

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

In the Matter of the Accusation Against:

A 1 SMOG
MICHAEL KOKKONEN, OWNER
6630 Rosedale Hwy, #C
Bakersfield, CA 93308
Automotive Repair Dealer Reg. No.
ARD 241852
Smog Check Test Only Station License
No. TC 241852,

MICHAEL KOKKONEN
107 Moneta Avenue
Bakersfield, CA 93308
Smog Check Inspector License No. EO
144223 and
Smog Check Repair Technician License No. EI
144223, (formerly Advanced Emissions
Technician Specialist License No.
EA 144223)

Respondents.

Case No. 79/14-30

OAH No. 2013110659

DECISION

The attached Stipulated Revocation of License and Disciplinary Order is hereby accepted and adopted as the Decision of the Director of the Department of Consumer Affairs in the above-entitled matter.

This Decision shall become effective January 27, 2015.

DATED: January 2, 2015



TAMARA COLSON
Assistant General Counsel
Department of Consumer Affairs

1 KAMALA D. HARRIS
Attorney General of California
2 THOMAS L. RINALDI
Supervising Deputy Attorney General
3 MICHAEL BROWN
Deputy Attorney General
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300 So. Spring Street, Suite 1702
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7 *Attorneys for Complainant*

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 **A 1 SMOG**
14 **MICHAEL KOKKONEN, OWNER**
6630 Rosedale Hwy, #C
15 Bakersfield, CA 93308
Automotive Repair Dealer Reg. No. ARD
16 241852
Smog Check Test Only Station License No.
17 TC 241852,

18 **MICHAEL KOKKONEN**
107 Moneta Avenue
19 Bakersfield, CA 93308
Smog Check Inspector License No. EO
20 144223 and Smog Check Repair Technician
License No. EI 144223, (formerly, Advanced
21 Emissions Technician Specialist License No.
EA 144223)

22 Respondents.
23

Case No. 79/14-30

OAH No. 2013110659

**STIPULATED REVOCATION OF
LICENSE AND DISCIPLINARY ORDER**

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1 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
2 entitled proceedings that the following matters are true:

3 PARTIES

4 1. Patrick Dorais (Complainant) is the Chief of the Bureau of Automotive Repair
5 (Bureau). He brought this action solely in his official capacity and is represented in this matter by
6 Kamala D. Harris, Attorney General of the State of California, by Michael Brown, Deputy
7 Attorney General.

8 2. Michael Kokkonen (Respondent Kokkonen), owner of A 1 Smog is represented in
9 this proceeding by attorney Michael B. Levin, whose address is 3727 Camino del Rio South,
10 Suite 200, San Diego, CA 92108.

11 **A 1 Smog; Michael Kokkonen, Owner**

12 3. On or about October 24, 2005, the Bureau issued Automotive Repair Dealer
13 Registration No. ARD 241852 to Respondent Kokkonen. The Automotive Repair Dealer
14 Registration expired on October 31, 2014, and has not been renewed.

15 4. On or about October 25, 2005, the Bureau issued Smog Check Test Only Station
16 License No. TC 241852 to Respondent Kokkonen. The Smog Check Test Only Station License
17 expired on October 31, 2014, and has not been renewed.

18 **Michael Kokkonen**

19 5. In or about 2001, the Bureau issued Advanced Emission Specialist Technician
20 License Number EA 144223 to Respondent Kokkonen. Respondent Kokkonen's Advanced
21 Emission Specialist Technician License was due to expire on November 30, 2013, however, was
22 cancelled on November 26, 2013. Pursuant to California Code of Regulations, title 16 section
23 3340.28, subdivision (e) ¹, the license was renewed, pursuant to Respondent Kokkonen's
24 election, as Smog Check Inspector License Number EO 144223 and Smog Check Repair
25 Technician License Number EI 144223, effective November 26, 2013. Respondent Kokkonen's
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27 ¹ Effective August 1, 2012, California Code of Regulations, title 16, sections 3340.28,
28 3340.29, and 3340.30 were amended to implement a license restructure from the Advanced
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 Smog Check Inspector License and Smog Check Repair Technician License were in full force
2 and effect at all times relevant to the charges brought herein and will expire on November 30,
3 2015, unless renewed.

