

BEFORE THE DIRECTOR
DEPARTMENT OF CONSUMER AFFAIRS
BUREAU OF AUTOMOTIVE REPAIR
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

**ANDREW KENT TIBBITTS, MEMBER;
TIBBITTS SMOG LLC DBA ABC SMOG**
1415 S. Santa Fe Ave.
Vista, CA 92084

Automotive Repair Dealer Registration
ARD 270689
Smog Check, Test Only, Station License No.
TC 270689

**ANDREW KENT TIBBITTS, MEMBER;
TIBBITTS SMOG LLC DBA ROBERTS
SMOG TEST ONLY STATION**
28671 Calle Cortez, Unit H
Temecula, CA 92590

Automotive Repair Dealer Registration
ARD 271350
Smog Check, Test Only, Station License No.
TC 271350

**ANDREW KENT TIBBITTS, MEMBER;
TIBBITTS SMOG LLC DBA EL AMIGO SMOG**
2774 Main St.
Riverside, CA 92501

Automotive Repair Dealer Registration
ARD 271689
Smog Check, Test Only, Station License No.
TC 271689

WILLIAM ROBERT MORROW II,
924 La Fiesta Way
San Marcos, CA 92078

Smog Check Inspector License No. EO 42947
Smog Check Repair Technician License No.
EI 42947 (formerly Advanced Emission
Specialist Technician License No. EA 42947)

Respondents.

Case No. 79/15-82

OAH No. 2014120528

DECISION

The attached Stipulated Revocation of License and Order as to ABC Smog, Roberts Smog Test Only Station, and El Amigo Smog is hereby accepted and adopted as the Decision of the Director of the Department of Consumer Affairs in the above-entitled matter, only as to respondent ABC Smog, Automotive Repair Dealer Registration ARD 270689 and Smog Check, Test Only, Station License No. TC 270689; Roberts Smog Test Only Station, Automotive Repair Dealer Registration ARD 271350 and Smog Check, Test Only, Station License No. TC 271350; and El Amigo Smog, Automotive Repair Dealer Registration ARD 271689 and Smog Check, Test Only, Station License No. TC 271689.

This Decision shall become effective April 30, 2015.

DATED: April 8, 2015



TAMARA COLSON
Assistant General Counsel
Department of Consumer Affairs

1 KAMALA D. HARRIS
Attorney General of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 ADRIAN R. CONTRERAS
Deputy Attorney General
4 State Bar No. 267200
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2634
7 Facsimile: (619) 645-2061
E-mail: Adrian.Contreras@doj.ca.gov
8 *Attorneys for Complainant*

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

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OAH No. 2014120528

STIPULATED REVOCATION OF
LICENSE AND ORDER AS TO ABC
SMOG, ROBERTS SMOG TEST ONLY
STATION, AND EL AMIGO SMOG

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**WILLIAM ROBERT MORROW II,
924 La Fiesta Way
San Marcos, CA 92078**

**Smog Check Inspector License No. EO
42947**

**Smog Check Repair Technician License No.
EI 42947 (formerly Advanced Emission
Specialist Technician License No. EA 42947)**

Respondents.

In the interest of a prompt and speedy settlement of this matter, consistent with the public interest and the responsibilities of the Director of Consumer Affairs and the Bureau of Automotive Repair the parties hereby agree to the following Stipulated Revocation of License and Disciplinary Order as to ABC Smog, Roberts Smog Test Only Station, and El Amigo Smog which will be submitted to the Director for the Director's approval and adoption as the final disposition of the Accusation solely with respect to Respondent Andrew Kent Tibbitts, Member; Tibbitts Smog LLC doing business as ABC Smog (ABC Smog); Respondent Andrew Kent Tibbitts, Member; Tibbitts Smog LLC doing business as Roberts Smog Test Only Station (Roberts Smog Test Only Station); and Respondent Andrew Kent Tibbitts, Member; Tibbitts Smog LLC doing business as El Amigo Smog (El Amigo Smog). It does not pertain to the final disposition of the Accusation with respect to William Robert Morrow II.

PARTIES

1. Patrick Dorais (Complainant) is the Chief of the Bureau of Automotive Repair. He brought this action solely in his official capacity and is represented in this matter by Kamala D. Harris, Attorney General of the State of California, by Adrian R. Contreras, Deputy Attorney General.
2. On or about October 26, 2012, the Bureau issued Automotive Repair Dealer Registration No. ARD 270689 to Respondent Andrew Kent Tibbitts, Member; Tibbitts Smog LLC doing business as ABC Smog (ABC Smog). The registration was in full force and effect at

1 all times relevant to the charges brought herein and will expire on October 31, 2015, unless
2 renewed.

3 3. On or about November 7, 2012, the Bureau issued Smog Check Test Only Station
4 License No. TC 270689 to ABC Smog. The license was in full force and effect at all times
5 relevant to the charges brought herein and will expire on October 31, 2015, unless renewed.

6 4. On or about January 4, 2013, the Bureau issued Automotive Repair Dealer
7 Registration No. ARD 271350 to Respondent Andrew Kent Tibbitts, Member; Tibbitts Smog
8 LLC doing business as Roberts Smog Test Only Station (Roberts Smog Test Only Station). The
9 registration was in full force and effect at all times relevant to the charges brought herein and will
10 expire on January 31, 2015, unless renewed.

11 5. On or about January 10, 2013, the Bureau issued Smog Check Test Only Station
12 License No. TC 271350 to Roberts Smog Test Only Station. The license was in full force and
13 effect at all times relevant to the charges brought herein and will expire on January 31, 2015,
14 unless renewed.

15 6. On or about February 8, 2013, the Bureau issued Automotive Repair Dealer
16 Registration No. ARD 271689 to Respondent Andrew Kent Tibbitts, Member; Tibbitts Smog
17 LLC doing business as El Amigo Smog (El Amigo Smog). The registration expired on February
18 28, 2014, and was cancelled on March 7, 2014

19 7. On or about February 28, 2013, the Bureau issued Smog Check Station License No.
20 TC 271689 to El Amigo Smog. The license expired on February 28, 2014, and was inactivated
21 due to cancellation of the Automotive Repair Dealer Registration.

