

1 KAMALA D. HARRIS
Attorney General of California
2 KENT D. HARRIS
Supervising Deputy Attorney General
3 STEPHANIE ALAMO-LATIF
Deputy Attorney General
4 State Bar No. 283580
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 327-6819
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:

Case No. **7a/16-113**

13 **ROAD KING SMOG**
14 **RONI OSMAN, OWNER**
15 **200 Highway 12**
Rio Vista, CA 94571

A C C U S A T I O N

(Smog Check)

16 **Automotive Repair Dealer Reg. No. ARD 263901**
17 **Smog Check Station License No. RC 263901**
Lamp Station License No. LS 263901
Brake Station License No. BS263901

18 **and**

19 **RONI OSMAN**
20 **443 South 9th Street**
Modesto, CA 95355

21 **Smog Check Inspector License No. EO 630946**
22 **Smog Check Repair Technician License No. EI**
630946 (formerly Advanced Emission Specialist
23 **Technician License No. EA 630946)**
Brake Adjuster License No. BA 630946
24 **Lamp Adjuster License No. LA 630946**

25 Respondents.

26 ///

27 ///

28 ///

1 Complainant alleges:

2 **PARTIES**

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

5 2. On or about January 26, 2011, the Director of Consumer Affairs ("Director") issued
6 Automotive Repair Dealer Registration Number ARD 263901 ("registration") to Roni Osman
7 ("Respondent"), owner of Road King Smog. The registration was in full force and effect at all
8 times relevant to the charges brought herein and will expire on January 31, 2017, unless renewed.

9 3. On or about February 1, 2011, the Director issued Smog Check Station License
10 Number RC 263901 to Respondent. The smog check station license was in full force and effect
11 at all times relevant to the charges brought herein and will expire on January 31, 2017, unless
12 renewed.

13 4. On or about May 31, 2013, the Director issued Lamp Station License Number LS
14 263901 to Respondent. The lamp station license was in full force and effect at all times relevant
15 to the charges brought herein and will expire on January 31, 2017, unless renewed.

16 5. On or about May 31, 2013, the Director issued Brake Station License Number BS
17 263901 to Respondent. The brake station license was in full force and effect at all times relevant
18 to the charges brought herein and will expire on January 31, 2017, unless renewed.

19 6. On or about April 15, 2009, the Director issued Advanced Emission Specialist
20 Technician License Number EA 630946 to Respondent. The advanced emission specialist
21 technician license was due to expire on September 30, 2013. Pursuant to California Code of
22 Regulations, title 16, section ("Regulation") 3340.28, subdivision (e), the license was renewed,
23 pursuant to Respondent's election, as Smog Check Inspector License Number EO 630946 and
24 Smog Check Repair Technician License Number EI 630946 ("technician licenses"), effective July
25 1, 2013.¹ The technician licenses will expire on September 30, 2017, unless renewed.

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

4 16. Regulation section 3340.28, subdivision (e), states that "[u]pon renewal of an
5 unexpired Basic Area Technician license or an Advanced Emission Specialist Technician license
6 issued prior to the effective date of this regulation, the licensee may apply to renew as a Smog
7 Check Inspector, Smog Check Repair Technician, or both."

8 **STATUTORY PROVISIONS**

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

10 (a) The director, where the automotive repair dealer cannot show there
11 was a bona fide error, may deny, suspend, revoke or place on probation the
12 registration of an automotive repair dealer for any of the following acts or omissions
13 related to the conduct of the business of the automotive repair dealer, which are done
14 by the automotive repair dealer or any automotive technician, employee, partner,
15 officer, or member of the automotive repair dealer.

16 (1) Making or authorizing in any manner or by any means whatever any
17 statement written or oral which is untrue or misleading, and which is known, or which
18 by the exercise of reasonable care should be known, to be untrue or misleading.

19

20 (4) Any other conduct that constitutes fraud.

21

22 (6) Failure in any material respect to comply with the provisions of this
23 chapter or regulations adopted pursuant to it.

24

25 (c) Notwithstanding subdivision (b), the director may suspend, revoke or
26 place on probation the registration for all places of business operated in this state by
27 an automotive repair dealer upon a finding that the automotive repair dealer has, or is,
28 engaged in a course of repeated and willful violations of this chapter, or regulations
adopted pursuant to it.