4 JURISDICTION

5 6. Accusation No. 79/14-30 was filed before the Director of Consumer Affairs
6 (Director), for the Bureau, and is currently pending against Respondent Kokkonen. The
7 Accusation and all other statutorily required documents were properly served on Respondent
8 Kokkonen on October 21, 2013. Respondent Kokkonen timely filed his Notice of Defense
9 contesting the Accusation. A copy of Accusation No. 79/14-30 is attached as Exhibit A and
10 incorporated by reference.

11 ADVISEMENT AND WAIVERS

12 7. Respondent Kokkonen has carefully read, fully discussed with counsel, and
13 understands the charges and allegations in Accusation No. 79/14-30. Respondent Kokkonen also
14 has carefully read, fully discussed with counsel, and understands the effects of this Stipulated
15 Revocation of License and Disciplinary Order.

16 8. Respondent Kokkonen is fully aware of his legal rights in this matter, including the
17 right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-
18 examine the witnesses against him; the right to present evidence and to testify on his own behalf;
19 the right to the issuance of subpoenas to compel the attendance of witnesses and the production of
20 documents; the right to reconsideration and court review of an adverse decision; and all other
21 rights accorded by the California Administrative Procedure Act and other applicable laws.

22 9. Respondent Kokkonen voluntarily, knowingly, and intelligently waives and gives up
23 each and every right set forth above.

24 CULPABILITY

25 10. Respondent Kokkonen admits the truth of each and every charge and allegation in
26 Accusation No. 79/14-30.

27 11. Respondent Kokkonen agrees that his Automotive Repair Dealer Registration No.
28 ARD 241852, Smog Check Station License No. TC 241852 and Advanced Emission Specialist

1 Technician License No. EA 144223 are subject to discipline and he agrees to be bound by the
2 Director of Consumer Affairs imposition of discipline as set forth in the Disciplinary Order
3 below.

4 12. Any admissions, be they general or specific, express or implied, do not constitute
5 admissions for any other purpose or proceeding to which the Bureau of Automotive
6 Repair (BAR) and Department of Consumer Affairs (DCA) is not a party, including third party
7 civil, criminal, or administrative proceedings.

8 CONTINGENCY

9 13. This stipulation shall be subject to approval by the Director or the Director's designee.
10 Respondent Kokkonen understands and agrees that counsel for Complainant and the staff of the
11 Bureau of Automotive Repair may communicate directly with the Director and staff regarding
12 this stipulation and revocation, without notice to or participation by Respondent or his counsel.
13 By signing the stipulation, Respondent Kokkonen understands and agrees that he may not
14 withdraw his agreement or seek to rescind the stipulation prior to the time the Director considers
15 and acts upon it. If the Director fails to adopt this stipulation as the Decision and Order, the
16 Stipulated Revocation of License and Disciplinary Order shall be of no force or effect, except for
17 this paragraph, it shall be inadmissible in any legal action between the parties, and the Director
18 shall not be disqualified from further action by having considered this matter.

19 14. The parties understand and agree that Portable Document Format (PDF) and facsimile
20 copies of this Stipulated Revocation of License and Disciplinary Order, including Portable
21 Document Format (PDF) and facsimile signatures thereto, shall have the same force and effect as
22 the originals.

23 15. This Stipulated Revocation of License and Disciplinary Order is intended by the
24 parties to be an integrated writing representing the complete, final, and exclusive embodiment of
25 their agreement. It supersedes any and all prior or contemporaneous agreements, understandings,
26 discussions, negotiations, and commitments (written or oral). This Stipulated Revocation of
27 License and Disciplinary Order may not be altered, amended, modified, supplemented, or
28

1 otherwise changed except by a writing executed by an authorized representative of each of the
2 parties.

3 16. In consideration of the foregoing admissions and stipulations, the parties agree that
4 the Director may, without further notice or formal proceeding, issue and enter the following
5 Order:

6 ORDER

7 IT IS HEREBY ORDERED that Automotive Repair Dealer Registration No. ARD 241852,
8 Smog Check Test Only Station License No. TC 241852, Smog Check Inspector License No. EO
9 144223 and Smog Check Repair Technician License No. EI 144223, (formerly, Advanced
10 Emissions Technician Specialist License No. EA 144223) issued to Respondent Kokkonen are
11 revoked.

12 Respondent Kokkonen shall be held responsible for payment of the total investigative and
13 enforcement costs incurred in this case amounting to \$21,771.34. These costs shall be deferred
14 until reapplication for any registration or license by Respondent Kokkonen for any license that
15 the Bureau of Automotive Repair issues.

