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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:  
13 **ANOTHER SMOG TEST ONLY CENTER**  
1075 #A Santa Rosa Avenue  
Santa Rosa, California 95404  
14 Mailing Address:  
2360 Mendocino Avenue A2 #173  
15 Santa Rosa, California 95403  
16 **RICHARD DANIEL FENTON, PARTNER**  
**ZENE FAWN FENTON, PARTNER**  
17 **Automotive Repair Dealer License**  
No. ARD 236899  
18 **Smog Check Test Only Station License**  
No. TC 236899  
19  
20 **and**  
21 **RICHARD DANIEL FENTON**  
2360 Mendocino Avenue A2 #173  
22 Santa Rosa, California 95403  
23 **Advanced Emission Specialist Technician**  
License No. EA 138504

24 Respondents.

Case No.

79/13-41

ACCUSATION

SMOG CHECK

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1 Complainant alleges:

2 **PARTIES**

3 1. John Wallauch (Complainant) brings this Accusation solely in his official capacity as  
4 the Chief of the Bureau of Automotive Repair (Bureau), Department of Consumer Affairs  
5 (Department).

6 **Automotive Repair Dealer Registration**

7 2. On or about April 25, 2005, the Bureau issued Automotive Repair Dealer Registration  
8 Number ARD 236899 (registration) to Another Smog Test Only Center (Respondent Another  
9 Smog) with Richard Daniel Fenton and Zene Fawn Fenton as partners. The registration was in  
10 full force and effect at all times relevant to the charges brought in this Accusation and will expire  
11 on December 31, 2013, unless renewed.

12 **Smog Check Test Only Station License**

13 3. On or about May 10, 2005, the Bureau issued Smog Check Test Only Station License  
14 Number TC 236899 (station license) to Respondent Another Smog. The station license was in  
15 full force and effect at all times relevant to the charges brought in this Accusation and will expire  
16 on December 31, 2013, unless renewed.

17 **Advanced Emission Specialist Technician License**

18 4. On a date uncertain in 1998, the Bureau issued Advanced Emission Specialist  
19 Technician License Number EA 138504 (technician license) to Richard Daniel Fenton  
20 (Respondent Fenton). The technician license was in full force and effect at all times relevant to  
21 the charges brought in this Accusation and will expire on February 28, 2014, unless renewed.

22 **JURISDICTION**

23 5. This Accusation is brought before the Director of Consumer Affairs (Director) for the  
24 Bureau of Automotive Repair, under the authority of the following laws. All sections references  
25 are to the Business and Professions Code (Code) unless otherwise indicated.

26 6. Code section 118, subdivision (b), provides that the suspension, expiration, surrender,  
27 or cancellation of a license shall not deprive the Director of jurisdiction to proceed with a  
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1 disciplinary action during the period within which the license may be renewed, restored, reissued,  
2 or reinstated.

3 7. Code section 9884.13 provides, in part, that the expiration of a valid registration shall  
4 not deprive the director or chief of jurisdiction to proceed with a disciplinary proceeding against  
5 an automotive repair dealer or to render a decision invalidating a registration temporarily or  
6 permanently.

7 8. Health and Safety Code section 44002 provides, in part, that the Director has all the  
8 powers and authority granted under the Automotive Repair Act for enforcing the Motor Vehicle  
9 Inspection Program.

10 9. Health and Safety Code section 44072.6 provides, in part, that the expiration or  
11 suspension of a license by operation of law, or by order or decision of the Director of Consumer  
12 Affairs, or a court of law, or the voluntary surrender of the license shall not deprive the Director  
13 of jurisdiction to proceed with disciplinary action.

14 **STATUTORY PROVISIONS**

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

19 11. Code section 9884.7 states, in part:

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

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

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(4) Any other conduct that constitutes fraud.

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(b) Except as provided for in subdivision (c), if an automotive repair dealer operates more than one place of business in this state, the director pursuant to subdivision (a) shall only suspend, revoke, or place on probation the registration of the specific place of business which has violated any of the provisions of this chapter. This violation, or action by the director, shall not affect in any manner the right of the automotive repair dealer to operate his or her other places of business.

(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.

12. Code section 9884.9, subdivision (a), states, in part:

The automotive repair dealer shall give to the customer a written estimated price for labor and parts necessary for a specific job. No work shall be done and no charges shall accrue before authorization to proceed is obtained from the customer. No charge shall be made for work done or parts supplied in excess of the estimated price without the oral or written consent of the customer that shall be obtained at some time after it is determined that the estimated price is insufficient and before the work not estimated is done or the parts not estimated are supplied. . . .