22 8. ABC Smog, Roberts Smog Test Only Station, and El Amigo Smog (collectively
23 Respondent) is representing itself in this proceeding and has chosen not to exercise the right to be
24 represented by counsel.

25 JURISDICTION

26 9. Accusation No. 79/15-82 was filed before the Director of Consumer Affairs
27 (Director), for the Bureau of Automotive Repair (Bureau), and is currently pending against
28 Respondent. The Accusation and all other statutorily required documents were properly served

1 on Respondent on December 2, 2014. Respondent timely filed a Notice of Defense contesting the
2 Accusation. A copy of Accusation No. 79/15-82 is attached as Exhibit A and incorporated by
3 reference.

4 ADVISEMENT AND WAIVERS

5 10. Respondent has carefully read, and understands the charges and allegations in
6 Accusation No. 79/15-82. Respondent also has carefully read, and understands the effects of this
7 Stipulated Revocation of License and Order.

8 11. Respondent is fully aware of Respondent's legal rights in this matter, including the
9 right to a hearing on the charges and allegations in the Accusation; the right to be represented by
10 counsel, at Respondent's own expense; the right to confront and cross-examine the witnesses
11 against Respondent; the right to present evidence and to testify on Respondent's own behalf; the
12 right to the issuance of subpoenas to compel the attendance of witnesses and the production of
13 documents; the right to reconsideration and court review of an adverse decision; and all other
14 rights accorded by the California Administrative Procedure Act and other applicable laws.

15 12. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
16 every right set forth above.

17 CULPABILITY

18 13. Respondent understands that the charges and allegations in the Accusation, if proven
19 at a hearing, constitute cause for imposing discipline upon Respondent's Automotive Repair
20 Dealer Registrations and Smog Check Station Licenses.

21 14. For the purpose of resolving the Accusation without the expense and uncertainty of
22 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual
23 basis for the charges in the Accusation and that those charges constitute cause for discipline.
24 Respondent hereby gives up the right to contest that cause for discipline exists based on those
25 charges.

26 15. Respondent understands that by signing this stipulation Respondent enables the
27 Director to issue an order accepting the revocation of Respondent's Automotive Repair Dealer
28 Registrations and Smog Check Station Licenses without further process.

1 Dealer Registration ARD 271689; and Smog Check, Test Only, Station License No. TC 271689
2 issued to Respondent are revoked and accepted by the Director of Consumer Affairs.

3 1. The revocation of Respondent's Automotive Repair Dealer Registrations and Smog
4 Check, Test Only, Station Licenses and the acceptance of the revoked licenses and registrations
5 by the Bureau shall constitute the imposition of discipline against Respondent. This stipulation
6 constitutes a record of the discipline and shall become a part of Respondent's license history with
7 the Bureau of Automotive Repair.

8 2. Respondent shall lose all rights and privileges as an Automotive Repair Dealer
9 Registration and Smog Check, Test Only, Station in California as of the effective date of the
10 Director's Decision and Order.

11 3. Respondent shall cause to be delivered to the Bureau Respondent's pocket license
12 and, if one was issued, Respondent's wall certificates on or before the effective date of the
13 Decision and Order.

14 4. If Respondent ever files an application for licensure or a petition for reinstatement in
15 the State of California, the Bureau shall treat it as a new application for licensure. Respondent
16 must comply with all the laws, regulations, and procedures for reinstatement of a revoked license
17 in effect at the time the petition is filed, and all of the charges and allegations contained in
18 Accusation No. 79/15-82 shall be deemed to be true, correct, and admitted by Respondent when
19 the Director determines whether to grant or deny the petition.

20 5. Respondent shall pay the agency its costs of investigation and enforcement in the
21 amount of \$11,652.98 before issuance of a new or reinstated license.

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Exhibit A

Accusation No. 79/15-82

1 KAMALA D. HARRIS
Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 ADRIAN R. CONTRERAS
Deputy Attorney General
4 State Bar No. 267200
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2634
7 Facsimile: (619) 645-2061
E-mail: Adrian.Contreras@doj.ca.gov
8 *Attorneys for Complainant*

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24 **SMOG TEST ONLY STATION;**
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26 **Temecula, CA 92590**

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ANDREW KENT TIBBITTS, MEMBER;
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2774 Main St.
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ARD 271689
Smog Check, Test Only, Station License No.
TC 271689

Case No. 79/15-82

OAH No. 2014100709

A C C U S A T I O N

(SMOG CHECK)

1 **WILLIAM ROBERT MORROW II,**
2 **924 La Fiesta Way**
3 **San Marcos, CA 92078**

4 **Smog Check Inspector License No. EO**
5 **42947**

6 **Smog Check Repair Technician License No.**
7 **EI 42947 (formerly Advanced Emission**
8 **Specialist Technician License No. EA 42947)**

9 Respondents.

10 Complainant alleges:

11 **PARTIES**

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

14 2. On or about October 26, 2012, the Bureau issued Automotive Repair Dealer
15 Registration No. ARD 270689 to Respondent Andrew Kent Tibbitts, Member; Tibbitts Smog
16 LLC doing business as ABC Smog (ABC Smog). The registration was in full force and effect at
17 all times relevant to the charges brought herein and will expire on October 31, 2015, unless
18 renewed.

19 3. On or about November 7, 2012, the Bureau issued Smog Check Test Only Station
20 License No. TC 270689 to ABC Smog. The license was in full force and effect at all times
21 relevant to the charges brought herein and will expire on October 31, 2015, unless renewed.

22 4. On or about January 4, 2013, the Bureau issued Automotive Repair Dealer
23 Registration No. ARD 271350 to Respondent Andrew Kent Tibbitts, Member; Tibbitts Smog
24 LLC doing business as Roberts Smog Test Only Station (Roberts Smog Test Only Station). The
25 registration was in full force and effect at all times relevant to the charges brought herein and will
26 expire on January 31, 2015, unless renewed.

