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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:

Case No. 79/14-53

**ROUTE 15 SMOG TEST ONLY
KEVIN DALE GILLETT, OWNER
2126 Hamner Avenue
Norco, CA 92860**

**DEFAULT DECISION AND ORDER
AGAINST ROUTE 15 SMOG TEST ONLY**

**Automotive Repair Dealer Registration No.
ARD 268249
Smog Check, Test Only, Station License No.
TC 268249**

Gov. Code, §11520]

**DJUAN JAZMINE SUMMERVILLE
10642 Litchfield St.
Stanton, CA 90680**

**Advanced Emission Specialist No. EA
634727 (to be redesignated upon renewal as
EO 634727 and/or EI 634727)**

Respondent.

FINDINGS OF FACT

1. On or about November 12, 2013, Complainant Patrick Dorais, in his official capacity as the Chief of the Bureau of Automotive Repair, Department of Consumer Affairs, filed Accusation No. 79/14-53 against Route 15 Smog Test Only (Route 15) before the Director of Consumer Affairs. (Accusation attached as Exhibit A.)

1 2. On or about March 5, 2012, the Bureau of Automotive Repair issued Automotive
2 Repair Dealer Registration Number ARD 268249 to Route 15. The Automotive Repair Dealer
3 Registration was in full force and effect at all times relevant to the charges brought herein and
4 will expire on March 31, 2014, unless renewed. On April 17, 2012, the Bureau issued to Route
5 15 Smog Check, Test Only, Station License No. TC 268249. The Smog Check Station License
6 was in full force and effect at all times relevant to the charges brought herein and will expire on
7 March 31, 2014, unless renewed.

8 3. On or about November 13, 2013, Route 15 was served by Certified and First Class
9 Mail copies of the Accusation No. 79/14-53, Statement to Respondent, Notice of Defense,
10 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,
11 and 11507.7) at Route 15's address of record which, pursuant to Business and Professions Code
12 section 136, is required to be reported and maintained with the Bureau. Route 15's address of
13 record was and is:

14 2126 Hamner Avenue
15 Norco, CA 92860.

16 4. Service of the Accusation was effective as a matter of law under the provisions of
17 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
18 124.

19 5. On or about December 3, 2013, the aforementioned documents that were mailed to
20 Route 15 were returned by the U.S. Postal Service marked "Return to Sender" and "Attempted-
21 Not Known."

22 6. 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.

28 7. Route 15 failed to file a Notice of Defense within 15 days after service of the
Accusation, and therefore waived their right to a hearing on the merits of Accusation No. 79/14-
53.

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 November 13, 2013 finds Route 15 is in default. The
8 Director will take action without further hearing and, based on Accusation, No. 79/14-53, proof
9 of service and on the Affidavit of Bureau Representative Steve Koch, finds that the allegations in
10 Accusation are true.

11 DETERMINATION OF ISSUES

12 1. Based on the foregoing findings of fact, Respondent Route 15 Smog Test Only has
13 subjected Automotive Repair Dealer Registration No. ARD 268249 and Smog Check, Test Only,
14 Station License No. TC 268249 to discipline.

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

16 3. The Director of Consumer Affairs is authorized to revoke Respondent's Automotive
17 Repair Dealer Registration based upon the following violations alleged in the Accusation which
18 are supported by the evidence contained in the affidavit of Bureau Representative Steve Koch in
19 this case:

20 A. Route 15's Registration is subject to disciplinary action under section 9884.7,
21 subdivision (a)(1), in that Route 15 made or authorized statements which Route 15 knew or in the
22 exercise of reasonable care should have known to be untrue or misleading.

23 B. Route 15's Smog Check Station License is subject to disciplinary action under Health
24 and Safety Code sections 44072.10, subdivisions (a) and (c) and 44072.2, subdivision (a), in that
25 Route 15 failed to comply with the following sections of that Code:

26 a. **Section 44012**: failed to perform the tests of the emission control systems and
27 devices on several vehicles in accordance with procedures prescribed by the Department.
28

1 b. **Section 44015**: issued a certificate of compliance for several vehicles without
2 properly testing and inspecting them to determine if they were in compliance with Health &
3 Safety Code section 44012.

4 c. **Section 44035**: failed to meet or maintain the standards prescribed for
5 qualification, equipment, performance, or conduct by failing to properly perform a smog
6 inspection on several vehicles or certifying that such tests had been performed, when in fact they
7 were never performed.