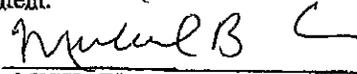
16 ACCEPTANCE

17 I have carefully read the above Stipulated Revocation of License and Disciplinary Order
18 and have fully discussed it with my attorney, Michael B. Levin. I understand the stipulation and
19 the effect it will have on my Automotive Repair Dealer Registration, Smog Check Test Only
20 Station License, Smog Check Inspector License and Smog Check Repair Technician License. I
21 enter into this Stipulated Revocation of License and Disciplinary Order voluntarily, knowingly,
22 and intelligently, and agree to be bound by the Decision and Order of the Director of Consumer
23 Affairs.

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25 ///
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1 DATED: 12/2/14 
 2 MICHAEL KOKKONEN, OWNER OF A I
 3 SMOG
 4 Respondent

5 I have read and fully discussed with Respondent Michael Kokkonen, owner of A I Smog,
 6 the terms and conditions and other matters contained in this Stipulated Revocation of License and
 7 Disciplinary Order. I approve its form and content.

8 DATED: 12/2/14 
 9 MICHAEL B. LEVIN
 10 Attorney for Respondent

11 ENDORSEMENT

12 The foregoing Stipulated Revocation of License and Disciplinary Order is hereby
 13 respectfully submitted for consideration by the Director of Consumer Affairs.

14 Dated: December __, 2014
 15 Respectfully submitted,
 16 KAMALA D. HARRIS
 17 Attorney General of California
 18 THOMAS L. RINALDI
 19 Supervising Deputy Attorney General
 20
 21 MICHAEL BROWN
 22 Deputy Attorney General
 23 *Attorneys for Complainant*

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DATED: _____
MICHAEL KOKKONEN, OWNER OF A 1
SMOG
Respondent

I have read and fully discussed with Respondent Michael Kokkonen, owner of A 1 Smog,
the terms and conditions and other matters contained in this Stipulated Revocation of License and
Disciplinary Order. I approve its form and content.

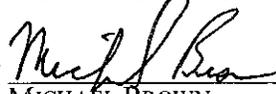
DATED: _____
MICHAEL B. LEVIN
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Revocation of License and Disciplinary Order is hereby
respectfully submitted for consideration by the Director of Consumer Affairs.

Dated: December 2, 2014

Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
THOMAS L. RINALDI
Supervising Deputy Attorney General


MICHAEL BROWN
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 79/14-30

1 KAMALA D. HARRIS
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 GREGORY J. SALUTE
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6 Facsimile: (213) 897-2804

7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. **79/14-30**

13 **A 1 SMOG**
14 **MICHAEL KOKKONEN, OWNER**
15 **6630 Rosedale Hwy, #C**
16 **Bakersfield, CA 93308**
17 **Automotive Repair Dealer Reg. No. ARD 241852**
18 **Smog Check Test Only Station License No. TC**
19 **241852,**

ACCUSATION
(Smog Check)

18 **MICHAEL KOKKONEN**
19 **107 Moneta Avenue**
20 **Bakersfield, Ca. 93308**
21 **Advanced Emission Specialist Technician**
22 **License No. EA 144223, (to be redesignated upon**
23 **renewal as EO 144223 and/or EI 144223)**

Respondents.

24 Complainant alleges:

25 **PARTIES/LICENSE INFORMATION**

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

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A 1 Smog; Michael Kokkonen, Owner

2. On or about October 24, 2005, the Director of Consumer Affairs ("Director") issued Automotive Repair Dealer Registration Number ARD 241852 ("registration") to Michael Kokkonen ("Respondent Kokkonen"), owner of A 1 Smog. Respondent's registration was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2013, unless renewed.

3. On or about October 25, 2005, the Director issued Smog Check Test Only Station License Number TC 241852 ("smog check station license") to Respondent Kokkonen. Respondent's smog check station license was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2013, unless renewed.

Michael Kokkonen

4. In or about 2001, the Director issued Advanced Emission Specialist Technician License Number EA 144223 ("technician license") to Respondent Kokkonen. Respondent's technician license was in full force and effect at all times relevant to the charges brought herein and will expire on November 30, 2013, unless renewed. Upon timely renewal of the license, the license will be re-designated as EO 144223 and/or EI 144223.¹

JURISDICTION

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

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

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

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

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

7

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

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

12

13 (f) Aids or abets unlicensed persons to evade the provisions of this
14 chapter . . .