13. Health and Safety Code section 44072.2 states:

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

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

...

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

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

14. Health and Safety Code section 44072.8 states:

When a license has been revoked or suspended following a hearing under this article, any additional license issued under this chapter in the name of the licensee may be likewise revoked or suspended by the director.

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1 **COST RECOVERY**

2 15. Code section 125.3 provides, in part, that a Board may request the administrative law  
3 judge to direct a licentiate found to have committed a violation or violations of the licensing act to  
4 pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

5 **UNDERCOVER OPERATION – 2001 CHRYSLER 300M**

6 16. On or about May 18, 2012, a Bureau undercover operator drove a Bureau-  
7 documented 2001 Chrysler 300M to Respondent Another Smog's facility and requested a smog  
8 inspection. The vehicle could not pass the visual portion of a smog inspection because the  
9 vehicle's Positive Crankcase Ventilation (PCV) system was missing.

10 17. Although not requested and not specifically authorized by the operator, Respondent  
11 Fenton performed a partial pre-inspection. Respondent Fenton did not notify the operator that the  
12 partial pretest might not indicate the likelihood of the vehicle passing a subsequent official  
13 inspection. Respondent Fenton did not complete the smog inspection and returned the vehicle to  
14 the operator. He instructed the operator that the PCV supply hose required repair before the  
15 vehicle could pass a smog inspection. Respondent Fenton did not charge the operator for the  
16 inspection and did not provide her with an estimate, invoice, or work order.

17 **FIRST CAUSE FOR DISCIPLINE**

18 **(Failure to Obtain Authorization and to Provide Estimate)**

19 18. Respondent Another Smog has subjected its registration to discipline under Code  
20 section 9884.9, subdivision (a), in that on or about May 18, 2012, regarding the 2001 Chrysler  
21 300M, it (1) failed to obtain specific authorization from the customer before commencing with  
22 the partial pretest and (2) failed to provide a written estimate for parts and labor to the customer  
23 prior to performing the partial pretest.

24 **SECOND CAUSE FOR DISCIPLINE**

25 **(Violation of the Motor Vehicle Inspection Program)**

26 19. Respondent Another Smog has subjected its station license to discipline under Health  
27 and Safety Code section 44072.2, subdivision (a), in that on or about May 18, 2012, regarding the  
28 2001 Chrysler 300M, it violated the following Health and Safety Code sections:

1 a. **44011.3:** Respondent Another Smog performed an improper and unauthorized partial  
2 pretest.

3 b. **44012, subdivision (f):** Respondent Another Smog failed to perform emission  
4 control tests on that vehicle in accordance with procedures prescribed by the Department.

5 **THIRD CAUSE FOR DISCIPLINE**

6 **(Violations of Regulations Pursuant to the Motor Vehicle Inspection Program)**

7 20. Respondent Another Smog has subjected its station license to discipline under Health  
8 and Safety Code section 44072.2, subdivision (c), in that on or about May 18, 2012, regarding the  
9 2001 Chrysler 300M, it violated the following California Code of Regulations, title 16,  
10 (Regulations) sections:

11 a. **3353:** Respondent Another Smog failed to obtain specific authorization from the  
12 customer before commencing with the partial pretest.

13 b. **3353, subdivision (a):** Respondent Another Smog failed to provide the customer with  
14 a written estimate for parts and labor prior to the partial pretest.

15 **FOURTH CAUSE FOR DISCIPLINE**

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

17 21. Respondent Fenton has subjected his technician license to discipline under Health and  
18 Safety Code section 44072.2, subdivision (a), in that on or about May 18, 2012, regarding the  
19 2001 Chrysler 300M, he violated the following Health and Safety Code sections:

20 a. **44012, subdivision (f):** Respondent Fenton failed to perform emission control tests  
21 on that vehicle in accordance with procedures prescribed by the Department.

22 b. **44032:** Respondent Fenton failed to perform tests of the emission control devices and  
23 systems on that vehicle in accordance with Health and Safety Code section 44012.

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1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(Violations of Regulations Pursuant to the Motor Vehicle Inspection Program)**

3 22. Respondent Fenton has subjected his technician license to discipline under Health and  
4 Safety Code section 44072.2, subdivision (c), in that on or about May 18, 2012, regarding the  
5 2001 Chrysler 300M, he violated the following Regulations sections:

6 a. **3340.30, subdivision (a):** Respondent Fenton failed to inspect and test that vehicle in  
7 accordance with Health and Safety Code section 44012.

