

BEFORE THE DIRECTOR
DEPARTMENT OF CONSUMER AFFAIRS
BUREAU OF AUTOMOTIVE REPAIR
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

CALIFORNIA AUTO REPAIR
ENRIQUE P CELEDON, Owner
497 El Camino Real
Greenfield, CA 93927

Automotive Repair Dealer Registration
Number ARD 185478

Smog Check Station License Number
RC 185478

ENRIQUE PADRON CELEDON
497 El Camino Real
Greenfield, CA 93927

Smog Check Inspector (EO) License
Number 21393

Smog Check Repair Technician (EI)
License Number 21393,

Respondent.

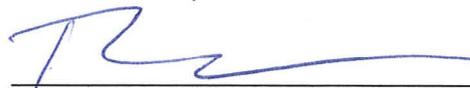
Case No. 79/15-27

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby accepted and adopted as the Decision of the Director of the Department of Consumer Affairs in the above-entitled matter.

This Decision shall become effective January 29, 2015.

DATED: December 19, 2014



TAMARA COLSON
Assistant General Counsel
Department of Consumer Affairs

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Attorney General of California
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Supervising Deputy Attorney General
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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:

Case Number 79/15-27

13 **CALIFORNIA AUTO REPAIR**
ENRIQUE P CELEDON, Owner
14 **497 El Camino Real**
Greenfield, California 93927

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

15 **Automotive Repair Dealer Registration**
Number ARD 185478

16 **Smog Check Station License Number**
17 **RC 185478**

18 **ENRIQUE PADRON CELEDON**
19 **497 El Camino Real**
Greenfield, California 93927

20 **Smog Check Inspector (EO) License**
21 **Number 21393**

22 **Smog Check Repair Technician (EI) License**
Number 21393,

23 Respondent.

24
25
26 IT IS STIPULATED AND AGREED by and between the parties to the above-entitled
27 proceedings that the following matters are true:

28 ///

PARTIES

1
2 1. Complainant Patrick Dorais is the Chief of the Bureau of Automotive Repair
3 (Bureau), Department of Consumer Affairs. He brought this action solely in his official capacity
4 and is represented in this matter by Kamala D. Harris, Attorney General of the State of California,
5 and by Gregory Tuss, Deputy Attorney General.

6 2. Respondent California Auto Repair; Enrique Padron Celedon, Owner, is
7 representing himself in this proceeding and has chosen not to exercise his right to be represented
8 by counsel.

9 2. In 1995, the Bureau issued Automotive Repair Dealer Registration Number ARD
10 185478 to respondent California Auto Repair; Enrique P Celedon, Owner. This automotive repair
11 dealer registration was in full force and effect at all times relevant to the charges brought in
12 Accusation Number 79/15-27 and will expire on September 30, 2015, unless renewed.

13 3. On December 11, 1995, the Bureau issued Smog Check Station License Number
14 RC 185478 to respondent California Auto Repair; Enrique P Celedon, Owner. This smog check
15 station license was in full force and effect at all times relevant to the charges brought in
16 Accusation Number 79/15-27 and will expire on September 30, 2015, unless renewed.

17 4. In 1996, the Bureau issued Basic Area (EB) Technician License Number 21393 to
18 respondent Enrique Padron Celedon. This basic area technician license was cancelled and
19 renewed as Smog Check Inspector (EO) License Number 21393 and Smog Check Repair
20 Technician (EI) License Number 21393 on August 17, 2012.¹ These smog check inspector (EO)
21 and smog check repair (EI) licenses were in full force and effect at all times relevant to the
22 charges brought in Accusation Number 79/15-27 and will expire on September 30, 2016, unless
23 renewed.

24 ///

25 1 Effective August 1, 2012, California Code of Regulations, title 16, sections
26 3340.28, 3340.29, and 3340.30 were amended to restructure basic area technician (EB) licenses
27 as smog check inspector (EO) and smog check repair technician (EI) licenses. A basic area
28 technician (EB) license issued prior to August 1, 2012, could be renewed as a smog check
inspector (EO) license, smog check technician (EI) license, or both. (Cal. Code Regs., tit. 16, §
3340.28, subd. (e).)

1 **JURISDICTION**

2 5. Accusation Number 79/15-27 was filed before the Director of Consumer Affairs
3 (Director), for the Bureau and is currently pending against respondent. The accusation and all
4 other statutorily required documents were properly served on respondent on September 4, 2014.
5 Respondent timely filed his notice of defense contesting the accusation.

6 6. A copy of Accusation Number 79/15-27 is attached as exhibit 1 and incorporated
7 by reference.

8 **ADVISEMENT AND WAIVERS**

9 7. Respondent has carefully read, and understands the charges and allegations in
10 Accusation Number 79/15-27. Respondent has also carefully read, and understands the effects of
11 this Stipulated Settlement and Disciplinary Order.

12 8. Respondent is fully aware of his legal rights in this matter, including the right to a
13 hearing on the charges and allegations in the accusation; the right to be represented by counsel at
14 his own expense; the right to confront and cross-examine the witnesses against him; the right to
15 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel
16 the attendance of witnesses and the production of documents; the right to reconsideration and
17 court review of an adverse decision; and all other rights accorded by the California
18 Administrative Procedure Act and other applicable laws.