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

16

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

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

22

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

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

28 **REGULATORY PROVISIONS**

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

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

4 16. CCR, title 16, section 3340.30, subdivision (a), states that a licensed smog technician
5 shall at all times "[i]nspect, test and repair vehicles, as applicable, in accordance with section
6 44012 of the Health and Safety Code, section 44035 of the Health and Safety Code, and section
7 3340.42 of this article."

8 17. CCR, title 16, section 3340.35, subdivision (c), states that a licensed smog check
9 station "shall issue a certificate of compliance or noncompliance to the owner or operator of any
10 vehicle that has been inspected in accordance with the procedures specified in section 3340.42 of
11 this article and has all the required emission control equipment and devices installed and
12 functioning correctly."

13 18. CCR, title 16, section 3340.41, subdivision (c), provides: "No person shall enter into
14 the emissions inspection system any vehicle identification information or emission control system
15 identification data for any vehicle other than the one being tested. Nor shall any person
16 knowingly enter into the emissions inspection system any false information about the vehicle
17 being tested."

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

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

24 COST RECOVERY

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

UNDERCOVER OPERATION-JANUARY 17, 2012

1
2 22. On or about January 17, 2012, an undercover operator with the Bureau (hereinafter
3 “operator”) took the Bureau’s 2000 Mazda to Respondent’s facility. The OBDII² communication
4 wire had been previously disconnected on the Bureau-documented vehicle, causing the vehicle to
5 fail the California Smog Check Vehicle Inspection due the vehicle’s inability to communicate
6 with a generic OBDII code reader scanner³. The operator met with Respondent and requested a
7 smog inspection. The operator signed an estimate and was provided with a copy. After the
8 inspection was complete, the operator paid \$58.00 and received a copy of a vehicle inspection
9 report (“VIR”), indicating that the vehicle passed the inspection and a final invoice.

10 23. The VIR provided by Respondent and the Bureau’s VID (vehicle information
11 database) data showed that on January 17, 2012, between 15:14 and 15:40 hours, Respondent
12 performed a smog inspection on the vehicle, resulting in the issuance of electronic smog
13 certificate of compliance No. [REDACTED]. The BAR 97 OBDII test summary for this test shows
14 that the undercover vehicle communicated with the BAR 87 Emissions Inspection System⁴
15 (“EIS”) when the vehicle’s OBDII system was rendered inoperable and unable to communicate.

16 24. On or about March 5, 2012, the Bureau re-inspected the undercover vehicle and
17 found that the OBDII system on the vehicle continued to be disabled not allowing it to
18 communicate with the EIS. Further inspection confirmed that the DLC communication wire and
19 the Powertrain Control Module (PCM) wiring harness tamper indicators were still in place
20 indicating that the DLC communication wire tampering did not occur. On this same date, the
21 Bureau performed a smog inspection on the undercover vehicle which failed due to OBDII

22 ² The On Board Diagnostics (OBD II) functional test is an automated function of the
23 BAR-97 analyzer. During the OBD II functional test, the technician is required to connect an
24 interface cable from the BAR-97 analyzer to a Diagnostic Link Connector (DLC) which is
25 located inside the vehicle. Through the DLC, the BAR-97 analyzer automatically retrieves
26 information from the vehicle’s on-board computer about the status of the readiness indicators,
27 trouble codes, and the MIL (malfunction indicator light). If the vehicle fails the OBD II
28 functional test, it will fail the overall inspection.

³ If the vehicle’s on board computer fails to communicate with the BAR 97 emission
analyzer, then the BAR 97 emission analyzer automatically fails the vehicle’s smog test.

⁴ The EIS is a computer based analyzer that samples a vehicle’s exhaust emissions
through an exhaust sample probe that is placed in the tailpipe of the vehicle being inspected.

1 communication failure. The Bureau's surveillance video showed that Kokkonen performed the
2 smog inspection on this vehicle using a different vehicle(s) during the OBD II test, a method
3 known as "clean plugging",⁵ resulting in the issuance of a fraudulent certificate of compliance for
4 this vehicle.