18. Bus. & Prof. Code section 9884.8 states, in pertinent part:

All work done by an automotive repair dealer, including all warranty
work, shall be recorded on an invoice and shall describe all service work done and
parts supplied . . . One copy of the invoice shall be given to the customer and one
copy shall be retained by the automotive repair dealer.

///

1 19. Bus. & Prof. Code section 9884.9, subdivision (a), states, in pertinent part:

2 The automotive repair dealer shall give to the customer a written
3 estimated price for labor and parts necessary for a specific job. No work shall be
4 done and no charges shall accrue before authorization to proceed is obtained from the
customer . . .

5 20. Bus. & Prof. Code section 9889.3 states, in pertinent part:

6 The director may suspend, revoke, or take other disciplinary action
7 against a license as provided in this article [Article 7 (commencing with section
8 9889.1) of the Automotive Repair Act] if the licensee or any partner, officer, or
director thereof:

9

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

11 21. Bus. & Prof. Code section 9889.9 states that “[w]hen any license has been revoked or
12 suspended following a hearing under the provisions of this article [Article 7 (commencing with
13 section 9889.1) of the Automotive Repair Act], any additional license issued under Articles 5 and
14 6 of this chapter in the name of the licensee may be likewise revoked or suspended by the
15 director.”

16 22. Bus. & Prof. Code section 22, subdivision (a), states:

17 “Board” as used in any provision of this Code, refers to the board in
18 which the administration of the provision is vested, and unless otherwise expressly
19 provided, shall include “bureau,” “commission,” “committee,” “department,”
“division,” “examining committee,” “program,” and “agency.”

20 23. Bus. & Prof. Code section 477, subdivision (b), states, in pertinent part, that a
21 “license” includes “registration” and “certificate.”

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

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

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

27

28 ///

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

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

4 25. Health & Saf. Code section 44072.10 states, in pertinent part:

5

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

9

10 (4) Intentional or willful violation of this chapter or any regulation,
standard, or procedure of the département implementing this chapter . . .

11 **COST RECOVERY**

12 26. Bus. & Prof. Code section 125.3 provides, in pertinent part, that a Board may request
13 the administrative law judge to direct a licentiate 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 **UNDERCOVER OPERATION #1 (RECORDED): 1992 TOYOTA**

17 27. On or about September 9, 2014, an undercover operator with the Bureau (“operator”)
18 took the Bureau’s 1992 Toyota to Respondent’s facility and requested a smog inspection. The
19 ignition timing on the Bureau-documented vehicle was not adjusted to manufacturer’s
20 specifications. The operator did not receive a written estimate at that time. After the inspection
21 was completed, the operator paid the facility \$40 and received copies of an estimate, invoice and
22 vehicle inspection report (“VIR”). The VIR showed that Respondent had performed the smog
23 check inspection and that the vehicle had failed the inspection as a gross polluter.

24 28. On or about September 10, 2014, a Bureau representative reviewed the recording of
25 the undercover operation and found that Respondent had not performed the required functional
26 checks of the ignition timing and the exhaust gas recirculation (“EGR”) system on the vehicle.
27 The Bureau representative also found that Respondent had not opened the gas cap door,

28 ///

1 indicating that the gas cap test and low pressure fuel evaporative ("LPFET") test had not been
2 performed on the vehicle.

3 29. On or about September 11, 2014, the Bureau performed a smog inspection on the
4 vehicle and found that the ignition timing was still out of adjustment.

5 **FIRST CAUSE FOR DISCIPLINE**

6 **(Untrue or Misleading Statements)**

7 30. Respondent's registration is subject to disciplinary action pursuant to Bus. & Prof.
8 Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized statements which
9 he knew or in the exercise of reasonable care should have known to be untrue or misleading, as
10 follows: Respondent certified under penalty of perjury on the VIR that he performed the smog
11 inspection on the Bureau's 1992 Toyota in accordance with all Bureau requirements. In fact,
12 Respondent failed to perform the required functional ignition timing test, functional EGR system
13 test, functional gas cap test, and functional LPFET test on the vehicle.

14 **SECOND CAUSE FOR DISCIPLINE**

15 **(Fraud)**

16 31. Respondent's registration is subject to disciplinary action pursuant to Bus. & Prof.
17 Code section 9884.7, subdivision (a)(4), in that Respondent committed an act that constitutes
18 fraud, as follows: Respondent obtained payment from the operator for performing a smog
19 inspection on the Bureau's 1992 Toyota. In fact, Respondent failed to perform a complete or
20 bona fide inspection on the vehicle, as set forth in paragraph 30 above.

