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8  
9 **BEFORE THE**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
10 **FOR THE BUREAU OF AUTOMOTIVE REPAIR**  
**STATE OF CALIFORNIA**

11  
12 In the Matter of the Accusation Against:

Case No. **79/14-56**

13 **SMOG 4 LESS**  
**KARMJIT SINGH, OWNER**  
14 2240 N. Blackstone  
Fresno, CA 93703

**A C C U S A T I O N**

15 **Automotive Repair Dealer Reg. No. ARD 268861**  
16 **Smog Check, Test Only, Station License**  
17 **No. TC 268861,**

**(Smog Check)**

18 **SMOG 4 LESS**  
**KARMJIT SINGH**  
19 1254 W. Clinton  
Fresno, CA 93705

20 **Automotive Repair Dealer Reg. No. ARD 268860**  
21 **Smog Check, Test Only, Station License**  
**No. TC 268860,**

22 **and**

23 **ARTHUR ADAM OSUNA**  
24 1508 South Sierra Vista Avenue  
Fresno, CA 93702

25 **Smog Repair Technician License No. EI 135509**  
26 **Smog Check Inspector License No. EO 135509**  
**(formerly Advanced Emission Specialist**  
27 **Technician License No. EA 135509)**

28 Respondents.

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 **Smog 4 Less; Karmjit Singh, Owner; 2240 N. Blackstone Facility**

6 2. On or about April 26, 2012, the Director of Consumer Affairs ("Director") issued  
7 Automotive Repair Dealer Registration Number ARD 268861 ("Registration No. ARD 268861")  
8 to Karmjit Singh ("Respondent Singh"), owner of Smog 4 Less located at 2240 N. Blackstone,  
9 Fresno, California. Registration No. ARD 268861 expired on April 30, 2013.

10 3. On or about May 2, 2012, the Director issued Smog Check, Test Only, Station  
11 License Number TC 268861 ("Smog Check Station License No. 268861") to Respondent Singh.  
12 Smog Check Station License No. 268861 expired on April 30, 2013.

13 **Smog 4 Less; Karmjit Singh, Owner; 1254 W. Clinton Facility**

14 4. On or about April 26, 2012, the Director issued Automotive Repair Dealer  
15 Registration Number ARD 268860 to Respondent Singh, owner of Smog 4 Less located at 1254  
16 W. Clinton, Fresno, California. The automotive repair dealer registration will expire on April 30,  
17 2014, unless renewed.

18 5. On or about May 2, 2012, the Director issued Smog Check, Test Only, Station  
19 License Number TC 268860 ("smog check station license") to Respondent Singh. The smog  
20 check station license will expire on April 30, 2014, unless renewed.

21 **Arthur Adam Osuna**

22 6. In or about 1999, the Director issued Advanced Emission Specialist Technician  
23 License Number EA 135509 to Arthur Adam Osuna ("Respondent Osuna"). Respondent's  
24 advanced emission specialist technician license was due to expire on March 31, 2013. Pursuant  
25 to California Code of Regulations, title 16, section 3340.28, subdivision (e), the license was  
26 renewed, pursuant to Respondent's election, as Smog Check Inspector License No. EO 135509,  
27  
28

1 effective March 26, 2013,<sup>1</sup> and Smog Repair Technician License No. EI 135509, effective April  
2 25, 2013. Respondent's smog check inspector license will expire on March 31, 2015, unless  
3 renewed, and his smog repair technician license will expire on March 31, 2015, unless renewed.

#### 4 JURISDICTION

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

7 8. Bus. & Prof. Code section 9884.13 provides, in pertinent part, that the expiration of a  
8 valid registration shall not deprive the Director of jurisdiction to proceed with a disciplinary  
9 proceeding against an automotive repair dealer or to render a decision temporarily or permanently  
10 invalidating (suspending or revoking) a registration.

11 9. Health and Safety Code ("Health & Saf. Code") section 44002 provides, in pertinent  
12 part, that the Director has all the powers and authority granted under the Automotive Repair Act  
13 for enforcing the Motor Vehicle Inspection Program.

14 10. Health & Saf. Code section 44072.6 provides, in pertinent part, that the expiration or  
15 suspension of a license by operation of law, or by order or decision of the Director of Consumer  
16 Affairs, or a court of law, or the voluntary surrender of the license shall not deprive the Director  
17 of jurisdiction to proceed with disciplinary action.

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

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

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26 <sup>1</sup> Effective August 1, 2012, California Code of Regulations, title 16, sections 3340.28,  
27 3340.29, and 3340.30 were amended to implement a license restructure from the Advanced  
28 Emission Specialist Technician (EA) license and Basic Area (EB) Technician license to Smog  
Check Inspector (EO) license and/or Smog Check Repair Technician (EI) license.



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

2 17. Health & Saf. Code section 44072.10 states, in pertinent part:

3 . . . .