19 9. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
20 every right set forth above.

21 **CULPABILITY**

22 10. Respondent admits the truth of each and every charge and allegation in Accusation
23 Number 79/15-27.

24 11. Respondent agrees that his Automotive Repair Dealer Registration Number ARD
25 185478, Smog Check Station License Number RC 185478, Smog Check Inspector (EO) License
26 Number 21393, and Smog Check Repair Technician (EI) License Number 21393 are subject to
27 discipline and agrees to be bound by the Director's probationary terms as set forth in the
28 Disciplinary Order below.

CONTINGENCY

1
2 12. This stipulation shall be subject to approval by the Director of Consumer Affairs
3 or the Director’s designee. Respondent understands and agrees that counsel for complainant and
4 the staff of the Bureau may communicate directly with the Director and staff of the Department of
5 Consumer Affairs regarding this stipulation and settlement, without notice to or participation by
6 respondent. By signing the stipulation, respondent understands and agrees that he may not
7 withdraw his agreement or seek to rescind the stipulation prior to the time the Director considers
8 and acts upon it. If the Director fails to adopt this stipulation as the Decision and Order, the
9 Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this
10 paragraph; it shall be inadmissible in any legal action between the parties; and the Director shall
11 not be disqualified from further action by having considered this matter.

12 13. The parties understand and agree that Portable Document Format (PDF) and
13 facsimile copies of this Stipulated Settlement and Disciplinary Order, including Portable
14 Document Format (PDF) and facsimile signatures, shall have the same force and effect as the
15 originals.

16 14. This Stipulated Settlement and Disciplinary Order is intended by the parties to be
17 an integrated writing representing the complete, final, and exclusive embodiment of their
18 agreement. It supersedes any and all prior or contemporaneous agreements, understandings,
19 discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and
20 Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed
21 except by a writing executed by an authorized representative of each of the parties.

22 15. In consideration of the foregoing admissions and stipulations, the parties agree that
23 the Director may, without further notice or formal proceeding, issue and enter the following
24 Disciplinary Order:

DISCIPLINARY ORDER

25
26 IT IS ORDERED that Automotive Repair Dealer Registration Number ARD 185478 and
27 Smog Check Station License Number RC 185478, issued to respondent California Auto Repair;
28 Enrique P Celedon, Owner; and Smog Check Inspector (EO) License Number 21393 and Smog

1 Check Repair Technician (EI) License Number 21393, issued to respondent Enrique Padron
2 Celedon, are revoked. However, the revocations is stayed and respondent is placed on probation
3 for three (3) years on the following terms and conditions.

4 **Actual Suspension.** Automotive Repair Dealer Registration Number ARD 185478,
5 Smog Check Station License Number RC 185478, Smog Check Inspector (EO) License Number
6 21393, and Smog Check Repair Technician (EI) License Number 21393 are suspended for five
7 consecutive days to begin on the effective date of the Decision and Order.

8 **Obey All Laws.** Comply with all statutes, regulations and rules governing automotive
9 inspections, estimates and repairs.

10 **Post Sign.** Post a prominent sign, provided by the Bureau, indicating the beginning and
11 ending dates of the suspension of Automotive Repair Dealer Registration Number ARD 185478
12 and Smog Check Station License Number RC 185478, and indicating the reason for the
13 suspension. The sign shall be conspicuously displayed in a location open to and frequented by
14 customers and shall remain posted during the entire period of actual suspension.

15 **Reporting.** Respondent or respondent's authorized representative must report in person
16 or in writing as prescribed by the Bureau of Automotive Repair on a schedule set by the Bureau,
17 but no more frequently than each quarter, on the methods used and success achieved in
18 maintaining compliance with the terms and conditions of probation.

19 **Report Financial Interest.** Within 30 days of the effective date of this action, report any
20 financial interest which any partners, officers, or owners of the respondent facility may have in
21 any other business required to be registered pursuant to Section 9884.6 of the Business and
22 Professions Code.

23 **Random Inspections.** Provide Bureau representatives unrestricted access to inspect all
24 vehicles (including parts) undergoing repairs, up to and including the point of completion.

25 **Jurisdiction.** If an accusation is filed against respondent during the term of probation, the
26 Director of Consumer Affairs shall have continuing jurisdiction over this matter until the final
27 decision on the accusation, and the period of probation shall be extended until such decision.

28 **Violation of Probation.** Should the Director of Consumer Affairs determine that

1 respondent has failed to comply with the terms and conditions of probation, the Department may,
2 after giving notice and opportunity to be heard, temporarily or permanently invalidate
3 Automotive Repair Dealer Registration Number ARD 185478 registration and/or suspend or
4 revoke Smog Check Station License Number RC 185478, Smog Check Inspector (EO) License
5 Number 21393, or Smog Check Repair Technician (EI) License Number 21393.

6 **Continuing Education Courses.** During the period of probation, respondent shall attend
7 and successfully complete a Bureau-certified Licensed Inspector Training course (level I),
8 applicable to the smog check inspector (EO) license and smog check repair technician (EI)
9 licenses held by respondent. This course shall be completed and proof of completion submitted
10 to the Bureau within 180 days of the effective date of this decision and order. If proof of
11 completion of the course is not furnished to the Bureau within the 180-day period, respondent's
12 smog check inspector (EO) license and smog check repair technician (EI) licenses shall be
13 immediately suspended until such proof is received.