27 5. On or about January 10, 2013, the Bureau issued Smog Check Test Only Station
28 License No. TC 271350 to Roberts Smog Test Only Station. The license was in full force and
effect at all times relevant to the charges brought herein and will expire on January 31, 2015,
unless renewed.

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

3 ///

4 12. Section 9884.20 of the Code states:

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

10 13. Section 9884.22 of the Code states:

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

16 “....”

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

20 15. Section 44072 of the Health and Safety Code states:

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

26 16. Section 44072.4 of the Health and Safety Code states:

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

1 "Unless otherwise expressly provided, 'license' means license, certificate, registration, or
2 other means to engage in a business or profession regulated by this code or referred to in Section
3 1000 or 3600."

4 22. Section 9884.7 of the Code states:

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

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

13 "...

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

15 "...

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

20 23. Section 44012 of the Health and Safety Code states:

21 "The test at the smog check stations shall be performed in accordance with procedures
22 prescribed by the department and may require loaded mode dynamometer testing in enhanced
23 areas, two-speed idle testing, testing utilizing a vehicle's onboard diagnostic system, or other
24 appropriate test procedures as determined by the department in consultation with the state board.
25 The department shall implement testing using onboard diagnostic systems, in lieu of loaded mode
26 dynamometer or two-speed idle testing, on model year 2000 and newer vehicles only, beginning
27 no earlier than January 1, 2013. However, the department, in consultation with the state board,
28 may prescribe alternative test procedures that include loaded mode dynamometer or two-speed

1 idle testing for vehicles with onboard diagnostic systems that the department and the state board
2 determine exhibit operational problems. The department shall ensure, as appropriate to the test
3 method, the following:

4 “(a) Emission control systems required by state and federal law are reducing excess
5 emissions in accordance with the standards adopted pursuant to subdivisions (a) and (c) of
6 Section 44013.

7 “(b) Motor vehicles are preconditioned to ensure representative and stabilized operation of
8 the vehicle's emission control system.

9 “(c) For other than diesel-powered vehicles, the vehicle's exhaust emissions of
10 hydrocarbons, carbon monoxide, carbon dioxide, and oxides of nitrogen in an idle mode or loaded
11 mode are tested in accordance with procedures prescribed by the department. In determining how
12 loaded mode and evaporative emissions testing shall be conducted, the department shall ensure
13 that the emission reduction targets for the enhanced program are met.

14 “(d) For other than diesel-powered vehicles, the vehicle's fuel evaporative system and
15 crankcase ventilation system are tested to reduce any nonexhaust sources of volatile organic
16 compound emissions, in accordance with procedures prescribed by the department.

17 “(e) For diesel-powered vehicles, a visual inspection is made of emission control devices
18 and the vehicle's exhaust emissions are tested in accordance with procedures prescribed by the
19 department, that may include, but are not limited to, onboard diagnostic testing. The test may
20 include testing of emissions of any or all of the pollutants specified in subdivision (c) and, upon
21 the adoption of applicable standards, measurement of emissions of smoke or particulates, or both.

22 “(f) A visual or functional check is made of emission control devices specified by the
23 department, including the catalytic converter in those instances in which the department
24 determines it to be necessary to meet the findings of Section 44001. The visual or functional
25 check shall be performed in accordance with procedures prescribed by the department.

26 “(g) A determination as to whether the motor vehicle complies with the emission standards
27 for that vehicle's class and model-year as prescribed by the department.

28

1 “(h) An analysis of pass and fail rates of vehicles subject to an onboard diagnostic test and a
2 tailpipe test to assess whether any vehicles passing their onboard diagnostic test have, or would
3 have, failed a tailpipe test, and whether any vehicles failing their onboard diagnostic test have or
4 would have passed a tailpipe test.

5 “(i) The test procedures may authorize smog check stations to refuse the testing of a vehicle
6 that would be unsafe to test, or that cannot physically be inspected, as specified by the department
7 by regulation. The refusal to test a vehicle for those reasons shall not excuse or exempt the vehicle
8 from compliance with all applicable requirements of this chapter.”

9 24. Section 44015 of the Health and Safety Code states:

10 “(a) A licensed smog check station shall not issue a certificate of compliance, except as
11 authorized by this chapter, to any vehicle that meets the following criteria:

12 “(1) A vehicle that has been tampered with.

13 “(2) A vehicle identified pursuant to subparagraph (K) of paragraph (3) of subdivision (b) of
14 Section 44036. A vehicle identified pursuant to subparagraph (K) of paragraph (3) of subdivision
15 (b) of Section 44036 shall be directed to the department to determine whether an inadvertent error
16 can explain the irregularity, or whether the vehicle otherwise meets smog check requirements,
17 allowing the certificate for compliance to be issued, or the vehicle shall be reinspected by a
18 referee or another smog check station.

19 “(3) A vehicle that, prior to repairs, has been initially identified by the smog check station
20 as a gross polluter. Certification of a gross polluting vehicle shall be conducted by a designated
21 test-only facility, or a test-and-repair station that is both licensed and certified pursuant to
22 Sections 44014 and 44014.2.

23 “(4) A vehicle described in subdivision (c).

24 “(b) If a vehicle meets the requirements of Section 44012, a smog check station licensed to
25 issue certificates shall issue a certificate of compliance or a certificate of noncompliance.

26 “(c)(1) A repair cost waiver shall be issued, upon request of the vehicle owner, by an entity
27 authorized to perform referee functions for a vehicle that has been properly tested but does not
28 meet the applicable emission standards when it is determined that no adjustment or repair can be

1 made that will reduce emissions from the inspected motor vehicle without exceeding the
2 applicable repair cost limit established under Section 44017 and that every defect specified by
3 paragraph (2) of subdivision (a) of Section 43204, and by paragraphs (2) and (3) of subdivision
4 (a) of Section 43205, has been corrected. A repair cost waiver issued pursuant to this paragraph
5 shall be accepted in lieu of a certificate of compliance for the purposes of compliance with
6 Section 4000.3 of the Vehicle Code. No repair cost waiver shall exceed two years' duration. No
7 repair cost waiver shall be issued until the vehicle owner has expended an amount equal to the
8 applicable repair cost limit specified in Section 44017.

