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7

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

12
13 In the Matter of the Accusation Against:

Case No. 79/17 - 9237

14 **CAR TALKS INC., DONG U. LEE,**
15 **PRESIDENT, DBA NEW STAR SMOG**
16 **TEST**
21727 S. Western Ave.
Torrance, CA 90501

ACCUSATION

17 **Automotive Repair Dealer Registration No.**
18 **ARD 275916**
19 **Smog Check Test Only Station License No.**
20 **TC 275916**

And

21 **FRANK RAMIREZ**
4767 Avenida Vista Verde
Palmdale, CA 93551

22
23 **Smog Check Inspector License No. EO**
146465

And

24
25 **OSCAR CONTRERAS**
26 720 South Holly Ave.
Compton, CA 90221

27 **Smog Check Inspector License No. EO**
28 **635598**

1 And

2 **DUCKI HAHN**
3 1401 St. Andrews Place #103
4 Los Angeles, CA 90019

5 **Smog Check Inspector License No. EO**
6 **634240**

7 Respondents.

8
9 Complainant alleges:

10 **PARTIES**

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

13 **Automotive Repair Dealer Registration Number ARD 275916**

14 2. On or about March 19, 2014, the Bureau of Automotive Repair issued Automotive
15 Repair Dealer Registration Number ARD 275916 to Car Talks Inc. dba New Star Smog Test,
16 Dong U. Lee, President (Respondent New Star Smog). The Automotive Repair Dealer
17 Registration was in full force and effect at all times relevant to the charges brought herein and
18 expired on March 31, 2018.

19 **Smog Check Test Only Station License Number TC 275916**

20 3. On or about April 7, 2014, the Bureau of Automotive Repair issued Smog Check,
21 Test Only, Station License Number TC 275916 to Car Talks Inc. dba New Star Smog Test, Dong
22 U. Lee, President (Respondent New Car Smog). The Smog Check, Test Only, Station License
23 was in full force and effect at all times relevant to the charges brought herein and expired on
24 March 31, 2018.

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1 **Smog Check Inspector License Number EO 146465**

2 4. In 2004, the Bureau issued Advanced Emission Specialist (EA) Technician License
3 No. 146465 to Frank Ramirez (Respondent Ramirez) under SB 1997, the biennial Smog Check
4 Program implemented January 1, 1990. EA License No. 146465 was due to expire on December
5 31, 2012, however, it was cancelled on November 13, 2012. On or about November 13, 2012, the
6 Bureau issued Smog Check Inspector License Number EO 146465 to Respondent Ramirez.¹ The
7 Smog Check Inspector License was in full force and effect at all times relevant to the charges
8 brought herein and will expire on December 31, 2018, unless renewed.

9 **Smog Check Inspector License Number EO 635598**

10 5. On or about June 6, 2013, the Bureau of Automotive Repair issued Smog Check
11 Inspector License Number EO 635598 to Oscar Contreras (Respondent Contreras). The Smog
12 Check Inspector License was in full force and effect at all times relevant to the charges brought
13 herein and will expire on October 31, 2019, unless renewed.

14 **Smog Check Inspector License Number EO 634240**

15 6. On or about May 2, 2012, EA Technician License No. 634240 was issued to Ducki
16 Hahn (Respondent Hahn) under the SB 1997, the biennial Smog Check Program implemented
17 January 1, 1990. EA License No. 634240 was due to expire on February 28, 2014, however it
18 was cancelled on February 26, 2014. Pursuant to Cal. Code of Regs., title 16 section 3340.28,
19 subdivision (e), said license was renewed pursuant to Respondent Hahn's election as Smog Check
20 Inspector (EO) License No. 634240, effective February 26, 2014. The Smog Check Inspector
21 License was in full force and effect at all times relevant to the charges brought herein and will
22 expire on February 29, 2020, unless renewed.

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27 ¹ Effective August 1, 2012, an Amendment to Sections 3340.28, 3340.29 and 3340.30, of Article
28 2, Chapter 1, 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 **JURISDICTION**

2 7. Business and Professions Code section 9884.13 provides, in pertinent part, that the
3 expiration of a valid registration shall not deprive the Director of jurisdiction to proceed with a
4 disciplinary proceeding against an automotive repair dealer or to render a decision temporarily or
5 permanently invalidating (suspending or revoking) a registration.

6 8. Health and Safety Code section 44002 provides, in pertinent part, that the Director
7 has all the powers and authority granted under the Automotive Repair Act for enforcing the
8 Motor Vehicle Inspection Program.

9 9. Health and Safety Code section 44072.6 provides, in pertinent part, that the expiration
10 or suspension of a license by operation of law, or by order or decision of the Director of
11 Consumer Affairs, or a court of law, or the voluntary surrender of the license shall not deprive the
12 Director of jurisdiction to proceed with disciplinary action.

