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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. *79/15-118*

13 **PROTECH AUTO SERVICE;**
14 **RICHARD TRAUGH, OWNER**
15 **410 W. J ST. #G**
16 **TEHACHAPI, CA 93561**

ACCUSATION

(SMOG CHECK)

17 **Automotive Repair Dealer Registration No.**
18 **ARD 266654**
19 **Smog Check Station License No. RC 266654,**
20 **Lamp Station License No. LS 266654;**
21 **Brake Station License No. BS 266654**

22 **and**

23 **RONALD KENNETH MORTIMER**
24 **PO BOX 1291**
25 **TEHACHAPI, CA 93581**

26 **Smog Check Inspector License No.**
27 **EO 36152 (formerly Advanced Emission**
28 **Specialist Technician License No.**
29 **EA 36152)**

30 **Smog Check Repair Technician License No.**
31 **EI 36152 (formerly Advanced Emission**
32 **Specialist Technician License No.**
33 **EA 36152)**

34 **Lamp Adjuster License No. LA 36152**
35 **Brake Adjuster License No. BA 36152**

36 Respondents.

37 Complainant alleges:

1 **PARTIES**

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

4 **Protech Auto Service Previous License History ARD 196307 / RC 196307**

5 2. On a date uncertain in 1997, the Bureau issued Automotive Repair Dealer
6 Registration Number ARD 196307 ("ARD Registration") to Richard Traugh and Candie Traugh,
7 as partners, doing business as, Protech Auto Service. The ARD Registration was due to expire on
8 September 30, 2011, and was cancelled on October 12, 2011.

9 3. On or about September 30, 1997, the Bureau issued Smog Check Station License
10 Number RC 196307 ("Smog Station License") to Richard Traugh and Candie Traugh, as partners,
11 doing business as, Protech Auto Service. The Station License was due to expire on September
12 30, 2011, and was cancelled on October 12, 2011.

13 **Automotive Repair Registration ARD 266654**

14 4. On or about September 21, 2011, the Bureau issued ARD Registration Number
15 ARD 266654 to Richard Traugh, owner, doing business as Protech Auto Service ("Respondent
16 Protech"). The ARD Registration was in full force and effect at all times relevant to the charges
17 brought herein and will expire on September 30, 2015, unless renewed.

18 **Smog Check Station License RC 266654**

19 5. On or about October 11, 2011, the Bureau issued Smog Check Station License
20 Number RC 266654 to Respondent Protech. The Smog Check Station License was in full force
21 and effect at all times relevant to the charges brought herein and will expire on September 30,
22 2015, unless renewed.

23 **Lamp Station License LS 266654**

24 6. On or about October 11, 2011, the Bureau issued Lamp Station License Number
25 LS 266654 to Respondent Protech. The Lamp Station License was in full force and effect at all
26 times relevant to the charges brought herein and will expire on September 30, 2015, unless
27 renewed.

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1 **Brake Station License BS 266654**

2 7. On or about October 11, 2011, the Bureau issued Brake Station License Number
3 BA 266654 to Respondent Protech. The Brake Station License was in full force and effect at all
4 times relevant to the charges brought herein and will expire on September 30, 2015, unless
5 renewed.

6 **Smog Check Inspector License No. EO 36152 and Smog Check Repair Technician**
7 **License No. EI 36152**

8 8. On a date uncertain in 1998, the Bureau issued Advanced Emission Specialist
9 Technician License No. EA 36152 to Ronald Kenneth Mortimer ("Respondent Mortimer").
10 Respondent Mortimer's Advanced Emission Specialist Technician License was due to expire on
11 December 31, 2013. However, it was cancelled on November 25, 2013. Pursuant to California
12 Code of Regulations, title 16, section 3340.28, subdivision (e), the license was renewed pursuant
13 Respondent Mortimer's election, as Smog Check Inspector License No. EO 36152 and Smog
14 Check Repair Technician License No. EI 36152 (collectively "Technician Licenses"), effective
15 November 25, 2013. Respondent Mortimer's Technicians Licenses were in full force and effect
16 at all times relevant to the charges brought herein and will expire on December 31, 2015, unless
17 renewed.¹

18 **Lamp Adjuster License No. LA 36152**

19 9. On a date uncertain in 1992, the Bureau issued Lamp Adjuster License Number
20 LA 36152 to Respondent Mortimer. Respondent Mortimer's Lamp Adjuster License was in full
21 force and effect at all times relevant to the charges brought herein and will expire on December
22 31, 2015, unless renewed.

