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

In the Matter of the Accusation Against:

**HOLLISTER CHEVRON, INC.
MAGGIE NGUYEN, President
590 Tres Pinos Rd.
Hollister, CA 95023**

**Automotive Repair Dealer Registration No. ARD 295075
Smog Check Station License No. RC 295075,**

**THUAN B NGUYEN
4071 Ezie St.
San Jose, CA 95111**

**Smog Check Inspector License No. EO 136321
Smog Check Repair Technician License No. EI 136321.**

Respondents.

Case No. 79/23-5990

**DEFAULT DECISION AND
ORDER
(As to Thuan Nguyen Only)**

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about January 10, 2024, Complainant Patrick Dorais, in his official capacity as the Chief of the Bureau of Automotive Repair, Department of Consumer Affairs, filed Accusation No. 79/23-5990 against Hollister Chevron, Inc., Maggie Nguyen, President, and Thuan B. Nguyen, Smog Check Inspector before the Director of the Department of Consumer Affairs.

1 (Accusation attached as Exhibit A.) This Default applies to Thuan B. Nguyen (Respondent),
2 only.

3 2. In or about 1999, the Bureau issued Advanced Emission Specialist Technician
4 License Number EA 136321 to (Respondent Nguyen). The Advanced Emission Specialist
5 Technician License was cancelled on March 21, 2014. Pursuant to California Code of
6 Regulations, title 16, section 3340.28, subdivision (e), the license was renewed, pursuant to
7 respondent's election, as Smog Check Inspector License Number EO 136321 and Smog Check
8 Repair Technician License Number EI 136321, effective March 21, 2014. The Smog Check
9 Inspector license and Smog Check Repair Technician License were in full force and effect at all
10 times relevant to the charges brought herein and will expire on June 30, 2026, unless renewed.

11 3. On or about January 16, 2024, Respondent was served by Certified and First Class
12 Mail copies of the Accusation No. 79/23-5990, Statement to Respondent, Notice of Defense,
13 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,
14 and 11507.7) at Respondent's address of record which, pursuant to Business and Professions
15 Code section 136, is required to be reported and maintained with the Bureau. Respondent's
16 address of record was and is:

17 4071 Ezie St.

18 San Jose, CA 95111

19 4. Service of the Accusation was effective as a matter of law under the provisions of
20 Government Code section 11505(c) and/or Business and Professions Code section 124.

21 5. Government Code section 11506(c) states, in pertinent part:

22 (c) The respondent shall be entitled to a hearing on the merits if the respondent
23 files a notice of defense . . . and the notice shall be deemed a specific denial of all
24 parts of the accusation . . . not expressly admitted. Failure to file a notice of defense
25 . . . shall constitute a waiver of respondent's right to a hearing, but the agency in its
26 discretion may nevertheless grant a hearing.

25 6. The Bureau takes official notice of its records and the fact that Respondent failed to
26 file a Notice of Defense within 15 days after service upon them of the Accusation, and therefore
27 waived their right to a hearing on the merits of Accusation No. 79/23-5990.

28 7. California Government Code section 11520(a) states, in pertinent part:

1 (a) If the respondent either fails to file a notice of defense . . . or to appear at
2 the hearing, the agency may take action based upon the respondent's express
3 admissions or upon other evidence and affidavits may be used as evidence without
4 any notice to respondent

5 8. Pursuant to its authority under Government Code section 11520, the Director, after
6 having reviewed the proof of service dated January 16, 2024, signed by Jose Katigbak, finds
7 Respondent is in default. The Director will take action without further hearing and, based on the
8 relevant evidence contained in the Default Decision Investigatory Evidence Packet in this matter,
9 finds that the charges and allegations in Accusation No. 79/23-5990, are separately and severally,
10 found to be true and correct by clear and convincing evidence.

11 **DETERMINATION OF ISSUES**

12 1. Based on the foregoing findings of fact, Respondent Thuan B. Nguyen has subjected
13 his Smog Check Inspector License Number EO 136321 and Smog Check Repair Technician
14 License Number EI 136321 to discipline.

