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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:

Case No. 79/14-42

**R & R SMOG UNLIMITED; RILENE
JANICE CHAPPELLE; RENELL
KENYATTA SHAW
3321 W. Florence Ave.
Los Angeles, CA 90043
Automotive Repair Dealer Registration No.
ARD 270669
Smog Check Test Only Station License No.
TC 270669**

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

and

**RILENE JANICE CHAPPELLE
5901 S. Verdun Avenue
Los Angeles, CA 90043

Advanced Emission Specialist Technician
License No. EA 634123, (to be redesignated
upon renewal as EO 634123 and/or EI
634123)**

Respondent.

FINDINGS OF FACT

1 1. On or about October 24, 2013, Complainant Patrick Dorais, in his official capacity as
2 the Chief of the Bureau of Automotive Repair - I/M Smog, Department of Consumer Affairs,
3 filed Accusation No. 79/14-42 against R & R Smog Unlimited ; Rilene Janice Chappelle; Renell
4 Kenyatta Shaw (Respondent) before the Director of Consumer Affairs (Director). (Accusation
5 attached as Exhibit A.)

6 2. On or about October 24, 2012, the Bureau issued Automotive Repair Dealer
7 Registration Number ARD 270669 (“registration”) to Rilene Janice Chappelle, partner, Renell K.
8 Shaw, partner, doing business as R & R Smog Unlimited (“Respondent R & R”). The
9 registration was in full force and effect at all times relevant to the charges brought herein and will
10 expire on October 31, 2014, unless renewed.

11 3. On or about November 29, 2012, the Bureau issued Smog Check Test Only Station
12 License Number TC 270669 (“station license”) to Respondent R & R. The station license was in
13 full force and effect at all times relevant to the charges brought herein and will expire on October
14 31, 2014, unless renewed.

15 4. On or about March 15, 2012, the Bureau of Automotive Repair issued Advanced
16 Emission Specialist Technician License Number EA 634123 to Rilene Janice Chappelle
17 (“Respondent Chappelle”). The Advanced Emission Specialist Technician License expired on
18 August 31, 2014. Upon timely renewal of the license, the license will be re-designated as EO
19 634123 and/or EI 634123. The expiration or suspension of a license by operation of law or by
20 order or decision of the director or a court of law, or the voluntary surrender of a license by a
21 licensee shall not deprive the director of jurisdiction to proceed with any investigation of or action
22 or disciplinary proceedings against such licensee, or to render a decision suspending or revoking
23 such license.

24 5. On or about February 5, 2014, Respondents were served by Certified Mail copies of
25 the Accusation No. 79/14-42, Statement to Respondent, Notice of Defense, Request for
26 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at
27 Respondent's address of record which, pursuant to Business and Professions Code section 136, is
28 required to be reported and maintained with the Bureau of Automotive Repair . Respondent

1 R & R.'s address of record was and is: 3321 W. Florence Ave., Los Angeles, CA 90043.

2 Respondent Chappelle's address of record was and is: 5901 S. Verdun Ave, Los Angeles, CA
3 90043.

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

7 7. On or about February 5, 2014, Respondent Chappelle signed and returned a Notice of
8 Defense in her individual capacity and on behalf of the partnership, Respondent R & R,
9 requesting a hearing in this matter. A Notice of Hearing was served by mail at Respondent
10 Chappelle's address of record and Respondent R & R 's address of record and it informed them
11 that an administrative hearing in this matter was scheduled for September 15, 2014. Respondents
12 failed to appear at that hearing.

13 8. Government Code section 11506 states, in pertinent part:

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

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

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

24 10. Pursuant to its authority under Government Code section 11520, the Director after
25 having reviewed the proof of service of the Notice of Hearing dated March 14, 2014, has
26 determined that the Respondent R & R and Respondent Chappelle were properly served with the
27 Notice of Hearing, however, they failed to appear at the administrative hearing. Accordingly, the
28 Director finds that Respondent R & R and Respondent Chappelle are in default. The Director
will take action without further hearing and, based on Accusation, No. 79/14-42, proof of service
and on the Affidavit of Bureau Representative Glen Leano, finds that the allegations in
Accusation are true.

1 **DETERMINATION OF ISSUES**

2 1. Based on the foregoing findings of fact, Respondent R & R Smog Unlimited has
3 subjected its Automotive Repair Dealer Registration and Smog Check Test Only Station License
4 to discipline;

5 2. Based on the foregoing findings of fact, Respondent Rilene Janice Chappelle has
6 subjected her technician licenses to discipline;

7 3. The agency has jurisdiction to adjudicate this case by default.