23 **Brake Adjuster License No. BA 36152**

24 10. On a date uncertain in 1992, the Bureau issued Brake Adjuster License Number
25 BA 36152 to Respondent Mortimer. Respondent Mortimer's Brake Adjuster License was in full

26 ¹ 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 **Brake Station License BS 266654**

2 7. On or about October 11, 2011, the Bureau issued Brake Station License Number
3 BS 266654 to Respondent Protech. The Brake Station License was in full force and effect at all
4 times relevant to the charges brought herein and will expire on September 30, 2015, unless
5 renewed.

6 **Smog Check Inspector License No. EO 36152 and Smog Check Repair Technician**
7 **License No. EI 36152**

8 8. On a date uncertain in 1998, the Bureau issued Advanced Emission Specialist
9 Technician License No. EA 36152 to Ronald Kenneth Mortimer ("Respondent Mortimer").
10 Respondent Mortimer's Advanced Emission Specialist Technician License was due to expire on
11 December 31, 2013. However, it was cancelled on November 25, 2013. Pursuant to California
12 Code of Regulations, title 16, section 3340.28, subdivision (e), the license was renewed pursuant
13 Respondent Mortimer's election, as Smog Check Inspector License No. EO 36152 and Smog
14 Check Repair Technician License No. EI 36152 (collectively "Technician Licenses"), effective
15 November 25, 2013. Respondent Mortimer's Technicians Licenses were in full force and effect
16 at all times relevant to the charges brought herein and will expire on December 31, 2015, unless
17 renewed.¹

18 **Lamp Adjuster License No. LS 36152**

19 9. On a date uncertain in 1992, the Bureau issued Lamp Adjuster License Number
20 LA 36152 to Respondent Mortimer. Respondent Mortimer's Lamp Adjuster License was in full
21 force and effect at all times relevant to the charges brought herein and will expire on December
22 31, 2015, unless renewed.

23 **Brake Adjuster License No. BS 36152**

24 10. On a date uncertain in 1992, the Bureau issued Brake Adjuster License Number
25 BS 36152 to Respondent Mortimer. Respondent Mortimer's Brake Adjuster License was in full

26 ¹ 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 force and effect at all times relevant to the charges brought herein and will expire on December
2 31, 2015, unless renewed.

3 **JURISDICTION**

4 11. This Accusation is brought before the Director of Consumer Affairs ("Director") for
5 the Bureau, under the authority of the following laws.

6 12. Code section 9884.7² provides, in part, that the Director may revoke an automotive
7 repair dealer registration.

8 13. Code section 9884.13 provides, in pertinent part, that the expiration of a valid
9 registration shall not deprive the director or chief of jurisdiction to proceed with a disciplinary
10 proceeding against an automotive repair dealer or to render a decision invalidating a registration
11 temporarily or permanently.

12 14. Code section 22, subdivision (a) states:

13 "(a) 'Board' as used in any provisions of this Code, refers to the board in
14 which the administration of the provision is vested, and unless otherwise expressly
15 provided, shall include 'bureau,' 'commission,' 'committee,' 'department,' 'division,'
'examining committee,' 'program,' and 'agency.'

16 15. Code section 477 states:

17 "As used in this division:

18 "(a) 'Board' includes 'bureau,' 'commission,' 'committee,' 'department,'
19 'division,' 'examining committee,' 'program,' and 'agency.'

