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

10
11 In the Matter of the Accusation Against:

Case No. 79/15-14

12 **M & A'S SMOGS PLUS; JENNIFER**
LOUISE FABER, OWNER
13 **4055 W. Century Blvd. Bay #5**
Inglewood, CA 90304

ACCUSATION
(SMOG CHECK)

14 **Automotive Repair Dealer Registration No.**
15 **ARD 262816**
16 **Smog Check Test Only Station License No.**
TC 262816,

17 and

18 **JOHN PAUL FABER**
19 **3208 W. 17th St.**
Los Angeles, CA 90019

20 **Smog Check Inspector License No. EO**
21 **632254 (formerly Advanced Emission**
Specialist Technician License No. EA
22 **632254)**

23 Respondents.

24 Complainant alleges:

25 **PARTIES**

26 1. Patrick Dorais (Complainant) brings this Accusation solely in his official capacity as
27 the Chief of the Bureau of Automotive Repair, Department of Consumer Affairs.
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1 (1) Making or authorizing in any manner or by any means whatever any
2 statement written or oral which is untrue or misleading, and which is known, or which
3 by the exercise of reasonable care should be known, to be untrue or misleading.

4 (4) Any other conduct that constitutes fraud.

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

11 (c) Notwithstanding subdivision (b), the director may suspend, revoke, or
12 place on probation the registration for all places of business operated in this state by
13 an automotive repair dealer upon a finding that the automotive repair dealer has, or is,
14 engaged in a course of repeated and willful violations of this chapter, or regulations
15 adopted pursuant to it.

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

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

24 9. Section 44002 of the Health and Safety Code provides, in pertinent part, that the
25 Director has all the powers and authority granted under the Automotive Repair Act for enforcing
26 the Motor Vehicle Inspection Program.

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

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

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

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

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

1 **FOURTH CAUSE FOR DISCIPLINE**

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

3 20. Respondent M & A's Smogs Plus has subjected her station license to discipline under
4 Health and Safety Code section 44072.2, subdivision (c), in that regarding the vehicles set forth in
5 Table 1, above, she violated sections of the California Code of Regulations, title 16, as follows:

6 a. **Section 3340.24, subdivision (c):** Respondent M & A's Smogs Plus falsely or
7 fraudulently issued electronic certificates of compliance without performing bona fide inspections
8 of the emission control devices and systems on those vehicles as required by Health and Safety
9 Code section 44012.

10 b. **Section 3340.35, subdivision (c):** Respondent M & A's Smogs Plus issued
11 electronic certificates of compliance even though those vehicles had not been inspected in
12 accordance with section 3340.42 of that Code.

13 c. **Section 3340.42:** Respondent M & A's Smogs Plus failed to conduct the required
14 smog tests and inspections on those vehicles in accordance with the Bureau's specifications.

15 **FIFTH CAUSE FOR DISCIPLINE**

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

17 21. Respondent M & A's Smogs Plus has subjected its station license to discipline under
18 Health and Safety Code section 44072.2, subdivision (d), in that regarding the vehicles set forth
19 in Table 1, above, she committed acts involving dishonesty, fraud or deceit whereby another was
20 injured by issuing electronic certificates of compliance for those vehicles without performing
21 bona fide inspections of the emission control devices and systems on those vehicles, thereby
22 depriving the People of the State of California of the protection afforded by the Motor Vehicle
23 Inspection Program.

24 **SIXTH CAUSE FOR DISCIPLINE**

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

26 22. Respondent Faber has subjected his inspector license to discipline under Health and
27 Safety Code section 44072.2, subdivision (a), in that regarding the vehicles set forth in Table 1,
28 he violated sections of that Code, as follows:

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

4 b. **Section 44012, subdivision (f):** Respondent Faber failed to perform emission control
5 tests on those vehicles in accordance with procedures prescribed by the department.

6 c. **Section 44032:** Respondent Faber failed to perform tests of the emission control
7 devices and systems on those vehicles in accordance with section 44012 of that Code, in that
8 those vehicles had been clean piped.

9 d. **Section 44059:** Respondent Faber willfully made false entries for the electronic
10 certificates of compliance by certifying that those vehicles had been inspected as required when,
11 in fact, they had not.

12 **SEVENTH CAUSE FOR DISCIPLINE**

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

14 23. Respondent Faber has subjected his inspector license to discipline under Health and
15 Safety Code section 44072.2, subdivision (c), in that regarding the vehicles set forth in Table 1,
16 he violated sections of the California Code of Regulations, title 16, as follows:

17 a. **Section 3340.24, subdivision (c):** Respondent Faber falsely or fraudulently issued
18 electronic certificates of compliance without performing bona fide inspections of the emission
19 control devices and systems on those vehicles as required by Health and Safety Code section
20 44012.

21 b. **Section 3340.30, subdivision (a):** Respondent Faber failed to inspect and test those
22 vehicles in accordance with Health and Safety Code section 44012.

23 c. **Section 3340.41, subdivision (c):** Respondent Faber entered false information into
24 the Emission Inspection System ("EIS") for the electronic certificates of compliance by entering
25 vehicle emission control information for vehicles other than the vehicles being certified.

26 d. **Section 3340.42:** Respondent Faber failed to conduct the required smog tests and
27 inspections on those vehicles in accordance with the Bureau's specifications.

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1 **EIGHTH CAUSE FOR DISCIPLINE**

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

3 24. Respondent Faber has subjected his inspector license to discipline under Health and
4 Safety Code section 44072.2, subdivision (d), in that he committed acts involving dishonesty,
5 fraud or deceit whereby another was injured by issuing electronic certificates of compliance for
6 the vehicles set forth in Table 1, above, without performing bona fide inspections of the emission
7 control devices and systems on those vehicles, thereby depriving the People of the State of
8 California of the protection afforded by the Motor Vehicle Inspection Program.

9 **OTHER MATTERS**

10 25. Under Code section 9884.7, subdivision (c), the director may invalidate temporarily
11 or permanently or refuse to validate, the registrations for all places of business operated in this
12 state by M & A's Smogs Plus, upon a finding that she has, or is, engaged in a course of repeated
13 and willful violations of the laws and regulations pertaining to an automotive repair dealer.

14 26. Under Health and Safety Code section 44072.8, if Station License Number TC
15 262816, issued to M & A's Smogs Plus is revoked or suspended, any additional license issued
16 under this chapter in the name of said licensee may be likewise revoked or suspended by the
17 director.

18 27. Under Health and Safety Code section 44072.8, if Respondent Faber's Smog Check
19 Inspector License (Number EO 632254) is revoked or suspended, any additional license issued
20 under this chapter in the name of said licensee may be likewise revoked or suspended by the
21 director.

22 **PRAYER**

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

25 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
26 262816, issued to Respondent M & A's Smogs Plus;

27 2. Revoking or suspending Smog Check Test Only Station License Number TC
28 262816, issued to Respondent M & A's Smogs Plus;

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3. Revoking or suspending Smog Check Inspector License Number EO 632254 (formerly Advanced Emission Specialist Technician License No. EA 632254), issued to Respondent Faber;

4. Ordering Jennifer Louise Faber and John Paul Faber to pay the Bureau of Automotive Repair the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED: 7-24-14

PATRICK DORAIS by Doug Balatti
PATRICK DORAIS
Chief
Bureau of Automotive Repair
Department of Consumer Affairs
State of California
Complainant
DOUG BALATTI
ASSIST. CHIEF

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