14 **Cost Recovery.** Automotive Repair Dealer Registration Number ARD 185478 and Smog
15 Check Station License Number RC 185478, issued to respondent California Auto Repair; Enrique
16 P Celedon, Owner; and Smog Check Inspector (EO) License Number 21393 and Smog Check
17 Repair Technician (EI) License Number 21393, issued to respondent Enrique Padron Celedon,
18 are jointly and severally responsible for the full costs of investigation and enforcement of this
19 matter. The total costs are \$6,633.90. Payment to the Bureau of the full amount of cost recovery
20 shall be payable in 24 consecutive equal installments with the final payment received no later
21 than 12 months before probation terminates. Failure to complete payment of cost recovery within
22 this time frame shall constitute a violation of probation which may subject respondent's
23 Automotive Repair Dealer Registration Number ARD 185478, Smog Check Station License
24 Number RC 185478, Smog Check Inspector (EO) License Number 21393, and Smog Check
25 Repair Technician (EI) License Number 21393 to outright revocation; however, the Director or
26 the Director's Bureau of Automotive Repair designee may elect to continue probation until such
27 time as reimbursement of the entire cost recovery amount has been made to the Bureau.

28 ///

1 ACCEPTANCE

2 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the
3 stipulation and the effect it will have on my Automotive Repair Dealer Registration Number
4 ARD 185478, Smog Check Station License Number RC 185478, Smog Check Inspector (EO)
5 License Number 21393, and Smog Check Repair Technician (EI) License Number 21393. I enter
6 into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently,
7 and agree to be bound by the Decision and Order of the Director of Consumer Affairs.

8
9 DATED: 10-28-14


CALIFORNIA AUTO REPAIR; ENRIQUE PADRON
CELEDON
Respondent

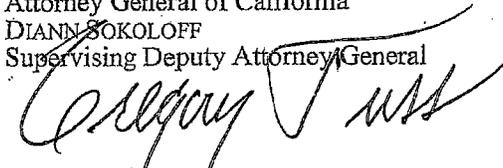
10
11
12 ENDORSEMENT

13 This Stipulated Settlement and Disciplinary Order is respectfully submitted for
14 consideration by the Director of Consumer Affairs.

15
16 Dated: 10.31.14

Respectfully submitted,

17 KAMALA D. HARRIS
18 Attorney General of California
19 DIANN SOKOLOFF
20 Supervising Deputy Attorney General


21 GREGORY TUSS
22 Deputy Attorney General
23 Attorneys for Complainant

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Exhibit 1

Accusation Number 79/15-27

1 KAMALA D. HARRIS
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2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 GREGORY TUSS
Deputy Attorney General
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16 **Number ARD 185478**

17 **Smog Check Station License Number**
18 **RC 185478**

19 **ENRIQUE PADRON CELEDON**
497 El Camino Real
Greenfield, California 93927

20 **Smog Check Inspector (EO) License**
21 **Number 21393**

22 **Smog Check Repair Technician (EI) License**
23 **Number 21393,**

24 Respondent.

Case Number

79/15-27

ACCUSATION

(SMOG CHECK)

25
26 Complainant Patrick Dorais alleges:

27 **PARTIES**

28 1. Complainant brings this accusation solely in his official capacity as the Chief of

1 the Bureau of Automotive Repair (Bureau), Department of Consumer Affairs.

2 2. In 1995, the Bureau issued Automotive Repair Dealer Registration Number ARD
3 185478 to respondent California Auto Repair; Enrique P Celedon, Owner. This automotive repair
4 dealer registration was in full force and effect at all times relevant to the charges brought in this
5 accusation and will expire on September 30, 2014, unless renewed.

6 3. On December 11, 1995, the Bureau issued Smog Check Station License Number
7 RC 185478 to respondent California Auto Repair; Enrique P Celedon, Owner. This smog check
8 station license was in full force and effect at all times relevant to the charges brought in this
9 accusation and will expire on September 30, 2014, unless renewed.

10 4. In 1996, the Bureau issued Basic Area (EB) Technician License Number 21393 to
11 respondent Enrique Padron Celedon. This basic area technician license was cancelled and
12 renewed as Smog Check Inspector (EO) License Number 21393 and Smog Check Repair
13 Technician (EI) License Number 21393 on August 17, 2012.¹ These smog check inspector (EO)
14 and smog check repair (EI) licenses were in full force and effect at all times relevant to the
15 charges brought in this accusation and will expire on September 30, 2014, unless renewed.

16 JURISDICTION

17 5. This accusation is brought before the Director of Consumer Affairs (Director) for
18 the Bureau under the authority of the following laws.