9 “(2) An economic hardship extension shall be issued, upon request of a qualified low-
10 income motor vehicle owner, by an entity authorized to perform referee functions, for a motor
11 vehicle that has been properly tested but does not meet the applicable emission standards when it
12 is determined that no adjustment or repair can be made that will reduce emissions from the
13 inspected motor vehicle without exceeding the applicable repair cost limit, as established pursuant
14 to Section 44017.1, that every defect specified in paragraph (2) of subdivision (a) of Section
15 43204, and in paragraphs (2) and (3) of subdivision (a) of Section 43205, has been corrected, that
16 the low-income vehicle owner would suffer an economic hardship if the extension is not issued,
17 and that all appropriate emissions-related repairs up to the amount of the applicable repair cost
18 limit in Section 44017.1 have been performed.

19 “(d) No repair cost waiver or economic hardship extension shall be issued under any of the
20 following circumstances:

21 “(1) If a motor vehicle was issued a repair cost waiver or economic hardship extension in
22 the previous biennial inspection of that vehicle. A repair cost waiver or economic hardship
23 extension may be issued to a motor vehicle owner only once for a particular motor vehicle
24 belonging to that owner. However, a repair cost waiver or economic hardship extension may be
25 issued for a motor vehicle that participated in a previous waiver or extension program prior to
26 January 1, 1998, as determined by the department. For waivers or extensions issued in the
27 program operative on or after January 1, 1998, a waiver or extension may be issued for a motor
28 vehicle only once per owner.

1 “(2) Upon initial registration of all of the following:

2 “(A) A direct import motor vehicle.

3 “(B) A motor vehicle previously registered outside this state.

4 “(C) A dismantled motor vehicle pursuant to Section 11519 of the Vehicle Code.

5 “(D) A motor vehicle that has had an engine change.

6 “(E) An alternate fuel vehicle.

7 “(F) A specially constructed vehicle.

8 “(e) Except as provided in subdivision (f), a certificate of compliance or noncompliance
9 shall be valid for 90 days.

10 “(f) Excluding any vehicle whose transfer of ownership and registration is described in
11 subdivision (d) of Section 4000.1 of the Vehicle Code, and except as otherwise provided in
12 Sections 4000.1, 24007, 24007.5, and 24007.6 of the Vehicle Code, a licensed motor vehicle
13 dealer shall be responsible for having a smog check inspection performed on, and a certificate of
14 compliance or noncompliance issued for, every motor vehicle offered for retail sale. A certificate
15 issued to a licensed motor vehicle dealer shall be valid for a two-year period, or until the vehicle
16 is sold and registered to a retail buyer, whichever occurs first.

17 “(g) A test may be made at any time within 90 days prior to the date otherwise required.”

18 25. Section 44035 of the Health and Safety Code states:

19 “(a) A smog check station's license or a qualified smog check technician's qualification may
20 be suspended or revoked by the department, after a hearing, for failure to meet or maintain the
21 standards prescribed for qualification, equipment, performance, or conduct. The department shall
22 adopt rules and regulations governing the suspension, revocation, and reinstatement of licenses
23 and qualifications and the conduct of the hearings.

24 “(b) The department or its representatives, including quality assurance inspectors, shall be
25 provided access to licensed stations for the purpose of examining property, station equipment,
26 repair orders, emissions equipment maintenance records, and any emission inspection items, as
27 defined by the department.”

28 26. Section 44072.2 of the Health and Safety Code states:

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

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

7 "...

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

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

10 "...."

11 27. Section 44072.10 of the Health and Safety Code states:

12 "...

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

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

17 "(2) Tampering with a vehicle emission control system or test analyzer system.

18 "(3) Tampering with a vehicle in a manner that would cause the vehicle to falsely pass or
19 falsely fail an inspection.

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

22 REGULATORY PROVISIONS

23 28. California Code of Regulations, title 16, section 3340.1. states:

24 "...

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

28 "...."

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

5 30. California Code of Regulations, title 16, section 3340.35, subdivision (c) states:

6 “... ”

7 “(c) A licensed station shall issue a certificate of compliance or noncompliance to the owner
8 or operator of any vehicle that has been inspected in accordance with the procedures specified in
9 section 3340.42 of this article and has all the required emission control equipment and devices
10 installed and functioning correctly. The following conditions shall apply:

11 “(1) Customers shall be charged the same price for certificates as that paid by the licensed
12 station; and

13 “(2) Sales tax shall not be assessed on the price of certificates.”

14 “... ”

15 31. California Code of Regulations, title 16, section 3340.41, subdivision (c) states:

16 “... ”

17 “(c) No person shall enter into the emissions inspection system any vehicle identification
18 information or emission control system identification data for any vehicle other than the one being
19 tested. Nor shall any person knowingly enter into the emissions inspection system any false
20 information about the vehicle being tested.

21 “... ”

22 32. California Code of Regulations, title 16, section 3340.42 states:

23 “Smog check inspection methods are prescribed in the Smog Check Manual, referenced by
24 section 3340.45.

25 “(a) All vehicles subject to a smog check inspection, shall receive one of the following test
26 methods:

27 “(1) A loaded-mode test shall be the test method used to inspect 1976 - 1999 model-year
28 vehicle, except diesel-powered, registered in the enhanced program areas of the state. The loaded-

1 mode test shall measure hydrocarbon, carbon monoxide, carbon dioxide and oxides of nitrogen
2 emissions, as contained in the bureau's specifications referenced in subsection (a) of Section
3 3340.17 of this article. The loaded-mode test shall use Acceleration Simulation Mode (ASM) test
4 equipment, including a chassis dynamometer, certified by the bureau.

5 "On and after March 31, 2010, exhaust emissions from a vehicle subject to this inspection
6 shall be measured and compared to the emissions standards shown in the Vehicle Look-up Table
7 (VLT) Row Specific Emissions Standards (Cutpoints) Table, dated March 2010, which is hereby
8 incorporated by reference. If the emissions standards for a specific vehicle are not included in this
9 table then the exhaust emissions shall be compared to the emissions standards set forth in TABLE
10 I or TABLE II, as applicable. A vehicle passes the loaded-mode test if all of its measured
11 emissions are less than or equal to the applicable emission standards specified in the applicable
12 table.