8 4. The Director of Consumer Affairs is authorized to revoke Respondent R & R Smog
9 Unlimited's Automotive Repair Dealer Registration and Smog Check Test Only Station License
10 as well as Respondent Rilene Janice Chappelle's technician licenses based upon the following
11 violations alleged in the Accusation which are supported by the evidence contained in the
12 affidavit of Bureau Representative Glen Leano in this case:

13 **Respondent R & R Smog Unlimited**

- 14 a. Business and Professions Code section 9884.7, subdivision (a)(1) (Misleading
15 Statements.)
- 16 b. Business and Professions Code section 9884.7, subdivision (a)(4) (Fraud.)
- 17 c. Health and Safety Code section 44012, subdivision (a) (Violations of the Motor
18 Vehicle Inspection Program.)
- 19 d. Health and Safety Code section 44012, subdivision (f) (Violations of the Motor
20 Vehicle Inspection Program.)
- 21 e. Health and Safety Code section 44015, subdivision (b) (Violations of the Motor
22 Vehicle Inspection Program.)
- 23 f. Health and Safety Code section 44072.2, subdivision (d)(Dishonesty, Fraud or
24 Deceit.)
- 25 g. Health and Safety Code section 44059 (Violations of the Motor Vehicle Inspection
26 Program.)
- 27 h. California Code of Regulations, title 16, section 3340.24, subdivision (c) (Violations
28 of Regulations pursuant to Motor Vehicle Inspection Program.)

- 1 i. California Code of Regulations, title 16, section 3340.35, subdivision (c) (Violations
2 of Regulations pursuant to Motor Vehicle Inspection Program.)
3 j. California Code of Regulations, title 16, section 3340.42 (Violations of Regulations
4 pursuant to Motor Vehicle Inspection Program.)

5 **Respondent Chappelle**

- 6 a. Health and Safety Code section 44072.2, subdivision (d)(Dishonesty, Fraud or
7 Deceit.)
8 b. Health and Safety Code section 44012, subdivision (a) (Violations of the Motor
9 Vehicle Inspection Program.)
10 c. Health and Safety Code section 44012, subdivision (f) (Violations of the Motor
11 Vehicle Inspection Program.)
12 d. Health and Safety Code section 44032 (Violations of the Motor Vehicle Inspection
13 Program.)
14 e. Health and Safety Code section 44059 (Violations of the Motor Vehicle Inspection
15 Program.)
16 f. California Code of Regulations, title 16, section 3340.24, subdivision (c) (Violations
17 of Regulations pursuant to Motor Vehicle Inspection Program.)
18 g. California Code of Regulations, title 16, section 3340.30, subdivision (a) (Violations
19 of Regulations pursuant to Motor Vehicle Inspection Program.)
20 h. California Code of Regulations, title 16, section 3340.41, subdivision (c) (Violations
21 of Regulations pursuant to Motor Vehicle Inspection Program.)
22 i. California Code of Regulations, title 16, section 3340.42 (Violations of Regulations
23 pursuant to Motor Vehicle Inspection Program.)

24 **ORDER**

25 **IT IS SO ORDERED** that Automotive Repair Dealer Registration No. ARD 270669,
26 Smog Check Test Only Station License Number TC 270669 and Advanced Emission Specialist
27 Technician License Number EA 634123, are revoked.
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1 Pursuant to Government Code section 11520, subdivision (c), Respondents may serve a
2 written motion requesting that the Decision be vacated and stating the grounds relied on within
3 seven (7) days after service of the Decision on Respondents. The motion should be sent to the
4 Bureau of Automotive Repair, ATTN: William D. Thomas, 10949 North Mather Blvd., Rancho
5 Cordova, CA 95670. The agency in its discretion may vacate the Decision and grant a hearing
6 on a showing of good cause, as defined in the statute.

7 This Decision shall become effective on March 11, 2015.

8 It is so ORDERED February 17, 2015



10 DEFAULT DECISION ORDER - LICENSING (W)
11 DOJ Matter ID:LA2013510473

TAMARA COLSON
Assistant General Counsel
Department of Consumer Affairs

12 Attachment:
13 Exhibit A: Accusation

Exhibit A

Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 GREGORY J. SALUTE
Supervising Deputy Attorney General
4 State Bar No. 164015
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2520
6 Facsimile: (213) 897-2804

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:

Case No. 79/14-42

13 **R & R SMOG UNLIMITED**
3321 W. Florence Avenue
Los Angeles, CA 90043
14 **RILENE JANICE CHAPPELLE,**
PARTNER, RENELL K. SHAW,
15 **PARTNER**
Automotive Repair Dealer Registration
16 No. ARD 270669
Smog Check Test Only Station License
17 No. TC 270669

A C C U S A T I O N
S M O G C H E C K

18 and

19 **RILENE JANICE CHAPPELLE**
5901 S. Verdun Avenue
20 Los Angeles, CA 90043

21 **Advanced Emission Specialist Technician**
License No. EA 634123, (to be redesignated
22 upon renewal as EO 634123 and/or EI
634123)

23 Respondents.
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25 Complainant alleges:
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PARTIES

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

Automotive Repair Dealer Registration

2. On or about October 24, 2012, the Bureau issued Automotive Repair Dealer Registration Number ARD 270669 (“registration”) to Rilene Janice Chappelle, partner, Renell K. Shaw, partner, doing business as R & R Smog Unlimited (“Respondent R & R”). The registration was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2014, unless renewed.