8 C. Route 15's Smog Check Station License is subject to disciplinary action under Health
9 and Safety Code sections 44072.10, subdivisions (a) and (c) and 44072.2, subdivision (a), in that
10 Route 15 failed to comply with the following sections of Title 16, California Code of
11 Regulations:

12 a. **Section 3340.35, subdivision (c)**: failed to inspect and test several in
13 accordance with the procedures specified in section 3340.42 of the Regulations and failed to
14 ensure that these vehicles had all the required emission control equipment and devices installed
15 and functioning correctly.

16 b. **Section 3340.41, subdivision (c)**: knowingly entered into the Emissions
17 Inspection System false information about several vehicles, providing results for smog
18 inspections which were not actually performed.

19 c. **Section 3340.42**: failed to conduct the required smog tests on several vehicles
20 in accordance with the Bureau's specifications.

21 D. Route 15's Registration is subject to disciplinary action under Code section 9884.7,
22 subdivision (a)(4), and Route 15's Smog Check Station License is subject to disciplinary action
23 under Health and Safety Code sections 44072.10, subdivision (a) and (c) and 44072.2,
24 subdivision (d), in that Route 15 committed dishonest, fraudulent, or deceitful acts whereby
25 another is injured by issuing smog certificates of compliance for several vehicles without
26 performing bona fide inspections of the emission control devices and systems on them, thereby
27 depriving the People of the State of California of the protection afforded by the Motor Vehicle
28 Inspection Program.

1 E. Route 15's Smog Check Station license is subject to disciplinary action for clean
2 piping under Health & Safety Code, § 44072.10, subdivision (c)(1), as defined in title 16,
3 California Code of Regulations, section 3340.1, in that Route 15 used a substitute exhaust
4 emission sample of one vehicle in place of another vehicle's exhaust emission sample in order to
5 cause the Emissions Inspection System to issue a certificate of compliance for several
6 inspections.

7 ORDER

8 IT IS SO ORDERED that Automotive Repair Dealer Registration No. ARD 268249 and
9 Smog Check, Test Only, Station License No. TC 268249, heretofore issued to Route 15 Smog
10 Test Only, are revoked.

11 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
12 written motion requesting that the Decision be vacated and stating the grounds relied on within
13 seven (7) days after service of the Decision on Respondent. The motion should be sent to the
14 Bureau of Automotive Repair, ATTN: William D. Thomas, 10949 North Mather Blvd., Rancho
15 Cordova, CA 95670. The agency in its discretion may vacate the Decision and grant a hearing
16 on a showing of good cause, as defined in the statute.

17 This Decision shall become effective on February 19, 2014

18 It is so ORDERED JAN 26 2014

19
20 
21 DONALD CHANG
22 Assistant Chief Counsel
23 Department of Consumer Affairs

23 70790386.DOC
24 DOJ Matter ID:SD2013705881

25 Attachment:
26 Exhibit A: Accusation
27
28

Exhibit A

Accusation

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2 JAMES M. LEDAKIS
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8 *Attorneys for Complainant*

9
10 **BEFORE THE
DEPARTMENT OF CONSUMER AFFAIRS
FOR THE BUREAU OF AUTOMOTIVE REPAIR
STATE OF CALIFORNIA**
11

12 In the Matter of the Accusation Against:

Case No. **79/14-53**

13 **ROUTE 15 SMOG TEST ONLY
KEVIN DALE GILLETT, OWNER
14 2126 Hamner Avenue
Norco, CA 92860**

ACCUSATION

15 **Automotive Repair Dealer Registration No.
16 ARD 268249
17 Smog Check, Test Only, Station No. TC
268249**

18 **DJUAN JAZMINE SUMMERVILLE
10642 Litchfield St.
19 Stanton, CA 90680**

20 **Advanced Emission Specialist No. EA
634727 (to be redesignated upon renewal as
21 EO 634727 and/or EI 634727)**

22 Respondents.

23
24 Complainant alleges:

25 **PARTIES**

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

1 proceeding against an automotive repair dealer or to render a decision invalidating a registration
2 temporarily or permanently.

3 7. Section 9884.20 of the Code states:

4 "All accusations against automotive repair dealers shall be filed within three years after the
5 performance of the act or omission alleged as the ground for disciplinary action, except that with
6 respect to an accusation alleging fraud or misrepresentation as a ground for disciplinary action,
7 the accusation may be filed within two years after the discovery, by the bureau, of the alleged
8 facts constituting the fraud or misrepresentation."