15 2. The agency has jurisdiction to adjudicate this case by default.

16 3. The Director of the Department of Consumer Affairs is authorized to revoke
17 Respondent's Automotive Repair Dealer Registration based upon the following violations alleged
18 in the Accusation which are supported by the evidence contained in the Default Decision
19 Investigatory Evidence Packet in this case:

20 a. Respondent has subjected his Smog Check Inspector License and Smog Check Repair
21 Technician License to discipline under Health and Safety Code sections 44072.10 and
22 44072.2, subdivision (d), in that he committed acts involving dishonesty, fraud or
23 deceit, whereby another was injured by causing the issuance of an electronic
24 certificates of compliance to a vehicle without performing a bona fide inspection of
25 the emission control devices and systems on the vehicle, thereby depriving the People
26 of the State of California of the protection afforded by the Motor Vehicle Inspection
27 Program.

28 b. Respondent has subjected his Smog Check Inspector License and Smog Check Repair
Technician License to discipline under Health and Safety Code sections 44072.10 and

1 44072.2, subdivisions (a) and (c), in that he violated sections of that Code and
2 applicable regulations as follows:

- 3 i. Section 44012: Respondent issued a certificate of compliance to a
4 vehicle that was not completely inspected.
- 5 ii. Section 44032: Respondent issued a certificate of compliance to a
6 vehicle that was not inspected pursuant to Section 44012.
- 7 iii. Section 44059: Respondent willfully made false statements on the
8 Vehicle Inspection Report by stating the vehicle was inspected and
9 passed the smog inspection.
- 10 iv. Section 3340.24, subdivision (c): Respondent falsely or fraudulently
11 issued electronic certificates of compliance to the vehicle without
12 performing a complete inspection of the vehicle.
- 13 v. Section 3340.30, subdivision (a): Respondent failed to inspect the
14 vehicle in accordance with Health and Safety Code section 44012 and
15 California code of Regulations, title 16, section 3340.42.
- 16 vi. Section 3340.41, subdivision (c): Respondent entered vehicle
17 identification information for a vehicle other than the one being tested
18 into the BAR-97.
- 19 vii. Section 3340.42: Respondent failed to conduct the required smog tests
20 and inspection on a vehicle in accordance with the Bureau's
21 specifications.
- 22 viii. Section 3340.45 Respondent violated the procedures contained in the
23 Smog Check Manual by entering vehicle identification information for a
24 vehicle that was not being tested.

25 **ORDER**

26 IT IS SO ORDERED that Smog Check Inspector License Number EO 136321 and Smog
27 Check Repair Technician License Number EI 136321, issued to Respondent Thuan B. Nguyen,
28 are revoked.

1 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
2 written motion requesting that the Decision be vacated and stating the grounds relied on within
3 seven (7) days after service of the Decision on Respondent. The motion should be sent to the
4 Bureau of Automotive Repair, ATTN: Patrick Lutfi, Bureau of Automotive Repair, 10949 North
5 Mather Boulevard Rancho Cordova, CA 95670. The agency in its discretion may vacate the
6 Decision and grant a hearing on a showing of good cause, as defined in the statute.

7 This Decision shall become effective on November 4, 2024.

8 It is so ORDERED Oct. 29, 2024

9
10 

11 _____
GRACE ARUPO RODRIGUEZ
Assistant Deputy Director
Division of Legal Affairs
Department of Consumer Affairs

12
13 default decision_LIC.docx
DOJ Matter ID:SF2023402383

14 Attachment:
15 Exhibit A: Accusation
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Exhibit A

Accusation

1 ROB BONTA
Attorney General of California
2 CHAR SACHSON
Supervising Deputy Attorney General
3 JUSTIN R. SURBER
Deputy Attorney General
4 State Bar No. 226937
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 355-5437
6 Facsimile: (415) 703-5480
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. 79/23-5990

13 **HOLLISTER CHEVRON, INC.**
14 **MAGGIE NGUYEN, President**
15 **590 Tres Pinos Rd.**
16 **Hollister, CA 95023**