19 6. Business and Professions Code section 118, subdivision (b), states:
20 "The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the
21 department, or its suspension, forfeiture, or cancellation by order of the board or by order of a
22 court of law, or its surrender without the written consent of the board, shall not, during any period
23 in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to
24 institute or continue a disciplinary proceeding against the licensee upon any ground provided by

25 ¹ Effective August 1, 2012, California Code of Regulations, title 16, sections
26 3340.28, 3340.29, and 3340.30 were amended to restructure basic area technician (EB) licenses
27 as smog check inspector (EO) and smog check repair technician (EI) licenses. A basic area
28 technician (EB) license issued prior to August 1, 2012, could be renewed as a smog check
inspector (EO) license, smog check technician (EI) license, or both. (Cal. Code Regs., tit. 16, §
3340.28, subd. (e).)

1 law or to enter an order suspending or revoking the license or otherwise taking disciplinary action
2 against the licensee on any such ground.”

3 7. Business and Professions Code section 9882, subdivision (a), states in part:

4 “There is in the Department of Consumer Affairs a Bureau of Automotive Repair under the
5 supervision and control of the director. The duty of enforcing and administering this chapter is
6 vested in the chief who is responsible to the director. The director may adopt and enforce those
7 rules and regulations that he or she determines are reasonably necessary to carry out the purposes
8 of this chapter and declaring the policy of the bureau, including a system for the issuance of
9 citations for violations of this chapter as specified in Section 125.9.”

10 8. Business and Professions Code section 9884.13 states:

11 “The expiration of a valid registration shall not deprive the director or chief of jurisdiction to
12 proceed with any investigation or disciplinary proceeding against an automotive repair dealer or
13 to render a decision invalidating a registration temporarily or permanently.”

14 9. Business and Professions Code section 9884.22, subdivision (a), states:

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

20 10. Business and Professions Code section 9889.1 states:

21 “Any license issued pursuant to Articles 5 and 6, may be suspended or revoked by the
22 director. The director may refuse to issue a license to any applicant for the reasons set forth in
23 Section 9889.2. The proceedings under this article shall be conducted in accordance with Chapter
24 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code,
25 and the director shall have all the powers granted therein.”

26 11. Health and Safety Code section 44072 states:

27 “Any license issued under this chapter and the regulations adopted pursuant to it may be
28 suspended or revoked by the director. The director may refuse to issue a license to any applicant

1 for the reasons set forth in Section 44072.1. The proceedings under this article shall be conducted
2 in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2
3 of the Government Code, and the director shall have all the powers granted therein.”

4 12. Health and Safety Code section 44072.6 states:

5 “The expiration or suspension of a license by operation of law or by order or decision of the
6 director or a court of law, or the voluntary surrender of a license by a licensee shall not deprive
7 the director of jurisdiction to proceed with any investigation of, or action or disciplinary
8 proceedings against, the licensee, or to render a decision suspending or revoking the license.”

9 **STATUTORY AND REGULATORY PROVISIONS**

10 13. Business and Professions Code section 9884.7 states in part:

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

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

19 ...

20 “(3) Failing or refusing to give to a customer a copy of any document requiring his or her
21 signature, as soon as the customer signs the document.

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

23 ...

24 “(6) Failure in any material respect to comply with the provisions of this chapter or
25 regulations adopted pursuant to it.”

26 14. Business and Professions Code section 9884.9, subdivision (a), states in part:

27 “The automotive repair dealer shall give to the customer a written estimated price for labor and
28 parts necessary for a specific job. No work shall be done and no charges shall accrue before

1 authorization to proceed is obtained from the customer.”

2 15. Business and Professions Code section 17200 states:

3 “As used in this chapter, unfair competition shall mean and include any unlawful, unfair
4 or fraudulent business act or practice and unfair, deceptive, untrue or misleading advertising and
5 any act prohibited by Chapter 1 (commencing with Section 17500) of Part 3 of Division 7 of the
6 Business and Professions Code.”

7 16. Business and Professions Code section 17204 states:

8 “Actions for relief pursuant to this chapter shall be prosecuted exclusively in a court of
9 competent jurisdiction by the Attorney General or a district attorney or by a county counsel
10 authorized by agreement with the district attorney in actions involving violation of a county
11 ordinance, or by a city attorney of a city having a population in excess of 750,000, or by a city
12 attorney in a city and county or, with the consent of the district attorney, by a city prosecutor in a
13 city having a full-time city prosecutor in the name of the people of the State of California upon
14 their own complaint or upon the complaint of a board, officer, person, corporation, or association,
15 or by a person who has suffered injury in fact and has lost money or property as a result of the
16 unfair competition.”

17 17. Business and Professions Code section 17206, subdivision (a), states in part:

18 “Any person who engages, has engaged, or proposes to engage in unfair competition shall
19 be liable for a civil penalty not to exceed two thousand five hundred dollars (\$2,500) for each
20 violation.”

21 18. Health and Safety Code section 44012 states in part:

22 “The test at the smog check stations shall be performed in accordance with procedures
23 prescribed by the department and may require loaded mode dynamometer testing in enhanced
24 areas, two-speed idle testing, testing utilizing a vehicle’s onboard diagnostic system, or other
25 appropriate test procedures as determined by the department in consultation with the state board.
26 ... The department shall ensure, as appropriate to the test method, the following:

27 ...

28 “(f) A visual or functional check is made of emission control devices specified by the

1 department, including the catalytic converter in those instances in which the department
2 determines it to be necessary to meet the findings of Section 44001. The visual or functional
3 check shall be performed in accordance with procedures prescribed by the department.”

