

1 KAMALA D. HARRIS  
Attorney General of California  
2 JAMES M. LEDAKIS  
Supervising Deputy Attorney General  
3 ADRIAN R. CONTRERAS  
Deputy Attorney General  
4 State Bar No. 267200  
110 West "A" Street, Suite 1100  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 645-2634  
7 Facsimile: (619) 645-2061  
E-mail: Adrian.Contreras@doj.ca.gov  
8 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:  
13 **ROUTE 15 SMOG TEST ONLY**  
**KEVIN DALE GILLETT, OWNER**  
14 **2126 Hamner Avenue**  
**Norco, CA 92860**  
15  
16 **Automotive Repair Dealer Registration No.**  
**ARD 268249**  
**Smog Check, Test Only, Station No. TC**  
17 **268249**  
18 **DJUAN JAZMINE SUMMERVILLE**  
**10642 Litchfield St.**  
19 **Stanton, CA 90680**  
20 **Advanced Emission Specialist No. EA**  
**634727 (to be redesignated upon renewal as**  
21 **EO 634727 and/or EI 634727)**  
22 Respondents.

Case No. **79/14-53**

**ACCUSATION**

24 Complainant alleges:

25 **PARTIES**

26 1. Patrick Dorais (Complainant) brings this Accusation solely in his official capacity as  
27 the Acting Chief of the Bureau of Automotive Repair, Department of Consumer Affairs.  
28



1 proceeding against an automotive repair dealer or to render a decision invalidating a registration  
2 temporarily or permanently.

3 7. Section 9884.20 of the Code states:

4 "All accusations against automotive repair dealers shall be filed within three years after the  
5 performance of the act or omission alleged as the ground for disciplinary action, except that with  
6 respect to an accusation alleging fraud or misrepresentation as a ground for disciplinary action,  
7 the accusation may be filed within two years after the discovery, by the bureau, of the alleged  
8 facts constituting the fraud or misrepresentation."

9 8. Section 9884.22 states

10 "(a) Notwithstanding any other provision of law, the director may revoke, suspend, or deny  
11 at any time any registration required by this article on any of the grounds for disciplinary action  
12 provided in this article. The proceedings under this article shall be conducted in accordance with  
13 Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government  
14 Code, and the director shall have all the powers granted therein.

15 "..."

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

19 10. Section 44072 of the Health and Safety Code states:

20 "Any license issued under this chapter and the regulations adopted pursuant to it may be  
21 suspended or revoked by the director. The director may refuse to issue a license to any applicant  
22 for the reasons set forth in Section 44072.1. The proceedings under this article shall be conducted  
23 in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2  
24 of the Government Code, and the director shall have all the powers granted therein."

25 11. Section 44072.4 of the Health and Safety Code states:

26 "The director may take disciplinary action against any licensee after a hearing as provided  
27 in this article by any of the following:

28 "(a) Imposing probation upon terms and conditions to be set forth by the director.



1           16. Section 9884.7 of the Code states:

2           "(a) The director, where the automotive repair dealer cannot show there was a bona fide  
3 error, may deny, suspend, revoke, or place on probation the registration of an automotive repair  
4 dealer for any of the following acts or omissions related to the conduct of the business of the  
5 automotive repair dealer, which are done by the automotive repair dealer or any automotive  
6 technician, employee, partner, officer, or member of the automotive repair dealer.

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

10           "...

11           "(4) Any other conduct that constitutes fraud.

12           "...

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

17           17. Section 44072.2 of the Health and Safety Code states:

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

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

24           "...

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

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

27           "..."

28           ///

1 18. Section 44072.10 of the Health and Safety Code states:

2 "...

3 "(c) The department shall revoke the license of any smog check technician or station  
4 licensee who fraudulently certifies vehicles or participates in the fraudulent inspection of vehicles.  
5 A fraudulent inspection includes, but is not limited to, all of the following:

6 "...

7 "(4) Intentional or willful violation of this chapter or any regulation, standard, or procedure  
8 of the department implementing this chapter.

9 "..."

10 **REGULATORY PROVISIONS**

11 19. California Code of Regulations, title 16, section 3340.1, states:

12 "...