13 "(2) A two-speed idle mode test shall be the test method used to inspect 1976 - 1999 model-
14 year vehicles, except diesel-powered, registered in all program areas of the state, except in those
15 areas of the state where the enhanced program has been implemented. The two-speed idle mode
16 test shall measure hydrocarbon, carbon monoxide and carbon dioxide emissions at high RPM and
17 again at idle RPM, as contained in the bureau's specifications referenced in subsection (a) of
18 Section 3340.17 of this article. Exhaust emissions from a vehicle subject to this inspection shall
19 be measured and compared to the emission standards set forth in this section and as shown in
20 TABLE III. A vehicle passes the two-speed idle mode test if all of its measured emissions are less
21 than or equal to the applicable emissions standards specified in Table III.

22 "(3) An OBD-focused test, shall be the test method used to inspect gasoline-powered
23 vehicles 2000 model-year and newer, and diesel-powered vehicles 1998 model-year and newer.
24 The OBD test failure criteria are specified in section 3340.42.2.

25 "(b) In addition to subsection (a), all vehicles subject to the smog check program shall
26 receive the following:

27 "(1) A visual inspection of emission control components and systems to verify the vehicle's
28 emission control systems are properly installed.

1 36. On June 10 and 24 and July 22, 2014, a Bureau representative conducted video
2 surveillance at ABC Smog. The Bureau representative used a vehicle that was equipped with a
3 video camera and video recording equipment. Before the surveillance began, the Bureau
4 representative verified that the clock of the video recording equipment was in sync with the
5 Vehicle Information Database clock. When the recorded stopped for the day, the Bureau
6 representative created several DVDs from the video surveillance. After the Bureau representative
7 made copies of the DVDs, the Bureau representative placed the originals in an envelope that was
8 sealed and tagged. The Bureau representative transferred custody of the envelope containing the
9 DVDs to another Bureau representative, who then secured the envelope with the DVDs in an
10 evidence locker at the Bureau's San Diego field office.

11 37. Clean Pipe 1 – Smart For Two

12 The BAR97 Test Detail from the Vehicle Information Database shows that on June 10,
13 2014, from 1057 hours to 1108 hours, ABC Smog and Morrow performed a smog check
14 inspection on a 2005 Smart, For Two, CA License #6NHC580, VIN #WME4503321J253812
15 (Smart). The Smart was issued Certificate of Compliance #YH048654C.

16 38. On the video surveillance of June 10, 2014, at 1101 hours Morrow drives a Honda
17 Accord, CA license No. 4BIX288 (Accord) into the smog bay at ABC Smog's smog station.
18 Morrow goes to the Emissions Inspection System and temporarily sits in the driver seat of the
19 Accord to move it. At 1102 hours, Morrow installs the Emissions Inspection System tailpipe
20 probe into the Accord's tailpipe. At 1105 hours, Morrow removes the probe from the Accord's
21 tailpipe. At 1106 hours, he drives the Accord out of the smog bay. The Accord is in the smog
22 bay with the Emissions Inspection System tailpipe probe in the tailpipe during the record time of
23 the Smart's certified smog inspection.

24 39. The Smart is never observed in the smog bay of ABC Smog's smog station during the
25 recorded time of the smog check inspection and did not receive the required tailpipe emissions
26 inspection. ABC Smog and Morrow clean piped the Smart by using the exhaust sample of the
27 Accord.

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1 40. Clean Pipe 2 – Chevrolet Chevette

2 The BAR97 Test Detail from the Vehicle Information Database shows that on June 24,
3 2014, from 1028 hours to 1038 hours, ABC Smog and Morrow performed a smog check
4 inspection on a 1979 Chevrolet Chevette, CA License #1MAR510, VIN #1B0809Y219249
5 (Chevette). The Chevette was issued Certificate of Compliance #YH240517C.

6 41. On the video surveillance of June 24, 2014, at 1027 hours an unidentified person
7 drives a Honda Accord (Accord) into ABC Smog's smog bay. At 1030 hours, Morrow drives the
8 Accord deeper into the smog bay. At 1032 hours, he installs a tailpipe probe into the Accord's
9 tailpipe. Morrow sits in the Accord's driver's seat and at 1034 hours he removes the tailpipe
10 probe. At 1040 hours, Morrow drives the Accord out of the smog bay. The Accord is the only
11 vehicle in the smog bay during the recorded time of the Chevette's inspection.

12 42. However, the Chevette was never observed in the smog bay during the recorded time
13 of the smog check inspection and did not receive the required tailpipe emissions inspection. ABC
14 Smog and Morrow clean piped the Chevette using the exhaust sample of the Accord.

15 43. Clean Pipe 3 – Chevrolet C1500 Pickup

16 The BAR97 Test Detail from the Vehicle Information Database shows that on June 24,
17 2014, from 1051 hours to 1056 hours, ABC Smog and Morrow performed a smog check
18 inspection on a 1998 Chevrolet C1500 Pickup, CA License #7Z87379, VIN
19 #1GCEK19RXWE149809 (the C1500). The C1500 was issued Certificate of Compliance
20 #YH240519C.

21 44. On the video surveillance of June 24, 2014, at 1041 hours, Morrow drives a green
22 Chevrolet Blazer (Blazer) into ABC Smog's smog bay. At 1050 hours the Blazer is still in ABC
23 Smog's smog bay. Morrow gets in and out of the driver seat operating the Blazer. At 1056 hours,
24 he drives the Blazer out of the smog bay. The Blazer is in the smog bay during the recorded time
25 of the C1500's smog inspection.

26 45. However, the C1500 was never observed in the smog bay during the recorded time of
27 the smog check inspection and did not receive the required tailpipe emissions inspection. ABC
28 Smog and Morrow clean piped the C1500 using the exhaust sample of the Blazer.

