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**BEFORE THE  
DEPARTMENT OF CONSUMER AFFAIRS  
FOR THE BUREAU OF AUTOMOTIVE REPAIR  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:  
  
**JASON SHOREES, OWNER  
DBA, ABC SMOG #2  
1415 South Santa Fe Avenue  
Vista, CA 92084**  
  
**Automotive Repair Dealer Registration No. ARD  
256880  
Smog Check Test Only Station License No.  
TC256880  
Smog Check Inspector License No. EO  
152782(formerly Advanced Emission Specialist  
Technician License No. EA 152782)**  
  
Respondent.

Case No. 79/14-40  
  
**DEFAULT DECISION AND  
ORDER**  
  
[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about October 18, 2013, Complainant Patrick Dorais, in his official capacity as the Chief of the Bureau of Automotive Repair, Department of Consumer Affairs, filed Accusation No. 79/14-40 against Jason Shorees, owner, and doing business as, ABC Smog #2 (Respondent) before the Director of Consumer Affairs. (Accusation attached as Exhibit A.)

**Automotive Repair Dealer Registration No. ARD 256880**

2. On or about December 8, 2008, the Bureau issued Automotive Repair Dealer Registration Number ARD 256880 ("registration") to Jason Shorees (Respondent), doing business

1 as ABC Smog #2. The registration was in full force and effect at all times relevant to the charges  
2 brought herein and expired on November 30, 2013. This lapse in licensure, however, pursuant to  
3 Business and Professions Code section 118(b), does not deprive the Director of authority to  
4 institute or continue this disciplinary proceeding.

5 **Smog Check Test Only Station License No. TC 256880**

6 3. On or about December 16, 2008, the Bureau issued Smog Check Test Only Station  
7 License Number TC 256880 ("station license") to Respondent. The station license was in full  
8 force and effect at all times relevant to the charges brought herein and expired on November 30,  
9 2013. This lapse in licensure, however, pursuant to Business and Professions Code section  
10 118(b), does not deprive the Director of authority to institute or continue this disciplinary  
11 proceeding.

12 **Smog Check Inspector License No. EO 152782**

13 4. On or about 2006, the Director issued Advanced Emission Specialist Technician  
14 License Number EA 152782 to Respondent. Shorees' advanced emission specialist technician  
15 license was due to expire on September 30, 2013. Pursuant to California Code of Regulations,  
16 title 16, section 3340.28, subdivision (e), the license was renewed, pursuant to Shorees' election,  
17 as Smog Check Inspector License Number EO 152782 ("inspector license"), effective September  
18 30, 2013. Respondent's inspector license will expire on September 30, 2015, unless renewed.<sup>1</sup>

19 5. On or about October 24, 2013, Respondent was served by Certified and First Class  
20 Mail copies of the Accusation No. 79/14-40, Statement to Respondent, Notice of Defense,  
21 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,  
22 and 11507.7) at Respondent's address of record which, pursuant to Business and Professions  
23 Code section 136, is required to be reported and maintained with the Bureau. Respondent's  
24 address of record was and is: 1415 South Santa Fe Avenue, Vista, CA 92084. The certified mail  
25

26 <sup>1</sup> Effective August 1, 2012, California Code of Regulations, title 16, section 3340.28,  
27 3340.29 and 3340.30 were amended to implement a license restructure from the Advanced  
28 Emission Specialist Technician (EA) license and Basic Area (EB) Technician license to Smog  
Check Inspector (EO) license and/or Smog Check Repair Technician (EI) license.

1 receipt was signed by "Billy Morrow." No documents were returned by the United States Postal  
2 Service as undeliverable.

3 6. Service of the Accusation was effective as a matter of law under the provisions of  
4 Government Code section 11505, subdivision (c) and/or Business & Professions Code section  
5 124.

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

7 (c) The respondent shall be entitled to a hearing on the merits if the respondent  
8 files a notice of defense, and the notice shall be deemed a specific denial of all parts  
9 of the accusation not expressly admitted. Failure to file a notice of defense shall  
10 constitute a waiver of respondent's right to a hearing, but the agency in its discretion  
11 may nevertheless grant a hearing.

