

1 XAVIER BECERRA
Attorney General of California
2 JOSHUA A. ROOM
Supervising Deputy Attorney General
3 MARETTA WARD
Deputy Attorney General
4 State Bar No. 176470
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-1384
6 Facsimile: (415) 703-5480
Attorneys for Complainant

7
8 **BEFORE THE**
DEPARTMENT OF CONSUMER AFFAIRS
9 **FOR THE BUREAU OF AUTOMOTIVE REPAIR**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 79117-2297

12 **FIRE HOUSE SMOG**
13 **REID VENTURES, MITCHEL SCOTT**
14 **BORNSTEIN, PRESIDENT**
2900 Lone Tree Way
Antioch, CA 94509

A C C U S A T I O N

15 Automotive Repair Dealer Registration No.
16 ARD 279070 and Smog Check Station
License No. TC 279070

17 and

18 **RANDY LEE HOWELL**
537 Quartz Lane
19 Vallejo, CA 94589

20 Smog Check Inspector License No. EO
21 633592 (*Revoked 2.16.18*)

22 and

23 **DOMINIC BONIFACIO DUCUT**
94 Jimno Avenue
24 Pittsburg, CA 94565

25 Smog Check Inspector License No. EO
631156

26 and

27 **JUAN M. CASTANEDA**
1870 Soldier Mountain Court
28

**Smog Check Inspector License No. EO
634732**

Complainant alleges:

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

2. On or about January 26, 2015, the Bureau of Automotive Repair issued Automotive Repair Dealer Registration Number ARD 279070 to Mitchel Scott Bornstein, President of Reid Ventures, dba Fire House Smog (Respondent). The Automotive Repair Dealer Registration was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2019, unless renewed.

3. On or about February 6, 2015, the Bureau of Automotive Repair issued Smog Check Station License Number TC 279070 to Mitchel Scott Bornstein, President of Reid Ventures, dba Fire House Smog (Respondent). The Smog Check Station License was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2019, unless renewed.

4. On or about April 20, 2015, the Bureau of Automotive Repair issued a STAR Station Certificate to Mitchel Scott Bornstein, President of Reid Ventures, dba Fire House Smog (Respondent). The Star Station Certificate was in full force and effect at all times relevant to the charges brought herein.

// //

1 **Smog Check Technician License**

2 5. On September 8, 2011, Advanced Emissions Specialist (EA) Technician License No.
3 633592 was issued to Randy Lee Howell, under SB 1997, the biennial Smog Check Program
4 implemented January 1, 1990. License number EA 633592 was due to expire on January 31,
5 2014, however, was cancelled on January 27, 2014. Pursuant to California Code of Regulations,
6 title 16, section 3340.28, subdivision (e)¹, said license was renewed pursuant to Randy Lee
7 Howell's election as a Smog Check Inspector (EO) License No. 633592, effective January 27,
8 2014. The Smog Check Inspector License was in full force and effect at all times relevant to the
9 charges brought herein and expired on January 21, 2018. The license was revoked on February
10 16, 2018.

11 **Smog Check Technician License**

12 6. On July 9, 2009, Advanced Emissions Specialist (EA) Technician License No.
13 631156 was issued to Dominic Bonifacio Ducut, under SB 1997, the biennial Smog Check
14 Program implemented January 1, 1990. License number EA 631156 was due to expire on
15 September 30, 2013, however was cancelled on September 12, 2013. Pursuant to California
16 Code of Regulations, title 16, section 3340.28, subdivision (e), said license was renewed pursuant
17 to Dominic Bonifacio Ducut's election as Smog Check Inspector (EO) License No. 631156,
18 effective September 12, 2013. The Smog Check Technician License was in full force and effect at
19 all times relevant to the charges brought herein and will expire on September 30, 2019, unless
20 renewed.