8 b. **3340.42:** Respondent Fenton failed to conduct the required smog tests and  
9 inspections on that vehicle in accordance with the Bureau's specifications.

10 **UNDERCOVER OPERATION – 2002 DODGE DAKOTA**

11 23. On or about May 18, 2012, a Bureau undercover operator drove a Bureau-  
12 documented 2002 Dodge Dakota to Respondent Another Smog's facility and requested a smog  
13 inspection. The vehicle could not pass the visual portion of a smog inspection because the  
14 vehicle's Evaporative Emissions Control (EVAP) canister was missing. The operator was not  
15 asked to sign any paperwork nor was he provided any paperwork prior to the smog inspection.  
16 Respondent Fenton performed the smog inspection and issued electronic Certificate of  
17 Compliance No. OM770319C for the vehicle even though it could not have passed the visual  
18 portion of the smog inspection. The operator paid \$60 for the smog inspection and received a  
19 copy of Invoice No. 010195 and the Vehicle Inspection Report ("VIR").

20 **SIXTH CAUSE FOR DISCIPLINE**

21 **(Misleading Statements)**

22 24. Respondent Another Smog has subjected its registration to discipline under Code  
23 section 9884.7, subdivision (a)(1), in that on or about May 18, 2012, it made statements which it  
24 knew or which by exercise of reasonable care it should have known were untrue or misleading  
25 when it issued electronic Certificate of Compliance No. OM770319C for the 2002 Dodge Dakota,  
26 certifying that the vehicle complied with applicable laws and regulations when, in fact, the  
27 vehicle's EVAP canister was missing.

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1 **SEVENTH CAUSE FOR DISCIPLINE**

2 **(Fraud)**

3 25. Respondent Another Smog has subjected its registration to discipline under Code  
4 section 9884.7, subdivision (a)(4), in that on or about May 18, 2012, it committed acts that  
5 constitute fraud by issuing electronic Certificate of Compliance No. OM770319C for the 2002  
6 Dodge Dakota, without performing a bona fide inspection of the emission control devices and  
7 systems on that vehicle, thereby depriving the People of the State of California of the protection  
8 afforded by the Motor Vehicle Inspection Program.

9 **EIGHTH CAUSE FOR DISCIPLINE**

10 **(Violation of the Motor Vehicle Inspection Program)**

11 26. Respondent Another Smog has subjected its station license to discipline under Health  
12 and Safety Code section 44072.2, subdivision (a), in that on or about May 18, 2012, regarding the  
13 2002 Dodge Dakota, it violated the following Health and Safety Code sections:

14 a. **44012, subdivision (a):** Respondent Another Smog failed to determine that all  
15 emission control devices and systems required by law were installed and functioning correctly in  
16 accordance with test procedures.

17 b. **44012, subdivision (f):** Respondent Another Smog failed to perform emission  
18 control tests on that vehicle in accordance with procedures prescribed by the Department.

19 c. **44015, subdivision (a)(1):** Respondent Another Smog issued electronic Certificate  
20 of Compliance No. OM770319C for a vehicle that has been tampered with.

21 d. **44015, subdivision (b):** Respondent Another Smog issued electronic Certificate of  
22 Compliance No. OM770319C without properly testing and inspecting the vehicle to determine if  
23 it complied with Health and Safety Code section 44012.

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1 **NINTH CAUSE FOR DISCIPLINE**

2 **(Violations of Regulations Pursuant to the Motor Vehicle Inspection Program)**

3 27. Respondent Another Smog has subjected its station license to discipline under Health  
4 and Safety Code section 44072.2, subdivision (c), in that on or about May 18, 2012, regarding the  
5 2002 Dodge Dakota, it violated the following Regulations sections:

6 a. **3340.24, subdivision (c):** Respondent Another Smog falsely or fraudulently issued  
7 electronic Certificate of Compliance No. OM770319C without performing a bona fide inspection  
8 of the emission control devices and systems on that vehicle as required by Health and Safety  
9 Code section 44012.

10 b. **3340.35, subdivision (c):** Respondent Another Smog issued electronic Certificate of  
11 Compliance No. OM770319C even though that vehicle had not been inspected in accordance  
12 with the Regulations section 3340.42.

