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7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

13 **NAS MESHAL**  
14 **3702 Del Amo Boulevard, #2**  
**Torrance, CA 90503**  
15 **Smog Check Inspector License No. EO 635662**

16 Respondent.

Case No. *19/15-54*

**A C C U S A T I O N**

**(Smog Check)**

17 Complainant alleges:

18 **PARTIES**

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

21 **Nas Meshal**

22 2. On or about June 21, 2013, the Director issued Smog Check Inspector License  
23 Number EO 635662 ("inspector license") to Respondent Nas Meshal ("Respondent Meshal").  
24 Respondent Meshal's inspector license was in full force and effect at all times relevant to the  
25 charges brought herein and will expire on May 31, 2015, unless renewed.

26 **JURISDICTION**

27 3. Business and Professions Code ("Bus. & Prof. Code") section 9884.7 provides that  
28 the Director may revoke an automotive repair dealer registration.

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

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

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

12 **STATUTORY PROVISIONS**

13 7. Bus. & Prof. Code section 9884.7 states, in pertinent part:

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

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

20 . . . .

21 (4) Any other conduct that constitutes fraud.

22 . . . .

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

26 8. Bus. & Prof. Code section 118, subdivision (b), states:

27 The suspension, expiration, or forfeiture by operation of law of a license  
28 issued by a board in the department, or its suspension, forfeiture, or cancellation by  
order of the board or by order of a court of law, or its surrender without the written

1 consent of the board, shall not, during any period in which it may be renewed,  
2 restored, reissued, or reinstated, deprive the board of its authority to institute or  
3 continue a disciplinary proceeding against the licensee upon any ground provided by  
4 law or to enter an order suspending or revoking the license or otherwise taking  
5 disciplinary action against the licensee on any such ground.

6  
7  
8 9. Bus. & Prof. Code section 22, subdivision (a), states:

9 "Board" as used in any provision of this Code, refers to the board in  
10 which the administration of the provision is vested, and unless otherwise expressly  
11 provided, shall include "bureau," "commission," "committee," "department,"  
12 "division," "examining committee," "program," and "agency."

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14  
15 10. Bus. & Prof. Code section 477, subdivision (b), states, in pertinent part, that a  
16 "license" includes "registration" and "certificate."

17  
18  
19 11. Health & Saf. Code section 44072.2 states, in pertinent part:

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

23 (a) Violates any section of this chapter [the Motor Vehicle Inspection  
24 Program (Health and Saf. Code § 44000, et seq.)] and the regulations adopted  
25 pursuant to it, which related to the licensed activities.

26 . . . .

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

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

12. Health & Saf. Code section 44072.10 states, in pertinent part:

. . . .

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

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

. . . .

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



1 **COST RECOVERY**

2 20. Bus. & Prof. Code section 125.3 provides, in pertinent part, that a Board may request  
3 the administrative law judge to direct a licentiate found to have committed a violation or  
4 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
5 and enforcement of the case.

6 **VIDEO SURVEILLANCE OPERATION OF NOVEMBER 22, 2013**

7 21. On or about November 22, 2013, representatives of the Bureau conducted a video  
8 surveillance operation of Long Beach Smog Station. During the course of the surveillance, the  
9 representatives reviewed information from the Bureau's vehicle identification database ("VID")  
10 which revealed that Respondent Meshal issued electronic smog certificates of compliance for the  
11 vehicles identified in Table 1 below, certifying that he had tested and inspected those vehicles and  
12 that they were in compliance with applicable laws and regulations. In fact, Respondent Meshal  
13 conducted the inspections using the clean piping method<sup>1</sup>, as the vehicles certified were not in the  
14 test bay at the time of the purported smog inspections.

15 **TABLE 1**

16

<b>Time of Inspection</b>	<b>Vehicle Certified &amp; License No.</b>	<b>Vehicle Actually Tested</b>	<b>Certificate No.</b>
17 1. 1250-1258	1979 Ford F100 Pickup, License #6H29020	Unknown	YB099691C
18 2. 1304-1312	1993 Buick Regal, License # 4GKU151	Unknown	YB099692C
19 3. 1316-1328	1991 Volkswagen Passat Pickup, License #5DYH307	Unknown	YB099693C

20

21 **FIRST CAUSE FOR DISCIPLINE**

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

23  
24 22. Respondent Meshal's inspector license is subject to disciplinary action pursuant to  
25 Health & Saf. Code section 44072.2, subdivision (a), in that Respondent Meshal failed to comply

26  
27 <sup>1</sup> Pursuant to California Code of Regulations, title 16, section 3340.1, "clean piping"  
28 means the use of a substitute exhaust emissions sample in place of the actual test vehicle's exhaust in order to cause the EIS to issue a certificate of compliance for the test vehicle.

1 with section 44012 of that Code by failing to perform emission control tests on the vehicles  
2 identified in Table 1 in accordance with procedures prescribed by the department.

3 **SECOND CAUSE FOR DISCIPLINE**  
4 **(Failure to Comply with Regulations Pursuant**  
5 **to the Motor Vehicle Inspection Program)**

6 23. Respondent Meshal's inspector license is subject to disciplinary action pursuant to  
7 Health & Saf. Code section 44072.2, subdivision (c), in that Respondent Meshal failed to comply  
8 with provisions of California Code of Regulations, title 16, as follows:

9 a. **Section 3340.30, subdivision (a):** Respondent Meshal failed to inspect and test the  
10 vehicles identified in Table 1 in accordance with Health & Saf. Code sections 44012 and 44035,  
11 and California Code of Regulations, title 16, section 3340.42.

12 b. **Section 3340.41, subdivision (c):** Respondent Meshal entered false information into  
13 the EIS by entering vehicle identification information or emission control system identification  
14 data for vehicles other than the ones being tested.

15 c. **Section 3340.42:** Respondent Meshal failed to conduct the required smog tests on  
16 the vehicles identified in Table 1 in accordance with the Bureau's specifications.

17 **THIRD CAUSE FOR DISCIPLINE**

18 **(Dishonesty, Fraud or Deceit)**

19 24. Respondent Meshal's inspector license is subject to disciplinary action pursuant to  
20 Health & Saf. Code section 44072.2, subdivision (d), in that Respondent Meshal committed  
21 dishonest, fraudulent or deceitful acts whereby another is injured by issuing electronic smog  
22 certificates of compliance for the vehicles identified in Table 1 without performing bona fide  
23 inspections of the emission control devices and systems on the vehicles, thereby depriving the  
24 People of the State of California of the protection afforded by the Motor Vehicle Inspection  
25 Program.

26 **OTHER MATTERS**

27 25. Pursuant to Health & Saf. Code section 44072.8, if Smog Check Inspector License  
28 Number EO 635662 issued to Respondent Nas Meshal is revoked or suspended, any additional

1 license issued under this chapter in the name of said licensee may be likewise revoked or  
2 suspended by the Director.

3 **PRAYER**

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

6 1. Revoking or suspending Smog Check Inspector License Number EO 635662, issued  
7 to Nas Meshal;

8 2. Revoking or suspending any additional license issued under Chapter 5 of the Health  
9 and Safety Code in the name of Nas Meshal;

10 3. Ordering Nas Meshal to pay the Bureau of Automotive Repair the reasonable costs of  
11 the investigation and enforcement of this case, pursuant to Business and Professions Code section  
12 125.3;

13 4. Taking such other and further action as deemed necessary and proper.

14  
15 DATED: October 7, 2014 Patrick Dorais

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

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