9 8. Section 9884.22 states

10 "(a) Notwithstanding any other provision of law, the director may revoke, suspend, or deny
11 at any time any registration required by this article on any of the grounds for disciplinary action
12 provided in this article. The proceedings under this article shall be conducted in accordance with
13 Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government
14 Code, and the director shall have all the powers granted therein.

15 "..."

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

19 10. Section 44072 of the Health and Safety Code states:

20 "Any license issued under this chapter and the regulations adopted pursuant to it may be
21 suspended or revoked by the director. The director may refuse to issue a license to any applicant
22 for the reasons set forth in Section 44072.1. The proceedings under this article shall be conducted
23 in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2
24 of the Government Code, and the director shall have all the powers granted therein."

25 11. Section 44072.4 of the Health and Safety Code states:

26 "The director may take disciplinary action against any licensee after a hearing as provided
27 in this article by any of the following:

28 "(a) Imposing probation upon terms and conditions to be set forth by the director.

1 16. Section 9884.7 of the Code states:

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

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

10 "...

11 "(4) Any other conduct that constitutes fraud.

12 "...

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

17 17. Section 44072.2 of the Health and Safety Code states:

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

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

24 "..."

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

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

27 "..."

28 ///

1 18. Section 44072.10 of the Health and Safety Code states:

2 "...

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

6 "...

7 "(4) Intentional or willful violation of this chapter or any regulation, standard, or procedure
8 of the department implementing this chapter.

9 "..."

10 **REGULATORY PROVISIONS**

11 19. California Code of Regulations, title 16, section 3340.1, states:

12 "...

13 "'Clean piping,' for the purposes of Health and Safety Code section 44072.10(c)(1), means
14 the use of a substitute exhaust emissions sample in place of the actual test vehicle's exhaust in
15 order to cause the EIS to issue a certificate of compliance for the test vehicle.

16 "..."

17 20. California Code of Regulations, title 16, section 3340.28, subdivision (e), states that
18 "[u]pon renewal of an unexpired Basic Area Technician license or an Advanced Emission
19 Specialist Technician license issued prior to the effective date of this regulation, the licensee may
20 apply to renew as a Smog Check Inspector, Smog Check Repair Technician, or both."

21 **COSTS**

22 21. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
23 administrative law judge to direct a licentiate found to have committed a violation or violations of
24 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
25 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
26 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
27 included in a stipulated settlement.

28 ///

1 **FIRST SURVEILLANCE-DECEMBER 13, 2012**

2 22. On December 13, 2012, Bureau representatives conducted surveillance of Route 15's
3 smog check activities. They used a video recording device and began recording at about 0820
4 hours until about 1426 hours. The clock on the video recording was about two minutes faster
5 than the time on the Vehicle Information Database. The Bureau received from Route 15 the
6 invoices and Vehicle Inspection Reports. The following is a comparison of the reported data from
7 ten smog inspections Route 15 represented that Route 15 performed with the Bureau's recorded
8 observations of those same ten inspections.

9 23. Clean Pipe 1 - Toyota Camry

10 The Vehicle Information Database reflects that between 0905 and 0914 hours, Route 15
11 represented that Route 15 inspected and issued certificate of compliance #XP142785C for a 1999
12 Toyota Camry, VIN JT2BF28K7X0210669. However, during the surveillance, the Bureau never
13 saw a 1999 Toyota Camry at the smog station. At about 0909 hours, a black 2000 Hyundai
14 Elantra, CA license number 6DHL963 (the black Elantra), drove into the testing bay, immediately
15 left the bay, and then backed into the testing bay. No other vehicles entered or exited the testing
16 bay during the period of certification. Route 15 clean piped the 1999 Toyota Camry using the
17 exhaust sample of the black Elantra.

18 24. Clean Pipe 2 - Nissan Maxima

19 The Vehicle Information Database reflects that between 0937 and 0945 hours, Route 15
20 represented that Route 15 inspected and issued certificate of compliance #XP142786C for a 1989
21 Nissan Maxima, VIN JN1HJ01P3KT299340. However, during the surveillance, the Bureau never
22 saw a 1989 Nissan Maxima at the smog station. No other vehicles entered or exited the testing
23 bay during the period of certification since the black Elantra entered the testing bay at 0909 hours.
24 Route 15 clean piped the 1989 Nissan Maxima using the exhaust sample of the black Elantra.