12 8. Respondent failed to file a Notice of Defense within 15 days after service upon him  
13 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.  
14 79/14-40.

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

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

20 10. Pursuant to its authority under Government Code section 11520, the Director after  
21 having reviewed the proof of service dated October 24, 2013 signed by Maria G. Stawarz, and the  
22 United States Postal Service Track & Confirm Notice No 71969008911197927158, finds  
23 Respondent is in default. The Director will take action without further hearing and, based on  
24 Accusation No. 79/14-40, proof of service and on the Affidavit of Bureau Representative Kevin  
25 Mckee, finds that the allegations in Accusation are true.

26 11. Taking official notice of its own internal records, pursuant to Business and  
27 Professions Code section 125.3, it is hereby determined that the reasonable costs for Enforcement  
28 is \$2,002.50 as of December 9, 2013.

#### DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Jason Shorees, owner, and doing  
business as ABC Smog #2, has subjected his Automotive Repair Dealer Registration No. ARD

1 256880, Smog Check Test Only Station License No. TC256880, and Smog Check Inspector  
2 License No. EO 152782 (formerly Advanced Emission Specialist Technician License No. EA  
3 152782) to discipline.

4 2. The agency has jurisdiction to adjudicate this case by default.

5 3. The Director of Consumer Affairs is authorized to revoke Respondent's Automotive  
6 Repair Dealer Registration No. ARD 256880, Smog Check Test Only Station License No.  
7 TC256880, and Smog Check Inspector License No. EO 152782 (formerly Advanced Emission  
8 Specialist Technician License No. EA 152782) based upon the following violations alleged in the  
9 Accusation, which are supported by the evidence contained in the affidavit of Bureau  
10 Representative Kevin Mckee in this case:

11 a. Respondent's registration is subject to discipline under Code section 9884.7(a)(1), in  
12 that on or about September 19, 2012, he made statements which he knew or which by exercise of  
13 reasonable care should have known to be untrue or misleading by issuing electronic Certificate of  
14 Compliance No. [REDACTED] for a Mazda, certifying that the vehicle was in compliance with  
15 applicable laws and regulations when, in fact, it could not have passed the Low Pressure Fuel  
16 Evaporative Test (LPFET) portion of the smog inspection because of a defective fuel vapor hose.

17 b. Respondent's registration is subject to discipline under Code section 9884.7(a)(4), in  
18 that on or about September 19, 2012, he committed acts constituting fraud by issuing electronic  
19 Certificate of Compliance No. [REDACTED] for the Mazda without performing a bona fide  
20 inspection of the emission control devices and systems on the vehicle.

21 c. Respondent's station license is subject to discipline pursuant to Health & Safety Code  
22 section 44072.2, subdivision (a), in that on or about September 19, 2012, Respondent failed to  
23 comply with:

24 (1) Health and Safety Code section 44012, subdivision (f), by failing to perform  
25 emission control inspections on a Mazda in accordance with procedures prescribed by the  
26 department; and

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1 (2) Health and Safety Code section 44015, subdivision (b), by issuing electronic  
2 Certificate of Compliance No. [REDACTED] for the Mazda without properly inspecting the vehicle  
3 to determine if it was in compliance with Health & Safety Code section 44012.

4 d. Respondent's station license is subject to discipline pursuant to Health & Safety Code  
5 section 44072.2, subdivision (c), in that on or about September 19, 2012, he failed to comply with  
6 provisions of California Code of Regulations, title 16, as follows:

7 (1) section 3340.35, subdivision (c), by issuing electronic Certificate of Compliance  
8 No. [REDACTED] for a Mazda even though the vehicle had not been inspected in accordance with  
9 section 3340.42;

10 (2) section 3340.41, subdivision (c), by entering false information into the Emission  
11 Inspection System unit by entering "Pass" for the visual and functional tests of the fuel cap, as  
12 well as entering "Pass" for the LPFET when, in fact, these tests were not performed; and

13 (3) section 3340.42, by failing to perform an emission control inspection on the  
14 vehicle in accordance with procedures prescribed by the department.