21 **Smog Check Technician License**

22 7. On September 6, 2012 Advanced Emissions Specialist (EA) Technician License No.,
23 634732 was issues to Juan M. Castaneda, under SB 1997, the biennial Smog Check Program
24 implemented January 1, 1990. License number EA 634732 was due to expire on May 31, 2014,
25 however was cancelled on May 28, 2014. Pursuant to California code of Regulations, title 16,

26 _____
27 ¹ Effective August 1, 2012, an Amendment to Sections 3340.28, 3340.29 and 3340.30, of
28 Article 2, Chapter, Division 33, title 16, CCR implemented a License restructure of Smog Check
 Technician (EA/EB) license types to Smog Check Inspector (EO) license and Smog Check Repair
 Technician (EI) license.

1 section 3340.28, subdivision (e), said license was renewed pursuant to Juan M. Castaneda's
2 election as Smog Check Inspector (EO) License No. 632732, effective May 28, 2014. The Smog
3 Check Inspector License was in full force and effect at all times relevant to the charges brought
4 herein and will expire on May 31, 2020, unless renewed.

5 JURISDICTION

6 8. This Accusation is brought before the Director of the Department of Consumer
7 Affairs (Director) for the Bureau of Automotive Repair, under the authority of the following laws.

8 STATUTORY PROVISIONS

9 9. Section 9884.7 of the Code states:

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

15 / /

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

19 . . .

20 (4) Any other conduct which constitutes fraud.

21 . . .

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

24 10. Section 44012 of the Health and Safety Code states:

25 "The test at the smog check stations shall be performed in accordance with procedures
26 prescribed by the department, pursuant to Section 44013, shall require, at a minimum, loaded
27

1 mode dynamometer testing in enhanced areas, and two-speed testing in all other program areas,
2 and shall ensure all of the following:

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

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

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

13 "(d) For other than diesel-powered vehicles, the vehicle's fuel evaporative system and
14 crankcase ventilation system are tested to reduce any no exhaust sources of volatile organic
15 compound emissions, in accordance with procedures prescribed by the department.

16 "(e) For diesel-powered vehicles, if the department determines that the inclusion of those
17 vehicles is technologically and economically feasible, a visual inspection is made of emission
18 control devices and the vehicle's exhaust emissions in an idle mode or loaded mode are tested in
19 accordance with procedures prescribed by the department. The test may include testing of
20 emissions of any or all of the pollutants specified in subdivision (c) and, upon the adoption of
21 applicable standards, measurement of emissions of smoke or particulates, or both.

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

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

1 "(h) The test procedures may authorize smog check stations to refuse the testing of a
2 vehicle that would be unsafe to test, or that cannot physically be inspected, as specified by the
3 department by regulation. The refusal to test a vehicle for those reasons shall not excuse or
4 exempt the vehicle from compliance with all applicable requirements of this chapter."

5 11. Section 44015 of the Health and Safety Code states:

6 "(a) A licensed smog check station shall not issue a certificate of compliance, except as
7 authorized by this chapter, to any vehicle that meets the following criteria:

8 "(1) A vehicle that has been tampered with.

9 "(2) A vehicle that, prior to repairs, has been initially identified by the smog check station
10 as a gross polluter. Certification of a gross polluting vehicle shall be conducted by a designated
11 test-only facility, or a test-and-repair station that is both licensed and certified pursuant to
12 Sections 44014 and 44014.2 and is participating in the pilot program pursuant to subparagraph
13 (B) of paragraph (2) of subdivision (g) of Section 44014.5.

14 "(3) A vehicle described in subdivision (c).

15 "(b) If a vehicle meets the requirements of Section 44012, a smog check station licensed to
16 issue certificates shall issue a certificate of compliance or a certificate of noncompliance.

17 . . .

18 12. Section 44032 of the Health and Safety Code states:

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

24 13. Section 44059 of the Health and Safety Code states:

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

REGULATORY PROVISIONS

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

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

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

. . .

15. California Code of Regulations, title 16, section 3340.35, states:

. . .

"(c) A licensed station shall issue a certificate of compliance or noncompliance to the owner or operator of any vehicle that has been inspected in accordance with the procedures specified in section 3340.42 of this article and has all the required emission control equipment and devices installed and functioning correctly. The following conditions shall apply:

. . .