1 46. Clean Pipe 4 – Ford F150 Super Cab-Short

2 The BAR97 Test Detail from the Vehicle Information Database shows that on June 24,
3 2014, from 1101 hours to 1108 hours, ABC Smog and Morrow performed a smog check
4 inspection on 1993 Ford F150 Super Cab-Short, CA License #5A01658, VIN
5 #1FTEX15Y2PKA24563 (F150). The F150 was issued Certificate of Compliance #YH240520C.

6 47. On the video surveillance of June 24, 2014, at 1102 hours Morrow drives the Accord
7 into ABC Smog's smog bay. At 1104 hours Morrow sits in the Accord's driver seat. At 1105
8 hours Morrow gets out of the Accord. At 1110 hours the Accord is still in the smog bay. The
9 Accord was the only vehicle observed in the smog bay during the recorded time of the F150's
10 inspection.

11 48. However, the F150 is never observed in the smog bay during the recorded time of the
12 smog check inspection and did not receive the required tailpipe emissions inspection. ABC Smog
13 and Morrow clean piped the F150 using the exhaust sample of the Accord.

14 49. Clean Pipe 5 – Jeep Grand Cherokee

15 The BAR97 Test Detail from the Vehicle Information Database shows that on June 24,
16 2014, from 1114 hours to 1119 hours, ABC Smog and Morrow performed a smog check
17 inspection on a 1999 Jeep Grand Cherokee 2WD, CA License #4EEN309, VIN
18 #1J4G258S7XC612503 (Jeep). The Jeep was issued Certificate of Compliance #YH240521C.

19 50. On the video surveillance of June 24, 2014, at 1102 hours Morrow drives the Accord
20 into ABC Smog's smog bay. At 1110 hours, the Accord is still in the smog bay. Morrow gets in
21 and out of the Accord's driver seat. At 1119 hours, he drives the Accord out of the smog bay.
22 The Accord was the only vehicle observed in the smog bay during the recorded time of the Jeep's
23 inspection.

24 51. However, the Jeep is never observed in the smog bay during the recorded time of the
25 smog check inspection and did not receive the required tailpipe emissions inspection. ABC Smog
26 and Morrow clean piped the Jeep using the exhaust sample of the Accord.

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1 52. Clean Pipe 6 – Mercedes-Benz C320

2 The BAR97 Test Detail from the Vehicle Information Database shows that on July 22,
3 2014, from 0945 hours to 0953 hours, ABC Smog and Morrow performed a smog check
4 inspection on a 2003 Mercedes-Benz C320, CA License #6LFX543, VIN
5 #WDBRN40JX3A493594 (C320). The C320 was issued Certificate of Compliance
6 #YH748406C.

7 53. On the video surveillance of July 22, 2014, at 0941 hours an unidentified person
8 drives a Mercedes-Benz CLK, CA License # 6Y EY940 (CLK) into ABC Smog's smog bay.
9 Morrow is periodically at the Emissions Inspection System. At 0945 hours, Morrow drives the
10 CLK deeper into the smog bay. At 0947 hours, he installs the tailpipe probe into the CLK
11 tailpipe. Morrow gets in and out of the CLK driver seat. At 0951 hours, he removes the tailpipe
12 probe from the CLK tailpipe. At 0953 hours, Morrow drives the CLK out of the smog bay. The
13 CLK was the only vehicle observed in the smog bay during the recorded time of the C320's
14 inspection.

15 54. However, the C320 is never observed in the smog bay during the recorded time of the
16 smog check inspection and did not receive the required tailpipe emissions inspection. ABC Smog
17 and Morrow clean piped the C320 using the exhaust sample of the CLK.

18 55. Clean Pipe 7 – Kia Rio

19 The BAR97 Test Detail from the Vehicle Information Database shows that on July 22,
20 2014, from 1123 hours to 1128 hours, ABC Smog and Morrow performed a smog check
21 inspection on a 2003 Kia Rio, CA License #5BHG337, VIN #KNADC165136143541 (Rio). The
22 Rio was issued Certificate of Compliance #YH748408C.

23 56. On the video surveillance of July 22, 2014, at 1121 hours there is a silver Toyota
24 Camry with no license plate (Camry) in ABC Smog's smog bay. At 1126 hours, Morrow installs
25 the tailpipe probe into the Camry's tailpipe. Morrow gets in the Camry and operates it on the
26 dynamometer. At 1127 hours, he removes the tailpipe probe from the Camry's tailpipe. Morrow
27 is periodically at the Emissions Inspection System. At 1131 hours, he drives the Camry out of
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1 the smog bay. The Camry was the only vehicle observed in the smog bay during the recorded
2 time of the Rio's inspection.

3 57. However, the Rio is never observed in the smog bay during the recorded time of the
4 smog check inspection and did not receive the required tailpipe emissions inspection. ABC Smog
5 and Morrow clean piped the Rio using the exhaust sample of the Camry.

6 58. Clean Pipe 8 – Ford E350 Super Van

7 The BAR97 Test Detail from the Vehicle Information Database shows that on July 22,
8 2014, from 1221 hours to 1229 hours, ABC Smog and Morrow performed a smog check
9 inspection on a 1994 Ford E350 Super Van, CA License #4W68774, VIN
10 #1FDKE37GXRHB31543 (E350). The E350 was issued Certificate of Compliance
11 #YH748409C.

12 59. On the video surveillance of July 22, 2014, at 1223 hours Morrow drives a white Jeep
13 Grand Cherokee, CA License No. 5ZRY421 (Grand Cherokee) into ABC Smog's smog bay. At
14 1225 hours, he installs the tailpipe probe into the Grand Cherokee's tailpipe. Morrow
15 periodically gets in and out of the Grand Cherokee driver seat area and goes to the Emissions
16 Inspection System. At 1232 hours, he removes the tailpipe probe from the Grand Cherokee
17 tailpipe. The Grand Cherokee was the only vehicle observed in the smog bay during the recorded
18 time of the E350's inspection.

19 60. However, the E350 is never observed in the smog bay during the recorded time of the
20 smog check inspection and did not receive the required tailpipe emissions inspection. ABC Smog
21 and Morrow clean piped the E350 using the exhaust sample of the Grand Cherokee.