25 25. Clean Pipe 3 - Chevrolet Malibu

26 The Vehicle Information Database reflects that between 1010 and 1017 hours, Route 15
27 represented that Route 15 inspected and issued certificate of compliance #XP142787C for a 2005
28 Chevrolet Malibu, VIN 1G1ND52F45M130221. However, during the surveillance, the Bureau

1 never saw a Chevrolet Malibu at the smog station. No other vehicles entered or exited the testing
2 bay during the period of certification since the black Elantra entered the testing bay at 0909 hours.
3 Route 15 clean piped the Chevrolet Malibu using the exhaust sample of the black Elantra.

4 26. Clean Pipe 4 - Mercedes Benz C230

5 The Vehicle Information Database reflects that between 1037 and 1103 hours, Route 15
6 represented that Route 15 inspected and issued certificate of compliance #XP142788C for a 2000
7 Mercedes Benz C230 Kompressor, VIN WDBHA24GX7A797980. However, during the
8 surveillance, the Bureau never saw a Mercedes Benz C230 at the smog station. No other vehicles
9 entered or exited the testing bay during the period of certification since the black Elantra entered
10 the testing bay at 0909 hours. Route 15 clean piped the Mercedes Benz C230 using the exhaust
11 sample of the black Elantra.

12 27. Clean Pipe 5 - Nissan Sentra

13 The Vehicle Information Database reflects that between 1111 and 1123 hours, Route 15
14 represented that Route 15 inspected and issued certificate of compliance #XP142789C for a 2006
15 Nissan Sentra, VIN 3N1CB51D56L541971. However, during the surveillance, the Bureau never
16 saw a Nissan Sentra at the smog station. No other vehicles entered or exited the testing bay
17 during the period of certification since the black Elantra entered the testing bay at 0909 hours.
18 The black Elantra left the testing bay at 1124 hours. Route 15 clean piped the Nissan Sentra using
19 the exhaust sample of the black Elantra.

20 28. Clean Pipe 6 - Honda CRV

21 The Vehicle Information Database reflects that between 1138 and 1147 hours, Route 15
22 represented that Route 15 inspected and issued certificate of compliance #XP142790C for a 1999
23 Honda CRV, VIN JHLRD1866XC010182. However, during the surveillance, the Bureau never
24 saw a Honda CRV at the smog station. At 1129 hours, the black Elantra backed into the testing
25 bay. No other vehicles entered or exited the testing bay during the period of certification. Route
26 15 clean piped the Honda CRV using the exhaust sample of the black Elantra.

27 ///

28 ///

1 29. Clean Pipe 7 - Toyota Celica

2 The Vehicle Information Database reflects that between 1156 and 1206 hours, Route 15
3 represented that Route 15 inspected and issued certificate of compliance #XP142791C for a 2000
4 Toyota Celica, VIN JTDDR32T1Y0056976. However, during the surveillance, the Bureau never
5 saw a Toyota Celica at the smog station. No other vehicles entered or exited the testing bay
6 during the period of certification since the black Elantra entered the testing bay at 1129 hours.
7 Route 15 clean piped the Toyota Celica using the exhaust sample of the black Elantra.

8 30. Clean Pipe 8 - Nissan Murano

9 The Vehicle Information Database reflects that between 1225 and 1234 hours, Route 15
10 represented that Route 15 inspected and issued certificate of compliance #XP142792C for a 2003
11 Nissan Murano, VIN JN8AZ08T03W100937. However, during the surveillance, the Bureau
12 never saw a Nissan Murano at the smog station. No other vehicles entered or exited the testing
13 bay during the period of certification since the black Elantra entered the testing bay at 1129 hours.
14 Route 15 clean piped the Nissan Murano using the exhaust sample of the black Elantra.

15 31. Clean Pipe 9 - Nissan Titan

16 The Vehicle Information Database reflects that between 1252 and 1301 hours, Route 15
17 represented that Route 15 inspected and issued certificate of compliance #XP142793C for a 2006
18 Nissan Titan, VIN 1N6AA07A46N510957. However, during the surveillance, the Bureau never
19 saw a Nissan Titan at the smog station. No other vehicles entered or exited the testing bay during
20 the period of certification since the black Elantra entered the testing bay at 1129 hours. Route 15
21 clean piped the Nissan Titan using the exhaust sample of the black Elantra.

