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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.

79/15-41

12 **P & P SMOG CHECK; ARMEN**
13 **MEGERDCHIAN**
14 **3979 North Mission Rd # B**
Los Angeles, CA 90031

ACCUSATION

Smog check

15 **Automotive Repair Dealer Registration No.**
ARD 270778
16 **Smog Check, Test Only Station License No.**
TC 270778,

17 **and**

18 **ARMEN MEGERDCHIAN**
19 **721 N. Isabel # 1**
Glendale, CA 91206

20 **Smog Check Inspector License No. EO**
630796
21 **Smog Check Repair Technician License No.**
EI 630796

22 Respondent.
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25 Complainant alleges:

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PARTIES

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

1 7. Section 9884.7 of the BPC states, in pertinent part:

2 “(a) The director, where the automotive repair dealer cannot show there was a bona fide
3 error, may refuse to validate, or may invalidate temporarily or permanently, the registration of an
4 automotive repair dealer for any of the following acts or omissions related to the conduct of the
5 business of the automotive repair dealer, which are done by the automotive repair dealer or any
6 automotive 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
8 written or oral which is untrue or misleading, and which is known, or which by the exercise
9 of reasonable care should be known, to be untrue or misleading

10 (4) Any other conduct which constitutes fraud.”

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12 (6) Failure in any material respect to comply with the provisions of this chapter or
13 regulations adopted pursuant to it.

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

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

21 8. Section 9889.3 of the BPC states, in pertinent part:

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

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25 “(b) Is convicted of any crime substantially related to the qualifications, functions, or duties
26 of the licenseholder in question.”

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1 9. Section 44002 of the Health and Safety Code (“HSC”) provides, in pertinent part, that
2 the Director has all the powers and authority granted under the Automotive Repair Act for
3 enforcing the Motor Vehicle Inspection Program.

4 10. Section 44012 of the HSC provides, in pertinent part, that tests at smog check stations
5 shall be performed in accordance with procedures prescribed by the department.

6 11. Section 44015, subdivision (b), of the HSC provides that a certificate of compliance
7 shall be issued if a vehicle meets the requirements of HSC section 40012.

8 12. Section 44032 of the HSC provides, in pertinent part, that “[q]ualified technicians
9 shall perform tests of emission control devices and systems in accordance with Section 44012.”

10 13. Section 44059 of the HSC provides:
11 “The willful making of any false statement or entry with regard to a material matter in any
12 oath, affidavit, certificate of compliance or noncompliance, or application form which is required
13 by this chapter or Chapter 20.3 (commencing with Section 9880) of Division 3 of the Business
14 and Professions Code, constitutes perjury and is punishable as provided in the Penal Code.”

15 14. Section 44072.2 of the HSC states, in pertinent part:
16 “The director may suspend, revoke, or take other disciplinary action against a license as
17 provided in this article if the licensee, or any partner, officer, or director thereof, does any of the
18 following:

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

22 “(b) Is convicted of any crime substantially related to the qualifications, functions, or
23 duties of the licenseholder in question.

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

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

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1 **COST RECOVERY**

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

6 **BUREAU INVESTIGATION AND SURVEILLANCE**

7 22. On or about November 26, 2013, Bureau program representatives Paul Grimmie
8 and Brian Vu conducted video-taped surveillance of respondent P & P Smog Check (“Respondent
9 Station”), located at 3979 North Mission Road, #B, Los Angeles, CA. Bureau program
10 representatives Grimmie and Vu observed respondent Armen Megerdchian (“Respondent
11 Megerdchian”) performing smog inspections at Respondent Station during the surveillance
12 period. The surveillance operation and information obtained from the Bureau’s VID revealed that
13 during the surveillance period, Respondent Megerdchian and Respondent Station (collectively,
14 “Respondents”) engaged in illegal smog inspection activities. Specifically, the Bureau’s
15 surveillance operation and information obtained from the Bureau’s VID revealed that between
16 approximately 1042 and 1049 hours, Respondent Megerdchian used his smog check inspector
17 license and access code to perform a smog inspection that resulted in the issuance of electronic
18 Certificate of Compliance No. YB142976C for a 1993 Nissan pickup truck, license plate number
19 6X82634, certifying that he had tested and inspected that vehicle and that the vehicle was in
20 compliance with applicable laws and regulations. At no time during the test period was the Nissan
21 pickup truck seen in or around the station’s test bay. Instead, the tail pipe emissions of a 1999
22 Nissan Altima, license plate 6DWH390, were used in a method known as “clean piping”¹ to issue
23 a fraudulent electronic certificate of compliance.