22 61. Clean Pipe 9 – Land Rover Discovery SER II

23 The BAR97 Test Detail from the Vehicle Information Database shows that on July 22,
24 2014, from 1322 hours to 1331 hours, ABC Smog and Morrow performed a smog check
25 inspection on a 2000 Land Rover Discovery SER II, CA License #5DYP150, VIN
26 #SALTY1546YA275765 (Discovery). The Discovery was issued Certificate of Compliance
27 #YH748410C.

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1 62. On the video surveillance of July 22, 2014, at 1327 hours a Toyota Tacoma, License
2 #55690F1 (Tacoma) is inside of ABC Smog's smog bay. Morrow installs the tailpipe probe into
3 the Tacoma's tailpipe. Morrow goes in and out of the Tacoma driver seat and Emissions
4 Inspection System. At 1331 hours, Morrow removes the tailpipe probe from the Tacoma tailpipe.
5 At 1335 hours, the Tacoma is still in the smog bay. The Tacoma was the only vehicle observed
6 in the smog bay during the recorded time of the Discovery's inspection.

7 63. However, the Discovery is never observed in the smog bay during the recorded time
8 of the smog check inspection and did not receive the required tailpipe emissions inspection. ABC
9 Smog and Morrow clean piped the Discovery using the exhaust sample of the Tacoma.

10 64. Clean Pipe 10 – Nissan Murano

11 The BAR97 Test Detail from the Vehicle Information Database shows that on July 22,
12 2014, from 1335 hours to 1339 hours, ABC Smog and Morrow performed a smog check
13 inspection on a 2006 Nissan Murano, CA License #5ZBG089, VIN #JN8AZ08W16W515604
14 (Murano). The Murano was issued Certificate of Compliance #YH748411C.

15 65. On the video surveillance of July 22, 2014, at 1335 hours the Tacoma is still in ABC
16 Smog's smog bay. At 1337 hours, Morrow installs the tailpipe probe into the Tacoma tailpipe.
17 Morrow goes to the Tacoma driver seat and the Emissions Inspection System. At 1339 hours, he
18 removes the tailpipe probe from the Tacoma tailpipe. The Tacoma was the only vehicle observed
19 in the smog bay during the recorded time of the Murano's inspection.

20 66. However, the Murano is never observed in the smog bay during the recorded time of
21 the smog check inspection and did not receive the required tailpipe emissions inspection. ABC
22 Smog and Morrow clean piped the Murano using the exhaust sample of the Tacoma.

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67. The following chart is a summary of the clean piping performed by ABC Smog and
Morrow during the time of the surveillance:

	Date & Time of Inspection as Certified in the VID	Information of Certified Vehicle and Smog Certificate of Compliance #	Vehicle certified observed in Smog Bay?	Vehicle Observed in Smog Bay During Time of Inspection
1	June 10, 2014, from 1057 hours to 1108 hours	2005 Smart, For Two; #YH048654C	No	Honda Accord
2	June 24, 2014, from 1028 hours to 1038 hours	1979 Chevrolet Chevette; #YH240517C	No	Honda Accord
3	June 24, 2014, from 1051 hours to 1056 hours	1998 Chevrolet C1500 Pickup; #YH240519C	No	Chevrolet Blazer
4	June 24, 2014, from 1101 hours to 1108 hours	1993 Ford F150 Super Cab-Short; #YH240520C	No	Honda Accord
5	June 24, 2014, from 1114 hours to 1119 hours	1999 Jeep Grand Cherokee 2WD; #YH240521C	No	Honda Accord
6	July 22, 2014, from 0945 hours to 0953 hours	2003 Mercedes-Benz C320; #YH748406C	No	Mercedes-Benz CLK
7	July 22, 2014, from 1123 hours to 1128 hours	2003 Kia Rio; #YH748408C	No	Toyota Camry
8	July 22, 2014, from 1221 hours to 1229 hours	1994 Ford E350 Super Van; #YH748409C	No	Jeep Grand Cherokee
9	July 22, 2014, from 1322 hours to 1331 hours	2000 Land Rover Discovery SER II; #YH748410C	No	Toyota Tacoma
10	July 22, 2014, from 1335 hours to 1339 hours	2006 Nissan Murano; #YH748411C	No	Toyota Tacoma

FIRST CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

68. Complainant re-alleges and incorporates by reference the allegations set forth above in paragraphs 35-67.

1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(Clean Piping)**

3 76. Complainant re-alleges and incorporates by reference the allegations set forth above
4 in paragraphs 35-75.

5 77. Respondent ABC Smog's Station license is subject to disciplinary action for clean
6 piping under Health & Safety Code, § 44072.10, subdivision (c)(1), as defined in California Code
7 of Regulations, title 16, section 3340.1, in that Respondent ABC Smog used a substitute exhaust
8 emission sample of one vehicle in place of another vehicle's exhaust emission sample in order to
9 cause the Emissions Inspection System to issue certificates of compliance for the inspections
10 described in paragraphs 35-75.

11 **SIXTH CAUSE FOR DISCIPLINE**

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

13 78. Complainant re-alleges and incorporates by reference the allegations set forth above
14 in paragraphs 35-77.

15 79. Respondent Morrow's technician licenses are subject to disciplinary action under
16 Health and Safety Code sections 44072.10, subdivision (c) and 44072.2, subdivision (a), in that he
17 failed to comply with the following sections of that Code:

18 a. **Section 44012:** Respondent Morrow failed to perform the tests of the emission
19 control systems and devices on the vehicles described in paragraphs 35-77 in accordance with
20 procedures prescribed by the Department.

21 b. **Section 44015:** Respondent Morrow issued certificates of compliance for the
22 vehicles described in paragraphs 35-77 without properly testing and inspecting them to determine
23 if they were in compliance with Health & Safety Code section 44012.

24 c. **Section 44035:** Respondent Morrow failed to meet or maintain the standards
25 prescribed for qualification, equipment, performance, or conduct by failing to properly perform
26 smog inspections on the vehicles described in paragraphs 35-77 or certifying that such tests had
27 been properly performed, when in fact they were not properly performed.