ACCUSATION

17 **Automotive Repair Dealer Registration No. ARD 295075**
18 **Smog Check Station License No. RC 295075,**

19 **THUAN B NGUYEN**
20 **4071 Ezie St.**
21 **San Jose, CA 95111**

22 **Smog Check Inspector License No. EO 136321**
23 **Smog Check Repair License No. EI 136321**

24 Respondents.

25 **PARTIES**

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

28 2. On or about August 7, 2019, the Bureau of Automotive Repair (Bureau) issued
Automotive Repair Dealer Registration Number ARD 295075 to Hollister Chevron, Inc.
(Respondent Chevron). The Automotive Repair Dealer Registration was in full force and effect

1 at all times relevant to the charges brought herein and will expire on August 31, 2024, unless
2 renewed.

3 3. On or about August 22, 2019, the Bureau issued Smog Check Station License
4 Number RC 295075 to Respondent Chevron. The Smog Check Station License was in full force
5 and effect at all times relevant to the charges brought herein and will expire on August 31, 2024,
6 unless renewed.

7 4. In or about 1999, the Bureau issued Advanced Emission Specialist Technician
8 License Number EA 136321 to Respondent Thuan B. Nguyen (Respondent Nguyen). The
9 Advanced Emission Specialist Technician License was cancelled on March 21, 2014. Pursuant to
10 California Code of Regulations, title 16, section 3340.28, subdivision (e), the license was
11 renewed, pursuant to respondent's election, as Smog Check Inspector License Number EO
12 136321 and Smog Check Repair Technician License Number EI 136321, effective March 21,
13 2014. The Smog Check Inspector license and Smog Check Repair Technician License were in
14 full force and effect at all times relevant to the charges brought herein and will expire on June 30,
15 2024, unless renewed.

16 JURISDICTION

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

19 STATUTORY PROVISIONS

20 6. Section 118 of the Code states:

21 (a) The withdrawal of an application for a license after it has been filed with a
22 board in the department shall not, unless the board has consented in writing to such
23 withdrawal, deprive the board of its authority to institute or continue a proceeding
24 against the applicant for the denial of the license upon any ground provided by law or
25 to enter an order denying the license upon any such ground.

26 (b) The suspension, expiration, or forfeiture by operation of law of a license
27 issued by a board in the department, or its suspension, forfeiture, or cancellation by
28 order of the board or by order of a court of law, or its surrender without the written
consent of the board, shall not, during any period in which it may be renewed,
restored, reissued, or reinstated, deprive the board of its authority to institute or
continue a disciplinary proceeding against the licensee upon any ground provided by
law or to enter an order suspending or revoking the license or otherwise taking
disciplinary action against the licensee on any such ground.

1 (c) As used in this section, "board" includes an individual who is authorized by
2 any provision of this code to issue, suspend, or revoke a license, and "license"
3 includes "certificate," "registration," and "permit."

4 7. Section 9884.7 of the Code states:

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

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

14 ...

15 (4) Any other conduct that constitutes fraud.

16 ...

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

19 ...

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

25 (d) (1) The director shall establish through regulation a program to certify
26 providers of remedial training for automotive repair dealers who have violated this
27 chapter, employees of automotive repair dealers who have violated this chapter, and
28 persons identified pursuant to Section 9884 as directly or indirectly controlling or
conducting an automotive repair dealer business that has violated this chapter.

...

(e) For purposes of this section, "fraud" includes, but is not limited to,
violations of this chapter involving misrepresentations and all of the following:

(1) Any act or omission that is included within the definition of either "actual
fraud" or "constructive fraud," as those terms are defined in Sections 1572 and 1573
of the Civil Code.

(2) A misrepresentation in any manner, whether intentionally false or due to
gross negligence, of a material fact.

(3) A promise or representation not made honestly and in good faith.

(4) An intentional failure to disclose a material fact.

(5) Any act in violation of Section 484 of the Penal Code.

