

1 KAMALA D. HARRIS
Attorney General of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 KAREN R. DENVIR
Deputy Attorney General
4 State Bar No. 197268
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-5333
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

8
9 **BEFORE THE**
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. 79/12-170

13 **BACK TO LIFE AUTO**
14 **SCOTT ANTHONY RUSKAUFF, Owner**
690 G Street, Suite 120
15 **Lincoln, CA 95648**
Automotive Repair Dealer Registration No. ARD
16 **256693**
Smog Check Test Only Station License No. TC
17 **256693**

A C C U S A T I O N
S M O G C H E C K

18 **SCOTT ANTHONY RUSKAUFF**
19 **690 G Street**
Lincoln, CA 95648
20 **Advanced Emission Specialist Technician License**
21 **No. EA 136218**

Respondent.

22 _____
23 **BACK TO LIFE AUTOMOTIVE**
24 **SCOTT ANTHONY RUSKAUFF, Owner**
333 G Street Bay 1
25 **Lincoln, CA 95648**
Automotive Repair Dealer Registration No. ARD
26 **159572 (cancelled)**
Smog Check Test Only Station License No. TC
27 **159572 (cancelled)**

1 **BACK TO LIFE AUTO INC.**
2 **dba BACK TO LIFE AUTO INC.**
3 **SCOTT ANTHONY RUSKAUFF, PR/SEC/TR**
4 **690 G Street, Suite 120**
5 **Lincoln, CA 95648**
6 **Automotive Repair Dealer Registration No. ARD**
7 **267644**
8 **Smog Check Test Only Station License No. TC**
9 **267644**

10 **Affiliated Licenses.**

11 John Wallauch ("Complainant") alleges:

12 **PARTIES**

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

15 **LICENSE INFORMATION**

16 **Back to Life Auto (690 G Street, Suite 120, Lincoln, CA)**

17 **Automotive Repair Dealer Registration No. ARD 256693**

18 2. On or about November 17, 2008, the Bureau issued Automotive Repair Dealer
19 Registration Number ARD 256693 ("registration") to Scott Anthony Ruskauff ("Respondent"),
20 doing business as Back to Life Auto. The registration was in full force and effect at all times
21 relevant to the charges brought herein and will expire on September 30, 2012, unless renewed.

22 **Smog Check Test Only Station License No. TC 256693**

23 3. On or about November 18, 2008, the Bureau issued Smog Check Test Only Station
24 License Number TC 256693 ("station license") to Respondent, doing business as Back to Life
25 Auto. The station license was in full force and effect at all times relevant to the charges brought
26 herein and will expire on September 30, 2012, unless renewed.

27 **Advanced Emission Specialist Technician License EA 136218**

28 4. On a date uncertain in 1998, the Bureau issued Advanced Emission Specialist
Technician License No. EA 136218 ("technician license") to Respondent. The license was in full

1 force and effect at all times relevant to the charges brought herein and will expire on August 31,
2 2013, unless renewed.

3 **Back to Life Automotive (333 G Street Bay 1, Lincoln, CA)**

4 **Automotive Repair Dealer Registration No. ARD 159572**

5 5. On a date uncertain 1991, the Bureau issued Automotive Repair Dealer Registration
6 Number ARD 159572 to Respondent, doing business as Back to Life Automotive. The
7 registration was cancelled on July 5, 2009.

8 **Smog Check Test Only Station License No. TC 159572**

9 6. On or about July 23, 2001, the Bureau issued Smog Check Test Only Station License
10 Number TC 159572 to Respondent, doing business as Back to Life Automotive. The license was
11 cancelled on July 5, 2009.

12 **Back to Life Auto Inc. (690 G Street, Suite 120, Lincoln, CA)**

13 **Automotive Repair Dealer Registration No. ARD 267644**

14 7. On or about January 6, 2012, the Bureau issued Automotive Repair Dealer
15 Registration Number ARD 267644 to Back to Life Auto Inc., with Respondent as the President,
16 Secretary, and Treasurer. The registration was in full force and effect at all times relevant to the
17 charges brought herein and will expire on January 31, 2013, unless renewed.

18 **Smog Check Test Only Station License No. TC 267644**

19 8. On or about January 10, 2012, the Bureau issued Smog Check Test Only Station
20 License Number TC 267644 Back to Life Auto Inc., with Respondent as the President, Secretary,
21 and Treasurer. The station license was in full force and effect at all times relevant to the charges
22 brought herein and will expire on January 31, 2013, unless renewed.

