

1 EDMUND G. BROWN JR.
Attorney General of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 SHAWN P. COOK
Deputy Attorney General
4 State Bar No. 117851
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-9954
6 Facsimile: (213) 897-2804
Attorneys for Complainant
7

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

11 In the Matter of the Accusation Against:

Case No. 79/09-38

12
13 **NORTHRIDGE GAS STATION INC.;**
NOSRATOLAH BAHMAN, PRESIDENT,

DEFAULT DECISION AND ORDER

14 **and**

[Gov. Code, §11520]

15 **PATRICK SARDARIAN, TECHNICIAN**
16

17 Respondents.
18

19 FINDINGS OF FACT

20 1. On or about April 29, 2009, Complainant Sherry Mehl, in her official capacity as the
21 Chief of the Bureau of Automotive Repair, Department of Consumer Affairs, filed First Amended
22 Accusation No. 79/09-38 against Northridge Gas Station Inc.; Nosratolah Bahman, President and
23 Patrick Sardarian, Advanced Emissions Specialist (Respondent) before the Director of Consumer
24 Affairs.

25 2. On or about November 16, 2004, the Bureau of Automotive Repair (Bureau) issued
26 Automotive Repair Dealer Registration (ARD Registration) No. ARD235414 to Respondent,
27 Northridge Gas Station Inc.; Nosratolah Bahman, President (Respondent). The ARD
28

1 Registration was in full force and effect at all times relevant to the charges brought herein and
2 will expire on August 31, 2010, unless renewed.

3 3. On or about November 29, 2004, the Bureau of Automotive Repair issued Smog Check
4 Test Only Station License (Smog Station License) No. TC235414 to Respondent, Northridge Gas
5 Station Inc.; Nosratolah Bahman, President (Respondent). The Smog Station License was in full
6 force and effect at all times relevant to the charges brought herein and will expire on August 31,
7 2010, unless renewed.

8 4. On a date uncertain in 2006, the Bureau issued Advanced Emission Specialist
9 Technician License ("Smog Technician License") Number EA 147697 to Patrick Sardarian
10 (Respondent). The Smog Technician License will expire on May 31, 2009, unless renewed.

11 5. On or about May 11, 2009, Peili Wang, an employee of the Department of Justice,
12 served by Certified and First Class Mail a copy of the Accusation No. 79/09-38, Statement to
13 Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5,
14 11507.6, and 11507.7 to Respondents' addresses of record with the Bureau, which were and are:

15 Northridge Gas Station, Inc.
16 Nosratolah Bahman, President
17 18473 Devonshire Street
18 Northridge, CA 91325

19 And

20 Patrick Sardarian
21 6815 Remmet Avenue, No. 218
22 Canoga Park, California 91303

23 A copy of the Accusation and proofs of service is attached as exhibit A, and is incorporated
24 herein by reference.

25 6. Service of the Accusation was effective as a matter of law under the provisions of
26 Business & Professions Code section 124.

27 7. Government Code section 11506 states, in pertinent part:

28 (c) The respondent shall be entitled to a hearing on the merits if the respondent files a
notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation

1 not expressly admitted. Failure to file a notice of defense shall constitute a waiver of respondent's
2 right to a hearing, but the agency in its discretion may nevertheless grant a hearing.

3 8. Respondents failed to file Notices of Defense within 15 days after service upon them
4 of the Accusation, and therefore waived their right to a hearing on the merits of Accusation No.
5 79/09-38.

6 9. California Government Code section 11520 states, in pertinent part:

7 (a) If the respondent either fails to file a notice of defense or to appear at the hearing, the
8 agency may take action based upon the respondent's express admissions or upon other evidence
9 and affidavits may be used as evidence without any notice to respondent.

10 10. Pursuant to its authority under Government Code section 11520, the Director finds
11 Respondent is in default. The Director will take action without further hearing and, based on the
12 evidence on file herein, finds that the allegations in Accusation No. 79/09-38 are true.

13 11. The cost for investigation and enforcement in connection with the Accusation are
14 \$2,888.50 for the Department of Justice costs and \$2,698.58 for the Bureau of Automotive Repair
15 costs, for total costs of investigation and prosecution of \$5,587.08 as of July 19, 2009.