4 19. Health and Safety Code section 44032 states:

5 “No person shall perform, for compensation, tests or repairs of emission control devices or
6 systems of motor vehicles required by this chapter unless the person performing the test or repair
7 is a qualified smog check technician and the test or repair is performed at a licensed smog check
8 station. Qualified technicians shall perform tests of emission control devices and systems in
9 accordance with Section 44012.”

10 20. Health and Safety Code section 44059 states:

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 21. Health and Safety Code section 44072.2 states in part:

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

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

20 22. California Code of Regulations, title 16, section 3340.30, states in part:

21 “A licensed smog check inspector and/or repair technician shall comply with the
22 following requirements at all times while licensed:

23 “(a) Inspect, test and repair vehicles, as applicable, in accordance with section 44012 of
24 the Health and Safety Code, section 44035 of the Health and Safety Code, and section 3340.42 of
25 this article.”

26 23. California Code of Regulations, title 16, section 3340.41, subdivision (c), states:

27 “No person shall enter into the emissions inspection system any vehicle identification
28 information or emission control system identification data for any vehicle other than the one

1 being tested. Nor shall any person knowingly enter into the emissions inspection system any
2 false information about the vehicle being tested.”

3 24. California Code of Regulations, title 16, section 3340.42, subdivision (b), states in
4 part:

5 “In addition to subsection (a), all vehicles subject to the smog check program shall receive
6 the following:

7 “(1) A visual inspection of emission control components and systems to verify the
8 vehicle’s emission control systems are properly installed.”

9 25. California Code of Regulations, title 16, section 3340.45, states:

10 “(a) All Smog Check inspections shall be performed in accordance with requirements and
11 procedures prescribed in the following:

12 “(1) Smog Check Inspection Procedures Manual, dated August 2009, which is hereby
13 incorporated by reference. This manual shall be in effect until subparagraph (2) is implemented.

14 “(2) Smog Check Manual, dated 2013, which is hereby incorporated by reference. This
15 manual shall become effective on or after January 1, 2013.”

16 26. California Code of Regulations, title 16, section 3353, states in part:

17 “No work for compensation shall be commenced and no charges shall accrue without
18 specific authorization from the customer in accordance with the following requirements:

19 “(a) Estimate for Parts and Labor. Every dealer shall give to each customer a written
20 estimated price for parts and labor for a specific job.”

21 27. California Code of Regulations, title 16, section 3371, states in part:

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

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

26 “No automotive repair dealer or individual in charge shall, in filling out an estimate,
27 invoice, or work order, or record required to be maintained by section 3340.15(f) of this chapter,
28 withhold therefrom or insert therein any statement or information which will cause any such

1 document to be false or misleading, or where the tendency or effect thereby would be to mislead
2 or deceive customers, prospective customers, or the public.”

3 **COST RECOVERY**

4 29. Section 125.3, subdivision (a), states in part:

5 “Except as otherwise provided by law, in any order issued in resolution of a disciplinary
6 proceeding before any board within the department or before the Osteopathic Medical Board
7 upon request of the entity bringing the proceedings, the administrative law judge may direct a
8 licensee found to have committed a violation or violations of the licensing act to pay a sum not
9 to exceed the reasonable costs of the investigation and enforcement of the case.”

10 **FACTUAL BACKGROUND**

11 30. The Bureau modified a 1995 Chevrolet by removing its positive crankcase
12 ventilation (PCV) valve. The Bureau’s Smog Check Inspection Procedures Manual requires a
13 technician to see a vehicle’s PCV valve before he allows a vehicle to pass a smog inspection.

14 31. On January 8, 2014, a Bureau undercover operator drove the Chevrolet to
15 respondent California Auto Repair and asked for a smog inspection. The driver signed a work
16 order but did not receive an estimate copy at that time.

17 32. After the inspection, the driver received a copy of the estimate and invoice, and a
18 vehicle inspection report that showed that the Chevrolet had passed the smog inspection. The
19 report stated that the Chevrolet’s PCV valve was in place and was signed by respondent Celedon.

20 **CAUSES FOR DISCIPLINE**

21 **AUTOMOTIVE REPAIR DEALER REGISTRATION NUMBER ARD 185478 AND**
22 **SMOG CHECK STATION LICENSE NUMBER RC 185478**

23 **FIRST CAUSE FOR DISCIPLINE**

24 **Making or Authorizing Untrue or Misleading Statements**
25 **Business and Professions Code section 9884.7, subdivision (a)(1) and (6),**
26 **California Code of Regulations, title 16, section 3371**

27 33. The allegations of paragraphs 30-32 are realleged and incorporated by reference as
28 if fully set forth.

34. Respondent has subjected its ARD registration and smog check station license to

1 discipline for publishing or making untrue or misleading statements (Bus. & Prof. Code, §
2 9884.7, subd. (a)(1), (6); Cal. Code Regs., tit. 16, § 3371). Respondent issued a vehicle
3 inspection report that showed that the Chevrolet had passed the smog inspection. The report
4 stated that the Chevrolet's PCV valve was in place and was signed by respondent Celedon. The
5 Bureau's Smog Check Inspection Procedures Manual requires a technician to see a vehicle's PCV
6 valve before he allows a vehicle to pass a smog inspection.