13 10. Health and Safety Code section 44072.2(a) provides, in pertinent part, the director
14 may suspend, revoke, or take other disciplinary action against a license as provided in this article
15 if the licensee, or any partner, officer, or director thereof violates any section of this chapter and
16 the regulations adopted pursuant to it, which related to the licensed activities.”

17
18 **STATUTORY PROVISIONS**

19 11. Section 477 of the Code provides, in pertinent part, that “Board” includes “bureau,”
20 “commission,” “committee,” “department,” “division,” “examining committee,” “program,” and
21 “agency.” “License” includes certificate, registration or other means to engage in a business or
22 profession regulated by the Code.

23 12. Section 9884.7 of the Code states:

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

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

4 ...

5 (4) Any other conduct which constitutes fraud.

6 ...

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

9 13. Section 9889.22 of the BPC states:

10 “The willful making of any false statement or entry with regard to a material matter in any
11 oath, affidavit, certificate of compliance or noncompliance, or application form which is required
12 by this chapter or Chapter 5 (commencing with Section 44000) of Part 5 of Division 26 of the
13 Health and Safety Code constitutes perjury and is punishable as provided in the Penal Code.

14 14. Section 44012 of the Health and Safety Code states:

15 “The test at the smog check stations shall be performed in accordance with procedures
16 prescribed by the department, pursuant to Section 44013, shall require, at a minimum, loaded
17 mode dynamometer testing in enhanced areas, and two-speed testing in all other program areas,
18 and shall ensure all of the following:

19 ...

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

24 15. Section 44015(b) of the Health and Safety Code states that [i]f a vehicle meets the
25 requirements of Section 44012, a smog check station licensed to issue certificates shall issue a
26 certificate of compliance or a certificate of noncompliance.

27 16. Section 44032 of the HSC states:
28

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

6 17. Section 44059 of the Health and Safety Code states:

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

11 REGULATIONS

12 18. California Code of Regulations, title 16, section 3340.30, subdivision (a), states in
13 pertinent part that a licensed smog technician shall at all times "[i]nspect, test and repair vehicles,
14 as applicable, in accordance with section 44012 of the Health & Saf. Code, section 44035 of the
15 Health & Saf. Code, and section 3340.42 of this article."

16 19. California Code of Regulations, title 16, section 3340.35(c) states that "[a] licensed
17 station shall issue a certificate of compliance or noncompliance to the owner or operator of any
18 vehicle that has been inspected in accordance with the procedures specified in section 3340.42 of
19 this article and has all the required emission control equipment and devices installed and
20 functioning correctly."

21 20. California Code of Regulations, title 16, section 3340.41, subdivision (c), states that
22 "[n]o person shall enter into the emissions inspection system any vehicle identification
23 information or emission control system identification data for any vehicle other than the one
24 being tested. Nor shall any person knowingly enter into the emissions inspection system any false
25 information about the vehicle being tested."

26 21. California Code of Regulations, title 16, section 3373, states:

27 "No automotive repair dealer or individual in charge shall, in filling out an estimate,
28 invoice, or work order, or record required to be maintained by section 3340.15(f) of this chapter,

1 withhold therefrom or insert therein any statement or information which will cause any such
2 document to be false or misleading, or where the tendency or effect thereby would be to mislead
3 or deceive customers, prospective customers, or the public.”

4 5 COST RECOVERY

6 22. Section 125.3 of the Code provides, in pertinent part, that a Board may request the
7 administrative law judge to direct a licentiate found to have committed a violation or violations of
8 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
9 enforcement of the case.

10 11 VID DATA REVIEW

12 23. On March 9, 2015, the Bureau implemented a policy change requiring the use of an
13 On-Board Diagnostic Inspection System (OIS) in testing of 2000 model year and newer gas
14 powered vehicles 14,000 Gross Vehicle Weight Rating (GVW) and under, and 1998 and newer
15 diesel powered vehicles 14,000 GVW and under. The OIS Bureau Test Data lists differences in
16 Vehicle Identification Numbers (VIN) for vehicles that have received smog inspections, in
17 addition to communication protocol (the language used to communicate) and Parameter ID (PID)
18 differences with vehicles that have been certified correctly that are the same make and model
19 vehicles.

20 24. On or about June 8, 2017, Bureau representative Mark Casillas initiated an
21 investigation in which he reviewed OIS test data for Respondent New Star Smog. Representative
22 Mark Casillas' investigation revealed that the data related to certain vehicles certified by
23 Respondent New Car Smog contained a pattern of unmistakable discrepancies between the
24 information transmitted during the inspections and documented information known about the
25 subject vehicles. Specifically, representative Mark Casillas compared the data received from the
26 certified vehicles to data from vehicles of the same year, make, and model and determined that
27 the data from twelve of the certified vehicles contained two or more of the following
28 unmistakable discrepancies: (1) missing eVINs; (2) incorrect vehicle communication protocols;

1 and (3) incorrect PID counts. These documented discrepancies confirm that the vehicles receiving
 2 smog certificates from Respondent New Star Smog were fraudulently tested during the smog
 3 inspection using the clean plugging method. Clean plugging refers to the use of another vehicle's
 4 properly functioning On Board Diagnostic, generation II, (OBD II) system, or another source, to
 5 generate passing diagnostic readings for the purpose of issuing fraudulent smog Certificates of
 6 Compliance to vehicles that are not in smog compliance or were not present for testing.

