

1 KAMALA D. HARRIS
Attorney General of California
2 THOMAS L. RINALDI
Supervising Deputy Attorney General
3 M. TRAVIS PEERY
Deputy Attorney General
4 State Bar No. 261887
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-0962
6 Facsimile: (213) 897-2804
Attorneys for Complainant
7

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

12 In the Matter of the Accusation Against:

Case No. 79/16-23

13 **GOOD VIBES STAR TEST ONLY; ANDREW**
14 **SARAVIA, OWNER**
4761 Century Blvd. #C
15 Inglewood, CA 90304

A C C U S A T I O N

16 Andrew Saravia:
14024 Green Stone Ave.
17 Norwalk, CA 90650

18 Automotive Repair Dealer Registration No.
ARD 277816
19 Smog Check Test and Repair Station License No.
TC 277816
20 Smog Check Inspector License No. EO 637690

21 Respondent.
22

23 Complainant alleges:

24 **PARTIES**

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

27 2. On or about September 10, 2014, the Bureau issued Automotive Repair Dealer
28 Registration No. ARD 277816 to Good Vibes Star Test Only; Andrew Saravia, Owner

1 (Respondent). The Automotive Repair Dealer Registration was in full force and effect at all
2 times relevant to the charges brought herein and expired on September 30, 2015.

3 3. On or about October 6, 2014, the Bureau issued Smog Check Test Only Station
4 License No. TC 277816 to Respondent. The Smog Check Test Only Station license was in full
5 force and effect at all times relevant to the charges brought herein and expired on September 30,
6 2015.

7 4. On or about December 26, 2014, the Bureau issued Smog Check Inspector License
8 No. EO 637690 to Respondent. The Smog Check Inspector license was in full force and effect at
9 all times relevant to the charges brought herein and will expire on April 30, 2017, unless renewed.

10 **JURISDICTION**

11 5. Business and Professions Code (“Bus. & Prof. Code”) section 9884.7 provides that
12 the Director may revoke an automotive repair dealer registration.

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

17 7. Health and Safety Code (“Health & Saf. Code”) section 44002 provides, in pertinent
18 part, that the Director has all the powers and authority granted under the Automotive Repair Act
19 for enforcing the Motor Vehicle Inspection Program.

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

24 ///

25 ///

26 ///

27 ///

28 ///

STATUTORY PROVISIONS

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

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

(a) The director, where the automotive repair dealer cannot show there was a bona fide error, may refuse to validate, or may invalidate temporarily or permanently, the registration of an automotive repair dealer for any of the following acts or omissions related to the conduct of the business of the automotive repair dealer, which are done by the automotive repair dealer or any automotive technician, employee, partner, officer, or member of the automotive repair dealer.

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

....

(4) Any other conduct that constitutes fraud.

....

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

....

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

10. Bus. & Prof. Code section 477 provides, in pertinent part, that "Board" includes "bureau," "commission," "committee," "department," "division," "examining committee," "program," and "agency." "License" includes certificate, registration or other means to engage in a business or profession regulated by the Bus. & Prof. Code.

11. Section 44012 of the Health & Saf. Code provides, in pertinent part, that tests at smog check stations shall be performed in accordance with procedures prescribed by the department.

12. Section 44015, subdivision (b), of the Health & Saf. Code provides that a certificate of compliance shall be issued if a vehicle meets the requirements of Health & Saf. Code section 40012.

///
///
///

1 13. Health & Saf. Code section 44072.2 states, in pertinent part:

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

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

8

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

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

13 14. Health & Saf. Code section 44072.10 states, in pertinent part:

14

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

19

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

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

25 **REGULATORY PROVISIONS**

26 16. California Code of Regulations (CCR), title 16, section 3340.24, subdivision (c),
27 states:

28 "The bureau may suspend or revoke the license of or pursue other legal action against a
licensee, if the licensee falsely or fraudulently issues or obtains a certificate of compliance or a
certificate of noncompliance."

