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

11 In the Matter of the Accusation Against:

Case No. 79/16-89

12 **MYNOR ROCEAL MORALES**
8313 South Eastern Avenue
13 Bell Gardens, CA 90201

ACCUSATION

14 **Mynor Roceal Morales**
2430 E. 126th St.
15 Compton, CA 90222

16 **Smog Check Inspector License No. EO**
150132
17 **Smog Check Repair Technician License No.**
EI 150132
18 **(Formerly Advanced Emission Specialist**
Technician License No. EO 150132)
19

20 Respondent.

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22 Complainant alleges:

23 **PARTIES**

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

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1 **LICENSE INFORMATION**

2 2. In 2004, the Bureau of Automotive Repair issued Advanced Emission Specialist
3 (EA)Technician License Number EO 150132 to Mynor Roceal Morales (Respondent). The
4 Advanced Emission Specialist Technician License was due to expire on May 31, 2013, however,
5 it was cancelled on April 15, 2013.

6 3. On or about April 15, 2013, at Respondent's election, the Bureau of Automotive
7 Repair issued Smog Check Inspector License Number EO 150132¹ to Respondent. The Smog
8 Check Inspector License was in full force and effect at all times relevant to the charges brought
9 herein and will expire on May 31, 2017, unless renewed.

10 4. On or about April 15, 2013, at Respondent's election, the Bureau of Automotive
11 Repair issued Smog Check Repair Technician License Number EI 150132 to Respondent. The
12 Smog Check Repair Technician License was in full force and effect at all times relevant to the
13 charges brought herein and will expire on May 31, 2017, unless renewed.

14 **JURISDICTION**

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

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

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

24 8. Section 44072.6 of the Health and Safety Code provides, in pertinent part, that the
25 expiration or suspension of a license by operation of law, or by order or decision of the Director

26 ¹ 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 of Consumer Affairs, or a court of law, or the voluntary surrender of the license shall not deprive
2 the Director of jurisdiction to proceed with disciplinary action.

3 9. Health & Saf. Code section 44072.8 states that when a license has been revoked or
4 suspended following a hearing under this article, any additional license issued under this chapter
5 in the name of the licensee may be likewise revoked or suspended by the director.

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

10 **PERTINENT STATUTES & REGULATIONS**

11 11. Section 498 of the Business and Professions Code states:

12 “A board may revoke, suspend, or otherwise restrict a license on the ground that the
13 licensee secured the license by fraud, deceit, or knowing misrepresentation of a material fact or by
14 knowingly omitting to state a material fact.”

15 12. Section 9884.7 of the Business and Professions Code states, in pertinent part:

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

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22 “(4) Any other conduct that constitutes fraud.”

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

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1 13. Section 9889.3 of the Business and Professions Code states, in pertinent part:

2 “The director may suspend, revoke, or take other disciplinary action against a license as
3 provided in this article if the licensee or any partner, officer, or director thereof:

4 “(a) Violates any section of the Business and Professions Code that relates to his or her
5 licensed activities.

6 . . .

7 14. Section 9889.9 of the Business and Professions Code states:

8 “When any license has been revoked or suspended following a hearing under the provisions
9 of this article, any additional license issued under Articles 5 and 6 of this chapter in the name of
10 the licensee may be likewise revoked or suspended by the director.”

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

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

15 “(a) Violates any section of this chapter and the regulations adopted pursuant to it, which
16 related to the licensed activities.

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

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20 “(e) Has misrepresented a material fact in obtaining a license.”

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22 16. Section 44072.8 of the Health and Safety Code states:

23 “When a license has been revoked or suspended following a hearing under this article, any
24 additional license issued under this chapter in the name of the licensee may be likewise revoked
25 or suspended by the director.”

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1 **COST RECOVERY**

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

6 **CAUSE FOR DISCIPLINE**

7 (Dishonest Conduct - Fraud)

8 18. Respondent is subject to disciplinary action under Health and Safety Code section
9 44072.2, subdivision (e), and Business and Professions Code sections 498, 9889.3, subdivisions
10 (a), and 9884.7(a)(4) in that Respondent used fraud and deceit to obtain a Advanced Emission
11 Specialist (EA) Technician License number from the Bureau, when he provided false personal
12 identifying information in connection with his application for licensure.

13 19. The circumstances are that on or about August 16, 2004, Respondent applied for a
14 Smog Check Technician License with the Bureau. In that written application, he identified a
15 California driver's license number and a social security number that had been issued to another
16 person and were not his personal information. Respondent signed the application for licensure
17 under penalty of perjury fraudulently representing that the information provided in the application
18 was true and correct. The true facts are that Respondent has never been issued a California
19 driver's license and that the Social Security number used on the application was not his.

20 20. The Bureau relied on the false information contained on the application when it
21 issued to Respondent Advanced Emission Specialist (EA) Technician license no. 150132. The
22 Bureau continued to rely on the false information when, at Respondent's request, said license was
23 renewed as Smog Check Inspector (EO) License No. 150132 and Smog Check Repair Technician
24 (EI) License No. 150132, effective April 15, 2013. Said licenses have been renewed continuously
25 at Respondent's request since their issuance.

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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 or suspending Advanced Emission Specialist Technician License Number EA 150132, issued to Mynor Roceal Morales;

2. Revoking or suspending Smog Check Inspector License Number EO 150132, issued to Mynor Roceal Morales;

3. Revoking or suspending Smog Check Repair Technician License Number EI 150132, issued to Mynor Roceal Morales;

4. Ordering Mynor Roceal Morales 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: 3/16/16

Patrick Dorais by Doug Balatti
PATRICK DORAIS
Chief
Bureau of Automotive Repair
Department of Consumer Affairs
State of California
Complainant

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