5 **VIDEO SURVEILLANCE-CLEAN-PIPING/CLEAN-PLUGGING**

6 25. In and between September 13, 2012 and October 10, 2012, representatives of the
7 Bureau conducted a video surveillance operation of Respondent Kokkonen's smog check facility.
8 The surveillance video and information obtained from the Bureau's vehicle information database
9 ("VID") showed that Respondent Kokkonen employed a method commonly known as clean
10 piping⁶ during the following smog inspections, resulting in the issuance of fraudulent certificates
11 of compliance for all of the following vehicles:

Date & Time of Inspection	Vehicle in EIS Data and License or VIN No.	Vehicle Actually Tested	Certificate No.
12 1. 9/22/2012 13 7:45-8:04	1999 Pontiac Grand Prix, License #5VOF542	2003 Toyota Corolla, License #5DSX250	XL556880C
14 2. 10/4/2012 15 19:12-19:29	1996 Bounder Motor Home, License # 3RXY074	2003 Toyota Corolla, License #5DSX250	XL888797C
16 3. 10/8/2012 17 19:12-19:29	2006 Chrysler 300 License # SLLANAS	Ford Ranger	XN064906C

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19 26. In addition, the Bureau representative found that on or about September 24, 2012, at
20 12:00 hours, Respondent started a smog test on a 2003 Ford F-250, California license plate #
21 8P59512. The test ended at 12:20 hours. Respondent issued certificate of compliance
22 #XL619551C for the vehicle. The Bureau's surveillance video showed that Kokkonen performed

23
24 ⁵ Clean-plugging is the use of the OBD II readiness monitor status and stored fault code
25 (trouble code) status of a passing vehicle for the purpose of illegally issuing a smog certificate to
26 another vehicle that is not in compliance due to a failure to complete the minimum number of self
tests, known as monitors, or due to the presence of a stored fault code that indicates an emission
control system or component failure.

27 ⁶ Pursuant to California Code of Regulations, title 16, section 3340.1, subdivision (t),
28 "clean piping" means the use of a sample of the exhaust emissions of one vehicle in order to
cause the EIS to issue a certificate of compliance for another vehicle.

1 the smog inspection on this vehicle using a different vehicle(s) during the OBD II test, a method
2 previously described above as "clean plugging", resulting in the issuance of a fraudulent
3 certificate of compliance for this vehicle.

4 **FIRST CAUSE FOR DISCIPLINE**

5 **(Untrue or Misleading Statements)**

6 27. Respondent Kokkonen's registration is subject to disciplinary action pursuant to Bus.
7 & Prof. Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized a
8 statement which he knew or in the exercise of reasonable care should have known to be untrue or
9 misleading, as follows: Respondent Kokkonen, certified that all of the vehicles identified in
10 paragraphs 22-26 above had passed inspection and were in compliance with applicable laws and
11 regulations. In fact, Respondent Kokkonen used clean piping and/or clean plugging methods in
12 order to issue certificates for those vehicles and did not test or inspect the vehicles as required by
13 Health & Saf. Code section 44012.

14 **SECOND CAUSE FOR DISCIPLINE**

15 **(Fraud)**

16 28. Respondent Kokkonen's registration is subject to disciplinary action pursuant to Bus.
17 & Prof. Code section 9884.7, subdivision (a)(4), in that Respondent committed an act that
18 constitutes fraud by issuing electronic certificates of compliance for all of the vehicles identified
19 above in paragraphs 22-26 without ensuring that a bona fide inspection was performed on the
20 emission control devices and systems on the vehicles, thereby depriving the People of the State of
21 California of the protection afforded by the Motor Vehicle Inspection Program.

22 **THIRD CAUSE FOR DISCIPLINE**

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

24 29. Respondent Kokkonen's smog check station license is subject to disciplinary action
25 pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to
26 comply with provisions of that Code, as follows:

27
28

1 a. **Section 44012:** Respondent Kokkonen failed to ensure that emission control tests
2 were performed on the vehicles identified above in paragraphs 22-26 in accordance with
3 procedures prescribed by the department.

4 b. **Section 44015:** Respondent Kokkonen issued electronic certificates of compliance
5 for all of the vehicles identified above in paragraphs 22-26 without ensuring that the vehicles
6 were properly tested and inspected to determine if they were in compliance with Health & Saf.
7 Code section 44012.

8 **FOURTH CAUSE FOR DISCIPLINE**

9 **(Failure to Comply with Regulations Pursuant**
10 **to the Motor Vehicle Inspection Program)**

11 30. Respondent Kokkonen's smog check station license is subject to disciplinary action
12 pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to
13 comply with provisions of California Code of Regulations, title 16, as follows:

14 a. **Section 3340.24, subdivision (c):** Respondent Kokkonen falsely or fraudulently
15 issued electronic smog certificates of compliance for all of the vehicles identified in paragraphs
16 22-26 above.