15 e. Respondent's station license is subject to discipline pursuant to Health & Safety Code  
16 section 44072.2, subdivision (d), in that on or about September 19, 2012, he committed dishonest,  
17 fraudulent or deceitful acts whereby another is injured by issuing electronic Certificate of  
18 Compliance No. [REDACTED] for a Mazda without performing a bona fide inspection of the  
19 emission control devices and systems on the vehicle.

20 f. Respondent's technician license is subject to discipline pursuant to Health and Safety  
21 Code section 44072.2, subdivision (a), in that on or about September 19, 2012, he violated the  
22 following sections of that Code:

23 (1) section 44012, subdivision (f), by failing to perform emission control inspections  
24 on a Mazda in accordance with procedures prescribed by the department; and

25 (2) section 44032, by failing to perform an inspection of the emission control devices  
26 and systems on the Mazda in accordance with section 44012 of that Code.

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1 g. Respondent's technician license is subject to discipline pursuant to Health and Safety  
2 Code section 44072.2, subdivision (c), in that on or about September 19, 2012, he violated the  
3 following sections of the California Code of Regulations, title 16:

4 (1) section 3340.30, subdivision (a), by failing to perform the emission control  
5 inspection of a Mazda in accordance with Health and Safety Code section 44012;

6 (2) section 3340.41, subdivision (c), by entering false information into the Emission  
7 Inspection System unit by entering "Pass" for the visual and functional tests of the fuel cap, as  
8 well as entering "Pass" for the LPFET when, in fact, these tests were not performed; and

9 (3) section 3340.42, by failing to conduct the required smog tests on the vehicle in  
10 accordance with the Bureau's specifications.

11 h. Respondent's technician license is subject to discipline pursuant to Health and Safety  
12 Code section 44072.2, subdivision (d), in that on or about September 19, 2012, he committed acts  
13 involving dishonesty, fraud or deceit whereby another was injured by issuing electronic  
14 Certificate of Compliance No. [REDACTED] for a Mazda without performing a bona fide inspection  
15 of the emission control devices and systems the vehicle.

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ORDER

IT IS SO ORDERED that Automotive Repair Dealer Registration No. ARD 256880, Smog Check Test Only Station License No. TC256880, and Smog Check Inspector License No. EO 152782 (formerly Advanced Emission Specialist Technician License No. EA 152782) are revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The motion should be sent to the Bureau of Automotive Repair, ATTN: William D. Thomas, 10949 North Mather Blvd., Rancho Cordova, CA 95670. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on February 14, 2014.

It is so ORDERED IAN 24 2014

  
\_\_\_\_\_  
DONALD CHANG  
Assistant Chief Counsel  
Department of Consumer Affairs

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DOJ Matter ID:SD2013705021

Attachments:  
Exhibit A: Accusation  
Exhibit B: Proof of Service, USPS Tracking Confirmation, and Domestic Return Receipt

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# Exhibit A

Accusation

1 KAMALA D. HARRIS  
Attorney General of California  
2 LINDA K. SCHNEIDER  
Supervising Deputy Attorney General  
3 ANTOINETTE B. CINCOTTA  
Deputy Attorney General  
4 State Bar No. 120482  
110 West "A" Street, Suite 1100  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 645-2095  
7 Facsimile: (619) 645-2061  
*Attorneys for Complainant*

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9 **BEFORE THE**  
**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. 79/14-40

13 **JASON SHOREES, OWNER**  
14 **DBA, ABC SMOG #2**  
15 **1415 South Santa Fe Avenue**  
**Vista, CA 92084**

**ACCUSATION**  
**(SMOG CHECK)**

16 **Automotive Repair Dealer Registration No. ARD 256880**  
17 **Smog Check Test Only Station License No. TC256880**  
18 **Smog Check Inspector License No. EO 152782(formerly**  
19 **Advanced Emission Specialist Technician License No. EA**  
20 **152782)**

Respondent.