7 **SECOND CAUSE FOR DISCIPLINE**

8 **Failing to Give Document to Customer**

9 **Business and Professions Code section 9884.7, subdivision (a)(3)**

10 35. The allegations of paragraphs 30-32 are realleged and incorporated by reference as
11 if fully set forth.

12 36. Respondent has subjected its ARD registration and smog check station license to
13 discipline for failing to give a customer a copy of a document as soon as the customer signs the
14 document (Bus. & Prof. Code, § 9884.7, subd. (a)(3)). Respondent did not give the Bureau
15 undercover operator an estimate copy of the work order at the time the operator signed it.

16 **THIRD CAUSE FOR DISCIPLINE**

17 **Fraud**

18 **Business and Professions Code section 9884.7, subdivision (a)(4)**

19 37. The allegations of paragraphs 30-32 are realleged and incorporated by reference as
20 if fully set forth.

21 38. Respondent has subjected its ARD registration and smog check station license to
22 discipline for fraud (Bus. & Prof. Code, § 9884.7, subd. (a)(4)). Respondent issued a vehicle
23 inspection report that showed that the Chevrolet had passed the smog inspection. The report
24 stated that the Chevrolet's PCV valve was in place and was signed by respondent Celedon. The
25 Bureau's Smog Check Inspection Procedures Manual requires a technician to see a vehicle's PCV
26 valve before he allows a vehicle to pass a smog inspection.

27 **FOURTH CAUSE FOR DISCIPLINE**

28 **Failing to Give Written Estimate to Customer**

**Business and Professions Code sections 9884.7, subdivision (a)(6), 9884.9, subdivision (a);
California Code of Regulations, title 16, section 3353**

39. The allegations of paragraphs 30-32 are realleged and incorporated by reference as

1 if fully set forth.

2 40. Respondent has subjected its ARD registration and smog check station license to
3 discipline for failing to give a customer a written estimate before working on a vehicle (Bus. &
4 Prof. Code, §§ 9884.7, subd. (a)(6), 9884.9, subd. (a); Cal. Code Regs., tit. 16, § 3340.42, subd.
5 (b).) Respondent did not give the Bureau undercover operator an estimate copy of the work order
6 until after the smog inspection was performed.

7 **FIFTH CAUSE FOR DISCIPLINE**

8 **Unfair Competition**

9 **Business and Professions Code sections 17204, 17206, subdivision (a)**

10 41. The allegations of paragraphs 30-32 are realleged and incorporated by reference as
11 if fully set forth.

12 42. Respondent has subjected its ARD registration and smog check station license to
13 discipline for unfair competition as defined by Business and Professions Code section 17204
14 (Bus. & Prof. Code, § 17206, subd. (a)). Respondent issued a vehicle inspection report that
15 showed that the Chevrolet had passed the smog inspection. The report stated that the Chevrolet's
16 PCV valve was in place and was signed by respondent Celedon. The Bureau's Smog Check
17 Inspection Procedures Manual requires a technician to see a vehicle's PCV valve before he allows
18 a vehicle to pass a smog inspection.

19 **SIXTH CAUSE FOR DISCIPLINE**

20 **Perjury**

21 **Health and Safety Code sections 44059, 44072.2**

22 43. The allegations of paragraphs 30-32 are realleged and incorporated by reference as
23 if fully set forth.

24 44. Respondent has subjected its ARD registration and smog check station license to
25 discipline for perjury (Health & Saf. Code, §§ 44059, 44072.2). Respondent issued a vehicle
26 inspection report that showed that the Chevrolet had passed the smog inspection. The report
27 stated that the Chevrolet's PCV valve was in place and was signed by respondent Celedon. The
28 Bureau's Smog Check Inspection Procedures Manual requires a technician to see a vehicle's PCV
valve before he allows a vehicle to pass a smog inspection.

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SEVENTH CAUSE FOR DISCIPLINE
Entering False Information into Emission Inspection System
Business and Professions Code section 9884.7, subdivision (a)(6),
California Code of Regulations, title 16, section 3340.41, subd. (c)

45. The allegations of paragraphs 30-32 are realleged and incorporated by reference as if fully set forth.

46. Respondent has subjected its ARD registration and smog check station license to discipline for entering false information into an emission inspection system (Bus. & Prof. Code, § 9884.7, subd. (a)(6); Cal. Code Regs., tit. 16, § 3340.41, subd. (c)). Respondent issued a vehicle inspection report that showed that the Chevrolet had passed the smog inspection. The report stated that the Chevrolet's PCV valve was in place and was signed by respondent Celedon. The Bureau's Smog Check Inspection Procedures Manual requires a technician to see a vehicle's PCV valve before he allows a vehicle to pass a smog inspection.

EIGHTH CAUSE FOR DISCIPLINE
Failing to Visually Inspect Emission Control Components and Systems
Business and Professions Code section 9884.7, subdivision (a)(6),
California Code of Regulations, title 16, section 3340.42, subd. (b)

47. The allegations of paragraphs 30-32 are realleged and incorporated by reference as if fully set forth.

48. Respondent has subjected its ARD registration and smog check station license to discipline for entering false information into an emission inspection system (Bus. & Prof. Code, § 9884.7, subd. (a)(6); Cal. Code Regs., tit. 16, § 3340.42, subd. (b)). Respondent issued a vehicle inspection report that showed that the Chevrolet had passed the smog inspection. The report stated that the Chevrolet's PCV valve was in place and was signed by respondent Celedon. The Bureau's Smog Check Inspection Procedures Manual requires a technician to see a vehicle's PCV valve before he allows a vehicle to pass a smog inspection.