13 c. **3340.42:** Respondent Another Smog failed to conduct the required smog tests and  
14 inspections on that vehicle in accordance with the Bureau's specifications.

15 d. **3353:** Respondent Another Smog failed to obtain specific authorization from the  
16 customer before commencing the smog inspection.

17 e. **3353, subdivision (a):** Respondent Another Smog failed to provide the customer with  
18 a written estimate for parts and labor prior to the smog inspection.

19 **TENTH CAUSE FOR DISCIPLINE**

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

21 28. Respondent Another Smog subjected its station license to discipline under Health and  
22 Safety Code section 44072.2, subdivision (d), in that on or about May 18, 2012, regarding the  
23 2002 Dodge Dakota, it committed acts involving dishonesty, fraud, or deceit whereby another  
24 was injured. Respondent Another Smog issued electronic Certificate of Compliance No.  
25 OM770319C without performing a bona fide inspection of the emission control devices and  
26 systems on the vehicle, thereby depriving the People of the State of California of the protection  
27 afforded by the Motor Vehicle Inspection Program.

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1 **THIRTEENTH CAUSE FOR DISCIPLINE**

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

3 31. Respondent Fenton has subjected his technician license to discipline under Health and  
4 Safety Code section 44072.2, subdivision (d), in that on or about May 18, 2012, regarding the  
5 2002 Dodge Dakota, he committed acts involving dishonesty, fraud or deceit whereby another  
6 was injured. Respondent Fenton issued electronic Certificate of Compliance No. OM770319C  
7 without performing a bona fide inspection of the emission control devices and systems on that  
8 vehicle, thereby depriving the People of the State of California of the protection afforded by the  
9 Motor Vehicle Inspection Program.

10 **DISCIPLINARY CONSIDERATIONS**

11 32. To determine the degree of penalty, if any, to be imposed upon Respondent,  
12 Complainant alleges as follows:

13 a. On December 11, 2006, the Bureau issued Citation No. C07-0379 to Respondent  
14 Another Smog against its registration and station licenses for violations of Health and Safety  
15 Code section 44012, subdivision (f), (failure to perform a visual/functional check of emission  
16 control devices) and Regulations section 3340.35, subdivision (c), (issuing a certificate of  
17 compliance to a vehicle improperly tested). Respondent Another Smog issued a certificate of  
18 compliance to a Bureau vehicle with a nonfunctional exhaust gas recirculation system. The  
19 Bureau assessed and Respondent Another Smog paid a civil penalty of \$500.00.

20 b. On May 17, 2007, the Bureau issued Citation No. C07-0904 to Respondent Another  
21 Smog against its registration and station licenses for violations of Health and Safety Code section  
22 44012, subdivision (f), (failure to perform a visual/functional check of emission control devices)  
23 and Regulation, section 3340.35, subdivision (c), (issuing a certificate of compliance to a vehicle  
24 improperly tested). Respondent Another Smog issued a certificate of compliance to a Bureau  
25 vehicle with the ignition timing adjusted beyond the manufacturer's specifications. The Bureau  
26 assessed and Respondent Another Smog paid a civil penalty of \$1,000.00.

27 c. On September 26, 2007, the Bureau issued Citation No. C08-0277 to Respondent  
28 Another Smog against its registration and station licenses for violations of Health and Safety

1 Code section 44012, subdivision (f), (failure to perform a visual/functional check of emission  
2 control devices) and Regulations section 3340.35, subdivision (c), (issuing a certificate of  
3 compliance to a vehicle improperly tested). Respondent Another Smog issued a certificate of  
4 compliance to a Bureau vehicle with a missing PAIR reed valve assembly. The Bureau assessed  
5 a civil penalty of \$2,000.00. Respondent Another Smog appealed this citation on October 5,  
6 2007, but then withdrew the appeal. Respondent Another Smog complied with this citation on  
7 August 11, 2008.

8 d. On December 29, 2008, the Bureau issued Citation No. C09-0763 to Respondent  
9 Another Smog against its registration and station licenses for violations of Health and Safety  
10 Code section 44012, subdivision (f), (failure to perform a visual/functional check of emission  
11 control devices) and Regulations section 3340.35, subdivision (c), (issuing a certificate of  
12 compliance to a vehicle improperly tested). Respondent Another Smog issued a certificate of  
13 compliance to a Bureau vehicle with the ignition timing adjusted beyond the manufacturer's  
14 specifications. The Bureau assessed and Respondent Another Smog paid a civil penalty of  
15 \$500.00.