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26 ¹ “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 23. On or about December 3, 2013, Bureau program representatives Grimmie and Vu
2 conducted another video-taped surveillance of Respondent Station. During the surveillance
3 period, Bureau program representatives Grimmie and Vu observed Respondent Megerdchian
4 performing smog inspections at Respondent Station. Once again, the surveillance operation and
5 information obtained from the Bureau's VID revealed that during the surveillance period,
6 Respondents were engaged in illegal smog inspection activities. The circumstances are as
7 follows:

8 a. The Bureau's surveillance operation and information obtained from the Bureau's
9 VID revealed that between approximately 0954 and 1002 hours, Respondent Megerdchian used
10 his smog check inspector license and access code to perform a smog inspection that resulted in
11 the issuance of electronic Certificate of Compliance No. PA945075C for a 1991 Honda Civic,
12 license plate number 2ZES717, certifying that he had tested and inspected that vehicle and that
13 the vehicle was in compliance with applicable laws and regulations. At no time during the test
14 period was the 1991 Honda Civic seen in or around the station's test bay. Instead, the tail pipe
15 emissions of a 1992 Toyota Camry, license plate 4YUC156, were used to issue a fraudulent
16 electronic certificate of compliance through the clean piping method as previously described.

17 b. The Bureau's surveillance operation and information obtained from the Bureau's
18 VID revealed that between approximately 1241 and 1247 hours, Respondent Megerdchian used
19 his smog check inspector license and access code to perform a smog inspection that resulted in
20 the issuance of electronic Certificate of Compliance No. PA945080C for a 1986 Ford F150,
21 license plate number 2T31431, certifying that he had tested and inspected that vehicle and that the
22 vehicle was in compliance with applicable laws and regulations. At no time during the test period
23 was the 1986 Ford F150 seen in or around the station's test bay. Instead, the tail pipe emissions of
24 a 2005 Scion XB, license plate 5KZC204, were used to issue a fraudulent electronic certificate of
25 compliance through the clean piping method as previously described.

26 c. The Bureau's surveillance operation and information obtained from the Bureau's
27 VID revealed that between approximately 1327 and 1334 hours, Respondent Megerdchian used
28 his smog check inspector license and access code to perform a smog inspection that resulted in

1 the issuance of electronic Certificate of Compliance No. PA945082C for a 1987 Honda Accord,
2 license plate number 2DVN411, certifying that he had tested and inspected that vehicle and that
3 the vehicle was in compliance with applicable laws and regulations. At no time during the test
4 period was the 1987 Honda Accord seen in or around the station's test bay. Instead, the tail pipe
5 emissions of a 2002 Toyota Camry, license plate 5JWB406, were used to issue a fraudulent
6 electronic certificate of compliance through the clean piping method as previously described.

7 d. The Bureau's surveillance operation and information obtained from the Bureau's
8 VID revealed that between approximately 1533 and 1541 hours, Respondent Megerdchian used
9 his smog check inspector license and access code to perform a smog inspection that resulted in
10 the issuance of electronic Certificate of Compliance No. PA945086C for a 1994 Chevrolet Astro,
11 license plate number 3GPB462, certifying that he had tested and inspected that vehicle and that
12 the vehicle was in compliance with applicable laws and regulations. At no time during the test
13 period was the 1994 Chevrolet Astro seen in or around the station's test bay. Instead, the tail pipe
14 emissions of a 1999 Toyota Tacoma, license plate 71120B1, were used to issue a fraudulent
15 electronic certificate of compliance through the clean piping method as previously described.

16 **FIRST CAUSE FOR DISCIPLINE**

17 **(Misleading Statements)**

18 24. P & P Smog Check, Armen Megerdchian, owner, has subjected his ARD to discipline
19 under BPC section 9884.7, subdivision (a)(1), in that on or about November 26, 2013, and
20 December 3, 2013, he made statements which he knew or which by exercise of reasonable care
21 should have known were untrue or misleading when he issued electronic certificates of
22 compliance for certain vehicles, certifying that those vehicles were in compliance with applicable
23 laws and regulations when, in fact, those vehicles had not been inspected. Complainant refers to,
24 and by this reference incorporates, the allegations set forth above in paragraphs 22 and 23,
25 subdivisions a – d, inclusive, as though set forth fully herein.