13 "'Clean piping,' for the purposes of Health and Safety Code section 44072.10(c)(1), means  
14 the use of a substitute exhaust emissions sample in place of the actual test vehicle's exhaust in  
15 order to cause the EIS to issue a certificate of compliance for the test vehicle.

16 "..."

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

21 **COSTS**

22 21. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
23 administrative law judge to direct a licentiate found to have committed a violation or violations of  
24 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
25 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being  
26 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be  
27 included in a stipulated settlement.

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1 **FIRST SURVEILLANCE-DECEMBER 13, 2012**

2 22. On December 13, 2012, Bureau representatives conducted surveillance of Route 15's  
3 smog check activities. They used a video recording device and began recording at about 0820  
4 hours until about 1426 hours. The clock on the video recording was about two minutes faster  
5 than the time on the Vehicle Information Database. The Bureau received from Route 15 the  
6 invoices and Vehicle Inspection Reports. The following is a comparison of the reported data from  
7 ten smog inspections Route 15 represented that Route 15 performed with the Bureau's recorded  
8 observations of those same ten inspections.

9 23. Clean Pipe 1 - Toyota Camry

10 The Vehicle Information Database reflects that between 0905 and 0914 hours, Route 15  
11 represented that Route 15 inspected and issued certificate of compliance #XP142785C for a 1999  
12 Toyota Camry, VIN JT2BF28K7X0210669. However, during the surveillance, the Bureau never  
13 saw a 1999 Toyota Camry at the smog station. At about 0909 hours, a black 2000 Hyundai  
14 Elantra, CA license number 6DHL963 (the black Elantra), drove into the testing bay, immediately  
15 left the bay, and then backed into the testing bay. No other vehicles entered or exited the testing  
16 bay during the period of certification. Route 15 clean piped the 1999 Toyota Camry using the  
17 exhaust sample of the black Elantra.

18 24. Clean Pipe 2 - Nissan Maxima

19 The Vehicle Information Database reflects that between 0937 and 0945 hours, Route 15  
20 represented that Route 15 inspected and issued certificate of compliance #XP142786C for a 1989  
21 Nissan Maxima, VIN JN1HJ01P3KT299340. However, during the surveillance, the Bureau never  
22 saw a 1989 Nissan Maxima at the smog station. No other vehicles entered or exited the testing  
23 bay during the period of certification since the black Elantra entered the testing bay at 0909 hours.  
24 Route 15 clean piped the 1989 Nissan Maxima using the exhaust sample of the black Elantra.

25 25. Clean Pipe 3 - Chevrolet Malibu

26 The Vehicle Information Database reflects that between 1010 and 1017 hours, Route 15  
27 represented that Route 15 inspected and issued certificate of compliance #XP142787C for a 2005  
28 Chevrolet Malibu, VIN 1G1ND52F45M130221. However, during the surveillance, the Bureau

1 never saw a Chevrolet Malibu at the smog station. No other vehicles entered or exited the testing  
2 bay during the period of certification since the black Elantra entered the testing bay at 0909 hours.  
3 Route 15 clean piped the Chevrolet Malibu using the exhaust sample of the black Elantra.

4 26. Clean Pipe 4 - Mercedes Benz C230

5 The Vehicle Information Database reflects that between 1037 and 1103 hours, Route 15  
6 represented that Route 15 inspected and issued certificate of compliance #XP142788C for a 2000  
7 Mercedes Benz C230 Kompressor, VIN WDBHA24GX7A797980. However, during the  
8 surveillance, the Bureau never saw a Mercedes Benz C230 at the smog station. No other vehicles  
9 entered or exited the testing bay during the period of certification since the black Elantra entered  
10 the testing bay at 0909 hours. Route 15 clean piped the Mercedes Benz C230 using the exhaust  
11 sample of the black Elantra.

12 27. Clean Pipe 5 - Nissan Sentra

13 The Vehicle Information Database reflects that between 1111 and 1123 hours, Route 15  
14 represented that Route 15 inspected and issued certificate of compliance #XP142789C for a 2006  
15 Nissan Sentra, VIN 3N1CB51D56L541971. However, during the surveillance, the Bureau never  
16 saw a Nissan Sentra at the smog station. No other vehicles entered or exited the testing bay  
17 during the period of certification since the black Elantra entered the testing bay at 0909 hours.  
18 The black Elantra left the testing bay at 1124 hours. Route 15 clean piped the Nissan Sentra using  
19 the exhaust sample of the black Elantra.