1
2
8. Section 9884.8 of the Code states:

3 All work done by an automotive repair dealer, including all warranty work,
4 shall be recorded on an invoice and shall describe all service work done and parts
5 supplied. Service work and parts shall be listed separately on the invoice, which shall
6 also state separately the subtotal prices for service work and for parts, not including
7 sales tax, and shall state separately the sales tax, if any, applicable to each. If any
8 used, rebuilt, or reconditioned parts are supplied, the invoice shall clearly state that
9 fact. If a part of a component system is composed of new and used, rebuilt or
10 reconditioned parts, that invoice shall clearly state that fact. The invoice shall include
11 a statement indicating whether any crash parts are original equipment manufacturer
12 crash parts or nonoriginal equipment manufacturer aftermarket crash parts. One copy
13 of the invoice shall be given to the customer and one copy shall be retained by the
14 automotive repair dealer.

9
9. Section 9884.9 of the Code states:

10 (a) The automotive repair dealer shall give to the customer a written estimated
11 price for labor and parts necessary for a specific job, except as provided in
12 subdivision (e). No work shall be done and no charges shall accrue before
13 authorization to proceed is obtained from the customer. No charge shall be made for
14 work done or parts supplied in excess of the estimated price, or the posted price
15 specified in subdivision (e), without the oral or written consent of the customer that
16 shall be obtained at some time after it is determined that the estimated or posted price
17 is insufficient and before the work not estimated or posted is done or the parts not
18 estimated or posted are supplied. Written consent or authorization for an increase in
19 the original estimated or posted price may be provided by electronic mail or facsimile
20 transmission from the customer. The bureau may specify in regulation the procedures
21 to be followed by an automotive repair dealer if an authorization or consent for an
22 increase in the original estimated price is provided by electronic mail or facsimile
23 transmission. If that consent is oral, the dealer shall make a notation on the work
24 order of the date, time, name of person authorizing the additional repairs, and
25 telephone number called, if any, together with a specification of the additional parts
26 and labor and the total additional cost, and shall do either of the following:

19 ...

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

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

27 12. Section 44012 of the Health and Safety Code states:

28 The test at the smog check stations shall be performed in accordance with

1 procedures prescribed by the department, pursuant to Section 44013, shall require, at
2 a minimum, loaded mode dynamometer testing in enhanced areas, and two-speed
3 testing in all other program areas, and shall ensure all of the following:

4 (a) Emission control systems required by state and federal law are reducing
5 excess emissions in accordance with the standards adopted pursuant to subdivisions
6 (a) and (c) of Section 44013.

7 (b) Motor vehicles are preconditioned to ensure representative and stabilized
8 operation of the vehicle's emission control system.

9 (c) For other than diesel-powered vehicles, the vehicle's exhaust emissions of
10 hydrocarbons, carbon monoxide, carbon dioxide, and oxides of nitrogen in an idle
11 mode or loaded mode are tested in accordance with procedures prescribed by the
12 department. In determining how loaded mode and evaporative emissions testing
13 shall be conducted, the department shall ensure that the emission reduction targets for
14 the enhanced program are met.

15 (d) For other than diesel-powered vehicles, the vehicle's fuel evaporative
16 system and crankcase ventilation system are tested to reduce any nonexhaust sources
17 of volatile organic compound emissions, in accordance with procedures prescribed by
18 the department.

19 ...

20 (f) A visual or functional check is made of emission control devices specified
21 by the department, including the catalytic converter in those instances in which the
22 department determines it to be necessary to meet the findings of Section 44001. The
23 visual or functional check shall be performed in accordance with procedures
24 prescribed by the department.

25 (g) A determination as to whether the motor vehicle complies with the
26 emission standards for that vehicle's class and model-year as prescribed by the
27 department.

28 ...

13. Section 44032 of the Health and Safety Code states:

20 No person shall perform, for compensation, tests or repairs of emission control
21 devices or systems of motor vehicles required by this chapter unless the person
22 performing the test or repair is a qualified smog check technician and the test or
23 repair is performed at a licensed smog check station. Qualified technicians shall
24 perform tests of emission control devices and systems in accordance with Section
25 44012.