23 **STATUTORY PROVISIONS**

24 9. Section 9884.7 of the Business and Professions Code ("Code") states, in pertinent
25 part:

26 (a) The director, where the automotive repair dealer cannot show there was a bona
27 fide error, may refuse to validate, or may invalidate temporarily or permanently, the
28 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

1 automotive repair dealer or any automotive technician, employee, partner, officer, or
2 member of the automotive repair dealer.

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

6 (4) Any other conduct which constitutes fraud.

7 (6) Failure in any material respect to comply with the provisions of this chapter [the
8 Automotive Repair Act (Bus. & Prof. Code, § 9880, et seq.)] or regulations adopted
9 pursuant to it.

10 (b) Except as provided for in subdivision (c), if an automotive repair dealer operates
11 more than one place of business in this state, the director pursuant to subdivision (a) shall
12 only refuse to validate, or shall only invalidate temporarily or permanently the registration
13 of the specific place of business which has violated any of the provisions of this chapter.
14 This violation, or action by the director, shall not affect in any manner the right of the
15 automotive repair dealer to operate his or her other places of business.

16 (c) Notwithstanding subdivision (b), the director may refuse to validate, or may
17 invalidate temporarily or permanently, the registration for all places of business operated in
18 this state by an automotive repair dealer upon a finding that the automotive repair dealer
19 has, or is, engaged in a course of repeated and willful violations of this chapter, or
20 regulations adopted pursuant to it.

21 10. Section 9884.13 of the Code provides, in pertinent part, that the expiration of a valid
22 registration shall not deprive the Director of jurisdiction to proceed with a disciplinary proceeding
23 against an automotive repair dealer or to render a decision invalidating a registration temporarily
24 or permanently.

25 11. Section 477 of the Code provides, in pertinent part, that "Board" includes "bureau,"
26 "commission," "committee," "department," "division," "examining committee," "program," and
27 "agency." "License" includes certificate, registration or other means to engage in a business or
28 profession regulated by the Code.

12. Section 118(b) of the Code states:

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

licensee on any such ground.

13. 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.

14. 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.

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

16. Section 44072.8 of the Health and Safety Code states:

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

COST RECOVERY

17. Code section 125.3 provides, in pertinent part, that a Board may request 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.

///

///

1 **UNDERCOVER OPERATION – DECEMBER 1, 2011**

2 18. On or about December 1, 2011, a Bureau undercover operator (“operator”) drove a
3 Bureau documented 2006 Chevrolet Silverado pickup truck to Respondent’s facility and
4 requested a smog inspection. The vehicle was missing the Exhaust Gas Recirculation (“EGR”)
5 system, rendering the vehicle incapable of passing a smog inspection. The operator completed
6 and signed Work Order No. 014632, and was provided with a copy. Respondent performed the
7 smog inspection and issued electronic Certificate of Compliance No. OI528533C, certifying that
8 he had tested and inspected the vehicle and that it was in compliance with applicable laws and
9 regulations when, in fact, the vehicle could not have passed the visual portion of the smog
10 inspection because of the vehicle’s EGR system was missing. The operator paid Respondent \$58,
11 and was provided with a copy of Work Order No. 014632 and the Vehicle Inspection Report.

12 **FIRST CAUSE FOR DISCIPLINE**

13 **(Untrue or Misleading Statements)**

14 19. Respondent’s registration is subject to discipline under Code section 9884.7(a)(1), in
15 that on or about December 1, 2011, he made statements which he knew or which by exercise of
16 reasonable care should have known to be untrue or misleading by issuing electronic Certificate of
17 Compliance No. OI528533C for the 2006 Chevrolet Silverado pickup truck, certifying that the
18 vehicle was in compliance with applicable laws and regulations when, in fact, it could not have
19 passed the visual portion of the smog inspection because the vehicle’s EGR system was missing.

20 **SECOND CAUSE FOR DISCIPLINE**

21 **(Fraud)**

22 20. Respondent’s registration is subject to discipline under Code section 9884.7(a)(4), in
23 that on or about December 1, 2011, he committed acts constituting fraud by issuing electronic
24 Certificate of Compliance No. OI528533C for the 2006 Chevrolet Silverado pickup truck without
25 performing a bona fide inspection of the emission control devices and systems on the vehicle,
26 thereby depriving the People of the State of California of the protection afforded by the Motor
27 Vehicle Inspection Program.

28 ///

1 **THIRD CAUSE FOR DISCIPLINE**

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

3 21. Respondent's station license is subject to discipline pursuant to Health & Safety
4 Code section 44072.2, subdivision (a), in that on or about December 1, 2011, regarding the 2006
5 Chevrolet Silverado pickup truck, he failed to comply with the following sections of that Code:

6 a. **Section 44012, subdivision (f):** Respondent failed to perform emission control
7 inspections on the vehicle in accordance with procedures prescribed by the department.