20 28. Clean Pipe 6 - Honda CRV

21 The Vehicle Information Database reflects that between 1138 and 1147 hours, Route 15  
22 represented that Route 15 inspected and issued certificate of compliance #XP142790C for a 1999  
23 Honda CRV, VIN JHLRD1866XC010182. However, during the surveillance, the Bureau never  
24 saw a Honda CRV at the smog station. At 1129 hours, the black Elantra backed into the testing  
25 bay. No other vehicles entered or exited the testing bay during the period of certification. Route  
26 15 clean piped the Honda CRV using the exhaust sample of the black Elantra.

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1           29. Clean Pipe 7 - Toyota Celica

2           The Vehicle Information Database reflects that between 1156 and 1206 hours, Route 15  
3 represented that Route 15 inspected and issued certificate of compliance #XP142791C for a 2000  
4 Toyota Celica, VIN JTDDR32T1Y0056976. However, during the surveillance, the Bureau never  
5 saw a Toyota Celica at the smog station. No other vehicles entered or exited the testing bay  
6 during the period of certification since the black Elantra entered the testing bay at 1129 hours.  
7 Route 15 clean piped the Toyota Celica using the exhaust sample of the black Elantra.

8           30. Clean Pipe 8 - Nissan Murano

9           The Vehicle Information Database reflects that between 1225 and 1234 hours, Route 15  
10 represented that Route 15 inspected and issued certificate of compliance #XP142792C for a 2003  
11 Nissan Murano, VIN JN8AZ08T03W100937. However, during the surveillance, the Bureau  
12 never saw a Nissan Murano at the smog station. No other vehicles entered or exited the testing  
13 bay during the period of certification since the black Elantra entered the testing bay at 1129 hours.  
14 Route 15 clean piped the Nissan Murano using the exhaust sample of the black Elantra.

15           31. Clean Pipe 9 - Nissan Titan

16           The Vehicle Information Database reflects that between 1252 and 1301 hours, Route 15  
17 represented that Route 15 inspected and issued certificate of compliance #XP142793C for a 2006  
18 Nissan Titan, VIN 1N6AA07A46N510957. However, during the surveillance, the Bureau never  
19 saw a Nissan Titan at the smog station. No other vehicles entered or exited the testing bay during  
20 the period of certification since the black Elantra entered the testing bay at 1129 hours. Route 15  
21 clean piped the Nissan Titan using the exhaust sample of the black Elantra.

22           32. Clean Pipe 10 - Ford Ranger

23           The Vehicle Information Database reflects that between 1314 and 1320 hours, Route 15  
24 represented that Route 15 inspected and issued certificate of compliance #XP142794C for a 2004  
25 Ford Ranger, VIN 1FTYR14U54PA35691. However, during the surveillance, the Bureau never  
26 saw a Ford Ranger at the smog station. No other vehicles entered or exited the testing bay during  
27 the period of certification since the black Elantra entered the testing bay at 1129 hours. Route 15  
28 clean piped the Ford Ranger using the exhaust sample of the black Elantra.

1 33. All of the December 13, 2012, illegal inspections described above are set forth in the  
 2 following table:

	Time of Certification as Recorded in Vehicle Information Database	Vehicle Certified	Was the Certified Vehicle Observed in Smog Bay During Time of Certification?
3 4 5 6 7	1 0905-0914	1999 Toyota Camry VIN JT2BF28K7X0210669 Certificate of Compliance #XP142785C	No-Black Elantra was used to test.
8 9 10	2 0937-0945	1989 Nissan Maxima VIN JN1HJ01P3KT299340 Certificate of Compliance #XP142786C	No-Black Elantra was used to test.
11 12	3 1010-1017	2005 Chevrolet Malibu VIN 1G1ND52F45M130221 Certificate of Compliance #XP142787C	No-Black Elantra was used to test.
13 14 15 16	4 1037-1103	2000 Mercedes Benz C230 Kompressor VIN WDBHA24GX YA797980 Certificate of Compliance #XP142788C	No-Black Elantra was used to test.
17 18	5 1111-1123	2006 Nissan Sentra VIN 3N1CB51D56L541971 Certificate of Compliance #XP142789C	No-Black Elantra was used to test.
19 20 21	6 1138-1147	1999 Honda CRV VIN JHLRD1866XC010182 Certificate of Compliance #XP142790C	No-Black Elantra was used to test.
22 23	7 1156-1206	2000 Toyota Celica VIN JTDDR32T1Y0056976 Certificate of Compliance #XP142791C	No-Black Elantra was used to test.
24 25	8 1225-1234	2003 Nissan Murano VIN JN8AZ08T03W100937 Certificate of Compliance #XP142792C	No-Black Elantra was used to test.
26 27 28	9 1252-1301	2006 Nissan Titan VIN 1N6AA07A46N510957 Certificate of Compliance #XP142793C	No-Black Elantra was used to test.

10	1314-1320	2004 Ford Ranger VIN 1FTYR14U54PA35691 Certificate of Compliance #XP142794C	No-Black Elantra was used to test.
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**FIRST CAUSE FOR DISCIPLINE**

**(Untrue or Misleading Statements)**

34. Route 15's Registration is subject to disciplinary action under section 9884.7, subdivision (a)(1), in that Route 15 made or authorized statements which Route 15 knew or in the exercise of reasonable care should have known to be untrue or misleading as follows: Route 15 certified that Route 15 inspected the vehicles described in paragraphs 22-33, when in fact those vehicles were not inspected.

**SECOND CAUSE FOR DISCIPLINE**

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

35. Route 15's Smog Check Station License is subject to disciplinary action under Health and Safety Code sections 44072.10, subdivisions (a) and (c) and 44072.2, subdivision (a), in that Route 15 failed to comply with the following sections of that Code:

a. **Section 44012**: failed to perform the tests of the emission control systems and devices on the vehicles in paragraphs 22-33 in accordance with procedures prescribed by the Department.

b. **Section 44015**: issued a certificate of compliance for the vehicles in paragraphs 22-33 without properly testing and inspecting them to determine if they were in compliance with Health & Safety Code section 44012.

c. **Section 44035**: failed to meet or maintain the standards prescribed for qualification, equipment, performance, or conduct by failing to properly perform a smog inspection on the vehicles in paragraphs 22-33 or certifying that such tests had been performed, when in fact they were never performed.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection Program)**

3 36. Route 15's Smog Check Station License is subject to disciplinary action under Health  
4 and Safety Code sections 44072.10, subdivisions (a) and (c) and 44072.2, subdivision (a), in that  
5 Route 15 failed to comply with the following sections of Title 16, California Code of Regulations:

6 a. **Section 3340.35, subdivision (c)**: failed to inspect and test the vehicles in paragraphs  
7 22-33 in accordance with the procedures specified in section 3340.42 of the Regulations and  
8 failed to ensure that these vehicles had all the required emission control equipment and devices  
9 installed and functioning correctly.

10 b. **Section 3340.41, subdivision (c)**: knowingly entered into the Emissions Inspection  
11 System false information about the vehicles in paragraphs 22-33, providing results for smog  
12 inspections which were not actually performed.

13 c. **Section 3340.42**: failed to conduct the required smog tests on the vehicles in  
14 paragraphs 22-33 in accordance with the Bureau's specifications.

15 **FOURTH CAUSE FOR DISCIPLINE**

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

17 37. Route 15's Registration is subject to disciplinary action under Code section 9884.7,  
18 subdivision (a)(4), and Route 15's Smog Check Station License is subject to disciplinary action  
19 under Health and Safety Code sections 44072.10, subdivision (a) and (c) and 44072.2, subdivision  
20 (d), in that Route 15 committed dishonest, fraudulent, or deceitful acts whereby another is injured  
21 by issuing smog certificates of compliance for the vehicles in paragraphs 22-33 without  
22 performing bona fide inspections of the emission control devices and systems on them, thereby  
23 depriving the People of the State of California of the protection afforded by the Motor Vehicle  
24 Inspection Program.