Smog Check Test Only Station License

3. On or about November 29, 2012, the Bureau issued Smog Check Test Only Station License Number TC 270669 (“station license”) to Respondent R & R. The station license was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2014, unless renewed.

Advanced Emission Specialist Technician License

4. On or about March 15, 2012, the Bureau of Automotive Repair issued Advanced Emission Specialist Technician License Number EA 634123 to Rilene Janice Chappelle (“Respondent Chappelle”). The Advanced Emission Specialist Technician License will expire on August 31, 2014, unless it is renewed. Upon timely renewal of the license, the license will be redesignated as EO 634123 and/or EI 634123.¹

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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 Area (EB) Technician license to Smog Check Inspector (EO) license and/or Smog Check Repair Technician (EI) license.

1 this article and has all the required emission control equipment and devices installed and
2 functioning correctly.”

3 15. CCR, title 16, section 3340.41, subdivision (c), provides: “No person shall enter into
4 the emissions inspection system any vehicle identification information or emission control system
5 identification data for any vehicle other than the one being tested. Nor shall any person
6 knowingly enter into the emissions inspection system any false information about the vehicle
7 being tested.”

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

10 17. CCR, title 16, section 3340.28, subdivision (e), states that “[u]pon renewal of an
11 unexpired Basic Area Technician license or an Advanced Emission Specialist Technician license
12 issued prior to the effective date of this regulation, the licensee may apply to renew as a Smog
13 Check Inspector, Smog Check Repair Technician, or both.”

14 COST RECOVERY

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

19 VIDEO SURVEILLANCE OPERATION OF APRIL 17, 2013

20 19. On or about April 17, 2013, representatives of the Bureau conducted a video
21 surveillance operation of Respondent's smog check facility. The surveillance video and
22 information obtained from the Bureau's vehicle information database (“VID”) revealed that
23 Respondent Chappelle performed nine (9) smog inspections, which resulted in the issuance of
24 electronic certificates of compliance for the vehicles set forth in Table 1, below, certifying that
25 she had tested and inspected those vehicles and that the vehicles were in compliance with
26 applicable laws and regulations. In fact, Respondent Chappelle performed the smog inspections
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1 using the clean piping method² by using the tail pipe emissions of vehicles other than the vehicles
 2 being certified in order to issue the electronic certificates of compliance. The vehicles certified
 3 were not in the test bay at the time of the smog inspections.

4 **Table 1**

Date and Test Times	Vehicle Certified	Vehicle Actually Tested	Certificate Issued
4/17/2013 10:55 hours to 11:06 hours	1995 Ford Mustang, License # 5BMB755	2001 Mazda Protégé, License # 4RIB734	XT383660C
4/17/2013 11:25 hours to 11:37 hours	1992 Dodge Caravan License #3BAE938	2001 Mazda Protégé, License # 4RIB734	XT383661C
4/17/2013 11:49 hours to 12:03 hours	1996 Chevrolet C1500 Pickup, License #6E91152	2002 Chevrolet C1500 Tahoe, License # 6PYN783	XT383662C
4/17/2013 12:33 hours to 12:45 hours	1992 Honda Accord License #6RET705	2001 Mazda Protégé, License # 4RIB734	XT383663C
4/17/2013 12:53 hours to 13:05 hours	2001 Mitsubishi Galant License # 480053V	2001 Mazda Protégé, License # 4RIB734	XT383664C
4/17/2013 13:14 hours to 13:23 hours	1996 Honda Civic License #5NMM820	2001 Mazda Protégé, License # 4RIB734	XT383665C
4/17/2013 13:57 hours to 14:18 hours	1983 GMC C1500 Sierra License #3J69550	2002 Chevrolet C1500 Tahoe, License # 6PYN783	XT383666C

26 ² "Clean piping" is sampling the (clean) tailpipe emissions and/or the RPM readings of
 27 another vehicle for the purpose of illegally issuing smog certifications to vehicles that are not in
 28 compliance or are not present in the smog check area during the time of the certification.