16 DETERMINATION OF ISSUES

17 1. Based on the foregoing findings of fact, Respondent Northridge Gas Station Inc. ;
18 Nosratolah Bahman, President has subjected its ARD Registration No . ARD235414 to discipline.

19 2. Based on the foregoing findings of fact, Respondent Northridge Gas Station Inc. ;
20 Nosratolah Bahman, President has subjected its Smog Station License No. TC235414 to
21 discipline.

22 3. Based on the foregoing findings of fact, Respondent Patrick Sardarian has subjected
23 his Smog Technician License Number EA 14769 to discipline.

24 4. A copy of the Accusation is attached.

25 5. The agency has jurisdiction to adjudicate this case by default.

26 6. The Director of Consumer Affairs is authorized to revoke Respondents' ARD
27 Registration, Smog Station License, and Smog Technician License based upon the following
28 violations alleged in the Accusation:

- 1 a. Section 9884.7, subd. (a)(1) (untrue or misleading statements)
- 2 b. Section 9884.7, subd., (a)(4) (fraud)
- 3 c. Health & Safety Code Sec. 44072.2 (violations of Motor Vehicle Inspection Program)
- 4 d. Health & Safety Code Sec. 44072.2 (violations of Motor Vehicle Inspection Program)
- 5 (violations of Regulations enabled pursuant to Motor Vehicle Inspection Program)
- 6 e. Health & Safety Code Sec. 44072.2, subd. (d) (dishonesty, fraud or deceit)
- 7 f. Health & Safety Code Sec. 44072.2 , subd. (a) (violations of Motor Vehicle
- 8 Inspection Program)
- 9 g. Health & Safety Code Sec. 44072.2, subd. (c) (violations of Motor Vehicle
- 10 Inspection Program

11 ORDER

12 IT IS SO ORDERED that:

- 13 1. Automotive Repair Dealer No. ARD235414, heretofore issued to Respondent
- 14 Northridge Gas Station Inc.; Nosratolah Bahman, President, is permanently invalidated;
- 15 2. Smog Station License No. TC235414, heretofore issued to Respondent Northridge Gas
- 16 Station Inc.; Nosratolah Bahman, President, is revoked;
- 17 3. Smog Technician License No. EA 147697 heretofore issued to Patrick Sardarian is
- 18 revoked.

19 Pursuant to Government Code section 11520, subdivision (c), Respondents, or any of them,
20 may serve a written motion requesting that the Decision be vacated and stating the grounds relied
21 on within seven (7) days after service of the Decision on Respondent. The agency in its
22 discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in
23 the statute.

24 This Decision shall become effective on 9-13-09.

25 It is so ORDERED August 11, 2009

26 *P. J. Harris*

27 PATRICIA HARRIS
28 Acting Chief Deputy Director
Department of Consumer Affairs

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

default decision_LIC.rtf
DOJ docket number:LA2008900336

Attachment:

Exhibit A: Accusation No. 79/09-38

Exhibit A

Accusation No. 79/09-38

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 SHAWN P. COOK, State Bar No. 117851
Deputy Attorney General
4 300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
5 Telephone: (213) 897-9954
Facsimile: (213) 897-2804

6 Attorneys for Complainant
7

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

12 In the Matter of the Accusation Against:

Case No. 79/09-38

13 **NORTHRIDGE GAS STATION, INC., D.B.A.**
14 **NORTHRIDGE GAS STATION, INC.,**
15 18473 Devonshire Street
Northridge, California 91325
16 **NOSRATOLAH BAHMAN, PRESIDENT**
17 **ROYA BAHMAN, SECRETARY**

FIRST AMENDED
A C C U S A T I O N

[SMOG CHECK]

18 Automotive Repair Dealer Registration
19 No. ARD 235414
20 Smog Check Station License No. TC 235414

21 **PATRICK SARDARIAN**
22 6815 Remmet Avenue, No. 218
Canoga Park, California 91303

23 Advanced Emission Specialist Technician
24 License No. EA 147697

25 Respondents.

26 Sherry Mehl ("Complainant") alleges:

27 **PARTIES**

28 1. Complainant brings this First Amended Accusation solely in her official
capacity as the Chief of the Bureau of Automotive Repair ("Bureau"), Department of Consumer
Affairs.