14. Section 44059 of the Health and Safety Code states:

25 The willful making of any false statement or entry with regard to a material
26 matter in any oath, affidavit, certificate of compliance or noncompliance, or
27 application form which is required by this chapter or Chapter 20.3 (commencing with
28 Section 9880) of Division 3 of the Business and Professions Code, constitutes perjury
and is punishable as provided in the Penal Code.

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

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 this chapter.

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

...

(h) Violates or attempts to violate the provisions of this chapter relating to the particular activity for which he or she is licensed.

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

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

17. Section 44072.10 of the Health and Safety Code states:

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

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

(2) Tampering with a vehicle emission control system or test analyzer system.

(3) Tampering with a vehicle in a manner that would cause the vehicle to falsely pass or falsely fail an inspection.

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

...

REGULATORY PROVISIONS

18. California Code of Regulations, title 16, section 3340.24, states:

(a) Any disciplinary or reinstatement proceeding under this article involving

1 licensed stations, licensed technicians, or fleet owners licensed pursuant to section
2 44020 of the Health and Safety Code shall be conducted in accordance with chapter 5
3 (commencing with section 11500) of division 3, Title 2 of the Government Code.

4 (c) The bureau may suspend or revoke the license of or pursue other legal
5 action against a licensee, if the licensee falsely or fraudulently issues or obtains a
6 certificate of compliance or a certificate of noncompliance.

7 19. California Code of Regulations, title 16, section 3340.30, states:

8 A smog check technician shall comply with the following requirements at all
9 times while licensed.

10 (a) A licensed technician shall inspect, test and repair vehicles in accordance
11 with section 44012 of the Health and Safety Code, section 44035 of the Health and
12 Safety Code, and section 3340.42 of this article.

13 20. California Code of Regulations, title 16, section 3340.41, states:

14 (a) A Smog Check station shall give a copy of the inspection report printed
15 from the EIS or OIS to the customer by attaching it to the customer's invoice.

16 (c) No person shall enter any vehicle identification information or emission
17 control system identification data for any vehicle other than the one being tested into
18 the EIS or OIS. Nor shall any person enter into the EIS or OIS any false information
19 about the vehicle being tested.

20 21. California Code of Regulations, title 16, section 3340.42, states:

21 Smog check inspection methods are prescribed in the Smog Check Manual,
22 referenced by section 3340.45.

23 (a) All vehicles subject to a smog check inspection, shall receive one of the
24 following test methods:

25 (1) A loaded-mode test shall be the test method used to inspect 1976 - 1999
26 model-year vehicle, except diesel-powered, registered in the enhanced program areas
27 of the state. The loaded-mode test shall measure hydrocarbon, carbon monoxide,
28 carbon dioxide and oxides of nitrogen emissions, as contained in the bureau's
specifications referenced in subsection (a) of Section 3340.17 of this article. The
loaded-mode test shall use Acceleration Simulation Mode (ASM) test equipment,
including a chassis dynamometer, certified by the bureau.

On and after March 31, 2010, exhaust emissions from a vehicle subject to this
inspection shall be measured and compared to the emissions standards shown in the
Vehicle Look-up Table (VLT) Row Specific Emissions Standards (Cutpoints) Table,

1 dated March 2010, which is hereby incorporated by reference. If the emissions
2 standards for a specific vehicle are not included in this table then the exhaust
3 emissions shall be compared to the emissions standards set forth in TABLE I or
4 TABLE II, as applicable. A vehicle passes the loaded-mode test if all of its measured
5 emissions are less than or equal to the applicable emission standards specified in the
6 applicable table.

7 (2) A two-speed idle mode test shall be the test method used to inspect 1976 -
8 1999 model-year vehicles, except diesel-powered, registered in all program areas of
9 the state, except in those areas of the state where the enhanced program has been
10 implemented. The two-speed idle mode test shall measure hydrocarbon, carbon
11 monoxide and carbon dioxide emissions at high RPM and again at idle RPM, as
12 contained in the bureau's specifications referenced in subsection (a) of Section
13 3340.17 of this article. Exhaust emissions from a vehicle subject to this inspection
14 shall be measured and compared to the emission standards set forth in this section and
15 as shown in TABLE III. A vehicle passes the two-speed idle mode test if all of its
16 measured emissions are less than or equal to the applicable emissions standards
17 specified in Table III.