17. CCR, title 16, section 3340.30, subdivision (a), states that a licensed smog technician
shall at all times "[i]nspect, test and repair vehicles, as applicable, in accordance with section

1 44012 of the Health & Saf. Code, section 44035 of the Health & Saf. Code, and section 3340.42
2 of this article.”

3 18. CCR, title 16, section 3340.35, subdivision (c), states that a licensed smog check
4 station “shall issue a certificate of compliance or noncompliance to the owner or operator of any
5 vehicle that has been inspected in accordance with the procedures specified in section 3340.42 of
6 this article and has all the required emission control equipment and devices installed and
7 functioning correctly.”

8 19. CCR, title 16, section 3340.42, sets forth specific emissions test methods and
9 procedures which apply to all vehicles inspected in the State of California.

10 COST RECOVERY

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

15 VID DATA REVIEW

16 21. On March 9, 2015, the Bureau implemented a policy change requiring the use of an
17 On-Board Diagnostic Inspection System (OIS) in testing of 2000 model year and newer gas
18 powered vehicles 14,000 Gross Vehicle Weight Rating (GVW) and under, and 1998 and newer
19 diesel powered vehicles 14,000 GVW and under. The OIS Bureau Test Data lists differences in
20 Vehicle Identification Numbers (VIN) for vehicles that have received smog inspections, in
21 addition to communication Protocol and Parameter ID (PID) differences with vehicles that have
22 been certified correctly that are the same make and model vehicles.

23 22. On or about May 4, 2015, Bureau representative Mauricio Cabeza initiated an
24 investigation in which he reviewed OIS Test Data in the Bureau’s Vehicle Information Database
25 for Good Vibes Star Test Only. The investigation revealed vehicles that had been certified with a
26 pattern of: differences between the VIN on the certified vehicle and the electronic VIN (eVIN)
27 that was transmitted as part of the smog inspection; incorrect vehicle communication protocols;
28 and incorrect PID counts. The data from the certified vehicles was compared to data of similar

1 vehicles of the same year, make, and model. The data comparison showed multiple discrepancies
 2 with fifteen (15) vehicles that were all certified with missing eVINs, the same incorrect vehicle
 3 communication protocol (I914), and the same incorrect PID count (11), which confirms the
 4 vehicles receiving smog certificates were fraudulently tested during the smog inspection using the
 5 clean plugging method.¹ The following chart illustrates the documented clean plugging activities
 6 of Respondent between March 16, 2015, and April 28, 2015.

Test Date and Time*	Vehicle Certified & License No.	Certificate No.	Details**
04/17/2015 1332-1339 hours	2006 Ford Econoline E350 Super Duty 7Y24874	YR022587C	Test data does not support this vehicle.
04/25/2015 1407-1413 hours	2005 Lincoln Town Care Executive 3ZZC718	PQ916840C	Test data does not support this vehicle.
04/27/2015 1754-1759 hours	2007 Chevrolet Express G1500 5YMB145	PQ999167C	Test data does not support this vehicle.
04/28/2015 1601-1607 hours	2007 Ford Edge Sel Plus 5ZSN141	PQ999175C	Test data does not support this vehicle.
04/25/2015 1437-1443 hours	2012 Chevrolet Impala LS 6UBL343	PQ916845C	Test data does not support this vehicle.
04/22/2015 1831-1836 hours	2005 Chrysler PT Cruiser VIN# 3C4FY48B25T588803	PQ916806C	Test data does not support this vehicle.

26 ¹ Clean plugging refers to the use of another vehicle's properly functioning On Board
 27 Diagnostic, generation II, (OBD II) system, or another source, to generate passing diagnostic
 28 readings for the purpose of issuing fraudulent smog Certificates of Compliance to vehicles that
 are not in smog compliance and/or not present for testing.