8 b. **Section 44015, subdivision (b):** Respondent issued electronic Certificate of
9 Compliance No. OI528533C for the vehicle without properly inspecting the vehicle to determine
10 if it was in compliance with Health & Safety Code section 44012.

11 c. **Section 44016:** Respondent failed to perform the required smog inspections in
12 accordance with the Bureau's specifications.

13 **FOURTH CAUSE FOR DISCIPLINE**

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

15 22. Respondent's station license is subject to discipline pursuant to Health & Safety
16 Code section 44072.2, subdivision (c), in that on or about December 1, 2011, regarding the 2006
17 Chevrolet Silverado pickup truck, he failed to comply with provisions of California Code of
18 Regulations, title 16, as follows:

19 a. **Section 3340.35, subdivision (c):** Respondent issued electronic Certificate of
20 Compliance No. OI528533C for the vehicle even though the vehicle had not been inspected in
21 accordance with section 3340.42.

22 b. **Section 3340.41, subdivision (c):** Respondent entered false information into the
23 Emission Inspection System unit by entering "Pass" for the visual portion of the inspection when,
24 in fact, the EGR system was missing.

25 c. **Section 3340.42:** Respondent failed to perform an emission control inspection on
26 the vehicle in accordance with procedures prescribed by the department.

27 ///

28 ///

1 **FIFTH CAUSE FOR DISCIPLINE**

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

3 23. Respondent's station license is subject to discipline pursuant to Health & Safety
4 Code section 44072.2, subdivision (d), in that on or about December 1, 2011, regarding the 2006
5 Chevrolet Silverado pickup truck, he committed dishonest, fraudulent or deceitful acts whereby
6 another is injured by issuing electronic Certificate of Compliance No. OI528533C for the vehicle
7 without performing a bona fide inspection of the emission control devices and systems on the
8 vehicle, thereby depriving the People of the State of California of the protection afforded by the
9 Motor Vehicle Inspection Program.

10 **SIXTH CAUSE FOR DISCIPLINE**

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

12 24. Respondent's technician license is subject to discipline pursuant to Health and
13 Safety Code section 44072.2, subdivision (a), in that on or about December 1, 2011, regarding the
14 2006 Chevrolet Silverado pickup truck, he violated the following sections of that Code:

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

17 b. **Section 44016:** Respondent failed to conduct the required smog inspections in
18 accordance with the Bureau's specifications.

19 c. **Section 44032:** Respondent failed to perform an inspection of the emission
20 control devices and systems on the vehicle in accordance with section 44012 of that Code.

21 **SEVENTH CAUSE FOR DISCIPLINE**

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

23 25. Respondent's technician license is subject to discipline pursuant to Health and
24 Safety Code section 44072.2, subdivision (c), in that on or about December 1, 2011, regarding the
25 2006 Chevrolet Silverado pickup truck, he violated the following sections of the California Code
26 of Regulations, title 16:

27 a. **Section 3340.30, subdivision (a):** Respondent failed to perform the emission
28 control inspection in accordance with Health and Safety Code section 44012.

1 b. On or about December 27, 2006, the Bureau issued Citation No. C07-0424 against
2 Respondent for violating Health and Safety Code section 44012(f) (failure to perform a
3 visual/functional check of emission control devices according to procedures prescribed by the
4 department), and California Code of Regulations, title 16, section 3340.35(c) (issuing a certificate
5 of compliance to a vehicle that was improperly tested), for issuing a certificate of compliance to a
6 Bureau undercover vehicle with a non-functional Exhaust Gas Recirculation ("EGR") system.
7 The Bureau assessed civil penalties totaling \$500 against Respondent for the violations.
8 Respondent complied with this citation on February 7, 2007.

9 c. On or about April 2, 2007, the Bureau issued Citation No. C07-0698 against
10 Respondent for violating Health and Safety Code section 44012(f) (failure to perform a
11 visual/functional check of emission control devices according to procedures prescribed by the
12 department), and California Code of Regulations, title 16, section 3340.35(c) (issuing a certificate
13 of compliance to a vehicle that was improperly tested), for issuing a certificate of compliance to a
14 Bureau undercover vehicle with a missing PCV system. The Bureau assessed civil penalties
15 totaling \$1,000 against Respondent for the violations. Respondent complied with this citation on
16 June 8, 2007.