///

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

Automotive Repair Dealer Registration

2. On or about November 16, 2004, the Bureau issued Automotive Repair Dealer Registration Number ARD 235414 ("registration") to Northridge Gas Station, Inc., ("Respondent Northridge"), doing business as Northridge Gas Station, Inc., with Nosratolah Bahman as President and Roya Bahman as Secretary. The registration will expire on August 31, 2009, unless renewed.

Smog Check Test Only Station License

3. On or about November 29, 2004, the Bureau issued Smog Check Test Only Station License Number TC 235414 ("station license") to Respondent Northridge. The station license will expire on August 31, 2009, unless renewed.

Advanced Emission Specialist Technician License

4. On a date uncertain in 2006, the Bureau issued Advanced Emission Specialist Technician Number EA 147697 ("technician license") to Patrick Sardarian ("Respondent Sardarian"). The technician license will expire on May 31, 2009, unless renewed.

STATUTORY PROVISIONS

5. Section 9884.7 of the Business and Professions Code ("Code"), states, in pertinent part:

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

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

(4) Any other conduct which constitutes fraud.

(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 invalidate temporarily or permanently 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

///

1 the right of the automotive repair dealer to operate his or her other places of
2 business.

3 (c) Notwithstanding subdivision (b), the director may invalidate
4 temporarily or permanently, the registration for all places of business operated in
5 this state by an automotive repair dealer upon a finding that the automotive repair
6 dealer has, or is, engaged in a course of repeated and willful violations of this
7 chapter, or regulations adopted pursuant to it.

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

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

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

19 9. Section 44072.2 of the Health & Safety Code states, in pertinent part:

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

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

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

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

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

1 **FOURTH CAUSE FOR DISCIPLINE**

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

3 17. Respondent Northridge's station license is subject to disciplinary action
4 pursuant to Health & Safety Code section 44072.2, subdivision (c), in that on or about May 2,
5 2008, regarding the 1988 Toyota Corolla, it failed to comply with provisions of California Code
6 of Regulations, title 16, as follows:

7 a. **Section 3340.24, subdivision (c):** Respondent Northridge falsely or
8 fraudulently issued electronic Certificate of Compliance No. NA411219 for that vehicle, in that
9 the vehicle could not pass the visual portion of the smog inspection because the vehicle's AIS
10 was missing.

11 b. **Section 3340.35, subdivision (c):** Respondent Northridge issued
12 electronic Certificate of Compliance No. NA411219 for that vehicle even though the vehicle had
13 not been inspected in accordance with section 3340.42.

14 c. **Section 3340.42:** Respondent Northridge failed to conduct the required
15 smog tests on the vehicle in accordance with the Bureau's specifications.

16 **FIFTH CAUSE FOR DISCIPLINE**

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

18 18. Respondent Northridge's station license is subject to disciplinary action
19 pursuant to Health & Safety Code section 44072.2, subdivision (d), in that on or about May 2,
20 2008, it committed dishonest, fraudulent or deceitful acts whereby another is injured by issuing
21 electronic Certificate of Compliance No. NA411219 for the 1988 Toyota Corolla without
22 performing a bona fide inspection of the emission control devices and systems on the vehicle,
23 thereby depriving the People of the State of California of the protection afforded by the Motor
24 Vehicle Inspection Program.

25 **SIXTH CAUSE FOR DISCIPLINE**

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

27 19. Respondent Sardarian has subjected his technician license to discipline

28 ///

1 under Health and Safety Code section 44072.2, subdivision (a), in that on or about May 2, 2008,
2 regarding the 1988 Toyota Corolla, he violated sections of that Code, as follows:

3 a. **Section 44012, subdivision (a):** Respondent Sardarian failed to
4 determine that all emission control devices and systems required by law were installed and
5 functioning correctly in accordance with test procedures.