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

. . .

"(c) No person shall enter into the emissions inspection system any vehicle identification information or emission control system identification data for any vehicle other than the one being tested. Nor shall any person knowingly enter into the emissions inspection system any false information about the vehicle being tested.

. . .

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

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

. . .

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

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

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

6 . . .

7 18. California Code of Regulations, title 16, section 3340.45, states:

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

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

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

14 19. California Code of Regulations, title 16, section 3373, states:

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

20
21 **COSTS**

22 20. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
23 administrative law judge to direct a licentiate found to have committed a violation or violations of
24 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
25 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
26 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
27 included in a stipulated settlement.

28 / /

FACTUAL BACKGROUND

21. On February 14, 2017, a Bureau representative initiated an investigation into Fire House Smog's smog check inspection practices. OIS Test Data was reviewed and compared to abnormalities in the data to similar vehicles tested statewide. It was found that Respondent Fire House Smog issued fraudulent Smog Check Certificates to certain vehicles. For purposes of the investigation and report, the following data was referenced: DMV VIN – VIN of the vehicle entered or scanned by the Smog Check Inspectors; Cert ID – Smog Check Certificate number issues; eVIN – Digitally stored VIN in the vehicle PCM and identified by the OIS; Protocol – the “type” of communication that was established with the vehicle by the OIS; PID Count – the number of Parameter Identification (PID's) available from the vehicle computer(s) used for diagnostic data received by the OIS; Similar Vehicle OIS Test Data – Data for similar vehicles is derived and compiled from tests conducted statewide on vehicles that have specific matching VIN characters.

22. The investigation determined that Respondent Fire House Smog issued ten (10) fraudulent Smog Check Certificates of Compliance using Clean Plugging methods to the following vehicles as listed below:^{2 3}

Clean Plug One – December 29, 2015

Certificate # YV363123C	eVin	Protocol	PID Count
Pass Inspection 12.29.15	1D7HA18206S624699	ICAN11bt500	44/8
Expected Value ⁴	4T1BK36B27U240470	ICAN11bt5	46

² Clean piping refers to using another vehicle's clean tail pipe emissions and RPM for the purpose of fraudulently issuing smog certificates to vehicles that are not in smog compliance and/or not present for testing.

³ Clean plugging refers to using another vehicle's properly functioning On Board Diagnostic, generation II, (OBDII) system or using another source to generate passing diagnostic readings for the purpose of fraudulently issuing smog certificates to vehicles that are not in smog compliance and/or not present for testing.

⁴ “Expected Value” is the value recorded for “like vehicles” inspected.

Clean Plug Two – January 31, 2016

Certificate # YX379006C eVin Protocol PID Count

Passing Insp. 1.31.16	Not Reported	I9140808	20
Expected Value	1HGCM66536A028614	I914	24

Clean Plug Three – May 28, 2016

Certificate # ZF054085C eVin Protocol PID Count

Passing Insp 5.28.16	JTDKN3DU6A0133131	ICAN11bt500	39/24
Expected Value	JTDKB20U967078889	ICAN11bt5	38/21/5 or 38/21/17

Clean Plug Four – June 28, 2016

Certificate # QC918166C eVin Protocol PID Count

Passing Insp. 6.28.16	2C3LA63H96H453928	ICAN11bt500	43/6
Expected Value	3GNDA33P27S559567	ICAN11bt5	38 or 38/7

Clean Plug Five – September 14, 2016

Certificate # QE119097C eVin Protocol PID Count

Passing Insp. 9.14.16	Not Reported	ICAN11bt500	10/3/1
Expected Value	1GC4K0E8XFF108562	ICAN11bt5	50/5/6 or 50/6/6

Clean Plug Six – October 8, 2016

Certificate # QE989306C eVin Protocol PID Count

Passing Insp. 10.8.16	KMHDN56D66U199868	KWPF8FEF	17/1
Expected Value	Not Reported	I914	16 or 16/1

