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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:  
13 **CHA CHA SMOGZ**  
14 **MARK YOUNG, OWNER**  
2819 W. Florence Avenue  
15 Los Angeles, CA 90043  
Automotive Repair Dealer Reg. No. ARD 268149  
16 Smog Check Test Only Station License No. TC  
268149,  
17 -and-  
18 **DAVID ALEXANDER DOMINGUEZ**  
19 5316 ¼ W. 77<sup>th</sup> Street  
Los Angeles, CA 90043  
20 Smog Check Inspector License No. EO 633149  
Smog Check Repair Technician License No. EI  
21 633149 (was redesignated upon renewal from  
EA633149 to EO 633149 and EI 633149)  
22 Respondents.  
23

Case No. 79/14-28

14 **A C C U S A T I O N**  
15 (Smog Check)

24 Complainant alleges:

25 **PARTIES/LICENSE INFORMATION**

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





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

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

7 . . . .

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

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

12 . . . .

13 (f) Aids or abets unlicensed persons to evade the provisions of this  
14 chapter . . .

15 13. Health & Saf. Code section 44072.10 states, in pertinent part:

16 . . . .

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

21 (1) Clean piping, as defined by the department.

22 . . . .

23 (4) Intentional or willful violation of this chapter or any regulation,  
24 standard, or procedure of the department implementing this chapter . . .

25 **REGULATORY PROVISIONS**

26 14. California Code of Regulations (“CCR”), title 16, section 3340.24, subdivision (c),  
27 states:

28 “The bureau may suspend or revoke the license of or pursue other legal action against a  
licensee, if the licensee falsely or fraudulently issues or obtains a certificate of compliance or a  
certificate of noncompliance.”

15. CCR, title 16, section 3340.30, subdivision (a), states that a licensed smog technician  
shall at all times “[i]nspect, test and repair vehicles, as applicable, in accordance with section

1 44012 of the Health and Safety Code, section 44035 of the Health and Safety Code, and section  
2 3340.42 of this article.”

3 16. CCR, title 16, section 3340.35, subdivision (c), states that a licensed smog check  
4 station “shall issue a certificate of compliance or noncompliance to the owner or operator of any  
5 vehicle that has been inspected in accordance with the procedures specified in section 3340.42 of  
6 this article and has all the required emission control equipment and devices installed and  
7 functioning correctly.”

8 17. CCR, title 16, section 3340.41, subdivision (c), provides: “No person shall enter into  
9 the emissions inspection system any vehicle identification information or emission control system  
10 identification data for any vehicle other than the one being tested. Nor shall any person  
11 knowingly enter into the emissions inspection system any false information about the vehicle  
12 being tested.”

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

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

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

#### 22 **COST RECOVERY**

23 21. Bus. & Prof. Code section 125.3 provides, in pertinent part, that a Board may request  
24 the administrative law judge to direct a licentiate found to have committed a violation or  
25 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
26 and enforcement of the case.

27 ///

28 ///

1 **VIDEO SURVEILLANCE OPERATION OF DECEMBER 4, 2012**

2 22. On or about December 4, 2012, representatives of the Bureau conducted a video  
3 surveillance operation of Respondent Young's smog check facility. The surveillance video and  
4 information obtained from the Bureau's vehicle information database ("VID") showed that  
5 Respondent Dominguez employed a method commonly known as clean piping<sup>2</sup> during the  
6 following smog inspections, resulting in the issuance of fraudulent certificates of compliance for  
7 two of the following vehicles:

8

<b>Date &amp; Time of Inspection</b>	<b>Vehicle in EIS Data and License or VIN No.</b>	<b>Vehicle Actually Tested</b>	<b>Certificate No.</b>
9 1. 12/4/2012 14:56-15:03	1996 Oldsmobile Delta 88, License No. 6LWG318	1996 Ford Mustang, License No. 3TQE661	None
10 2. 12/4/2012 15:08-15:14	1993 Chevrolet Astro, License No. 5RYL347	1996 Ford Mustang, License No. 3TQE661	XP038976C
11 3. 12/4/2012 15:19-15:26	1992 Honda Accord License No. 3BJX142	1996 Ford Mustang, License No. 3TQE661	XP038977C

12  
13  
14

15 **FIRST CAUSE FOR DISCIPLINE**

16 **(Untrue or Misleading Statements)**

17  
18 23. Respondent Young's registration is subject to disciplinary action pursuant to Bus. &  
19 Prof. Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized a statement  
20 which he knew or in the exercise of reasonable care should have known to be untrue or  
21 misleading, as follows: Respondent Young's inspector, Respondent Dominguez, certified that  
22 two of the vehicles identified in paragraph 22 above had passed inspection and were in  
23 compliance with applicable laws and regulations. In fact, Respondent Dominguez used clean  
24 piping methods in order to issue certificates for those vehicles and did not test or inspect the  
25 vehicles as required by Health & Saf. Code section 44012.

26 \_\_\_\_\_  
27 <sup>2</sup> Pursuant to California Code of Regulations, title 16, section 3340.1, subdivision (t),  
28 "clean piping" means the use of a sample of the exhaust emissions of one vehicle in order to  
cause the EIS to issue a certificate of compliance for another vehicle.



1 a. **Section 3340.24, subdivision (c)**: Respondent Dominguez falsely or fraudulently  
2 issued electronic smog certificates of compliance for two of the vehicles identified in paragraph  
3 22 above.

4 b. **Section 3340.35, subdivision (c)**: Respondent Dominguez issued electronic smog  
5 certificates of compliance for two of the vehicles identified in paragraph 22 above even though  
6 the vehicles had not been inspected in accordance with section 3340.42.