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1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Fraud)**

3 25. P & P Smog Check, Armen Megerdchian, owner, has subjected his ARD to discipline
4 under BPC section 9884.7, subdivision (a)(4), in that on or about November 26, 2013, and
5 December 3, 2013, he committed acts which constitute fraud by issuing electronic certificates of
6 compliance for certain vehicles without performing bona fide inspections of the emission control
7 devices and systems on those vehicles, thereby depriving the People of the State of California of
8 the protection afforded by the Motor Vehicle Inspection Program. Complainant refers to, and by
9 this reference incorporates, the allegations set forth above in paragraphs 22 and 23, subdivisions a
10 – d, inclusive, as though set forth fully herein.

11 **THIRD CAUSE FOR DISCIPLINE**

12 **(Material Violation of Automotive Repair Act)**

13 26. P & P Smog Check, Armen Megerdchian, owner, has subjected his ARD to discipline
14 under BPC section 9884.7, subdivision (a)(6), in that on or about November 26, 2013, and
15 December 3, 2013, he failed in a “material respect to comply with the provisions of this chapter
16 or regulations adopted pursuant to it” when he issued electronic certificates of compliance for
17 certain vehicles without performing bona fide inspections of the emission control devices and
18 systems on those vehicles, thereby depriving the People of the State of California of the
19 protection afforded by the Motor Vehicle Inspection Program. Complainant refers to, and by this
20 reference incorporates, the allegations set forth above in paragraphs 22 and 23, subdivisions a – d,
21 inclusive, as though set forth fully herein.

22 **FOURTH CAUSE FOR DISCIPLINE**

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

24 27. P & P Smog Check, Armen Megerdchian, owner, has subjected his station license to
25 discipline under HSC section 44072.2, subdivision (a), in that on or about November 26, 2013,
26 and December 3, 2013, Respondent violated the following sections of the HSC with respect to the
27 inspection of certain vehicles:

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1 a. **Section 44012:** Respondent failed to ensure that the emission control tests were
2 performed on those vehicles in accordance with procedures prescribed by the department.

3 b. **Section 44014:** Respondent allowed an unlicensed person, Raul Padilla, to perform
4 emission control tests on those vehicles in violation of procedures prescribed by the department.

5 c. **Section 44015, subdivision (b):** Respondent issued electronic certificates of
6 compliance without properly testing and inspecting the vehicles to determine if they were in
7 compliance with section 44012 of the HSC.

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

11 Complainant refers to, and by this reference incorporates, the allegations set forth above in
12 paragraphs 22 and 23, subdivisions a – d, inclusive, as though set forth fully herein.

13 **FIFTH CAUSE FOR DISCIPLINE**

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

15 28. P & P Smog Check, Armen Megerdchian, owner, has subjected his station license to
16 discipline under HSC section 44072.2, subdivision (c), in that on or about November 26, 2013,
17 and December 3, 2013, Respondent violated the following sections of title 16 of the CCR with
18 respect to the inspection of certain vehicles:

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

22 c. **Section 3340.35, subdivision (c):** Respondent issued electronic certificates of
23 compliance even though those vehicles had not been inspected in accordance with section
24 3340.42 of the HSC.

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

27 Complainant refers to, and by this reference incorporates, the allegations set forth above in
28 paragraphs 22 and 23, subdivisions a – d, inclusive, as though set forth fully herein.

1 **SIXTH CAUSE FOR DISCIPLINE**

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

3 29. P & P Smog Check, Armen Megerdchian, owner, has subjected his station license to
4 discipline under HSC section 44072.2, subdivision (d), in that on or about November 26, 2013,
5 and December 3, 2013, Respondent committed acts involving dishonesty, fraud or deceit whereby
6 another was injured by issuing electronic certificates of compliance for certain vehicles without
7 performing bona fide inspections of the emission control devices and systems on those vehicles,
8 thereby depriving the People of the State of California of the protection afforded by the Motor
9 Vehicle Inspection Program. Complainant refers to, and by this reference incorporates, the
10 allegations set forth above in paragraphs 22 and 23, subdivisions a – d, inclusive, as though set
11 forth fully herein.

12 **SEVENTH CAUSE FOR DISCIPLINE**

13 **(Criminal Conviction)**

14 30. P & P Smog Check, Armen Megerdchian, owner, has subjected his ARD and station
15 license to discipline under Code section 9889.3, subdivision (b), and Health and Safety Code
16 section 44072.2, subdivision (b), in that on or about June 19, 2014, in the criminal matter entitled
17 *People of the State of California v. Armen Megerdchian* (Super. Ct. Los Angeles, 2014, No.
18 BA42192301), Respondent entered a plea of guilty and was convicted of one count of violating
19 Penal Code section 115(a) [register/record false document with public office]. The circumstances
20 surrounding the conviction are that Respondent was arrested in or around May 2014 and charged
21 with multiple felonies in connection with the illegal conduct set forth in paragraphs 23 and 24,
22 above.