16 e. On August 18, 2009, the Bureau issued Citation No. C2010-0139 to Respondent  
17 Another Smog against its registration and station licenses for violations of Health and Safety  
18 Code section 44012, subdivision (f), (failure to perform a visual/functional check of emission  
19 control devices) and Regulations section 3340.35, subdivision (c), (issuing a certificate of  
20 compliance to a vehicle improperly tested). Respondent Another Smog issued a certificate of  
21 compliance to a Bureau vehicle with the ignition timing adjusted beyond the manufacturer's  
22 specifications. The Bureau assessed and Respondent Another Smog paid a civil penalty of  
23 \$1,000.00.

24 f. On March 26, 2001, the Bureau issued Citation No. M01-0452 to Respondent Fenton  
25 against his technician license for violations of Health and Safety Code section 44032, (qualified  
26 technicians shall perform tests of emission control systems and devices in accordance with Health  
27 and Safety Code section 44012) and Regulations section 3340.30, subdivision (a), (qualified  
28 technicians shall inspect, test, and repair vehicles in accordance with Health and Safety Code

1 sections 44012 and 44035 and Regulations section 3340.42). Respondent Fenton issued a  
2 certificate of compliance to a Bureau vehicle with the ignition timing adjusted beyond the  
3 manufacturer's specifications. Respondent Fenton was required to attend an 8-hour training  
4 course. Respondent Fenton complied with this citation on August 14, 2001.

5 g. On December 11, 2006, the Bureau issued Citation No. M07-0380 to Respondent  
6 Fenton against his technician license for violations of Health and Safety Code section 44032,  
7 (qualified technicians shall perform tests of emission control systems and devices in accordance  
8 with Health and Safety Code section 44012) and Regulations section 3340.30, subdivision (a),  
9 (qualified technicians shall inspect, test, and repair vehicles in accordance with Health and Safety  
10 Code sections 44012 and 44035 and Regulations section 3340.42). Respondent Fenton issued a  
11 certificate of compliance to a Bureau vehicle with a nonfunctional exhaust gas recirculation  
12 system. Respondent Fenton was required to attend an 8-hour training course. Respondent Fenton  
13 complied with this citation on December 13, 2006.

14 h. On May 17, 2007, the Bureau issued Citation No. M07-0905 to Respondent Fenton  
15 against his technician license for violations of Health and Safety Code section 44032, (qualified  
16 technicians shall perform tests of emission control systems and devices in accordance with Health  
17 and Safety Code section 44012) and Regulations section 3340.30, subdivision (a), (qualified  
18 technicians shall inspect, test, and repair vehicles in accordance with Health and Safety Code  
19 sections 44012 and 44035 and Regulations section 3340.42). Respondent Fenton issued a  
20 certificate of compliance to a Bureau vehicle with the ignition timing adjusted beyond the  
21 manufacturer's specifications. Respondent Fenton was required to attend a 16-hour training  
22 course. Respondent Fenton complied with this citation on July 15, 2007.

23 i. On September 26, 2007, the Bureau issued Citation No. M08-0278 to Respondent  
24 Fenton against his technician license for violations of Health and Safety Code section 44032,  
25 (qualified technicians shall perform tests of emission control systems and devices in accordance  
26 with section Health and Safety Code section 44012) and Regulations section 3340.30,  
27 subdivision (a), (qualified technicians shall inspect, test, and repair vehicles in accordance with  
28 Health and Safety Code sections 44012 and 44035 and Regulations section 3340.42). Respondent

1 Fenton issued a certificate of compliance to a Bureau vehicle with a missing PAIR reed valve  
2 assembly. Respondent Fenton was required to attend a basic clean air car course. Respondent  
3 Fenton appealed this citation on October 5, 2007, and then withdrew the appeal. Respondent  
4 Fenton complied with this citation on November 18, 2007.

5 j. On December 29, 2008, the Bureau issued Citation No. M09-0764 to Respondent  
6 Fenton against his technician license for violations of Health and Safety Code section 44032,  
7 (qualified technicians shall perform tests of emission control systems and devices in accordance  
8 with Health and Safety Code section 44012 and Regulations section 3340.30, subdivision (a),  
9 (qualified technicians shall inspect, test, and repair vehicles in accordance with Health and Safety  
10 Code sections 44012 and 44035 and Regulations section 3340.42). Respondent Fenton issued a  
11 certificate of compliance to a Bureau vehicle with the ignition timing adjusted beyond the  
12 manufacturer's specifications. Respondent Fenton was required to attend an 8-hour training  
13 course. Respondent Fenton complied with this citation on March 9, 2009.