1 2 3 4 5	4/17/2013 14:27 hours to 14:44 hours	1986 Nissan Pickup 4WD, License #2V28313	2001 Mazda Protégé, License # 4RIB734	XT383667C
6 7 8	4/17/2013 15:36 hours to 15:52 hours	1986 Ford F150 Pickup License #3TYA170	White Chevrolet Camaro, License # Unknown	XT383668C

9 **FIRST CAUSE FOR DISCIPLINE**

10 **(Misleading Statements)**

11 20. Respondent R & R has subjected its registration to discipline under Code section
 12 9884.7, subdivision (a)(1), in that on or about the dates specified in Table 1 above, it made
 13 statements which it knew or which by exercise of reasonable care it should have known were
 14 untrue or misleading when its employee issued electronic certificates of compliance for the
 15 vehicles set forth in Table 1, above, certifying that those vehicles were in compliance with
 16 applicable laws and regulations when, in fact, the vehicles had been clean piped.

17 **SECOND CAUSE FOR DISCIPLINE**

18 **(Fraud)**

19 21. Respondent R & R has subjected its registration to discipline under Code section
 20 9884.7, subdivision (a)(4), in that on or about the dates listed above in Table 1, it committed acts
 21 which constitute fraud by issuing electronic certificates of compliance for the vehicles set forth in
 22 Table 1, above, without performing bona fide inspections of the emission control devices and
 23 systems on those vehicles, thereby depriving the People of the State of California of the
 24 protection afforded by the Motor Vehicle Inspection Program.

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

4 **SEVENTH CAUSE FOR DISCIPLINE**

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

6 26. Respondent Chappelle has subjected her technician license to discipline under Health
7 and Safety Code section 44072.2, subdivision (c), in that, regarding the vehicles set forth in Table
8 1, above, she violated sections of the California Code of Regulations, title 16, as follows:

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

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

15 c. **Section 3340.41, subdivision (c):** Respondent Chappelle entered false information
16 into the Emission Inspection System for the electronic certificates of compliance by entering
17 vehicle emission control information for vehicles other than the vehicles being certified.

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

20 **EIGHTH CAUSE FOR DISCIPLINE**

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

22 27. Respondent Chappelle has subjected her technician license to discipline under Health
23 and Safety Code section 44072.2, subdivision (d), in that regarding the vehicles set forth above in
24 Table 1, she committed acts involving dishonesty, fraud or deceit whereby another was injured by
25 issuing electronic certificates of compliance for the vehicles set forth in Table 1, above, without
26 performing bona fide inspections of the emission control devices and systems on those vehicles,
27 thereby depriving the People of the State of California of the protection afforded by the Motor
28 Vehicle Inspection Program.

1 OTHER MATTERS

2 28. Pursuant to Code section 9884.7, subdivision (c), the Director may refuse to validate,
3 or may invalidate temporarily or permanently, the registrations for all places of business operated
4 in this state by Rilene Janice Chappelle, partner, and Renell K. Shaw, partner, doing business as R
5 & R Smog Unlimited, upon a finding that either partner has, or is, engaged in a course of repeated
6 and willful violations of the laws and regulations pertaining to an automotive repair dealer.

7 29. Pursuant to Health & Safety Code section 44072.8, if Smog Check Test Only Station
8 License Number TC 270669, issued to Rilene Janice Chappelle, partner, and Renell K. Shaw,
9 partner, doing business as R & R Smog Unlimited, is revoked or suspended, any additional
10 license issued under this chapter in the name of said licensee may be likewise revoked or
11 suspended by the director.

12 30. Pursuant to Health & Saf. Code sections 44072.8, if Respondent Rilene Janice
13 Chappelle's Advanced Emission Specialist Technician License currently designated as EA
14 634123 and as redesignated upon timely renewal as EO 634123 and/or EI 634123, is revoked or
15 suspended, any additional license issued under this chapter in the name of said licensee may be
16 likewise revoked or suspended by the director.

17 PRAYER

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

20 1. Revoking, suspending, placing on probation, Automotive Repair Dealer Registration
21 Number ARD 270669, issued to Rilene Janice Chappelle and Renell K. Shaw, partners, of R & R
22 Smog Unlimited;

23 2. Revoking, suspending, or placing on probation any other automotive repair dealer
24 registration issued to Rilene Janice Chappelle and/or Renell K. Shaw;

25 3. Revoking or suspending Smog Check Test Only Station License Number TC 270669,
26 issued to Rilene Janice Chappelle and Renell K. Shaw, partners, of R & R Smog Unlimited;

27 4. Revoking or suspending any additional license issued under Chapter 5 of the Health
28 and Safety Code in the name of Rilene Janice Chappelle or Renell K. Shaw;

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5. Revoking or suspending Advanced Emission Specialist Technician License Number EA 634123 (and as redesignated upon timely renewal as EO 634123 and/or EI 634123), issued to Rilene Janice Chappelle;

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

7. Ordering Rilene Janice Chappelle and Renell K. Shaw 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; and,

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

DATED: *October 24, 2013* *Patrick Dorais*

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

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