Clean Plug Seven – October 15, 2016

Certificate #	QGI95120C	eVin	Protocol	PID Count
Passing Insp.	10.15.16	2GCEK19T821381056	JVPW1850	22
Expected Value		1GNES13H072165978	ICAN11bt5	43/7

Clean Plug Eight – October 22, 2016

Certificate #	QG334824C	eVin	Protocol	PID Count
Passing Insp.	10.22.16	1FMRU15W14LA75384	JPWM1850	22
Expected Value		1FAFP48YX3F333482	JPWM	21 or 23

Clean Plug Nine – October 22, 2016

Certificate #	QG334831C	eVin	Protocol	PID Count
Passing Insp.	10.22.16	WBAEV53484KM33138	I9140808	22/1
Expected Value		WBANB33565CN65204	KWPF	22/7

Clean Plug Ten – November 20, 2016

Certificate #	ZL148657C	eVin	Protocol	PID Count
Passing Insp.	11.20.16	1N4AL11D76N437370	I9140808	18
Expected Value		1N4AL3AP9GC242423	ICAN11bt5	39/16

FIRST CAUSE FOR DISCIPLINE

(Misleading Statements - Registration)

23. Respondent Fire House Smog has subjected its registration to discipline under section 9884.7, subdivision (a)(1), in that Respondent Fire House Smog made statements which were untrue or misleading, in that Respondent fraudulently purported to test the ten (10) vehicles, and certified that the ten (10) vehicles passed inspection and were following applicable laws and

1 regulations. In fact, Respondent conducted the inspections on those vehicles using clean plugging
2 methods.

3
4 **SECOND CAUSE FOR DISCIPLINE**

5 **(Fraud - Registration)**

6 24. Respondent Fire House Smog has subjected its registration to discipline under section
7 9884.7, subdivision (a)(4), in that Respondent Fire House Smog committed acts which constitute
8 fraud, in that Respondent fraudulently purported to test the ten (10) vehicles, and certified that the
9 ten (10) vehicles passed inspection and were in compliance with applicable laws and regulations.
10 In fact, Respondent conducted the inspections on those vehicles using clean plugging methods.

11
12 **THIRD CAUSE FOR DISCIPLINE**

13 **(Failure to Comply with Automotive Repair Act)**

14 25. Respondent Fire House Smog has subjected its registration to discipline under section
15 9884.7, subdivision (a)(6), in that Respondent Fire House Smog failed to comply with provisions
16 of the chapter and regulations when it issued ten (10) fraudulent certificates of compliance on
17 vehicles which had been clean plugged.

18
19 **FOURTH CAUSE FOR DISCIPLINE**

20 **(Fraud)**

21 26. Respondent Fire House Smog has subjected its license to discipline under section
22 44072.2, in that he made statements which he knew or which by exercise of reasonable care he
23 should have known were untrue or misleading in that Respondent fraudulently purported to test
24 ten (10) vehicles, and certified that ten (10) vehicles passed inspection and were in compliance
25 with applicable laws and regulations. In fact, Respondent conducted the inspections on those
26 vehicles using clean plugging methods.

27 //

28 //

1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(Violation of the Motor Vehicle Inspection Program – Smog Station License)**

3 27. Respondent Fire House Smog has subjected its station license to discipline under
4 Health and Safety Code sections 44072.10 and 44072.2, subdivisions (a) and (c), in that
5 Respondent violated sections of that Code and applicable regulations, as follows:

6 a. **Section 44012:** Respondent Fire House Smog failed to ensure that the emission
7 control tests were performed on those vehicles in accordance with procedures prescribed by the
8 department.

9 b. **Section 44012 (f):** Respondent Fire House Smog failed to perform a visual and/or
10 functional check of required equipment.

11 c. **Section 44015 (b):** Respondent Fire House Smog issued a Certificate of Compliance
12 to a vehicle that did not meet the requirements of section 44102.

13 d. **Section 44059:** Respondent Fire House Smog knowingly made a false statement
14 resulting in the issuance of ten (10) fraudulent Certificates of Compliance to ten (10) vehicles.