22 32. Clean Pipe 10 - Ford Ranger

23 The Vehicle Information Database reflects that between 1314 and 1320 hours, Route 15
24 represented that Route 15 inspected and issued certificate of compliance #XP142794C for a 2004
25 Ford Ranger, VIN 1FTYR14U54PA35691. However, during the surveillance, the Bureau never
26 saw a Ford Ranger at the smog station. No other vehicles entered or exited the testing bay during
27 the period of certification since the black Elantra entered the testing bay at 1129 hours. Route 15
28 clean piped the Ford Ranger using the exhaust sample of the black Elantra.

1 33. All of the December 13, 2012, illegal inspections described above are set forth in the
 2 following table:

	Time of Certification as Recorded in Vehicle Information Database	Vehicle Certified	Was the Certified Vehicle Observed in Smog Bay During Time of Certification?
1	0905-0914	1999 Toyota Camry VIN JT2BF28K7X0210669 Certificate of Compliance #XP142785C	No-Black Elantra was used to test.
2	0937-0945	1989 Nissan Maxima VIN JN1HJ01P3KT299340 Certificate of Compliance #XP142786C	No-Black Elantra was used to test.
3	1010-1017	2005 Chevrolet Malibu VIN 1G1ND52F45M130221 Certificate of Compliance #XP142787C	No-Black Elantra was used to test.
4	1037-1103	2000 Mercedes Benz C230 Kompressor VIN WDBHA24GX YA797980 Certificate of Compliance #XP142788C	No-Black Elantra was used to test.
5	1111-1123	2006 Nissan Sentra VIN 3N1CB51D56L541971 Certificate of Compliance #XP142789C	No-Black Elantra was used to test.
6	1138-1147	1999 Honda CRV VIN JHLRD1866XC010182 Certificate of Compliance #XP142790C	No-Black Elantra was used to test.
7	1156-1206	2000 Toyota Celica VIN JTDDR32T1Y0056976 Certificate of Compliance #XP142791C	No-Black Elantra was used to test.
8	1225-1234	2003 Nissan Murano VIN JN8AZ08T03W100937 Certificate of Compliance #XP142792C	No-Black Elantra was used to test.
9	1252-1301	2006 Nissan Titan VIN 1N6AA07A46N510957 Certificate of Compliance #XP142793C	No-Black Elantra was used to test.

10	1314-1320	2004 Ford Ranger VIN 1FTYR14U54PA35691 Certificate of Compliance #XP142794C	No-Black Elantra was used to test.
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FIRST CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

34. Route 15's Registration is subject to disciplinary action under section 9884.7, subdivision (a)(1), in that Route 15 made or authorized statements which Route 15 knew or in the exercise of reasonable care should have known to be untrue or misleading as follows: Route 15 certified that Route 15 inspected the vehicles described in paragraphs 22-33, when in fact those vehicles were not inspected.

SECOND CAUSE FOR DISCIPLINE

(Violations of the Motor Vehicle Inspection Program)

35. Route 15's Smog Check Station License is subject to disciplinary action under Health and Safety Code sections 44072.10, subdivisions (a) and (c) and 44072.2, subdivision (a), in that Route 15 failed to comply with the following sections of that Code:

a. **Section 44012**: failed to perform the tests of the emission control systems and devices on the vehicles in paragraphs 22-33 in accordance with procedures prescribed by the Department.

b. **Section 44015**: issued a certificate of compliance for the vehicles in paragraphs 22-33 without properly testing and inspecting them to determine if they were in compliance with Health & Safety Code section 44012.

c. **Section 44035**: failed to meet or maintain the standards prescribed for qualification, equipment, performance, or conduct by failing to properly perform a smog inspection on the vehicles in paragraphs 22-33 or certifying that such tests had been performed, when in fact they were never performed.

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1 **THIRD CAUSE FOR DISCIPLINE**

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

3 36. Route 15's Smog Check Station License is subject to disciplinary action under Health
4 and Safety Code sections 44072.10, subdivisions (a) and (c) and 44072.2, subdivision (a), in that
5 Route 15 failed to comply with the following sections of Title 16, California Code of Regulations:

6 a. **Section 3340.35, subdivision (c)**: failed to inspect and test the vehicles in paragraphs
7 22-33 in accordance with the procedures specified in section 3340.42 of the Regulations and
8 failed to ensure that these vehicles had all the required emission control equipment and devices
9 installed and functioning correctly.