7 25. The following table illustrates the documented clean plugging activities of
 8 Respondents from November 6, 2016 through June 5, 2017.

No.	Test Date	Vehicle Certified & VIN/Plate No.	Certificate No.	Technician	OIS Test Data Details
1.	11/6/16	2008 Nissan Rogue VIN: JN8AS58V38W105091	QG736684C	Respondent Contreras (EO 635598)	Comm. Protocol: 1914 (Expected: ICAN11bt5) PID Count: 15/3 (Expected: 38 or 39) eVIN: Expected but Not Reported
2.	11/25/16	2003 Toyota Rav 4 VIN: JTEGH20V030091866	ZL216867C	Respondent Hahn (EO 634240)	Comm. Protocol: ICAN11bt5 (Expected: 1914) PID Count: 42 Expected: 21) eVIN: Erroneously Reported. VIN No. 1FMYU03126K B77525 belonging to a 2006 Ford Escape XLT was used to generate the fraudulent Smog Certificate of Compliance; Not Expected

No.	Test Date	Vehicle Certified & VIN/Plate No.	Certificate No.	Technician	OIS Test Data Details
3.	11/26/16	2002 Toyota Camry LE VIN: 4T1BE32K62U071043	ZL216877C	Respondent Contreras (EO 635598)	Comm. Protocol: JPWM (Expected: I914) PID Count: 20 Expected: 17) eVIN: Not Reported and Not Expected
4.	11/29/17	2000 Honda Accord LX VIN: JHMCG6650YC002595	ZL216890C	Respondent Contreras (EO 635598)	Comm. Protocol: ICAN29bt5 (Expected: I914) PID Count: 44/19 Expected: 16) eVIN: Erroneously Reported. VIN No. 5FNRL38777B4 27950 belonging to a 2007 Honda Odyssey EXL was used to generate the fraudulent Smog Certificate of Compliance; Not Expected
5.	12/18/16	2002 Honda Odyssey EXL VIN: 2HKRL18962H543754	ZL923402C	Respondent Contreras (EO 635598)	Comm. Protocol: JPWM (Expected: I914) PID Count: 20 Expected: 16) eVIN: Not Reported and Not Expected
6.	1/7/17	2001 Chevrolet Silverado	ZN356115C	Respondent Contreras	Comm. Protocol: I914

No.	Test Date	Vehicle Certified & VIN/Plate No.	Certificate No.	Technician	OIS Test Data Details
		C1500 VIN: 2GCEC19V511349341		(EO 635598)	(Expected: JVPW) PID Count: 17 Expected: 22 or 23) eVIN: Not Reported
7.	2/6/17	2002 GMC New Sierra C1500 VIN: 1GTEC14V92Z200172	ZP205629C	Respondent Contreras (EO 635598)	Comm. Protocol: I914 (Expected: JVPW) PID Count: 15/3 Expected: 22) eVIN: Not Reported
8.	2/18/17	2011 Honda Civic LX VIN: 2HGFA1F50BH307944	ZP693923C	Respondent Hahn (EO 634240)	Comm. Protocol: ICAN11bt5 (Expected: ICAN29bt5) PID Count: 39 Expected: 39/19) eVIN: Erroneously Reported. VIN No. JTLKE50E8810 37228 belonging to a 2008 Toyota Scion XB was used to generate the fraudulent Smog Certificate of Compliance
9.	2/26/17	2000 Lincoln Navigator VIN: 5LMEU27AXYLJ38829	ZP852792C	Respondent Contreras (EO 635598)	Comm. Protocol: I914 (Expected: JPWM) PID Count: 15/3 Expected: 20) eVIN: Not Reported

No.	Test Date	Vehicle Certified & VIN/Plate No.	Certificate No.	Technician	OIS Test Data Details
10.	2/27/17	2002 Jeep Liberty Sport VIN: 1J4GK48K52W273130	ZP852798C	Respondent Ramirez (EO 146465)	Comm. Protocol: JVPW (Expected: JVPW) PID Count: 22/3 Expected: 20 or 20/3) eVIN: Erroneously Reported. VIN No. IJ4GK58K24W1 15563 belonging to a 2004 Jeep Liberty Limited was used to generate the fraudulent Smog Certificate of Compliance; Not Expected
11.	4/9/17	2007 Mercedes-Benz 350 VIN: WDBUF56X47B087271	ZT174672C	Respondent Contreras (EO 635598)	Comm. Protocol: I914 (Expected: ICAN11bt5) PID Count: 17 (Expected: 44) eVIN: Not Reported
12.	6/5/17	2001 Toyota Corolla CE VIN: 1NXBR12E11Z439565	ZX022174C	Respondent Hahn (EO 634240)	Comm. Protocol: ICAN29bt5 (Expected: I914) PID Count: 39/19 Expected: 16) eVIN: Erroneously Reported. VIN No. 2HGFA16539H 341614 belonging to a 2009 Honda Civic LX was