21 Complainant alleges:

22 **PARTIES**

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

26 **LICENSE INFORMATION**

27 **Automotive Repair Dealer Registration No. ARD 256880**

28 2. On or about December 8, 2008, the Bureau issued Automotive Repair Dealer  
Registration Number ARD 256880 ("registration") to Jason Shorees (Respondent), doing business

1 as ABC Smog #2. The registration was in full force and effect at all times relevant to the charges  
2 brought herein and will expire on November 30, 2013, unless renewed.

3 **Smog Check Test Only Station License No. TC 256880**

4 3. On or about December 16, 2008, the Bureau issued Smog Check Test Only Station  
5 License Number TC 256880 ("station license") to Respondent. The station license was in full  
6 force and effect at all times relevant to the charges brought herein and will expire on November  
7 30, 2013, unless renewed.

8 **Smog Check Inspector License No. EO 152782**

9 4. In or about 2006, the Director issued Advanced Emission Specialist Technician  
10 License Number EA 152782 to Respondent. Shorees' advanced emission specialist technician  
11 license was due to expire on September 30, 2013. Pursuant to California Code of Regulations,  
12 title 16, section 3340.28, subdivision (e), the license was renewed, pursuant to Shorees' election,  
13 as Smog Check Inspector License Number EO 152782 ("inspector license"), effective September  
14 30, 2013. Respondent's inspector license will expire on September 30, 2015, unless renewed.<sup>1</sup>

15 **JURISDICTION**

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

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

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

25 ///

26 <sup>1</sup> Effective August 1, 2012, California Code of Regulations, title 16, section 3340.28,  
27 3340.29 and 3340.30 were amended to implement a license restructure from the Advanced  
28 Emission Specialist Technician (EA) license and Basic Area (EB) Technician license to Smog  
Check Inspector (EO) license and/or Smog Check Repair Technician (EI) license.

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8. Code section 118, subdivision (b) states:

The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.

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

**STATUTORY PROVISIONS**

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

11. Section 9884.7 states, in pertinent part:

(a) The director, where the automotive repair dealer cannot show there was a bona fide error, may deny, suspend, revoke, or place on probation 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 the exercise of reasonable care should be known, to be untrue or misleading.

...

(3) Failing or refusing to give to a customer a copy of any document requiring his or her signature, as soon as the customer signs the document.

(4) Any other conduct that constitutes fraud.

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

(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 pertinent part:

(a) 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. Written consent or authorization for an increase in the original estimated price may be provided by electronic mail or facsimile transmission from the customer. The bureau may specify in regulation the procedures to be followed by an automotive repair dealer when an authorization or consent for an increase in the original estimated price is provided by electronic mail or facsimile transmission. If that consent is oral, the dealer shall make a notation on the work order of the date, time, name of person authorizing the additional repairs and telephone number called, if any, together with a specification of the additional parts and labor and the total additional cost . . .

13. Section 44072.2 of the Health and Safety Code states, in pertinent part:

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 Safety Code § 44000, et seq.)] and the regulations adopted pursuant to it, which related to the licensed activities.

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(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. Section 44072.6 of the Health and 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.

15. Section 44072.8 of the Health and Safety Code 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.

REGULATIONS

16. California Code of Regulations (CCR), title 16, section 3340.35 states, in relevant part:

...

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

17. CCR, title 16, section 3340.41 states, in relevant part:

...

(c) No person shall enter into the emissions inspection system any vehicle identification information or emission control system identification data for any vehicle other than the one being tested. Nor shall any person knowingly enter into the emissions inspection system any false information about the vehicle being tested.

...

18. CCR, title 16, section 3340.42 states:

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

///

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

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

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

19 (2) A two-speed idle mode test shall be the test method used to inspect 1976 -  
20 1999 model-year vehicles, except diesel-powered, registered in all program areas  
21 of the state, except in those areas of the state where the enhanced program has  
22 been implemented. The two-speed idle mode test shall measure hydrocarbon,  
23 carbon monoxide and carbon dioxide emissions at high RPM and again at idle  
24 RPM, as contained in the bureau's specifications referenced in subsection (a) of  
25 Section 3340.17 of this article. Exhaust emissions from a vehicle subject to this  
26 inspection shall be measured and compared to the emission standards set forth in  
27 this section and as shown in TABLE III. A vehicle passes the two-speed idle mode  
28 test if all of its measured emissions are less than or equal to the applicable  
emissions standards specified in Table III.