21 **THIRD CAUSE FOR DISCIPLINE**

22 **(Failure to Comply with Provisions of the Bus. & Prof. Code)**

23 32. Respondent's registration is subject to disciplinary action pursuant to Bus. & Prof.
24 Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with provisions of
25 that Code in the following material respects:

26 a. **Section 9884.9, subdivision (a):** Respondent failed to provide the operator with a
27 written estimate before performing the smog inspection on the Bureau's 1992 Toyota.

28 ∟∟∟

1 **FOURTH CAUSE FOR DISCIPLINE**

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

3 33. Respondent's smog check station license is subject to disciplinary action pursuant to
4 Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to comply with
5 section 44012, subdivision (f), of that Code, as follows: Respondent failed to perform the
6 functional check of the emission control systems and devices on the Bureau's 1992 Toyota in
7 accordance with procedures prescribed by the department in that Respondent failed to perform the
8 required functional ignition timing test, functional EGR system test, functional gas cap test, and
9 functional LPFET test on the vehicle.

10 **FIFTH CAUSE FOR DISCIPLINE**

11 **(Failure to Comply with Regulations Pursuant**
12 **to the Motor Vehicle Inspection Program)**

13 34. Respondent's smog check station license is subject to disciplinary action pursuant to
14 Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to comply with
15 Regulation 3340.42, as follows: Respondent failed to conduct the required smog tests on the
16 Bureau's 1992 Toyota in accordance with the Bureau's specifications.

17 **SIXTH CAUSE FOR DISCIPLINE**

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

19 35. Respondent's smog check station license is subject to disciplinary action pursuant to
20 Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed a dishonest,
21 fraudulent or deceitful act whereby another is injured, as set forth in paragraphs 30 and 31 above.

22 **SEVENTH CAUSE FOR DISCIPLINE**

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

24 36. Respondent's technician licenses are subject to disciplinary action pursuant to Health
25 & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to comply with section
26 44012, subdivision (f), of that Code, as follows: Respondent failed to perform the functional
27 check of the emission control systems and devices on the Bureau's 1992 Toyota in accordance
28 with procedures prescribed by the department.

1 (Fraud)

2 42. Respondent's registration is subject to disciplinary action pursuant to Bus. & Prof.
3 Code section 9884.7, subdivision (a)(4), in that Respondent committed an act that constitutes
4 fraud by issuing an electronic smog certificate of compliance for the Bureau's 1993 GMC without
5 performing a bona fide inspection of the emission control devices and systems on the vehicle,
6 thereby depriving the People of the State of California of the protection afforded by the Motor
7 Vehicle Inspection Program.

8 **TWELFTH CAUSE FOR DISCIPLINE**

9 (Failure to Comply with Provisions of the Bus. & Prof. Code)

10 43. Respondent's registration is subject to disciplinary action pursuant to Bus. & Prof.
11 Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with provisions of
12 that Code in the following material respects:

13 a. **Section 9884.8:** Respondent failed to provide the operator with an invoice for the
14 smog inspection on the Bureau's 1993 GMC.

15 b. **Section 9884.9, subdivision (a):** Respondent failed to provide the operator with a
16 written estimate for the smog inspection on the Bureau's 1993 GMC.

17 **THIRTEENTH CAUSE FOR DISCIPLINE**

18 (Violations of the Motor Vehicle Inspection Program)

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

22 a. **Section 44012, subdivision (f):** Respondent failed to perform the functional check of
23 the emission control systems and devices on the Bureau's 1993 GMC in accordance with
24 procedures prescribed by the department in that Respondent failed to perform the required
25 functional ignition timing test and functional EGR system test on the vehicle.

26 ///

27 ///

28

1 check of the emission control systems and devices on the Bureau's 1993 GMC in accordance with
2 procedures prescribed by the department as set forth above.

3 **SEVENTEENTH CAUSE FOR DISCIPLINE**

4 **(Failure to Comply with Regulations Pursuant**
5 **to the Motor Vehicle Inspection Program)**

6 48. Respondent's technician licenses are subject to disciplinary action pursuant to Health
7 & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to comply with provisions
8 of California Code of Regulations, title 16, as follows:

9 a. **Section 3340.30, subdivision (a):** Respondent failed to inspect and test the Bureau's
10 1993 GMC in accordance with Health & Saf. Code sections 44012 and 44035, and California
11 Code of Regulations, title 16, section 3340.42.