17 b. **Section 3340.35, subdivision (c):** Respondent Kokkonen issued electronic smog
18 certificates of compliance for all of the vehicles identified in paragraphs 22-26 above even though
19 the vehicles had not been inspected in accordance with section 3340.42.

20 c. **Section 3340.41, subdivision (c):** Respondent Kokkonen entered false information
21 into the EIS by entering vehicle identification information or emission control system
22 identification data for a vehicle other than the one being tested.

23 d. **Section 3340.42:** Respondent Kokkonen failed to ensure that the required smog tests
24 were conducted on the vehicles identified in paragraphs 22-26 above in accordance with the
25 Bureau's specifications.

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1 FIFTH CAUSE FOR DISCIPLINE

2 (Dishonesty, Fraud or Deceit)

3 31. Respondent Kokkonen's smog check station license is subject to disciplinary action
4 pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed a
5 dishonest, fraudulent or deceitful act whereby another is injured by issuing electronic smog
6 certificates of compliance for all of the vehicles identified above in paragraphs 22-26 without
7 ensuring that a bona fide inspection was performed of the emission control devices and systems
8 on the vehicles, thereby depriving the People of the State of California of the protection afforded
9 by the Motor Vehicle Inspection Program.

10 SIXTH CAUSE FOR DISCIPLINE

11 (Violations of the Motor Vehicle Inspection Program)

12 32. Respondent Kokkonen's technician license is subject to disciplinary action pursuant
13 to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to comply with
14 provisions of that Code, as follows:

15 a. Section 44012: Respondent Kokkonen failed to perform the emission control tests on
16 the vehicles identified in paragraphs 22-26 above in accordance with procedures prescribed by the
17 department.

18 b. Section 44059: Respondent Kokkonen willfully made false entries in the EIS,
19 resulting in the issuance of fraudulent certificates of compliance for all of the vehicles identified
20 in paragraphs 22-26 above.

21 SEVENTH CAUSE FOR DISCIPLINE

22 (Failure to Comply with Regulations Pursuant
23 to the Motor Vehicle Inspection Program)

24 33. Respondent Kokkonen's technician license is subject to disciplinary action pursuant
25 to Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to comply with
26 provisions of California Code of Regulations, title 16, as follows:
27
28

1 a. Section 3340.24, subdivision (c): Respondent Kokkonen falsely or fraudulently
2 issued electronic smog certificates of compliance for all of the vehicles identified in paragraphs
3 22-26 above.

4 b. Section 3340.30, subdivision (a): Respondent Kokkonen failed to inspect and test
5 the vehicles identified in paragraphs 22-26 above in accordance with Health & Saf. Code sections
6 44012 and 44035, and California Code of Regulations, title 16, section 3340.42.

7 c. Section 3340.41, subdivision (c): Respondent Kokkonen entered false information
8 into the EIS by entering vehicle identification information or emission control system
9 identification data for a vehicle other than the one being tested.

10 d. Section 3340.42: Respondent Kokkonen failed to conduct the required smog tests on
11 the vehicles identified in paragraphs 22-26 above in accordance with the Bureau's specifications.

12 EIGHTH CAUSE FOR DISCIPLINE

13 (Dishonesty, Fraud or Deceit)

14 34. Respondent Kokkonen's technician license is subject to disciplinary action pursuant
15 to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed a
16 dishonest, fraudulent or deceitful act whereby another is injured by issuing electronic smog
17 certificates of compliance for all of the vehicles identified in paragraphs 22-26 above without
18 performing a bona fide inspection of the emission control devices and systems on the vehicles,
19 thereby depriving the People of the State of California of the protection afforded by the Motor
20 Vehicle Inspection Program.

21 MATTERS IN AGGRAVATION

22 35. To determine the degree of discipline, if any, to be imposed on Respondent
23 Kokkonen, Complainant alleges as follows:

24 A 1 Smog-Michael Kokkonen-Owner

25 a. On or about March 14, 2008, the Bureau issued Citation No. C08-0794 against
26 Respondent for violations of Health & Saf. Code section 44012, subdivision (f) (failure to
27 determine that emission control devices and systems required by State and Federal law are
28 installed and functioning correctly in accordance with test procedures), and California Code of

1 Regulations, title 16, section ("Regulation") 3340.35, subdivision (c) (issuing a certificate of
2 compliance to a vehicle that was improperly tested). Respondent had issued a certificate of
3 compliance to a Bureau undercover vehicle with a missing PCV system. The Bureau assessed
4 civil penalties totaling \$500.00 against Respondent for the violations. Respondent complied with
5 the citation (paid the fine) on April 30, 2008.