6 b. **Section 44012, subdivision (f):** Respondent Sardarian failed to perform
7 emission control tests on that vehicle in accordance with procedures prescribed by the
8 department.

9 c. **Section 44032:** Respondent Sardarian failed to perform tests of the
10 emission control devices and systems on that vehicle in accordance with section 44012 of that
11 Code, in that the vehicle could not have passed the visual portion of the smog inspection because
12 the vehicle's AIS was missing.

13 d. **Section 44059:** Respondent Sardarian willfully entered false information
14 for electronic Certificate of Compliance No. NA411218, certifying that the vehicle had been
15 inspected as required when, in fact, the vehicle could not have passed the visual portion of the
16 smog inspection because the vehicle's AIS was missing.

17 **SEVENTH CAUSE FOR DISCIPLINE**

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

19 20. Respondent Sardarian has subjected his technician license to discipline
20 under Health and Safety Code section 44072.2, subdivision (c), in that on or about May 2, 2008.
21 regarding the 1988 Toyota Corolla, he violated sections of the California Code of Regulations,
22 title 16, as follows:

23 a. **Section 3340.24, subdivision (c):** Respondent Sardarian falsely or
24 fraudulently issued electronic Certificate of Compliance No. NA411219 for that vehicle, in that
25 the vehicle could not pass the visual portion of the smog inspection because the vehicle's AIS
26 was missing.

27 b. **Section 3340.30, subdivision (a):** Respondent Sardarian failed to
28 inspect and test the vehicle in accordance with Health and Safety Code section 44012.

1 c. **Section 3340.41, subdivision (c):** Respondent Sardarian entered false
2 information into the Emission Inspection System by entering "pass" for the visual inspection
3 when, in fact, the vehicle could not have passed the visual portion of the smog inspection
4 because the vehicle's AIS was missing.

5 d. **Section 3340.42:** Respondent Sardarian failed to conduct the required
6 smog tests and inspections on that vehicle in accordance with the Bureau's specifications.

7 **EIGHTH CAUSE FOR DISCIPLINE**

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

9 21. Respondent Sardarian has subjected his technician license to discipline
10 under Health and Safety Code section 44072.2, subdivision (d), in that on or about May 2, 2008,
11 he committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing
12 electronic Certificate of Compliance No. NA411219 for the 1988 Toyota Corolla without
13 performing a bona fide inspection of the emission control devices and systems on the vehicle,
14 thereby depriving the People of the State of California of the protection afforded by the Motor
15 Vehicle Inspection Program.

16 **PRIOR CITATIONS**

17 22. To determine the degree of discipline, if any, to be imposed on
18 Respondents Northridge and Sardarian, Complainant alleges as follows:

19 a. On or about July 19, 2007, the Bureau issued Citation No.
20 C08-0052 against Respondent Northridge's registration and station licenses for violations of
21 Health & Safety Code section 44012, subdivision (f) (failure to perform a visual/functional check
22 of emission control devices according to procedures prescribed by the department), and
23 California Code of Regulations, title 16, section ("Regulation") 3340.35, subdivision (c) (issuing
24 a certificate of compliance to a vehicle that was improperly tested), for issuing a certificate of
25 compliance to a Bureau undercover vehicle with a missing positive crankcase ventilation system.
26 The Bureau assessed civil penalties totaling \$500 against Respondent Northridge for the
27 violations. Respondent Northridge complied with this citation on October 4, 2007.

28 b. On or about July 19, 2007, the Bureau issued Citation No. M08-0053

1 against Respondent Sardarian's technician license for violations of Health & Safety Code section
2 44032, (failure to perform a visual/functional check of emission control devices according to
3 procedures prescribed by the department), and Regulation 3340.30, subdivision (a) (issuing a
4 certificate of compliance to a vehicle that was improperly tested), for issuing a certificate of
5 compliance to a Bureau undercover vehicle with a missing positive crankcase ventilation system.
6 The Bureau directed Respondent Sardarian to complete an 8-hour training course. Respondent
7 Sardarian complied with this citation on September 28, 2007.

