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

10
11 In the Matter of the Accusation Against:

Case No. **79/16-77**

12 **HAOYUAN ZHOU**
13 **dba SAN CARLOS STAR SMOG**
14 **1098 El Camino Real**
San Carlos, CA 94070

ACCUSATION

15 **Automotive Repair Dealer No. ARD 272154**
Smog Check, Test Only Station No. TC 272154

16 **HAOYUAN ZHOU**
17 **2142 42nd Ave.**
San Francisco, CA 94116

18 **Smog Check Inspector (EO) License No. EO 635370**

19 Respondent.
20

21 Complainant alleges:

22 **PARTIES**

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

25 2. On or about March 12, 2013, the Bureau of Automotive Repair issued Automotive
26 Repair Dealer Registration Number ARD 272154 to HaoYuan Zhou (Respondent) dba San Carlos
27 Star Smog. The Automotive Repair Dealer Registration was in full force and effect at all times
28 relevant to the charges brought herein and will expire on March 31, 2016, unless renewed.

1 dealer upon a finding that the automotive repair dealer has, or is, engaged in a course of repeated
2 and willful violations of this chapter, or regulations adopted pursuant to it."

3 7. Section 9884.13 of the Code provides, in pertinent part, that the expiration of a valid
4 registration shall not deprive the director or chief of jurisdiction to proceed with a disciplinary
5 proceeding against an automotive repair dealer or to render a decision invalidating a registration
6 temporarily or permanently.

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

10 9. Section 44012 of the Health and Safety Code requires that tests at smog check
11 stations be performed in accordance with procedures prescribed by the department.

12 10. Section 44032 of the Health and Safety Code requires that smog check technicians to
13 perform smog inspections in accordance Section 44012.

14 11. Section 44072.2 of the Health and Safety Code states:

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

18 "(a) Violates any section of this chapter [the Motor Vehicle Inspection Program (Health
19 and Saf. Code, ' 44000, et seq.)] and the regulations adopted pursuant to it, which related to the
20 licensed activities.

21 . . .

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

23 . . .

24 12. Section 44072.6 of the Health and Safety Code provides, in pertinent part, that the
25 expiration or suspension of a license by operation of law, or by order or decision of the Director
26 of Consumer Affairs, or a court of law, or the voluntary surrender of the license shall not deprive
27 the Director of jurisdiction to proceed with any investigation of, or action or disciplinary
28 proceedings against the licensee, or to render a decision suspending or revoking the license.

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

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

5 **COSTS**

6 18. Section 125.3 of the Code provides, in pertinent part, that the 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, with failure of the licentiate to comply subjecting the license to not being
10 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
11 included in a stipulated settlement.

12 **FACTUAL BACKGROUND**

13 19. On or about July 17, 2015, the Bureau of Automotive Repair had a 2002 Chevrolet
14 Tahoe taken to Respondent’s shop for a smog inspection. The 2002 Chevrolet Tahoe had
15 unapproved long tube exhaust headers and catalytic converters installed when it was taken to
16 Respondent’s shop. In this condition the 2002 Chevrolet Tahoe should not have passed a properly
17 performed smog inspection. The vehicle should have failed the visual portion of the smog
18 inspection.

19 20. On or about July 17, 2015, Respondent performed a smog inspection on the 2002
20 Chevrolet Tahoe. The Chevrolet Tahoe passed the smog inspection. Respondent issued smog
21 certificate number [REDACTED] to the 2002 Chevrolet Tahoe. The vehicle passed the visual
22 portion of the smog inspection. Respondent certified under penalty of perjury that the 2002
23 Chevrolet was inspected in accordance with the procedures proscribed by the department and that
24 the information on the Vehicle Inspection Report is true and accurate. The Vehicle Inspection
25 Report stated that the 2002 Chevrolet Tahoe passed the smog inspection including all relevant
26 portions of the visual inspection.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 (False or Misleading Statements-Registration)

3 21. Respondent's Automotive Repair Dealer Registration is subject to disciplinary action
4 under section 9884.7(a)(1) of the code in that respondent made false or misleading statements.
5 The circumstances are described in paragraphs 19-20, above.

6 **SECOND CAUSE FOR DISCIPLINE**

7 (Violation of Motor Vehicle Inspection Program-Station License)

8 22. Respondent's Smog Check Station License is subject to disciplinary action under
9 section 44072.2, subsections (a) and (c), of the Health and Safety Code in that Respondent
10 violated the Motor Vehicle Inspection Program and/or the regulation adopted pursuant to it as
11 follows:

12 a.) Respondent violated section 44012 of the Health and Safety Code by failing to test the
13 2002 Chevrolet Tahoe in accordance with the procedures proscribed by the department.
14 Respondent failed to perform a visual inspection on the 2002 Chevrolet Tahoe as required by
15 California Code of Regulations Title 16, section 3340.42, and the Smog Check Manual described
16 in California Code of Regulations Title 16, section 3340.45. The circumstances are further
17 described in paragraphs 19-20, above.