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1 **SEVENTH CAUSE FOR DISCIPLINE**

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

3 80. Complainant re-alleges and incorporates by reference the allegations set forth above
4 in paragraphs 35-79.

5 81. Respondent Morrow's technician licenses are subject to disciplinary action under
6 Health and Safety Code sections 44072.10, subdivision (c) and 44072.2, subdivision (a) in that he
7 failed to comply with the following sections of California Code of Regulations, title 16:

8 a. **Section 3340.35, subdivision (c)**: Respondent Morrow failed to inspect and test
9 the vehicles described in paragraphs 35-79 in accordance with the procedures specified in section
10 3340.42 of the Regulations and failed to ensure that these vehicles had all the required emission
11 control equipment and devices installed and functioning correctly.

12 b. **Section 3340.41, subdivision (c)**: Respondent Morrow knowingly entered into
13 the Emissions Inspection System false information about the vehicles described in paragraphs 35-
14 79 providing results for smog inspections which were not properly performed.

15 c. **Section 3340.42**: Respondent Morrow failed to conduct the required smog tests
16 on all the vehicles in paragraphs 35-79 in accordance with the Bureau's specifications.

17 **EIGHTH CAUSE FOR DISCIPLINE**

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

19 82. Complainant re-alleges and incorporates by reference the allegations set forth above
20 in paragraphs 35-81.

21 83. Respondent Morrow's technician licenses are subject to disciplinary action under
22 Health and Safety Code sections 44072.10, subdivision (c) and 44072.2, subdivision (d), in that
23 he committed dishonest, fraudulent, or deceitful acts whereby another is injured by issuing smog
24 inspection certificates for the vehicles described in paragraphs 35-81 without performing bona
25 fide inspections of the emission control devices and systems on them, thereby depriving the
26 People of the State of California of the protection afforded by the Motor Vehicle Inspection
27 Program.

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1 **NINTH CAUSE FOR DISCIPLINE**

2 **(Clean Piping)**

3 84. Complainant re-alleges and incorporates by reference the allegations set forth above
4 in paragraphs 35-83.

5 85. Respondent Morrow's technician licenses are subject to disciplinary action under
6 Health & Safety Code, § 44072.10, subdivision (c)(1), as defined in California Code of
7 Regulations, title 16, section 3340.1, in that Respondent Morrow used a substitute exhaust
8 emission sample of one vehicle in place of another vehicle's exhaust emission sample in order to
9 cause the Emissions Inspection System to issue certificates of compliance for the inspections
10 described in paragraphs 35-83.

11 **DISCIPLINE CONSIDERATIONS**

12 86. Complainant further alleges that in 2010, the Bureau issued Morrow Citation No.
13 M2010-1000. It alleged that Morrow issued a certificate of compliance to a Bureau-documented
14 undercover vehicle with the ignition timing set beyond specifications. The citation directed
15 Morrow to complete an eight hour training course. On May 13, 2010, Morrow completed the
16 training. That Citation is now final and is incorporated by reference as if fully set forth.

17 87. Complainant further alleges that in 2012, the Bureau issued Morrow Citation No.
18 M2012-1268. It alleged that Morrow issued a certificate of compliance to a Bureau-documented
19 undercover vehicle with the ignition timing set beyond specifications. The citation directed
20 Morrow to complete a sixteen hour training course. On October 15, 2013, Morrow completed the
21 training. That Citation is now final and is incorporated by reference as if fully set forth.

22 **OTHER MATTERS**

23 88. Under Code section 9884.7, subdivision (c), the Director may suspend, revoke, or
24 place on probation the registration for all places of business operated in this State by Respondent
25 ABC Smog upon a finding that Respondent ABC Smog has, or is, engaged in a course of repeated
26 and willful violations of the laws and regulations pertaining to an automotive repair dealer.

27 89. Under Health & Safety Code section 44072.8, if Respondent ABC Smog's Station
28 License is revoked or suspended, the Director may likewise revoke or suspend any additional

1 license issued under Chapter 5 of the Health and Safety Code in the name of Respondent ABC
2 Smog, including the licenses of Roberts Smog Test Only Station and El Amigo Smog.

3 90. Under Health & Safety Code section 44072.8, if Respondent Morrow's technician
4 licenses are revoked or suspended, the Director may likewise revoke or suspend any additional
5 license issued under Chapter 5 of the Health and Safety Code in the name of Respondent Morrow.

6 **PRAYER**

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

9 1. Revoking or suspending Automotive Repair Dealer Registration No. ARD 270689
10 issued to Respondent Andrew Kent Tibbitts, Member; Tibbitts Smog LLC doing business as ABC
11 Smog;

12 2. Revoking or suspending Smog Check Test Only Station License No. TC 270689
13 issued to Respondent Andrew Kent Tibbitts, Member; Tibbitts Smog LLC doing business as ABC
14 Smog;

15 3. Revoking or suspending Smog Check Inspector License No. EO 42947, and Smog
16 Check Repair Technician License No. EI 42947 (formerly Advanced Emission Specialist (EA)
17 Technician License No. 42947) issued to William Robert Morrow II;

18 4. Revoking or suspending the registration for all places of business operated in this
19 state by Respondent Andrew Kent Tibbitts, Member; Tibbitts Smog LLC doing business as ABC
20 Smog, including Roberts Smog Test Only Station and El Amigo Smog;

21 5. Revoking or suspending any additional license issued under Chapter 5 of the Health
22 and Safety Code in the name of Respondent Andrew Kent Tibbitts, Member; Tibbitts Smog LLC
23 doing business as ABC Smog, including Roberts Smog Test Only Station and El Amigo Smog;

24 6. Revoking or suspending any additional license issued under Chapter 5 of the Health
25 and Safety Code in the name of William Robert Morrow II;

26 7. Ordering Respondent Andrew Kent Tibbitts, Member; Tibbitts Smog LLC doing
27 business as ABC Smog; and William Robert Morrow II to pay the Bureau of Automotive Repair
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the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

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

DATED: December 1, 2014 *Patrick Doraïs*

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

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