12 b. **Section 3340.41, subdivision (c):** Respondent entered false information into the EIS
13 by entering data indicating that the Bureau's 1993 GMC had passed the functional ignition timing
14 test and functional EGR system test. In fact, Respondent failed to perform those functional tests
15 on the vehicle. Further, the EGR system was not functioning and as such, the vehicle would not
16 pass the inspection required by Health & Saf. Code section 44012.

17 c. **Section 3340.42:** Respondent failed to conduct the required smog tests on the
18 Bureau's 1993 GMC in accordance with the Bureau's specifications.

19 **EIGHTEENTH CAUSE FOR DISCIPLINE**

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

21 49. Respondent's technician licenses are subject to disciplinary action pursuant to Health
22 & Saf. Code section 44072.2, subdivision (d), in that Respondent committed a dishonest,
23 fraudulent or deceitful act whereby another is injured by issuing an electronic smog certificate of
24 compliance for the Bureau's 1993 GMC without performing a bona fide inspection of the
25 emission control devices and systems on the vehicle, thereby depriving the People of the State of
26 California of the protection afforded by the Motor Vehicle Inspection Program.

27 ///

28 ///

1 **TWENTIETH CAUSE FOR DISCIPLINE**

2 **(Fraud)**

3 53. Respondent's registration is subject to disciplinary action pursuant to Bus. & Prof.
4 Code section 9884.7, subdivision (a)(4), in that Respondent committed an act that constitutes
5 fraud by issuing an electronic smog certificate of compliance for the Bureau's 2006 Chevrolet
6 without performing a bona fide inspection of the emission control devices and systems on the
7 vehicle, thereby depriving the People of the State of California of the protection afforded by the
8 Motor Vehicle Inspection Program.

9 **TWENTY-FIRST CAUSE FOR DISCIPLINE**

10 **(Failure to Comply with Provisions of the Bus. & Prof. Code)**

11 54. Respondent's registration is subject to disciplinary action pursuant to Bus. & Prof.
12 Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with provisions of
13 that Code in the following material respects:

14 a. **Section 9884.8:** Respondent failed to provide the operator with an invoice for the
15 smog inspection on the Bureau's 2006 Chevrolet.

16 b. **Section 9884.9, subdivision (a):** Respondent failed to provide the operator with a
17 written estimate for the smog inspection on the Bureau's 2006 Chevrolet.

18 **TWENTY-SECOND CAUSE FOR DISCIPLINE**

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

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

23 a. **Section 44012, subdivision (f):** Respondent failed to perform the visual inspection
24 of the emission control systems and devices on the Bureau's 2006 Chevrolet in accordance with
25 procedures prescribed by the department, as set forth in paragraph 52 above.

26 b. **Section 44015:** Respondent issued an electronic smog certificate of compliance for
27 the Bureau's 2006 Chevrolet without properly testing and inspecting it to determine if it was in
28 compliance with Health & Saf. Code section 44012.

1 **TWENTY-THIRD CAUSE FOR DISCIPLINE**

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

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

7 a. **Section 3340.35, subdivision (c)**: Respondent issued an electronic smog certificate
8 of compliance for the Bureau's 2006 Chevrolet even though the vehicle had not been inspected in
9 accordance with section 3340.42.

10 b. **Section 3340.42**: Respondent failed to conduct the required smog tests on the
11 Bureau's 2006 Chevrolet in accordance with the Bureau's specifications.

12 **TWENTY-FOURTH CAUSE FOR DISCIPLINE**

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

14 57. Respondent's smog check station license is subject to disciplinary action pursuant to
15 Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed a dishonest,
16 fraudulent or deceitful act whereby another is injured by issuing an electronic smog certificate of
17 compliance for the Bureau's 2006 Chevrolet without performing a bona fide inspection of the
18 emission control devices and systems on the vehicle, thereby depriving the People of the State of
19 California of the protection afforded by the Motor Vehicle Inspection Program.

20 **TWENTY-FIFTH CAUSE FOR DISCIPLINE**

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

22 58. Respondent's technician licenses are subject to disciplinary action pursuant to Health
23 & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to comply with section
24 44012, subdivision (f), of that Code, as follows: Respondent failed to perform the visual
25 inspection of the emission control systems and devices on the Bureau's 2006 Chevrolet in
26 accordance with procedures prescribed by the department, as set forth in paragraph 52 above.