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

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

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

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

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

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

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

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

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

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

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

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

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

14 19. CCR, title 16, section 3340.30, subdivision (a) states:

15 A licensed smog check inspector and/or repair technician shall comply with the  
16 following requirements at all times while licensed:

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

19 **COST RECOVERY**

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

24 **UNDERCOVER OPERATION – SEPTEMBER 19, 2012**

25 21. On or about September 19, 2012, a Bureau undercover operator (“operator”) drove a  
26 Bureau documented 1993 Mazda (“Mazda”) to ABC Smog #2 and requested a smog inspection.  
27 The Mazda was documented with a defective fuel vapor hose, rendering the vehicle incapable of  
28 passing a properly performed smog inspection. Respondent performed the smog inspection and

1 issued electronic Certificate of Compliance No. [REDACTED] for the Mazda. The operator paid  
2 Respondent \$70 and was provided with a copy of Invoice No. 24139 and a Vehicle Inspection  
3 Report. By issuing Certificate of Compliance No. [REDACTED] to the Mazda, Respondent certified  
4 he had tested and inspected the Mazda, and that it was in compliance with applicable laws and  
5 regulations when, in fact, the vehicle could not have passed the Low Pressure Fuel Evaporative  
6 Test (LPFET) portion of the smog inspection because of the defective fuel vapor hose.  
7 Furthermore, the undercover vehicle was equipped with a video camera that shows the fuel cap  
8 was not removed during the smog inspection. The Vehicle Inspection Report shows "Pass" was  
9 entered into the EIS for the LPFET and Fuel Cap Visual and Functional tests when these tests  
10 could not have been performed without removing the fuel cap.

11 **FIRST CAUSE FOR DISCIPLINE**

12 **(Untrue or Misleading Statements)**

13 22. Respondent's registration is subject to discipline under Code section 9884.7(a)(1), in  
14 that on or about September 19, 2012, he made statements which he knew or which by exercise of  
15 reasonable care should have known to be untrue or misleading by issuing electronic Certificate of  
16 Compliance No. [REDACTED] for the Mazda, certifying that the vehicle was in compliance with  
17 applicable laws and regulations when, in fact, it could not have passed the Low Pressure Fuel  
18 Evaporative Test (LPFET) portion of the smog inspection because of the defective fuel vapor  
19 hose. In addition, the fuel cap visual and functional tests, as well as the LPFET, were not  
20 performed on the Mazda, as set forth in paragraph 21, which is incorporated here by this  
21 reference.

22 **SECOND CAUSE FOR DISCIPLINE**

23 **(Fraud)**

24 23. Respondent's registration is subject to discipline under Code section 9884.7(a)(4), in  
25 that on or about September 19, 2012, he committed acts constituting fraud by issuing electronic  
26 Certificate of Compliance No. [REDACTED] for the Mazda without performing a bona fide  
27 inspection of the emission control devices and systems on the vehicle, thereby depriving the

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1 People of the State of California of the protection afforded by the Motor Vehicle Inspection  
2 Program, as set forth in paragraph 21, which is incorporated here by this reference.

3 **THIRD CAUSE FOR DISCIPLINE**

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

5 24. Respondent's station license is subject to discipline pursuant to Health & Safety Code  
6 section 44072.2, subdivision (a), in that on or about September 19, 2012, regarding the Mazda, as  
7 set forth in paragraph 21, which is incorporated here by this reference, he failed to comply with  
8 the following sections of that Code:

9 a. **Section 44012, subdivision (f):** Respondent failed to perform emission control  
10 inspections on the vehicle in accordance with procedures prescribed by the department.

11 b. **Section 44015, subdivision (b):** Respondent issued electronic Certificate of  
12 Compliance No. [REDACTED] for the Mazda without properly inspecting the vehicle to determine if  
13 it was in compliance with Health & Safety Code section 44012.