No.	Test Date	Vehicle Certified & VIN/Plate No.	Certificate No.	Technician	OIS Test Data Details
					used to generate the fraudulent Smog Certificate of Compliance; Not Expected

26. The data analysis conducted on Respondent New Star Smog shows that Respondents participated in a scheme to perform twelve fraudulent Smog Check inspections resulting in the issuance of twelve fraudulent electronic Smog Check Certificates of Compliance.

FIRST CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

(As to Automotive Repair Dealer Registration No. 275916)

27. Respondent New Star Smog's Automotive Repair Dealer Registration is subject to disciplinary action pursuant to Business and Professions Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized statements which Respondent knew or in the exercise of reasonable care should have known to be untrue or misleading.

28. Respondent New Star Smog certified that the twelve vehicles identified in paragraph 25 above, had passed inspection and were in compliance with applicable laws and regulations. In fact, Respondent New Star Smog conducted the inspections of the twelve vehicles identified in paragraph 25 above, using clean-plugging methods in that he substituted or used a different vehicle(s), or another source, or failed to report the results of the vehicles identified during the OBD II functional tests in order to issue smog certificates of compliance for the vehicles. Respondent New Star Smog did not test or inspect any of the twelve vehicles as required by Health and Safety Code section 44012. Complainant incorporates by reference, paragraphs 23 through 26, as if fully set forth herein.

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1 **SECOND CAUSE FOR DISCIPLINE**

2 (Fraud)

3 (As to Automotive Repair Dealer Registration No. 275916)

4 29. Respondent New Star Smog's Automotive Repair Dealer Registration is subject to
5 disciplinary action pursuant to Business and Professions Code section 9884.7, subdivision (a)(4),
6 in that Respondent New Star Smog committed acts that constitute fraud by issuing electronic
7 smog certificates of compliance for the twelve vehicles identified in paragraph 25 above, without
8 performing bona fide inspections of the emission control devices and systems on the vehicles,
9 thereby depriving the People of the State of California of the protection afforded by the Motor
10 Vehicle Inspection Program. Complainant incorporates by reference, paragraphs 23 through 26,
11 as if fully set forth herein.

12
13 **THIRD CAUSE FOR DISCIPLINE**

14 (Material Violation of Automotive Repair Act)

15 (As to Automotive Repair Dealer Registration No. 275916)

16 30. Respondent New Star Smog's Automotive Repair Dealer Registration is subject to
17 disciplinary action pursuant to Business and Professions Code section 9884.7, subdivision (a)(6),
18 in that Respondent New Star Smog failed in a material respect to comply with the provisions of
19 this chapter or regulations adopted pursuant to it when he issued electronic certificates of
20 compliance for the twelve vehicles identified in paragraph 25 above, without performing bona
21 fide inspections of the emission control devices and systems on those vehicles, thereby depriving
22 the People of the State of California of the protection afforded by the Motor Vehicle Inspection
23 Program. Complainant incorporates by reference, paragraphs 23 through 26, as if fully set forth
24 herein.

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28 //

1 herein.

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3 **SIXTH CAUSE FOR DISCIPLINE**

4 **(Failure to Comply with Regulations Pursuant**
5 **to the Motor Vehicle Inspection Program)**

6 **(As to Smog Check Test Only Station License No. TC 275916)**

7 33. Respondent New Star Smog Check Test Only Station License is subject to
8 disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (c), in that
9 Respondent New Star Smog failed to comply with provisions of California Code of Regulations,
10 title 16, as follows:

11 a. **Section 3340.35, subdivision (c):** Respondent New Star Smog issued electronic
12 smog certificates of compliance for the twelve vehicles identified in paragraph 25 above, even
13 though the vehicles had not been inspected in accordance with section 3340.42.

14 b. **Section 3373:** Respondent filled out an estimate, invoice, or work order, or record or
15 inserted therein any statement or information causing such document to be false or misleading, or
16 where the tendency or effect was to mislead or deceive customers, prospective customers, or the
17 public.

18 Complainant incorporates by reference, paragraphs 23 through 26, as if fully set forth
19 herein.

20
21 **SEVENTH CAUSE FOR DISCIPLINE**

22 **(Fraud)**

23 **(As to Smog Check Test Only Station License No. TC 275916)**

24 34. Respondent New Star Smog Check Inspector License is subject to disciplinary action
25 pursuant to Health and Safety Code section 44072.2, subdivision (d), in that Respondent New
26 Star Smog committed acts involving dishonesty, fraud, or deceit whereby another was injured by
27 issuing electronic certificates of compliance for those vehicles without performing bona fide
28 inspections of the emission control devices and systems on the vehicles, thereby depriving the

1 People of the State of California of the protection afforded by the Motor Vehicle Inspection
2 Program.

3 35. Complainant refers to, and by this reference incorporates, the allegations contained in
4 paragraph 23 through 26, as though set forth fully herein.