8 c. On or about October 19, 2007, the Bureau issued Citation No. C08-0391
9 against Respondent's registration and station licenses for violations of Health & Safety Code
10 section 44012, subdivision (f) (failure to perform a visual/functional check of emission control
11 devices according to procedures prescribed by the department), and Regulation 3340.35,
12 subdivision (c) (issuing a certificate of compliance to a vehicle that was improperly tested), for
13 issuing a certificate of compliance to a Bureau undercover vehicle with a missing fuel
14 evaporative cannister. The Bureau assessed civil penalties totaling \$1,000 against Respondent
15 Northridge for the violations. Respondent Northridge appealed this citation on January 14, 2008.
16 Following an administrative hearing on December 12, 2008, the Bureau adopted the proposed
17 decision of the administrative law judge that affirmed the citation, and issued its final decision
18 that became final on February 24, 2009. A true and correct copy of the final decision is attached
19 hereto as Exhibit A.

20 d. On or about October 19, 2007, the Bureau issued Citation No. M08-0393
21 against Respondent Sardarian's technician license for violations of Health & Safety Code section
22 44032, (failure to perform a visual/functional check of emission control devices according to
23 procedures prescribed by the department), and Regulation 3340.30, subdivision (a) (issuing a
24 certificate of compliance to a vehicle that was improperly tested), for issuing a certificate of
25 compliance to a Bureau undercover vehicle with a missing fuel evaporative canister. The Bureau
26 directed Respondent Sardarian to complete a 16-hour training course. Respondent Sardarian
27 appealed this citation on January 8, 2008. Following an administrative hearing on December 12,
28 2008, the Bureau adopted the proposed decision of the administrative law judge that affirmed the

1 citation, and issued its final decision that became final on February 24, 2009. A true and correct
2 copy of the final decision is attached hereto as Exhibit A.

3 e. On or about February 20, 2008, the Bureau issued Citation No. C08-0687
4 against Respondent Northridge's registration and station licenses for violations of Health &
5 Safety Code section 44012, subdivision (f) (failure to perform a visual/functional check of
6 emission control devices according to procedures prescribed by the department), and Regulation
7 3340.35, subdivision (c) (issuing a certificate of compliance to a vehicle that was improperly
8 tested), for issuing a certificate of compliance to a Bureau undercover vehicle with a missing
9 positive crankcase ventilation system. The Bureau assessed civil penalties totaling \$2,000
10 against Respondent Northridge for the violations. Respondent Northridge appealed this citation
11 on May 5, 2008. Following an administrative hearing on December 12, 2008, the Bureau
12 adopted the proposed decision of the administrative law judge that affirmed the citation, and
13 issued its final decision that became final on February 24, 2009. A true and correct copy of the
14 final decision is attached hereto as Exhibit A.

15 f. On or about February 20, 2008, the Bureau issued Citation No. M08-0688
16 against Respondent Sardarian's technician license for violations of Health & Safety Code section
17 44032, (failure to perform a visual/functional check of emission control devices according to
18 procedures prescribed by the department), and Regulation 3340.30, subdivision (a) (issuing a
19 certificate of compliance to a vehicle that was improperly tested), for issuing a certificate of
20 compliance to a Bureau undercover vehicle with a missing positive crankcase ventilation system.
21 The Bureau directed Respondent Sardarian to complete a basic clean air course. Respondent
22 appealed this citation on May 5, 2008. Following an administrative hearing on December 12,
23 2008, the Bureau adopted the proposed decision of the administrative law judge that affirmed the
24 citation, and issued its final decision that became final on February 24, 2009. A true and correct
25 copy of the final decision is attached hereto as Exhibit A.

26 **OTHER MATTERS**

27 23. Pursuant to Code section 9884.7, subdivision (c), the Director may refuse
28 to validate or invalidate temporarily or permanently, the registrations for all places of business

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

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

7. Ordering Northridge Gas Station, Inc. and Patrick Sardarian to pay the Director of Consumer Affairs the reasonable costs of the investigation and enforcement of this case, pursuant to Code section 125.3; and,

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

DATED: 4/29/09



SHERRY MEHL
Chief
Bureau of Automotive Repair
Department of Consumer Affairs
State of California
Complainant

03562-110LA2008900336