NINTH CAUSE FOR DISCIPLINE
Failing to Perform Smog Check in Accordance with Smog Check Inspection Procedures
Manual
Business and Professions Code section 9884.7, subdivision (a)(6),
California Code of Regulations, title 16, section 3340.45

49. The allegations of paragraphs 30-32 are realleged and incorporated by reference as

1 if fully set forth.

2 50. Respondent has subjected its ARD registration and smog check station license to
3 discipline for entering false information into an emission inspection system (Bus. & Prof. Code, §
4 9884.7, subd. (a)(6); Cal. Code Regs., tit. 16, § 3340.42, subd. (b)). Respondent issued a vehicle
5 inspection report that showed that the Chevrolet had passed the smog inspection. The report
6 stated that the Chevrolet's PCV valve was in place and was signed by respondent Celedon. The
7 Bureau's Smog Check Inspection Procedures Manual requires a technician to see a vehicle's PCV
8 valve before he allows a vehicle to pass a smog inspection.

9 **TENTH CAUSE FOR DISCIPLINE**
10 **Creating False or Misleading Document**
11 **Business and Professions Code section 9884.7, subdivision (a)(6),**
12 **California Code of Regulations, title 16, section 3373**

13 51. The allegations of paragraphs 30-32 are realleged and incorporated by reference as
14 if fully set forth.

15 52. Respondent has subjected its ARD registration and smog check station license to
16 discipline for entering false information into an emission inspection system (Bus. & Prof. Code, §
17 9884.7, subd. (a)(6); Cal. Code Regs., tit. 16, § 3373). Respondent issued a vehicle inspection
18 report that showed that the Chevrolet had passed the smog inspection. The report stated that the
19 Chevrolet's PCV valve was in place and was signed by respondent Celedon. The Bureau's Smog
20 Check Inspection Procedures Manual requires a technician to see a vehicle's PCV valve before he
21 allows a vehicle to pass a smog inspection.

22 **SMOG CHECK INSPECTOR (EO) LICENSE NUMBER 21393 AND**
23 **SMOG CHECK REPAIR TECHNICIAN (EI) LICENSE NUMBER 21393**

24 **ELEVENTH CAUSE FOR DISCIPLINE**
25 **Failing to Perform Tests in Accord with Health and Safety Code Section 44012**
26 **Business and Professions Code section 9884.7, subdivision (a)(6);**
27 **Health and Safety Code sections 44012, 44032, and 44072.2;**
28 **California Code of Regulations, title 16, section 3340.30**

53. The allegations of paragraphs 30-32 are realleged and incorporated by reference as
if fully set forth.

54. Respondent Celedon has subjected his smog check inspector and technician

1 licenses to discipline for failing to perform emission control device tests in accordance with
2 Health and Safety Code section 44012 (Bus. & Prof. Code, § 9884.7, subd. (a)(6); Health & Saf.
3 Code, §§ 44032, 44072.2; Cal. Code Regs., tit. 16, § 3340.30). Respondent issued a vehicle
4 inspection report that showed that the Chevrolet had passed the smog inspection. The report
5 stated that the Chevrolet's PCV valve was in place and was signed by respondent Celedon. The
6 Bureau's Smog Check Inspection Procedures Manual requires a technician to see a vehicle's PCV
7 valve before he allows a vehicle to pass a smog inspection.

8 **TWELFTH CAUSE FOR DISCIPLINE**
9 **Failing to Perform Tests in Accord with California Code of Regulations, Title 16,**
10 **Section 3340.42**
11 **Business and Professions Code section 9884.7, subdivision (a)(6);**
12 **California Code of Regulations, title 16, sections 3340.30 and 3340.42**

13 55. The allegations of paragraphs 30-32 are realleged and incorporated by reference as
14 if fully set forth.

15 56. Respondent Celedon has subjected his smog check inspector and technician
16 licenses to discipline for failing to perform emission control device tests in accordance with
17 California Code of Regulations, title 16, section 3340.42 (Bus. & Prof. Code, § 9884.7, subd.
18 (a)(6); Cal. Code Regs., tit. 16, § 3340.30). Respondent issued a vehicle inspection report that
19 showed that the Chevrolet had passed the smog inspection. The report stated that the Chevrolet's
20 PCV valve was in place and was signed by respondent Celedon. The Bureau's Smog Check
21 Inspection Procedures Manual requires a technician to see a vehicle's PCV valve before he allows
22 a vehicle to pass a smog inspection.