5
6 **EIGHTH CAUSE FOR DISCIPLINE**

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

8 **(As to Smog Check Inspector License No. EO 146465)**

9 36. Respondent Ramirez's Smog Check Inspector License is subject to disciplinary action
10 pursuant to Health and Safety Code section 44072.2, subdivision (a), in that Respondent Ramirez
11 failed to comply with the following sections of that Code:

12 a. **Section 44012, subdivision (a):** Respondent Ramirez failed to ensure that the
13 emission control tests were in accordance with procedures prescribed by the department.

14 b. **Section 44012, subdivision (f):** Respondent Ramirez failed perform a visual and/or
15 functional check of required emission control devices.

16 c. **Section 44032:** Respondent Ramirez failed to perform tests of the onboard diagnostic
17 systems on those vehicles in accordance with section 44012 of the HSC.

18 d. **Section 44059:** Respondent Ramirez willfully made a false entry in a certificate of
19 compliance by certifying that a vehicles had been inspected when, in fact, it had not.

20 Complainant incorporates by reference, paragraphs 23 through 26, as if fully set forth
21 herein.

22
23 **NINTH CAUSE FOR DISCIPLINE**

24 **(Failure to Comply with Regulations Pursuant**

25 **to the Motor Vehicle Inspection Program)**

26 **(As to Smog Check Inspector License No. EO 146465)**

27 37. Respondent Ramirez's Smog Check Inspector License is subject to disciplinary action
28 pursuant to Health and Safety Code section 44072.2, subdivision (c), in that Respondent Ramirez

1 failed to comply with provisions of California Code of Regulations, title 16, as follows:

2 a. **Section 3340.30, subdivision (a):** Respondent Ramirez failed to inspect and test one
3 of the vehicles identified in paragraph 25 above, in accordance with Health and Safety Code
4 sections 44012 and 44035, and California Code of Regulations, title 16, section 3340.42.

5 b. **Section 3340.41, subdivision (c):** Respondent Ramirez knowingly entered false
6 information into the emissions inspection system for one of the vehicles identified in paragraph
7 25 above.

8 Complainant incorporates by reference, paragraphs 23 through 26, as if fully set forth
9 herein.

10
11 **TENTH CAUSE FOR DISCIPLINE**

12 **(False Entry on a Certificate of Compliance)**

13 **(As to Smog Check Inspector License No. EO 146465)**

14 38. Respondent Ramirez's Smog Check Inspector license is subject to discipline pursuant
15 to Bus. & Prof. Code section 9889.22, in that Respondent willfully made false statements or
16 entries with regard to a material matter in any oath, affidavit, certificate of compliance or
17 noncompliance.

18 39. Complainant refers to, and by this reference incorporates, the allegations contained in
19 paragraph 23 through 26, as though set forth fully herein.

20
21 **ELEVENTH CAUSE FOR DISCIPLINE**

22 **(Fraud)**

23 **(As to Smog Check Inspector License No. EO 146465)**

24 40. Respondent Ramirez's Smog Check Inspector license is subject to discipline pursuant
25 to Bus. & Prof. Code section 44072.2, subdivision (d), in that Respondent committed acts
26 involving dishonesty, fraud, or deceit whereby another was injured by issuing electronic
27 certificates of compliance for those vehicles without performing bona fide inspections of the
28

1 emission control devices and systems on the vehicles, thereby depriving the People of the State of
2 California of the protection afforded by the Motor Vehicle Inspection Program.

3 41. Complainant refers to, and by this reference incorporates, the allegations contained in
4 paragraph 23 through 26, as though set forth fully herein.

5
6 **TWELFTH CAUSE FOR DISCIPLINE**

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

8 **(As to Smog Check Inspector License No. EO 635598)**

9 42. Respondent Contreras' Smog Check Inspector License is subject to disciplinary action
10 pursuant to Health and Safety Code section 44072.2, subdivision (a), in that Respondent
11 Contreras failed to comply with the following sections of that Code:

12 a. **Section 44012, subdivision (a):** Respondent Contreras failed to ensure that the
13 emission control tests were in accordance with procedures prescribed by the department.

14 b. **Section 44012, subdivision (f):** Respondent Contreras failed perform a visual and/or
15 functional check of required emission control devices.

16 c. **Section 44032:** Respondent Contreras failed to perform tests of the onboard
17 diagnostic systems on those vehicles in accordance with section 44012 of the HSC.

18 d. **Section 44059:** Respondent Contreras willfully made false entries in certificates of
19 compliance by certifying that the vehicles had been inspected when, in fact, they had not.