23 **EIGHTH CAUSE FOR DISCIPLINE**

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

25 31. Respondent Megerdchian has subjected his smog check inspector and smog check
26 repair technician licenses to discipline under HSC section 44072.2, subdivision (a), in that on or
27 about November 26, 2013, and December 3, 2013, he violated the following sections of the HSC
28 with respect to the inspection of certain vehicles:

1 a. **Section 44012:** Respondent failed to ensure that the emission control tests were
2 performed on those vehicles in accordance with procedures prescribed by the department.

3 b. **Section 44032:** Respondent failed to perform tests of the emission control devices
4 and systems on those vehicles in accordance with section 44012 of the HSC, in that the vehicles
5 had been clean piped.

6 c. **Section 44059:** Respondent willfully made false entries for the electronic certificates
7 of compliance by certifying that those vehicles had been inspected as required when, in fact, they
8 had not.

9 Complainant refers to, and by this reference incorporates, the allegations set forth above in
10 paragraphs 22 and 23, subdivisions a – d, inclusive, as though set forth fully herein.

11 **NINTH CAUSE FOR DISCIPLINE**

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

13 32. Respondent Megerdchian has subjected his smog check inspector and smog check
14 repair technician licenses to discipline under HSC section 44072.2, subdivision (c), in that on or
15 about November 26, 2013, and December 3, 2013, he violated the following sections of the CCR,
16 title 16, with respect to the inspection of certain vehicles:

17 a. **Section 3340.24, subdivision (c):** Respondent 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 HSC section 44012.

20 b. **Section 3340.30, subdivision (a):** Respondent failed to inspect and test those
21 vehicles in accordance with HSC section 44012.

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

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

27 Complainant refers to, and by this reference incorporates, the allegations set forth above in
28 paragraphs 22 and 23, subdivisions a – d, inclusive, as though set forth fully herein.

1 **TENTH CAUSE FOR DISCIPLINE**

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

3 33. Respondent Megerdchian has subjected his smog check inspector and smog
4 check repair technician licenses to discipline under HSC section 44072.2, subdivision (d), in that
5 on or about November 26, 2013, and December 3, 2013, he committed acts involving dishonesty,
6 fraud or deceit whereby another was injured by issuing electronic certificates of compliance for
7 certain vehicles without performing bona fide inspections of the emission control devices and
8 systems on those vehicles, thereby depriving the People of the State of California of the
9 protection afforded by the Motor Vehicle Inspection Program. Complainant refers to, and by this
10 reference incorporates, the allegations set forth above in paragraphs 22 and 23, subdivisions a – d,
11 inclusive, as though set forth fully herein.

12 **ELEVENTH CAUSE FOR DISCIPLINE**

13 **(Criminal Conviction)**

14 34. Respondent Megerdchian has subjected his smog check inspector and smog check
15 repair technician licenses to discipline under Health and Safety Code section 44072.2, subdivision
16 (b), in that on or about June 19, 2014, in the criminal matter entitled *People of the State of*
17 *California v. Armen Megerdchian* (Super. Ct. Los Angeles, 2014, No. BA42192301), Respondent
18 entered a plea of guilty and was convicted of one count of violating Penal Code section 115(a)
19 [register/record false document with public office]. The circumstances surrounding the
20 conviction are that Respondent was arrested in or around May 2014 and charged with multiple
21 felonies in connection with the illegal conduct set forth in paragraphs 23 and 24, above.

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 270778, issued to P & P Smog Check, Armen Megerdchian, owner.

27 2. Revoking or suspending Smog Check, Test Only Station License Number TC
28 270778, issued to P & P Smog Check, Armen Megerdchian, owner;

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- 3. Revoking or suspending Smog Check Inspector License Number EO 630796, issued to Armen Megerdchian
- 4. Revoking or suspending Smog Check Repair Technician License Number EI 630796, issued to Armen Megerdchian;
- 5. Ordering Armen Megerdchian and Armen Megerdchian 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;
- 6. Taking such other and further action as deemed necessary and proper.

DATED: September 17, 2014 Patrick Dorais

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

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