15 e. **Section 3340.35(c):** Respondent Fire House Smog failed to inspect vehicles in
16 accordance with section 3340.42 and issued fraudulent Certificates of Compliance to vehicles that
17 were not connected to the BAR-OIS when they were being certified.

18 f. **Section 3340.42(b)(2):** Respondent Fire House Smog failed to conduct tests on the ten
19 (10) vehicles in accordance with the BAR Onboard Inspections System Specifications.

20 g. **Section 3340.45(a)(2):** Respondent Fire House Smog failed to perform smog check
21 inspections in accordance with requirements and procedures prescribed in the Smog Check
22 Inspection Manual.

23 h. **Section 3373:** Respondent Fire House Smog created false records when they issued
24 ten (10) fraudulent Certificated of Compliance.

25 / /

26 / /

27 / /

28 / /

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

2

3
4
5
6
7
8

10

11

12
13
14

15
16
17

18
19
20

21

22

23
24

25
26
27

1 f. **Section 3340.42(b)(2):** Respondent Ducut failed to conduct tests on the four (4)
2 vehicles in accordance with the BAR Onboard Inspections System Specifications.

3 g. **Section 3340.45(a)(2):** Respondent Ducut failed to perform smog check inspections in
4 accordance with requirements and procedures prescribed in the Smog Check Inspection Manual.

5
6 **EIGHTH CAUSE FOR DISCIPLINE**

7 **(Fraud)**

8 30. Respondent Castaneda has subjected his license to discipline under section 44072.2 in
9 that he made statements which he knew or which by exercise of reasonable care he should have
10 known were untrue or misleading in that Respondent fraudulently purported to test two (2)
11 vehicles, and certified that two (2) vehicles passed inspection and were in compliance with
12 applicable laws and regulations. In fact, Respondent conducted the inspections on those vehicles
13 using clean plugging methods.

14
15 **NINTH CAUSE FOR DISCIPLINE**

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

17 31. Respondent Castaneda has subjected his license to discipline under Health and Safety
18 Code sections 44012 in that he violated sections of that Code and applicable regulations, as
19 follows:

20 a. **Section 44012(f):** Respondent Castaneda failed to perform a visual and/or functional
21 check of the required equipment when he failed to connect two (2) Vehicles to the BAR-OIS at
22 the time they were certified.

23 b. **Section 44032:** Respondent Castaneda failed to inspect, test or repair vehicles in
24 accordance with section 44012 when she failed to connect two (2) vehicles to the BAR-OIS at the
25 time they were certified.

26 c. **Section 44059:** Respondent Castaneda knowingly made a false statement resulting
27 in the issuance of twenty-nine fraudulent Certificates of Compliance to two (2) vehicles.

1 d. **Section 3340.30(a):** Respondent Castaneda failed to follow test procedures when he
2 failed to connect four (4) vehicles to the Bar 97 EIS or the BAR-OIS for inspection.

3 e. **Section 3340.41(c):** Respondent Castaneda entered into the test analyzer system
4 vehicle identification and test or emission system information for a vehicle other than the one
5 being tested when she entered false information regarding the vehicles being tested.

6 f. **Section 3340.42(b)(2):** Respondent Castaneda failed to conduct tests on the two (2)
7 vehicles in accordance with the BAR Onboard Inspections System Specifications.

8 g. **Section 3340.45(a)(2):** Respondent Castaneda failed to perform smog check
9 inspections in accordance with requirements and procedures prescribed in the Smog Check
10 Inspection Manual.

11 OTHER MATTERS

12
13 32. Under Business and Professions Code section 9884.7, subdivision (c), the Director
14 may suspend, revoke, or place on probation the registration for all places of business operated in
15 this state by Mitchel Scott Bornstein upon a finding that Mitchell Scott Bornstein engaged in a
16 course of repeated and willful violations of the laws and regulations pertaining to an automotive
17 repair dealer.

