

1 KAMALA D. HARRIS
Attorney General of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 THOMAS L. RINALDI
Deputy Attorney General
4 State Bar No. 206911
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2541
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**

12 In the Matter of the Accusation Against:

Case No. 79/14-131

13 **HOMEWELL ELITE LLC DBA CALI**
SMOG CHECK; EHAB GHAZI ARYAN
14 **AND RUBA ELETER ARYAN,**
MEMBERS
15 **5918 S. Broadway**
Los Angeles, CA 90003

A C C U S A T I O N

(SMOG CHECK)

16 **Mailing Address**
2510 Monterey St. # 5171
Torrance, CA 90510

17 **Automotive Repair Dealer Registration**
18 **No. ARD 271708**
19 **Smog Check, Test Only Station License**
No. TC 271708,

20 **and**

21 **JUAN MANUEL ROBLES**
22 **2023 E. Lucien Street**
Compton, CA 90222

23 **Advanced Emission Specialist Technician**
24 **License No. EA 634622**

25 Respondents.

1 Complainant alleges:

2 **PARTIES**

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

5 2. On or about February 11, 2013, the Bureau of Automotive Repair issued Automotive
6 Repair Dealer Registration Number ARD 271708 to Homewell Elite LLC dba Cali Smog Check;
7 Ehab Ghazi Aryan and Ruba Eleter Aryan, Members (Respondent Cali Smog Check). The
8 Automotive Repair Dealer Registration was in full force and effect at all times relevant to the
9 charges brought herein and expired on February 28, 2014.

10 3. On or about March 8, 2013, the Bureau of Automotive Repair issued Smog Check,
11 Test Only Station License Number TC 271708 to Respondent Cali Smog Check. The Smog
12 Check Test Only Station License was in full force and effect at all times relevant to the charges
13 brought herein and expired on February 28, 2014.

14 4. On or about August 8, 2012, the Bureau of Automotive Repair issued Advanced
15 Emission Specialist Technician License Number EA 634622 to Juan Manuel Robles (Respondent
16 Robles). The Advanced Emission Specialist Technician License was in full force and effect at all
17 times relevant to the charges brought herein and will expire on January 31, 2015, unless renewed.
18 Upon renewal of the license, the license will be redesignated as EO 634622 and/or EI 634622.¹

19 **JURISDICTION**

20 5. This Accusation is brought before the Director of Consumer Affairs (Director) for the
21 Bureau of Automotive Repair, under the authority of the following laws.

22 **STATUTORY PROVISIONS**

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

24 (a) The director, where the automotive repair dealer cannot show there
25 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

26 ¹ Effective August 1, 2012, California Code of Regulations, title 16, sections 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 related to the conduct of the business of the automotive repair dealer, which are done
2 by the automotive repair dealer or any automotive technician, employee, partner,
3 officer, or member of the automotive repair dealer.

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

7 (4) Any other conduct that constitutes fraud.

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

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

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

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

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

10. 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 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

1 this chapter.

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

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

8 12. Section 44072.8 of the Health and Safety Code states:

9 When a license has been revoked or suspended following a hearing under
10 this article, any additional license issued under this chapter in the name of the
11 licensee may be likewise revoked or suspended by the director.

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

14 **COST RECOVERY**

15 14. 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 **SURVEILLANCE OPERATIONS**

20 15. On or around March 20, 2013, a routine undercover operation was initiated by Bureau
21 representatives that concerned the illegal purchase of smog inspection certificates issued for
22 vehicles that were never actually tested. The investigation initially concerned another smog
23 check facility, W M Smog Test Only (ARD No. 264976), which the Bureau confirmed was
24 indeed selling smog inspection certificates of compliance for vehicles that were never tested by
25 purchasing several such certificates. On or around September 4, 2013, Bureau representatives
26 continued their undercover operation by approaching both the owner and technician at W M
27 Smog Test Only to purchase additional certificates. The technician (hereinafter referred to as
28 “Lee”) stated he had a new guy, whom he identified as “Juan” and described as hungry for work

1 and someone he could call for any vehicles that had to go to a Star Station.

2 16. Representatives subsequently negotiated the purchase of eight smog inspection
3 certificates of compliance for \$250 each and provided Lee with eight fictitious registrations along
4 with all necessary information needed to perform the smog inspections. Lee advised that he
5 would perform some tests himself and those that needed to be performed at a Star Station would
6 be conducted by Juan. On October 14, 2013, Bureau representatives returned to W M Smog
7 during which Lee returned all of the paperwork as well as vehicle inspection reports for all eight
8 vehicles, representing that the vehicles had passed inspection. Upon review of the vehicle
9 inspection reports, it was determined that three were performed by Respondent Cali Smog Check
10 by the use of Respondent Robles's advanced emission specialist technician license and access
11 code. At all times relevant to the undercover operation, all three vehicles were maintained in the
12 BAR's documentation lab storage facility. The three vehicles, identified in Table 1 below, could
13 not have been inspected by Respondents and should not have received smog certificates of
14 compliance.