1	04/25/2015 1431-1436 hours	2007 Mazda Mazda6I VIN# 1YVHP80C275M23578	PQ916844C	Test data does not support this vehicle.
2				
3	04/21/2015 1446-1457 hours	2007 Ford Mustang 6REL858	YR110491C	Test data does not support this vehicle.
4				
5				
6	04/21/2015 1352-1357 hours	2009 Dodge Journey SXT 7GZN002	YR110487C	Test data does not support this vehicle.
7				
8	04/25/2015 1419-1425 hours	2008 BMW 335i 7FEV174	PQ916842C	Test data does not support this vehicle.
9				
10				
11	03/25/2015 1513-1521 hours	2008 Nissan 350Z VIN# JN1BZ34DX8M701813	PQ419797C	Test data does not support this vehicle.
12				
13				
14	03/16/2015 1805-1812 hours	2006 Cadillac CTS VIN# 1G6DM57T160134255	PQ272118C	Test data does not support this vehicle.
15				
16				
17	03/18/2015 1615-1622 hours	2005 Chevrolet Silverado C1500 8R37833	PQ272127C	Test data does not support this vehicle.
18				
19				
20	03/30/2015 1810-1819 hours	2005 Dodge Magnum SE 5MNM734	PQ539352C	Test data does not support this vehicle.
21				
22	04/06/2015 1044-1049 hours	2006 Chevrolet Aveo LS 6MXV954	YP868661C	Test data does not support this vehicle.
23				
24				

* Test times are in military time.

** All vehicles certified by Respondent Andrew Saravia.

///

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Untrue or Misleading Statements)**

3 23. Respondent's Automotive Repair Dealer Registration is subject to disciplinary action
4 pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(1), in that he made or authorized
5 statements which he knew or in the exercise of reasonable care should have known to be untrue or
6 misleading, as follows: Respondent certified that the 15 vehicles identified in paragraph 22
7 above, had passed inspection and were in compliance with applicable laws and regulations. In
8 fact, Respondent conducted the inspections on the vehicles using clean-plugging methods in that
9 he substituted or used a different vehicle(s) during the OBD II functional tests in order to issue
10 smog certificates of compliance for the vehicles, and did not test or inspect the vehicles as
11 required by Health & Saf. Code section 44012. Complainant refers to, and by this reference
12 incorporates, the allegations contained in paragraph 22, as though set forth fully herein.

13 **SECOND CAUSE FOR DISCIPLINE**

14 **(Fraud)**

15 24. Respondent's Automotive Repair Dealer Registration is subject to disciplinary action
16 pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(4), in that he committed acts that
17 constitute fraud by issuing electronic smog certificates of compliance for the 15 vehicles
18 identified in paragraph 22 above, without performing bona fide inspections of the emission
19 control devices and systems on the vehicles, thereby depriving the People of the State of
20 California of the protection afforded by the Motor Vehicle Inspection Program. Complainant
21 refers to, and by this reference incorporates, the allegations contained in paragraph 22, as though
22 set forth fully herein.

23 **THIRD CAUSE FOR DISCIPLINE**

24 **(Material Violation of Automotive Repair Act)**

25 25. Respondent has subjected his Automotive Repair Dealer Registration to discipline
26 under Bus. & Prof. Code section 9884.7, subdivision (a)(6), in that he failed in a "material respect
27 to comply with the provisions of this chapter or regulations adopted pursuant to it" when he
28 issued electronic certificates of compliance for the 15 vehicles identified in paragraph 22 above,

1 without performing bona fide inspections of the emission control devices and systems on those
2 vehicles, thereby depriving the People of the State of California of the protection afforded by the
3 Motor Vehicle Inspection Program. Complainant refers to, and by this reference incorporates, the
4 allegations contained in paragraph 22, as though set forth fully herein.

5 **FOURTH CAUSE FOR DISCIPLINE**

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

7 26. Respondent's Smog Check Test Only Station License is subject to disciplinary action
8 pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that he failed to comply with
9 the following sections of that Code:

10 a. **Section 44012:** Respondent failed to ensure that the emission control tests were
11 performed on the 15 vehicles identified in paragraph 22 above, in accordance with procedures
12 prescribed by the department.

13 b. **Section 44015:** Respondent issued electronic smog certificates of compliance for the
14 15 vehicles identified in paragraph 22 above, without ensuring that the vehicles were properly
15 tested and inspected to determine if they were in compliance with Health & Saf. Code section
16 44012.