20 Complainant incorporates by reference, paragraphs 23 through 26, as if fully set forth
21 herein.

22
23 **THIRTEENTH CAUSE FOR DISCIPLINE**

24 **(Failure to Comply with Regulations Pursuant**

25 **to the Motor Vehicle Inspection Program)**

26 **(As to Smog Check Inspector License No. EO 635598)**

27 43. Respondent Contreras's Smog Check Inspector License is subject to disciplinary
28 action pursuant to Health and Safety Code section 44072.2, subdivision (c), in that Respondent

1 Contreras failed to comply with provisions of California Code of Regulations, title 16, as follows:

2 a. **Section 3340.30, subdivision (a):** Respondent Contreras failed to inspect and test one
3 of the vehicles identified in paragraph 25 above, in accordance with Health and Safety Code
4 sections 44012 and 44035, and California Code of Regulations, title 16, section 3340.42.

5 b. **Section 3340.41, subdivision (c):** Respondent Contreras knowingly entered false
6 information into the emissions inspection system for eight of the vehicles identified in paragraph
7 25 above.

8 Complainant incorporates by reference, paragraphs 23 through 26, as if fully set forth
9 herein.

10
11 **FOURTEENTH CAUSE FOR DISCIPLINE**

12 **(False Entry on a Certificate of Compliance)**

13 **(As to Smog Check Inspector License No. EO 635598)**

14 44. Respondent Contreras's Smog Check Inspector license is subject to discipline
15 pursuant to Bus. & Prof. Code section 9889.22, in that Respondent willfully made false
16 statements or entries with regard to a material matter in any oath, affidavit, certificate of
17 compliance or noncompliance.

18 45. Complainant refers to, and by this reference incorporates, the allegations contained in
19 paragraph 23 through 26, as though set forth fully herein.

20
21 **FIFTEENTH CAUSE FOR DISCIPLINE**

22 **(Fraud)**

23 **(As to Smog Check Inspector License No. EO 635598)**

24 46. Respondent Contreras's Smog Check Inspector license is subject to discipline
25 pursuant to Bus. & Prof. Code section 44072.2, subdivision (d), in that Respondent committed
26 acts involving dishonesty, fraud, or deceit whereby another was injured by issuing electronic
27 certificates of compliance for those vehicles without performing bona fide inspections of the
28

1 emission control devices and systems on the vehicles, thereby depriving the People of the State of
2 California of the protection afforded by the Motor Vehicle Inspection Program.

3 47. Complainant refers to, and by this reference incorporates, the allegations contained in
4 paragraph 23 through 26, as though set forth fully herein.

5
6 **SIXTEENTH CAUSE FOR DISCIPLINE**

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

8 **(As to Smog Check Inspector License No. EO 634240)**

9 48. Respondent Hahn's Smog Check Inspector License is subject to disciplinary action
10 pursuant to Health and Safety Code section 44072.2, subdivision (a), in that Respondent Hahn
11 failed to comply with the following sections of that Code:

12 a. **Section 44012, subdivision (a):** Respondent Hahn failed to ensure that the emission
13 control tests were in accordance with procedures prescribed by the department.

14 b. **Section 44012, subdivision (f):** Respondent Hahn failed perform a visual and/or
15 functional check of required emission control devices.

16 c. **Section 44032:** Respondent Hahn failed to perform tests of the onboard diagnostic
17 systems on those vehicles in accordance with section 44012 of the HSC.

18 d. **Section 44059:** Respondent Hahn willfully made false entries in certificates of
19 compliance by certifying that the vehicles had been inspected when, in fact, they had not.

20 Complainant incorporates by reference, paragraphs 23 through 26, as if fully set forth
21 herein.

22
23 **SEVENTEENTH CAUSE FOR DISCIPLINE**

24 **(Failure to Comply with Regulations Pursuant**

25 **to the Motor Vehicle Inspection Program)**

26 **(As to Smog Check Inspector License No. EO 634240)**

27 49. Respondent Hahn's Smog Check Inspector License is subject to disciplinary action
28 pursuant to Health and Safety Code section 44072.2, subdivision (c), in that Respondent Hahn

1 failed to comply with provisions of California Code of Regulations, title 16, as follows:

2 a. **Section 3340.30, subdivision (a):** Respondent Hahn failed to inspect and test one of
3 the vehicles identified in paragraph 25 above, in accordance with Health and Safety Code sections
4 44012 and 44035, and California Code of Regulations, title 16, section 3340.42.

5 b. **Section 3340.41, subdivision (c):** Respondent Hahn knowingly entered false
6 information into the emissions inspection system for three of the vehicles identified in paragraph
7 25 above.

8 Complainant incorporates by reference, paragraphs 23 through 26, as if fully set forth
9 herein.

10
11 **EIGHTEENTH CAUSE FOR DISCIPLINE**

12 **(False Entry on a Certificate of Compliance)**

13 **(As to Smog Check Inspector License No. EO 634240)**

14 50. Respondent Hahn's Smog Check Inspector license is subject to discipline pursuant to
15 Bus. & Prof. Code section 9889.22, in that Respondent willfully made false statements or entries
16 with regard to a material matter in any oath, affidavit, certificate of compliance or
17 noncompliance.