20 "(b) 'License' includes certificate, registration or other means to engage in
a business or profession regulated by this code."

21 16. Health and Safety Code section 44072.8 states:

22 "When a license has been revoked or suspended following a hearing under this article
23 [Motor Vehicle Inspection Program], any additional license issued under this chapter in the name
24 of the licensee may be likewise revoked or suspended by the director."

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28 ² All section references are to the Business and Professions Code, unless otherwise noted.

1 "(a) Inspect, test and repair vehicles, as applicable, in accordance with section 44012 of the
2 Health and Safety Code, section 44035 of the Health and Safety Code, and section 3340.42 of this
3 article.."

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

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

9 "(1) Customers shall be charged the same price for certificates as that paid by the licensed
10 station; and

11 "(2) Sales tax shall not be assessed on the price of certificates. "

12 24. California Code of Regulations, title 16, section 3340.42 states:

13 "Smog check inspection methods are prescribed in the Smog Check Manual,
14 referenced by section 3340.45.

15 "(a) All vehicles subject to a smog check inspection, shall receive one of
16 the following test methods:

17 "(1) A loaded-mode test shall be the test method used to inspect 1976 -
18 1999 model-year vehicle, except diesel-powered, registered in the enhanced program
19 areas of the state. The loaded-mode test shall measure hydrocarbon, carbon
20 monoxide, carbon dioxide and oxides of nitrogen emissions, as contained in the
21 bureau's specifications referenced in subsection (a) of Section 3340.17 of this article.
22 The loaded-mode test shall use Acceleration Simulation Mode (ASM) test equipment,
23 including a chassis dynamometer, certified by the bureau.

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

 "(2) A two-speed idle mode test shall be the test method used to inspect
1976 - 1999 model-year vehicles, except diesel-powered, registered in all program
areas of the state, except in those areas of the state where the enhanced program has
been implemented. The two-speed idle mode test shall measure hydrocarbon, carbon
monoxide and carbon dioxide emissions at high RPM and again at idle RPM, as
contained in the bureau's specifications referenced in subsection (a) of Section
3340.17 of this article. Exhaust emissions from a vehicle subject to this inspection

1 shall be measured and compared to the emission standards set forth in this section and
2 as shown in Table III. A vehicle passes the two-speed idle mode test if all of its
measured emissions are less than or equal to the applicable emissions standards
specified in Table III.

3 "(3) An OBD-focused test, shall be the test method used to inspect
4 gasoline-powered vehicles 2000 model-year and newer, and diesel-powered vehicles
1998 model-year and newer. The OBD test failure criteria are specified in section
5 3340.42.2.

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

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

9 "(2) A functional inspection of emission control systems as specified in
10 the Smog Check Manual, referenced by section 3340.45, which may include an OBD
test, to verify their proper operation.

11 "(c) The bureau may require any combination of the inspection methods
in sections (a) and (b) under any of the following circumstances:

12 "(1) Vehicles that the department randomly selects pursuant to Health and
13 Safety Code section 44014.7 as a means of identifying potential operational problems
with vehicle OBD systems.

14 "(2) Vehicles identified by the bureau as being operationally or physically
15 incompatible with inspection equipment.

16 "(3) Vehicles with OBD systems that have demonstrated operational
problems.

17 "(d) Pursuant to section 39032.5 of the Health and Safety Code, gross
18 polluter standards are as follows:

19 "(1) A gross polluter means a vehicle with excess hydrocarbon, carbon
20 monoxide, or oxides of nitrogen emissions pursuant to the gross polluter emissions
standards included in the tables described in subsection (a), as applicable.

21 "(2) Vehicles with emission levels exceeding the emission standards for
22 gross polluters during an initial inspection will be considered gross polluters and the
provisions pertaining to gross polluting vehicles will apply, including, but not limited
to, sections 44014.5, 44015, and 44081 of the Health and Safety Code.