27 ///

28 ///

1 **TWENTY-SIXTH CAUSE FOR DISCIPLINE**

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

4 59. Respondent's technician licenses are subject to disciplinary action pursuant to Health
5 & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to comply with provisions
6 of California Code of Regulations, title 16, as follows:

7 a. **Section 3340.30, subdivision (a)**: Respondent failed to inspect and test the Bureau's
8 2006 Chevrolet in accordance with Health & Saf. Code sections 44012 and 44035, and California
9 Code of Regulations, title 16, section 3340.42.

10 b. **Section 3340.41, subdivision (c)**: Respondent entered false information into the EIS
11 by entering data indicating that the Bureau's 2006 Chevrolet had passed the visual inspection
12 portion of the smog inspection, including the visual inspection of the EGR system. In fact,
13 Respondent failed to perform the visual inspection of the emission control systems and devices on
14 the vehicle. Further, the EGR system components had been removed from the vehicle and the
15 EGR valve electrical connector was disconnected. As such, the vehicle would not pass the
16 inspection required by Health & Saf. Code section 44012.

17 c. **Section 3340.42**: Respondent failed to conduct the required smog tests on the
18 Bureau's 2006 Chevrolet in accordance with the Bureau's specifications.

19 **TWENTY-SEVENTH CAUSE FOR DISCIPLINE**

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

21 60. Respondent's technician licenses are subject to disciplinary action pursuant to Health
22 & Saf. Code section 44072.2, subdivision (d), in that Respondent committed a dishonest,
23 fraudulent or deceitful act whereby another is injured by issuing an electronic smog certificate of
24 compliance for the Bureau's 2006 Chevrolet without performing a bona fide inspection of the
25 emission control devices and systems on the vehicle, thereby depriving the People of the State of
26 California of the protection afforded by the Motor Vehicle Inspection Program

27 ///

28 ///

1 **UNDERCOVER OPERATION #4 (RECORDED): 1991 TOYOTA**

2 61. On or about January 27, 2015, the operator involved in the second and third
3 undercover operations (“operator”) took the Bureau’s 1991 Toyota to Respondent’s facility and
4 requested a smog inspection. The ignition timing on the Bureau-documented vehicle was not
5 adjusted to manufacturer’s specifications. After the inspection was completed, the operator paid
6 the facility \$40 and received a copy of a VIR. The operator did not receive a written estimate or
7 invoice for the inspection. That same day, a Bureau representative reviewed the recording of the
8 undercover operation and found that Respondent had not performed the required functional
9 checks of the ignition timing and gas cap or the LPFET test on the vehicle. Information retrieved
10 from the Bureau’s VID showed that Respondent had performed the inspection on the vehicle,
11 resulting in the issuance of electronic smog Certificate of Compliance Number [REDACTED].

12 62. On or about January 28, 2015, the Bureau performed a smog inspection on the
13 vehicle. The Bureau found that the ignition timing still was not adjusted to manufacturer’s
14 specifications.

15 **TWENTY-EIGHTH CAUSE FOR DISCIPLINE**

16 **(Untrue or Misleading Statements)**

17 63. Respondent’s registration is subject to disciplinary action pursuant to Bus. & Prof.
18 Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized statements which
19 he knew or in the exercise of reasonable care should have known to be untrue or misleading, as
20 follows: Respondent certified under penalty of perjury on the VIR that he performed the smog
21 inspection on the Bureau's 1991 Toyota in accordance with all Bureau requirements and that the
22 vehicle had passed the inspection and was in compliance with applicable laws and regulations. In
23 fact, Respondent failed to perform the required functional checks of the ignition timing and gas
24 cap or the LPFET test on the vehicle. Further, the ignition timing was not adjusted to
25 manufacturer’s specifications and as such, the vehicle would not pass the inspection required by
26 Health & Saf. Code section 44012.

27 ///

28 ///

1 **TWENTY-NINTH CAUSE FOR DISCIPLINE**

2 **(Fraud)**

3 64. Respondent's registration is subject to disciplinary action pursuant to Bus. & Prof.
4 Code section 9884.7, subdivision (a)(4), in that Respondent committed an act that constitutes
5 fraud by issuing an electronic smog certificate of compliance for the Bureau's 1991 Toyota
6 without performing a bona fide inspection of the emission control devices and systems on the
7 vehicle, thereby depriving the People of the State of California of the protection afforded by the
8 Motor Vehicle Inspection Program.