18 ...
19 (b) In addition to subsection (a), all vehicles subject to the smog check program
20 shall receive the following:

21 (1) A visual inspection of emission control components and systems to verify
22 the vehicle's emission control systems are properly installed.

23 (2) A functional inspection of emission control systems as specified in the
24 Smog Check Manual, referenced by section 3340.45, which may include an OBD
25 test, to verify their proper operation.

26 ...
27 22. California Code of Regulations, title 16, section 3340.45, states:

28 All Smog Check inspections shall be performed in accordance with
requirements and procedures prescribed in the Smog Check Manual, dated January
2021, which is hereby incorporated by reference.

23. California Code of Regulations, title 16, section 3356, states:

... (d) The automotive repair dealer shall give the customer a legible copy of
the invoice and shall retain a legible copy as part of the automotive repair dealers
records pursuant to Section 9884.11 of the Business and Professions Code and
Section 3358 of this article.

24. California Code of Regulations, title 16, section 3371, states:

No dealer shall publish, utter, or make or cause to be published, uttered, or
made any false or misleading statement or advertisement which is known to be false
or misleading, or which by the exercise of reasonable care should be known to be
false or misleading. . .

1 25. California Code of Regulations, title 16, section 3373, states:

2 No automotive repair dealer or individual in charge shall, in filling out an
3 estimate, invoice, or work order, or record required to be maintained by section
4 3340.15(f) of this chapter, withhold therefrom or insert therein any statement or
5 information which will cause any such document to be false or misleading, or where
6 the tendency or effect thereby would be to mislead or deceive customers, prospective
7 customers, or the public.

8 COST RECOVERY

9 26. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
10 administrative law judge to direct a licensee found to have committed a violation or violations of
11 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
12 enforcement of the case, with failure of the licensee to comply subjecting the license to not being
13 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
14 included in a stipulated settlement.

15 FACTUAL ALLEGATIONS

16 27. In February and March 2023, A Bureau program representative documented a 1995
17 Honda (Honda) to fail both the emission and visual portions of a California Smog Check
18 Inspection. The representative removed the Honda's catalytic converter and replaced it with a
19 straight piece of exhaust pipe. This caused a visual inspection failure in addition to an emissions
20 failure that exceeded Gross Polluter standards.

21 28. On or about April 10, 2023, a different Program Representative took the Honda to
22 Respondent Chevron and requested a smog inspection. The representative spoke to Respondent
23 Nguyen, an employee of Respondent Chevron. Respondent Nguyen placed the EIS sample hose
24 in the Honda. Respondent Nguyen then informed the representative that the Honda's emission
25 readings were high, and the Honda will not pass a smog inspection. Respondent Nguyen made an
26 offer to the representative to make adjustments and to pass the Honda for \$350.00. The
27 representative agreed to the offer.

28 29. Respondent Nguyen returned a little later and informed the Representative that the
Honda passed the smog inspection. Respondent Chevron issued Certificate of compliance
#TE741422 to the Honda. Neither Respondent Chevron nor Respondent Nguyen repaired the

1 Honda prior to the smog inspection. Respondent Nguyen performed the inspection in which the
2 certificate was issued. The Honda was not actually and/or completely inspected. The Honda was
3 not capable of producing the emission numbers contained on the Vehicle Inspection Report
4 (VIR). The Honda was not in a condition to receive a certificate of compliance, as described
5 above.

6 30. The program representative gave Respondents Nguyen and Chevron \$360.00 for the
7 smog inspection. The representative was given \$20.00 cash back and a copy of the VIR. The
8 program representative was not provided with a written estimate or invoice and did not sign any
9 documents.