25 **FIFTH CAUSE FOR DISCIPLINE**

26 **(Clean Piping)**

27 38. Route 15's Smog Check Station license is subject to disciplinary action for clean  
28 piping under Health & Safety Code, § 44072.10, subdivision (c)(1), as defined in title 16,

1 California Code of Regulations, section 3340.1, in that Route 15 used a substitute exhaust  
2 emission sample of one vehicle in place of another vehicle's exhaust emission sample in order to  
3 cause the Emissions Inspection System to issue a certificate of compliance for the ten inspections  
4 described in paragraphs 22-33.

### 5 **SECOND SURVEILLANCE-MARCH 26, 2013**

6 39. On March 26, 2013, Bureau representatives conducted surveillance of Route 15's  
7 smog check activities. They used a video recording device and began recording at about 0748  
8 hours until about 1313 hours. The clock on the video recording matched the time on the Vehicle  
9 Information Database. The Bureau received from Route 15 and Respondent Summerville, Route  
10 15's smog check technician, the invoices and Vehicle Inspection Reports for five inspections that  
11 they represented in the Vehicle Information Database had been performed on that day. The  
12 following is a comparison of the reported data from four smog inspections Route 15 and  
13 Summerville represented that they performed on March 26, 2013, with the Bureau's recorded  
14 observations of those same four inspections.

#### 15 40. Fraudulent Inspection 1 - Nissan Pickup

16 The Vehicle Information Database reflects that between 1000 and 1019 hours, Route 15 and  
17 Summerville represented that they inspected a 1986 Nissan pickup, CA license # 9572UDP. No  
18 certificate of compliance was issued because the vehicle failed the inspection. However, during  
19 the surveillance, the Bureau never saw a Nissan pickup at the smog station. Between 1000 and  
20 1008 hours, the testing bay was empty. Then at about 1009 hours, a gold Cadillac Escalade, CA  
21 license #4PHT048 (the gold Escalade), drove into the testing bay. At about 1012 hours, the gold  
22 Escalade left the testing bay. The testing bay remained empty for the remainder of the testing  
23 period.

#### 24 41. Clean Pipe 11 - Ford Ranger

25 The Vehicle Information Database reflects that between 1030 and 1042 hours, Route 15 and  
26 Summerville represented that they inspected and issued certificate of compliance #XR943225C  
27 for a 1994 Ford Ranger, VIN 1FTDR15U5RPC44014. However, during the surveillance, the  
28 Bureau never saw a Ford Ranger at the smog station. Between 1030 and 1034 hours, the testing

1 bay remained empty. Then at about 1035 hours, a green SUV drove into the testing bay. The  
2 green SUV exited the testing bay at 1038 hours. The testing bay remained empty for the  
3 remainder of the testing period. Route 15 and Summerville clean piped the Ford Ranger using the  
4 exhaust sample of the green SUV.

5 42. Fraudulent Inspection 2 - Ford Windstar

6 The Vehicle Information Database reflects that between 1108 and 1116 hours, Route 15 and  
7 Summerville represented that they inspected a 1996 Ford Windstar, VIN 2FMDA5147TBB26741.  
8 No certificate of compliance was issued because the vehicle failed the inspection. However,  
9 during the surveillance, the Bureau never saw a Ford Windstar at the smog station. A full size  
10 Chevrolet pickup entered the testing bay at 1055 hours and exited the testing bay at 1102 hours.  
11 The testing bay remained empty until about 1109 hours, when the same Chevrolet pickup drove  
12 back into the testing bay. The Chevrolet pickup exited the testing bay at 1112 hours. The testing  
13 bay remained empty for the remainder of the testing period.