15 **Table 1**

16

Date and Test Times	Vehicle in EIS Data (License Plate #)	Vehicle Tested (License Plate #)	Certificate Issued
9/12/2013 1524-1541	1991 Toyota 4x4 Pickup [REDACTED]	Undetermined	[REDACTED]
9/16/2013 1402-1418	1988 Toyota Corolla [REDACTED]	Undetermined	[REDACTED]
9/16/2013 1600-1614	1992 Honda Civic [REDACTED]	Undetermined	[REDACTED]

17

18

19

20

21

22

23 **FIRST CAUSE FOR DISCIPLINE**

24 **(Misleading Statements)**

25 17. Respondent Cali Smog Check has subjected its registration to discipline under Code
26 section 9884.7, subdivision (a)(1), in that it made statements which it knew or which by exercise
27 of reasonable care it should have known were untrue or misleading when it issued electronic
28 certificates of compliance for the vehicles set forth in Table 1, above, certifying that those

1 vehicles were in compliance with applicable laws and regulations when, in fact, the vehicles had
2 been clean piped.²

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Fraud)**

5 18. Respondent Cali Smog Check has subjected its registration to discipline under Code
6 section 9884.7, subdivision (a)(4), in that it committed acts which constitute fraud by issuing
7 electronic certificates of compliance for the vehicles set forth in Table 1, above, without
8 performing bona fide inspections of the emission control devices and systems on those vehicles,
9 thereby depriving the People of the State of California of the protection afforded by the Motor
10 Vehicle Inspection Program.

11 **THIRD CAUSE FOR DISCIPLINE**

12 **(Violation of the Motor Vehicle Inspection Program)**

13 19. Respondent Cali Smog Check has subjected its station license to discipline under
14 Health and Safety Code section 44072.2, subdivision (a), in that regarding the vehicles set forth in
15 Table 1, above, it violated sections of that Code, as follows:

16 a. **Section 44012, subdivision (a):** Respondent Cali Smog Check failed to determine
17 that all emission control devices and systems required by law were installed and functioning
18 correctly in accordance with test procedures.

19 b. **Section 44012, subdivision (f):** Respondent Cali Smog Check failed to perform
20 emission control tests on those vehicles in accordance with procedures prescribed by the
21 department.

22 c. **Section 44015, subdivision (b):** Respondent Cali Smog Check issued electronic
23 certificates of compliance without properly testing and inspecting the vehicles to determine if
24 they were in compliance with section 44012 of that Code.

25
26 _____
27 ² Clean-piping is a method used to fraudulently certify vehicles that will not pass a smog
28 inspection on their own, or in some instances, are not even present during the time the test is
performed.

1 **SIXTH CAUSE FOR DISCIPLINE**

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

3 22. Respondent Robles has subjected his technician license to discipline under Health and
4 Safety Code section 44072.2, subdivision (a), in that, regarding the vehicles set forth in Table 1,
5 he violated sections of that Code, as follows:

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

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

11 c. **Section 44032:** Respondent Robles failed to perform tests of the emission control
12 devices and systems on those vehicles in accordance with section 44012, in that those vehicles
13 had been clean piped.

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

17 **SEVENTH CAUSE FOR DISCIPLINE**

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

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

22 a. **Section 3340.24, subdivision (c):** Respondent Robles falsely or fraudulently issued
23 electronic certificates of compliance without performing bona fide inspections of the emission
24 control devices and systems on those vehicles as required by Health and Safety Code section
25 44012.

26 b. **Section 3340.30, subdivision (a):** Respondent Robles failed to inspect and test those
27 vehicles in accordance with Health and Safety Code section 44012.
28

1 c. **Section 3340.41, subdivision (c):** Respondent Robles entered false information into
2 the Emission Inspection System (“EIS”) for the electronic certificates of compliance by entering
3 vehicle emission control information for vehicles other than the vehicles being certified.

4 d. **Section 3340.42:** Respondent Robles failed to conduct the required smog tests and
5 inspections on those vehicles in accordance with the Bureau’s specifications.

6 **EIGHTH CAUSE FOR DISCIPLINE**

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

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

14 **OTHER MATTERS**

15 25. Under Code section 9884.7, subdivision (c), the director may invalidate temporarily
16 or permanently or refuse to validate, the registrations for all places of business operated in this
17 state by Respondent Cali Smog Check upon a finding that they have, or are, engaged in a course
18 of repeated and willful violations of the laws and regulations pertaining to an automotive repair
19 dealer.

20 26. Under Health and Safety Code section 44072.8, if Station License Number TC
21 271708, issued to Respondent Cali Smog Check is revoked or suspended, any additional license
22 issued under this chapter in the name of said licensee may be likewise revoked or suspended by
23 the director.

24 27. Under Health and Safety Code section 44072.8, if Respondent Robles’s Advanced
25 Emission Specialist Technician License Number EA 634622 (to be redesignated upon renewal as
26 EO 634622 and/or EI 634622) is revoked or suspended, any additional license issued under this
27 chapter in the name of said licensee may be likewise revoked or suspended by the director.

28

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

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 or suspending Automotive Repair Dealer Registration Number ARD 271708, issued to Respondent Cali Smog Check;
2. Revoking or suspending Smog Check Test Only Station License Number TC 271708, issued Respondent Cali Smog Check;
3. Revoking or suspending Advanced Emission Specialist Technician License Number EA 634622, (to be redesignated upon renewal as EO 634622 and/or EI 634622), issued to Respondent Robles;
4. Ordering Respondents 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: May 7, 2014


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

LA2014511052
51499857.doc