17 d. On or about September 10, 2008, the Bureau issued Citation No. C09-0222 against
18 Respondent for violating Health and Safety Code section 44012(f) (failure to perform a
19 visual/functional check of emission control devices according to procedures prescribed by the
20 department), and California Code of Regulations, title 16, section 3340.35(c) (issuing a certificate
21 of compliance to a vehicle that was improperly tested), for issuing a certificate of compliance to a
22 Bureau undercover vehicle with a missing hot air tube to the thermostatic air cleaner. The Bureau
23 assessed civil penalties totaling \$500 against Respondent for the violations. Respondent
24 complied with this citation on October 1, 2008.

25 e. On or about December 17, 2008, the Bureau issued Citation No. C09-0735 against
26 Respondent for violating Health and Safety Code section 44012(f) (failure to perform a
27 visual/functional check of emission control devices according to procedures prescribed by the
28 department), and California Code of Regulations, title 16, section 3340.35(c) (issuing a certificate

1 of compliance to a vehicle that was improperly tested), for issuing a certificate of compliance to a
2 Bureau undercover vehicle with a missing PCV system. The Bureau assessed civil penalties
3 totaling \$1,000 against Respondent for the violations. Respondent complied with this citation on
4 March 24, 2009.

5 f. On or about April 20, 2009, the Bureau issued Citation No. C09-1201 against
6 Respondent for violating Health and Safety Code section 44012(f) (failure to perform a
7 visual/functional check of emission control devices according to procedures prescribed by the
8 department), and California Code of Regulations, title 16, section 3340.35(c) (issuing a certificate
9 of compliance to a vehicle that was improperly tested), for issuing a certificate of compliance to a
10 Bureau undercover vehicle with a missing Evaporative Storage Canister ("EVAP"). The Bureau
11 assessed civil penalties totaling \$2,000 against Respondent for the violations. Respondent
12 complied with this citation on June 25, 2009.

13 **Back to Life Auto (690 G Street, Suite 120, Lincoln, CA)**
14 **Smog Check Test Only Station License No. TC 256693**

15 g. On or about January 11, 2011, the Bureau issued Citation No. C2011-0787 against
16 Respondent for violating Health and Safety Code section 44012(f) (failure to perform a
17 visual/functional check of emission control devices according to procedures prescribed by the
18 department), and California Code of Regulations, title 16, section 3340.35(c) (issuing a certificate
19 of compliance to a vehicle that was improperly tested), for issuing a certificate of compliance to a
20 Bureau undercover vehicle with a missing PCV system. The Bureau assessed civil penalties
21 totaling \$2,500 against Respondent for the violations. Respondent complied with this citation on
22 February 28, 2011.

23 **Advanced Emissions Specialist Technician License No. EA 136218**

24 h. On or about April 2, 2007, the Bureau issued Citation No. M07-0699 against
25 Respondent for violating Health and Safety Code section 44032 (failure to perform tests and
26 inspections in accordance with Health and Safety Code section 44012), and California Code of
27 Regulations, title 16, section 3340.30(a) (inspect, test, and repair vehicles in accordance with
28 Health and Safety Code sections 44012 and 44035, and California Code of Regulations, title 16,

1 section 3340.32) for issuing a certificate of compliance to a Bureau undercover vehicle with a
2 missing PCV system. Respondent was required to attend an 8-hour training course. On or about
3 June 6, 2007, Respondent completed the required training course.

4 i. On or about September 10, 2008, the Bureau issued Citation No. M09-0223 against
5 Respondent's technician license for violating Health and Safety Code section 44032 (failure to
6 perform tests and inspections in accordance with Health and Safety Code section 44012), and
7 California Code of Regulations, title 16, section 3340.30(a) (inspect, test, and repair vehicles in
8 accordance with Health and Safety Code sections 44012 and 44035, and California Code of
9 Regulations, title 16, section 3340.32) for issuing a certificate of compliance to a Bureau
10 undercover vehicle with a missing hot air tube to the thermostatic air cleaner. Respondent was
11 required to attend an 8-hour training course. On or about October 16, 2008, Respondent
12 completed the required training course.

13 j. On or about April 20, 2009, the Bureau issued Citation No. M09-1202 against
14 Respondent's technician license for violating Health and Safety Code section 44032 (failure to
15 perform tests and inspections in accordance with Health and Safety Code section 44012), and
16 California Code of Regulations, title 16, section 3340.30(a) (inspect, test, and repair vehicles in
17 accordance with Health and Safety Code sections 44012 and 44035, and California Code of
18 Regulations, title 16, section 3340.32) for issuing a certificate of compliance to a Bureau
19 undercover vehicle with a missing EVAP. Respondent was required to attend a 16-hour training
20 course. On or about June 22, 2009, Respondent completed the required training course.

21 **OTHER MATTERS**

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

26 ///

27 ///

28 ///

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

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

DATED: June 21 2012



JOHN WALLAUCH
Chief

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

SA2012105561
10906915.doc