10 b. **Section 3340.41, subdivision (c)**: knowingly entered into the Emissions Inspection
11 System false information about the vehicles in paragraphs 22-33, providing results for smog
12 inspections which were not actually performed.

13 c. **Section 3340.42**: failed to conduct the required smog tests on the vehicles in
14 paragraphs 22-33 in accordance with the Bureau's specifications.

15 **FOURTH CAUSE FOR DISCIPLINE**

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

17 37. Route 15's Registration is subject to disciplinary action under Code section 9884.7,
18 subdivision (a)(4), and Route 15's Smog Check Station License is subject to disciplinary action
19 under Health and Safety Code sections 44072.10, subdivision (a) and (c) and 44072.2, subdivision
20 (d), in that Route 15 committed dishonest, fraudulent, or deceitful acts whereby another is injured
21 by issuing smog certificates of compliance for the vehicles in paragraphs 22-33 without
22 performing bona fide inspections of the emission control devices and systems on them, thereby
23 depriving the People of the State of California of the protection afforded by the Motor Vehicle
24 Inspection Program.

25 **FIFTH CAUSE FOR DISCIPLINE**

26 **(Clean Piping)**

27 38. Route 15's Smog Check Station license is subject to disciplinary action for clean
28 piping under Health & Safety Code, § 44072.10, subdivision (c)(1), as defined in title 16,

1 California Code of Regulations, section 3340.1, in that Route 15 used a substitute exhaust
2 emission sample of one vehicle in place of another vehicle's exhaust emission sample in order to
3 cause the Emissions Inspection System to issue a certificate of compliance for the ten inspections
4 described in paragraphs 22-33.

5 SECOND SURVEILLANCE-MARCH 26, 2013

6 39. On March 26, 2013, Bureau representatives conducted surveillance of Route 15's
7 smog check activities. They used a video recording device and began recording at about 0748
8 hours until about 1313 hours. The clock on the video recording matched the time on the Vehicle
9 Information Database. The Bureau received from Route 15 and Respondent Summerville, Route
10 15's smog check technician, the invoices and Vehicle Inspection Reports for five inspections that
11 they represented in the Vehicle Information Database had been performed on that day. The
12 following is a comparison of the reported data from four smog inspections Route 15 and
13 Summerville represented that they performed on March 26, 2013, with the Bureau's recorded
14 observations of those same four inspections.

15 40. Fraudulent Inspection I - Nissan Pickup

16 The Vehicle Information Database reflects that between 1000 and 1019 hours, Route 15 and
17 Summerville represented that they inspected a 1986 Nissan pickup, CA license # 9572UDP. No
18 certificate of compliance was issued because the vehicle failed the inspection. However, during
19 the surveillance, the Bureau never saw a Nissan pickup at the smog station. Between 1000 and
20 1008 hours, the testing bay was empty. Then at about 1009 hours, a gold Cadillac Escalade, CA
21 license #4PHT048 (the gold Escalade), drove into the testing bay. At about 1012 hours, the gold
22 Escalade left the testing bay. The testing bay remained empty for the remainder of the testing
23 period.

24 41. Clean Pipe 11 - Ford Ranger

25 The Vehicle Information Database reflects that between 1030 and 1042 hours, Route 15 and
26 Summerville represented that they inspected and issued certificate of compliance #XR943225C
27 for a 1994 Ford Ranger, VIN 1FTDR15U5RPC44014. However, during the surveillance, the
28 Bureau never saw a Ford Ranger at the smog station. Between 1030 and 1034 hours, the testing

1 bay remained empty. Then at about 1035 hours, a green SUV drove into the testing bay. The
2 green SUV exited the testing bay at 1038 hours. The testing bay remained empty for the
3 remainder of the testing period. Route 15 and Summerville clean piped the Ford Ranger using the
4 exhaust sample of the green SUV.

5 42. Fraudulent Inspection 2 - Ford Windstar

6 The Vehicle Information Database reflects that between 1108 and 1116 hours, Route 15 and
7 Summerville represented that they inspected a 1996 Ford Windstar, VIN 2FMDA5147TBB26741.

8 No certificate of compliance was issued because the vehicle failed the inspection. However,
9 during the surveillance, the Bureau never saw a Ford Windstar at the smog station. A full size
10 Chevrolet pickup entered the testing bay at 1055 hours and exited the testing bay at 1102 hours.
11 The testing bay remained empty until about 1109 hours, when the same Chevrolet pickup drove
12 back into the testing bay. The Chevrolet pickup exited the testing bay at 1112 hours. The testing
13 bay remained empty for the remainder of the testing period.