23 "(3) A gross polluting vehicle shall not be passed or issued a certificate of
24 compliance until the vehicle's emissions are reduced to or below the applicable
25 emissions standards for the vehicle included in the tables described in subsection (a),
as applicable. However, the provisions described in section 44017 of the Health and
Safety Code may apply.

26 "(4) This subsection applies in all program areas statewide to vehicles
27 requiring inspection pursuant to sections 44005 and 44011 of the Health and Safety
Code."
28

1 **COST RECOVERY**

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

8 **UNDERCOVER OPERATION #1: 1990 TOYOTA**

9 26. On or about April 9, 2014 an undercover operator for the Bureau (operator) took the
10 Bureau's 1990 Toyota vehicle to Respondent Protech and requested a smog inspection. The
11 ignition timing specification of the 1990 Toyota is required to be 10 degrees Before Top Dead
12 Center (BTDC) with a 3 degree plus or minus tolerance. The Bureau had the ignition timing
13 adjusted to 0 degrees BTDC, which is beyond specification, thereby rendering the vehicle
14 incapable of passing a smog inspection.

15 27. The vehicle operator signed and was given a copy of a written estimate for the smog
16 check. Respondent Mortimer performed the smog inspection and issued vehicle Certificate of
17 Compliance [REDACTED]. After the smog inspection, the vehicle operator was informed that the
18 vehicle passed the smog inspection. The vehicle operator paid Respondent Mortimer \$50.00 and
19 was provided with a copy of the Certificate of Compliance, invoice [REDACTED], and a Vehicle
20 Inspection Report.

21 **FIRST CAUSE FOR DISCIPLINE**

22 **(Fraud – Respondent Protech)**

23 28. Respondent Protech's ARD Registration is subject to disciplinary action under Code
24 section 9884.7, subdivision (a)(4) and Respondent Protech's Smog Station License is subject to
25 disciplinary action under Health and Safety Code section 44072.2, subdivision (d) in that on or
26 about April 9, 2014, Respondent Protech committed fraud when the shop knowingly received and
27 retained payment for a smog check that was not performed properly. Complainant incorporates
28 by reference Paragraphs 26 through 27, above.

1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Violations of the Motor Vehicle Inspection Program – Respondent Protech)**

3 29. Respondent Protech's Smog Station License is subject to disciplinary action under
4 Health and Safety Code section 44072.2, subdivision (a) in that on or about April 9, 2014,
5 Respondent Protech failed to comply with provisions of the Motor Vehicle Inspection Program.
6 The facts and circumstances, which include by reference Paragraphs 26 through 27, are as
7 follows:

8 (a) **Health and Safety Code section 44012, subdivision (f):** Respondent Protech
9 failed to perform a functional test of the ignition timing on the Bureau's 1990 Toyota.

10 (b) **Health and Safety Code section 44015, subdivision (b):** Respondent Protech
11 issued electronic Certificate of Compliance No. [REDACTED] to the Bureau's 1990 Toyota without
12 properly inspecting the ignition timing.

13 **THIRD CAUSE FOR DISCIPLINE**

14 **(Failure to Comply with Regulations – Respondent Protech)**

15 30. Respondent Protech's Smog Station License is subject to disciplinary action under
16 Health and Safety Code section 44072.2, subdivision (c) in that on or about April 9, 2014,
17 Respondent Protech failed to comply with following regulations adopted pursuant to the Motor
18 Vehicle Inspection Program:

19 (a) **California Code of Regulations, title 16, section 3340.42:** Respondent
20 Protech failed to perform properly a functional test of the ignition timing on the Bureau's 1990
21 Toyota prior to issuing a Certificate of Compliance. Complainant incorporates by reference
22 Paragraphs 26 through 27, above.