18 33. Under Health and Safety Code section 44072.8, if Dominic Bonifacio Ducut's smog
19 check inspector license is revoked or suspended, any additional license issued under Chapter 5,
20 Part 5, Division 26 in the name of said licensee may be likewise revoked or suspended by the
21 Director.

22 34. Under Health and Safety Code section 44072.8, if Juan M. Castaneda's smog check
23 inspector license is revoked or suspended, any additional license issued under Chapter 5, Part 5,
24 Division 26 in the name of said licensee may be likewise revoked or suspended by the Director.

25 / /

26 / /

27 / /

28 / /

PRIOR CITATIONS

35. To determine the degree of penalty, if any to be imposed upon Respondent, Complainant alleges as follows:

a. On August 26, 2015, the Bureau issued Citation No. C2015-1637 to Respondent Fire House Smog against the Smog Check Station License for violations of Health and Safety Code section 44012, (Failure to perform smog inspection in accordance with procedures prescribed by the department) (issuing a certificate of compliance to a vehicle improperly tested). Respondent issued a certificate of compliance to a Bureau vehicle using a BAR97 Emission Inspection System (EIS) when use of an OBD Inspection System (OIS) was required. The Bureau assessed a penalty of Order of Abatement. August 26, 2015, the Bureau issued Citation No. M2015-1638 to Respondent Ducut against his Smog Check Technician License for violations of Health and Safety Code section 44012, subdivision (f) (Failure to perform a visual/functional check of emission control devices) and California Code of Regulations, title 16, ("Regulation"), section 3340.5, subdivision (c) (issuing a certificate of compliance to a vehicle improperly tested). Respondent issued a certificate of compliance to a Bureau vehicle using a BAR97 Emission Inspection System (EIS) when use of an OBD Inspection System (OIS) was required. The Bureau issued an Order of Abatement. A Citation Conference was held on September 14, 2015. The Citation is now final.

b. On December 3, 2010, the Bureau issued Citation No. M2011-0670 to Respondent Ducut against his Smog Check Technician License for violations of Health and Safety Code section 44012, subdivision (f) (Failure to perform a visual/functional check of emission control devices) and California Code of Regulations, title 16, ("Regulation"), section 3340.5, subdivision (c) (issuing a certificate of compliance to a vehicle improperly tested). Respondent issued a certificate of compliance to a Bureau vehicle with ignition timing adjusted beyond specification. The Bureau assessed an 8 Hour Training Course. A Citation Service Conference was held on December 23, 2010. The Citation is now final.

//

//

PRAYER

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

1. Revoking or suspending Automotive Repair Dealer Registration Number ARD 279070, issued to Mitchel Scott Bornstein, President of Reid Ventures, dba Fire House Smog;
2. Revoking or suspending Smog Check Station License Number TC 279070, issued to Mitchel Scott Bornstein, President of Reid Ventures, dba Fire House Smog;
3. Revoking or suspending any additional license issued under Chapter 5, Part 5 of Division 26 of the Health and Safety Code to Mitchel Scott Bornstein, President of Reid Ventures, dba Fire House Smog;
4. Revoking or suspending the Smog Check Inspector License No. EO 631156 issued to Dominic Bonifacio Ducut;
5. Revoking or suspending any additional license issued under Chapter 5, Part 5 of Division 26 of the Health and Safety Code issued to Dominic Bonifacio Ducut;
6. Revoking or suspending Smog Check Inspector License No. EO 634732 issued to Juan M. Castaneda;
7. Revoking or suspending any additional license issued under Chapter 5, Part 5 of Division 26 of the Health and Safety Code issued to Juan M. Castaneda;
8. Ordering Mitchel Scott Bornstein, President of Reid Ventures, dba Fire House Smog to pay the Bureau of Automotive Repair the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
9. Ordering Dominic Bonifacio Ducut to pay the Bureau of Automotive Repair the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
10. Ordering Juan M. Castaneda to pay the Bureau of Automotive Repair the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

//

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

11. Taking such other and further action as deemed necessary and proper.

DATED: August 14, 2018 Patrick Dorais

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

SF2017203746