14 43. Clean Pipe 12 - Honda Civic Del Sol

15 The Vehicle Information Database reflects that between 1123 and 1140 hours, Route 15 and  
16 Summerville represented that they inspected and issued certificate of compliance #XR943226C  
17 for a 1993 Honda Civic Del Sol, VIN JHMEG1147PS000244. However, during the surveillance,  
18 the Bureau never saw a Honda Civic Del Sol at the smog station. Between 1123 and 1126 hours,  
19 the testing bay remained empty. At about 1127 hours, the gold Escalade drove into the testing  
20 bay. The gold Escalade exited the testing bay at 1132 hours. The testing bay remained empty for  
21 the remainder of the testing period. Route 15 and Summerville clean piped the Honda Civic Del  
22 Sol using the exhaust sample of the gold Escalade.

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1 44. All of the March 26, 2013, illegal inspections described above are set forth in the  
 2 following table:

	Time of Certification as Recorded in Vehicle Information Database	Vehicle Certified	Was the Certified Vehicle Observed in Smog Bay During Time of Certification?
3 4 5 6	1 1000-1019	1986 Nissan pickup CA license # 9572UDP Certificate of Compliance not issued	No-the gold Escalade was used to test.
7 8 9	2 1030-1042	1994 Ford Ranger VIN 1FTDR15U5RPC44014 Certificate of Compliance #XR943225C	No-the green SUV was used to test.
10 11	3 1108-1116	1996 Ford Windstar VIN 2FMDA5147TBB26741 Certificate of Compliance not issued	No-Chevrolet pickup was used to test.
12 13 14	4 1123-1140	1993 Honda Civic Del Sol VIN JHMEG1147PS000244 Certificate of Compliance #XR943226C	No-the gold Escalade was used to test.

15 **SIXTH CAUSE FOR DISCIPLINE**

16 **(Untrue or Misleading Statements)**

17 45. Route 15's Registration is subject to disciplinary action under section 9884.7,  
 18 subdivision (a)(1), in that Route 15 made or authorized statements which Route 15 knew or in the  
 19 exercise of reasonable care should have known to be untrue or misleading as follows: Route 15  
 20 certified that Route 15 inspected the vehicles described in paragraphs 39-44, when in fact those  
 21 vehicles were not inspected.

22 **SEVENTH CAUSE FOR DISCIPLINE**

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

24 46. Route 15's Smog Check Station License is subject to disciplinary action under Health  
 25 and Safety Code sections 44072.10, subdivisions (a) and (c) and 44072.2, subdivision (a), in that  
 26 Route 15 failed to comply with the following sections of that Code:

27 a. **Section 44012**: failed to perform the tests of the emission control systems and devices  
 28 on the vehicles in paragraphs 39-44 in accordance with procedures prescribed by the Department.



1 fide inspections of the emission control devices and systems on them, thereby depriving the  
2 People of the State of California of the protection afforded by the Motor Vehicle Inspection  
3 Program.

4 **TENTH CAUSE FOR DISCIPLINE**

5 **(Clean Piping)**

6 49. Route 15's Smog Check Station license is subject to disciplinary action for clean  
7 piping under Health & Safety Code, § 44072.10, subdivision (c)(1), as defined in title 16,  
8 California Code of Regulations, section 3340.1, in that Route 15 used a substitute exhaust  
9 emission sample of one vehicle in place of another vehicle's exhaust emission sample in order to  
10 cause the Emissions Inspection System to issue a certificate of compliance for the inspections of  
11 the 1994 Ford Ranger and 1993 Honda Civil Del Sol described in paragraphs 39-44.

12 **ELEVENTH CAUSE FOR DISCIPLINE**

13 **(Violation of Motor Vehicle Inspection Program)**

14 50. Summerville's smog technician license(s) is/are subject to disciplinary action under  
15 Health and Safety Code sections 44072.10, subdivisions (a) and (c) and 44072.2, subdivision (a),  
16 in that he failed to comply with the following sections of that Code:

17 a. **Section 44012**: failed to perform the tests of the emission control systems and devices  
18 on the vehicles in paragraphs 39-44 in accordance with procedures prescribed by the Department.

19 b. **Section 44015**: issued a certificate of compliance for the 1994 Ford Ranger and 1993  
20 Honda Civil Del Sol described in paragraphs 39-44 without properly testing and inspecting them  
21 to determine if they were in compliance with Health & Safety Code section 44012.