18 51. Complainant refers to, and by this reference incorporates, the allegations contained in
19 paragraph 23 through 26, as though set forth fully herein.

20
21 **NINETEENTH CAUSE FOR DISCIPLINE**

22 **(Fraud)**

23 **(As to Smog Check Inspector License No. EO 634240)**

24 52. Respondent Hahn's Smog Check Inspector license is subject to discipline pursuant to
25 Bus. & Prof. Code section 44072.2, subdivision (d), in that Respondent committed acts involving
26 dishonesty, fraud, or deceit whereby another was injured by issuing electronic certificates of
27 compliance for those vehicles without performing bona fide inspections of the emission control
28

1 devices and systems on the vehicles, thereby depriving the People of the State of California of the
2 protection afforded by the Motor Vehicle Inspection Program.

3 53. Complainant refers to, and by this reference incorporates, the allegations contained in
4 paragraph 23 through 26, as though set forth fully herein.

5
6 **OTHER MATTERS**

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

12 55. Pursuant to Health and Safety Code section 44072.8, if Smog Check Test Only
13 Station License No. TC 275916, issued to Respondent New Star Smog, is revoked or suspended
14 following a hearing under this article, any additional license issued under Chapter 5 of Part 5 of
15 Division 26 of the Health and Safety Code in the name of said licensee may be likewise revoked
16 or suspended by the Director.

17 56. Pursuant to Health and Safety Code section 44072.8, if Smog Check Inspector
18 License No. EO 146465, issued to Respondent Ramirez, is revoked or suspended following a
19 hearing under this article, any additional license issued under Chapter 5 of Part 5 of Division 26
20 of the Health and Safety Code in the name of said licensee may be likewise revoked or suspended
21 by the Director.

22 57. Pursuant to Health and Safety Code section 44072.8, if Smog Check Inspector
23 License No. EO 635598, issued to Respondent Contreras, is revoked or suspended following a
24 hearing under this article, any additional license issued under Chapter 5 of Part 5 of Division 26
25 of the Health and Safety Code in the name of said licensee may be likewise revoked or suspended
26 by the Director.

27 58. Pursuant to Health and Safety Code section 44072.8, if Smog Check Inspector
28 License No. EO 634240, issued to Respondent Hahn, is revoked or suspended following a hearing

1 under this article, any additional license issued under Chapter 5 of Part 5 of Division 26 of the
2 Health and Safety Code in the name of said licensee may be likewise revoked or suspended by the
3 Director.

4 5 DISCIPLINARY CONSIDERATIONS

6 **Respondent New Star Smog**

7 59. To determine the degree of discipline, if any, to be imposed on Respondent New Star
8 Smog, Complainant alleges that on or about December 15, 2014, the Bureau issued Dong Lee
9 d.b.a. New Star Smog Test, an Administrative Citation #C2014-1458, for actions in violation of
10 section 44012 of the Health and Safety Code, in that New Star Smog Test unlawfully inspected
11 and certified a Bureau undercover vehicle with a missing/modified Air Injection System. A
12 Citation Service Conference was held on January 22, 2015. A request for a formal appeal was
13 received on February 11, 2015. On August 24, 2016, the appeal was heard. The decision
14 affirming Citation #C2014-1458 became effective January 28, 2017. Payment was received April
15 14, 2017.

16 60. On July 8, 2015, the Bureau issued Dong Lee d.b.a. New Star Smog Test, an
17 Administrative Citation #C2015-1664, for actions in violation of section 44012 of the Health and
18 Safety Code, in that New Star Smog Test unlawfully inspected and certified a Bureau undercover
19 vehicle with a missing/modified Air Injection System. A Citation Service Conference was held on
20 July 28, 2015. A request for a formal appeal was received on August 17, 2015. The decision
21 affirming Citation #2015-1664 by reason of Respondent's default became effective June 24,
22 2018.

23 61. On November 3, 2016, the Bureau issued Dong Lee d.b.a. New Star Smog Test, an
24 Administrative Citation #C2016-1984, for actions in violation of section 44012 of the Health and
25 Safety Code, in that New Star Smog Test unlawfully inspected and certified a vehicle utilizing the
26 BAR 97 when the OBD Inspection System (OIS) was required. A Citation Service Conference
27 was held on December 8, 2016. On November 17, 2017, the appeal was heard. The decision
28 affirming Citation #2016-1984 became effective March 16, 2018.

1 **Respondent Ramirez**

2 62. To determine the degree of discipline, if any, to be imposed on Respondent Ramirez
3 Complainant alleges that on or about On January 2, 2009, the Bureau issued Frank Ramirez,
4 Administrative Citation #M09-0789. On February 2, 2009, a Citation Service Conference was
5 held. Training was subsequently completed on February 18, 2009.