9 **THIRTIETH CAUSE FOR DISCIPLINE**

10 **(Failure to Comply with Provisions of the Bus. & Prof. Code)**

11 65. Respondent's registration is subject to disciplinary action pursuant to Bus. & Prof.
12 Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with provisions of
13 that Code in the following material respects:

14 a. **Section 9884.8:** Respondent failed to provide the operator with an invoice for the
15 smog inspection on the Bureau's 1991 Toyota.

16 b. **Section 9884.9, subdivision (a):** Respondent failed to provide the operator with a
17 written estimate for the smog inspection on the Bureau's 1991 Toyota.

18 **THIRTY-FIRST CAUSE FOR DISCIPLINE**

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

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

23 a. **Section 44012, subdivision (f):** Respondent failed to perform the required functional
24 checks of the emission control systems and devices on the Bureau's 1991 Toyota in accordance
25 with procedures prescribed by the department, as set forth in paragraph 63 above.

26 b. **Section 44015:** Respondent issued an electronic smog certificate of compliance for
27 the Bureau's 1991 Toyota without properly testing and inspecting it to determine if it was in
28 compliance with Health & Saf. Code section 44012.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

THIRTY-SECOND CAUSE FOR DISCIPLINE

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

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

a. **Section 3340.35, subdivision (c):** Respondent issued an electronic smog certificate of compliance for the Bureau's 1991 Toyota even though the vehicle had not been inspected in accordance with section 3340.42.

b. **Section 3340.42:** Respondent failed to conduct the required smog tests on the Bureau's 1991 Toyota in accordance with the Bureau's specifications.

THIRTY-THIRD CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

68. Respondent's smog check station license is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed a dishonest, fraudulent or deceitful act whereby another is injured by issuing an electronic smog certificate of compliance for the Bureau's 1991 Toyota without performing a bona fide inspection of the emission control devices and systems on the vehicle, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

THIRTY-FOURTH CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

69. Respondent's technician licenses are subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to comply with section 44012, subdivision (f), of that Code, as follows: Respondent failed to perform the required functional checks of the emission control systems and devices on the Bureau's 1991 Toyota in accordance with procedures prescribed by the department, as set forth in paragraph 63 above.

///

///

1 **THIRTY-FIFTH CAUSE FOR DISCIPLINE**

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

4 70. Respondent's technician licenses are subject to disciplinary action pursuant to Health
5 & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to comply with provisions
6 of California Code of Regulations, title 16, as follows:

7 a. **Section 3340.30, subdivision (a)**: Respondent failed to inspect and test the Bureau's
8 1991 Toyota in accordance with Health & Saf. Code sections 44012 and 44035, and California
9 Code of Regulations, title 16, section 3340.42.

10 b. **Section 3340.41, subdivision (c)**: Respondent entered false information into the EIS
11 by entering data indicating that the Bureau's 1991 Toyota had passed the required functional
12 checks of the emission control systems and devices on the vehicle. In fact, Respondent failed to
13 perform the required functional checks of the ignition timing and gas cap or the LPFET test on
14 the vehicle. Further, the ignition timing was not adjusted to manufacturer's specifications and as
15 such, the vehicle would not pass the inspection required by Health & Saf. Code section 44012.

16 c. **Section 3340.42**: Respondent failed to conduct the required smog tests on the
17 Bureau's 1991 Toyota in accordance with the Bureau's specifications.

18 **THIRTY-SIXTH CAUSE FOR DISCIPLINE**

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

20 71. Respondent's technician licenses are subject to disciplinary action pursuant to Health
21 & Saf. Code section 44072.2, subdivision (d), in that Respondent committed a dishonest,
22 fraudulent or deceitful act whereby another is injured by issuing an electronic smog certificate of
23 compliance for the Bureau's 1991 Toyota without performing a bona fide inspection of the
24 emission control devices and systems on the vehicle, thereby depriving the People of the State of
25 California of the protection afforded by the Motor Vehicle Inspection Program.

26 ///

27 ///

28 ///

1 **THIRTY-SEVENTH CAUSE FOR DISCIPLINE**

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

3 72. Respondent's brake and lamp station licenses and brake and lamp adjuster licenses
4 are subject to disciplinary action pursuant to Bus. & Prof. Code section 9889.3, subdivision (d), in
5 that Respondent committed acts involving dishonesty, fraud, or deceit whereby another was
6 injured, as set forth in paragraphs 30, 31, 41, 42, 52, 53, 63 and 64 above.