22 c. **Section 44035**: failed to meet or maintain the standards prescribed for qualification,  
23 equipment, performance, or conduct by failing to properly perform a smog inspection on the  
24 vehicles in paragraphs 39-44 or certifying that such tests had been performed, when in fact they  
25 were never performed.

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1 **TWELFTH CAUSE FOR DISCIPLINE**

2 **(Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection Program)**

3 51. Summerville's smog technician license(s) is/are subject to disciplinary action under  
4 Health and Safety Code sections 44072.10, subdivisions (a) and (c) and 44072.2, subdivision (a)  
5 in that he failed to comply with the following sections of Title 16, California Code of  
6 Regulations:

7 a. **Section 3340.35, subdivision (c)**: failed to inspect and test the vehicles in paragraphs  
8 39-44 in accordance with the procedures specified in section 3340.42 of the Regulations and  
9 failed to ensure that these vehicles had all the required emission control equipment and devices  
10 installed and functioning correctly.

11 b. **Section 3340.41, subdivision (c)**: knowingly entered into the Emissions Inspection  
12 System false information about the vehicles in paragraphs 39-44, providing results for smog  
13 inspections which were not actually performed.

14 c. **Section 3340.42**: failed to conduct the required smog tests on all the vehicles in  
15 paragraphs 39-44 in accordance with the Bureau's specifications.

16 **THIRTEENTH CAUSE FOR DISCIPLINE**

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

18 52. Summerville's smog technician license(s) is/are subject to disciplinary action under  
19 Health and Safety Code sections 44072.10, subdivision (a) and (c) and 44072.2, subdivision (d),  
20 in that he committed dishonest, fraudulent, or deceitful acts whereby another is injured by issuing  
21 smog inspection results for the vehicles in paragraphs 39-44 without performing bona fide  
22 inspections of the emission control devices and systems on them, thereby depriving the People of  
23 the State of California of the protection afforded by the Motor Vehicle Inspection Program.

24 **FOURTEENTH CAUSE FOR DISCIPLINE**

25 **(Clean Piping)**

26 53. Summerville's smog technician license(s) is/are subject to disciplinary action for  
27 clean piping under Health & Safety Code, § 44072.10, subdivision (c)(1), as defined in title 16,  
28 California Code of Regulations, section 3340.1, in that he used a substitute exhaust emission

1 sample of one vehicle in place of another vehicle's exhaust emission sample in order to cause the  
2 Emissions Inspection System to issue a certificate of compliance for the inspections of the 1994  
3 Ford Ranger and 1993 Honda Civic Del Sol described in paragraphs 39-44.

4 **OTHER MATTERS**

5 54. Pursuant to Code section 9884.7, subdivision (c), the Director may suspend, revoke or  
6 place on probation the registration for all places of business operated in this state by Route 15  
7 upon a finding that Route 15 has, or is, engaged in a course of repeated and willful violations of  
8 the laws and regulations pertaining to an automotive repair dealer.

9 55. Pursuant to Health & Safety Code section 44072.8, if Route 15's Smog Check Station  
10 License is revoked or suspended, the Director may likewise revoke or suspend any additional  
11 license issued under Chapter 5 of the Health and Safety Code in the name of Route 15 or Kevin  
12 Dale Gillett.

13 56. Pursuant to Health & Safety Code section 44072.8, if Summerville's Smog  
14 Technician License, currently designated as Advanced Emission Specialist Technician No. EA  
15 634727 and as redesignated upon timely renewal as EO 634727 and/or EI 634727, is/are revoked  
16 or suspended, any additional license issued under this chapter in the name of Summerville may  
17 likewise be revoked or suspended by the Director.

18 **PRAYER**

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

- 21 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD  
22 268249, issued to Route 15 Smog Test Only;
- 23 2. Revoking or suspending Smog Check, Test Only, Station License No. TC 268249,  
24 issued to Route 15 Smog Test Only;
- 25 3. Revoking or suspending Summerville's smog technician license(s), currently  
26 designated as Advanced Emission Specialist Technician No. EA 634727 and as redesignated upon  
27 his timely renewal as EO 634727 and/or EI 634727;

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4. Ordering Route 15 and Summerville 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

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

DATED: November 12, 2013 *Patrick Dorais*

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

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