14 **FOURTH CAUSE FOR DISCIPLINE**

15 **(Failure to Comply with Regulations)**

16 25. Respondent's station license is subject to discipline pursuant to Health & Safety Code  
17 section 44072.2, subdivision (c), in that on or about September 19, 2012, regarding the Mazda, as  
18 set forth in paragraph 21, which is incorporated here by this reference, he failed to comply with  
19 provisions of California Code of Regulations, title 16, as follows:

20 a. **Section 3340.35, subdivision (c):** Respondent issued electronic Certificate of  
21 Compliance No. [REDACTED] for the Mazda even though the vehicle had not been inspected in  
22 accordance with section 3340.42.

23 b. **Section 3340.41, subdivision (c):** Respondent entered false information into the  
24 Emission Inspection System unit by entering "Pass" for the visual and functional tests of the fuel  
25 cap, as well as entering "Pass" for the LPFET when, in fact, the video recording shows these tests  
26 were not performed.

27 c. **Section 3340.42:** Respondent failed to perform an emission control inspection on the  
28 vehicle in accordance with procedures prescribed by the department.

1 **FIFTH CAUSE FOR DISCIPLINE**

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

3 26. Respondent's station license is subject to discipline pursuant to Health & Safety Code  
4 section 44072.2, subdivision (d), in that on or about September 19, 2012, regarding the Mazda, as  
5 set forth in paragraph 21, which is incorporated here by this reference, he committed dishonest,  
6 fraudulent or deceitful acts whereby another is injured by issuing electronic Certificate of  
7 Compliance No. [REDACTED] for the Mazda without performing a bona fide inspection of the  
8 emission control devices and systems on the vehicle, thereby depriving the People of the State of  
9 California of the protection afforded by the Motor Vehicle Inspection Program.

10 **SIXTH CAUSE FOR DISCIPLINE**

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

12 27. Respondent's inspector license is subject to discipline pursuant to Health and Safety  
13 Code section 44072.2, subdivision (a), in that on or about September 19, 2012, regarding the  
14 Mazda, as set forth in paragraph 21, which is incorporated here by this reference, he violated the  
15 following sections of that Code:

16 a. **Section 44012, subdivision (f):** Respondent failed to perform emission control  
17 inspections on the vehicle in accordance with procedures prescribed by the department.

18 b. **Section 44032:** Respondent failed to perform an inspection of the emission control  
19 devices and systems on the vehicle in accordance with section 44012 of that Code.

20 **SEVENTH CAUSE FOR DISCIPLINE**

21 **(Failure to Comply with Regulations)**

22 28. Respondent's inspector license is subject to discipline pursuant to Health and Safety  
23 Code section 44072.2, subdivision (c), in that on or about September 19, 2012, regarding the  
24 Mazda, as set forth in paragraph 21, which is incorporated here by this reference, he violated the  
25 following sections of the California Code of Regulations, title 16:

26 a. **Section 3340.30, subdivision (a):** Respondent failed to perform the emission control  
27 inspection in accordance with Health and Safety Code section 44012.

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1 determine that emission control devices and systems required by State and Federal law are  
2 installed and functioning correctly in accordance with test procedures), and California Code of  
3 Regulations section 3340.35(c) (issuing a Certificate of Compliance to a vehicle that was  
4 improperly tested). The Bureau assessed civil penalties totaling \$1500 against Respondent for the  
5 violations. Respondent complied with this citation on February 1, 2011.

6 c. On or about March 22, 2012, the Bureau issued Citation No. C2012-1267 against  
7 Respondent's station license for violating Health and Safety Code section 44012(f) (failure to  
8 perform a visual/functional check of emission control devices according to procedures prescribed  
9 by the department). The Bureau assessed civil penalties totaling \$1,500 against Respondent for  
10 the violations. This citation was appealed on April 30, 2012. Respondent complied with this  
11 citation on August 16, 2013.