7 **OTHER MATTERS**

8 73. Pursuant to Bus. & Prof. Code section 9884.7, subdivision (c), the Director may
9 suspend, revoke or place on probation the registration for all places of business operated in this
10 state by Respondent Roni Osman, owner of Road King Smog, upon a finding that Respondent
11 has, or is, engaged in a course of repeated and willful violations of the laws and regulations
12 pertaining to an automotive repair dealer.

13 74. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Station License
14 Number RC 263901, issued to Respondent Roni Osman, owner of Road King Smog, is revoked
15 or suspended, any additional license issued under Chapter 5 of the Health & Saf. Code in the
16 name of said licensee may be likewise revoked or suspended by the Director.

17 75. Pursuant to Bus. & Prof. Code section 9889.9, if Lamp Station License Number
18 LS 263901, issued to Respondent Roni Osman, owner of Road King Smog, is revoked or
19 suspended, any additional license issued under Articles 5 and 6 of Chapter 20.3 of the Bus. &
20 Prof. Code in the name of said licensee may be likewise revoked or suspended by the Director.

21 76. Pursuant to Bus. & Prof. Code section 9889.9, if Brake Station License Number
22 BS 263901, issued to Respondent Roni Osman, owner of Road King Smog, is revoked or
23 suspended, any additional license issued under Articles 5 and 6 of Chapter 20.3 of the Bus. &
24 Prof. Code in the name of said licensee may be likewise revoked or suspended by the Director.

25 77. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Inspector License
26 Number EO 630946 and Smog Check Repair Technician License Number EI 630946, issued to
27 Respondent Roni Osman, owner of Road King Smog, are revoked or suspended, any additional

28 ///

1 license issued under Chapter 5 of the Health & Saf. Code in the name of said licensee may be
2 likewise revoked or suspended by the Director.

3 78. Pursuant to Bus. & Prof. Code section 9889.9, if Brake Adjuster License Number
4 BA 630946, issued to Respondent Roni Osman, is revoked or suspended, any additional license
5 issued under Articles 5 and 6 of Chapter 20.3 of the Bus. & Prof. Code in the name of said
6 licensee may be likewise revoked or suspended by the Director.

7 79. Pursuant to Bus. & Prof. Code section 9889.9, if Lamp Adjuster License Number
8 LS 630946, issued to Respondent Roni Osman, is revoked or suspended, any additional license
9 issued under Articles 5 and 6 of Chapter 20.3 of the Bus. & Prof. Code in the name of said
10 licensee may be likewise revoked or suspended by the Director.

11 **PRAYER**

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

14 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
15 263901, issued to Roni Osman, owner of Road King Smog;

16 2. Revoking or suspending any other automotive repair dealer registration issued to
17 Roni Osman;

18 3. Revoking or suspending Smog Check Station License Number RC 263901, issued to
19 Roni Osman, owner of Road King Smog;

20 4. Revoking or suspending Smog Check Inspector License Number EO 630946 and
21 Smog Check Repair Technician License Number EI 630946, issued to Roni Osman;

22 5. Revoking or suspending any additional license issued under Chapter 5 of the Health
23 and Safety Code in the name of Roni Osman;

24 6. Revoking or suspending Lamp Station License Number LS 263901, issued to Roni
25 Osman, owner of Road King Smog;

26 7. Revoking or suspending Brake Station License Number BS 263901, issued to Roni
27 Osman, owner of Road King Smog;

28 ///

1 8. Revoking or suspending Brake Adjuster License Number BA 630946, issued to Roni
2 Osman;

3 9. Revoking or suspending Lamp Adjuster License Number LA 630946, issued to Roni
4 Osman;

5 10. Revoking or suspending any additional license issued under Articles 5 and 6 of
6 Chapter 20.3 of the Business and Professions Code in the name of Roni Osman;

7 11. Ordering Roni Osman, individually, and as owner of Road King Smog, to pay the
8 Director of Consumer Affairs the reasonable costs of the investigation and enforcement of this
9 case, pursuant to Business and Professions Code section 125.3; and

10 12. Taking such other and further action as deemed necessary and proper.

11
12 DATED: May 9, 2016



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

13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28 SA2015103887