17 Complainant refers to, and by this reference incorporates, the allegations contained in
18 paragraph 22, as though set forth fully herein.

19 **FIFTH CAUSE FOR DISCIPLINE**

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

22 27. Respondent's Smog Check Test Only Station License is subject to disciplinary action
23 pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that he failed to comply with
24 provisions of California Code of Regulations, title 16, as follows:

25 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued
26 electronic smog certificates of compliance for the 15 vehicles identified in paragraph 22 above.

27 ///

28 ///

1 **EIGHTH CAUSE FOR DISCIPLINE**

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

4 30. Respondent's Smog Check Inspector License is subject to disciplinary action
5 pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to
6 comply with provisions of California Code of Regulations, title 16, as follows:

7 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued
8 electronic smog certificates of compliance for the 15 vehicles identified in paragraph 22 above.

9 b. **Section 3340.30, subdivision (a):** Respondent failed to inspect and test the 15
10 vehicles identified in paragraph 22 above, in accordance with Health & Saf. Code sections 44012
11 and 44035, and California Code of Regulations, title 16, section 3340.42.

12 c. **Section 3340.42:** Respondent failed to conduct the required smog tests on the 15
13 vehicles identified in paragraph 22 above, in accordance with the Bureau's specifications.

14 Complainant refers to, and by this reference incorporates, the allegations contained in
15 paragraph 22, as though set forth fully herein.

16 **NINTH CAUSE FOR DISCIPLINE**

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

18 31. Respondent's Smog Check Inspector License is subject to disciplinary action
19 pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed
20 dishonest, fraudulent, or deceitful acts whereby another was injured by issuing electronic smog
21 certificates of compliance for the 15 vehicles identified in paragraph 22 above, without
22 performing bona fide inspections of the emission control devices and systems on the vehicles,
23 thereby depriving the People of the State of California of the protection afforded by the Motor
24 Vehicle Inspection Program. Complainant refers to, and by this reference incorporates, the
25 allegations contained in paragraph 22, as though set forth fully herein.

26 ///

27 ///

28 ///

1 **OTHER MATTERS**

2 32. Pursuant to Bus. & Prof. Code section 9884.7, subdivision (c), the Director may
3 suspend, revoke, or place on probation the registration for all places of business operated in this
4 state by Respondent Andrew Saravia, owner of Good Vibes Star Test Only, upon a finding that he
5 has, or is, engaged in a course of repeated and willful violations of the laws and regulations
6 pertaining to an automotive repair dealer.

7 33. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Test Only Station
8 License No. TC 277816, issued to Respondent Andrew Saravia, owner of Good Vibes Star Test
9 Only, is revoked or suspended, any additional license issued under this chapter in the name of
10 said licensee may be likewise revoked or suspended by the director.

11 34. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Inspector License
12 No. EO 637690, issued to Andrew Saravia, is revoked or suspended, any additional license issued
13 under this chapter in the name of said licensee may be likewise revoked or suspended by the
14 director.

15 **PRAYER**

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

18 1. Revoking or suspending Automotive Repair Dealer Registration No. ARD 277816,
19 issued to Andrew Saravia, owner of Good Vibes Star Test Only;

20 2. Revoking or suspending any other automotive repair dealer registration issued to
21 Andrew Saravia;

22 3. Revoking or suspending Smog Check Test Only Station License No.
23 TC 277816, issued to Andrew Saravia, owner of Good Vibes Star Test Only;

24 4. Revoking or suspending Smog Check Inspector License No. EO 637690, issued to
25 Andrew Saravia;

26 5. Revoking or suspending any additional license issued under Chapter 5 of the Health
27 and Safety Code in the name of Andrew Saravia;

28 ///

1 6. Ordering Andrew Saravia, owner of Good Vibes Star Test Only, to pay the Director
2 of Consumer Affairs the reasonable costs of the investigation and enforcement of this case,
3 pursuant to Business and Professions Code section 125.3; and

4 7. Taking such other and further action as deemed necessary and proper.

5
6 DATED: October 29, 2015 *Patrick Dorais*

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

10 LA2015502166 /
11 51937599.docx

12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28