12 **Smog Check Inspector License Number EO 152782**

13 d. On or about June 29, 2007, the Bureau issued Citation No. M07-1068 against  
14 Respondent's technician license for violating Health and Safety Code section 44032 (qualified  
15 technicians shall perform tests of emission control systems and devices in accordance with Health  
16 and Safety Code section 44012), and California Code of Regulations section 3340.30(a)  
17 (qualified technicians shall inspect, test, and repair vehicles in accordance with Health and Safety  
18 Code sections 44012, 44035 and CCR, title 16, section 3340.42). Respondent was required to  
19 attend an 8-hour training course. On or about August 13, 2007, Respondent completed the  
20 required training course.

21 e. On or about September 11, 2007, the Bureau issued Citation No. M08-0226 against  
22 Respondent's technician license for violating Health and Safety Code section 44032 (qualified  
23 technicians shall perform tests of emission control systems and devices in accordance with Health  
24 and Safety Code section 44012), and CCR, title 16, section 3340.30(a) (qualified technicians shall  
25 inspect, test, and repair vehicles in accordance with Health and Safety Code sections 44012, and  
26 CCR, title 16, section 3340.42). Respondent was required to attend a 16-hour training course. On  
27 or about November 10, 2007, Respondent completed the required training course.

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1 f. On or about March 24, 2008, the Bureau issued Citation No. M08-0825 against  
2 Respondent's technician license for violating Health and Safety Code section 44032 (qualified  
3 technicians shall perform tests of emission control systems and devices in accordance with Health  
4 and Safety Code section 44012), and CCR, title 16, section 3340.30(a) (qualified technicians shall  
5 inspect, test, and repair vehicles in accordance with Health and Safety Code sections and CCR,  
6 title 16, section 3340.42). Respondent was required to attend a 68-hour training course. On or  
7 about August 20, 2008, Respondent completed the required training course.

8 g. On or about November 15, 2010, the Bureau issued Citation No. M2011-0616 against  
9 Respondent's technician license for violating Health and Safety Code section 44032 (qualified  
10 technicians shall perform tests of emission control systems and devices in accordance with Health  
11 and Safety Code section 44012), and CCR, title section 3340.30(a) (qualified technicians shall  
12 inspect, test, and repair vehicles in accordance with sections Health and Safety Code sections  
13 44012 and 44035, and CCR, title 16, section 3340.42). Respondent was required to attend a 16-  
14 hour training course. On or about January 20, 2011, Respondent completed the required training  
15 course.

#### 16 OTHER MATTERS

17 31. Pursuant to Code section 9884.7(c), the Director may suspend, revoke, or place on  
18 probation the registrations for all places of business operated in this state by Jason Shorees, upon  
19 a finding that he has, or is, engaged in a course of repeated and willful violation of the laws and  
20 regulations pertaining to an automotive repair dealer.

21 32. Pursuant to Health and Safety Code section 44072.8, if Smog Check Test Only  
22 Station License Number TC 256880, issued to Jason Shorees, doing business as ABC Smog #2, is  
23 revoked or suspended, any additional license issued under the chapter in the name of said  
24 licensees may be likewise revoked or suspended by the director.

25 33. Pursuant to Health and Safety Code section 44072.8, if Smog Check Inspector  
26 License Number EO 152782, issued to Jason Shorees, is revoked or suspended, any additional  
27 license issued under the chapter in the name of said licensee may be likewise revoked or  
28 suspended by the director.

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PRAYER

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

1. Revoking, suspending, or placing on probation Automotive Repair Dealer Registration No. ARD 256880 issued to Jason Shorees, doing business as ABC Smog #2;
2. Revoking, suspending, or placing on probation any other automotive repair dealer registration issued to Jason Shorees;
3. Revoking or suspending Smog Check Test Only Station License Number TC 256880, issued to Jason Shorees, doing business as ABC Smog #2;
4. Revoking or suspending any additional license issued to Jason Shorees under Chapter 5 of the Health and Safety Code;
5. Revoking or suspending Smog Check Inspector License Number EO 152782 issued to Jason Shorees;
6. Ordering Jason Shorees 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
7. Taking such other and further action as deemed necessary and proper.

DATED: October 18, 2013

*Patrick Dorais*

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