10 **FIRST CAUSE FOR DISCIPLINE**

11 **(Untrue or Misleading Statements - Registration)**

12 31. Respondent Chevron has subjected its registration to discipline under Code section
13 9884.7, subdivision (a)(1), in that Respondent Chevron made statements which it knew or which
14 by exercise of reasonable care should have known were untrue or misleading, as set forth above
15 in paragraphs 27-30, above. Respondent Chevron purported to test the Honda, and certified that
16 the Honda passed inspection and was in compliance with applicable laws and regulations. In fact,
17 Respondent Chevron did not completely test the Honda. The Honda was not in a condition to
18 receive a certificate of compliance.

19 **SECOND CAUSE FOR DISCIPLINE**

20 **(Fraud - Registration)**

21 32. Respondent Chevron has subjected its registration to discipline under Code section
22 9884.7, subdivision (a)(4), in that it committed acts which constitute fraud, as set forth above in
23 paragraphs 27-30, above.

24 **THIRD CAUSE FOR DISCIPLINE**

25 **(Violation of Laws and Regulations-Registration)**

26 33. Respondent Chevron has subjected its registration to disciplinary action under section
27 9884.7, subdivision (a)(6), in that Respondent Chevron violated the following laws and
28 regulations:

1 a. Respondent violated Code section 9884.8 by failing to provide the operator with a
2 written invoice for the Smog Inspection and/or certificate of compliance.

3 b. Respondent violated Code section 9884.9(a) by failing to provide the operator with an
4 estimate for the smog inspection and/or certificate of compliance.

5 c. Respondent violated California Code of Regulations, Title 16, section 3356, in that
6 Respondent failed to give the operator an invoice.

7 d. Respondent violated California Code of Regulations, Title 16, section 3371, in that
8 Respondent made untrue or misleading statements as described in paragraph 27-33, above.

9 e. Respondent violated California Code of Regulations, Title 16, section 3373, in that
10 Respondent made untrue or misleading statements on a Vehicle Inspection Report. The Vehicle
11 Inspection Report stated that the vehicle passed a smog inspection. No complete Smog
12 Inspection was performed. The circumstances are more fully described in paragraphs 27-30,
13 above.

14 **FOURTH CAUSE FOR DISCIPLINE**

15 **(Dishonesty, Fraud or Deceit – Smog Licenses)**

16 34. Respondent Chevron has subjected its Smog Check Station License to discipline
17 under Health and Safety Code sections 44072.10 and 44072.2, subdivision (d), in that it
18 committed acts involving dishonesty, fraud or deceit, whereby another was injured by issuing an
19 electronic certificate of compliance to a vehicle without performing a bona fide inspection of the
20 emission control devices and systems on the vehicle, thereby depriving the People of the State of
21 California of the protection afforded by the Motor Vehicle Inspection Program, as set forth above
22 in paragraphs 27-30, above.

23 **FIFTH CAUSE FOR DISCIPLINE**

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

25 35. Respondent Chevron has subjected its Smog Check Station License to discipline
26 under Health and Safety Code sections 44072.10 and 44072.2, subdivisions (a) and (c), in that it
27 violated sections of that Code and applicable regulations, through conduct described in
28 paragraphs 27-30, as follows:

- 1 a. **Section 44012:** Respondent issued a certificate of compliance to a vehicle that was
2 not completely inspected.
- 3 b. **Section 44032:** Respondent issued a certificate of compliance to a vehicle that was
4 not inspected pursuant to Section 44012.
- 5 c. **Section 44059:** Respondent willfully made false statements on the Vehicle Inspection
6 Report by stating the vehicle was inspected and passed the smog inspection.
- 7 d. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued
8 electronic certificates of compliance to the vehicle without performing a complete inspection of
9 the vehicle.
- 10 e. **Section 3340.30, subdivision (a):** Respondent failed to inspect the vehicle in
11 accordance with Health and Safety Code section 44012 and California code of Regulations title
12 16, section 3340.42.
- 13 f. **Section 3340.41, subdivision (c):** Respondent entered vehicle identification
14 information for a vehicle other than the one being tested into the BAR-97. Respondent indicated
15 the Honda was being inspected when it was not.
- 16 g. **Section 3340.42:** Respondent failed to conduct the required smog tests and
17 inspection on the Honda in accordance with the Bureau's specifications.
- 18 i. **Section 3340.45** Respondent violated the procedures contained in the Smog Check
19 Manual by entering vehicle identification information for a vehicle that was not being tested.