14 k. On August 18, 2009, the Bureau issued Citation No. M2010-0140 to Respondent  
15 Fenton against his technician license for violations of Health and Safety Code section 44032,  
16 (qualified technicians shall perform tests of emission control systems and devices in accordance  
17 with Health and Safety Code section 44012) and Regulations section 3340.30, subdivision (a)m  
18 (qualified technicians shall inspect, test, and repair vehicles in accordance with Health and Safety  
19 Code sections 44012 and 44035 and Regulations section 3340.42). Respondent Fenton issued a  
20 certificate of compliance to a Bureau vehicle with the ignition timing adjusted beyond the  
21 manufacturer's specifications. Respondent Fenton was required to attend a 16-hour training  
22 course. Respondent Fenton complied with this citation on November 4, 2009.

23 l. On or about January 7, 2011, Accusation No. 79/11-51, was filed, alleging that  
24 Respondent Another Smog and Respondent Fenton violated the following: Code section 9884.7,  
25 subdivision (a)(1), (Misleading Statements), Code section 9884.7, subdivision (a)(4), (Fraud),  
26 Health and Safety Code section 44072.2, subdivision (a), (Violation of the Motor Vehicle  
27 Inspection Program), Health and Safety Code section 44072.2, subdivision (c), (Violations of  
28 Regulations Pursuant to the Motor Vehicle Inspection Program), and Health and Safety Code

1 section 44072.2, subdivision (d), (Dishonesty, Fraud or Deceit). Effective February 6, 2012,  
2 Respondent Another Smog's registration and station license and Respondent Fenton's technician  
3 license were revoked, with the revocations stayed, and were placed on probation for 4 years with  
4 15 days of suspension. Respondents agreed to be jointly and severally liable to pay \$7,254.65 for  
5 cost recovery.

#### 6 OTHER MATTERS

7 33. Under Code section 9884.7, subdivision (c), the director may invalidate temporarily  
8 or permanently or refuse to validate, the registrations for all places of business operated in this  
9 state by to Another Smog Test Only Center, upon a finding that it has, or is, engaged in a course  
10 of repeated and willful violations of the laws and regulations pertaining to an automotive repair  
11 dealer.

12 34. Under Health and Safety Code section 44072.8, if Smog Check Test Only Station  
13 License Number TC 236899, issued to Another Smog Test Only Center, is revoked or suspended,  
14 any additional license issued under this chapter in the name of said licensee may likewise be  
15 suspended or revoked.

16 35. Under Health and Safety Code section 44072.8, if Advanced Emission Specialist  
17 Technician License Number EA 138504, issued to Richard Daniel Fenton, is revoked or  
18 suspended, any additional license issued under this chapter in the name of said licensee may  
19 likewise be suspended or revoked.

#### 20 PRAYER

21 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this  
22 Accusation, and that following the hearing, the Director of Consumer Affairs issue a decision:

23 1. Revoking, suspending, or placing on probation Automotive Repair Dealer  
24 Registration Number ARD 236899, issued to Another Smog Test Only Center;

25 2. Revoking, suspending, or placing on probation any other automotive repair dealer  
26 registration issued in the name Another Smog Test Only Center;

27 3. Revoking or suspending Smog Check Test Only Station License Number TC 236899,  
28 issued to Another Smog Test Only Center;

1           4.    Revoking or suspending any additional license issued under Chapter 5 of the Health  
2 and Safety Code in the name of Another Smog Test Only Center;

3           5.    Revoking or suspending Advanced Emission Specialist Technician License Number  
4 EA 138504, issued to Richard Daniel Fenton;

5           6.    Revoking or suspending any additional license issued under Chapter 5 of the Health  
6 and Safety Code in the name of Richard Daniel Fenton;

7           7.    Ordering Another Smog Test Only Center and Richard Daniel Fenton to pay the  
8 Bureau of Automotive Repair the reasonable costs of the investigation and enforcement of this  
9 case, pursuant to Business and Professions Code section 125.3; and

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

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12  
13 DATED:

*January 16, 2013*

*John Wallauch*  
JOHN WALLAUCH  
Chief

*Doug Balatti*

Bureau of Automotive Repair  
Department of Consumer Affairs  
State of California  
*Complainant*

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