23 **FOURTH CAUSE OF ACTION**

24 **(Violation of the Motor Vehicle Inspection Program – Respondent Mortimer)**

25 31. Respondent Mortimer's Technician Licenses are subject to disciplinary action under
26 Health and Safety section 44072.2, subdivision (c) in that on or about April 9, 2014, Respondent
27 Mortimer failed to comply with provisions of the Motor Vehicle Inspection Program. The facts
28 and circumstances, which include by reference Paragraphs 26 through 27, are as follows:

1 (a) **Health and Safety Code section 44032:** Respondent Mortimer failed to
2 perform properly the test of the emission control devices and systems of the Bureau's 1990
3 Toyota in accordance with Health and Safety Code section 44012 when he failed to perform
4 properly the functional test of the ignition timing prior to issuing a Certificate of Compliance.

5 **FIFTH CAUSE FOR DISCIPLINE**

6 **(Failure to Comply with Regulations – Respondent Mortimer)**

7 32. Respondent Mortimer's Technician Licenses are subject to disciplinary action under
8 Health and Safety Code section 44072.2, subdivision (c), in that on or about April 9, 2014,
9 Respondent failed to comply with the following regulations adopted pursuant to the Motor
10 Vehicle Inspection Program:

11 (a) **California Code of Regulations, title 16, section 3340.30, subdivision (a):**
12 Respondent Mortimer failed to inspect, test, or repair a vehicle in accordance with Health and
13 Safety Code sections 44012 and 44035 and California Code of Regulations, title 16, section
14 3340.42 because he failed to perform properly the functional test portion of the smog check by
15 failing to check the ignition timing on the Bureau's 1990 Toyota prior to issuing a Certificate of
16 Compliance. Complainant incorporates by reference Paragraphs 26 through 27, above.

17 **UNDERCOVER OPERATION #2: 1990 TOYOTA**

18 33. On or about April 9, 2014 an undercover operator for the Bureau (operator) took the
19 Bureau's 1990 Toyota vehicle to Respondent Protech and requested a smog inspection. The
20 ignition timing specification of the 1990 Toyota is required to be 10 degrees Before Top Dead
21 Center (BTDC) with a 3 degree plus or minus tolerance. The Bureau had the ignition timing to 0
22 degrees BTDC, which is beyond specification, thereby rendering the vehicle incapable of passing
23 a smog inspection.

24 34. The vehicle operator signed and was given a copy of a written estimate for the smog
25 check. Respondent Mortimer performed the smog inspection and issued Certificate of
26 Compliance [REDACTED]. After the smog inspection was complete, the vehicle operator was
27 informed that the vehicle passed the smog inspection. The vehicle operator paid Respondent
28 Mortimer \$50.00 and was provided with a copy of the Certificate of Compliance, invoice [REDACTED].

1 and a Vehicle Inspection Report.

2 **SIXTH CAUSE FOR DISCIPLINE**

3 **(Fraud – Respondent Protech)**

4 35. Respondent Protech's ARD Registration is subject to disciplinary action under Code
5 section 9884.7, subdivision (a)(4) and Respondent Protech's Smog Station License is subject to
6 disciplinary action under Health and Safety Code section 44072.2, subdivision (d) in that on or
7 about April 9, 2014, Respondent Protech committed fraud when the shop knowingly received and
8 retained payment for a smog check that was not performed properly. Complainant incorporates
9 by reference Paragraphs 33 through 34, above.

10 **SEVENTH CAUSE FOR DISCIPLINE**

11 **(Violations of the Motor Vehicle Inspection Program – Respondent Protech)**

12 36. Respondent Protech's Smog Station License is subject to disciplinary action under
13 Health and Safety Code section 44072.2, subdivision (a) in that on or about April 9, 2014,
14 Respondent Protech failed to comply with provisions of the Motor Vehicle Inspection Program.
15 The facts and circumstances, which include by reference Paragraphs 33 through 34, are as
16 follows:

17 (a) **Health and Safety Code section 44012, subdivision (f):** Respondent Protech
18 failed to perform a functional test of the ignition timing on the Bureau's 1990 Toyota.

19 (b) **Health and Safety Code section 44015, subdivision (b):** Respondent Protech
20 issued electronic Certificate of Compliance No. [REDACTED] to the Bureau's 1990 Toyota without
21 properly inspecting the ignition timing.