20 **SIXTH CAUSE FOR DISCIPLINE**

21 **(Dishonesty, Fraud or Deceit – Smog Licenses)**

22 36. Respondent Nguyen has subjected his Smog Check Inspector License and Smog
23 Check Repair Technician License to discipline under Health and Safety Code sections 44072.10
24 and 44072.2, subdivision (d), in that he committed acts involving dishonesty, fraud or deceit,
25 whereby another was injured by causing the issuance of an electronic certificates of compliance
26 to a vehicle without performing a bona fide inspection of the emission control devices and
27 systems on the vehicle, thereby depriving the People of the State of California of the protection
28 afforded by the Motor Vehicle Inspection Program, as set forth above in paragraphs 27-30, above.

1 SEVENTH CAUSE FOR DISCIPLINE

2 (Violation of the Motor Vehicle Inspection Program)

3 37. Respondent Nguyen has subjected his Smog Check Inspector License and Smog
4 Check Repair Technician License to discipline under Health and Safety Code sections 44072.10
5 and 44072.2, subdivisions (a) and (c), in that he violated sections of that Code and applicable
6 regulations, through conduct described in paragraphs 27-30, as follows:

7 a. **Section 44012:** Respondent issued a certificate of compliance to a vehicle that was
8 not completely inspected.

9 b. **Section 44032:** Respondent issued a certificate of compliance to a vehicle that was
10 not inspected pursuant to Section 44012.

11 c. **Section 44059:** Respondent willfully made false statements on the Vehicle Inspection
12 Report by stating the vehicle was inspected and passed the smog inspection.

13 d. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued
14 electronic certificates of compliance to the vehicle without performing a complete inspection of
15 the vehicle.

16 e. **Section 3340.30, subdivision (a):** Respondent failed to inspect the vehicle in
17 accordance with Health and Safety Code section 44012 and California code of Regulations title
18 16, section 3340.42.

19 f. **Section 3340.41, subdivision (c):** Respondent entered vehicle identification
20 information for a vehicle other than the one being tested into the BAR-97. Respondent indicated
21 the Honda was being inspected when it was not.

22 g. **Section 3340.42:** Respondent failed to conduct the required smog tests and
23 inspection on the Honda in accordance with the Bureau's specifications.

24 i. **Section 3340.45** Respondent violated the procedures contained in the Smog Check
25 Manual by entering vehicle identification information for a vehicle that was not being tested.

26 DISCIPLINE CONSIDERATIONS

27 38. To determine the degree of discipline, if any, to be imposed on Respondent,
28 Complainant alleges that on or about September 8, 2022, a Proactive Conference was held with

1 Respondent Chevron's president, Maggie Nguyen and manager, David Doan. During the
2 Proactive Conference Respondent Chevron was advised that compliance with the laws and
3 regulations under the Automotive Repair Act and Health and Safety Code was mandatory.
4 David Doan was a smog check inspector and smog check repair technician whose licenses were
5 revoked. His licenses were revoked for clean plugging at Hollister Chevron.¹

6 **OTHER MATTERS**

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

12 40. Pursuant to Health & Safety Code section 44072.8, if Respondent Chevron's Station
13 License is revoked or suspended, any additional license issued under Chapter 5 of Part 5 of
14 Division 26 of the Health and Safety Code in the name of said licensee may be likewise revoked
15 or suspended by the director.

16 41. Pursuant to Health & Safety Code section 44072.8, if either of Respondent Nguyen's
17 Smog Check Inspector License or Smog Check Repair Technician License is revoked or
18 suspended, any additional license issued under Chapter 5 of Part 5 of Division 26 of the Health
19 and Safety Code in the name of said licensee may be likewise revoked or suspended by the
20 director.

21 **PRAYER**

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

25 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
26 295075, issued to Hollister Chevron, Inc.;

27 _____
28 ¹ There was a previous Smog Check Station doing business as Hollister Chevron at the
same location as Respondent Chevron. This previous business's licenses were revoked.