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

7 (1) Clean piping, as defined by the department . . .

8 **COST RECOVERY**

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

13 **VIDEO SURVEILLANCE OPERATION OF FEBRUARY 27, 2013**

14 19. On February 27, 2013, at approximately 0708 hours, a representative of the Bureau  
15 commenced a video surveillance operation of Respondent Singh's smog check facility located at  
16 2240 N. Blackstone in Fresno, California. At approximately 0803 hours, a 2001 Honda Civic,  
17 License No. 6JMH313 ("2001 Honda"), arrived at the facility. Respondent Osuna ("Osuna")  
18 exited the vehicle, opened the west side service bay door, then drove the vehicle into the service  
19 bay. The surveillance operation was concluded at approximately 1352 hours. Later, the  
20 representative reviewed the surveillance video and information obtained from the Bureau's  
21 vehicle information database ("VID"). The video and VID data revealed that between 0805 and  
22 0816 hours, Osuna performed a smog inspection on a 1990 Honda Civic, License No. 6VUB185  
23 ("1990 Honda"), resulting in the issuance of electronic smog Certificate of Compliance No.  
24 XR377604C. In fact, Osuna conducted the inspection using the exhaust emissions of the 2001  
25 Honda, a method known as clean piping<sup>2</sup>, resulting in the issuance of a fraudulent smog

26 <sup>2</sup> California Code of Regulations, title 16, section 3340, states, in pertinent part, that  
27 "[c]lean piping' for the purposes of Health and Safety Code section 44072.10(c)(1), means the  
28 use of a substitute exhaust emissions sample in place of the actual test vehicle's exhaust in order  
to cause the EIS to issue a certificate of compliance for the test vehicle".

1 certificate of compliance for the 1990 Honda.

2 20. On March 1, 2013, E. L. went to Osuna's residence (Osuna's address of record  
3 herein) and observed the 2001 Honda parked in the driveway.

4 **FIRST CAUSE FOR DISCIPLINE**

5 **(Untrue or Misleading Statements)**

6 21. Respondent Singh's Registration No. ARD 268861 is subject to disciplinary action  
7 pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(1), in that Respondent made or  
8 authorized a statement which he knew or in the exercise of reasonable care should have known to  
9 be untrue or misleading, as follows: Respondent Singh's technician, Respondent Osuna, certified  
10 that the 1990 Honda had passed inspection and was in compliance with applicable laws and  
11 regulations. In fact, Osuna used clean piping methods in order to issue a certificate for the  
12 vehicle and did not test or inspect the vehicle as required by Health & Saf. Code section 44012.

13 **SECOND CAUSE FOR DISCIPLINE**

14 **(Fraud)**

15 22. Respondent Singh's Registration No. ARD 268861 is subject to disciplinary action  
16 pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(4), in that Respondent committed  
17 an act that constitutes fraud by issuing an electronic smog certificate of compliance for the 1990  
18 Honda without ensuring that a bona fide inspection was performed of the emission control  
19 devices and systems on the vehicle, thereby depriving the People of the State of California of the  
20 protection afforded by the Motor Vehicle Inspection Program.

21 **THIRD CAUSE FOR DISCIPLINE**

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

23 23. Respondent Singh's Smog Check Station License No. TC 268861 is subject to  
24 disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that  
25 Respondent failed to comply with provisions of that Code, as follows:

26 a. **Section 44012:** Respondent failed to ensure that the emission control tests were  
27 performed on the 1990 Honda in accordance with procedures prescribed by the department.

28





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

4 **MATTERS IN AGGRAVATION**

5 29. To determine the degree of discipline, if any, to be imposed on Respondents Singh  
6 and Osuna, Complainant alleges as follows:

7 **Respondent Singh**

8 a. On or about July 27, 2012, the Bureau issued Citation No. C2013-0101 against  
9 Respondent Singh for violating Health & Saf. Code section 44012, subdivision (f) (failure to  
10 perform a visual/functional check of emission control devices according to procedures prescribed  
11 by the department). On or about June 7, 2012, Respondent had issued a certificate of compliance  
12 to a Bureau undercover vehicle with a missing PCV valve. The Bureau assessed a civil penalty of  
13 \$1,000 against Respondent for the violation. Respondent paid the fine on September 6, 2012.

14 **Respondent Osuna**

15 b. On or about September 4, 2007, the Bureau issued Citation No. M08-0195 against  
16 Respondent Osuna for violations of Health & Saf. Code section 44032 (qualified technicians shall  
17 perform tests of emission control systems and devices in accordance with Health & Saf. Code  
18 section 44012); and California Code of Regulations, title 16, section ("Regulation") 3340.30,  
19 subdivision (a) (qualified technicians shall inspect, test and repair vehicles in accordance with  
20 Health & Saf. Code sections 44012 and 44035 and Regulation 3340.42). On or about August 29,  
21 2007, Respondent issued a certificate of compliance to a Bureau undercover vehicle with a  
22 missing EGR valve. Respondent was directed to complete an 8 hour training course and to  
23 submit proof of completion to the Bureau within 30 days from receipt of the citation. Respondent  
24 completed the training on October 27, 2007.