7 c. **Section 3340.41, subdivision (c)**: Respondent Young authorized or permitted his  
8 inspector, Respondent Dominguez, to enter false information into the EIS by entering vehicle  
9 identification information or emission control system identification data for a vehicle other than  
10 the one being tested.

11 d. **Section 3340.42**: Respondent Dominguez failed to ensure that the required smog  
12 tests were conducted on the vehicles identified in paragraph 22 above in accordance with the  
13 Bureau's specifications.

14 **FIFTH CAUSE FOR DISCIPLINE**

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

16 27. Respondent Young's smog check station license is subject to disciplinary action  
17 pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed a  
18 dishonest, fraudulent or deceitful act whereby another is injured by issuing electronic smog  
19 certificates of compliance for two of the vehicles identified in paragraph 22 without ensuring that  
20 a bona fide inspection was performed of the emission control devices and systems on the  
21 vehicles, thereby depriving the People of the State of California of the protection afforded by the  
22 Motor Vehicle Inspection Program.

23 **SIXTH CAUSE FOR DISCIPLINE**

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

25 28. Respondent Dominguez's technician licenses are subject to disciplinary action  
26 pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to  
27 comply with provisions of that Code, as follows:  
28

1 a. **Section 44012:** Respondent Dominguez failed to perform the emission control tests  
2 on the vehicles identified in paragraph 22 above in accordance with procedures prescribed by the  
3 department.

4 b. **Section 44059:** Respondent Dominguez willfully made false entries in the EIS,  
5 resulting in the issuance of fraudulent certificates of compliance for two of the vehicles identified  
6 in paragraph 22 above.

7 **SEVENTH CAUSE FOR DISCIPLINE**

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

10 29. Respondent Dominguez's technician licenses are subject to disciplinary action  
11 pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to  
12 comply with provisions of California Code of Regulations, title 16, as follows:

13 a. **Section 3340.24, subdivision (c):** Respondent Dominguez falsely or fraudulently  
14 issued electronic smog certificates of compliance for two of the vehicles identified in paragraph  
15 22 above.

16 b. **Section 3340.30, subdivision (a):** Respondent Dominguez failed to inspect and test  
17 the vehicles identified in paragraph 22 above in accordance with Health & Saf. Code sections  
18 44012 and 44035, and California Code of Regulations, title 16, section 3340.42.

19 c. **Section 3340.41, subdivision (c):** Respondent Dominguez entered false information  
20 into the EIS by entering vehicle identification information or emission control system  
21 identification data for a vehicle other than the one being tested.

22 d. **Section 3340.42:** Respondent Dominguez failed to conduct the required smog tests  
23 on the vehicles identified in paragraph 22 above in accordance with the Bureau's specifications.

24 **EIGHTH CAUSE FOR DISCIPLINE**

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

26 30. Respondent Dominguez's technician licenses are subject to disciplinary action  
27 pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed a  
28 dishonest, fraudulent or deceitful act whereby another is injured by issuing electronic smog

1 certificates of compliance for two of the vehicles identified in paragraph 22 above without  
2 performing a bona fide inspection of the emission control devices and systems on the vehicles,  
3 thereby depriving the People of the State of California of the protection afforded by the Motor  
4 Vehicle Inspection Program.

5 **OTHER MATTERS**

6 31. Pursuant to Bus. & Prof. Code section 9884.7, subdivision (c), the Director may  
7 suspend, revoke or place on probation the registration for all places of business operated in this  
8 state by Respondent Mark Young, owner of CHA CHA SMOGZ, upon a finding that Respondent  
9 has, or is, engaged in a course of repeated and willful violations of the laws and regulations  
10 pertaining to an automotive repair dealer.

11 32. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Test Only Station  
12 License Number TC 268149, issued to Respondent Mark Young, owner of CHA CHA SMOGZ,  
13 is revoked or suspended, any additional license issued under this chapter in the name of said  
14 licensee may be likewise revoked or suspended by the Director.

15 33. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Inspector License  
16 Number EO 633149 and Smog Check Repair Technician License No. EI 633149, (formerly  
17 Advanced Emission Specialist Technician License No. EA 633149), issued to Respondent David  
18 Alexander Dominguez, are revoked or suspended, any additional license issued under this chapter  
19 in the name of said licensee may be likewise revoked or suspended by the Director.

20 **PRAYER**

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

23 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD  
24 268149, issued to Mark Young, owner of CHA CHA SMOGZ;

25 2. Revoking or suspending any other automotive repair dealer registration issued to  
26 Mark Young;

27 3. Revoking or suspending Smog Check Test Only Station License Number TC 268149,  
28 issued to Mark Young, owner of CHA CHA SMOGZ;

1 4. Revoking or suspending any additional license issued under Chapter 5 of the Health  
2 and Safety Code in the name of Mark Young;

3 5. Revoking or suspending Smog Check Inspector License Number EO 633149 and  
4 Smog Check Repair Technician License No. EI 633149, (formerly Advanced Emission Specialist  
5 Technician License No. EA 633149) issued to David Alexander Dominguez;

6 6. Revoking or suspending any additional license issued under Chapter 5 of the Health  
7 and Safety Code in the name of David Alexander Dominguez;

8 7. Ordering Mark Young, individually, and as owner of CHA CHA SMOGZ, and David  
9 Alexander Dominguez to pay the Bureau of Automotive Repair the reasonable costs of the  
10 investigation and enforcement of this case, pursuant to Business and Professions Code section  
11 125.3;

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

13  
14 DATED: September 23, 2013

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

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