18 b.) Respondent violated California Code of Regulations, title 16, section 3340.30,
19 subsection (a), in that respondent violated section 44012 of the Health and Safety Code and/or
20 California Code of Regulations Title 16, section 3340.42. Respondent failed to perform a visual
21 inspection on the 2002 Chevrolet Tahoe as required by California Code of Regulations Title 16,
22 section 3340.42 and the Smog Check Manual described in California Code of Regulations Title
23 16, section 3340.45. The circumstances are further described in paragraphs 19-20, above.

24 c.) Respondent violated California Code of Regulations, Title 16, section 3340.35(c), in
25 that Respondent issued a certificate of compliance to a vehicle that did not have all required
26 emission control equipment and devices installed and functioning correctly. The circumstances
27 are further described in paragraphs 19-20, above.

28

1 d.) Respondent violated California Code of Regulations, Title 16, section 3340.42, by
2 failing to perform a visual inspection on the Chevrolet Tahoe. The circumstances are further
3 described in paragraphs 19-20, above.

4 e.) Respondent violated California Code of Regulations, Title 16, section 3340.45, by
5 failing to perform a visual inspection on the Chevrolet Tahoe as required by the Smog Check
6 Manual. The circumstances are further described in paragraphs 19-20, above.

7 **THIRD CAUSE FOR DISCIPLINE**

8 (Violation of Motor Vehicle Inspection Program-Smog Check Licenses)

9 23. Respondent's Smog Check Inspector license is subject to disciplinary action under
10 section 44072.2, subsections (a) and (c), of the Health and Safety code in that Respondent
11 violated the Motor Vehicle Inspection Program and/or the regulation adopted pursuant to it as
12 follows:

13 a.) Respondent violated section 44032 of the Health and Safety Code by failing to test the
14 2002 Chevrolet Tahoe in accordance with section 44012 of the Health and Safety Code (the
15 procedures proscribed by the department). Respondent failed to perform a visual inspection on
16 the 2002 Chevrolet Tahoe as required by California Code of Regulations Title 16, section
17 3340.42, and the Smog Check Manual described in California Code of Regulations Title 16,
18 section 3340.45. The circumstances are further described in paragraphs 19-20, above.

19 b.) Respondent violated California Code of Regulations, title 16, section 3340.30,
20 subsection (a), in that Respondent violated section 44012 of the Health and Safety Code and/or
21 California Code of Regulations Title 16, section 3340.42. Respondent failed to perform a visual
22 inspection on the 2002 Chevrolet Tahoe as required by California Code of regulations Title 16,
23 section 3340.42 and the Smog Check Manual described in California Code of Regulations Title
24 16, section 3340.45. The circumstances are further described in paragraphs 19-20, above.

25 c.) Respondent violated California Code of Regulations, Title 16, section 3340.35(c), in
26 that Respondent issued a certificate of compliance to a vehicle that did not have all required
27 emission control equipment and devices installed and functioning correctly. The circumstances
28 are further described in paragraphs 19-20, above.

1 d.) Respondent violated California Code of Regulations, Title 16, section 3340.42, by
2 failing to perform a visual inspection on the Chevrolet Tahoe. The circumstances are further
3 described in paragraphs 19-20, above.

4 e.) Respondent violated California Code of Regulations, Title 16, section 3340.45, by
5 failing to perform a visual inspection on the Chevrolet Tahoe as required by the Smog Check
6 Manual. The circumstances are further described in paragraphs 19-20, above.

7 **DISCIPLINARY CONSIDERATIONS**

8 24. To determine the degree of discipline, if any, to be imposed on Respondent,
9 Complainant alleges that on or about September 11, 2013, Respondent was issued Citation No.
10 C2014-0164 for failing to perform a smog inspection according to the procedures prescribed by
11 the department. This citation is now final and non-appealable.

12 25. To determine the degree of discipline, if any, to be imposed on Respondent,
13 Complainant alleges that on or about September 11, 2013, Respondent was issued Citation No.
14 M2014-0165 for failing to perform a smog inspection according to the procedures prescribed by
15 the department. This citation is now final and non-appealable.

16 26. To determine the degree of discipline, if any, to be imposed on Respondent,
17 Complainant alleges that on or about January 9, 2014, Respondent was issued Citation No.
18 C2014-0434 for failing to perform a smog inspection according to the procedures prescribed by
19 the department. This citation is now final and non-appealable.

20 27. To determine the degree of discipline, if any, to be imposed on Respondent,
21 Complainant alleges that on or about January 9, 2014, Respondent was issued Citation No.
22 M2014-0435 for failing to perform a smog inspection according to the procedures prescribed by
23 the department. This citation is now final and non-appealable.

24 28. To determine the degree of discipline, if any, to be imposed on Respondent,
25 Complainant alleges that on or about April 8, 2015, Respondent was issued Citation No. C2015-
26 0248 for failing to perform a smog inspection according to the procedures prescribed by the
27 department. This citation is now final and non-appealable.

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

DATED: March 3, 2016 Patrick Dorais

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

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