23 **PRIOR CITATIONS**

24 **AUTOMOTIVE REPAIR DEALER REGISTRATION NUMBER ARD 185478 AND**
25 **SMOG CHECK STATION LICENSE NUMBER RC 185478**

26 57. To determine the degree of discipline, if any, to be imposed on respondent's
27 Automotive Repair Dealer Registration Number ARD 185478 and Smog Check Station License
28 Number RC 185478, complainant alleges that on August 23, 2012, the Bureau issued Citation
Number C2013-0202 against respondent's Automotive Repair Dealer Registration Number ARD
185478 and Smog Check Station License Number RC 185478. The citation was for issuing a

1 certificate of compliance to a Bureau undercover vehicle with a missing air suction system reed
2 valve (Health & Saf. Code, § 44012, subd. (f)). The Bureau assessed a penalty of \$1,000.00
3 against respondent for the violation. A citation conference was held on October 18, 2012;
4 respondent paid the citation on November 16, 2012.

5 58. Complainant also alleges that on January 15, 2013, the Bureau issued Citation
6 Number C2013-0495 against respondent's Automotive Repair Dealer Registration Number ARD
7 185478 and Smog Check Station License Number RC 185478. The citation was for issuing a
8 certificate of compliance to a Bureau undercover vehicle with a missing air injection reactor
9 system (Health & Saf. Code, § 44012, subd. (f)). The Bureau assessed a penalty of \$2,000.00
10 against respondent for the violation. A citation conference was held on February 21, 2013;
11 respondent paid the citation on March 25, 2013.

12 59. Complainant also alleges that on October 2, 2013, the Bureau issued Citation
13 Number C2014-0212 against respondent's Automotive Repair Dealer Registration Number ARD
14 185478 and Smog Check Station License Number RC 185478. The citation was for issuing a
15 certificate of compliance to a Bureau undercover vehicle with a non-functional exhaust gas
16 recirculation valve (Health & Saf. Code, § 44012, subd. (f)). The Bureau assessed a penalty of
17 \$3,000.00 against respondent for the violation. A citation conference was held on October 17,
18 2013; respondent paid the citation on November 14, 2013.

19 **SMOG CHECK INSPECTOR (EO) LICENSE NUMBER 21393 AND**
20 **SMOG CHECK REPAIR TECHNICIAN (EI) LICENSE NUMBER 21393**

21 60. To determine the degree of discipline, if any, to be imposed on respondent
22 Celedon's Smog Check Inspector (EO) License Number 21393 and Smog Check Repair
23 Technician (EI) License Number 21393, complainant alleges that on August 23, 2012, the Bureau
24 issued Citation Number M2013-0203 and an order of abatement against respondent Celedon's
25 Basic Area (EB) Technician License Number 21393. The citation and order was for issuing a
26 certificate of compliance to a Bureau undercover vehicle with a missing air suction system reed
27 valve (Health & Saf. Code, § 44032). The Bureau directed respondent Celedon to complete an
28 eight-hour Bureau-certified training. A citation conference was held on October 18, 2012; the

1 training was completed on December 8, 2012.

2 61. Complainant also alleges that on January 15, 2013, the Bureau issued Citation
3 Number M2013-0496 and an order of abatement against respondent Celedon's Smog Check
4 Inspector (EO) License Number 21393.² The citation and order was for issuing a certificate of
5 compliance to a Bureau undercover vehicle with a missing air injection reactor system (Health &
6 Saf. Code, § 44032). The Bureau directed respondent Celedon to complete a 28-hour Bureau-
7 certified training and pay a \$500.00 fine. A citation conference was held on February 21, 2013.
8 The fine was paid on March 25, 2013; the training was completed on April 21, 2013.

9 **OTHER MATTERS**

10 62. Business and Professions Code section 9884.7, subdivision (c), states in part:
11 "Notwithstanding subdivision (b), the director may suspend, revoke, or place on probation
12 the registration for all places of business operated in this state by an automotive repair dealer
13 upon a finding that the automotive repair dealer has, or is, engaged in a course of repeated and
14 willful violations of this chapter, or regulations adopted pursuant to it."

15 63. Health and Safety Code section 44072.8 states:

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

19 **PRAYER**

20 WHEREFORE, complainant requests that a hearing be held on the matters alleged in this
21 accusation, and that following the hearing, the Director of Consumer Affairs issues a decision:

22 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
23 185478 issued to respondent California Auto Repair; Enrique P Celedon, Owner;

24 2. Revoking or suspending Smog Check Station License Number RC 185478 issued
25 to respondent California Auto Repair; Enrique P Celedon, Owner;

26 _____
27 ² The citation erroneously states that it applies to respondent Celedon's "Tech
28 License #: EA 021393. Respondent never held an advanced emission specialist technician (EA)
license.

- 1 3. Revoking or suspending Smog Check Inspector (EO) License Number 21393
- 2 issued to Enrique Padron Celedon;
- 3 4. Revoking or suspending Smog Check Repair Technician (EI) License Number
- 4 21393 issued to Enrique Padron Celedon;
- 5 5. Ordering Enrique Padron Celedon to pay the Bureau of Automotive Repair the
- 6 reasonable costs of the investigation and enforcement of this case under Business and Professions
- 7 Code section 125.3; and
- 8 6. Taking such other and further action as deemed necessary and proper.

9 DATED: August 26, 2014 Patrick Doraïs

10 PATRICK DORAIS
11 Chief
12 Bureau of Automotive Repair
13 Department of Consumer Affairs
14 State of California
15 *Complainant*

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