22 **EIGHTH CAUSE FOR DISCIPLINE**

23 **(Failure to Comply with Regulations – Respondent Protech)**

24 37. Respondent Protech's Smog Station License is subject to disciplinary action under
25 Health and Safety Code section 44072.2, subdivision (c) in that on or about April 9, 2014,
26 Respondent Protech failed to comply with following regulations adopted pursuant to the Motor
27 Vehicle Inspection Program:

28 ///

1 (a) **California Code of Regulations, title 16, section 3340.42:** Respondent
2 Protech failed to perform properly a functional test of the ignition timing on the Bureau's 1990
3 Toyota prior to issuing a Certificate of Compliance. Complainant incorporates by reference
4 Paragraphs 33 through 34, above.

5 **NINTH CAUSE FOR DISCIPLINE**

6 **(Violations of the Motor Vehicle Inspection Program – Respondent Mortimer)**

7 38. Respondent Mortimer's Technician Licenses are subject to disciplinary action under
8 Health and Safety section 44072.2, subdivision (c) in that on or about April 9, 2014, Respondent
9 Mortimer failed to comply with provisions of the Motor Vehicle Inspection Program. The facts
10 and circumstances, which include by reference Paragraphs 33 through 34, are as follows:

11 (a) **Health and Safety Code section 44032:** Respondent Mortimer fail to perform
12 properly the test of the emission control devices and systems of the Bureau's 1990 Toyota in
13 accordance with Health and Safety Code section 44012 when he failed to perform properly the
14 functional test of the ignition timing prior to issuing a Certificate of Compliance.

15 **TENTH CAUSE OF ACTION**

16 **(Failure to Comply with Regulations – Respondent Mortimer)**

17 39. Respondent Mortimer's Technician Licenses are subject to disciplinary action under
18 Health and Safety Code section 44072.2, subdivision (c), in that on or about April 9, 2014,
19 Respondent failed to comply with the following regulations adopted pursuant to the Motor
20 Vehicle Inspection Program:

21 (a) **California Code of Regulations, title 16, section 3340.30, subdivision (a):**
22 Respondent Mortimer failed to inspect, test, or repair a vehicle in accordance with Health and
23 Safety Code sections 44012 and 44035 and California Code of Regulations, title 16, section
24 3340.42 because he failed to perform properly the functional test portion of the smog check by
25 failing to check the ignition timing on the Bureau's 1990 Toyota prior to issuing a Certificate of
26 Compliance. Complainant incorporates by reference Paragraphs 33 through 34, above.

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DISCIPLINE CONSIDERATIONS: PRIOR CITATIONS

40. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges the following:

(a) On or about October 7, 2010, the Bureau issued Citation No C2011-0422 to Respondent Protech under its prior ARD Registration No. ARD 196307 and prior Smog Station License No. RC 196307 for violating Health and Safety Code section 44012, subdivision (f) [failure to perform a visual/functional check of emission control devices according to procedures prescribed by the department] and California Code of Regulations, title 16, section 3340.35, subdivision (c) [issuing a Certificate of Compliance to a vehicle that was improperly tested]. The basis for the Citation was that on or about September 21, 2010, Respondent Protech issued a Certificate of Compliance to a Bureau undercover vehicle with a missing Positive Crankcase Ventilation (PCV) system. The Bureau assessed civil penalties totaling \$1,000.00. Respondent Protech paid the Citation on December 13, 2010.

(b) On or about October 7, 2010, the Bureau issued Citation No. M2011-0423 to Respondent Mortimer for violating Health and Safety Code section 44032 [qualified technicians shall perform tests of emission control systems and devices in accordance with section 44012 H&S] and California Code of Regulations, title 16, section 3340.30, subdivision (a) [qualified technicians shall inspect, test, and repair vehicles in accordance with 44012 H&S, 44035 H&S, and 3340.42 CCR]. The basis for the Citation was that on or about September 21, 2010, Respondent Mortimer issued a Certificate of Compliance to a Bureau undercover vehicle with a missing PCV System. The Bureau directed Respondent Mortimer to attend an 8 hour training course. The Citation training was completed on December 5, 2010.