6 63. On July 8, 2015, the Bureau issued Frank Ramirez, Administrative Citation #M2015-
7 1665, for actions in violation of section 44012 of the Health and Safety Code, in that Frank
8 Ramirez unlawfully Smog Check inspected and certified a Bureau undercover vehicle with a
9 missing/modified Air Injection System. A Citation Service Conference was held on July 28,
10 2015. A request for a formal appeal was received on August 17, 2015. On or around January 22,
11 2018, Respondent Ramirez withdrew the request for appeal of Citation #2015-1665 pursuant to a
12 Settlement of Citation agreement effective January 24, 2018. The Citation became effective on
13 April 24, 2018.

14 64. On April 19, 2016, the Bureau issued Frank Ramirez, Administrative Citation
15 #M2016-0824, for actions in violation of section 44012 of the Health and Safety Code, in that
16 Frank Ramirez unlawfully Smog Check inspected and certified a vehicle utilizing the BAR 97
17 when the OBD Inspection System (OIS) was required. A Citation Service Conference was held
18 on July 20, 2016. The Decision affirming Citation #M2016-0824 became effective August 21,
19 2016.

20 **Respondent Contreras**

21 65. On December 15, 2014, the Bureau issued Oscar Contreras, Administrative Citation
22 #M2014-1459, for actions in violation of section 44032 of the Health and Safety Code, in that
23 Oscar Contreras unlawfully Smog Check inspected and certified a Bureau undercover vehicle
24 with a missing/modified Air Injection System. A Citation Service Conference was held on
25 January 22, 2015. A request for formal appeal was received on February 11, 2015. On August 24,
26 2016, the appeal was heard. The Decision affirming Citation #M2014-1459 became effective
27 January 28, 2017.

28 //

1 **Respondent Hahn**

2 66. To determine the degree of discipline, if any, to be imposed on Respondent Hahn
3 Complainant alleges that on December 30, 2013, the Bureau issued Ducki Hahn, Administrative
4 Citation #M2014-0411. On January 22, 2014, a Citation Service Conference was held. Training
5 was subsequently completed on February 5, 2014.

6 67. On November 3, 2016, the Bureau issued Ducki Hahn, Administrative Citation
7 #M2016-1985, for actions in violation of section 44012 of the Health and Safety Code, in that
8 Ducki Hahn unlawfully Smog Check inspected and certified a vehicle utilizing the BAR 97 when
9 the OBD Inspection System (OIS) was required. A Citation Service Conference was held on
10 December 8, 2016. A request for a formal appeal was received on December 19, 2016. On
11 November 17, 2017, the appeal was heard. The Decision affirming Citation #M2016-1985
12 became effective March 16, 2018.

13
14 **PRAYER**

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

- 17 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
18 275916, issued to Car Talks Inc. dba New Star Smog Test, Dong U. Lee, President;
- 19 2. Revoking or suspending Smog Check, Test Only, Station License Number TC
20 275916, issued to Car Talks Inc. dba New Star Smog Test, Dong U. Lee, President;
- 21 3. Revoking or suspending Smog Check Inspector License Number EO 146465, issued
22 to Frank Ramirez;
- 23 4. Revoking or suspending Smog Check Inspector License Number EO 635598, issued
24 to Oscar Contreras;
- 25 5. Revoking or suspending Smog Check Inspector License Number EO 634240, issued
26 to Ducki Hahn;
- 27
28

1 6. Revoking or suspending any and all Automotive Repair Dealer Registrations in the
2 name of Car Talks Inc. dba New Star Smog Test, Dong U. Lee, President pursuant to section
3 9884.7, subdivision (c), of the Business and Professions Code;

4 7. Revoking or suspending any and all licenses issued under the Motor Vehicle
5 Inspection Program (Health & Saf. Code sec. 44000, et seq.) in the name of Frank Ramirez
6 pursuant to section 44072.8 of the Health and Safety Code;

7 8. Revoking or suspending any and all licenses issued under the Motor Vehicle
8 Inspection Program (Health & Saf. Code sec. 44000, et seq.) in the name of Oscar Contreras
9 pursuant to section 44072.8 of the Health and Safety Code;

10 9. Revoking or suspending any and all licenses issued under the Motor Vehicle
11 Inspection Program (Health & Saf. Code sec. 44000, et seq.) in the name of Ducki Hahn pursuant
12 to section 44072.8 of the Health and Safety Code;

13 10. Ordering Respondents Car Talks Inc. dba New Star Smog Test, Dong U. Lee, Frank
14 Ramirez, Oscar Contreras and Ducki Hahn to pay the Bureau of Automotive Repair the
15 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
16 Professions Code section 125.3; and,

17 11. Taking such other and further action as deemed necessary and proper.
18
19

20
21 DATED: 1-9-19

Dong U. Lee 1-9-19
PATRICK DORAIS
Chief
Bureau of Automotive Repair
Department of Consumer Affairs
State of California
Complainant

Dong BALATTI
Asst. Chief

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