6 b. On or about April 7, 2009, the Bureau issued Citation No. C09-1164 against
7 Respondent for violations of Health & Saf. Code section 44012, subdivision (f) (failure to
8 determine that emission control devices and systems required by State and Federal law are
9 installed and functioning correctly in accordance with test procedures), and California Code of
10 Regulations, title 16, section ("Regulation") 3340.35, subdivision (c) (issuing a certificate of
11 compliance to a vehicle that was improperly tested). Respondent had issued a certificate of
12 compliance to a Bureau undercover vehicle with a missing PCV system. The Bureau assessed
13 civil penalties totaling \$1000.00 against Respondent for the violations. Respondent complied
14 with the citation on May 27, 2009.

15 **Michael Kokkonen-technician**

16 c. On or about December 4, 2003, the Bureau issued Citation No. M04-0299 against
17 Respondent for violations of Health & Saf. Code section 44032 (qualified technicians shall
18 perform tests of emission control systems and devices in accordance with Health & Saf. Code
19 section 44012); and Regulation 3340.30, subdivision (a) (qualified technicians shall inspect, test
20 and repair vehicles in accordance with Health & Saf. Code sections 44012 and 44035 and
21 Regulation 3340.42). Respondent had issued a certificate of compliance to a Bureau undercover
22 vehicle with a missing PCV valve and hose. Respondent was directed to complete an 8 hour
23 training course and to submit proof of completion to the Bureau within 30 days from receipt of
24 the citation. Respondent complied with the citation (completed the required training) on January
25 11, 2004.

26 d. On or about March 14, 2008, the Bureau issued Citation No. M08-0795 against
27 Respondent for violations of Health & Saf. Code section 44032 (qualified technicians shall
28 perform tests of emission control systems and devices in accordance with Health & Saf. Code

1 section 44012); and Regulation 3340.30, subdivision (a) (qualified technicians shall inspect, test
2 and repair vehicles in accordance with Health & Saf. Code sections 44012 and 44035 and
3 Regulation 3340.42). Respondent had issued a certificate of compliance to a Bureau undercover
4 vehicle with a missing PCV system. Respondent was directed to complete an 8 hour training
5 course and to submit proof of completion to the Bureau within 30 days from receipt of the
6 citation. Respondent complied with the citation (completed the required training) on May 18,
7 2008.

8 e. On or about April 7, 2009, the Bureau issued Citation No. M09-1165 against
9 Respondent for violations of Health & Saf. Code section 44032 (qualified technicians shall
10 perform tests of emission control systems and devices in accordance with Health & Saf. Code
11 section 44012); and Regulation 3340.30, subdivision (a) (qualified technicians shall inspect, test
12 and repair vehicles in accordance with Health & Saf. Code sections 44012 and 44035 and
13 Regulation 3340.42). Respondent had issued a certificate of compliance to a Bureau undercover
14 vehicle with a missing PCV system. Respondent was directed to complete a 16 hour training
15 course and to submit proof of completion to the Bureau within 30 days from receipt of the
16 citation. Respondent complied with the citation (completed the required training) on May 19,
17 2009.

18 **OTHER MATTERS**

19 36. Pursuant to Bus. & Prof. Code section 9884.7, subdivision (c), the Director may
20 suspend, revoke or place on probation the registration for all places of business operated in this
21 state by Respondent Michael Kokkonen, owner of A 1 Smog, upon a finding that Respondent has,
22 or is, engaged in a course of repeated and willful violations of the laws and regulations pertaining
23 to an automotive repair dealer.

24 37. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Test Only Station
25 License Number TC 241852, issued to Respondent Michael Kokkonen, owner of A 1 Smog, is
26 revoked or suspended, any additional license issued under this chapter in the name of said
27 licensee may be likewise revoked or suspended by the Director.

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

DATED: 9-30-13

PAT DORAIS by [Signature]
PATRICK DORAIS
Acting Chief, Bureau of Automotive Repair
Department of Consumer Affairs
State of California
SOUP PALATHI
Complainant

LA2013510217