14 43. Clean Pipe 12 - Honda Civic Del Sol

15 The Vehicle Information Database reflects that between 1123 and 1140 hours, Route 15 and
16 Summerville represented that they inspected and issued certificate of compliance #XR943226C
17 for a 1993 Honda Civic Del Sol, VIN JHMEG1147PS000244. However, during the surveillance,
18 the Bureau never saw a Honda Civic Del Sol at the smog station. Between 1123 and 1126 hours,
19 the testing bay remained empty. At about 1127 hours, the gold Escalade drove into the testing
20 bay. The gold Escalade exited the testing bay at 1132 hours. The testing bay remained empty for
21 the remainder of the testing period. Route 15 and Summerville clean piped the Honda Civic Del
22 Sol using the exhaust sample of the gold Escalade.

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1 44. All of the March 26, 2013, illegal inspections described above are set forth in the
2 following table:

	Time of Certification as Recorded in Vehicle Information Database	Vehicle Certified	Was the Certified Vehicle Observed in Smog Bay During Time of Certification?
3	4 1000-1019	1986 Nissan pickup CA license # 9572UDP Certificate of Compliance not issued	No-the gold Escalade was used to test.
5	6 1030-1042	1994 Ford Ranger VIN 1FTDR15U5RPC44014 Certificate of Compliance #XR943225C	No-the green SUV was used to test.
7	8 1108-1116	1996 Ford Windstar VIN 2FMDA5147TBB26741 Certificate of Compliance not issued	No-Chevrolet pickup was used to test.
9	10 1123-1140	1993 Honda Civic Del Sol VIN JHMEG1147PS000244 Certificate of Compliance #XR943226C	No-the gold Escalade was used to test.

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15 **SIXTH CAUSE FOR DISCIPLINE**

16 **(Untrue or Misleading Statements)**

17 45. Route 15's Registration is subject to disciplinary action under section 9884.7,
18 subdivision (a)(1), in that Route 15 made or authorized statements which Route 15 knew or in the
19 exercise of reasonable care should have known to be untrue or misleading as follows: Route 15
20 certified that Route 15 inspected the vehicles described in paragraphs 39-44, when in fact those
21 vehicles were not inspected.

22 **SEVENTH CAUSE FOR DISCIPLINE**

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

24 46. Route 15's Smog Check Station License is subject to disciplinary action under Health
25 and Safety Code sections 44072.10, subdivisions (a) and (c) and 44072.2, subdivision (a), in that
26 Route 15 failed to comply with the following sections of that Code:

27 a. **Section 44012**: failed to perform the tests of the emission control systems and devices
28 on the vehicles in paragraphs 39-44 in accordance with procedures prescribed by the Department.

1 fide inspections of the emission control devices and systems on them, thereby depriving the
2 People of the State of California of the protection afforded by the Motor Vehicle Inspection
3 Program.

4 **TENTH CAUSE FOR DISCIPLINE**

5 **(Clean Piping)**

6 49. Route 15's Smog Check Station license is subject to disciplinary action for clean
7 piping under Health & Safety Code, § 44072.10, subdivision (c)(1), as defined in title 16,
8 California Code of Regulations, section 3340.1, in that Route 15 used a substitute exhaust
9 emission sample of one vehicle in place of another vehicle's exhaust emission sample in order to
10 cause the Emissions Inspection System to issue a certificate of compliance for the inspections of
11 the 1994 Ford Ranger and 1993 Honda Civil Del Sol described in paragraphs 39-44.

12 **ELEVENTH CAUSE FOR DISCIPLINE**

13 **(Violation of Motor Vehicle Inspection Program)**

14 50. Summerville's smog technician license(s) is/are subject to disciplinary action under
15 Health and Safety Code sections 44072.10, subdivisions (a) and (c) and 44072.2, subdivision (a),
16 in that he failed to comply with the following sections of that Code:

17 a. **Section 44012**: failed to perform the tests of the emission control systems and devices
18 on the vehicles in paragraphs 39-44 in accordance with procedures prescribed by the Department.

19 b. **Section 44015**: issued a certificate of compliance for the 1994 Ford Ranger and 1993
20 Honda Civil Del Sol described in paragraphs 39-44 without properly testing and inspecting them
21 to determine if they were in compliance with Health & Safety Code section 44012.

