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