(c) On or about June 9, 2011, the Bureau issued Citation No C2011-1473 to Respondent Protech under its prior ARD Registration No. ARD 196307 and prior Smog Station License No. RC 196307 for violating Health and Safety Code section 44012, subdivision (f) [failure to determine that emission control devices and systems required by State and Federal law are installed and functioning correctly in accordance with test procedures]. The basis for the Citation was that on or about May 18 2011, Respondent Protech issued a Certificate of Compliance to a

1 Bureau undercover vehicle with a missing Air Injection System. The Bureau assessed civil
2 penalties totaling \$1,500.00. The Citation was paid on August 3, 2011.

3 **OTHER MATTERS**

4 41. Pursuant to section 9884.7, subdivision (c), the director may suspend, revoke, or
5 place on probation the registrations for all places of business operated in this state by Richard
6 Traugh, owner, doing business as Protech Auto Service upon a finding that Richard Traugh has,
7 or is, engaged in a course of repeated and willful violations of the laws and regulations pertaining
8 to an automotive repair dealer.

9 42. Pursuant to Health and Safety Code section 44072.8, if Smog Check Station License
10 Number RC 266654, issued to Richard Traugh, owner, doing business as Protech Auto Service, is
11 revoked or suspended, any additional license issued under this chapter in the name of said
12 licensee may be likewise revoked or suspended by the director.

13 43. Pursuant to Bus. & Prof. Code section 9889.9, if Lamp Station License Number
14 LS 266654, issued to Richard Traugh, owner, doing business as Protech Auto Service, is revoked or
15 suspended, any additional license issued under Articles 5 and 6 of Chapter 20.3 of the Bus. &
16 Prof. Code in the name of said licensee may be likewise revoked or suspended by the Director.

17 44. Pursuant to Bus. & Prof. Code section 9889.9, if Brake Station License Number
18 BS 266654, issued to Richard Traugh, owner, doing business as Protech Auto Service, is revoked
19 or suspended, any additional license issued under Articles 5 and 6 of Chapter 20.3 of the Bus. &
20 Prof. Code in the name of said licensee may be likewise revoked or suspended by the Director.

21 45. Pursuant to Health and Safety Code section 44072.8, if Respondent Ronald Kenneth
22 Mortimer's Technician Licenses, currently designated as EO 36152 and EI 36152, are revoked or
23 suspended, any additional license issued under this chapter in the name of said licensee may be
24 likewise revoked or suspended by the director.

25 46. Pursuant to Bus. & Prof. Code section 9889.9, if Brake Adjuster License Number
26 BA 36152, issued to Ronald Kenneth Mortimer, is revoked or suspended, any additional license
27 issued under Articles 5 and 6 of Chapter 20.3 of the Bus. & Prof. Code in the name of said
28 licensee may be likewise revoked or suspended by the Director.

1 11. Revoking or suspending Brake Adjuster License Number BA 36152, issued to
2 Ronald Kenneth Mortimer;

3 12. Revoking or suspending any additional license issued under Chapter 5 of the Health
4 and Safety Code in the name of Ronald Kenneth Mortimer;

5 13. Revoking or suspending any additional license issued under Articles 5 and 6 of
6 Chapter 20.3 of the Business and Professions Code in the name of Ronald Kenneth Mortimer;

7 14. Ordering Richard Traugh to pay the Bureau of Automotive Repair the reasonable
8 costs of the investigation and enforcement of this case, pursuant to Business and Professions
9 Code section 125.3;

10 15. Ordering Ronald Kenneth Mortimer to pay the Bureau of Automotive Repair the
11 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
12 Professions Code section 125.3;

13 16. Taking such other and further action as deemed necessary and proper.

14
15 DATED: May 8, 2015 Patrick Dorais

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

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