22 c. **Section 44035**: failed to meet or maintain the standards prescribed for qualification,
23 equipment, performance, or conduct by failing to properly perform a smog inspection on the
24 vehicles in paragraphs 39-44 or certifying that such tests had been performed, when in fact they
25 were never performed.

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1 **TWELFTH CAUSE FOR DISCIPLINE**

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

3 51. Summerville's smog technician license(s) is/are subject to disciplinary action under
4 Health and Safety Code sections 44072.10, subdivisions (a) and (c) and 44072.2, subdivision (a)
5 in that he failed to comply with the following sections of Title 16, California Code of
6 Regulations:

7 a. **Section 3340.35, subdivision (c)**: failed to inspect and test the vehicles in paragraphs
8 39-44 in accordance with the procedures specified in section 3340.42 of the Regulations and
9 failed to ensure that these vehicles had all the required emission control equipment and devices
10 installed and functioning correctly.

11 b. **Section 3340.41, subdivision (c)**: knowingly entered into the Emissions Inspection
12 System false information about the vehicles in paragraphs 39-44, providing results for smog
13 inspections which were not actually performed.

14 c. **Section 3340.42**: failed to conduct the required smog tests on all the vehicles in
15 paragraphs 39-44 in accordance with the Bureau's specifications.

16 **THIRTEENTH CAUSE FOR DISCIPLINE**

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

18 52. Summerville's smog technician license(s) is/are subject to disciplinary action under
19 Health and Safety Code sections 44072.10, subdivision (a) and (c) and 44072.2, subdivision (d),
20 in that he committed dishonest, fraudulent, or deceitful acts whereby another is injured by issuing
21 smog inspection results for the vehicles in paragraphs 39-44 without performing bona fide
22 inspections of the emission control devices and systems on them, thereby depriving the People of
23 the State of California of the protection afforded by the Motor Vehicle Inspection Program.

24 **FOURTEENTH CAUSE FOR DISCIPLINE**

25 **(Clean Piping)**

26 53. Summerville's smog technician license(s) is/are subject to disciplinary action for
27 clean piping under Health & Safety Code, § 44072.10, subdivision (c)(1), as defined in title 16,
28 California Code of Regulations, section 3340.1, in that he used a substitute exhaust emission

1 sample of one vehicle in place of another vehicle's exhaust emission sample in order to cause the
2 Emissions Inspection System to issue a certificate of compliance for the inspections of the 1994
3 Ford Ranger and 1993 Honda Civic Del Sol described in paragraphs 39-44.

4 **OTHER MATTERS**

5 54. Pursuant to Code section 9884.7, subdivision (c), the Director may suspend, revoke or
6 place on probation the registration for all places of business operated in this state by Route 15
7 upon a finding that Route 15 has, or is, engaged in a course of repeated and willful violations of
8 the laws and regulations pertaining to an automotive repair dealer.

9 55. Pursuant to Health & Safety Code section 44072.8, if Route 15's Smog Check Station
10 License is revoked or suspended, the Director may likewise revoke or suspend any additional
11 license issued under Chapter 5 of the Health and Safety Code in the name of Route 15 or Kevin
12 Dale Gillett.

13 56. Pursuant to Health & Safety Code section 44072.8, if Summerville's Smog
14 Technician License, currently designated as Advanced Emission Specialist Technician No. EA
15 634727 and as redesignated upon timely renewal as EO 634727 and/or EI 634727, is/are revoked
16 or suspended, any additional license issued under this chapter in the name of Summerville may
17 likewise be revoked or suspended by the Director.

18 **PRAYER**

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

21 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
22 268249, issued to Route 15 Smog Test Only;

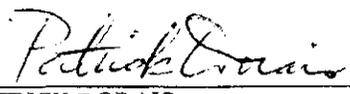
23 2. Revoking or suspending Smog Check, Test Only, Station License No. TC 268249,
24 issued to Route 15 Smog Test Only;

25 3. Revoking or suspending Summerville's smog technician license(s), currently
26 designated as Advanced Emission Specialist Technician No. EA 634727 and as redesignated upon
27 his timely renewal as EO 634727 and/or EI 634727;

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- 4. Ordering Route 15 and Summerville to pay the Bureau of Automotive Repair the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and
- 5. Taking such other and further action as deemed necessary and proper.

DATED: November 12, 2013 

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

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