25 c. On or about March 27, 2008, the Bureau issued Citation No. M08-0850 against  
26 Respondent for violations of Health & Saf. Code section 44032 (qualified technicians shall  
27 perform tests of emission control systems and devices in accordance with Health & Saf. Code  
28 section 44012); and Regulation 3340.30, subdivision (a) (qualified technicians shall inspect, test

1 and repair vehicles in accordance with Health & Saf. Code sections 44012 and 44035 and  
2 Regulation 3340.42). On or about March 19, 2008, Respondent issued a certificate of compliance  
3 to a Bureau undercover vehicle with the ignition timing adjusted beyond specifications.  
4 Respondent was directed to complete a 16 hour training course and to submit proof of completion  
5 to the Bureau within 30 days from receipt of the citation. Respondent completed the training on  
6 December 21, 2008.

7 d. On or about October 20, 2010, the Bureau issued Citation No. M2011-0491 against  
8 Respondent for violations of Health & Saf. Code section 44032 (qualified technicians shall  
9 perform tests of emission control systems and devices in accordance with Health & Saf. Code  
10 section 44012); and Regulation 3340.30, subdivision (a) (qualified technicians shall inspect, test  
11 and repair vehicles in accordance with Health & Saf. Code sections 44012 and 44035 and  
12 Regulation 3340.42). On or about October 5, 2010, Respondent issued a certificate of  
13 compliance to a Bureau undercover vehicle with a missing EGR valve. Respondent was directed  
14 to complete a 16 hour training course and to submit proof of completion to the Bureau within 30  
15 days from receipt of the citation. Respondent completed the training on January 12, 2011.

16 e. On or about July 27, 2012, the Bureau issued Citation No. M2013-0102 against  
17 Respondent for violating Health & Saf. Code section 44032 (qualified technicians shall perform  
18 tests of emission control systems and devices in accordance with Health & Saf. Code section  
19 44012). On or about June 7, 2012, Respondent issued a certificate of compliance to a Bureau  
20 undercover vehicle with a missing PCV valve. Respondent was directed to complete the Basic  
21 Clean Air Car Course and to submit proof of completion to the Bureau within 30 days from  
22 receipt of the citation. Respondent completed the training on November 26, 2012.

### 23 OTHER MATTERS

24 30. Pursuant to Bus. & Prof. Code section 9884.7, subdivision (c), the Director may  
25 suspend, revoke, or place on probation the registration for all places of business operated in this  
26 state by Respondent Karmjit Singh, including, but not limited to, Automotive Repair Dealer  
27 Registration Number ARD 268861 and Automotive Repair Dealer Registration Number ARD

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1 268860, upon a finding that Respondent has, or is, engaged in a course of repeated and willful  
2 violations of the laws and regulations pertaining to an automotive repair dealer.

3 31. Pursuant to Health & Saf. Code section 44072.8, if Smog Check, Test Only, Station  
4 License Number TC 268861, issued to Respondent Karmjit Singh, owner of Smog 4 Less, is  
5 revoked or suspended, any additional license issued under this chapter in the name of said  
6 licensee, including, but not limited to, Smog Check, Test Only, Station License Number  
7 TC 268860, may be likewise revoked or suspended by the Director.

8 32. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Inspector License  
9 Number EO 135509 and/or Smog Repair Technician License EI 135509, issued to Respondent  
10 Arthur Adam Osuna, are revoked or suspended, any additional license issued under this chapter in  
11 the name of said licensee may be likewise revoked or suspended by the Director.

12 **PRAYER**

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

15 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD  
16 268861, issued to Karmjit Singh, owner of Smog 4 Less;

17 2. Revoking or suspending any other automotive repair dealer registration issued to  
18 Karmjit Singh, including, but not limited to, Automotive Repair Dealer Registration Number  
19 ARD 268860;

20 3. Revoking or suspending Smog Check, Test Only, Station License Number  
21 TC 268861, issued to Karmjit Singh, owner of Smog 4 Less;

22 4. Revoking or suspending any additional license issued under Chapter 5 of the Health  
23 and Safety Code in the name of Karmjit Singh, including, but not limited to, Smog Check, Test  
24 Only, Station License Number TC 268860;

25 5. Revoking or suspending Smog Check Inspector License Number EO 135509, issued  
26 to Arthur Adam Osuna;

27 6. Revoking or suspending Smog Repair Technician License EI 135509, issued to  
28 Arthur Adam Osuna;

